

# COMMITTEE REPORT

---

### APPLICATION DETAILS

---

<b>APPLICATION NO:</b>	DM/24/00695/FPA
<b>FULL APPLICATION DESCRIPTION:</b>	Change of use from dwellinghouse (C3) to small house in multiple occupation (HMO) (C4) including single storey extension, bin and cycle storage to rear
<b>NAME OF APPLICANT:</b>	Sugar Tree Limited
<b>ADDRESS:</b>	21 Laurel Avenue Sherburn Road Estate Durham DH1 2EY
<b>ELECTORAL DIVISION:</b>	Belmont
<b>CASE OFFICER:</b>	Michelle Hurton Planning Officer <a href="mailto:Michelle.hurton@durham.gov.uk">Michelle.hurton@durham.gov.uk</a> 03000 261398

---

### DESCRIPTION OF THE SITE AND PROPOSALS

---

#### The Site

1. The application site is a two-storey semi-detached property located within Laurel Avenue, Sherburn Road Estate, Gilesgate which is a residential housing estate to the east of Durham City Centre.
2. The properties front lawn is enclosed with a low boundary wall and the rear garden is enclosed with timber fencing. The property is framed to the north, east and south by residential dwellings and to the west is Laurel Avenue Community Primary School.

#### The Proposal

3. 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). Works to facilitate the conversion include internal and external alterations, including a single storey extension to the rear and an extension to the existing front drive to accommodate an additional parking space to for 3no vehicles.
4. The application is reported to planning committee at the request of the Belmont Parish Council Chair and County Councillor, Cllr Fletcher who consider the application raises issues relating to number of parking spaces, the road network, being close to a primary school and that Durham should consider student accommodation the same as Sunderland City Council. Cllr Fletcher considers that these issues are such that they require consideration by the committee.

---

## **PLANNING HISTORY**

---

5. None relevant to the current application.

---

## **PLANNING POLICY**

---

### **NATIONAL POLICY**

#### National Planning Policy Framework

6. The following elements of the National Planning Policy Framework (NPPF) are considered relevant to this proposal:
7. NPPF Part 2 Achieving Sustainable Development - The purpose of the planning system is to contribute to the achievement of sustainable development and therefore at the heart of the NPPF is a presumption in favour of sustainable development. It defines the role of planning in achieving sustainable development under three overarching objectives - economic, social and environmental, which are interdependent and need to be pursued in mutually supportive ways. The application of the presumption in favour of sustainable development for plan-making and decision-taking is outlined.
8. NPPF Part 4 Decision-Making - Local planning authorities should approach decisions on proposed development in a positive and creative way. They should use the full range of planning tools available, including brownfield registers and permission in principle, and work proactively with applicants to secure developments that will improve the economic, social and environmental conditions of the area. Decision-makers at every level should seek to approve applications for sustainable development where possible.
9. NPPF Part 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.
10. NPPF Part 8 Promoting Healthy and Safe Communities - The planning system can play an important role in facilitating social interaction and creating healthy, inclusive communities. Developments should be safe and accessible; Local Planning Authorities should plan positively for the provision and use of shared space and community facilities. An integrated approach to considering the location of housing, economic uses and services should be adopted.
11. NPPF Part 9 Promoting Sustainable Transport - Encouragement should be given to solutions which support reductions in greenhouse gas emissions and reduce congestion. Developments that generate significant movement should be located where the need to travel will be minimised and the use of sustainable transport modes maximised.
12. NPPF Part 12 Achieving Well-Designed Places - The Government attaches great importance to the design of the built environment, with good design a key aspect of sustainable development, indivisible from good planning.
13. NPPF Part 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.

14. 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:**

15. 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

16. The following policies of the County Durham Plan (CDP) are considered relevant to this proposal:
17. Policy 6 (Development on Unallocated Sites) supports development on sites not allocated in the Plan or Neighbourhood Plan, but which are either within the built-up area or outside the built up area but well related to a settlement will be permitted provided it: is compatible with use on adjacent land; does not result in coalescence with neighbouring settlements; does not result in loss of land of recreational, ecological, or heritage value; is appropriate in scale, design etc to character of the settlement; it is not prejudicial to highway safety; provides access to sustainable modes of transport; retains the settlement's valued facilities; considers climate change implications; makes use of previously developed land and reflects priorities for urban regeneration.
18. Policy 16 (Durham University Development, Purpose Built Student Accommodation and Houses in Multiple Occupation) seeks to provides a means to consider student accommodation and proposals for houses in multiple occupation in ensure they create inclusive places in line with the objective of creating mixed and balanced communities.
19. Policy 21 (Delivering Sustainable Transport) Requires all development to deliver sustainable transport by: delivering, accommodating and facilitating investment in

sustainable modes of transport; providing appropriate, well designed, permeable and direct routes for all modes of transport; ensuring that any vehicular traffic generated by new development can be safely accommodated; creating new or improvements to existing routes and assessing potential increase in risk resulting from new development in vicinity of level crossings. Development should have regard to the Parking and Accessibility Supplementary Planning Document and Strategic Cycling and Walking Deliver Plan.

20. Policy 29 (Sustainable Design) requires all development proposals to achieve well designed buildings and places having regard to SPD advice and sets out 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
21. Policy 31 (Amenity and Pollution) sets out that development will be permitted where it can be demonstrated that there will be no unacceptable impact, either individually or cumulatively, on health, living or working conditions or the natural environment and that they can be integrated effectively with any existing business and community facilities. Development will not be permitted where inappropriate odours, noise, vibration and other sources of pollution cannot be suitably mitigated against, as well as where light pollution is not suitably minimised. Permission will not be granted for sensitive land uses near to potentially polluting development. Similarly, potentially polluting development will not be permitted near sensitive uses unless the effects can be mitigated.
22. Policy 35 Water Management states that all new development should adopt the hierarchy of preference in relation to surface water disposal.
23. Policy 36 Disposal of Foul Water states that all new development should adopt the hierarchy of preference.
24. The Council's Residential Amenity Standards Supplementary Planning Document (RASSPD) sets out guidance for all residential development across County Durham and will form a material planning consideration in the determination of appropriate planning applications. It sets out the standards Durham County Council will require in order to achieve the Council's commitment to ensure new development enhances and complements existing areas, in line with the aims of the County Durham Plan.
25. The Council's Parking and Accessibility Standards Supplementary Planning Document (PASPD) supports Planning Policy 21 (Delivering Sustainable Transport) of the County Durham Plan and should be read in conjunction with the Councils Building for Life SPD, Residential Amenity SPD and the Highway Design Guide. The PASPD sets out guidelines for car and cycle parking that are to be applied equally across the county and for development to be situated within an accessible location.

<https://www.durham.gov.uk/media/34069/County-Durham-Plan-adopted-2020-/pdf/CountyDurhamPlanAdopted2020vDec2020.pdf?m=637424969331400000>

## **NEIGHBOURHOOD PLANNING POLICY**

26. The application site is located within the Belmont Neighbourhood Plan area. However, the plan is not at a stage to which regard is to be had.

---

## **CONSULTATION AND PUBLICITY RESPONSES**

---

### **STATUTORY RESPONSES:**

27. The Highway Authority raises no objection to the application following receipt of an amended site layout plan showing the widening of the driveway to accommodate a total of three in curtilage parking spaces to the front.
28. County Councillors Eric and Lesley Mavin object to the application due the percentage of HMOs within the 100m radius exceeding the 10% threshold, the university has stated that there is no need for further student accommodation, already empty HMOs within the area, creating a cluster of HMOs in a single area will increase anti-social noise negatively impacting the character of the area and amenity of residents, scheme relies on unrestricted on street parking, inadequate on site parking close to a primary school.
29. Belmont Parish Council object to the application due to the percentage of HMOs within the 100m radius exceeding the 10% threshold, the transient nature of the occupants, there is no need for additional student accommodation, confirmed by Durham university, close to a primary school, house on an inadequate narrow highway and parking concerns.

### **INTERNAL CONSULTEE RESPONSES:**

30. 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 7.8%, there is one unimplemented consent within the 100m radius being 20 Laurel Avenue. Accounting for the unimplemented consent the percentage figure would be 9.8%. However, the unimplemented consent was granted in July 2017, therefore, if the change of use has not been implemented and brought into use within the three year time limit, the permission has lapsed and can no longer be implemented.
31. HMO Licensing have confirmed that the property will not need to be licensed following completion of the works and advise how to comply with the relevant fire safety, amenity and space standards.
32. Environmental Health have raised no objections subject to conditions relating to sound proofing measures

### **PUBLIC RESPONSES:**

33. The application was advertised by way of site notice and neighbour notification letters were sent to nearby properties. Three letters of objection have been received in response. Reasons for objection are summarised as:
  - Impact upon existing residential amenity in that the proposal would adversely impact upon neighbouring properties from increased noise and disturbance, extra rubbish caused by students.
  - Impact upon parking and highway safety
  - Impact upon social cohesion in that the introduction of an additional HMO would imbalance 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.

- Impact on the Character and Appearance of the area, specifically that landlords of HMO properties neglect them, and properties become looking deteriorated.
- CDP requires development to be accessible to bus stops, however, there is not excellent public transport links.
- HMOs pay no council tax.
- Permissions are granted but works are carried out not in accordance with the approval and the developers apply again for the works retrospectively which don't get refused.
- 4 Monks Crescent was refused as the scheme would unbalance the community, detrimentally impacting community cohesion and amenity of residents from increased noise and disturbance, should this not be applied on any residential estate.

*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:**

34. The current application proposals involve the change of use of an existing dwellinghouse (Use Class C3) to a 4-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.
35. 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).
36. We acknowledge the continued concerns over the need for further student accommodation and the impact of such forms of development on community cohesion and residential amenity. However, there is no requirement to consider need under the provisions of Policy 16(3) and recent appeal decisions, including at 41 Fieldhouse Lane, 33 St Bede's Close and 58 Bradford Crescent, have found concerns over community cohesion and residential amenity 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 being located in Gilesgate 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.
37. 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 21 Laurel Avenue 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**

---

38. 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. 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**

39. The General Permitted Development Order 2015 (GPDO) permits the change of use from C3 (dwellinghouses) to uses within C4 (houses in multiple occupation HMOs) without requiring planning permission. A small HMO is where between three and six unrelated individuals live together in a property considered to be 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 scheme is such that the development would normally benefit from the provisions contained within the GPDO. However, an Article 4 direction came into effect on 17 September 2016 withdrawing permitted development rights for change of use of C3 to C4, therefore a planning application is necessary.
40. The proposal relates to the change of use from a residential dwellinghouse (Use Class C3) to a 4-bed HMO (Use Class C4). Works to facilitate the conversion include internal and external alterations, incorporating a single storey extension to the rear and an extension to the existing front drive, creating 1no additional parking space resulting in off street parking provision for 3no vehicles.

41. Policy 6 (Development on Unallocated Sites) of the CDP states that the development of sites which are not allocated in the Plan or in a Neighbourhood Plan which are either (i) within the built-up area; or (ii) outside the built-up area (except where a settlement boundary has been defined in a neighbourhood plan) but well related to a settlement, will be permitted provided the proposal accords with all relevant development plan policies and:
  - a. is compatible with, and is not prejudicial to, any existing, allocated or permitted use of adjacent land;
  - b. does not contribute to coalescence with neighbouring settlements, would not result in ribbon development, or inappropriate backland development;
  - c. does not result in the loss of open land that has recreational, ecological or heritage value, or contributes to the character of the locality which cannot be adequately mitigated or compensated for;
  - d. is appropriate in terms of scale, design, layout, and location to the character, function, form and setting of the settlement;
  - e. will not be prejudicial to highway safety or have a severe residual cumulative impact on network capacity;
  - f. has good access by sustainable modes of transport to relevant services and facilities and reflects the size of the settlement and the level of service provision within that settlement;
  - g. does not result in the loss of a settlement's or neighbourhood's valued facilities or services unless it has been demonstrated that they are no longer viable;
  - h. minimises vulnerability and provides resilience to impacts arising from climate change, including but not limited to, flooding;
  - i. where relevant, makes as much use as possible of previously developed (brownfield) land; and
  - j. where appropriate, it reflects priorities for urban regeneration.
42. The site is within the built up area and therefore is supported by Policy 6, subject to satisfaction of the detailed criteria. In relation to criteria a) and b), it is considered that the conversion of the building into a small HMO in this location would be compatible with adjoining residential uses and would not be prejudicial to any existing or permitted adjacent uses, subject to the impact on residential amenity, which will be considered in more detail below. The site is located within the built-up area of Gilesgate and therefore would not lead to the coalescence of settlements and there are no concerns with the development resulting in inappropriate ribbon development, nor that it would be considered inappropriate backland development, as the site has an independent highway access (criteria b).
43. The development would not result in a loss of open land that has any recreational, ecological or heritage value (criteria c) and the site is noted as being within a sustainable location, being located within Gilesgate on the outskirts of Durham City Centre where there is a wide range of facilities and access to sustainable modes of transport (criteria f). The site would not result in the loss of a settlement's or neighbourhood's valued facility or service (criteria g) given that the site relates to a semi-detached dwellinghouse, and therefore the development makes best use of previously developed land (criteria i). The requirements of criteria d, e, h of policy 6 are considered elsewhere within this report. It is not considered that criteria j is appropriate in relation to this proposal.
44. The development to change the use of a dwellinghouse (C3) into a small HMO (C4) sited in a sustainable location would therefore be considered to comply with Policy 6 of the CDP and the principle of development can draw some support from Policy 6 in this regard.



45. In addition to Policy 6, Part 3 of Policy 16 is also relevant which relates to houses in 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.

In all cases applications for new build Houses in Multiple Occupation, change of use to Houses in Multiple Occupation or a proposal to extend an existing House in Multiple Occupation to accommodate additional bed space(s) 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.

New build Houses in Multiple Occupation, extensions that result in specified or potential additional bedspaces or a change of use to a House in Multiple Occupation would not be resisted in the following circumstance:

- h. where an area already has a concentration in excess of 90% of council tax exempt properties (Class N), that this is having an unreasonable impact on current occupiers and that the conversion of remaining C3 dwellings will not cause further detrimental harm to the residential amenity of surrounding occupants; or
- i. where an existing high proportion of residential properties within the 100 metres are exempt from council tax charges (Class N), on the basis that commercial uses are predominant within the 100 metre area.

46. It is noted that objections have been received from neighbouring residents, local Councillors and Belmont Parish Council raising concerns that approving this application would bring the number of HMOs in the area above the 10% threshold when also taking into consideration the unimplemented consent. 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 Council has successfully defended several appeals against refusal of similar changes of use where

these were in clear conflict with the policy. Furthermore, Planning Inspectors, have assessed the appeals against the CDP and have not disputed the methodology behind Policy 16.

47. 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 within 100 metre radius of, and including 21 Laurel Avenue, 7.8% of properties would be class N exempt as defined by Council Tax records. However, it is noted that planning permission has previously been granted relating to No 20 Laurel Avenue for the change of use from C3 to C4 on the 27<sup>th</sup> July 2017. Whilst the LPA is aware that in 01<sup>st</sup> August 2017 an application for building regulations approval was submitted and works to change the use of the property from C3 to C4 subsequently completed, the extent to which this permission has been lawfully implemented is unclear. However, in the event that this permission has been implemented the percentage figure would still be under the 10% threshold at 9.8% in accordance with Policy 16.3 of the CDP.
48. As this concentration of Class N Student Exempt properties would be below the 10% threshold stated in the CDP, the development can be considered to comply with policy 16, Part 3, criteria a) and b) (criteria c) not being relevant) and is acceptable in principle, subject to further consideration of the proposal against other criteria on Policy 16, Part 3 and 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 and that a number of HMOs remain vacant. 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 which relates to applications for houses in multiple occupation and therefore is the part of policy 16 which is relevant to this current application before members today. 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 requirement for the applicant to demonstrate need, the lack of any specific information within the application with regards to need can be afforded only very limited weight.
50. 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 less than 10% of properties within 100m radius of the application site are Class N exempt, 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.
51. Objections have been received citing 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 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.

52. Taking account of the above it is considered that the principal of development is acceptable, and the proposal would accord with the requirements of Policy 16 of the CDP and Paragraph 63 of the NPPF in this regard.

### **Impact on residential amenity**

53. Paragraph 135 of the NPPF requires planning decisions to create places that are safe, inclusive and accessible and which promote health and well-being, with a high standard of amenity for existing and future users and where crime and disorder, and the fear of crime, do not undermine the quality of life or community cohesion and resilience. Policy 31 (Amenity and Pollution) of the CDP displays broad accord with the aims of paragraph 135 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.
54. In this instance the application site is a semi-detached dwelling located within a residential area and is framed to the north, east and south by residential dwellings and to the west is Laurel Avenue Community Primary School. 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.
55. 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 uses 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, this is anecdotal, as the potential for impact is associated with the personal habits of the individuals residing there and as such, might differ greatly.
56. 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 be 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.

57. Notwithstanding the above, it is considered that the applicant provides an effective plan as to how the property would be managed. A document titled 'Management Plan' has been submitted in support of the application which states that the property would be appropriately maintained by Harringtons Sales and Lettings Limited (Harringtons), who are a well-established student accommodation letting agent within Durham City. A tenancy agreement is included which details matters around noise and anti-social behaviour with appropriate penalties should these be breached. Whilst the document is titled 'Management Plan' the document is more for the tenant as opposed to the specific management of the site and how the applicants would ensure appropriate management is carried out. Therefore, officers consider and recommend that should the committee be minded to grant planning permission, the submission, agreement and implementation of precise details of a detailed management plan should be secured through planning condition. 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.
58. 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.
59. The scheme has been amended throughout the course of the application process from a 6-bed HMO to a 4-bed HMO and proposes a new bedroom and shower room at ground floor level which would replace the existing lounge area and an extension is proposed along the rear of the dwelling which will accommodate an extension to the existing kitchen/dining room and will create a lounge/kitchen and diner. As the property is a semi-detached dwelling, the adjoining property would be of a handed design and therefore the ground floor bedroom would be adjacent to the neighbouring properties lounge area which could lead to a greater impact for the individual residing in this bedroom, as well as potentially leading to complaints against the reasonable use of the neighbouring ground floor.
60. The proposed floor plans indicate that the party wall at both ground and first floor within bedrooms 1 and 3 will be upgraded with Gyplyner Independent wall lining or similar to meet the required mitigation. As such, a condition is recommended to be attached should planning permission be granted requiring the sound proofing measures described in the application to be installed (i.e. the Gyplyner 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. However, the plans also show that there will be both a shower room and a bathroom adjoining neighbouring sensitive areas, and there is a risk that noise transfer from the use of those areas will transmit into the adjoining properties sensitive areas, such as the living room on the ground floor and an adjoining bedroom on the first floor; it appears from the drawing that there is no intention to apply sound proofing to those party walls, which could lead to interference with neighbouring amenity and potentially cause a nuisance. Therefore, a planning condition is recommended for a scheme of sound proofing measures to be submitted for noise insulation of the walls between the shower room on the ground floor and bathroom on the second floor adjoining the neighbouring property to prevent excessive egress of noise.

61. As noted above, a single storey extension is proposed to the rear of the dwelling. The extension proposes a 3m projection from the rear build line of the host property and will project across approximately three quarters the length of the rear elevation, leaving a 2.1m gap from the side elevation of the proposed extension and the shared boundary line with the adjoining property. As the property is semi-detached, it is likely to be handed; resulting in the closest ground floor window accommodating the lounge, a habitable room. The window is approximately 1m away from the shared boundary, and a distance of approximately 2m from the side elevation of the proposed extension. There are no windows within the side elevation facing the adjoining property and the projection of the extension would meet the 45 degree rule. There is a window within the side elevation facing the non-adjoining neighbouring property, however, this is a high level window and therefore is to allow light into the room only and would not result in the loss of privacy or create overlooking concerns enough to warrant refusal of the application.
62. The extension hereby proposed, had it been to extend the existing C3 dwellinghouse, would have fallen within the scope of permitted development, for which a planning application would not have been required and therefore Officers have to take this fallback position into consideration as the use of the property being within C3 or C4 use would not change the impact the extension would have upon residential amenity.
63. In light of the above, the development is not considered to have any unacceptable impacts upon overbearing, overshadowing or loss of privacy and as a result will be in accordance with policy 31 of the CDP and the RASSPD.
64. 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 garden area and therefore accords with criteria e) of Part 3 to Policy 16. 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 in accordance with policy 16 of the CDP.
65. 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, the Council determined that it was necessary to introduce the NDSS in County Durham, with the aim of improving the quality of new build developments coming forward.
66. 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.
67. The originally proposed scheme incorporated 6no bedrooms, which did not meet the minimum NDSS requirements. Consequently, the applicant has amended the scheme altering the internal layout and reducing the overall number of bedrooms down to four. This has increased the footprint of the bedrooms and while the overall floor area would

still be slightly below the NDDS requirement it is now considered acceptable and all of the bedrooms now meet the minimum NDSS requirements, being in excess of the required 7.5sq metres per room. The original scheme was required to be licenced, however, since being amended to four bedrooms, it is noted the property would no longer require a licence.

68. 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 4 bedspace, 4 person dwellings. However, it does include standards in relation to 4 bedspace 5 person dwellings and it is noted that this requires an overall area of no less than 97sq metres. 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.
69. 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) and policy 16.3 of the CDP and Paragraph 135 of the NPPF.

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

70. Paragraph 131 of the NPPF advises that the creation of high quality, beautiful and sustainable 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.
71. Objections to the proposed development have been raised stating that HMOs have a negative impact on the residential housing estate, due to them not being adequately maintained and that students are short term occupiers with no stake in local community.
72. It is noted that a rear extension is proposed to facilitate the change of use along with increasing the driveway length to the front of the property. This is considered acceptable in principle and similar to works which have been undertaken at other properties within the locality. It is recommended that the inclusion of a planning condition be attached should approval be granted which requires materials used within the construction of the extension and driveway to match the host property.
73. The character and appearance of the surrounding area incorporates two storey semi-detached and terraced properties. There is a variety of boundary treatments within the local vicinity of the site and a difference in opening styles. With regard to concerns that the general appearance of the property would deteriorate as a consequence of the proposed use there is no evidence that this would occur, and the applicant has reiterated that the property would be appropriately maintained. There is also separate planning powers available to address untidy land and buildings should such issues arise.
74. 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.

75. 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**

76. Policy 16.3 of the CDP requires new HMOs 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 114 of the NPPF which requires new development to provide safe and suitable access to the site.
77. Objections have been raised by concerned residents and Belmont Parish Council that the development would increase parking problems within the street given that there is already concerns due to the proximity to the school that is located directly to the rear of the site.
78. The Highway Authority offers no objection to the application and does not consider there would be any adverse impact in terms of highway safety as a result of the amended proposals. The original proposals were not considered to be in accordance with the 2023 Parking and Accessibility SPD given that the existing property is a 3-bed dwelling which has 2 parking spaces, and the proposed scheme would have 6 bedrooms. Therefore, the scheme would have required 4no off street parking spaces but was only proposing 3. The Highways officer requested that the application be amended to reduce the number of bedrooms down to 5 or demonstrate how they would provide the 4 spaces necessary for a 6-bed property.
79. The applicant therefore reduced the number of bedrooms down to 5, therefore requiring 3no off street parking spaces which would be in accordance with the Parking and Accessibility Standards (PASSPD) requirement. The existing dropped vehicular crossing would also require widening to accommodate the proposed third space which would require the applicant to enter into a S184 agreement with the Local Highway Authority.
80. However, as noted above, 5no bedrooms would not meet the indicative NDSS and therefore further amendments were sought to reduce the number of bedrooms down to four.
81. With regard to concerns that the development would increase the presence of parked vehicles within surrounding streets, it is noted that given the increase of in curtilage parking as described above, the proposed use would not increase on street parking to an extent that it would adversely impact upon existing network capacity. 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.
82. Cycle storage is shown as provided within the existing garage and its provision is a requirement of criteria (d) of Part 3 to Policy 16 of the CDP. As such it is recommended should approval be granted, to include a planning condition to secure provision of the cycle storage prior to first occupation of the C4 use and for its retention whilst the property is in use as a small HMO.
83. Comments have been raised in regard to the CDP requiring development to be accessible to bus stops, however, they consider that there is not excellent public transport links within the area due to a number of services being cancelled. The application site is located at approximately 200m south of Sherburn Road where there are a number of bus stops along that stretch of road, with additional bus stops slightly

further north along Sunderland Road which run buses regularly into Durham City and other villages. Whilst it is acknowledged that some bus routes may have been cancelled or times changed, the site is still within a sustainable location and within cycle distance and for some walking distance to Durham City Centre.

84. Comments have been raised relating to 4 Monks Crescent previously being refused as the scheme was considered to unbalance the community, detrimentally impact the community cohesion and amenity of residents from increased noise and disturbance, therefore should these reasons not be applied on any residential estate. Each application has to be assessed on their own merits against relevant planning policy. Furthermore, 4 Monks Crescent was appealed by the applicant and the appeal has recently been allowed by the Planning Inspectorate with planning permission being granted.
85. Therefore, notwithstanding the concerns raised by residents and the Parish Council in relation to parking and changes to bus timetables, 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 accordance with the aims of policy 16.3 and 21 of the CDP and paragraph 114 of the NPPF.

---

## **CONCLUSION**

---

86. 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.
87. 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 an 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 and parts 9, 12 and 15 of the NPPF.

### Public Sector Equality Duty

88. 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.
89. 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. Prior to first occupation of the property for the use hereby approved, the party wall with No. 2 shall be upgraded with Gyplyner Independent wall lining or alternative that accords with the requirements of Approved Document E (Resistance to the passage of sound) of the Building Regulations 2004 (As Amended),.

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 Policy 31 of the County Durham Plan and Part 12 of the National Planning Policy Framework.

4. Before any part of the development hereby approved is commenced a scheme of sound proofing measures shall be 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 between the shower room on the ground floor and bathroom on the second floor adjoining the neighbouring property shall be sufficient to prevent excessive egress of noise. 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 Policy 31 of the County Durham Plan and Part 12 of the National Planning Policy Framework.

5. 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.

6. Notwithstanding the details submitted within the application the development shall not be occupied until a detailed strategy of precise management methods, approaches and techniques for the operation of the site has been submitted to and agreed in writing by the Local Planning Authority. The strategy shall include measures of CCTV coverage, 24-hour security or warden presence, student warden schemes or other management operations, a scheme for the storage, removal of waste generated by the development and cycle storage.

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

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

7. The cycle storage provision shown on the existing and proposed site plans (Drawing No. 1386-03 REV C received 14 March 2024) shall be available for use prior to the

first use of the property as a small HMO (Use Class C4) and shall thereafter be retained and shall not be used for any other purpose whilst the property is occupied as a small HMO.

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

8. The bin storage provision shown on the existing and proposed site plans (Drawing No. 1386-03 REV C received 14 March 2024) shall be available for use prior to the first occupation of the flats (Use Class C3) hereby approved and shall be retained in perpetuity.

Reason: In the interest of residential amenity and in accordance with policies 6 and 16 of the County Durham Plan.

9. The development hereby approved shall include a maximum of 4no bedrooms.

Reason: In the interest of residential amenity and in accordance with Policy 29e of the County Durham Plan and Part 12 of the National Planning Policy Framework.

10. 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.

---

## **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)

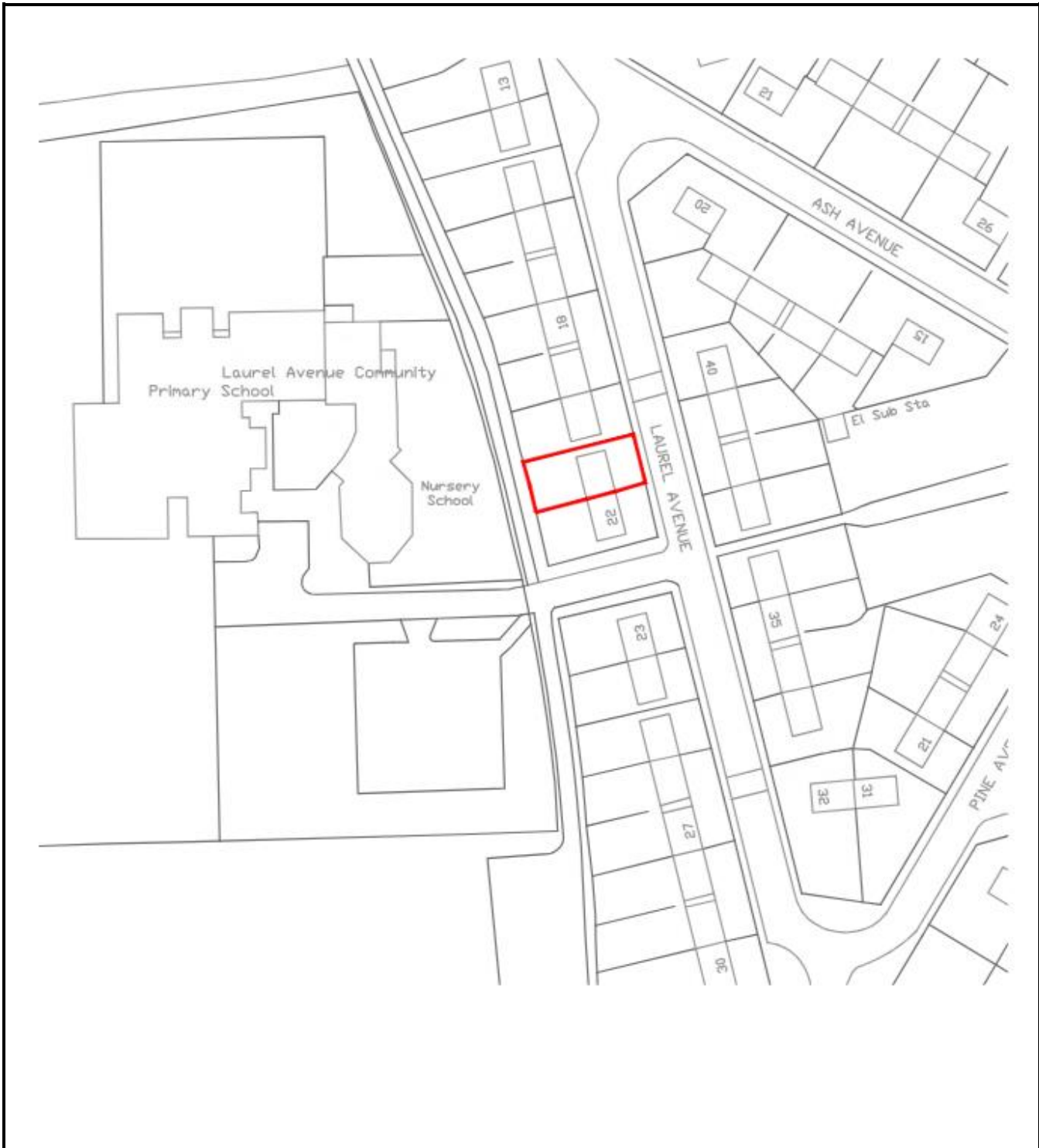
Technical housing standards – nationally described space standard (2015)

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><b>Planning Services</b></p>	<p>DM/24/00695/FPA Change of use from dwellinghouse (C3) to small house in multiple occupation (HMO) (C4) including single storey extension, bin and cycle storage to rear at 21 Laurel Avenue Sherburn Road Estate Durham DH1 2EY</p>	
<p>This map is based upon Ordnance Survey material with the permission of Ordnance Survey on behalf of Her Majesty's Stationary Office © Crown copyright. Unauthorised reproduction infringes Crown copyright and may lead to prosecution or civil proceeding. Durham County Council Licence No. 100022202 2005</p>		
	<p><b>Date</b> 22 July 2024</p>	<p><b>Scale</b> NTS</p>