

COMMITTEE REPORT

APPLICATION DETAILS

APPLICATION NO:	DM/23/02859/FPA
FULL APPLICATION DESCRIPTION:	Retrospective planning application for the raising of a garage roof.
NAME OF APPLICANT:	Mr Nick Swift
ADDRESS:	5 Monks Crescent Gilesgate Durham DH1 1HD
ELECTORAL DIVISION:	Belmont
CASE OFFICER:	David Richards Planning Officer 03000 261955 david.richards@durham.gov.uk

DESCRIPTION OF THE SITE AND PROPOSALS

The Site

1. The application site comprises a 3-bedroom, semi-detached dwelling located on Monks Crescent within a predominantly residential area of Gilesgate. The site is framed by residential dwellings, to the northwest is 3 Monks Crescent, and adjoining the property to the southeast is 7 Monks Crescent.

The Proposal

2. The application seeks full planning permission for the raising of the existing garage roof. The application is retrospective, and the garage roof has increased in height by 505mm with two additional brick courses and has a white UPVC fascia to all sides.
3. The application is reported to Planning Committee at the request of Belmont Parish Council who consider the works are out of keeping with the streetscape and that the applicant has provided no justification for the works themselves.
4. The application site has extant permission for a change of use from C3 dwellinghouse to C4 HMO which was granted on 8th February 2023. For the avoidance of doubt, the previous planning permission establishes the lawfulness of the use of the property as a HMO and as such this application relates solely to the works described above.

PLANNING HISTORY

5. Permission reference DM/22/03690/FPA for the change of use from dwellinghouse (Use Class C3) to small house in multiple occupation (Use Class C4 HMO) approved on 8th February 2023.

PLANNING POLICY

NATIONAL POLICY

National Planning Policy Framework

6. The following elements of the National Planning Policy Framework (NPPF) are considered relevant to this proposal:
7. NPPF Part 2 Achieving Sustainable Development - The purpose of the planning system is to contribute to the achievement of sustainable development and therefore at the heart of the NPPF is a presumption in favour of sustainable development. It defines the role of planning in achieving sustainable development under three overarching objectives - economic, social and environmental, which are interdependent and need to be pursued in mutually supportive ways. The application of the presumption in favour of sustainable development for plan-making and decision-taking is outlined.
8. NPPF Part 4 Decision-Making - Local planning authorities should approach decisions on proposed development in a positive and creative way. They should use the full range of planning tools available, including brownfield registers and permission in principle, and work proactively with applicants to secure developments that will improve the economic, social and environmental conditions of the area. Decision-makers at every level should seek to approve applications for sustainable development where possible.
9. NPPF Part 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.
10. NPPF Part 15 Conserving and Enhancing the Natural Environment - Conserving and enhancing the natural environment. The Planning System should contribute to and enhance the natural and local environment by protecting and enhancing valued landscapes, geological conservation interests, recognising the wider benefits of ecosystems, minimising the impacts on biodiversity, preventing both new and existing development from contributing to or being put at unacceptable risk from pollution and land stability and remediating contaminated or other degraded land where appropriate.

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

NATIONAL PLANNING PRACTICE GUIDANCE:

11. The Government has consolidated several planning practice guidance notes, circulars and other guidance documents into a single Planning Practice Guidance Suite. This document provides planning guidance on a wide range of matters. Of particular relevance to this application is the practice guidance with regards to; historic environment; design process and tools; determining a planning application; healthy and safe communities; neighbourhood planning; noise; and use of planning conditions.

LOCAL PLAN POLICY:

The County Durham Plan

12. The following policies of the County Durham Plan (CDP) are considered relevant to this proposal:
13. 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
14. 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.
15. 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/34069/County-Durham-Plan-adopted-2020-/pdf/CountyDurhamPlanAdopted2020vDec2020.pdf?m=637424969331400000>

Neighbourhood Plan

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

CONSULTATION AND PUBLICITY RESPONSES

STATUTORY RESPONSES:

17. Belmont Parish Council objects to the application citing that the development is out of keeping with the streetscape and that no justification has been provided for the works.

PUBLIC RESPONSES:

18. The application has been advertised by way of a site notice and individual notification letters to neighbouring residents.

19. To date, 2 letters of objection have been received. The letters of objection raise the following concerns:
 - Development is out of character with other properties in the street.
 - Reason for the raising of the roof is to allow conversion to a habitable room and increase occupancy of the HMO.
20. The City of Durham Trust has expressed concerns that the alterations to the garage might be preliminary to creating additional rooms in the recently approved HMO.

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

APPLICANT'S STATEMENT:

21. The application for 5 and 9 Monks Crescent are retrospective applications born about by changes on site from those of the original planning approvals. For clarity the applications submitted consider the raising of the garage roof by around 450mm.
22. As confirmed to the enforcement officer at the time the change occurred for the following reasons
 - When we re-waterproofed the roof (old mineral felt removed) the roof structure was found not only to be defective (rot) but to be substandard and undersized by modern building regulation specifications so the timber joists had to be upsized
 - The existing joists were also set to a very low pitch so the builder increased it slightly
 - Building regs requires that when elements of external fabric are fully changed they need to be current thermal standards so hence we had to insulate the roof (150mm insulation on top of the new timber structure).
23. Without destructive surveys at the time of the planning permission we were not aware of the issues until the builders discovered them.
24. There will naturally be a difference between houses constructed in the 1960's and new or elements modified to today's standards and regulations.
25. We would argue that the difference in the as built condition to the as approved condition is minimal in real visual terms and not commensurate with the level of objection or a call to committee for consideration. We would suggest the level of change de-minimis and of little real-world consequence.
26. We also note that some objections are because the application is retrospective and that the applicant may exercise PD rights in the future
27. We note the parish council objected on the basis of the proposals being out of character and called the application to committee on that basis. I would like to respectfully enquire, if the Parish could demonstrate similar applications where they objected for the change in depth of fascia board on domestic extensions/conversions
28. We feel the objections are simply punitive and with malice and clearly not really about the visuals of the proposals but punishing the applicant for getting approval for a HMO in the 1st place
29. Whilst the objectors point to these being out of character with other garages in the street we can point to many others garages in the surrounding streets that have similar taller proportions.

PLANNING CONSIDERATIONS AND ASSESSMENT

30. 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.
31. 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.
32. In assessing the proposals against the requirements of the relevant planning guidance and development plan policies and having regard to all material planning considerations it is considered that the main planning issues in this instance relate to the principle of development, the impact on the character of the area and the impact on residential amenity.

Principle of Development

33. The application is retrospective as the works are already complete but are understood to have been undertaken in association with the existing permitted use of the property as a C4 House in Multiple Occupation. Belmont Parish Council has objected to the application on the basis that no information has been provided to justify the works. However, there is no requirement in national or local planning policy for justification to be provided in relation to extensions or alterations to existing dwellinghouses or HMOs.
34. The development is therefore considered acceptable in principle subject to consideration of the impact on the character and appearance of the area and residential amenity.

Character and appearance of the area

35. 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.
36. Policy 29 of the CDP states that all development proposals will be required to achieve well designed buildings and places having regard to supplementary planning documents and other local guidance documents where relevant, and contribute positively to an area's character, identity, heritage significance, townscape and landscape features, helping to create and reinforce locally distinctive and sustainable communities.
37. The Council's Residential Amenity Standards SPD (Adopted January 2023) outlines basic principles to ensure that development has a positive impact on the character of the area. These include, amongst other things, consistent design approach including materials and subservience whereby all new development should be of a scale that is appropriate to the existing building and does not have an overbearing appearance or nature.
38. Two letters of objection have been received which raise concerns that the development is out of character with the surrounding street scene.

39. The height of the garage roof has increased by 505mm but remains a flat roof design which is a characteristic of the street scene, in that most properties have flat roof garages to the side. The garage of 3 Monks Crescent (adjacent to no5) is stepped down from the application site due to the incline in the street, and therefore already has a staggered appearance. Whilst the garage of no5 is already higher because of this, it is not considered that the increased height appears out of proportion, or dominates in the street scene, and it still appears subservient to the host dwelling. The addition of white uPVC which is a material that is present in the street is also not considered to cause a detrimental impact to the character or appearance of the area.
40. Overall, it is considered that the development does not cause a detrimental impact on the host property or the character of the area in accordance with NPPF Part 12, Policy 29 of the CDP and the Residential Amenity Standards SPD.

Impact on Residential Amenity

41. Policy 31 (Amenity and Pollution) of the CDP states that development will be permitted where it can be demonstrated that there will be no unacceptable impact, either individually or cumulatively, on health, living or working conditions or the natural environment. The proposal will also need to demonstrate that future occupiers of the proposed development will have acceptable living conditions. In addition, criterion 'e' of Policy 29 (Sustainable Design) states that all development proposals will be required to provide high standards of amenity and privacy and minimise the impact of development upon the occupants of existing adjacent and nearby properties.
42. Given the limited nature of the alterations which have seen the eaves height of the flat roof having been increased by approximately 505mm it is not considered that this has resulted in any adverse impact upon the amenity of adjacent residents, either from overshadowing, overbearing or loss of privacy.
43. Overall, the development has not resulted in a significant loss of amenity to neighbouring properties and as such accords with the aims of NPPF Part 12 and the requirements of CDP policies 29 and 31.

Other issues

44. An objector has raised concerns that the increase in roof height of the garage has been undertaken in order to allow conversion of the garage to a habitable room, and potentially support an additional floor above. The application site already benefits from planning permission for change of use to class C4 (small HMO) and this establishes the acceptability of that use. The permission was not granted subject to any planning condition restricting the number of occupiers and permitted development rights relating to extensions were not removed as it was not considered necessary. Therefore, conversion of the garage to a habitable room would not amount to a change of use for which planning permission is required so long as the number of occupiers did not exceed 6 and as such would be beyond the control of the Local Planning Authority in this instance. However, the erection of an additional storey above the garage would require planning permission and should the applicant choose to extend the property in this way in the future a planning application would need to be submitted.

Public Sector Equality Duty

45. 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.

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

CONCLUSION

47. 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).
48. By reason of its limited scale, position, design and external material the works have not resulted in any adverse impact to the character and appearance of the host property or surrounding streetscene or the residential amenity of adjacent occupiers in accordance with Parts 12 and 15 of the NPPF, CDP Policies 29 and 31 and the Council's Residential Amenity Standards SPD.

RECOMMENDATION

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

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

Reason: To define the consent and ensure that a satisfactory form of development is obtained in accordance with Policy 16, 29 and 31 of the County Durham Plan and Parts 8, 9, 12, and 15 of the National Planning Policy Framework.

STATEMENT OF PROACTIVE ENGAGEMENT

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

BACKGROUND PAPERS

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



<p>Planning Services</p>	<p>Retrospective planning application for the raising of a garage roof.</p>	
<p>This map is based upon Ordnance Survey material with the permission of Ordnance Survey on behalf of Her Majesty's Stationary Office © Crown copyright. Unauthorised reproduction infringes Crown copyright and may lead to prosecution or civil proceeding. Durham County Council Licence No. Durham County Council Licence No. 100049055 2023.</p>	<p>5 Monks Crescent Gilesgate Durham DH1 1HD</p>	
	<p>Date</p>	<p>Scale NTS</p>