

# THE CITY OF DURHAM TRUST

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Durham, DH1 1TH  
24 July 2021

Michelle Stephenson  
Planning Development  
Central/East Room 4/86-102  
County Hall  
Durham  
DH1 5UL

Dear Ms Stephenson,

**DM/21/02447/FPA | Erection of an extension to the rear of the property (C4 HMO). | 50 Hawthorn Terrace Durham DH1 4EQ**

1. The City of Durham Trust objects to the above planning application and asks you to refuse it for the reasons set out below.
2. The plans show the existing property as having five bedrooms. However, bedroom 3 has a floor area of 6.3m<sup>2</sup> as measured using the online tool. This is below the minimum of 6.51m<sup>2</sup> set by the Council's Senior Public Protection Officer (see the HMO comments already on file) so the applicant is actually seeking an increase of two bedrooms and the application should be assessed on this basis.
3. Where this submission refers to statements made by the applicant, this is to the *Design and Access/Heritage Statement* on the public file. We note that, despite the word *Heritage* appearing in the document title, there is in fact no heritage statement or section.
4. Policy 16.3 of the recently adopted County Durham Plan 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 Class C4 (House in Multiple Occupation), where planning permission is required; or
  - a House in Multiple Occupation in 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
    - b. there are existing unimplemented permissions for Houses in Multiple Occupation within 100 metres of the application site, which in combination with the existing

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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 Guidelines;
- 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.
5. This is an application that will result in an actual increase of two bedspaces. The HMO percentage is 66.7% which is both well above the 10% specified in clause (a) and well below the upper threshold of 90% as in clause (h). Consequently this application should not be permitted.
6. The application appears to meet the requirements of clauses (d) to (g).
7. The applicant alludes to appeal decisions without giving any references so it is not possible to check these.
8. The Design and Access Statement (paragraphs 63 to 67) refers to exception (h) and paragraph 5.167 of the County Durham Plan. This paragraph specifically refers to the proportion of Class N council tax exempt properties within 100 metres of the application site. In arguing that instead the percentage in the same postcode should be used instead,

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the applicant is trying to substitute a criterion that is not in the County Durham Plan. We would also point out that all of the houses in postcode DH1 4EQ are within 40 metres of the application site, which is very close.

9. We consider that paragraph 5.158 of the County Durham Plan is relevant:

Where an area already has exceeded the 10% tipping point, it is considered that there is an existing imbalance between HMOs occupied by students and homes occupied by other non student residents. This can be to the detriment of the residential amenity of the non student residents in the area. On this basis it is recognised that an extension to an HMO which results in additional bedspaces and therefore potentially accommodates more students would introduce further students into an area where there are already concerns about the impact of the student population on the residential amenity of non student residents. For this reason, extensions to HMOs to accommodate bedspaces where the 10% tipping point is exceeded will not be supported.

10. This paragraph was introduced into the County Durham Plan at the Examination in Public stage. It is not in the 2019 *Pre-submission Draft*. This was as a result of evidence introduced by the Trust, the Parish Council, and other objectors. The Inspector's Final Report addressed this issue:

258. The 10% threshold applies to new build and changes of use, but not to extensions to existing houses in multiple occupation. This is to allow extensions that are required to improve the quality of accommodation or to provide additional space that would not materially impact on the character of the area or residential amenity. However, as drafted, the policy would not only allow the provision of additional living space, kitchens and bathrooms but also additional bedspaces. Cumulatively over time, this could lead to a significant increase in the number of students living in an area, undermining the objective of the policy. Main modifications are therefore required to part 3 of policy 16 so that criteria (a), (h) and (i) apply to extensions that result in specified or potential additional bedspaces [MM93 and MM95]. Consequential modifications are also required to the reasoned justification [MM97].

11. This conclusion was reached as a result of arguments and, crucially, evidence put forward at the Examination in Public. These were considered by the Inspector, who is both very experienced and highly qualified. The arguments such as those now being advanced by the applicant in paragraphs 67 and 68 are not new, and they were considered at the EiP. The applicant's agent could have attended the EiP, but did not.

12. The opening words of Policy 16.3 are *In order to promote create and preserve inclusive, mixed and balanced communities...* This is a clear reference to Paragraph 62 (previously 61) of the NPPF and to claim, as the applicant does in paragraph 68, that there is a conflict with the NPPF is a misreading.

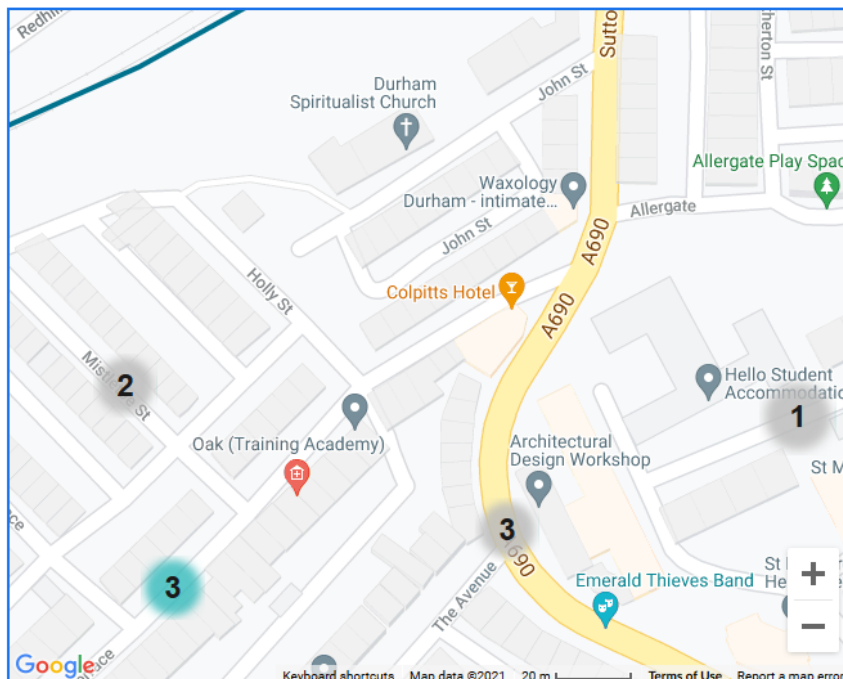
13. Turning to the applicant's paragraph 72, the applicant has again referred to multiple appeals without giving any references. It would appear that these were determined before

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the adoption of the County Durham Plan and must carry little weight. The applicant says that “the impact of one additional bed space will be inconsequential.” In fact, because Bedroom 3 is undersized, it would be two extra bedrooms. But this drip-by-drip approach can over time lead to a deterioration in the quality of life locally. This is precisely the point the Inspector made in paragraph 258 quoted above.

14. At paragraph 90 the applicant claims that “ in the last 24 months (May 2019 to April 2021), there were no reported incidents of anti-social behaviour ['ASB'] on Hawthorn Terrace investigated by the Police. There were five report ASB incidents on John Street.” This is based on his interpretation of a set of crime maps. Although the source is not given, we believe it to be <https://www.police.uk/pu/your-area/durham-constabulary/durham-durham-city/?tab=CrimeMap>
15. The police map every crime in a street to a central point in that street. In the case of Hawthorn Terrace, that point is just off the bottom of the maps in the applicant's Appendix I. By reframing the map, the true position becomes clear. This example is from June 2020:

Click on a hotspot to see more details. Alternatively, [view as A-Z list](#).



Edit crime type and time period

Anti-social behaviour (71)

June 2020

3 crimes were reported here in June 2020

Anti-social behaviour 3


[View crime definitions](#)

[Download area crime data](#)

16. In fact between May 2019 and April 2021 there were 17 crimes the police classified as *anti-social behaviour* in Hawthorn Terrace. In addition, ASB can escalate. There were ten *criminal damage and arson*, two *public order* offences and one *violence / sexual offence*, a total of 30 crimes impacting on the public at large. There were eight other crimes of burglary or theft which we would not class as anti-social behaviour in a broader sense. On John Street as well as five instances of anti-social behaviour there were three criminal damage, three public order and one possession of a weapon. That totals to 42 crimes of anti-social behaviour or something more serious, an average of 1.75 incidents per month, not 0.2.

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17. These crimes are listed in Appendix A along with those for the streets leading off Hawthorn Terrace. These were downloaded from <https://data.police.uk/data/> by selecting the date range and Durham Constabulary. The link is available on the [Download area crime data](#)  Crime Maps as and can be seen on each of the applicant's *Police Crime Reports* in the bottom right-hand corner.
18. Over the whole area surveyed there were 83 anti-social behaviour, 21 criminal damage, 7 public order and one possession of a weapon, as well as 10 burglaries, 6 bicycle thefts, 3 other thefts and 3 vehicle crimes.
19. The applicant's paragraphs 92 to 99 amount to wishful thinking. When anti-social behaviour takes place after 11pm it can be very difficult to catch offenders, due to police and University resources being stretched. Local residents report difficulty in getting through on 101.
20. The applicant's paragraph 108 reaches the wrong conclusion. Paragraph 258 of the Inspector's final report, quoted above, makes it clear that upgrading accommodation is in order, but not increasing the number of bedrooms.
21. We cannot agree that a development plan so recently approved is "clearly flawed". The applicant is glossing over the cumulative effect of adding extra bedrooms, a risk also recognised in paragraph 258.
22. Turning now to design, this part of the City centre conservation area relies upon the repetitive design and integrity of its detailing for its character and its quality. Although the proposals are for the rear of the property, this is on view from Holly St, the end of John St and the footpath between the two. The group that this property is part of has a repeated rear roof offshot pattern that contributes significantly to the appearance and character of the area. Adjacent properties have two storey infill blocks that should not be taken as a sound precedent – although they don't impact the upper roofline, they work against the integrity of the block. Detailing on adjacent infills is poor and the upper rear windows of the application property are also unsuitable in detail. The Design and Access statement totally fails to understand the context of the application, other than to note poor window detailing.
23. The proposed infill completely breaks the important roofline. The proposal fails because of lack of analysis of the heritage context and design because of its prominent and discordant infill. It has no balancing public benefit, adding only to the current imbalance caused by the local student population.
24. These failings mean that the application does not meet the requirements of County Durham Plan Policy 29, and in particular its section on Extensions and Alterations:

Proposals for alterations and extensions to residential property, and development associated with the incidental enjoyment of a dwelling, should ensure the development is sympathetic to the existing building(s) and the character and appearance of the area in terms of design, scale, layout, roof design and materials.

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25. The applicant has overlooked paragraph 5.303, in the supporting text for Policy 29. This refers to the council's *Residential Amenity Standards Supplementary Planning Document* which sets down standards for alterations, extensions and distances between new dwellings. In particular, it sets minimum privacy distances (paragraph 3.2). The ones that are relevant to this case are from the main facing elevation to main facing elevation containing window/s serving a habitable room:
- 21 metres between two storey buildings
  - 18 metres between bungalows
26. The distance between the main facing elevations of 50 Hawthorn Terrace and 9 John Street is 16 metres. At lower ground level (where the view is blocked by a wall) it is 13.4 metres. This proposal would create a full height extension with views over the back wall into the corresponding house in John Street only 13.4 metres away.
27. There are further provisions in paragraphs 3.3 and 3.4 to increase the distance even further if there are more storeys (the proposed extension would be three storeys) or if there is a difference in height (John Street is about 4 metres lower than Hawthorn Terrace). Paragraphs 3.5 and 3.6 say the standards should not be applied rigorously and that in some circumstances such as urban areas shorter distances may be considered. But the shortfall is so great that these provisions cannot help.
28. Paragraph 3.7 says
- Nevertheless, where new development forms an interface with existing housing any relaxation in standards will only be permitted where it is clearly demonstrable that the privacy of existing residents will not be significantly compromised. Prospective residents can decide whether or not to move into a new house unlike existing residents who have already invested in their homes. It is therefore important to ensure that the amenity that existing residents can reasonably expect to enjoy is not significantly compromised.
29. Read this in conjunction with the submission from Professor Weeks, who has lived in his house in John Street for the past 26 years. He says “The proposed extension would add a further two windows with a line of sight into my bedroom and that of my daughter.”
30. The SPD is a 2020 document and supersedes any earlier ones that may have permitted other extensions elsewhere. The applicant has not attempted to address it, indeed it is difficult to see how he could demonstrate how the privacy of existing residents will not be significantly compromised. The application should be refused on these grounds alone.
31. In conclusion, we urge you to refuse this application because:
- It is contrary to County Durham Plan Policy 16.3 and none of the exceptions apply;
  - It fails to recognise the extent of anti-social behaviour in this area
  - It is poorly designed and certainly not fit for this conservation area.
  - It would compromise the privacy of existing residents.

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Yours sincerely

John Lowe

Chair, City of Durham Trust

Appendix A follows



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## Appendix A: Crime reports May 2019 – April 2021

Month	Location	Crime type
2019-06	On or near Hawthorn Terrace	Anti-social behaviour
2019-06	On or near Hawthorn Terrace	Anti-social behaviour
2019-10	On or near Hawthorn Terrace	Anti-social behaviour
2019-10	On or near Hawthorn Terrace	Violence and sexual offences
2019-11	On or near Hawthorn Terrace	Burglary
2019-11	On or near Hawthorn Terrace	Burglary
2019-11	On or near Hawthorn Terrace	Other theft
2020-01	On or near Hawthorn Terrace	Anti-social behaviour
2020-02	On or near Hawthorn Terrace	Bicycle theft
2020-02	On or near Hawthorn Terrace	Burglary
2020-02	On or near Hawthorn Terrace	Burglary
2020-02	On or near Hawthorn Terrace	Burglary
2020-03	On or near Hawthorn Terrace	Anti-social behaviour
2020-06	On or near Hawthorn Terrace	Anti-social behaviour
2020-06	On or near Hawthorn Terrace	Anti-social behaviour
2020-06	On or near Hawthorn Terrace	Anti-social behaviour
2020-06	On or near Hawthorn Terrace	Criminal damage and arson
2020-06	On or near Hawthorn Terrace	Criminal damage and arson
2020-06	On or near Hawthorn Terrace	Criminal damage and arson
2020-06	On or near Hawthorn Terrace	Criminal damage and arson
2020-06	On or near Hawthorn Terrace	Criminal damage and arson
2020-06	On or near Hawthorn Terrace	Criminal damage and arson
2020-07	On or near Hawthorn Terrace	Anti-social behaviour
2020-07	On or near Hawthorn Terrace	Anti-social behaviour
2020-08	On or near Hawthorn Terrace	Anti-social behaviour
2020-10	On or near Hawthorn Terrace	Public order
2020-11	On or near Hawthorn Terrace	Anti-social behaviour
2020-11	On or near Hawthorn Terrace	Anti-social behaviour
2020-11	On or near Hawthorn Terrace	Bicycle theft
2020-11	On or near Hawthorn Terrace	Public order
2021-01	On or near Hawthorn Terrace	Anti-social behaviour
2021-01	On or near Hawthorn Terrace	Anti-social behaviour
2021-02	On or near Hawthorn Terrace	Anti-social behaviour
2021-02	On or near Hawthorn Terrace	Criminal damage and arson
2021-03	On or near Hawthorn Terrace	Anti-social behaviour
2021-03	On or near Hawthorn Terrace	Criminal damage and arson
2021-04	On or near Hawthorn Terrace	Criminal damage and arson
2021-04	On or near Hawthorn Terrace	Criminal damage and arson
2019-05	On or near John Street	Public order
2019-08	On or near John Street	Possession of weapons
2019-11	On or near John Street	Criminal damage and arson
2020-02	On or near John Street	Criminal damage and arson
2020-02	On or near John Street	Public order
2020-07	On or near John Street	Burglary
2020-08	On or near John Street	Criminal damage and arson



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2020-09	On or near John Street	Anti-social behaviour
2020-09	On or near John Street	Anti-social behaviour
2020-10	On or near John Street	Anti-social behaviour
2020-10	On or near John Street	Anti-social behaviour
2020-11	On or near John Street	Public order
2021-02	On or near John Street	Anti-social behaviour
2021-03	On or near John Street	Burglary
2020-01	On or near Holly Street	Criminal damage and arson
2020-12	On or near Holly Street	Anti-social behaviour
2021-01	On or near Holly Street	Criminal damage and arson
2021-03	On or near Holly Street	Anti-social behaviour
2019-10	On or near Mistletoe Street	Anti-social behaviour
2019-10	On or near Mistletoe Street	Anti-social behaviour
2019-11	On or near Mistletoe Street	Anti-social behaviour
2019-11	On or near Mistletoe Street	Criminal damage and arson
2020-06	On or near Mistletoe Street	Anti-social behaviour
2020-06	On or near Mistletoe Street	Anti-social behaviour
2020-06	On or near Mistletoe Street	Criminal damage and arson
2020-07	On or near Mistletoe Street	Anti-social behaviour
2020-07	On or near Mistletoe Street	Anti-social behaviour
2020-07	On or near Mistletoe Street	Anti-social behaviour
2020-08	On or near Mistletoe Street	Anti-social behaviour
2020-10	On or near Mistletoe Street	Anti-social behaviour
2020-10	On or near Mistletoe Street	Public order
2021-02	On or near Mistletoe Street	Anti-social behaviour
2019-06	On or near Lawson Terrace	Anti-social behaviour
2019-08	On or near Lawson Terrace	Public order
2019-10	On or near Lawson Terrace	Anti-social behaviour
2019-11	On or near Lawson Terrace	Bicycle theft
2019-11	On or near Lawson Terrace	Criminal damage and arson
2020-03	On or near Lawson Terrace	Other theft
2020-06	On or near Lawson Terrace	Criminal damage and arson
2021-01	On or near Lawson Terrace	Burglary
2021-01	On or near Lawson Terrace	Vehicle crime
2021-03	On or near Lawson Terrace	Anti-social behaviour
2021-04	On or near Lawson Terrace	Violence and sexual offences
2021-04	On or near Lawson Terrace	Violence and sexual offences
2019-06	On or near Laburnum Avenue	Anti-social behaviour
2019-08	On or near Laburnum Avenue	Other theft
2019-09	On or near Laburnum Avenue	Anti-social behaviour
2019-10	On or near Laburnum Avenue	Anti-social behaviour
2019-10	On or near Laburnum Avenue	Anti-social behaviour
2019-11	On or near Laburnum Avenue	Anti-social behaviour
2019-11	On or near Laburnum Avenue	Bicycle theft
2019-11	On or near Laburnum Avenue	Burglary
2019-11	On or near Laburnum Avenue	Vehicle crime
2019-11	On or near Laburnum Avenue	Vehicle crime

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2020-02	On or near Laburnum Avenue	Anti-social behaviour
2020-02	On or near Laburnum Avenue	Burglary
2020-02	On or near Laburnum Avenue	Violence and sexual offences
2020-06	On or near Laburnum Avenue	Anti-social behaviour
2020-06	On or near Laburnum Avenue	Anti-social behaviour
2020-06	On or near Laburnum Avenue	Anti-social behaviour
2020-07	On or near Laburnum Avenue	Anti-social behaviour
2020-07	On or near Laburnum Avenue	Anti-social behaviour
2020-07	On or near Laburnum Avenue	Anti-social behaviour
2020-07	On or near Laburnum Avenue	Anti-social behaviour
2020-07	On or near Laburnum Avenue	Violence and sexual offences
2020-08	On or near Laburnum Avenue	Anti-social behaviour
2020-08	On or near Laburnum Avenue	Anti-social behaviour
2020-08	On or near Laburnum Avenue	Criminal damage and arson
2020-09	On or near Laburnum Avenue	Anti-social behaviour
2020-10	On or near Laburnum Avenue	Anti-social behaviour
2020-10	On or near Laburnum Avenue	Anti-social behaviour
2020-11	On or near Laburnum Avenue	Anti-social behaviour
2020-11	On or near Laburnum Avenue	Anti-social behaviour
2020-11	On or near Laburnum Avenue	Anti-social behaviour
2020-12	On or near Laburnum Avenue	Anti-social behaviour
2021-02	On or near Laburnum Avenue	Anti-social behaviour
2021-02	On or near Laburnum Avenue	Anti-social behaviour
2021-02	On or near Laburnum Avenue	Anti-social behaviour
2021-03	On or near Laburnum Avenue	Anti-social behaviour
2021-03	On or near Laburnum Avenue	Anti-social behaviour
2021-03	On or near Laburnum Avenue	Anti-social behaviour
2021-04	On or near Laburnum Avenue	Criminal damage and arson
2019-09	On or near May Street	Anti-social behaviour
2019-10	On or near May Street	Anti-social behaviour
2019-10	On or near May Street	Anti-social behaviour
2019-11	On or near May Street	Anti-social behaviour
2020-01	On or near May Street	Anti-social behaviour
2020-02	On or near May Street	Anti-social behaviour
2020-03	On or near May Street	Bicycle theft
2020-03	On or near May Street	Bicycle theft
2020-06	On or near May Street	Anti-social behaviour
2020-06	On or near May Street	Anti-social behaviour
2020-06	On or near May Street	Anti-social behaviour
2020-06	On or near May Street	Anti-social behaviour
2020-08	On or near May Street	Anti-social behaviour
2020-09	On or near May Street	Anti-social behaviour
2021-02	On or near May Street	Anti-social behaviour
2021-02	On or near May Street	Anti-social behaviour
2021-03	On or near May Street	Anti-social behaviour

Source: <https://data.police.uk/data/> then select date range and Durham Constabulary

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