

COMMITTEE REPORT

APPLICATION DETAILS

APPLICATION No:	DM/24/01875/FPA
FULL APPLICATION DESCRIPTION:	Change of use from a C3 Dwellinghouse (Use Class C3) to a HMO (Use Class C4)
NAME OF APPLICANT:	Mr Mcconway
ADDRESS:	28 Herons Court Durham Durham DH1 2HD
ELECTORAL DIVISION:	Belmont
CASE OFFICER:	Clare Walton Planning Officer Clare.Walton@durham.gov.uk 03000 261060

DESCRIPTION OF THE SITE AND PROPOSALS

The Site

1. The application site relates to a two-storey detached property located within Herons Court Gilesgate. Durham City Centre is located to the west of the property, however, in close proximity to the east is Dragon Lane Retail Park and Tesco Extra. The property is currently in use as a four-bedroom dwellinghouse falling within Class C3 of the Town and Country Planning (Uses Classes) Order, and benefits from a driveway to the front with detached garage and private garden amenity space to the rear.

The Proposal

2. The application seeks planning permission for the conversion of a four bedroomed C3 dwellinghouse into a four bedroomed C4 house in multiple occupation (HMO) with cycle storage provision proposed within the existing garage and bin storage to the front of the property adjacent to the garage.
3. The application is reported to planning committee at the request of the Belmont Parish Council which considers the applicants contention that the proposed change satisfies sustainable development, as set out in the National Planning Policy Framework is not supported by any evidence to justify the economic, social and environmental viability of the area will be improved. The Parish Council consider that these issues are such that they require consideration by the Committee.

PLANNING HISTORY

4. Erection of two storey pitched roof extension to rear and provision of a hard surface to front of existing dwelling. Approved 25.11.2014

PLANNING POLICY

NATIONAL POLICY

National Planning Policy Framework

5. The following elements of the National Planning Policy Framework (NPPF) are considered relevant to this proposal:
6. NPPF Part 2 Achieving Sustainable Development - The purpose of the planning system is to contribute to the achievement of sustainable development and therefore, at the heart of the NPPF is a presumption in favour of sustainable development. It defines the role of planning in achieving sustainable development under three overarching objectives - economic, social and environmental, which are interdependent and need to be pursued in mutually supportive ways. The application of the presumption in favour of sustainable development for plan-making and decision-taking is outlined.
7. NPPF Part 4 Decision-Making - Local planning authorities should approach decisions on proposed development in a positive and creative way. They should use the full range of planning tools available, including brownfield registers and permission in principle, and work proactively with applicants to secure developments that will improve the economic, social and environmental conditions of the area. Decision-makers at every level should seek to approve applications for sustainable development where possible.
8. NPPF Part 5 Delivering a Sufficient Supply of Homes - To support the Government's objective of significantly boosting the supply of homes, it is important that a sufficient amount and variety of land can come forward where it is needed, that the needs of groups with specific housing requirements are addressed and that land with permission is developed without unnecessary delay.
9. NPPF Part 8 Promoting Healthy and Safe Communities - The planning system can play an important role in facilitating social interaction and creating healthy, inclusive communities. Developments should be safe and accessible; Local Planning Authorities should plan positively for the provision and use of shared space and community facilities. An integrated approach to considering the location of housing, economic uses and services should be adopted.
10. NPPF Part 9 Promoting Sustainable Transport - Encouragement should be given to solutions which support reductions in greenhouse gas emissions and reduce congestion. Developments that generate significant movement should be located where the need to travel will be minimised and the use of sustainable transport modes maximised.
11. NPPF Part 12 Achieving Well-Designed Places - The Government attaches great importance to the design of the built environment, with good design a key aspect of sustainable development, indivisible from good planning.

12. NPPF Part 14 Meeting the challenge of climate change, flooding and coastal change - The planning system should support the transition to a low carbon future in a changing climate, taking full account of flood risk and coastal change. It should help to: shape places in ways that contribute to radical reductions in greenhouse gas emissions, minimise vulnerability and improve resilience; encourage the reuse of existing resources, including the conversion of existing buildings; and support renewable and low carbon energy and associated infrastructure.
13. NPPF Part 15 Conserving and Enhancing the Natural Environment - Conserving and enhancing the natural environment. The Planning System should contribute to and enhance the natural and local environment by protecting and enhancing valued landscapes, geological conservation interests, recognising the wider benefits of ecosystems, minimising the impacts on biodiversity, preventing both new and existing development from contributing to or being put at unacceptable risk from pollution and land stability and remediating contaminated or other degraded land where appropriate.

<https://www.gov.uk/guidance/national-planning-policy-framework>

NATIONAL PLANNING PRACTICE GUIDANCE:

14. The Government has consolidated a number of planning practice guidance notes, circulars and other guidance documents into a single Planning Practice Guidance Suite. This document provides planning guidance on a wide range of matters. Of particular relevance to this application is the practice guidance with regards to; air quality; historic environment; design process and tools; determining a planning application; flood risk; healthy and safe communities; land affected by contamination; housing and economic development needs assessments; housing and economic land availability assessment; light pollution; natural environment; neighbourhood planning; noise; open space, sports and recreation facilities, public rights of way and local green space; planning obligations; travel plans, transport assessments and statements; use of planning conditions; and; water supply, wastewater and water quality.

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

LOCAL PLAN POLICY:

The County Durham Plan

15. The following policies of the County Durham Plan (CDP) are considered relevant to this proposal:
16. Policy 6 (Development on Unallocated Sites) supports development on sites not allocated in the Plan or Neighbourhood Plan, but which are either within the built-up area or outside the built up area but well related to a settlement will be permitted provided it: is compatible with use on adjacent land; does not result in coalescence with neighbouring settlements; does not result in loss of land of recreational, ecological, or heritage value; is appropriate in scale, design etc to character of the settlement; it is not prejudicial to highway safety; provides access to sustainable modes of transport; retains the settlement's valued facilities; considers climate change implications; makes use of previously developed land and reflects priorities for urban regeneration.
17. Policy 16 (Durham University Development, Purpose Built Student Accommodation and Houses in Multiple Occupation) seeks to provides a means to consider student accommodation and proposals for houses in multiple occupation in ensure they

create inclusive places in line with the objective of creating mixed and balanced communities.

18. Policy 21 (Delivering Sustainable Transport) Requires all development to deliver sustainable transport by: delivering, accommodating and facilitating investment in sustainable modes of transport; providing appropriate, well designed, permeable and direct routes for all modes of transport; ensuring that any vehicular traffic generated by new development can be safely accommodated; creating new or improvements to existing routes and assessing potential increase in risk resulting from new development in vicinity of level crossings. Development should have regard to the Parking and Accessibility Supplementary Planning Document and Strategic Cycling and Walking Deliver Plan.
19. Policy 29 (Sustainable Design) requires all development proposals to achieve well designed buildings and places having regard to SPD advice and sets out 18 elements for development to be considered acceptable, including: making positive contribution to areas character, identity etc.; adaptable buildings; minimising greenhouse gas emissions and use of non-renewable resources; providing high standards of amenity and privacy; contributing to healthy neighbourhoods; and suitable landscape proposals. Provision for all new residential development to comply with Nationally Described Space Standards
20. Policy 31 (Amenity and Pollution) sets out that development will be permitted where it can be demonstrated that there will be no unacceptable impact, either individually or cumulatively, on health, living or working conditions or the natural environment and that they can be integrated effectively with any existing business and community facilities. Development will not be permitted where inappropriate odours, noise, vibration and other sources of pollution cannot be suitably mitigated against, as well as where light pollution is not suitably minimised. Permission will not be granted for sensitive land uses near to potentially polluting development. Similarly, potentially polluting development will not be permitted near sensitive uses unless the effects can be mitigated.
21. Policy 41 (Biodiversity and Geodiversity) sets out that proposals for new development will be expected to minimise impacts on biodiversity by retaining and enhancing existing biodiversity assets and features and providing net gains for biodiversity including by establishing coherent ecological networks.
22. The Council's Residential Amenity Standards Supplementary Planning Document (RASSPD) sets out guidance for all residential development across County Durham and will form a material planning consideration in the determination of appropriate planning applications. It sets out the standards Durham County Council will require in order to achieve the Council's commitment to ensure new development enhances and complements existing areas, in line with the aims of the County Durham Plan.
23. The Council's Parking and Accessibility Standards Supplementary Planning Document (PASPD) supports Planning Policy 21 (Delivering Sustainable Transport) of the County Durham Plan and should be read in conjunction with the Councils Building for Life SPD, Residential Amenity SPD and the Highway Design Guide. The PASPD sets out guidelines for car and cycle parking that are to be applied equally across the county and for development to be situated within an accessible location.

<https://www.durham.gov.uk/media/34069/County-Durham-Plan-adopted-2020-/pdf/CountyDurhamPlanAdopted2020vDec2020.pdf?m=637424969331400000>

NEIGHBOURHOOD PLANNING POLICY

24. The application site is located within the Belmont Neighbourhood Plan area. However, the plan is not at a stage to which regard is to be had.

CONSULTATION AND PUBLICITY RESPONSES

STATUTORY RESPONSES:

25. The Highway Authority raises no objection to the application.
26. Belmont Parish Council objects to the proposed change of use as it threatens the established community and unbalance of Frank Street populated by young families and long standing residents, there is no need for additional student accommodation, confirmed by Durham university. The parish council question the methodology which is relying on Section 10 directive linked to the County Durham Plan derived from a Council Tax data extract and have formally requested a review of the County Durham Plan Policy 16 and in particular the Article 4 Direction.

INTERNAL CONSULTEE RESPONSES:

27. HMO Data have confirmed that the percentage of properties within the 100m radius of and including the application site that are exempt from Council Tax is 8.9% there are no unimplemented consents within the 100m radius.
28. HMO Licensing have advised that the development would not require to be licensed under Part 2 of The Housing Act 2004. However, they have provided additional information on the works required to ensure compliance with all of Durham County Council's HMO Fire Safety, Amenity and Space Standards.
29. Environmental Health Nuisance Team advised that the information submitted demonstrates that the application complies with the thresholds stated within the TANS, which would indicate that the development will not lead to an adverse impact and is unlikely to cause a statutory nuisance. They recommend that a tenant management plan is submitted detailing how tenant behaviour including noise will be managed.
30. Spatial Policy Team advises that proposed development will not result in the 10% threshold being exceeded. An acceptable levels of amenity should be provided and a suitable quality of cycle and car parking provided in accordance with Policy 16. Policy 29 (Sustainable Design) of the CDP requires all development proposals to achieve well designed buildings and places. The policy details a number of criteria to ensure new development contributes positively to an area, creates adaptable spaces, minimising emissions from the use of non-renewable and unsustainable resources, provides a high level of amenity and contributes towards healthy neighbourhoods. There is a study room that would not be suitable for a bedroom, it is therefore recommended that a condition is put on the application that any approval would be for a 4 bed HMO.

PUBLIC RESPONSES:

31. The application was advertised by way of site notice and neighbour notification letters were sent to nearby properties. Two letters of objections have been received including from the City of Durham Trust, these are summarised below:-
- Impact upon existing residential amenity in that the proposal would adversely impact upon neighbouring properties from increased noise and disturbance, extra rubbish caused by students.
 - Impact upon parking and highway safety
 - Impact upon social cohesion in that the introduction of an additional HMO would imbalance the community to the extent that there would be an over proliferation of this type of accommodation in the locality forcing families out of residential areas
 - Impact on the Character and Appearance of the area, specifically that landlords of HMO properties neglect them, and properties become looking deteriorated.
 - CDP requires development to be accessible to bus stops, however, there is not excellent public transport links.
 - HMOs pay no council tax
 - Permissions are granted but works are carried out not in accordance with the approval and the developers apply again for the works retrospectively which don't get refused.
 - 4 Monks Crescent was refused as the scheme would unbalance the community, detrimentally impacting community cohesion and amenity of residents from increased noise and disturbance, should this not be applied on any residential estate
 - Layout of rooms comprises the privacy, safety and security of the respective occupants and some rooms could be used as extra bedrooms on the ground floor
 - The cycle storage would remove a parking space and the existing parking space fails to meet the necessary dimensions.

The above is not intended to list every point made and represents a summary of the comments received on this application. The full written text is available for inspection on the application file which can be viewed at <https://publicaccess.durham.gov.uk/online-applications/simpleSearchResults.do?action=firstPage>

PLANNING CONSIDERATIONS AND ASSESSMENT

32. As identified in Section 38(6) of the Planning and Compulsory Purchase Act 2004 the key consideration in the determination of a planning application is the development plan. Applications should be determined in accordance with the development plan unless material considerations indicate otherwise. In assessing the proposals against the requirements of the relevant planning guidance and development plan policies and having regard to all material planning considerations it is considered that the main planning issues in this instance relate to the principle of development, impact on the character and appearance of the area, impact on residential amenity and community balance/social cohesion, impact on highway safety and ecology.

Principle of the Development

33. 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 express planning permission. A small HMO is where between three

and six unrelated individuals live together in a property considered to be their only or main residence and who share basic amenities such as a kitchen or bathroom. The proposed floor plans submitted with the application indicate that the scheme is such that the development would normally benefit from the provisions contained within the GPDO. However, an Article 4 direction is now in force which withdraws permitted development rights for change of use from C3 to C4, therefore an express planning permission is required.

34. The proposal relates to the change of use from a 4 bedroom dwellinghouse (Use Class C3) to a 4-bed HMO (Use Class C4). Other works involve internal alterations, and creation of cycle storage. The dwellings current layout is broadly traditional with 4-bedrooms to the first floor with a small study and kitchen/dining room/lounge to the ground floor.
35. 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.
36. The site is within the built-up area of Gilesgate and occupies a broadly sustainable location and as such the principle of development can draw support from Policy 6, subject to compliance with the criteria listed. In relation to criteria a) and b), it is considered that the conversion of the building into a small HMO in this location would be compatible with adjoining residential uses and would not be prejudicial to any existing or permitted adjacent uses, subject to detailed consideration of the impact of the development on residential amenity, which is assessed in more detail elsewhere in this report. The development would not lead to the coalescence of settlements and there are no concerns that the proposal would lead to inappropriate ribbon development, nor that it would be considered inappropriate backland development.
37. The development would not result in a loss of open land that has any recreational, ecological or heritage value (criteria c) and the site is noted as being within a

sustainable location, within Gilesgate on the outskirts of Durham City Centre where there is a wide range of facilities and access to sustainable modes of transport (criteria f). The site would not result in the loss of a settlement's or neighbourhood's valued facility or service (criteria g) given that the site relates to a detached dwellinghouse, and therefore the development makes best use of previously developed land (criteria i). The requirements of criteria d, e, h of policy 6 are considered elsewhere within this report. It is not considered that criteria j is appropriate in relation to this proposal.

38. 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 Policy 6 of the CDP and the principle of development can draw some support from Policy 6 in this regard.
39. In addition to Policy 6, Part 3 of CDP Policy 16 is also relevant which relates to houses in multiple occupation. The policy states that in order to promote, create and preserve inclusive, mixed and balanced communities and to protect residential amenity, applications for new build Houses in Multiple Occupation (both Use Class C4 and sui generis), extensions that result in specified or potential additional bedspaces and changes of use from any use to a House in Multiple Occupation in Class C4 or a sui generis use (more than six people sharing) will not be permitted if:
- a. including the proposed development, more than 10% of the total number of residential units within 100 metres of the application site are exempt from council tax charges (Class N Student Exemption);*
 - b. there are existing unimplemented permissions for Houses in Multiple Occupation within 100 metres of the application site, which in combination with the existing number of Class N Student exempt units would exceed 10% of the total properties within the 100 metres area; or*
 - c. less than 10% of the total residential units within the 100 metres are exempt from council tax charges (Class N) but, the application site is in a residential area and on a street that is a primary access route between Purpose Built Student Accommodation and the town centre or a university campus.*

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

- d. the quantity of cycle and car parking provided has regard to the council's adopted Parking and Accessibility Supplementary Planning Document (SPD);*
- e. they provide acceptable arrangements for bin storage and other shared facilities and consider other amenity issues;*
- f. the design of the building or any extension would be appropriate in terms of the property itself and the character of the area; and*
- g. the applicant has shown that the security of the building and its occupants has been considered, along with that of neighbouring local residents.*

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

- h. where an area already has a concentration in excess of 90% of council tax exempt properties (Class N), that this is having an unreasonable impact on current occupiers and that the conversion of remaining C3 dwellings will not cause further detrimental harm to the residential amenity of surrounding occupants; or*

i. where an existing high proportion of residential properties within the 100 metres are exempt from council tax charges (Class N), on the basis that commercial uses are predominant within the 100 metre area.

40. It is noted that objections have been received from neighbouring residents, Durham City Trust and Belmont Parish Council raising concerns that approving this application would bring the number of HMOs in the area above the 10%. In addition, concerns have also been raised regarding how the HMO data is collected and the methodology used in Policy 16, Part 3 of the CDP. With regard to the latter, it is noted that the policy and the methodology contained within Policy 16 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 this policy. Furthermore, Planning Inspectors, have assessed the appeals against the CDP and have not disputed the methodology behind Policy 16.
41. 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 28 Herons Court, 8.9% of properties would be Class N exempt student properties as defined by Council Tax records. There are no unimplemented consents or applications pending determination within 100m radius of the application site. As such the proposal would comply with criteria 'a' and 'b' in this respect. In terms of criteria 'c', the application site is within a residential area but is not on a street that could be considered a primary access route between Purpose Built Student Accommodation and the town centre, or a university campus, and therefore the development would comply with Policy 16 in this respect.
42. As this concentration of Class N Student Exempt properties would be below the 10% threshold stated in the CDP, the development would comply with policy 16, Part 3, criteria a) and b) (criteria c) not being relevant) and as such is acceptable in principle, subject to further consideration of the proposal against other criteria on Policy 16, Part 3 and the impact of the proposal upon residential amenity, highway safety and ecology.
43. Objections have also been received that the application fails to demonstrate need for accommodation of this type in this location, and that there is a surplus of student accommodation within Durham City with a high volume of HMOs being currently vacant. However, whilst Part 2 of policy 16 requires need for additional PBSA accommodation to be demonstrated (along with a number of other requirements) this is not a requirement of Part 3 of Policy 16, and it is this part of Policy 16 against which the application must be assessed. As already noted, it is considered that the proposal would accord with the requirements set out in Part 3 of Policy 16. The lack of any specific information with regards to need can therefore be afforded no weight in the determination of this application and would not outweigh compliance with Policy 16, Part 3. In relation to need, it is recognised that market forces will, in the main, deliver the level of student accommodation required without resulting in a significant oversupply of accommodation, particularly in relation to HMOs which in most cases if not occupied as such, can be occupied again as family homes with limited internal reconfiguration.
44. 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 no more 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.

45. 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 residential areas? Paragraph 63 of the NPPF considers the need to create mixed and balanced communities and this is reflected in the requirements of Part 3 of policy 16 which seeks to strike an appropriate balance through the threshold of no more than 10% of properties being in HMO use. As already noted above, in light of the low level of Class N exempt properties within 100m radius of the site at present, it is not considered that this proposal would be contrary to the NPPF or CDP in this regard. Whilst it is noted that tenants would likely change on a yearly basis this is unlikely to have any adverse impact capable of sustaining refusal of the planning application
46. Taking account of the above, it is considered that the principal of development is acceptable, and the proposal would accord with the requirements of Policy 16 of the CDP and Paragraph 63 of the NPPF in this regard.

Impact on residential amenity

47. Paragraph 135 of the NPPF requires planning decisions to create places that are safe, inclusive and accessible and which promote health and well-being, with a high standard of amenity for existing and future users and where crime and disorder, and the fear of crime, do not undermine the quality of life or community cohesion and resilience. Policy 31 (Amenity and Pollution) of the CDP displays broad accordance with the aims of paragraph 135 in this regard and sets out that development will be permitted where it can be demonstrated that there will be no unacceptable impact, either individually or cumulatively, on health, living or working conditions or the natural environment and that they can be integrated effectively with any existing business and community facilities. Development will not be permitted where inappropriate odours, noise, vibration and other sources of pollution cannot be suitably mitigated against, as well as where light pollution is not suitably minimised. Permission will not be granted for sensitive land uses near to potentially polluting development. Similarly, potentially polluting development will not be permitted near sensitive uses unless the effects can be mitigated.
48. In this instance the application site is a detached property located within a residential area and as such the nearest residential property is sited directly to its east with further residential properties to the north and south, to the west lies the New Durham Working Men's Club.
49. The development would fall within the thresholds associated with Council's Technical Advice Notes (TANS) relating to noise. Although the use is not a change of use to a more sensitive receptor, the source of noise could be greater from the HMO use than a single dwelling. This is due to the increase in household numbers and activity in terms of comings and goings at the property. The demographic that uses this type of accommodation are often associated with greater use of the night-time economy and as such an increased level of night-time noise may occur. However, this is anecdotal, as the potential for impact is associated with the personal habits of the individuals residing there and as such, might differ greatly and recent appeal decisions have established that it is unreasonable to assume that all students conduct themselves in a less than responsible manner.

50. The application site is located within a residential area. 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 there is no over proliferation of C4 uses. 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.
51. Notwithstanding the above, the applicant has submitted a 'Management Plan' in support of the application which states that the property would be maintained by the applicant, which details matters around safety, noise, anti-social behaviour and penalties should any of these be breached. However, it is noted that the document is akin to a tenancy agreement rather than the specific management of the site and how the applicants would ensure appropriate management is carried out. Nor does the management plan contain any landlord contact details. Accordingly, officers consider that the submitted Management Plan is not fit for purpose and recommend that should the committee be minded to grant planning permission, the submission, agreement and implementation of precise details of a management plan be secured through planning condition. It should be noted that the Council's Environmental Health Noise Action Team raised no objection to the application but have not commented in response to the submitted 'Management Plan'. Therefore, subject to the inclusion of a planning condition in this regard, the development is considered to accord with the requirements of policies 16 and 31 of the CDP.
52. The Durham City Trust raised concerns that there is a door between bedroom 1 and 4 which makes these rooms interlinked. Whilst this degree of interconnectivity is not considered unacceptable in planning terms, the applicant has submitted an amended proposed floor plan removing this door, replacing it with an appropriate stud wall. Further concerns have been raised in regard to the need for fire doors separating rooms to the ground floor, whilst this has been noted and passed to the applicant, such matters are not material to the determination of this application. Guidance is clear in such respects that the planning system should not mirror or duplicate other legislative controls. Based on the above the proposal is considered to provide safe and secure accommodation in accordance with policy 16 Part 3 criteria g.
53. The house is detached and located at the end of a cul-de-sac, The applicant has stated that during remodelling of the house in 2015 soundproofing was added between walls and floors, the proposal would see no bedrooms to the ground floor and it is not considered that there would be any unacceptable transfer of noise to neighbouring properties, and as already noted the Council's EHO Noise Action Team makes no objection to the application in this regard.
54. The property includes adequate external space to accommodate sufficient cycle and bin storage located within the garden and therefore accords with criteria e) of Part 3 to Policy 16. In addition, it is considered there is sufficient external amenity space to serve the inhabitants in accordance with policy 16 of the CDP.

55. 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.
56. It is noted that the current application relates to a change of use to a property already in residential use and as such would not result in any net increase in the number of residential units. Consequently, the rigid application of these standards is not considered appropriate. Nevertheless, it remains that the NDSS is a relevant measurement against which to assess the suitability of internal space provided within all residential development in the context of policy 29(e) of the CDP which requires new development to provide high standards of amenity and privacy.
57. With regard to the above it is noted that the proposal is considered to provide an acceptable amount of internal space in accordance with policy 29(e) of the CDP. Objections have noted that there is an additional reception room to the ground floor which although not currently identified as a bedroom could easily be occupied for that purpose with no internal works required. Objections also note that any future subdivision to the first-floor layout to create additional bedrooms would likely result in those falling below minimum space standards set out in the NDSS. Whilst the use of the ground floor reception room as a bedroom would meet minimum NDSS standards there would likely be transfer of noise between the adjacent property and the application site and also between other habitable rooms within the C4 use such as living and dining area. As such, the use of this room for this purpose without appropriate mitigation to attenuate noise transfer would be harmful to residential amenity. Consequently, it is considered appropriate to restrict the number of occupants of the small HMO to no more than 4 at any one time to the first floor only.
58. With regard to the total overall internal space provided across the dwelling as a whole it is noted that the NDSS does not provide guidance specifically relating to 4 bedspace, 4 person dwellings. However, it does include standards in relation to 4 bedspace 5 person dwellings and it is noted that this requires an overall area of no less than 97sq 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 internal space delivering approximately 130sq metres of total internal floorspace which exceeds the amount required. The existing bedrooms all meet the required standards set out in the NDSS, bedroom 1 would have an internal floor space of 14sqm with the use of an ensuite, bedroom 2 14.9sqm, bedroom 3 12.4sqm and bedroom 4 13.1sqm, these rooms all exceed the 2.15m width required and all have access to the main bathroom. There is a small study which is too small to be used as a bedroom measuring approx. 6sqm only.
59. Therefore, overall, the proposal is considered to comply with policy 29(e) of the CDP in that it provides a suitable amount of internal and external amenity space to meet the needs of future occupiers and deliver a suitable quality of development in relation to policy 29(e) and policy 16.3 of the CDP and Paragraph 135 of the NPPF.

Impact on the character and appearance of the area

60. Paragraph 131 of the NPPF advises that the creation of high quality, beautiful and sustainable buildings and places is fundamental to what the planning and development

process should achieve, and that good design is a key aspect of sustainable development, creating better places in which to live and work. Policy 29 of the CDP requires development to contribute positively to an area's character, identity, heritage significance, townscape and landscape features, helping to create and reinforce locally distinctive and sustainable communities.

61. Objection from a neighbouring resident has 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. Further concerns are raised 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 are also separate planning powers available to address untidy land and buildings should such issues arise.
62. There are no external alterations proposed and 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.
63. Taking the above into consideration, it is considered that the proposed development would accord with Policy 29 of the CDP and Part 12 of the NPPF.

Highway Safety and Access

64. Policy 16.3 of the CDP requires new HMOs to provide adequate parking and access and Policy 21 states that new development should ensure that any vehicular traffic generated can be safely accommodated on the local and strategic highway network. This displays broad accord with paragraph 114 of the NPPF which requires new development to provide safe and suitable access to the site.
65. An objection from a neighbouring property raises concern that the development would increase the already existing parking problems and would have an impact upon highway safety.
66. Further objections from the Durham Civic Trust were also raised that the use of the garage would result in a loss of a parking space which is already inadequate and does not meet current standards and no EV charging point is proposed.
67. The application proposes the change of use from 4 bed property, which would have an existing parking requirement of 3 spaces. The Highway Authority offers no objection to the application and does not consider there would be any adverse impact in terms of highway safety as a result of the proposals. In terms of an EV charging point, they confirm that this requirement relates to new builds and as such is not a policy requirement in this instance.
68. Concerns have been raised that the change of use would increase the presence of parked vehicles within surrounding streets. However, given the provision of in curtilage parking in accordance with the Council's Parking Standards it is not considered that there would be any unacceptable increase in demand for on street parking or any subsequent vehicle displacement that would adversely impact upon highway safety. In instances where vehicles currently obstruct the adopted footway, this is subject to legislative control via the Highways Act and as such cannot be afforded weight in determination of this application.
69. Cycle storage is shown on the proposed cycle and bin storage layout plan as being inside the garage, however it is noted that the garage does currently contribute to the

parking provision for the property and the applicant has been informed that alternative cycle storage should be provided, 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.

70. Therefore, notwithstanding the concerns raised by residents and the Parish Council in relation to parking, it is not considered that the development would have a detrimental impact upon highway safety sufficient to sustain refusal of the application. In light of the above, it is considered that the development would accord with the aims of policy 16.3 and 21 of the CDP and paragraph 114 of the NPPF.

Ecology

71. NPPF Paragraph 186 d) advises that opportunities to improve biodiversity in and around developments should be integrated as part of their design, especially where this can secure measurable net gains for biodiversity or enhance public access to nature where this is appropriate. In line with this, CDP Policy 41 seeks to secure net gains for biodiversity and coherent ecological networks. Part 15 of the NPPF seeks to ensure that developments protect and mitigate harm to biodiversity interests, and where possible, improve them.
72. 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.
73. The development relates to a dwellinghouse and as such falls within the exemption listed above and as such the development is considered to be exempt from requirement to deliver 10% net increase in biodiversity net gain. The development therefore accords with the aims of policy 41 of the CDP, Part 15 of the NPPF and Schedule 7A of the Town and Country Planning Act 1990.

Other matters

With regard to the assertion from objectors that HMOs do not pay Council tax, this is incorrect as only HMOs occupied by students are exempt from Council tax. HMOs occupied by those who are not students will have to pay Council tax. In any event, this is not a consideration to which weight can be afforded in the assessment of this application.

An objector has also expressed concern that in the past HMO permissions have been granted but any operational development works permitted have not been carried out in accordance with approved plans, thereby occasioning retrospective applications. Whilst this has indeed occurred on some developments in the past, it is not considered material to the assessment of this application which must be undertaken on its own planning merits.

CONCLUSION

74. In summary, it is considered that the principle of development is acceptable 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.
75. When assessed against other policies of the County Durham Plan relevant to the application, it is considered that the introduction of a small HMO in this location would not unacceptably imbalance the existing community towards one dominated by HMOs, nor would it result in an unacceptable impact upon the amenity of existing or future residents through cumulative impact from an over proliferation of HMOs, highway safety or ecology (including biodiversity net gain) in accordance with policies 6, 16, 21, 29, 31 and 41 of the County Durham Plan and parts 9, 12 and 15 of the NPPF.

Public Sector Equality Duty

76. 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.
77. In this instance, officers have assessed all relevant factors and do not consider that there are any equality impacts identified.

RECOMMENDATION

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

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

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

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

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

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

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

4. The small HMO hereby approved shall be occupied by no more than a maximum of 4 permanent tenants at any one time.

Reason: To protect residential amenity in accordance with the requirements of Policies 29 and 31 of the CDP

5. None of the rooms to the ground floor shall be occupied as bedrooms.

Reason: To protect residential amenity in accordance with the requirements of Policies 29 and 31 of the CDP.

6. The development hereby approved shall not be occupied until details of all cycle storage compliant with the Council's Parking and Accessibility Standards, have been submitted to and agreed in writing by the Local Planning Authority. Thereafter, the development shall be carried out in accordance with the agreed detail and the approved provision shall be retained for the storage of cycles at all times for the duration of the use hereby approved.

Reason: To encourage sustainable transport modes of travel in accordance with policy 21 of the County Durham Plan and Part 9 of the NPPF.

7. Prior to the first use of the HMO hereby approved, the bin storage arrangements as shown on the block plan layout plan received on the 24th July 2024 shall be set out and available for use. Thereafter, this provision shall remain available for use for the purpose of bin storage for as long as the property is in use as a small HMO.

Reason: In the interests of visual amenity of the area and to encourage sustainable modes of transport in accordance with Policies 21, 29 and 31 of the County Durham Plan and Parts 9, 12 and 15 of the National Planning Policy Framework.

8. The existing parking provision which consists of a detached garage and two in curtilage parking spaces to the front of the property as shown on the block plan received on the 24th July 2024 shall be retained and available for use for parking vehicles at all times for the as long as the property is in use as a small HMO.

Reason: To ensure the property is served by a sufficient amount of in-curtilage car parking space in accordance with Policy 21 of the County Durham Plan and the Council's Parking and Accessibility Standards 2023.

ADDITIONAL MATTERS

STATEMENT OF PROACTIVE ENGAGEMENT

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

BACKGROUND PAPERS

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

Statutory, internal, and public consultation responses

The National Planning Policy Framework (2023)

Technical housing standards – nationally described space standard (2015)

National Planning Practice Guidance Notes

County Durham Plan (2020)

Durham County Council Residential Amenity Standards SPD (2022)

Durham County Council Parking and Accessibility SPD (2023)



<p>Planning Services</p>	<p>DM/24/01875/FPA Change of use from dwellinghouse (C3) to house in multiple occupation (HMO) (C4), bin and cycle storage at 28 Herons Court Gilesgate Durham DH1 2HD</p>	
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