



PLANS PANEL (EAST)

Meeting to be held in Civic Hall Leeds on
Thursday, 17th May, 2012
at 1.30 pm

MEMBERSHIP

Councillors

D Congreve
(Chair)
R Grahame
P Gruen
M Lyons
C Macniven
Vacancy

2 Vacancies

G Latty
J Procter

R Finnigan

A G E N D A

Item No	Ward	Item Not Open		Page No
1			<p>APPEALS AGAINST REFUSAL OF INSPECTION OF DOCUMENTS</p> <p>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.)</p> <p>(*In accordance with Procedure Rule 25, written notice of an appeal must be received by the Head of Governance Services at least 24 hours before the meeting)</p>	
2			<p>EXEMPT INFORMATION - POSSIBLE EXCLUSION OF THE PRESS AND PUBLIC</p> <p>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.</p> <p>2 To consider whether or not to accept the officers recommendation in respect of the above information.</p> <p>3 If so, to formally pass the following resolution:-</p> <p>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.</p>	
3			<p>LATE ITEMS</p>	

Item No	Ward	Item Not Open		Page No
4			<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> <p>DECLARATIONS OF INTEREST</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>APOLOGIES FOR ABSENCE</p> <p>To receive any apologies for absence.</p>	
6			<p>MINUTES</p> <p>To approve the minutes of the Plans Panel East meeting held on 19th April 2012</p> <p>(minutes attached)</p>	3 - 8
7	Harewood;		<p>APPLICATION 12/00450/FU - THE COACH HOUSE CARR LANE THORNER LS14</p> <p>Further to minute 203 of the Plans Panel East meeting held on 19th April 2012, where Panel resolved not to accept the Officer's recommendation to refuse an application for a detached garage with first floor office, to consider a further report of the Chief Planning Officer</p> <p>(report attached)</p>	9 - 26
8	Harewood;		<p>APPLICATION 12/00501/FU - 10 ELMETE AVENUE SCHOLES LS15</p> <p>To consider a report of the Chief Planning Officer on an application for variation of condition 2 (approved plans) of approval 09/03138/FU for minor material amendment relating to three 4 bedroom detached houses with integral garage to</p>	27 - 38

Item No	Ward	Item Not Open		Page No
9	Harewood;		<p>rear garden and replacement detached double garage to existing dwelling</p> <p>(report attached)</p> <p>APPLICATION 12/00153/FU - BUTTS GARTH FARM LITTLEMOOR LANE THORNER LS14</p> <p>To consider a report of the Chief Planning Officer on a retrospective application for variation of conditions 7 and 9 of planning permission 33/88/02/FU (hard and soft landscaping)</p> <p>(report attached)</p>	39 - 52
10	City and Hunslet;		<p>APPLICATION 12/01372/FU - 4 BELVEDERE MOUNT BEESTON LS11</p> <p>To consider a report of the Chief Planning Officer on an application for change of use and alterations to house to form 2 flats</p> <p>(report attached)</p>	53 - 62
11	Garforth and Swillington; Kippax and Methley;		<p>APPLICATION 11/01713/RM - LAND SOUTH OF QUEEN STREET WOODEND ALLERTON BYWATER WF10</p> <p>Further to minute 98 of the Plans Panel East meeting held on 6th October 2012 where Panel considered a position statement on proposals for 120 houses, to consider a report of the Chief Planning Officer on an application for 114 houses</p> <p>(report attached)</p>	63 - 84
12	Morley South;		<p>APPLICATIONS 11/03697/FU AND 11/03713/LI - ST MARY'S CONGREGATIONAL CHURCH COMMERCIAL STREET MORLEY LS27</p> <p>To consider a report of the Chief Planning Officer</p>	85 - 96

Item No	Ward	Item Not Open		Page No
13	Garforth and Swillington; Temple Newsam;		<p>on an application for re-building of fire damaged church and change of use to form 18 flats, two pairs of semi detached houses, associated landscaping and car parking together with application for listed building consent</p> <p>(report attached)</p> <p>APPLICATION 12/01422/FU - UNIT 12 TEMPLE POINT AUSTHORPE LS15</p> <p>Further to minute 177 of the Plans Panel East meeting held on 23rd February 2012 where Panel resolved to defer and delegate refusal of a residential development to the Chief Planning Officer based on the failure of the applicant to meet the S106 contributions in line with policy requirements, to consider a report of the Chief Planning Officer in respect of a further, similar application on the site</p> <p>(report attached)</p>	97 - 114
14			<p>DATE AND TIME OF NEXT MEETING</p> <p>Thursday 7th June 2012 at 1.30pm in the Civic Hall, Leeds</p>	

This page is intentionally left blank

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

Chief Executive's Department
Governance Services
4th 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 9th May 2012

Dear Councillor

SITE VISITS – PLANS PANEL EAST – 17TH MAY 2012

Prior to the meeting of the Plans Panel (East) on Thursday 17th May 2012 the following site visits will take place:

10.45am		Depart Civic Hall
11.00am	City & Hunslet	4 Belvedere Mount Beeston LS11 – Appln 12/01372/FU – Change of use and alterations to house to form two flats
11.30am	Harewood	10 Elmete Avenue Scholes LS15 – Appln 12/00501/FU – Variation of condition 2 (approved plans) of approval 09/03138/FU for minor material amendment relating to three 4 bedroom detached houses with integral garage to rear garden and replacement double garage to existing dwelling
12.00 noon approx		Return to Civic Hall

For those Members requiring transport, a minibus will leave the Civic Hall at **10.45am**. Please notify David Newbury (Tel: 247 8056) if you wish to take advantage of this and meet in the Ante Chamber at **10.40am**.

Yours sincerely

Angela M Bloor
Governance Officer

This page is intentionally left blank

Plans Panel (East)

Thursday, 19th April, 2012

PRESENT: Councillor D Congreve in the Chair

Councillors R Finnigan, R Grahame,
P Gruen, G Latty, M Lyons, C Macniven,
K Parker, J Procter and D Wilson

195 Chair's opening remarks

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

The Chair announced that this would be Councillor Parker's last Plans Panel East meeting as he was standing down from the Council in May having served as a Councillor for 26 years and sat as a member of Plans Panel East for over 20 years

The Chair paid tribute to the extensive work Councillor Parker had undertaken in his Ward and his help on planning and stated that he would be greatly missed

Councillor Parker thanked the Chair for his tribute and said that his time on Council and Plans Panel East had been most enjoyable

196 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 10/05670/FU – 56 The Drive Crossgates LS15 – Councillor Grahame declared a personal interest in view of his wife, Councillor Pauleen Grahame's involvement in this case (minute 201 refers)

Councillor Lyons made a general declaration through being a member of West Yorkshire Integrated Transport Authority

(A further declaration of interest was made later in the meeting, minute 203 refers)

197 Apologies for Absence

Apologies for absence were received from Councillor Pryke

198 National Planning Policy Framework

The Head of Planning Services provided an update on the National Planning Policy Framework (NPPF) which had been published on 27th March ahead of a fuller briefing at the next Joint Plans Panel meeting scheduled in June 2012

Members were informed that LPAs should be taking a proactive and positive approach to growth. There was a general presumption in favour of sustainable

development, with 'sustainable' being defined in terms of three dimensions, these being:

- economic
- social
- environmental

The NPPF contained 12 core planning principles, with reuse of brownfield land being encouraged; good design was also recognised within the Framework

In terms of housing land supply, reference was made to holding a 5 year land supply with an additional buffer of 5% to ensure choice and competition in the market for land. However, where there had been a record of persistent under delivery of housing, LPAs should increase this to 20%. In respect of town centres, these were being prioritised

Members were informed that the NPPF was brief and broadbrush, with some detailed Planning Policy Guidance being replaced by a few lines and that as this was now a material planning consideration, reference to the NPPF would begin to be included in reports before Panel

In response to a query, the Head of Planning Services stated that minerals planning was covered in the NPPF

199 Minutes

RESOLVED – That the minutes of the Plans Panel East meeting held on 22nd March 2012 be approved

200 Application 11/05251/FU - Double garage to side with room over and single storey link extension to main house; first floor extension with portico; two dormer windows to front and enlarged area of hardstanding to front - Pine Lodge 18 Bracken Park Scarcroft LS14

Plans, photographs and drawings were displayed at the meeting. A site visit had taken place earlier in the day which some Members had attended

Officers presented the report which sought permission for a double garage with living accommodation above and a range of extensions and alterations, including the provision of two dormer windows to Pine Lodge, Bracken Park Scarcroft LS14. Members were informed of an error in the report at paragraph 8.5 and confirmed that the property was not sited within the Green Belt

The Panel heard representations from an objector – Councillor Rachael Procter – and from the applicant's agent who attended the meeting

Members discussed the following matters:

- the level of neighbourhood consultation which had taken place by the applicant
- whether trees had been felled on the site, with the applicant's agent stating that no tree felling had taken place within the site
- the prominence of the site with concerns the proposal was excessive
- the possibility in the future, of the garage being converted wholly to living accommodation. Officers stated that planning permission would be required for this
- that a previous garage had been converted to ancillary living accommodation for occupation by member of the owner's family and

that enforcement could look at any alleged breach of this, if formally made

- the inclusion of dormers in the scheme and that rooflights might be more appropriate

The Panel considered how to proceed. A proposal to refuse the application was made and seconded. Further discussions took place with the proposal to refuse being withdrawn in favour of deferring for further negotiations

RESOLVED – That the application be deferred to enable further negotiations and consultation with neighbours and Ward Members on the proposals and particularly the removal of the dormers within the scheme and a reduction of the development to address concerns about the impact of the proposals on the overall character of the area, with the Chief Planning Officer being asked to submit a further report in due course for the Panel's determination

201 Application 10/05670/FU - 3 bedroom detached house incorporating second floor ancillary granny annexe to garden plot (part retrospective) - 56 The Drive Cross Gates LS15

Further to minute 56 of the Plans Panel East meeting held on 11th August 2011, where Panel refused a revised application, Members considered a further report of the Chief Planning Officer in light of the recent Court judgement on this matter

Plans, drawings and photographs were displayed at the meeting

Officers presented the report and informed Members that the Inspector's letter on the most recent appeal was not attached as stated but had been when the Panel had previously considered the matter in August 2011

The Deputy Area Planning Manager drew the Panel's attention to paragraph 5.4 of the submitted report which explained that during the recent court hearing, consideration to altering the appearance of the dwelling, particularly the roof form had been discussed. As Officers were not seeking further revisions to the scheme, the applicant's request for this to be put formally in writing to him had not take place. On this matter, a representation had been received from the applicant's solicitor expressing concern and requesting that the application be removed from the agenda to enable discussions to take place. As a result of this request, Panel was asked to take a view on this with Members being informed there was no obligation to seek further amendments to the submitted scheme

Members were informed that the Court's view of the original site plan which had been submitted was that it was so inaccurate, (as it showed the street to be level, which is not the case) that it could not be relied upon. A survey had been carried out which confirmed this with Officers being satisfied on the accuracy of the latest street survey

In respect of the height, Members were informed that the applicant was of the view that this was correct at 10.4m. Whilst the Judge had confirmed the maximum height should be 10.4m, he had not come to a decision on where this would be measured from, with Officers of the view that the height of the property could be considered in the round and therefore, due to the inaccuracies in the original street plan submitted with the application, they would no longer support the fall back position

Photographs showing alterations which had been made to the ground levels to achieve a height of 10.4m were displayed

The current proposal was outlined, which contained some design differences from the previous scheme and was set back 0.9m to the front and 0.8m at the rear, although Officers were recommending the application be refused as set out in the report before Members

Having considered the report and the Officer's presentation, the Chair was satisfied that the Panel was in receipt of all the information needed to determine the application

The Panel heard representations from the applicant's agent and an objector who attended the meeting

The agent's comments that his client sought an amicable solution to the situation were noted as was the length of time – 7 years – this matter had been ongoing

Tribute was again paid to the tenacity of the local residents in seeking to resist an illegal development in their community

RESOLVED - That the application be refused for the following reason:

The proposed retention and modification of the dwelling house would by reason of its excessive height and resulting scale, mass and bulk relative to its immediate neighbours, in conjunction with the uncharacteristic vertical emphasis of the overall design appear obtrusive and represent a discordant feature in the street scene to the detriment of the character and appearance of the area. As such, the development would be contrary to Policies GP5, N12 and N13 of the Leeds Unitary Development Plan (Review), residential design guide for Leeds 'Neighbourhoods for Living' and the design advice contained within the National Planning Policy Framework

202 Application 12/00324/RM - 29 dwellings - land off Whitehall Road Drighlington

Plans, photographs and drawings were displayed at the meeting. A site visit had taken place earlier in the day which some Members had attended

Officers presented the report which related to a Reserved Matters application for 29 houses on a greenfield site off Whitehall Road Drighlington; the Outline planning permission having been granted on appeal

Members were informed that the scheme had been revised down to 29 properties, these being a mix of terraces, semi-detached and detached dwellings of two storey and two storey with rooms in the roof; the layout of which was largely fixed by the access arrangements and the topography of this sloping site. Officers were satisfied that the proposed density was acceptable and allowed for adequate separation distances between properties. In terms of parking, 34 garages were proposed together with 51 open parking spaces, with Highways being satisfied on the level of parking provision

A further representation from Councillor Leadley was reported with his concerns being outlined. Members were informed that discussions were taking place about the pedestrian refuges on Whitehall Road as were negotiations about a strip of land between the site boundary and the land beyond, which would form part of the landscape management plan

Following the advertisement of the revised plans, four letters of objection from local residents had been received. In terms of the level of representation on the

application, it was confirmed that 39 letters of representation were originally submitted

As a result of the reduction in the number of units proposed, the Greenspace contribution had been recalculated and would now be £49,800

If minded to approve the application, an additional condition was recommended regarding provision of obscure glazing in the north west facing openings to Plot 17

Members discussed the application and commented on the following matters:

- the position the Council had found itself in on applications on greenfield sites following recent appeal decisions, with concerns that this situation would be repeated as developers continued to seek to develop greenfield sites ahead of brownfield sites
- that the site was not considered to be sustainable as set out in the NPPF
- possible flooding issues, with Officers stating that this was considered at Outline stage and a contribution extracted for improvements at Lumb Wood Beck
- that determination of the application should be deferred and delegated to Officers to enable further dialogue with Ward Members and residents on aspects of the scheme, particularly the impact on No 85 Whitehall Road
- that the density of the scheme had been reduced and now provided good separation distances between dwellings

The Panel considered how to proceed

A proposal to approve the scheme was made and seconded after which a brief discussion took place on the Council's housing land supply; the role of Neighbourhood Plans on such schemes and the importance of negotiations with Ward Members and local residents when trying to resolve outstanding issues

RESOLVED - That the application be granted subject to the condition set out in the submitted report and an additional condition in respect of provision of obscure glazing in the north west facing openings to Plot 17

(Under Council Procedure Rule 16.5, Councillor Finnigan required it to be recorded that he voted against the matter)

203 Application 12/00450/FU - Detached garage with first floor office - The Coach House Carr Lane Thorner LS14

Plans and photographs were displayed at the meeting. A site visit had taken place earlier in the day which some Members had attended

Officers presented the report which related to an application for a detached garage with first floor office at The Coach House, Carr Lane, Thorner LS14 which was situated in the Green Belt and a Special Landscape Area

Members were informed that despite a slight reorientation of the garage from the plan before Panel, Officers were of the view that the application should be refused as set out in the submitted report

(Councillor Procter declared personal interests through being friends with residents at two nearby properties, although the application did not affect either of these properties)

The Panel heard representations from the applicant who attended the meeting
Members discussed the following matters:

- the increase in development within the Green Belt which, taking into account previous extensions would be 133%
- the access arrangements to the proposed garage
- planning policy in relation to development within the Green Belt
- that no objections had been raised by neighbours to the proposed garage
- the possibility of further development of the building in the future, in view of its siting and whether imposing a condition restricting the use to a garage could be considered
- the need to review the policy relating to the level of permitted extensions

The Panel considered how to proceed

RESOLVED – That the Officer's recommendation to refuse the application be not accepted and that a further report be submitted to the next meeting setting out suggested conditions to be attached to an approval

204 Application 11/03228/FU - Installation of one detached 15.5m high wind turbine to field - Blackhill Farm Black Hill Lane LS16

Further to minute 190 of the Plans Panel East meeting held on 22nd March 2012 where Panel resolved to grant permission for the installation of a wind turbine at Blackhill Farm, LS16, the Panel considered a further report of the Chief Planning Officer providing an update to the previously submitted report

Officers presented the report which had been resubmitted to Panel following receipt of a letter on behalf of Alwoodley Parish Council, the contents of which had been considered by Planning Officers and Legal Services. Whilst the letter did not raise any new material considerations, it highlighted that the report before Members in March did not accurately set out all of the representations which had been received in respect of the application. As such, the report before Members set out the Parish Council's comments in full and had been updated to reflect the implementation of the National Planning Policy Framework

RESOLVED - That the application be granted subject to the conditions set out in the report submitted on 22nd March 2012

205 Dates and times of next meetings

Thursday 17th May 2012 at 1.30pm in the Civic Hall Leeds

Thursday 7th June 2012 at 1.30pm in the Civic Hall Leeds



Originator: J Thomas

Tel: 0113 222 4409

Report of the Chief Planning Officer

PLANS PANEL EAST

Date: 17th May 2012

Subject: 12/00450/FU – Detached garage with first floor office, at The Coach House, Carr Lane, Thorner, LS14 3HF

APPLICANT

Mr Simon Squires

DATE VALID

3rd February 2012

TARGET DATE

30th March 2012

Electoral Wards Affected:

Harewood

Yes

Ward Members consulted
(referred to in report)

Specific Implications For:

Equality and Diversity

Community Cohesion

Narrowing the Gap

RECOMMENDATION: Members are invited to determine this application in the light of the further information set out in this report – officers continue to recommend that permission should be refused for the reason set out in the report attached

1.0 INTRODUCTION

- 1.1 The application for the detached garage with first floor office above was discussed at the previous Panel meeting on 19th April. The main issue in relation to the development was the impact on the openness of the Green Belt and compliance with the approved policy for house extensions in the Green Belt.
- 1.2 Members resolved not to accept the officer recommendation to refuse planning permission and were minded to approve the application subject to appropriate conditions. In reaching their decision the Panel noted that the City Council's planning policy allowed for extensions to dwellings that increase their size by up to 30% above that of the original dwelling. The proposal before Members would result in a 133% increase. It was also noted that no objections had been raised by neighbours and that that the use of the garage could be controlled by planning conditions.

- 1.3 The report which follows provides further information regarding the implications of this decision in relation to the future application of the council's Green Belt policy and also

the importance for the Panel to make clear, transparent and sound decisions. The previous Panel report is appended for information.

1.4 Members are asked to consider the following further information before coming to a final decision:

1. Green Belt Policy
2. Compliance with the development plan
3. Inspectors' decisions
4. Consistency of decision making
5. Ombudsman case relating to Bolton Council

2.0 FURTHER INFORMATION

Green Belt Policy

2.1 As Members are aware the Council's policies in relation to development within the Green Belt have changed in recent years and been tightened recently.

2.2 Concern regarding an overly permissive approach to the Green Belt was sparked by the applications at Bracken Park Lodge, Scarcroft. In this case approval was granted under delegated powers for an extension that resulted in a 100% increase in the size of the dwelling. This was allowed under UDP Policy GB8. A subsequent application for a replacement dwelling of a similar size to the extended dwelling was refused by Panel on Green Belt grounds. The appeal was allowed. As a consequence of concerns raised at East Plans Panel the council revised its Green Belt planning policy and UDP Policy GB8 was deleted in the 2006 UDP review.

2.3 The Council then worked to a guideline of allowing properties to be extended by approximately 50% in the Green Belt, although without any written policy. The Householder Design Guide has reduced this figure to 30%. Before public consultation began on this document, the intention of the Council to introduce a new Green Belt policy was reported to Plans Panel. This policy was supported. The Householder Design Guide was adopted as a Supplementary Planning Document (SPD) in April 2012 following public consultation and should therefore be given significant weight in decision making. The limit of 30% in relation to extensions in the Green Belt is one of the three specific policies contained within the adopted SPD.

Compliance with the Development Plan

2.4 The Planning Act requires that decisions should be made in compliance with the local development plan, unless material considerations indicate otherwise. The main issues to be determined in this case are therefore :

- (i) whether the proposal constitutes inappropriate development in the Green Belt as set out in the Development Plan and having regard to the recently published national policy framework set out in the National Planning Policy Framework (NPPF). National policy remains the same and advises that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances ;
- (ii) if it is inappropriate development, whether the harm, by reason of inappropriateness is clearly outweighed by other considerations, so as to amount to the very special circumstances necessary to justify the development.

- 2.5 The construction of new buildings within the Green Belt is regarded as inappropriate, except in particular circumstances, one of which is the extension or alteration of a building provided that it does not result in a disproportionate addition over and above the size of the original building. The recently adopted Householder Design Guide states that any increase over approximately 30% of original building must be considered inappropriate development. Inappropriate development, is, by definition harmful to the Green Belt. Paragraph 88 of the NPPF states that “local planning authorities should ensure that substantial weight is given to any harm to the Green Belt”.
- 2.6 The proposed volume increase over and above the volume of the original dwelling is 133%. This substantially exceeds the threshold that the adopted SPD has set out in policy HDG3 to be applied to house extensions in the Green Belt in Leeds. It is also noted that this increase is greater than would have been allowed prior to the Bracken Park Lodge cases. This means that garage must be considered inappropriate development and therefore harmful to the Green Belt. Significant weight should be given to the harm to the Green Belt as directed in the NPPF.
- 2.7 As the proposal is inappropriate development and contrary to the development plan clear reasons, amounting to very special circumstances, are required to justify the development. Members are asked to be mindful of this when reaching a decision on this application and if minded to approve the application to set out clearly the reasons for doing so which outweigh the substantial harm to the Green Belt which arises because the application is contrary to both national and local Green Belt policy.

Inspector's Decisions

- 2.8 Attention is drawn to the five appeal decisions which relate to the Green Belt which have been received during the last six months. Four of these appeals were dismissed as they were considered to be inappropriate development in the Green Belt and so were harmful. In the one case which was allowed the Inspector considered that the application could be considered limited development. Because it was limited development this was compliant with national and local Green Belt policies and thus could be allowed.
- 2.9 As noted above the garage applied for at The Coach House must be considered inappropriate development and Member's are asked to be mindful of the approach of the Inspectors to inappropriate development in the Green Belt which is consistent with the way that officers have assessed the application.

Consistency of Decision Making

- 2.10 All planning decisions must be made in a fair and impartial manner, taking into account the relevant material considerations of the site.
- 2.11 Members' attention is drawn to the application at Old Village Hall, Eccup (11/05007/FU) which was refused by this Panel in February 2012. This application sought permission for a new detached double garage in the Green Belt after previous garaging was converted to residential accommodation. Overall the increase over the size of the original footprint of the building was some 70%, less than in this case and the double garage had no first floor as in this case.

- 2.11 In reaching a different decision in relation to this application, Members must be clear as to what are the material differences between the two sites which justifies a different approach.
- 2.12 Should Members decide to approve this application then it will be difficult to resist other applications for house extensions seeking a similar increase. There is no doubt that the decision will be seized on by other applicants and could substantially undermine recently adopted policy in the Household Design Guide SPD which has tightened control in relation to house extensions in the Green Belt.

Ombudsman case and Bolton Metropolitan Borough Council

- 2.13 An Ombudsman report was recently issued on 19th April 2012 which related to decisions made by Bolton MBC which were contrary to the development plan. Councillors had been involved in these decisions. The Ombudsman found that making poorly justified decisions contrary to the development plan constituted maladministration, awarded reparative costs of over £30,000 to affected parties and advised that unimplemented planning permissions should be revoked. The Ombudsman specifically noted that Bolton MBC “should ensure that all officers and councillors are aware of the public law principles that apply to decisions by public authorities”.
- 2.14 The Council’s responsibilities in relation to consistency of decision making, ensuring that decisions are in line with the development plan and setting out clearly reasons to depart from policy have been outlined above.

3.0 CONCLUSION

- 3.1 Members are therefore asked to determine the application in the light of the additional information provided. Officers remain of the view that the application is contrary to adopted Green Belt policy and that very special circumstances have not been demonstrated to overcome the harm from inappropriate development which needs to be given significant weight in accordance with national guidance set out in the NPPF. Without adequate justification the granting of planning permission would undermine the recently adopted policy and set a precedent for other applications of a similar nature and not provide clear, consistent and sound decision making.
- 3.2 If Members are of the view that the application should still be approved then clear reasons for doing so are required and it is suggested that the following conditions should be applied;
1. Time limit on implementation
 2. Plans to be approved
 3. Use of matching materials for walling and roof
 4. Garage to be retained for parking of vehicles
 5. Tree protection during construction
 6. Details of landscaping works including surfacing to drive

Background Papers:

Application files 12/00450/FU

Certificate of ownership: Certificate A signed by agent

APPENDIX 1



Originator: J Thomas

Tel: 0113 222 4409

Report of the Chief Planning Officer

PLANS PANEL EAST

Date: 19th April 2012

Subject: 12/00450/FU – Detached garage with first floor office, at The Coach House, Carr Lane, Thorner, LS14 3HF

APPLICANT

Mr Simon Squires

DATE VALID

3rd February 2012

TARGET DATE

30th March 2012

Electoral Wards Affected:

Harewood

Yes

Ward Members consulted
(referred to in report)

Specific Implications For:

Equality and Diversity

Community Cohesion

Narrowing the Gap

RECOMMENDATION: REFUSE PERMISSION for the following reason:

The Local Planning Authority consider that the proposed detached outbuilding by virtue of its overall height, size, scale and siting, coupled with the existing extensions to the dwelling, represents a disproportionate addition to the dwelling which would also harm the openness and character of the Green Belt, and which is therefore considered to be inappropriate development. Inappropriate development is, by definition, harmful to the Green Belt and as no very special circumstances have been demonstrated, the proposal is considered contrary to the aims and intentions of policy N33 of the Unitary Development Plan Review (2006), policy HDG3 of the Draft Householder Design Guide as well as guidance contained within the National Planning Policy Framework.

1.0 INTRODUCTION

- 1.1 The application is brought to Plans Panel at the request of Councillor Rachael Procter as it would not harm the openness of the Green Belt.

2.0 PROPOSAL

- 2.1 Permission is sought to construct a detached garage to front/side of the site. This is a substantial building with office accommodation over which is required as the applicant's wish to convert their existing attached garage into additional living accommodation. The proposal is considered to represent inappropriate development within the Green Belt and thus is recommended for refusal.
- 2.2 The proposed garage will measure approximately 6.5m in width, 7.1m in depth and its gabled roof will be 3.2m and 5.3m to eaves and ridge. An external staircase is proposed to the rear giving access into the roof where an office is proposed. The garage will be constructed of stone and will have a slate roof.
- 2.3 It is noted that two linked applications (12/00385/FU and 12/00386/LI) which relate to the conversion of the garage and other internal works to the listed building are to be recommended for approval under delegated powers as these do not raise concerns for local councillors and are compliant with the relevant policies and guidance.

3.0 SITE AND SURROUNDINGS:

- 3.1 The application relates to a converted ancillary outbuilding of Eltofts House, a late eighteen century dower-house of the Earls of Mexborough. The application dwelling is the former coach-house and is constructed from punch-dressed magnesian limestone and has a blue slate roof. The dwelling retains its historical form and details such as the arched cart openings to the north elevation mean that its former function is clearly evident and such details play an important part in creating its character. The dwelling is part of a small enclave of dwellings which have been converted from the former outbuildings and servant's accommodation of Eltofts House and these structures complement each other, creating a unified group character. The application dwelling is listed.
- 3.2 The property was converted to a residential dwelling in the mid 90's (33/26/95/FU) and a large single storey hipped roof structure to the front and side was added and provides an attached double garage and living accommodation. This structure was extended to the side and rear in 2000.
- 3.3 The property is located within extensive grounds with the garden extending south toward the open fields and Carr Lane, with the land falling away. There are trees located within close proximity of the site of the garage and also a detached shed.
- 3.3 The dwelling is set within the Green Belt and a Special Landscape Area.

4.0 RELEVANT PLANNING HISTORY:

33/26/95/FU	Change of use of dwelling and stable block to form 4 dwellings and erection of 4 bedroom dwelling Approved
33/27/95/LI	Listed building application for conversion of dwelling and stables to form 4 dwellings and erection of new dwelling Approved
33/51/00/FU	Single storey side/rear extension Approved

33/96/00/LI	Listed building for single storey side/rear extension Approved
07/04082/FU	Single storey side extension Approved
11/03555/FU	Internal and external alterations including new windows and roof lights; conversion of existing double garage to habitable room; new detached double garage with study above and open porch to front Withdrawn
11/03556/LI	Listed Building application for internal and external alterations including new windows and roof lights, conversion of existing double garage to habitable room; new detached double garage with study above to side and open porch to front 6 bedroom detached house with detached garages and store Withdrawn
12/00386/LI	Listed Building application for internal and external alterations, new entrance portico and infill extension Approval Recommended
12/00385/FU	Alterations including conversion of garage to form habitable room, infill extension and new entrance portico Approval Recommended

5.0 HISTORY OF NEGOTIATIONS:

- 5.1 An application for a substantially similar development was submitted in September of 2011. This sought consent for the conversion of the existing garage, internal alterations to the listed building and a new build garage to the front/side of the site. Although the conversion of the garage and the alterations to the Listed Building were not considered particularly controversial (subject to the revision of some details) the principle of further extending a dwelling within the Green Belt by creating a replacement garage was not considered acceptable. The applications were withdrawn.
- 5.2 Pre-application advice was sought in early 2012 which sought to establish the main concerns in respect of the previous application. These were agreed to be:
- the impact of the replacement garage upon the Green Belt;
 - the impact of the alterations upon the character of the listed building.

Officers were of the opinion that marginally revised details in respect of the conversion works would overcome concerns regarding the impact upon the listed building, however the principal of additional development within the Green Belt was not acceptable.

- 5.3 Following this advice the two elements of the scheme have been split, so that the internal works and marginal extension of the listed building are dealt with under one set of consents (and are recommended to be approved) and the replacement garage assessed under a second set of consents. This would then allow the applicant's to

exercise their right to appeal in respect of the garage without prejudicing the internal alterations and conversions.

5.4 Further discussions during the course of the application with the applicant's and the agent have resulted in some small changes to the scheme. These are that:

- the garage has been marginally dug into the ground (300mm);
- the position of the garage has been marginally revised to draw it closer to the complex of dwellings;
- a round window detail to the upper floor has been altered to square.

Although these revisions do marginally improve the scheme the proposal is still not, in principal, considered to be acceptable.

6.0 PUBLIC/LOCAL RESPONSE:

6.1 The application was advertised by neighbour notification letter, site notice and a notice in the paper.

The occupants of 'The Lodge' express support for the proposal and consider that it will not harm the visual appearance of the area.

The occupants of 'The Granary' express no objection to the proposal.

The occupants of 'The Old Barn' consider that the garage will not have a detrimental impact.

The occupants of 'The Old Gatehouse' express no objection to the proposal.

The occupants of 'The Stables' express no objection to the proposal.

7.0 CONSULTATIONS RESPONSES:

7.1 None

8.0 PLANNING POLICIES:

8.1 The development plan includes the Regional Spatial Strategy to 2026 (RSS) and the adopted Leeds Unitary Development Plan (Review 2006). The RSS was issued in May 2008 and includes a broad development strategy for the region, setting out regional priorities in terms of location and scale of development. Accordingly, it is not considered that there are any particular policies which are relevant to the assessment of this application.

8.2 The Publication Draft of the Core Strategy was issued for public consultation on 28th February 2012 with the consultation period closing on 12th April 2012. Following consideration of any representations received, the Council intends to submit the draft Core Strategy for examination. The Core Strategy sets out strategic level policies and vision to guide the delivery of development investment decisions and the overall future of the district. As the Core Strategy is in its pre submission stages only limited weight can be afforded to any relevant policies at this point in time.

8.3 UDP Policies:

N33

Except in very special circumstances approval will only be given in the Leeds green belt for:

- Construction of new buildings for purposes of agriculture and forestry; essential facilities for outdoor sports and outdoor recreation; essential facilities for the park and ride sites shown on the proposals map; and other uses compatible with green belt purposes;
- Limited extension, alteration or replacement of existing dwellings;
- Limited infilling and redevelopment of identified major existing developed sites;
- Limited infilling in villages and limited affordable housing for local community needs.
- Re-use of buildings, where all the detailed criteria of policy gb4 are satisfied;
- Change of use of land for purposes which do not compromise green belt objectives;
- Cemeteries.

Development within the green belt will only be permitted if it conforms to the detailed green belt policies contained in appendix 5 in volume 2.

N37

In the designated special landscape areas, development will be acceptable provided it would not seriously harm the character and appearance of the landscape. The siting, design and materials of any development must be sympathetic to its setting and, where necessary, landscaping of the site will be required.

LD1

Any landscape scheme should normally:

- i. Reflect the scale and form of adjacent development and the character of the area;
- ii. Complement and avoid detracting from views, skylines and landmarks;
- iii. Provide suitable access for people with disabilities;
- iv. Provide visual interest at street level and as seen from surrounding buildings;
- v. Protect existing vegetation, including shrubs, hedges and trees. Sufficient space is to be allowed around buildings to enable existing trees to be retained in a healthy condition and both existing and new trees to grow to maturity without significant adverse effect on the amenity or structural stability of the buildings;
- vi. Complement existing beneficial landscape, ecological or architectural features and help integrate them as part of the development;

vii. Be protected, until sufficiently established, by fencing of a type appropriate to the prominence of the location, around all those parts of the landscaping susceptible to damage.

N16 Extensions to listed buildings will be accepted only where they relate sensitively to the original buildings. In all aspects of their design, location, mass and materials, they should be subservient to the original building.

GP5 Refers to proposals resolving detailed planning considerations (access, landscaping, design etc), seeking to avoid problems of environmental intrusion, loss of amenity, danger to health or life, pollution and highway congestion and to maximise highway safety.

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

8.4 Householder Design Guide SPD:

Leeds City Council Householder Design Guide was adopted on 1st April and carries significant weight. This guide provides help for people who wish to extend or alter their property. It aims to give advice on how to design sympathetic, high quality extensions which respect their surroundings. This guide helps to put into practice the policies from the Leeds Unitary Development Plan which seeks to protect and enhance the residential environment throughout the city.

HDG1 All alterations and extensions should respect the scale, form, proportions, character and appearance of the main dwelling and the locality/ Particular attention should be paid to:

- i) The roof form and roof line;
- ii) Window detail;
- iii) Architectural features;
- iv) Boundary treatments
- v) Materials;

HDG3 All extensions and alterations within the Green Belt should represent limited development and should not harm the character, appearance and openness of the Green Belt. In order to be considered as limited development all existing and proposed extensions should not exceed a thirty percent increase over and above the original house volume. Development proposals which exceed thirty percent or which harm the character, appearance or openness of the Green Belt are considered to be inappropriate development. Inappropriate development is, by definition, harmful to the Green Belt and will be resisted unless very special circumstances are demonstrated.

8.5 National Planning Policy Framework

This document sets out the Government's overarching planning policies on the delivery of sustainable development through the planning system and strongly promotes good design.

Specific advice is offered in relation to Green Belts where it notes that there is a general presumption against inappropriate development within the Green Belt. Limited extensions may not be inappropriate development within the

Green Belt provided that they do not result in disproportionate additions over and above the size of the original building.

In respect of heritage local planning authorities are encouraged to sustain and enhance the historic environment.

9.0 MAIN ISSUES

- 1) Green Belt
- 2) Listed Building/Design and Character
- 3) Trees
- 4) Neighbour Amenity

10.0 APPRAISAL

Green Belt

- 10.1 The property is located within the Green Belt. As outlined within the National Planning Policy Framework (NPPF) the essential characteristics of Green Belt are their openness and their permanence. The construction of new buildings within the Green Belt is inappropriate, except within certain circumstances, one of which is the limited extension of a building, provided it does not result in a disproportionate addition. This advice is replicated in policy N33 of the UDPR. The NPPF provides no guidance on how to interpret what constitutes limited extensions, however the Householder Design Guide, notes that approximately a thirty percent increase over and above the volume of the original building is considered to be a reasonable interpretation of limited extension. In order to be considered acceptable development within the Green Belt extensions should not only be limited but should not harm the openness of the Green Belt. Development proposals which exceed thirty percent threshold or which harm the openness of the Green Belt are considered to be inappropriate development. Inappropriate development is, by definition, harmful to the Green Belt and will be resisted unless very special circumstances are demonstrated. The proposal is considered to raise concerns in respect of both disproportionality and openness and these will each be discussed in turn.
- 10.2 As noted above the property is a converted former coach house which was granted consent in 1995. As part of this conversion the addition of a large, hipped roof single storey extension to the front and side was allowed. This is considered to be an extension and thus the original building is the former coach house. This is disputed by the applicants who have submitted a Planning Statement with the application in which it is noted that General Permitted Development Order defines the original dwelling as that which existed on site on July 1st 1948, or if after this date, as built. This application does not seek to establish whether or not the application is Permitted Development (which it is not), but is seeking planning permission. As such planning policies are the are the main material consideration. The National Planning Policy Framework which was adopted on 27th April 2012 does not include this definition, and notes in paragraph 89 that the “local planning authority should regard the construction of new buildings as inappropriate in Green Belt. Exceptions to this are...the extension or alteration of a *building*...”. The existing garage is clearly an extension to the building and thus for the purposes of this application will be classed as an addition to the original building.
- 10.3 Within this Planning Statement it is also claimed that the LPA has no policy foundation for its approach to Green Belt policy; this is incorrect. The Householder

Design Guide clearly outlines the position of the LPA in respect of the Green Belt (see para 10.1) and this has been in the public domain since September of 2011. Although this document is now adopted, several Green Belt decisions were made when the document was in draft form and appeal decisions have been received. The comments of the Inspectors have been supportive and some weight was attached to even the draft document. As such the LPA not only has a policy foundation for its Green Belt Policy but this approach has been supported by the Inspectorate.

- 10.4 In respect of this application the question is therefore whether the cumulative volume of the existing additions to the dwelling exceed the thirty percent threshold which is considered to represent limited development. Volume calculations have been undertaken, and from these it is clear that the existing garage and its extensions exceed this threshold by some way.

Original dwelling	495m ³	
Existing extensions	475m ³	96%
Existing and proposed extensions	660m ³	133%

This then means that the existing extensions to the dwelling give an increase of nearly one hundred percent and whilst this is compliant with the old approach to the Green Belt, (which was criticised by the Inspectorate), it is not compliant with current policy guidance. It is therefore the position of the authority that additional development of the dwelling, other than that which could be argued to be de minimis, cannot in principle be considered acceptable. Any additional development would represent a disproportionate addition to the original building and disproportionate additions to buildings are inappropriate development and inappropriate development is, by definition harmful to the Green Belt.

- 10.5 The proposal is also considered to raise concerns in respect of openness. The garage which is proposed is not a small structure and with the accommodation to its upper floor also has a reasonably substantial height. The land levels of the site also mean that the garage is set within an elevated location, and this further heightens the concerns in respect of openness.
- 10.6 It is accepted that the garage is to be located close to the existing envelope of buildings. However the garage is both large and tall, and does project out into open areas, with the majority of the garage lying beyond the existing developed area. It is accepted that the agent has made some attempt to overcome the concerns of the authority by digging the garage into the ground by 300mm and moving the garage forward within the site, however these are marginal changes which do not fundamentally address the concerns raised.
- 10.7 As such, the garage is considered to represent inappropriate development, being a disproportionate addition to the original building and having a negative impact upon openness. This then means that, unless very special circumstances exist to outweigh this harm, the proposal should be refused.
- 10.8 The applicant requests that the following are considered:
- that the proposal is commensurate with the need of a modern family in respect of secure car parking and storage;
 - that other similar structures exist close by;
 - that the garage is well designed, has a pitched roof and will not overdominate the dwelling.

These will each be discussed in turn.

- 10.8 Personal circumstances could be considered to be very special circumstances, however each case must be assessed on its own merits. In this instance the desire for a detached garage with accommodation/storage over is not a special circumstance, and indeed as the recent history of applications to the LPA demonstrates is a very common circumstance. Furthermore it is noted that the need for the garage only arises due to the desire to convert the existing garage and its substantial roofspace into additional accommodation. Therefore the suggestion that the desire for secure parking can, in isolation, be considered the circumstances of this application is a little misleading. The circumstances of the application are the desire for additional living accommodation and this is not a very special circumstance.
- 10.9 The presence of other similar structures nearby is also not considered to represent very special circumstances. Firstly, not only must each application be determined on its own merits (and the merits of this application in relation to nearby development has been discussed in paragraph 10.6 above), but secondly the application site already has a large, double garage similar to that of the neighbours. It is this structure which is to be converted to living accommodation. As such the wish to create additional garaging subsequent to the loss of existing garage to provide additional accommodation cannot be considered similar to surrounding dwellings and no direct comparison should be drawn. It is also noted that extensions to neighbouring dwellings have been refused.
- 10.10 The design of the structure is also not considered to represent very special circumstances. It is accepted that the garage is appropriate to the design and style of both the dwelling and the complex and this matter will be discussed further in paras 10.13-10.16. However, this is not considered to amount to very special circumstances, and is instead the wholly ordinary circumstance, whereby it is expected that development proposals will always be well designed and will not harm the character of the dwelling and the surrounding area. Furthermore it is well established that the quality of the landscape is not relevant to the inclusion of land within the Green Belt and thus the construction of a building of architectural merit does not override the need to keep land within the Green Belt permanently open.
- 10.12 As such, although the outbuilding is considered to be a disproportionate addition within the Green Belt, its overall size, scale and siting mean that it would have a negative impact upon openness and the proposal must be considered to be inappropriate development within the Green Belt and therefore harmful. As no very special circumstances have been demonstrated the application is considered contrary to the aims and intentions of the National Planning Policy Framework, Policy N33 of the Unitary Development Plan and Policy HDG3 of the Draft Householder Design Guide and is recommended for refusal.

Listed Building/Design and Character

- 10.13 The National Planning Policy Framework states that “good design is indivisible from good planning” and authorities are encouraged to refuse “development of poor design”, and that which “fails to take the opportunities available for the improving the character and quality of an area and the way it functions, should not be accepted”. Leeds Unitary Development Plan Policy N16 states that extensions to listed buildings will only be acceptable where they relate sensitively to the character of the dwelling, and further general guidance in respect of design is given in policies GP5 and BD6 of the UDP and also the Householder Design Guide. It is considered that the proposal complies with the aims and intentions of these policies.

- 10.14 As noted above the dwelling is a converted outbuilding of Eltofts Manor and the listed building retains its agrarian vernacular form. At the time of conversion a large, hipped roof side/front extension was allowed and the shape, scale and form of this addition do not particularly reflect the appropriate or style of the listed building. The dwelling is set within a complex of other vernacular buildings which historically had various functions, and these are stone built dwellings with a mix of hipped and gabled roofs. These buildings are set in small clusters which combine to create a unified group.
- 10.15 The garage which is proposed is a stone built, gabled structure. Although its proportions are considered to be a little excessive, with the eaves sitting tall in relation to the overall height of the structure, it is not overdominant in relation to the dwelling or the scale of surrounding development, and its simple shape and form are appropriate to its agrarian context and the wider landscape. The structure is sufficiently detached from the listed building so as not to be read in close conjunction and it will not have a significantly negative impact upon its character. The detail of the garage is also acceptable; it will be built of matching materials and, at the request of officers, a small porthole to the front elevation has been amended to a square window.
- 10.16 As such the proposal is considered to comply with the aims and intentions of the policies noted above.

Trees

- 10.17 As is indicated on the location plan submitted with the application there are trees located within proximity of the proposed garage and given this proximity and the proposal to dig down, these may be affected by the development. However, the amendments which have been made to the application and the resiting of the garage mean that the structure is now approximately 12.0m from the nearest tree and thus a significantly negative impact is not anticipated. This said, were consent to be considered, it would be preferable to impose a landscape condition to ensure that replacement specimens were provided should works result in the death or decay of trees for a period of five years, in order to ensure that the development did not cause unreasonable harm to the landscape.
- 10.18 As such the proposal is acceptable in this regard.

Neighbour Amenity

- 10.19 Although a reasonably substantially sized structure the garage is not located in close proximity to neighbouring garden areas or main windows, and thus raises no concerns in this regard.

11.0 CONCLUSION

- 11.1 The planning application is therefore not considered to be acceptable. Whilst there are no significant concerns regarding the design of the structure, this does not outweigh the significant harm which would be the further extension of an already disproportionately extended dwelling within the Green Belt, as well as the harm caused to openness by the introduction of an outbuilding of this size and scale. As such the proposal represents inappropriate development in the Green Belt. Inappropriate development is, by definition harmful. As no very special circumstances

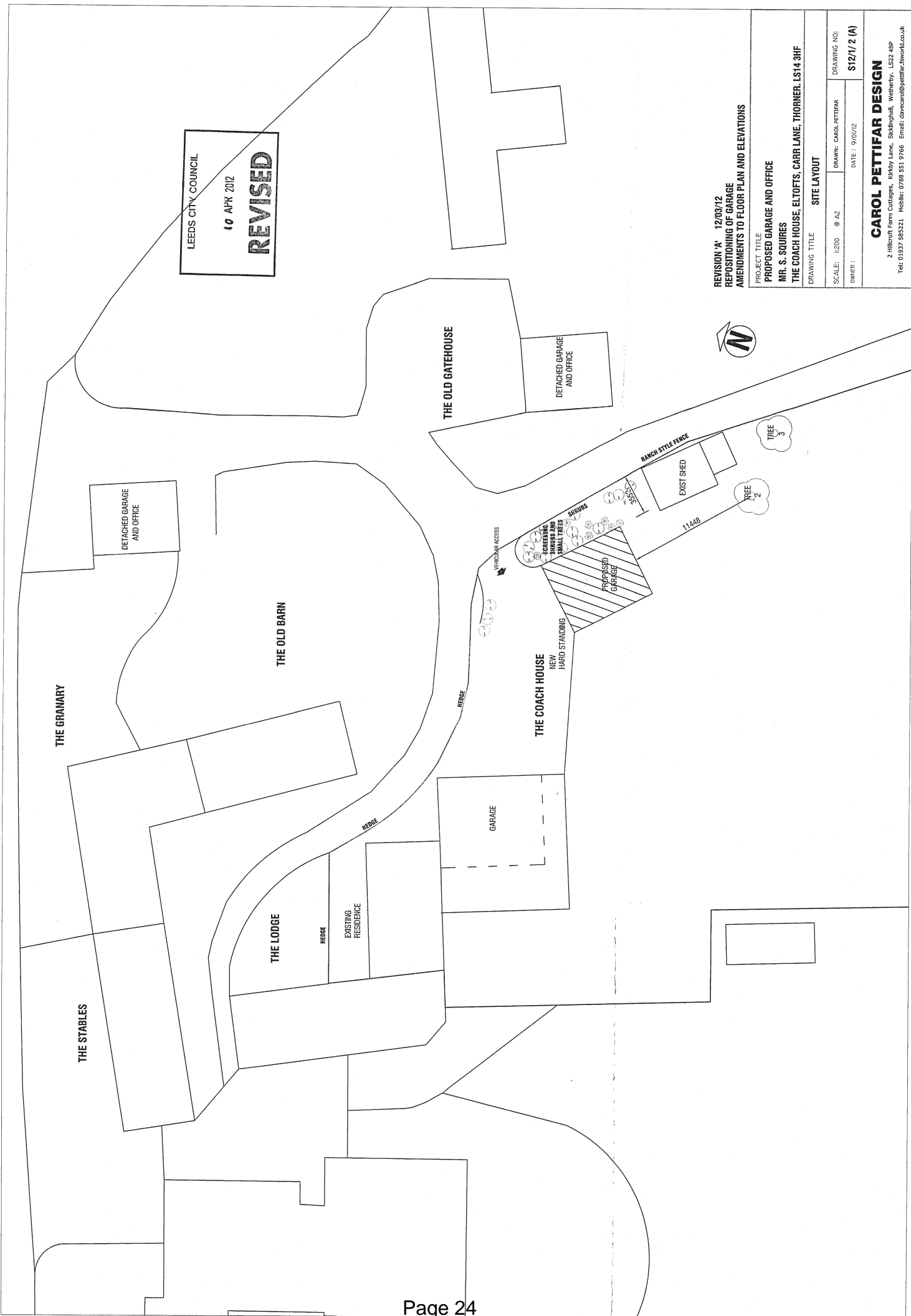
have been demonstrated to outweigh this harm the proposal is recommended for refusal.

Background Papers:

Application files 12/00450/FU

Certificate of ownership: Certificate A signed by agent

LEEDS CITY COUNCIL
10 APR 2012
REVISED



REVISION 'A' 12/03/12
REPOSITIONING OF GARAGE
AMENDMENTS TO FLOOR PLAN AND ELEVATIONS

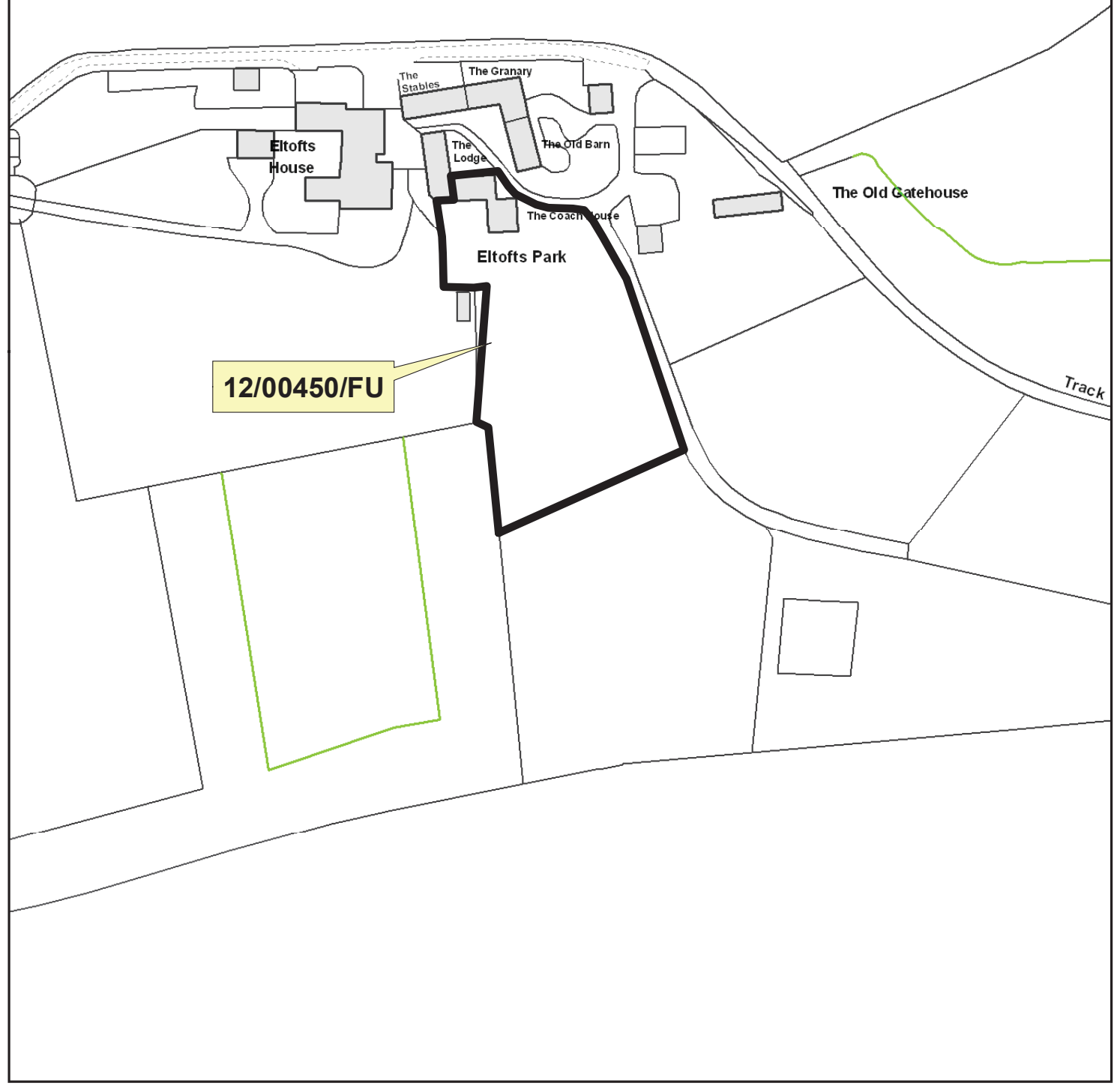
PROJECT TITLE
PROPOSED GARAGE AND OFFICE

MR. S. SQUIRES
THE COACH HOUSE, ELTOFTS, CARR LANE, THORNER, LS14 3HF

DRAWING TITLE
SITE LAYOUT

SCALE: 1:200 @ A2
DRAWN: CAROL PETTIFAR
DATE: 9/01/12
DRAWING NO: S12/1/2 (A)
OWNER:

CAROL PETTIFAR DESIGN
2 Millers Farm Cottages, Kirby Lane, Stainthorpe, Wetherby, LS22 4BP
Tel: 01537 585221 Mobile: 0788 551 9766 Email: carol@pettifar.co.uk



EAST PLANS PANEL



This page is intentionally left blank



Originator: Aaron Casey

Tel: 0113 247 8059

Report of the Chief Planning Officer

PLANS PANEL EAST

Date: 17th May 2012

Subject: APPLICATION 12/00501/FU – Variation of condition 2 (approved plans) of approval 09/03138/FU for MINOR MATERIAL AMENDMENT relating to Three 4 bedroom detached houses with integral garage to rear garden and replacement detached double garage to existing dwelling to the rear of 10 Elmete Avenue, Scholes, Leeds, LS15 4BL

APPLICANT

JWT Developments

DATE VALID

7 February 2012

TARGET DATE

3 April 2012

Electoral Wards Affected:

Harewood

Yes 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. Timescales for development – to be completed within 3 months.
2. Materials to match those approved under original permission.
3. Removal of permitted development rights for insertion of additional first floor windows in east and west elevations.
4. Removal of permitted development rights for extensions, roof alterations and outbuildings.
5. Landscaping and Implementation
6. Drainage and implementation
7. Replacement planting
8. Retention of boundary fence

Informatives

1. Duty to comply with provisions of Party Wall Act
2. Consent does not imply access onto adjacent land.

Reasons for approval: When considering the proposed amendments against that shown on the drawing approved by the Inspector; it is on balance, considered that the variance in Plot 3 is not significantly worse than that proposed at the time of the appeal decision in terms of the impact upon residential amenity and visual amenity of the wider area. Accordingly the application for the amendment to Plot 3 is recommended for planning permission.

1.0 INTRODUCTION AND THE HISTORY OF NEGOTIATIONS

- 1.1 This application is brought to the Plans Panel for consideration at the request of Councillor Rachael Procter, given the history of the application site.
- 1.2 This report does not consider whether the principle of residential development is acceptable as this has already been established by a planning Inspector at the appeal for non-determination (see planning history). What this report seeks to set out is whether or not the alterations from the approved scheme, namely the dwelling to occupy Plot 3, are of greater harm in respect of affecting the living conditions of existing occupants on Elmete Croft. This is considered to be the only material planning consideration that varies from the considerations and conclusions of the Inspector at the time of his decision. All other matters considered by the Inspector at the time of appeal are considered to remain unaltered, i.e. design, character and appearance, and principle of development.
- 1.3 As a result of a complaint, Enforcement Action was instigated by the Council and Officers conducted a site visit regarding the ongoing development of the site for three dwellings.
- 1.4 At a meeting it was agreed by all parties (Council Officers and the developer) that the house on Plot 3 is erroneously sited and is approximately 300mm – 500mm closer to the existing garage at No. 4 Elmete Croft. Moreover, there was agreement that the ground levels of Plot 3 had been increased by some 400mm – 750mm, and that this increase had not been shown on the plan which was subsequently approved by the Inspector (see planning history).
- 1.5 At the time of the meeting the developer was also informed that none of the pre-commencement conditions had been formally discharged by the Council and therefore all work which has been carried out to date, has been done at the developers own risk.
- 1.6 In light of the above the development has not been implemented in accordance with the plans approved by the Inspector, as such it was agreed that a breach of planning control had taken place and steps were required to remedy the breach. The developer was made aware that the proposal could not be considered under an application for a non-material amendment, given that material issues arise, particularly which were evident at the application stage.
- 1.7 A formal planning application was submitted to seek to regularise the situation in the form of a minor material amendment. This effectively, is a Section 73 application which seeks to amend the planning condition which lists the approved drawing numbers, to those drawings now put forward for consideration. The developer was advised to include details of levels, including sections through the site with neighbouring properties, as well as clear proposals for the height, form, and siting of the necessary boundary treatments.

- 1.8 The Council requested that all works on Plot 3 cease, other than the works to make the building secure and to finish off minor jobs, until the required planning application had been determined.

2.0 PROPOSAL

- 2.1 This application seeks to permission to vary condition 2 of planning permission 09/03138/FU. In effect, it is a Section 73 application for a minor material amendment which seeks to substitute the drawings previously approved under the previous application which was allowed on appeal by the Planning Inspector.
- 2.2 It is clear that the levels on site have been raised in relation to Plot 3 to build the foundations of the house. In addition a retaining wall has been built close to the boundary with the properties within Elmete Croft to the east. The retaining wall measures 400mm at its lowest point, rising to 750mm at its highest point, depending on where the measurement is taken. As such, the level of the land is higher on the application site than that of its neighbours to the east. In addition, a timber fence has been erected on top of the retaining wall and the applicant proposes to retain this and to reduce it to a height of 1.5m as measured from the application site. Furthermore, the house has been incorrectly sited and is approximately 400mm closer to the eastern boundary than approved. Approval for this re-siting forms part of the application. In order to compensate for this amended siting and increase in levels, the applicant proposes to amend the roof design of the house by changing from a house with gable ends to a hipped roof on both sides. In order to compensate for the hedge that has been removed and which was supposed to be retained by planning condition, the applicant proposes a replacement hedge in place of where the previous beech hedge was removed, adjacent to the boundary with Elmete Croft.

3.0 SITE AND SURROUNDINGS

- 3.1 The application site was previously a long, linear garden to the rear of no. 10 Elmete Avenue which is located at the northern end fronting onto Elmete Avenue. The site sits in a row of long gardens; however the gardens to the east have been developed into the Elmete Croft development. The application site is now under development which can be regarded as substantially completed. Numbers 3 and 4 Elmete Croft directly overlook the application site at a distance of approximately 8m. Both of these properties feature rear conservatories in the rear garden areas. To the south are rear gardens of houses on Belle Vue Road, again these properties are quite close and are set at an oblique angle to the application site. To the west is the rear garden area of No. 8.
- 3.2 No.10 Elmete Avenue is a detached dormer bungalow, which is fairly typical of the locality, which is a relatively low density residential area comprising of bungalows and two storey dwellings. Boundaries are identified by hedges and trees, although along the eastern boundary planting has been removed and replaced by a 1.8m high close boarded timber fence. The houses approved by the Inspector are all located to the rear, with two of the houses now complete. The dwellings are constructed from stone and render under a slate roof. Construction work on the house on Plot 3 ceased a number of months ago to seek to remedy the breach of planning control. As such, the scaffolding is still in situ.

4.0 RELEVANT PLANNING HISTORY:

- 4.1 The site has been the subject of numerous planning applications over recent years. The house has been the subject of four individual applications for domestic house extensions in 1978, 1979, 1981 and 2002 respectively. None of these are particularly material to the consideration of the current application.
- 4.2 In 1992 and 1993 there were 2 planning applications (Refs. 32/243/92/FU and 32/149/93/FU) for the erection of a detached dwelling within the rear garden area. Both of these applications were refused.
- 4.3 In 2006, an outline planning application was submitted (Ref. 20/22/06/OT) for the erection of 12 flats in two 2 storey blocks. This application was refused for two reasons, namely, the impact upon the character of the area due to the siting, size and spatial setting of the proposed buildings; the impact on the living conditions of adjacent properties due to the size of buildings and vehicular movements; and the impact on trees. This refused application was the subject of an appeal which was dismissed by the Inspector in his decision letter dated 19th December 2006 (Ref. APP/N4720/A/06/2021907).
- 4.4 A further outline application was submitted in 2007 (Ref. 07/04094/OT) for the erection of 12 flats in two 2 storey blocks. This application was also refused for reasons of, impact on the living conditions of neighbours due to vehicular movements from the turning area; that a 2m high screen with cause over dominance to the adjacent property's private amenity space, and lack of a suitable and adequate amenity space for future occupants.
- 4.5 In 2009, a full planning application was submitted (Ref. 09/01168/FU) for the erection of three 4 bedroom detached houses and a replacement double garage. Permission was refused as it was considered that vehicular activity would result in disturbance by reason of noise, causing harm to the living conditions of adjacent occupants; and impact on adjacent trees.
- 4.6 Again, in 2009 a full application was submitted (Ref. 09/03138/FU) for the erection of three 4 bedroom detached houses and a replacement detached double garage. This resulted in the applicant appealing to the Secretary of State following the failure of Leeds City Council to determine the application. It should be noted that prior to the appellant submitting the appeal, a report was taken to the Plans Panel setting out suggested reasons for refusal if the Local Planning Authority would have been in a position to determine the application. The suggested reasons for refusal were as follows:

(i) "The Local Planning Authority considers that the proposed dwellings will be out of keeping with the spatial character of the area due to their location within an area of rear gardens. As a consequence the development is considered to be detrimental to the character and appearance of the locality, and the overall design is inappropriate in its context, and fails to take the opportunities available for improving the character and quality of an area. The proposal, if allowed, would also create a precedent for similar development on neighbouring garden areas to the further detriment of the spatial character of the area. The application is therefore contrary to Policies H4, GP5, N12 and N13 of the Unitary Development Plan (Review 2006) and guidance contained within SPG13 Neighbourhoods for Living and the guidance set out within Planning Policy Statement 1 Delivering Sustainable Development and PPS3 Housing."

(ii) The proposed residential development is considered to result in overdevelopment of the site as a result of the site characteristics, the number of properties proposed

and the layout. This results in harm to residential amenity as a result of overlooking, noise and disturbance from vehicles, inadequate waste disposal provision and poor space about dwellings. The proposal is therefore considered to be contrary to guidance in Neighbourhoods for Living, and policies GP5 and H4 of the adopted UDP and to guidance contained in PPS3 Housing.

- 4.7 The appeal was allowed by the Inspector by notice dated 17 August 2010. The Inspector commented that the 3 dwellings would not be out of character with the general pattern of development and would not be too dissimilar to the linear form of housing development on Elmete Croft immediately to the east of the site which was also built on rear garden land. The Inspector also considered the impact upon the living conditions of the occupants within Elmete Croft and concluded that there would be no significant loss of privacy and no material loss of light.
- 4.8 In August 2011 an application was received to discharge conditions (Ref. 11/03692/COND) attached to the planning permission granted at appeal. This application sought to discharge Conditions 3, 4, 5, 6 and 12 (relating to materials, parking and drainage). Further to the assessment of the submitted details all but condition 6 (landscaping) were discharged.

5.0 PUBLIC/LOCAL RESPONSE:

- 5.1 Three site notices were posted; one on Belle Vue Road, one on Elmete Croft and one Elmete Avenue on the 24 February 2012 advertising the application.
- 5.2 Nine letters of representation have been received, including letters received from adjacent neighbours within Elmete Croft. Objections are raised to the proposal raising the following concerns:
- Abuse of the planning process;
 - Increase in land levels is unacceptable;
 - Re-siting of house is unacceptable;
 - Proposal will be overbearing;
 - Proposal will result in overlooking and loss of privacy;
 - Detrimental impact on outlook;
 - The house is too close to the boundary and too high;
 - Flooding has occurred due to increase in land levels and additional built form of development and hardstanding areas;
 - Flooding due to increased levels is impacting upon foundations of neighbours detached garage;
 - Loss of existing beech hedge;
 - Overlooking when using utility door in side of house;
 - House on Plot 3 should be completely demolished;
 - Unacceptable and long working hours resulting in increased noise and disturbance, including the burning of site rubbish;
 - Conditions imposed by Inspector do not protect amenity;
 - Similarities between this site and 56 The Drive at Crossgates;
 - Loss of value to property.
- 5.3 One letter of support has been received. However, this is from the owner/occupant of no. 10 Elmete Avenue who was to the original applicant for the 3 detached houses and therefore had a financial interest in the site.

5.4 The Parish Council were notified on the 15 February 2012. The Parish Council have not provided a response.

5.5 Following the receipt of revised plans which proposes to change the gable ends to hipped ends and reduce the height of the fence, neighbours were re-notified by letters dated 3 May 2012. To date, 1 letter of objection has been received. The issues raised are:

- Acknowledgement that change to roof profile is a positive design feature;
- Concern remains over landscape and boundary treatment;
- Surface water disposal does not meet SUDS standards;
- Flooding exacerbated by increase in land levels;
- Loss of visual and physical amenity to adjacent properties.

6.0 CONSULTATIONS RESPONSES:

6.1 None

7.0 PLANNING POLICIES:

7.1 The development plan includes the Regional Spatial Strategy to 2026 (RSS), the adopted Leeds Unitary Development Plan (Review 2006) (UDP) and Supplementary documents. The RSS was issued in May 2008 and includes a broad development strategy for the region, setting out regional priorities in terms of location and scale of development. In view of the relatively small scale of this proposal, it is not considered that there are any particular policies which are relevant to the assessment of this application. The Local Development Framework will eventually replace the Leeds UDP (2006) but at the moment this is still undergoing production with the Core Strategy still being at the draft stage

7.2 The following Leeds UDP policies are relevant to the consideration of the application.

Policy GP5 - refers to development proposals should seek to avoid loss of amenity.

Policy BD6 – refers scale, form and detailing

Policy H4 - refers to housing on other sites not identified in the UDP.

Policy N12 - refers to urban design

Policy N13 - refers to the design of buildings having regard to the character and appearance of their surroundings

Supplementary Planning Documents

Neighbourhoods for Living: A guide for residential design in Leeds (Dec 2003)

National Guidance

From 27 March 2010 The National Planning Policy Framework (NPPF) took the place of the PPS's and PPG's and is now a material consideration when making planning decisions. The NPPF sets out the range of the Government's planning policies and sets out the requirements for the planning system but only to the extent that it is relevant, proportionate and necessary to do so. In particular there is an emphasis on decision making at a local level where communities and their accountable Councils can produce their own distinctive local and neighbourhood plans, which reflect the

needs and priorities of communities through up to date development plans to achieve the economic, environmental and social aspects of sustainable development.

- The economic role – contributing to building a strong, responsive and competitive economy, by ensuring that sufficient land of the right type is available in the right places and at the right time to support growth and innovation; and by identifying and coordinating development requirements, including the provision of infrastructure.
- The social role – supporting strong, vibrant and healthy communities, by providing the supply of housing required to meet the needs of present and future generations; and by creating a high quality built environment, with accessible local services that reflect the community's needs and support its health, social and cultural well-being;
- The environmental role – contributing to protecting and enhancing our natural, built and historic environment; and, as part of this, helping to improve biodiversity, use natural resources prudently, minimise waste and pollution, and mitigate and adapt to climate change including moving to a low carbon economy.

8.0 MAIN ISSUES

- Principle of development
- Effect on visual amenity
- Effect on residential amenity
- Other matters
- Representations

9.0 APPRAISAL

Principle of development

- 9.1 The principle of this residential development on Greenfield land has already been accepted in light of the Inspectors decision to grant planning permission. The permission was implemented and two out of the three houses have been built.

Effect on visual amenity

- 9.2 The design of the house on Plot 3 has been revised to address the issues associated with the increase in land levels and its subsequent impact upon the living conditions of neighbours. To this end, the approved design has been amended from a house with gable ends, with the eastern facing gable orientated towards the rear gardens of nos. 4 and 5 Elemete Croft, to a house with a hipped roof. From a visual perspective, the design of this roof form is considered to be acceptable and results in a balanced and symmetrical front elevation. The height to the eaves and overall ridge height is similar to the two houses recently built on this site, while proposed materials would match the recently constructed dwellings. Furthermore, the house on Plot 3 is located towards the end of the former rear garden of no. 10 Elemete Lane, some 55m from the street frontage. As such, the proposed house is not prominent within the streetscene and from the public domain.
- 9.3 It is therefore considered that within the context in which the development would be seen, the visual amenity of the application site and the wider area would remain within acceptable limits.

Effect on residential amenity

- 9.4 In comparing the approved plans permitted on appeal by the Inspector, it is relevant to highlight the main differences now being proposed. These can be summarised as follows:
- Proposal is sited approx. 400mm closer to boundary with no. 4 and 5 Elmete Croft;
 - Site levels have been increased by approx. 400mm at their lowest point to up to 750mm at their highest point;
 - A retaining wall has been built along part of the eastern side boundary, adjacent to no. 4 Elmete Croft;
 - A timber fencing measuring 1.5m in height measured from the ground level of the application site has been built on top of the retaining wall;
 - The roof form of the dwelling has changed from gable ends to hipped ends.
 - Height of house from ground level to ridge has been lowered by 100mm.
 - Beech hedge has been removed and is proposed to be re-planted with a new hedge, except behind the neighbour's garage.
- 9.5 A number of objections have been received from local residents, including those most directly affected including occupants of nos. 4 and 5 Elmete Croft. The proposals must therefore be assessed to determine and consider the impact of the proposed amendments to the house, the difference in levels and boundary treatment upon such occupants, mindful of the extant approval for a dwelling on this site.
- 9.6 The increase in site levels, in probability has come about due to the foundations of the house been built above ground, rather than excavated with a trench and building the foundations beneath existing levels. Notwithstanding this, it is generally assumed that any house built will naturally need to increase its ground floor finished floor levels due to the need for a damp proof course. That said, an increase of some 400mm – 750mm is over and above what one would expect as a standard building technique. An increase in land levels therefore has the knock on effect of making the house even higher than was originally permitted.
- 9.7 The approved scheme did not indicate any difference in land levels according to the approved plans. This effectively showed a house located approx. 2.1m from the eastern side boundary with a gable end orientated towards no. 4 Elmete Croft rising to a ridge height of some 8.0m. The proposal now includes an increase in ground levels of approximately 500mm adjacent to the rear garden of no. 4 Elmete Croft and a house which proposes a hipped end. Thus, the height of the proposed house would measure 5.1m from its associated ground level to the eaves. The roof would then slope away from the side boundary, rising to a ridge height of 7.9m. When coupled with the change in levels, the actual distance from the neighbours garden level at no. 4 Elmete Croft to the eaves height of the proposed house would be 5.6m. This contrasts to the approved scheme which would present a gable elevation to the neighbours garden which would rise to an overall height of 8.0m, although it is acknowledged that the gable would taper towards a point where the ridge is formed.
- 9.8 This difference in actual height must also be considered in light of the closer proximity of the house to the side boundary, which is some approx. 400mm closer than that approved. In considering this closer proximity now proposed, it is appropriate to balance the proposed amendments to the roof form. In this instance,

it is considered that the reduction on the bulk and height of the side wall from changing from a gable to a hipped end is significant. This enables the scale of the house to be reduced and is considered to outweigh the proximity of the house which is now being proposed. In summary, it allows for a slightly improved relationship and should be afforded significant weight. It is therefore considered, on balance, that the revised siting, height and roof form of the proposed house would not have an unacceptable impact upon the living conditions of neighbours in terms of dominance, loss of privacy and loss of light, over and above the scheme which was approved by the Inspector. As such, the margins between what was approved and is now being proposed is not significant to warrant coming to a different conclusion.

Other matters

- 9.9 The applicant has also erected a timber screen fence above the retaining wall along the boundary with no. 4 Elmete Croft. The approved scheme sought to retain the existing beech hedge (through a condition), behind which (to the west) a timber acoustic fence would be erected. However, the applicant has removed a section of the beech hedge along a section of the rear garden with no. 4 Elmete Croft and erected a timber fence on top of the retaining wall. It is proposed to reduce the height of the fence to 1.5m as measured from the application site's ground level. This is proposed to protect the privacy of adjacent property from overlooking. In assessing this, the area adjacent to the neighbour's garden is the access drive and integral garage to the proposed house. While some overlooking may occur, it is not considered to be significant given the height of the proposed fence and the fact that it is more likely that a car will be parked in front of the garage, and is therefore not an area where occupants would congregate for any length of time.
- 9.10 Whilst a section of the beech hedge has been removed, and without permission from the Council, it is proposed to replace this with a new hedge in exactly the same position. This will be within the red line site boundary, but in reality when on site, it has the elusion of being entirely within the rear garden of no. 4 Elmete Croft. However, this was the situation with the beech hedge and therefore the applicant is able to provide this. Further information has been sought regarding the planting of the hedge and its future maintenance given the presence of the existing timber fence, as the hedge would effectively sit behind the fence.
- 9.11 A number of concerns have been raised, particularly from the occupants of no. 4 and 5 Elmete Croft, on the issue of flooding as a direct result of the increase in levels. A drainage scheme was previously submitted and approved by the Council as part of the planning conditions associated with the approved scheme. However, it is understood that flooding problems are still taking place as the drainage scheme has not been implemented as the applicant advises that this is not feasible until the scaffolding is removed. It is therefore considered that planning conditions should be imposed to ensure its implementation to solve the existing problems. A neighbour has also expressed concern over the impact upon flooding on the ground levels and foundations associated with his detached garage. The applicant will therefore be reminded of their obligations under the Party Wall Act.

Representations

- 9.12 A number of letters of objection have been received from local residents raising concerns on a number of issues. The matters associated with the impact on residential amenity, landscaping and flooding have been addressed above. Issues

associated with site construction and the value of property are covered by other legislation and are not material planning considerations.

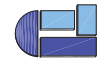
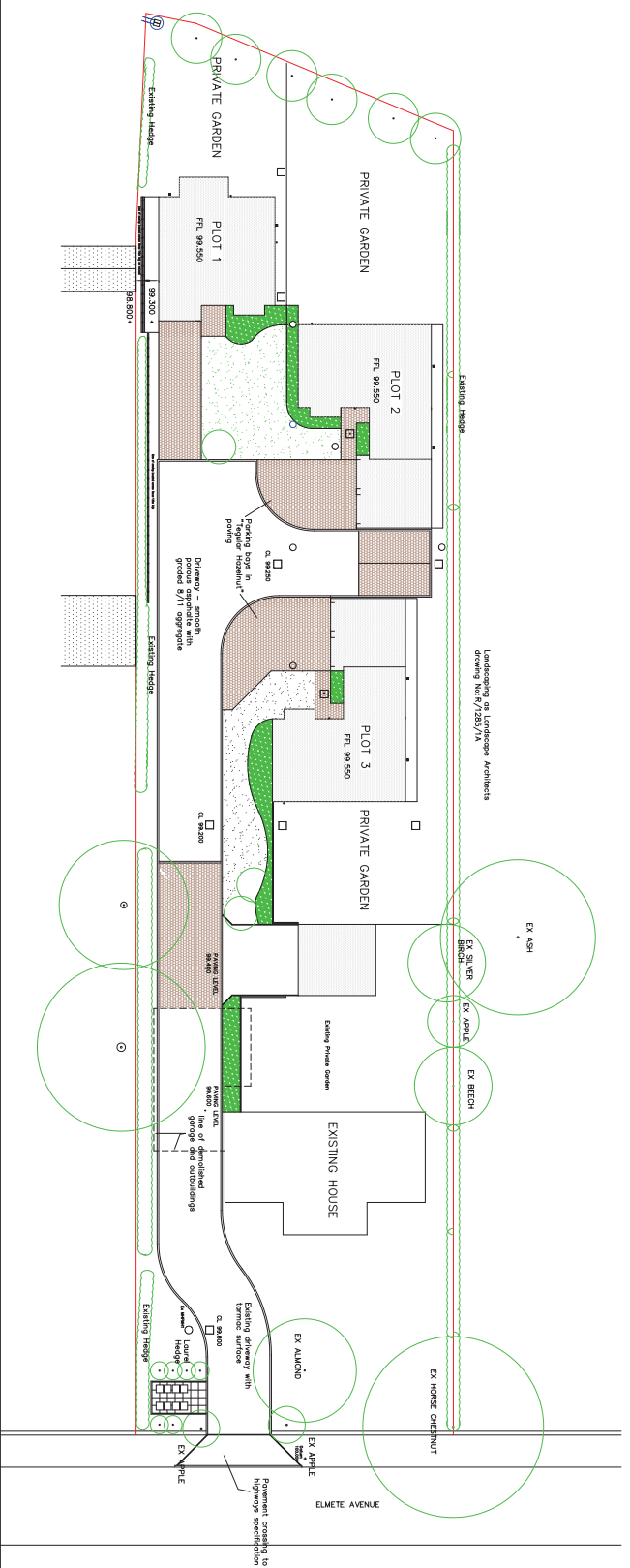
11.0 CONCLUSION

11.1 After careful consideration, it is considered that this application is recommended for approval for the above reasons and subject to the conditions at the head of this report. On the balance of the increased height and proximity of House Type B the cumulative effect is not considered to be significantly greater than the scheme approved subject to the appeal. In respect of the visual impact upon the character of the area, the house is set well back from Elmete Avenue and is not prominent within the streetscene. Nevertheless, the design and materials of the house are considered to be visually acceptable. Accordingly the application is recommended for approval.

Background Papers:

History files listed above and 12/00501/FU

Certificate of Ownership signed by the applicant (Mr Jason Townsend)

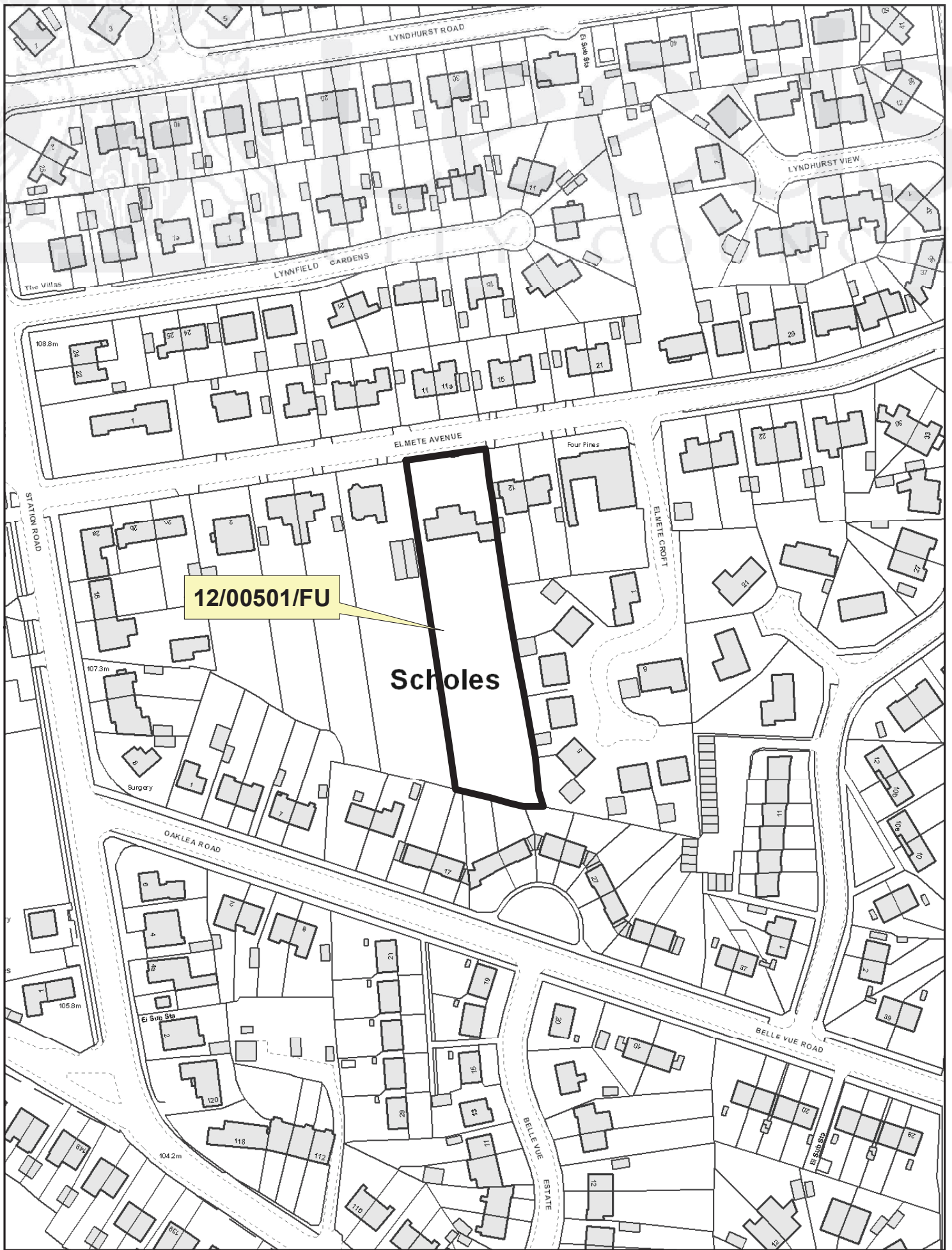


Revisions	Date	Suffix	Description	Date	Suffix	Description

TU BUILDING DESIGN LTD
 1A, Oxford Drive, Kippax, Leeds LS25 7JL
 tel: 0113 2863617
 mobile: 07802771692
 e-mail: tubuildingdesign@btinternet.com
 Project: PROPOSED HOUSE TYPE B
 PLOT 1, ELMETE AVENUE
 SCHOLES

Client: JMT DEVELOPMENTS

Drawing Title: SITE LAYOUT
 Date: JANUARY 2012
 Scale: 1:200 @A1
 Drawn By: [blank]
 Checked: [blank]
 Ref: 11/06
 Dwg. No: 011
 Rev: [blank]



12/00501/FU

Scholes

EAST PLANS PANEL





Originator: Aaron Casey
Tel: 0113 247 8059

Report of the Chief Planning Officer

PLANS PANEL EAST

Date: 17th May 2012

Subject: APPLICATION 12/00153/FU – Retrospective application for variation of conditions 7 and 9 of planning permission 33/88/02/FU (hard and soft landscaping) at Butts Garth, Littlemoor Lane, Thorner.

APPLICANT	DATE VALID	TARGET DATE
Mr I Plunkett	20/01/12	16/03/12

Electoral Wards Affected: Harewood <input type="checkbox"/> Yes 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: GRANT PERMISSION subject to the specified conditions:

1. The development hereby permitted shall be carried out in accordance with the approved plans listed in the Plans Schedule.
2. Hard and soft landscaping works shall be fully carried out in accordance with the approved details shown on landscaping plan reference 2125/1 Revision K within the first available planting season (November 2012 – March 2013) and to a reasonable standard in accordance with the relevant provisions of appropriate British Standards or other recognised codes of good practice. The hard and soft landscaping works approved shall be thereafter retained and maintained in accordance with landscaping plan reference 2125/1 Revision K and dated 26 April 2012 unless otherwise agreed in writing by the Local Planning Authority.
3. Replacement planting in the event that the new planting dies or is removed.

Reasons for approval: The proposed planting scheme achieves an appropriate transition between the development and the wide area of open land adjacent and helps to screen the residential development from the adjacent countryside. Taking into account the site history and having regard to all other material considerations, the application is recommended for approval.

1.0 INTRODUCTION:

- 1.1 This application(12/00153/FU) seeks permission to vary two conditions attached to a previous permission reference 33/88/02/FU. The conditions relate to submission of a landscaping scheme for the implementation of landscaping along the south-eastern boundary acting as a buffer zone between domestic gardens of three residential properties and the Green Belt. Following legal advice, it has transpired that there are flaws in the previous permission and appeal decision which do not protect the approved landscaping from being retained, while the red line boundary has established the extent of the residential curtilage. The current application will afford greater protection than the previous approval insofar as the proposed landscaping, when implemented, will be retained. The application is brought before the Plans Panel on the request of Councillor Rachael Procter in light of the ongoing site history in respect of planted buffer zone.
- 1.2 Members are advised that this application is now outside of the 8 week time period and could be subject to an appeal for non-determination.

2.0 PROPOSAL:

- 2.1 The application seeks to vary conditions 7 and 9 of planning approval 33/88/02/FU.

Condition 7 of 33/88/02/FU states:

No development shall take place until full details of both hard and soft landscape works have been submitted to and approved in writing by the Local Planning Authority. Soft landscape works shall include (a) planting plans, (b) written specifications (including cultivation and other operations associated with plant and grass establishment), (c) schedules of plants noting species, planting sizes and proposed numbers/densities, (d) implementation programme.

It is proposed that the condition be amended to state:

Full details of both hard and soft landscaping should be submitted to and approved in writing by the Local Planning Authority. Soft landscaping works shall include (a) planting plans, (b) written specifications (including cultivation and other operations associated with plant and grass establishment) (c) schedules of plants noting species, planting sizes and proposed numbers/densities, (d) implementation programme. The landscaping scheme hereby approved shall be carried out and maintained thereafter in accordance with the landscaping plan reference 2125/1 Revision K, dated stamped 26 April 2012, unless otherwise specifically agreed in writing by the Local Planning Authority.

- 2.2 However, given that the submitted landscaping scheme is considered to be acceptable, there is no requirement for this condition.

Condition 9 of 33/88/02/FU states:

Hard and soft landscaping works shall be fully carried out in accordance with the approved details prior to the occupation of any part of the development in accordance with the programme agreed with the Local Planning Authority and to a reasonable standard in accordance with the relevant provisions of appropriate British Standards or other recognised codes of good practice.

It is proposed that the condition be amended to state:

- 2.3 Hard and soft landscaping works shall be fully carried out in accordance with the approved details shown on landscaping plan reference 2125/1 Revision K within the

first available planting season (November 2012 – March 2013) and to a reasonable standard in accordance with the relevant provisions of appropriate British Standards or other recognised codes of good practice. The hard and soft landscaping works approved shall be thereafter maintained thereafter in accordance with landscaping plan reference 2125/1 Revision K and dated 26 April 2012 unless otherwise agreed in writing by the Local Planning Authority.

- 2.4 The original landscaping scheme approved a 10m strip of land at the rear of the properties which was to act as a landscape buffer zone and was physically separated from the garden spaces by a hedge, with a post and rail timber fence to the rear boundary, and tree and shrub planting in between. This application seeks to replace this landscape buffer with a fringe planting (including bamboo and pampas grass), native tree and shrub mix. The application also provides opportunity to revise condition 9 to include retention of the landscaping. This was not a condition of the original permission but was included as a clause in the signed s106 that runs with the permission.

3.0 SITE AND SURROUNDINGS:

- 3.1 The application site relates to three recently constructed detached houses off Butts Garth Farm, built on the site of a former agricultural unit. The area of landscaping under consideration is a strip of approximately 10m width which runs along the bottom of all three garden areas. This landscape buffer has previously been planted up but much of this has been removed now. A timber fence marks the rear boundary.
- 3.2 The site sits on the southern edge of the main village area. To the north is the historic core of the village with development fronting onto Main Street and long burgage plots and back lanes extending off it. Although development in this area is relatively dense and tight knit, mature trees are an important feature contributing to the rural character.
- 3.3 To the south lie agricultural fields which are relatively small and irregularly shaped, bounded by hedges and interspersed with trees. There are a number of footpaths in the immediate locality including a Public Right of Way along Littlemoor Lane which forms the western boundary of the site, and to the south approximately 1km away are large areas of denser woodland.
- 3.4 Much of the southern edge of the village has existed for some time with little modern development due to the Green Belt boundary which extends to the very edge of the village. As well as the application site the adjacent site to the east, off Clay Pit Lane, was developed circa 2000.

4.0 RELEVANT PLANNING HISTORY:

- 4.1 10/03042/FU - Variation of conditions 7 and 9 of planning permission 33/88/02/FU (hard and soft landscaping) – Withdrawn 14 February 2011 to allow further negotiation to take place with the Council regarding adequate and agreeable buffer planting.
- 4.2 33/88/02/FU – 5, four bedroom detached houses - Approved 29 September 2003

At the time the 2002 application was submitted for consideration the site was regarded as Greenfield land, which partly breached the Green Belt. It was considered at that time

that the benefits of the scheme in terms of removing farm buildings and highway improvements provided justification for the development of this Greenfield site.

The provision of a 10m landscaping belt within the Green Belt was also considered to comply with the Leeds Unitary Development Plan Policy. The case officers report which was considered at Plans Panel on the 15 March 2003 states that:

“That part of the site adjacent to the southern boundary, that is proposed to be landscaped, is within the Green Belt. The 10m landscape buffer has been proposed and this is to be implemented before the dwellings are occupied. A Unilateral Agreement is required setting up future maintenance and management of the landscape buffer.”

4.3 In light of the above it is considered that in determining the application the landscape buffer was never viewed as an agreement for residential use. If such an intention existed it would have been viewed as inappropriate development in the Green Belt unless very special circumstances were presented.

4.4 A Section 106 agreement was signed, which included a requirement to maintain a landscape buffer zone.

“The developer and the owner hereby covenant with the Council to layout and maintain a landscaped area showed outlined in blue on the attached Plan in accordance with the scheme agreed in writing with the Council and to ensure that the area is retained as a landscaped area and maintained in accordance with this covenant on any subsequent disposal of that area.”

4.5 The scheme was constructed and the landscape buffer was implemented. However, the owner of Moorfield House subsequently removed all of the landscaping and the Council instigated Enforcement Action. This resulted in an Enforcement Appeal, which was dismissed 19 March 2008. In paragraph 3 of the decision, the Inspector notes:

*“The land, which is the subject of these notices, is part of a landscape buffer that was established between the rear gardens of the dwellings and the open countryside beyond. The dwellings were constructed on the site of the former farmyard and a landscaped buffer area was taken from the adjoining fields. **The buffer zone was clearly not intended to be part of the residential curtilages since it was to be a separately enclosed area.** For planning purposes, the ownership of the buffer zone is of no relevance to its lawful use, **so the fact that each household has part of a landscape buffer zone does not make it lawful for them to extend their gardens into it.**”*

In paragraph 5, the inspector concludes:

*“In each of these cases, land which was included in the landscape buffer has been incorporated into the appellants garden. The hedge dividing the buffer zone from the garden has been removed, some ornamental planting has occurred, young trees have been moved to the boundaries and lawns have been created in place of the woodland mix planting. The lack of any physical barrier between the residential garden land and the buffer zone and the fact that there is now no difference in the appearance or maintenance of the buffer zone and the residential gardens leads me to the conclusion that, as a matter of fact and degree, **a material change of use of the buffer zone land to residential use has taken place.** In the absence of planning permission for this change of use, **a breach of planning control has occurred.**”*

4.6 The Inspector dismissed the appeal and as a result the Enforcement Notice which

required the appellants to cease the unauthorised use of the buffer zone as domestic garden, and to reinstate the approved landscaping scheme, was upheld.

- 4.7 The above instigated a meeting between the applicants, planning officers, enforcement officers and legal officers to seek a resolution to satisfy the Enforcement Notice and the original Planning Permission. It was concluded that a Section 73 application to vary the landscaping conditions could be submitted to be determined, along with a revised Section 106 agreement and an amended landscape scheme for the Council to consider.
- 4.8 Legal advice following the outcome of the appeal has resulted in a number of key factors becoming apparent. Firstly, it is advised that the residential curtilages off all 3 properties extend into the landscape buffer zone since the original planning application boundary included this within the red line, thereby establishing the planning unit. No planning conditions restricted its use as the domestic curtilages to the three properties. Secondly, there is no requirement to retain the landscaping through the planning conditions or otherwise, which was originally approved by condition. Thirdly, there are errors between the Section 106 agreement and the plans referred thereto and the approved plans listed in the planning decision notice. As such, it is considered that the appeal decision made by the Inspector is flawed. Therefore, the current application seeks to address this and proposes a suitable and permanent landscape buffer in accordance with what the original permission envisaged.
- 4.9 33/549/05/FU. Plot 4 Moorfield Farm, Littlemoor Lane, Thorer. Amendments to approval ref 33/88/02/FU for detached house (dormer windows conservatory & Juliet balcony) - Approved 2 February 2006.

5.0 HISTORY OF NEGOTIATIONS

- 5.1 Since the original planning application was submitted, revised plans have been sought to the submitted landscaping scheme. The amendments relate to planting density and amendments to the species mix.

6.0 PUBLIC/LOCAL RESPONSE:

- 6.1 A general site notice was posted on 3 February 2012. Publicity expired on 24 February 2012. The Parish Council and the Ward Member were notified 23 January 2012. No letters of representation from local neighbours have been received.
- 6.2 **Thorer Parish Council:** Objects to the proposed amendments to the conditions. The Parish Council make reference to the original permission and state that planning permission would not have been granted without the Section 106 agreement. Their objections relate to:
- Extending the garden into the Green Belt would be contrary to Policy N25 of the UDP. No very special circumstances exist;
 - Buffer zone is required to provide a suitable transition between the domestic and rural settings;
 - The buffer zone is a continuous strip of land running along the edge of 3 new properties;
 - To allow the development would establish a precedent that could result in the buffer zone being lost along its entire length;
 - It would establish a precedent for other properties;

- Blatant disregard of the intentions of the planners and contrary to the Enforcement Appeal decision.

7.0 CONSULTATIONS RESPONSE:

7.1 Landscape – The submitted landscaping scheme is considered to be acceptable. A condition should be imposed requiring its implementation within the first available planting season (November 2012 – March 2013).

8.0 PLANNING POLICIES:

8.1 The Development Plan for the area consists of the adopted Unitary Development Plan Review (2006), the Regional Spatial Strategy along with relevant supplementary planning guidance and documents. The Local Development Framework will eventually replace the Leeds UDP (2006) but at the moment this is still undergoing production with the Core Strategy still being at the draft stage.

8.2 The Regional Spatial Strategy has no specific policies which would directly relate to this scheme. However, the RSS does include policies to retain and incorporate biodiversity in development and encourage networks of green infrastructure and ecological corridors (policy ENV8d).

8.3 Under the UDP (2006) the application site lies on the edge of the village (which is not classed as being within the main urban area), and the southern strip is identified as being designated as Green Belt. The following policies are relevant for consideration of this application:

Policy GP5 – General planning considerations.

Policy GP11 – Development to meet sustainable design principles.

Policy N9 – All development proposals should respect and enhance the intrinsic value of land in providing a corridor function.

Policy N24 – Proposal abutting open land should provide for suitable assimilation into the landscape.

Policy N32 - Green Belt designation.

Policy N33 - approval only given in Green Belt for change of use for purposes, which do not compromise green belt objectives.

Policy N37A – All new development in the countryside should have regard to character of the landscape and contribute positively to it.

Policy LD1 – Landscaping of new developments.

Policy GB25 - there will be a presumption against garden extensions into the Green Belt except where such extensions form a logical filling or rounding off to the individual settlement, would not affect the rural character of the area and would not involve a significant loss of agricultural land.

Relevant Supplementary Guidance

8.4 SPG 25 Greening the Built Edge – provides guidance on how to soften and screen and provide suitable transition planting for developments adjacent to the Green Belt. It is normally the case that any landscaping proposal should be located within the boundary of the development site itself. It is also important to secure nature conservation benefits in any landscaping scheme approved.

8.5 Thorner Conservation Area Appraisal and Management Plan approved January 2009. A major contributing factor to the character of the Conservation Area is the

landscaped setting.

8.6 Thorner Draft Village Design Statement 2010 (public consultation ceased December 2010). This document discusses the importance of the countryside setting for the village as well as the commitment to being a 'dark village'. One of the actions is to retain the countryside setting of the village which is currently recognized by the village envelope being tightly bounded by the Green Belt.

Government Planning Policy Guidance/Statements

8.7 National Guidance

From 27 March 2010 The National Planning Policy Framework (NPPF) took the place of the PPS's and PPG's and is now a material consideration when making planning decisions. The NPPF sets out the range of the Government's planning policies and sets out the requirements for the planning system but only to the extent that it is relevant, proportionate and necessary to do so. In particular there is an emphasis on decision making at a local level where communities and their accountable Councils can produce their own distinctive local and neighbourhood plans, which reflect the needs and priorities of communities through up to date development plans to achieve the economic, environmental and social aspects of sustainable development

- The economic role – contributing to building a strong, responsive and competitive economy, by ensuring that sufficient land of the right type is available in the right places and at the right time to support growth and innovation; and by identifying and coordinating development requirements, including the provision of infrastructure
- The social role – supporting strong, vibrant and healthy communities, by providing the supply of housing required to meet the needs of present and future generations; and by creating a high quality built environment, with accessible local services that reflect the community's needs and support its health, social and cultural well-being;
- The environmental role – contributing to protecting and enhancing our natural, built and historic environment; and, as part of this, helping to improve biodiversity, use natural resources prudently, minimise waste and pollution, and mitigate and adapt to climate change including moving to a low carbon economy.

Circular 11/95 – Use of Planning Conditions

9.0 MAIN ISSUES

- Planning History & the Purpose of the Landscape Buffer
- The Impact of the Landscaping and its Effectiveness as a Landscape Buffer
- Representations

10.0 APPRAISAL

Planning History & the Purpose of the Landscape Buffer

10.1 Planning permission was granted in September 2003 for the construction of 5 houses. Part of the rear gardens of 3 of these houses were located within the Green Belt and thus a landscape buffer was included within the scheme. A planning condition required the submission of a detailed landscaping scheme, while a separate condition required its implementation. Regrettably, no such condition secured its retention, meaning that any planting could be subsequently removed. In

addition, a Section 106 agreement was signed which secured an obligation to lay out and maintain a landscaped area in accordance with the scheme agreed in writing by the Council and to ensure that the area was retained as a landscaped area and maintained.

- 10.2 Details of the landscaping scheme were submitted and approved in 2003 and provided a 10m wide planted buffer zone between the open countryside and the built residential development (Butts Garth Farm). The planting included a woodland planting mix that included species including beech, sycamore, hazel, ash and rose. In addition new tree groups would also be planted with several trees on the domestic garden side of the boundary adding to the robust nature of the buffer and presenting a defining termination point for the domestic use. The domestic gardens were shown as being covered in lawn and Moorfield House would have a beech hedge instated to the side boundary adjacent to the public footpath. Between the plots along the inner boundaries the garden areas were demarcated by timber fences, and there was no visible means of access between the domestic garden areas and the buffer zone.
- 10.3 Whilst the buffer planting was implemented, some of this was subsequently removed and enforcement proceedings resulted in an Enforcement Notice. This resulted in a subsequent appeal which was dismissed by the Inspector. However, further to this appeal decision and following legal advice, it is considered that the Local Planning Authority's position in enforcing the appeal decision is problematic.
- 10.4 Although the s106 agreement plan identified the landscape buffer area with a blue line, for the purposes of proper identification of its agreed area, it was noted that the red line boundary which formed part of the planning permission included the buffer zone. Therefore, the red line defined the planning unit and no such condition was imposed which defined or excluded any part of the red line boundary from the residential curtilages. It can therefore be determined that all of the land within the red line boundary, including the buffer zone is within the curtilage of each property.
- 10.5 In terms of the appeal decision, the Inspector in dismissing the appeal varied the wording by stating that the change of use was to an extension of the domestic gardens rather than domestic curtilage. This variation was made on the basis that the Inspector considered that the landscape buffer was not intended to be part of the residential curtilage, since it was to be physically separate from the residential development with the appearance of an uncultivated woodland edge to the open countryside and that therefore as a matter of fact and degree a material change of use of the buffer zone for residential use had taken place.
- 10.6 However, it is advised that the reasoning of the Inspector is flawed since no change of use has occurred. The red line boundary of the planning application contained the defined landscape buffer area and the planning permission related solely for the residential development of the land. Also, the conditions did not require a landscape buffer, as that was a requirement instead of the s106 agreement.
- 10.7 Furthermore, there is confusion with the third schedule of the s106 agreement which states that the landscaped area should be laid out and maintained in accordance with the scheme agreed in writing by the Council. Given this wording, it can be reasonably concluded, in view of the timing of the agreement that a scheme had already been agreed and the relevant landscaping plan at that time was drawing no. 1263/A B, which was the plan stamped approved as part of the permission. However, there is then a clear conflict between the s106 agreement and condition 7 as the latter, requires a landscaping scheme to be submitted for approval. This

therefore causes contradiction and confusion in terms of which landscaping plan is required to be implemented.

- 10.8 As such, the current situation is flawed in terms of the enforcement notice appeal and decision. Consequently, the applicant is proposing to address this confusing situation by proposing a suitable landscaping scheme which can be retained by planning condition. However, it is relevant to consider the purpose of such a buffer planting scheme in assessing its appropriateness.
- 10.9 Where new development abuts the Green Belt or other open land it is of particular importance that its siting and design have regard to how it will be seen in the landscape. In this instance this requires provision of new planting to provide a transition into and to create a readily recognisable and clearly defined boundary with the Green Belt and open land. This is the aim of policy N24 of the UDP (2006) and SPG25 – Greening the Built Edge, provides guidance on how this should be approached.
- 10.10 The Green Belt boundary does actually run across the domestic gardens of the older properties to the west of Butts Garth Farm this suggests that these properties may predate the Green Belt designation. The Green Belt also runs to the east across the ends of the gardens of the Clay Pit Lane development, during consideration of this development this area was clearly considered as a landscape buffer rather than a garden use. On the older properties to the west is robust and mature planting, which is reinforced by a small field with hedging and tree coverage located adjacent. To the east it is also evident that there has been encroachment of the buffer by domestic gardens, however, there has been tree planting undertaken throughout the area and to the outer edges of the area.
- 10.11 As with the previous applications it is paramount that the intrinsic value of the landscape in this area is carefully considered. To the south the open land is generally in agricultural use but there are also a number of public footpaths that include a route which commences from the village and loops around the site. The landscape would present itself as an important and an attractive feature within the area which not only acts to define domestic use from the Green Belt but would act to enhance the character and appearance of the village.
- 10.12 In addition, the site also falls just outside the Conservation Area, but is in close proximity to it and the historic core of Thorner. As a result it is also considered to be of importance that the site actually enhances the setting of this area. The Conservation Area Appraisal and the draft Village Design Statement emphasise the aspirations for enhancement; both of these documents also detail the significance of seeking to achieve a quality setting that reflects the countryside.
- 10.13 Notwithstanding the landscape buffer would act to provide an enhancement in respect of biodiversity by creating ecological corridors.

The Impact of the Landscaping and its Effectiveness as a Landscape Buffer

- 10.14 The scheme submitted shows a native tree and shrub mix to the outer boundary with a central section of ornamental fringe planting to the central section and the inside section of the buffer would be tree coverage of varying species. The depth of the buffer would be 10.0m (approximately) and would extend across the rear of Moorfield House, Moorfield Grange and Highfield House. The applicants were resistive of a fence identifying the end of the domestic and commencement of the planted buffer; Officers consider that the four steel posts which would be placed into the ground which denote the end of the domestic gardens are adequate and the

proposed density of the planting would present itself as a clear and robust physical boundary thereby acting in very much the same way as a fence.

- 10.15 By having no physical barrier the rear area of the site opens up to domestic uses by allowing the opportunity for the intrusion of domestic paraphernalia into the Green Belt and open countryside, e.g. garden fences and buildings, play equipment, washing lines etc. This would potentially result in the suburbanisation of the Green Belt and open countryside thereby eroding the openness and rural character. However, the previous red line boundary included the full extent of the landscaped area, thereby including all 3 areas which formed part of the residential curtilages. Notwithstanding this, the buffer zone would be densely planted with trees closest to the houses and with a native tree and shrub mix towards the outer edge. The physical scale and extent of such planting would therefore prevent such domestic paraphernalia from being situated in this buffer zone.
- 10.16 The original landscape buffer achieved planting of approximately 10m in depth of which would have resulted in a series of overlapping canopies, one behind the other, as such there would have been little or no gaps providing clear visibility through the buffer. During the winter months there would still have been a screening effect as a result of branch and twig density. This proposed re-instatement of landscaping is considered to present a suitable buffer between the domestic and Green Belt. Whilst the plans show a predicted canopy spread of the proposed trees at 10 years, the Councils Landscape Officer considers these to be optimistic. It is advised by the Landscape Officer that growth rates are dependant on varying factors such as ground conditions, drainage, wind etc. However Landscaping have considered the proposed planting, species and density and are of the view that the proposal would achieve the desired function of a buffer and akin to the original planting would have a reasonable and effective level of screening through into the domestic garden areas.
- 10.17 Thorner is a 'dark village' and the community works hard to ensure minimal light pollution. When fully established, the proposed boundary buffer planting is considered to present enough density of planting and a robustness that any light coming from within the houses and any external lighting would likely be well contained.
- 10.18 A s106 agreement was signed at the time of the original permission and this places an obligation on the landowner to maintain the area of landscaping. However, and regrettably no condition was added to the original permission to ensure the retention of the landscaping buffer. This current application therefore allows the opportunity to remedy the omission of the requirement to retain the buffer planting and an amended planning condition can secure its implementation within the first available planting season together with its long term retention.
- 10.19 Representations
The comments raised by Thorner Parish Council have been addressed in the main part of this report.

11.0 CONCLUSION

- 11.1 The proposed landscaping treatment is considered to succeed in providing a landscaped buffer zone of appropriate depth, density and adequate planting resulting in decreased visibility of the houses and domestic garden areas from the surrounding Green Belt and open countryside. This would represent an improvement of the current situation and previous approval which did not secure the retention of the approved landscaping. Whilst this area of buffer planting is within the residential

curtilages of all 3 houses and Green Belt, the fact that it will be planted up and retained in the future would both restrict its physical use as a domestic garden will act as a suitable transition between new residential properties and the open countryside beyond. It is therefore recommended that the proposal represents a positive improvement and should be approved.

Background Papers:

Application and history files. – As detailed in the planning history section of this report.

Certificate of Ownership: Certificate B signed. Applicants name is Mr I Plunkett with 2 other landowners as Ms S Richards and Mr A Hall.



Proposed Trees

Nr	Code	Plant Name	Form	Ht(m)	Cl(m)	Cl(Ht)(m)	Root
1	MSP	Morus nigra 'Black' (Morris)	Standard (Half)	175-200	4.4	175-200	B
2	MSP	Morus nigra 'Black' (Morris)	Standard (Half)	175-200	4.4	175-200	B
3	MSP	Morus nigra 'Black' (Morris)	Standard (Half)	175-200	4.4	175-200	B
4	PSP	Prunus domestica 'Victoria'	Standard (Half)	175-200	4.4	175-200	B
5	PSP	Prunus domestica 'Victoria'	Standard (Half)	175-200	4.4	175-200	B
6	PSP	Prunus domestica 'Victoria'	Standard (Half)	175-200	4.4	175-200	B
7	Sar	Sorbus domestica 'Crimson'	Standard (Half)	175-200	4.4	175-200	B
8	Sar	Sorbus domestica 'Crimson'	Standard (Half)	175-200	4.4	175-200	B
9	Sar	Sorbus domestica 'Crimson'	Standard (Half)	175-200	4.4	175-200	B

Proposed Native Tree & Shrub Mix (0.50/m²)

Nr	Code	Plant Name	Ht(m)	Cl(m)	Cl(Ht)(m)	Root
1	Ac	Acer campestre	65-80	B	10.00	B
2	Ch	Crataegus monogyna	45-60	B	10.00	B
3	Fr	Fraxinus excelsior	65-80	B	10.00	B
4	Op	Quercus petraea	65-80	B	10.00	B
5	Sal	Salix caprea	45-60	B	10.00	B
6	Sar	Sorbus domestica	65-80	B	10.00	B

Proposed Ornamental Fringe Planting (1.00/m²)

Nr	Code	Plant Name	Ht(m)	Cl(m)	Cl(Ht)(m)	Root
1	CsB	Cornus alba 'Sibirica'	60-80	C	3	15.67
2	CsB	Cornus alba 'Sibirica'	60-80	C	3	15.67
3	Ph	Philadelphus 'Reinhold Spleen'	45-60	C	3	16.65
4	Ph	Philadelphus 'Reinhold Spleen'	45-60	C	3	16.65
5	Vt	Viburnum frax	35-40	C	3	15.67

- Native Tree & Shrub Mix**
- 14Nr Sp
 - 14Nr Car
 - 14Nr Fr
 - 14Nr Ph
 - 14Nr Pp
 - 14Nr Rb
 - 14Nr Ss
 - 14Nr Sp
- Ornamental Fringe Planting**
- 15Nr CsB
 - 15Nr CsB
 - 15Nr Egm
 - 15Nr Ph
 - 15Nr Pp
 - 15Nr Rb
 - 15Nr Vt
- Note:** Move existing Brambles & Ferns into ornamental fringe planting according to plant numbers.

This drawing is the copyright of Poppelwell Associates and cannot be reproduced in any form without the express consent of the company. Written and sealed dimensions to be checked on all, any discrepancies reported prior to work commencing. If in doubt please ask.

12/00153

Planning Notes

Topsoil shall be a minimum of 400mm deep over planting beds and graded to fall. Imported topsoil must be BS3882:2007 compliant and existing topsoil must be cultivated in accordance with BS3882:2007. No cultivation should be undertaken within the planting area.

Planting: All planting shall conform to BS: 5338: 1992 and BS: 4254: 1988.

Trees: Standard trees to be planted in pits 600x600x600mm or dimensions of rootball, whichever is greater. Trees to be supported by the stake (1500mm long, per tree, 800mm above ground, 75mm diameter), cross bar (600x1000x50mm) and secured to the trunk with a spiral wire. All trees to be fitted with irrigation/bioretention systems to fully surround the rootball. Trees to be planted centrally within a tree pit.

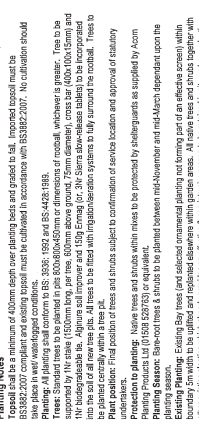
Shrubs: Standard shrubs to be planted in pits 300x300x300mm or dimensions of rootball, whichever is greater. Shrubs to be supported by the stake (1500mm long, per shrub, 800mm above ground, 75mm diameter), cross bar (600x1000x50mm) and secured to the trunk with a spiral wire. All shrubs to be fitted with irrigation/bioretention systems to fully surround the rootball. Shrubs to be planted centrally within a shrub pit.

Planting Season: Standard trees & shrubs subject to confirmation of service loads and approval of statutory undertakers.

Protection to planting: Native trees and shrubs within sites to be protected by sub-irrigation as supplied by Acorn Planting Systems. Sub-irrigation systems to be installed between mid-November and mid-March dependent upon the planting season.

Existing Planting: Existing trees (per customer ornamental planting not forming part of an existing screen) within the site to be retained and protected by sub-irrigation as supplied by Acorn Planting Systems. Existing shrubs (per customer ornamental planting not forming part of an existing screen) within the site to be retained and protected by sub-irrigation as supplied by Acorn Planting Systems.

Mulch: Supply & apply 75mm deep pulverised bark mulch over areas of new planting Proposed Ornamental Fringe & Native Tree & Shrub Mix.



LEEDS CITY COUNCIL

28 APR 2012

REVISED

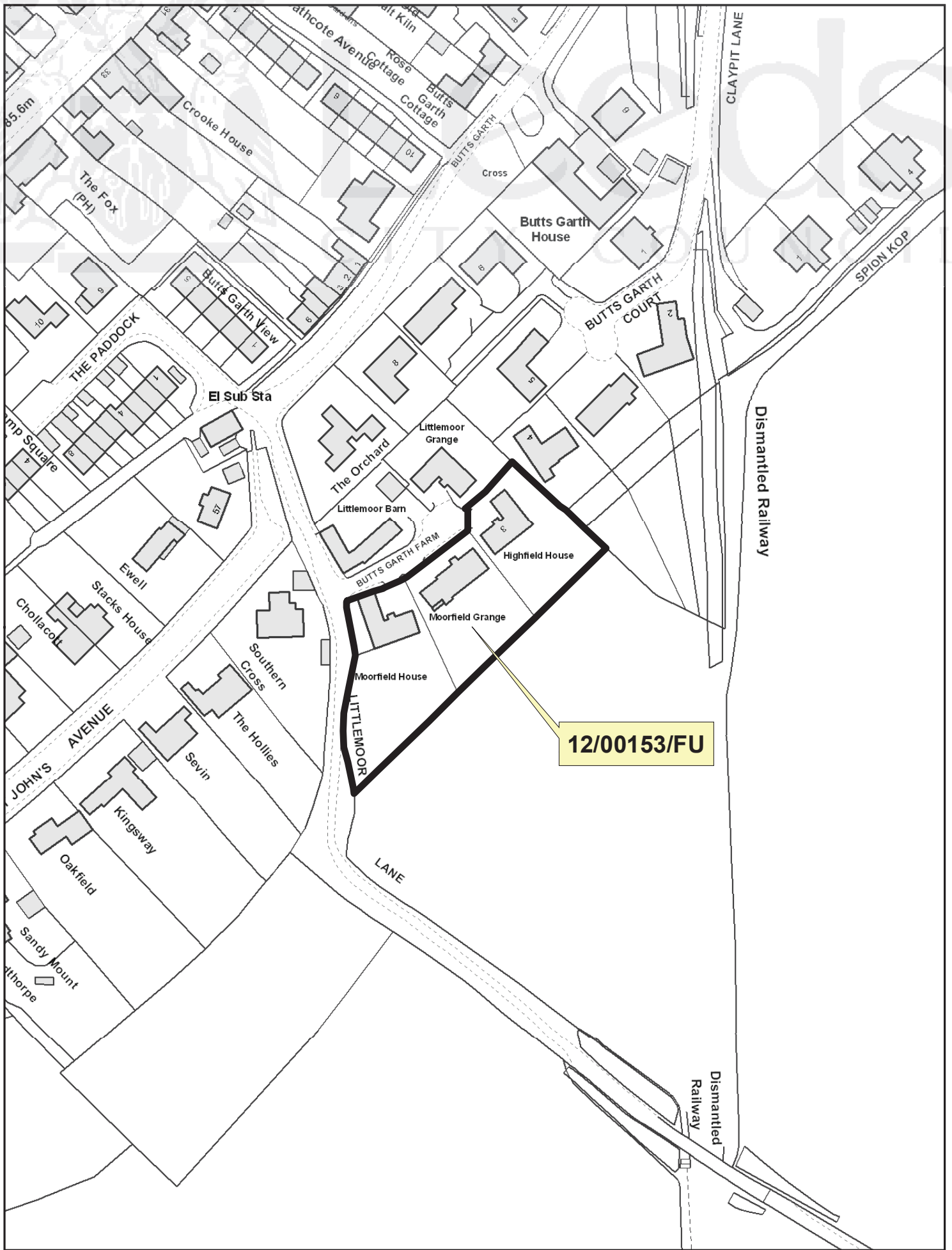
The changes shown on this plan do not need further public comment

Rev L: Note on much revised as requested by Client - 19Apr12 (MP/J)
 Rev C: Revised to comply with comments from Landscape Officer - 06Mar12 (MP/J)
 Rev B: Revised to comply with comments from Landscape Officer - 08Jan12 (MP/J)
 Rev G: Revised to Client comments - 01Oct11 (MP/J)
 Rev F: Revised to Client comments - 04Oct11 (MP/J)
 Rev D: Revised to Client comments - 20Jun11 (MP/J)
 Rev E: Revised to Client comments - 10Jun11 (MP/J)
 Rev A: Planting revised to reflect Local Authority requirements - 25Jun10 (MP/J)

Base: Poppelwell Associates drawing nr. 1253/1H, Landscape Proposals

PROJECT Littlemoor Lane, Thorne
TITLE Landscape Proposals: Southern Boundary
CLIENT The Land and Development Practice
DATE 13 Oct 09 **SCALE** 1:200 **SHEET A1**
DRAWN MP/J **DRAWING NO** 2125/1
CHECKED REVISION K

Poppelwell Associates
 Chartered Landscape Architects
 Environmental Consultants
 11a Carr, Rye, East Sussex
 TN30 3BA
 Telephone +44 (0)1304 794278
 Facsimile +44 (0)1304 785932
 Email info@poppelwell.co.uk
 Web www.poppelwell.co.uk



EAST PLANS PANEL

This page is intentionally left blank



Originator: Amanda Stone

Tel: 0113 2478000

Report of the Chief Planning Officer

PLANS PANEL (EAST)

Date: 17th May 2012

Subject: APPLICATION 12/01372/FU – Change of use and alterations to house to form 2 flats at 4 Belvedere Mount, Beeston, Leeds, LS11 7ED

APPLICANT
Mr Eric Foster

DATE VALID
26 March 2012

TARGET DATE
21 May 2012

Electoral Wards Affected:

City and Hunslet

Yes Ward Members consulted
(referred to in report)

Specific Implications For:

Equality and Diversity

Community Cohesion

Narrowing the Gap

RECOMMENDATION: GRANT PERMISSION subject to the specified conditions:

1. Commencement of development
2. Development to be carried out in accordance with the approved plans
3. Cycle/motorcycle parking details to be submitted for approval prior to occupation.
4. Sound insulation details to be submitted for approval.
5. Heat insulation details in roof space to be provided for approval.
6. Removal of grill on the ground floor front elevation window and a fire escape window fitted to building regulations standards.

Details of conditions to be deferred and delegated to officers.

Reasons for approval: The application is considered to comply with the relevant UDP policies H18, GP5, BD5 and T2 as well as guidance contained in National Planning Policy Framework (2012) and the (un-adopted) Core Strategy policy H6 (part C). In addition the application accords with the following Leeds City Council Supplementary Planning Guidance and Documents, SPG 6 – development of self contained flats, SPG13 – Neighbourhoods for living Residential Design Guide. Having regard to the above and all other material considerations, as such the application is recommended for approval.

The proposed flats are considered to afford an acceptable standard of accommodation for future occupants, subject to conditions and would pose no significant threat to the amenities of the occupants of neighbouring properties. No external alterations are proposed therefore the proposal does not harm the visual amenity of the area nor does it compromise highway safety.

With regard to the issue of the loss of a 'family house' it is considered that the proposed development satisfies the criteria of the relevant policies.

1.0 INTRODUCTION:

1.1 The application is brought to East Plans Panel at the request of local ward Members Councillor Nash and Councillor Iqbal. Councillor concerns relate to the loss of a 'family house' in an area which is considered to have an insufficient amount of 'family housing' in the City and Hunslet Ward. A Panel site visit is also requested for Panel Members to assess the impact of the development within the street.

2.0 PROPOSAL:

2.1 The application proposes the change of use and alterations of a mid terrace house to 2 self contained flats.

2.2 The proposed accommodation is as follows:

Flat 1 – ground floor self contained flat which will consist of a living/kitchen room (3.9m x 2.3m), a separated bedroom (2.6m x 3.6m) and bathroom (2.5m x 1.4m). The living/kitchen will be served by an existing window on the (front) south west side elevation of the property and the bedroom by an existing window at the rear.

Flat 2 – first floor self contained flat which will consist of kitchen (3.0m x 1.8m), bathroom (1.4m x 2.3m), living area (3.6m x 3.7m) and two bedrooms in the loft (each approx 3.0m x 3.6m in floor space). All rooms will be served by existing windows albeit the bathrooms.

2.3 No external alterations are proposed, internal alterations consist of:

- minor alterations to the layout at ground floor – blocking up of kitchen door and the construction of two partition walls, one to create an internal corridor which will provide access to the first floor flat from the existing rear entrance and the other to facilitate a bathroom in the existing kitchen. A new access will be introduced behind the stairs to gain access to the front bedroom.
- New kitchen installed in existing first floor bedroom.

Bin storage and cycle storage facilities are to be catered for at the rear within the existing yard.

3.0 SITE AND SURROUNDINGS:

3.1 The application site consists of a mid terrace, 4 bedroom property, which is located in the Hunslet area of Leeds. The site consists of a two storey red brick built property with pitched roof over which fronts onto the public footpath of Belvedere Mount, close to the junction Harlech Road. The property is served by a small hard surfaced yard at the rear which is bound by a low level brick wall.

3.2 The site lies in an established residential area of high density housing bordering Cross Flatts Park. Gated access to the park is provided at the end of the street. The site is level and its front faces southwest.

4.0 RELEVANT PLANNING HISTORY:

4.1 There is no relevant planning history for the site.

5.0 HISTORY OF NEGOTIATIONS

5.1 None

6.0 PUBLIC/LOCAL RESPONSE:

6.1 The application has been advertised by neighbour notification letters posted on 29 March 2012.

6.2 Ward Councillor Nash and Councillor Iqbal have objected to the application on grounds that the development would result in the loss of a family house in a ward which has a shortage of family housing accommodation.

6.3 No neighbour representations have been received in response to the development

7.0 CONSULTATION RESPONSES:

Statutory:

7.1 Highways: No objections raised, subject to condition for cycle provision details being submitted.

Non Statutory Consultations:

7.2 Neighbourhoods and Housing - The Environment Protection Officer advised that proposed change of a house into two flats should not result in a significant loss of amenity to nearby occupants.

7.3 Housing Regulation Team – Raised no adverse comments to the proposed development subject to conditions for details of sound insulation and the removal of a grill over the ground floor front window in order to facilitate a fire escape window.

In addition to the above conditions further conditions were also requested for the provision of heat insulation in the roof and the installation of central heating through out the property. However, the provision of such facilities are not deemed relevant planning considerations in this instance and are covered through other legislation.

8.0 PLANNING POLICIES:

8.1 As required by Section 38(6) of the Planning and Compulsory Purchase Act 2004 this application must be determined in accordance with the Development Plan, unless material considerations indicate otherwise.

8.2 The Local Development Framework will eventually replace the UDP but at the moment this is still undergoing production with the Core Strategy still being at the draft

stage. The development plan includes the Regional Spatial Strategy to 2026 (RSS) and the adopted Leeds Unitary Development Plan (Review 2006) (UDP) along with relevant supplementary planning guidance and documents. The Local Development Framework will eventually replace the UDP but at the moment this is still undergoing production with the Core Strategy still being at the draft stage.

8.3 The Publication Draft of the Core Strategy was issued for public consultation on 28th February 2012 with the consultation period closing on 12th April 2012. Following consideration of any representations received, the Council intends to submit the draft Core Strategy for examination. The Core Strategy sets out strategic level policies and vision to guide the delivery of development investment decisions and the overall future of the district. As the Core Strategy is in its pre submission stages only limited weight can be afforded to any relevant policies at this point in time.

8.4 Core Strategy

H6 (Part C): Development proposals for conversions of existing houses into flats.

8.5 Unitary Development Plan Review (adopted July 2006)

GP5: General planning considerations.

T2: Transport infrastructure.

BD5: General amenity issues.

H18 - Residential Properties – Houses in multiple occupation.

8.6 Leeds City Council Supplementary Planning Guidance/Documents

SPG 6 – development of self contained flats

SPG13 – Neighbourhoods for living Residential Design Guide

Street Design Guide SPD

8.7 Government Guidance

National Planning Policy Framework (NPPF) (March 2012)

9.0 **MAIN ISSUES**

9.1 The current application seeks approval for the change of use and alterations of a house to 2 self contained flats. The main issues, therefore, are:

- Principle of Development
- Level of Amenity Offered to Future Occupiers
- Impact posed to neighbouring residential amenity
- Visual Amenity
- Highway Safety

10.0 **APPRAISAL**

Principle

10.1 Policy H18 of the adopted Leeds UDP, policy H6 of Core Strategy (un-adopted) and SPG 6 state that the conversion of existing dwellings within residential areas will normally only be accepted if the following criteria is met.

- The dwelling is not a back-to-back
 - the proposal meets this criteria.
- The dwelling is of sufficient size (minimum 100m sq)
 - the proposal meets this criteria.

- Appropriate off and on-street parking is incorporated
 - The property lies within an area of low car ownership and it is considered that the parking demand for both the existing house and the proposed flats would be very similar, therefore a highway objection on the grounds of parking would be difficult to justify.
- The impact on neighbouring dwellings is not likely to be detrimental to the amenity of their occupants by virtue of the conversion alone or cumulatively with a concentration of converted dwellings, HMO's or residential institutions:
 - Advice received from the Environmental Protection Officer concluded that the proposal would result in no significant loss of amenity to nearby occupants.
 - Furthermore planning records indicate that there are no other properties within the street that have received planning permission for conversions to flats, the nearest property benefiting from planning permission for change of use is an end terrace property at 33 Belvedere Avenue for change of use into 3 one bedroom flats, approved on 29/04/2008. As such it is unlikely that the proposal would result in detriment to amenity from cumulative concentration of such converted dwellings at this time. Furthermore the site falls within the catchment area of Article 4 direction which prevents creation of HMO's without the prior approval of the local planning authority. This means a concentration of HMO's is unlikely without the benefit of planning permission.
- It is sufficiently accessible with appropriate off street parking and cycle facilities provided:
 - The site is situated in a sustainable location within an existing residential area close to a busy bus route; no off street parking facilities are provided, however, as discussed above, the property is situated in an area of low car ownership and given the modest nature of the development, highways officers have concluded that proposed development poses little threat to highway safety from on street parking. Cycle provision can be accommodated within the rear yard.
- Where there is a demand for family sized accommodation and the property has (or has the potential for provision of) good access to suitable space for private recreation, provision is normally made for at least one family sized unit in the proposed mixed use of flats:
 - The property has no meaningful usable private recreation provision therefore the loss of family sized accommodation on this basis would be hard to justify as a reason for refusal.
- The proposal provides satisfactory internal living accommodations in terms of daylight, outlook and juxtaposition of living rooms and bedrooms:
 - The Housing Regulations Officer has expressed no concerns in relation to the internal living accommodation proposed for future occupants, subject to conditions as discussed earlier in the report and as such it is concluded that proposed accommodation is acceptable;
- It provides safe and secure access:
 - The property remains unchanged albeit the access arrangements are proposed to serve two flats apposed to a single dwelling. The Housing regulation officer has raised no objection to the access arrangements, subject to the installation of a fire escape window on the front elevation of the property at ground floor and the removal of the existing grill.

As such the principle of conversion to flats is considered acceptable subject to an assessment against the following normal development management considerations.

Level of Amenity Offered to the Future Occupiers

- 10.2 The development is concerned with a four bedroom mid terraced property. The property abuts the pavement at the front and has a small rear yard. The site is located in area which is predominantly characterized by back-to-back and terraced properties which like the host property are afforded no off street parking provision and very little or no private outdoor amenity provision. This provision whilst public is catered for on Cross Flatts Park which borders the end of the street where gated access is provided for the residents. It is therefore considered that adequate provision of outdoor amenity is provided locally for the flats albeit public rather than private.
- 10.3 With regard to the juxtaposition of the rooms the first floor bathroom and kitchen are positioned directly over the ground floor kitchen and bathroom. Furthermore a sound insulation scheme the details of which have been conditioned for approval would further mitigate the threat posed to occupants amenity from noise.
- 10.4 Living areas, kitchens and bedrooms are to be served by existing windows therefore the level outlook and light remains as is. The size of the flats and rooms are also considered acceptable and meet housing legislation regulations.

Residential amenity

- 10.5 In considering the proposal it is also necessary to consider the impact on the amenity of neighbouring residents. The main impact on residents comes from noise and disturbance due to the juxtaposition of living areas and sleeping areas and also noise and disturbance that may be caused by comings and goings particularly by private vehicles.
- 10.6 When assessing the proposed internal alterations it is considered unlikely that proposal would create any significant additional harm than that of its existing use. The property is not to be extended therefore the amount of people likely to live in the property be it as 2 flats or as a house would be very similar and maybe even less than that of a family house, therefore it is unlikely that the proposal would pose a threat to residential amenity from the comings and goings of future occupants either on foot or by car.
- 10.7 With reference to the juxtaposition of the rooms the most noticeable change would be the introduction of a kitchen and lounge at first floor. Whilst it is acknowledge that there would be some increase in noise given the nature of the rooms apposed to bedrooms it is not considered that this increase would unduly compromise residents amenity in the adjoining properties.
- 10.8 On balance, it is therefore considered that the proposal for 2 self contained flats complies with policies GP5 and BD5 and with guidance in Supplementary Planning Guidance.

Visual amenity

- 10.9 The minor interior alterations will have no impact on the external appearance of the property and therefore the proposal poses no threat to the visual amenity of the area.

Highways/ Parking

10.10 No technical highway objections are raised to the proposal for the reasons set out at 10.1 above. As such it is considered acceptable in highway safety terms, subject to a condition for cycle facilities details being submitted and agreed. Bin storage is shown to be provided at the rear.

11.0 CONCLUSION

11.1 It is considered that the proposal provides a satisfactory level of accommodation and amenity for future occupiers, will not result in harm to highway safety and will not harm the amenities of local residents or the character or visual amenities of the area. As such the proposal is considered to comply with all the relevant policies and is recommended for approval, subject to conditions.

Background Papers:

Application file: 12/01372/FU

Certificate of ownership: signed by agent Mr Eyles

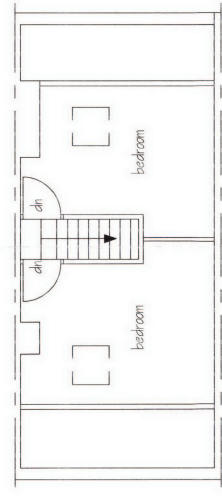
Note to contractor:
To ensure all functions on the Dr. Rd site
comply with the Building Regulations,
BS EN standards as appropriate and to meet Building
Control approvals. Services to comply with L8 water
regulations, current gas and electricity supply regulations.
All materials are to be new, unless otherwise described
in the contract documents and also in other
contract drawings and documents and also in
conjunction where relevant with Mechanical & Electrical
details and drawings.
All works are to be carried out in compliance with HASW
Act 1974 and all other Health and Safety legislation.



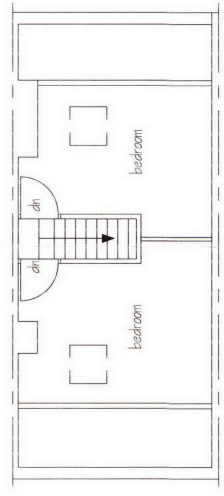
PLANNING DWG

A. WEYLES

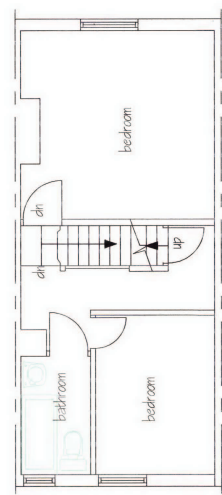
Table with project details: PROJECT COMPLETION, CLIENT, DRAWING NO., DATE, etc.



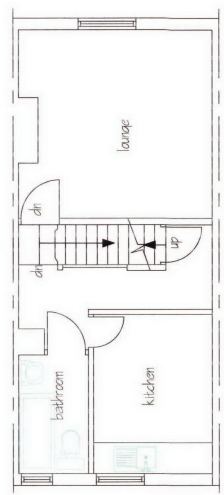
EXISTING SECOND FLOOR PLAN



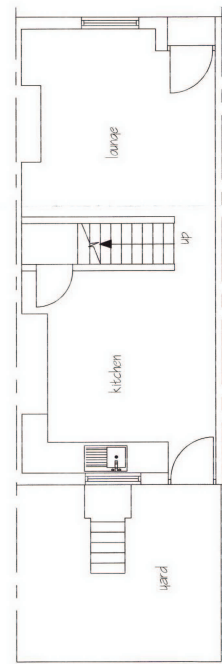
PROPOSED SECOND FLOOR PLAN



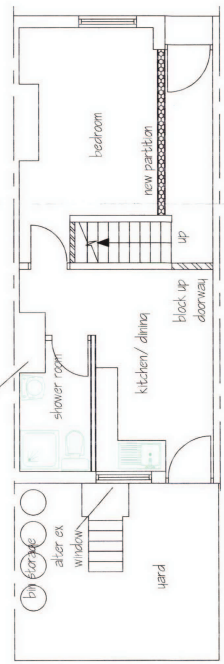
EXISTING FIRST FLOOR PLAN



PROPOSED FIRST FLOOR PLAN



EXISTING GROUND FLOOR PLAN



PROPOSED GROUND FLOOR PLAN

reduce chimney breast to accommodate shower room



12/01372/FU

EAST PLANS PANEL



This page is intentionally left blank



Originator:	Paul Wilson
Tel:	0113 247 8000

Report of the Chief Planning Officer

PLANS PANEL EAST

Date: 17th May 2012

Subject: Reserved Matters application 11/01713/RM – 120 houses, land South of Queen Street, Allerton Bywater, Leeds, WF10

APPLICANT	DATE VALID	TARGET DATE
Taylor Wimpey UK Ltd	27 April 2011	27 July 2011

<p>Electoral Wards Affected:</p> <p>Garforth and Swillington & Kippax and Methley</p> <p><input type="checkbox"/> Yes Ward Members (referred to in report)</p>

<p>Specific Implications For:</p> <p>Equality and Diversity <input type="checkbox"/></p> <p>Community Cohesion <input type="checkbox"/></p> <p>Narrowing the Gap <input type="checkbox"/></p>

RECOMMENDATION:

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

- 1. The payment of a contribution amounting to £30,000 for the construction and future maintenance of an off-site piped outfall from the site.**
- 2. Local employment and training initiatives.**
- 3. Offer of 28 affordable units (17 sub-market and 11 social rent). This equates to circa 25%.**
- 4. Start to be made on development within a specified period within 2012 and to give certainty over early delivery of houses.**

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.

1. Time Limit
2. Plans to be approved
3. Scheme for the enhancement of the existing vegetation along the eastern boundary of the site and its future maintenance
4. Details of the landscape of the site to include planting to support the protection, enhancement and management of the biodiversity of the site
5. Before development commences details of mine entry treatment works in relation to an existing mine shaft identified on the site shall be submitted

Details of conditions to be deferred and delegated to officers.

Reasons for approval: The application is considered to be satisfactory in terms of layout, appearance, scale and highways matters and to comply with UDPR policies SA1, GP5, GP7, CP11, N24, N38a, N38b, N39a, N49, N51, T2, T2C, T2D, T5, T7, T7A, T24, H11/H12/H13, R1, R2, BD5, LD1 as well as guidance contained in the NPPF and Manual for Streets. In addition the application accords with the following Leeds City Council Supplementary Planning Guidance and Documents SPG4, SPG3, SPG10, SPG11, SPG13, SPG22, SPG25, SPD Street Design Guide (adopted), SPD Public Transport Improvements and Developer Contributions (adopted), SPD Designing for Community Safety (adopted) SPD Travel Plans (draft) SPD Sustainability Assessments (draft). Having regard to the above and all other material considerations, as such the application is recommended for approval.

1.0 INTRODUCTION:

- 1.1 Consideration of this item is accompanied by a separate report as referred to in para. 1.7. The information contained within the separate report is confidential as it relates to the financial and business affairs of the applicant. It is considered that it is not in the public interest to disclose this information as it would be likely to prejudice the applicant's current negotiations. It is therefore considered the accompanying report should be treated as exempt under Schedule 12A Local Government Act 1972 and Access to Information Procedure Rule 10.4 (3).
- 1.2 This reserved matters application is reported to the Plans Panel because of the size of the proposed development and its potential impact on the character and visual amenities of the area. The principle of residential development at this site was established at appeal and this proposal only seeks approval for the layout of the houses, their scale, appearance and landscaping. This application is also now offering 28 affordable housing units (circa 25%) rather than the 30% detailed in the outline planning permission, granted on appeal, due to concerns regarding viability.
- 1.3 This application was reported to the Panel on 6th October 2011 as a position

statement when Members views on the application were sought. At that time the application proposed 120 dwellings and a large storage detention basin within the main greenspace area. The comments made by Members are summarised below:

- The detention basin should not form part of the greenspace.
- The layout is too intensive and the number of houses should be reduced. The development should meet the requirements set out in Neighbourhoods for Living. The affordable housing should be peppered throughout the development.
- The layout needs to be amended so the houses front Queen Street and the internal access road.
- No objection to a traditional approach for the housing design and the height of the dwellings.
- Planting is required to the boundary with the allotments.
- Ward members should be consulted on the choice of external materials and the scheme as a whole.
- Report the application back to Panel for determination.

Local employment and training clauses should be built into the Sec.106 Agreement and Members should be consulted in terms of what goes into the Sec.106 package.

1.4 In addition it was considered that the adjacent outline planning application on the Biffa and former coal bagging site should be returned to the same Panel meeting so both schemes could be considered at the same time to ensure a consistency of approach to the development of the wider area.

1.5 The applicant has responded to the comments made by Members in the following way:

- The detention basin has been omitted from the greenspace and replaced with an underground storage tank. The pumping station is also now underground. Only a small cabinet containing electrical equipment remains above ground.
- The number of houses has been reduced by six units, from 120 to 114. This reduction has allowed for a more spacious layout and garden sizes which now accord with Council guidance. Affordable housing has been peppered throughout the site.
- The layout has been amended around the junction of the main entrance to ensure all dwellings front Queen Street and the access road.
- A detailed method statement and future management scheme in relation to the treatment of the eastern boundary of the site has been provided.

1.6 In addition officers can respond as follows:

- Ward Members have been consulted regarding the contributions to be included in the Section 106 Agreement. These comprise of, further contributions to off site drainage works, the inclusion of clauses requiring reasonable endeavours to secure use of local employment and training initiatives, early delivery of units and a proposed reduction in the percentage of the number of houses to be affordable. Members comments are detailed in the Appraisal section of this report
- It is noted that Members had requested that this application and the outline application on the adjacent Biffa site should be reported back to the same panel meeting. However, work has not progressed as far on the Biffa site application and it is not currently in a position to be formally considered. Further consultations with Ward Members have taken place and the applicant is now undertaking a viability appraisal to establish what Section 106 contributions can be delivered. In the light of this, and the fact that a consistency of approach regarding the scheme's overall layout and design has been achieved through further revisions, officers consider that it would be unreasonable to hold the determination of this reserved matters application.

1.7 This report will be accompanied by a confidential report about viability which will be circulated to members prior to the meeting and an officer from Asset Management will be in attendance at the panel meeting to answer any Members questions.

2.0 PROPOSAL:

2.1 The application seeks the approval of reserved matters to an outline planning permission for residential development which was granted consent on appeal on 26th January 2011. The reserved matters relate to details in respect of layout, scale, appearance and landscaping (means of access was considered and approved as part of the outline application). The scheme now proposes a development of 114 dwellings with associated road infrastructure, parking, amenity space and landscaping. Vehicular access would be taken directly from Queen Street.

2.2 The application proposes a mix of two to five bedroom family dwellings of traditional design. The majority of the dwellings proposed are two storey. 26 dwellings are two and a half to three storey. The layout is traditional with private gardens adjoining private gardens. Greenspace is provided within the development to the south of the site and a flood storage tank and pumping station is provided below ground in this greenspace. There are footpath links from the development into the greenspace and the footpath and cycle network beyond. The dwellings adjoining the greenspace are orientated such that they overlook and provide natural surveillance to the greenspace. The majority of existing boundary vegetation is retained and where necessary supplemented with new planting.

2.3 The outline planning permission was granted subject to a S106 agreement which secured the following:

1. 30% of the housing to be provided as affordable units
2. a contribution to the provision of bus stops on Queen Street
3. an education contribution
4. a contribution to the provision of off site greenspace
5. the implementation and maintenance of footpaths/cycleways through the site
6. the provision and maintenance of the on-site public access areas
7. the provision and maintenance of a SUDS
8. a public transport improvements contribution
9. procurement of an agreement with Metro for the offer of single Metrocard for each occupier
10. Travel Plan monitoring contribution
11. Local High School Bicycle shelter contribution

2.4 All of the above contributions are to be retained as part of the current application with the exception of the percentage of affordable housing which is proposed to be reduced to just under 25% (28 units in this case). The Section 106 agreement will be varied to reflect the reduction in affordable housing and, in addition, will require a contribution of £30,000 to be provided in payment for off site works to secure a satisfactory surface water outfall for the site and the inclusion of a clause requiring the developer to use reasonable endeavours to recruit local labour. The Section 106 will also include a clause which requires an early commencement of development and delivery of houses on the site.

2.5 The Design and Access Statement identifies the development guidance (local and national) that was used to inform the design of the layout. It also explains the evolution of the design, its framework and the justification for the design.

2.6 The Reserved Matters and Conditions Submission Statement provide the details, which, as part of the reserved matters, seek to provide the pre-commencement information to discharge the outline conditions, so as to enable work to commence on site straight away..

3.0 SITE AND SURROUNDINGS:

3.1 The application site is located towards the western edge of the main Allerton Bywater settlement and is approximately 3 miles from Castleford (to the south) and some 10 miles from Leeds City Centre (to the west).

3.2 The site is confirmed as being agricultural (through the submission of an Agricultural Holding Certificate) and covers an area of approximately 4.2 ha. It comprises of a single field which appears to have been ploughed historically for arable crops but currently is grassed over and fallow.

3.3 The boundaries of the site are well defined for the most part by mature hedges and trees.

- 3.4 The topography of the site is relatively consistent with the land falling away from Queen Street in a north/south direction. The field is completely open with the exception of some power lines which cross the site on an angle in two separate places.
- 3.5 On the opposite side of Queen Street, which forms the northern boundary of the site, there is mostly older terraced housing and a woodland area (identified to be a 'Site of Ecological or Geological Interest (SEGI) within the UDP Review proposals map).
- 3.6 To the east is a strip of land used for allotment gardens and this runs the length of the site's boundary. The southern boundary abuts land within the green belt and which previously contained a railway line but which is now a public foot/cycle/bridleway running east to west. This area of land is to form part of the St Aiden's Country Park currently being established as part of the restoration requirements associated with a previous mineral extraction use concentrated to the west/southwest. Once this work is completed the ownership of the land will be transferred to the City Council and will be leased to the RSPB.
- 3.7 The western boundary of the site is divided into two main areas with the most southerly part abutting a coal bagging depot. The more northerly part (beyond a relatively narrow access road which serves the coal bagging depot) abuts a recently constructed residential development which replaced a previous industrial/storage use. An outline application for a residential development has been submitted for the coal bagging depot and adjacent Biffa site (to the west) under reference 09/04606/OT. This application remains undetermined.

4.0 RELEVANT PLANNING HISTORY:

Application site:

- 09/04353/OT – outline application for residential development granted on appeal 26/01/11
- PREAPP/11/00243 – pre-application enquiry in respect of a residential layout comprising of 120 units
- 11/01867/FU – detached electricity sub-station (to serve this residential development). Undetermined as pending the outcome of this application.

Adjacent sites:

- 33/392/01/FU – residential development of 24 houses on site adjacent to the bagging depot separated from application site by the access to bagging depot which runs along the west boundary of the site - granted 19/08/2003
- 08/03738/FU – residential development of 12 three-bedroom terraced

3 blocks on remainder of above site – refused and dismissed on appeal 16/09/2008

09/02870/FU – retrospective application for planning permission for residential

development of 6 semi-detached and 4 terraced houses on remainder of site ref: 33/392/01/FU – granted 27/01/2010

- 09/04606/OT - outline application for a residential development on adjacent coal bagging depot and Biffa site. On-going negotiations.

5.0 HISTORY OF NEGOTIATIONS:

- 5.1 Following the grant of outline planning permission on appeal, the applicant submitted a pre-application enquiry for the reserved matters submission. The indicative layout submitted as one of the reserved matters reflected the one that had been tabled at the Public Inquiry and which showed 120 dwellings.
- 5.2 During the course of the reserved matters application amendments to the layout were secured relating to landscaping, highways and design/amenity aspects.
- 5.3 Potential problems with drainage outfall for the site were also highlighted. These related to the prospect of three separate developments all discharging into a watercourse to the south of the site. This watercourse was both overgrown and of insufficient depth to accommodate the likely level of discharge with a potential to cause flooding in the near vicinity. The applicant has agreed to a Section 106 agreement providing a contribution of £30,000 for the construction of a new outfall sewer and future maintenance to overcome this problem.
- 5.4 Following consideration of the application via a position statement a number of further revisions have been made in response to the issues identified by Panel Members. The main changes are as detailed in paragraph 1.5 of the Introduction section of this report.
- 5.5 Further to these amendments to the scheme the applicant submitted a viability appraisal in support of a reduction of the affordable housing offered from 30% to 15%. This was due, the applicant stated, to the amendments resulting in increased costs to the developer.
- 5.6 Colleagues in Asset Management assessed the viability appraisal and challenged the amount of affordable housing offered. As a result the developer looked again at the viability of the scheme and increased the percentage of affordable housing offered to 21%. Asset Management again challenged the offer and the developer has now offered 25% affordable housing. This is further discussed under Contributions in the Appraisal section.

- 5.7 In the light of the revised affordable housing offer of 21% comments were sought from Ward Members and a meeting held with them to discuss this offer, the revised scheme and proposed materials. Members who attended the meeting indicated their support for 21% affordable housing, the layout and materials. Members also indicated that if a higher affordable housing offer could be negotiated they would support this.
- 5.8 Following the revised affordable housing offer of 25%, Ward Members have again been contacted and their views sought. The Ward Members who have responded have indicated their agreement to the revised offer.

6.0 PUBLIC/LOCAL RESPONSE:

- 6.1 The application has been advertised by site notices, posted 13th May 2011 and by individual neighbour letters dated 5th May 2011, to persons in the area who made representations in respect of the outline planning application. The application has also been advertised in a local newspaper, published 19th May 2010.
- 6.2 20 letters of objection have been received including one from the Great and Little Preston Parish Council.
- 6.3 Comments received are as follows:

COMMENTS FROM PARISH COUNCIL

1. Only one bus an hour and nearest train is 3.2 km away from site
2. Junior and Infant schools at both Allerton Bywater and Great Preston are full
3. Long waiting times to see doctors and nearest dentists are in Castleford or Garforth
4. A656 just been named as the highest risk road in Yorks and the Humber – 18 fatalities over a two year period and A642 also in list of dangerous roads
5. Development on agricultural land – this is the only open space between two communities – Hollinhurst and Bowers Row
6. Presence of mine shafts on site
7. Need for methane/CO2 membrane to new houses
8. Lots of other housing developments not selling
9. Biffa/Hargraves site may be developed

COMMENTS FROM OBJECTORS

1. Should develop brownfield sites ahead of greenfield sites
2. Use of Green Belt land should not be allowed
3. Queen Street is a busy and dangerous road where drivers often exceed the speed limit
4. Road has been narrowed in front of site which makes it difficult for large vehicles to pass parked vehicles. This will be exacerbated by new development with vehicles from that parking on street

5. Not good motorway access or public transport links
6. Disruption during building – noise, dirt, general inconvenience
7. Retain open land
8. Development will have a detrimental visual impact
9. Not enough Greenspace or gardens of sufficient size for children to play which means they play on the street which is dangerous
10. Loss of view
11. Schools in the area at capacity, difficult to get a place and strain on local doctor's surgery
12. Problems with electricity supply at present which will be exacerbated by the development and pylons which currently cross the site may have to be diverted across the nature reserve
13. There are drainage problems on adjacent housing sites with potential for flooding problems
14. Wildlife could be lost
15. Proximity of the development site to the local nature reserve
16. Job creation by the development of the site?
17. Open cast mining has taken place in the past and material from this is on site – this could affect stability of properties
18. Devaluation of property
19. Global food shortage likely so why build on arable land
20. Crime rates will increase

7.0 CONSULTATIONS RESPONSES:

7.1 Statutory:

Environment Agency – no objections

Coal Authority – no objection subject to condition requiring mine entry treatment works carried out before development commences on site

7.2 Non-statutory:

Yorkshire Water – no objections

Environmental Health – no objections subject to conditions specifying operating hours and no operations on Sundays or Bank Holidays

Architectural Liaison Officer – concerned about creation of a ginnel on eastern boundary which makes houses on boundary vulnerable. Are three footpath links to the south necessary

Highways – Initial comments: Proposal is acceptable in highway terms subject to revisions to the layout and parking provisions on certain plots. Revisions have been made which address this.

Flood Risk Management – Concern regarding outfall for surface water run off as watercourse proposed to accept flows is overgrown and not very deep.

Could result in flooding in near vicinity. Suggests new culvert instead of watercourse, to be designed and constructed by the Local Authority.

Access – No objections

Contamination – No objections subject to discharge of conditions on outline permission

Metro - discounted residential metro cards to be provided by developer

Parks and Countryside - Will not adopt the detention basin or pumping station as part of the Public Open Space and will not maintain such features but are happy to allow a private management company to maintain such facilities.

Revised comments in respect of deletion of on site detention basin: Will now adopt land above the underground storage tanks.

8.0 PLANNING POLICIES:

8.1 The development plan comprises the Regional Spatial Strategy to 2026 (RSS) and the adopted Leeds Unitary Development Plan (Review 2006). The RSS was issued in May 2008 and includes a broad development strategy for the region, setting out regional priorities in terms of location and scale of development. However, the RSS is a strategic planning document, used to inform more detailed policies at a local level, although it does contain a number of housing related policies as below:

8.2 Regional Spatial Strategy (adopted May 2008):

H4: Affordable housing.

YH4(b): Informs detailed design considerations

8.3 Government Guidance:

National Planning Policy Framework, March 2012

Manual for Streets

8.4 The Publication Draft of the Leeds Core Strategy was issued for public consultation on 28th February 2012 with the consultation period closing on 12th April 2012. Following consideration of any representations received, the Council intends to submit the draft Core Strategy for examination. The Core Strategy sets out strategic level policies and vision to guide the delivery of development investment decisions and the overall future of the district. As the Core Strategy is in its pre submission stages only limited weight can be afforded to any relevant policies at this point in time.

8.5 UDP Review (adopted July 2006):

SA1: Secure the highest possible quality of environment.

GP5: Development proposals should resolve detailed planning considerations

GP7: Use of planning obligations

BD5: New buildings designed in relation to their amenity and surroundings

CP11: Sustainable development.

N2: Greenspace hierarchy.
 N4: Provision of greenspace.
 N12: Development to respect fundamental priorities for urban design
 N13: Design of new buildings to be of high quality
 N23: Incidental open space provide a visually attractive setting for development
 N24: Development proposals abutting the Green Belt
 N25: Boundaries of sites designed in positive manner
 N38a: Prevention of flooding.
 N38b: Flood Risk Assessments.
 N39a: Sustainable drainage.
 N49: Habitat protection.
 N51: Habitat enhancement.
 T2: New development and highways considerations.
 T2D: Public transport contributions.
 T5: Safe access for pedestrians and cyclists.
 T7: Development and cycle routes.
 T7A: Requirement for secure cycle parking.
 T24: Parking provision in development proposals
 LD1: Landscape schemes.
 H11: Negotiate an appropriate proportion of affordable houses
 H12: Affordable housing negotiated on extent and nature of need in locality
 H13: Affordability of units maintained in perpetuity

8.5 **Leeds City Council: Supplementary Planning Guidance / Documents:**

SPG4 Greenspace relating to new housing development (adopted).
 SPG3 Affordable Housing (adopted) and Affordable Housing interim policy (applicable to all applications received after June 2011)
 SPG10 Sustainable Development Design Guide (adopted).
 SPG13 Neighbourhoods for Living (adopted).
 SPG22 Sustainable Urban Drainage (adopted).
 SPG25 Greening the Built Edge (adopted).
 SPD Street Design Guide (adopted).
 SPD Designing for Community Safety (adopted).
 SPD Sustainability Assessments (draft).

9.0 **MAIN ISSUES**

- Principle
- Layout
- Appearance
- Scale
- Access and Highways
- Landscaping
- Drainage
- Impact on infrastructure
- Contamination/Mining
- Contributions
- Other

10.0 APPRAISAL

Principle

- 10.1 This is a reserved matters application pursuant to the outline permission granted on appeal. As such, the principle of residential development is established but should be guided by the formal allocation wording as identified by UDP Review Policy H3-3A.20 which indicates the site is suitable for housing subject to:

Provision of linear greenspace along the route of the former mineral rail-line, immediately to the south of the site, to create a footpath link to Leeds Road and the Garforth to Allerton Bywater footpath/cycleway.

Layout

- 10.2 The layout shows a single point of access to the site which was agreed at appeal. This gives access to a hierarchy of roads and culs-de-sac with, in the main, 2 to 5 bed detached and semi-detached houses of conventional design facing onto these roads. All properties have private rear gardens where access is gained only from the front or side of the house. Thus there are no issues of security. All of the houses in the development, except for 3, are provided with two off street parking spaces. In respect of the three plots without two off-street parking spaces each one has one off-street space and two also share a visitor parking space.
- 10.3 On the main street frontage in general, as much of the existing vegetation as possible, is to be retained and some additional tree and under-planting provided, in recognition that some will be lost due to the requirement to provide a visibility splay. Houses on the street frontage will, therefore, be set back from the footway so that views will be filtered and softened by a combination of the retention of existing and proposed new planting. In the main this land on the frontage will be adopted by the Council as highway land and will subsequently all be maintained by the Council.
- 10.4 The layout has been amended around the junction of the main access with Queen Street, in response to Panel's feedback, to ensure all the dwellings address the main road frontage.
- 10.5 The proposed development will be served by an area of on site public open space located to the south and south west of the development. This accords with policy H3-3A.20 and has been designed in such a way that should the outline housing application on the adjacent site be approved and implemented it could link into this separate area of greenspace.
- 10.6 Within the proposed on site open space, the detention basin has now been omitted and replaced by an underground storage tank. Similarly the pumping station has been placed underground with only a small electrical cabinet above the ground. These alterations allow a much more usable area of open

space and the introduction of a gable window to the dwelling adjacent to this part of the open space enhances the natural surveillance in this area.

- 10.7 The use of underground tanks reflects the same approach to drainage as agreed for the Biffa site adjacent and one which officers in Parks and Countryside are willing to adopt should the developer not appoint a private management company to maintain and manage the public greenspace above.
- 10.8 Neighbourhoods for Living provides guidance that private garden sizes should be no less than 2/3 of the total gross floor area of the dwelling. In the layout, previously reported to Members, several plots did not accord with this guidance. The reduction in the number of dwellings now proposed on the site has afforded scope for this issue to be addressed. All plots now have a private amenity area that is considered to be acceptable.

Appearance

- 10.9 Although the application site is located on the edge of the existing settlement it includes new, old and a wide variety of house types from which to draw design inspiration.
- 10.10 Of particular relevance, however, is the Queens Court development to the west which comprises of detached two storey houses of brick construction and in a traditional design. The red brick traditional terraced properties opposite are also important.
- 10.11 On the street frontage of this particular development it is proposed to use two different types of red brick with grey tiled roofs. This will sit satisfactorily with the materials used in the Queens Court development and the existing church and terraces opposite. A traditional design is also considered to be appropriate, bearing in mind this context. Ongoing discussions regarding the potential development of the Biffa site beyond follows these same basic design principles to ensure consistency across all three sites. Elsewhere within the site, in addition to the red bricks, there will also be a buff brick and some render used in order to provide some variety and greater interest. As the traditional design approach is carried through and the use of render and buff bricks can clearly be found within the wider area the overall appearance of the dwellings is considered acceptable.

Scale

- 10.12 The layout provides a mix of house types which are mainly two storey. Some, however, are three storey or include rooms within the roof served by dormers (26 in total). Where they are this high they are located well into the development. This mix of house types and sizes (ranging from 2 to 5 beds), it is considered, provides an overall scale of development that is satisfactory and will present a balanced street frontage and relationship with existing buildings in the area.

Access and Highways

- 10.13 Means of access was approved as part of the outline planning permission. It is, therefore, not a reserved matter and is not for consideration as part of this application. The design does, however, involve the widening of the highway on Queen Street to accommodate a ghost island turning facility from Queen Street into the site.
- 10.17 Comments from the Parish Council refer to the impact they consider the development will have on the wider local road network, particularly in respect of roads in the area considered to be dangerous or high risk.
- 10.18 In this connection it is acknowledged that the highway safety issues on the roads highlighted by the Parish Council is a serious matter. However the impact of this development on the local highway has already been considered through the outline application which allowed up to 120 dwellings. The current reserved matters application falls well within this upper limit.
- 10.19 In terms of the internal layout adequate off street parking is provided

Landscaping

- 10.20 In the main, the boundaries of the site are well established with mature vegetation. These existing features will be retained in full along the eastern and western boundaries, and in certain areas supplemented with additional planting. Amendments to the layout have also been made to ensure new residents' living conditions are not compromised in the longer term through their continued retention.
- 10.21 With respect to the northern boundary fronting Queen Street as much of the existing vegetation as possible, is to be retained and some additional tree and under-planting provided, in recognition that some will be lost due to the requirement to provide a visibility splay. Houses on the street frontage will, therefore, be set back from the footway so that views will be filtered and softened by a combination of the retention of existing and proposed new planting
- 10.22 Improvements to planting adjacent to the open space to the south of the site has also been provided and this proposed planting has incorporated comments from the Nature Conservation Officer regarding the species to be used.
- 10.23 When the application was previously considered as a position statement Members expressed the desire to ensure the existing vegetation along the eastern boundary (with the allotments) be retained. Particularly as it will form the rear boundary to the gardens of certain dwellings. Whilst it is accepted that the existing boundary is rather scrappy and would not be appropriate or indeed secure as a garden boundary in its present form, the existing vegetation is very mature and robust so can be retained. The applicant has, therefore, provided in relation to this boundary, details of works to the hedge

which includes a method statement and a future management scheme. In the main the method to be employed is that the existing hedges and trees will be faced up and gaps in between these existing trees/hedges be planted with appropriate species. In front of the new hedge line will be placed a low fence for protection whilst the new planting becomes established. Once established the low fencing can be removed. To ensure this approach is successful, the works will be carried out in the first phase of development with all protective fencing retained thereafter. These works are noted to offer visual amenity and bio-diversity improvements as well as avoiding the possibility of the creation of alleyways about which the Architectural Liaison Officer had expressed concern.

Drainage

- 10.24 The outline planning application included a Flood Risk Assessment and an indicative drainage scheme for the site. The scheme indicated that surface water drainage would be discharged to a watercourse adjacent to the south western corner of the site and this general approach was accepted by the Environment Agency, Yorkshire Water and the Council's Flood Risk Management Team.
- 10.25 Having now been presented with a detailed scheme and supporting information the Council's Flood Risk Management section considers that this watercourse does not constitute a 'proper outfall' for the surface water run off discharge from the new development. This is because the ditch is very shallow, completely overgrown, and, it is considered, does not drain. There have also been incidents of flooding and blockages in the ditch and records indicate that this ditch has no proper connectivity to downstream watercourses that go to the River Aire.
- 10.26 For information this point of discharge is the same as proposed by the adjacent Biffa site to the west and for the recently completed Queens Court development.
- 10.27 In the light of the above the Flood Risk Management Section is willing to construct a piped outfall from the lower western end of the ditch that will connect to the existing large 1.0m diameter culvert that runs down the west side of the Biffa site heading south to the river. The cost of the construction of this outfall, including future maintenance is £30,000. The applicant has agreed to enter into a Section 106 Agreement, supplemental to the Agreement attached to the outline planning permission, to pay for the piped outfall.

Impact on infrastructure

- 10.28 In respect of schools being at capacity, the outline planning permission requires a contribution for primary school facilities through the Section 106 Agreement attached to that permission. The contribution is based on a per unit calculation which is still applicable today. For information only the current layout would achieve a contribution of £338,844.

- 10.29 The lack of a doctors surgery within the village is not sufficient reason to refuse planning permission and was raised as an issue during the outline application and its subsequent appeal. The Inspector did not consider the issue to be a problem and indeed, increased demand for doctor's facilities in the village may make it a more commercially viable proposition for a GP practice to establish.
- 10.30 In respect of the problems with the electricity supply, a new sub-station is proposed by the developer. A separate application for the sub-station has been submitted but is yet undetermined pending the outcome of this application. The proposed sub-station is to be located at the north east corner of the site on the frontage of the site onto Queen Street and adjacent to the allotment gardens. It will be networked and, therefore, will serve the wider area as well as the proposed residential scheme. It will replace the existing pole mounted transformer once the overhead line diversion has been completed. The existing pylons on the site will be put underground.

Contamination/Mining

- 10.31 Gas protection measures in the form of a gas membrane are to be provided to all dwellings and a condition requiring mine entry treatment works to be carried out before development commences on site is recommended. The site has not been identified as being contaminated.

Contributions

- 10.32 The applicant has agreed to enter into a Section 106 Agreement, supplemental to the agreement attached to the outline planning permission, to pay £30,000 for the provision of a piped outfall from the site and future maintenance costs.
- 10.33 In addition, in relation to the request from Panel Members for the developer to use local labour, the applicant is keen to utilise the services of both local businesses and contractors to facilitate the development of this site. Consequently, the developer has agreed to enter into a Section 106 Agreement supplemental to the agreement attached to the outline permission, to secure that from the start of the tendering process for the construction of the Development and throughout the period when the Development is under construction to use (or seek to procure that its building contractor uses) reasonable endeavours to co-operate and work closely with Employment Leeds to develop an Employment and Training scheme to promote opportunities for Local People.
- 10.34 The contributions and matters secured through the Section 106 Agreement attached to the outline planning permission provided for:
1. 30% of the housing to be provided as affordable units
 2. a contribution to the provision of bus stops on Queen Street
 3. an education contribution
 4. a contribution to the provision of off site greenspace

5. the implementation and maintenance of footpaths/cycleways through the site
6. the provision and maintenance of the on-site public access areas
7. the provision and maintenance of a SUDS
8. a public transport improvements contribution
9. procurement of an agreement with Metro for the offer of single Metrocard for each occupier
10. Travel Plan monitoring contribution
11. Local High School Bicycle shelter contribution

10.35 In respect of affordable housing, the applicant has commented that the outline application was submitted in October 2009 and whereas build costs have continued to rise in the intervening period, property prices, in the part of Leeds where the development is proposed, have not. This places pressure on development margins.

10.36 In addition the reduction in the number of units from 120 dwellings to 114 dwellings clearly impacts upon income as overheads are distributed over a lesser number of dwellings. Similarly the addition of the sub-surface storage tank has increased the construction cost by a further £350,000 and the additional requirement for off-site drainage works is an additional cost. These increased costs are such that the applicant considers it is not viable to continue to deliver 30% affordable housing and reduced the offer to 15%.

10.37 In support of these contentions, the applicant has submitted a viability appraisal which indicates that the development would only be viable if the percentage of the total number of dwellings on the site to be offered as affordable be reduced.

10.38 Colleagues in Asset Management assessed the viability and as a result, challenged the viability appraisal submitted which led to the developer revising their offer to 21%.

10.39 A meeting to discuss the offer and further information took place and officers further challenged the level offered, although officers were aware of the fallback position of the applicant outlined below.

10.40 The applicant has a fall back position where they could withdraw the current reserved matters application and submit an application for full planning permission for the same scheme but only providing 15% affordable housing in line with the interim policy, and officers could only recommend that planning permission be granted for such an application.

10.41 At the meeting referred to in para 10.39 above officers indicated to the applicant that whilst they were aware of the fall back position, on the basis of the advice from Asset Management, they couldn't recommend 21% affordable housing to Members. As a result of these discussions the applicant increased their offer to 25% but maintained their view that the scheme was only just viable.

- 10.42 The applicant has requested that, as part of the increase in the affordable housing offer, the ratio of sub-market and social rented houses be amended from the normal 50/50 split to 60/40. This amendment is requested because a sub-market unit costs the developer less to provide than a social rented unit even when the same house type is involved. As such, 17 sub-market units (15 x 3 bed and 2 x 2 bed) and 11 social rented (8 x 3 bed and 3 x 2 bed) would be provided. 28 units in all.
- 10.43 The amendment to the sub-market/social rented split can be supported and consequently this will achieve 25% affordable housing on the site. Officers consider that this revised offer can be supported.
- 10.44 Ward Members have been advised of the revised offer (25%) and those that have responded (Councillors McKenna and Dobson) have indicated their agreement to the revised offer.

Other

- 10.45 Devaluation of property and global food shortage are not material considerations.
No causal link has been established between a new development and an increase in crime

11.0 CONCLUSION

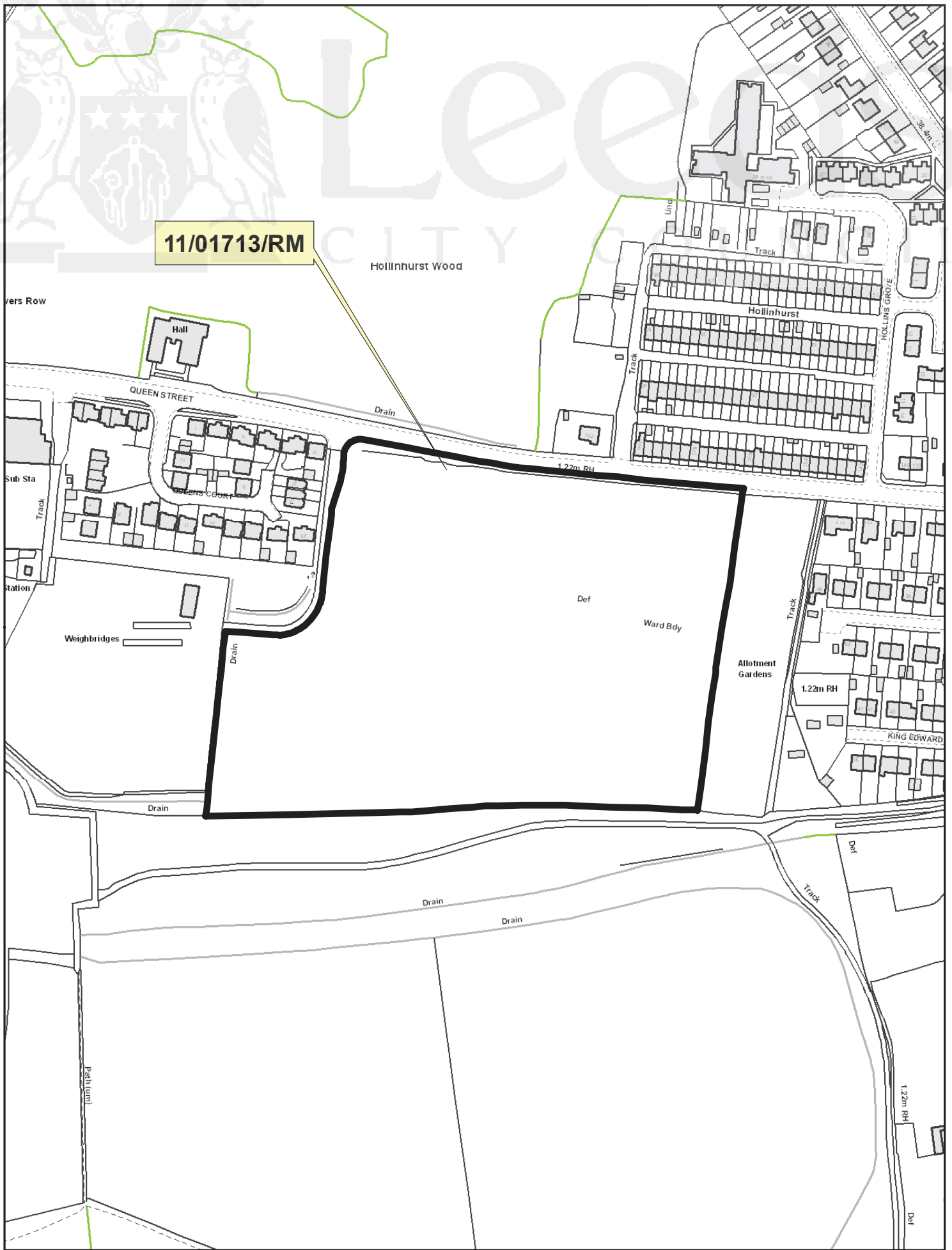
- 11.1 The application has been amended to accord with the comments made by Members at the meeting of the Panel in October 2011. The revised scheme now accords with the requirements of national and local policy and guidance and is considered acceptable in the form submitted.
- 11.2 The revised scheme is considered to deliver much needed housing, including Affordable Housing. The scheme is considered to provide a satisfactory access to Queens Street as well as deliver access improvements through the proposed footway / cycleway, as well as works to the local highway network and bus stops. The proposed dwellings are of traditional design and are considered to be satisfactory and to reflect the mix of dwellings and materials in the local area. The relationship of the frontage buildings marries well with that of the recently constructed Queens Court development adjacent. The retention of existing trees and hedgerow and new planting, particularly on the site frontage softens the appearance of the development in the street scene and on other boundaries. The reduction in the number of dwellings allows greater scope for a balanced, more spacious layout which offers a reasonable level of amenity to future occupiers and the revised garden sizes are considered to be acceptable.
- 11.3 The viability appraisal submitted in respect of the revised scheme has been assessed and it is considered that, bearing in mind the fall back position of the applicant which would only require provision of 15% affordable housing, the current offer of 25% affordable housing with an amendment to the sub-market/social rented split can be supported.

11.4 In light of the above, the proposed application is now considered to be acceptable and it is recommended that Members resolve to defer and delegate approval to the Chief Planning Officer, subject to the conditions specified and the completion of a legal agreement within 3 months from the date of the resolution.

12.0 Background Papers:

12.1 Application and history files.

12.2 Certificate of ownership



11/01713/RM

EAST PLANS PANEL



This page is intentionally left blank



Originator: Michael Howitt

Tel: 0113 247 8000

Report of the Chief Planning Officer

PLANS PANEL EAST

Date: 17th May 2012

Subject: APPLICATION 11/03697/FU – Re-building of fire damaged Church and change of use to form 18 flats, two pairs of semi detached houses, associated landscaping and car parking, and APPLICATION 11/03713/LI – Listed Building application for re-building of fire damaged Church and alterations to form 18 flats all at St Marys Congregational Church, Commercial Street, Morley, Leeds LS27 8HY.

APPLICANT

Sandmile (Gibraltar) Ltd

DATE VALID

19th September 2011

TARGET DATE

19th December 2011

Electoral Wards Affected:

Morley South

Yes

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. Standard full time limit.
2. Development in accordance with approved plans
3. External walling and roofing materials to be submitted.
4. Sample of stone walling to be approved
5. Details of stone heads and sills
6. Details of timber windows
7. Submission of further viability statement prior to commencement of development and details of a scheme to deliver affordable housing and/or greenspace if appropriate
8. Details of cycle parking
9. Site to be laid out, drained, surfaced and sealed.
10. Landscape management plan
11. Submission and implementation of landscaping details.
12. Protection of existing trees.
13. Preservation of retained trees.
14. Method statement for the carrying out of works

15. Scheme of archaeological recording

Reason for approval: The principle of residential development is considered to be acceptable as the site is situated in a highly sustainable location. The layout and scale of the proposal is appropriate in regard to its surroundings, raises no issues of detrimental harm to visual or residential amenity and no issues harm to highways safety and as a consequence will provide a long term future for a Listed Building and one of the landmark buildings of Morley. As such, the applications are considered to comply with policies GP5, BD5, H4, N12, N13, N15, N17, N19 and T2 of the UDP Review, as well as guidance contained within the National Planning Policy Framework, and having regard to all other material considerations, the applications are recommended for approval

RECOMMENDATION:

GRANT LISTED BUILDING CONSENT subject to the following conditions:

1. Standard time limit

Reason for approval: The demolition of the existing building which has a negative impact on the character and appearance of the Conservation Area is considered fully acceptable having regard to UDP saved policies and national guidance in NPPF.

1.0 INTRODUCTION:

- 1.1 This application is brought to Plans Panel (East) due to sensitivity regarding concerns over the alterations to a Listed and landmark building and to the surrounding graveyard, as well as the non-provision of affordable housing provision, greenspace contributions and the need for enabling development within the grounds of that listed building.
- 1.2 The key issue in this case relates to the benefits that arise from the restoration, rebuilding and conversion of a fire damaged listed church that has to be balanced against the fact that the scheme does not deliver affordable or greenspace.

2.0 PROPOSAL:

- 2.1 11/043697/FU. The proposal is for the rebuilding of a fire damaged church and for its change of use to form 18 flats, and for the construction of two pairs of semi-detached houses, along with landscaping to the graveyard and also the provision of car parking to the flats.
- 2.2 11/03714/LI. The proposal is a Listed Building application for the relevant works that are needed to carry out the rebuilding and change of use of proposal 11/04397/FU to the Listed Church and surroundings.
- 2.2 The proposal is to rebuild and change the use of a former church that has severely fire damaged. It is intended to retain the shell of the church in terms of the remaining stone walls and clock tower that still remain. To this it is proposed to introduce a new roof that will maintain the original eaves and ridge lines of the church but will inset balconies into the roof to enable the formation of flats within the roof space
- 2.3 Traditional materials for walling and roofing are proposed with the use of stone for the walls and slate for the roof. Windows are proposed to be timber and will try to retain, where possible, the forms of the originals. The balconies will be glazed with polished steel to provide a contemporary feel to the traditional nature of the slate roof.
- 2.4 There will also be four new build properties to the Troy Road elevation of the site. These two will be built in traditional materials of stone and slate to compliment the setting of the listed Building and also the Conservation Area.

2.5 To the rear of the site there will be a parking area that is accessed from Troy Road but provides the parking for the flats in the church. There will be a footpath across the graveyard to the flats. Pedestrian access will be maintained from the existing access at Commercial Street

3.0 SITE AND SURROUNDINGS:

3.1 The site was a large stone built Victorian church that was one of Morley's two 'principal landmark sites' (the other being Morley Town Hall), with 'key views' towards it from most directions.

3.2 It is located within Character Area No. 1 of the conservation area – 'the commercial and civic core of Morley' as suggested by the Conservation Area Appraisal. The site consisted of a listed redundant church and monuments, which are 'Buildings at Risk' and is a 'site of historic importance'. Within the grounds of the church are a significant number of groups of C17 and C18 grave memorials' and also the Listed Scatchard Mausoleum.

3.3 The church was located in large grounds that have a large number of trees and provides a key greenspace to the area. The streetscene on the SW boundary (Commercial Street, North) is 'an area of special sense of place' that 'shares the civic pride of the town hall and is dominated by large classically detailed stone civic and religious buildings'.

3.4 The boundary along Troy Road has a high stone wall. Towards the junction of Commercial Street and Troy Road there are two recent blocks of apartments that abut the site.

3.5 However in June 2010, a serious fire caused massive damage to the church, effectively destroying the internals of the building and leaving a badly damaged shell.

3.6 The site is located on the edge of the Designated S2 Town Centre and located within the Morley Town Centre Conservation Area.

4.0 RELEVANT PLANNING HISTORY:

4.1 10/01908/FU - Change of use, involving alterations and addition of new mezzanine floors to vacant church, to form restaurant and 9 hotel suites and erect 3 storey detached block of 30 hotel rooms, with relocation of gravestones, new car parking and landscaping. Refused 18.07.2011.

4.2 10/01909/LI - Listed Building Application for alterations and addition of new mezzanine floors to vacant church, to form restaurant and 9 hotel suites and erect 3 storey detached block of 30 hotel rooms, with relocation of gravestones, new car parking and landscaping. Refused 22.11.2011.

4.3 10/00443/FU - Change of use, involving alterations and addition of new mezzanine floors to vacant church, to form restaurant and 9 hotels suites and erect 3 storey detached block of 30 hotel rooms, with removal/relocation of gravestones, new car parking and landscaping. Withdrawn 27.04.2010

4.4 10/00442/LI - Listed Building Application for alterations and addition of new mezzanine floors to vacant church, to form restaurant and 9 hotels suites and erect 3 storey detached block of 30 hotel rooms, with removal/relocation of gravestones, new car parking and landscaping. Withdrawn 27.04.2010

5.0 HISTORY OF NEGOTIATIONS:

- 5.1 There is a long history of negotiations associated with this site commencing with preliminary discussions discussing the conversion of the church to a single dwellinghouse.
- 5.2 The first direct dealings with the current agents for the site concerned the proposal of changing the use of the church to an hotel along with some new build to create more rooms to that hotel. Several meetings were held following the submission of the application, along with public meetings held at Morley Town Hall to discuss and present the proposals.
- 5.3 Whilst the applications for this proposal were under consideration, a serious fire caused massive damage to the Listed Building and ultimately the application that was before the Council could not be implemented. As a direct result of the applicant was requested to withdraw the applications but the applicant preferred for them to be determined and subsequently they were refused.
- 5.4 Meetings were held to discuss the future possibilities for the now severely damaged building and following several meetings, the current proposal was agreed as the only viable way forward.
- 5.5 Prior to the submission of the current applications, the application was presented to the public and subsequently to Morley Town Council in June 2011 where the application was, in general, favourably accepted by most and consequently the proposal was submitted as a formal application on 19 September 2011.

6.0 CONSULTATION RESPONSES:

Statutory Consultations:

- 6.1 English Heritage – Minor design issues, otherwise acceptable.

Non Statutory Consultations:

- 6.2 The following consultations have been carried out:
- West Yorkshire Archaeological Service – No objection subject to conditions.
 - Victorian Society – Strongly support the application.
 - Sustainable Development Unit (Conservation Team) – support to the scheme subject to conditions.
 - Sustainable Development Unit (Landscape Team) – Support the scheme subject to conditions

7.0 PUBLIC/LOCAL RESPONSE:

- 7.1 The application was advertised by site notice on 30 September 2011 and by newspaper advertisement on 12 October 2011. 4 letters of objection have been received and one letter of general comment from Ward Councillor Neil Dawson. The objections are on the following grounds.
- The development is underprovided in terms of off street parking and on street parking is likely to occur given the long distance from the car
 - The highway infrastructure will be unable to cope with the increased amount of traffic
 - The development is not sympathetic and out of context with the surrounding area.
 - The development will exacerbate existing water and sewer problems.
 - The development will harm local wildlife
 - Morley already has enough flats and surrounding properties are currently empty
 - There is the risk of damage of graves from the carrying out of the development.
 - There will be a change in the appearance of the area in that the graveyard will now be lit
 - The new build will have a large visual impact on the streetscene.

- There will be disturbance on the properties opposite from car headlights.
- 7.2 Morley Town Council – Support the principle of the development but some minor detail issues.

8.0 PLANNING POLICIES:

- 8.1 As required by Section 38(6) of the Planning and Compulsory Purchase Act 2004 this application must be determined in accordance with the Development Plan, unless material considerations indicate otherwise.
- 8.2 The development plan includes the Regional Spatial Strategy to 2026 (RSS) and the adopted Leeds Unitary Development Plan (Review 2006) (UDP) along with relevant supplementary planning guidance and documents. The Local Development Framework will eventually replace the UDP but at the moment this is still undergoing production with the Core Strategy still being at the draft stage. The RSS was issued in May 2008 and includes a broad development strategy for the region, setting out regional priorities in terms of location and scale of development including housing.
- 8.3 The Publication Draft of the Core Strategy was issued for public consultation on 28th February 2012 with the consultation period closing on 12th April 2012. Following consideration of any representations received, the Council intends to submit the draft Core Strategy for examination. The Core Strategy sets out strategic level policies and vision to guide the delivery of development investment decisions and the overall future of the district. As the Core Strategy is in its pre submission stages only limited weight can be afforded to any relevant policies at this point in time.
- 8.4 The following policies from the UDP are relevant:
- Policy GP5 seeks to ensure that development proposals resolve detailed planning considerations, including amenity.
 - Policy BD5 seeks to ensure that all new buildings should be designed with consideration to both their own amenity and that of their surroundings.
 - Policy H4 provides guidelines for residential development on sites not identified for this purpose in the UDP.
 - Policy N12 seeks to ensure that development should respect fundamental priorities for urban design.
 - Policy N13 seeks to ensure that the design of new buildings should be of high quality and have regard to the character and appearance of their surroundings.
 - Policy N15 allows for the change of use of Listed Buildings whilst protecting their attributes
 - Policy N17 seeks to ensure that the detailing and features which contribute to the character of listed buildings are preserved.
 - Policy N19 ensures that all new buildings preserve and enhance the character of Conservation Areas.
 - Policy T2 ensures that development proposals should not create new, or exacerbate existing, highway problems.

Supplementary Guidance:

- Neighbourhoods for Living (SPG)
- Street Design Guide

National Policy/Guidance:

- National Planning Policy Framework (NPPF) (March 2012)
Section 4 – Promoting sustainable transport
Section 6 – Delivering a wide choice of high quality homes
Section 7 – Requiring good design

Section 11 – Conserving and enhancing the natural environment.
Section 12 – Conserving and enhancing the historic environment.
Manual for Streets.

9.0 MAIN ISSUES:

- The principle of the change of use of the building to residential use.
- Listed building considerations
- The need for enabling development
- Design and character and appearance of the proposal in the context of the Conservation Area.
- Access and highways safety considerations.
- Impact on residential amenity
- Trees and landscaping
- Private Amenity Space
- Greenspace and affordable housing

10.0 APPRAISAL:

The principle of the change of use of the building to residential use and of new build houses within the curtilage.

- 10.1 The site is located adjacent to the defined S2 Morley Town Centre with the boundary passing the front of the site. As a result, it is located within walking distance of all the services provided by such centres (shops, libraries, doctors etc) as well as public transport links that are less than 300 metres from the site. This means that the site is located within a highly sustainable location that is compatible with nearby uses and Policy S3 of the UDP encourages residential uses within town centres, to maintain life and vitality to those centres. As a result, it is considered that the principle of residential conversion of the church is acceptable in this location. The new build is also considered acceptable as it is located on a brownfield site that would accord with the housing policies of the UDP as well as benefiting from all of the sustainable aspects mentioned above.

Listed Building Considerations

- 10.2 As already stated, the church itself, whilst in a poor state of repair, remains a Grade II Listed Building and furthermore, listed in there own right are both the Scatchard Mausoleum and several of the headstones within the graveyard. As a consequence this has had a significant bearing on the evolution of this application. It was considered that one important factor in the rebuilding of the church was to retain the sense of the original roof line. As a consequence of this, the design has been amended to allow for the original eaves level to be retained and enable the integrity of the Listed Building to be retained. Additionally, the initial plans intended for some of the stone walls to be replaced by rendered panels that were considered to harm the integrity of the Listed Building. It was therefore requested that the rendered elements be removed and the stone retained. The proposal has been amended accordingly and the conservation officer is now content that this element is now acceptable. Other changes have been made to original submission to ensure that window details are now acceptable in terms of both design and also details of how, due to the heights of the windows in many cases, floors and walls are treated at their junction. Materials are to be traditional in that stone, slate and timber are to be used in the main. Further details will be required with regard to how such a scheme will physically be built given that the site is surrounded by other Listed Buildings and gravestones as well as a large number of protected trees. Consequently conditions to deal with construction methods, storage areas and location of areas to be protected will be attached to ensure the safe protection of these listed buildings.

The need for enabling development

- 10.3 The proposal alongside the rebuilding and change of use of the Listed church proposes the building of four new properties on Greenfield land within the curtilage of a Listed Building. It is the applicant's contention that without this part of the development, the scheme would be financially unviable. The applicant considers that the requirement of this new build as enabling development would secure the future conservation of an heritage asset. There would be no policy objections or development management concerns, as stated above, to such a development should the application have been simply for this new build as a stand alone application. Nevertheless, the development should still be considered as enabling the renovation of the Listed Building. Within the application, evidence has been provided to show the financial viability of the scheme.
- 10.4 The applicant's viability statement has projected that the proposed development will generate a sales revenue of £2,803,000. The appraisal has calculated that the build costs will be in the order of £2,783,500. The cost of the land acquisition has been discounted from the appraisal (i.e. land cost has been assumed to be nil). As such the estimated residual developers profit is calculated at £19,500. Obviously the projected profit is small and reflects a cautious approach that has been adopted by the applicant in assessing the viability. Accordingly the degree of profit will be subject to variation depending on how the projected costs and revenues compare with the actual costs and revenues that exist at the time of undertaking the development. The applicant has set out that despite the limited profit this scheme represents an acceptable risk to them. At the present time the site is a liability for the applicant. This scheme represents an opportunity to realize at least some financial return for the applicant. Due to the constraints that exist at the site (the listed church and graveyard and protected trees) there is only a limited scope to achieve a development that is acceptable in planning terms that generates a reasonable profit.
- 10.5 Colleagues in Asset Management are assessing the submitted viability statement and any further comments will be reported verbally at Panel.
- 10.6 In light of the circumstances of this case it is recommended that a condition be attached to any grant of planning permission to require a further viability statement to be submitted prior to the commencement of development so that the ability of the scheme to generate affordable housing or a greenspace can be re-assessed under the market conditions that exist at that time.

Design and character and appearance of the proposal in the context of the Conservation Area

- 10.7 The re-building and alterations to the church have been discussed at 10.2 above but to summarise, the revised proposal now retains nearly all of the remaining stone shell that still stands after the fire, it retains the previous roof lines in terms of ridge and eaves height whilst allowing the alteration of the roof to allow the insertion of the balconies to form the upper rooms. When converting a Listed Building, there will always be elements of compromise, but it is essential to retain the special character of the listed buildings and Morley Town Centre Conservation Area. Resisting further demolition of the shell by requesting revised proposals removing the rendered insets, and by requiring altered window details that now give balanced elevations as well as many other minor alterations has led to a revised proposal that now achieves the aims of national and local policy and now provides an acceptable proposal.
- 10.8 As with all proposals of this nature it will be necessary to condition many elements of the proposal to ensure that the conversion is done in the manner that would protect both the previous historical and archeological past of the church and also the integrity of the Listed building in the future. As a result, conditions will be attached requesting assessment of the current remains and their possible retention, including details of how this will be undertaken and how it will be maintained in the future, along with details about items such as the clockface, rainwater goods, cleaning of masonry will be achieved.

- 10.9 With regard to the new build element, the buildings are of a scale that is appropriate within the streetscene and they are proposed to be stone with a slate roof. The style is similar to that of surrounding buildings in terms of fenestration details and those window details are to include stone lintels and sills. The properties will sit close to the road as is the way of the traditional terracing in the area and parking will be separately provided to each of the four properties
- 10.10 The traditional design and use of appropriate natural materials of the new build as well as the sympathetic alterations to the listed building mean that it is now considered that the proposal will both preserve and enhance both the special character and appearance of the Morley Town Conservation Area and also of the Listed Building.

Access and highway safety considerations

- 10.11 Consultation with the highways Authority has shown that visibility onto Troy Road is acceptable subject to a condition to ensure that it is achieved and maintained. The level of parking is considered to be satisfactory with regard to the houses but not up to guidance standards with regard to the flats which may lead to off street parking on Zoar Street. However the Highways Authority is satisfied that a contribution from the developer to fund additional on street parking restrictions adjacent to the junction in order would ensure that parking from the development does not become an issue. Subject to conditions with regard to bin storage and cycle storage it is considered that there are no issues raised by this application and it is acceptable in terms of highway safety.

Impact on Residential Amenity

- 10.12 The site only properties that are likely to incur any impact on their residential amenity are the properties on Troy Road. In terms of distances, the proposal is in accordance with guidance given in 'Neighbourhoods For Living' and therefore there should be no issues of overlooking and overshadowing. There is a driveway opposite the property at No 21 Troy Road but this driveway is for one property and not the main access to the car park as was the case in the previous application and therefore there will be no significant impact on that property. Furthermore, although the graveyard will have to be lit, it will be low level lighting that should have little impact on the surrounding properties. As a result, it is considered that there will be no detrimental harm created from overlooking by the proposal.

Trees and Landscaping

- 10.13 The Sustainable Landscape Unit (Landscape) are supportive of the principle of the proposed scheme to bring this Listed Church building back into active use. However, there are concerns at the extent of tree removal currently being proposed. As a result, it is considered that any tree removal needs to be considered and agreed as part of an approved detailed landscape scheme with the retention of more of the existing trees in order to provide continuity and maturity to new development. Additionally, the phased removal of existing trees could be considered as part of longer-term landscape proposals, allowing new tree planting to be established prior to the further removal of existing trees. It is therefore considered that the application be recommended for approval in terms of landscaping, but notwithstanding of the external works scheme as currently submitted. Instead, a detailed consideration of the external works for this site should be provided, secured by condition and landscape proposals should seek to address visual amenity for the wider area as well as for proposed end users. They should also seek to enhance the biodiversity value of the site through the introduction of more variety of suitable plant species, including trees.

Private amenity space

10.14 The area required for outside private amenity space for flats as suggested by guidance given in SPG 'Neighbourhoods For Living' is 25% of the gross floor area of the proposal. Whilst there is a large amount of land surrounding the church, it is of course a graveyard and therefore its useability must be called into question, and whilst some of the area would lend itself to private amenity space, it is considered that the development is underprovided in terms of the guidance. However, the unique nature of this proposal, along with the limited options available to this site in terms of alternative uses and the fact that the site is within close walking distance to nearby facilities at Scatterd Park means that it is considered that the proposal should be considered acceptable in these terms.

Greenspace and Affordable Housing

10.15 The nature of the proposal for 18 flats and four houses means that it triggers a requirement for both a greenspace contribution and also for affordable housing provision. Given the comments made 10.3 to 10.6 above, the proposal is considered to be viable only with the enabling development of four new build houses. It would therefore be obvious that providing either or both of these provisions would render the proposal undeliverable. It is for this reason that the applicant requests that the LPA forgoes its requirement to these provisions to enable the development to proceed. Ward members have been appraised of this wish and they have given their support to such a suggestion.

11.0 CONCLUSION:

11.1 On balance, it is considered that subject to appropriate conditions as discussed above, the proposal is acceptable. In recommending that planning permission and listed building consent is granted significant weight is attached to the benefits that arise from the restoration and the bringing of the listed building back into a long term beneficial use. The benefits of the scheme are considered to be so significant in this instance so as to outweigh the policy requirements for affordable housing and greenspace. Nevertheless it is recommended that a condition be attached to the planning permission that requires the viability of the scheme to be re-assessed prior to the commencement of development. In this way the ability of the scheme to deliver such obligations can be re-assessed against the economic circumstances that prevail at the time of the commencement of development. It is therefore recommended that the applications be approved.

Background Papers:

Application files 11/03697/FU and 11/03713/LI

Certificate of ownership:

As applicant

SEE DWGS 02/21 & 22 FOR FURTHER DETAILS REGARDING SURFACE TREATMENT

N 111/03697



REVISIONS
This design is copyright ©

MR G. BUTTERWORTH
REFURB & DEVELOPMENT
OF ST MARYS CHURCH
MORLEY, LEEDS

PROPOSED SITE &
RETAINED TREE PLAN

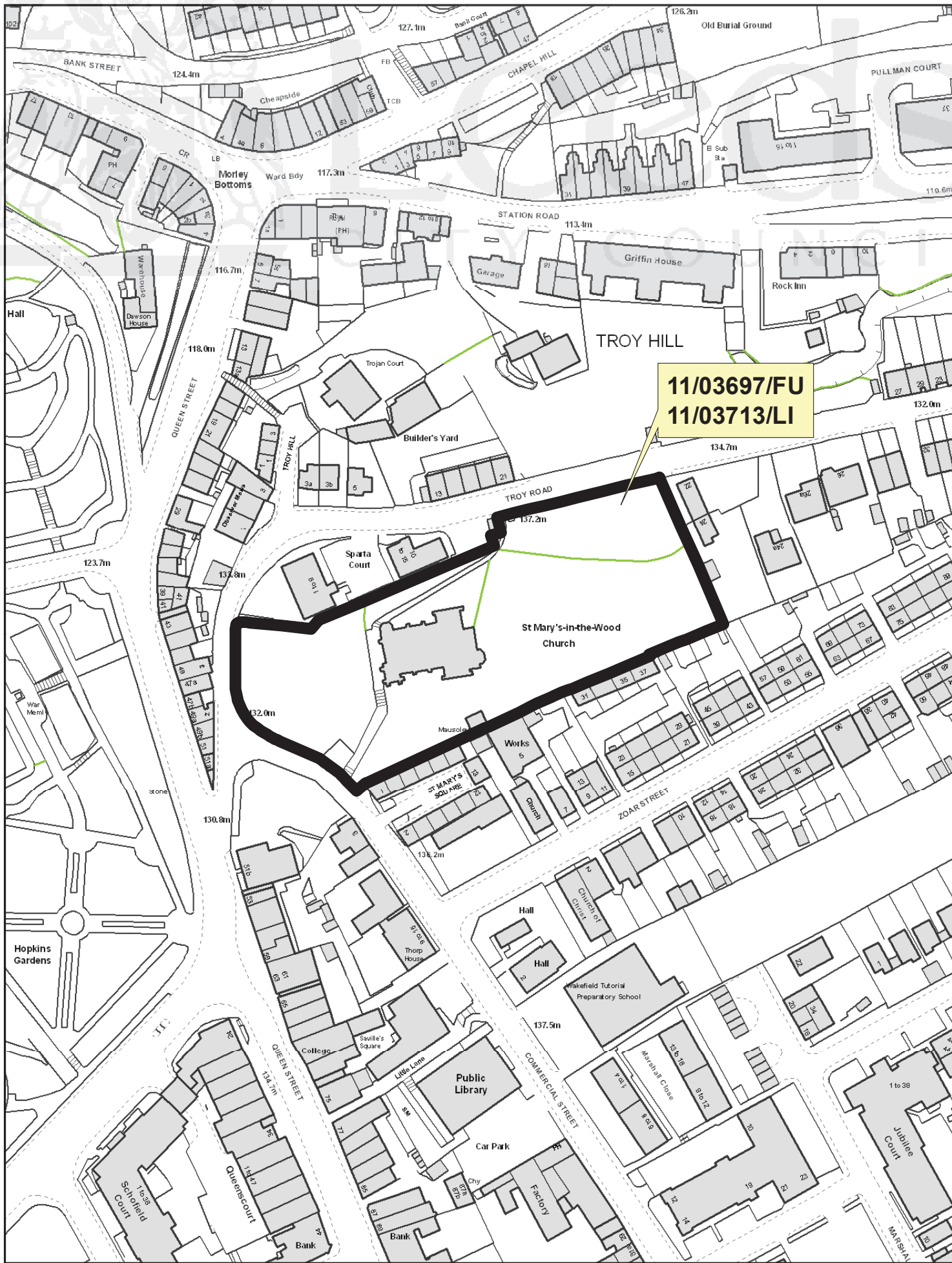
Drawn: MB Scale: 1:500 @ A3
Date: 15/03/10 Checked: CA

brewsterbye architects
5 NORTH HILL ROAD
HARRINGLEY
LEEDS
LS8 2EN
Telephone: 0113 254200
Fax: 0113 254205
www.brewsterbye.co.uk

Dwg No: 366/01(02)020 #



0.8m



EAST PLANS PANEL

This page is intentionally left blank



Originator: Paul Wilson

Tel: 0113 247 8000

Report of the Chief Planning Officer

PLANS PANEL EAST

Date: 17TH May 2012

Subject: APPLICATION 12/01422/FU – Erection of 86 houses at Unit 12, Temple Point, Austhorpe

APPLICANT

Strata Homes Ltd and
Checkhire Ltd

DATE VALID

23 June 2011

TARGET DATE

22 September 2011

Electoral Wards Affected:

Temple Newsam
Garforth & Swillington

Yes

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 the completion of a legal agreement which will include the following obligations ;

- Contribution of £1,482,700 in total to provide full 15% affordable housing contribution (5 social rented and 8 sub market houses on site) , full primary and secondary education commuted sums (totalling £409,700) , the toucan crossing on Stile Hill Way (£40,000 contribution), and travel plan monitoring fee of £2,500 (sums to be index linked).
- Local employment and training initiatives during construction
- Long term management plan for on site open space
- Start to be made on development on site in 2012 to give certainty over early delivery of houses

In the circumstances where the Section 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.

1. Time limit for permission
2. Development carried out in accordance to approved plans
3. External materials as specified
4. Submission of a Travel Plan
5. Protection of existing trees
6. Preservation of existing trees
7. Submission and implementation of landscape details
8. Landscape management plan
9. Submission of surface water drainage scheme
10. Protection of grassland area to south during construction
11. Protection of wildlife habitats
12. Protection of watercourses
13. Protection of wild birds during breeding season
14. Boundary treatment, walls and fences (including acoustic fencing) to be as specified
15. Specified plots to have permitted development rights removed
16. Driveways/parking bays and garages to remain available for use
17. Contamination conditions (multiple)

Full details of conditions and any subsequent amendments delegated to the Chief Planning Officer

Reasons for approval: The application is considered to comply with policies SA1, SA3,N49, N51, T2, T2C, T2D, T5, T7A, T24, H1, H2, H4, BD5 and LD1 of the UDP Review, as well as supplementary planning guidance. In particular the principle of housing on this site is considered acceptable given the planning history. Whilst the planning benefits of the site do not deliver the full requirements in accordance with Council policy and supplementary guidance it is recognised that the viability in bringing forward this site is marginal and that sufficient benefits are now being brought forward to enable a sustainable development to be delivered in the short term. The decision is therefore made on balance and having weighed the development plan and all other material considerations including guidance in the National Planning Policy Framework.

1.0 INTRODUCTION:

- 1.1 The application is reported to the Plans Panel as it constitutes a significant development that raises important planning issues regarding viability in the present economic climate if the scheme is to go ahead.
- 1.4 Members will recall that an application for the same scheme was refused by Plans Panel East at the February Panel because Members considered the Section 106 offer of £749,000, then on the table, fell far short of the required policy compliant position of £1.74 million. However, at that meeting Members were of the opinion that the proposed housing scheme itself was satisfactory and could be supported. The only issue related to the level of the Section 106 contributions being offered.

- 1.4 Subsequent to the Panel meeting a meeting was held with the applicant and site owners to discuss the position. As a result a substantially improved offer of £1,482,700 has now been proposed which reflects the priorities identified by Ward members as being important.
- 1.5 The areas identified as priority by Ward Members were the full 15% affordable housing, primary and secondary education contributions and the provision of a toucan crossing on Stile Hill Way.
- 1.6 Prior to the revised application being submitted soundings were taken with Ward Members, the Executive Member responsible for affordable housing and the Chair of the Panel regarding the revised package being offered. Since the revised application has been submitted members of both Temple Newsam and Garforth & Swillington wards have been updated and offered briefing sessions (the site includes land in both wards).
- 1.7 The revised planning application submitted includes the same layout and house types which members have previously considered and were content with but with a revised Section 106 package which will meet fully the priorities identified by Ward members as being the most important i.e 15% affordable housing on site, full primary and secondary education contributions and a toucan crossing on Stile Hill Way. The revised application is therefore supported by officers and recommended for approval.

2.0 PROPOSAL:

- 2.1 The application seeks permission for the erection of 86 houses with associated open space on land previously granted planning permission for an office park
- 2.2 The scheme seeks to provide family housing with the majority of units (80 in total) being either two and a half or three storey 3, 4 and 5 bedroom houses with a traditional external appearance. The remaining units comprise of 5, two storey 2 bedroom houses and 1 flat built over a block of garages.
- 2.3 The houses are to be constructed in red or cream facing bricks, with some dwellings also having an element of ivory render at ground floor. The flat over garages unit is to be wholly finished in ivory render. Grey or red roof tiles are proposed throughout.
- 2.4 Access to the site is from Bullerthorpe Lane, via the existing road network that serves the surrounding office park. Two entrances serve the site and provide an internal loop serving cul-de-sacs at either end. Parking is provided via a combination of garages, driveways and designated parking bays.
- 2.5 An area of public greenspace is provided to the southern part of the site, adjacent to the flood storage/balancing pond which serves the remainder of the office park. The drainage strategy for the current application is to connect into the existing balancing pond.

3.0 SITE AND SURROUNDINGS:

- 3.1 The application site lies close to Colton Village and Colton Retail Park but is on the edge of the urban area between the existing office park and the slip road from the motorway.
- 3.2 Specifically it is bounded to the west by the carriageway of Finch Drive and the office buildings which it serves. Bullerthorpe Lane is further west. An office building is directly to the north and the slip road which serves junction 46 of the M1 is to the east. Agricultural fields are to the south.
- 3.3 The site is served by two stub access points from Finch Drive and it slopes gently from north to south. It has been cleared of all landscape features many years ago in preparation of further office development although it now appears relatively overgrown due to the passage of time.
- 3.4 To the south (but still within the application site boundary) is an area of open land which includes a balancing pond and new planting. This part of the site lies within the Green Belt and has some mature trees on it.

4.0 RELEVANT PLANNING HISTORY:

- 4.1 The following planning history is relevant to the consideration of this application:

32/195/99/OT	Outline application for office park - Approved 20/12/01.
32/188/02/RM	Laying out of access road, site leveling and landscaping to proposed business park - Approved 15/11/02
08/03752/FU	Laying out of access and erection of 3 storey office block with 28 parking spaces and landscaping. Refused 18/09/08 – Appeal subsequently dismissed in May 2009.
11/02402/FU	Full application for the erection of 86 dwellings with associated open space – Refused 23/02/12

- 4.2 The Temple Point office development on site was given outline approval under 32/195/99/OT and detailed approval under application 32/140/05/RM

5.0 PUBLIC/LOCAL RESPONSE:

- 5.1 The application has been advertised by site notices, posted 13th April 2012, the date when this publicity expires is 4th May 2012. The application has also been advertised as a departure from the Adopted Development Plan in The Leeds Weekly News, published 19th April 2012. The date when this publicity expires is 10th May 2012.
- 5.2 3 letters of representation has been received in respect of this proposal.

5.3 The comments received related to the development increasing traffic on Stile Hill Way and using Colton Lane East as a cut through, that Colton Primary School is at capacity and the Secondary Schools are near breaking point. In addition concern is expressed about the availability of doctor appointments at the doctor's surgery.

6.0 CONSULTATIONS RESPONSES:

Statutory:

6.1 Environment Agency – Previous comments made approximately 9 months ago in respect of application refused, with benefit of Flood Risk Assessment, raised no objections subject to conditions.

Non-statutory:

6.2 Environmental Health - no objections subject to conditions

6.3 Policy – Support for principle of this development

6.4 Highways – No objections subject to conditions

6.5 Nature Conservation – No objections subject to retention of existing landscape features within southern part of the site and need to avoid wild birds during the breeding season. Conditions recommended

6.6 Drainage – No objection as the existing infrastructure has been designed to serve the entire office park allocation. Conditions recommended.

6.7 Access – No objections subject to path width and gradient and provision of disabled crossings

6.8 Contamination – No objection subject to conditions

6.9 Metro - discounted residential metro cards should be provided by developer and bus stop improvement required

7.0 PLANNING POLICIES:

7.1 The Development Plan includes the Regional Spatial Strategy to 2026 (RSS) and the adopted Leeds Unitary Development Plan (Review 2006) (UDP) along with relevant supplementary planning guidance and documents. The Local Development Framework will eventually replace the UDP. The Core Strategy has been published and had a 6 week period of consultation recently following its consideration at Executive Board on February 10th. The RSS was issued in May 2008 and includes a broad development strategy for the region, setting out regional priorities in terms of location and scale of development including housing.

- 7.2 Regional Spatial Strategy (adopted May 2008):**
 H4: Affordable housing.
 YH4: Focus development on Regional Cities
 YH4(b): Informs detailed design considerations
 E2: Centres of regional cities should be the focus for offices
- 7.3 UDP Review (adopted July 2006):**
 SA1: Secure the highest possible quality of environment.
 SA3: Adequate provision for housing needs.
 E4: Allocated Employment site
 E7: Except for residential development and uses ancillary to employment, applications for uses outside B use classes not permitted on allocated sites
 E18: Key business park sites reserved for B1 use
 GP5: General planning considerations.
 GP7: Use of planning obligations.
 GP11: Sustainable development principles.
 N2: Greenspace hierarchy.
 N4: Provision of greenspace.
 N24: Development proposals abutting the Green Belt
 N38a: Prevention of flooding.
 N38b: Flood Risk Assessments.
 N39a: Sustainable drainage.
 N49: Habitat protection.
 N51: Habitat enhancement.
 T2: New development and highways considerations.
 T2C: New development and Travel Plans.
 T2D: Public transport contributions.
 T5: Safe access for pedestrians and cyclists.
 T7A: Requirement for secure cycle parking.
 T24: Car parking provision.
 H1: Provision for completion of the annual average housing requirement identified in the RSS.
 H2: Monitoring of annual completions for dwellings.
 H4: Residential development on non allocated sites
 BD5: General amenity issues.
 LD1: Landscape schemes.
- 7.4 Leeds City Council: Supplementary Planning Guidance/ Documents:**
 SPG4 Greenspace relating to new housing development (adopted).
 SPG3 Affordable Housing (adopted) and Affordable Housing interim policy (applicable to all applications determined after 1st June 2011)
 SPG10 Sustainable Development Design Guide (adopted).
 SPG11 Section 106 Contributions for School Provision (adopted).
 SPG13 Neighbourhoods for Living (adopted).
 SPG22 Sustainable Urban Drainage (adopted).
 SPG25 Greening the Built Edge (adopted).
 SPD Street Design Guide (adopted).
 SPD Public Transport Improvements and Developer Contributions (adopted).
 SPD Designing for Community Safety (adopted).

SPD Travel Plans (draft).
SPD Sustainability Assessments (draft).

7.5 **Government Guidance:**

National Planning Policy Framework – March 2012 – includes a presumption in favour of sustainable development. In the Ministerial foreword Rt Hon Greg Clark MP states that “the planning system is about helping to make sustainable development and positive growth happen “. Para 173 states that pursuing sustainable development requires careful attention to viability and costs in decision taking. To ensure viability the costs of requirements should be considered and should provide competitive returns to a willing land owner and willing developer to enable the development to be deliverable.

Manual for Streets

8.0 **MAIN ISSUES**

- Principle
- Site Layout
- Amenity
- Highways
- Access
- Public Open Space
- Sustainable Design and Construction
- Travel Wise
- Contributions

10.0 **APPRAISAL**

Principle

10.1 The application site is allocated within the Leeds UDPR as an employment site under policies E4 and E18. As such, the Council’s preferred use for the site is for employment purposes.

10.2 Policy E18 identifies specific employment sites allocated under Policy E4 as Key Business Park sites which are reserved for B1 use, (in this case, for prestige office development). However subsequent to the adoption of the UDP, NPPF (previously PPS4) requires that office developments are subject to a sequential test with, in the first instance, such developments being located within City or Town Centre locations, then edge of centre and only if no such sites can be identified, on out of centre sites. This is clearly an out of centre site and other sites in city centre or edge of centre are available to accommodate such an office park development. As such, the use of this site for office development can no longer be supported. This position was clarified in 2008/2009 with the refusal and subsequent dismissal of an appeal for an office scheme on this site referred to in the history section above.

There is at least a ten year availability of office sites within the surrounding area (which in this case includes the City Centre due to the motorway access as well as Thorpe Park on the opposite of Selby Road), so there is now no

requirement for the site to be retained as a Key Business Park site under Policy E18.

- 10.3 The proposed use needs to be assessed against the requirements of Policy E7. This policy sets out four criteria that development, including residential development, that are outside the Class B uses, must meet to be able to be supported in planning terms.
- 10.4 The criteria are set out below with a commentary against each one:

i) The site is not reserved for specific types of employment use under Policies E8 and E18;

The site is allocated under E18 as a key business park for prestige office use. However, as discussed above the change in the national policy stance to require the sequential approach for office uses means that this site no longer needs to be retained as a Key Business Park site. Policy E8 does not refer to this particular site and as such is not considered relevant.

ii) Sufficient alternative employment sites exist district wide, readily available in terms of quality and quantity so as to not prejudice the achievement of the employment land strategy through Policies E1 and E2;

Policy E1 seeks to make sufficient land available for the retention of existing firms and the growth of new economic sectors. Policy E2 seek to identify adequate employment land to maintain a balanced portfolio of sites in the district. The majority of the employment allocation at Bullerthorpe Lane has already been developed for offices. Within Leeds there is more than adequate employment land already available for the employment uses envisaged for the site. There is a considerable supply of employment premises on the market.

Whilst the site could, in theory, be developed for B1 light industrial uses or B1 research and development, the UDP does not envisage this. Market demand for these uses on the site is currently very weak, as evidenced by the increased amount of floorspace on the market compared with previous years.

iii) Within the locality there are sufficient alternative employment sites available in terms of quality and quantity so as not to prejudice opportunities for local employment uses;

As mentioned in (ii), the majority of the original allocation has already been developed for offices. To the north of the site, on the opposite side of the A63 is Thorpe Park, one of the largest business parks in the region. The Council's October 2009 property market report indicates that there was over 117,000 sq ft of office floorspace available at Thorpe Park with a further 1,200,000 sq ft permitted. In addition, there

was over 240,000 sq ft of industrial floorspace available in East Leeds with a further 77,500 sq ft proposed.

iv) The proposal would not result in environmental, amenity or traffic problems.

The existing roads constructed for the anticipated office development on the site are more than adequate to cater for residential traffic. In this regard residential and B1 office development are by definition compatible. Residential development on the site would not result in environmental or amenity problems for existing development and users. In respect of the amenities of the future occupants of the development mitigation measures are required as part of the development.

In the light of the above, it is considered that the criteria in Policy E7 have been met and the proposal could be considered favourably. Given the amount of employment land available in the area it would be very difficult to mount an argument that the land was required for employment use, certainly in the short to medium term.

- 10.4 The National Planning Policy Framework published at the end of March 2012 has positive planning policies aimed at ensuring the vitality of town centres and advocates a centres first approach to offices with a sequential approach after that. Within that context there is little policy support for the remainder of this site coming forward for offices.
- 10.5 The application site, is already partly serviced by infrastructure previously intended to serve an office development. Whilst the site outwardly has the appearance of a greenfield site, its allocation as an employment site and the surrounding existing office developments, means it is in effect an area of land which, because of circumstances, has been left undeveloped. Works have been undertaken to make the site ready for development and it was used as the construction compound for the construction of the A1/M1 link. As such, the nature of the site is not clear cut. In the light of the above, it is considered that support could be given, in principle, to the residential development of this urban site subject to it being otherwise acceptable in planning, design and access terms.
- 10.6 At the last Panel meeting when this site was considered Members were comfortable with the principle of a housing development on this site given its history and were supportive of the overall scheme.

Site Layout

- 10.7 In terms of context, the office buildings are two storey and are situated on the opposite side of Finch Drive, facing the site and adjacent to the northern boundary. The buildings have a contemporary external appearance and are constructed in a modern cladding system featuring extensive glazing.

- 10.8 Access to the site is provided via two stub roads and these are to be retained. The residential layout therefore comprises of a central spine road (part of which forms a loop) terminated at the north and south ends by cul-de-sacs. The houses are all positioned to form active street frontages including a number which face onto Finch Drive itself.
- 10.9 Although the adjacent office buildings are only two storey, the floor to ceiling heights associated with these buildings are greater than modern houses and accordingly the three storey house proposed are considered to be appropriate.
- 10.10 With respect to detailed layout matters, the scheme proposes 86 dwellings and this layout is considered acceptable.
- 10.11 In terms of the site's relationship with the residential part of Colton, the main estate is found on the opposite side of Stile Hill Way and does not readily relate to the development due to the intervening office buildings. Nevertheless, the Colton houses are constructed from red and buff bricks, have a fairly traditional design and comprise almost exclusively of family housing. In this respect the house types proposed share many similar characteristics and accordingly are considered to be appropriate.

Amenity

- 10.12 There are two areas where the amenity of the future occupants of the proposed houses could be compromised. One is through possible overlooking and secondly because of noise.
- 10.13 In respect of overlooking the main issue relates to the relationship between the existing office units facing the northern boundary of the site as internally adequate separation has been provided or houses are orientated accordingly. The height of the office building and extent of glazing means that care is needed to ensure that overlooking does not occur or can be mitigated to a satisfactory degree.
- 10.14 At ground floor level overlooking has been overcome through the provision of 1.8 metre high screen fencing along the northern boundary supplemented with tree planting to help filter views. At first floor level the distance between the office building and the first floor windows of the dwellings achieve distances above those given as guidance in Neighbourhoods for Living.
- 10.15 These proposed methods of mitigation in conjunction with the orientation of some of the units so only a gable wall presents itself are considered to address the issue of overlooking to a satisfactory level.
- 10.16 With respect of noise, the main issue relates to noise from traffic using the main M1 carriageway (due to its concrete construction) and its associated slip road - albeit this is less of a problem as vehicle speeds reduce on approaching the junction.

- 10.17 Noise from the motorway will impact on the proposed houses in two ways. Firstly, noise within the dwellings themselves and secondly, noise in the private garden areas of the dwellings.
- 10.18 In respect of noise within the dwellings themselves it is proposed to provide windows to the dwellings in the near vicinity of the motorway with enhanced double glazing and acoustically treated background ventilation. This will ensure that when windows are closed, the ventilation system will operate to ventilate the houses but not leave them subject to noise issues, like they would if the windows had to be opened to provide ventilation.
- 10.19 In respect of noise in the garden areas, it is intended to provide acoustic fencing of between 2.4 and 3 metres high along the eastern boundary with the slip road. The fencing will be 2.4 metres high adjacent to that part of the slip road where the surface is tarmac but rises to 3 metres where the road surface is concrete due to higher noise levels. This, it is considered, will reduce to an acceptable level noise within the gardens of dwellings which lie adjacent to the slip road. The only exception concerns three plots at the extreme south eastern corner of the site where the gardens will still experience a higher noise level. As part of the officer presentation, reference was made to noise levels being high and on the limit of what is generally recognised as being acceptable. Some concern was also expressed about the methodology used in arriving at these figures and accordingly the Council's noise expert was concerned levels could be higher, albeit only when certain environmental conditions existed e.g. wind direction. Within this context and noting the houses themselves were fully protected from noise, officers were of the opinion the issue was marginal and finely balanced but could nonetheless be accepted.
- 10.20 At the Panel meeting, Members expressed concern about this approach and wanted the issue to be considered further. In this respect the applicant did submit a revised layout plan which shows additional acoustic fencing extending in front of the properties and into the greenspace. Additional fencing is also proposed between the properties.
- 10.21 The additional measures proposed will help mitigate the noise to the front of the houses and will assist in giving improvements within the rear gardens apart from one plot where the additional noise will only be for some periods of the year when the wind is in a certain direction. On balance members were satisfied that this issue has now been satisfactorily resolved.

Highways

- 10.22 No objections were raised to the principle of development on this site but matters of detail, mainly in respect of provision and size of parking spaces and garages and other minor amendments, were identified and the plans have been amended to the satisfaction of Highways officers.
- 10.23 The issues regarding the possibility of further queuing of traffic on Stile Hill Way and the potential for traffic taking a shortcut through Colton, raised in

the two letters of objection, have been considered by Highways officers. The Highway file indicates that the highway improvement works at the nearby traffic signal controlled roundabout of Stile Hill Way/Selby Road were carried out on the basis of an anticipated commercial/employment development being implemented at the application site. A comparison of the vehicular traffic generated by a residential development of 86 dwellings with the equivalent employment use indicates that traffic associated with the residential scheme would be less than the originally envisaged employment development. Accordingly, it is considered that the proposed development would not have a material traffic impact on the local highway network above that already approved.

Access

- 10.24 The Access Officer has raised concerns about shared surfaces within the development and the problems that could arise for the safety of blind and partially sighted residents who rely on changes in surfaces to indicate whether they are on a footway or a carriageway used by vehicles.
- 10.25 It is considered that the main area of shared surface where such a situation may occur is the cul-de-sac at the southern end of the development which serves plots 58 to 62. However, it is considered that vehicles travelling in this area will be approaching the end of a cul-de-sac and will, of necessity, be slowing down. In such situations, drivers will be more aware of pedestrians in the road sufficiently in advance and should take the necessary care.

Public Open Space

- 10.26 The application site includes an area of land adjoining the southern edge of the development which is situated in the Green Belt. This land includes a flood storage/balancing pond which was provided to serve the entire office allocation. This land will be retained as a green buffer to the development and will provide semi-wild open space for informal recreation.
- 10.27 A footpath link is to be provided from the development direct into this open space area and existing trees between the development and the open space will also be retained.
- 10.28 Policy N24 requires that, where development adjoins the Green Belt, provision shall be made to assimilate the edge of development into the Green Belt. It is considered that the vegetation that exists between the built part of the site and the Green Belt/greenspace is sufficient to achieve such assimilation and additional planting will not be required in this respect. Conditions requiring the retention of this existing vegetation will however be imposed and a landscaping scheme for the entire application site will also be secured.
- 10.29 Overall it is considered that the development will provide sufficient open space for use by the occupants of the development – possible contribution to the wider area is discussed in the section on Contributions below.

- 10.30 The introduction of additional acoustic fencing proposed to mitigate the noise issue for the most southerly plots will not impact on existing trees and its visual impact can be ameliorated with judicious planting.

Sustainable Design and Construction

- 10.31 The SPD in respect of Sustainable Design and Construction is guidance only at this stage and is voluntary. The applicant is aware of the SPD and has indicated the elements in its development where sustainable design and constructions methods will be employed.
- 10.32 Whilst the elements offered by the applicant do not achieve all the code levels that would be desired by the SPD, because it is a voluntary code, the applicant cannot be compelled to achieve these levels.
- 10.33 As such the information provided by the applicant in respect of Sustainable Design and Construction is considered satisfactory.

Travel wise

- 10.34 There has been a request from Travel wise in respect of safe access for children to school. A number of off site highway works are suggested including a Toucan crossing on Stile Hill Way, various works including yellow lines before the mini roundabout on Colton Road east at the junction to School Lane, a Traffic Regulation Order on the zig zags outside Colton Primary School and a footpath across the grass verge on Colton Road East near to School Lane.
- 10.35 The Toucan crossing not only will allow safe access across a busy road for school children, it will also provide safe access to bus services on the other side of Stile Hill Way and to the Colton Retail Centre. In this respect, therefore, it is considered that the provision of a Toucan crossing can be supported and should be addressed in the Section 106 Agreement.
- 10.36 However, the other provisions requested are considered to be remote from the application site and as such are not reasonably related to the development and cannot be required.

Contributions

- 10.37 The previous Section 106 package offered by the applicant amounted to £749,228 in total which represented 43% of the total sum being sought by the Council. The revised offer of £1,482,700 together with the travel plan monitoring fee represents 85% of the total sum being sought and reflects the priorities identified as important by Ward members.

10.38 The £1,482,700 is made up of the following contributions:

Affordable Housing at 15% (13 dwellings on site) (5 social rent and 8 sub market)	£1,033,000
Education – primary	£ 255,600
Education – secondary	£ 154,100
Toucan crossing	£ 40,000

TOTAL	£1,482,700

10.39 The Section 106 Agreement will also include the Travel Plan Monitoring Fee, local employment and training initiatives during construction, a long term management plan for on site open space and a requirement for a start to be made on developing the site in 2012. It is known that Strata are keen to begin development at the earliest opportunity if planning approval is granted.

10.40 It has been calculated that to be policy compliant the site would need to make total contributions in the order of £1,742,200. This overall contribution is made up of the following elements (rounded);

Affordable Housing – 15% equates to 13 houses (5 social rent and 8 sub market)	£1,033,000
Education – primary	£ 255,600
Education – secondary	£ 154,100
Public Transport	£ 97,100
Offsite greenspace (N2.3 and fixed play equipment)	£ 115,200
Toucan crossing	£ 40,000
Metro cards	£ 34,700
Bus shelter	£ 10,000
Travel Plan monitoring	£ 2,500
TOTAL	£1,742,200

10.41 Whilst the revised package does not meet the policy compliant requirements fully in that no contribution is made to wards Public Transport, off site greenspace, metro cards or new bus shelters the package does make full provision for the important matters identified by Ward members and also has a substantial area of greenspace on site. In verbal responses received from Ward members about the revised package members acknowledge that whilst there is not a full contribution there is a substantial improvement in the package and now indicate support for the scheme.

11.0 CONCLUSION

11.1 Given the history of the site its alternative use as housing is considered acceptable. It would bring forward family housing which can be delivered in the short term as the housebuilder is wanting to start on site and develop units

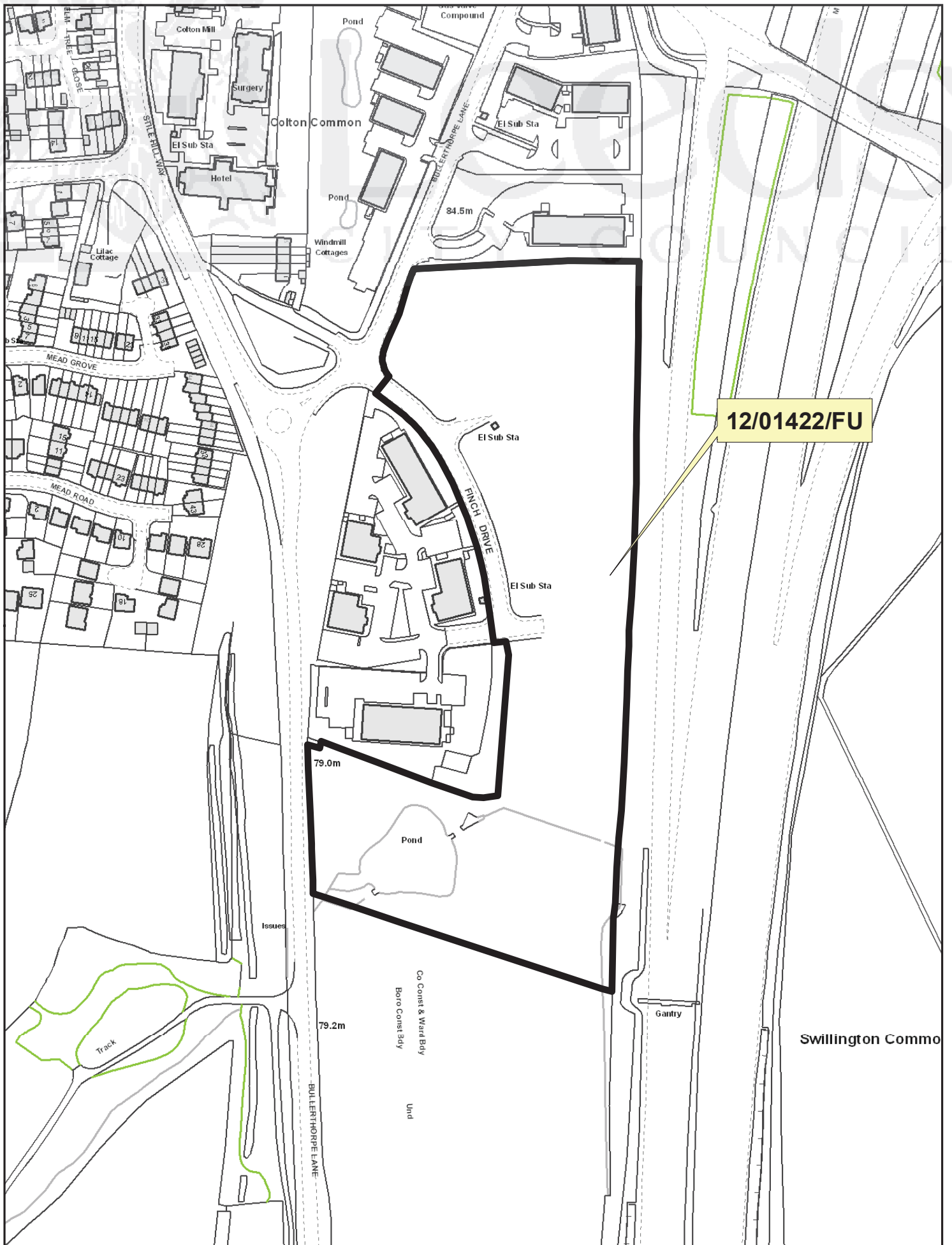
on this site straight away and is prepared to commit to this in a legal agreement. Technically there are no obstacles to development. The layout and designs are considered acceptable in this location given the context next to the existing office park and greenspace is delivered as part of the scheme. Development of this site would complete the development, in the short term, of the remaining undeveloped area. This will contribute to available land supply for housing and also give some receipt to the Council in relation to New Homes Bonus over the next few years. Given its context it is not a contentious site and has given rise to little adverse representation.

- 11.2 Against these benefits Members need to weigh the Section 106 contributions which will be paid, amounting to £1, 482,700 against a policy requirement and ask of around £1,742,000. The contributions can be used to deliver full affordable housing at 15% on site, all of the education contributions required and a toucan crossing on Stile Hill Way which will be of benefit not just to the residents of this development but improve connectivity to residents in the area.
- 11.3 In considering that balance officers have recognised that the revised contributions offered on this site now go a long way to meet the Council's ask and that the offer now on the table would enable the site to be developed in the short term. Given the need to be flexible to get things moving in the present economy officers have given great weight to the delivery of sustainable development and the advantages that flow from that . The question for members having regard to the revised offer is whether the go ahead can now be given in the light of the substantially improved offer which is now incorporated in the revised application.

Background Papers:

Application and history files.

Certificate of Ownership.



EAST PLANS PANEL

This page is intentionally left blank