

COMMITTEE REPORT

APPLICATION DETAILS

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| APPLICATION NO: | DM/18/03308/FPA |
| FULL APPLICATION DESCRIPTION: | Change of use from hairdressing training centre to 8 bed house in multiple occupation (sui generis) (amended plan). |
| NAME OF APPLICANT: | Mrs Leeka Xu |
| ADDRESS: | 35 Front Street, Framwellgate Moor Durham. DH1 5EE |
| ELECTORAL DIVISION: | Framwellgate Moor |
| CASE OFFICER: | Susan Hyde Planning Officer 03000 263961 |

DESCRIPTION OF THE SITE AND PROPOSALS

The Site

1. The application site forms a two storey terraced double fronted property with roof lights in the roof space and with an integral garage located with the front elevation fronting Front Street. The location is sited within the local centre of Framwellgate Moor. Attached to the application site to the south is a social club and to the north is a dwelling and then a barber's shop. Across Front Street to the east is Framwellgate community centre and to the rear of the property to the west are residential dwellings accessed from Alexandra Close. The property is currently vacant, and the last use of the building was as a training centre for hairdressing. To the rear of the property is a private grassed and paved area accessed through the property only.

The Proposal

2. This application seeks consent to change the use of the property from the vacant hair dressing training centre to a house in multiple occupation with 8 bedrooms that each have en suite facilities and a communal open plan lounge and dining kitchen on the ground floor. Bedroom accommodation is provided with one bedroom on the ground floor, five bedrooms on the first floor and two bedrooms on the second floor in the roof space illuminated by roof lights. The plans have been amended to remove the parking spaces to the rear which were accessed through the garage and retain the garage for tandem parking only. The rear of the property is proposed to be used as a garden only. No external alterations or extensions are proposed on the property.
3. The application is before Members at the request of Councillor Mark Wilkes as he is concerned about the impact of the development on car parking in the locality.

PLANNING HISTORY

4. 4/02/00805/FPA - Change of use and conversion of existing dwelling to offices, construction of a pitched roof, two storey side extension, single storey front and rear and erection of detached garages, store and workshop. Approved .
5. 4/05/00294/FPA – Change of use from office to hairdressing training centre – Approved and implemented.

PLANNING POLICY

NATIONAL POLICY

6. The following elements of the National Planning Policy Framework (NPPF) are considered relevant to this proposal:
7. NPPF Part 5 Delivering a Sufficient Supply of Homes - To support the Government's objective of significantly boosting the supply of homes, it is important that a sufficient amount and variety of land can come forward where it is needed, that the needs of groups with specific housing requirements are addressed and that land with permission is developed without unnecessary delay.
8. NPPF Part 11 Making Effective Use of Land - Planning policies and decisions should promote an effective use of land in meeting the need for homes and other uses, while safeguarding and improving the environment and ensuring safe and healthy living conditions. Strategic policies should set out a clear strategy for accommodating objectively assessed needs, in a way that makes as much use as possible of previously-developed or 'brownfield' land.
9. NPPF Part 12 Achieving Well-Designed Places - The Government attaches great importance to the design of the built environment, with good design a key aspect of sustainable development, indivisible from good planning.
10. NPPF Part 15 Conserving and Enhancing the Natural Environment - Conserving and enhancing the natural environment. The Planning System should contribute to and enhance the natural and local environment by protecting and enhancing valued landscapes, geological conservation interests, recognising the wider benefits of ecosystems, minimising the impacts on biodiversity, preventing both new and existing development from contributing to or being put at unacceptable risk from pollution and land stability and remediating contaminated or other degraded land where appropriate.

<https://www.gov.uk/guidance/national-planning-policy-framework>

NATIONAL PLANNING PRACTICE GUIDANCE:

11. The Government has consolidated a number of planning practice guidance notes, circulars and other guidance documents into a single Planning Practice Guidance Suite. This document provides planning guidance on a wide range of matters. Of particular relevance to this application is the practice guidance with regards to; conserving and enhancing the historic environment; design; and use of planning conditions.

<https://www.gov.uk/government/collections/planning-practice-guidance>

LOCAL PLAN POLICY:

City of Durham Local Plan

12. *Policy H13 (Residential Areas – Impact upon Character and Amenity)* states that planning permission will not be granted for new development or changes of use which have a significant adverse effect on the character or appearance of residential areas, or the amenities of residents within them.
13. *Policy T1 (Traffic – General)* states that the Council will not grant planning permission for development that would generate traffic likely to be detrimental to highway safety and / or have a significant effect on the amenity of occupiers of neighbouring property.
14. *Policy T5 – Public Transport* – The council will encourage improvements to assist public transport services including the provision of suitable facilities and ensuring new development can be conveniently and efficiently served by public transport.
15. *Policy T10 (Parking – General Provision)* states that vehicle parking should be limited in amount, to promote sustainable transport choices and reduce the land-take of development.
16. *Policy T21 – Walking* – states that existing footpaths and public rights of way should be protected.
17. Policies Q1 and Q2 General Principles Designing for People and Accessibility states that the layout and design of all new development should consider the requirements of all users.
18. Policy Q8 Layout and Design – Residential Development sets out the Council's standards for the layout of new residential development. Amongst other things, new dwellings must be appropriate in scale, form, density and materials to the character of their surroundings. The impact on the occupants of existing nearby properties should be minimised.
19. *Policy H2 – New Housing in Durham City* – comprising windfall development of previously developed land and conversions will be permitted within the settlement boundary so long as it accords with other relevant policies within the plan.
20. *Policy H9 – Multiple occupation / student households* - seeks to ensure that where houses are sub divided or converted to flats, bedsits or multiple occupancy, they do not adversely affect the character of the area, the amenity of nearby residents and the concentration of sub-divided dwellings to the detriment of the range and variety of the local housing stock.
21. Policy S5 – Local Centres -
22. *Policy U8A – Disposal of Foul and Surface Water* – requires all new development to have satisfactory arrangements for foul and surface water disposal

23. On the 26th October 2016 an Article 4 direction that removed permitted development rights to change from a C3 dwelling to a C4 house in multiple occupation in the Framwellgate Moor Area was confirmed and adopted. Cabinet approved consultation on an Interim Policy on Student Accommodation and the consultation took place during April and May 2017. Responses received during the consultation period were considered and amendments were made to the Policy. On the 11th May 2017, Cabinet recommended that full Council adopt the revised Interim Policy. As the Interim Policy has been adopted, it can be afforded weight in the decision making process, although the weight to be afforded to it must be less than if it were part of the statutory Development Plan for the area.

RELEVANT EMERGING POLICY:

24. Paragraph 48 of the NPPF says that decision-takers may give weight to relevant policies in emerging plans according to: the stage of the emerging plan; the extent to which there are unresolved objections to relevant policies; and, the degree of consistency of the policies in the emerging plan to the policies in the NPPF. An 'Issues & Options' consultation was completed in 2016 on the emerging the County Durham Plan (CDP) and the 'Preferred Options' was approved for consultation at Cabinet in June 2018. However, the CDP is not sufficiently advanced to be afforded any weight in the decision-making process at the present time.

Five Year Housing Land Supply

25. Paragraph 73 of the updated NPPF maintains the requirement for Local Planning Authorities (LPAs) to identify and update annually a supply of specific deliverable sites sufficient to provide a minimum of five years' worth of housing against their housing requirement set out in adopted strategic policies, or against their local housing need where the strategic policies are more than five years old.
26. Within County Durham all of the extant development plans are more than five years old and their housing figures need revising so the starting point for calculating land supply will be local housing need using the Government's standard methodology. The 'Preferred Options' (June 2018) stage of the emerging County Durham Plan (CDP) is aligned with the standardised methodology and identifies a housing need figure of 1,368 dwellings per annum (dpa). The Council can demonstrate in excess of 6 years supply of deliverable housing land against this figure.
27. Although in a recent written representations appeal involving land to the south of Castlefields, Esh Winning, the Inspector took the view that supply had not been demonstrated by the Council in the terms of paragraph 74 of the Framework, the Council's view is that the Inspector applied paragraph 74 prematurely in this appeal because paragraph 74 does not allow for submission of an Annual position statement on 5 YHLS until April 2019 at the earliest. It was therefore impossible for the Council to have such an annual position statement in place at the time of the appeal.
28. To summarise, the Council's position remains that the NPPF has confirmed the use of the standard method for calculating local housing need and as the emerging CDP is aligned with the figure derived from the standardised methodology (1,368dpa), a supply in excess of 6 years supply of deliverable housing can be demonstrated when measured against this.

29. Accordingly, the weight to be afforded to the boost to housing supply as a benefit of the development is clearly less than in instances where such a healthy land supply position could not be demonstrated. This will need to be factored into the planning balance.

CONSULTATION AND PUBLICITY RESPONSES

STATUTORY RESPONSES:

30. County Highway Officer – Note that the agent has confirmed there are two in curtilage parking spaces and taking into account the sustainable location of the development they raise no objection to the proposal.
31. Environmental Health – Noise. Considers the site is located in a mixed commercial / residential area and therefore raise concerns that the proposed use could be affected by noise transfer from the commercial club next door and to the residential property adjacent to the site. As such a condition is requested that requires details of noise insulation in the proposed dwelling on the walls adjacent to the club and the residential dwelling. The Environmental Health Officer also noted that the property could be let to students which could lead to some anti-social behaviour which could be addressed through other legislation.
32. HMO officer – Provided detailed comments on the standards required for a HMO to be licensed. This application appears to meet these requirements.

PUBLIC RESPONSES:

33. The application was advertised by neighbour letters and a site notice and a further letter was sent to neighbours regarding the amended plan.
34. Objections have been received from three neighbouring properties on Front Street and Alexandra Close on the following grounds:
35. When the hairdressing training centre received consent, it did so with a plan showing car parking to the rear of the planning application site. This parking area was never provided and the access to the car park through the internal garage (with two garage doors) was not of an adequate standard to provide access to this parking.
36. Parking in the area is limited and residents and businesses are already finding parking inadequate in the locality. This proposal will make a poor situation even worse.
37. An 8 bedroom HMO will cause noise and disturbance to neighbours, and neighbours already suffer from noise from the social club and nearby student dwellings.

APPLICANTS STATEMENT:

It is my intention to convert the property to a high standard of student accommodation.

My target students will be New College students, but that wouldn't preclude any other students.

I shall appoint a local agent to manage the property on my behalf.

Each student will be made aware of their duty to behave in a responsible and respectful manner with the local residents.

The national average for students who have cars whilst at University is 46.8 percent. However, there are some colleges where it is extremely uncommon for students to have cars. I am not expecting any more than a maximum of two or three cars using the parking facility.

Please accept this statement in support of my planning application.

PLANNING CONSIDERATIONS AND ASSESSMENT

38. Having regard to the requirements of Section 38(6) of the Planning and Compulsory Purchase Act 2004 the relevant Development Plan policies, relevant guidance and all other material planning considerations, including representations received, it is considered that the main planning issues relates to the principle of development, status of the land, use class, the character and appearance of the conservation area, residential amenity, highways and environmental health.

Principle of Development

The Development Plan

39. Planning law requires that applications for planning permission must be determined in accordance with the development plan unless material considerations indicate otherwise. The NPPF is a material planning consideration. The City of Durham Local Plan (CDLP) remains the statutory development plan and the starting point for determining applications as set out in paragraph 12 of the NPPF. However, the CDLP was adopted in 2004 and was intended to cover the period to 2006 and, whilst the NPPF advises at Paragraph 213 that Local Plan policies should not be considered out-of-date simply because they were adopted prior to the publication of the NPPF, it is considered nonetheless that a policy can be out-of-date if it is based upon evidence which is not up-to-date/is time expired depending on the circumstances. In such circumstances, paragraph 11 of the NPPF is engaged and the weight to be afforded to existing Local Plan policies should depend upon their degree of consistency with policies of the NPPF.

40. The application site is located in a local centre allocation in the CDLP where policy S5 supports the provision of Class A1 shops, Class A2 service uses and Class A3 (and A4) food and drink establishments. The application site currently does not fall within this range of use classes and has an established use as a D2 training centre with the last previous use for training hairdressers.

41. From the site visit officers consider that the local centre in Framwellgate Moor is doing well with a range of local shops available including a supermarket, chemist, hairdressers etc. The application is located towards the north of the allocated area and has a residential dwelling to the adjoining north of the application site. The supporting text in para 7.39 of S5 in the local plan supports the change of use to housing in such areas provided the development does not erode the supply of land required for shopping or community facilities. In this case the application site was previously a dwelling then obtained consent in 2002 to become an office and in 2005 benefited from consent to form a D2 training centre and so has historically not been in a shop use. Given the size of Framwellgate Moor Local Centre and the range of facilities available within the centre officers do not consider the proposal leads to an erosion of land required for shopping or community facilities within the local centre if the application site changes its use.

42. Part 7 of the NPPF on 'Ensuring the vitality of town centres' supports planning policies to define a hierarchy of town centres – and officers consider that the local centre of Framwellgate Moor defined in the City of Durham Local Plan retains a relevant local centre definition and spatial boundary. Paragraph 85 f) of Part 7 also recognises 'that residential development often plays an important role in ensuring the vitality of centres and encourage residential development on appropriate sites.' As such both the NPPF and the Local Plan policy S5 allow residential use within allocated centres.
43. Paragraph 11 of the NPPF establishes a presumption in favour of sustainable development. For decision taking this means (unless material considerations indicate otherwise);
- approving development proposals that accord with an up to date development plan without delay; or
 - where there are no relevant development plan policies or the policies which are most important for determining the application are out-of-date, granting permission unless:
 - i) the application of policies in the framework that protect areas or assets of particular importance provides a clear reason for refusing the development or
 - ii) any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole.
44. Officers therefore consider that the local plan policy S5 in the City of Durham Local Plan is consistent with Part 7 of the NPPF and continue to provide an up to date relevance with regard to the local shopping area in Framwellgate Moor in having a relevant defined centre and allowing housing, where appropriate in the local centre. Accordingly, paragraph 11 of the NPPF is not engaged. As such officers consider that the policy S5 of the CoDLP is consistent with the NPPF with regards to the local centre in Framwellgate Moor as the local shopping area defined is still relevant and with regard to this application both policies allow dwellings providing it is not to the detriment of the local centre. As such the change of use is acceptable in principle.

Locational Sustainability of the Site

45. Paragraph 103 of the NPPF states that the planning system should actively manage patterns of growth in support of focussing significant development on locations which are or can be made sustainable through limiting the need to travel and offering a genuine choice of transport modes.
46. In this respect the application site is situated within Framwellgate Moor local centre and is well related to a variety of shops, services, education and employment opportunities and as such, the provision of 1 house in multiple occupation within this mixed commercial and residential area, close to existing facilities is considered to be located in a sustainable location and could be supported in principle subject to assessment against other local plan policies and material planning considerations.
47. In terms of the accommodation offer, the proposals are seeking to convert the building to a house in multiple occupation with 8 bedrooms and shared communal facilities with a shared kitchen / lounge. As the building is for 8 bedrooms the proposal falls within a sui generis use.

Residential amenity and housing mix.

48. In terms of separation distance of new properties in relation to existing properties, guidance within the local plan in policy Q8 indicates that separation distances of 21 metres should be achieved between windows of habitable windows. No alterations are proposed to the fenestrations in the existing property and the proposal meets the minimum standard in Policy Q8 of the local plan.
49. Policy H13 of the CODLP is relevant and states that planning permission will not be granted for new development or changes of use which would have a significant adverse effect on the character or appearance of residential areas or the amenities of residents within them. The approach contained within policy H13 of the City of Durham Local Plan is considered consistent with the general aim of the NPPF in paragraph 62 to create mixed and balanced communities and as such it remains a relevant policy of the current development plan and as such can be attributed weight accordingly in determination of this application. (For clarity Policy H9 on multiple occupation / student households only related to the subdivision or conversion of houses – and not other types of property).
50. The application site is at the northern end of the allocated local centre in Framwellgate Moor and in a mixed commercial and residential area which is reflected in the attached properties being a working men's club and a dwelling.
51. In addition, the Council's Interim Policy relating to student accommodation is also relevant and addresses both HMO's and new build accommodation. It states that the Local Planning Authority will not support the change of use of properties in instances where there is more than 10% of properties within 100 metres of the site already used as student accommodation. Whilst the Interim Policy has less weight than the saved policies of the City of Durham Local Plan it is nevertheless a material consideration and has been endorsed by cabinet following a 6-week consultation period ending May 2017 and being confirmed in October 2017. The threshold of 10% was derived from section 2 of the 'National HMO Lobby Balanced Communities and Studentification Problems and Solutions', 2008 and in this respect is considered up to date and accords with the aims of the NPPF.
52. In terms of applicability of the Interim Policy, the proposed development is a change of use which fits into Part A of the policy. The Interim Policy sets out that if more than 10% of the total number of properties within 100 metres of the application site are already in use as HMOs or student accommodation exempt from Council Tax charges, then the development will not be permitted. Publicly available information is in the form of a post code map with the relevant % figures shown. However, the County Council also calculates a bespoke 100 metre radius figure from the application site calculated from Council tax exempt data which demonstrates that within a 100m radius of 35 Front Street, 1.8% of properties are student exempt properties as defined by Council Tax records. As the 10% threshold has not been exceeded, the proposed development is consistent with the threshold in the Interim Policy.
53. In addition, the Policy sets out a further 4 criteria in Part A (a) – (e) with (a) – (d) relating to HMO conversions and new build and (e) relating to the change of use to HMO properties only. Going through each of these points in turn it reveals that the level of car parking and turning (a) is considered acceptable (see highway comments below), and sufficient space is provided to the rear of the property for cycle storage (b) bin storage for the conversion can be provided to the rear of the property (c). The proposal does not include any extensions or physical alterations to the existing building (d). No issue has been raised about security of the building (d). Part E relates to the exception to the Interim Policy if the % of student properties in an area is very high. This is not such an area.

54. The application is therefore considered to comply with the Interim Policy on Student Accommodation.

55. With regard to noise and disturbance officers acknowledge that an 8 bedroom house in multiple occupation is likely to have more comings and goings than a usual family house and compared to the last established use for a training centre is likely to have a different pattern of occupation. As mentioned earlier this location is mixed between commercial and residential where there is more noise and comings and goings than an established residential area. The County Councils Environmental Health Officers (noise) have commented that the proposed development will be within an area of mixed commercial and residential use and located between a social club and existing residential property. The proposed use will be residential therefore the use should be compatible to the area. However, the proposed use will be as an HMO and will house more than 5 people within the house at any one time. The occupants are likely to be students and therefore the use of the house may differ from permanent residents within the street. This could result in noise being created however this can be controlled using statutory nuisance legislation if required. The same legislation could apply to noise transfer from the social club into the proposed development and between the individual households with this potential noise transfer in mind and the lack of information in the application regarding the upgrading of sound insulation in the property a condition is proposed which seeks an upgrade to the sound insulation between the application site and the social club and between the application site and the adjacent dwelling.

56. Officers therefore consider that subject to a condition regarding sound insulation the proposal is acceptable with regard to its impact on residential amenity for the proposed dwelling and the impact on the existing adjoining dwelling.

Highway and access issues

57. The existing dwelling benefits from an integral double (tandem) garage. As the site lies in a sustainable location close to a range of services and public transport the County Highway Officer has raised no objection to the proposal in this sustainable site.

Comments on the objectors concerns

58. Objectors raised concerns about the planning consent for the previous training centre having been granted consent with car parking to the rear but this parking area to the rear was not implemented. The objector considers the parking area was too difficult to use as it was accessed by two garage doors and was narrow. Officers have checked the planning history and this is the case that the consent was granted with parking provision to the rear and there is no evidence that the parking had been implemented. Officers have checked with colleagues in enforcement and no complaints seemed to have been made about the lack of parking whilst the hairdressing training salon was in operation.

59. Concerns that the mixed commercial and residential use of the area leads to parking being at a premium in the area and the proposal for an 8 bedroom HMO should include additional car parking. The amended plan includes the garage space only and no additional parking to the rear. As discussed above officers consider this is a sustainable location and additional private parking is not therefore required.

60. Concerns that 8 tenants will lead to noise and disturbance with people accessing the property at different times. Officers note that comings and goings to the property will alter from the existing but that the use of conditions will require improved wall and floor insulation which will assist within the house. As the objectors note the area is partly commercial with a social club next door and so there is additional comings and goings in the vicinity currently, officers consider that the additional potential disturbance from the property is not sufficient to warrant a refusal of planning permission.

CONCLUSION

80. This application has been fully assessed and considered in relation to the relevant policies including Q8, S5, T1, T10 and H13, of the City of Durham Local Plan and criteria detailed in the NPPF. In reaching a recommendation on this application, comments submitted with the application have been fully considered along with comments received from consultees and the objectors.

81. The application is submitted for the conversion of a D2 vacant hairdressing training centre to a house in multiple occupation for 8 people with no extensions or alterations to the exterior of the building within the local centre of Framwellgate Moor. Officers conclude that the principle of the change of use is acceptable in this location, that the location is sustainable, and that adequate parking is available for a central Framwellgate Moor. Officers consider that the impact on residential amenity is considered acceptable subject to conditions regarding noise insulation.

82. The application is therefore recommended for approval with conditions.

RECOMMENDATION

That the application be approved subject to the following conditions:

1. The development hereby permitted shall be begun before the expiration of three years from the date of this permission

Reason: Required to be imposed pursuant to Section 91 of the Town and Country Planning Act 1990 as amended by the Planning and Compulsory Purchase Act 2004.

2. The development hereby approved shall be carried out in strict accordance with the following approved plans and documents:

Site location plan validated on the 08/11/2018

Plans, elevations & site plan, existing & proposed Drawing no.101 Rev F Received 07.12.2018

Reason: To define the consent and ensure a satisfactory form of development is obtained.

3. Before any part of the development hereby approved is commenced a scheme of sound proofing measures shall be submitted to and approved in writing by the local planning authority. The scheme shall be to ensure that the noise insulation of walls, and floors between both adjoining properties (dwelling and social club) shall be sufficient to prevent excessive ingress and egress of noise. The approved scheme shall be implemented prior to the first occupation of the development and shall be permanently retained thereafter.

Reason: To ensure satisfactory noise insulation is provided for the benefit of the residents of the proposed dwelling and the existing residents of the adjacent dwelling in accordance with Policy Q8 of the Paragraph 180 of the NPPF.

4. *The garage shall be retained for the storage of motor vehicles only and for no other ancillary residential purpose.*

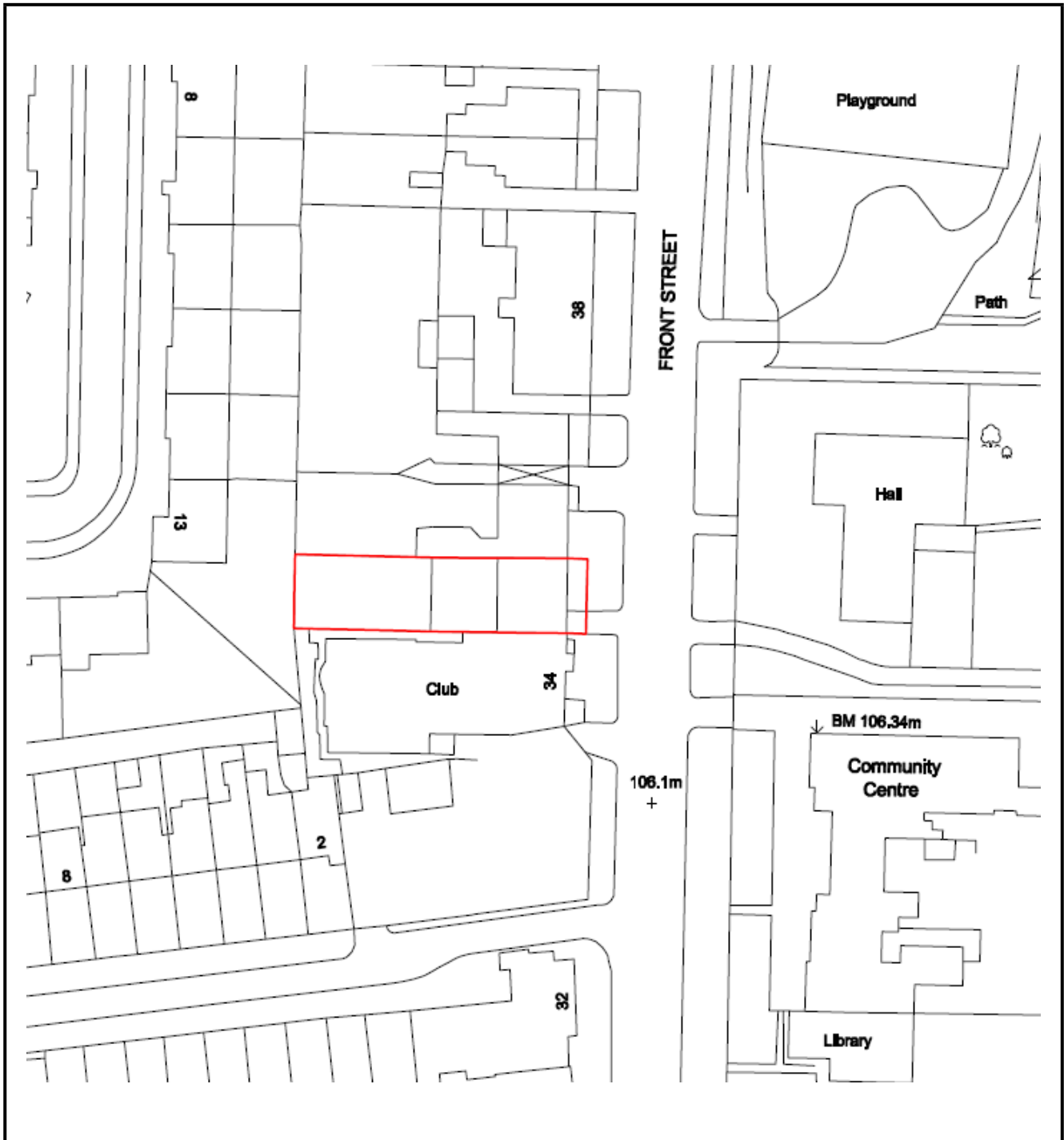
Reason: To ensure the car parking spaces are retained for use by the residents in the interests of pedestrian and highway safety in accordance with policy Q8 and T1 of the City of Durham Local Plan 2004.

STATEMENT OF PROACTIVE ENGAGEMENT

The Local Planning Authority in arriving at its decision to approve the application has, without prejudice to a fair and objective assessment of the proposals, issues raised and representations received, sought to work with the applicant in a positive and proactive manner with the objective of delivering high quality sustainable development to improve the economic, social and environmental conditions of the area in accordance with the NPPF. (Statement in accordance with Article 35(2) of the Town and Country Planning (Development Management Procedure) (England) Order 2015.)

BACKGROUND PAPERS

Submitted Application Forms, Plans and supporting documentation
City of Durham Local Plan 2004
National Planning Policy Framework
Internal consultee responses
Public responses
Responses from statutory and other consultees
National Planning Policy Guidance



Planning Services

Change of use from hairdressing training centre to 8 bed house in multiple occupation (sui generis) (amended plan).

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Date
January 2019