

COMMITTEE REPORT

APPLICATION DETAILS

APPLICATION NO:	DM/23/03783/FPA
FULL APPLICATION DESCRIPTION:	Retrospective application for increase in height of flat roof/fascia to front and side of property and new uPVC windows
NAME OF APPLICANT:	Mr Nick Swift
ADDRESS:	10 Rowan Tree Avenue Gilesgate Moor Durham DH1 1DU
ELECTORAL DIVISION:	Belmont
CASE OFFICER:	Michelle Penman Planning Officer Michelle.penman@durham.gov.uk 03000 263963

DESCRIPTION OF THE SITE AND PROPOSALS

The Site:

1. The application site is a two-storey semi-detached dwelling located within an established residential estate on Rowan Tree Avenue, Gilesgate Moor, to the east of Durham City centre. The property benefits from a driveway and garden to the front and private amenity space to the rear.

The Proposal:

2. Planning permission is sought to retain an increase in the overall height of the integrated garage, associated fascia to the front and side of the property and the installation of new uPVC windows.
3. The application site has an extant planning permission which permits the change of use of the property from a dwellinghouse Use Class C3) to a small HMO (Use Class C4), together with external alterations to the fenestration and extension to the driveway, which was approved July 2022. Once implemented this planning permission establishes the lawfulness of the use of the property as a small HMO which permits the properties occupation by up to 6 unrelated individuals. Consequently, this application relates solely to the works described above.
4. The application is reported to planning committee at the request of Belmont Parish Council who consider that the environmental and streetscape impacts of the proposal,

along with implications for residential amenity, and overall design of the alterations to be such that they warrant consideration by the planning committee.

PLANNING HISTORY

5. DM/22/01178/FPA Change of use from dwellinghouse (use class C3) to small HMO (use class C4) with associated internal alterations, including conversion of the existing attached garage to habitable space, and external alterations to existing fenestration. Approved 21.07.2022.
6. DM/22/00245/FPA Change of use from dwellinghouse (use class C3) to small HMO (use class C4) with associated internal alterations; conversion of the existing attached garage to habitable space, with formation of pitched roof over garage and canopy to front; and other external alterations to existing fenestration. Withdrawn 14.02.2022.

PLANNING POLICY

NATIONAL POLICY

National Planning Policy Framework

7. The following elements of the National Planning Policy Framework (NPPF) are considered relevant to this proposal:
8. NPPF Part 2 - Achieving Sustainable Development - The purpose of the planning system is to contribute to the achievement of sustainable development and therefore at the heart of the NPPF is a presumption in favour of sustainable development. It defines the role of planning in achieving sustainable development under three overarching objectives - economic, social and environmental, which are interdependent and need to be pursued in mutually supportive ways. The application of the presumption in favour of sustainable development for plan-making and decision-taking is outlined.
9. NPPF Part 4 – Decision-Making - Local planning authorities should approach decisions on proposed development in a positive and creative way. They should use the full range of planning tools available, including brownfield registers and permission in principle, and work proactively with applicants to secure developments that will improve the economic, social and environmental conditions of the area. Decision-makers at every level should seek to approve applications for sustainable development where possible.
10. NPPF Part 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 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:

14. 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

15. The following policies of the County Durham Plan (CDP) are considered relevant to this proposal:
16. 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
17. 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.

18. The Council's Residential Amenity Standards Supplementary Planning Document January 2023 promotes high quality amenity and design standards. The SPD is primarily linked to Policy 29 (Sustainable Design) of the CDP. This policy sets down a range of general design and amenity requirements that are applicable to all development proposals.

<https://www.durham.gov.uk/media/41575/Residential-Amenity-Standards-SPD-January-2023-pdf/ResidentialAmenityStandardsSPDJanuary2023.pdf?m=638107754686670000>

Neighbourhood Plan

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

CONSULTATION AND PUBLICITY RESPONSES

STATUTORY RESPONSES:

20. Belmont Parish Council object to the application and consider that the application does not provide sufficient justification for the works, contrary to the previous planning permission for the change of use of the property from a dwellinghouse to a small HMO, and that the development would have a detrimental impact to the environment and streetscape, residential amenity and design/visual amenity.

PUBLIC RESPONSES:

21. The application has been advertised by way of site notice and individual letters sent to neighbouring residents. Following the original consultation 5 letters of objection, including from Belmont Parish Council were received. Following amendments to the application, a further 3 letters of objection were received.
22. The objections and concerns raised in relation to the application can be summarised as follows:
- The fascia looks like a shop front, is not in keeping with other properties, is mismatched and higher than the fascia of the adjoining house.
 - The additional windows were only necessary to create additional bedrooms.
 - The property is advertised online as a 6-bedroom property, but permission was only granted for 4 bedrooms as shown on the approved floor plans.
 - No proof the internal layout conforms to the legal minimum size for a single bedroom in an HMO.
 - Concern whether inspections have been carried out to ascertain that all foul water outlets have been connected to correct drains/main sewerage system.
 - Always the intention of the application to convert the property to a 6-bedroom HMO.
 - Residents' concerns ignored and plans not scrutinized properly through planning, inspection and enforcement stages.
 - It is questionable if fascia height is required.
 - The larger window in the side elevation overlooks no. 8 Rowan Tree Avenue and should be obscured to preserve privacy of no. 8.
 - Additional rooms will lead to parking congestion as there is insufficient parking.

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?keyVal=S5PWXTGDFRE00&activeTab=summary>

APPLICANT'S STATEMENT:

23. We find the requested call to committee for an application to regularise the size of a fascia a very strange decision and not perhaps, we would suggest, the best use of the councils limited resources. The call to committee based on the "Impact on the street scene, residential amenity and design" with local objectors broadly claiming the fascia is out of keeping with the remainder of the street.
24. A simple look up Rowan Tree Avenue shows there is plethora of different frontage styles and home owner modifications to the frontages that already exist in the street scene, no one style can be said to now be dominant or the style that therefore should be replicated. There are numerous juxtapositions where conflicting styles sit directly side by side and numerous examples on this street and the surrounding streets where fascia depths have increased without the ire of the locals or a similar call to committee for such a de-minimis change.
25. We suspect the call to committee has more to do with the local resistance to the use class as a HMO than anything to do with the actual fascia as installed by the builder during the refurbishment works. Works which included a thermal upgrade of the roof. Indeed a read though the objections shows a re-run of the objections to the previous C3 to C4 application and bemoaning the PD rights the applicant has thereafter, or even a lack of understanding of the PD rights that exist.

PLANNING CONSIDERATIONS AND ASSESSMENT

26. 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.
27. The National Planning Policy Framework is a material planning consideration in this regard. The County Durham Plan is the statutory development plan and the starting point for determining applications as set out at Paragraph 12 of the NPPF. The NPPF advises at Paragraph 225 that the weight to be afforded to existing Local Plans depends upon the degree of consistency with the NPPF.
28. The County Durham Plan (CDP) was adopted in October 2020 and as such represents the up-to-date local plan for the area. Consequently, consideration of the development should be led by the plan if the decision is to be defensible.
29. 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 surrounding area, residential amenity and other matters.

Principle of Development

30. The application seeks planning permission for the retention of external alterations to the property already undertaken, including an increase in the height of the garage roof and the installation of fascia and alterations to windows.
31. Concerns have been raised by residents and the Parish Council in relation to the property being advertised online as a 6-bedroom HMO, rather than a 4-bedroom HMO

as was previously identified in plans submitted in support of a planning application to change the use of the property from a dwellinghouse to small HMO and it is suggested that the alterations are to facilitate additional bedrooms. Notwithstanding this, the site already benefits from planning permission for the change of use to a small HMO (Use Class C4) and this has established the acceptability of that use. The permission was not granted subject to any conditions restricting the number of occupiers and permitted development rights relating to extensions and alterations have not been removed, as it was not considered necessary.

32. Objections have also been raised that the works undertaken are not necessary. However, there is no requirement contained within planning policy for the applicant to demonstrate whether these works were necessary or not with the application being considered against all relevant planning policy and material planning considerations.
33. With regards to the property being advertised as a 6-bedroom HMO, this was recently investigated by the Council's Planning Enforcement Team and the case closed given that planning permission for the change of use from a domestic dwelling (C3 use class) to an HMO (C4 use class) has been implemented.
34. On that basis, the increase in the number of bedrooms would not amount to a material change of use beyond the C4 small HMO use, for which planning permission exists, and as such any concern relating to the number of bedrooms currently provided within the property cannot be afforded weight in the determination of this application and do not amount to sufficient reason to refuse the retention of the external alterations which are the subject of this application.
35. Considering the above, the development is considered acceptable in principle subject to the proper consideration of the impact on the character and appearance of the area and residential amenity.

Impact on the Character and Appearance of the Area

36. Paragraph 131 of the NPPF states that the creation of high quality, beautiful and sustainable buildings and places is fundamental to what the planning and development process should achieve. Good design is a key aspect of sustainable development, creates better places in which to live and work and helps make development acceptable to communities.
37. Policy 29 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.
38. The Council's Residential Amenity Standards SPD (Adopted January 2023) outlines basic principles to ensure that development has a positive impact on the character of the area. These include, amongst other things, consistent design approach including materials and subservience whereby all new development should be of a scale that is appropriate to the existing building and does not have an overbearing appearance or nature.
39. It is acknowledged that several concerns have been raised in relation to the design of the proposed amendments, in particular the increased height of the fascia which is not considered to be in keeping with the adjoining property or other properties in the street scene and it is questioned whether the increase in height is required.
40. While it is acknowledged that the horizontal depth of the fascia is greater than that of the adjoining property and differs in appearance as a consequence, it is noted that

there are a variety of different designs of extensions to the front of properties in the wider vicinity. Many of the principal elevations of semi-detached properties within the street scene no longer mirror one another with some of the flat roofs across the properties frontages being altered to pitched roofs or other gable elements introduced. As such, it is not considered that the development would appear as such an incongruent addition so as to result in any significant visual harm to the character and appearance of the host property or the surrounding area such that it could sustain refusal of the application.

41. Therefore, the development is not considered to be in conflict with part 12 of the NPPF or Policy 29 of the CDP or the Residential Amenity SPD.

Impact on Residential Amenity

42. Paragraph 135 (f) 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.
43. Policy 31 (Amenity and Pollution) of the CDP displays broad accord with the aims of Paragraph 135 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. 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.
44. In addition, Criteria (e) of Policy 29 (Sustainable Design) states that all development proposals will be required to provide high standards of amenity and privacy and minimise the impact of development upon the occupants of existing adjacent and nearby properties.
45. The eaves height of the flat roof and fascia have been increased by approximately 200mm and therefore the impacts are considered to be limited. Given the scale and siting of the garage roof and fascia, it is not considered that there would be any adverse impacts on the amenity of neighbouring occupants from overbearing or overshadowing.
46. Concerns have been raised in relation to the replacement of the first-floor window in the side elevation of the dwelling and it is suggested that this results in overlooking of no. 8 Rowan Tree Avenue. The window is offset from the existing window in the side elevation of no. 8 which is believed to serve the stairs/landing and would not result in any direct overlooking of neighbouring habitable room windows. While it is acknowledged that the window is positioned slightly further to the rear of the property, it is not considered that it will result in significant additional overlooking than that which is currently afforded by the existing stairs/landing window in the host property. It is not therefore considered that there would be any significant adverse impacts that would sustain refusal of the application in this instance.
47. Other alterations have been made to the style and position of window openings within the front and rear elevations, which differ from those which were previously approved, and have been included in the amended plans. Concerns have been raised that these windows would not have been required if additional bedrooms were not being created. However, as already noted, permitted development rights were not removed for such alterations and it is considered that the insertion of new windows and patio doors to

the front and rear elevations would have constituted permitted development. Although they have been included in the description of development and as such must form part of the application, the permitted development fallback position must be afforded weight. Notwithstanding this, it is important to note that these works would not result in any harmful impacts on residential amenity.

48. As such, on balance, the development is not considered to conflict with Part 15 of the NPPF, Policies 29 and 31 of the CDP or the Residential Amenity SPD in this instance.

Other Matters

49. Concerns have also been raised in relation to the internal layout and whether the accommodation conforms with any legal requirements for HMOs. However, as already discussed, the principle of the change of use to an HMO has been established through the previous planning permission and any further internal alterations resulting in the creation of additional bedrooms falls outside of any planning control. The quality of the accommodation provided is subject to separate legislative control and as such cannot be afforded weight in the determination of this planning application.
50. Concern was also raised in relation to whether inspections have been carried out to ascertain that all foul water outlets have been connected to correct drains/main sewerage system. It is noted that this falls outside of the planning process and where relevant would be a matter for Building Control and as such cannot be afforded weight in the determination of this planning application.
51. Finally, concerns have been raised in relation to parking and it is suggested that additional bedrooms could lead to parking congestion. However, as previously discussed, given the application relates to external alterations only this is not a matter that can be afforded weight in the determination of this planning application.

Public Sector Equality Duty

52. 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.
53. In this instance, officers have assessed all relevant factors and do not consider that there are any equality impacts identified.

CONCLUSION

54. In summary, subject to conditions, it is not considered that the development would result in any significant adverse impacts on the character and appearance of the surrounding area or on the amenity of neighbouring occupants. The development would not therefore be considered to conflict with Parts 12 and 15 of the National Planning Policy Framework, Policies 29 and 31 of the County Durham Plan or the Residential Amenity SPD.
55. Whilst the concerns raised by local residents and Belmont Parish Council have been considered, for the reasons discussed within this report they are not considered sufficient to sustain refusal of the application. 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 conditions detailed below:

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

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

STATEMENT OF PROACTIVE ENGAGEMENT

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

BACKGROUND PAPERS

Submitted application form, plans, supporting documents and subsequent information provided by the applicant.

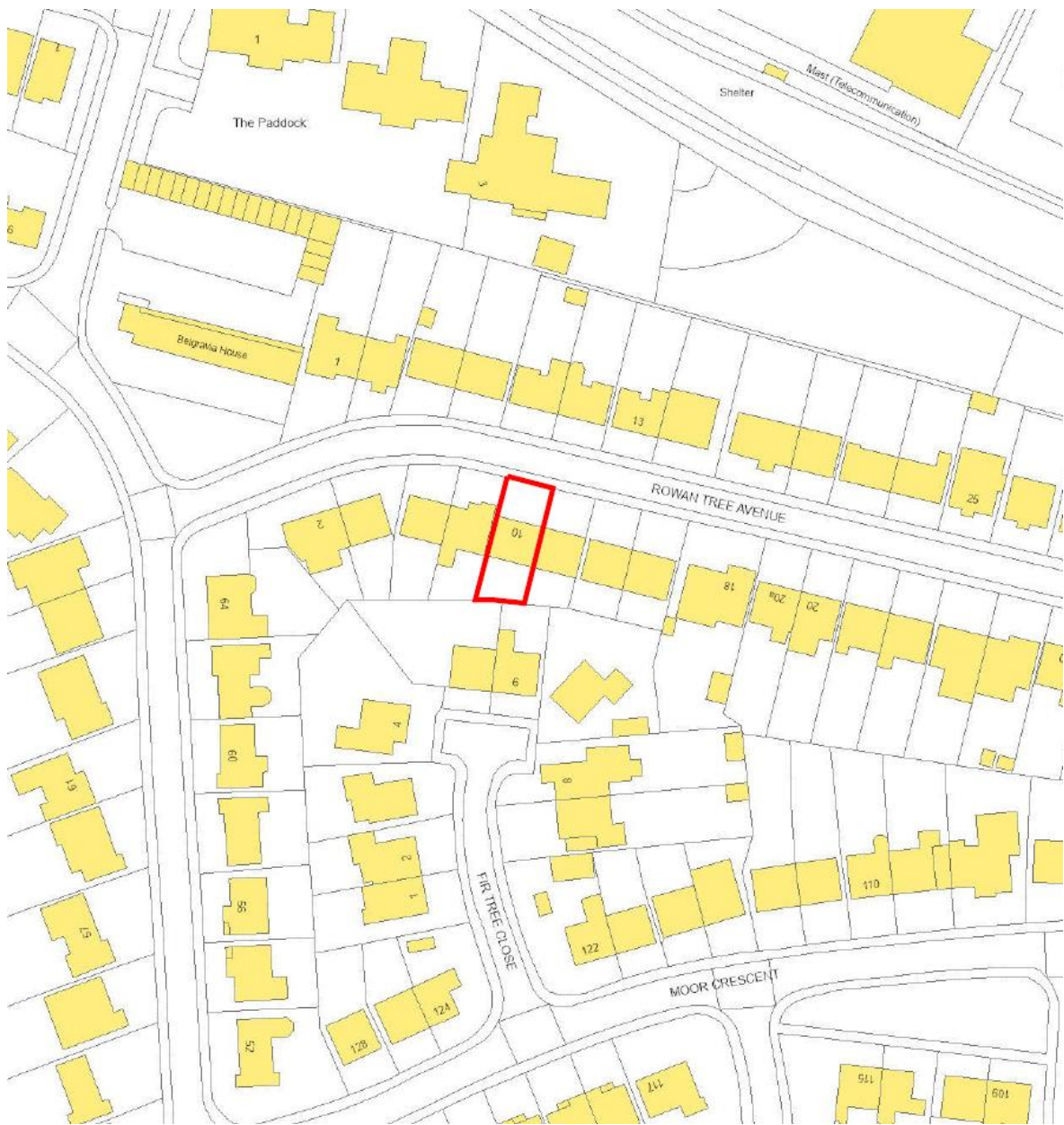
Statutory, internal and public consultation responses

The National Planning Policy Framework (December 2023)

National Planning Practice Guidance Notes

County Durham Plan (2020)

Residential Amenity Standards Supplementary Planning Document January 2023



Planning Services

Retrospective application for increase in height of flat roof/fascia to front and side of property and new uPVC windows at 10 Rowan Tree Avenue, Gilesgate Moor, Durham, DH1 1DU

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Comments

Date July 2024

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