

COMMITTEE REPORT

APPLICATION DETAILS

APPLICATION No:	DM/19/03459/FPA
FULL APPLICATION DESCRIPTION:	Demolition of existing rear extension and erection of part single-storey/part two-storey extension at rear and installation of dormer windows in roof space also to rear to an existing small HMO (use class C4).
NAME OF APPLICANT:	Mr N Swift
ADDRESS:	17 Providence Row Durham DH1 1RS
ELECTORAL DIVISION:	Elvet and Gilesgate
CASE OFFICER:	Lisa Morina Planning Officer Telephone: 03000 264877 Lisa.morina@durham.gov.uk

DESCRIPTION OF THE SITE AND PROPOSALS

The Site

1. The application site is an unlisted two-storey mid terraced dwelling located within the north eastern part of Durham City Centre Conservation Area. The terrace consists of no 5 residential properties situated at the lower end (north) of Providence Row on the east side of the street near to the road's junction with Freemans Place and The Sands. It is bounded by St Nicholas Cemetery and a series of Victorian terraces and faces Durham Sixth Form Centre to the west.
2. The property is currently in use as 5 bed student accommodation thereby occupying a C4 use class. Evidence has been provided to show that the C4 use was implemented prior to the introduction of the article 4 therefore, a change of use is not required.

The Proposal

3. This application seeks the demolition of the existing rear single-storey extension and the erection of a new two-storey extension at the rear of the dwelling which will link into an extension proposed at no. 18 which is also being heard at this committee and is under the same ownership of this applicant. A small single-storey extension is also proposed adjoining the two-storey extension. Dormer windows are also proposed to the rear with rooflights to the front to allow internal reconfiguration to allow 6 bedrooms to be provided.

4. The application is referred to the Committee at the request of the City of Durham Parish Council who consider the proposal goes against relevant local plan policies and the proposal would result in not providing a mixed and balanced community.

PLANNING HISTORY

5. 4/03/00868/FPA- Retention of 2 no. rooflights to front elevation. Approved 20/10/03.

PLANNING POLICY

NATIONAL POLICY

6. The following elements of the National Planning Policy Framework (NPPF) are considered relevant to this proposal:
7. 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.
8. 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.
9. 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.
10. NPPF Part 16 Conserving and Enhancing the Historic Environment - Heritage assets range from sites and buildings of local historic value to those of the highest significance, such as World Heritage Sites which are internationally recognised to be of Outstanding Universal Value. These assets are an irreplaceable resource, and should be conserved in a manner appropriate to their significance, so that they can be enjoyed for their contribution to the quality of life of existing and future generations.

<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 E6 (Durham City Conservation Area) sets out the Council's aim to preserve the character, appearance and setting of the Durham City Conservation Area by ensuring high quality design.
13. Policy E21 (Conservation and Enhancement of the Historic Environment) states that the historic environment will be preserved and enhanced by minimising adverse impacts by development proposals.
14. Policy E22 (conservation Areas) sets out that the authority seeks to preserve and enhance the character and appearance of the conservation area by ensuring that development proposal should be sensitive in terms of siting, scale, design and materials where appropriate reflecting existing architectural features
15. Policy H9 (Multiple Occupation / Student Households) seeks to ensure that buildings in multiple occupancy do not adversely affect the character of the area and do not require significant extensions or alterations having regard to Policy Q9.
16. Policy H13 – (Residential Areas – Impact upon Character and Amenity) protects residential areas from development that would have a significant adverse effect on their character or appearance, or the amenities of residents within them.
17. Policy Q1 (Design) sets out that the layout and design of all new development should take into account the requirements of users including personal safety and crime prevention and the access needs of everybody including people with needs of disabilities.
18. Policy Q9 (Alterations and Extensions to Residential Properties) states that extensions will only be approved when they met a set of specific criteria for example, including impact on residential amenity of neighbours and impact on streetscene.
19. Policy Q10 (Dormer Windows) sets out the design requirements for dormer windows and advises that the proposal should not impact on a loss of privacy to surrounding properties.
20. Policy T1 (General transport Policy) requires all development to protect highway safety and/or have no significant effect on the amenity of occupiers of neighbouring properties.
21. Policy T10 (Parking - General Provision) states that vehicles parking should be limited in amount, so as to promote sustainable transport choices and reduce the land-take of development.

RELEVANT EMERGING POLICY:

22. Paragraph 48 of the NPPF states 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 Examination in Public (EiP) of the County Durham Plan (CDP) is currently in progress.

The programmed hearing sessions closed on 4th December 2019. Although the CDP is now at an advanced stage of preparation, it is considered that it should not be afforded any weight in the decision-making process at the present time. This position will be subject to review upon receipt of further correspondence from the Inspector.

The above represents a summary of those policies considered most relevant in the Development Plan the full text, criteria, and justifications of each may be accessed at <http://www.cartoplus.co.uk/durham/text/00cont.htm>

CONSULTATION AND PUBLICITY RESPONSES

STATUTORY RESPONSES:

23. Highways – No objection, the proposal is within a controlled parking zone and no further permits would be given.

24. Durham Constabulary have raised no objection to the proposal.

INTERNAL CONSULTEE RESPONSES:

25. Environment, Health and Consumer Protection (Nuisance Action Team) – The proposal is not considered to cause a statutory nuisance.

26. HMO Officers original objection has been withdrawn, room sizes are adequate.

27. HMO Data – Within a 100m radius of 17 Providence Row, 37.3% of properties are student properties as defined by Council Tax records.

28. Design and Conservation – No objection the proposal is considered to enhance the conservation area.

PUBLIC RESPONSES:

29. The application has been advertised by means of site notice and by notifying neighbouring residents by letter. Two letters of objection have been received from the City of Durham Parish Council and the City of Durham Trust with the following comments:

- The Parish Council is aware that the Submitted County Durham Plan policy for HMOs seeks to drop control over extensions to existing HMOs, but the County Council itself formally considers that the Submitted County Durham Plan carries no weight as yet. Accordingly, the application must be determined by the Interim Policy and by Saved Policies of the City of Durham Local Plan 2004.
- The proposal would not create a balanced and mixed community.
- The interim policy does not support the increase in bed spaces if there are more than 10% of the properties within 100m of the application site already in use as student properties. The percentage is in excess of this and therefore contrary to the Interim Policy.
- The extra bedroom in the roof space is opposed by the Councils HMO officer because it fails to provide the adequate headroom required.
- Policy H9 states that adequate parking should be provided. There is no parking provision and therefore, the application fails to meet the requirements of policy H9.

- Concern over the steady increase in the number of planning applications seeking to convert family dwellings to houses in multiple occupation or to increase the size of these.

APPLICANT'S STATEMENT:

30. This application relates to a property that is an existing student HMO and that use will remain regardless of the outcome of the application. The property is in an area where there is already a high percentage of student HMO properties (70%) and thus the proposal will not change the local demographic either way, there will be no fundamental material change under planning. With such a high concentration of HMOs minor changes to an existing HMO will not cause further detrimental harm or conspicuous concentration. The proposals would not therefore result in an adverse impact on the housing mix in the vicinity of the site.
31. The proposal merely seeks to improve and increase the accommodation provision at this property and as such could help alleviate pressure to convert other house not currently C4 by focusing efforts on already converted C4 properties. Recent HMO regulation changes have also brought about a move to improve the provision in existing C4 HMO houses to maintain licenses.
32. The introduction of 1No additional bedroom internally will retain this property as a student house with the number of bedrooms increasing to 6No. As such the overall percentage of student houses will not alter with this application. This increase in bedrooms will not give rise to a noticeable increase or intensification of student housing in the area and only a modest increase in one bed space provision is proposed. This would not change the character of the usage or have impacts on local amenity to any significant degree. This principle is reinforced by recent appeal decisions
33. Externally a very poor ill-conceived existing extension will be removed and replaced with an extension that has a more considered architectural theme commensurate with the conservation area status.

The above is not intended to list every point made and represents a summary of the comments received on this application. The full written text is available for inspection on the application file which can be viewed at <https://publicaccess.durham.gov.uk/online-applications/applicationDetails.do?activeTab=documents&keyVal=P8X9C0GDL8J00>

PLANNING CONSIDERATIONS AND ASSESSMENT

34. 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 in this instance relate to the principle of the development, impact on the visual amenity of the area including the conservation area in which the property is located, residential amenity and highways issues.

Principle of the Development

35. The property in question is currently in use as small HMO (C4). C4 HMO's are small shared houses occupied by between three and six unrelated individuals, as their only or main residence and who share basic amenities such as a kitchen or bathroom. As part of the proposal, the number of individuals would be increased to no more than 6 therefore, the property retains the C4 use.

36. Policy H9 of the local plan is relevant to this application which relates to the extension or alterations to an existing student property. It states that such development will be permitted where adequate parking, privacy and amenity areas can be provided, where it will not adversely affect the amenities of nearby residents and is of a scale and character appropriate to its surroundings and where it will not result in concentrations of sub divided dwellings to the detriment of the range and variety of the local housing stock.
37. Policy H13 of the local plan is also 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.
38. As saved policies most relevant in the determination of the application are considered both up to date and consistent with the NPPF, paragraph 11 is not engaged.
39. In addition to policies H9 and H13 of the local plan, the Council's Interim Policy relating to student accommodation is also relevant and states that the Local Planning Authority will not support the change of use of properties or extensions that result in additional bedspaces in instances where there is in excess of 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 April 2016. 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.
40. The Council's Spatial Policy Section advises that the most recent up to date Council Tax information identifies that 37.3% of those properties within 100 metres of the site are currently occupied as student let accommodation.
41. Given this, the proposal would be contrary to the criteria as stated in the interim policy. However, the proposal involves an increase in number of bedrooms which continues to provide a C4 use and does not result in the loss of an existing C3 residential property.
42. Furthermore, appeal decision (reference APP/X1355/W/16/3160444) for a two storey rear extension of a class C4 HMO to provide 3 additional bedrooms at 40 Hawthorn Terrace, Durham, considered the issues associated with the creation of additional bedrooms within established HMOs and whether such development is considered to conflict with the Interim Policy. The Inspector found that within the Interim Policy there is no explicit reference made on how to address extensions to existing HMOs against the 10 per cent tipping point. This would suggest that the Council has essentially sought a moratorium on extensions to HMO properties within the Durham City area where the majority of residential areas are in excess of 10 per cent HMOs. The Inspector considered that such a stance would be at odds with the more permissive approach of saved Policy H9 of the local plan. The HMO policy in the emerging County Durham plan is likely to be subject to revision, and whilst it has now been discussed at the EIP, the Inspector's report is awaited and the Council's position is that no weight can be afforded to it at present.

43. The Inspector further commented that the provision of additional bed spaces to an existing HMO in an area where more than 10 per cent of properties within 100 metres of the appeal site are in use as HMOs would not result in an adverse impact on the overall range and variety of local housing stock in the area. On this basis, the Inspector allowed the appeal.
44. In relation to the percentage figure of HMOs within 100 metres of the site, it is accepted that 37.3% is a high proportion far in excess of the ten per cent threshold within the Interim Policy.
45. However, it is considered that the proposal complies with policy H9 in that it does not result in the loss of an existing C3 use therefore, does not alter the range and variety of the local housing stock. Whilst there is conflict with the wording of the Interim Policy and breach in the threshold, this is not sufficient to justify refusal of the application especially in light of the guidance on that policy which has been provided by this appeal decision and others which have also taken this approach. Also, the interim policy is not part of the development plan and therefore where there is conflict with development plan policy, in this case policy H9, then that development plan policy must prevail.
46. In summary the principle of development could be supported, subject to proper consideration of the impact of the proposal upon the character and amenity of the area including the conservation area in which the property is located, residential amenity, highway safety and any other issues.

Visual impact of the development on the conservation area

47. The National Planning Policy Framework in part 16 requires that the impact of the development is considered against the significance of the Heritage Asset which in this case is Durham City Conservation Area. Part 12 of the NPPF deals with good design generally advising that it is a key aspect of sustainable development, indivisible from good planning that can lead to making places better for people.
48. At a local level Policy E6 and E22 of the City of Durham Local Plan are also considered to be relevant. These policies state that the special character, appearance and setting of conservation areas will be preserved or enhanced. This will be achieved by only approving development that would be sensitive in terms of its siting, scale, design and materials. Policies H9 and Q9 require any extensions to such dwellings are in scale and character with its surroundings and neighbouring residential properties.
49. The aforementioned policies and guidance requires the local planning authority to pay special attention to the desirability of preserving or enhancing the character or appearance of the Conservation Area and this would be entirely in accordance with section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990.
50. The majority of the proposal is located on the rear of the site other than two rooflights proposed to the front which are considered acceptable given there are others within the street which benefit from rooflights therefore they are common place within the locale.
51. A dormer window is proposed to the rear which is similar to that which has previously been approved at no.18 in 2018 under reference DM/18/03576/FPA. Policy Q10 of the City of Durham Local Plan provides advice on the design of dormer windows and the proposal is considered to comply with the general design parameters for such roof developments.

It is considered that the size would be such that it would not fill the entire roof slope and while being quite large the massing is considered acceptable. The proposed dormer window is therefore, considered acceptable in respect of the impact on the host property.

52. In terms of the impact on the surrounding conservation area, in the location proposed it would not be unduly dominant, would not be a highly noticeable or prominent feature from the public domain as views of it from the surrounding area would be largely obscured by other dwellings and the nature of the topography. It would be more visible from the adjacent churchyard but because of the design would not be considered visually harmful. Overall the proposed dormer roof extension would not be considered as an introduction that harms the special character and appearance of the surrounding conservation area and is considered to have a neutral impact.
53. The proposed rear extension would be considered acceptable in-principle given the presence of existing double-storey extensions to the rear of the terrace and others adjacent and is therefore, considered to be an improvement compared to the current low quality flat roofed extensions currently in place. Furthermore, it would not harm the original rear elevation as this has been modified in the past and is unbalanced with inappropriate fenestration not contributing positively to the conservation area.
54. The mono-pitched roof form with the ridge and eaves levels set below those of the main property, and the single bay width, creates an acceptable subordinated relationship meaning that the original property remains legible, and it is an example of a form of rear extension commonly found to the Victorian terraces across the city centre.
55. It is considered therefore, that the development proposal would not cause any adverse harm to the sustained historic character and appearance of the property, terrace or surrounding conservation area subject to conditions regarding materials, which is considered to be in keeping with the NPPF and policies H9, E6 and E22 of the Local Plan. In relation to Section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990, the proposal is considered overall to enhance the appearance of the Conservation Area.

Residential amenity

56. In terms of the use of property, Policy H13 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 while Policy H9 also seeks to provide such safeguards. In this regard there is an established use of the property for a small HMO for up to 6 people.
57. The proposal is considered to represent a built form which is not considered to have a significant detrimental impact on the residential amenity of the neighbouring properties as a significant loss of light/amenity is not considered to occur to either neighbour given a neighbouring extension of a similar scale is proposed at no. 18. In respect of no.16, the proposal is considered to be sited a sufficient distance away from the habitable room windows that no significant loss of amenity would occur.
58. A window is proposed in the side elevation at first floor level however this houses a non-habitable room and therefore, a condition will be added regarding obscure glazing to prevent any overlooking issues from occurring. A further condition restricting the installation of any additional windows will also be added.

59. The neighbours to the rear would be unaffected given the proposal faces onto the side elevation where no habitable room windows are in existence.
60. The application is, therefore, considered an appropriate addition in relation to policy H9 of the Local Plan with regards to visual impact upon adjoining neighbours.
61. Objections state that the proposal would not promote a balanced and mixed community. Both the Environmental Health Team and Durham Constabulary have raised no objections to the scheme.
62. Whilst objections have been received, it is not considered that a refusal reason could be sustained in this instance. The proposal does not result in an increase in the number of properties within a C4 use however does create one additional bedroom. It is not felt that a significant detrimental impact could be demonstrated to occur as a result of this increase. As previously stated, the proposal is already in use as student accommodation therefore, the proposal does not involve the loss of an existing C3 dwelling. It is not considered that the additional activity associated with an additional 1 student would have a significant detrimental impact.
63. Inspectors decisions have considered that the change of use of a property which could accommodate up to 6 residents would not have a significant detrimental impact on the amenity of the area, therefore, it is considered that it would be difficult to refuse an additional 1 bedroom at this property given up to 5 students are already in occupation.
64. The proposal therefore, is not considered to have a significant detrimental impact on residential amenity in accordance with policy H9 and H13 of the City of Durham Local Plan.

Highways issues:

65. Policy T1 of the City of Durham Local Plan states that the Council will not grant planning permission for development that would generate a level of traffic that would be detrimental to highway safety and/or have a significant effect on the amenity of occupiers of neighbouring property. This policy is not considered to conflict with the intentions of the NPPF as it too seeks to secure a good standard of amenity for residents.
66. Objections have been raised that the proposal provides no parking and therefore, is contrary to policy H9 which states that any development should provide adequate parking.
67. The development site is in a highly sustainable location with good access to public transport and within walking distance of local amenities. Providence Row lies within the Durham City Controlled Parking Zone therefore on street parking in this street is via permit parking or pay and display. Highways officers have been consulted on the proposal and raise no objection to the proposed development on this basis. They have stated that no further permits would be issued and given this any additional cars brought to the site would be subject to parking charges therefore additional demand would be limited due to this reason.
68. The proposal is therefore considered acceptable from a highways viewpoint in accordance with policy H9, T1 and T10 of the Local Plan and the NPPF.

69. Concern has been raised that the extra bedroom in the roof space is opposed by the Council's HMO officer because it fails to provide the adequate headroom required. Objections were originally raised by the HMO Officers however, discussions have taken place between the agent and the HMO Officers and the objection has now been withdrawn as it has been shown that the bedroom size is adequate.

CONCLUSION

70. The principle of development and impact upon the residential area is considered to be acceptable as it is not considered that there would be any significant additional impacts of providing 6 bedrooms at the property as opposed to the current 5-bedroom HMO.
71. The dwelling can accommodate the additional bedroom while providing sufficient levels of amenity for the occupiers and neighbouring properties. There are no highways objections or environmental health objections and the proposal does not detrimentally impact on the character or appearance of the Durham City Centre Conservation Area.
72. Accordingly, the application is considered to meet the requirements of the National Planning Policy Framework and Policies E6, E22, H9, H13, Q9 and T1 of the City of Durham Local Plan 2004, as well as satisfying the requirements of Section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 as it is considered to enhance the character and appearance of the Conservation Area.
73. Whilst there is some conflict with the interim policy on student accommodation, it is not felt that a refusal reason could be sustained on that basis given the existing housing mix would remain unaltered.
74. The objections and concerns raised have been taken into account and addressed within the report. On balance the concerns raised were not felt to be of sufficient weight to justify refusal of this application.

RECOMMENDATION

That the application be **APPROVED**, subject to the conditions detailed below:

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 approved plans listed in Part 3 - Approved Plans.

Reason: To define the consent and ensure that a satisfactory form of development is obtained in accordance with Policy Q9 of the City of Durham Local Plan.

3. Notwithstanding any details of materials submitted with the application no development shall commence until samples of the walling and roofing materials as well as precise details of the new windows have been submitted to and approved in writing by the Local Planning Authority. The development shall be constructed in accordance with the approved details.

Reason: In the interests of the appearance of the area and to comply with policies E6, E22 and H9 of the City of Durham Local Plan and Parts 12 and 16 of the NPPF.

4. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) (or in any Statutory Instrument revoking or re-enacting that Order with or without modification) no further windows or other openings shall be formed at first floor level in the side elevation of the two-storey rear extension facing south towards no.16 Providence Row.

Reason: In order that the Local planning authority may exercise further control in this locality in the interests of the residential amenity of the neighbouring properties and to comply with policies H9 and Q9 of the City of Durham Local Plan and part 15 of the NPPF.

5. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any Order revoking and/or re-enacting that Order) the proposed bathroom window at first floor level in the side elevation facing south towards no. 16 Providence Row shall be obscured to level 3 or higher of the Pilkington scale of privacy or equivalent and shall be maintained thereafter in perpetuity.

Reason: In the interests of the residential amenity of neighbouring properties in accordance with policies H9 and Q9 of the City of Durham Local Plan and part 15 of the NPPF.

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

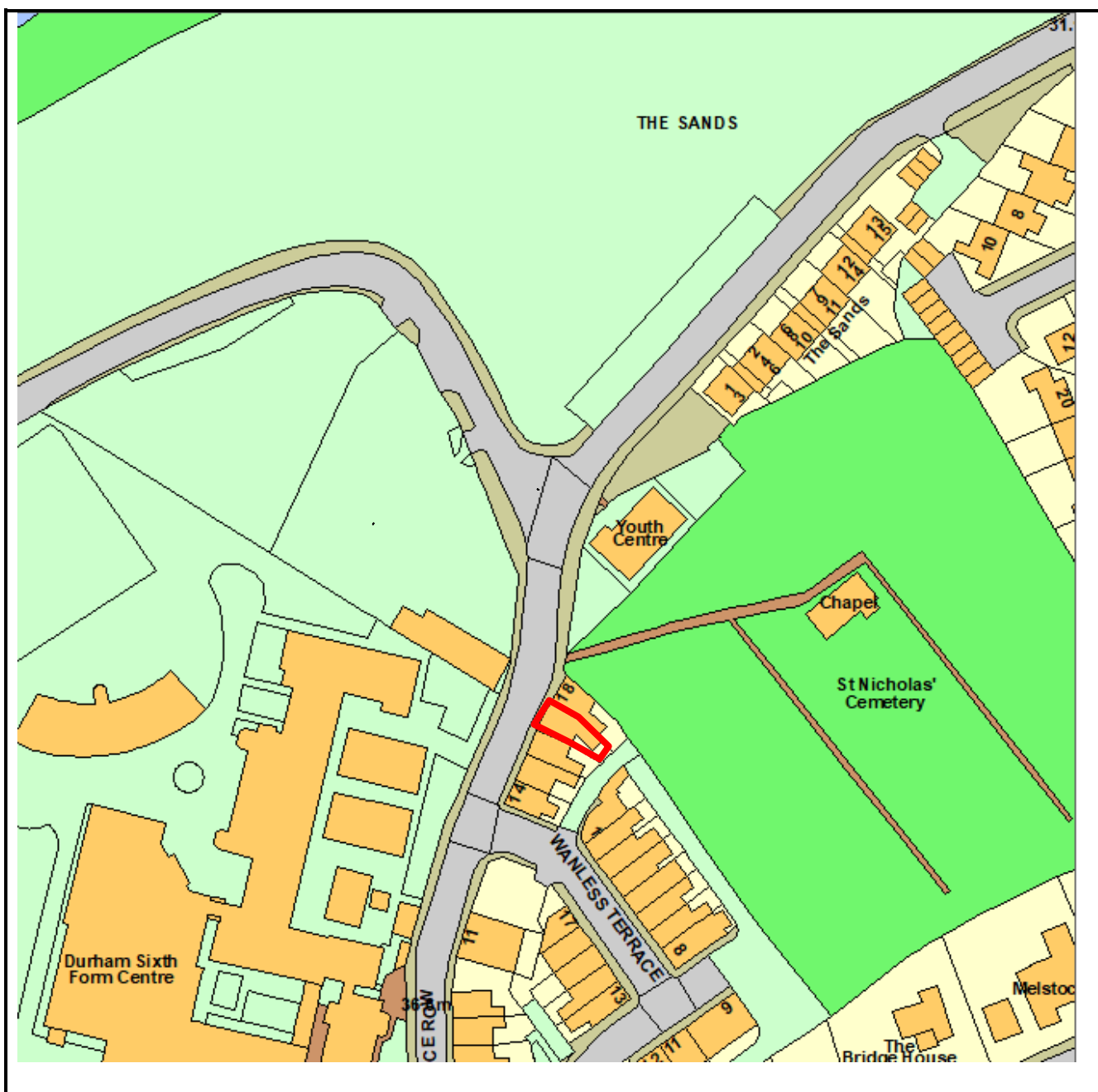
Submitted application form, plans, supporting documents and subsequent information provided by the applicant

The National Planning Policy Framework (2018)

National Planning Practice Guidance Notes

City of Durham Local Plan

Statutory, internal and public consultation responses



Planning Services

Demolition of existing rear extension and erection of part single-storey/part two-storey extension at rear and installation of dormer windows in roof space also to rear to an existing small HMO (use class C4) at 17 Providence Row, Durham, DH1 1RS

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