

COMMITTEE REPORT

APPLICATION DETAILS

APPLICATION NO:	DM/23/01442/FPA
FULL APPLICATION DESCRIPTION:	Change of use of dwellinghouse (Use Class C3) to HMO (Use Class C4)
NAME OF APPLICANT:	Dr Nan Hu
ADDRESS:	33 St Bedes Close, Crossgate Moor, Durham, DH1 4AA
ELECTORAL DIVISION:	Nevilles Cross
CASE OFFICER:	Elinor Woodruff Planning Officer 03000 261059 elinor.woodruff@durham.gov.uk

DESCRIPTION OF THE SITE AND PROPOSALS

The Site

1. The application property is a semi-detached, two-storey dwelling located within St Bedes Close, a residential estate situated to the east of Newcastle Road and to the southwest of Crossgate Moor.
2. The property has a single garage forward of the front elevation, that adjoins the neighbouring garage at no.31.

The Proposal

3. The application seeks full planning permission for the conversion of the property from a dwellinghouse (Use Class C3) to a House in Multiple Occupancy (Use Class C4).
4. The application is being reported to planning committee at the request of Durham City Parish Council if Officers are minded to approve the application. They consider the application raises issues relating to residential amenity, parking, cycle storage, highway safety and internal amenity standards which require consideration by the committee.

PLANNING HISTORY

5. No relevant planning history.

PLANNING POLICY

NATIONAL POLICY

6. A revised National Planning Policy Framework (NPPF) was published in July 2021 (with updates since). The overriding message continues to be that new development that is sustainable should go ahead without delay. It defines the role of planning in achieving sustainable development under three overarching objectives – economic, social and environmental, which are interdependent and need to be pursued in mutually supportive ways.
7. In accordance with Paragraph 219 of the National Planning Policy Framework, existing policies should not be considered out-of-date simply because they were adopted or made prior to the publication of this Framework. Due weight should be given to them, according to their degree of consistency with the Framework (the closer the policies in the plan to the policies in the Framework, the greater the weight that may be given). The relevance of this issue is discussed, where appropriate, in the assessment section of the report. The following elements of the 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 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.
11. *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.
12. *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.

13. *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.
14. *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.
15. *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>

16. The Government has consolidated a number of planning practice guidance notes, circulars and other guidance documents into a single Planning Practice Guidance Suite. This document provides planning guidance on a wide range of matters. Of particular relevance to this application is the practice guidance with regards to; air quality; design process and tools; determining a planning application; flood risk; healthy and safe communities; land stability; land affected by contamination; housing and economic development needs assessments; housing and economic land availability assessment; natural environment; neighbourhood planning; noise; open space, sports and recreation facilities, public rights of way and local green space; planning obligations; travel plans, transport assessments and statements; use of planning conditions; Tree Preservation Orders and trees in conservation areas and; water supply, wastewater and water quality.

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

LOCAL PLAN POLICY:

The County Durham Plan

17. *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.
18. *Policy 16 - Durham University Development, Purpose Built Student Accommodation and Houses in Multiple Occupation.* Seeks to provides a means to consider student

accommodation and proposals for houses in multiple occupation in ensure they create inclusive places in line with the objective of creating mixed and balanced communities.

19. *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.
20. *Policy 29 – Sustainable Design.* Requires all development proposals to achieve well designed buildings and places having regard to SPD advice and sets out detailed criteria which sets out that where relevant development is required to meet including; making a positive contribution to an areas character and identity; provide adaptable buildings; minimise greenhouse gas emissions and use of non renewable resources; providing high standards of amenity and privacy; contributing to healthy neighbourhoods; providing suitable landscape proposals; provide convenient access for all users; adhere to the Nationally Described Space Standards.
21. *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.
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?m=636839346853430000>

Durham City Neighbourhood Plan

23. Policy S1: Sustainable Development Requirements of all Development and Re-development Sites Including all New Building, Renovations and Extensions - sets out the economic, social and environmental criteria that development proposals will be required to meet to: Promote economic well-being, to Conserve, preserve and enhance the neighbourhood, to increase resilience to climate change, and secure equity and benefit to the local community.
24. Policy T1: Sustainable Transport Accessibility and Design - seeks to ensure that development proposals will be required to demonstrate best practice in respect of sustainable transport accessibility, impact and design.

25. 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.
26. 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.
27. Policy D4: Building Housing to the Highest Standards – states that all new housing and extensions and other alterations to existing housing should be of high-quality design.

<https://www.durham.gov.uk/media/36020/Durham-City-adopted-neighbourhood-plan/pdf/DurhamCityNeighbourhoodPlan.pdf?m=637738120004600000>

CONSULTATION AND PUBLICITY RESPONSES

STATUTORY RESPONSES:

28. *Durham City Parish Council* – object to the application, raising concerns in regards to the over proliferation of HMOs within this location and the loss of family homes. In addition, the impact the proposed HMO would have on residential amenity and the potential for anti-social behaviour. Furthermore, it is considered that the proposal has a bedroom that would not meet the Nationally Described Space Standards.
29. *Highway Authority* – Raises no objection to the application as it is for a change of use class only, and therefore there would be no change in the number of existing and proposed bedrooms in the property. On this basis, there would be no material change resulting in a proposed impact on the local highway.

INTERNAL CONSULTEE RESPONSES:

30. 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 sound-proofing.
31. 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 6.9%. There are no properties within 100m radius that have unimplemented consent for the change of use to an HMO and there are no applications within 100m radius pending determination.
32. HMO Licensing have confirmed that the property would not need to be licensed following completion of the works due to the property forming a 4-bedroom, 2 storey house in multiple occupation.

PUBLIC RESPONSES:

33. The application has been advertised by way of a site notice, press notice and individual notification letters to neighbouring residents.
34. 86 letters of objection have been received from neighbouring properties (including a responses from Nevilles Cross Residents Association and Mary Kelly Foy MP.). Reasons for objection are summarised as:
- The development would be contrary to Policy 16 in that the 10% threshold has been met as several other HMOs are present in the locality which are not reflected in the % figure of Class N Exempt properties. Concern is raised at the methodology used in policy 16 which they consider to be fatally flawed. In addition, respondents considered that there is no identified need for additional student housing in the area which already has PBSAs and HMOs. Also raised as a concern is the presence of the number of HMOs within a small cluster within the cul-de-sac.
 - Impact 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.
 - 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.
 - Impact upon existing residential amenity in that the proposal would adversely impact upon neighbouring properties from increased noise and disturbance. The area is predominantly for families and the number of HMOs in the is pushing private owners out and increasing costs.
 - Adverse impact from increased volume of waste/recycling and that the site does not include sufficient space to accommodate refuse storage requirements for 5 persons and as such would increase nuisance and vermin.

The above is not intended to list every point made and represents a summary of the comments received on this application. The full written text is available for inspection on the application file which can be viewed at:

<https://publicaccess.durham.gov.uk/online-applications/applicationDetails.do?activeTab=documents&keyVal=RV2I08GDKBA00>

APPLICANTS STATEMENT:

35. I am writing to outline the reasons why I believe this application should be approved and offer a detailed response addressing the comments and objections raised by some of the neighbours concerning my change of use application for the property

located at 33 St.Bedes Close. I am appreciative of the opportunity to provide further clarification and alleviate any concerns that have been expressed.

36. **Reasons for Applying for HMO licence: Accommodation Demand and Availability:** There is a growing demand for quality student accommodation in our community. The property has four bedrooms and two bathrooms, providing ample space to accommodate 3-4 tenants comfortably. Furthermore, the property features a spacious common area, which promotes a sense of community and shared living. This layout is conducive to the HMO arrangement, where tenants can enjoy private spaces while also benefiting from communal areas, enhancing their overall living experience. By approving this change of use, we can address the needs of students seeking suitable housing while also ensuring that the property's potential is maximized.
37. **Responsible Management and Tenant Selection:** As the owner of the property, I am committed to maintaining a high standard of property management. I will ensure that tenants are selected through a thorough screening process to ensure their suitability for shared living. This includes assessing their commitment to a quiet and respectful environment conducive to studying, as well as their willingness to adhere to the property's rules and guidelines.
38. **Safety Measures:** The safety and well-being of my tenants are paramount to me. I want to highlight that I have taken all necessary precautions to ensure their safety. Professionals have been involved in installing comprehensive fire safety systems, and all necessary gas and electricity certificates are up to date. These measures are in place to ensure that the property meets the highest standards of safety and that the well-being of the tenants is safeguarded.
39. **Contributing to the Community:** Many students are eager to engage in volunteer activities within their community. They can participate in local events, assist elderly neighbours which provides valuable assistance to those who may need it, and participate in other initiatives that benefit the area.
40. **Potential Noise:** I want to assure both the council and the concerned neighbours that maintaining a peaceful coexistence within the neighbourhood is of utmost importance to me. It's important to highlight that all the tenants I intend to accommodate in the property are overseas students who have a vested interest in pursuing their studies diligently. Furthermore, I am committed to implementing strict noise regulations and guidelines within the tenancy agreements. This step will not only help set clear expectations for the tenants but also ensure that any potential disturbances are minimized and the tranquil nature of the area is preserved.
41. **Limited Parking Space:** While I understand the apprehensions regarding limited parking space, I wish to clarify that the nature of my tenants mitigates this concern. As overseas students, they will not be bringing cars with them. This naturally negates any additional strain on the existing parking infrastructure. The absence of cars among the tenants alleviates any potential parking-related issues and assures the neighbours that the established parking availability will remain unaffected.
42. **Change in Student Ratio:** I fully grasp the importance of maintaining the established student ratio in the neighbourhood. I want to stress that my application for the HMO permit is a testament to my commitment to adhering to these existing norms. I believe that the council's approval to proceed with the application signifies that the student ratio in the area is not being significantly altered by my intentions. I am dedicated to upholding this balance while providing appropriate housing for the students.

43. To conclude, I am not only devoted to being a responsible landlord but also to contributing positively to the fabric of the community. I not only provide safe and well-maintained accommodation, but consider all concerns raised by neighbours with utmost seriousness, and I am prepared to undertake all necessary measures to address them adequately. I welcome any suggestions or requirements that the council might recommend to further assuage the concerns of the neighbours and enhance the harmony of the area.

PLANNING CONSIDERATIONS AND ASSESSMENT

44. 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.
45. 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.
46. 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.

The Principle of the Development

47. The proposal relates to the change of use from a residential dwellinghouse (Use Class C3) to a 4-bed HMO (Use Class C4).
48. 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.
49. CDP 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.

50. 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.
51. 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.
52. 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. 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 and around St Bedes Close which should be considered in isolation.
53. 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 St Bedes Close 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.

54. The most recent up to date Council Tax information identifies that if planning permission was granted for the change of use of the dwellinghouse into a HMO that within 100 metre radius of, and including 33 St Bedes, Close 6.9% of properties are class N exempt properties as defined by Council Tax records. There are no unimplemented consents within 100m and there are no applications pending determination within 100m. As this concentration would be below the 10% threshold stated in the CDP, the proposal would comply with criteria 'a' and 'b' in this respect. In terms of criteria 'c' the application site is within a residential area but is not on a street that is a primary access route between Purpose Built Student Accommodation and the town centre or a university campus. Therefore, the development can be considered to comply with policy 16, Part 3, criteria a), b) and c) and is acceptable in principle, subject to further consideration of the proposal against other criteria in Policy 16, Part 3 and the impact of the proposal upon residential amenity and highway safety.
55. 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.
56. It is noted that objections have been received citing that the application fails to demonstrate need for accommodation of this type in this location, and that there is a perceived surplus of student accommodation within the city as a whole. Whilst these points are noted there is recognition that market forces will, in the main, deliver the level of student accommodation required without resulting in a significant oversupply of accommodation, particularly in relation to HMOs which in most cases if not occupied as such, can be occupied again as family homes with limited internal reconfiguration. Notwithstanding this, it nevertheless remains that whilst Part 2 of policy 16 requires an application for PBSA to demonstrate need (along with a number of other requirements) this is not mirrored in Part 3 of the policy which relates to applications for changes of use to HMO and is the part of the policy which is relevant to the current application. For that reason, it is considered that the proposal would accord with the requirements set out in Part 3 of Policy 16 of the CDP and that the lack of any specific information within the application with regards to need, is not sufficient to sustain refusal of the application in this instance.
57. Objections have been received citing that the development would have an adverse impact upon social cohesion and unbalance the community, given the close proximity of several HMOs to each other within the area. Paragraph 63 of the NPPF considers the need to create mixed and balanced communities and this is reflected in the requirements of Part 3 of policy 16 which includes a threshold of no more than 10% of properties being in HMO use. As already noted above, in light of the low level of Class N exempt properties within 100m radius of the site at present, it is not considered that this proposal would be contrary to the NPPF or CDP in this regard. Whilst it is noted that tenants would likely change on a yearly basis this is unlikely to have any adverse impact capable of sustaining refusal of the planning application.

Impact on Residential Amenity

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

the fear of crime, do not undermine the quality of life or community cohesion and resilience. Policy 31 (Amenity and Pollution) of the CDP displays broad accord with the aims of paragraph 130 in this regard and sets out that development will be permitted where it can be demonstrated that there will be no unacceptable impact, either individually or cumulatively, on health, living or working conditions or the natural environment and that they can be integrated effectively with any existing business and community facilities. Development will not be permitted where inappropriate odours, noise, vibration and other sources of pollution cannot be suitably mitigated against, as well as where light pollution is not suitably minimised. Permission will not be granted for sensitive land uses near to potentially polluting development. Similarly, potentially polluting development will not be permitted near sensitive uses unless the effects can be mitigated.

59. 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.
60. In this instance the application site is a semi-detached property located within a residential area and as such the nearest residential property adjoins the application site to the east, with further residential properties to all sides. The application proposes to have 4no. bedrooms, however there is also an attic room and study room that could be made into bedrooms in the future, however the attic neither room is considered adequate for habitation as a bedroom, given insufficient windows in the attic room and the small size of the study room. To control this it is proposed to limit the number of occupants via a condition, if the application was minded for approval.
61. 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.
62. The Council's EHO has been consulted and confirmed that the development would fall within the thresholds associated with Council's TANS. They have noted that although the use is not a change of use to a more sensitive receptor, the source of noise could be greater from the HMO use than a single dwelling. This is due to the increase in household numbers and activity to and from the property. The demographic that use this type of accommodation are often associated with greater use of the night time economy and as such an increased level of night time noise may occur. However, it is anecdotal as the potential for impact is associated with the individuals residing there and as such might differ greatly.
63. The application site is located within a residential area predominantly characterised by small family homes. The impact of the development upon residential amenity is a material consideration in determination of this application. In most cases it is held that changes of use from C3 dwellinghouses to HMO use can be adequately mitigated to within acceptable levels subject to planning conditions. Where a HMO is proposed within a residential area with an existing high proliferation of HMO accommodation, the cumulative impact of an additional HMO in this context has been considered to have a detrimental impact upon residential amenity from increase in noise and disturbance sufficient to sustain refusal of planning permission. The LPA has refused a number of previous applications in this regard and proved successful in defending at 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.

64. Notwithstanding this, a condition can be applied in relation to a management plan to secure some controls in relation to potential issues of noise and disturbance, as well as appropriate management of waste etc.
65. 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.
66. 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.
67. The property includes adequate external space to accommodate sufficient bin and cycle storage facilities as shown on the proposed site plan. In addition, noting the extent of the garden area contained within the curtilage it is considered there is sufficient external amenity space to serve the inhabitants and as in accordance with policy 16 of the CDP.
68. In relation to internal space the Nationally Described Space Standards (NDSS) is a government introduced nationally prescribed internal space standard which sets out detailed guidance on the minimum standard for all new homes and was created with the aim of improving space standards within new residential development across all tenures. Evidence compiled during formulation of the County Durham Plan identified that many new homes in the county were being built below NDSS and that this was having an impact on the quality of life of residents. As a result, Council determined that it was necessary to introduce the NDSS in County Durham with the aim of improving the quality of new build development coming forward.
69. It is noted that the current application relates to a change of use to a property already in residential use and as such would not result in any net increase in the number of residential units. Consequently, the rigid application of these standards is not considered appropriate to the current application. Nevertheless, it remains that the NDSS is a relevant measurement against which to assess the suitability of internal space provided within all residential development in the context of policy 29(e) of the CDP which requires new development to provide high standards of amenity and privacy.
70. All of the bedrooms meet the minimum requirements of the NDSS being in excess of the required 7.5sq metres per room. With regards to the overall internal space provided across the dwelling, 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 112sq 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 34.5sq 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.

71. Therefore, based on the above the proposal is considered to comply with policy 29(e) of the CDP in that it provides a suitable amount of internal and external amenity space to meet the needs of future occupiers and deliver a suitable quality of development in relation to policy 29(E) of the CDP policy 16 of the CDP and Paragraphs 130 and 174 of the NPPF.

Impact on Character and Appearance of the Area

72. 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.
73. 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.
74. Policy 29 (Sustainable Design) of the County Durham Plan requires all development proposals to achieve well designed buildings and places having regard to SPD advice and sets out 18 elements for development to be considered acceptable, including: making positive contribution to areas character, identity etc.; adaptable buildings; minimising greenhouse gas emissions and use of non-renewable resources; providing high standards of amenity and privacy; contributing to healthy neighbourhoods; and suitable landscape proposals.
75. 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.
76. Neighbouring residents have raised objections to the proposed development stating that a HMO's will have a negative impact on the residential cul-de-sac, HMOs are not adequately maintained and that students are short term occupiers with no stake in local community.
77. It is noted that there are no external alterations proposed to facilitate the change of use, therefore 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 in the front garden of the property and the final details will be secured via condition.
78. The character and appearance of the surrounding area incorporates two storey semi-detached properties. There is a variety of boundary treatments within the local vicinity of the site and there is a difference in opening styles. With regard to concerns that the general appearance of the property would deteriorate as a consequence of the

proposed use there is no evidence that this would occur and the applicant has reiterated that the property would be appropriately maintained.

79. It is therefore considered that the proposed development would fit with the character and appearance of the area and would not have a detrimental impact on the appearance of the wider streetscene.
80. 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.

Impact on Highways

81. 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.
82. A large number of objections have been raised that the development does not provide sufficient in curtilage parking provision to serve the number of occupants proposed. Therefore, they consider that this would create unsustainable additional pressure to existing on-street provision in a quiet area which is used by families, elderly residents and has already congested narrow roads. 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 due to the over-proliferation of HMOs; and therefore, having to rely on travelling into Durham and the nearby schools by car.
83. The Highway Authority have been consulted on the application and do not consider that there would be any adverse impacts in terms of highway safety as a result of the proposals, given that the application is for change of use only. The proposals are also assessed against the requirements of the current DCC parking standards, which would require a 4 bed property to have two off street parking spaces. The applicant is proposing to provide one off street parking space within the existing garage, however it is noted that an additional parking space could be provided to the front of the garage as well. As such, the amount of in-curtilage parking proposed is in accordance with the Council's parking and accessibility standards and is therefore acceptable in this regard.
84. 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 two that are proposed. As such, the application would not meet the requirements of the updated standards. 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. It is also noted that the application is for change of use only, with no extensions to the property, and a family living in the property could make similar changes without requiring planning permission. It is therefore not considered that there would be any material change on the local road network as a result of this proposal.

85. 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 front 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.
86. With regard to concerns that the development would increase in vehicle movements in this area of the cul-de-sac and the presence of parked vehicles would narrow the carriageway width, it is considered that the proposed use would not increase vehicle movements to an extent that it would adversely impact upon existing network capacity or on street parking. In instances where vehicles presently obstruct the adopted footway this is subject to legislative control via the Highways Act and cannot be afforded weight in determination of this application.
87. Concern has also been raised in relation to the sustainability of the location and accessibility to the city centre and university. However, the case officer considers the development to be located within a sustainable location within walking and cycling distance of several services and with access to public transport links nearby. As such, it is not considered that future occupants would be solely reliant on trips by the private motor vehicle.
88. In addition, 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. 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.
89. Therefore, notwithstanding the concerns raised by residents in relation to parking and access, it is not considered that the development would have a detrimental impact upon highway safety sufficient to sustain refusal of the application. In light of the above, it is considered that the development would accord with the aims of 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

90. Objections have been raised regarding the proposed change of use resulting in the loss of council tax from the class N exemption from student occupiers, that house prices are rising, and young families have already been pushed out of the area. Some objections have also cited concerns in regards to the close proximity of the property

to three of Durhams best schools and therefore a change of use would remove another house attractive to families. House prices are not a material consideration, and the issue of social cohesion has been discussed elsewhere in the report.

Public Sector Equality Duty

91. 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.
92. In this instance, officers have assessed all relevant factors and do not consider that there are any equality impacts identified.

CONCLUSION

93. 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).
94. In summary, it is considered that the principle of development is acceptable in planning terms and would accord with the aims of policies 6 and 16 of the CDP subject to appropriate planning conditions described within the report and listed below.
95. When assessed against other policies of the County Durham Plan relevant to the application, it is considered that the introduction of a HMO in this location would not unacceptably imbalance the existing community towards one dominated by HMOs, and nor would it result in any unacceptable impact upon the amenity of existing or future residents through cumulative impact from an over proliferation of HMOs or highway safety in accordance with policies 6, 16, 21, 29 and 31 of the County Durham Plan or parts 9, 12 and 15 of the NPPF.
96. 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 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.
97. 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.

RECOMMENDATION

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

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

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

2. The development hereby approved shall be carried out in strict accordance with the approved plans listed in Part 3 - Approved Plans.

Plan	Drawing No.	Date Received
Location Plan		22.05.2023
Proposed Site Layout		28.09.2023
Proposed Ground Floor Plan		27.09.2023
Proposed First Floor Plan		27.09.2023

Reason: To define the consent and ensure that a satisfactory form of development is obtained in accordance with Policy(ies) 6, 16, 21, 29, and 31 of the County Durham Plan and Parts 2, 4, 8, 9, 12 and 15 of the NPPF.

3. In undertaking the development that is hereby approved:

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

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

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

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

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

4. 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.

5. Prior to the first occupation of the development hereby approved, details of bin stores, including details of its location on site, shall be submitted to and approved in writing by the Local Planning Authority. The bin stores shall be constructed in accordance with the approved details and be made available prior to the occupation of the development to which they relate.

Reason: In the interests of visual amenity and highway safety in accordance with Policies 21 and 29 of the County Durham Plan and Parts 9, 12 and 15 of the National Planning Policy Framework.

6. The development hereby approved shall not be occupied until details of all cycle storage compliant with the Council's Parking and Accessibility Standards, as well as details of its location on site, has been submitted to and agreed in writing by the Local Planning Authority. Thereafter, the development shall be carried out in accordance with the agreed detail and the approved provision shall be retained for the storage of cycles at all times for the duration of the use hereby approved.

Reason: To encourage sustainable transport modes of travel in accordance with policy 21 of the County Durham Plan and Part 9 of the NPPF.

7. Notwithstanding the details submitted within the application the development shall not be occupied until a detailed strategy of precise management methods, approaches and techniques for the operation of the site has been submitted to and agreed in writing by the Local Planning Authority. The strategy shall include measures relating to the security of the building and its occupants, controls upon occupation to mitigate impact to residential amenity from noise and disturbance, a scheme for the storage, removal of waste generated by the development and cycle storage.

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

Reason: In the interests of reducing the potential for harm to residential amenity, anti-social behaviour or the fear of such behaviour within the community having regards Policies 16, 29 and 31 of the County Durham Plan

8. The development hereby approved shall not have more than four occupants at any one time.

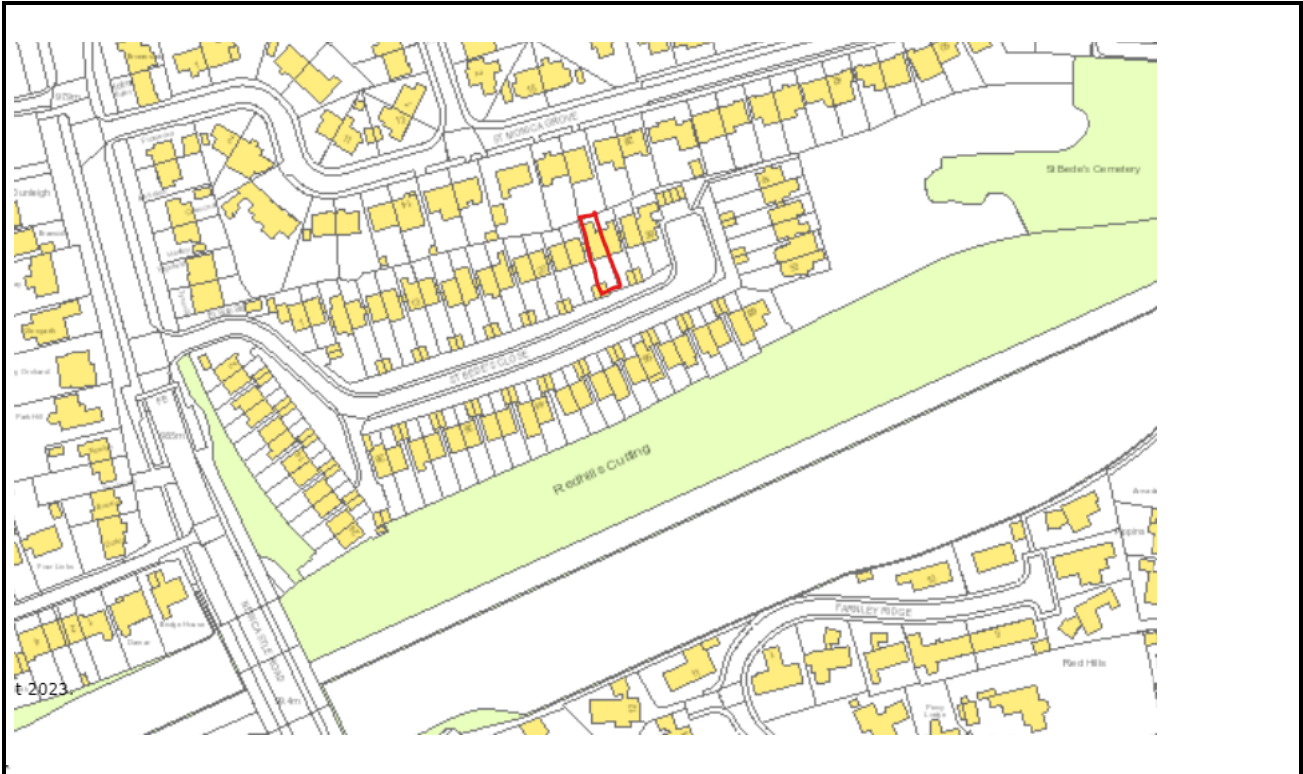
Reason: In the interests of protecting residential amenity, as outlined within the report, in accordance with Policy 31 of the County Durham Plan.

STATEMENT OF PROACTIVE ENGAGEMENT

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

BACKGROUND PAPERS

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



<p>Planning Services</p>	<p>Change of use of dwellinghouse (Use Class C3) to HMO (Use Class C4).</p> <p>33 St Bedes Close Crossgate Moor Durham DH1 4AA</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. 100022202 2005</p>	<p>Date: September 2023</p>	<p>Scale NTS</p>