

COMMITTEE REPORT

APPLICATION DETAILS

APPLICATION NO:	DM/23/01237/FPA
FULL APPLICATION DESCRIPTION:	Change of use from five bed dwellinghouse to seven bed HMO (sui generis).
NAME OF APPLICANT:	Mrs Gabrielle Moore
ADDRESS:	41 Fieldhouse Lane Durham DH1 4LT
ELECTORAL DIVISION:	Neville's Cross
CASE OFFICER:	David Richards Planning Officer 03000 261955 david.richards@durham.gov.uk

DESCRIPTION OF THE SITE AND PROPOSALS

The Site

1. The application site comprises a 5-bedroom, semi-detached dwelling located on Fieldhouse Lane within a predominantly residential area. The property benefits from an existing attached garage and driveway which can accommodate one car.

The Proposal

2. The application seeks full planning permission for the change of use from a dwellinghouse (Use Class C3) to a Large House in Multiple Occupancy (Sui Generis) including formation of new parking area to the front, bin storage and other associated alterations. The existing garage and dining room would be converted to additional bedrooms to create seven bedrooms in total.
3. The application is reported to Planning Committee at the request of the City of Durham Parish Council who consider the proposal to be contrary to local plan policies 6, 16, 29 and 31, Durham City Neighbourhood Plan Policy S1 and the NPPF and as such requires consideration by the committee.

PLANNING HISTORY

4. No relevant planning history.

PLANNING POLICY

NATIONAL POLICY

National Planning Policy Framework

5. The following elements of the National Planning Policy Framework (NPPF) are considered relevant to this proposal:
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 5 Delivering a Sufficient Supply of Homes - To support the Government's objective of significantly boosting the supply of homes, it is important that a sufficient amount and variety of land can come forward where it is needed, that the needs of groups with specific housing requirements are addressed and that land with permission is developed without unnecessary delay.
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 several 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; historic environment; design process and tools; determining a planning application; healthy and safe communities; neighbourhood planning; noise; and use of planning conditions.

<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 to 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 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

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.
21. The Council's Residential Amenity Standards Supplementary Planning Document January 2023 provides detailed guidance in relation to extensions and other works to dwellinghouses to ensure that these do not have an adverse impact upon the host dwelling, the character of the wider area and residential amenity.
22. The Council's Parking and Accessibility Standards 2019 provides detailed guidance in relation to parking and design principles and residential parking size standards.

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

Neighbourhood Plan

23. The following policies of the Durham City Neighbourhood Plan (DCNP) are considered relevant to the determination of this application.
24. Policy S1 (Sustainable Development Requirements of all Development and Redevelopment Sites Including all New Building, Renovations and Extensions) seeks to sets out the economic, social and environmental criteria that development proposals will be required to meet.
25. 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.
26. 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.
27. 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.

<https://www.durham.gov.uk/media/36020/Durham-City-adopted-neighbourhoodplan/pdf/DurhamCityNeighbourhoodPlan.pdf?m=63763004206650000>

CONSULTATION AND PUBLICITY RESPONSES

STATUTORY RESPONSES:

28. The Highway Authority considers the proposal acceptable, subject to the applicant entering into a S184 agreement with the Local Highway Authority for provision of the widened vehicular crossing to create an additional off-street space. All works to the adopted highway would be at the applicant's expense.
29. The dwelling falls within the North End controlled parking area, and so the residents of the property would be eligible to apply for permits to park on street. This eligibility for a permit to park on street, together with the 2 off-street spaces which would be provided means the proposal is considered to be in accordance with current DCC parking standards.
30. The City of Durham Parish Council objects to the application citing the lack of a Design and Access Statement, that the proposal would unbalance the existing community, result in an increase in anti-social behaviour and additional noise at anti-social hours, the intensification of residential use, inadequate parking provision (including no provision for EV charging points) and that this would result in increased demand for on-street parking and loss of grassed garden to front of the property.

Internal Consultee Responses:

31. 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 7.7%
32. HMO Licensing – Raise no objection but provide advice on licensing legislation requirements, confirming that the property would be required to be licensed.
33. Environmental Health and Consumer Protection (Nuisance Action Team) – Have undertaken a technical review of information submitted and note that the information submitted demonstrates that the application complies with the thresholds stated within the TANS. Given this, and due to the fact that the existing use is already a noise sensitive receptor, the addition of two further rooms is unlikely to lead to an adverse impact from and disturbance. However, the planning officer should consider the supporting detail for further clarification.
34. The property is a semi-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 use than single dwelling. This is due to the increase in household numbers and activity to and from the property. The demographic that use this type of accommodation are often associated with great 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. It should also be noted that bedrooms five and six are on the ground floor with the main living spaces and may, therefore, lead to a greater impact for the individuals residing in that room from noise when those rooms are in use.

35. They therefore should planning permission be granted the following conditions should be applied:

Before any part of the development hereby approved is commenced a scheme of sound proofing measures shall be submitted to and approved in writing by the local planning authority. The aim of the scheme shall be to ensure that the noise insulation of walls, floors, windows, roofs between the adjoining properties shall be sufficient to prevent excessive ingress, egress of noise. The approved scheme shall be implemented prior to the beneficial occupation of the development and shall be permanently retained thereafter.

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.

36. In addition, they advise that in order to help mitigate against relevant impacts a planning condition requiring the submission and agreement of a Construction Management Plan should be secured via planning condition securing the following:
37. *No construction/demolition activities, including the use of plant, equipment, and deliveries, which are likely to give rise to disturbance to residents should take place before 0800 hours and continue after 1800 hours Monday to Friday, or commence before 0800 hours and continue after 1300 hours on Saturday. No works should be carried out on a Sunday or Bank Holiday.*
38. *The best practicable means shall be used to minimise noise, vibration, light and dust nuisance, or disturbance to local residents resulting from construction/demolition site operations. No burning of waste is to be carried out on the development site. It shall be considered that the best practicable means are met by compliance with all current British standards/relevant guidance.*
39. In addition, they confirm that they have assessed the environmental impacts which are relevant to the development in relation to their potential to cause a statutory nuisance, as defined by the Environmental Protection Act 1990 and are satisfied, based on the information submitted with the application and with the addition of the above condition(s), the development is unlikely to cause a statutory nuisance.

Non-Statutory Consultee Responses:

40. Police Architectural Liaison Officer – Raises no objection but provides some advice in relation to secured by design.

PUBLIC RESPONSES:

41. The application has been advertised by way of a site notice and individual notification letters to neighbouring residents.
42. To date, 116 letters of objection have been received (including a letter from Mary Foy MP). The letters of objection raise the following concerns:
- Impact upon existing residential amenity in that the proposal would adversely affect neighbouring properties from increased noise and disturbance. Failure to meet standards set out in Durham County Council's Standards for HMOs document and loss of privacy and overlooking.

- Impact on parking and highway safety, specifically that the change of use would increase the number of cars and that the widening of the dropped kerb would reduce on street parking, inconsiderate parking obstructing footpath would increase causing safety issues for children, elderly etc.
- Impact upon social cohesion in that the introduction of an additional HMO would imbalance the community contrary to policy 16 of the CDP to the extent that there would be an over proliferation of this type of accommodation in the locality, forcing families out of residential areas within the city. In addition, occupation of the property by students would result in the property being empty for long periods and this would further erode the sense of community.
- There is no identified need for additional student housing in the area which already has PBSAs.
- Applicant not managing their properties to an acceptable standard including unkempt gardens.
- Adverse impact from increased volume of waste, not disposing of waste at end of tenancy causing increase in vermin.
- Increasing size of drive and removing part of the front garden would have a detrimental impact on the character of the area.
- Increased anti-social behaviour and drug use.
- Loss of council tax revenue.
- Impact on ability to sell houses and property value.

43. In addition to the above, one letter of support was received.

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

APPLICANT'S STATEMENT:

44. The proposals relate to the change of use from a C3 family house to a 7 bed HMO with no external difference except the replacement of a garage door with a half brick wall and a window which is arguably visually more appealing).
45. Durham City Council brought into force article 4 to protect the housing stock in Durham City and to stop areas becoming highly concentrated with students. Student landlords cannot add student housing into an area where the HMO population within 100m is above 10%. In this area the percentage is 7.7% which is well below the 10% which the council require.
46. Some of the statements added online by neighbours are prejudging students. I was a student in Durham as is my son and my daughter is a student abroad. I'm sure many of the neighbours have been students and/or have children who are.
47. I certainly didn't behave in an unneighbourly way, nor does my son and his housemates. I have many tenants who are helpful to their neighbours and whose positive behaviour has been commented on.

48. Students looking to party would, in my opinion, look for houses in the more concentrated areas and not in the more family neighbourhoods. Some have stated to me that they want somewhere that feels more like home and that is why they have chosen houses not in the more usual concentrated student areas.
49. The Council's HMO Report states that within a 100m radius of, and including 41 Fieldhouse Lane 7.7% of properties are class N exempt properties as defined by Council Tax records. The property therefore lies in an area where, by the Council's own definition, the tipping point has not been reached to an extent where there would already be concerns about the impact of the student population on the residential amenity of non student residents.

A (12) Anti-Social Behaviour:

To ensure that nothing shall at any time be done within or upon subjects or let that shall offend – nuisance – damage – disturb – annoy – injure or inconvenience any adjoining, neighbouring or conterminous property and / or its occupiers.

50. Durham University also have a “*Students Living Out of College: Code of Conduct*” to ensure that students act as good neighbours and the university also work in partnership with Durham Constabulary, Durham County Council and other bodies with a procedure in place for responding to reports of anti-social noise from students within Durham City with disciplinary measures outlined. It is not considered that the proposed modest increase in occupancy would exacerbate any issues in relation to noise and disturbance to an extent that unacceptable impacts on neighbours would occur, however, the management regimes and powers of external bodies such as the police and Durham County Council will ensure that the amenities of neighbouring residents are adequately protected in any event.
51. We do not therefore consider that allowing 41 Fieldhouse Lane as an HMO would lead to unacceptable impacts on the amenities of neighbouring residents.
52. A previous appeal decision at 1 Wearside Drive also considered the impact of student tenants in terms of noise, disturbance and anti-social behaviour in an area where there was not an existing over concentration of student residents. The property at 1 Wearside Drive was located in an area where 7.1% of properties within a 100m radius were Class N exempt and similarly the 1 Wearside Drive proposal related to the change of use of an existing C3 property to an HMO leading to the introduction of 5 student tenants to the area. The Inspector's conclusions in relation to the impact of the proposed HMO at 1 Wearside Drive upon neighbouring occupiers are set out below with emphasis added where considered relevant to the current appeal proposals:
53. *“The Council seeks to protect residential amenity through application of Policies 29 and 31 of the CDP. These policies seek that the impact of development, either individually or cumulatively, upon both future occupants and nearby properties is minimised. I appreciate that residents have genuine concerns about potential issues often associated with HMO properties. These include an increase in noise, disturbance, litter, anti-social behaviour and potential crime due to the property being empty during student vacations.*”
54. **However, these issues are not a predictable consequence of HMO's as opposed to single occupation dwellings, but rather a matter of individual behaviour and suitable management. If such behaviour did occur, as with any resident, the local authority and police have powers to deal with it. I have no evidence to suggest that such control would be insufficient to limit any nuisance to residents. Furthermore, Durham University have a Code of Conduct relating to behaviour of**

students living outwith university accommodation with potentially serious consequences for breaches.

55. **Problems associated with HMOs often occur in areas with relatively high concentrations of this type of housing.** Policy 16 seeks to control the impact of HMOs upon neighbouring occupiers by controlling numbers present within any given area. Consequently, and in accordance with Policy 16, **as the number of HMOs within the vicinity of this proposal would be less than 10%, the impact is unlikely to significantly harm the living conditions of neighbouring occupiers. Moreover, Environmental Health Officers have raised no concerns** and there is existing space for refuse bins.”
56. A large number of applications for new HMOs and extensions to HMOs have been approved by the Council in areas of the city where the 10% threshold set out in Policy 16 would not be exceeded following adoption of the CDP in 2020. In particular, we would highlight an application for a 7 bedroom HMO at 3 St Monica Grove (DM/22/03823/FPA) that was approved by the Planning Committee in April 2023 and, in relation to impacts on residential amenity, the Committee Report states:
57. *The application site is located within a residential area predominantly characterised by small family homes. The impact of the development upon residential amenity is a material consideration in determination of this application. In most cases it is held that changes of use from C3 dwellinghouses to HMO use can be adequately mitigated to within acceptable levels subject to planning conditions. Where an 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 subsequent planning appeals. However, **in this instance it is noted that there is no identified over proliferation of existing HMOs within 100 metres of the application site, and as such it is not considered that the introduction of a single additional HMO in this location would result in a level of cumulative impact that would be detrimental to residential amenity.***
58. The St Monica Grove property lies within an area where less than 10% of properties within a 100m radius were Class N exempt and, as there was no identified over proliferation of existing HMOs (as is the case at Fieldhouse Lane), it was concluded that the introduction of a single additional HMO in this location would not result in a level of cumulative impact that would be detrimental to residential amenity.
59. The property lies within an area where there is not a pre-existing over concentration of student properties and has an established use as a C4 HMO. The property is located on the outskirts of the city and student tenants seeking a property in this location are generally looking for a quieter residential environment and are largely considerate to neighbouring residents and the wider community. The landlord’s management policies, the university code of conduct and the management regimes and powers of external bodies such as the police and Durham County Council will ensure that the amenities of neighbouring residents are adequately protected in any possible event of a problem arising.
60. We do not therefore believe that the proposed development would lead to adverse impact on the amenity of existing residents through increased noise, disturbance and antisocial behaviour and this position is supported by the conclusions drawn by the Council and Inspectors on proposals for HMO related development in other parts of the

city where there is not a pre-existing over concentration of student properties. We would therefore request that the current Planning Application is allowed.

PLANNING CONSIDERATIONS AND ASSESSMENT

61. 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.
62. 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 the impact on parking and highway safety.
63. 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 Development

64. The proposal relates to the change of use from a residential dwellinghouse (Use Class C3) to a 7-bed Large HMO (Use Class Sui Generis).
65. 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.
66. In addition, CDP Policy 16 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.

67. 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.
68. In the supporting text of CDP Policy 16 it is stated that Part 3 of the policy uses a threshold of 10%. This has been derived from section 2 of the 'National HMO Lobby Balanced Communities and Studentification Problems and Solutions', which was published in 2008. The policy approach recognises that it is the cumulative impact of HMOs that has an impact upon residential amenity and can change the character of an area over time.
69. In addition, CDP Policy 16 also states that such 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 residents.
70. Objections received have raised concern with respect to the principle of the development, specifically that properties in the area that have received permission to change their use to HMOs and as such there is a perception that the percentage of properties within the area which are exempt from Council Tax is already high 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. The Council has sought confirmation from the HMO Data Section who confirms that 7.7% of properties within 100m radius of the application property are Class N exempt from Council Tax.
71. In addition, objections have also been raised that there is no need for this type of accommodation in the area, and that generally demand is likely to fall given the number of students at the university is expected to reduce.
72. Concern is also raised 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 this regard is noted, the methodology contained within the policy (and the policy itself) was considered sufficiently accurate and robust during examination in public of the CDP in 2020, and the current policy adopted, as presently exists within the adopted CDP. It should be noted that the policy has proven sufficiently robust, and the Council has successfully defended several appeals against refusal of similar changes of use where these were in clear conflict with the policy. In addition, it should be noted 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.

73. 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 an HMO that within 100 metre radius of, and including 41 Fieldhouse Lane, 7.7% of properties are class N exempt properties as defined by Council Tax records. 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 (PBSA) 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 CDP Policy 16, Part 3 and the impact of the proposal upon residential amenity and highway safety.
74. 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 reoccupied as family homes without the need for planning permission and limited internal reconfiguration.
75. Notwithstanding this, it nevertheless remains that whilst Part 2 of CDP 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 this 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 CDP Policy 16 and that the lack of any specific information to demonstrate need, is not sufficient to sustain refusal of the application in this instance.
76. 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.
77. Whilst concerns are noted, it is considered 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.
78. Objections have been received citing that the development would have an adverse impact upon social cohesion and unbalance the community. Part 3 of CDP Policy 16 includes a threshold of no more than 10% of properties being in HMO use. As already noted above, in light of limited number 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 County Durham Plan in this regard. Whilst it is noted that tenants would likely change on a yearly basis this is unlikely to create any community imbalance to the extent that it would have any adverse impact capable of sustaining refusal of the planning application.

Impact on Residential Amenity

79. CDP Policy 31 (Amenity and Pollution) 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 CDP 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.
80. 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.
81. 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 northwest, with further residential properties to all sides.
82. 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 Technical Advice Notes (TANs).
83. In addition, they confirm that the development would fall within the thresholds associated with Council's TANs. They have noted that although the use is not a change of use to a more sensitive receptor, the source of noise could be greater from the HMO use than a single dwelling. This is due to the increase in household numbers and activity to and from the property. The demographic that use this type of accommodation are often associated with greater use of the night time economy and as such an increased level of night time noise may occur. However, it is anecdotal as the potential for impact is associated with the individuals residing there and as such might differ greatly.
84. The application site is located within a residential area predominantly characterised by 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 an 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.
85. The proposals do include the provision of two bedrooms to the ground floor which could lead to a greater impact for the individual residing in these rooms, as well as the potential increase of noise at night-time. Therefore, to mitigate this, soundproofing measures would be required. The submission and agreement of precise details in this regard should be secured through planning condition.

86. 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.
87. Concerns have been raised by objectors in respect of the location of bin and cycle storage with some bin and cycle storage shown to the rear but with no external access to the rear from the front. Whilst these concerns are noted, there is bin storage shown at the front of the property. Whilst the location of the cycle storage is not ideal, it is not uncommon for people to carry bikes through the house to the rear, and given this is a reasonable solution, it alone would not be considered to sustain a reason to refuse the application. 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 CDP Policy 16.
88. It is considered that this is acceptable, and a condition will be added to ensure that this area is made available and always retained for this purpose for the duration that the property is in use as an HMO.
89. 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.
90. Objections have raised concerns in respect of loss of privacy, however there would be no increase in fenestration to the rear or side elevation. There would be the installation of one additional window to the front elevation, which is currently the garage door, however separation distances to neighbour's habitable rooms would be more than the minimum 21m as set out in the Residential Amenity Standards SPD.
91. 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.
92. 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 CDP Policy 29(e) which requires new development to provide high standards of amenity and privacy.

93. All 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 7 bedspace, 7 person dwellings. However, it does include standards in relation to 7 bedspace 6 bedroom dwellings and it is noted that this requires an overall area of no less than 123sq metres. As already noted, whilst the rigid application of NDSS is not considered appropriate for the reasons outlined above the proposed change of use would provide adequate internal space delivering approximately 131sq metres of total internal floorspace.
94. Therefore, based on the above the proposal is considered to comply with Policy 29(e) of the CDP and the principles set out in DCNP Policy S1 in that it provides a suitable amount of internal and external amenity space to meet the needs of future occupiers and delivers a suitable quality of development, and complies with to Policies 16 and 29(e) of the County Durham Plan, Parts 15 of the NPPF and Durham City Neighbourhood Plan S1.

Impact on Character and Appearance of the Area

95. 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.
96. Paragraph 126 goes onto 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.
97. CDP 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.
98. Minor external alterations are proposed to the front elevation to change the existing garage door to a window with red brickwork to match existing closely as possible. Given the limited scale of these alterations it is not considered that this would have a detrimental impact on the street scene and would be considered in accordance with Policy 29 of the County Durham Plan, Part 12 of the NPPF and S1, H3 and D4 of the DCNP.
99. Objections have been raised about the proposed extended parking and the removal of some front garden and its impact on the character and appearance of the area. These concerns are noted; however, this alteration could be executed without the need for planning permission.

Parking, Access and Highway Safety

100. CDP Policy 16 states that new HMOs shall provide adequate parking and access. In addition, CDP Policy 21 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.
101. 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.
102. Objections have been raised regarding parking and highway safety as the street is congested with parked vehicles, and that the change of use to a 7 bed HMO would exacerbate these issues. Objections have also been raised that no EV charging point has been provided.
103. The property has an existing driveway for one car and a garage. The garage is proposed to be converted into a bedroom however, the Council's current 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. The applicant proposes to extend the parking provision to the front to provide space for two vehicles. The dwelling falls within the North End controlled parking area, and so the residents of the property would be eligible to apply for permits to park on street.
104. The Highways Authority was consulted on the application and raised no concerns over road safety on the basis of the two parking spaces being provided, together with the eligibility for permits to park on the street which would be in accordance with the current DCC Parking standards. It is noted that the Council is currently reviewing the existing Parking Standards and these are likely to have been formally adopted at the point the committee determines this application. As such, assessment of the proposals against those updated standards has been undertaken.. These new standards would require 4 parking spaces for a property with 6+ bedrooms. As the development would only propose 2 spaces and would have 7 bedrooms, it would not be in accordance with the revised Parking Standards. Despite this shortfall, the site is within the North End Controlled Parking Area (CPA) and within this area, each property is entitled to a maximum of three permits. Furthermore, Fieldhouse Lane has traffic calming measures and is considered to have sufficient width to allow parked cars without causing obstruction to the highway. The site is also considered to be in a sustainable location, as it is within walking distance to regular bus links and Durham Railway Station. The application has been discussed with DCC Highways Authority, and whilst it would not be in full accordance with the updated parking standards, based on the above mitigating factors, the shortfall parking provision would not, in this instance, be capable of sustaining refusal of the application.
105. To allow for the additional space, the existing dropped kerb would be required to be widened and this would require the applicant to enter into a S184 agreement with the Local Highway Authority. A suitably worded condition is proposed to ensure that the car parking is extended prior to first occupation of the development.
106. The road outside is a public highway, and whilst the concerns regarding parking congestion are noted, it is not considered that the change of use of this property would create any further significant issues in this respect. With regard to concerns that the

development would increase in vehicle movements in this area, it is considered that the proposed use would not increase vehicle movements to an extent that it would adversely impact upon existing network capacity or on street parking. In instances where vehicles presently obstruct the adopted footway this is subject to legislative control via the Highways Act and cannot be afforded weight in determination of this application.

107. 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.
108. 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 County Durham Plan, Part 9 of the NPPF and Policies T1, T2 and T3 of the Durham City Neighbourhood Plan.

Other issues

109. 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 and families are being pushed out of the area. Property values and loss of council tax revenue are not material planning considerations in the determination of this application and the issue of social cohesion and community imbalance has been discussed elsewhere in this report.
110. An objector has raised concerns regarding the red line being positioned on top of the boundary line of 42 Fieldhouse Lane. The applicant was asked to confirm that the red line was in the correct position and confirmed that it was and there would be no encroachment to neighbouring land. The LPA has no evidence to dispute this, and any dispute between neighbours regarding boundaries are a civil matter.

Public Sector Equality Duty

111. 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.
112. In this instance, officers have assessed all relevant factors and do not consider that there are any equality impacts identified.

CONCLUSION

113. 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).
114. The proposed change of use is considered acceptable in principle and would accord with the requirements of CDP Policy 16. 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.

115. 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 and Parts 9, 12 and 15 of the National Planning Policy Framework.
116. 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, Policies S1, D4, T1, T2 and T3 of the Durham City Neighbourhood Plan and Parts 2, 4, 8, 9, 12 and 15 of the National Planning Policy Framework.

RECOMMENDATION

That the application be **APPROVED**, subject to the conditions detailed below:

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

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

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

4. Prior to the first occupation of the HMO hereby approved, a tenant management plan shall be submitted to and approved in writing by the Local Planning Authority. The tenant management plan shall thereafter be implemented in its entirety and retained for the lifetime of the development.

Reason: In the interest of the amenities of the area in accordance with Policies 16, 29 and 31 of the County Durham Plan and Parts 12 and 15 National Planning Policy Framework.

5. Prior to the first use of the HMO hereby approved the cycle and bin storage arrangements as shown on the proposed site plan shall be fully installed and available for use. Thereafter this provision shall remain available for use for as long as the property is in use as an 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.

6. Before the HMO hereby approved is occupied, two car parking spaces shall be constructed in accordance with the County Durham Parking and Accessibility Standards and thereafter shall be used and maintained in such a manner as to ensure their availability at all times for the parking of private motor vehicles.

Reason: In the interests of highway safety in accordance with Policy 21 of the County Durham Plan and Part 9 of the National Planning Policy Framework.

7. Before any part of the development hereby approved is commenced a scheme of sound proofing measures shall be submitted to and approved in writing by the local planning authority. The aim of the scheme shall be to ensure that the noise insulation of walls, floors, windows, roofs between the adjoining properties shall be sufficient to prevent excessive ingress, egress of noise. The approved scheme shall be implemented prior to the beneficial occupation of the development and shall be permanently retained thereafter.

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.

8. No development shall commence until a Construction Management Plan has been submitted to and approved in writing by the Local Planning Authority. The Construction Management Plan shall include as a minimum but not necessarily be restricted to the following:
 - No construction/demolition activities, including the use of plant, equipment, and deliveries, which are likely to give rise to disturbance to residents should take place before 0800 hours and continue after 1800 hours Monday to Friday, or commence before 0800 hours and continue after 1300 hours on Saturday. No works should be carried out on a Sunday or Bank Holiday.
 - The best practicable means shall be used to minimise noise, vibration, light and dust nuisance, or disturbance to local residents resulting from construction/demolition site operations. No burning of waste is to be carried out on the development site. It shall be considered that the best practicable means are met by compliance with all current British standards/relevant guidance.

The management strategy shall have regard to BS 5228 "Noise and Vibration Control on Construction and Open Sites" during the planning and implementation of site activities and operations.

The approved Construction Management Plan shall also be adhered to throughout the construction period and the approved measures shall be retained for the duration of the construction works.

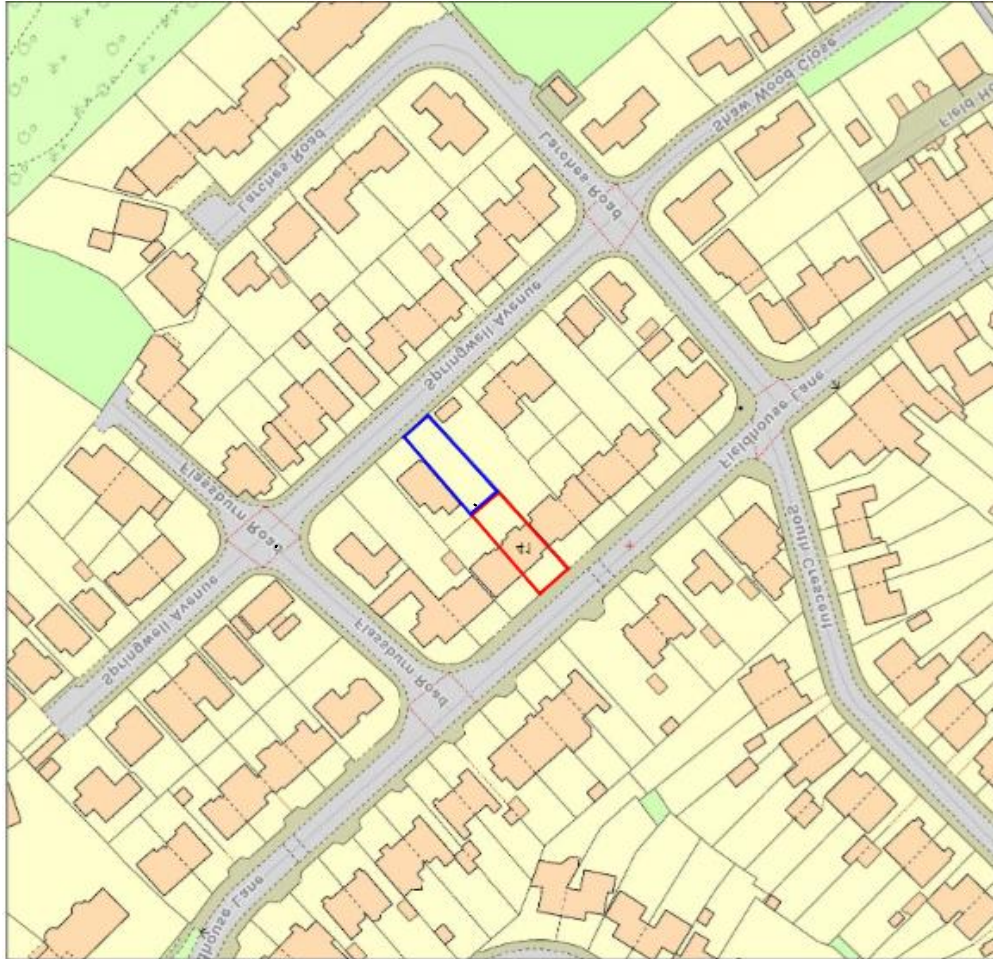
Reason: To protect the residential amenity of existing and future residents from the development in accordance with Policy 31 of the County Durham Plan and Part 15 of the National Planning Policy Framework. Required to be pre commencement to ensure that the whole construction phase is undertaken in an acceptable way.

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.
- Statutory, internal and public consultation responses
- The National Planning Policy Framework (2021)
- Durham City Neighbourhood Plan (2021)
- National Planning Practice Guidance Notes
- County Durham Plan (2020)
- Residential Amenity Standards SPD (2020)
- County Durham Parking and Accessibility Standards



<p>Planning Services</p>	<p>41 Fieldhouse Lane Durham DH1 4LT</p>	
<p>This map is based upon Ordnance Survey material with the permission of Ordnance Survey on behalf of Her Majesty's Stationary Office © Crown copyright. Unauthorised reproduction infringes Crown copyright and may lead to prosecution or civil proceeding. Durham County Council Licence No. Durham County Council Licence No. 100049055 2023.</p>	<p>Change of use from five bed dwellinghouse to seven bed HMO (sui generis).</p>	
	<p>Date 12 September 2023</p>	<p>Scale NTS</p>