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**PLANS PANEL (EAST)**

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Meeting to be held in Civic Hall Leeds on  
Thursday, 30th September, 2010  
at 1.30 pm

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**MEMBERSHIP**

**Councillors**

D Congreve  
(Chair)

A Taylor

G Latty

R Finnigan

D Wilson

J Procter

R Grahame

P Gruen

M Lyons

K Parker

# A G E N D A

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**APPEALS AGAINST REFUSAL OF INSPECTION OF DOCUMENTS**

To consider any appeals in accordance with Procedure Rule 25 of the Access to Information Procedure Rules (in the event of an Appeal the press and public will be excluded.)

(\*In accordance with Procedure Rule 25, written notice of an appeal must be received by the Chief Democratic Services Officer at least 24 hours before the meeting)

**EXEMPT INFORMATION - POSSIBLE EXCLUSION OF THE PRESS AND PUBLIC**

1 To highlight reports or appendices which officers have identified as containing exempt information, and where officers consider that the public interest in maintaining the exemption outweighs the public interest in disclosing the information, for the reasons outlined in the report.

2 To consider whether or not to accept the officers recommendation in respect of the above information.

3 If so, to formally pass the following resolution:-

**RESOLVED** – That the press and public be excluded from the meeting during consideration of those parts of the agenda designated as containing exempt information on the grounds that it is likely, in view of the nature of the business to be transacted or the nature of the proceedings, that if members of the press and public were present there would be disclosure to them of exempt information.

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3			<p><b>LATE ITEMS</b></p> <p>To identify items which have been admitted to the agenda by the Chair for consideration.</p> <p>(The special circumstances shall be specified in the minutes.)</p>	
4			<p><b>DECLARATIONS OF INTEREST</b></p> <p>To declare any personal / prejudicial interests for the purpose of Section 81(3) of the Local Government Act 2000 and paragraphs 8 to 12 of the Members Code of Conduct.</p>	
5			<p><b>APOLOGIES FOR ABSENCE</b></p> <p>To receive any apologies for absence.</p>	
6			<p><b>MINUTES</b></p>	3 - 12
7	Harewood;		<p><b>APPLICATION 09/03138/FU - APPEAL SUMMARY, 10 ELMETE AVENUE, SCHOLES</b></p> <p>To consider the report of the Chief Planning Officer on the outcome of an appeal against the non determination of an application for the erection of 3 new dwellings and a double garage to the rear garden of 10 Elmete Avenue, Scholes</p> <p>(Report attached)</p>	13 - 18
8	Moortown;		<p><b>APPLICATION 10/02814/FU - 41A STAINBURN CRESCENT, MOORTOWN LS17 6NE</b></p> <p>To consider the report of the Chief Planning Officer on an application for part two, part single storey front, side and rear extension, the Dormer window to the rear being permitted development, at 41A Stainburn Crescent Moortown.</p> <p>(Report attached)</p>	19 - 26

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9	Chapel Allerton;		<p><b>APPLICATION 10/03112/FU - 4 FARM HILL WAY, LEEDS LS7 2SQ</b></p> <p>To consider the report of the Chief Planning Officer on an application for a part two storey part single storey side and rear extension at 4 Farm Hill Way, Leeds LS7</p> <p>(Report attached)</p>	27 - 34
10	Harewood;		<p><b>APPLICATION 10/02503/FU - 10 THE PADDOCK, THORNER, LS14 3JB</b></p> <p>To consider the report of the Chief Planning Officer on an application received for a single storey side extension at 10 The Paddock, Thorner, Leeds</p> <p>(Report attached)</p>	35 - 44
11	Wetherby;		<p><b>APPLICATIONS 10/01593/FU &amp; 10/01594/CA - WETHERBY HEALTH CENTRE, ST JAMES'S STREET, WETHERBY LS22</b></p> <p>To consider the report of the Chief Planning Officer on an application for a part 2 storey, part 3 storey residential Care Home with 58 bedrooms and a 2 storey block of 8 extra care flats, with car parking and landscaping and Conservation Area consent for demolition of existing health centre, relating to the redevelopment of Wetherby Health Centre.</p> <p>(Report attached)</p>	45 - 58
12	Harewood;		<p><b>APPLICATION 10/02898/FU - CLEAVESTY CENTRE, CLEAVESTY LANE, EAST KESWICK</b></p> <p>To consider the report of the Chief Planning Officer on an application received for the erection of a detached 5 bedroom house with attached double garage, to the equestrian/kennel/cattery at the Cleavesty Centre, Cleavesty Lane, East Keswick</p> <p>(Report attached)</p>	59 - 70



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13	Wetherby;		<p><b>APPLICATION 10/02982/FU - 9 BANK STREET, WETHERBY, LS22</b></p> <p>To consider the report of the Chief Planning Officer on an application for the change of use of a retail unit (A1 use) to restaurant (A3 use) at 9 Bank Street, Wetherby</p> <p>(Report attached)</p>	71 - 78
14			<p><b>DATE AND TIME OF NEXT MEETING</b></p> <p>To note the date and time of the next meeting as Thursday 28<sup>th</sup> October 2010 at 1:30 pm</p>	

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To all Members of Plans Panel  
(East) and relevant Town and Parish  
Councils

**Chief Executive's Department**  
Governance Services  
4<sup>th</sup> Floor West  
Civic Hall  
Leeds LS1 1UR

Contact: Angela M Bloor  
Tel: 0113 247 4754  
Fax: 0113 395 1599  
angela.bloor@leeds.gov.uk  
Your reference:  
Our reference: ppe site visits  
Date 22<sup>nd</sup> September 2010

Dear Councillor

**SITE VISITS – PLANS PANEL EAST – 30TH SEPTEMBER 2010**

Prior to the meeting of the Plans Panel (East) on Thursday 30th September 2010 the following site visits will take place:

9.10 am		<u>Depart Civic Hall at 9.10 am</u>
9.35 am	Application 10/02503/FU	Single Storey extension at 10 The Paddock, Thorner (Harewood ward)
10.05 am	Applications 10/01593/FU & 10/01594/CA	Residential care home, Wetherby Health Centre, St James's Street, Wetherby (Wetherby ward)
10.25 am	Application 10/02982/FU	Change of use of retail unit, 9 Bank Street, Wetherby (Wetherby ward)
10.50 am	Application 10/02898/FU	Erection of dwelling and garage, Cleavesty Centre, Cleavesty Lane, East Keswick (Harewood ward)
11.20 am	Application 10/02814/FU	Extensions to front and side at 41A Stainburn Crescent, Moortown (Moortown ward)
11.50 am	Application 10/03112/FU	Extensions to front and side at 4 Farm Hill Way, Miles Hill (Chapel Allerton ward)
12.25 pm		<u>Return to Civic Hall at 12:25 pm approximately</u>

For those Members requiring transport, a minibus will leave the Civic Hall at 9.10am. Please notify David Newbury (Tel: 247 8056) if you wish to take advantage of this and meet in the Ante Chamber at 9.05 am.

Yours sincerely

**Angela M Bloor**  
**Governance Officer**

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## Plans Panel (East)

Thursday, 2nd September, 2010

**PRESENT:** Councillor D Congreve in the Chair

Councillors R Grahame, P Gruen, G Latty,  
T Leadley, M Lyons, K Parker, J Procter,  
A Taylor and D Wilson

### **41 Chair's opening remarks**

The Chair welcomed everyone to the meeting and asked Members and Officers to introduce themselves

### **42 Late Items**

There were no formal late items, however Panel Members were in receipt of the following additional information to be considered at the meeting:

Application 10/03/112/FU – 4 Farm Hill Way LS7 – Written representations, a plan and photographs submitted by an objector (minute 47 refers)

Application 10/0059/FU – Village Farm Harrogate Road LS17 – photographs submitted by Officers (minute 51 refers)

### **43 Declarations of Interest**

The following Members declared personal/prejudicial interests for the purposes of Section 81(3) of the Local Government Act 2000 and paragraphs 8 to 12 of the Members Code of Conduct:

Application 10/02690/LA – Victoria Primary School Ivy Avenue LS9 – Councillor Taylor declared a personal interest through being a trustee of The Charities of Thomas Wade as Wades Charity was referred to in the report (minute 49 refers)

Application 10/00059/FU – Village Farm Harrogate Road LS17 – Councillor Procter declared personal and prejudicial interests through having children who attend the nearby school which would receive additional education facilities through a legal agreement, if planning permission was granted (minute 51 refers)

Applications 10/01593/FU and 10/01594/CA – Wetherby Health Centre St James's Street LS22 – Councillor Lyons declared a personal interest as a member of West Yorkshire Integrated Transport Authority as Metro had commented on the proposals (minute 47 refers)

Application 10/00711/FU – Holmecroft York Road LS15 – Councillor Lyons declared a personal interest as a member of West Yorkshire Integrated Transport Authority as the report contained references to improvements to bus stops in the vicinity of the site (minute 52 refers)

### **44 Apologies for Absence**

Apologies for absence were received from Councillor Finnigan who was substituted for by Councillor Leadley

#### **45 Minutes**

**RESOLVED** - That the minutes of the Plans Panel East meeting held on 5<sup>th</sup> August be approved subject to the following amendment:

Minute 33 Application 10/01871/FU – Corpus Christi Catholic College LS9 – regarding ecological matters ‘ there was expertise within the Council and that the matter could be raised with appropriate Officers’ to be amended to read ‘ there was expertise within the Council and that the matter would be raised with the appropriate Officers’

#### **46 Matters arising**

Reference was made to the re-opening of Public Inquiries concerning proposed residential developments at Grimes Duke and Boston Spa

#### **47 Requests for site visits**

The Panel’s Lead Officer informed the Panel of a request which had been received from Councillor Lancaster for a site visit in respect of application 10/02814/FU – 41A Stainburn Crescent LS17 for reasons relating to residential amenity and character of the area

Councillor John Procter requested a site visit to St James’s Street Wetherby – applications 10/01593/FU and 10/01594/CA - to consider the impact on the area of proposals for a 58 bedroom residential care home with 8 extra care flats, car parking and landscaping

Members were informed that in respect of application 10/03112/FU – 4 Farm Hill Way LS7 – Officers were recommending a site visit be undertaken by Members in view of a recent representation which had been received and in view of the planning history of the site

**RESOLVED** - That the site visits be arranged

#### **48 Applications 09/05215/FU and 09/05216/CA - 2 North Lane Oulton LS26 - Appeal decision**

Further to minute 198 of the Plans Panel East meeting held on 11<sup>th</sup> March 2010 where Panel resolved not to accept the Officer’s recommendation to approve an application for the demolition of an existing house and the erection of 3 detached dwellings at 2 North Lane Oulton LS26, the Panel considered a report of the Chief Planning Officer setting out the Inspector’s decision following the lodging of an appeal on behalf of the applicant

The Panel’s Lead Officer informed Members that although the appeal had been dismissed, it had not been so on the basis that the site had been redesignated as greenfield and therefore in principle should not be developed, despite the representations made by the Council relating to the recent amendments to PPS3. The Panel was informed that the appeal was dismissed for reasons relating to overdevelopment and that the cottages lacked architectural integrity

Members were advised that other appeal decisions relating to development on garden land were also not being refused on the principle of development and that Inspectors were taking different approaches and placing different degrees of weight

on issues such as character of the area. An example of this was a recent appeal which was upheld by the Inspector in respect of garden land development at 10 Elmete Avenue LS15, with an award of costs being made against the Council. The Panel's Lead Officer stated that a full report on this decision would be submitted to Panel in due course

Concerns were raised by Panel Members at the decision relating to 10 Elmete Avenue LS15, particularly the award of costs when the Panel had considered the application over the course of two meetings and had visited the site. It was suggested by a Panel Member that the minutes should be expanded to include greater detail to demonstrate the consideration given by Panel to applications. Officers were asked to consider the merits of challenging the costs element of that decision and that the way in which Inspectors were dealing with the amendments to PPS3 should be considered by Joint Plans Panel

**RESOLVED -**

- i) To note the report and decision in respect of 2 North Lane Oulton LS26
- ii) To note the comments now made
- iii) That a detailed report on the appeal decision at 10 Elmete Avenue and the process of awarding costs be submitted to Panel for consideration
- iv) That the Chief Officer (Legal, Licensing and Registration) be asked to consider whether there were grounds to challenge the Inspector's costs decision against the Council at 10 Elmete Avenue LS15
- v) That the Chief Planning Officer and Director of City Development be made aware of the concerns expressed by the Panel
- vi) That the Chief Planning Officer be asked to write to the Secretary of State for Communities and Local Government stating that the changes to PPS3 were not having the intended effect of resisting the inappropriate development of garden land
- vii) That a report be submitted to Joint Plans Panel on appeal decisions on residential development on garden land

**49 Application 10/02690/LA - Demolition of temporary classrooms and erection of two storey classroom block with canopy link to school - Victoria Primary School Ivy Avenue LS9**

Plans, photographs and graphics were displayed at the meeting. A site visit had been undertaken earlier in the day which some Members had attended

Officers presented the report which sought permission for the demolition of temporary classrooms at Victoria Primary School, Ivy Avenue LS9 and the erection of a two storey classroom block with canopy link which would enable the school to increase both its pupil and staffing numbers over a period of years

Members were informed of concerns within the community about the impact of the proposals on car parking, especially for local residents who already experienced problems of inconsiderate parking from parents/carers dropping off and picking up their children at the start and end of the school day. To help remedy this situation as well as the provision of a TRO for 'School Keep Clear' markings there would be a requirement for the school to produce a robust Travel Plan to encourage greater use of sustainable methods of travel, with both of these being conditioned as part of an approval

Regarding pedestrian/cycle accessibility, there was an informal desire line across Shaftesbury Fields which was well used by pupils. It was hoped to secure a

more formal footpath and discussions were ongoing with the owners of this area of land, Wades Charity, to ascertain whether Wades would allow such works on their land. Members were advised that this matter was to be discussed by Wades Charity at their meeting in November and as there was an urgent need for the extra accommodation at Victoria Primary School it was not possible to delay the application until this matter had been resolved and it would not be possible to condition the provision of the footpath to achieve the desired outcome

If minded to approve the proposals, Officers requested the application be deferred and delegated to the Chief Officer to enable some additional information to be obtained concerning contaminated land

The Panel prepared to hear representations from Councillor Pryke who had been registered as an objector and from Education Leeds who were supporting the proposal

Councillor Pryke stated that he did not object to the proposals for an extension to Victoria Primary School as no ward member would wish to object to the provision of a new school facility, but he did wish to raise areas of concern about aspects of the proposals

Following consideration of the protocol for public speaking at Panel, it was clarified that in the absence of an objector no representations could be made to the Panel

Councillor Pryke stated that his representations could be regarded as an objection; this was not accepted by the Chair and Councillor Pryke withdrew

Members commented on the following matters:

- the use of the informal footpath and whether there had been any incidents of anti-social behaviour there
- the trees currently on the site and whether there was an intention to protect these
- concern that an image showing the proposed extension in relation to the existing school had not been provided
- that the building was described as 'modular' and whether this would allow for further expansion on the site
- the need for the Travel Plan to be considered in detail
- that the highways issues did not seem to have been addressed
- that the issue of the footpath should have been resolved prior to the application having been brought for determination
- the view that the application was being rushed through; that this was not an acceptable way to proceed with a planning application and that pressure was being placed upon Panel to make a decision when major issues remained unresolved

Officers provided the following comments:

- that no comments had been received to indicate there was anti-social activity occurring on the informal footpath
- whilst accepting the difficulties local residents were currently experiencing due to traffic generation associated with the school day, national planning guidance stated that new planning applications should not be used to resolve existing situations. Additionally in this case, the desired access crossed land in the ownership of a third party and where this occurred, planning conditions could only be imposed on such land where there was a real prospect of the terms of that



condition being delivered. Although the school and Education Leeds would be encouraged to continue discussions on this, the outcome would not be known until the meeting of Wades Charity in November

- that the application if approved would lead to an increase in pupil numbers but that in terms of the measures which were implemented, these had to relate to the planning application which was before Members and in respect of the Travel Plan, this was covered by a planning condition
- regarding the trees on the site, that the Council's Tree Officer could be asked to assess the trees on the site to see if they were worthy of protection and then report back to Ward Members and the Panel

The Panel's Highways representative stated that discussions with Ward Members on the highway issues had led to an additional condition being imposed in respect of a TRO for road markings which the Officer considered would be more effective than permit parking for residents, particularly as a traffic management scheme could be enforced

The Panel considered how to proceed

**RESOLVED** – To defer and delegate approval of the application to the Chief Planning Officer subject to receipt of further information concerning contaminated land and subject to the conditions set out in the submitted report plus additional conditions relating to:

- scheme for protection of trees during construction works
- details of a scheme for pedestrian access to be submitted and approved in writing by the local planning authority

that the Travel Plan be agreed in consultation with Ward Members; that the Council's Tree Officer visit the site to assess the trees between the play area and existing temporary buildings to establish if they were worthy of protection and to report back to Ward Members and Panel Members on this matter

## **50 Application 10/02834/FU - Alterations to existing detached house to form 6 flats, including two storey extension with basement and rooms in the roof space - Hollybank 5 Gledhow Lane Gledhow LS8**

Plans, photographs and graphics were displayed at the meeting

Officers presented the report which related to an application for extensions to a property on Gledhow Lane LS8 which included the formation of 6 flats on a greenfield site in a part of the city which was characterised by open areas and was sited in the Roundhay Conservation Area

A previous, larger scheme had been refused and was subsequently dismissed on appeal, although the current proposals had been designed to address some of the Inspector's criticisms of that earlier development

The amendments to PPS3 'Housing' had changed the definition of the land to greenfield and had given LPAs an additional tool to resist inappropriate development, not in terms of the principle of development but when it came to the effect on the character of the area

Officers reported receipt of 3 further letters of objection, with only one new issue being raised from those set out in the submitted report

Having considered the proposals, Officers were of the view that the development was overintensive, would result in loss of open space and have an

adverse impact of the open character and appearance of the Conservation Area and were therefore recommending to Panel that the application be refused

Members considered representations from the applicant and another supporter of the proposals together with an objector who attended the meeting

**RESOLVED** - That planning permission be refused for the following reason:

The proposed development, by virtue of the scale and size of the proposed extension and the overall extent of development proposed would result in the loss of open mature garden space resulting in an unacceptable overdevelopment of the site which would detract from the character and setting of the host property and the open character and appearance of the Roundhay Conservation Area, contrary to policies GP5, N12, N19, BD5, and BD6 of the UDP and the guidance in SPG6, PG13, Roundhay Conservation Area Appraisal, PPS1, PPS3 and PPS5

### **51 Application 10/00059/FU - Erection of 5 detached houses and 3 terrace houses at Village Farm Harrogate Road Harewood LS17**

(Having declared personal and prejudicial interests in this matter, Councillor John Procter withdrew from the meeting)

Plans, drawings and photographs were displayed at the meeting

Officers presented the report which sought permission for the development of an allocated greenfield site within the Harewood Conservation Area and village envelope. Whilst proposals for a greenfield site would usually be resisted in advance of brownfield sites, there had been an extant permission for the site at the time the application was submitted. The proposed development would also lead to benefits for the area, especially enhancements to the Conservation Area and for these reasons Officers considered there were sound planning reasons to justify planning permission being granted

The site was currently vacant and had been designated in the UDP for housing with the proposed houses being traditional two storey buildings and designed to relate to the character of the area

Vehicular access would be from Malt Kiln Lane and Harewood Road and although concerns had been raised by local residents about this, the access had been agreed on the previous scheme and there would be improvements to the access to allow two-way passing so the situation would be no worse than that accepted when the previous permission was granted

A draft Unilateral Undertaking under Section 106 of the Town and Country Planning Act had been provided by the applicant which included:

- Confirmation of School lease for a term of 999 years
- Transfer of the freehold of the Headmaster's House to the Council for educational use
- Provision of off-site greenspace, laying out and maintenance

Additional conditions were suggested by Officers relating to details of a pedestrian warning sign adjacent to the The Harewood Arms Hotel to be submitted and further details of the construction of the road improvements to be submitted

Members discussed the application and commented on the following matters:

- whether the access would define a new Green Belt boundary

- the level of privacy the rear gardens of the properties would enjoy
- highways issues, particularly concerns at the egress onto Harewood Avenue in view of cars tending to accelerate immediately at this point
- details of the refuse collection arrangements
- the type of slate to be used on the roof with the view that this should be sandstone
- the loss of the poplar trees

Officers provided the following responses:

- that the boundary of the Greenbelt was set in the UDP; that the scheme would only provide planting on the boundary and that the development would not impact on the Council's ability to defend the Greenbelt from inappropriate development
- concerning the highways issues, the footpath was wide and whilst accepting that parking did occur along the road frontage which could mask the access, the Panel's Highways representative stated that the proposals were acceptable
- in respect of refuse collection, there would be a collection point for all the properties and a turning head would be provided
- in relation to the removal of trees, some of these were in poor condition but replacement planting with more native species would be provided

**RESOLVED** - To approve the application in principle and to defer and delegate final approval to the Chief Planning Officer subject to the conditions specified, additional conditions relating to the use of sandstone slate to the roofs of the properties; details of the pedestrian warning sign adjacent to The Harewood Arms Hotel to be submitted; notwithstanding the submitted plans, further details of the construction of the road improvements to be submitted (and any others which he might consider appropriate); minor amendments to the internal road layout to increase the refuse turning area; increase width of gate piers; consistency between the site layout plan and highways plan and the completion of a legal agreement within 3 months from the date of resolution unless otherwise agreed in writing by the Chief Planning Officer, to include the following obligations:

- confirmation of School Lease for a term of 999 years
- transfer of the Freehold of Headmaster's House to the Council for educational purposes
- provision of off-site Greenspace, laying out and maintenance
- S106 management fee

(Following consideration of this matter, Councillor John Procter resumed his seat in the meeting)

**52 Application 10/00711/FU - Laying out of access road and erection of 4 buildings comprising 1 single block of 12 start up units with 2 seminar areas and 6 workshop units in 3 blocks (all class B1(B) and Bb1(c)) with car parking at Holmecroft York Road LS15**

Further to minute 239 of the Plans Panel East meeting held on 13<sup>th</sup> May 2010 where Panel considered a Position Statement for a commercial development at

Holmecroft which was situated in the Green Belt on the A64 York Road, Panel considered a report of the Chief Planning Officer setting out the formal application

Plans, photographs, graphics and a sample panel of proposed materials were displayed at the meeting

Whilst by definition, the development was inappropriate, Members were informed that the applicant had put forward information which was considered to constitute very special circumstances which would outweigh the harm to the Green Belt which would arise from the development's inappropriate nature

**RESOLVED** - To approve the application in principle and refer the application to the Secretary of State under the terms of the Town and Country Planning (Consultation) (England) Direction 2009 as a major development in the Green Belt. In the event of the Secretary of State not wishing to intervene, to delegate final approval to the Chief Planning Officer subject to the conditions specified (and any others which he might consider appropriate) and the completion of a legal agreement to cover the following matters:

- i) public transport infrastructure contribution (£17,991)
- ii) Metro contribution for upgrading of a bus stop adjacent to the site (£10,000)
- iii) travel plan and monitoring fee (£2,550)
- iv) Section 106 monitoring fee

In the circumstances where the Section 106 Agreement has not been completed within 3 months of resolution to grant planning permission, the final determination of the application shall be delegated to the Chief Planning Officer

**53 Application 09/05297/FU - Two storey rear extension with porch to side, single storey side extension and detached double garage to rear - Hemmingway's Cottage The Green Thorp Arch Wetherby LS23**

Further to minute 31 of the Plans Panel East meeting held on 5<sup>th</sup> August 2010 where the Head of Planning Services sought consideration of the application to be deferred in view of further representations which had been made in respect of the proposals, Panel considered a further report

Plans and photographs were displayed at the meeting

Members were informed that the applicant had submitted an appeal against non-determination and therefore Officers were seeking an indication from Panel how it would have determined the application had it been in a position to do so

The Panel's Lead Officer stated that the Council's Tree Officer had visited the site and was of the view that the beech hedge to the rear of the property was not worthy of preservation

Discussion ensued on possible conditions to reassure local residents that the demolition of the existing side extension would take place at to the outset to enable parking of construction vehicles. The Panel's Lead Officer stated that it would be for the Inspector to determine the appeal and if it was approved, to decide upon conditions to be attached to that. However, in the representations from the LPA on the appeal, a statement would be included explaining the need for such conditions in this case

**RESOLVED** -

- i) That had the Panel been in a position to determine the application it would have granted planning permission subject to the conditions set out in the submitted report

- ii) That in making representations on the appeal, Officers should set out the case for the imposition of a condition relating to the need for a construction management plan – suggested condition 6 – demolition of side extension to facilitate parking of construction vehicles and siting of construction compound to rear of dwelling

(Under Council Procedure Rule 16.5, Councillor Leadley required it to be recorded that abstained from voting on this matter)

**54 Date and time of next meeting**

Thursday 30<sup>th</sup> September 2010 at 1.30pm in the Civic Hall, Leeds

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Originator: Adam Ward

Tel: 0113 395 1817

## Report of the Chief Planning Officer

### PLANS PANEL EAST

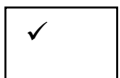
Date: 30<sup>th</sup> September 2010

**Subject: Application 09/03138/FU – Appeal by Mr Steven Green against the non-determination of an application for planning permission for the erection of 3 new dwellings and double garage to rear garden of 10 Elmete Avenue, Scholes.**

**The appeal was allowed and costs awarded against the Council.**

#### Electoral Wards Affected:

Harewood



Ward Members consulted  
(referred to in report)

#### Specific Implications For:

Equality and Diversity

Community Cohesion

Narrowing the Gap

#### **RECOMMENDATION:**

Members are asked to note the following appeal and costs decisions.

#### **1.0 THE APPEAL WAS DEALT WITH BY WRITTEN REPRESENTATIONS**

- 1.1 This application was recommended for approval by Officers, however Members of Plans Panel East resolved to defer the application of the Panel meeting on 11<sup>th</sup> February in order to carry out a site visit. Following this, the applicant lodged an appeal against the non-determination of the application. At the subsequent Panel meeting on 11<sup>th</sup> March 2010 and following an earlier site visit, Members indicated that had they been in a position to formally determine the application, then planning permission would have been refused due the impact on the spatial character of the area and upon the living conditions of adjacent occupants.
- 1.2 An application for a full award of costs against the Council on this application was made by the appellants.
- 1.3 This appeal decision was also briefly discussed at the Plans Panel meeting on 2<sup>nd</sup> September 2010 and Members resolved that a further report be brought back to the Panel.

## **2.0 ISSUES IDENTIFIED BY THE INSPECTOR**

- 2.1 The main issues identified by the Inspector, and having regard to the changes to PPS3, were the effect of the proposed development on the character and appearance of the area; the living conditions of the occupiers of neighbouring dwellings in terms of noise and privacy; and on revised national policy with regard to the development of private residential gardens.

## **3.0 SUMMARY OF COMMENTS**

### Character and Appearance

- 3.1 The Inspector commented that in terms of plot sizes, the 3 dwellings would not be out of character with the general pattern of development in the locality at a density of 14 dwellings per hectare. In addition, he noted that they would not be dissimilar to the linear form of housing on Elmete Croft to the east, which was also built on rear garden land. The Inspector noted that in a previous appeal decision the Inspector found the building of 2 blocks of flats at a higher density would not harm the character and appearance of the area. As such, the Inspector considered that 3 dwellings, both in terms of their design and density would more reflect and complement the type of property in the area than would the apartment blocks.
- 3.2 The Inspector was also satisfied that the proposal would not create a precedent for the development of other rear gardens to the west.

### Living Conditions

- 3.3 The Inspector visited numerous properties within Elmete Croft during the accompanied site visit to assess and consider any potential impact. With regard to the Council's suggested second reason for refusal the Inspector noted that the proposed acoustic fence adjacent to the turning head, due to its height, would be overbearing due to the size of adjacent rear gardens. However, he noted that even without the fence, given the number of vehicle movements likely to be generated by the development and the existing and proposed planting along the boundary, there would be no undue levels of noise and disturbance to existing residents.
- 3.4 The Inspector also concluded that there would be no significant loss of privacy to nearby residents do the oblique angle of the dwellings and proposed separation distances. It was also highlighted that the properties on Plots 1 and 2 would be located sufficiently far from Elmete Croft so as to avoid any material overbearing effect, while no harm would occur to the occupiers of No. 8 Elmete Avenue given the separation distance and the fact that their mass would be broken up by the presence of the single storey garages. In terms of loss of light, the Inspector did not consider that the limited overshadowing of the gardens of 4 and 4 Elmete Croft to be sufficient to warrant dismissing the appeal.
- 3.5 With regard to bin storage, the Inspector accepted that the collection point would require the occupiers of the dwellings to move their bins some distance but concluded that this is not sufficient to warrant dismissing the appeal could have been dealt with by the use of an appropriate planning condition.

### Housing Policy

- 3.6 The Inspector accepted that the site can no longer be regarded as brownfield land. He noted that the Council did not provide any evidence to show how the changes to PPS3 would be contrary to UDP policies and whether or not it can meet its UDP



housing targets on brownfield land. The Inspector concluded that the proposal is not inconsistent with the amendment of PPS3 to omit reference to garden land as brownfield land.

#### **4.0 DECISION**

4.1 The appeal was allowed subject to conditions by letter dated 17<sup>th</sup> August 2010.

#### **5.0 COSTS**

5.1 The Inspector considered the appellant's application for an award of costs, firstly, addressing the matter of the time delay. In his view, the Inspector was not convinced that the delay caused the appellant any significant unnecessary expense. However, with regard to the first reason for refusal on character, the Inspector considered that the Council failed to have regard to a previous appeal decision in framing its reason for refusal. This related to a proposal for two blocks of flats and the Inspector concluded that the apartments would not adversely affect local character. Subsequent to this the Council had refused planning permission for a further application for 3 houses and this was for a scheme similar to the current appeal. The Council did not refuse that application on grounds relating to its impact upon the character of the area. The Inspector commented that the Council had not determined the case on a like for like manner and has introduced an additional unsubstantiated reason for refusal.

5.2 In terms of the second reason for refusal (overdevelopment), the Inspector considered that the Council had included an unsubstantiated additional reason for refusal. He noted that the density would be very similar to existing development in the area; did not affect privacy; and in terms of noise, that the Council chose to disregard clear technical advice, and consequently that the Council had acted unreasonably. The Inspector also noted that the Council also failed to produce any detailed evidence regarding the impact of the changes to PPS3 on its UDP, resulting in unreasonable behaviour.

5.3 In light of the above, the Inspector concluded that a partial award of costs is justified.

#### **6.0 IMPLICATIONS**

6.1 Members are asked to note the comments of the Inspector in this case and in particular her reference to Circular 03/2009 in terms of the need to provide evidence to substantiate reasons for refusal in relation to costs awards, and for the planning history, including the comments of previous Inspectors and comparisons of similar schemes to appeal proposals, to be taken into account.

6.2 There are also implications for the consideration of the development of garden sites as the Inspector makes a clear statement that the change in the status of garden land to Greenfield rather than previously developed land does not constitute an 'in principle' preclusion from development but in this instance lead him to conclude that a less intensive form of development would be appropriate.

6.3 It also worthy to note that a report on the implications of PPS3 changes regarding “garden developments” arising from recent appeal decisions is being reported to the Joint Plans Panel on 23<sup>rd</sup> September 2010.

6.4 Members will also be updated on the extent of the costs award on this particular appeal.

## **7.0 ADVICE OF COUNSEL**

7.1 In terms of challenging the decision made by the Inspector, including the partial award of costs, the advice of Counsel has been sought. Whilst the advice provided by Counsel indicates that the Inspector’s decision is poorly expressed, it is advised that there are no reasonable prospects of successfully challenging the decision to make a costs award.

SCANNED

LEEDS CITY COUNCIL  
Please refer to Decision Notices  
13 OCT 2009  
**REVISED**

# Proposed Residential Development at Elmete Avenue, Scholes

**Key**

- Existing Tree
- Existing trees removed.
- Existing hedge removed.
- Proposed Tree.

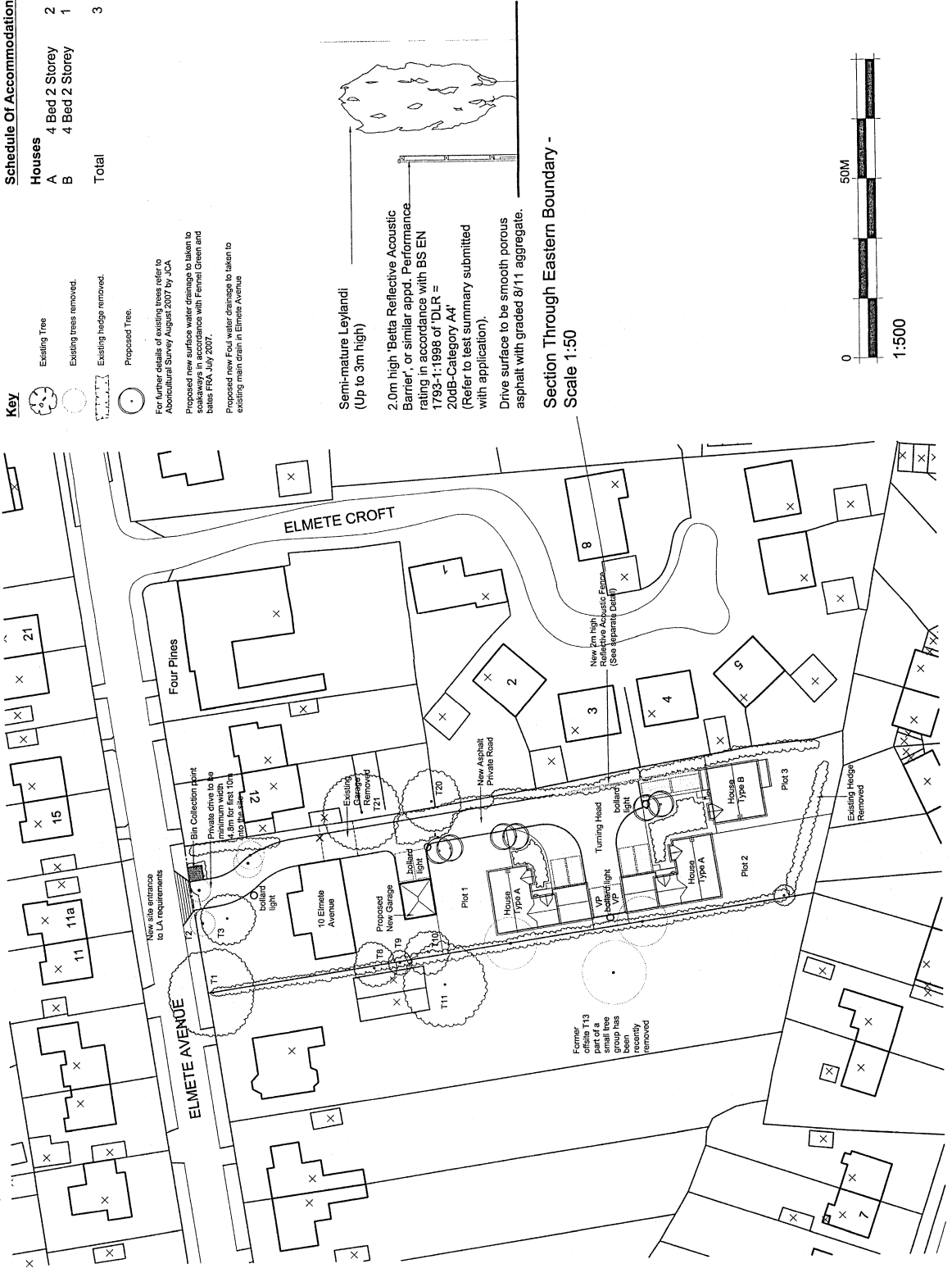
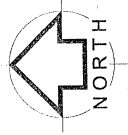
For further details of existing trees refer to Arboricultural Survey August 2007 by JCA

Proposed new surface water drainage to taken to existing main drain in Elmete Avenue and base PFA July 2007.

Proposed new Four water drainage to taken to existing main drain in Elmete Avenue

**Schedule Of Accommodation**

Houses	Count
A 4 Bed 2 Storey	2
B 4 Bed 2 Storey	1
<b>Total</b>	<b>3</b>

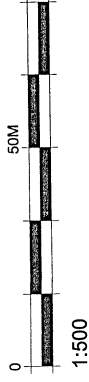


**Semi-mature Leylandi (Up to 3m high)**

2.0m high 'Beta Reflective Acoustic Barrier', or similar appt. Performance rating in accordance with BS EN 1793-1:1998 of DLR = 20dB-Category A4' (Refer to test summary submitted with application).

Drive surface to be smooth porous asphalt with graded 8/11 aggregate.

**Section Through Eastern Boundary - Scale 1:50**



Rev	By	Date
E	PM	12/03/09
D	TP	17/07/09
C	JD	29/04/09
B	PM	13/03/09
A	PM	12/03/09

**PRA ARCHITECTS**

33 The Brewery, Leazes Road, Leeds, LS2 9PL, UK. T: 0113 244 63772  
F: 0113 244 63773 E: info@pra-architects.co.uk W: www.pra-architects.co.uk

PROJECT: Elmete Avenue, Scholes

TITLE: Proposed Site Plan

CLIENT: Steven Green

DATE: 03.03.09

SCALE: 1:500 @ A2

REVISION: E

DRAWN: PM

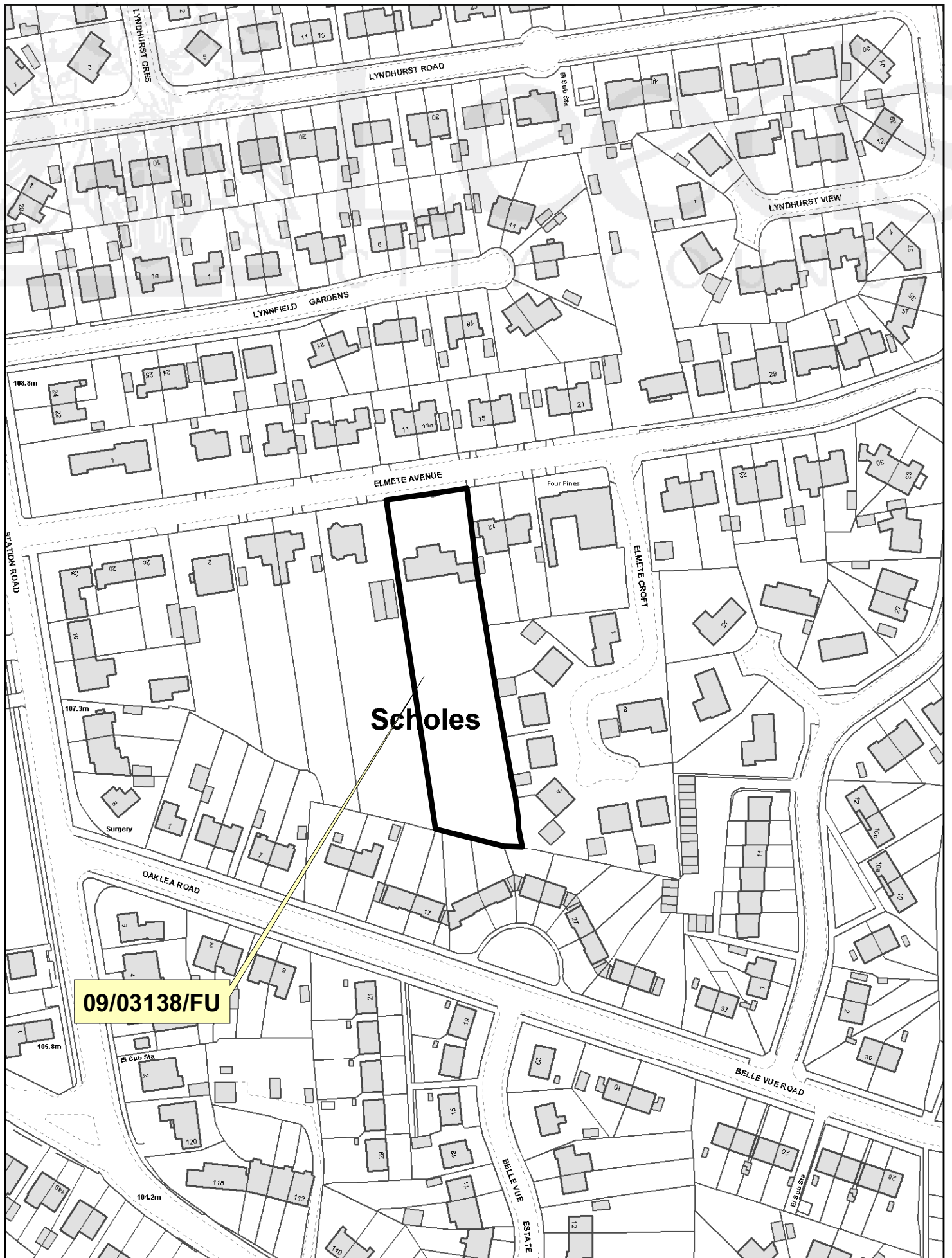
CHECKED:

DATE: 12/03/09

BY: PM

FOR FURTHER DETAILS OF THIS DEVELOPMENT CONTACT PRA ARCHITECTS. COPYRIGHT RESERVED

## Proposed Site Plan (Subject to survey and planning)



# EAST PLANS PANEL

Scale 1/1500



Originator: D Newbury

Tel:0113 222 4409

## Report of the Chief Planning Officer

### PLANS PANEL EAST

Date: 30<sup>th</sup> September 2010

**Subject: APPLICATION 10/02814/FU – Part two storey part single storey front side and rear extension (Dormer window to rear is permitted development) at 41A Stainburn Crescent, Moortown, LS17 6NE.**

**APPLICANT**  
Mr S Yousaf

**DATE VALID**  
18.06.2010

**TARGET DATE**  
13.08.2010

**Electoral Wards Affected:**  
Moortown

Ward Members consulted  
(referred to in report)

**Specific Implications For:**

Equality and Diversity

Community Cohesion

Narrowing the Gap

### **RECOMMENDATION:** **REFUSE PERMISSION for the following reasons:**

1. The Local Planning Authority considers that the proposed development by reason of its scale, size, design and siting results in inappropriate, overly large and dominant feature that will harm the host dwelling, relationship between the house and adjoining property and in turn the amenity of the neighbouring residents. As such it is contrary to Policies GP5 & BD6 of the Leeds Unitary Development Plan (Review 2006) as well as guidance contained in Planning Policy Statement 1 - Delivering Sustainable Development.

#### **1.0 INTRODUCTION:**

1.1 The application was deferred from the previous meeting (2<sup>nd</sup> September) in order for a site visit to take place. It is being presented to Panel for determination at the request of Councillor Lancaster due the scale of the extensions applied for and the need to assess its impact on the character of the locality and that "the family say they were given misinformation and this will give all an opportunity to have their say including residents who oppose the application".

## **2.0 PROPOSAL:**

- 2.1 The application is for a part lower ground, part ground floor extension at the front, side and rear. This includes a porch (projecting 1.6m) at the front that links to a side extension projecting 1.7m with a lean to roof that measures 3.9m at its highest point. At the rear the extension is in three distinct parts, the lower ground section projects 4.5m and is 0.4m away from the shared boundary. The extension is 8.05m in width with the ground floor section sitting above this. Nearest the side boundary with the adjoining property the ground floor section (dining room) projects 3m. This increases to 4.5m after it is set 4.5m away from the boundary to create a new kitchen. This section is 0.75m away from the opposite side boundary.
- 2.2 The rear dormer window can be constructed under Permitted Development and will not form part of this report.
- 2.3 The original plans contained two mistakes on the elevations and revisions have now been received to correct these.

## **3.0 SITE AND SURROUNDINGS:**

- 3.1 The application site relates to a semi-detached property set on a street of similar houses in terms of size, style and design. Built using brick and concrete tiles the house has a simple form with few features. The site is set near the Gledhow valley and consequently it slopes sharply downwards towards the rear and the front of the property is higher than the rear elevation. When viewed in the garden a lower ground floor is visible and this leads to a raised patio area. To the side of this is a 1.8m high fence separated the property with the adjoining house. On the opposite side steps lead to a raised area set at the end of the driveway, a neighbouring garage adjoins this.

## **4.0 RELEVANT PLANNING HISTORY:**

- 4.1 09/02485/FU - Part three storey, part single storey front, side and rear extension Dormer window is Permitted Development (withdrawn).

## **5.0 HISTORY OF NEGOTIATIONS:**

- 5.1 The original application submitted including a three storey rear extension, side extension and dormer window and was withdrawn in August 2009 as it could not be supported. Proposals for a smaller scheme, removing the first floor section and reducing the mass at the rear were discussed with the agent at this time although no resubmission was received.
- 5.2 The new application considered here, omits the first floor element with just the lower ground and ground floor being extended. The ground floor section still caused concerns from Officers and a reduction was considered necessary to reduce its impact. The applicant believes he has already reduced the scheme in line previous requests and it is for this reason that Cllr. Lancaster has asked that the application be presented to Panel for determination.

## **6.0 PUBLIC/LOCAL RESPONSE:**

6.1 The application has been advertised through individual letters to neighbours.

6.2 Objections have been received from five local residents, the main concerns are summarised below:

- The mass of the side extension will be overbearing
- The front section extends beyond the building line and will impact on light
- Side extension will reduce space for refuse bins
- Rear extension is out of character and the mass would be overbearing on neighbours, resulting in overshadowing / dominance / loss of privacy.
- Issues with parking
- Will impact on existing drainage
- Will set a dangerous precedent
- Could lead to a further application for first floor development
- Disturbance during works.

6.3 Further objections were made to the proposed dormer window but as this does not require planning permission these will not be considered in this report.

## **7.0 CONSULTATIONS RESPONSES:**

7.1 None.

## **8.0 PLANNING POLICIES:**

8.1 Local – Leeds Unitary Development Plan (Review 2006) Policies:

GP5: Gives advice in relation to new development stating this should not have a detrimental impact on amenity.

BD6: Gives advice in relation to extensions to residential properties which states that extensions should respect the scale, form, detailing and materials of the original building.

8.2 Planning Policy Statement 1: Delivering Sustainable Development (PPS1) sets out the Government's overarching planning policies on the delivery of sustainable development through the planning system and required new development to be of a high standard of design.

## **9.0 MAIN ISSUES**

- Townscape / Design and Character.
- Privacy.
- Overshadowing/Over dominance.
- Highways
- Local objections.

## **10.0 APPRAISAL**

Townscape / Design and Character

- 10.1 The dwelling is surrounded by similar houses and some uniformity exists along the street, though the houses do differ in terms of having either hipped or gabled roofs. The porch and side extension is the only part of the development visible from the highway with the larger sections hidden from view at the rear. The pitched roof of the porch is out of character with the gabled roof of the host, further emphasised by the ridge of this section being slightly off centre rather than level with the side wall. It has been designed this way in order to join with the side extension and results in this wrapping around the main dwelling. Having a side extension projecting beyond the front elevation creates an incongruous addition with no other examples visible in the immediate streetscene.
- 10.2 At the rear the design of the extension also causes concern. The property is set on a steep slope and this has resulted in the basement area being level with the garden. This 'lower ground floor' means that any single storey extension like the one proposed here has the mass of a full two storey proposal. When viewed at the rear the extension appears dominant and the different sections appear to contrast with the simple form of the original dwelling. The fenestration also becomes unbalanced as the new side extension has resulted in the windows moving across towards the driveway. It is clear that the alterations are designed to maximise internal space and this has led to the external frame being disproportionate and incongruous with the host dwelling.

#### Privacy

- 10.5 The two side facing windows are for a utility room and w.c. and consequently could be conditioned to be obscure glazed to protect neighbouring privacy. The other windows face on to the applicant's own garden and although there is more glazing in the rear elevation than previously, the positioning of these windows provides no greater views of the neighbouring garden than already exists on site.

#### Overshadowing / Over dominance

- 10.6 As discussed above the extension consists of a 'lower ground' and 'ground' floor. When viewed from the rear this is a two storey extension and needs to be considered as such in terms of its impact. It is clear that the mass of this addition so close to the shared boundary with 41 Stainburn Crescent will have a serious impact in terms of dominance and overshadowing. The impact is made even more harmful due to the siting of the site, the adjoining property is set directly to the North meaning any development will result in high levels of overshadowing throughout the day and both the garden area and rear facing windows will be affected. Guidance for first floor extensions usually prohibits any development with a projection over 1m and the 3m proposed here will clearly cause harm to neighbouring amenity.
- 10.7 On the opposite side the ground level is already raised for the driveway and due to this as well as to the position of the neighbouring garage the projection on this side is not considered to harm residential amenity. Also, 43 Stainburn Crescent is set to south preventing any overshadowing.

#### Highways

- 10.7 The side extension will reduce to amount of parking available on site as the drive will no longer be wide enough for cars. However, the front garden has been paved for additional parking and this can accommodate at least two cars. On balance the parking provision on site is acceptable for a domestic dwelling.



## Local Objections

- 10.8 The objections relate mainly to the size of the extensions, as well as the impact it will have on the surrounding properties including highway safety and these issues have been discussed in this appraisal. Noise and disturbance during works is an issue with all development, drainage issues on domestic properties is a civil issue between neighbours and not a reason in itself to refuse planning permission.

## **11.0 CONCLUSION**

- 11.1 The extension is a disproportionate addition to the dwelling that will harm the streetscene, host dwelling and neighbouring amenity and planning permission should be refused.

## **12.0 Background Papers:**

- 12.1 Application and history files.  
Certificate A signed by the applicant declaring that all land is owned by applicant.

10 / 0 2 8 1 4

Please note these drawings are for Planning and Building Regulation purposes only.

NOTE: The contractor is to check and verify all building and site dimensions, levels and sewer invert levels at connection points before works commence. All drawings must be read with and checked against any structural or other specialist drawings provided. The drawings are to be read with the Building Regulations and carried out to the satisfaction of Building Inspector. All materials to comply with the relevant British Standards.

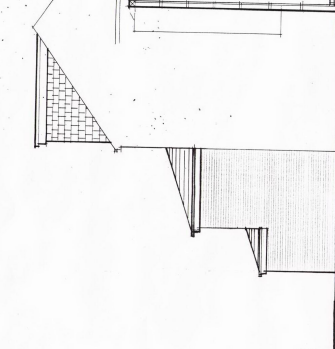
**P.S. RIYAT & ASSOCIATES LTD**  
Architectural Designers and Planning Consultants  
111, St. James Street, Leeds LS1 3AG  
Tel: 0113 2454992 Fax: 0113 2454800  
E-Mail: psr@psrtdesign.com

Client:  
MRS YOUSAF

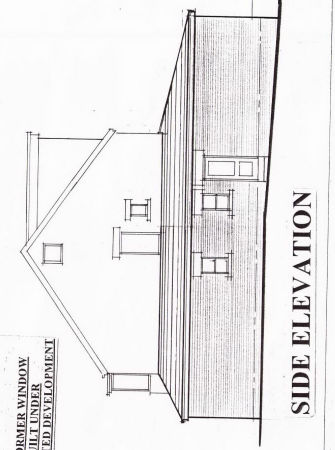
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PROPOSED ALTERATIONS & EXTENSION AT  
41A STAINBURN CRESCENT LEEDS LS17  
5LT

Drawings:  
EXISTING & PROPOSED FLOOR PLANS AND  
ELEVATIONS

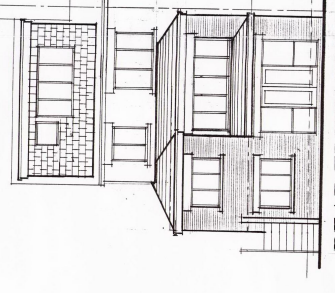
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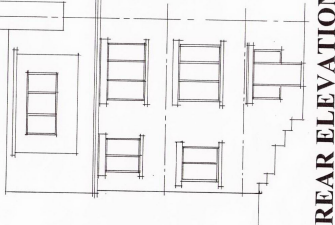
REAR ELEVATION



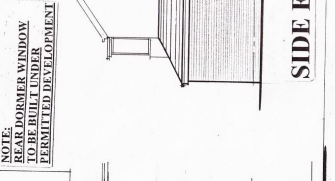
SIDE ELEVATION



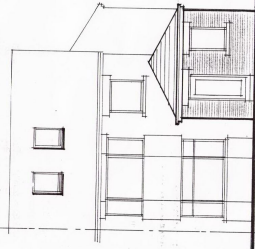
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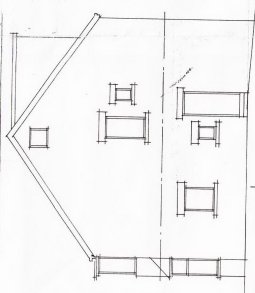
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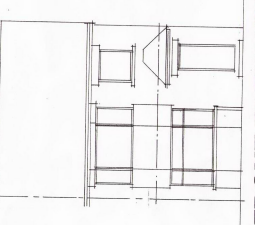
FRONT ELEVATION



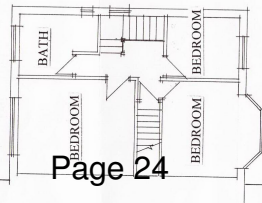
FRONT ELEVATION



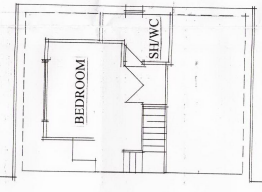
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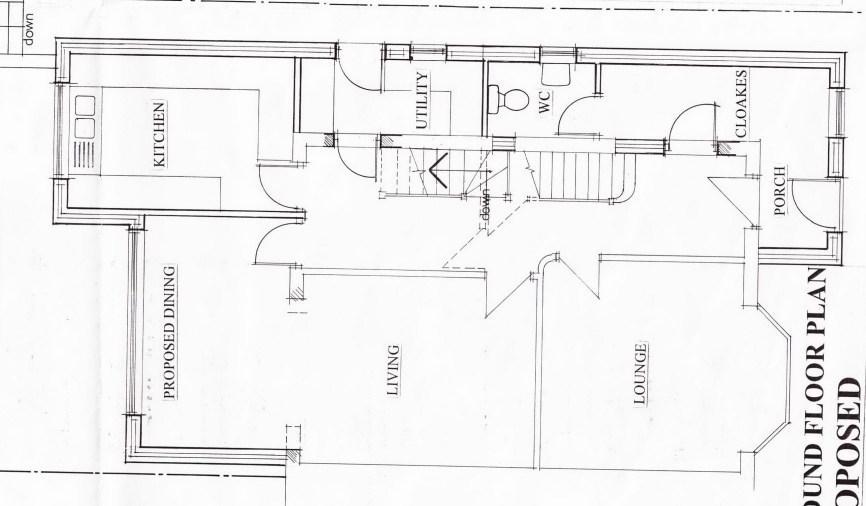
FRONT ELEVATION



FIRST FLOOR PLAN



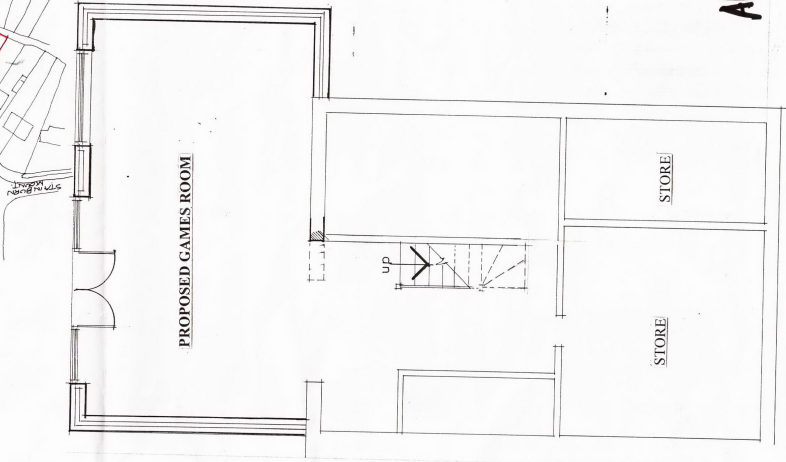
LOFT PLAN



LOWER GROUND FLOOR PLAN  
PROPOSED



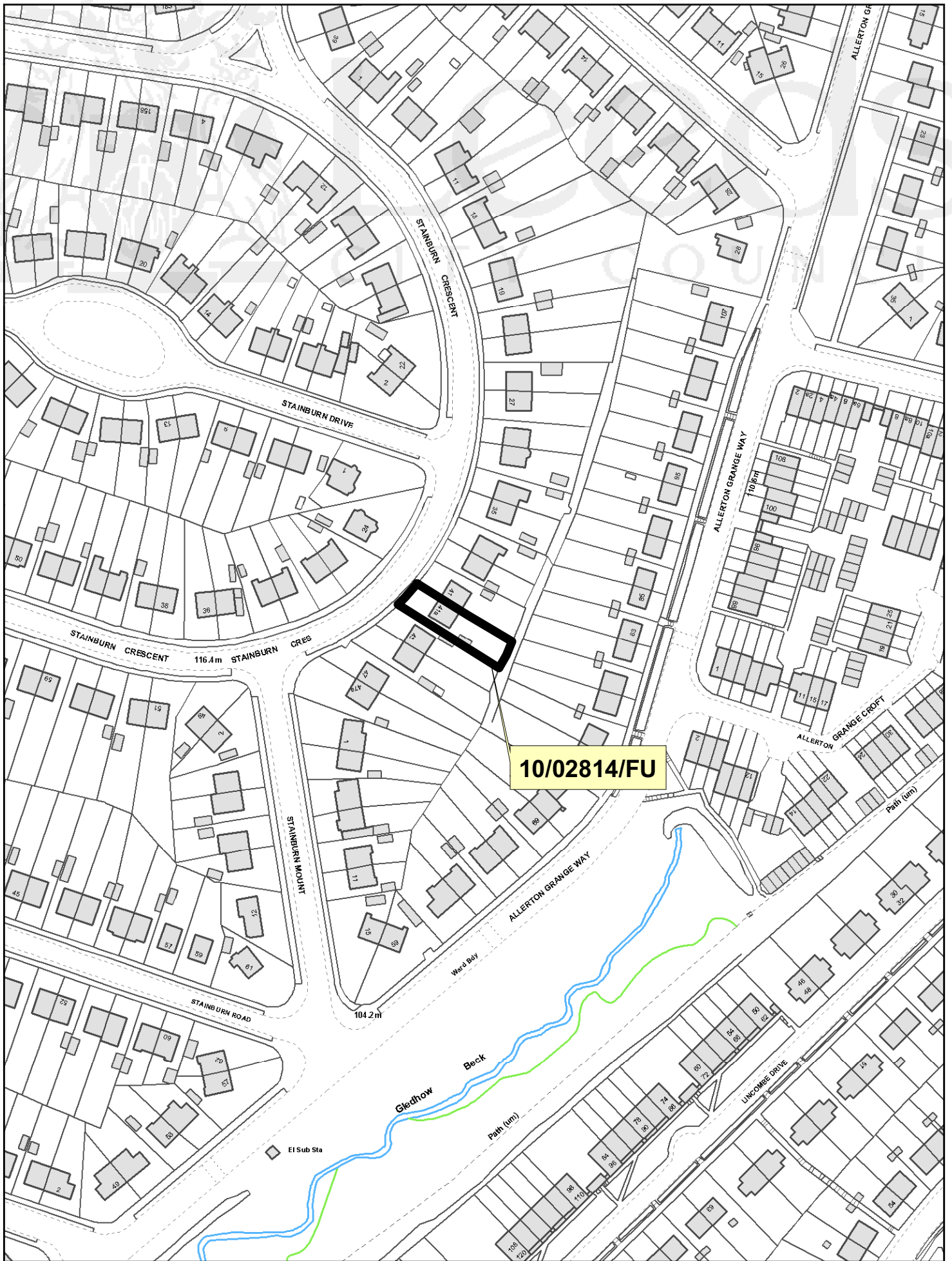
LOFT PLAN



LOWER GROUND FLOOR



AI



# EAST PLANS PANEL



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Originator: Kam Sandhu  
Tel: 0113 3951609

## Report of the Chief Planning Officer

### *PLANS PANEL EAST*

Date: 30<sup>th</sup> September 2010

**Subject: APPLICATION 10/03112/FU: Part two storey, part single storey side and rear extension at 4 Farm Hill Way, Leeds, LS7 2SQ**

<b>APPLICANT</b>	<b>DATE VALID</b>	<b>TARGET DATE</b>
Mrs W Liu	06.07.2010	31.08.2010

<b>Electoral Wards Affected:</b>  Chapel Allerton  <input checked="" type="checkbox"/> Ward Members consulted (referred to in report)	<b>Specific Implications For:</b>  Equality and Diversity <input type="checkbox"/>  Community Cohesion <input type="checkbox"/>  Narrowing the Gap <input type="checkbox"/>
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**RECOMMENDATION:**  
**GRANT PERMISSION subject to the following conditions:**

1. Time Limit for implementation of works
2. Development to be carried out in accordance with approved plans
3. Matching materials
4. Obscure glass
5. No insertion of windows

**Reasons for approval:** The extension is considered to be a proportionate addition and appropriately designed, it is not considered to have a detrimental impact on neighbouring residents or to produce any problems of highway safety. This application complies with policies BD6 and GP5 of the Leeds Unitary Development Plan Review 2006, having regard to all other material considerations, as such the application is considered acceptable.

## 1.0 INTRODUCTION

- 1.1 The application is brought to Plans Panel at the request of Councillor Jane Dowson and Councillor Mohammed Rafique. The development has not been built in



accordance with the previously approved plans (ref: 07/01212/FU and 09/01212/FU) and as such is subject to an enforcement notice. The application was deferred at Plans Panel on September 2<sup>nd</sup> 2010 to allow Members to undertake a site visit.

## **2.0 PROPOSAL**

2.1 The application relates to a part two storey part single storey side and rear extension. The applicant has been granted permission for a part single storey and part two storey extension to the side of their premises (ref: 09/01212/FU) and a planning application (ref: 07/04221/FU) for a part single storey and part two storey rear extension and replacement garage to rear, was approved in August 2007. The works carried out have not been built in accordance with the approved plans and as such is subject to an enforcement case (ref: 09/01563/NCP3). An enforcement notice has been served requiring the works to be demolished and rebuilt in accordance with the approved scheme. An appeal has been made by the applicant against the enforcement notice. The applicant has increased the length of the side extension by a further 1m from that which was originally approved, hence reducing the level of set back at first floor level to 1.2m. Additionally, the side elevation wall has been raised and has been built in line with the existing roof line; as a result a further level of accommodation has been added in the roof. The resulting roof pitch is at odds with the original dwelling and appears awkward. Furthermore, two new windows were inserted at first floor level and one at second floor level. However, these windows have since been bricked up. The projection of the rear extension has been increased by a further 0.5m to 3.5m from the original proposal of 3m. Following consultation with the Local Planning Authority the application (ref: 10/01997/FU) for a part two storey part single storey side and rear extension has been withdrawn and a revised scheme submitted. The applicant proposes to revert back to the original approved scheme (ref: 09/01212/FU and 07/04221/FU), with the following exceptions:-

- The projection of the rear extension has been increased to 3.5m which is 0.5m greater than the original proposal (07/04221/FU).
- The roof of the two storey rear extension has been set 1m down from the existing roof ridge, which is 0.5m more than the original approval (07/04221/FU).
- The patio doors within the rear elevation have been replaced by windows and the window proposed within the single storey rear extension has been eliminated. A new window housing an en-suite has been inserted to the rear at first floor level of the original building. The window within the side elevation of the store has been eliminated.

2.3 The proposed side extension would be set forward from the front of the host dwelling at ground floor level by 0.3m, and set back at first floor level by 2.4m, with a corresponding lowering of the roofline by 0.5m, reverting back to the original approval (09/01212/FU).

## **3.0 SITE AND SURROUNDINGS:**

3.1 The application site is a red brick built semi detached property which has been extended to the front/side and rear with a pitched roof. The property is located in a corner position, with medium sized gardens to the front and rear, and a paved area to

the rear. The site is bordered to the north east and south east by the rear gardens of properties fronting Farm Hill Way. The rear garden slopes up towards the rear boundary and is bordered by a mix of fencing and vegetation to the North West (side) and north east (rear) boundaries. At the side is a wide driveway which is bordered by 1.m high fencing situated on neighbouring rear boundaries.

- 3.2 The property is situated on a modern estate which consists of similar residential properties in terms of scale, form and design.

#### **4.0 RELEVANT PLANNING HISTORY:**

10/03112/FU – Part two storey part single storey side and rear extension.

Decision: Withdrawn

09/01212/FU – Part two storey part single storey side extension

Decision: Approved

07/04221/FU - Part single storey and part two storey rear extension and replacement garage to rear.

Decision: Approved

#### **Enforcement Cases**

09/00970/NCP3 – Enforcement notice.

#### **5.0 HISTORY OF NEGOTIATIONS:**

- 5.1 Following consultation with the Local Planning Authority the application (ref: 10/01997/FU) for a part two storey part single storey side and rear extension has been withdrawn and the current revised application submitted. The applicant submitted the original application which sought to regularize the breaches of planning control. However, what has been built is not acceptable in planning terms and further revisions were requested.

#### **6.0 PUBLIC/LOCAL RESPONSE:**

- 6.1 2 letters of objection have been received from nearby neighbours and a letter of objection from Councillor Jane Dowson and Councillor Mohammed Rafique has also been received. A further letter has been received from all three Ward members immediately prior to the 2<sup>nd</sup> September panel reiterating objections previously made and expressing concern about the disregard for the planning process shown by the applicants.
- 6.2 The following points of objection have been raised by nearby residents :
- The application is inappropriate in size, scale and design and out of character
  - An increase in noise from the development. This includes the rearrangement of the accommodation within the house including a new staircase adjacent to the neighbours' bedroom.
  - Loss of light to garden and house.
  - Overdevelopment.
  - Overlooking from first floor window adjacent to boundary and doors to store.
  - There are some inaccuracies on the plans in terms of window and door positions.

- Impact in respect of on-street parking levels.
- Land ownership dispute (including issues concerning a party wall)
- House may be used for multiple occupancy
- Higher roof elevation
- Parking provision is inadequate (2 spaces are not enough)
- Is the drainage system capable of dealing with the additional bathrooms?
- Building works carried out at unsociable times.

6.3 Ward Members have objected to the scheme on the grounds of overdevelopment, size, scale and occupancy of the property and have also raised concerns about the complete disregard the applicant has paid to the planning process.

6.4 A further letter of objection was also submitted to Members immediately prior to the 2<sup>nd</sup> September panel by a nearby resident raising concerns about the accuracy of the report and reiterating objections regarding the size, scale and occupancy of the property. It also questioned the ownership of land claimed by the applicant in relation to the provision of car parking for the development.

## **7.0 CONSULTATIONS RESPONSES:**

7.1 No internal or external consultations were performed during the application process.

## **8.0 PLANNING POLICIES:**

8.1 The statutory plan is the Leeds Unitary Development Plan (Review) 2006 and the following policies are relevant:

Policy GP5: Seeks to ensure that development proposals resolve detailed planning considerations, including amenity.

Policy BD6: All alterations and extensions should respect the scale, form, detailing and materials of the original building.

Policy T2: Refers to the need for an appropriate level of off street parking provision.

SPG 13 – ‘Neighbourhoods for Living’: Supplementary planning guidance related to residential design in Leeds.

8.2 Planning Policy Statement 1: Delivering Sustainable Development (PPS1) sets out the Government's overarching planning policies on the delivery of sustainable development through the planning system and requires new development to be of a high standard of design.

## **9.0 MAIN ISSUES**

Townscape/Design and Character  
 Privacy  
 Overshadowing/Dominance  
 Parking Provision/ Highway Safety  
 Private Garden Space  
 Representations



## 10.0 APPRAISAL

### Townscape / design and character

- 10.1 The application has been submitted as a result of an enforcement notice (ref09/00970/NCP3), as the works carried out have not been built in accordance with the previously approved plans.
- 10.2 An enforcement notice has been served requiring the works to be demolished and rebuilt in accordance with the approved scheme. An appeal has been made by the applicant against the enforcement notice.
- 10.3 Following consultation with the Local Planning Authority the application (ref: 10/01997/FU) for a part two storey part single storey side and rear extension has been withdrawn and the current revised application submitted. The existing roof of the side extension has been built higher and further forward than approved providing a further level of accommodation in the roof space, resulting in a roof pitch which is at odds with the original dwelling and appears out of character within the street scene. The revised scheme involves a set back at first floor level by 2.3m, with a corresponding lowering of the roofline by 0.5m. This set back and set down ensures that the extension is subordinate to the original house and street scene. The projection of the rear extensions has been increased by a further 0.5m and the roof of the two storey extension has been set down from the roof ridge by 1m, which is 0.5m greater than the original approval (ref: 07/04221/FU). It is considered that the revised design is more sympathetic to host property and the overall street scene, creating a greater symmetry for the property when viewed from the front or side. The proposal is acceptable in terms of scale, form, design and spatial setting and would be in keeping with the character of the existing property and the surrounding street scene. The external materials and roofing will relate sympathetically to the host property.

### Privacy

- 10.2 The proposal is not considered to be harmful to the residential amenity of number 2 Farm Hill Way through an increased capability to overlook as there is a distance of approx 12m from the proposed bedroom, kitchen and WC window within the side elevations at ground floor level to the windows of the neighbouring property at 2 Farm Hill Way, which will also be conditioned to be obscure glazed to prevent any overlooking issues arising in the future. The window proposed at first floor will serve an en-suite and bedroom, the window will retain a distance of 7.5m to the angled rear boundary, therefore poses little threat to neighbouring private amenity. The level of overlooking from the windows proposed at first floor level of the originally dwelling is not considered to be significantly greater than that which exists from the existing windows. The window proposed (ref 09/01212/FU) within the side elevation of the store is now proposed to be replaced by a door, which would reduce the level of overlooking over the adjoining property at no. 6 Farm Hill Way.

### Overshadowing / dominance

- 10.3 The two storey side extension would be set away from the neighbouring boundaries by 0.3m and is of a sufficient distance to the rear boundary. The proposal is within guidance and will limit any potential overshadowing that occurs. The front to back direction of the property is North East to South West, with the neighbouring properties being to the South East and North West. The neighbouring sites of (no 2,

No 19) are situated south east of the host site therefore due to the orientation of sun would experience no significant loss of sunlight from the proposed extension.

- 10.4 The projection of the rear extension has been increased by a further 0.5m from the original proposal. Whilst the proposal projects 3.5m to the rear, the single storey element is set 0.8m away from the adjoining boundary, and a distance of 2.3m is retained from the two storey element, with a set down from the roof ridge of 1m. Whilst it is anticipated there will be some increase in overshadowing, this would be for a limited time during the early morning. Although, guidance states that a distance of at least 2.5m should be maintained from the proposed development to the adjoining boundary, the difference is 0.2m, coupled with set down of the roof height is not considered to be detrimental in terms of over dominance and as such does not warrant a refusal.

#### Parking Provision/ Highway Safety

- 10.5 The plans show that there would be provision for two off street car parking spaces. As such there is adequate parking remaining for the property and no highway safety issues from the proposal are foreseen. The original submitted plan showed the parking for the development to be located at the side of the property on a driveway. Representations have pointed out that this area of land is not in the ownership of the applicant and as such a further plan has been submitted that shows two parking spaces on the front garden area that is hard surfaced being provided. It would be necessary to remove the front boundary wall to access this hard surfaced area for the property to provide parking but two spaces could be accommodated.

#### Private Garden Space

- 10.6 There is a small private garden space retained to the rear of the site after the completion of the development.

#### Representations

- 10.7 The majority of the points raised in the objections received, and that are material planning considerations, have been addressed in the paragraphs above. However, it will be noted some concern has been raised that the extended house could be used for multiple occupation. The application which has been submitted is for an extension to a dwelling house and the local authority must access it on this basis. Change to a house in multiple occupation or flats would require planning consent and the requisite assessments carried out at this point.

### **11.0 CONCLUSION**

- 11.1 For the reasons outlined in the above report and taking into account all other material considerations it is recommended that planning permission should be approved subject to the aforementioned conditions.

#### **Background Papers:**

Application file 10/03112/FU

Ownership certificate by applicant

LEEDS CITY COUNCIL  
Please refer to Decision Notice  
17 AUG 2010  
**REVISED**

B	DRAWING TITLES CORRECTED	AUG 2010	DATE
	REVISIONS		

NOTE:  
The contractor is to check and verify all building and site dimensions, levels and sewer invert levels at connection points before work commences.

All drawings must be read with and checked against any structural or other specialist drawings provided by the contractor. Code of Practice, current Building Regulations and conformed to the notification of Building Inspector. All materials to comply with the relevant British Standards.

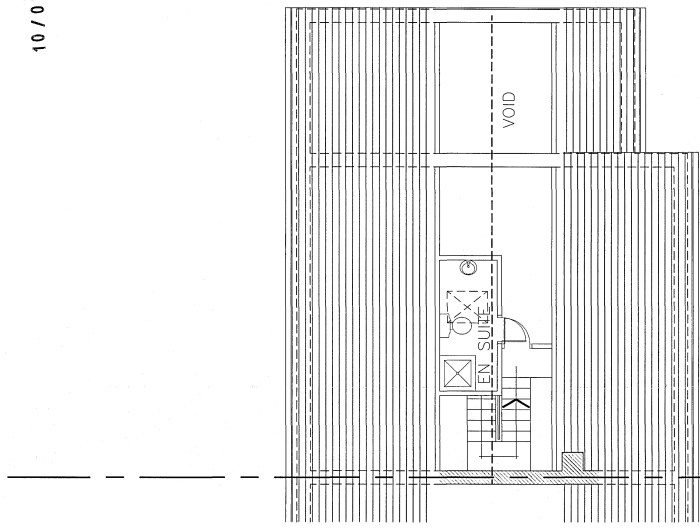
**P.S. RIYAT & ASSOCIATES**  
Architectural Designers and Planning Consultants  
Benson House, 14 Benson Street, Leeds LS7 1BL  
Telephone: 0113 244 8802  
Fax: 0113 244 8802  
E-Mail: psr@psrinternet.com

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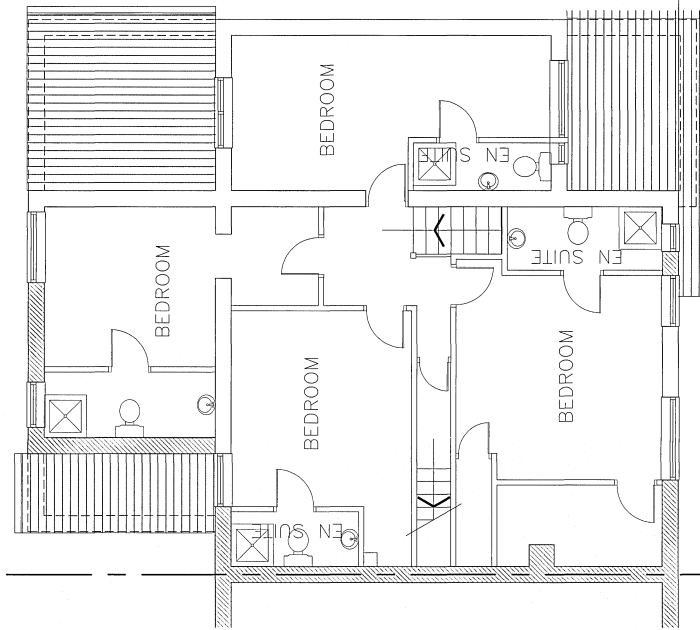
PROJECT  
PROPOSED ALTERATIONS & EXTENSION TO  
4 FARM HILL WAY LEEDS LS7 2SQ

DRAWING TITLE  
PROPOSED FLOOR PLANS AND ELEVATIONS

SCALE	1:50 / 100	DRAWING No.	1436/11
DATE	JUNE 2010		

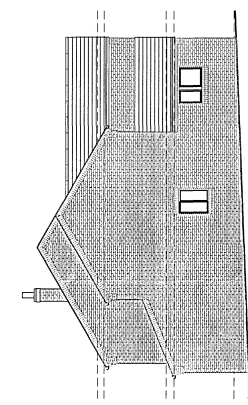


SECOND FLOOR

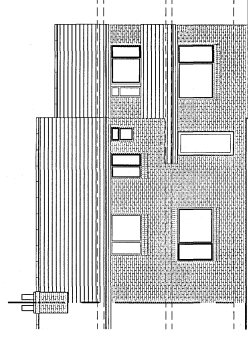


FIRST FLOOR

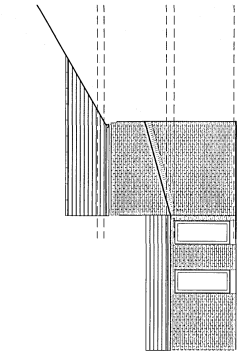
**PROPOSED PLANS 1:50**



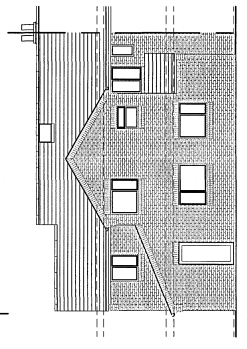
SIDE ELEVATION



FRONT ELEVATION

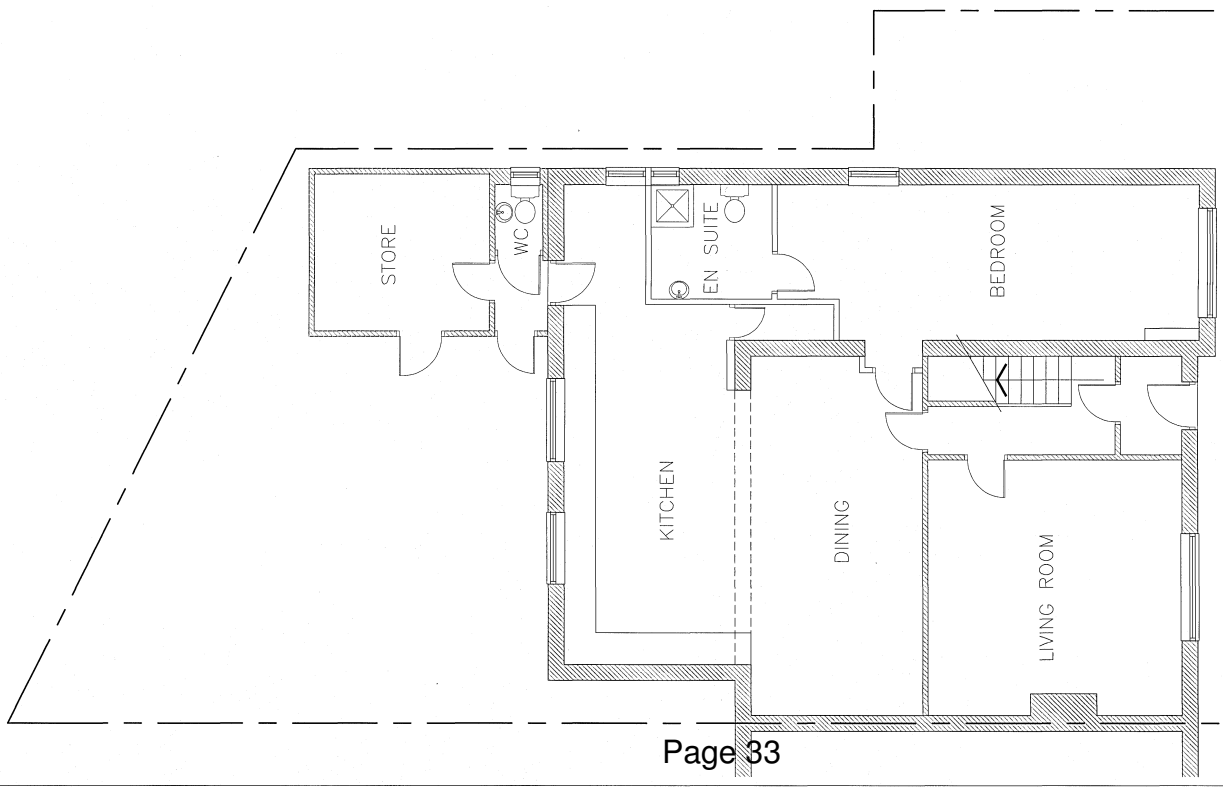


PART SIDE ELEVATION

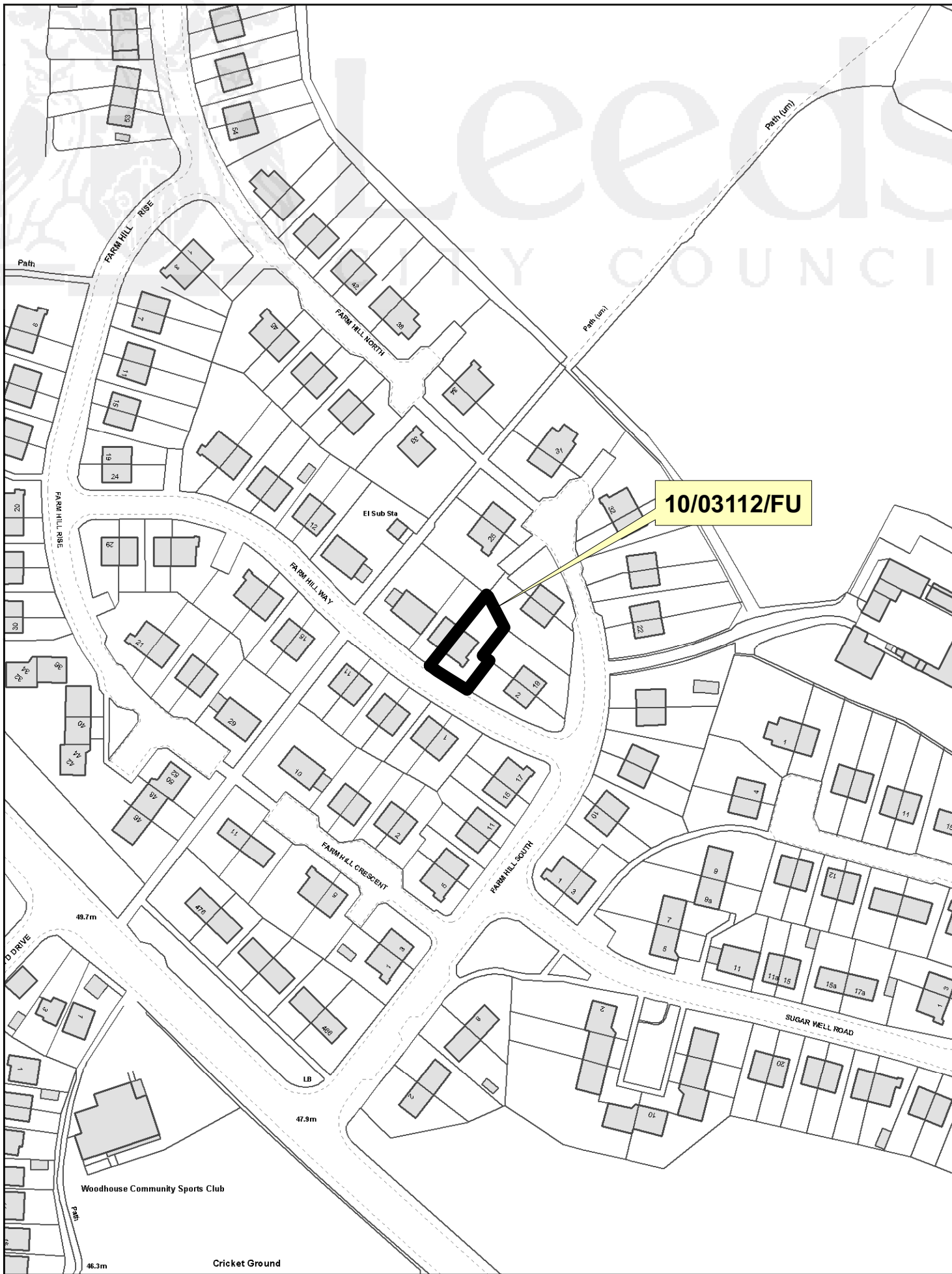


REAR ELEVATION

**PROPOSED ELEVATIONS 1:100**



PROPOSED GROUND FLOOR



# EAST PLANS PANEL





Originator: B Patel

Tel: 0113 247 8768

## Report of the Chief Planning Officer

### **PLANS PANEL EAST**

Date: 30<sup>th</sup> September 2010

Subject: APPLICATION 10/02503/FU – Single storey side extension at 10 The Paddock, Thorner, Leeds, LS14 3JB

#### **APPLICANT**

Mr & Mrs N Patterson

#### **DATE VALID**

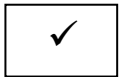
14 June 2010

#### **TARGET DATE**

9 August 2010

#### **Electoral Wards Affected:**

Harewood



Ward Members consulted  
(referred to in report)

#### **Specific Implications For:**

Equality and Diversity

Community Cohesion

Narrowing the Gap

#### **RECOMMENDATION:**

**GRANT PERMISSION subject to the following conditions**

#### Conditions

1. Time limit on full permission : 3 years
2. Development to be carried out in accordance with the approved plans
3. Roof ridge to be no higher
4. Materials to match existing
5. Retention of driveway as parking
6. Protect and retain north east side Beech hedge

#### **Reasons for approval:**

The extension is considered to be a sympathetic addition which will not have a negative impact on the host, the neighbouring residents or the wider conservation area. This application complies with Policies BD6. GP5 and N19 of the Leeds Unitary Development Plan Review 2006, having regard to all material considerations, as such the application is considered acceptable.

## **1.0 INTRODUCTION:**

- 1.1 The application is brought to Plans Panel at the request of Councillor Ann Castle due to objections raised to the scheme by the Parish Council and the local residents and due to controversy over the development of a similar extension at the next door property (9 The Paddock).

## **2.0 PROPOSAL:**

- 2.1 The applicant seeks planning permission for a single storey side extension. This replaces an existing single storey side extension which has a flat roof. The extension will measure 6.0m in width, 12.8m in length and will have a gabled roof which measures 5.5m in height to its ridge. Windows will be present to the front and side as well as patio doors in the rear elevation. The extension will create a new kitchen, a single garage, lounge and an en-suite.
- 2.2 The proposal also includes accommodation within the roof space of the existing house. This falls within permitted development and as such forms no part of the following appraisal.

## **3.0 SITE AND SURROUNDINGS:**

- 3.1 The application relates to a detached, single storey chalet-style dwelling located within a residential area. The host is constructed of dressed stone set in irregular courses. Vertical timber boarding decorates the upper portions of the front gable and porch gable. Its windows are upvc. The property is one of two similarly designed dwellings, with number 9 The Paddock forming its mirrored twin, although alterations and extensions over the years have subtly changed the appearance of each dwelling. In 2009, 9 The Paddock constructed an extension similar to that proposed. The host dwelling is set a little behind the building line created by 9 The Paddock.
- 3.2 The host is set back from the highway and has a porch to the front, a flat roof garage to the side, a upvc dormer window in the north-east roof slope and a modest single storey extension to the rear. The boundary treatment along the party boundary with No. 9 The Paddock is a mix of 0.5m high stone wall, approximately 1.8m high hedge and (at the rear of the property) 2.0m high wooden fence. The rear boundary is staggered and consists of a stone wall over 2.0m high as well as the rear elevation/wall of the garage understood to be in the ownership of 39 Main Street. The area is residential in character.
- 3.3 The property is part of a small cul-de-sac development which is set to the rear of Main Street and is accessed along Butts Garth, a small highway which leads past the old village green and through part of the old core of the village. The dwellings within the vicinity of the application site vary in terms of size, style and design. To the south of the application site there are a number of terraced properties that back onto The Paddock. These are predominantly of coursed stone and timber cladding construction with concrete tiled roofs and their garages front the highway. To the north the historic two storey dwellings of Main Street provide what at first glance seems to be an unbroken architectural barrier, whilst to the south-east of the site, the dwellings around the old village green are substantial, detached dwellings set in modest plots. The property is located within the village's conservation area.
- 3.4 Thorner village itself is a small residential settlement within a semi-rural location to the north-east of Leeds. Its conservation area defines the area of the village

considered to be of special architectural or historic interest. The host dwelling and other dwellings to The Paddock are later infill development and do not have the same sensitivity as the historic core; the conservation area appraisal does not mark the properties as positive structures.

#### **4.0 RELEVANT PLANNING HISTORY:**

33/274/01/FU – Two storey side and front extension. Refused 21.2.2002.

#### **5.0 HISTORY OF NEGOTIATIONS:**

5.1 Revisions have been requested to reduce the height and massing of the roof so that the scheme is similar in height to that of the neighbouring property.

#### **6.0 PUBLIC/LOCAL RESPONSE:**

6.1 In response to the neighbour notification letters and site notices twelve objection letters and a petition containing nine signatures have been received. These relate to 8 individual properties and the Parish Council. The properties in question are numbers 2, 3, 4, 5, 6, 7 and 8 The Paddock and 39 Main Street.

6.2 The objections which have been received from 2, 4, 5, 6 and 8 The Paddock, as well as the petition (which includes number 7 The Paddock) are very similar submissions and raise concerns in respect of:

- the impact of the proposal upon the character and appearance of the conservation area;
- the impact of the proposal upon the character and appearance of the streetscene;
- the impact of the proposal upon the character and appearance of the dwelling;
- parking.

6.3 The occupants of 3 The Paddock have raised concerns regarding:

- the impact of the proposal upon the character and appearance of the streetscene;
- the potential subdivision of the dwelling.

6.4 The occupants of 39 Main Street raise concerns regarding:

- the impact of the proposal upon the character and appearance of the conservation area;
- the impact of the proposal upon the character and appearance of the streetscene;
- the impact of the proposal upon the character and appearance of the dwelling;
- potential odour from a flue.

6.5 The Parish Council raise concerns regarding:

- the impact of the proposal upon the character and appearance of the conservation area;
- previously refused planning applications;
- the potential subdivision of the dwelling.

6.6 Following reconsultation on the revised plans, most objectors have re-iterated their concerns. No new issues have been raised.

## 7.0 CONSULTATIONS RESPONSES:

None

## 8.0 PLANNING POLICIES:

### **National Policy:**

PPS 1: Delivering Sustainable Development

PPS5: Planning for the Historic Environment

### **Unitary Development Plan (Review 2006) Policies:**

Policy GP5: General planning considerations

Policy BD6: General planning considerations

Policy N19: Development in conservation areas

### **Thorner Conservation Area Appraisal and Management Plan (approved as a material planning consideration January 2009).**

This document outlines the special architectural and historical interest of Thorner. Historical, spatial, and character analysis are provided within the document.

### **Village Design Statement (unadopted – draft for public consultation)**

This document seeks to establish the qualities and characteristics which local people value in their community. Like the conservation area appraisal it contains analysis of the spatial characteristics of the village broken down into sub-areas. The host dwelling is sited within CA1, which notes “gaps between dwelling vary and provide interesting views between buildings.”

## 9.0 MAIN ISSUES

- 9.1 Conservation Area/Design and Character
  - Neighbour Amenity
  - Parking
  - Representations

## 10.0 APPRAISAL

### Conservation Area

- 10.1. As noted above the property is located within the Thorner Conservation Area. Policy N19 states that all buildings and extensions within a Conservation Area should preserve or enhance the appearance of that area with particular attention being paid to the scale and design of structures, including the roofscape, and also the proposed materials. Further information regarding the character of this part of Thorner is provided within the conservation area appraisal. The host dwelling is located within character area 1 – Main Street and Back Lanes. In the list of predominant characteristics it is noted that “Main Street has little space between structures”, a statement which reaffirms the general appearance of Main street as an “unbroken architectural barrier”.
- 10.2 The extension itself largely replaces the existing single storey flat roof extension and flat roof dormer to the side of the dwelling. The extension is marginally wider than the existing, however its proportions remain appropriate in comparison to the existing dwelling. Space is also retained to each side of the dwelling and the property will not dominate its plot. Furthermore the loss of the flat roof extension and flat roof dormer



and its replacement with a pitched roof extension is considered to be of significant visual benefit to the character and appearance of the host dwelling, immediate streetscene and wider conservation area. There were initial concerns regarding the height of the proposed extension roof in comparison to the existing side extension at number 9 The Paddock. The roof of the neighbouring extension has been measured on site by the agent and is 5.5m. Although this is marginally higher than was approved, it appears that there many have been inaccuracies on the plans for 9 The Paddock, and the key dimension (the set down from the ridge) appears accurate. The proposed roof of the extension currently scales off at 5.55m. A condition will be imposed to ensure that it is built to the same height as next door. The Parish Council have raised concerns in respect of the scale of this roof and consider it comparable to a 2001 application for a two storey side and front extension which was also dismissed at appeal. This application which was refused proposed a higher ridge than the current proposal, as such they are not considered directly comparable. Furthermore the construction of the neighbouring extension (approved by Panel, inline with officer recommendation) has caused a material change of circumstances and the proposal must be assessed against this new situation. As noted above the application will align with the neighbouring extension and thus adequately respects the existing character of the area.

- 10.3 Many of the objection letters raise concerns regarding the impact of the extension upon the character and appearance of the host property, the streetscene and wider conservation area. Much of the contention appears to be regarding the proposed pitched roof over the single storey side extension. It is acknowledged that the new pitched roof has a strong visual presence, however, the dwelling is a chalet-style dormer bungalow in which the roofscape is designed to be a dominant element and as such the new roof is wholly in keeping with the existing dwelling. Many objectors have drawn attention to the impact of the proposal upon the spatial characteristics of the area; however, as noted by the conservation area appraisal this area is not characterised by large amounts of space between buildings, indeed terraced dwellings with few gaps between is the norm. Within the immediate area there are a variety of properties, with a terrace lying to the immediate south, and thus within the streetscene of The Paddock gaps between dwellings are not usual. Furthermore the proposal does retain a gap of approximately 2.0m between it and the neighbouring dwelling.
- 10.4 It is noted that many objectors have also raised concerns regarding loss of views and loss of skyline. Long and short range views are important within a conservation area, and those which are important to the character of Thorner have been identified in the conservation area appraisal. The view from the gardens and windows of 1-8 the Paddock across the right hand side of the plot of 10 The Paddock is not identified as a key view. Whilst the increased roof height will impact on the views through the site, the roof tops of the buildings on Main Street will still be visible and it is considered that a sense of space between buildings will be maintained. It is also noted that neighbours do not have a right to a view across neighbouring land.
- 10.5 Overall it is considered that the design of the extension will not be unduly detrimental to the character or appearance of the original dwelling or the present streetscene and, that through the removal of visually unattractive elements to the existing dwelling, the proposal will have a positive impact on the character of the conservation area.

### Neighbour Amenity

- 10.6 The proposal is considered acceptable in terms of its impact upon the amenity of neighbours. The property which will be most affected by the extension is the neighbouring dwelling 9 The Paddock, however the existing single storey side extension mitigates much of the impact of the proposal. The extension will cause some additional overshadowing to the host and number 9's garden from midday onward, however, this impact over and above that caused by the host and neighbouring dwelling is limited.
- 10.7 A ground floor lounge window does face toward the common boundary with 9 The Paddock and thus a condition will be imposed to retain the beech hedge which forms which boundary.
- 10.8 The occupants of 30 Main Street have raised concerns regarding the impact of the flue to the wood burning stove. However, such a flue could be added to any part of the existing property without planning consent, and it should also be noted that the flue will serve a small, domestic wood burning stove, and as such the output from it will not be excessive. As such no significant harm is anticipated.

### Parking

- 10.9 The proposal is considered acceptable in terms of parking provision. The garage replaces the existing garage, and two parking spaces are provided within the site. Many objectors raise concerns regarding the level of parking, suggesting that the provision of additional parking will lead to increased vehicle ownership. Such a causal link cannot be assumed, and as more than sufficient off-street parking will be provided there are no concerns in this regard.

### Representations

- 10.10 All material planning considerations raised in representations have been discussed above.
- 10.11 The following matters have also been raised.

#### The potential for the dwelling to be subdivided

As can be seen on the floor plans the dwelling is not being subdivided into two separate dwelling units. The subdivision of the dwelling would require planning approval, and it is unlikely the LPA would consider this an appropriate location for a separate dwelling. Planning applications cannot be refused on the grounds of potential future actions which in themselves require planning consent.

#### The potential use of the roofspace as accommodation

As can be seen on the floor plans the roofspace of the extension does not contain accommodation, and the rooflights which are shown provide light into the lounge area. The later conversion of this space into living accommodation would not require planning permission, in much the same way as the conversion of existing loft space does not require consent.

## **11.0 CONCLUSION**

The extension is of an appropriate size and scale when compared to the existing dwelling and the plot, it retains the spatial characteristics of the conservation area and improves the overall visual appearance of the site. It has no undue impact upon

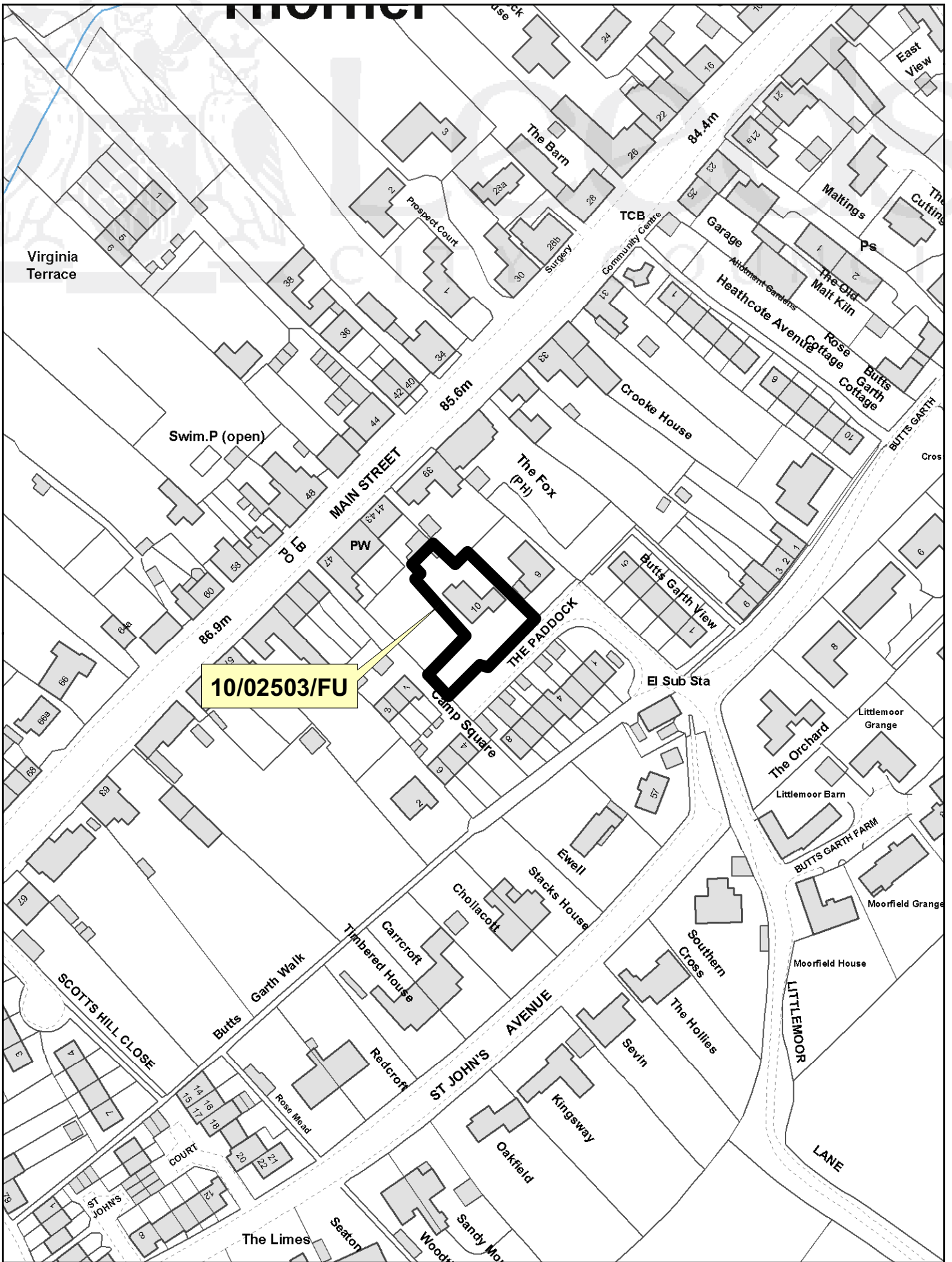
the amenity of neighbouring dwellings and retains sufficient off-street parking. The proposal is considered to comply with the relevant planning policies and guidance and is thus recommended for approval.

**Background Papers:**

Application file: 10/02503/FU

Certificate A has been signed by the agent.





# EAST PLANS PANEL



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Originator:	Victoria Hinchliff Walker
Tel:	39 51343

## Report of the Chief Planning Officer

### PLANS PANEL EAST

Date: 30<sup>th</sup> September 2010

**Subject: APPLICATIONS 10/01593/FU and 10/01594/CA. PART 2 STOREY, PART 3 STOREY, RESIDENTIAL CARE HOME WITH 58 BEDROOMS AND TWO STOREY BLOCK OF 8 EXTRA CARE FLATS, WITH CAR PARKING AND LANDSCAPING AND CONSERVATION AREA CONSENT FOR DEMOLITION OF EXISTING HEALTH CENTRE. WETHERBY HEALTH CENTRE, ST JAMES'S STREET, WETHERBY, LS22**

APPLICANT	DATE VALID	TARGET DATE
HADRIAN HEALTHCARE (NE) LTD	20/04/10	20/07/10

#### Electoral Wards Affected: Wetherby

Ward Members consulted  
(referred to in report)

#### Specific Implications For:

Equality and Diversity

Community Cohesion

Narrowing the Gap

#### RECOMMENDATION:

**DEFER and DELEGATE approval to the Chief Planning Officer subject to the conditions specified and following completing of a Section 106 Agreement to cover the following matters:**

- Public transport infrastructure contribution of £31,946.
- Travel plan and £2,500 monitoring fee.

**In the circumstances where the Sec.106 has not been completed within 3 months of the resolution to grant planning permission the final determination of the application shall be delegated to the Chief Planning Officer.**

#### 10/01593/FU

1. Standard Time Limit (3 years).
2. Development in accordance with the approved plans.
3. Walling and roofing materials to be approved.
4. Window and door materials to be approved.
5. Construction methodology to be submitted for approval.
6. Landscape scheme for hard and soft landscaping.

7. Landscape implementation.
8. Landscape retention.
9. Protection of retained trees.
10. Details of works for dealing with surface water discharge.
11. No piped discharge of water until drainage installed.
12. Surface water from the development will be subject to balancing of flows to achieve a minimum 30% reduction of the existing peak flow rates from the site (around 100 litres per second per hectare of existing hard surface formally drained). Details and calculations in support of this shall be submitted to and approved in writing by the Local Planning Authority prior to commencement of works on site. The development shall be carried out in accordance with these approved details. Reason – To ensure compliance with the Council’s Minimum Development Control Standards for Flood Risk.
13. Submission of contaminated land reports.
14. Provision for archaeological recording.
15. Development to remain in C2 use as a nursing home.
16. Development shall be carried out in accordance with the Mitigation and Compensation method statement in Section E of the Bat Risk Assessment report (reference 1942) and:
  - a. If a period of greater than 12 months elapses between demolition of the existing building and the creation of the new roost features referred to in section E.6 of the above report provision shall be made for the creation of alternative roost sites in a location to be agreed in writing by the Local Planning Authority.
  - b. Prior to first occupation of the site a written report to be prepared by a suitably qualified ecologist confirming compliance with the mitigation method statement shall be submitted to and approved in writing by the Local Planning Authority.
17. Prior to the commencement of development details of external lighting shall be submitted to and approved in writing by the Local Planning Authority. External lighting shall be implemented in accordance with the approved details and retained as such thereafter. Reason – To prevent possible disturbance to bats.
18. Vehicle areas to be completed.
19. Notwithstanding the details shown on the approved plans the ambulance bay shall be kept clear of obstruction at all time. Reason – So that ambulances can access the site freely and without delay.
20. Notwithstanding the details shown on the approved plans the proposed solar panels shall not be erected until full details of the make, design, size, colour, materials, fixings and location have been submitted to and approved in writing by the Local Planning Authority. The proposed solar panels shall be erected in accordance with these details and retained as such thereafter.
21. Notwithstanding the details shown on the approved plans no development shall commence until full details of the access arrangements for the extra care home flats, to include confirmation of the right for residents to access the site, has been submitted to and approved in writing by the Local Planning Authority. The access and parking arrangements shall be implemented in accordance with the approved details and retained as such thereafter.

**Reason for Approval** – The application is considered to positively enhance the Conservation Area, to respect the setting of the adjacent listed building, and to provide a use that is in demand within the area. The application is considered to comply with policies GP5, GP11, H4, S2, N12, N13, N18A, N18B, N19, N23, N25, N29, BD5, BD6, BC7 and BC8 of the adopted UDP Review, as well as guidance contained within PPS1 and PPS5 and, having regard to all other material considerations, including amenity, is considered acceptable.



1. Time Limits
2. Plans to be approved
3. The demolition hereby approved shall not be undertaken before a contract for the carrying out of the works of redevelopment of the site in accordance with planning approval 10/01593/FU has been made and submitted to and approved in writing by the Local Planning Authority, or the a scheme for landscaping is submitted and agreed by the LPA until such a time that the care home is implemented.

**Reason for Approval** – The application is considered to remove a building that detracts from the Conservation Area and brings the site back into positive use. The application is considered to comply with policies N18A, N18B of the adopted UDP as well as guidance contained within PPS5, and, having regard to all other material considerations is considered acceptable.

## **1. INTRODUCTION:**

- 1.1. This application was deferred at Panel on the 2<sup>nd</sup> September 2010 following a request at Panel from Councillor J Procter that a site visit be carried out.
- 1.2. These applications are brought to Plans Panel following a request from Ward Councillor John Procter. It is considered that due to the size and scale of the proposed development there is potential for impact on the built environment and the character of the Conservation Area and of Wetherby. It is considered that the implications of the development are wider than just the immediate locality.
- 1.3. Two applications are under consideration here, one is for conservation area consent for the demolition of the existing health centre building on the site and the other is a full application for a new care home and a new block of extra care flats.
- 1.4. The application is outside of the determination period so the applicants could consider an appeal against non-determination.

## **2. PROPOSAL:**

- 2.1. 10/01594/CA seeks consent to demolish the existing health centre on the site.
- 2.2. 10/01593/FU seeks consent for a part two storey, part three storey residential care home with 58 bedrooms and a separate block of eight extra care flats with associated car parking and landscaping.
- 2.3. The residential care home will be sited on the location of the current health centre and is proposed as an L shaped building which follows the building line of the adjacent St James's Church. The home will be accessed by the existing access road off St James's Street and this will lead to a parking area for 14 cars along with an ambulance parking area, bin storage area, and cycle parking.
- 2.4. The building is positioned so that an internal private garden area is created to the south east corner of the site incorporating a bowling green. A wedge of landscaping will also be provided along western boundary with the public footpath that provides access from the public car park to the town centre.
- 2.5. The care home is spread over three floors with 19 single bed units to the ground floor, 23 single bed units to the first floor and 16 single bed units to the second floor. There are also associated provisions, such as living rooms, dining rooms, bathrooms, lifts, kitchens, hairdresser, health rooms and ancillary office, storage, and maintenance areas.
- 2.6. The building is part three storey and part two storeys with the highest point at the apex of the L stepping down to both sides. Gable features and bay windows provide relief and interest to the elevations.

- 2.7. The Extra Care flats are located to the south of the care home within an adjacent square of land which has previously been associated with the New Inn public house. This is proposed as a square building, two storeys in height with four parking spaces accessed from the New Inn car park. The two buildings will have a footpath link through the existing boundary wall that runs between them. The extra care flats provide eight units for residents who are unwilling or unable to remain in their own homes, but who can still maintain some level of independence.
- 2.8. Materials are proposed as coursed natural stone, grey slates to roof with terracotta ridges, timber windows and doors, timber soffits and fascias and black Upvc gutters.

### **3. SITE AND SURROUNDINGS:**

- 3.1. The application site incorporates both the former health centre site and an area of land currently grassed over to the rear of the New Inn public house. The site is a large plot within the town centre area. The health centre is a part single storey, part two storey, modern building, now boarded up, surrounded by hard paving and grass. The roof is asymmetrical so that on the access road side the building rises almost to 3 storey height, higher than adjacent dwellings. The health centre has relocated within Wetherby town centre.
- 3.2. Adjacent to one side is St James' Church, a grade 2 listed church with graveyard, and some mature trees of good appearance. The church is approximately 2 storey's height with a square tower equal to approximately 3 storey building height. To the opposite side lies a public car park and a number of commercial properties including the one-stop shop (a high two storey, red brick building). A ginnel, bounded by low stone wall gives access through to main town centre and retail areas. On the western side of the ginnel is St Joseph's church, a modern building of mixed height and roof forms varying between single storey and three storey heights. The New Inn is an older building, of traditional vernacular and built of limestone. It is 2 storeys high but has rooms within the roof space. Buildings within the nearby centre are a mix of two and 3 storey heights.
- 3.3. To the north of the site is a line of modern dwellings which are 2.5 storeys high with rooms in the roof, built out of a red/orange brick. Older properties along this road are two storey and red brick or render, some have converted roof space. Immediately adjacent to the site, to the northern boundary, and overlooking the car park is a 3 storey, rendered, commercial building housing a chemist and an undertakers.

### **4. RELEVANT PLANNING HISTORY:**

- 4.1. 09/01451/OT - two storey office building. Approved 23/12/09. The development has not been implemented and no reserved matters application has been submitted. The outline permission is still extant.
- 4.2. 31/331/04/FU - new roller shutter to side entrance to medical centre. Approved 17/08/04.

### **5. HISTORY OF NEGOTIATIONS**

- 5.1. The applicants undertook the major pre-application process through which they were provided with advice on design, access, parking etc. The principle of development was accepted.
- 5.2. Through the application process a number of discussions have been held with the applicants to discuss, in particular, design issues which have resulted in amendments to the siting and appearance and in particular to the height and roof form of the main building and has also resulted in a reduced footprint to the extra care flats.

### **6. PUBLIC/LOCAL RESPONSE:**

- 6.1 Site notices (notice of proposed major development which affects a right of way and the character of the conservation area) posted 28 April 2010, expiry date – 19/05/10.
- 6.2 One letter received from Wetherby Silver Band who raises concerns regarding construction, proximity of the extra care flats and noise. *The Extra Care flats have been reduced in size and moved away from the band room. Construction issues can be dealt with by means of a condition, and noise is discussed below.*

## **7. CONSULTATIONS RESPONSES:**

### **Statutory:**

- 7.1. None required.

### **Non-statutory:**

- 7.2. Highways DC – No objections subject to some revisions. *Revisions have been submitted and the scheme is now acceptable.*
- 7.3. Public Transport Infrastructure – Proposed use will have significant travel impact. A financial contribution of £31,946 required.
- 7.4. Travel Plan – Requires S106 and Evaluation fee of £2,500. Further work on Travel Plan needed before it is acceptable. *Travel Plan has been revised and is now acceptable.*
- 7.5. Metro – Bus stop numbers 14896 and 27895 require raised kerbs at cost of £3000 each. *The bus stops are located, to the east, some 0.5Km distance from the care home and serve a limited route towards Linton or Wetherby Town Centre. The service frequency is hourly with little service during evenings or on Sundays. It is considered more likely that residents and visitors to the site would walk into the main bus station (a similar distance in the opposite direction) to catch a bus rather than utilise these particular bus stops as the choice of services and destinations would be better. It is therefore considered that the proposed alterations would not comply with test ii of the Community Infrastructure Levy rules (see paragraph 10.20 below) in that the contribution would not functionally and practically relate to the proposed development. For this reason the proposed enhancements are not requested.*
- 7.6. Architectural Liaison Officer – recommend electric sliding gate to restrict access. Paths within site should be short, direct and open view. All planting around paths will be kept low and thorny, lighting should be coordinated. Landscaping should ensure natural surveillance. All entry points should be secure. Flush fitting fall pipes.
- 7.7. Environmental Protection – No comments.
- 7.8. WYAAS – Archaeological recording should take place, potential finds under ground. *This is currently being carried out in liaison with WYAAS.*
- 7.9. PROW – Public Footpath no. 5 Wetherby abuts site with definitive width of 1.2m. No objection as long as footpath remains open.
- 7.10. Mains Drainage – require a drainage assessment. *Now submitted and being assessed.*
- 7.11. Land Contamination – Scope of works required. *Following submission of further details conditions are recommended.*
- 7.12. SDU Ecology – A number of bat roosts have been identified in the existing Health Centre building. Mitigation measures recommended.

## **8. PLANNING POLICIES:**

### **Development Plan –**

8.1. The statutory Development Plan is made up of the Unitary Development Plan Review, along with relevant Supplementary Planning Guidance/Documents. Under the UDP the site is designated as within a Conservation Area, and within an S2 Town Centre.

8.2. Unitary Development Plan ( Review) (UDPR)

- GP5 – general planning considerations.
- GP11 – sustainable development.
- H4 – Main urban areas.
- S2 – Town Centre.
- N12 – Urban design principles.
- N13 – building design principles.
- N18A – Presumption against demolition of buildings in Conservation Area which make a positive contribution.
- N18B – Detailed redevelopment plans need prior to demolition.
- N19 – new build and extensions within Conservation Areas.
- N25 – appropriate boundary treatments.
- N28 - Archaeology
- BD5 – general amenity concerns.
- BD6 – alterations and extensions to match existing.
- BC7 – use of traditional local materials.
- BC8 – demolition of unlisted buildings in Conservation Areas.

**Relevant supplementary guidance –**

8.3. Neighbourhoods for Living.

8.4. Wetherby Conservation Area Appraisal and Management Plan - The site is located within the later 19th century expansion area where the key characteristics include the use of oolitic magnesian limestone, slate roofs and timber windows. Buildings are predominantly two-storey high with gardens enclosed by low walls. Terraces and bays feature prominently in this area. The southern part of the site however, is within the historic core where key characteristics include levels of high activity, two storey buildings tending to three in areas of high activity, use of limestone etc. The appraisal requires that new development shall relate well to the local geography, respect important views, respect the scale of neighbouring buildings and create new views where possible. The adjacent St James Church is both a listed building and building of positive character in the Conservation Area. It should be noted that the Conservation Area was extended to include the site in March 2010 so all pre application advice given was on the basis of the site being adjacent to the Conservation Area only and not within it.

**Government Planning Policy Guidance/Statements**

8.5. PPS1 – Delivering Sustainable Development

8.6. PPS3 – Housing

8.7. PPS5 – Historic Environment.

**9. MAIN ISSUES**

- Principle of Development and Sustainability

- Impact on Conservation Area
- Residential Amenity
- Trees and Landscaping
- Highway Issues
- Other Issues.

## 10. APPRAISAL

### Principle of Development and Sustainability

- 10.1. The site lies within the town centre and would be close to the main shopping area. The C2 use proposed is acceptable in such a location, particularly as the site is currently vacant, and there will be no displacement of any town centre uses.
- 10.2. There is a recognised need for care home facilities in the outer north-east area, an issue which was brought out during the Cragg Hall Farm appeal in September 2009. This appeal site is located on the boundary with Linton and Wetherby within the green belt boundary and the appeal was against the refusal by the Council to approve a nursing home of the same size as that proposed here. During the appeal the Inspector accepted the need for care home provision in the Wetherby area (based on evidence provided by Social Services) but queried the suitability of this location as it was considered remote from services and facilities with poor accessibility. The appeal was dismissed on these grounds, as well as the harm to the green belt. During the appeal hearing the site of the former health centre was discussed as a good option for a care home facility, it being vacant and up for sale at the time. This location is considered to provide a central facility close to services and facilities with good accessibility. The proposal also reuses previously developed land. The proposal is therefore considered to comply with the principles of sustainable development and with policies GP11, GP5 and H4.

### Impact on Conservation Area

- 10.3. The proposal to demolish the existing health centre is not objected to. The building was vacated some time ago when a new facility opened nearby. The current building is of modern construction of no architectural merit and cannot be considered to enhance the local area.
- 10.4. The site has only very recently been included with a Conservation Area however, from the early stages the proposal has been considered in terms of its impact on the Conservation Area and this has led to discussions over the most appropriate siting, form and materials for the proposed building.
- 10.5. The care home takes its building line as a continuation of the line of the adjacent St James's Church, which is an important feature within the area. This results in it being slightly offset with the line of the public footpath on the western boundary. This is not considered detrimental to the area, and allows for a wedge of landscaping to be inserted in front of the care home, providing a green setting for the building.
- 10.6. The building is part three parts two storey, which would be considered high in the particular character area in which the site is based. However, it is recognized that this immediate area is also an area of high activity with a number of civic buildings including the Council offices, churches, offices and retailers, surrounding the site of varying heights, including three storeys. The building borders an open area which is currently used as a public car park and as result of this siting, it is considered that a building of some prominence will sit comfortably. Furthermore, the building steps down to two storeys, along both lengths, which respects the scale of the adjacent buildings and in particular, the adjacent listed church.

- 10.7. The elevations take cues from surrounding buildings in the conservation area including the use of gables and bay windows to ensure a vertical emphasis and the creation of terracing features through the provision of doorways along the elevations. Although materials are still to be agreed it is anticipated that coursed stone would be used for the walls with artstone heads and cills, grey slates to the roofs, with the ridge in terracotta, and timber for sash windows and doors. Within the roofscape the number of dormers and rooflights has been kept to the minimum necessary to avoid cluttering this element, and chimneys also provide the feel of a terrace of residential properties. The extra care flats also incorporate such features within a smaller two storey building.
- 10.8. Both the proposed buildings sit comfortably within their respective sites and suitable provision for landscaping has been made around them so that they will not dominate the spaces in which they sit. Care has been taken to ensure that views of St James Church tower are retained. Currently the site has an open vista across to the church, although the church itself is screened by a number of mature trees within the churches boundaries. Development of the site does mean reducing the views, however; important sights will still be retained between both the proposed buildings and between the proposed buildings and existing ones.
- 10.9. The setting of the listed building must also be considered due to the proximity. The church sits within its grounds and the boundary with the application site is screened with large, mature trees. The proposed building has its main bulk furthest away from the church with gardens and lower height parts of the building in closest proximity. It is considered that this arrangement respects the setting of the church and its grounds and will add to the landscaping of the area.
- 10.10. Given the above considerations it is considered that the proposal is responsive to its siting and will produce a building of some note and merit within the Conservation Area. Overall the removal of the existing building and the erection of the proposed building are considered to result in a positive enhancement to the Conservation Area, in terms of its use and character, and the scheme is considered to be in compliance with policies GP5, N12, N13, BC7 and BC8 subject to conditions to control details.

#### Residential Amenity

- 10.11. As the site is within a town centre location there may be expected to be a higher than normal noise level around the site. This does not however mean that residential use is incompatible and there are existing residential properties adjacent to the site.
- 10.12. A noise survey has been carried out by the applicants, which has found that noise levels are not of a level where any special mitigating measures would need to be installed within the building or around external areas. The noise survey also looked at the use of the adjacent pubs site, but found no significant activity at the premises during either day or night surveys. Council environmental health officers have reviewed the scheme and have raised no objection to it. On these grounds it is considered that future residents will have a reasonable level of residential amenity and will not be detrimentally affected by virtue of noise and disturbance.
- 10.13. Residents living in the care home are provided with a private garden area and soft landscaping to the front, which will provide a pleasant outlook and amenity space which can also be accessed by the residents of the extra care flats, with a link provided into the garden area through the existing boundary wall. Landscaping along the footpath boundary, will provide some screening of the bedroom areas, however the applicants have stressed that residents often prefer to have a visual outlook over active areas in order to provide stimulation throughout the day.
- 10.14. The closest dwellings to the site are some 28m from the building itself and there is a distance of 14m to the nearest garden boundary. This is considered suitable to ensure

that residents have adequate outlook and that existing residents in the area are not harmed by over looking, overshadowing or over dominance of the proposed buildings.

- 10.15. The Wetherby Silver Band have written raising concerns regarding noise from the band room, which is adjacent to the south eastern corner of the application site. Currently the band room is used twice a week in the evenings with additional rehearsals as required. Whilst this may be considered to generate a certain amount of noise this will not be prolonged, nor will it necessarily be considered unacceptable by residents. The band group have written directly to the applicants so that they are fully aware of the use of the band room and the applicants themselves have raised no concerns on these grounds. It is not considered that this issue raises any concerns in planning terms.
- 10.16. On the whole the proposal is considered to provide suitable amenity for the intended residents and will not detrimentally impact on existing residents. There are no issues of noise that cannot be dealt with through standard mitigation measures such as use of double glazing. The proposal is considered acceptable in amenity terms and complies with policies GP5 and BD5.

#### Landscaping and trees

- 10.17. There are several mature trees considered to be of benefit to the area that are sited within the St James's Church site but which overhang the site boundaries. An arboricultural report has been submitted, which indicates the retention of these trees with protection measures to be put in place to ensure they are not harmed. The landscaping around the site is indicative at the moment but there are two small trees within the site which are scheduled for removal. There will be a number of small trees and shrubs planted as well as the setting out of formal planting areas.
- 10.18. The existing boundary walls which are considered to be good features within the Conservation Area are to be retained although new openings will need to be created for pedestrian accesses. These will be tidied up with stone pillars to match. There are no specific concerns raised with regard to the indicated landscaping scheme and it is considered that this issue can be adequately dealt with through conditions for the submission of a full landscaping scheme, implementation proposals, management plan and protection of retained trees.

#### Highway and access

- 10.19. The proposed access points via St James Street and the New Inn pub are considered acceptable for the level of use intended and amount of parking provision is also considered appropriate. Access to the extra care flats involves going through the New Inn pub car park, the agents have advised that the applicants do have formal arrangements for use of this access and this includes for site construction traffic.
- 10.20. Suitable provision is made for disabled parking and ambulance parking areas, and for the turning of large vehicles within the site. Provision is also made for the storage of bins. It is considered that the proposal raises no concerns with regard to highway safety.
- 10.21. From 6 April 2010 guidance was issued stating that a planning obligation may only constitute a reason for granting planning permission for development if the obligation is all of the following:
- **(i) necessary to make the development acceptable in planning terms.** Planning obligations should be used to make acceptable development which would otherwise be unacceptable in planning terms.
  - **(ii) directly related to the development.** Planning obligations should be so directly related to proposed developments that the development ought not to be permitted without them. There should be a functional or geographical link

between the development and the item being provided as part of the agreement.

- **(iii) fairly and reasonably related in scale and kind to the development**  
Planning obligations should be fairly and reasonably related in scale and kind to the proposed development.

10.22. According to the draft guidance issued for consultation in March 2010, unacceptable development should not be permitted because of benefits or inducements offered by a developer which are not necessary to make development acceptable in planning terms. The planning obligations offered by the developer include the following:-

- £31,946 as a public transport infrastructure contribution. The proposal is likely to have a significant travel impact and a financial contribution will help to ensure that relevant government and local policies relating to the use of public transport are met. Money will be spent on the local public transport system thus benefiting the proposal directly. The figure has been calculated using the approved formula set out in the SPD which takes into account the size, scale and impact of the proposed development.
- £2,500 as a monitoring fee for a Travel Plan designed to reduce vehicle use by staff and visitors. This is required to ensure that the agreed provisions within the Travel Plan are implemented.

### Bats

10.23. A detailed bat survey of the site has been carried out which included an external inspection of the existing health centre building and an evening and dawn activity survey in July. The bat surveyors were unable to gain access to the inside of the building to carry out an internal inspection.

10.24. The survey confirmed the presence of three, and possibly four, roosts in the existing building used by individual common and soprano pipistrelle bats. These are non-breeding roosts which are generally considered to have a lower conservation status than maternity roosts or hibernation roosts used by larger numbers of bats. A mitigation method statement has been included in the bat survey report which includes controls over the timing and methods of demolition and provision for replacement roosts in the new care home building, the locations of which are shown on plan no's 0909 CL (2) -04a and 0909 CL (2) -05a. The survey report concludes that if the development is carried out in accordance with the mitigation method statement the risk of harm to individual bats can be minimised and the conservation status of bats in the local area can be maintained. The City Council agrees with this conclusion.

10.25. Bats are protected under the European Habitats Directive and the City Council has a duty to have regard to the requirements of the Directive when carrying out its functions. The proposed development is considered to be an act that requires derogation from the requirements of the Directive by means of a licence issued by Natural England. The Conservation of Habitats and Species Regulations 2010 require that three 'tests' (in Regulation 53 (2)(e), (9)(a) and 9(b) ) be met in order that a licence may be issued and as part of its duty the City Council must also have regard to these three tests in any consideration of this planning application.

10.26. Regulation 53 (2)(e) requires that the proposal must meet a purpose of *preserving public health or public safety or other imperative reasons of overriding public interest including those of a social or economic nature and beneficial consequences of primary importance for the environment*. In respect of Regulation 53 (2)(e) this proposal provides a social need for local people that is not fulfilled in the area currently. Demand for a care home in the north east area is high and people are likely to end up travelling outside the area to meet their needs. The site is also currently vacant and visually poor and redevelopment will provide a suitable enhancement to the locality.



- 10.27. Regulation 53 (9) states that a licence should not be issued unless the appropriate authority is satisfied: *(a) that there is no satisfactory alternative, and (b) that the action authorised will not be detrimental to the maintenance of the population of the species concerned at a favourable conservation status in their natural range.*
- 10.28. In respect of 53 (9)(a) the existing health centre building is now redundant and its form and layout would make it unsuitable for uses suitable to the location. Certainly the building would not function well as a care home and would need to be extensively modernised to comply with modern day specifications. The site is also visually poor which is detrimental to the designated Conservation Area.
- 10.29. In respect of 53 (9)(b) the existing roosts are used by small numbers of non-breeding pipistrelle bats and the site is considered to be of local value for bats. Replacement roost features will be provided in the new care home building and it is considered that these features will maintain the conservation status of pipistrelle bats in the local area.
- 10.30. In conclusion therefore the mitigation measures put forward are suitable and conclusions are required to ensure these are carried out. Details of external lighting are also needed to ensure this does not disturb future bat residents.

#### Public right of way.

- 10.31. A designated public right of way runs down the western boundary of the site, which connects the adjacent public car park to the town centre and is an important thoroughfare used quite heavily. This footpath is not impacted on by the development except through the addition of pedestrian accesses to be punched through the boundary wall. A Direction can ensure that the applicant is fully aware of their responsibilities with regard to ensuring the footpath stays open during construction works.
- 10.32. St James's church wardens have raised an issue of an intended footpath linking the public car park with the church. This issue was raised in a Wetherby traffic survey, where it was considered that it would be advantageous to provide such a footpath link to give greater connection with the town centre. However it is considered that to provide a public footpath through the site would result in security issues and loss of privacy for the intended residents.

## **11. CONCLUSION**

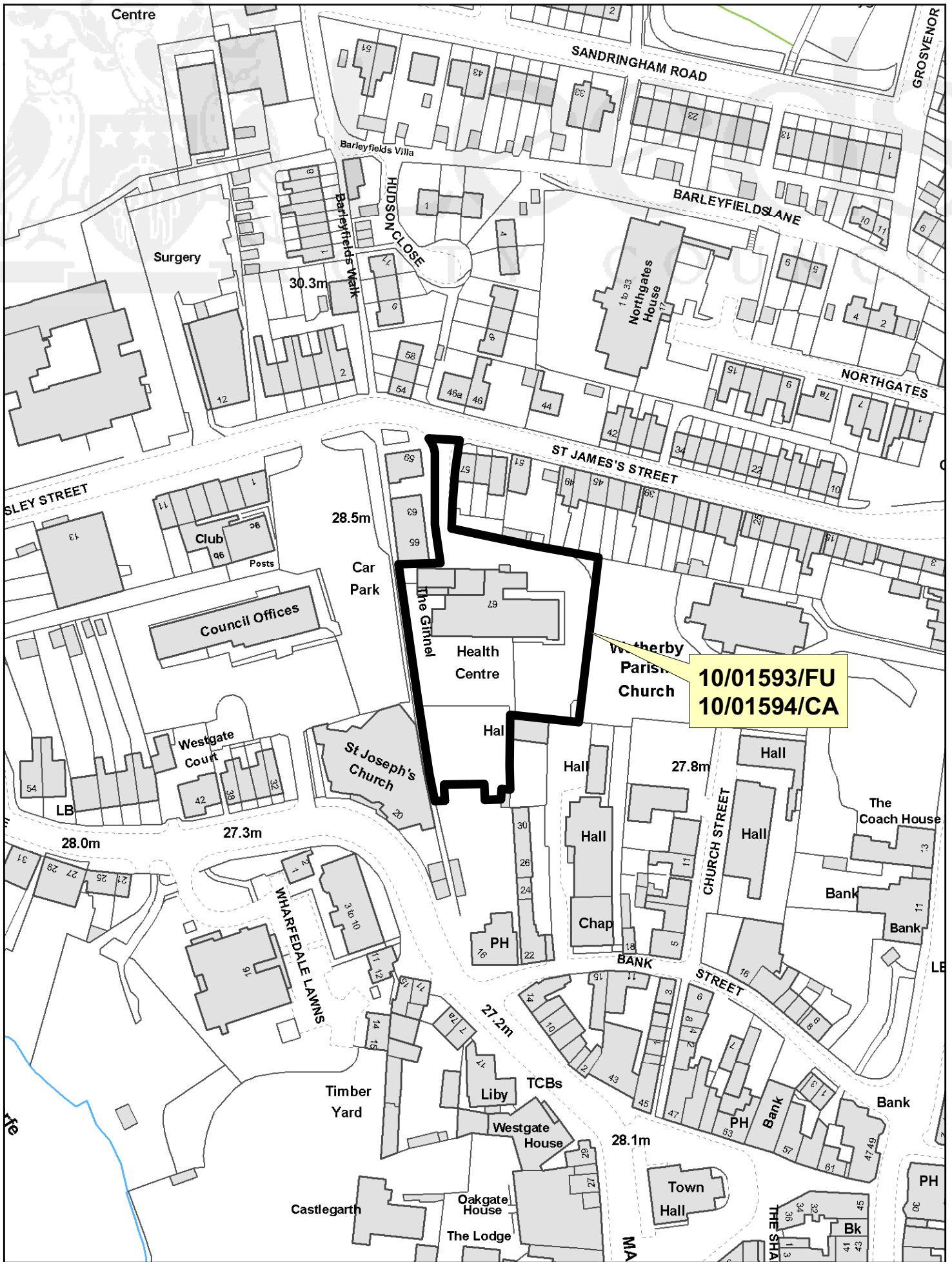
- 11.1 This application is considered to provide a facility for which there is a recognised need in the Wetherby and wider area. The site is sustainably located and residents will have good access to all local services and facilities. The proposal provides suitable amenity for intended residents and is not considered to impact detrimentally on other residents and users around the site. The intended buildings are considered to positively enhance the character of the Conservation Area and will provide a prominent feature building within this area which is suitable to its town centre location. No other issues are raised which would indicate that a refusal should be made and the proposal is considered to comply with all relevant policies subject to conditions and a signed section 106. The proposed demolition is considered acceptable and will not impact detrimentally on the Conservation Area. These applications are therefore recommended to Members for approval.

## **12. Background Papers:**

Application and history files. – see history above.

Certificate of Ownership: Notice served on Punch Taverns, Jubilee House, Second Avenue, Burton – on- Trent.





# EAST PLANS PANEL

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Originator:	Victoria Hinchliff Walker
Tel:	39 51343

**Report of the Chief Planning Officer**

***PLANS PANEL EAST***

**Date: 30<sup>th</sup> September 2010**

**Subject: APPLICATION 10/02898/FU. ERECTION OF DETACHED 5 BEDROOM HOUSE WITH ATTACHED DOUBLE GARAGE TO EQUESTRIAN/KENNELS/CATTERY. CLEAVESTY CENTRE, CLEAVESTY LANE, EAST KESWICK.**

<b>APPLICANT</b>	<b>DATE VALID</b>	<b>TARGET DATE</b>
Impex Parts – S Burrows	21/07/10	15/09/10

**Electoral Wards Affected: Harewood**

Ward Members consulted (referred to in report)

**Specific Implications For:**

Equality and Diversity	<input type="checkbox"/>
Community Cohesion	<input type="checkbox"/>
Narrowing the Gap	<input type="checkbox"/>

**RECOMMENDATION:**  
**APPROVE in principle and refer to the Secretary of State as a departure from the Statutory Development Plan and delegate approval to the Chief Planning Officer subject to the specified conditions should the Secretary of State decide not to call in the application for determination.**

Conditions

1. Standard time limit
2. Development to be in accordance with approved plans.
3. The dwelling shall achieve a Code Level 6 in accordance with the requirements of the Code for Sustainable Homes: Technical Guide (or such national measure of sustainability for house design that replaces that scheme). The dwelling shall not be occupied until a Final Code Certificate has been issued for it certifying that Code Level 6 has been achieved.
4. The residential curtilage shall extend only up to the boundaries as indicated on the approved drawing reference. Land outside this boundary will be dedicated to woodland/orchard/nature conservation area and retained as such thereafter.
5. Materials to be approved
6. Landscaping details
7. Landscape management plan
8. Landscape implementation

9. Tree replacement
10. Preservation of existing and retained trees and hedges
11. Details of drainage
12. Reporting any unexpected contamination
13. Removal of permitted development rights for extensions, conservatories, roof alterations, outbuildings and boundary treatments.
14. Visibility splay to be provided, 2.4m x site frontage, and kept clear of all obstruction.

**Reason for Approval** – The application is considered to represent inappropriate development in the Green Belt, however very special circumstances have been put forward that show clear positive benefits for the character and appearance of the area as well as offering sustainability benefits and enhanced biodiversity. These very special circumstances are considered to outweigh the harm done by inappropriate development. The application is considered to comply with policies GP5, GP11, H4, N12, N13, N24, N25, N32, N37, and BD5, of the adopted UDP Review, as well as guidance contained within PPS1 and PPG2, PPS3, PPS7 and, having regard to all other material considerations, including amenity, is considered acceptable.

## **1. INTRODUCTION:**

- 1.1. The application is brought to Panel, because of the fact that new residential development is inappropriate within the green belt and therefore the scheme does not comply with local or national policy and is therefore classed as a departure from the local development plan.

## **2. PROPOSAL:**

- 2.1. The site has previously operated as a riding school and a commercial cattery and kennels. It is proposed to remove all of these buildings and erect a detached five bedroom house with attached double garage and home office space. The remainder of the land will be landscaped to use as a domestic garden, growing space and more informal landscaping.
- 2.2. The proposed new 5 bedroom dwelling has a footprint of 665 square metres and a volume of 3348 cubic metres. The new dwelling is located approximately on the position of the existing building footprint (of the indoor arena). The bulk of the main building comprising the living accommodation will be two storeys in height and will be flat roofed with a projected finished height lower than the ridge height of the previous riding school building. This section will be connected via a timber cloister link to a single storey building housing the double garage and a home office.
- 2.3. The building will be clad with untreated western red cedar, which will be horizontally mounted and is expected to fade to a grey colour within the first season. This will be interspersed with natural stone and with various high-performance triple glazed composite aluminium/timber windows and doors. The roof will be a single ply grass roof system designed to mimic the natural colours of the surrounding landscape. The design will make maximum use of sustainable features such as a grey water reed bed, habitat areas, improved reflective light quality and use of soft landscaping.

## **3. SITE AND SURROUNDINGS:**

- 3.1. This is a relatively large rectangular site located at the junction between Cleavesty Lane and Harewood Road. In the middle of the site is a complex of buildings consisting of a large two-storey high profiled metal sheet shed, which has previously housed a Riding School, adjacent to this is a grouping of lower single storey buildings constructed of cladding and corrugated tin roofing, which housed the kennels and

cattery. To the front of these is an area that has been fenced off and covered with chippings, which was presumably a riding arena.

- 3.2. There are significant levels of hardstanding and gravel to the front half of the site with the remainder being grass and scrub. There is significant mature hedging and tree growth to the majority of the boundaries which screens the site well. To the south lies Cleavesty Lodge a small dormer bungalow which has its own separate access and has formerly been associated with the site. Apart from this the site is surrounded by agricultural fields. East Keswick village lies further away to the south.

#### **4. RELEVANT PLANNING HISTORY:**

- 4.1. 09/01720/OT - three dwelling houses to site of Equestrian Centre. Refused, 16/06/09.
- 4.2. This application was submitted during the run-up to the public inquiry of the application reference below. The intention was that the inquiry could be avoided, should this scheme proved more acceptable.
- 4.3. 08/06442/OT - three dwelling houses to site of Equestrian Centre. Refused 30/01/09. Appeal dismissed 26/08/09.
- 4.4. The application was submitted in outline to consider the access and layout only. In considering the appeal the Inspector considered the main issues to be the effect on the openness of the green belt; the effect on the character and appearance of the landscape; whether the proposal would result in an unsustainable pattern of development and whether the harm to the green belt by reason of inappropriate development and any other harm was clearly outweighed by other considerations so as to amount to the very special circumstances necessary to justify the development.
- 4.5. In considering openness the Inspector looked at the removal of the existing buildings and concluded that the proposal would result in material benefits to the openness of the green belt, taking into account the quantitative reduction of buildings and other structures and an assessment of a neutral impact on the levels of activity at the site.
- 4.6. In considering the impact on the character of the landscape the Inspector concluded that the loss of the existing poor buildings and their replacement with improved buildings would result in no harm to the positive factors of the Special Landscape Area. However, he did consider that the proposed dwelling group in combination with the existing dwelling of Cleavesty Lodge, would result in a sporadic form of residential development within the open countryside. He therefore considered that there would be a neutral impact on the character and appearance of the landscape.
- 4.7. The inspector did not consider that the site was sustainable. Residents would have to use private vehicles to get around, and there was a lack of facilities in the nearby East Keswick village, however he did not consider the site to be remote. He did consider that the current use generated more journeys however, he considered that this type of use had to locate in the countryside, whereas housing did not, therefore he did not consider that the proposal resulted in a sustainable pattern of development.
- 4.8. In his final conclusion, the significant benefit to openness and limited benefit to nature conservation would not outweigh the substantial harm by reason of inappropriate development and other significant harm caused by the unsustainable nature of the proposal. He found that very special circumstances did not exist and the appeal was dismissed.
- 4.9. 31/278/96/FU - detached prefabricated two-bedroom mobile home to Riding Centre. Refused 17/01/97.
- 4.10. H31/29/91/ - detached mobile home to stables and kennels refused 30/04/92.
- 4.11. H31/382/90/ - erection of one bedroom flats and staff accommodation to riding stable. Refused 30/04/91.

- 4.12. H31/104/89/ - outline to layout access and erect one detached bungalow with integral garage. Refused 22/05/89. Appeal dismissed 08/02/90.
- 4.13. H31/237/88 - detached storage building to riding and livery stable. Approved 22/08/88.
- 4.14. H31/26/88/ - change of use of part of existing stable block to dog boarding kennels. Approved 14/73/88.
- 4.15. H31/243/83/ - siting of two mobile homes to riding school. Refused 07/11/83.

## **5. HISTORY OF NEGOTIATIONS**

- 5.1. Following dismissal of the appeal the applicants have reconsidered and have had pre-application consultations with case officers. They were advised to reduce the number of dwellings and that sustainability must play a key role in any future application.

## **6. PUBLIC/LOCAL RESPONSE:**

- 6.1 A site notice advertising a departure from the development plan was posted on 28/07/10. Publicity expired 27/08/10.
- 6.2 East Keswick Parish Council considered that the current application was an improvement over previous schemes but they have concerns that the proposal is out of keeping and character with other dwellings in the village and on these grounds they object to the proposal. They also raise concerns that if approval is granted further development may be allowed on the site and request that this should be controlled through use of conditions.
- 6.3 No other responses were received.

## **7. CONSULTATIONS RESPONSES:**

### **Statutory:**

- 7.1. None required.

### **Non-statutory:**

- 7.2. Highways DC – raised no objection in view of the existing use.
- 7.3. Contaminated Land – no objections subject to conditions.
- 7.4. Mains Drainage – no objections subject to conditions.

## **8. PLANNING POLICIES:**

### **Development Plan –**

- 8.1. The statutory Development Plan is made up of the Unitary Development Plan Review, along with relevant Supplementary Planning Guidance/Documents. Under the UDP the site is designated as Green Belt and Special Landscape Area.
- 8.2. Unitary Development Plan ( Review) (UDPR)
- GP5 – general planning considerations.
  - GP11 – sustainable development.
  - H4 – Main urban areas.
  - N12 – Urban design principles.
  - N13 – building design principles.
  - N24 – Green Belt boundary treatments.
  - N25 – appropriate boundary treatments.
  - N32 - Green Belt boundary.



- N33 – Except in very special circumstances approval will only be given in the Green Belt for appropriate uses.
- N37 – Special Landscape Areas.
- BD5 – general amenity concerns.

#### **Relevant supplementary guidance –**

- 8.3. Neighbourhoods for Living.
- 8.4. East Keswick Village Design Statement – focuses mostly on the village itself, but recognises the role that the surrounding countryside plays in setting the local character.

#### **Government Planning Policy Guidance/Statements**

- 8.5. PPS1 – Delivering Sustainable Development + Climate Change Supplement.
- 8.6. PPG2 – Green Belts – The use of land within a Green Belt has a positive role to play in fulfilling a number of objectives. Some of these objectives relate to the retention and enhancement of landscapes and to secure nature conservation interest.
- 8.7. PPS3 – Housing
- 8.8. PPS7 – Sustainable Development in Rural Areas - isolated rural dwellings need to have special justification in order to be approved. Paragraph 11 states “Very occasionally the exceptional quality and innovative nature of the design of a proposed isolated new house, may provide the special justification for granting planning permission. Such a design should be truly outstanding and groundbreaking, for example in its use of materials, methods of construction or its contribution to protecting and enhancing the environment, so helping to raise standards of design generally in rural areas. The value of such a building will be found in its reflection of the highest standards in contemporary architecture, the significant enhancement of its immediate setting and its sensitivity to the defining characteristics of the local area.

### **9. MAIN ISSUES**

- 9.1. The application proposes development that is considered to be inappropriate within the green belt. The scheme therefore needs to be judged on its impact to the openness of the green belt, the impact on visual amenity and whether there are any very special circumstances that would override the inappropriateness of the development.
- Principle of development.
  - Impact on openness of green belt
  - Impact on character and appearance of the landscape
  - Sustainability
  - Trees and landscaping
  - Highway issues
  - Other issues.

### **10. APPRAISAL**

#### Principle of Development

- 10.1. The proposed development lies in Green Belt, and the erection of new dwellings is considered to be inappropriate development in the Green Belt, as defined by PPG2, and as set out in policy N33 of the UDP. Therefore, to justify such development very special circumstances must be clearly demonstrated. The applicant has put forward four sets of very special circumstances;
- Enhanced openness of the Green Belt.

- Enhanced visual amenity of the Green Belt.
- Enhanced nature conservation/biodiversity qualities of the site.
- The specific sustainability and design quality of the proposals and the lack of viable alternative uses which would be capable of providing and sustaining such very special circumstances.

10.2. Each of these very special circumstances will be looked at in turn below followed by the appraisal of other planning matters relating to the proposal.

#### Impact on Openness of Green Belt

- 10.3. The site is currently occupied by a large riding arena, stables and kennels as well as areas of hardstanding and paddock. These structures will be removed to enable this development resulting in removal of 1,122 square metres of building, as well as all areas of hardstanding. The proposed building has a footprint of circa. 665 square metres and is roughly over the position of the existing. This results in a reduction of approximately 41% of the built-up area.
- 10.4. The height of the building is also to be reduced from 7.5 m to the ridge of the riding arena down to 5.8 m to the flat roof of the new building, resulting in a reduction in the volume of 36% across the whole site. This also helps reduce the impact on openness. In the previous appeal the Inspector considered that the similar reductions in floorspace (40%) and volume (15%) were material benefits to the openness of the Green Belt.
- 10.5. It is also important to look at activity generated by the site. Activity is currently limited due to the site being vacant but the lawful use as a riding school and kennels has potential to generate a significant level of traffic (including riders, dog and cat owners as well as deliveries) across the whole week. It is estimated that the cattery could house a maximum of 28 animals with the average stay being 4 days, this generates 14 trips per day. The equestrian use equated to approximately 1.68 ha which will generate 23.87 trips per day. The total trip generation for the combined use is 38 trips per day. A single dwelling on the other hand would generate only the movements of the occupants plus visitors to the family, and this averages 8 to 10 movements per day. The scheme does involve a home office but the scale of this is unlikely to result in large numbers of callers at the site.
- 10.6. The previous Inspector assessed that the three houses would lead to no greater impact in terms of vehicle activity than the existing use, or other potential uses. The appeal was for three properties which would have generated up to 30 trips per day, a figure which is a lot closer to the 38 trips generated by the existing uses. In this respect the current application is clearly an improvement in terms of activity at the site, and this reduction can be given greater weight than was afforded to the proposal for three dwellings.
- 10.7. The proposal would result in domestic paraphernalia becoming apparent on the site. However, current fixtures associated with the use of the stables and kennels such as the fencing and lighting would go so the situation would be no worse. The applicants have indicated that the residential curtilage would be limited to the house and its immediate garden area with remaining land been given over to landscaping. A condition could ensure that the use of this land remained as non-residential, thus ensuring that further encroachment on openness (e.g. through domestic paraphernalia and domestic permitted development rights) could be suitably controlled.
- 10.8. The previous Inspector considered that the impact of domestic paraphernalia would be limited, and as this proposal represents a further reduction in the number of dwellings then the impact will be correspondingly less.
- 10.9. Overall, it is therefore considered that the proposal would result in material benefits to the openness of green belt. This was also the conclusion reached by the Inspector of

the previous appeal, who considered three dwellings on the site. Given the improvements that the reduction in dwellings gives to trip generation and domestic paraphernalia then this matter can be given greater weight than was afforded it by the previous Inspector.

#### Impact on Character and Appearance of the Landscape

- 10.10. The location is in a rural area and the site itself is isolated from East Keswick village by open fields. The site is generally very well screened by trees except along the Harewood Road boundary where gaps exist. The current buildings are fairly typical of modern agricultural and commercial buildings, but they have no traditional characteristics and can be considered to detract from this area of special landscape character, a conclusion that the previous Inspector also reached.
- 10.11. In contrast, the proposed building, although of a contemporary nature is considered to provide a good quality design that will tie in with the surroundings through the use of natural materials such as the timber cladding and the grass roof. Other measures such as the planting of an orchard, informal woodland and a wildflower meadow will provide further visual improvements.
- 10.12. The previous Inspector considered that the introduction of three new dwellings would result in a sporadic form of residential development that would be an uncharacteristic feature of the landscape. It is accepted that this proposal will change the visual nature of the site from commercial to residential; however the design of this scheme is considered to be of a much higher quality as well as having the potential to be a showcase for sustainable construction.
- 10.13. The previous three dwellings would have involved greater areas of hardstanding to form drives and parking, and the forms of the two schemes are very different, the appeal proposal being traditional houses and this being a modern form designed to blend in with the surrounding landscape. It is therefore considered that this proposal provides significant visual enhancements to the landscape as a result of the improved form and design and that this can therefore be considered as a positive benefit rather than a neutral one as found by the Inspector. This is in line with PPG2, which seeks to ensure that development within Green Belts retains and enhances the landscape and secures nature conservation interest.
- 10.14. The Parish Council also raise concerns that the scheme is out of character with the village. The site is distinctly separate from the village however, with the closest properties being Cleavesty Lodge (formerly associated with the site and an uninspiring dormer bungalow) and the edge of the village which is 0.4km to the South. It is therefore considered that the site can be considered as a distinct and separate site and that the option to provide a very contemporary design is suitable in this location. Indeed there is an argument that the style of design is less intrusive upon the landscape, than a traditional dwelling would be as it can sit lower and the materials will help to blend in with surrounding trees.
- 10.15. Overall then, the proposal is considered to provide visual benefit to the landscaping of the area by removal of the current detracting features and erection of a high quality, significant design in its place. The proposal is therefore considered to comply with policy N37 of the UDP and will have a positive benefit on the character of the Green Belt in line with PPG2.

#### Enhanced Nature Conservation/Biodiversity

- 10.16. Although much of the current site is open it is largely unkempt with scrub growing. Large areas are also covered by hardstanding and gravel and there is an area given over to a riding arena. The proposal offers to improve on the existing landscape through provision of an orchard, a wildflower meadow, woodland glades and a greywater reed bed. Whilst this will require some form of long term management

(which can be dealt with through a condition), this has the potential to provide much greater provision for biodiversity than the existing situation.

10.17. The appeal proposal on the other hand offered two areas of paddock with a small wildflower meadow. At the time the Inspector considered that this offered some nature conservation benefits, but nothing over and above what a normal residential development would be expected to provide, he therefore afforded this argument little weight. The current proposal goes significantly further by offering substantial landscape alterations that go beyond the domestic and will enhance the Special Landscape Area. For this proposal therefore this circumstance can be afforded greater weight.

#### Sustainability

10.18. The site does not lie within the main urban area and is not contained within the village envelope. East Keswick itself is a village of limited facilities, with no school or shopping provisions. The site itself cannot therefore be considered to be in a sustainable location and residents will have to commute by private vehicle due to the lack of suitable public transport. The site however is not located in a particularly remote area, with commuting times likely to be approximately 30 minutes into Leeds, which is not dissimilar to commuting times experienced by people living in urban areas.

10.19. The site is previously developed, and as such, this represents brownfield development, and it has to be recognized that the proposal will involve a significant decrease in the level of activity and vehicle generation. It is recognised however that the existing uses on the site, by their nature, tend to need to be located within rural areas. The residential use does not have to be, and could be accommodated on a site within an existing village or town. On balance, given the improvement in the level of use and the small scale nature of the proposal it is considered that this represents an improvement over the existing situation.

10.20. The proposed dwelling is designed to be at the highest level of sustainable construction and to achieve code level 6. To achieve this level, a number of technologies will have to be utilised, including high insulation, provided by the timber cladding and the grass roof, reed bed infiltration system, photovoltaic panels, low energy lighting, ground source heat heating, solar hot water panels, heat sink to the living area, mechanical background ventilation with energy recovery, electrical hook up for an electric car, porous external surfacing and other features. The proposal also provides a home office ensuring that residents are able to benefit from home working and thus reduce their commuting needs.

10.21. Biodiversity will also be enhanced at the site through the provision of an orchard, wildflower meadow, informal woodland and a natural pond and the proposal also provides space for residents to plant their own vegetables and herbs and produce their own compost.

10.22. Overall, therefore, the proposal will achieve a significant level of sustainable construction that cannot yet be found in the locality and will result in significant enhancements to biodiversity. The applicant has also indicated that they would be willing to allow public viewing of the site in order to promote the sustainable technologies being used.

10.23. The previous dismissed proposal was not considered to be sustainable due to its location and the fact that it would only achieve the most basic level, code level 3, for sustainable construction. These attributes were not considered to outweigh the accessibility issues.

10.24. On balance therefore, whilst this location itself is not sustainable the additional benefits offered by this proposal, along with the larger reduction in use of the site, are

considered to have significant weight and can be considered to outweigh the accessibility factors. Therefore this circumstance can be given significant weight.

#### Other Viable Uses

- 10.25. The applicants have stated that they have been trying to sell the site for some time following a change in their circumstances. Both the equestrian and the kennel business closed in early 2008 and the property has been on the market since then, both with the bungalow adjoining and separately. It has been found however that there has been little interest and one of the reasons put forward for this is the level of investment required. To upgrade the existing kennels around £50,000 would be needed with a further £75,000 for the equestrian facility. The equestrian facility would also require additional land to be provided in order to provide sufficient paddocks to ensure a suitable investment return. It is therefore considered that the use of the site for the same purposes would be unviable.
- 10.26. It has been considered whether other uses would be suitable for the site however, given the green belt location there are unlikely to be any suitable uses that would be considered appropriate. The development of the site for e.g. a Business Park, garden centre or other commercial or business uses would be unlikely to be supported and would also generate significant traffic generation. Conversion of the existing buildings for such uses is unlikely to be considered due to the limited scale and poor appearance.
- 10.27. This issue was considered by the previous Inspector who assessed that there was not enough information available and so could give no great thought to it. In this instance evidence of how other uses have been considered has been included in the Planning Statement. Given the green belt designation, and the unsustainable location, any appropriate use considered for the site would be along the lines of involving a conversion for commercial activity, or some form of leisure or recreation use. Such uses would involve greater traffic generation and give less opportunity for providing the landscape and nature conservation benefits that the current proposal offers. Some limited weight must also be given to the continuing deterioration of the site if no other viable use is found.
- 10.28. On balance therefore the fourth very special circumstance is also considered to offer positive benefits to the Green Belt and can be afforded weight.

#### Highway and access

- 10.29. The proposal is acceptable in highway terms given that there will be a reduction in vehicle activity at the site and adequate visibility can be achieved at the access point. The proposal provides suitable car parking facilities, as well as cycle parking facilities.
- 10.30. Access within the site is acceptable, with the property itself complying with DDA and lifetime homes standards for accessibility.

#### Residential Amenity

- 10.31. The proposed dwelling will provide suitable outlook, internal space as well as external space and is aligned with the adjacent Cleavesty Lodge such that there will be no overlooking or overshadowing caused by the proposal. The proposal therefore provides a good level of residential amenity for both the existing and the proposed residents.

#### Do Very Special Circumstances Exist?

- 10.32. The applicants have considered that the proposal for one single dwelling built to extremely high sustainability levels is the most appropriate course of action. The very special circumstances put forward are therefore as follows;
- Enhanced openness of the green belt.

- Enhance visual amenity of the green belt.
- Enhanced nature conservation/biodiversity qualities of the site.
- The specific sustainability and design quality of the proposals and the lack of viable alternative use proposals which would be capable of providing and sustaining such very special circumstances.

10.33. The assessment above concludes that each circumstance does offer positive benefits for the Green Belt and wider landscape, and that they can be afforded greater weight. The current proposal also offers greater benefits than were previously felt to be offered by the appeal proposal. In this instance therefore it is considered that very special circumstances do exist and these are strong enough to set aside the inappropriateness of the development.

## **11. CONCLUSION**

11.1 PPG2 advises that inappropriate development in the green belt should not be approved, except in very special circumstances. These very special circumstances will not exist unless the harm to the green belt by reason of inappropriateness and any other harm is clearly outweighed by other considerations.

11.2 With this scheme the harm to the green belt arises from inappropriate residential development. However, the scheme has significant benefits including the removal of existing buildings, increased openness, improved visual quality, reduced use, and enhanced nature provision. Previously the scheme for three dwellings was considered to be a neutral impact on sustainability measures, but this current scheme is considered to provide a positive impact and could indeed be a flagship for sustainable construction in the local area.

11.3 The benefits accruing from the development are therefore considered to outweigh the harm done by reason of inappropriateness and therefore very special circumstances do exist, which would justify setting aside green belt policy in this instance. The proposal is therefore recommended to Members for approval with conditions and that the application is deferred to the Secretary of State as a departure.

## **12. Background Papers:**

Application and history files. – see history above.

Certificate of Ownership: signed as applicant.

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**NOTES**

10 / 02898 III



**PLANNING ISSUE**

NEW DWELLING  
 CLEAVEY LANE  
 EAST KESWICK

FOR  
 MR. S. BURROWS

**PROPOSED SITE PLAN**

Date MARCH 2010  
 Scale 1:500 @ A1  
 Drawn NP Checked

**HOLIDAY CLARK  
 ARCHITECTS**

Holiday Clark Limited  
 T 01274 559 888  
 F 01274 559 889  
 A100 York  
 Bury St Edmunds  
 Suffolk IP17 7DB  
 W holidayclark.co.uk

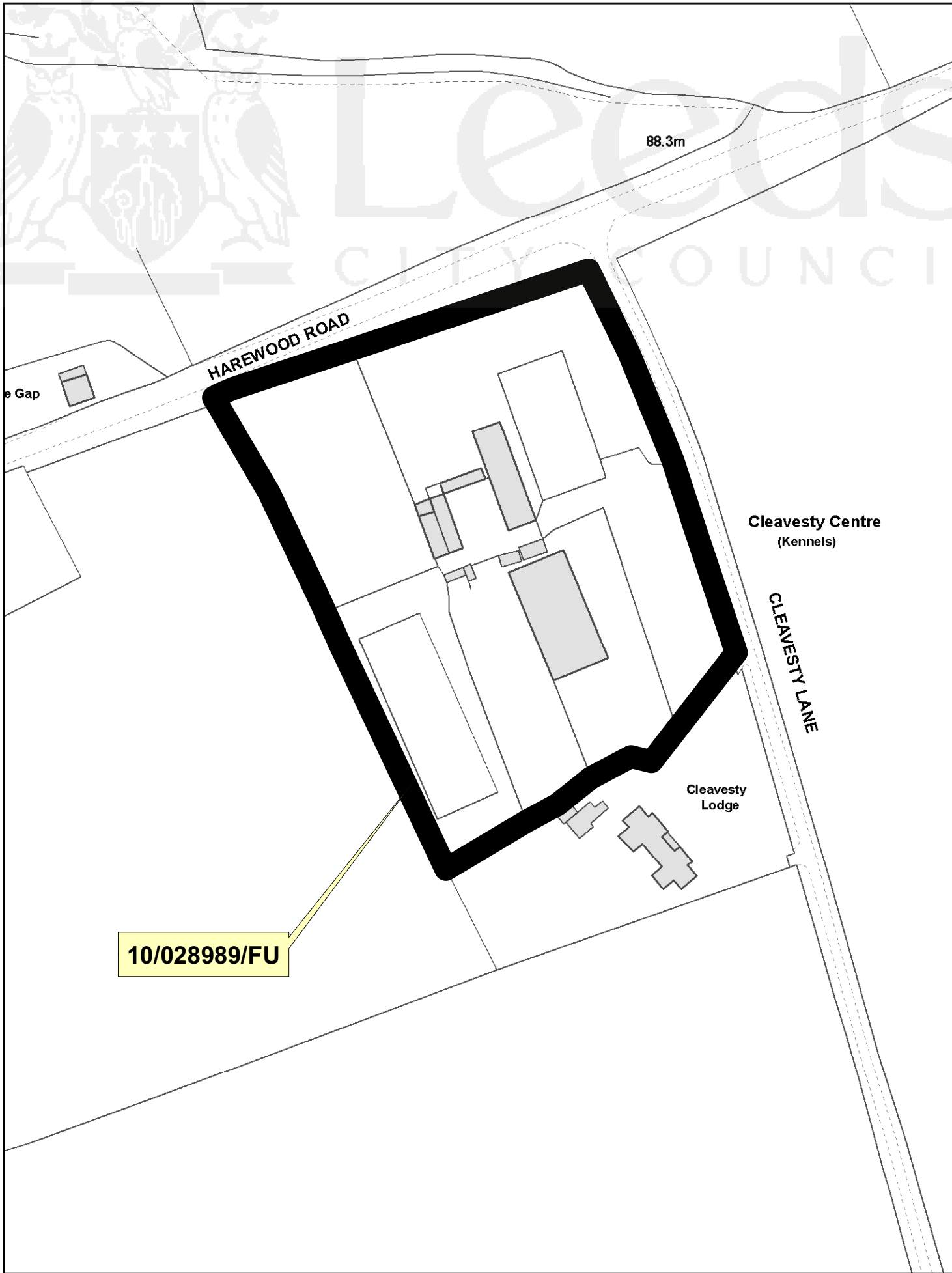
Dwg. No. 549.01.01.02 Rev.



- SITE PLAN**
- PERMITTED EXISTING AREA
  - CONCRETE DRIVE
  - PERMITTED DRIVE
  - PROPOSED DRIVE
  - PROPOSED GLAZED
  - PROPOSED LOWER REAR
  - PROPOSED UPPER REAR
  - PROPOSED ELECTRIC CABLE RUN
  - PROPOSED GARAGE

PROPOSED SITE PLAN  
 1:500 @ A1  
 NORTH





# EAST PLANS PANEL







Originator: Marianne Adams  
Tel: 242224409

## Report of the Chief Planning Officer

### PLANS PANEL EAST

Date: 30<sup>th</sup> September 2010

**Subject: APPLICATION 10/02982/FU Change of Use of retail unit (A1 use) to restaurant (A3 use) at 9 Bank Street, Wetherby, LS22**

APPLICANT	DATE VALID	TARGET DATE
Mr P Kong	30/6/2010	25/8/2010

#### Electoral Wards Affected:

Wetherby

Ward Members consulted  
(referred to in report)

#### Specific Implications For:

Equality and Diversity   
Community Cohesion   
Narrowing the Gap

### RECOMMENDATION: GRANT PERMISSION subject to the following conditions :

1. Three year statutory time limit
2. Development to be carried out in accordance with approved plans
3. End of flue to be painted matt black
4. Sound insulation details
5. Extract ventilation
6. Machinery details
7. Air conditioning
8. Litter bin
9. Grease trap
10. Revised opening hours
11. Delivery hours
12. Noise report

**Reason for approval:** The application is considered to comply with policies GP5, N18A, T2 and SF8 of the UDP Review 2006 and having regard to all other material considerations, including being an appropriate use within a town centre which will have no undue harm to the living conditions of nearby residential properties, the application is recommended for approval.

## **1.0 INTRODUCTION:**

- 1.1 The application is being reported to Panel at the request of Ward Councillor John Procter who is concerned about the cumulative impact of a further restaurant in Wetherby town centre. In addition, Cllr. J Procter has stated that Ward members also have concerns about the number of complaints that licensing have received on this application.
- 1.2 The loss of a retail unit for an alternative town centre compatible use such as a restaurant over 2 floors is acceptable in principle because Church St is a secondary frontage within the district centre of Wetherby. The external flues have been rerouted internally with only a small projection protruding near to a chimney. The appearance is therefore acceptable in the conservation area. The restaurant will be open from 11am every day until half past midnight on every day except Sunday when it will close at slightly earlier at midnight. Environmental Health requires various standard conditions and supports the later opening times as they are in keeping with an existing restaurant closely. Highways consider that there is no parking or other highway safety problem with this use within a town centre.

## **2.0 PROPOSAL:**

- 2.1 The application seeks approval for a change of use from retail to restaurant (A3) use at No. 9 Bank Street both ground and first floors. The application proposes to provide an internalised flue with small matt black coloured external metal projection through the roof to the eastern/ side elevation. It is proposed that the premises will open from 11.00 hrs- 00.30 hrs Monday to Saturday and 11.00 hrs to 00.00 on Sundays. It is estimated that there will be up to 40 covers with 4 to 6 tables on the ground floor for lunch and about 15 tables on the first floor. The applicant is an established restaurateur and chef within the local area including Harrogate and will be offering a Thai menu which should expand the choice currently offered by the various eateries along Church Street.

## **3.0 SITE AND SURROUNDINGS:**

- 3.1 The application relates to a retail store located at the junction of Bank Street and Church Street in Wetherby Shopping Centre. Church Street is a secondary shopping frontage. The site also forms part of the Wetherby Conservation Area. The host property is a traditional stone built 2 storey end terraced structure. The new shop front to Church Street has been recently constructed. The north elevation to Bank Street remains and reads as a dwelling house with central door and a number of sash windows. There is a commercial garage site adjoining to the east.

## **4.0 RELEVANT PLANNING HISTORY:**

- 4.1 09/05303/FU -Approval for new shop front to west elevation i.e. Church Street
- 4.2 H31/169/83/- Redevelopment to form 2 shops, each with toilet and kitchen, with office over, to existing garage and yard to rear. (Approved)

- 4.3 H31/291/81/- One non illuminated wall sign size 4.8m x 0.37m height above ground 4.4m (underside) to printers shop. (Approved)
- 4.4 H31/254/81/- External alterations, of part of proposed printers' office, to showroom. (Approved)
- 4.5 H31/73/81/- Change of use of dwelling house to printers. (Approved)

## **5.0 HISTORY OF NEGOTIATIONS:**

- 5.1 Pre application discussions were not undertaken.  
Revised plans indicate internalised flues with small projections from the roof.

## **6.0 PUBLIC/LOCAL RESPONSE:**

- 6.1 Site notices of the proposal's impact on the character of the conservation area were posted 7/7/2010  
No letters of representation have been received

## **7.0 CONSULTATIONS RESPONSES:**

- 7.1 **Statutory:**  
None

- 7.2 **Non-statutory:**

- 7.3 Access- no objection to the change of use as no alterations are proposed.

- 7.4 Highways - no objection- the site has an existing commercial use and is located within the S2 Centre of Wetherby. Bank Street is protected by Traffic Regulation Orders that prohibit daytime parking, and it is considered that the use itself would not generate many vehicle trips during the day. The evening use of the restaurant would be outside the opening hours of many existing commercial uses within Wetherby when parking demand in Wetherby centre would be relatively low; therefore it is considered that it would be difficult to justify a highway objection to this proposal.

- 7.5 Environmental Health – no objection subject to conditions listed below (i.e. 1 to 9) in order to protect the amenities of the occupiers of the surrounding residential properties at upper levels. The application premises comprise an end of terrace 2 storey commercial property which is located at the junction of Bank Street and Church Street in Wetherby Town Centre. It is joined to a retail unit to the rear with offices above. The area immediately around the application site is commercial in character; however there are some residential properties (mainly flats above the shops) located on Bank Street and Church Street.

- 7.6 The proposal consists of a change of use of retail unit (vacant at present) to A3 use. Diagonally opposite on 16 Bank Street is Muse Ale & Wine Bar which has a similar use. It has been proposed in the accompanying Design & Access Statement that the premises will open from 11.00 hrs- 22.00 hrs Monday to Saturday and 11.00 hrs to 21.30 Sundays. However, the applicant has also recently submitted an application for a Premises Licence under the Licensing Act 2003 and has proposed to open

longer hours i.e. to 00.30 hours daily than as proposed under this Planning application. The applicant should, therefore be advised that they will not be allowed to open longer hours under the Premises Licence application (subject to approval by all the responsible authorities) unless they first obtain a planning approval which is subject to the outcome of this Planning application. Given that there have been no issues of concern from the similar late night opening of Muse Ale & Wine Bar which is situated only a few doors away, the Environmental Health will not object to these extended hours subject to closing at midnight on Sunday evenings.

77. No objection subject to standard conditions listed in order to protect the amenities of the occupiers of the surrounding residential properties at upper levels. These conditions relate to sound insulation, extract ventilation, machinery, specified opening and delivery hours, air conditioning, litter bin, grease trap, noise report

## **8.0 PLANNING POLICIES**

8.1 Wetherby Conservation Area and secondary frontage of the S2 Centre of Wetherby

8.2 Leeds Unitary Development Plan (Review) 2006:

- Policy GP5 – seeks to resolve all detailed planning considerations including design, access and amenity.
- Policy SF8 – change of use of shops on secondary frontages to compatible alternative uses such as A3 will be considered on their merits
- Policy N18A – protection of buildings in CAs in order to preserve and enhance the conservation area
- Policy N19 – new build and extensions in / adjoining CAs should preserve and enhance character and appearance
- Policy T2 – development should not cause problems for highway safety and efficiency.
- Policy BC7- use of traditional materials in the Conservation Areas

8.3 Wetherby Conservation Area Appraisal

## **9.0 MAIN ISSUES**

1. Loss of a retail unit
2. Character and appearance of the Wetherby conservation area
3. Impact on Living Conditions
4. Highways

## **10.0 APPRAISAL**

### Loss of a Retail Unit

- 10.1 The loss of a retail unit is considered to be acceptable as the proposed restaurant is a compatible town centre use and there are numerous shops nearby to maintain the shopping function within the secondary frontage of Church Street. Policy SF8 states that changes of use to non-retail uses should be on their merits. This change of use would introduce a town centre compatible use, with lunchtime to late evening opening

hours, thereby avoiding issues of closure during the daytime. Units of this type are not at a number within the town centre that would harm the viability of the retail function of the centre. There are also no external alterations so the unit can be readily converted back to A1 uses should market forces make such a use more feasible. A restaurant use will add a service for users of the town centre shops, as well as contributing to evening use of the area. The proposal is considered to comply with policy SF8.

#### Character and appearance of the Conservation Area

- 10.2. The character and appearance of the conservation area will not be adversely affected by the proposal as amended since there will be a small external projection for the internalised flue in the roof to the east side which will be coloured black by condition. This will be barely visible from public vantage points, and is not of a size or scale that will be harmful to the building or the streetscene. No other external alterations are proposed and other items such as air conditioning etc. can be adequately controlled by planning condition. The proposal complies with policy N18A.

#### Impact on Living Conditions

- 10.3 Environmental Health have advised that a Premises Licence has been applied for which requests opening from 1100 to 0030, this is longer than that requested by the planning application as originally submitted. Environmental Health have advised that they have no concerns about this extended opening and it is important that the two permissions match to avoid operational problems. There is a similar use opposite the site which has not led to any complaints of noise or nuisance. A number of conditions are required relating to for example: sound insulation; delivery hours; extract ventilation etc in order to protect the amenity of nearby residents who occupy flats mostly at upper levels above the commercial premises. It is noted however that residents in this area are likely to expect a higher level of noise and disturbance than would be expected in a purely residential area. It is considered that the proposal is acceptable and will not detrimentally impact on neighbours. The proposal is therefore considered to comply with Policy GP5.

#### Highways

- 10.4 The site is located within the town centre and therefore it is not considered that there would be any additional highway safety issues relating to this change of use to another town centre compatible use. The two uses are considered to result in a similar level of activity, and the location means that there is suitable parking and public transport provision available close by. The proposal therefore complies with policies T2 and T24.

### **11.0 CONCLUSION**

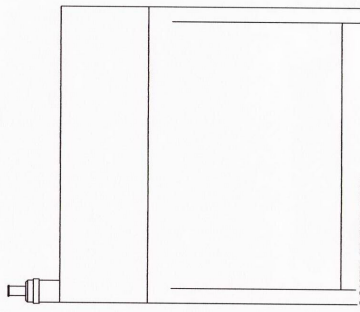
- 11.1 In conclusion, consideration has been given to all the matters raised and on balance it is considered that this particular proposal is acceptable. The change of use is not considered to result in harm to the viability of the town centre or to the amenity of neighbours, and the proposed flue will not lead to harm to the character of the Conservation Area. Conditions can be used to ensure that other issues are suitably controlled and on this basis permission is recommended.

**Background Papers**

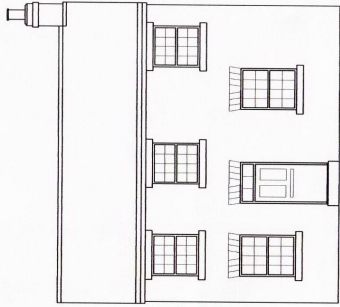
10/02982/FU

**Certificate of ownership**

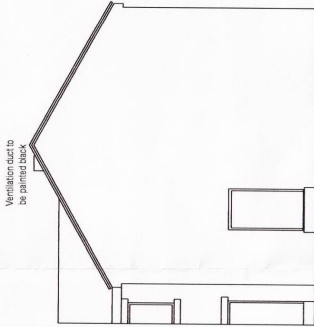
Notice has been served on the owner by the applicant



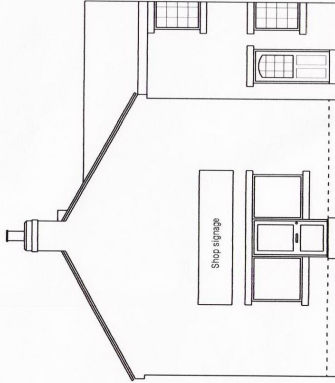
**SOUTH ELEVATION**  
Scale: 1:100



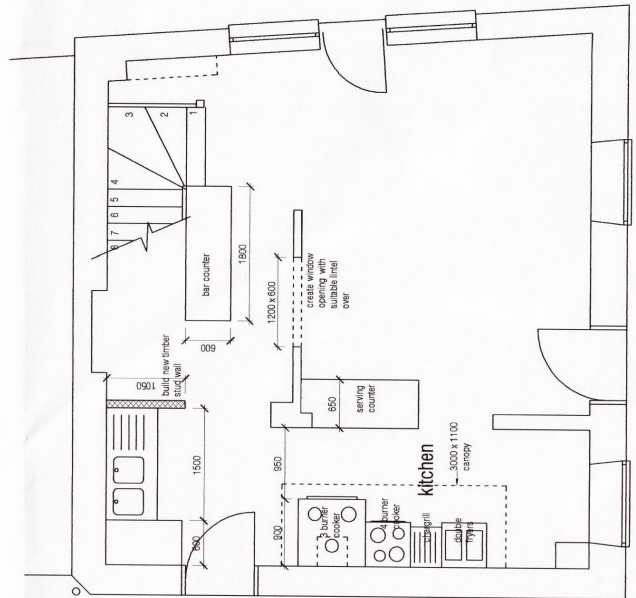
**NORTH ELEVATION**



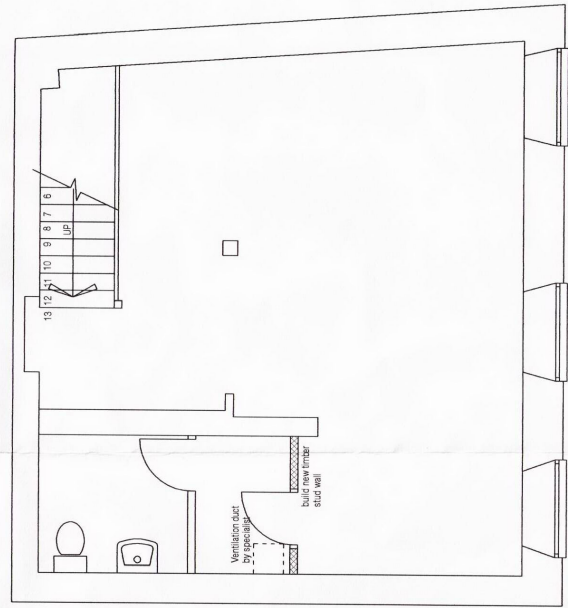
**EAST ELEVATION**



**WEST ELEVATION**



**GROUND FLOOR PLAN**  
Scale: 1:50

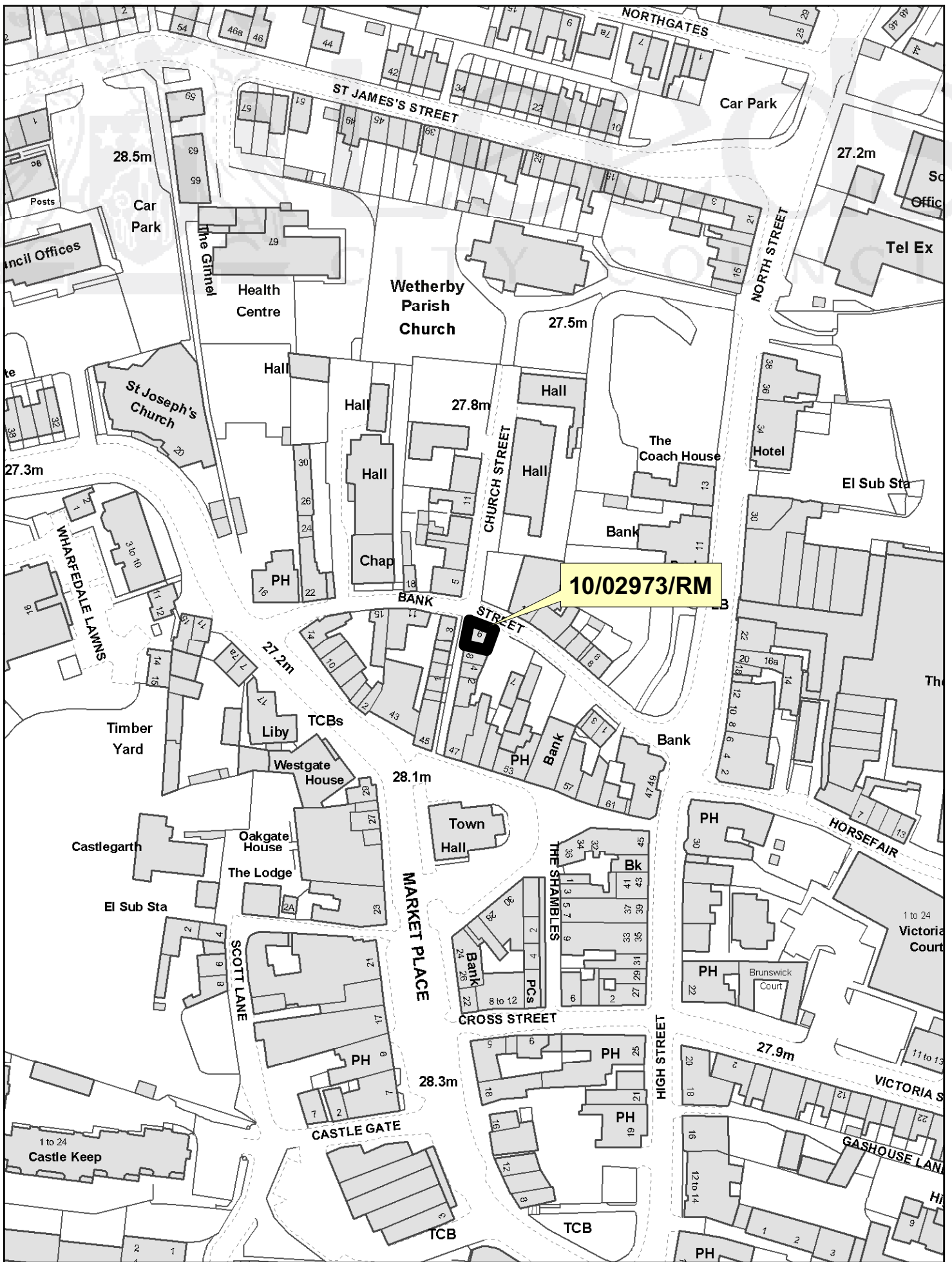


**FIRST FLOOR PLAN**

The changes shown on this plan do not need further public comment

LEEDS CITY COUNCIL  
Please refer to Decision Notice  
- 2 AUG 2010  
**REVISED**

PROJECT TITLE <b>NEW THAI RESTAURANT FOR MR KONG 9 BANK STREET, WETHERBY</b>		<b>RowB</b>
DRAWING TITLE <b>PROPOSED FLOOR PLANS &amp; ELEVATIONS</b>		
SCALE: 1:50 @ A2	DRAWN: CAROL PETTIFAR	DRAWING NO:
OWNER:	DATE: 19/05/10	<b>K10/1/2</b>
<b>CAROL PETTIFAR DESIGN</b> 2 Hillcroft Farm Cottages, Kirbby Lane, Sickinghall, Wetherby, LS22 4BP Tel: 01937 585221 Mobile: 0788 551 9766 Email: davecarol@pettifarfsworld.co.uk		



# EAST PLANS PANEL

