



## Planning Services

# COMMITTEE REPORT

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### APPLICATION DETAILS

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Application No:	DM/24/01649/FPA
Full Application Description:	Change of use from dwellinghouse (Use Class C3) to small house in multiple occupation (HMO) (Use Class C4) including driveway widening, cycle parking and bin storage
Name of Applicant:	Sugar Tree Limited
Address:	2 Monks Crescent, Gilesgate, Durham, DH1 1HD
Electoral Division:	Belmont
Case Officer:	Michelle Penman (Planning Officer) Tel: 03000 263963 Email: <a href="mailto:michelle.penman@durham.gov.uk">michelle.penman@durham.gov.uk</a>

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### DESCRIPTION OF THE SITE AND PROPOSAL

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#### The Site

1. The application site relates to a two-storey semi-detached dwelling located on the corner of Pilgrims Way and Monks Crescent. The property is located within a residential housing estate to the east of Durham City Centre.
2. The existing property benefits from garden amenity space to the front and side and patio to the side and rear. There is also a single detached garage to the rear of the property and existing driveway which is accessed from Pilgrims Way.

#### The Proposal

3. The application seeks planning permission for the change of use of the property from a 3-bedroom C3 dwellinghouse to a 6-bedroom small C4 House in Multiple

Occupation (HMO). The proposals include the widening of the existing driveway to provide additional in-curtilage parking and provision of cycle and bin storage.

4. The application is being reported to Central and East Planning Committee at the request of Belmont Parish Council and Councillor Christine Fletcher who consider that the development would lead to an over-proliferation of the HMO properties in this area, impacts on the amenity of neighbouring residents and of future occupants, loss of family housing, insufficient need, parking and highway safety to such an extent that the application should be determined by the committee.

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## **RELEVANT PLANNING HISTORY**

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5. 4/96/00380/FPA - Erection of single storey flat roof extension to side. Approved 24.07.1996.

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## **PLANNING POLICY**

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### **National Policy**

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

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: design process and tools; determining a planning application; flood risk; 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)

15. *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.

16. *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.
17. *Policy 21 (Delivering Sustainable Transport)* requires all development to deliver sustainable transport by: delivering, accommodating and facilitating investment in sustainable modes of transport and ensuring that any vehicular traffic generated by new development can be safely accommodated. Development should have regard to Parking and Accessibility Supplementary Planning Document.
18. *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 a 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; and contributing to healthy neighbourhoods. Provision for all new residential development to comply with Nationally Described Space Standards.
19. *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.
20. *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.
21. *Policy 36 (Water Infrastructure)* advocates a hierarchy of drainage options for the disposal of foul water.
22. *Policy 40 (Trees, Woodlands and Hedges)* states that proposals for new development will not be permitted that would result in the loss of, or damage to, trees, hedges or woodland of high landscape, amenity or biodiversity value

unless the benefits of the scheme clearly outweigh the harm. Proposals for new development will be expected to retain existing trees and hedges or provide suitable replacement planting.

23. *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.
24. *Policy 43 (Protected Species and Nationally and Locally Protected Sites)* states in relation to protected species and their habitats, all development likely to have an adverse impact on the species' abilities to survive and maintain their distribution will not be permitted unless appropriate mitigation is provided or the proposal meets licensing criteria in relation to European protected species.
25. Residential Amenity Standards SPD (2023) – Provides guidance on the space/amenity standards that would normally be expected where new dwellings are proposed.
26. Parking and Accessibility SPD (2023) – Provides guidance on parking requirements and standards.
27. Trees, Woodlands and Hedges Supplementary Planning Document SPD (2024) – Provides guidance to ensure that trees, woodlands and hedges are fully considered as part of the planning process so that the many benefits they provide can be sustained and enhanced.

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

### **Neighbourhood Plan**

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

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## **CONSULTATION AND PUBLICITY RESPONSES**

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### **Statutory Consultee Responses:**

29. *Highways Authority* – the development is compliant with the 2023 Parking and Accessibility SPD. To provide extra spaces, an amended vehicular crossing would be required.
30. *Belmont Parish Council* – objects to the application on grounds of the 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 impacts, no need for additional student accommodation, parking and highway safety impacts.

### **Internal Consultee Responses:**

31. *HMO Data* – within 100 metres of, and including 2 Monks Crescent, 2.5% 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/22/03690/FPA APV 5 Monks Crescent, Gilesgate, Durham, DH1 1HD  
14/12/2022

DM/23/00588/FPA APV 9 Monks Crescent, Gilesgate, Durham DH1 1HD  
01/03/2023

DM/23/02725/FPA APV 4 Monks Crescent, Gilesgate, Durham, DH1 1HD  
21/06/2024 (Allowed on appeal).

Accounting for the unimplemented consent for one of those properties, the percentage figure would be 3.7%, accounting for two the figure would be 4.9% and accounting for three the figure would be 6.2%.

32. *Arboricultural Officer (Trees)* – commented that small conifer trees and shrubs within the site do not warrant individual tree preservation orders, however, consider it would be prudent to retain the hedge which grows around the front and side gardens.
33. *Ecology* – advised that where the applicant considers this application to be exempt from BNG, then a BNG exemption statement clearing evidencing why the application is deemed exempt must be provided at the application stage. Following receipt of more information and photographs Ecology confirmed that a Bat Roost Assessment would not be required.
34. *Environmental Health and Consumer Protection (Nuisance)* – raise no objection but recommend that suitably worded conditions are applied to ensure that the proposed sound insulation measures are installed and maintained in perpetuity and the student management plan is adhered to. In addition, a condition is recommended in relation to the construction phase of the development. They are satisfied that the development is unlikely to cause a statutory nuisance.

#### **Public Responses:**

35. The application has been advertised by site notice and individual notification letters sent to neighbouring properties. There have been 11 letters of objection received in relation to the application, including from the City of Durham Trust.
36. These are summarised under the relevant headings below:

#### Objections

- High concentration of HMOs in the street
- Increased parking issues and congestion
- Increased noise and disturbance
- Increased waste and environmental impacts
- Impacts on the character of the local community
- Loss of a family homes
- Proposals to create 6-bedrooms is excessive
- Loss of Council Tax
- Enough PBSAs and no need for additional HMOs
- Poor maintenance of HMOs
- Level of consultation
- Empty properties and transient nature of occupants
- Impact on the character and appearance of the street scene
- Impact on amenity of neighbouring and future occupants

### **Elected Members**

37. *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, 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:**

38. The current application proposals involve the change of use of an existing dwellinghouse (Use Class C3) to a 6-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.

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, particularly in view of 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).

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 the neighbouring property (4 Monk's 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 in areas where the proportion of HMOs is below the 10% threshold. Furthermore, in relation to the impact of such properties on the character of local areas, previous Inspectors have found that, other than the display small window stickers and lettings boards bearing the name of student letting agents, HMO properties otherwise bore limited indication of such use and appeared externally similar to the majority of other properties in the area.

The proposed HMO will also be served by sufficient levels of off-street parking in line with the Parking & Accessibility SPD and would be entirely acceptable in highway safety terms.

It is therefore entirely evident that the application proposals are acceptable in terms of housing mix and community cohesion, highways; impact on the character and appearance of the area; and residential amenity and would fully accord with the relevant policies of the adopted County Durham Plan. On this basis, it is respectfully requested that planning permission is granted for the proposed development.

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## **PLANNING CONSIDERATION AND ASSESSMENT**

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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, Residential Amenity, Design and Visual Amenity, Parking and Highway Safety, Trees, 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.
45. The proposal relates to the change of use of a 3-bedroom residential dwelling (Use Class C3) to a 6-bedroom small HMO (Use Class C4). As the property lies within an area subject to an 'Article 4 Direction' planning permission is required for the proposed change of use.
46. Policy 6 (Development on Unallocated Sites) of the County Durham Plan (CDP) supports development on sites not allocated in the Plan or Neighbourhood Plan, but which are either within the built-up area or outside the built up area but well related to a settlement will be permitted provided it: is compatible with use on adjacent land; does not result in coalescence with neighbouring settlements; does not result in loss of land of recreational, ecological, or heritage value; is appropriate in scale, design etc to character of the settlement; it is not prejudicial to highway safety; provides access to sustainable modes of transport; retains the settlement's valued facilities; considers climate change implications; makes use of previously developed land and reflects priorities for urban regeneration.
47. In addition, Part 3 of Policy 16 (Durham University Development, Purpose Built Student Accommodation and Houses in Multiple Occupation) of the CDP states that in order to promote create and preserve inclusive, mixed and balanced communities and to protect residential amenity, applications for changes of use from any use to a Class C4 (House in Multiple Occupation), where planning permission is required, will not be permitted if:

- a. including the proposed development, more than 10% of the total number of residential units within 100 metres of the application site are exempt from council tax charges (Class N Student Exemption);
  - b. there are existing unimplemented permissions for Houses in Multiple Occupation within 100 metres of the application site, which in combination with the existing number of Class N Student exempt units would exceed 10% of the total properties within the 100 metres area; or
  - c. 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.
48. 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 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.
49. In addition to the above applications 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.
50. Objections have been received from local residents, Belmont Parish Council and Councillor Christine Fletcher, raising concerns in relation to the proposed change of use which they consider would result in an over proliferation of HMOs in a concentrated area, thereby unbalancing the existing community. Concerns have also been raised about the loss of family homes and impact on the character of the local community. It is also suggested that there is no need for additional HMOs as there is an existing sufficient supply of HMOs and PBSAs.
51. The most recent up to date Council Tax information identifies that if planning permission was granted for the change of use of the dwellinghouse into a small HMO that within 100 metre radius of, and including 2 Monks Crescent, 2.5 % of properties would be class N exempt as defined by Council Tax records. However, there are three previous planning permissions relating to No's 4, 5 and 9 Monks Crescent for the change of use from C3 to C4 capable of implementation which if effected, would increase the percentage of properties within 100m to 6.2%. As this concentration 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) (criteria c) not being relevant) and is

acceptable in principle, subject to further consideration of the proposal against other criteria in CDP Policy 16 (3) and other relevant matters.

52. In terms of the loss of family homes and percentage of HMOs in the area, Paragraph 62 of the NPPF states that the size, type and tenure of housing needed for different groups in the community should be assessed and reflected in planning policies (including, but not limited to, those who require affordable housing, families with children, older people, students, people with disabilities, service families, travellers, people who rent their homes and people wishing to commission or build their own homes). Given that less than 10% of properties within 100m of the application property are Class N exempt and this would remain the case post development, should permission for the current change of use be granted the aims of Paragraph 62 would be met.
53. While it is acknowledged that concerns have been raised in relation to the concentration of HMOs in the street, CDP Policy 16 uses a 100m radius for the purposes of assessing compliance with that Policy. Policy 16 gives a standard and consistent approach to assess applications for HMOs. The Policy, together with the methodology contained within, was considered sufficiently accurate and robust during examination in public of the CDP in 2020, and the existing policy subsequently included within the adopted CDP. The Policy has proven sufficiently robust in this regard and the Council has successfully defended several appeals against refusal of similar changes of use where these were in clear conflict with the Policy.
54. It is noted that a planning application to change the use of the neighbouring property, no. 4 Monks Crescent, to a small 4-bedroom HMO was recently allowed at appeal (Reference APP/X1355/W/24/3339046) and in the decision the Inspector considered the issue of the effect of the proposal on community cohesion and the living conditions of nearby occupiers in terms of noise and disturbance. The Inspector acknowledged that in the area surrounding no. 4 Monks Crescent there were other properties with permission to operate as HMOs and that there was concern around the introduction of another HMO which it was argued would disproportionately increase the number of independent occupiers in the area and cause harm in respect of the main issue, and there was concern around noise, disturbance, anti-social behaviour, and general upkeep and appearance of the property. The Inspector acknowledged that the development could lead to a greater level of disturbance to nearby occupiers than from a typical family home, however, considered that the proposal would not exceed the 'tipping point' in CDP Policy 16 (3) which would suggest there is an imbalance between HMOs occupied students and homes occupied by other non-student residents and considered there to be limited evidence why this specific proposal should be considered differently in terms of its effect on community cohesion and the living conditions of nearby occupiers. They concluded that the proposed development would not be harmful to community cohesion or the living conditions of nearby occupants in terms of noise and disturbance. This decision relates to a similar proposal in close proximity to the application site and as such can be afforded considerable weight in determination of this application.

55. In addition, objections have been received citing concerns that the application fails to demonstrate a need for the accommodation and that there is a sufficient supply of student housing, there is recognition that market forces will, in the main, deliver the level of student accommodation required without resulting in a significant oversupply of accommodation, particularly in relation to HMOs which in most cases if not occupied as such, can be occupied again as family homes with limited internal reconfiguration. Notwithstanding this, it nevertheless remains that whilst Part 2 of CDP Policy 16 requires an application for PBSA to demonstrate need (along with several other requirements) this is not mirrored in Part 3 of the policy which relates to applications for changes of use to HMO and is the part of the policy which is relevant to the current application. For that reason, it is considered that the proposal would accord with the requirements set out in Part 3 of CDP Policy 16 and that as there is no policy basis for the applicant to demonstrate need, the lack of any specific information within the application with regards to need can be afforded only very limited weight.
56. Finally, it is noted that objections have been received citing that the development would impact on the local community due to a over proliferation of this type of accommodation and would further drive families out of this area. Paragraph 63 of the NPPF considers the need to create mixed and balanced communities and this is reflected in the requirements of Part 3 of 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, considering 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.
57. Taking the above into account it is considered that that the principal of development is acceptable, and the proposal would accord with the requirements of Policies 6 and 16 of the CDP and Paragraph 62 of the NPPF, subject to more detailed consideration of other relevant matters below.

#### Residential Amenity

58. Paragraph 135 of the NPPF requires that planning decisions create places that are safe, inclusive and accessible and which promote health and well-being, with a high standard of amenity for existing and future users and where crime and disorder, and the fear of crime, do not undermine the quality of life or community cohesion and resilience.
59. CDP Policy 31 (Amenity and Pollution) displays broad accord with the aims of the NPPF 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.

60. In addition, CDP Policy 6 criterion (a) permits development that is compatible with any existing or permitted use of adjacent land. CDP Policy 29 criterion (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.
61. The application site is a semi-detached property located on a corner plot within a residential area. The nearest property adjoins the site to the south-east, with other residential properties surround the site. It is acknowledged that a significant number of objections have been raised in relation to the cumulative impacts of the proposed development, together with existing and permitted HMOs in the immediate locality which includes recent permissions for the change of use of nos. 4, 5 and 9 Monks Crescent to HMOs. In particular, concerns around noise and disturbance have been cited by residents, the parish council and local councillor as well as concerns around maintenance of properties and increased waste.
62. The Council's Nuisance Action Team (NAT) has been consulted on the development and have undertaken a technical review of information submitted in relation to the likely impact upon amenity in accordance with the relevant Technical Advice Notes (TANs). The NAT note 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, due to the increase in household numbers and activity to and from the property. They acknowledge that the demographic that use 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. In addition, they also note that the detail provided with the application appears to demonstrate sufficient mitigation will be provided, in relation to sound insulation measures and that the developer also operates an effective management plan for the tenants of the property.
63. 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 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.

64. A Planning Statement has been submitted in support of the application and this sets out at paragraph 4.20 that the property would be fully managed by Harringtons, a specialist student accommodation agent who have a wealth of experience dealing with issues around anti-social behaviour and include such policies in their tenancy arrangements, which are fully monitored and enforced. A copy of a Student Management Plan has also been submitted which details how Harringtons address any matters that may arise at the property, and it is noted that Durham University also have a Code of Conduct and procedures in place for responding to reports of anti-social noise from students. A condition can therefore be imposed to secure the implementation of the Management Plan. Sound proofing measures are also indicated on the submitted plans which would help to reduce any impacts on neighbouring amenity and their installation prior to occupation will also be secured via condition.
65. In relation to criterion (e) of CDP Policy 16 Part 2, the application and submitted plans indicate that bin storage facilities will be provided to the side of the property, and it is considered that sufficient external amenity space will be retained to serve future occupants. In terms of criterion (g), the applicant has confirmed in the Planning Statement that the proposed HMO will meet all relevant safety standards with gas and electrical safety certificates, as well as providing mains linked smoke detectors. In addition, the property will be included in the Student Assured Housing Scheme, to ensure a high standard of accommodation will be provided and maintained. The property is located within a residential estate with street lighting, providing natural surveillance from surrounding properties. On that basis, the development is considered to accord with criteria (e) and (g). Criteria (d) and (f) will be considered in the relevant sections of this report.
66. 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. It is noted that the current application relates to a change of use to a property already in residential use and as such would not result in any net increase in the number of residential units. Consequently, the rigid application of these standards is not considered appropriate to the current application. Nevertheless, it remains that the NDSS is a relevant measurement against which to assess the suitability of internal space provided within all residential development in the context of CDP Policy 29(e) which requires new development to provide high standards of amenity and privacy.
67. All of the bedrooms would meet the 7.5 square metre minimum floor space requirements and would achieve the required 2.15 metre width. In terms of the overall minimum gross internal floor space provided the NDSS does not refer to a 6-person 6-bedroom dwelling (6p6b), but it does refer to a 5b6p dwelling or 6b7p dwelling and requires a minimum of 110 or 123 square metres respectively. The submitted floor plans indicate that a minimum of 105 square

metres would be provided which it is acknowledged falls slightly below the minimum requirements. However, as already noted it is not considered that the rigid application of these standards is appropriate and, notwithstanding this, the property would be required to be licensed and comply with DCC Standards for Shared Houses. This requires combined living/dining/kitchen areas to provide 21 square metres where used by 6-10 persons. The submitted plans indicated that 24.42 square metres of space will be provided, and it is therefore considered that suitable shared amenity space will be provided.

68. The NAT recommended conditions to secure the installation of the sound insulation and implementation of the management plan and conditions could therefore be attached in this regard. In addition, they recommended a condition relating to construction hours which is considered to be sufficient to protect the amenity of neighbouring occupants during the construction phase of the development.
69. Taking all of the above into account, subject to conditions, it is not considered that the development would result in any significant adverse impacts on the amenity of neighbouring occupants and the proposals provide a suitable amount of internal and external amenity space to meet the needs of future occupiers and deliver a suitable quality of development in accordance with the aims of Paragraph 130 of the NPPF and Policies 6, 16, 29 and 31 of the CDP.

#### Design and Visual Amenity

70. Paragraph 131 of the NPPF advises that the creation of high-quality 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.
71. 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.
72. Objections have been received in relation to the development citing concerns around the impacts of the proposals on the locality. It is suggested that HMOs are not adequately maintained, stand empty, and that students are short term occupiers with no stake in local community. Concerns have also been raised in relation to the impact of the extended driveway on the character and appearance of the street scene.
73. The proposals predominantly involve internal works to reconfigure the property to accommodate the new bedrooms with limited external works proposed. The external works include extension to the existing driveway, formation of bin and cycle storage, alterations to the roof of the existing rear extension and window and door openings. The submitted information also confirms that the proposed materials would match the existing property. While concerns around the

extension to the driveway are noted, it is considered that these works could be carried out as permitted development.

74. The character of the surrounding area predominantly comprises of two-storey and single-storey semi-detached properties finished in a mixture of brick, render and cladding with generally white uPVC windows. The proposed external works would not be out of keeping with the general character and appearance of the street scene. Regarding concerns that the general appearance of the property would deteriorate as a consequence of the proposed use there is no evidence that this would occur, and the applicant has reiterated that the property would be appropriately maintained. It is also noted that in the appeal decision relating to 4 Monks Crescent, as already discussed, the Inspector considered that the appearance and upkeep of properties varied widely in the area, with no apparent correlation to HMO use.
75. Taking the above into account, it is considered that the development would have an acceptable impact on the character and appearance of the street scene and the surrounding area and would therefore accord with Part 12 of the NPPF and Policies 6 and 29 of the CDP.

#### Parking and Highway Safety

76. CDP Policy 6 (e) permits development that will not be prejudicial to highway safety or have a severe residual cumulative impact on network capacity. CDP Policy 16 Part 3 (d) requires development to provide adequate cycle and car parking, having regards to the Council's adopted Parking and Accessibility Supplementary Planning Document (SPD). 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 is in line with the aims of Paragraph 115 of the NPPF which requires new development to provide safe and suitable access to the site.
77. Objections have been received from the Parish Council, Cllr Christine Fletcher and local residents citing concerns in relation to the impacts of the development on existing parking issues and congestion and concerns have also been raised pertaining to the widening of the driveway.
78. The Highway Authority were consulted on the proposals and raised no objection, noting that the property would provide 4 no. off-street parking spaces in compliance with the SPD. They advised that an amended vehicular crossing would be required, and an informative would be attached in this regard.
79. As already noted, it is considered that the works to extend the driveway would likely fall under permitted development. In terms of parking provision, the SPD requires 4 no parking spaces for a 6-bedroom dwelling and the submitted plans indicate that the extended driveway will accommodate 3 parking spaces with the existing garage also retained. Cycle storage is also to be provided in accordance with CDP Policy 16 Part 3 (d). It is considered appropriate to apply conditions to secure the provision of the car parking and cycle storage prior to first occupation and retention whilst the property is in use as a small HMO.



80. While the concerns raised are acknowledged it is not considered that the proposals would significantly impact upon the existing network capacity or result in any detrimental impacts on highway safety sufficient to sustain refusal of the application. As such, subject to conditions, the development is considered to accord with the aims of Part 9 of the NPPF and Policies 6, 16 and 21 of the CDP and the Parking SPD.

#### Ecology and Biodiversity Net Gain

81. 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.
82. CDP Policy 41 (Biodiversity and Geodiversity) does not permit significant harm to biodiversity that cannot be avoided, or appropriately mitigated, or, as a last resort, compensated for and proposals for new development will be expected to minimise impacts on, and providing net gains for, biodiversity. In relation to protected species, CDP Policy 43 (Protected Species and Nationally and Locally Protected Sites) states that development which has a likely adverse impact on the ability of species to survive, reproduce and maintain or expand their current distribution will not be permitted unless certain criteria are met.
83. 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 several 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.
84. The Council's Ecology section was consulted on the application and noted that extensive internal renovations are proposed to facilitate the development. Given this and based on the location of the property they initially advised that a Bat Roost Assessment would be required. However, following receipt of further information and photographs, the Ecologist considered that a BRA would not be required in this instance. An informative will be attached to any consent, reminding the applicant of their responsibilities should any bats be found during works.
85. Taking the above into account, the development would be considered to accord with the aims of Part 15 of the NPPF, Policies 41 and 43 of the CDP and Schedule 7A of the Town and Country Planning Act 1990.

## Trees

86. CDP Policy 40 (Trees, Woodland and Hedges) states that proposals for new development will not be permitted that would result in the loss of, or damage to, trees of high landscape, amenity or biodiversity value unless the benefits of the proposal clearly outweigh the harm. Proposals for new development will be expected to retain existing trees where they can make a positive contribution to the locality or to the development.
87. The Council's Tree section was consulted on the proposals and commented that small conifer trees and shrubs within the site do not warrant individual tree preservation orders, however, they consider it would be prudent to retain the hedge which grows around the front and side gardens. The majority of the existing hedge will be retained, and it is noted that an existing tree to the rear of the property will also be retained, following amendments to the proposals and re-siting of the cycle storage.
88. Based on the above, the development would not be considered to result in the loss of any trees of high amenity value in accordance with Policy 40 of the CDP.

## Other Matters

89. Concerns were also cited that the development would lead to the loss of Council Tax, however, this is not a material planning consideration to which regard can be had in the assessment of this application.
90. An objection also raised concerns around the level of consultation carried out. The application was advertised by display of site notice and individual letters sent to neighbouring properties in accordance with statutory requirements. As such, it is considered that a sufficient level of consultation has been carried out.

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## **CONCLUSION**

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91. 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.
92. In this instance, it is concluded that the principle of development is acceptable in accordance with Policies 6 and 16 of the County Durham Plan and it is not considered that the introduction of a small HMO in this location would unacceptably imbalance the existing community towards one dominated by HMOs, nor would it result in any unacceptable impact upon the amenity of existing or future residents through cumulative impact from an over proliferation of HMOs.
93. When assessed against other policies within the County Durham Plan, subject to conditions, it is considered that a suitable level of accommodation and

amenity space would be provided for future occupants, the development would have an acceptable impact on the character and appearance of the street scene and surrounding area and there would be no significant impacts on highway safety that would sustain refusal of the application.

94. Based on the above, the development is considered to accord with Parts 9, 12 and 15 of the National Planning Policy Framework, Policies 6, 16, 21, 29, 31, 40, 41 and 43 of the County Durham Plan, the Parking and Residential Amenity SPDs and Schedule 7A of the Town and Country Planning Act 1990.
95. 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

96. 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.
97. In this instance, officers have assessed all relevant factors and do not consider that there are any equality impacts identified.

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## **RECOMMENDATION**

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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:

Site Location Plan (Drg no. 1396-01), received 19.06.2024  
Proposed Floor Plans and Elevations (Drg no. 1396-03), received 19.06.2024  
Existing and Proposed Site Plans (Drg no. 1396-04), received 04.09.2024

Reason: To define the consent and ensure that a satisfactory form of development is obtained in accordance with Policies 6, 16 and 29 of the County Durham Plan and Parts 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 as a small HMO (Use Class C4) hereby approved the sound proofing measures as detailed on the Proposed Floor Plans and Elevations (Drg no. 1396-03), received by the LPA on 19.06.2024, 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 use hereby approved shall be operated in strict accordance with the measures detailed in the submitted Student Management Plan, received by the LPA on 19.06.2024, for the duration that the property is occupied as a small HMO.

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

6. The driveway and cycle storage as shown on the Existing and Proposed Site Plans (Drg no. 1396-04), received by the LPA on 04.09.2024, shall be constructed and available for use prior to first occupation of the property as a small HMO (Use Class C4) hereby approved 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.

7. 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.

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## **BACKGROUND PAPERS**

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Submitted Application Forms, Plans and supporting documents

National Planning Policy Framework

National Planning Practice Guidance Notes

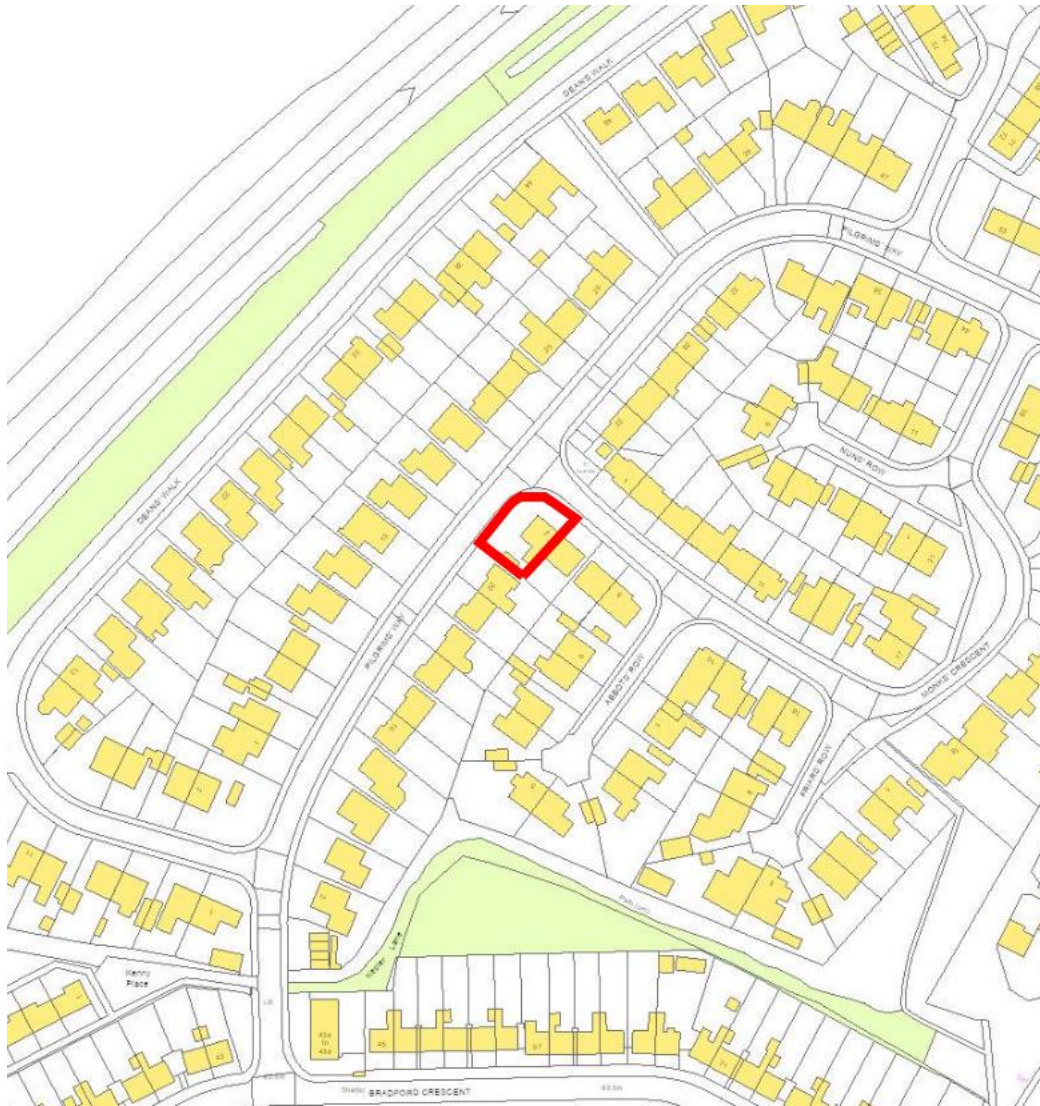
County Durham Plan (2020)

- Residential Amenity Standards SPD (2023)
- Parking and Accessibility SPD (2023)
- Trees, Woodlands and Hedges Supplementary Planning Document SPD (2024)

Statutory consultation responses

Internal consultation responses

External consultation responses



**Planning Services**

Change of use from dwellinghouse (Use Class C3) to small house in multiple occupation (HMO) (Use Class C4) including driveway widening, cycle parking and bin storage.

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**Comments**

Date: 16.09.2024