

# THE CITY OF DURHAM TRUST

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Durham, DH1 1TH  
10 August 2021

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

Dear Mr Spurgeon,

**DM/21/02626/FPA | Change of use from small HMO (use class C4) to a sui generis HMO. | 9 John Street Durham DH1 4DE**

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. 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.
3. 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 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.

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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 for a change of use from C4 to *sui generis* that will result in an increase of one bedspace. The HMO percentage is 70.2% 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 permission granted in 2013 for a dormer window (applicant's statement paragraph 2) was for the rear south-east facing roof slope, not north-facing as stated.
8. The applicant alludes to appeal decisions without giving any references so it is not possible to check these.
9. The Design and Access/Heritage Statement appears to have been based on that for planning application DM/21/02447/FPA and has not been fully amended. So:
- Pedestrian and vehicular access is from Sutton Street (not Hawthorn Terrace/Juniper Way as paragraph 12 states);
  - John Street is actually in CPZ Zone K not H (paragraph 51 and figure 5). The applicant has misread the map in figure 5, which shows CPZ Zone N.
  - Paragraph 88 is garbled: the words *there were no reported incidents of* seem to be superfluous.

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10. The key views (paragraph 19) include from the East Coast main railway line which passes within 70 metres of 9 John Street.
11. The Design and Access Statement (paragraphs 60 to 64) 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 the percentage in the same postcode should be used instead, 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 4DE are within 60 metres of the application site.
12. 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.
13. 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].
14. 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 64 and 65 are not new, and they were considered at the EiP. The applicant's agent could have attended the EiP, but did not.

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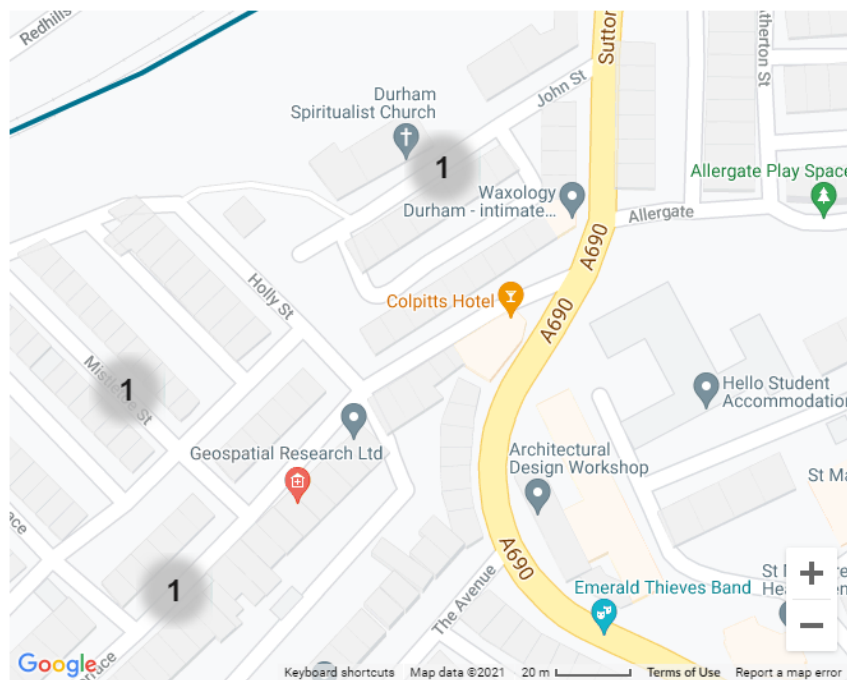
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15. The opening words of Policy 16.3 are *In order to promote create and preserve inclusive, mixed and balanced communities...* This is a clear reference to Paragraph 62 (previously 61) of the NPPF and to claim, as the applicant does in paragraph 65, that there is a conflict with the NPPF is a misreading.
16. Turning to the applicant's paragraph 69, the applicant has again referred to multiple appeals without giving any references. It would appear that these were determined before 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." 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. This is borne out by the submission from Professor Weeks, who testifies to "the cumulative effect of many such additions".
17. At paragraph 88 the applicant claims that "in 24 months (May 2019 to April 2021), [...] there were only five reported anti-social behaviour ['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>
18. The Applicant's Appendix 1 appears to show a relatively crime-free area. However, the police map every crime in a street to a central point in that street. In the case of Hawthorn Terrace, which is adjacent to John Street, that point is just off the bottom of the maps in the applicant's Appendix 1. By reframing the map, the true position becomes clear. This example is from February 2021:

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

Edit crime type and time period



Anti-social behaviour (54)

February 2021

[View crime definitions](#)

[Download area crime data](#)

19. Between May 2019 and April 2021 there were, as the applicant states, five crimes the police classified as *anti-social behaviour* in John Street. But ASB can escalate. There were three *criminal damage and arson*, three *public order* offences and one *possession of weapons*, a total of 12 crimes impacting on the public at large. There were two other crimes of burglary which we would not class as anti-social behaviour in a broader sense. That totals to 12 crimes of anti-social behaviour or something more serious, an average of 0.5 incidents per month, not 0.2.
20. These crimes are listed in Appendix A along with those for other streets in the Viaduct area. These were downloaded from <https://data.police.uk/data/> by selecting the date range and Durham Constabulary. The link is available on the Crime Map [Download area crime data](#) and can be seen on each of the applicant's *Police Crime Reports* in the bottom right-hand corner.
21. 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. The NPPF paragraph 130(f) states
- Planning policies and decisions should ensure that developments:
- [...]
- (f) create places that are safe, inclusive and accessible and which promote health and well-being, with a high standard of amenity for existing and future users; and where crime and disorder, and the fear of crime, do not undermine the quality of life or community cohesion and resilience.

Clearly this is not the case in this part of Durham and the need is not to exacerbate the situation any further.

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22. The applicant's paragraphs 90 to 97 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.
23. The applicant's paragraph 106 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.
24. We cannot agree, as the applicant's paragraph 107 claims, 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.
25. Although the applicant asserts (paragraphs 108 and 109) that there is no conflict with Policy 29 of the County Durham Plan, there are two grounds where there is a conflict.
26. It is accepted that the proposal meets the lower standards of the Council's requirements for houses in multiple occupation (applicant's paragraph 6). However, bedroom 2 has an area of 7.29m<sup>2</sup>, which is less than the Nationally Described Space Standard for a bedroom, which is 7.5m<sup>2</sup>. Any planning application for new residential development approved after 21 October 2021 must comply with this standard (Policy 29, *Buildings*). Paragraph 5.283 of the County Durham Plan states
- This policy addresses all new development in the built environment including new housing and other new buildings, as well as extensions, alterations and changes of use of existing buildings.
- and this makes it clear that conformity with the NDSS applies to changes of use and alterations.
27. We cannot accept, as the applicant states in paragraph 5, that there are no changes to the property's external envelope. True, the footprint has not changed, but the door to the rear yard has been replaced with a double door. These extracts from the existing and proposed plans and elevations make this quite clear:

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28. No details are given of the materials, glazing, etc. Increasing the amount of glazing will increase the heat loss, and so also increase the amount of heating needed, unless counter measures are taken. Policy 29(c) of the County Durham Plan and City of Durham Neighbourhood Plan Policy S1(h) both require minimising greenhouse gas / carbon emissions.
29. County Durham Plan Policy 29 requires that *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*. City of Durham Neighbourhood Plan Policy H2(j) requires development proposals within the Conservation Area to *sustain and enhance its significance by ... having materials, details and lighting appropriate to the vernacular, context and setting*. As no details are given of the materials it is not possible to assess this.
30. The double doors into the yard are an invitation to socialise in the yard, with an increase in the noise heard by neighbouring properties. 9 John Street is already much closer to the properties at the back in Hawthorn Terrace than the Council's recently introduced Residential Amenity Standards SPD requires – 16 metres from the back wall as opposed to the 21 metres as required by the standard. The yard is of course closer. County Durham Plan Policy 31 states that

*Development which has the potential to lead to, or be affected by, unacceptable levels of air quality, inappropriate odours, noise and vibration or other sources of pollution,*

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*either individually or cumulatively, will not be permitted including where any identified mitigation cannot reduce the impact on the environment, amenity of people or human health to an acceptable level.*

This development has the potential to lead to unacceptable levels of noise pollution.

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
- The double doors to the rear yard do not meet the requirements of either County Durham Plan Policy 29 nor City of Durham Neighbourhood Plan Policies S1 and H2.
- There is a potential for the increased access to the rear yard to lead to an unacceptable level of noise contrary to County Durham Plan Policy 31.

Yours sincerely

John Lowe

Chair, City of Durham Trust



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

Month	Location	Crime type
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
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
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

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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
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
2019-10	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	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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