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## Appeal Decision

Site visit undertaken on 20 May 2026

**by F P Tinsley MA (Hons) MBA MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 7 July 2026

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### **Appeal Ref: 6005148**

#### **3 - 5 Birch Street, Jarrow, South Tyneside NE32 5HY**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
  - The appeal is made by Mr Jamie Byrne against the decision of South Tyneside Council.
  - The application reference is: 250681
  - The development proposed is 'Change of use of vacant ground floor shop and first floor flat to 9 bedroom House in Multiple Occupation [HMO] with single storey rear extensions and alterations to existing elevations
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### **Decision**

1. The appeal is allowed and planning permission is granted for change of use of vacant ground floor shop and first floor flat to 9 bedroom House in Multiple Occupation (HMO) with single storey rear extensions and alterations to existing elevations at 3 - 5 Birch Street, Jarrow, South Tyneside NE32 5HY in accordance with the terms of the application, Ref 250681, subject to the conditions in the attached schedule.

### **Preliminary Matters**

2. The description of the development set out on the application form differs from that stated on the Council's decision notice. For the purposes of this appeal, I have adopted the description contained within the decision notice, as this more accurately describes the development shown on the plans on which the Council based its decision. The appeal has therefore been determined on this basis.
3. The emerging South Tyneside Local Plan (STLP) was submitted for examination in March 2025, and the Inspector issued their Stage 2 post-hearing letter on 12 February 2026. Consultation on the Main Modifications commenced in March 2026 and closed on 25 April 2026. Representations on the Main Modifications were published on 8 May 2026. The weight to be given to the emerging policies depends on the extent of unresolved objections, their degree of consistency with the National Planning Policy Framework (the Framework) and the comments of the Inspector in their post-hearing letter. Where relevant, I have referred to these policies and attributed appropriate weight to them in my decision.

### **Main Issues**

4. The main issues in this appeal are the effect of the proposed development on:

- the character of the area and the living conditions of neighbouring residents with regard to disturbance;
- parking provision and highway safety; and
- the integrity and relevant features of the Durham Coast Special Area of Conservation, the Northumbria Coast Special Protection Area, and the Northumbria Coast Ramsar Site.

## Reasons

### *Character and living conditions*

5. The appeal site comprises a mid-terrace property consisting of a ground-floor commercial unit (Use Class E), accessed from the front elevation, and a first-floor two-bedroom flat (Use Class C3), accessed via a rear laneway. At the time of my site visit, the building was vacant and appeared to have been so for a considerable period.
6. The site is located within a predominantly residential area of Jarrow. It is bounded to the west by residential properties on Birch Street and to the east by what appear as residential properties on Hill Street. To the north lies the public highway, beyond which is Birch Grove sheltered accommodation. To the north-east, at the junction of Hill Street and Grant Street, there is a children's home.
7. Policy DM4 of the South Tyneside Local Development Framework Development Management Policies (2011) is supported by explanatory text which recognises that higher density housing, including more intensive forms of development, can make a valuable contribution towards meeting identified housing needs. However, the policy also seeks to ensure that such development does not give rise to adverse impacts on residential amenity or undermine the character and appearance of the surrounding area. In particular, the supporting text advises that proposals involving the conversion of properties to larger Houses in Multiple Occupation (HMOs) will generally be discouraged within areas characterised by predominantly single-family housing. This approach is consistent with the objectives of the Framework, which emphasise the need to meet housing needs through an appropriate mix of housing types, whilst promoting safe, inclusive and accessible environments that deliver a high standard of amenity for both existing and future occupiers.
8. There is no clear definition or size threshold for what constitutes 'family housing', and there is limited substantive evidence to demonstrate that the appeal site lies within an area comprised predominantly of such accommodation. Nevertheless, my observations of the surrounding streets indicate that the area is generally typified by dwelling units occupied by single households. When considered alongside representations from interested parties, these factors suggest that the locality exhibits characteristics commonly associated with single household occupation. However, the presence of Birch Grove sheltered accommodation opposite the site, together with the children's home to the north-east at the junction of Hill Street and Grant Street, clearly indicates that the area does not consist exclusively of traditional family housing. Taking into account the range of residential uses and patterns of occupation, I conclude that the appeal site is situated within a mixed residential area rather than one characterised predominantly by single-household occupation.

9. The proposed development would provide accommodation for up to nine individuals sharing a single point of access, but living as separate households with their own individual living, working and social patterns. The use of the property as a HMO would therefore give rise to a different pattern of occupation compared with the previous mixed use of a self-contained flat and a commercial unit.
10. A two-bedroom flat could reasonably be expected to accommodate two or three occupants, while a commercial use could be expected to generate a notable level of comings and goings throughout the day. Furthermore, access to the site would be taken solely from the front of the premises, rather than the combination of front and rear access associated with the existing uses. The removal of the primary access to the first-floor residential accommodation would be beneficial in reducing the potential for noise and disturbance to the rear of the premises. In this context, there is no compelling evidence to suggest that the proposed use would result in a materially greater level of activity or comings and goings than the existing uses.
11. The nearest neighbouring residential access is that of the terraced dwelling at 7 Birch Street, which is separated from the proposed access by the length of the appeal site's frontage. The entrance to the adjacent property at 39 Hill Street is located around the corner on Hill Street. This arrangement provides a degree of physical separation between access points, thereby reducing the potential for disturbance arising from comings and goings associated with the proposed HMO.
12. While there is no direct disagreement between the parties regarding the weight to be attributed to Policy 16 of the emerging STLP, which establishes a new policy test and criteria specifically for HMO development, the Council has referred to this policy in its reason for refusal. It is therefore necessary to consider the weight that should be attached to it.
13. Policies in emerging plans do not carry the same statutory force as those in adopted development plans under section 38(6) of the Planning and Compulsory Purchase Act 2004. However, the STLP is at a very advanced stage in the adoption process. Notably, in respect of Policy 16, the only proposed modifications relate to references in the supporting text to the recently adopted Article 4 Direction concerning HMOs. There are no substantive unresolved objections to the policy.
14. I also find that the policy is consistent with the Framework, noting that this matter was considered by the Inspector during the Examination, who has since issued a post-hearing letter.
15. I conclude that substantial weight should be attached to Policy 16 as a material consideration in the determination of this appeal. It aims to avoid an over-concentration of HMOs in any one area, the emergence of HMOs as the dominant dwelling type, and situations where a Class C3 dwelling would be directly 'sandwiched' between HMOs on both sides. Whilst the development would not conflict with these criteria, the policy also seeks to avoid adverse impact on the functionality and characteristics of a local area and a detrimental impact on the amenities of surrounding properties.
16. In this respect, I note the Council's comments and supporting data, which indicate that there are two licensed HMOs within a 0.5-mile radius of the site. The Council has also confirmed that there are two further HMOs on Birch Street and Holly Street in close proximity to the appeal site. Emerging Policy 16 of the STLP

identifies that, within the Lawe Top Article 4 Direction area, the proportion of HMOs should not exceed 10% of residential properties within a 100-metre radius of a proposed HMO. Whilst this threshold does not apply in the appeal site's location, it nevertheless provides a useful indication of the level at which concentrations of HMOs may begin to give rise to unacceptable cumulative impacts. However, it has also not been satisfactorily demonstrated that the development would result in an overconcentration of HMOs within the area, or that HMOs would become the dominant dwelling type to such an extent that it would adversely affect the functionality and character of the area. Equally, there is no substantive evidence before me to indicate that the building is unsuitable for conversion to a form that would provide a good standard of living space and amenity for future occupiers, and there would not be harm to neighbouring occupiers, including in terms of parking or refuse storage.

17. A number of representations from interested parties refer to the perceived incompatibility of an HMO use within a predominantly residential area. These raise concerns regarding the potential impact on the character of the area, particularly in relation to the lifestyles and activities of occupiers, and an alleged potential for crime and anti-social behaviour.
18. However, an HMO is a form of residential use which, subject to appropriate controls, such as those relating to over-concentration within a particular area, can be an appropriate use within residential settings. The proposed HMO would be subject to a statutory licensing regime, which would provide a mechanism to ensure appropriate management of the property.
19. Several representations raise concerns regarding the compatibility of the proposed HMO with nearby uses that accommodate potentially vulnerable residents. These include a development situated opposite the appeal site, which is predominantly occupied by elderly persons, and a recently constructed care facility for children located a short distance to the east. Interested parties have also referred to a neighbouring property as either a children's home or a women's refuge. While there is some uncertainty regarding the precise use and scale of activity at this premises, and whether it relates to 39 Hill Street or 7 Birch Street, the principal concerns remain consistent. These relate to the potential for increased activity at the appeal site to result in additional noise and disturbance, as well as issues surrounding the interaction between potentially vulnerable residents in the surrounding area and future occupants of the proposed HMO.
20. The proposed use of the premises as a HMO must be considered in the context of its existing use, which comprises residential accommodation at first-floor level and commercial use at ground-floor level, albeit the premises are currently vacant. Both of these established uses have the potential to generate a degree of noise and disturbance at varying times of the day and into the evening, and the proposal should be assessed against this baseline. I do not find compelling evidence to indicate that the proposal would generate a materially greater level of noise and disturbance than that which could reasonably arise from these combined uses.
21. Limited information has been provided regarding the scale and nature of the adjoining facility; consequently, the extent of any potential harm in this regard cannot be fully quantified. However, on the basis of the information available, and noting that children may also typically reside within a standard residential

environment, it is considered that the likely impacts would be comparable to those associated with a typical residential use.

22. Concerns have been raised that the Children's Homes (England) Regulations 2015 require providers to have regard to the suitability of a home's location and its surrounding environment. However, I have not been provided with substantive evidence to demonstrate that the proposed HMO would adversely affect the operation of the children's home or render its location unsuitable. Whilst I have taken these concerns into account, the suggestion that the development would undermine the objectives of the Regulations is not supported by convincing evidence in this case.
23. It has been highlighted that an adjoining occupier is particularly vulnerable due to a neurodevelopmental condition, rendering them especially sensitive to noise. However, I have not been provided with sufficiently detailed information, such as the location of their accommodation within the adjoining premises or whether those conditions would constitute a disability for the purposes of the Equality Act 2010, thereby engaging additional protections. In this context, it is therefore not possible to attribute specific additional weight to this consideration. Accordingly, I have assessed the proposal on the basis that occupiers of the adjoining premises would reasonably expect a level of noise and disturbance commensurate with that associated with a typical residential environment.
24. In determining this appeal, it is not my role to speculate on the likely occupiers of the proposed HMO. Rather, my assessment must be based on the development plan and other material planning considerations. Concerns have been raised regarding potential interactions between future HMO residents and surrounding occupiers, particularly in relation to safeguarding matters. However, such considerations do not fall within the remit of material planning considerations.
25. Whilst issues relating to crime and the fear of crime can be material planning considerations, as set out in paragraph 135(f) of the Framework, there is limited substantive evidence before me to indicate that the proposal would give rise to an increase in crime or disorder.
26. I therefore find that the development would not harm the character of the area or the living conditions of neighbouring residents, with regard to disturbance. It would therefore comply with Policies DM1 and DM4 of the DMP and emerging Policy 16 of the STLP. Amongst other things, these policies seek to ensure that development is acceptable in terms of its impact on residential amenity and does not adversely affect the character and nature of the locality.
27. The development would also accord with the Framework, in particular its objective of ensuring that development is sympathetic to local character. There is no evidence before me to indicate that it would conflict with the social objective of sustainable development set out in paragraph 8, which requires the planning system to support strong, vibrant and healthy communities. Similarly, paragraph 92 emphasises the importance of creating safe and inclusive places, while paragraph 135 requires development to secure a high standard of amenity for existing and future users. For the reasons given above, I find that the proposal would comply with those objectives.

#### *Parking and highway safety*

28. During my site visit on a weekday morning, I did not observe any parking stress on Birch Street or the surrounding streets, although it is reasonable to expect that parking demand fluctuates throughout the day.
29. The South Tyneside Local Development Framework SPD 6: Parking Standards (2010) sets out the relevant parking requirements for new development. For Houses in Multiple Occupation falling within Use Class C4 in urban areas, it specifies a maximum provision of one parking space per five occupants, together with one additional space per five occupants for visitors. Whilst the proposal would not fall within Use Class C4, these standards provide a useful indication of the level of parking provision that may be considered appropriate for broadly comparable forms of shared accommodation. On the basis of a maximum of nine residents, the proposal would generate a requirement for two resident parking spaces and two visitor parking spaces. Although this level of provision exceeds the maximum of two spaces typically applied to a Use Class C3 dwellinghouse or flat, the appeal site previously comprised both a residential unit and a commercial unit. Applying the standards within SPD 6, the former commercial unit (shop) would generate a requirement of one parking space per 30 square metres of gross floor area, equating to at least two spaces. Taken together, the previous mixed use would therefore generate a level of parking demand broadly comparable to that associated with the proposed HMO.
30. Notwithstanding these standards, the appeal site is located within a short walking distance of Jarrow Metro Station. Jarrow town centre, approximately 500 metres from the site, is also served by a number of frequent bus services, providing a high level of accessibility by public transport. This, together with the availability of local services and facilities in Jarrow town centre, would be likely to reduce reliance on private car use by future occupiers of the HMO and thereby limit additional parking demand. Furthermore, secure cycle parking could be provided to the rear of the premises and secured by condition.
31. The Highway Authority raised no objection to the proposal and advised that the proposed use would be likely to generate less traffic than the lawful use of the site.
32. In the absence of compelling evidence to the contrary, I conclude that the development would not give rise to an unacceptable impact on parking provision or highway safety in the area. In reaching this conclusion, I note that paragraph 116 of the Framework states that development should only be prevented or refused on highways grounds where there would be an unacceptable impact on highway safety, or where the residual cumulative impacts on the road network would be severe, taking into account all reasonable future scenarios.
33. For these reasons, the development would accord with Policies DM1 and DM4 of the DMP which, amongst other things, seek to ensure that development is acceptable in terms of highway capacity and safety and does not adversely affect existing traffic or parking conditions. It would also accord with the Framework's objectives of providing safe and suitable access for all users and avoiding unacceptable impacts on highway safety.

#### *European protected sites*

34. The proposal comprises residential development within the 6km Zone of Influence (Zoi) of the Durham Coast Special Area of Conservation (SAC) and the Northumbria Coast Special Protection Area (SPA) and Ramsar Site. Accordingly, it

is necessary to consider, under the Conservation of Habitats and Species Regulations 2017 (as amended), the potential for indirect effects on these designated sites arising from increased recreational pressure associated with new residents.

35. The proposal would provide accommodation for up to nine individuals. Applying the precautionary principle, I consider that this could result in additional occupants compared to the fallback position of one flat or a single dwelling. On this basis, and taking account of the site's location within the Zol, I am satisfied that likely significant effects on the European sites cannot be ruled out. An Appropriate Assessment is therefore required.
36. The Durham Coast SAC and the Northumbria Coast SPA and Ramsar Site overlap in this location. The SAC is designated for its vegetated sea cliffs of magnesian limestone, which are particularly sensitive to changes in environmental conditions, including nutrient enrichment and physical damage. The SPA and Ramsar Site support internationally important populations of bird species, including purple sandpiper and turnstone, which are vulnerable to disturbance from increased human activity. These species are known to utilise areas beyond the designated site boundaries, particularly for foraging and roosting.
37. The proposal would likely result in a modest increase in the number of residents within the Zol. Whilst the scale of development is limited, it is reasonable to expect a corresponding increase in recreational visits to the coast. This gives rise to a potential increase in disturbance to qualifying features of the SAC, SPA and Ramsar Site. In the absence of mitigation, and when considered in combination with other plans and projects, these effects are capable of being significant. No other impact pathways have been identified.
38. The Council has undertaken a Habitats Regulations Assessment in support of its Local Plan, which identified that increased recreational pressure from residential development poses a risk to the integrity of these coastal European sites. In response, it has prepared the South Tyneside Interim Supplementary Planning Document 23: Mitigation Strategy for European Sites (Recreational Pressure from Residential Development) (2018) (SPD23), which establishes a strategic approach to mitigation.
39. SPD23 sets out a coordinated mitigation strategy, funded through developer contributions from residential schemes within the 6km Zol. Whilst financial contributions are not sought from developments of the scale proposed in this case, the strategy is designed to mitigate the cumulative impacts of both major and minor residential development across the area. As the statutory nature conservation body, Natural England has confirmed that a strategic approach to mitigating for increased recreation pressure at the coast is the most favourable way forward.
40. Taking into account the Council's strategic mitigation approach, I am satisfied that appropriate measures are in place to address the additional recreational pressure arising from the proposal. Having undertaken an Appropriate Assessment, I conclude that the development, either alone or in combination with other plans and projects, would not adversely affect the integrity of the Durham Coast SAC or the Northumbria Coast SPA and Ramsar Site, having regard to their conservation objectives.

41. In light of this conclusion, it is not necessary to consider alternative solutions or imperative reasons of overriding public interest. I am therefore satisfied that the requirements of the Habitats Regulations are met.

### **Other Matters**

42. The matter of the loss of potentially a family home as a result of the development has been raised. Whilst I note that the previous use included a flat, which are not typically regarded as family housing, there remains the potential for it to be occupied by a family. Nevertheless, the development would provide accommodation for up to nine residents in place of the existing residential unit and return what has been a vacant property for some time to active use. Furthermore, I have not been directed to any planning policy that seeks to prioritise the retention or re-provision of family housing over other forms of residential accommodation in the circumstances of this case.
43. Concerns have been raised regarding noise, disturbance and traffic associated with the construction phase. Whilst I recognise that some temporary inconvenience may arise, the works required to facilitate the change of use would be limited in scale and any associated impacts would be short term in nature. Consequently, I attach limited weight to this matter in determining the appeal.
44. I note the objections relating to the potential impact on surrounding property values. However, this is not a matter that can be taken into account in planning decisions, as it does not constitute a material planning consideration. Accordingly, I afford it no weight.
45. Concerns have also been raised regarding drainage, sewage capacity, utilities infrastructure and waste management. However, these matters would be subject to the requirements of the Building Regulations and the provision of services by the relevant statutory undertakers. No technical evidence has been provided to demonstrate that the development would exceed the capacity of existing infrastructure. Furthermore, adequate refuse and recycling storage can be provided within the site. Accordingly, I find no substantive evidence that the proposal would result in unacceptable harm in these respects.

### **Conditions**

46. I have considered the conditions suggested by the Council against the tests set out in the Framework. Where necessary, I have amended their wording in the interests of precision and enforceability. The appellant had the opportunity to review and comment on the suggested conditions, which were included within the Council's Statement of Case.
47. In the interests of certainty, I have imposed standard conditions relating to the time limit for commencement of development and compliance with the approved plans.
48. I have imposed a condition requiring that external materials are similar to the existing building to ensure that the appearance of the development is sympathetic to the character and appearance of the area.
49. I have imposed a condition limiting occupancy to a maximum of nine persons at any one time and requiring the provision and retention of nine bedrooms. This is necessary to define and control the scale of the use hereby permitted in the

interests of safeguarding the living conditions of surrounding occupiers and ensuring highway safety.

50. Conditions requiring the provision and retention of bin and cycle storage are imposed to safeguard the living conditions of future occupiers and to ensure the availability of secure cycle parking, in the interests of highway safety and promoting sustainable modes of transport.
51. I have imposed a condition restricting construction hours in order to protect the living conditions of neighbouring occupiers during the construction phase of the development.
52. To safeguard the privacy and living conditions of neighbouring and future occupiers, I have imposed a condition requiring the secondary window of bedroom six facing the adjacent property to be fitted with obscured glazing and retained as such thereafter.

### **Conclusion**

53. For the reasons given above, and having had regard to all other matters raised, I allow the appeal.

*F P Tinsley*  
INSPECTOR

### **Schedule of Conditions**

1. The development to which this permission relates must be commenced not later than 3 years from the date of this decision.
2. The development shall be carried out in accordance with the approved plans as detailed below Existing and Proposed Roof Plan Drg. No. Sheet 3 received 03/11/2025; Existing and Proposed Site Plan Drg. No. Sheet 7 received 03/11/2025; Amended Proposed Elevations Drg. No. Sheet 6 Rev.B received 27/01/2026; Proposed Plans Drg. No. Sheet 5 received 03/11/2025.
3. The materials used in the construction of the external alterations hereby permitted shall be of a similar appearance to those used in the construction of the exterior of the existing building.
4. The HMO use hereby permitted shall be limited to a maximum occupancy at any one time of nine persons and the provision of 9 no. bedrooms as shown on the drawings as listed in condition 2.
5. The HMO use hereby approved shall not commence until bin storage for that use has been provided within the application site in full accordance with the approved Existing and Proposed Site Plan Drg. No. Sheet 7 received 03/11/2025 as listed in condition 2. Thereafter, such bin storage shall be available for use at all times and shall be retained in perpetuity thereafter.

6. The HMO use hereby approved shall not commence until covered and secure cycle parking for a minimum of 11no. cycles has been provided within the application site in full accordance with details to be submitted to, and approved in writing by, the Local Planning Authority. Thereafter, this approved cycle parking shall be available at all times and shall not be used for any purpose other than the parking of cycles associated with the use.
7. No construction or associated works or deliveries of materials shall take place outside the hours of 8am - 6pm Monday to Friday and 9am - 1pm Saturdays and no such works or deliveries shall be carried out at any time on Sundays or Public Holidays.
8. At all times following commencement of the use hereby permitted, the window to bedroom 6 facing east towards No.39 Hill Street shall be glazed with obscured glass and non-opening unless the parts of the window which can be opened are more than 1.7 metres above the floor of the room in which the window is installed.

**\*\*End of Schedule\*\***