

**DARLINGTON BOROUGH COUNCIL**  
**PLANNING APPLICATIONS COMMITTEE**

**COMMITTEE DATE: 7 September 2022**

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<b>APPLICATION REF. NO:</b>	22/00673/CU
<b>STATUTORY DECISION DATE:</b>	22 <sup>nd</sup> August 2022
<b>WARD/PARISH:</b>	EASTBOURNE
<b>LOCATION:</b>	15 Hirst Grove DARLINGTON DL1 4NX
<b>DESCRIPTION:</b>	Change of use from single dwelling (use class C3) to holiday lets/serviced accommodation for short and long term let (use class C1)
<b>APPLICANT:</b>	MS SHONA KINNIE

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

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**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?activeTab=documents&keyVal=RDM4WGFPOBM00>**

1. The application site consists of a two-storey residential dwelling situated on the west side of a small residential cul-de-sac to the east of the urban area, accessed from Harris Street to the south. To the north, south and west are neighbouring residential properties, and to the east is the public highway.
2. Planning permission is sought for the change of use of the property from a single dwelling house (Use Class C3) to holiday lets / serviced accommodation (Use Class C1) to be used all year round. The use is intended to cover the applicant's chosen business model, which is to cater for a) holiday lets for singles, couples, and families (maximum of six people); or b) serviced accommodation for both short and long term let (maximum of six people).
3. This is a retrospective planning application, and the applicant started trading on 22<sup>nd</sup> November 2021 on the basis that some Local Planning Authorities do not consider short

term let to be a material change of use (the assessment of need for planning permission is a matter of fact and degree to be considered on a case-by-case basis). During this period there has been over 45 bookings. The property is advertised on 'Booking.com' and 'Airbnb' as 'entire household' serviced which means that only one single booking is taken at any one time (whether this be, for example, for a couple or family, or for a small group of contractors booking together). One of the main reasons for this approach is to allow easier management of the use.

4. The application states that most guests arrive between 4 and 7pm. There is always a possibility that a guest may request an earlier arrival time, and this has occurred twice in the trading time since November 2021, in which cases guests have arrived at 3pm.
5. The external footprint and structure have not changed. Internal cosmetic changes (which do not require planning permission) include; reclassifying the second reception room as a bedroom (which gives a total of three bedrooms) and including an ensuite to an existing upstairs bedroom.

### **MAIN PLANNING ISSUES**

6. The main issues for consideration are:
  - (a) Impact on residential amenity
  - (b) Highway safety
  - (c) Other matters

### **PLANNING POLICIES**

7. The site is not allocated for any particular use. The site is within the development limits and therefore the proposed use is in compliance with the settlement hierarchy as set out in Policy SH1 and Policy E4, which states that tourist accommodation should be situated within the development limits. Other relevant planning policies in the determination of this application seek to ensure that:
  - New development protects the amenity of neighbouring users and must be acceptable in terms of noise and disturbance (DC4)
  - The proposal provides suitable and safe vehicular access and suitable servicing and parking arrangements (DC1 and IN4).

### **RESULTS OF TECHNICAL CONSULTATION**

8. The Council's Environmental Health Officer and Highways Engineer have raised no objections to the proposal.

### **RESULTS OF PUBLICITY AND NOTIFICATION**

9. A total of seven letters of objection have been received from local residents which raise the following concerns:
  - Impact on residential amenity; Incidents of noise and disturbance;
  - Size of property not conducive to accommodating up to six individuals;
  - Impact on highway safety / parking issues; Lack of access for emergency vehicles; Parking on grass verges;
  - Concern that holiday and commercial visitors would have little concern for the surrounding community; Refuse bins placed in unsightly position;
10. One objection is on the grounds that the use commenced before planning permission was applied for. Whilst this is unfortunate, this is not a material planning consideration and the application must be considered on its planning merits.

## **PLANNING ISSUES/ANALYSIS**

### **(a) Impact on residential amenity**

11. As stated above, the property is within a quiet cul-de-sac within a residential environment and therefore consideration should be given to the impact on the proposed use on the living conditions of nearby residents. It is noted that this is to some extent governed by the management of the property and the willingness of the occupants to comply with the house rules. This compliance is in the interests of both the host and the occupiers as booking sites tend to be self-regulating in terms of the occupants who are allowed to stay based on their conduct in previous properties. The applicant has confirmed that the house rules, as set out on the booking sites, state that no parties are permitted at the property, as well as no pets and no smoking, and that failure to abide by the rules will lead to guests being asked to immediately vacate the property. The applicant, who lives nearby has indicated that they have acted on any issues immediately in previous circumstances, and this is borne out by several reviews from residents available on the booking sites. Nevertheless, several concerns have been raised by residents in respect of the impact of the proposal on amenity and the need to complain when issues occur.
12. The Environmental Health Officer has reviewed the Council's records and has confirmed that a noise complaint was received in March 2022 alleging that this property was being used as an Airbnb and there was noise from a party taking place. This was deemed a one-off event as no other complaints of this nature have been received or pursued by the complainant. The Environmental Health Officer indicates that if planning permission is granted and events of this nature take place the Environmental Health Service can investigate using specific legislation and therefore it would be unreasonable and unnecessary to impose a planning condition relating to this matter.
13. Whilst the concerns raised by objection are noted, in respect of any lack of concern that occupants may have for surrounding neighbours and the local environment than residents who live there all year round, it cannot be assumed that the occupants

conduct will have a negative impact, and this is not based on clear evidence. Once a guest has checked into the property, they are free to come and go in the same way that a resident of a dwelling can. Whether a guest is using the accommodation to visit the area for leisure/holiday purposes or as accommodation when working in the area (indications are from the booking sites that many of the guests have been visiting the area for holidays or events), the net effect of this is that the property will usually be empty for significant periods while the guests are visiting local attractions or working, with the property being used as a base. This is a very similar situation to that of a regular dwelling house where the residents go out to work during the day and/or for leisure on a weekend.

14. The applicant advertises the property to let on an 'entire household' basis. This means that only one booking is taken at any one time, which could be a family or a group of guests who are working in the area. The benefit of the business model that the applicant favours is that this allows better control over the impacts of the change of use, and an element of ownership from the guests in terms of their conduct whilst on the property. The benefit is also that the property is not let out on a room basis or house share to individuals who would not be residing as a household, a scenario which may result in less shared trips and more comings and goings. Any residents are restricted to six in total. The above is more akin to a residential dwelling than if the property were let on an individual room basis, which takes the use more towards a small HMO (House in Multiple Occupation). Whilst the concerns from residents regarding the capacity of the dwelling are noted, as the property has three bedrooms, it is reasonably possible that six residents could reside on in the property at any one time.
15. The help to control the impacts of the property, the applicant has agreed to a planning condition which would require that the property would continue to be let on a single booking (or 'entire household') basis up to a maximum of six residents at any one time. To assist in monitoring of this, a planning condition is also recommended to require a register of bookings to be maintained and made available to the Local Planning Authority on request.
16. It should be noted that the fallback position of the applicant is to use the property as a small HMO, which would not require planning permission, and would likely have much more significant impacts than the more intensively managed short lets proposed. A small HMO is a dwelling occupied by up to six unrelated individuals sharing basic facilities.
17. This fallback position is an important material consideration to which weight can be attached in consideration of the application. Should the application be refused on the grounds of residential amenity or highway safety, the applicant would have a strong fallback position in that they could proceed with the change of use of the property from a single dwelling to a small HMO, over which the local planning authority would have less control regarding the management of bookings and associated impacts which the suggested conditions seek to achieve in the case of the current proposal.

18. Arrangements for refuse and waste are considered to be satisfactory for the use proposed.
19. Based on the above consideration, the recommended planning conditions, and no objections from the Environmental Health Officer, it is considered that the proposal would comply with policy DC4 in this regard.

**(b) Highway safety**

20. Limited off-site parking is available at the property, which could accommodate two cars. Whilst this does not meet modern design standards with regards to in-curtilage space dimensions, this is common to neighbouring properties and there is little scope to offer betterment given the site constraints.
21. The Highways Engineer notes that the above constraints are an existing problem, and this would remain so if the building was to be used as a domestic dwelling. The view of the Highways Engineer is that the proposal does not create increased parking demand over that of a dwelling and it would therefore be difficult to substantiate a refusal on highway grounds, particularly in the context of the proposed condition set out in section (a) of this report and within the recommendation. As set out above, it is also noted that the dwelling could be used as a HMO for up to six persons under permitted development and this could present a worse scenario in terms of both comings and goings and parking requirements. Overall, the Highways Engineer has raised no objections and the proposal is considered to comply with policies DC1 and IN4 in this regard.

**(c) Other matters**

22. Natural England together with the Department for Levelling Up, Housing and Communities (DLUCH) announced on 16<sup>th</sup> March 2022 that the administrative area of Darlington Borough Council is now located within the catchment area of the Teesmouth and Cleveland Coast Special Protection Area. Under the Habitats Regulations, those planning authorities falling within the catchment area must carefully consider the nutrients impacts of any projects, including new development proposals, on habitat sites and whether those impacts may have an adverse effect on the integrity of the site that requires mitigation.
23. This impacts on all planning applications, both existing and proposed, which relate to primarily all types of overnight accommodation, such as new dwellings, care homes, student accommodation, holiday accommodation etc. and impacts all developments for one dwelling upwards. It also affects other applications where development may impact upon water quality, including those seeking to discharge planning conditions relating to foul and surface water drainage for a range of development proposals.

24. The local planning authority has arrived at a view that the proposed development would not be within scope for the following reasons and can therefore be determined without the need for any further mitigation:

- a) Based on the information submitted, the limited size and the dwelling and the recommended condition regarding bookings, the proposed use would not create any more additional overnight accommodation and therefore no more nutrient load than a residential dwelling.

#### **THE PUBLIC SECTOR EQUALITY DUTY**

25. 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. Disabled access to the premises has been considered in paragraph 19 of this report and the impact of the proposal on childhood obesity is set out in paragraphs 20 and 21.

#### **CONCLUSION AND RECOMMENDATION**

26. The proposed change of use does not raise any significant highway safety or residential amenity issues and subject to the conditions recommended accords with policies DC1, DC4 and IN4 in this regard.

#### **THAT PLANNING PERMISSION BE GRANTED SUBJECT TO THE FOLLOWING CONDITIONS:**

1. A3 Implementation Limit (3 years)
2. The development hereby permitted shall be carried out in accordance with the approved plan(s) as detailed below:

Site Location Plan  
Appendix 3A Layout Plan

REASON: To ensure the development is carried out in accordance with the planning permission.

3. The property shall only be let as a single booking at any one time (also known as 'entire household let') with a maximum of six residents per booking, unless otherwise agreed in writing by the Local Planning Authority.

REASON – In the interests of residential amenity and highway safety.

4. The owners/operators of the accommodation shall maintain an up-to-date register of the details of all bookings made and shall make this information available at all reasonable times to the Local Planning Authority.

REASON - To allow records to be made available to assist in any monitoring of condition (3) of this planning permission).

## **INFORMATIVES**

### Advice for the applicant

In the documentation that has been provided reference has been made to a fire risk assessment – if the applicant has not already done so it is strongly recommended that consultation is made with the local fire safety officer to help reduce the risk of fire and to ensure the property complies with the Regulatory Reform (Fire Safety) Order 2005.