

## COMMITTEE REPORT

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### APPLICATION DETAILS

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<b>APPLICATION No:</b>	DM/23/01167/FPA
<b>FULL APPLICATION DESCRIPTION:</b>	Change of use from dwellinghouse (Use Class C3) to small House in Multiple Occupation (Use Class C4) with alterations to existing bay window.
<b>NAME OF APPLICANT:</b>	Ms Anika Sarania
<b>ADDRESS:</b>	5 Lyndhurst Drive Crossgate Moor Durham DH1 4AE
<b>ELECTORAL DIVISION:</b>	Neville's Cross
<b>CASE OFFICER:</b>	Michelle Penman Planning Officer Michelle.penman@durham.gov.uk 03000 263963

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### DESCRIPTION OF THE SITE AND PROPOSALS

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#### The Site:

1. The application site is an unlisted two-storey semi-detached property located within Lyndhurst Drive, Crossgate Moor, an established residential cul-de-sac to the east of the A167.
2. The dwelling includes a gravel garden to the front of the property, a concrete driveway to the side, and private garden amenity space to the rear, which is currently enclosed by timber fencing.

#### The Proposal:

3. Planning permission is sought for the change of use of the property from an existing 3-bed dwelling (Use Class C3) to a small 4-bed House in Multiple Occupancy (Use Class C4). The proposals also include amendments to the roof of the existing ground floor bay window to the front of the property and the formation of a driveway.
4. Planning permission is required in this instance as an Article 4 Direction has withdrawn permitted development rights for such changes of use.
5. The application is being reported to planning committee at the request of the Durham City Parish Council who consider the application raises concerns in relation to impacts on the balance of the community and residential amenity which require consideration by the committee.

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## **PLANNING HISTORY**

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6. No relevant planning history.

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## **PLANNING POLICY**

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### **NATIONAL POLICY**

#### National Planning Policy Framework

7. The following elements of the National Planning Policy Framework (NPPF) are considered relevant to this proposal:
8. 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.
9. 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.
10. NPPF Part 8 – Promoting Healthy and Safe Communities - The planning system can play an important role in facilitating social interaction and creating healthy, inclusive communities. Developments should be safe and accessible; Local Planning Authorities should plan positively for the provision and use of shared space and community facilities. An integrated approach to considering the location of housing, economic uses and services should be adopted.
11. NPPF Part 9 – Promoting Sustainable Transport - Encouragement should be given to solutions which support reductions in greenhouse gas emissions and reduce congestion. Developments that generate significant movement should be located where the need to travel will be minimised and the use of sustainable transport modes maximised.
12. NPPF Part 12 - Achieving Well-Designed Places - The Government attaches great importance to the design of the built environment, with good design a key aspect of sustainable development, indivisible from good planning.
13. NPPF Part 15 - Conserving and Enhancing the Natural Environment - Conserving and enhancing the natural environment. The Planning System should contribute to and enhance the natural and local environment by protecting and enhancing valued landscapes, geological conservation interests, recognising the wider benefits of ecosystems, minimising the impacts on biodiversity, preventing both new and existing development from contributing to or being put at unacceptable risk from pollution and land stability and remediating contaminated or other degraded land where appropriate.

## **NATIONAL PLANNING PRACTICE GUIDANCE:**

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; historic environment; design process and tools; determining a planning application; flood risk; healthy and safe communities; land affected by contamination; housing and economic development needs assessments; housing and economic land availability assessment; light pollution; natural environment; neighbourhood planning; noise; open space, sports and recreation facilities, public rights of way and local green space; planning obligations; travel plans, transport assessments and statements; use of planning conditions; and; water supply, wastewater and water quality.

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

## **LOCAL PLAN POLICY:**

### The County Durham Plan

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.

<https://www.durham.gov.uk/media/41575/Residential-Amenity-Standards-SPD-January-2023-/pdf/ResidentialAmenityStandardsSPDJanuary2023.pdf?m=638107754686670000>

22. The current County Durham Parking and Accessibility Standards Supplementary Planning Document 2019 sets out the Council's approach to vehicle and cycle parking provision on new development and extensions to existing development which includes both residential and non-residential.

<https://www.durham.gov.uk/media/26916/County-Durham-Parking-and-Accessibility-Standards-2019/pdf/CountyDurhamParkingAndAccessibilityStandards2019.pdf>

## 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) sets out the economic, social and environmental criteria that development proposals will be required to meet.
25. Policy H3 (Our Neighbourhood Outside the Conservation Areas) requires development outside of Conservation areas to, where appropriate, demonstrate an understanding of the area of the proposed development and its relationship to the Neighbourhood area. Such development should sustain and make a positive contribution to the character and distinctiveness of the area and avoid the loss of open space and public realm that contributes to the area, to be appropriate in terms of scale, density, massing, form, layout, landscaping and open spaces and use appropriate materials and finishes.
26. Policy D4 (Building Housing to the Highest Standards) states all new housing, extensions and other alterations to existing housing should be of a high-quality design relating to the character and appearance of the local area, aesthetic qualities, external and internal form and layout, functionality, adaptability, resilience and the improvement of energy efficiency and the reduction of carbon dioxide emissions.

27. Policy T2 (Residential Car Parking) seeks to ensure that proposed development would be served by sufficient car parking spaces.
28. 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.

<https://www.durham.gov.uk/media/36020/Durham-City-adopted-neighbourhood-plan/pdf/DurhamCityNeighbourhoodPlan.pdf?m=637630042066500000>

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## **CONSULTATION AND PUBLICITY RESPONSES**

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### **STATUTORY RESPONSES:**

29. The Highway Authority raises no objection noting that there is scope within the front garden area to extend the existing driveway to provide the 2 off street parking spaces required to meet DCC's current parking standards.
30. The City of Durham Parish Council objects to the application on grounds that the development will further imbalance the community and result in an intensification of the residential use of the site, that would have a detrimental impact on surrounding residential amenities through noise and disturbance, contrary to Policies 29 and 31 of the CDP, NPPF (paragraph 130 (f)), and Policy S1(m) of the DCNP.
31. For clarification, it is noted that the current application has been made by a different applicant than the recently refused application at 1 Larches Road (planning ref: DM/22/01650/FPA) and not the same applicant as suggested by the PC in their response. In any event, whether it be the same applicant for both applications is not a material planning consideration to which weight can be afforded in the determination of this application.

### **INTERNAL CONSULTEE RESPONSES:**

32. HMO Data have confirmed that the percentage of properties within the 100m radius of and including the application site that are exempt from Council Tax is 6.0%. Taking account of the 2 no. unimplemented consents at 1 and 3 St Monica Grove the percentage would increase to 9.0%.
33. HMO Licensing confirm that the proposed dwelling will not be required to be licensed when the work is complete, provided that all bedrooms are occupied by a single adult. They also set out works required to ensure compliance with all of Durham County Council's HMO Amenity and Space Standards.
34. Environment, Health and Consumer Protection (Nuisance Action Team) raise no objection to the application, subject to the inclusion of conditions relating to construction works and a scheme of sound proofing measures.

### **PUBLIC RESPONSES:**

35. The application has been advertised by means of site notice and by notifying neighbouring residents by letter. At the time of writing, there have been 53 letters of objection received in relation to the proposals, including from Mary Kelly Foy MP. Reasons for objection are summarised as follows:
  - Consider the methodology to calculate percentages of student exempt properties within 100m to be flawed and data used to inform decisions to be

out of date or misrepresented. In addition, consider that the cumulative impacts of HMOs in a small area i.e. Lyndhurst Drive and St Monica Grove should be considered and that the 100m rule and 10% threshold is inadequate particularly for Lyndhurst Drive which they consider should be considered in isolation.

- There is concern that recent approvals for HMOs in the vicinity have not been taken into account and that there are other unregistered/unaccounted for HMOs, therefore, the actual percentage likely exceeds 10% contrary to Policy 16. In addition, the requirement for additional student accommodation is considered to be questionable due to recent approvals for HMOs and new PBSA in local area.
- Impact on social cohesion and the balance of the community as a result of the development which would lead to an over proliferation of HMOs in this area, impacting on general housing stock, forcing families out of this residential area. In particular, due to the transient nature of student population, properties are often empty outside of term times and do not contribute to the area's character or identity or help to reinforce a distinctive and sustainable community.
- Impacts on residential amenity, health, and well-being, due to likely increased noise and disturbance, particularly at unsocial hours, and concern around anti-social behaviour. There is concern around the poor maintenance of HMOs and that the generation of additional waste may lead to health hazards and problems with vermin. In addition, there is also concern that changing the living/dining room into additional bedroom will impact on amenity/quality of life of occupants.
- Impact on parking and highways safety, in that the site would compound existing parking and access problems in street and would present a danger to safety of residents/ pedestrians. Consider that development will also have Implications for services such as bin collections and emergency services. In addition, concern that the development will increase congestion and pollution on roads in this area, in particular the A167, due to families living further away from the central primary and secondary schools and relying on travel by car, which undermines aims of sustainable travel.
- Concerns have been raised around level of publicity carried out by the LPA which is considered to be inadequate.
- Impact on house prices and loss of revenue from Council Tax.

*The above is not intended to list every point made and represents a summary of the comments received on this application. The full written text is available for inspection on the application file which can be viewed at <https://publicaccess.durham.gov.uk/online-applications/applicationDetails.do?activeTab=summary&keyVal=RTOHZMGDJXS00>*

APPLICANT'S STATEMENT:

36. N/A

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## **PLANNING CONSIDERATIONS AND ASSESSMENT**

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37. 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.

38. In assessing the proposals against the requirements of the relevant planning guidance and development plan policies and having regard to all material planning considerations it is considered that the main planning issues in this instance relate to the principle of development, impact on residential amenity and balance of community/social cohesion, impact on the character and appearance of the area, impact on parking and highway safety, and other matters.
39. 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

40. The proposals relate to the change of use of a 3-bed residential dwellinghouse (Use Class C3) to a 4-bed small HMO (Use Class C4) with alteration to the roof of the front ground floor bay window.
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. 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 in this area and withdraws such permitted development rights and as such planning permission is required.
42. 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, 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.
43. In addition, Part 3 of CDP Policy 16 (Houses in Multiple Occupation) is also relevant to the proposal and relates to the conversion of residential dwellings to HMOs. The Policy states that in order to promote, create and preserve inclusive, mixed and balanced communities and to protect residential amenity, applications for new build Houses in Multiple Occupation (both Use Class C4 and Sui Generis), extensions that result in specified or potential additional bedspaces and changes of use from any use to a Class C4 (House in Multiple Occupation), where planning permission is required, 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. 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.
44. In addition to the above, applications will only be permitted where:
- a. the quantity of cycle and car parking provided has regard to the Council's adopted Parking and Accessibility Supplementary Planning Document (SPD);
  - b. they provide acceptable arrangement for bin storage and other shared facilities and consider other amenity issues;
  - c. the design of the building or any extension would be appropriate in terms of the property itself and the character of the area; and
  - d. the application has shown that the security of the building and its occupants has been considered, along with that of neighbouring local residents.
45. It is acknowledged that objections have been received from local residents raising concerns that the proposed development would result in an over proliferation of HMOs in the area, thereby unbalancing the community, and consider that the 10% has likely already been exceeded and there is no requirement for additional HMOs in this area. There is also concern that the data used to inform decisions is out of date/inaccurate and the methodology used in CDP Policy 16 (3) is flawed. In particular, it is not considered that the Council Tax data accurately reflects the number of HMOs in the area and it is considered that there is a close concentration of HMOs in Lyndhurst Drive which should be considered in isolation.
46. 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. While some objections consider that Lyndhurst Drive and the concentration of HMOs within should be considered in isolation, as already noted, the Policy uses a 100m radius for the purposes of assessing compliance with that Policy and does not refer to individual streets. CDP Policy 16 gives a standard and consistent approach to assess applications for HMOs. The Policy, together with the methodology contained within, was considered sufficiently accurate and robust during examination in public of the CDP in 2020, and the existing policy subsequently included 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 within 100m radius of, and including 5 Lyndhurst Drive, 6.0% of properties are class N exempt properties as defined by Council Tax records. However, there are previous permissions relating to 1 and 3 St Monica Grove for changes of use to HMOs which are within the 100m radius and, if implemented, would increase the percentage to 9.0%. There are no applications within 100m pending determination. This percentage would therefore fall below the 10% threshold. The application site is not considered to be on a primary access route between Purpose Built Student Accommodation and the town centre or a university campus. On that basis, the development would be considered to accord with criteria a), b) and c) of Policy 16(3) and is therefore considered to be acceptable in principle, subject to further considerations of the proposal against other criteria in Policy 16(3) and other relevant policies.



48. 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.
49. As noted, concerns have also been raised that the data does not reflect the actual number of HMOs in the area and objections have suggested there are unregistered/unaccounted for HMOs. The information received from the Council's HMO Data Team represents the most up to date information available for the purposes of CDP Policy 16 and is sufficient to assess the proposals in this regard. Nevertheless, the concerns raised have been passed on to the Council's Planning Enforcement section for further investigation. In addition, while objections have also suggested previous permissions, in particular those relating to nos. 1 and 3 St Monica Grove, have not been taken into account, it is noted that these are reflected in the percentage figures as set out within the comments from the HMO Data team and summarised above.
50. In addition, objections have also been received suggesting that there is no requirement for an additional HMO, with the applicant failing to demonstrate need for accommodation of this type in this area, and that there is a surplus of student accommodation within the city. 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, particularly in relation to HMOs which in most cases if not occupied as such, can be occupied again as family homes with limited internal reconfiguration. Notwithstanding this, it remains that whilst Part 2 of CDP 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 CDP Policy 16 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.
51. Objections have been received citing that the development would have an adverse impact upon social cohesion and unbalance the community. Paragraph 63 of the NPPF considers the need to create mixed and balanced communities and this is reflected in the requirements of Part 3 of CDP Policy 16 which includes a threshold of no more than 10% of properties being in HMO use and also reflected in the themes and aims of the Neighbourhood Plan. As already noted above, in light of the low level of Class N exempt properties within 100m radius of the site at present, it is not considered that this proposal would be contrary to the NPPF or County Durham Plan in this regard. Whilst it is noted that tenants would likely change on a yearly basis this is unlikely to have any adverse impact capable of sustaining refusal of the planning application.

#### Impact on residential amenity

52. Paragraph 130 of the NPPF requires planning decisions to create places that are safe, inclusive and accessible and which promote health and well-being, with a high standard of amenity for existing and future users and where crime and disorder, and

the fear of crime, do not undermine the quality of life or community cohesion and resilience. CDP Policy 31 (Amenity and Pollution) displays broad accordance with the aims of Paragraph 130 in this regard and sets out that development will be permitted where it can be demonstrated that there will be no unacceptable impact, either individually or cumulatively, on health, living or working conditions or the natural environment. 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.

53. 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.
54. The application site is a semi-detached property located within a residential area and the nearest residential property adjoins the site to the east, with other residential properties surrounding the site. It is acknowledged that a significant number of objections have been raised in relation to the cumulative impacts of the proposed development, together with existing HMOs in Lyndhurst Drive and nearby St Monica Grove. In particular, concerns around noise, disturbance and anti-social behaviour have been cited as well as concerns around maintenance of properties and increased waste, which may lead to nuisance from vermin as a consequence.
55. The Council's Environmental Health Officer (EHO) has been consulted on the development and have undertaken a technical review of information submitted in relation to the likely impact upon amenity in accordance with the relevant Technical Advice Notes (TANs). The EHO note 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 single dwelling, due to the increase in household numbers and activity to and from the property. They acknowledge that 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.
56. The application site is located within a residential area that is predominantly characterised by family homes and the impact on residential amenity is a material consideration in the determination of this application. 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. 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. Nevertheless, as noted in the Design and Access Statement submitted in support of the application, it is considered that a condition could be applied to secure submission of a more general management plan for the property and future tenants to help reduce any potential impacts on the amenities of the surrounding area that may arise.
57. The EHO officer also notes that the proposed bedroom is on the ground floor with the living room and kitchen and may, therefore, lead to a greater impact on the individuals residing in that room from noise when the rooms are in use. On that basis, the EHO recommended that a scheme of sound proofing measures could be implemented to mitigate any harm. A condition could therefore be attached to any permission granted

requiring a sound proofing scheme to be submitted to and agreed by the LPA and, thereafter, implemented prior to first occupation of the development and retained at all times whilst the HMO is in use as such.

58. As already noted, concerns have been raised in relation to additional waste and litter that could be generated by the development and potential issues with vermin as a result. Poor management of rubbish and recycling at HMOs can lead to unattractive frontages, problems with vermin and raise concerns over health and safety. Such issues can affect the amenity of nearby properties and may lead to complaints from neighbouring residents. It is noted that the property includes adequate external space to accommodate sufficient bin and cycle storage and the applicant has indicated that the storage can be accommodated to the rear of the property. Therefore, it is considered that a condition could be attached to any consent granted requiring precise details of that storage to be submitted, agreed, and installed prior to first occupation of the development. In addition, the management of bins and waste could be included as part of a broader management plan which, as already noted, could be secured via condition. There is also sufficient existing private amenity space to the rear of the property to serve the occupants of the development in accordance with CDP Policy 16.
59. A concern has been raised in relation to the loss of the dining/kitchen space to create the fourth bedroom on the ground floor and the impact this would have on the amenity standards of future occupants. In relation to internal space provision, 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. However, it is recognised that this application relates to a change of use from C3 to C4 and, therefore, 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.
60. All of the bedrooms would comply with the minimum NDSS requirements being in excess of 7.5sq metres per room. With regards to the overall internal space provided across the dwelling as a whole, the guidance does not specifically refer to a 4-bedspace 4-person (4b4p) dwelling. However, it does provide standards in relation to a 3b4p dwelling and requires 84sq metres which the development would appear to exceed, with provision of approximately 87sq metres of gross internal floorspace. In addition, although the HMO would not require a license, it is noted that the remaining kitchen/dining/living space would provide approximately 19sq metres which exceeds the 16sq metres required by HMO licensing. As such, the communal space is considered to be sufficient to serve the occupants of the property.
61. The development includes limited external works to the premises to include alterations to the roof of the bay window and construction of a new driveway. The EHO initially recommended that a Construction Management Plan be required to be submitted. However, following further discussions and taking account of the level of works proposed it was considered that a condition could be attached to ensure that works are kept within suitable hours, to protect the amenity of neighbouring occupants.
62. Taking the above into account, the proposals are considered to provide a suitable quality of development for future occupants, and it is not considered that there would be any significant adverse impacts on neighbouring occupants that would sustain

refusal of the application in this instance, in accordance with Policies 16, 29 and 31 of the County Durham Plan and Part 15 of the NPPF.

#### Impact on the character and appearance of the area

63. Paragraph 124 of the NPPF advises that the creation of high-quality buildings and places is fundamental to what the planning and development process should achieve, and that good design is a key aspect of sustainable development, creating better places in which to live and work. CDP Policy 29 requires development to contribute positively to an area's character, identity, heritage significance, townscape and landscape features, helping to create and reinforce locally distinctive and sustainable communities.
64. Policy S1 of the Durham City Neighbourhood Plan (DCNP) requires development proposals, to conserve, preserve and enhance 'Our Neighbourhood' by harmonising with its context and Policy H3 requires development to sustain and make a positive contribution to the character and distinctiveness of the area; use high quality design; and use materials and finishes appropriate to the context and setting of the area. Policy D4 requires extensions to existing housing to be of high-quality design relating to the character and appearance of the local area and aesthetic qualities.
65. As already noted, limited external works are proposed to the property other than alterations to the existing bay window and new driveway. It is noted that other properties in locality have been altered and extended and, given the minor nature of the alterations, it is not considered that there would be any detrimental impact on the character and appearance of the property or surrounding area. The proposed cycle and bin storage will be sited to the rear of the property and the final details will be secured via condition.
66. Taking the above into account, the development would be considered to have an acceptable impact, sustaining and conserving the character and appearance of the dwelling and surrounding area and would accord with the aims of Part 12 of the NPPF, Policies 16 and 29 of the County Durham Plan, and Policies S1, H3 and D4 of the Durham City Neighbourhood Plan.

#### Parking and Highways Safety

67. CDP Policy 16 requires new HMOs to provide adequate cycle and car parking, having regard to the council's adopted Parking and Accessibility Supplementary Planning Document (DCC Parking Standards). CDP Policy 21 states that new development should ensure that any vehicular traffic generated can be safely accommodated on the local and strategic highway network. This displays broad accord with Paragraph 110 of the NPPF which requires new development to provide safe and suitable access to the site. 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. DCNP 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. DCNP Policy T3 (Residential Storage for Cycles and Mobility Aids) requires residential development including change of use to seek to provide storage facilities for cycles which should meet DCC Parking standards.
68. A number of objections have been received which raise concerns in relation to the existing parking and access issues which it is suggested would be exacerbated by the proposed development. There is also concern that due to the narrow street and inconsiderate parking that this may present a safety issue for pedestrians and could

have implications for bin collections and access for emergency services. In addition, concerns have been raised that the development will increase congestion and pollution, in particular on the A167, due to families being pushed into properties further away from the centre of Durham and schools and relying on travel by car.

69. The Highway Authority were consulted on the proposals and initially raised concerns in relation to the level of parking on site, noting that the driveway which runs to the side of the property narrows towards the rear and as such is unlikely to be sufficient width to accommodate 2 cars should the neighbouring property use the corresponding area of adjoining driveway. However, they noted that there would likely be scope to convert part of the front garden to create the additional off-street space that conversion from a 3 to 4 bed requires as a result of the Council's current Parking Standards SPD.
70. Notwithstanding the above, 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. In this regard it is noted that the new standards would require 3 no. in curtilage parking spaces to be provided which is one more than the 2 that it is likely extension of the existing driveway would deliver. Consequently, the applicant provided an updated proposed site plan showing 3 in curtilage spaces and whilst one of those spaces is slightly below the suggested dimensions being shorter in length than 5.5 metres as required by the revised standards, it is noted that this relates to spaces positioned in front of a traditional 'up and over' garage door. In this case the third space would not be position in front of any garage and the Highway Authority have confirmed that a car could safely manoeuvre into and out of this space. Therefore, after assessment against the revised standards, it is considered that the proposals would accord with the revised requirements of the new SPD. However, it is noted that at the present time these standards have not been formally adopted and therefore they can be afforded only very limited weight.
71. No details of cycle storage facilities have been provided. However, it is noted that the Site Plan submitted with the application indicates that these facilities will be located to the rear of the property. Whilst it would have been preferable to have precise details of the specification submitted for consideration with the application there is sufficient evidence to demonstrate suitable provision can be provided. It is therefore considered that a condition requiring the submission of precise details of such storage, to be agreed by the LPA and installed prior to first occupation, would be acceptable in this instance.
72. While concerns have been raised in relation to access and parking, as already noted the proposed level of parking provision is considered to meet the requirements of the parking standards and it is not considered that the number of likely occupants would lead to any significant additional adverse impacts on highway safety or congestion that would sustain refusal of the application in this instance. The proposed use would not be considered to result in significant additional impacts, over and above the C3 use, that could not be accommodated safely on the local and strategic highway network. In addition, while concerns have been raised around the displacement of a family home and implications for sustainable travel, it is not possible to say that a family that could have occupied the property would not be able to live within the surrounding area, particularly in light of the fact that there is not considered to be a proliferation of HMOs in this area, or within another sustainable location.
73. On that basis, it is not considered that the development would result in any unacceptable harm regarding highway safety to a degree that would sustain refusal of the application and the development is therefore considered to accord with the aims

of Part 9 of the NPPF, Policies 16 and 21 of the County Durham Plan and Policies T2 and T3 of the Durham City Neighbourhood Plan.

#### Other Matters

74. Some objections have raised concern with regards to the extent to which the Council advertised the planning application. Whilst the concerns are noted, the application was advertised by means of a site notice displayed at the front of the application property and letters were sent to adjoining occupiers to the application site, which exceeds the minimum statutory requirements as contained in The Town and Country Planning (Development Management Procedure) (England) Order 2015.
75. Objections have also been raised regarding the proposed change of use resulting in the loss of council tax from the class N exemption from student occupiers, that house prices are rising and young families are being pushed out of the area as a result. The loss of council tax and increase of house prices are not a material planning consideration and the issue of social cohesion and sustainable travel have been discussed elsewhere in this report.

#### Public Sector Equality Duty

76. 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.
77. In this instance, officers have assessed all relevant factors and do not consider that there are any equality impacts identified.

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## **CONCLUSION**

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78. In summary, following amendments to the scheme, it is considered that the principle of development is acceptable in planning terms and would accord with the aims of CDP Policies 6 and 16 subject to appropriate planning conditions described within the report and listed below.
79. When assessed against other relevant policies of the County Durham Plan it is not considered that the proposed small HMO in this location would unacceptably imbalance the existing community, nor would it result in any unacceptable impact upon the amenity of existing or future occupants 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 NPPF
80. In addition, it is also considered that the development would have an acceptable impact on the character and appearance of the area and would, on balance, have an acceptable impact on residential amenity and highway safety in accordance with the aims of Policies 16, 21, 29 and 31 of the County Durham Plan, Policies S1, H3, D4, T2 and T3 of the Durham City Neighbourhood Plan, and Parts 2, 4, 8, 9, 12, and 15 of the National Planning Policy Framework.
81. Whilst the concerns raised by the City of Durham Parish Council, Mary Kelly Foy MP and local residents are noted, for the reasons discussed within this report they are not considered sufficient to sustain refusal of the application and considering the above,

the application is reported to the Committee with a recommendation to approve the application, subject to conditions.

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## **RECOMMENDATION**

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

3. No development shall commence until a scheme of sound proofing measures has been 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 aim of the insulation should be to ensure the requirements of BS 8233: 2014 in relation to sleeping areas are met within the rooms and the scheme shall be designed to the requirements of Document E of the Building Regulations.

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

Reason: To protect residential amenity in accordance with Policies 6, 29 and 31 of the County Durham Plan and Part 15 of the National Planning Policy Framework.

4. 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 0800 to 1800 on Monday to Friday and 0800 to 1400 on Saturday.

No internal works audible outside the site boundary shall take place on the site other than between the hours of 0800 to 1800 on Monday to Friday and 0800 to 1400 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.

5. Prior to the first occupation of the development hereby approved, details of bin and cycle storage facilities shall first be submitted to and approved in writing by the Local Planning Authority. Thereafter, the bin and cycle storage facilities shall be constructed in accordance with the approved details and shall be retained in perpetuity for the lifetime of the development.

Reason: In the interests of amenity 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. Prior to first occupation of the small HMO (Use Class C4) hereby approved, the 2 no. car parking spaces as indicated on the approved Proposed Site/Roof Plan (Dwg no. 101 Rev A) shall be constructed and made available for use. Thereafter, the spaces 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. 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 interests of residential amenity of existing and future neighbouring occupants in accordance with Policies 16, 29 and 31 of the County Durham Plan and Parts 12 and 15 of the National Planning Policy Framework.

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## **STATEMENT OF PROACTIVE ENGAGEMENT**

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

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## **BACKGROUND PAPERS**

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

Statutory, internal and public consultation responses

The National Planning Policy Framework (2021)

National Planning Practice Guidance Notes

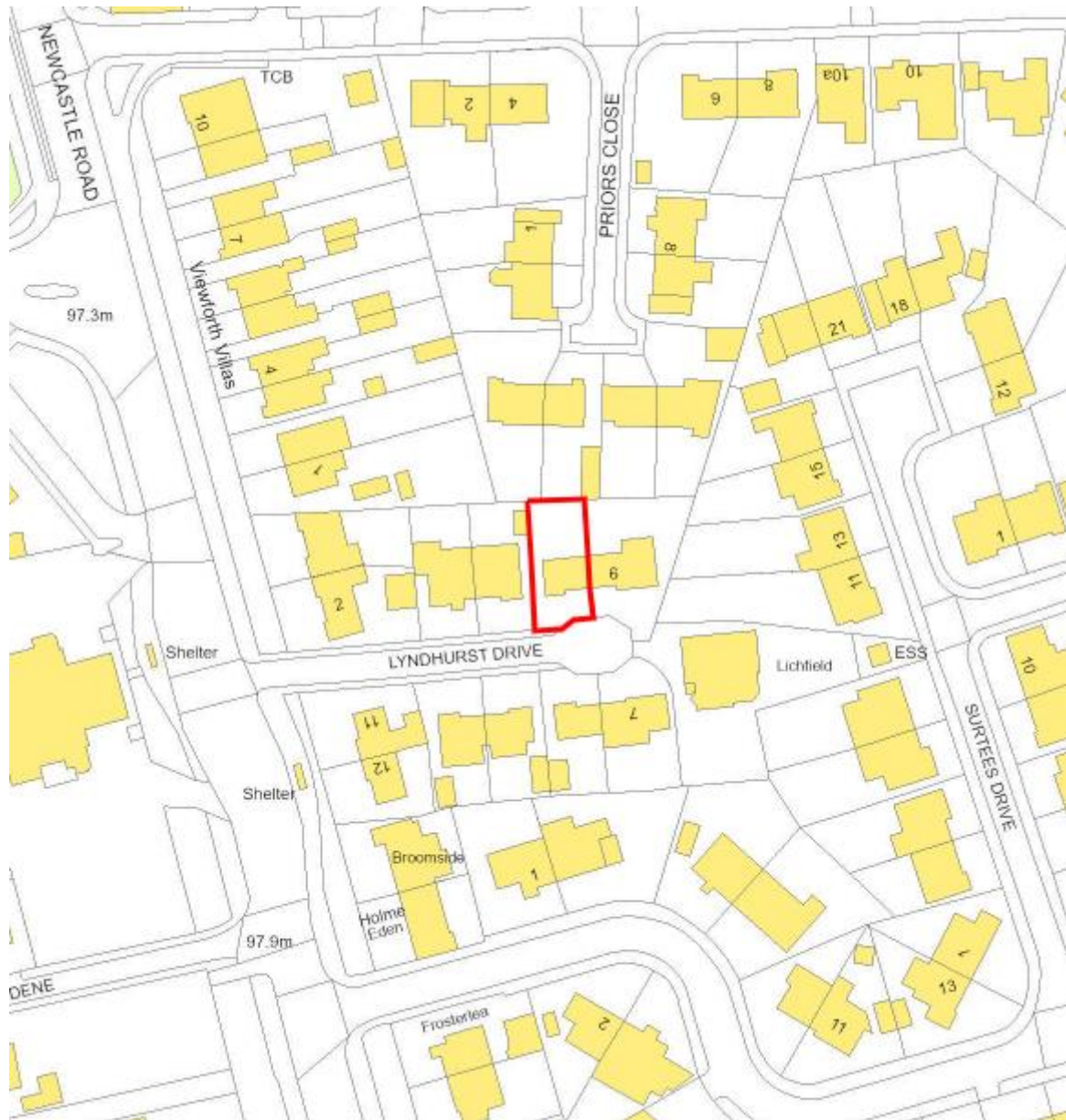
County Durham Plan (2020)

Residential Amenity Standards SPD (2023)

Durham City Neighbourhood Plan (2021)

County Durham Parking and Accessibility Standards





<p><b>Planning Services</b></p>	<p>5 Lyndhurst Drive Crossgate Moor Durham DH1 4AE</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.</p> <p>Unauthorised reproduction infringes Crown copyright and may lead to prosecution or civil proceeding.</p>	<p>Change of use from dwellinghouse (Use Class C3) to small House in Multiple Occupation (Use Class C4) with alterations to existing bay window.</p>	
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