

# COMMITTEE REPORT

---

### APPLICATION DETAILS

---

<b>APPLICATION No:</b>	DM/17/00700/FPA
<b>FULL APPLICATION DESCRIPTION:</b>	Change of use from C3 dwelling to C4 HMO for a temporary period of up to 3 years to enable occupation in compatible environment for the duration of studies.
<b>NAME OF APPLICANT:</b>	Paul & Angela Helm
<b>ADDRESS:</b>	Holmside, Fieldhouse Lane, Durham
<b>ELECTORAL DIVISION:</b>	Nevilles Cross
<b>CASE OFFICER:</b>	Chris Baxter Senior Planning Officer 03000 263944 chris.baxter@durham.gov.uk

---

### DESCRIPTION OF THE SITE AND PROPOSALS

---

#### The Site

1. The application site relates to a C3 residential property known as Holmside located on Fieldhouse Lane in Durham. The property is a two storey semi-detached property located in a predominantly residential area, with neighbouring properties to the south, east and west. To the north, opposite the main road is St. Leonards Secondary School.

#### The Proposal

2. This application seeks temporary planning permission for the change of use of the property from C3 family house to a C4 house in multiple occupation (HMO) for a period of three years. The change of use of the property is required for the applicants daughter and her three friends to reside in the property for a three year period whilst she studies at Durham University. The applicants daughter suffers from a condition known as electro-sensitivity (ES) which is a sensitivity to electromagnetic radiation, which includes Wi-Fi, Bluetooth and mobile technologies and the associated transmitters.
3. This application is being reported to Planning Committee at the request of Cllr Holland.

---

### PLANNING HISTORY

---

4. There is no planning history relevant to the current application.

---

## PLANNING POLICY

---

### NATIONAL POLICY

5. The Government has consolidated all planning policy statements, guidance notes and many circulars into a single policy statement, the National Planning Policy Framework (NPPF), although the majority of supporting Annexes to the planning policy statements are retained. The overriding message is that new development that is sustainable should go ahead without delay. It defines the role of planning in achieving sustainable development under three topic headings – economic, social and environmental, each mutually dependent.
10. The presumption in favour of sustainable development set out in the NPPF requires local planning authorities to approach development management decisions positively, utilising twelve ‘core planning principles’. The following elements of the NPPF are considered relevant to this proposal;
11. *NPPF Part 1 Building a Strong, Competitive Economy*: The Government is committed to ensuring the planning system does everything it can to support sustainable economic growth. Planning should operate to encourage and not act as an impediment to sustainable growth. Therefore significant weight should be placed on the need to support economic growth through the planning system.
12. *NPPF Part 4 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.
13. *NPPF Part 6 Delivering a Wide Choice of High Quality Homes*. Local Planning Authorities should use evidence bases to ensure that their Local Plan meets the needs for market and affordable housing in the area. Housing application should be considered in the context of the presumption in favour of sustainable development. A wide choice of homes, widened opportunities for home ownership and the creation of sustainable, inclusive and mixed communities should be delivered. Where there is an identified need for affordable housing, policies should be met for meeting this need unless off-site provision or a financial contribution of broadly equivalent value can be robustly justified and such policies should also be sufficiently flexible to take account of changing market conditions over time.
14. *NPPF Part 7 Requiring Good Design*: 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.
15. *NPPF Part 8 Promoting Healthy 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
16. *NPPF Part 11 Conserving and Enhancing the Natural Environment*: Planning policies and decisions should aim to avoid noise from giving rise to significant adverse impacts on health and quality of life as a result of new development and mitigate and reduce to a minimum other adverse impacts on health and quality of life arising from noise from new development, including through the use of conditions.

## LOCAL PLAN POLICY:

### City of Durham Local Plan

17. Policy H9 (Multiple Occupation / Student Households) states that the sub division or conversion of houses for flats, bedsits or for multiple occupation, or proposals to extend or alter properties already in such use will be permitted provided that it does not adversely impact on other planning considerations.
18. Policy H13 (Residential Areas – Impact upon Character and Amenity) states that planning permission will not be granted for new development or changes of use which have a significant adverse effect on the character or appearance of residential areas, or the amenities of residents within them.
19. Policy T1 (Traffic – General) states that the Council will not grant planning permission for development that would generate traffic likely to be detrimental to highway safety and / or have a significant effect on the amenity of occupiers of neighbouring property.

## EMERGING COUNTY DURHAM PLAN:

### The County Durham Plan

20. Paragraph 216 of the NPPF says that decision-takers may give weight to relevant policies in emerging plans according to: the stage of the emerging plan; the extent to which there are unresolved objections to relevant policies; and, the degree of consistency of the policies in the emerging plan to the policies in the NPPF. The County Durham Plan (CDP) was submitted for Examination in Public and a stage 1 Examination concluded. An Interim Report was issued by an Inspector dated 18 February 2015, however that Report was quashed by the High Court following a successful Judicial Review challenge by the Council. In accordance with the High Court Order, the Council has withdrawn the CDP and a new plan being prepared. In the light of this, policies of the CDP can no longer carry any weight. As the new plan progresses through the stages of preparation it will begin to accrue weight.

*The above represents a summary of those policies considered most relevant in the Development Plan the full text, criteria, and justifications of each may be accessed at <http://www.cartoplus.co.uk/durham/text/00cont.htm>.*

---

## CONSULTATION AND PUBLICITY RESPONSES

---

### STATUTORY RESPONSES:

21. *Highway Authority* has no objection to the application.

### INTERNAL CONSULTEE RESPONSES:

22. *Spatial Planning Policy* has indicated that applying the interim policy on student accommodation, 11.6% of properties within 100 metres of the site are currently occupied as HMOs.
23. *Noise Action Section* have indicated that the proposal is unlikely to cause a statutory nuisance.

24. *Design and Conservation Officer* offers no objection to the application.

#### **PUBLIC RESPONSES:**

25. The application has been publicised by way of site notice and individual notification letters to neighbouring properties. Two letters of objection have been received. These objections raise concerns over lack of parking; loss of residential amenity; increased disturbance and noise; and that the conversion to a student property would lead to a detrimental impact on the character of the area. It is also noted that the property is a three bedroom property not a four bedroom property as indicated in the application.
26. Questions have also been raised over the special circumstances for the application. There are questions asking if all the students have the condition, and whether the students would have mobile phones or tablets in the house. It is noted that the surrounding properties are very close and these would not be clear of electromagnetic devices. It has also been questioned if it is not possible for the student to continue living in her current University accommodation. Finally, it has been asked whether a condition can be imposed which would ensure that the property reverts back to a C3 use.

#### **APPLICANTS STATEMENT:**

27. The occupant suffers from electro-sensitivity, a sensitivity to electromagnetic radiation (EMR) which includes Wi-Fi, Bluetooth and mobile technologies and the associated transmitters. This leads to a variety of disorders including headaches, loss of concentration, rashes, overheating and an inability to sleep. A leaflet from ES UK which explains the condition was submitted with the application. The occupant is registered with the University as having a disability, and currently lives in an environment in University College which minimises these effects. The occupants' parents have tried without success to find suitable student accommodation. Rental accommodation is usually marketed as 'Wi-Fi' enabled and 'smart'. It is vital to the occupants' studies that they have daily respite from Wi-Fi environments, and this house has been fitted with Ethernet cabling. The occupant would occupy the house with student friends for a maximum of three years from July 2017.

*The above 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 <http://82.113.161.89/WAM/showCaseFile.do?action=show&appType=planning&appNumber=10/00955/FPA>*

---

## **PLANNING CONSIDERATIONS AND ASSESSMENT**

---

28. Having regard to the requirements of Section 38(6) of the Planning and Compulsory Purchase Act 2004 the relevant Development Plan policies, relevant guidance and all other material planning considerations, including representations received, it is considered that the main planning issues in this instance relate to the principle of development, the impact upon residential amenity and highway safety.

The principle of development

29. The General Permitted Development Order 2015 (GPDO) permits the change of use from C3 (dwellinghouses) to uses within C4 (houses in multiple occupation HMOs). HMO's are small shared houses occupied by between three and six unrelated individuals, as their only or main residence and who share basic amenities such as a kitchen or bathroom. The application indicates that the proposal is such that the development would normally benefit from this provision contained within the GPDO. However, an Article 4 direction came into effect on 17<sup>th</sup> September 2016 withdrawing permitted development rights in this regard and as such planning permission is required.

30. Policy H9 of the Local Plan is therefore relevant which relates to the conversion of houses for multiple occupation. It states that such development will be permitted where adequate parking, privacy and amenity areas can be provided, where it will not adversely affect the amenities of nearby residents and is of a scale and character appropriate to its surroundings and where it will not result in concentrations of sub divided dwellings to the detriment of the range and variety of the local housing stock.
31. Policy H13 of the Local Plan is also relevant and states that planning permission will not be granted for new development or changes of use in this regard which would have a significant adverse effect on the character or appearance of residential areas or the amenities of residents within them.
32. In addition the Council's Interim Policy relating to student accommodation is also relevant and states that the Local Planning Authority will not support the change of use of properties in instances where there is in excess of 10% of properties within 100 metres of the site already used as student accommodation. Whilst the Interim Policy has less weight than the saved policies of the City of Durham Local Plan it is nevertheless a material consideration and has been endorsed by cabinet and subject to a 6 week consultation period ending April 2016. The threshold of 10% was derived from section 2 of the 'National HMO Lobby Balanced Communities and Studentification Problems and Solutions', 2008 and in this respect is considered up to date and accords with the aims of the NPPF.
33. The Council's Spatial Policy Section advises that the most recent up to date Council Tax information identifies that 11.6% of those properties within 100 metres of the site are currently occupied as student let accommodation. This concentration is above the 10% threshold stated in the Interim Policy and as such the development would be contrary to the Interim Policy on Student Accommodation.
34. It is noted that in this application, the applicant has presented information relating to the unique medical needs of an individual student. Whilst this specific circumstance is not covered within the Interim Policy, these circumstances are considered to be material in the determination of this application.
35. The circumstances presented in this application relate to the applicants daughter, who has a medical condition known as electro-sensitivity (ES) which is a sensitivity to electromagnetic radiation, which includes Wi-Fi, Bluetooth and mobile technologies and the associated transmitters. Evidence has been submitted with the application, including letters from doctors, confirming the daughters medical condition. The applicant has also provided evidence indicating that approximately 30 different properties were looked at to see if it was possible to rent somewhere. These properties were discounted as either the houses were Wi-Fi enabled, they were too near to mobile phone masts; or Wi-Fi from neighbouring properties would have an impact. The property subject of this application is low lying and is protected from strong mobile signals. Special protection paint would be used on the side of the house which is shared with the neighbouring property and windows are been changed to specialist Pilkington K double glazing which blocks microwave signals. The property is considered appropriate to allow the applicants daughter to live in Durham and continue to function well and enjoy her studies at Durham University. The applicants have stated in the application documents that the property would be lived in by their daughter and her three friends for a three year period while she completes her studies at Durham University. The property would then return to a family home in class C3 use after the three year period.

36. Whilst it is accepted that the proposal is not in accordance with the Council's Interim Policy on Student Accommodation, there has been special circumstances presented in the application relating to the applicants daughters medical condition which is a significant material planning consideration. Another important factor and material consideration is that only a temporary permission has been sought for three years and the property would revert back to a C3 dwelling house. The aim of the Interim Policy is to promote the creation of sustainable, inclusive and mixed communities and maintain an appropriate housing mix. In the long term, the property would be retained as a C3 dwelling house and therefore an appropriate housing mix would be maintained in the area. The special circumstances described in the application are considered to be material and sufficient to justify approval of a change of use of the property to C4 use for a three year temporary period.
37. As the permission would revert back to a C3 dwelling house it is considered that an appropriate housing mix would be maintained in the area and would not adversely impact the character of the area in the long term. The proposal would not compromise the aims of policies H9 and H13 of the local plan and paragraph 50 of the NPPF.
38. To ensure that the property reverts back to a C3 dwelling house after three years, a condition is recommended.

#### Residential Amenity

39. Paragraph 123 of the NPPF requires that planning decisions avoid noise from development giving rise to significant adverse impacts on health and quality of life; and mitigate and reduce to a minimum other adverse impacts through the use of conditions. Policy H9 of the Local Plan displays broad accordance with the aims of paragraph 123 in this regard and states that the sub division or conversion of properties to provide student development will be permitted provided that it will not adversely affect the amenities of nearby residents.
40. In this instance the application site is a semi-detached property located within a residential area and as such the nearest residential units adjoins the application property to the west which is known as West View. Two residents have raised objection to the application citing the potential adverse impact upon residential amenity particularly from noise.
41. The Council's Environmental Health Section has not raised any objection to the application noting that the use itself does not lead to any specific/quantifiable noise impacts and is unlikely to result in any statutory nuisance as a result.
42. It is accepted that the proposed occupation of the building by 4 unrelated individuals may result in different patterns of behaviour when compared to a single family unit. However, there is no evidence to suggest that the proposed HMO would be materially more harmful than that of a large dwelling being occupied by a large family unit, to an extent that it would result in an increase to harm so significant as to warrant a refusal of this application. It is also noted that the property is owner occupied and not owned by a student letting company. In this regard it is noted that the Environmental Health Section does not raise any objection to the application noting that the use itself does not lead to any specific/quantifiable noise impacts.
43. In light of the above there are not considered to be sufficient grounds to warrant a reason for refusal on the basis of residential amenity in accordance with the requirements of policy H9 and Paragraph 123 of the NPPF.

## Highway Safety

44. The proposed property does not have any off street parking however the site does fall within the controlled parking zone. The Council's Highways Officer has been consulted on the proposals and no objections have been raised given parking would be suitably controlled by permits in the area. The proposal would not have an adverse impact on parking in the area and highway safety would not be compromised. The proposal accords with policy T1 of the local plan.

## Other Matters

45. Two letters of objections have been submitted against the application. Some of the comments raise specific questions regarding the nature of the medical condition suffered by the applicant's daughter. Confidential information has been submitted with the application in regards to the applicant's daughter's condition which is not considered appropriate to fully detail in this report. Officers are satisfied that the information submitted with the application is a true reflection of the applicant's daughter's medical condition. No information has been submitted indicating that any of the other residents of the proposed property would have a similar condition.

---

## CONCLUSION

---

46. Council Tax information identifies that 11.6% of those properties within 100 metres of the site are currently occupied as student let accommodation. This concentration is above the 10% threshold stated in the Interim Policy and as such the development would be contrary to the Interim Policy on Student Accommodation.
47. Special circumstances have been submitted with the application. These circumstances relate to the applicants daughters medical condition in which she suffers from a condition known as electro-sensitivity and therefore requires a specific home living environment. A temporary permission for three years has been requested and the property would return to a C3 dwelling house after the three years. It is considered that these special circumstances are material considerations sufficient to warrant approval in this instance. As the permission would revert back to a C3 dwelling house it is considered that an appropriate housing mix would be maintained in the area and would not adversely impact the character of the area in the long term. The proposal would not compromise the aims of policies H9 and H13 of the local plan and paragraph 50 of the NPPF.
48. The proposed change of use would not significantly compromise residential amenity currently enjoyed by neighbouring properties. The Council's Highways Officer has not raised any objections in terms of parking and highway safety would not be compromised. The proposal would be in accordance with policies H9 and T1 of the local plan.

---

## 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. This consent is granted for a temporary period and the use hereby approved shall be discontinued and the building shall revert back to a C3 dwelling house use by 31<sup>st</sup> July 2020.

Reason: In order to retain an inclusive and mixed community as identified in Part 6 of the National Planning Policy Framework.

3. The development hereby approved shall be carried out in strict accordance with the following approved plans:

<b>Description</b>	<b>Date Received</b>
Site Location Plan	28/02/2017

Reason: To define the consent and ensure that a satisfactory form of development is obtained.

---

## **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.

The National Planning Policy Framework (2012)

National Planning Practice Guidance Notes

City of Durham Local Plan 2007

Statutory, internal and public consultation responses



**Planning Services**

Change of use from C3 dwelling to C4 HMO for a temporary period of up to 3 years to enable occupation in compatible environment for the duration of studies.

This map is based upon Ordnance Survey material with the permission of Ordnance Survey on behalf of Her Majesty's Stationary Office © Crown copyright. Unauthorised reproduction infringes Crown copyright and may lead to prosecution or civil proceeding. Durham County Council Licence No. 100022202 2005

**Comments**

**Date** 11<sup>th</sup> April 2017