

COMMITTEE REPORT

APPLICATION DETAILS

APPLICATION NO:	DM/24/00555/FPA
FULL APPLICATION DESCRIPTION:	Construction of two storey side extension, additional off-street parking and change of use of the existing dwellinghouse (Use Class C3) to a HMO (Use Class Sui Generis) - Resubmission
NAME OF APPLICANT:	Mr Steven Argument
ADDRESS:	50 Prebends Field, Gilesgate, Durham, DH1 1HH
ELECTORAL DIVISION:	Belmont
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 detached, two-storey dwelling located within Prebends Field, Gilesgate a residential estate adjacent to the A690 to the northwest.
2. The property is a corner plot, located to the northwest edge of Prebends Field, which is part of a wider residential estate.

The Proposal

3. The application seeks full planning permission for the construction of a two storey side extension, the creation of additional off-street parking and a change of use of the existing dwellinghouse (Use Class C3) to a Large HMO (Use Class Sui Generis).
4. The application is being reported to planning committee at the request of Belmont Parish Council who consider the application raises issues relating to residential amenity, parking and highway safety which require consideration by the committee.

PLANNING HISTORY

5. DM/19/03062/FPA - Two storey side extension and canopy to front (amended description) – Approved 20.11.2019
6. DM/23/03508/FPA - Change of use of existing dwellinghouse (Use class C3) to a 7 bed house in multiple occupation (use class sui generis). Amended description 27.11.2023 – Withdrawn 16.02.2024.

PLANNING POLICY

NATIONAL POLICY

7. 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.
8. In accordance with Paragraph 219 of the National Planning Policy Framework, existing policies should not be considered out-of-date simply because they were adopted or made prior to the publication of this Framework.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.
9. *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.
10. *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.
11. *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 and that the needs of groups with specific housing requirements are addressed.
12. *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.
13. *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.

14. *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.
15. *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.
16. *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>

17. 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

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 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.

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 Deliver 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 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.
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 43 - Protected Species and Nationally and Locally Protected Sites* states that all development which, alone or in combination, has a likely adverse impact on the ability of species to survive, reproduce and maintain or expand their current distribution will not be permitted unless:
 - a. appropriate mitigation, or as a last resort compensation, can be provided, which maintains a viable population and where possible provides opportunities for the population to expand; and
 - b. where the species is a European protected species, the proposal also meets the licensing criteria (the 3 legal tests) of overriding public interest, no satisfactory alternative and favourable conservation status
24. 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>

25. Durham County Council Residential Amenity Standards SPD 2023.

[Appendix 5 Residential Amenity SPD.pdf \(durham.gov.uk\)](https://www.durham.gov.uk/media/36020/Durham-City-adopted-neighbourhood-plan/pdf/DurhamCityNeighbourhoodPlan.pdf?m=637738120004600000)

Durham City Neighbourhood Plan

26. 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.
27. 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.
28. 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.
29. 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.
30. 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:

31. *Belmont Parish Council* – object to the application, no evidence that the HMO would contribute to building a strong, competitive and responsive economy. The impact the proposed HMO would have on residential amenity and the supply of family homes. The Council provided evidence that over the past three years there has been a marked deterioration in properties in Gilesgate Moor that have become HMOs and that by their nature more waste is generated and there are more car owners. Therefore, there is no justification for suggesting the HMO improves biodiversity, uses natural resources, minimises waste and pollution, adapts to climate change and assists in moving to a low carbon economy. Furthermore, no justification of need has been provided by the application and arguably the application would exceed the 10% threshold within Policy 16 of the CDP.

32. *Highway Authority* – Raises objection as insufficient parking provision has been provided. Amended plans have since been received showing four in-curtilage parking spaces at the property, subsequently the Highways Authority raise no objection to the proposal.

INTERNAL CONSULTEE RESPONSES:

33. 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 noise mitigation.
34. 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 6.7%. There are two properties within 100m radius that have unimplemented consent for the change of use to an HMO which have been included in the percentage figure and there are no applications within 100m radius pending determination.
35. HMO Licensing have confirmed that the property would need to be licensed following completion of the works due to the property forming a 7-bedroom, 2 storey house in multiple occupation.

PUBLIC RESPONSES:

36. The application has been advertised by way of a site notice and individual notification letters to neighbouring residents.
37. 28 letters of objection and 1 letter of representation have been received from neighbouring properties. Reasons for objection are summarised as:
- Concerns in regards to the number of HMO's that would create a small cluster within this part of the estate and the impact that this will have on the amenity of neighbouring residents.
 - Impact on parking, highway safety and traffic congestion. Given the sites location on a corner and the sharp bend in the road, how this will impact future occupiers manoeuvring out of the in-curtilage parking provided safely. The road is used as an alternate route for many motorists to avoid the speed bumps on Pilgrims Way, as such with more people living at the property there will be an increase in on-street parking, leading to congestion and potential accidents. 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.
 - Impact on neighbouring property values from having a number of HMO's in close proximity.
 - 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 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 7 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=S9KT13GDGP100>*

APPLICANTS STATEMENT:

38. First, it is disappointing that this matter has been called into the Committee. Officers are granted delegated powers for a reason. Because unnecessary call-ins for this type of development are getting far too familiar, it suggests a significant lack of trust in the officers' ability to come to a fitting conclusion.
39. Secondly, Policy 16(3) is clear and unambiguous in describing circumstances where the principle of HMO development is acceptable. That is gauged by reference to the percentage of 'student-exempt' properties ['HMOs'] within 100m of the property. In this case, officers have determined that the concentration of HMOs within that search area is less than the 10% threshold. The principle of the change of use is wholly acceptable.
40. The reasons such locations are being targeted for such development is a direct consequence of the Council's rigorous application of Policy 16(3). This prevents HMO development in more sustainable locations in and around the city centre. Suppose Councillors and objectors want to do something useful. In that case, I suggest they lobby the Head of the Service to review this policy so that HMO development can happen where needed and not be pushed out to less sustainable locations.
41. I have had regard to the responses to the Council's consultation process and pay particular attention to the comments of the Parish Council. It is clear it has yet to completely understand this policy. Furthermore, vague and generalised assertions about the proposal's impact are unsupported by objective analysis. This could be seen as unreasonable behaviour by the Inspectorate if this transcribes to the reasons for refusal and I appeal.
42. While I am not required to demonstrate the need for this development, I strongly refute that there is no need for HMO accommodation.
43. I want the Council to provide the figures that prove, once and for all, that this is the case. It has an obligation to consider the need in its annual policy monitoring and is failing to do so. The obligation is not specific to any part of Policy 16, i.e., it must also be undertaken in relation to small HMO development.
44. Here is an extract from the most recent annual report: '7.22...The target specifies that it is related to the identified need, however, at this point in time there is no assessment of identified need for HMO bedspaces'
45. This means the Council could be rigorously applying Policy 16(3) when it ought not to be as it should be reviewed. That is why HMO development proposals are being pushed into areas like this where they are as equally contested by local communities. Applicants should not be blamed for this consequence. It is policy-led.

46. While there is no policy requirement to demonstrate the need, if Policy 16 is having an adverse impact on the housing stock where there is an insufficient supply of HMOs to meet the existing and future demand of students and, importantly, nonstudents that rely upon relatively low-cost housing as such, then Policy 16 should be considered 'out of date' and a determination made in accordance with paragraph 11(d) of the Framework. In practical terms, it should be ignored.
47. There are significant indicators that there is actually an undersupply of HMOs.
48. I understand that having guided the amended proposal and undertaken a professional assessment, officers will recommend that my proposal be granted planning permission. Members are not bound to accept that advice. Still, they should have a good reason for deciding in the alternative. I draw members' attention to a recent appeal for small HMO development at 5 Lyndhurst Drive (APP/X1355/W/23/3330576). Here, the concentration was less than 10%, too. Officers recommended approval, but the Committee refused consent. The applicant appealed, and the Planning Inspectorate allowed the appeal.
49. The appellant also applied for a full award of costs against the Committee's decision. They were unsuccessful on this occasion, but persistent objections to such developments in principle could open the Council to a full award of costs against it for unreasonable behaviour. While falling short in this case, the Inspectorate did agree with the appellant that the Council's approach was vague insofar as it believed harm to community cohesion.
50. I urge the Committee to be mindful of this decision. If it decides to refuse permission, I will appeal. I will pay close attention to the Members' comments leading to that determination in deciding whether to apply for a full award of costs against the Committee's decision.
51. I am confident that through controls that can be imposed through conditions of planning permission, my proposal will not adversely impact the residential amenities of neighbours. Moreover, Local Plan policy dictates that the principle of the development is wholly acceptable. Accordingly, I respectfully request that this application be approved.

PLANNING CONSIDERATIONS AND ASSESSMENT

52. 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.
53. 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, ecology and other matters.
54. Having regard to the requirements of Section 38(6) of the Planning and Compulsory Purchase Act 2004 the relevant Development Plan policies, relevant guidance and all other material planning considerations, including representations received, it is considered that the main planning issues in this instance relate to the principle of the

development, impact on the character and appearance of the area, the impact on residential amenity and community balance/social cohesion and the impact on highway safety/parking.

55. 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.

The Principle of the Development

56. The proposal relates to the construction of a two-storey extension and change of use from a residential dwellinghouse (Use Class C3) to a 7-bed Large HMO (Use Class Sui Generis).
57. 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.
58. 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.
59. In addition to the above, applications will only be permitted where:
the quantity of cycle and car parking provided has regard to the Council's adopted Parking and Accessibility Supplementary Planning Document (SPD);
- a. they provide acceptable arrangement for bin storage and other shared facilities and consider other amenity issues;
 - b. the design of the building or any extension would be appropriate in terms of the property itself and the character of the area; and

c. the application has shown that the security of the building and its occupants has been considered, along with that of neighbouring local residents.

60. 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. 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.
61. 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 Prebends Field 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.
62. Other objections have cited concerns that if no.50 is granted planning permission it would be next door to no.51 Prebends Field which is an existing HMO, that has recently received permission for change of use. As such, residents have highlighted that there would be 11 occupants living next door to each other which would have cumulative impact on residential amenity and highway safety, given the properties locations on a tight bend. In addition, residents highlight that another HMO at no.34 is an HMO, meaning if this application is approved there would be 3 HMOs within 100 yards of one another.
63. 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 50 Prebends Field 5% of properties are class N exempt properties as defined by Council Tax records. There are two properties with unimplemented consent within 100m, which increases the percentage to 6.7% in addition 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.
64. 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.

65. 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.
66. Paragraph 63 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 63 would be met.
67. 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.
68. In regards to the two-storey extension, which would be located to the southwest facing elevation. It is considered that the proposed development would be compatible with the existing and adjacent use of the land, in accordance with part a of Policy 6 of the CDP. As such, subject to consideration of the additional requirements within Policy 6 and other Policies within the CDP, the proposed two-storey extension would be acceptable in principle.

Impact on Residential Amenity

69. 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 accordance with the aims of paragraph 130 in this regard and sets out that development will be

permitted where it can be demonstrated that there will be no unacceptable impact, either individually or cumulatively, on health, living or working conditions or the natural environment 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.

70. 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.
71. In this instance the application site is a detached property located within a residential area, adjacent to the A690 to the northwest. There are residential properties in close proximity to the northeast, southeast and southwest. No.51 to the southwest is in use as an existing C4 HMO.
72. 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 close proximity to the application site. In particular, concerns around noise, disturbance, anti-social behaviour and drainage have been cited, as well as concerns around maintenance of properties and increased waste, which may lead to nuisance from vermin as a consequence.
73. 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.
74. 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 a subsequent planning appeals. However, in this instance it is noted that there is no identified over proliferation of existing HMOs within 100 metres of the application site, and as such it is not considered that the introduction of a single additional HMO in this location would result in a level of cumulative impact that would be detrimental to residential amenity.
75. The EHO officer also notes that bedrooms six and seven are 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.

76. 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.
77. 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.
78. The proposed two-storey extension, located to the southwest facing elevation would be at a separation distance of 3.9m from the corner of the closest property no.51 Prebends Field. Although the extension would be in close proximity to the neighbour at no.51 there are no windows proposed to the southwest facing gable elevation and the extension has been both setback from the front and stepped down from the existing ridge height. In addition, the existing layout and orientation of the properties means that there would not be any significant loss of privacy or overlooking from the proposed extension. As such, it is considered that the proposed two-storey extension would accord with Policy 31 of the County Durham Plan.
79. 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.
80. 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.
81. 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 7- bedspace 7-person (4b4p) dwelling. However, it does provide standards in relation to a 6b7p dwelling and requires 123sq metres which the development would appear to exceed, with provision of approximately 155sq metres of gross internal floorspace. In addition, it is noted that the remaining kitchen/dining/living space would provide approximately 41sq metres

which exceeds the 21sq metres required by HMO licensing. As such, the communal space is considered to be sufficient to serve the occupants of the property.

82. Therefore, based on the above the proposed change of use 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 policies 29(E) and 31 of the CDP and Paragraphs 130 and 174 of the NPPF.

Impact on Character and Appearance of the Area

83. 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.
84. 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.
85. 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.
86. 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.
87. 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.
88. The application proposes the construction of a two-storey extension, which would increase the number of bedrooms at the property from 3 to 7. The existing property has a single storey attached garage and utility room to the southwest elevation. The proposed development would see the garage door removed and a window installed to accommodate a new bedroom to the ground floor. To the first floor there would be a window installed, that would match the existing windows of the property which would accommodate a further two bedrooms to the upper floor. The maximum height of the proposed extension, which has been stepped down from the existing ridge of the host property would be approximately 7.1m and the width would be 4m on the same footprint as the existing garage/utility. As such, it is not considered that the proposed extension would appear as a dominant addition to the host dwelling and the property and would be in keeping in terms of design with the surrounding area.

89. 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.
90. 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.
91. 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 6, 16 and 29 of the County Durham Plan, and Policies S1, H3 and D4 of the Durham City Neighbourhood Plan.

Impact on Highways

92. 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.
93. 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, and 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 site's location on a corner plot, next to an existing HMO that has 4 occupants in combination with 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, the high number of occupants at the property, that is not sufficiently close to any bus stops, residents are worried each occupant will have a car, leading to further highway safety, parking, and congestion issues on a narrow corner.
94. The Highway Authority was consulted and raised objection to the proposal citing that insufficient in-curtilage parking in line with the SPD had been provided. For a 7 bed property, 4 in-curtilage parking bays would be required. The applicant has since provided an amended site plan that shows four in-curtilage parking bays. Following further consultation with the Highway Authority they offer no objection to the application and do not consider there would be any adverse impact in terms of highway safety as a result of the proposals. 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.
95. It is noted that details of cycle storage have been provided, which would be a trinity timber, two-storey bike shed. No details of the bin storage have been provided,

however it is considered that if the application is granted approval these details can be conditioned. The Site Plan submitted with the application indicates that these facilities will be located to the side of the property and as such would not be unduly prominent within the street scene.

96. With regard to concerns that the development would increase in vehicle movements in this area of the estate 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.
97. 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 5-minute walking distance to a PROW no.5 to the north and a 10-minute walk to the nearest bus stop on Bradford Crescent, both of which have links into the city centre to the west and Dragonville the east where there are a number of large supermarkets and other shops. As such, it is not considered that future occupants would be solely reliant on trips by the private motor vehicle.
98. 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.
99. 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.

Ecology

100. Planning permission was granted for a similar 2 storey extension at the property in 2019 to which the Council's Ecologist raised no objection, subject to inclusion of a standard informative relating to bats and nesting birds. The situation at the property has not fundamentally changed since this time and as such it is not considered that there would not be any unacceptable adverse impact to protected species in accordance with policy 43 of the County Durham Plan subject to the inclusion of the standard informative relating to bats and nesting birds.

Other Matters

101. 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 are being pushed out of the area. House prices itself is not a material planning consideration and the issue of social cohesion has been discussed elsewhere in this report.

102. Concern has been raised in relation to the capacity of the existing foul water network to accommodate additional flows, with evidence provided from a neighbour who had to pay for the drains to be replaced and fixed. In this regard it is noted that the occupation by 7 individuals whilst likely to have a greater impact upon utilities than that of a large family is nevertheless unlikely to fundamentally undermine the capacity of the wider network to the extent that it would conflict with policy 36 of the CDP. It should be noted that the application is not a type which requires consultation with either the Councils Drainage and Coastal Protection Team or Northumbrian Water.
103. Some respondents have raised concern at the extent to which the Council publicised the planning application. Whilst the concerns are noted the application was advertised by means of a site notice adjacent to the application property and letters sent to adjoining occupiers which exceeds the minimum statutory requirements as contained in the Town and Country Planning (Development Management Procedure) Order.

Public Sector Equality Duty

104. 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.
105. In this instance, officers have assessed all relevant factors and do not consider that there are any equality impacts identified.

CONCLUSION

106. 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).
107. 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.
108. When assessed against other policies of the County Durham Plan relevant to the application, it is considered that the construction of a two-storey extension and 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.
109. 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, would not significantly impact upon the character and appearance of the area, whilst also being acceptable in terms of highway safety in accordance with the aims of Policies 16, 21, 29 and 31 of the County

110. Whilst the concerns raised by the Belmont Parish Council 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	001	28.02.2024
Proposed and Existing Plan	101-C	10.05.2024

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

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. No development shall commence until a Construction Management Plan has been submitted to and approved in writing by the Local Planning Authority. The Construction Management Plan shall include as a minimum but not necessarily be restricted to the following:
 - A Dust Action Plan including measures to control the emission of dust and dirt during construction.
 - Details of methods and means of noise reduction/suppression.
 - Details of measures to prevent mud and other such material migrating onto the highway from all vehicles entering and leaving the site.
 - Details of provision for all site operatives for the loading and unloading of plant, machinery and materials.

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

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

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

6. Details of the bin storage proposed should be submitted to and approved by the Local Planning Authority and installed prior to the first occupation of the property.

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.

7. The external surfaces of the extension hereby approved shall be finished in materials to closely match the host property.

Reason: In the interests of visual amenity in accordance with the aims of policy 29 of the County Durham Plan.

8. Prior to the first occupation of the development hereby approved, a detailed property and tenant management plan shall have been submitted to and agreed in writing with the Local Planning Authority. The scheme shall include landlord contact information and details of those specific controls to mitigate the impact on residential amenity from noise, disturbance, and anti-social behaviour and measures to secure the property outside term times or when the property is vacant. The development shall thereafter be managed in accordance with the agreed property and tenant management plan at all times.

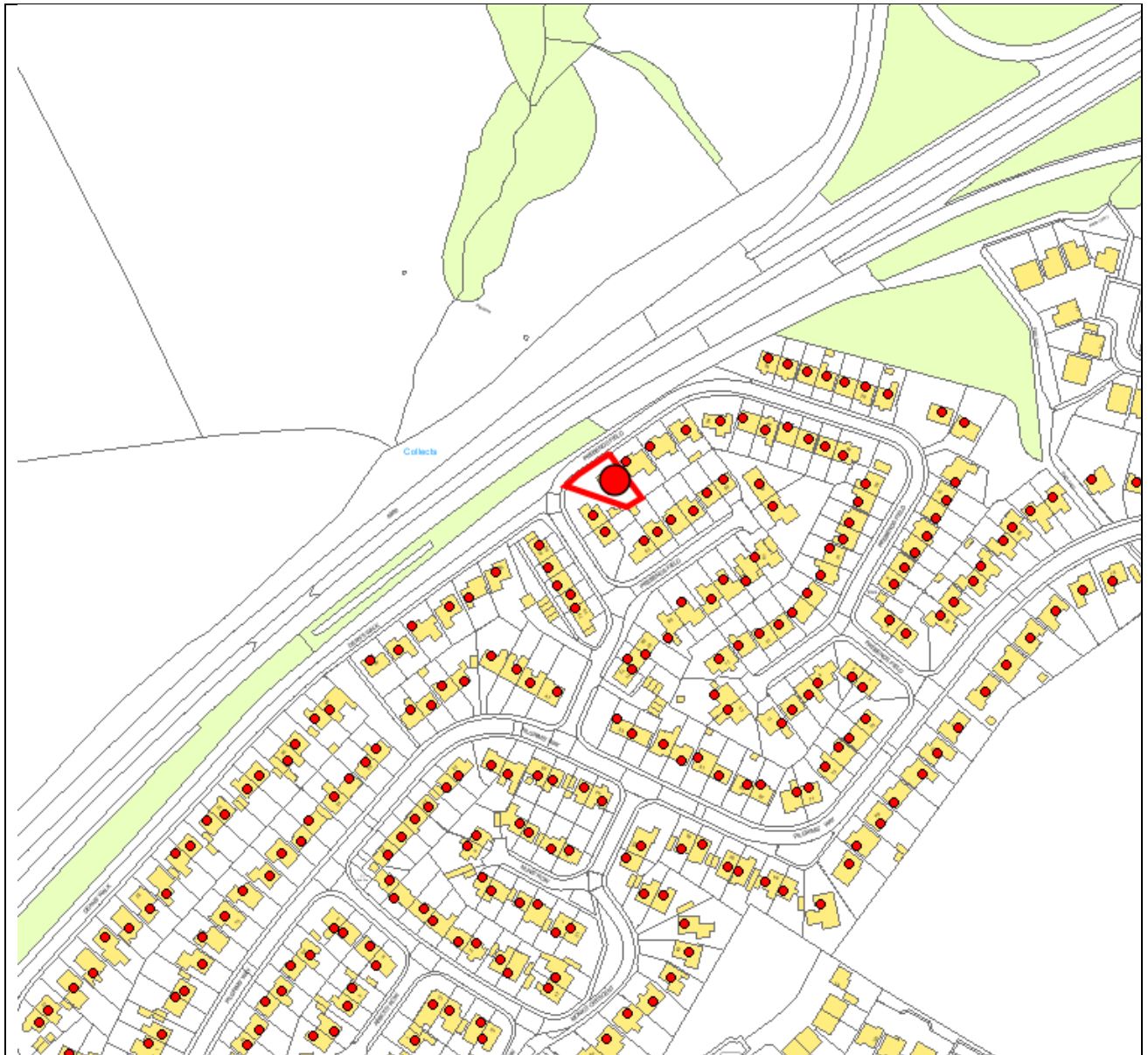
Reason: In the interest of the amenities of the area in accordance with CDP Policies 16, 29 and 31 of the County Durham Plan and Parts 12 and 15 of the National Planning Policy Framework.

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
- Statutory, internal and public consultation responses
- County Durham Parking and Accessibility Standards 2023



<p>Planning Services</p>	<p>Construction of two storey side extension, additional off-street parking and change of use of the existing dwellinghouse (Use Class C3) to a HMO (Use Class Sui Generis) - Resubmission</p>	
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	<p>Date: 11 June 2024</p>	