

COMMITTEE REPORT

APPLICATION DETAILS

APPLICATION No:	DM/24/01045/FPA
FULL APPLICATION DESCRIPTION:	Change of use from dwellinghouse (C3) to a house in multiple occupation (C4) including single storey extension, cycle parking and bin storage to rear and formation of car parking area to front
NAME OF APPLICANT:	Sugar Tree Limited
ADDRESS:	63 Frank Street Gilesgate Moor Durham DH1 2JF
ELECTORAL DIVISION:	Belmont
CASE OFFICER:	Clare Walton Planning Officer Clare.Walton@durham.gov.uk 03000 261060

DESCRIPTION OF THE SITE AND PROPOSALS

The Site

1. The application site relates to a two-storey semi-detached property located within Frank Street, Gilesgate Moor, Durham. The application site includes outdoor amenity space to both the front and rear and is located in close proximity to the Dragonville Retail Park, Dragon Lane and the Durham City Retail Park, McIntyre Way.

The Proposal

2. Planning permission is sought for the change of use of the existing three bedroomed C3 dwellinghouse into a five bedroomed C4 house in multiple occupation (HMO) which also incorporates a single storey extension to the rear of the property. The extension would accommodate an additional bedroom and the relocation of the shared living room. 3 No in-curtilage parking spaces are proposed to the front of the property with storage proposed within the rear garden.
3. The application is reported to planning committee at the request of Belmont Parish Council who considers the applicant's contention that the proposed change satisfies sustainable development, as set out in the National Planning Policy Framework is not supported by any evidence to justify the economic, social and environmental viability of the area will be improved. Belmont Parish Council considers that these issues are such that they require consideration by the committee.

PLANNING HISTORY

4. None relevant to the current application.

PLANNING POLICY

NATIONAL POLICY

National Planning Policy Framework

5. The following elements of the National Planning Policy Framework (NPPF) are considered relevant to this proposal:
6. 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.
7. 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.
8. 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.
9. 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.
10. 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.
11. 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.
12. 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.

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 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.
17. 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.

18. 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.
19. 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
20. 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.
21. Policy 41 (Biodiversity and Geodiversity) sets out that proposals for new development will be expected to minimise impacts on biodiversity by retaining and enhancing existing biodiversity assets and features and providing net gains for biodiversity including by establishing coherent ecological networks.
22. 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.
23. 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

24. 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:

25. The Highway Authority raises no objection to the application following receipt of an amended floor plan reducing the number of bedrooms from 6 to 5 which now satisfies the requirements of the Parking and Accessibility SPD 2023.
26. 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 onsite parking close to a primary school.
27. Belmont Parish Council objects to the proposed change of use as it threatens the established community and balance of Frank Street populated by young families and longstanding residents, 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:

28. 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 4.5%, there is one unimplemented consent within the 100m radius being 48 Frank Street. Accounting for the unimplemented consent the percentage figure would be 6.0%.
29. HMO Licensing have confirmed that the property will need to be licensed.
30. Environmental Health have raised no objections subject to conditions relating to sound proofing measures and Construction Management Plan.

PUBLIC RESPONSES:

31. The application was advertised by way of site notice and neighbour notification letters were sent to nearby properties. No objections from residents were received.

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:

32. The current application proposals involve the change of use of an existing dwellinghouse (Use Class C3) to a 5-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.

33. 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).
34. 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.
35. 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 63 Frank Street 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

36. 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 ecology.

Principle of the Development

37. 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 is now in force which withdraws permitted development rights for change of use from C3 to C4, therefore an application for planning permission is now required.
38. The proposal relates to the change of use from a 3 bedroom dwellinghouse (Use Class C3) to a 5-bed HMO (Use Class C4). The application originally proposed 6 bedrooms, however one of the bedrooms did not meet the requirements of the NDSS and this was removed from the application. Other works involve internal and external alterations, incorporating a single storey extension to the rear and creation of in curtilage vehicle parking and cycle storage. The dwellings current layout is broadly traditional with 3-bedrooms to the first floor and kitchen/dining room/lounge to the ground floor. The change of use proposes an additional 2 bedrooms and shower room to the ground floor, delivered via single storey rear extension and reconfiguration of the existing layout.
39. 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.
40. The site is within the built-up area of Gilesgate and occupies a broadly sustainable location and as such the principle of development can draw support from Policy 6, subject to compliance with the criteria listed. 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 detailed consideration of the impact of the development on residential amenity, which is assessed in more detail elsewhere in this report. The development would not lead to the coalescence of settlements and there are no concerns that the proposal would lead to inappropriate ribbon development, nor that it would be considered inappropriate backland development.
41. The development would not result in the loss of open land that has any recreational, ecological or heritage value (criteria c) and as already noted the site occupies a sustainable location. There is a wide range of facilities within walking distance and the site benefits from access to sustainable modes of transport (criteria f). The site would not result in the loss of any valued facility or service (criteria g) and 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.
42. In addition to Policy 6, Part 3 of CDP 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.*

- 43. Belmont Parish Council and Ward Cllrs have raised objection citing a view that the proposal would unbalance the community and be harmful to social cohesion. Whilst these concerns are noted, the Council's HMO Data Officer has confirmed that less than 10% of properties within 100 metres of the site are Class N Exempt from Council Tax and this is below the threshold stated in Part 3 of Policy 16, and this would remain the case should planning permission be granted for the proposed change of use. The development is therefore considered acceptable in principle subject to satisfactory consideration of relevant development plan policies and the other requirements included within Policy 16, which are discussed in more detail below.
- 44. There is one unimplemented planning permission for the change of use from C3 to C4 within 100 metres of the site that remains capable of implementation. However, should this be implemented the concentration of HMOs would increase to 6% which remains below the 10% threshold stated in Part 3 of the CDP Policy 16. As such, 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 could be considered a primary access route between Purpose Built Student Accommodation and the town centre, or a university campus, and therefore the development would comply with Policy 16 in this respect.
- 45. 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.
- 46. Objections have also been received that the application fails to demonstrate need for accommodation of this type in this location, and that there is a surplus of student accommodation within Durham City with a high volume of HMOs being currently vacant. However, whilst Part 2 of policy 16 requires need for additional PBSA accommodation to be demonstrated (along with a number of other requirements) this is not a requirement of Part 3 of Policy 16, and it is this part of Policy 16 against which

the application must be assessed. As already noted, it is considered that the proposal would accord with the requirements set out in Part 3 of Policy 16. The lack of any specific information with regards to need cannot be afforded any weight in the determination of this application. In relation to need, it is recognised 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.

47. 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.
48. Objections from Belmont Parish Council and Ward Cllrs 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.
49. 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

50. 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.
51. In this instance the application site is a semi-detached property located within a residential area and as such the nearest residential property adjoins the application

site to the north with further residential properties to the north, south and west also within Frank Street and to the east lies the western edge of Dragonville Retail Park

52. 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 and recent appeal decisions have established there it would be unreasonable to assume that all students conduct themselves in a less than responsible manner.
53. 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.
54. Notwithstanding the above, 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.
55. Furthermore, the applicants have confirmed that the property would meet all relevant safety standards with gas and electrical safety certificates, as well as mains linked smoke detectors. The windows and doors would 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.

56. The scheme has been amended since original submission to reflect a reduction in the number of bedrooms proposed from 6 down to a 5 and proposes 2 new bedrooms and shower room at ground floor level which would see part of the existing lounge to the front become a bedroom. An extension is also proposed to the rear which would create a bedroom and lounge. As the property is a semi-detached dwelling, the adjoining property would be of a handed design and therefore the ground floor bedroom to the front 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.
57. It is acknowledged that greater impact would potentially be experienced for occupants of these ground floor bedrooms given their proximity to the communal living space. In light of the above, the proposed floor plans show that the internal party walls are to be upgraded using GypLynner Acoustic to meet the sound proofing requirements. The EHO has confirmed that this approach would be sufficient to prevent excessive ingress and egress of noise and therefore should be permanently retained thereafter to be secured via planning condition.
58. Subject to the inclusion of a planning condition in this regard it is not considered that there would be any unacceptable transfer of noise to neighbouring properties, and the Council's EHO makes no objection to the application.
59. As noted above, a single storey extension is proposed to the rear of the dwelling. The extension proposes a 3.8m projection from the rear build line of the host property.
60. To minimise the potential for overshadowing to neighbouring properties the Council operates what is known as a '45 degree code'. Guidance within the Residential Amenity Standards Supplementary Planning Document also outlines that the extent of the impact will however depend upon a number of factors including the orientation of the property, existing features such as boundary walls, outbuildings and other solid structures, ground levels and the type of window impacted upon (i.e. whether it is a primary or secondary window). Advising that the 45 code is not a rigid standard which must be met in every case. Rather it is an assessment tool which will be used in conjunction with other relevant factors, including daylight and sunlight tests to gauge the acceptability of proposals in terms of the overshadowing/loss of light impact upon neighbouring properties.
61. Whilst the extension does not meet the requirements of the Residential Amenity SPD in that it fails to meet the 45 degree code in terms of its relationship with No. 61 Frank Street, it should be noted that number 61 has planning permission for a single storey rear extension which was approved as part of a similar application in regard to an HMO in 2022. It is also noted that the extension proposed within this application is 80cm larger than that what would have been considered permitted development. It should be further noted that no objections have been received in relation to the extension itself.
62. This element of the proposal therefore does display some degree of non-compliance with guidance contained in the Residential Amenity SPD. However, the degree of harm arising as a result is considered limited given the extension has a depth of 80cm beyond that which otherwise would be considered permitted development. Consequently, this impact is considered insufficient to sustain refusal of the application.
63. The property includes adequate external space to accommodate sufficient bin storage located within the garden and therefore accords with criteria e) of Part 3 to Policy 16.

In addition, it is considered there is sufficient external amenity space to serve the inhabitants in accordance with policy 16 of the CDP.

64. 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.
65. 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. 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.
66. With regard to the above it is noted that the application originally proposed an increase of 3 additional bedrooms, and some did not meet minimum NDSS requirements. Consequently, the scheme has been amended and the number of bedrooms reduced, and all now meet minimum NDSS requirements. As such, the proposal is considered to provide an acceptable amount of internal space in accordance with policy 29(e) of the CDP. However, it is noted that any future subdivision to provide a 6th bedroom would fall significantly below those minimum space's standards set out in the NDSS and as such a planning condition should be included to limit the number of occupiers to a maximum of 5.
67. With regard to the total overall internal space, it is noted that the NDSS does not provide specific guidance for 5 bed 5 person dwellings but does suggest a minimum of 97 sq metre for 4 bed 5 person dwellings and a minimum of 110 sq metres for 5 bedroom 6 person dwelling. The NDSS provides no specific guidance in this regard but remains a useful tool in assessing the quality of development for the purposes of CDP Policy 29(e). Therefore, whilst it is noted that 94sq metres of internal space would be provided given that some of the bedrooms are in excess of the minimum space required by NDSS sufficient internal amenity space would be provided to ensure the residential amenity of residents would not be undermined in accordance with policies 31 and 29 of the CDP.
68. Therefore, overall, 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

69. 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.

70. The application includes erection of a rear extension and the formation of a driveway to the front of the property. The former would be located away from any public vantage point and as such would have limited visual amenity impact but subject to a condition to ensure materials used in external surfaces match the existing there would be no adverse impact in this regard. The creation of the driveway is required to accord with the Council's Parking Standards and is considered acceptable in principle given similar arrangements existing at other properties within the locality.
71. 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.
72. 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

73. 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.
74. Objections have been raised by Belmont Parish Council and Cllrs Eric and Lesley Mavin that the development would increase the already existing parking problems.
75. The application proposes the change of use from 3 bed property, which would have an existing parking requirement of 2 spaces although none are currently provided, to a 5 bed property which would have a parking requirement of 3 spaces as required via the 2023 Parking and Accessibility SPD. The Highway Authority objected to the original proposal for 6 bedrooms and advised that the applicant demonstrate how they would provide the 4 spaces required by the 2023 Parking and Accessibility SPD. In response the application was amended to reducing the number of bedrooms to 5 and proposing 3 in curtilage parking spaces. As such the proposal now accords with the SPD and adequate parking would be provided and the Highway Authority raises no objection in this regard subject to the creation of a new vehicular crossing to accommodate the proposed parking area which would require the applicant to enter into a S184 agreement with the Local Highway Authority.
76. Concerns have been raised that the change of use would increase the presence of parked vehicles within surrounding streets. However, noted that the provision of in curtilage parking in accordance with the Council's Parking Standards it is not considered that there would be any unacceptable increase in demand for on street parking to an extent that it would adversely impact upon existing network. 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.
77. Cycle storage is shown on the proposed site plan 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.

78. 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 accord with the aims of policy 16.3 and 21 of the CDP and paragraph 114 of the NPPF.

Ecology

79. NPPF Paragraph 186 d) advises that opportunities to improve biodiversity in and around developments should be integrated as part of their design, especially where this can secure measurable net gains for biodiversity or enhance public access to nature where this is appropriate. In line with this, CDP Policy 41 seeks to secure net gains for biodiversity and coherent ecological networks. Part 15 of the NPPF seeks to ensure that developments protect and mitigate harm to biodiversity interests, and where possible, improve them.
80. The application was submitted after the 12th of February 2024, the date on which the requirements of the Environment Act 2021, as inserted into Schedule 7A of the Town and Country Planning Act 1990, came into force. However, it is noted that there are a number of exemptions which if applicable, can remove a development from the legal requirement to deliver a minimum of 10% net biodiversity gain through the development. The Environment Act 2021 includes exemptions for permitted development which includes development which does not impact on any onsite property habitat and where there is an impact this must be less than 25 square metres of onsite habitat. In addition, the Act also excludes householder development defined as an application for planning permission for development for an existing dwellinghouse, or development within the curtilage of a dwellinghouse for any purposes incidental to the enjoyment of the dwellinghouse.
81. The development relates to a dwellinghouse and as such falls within the exemption listed above and as such the development is considered to be exempt from requirement to deliver 10% net increase in biodiversity net gain. The development therefore accords with the aims of policy 41 of the CDP, Part 15 of the NPPF and Schedule 7A of the Town and Country Planning Act 1990.

CONCLUSION

82. 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.
83. 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, highway safety or ecology (including biodiversity net gain) in accordance with policies 6, 16, 21, 29,31 and 41 of the County Durham Plan and parts 9, 12 and 15 of the NPPF.

84. 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.
85. In this instance, officers have assessed all relevant factors and do not consider that there are any equality impacts identified.

RECOMMENDATION

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

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

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

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

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

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

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

4. Prior to the first occupation of the property for the purposes of C4 the sound proofing detailed on Drawing No. 1392 04 A entitled 'Proposed Floor Plans and Elevations received 6th June 2024 shall be fully installed and thereafter retained at all times during which the property is in C4 use.

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.

5. The development shall be operated strictly in accordance with the measures detailed in the submitted Property Management Plan (received 12/06/2024) for the duration that the property is occupied as a HMO.

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.

6. The HMO hereby approved shall be occupied by no more than 5 persons at any one time.

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

7. The cycle storage provision shown on the Proposed Site Plan (drawing number 1392 05) received on the 19th of April 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 for use at all times whilst the property is occupied as a small HMO.

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

8. 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.

ADDITIONAL MATTERS

Highway Permit

The approved development involves works which will require a permit under Section 184(3) of the Highways Act 1980. You should contact Ian Harrison in the Highway Authority on 03000 269249 or highways.licensing@durham.gov.uk to discuss this matter further.

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)



Site Location Plan



Planning Services

DM/24/001045/FPA Change of use from dwellinghouse (C3) to house in multiple occupation (HMO) (C4) including single storey extension, bin and cycle storage to rear at 63 Frank Street Gilesgate Moor Durham DH1 2JF

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10/09/2024

NTS