

DARLINGTON BOROUGH COUNCIL

PLANNING APPLICATIONS COMMITTEE

COMMITTEE DATE: 4 August 2021

APPLICATION REF. NO: 21/00122/FUL

STATUTORY DECISION DATE: 01.04.2021

WARD/PARISH: BANK TOP AND LASCELLES

LOCATION: K Premier Express, 172 Yarm Road

DESCRIPTION: Conversion of shop (Use Class E) to HMO (Use Class C4) including removal of shopfront and alterations to front elevation, pitched dormer to front roof slope, alterations and additional windows and doors, erection of fencing to create separate rear amenity space, new side access gate, removal of chimney stack and associated works (Amended Plans to show change from large HMO (Sui generis) to HMO (C4) and removal of rear dormer extensions received 28th May 2021)

APPLICANT: Mr G Crawford

RECOMMENDATION: GRANT PLANNING PERMISSION SUBJECT TO CONDITIONS (see details below)

As no decision was made at the meeting of the Planning Applications Committee held on the 7 July 2021 this matter has been deferred to this meeting for a decision.

Application documents including application forms, submitted plans, supporting technical information, consultations responses and representations received, and other background papers are available on the Darlington Borough Council website via the following link:
<https://publicaccess.darlington.gov.uk/online-applications/applicationDetails.do?keyVal=Q00AYQFPMT700&activeTab=summary>

APPLICATION AND SITE DESCRIPTION

1. The application site relates to a two storey semi-detached building located on the south side of Yarm Road. The site is located in between Bright Street and Cobden Street and opposite The Mead. The surrounding area is predominantly residential in nature, interspersed with some commercial uses. The ground floor of the premises is currently in retail use (Use Class E), having previously been in use as a convenience store. Although the convenience store is now vacant this use remains extant. The first floor consists of a flat, 172A Yarm Road. A dwelling, 174 Yarm Road, adjoins the application property to the east with 170 Yarm Road, also a dwelling, bounding the site to the west. Fir Tree House (37 Pease Street) bounds the application site to the rear. To the front of the application site there are two existing parking bays and there is a long narrow garden to the rear of the property.
2. This planning application seeks permission for the change of use of the existing retail shop and store room (Use Class E) at ground floor and flat above to a House in Multiple Occupation (HMO) consisting of 6 bedrooms, with shared lounge and kitchen facilities on the ground floor. A dormer window is also proposed in the front roof slope to facilitate the provision of a bedroom in the roofspace. The existing shopfront is to be removed and replaced with a door and a window. The front of the property is to have a white render finish, with feature black vertical timber cladding fitted. Replacement UPVC windows and doors are also proposed.
3. The plans also include the erection of a 1.8m timber fence to the rear of the property to create a separate rear amenity space for two of the units. Cycle parking and a bin storage area is also proposed to the rear of the property. Other associated works include, the installation of a side gate, the removal of a chimney stack and additional windows and doors.
4. The proposal has been amended since it was first submitted to reduce the number of bedrooms from 8 no. to 6 no. and omitting a large dormer extension to the rear of the property.
5. Members may recall that this application was withdrawn from the agenda for the previous meeting on 7 July 2021, to enable the applicant to address points raised by the Council's Private Sector Housing Team in their response to the application. The plans have been amended to show the type of fire doors to be used and their location within the dwelling, the installation of further windows to the ground floor rear elevation and the alteration to bedrooms 2 and 3 to ensure sufficient privacy between rooms. These amendments have been reconsulted upon and, as set out in the Planning Issues section of this report, it is considered that these elements now meet the standards set out in the Private Sector Housing Team's comments.

MAIN PLANNING ISSUES

6. Site History:

81/00481/MISC. ERECTION OF A SINGLE STOREY STOREROOM TO REAR. GWC. 09.09.1981.

04/00925/FUL. Single storey extension to rear of premises. 20.10.2004. Granted with Conditions.

7. The main planning issues to be considered are:

- a) Planning Policy
- b) Visual Amenity
- c) Residential Amenity
- d) Highway Safety
- e) Other Matters

PLANNING POLICIES

8. The relevant Local Plan policies include those seeking to ensure the proposed development:

- a) Will be located inside development limits defined on the proposals map in accordance with Policy E2 of the Saved Local Plan.
- b) Will meet the criteria for the location of Houses in Multiple Occupation as set out under Policy H17 of the Saved Local Plan whereby they will not be permitted where there is a high concentration of housing in multiple occupation or it involves the sub-division of small two storey family houses.
- c) Will not have a material adverse effect on the quiet and private enjoyment of other dwellings and gardens, the adequacy of off street parking and amenity spaces, the free and safe flow of traffic and the visual and noise characteristics of the surroundings (H18 of the Saved Local Plan 1997)
- d) Will accord with Darlington's sub- regional role and locational Strategy set out within Policy CS1 of Darlington's Core Strategy (2011)
- e) Makes efficient use of land and existing buildings and reflect Darlington's distinctive, natural, and built characteristics that contribute to the character of the local area and its sense of place (CS2 of the Core Strategy).
- f) Provides vehicular access and parking suitable for its use and location (CS2 of the Core Strategy).
- g) Protects and where possible improves environmental resources whilst ensuring there is no detrimental impact on the environment, general amenity and health and safety of the local community (CS16 of the Core Strategy)

RESULTS OF TECHNICAL CONSULTATION

9. The Council's Highway Engineer has been consulted on the application and has raised no objection to the proposal.

10. The Council's Environmental Health Officer has been consulted on the application and has raised no objection to the proposal.
11. The Architectural Liaison Officer has been consulted on the application and raises no objection.
12. The Council's Private Housing Sector have been consulted on the application and have raised no objection to the proposals on the basis of the amendments to the proposal.

RESULTS OF PUBLICITY AND NOTIFICATION

13. Twelve letters of objection have been received, with the main points summarised below:
 - *Parking – additional vehicles leading to parking congestion, highway safety, traffic congestion, parking in front of driveway of No.174 Yarm Road.*
 - *Spread of Japanese Knotweed, a destructive plant, which has been present in the garden of the property*
 - *High density HMO is not in keeping with the character of the area*
 - *Impacts neighbouring amenity – increased comings and goings*
 - *Loss of privacy – 2 The Mead*
 - *Overshadowing of conservatory – 174 Yarm Road*
 - *No party wall agreement in force – 174 Yarm Road*
 - *Two waste bins are insufficient for the property*
 - *Private Housing comments raise issue with bedroom fronting onto car parking space*
 - *Design- Dormer windows/ windows, front elevation is out of character with frontage of Yarm Road*
 - *Noise and disturbance issues*
 - *Empty flats/bedsits located on Cobden Street, Yarm Road, Hundens Lane, Louisa Street, Ridsdale Street, Old Hope Inn Public House.*
 - *Existing HMOs in area are not well kept*
 - *Would de-value neighbouring properties*
 - *Local crime increases*

PLANNING ISSUES/ANALYSIS

(a) Planning Policy

14. Planning law (S.38(6) of the Planning and Compulsory Purchase Act 2004) requires that applications for planning permission must be determined in accordance with the development plan unless material considerations indicate otherwise. The National Planning Policy Framework (2019) supports the plan led system providing that planning decisions should be "genuinely plan-led" (NPPF para 15).
15. Saved Local Plan Policy H17 (Concentrations of Houses in Multiple Occupation) states that the sub division of dwellings into smaller units of accommodation will not be permitted

where there is already a high concentration of houses in multiple occupation (HMO) or where it involves the subdivision of small two storey family dwellings.

16. In this case the application site is located on Yarm Road which is not specified in Saved Policy H17 as being an area where there is a high concentration of HMOs. The site is situated within an area predominantly characterised by family dwellings. Therefore, it is considered that it is an area where there are relatively low numbers of HMOs.
17. The application involves the subdivision of a property in mixed retail/residential use and Saved Policy H18 (Houses in Multiple Occupation in Other Areas) is also relevant to consideration of the application. Saved Policy H18 states that the subdivision on non-residential buildings in residential surroundings other than those the subject of Policy H17 will not be permitted where they will have a material adverse effect on:
 1. The quiet and private enjoyment of other dwelling and gardens
 2. The adequacy of available off street parking and amenity spaces
 3. The free and safe flow of traffic and
 4. The visual and noise characteristics of the surroundings
18. The proposal will be assessed against these matters in the following sections of the report.

(b) Visual Amenity

19. The proposal includes alterations to the front elevation of the property, removing the existing shop front window and doorway and installing new windows and doors on the ground and first floor which are identifiable with a residential dwelling. The windows and doors are to be surrounded by black timber cladding with the finish to the walls being white render. Included in the proposals is a dormer window within the front roof slope with a pitched roof in keeping with the existing roof. The existing front elevation is finished in a yellow render and there are a variety of materials and finishes to the front of neighbouring properties within the immediate streetscene. To the front of neighbouring properties are different coloured render including whites, creams and grey, pebbledash and natural brick. There are also a range of window materials and colours used within the immediate streetscene. As there is not a clear distinguishable pattern within the streetscene it is considered that the proposed finishing materials for the application property would not detract from the overall character and appearance of the immediate streetscene.
20. The proposed dormer is of a modest size which is in keeping with the proposed property. There are dormer windows to the front of No.173 Yarm Road, located opposite the proposed application property. Although there are few dormer windows to the front on the southern side of Yarm Road, owing to the presence of dormer windows immediately opposite the application property and the modest scale of the dormer, it is considered that it would not detract from the overall character of the streetscene.
21. There are new UPVc windows proposed in the ground floor west elevation of the property as well as patio doors located in the rear elevation. It is considered that these will be in keeping

with the existing property and will not detract from the character and appearance of the surrounding streetscene. A pitched roof is proposed to the rear connecting the first floor to the ground floor, which is considered to be in keeping with the existing dwelling and being to the rear of the application site it would not detract from the character and appearance of the surrounding streetscene.

22. Overall, it is considered the proposed external alterations would not result in an adverse impact on the character and appearance of the existing property or the surrounding streetscene in terms of visual amenity in accordance with Saved Local Plan Policy H18 and Core Strategy Policy CS2.

(c) Residential Amenity

23. Saved Local Plan Policy H18 sets out that the subdivision into small dwellings of large dwellings, dwellings unsuitable for single family occupation, or non-residential buildings in residential surroundings other than those subject to Saved Policy H17 will not be permitted where this will have a material adverse impact on the quiet and private enjoyment of other dwellings and gardens.

24. It is considered that the noise impacts on neighbouring dwellings from the proposed 6 bedroom HMO would not be significantly above those of a family dwelling (Use Class C3) in context of the surrounding area. There are two private garden areas to the rear of the proposed dwelling with the remainder of the garden area to be used by the remaining 4 residents. Cycle parking and bin storage facilities are also to be located within the rear garden area, with access to this area via an existing gate to the side of the property. The property has a long rear garden, approximately 45 metres in length, bounded by neighbouring gardens either side. The area is large enough to accommodate the proposed amenity space, cycle parking and bin storage areas. The use of this area for the number of residents proposed is unlikely to result in noise and disturbance to neighbouring dwellings over and above that arising from a single family dwelling.

25. It is further considered that the associated comings and goings of the proposed HMO use for 6 residents would not be significantly above that of the ground floor retail use, should the shop have been brought back into use. Furthermore, a fallback position does exist in that it would be possible for the property to be converted from a shop with flat above to a single dwelling (Use Class C3) under prior approval and then from a C3 dwelling use to a small 6 person HMO (Use Class C4) as permitted development. This carries some weight in the consideration of this proposal. Therefore, it is considered the noise impacts and the impacts from the comings and goings of residents would not have a material adverse effect on the quiet and private enjoyment of neighbouring dwellings in accordance with Policy H18.

26. Policy CS16 of the Core Strategy states that new development (which includes proposals to change the usage of a building) should ensure that there is no detrimental impact on the environment, general amenity and the health and safety of the community. Paragraph 180 of the National Planning Policy Framework, 2019 states that planning decisions should ensure that new development is appropriate for its location taking into account the likely effects of

pollution on health, living conditions and the natural environment. In particular, decisions should mitigate and reduce to a minimum potential adverse impacts resulting from noise from new development and avoid noise giving rise to significant adverse impacts on health and quality of life.

27. The Council's Environmental Health Officer has been consulted on the application and has raised no objections.
28. There is proposed a 1.8m (approx.) close boarded timber fence adjacent to boundary of No.170 Yarm Road. The fence is set away from the boundary by approximately 1.3m. Owing to the height of the fence and the distance it is set away from the boundary, it is considered the proposal would not result in a loss of amenity for No. 170 Yarm Road in terms of overshadowing, overbearing or loss of outlook.
29. Within the ground floor west elevation of the property four additional windows and a door are proposed. The windows will face onto the blank gable of No.170 Yarm Road and therefore do not raise privacy issues in terms of overlooking for this property.
30. As part of the application, it is proposed to widen a small part of the existing rear extension by approximately 0.35m up to the eastern boundary of the site. This small extension would not extend beyond the conservatory to the rear of No.174 and therefore would not result in a loss of amenity for this neighbour in terms of overbearing impact, overshadowing or loss of outlook. It is further considered that the proposed pitched roof element extending from the first floor to the rear ground floor would not extend beyond the rear of the neighbouring conservatory and would therefore not result in a loss of amenity to No. 174.
31. There is proposed a 1.8m (approx.) close boarded timber fence adjacent to boundary of No.174 Yarm Road. Owing to the height of the fence it is considered the proposal would not result in a loss of amenity for No. 174 Yarm Road.
32. There is a separation distance of approximately 44m between the rear boundary of No. 37 Pease Street and the rear elevation of the application property and therefore it is considered that there would be no adverse impacts on No. 37 Pease Street in terms of amenity and privacy.
33. There is a separation distance of approximately 35m between the front elevation of 2 The Mead and the proposed front elevation of the application property, therefore it is considered that there would not be a loss of amenity or privacy for No. 2 The Mead.

(d) Highway Safety

34. The Council's Highways Engineer has been consulted on the application and has raised no objection to the proposal subject to clarification on the development being intended for occupation on a permanent basis. It has been clarified by the applicant the dwelling is to be used for the permanent residence for tenants and would not be used for business

accommodation or serviced apartments, which in itself would require planning permission for a change of use to Use Class C1.

35. There is no specific guidance on parking provision for HMO conversions within the Tees Valley Design Guide as such there is no specific parking policy or design guidance with which to assess the adequacy of parking provision. Instead reasonable consideration must be given to potential impact of the application, which may be permitted as it is not considered to have a material adverse effect on residential amenity or highway safety, due to adequacy of car parking.
36. As a general principle, off-street car parking facilities should be provided for future occupants where this is possible. The type of resident to be accommodated, together with visitor demand and any requirements for staff parking should be considered when determining parking provision. Where no off-street parking can be provided then the effect of the development upon parking in the vicinity of the site will be carefully considered to ensure that there will be no significant adverse impact upon residential amenity or highway safety.
37. In the case of the permanent occupation by individuals, it is known that car ownership rates are generally low within persons living in shared houses. Census data for Darlington shows that car ownership rates are an average of 47% per household across the Borough. It would therefore not be unreasonable to conclude that car ownership rates within HMO residents should be substantially below this level.
38. Where possible, car parking should be provided off street, however in this instance it is not possible to create additional car parking provision within the site. The site has two in curtilage parking spaces which would equate to 33% parking provision. Given a worst case scenario of 47% provision in line with 2011 Census Data, this would equate to a total of 3 spaces with one being required on the adjacent highway. Whilst on-street parking availability is limited, given this level of expected parking demand it does not warrant refusal on grounds of road safety or residential amenity where the residual impact would unreasonably displace on-street parking by existing residents and their visitors in the immediate vicinity of the application site. The Highway Authority has a duty to maintain the safe and free passage of traffic, and where required has the power to implement parking restrictions as a fallback position where nuisance parking causes obstruction or road safety concerns.
39. The site is within a town centre fringe location and as such has good access to sustainable modes of transport including bus and rail services. The nearest bus stops are located approximately 120m away, which is well within the 400m maximum recommended walking distance. Darlington Station is approximately 800m walking distance with safe and convenient routes for pedestrians, along with cycle parking. In order to encourage cycle, use secure cycle parking is also provided within the development with provision based on the recommended rate of one space per room.
40. It must also be considered that the current permitted use class of the shop is considered a greater generator of vehicle trips with higher demand for short duration parking. It is also subject to extended opening hours with vehicle movements and noise from car doors etc

being expected through the hours of trading. In this respect the conversion to residential use is likely to generate less noise/disturbance.

41. A review of the past 5 years Police accident statistics reveals that there have been several 'Slight' and 'serious' incidents recorded along the Yarm Rd B6280 corridor; this is consistent and expected within a major urban arterial route and non are directly associated with the application site or access.
42. The Council's Highways Engineer has set out that the developer should aim to ensure that new residents make informed choices about the level of parking available before deciding to move in, for example, by clearly highlighting parking levels as well as any particular parking constraints in sales particulars and letting or marketing details. On this basis the Highway Engineer raises no highway objection.

(e) Other Matters

43. Concern has been raised with regard to Japanese Knotweed being present in the rear garden of the application site. This is a separate issue to the planning application and can be dealt with under Environmental Health legislation. The agent for the has stated that it is the intention to convert the garden into a more domestic state with the weed issue being dealt with through this process.
44. Concern has also been raised over the number of bins provided for the number of rooms proposed. The plans make adequate provision for the storage of bins within the site. The property owner would have to apply to the Council for the appropriate number of bins for the size of the property, however, there remains adequate space to store any increase in the number or size of bins required for the property.
45. There have been comments submitted stating that nearby flats and bedsits remain empty in the nearby area and are not well kept. Whilst this is acknowledged, it is considered that the change of use from a shop (Use Class E) to a HMO (C4) would be acceptable in principle. It is further considered that a C3 dwelling house can be converted into a C4 use through permitted development rights. Therefore, it is considered that this would not be reasonable ground to refuse the planning application.
46. The impact of the development on the value of neighbouring properties is not a material planning consideration and therefore carries no weight in the consideration of this planning application.
47. There is no evidence to suggest that the granting of the planning permission for the use of the property as a house of multiple occupation would result in anti-social behaviour in this area. The Architectural Liaison Officer has been consulted on the application and raises no objection to the proposal.
48. The application has been amended to address matters raised by the Council's Private Sector Housing Team on the original proposal. The amended plans show the type of fire doors to

be used and their location within the dwelling, the installation of further windows to the ground floor rear elevation and the alteration to bedrooms 2 and 3 to ensure sufficient privacy between rooms. In commenting on these amended proposals, the Private Sector Housing Team has confirmed that these alterations now address their original concerns relating to these matters. Although bedroom 4 remains close to the minimum space standards, provided it is built in accordance with the approved plans it would meet the appropriate space standard. The applicant would still however be required to apply for a HMO Licence which would provide the necessary safeguards in the event that the bedroom was not built to these standards. Similarly, there remains some concern that there would be a shortfall in the amount of kitchen worktop space for the number of residents proposed, however these internal works would also be covered by the Licensing regime.

PUBLIC SECTOR EQUALITY DUTY

49. In considering this application the Local Planning Authority has complied with Section 149 of the Equality Act 2010 which places a statutory duty on public authorities in the exercise of their functions to have due regard to the need to eliminate discrimination and advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it.

CONCLUSION AND RECOMMENDATION

50. The proposals for the change of use from a ground floor shop (Use Class E) to a House in multiple occupation (Use Class C4) is considered to be acceptable in planning policy terms due to size of the proposed dwelling and the accommodation located in the roof space with the addition of a front dormer in accordance with H18 of the Saved Local Plan 1997. The proposals would not have a materially adverse effect on the quiet and private enjoyment of other dwellings and would not result in harmful impact on the character and appearance of the surrounding area in terms of visual amenity in accordance with H17 of the Saved Local Plan 1997. There is a fallback position that the use as a HMO (C4) could be achieved through the prior approval procedure and permitted development rights, which carries some weight in consideration of the application.
51. While there is a shortfall in off-street parking of 1 no. space, owing to the generally low car ownership rates associated with persons living in shared houses and the otherwise sustainable location of the proposal, it is not considered that this shortfall in off-street parking would give rise to any it is considered that the off-street and on-street parking arrangements would be sufficient for the proposed use and would not be sufficient to warrant refusal on grounds of road safety or residential amenity. The proposal is therefore considered to comply with Saved Policy H18 and Policy CS2.
52. Accordingly, it is recommended **THAT PLANNING PERMISSION BE GRANTED SUBJECT TO THE FOLLOWING CONDITIONS:**
1. A3 Implementation Limit (Three Years)

The development hereby permitted shall be commenced not later than the expiration of three years from the date of this permission.

REASON - To accord with the provisions of Section 91(1) of the Town and Country Planning Act, 1990.

2. The materials used in the external surfaces of the proposal hereby permitted shall be carried out in all respects in accordance with the details provided within the application and plan drawings (20-044/05/B- Proposed Plans, 20-044/07/C- Proposed Elevations) submitted therewith and approved by the Local Planning Authority.

REASON - To ensure that the external appearance of the development is of an appropriate design and quality in accordance with Policy CS2.

3. PL Approved Plans Conditions

The development hereby permitted shall be carried out in accordance with the approved plan(s) as detailed below,

- 20-044/01 Rev A Site Location plan
- 20-044/05 B Amended Proposed Plans
- 20-044-06 B Proposed Plans 2
- 20-044/07 C Amended Proposed Elevations
- 20-044/08 B Amended Proposed Sections
- 20-044/09 B Amended Existing Proposed Site Plans
- 20-044/10 B Amended Coloured Front Elevation

4. The secure cycle parking and bin storage facilities shown on drawing number 20-044/05/B 'Proposed Plans' shall be made available in accordance with the details shown on the plan prior to the property hereby permitted first being brought into use. Thereafter these facilities shall remain available for the lifetime of the development.

REASON – To ensure the site can be accessed by sustainable means of transport and in the interest of general amenity.