



Planning Services

COMMITTEE REPORT

APPLICATION DETAILS

Application No:	DM/24/02126/FPA
Full Application Description:	Change of use from 3-bedroom residential dwelling (Use Class C3) to 4-bedroom small HMO (Use Class C4) with extension to driveway and provision of cycle storage
Name of Applicant:	Mr John Byrne
Address:	3 Aspen Close Gilesgate Moor Durham DH1 1EE
Electoral Division:	Belmont
Case Officer:	David Richards (Planning Officer) Tel: 03000 261955 Email: david.richards@durham.gov.uk

DESCRIPTION OF THE SITE AND PROPOSAL

The Site

1. The application site relates to 3 Aspen Close which is currently a residential dwelling falling within Class C3 of the Town and Country Planning Use Classes Order and is positioned within a residential cul-de-sac in Gilesgate Moor. The property adjoins 1 Aspen Close to the east and 5 Aspen Close to the west.

The Proposal

2. The application seeks planning permission for the change of use from a 3-bedroom residential dwelling (use class C3) to a 4-bedroom small HMO (use class C4) with an extension to the driveway and the provision of cycle storage.
3. The application is being reported to Central and East Planning Committee at the request of Councillor Christine Fletcher and Belmont Parish Council who

consider the development would have a negative impact upon highway safety/parking issues, impact of HMO on balance of community, and noise to the extent that the application should be determined by the committee.

RELEVANT PLANNING HISTORY

4. There is no relevant planning history relating to the application site.

PLANNING POLICY

National Policy

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 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.
9. *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.
10. *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.

11. *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.
12. *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 Page 73 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:

13. 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: determining a planning application; healthy and safe communities; natural environment; noise and use of planning conditions.

<https://www.gov.uk/government/collections/planning-practice-guidance>

Local Plan Policy:

The County Durham Plan (CDP)

14. *Policy 6 (Development on Unallocated Sites)* states the 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.

15. *Policy 16 (Durham University Development, Purpose Built Student Accommodation and Houses in Multiple Occupation)* seeks to provide a means to consider student accommodation and proposals for houses in multiple occupation in ensure they create inclusive places in line with the objective of creating mixed and balanced communities.
16. *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 Parking and Accessibility Supplementary Planning Document.
17. *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.
18. *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.
19. *Policy 35 (Water Management)* requires all development proposals to consider the effect of the proposed development on flood risk, both on-site and off-site, commensurate with the scale and impact of the development and taking into account the predicted impacts of climate change for the lifetime of the proposal.
20. *Policy 41 (Biodiversity and Geodiversity)* states that proposal for new development will not be permitted if significant harm to biodiversity or geodiversity resulting from the development cannot be avoided, or appropriately mitigated, or as a last resort, compensated for.

21. Residential Amenity Standards SPD (2023) – Provides guidance on the space/amenity standards that would normally be expected where new dwellings are proposed.
22. Parking and Accessibility SPD (2023) – Provides guidance on parking requirements and standards.

<https://www.durham.gov.uk/cdp>

Neighbourhood Plan:

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

The above represents a summary of those policies considered relevant. The full text, criteria, and justifications can be accessed at: <http://www.durham.gov.uk/article/3266/Development-Plan-for-County-Durham>

CONSULTATION AND PUBLICITY RESPONSES

Statutory Consultee Responses:

24. *Highways Authority* – By widening the existing driveway, the applicant would be able to provide the 3 parking spaces necessary to be compliant with the 2023 Parking and Accessibility SPD. Therefore, the Highway Authority raises no objections to the proposal.
25. *Belmont Parish Council* – objects to the application on grounds of over proliferation of HMO properties in a residential area, impacts on the amenity of local residents, loss of a family home, transient nature of the occupants, environmental/visual impacts, that there is no need for additional student accommodation, parking and highway safety impacts.

Internal Consultee Responses:

26. *HMO Data* - within a 100m radius of, and including 3 Aspen Close, 5.4% of properties are Class N exempt student properties as defined by Council Tax records.

The following properties have unimplemented consent for the change of use to an HMO within 100m radius;

DM/24/01143/FPA FPA A2 "29 Hawthorn Crescent, Gilesgate Moor, Durham, DH1 1ED"

Accounting for the unimplemented consent, the percentage figure would be 6.5%.

27. *Environmental Health and Consumer Protection (Nuisance)* – raise no objection but recommend that suitably worded conditions are applied to secure the submission, agreement and implementation of sound proofing measures, tenant management plan and construction management plan and controls to the hours of working. They are also satisfied that the development is unlikely to cause a statutory nuisance.

Public Responses:

28. The application has been advertised by site notice and individual notification letters sent to neighbouring properties. There have been 7 letters of objection received in relation to the application.
29. These are summarised under the relevant headings below:

Objections

Principle

- No demonstration of need

Highway Issues

- Concerns raised include: limited on street parking and four adults with potentially 4 vehicles would worsen the congestion and parking difficulties experienced already which could be increased by takeaway and online shopping deliveries; extension of the driveway would remove an on-street parking space from the cul-de-sac; more cars using the cul-de-sac could impact on the safety of young children that use cul-de-sac to play; difficulty accessing the street such as by emergency vehicles due to increase in cars and inconsiderate parking

Residential Amenity

- Concerns raised include noise and anti-social behaviour increasing from use as an HMO compared to a family home, particularly during late hours; the combination of four adults and their friends visiting would be an intrusion of privacy to neighbouring properties; room sizes are not adequate and untidy appearance of HMO properties in general.

Ecology

- Removing the front garden would involve removing a tree and various established plants.

Other Matters

- Devaluation of property values
- Increase in the amount of waste generated
- Impact on broadband
- Roof in disrepair

Elected Members

30. Councillor Christine Fletcher objects to the application on grounds of principle of development over proliferation of HMOs in this area, impacts on the local community, impacts on the amenity of neighbouring and future occupants due to the cul-de-sac location, loss of a family home, parking and highway safety, enough student housing already exists.

The above is not intended to repeat 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/search.do?action=simple&searchType=Application>

Applicants Statement:

31. No.3 Aspen Close is a three-bedroom semi-detached house located in a residential area of Durham. The property benefits from an existing attached garage and driveway which can accommodate one car.
32. The application seeks for full planning permission for a Change of Use from Residential Use Class 3 to Residential Use Class 4 including internal reconfiguration; the formation of two additional car parking spaces to the front; refuse bin and cycle storage areas to the rear and with the garage to remain as such.
33. Planning permission is required for this Change of Use because the site is located within an area subject to an Article 4 Direction withdrawing Permitted Development rights for such changes of use.
34. Public responses have raised in the main, the following objections:
1. Increase in number of vehicles leading to parking problems and congestion.
 2. Detrimental to the amenity of neighbouring properties mainly through noise disturbance.
 3. Detrimental to the character of the area including the balance of the community.
 4. No justification of need.
35. The above is not intended to list every point but represents I believe, the main objections.
Let me respond in order:
1. The increase in number of vehicles leading to parking problems and congestion.

No. 3 Aspen close is currently a 3 bedroomed house which, worst-case scenario could arguably have six adults in a family: two parents, two adult children and their two partners each with a car. As an HMO this property can only house four people and it is very unlikely that they will all have cars. Currently if vehicles cause congestion by obstructing the adopted footway or

blocking the carriageway this is subject to the legislative control via the Highways Act and can be pursued by such.

Notwithstanding, the County Durham Plan, Planning Accessibility SPD Adopted Version 2023 states that four bedroomed houses require three parking spaces. Provision is made in the planning application for three in-curtilage parking spaces.

2. Detrimental to the amenity of neighbouring properties mainly through noise disturbance.

Given that number 3 Aspen Close is located within a cul-de-sac, any external noise may be more audible due to the enclosed nature of the street especially when background noise levels are low. As a semi-detached property any noise disturbance generated within the house is going to be more audible to the immediate neighbours.

Please note that no.3 could currently house a family of 3 to 6 people. A family could also generate noise with everyday comings and goings. This would of course vary depending on the ages of those living there. For example, this could be adults on shifts or working from home or regular office hours, children of varying ages with school runs, clubs and societies or equally teenagers with a heavy-metal obsession!. The objections contend that the proposed HMO would adversely affect non-student residents through increased noise and disturbance. Student tenants in an HMO can and will be held accountable for their actions, and steps can and will be taken if they are repeatedly found to be causing a nuisance. As well as tenants agreeing to behave in a neighbourly fashion by signing a Tenancy Agreement containing clauses relevant to excessive noise or disturbance, a proposed plan of sound attenuation measures has been submitted in the original application. There will be no change to the external appearance of the dwelling, no new windows or changes in the intervening distances with neighbouring properties, and as such the proposed development would not, I believe, give rise to unacceptable loss of privacy or amenity even if comings and goings from number 3 were to increase.

3 Detrimental to the character of the area including the balance of the community.

Policy 16 and the Article 4 Direction confirm that proposals for new HMOs will not be supported when more than 10% of the total number of residential units within 100m radius of the application site are Class N exempt which is the point where it is considered that there is an imbalance between HMOs occupied by students and houses occupied by other non-student residents. Whilst we acknowledge the concerns raised by local residents regarding imbalance, the current application in combination with approved schemes and applications under consideration in the area will not lead to more than 10% of properties within 100m radius being Class N exempt and as such would not conflict with Policy 16 of the adopted CDP.

4. No justification of need.

The question of need was raised. Durham County Council SPD Housing Needs Interim Policy Statement on First Homes states PBSA require applicants to demonstrate that there is a need for the PBSA in support of the planning application. This demonstration of need is as it says, for Purpose Built Student Accommodation, not for Houses in Multiple Occupation. This application is for Change of Use Residential Use Class 3 to House in Multiple Occupation (still Residential) Use Class 4.

Whether or not there is a need for further student accommodation in HMO form will be dictated by market forces; if the proposed HMO is not ultimately used as such it does not preclude it from being occupied again in the future as a family dwelling with little or no internal reconfiguration, as can be seen on the proposed submitted floorplans.

36. Statutory Consultees have responded.

Highways Development Management 13 August 2024

'By widening the existing driveway, the applicant would be able to provide the 3 parking spaces necessary to be compliant with the 2023 Parking and Accessibility SPD therefore the Highway Authority raises no objections to the proposal.'

Nuisance Action Team 29 August 2024

' I am satisfied based on the information submitted with the application and with the addition of the above condition (sound attenuation plan and conditions on construction work hours) that the development is unlikely to cause a statutory nuisance, '

HMO Data Office 16 August 2024

'Within 100m radius of and including 3 Aspen Close 5.4% of properties are Class N exempt student properties as defined by council tax records.'

'Accounting for the unimplemented consent the percentage figure would be 6.5%.'

37. Please see below a number of similar applications recently have been brought to Committee or taken to Appeal citing very similar objections.

DM/22/01178/FPA

DM/23/01442/FPA

DM/23/01173/FPA

DM/24/01143/FPA

38. I believe the introduction of a small HMO in this location would not unacceptably imbalance the existing community towards one dominated by HMOs. I do not believe it would result in an unacceptable impact upon the amenity of existing or future residents through cumulative impact from an over proliferation of

HMOs or have an unacceptable impact on that of highway safety. Thank you for your consideration.

PLANNING CONSIDERATION AND ASSESSMENT

39. Section 38(6) of the Planning and Compulsory Purchase Act 2004 sets out that if regard is to be had to the development plan, decisions should be made in accordance with the development plan unless material considerations indicate otherwise.
40. In accordance with advice within the National Planning Policy Framework (NPPF), the policies contained therein are material considerations that should be taken into account in decision making, along with advice set out in the Planning Practice Guidance notes. Other material considerations include representations received.
41. In this context, it is considered that the main planning issues in this instance relate to the Principle of Development, Highway Safety Issues, Residential Amenity, Design and Visual Amenity, Biodiversity Net Gain, Other matters and Public Sector Equality Duty.

Principle of Development

42. Planning law requires that applications for planning permission must be determined in accordance with the development plan unless material considerations indicate otherwise. The NPPF is a material planning consideration. The County Durham Plan (CDP) is the statutory development plan and the starting point for determining applications as set out in the Planning Act and reinforced at NPPF Paragraph 12. The CDP was adopted in October 2020 and provides the policy framework for the County up until 2035 and is therefore considered up to date.
43. NPPF Paragraph 11c requires applications for development proposals that accord with an up-to-date development plan to be approved without delay. NPPF Paragraph 12 states that where a planning application conflicts with an up-to-date development plan (including any neighbourhood plans that form part of the development plan), permission should not usually be granted. Local planning authorities may take decisions that depart from an up-to-date development plan, but only if material considerations in a particular case indicate that the plan should not be followed.
44. 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.

45. The proposal relates to the change of use from a residential dwellinghouse (Use Class C3) to a 4-bed HMO (Use Class C4). Other works include an external bin store, cycle store and extending the drive to the front. The dwelling's current layout is broadly traditional with 3-bedrooms to the first floor and kitchen/dining room/lounge to the ground floor. A larger 3rd bedroom would be created at first floor and a 4th bedroom created on the ground floor with an open plan kitchen/dining and living room.
46. 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.
47. 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. Most relevant criteria in this case are a, d, e, f, and h. Criteria d, e, f and h are considered in the relevant sections of the report.
48. In relation to criterion a), 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 character of the area and residential amenity, which is assessed in more detail elsewhere in this report.
49. In addition, CDP Policy 16 is also of relevance to this application which relates to student accommodation/HMOs. It states that in order to promote, create and preserve inclusive, mixed and balanced communities and to protect residential amenity, applications for new build Houses in Multiple Occupation (both Use Class C4 and sui generis), extensions that result in specified or potential additional bedspaces and changes of use from any use to a Class C4 (House in Multiple Occupation), where planning permission is required or a House in Multiple Occupation in a sui generis use (more than six people sharing) will not be permitted if:
50. 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.
51. This is in line with Paragraph 96 of the NPPF, which also seeks to achieve healthy, inclusive and safe places which promote social interaction and community cohesion and with Paragraph 135 of the NPPF which seeks to ensure that development will function well and add to the overall quality of the area, not just for the short term but over the lifetime of the development, and 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.
52. In the supporting text of Policy 16 it is stated that Part 3 of the policy uses a threshold of 10%. This has been derived from section 2 of the 'National HMO Lobby Balanced Communities and Studentification Problems and Solutions',

which was published in 2008. The policy approach recognises that it is the cumulative impact of HMOs that has an impact upon residential amenity and can change the character of an area over time.

53. 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.
54. Belmont Parish Council, Councillor Christine Fletcher and local residents have raised objections that the development would unbalance the community, be harmful to social cohesion and result in the loss of a family home. Whilst these concerns are noted, the Council's HMO Data Officer has confirmed that within a 100 metre radius of, and including 3 Aspen Close, 5.4% of properties are class N exempt as defined by Council Tax records. 29 Hawthorn Crescent has an unimplemented consent for the change of use to an HMO with a 100 metre radius. Accounting for this unimplemented consent, the percentage figure would be 6.5%. The Parish Council reference that the figure is derived from a data extract on 01/11/2022. However, for clarity it should be noted that the class N data was derived from a data extract on 02/04/2024. Noting that the concentration of Class N exempt properties within 100m of the site is 6.5% including the proposed change of use. 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.
55. 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 CDP Policy 16, Part 3, criteria a) and b) (criterion c) not being relevant) and is acceptable in principle, subject to further consideration of the proposal against other criteria on CDP Policy 16, Part 3 and the impact of the proposal upon residential amenity and highway safety.
56. 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 CDP 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 CDP Policy 16, and it is this part of CDP 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 CDP 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.

57. 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.
58. 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 CDP 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.
59. In respect of CDP Policy 16 Part 3g, the applicant has stated that the property would meet all relevant safety standards and building regulations and would ensure that all doors and windows can be securely locked including to the garage and bike shed. A Tenant Management Plan would also be secured by condition to ensure that property is managed appropriately.
60. Taking account of the above it is considered that the principle of development is acceptable, and the proposal would accord with the requirements of Policy 16 of the CDP and Paragraph 63 of the NPPF in this regard.

Residential Amenity

61. 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.
62. Policy 31 (Amenity and Pollution) of the CDP displays broad accordance 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.
63. In addition, CDP Policy 6 (a) permits development that is compatible with any existing or permitted use of adjacent land. CDP Policy 29 (e) requires development to provide high standards of amenity and privacy and minimise the impact of development upon the occupants of existing adjacent and nearby properties.
64. 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 northwest, with further residential properties to all sides.
65. Objections have been raised regarding the impacts on residential amenity including noise and disturbance and the tidiness of these types of properties. The Environmental Health Officer (EHO) has provided comment on the application and considers that the information submitted demonstrates that the application complies with the thresholds stated within the Technical Advice Notes (TANs). The EHO has noted that although the use is not a change of use to a more sensitive receptor, the source of noise could be greater from the HMO use than single dwelling. This is due to the increase in household numbers and activity to and from the property. The demographic that uses this type of accommodation are often associated with great use of the night-time economy and as such an increased level of night-time noise may occur. However, it is anecdotal as the potential for impact is associated with the individuals residing there and as such might differ greatly.
66. The application site is located within a residential area characterised by family homes. The impact of the development upon residential amenity is a material consideration in determination of this application. In most cases it is held that changes of use from C3 dwellinghouses to HMO use can be adequately mitigated to within acceptable levels subject to planning conditions. Where 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 a number of previous applications in this regard and proved successful in defending a subsequent planning 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.

67. No information has been provided in respect of how the property would be managed during the tenancy and therefore an effective management plan for the tenants of the property should be submitted by the applicant, it is proposed to secure the submission of a Tenant Management Plan via a planning condition to be submitted prior to the occupation of the HMO.
68. The proposals do include the provision of one bedroom to the ground floor which could lead to a greater impact for the individual residing in these rooms, as well as the potential increase of noise at night-time. Therefore, to mitigate this, soundproofing measures would be required. The submission and agreement of precise details in this regard should be secured through planning condition.
69. In addition, the EHO notes the potential for the development to impact nearby residents during the construction phase and as such has requested a construction management plan. However, given the limited construction work proposed, a condition requiring this would not be considered necessary.
70. In respect of the concerns raised regarding the untidy appearance of HMOs in general, it is noted that there are separate powers available to the LPA to resolve instances where properties are considered to amount to untidy land. Should the application site appear as untidy land in the future then this could be addressed through enforcement action where appropriate. This however would relate to the external appearance of the property only and cannot control for example, alcohol bottles in windows. As such, it is not considered that this matter could sustain refusal of the current planning application as a consequence.
71. Objections have raised concerns in respect of loss of privacy due to four adults and their friends visiting the property. However, this would not be significantly different from a family living there with adult children still living at home that invite friends. It should also be noted that there are no proposed changes to the fenestration.
72. In relation to internal space, the Nationally Described Space Standards (NDSS) is a government introduced nationally prescribed internal space standard which sets out detailed guidance on the minimum standard for all new homes and was created with the aim of improving space standards within new residential development across all tenures. Evidence compiled during formulation of the County Durham Plan identified that many new homes in the county were being built below NDSS and that this was having an impact on the quality of life of

residents. As a result, 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.

73. It is noted that the current application relates to a change of use to a property already in residential use and as such would not result in any net increase in the number of residential units. Consequently, the rigid application of these standards is not considered appropriate. 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 CDP Policy 29(e) which requires new development to provide high standards of amenity and privacy.
74. All the bedrooms meet the minimum requirements of the NDSS being in excess of the required 7.5sq metres per room. 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 97m². The proposed change of use would provide adequate internal space delivering approximately 101sq metres of total internal floorspace therefore exceeds this standard. However, it is noted that any future subdivision to provide a 5th bedroom would fall 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 4.
75. Therefore, based on the above the proposal is considered to comply with CDP Policy 29(e) in that it provides a suitable amount of internal and external amenity space to meet the needs of future occupiers and delivers a suitable quality of development, and therefore complies with Policies 16 and 29(e) of the County Durham Plan and Part 15 of the NPPF.

Character and appearance

76. 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.
77. CDP Policy 6 (d) permits development that would be appropriate in terms of scale, design, layout, and location to the character, function, form and setting of, the settlement. CDP 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.
78. Alterations proposed include extending the driveway to provide additional off street parking which would not be out of character with the area as several other properties have also extended their parking to the front. The proposed bicycle shed would have the appearance of a typical garden shed, and in any case

both of these alterations could be carried out under permitted development rights.

79. 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 street scene.
80. It is acknowledged that an HMO can change the character of an area, however given the small number of HMOs currently in this area, it is not considered that the proposal would result in an over proliferation of HMOs in the area that would be detrimental to its character and would therefore be in accordance with CDP Policy 29.
81. 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.

Parking and Highway Safety

82. CDP Policy 16.3 requires new HMOs to provide adequate parking and access and CDP Policy 21 states that new development should ensure that any vehicular traffic generated can be safely accommodated on the local and strategic highway network. This displays broad accord with paragraph 114 of the NPPF which requires new development to provide safe and suitable access to the site.
83. NPPF Paragraph 115 states that development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe.
84. Objections have been raised by Belmont Parish Council, Cllr Christine Fletcher and local residents that the development would increase the already existing parking problems and extending the parking would remove on street parking.
85. The application proposes the change of use from 3 bed property, which would have an existing parking requirement of 2 spaces to a 4-bedroom property with parking requirement of 3 spaces as required by the 2023 Parking and Accessibility SPD. The property benefits from a parking space for a single car and a garage. To address the shortfall for the additional bedroom, it is proposed to extend the driveway across the existing front garden to provide an additional parking space. It is acknowledged that the dimensions of the existing garage are below modern standards, as it is an existing space, and the extension to the driveway is providing an additional space for the additional bedroom, it is considered that the proposal would accord with the 2023 Parking and Accessibility SPD. DCC Highways Authority was consulted on the application and raised no objection. A condition is also proposed to limit the number of occupiers to 4 which would stop the demand for parking at the property increasing.

86. Whilst it is acknowledged that extending the driveway would remove an on-street parking space, this could be done without the need for planning permission.
87. Cycle storage is shown on the proposed site plan and its provision is a requirement of criterion (d) of Part 3 to CDP Policy 16. 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.
88. Therefore, notwithstanding the concerns raised by residents, County Councillor and the Parish Council in relation to parking, 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 Policies 16.3 and 21 of the CDP and paragraph 114 of the NPPF.

Ecology and Biodiversity Net Gain

89. 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
90. 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.
91. 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.
92. 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.

93. In terms of the concerns raised in respect of the removal of the tree and shrubs from the front garden, these are not protected and could be removed by the owner without needing permission from the council.

Other Issues Raised

94. Objections have been raised regarding loss of property values; however, this is not a matter which can be taken into consideration.
95. In terms of waste generated, it is the responsibility of the tenants to correctly dispose of waste. There is adequate external space for a bin storage area shown on the plans, and a tenant management plan can be secured by a planning condition to ensure effective management of the property.
96. Regarding impact on broadband, superfast broadband is available in the area according to Ofcom, and therefore it is not considered that the proposal would have a material impact on the demand of broadband to other properties.
97. In terms of the roof allegedly in disrepair, the owner of the property is responsible for the upkeep and maintenance of the property to ensure it is habitable and this is not a material consideration to which weight can be afforded in the determination of this planning application.
98. Regarding the comments of objectors in respect of inconsiderate parking, children's safety and access for emergency services, driving safely and considerate parking are the responsibility of the individual rather than a matter which is relevant to the assessment of this planning application and where this is perceived as an existing issue it is noted that it is not the role of the planning to control or legislate matters in this regard.

CONCLUSION

99. Section 38(6) of the Planning and Compulsory Purchase Act 2004 sets out that planning applications be determined in accordance with the development plan unless material considerations indicate otherwise. The NPPF is a material consideration in planning decisions.
100. 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 County Durham Plan subject to appropriate planning conditions described within the report and listed below.
101. 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, Parts 9, 12 and 15 of the National Planning Policy Framework, Residential Amenity Standards SPD (2023), Parking and Accessibility SPD (2023) and Schedule 7A of the Town and Country Planning Act 1990.

102. While objections to the application are acknowledged, 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.

Public Sector Equality Duty

103. 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.
104. 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 accordance with the following plans:

Plan	Drawing No.	Date Received
Location plan		01/08/24
Proposed bike storage		07/08/24
Proposed first floor plan		07/08/24
Proposed ground floor plan.		07/08/24
Proposed Bicycle Shed		08/08/24

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. 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, floors, windows, roofs between the adjoining properties shall be sufficient to prevent excessive ingress, 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 the amenity of existing and future residents from the development in accordance with Policy 31 of the County Durham Plan and Part 15 of the National Planning Policy Framework.

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

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

5. Prior to the first occupation of the HMO hereby approved, secure and enclosed cycle parking shall be constructed in accordance with the drawings entitled Proposed Site Plan and Proposed Bicycle Shed, and that space shall thereafter be kept available for the parking of bicycles for the occupiers of the approved development thereafter.

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

6. Before the HMO hereby approved is occupied the drive shall be constructed in accordance with the approved plans and details, and thereafter they shall be used and maintained in such a manner as to ensure their availability at all times for the parking of private motor vehicles.

Reason: In the interests of highway safety in accordance with Policy 21 of the County Durham Plan and Part 9 of the National Planning Policy Framework.

In undertaking the development that is hereby approved:

7. 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.

8. The HMO hereby approved shall be occupied by no more than 4 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 County Durham Plan.

BACKGROUND PAPERS

Submitted Application Forms, Plans and supporting documents

National Planning Policy Framework

National Planning Practice Guidance Notes

County Durham Plan (2020)

- Residential Amenity Standards SPD (2023)
- Parking and Accessibility SPD (2023)

Statutory consultation responses

Internal consultation responses

External consultation responses



<p>Planning Services</p>	<p>Change of use from 3-bedroom residential dwelling (Use Class C3) to 4-bedroom small HMO (Use Class C4) with extension to driveway and provision of cycle storage</p>	
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	<p>Date: 08.10.2024</p>	