

COMMITTEE REPORT

APPLICATION DETAILS

APPLICATION No:	DM/19/03408/FPA
FULL APPLICATION DESCRIPTION:	Change of use from single dwelling house C3 with 2 bedrooms to HMO C4 with 4 bedrooms.
NAME OF APPLICANT:	Mrs Judith Thompson
ADDRESS:	29 Lawson Terrace Durham DH1 4EW
ELECTORAL DIVISION:	Neville's Cross
CASE OFFICER:	Jennifer Jennings Planning Officer Telephone: 03000 261057 jennifer.jennings@durham.gov.uk

DESCRIPTION OF THE SITE AND PROPOSALS

The Site

1. The application site relates to a mid terraced two-storey unlisted residential dwelling located on Lawson Terrace within Durham (City Centre) Conservation Area and in an area controlled by an Article 4 Direction removing permitted development rights relating to change of use from C3 dwelling houses to C4 Houses in Multiple Occupation (HMO).
2. Lawson Terrace, built circa.1898, is located within the western part of the designated area between the railway line to the north and Crossgate Peth to the south and Farnley Hey Ridge to the west. The locality is characterised by tightly-knit residential terraces in a grid-pattern with interconnecting back lanes. The properties in the street are of a red brick construction with narrow frontages enlivened by ground floor bay windows and stone detailing. The area is an important component of the townscape of the city representing its late 19th to early 20th century residential expansion brought about by the opening of the Durham coalfields.

The Proposal

3. This application seeks the change of use of the property from a 2-bed residential dwelling to a small 4-bed HMO (Use class C4). To facilitate this, the proposal seeks to convert the loft into two additional bedrooms with a total of 4 conservation style roof lights inserted into roof slope.

4. The application is referred to Committee at the request of the City of Durham Parish Council on the basis that the application is contrary to the requirements of policy H9 of the Local Plan and the Interim Policy on Student Accommodation which seeks to promote and preserve inclusive, mixed and balanced communities.

PLANNING HISTORY

5. DM/19/03438/FPA - Change of use from single dwelling house C3 with two bedrooms to HMO with 4 bedrooms and dormer window to rear roofslope. Withdrawn.
6. 4/97/00161/FPA – Erection of porch to rear of existing dwelling. Approved 12 May 1997.

PLANNING POLICY

NATIONAL POLICY

7. The following elements of the National Planning Policy Framework (NPPF) are considered relevant to this proposal:
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.
11. 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:

12. 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

13. 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.
14. 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.
15. 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
16. 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.
17. 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.
18. 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.
19. 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.
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.
22. Interim Policy on Student Accommodation – adopted by Durham County Council in 2016.

RELEVANT EMERGING POLICY:

23. 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:

24. Highways – No objection, the proposal is within a controlled parking zone and no further permits would be given.
25. City of Durham Parish Council - objects on the basis that the creation of a new 4-bed student HMO capable of accommodating eight students is in direct conflict with the NPPF and Durham County Council's objectives and policies to promote the creation of, and preserve, inclusive, mixed and balanced communities and to protect residential amenity. The proposals are deemed contrary to Policy H9 and the Interim Policy on Student Accommodation.

INTERNAL CONSULTEE RESPONSES:

26. Environment, Health and Consumer Protection (Nuisance Action Team) – As this development is for residential in a residential area it is considered to fall outside of the scope of the TANS and no concerns or comments are raised in relation to this development. The proposal is not considered to cause a statutory nuisance.
27. HMO Officers have provided comments on room sizes and licensing requirements
28. HMO Data – Within a 100m radius of 29 Lawson Terrace, 68.9% of properties are student properties as defined by Council Tax records.
29. Design and Conservation – No objection to the proposal in principle however, amendments were requested to ensure that the roof lights were conservation style. An amended plan was submitted taking these comments into account and no further objections were raised.

PUBLIC RESPONSES:

30. The application has been advertised by means of site notice and by notifying neighbouring residents by letter, two letters of objection were received, with the following comments:

- One objection received from local ward member stating that proposals contravene the Interim Policy by reason of percentage of HMOs within 100 metres of site being in excess of 10 per cent threshold. The application should therefore be refused.
- City of Durham Trust states that they are concerned about the steady increase in the number of planning applications seeking to convert family dwellings to houses in multiple occupation. This is increasing the imbalance between the student population and the long-term resident population of Durham City. Instead we need to promote and preserve inclusive, mixed and balanced communities (NPPF, 8b). They object as proposals would be contrary to Interim Policy.

APPLICANT'S STATEMENT:

31. This property has been a family home for over 45 years and we wish to rent the house as a student let to make up for the daughter's lost salary as she is now a carer for her elderly mother. We appreciate the sensitivity in Durham to the creation of student rental properties, especially as we have experienced the changing nature of the area from an inside perspective. However, in support of our application we would like to highlight the following:

32. We are non-typical student landlords

- a. We are long-term Durham residents and live within close travelling distance of the house, with continuing connections in and regular visits to the city, and so will not be absentee landlords. We have contacts amongst local tradesmen, including our proposed builder (an experienced student landlord himself), meaning we will be well-equipped to oversee building work and promptly carry out repairs.
- b. We have a sentimental attachment to the house and are keen to retain its original character and provide high-quality accommodation that could revert to a family property should the area change in the future.
- c. We have offered the house to friends' children attending Durham University, subject to the planning approval being granted. Consequently, we are seeking to create a property of such a high standard that we would be happy for those close to us to live in it.
- d. Our aim is to offer a well-maintained home, renovated from top to bottom. We have conditionally appointed Bill Free Homes, a RICS regulated letting agent, to source and manage tenants. The house will therefore be updated and managed in consultation with them to ensure compliance with their standards and management plan.

33. We have no other option

- a. Expert opinion has told us that the house is not suitable for the 'normal' rental or private market, such as a young family or professionals working in the city, because of the high number of students in the street. The changes this has brought include:
 - i. Low-level but disruptive noise not conducive to family/working life late at night (e.g. doors banging closed, voices outside)
 - ii. The closure of both corner shops and a children's park
 - iii. The use of large communal bins
- b. Estate agents have advised the house is only suitable as a student let. It is therefore unsaleable as a non-student option and, were we to try to sell to a property developer, the value would be downgraded as a house that has had planning permission refused.

34. The similarity of our case to other successful applications/appeals

- a. The supporting case for 24 Mistletoe Street (APP/X1355/W/19/3220653) in the street adjacent to ours, for example, appears to be equally applicable to ours. The area already has such a high concentration of HMOs that the conversion of the remaining C3 dwellings will not have a detrimental effect.
- b. To our knowledge, our house is one of only 4 single-family homes left in the street. One of our next-door neighbours is already a student let, also with a loft conversion. Our house is literally in the centre of a street filled with students and backs onto additional student rooms. Encouraging non-student newcomers to increase diversity will be extremely difficult.

35. We hope that you will consider the case we have made above in support of our application and especially the fact that we are not typical student landlords.

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

36. 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 character and appearance of the Conservation Area in which the property is located, residential amenity and highways issues.

Principle of the Development

37. The General Permitted Development Order 2015 (GPDO) permits the change of use from C3 (dwellinghouse) to uses within C4 (houses in multiple occupation - HMOs). However, an Article 4 direction came into effect on 17 September 2016 withdrawing permitted development rights in this regard and as such planning permission is required.
38. Policy H9 of the local plan is relevant to this application which relates to the conversion of houses for multiple occupation. 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.
39. 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.
40. The approach contained within these saved policies is considered consistent with the general aims of the NPPF which requires the planning system to support strong, vibrant and healthy communities by ensuring a sufficient number and range of homes can be provided to meet the needs of present and future generations. The policies are therefore deemed up to date policies and can be attributed weight accordingly in determination of this application. Paragraph 11 of the NPPF is not engaged.

41. 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 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.
42. The Council's Spatial Policy Section advises that the most recent up to date Council Tax information identifies that 68.9% of those properties within 100 metres of the site are currently occupied as student let accommodation.
43. Given this, the proposal would be contrary to the criteria as stated in the Interim Policy. However, the Interim Policy notes that there may be some cases where localised communities are already so imbalanced that the policy objective of protecting a balance is unlikely to be achieved. Criterion e) of the Interim Policy notes that changes of use from C3 to C4 would not be resisted, where an area already has such a high concentration of HMOs that the conversion of remaining C3 dwellings will not cause further detrimental harm.
44. This issue has been considered by Inspectors as part of appeal decisions, and it has been indicated that a level of 61.8% or above is deemed to be the point at which an area is already imbalanced. This is a significant material consideration in the deliberation of the acceptability of the proposals, along with consideration of the context and character of the site and likely cumulative impacts of the development in this location.
45. Based on the above findings from appeal decisions, the proposal is deemed acceptable in principle falling to be considered under criterion e) of the Interim Policy, as the surrounding area is already unbalanced to an extent that would not be harmed by the introduction of a further single C4 HMO property.

Impact on the character and appearance of the Conservation Area

46. Local authorities have a duty to preserve or enhance the Conservation Area as set out in section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990. This requires Local Planning Authorities in the exercise of their planning function with respect to any buildings or other land in Conservation Areas to pay special attention to the desirability of preserving or enhancing the character or appearance of that area.
47. In line with the legislative background, Part 16 of the NPPF relating to conserving and enhancing the historic environment is of direct relevance to this proposal and this states that when considering the impact of a proposed development on the significance of a designated heritage asset great weight should be given to the asset's conservation. This is irrespective of whether any potential harm amounts to substantial harm, total loss or less than substantial harm to its significance. In line with this, local plan policy E6 requires that materials should be the same as or sympathetic to the traditional materials of the historic city or an individual street. Policy E22 further states that development should not be permitted where it would detract from the character or appearance of the conservation area or its setting and all development proposals should be sensitive in terms of design and materials, reflecting existing architectural details. Policies H9 and Q9 require any extensions or alterations to dwellings to be in scale and character with its surroundings and neighbouring residential properties.

48. To accommodate the additional two bedrooms, roof lights are proposed to be inserted into the roof resulting in minimal external alterations overall. Design and Conservation assessed the details of the proposals and accepted in principle the interventions proposed, however, requested that the drawings be amended to provide a greater vertical emphasis in keeping with the character of the host property and area in general. Amended drawings were submitted to this effect, and there are no further issues or concerns raised from heritage and design standpoint. The proposal is therefore considered to be neutral in terms of impacts upon the Conservation Area.
49. The proposal is therefore considered acceptable in respect of policies E6, E22, H9 and Q9 of the City of Durham Local Plan and to comply with section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 in that it will preserve the character and appearance of the Conservation Area.

Residential amenity

50. 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 amenities of residents within them while Policy H9 also seeks to provide such safeguards.
51. It is accepted that HMO accommodation occupied by students results in differing patterns of activity to a standard family household. With the proliferation of HMOs within the Durham City area, these differing patterns of activities have resulted in some negative impacts on the amenities of residents within remaining family homes, such that the Article 4 direction along with the Interim Policy was introduced to try to stem the further loss of family homes and retain a balance in the community. The Interim Policy includes a possible exception to the restrictions, however, where an area may already have such a high concentration of HMOs that the conversion of remaining C3 dwellings will not cause further detrimental harm. An upper limit has not been specified in the policy. Guided by appeal decisions in this regard, the Council accepts that 61.8 per cent is the trigger point that allows criterion e) to be employed, and whilst it would be preferable for this upper threshold to be set at a higher percentage as put forward during the recent Examination in Public of the County Durham Plan, it would not be appropriate at this stage to apply a higher threshold in this instance, as the EIP Inspector is yet to report on this issue. Accordingly, the Council are not attributing any weight to the County Durham Plan at present. In addition, it would be difficult to demonstrate in this particular case that the addition of four students to an area already dominated by HMO's, as the viaduct area of the City is renowned for, would be materially more harmful in terms of loss of residential amenity through significant increase in noise and general disturbance, than activities associated with a family home. On this basis the potential harm associated with the change of use cannot be sufficiently demonstrated to warrant a refusal of this application.
52. The proposal would see the creation of two additional bedrooms, taking the total number of bedrooms to four. The ground floor of the property would remain largely unchanged with provision of a large lounge / kitchen / dining room space providing a good level of shared amenity space. The proposal accords with relevant space standards as decreed by Public Protection Officer for HMO Licence requirements.

53. Given the limited alterations proposed, no new issues of overlooking would occur and the application is, therefore, considered acceptable in relation to policy H9 and Q9 of the Local Plan with regards to impact upon amenity of adjoining neighbours.
54. In respect of noise and disturbance issues, the Environmental Health officers have raised no objections to the scheme.
55. The proposal therefore, has not been identified in this case as providing a significant detrimental impact on residential amenity and accords with policy H9 and H13 of the City of Durham Local Plan.

Highways issues:

56. 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.
57. Lawson Terrace 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.
58. The proposal is therefore considered acceptable from a highways viewpoint in accordance with policy T1 and T10 of the Local Plan and the NPPF.

CONCLUSION

59. In conclusion, the principle of development and impact on the conservation area and surrounding residents is considered to be acceptable as, in line with findings within recent appeal decisions that have considered the Interim Policy, the addition of one further C4 HMO in this area would not cause significant additional impacts given the already high percentage in HMO use. The dwelling can accommodate the additional bedrooms 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.
60. 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 preserve the character and appearance of the Conservation Area.
61. The proposal has generated public interest, with letters of objection submitted. 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. The roof lights hereby approved on the front and rear elevations shall be conservation style roof lights as detailed within approved plan reference 2B Proposed Elevations received 25 November 2019.

Reason: To ensure that a satisfactory form of development is obtained in the interests of visual amenity of the Durham City Conservation Area accordance with the provisions of policies E6, E21, E22 and Q8 of the Durham City Local Plan.

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

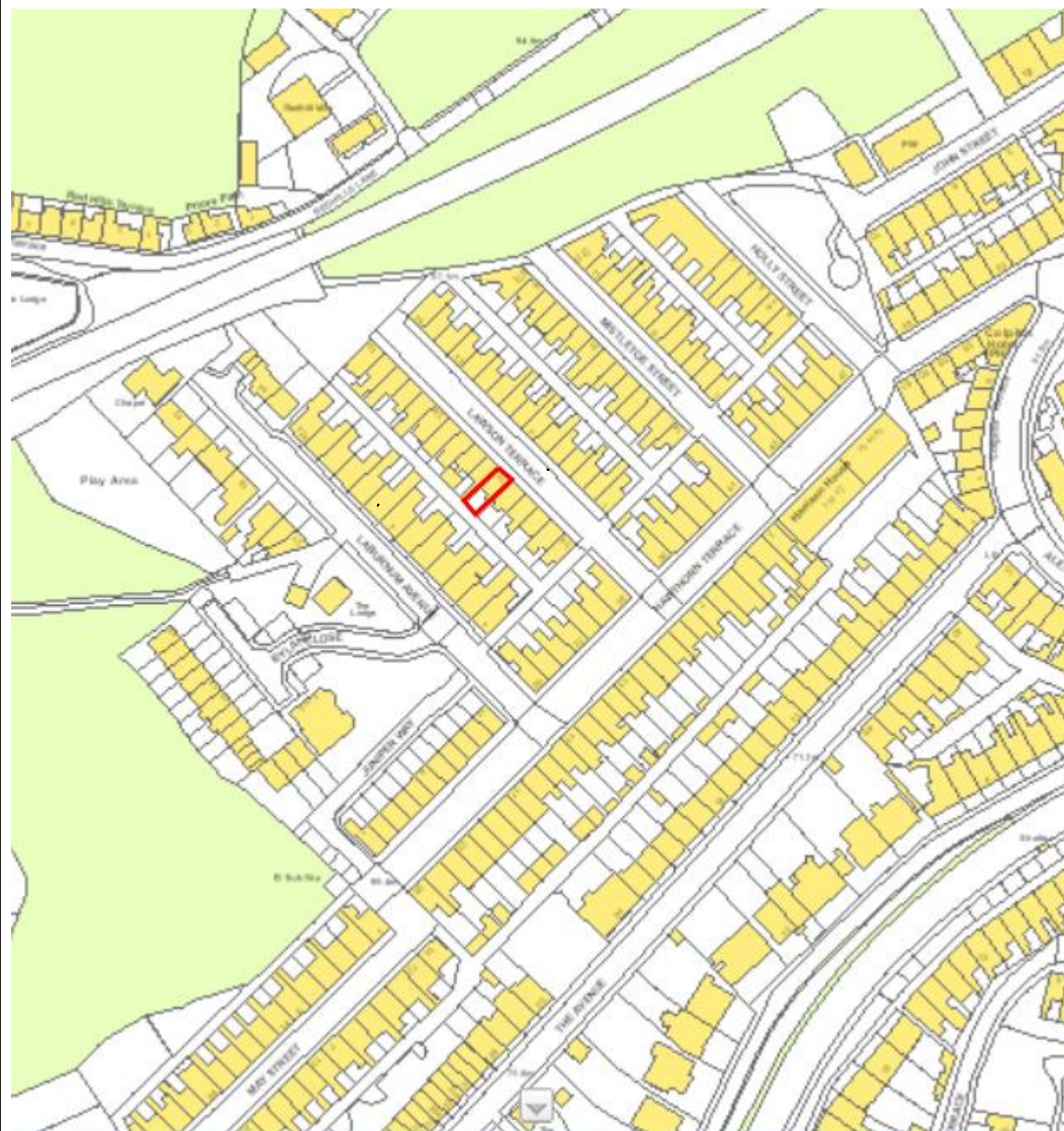
Submitted application form, plans, supporting documents and subsequent information provided by the applicant

The National Planning Policy Framework (2018)

National Planning Practice Guidance Notes

City of Durham Local Plan

Statutory, internal and public consultation responses



Planning Services

Change of use from single dwelling house C3 with 2 bedrooms to HMO C4 with 4 bedrooms, at 29 Lawson Terrace, Durham, DH1 4EW

Application Reference DM/19/03408/FPA

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Date 14 January 2020

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