



Planning Services

COMMITTEE REPORT

APPLICATION DETAILS

Application No:	DM/24/02063/FPA
Full Application Description:	Change of use from dwellinghouse (Use Class C3) to a house in multiple occupation (Use Class C4) including single storey rear extension, cycle parking and bin storage
Name of Applicant:	Sugar Tree Limited
Address:	58 Bradford Crescent Gilesgate Durham DH1 1HL
Electoral Division:	Belmont
Case Officer:	Michelle Hurton (Planning Officer) Tel: 03000 261398 Email: michelle.hurton@durham.gov.uk

DESCRIPTION OF THE SITE AND PROPOSAL

The Site

1. The application site is a two storey dwelling located on the western end of a terrace of four properties located within Bradford Crescent, Gilesgate. The site is situated within an area which has an Article 4 Direction in place which removed permitted development rights previously allowing the conversion of C3 dwellinghouses to convert into C4 small HMOs without requiring planning permission. The site is not located in any designated areas however Durham City Centre Conservation Area is located to the south west of the site at an approximate distance of 430m.

The Proposal

2. The application seeks planning permission for the change of use from the existing dwellinghouse (Use Class C3) into a house in multiple occupation (Use Class C4) including the removal of an existing outbuilding and erection of a

single storey extension to the rear in its place. Cycle storage and bin storage provision are also proposed within the rear garden.

3. The application is being reported to Central and East Planning Committee at the request of Councillor Christine Fletcher on the grounds of highway safety and contravening Policy 16 of the County Durham Plan in accordance with the Council's Scheme of Delegation as it constitutes a request from a member of the Council for the application to be determined by the Planning Committee.

RELEVANT PLANNING HISTORY

4. The following planning applications are relevant to the current application:

DM/23/02700/FPA – Application submitted to change the use of use from the existing dwellinghouse (Use Class C3) to a house in multiple occupation (Use Class C4) including the erection of a single storey extension, cycle parking and bin storage to the rear of the property. The applicants exercised their rights to appeal against non-determination of the planning application.

APP/X1355/W/23/3334953 - The appeal was subsequently dismissed by the Planning Inspectorate due to the rear extension not meeting the Nationally Described Space Standards (NDSS).

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)* 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: design process and tools; determining a planning application; healthy and safe communities; noise; 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 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.
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 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.

Supplementary Planning Documents

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

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

Neighbourhood Plan:

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

CONSULTATION AND PUBLICITY RESPONSES

Statutory Consultee Responses:

23. *Highways Authority* raises no objection to the proposed scheme.
24. *Belmont Parish Council* objects to the application due to the proliferation of HMOs within the residential areas, the transient nature of the occupants, generate more waste than a C3 dwelling, there is no need for additional student accommodation as confirmed by Durham university, inadequate highway to deal with parked cars and Ernest Place is housing undergraduates when permission specified postgraduates.

Internal Consultee Responses:

25. *HMO Data* - within the 100m radius of, and including 58 Bradford Crescent, 8.2% of properties are Class N exempt student properties as defined by Council Tax records.

The following property has an unimplemented consent for the change of use to HMO within 100 metre radius:

DM/24/00812/FPA APV 42 Bradford Crescent, Gilesgate, Durham, DH1 1ER

Accounting for unimplemented planning permissions the percentage figure would be 9.4%.

26. *HMO Licensing* have confirmed that the property will not need to be licensed following completion of the works and advise how to comply with the relevant fire safety, amenity and space standards.
27. *Environmental Health Nuisance Action* have raised no objections subject to conditions relating to sound proofing measures.

Public Responses:

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

Objections

- Application breaches the 10% threshold
- High concentration of HMOs in the street
- Risk of unbalancing the community
- Impacts on the character of the local community
- Students live different lifestyles resulting in a negative impact on residents from increased noise, rubbish
- Loss of a family homes
- Poor maintenance of existing HMOs
- Previous application was dismissed at appeal due to minimum bedroom sizes
- Overdevelopment
- Disregard for tenant welfare
- Does not accord with the Parking and Accessibility SPD
- Inadequate on-street parking
- The developer does not build in accordance with approved plans
- Previous application received 56 objections from local residents
- Residents locally to 78 Bradford Crescent note property appeared to have previously been rented to students
- HMO data does not include unauthorised HMOs
- There is no need for more HMOs
- HMOs do not pay council tax
- HMO data collection is inappropriate
- 4 Monks Crescent on nearby estate was refused, therefore this application should be refused on same grounds
- Empty houses pay double council tax, does empty HMOs given number of vacant HMO properties in the area

Elected Members

30. *Councillor Christine Fletcher* objects to the application considering it to fail to meet the Parking and Accessibility SPD and Policy 16 of the CDP, the developer has provided no justification for the need of more HMOs in the area,

Ernest Place is now housing undergraduates when the permission specified postgraduates.

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. The current application follows a dismissed Planning Appeal for the change of use of the property to a HMO and has sought to address the sole reason given by the Inspector for dismissing the appeal, namely that the original application would have failed to provide suitable living conditions for future occupiers by way of a substandard ground floor bedroom.

The internal layout of the property has therefore been reconfigured with all bedrooms meeting the requirements of NDSS and providing a comfortable living environment for future occupiers. The property will also provide a large living area, an open plan kitchen / diner and a rear garden area, thereby providing a good standard of living accommodation for future residents. The revised proposals have therefore fully addressed the sole reason given by the Inspector for dismissing the previous appeal.

The property lies within an area where the proportion of Class N exempt properties, including unimplemented consents remains below 10% and, in relation to the key planning considerations, the previous Planning Inspector concluded as follows:

- The proposal would retain an appropriate mix of housing in the area and would accord with Policy 16 of the CDP in respect of this issue;
- The proposal would be acceptable in terms of parking and highway safety and would accord with Policy 16 of the CDP;
- Several properties in the area display small window stickers and lettings boards bearing the name of student letting agents, indicating that they were HMOs. However, the properties otherwise bore limited indication of such use, and appeared externally similar to the majority of other properties in the area. The proposal would be appropriate in terms of its effect on the character and appearance of the area.
- The proposal would not adversely affect the living conditions of nearby occupiers and would accord with Policies 16, 29 and 31 of the CDP, which together seek for development to provide high standards of amenity and security, and to avoid unacceptable impacts on health, living and working conditions.

The revised proposals have fully addressed the sole area of concern of the previous Inspector in relation to the standard of living accommodation provided and it is therefore evident that there is no reasonable basis to refuse planning permission for the revised application on the basis of the findings of the previous Inspector. The application proposals fully accord with the relevant

policies of the adopted Development Plan and planning permission should therefore clearly be granted.

PLANNING CONSIDERATION AND ASSESSMENT

32. 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.
33. 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.
34. In this context, it is considered that the main planning issues in this instance relate to the Principle of Development, Highway Safety, Impact on Character and Appearance of the Area, Residential Amenity, Other Matters, and Public Sector Equality Duty.

Principle of Development

35. 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.
36. Paragraph 11c of the NPPF requires applications for development proposals that accord with an up to date development plan to be approved without delay. 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.
37. The General Permitted Development Order 2015 (GPDO) permits the change of use from C3 (dwellinghouses) to uses within C4 (houses in multiple occupation HMOs) without requiring planning permission. A small HMO is where between three and six unrelated individuals live together in a property considered to be their only or main residence and who share basic amenities such as a kitchen or bathroom. The proposed floor plans submitted with the application indicate that the scheme is such that the development would normally benefit from the provisions contained within the GPDO. However, an

Article 4 Direction came into effect on 17 September 2016 withdrawing permitted development rights for change of use of C3 to C4, therefore a planning application is necessary.

38. The proposal relates to the change of use from a residential dwellinghouse (Use Class C3) to a 3-bed HMO (Use Class C4). Works to facilitate the conversion include internal and external alterations, incorporating a single storey extension and bin and cycle storage to the rear.
39. Policy 6 (Development on Unallocated Sites) of the CDP states that the development of sites which are not allocated in the Plan or in a Neighbourhood Plan which are either (i) within the built-up area; or (ii) outside the built-up area (except where a settlement boundary has been defined in a neighbourhood plan) but well related to a settlement, will be permitted provided the proposal accords with all relevant development plan policies and:
 - a. is compatible with, and is not prejudicial to, any existing, allocated or permitted use of adjacent land;
 - b. does not contribute to coalescence with neighbouring settlements, would not result in ribbon development, or inappropriate backland development;
 - c. does not result in the loss of open land that has recreational, ecological or heritage value, or contributes to the character of the locality which cannot be adequately mitigated or compensated for;
 - d. is appropriate in terms of scale, design, layout, and location to the character, function, form and setting of the settlement;
 - e. will not be prejudicial to highway safety or have a severe residual cumulative impact on network capacity;
 - f. has good access by sustainable modes of transport to relevant services and facilities and reflects the size of the settlement and the level of service provision within that settlement;
 - g. does not result in the loss of a settlement's or neighbourhood's valued facilities or services unless it has been demonstrated that they are no longer viable;
 - h. minimises vulnerability and provides resilience to impacts arising from climate change, including but not limited to, flooding;
 - i. where relevant, makes as much use as possible of previously developed (brownfield) land; and
 - j. where appropriate, it reflects priorities for urban regeneration.
40. The site is within the built up area and therefore is supported by CDP Policy 6, subject to satisfaction of the detailed criteria. In relation to criteria a) and b), it is considered that the conversion of the building into a small HMO in this location would be compatible with adjoining residential uses and would not be prejudicial to any existing or permitted adjacent uses, subject to the impact on residential amenity, which will be considered in more detail below. The site is located within the built-up area of Gilesgate and therefore would not lead to the coalescence of settlements and there are no concerns with the development resulting in inappropriate ribbon development, nor that it would be considered

inappropriate backland development, as the site has an independent highway access (criterion b).

41. The development would not result in a loss of open land that has any recreational, ecological or heritage value (criterion c) and the site is noted as being within a sustainable location, being located within Gilesgate on the outskirts of Durham City Centre where there is a wide range of facilities and access to sustainable modes of transport (criterion f). The site would not result in the loss of a settlement's or neighbourhood's valued facility or service (criterion g) given that the site relates to a semi-detached dwellinghouse, and therefore the development makes best use of previously developed land (criterion i). The requirements of criteria d, e, h of CDP Policy 6 are considered elsewhere within this report. It is not considered that criterion j is appropriate in relation to this proposal.
42. The development to change the use of a dwellinghouse (C3) into a small HMO (C4) sited in a sustainable location would therefore be considered to comply with CDP Policy 6 and the principle of development can draw some support from CPD Policy 6 in this regard.
43. In addition to CDP Policy 6, Part 3 of CDP Policy 16 is also relevant which relates to houses in multiple occupation. The policy states that in order to promote, create and preserve inclusive, mixed and balanced communities and to protect residential amenity, applications for new build Houses in Multiple Occupation (both Use Class C4 and sui generis), extensions that result in specified or potential additional bedspaces and changes of use from any use to a House in Multiple Occupation in Class C4 or a sui generis use (more than six people sharing) will not be permitted if:
 - a. including the proposed development, more than 10% of the total number of residential units within 100 metres of the application site are exempt from council tax charges (Class N Student Exemption);
 - b. there are existing unimplemented permissions for Houses in Multiple Occupation within 100 metres of the application site, which in combination with the existing number of Class N Student exempt units would exceed 10% of the total properties within the 100 metres area; or
 - c. less than 10% of the total residential units within the 100 metres are exempt from council tax charges (Class N) but, the application site is in a residential area and on a street that is a primary access route between Purpose Built Student Accommodation and the town centre or a university campus.

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

- d. the quantity of cycle and car parking provided has regard to the council's adopted Parking and Accessibility Supplementary Planning Document (SPD);

- e. they provide acceptable arrangements for bin storage and other shared facilities and consider other amenity issues;
- f. the design of the building or any extension would be appropriate in terms of the property itself and the character of the area; and
- g. the applicant has shown that the security of the building and its occupants has been considered, along with that of neighbouring local residents.

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

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

44. It is noted that objections have been received from neighbouring residents raising concerns that approving this application would bring the number of HMOs in the area above the 10% threshold when also taking into consideration the unimplemented consents noting that residents local to 78 Bradford Crescent believe that the property has previously been rented as what appeared to be a HMO and are aware of ongoing building work at the property at present. The residents seek confirmation that the council has verified that the planning permission for 78 Bradford Crescent has expired by way of implementation, before it is discounted from the HMO data.
45. In addition, concerns have also been raised regarding how the HMO data is collected and the methodology used in CPD Policy 16, Part 3. With regard to the latter, it is noted that the policy and the methodology contained within it was considered sufficiently accurate and robust during the examination in public of the CDP in 2020. The Council has successfully defended several appeals against refusal of similar changes of use where these were in clear conflict with the policy. Furthermore, Planning Inspectors, have assessed the appeals against the CDP and have not disputed the methodology behind Policy 16.
46. The most recent up to date Council Tax information identifies that if planning permission was granted for the change of use of the dwellinghouse into a small HMO within 100 metre radius of, and including 58 Bradford Crescent, 8.2% of properties would be class N exempt as defined by Council Tax records. However, it is noted that planning permission has previously been granted relating to No's 42 and 78 Bradford Crescent for the change of use from C3 to C4. In relation to 78 Bradford Crescent, planning permission was granted in October 2019 and in relation to 42 Bradford Crescent, planning permission was granted in March 2024. A search of the planning history for No. 78 Bradford Crescent identifies that no Building Regulation application relating to the

change of use to small HMO has been submitted which would indicate that the permission has not been implemented and the period for implementation has since expired. Given CDP Policy 16 requires the LPA to consider only those unimplemented planning permissions this cannot be taken into account when assessing the proposal against Part 3(a) of CDP Policy 16. Therefore, only the unimplemented consent at 42 Bradford Crescent can be taken into consideration in the assessment of this application.

47. As this concentration of Class N Student Exempt properties, including the unimplemented consent at 42 Bradford Crescent 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 on CDP Policy 16, Part 3 and the impact of the proposal upon residential amenity and highway safety.
48. It is noted that objections have also been received citing that the application fails to demonstrate need for accommodation of this type in this location, and that there is a perceived surplus of student accommodation within Durham City and that a number of HMOs remain vacant. Whilst these points are noted, there is recognition that market forces will, in the main, deliver the level of student accommodation required without resulting in a significant oversupply of accommodation, particularly in relation to HMOs which in most cases if not occupied as such, can be occupied again as family homes with limited internal reconfiguration. Notwithstanding this, it nevertheless remains that whilst Part 2 of CDP Policy 16 requires an application for PBSA to demonstrate need (along with a number of other requirements) this is not mirrored in Part 3 which relates to applications for houses in multiple occupation and therefore is the part of CDP Policy 16 which is relevant to this current application before members today. For that reason, it is considered that the proposal would accord with the requirements set out in Part 3 of CDP Policy 16 and that as there is no policy requirement for the applicant to demonstrate need, the lack of any specific information within the application with regards to need can be afforded only very limited weight.
49. 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.
50. Objections have been received citing that the development would have an adverse impact upon social cohesion and unbalance the community to the extent that there would be an over proliferation of this type of accommodation in the locality forcing families out of the residential 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, 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.

51. Furthermore, within the Non-Determination Appeal for this site, the above was discussed by the Planning Inspector who stated:

‘There have been a significant number of objections to the proposal in respect of the issue of housing mix. Concerns include the frequency of similar applications and the rate of change in the area, questions regarding the validity of the Council’s HMO data, questions regarding the methodology for calculating this data, questions regarding the effectiveness of the policy, and that the figures cited by the Council are so close to the ‘tipping point’ that further assessment is needed.

In this case, I have been provided with no compelling evidence to suggest the data cited by the Council, in assessing the proposal against criteria a. to c., is inaccurate. Based on the information before me, this data is the most reliable evidence I hold to assess the proposal in respect of housing mix, and I afford it significant weight. Moreover, the tests set by criteria a. to c. form part of adopted development plan policy, and this appeal is not the forum to question the effectiveness of policy.

Interested parties have also cited that Durham University’s student numbers are reducing and have questioned the need for the proposal. However, I note no requirement within the Policies of the CDP for HMO proposals to demonstrate need. As such, I am not required to consider this issue.

For the reasons given above, the proposal would retain an appropriate mix of housing in the area and would accord with Policy 16 of the CDP in respect of this issue, the aims of which have previously been set out.’

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

Impact upon Residential Amenity

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

55. 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.
56. In this instance the application site is an end of terrace dwelling located within a residential area and is framed to the north, east, south and west by residential dwellings. In nearly all cases those responding to the application in objection cite concerns around increased noise, and fear of noise, disturbance and antisocial behaviour as a result of the development.
57. The development would fall within the thresholds associated with Council's Technical Advice Notes (TANS) relating to noise. Although the use is not a change of use to a more sensitive receptor, the source of noise could be greater from the HMO use than a single dwelling. This is due to the increase in household numbers and activity in terms of comings and goings at the property. The demographic that uses this type of accommodation are often associated with greater use of the night-time economy and as such an increased level of night time noise may occur. However, this is anecdotal, as the potential for impact is associated with the personal habits of the individuals residing there and as such, might differ greatly.
58. The application site is located within a residential area predominantly characterised by family homes. The impact of the development upon residential amenity is a material consideration in determination of the application. In most cases, it is held that changes of use from C3 dwellinghouses to HMO use can be adequately mitigated to be within acceptable levels subject to planning conditions. Where an HMO is proposed within a residential area with an existing high proliferation of HMO accommodation, the cumulative impact of an additional HMO in this context has been considered to have a detrimental impact upon residential amenity from increase in noise and disturbance sufficient to sustain refusal of planning permission. The LPA has refused several previous planning applications in this regard and proved successful in defending those at appeal. However, in this instance it is noted that there is no identified over proliferation of existing HMOs within 100 metres of the application site, and as such it is not considered that the introduction of a single additional HMO in this location would result in a level of cumulative impact that would be detrimental to residential amenity.

59. Notwithstanding the above, it is considered that the applicant provides an effective plan as to how the property would be managed. A Planning Statement has been submitted in support of the application which sets out at paragraph 4.22 that the property will 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 Students Living Out of College: Code of Conduct to ensure students act as good neighbours, there are also 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.
60. The proposed floor plans indicate that the party wall of the dwelling will be upgraded with Gyplyner Independent wall lining or similar to meet the required mitigation where habitable rooms are located. As such, a condition is recommended to be attached should planning permission be granted requiring the sound proofing measures described in the application to be installed (i.e. the Gyplyner wall lining) or similar - which meets the requirements of Approved Document E (Resistance to the passage of sound) of the Building Regulations 2004 (As Amended) prior to the first use of the property as a small HMO.
61. Furthermore, the Applicants have confirmed that the property will meet all relevant safety standards with gas and electrical safety certificates, as well as mains linked smoke detectors. The windows and doors will be fitted with locks and the property lies within a residential estate with street lighting for natural surveillance from surrounding properties. Therefore, providing safe and secure accommodation in accordance with CDP Policy 16 Part 3 criterion g.
62. As noted above, a single storey extension is proposed to the rear of the dwelling which proposes to replace the existing detached outbuilding with a flat roofed extension of a similar projection and height. Therefore, impact on the adjoining neighbouring property, number 60 Bradford Crescent would be minimal given the current circumstances of the site. The extension reduces in projection nearest the neighbour at 56 Bradford Crescent to a 2.5m projection from the rear elevation of the host property. As the application site is set forward of number 56 by approximately 1.3m, it is considered that the proposed extension would not result in any adverse impacts upon residential amenity and would not result in the loss of privacy or create overlooking concerns enough to warrant refusal of the application.
63. In light of the above, the development is not considered to have any unacceptable impacts upon overbearing, overshadowing or loss of privacy and as a result will be in accordance with CDP Policy 31 and the RASSPD.
64. The property includes adequate external space to accommodate sufficient bin storage facilities as shown on the proposed plans which will be located within the side garden area and therefore accords with criterion e) of Part 3 to CDP Policy 16. In addition, noting the extent of the garden area contained within the

curtilage, it is considered there is sufficient external amenity space to serve the inhabitants in accordance with CDP Policy 16.

65. In relation to internal space, the Nationally Described Space Standards (NDSS) is a government introduced nationally prescribed internal space standard which sets out detailed guidance on the minimum standard for all new homes and was created with the aim of improving space standards within new residential development across all tenures. Evidence compiled during formulation of the County Durham Plan identified that many new homes in the county were being built below NDSS and that this was having an impact on the quality of life of residents. As a result, the Council determined that it was necessary to introduce the NDSS in County Durham, with the aim of improving the quality of new build developments coming forward.
66. It is noted that the current application relates to a change of use to a property already in residential use and as such would not result in any net increase in the number of residential units. Consequently, the rigid application of these standards is not considered appropriate to the current application. Nevertheless, it remains that the NDSS is a relevant measurement against which to assess the suitability of internal space provided within all residential development in the context of CDP Policy 29(e) which requires new development to provide high standards of amenity and privacy.
67. An application was submitted previously to change the use of the dwellinghouse into a small HMO. The scheme was very similar to the one before members today. The applicants decided to exercise their rights to appeal against non-determination of the application. The Planning Inspector stated:
68. *'The ground floor bedroom would be accessed from the main ground floor hallway. It would be a long, narrow room with a side-facing window facing out over the rear garden. Although the plans indicate it would meet the minimum NDSS floor area of 7.5 square metres, it would appear to fall significantly short of the minimum width of 2.15 metres. In practical terms, once essential furniture including a single bed and clothes storage was installed, this would leave very limited circulation space for prospective occupiers, resulting in a cramped and uncomfortable living environment.'*
69. This proposed scheme incorporates 3no bedrooms, which now all meet the minimum NDSS requirements. The revised and resubmitted scheme has the same internal layout as previously sought planning permission for with the addition of the rear extension now proposing a floor area of 9.2sqm and a room width of 2.15m. The property would not require a licence.
70. 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 3 bedspace, 3 person dwellings. However, it does include standards in relation to 3 bedspace 4 person dwellings and it is noted that this requires an overall area of no less than 84sq metres. As already noted, whilst the rigid application of NDSS is not considered appropriate for the reasons outlined above the proposed change of use would provide adequate internal space

delivering approximately 54sq metres at ground floor and 34sq metres at first floor, a total internal floorspace of 88sq metres.

71. In light of 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 deliver a suitable quality of development in relation to CDP Policy 29(e) and CDP Policy 16.3 and Paragraph 135 of the NPPF.

Parking and Highway Safety

72. CDP Policy 16.3 requires new HMOs to provide adequate parking and access and Policy 21 states that new development should ensure that any vehicular traffic generated can be safely accommodated on the local and strategic highway network. This displays broad accord with Paragraph 114 of the NPPF which requires new development to provide safe and suitable access to the site.
73. Objections have been raised by concerned residents, Cllr Fletcher and Belmont Parish Council that the development would increase parking problems within the street given that there is already concerns due to the proximity of a school that is located close to the site.
74. The Highway Authority offers no objection to the application noting that an HMO at this address was previously appealed by the applicant by utilising their right to appeal against non-determination of the planning application. The Highways officer notes that the previous dismissed application was not objected to by the Local Highway Authority (LHA), and so while not a reason for refusal, the issue of parking and road safety was discussed in the Inspector's decision due to local objection on those grounds. The inspector concluded that there would be no detrimental impact to road safety or parking issues raised by the proposal, echoing the comments of the LHA.
75. That remains the case for this current proposal, and no objections are raised to this proposal on either grounds of parking or road safety.
76. Cycle storage is shown to be provided within the rear garden area and its provision is a requirement of criteria (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.
77. Therefore, notwithstanding the concerns raised by residents and the Parish Council in relation to parking and changes to bus timetables, it is not considered that the development would have a detrimental impact upon highway safety sufficient to sustain refusal of the application. In light of the above, it is considered that the development would accord with the aims of CDP Policies 16.3 and 21 and Paragraph 114 of the NPPF.

Impact upon the Character and Appearance of the Area

78. 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. 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.
79. Objections to the proposed development have been raised stating that HMOs have a negative impact on the residential housing estate, due to them not being adequately maintained and that students are short term occupiers with no stake in local community.
80. It is noted that a rear extension is proposed to facilitate the change of use. This is considered acceptable in principle and similar to works which have been undertaken at other properties within the locality. It is recommended that the inclusion of a planning condition be attached should approval be granted which requires materials used within the construction of the extension to match the host property.
81. The character and appearance of the surrounding area incorporates two storey terraced properties. Front boundary treatments within the local vicinity consist mainly of low level brick walls of a similar style. With regard to concerns that the general appearance of the property would deteriorate as a consequence of the proposed use there is no evidence that this would occur, and the applicant has reiterated that the property would be appropriately maintained. There is also separate planning powers available to address untidy land and buildings should such issues arise.
82. It is therefore considered that the proposed development would fit with the character and appearance of the area and would not have a detrimental impact on the appearance of the wider streetscene.
83. 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.

Biodiversity Net Gain

84. 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.
85. 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.
86. 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.

87. Taking the above into account, the development would be considered to accord with the aims of Part 15 of the NPPF, Policy 41 of the CDP and Schedule 7A of the Town and Country Planning Act 1990.

Other Matters

88. Cllr Fletcher and Belmont Parish Council has commented in relation to the Ernest Place PBSA occupying postgraduate students rather than undergraduates. Following a search of the planning history relating to the site, it would appear that there is no control over the nature of the occupancy of that building. However, this is not a material consideration to which weight can be afforded in the determination of this application.
89. Concerns were raised that the development would lead to the loss of Council Tax revenue and that there are a number of vacant HMO properties within the area. Whilst these concerns are noted these are not material considerations in the determination of this application.
90. Comments have also been raised relating to 4 Monks Crescent previously being refused as the scheme was considered to unbalance the community, detrimentally impact the community cohesion and amenity of residents from increased noise and disturbance, therefore should these reasons not be applied on any residential estate. In response it is noted that planning applications must be assessed on their own merits and against all relevant planning policy. It is also noted that the previous decision to refuse an application for the change of use from C3 to C4 at No. 4 Monks Crescent was subject to an appealed subsequently allowed by the Planning Inspectorate.

CONCLUSION

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 planning terms and would accord with the aims of Policies 6 and 16 of the

CDP subject to appropriate planning conditions described within the report and listed below.

93. When assessed against other policies of the County Durham Plan relevant to the application, it is considered that the introduction of a small HMO in this location would not unacceptably imbalance the existing community towards one dominated by HMOs, nor would it result in an unacceptable impact upon the amenity of existing or future residents through cumulative impact from an over proliferation of HMOs or highway safety.
94. The proposed scheme is therefore considered to be in accordance with Policies 6, 16, 21, 29, 31 and 41 of the County Durham Plan, the Parking and Accessibility and Residential Amenity SPD's, Parts 2, 4, 9, 12, 14 and 15 of the NPPF 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.

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:

Location Plan drawing number 1356-01 received 29th July 2024
Proposed Floor Plans and Elevations drawing number 1356-03 Rev A
received 02nd August 2024

Reason: To define the consent and ensure that a satisfactory form of development is obtained in accordance with Policies 6, 16, 21, 29, 31 and 41 of the County Durham Plan and Parts 2, 4, 9, 12, 14 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 first occupation of the property for the use hereby approved, the party wall with No. 60 shall be upgraded with Gyplyner Independent wall lining or alternative that accords with the requirements of Approved Document E (Resistance to the passage of sound) of the Building Regulations 2004 (As Amended).

The approved scheme shall be implemented prior to the beneficial occupation of the development and shall be permanently retained thereafter.

Reason: To protect residential amenity in accordance with Policy 31 of the County Durham Plan and Part 12 of the National Planning Policy Framework.

5. The development shall be operated strictly in accordance with the measures detailed in the submitted Student Management Plan, received by the LPA on 29.07.2024, 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 cycle storage provision as shown on the Proposed Floor Plans and Elevations (Drg no. 1356-03 Rev A), received by the LPA on 02.08.2024, shall be available for use prior to the first use of the property as a small HMO (Use Class C4) and shall thereafter be retained and shall not be used for any other purpose whilst the property is occupied as a small HMO.

Reason: To encourage sustainable transport modes of travel in accordance with Policy 21 of the County Durham Plan and Part 9 of the National Planning Policy Framework.

7. The bin storage provision shown on the Proposed Floor Plans and Elevations (Drg no. 1356-03 Rev A), received by the LPA on 02.08.2024, shall be available for use prior to the first occupation of the dwelling (Use Class C4) hereby approved and shall be retained in perpetuity.

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

8. The development hereby approved shall not be occupied by more than 3 unrelated individuals.

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

9. 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.

BACKGROUND PAPERS

Submitted Application Forms, Plans and supporting documents.

Town and Country Planning Act 1990

National Planning Policy Framework

National Planning Practice Guidance Notes

County Durham Plan (2020)

- o Residential Amenity Standards SPD (2023)

- o Parking and Accessibility SPD (2023)

Statutory consultation responses

Internal consultation responses

External consultation responses

Public comments



Planning Services

DM/24/02063/FPA - 58 Bradford Crescent
 Gilesgate Durham DH1 1HL - Change of
 use from dwellinghouse (Use Class C3) to a
 house in multiple occupation (Use Class
 C4) including single storey rear extension,
 cycle parking and bin storage

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Comments

Date:

08th October 2024