

COMMITTEE REPORT

APPLICATION DETAILS

APPLICATION No:	DM/24/00201/FPA
FULL APPLICATION DESCRIPTION:	Change of use from dwellinghouse (Use Class C3) to house in multiple occupation (HMO) (Use Class C4) including single storey rear extension, cycle parking and bin storage
NAME OF APPLICANT:	Sugar Tree Ltd
ADDRESS:	31 Bradford Crescent Gilesgate Durham DH1 1ER
ELECTORAL DIVISION:	Belmont
CASE OFFICER:	Mark Sandford Planning Officer Mark.sandford@durham.gov.uk 03000 261156

DESCRIPTION OF THE SITE AND PROPOSALS

The Site

1. The application site is a two-storey mid-terraced property located within Bradford Crescent, Gilesgate which is part of a residential housing estate to the east of Durham City Centre.
2. The property has residential neighbours to either side, no. 29 Bradford Crescent to the east, and no. 33 to the west, which has a pedestrian access alley separating the properties at ground floor. There is a small yard type garden space to the front which is enclosed by a low-brick wall and fence, and a larger grassed garden to the rear which is accessed via the aforementioned side access alleyway and enclosed by a 1.8m timber fence. There are further residential properties to the rear/north (Kenny Place) which are separated by a pedestrian walkway and the gardens of the corresponding properties, and to the south (Bradford Crescent), separated by the main vehicular highway through the estate.
3. There is no vehicular driveway or garage associated with the property, as is common to almost all properties in the area. A wide footpath is present to the front of the site which provides some level of on-street parking for local residents.

The Proposal

4. The application seeks planning permission for the conversion of the property from a dwellinghouse (Use Class C3) to a small House in Multiple Occupancy (Use Class C4)

and would contain three bedrooms (reduced from the original proposal which comprised six bedrooms). The proposal also includes the erection of a single storey rear extension to provide an enlarged kitchen and lounge area. No other external alterations are proposed, save for the removal of a redundant chimney stack from the roof.

5. The application is reported to planning committee at the request of a ward Councillor who considers the application raises issues relating to the over proliferation of HMO properties in a residential area, the effects of the proposed extension on neighbouring properties and increased demand on parking in the area. They consider that these issues are such that they require consideration by the planning committee.

PLANNING HISTORY

6. None relevant to the current application.

PLANNING POLICY

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 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>

NATIONAL PLANNING PRACTICE GUIDANCE:

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; 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

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

19. Policy 16 (Durham University Development, Purpose Built Student Accommodation and Houses in Multiple Occupation) seeks to provide 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.
20. 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 Delivery Plan.
21. 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
22. 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.
23. Policy 35 Water Management states that all new development should adopt the hierarchy of preference in relation to surface water disposal.
24. Policy 36 Disposal of Foul Water states that all new development should adopt the hierarchy of preference.
25. The Council's Residential Amenity Design Guide (SPD) which 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.
26. The Council's Parking and Accessibility (SPD) which provides detailed guidance in relation to parking and other related requirements for all developments to ensure that would not have an adverse impact upon highway safety.

NEIGHBOURHOOD PLANNING POLICY

27. There is no Neighbourhood Plan relevant to the determination of this application.

CONSULTATION AND PUBLICITY RESPONSES

STATUTORY RESPONSES:

28. The City of Durham Trust – Objects to the proposal with comments were received based on the five bedroom version of the proposal. Concerns raised that the proposal would put too many tenants into the property, does not meet NDSS standards and would be harmful to the amenity of nearby residents contrary to CDP Policies 29 and 31.
29. Highway Authority – Considered the initial proposal for 6 bedrooms and then 5 bed roomed HMO to be unacceptable due to increase in parking demand not being met under the requirements of the 2023 Parking and Accessibility SPD.
30. Following revision to a 3 bed roomed HMO the Highway Authority noted that whilst - no off street parking is available on Bradford Crescent, the 2023 Parking and Accessibility requires 2 off street spaces for a 2 bed property. However, it also requires 2 spaces for a 3 bed, and therefore, given the reduction in bedrooms from the original proposal of 5 down to 3, there would be no net material increase in parking demand for the amended scheme over the existing property. On this basis, the Highway Authority raises no objections to the amended scheme.

INTERNAL CONSULTEE RESPONSES:

31. HMO Data confirmed at the time of the initial application that the percentage of properties within the 100m radius of and including the application site that are exempt from Council Tax as 8.2%, with no unimplemented or pending consents within the 100m radius, this information was provided from the data as at November 2023. Due to the case officer being made aware of a new application, the HMO data officer was reconsulted. The latest data available (April 2024) confirms that the number of N Class properties has since dropped to 7.1%, again there are no unimplemented consents within the 100m radius, however there is one application pending at no. 42 Bradford Crescent (ref DM/24/00812/FPA). If approved this would increase the figure to 8.2%.
32. HMO Licensing have confirmed that the revised version of the proposal will not need to be licensed following completion of the works, however provided advice with regard to how to comply with the relevant fire safety, amenity and space standards.
33. Spatial Policy Section advises on relevant policies within the County Durham Plan. They further comment that the proposal is compliant with the percentage criteria of Policy 16. Assessment should be made of the proposed rear extension and any potential impact on neighbouring properties.

External Consultee Responses:

34. The Police Architectural Liaison Officer offered no comment/objection to the proposal, however advice was provided as to ensure the property meets the Secured By Design recommendations.

PUBLIC RESPONSES:

35. The application was advertised by way of site notice and neighbour notification letters were sent to nearby properties. Forty-two letters of objection have been received in response, including from a Ward Member (Cllr Christine Fletcher) and the Local MP (Mary Kelly Foy). Reasons for objection are summarised as:
- Over concentration of HMOs in the area leading to imbalance in the local community contrary to Policy 31 of the County Durham Plan
 - Noise and anti-social behaviour, particularly for the elderly residents in Kenny Place and those with young families
 - Additional traffic and no off-street parking, the proposal does not comply with the Parking and Accessibility SPD
 - The property is on a bus route which may be obstructed by further vehicles
 - Loss of an affordable house to local population which will be empty for much of the year and people selling up to move
 - Conversion to 5 bedroomed property out of keeping with the character of the area
 - Poor garden and refuse maintenance. The applicant/landlord has previously failed to respond to requests for up keep of their existing student properties
 - Student newspapers and other sources indicate that incentives are required to retain students and the need for such properties is dwindling
 - The proposed works would bring noise disruption, especially to those who work nightshifts
 - The small size of the proposed bedrooms will likely only appeal to undergraduates who are more likely to lead noisy and disruptive lifestyles

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:

36. The current application proposals involve the change of use of an existing dwellinghouse (Use Class C3) to a 3-bedroom HMO (Use Class C4) within an area where less than 10% of properties within a 100m radius are Class N exempt. The proposed development will deliver high quality HMO accommodation operated by one of the largest student landlords in the City to meet the needs of students seeking such forms of accommodation.
37. The proposed HMO would deliver safe and secure accommodation that meets the standards of the well-established accreditation scheme supporting the provision of a range of high quality student accommodation options to meet the needs of students studying at the university, whilst ensuring that there will be no unacceptable impacts on highway safety, community cohesion or the amenity of non-student residents due to the limited size of the proposed HMO, the management arrangements that will be in place and the fact that there is not an existing overprovision of student properties in the immediate locality given the 10% threshold has not been breached. The application proposals therefore fully comply with Policy 16(3) and other relevant policies of the County Durham Plan (CDP).

38. It is noted that Members have refused a number of recent similar applications for HMO related development against Officer recommendation generally citing concerns over the impact of such forms of development on community cohesion and residential amenity. However, recent appeal decisions, including at 41 Fieldhouse Lane and 58 Bradford Crescent have found such concerns to be largely unfounded having regard to the provisions of the relevant policies of the adopted CDP. The appeal decision at 58 Bradford Crescent is particularly pertinent lying approximately 130m to the east of the current application property and owned by the same applicant. The appeal was ultimately dismissed due to a proposed bedspace within the property not complying with Nationally Described Space Standards (NDSS), however, in relation to other key considerations and concerns cited by local stakeholders and also by Members in refusing planning permission, the Inspector concluded as follows:

- The proposal would retain an appropriate mix of housing in the area and would accord with Policy 16 of the CDP in respect of this issue;
- The proposal would be acceptable in terms of parking and highway safety and would accord with Policy 16 of the CDP;
- Several properties in the area display small window stickers and lettings boards bearing the name of student letting agents, indicating that they were HMOs. However, the properties otherwise bore limited indication of such use, and appeared externally similar to the majority of other properties in the area. The proposal would be appropriate in terms of its effect on the character and appearance of the area.
- The proposal would not adversely affect the living conditions of nearby occupiers and would accord with Policies 16, 29 and 31 of the CDP, which together seek for development to provide high standards of amenity and security, and to avoid unacceptable impacts on health, living and working conditions.

39. The current application proposals comply with NDSS, which was the sole reason for the appeal at 58 Bradford Crescent being dismissed. The wider conclusions drawn by the Inspector in relation to housing mix and community cohesion, highways; impact on the character and appearance of the area; and impact on residential amenity can evidently be applied equally to the current application proposals and it is evident that there is therefore no reasonable basis to refuse planning permission for 31 Bradford Crescent on the basis of the findings of the previous Inspector. The application proposals fully accord with the relevant policies of the adopted Development Plan and planning permission should therefore clearly be granted.

PLANNING CONSIDERATIONS AND ASSESSMENT

40. 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.
41. 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 the character and appearance of the area, impact on residential amenity and community balance/social cohesion, impact on highway safety and other matters.

Principle of the Development

42. The proposal relates to the change of use from a residential dwellinghouse (Use Class C3) to a House of Multiple Occupancy (Use Class C4) as well as a single storey rear extension. The original proposal sought planning permission for a six bedroomed HMO. This was subsequently revised to five bedrooms through the submission of amended plans and finally to three, again reflected in amendments to the proposed layout. It is this final amendment which is to be considered by the planning committee.
43. The General Permitted Development Order 2015 (GPDO) permits the change of use from C3 (dwellinghouses) to uses within 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 extensions would normally benefit from the provisions contained within the GPDO if the overall projection of the single storey extension was reduced in height by 323mm. With regard to the proposed use, an Article 4 direction came into effect on 17 September 2016 withdrawing permitted development rights for change of use from C3 to C4, thereby necessitating this application.
44. CDP Policy 6 (Development on Unallocated Sites) of the County Durham Plan (CDP) supports development on sites not allocated in the Plan or Neighbourhood Plan, but which are either within the built-up area or outside the built up area but well related to a settlement will be permitted provided it: is compatible with use on adjacent land; does not result in coalescence with neighbouring settlements; does not result in loss of land of recreational, ecological, or heritage value; is appropriate in scale, design etc to character of the settlement; it is not prejudicial to highway safety; provides access to sustainable modes of transport; retains the settlement's valued facilities; considers climate change implications; makes use of previously developed land and reflects priorities for urban regeneration.
45. In addition, Policy 16, Part 3 of the CDP is also relevant which relates to the conversion of houses for multiple occupation. 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 House in Multiple Occupation in Class C4 or a sui generis use (more than six people sharing) will not be permitted if:
 - a. including the proposed development, more than 10% of the total number of residential units within 100 metres of the application site are exempt from council tax charges (Class N Student Exemption);
 - b. there are existing unimplemented permissions for Houses in Multiple Occupation within 100 metres of the application site, which in combination with the existing number of Class N Student exempt units would exceed 10% of the total properties within the 100 metres area; or
 - c. less than 10% of the total residential units within the 100 metres are exempt from council tax charges (Class N) but, the application site is in a residential area and on a street that is a primary access route between Purpose Built Student Accommodation and the town centre or a university campus.
46. In addition to the above applications will only be permitted where:
 - d. the quantity of cycle and car parking provided has regard to the council's adopted Parking and Accessibility Supplementary Planning Document (SPD);
 - e. they provide acceptable arrangements for bin storage and other shared facilities and consider other amenity issues;

- f. the design of the building or any extension would be appropriate in terms of the property itself and the character of the area; and
- g. the applicant has shown that the security of the building and its occupants has been considered, along with that of neighbouring local residents.

47. It is noted that objections have been received from neighbouring residents, a local Councillor, Parish Council and MP raising concern that the proposed change of use would result in the over proliferation of HMOs in the area given the number of HMO properties within Bradford Crescent at present, and that this would unbalance the community. They also consider that the applicant has not demonstrated any need for additional student accommodation of this type in this location. In addition, concerns have also been raised regarding how the HMO data is collected and the methodology used in Policy 16, Part 3 of the CDP. With regard to the latter, it is noted that the policy and the methodology contained within it was considered sufficiently accurate and robust during the examination in public of the CDP in 2020. The policy has proven to be 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.
48. The most recent up to date Council Tax information identifies that if planning permission was granted for the change of use of the dwellinghouse into a small HMO that within 100 metre radius of, and including 31 Bradford Crescent, 7.1% of properties would be class N exempt as defined by Council Tax records. There is however a pending planning application being considered for 42 Bradford Crescent (ref DM/24/00812/FPA), which if permission was granted for that application, would increase the percentage figure to 8.2% although it should be noted that this is pending application and cannot be afforded weight in the determination of this application but has been noted in objection by residents. As this concentration would be below the 10% threshold stated in the CDP and is not located on a route between a PBSA and university campus or town centre, the development can be considered acceptable in principle, subject to further consideration of the impact of the proposal upon residential amenity and highway safety.
49. It is noted that objections have also 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 Durham City generally. 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 this 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 as there is no policy basis for the applicant to demonstrate need, the lack of any specific information within the application with regards to need cannot be afforded any weight.
50. Paragraph 62 of the NPPF states that the size, type and tenure of housing needed for different groups in the community should be assessed and reflected in planning policies (including, but not limited to, those who require affordable housing, families with children, older people, students, people with disabilities, service families, travellers, people who rent their homes and people wishing to commission or build their own homes). Given that less than 10% of properties within 100m of the application property are Class N exempt and this would remain the case post

development, should permission for the current change of use be granted the aims of Paragraph 62 would be met.

51. Objections have been received with concerns raised that the development would have an adverse impact upon social cohesion and unbalance the community to the extent that there would be an over proliferation of this type of accommodation in the locality forcing families out of residential areas which is evidenced by properties in Bradford Crescent being put up for sale following previous HMO approvals in 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 seeks to strike an appropriate balance through the 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. Furthermore, existing residents selling their own properties and impact upon property values are not material planning considerations which can be taken into account.
52. A recent appeal decision relating to the Council's Non-Determination of a similar application at No. 58 Bradford Crescent, Gilesgate is considered relevant to the current application. That appeal related to the Council's Non-Determination of an application for the case of use from C3 to C4 and considered all aspects of the proposal, rather than just specific reasons for refusal. Whilst dismissing the appeal due to one of the bedroom widths as being significantly below NPPF standards the Planning Inspector considered the impact of the proposal upon 'housing mix' and assessed the proposal against the requirements of policy 16 in this regard. In that case the percentage of properties within 100 metres of the appeal property was 9.4% (when taking into account the presence of one unimplemented planning permission). Accordingly, the Planning Inspector considered the principle of development to be acceptable with regards to its impact upon housing mix given the concentration of HMOs was below the 10% stated in policy 16. It is noted that in this instance the concentration of HMOs within 100 metres is similar at 8.2%.
53. Taking account of the above it is considered that the principle of development is acceptable, and the proposal would accord with the requirements of Policy 16 of the CDP and Paragraph 62 of the NPPF in this regard.

Impact on residential amenity

54. 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.

55. In this instance the application site is a mid-terraced dwelling located within a residential area and as such the nearest residential property(ies) adjoin the application site to the east and west, with further residential properties to all sides. In nearly all cases those responding to the application in objection cite concerns around increased noise, and fear of noise, disturbance and antisocial behaviour as a result of the development and this includes a Local Councillor for the division, Parish Council and the local MP.
56. The development would fall within the thresholds associated with Council's Technical Advice Notes (TANS) relating to noise. 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 in terms of comings and goings at 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 personal habits of the individuals residing there and as such, might differ greatly.
57. The application site is located within a residential area predominantly characterised by family homes. The impact of the development upon residential amenity is a material consideration in determination of the application. In most cases it is held that changes of use from C3 dwellinghouses to HMO use can be adequately mitigated to within acceptable levels subject to planning conditions. Where an HMO is proposed within a residential area with an existing high proliferation of HMO accommodation, the cumulative impact of an additional HMO in this context has been considered to have a detrimental impact upon residential amenity from increase in noise and disturbance sufficient to sustain refusal of planning permission. The LPA has refused several previous planning applications in this regard and proved successful in defending those at appeal. However, in this instance it is noted that there is no identified over proliferation of existing HMOs within 100 metres of the application site, and as such it is not considered that the introduction of a single additional HMO in this location would result in a level of cumulative impact that would be detrimental to residential amenity.
58. In dismissing an appeal against the Council's decision to refuse planning permission for the change of use of No. 1 Larches Road from Small HMO (C4) to Large HMO (Sui Generis) the Planning Inspector afforded considerable weight to representations from nearby residents that the existing small HMO was having a detrimental impact to residential amenity from noise and disturbance and that an additional 3 occupants (resulting in 9 in total) residing in the property would result in unacceptable additional noise, disturbance and anti-social behaviour, detrimental to the living conditions of neighbours.
59. Notwithstanding the above it is noted that this related to the change of use to a large HMO which itself falls into another use category and a unit of residential accommodation which proposed a total of 9 occupants. In the case of the current application the total number of residents is 3 and this is to be secured via planning condition to restrict future subdivision (noting that Use Class C4 allows up to 6 occupants before a material change of use is considered to have occurred).
60. In addition, it is important to note that a subsequent appeal decision relating to the Council's decision to refuse planning permission for the change of use from Small HMO (C4) to Large HMO (Sui Generis) at No. 41 Fieldhouse Lane – similar to the appeal proposals at No.1 The Larches - was allowed and permission granted. In that case the same Planning Inspector took an alternative approach and considered that an effective tenant management plan and other conditions, would satisfactorily mitigate any potential unacceptable impacts associated with noise and disturbance.

61. Clearly, there is some lack of consistency between the two appeal decisions cited and reduced weight should be afforded to those when considering the current application accordingly. In addition, it should be noted that in those instances the proposals related to changes of use from C4 to a Large HMO and are not directly comparable to the current proposal to change the use of the property from C3 to C4.
62. Recently, the Council has received notification of appeal decisions regarding the Council's decision to refuse planning permission for changes of use from C3 to C4 at No. 33 St Bede's Close and No.5 Lyndurst Drive. In both cases the Planning Inspectorate allowed the appeals, and on the matter of the impact of the proposals upon residential amenity from increased noise and disturbance, concluded that 'even if future occupiers of the proposed development were more frequent users of the night time economy, this does not infer that there would be an unacceptable impact in terms of noise and disturbance to other nearby residents' and that 'the issues raised are not a predictable consequence of HMOs as opposed to single occupation dwellings, but rather a matter of individual behaviour and suitable management. In both cases the Planning Inspector considered that experiences and perceptions of HMOs are largely anecdotal and the poor experiences arising from other HMOs do not indicate that this will be exacerbated if the appeal proposal is allowed'. In both cases the Planning Inspector noted the Council's EHO raised no objection to the applications originally.
63. The applicant has provided a Property Management Plan detailing how the property would be managed and confirmed within the supporting planning statement, that the property would be appropriately maintained by Harrington Sales and Lettings Limited, who are a well-established student accommodation letting agent within Durham City and that requirements will be included within tenancy agreements around noise and anti-social behaviour with appropriate penalties should these be breached. The Council's Environmental Health (Nuisance Action) team have assessed the submitted plan and find it would adequately fulfil this requirement. Its implementation and use would be conditioned should the committee be minded to grant planning permission. Therefore, subject to the inclusion of a planning condition in this regard, the development is considered to accord with the requirements of policies 16 and 31 of the CDP.
64. Furthermore, the applicants have confirmed that the property will meet all relevant safety standards with gas and electrical safety certificates, as well as mains linked smoke detectors. The windows and doors will be fitted with locks and the property lies within a residential estate with street lighting for natural surveillance from surrounding properties. Therefore, providing safe and secure accommodation in accordance with policy 16 Part 3 criteria g.
65. The scheme proposes internal alterations at ground floor level to create a new bedroom which would replace part of the existing lounge and a single storey rear extension to create an enlarged kitchen/lounge area. Although the property is a terraced dwelling, the property adjoining the bedroom area is separated by the walkthrough alleyway which should ensure there is not a significant impact for the individual residing in this bedroom, than if for example, the neighbouring properties lounge was attached.
66. The proposed floor plans indicate that the party wall at first floor will be upgraded with Gypliner Independent wall lining or similar to meet the required mitigation to which the Council's EHO raises no objection. As such, a condition could be attached to planning permission requiring the sound proofing measures described in the application to be installed (i.e. the Gypliner wall lining) or similar - which meets the requirements of

Approved Document E (Resistance to the passage of sound) of the Building Regulations 2004 (As Amended) prior to the first use of the property as a small HMO.

67. In relation to the proposed rear extension, it would have no windows/glazing in either side wall and while it would include a door and windows in the rear elevation, the property has a 1.8m timber fence around the rear garden which is sufficient to protect the privacy of the Kenny Pace properties to the north.
68. When considering the impact of single storey rear extensions upon adjacent properties the Council's Residential Amenity Standards Supplementary Planning Document (RAS SPD) states that in order to minimise the potential for impact to neighbouring properties, and, to help determine whether a more detailed daylight and sunlight assessment is needed, the Council operates what is known as a '45 degree code'. The code is applied by drawing an imaginary line at 45-degrees from the mid point of the nearest window to a habitable room on any of the adjoining owner's property and a line 45-degrees above the horizontal from the mid-point of the window. If any of these lines cut through any part of the proposed development this is a clear indication the extension may result in a detrimental impact on the neighbouring property
69. On this occasion the proposed extension has a projection length of 2925mm, therefore the code is not applicable. However, measurements taken on site and compared to the submitted plans shows that the proposed structure would comply with the 45 degree code.
70. In light of the above, the development is not considered to have any unacceptable impact upon overbearing, overshadowing or loss of privacy as a result in accordance with policy 31 of the CDP and the relevant SPD.
71. The property includes adequate external space to accommodate sufficient bin storage facilities as shown on the proposed site layout plan which will be located within the front garden/yard area and therefore accords with criteria e) of Part 3 to Policy 16. In addition, noting the extent of the overall 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.
72. 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.
73. 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.
74. In the original submission only one of the six bedrooms met the minimum NDSS requirements. Consequently, the applicant amended the scheme altering the internal

layout and removing one of the bedrooms which allowed two of the bedrooms to meet the minimum floor area requirement and improving the remaining three to just below the 7.5sqm threshold. Due to other factors (concerns raised by the Highway Authority that the proposal failed to provide adequate parking in accordance with the Council's Parking Standards), the proposal was revised again to provide three bedrooms, all of which now comfortably exceed the NDSS requirements.

75. With regard to the total overall internal space provided across the dwelling as a whole it is noted that the NDSS does not provide guidance specifically relating to 3 bedspace, 3 person dwellings. However, it does include standards in relation to 3 bedspace 3 person dwellings and it is noted that this requires an overall area of no less than 84sq m. As already noted, whilst the rigid application of NDSS is not considered appropriate for the reasons outlined above the proposed change of use would provide adequate internal space delivering approximately 85sq metres of total internal floorspace.
76. In light of 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 the character and appearance of the area

77. 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. Policy 29 of the CDP 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.
78. Neighbouring residents have raised objections to the proposed development stating that a HMO's will have a negative impact on the residential housing estate, stating that HMOs are not adequately maintained and that students are short term occupiers with no stake in local community.
79. It is noted that limited external alterations are proposed to facilitate the change of use comprising solely of the single storey rear extension. This is considered acceptable in principle and a common type of addition to a residential dwelling, subject to the inclusion of a planning condition which requires materials used to match the host property.
80. The character and appearance of the surrounding area incorporates two storey and single storey terraced and 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.
81. 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. When considering the recent appeal at No. 58 Bradford Crescent the Planning Inspector assessed the impact of HMOs in this regard and concluded that in that case, whilst several properties within the locality displayed small window stickers and lettings boards bearing the name of student letting agents, indicating they were HMOs, the properties otherwise bore limited indication of such use, and appeared externally similar to the majority of other properties in the area. In relating to the current application, the planning officer visited the site and observed similar and drew similar

conclusion that the proposal would be appropriate in terms of its effective on the character and appearance of the area in accordance with policies 16 and 29 of the CDP. In addition, it is noted that any breach of planning control which was considered to amount to untidy land could be resolved by the Council (should it occur) through appropriate enforcement mechanisms, namely a Section 215 Notice.

82. 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.
83. Taking the above into consideration, it is considered that the proposed development would accord with Policy 29 of the CDP and Part 12 of the NPPF.

Highway Safety and Access

84. Policy 16 of the CDP requires new HMO's to provide adequate parking and access and 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.
85. Objections have been raised by concerned residents, Cllr Fletcher and the local MP that the development would increase the number of cars parking in the street.
86. The initial proposal was for a six bedroomed HMO, which was later revised to five bedrooms. The Highway Authority commented that such a proposal would not be compliant with the 2023 Parking and Accessibility SPD (PAS SPD) and would likely lead to potential highway safety issues. Due to this the proposal was revised to a three bedroomed property.
87. Following this revision, the Highways Authority offers no objection to the application, noting that while no off-street parking is available on Bradford Crescent, the PAS SPD usually requires 2no. off-street spaces for a two bedroomed property (the existing circumstance for the property), and that it also only requires 2no. spaces for a three bedroomed property (the proposal). As such there would be no net increase in the requirement for parking provision and therefore no impact upon highway safety.
88. Cycle storage is shown as provided within the rear garden, accessed by the alley walkway and its provision is a requirement of criteria (d) of Part 3 to Policy 16 of the CDP. As such it is considered appropriate to include a planning condition should permission be granted to secure provision of the cycle storage prior to first occupation and retention whilst the property is in use as a small HMO.
89. Therefore, notwithstanding the concerns raised by residents, ward member and local MP in relation to parking and access, it is considered that the development would not have a detrimental impact upon highway safety sufficient to sustain refusal of the application. In light of the above, it is considered that the development would accord with the aims of policy 16 and 21 of the CDP and paragraph 110 of the NPPF.

Other Matters

90. Objections have been raised regarding the proposed change of use resulting in the devaluation of properties. Further concerns have been raised regarding people selling their properties due to the HMOs in the area resulting in them being pushed out of the area. Devaluation of properties itself is not a material planning consideration and the

issue of noise and social cohesion has been discussed elsewhere in this report. It is therefore considered that the proposed change of use to a small HMO should not result in mental health issues arising.

CONCLUSION

91. 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.
92. When assessed against other policies of the County Durham Plan relevant to the application, it is considered that the introduction of a small HMO in this location would not unacceptably imbalance the existing community towards one dominated by HMOs, 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.
93. 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 Policies 6, 16, 21, 29 and 31 of the County Durham Plan and Parts 2, 4, 8, 9, 12 and 15 of the National Planning Policy Framework.

Public Sector Equality Duty

94. 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.
95. In this instance, officers have assessed all relevant factors and do not consider that there are any equality impacts identified.

RECOMMENDATION

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

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

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

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

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

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

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

4. Before any part of the development hereby approved is brought into use, the scheme of sound proofing measures shown on the Proposed Floor Plans & Elevations (drawing no. 1383-03 Rev B received 18th March 2024) shall be implemented. 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.

Reason: In the interest of amenity and to comply with Policy 31 of the County Durham Plan.

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

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

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

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

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

6. The development shall be operated strictly in accordance with the measures detailed in the submitted Property Management Plan (received 24/01/24) for the life time of the HMO use.

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 29 and 31 of the County Durham Plan.

7. The small HMO hereby approved shall be occupied by no more than 3 persons at any one time.

Reason: To provide adequate internal amenity space in the interests of residential amenity in accordance with the requirements of policies 29 and 31 of the CDP

8. The cycle storage provision shown on the Existing & Proposed Site Plan (Drawing No. 1360-04 REV B received 18th March 2024) shall be fully installed and available for use prior to the first use of the property as a small HMO (Use Class C4) and shall thereafter be retained for use at all times whilst the property is occupied as a small HMO.

Reason: To promote sustainable modes of transport in accordance with policies 6 and 16 of the County Durham Plan.

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 and subsequent information provided by the applicant.

Statutory, internal, and public consultation responses

The National Planning Policy Framework (2023)

National Planning Practice Guidance Notes

County Durham Plan (2020)

Durham County Council Residential Amenity Standards SPD (2022)

Durham County Council Parking and Accessibility SPD (2023)



<p>Planning Services</p>	<p>DM/24/00201/FPA Change of use from dwellinghouse (Use Class C3) to a house in multiple occupation (Use Class C4) including single storey rear extension, cycle parking and bin storage</p>	
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	<p>Date 14 May 2024</p>	<p>Scale NTS</p>