

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

**COMMITTEE DATE: 1 March 2023**

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<b>APPLICATION REF. NO:</b>	22/01228/CU
<b>STATUTORY DECISION DATE:</b>	03 February 2023
<b>WARD/PARISH:</b>	Bank Top and Lascelles
<b>LOCATION:</b>	23 Langdale Road
<b>DESCRIPTION:</b>	Change of Use from dwelling house (Use Class C3) to short term serviced accommodation (Sui Generis) (Retrospective Application)
<b>APPLICANT:</b>	Mrs Tina Crang

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**RECOMMENDATION: GRANT PERMISSION SUBJECT TO CONDITIONS**

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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=Q82CFLPLCD00>

Members will recall that no decision was made on this application at the Planning Applications Committee on 1 February 2023. This a replication of the previous Officer report to be considered by Members at this Meeting. However the recommended conditions have been revised to remove the standard implementation limit condition due to the planning application being a retrospective submission seeking permission to regularise the usage as short term serviced accommodation.

**APPLICATION AND SITE DESCRIPTION**

1. The property is a two bedroomed mid-terraced dwelling with a living room, dining room and kitchen on the ground floor and two bedrooms and bathroom on the first floor. The property has a rear yard and small enclosed amenity area to the front.

2. The supporting information with the application states that since April 2022, the property has been marketed and used as short term serviced accommodation. Bookings are taken by a Management Company (Toast Lettings) and the premises have been occupied by up to 4 people from between 3 nights to 3 months. It has been commonly occupied as a short term let for persons who prefer self-catering accommodation. There have been no internal or external alterations to the property. The occupation of the dwelling in this manner has resulted in a change of use of the property from a Class C3 dwelling to a “sui generis” use. Once the local planning authority were made aware of the operation, this planning application seeking to obtain retrospective planning permission has been submitted.

### **MAIN PLANNING ISSUES**

3. The main issues for consideration are:
  - a) Impact on residential amenity
  - b) Highway safety
  - c) Nutrient Neutrality

### **PLANNING POLICIES**

4. 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**

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

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

6. Following the Council’s notification and publicity exercises, the Council has received six objections from five households. The comments can be summarised as follows:
  - *There have been issues with noise, antisocial behaviour and crime*
  - *This is a residential area and allowing houses to be used in this way is not helping build strong communities*
  - *This is simply a cash cow with no respect for local residents*
  - *Leave this type of enterprise to hotels and B & Bs*
  - *The occupants don’t care about the area*
  - *You never know who is going to arrive next*
  - *Why were they allowed to operate without the relevant permissions before? We have had to endure the property being used for dubious comings and goings over the past year*

- *I strongly object*
- *I want to live in a safe area not somewhere where there are different unknown individuals coming and going daily/weekly*

## **PLANNING ISSUES/ANALYSIS**

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

7. The property is within a residential area. Langdale Road primarily consists of terraced dwellings with some semi-detached dwellings directly opposite the planning application site.
8. It has to be acknowledged that the impact of the use on the amenities of neighbouring residents 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.
9. Bookings for the property are currently taken by Toast Lettings and the property is included on their website (along with photographs of the various rooms), which states the property is fully managed by the letting company. The website includes Booking Terms and Conditions and confirmation that all properties are to be used solely as short term lets occupied to the amount of people specified on the property details (in this case four). The letting company reserves the right to refuse admittance if these terms are not observed and deem the hire cancelled. Pets may be allowed within the advertised properties, but smoking is not permitted.
10. The Environmental Health Officer has raised no objections to the use. If planning permission is granted and anti-social events resulting in noise take place the Environmental Health Service can investigate using specific legislation.
11. Officers have contacted the Architectural Liaison Officer of Durham Constabulary who has advised that the Acting Neighbourhood Sergeant is not aware of any of the issues that have been raised by residents pertaining to the application site.
12. Once guests have 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, the net effect of this is that the property will usually be empty for significant periods during the day while the guests are visiting local attractions or working, with the property being used as a base. This, again, 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. The number of persons that would let the property would not be increased as a result of the use.
13. The property would remain in residential use albeit in a different form.

14. As stated above, the property is advertised to let on an essentially '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 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 fewer shared trips and more comings and goings. This 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).
15. Planning permission has recently been granted for this type of use at Hirst Grove (ref no: 22/00673/CU) and Greenbank Road (ref no: 22/00857/CU). The permissions were granted subject to planning conditions which ensures that the property is being let as an entire household let; that a register of bookings is maintained and also that any planning permission is personal to be applicant. The granting of a personal planning permission means that in the event of the applicant no longer being the owner of the property, it would revert back to a single dwelling (Class C3) without the need to have to obtain further planning permission.
16. The applicant has agreed to the imposition of such conditions on any grant of planning permission.
17. Having taken onto account the information that has been submitted in support of the planning application, the comments received by the residents and the Council's Environmental Health Officer and the Architectural Liaison Officer, it is considered that with the imposition of the suggested planning conditions, the use of the premises as serviced accommodation for a household of four persons is acceptable in amenity terms. This is recommendation has been made, together with the ability of the Council's Environmental Health Team and the Police to investigate any incidents of antisocial behaviour in the future. The planning application would accord with Policy DC4 of the Local Plan in this regard.
18. It should also be noted that a potential fallback position is to use the property as a small HMO, which would not require planning permission, and would likely have much more significant impacts than a more intensively managed short let. A small HMO is a dwelling occupied by up to six unrelated individuals sharing basic facilities. 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.

**b) Highway safety**

19. Residents and occupiers of Langdale Road are reliant upon on-street parking on a first come first served basis, as is typical of terraced dwellings which do not have in curtilage parking. Based on the information submitted in support of the planning application and the fact that the number of bedrooms has not been increased, it would be hard to evidence that the proposed change of use would create additional parking demand over and above the extant use as a private dwelling. There are no highway safety or parking provision objections, and the planning application would comply with policies DC1 and IN4 of the Local Plan in this regard.

**c) Nutrient Neutrality**

20. 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.
21. 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.
22. The local planning authority has arrived at a view that this planning application would not be within scope for the following reason and can therefore be determined without the need for any further mitigation:
- a) Based on the information submitted, the limited size of the dwelling and the recommended conditions regarding bookings, the use would not create any more additional overnight accommodation within the property and therefore no more nutrient load than its previous use as a single residential dwelling.

**THE PUBLIC SECTOR EQUALITY DUTY**

23. 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. The existing access arrangements would not be altered as there are no external alterations being proposed. As the use is generally operating in a similar manner to a single dwelling, there is no requirement to expect the building be made accessible and once the use ceases, it would revert to a dwelling.

## **SECTION 17 OF THE CRIME AND DISORDER ACT 1998**

24. The contents of this report have been considered in the context of the requirements placed on the Council by Section 17 of the Crime and Disorder Act 1998, namely the duty on the Council to exercise its functions with due regard to the likely effect of the exercise of those functions on, and the need to do all that it reasonably can to prevent crime and disorder in its area. It is not considered that the contents of this report have any such effect.

## **CONCLUSION AND RECOMMENDATION**

25. The proposed change of use does not raise any significant highway safety or parking provision objections and subject to the use of the suggested planning conditions, the application is considered to be acceptable in amenity terms. The planning application would accord with policies DC1, DC4 and IN4 of the Local Plan, and it is therefore recommended:

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

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

a) Drawing Number 001 – Existing and Proposed Floor Plans

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

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

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

3. 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.

4. This permission shall be personal to Petina Properties Limited only and shall not enure for the benefit of the land. In the event of Pertina Properties Limited no longer being the owner of the premises the use shall revert to the use as a single residential dwelling (Use Class C3)

REASON - In granting this permission the Local Planning Authority has had regard to the special circumstances of the case and wishes to have the opportunity of exercising control over subsequent uses in the event of Pertina Properties Limited no longer owning the premises.