

COMMITTEE REPORT

APPLICATION DETAILS

APPLICATION NO:	DM/18/00747/FPA
FULL APPLICATION DESCRIPTION:	Change of use from C3 (dwellinghouse) to C4 (house of multiple occupation)
NAME OF APPLICANT:	Mr Christopher Kirk
ADDRESS:	7 St Josephs Close, Gilesgate, Durham DH1 2 JA
ELECTORAL DIVISION:	Belmont
CASE OFFICER:	Paul Hopper (Planning Officer) Tel: 03000 263 946 Email: paul.hopper@durham.gov.uk

DESCRIPTION OF THE SITE AND PROPOSALS

The Site

1. The application site relates to a C3 residential property at No. 7 St Josephs Close, Durham. The property is a two storey dwelling with 3 reception rooms, a kitchen, conservatory and garage to the ground floor and four bedrooms and bathroom to the first floor. It is located in a predominantly residential area and is served by a single off street parking space and integrated garage.

The Proposal

2. This application seeks planning permission for the change of use of the property from C3 family house to a C4 house in multiple occupation (HMO). Works to facilitate the proposed change of use would be wholly internal and create additional bedroom space with the ability to accommodate 6 individuals.
3. This application is being reported to Planning Committee at the request of Eric and Lesley Mavin (Local Councillors for the Ward) who consider the nature of the proposal to be such that the potential impact upon the residential character of the area and parking should be considered by the planning committee.

PLANNING HISTORY

4. There is no planning history relevant to the current application.

PLANNING POLICY

NATIONAL POLICY

5. The Government has consolidated all planning policy statements, guidance notes and many circulars into a single policy statement, the National Planning Policy Framework (NPPF), although the majority of supporting Annexes to the planning policy statements are retained. The overriding message is that new development that is sustainable should go ahead without delay. It defines the role of planning in achieving sustainable development under three topic headings – economic, social and environmental, each mutually dependent.

6. The presumption in favour of sustainable development set out in the NPPF requires local planning authorities to approach development management decisions positively, utilising twelve 'core planning principles'. The following elements of the NPPF are considered relevant to this proposal;
7. *NPPF Part 1 Building a Strong, Competitive Economy*: The Government is committed to ensuring the planning system does everything it can to support sustainable economic growth. Planning should operate to encourage and not act as an impediment to sustainable growth. Therefore significant weight should be placed on the need to support economic growth through the planning system.
8. *NPPF Part 4 Promoting Sustainable Transport*: Encouragement should be given to solutions which support reductions in greenhouse gas emissions and reduce congestion. Developments that generate significant movement should be located where the need to travel will be minimised and the use of sustainable transport modes maximised.
9. *NPPF Part 6 Delivering a Wide Choice of High Quality Homes*. Local Planning Authorities should use evidence bases to ensure that their Local Plan meets the needs for market and affordable housing in the area. Housing application should be considered in the context of the presumption in favour of sustainable development. A wide choice of homes, widened opportunities for home ownership and the creation of sustainable, inclusive and mixed communities should be delivered. Where there is an identified need for affordable housing, policies should be met for meeting this need unless off-site provision or a financial contribution of broadly equivalent value can be robustly justified and such policies should also be sufficiently flexible to take account of changing market conditions over time.
10. *NPPF Part 7 Requiring Good Design*: 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.
11. *NPPF Part 8 Promoting Healthy Communities*: The planning system can play an important role in facilitating social interaction and creating healthy, inclusive communities. Developments should be safe and accessible; Local Planning Authorities should plan positively for the provision and use of shared space and community facilities. An integrated approach to considering the location of housing, economic uses and services should be adopted
12. *NPPF Part 11 Conserving and Enhancing the Natural Environment*: Planning policies and decisions should aim to avoid noise from giving rise to significant adverse impacts on health and quality of life as a result of new development and mitigate and reduce to a minimum other adverse impacts on health and quality of life arising from noise from new development, including through the use of conditions.

LOCAL PLAN POLICY:

City of Durham Local Plan

13. Policy H9 (Multiple Occupation / Student Households) states that the sub division or conversion of houses for flats, bedsits or for multiple occupation, or proposals to extend or alter properties already in such use will be permitted provided that it does not adversely impact on other planning considerations.

14. 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.
15. 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.
16. Policy T10 (Parking) states that vehicle parking off the public highway in a new development or redevelopment should be limited in amount, so as to promote sustainable transport choices and reduce the land take of development.

Interim Policy on Student Accommodation

17. On the 15 July 2015, Cabinet approved consultation on an Interim Policy on Student Accommodation. The consultation took place during September and October 2015. Responses received during the consultation period were considered and amendments were made to the Policy. On the 16 March 2016, Cabinet recommended that full Council adopt the revised Interim Policy and Council adopted the Policy on 13 April 2016. 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.

EMERGING COUNTY DURHAM PLAN:

The County Durham Plan

18. Paragraph 216 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. The County Durham Plan (CDP) was submitted for Examination in Public and a stage 1 Examination concluded. An Interim Report was issued by an Inspector dated 18 February 2015, however that Report was quashed by the High Court following a successful Judicial Review challenge by the Council. In accordance with the High Court Order, the Council has withdrawn the CDP and a new plan being prepared. In the light of this, policies of the CDP can no longer carry any weight. As the new plan progresses through the stages of preparation it will begin to accrue weight.

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:

19. *Highway Authority* notes that it would be reasonable to expect some of the occupants of the property, whether used as a family home or as a HMO, to have access to a motor vehicle, or vehicles and in this regard it is also noted that a garage, as well as the driveway capable of accommodating one vehicle (a car) currently serves the property. In addition the Highway Authority also notes that there is an unrestricted area used for parking at the entrance to St Josephs Close (40 metres from the property) which forms part of the adopted highway. In light of the above the Highway Authority raises no objection to the application as there does not appear to be sufficient grounds upon which to raise an objection on highway safety or amenity grounds.

NON STATUTORY RESPONSES:

20. *Durham Constabulary Architectural Liaison Officer* states that the Police are concerned that siting a HMO for up to six people in this quiet residential cul-de-sac would have a very serious impact on the amenity of the existing residents, as HMO's generate more noise and disturbance at unsocial hours than the average family home along with nuisance in the form of litter and bins being left in the street, creating an unnecessary fear (or perception) of crime; as would the regular appearance of Police vehicles at the house. They note that since the start of the academic year in October 2017, it is noted that the Police have issued 251 Community Protection Warning Notices to Student Properties, 44 of which have been escalated to full Protection Warning Notices, this is clear evidence of the negative impact HMO accommodation has on our communities.
21. In addition the Officer considers that contrary to common perception students do bring cars to university and there are issues with these vehicles cluttering the streets alternatively occupation of the house by contractor workers would in all likelihood attract more vehicles, any additional parking outside of the curtilage of this property will have an adverse impact on the existing residents.

INTERNAL CONSULTEE RESPONSES:

22. *Spatial Planning Policy* confirms that policy H9 of the City of Durham Local Plan is relevant to the determination of this application along with the Council's Interim Student Policy which is a material consideration to which weight can be applied and states that a Change of Use from C3 to C4 will not be permitted 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. In this regard the Council's Spatial Policy Section confirms that 9.3% of properties within 100 metres of the site are student properties as defined by Council Tax records. Therefore there are sufficient, up-to-date policies within the Local Plan to determine the application unless material considerations suggest otherwise.
23. *Noise Action Section* does not raise any objection to the application but notes that the application relates to a noise sensitive development as the use will be residential. However, as the use will be for student accommodation as an HMO then it could also be classed as a noise generating development and as such the planning officer should consider the fact that the residential area of St Josephs Close is a quiet residential area in determination of the application and the introduction of students into this area could increase noise levels within the area which could have an adverse impact on the residential amenity of the area.
24. *HMO Licensing Officer* offers no objection to the application but notes that the property would require a license under Part 2 of the Housing Act 2004.

PUBLIC RESPONSES:

25. Cllrs Eric and Lesley Mavin have raised objection to the application citing concerns regarding the impact of the proposal upon residential amenity and parking and the extent to which the application has been publicised.
26. The application has been publicised by way of site notice and individual notification letters to neighbouring properties. 11 letters of objection have been received which raise the following concerns;

Residential Amenity: The proposed use would increase noise and disturbance within what is a small cul-de-sac to the detriment of residential amenity.

Balance of the demographic of the existing street and unstable tenancies: The introduction of student accommodation would unbalance the current demographic of the street which is at present predominantly the elderly.

Refuse Collection and Litter: The current fortnightly bin collections would not be sufficient to dispose of the amount of waste generated by 6 adults living at the property.

Drainage: The current foul and surface water arrangement is not sufficient to accommodate the increase in demand caused by 6 adults.

The development would devalue other properties within the street.

The planning application has not been publicised sufficiently widely within the locale.

APPLICANTS STATEMENT:

27. In relation to the proposed planning application at 7 St Josephs Close, I would like to outline the benefits we, at Nicholas Humphreys Durham, feel this application will bring and hopefully ease any concerns raised.
28. Firstly, my company Nicholas Humphreys Durham, currently advertise over 80 properties for students. I personally manage around 30 of these and will be managing 7 St Josephs Close. I have managed properties in Durham for the last 3 years, and over these 3 years, have managed close to 90 tenancies consisting of hundreds of students. These have all gone without incident, crime, anti-social behaviour or otherwise. For each property managed by us, tenants sign a contract that has multiple clauses regarding the treatment of the property, the gardens and the neighbours and their properties; any conduct that would breach these clauses would result in removal from the property. I always ask my tenants to engage with their neighbours if possible, to build positive relationships and add to the community, rather than ostracise themselves from it.
29. For all our properties, I personally introduce myself to all neighbours and make clear that I am available to contact anytime, day or night, to alleviate any concerns neighbours may have during the tenancy. The majority of the properties I manage are on Marshall Terrace, Wakenshaw Road, Bradford Crescent and Laurel Avenue (etc.), so I am very familiar with the Gilesgate community. Most of my immediate family are still local to Gilesgate and I am there most days.
30. Currently in Durham we are seeing a huge increase in large blocks of self-contained studio flats earmarked for students and, with the closure of the Durham University Queen's campus in Stockton, this is leading to a shortage of affordable student housing. For example, the three blocks closest to 7 St Josephs for the coming academic year are currently priced at £130 per week to £250 per week, per student. We will be looking to achieve £75-£80pppw in a property that, although shared, will be far more spacious and finished to a very high standard. This will therefore increase the students' disposable income that can be spent in the local area and Durham City and, more importantly, increase the quality of their lives and experiences in Durham so they speak highly of their time here and return multiple times in the future.

The above 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

<http://82.113.161.89/WAM/showCaseFile.do?action=show&appType=planning&appNumber=10/00955/F>

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PLANNING CONSIDERATIONS AND ASSESSMENT

31. 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 development, the impact upon residential amenity (including appropriate provision for bin storage and other shared facilities and consideration of the security of the building, its occupants and that of other local residents and legitimate users) and highway safety.

The principle of development

32. The General Permitted Development Order 2015 (GPDO) permits the change of use from C3 (dwellinghouses) to uses within C4 (houses in multiple occupation HMOs). 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. The proposed floor plans submitted with the application indicate that the proposal is such that the development would normally benefit from the provisions contained within the GPDO. 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.
33. Planning legislation requires that the application should be determined in accordance with the development plan unless material considerations dictate otherwise. The NPPF is a material consideration and City of Durham Local Plan (CODLP) remains a statutory component of the development plan and a starting point for determining applications as set out in Paragraph 12 of the NPPF. The NPPF advises at Paragraph 215 that greater weight may be given to local plan policies depending on their degree of consistency with the NPPF. Furthermore paragraph 49 of the NPPF advises that housing applications should be considered in the context of the presumption in favour of sustainable development.
34. The CofDLP was adopted in 2004 and was intended to cover the period to 2006. However, NPPF Paragraph 211 advises that Local Plan policies should not be considered out-of-date simply because they were adopted prior to the publication of the NPPF. Notwithstanding this, it is considered 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.
35. Policy H9 of the CofDLP is therefore relevant 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.
36. Policy H13 of the CofDLP 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.
37. The approach contained within policies H9 and H13 of the City of Durham Local Plan is considered consistent with the general aim of the NPPF at paragraph 50 to create mixed and balanced communities and as such they remain up to date policies of the current development plan and as such can be attributed significant weight in determination of this application.

38. Several local residents have raised objection to the application citing concerns regarding the impact of the development in this regard in unbalancing the current demographic of the existing street which is understood to be principally occupied by families and the elderly.
39. In addition, to policies H9 and H13 of the CofDLP, 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 subject to 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 9.3% of those properties within 100 metres of the site are currently occupied as student let accommodation. This concentration is presently below the 10% threshold stated in the Interim Policy and as such the development can be considered acceptable in principle subject to satisfactory consideration of the other requirements listed in the policy.
41. In summary with regard to the principle of development the combination of the Interim Policy, along with Policies H9 and H13 of the Local Plan, provide a policy framework whereby the change of use from C3 to C4 could be supported in principle subject to proper consideration of the impact of the proposal upon residential amenity, appropriate provision for bin storage and other shared facilities, consideration of the security of the building, its occupants and that of other local residents and legitimate users, parking and highway safety.

Residential Amenity

42. Policy H9 of the CDLP states that the sub division or conversion of properties to provide student development will be permitted provided that it will not affect the amenities of nearby residents. This displays a broad level of accord with the aims of paragraph 123 of the NPPF which requires that planning decisions avoid noise from development giving rise to significant adverse impacts on health and quality of life; and mitigate and reduce to a minimum other adverse impacts through the use of conditions.
43. In this instance the application site is a two storey, link property spread over 2 floors which is located within a residential area within Gilesgate and as such the nearest residential units adjoin the application property to the east and west at Nos. 5 and 9 St Joseph's Close respectively.
44. Several surrounding residents, Durham Constabulary Crime & Community Issues Team and Councillors Eric and Lesley Mavin have raised objection to the application citing concerns regarding an increase in noise that the introduction of a student HMO would likely create, the former in particular noting the elderly nature of some of the existing residents within the street and the likely disturbance caused by music and comings and goings at unsocial hours. This, the Durham Constabulary Crime & Community Issues Team consider, would have an adverse impact upon the fear of crime for existing residents. However, with regard to the fear of crime it is considered that despite these concerns the introduction of a single HMO within this locale is unlikely to have any fundamental impact on the wider population in this regard and any impact could be mitigated through effective management of the property and details of tenancy agreements which the applicant advises would be undertaken by a management company currently responsible for around 80 properties, predominantly in the Gilesgate area of the City.

45. The Council's Environmental Health Section has been consulted and confirms that the development is unlikely to cause a statutory nuisance and does not raise any objection to the application in this regard. However, they also advise that St Josephs Close is a quiet residential area and the introduction of a 6 bedroom student property could increase noise levels within the area which could have an adverse impact on residential amenity.
46. The over proliferation of properties to HMO uses within a given locale can have a cumulative impact in this regard and as such the Interim Policy on Student Accommodation includes provision for the refusal of a planning application where in excess of 10% of all properties within 100 metres of the site are already in use as HMOs registered as exempt from Council Tax as being let wholly to students. Current Council Tax information indicates that at present less than 10% of properties within the locale are currently in use as HMOs and in this context it is not considered that the change of use of one additional property to a HMO would have any unacceptable increase in terms of its impact upon residential amenity.
47. It is accepted that the proposed occupation of the building by 6 unrelated individuals may result in different patterns of behaviour which may generate a greater level of noise when compared to that of a single family unit. However, the change of use of single property in this regard, is unlikely to result in an increase so significant as to warrant refusal of this application and it is noted that the property would be managed by the agent who also has responsibility for the management of a large number of HMO properties within the city.
48. The Council's Interim Policy for Student Accommodation includes a requirement to ensure that adequate bin storage provision is provided and that other shared facilities are adequate and it is noted that this is also raised as an objection to the application by local residents, particularly that bin collection arrangements would not be sufficient to dispose of the amount of refuse generated by 6 individuals. With regards to bin storage it is noted that the Council's Licencing Officer has advised that refuse storage containers shall be provided sufficient for the needs of the house, of a type acceptable to the LPA and that these should be located on a hard standing within the curtilage of the dwelling allowing. It is considered that sufficient space exists within the curtilage of the property to provide adequate bin storage and means of collection.
49. With regard to the amount of residential amenity space available, it is considered that the property and its curtilage are sufficient to accommodate adequate provision in accordance with the requirements of the Councils Interim Policy and policy H13 of the CofDLP. In particular each of the 6 bedrooms (2 downstairs and 4 upstairs) would exceed the minimum 6.25sq metres in floor space required by the HMO Licencing regime as would the kitchen and lounge.
50. Whilst residents have raised concerns regarding the precedent that granting planning permission would have with other properties within the cu-de-sac potentially being subject to similar applications, it is noted that the Interim Policy on Student Accommodation includes a lower threshold of 10% and that should the concentration of properties increase to the point that the 10% threshold is exceeded, the policy includes provision for the Local Planning Authority to refuse planning permission for any further applications for changes of use to HMOs.
51. In light of the above there are not considered to be sufficient grounds to warrant a reason for refusal on the basis of residential amenity and the proposal is considered to accord with the requirements of policy H9 and H13 of the City of Durham Local Plan in that regard, Paragraph 123 of the NPPF and the Council's Interim Policy relating to Student Accommodation.

Parking, Access and Highway Safety

52. The property benefits from an integrated garage and single width drive served by a dropped kerb from the existing highway. Policy H9 and the Council's Interim Policy both require that new HMO's provide adequate parking and access.
53. Several residents have raised objection to the application and consider that insufficient parking is provided within the curtilage of the property to serve the likely increase in demand and this is also raised as a concern by Durham Constabulary Crime & Community Issues Team and the Local Councillors for the Ward.
54. Whilst it is noted that all residents of the proposed HMO could potentially have their own private vehicle this is unlikely to be the case and the Highway Authority raises no objection to the application noting that the existing garage and driveway currently serve the property and that an area of parking is available at the entrance to St Josephs Close.
55. In light of the above the proposal is considered to accord with the requirements of Policy H9, T1 and T10 and the Council's Interim Policy in that it would provide safe access and adequate parking.

Other Matters

56. Residents have raised objection to the application citing concern that the introduction of 6 individuals within the property would put excessive pressure upon the existing foul water arrangement which could not accommodate increased flows. However, notwithstanding these concerns it is considered that the existing drainage arrangements could accommodate the increase in occupants proposed, which would not be subject to any control as part of the existing C3 use.
57. Whilst residents have raised objection to the application citing concerns regarding a perceived negative impact upon the value of other properties within the street it is noted that the impact upon property values is not a material consideration to which weight can be attached in determination of this application.
58. Several residents and the local councillors for the ward raise objection to the application citing concerns regarding the way in which the application has been publicised. In this regard it is noted that the application has been advertised by way of site notice and neighbour notification letters sent to all properties within St Josephs Close and that this exceeds the minimum statutory requirements as defined by the Town and Country Planning (General Development Procedure) Order 2014.

CONCLUSION

59. The proposed change of use would accord with the requirements of the Council's Interim Policy relating to student accommodation and would not result in more than 10% of the properties within 100 metres of the site being used as HMO's. Whilst the concerns of local residents, the ward councillors and Durham Constabulary Crime & Community Issues Team with regard to the impact of the development upon the balance of the existing street, residential amenity and parking, access and highway safety are noted, it is not considered that the introduction of an additional HMO in this locale would result in any unacceptable impact in this regard in accordance with the aims of policy H9, H13, T1 and T10 of the City of Durham Local Plan or conflict with the aims of the NPPF and Council's Interim Policy to create sustainable, inclusive and mixed communities.

RECOMMENDATION

That the application be **APPROVED** subject to the following conditions:

1. The development hereby approved 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:

Drawing No.	Description	Date Received
	Location Plan	7/3/2018
	Proposed Floor Plans	7/3/2018

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

3. The development hereby approved shall not be occupied by more than 6 non related occupants.

Reason: An increase in the number of occupants would need further consideration by the Local Planning Authority and in the interests of residential amenity.

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

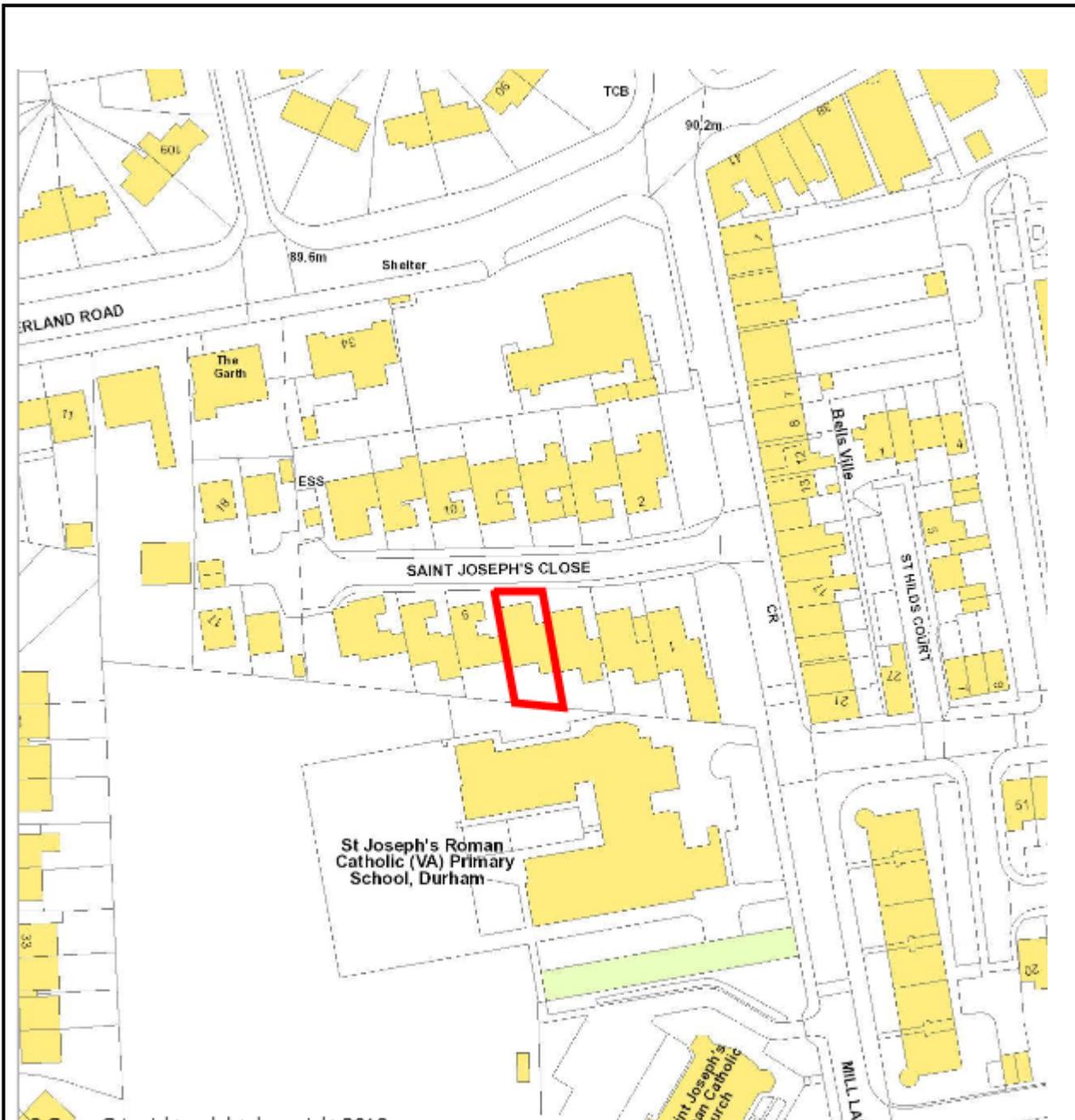
Submitted application form, plans supporting documents and subsequent information provided by the applicant.

The National Planning Policy Framework (2012)

National Planning Practice Guidance Notes

City of Durham Local Plan 2007

Statutory, internal and public consultation responses



Planning Services

Change of use from C3 (dwellinghouse) to C4 (house of multiple occupation) at 7 Saint Joseph's Close, Durham

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Comments

Date 12 June 2018