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## NORTH AND EAST PLANS PANEL

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Meeting to be held in Civic Hall, Leeds on  
Thursday, 3rd October, 2013  
at 1.30 pm

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### MEMBERSHIP

#### Councillors

D Congreve  
(Chair)  
R Grahame  
M Harland  
C Macniven  
A McKenna  
J Harper  
M Lyons

C Campbell

J Procter  
G Wilkinson

Whip's nominee

# A G E N D A

Item No	Ward	Item Not Open		Page No
1			<p><b>SITE VISIT LETTER</b></p> <p><b>APPEALS AGAINST REFUSAL OF INSPECTION OF DOCUMENTS</b></p> <p>To consider any appeals in accordance with Procedure Rule 25 of the Access to Information 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>	

Item No	Ward	Item Not Open		Page No
2			<p><b>EXEMPT INFORMATION - POSSIBLE EXCLUSION OF THE PRESS AND PUBLIC</b></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><b>RESOLVED</b> – That the press and public be excluded from the meeting during consideration of the following 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, as follows:-</p>	
3			<p><b>LATE ITEMS</b></p> <p>To identify items which have been admitted to the agenda by the Chair for consideration</p> <p>(The special circumstances shall be specified in the minutes)</p>	
4			<p><b>DECLARATIONS OF DISCLOSABLE PECUNIARY INTERESTS</b></p> <p>To disclose or draw attention to any disclosable pecuniary interests for the purposes of Section 31 of the Localism Act 2011 and paragraphs 13-16 of the Members' Code of Conduct.</p>	

Item No	Ward	Item Not Open		Page No
5			<b>APOLOGIES FOR ABSENCE</b>	
6			<p><b>MINUTES OF THE PREVIOUS MEETING</b></p> <p>To approve the minutes of the previous meeting held on 5<sup>th</sup> September 2013</p> <p>(Minutes attached)</p>	3 - 12
7	Burmantofts and Richmond Hill		<p><b>APPLICATION NO. 10/05048/EXT - APPLICATION FOR EXTENSION OF TIME FOR OUTLINE PLANNING PERMISSION 21/199/05/OT (WAREHOUSE AND DISTRIBUTION DEVELOPMENT WITH CAR PARKING AND LANDSCAPING) TO LAND AT TEMPLE GREEN, EAST LEEDS LINK ROAD, LEEDS 10</b></p> <p>To consider a report by the Chief Planning Officer, which sets out details of an extension of time application, for Outline Planning Permission 21/100/05/OT (Warehouse and Distribution Development with Car Parking and Landscaping) to land at Temple Green, East Leeds Link Road, Leeds10</p> <p>(Report attached)</p>	13 - 34
8	Harewood		<p><b>APPLICATION NO.13/00527/FU - FIRST FLOOR SIDE EXTENSION WITH DORMER TO FRONT; TWO STOREY AND FIRST FLOOR EXTENSION TO REAR; PORCH TO SIDE; NEW RETAINING WALL WITH STEPS TO REMODELLED REAR GARDEN AT FRIARS CRAGG, LINTON COMMON, LINTON , WETHERBY</b></p> <p>To consider a report by the Chief Planning Officer which sets out details of an application for a first floor side extension with dormer to front; two storey and first floor extension to rear; porch to side; new retaining wall with steps to remodelled rear garden at Friars Cragg, Linton Common, Linton, Wetherby.</p> <p>(Report attached)</p>	35 - 44

Item No	Ward	Item Not Open		Page No
9	Harewood		<p><b>APPLICATION NO. 13/03029/FU - INSTALLATION OF GATES AND WALL WITH INCREASE IN HEIGHT TO EXISTING WALL TO SIDE AT DENE COTTAGE, LINTON LANE, LINTON, WETHERBY</b></p> <p>To consider a report by the Chief Planning Officer which sets out details of an application for the installation of gates and wall with increase in height to existing wall to side at Dene Cottage, Linton Lane, Linton, Wetherby.</p> <p>(Report attached)</p>	45 - 52
10	Kippax and Methley		<p><b>APPLICATION NO.13/02290/OT - OUTLINE APPLICATION FOR ONE DETACHED DWELLING AT 35 LOWER MICKLETOWN, METHLEY, LEEDS, LS26 9JH</b></p> <p>To consider a report by the Chief Planning Officer which sets out details of an Outline Application for one detached dwelling at 35 Lower Mickletown, Methley, Leeds, LS26 9JH</p> <p>(Report attached)</p>	53 - 62
11			<p><b>DATE AND TIME OF NEXT MEETING</b></p> <p>To note that the next meeting will take place on Thursday 31<sup>st</sup> October 2013 at 1.30pm in the Civic Hall, Leeds</p>	

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To all Members of North and East  
Plans Panel

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

Contact: Angela M Bloor  
Tel: (0113) 247 4754  
Fax: 0113 395 1599  
angela.bloor@leeds.gov.uk  
Your reference:  
Our reference: n & e p p site visits  
Date 24<sup>th</sup> September 2013

Dear Councillor

**SITE VISITS – NORTH AND EAST PLANS PANEL – 3<sup>RD</sup> OCTOBER 2013**

Prior to the meeting of the North and East Plans Panel on Thursday 3<sup>rd</sup> October 2013 the following site visits will take place:

10.40 am		Depart Civic Hall, Leeds
11.05am	Harewood	Application No. 13/00527/FU – First floor side extension with dormer to front; Two storey and first floor extension to rear; Porch to side; New retaining wall with steps to remodelled rear garden at Friars Cragg, Linton Common, Linton, Wetherby
11.20am	Harewood	Application No. 13/03029/FU – Installation of gates and wall with increase in height to existing wall to side at Dene Cottage, Linton Lane, Linton, Wetherby
12noon		Return to Civic Hall, Leeds

For those Members requiring transport, a minibus will leave the Civic Hall at 10.40am. Please notify David Newbury (Tel: 247 8056) if you wish to take advantage of this and meet in the Ante Chamber at 10.35am.

Yours sincerely

Angela M Bloor  
Governance Officer

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## NORTH AND EAST PLANS PANEL

THURSDAY, 5TH SEPTEMBER, 2013

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

Councillors C Campbell, R Grahame,  
M Harland, A McKenna, J Procter,  
G Wilkinson, J Harper, M Lyons and  
C Towler

### **35 Late Items**

The Chair admitted one late item of business to the agenda -  
Application 13/02718/OT Outline application for a maximum of 29 dwellings  
with vehicular access and an urban park on land at former Yorkshire Bank  
Sports Ground Allerton Grove Moor Allerton (minute 44 refers)

The report required urgent consideration as it contained the most up to  
date information which was not available at the time of agenda despatch and  
following consultation with Ward Members, it was felt in the best interests of  
the Council and other parties concerned that the matter be considered without  
delay

### **36 Chair's opening remarks**

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

### **37 Declarations of Disclosable Pecuniary Interests**

There were no declarations of disclosable pecuniary interests.  
However, Councillor M Lyons and Councillor J Procter brought to the Panel's  
attention their membership of the West Yorkshire Integrated Transport  
Authority, as Metro had commented on several of the applications being  
considered by Panel

In respect of application 13/01672/FU – Land off Swarcliffe Avenue  
LS15, Councillor R Grahame brought to the Panel's attention that this site was  
within the Cross Gates and Whinmoor Ward of which Councillor R Grahame's  
wife was a Ward Member

### **38 Apologies for Absence**

Apologies for absence were received from Councillor Macniven who  
was substituted for by Councillor Towler

## 39 Minutes

**RESOLVED** - That the minutes of the North and East Plans Panel meeting held on 8<sup>th</sup> August 2013 be approved

## 40 Application 12/00725/OT - Outline application for employment park and laying out of access at Aberford Road Garforth LS25

Further to minute 28 of the North and East Plans Panel meeting held on 8<sup>th</sup> August 2013, where Panel deferred consideration of an application for outline planning permission for an employment park and laying out of access on land at Aberford Road Garforth, to enable proper consideration by Officers of late information which had been received, including reference to noise evidence, the Panel considered a further report

Plans, photographs and drawings were displayed at the meeting

Officers presented the report and outlined the planning history of the site which was zoned in the UDPR(2006) for employment purposes.

Members were informed that the site had been used for open cast mining in the past; had been re-vegetated and was currently used for grazing

Although previous approvals had been granted for employment use on the site, these had lapsed, however the scheme before Panel was considered to be appropriate for current market requirements

The deletion of the B1 (office) use on the original outline approval for the site had given way to increased B8 (storage and distribution) use which had led to local concerns about noise nuisance due to increased numbers of HGVs at the site and 24 hour operating. To address the concerns about the impact of additional HGVs in the area, it was proposed to amend the HGV weight restriction to prevent the potential impact of HGVs travelling through Garforth. Other highway works relating to speed limit reduction and waiting restrictions were also proposed and it was the view of Officers that the scheme improved local connectivity

Regarding noise nuisance, Members were informed that the Council's Environmental Protection Team had considered the additional information submitted prior to the previous meeting and were of the view there would be no detrimental impact on residential amenity resulting from the proposals

Drainage details were outlined, with Members being informed that surface water would be accommodated in swales and attenuation ponds and be discharged at greenfield run off rates

The Section 106 contributions were outlined, as set out in the submitted report

In terms of distances from the nearest residential property, these were given as being 32m and, to the corner of unit 4, 20 -22m, although the detailed design and layout were not matters under consideration in the application

Receipt of two further letters of representation were reported, with the concerns raised in these being outlined to Members

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

Members discussed the application and commented on the following matters:

- the impact of the proposals on the residents of The Weigh House, which was located adjacent to the site and the need for their residential amenity to be protected, including TV reception, heating and drainage systems
- the jobs to be created through the scheme and the need for local employment to be provided
- the noise levels at the site and how the proposals had been evaluated
- the existing noise levels from the A1/M1 link road and concerns that these had not been taken into account when evaluating noise issues from the proposal before Panel
- the need to ensure that the weight restrictions on Aberford Road were amended and enforced
- that regard should be had to a feasibility study being undertaken in Garforth relating to parking
- the need to consider carefully the introduction of Traffic Regulation Orders on nearby roads and to minimise disruption for local residents

Officers provided the following responses:

- that a condition had been included requiring a structural survey of the Weigh House and that further conditions could be imposed in terms of TV reception, heating and drainage systems
- that Members' requirement of local employment was noted and that a clause in the Section 106 agreement made reference to local training and employment initiatives
- regarding noise levels, that a logarithmic manner was used to calculate these, rather than simply adding existing and projected noise levels together. Members were informed that all noise levels had been taken into account and that the traffic noise would not increase by a level which was noticeable to the human ear
- that the points raised regarding the feasibility study in Garforth and the introduction of TROs would be noted

Panel considered how to proceed with concerns remaining about the proximity of the scheme in relation to The Weigh House, although it was accepted that this was a matter which would be considered in the Reserved Matters application

**RESOLVED** - To defer and delegate the application to the Chief Planning Officer for approval, subject to the conditions set out in the submitted report, plus additional conditions to require a scheme of measures to protect TV reception for The Weigh House and to mitigate any effects of the proposals on that property's heating and drainage system and following completion of a Section 106 Agreement to cover the following additional matters:

- travel plan (including monitoring fee of £11,665)
- improvements to bus stop 24237 at a cost of £10,000

- public transport improvement contribution at a cost of £449,683, inclusive of an extension to local bus services
- implementation of a controlled pedestrian crossing over Aberford Road
- implementation of speed limit amendment on Aberford Road
- implementation of HGV weight limit restriction amendment on Aberford Road (to prevent HGVs from turning out of the site towards Garforth)
- agreement to undertake a feasibility study to investigate and implement as appropriate the need for waiting restrictions and/or residents parking on Aberford Road or other streets in the vicinity of the site
- agreement to fund additional Traffic Regulation Orders on nearby roads if a need can be demonstrated
- local training and employment initiatives (applies to both the construction and subsequent operation of the development)

In the circumstances where the Section 106 Agreement 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

**41 Application 13/01875/FU - Residential development of eleven detached dwellings with associated access, car parking, drainage and landscaping - Castle Mona Lodge, Wetherby Road, Scarcroft LS14**

Plans and graphics were displayed at the meeting. A Members site visit had taken place earlier in the day, where Members had also viewed another residential development in the area which had been constructed by the same applicant

Officers presented the report which sought permission for eleven detached dwellings; access, parking; drainage and landscaping on an allocated housing site in the village of Scarcroft

Members were informed that outline planning permission had been granted for a development comprising 11 houses and that the current scheme was similar in design and layout from that considered in the previous outline application

A mix of materials were proposed, with the three large properties being constructed in stone, and the eight properties forming a cul-de-sac being constructed in brick

In terms of the required greenspace contribution, a section of land to the south of the site next to the village hall and a commuted sum would be transferred to Scarcroft Parish Council and that work towards this transfer was underway

In respect of the principle of development, this had been established on the previous, outline application; Highways were satisfied with the proposals and their previous concerns had been addressed through the layout now proposed and the issue of the greenspace contribution had been satisfactorily addressed

Concerning the objections to the proposals from neighbouring residents, the distance from the development to the nearest dwelling was 30m, which was in excess of that required in 'Neighbourhoods for Living' and

Officers considered the proposals would not cause significant impact on residential amenity

Regarding design, whilst the inclusion of chimneys had been requested, only a limited number had been included

Members commented on the following matters:

- the need for the blackberry bushes on the site to be retained
- that the houses would look better if chimneys were provided on all 11 dwellings
- the need to carefully consider the boundary treatments to avoid the situation which occurred on the Syke Green development where hedgerows were cut back and replaced by timber fences
- the importance of ensuring high quality materials were used and that careful attention be paid to the shade of brick to be used

**RESOLVED** - To defer and delegate the application to the Chief Planning Officer for approval, subject to the conditions set out in the submitted report and subject to further negotiations regarding chimneys being provided to all dwellings and that this together with details regarding materials and landscaping conditions to be agreed in consultation with Ward Members and following completion of a Section 106 Agreement (Deed of Variation) to cover the following obligations:

- provision of off-site land for Greenspace
- provision of commuted sum of £18,512 towards Greenspace
- Metro contribution towards MetroCards
- S106 Management fee

In the circumstances where the Section 106 Agreement 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

**42 Application 13/02459/FU - Two storey rear extension, alterations to existing front gable and bay, single storey extension to rear and both sides, new gates and railings to front - 7 Belvedere Road LS17**

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

Officers presented the report which sought permission for extensions and alterations including boundary treatments to a residential dwelling at 7 Belvedere Road LS17

Although it was the view of Officers that the proposals were acceptable, and that front gables were not alien to the area, local concerns had been expressed, particularly the impact of the development on the residential amenity for residents of the neighbouring property

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

Members commented on the following matters:

- the distance to the boundary of the proposed side extension, that this appeared tight and whether this complied with guidance. Members were informed that a single storey extension could be sited up against an existing boundary and

that in this case, there was a 1m separation distance so it was acceptable

- concerns that the rear extension was overdominant and could lead to overshadowing

The Panel considered how to proceed

**RESOLVED** - That the application be granted subject to the conditions set out in the submitted report

**43 Application 13/01672/FU - 18 houses with landscaping and car parking - Land off Swarcliffe Avenue Swarcliffe LS14**

Plans, photographs and graphics, including the latest revisions to the proposed layout of the scheme were displayed at the meeting. A Members site visit had taken place earlier in the day

Officers presented the report which sought permission for 18 houses with landscaping and car parking provision on land at Swarcliffe Avenue LS14. Members were informed that planning permission had been granted in 2005 for a residential scheme for 19 houses but that this had not been implemented and the approval had now lapsed. A slightly smaller scheme was now proposed which reflected the current housing demand

When first publicised, 10 residents of Langbar Gardens, which was adjacent and opposite to the site had expressed concerns. Following amendments to the proposals, one letter of objection had been received, with the concerns being read out to Panel

Currently further revisions were being discussed with the applicant as shown on the graphics displayed to Members

Comments from Ward Member, Councillor P Gruen were brought to the Panel's attention regarding concerns about the intensity of the scheme and the view that 16 dwellings on the site could overcome issues about separation distances

Members commented on the following matters:

- that people with disabilities were not being catered for as no single storey dwellings were being proposed. Officers stated that single storey properties were being provided elsewhere
- disappointment that the former housing office had needed to be demolished
- the lack of chimneys on this scheme and the reasons for this. Members were informed that chimneys had not been included as there were none on surrounding properties
- the difference in the layout on this scheme compared to that considered earlier by the Panel at Castle Mona Lodge and that what was being proposed was too cramped and would not work
- the possibility of stating a maximum number of dwellings on the site, i.e. 16, but subject to consultation with Ward Members
- that the scheme as presented was not acceptable in its current form and whether simply tinkering with the number of dwellings on the site would be sufficient to overcome the problems which existed
- the poor quality landscaping being proposed

- that despite previous concerns raised by City Plans Panel to the design of some residential schemes and in view of the number of new homes which were likely to be built in Leeds in coming years, volume house builders did not seem to demonstrate high aspirations in terms of design and layout for all areas of the City and put forward standard house types, rather than offering some variation. The Head of Planning Services advised that a date had been set for the workshop involving Members from all 3 Plans Panels together with Officers and house builders to help raised the standards of housing development in the City

The Panel considered how to proceed

**RESOLVED** - To defer and delegate to allow Planning Officers the opportunity to negotiate further with the applicant on an amended site layout to secure a better design quality. Having reached a satisfactory resolution, the application is recommended for approval subject to the conditions set out in the submitted report, any additional conditions deemed necessary following the amendments and in consultation with Ward Members. In the event that agreement cannot be reached, that the application be returned to Panel for determination

**44 Application 13/02718/OT - Outline application for erection of no more than 29 dwellings with vehicular access and an urban park - Land at Former Yorkshire Bank Sports Ground, Allerton Grove, Moor Allerton**

Plans, photographs and drawings were displayed at the meeting

Officers presented a report seeking outline planning approval for a residential development not exceeding 29 dwellings, access and the creation of an urban park on a vacant site which was allocated as a Protected Playing Pitch in the UDPR (2006) and as such represented a departure from the development plan. If minded to approve the application, this would need to be referred to the Secretary of State for his consideration. Members noted there was an unresolved objection from Sport England

The receipt of three further representations was reported with the concerns raised in these being outlined to Panel. Reference was made to the high level of objections from residents of the nearby development – The Spinney

Members were informed that a previous scheme for the site proposed 33 dwellings but that this had been revised and now proposed no more than 29 dwellings, with four of these being affordable housing. All of the residential development would be restricted to the southern third of the site and access would be taken off Allerton Grove. Pedestrian access would also be from Allerton Grove with a further access off Shadwell Lane

All of the boundary vegetation would be retained and enhanced and the proposals would provide an opportunity for informal play areas and a wetland area on the site

The fact that the site had been vacant for over 10 years was considered to be a material planning matter

Whilst the scheme would bring benefits to the local community, these had to be considered against the loss of a formal sports pitch

An additional condition was proposed relating to sightlines. Members were also informed that the Lime Tree Avenue and Allerton Grove were currently subject to a residential Permit Zone to address business and commuter parking issues and that this might need to be extended into the residential development at the developer's cost

The Panel heard representations from an objector and from a local Ward Member in support of the application and the applicant's agent who attended the meeting

Members commented on the following matters:

- the objection by Sport England and the nature of this. The latest e-mail from the organisation dated 4<sup>th</sup> September 2013 was read out to Panel
- highways issues, particularly the access at Lime Tree Avenue, with the Panel's highways representative stating that the 21 two-way vehicle movements at peak times would not all be from this street and that Officers did not consider the additional vehicle movements would be a significant issue
- the site layout and why the access roads came so far into the site. With the agreement of the Chair, the applicant's agent was invited to respond and advised that this was due to the location of several mature trees on the Shadwell Lane frontage and in the centre of the site. There would also be a need for vehicles to enter into the site to maintain the open space
- greenspace provision and whether Officers had requested a commuted sum for improvements to playing pitches elsewhere. The Head of Planning Services made reference to the need for facilities in the locality and that as at least two-thirds of the site would be public amenity space it was felt that what would be provided would be equivalent provision to facilities sited elsewhere. In terms of the objection from Sport England, that this was a technical objection as it contravened policy N6 but that Officers were of the view that what was being sought was the best for the local community
- the view that the question regarding off-site replacement playing pitch provision should have been put to the developer

**RESOLVED** - To defer and delegate to the Chief Planning Officer for approval, subject to the conditions set out in the submitted report plus an additional condition requiring sightlines to be submitted and agreed and following referral and consideration of the application by the Secretary of State and the prior completion of a Section 106 Agreement to cover the following additional matters:

- dedication of a fully landscaped park to the City Council
- commuted sum payment in relation to the future maintenance of the public park
- provision of 4 affordable unit
- commuted sum payment in respect of £10,000 towards public transport enhancements
- provision of Metro cards to occupiers



In the circumstances where the Section 106 Agreement 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

**45 Application 12/03805/CLP - Certificate of proposed lawful use of land outlined in red on the submitted site plan for the siting of caravans for permanent residential occupation - Moor Lodge Caravan Site - 103 Blackmoor Lane, Scarcroft LS17**

Prior to consideration of this matter, Councillor Wilkinson stated that the site was within the Harewood Ward and not the Wetherby Ward as stated on the agenda

Plans and photographs were displayed at the meeting

Members considered a report of the Chief Planning Officer on a certificate for proposed lawful use of the land outlined in red on the submitted plan for the siting of caravans at Moor Lodge Caravan Park, Blackmoor Road LS17

Members were informed that the planning merits of the application were not for consideration in this case and that a legal determination was required with the key test being on the balance of probabilities about the use of the site, based upon the evidence

In terms of use, the site was first used in 1949 for camping, with planning permission being granted for a caravan site in 1962. No conditions were attached to that permission

On the basis of the information available, Officers were satisfied that caravans had existed on the site, within the red line boundary for over 14 years

The advice sought from Counsel was outlined to Panel with Members being informed that Counsel was of the view that the Certificate of Proposed Lawful Use should be granted

Members commented on the following matters:

- the land to south of the red line boundary; that caravans were being parked in this area and that this should also be part of the discussions. The Panel's Legal Adviser stated that the certificate which had been applied for did not include this area of land so could not be considered and that the Certificate of Proposed Lawful Use could not amend the application description which stood at 76 caravans. The Head of Planning Services stated that the original 1962 planning permission did not include the land to the south of the red line boundary; that some evidence existed that it had been in use for at least 10 years but that did not necessarily indicate it had permanent use
- why no enforcement action had been taken in respect of the land to the south of the subject site
- the boundary treatment required as part of the 1962 permission and whether this had been maintained
- that from the images shown to Panel, around 57 caravans could be seen on the land and that might be considered acceptable,

yet what was being proposed was a much higher level, with concerns about this. On this matter the Panel's Legal Adviser stated that there were no limit to the number of caravans which could be put on site but that the applicant had voluntarily agreed to limit this to 76, so giving the Council some degree of control

- that all the evidence seen by Counsel should be made available
- concerns about how 76 caravans could be accommodated within the red line boundary and the need for clarity on this
- the need to understand the phrase 'caravan pitch' and to recognise that in 1962, the size of caravans were much smaller than those of today

In view of the issues raised by the application, a request to view the site was made by Councillor Campbell

The Chair agreed to this and proposed that determination of the application be deferred to enable further consideration of the information

**RESOLVED** – That consideration of the application for a Certificate of Proposed Lawful Use be deferred to enable Councillor J Procter to meet with Officers to discuss the case and the evidence in detail and in the event that he was satisfied with the information provided and that his concerns were addressed, including the issue of the proposed number of caravans on the subject site, that the granting of a Certificate of Proposed Lawful Development be deferred and delegated to Officers. In the event that agreement could not be reached, that a further report be submitted to Panel and that a site visit be arranged at that time

During consideration of this matter, Councillor Wilkinson left the meeting

#### **46 Date and Time of Next Meeting**

Thursday 3<sup>rd</sup> October 2013 at 1.30pm in the Civic Hall, Leeds



Originator: Victoria Hinchliff  
Walker  
Tel: 0113 2224409

## Report of the Chief Planning Officer

### **PLANS PANEL NORTH AND EAST**

Date: 3<sup>rd</sup> October 2013

**Subject: APPLICATION 10/05048/EXT – Application for extension of time for outline planning permission 21/199/05/OT (warehouse and distribution development with car parking and landscaping). Temple Green, land to South of East Leeds Link Road, LS10.**

#### **APPLICANT**

Keyland Development s and  
Aire Valley Land Ltd LLP

#### **DATE VALID**

08 November 2010

#### **TARGET DATE**

07 February 2011(PPA to be renegotiated).

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

Burmantofts and Richmond Hill

Yes

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

Equality and Diversity

Community Cohesion

Narrowing the Gap

#### **RECOMMENDATION:**

Members are asked to agree to continued negotiations by Officers on the issues arising in this report and to defer and delegate to the Chief Planning Officer for approval, following completing of a Section 106 Agreement and subject to conditions as set out in the report and minutes of Plans Panel East 01/12/11 or as otherwise considered necessary by Officers.

In the circumstances where the Sec.106 has not been completed within 3 months of the resolution to grant planning permission, or in accordance with a re-negotiated Planning Performance Agreement, the final determination of the application shall be delegated to the Chief Planning Officer.

#### **1 INTRODUCTION:**

- 1.1 This application has previously been reported to East Plans Panel, once as a position statement on 17 February 2011, and once for a decision on 1<sup>st</sup> December 2011. At the December meeting Members resolved that planning permission should

be granted in accordance with the recommendation with changes to condition 2 and 5 and additional conditions to include a landscape and design framework and flood risk mitigation.

- 1.2 Following this decision officers have been pursuing completion of a s106 agreement with the applicants and this has recently come close to being signed. At this stage however some inconsistencies were discovered. Furthermore due to the lapse of time and the economic climate the applicant is now seeking additional time for the commencement of development on site. For this reason it has been determined that the application should be referred back to Plans Panel for agreement on the new timescales and s106 provisions.
- 1.3 This application is being dealt with through a Planning Performance Agreement which does require re-negotiation of the timescales.
- 1.4 Members of Plans Panel are advised that this report was mistakenly taken to South and West Plans Panel on 12<sup>th</sup> September 2013 where the recommendation was agreed with little comment. Once the mistake came to light then the decision was taken to take the report to the correct Plans Panel to ensure the soundness of any decision reached.

## **2 CHANGES FROM 2011 PANEL DETERMINATION**

- 2.1 Since the 2011 Plans Panel determination the applicant has not been able to find operators for the sites or any of the proposed units, and the continued economic downturn has made things difficult. There are significant costs involved in remediating the site so that it is ready for development so speculative development is not economically feasible. A proposal for energy from waste plant at the site has been dropped. The landowners therefore want to remove or minimise their liabilities in relation to timescales and triggers for financial payments.
- 2.2 The applicants would like Members to consider the following:
  - That the time limit for submission of first reserved matters be changed to allow an additional 2 years, taking it to 2020 (condition 3) with submission of all reserved matters within 11 years (2024).
  - That the draft s106 be amended to remove the requirement that 28,000m<sup>2</sup> of floorspace be practically completed by 2018 in its entirety (s106 clause 5.1).
  - That agreement is given to the consideration of removal or variation of the Backstop Date for payment of the East Leeds Link Road (ELLR) monies in agreement with the Homes and Community Agency (s106 clause 2.3).

## **3 CONSULTATIONS**

- 3.1 Discussions are ongoing with the Homes and Community Agency (HCA) who have taken over the ELLR funding from Yorkshire Forward. The HCA have advised that they are comfortable with extending the time limits for submission of reserved matters but that they are not comfortable with removal/variation of the backstop date, and that they consider that this site should be subjected to the same deliberations as the Logic Leeds site and others (see below).

## **4 APPRAISAL**

- 4.1 This is a large employment development site that will benefit from Enterprise Zone funding streams and will significantly add to the regeneration aims for the Aire Valley. The East Leeds Link Road (ELLR) is an important part of the Aire Valley

regeneration proposals and provides important infrastructure to stimulate economic growth in the Enterprise Zone. The ELLR was funded by public monies that came originally from Yorkshire Forward and control of this finance has now been taken over by the Homes and Community Agency (HCA).

- 4.2 The site will have significant costs involved with the initial ground works due to its former use for both filter beds and open cast mining. It is also clear that the site has been hit by the economic downturn with less interest in new build sites. The closest development site is just across the road and planning permission has recently been granted for an extension of time on this site, reserved matters on this site have not yet come forward and similar problems are being experienced in terms of marketing.
- 4.3 It seems logical that due to the amount of time that has lapsed since the last Plans Panel determination that the timescales should be amended to reflect this lapse, and consequently Officers have no issues with adding an additional two years to the extended time limits for reserved matter submissions.
- 4.4 There is also an anomaly between the draft conditions as agreed by Plans Panel and the draft s106 agreement in that the applicants would have been obliged to provide 17% of the floorspace built out, prior to the deadline for having to actually submit a reserved matter application. It is not known how this arose but this is clearly unduly onerous. There is therefore no Officer concern with regard to extending the time limit on this provision of floorspace so that things happen in a logical order.
- 4.5 The applicants would prefer to have this clause removed altogether given the financial liabilities this introduces to the scheme. The clause was originally included as Members felt that there needed to be some assurances with regards to a start being made on site. The amount of floorspace and the date was agreed through negotiations with the developers. This was also a mechanism by which HM Treasury (who at the time was the funder of the ELLR monies) could be assured of development progressing and hence getting the ELLR monies repaid.
- 4.6 It is felt that there does need to be some enforcement power given the importance of the site to the Enterprise Zone, but it is also accepted that in the current climate the liabilities may result in the development failing altogether. When this floorspace and date figure was originally negotiated it was at a time when a large energy from waste plant was potentially to be located at the site. This will no longer go ahead and so it can be argued that there is less certainty over provision of built floorspace.
- 4.7 It is recommended therefore that Officers negotiate with the applicants, and with the HCA to agree a more appropriate floorspace and time limit clause. The applicants have been marketing the site via the landowners, the Council and agents for the site, Dove Haigh Phillips. The site is being promoted as a key gateway site with excellent links to the motorway network and a range of large footprint platforms for development. On the Council side the site is actively promoted via the Enterprise Zone working group which involves officers from planning, regeneration, employment and asset management amongst others. There is therefore commitment to bringing the site forward, but there does also need to be recognition of the reclamation costs and financial risk involved in doing so.
- 4.8 With regard to the backstop date this is an important clause in the s106 that requires payment of the ELLR in full if the site has not been developed to an extent that all monies are repaid. Clause 2.3 of the draft 106 requires that if by March 2020 any part of the ELLR contribution has not been paid to the Council then Aire Valley Land shall pay to the Council that remaining part of the ELLR Contribution prior to that date, plus interest.

- 4.9 The original s106 that covered this site had a backstop date of 2018 which would have tied in with the development of the site under the original permission. The adjacent Logic Leeds site did not have a backstop date as part of its original permission, and in the extension of time negotiations resolved that upon completion of 37Ha of development then the remainder of the funds would be paid. The HCA have advised that the majority of agreements now have a backstop date in order to protect public money and ensure that other infrastructure investments do not suffer as a result.
- 4.10 Whilst the applicants would like to remove this clause altogether, the HCA are not likely to agree to this. The HCA have indicated that they are willing to sign up to the variation to the date as previously agreed with the developer (2020), but would like some comfort that Members agree with such a variation. An extension of this timescale is seen as appropriate as this would then fit in with the timescales for submission of reserved matters.

## **5 CONCLUSION**

- 5.1 Members are asked to agree to Officers continuing negotiations on these changes in accordance with the parameters set out below:
- Submission of first reserved matters by 2020.
  - Submission of all reserved matters by 2024.
  - Re-negotiation of floorspace delivery by 2022 to an agreed amount with developer.
  - Agreement to the backstop date being altered in negotiation with the HCA.
- 5.2 It is considered that the cause of the delays have been largely out of the applicants control, but it is also recognised that public money has been spent on the infrastructure to access the site and that this needs to be repaid. It is recommended that if Members are happy with the proposals set out that the decision be deferred and delegated to enable further negotiations.

Appendix 1 – Report to Plans Panel East 01/12/11  
Appendix 2 – Minutes of Plans Panel East 01/12/11

# APPENDIX 1 – REPORT TO PLANS PANEL EAST, 01/12/11

Report of the Chief Planning Officer

## PLANS PANEL EAST

Date: 1 December 2011

Subject: APPLICATION 10/05048/EXT - Extension of time for Outline planning application 21/199/05/OT to allow submission of Reserved Matters until 2023 (to erect warehouse and distribution development with car parking and landscaping ) at Land at Temple Green off East Leeds Link Road, LS10

APPLICANT	DATE VALID	TARGET DATE
Keyland Developments And Aire Valley Land Ltd LLP	08.11.2010	PPA

<p><b>Electoral Wards Affected:</b> Burmantofts &amp; Richmond Hill Temple Newsam Garforth &amp; Swillington</p> <p><input type="checkbox"/> Yes Ward Members consulted (referred to in report)</p>	<p><b>Specific Implications For:</b></p> <p>Equality and Diversity <input type="checkbox"/></p> <p>Community Cohesion <input type="checkbox"/></p> <p>Narrowing the Gap <input type="checkbox"/></p>
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### RECOMMENDATION;

DEFER and DELEGATE approval to the Chief Planning officer subject to the conditions specified ( and any others which he might consider appropriate ) and the completion of a legal agreement to deal with the following matters;

- Delivery of 28,000 sq.m development floorspace by 2018.
- Vehicle Trip Generation – methodology for calculating trip generation
- Public Transport Infrastructure Improvements contribution £500k (to be index linked). Payment to be phased as follows;
  - £167,000 payable at first occupation
  - £167,000 payable at occupation over 93,000 sq. m.
  - £166,000 payable at occupation over 163,000 sq. m.
- Travel Plan Implementation and Monitoring Evaluation fee (£15k) and implementation
- East Leeds Link Road repayment to be phased (in agreement with HCA) as follows;

Stage 1: construction of main site access road, associated works and site preparatory ground works - nil contribution

Stage 2: commencement of construction of buildings in accordance with B8 planning permission - 25% of the contribution and interest

Stage 3: occupation of premises constructed on the site - contribution payable based on the following calculations: -

OF/TF x TC x 1.5 - for the first 93,000 sq.m

OF/TF x TC x 0.375 - for the remainder of the floorspace (approx 182,000 sq.m)

Where:

**OF = Occupied floorspace for the relevant phase**  
**TF = Total floorspace permitted by the planning permission**  
**TC = Total contribution with accrued interest under the S106 agreement**

- **Backstop date of 31 March 2020 for payment of any outstanding balance of the ELLR contribution**

**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. Approval of reserved matters.
2. Time Limit for submission of reserved matters and commencement of development. First RM by 2018, Second RM by 2023, 2 years for commencement of development.
3. Submission of programme for the phasing of the development
4. The development hereby approved shall not exceed the total amounts of gross floor area:  
275,000 sq m of Class B8 use , plus:  
Parking serving the development shall not to exceed 3081 spaces, of which no more than 2316 shall be allocated to the parking of cars
5. Phasing of B2 / B8 in a minimum of three phases, the amount in each phase not to exceed the following areas:  
Phase 1: not to exceed 60% of the gross floor area approved under Condition 4  
Phase 2: not to exceed 80% of the total gross floor area approved under Condition 4 on a cumulative basis taking into account the gross floor area approved for Phase 1.  
Phase 3: the remainder of the total gross floor area approved under Condition 4.
6. Vehicular trips restriction
7. System for automatic vehicle detection
8. Submission of information obtained from the approved system of automatic vehicle detection.
9. Car parking spaces shall not exceed:  
Phase 1 as defined in Condition 5 - 1,389 spaces  
Phase 2 as defined in Condition 5 - 1,852 spaces inclusive of the provision of parking spaces in Phase 1.  
Phase 3 as defined in Condition 5 - 2,315 spaces inclusive of the provision of parking spaces in Phase 1 and Phase 2.
10. A car parking management scheme to be submitted
11. Sustainable Travel Plan
12. Provision of internal roads DCB and DCF as shown as plan number BWA2 (or such other route as agreed between the parties) prior to the occupation of any floorspace on the development in excess of 60,000m<sup>2</sup> provided that the local planning authority demonstrates by way of a contractual commitment from a public transport provider for a minimum of two bus services per hour at peak periods and a bus gate shall be provided.
13. Access from East Leeds Link Road within the site to be provided
14. Samples of all external walling and roofing materials
15. Details of the position, design, materials and type of all walls and/or fences or permanent boundary treatment.
16. Area of site to be used by vehicles to be laid out, drained, surfaced and sealed.
17. Submission of hard and soft landscape details and masterplan for Green Infrastructure Proposals including measures to safeguard and enhance biodiversity.
18. Hard and soft landscaping works to be carried out in accordance with the approved details.
19. Replacement of any trees or plants if any trees or plants are removed, uprooted, destroyed or die within a period of five years from the planting.
20. All surface water drainage from parking areas and hardstanding shall be passed through an oil interceptor.



21. Any above ground oil or liquid chemical storage tanks shall be located at least 10 metres from any watercourse and within a bund
22. No discharge of foul or contaminated drainage from the site into either groundwater or any surface waters, whether direct or via soakaways.
23. Details of storage ponds, permeable paving areas to be submitted and approved in writing.
24. Details of bridge crossings of Wyke Beck
25. A separate system of drainage for foul and surface water shall be provided.
26. Details of the proposed methods of disposal of both water and foul waste from the site.
27. No piped discharge of surface water from the development prior to the completion of the approved surface water drainage works
28. No development shall take place until details submitted of the treatment of emissions to atmosphere, resulting from any processes, plant or activity, including the method of treatment and height, position and manner of discharges.
29. Details of machinery, water tanks, boilers, or other plant and ancillary equipment to be installed.
30. Sound-insulating material to plant and/or machinery
31. Details of mechanical ventilation or air conditioning system
32. Details of the method of storage and disposal of litter and waste materials.
33. No ground clearance or removal of hedges, shrubs or trees shall take place during the period 1 March to 31 August. To prevent disturbance to breeding birds.
33. Scheme for the restoration of Wyke Beck within the site.
34. Details of bird and bat boxes to be provided
35. A sustainability statement shall be submitted for approval at reserved matters stage for each phase of development. The statement shall have regard to the requirements of the Sustainable Construction SPD. The development shall be implemented in accordance with the approved details.
36. Submission of Phase 1 and Phase 2 Contamination reports
37. Notification of unexpected contamination
38. All remediation works to take place in accordance with the approved Remediation Statement and submission of verification reports
39. Revised remediation statement in the event of unexpected contamination
40. Notification of any unexpected significant contamination
41. An uncontrolled pedestrian crossing including dropped kerbs/ tactile paving on East Leeds Link Road shall be provided prior to first occupation.
42. On completion of the second phase of development, a review of pedestrian routes to and from the site shall be undertaken and submitted to the LPA. If justified in line with the Council's Pedestrian Crossing Sight Assessment Guidelines on the East Leeds Link Road, a controlled pedestrian crossing shall be provided within timescales to be agreed.

Reason for approval

This application has been considered in accordance with the requirements of the UDPR 2006 and the City Council considers that granting permission for an extension of time for the development of an allocated site with extant permission would give greater flexibility to bring forward development of the site whilst also ensuring delivery of development in reasonable timescales. The application is considered to comply with the following UDPR policies;

E4 (9), E8 (4), E7, GP5, GP7, T2, T20, BD5, N8, N9, N24, N38A, N38B, N39A, N39B, N51, R1

On balance, the City Council considers the development would not give rise to any unacceptable consequences for the environment, community or other public interests of acknowledged importance.

## **INTRODUCTION:**

- 1.1 This application seeks a significant extension of time to a planning permission granted for a large employment site. Members will recall that a position statement was brought to Plans Panel East on 17 February 2011 where Members resolved to note the report and that at that stage no concerns had been raised regarding the proposed extension of time for the submission of Reserved Matters
- 1.2 The extant permission for the site can be implemented up to 2018, however the applicant seeks to extend this to allow submission of 2<sup>nd</sup> reserved matters details by 2023 and a further two years to implement the first reserved matters scheme. The applicant advises this is required in order to provide the developer with confidence of the longevity of the permission and therefore the ability to develop the site over a longer period of time given the current economic climate and the significant expenditure commitment in the early stages of development (reclamation of the site).
- 1.3 The extant outline permission was approved by Plans Panel East in February 2006 and allowed the submission of first reserved matters until 2016 (with further two years to implement the reserved matters scheme). This application is reported to Members due to the significance of the extension of time which is sought and the scale of the application which is to provide 275,000 sq.m of B8 floorspace.
- 1.4 The report below sets out the applicant's commitment to the carrying out of reclamation works and the first phase of development coming forward by 2018. The site is considered to be a strategic employment site and one of the sites within the announced Enterprise Zone and it is considered that assisting the applicant to achieve flexibility in delivering the development is in line with current government guidance and the aspirations for the Enterprise Zone. The extension of time application also provides the opportunity to secure travel plan evaluation monitoring and public transport contribution for the development as the relevant policies to deliver these contributions were not in place at the time the extant permission was granted.

## **2.0 PROPOSAL:**

- 2.1 The proposal is to extend the extant permission for a major proposal of B8 storage and distribution use, on an 84.7 hectare site. Part of the site is allocated for employment purposes in the UDP Review and part of the site is now included within the Knostrop strategic waste site allocation within the Natural Resources and Waste DPD (formerly part of the Knostrop treatment works).
- 2.2 Access into the site is proposed from a new roundabout off the East Leeds Link Road (ELLR), which has been constructed and opened since the extant permission was granted. A second emergency access is proposed from Knowsthorpe Lane to the south.
- 2.3 A new s106 agreement is also proposed to deal with the delivery of the first phase of development, public transport contribution and travel plan requirement. These are new matters arising since the grant of the extant permission. The s106 will also deal with the applicant's proposal to revise the phasing of the repayment of the East Leeds Link Road monies to central government.

## **3.0 SITE AND SURROUNDINGS:**

- 3.1 The site is a major employment site within the Aire Valley. The site comprises 84.7 hectares of land to the south of the ELLR and to the west of Jct 45 of the M1 motorway. This site is one of a number of sites within the Aire Valley which is subject to a commitment to repay the funding for the construction of the East Leeds Link Road infrastructure which has been funded jointly by the City Council and Yorkshire Forward.
- 3.2 The site is partly on the site of Knostrop treatment works (comprising an extensive area of filter beds) and also partly on open pasture land. The land is generally fairly flat with a slight slope across the site from south to north. The site was previously used for open cast mining and was formerly part of Waterloo Colliery site. Wyke Beck and an effluent channel pass through the site.
- 3.3 To the north west of the site is Cross Green Industrial Area, through which access to the treatment works is gained. To the North of the site is Temple Newsam Park.
- 3.4 The M1 motorway is to the east of the site and Green Belt land is to the east of the M1. Part of the site (eastern boundary along M1 boundary) is within an Urban Green Corridor which extends up to Temple Newsam Park to the north of the site. Temple Newsam Park also lies within the designated Green Belt.

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

- 4.1 The development of the site is covered by a s106 legal agreement which requires a contribution of £2.88m to central government for the East Leeds Link Road. The s106 agreement is tied to the land rather than the implementation of a specific planning permission.
- 4.2 11/02133/FU - Engineering works, including ground preparation works, formation of levels to development plot and provision of access and spine road with associated bridge. Approved 29.09.2011
- 4.3 21/199/05 - Outline application to erect warehouse and distribution development with car parking and landscaping. Approved 24.05.2006. The extant permission subject of this extension of time application, requires submission of first reserved matters by 2016 with a further two years to implement.
- 4.4 21/252/02/OT - Outline application to layout access and erect industrial warehouse units. Approved 24.05.2006, permission requires submission of first reserved matters by 2016 with further 2 years to implement. This extant permission covers 46.4 ha of land subject to the current extension of time application. The site is smaller and notably does not include the Yorkshire Water filter beds.

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

- 5.1 The application is subject to a Planning Performance Agreement following pre application discussions with the applicant. The Planning Performance Agreement agreed timescales for reporting a position statement to Plans Panel however this timeframe slipped as there were a number of detailed outstanding matters to be resolved relating to the ELLR contribution and agreement with Yorkshire Forward now understood to be taken over by Homes and Communities Agency; as well as Highway matters including Public Transport Contribution measures; and Travel Plan.

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

- 6.1 Prior to submission of the application, the applicant wrote to Ward Members for the 3 wards affected by the application – the site falls mainly within Burmantofts and Richmond Hill Ward. The access roundabout of East Leeds Link Road is within Temple Newsam Ward and the access road leading to Knowsthorpe Lane is within Garforth & Swillington Ward. Ward Members have also been formally notified of the application.
- 6.2 Councillor R Grahame has written to confirm that he fully supports the application.
- 6.3 Site notices were posted on 19.11.10 and expired on 10.12.10 – no representations have been received.

## **7.0 CONSULTATIONS RESPONSES:**

### **Statutory:**

#### **Highways Agency -**

- 7.1 Comments have been received from the Highways Agency in conjunction with discussions with the Council Highways Officers.
- 7.2 The Highways Agency issued a holding direction on 29 November 2010 which directs that the application is not determined for a period of 3 months. A revised Travel Plan has been submitted and an addendum to the Transport Statement regarding the trip rates and comments from the Highways Agency are awaited. The Highways Agency removed the holding direction subject to requested conditions and securing the travel plan through the legal agreement.

#### **Environment Agency -**

- 7.3 The LPA should satisfy themselves that the flood risk sequential test has been met in accordance with the requirements of PPS25.
- 7.4 The proposed development will only be acceptable if the measures detailed in the Oct 2010 Flood Risk Assessment submitted with the application are secured and implemented by way of conditions. The final Environment Agency Wyke Beck Model 2010 information shall be used for the purposes of assessing the compensatory storage requirements and the setting of finished floor levels.
- 7.5 The EA also advise that when the layout for the site is produced, they will expect to see a sequential approach to flood risk has been adopted in accordance with the FRA.

#### **Health and Safety Executive**

- 7.6 Does not advise, on safety grounds, against the granting of planning permission in this case.

### **Non-statutory:**

#### **Yorkshire Forward**

- 7.7 No comments but negotiations regarding the ELLR repayment are now ongoing with Homes and Communities Agency (HCA) who have taken over dealing with Yorkshire Forward assets. HCA have indicated support for revised phasing of the repayment set out in the heads of terms at the start of the report. This will need to be agreed through HCA Board and it is unknown at this time whether approval is needed from central government.

## **Metro**

- 7.8 The Aire Valley is not currently served by public transport and as a result the development will be car dependent. Metro have been working with the Council in developing the Aire Valley Area Action Plan (AAP). As part of the delivery of the APP, an option which is under consideration is to introduce a park and ride site close to the development which would greatly improve the accessibility of the site and the Aire Valley. Metro point out that the park and ride option is at early stages and is not likely to be delivered in the short term and therefore raise concerns about the sustainability of the development without any public transport available.
- 7.9 Metro comment that the developer needs to demonstrate what role public transport has in ensuring the site can be accessed by non car users. A financial contribution to fund a bus service should be investigated through Metro or the Council should consider implementing the public transport SPD to help fund future major public transport initiatives in the area in the future.
- 7.10 In absence of any realistic public transport Metro advise that the developer needs initially to look into reducing car trips through car sharing, walking and cycling. The travel plan needs to set out in a clear and concise manner what interventions will be implemented with a timeframe and show how performance will be monitored.

## **Public Transport Improvements Contributions Officer**

- 7.11 The proposed development if implemented in full would comprise of 275,000sqm of B8 storage and distribution uses. At present the site is not served by public transport with bus stops in excess of 1km from the site boundary – clearly this is not adequate for an employment generator of this size. As part of the Aire Valley Area Action Plan, measures and infrastructure would have to be put in place to serve this and adjacent sites with appropriate levels of public transport. These measures, however, will require funding.
- 7.12 It is noted that the developer is required to pay a significant sum towards the completed East Leeds Link Road, which provides access to the site and nearby motorway, but this does not compensate for the requirement for public transport services as set out in the City Councils adopted Supplementary Planning Document (SPD) “Public Transport Improvements and Developer Contributions”.
- 7.13 An overall calculation of £680k was initially provided based on the public transport mode splits given in the submitted Travel Plan of 6% and the SPD generic daily person trip rate for B8 warehousing / distribution uses of 10 per 100sqm. This SPD rate was used rather than a site specific value as the Transport Statement did not identify daily trips.
- 7.14 The applicant’s Highway Consultant has since provided daily trip rates generated by the Highways Agency and the applicant and it is clear that this rate of 10 trips per 100sqm is too high for sites of this size (as expected) and that a lower rate would be applicable. The applicant’s Highway Consultant’s note gives a total daily person trips of 10,925 (which equates to a rate per 100sqm of 4), which has now been agreed.
- 7.15 The Public Transport Contribution Officer also notes the issue of the Aire Valley Area Action Plan Mode split target of 15% for public transport which should be used as the Travel Plan target and calculation of the SPD contribution.
- 7.16 Using the public transport mode split of 15% and daily person trips of 10,925 and recalculating provides a sum of £677k. Further negotiations have taken place and it is

considered that a public transport contribution of £500k could be accepted on the basis that the ELLR contribution could be considered partly towards public transport under paragraph 4.5.3 of the SPD. However, there should be flexibility in terms of the public transport contribution for this site and if the contribution is by way of a payment then the phasing of this payment needs to include an element of front loading and this needs to be agreed as well as the potential financial contribution should this be required rather than any direct provision. The following phasing has been agreed with the applicant.

- £167,000 payable on first occupation
- £167,000 payable on occupation over 93,000 sq. m.
- £166,000 payable on occupation over 163,000m sq. ft.

7.17 There is a need to maintain as much flexibility within the public transport options as possible whilst securing a contribution that enables a meaningful intervention. Regard also has to be had to the restrictions placed on the developer via the conditions relating to trip generation and phasing. It is therefore suggested that something along the following lines is incorporated within a s106:

- A defined level of contribution payable over the lifetime of the permission (£500k)– to be index linked. There would be nothing to stop the developer providing further funding if they saw fit or was required to meet trip generation targets
- The actual measures should not be tied down within the s106 but reference should be made to service bus diversions, a dedicated shuttle bus service, or contribution to a larger scheme such as a bus rapid transit service along the ELLR to a P&R site at the motorway or any other such measure as agreed between parties at the time of each reserved matters application
- This could require the need for a ‘steering group’ comprising of representatives from the developers, prospective occupiers, Leeds City Council, the Highways Agency and Metro. This group and funding could also be tied in with the Travel Plan
- The agreement to the above does not release the developer from conditions relating to trip generation targets, but should be seen as a means to achieve those targets

#### **Nature Conservation Officer**

7.18 There is a need for the development to make a contribution towards green infrastructure in the Aire Valley the need for which is identified in the Aire Valley Area Action Plan and eco settlement proposals. The use of green roofs should be considered. A condition should be imposed to require a Green Infrastructure masterplan. A comprehensive scheme is required at an early stage as part of the master plan and Green Infrastructure proposals.

7.19 The applicant proposes an amendment to condition 33 and the restoration of Wyke Beck on a phased basis rather than details of a full scheme prior to commencement of development. A comprehensive scheme for the beck corridor is required and this should be agreed at an early stage as part of the masterplan and green infrastructure proposals for the site. Further details can then be provided at the reserved matters stage for each relevant phase.

#### **Public Rights of Way Officer**

7.20 Public Bridle Way 51 lies in close proximity to the site but does not appear to be affected by the development therefore no objections.

### **Leeds City Council Flood Risk Management**

- 7.21 Support the comments and conditions put forward by the Environment Agency with regards to Wyke Beck which crosses the site, compensatory storage and finished flood levels at the site. Discussions regarding on site balancing facilities would be necessary prior to agreement of drainage details.

### **Contaminated Land**

- 7.22 Desk top report received in 2006 indicating potential for gross contamination. It is recommended the scope of works for investigation is agreed with the Council and the Environment Agency prior to site investigation. No objections subject to conditions.

## **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) (UDP). 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.

### 8.2 UDP Review (2006)

E4 (9); Employment allocation

E8 (4): Key employment site

E7: Retention of employment land

GP5: Detailed planning considerations including amenity and highway safety

GP7: Planning Obligations

T2: Highway safety

T20: East Leeds Link Road

BD5: Building design and amenity

N8: Urban Green Corridors

N9: Urban Green Corridors and development

N24: Green belt boundary

N38A: Flood Risk and development

N38B: Planning applications and flood risk assessments

N39A: Sustainable drainage

N39B: Watercourses and new development

N51: Nature conservation and enhancement

R1: Regeneration

### 8.3 Supplementary Planning Guidance

Aire Valley Area Action Plan (Draft - Preferred Options)

Draft SPG – A design guide for the Aire Valley

Draft Natural Resources and Waste DPD – currently out to consultation

Draft Travel Plan SPD (adopted for development control purposes)

Public Transport Improvements and Developer Contributions SPD (adopted)

Sustainable Design and Construction SPD (adopted)

### 8.4 Regional Spatial Strategy (RSS) (adopted May 2008)

ENV5: 10% renewable energy requirement.

YH1: Spatial pattern of development and core approach.

YH2: Sustainable development.

YH4: focus development on regional cities.

YH5: Focus development on principal towns.

YH7: location of development.

LCR1: Leeds city region sub area policy.

E1: Creating a successful and competitive regional economy

E3: Land and premises for economic development

- 8.5 National Policy Guidance  
PPS1 – Delivering Sustainable Development  
PPS4 – Planning for sustainable economic growth  
PPG13 – Transport  
PPS9 – Biodiversity and Geological Conservation  
PPS25 – Development and Flood Risk

Ministerial Statement – Planning for Growth, March 2011

## 9.0 **MAIN ISSUES**

1. Principle of development
2. Time periods for extension of time
3. Highway Issues
4. Flood Risk Assessment

## 10.0 **APPRAISAL**

### 1. Principle of Development

10.1 Part of the site is allocated for employment use and as a key employment site under Policies E4 and E8 of the Unitary Development Plan Review (the allocated site is 98 ha in area). The part of the site which is not within the employment allocation consists of sewage treatment works filter beds. This land the Knostrop strategic waste site allocation under the Natural Resources and Waste DPD which is currently undergoing an Examination in Public (programmed for 16 November to 7 December 2011).

10.2 Outline approval has been granted in principle for storage and distribution development on the application site and this remains an extant permission until 2016. The outline permission approved only the principle of development with all other matters reserved although an indicative layout was provided. An updated indicative masterplan has been provided.

10.3 As referred to above, part of the site was one of the Natural resources and Waste DPD allocated sites for strategic waste purposes. The policy (Waste 6 – Strategic Waste Management sites) allocated these sites for the lifetime of the document which covers a 15 year period unless it is shown that there is no requirement for the allocation. The applicant has made representations regarding this policy and the site has since not been the chosen site in the procurement process for an Energy from Waste development. The Forward Planning team confirm that the proposed text of the DPD, which is currently undergoing an Examination In Public, is to be altered to clarify that once the procurement process completes then the unsuccessful site will not be needed for strategic waste purposes. Therefore a condition safeguarding the site for the duration of the plan period is not required.

### 2. Time period for extension of time

10.4 The government reintroduced the ability for applicants to extend the time period for implementation of applications which were granted planning permission on or before 1 October 2009. It is only possible to grant one extension of time to each permission. The DCLG guidance document 'Greater flexibility for planning permissions' advises with regard to 'how local authorities should approach these applications', that in the current circumstances local planning authorities should take a positive and constructive approach to applications which improve the prospect of sustainable development being taken forward quickly. As the principle of development will have been accepted at an earlier date, the guidance goes on to state that local planning authorities should focus their attention on development



plan policies and other material considerations which may have changed significantly since the original grant of planning permission. There is discretion in terms of the length of time a permission can be extended for with discretion to grant longer permissions if this is justified on planning grounds.

- 10.5 The extension of time is a significant issue for the Council to consider. The proposal would allow submission of second reserved matters by 2023 and commencement by 2025, with further phases of reserved matters then coming forward no later than 2 years from approval of the last phase.
- 10.6 The applicant advises that this extension of time is required in order to provide them with the confidence that they can have the ability to start on site and carry out significant reclamation works and have further time to deliver this scheme given current market conditions.
- 10.7 The extant permission allows submission of first reserved matters by 2016 and implementation by 2018. The applicant has agreed a commitment to submission of the first reserved matters in line with this time period for the extant permission, therefore the proposed extension of time relates to the second reserved matters application to be submitted up to 7 years beyond that which the extant permission allows for in relation to both reserved matters and commencement of development respectively.
- 10.8 In order to ensure that the proposed extension of time does not result in significant delays in development of the site coming forward altogether, Officers have sought to reach agreement with the developer on delivering a reasonable level of development within the timescales of the extant permission. In this respect, the applicant has offered to commit, by way of the legal agreement, to the delivery of 28,000 sq.m of floorspace at the site by 2018. This represents just over 10% of the total floorspace approved at the site under the extant permission. It should also be noted that conditions on the outline permission restrict more than 60% of floorspace from being provided if the agreed trip rates for the site are exceeded at phase 1. This could therefore reduce the total floorspace delivered at the site to 165,000 sq.m and therefore the proposed 28,000 sq.m to be delivered by 2018 would then represent 17% of the development.
- 10.9 The applicant has however indicated that at the present time the aspiration is to deliver some 93,000 sq.m floorspace as Phase 1 of the development and this is likely to be the largest of the plots shown on the indicative masterplan. The developer would also carry out significant reclamation works at the site in the early stages of the development with substantial financial commitments in advance of securing future occupiers.
- 10.10 It is therefore considered that the proposed commitment by the developer to carry out the first phase of reclamation works and provide 28,000 sq.m of floorspace by 2018 represents an acceptable start to development of this site and will facilitate other phases of the development to come forward. As such, it is considered that the proposed extension of time will not lead to unacceptable delays to development given the current market conditions and significant commitment which is required from the developer in order to deliver development of this site.

### **3. Highway Issues**

- 10.11 The allocation of the site under Policy E4 included that development of the site is subject to the construction of relevant road proposals to serve the development. The East Leeds Link Road (ELLR) has now been constructed and is open to serve the

site. The condition preventing development until this time is therefore no longer necessary. It should be noted however that the applicant is seeking to revise the terms of the s106 agreement which covers the development of this site and which deals with the repayment of £2.88m funding for the ELLR to Yorkshire Forward (now replaced by HCA) and this is referred to below under the heading of s106 matters.

- 10.12 A revised Transport Statement has been submitted as part of the application and this is based on a gross floor area of 275,000 sq m of B8 warehousing with access from the East Leeds Link Road. Revised trip rates have recently been received and the Highways Agency has removed the holding direction subject to conditions and securing the Travel Plan through a legal agreement.
- 10.13 The extant permission was approved subject to a limit on the number of trips generated by the development, with Phase 1 being no more than 60% of the floorspace and Phase 2 not coming forward if agreed trip rates at the site are exceeded in order to ensure that the M1 motorway network is not overloaded.
- 10.14 The Travel Plan will be an important factor in achieving the trip rates restricting development on this site. Since the extant permission was granted permission, the draft Travel Plans SPD has been adopted for development control purposes and the applicant has therefore worked with the Council Highway Officers and the Highway Agency on agreeing a Travel Plan Framework for the site. The Travel Plan will be secured by way of the s106 agreement which will include the travel plan evaluation monitoring fee (estimated to be £15,000 based on number of staff anticipated).
- 10.15 The Public Transport Infrastructure Developer Contributions SPD has also been adopted since the extant permission was granted and therefore there is a requirement to secure this contribution as part of the s106 agreement however this will also be of benefit to the developer in helping them to achieve the trip rates which development must achieve in order to deliver phases 2 and 3.

#### **4.Flood Risk Assessment**

- 10.16 The Environment Agency have not objected to the application subject to conditions in accordance with the recommendations of the FRA. Officers are also satisfied that the applicant's approach to the sequential test required under PPS25 is acceptable in light of the limited part of the site which is within Flood risk zones 2 and 3, the less vulnerable end use proposed on the site and the sequential approach to future development of the site as part of the reserved matters as recommended in the FRA

#### **5. Revised conditions**

- 10.17 The applicant is seeking to revise the conditions attached to the original permission to allow development of the site to be phased. These conditions principally relate to materials, boundary treatments, landscaping, oil interceptor provision, drainage, ventilation and plant equipment, litter and waste storage, sustainability statement and contamination investigations/ remedial works. It is considered that this approach is entirely acceptable for such a significant amount of floorspace and it is expected that reserved matters applications will be submitted in a phased approach and therefore the original conditions should have reflected this. The original condition numbers and proposed revisions are set out below;

Condition 3 – Submission of programme for the phasing of the development  
Revised to allow for submission of phasing plan at each stage of development, to increase flexibility

Condition 4 – No development prior to completion of ELLR  
Delete – ELLR is now complete

Condition 8 - System for automatic vehicle detection

- Revised to allow for submission prior to commencement of Phase 1.
- Condition 16 - Details of the position, design, materials and type of all walls and/or fences or permanent boundary treatment.  
Revised to allow phased submission
- Condition 18 - Landscape Details  
Revised to allow phased submission
- Condition 24 - Details of storage ponds, permeable paving areas and bridge crossings of Wyke Beck to be submitted and approved in writing  
Revised to allow phased submission and separate condition for Wyke Beck
- Condition 26 - Drainage details  
Revised to allow for phased submission
- Condition 27 - No development shall take place until details submitted of the treatment of emissions to atmosphere, resulting from any processes, plant or activity, including the method of treatment and height, position and manner of discharges.
- Condition 30 - Delete – the condition is not relevant to B8 development  
Details of the extract ventilation system  
Delete, the condition is duplicated at condition 32.
- Condition 32 - Details of mechanical ventilation or air conditioning system  
Revise to allow phased submission of details.
- Condition 33 - Details of the method of storage and disposal of litter and waste materials.  
Revised to allow phased submission of details
- Condition 35 - Bat survey to be carried out, by a licensed bat worker, of the dead tree along the north-west boundary of the site  
Delete – tree has been removed, appropriate bat surveys were undertaken
- Condition 36 - Scheme for the restoration of Wyke Beck within the site.  
Amend to allow for phased submission
- Condition 37 - Details of bird and bat boxes to be provided  
Amend to allow for phased submission
- Condition 38 - Sustainability statement  
Amend to allow for phased submission and in accordance with current Sustainable Construction SPD
- Condition 39 - Submission of Remediation statement  
Amend to allow for phased submission and in accordance with current contamination conditions
- Condition 45 - Intrusive investigation to assess and characterise potential land contamination  
Amend to allow for phased submission and in accordance with current contamination conditions

## **6. S106 matters**

- 10.18 The applicant has submitted heads of terms for the following matters to be dealt with by way of a s106 legal agreement. It is also considered that delivery of the travel plan will need to be secured through the s106 legal agreement as well as a commitment to the carrying out of the first phase of development by 2018. All of the obligations and contributions proposed within the S106 as contained within this report are considered to be directly related to the development and compliant with the three legal tests introduced by CILs Regulations ( necessary; directly related; and fairly and reasonably related in scale and kind to the development)

- 10.19 The existing s106 agreement which deals with repayment of the ELLR money relates to the land and not the implementation of a specific planning permission. It should also be noted that there is an inconsistency between the red line area of the site subject of the extant B8 planning permission and the land subject of the legal agreement as the full B8 site is not included. It is considered that this is likely to have been an oversight and should be rectified as part of the s106 agreement required for the extension of time application.
- 10.20 The developer has a commitment to pay a £2.88 m contribution to the ELLR to Leeds City Council by way of a legal agreement relating to the site. The Council are then party to a joint venture agreement and are required to repay this money to Yorkshire Forward. Yorkshire Forward's Assets are now being dealt with by the Homes and Communities Agency since Yorkshire Forward has been disbanded.
- 10.21 The terms of the existing legal agreement require payment of 50% of the money prior to stage 2 works (site preparation) and 50% prior to commencement of development. This is the same for 3 sites that are required to contribute to the ELLR monies.
- 10.22 The applicant has proposed to the Homes and Communities Agency (HCA) that the terms of the agreement are amended to alter the timing and phasing of the payment. This matter will need to be dealt with by way of a new legal agreement to accompany this extension of time application which can also deal with the discrepancy relating to the land tied to the legal agreement. The City Council does not have the authority to alter the terms of this agreement without agreement from HCA. It is recognised that it is desirable to provide some degree of flexibility to the developer in order to help bring development at this site forward and this has greater importance given that the site is one of the sites within the announced Enterprise zone. This is also consistent with government advice on Planning Obligations issues in March this year, in light of the Ministerial Statement, Planning for Growth. The government advice is that an appropriate review of planning obligations, which takes account of local planning priorities, could allow development to proceed on stalled schemes. The HCA have indicated support for an amended agreement based on the following repayment triggers that have been put forward by Aire Valley Land and KeyLand;
- Stage 1: construction of main site access road, associated works and site preparatory ground works - nil contribution
  - Stage 2: commencement of construction of buildings in accordance with B8 planning permission - 25% of the contribution and interest
  - Stage 3: occupation of premises constructed on the site - contribution payable based on the following calculations: -
    - OF/TF x TC x 1.5 - for the first 93,000 sq.m
    - OF/TF x TC x 0.375 - for the remainder of the floorspace (approx 182,000 sq.m)
- Where:
- OF = Occupied floorspace for the relevant phase
  - TF = Total floorspace permitted by the planning permission
  - TC = Total contribution with accrued interest under the S106 agreement
- 10.23 On this basis the payments would be:

- £720,000 on commencement of buildings
- £1.4m *pro rata* spread across the first 93,000 sq.m. of occupation; and
- £720,000 *pro rata* spread across the remaining 182,000 sq.m..

10.24 Aire Valley Land and KeyLand also propose a backstop date of 31 March 2020 for payment of any outstanding balance of the ELLR contribution.

#### Public Transport Contribution

10.25 The public transport improvement contribution will need to be dealt with as part of a s106 legal agreement but needs to maintain flexibility in terms of agreement of the best delivery of public transport measures at the time development comes forward. The sum of £500k has been agreed between the developer and Officers and it is considered that this could be spent on a number of measures; funding of a Metro service (advice has been sought from Metro), direct funding of a shuttle bus service for a future occupier of the site if public transport services are not feasible, contribution towards the Park and Ride scheme or other such measures.

10.26 Phasing of the public transport funding has been agreed with the applicant to ensure an element of front loading in the delivery of public transport measures as follows;

- £167,000 payable on first occupation
- £167,000 payable on occupation of 93,000 sq. m.
- £166,000 payable on occupation of 163,000m sq.m.

10.27 The s106 and travel plan also include the setting up of a steering group to look at the different measures available at the time development comes forward.

### **11.0 CONCLUSION**

11.1 The site is considered to be an important strategic site within the announced Enterprise Zone. It is considered that subject to the matters set out in the report to be dealt with through a legal agreement and the delivery of the first phase of development by 2018, the proposed extension of time for submission of 2<sup>nd</sup> reserved matters is acceptable. Granting the extension of time should assist in providing the applicant with flexibility in delivering the development and in determining this application, regard should also be had to the government's agenda of fostering sustainable economic growth and the job creation associated with the proposed development.

11.2 Members are asked to defer and delegate approval of the application to Officers subject to the completion of a legal agreement to deal with the matters set out at the start of the report. The City Council is party to a joint venture agreement in respect of the repayment of the money for the East Leeds Link Road and therefore the legal agreement can only be varied in agreement with the government through the HCA.

#### **Background Papers:**

Application and history files; 21/199/05/OT  
Certificate of Ownership – Certificate B

## **APPENDIX 2 –MINUTES OF PLANS PANEL EAST 01/12/11**

The report of the Chief Planning Officer referred to an application for extension of time for outline planning application 21/199/05/OT to allow submission of Reserved Matters until 2023 (to erect warehouse and distribution development with car parking and landscaping) at Land at Temple Green off East Leeds Link Road, LS10.

**RESOLVED** – That planning permission be granted in accordance with the recommendation.

- Condition 2 – to read ‘submission of first reserved matters and commencement of development both by 2018’
- Condition 5 – reference to B2 to be deleted.

Additional conditions:

- Update of Landscape and Design Framework for whole site to be submitted with each reserved Matters application.
- Development in accordance with the approved Flood Risk Assessment (October 2010).



The scaling of this drawing cannot be assured

Revision	Date	Drn	Cld
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Legend

Site Boundary

10/05040 #



Project  
**LAND AT TEMPLE GREEN**

Drawing Title  
**LOCATION PLAN**

Date	Scale	Drawn by	Check by
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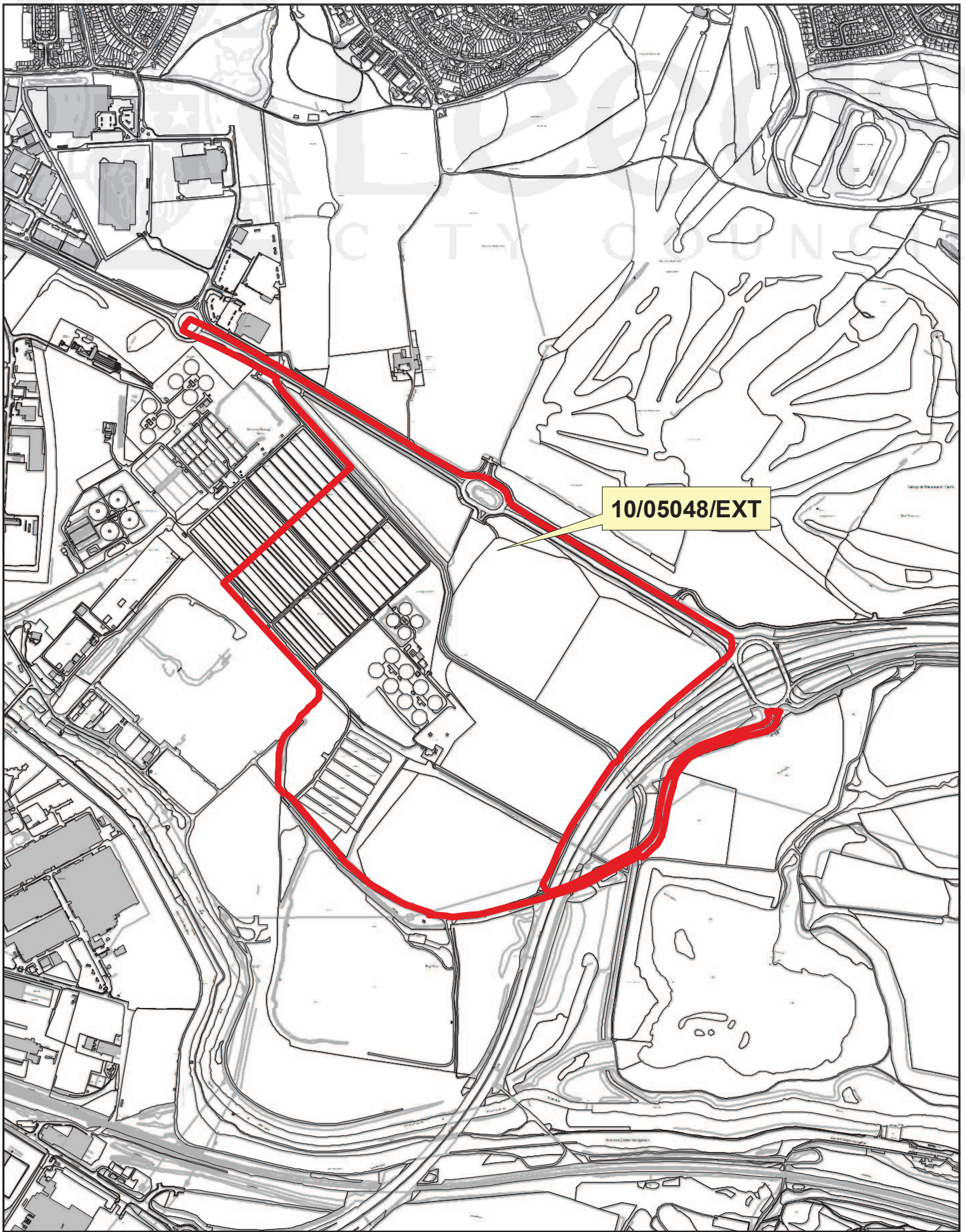
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# NORTH AND EAST PLANS PANEL







Originator: L Hart  
Tel: 2224409

## Report of the Chief Planning Officer

### NORTH AND EAST PLANS PANEL

Date: 3 October 2013

**Subject: APPLICATION 13/00527/FU – First floor side extension with dormer to front; two storey and first floor extension to rear; porch to side; new retaining wall with steps to remodelled rear garden at Friars Cragg, Linton Common, Linton, LS17**

#### APPLICANT

Mr Adam Beaumont

#### DATE VALID

15 February 2013

#### TARGET DATE

12 April 2013

#### Electoral Wards Affected:

Harewood

Yes Ward Members consulted

#### Specific Implications For:

Equality and Diversity

Community Cohesion

Narrowing the Gap

#### RECOMMENDATION:

**GRANT PERMISSION subject to the following conditions:**

1. Time limit;
2. Plans to be approved;
3. No insertion of side windows;
4. All side facing windows indicated on plan to be obscure glazed and top opening only.
5. Removal of permitted development rights
6. Retention of vegetation to boundary

#### 1.0 INTRODUCTION:

- 1.1 This application is being brought to Plans Panel as it involves the erection of large extensions to a house in the Green Belt. The report sets out the reasons why, in this case, the extensions are considered acceptable by officers. The applicant is a significant investor in the city and the consideration of the application by Plans Panel is thought to be the most transparent method of decision making.

- 1.2 The applicant seeks permission for first floor, two storey and single storey extensions to both sides and rear, one new dormer window to the front and some alterations to the garden to create steps and a raised patio to the rear garden. .
- 1.3 Pre-application discussions have been held regarding development at the site and officers raised concerns regarding the amount of extension in the Green Belt, noting that the property had already been previously extended. Concerns regarding compliance with Green Belt policy, design and residential amenity have been raised with the agent during the application process and this has led to the receipt of revised plans that are the subject of this report.
- 1.4 It is pertinent to note that since the receipt of the application, there has been a relaxation of permitted development rights nationally which allows larger single storey extensions to be built at the rear of detached dwellings for a period of 3 years up to 2016. This will be discussed later in the report.

## **2.0 PROPOSAL:**

- 2.1 A first floor extension is proposed to the west of the dwelling at the front, building above an existing flat roofed side extension which presently has a balcony over. This enlarges the dwelling by approximately 2.4m in width. One additional dormer is added to the front, the same size as the existing front dormers
- 2.2 To the rear, an existing two storey annexe and single storey rear linked extension are to be demolished. There are 2 two storey extensions proposed, each with a steep gable but with a low eaves height that matches that of the present roof. A glass cube is proposed to be sited between and linking the two rear extensions. This appears to float out into the raised terrace garden giving direct access from the first floor of the property to the rear garden. A small porch is proposed to the eastern side.

## **3.0 SITE AND SURROUNDINGS:**

- 3.1 The application relates to a detached dormer bungalow constructed of stone and with a blue slate roof. The property is augmented to the front with a transverse two storey gable and three, small, hipped dormer windows. It is typical of the character of Linton Village. The stone heads and cills and the detailing to the front gable window are examples of this style.
- 3.2 The property was granted permission in 1953 and has been extended and altered over the years. The garage, the rear annex, and the single storey rear extension and single storey side extension are all later additions. There is no planning permission associated with the flat roofed side extension or the garage.
- 3.3 The property is located just outside Linton Village core and is within the Green Belt. There is a ribbon of houses to the north side of the road with the river Wharfe to the south. The river and Linton Common form part of the Conservation Area although the houses are not within the conservation area boundary. There is a severe gradient change within the area with the land rising from the river. There is significant and mature vegetation along the river bank and also some mature vegetation within the gardens and to the side boundaries of the houses. The properties are individually designed and set back from the roadside and are usually also set up from the road level and the character of the area is created by the spaces, the vegetation and the gradient, rather than a consistent design motif.

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

##### **4.1 Previous Applications:**

WE1022 - Two storey, stone faced dwelling - Approved (1953)

WE1022(A) - Extension over garage - Refused (1963)

WE3858 - Extension to form living accommodation - Approved (1964)

31/56/96 - Single storey rear extension - Approved

31/143/99 - New pitched roof to existing rear annex - Approved

07/02374/FU - Infill extension to first floor and alterations to form annex accommodation  
Approved

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

5.1 The application has been revised and reduced since the original submission. The originally proposed dormer windows at the front have been removed, the existing extensions are proposed to be demolished, a revised reduced rear extension is proposed.

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

6.1 Neighbour notification letters have been sent with re-notification occurring after the receipt of revised plans.

6.2 Concerns have been raised by one local resident. The points raised regarding the original plans are:

- Overlooking

6.3 Following reconsultation no objections have been received.

#### **7.0 CONSULTATIONS RESPONSES:**

Statutory & Non-Statutory Consultations:

None

#### **8.0 PLANNING POLICIES:**

Development Plan

8.1 The development plan is the adopted Leeds Unitary Development Plan (Review 2006). 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. On 26th April 2013 the Council submitted the Publication Draft Core Strategy to the Secretary of State for examination and an Inspector has been appointed. It is expected that the examination will commence in October 2013. As the Council have submitted the Publication Draft Core Strategy to the Secretary of State for examination some weight can now be attached to the document and its contents recognising that the weight to be attached may be limited by outstanding

representations which have been made which will be considered at the future examination.

- 8.2 Leeds Unitary Development Plan (Review 2006) Policies:  
Policy GP5: refers to development proposals should seek to avoid loss of amenity.  
Policy BD6: refers to all alterations and extensions should respect the scale, form, detailing and materials of the original building.  
Policy N19: new buildings within or adjacent to conservation areas should enhance or preserve the character and appearance of that area.  
Policy N33: Except in very special circumstances approval will only be given for: limited extension, alteration or replacement of existing dwellings.

- 8.3 Leeds City Council Householder Design Guide Policies:

Leeds City Council Householder Design Guide was adopted on 1<sup>st</sup> April 2012 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.

Policy HDG1: refers to design and appearance

Policy HDG2: refers to impact on neighbours

Policy HDG3 refers to impact on development in the Green Belt and sets a 30% extensions limit over and above the original house volume to be appropriate otherwise very special circumstances will need to be demonstrated.

- 8.4 Neighbourhoods For Living: A Guide for Residential Design in Leeds was adopted as Supplementary Planning Guidance by the Council in December 2003.

## 9.0 MAIN ISSUES

- i) Green Belt and Recent Permitted Development Changes
- ii) Townscape/design and character
- iii) Overlooking
- iv) Overdominance and Overshadowing
- v) Representations

## 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 a thirty percent increase over and above the volume of the original building is considered to be the limit of what can be defined as a limited extension. In order to be considered acceptable development within the Green Belt, extensions should not only be limited but should not harm the character,

appearance or openness of the Green Belt. Development proposals which exceed this 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 can be demonstrated.

- 10.2 The main Green Belt issues in relation to this application are therefore;
- whether the proposal is a disproportionate addition that constitutes inappropriate development within the Green Belt ;
  - whether any harm, by reason of inappropriateness and / or impact on openness, is outweighed by other considerations so as to amount to very special circumstances.

In order to assess whether or not a proposal constitutes inappropriate development there are two main issues to explore. The first consideration is whether the proposal can be considered to be a disproportionate addition, and the second issue is whether the proposal harms the openness, character and appearance of the Green Belt.

- 10.3 A volumetric assessment can give a reasonable indication of the suitability of a development within the Green Belt, and as noted above the LPA consider that an upper limit of thirty percent increase is acceptable (HDG3). The original property which was granted permission in 1953 was for the dormer bungalow with the three front dormers and the gable. There were no other structures approved at the time. The original house has a volume of approximately 463m<sup>3</sup>. Other additions over time have added 236 m<sup>3</sup> in volume. Of that 236 m<sup>3</sup>, 183 m<sup>3</sup> is to be demolished as part of this development proposal leaving the single storey flat roofed side extension of 53 m<sup>3</sup>. Part of the scheme proposes a first floor extension over the flat roof extension providing bedroom accommodation. This adds 41 m<sup>3</sup> of volume to the house and taken in isolation removes overlooking from the balcony and improves the external appearance of the dwelling and is supported by officers.

- 10.3 In total the proposal involves a volume increase of 359 m<sup>3</sup> and the demolition of 183 m<sup>3</sup> resulting in a net increase of 176 m<sup>3</sup> or 25% of the dwelling as it presently exists but some 89% greater than the original dwelling as built. In recognising that the dwelling as it now exists is some 51% larger than the original dwelling then a further 38% would be added in volume if this application is approved. The figures are summarised in the table below;

Original volume (1953 approval )	463 m3	
Total volume now (2013)	699 m3	51% increase on original
To be demolished	183 m3	
To be added	359 m3	176 m3 net to be added
Total volume if built	875 m3	89% increase on original volume 25% increase on volume existing

This is clearly more than the 30% that is suggested by the HDG and represents inappropriate development in the Green Belt according to the policy background. The overall scheme does give the dwelling a well balanced frontage and extensions to the rear that in part reflect an extension to the house next door and in part have little impact on the general locality. Whilst overall there is a large increase from the original volume of the house as built in 1953 a substantial amount of this is achieved by demolishing existing extensions and so the actual increase over and above the current volume of the house is below the 30% threshold. Officers have also

considered the amount of development that could be added without the need for planning permission.

- 10.5 For a period of three years, between 30 May 2013 and 30 May 2016 householders have greater permitted development rights and can extend a detached dwelling by up to 8 metres subject to the outcome of a neighbour consultation exercise, the key test of which is impact on amenity. Given the relationships between this house and those on either side, it is likely that a 8 metres extension could be built at this property and that is a real possibility in this case. This could add something in the region of 288 m<sup>3</sup> of volume to the house without the need for planning permission, which would project further out into the rear garden than that before Members today.
- 10.4 Policy also notes that development proposals must also not harm the openness , character or appearance of the Green Belt. Although the extensions add significant volume to the dwelling and do add additional bulk to the dwelling and give it some increased depth and width, the impact on openness is limited. Indeed the rear extensions do not extend as far into the rear garden as the existing two storey annexe. Views through the site to the banked rear gardens and the general wooded backdrop are allowed by the space which is retained at the sides of the dwelling, and although the works to the rear are substantial they do not affect long range views. The character of this section of the Green Belt is characterised by presence of ribbon housing, most of which has been extended over time and the proposal does not alter this. As such in respect of openness, character and appearance the proposal does not raise significant concern and actually improves the front appearance of the property by building over the flat roofed single storey side extension.

#### Green Belt Conclusion:

- 10.5 The scheme before Members has been amended since its first submission to take account of the concerns of officers regarding the size and design of the extensions. It was at the suggestion of officers that the existing rear extensions be demolished and the volume of those used as part of the redesign. Whilst the extensions are larger than usually allowed by the provisions of the Householder Design Guide and would be classed as inappropriate development, the resulting dwelling achieves a better outcome in terms of local character and impact on openness than could be achieved under permitted development rights and is better thought out and allows the extension of a dwelling where some rooms are not easily accessed and a child's room is on the ground floor away from their parents to be modernised and extended for normal family occupation and these factors are considered to be very special circumstances in this instance.

#### Townscape/design and character

- 10.6 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 GP5 states that “development proposals should seek to resolve detailed planning considerations including design” and should seek to avoid “loss of amenity. Leeds Unitary Development Plan Policy BD6 states that “all alterations and extensions should respect the form and detailing of the original building”. This advice is expanded and elucidated within the Householder Design Guide.

- 10.7 The first floor side extension is proposed to be built above an existing single storey side extension that presently has a flat roof. The extension will have a pitched roof to tie in with the main roof of the house and a dormer to match the others on the frontage. It will improve the front of the dwelling and have little impact on the character of the area. As a result it is considered that there will be some improvement to local views to the site from within the adjacent conservation area.
- 10.8 The rear extensions are bigger but are located at the back where only very limited views would be available of them. The eaves height of the two gabled extensions matches that of the main dwelling, which is a bungalow at the rear and the ridge similarly matches the main ridge. The most striking feature is of the glass cube which will form a sun room. This will be placed in between the two rear extension and will project out to the raised terraced garden. This is a modern addition to a stone built house but being wholly glazed will allow views through it and will not be visible from public vantage points. The rear extensions will not detract from the character of the house or the locality.

#### Overlooking

- 10.9 Policy GP5 (UDPR) notes that extensions should protect amenity and this advice expanded further in policy HDG2 which notes that “all development proposal should protect the amenity of neighbours. Proposals which harm the existing residential amenity of neighbours through excessive overshadowing, overdominance of overlooking will be strongly resisted”.
- 10.10 The dwelling presently has windows in the side elevations at first floor level and has a balcony that has unrestricted views into the neighbours curtilage. This proposal will remove the balcony and the proposed new bedroom window to the western side elevation can be conditioned to be obscurely glazed. The proposed steps in the rear garden are in similar locations to the existing ones and views out of the sun room towards the side boundaries some 9m away will be filtered by existing planting which will be retained.

#### Overdominance and Overshadowing

- 10.11 The rear extensions, those which could impact most on the neighbours through over dominance and overshadowing, are 3m and 4m from the boundaries with the houses on each side. At the boundary edges there is banking and planting. The neighbouring houses are also set away from the shared boundaries. It is not considered that any over dominance or overshadowing will occur to either neighbour.

#### Representations

- 10.12 One resident has expressed concern about overlooking from the proposal on the original plans. These plans have changed and no additional comments have been received. Overlooking issues should improve on the existing situation as the first floor side balcony has been removed.

### **11.0 CONCLUSION**

- 11.1 It is considered that although the proposal will add generous volume to the dwelling the proposal will not harm the openness of the Green Belt. There is a strong argument that there will be a net improvement to residential amenity with the removal of the existing balcony and an enhancement to the character of the locality through the

improved appearance of the dwelling. Given the present position on site and the amount of demolition involved together with the potential fallback position of a significant single storey rear extension which could be built as permitted development it is considered that there are very special circumstances in this case which outweigh the harm resulting from the fact it is inappropriate development and that with the other benefits the application should be recommended for approval subject to the removal of permitted development rights for any further extensions..

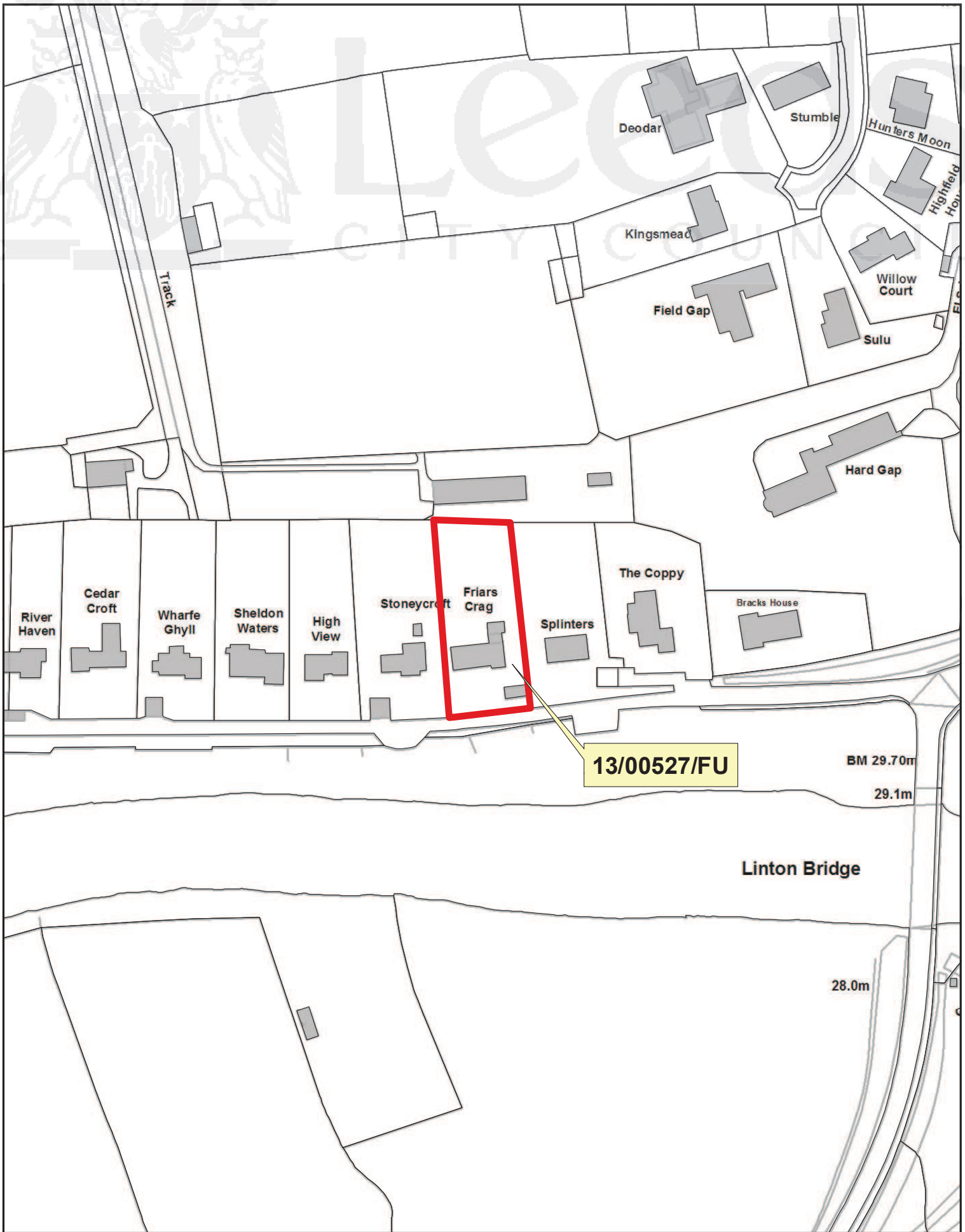
**Background Papers:**

Application file 13/00527/FU

Ownership Certificate: Certificate A signed by agent







# NORTH AND EAST PLANS PANEL





Originator: J Thomas

Tel: 0113 222 4409

## Report of the Chief Planning Officer

### NORTH AND EAST PLANS PANEL

Date: 3<sup>rd</sup> October 2013

Subject: 13/03029/FU – New section of wall, increase in height to existing wall to side and timber pedestrian gate at Dene Cottage, Linton Lane, Linton, Wetherby, LS22 4HL

#### APPLICANT

Mrs Sara Jamieson

#### DATE VALID

4<sup>th</sup> July 2013

#### TARGET DATE

29<sup>th</sup> August 2013

#### 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:

1. Time limit on full permission
2. Stone sample panel
3. Dark stain colour to gate
4. Landscape scheme

#### 1.0 INTRODUCTION

- 1.1 This application seeks permission to erect a boundary wall to part of the curtilage of the site as it runs along Linton Lane. The application property is the subject of enforcement action due to the erection of authorised extensions to the dwelling. These unauthorised extensions were discussed by Panel in December of 2012 and March of this year. Permission was granted subject to alterations to a rear gable feature. Following this negotiated position the applicant has expressed a desire to retain the as-built unauthorised extensions and an application to this effect has been submitted. This is currently being considered under application reference (13/03352/FU).
- 1.2 The application is brought to Panel at the request of Councillor Rachael Procter due to the planning and enforcement history.

## 2.0 PROPOSAL

- 2.1 The applicant seeks permission to increase the height of part of an existing boundary wall and erect a new section of wall to the same boundary of the site. This extends an existing wall which runs along the boundary with Linton Lane and which is set back from the highway edge behind a grass verge. A 1.8m solid timber gate is also proposed (but the gates to the vehicular access are set back from the Linton Lane and as a consequence do not require planning permission). This boundary has a frontage of approximately 52m to Linton Lane. The new section of wall comprises 11.5m of that length. The section of wall to be increased in height is approximately 6.8m in length. The application plans show a wall of around 1.5m in height.

## 3.0 SITE AND SURROUNDINGS:

- 3.1 The application relates to a detached dwelling which is sited just north of Linton village core and within the conservation area. The property was once a small cottage built in a pastiche Arts and Crafts style, however recent extensions have substantially enlarged the dwelling. Sections of these building works remain unauthorised. The property is largely rendered and has a slate roof.
- 3.2 The property is sited within a generous plot and is set back from Linton Lane and is orientated side-on to the highway with its principal elevation facing toward its main amenity space which is to the front of the property. The plot and wider area are very verdant and this is an important part of the semi-rural character of the area. The bank of trees and vegetation to the north of the site are visible from Linton Lane and form an important backdrop to this section of the village. Boundary treatments within the area vary in height and design. Post and rail fencing, walls and vegetation are most in keeping with the agrarian character of the village, although larger, suburban style boundary treatments are in evidence.
- 3.3 The existing boundary treatment to the eastern side of the site is largely formed by a 1.5m (approx.) high wall constructed of stone set in loose, irregular courses. The wall is topped with vertical stones to give a castellated effect. A section of the boundary wall has been demolished to allow construction access for the extension. Other sections of the boundary are formed by fencing and established vegetation softens both the wall and the fence.

## 4.0 RELEVANT PLANNING HISTORY:

31/2/97/FU	Part two storey and part first floor side extension with new dormer windows <b>Approved</b>
31/148/04/FU	Two storey side extension with balcony to front <b>Refused</b>
31/281/04/FU	Part two storey part single storey side extension with balcony to side of first floor <b>Approved</b>
09/01910/FU	Part single storey and part two storey side, front and rear extension with balcony over part, dormer windows to side and rear of extension, and new raised terrace area to front <b>Approved</b>

12/02122/FU Two storey extension to front, side and rear with balconies to side, new entrance porch to front, raised terrace to rear and replacement bay window to side  
**Withdrawn**

12/04456/FU Two storey extension to front, side and rear including dormer with juliet balcony to side and dormer to rear; raised terrace with balustrading above to front and new bay window to other side  
**Approved (panel)**

## **5.0 HISTORY OF NEGOTIATIONS:**

5.1 The plans have been revised during the course of the application to reduce the height of the wall so that all sections are 1.6m in height.

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

6.1 The application has been advertised neighbour notification letter, site notice and newspaper advert.

6.2 Councillor Rachael Procter raises concern regarding the impact of the new wall upon the streetscene and conservation area.

## **7.0 CONSULTATIONS RESPONSES:**

7.1 PROW express no objection to the proposal.

## **8.0 PLANNING POLICIES:**

8.1 Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that planning applications are determined in accordance with the Development Plan unless material considerations indicate otherwise. The Development Plan for Leeds currently comprises the Leeds Unitary Development Plan (Review 2006).

### Local Planning Policy

8.2 The Leeds Unitary Development Plan (Review 2006) is the development plan for the whole of the Leeds district. Relevant planning policies in the Leeds Unitary Development Plan (Review) 2006 are listed below:

GP5: Development proposals should resolve detailed planning considerations (including access, drainage, contamination, stability, landscaping and design). Proposals should seek to avoid problems of environmental intrusion, loss of amenity, pollution, danger to health or life, and highway congestion, to maximise highway safety, and to promote energy conservation and the prevention of crime. Proposals should have regard to the guidance contained in any framework or planning brief prepared for the site or area.

N19 All new buildings and extensions within or adjacent to conservation areas should preserve or enhance the character or appearance of the area by ensuring that:

- i. The siting and scale of the building is in harmony with the adjoining buildings and the area as a whole;
- ii. Detailed design of the buildings, including the roofscape is such that the proportions of the parts relate to each other and to adjoining buildings;
- iii. The materials used are appropriate to the environment area and sympathetic to adjoining buildings. Where a local materials policy exists, this should be complied with;
- iv. Careful attention is given to the design and quality of boundary and landscape treatment.

N25: Boundaries of sites should be designed in a positive manner, using walls, hedges, or railings where appropriate to the character of the area. All paving materials should accord with the character of adjacent buildings and surrounding areas.

Householder Design Guide SPD:

8.3 Leeds City Council Householder Design Guide was adopted on 1<sup>st</sup> 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.

HGD1 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;

Emerging Local Development Framework Core Strategy

8.4 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. On 26<sup>th</sup> April 2013 the Council submitted the Publication Draft Core Strategy to the Secretary of State for examination and an Inspector has been appointed. It is expected that the examination will commence in September 2013. As the Council has submitted the Publication Draft Core Strategy for independent examination some weight can now be attached to the document and its contents recognising that the weight to be attached may be limited by outstanding representations which have been made which will be considered at the future examination.

Policy P10: Design

New development for buildings and spaces, and alterations to existing, should be based on a thorough contextual analysis to provide good design appropriate to its scale and function.

New development will be expected to deliver high quality innovative design that has evolved, where appropriate, through community consultation and which respects and enhances the variety of existing landscapes, streets, spaces and buildings according to the particular local distinctiveness and wider setting of the place, contributing positively towards place making and quality of life and be accessible to all.

Proposals will be supported where they accord with the following key principles:

- (i) The size, scale and layout of the development is appropriate to its location and respects the character and quality of the external spaces and the wider locality;
- (ii) The development protects the visual, residential and general amenity of the area including useable space, privacy, noise, air quality and satisfactory penetration of daylight and sunlight;
- (iii) The development protects and enhance the district's historic assets in particular existing natural site features, historically and locally important buildings, skylines and views;
- (iv) Car parking, cycle, waste and recycling storage are integral to the development;
- (v) The development creates a safe and secure environment that reduce the opportunities for crime without compromising community cohesion;
- (vi) The development is accessible to all users.

#### National Planning Policy Framework

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

### **9.0 MAIN ISSUES**

- 1) Design and Character
- 2) Highway Safety
- 3) Representations

### **10.0 APPRAISAL**

#### Design and Character

- 10.1 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 GP5 states that “development proposals should seek to resolve detailed planning considerations including design” and should seek to avoid “loss of amenity. Leeds Unitary Development Plan Policy BD6 states that “all alterations and extensions should respect the form and detailing of the original building” whilst conservation policies seek to preserve or enhance the character of appearance of the area. Specific to boundary treatments policy N25 notes that boundaries of sites should be designed in a positive manner, using walls, hedges, or railings where appropriate to the character of the area. These polices are elucidated and expanded within the Householder Design Guide.
- 10.2 As noted above the boundary treatments within the area are varied. Post and rail fencing, walls and vegetation are appropriate to the rural character village and

predominantly these forms of boundary treatment enhance the appearance of the conservation area. Hard, taller, more defensive forms of boundary treatment are also in evidence, with these becoming nearly ubiquitous along the stretch of Linton Lane to the north of the village. The side boundary of the application property is currently formed by walling, hedging and a small section of fencing. The majority of the wall is low in height and is augmented by planting above the wall which helps to soften its appearance. The proposed new wall would be to the same height as the existing (1.5m) and a landscape scheme would ensure that some degree of verdure is retained. The new sections of wall are to rebuild that demolished for construction access and also to replace the existing fence. The scheme would therefore unify the boundary and preserve the character of the area.

- 10.3 It should be noted that at 1.5m in height the wall is taller than would normally be expected to a front boundary, and such walls can lead to concerns regarding overly oppressive and defensive forms of enclosure. However, in this instance the irregular coursing of the existing wall and the use of natural stone helps to prevent the boundary having an overly suburban and defensive appearance and the soft vegetation which grows behind and over the wall helps to soften its appearance. As such conditions will be imposed which seek a sample panel of stonework, a dark stain colour to the gate and a detailed landscaping scheme. As such the development is considered to be acceptable in respect of design and character.

#### Highway Safety

- 10.4 In order to be considered acceptable in respect of highway safety development proposals must not impede the free and safe passage of cars and pedestrians. The proposed works do not materially change the existing access arrangements and visibility at the access. The gates to the driveway are shown to be in the same position as the existing gates and are set back within the site by approximately 4.5m. As such there is space for a car to pull off the highway and leave the majority of the carriageway clear. Accordingly no technical highway objections are raised to the development.

#### Representations

- 10.4 All material planning considerations raised through representations have been discussed above.

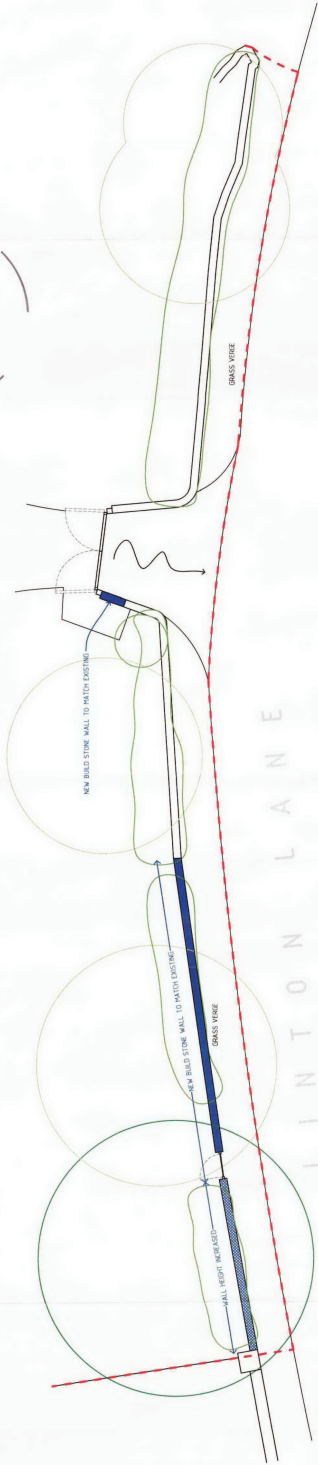
### **11.0 CONCLUSION**

- 11.1 The application is therefore considered to be acceptable. The application is considered to be in sympathy with its surroundings and will not have a harmful impact upon highway safety. As such the development is compliant with the relevant policies and guidance and approval is recommended.

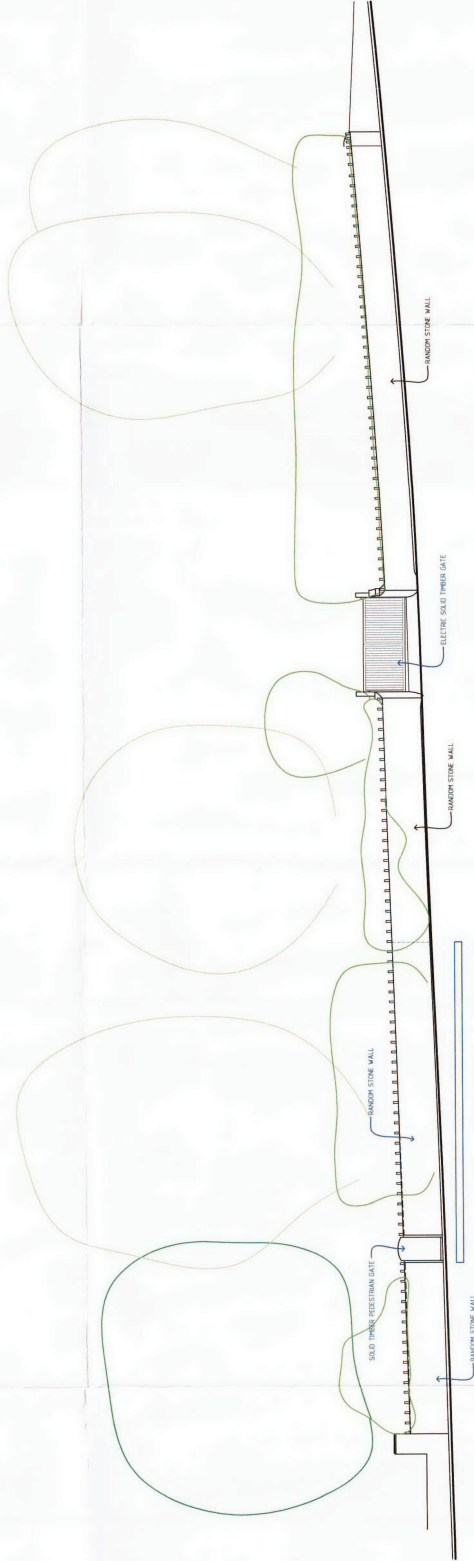
#### **Background Papers:**

Application files      13/03029/FU  
Certificate of ownership: Certificate A signed by agent

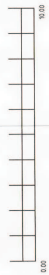




PLAN



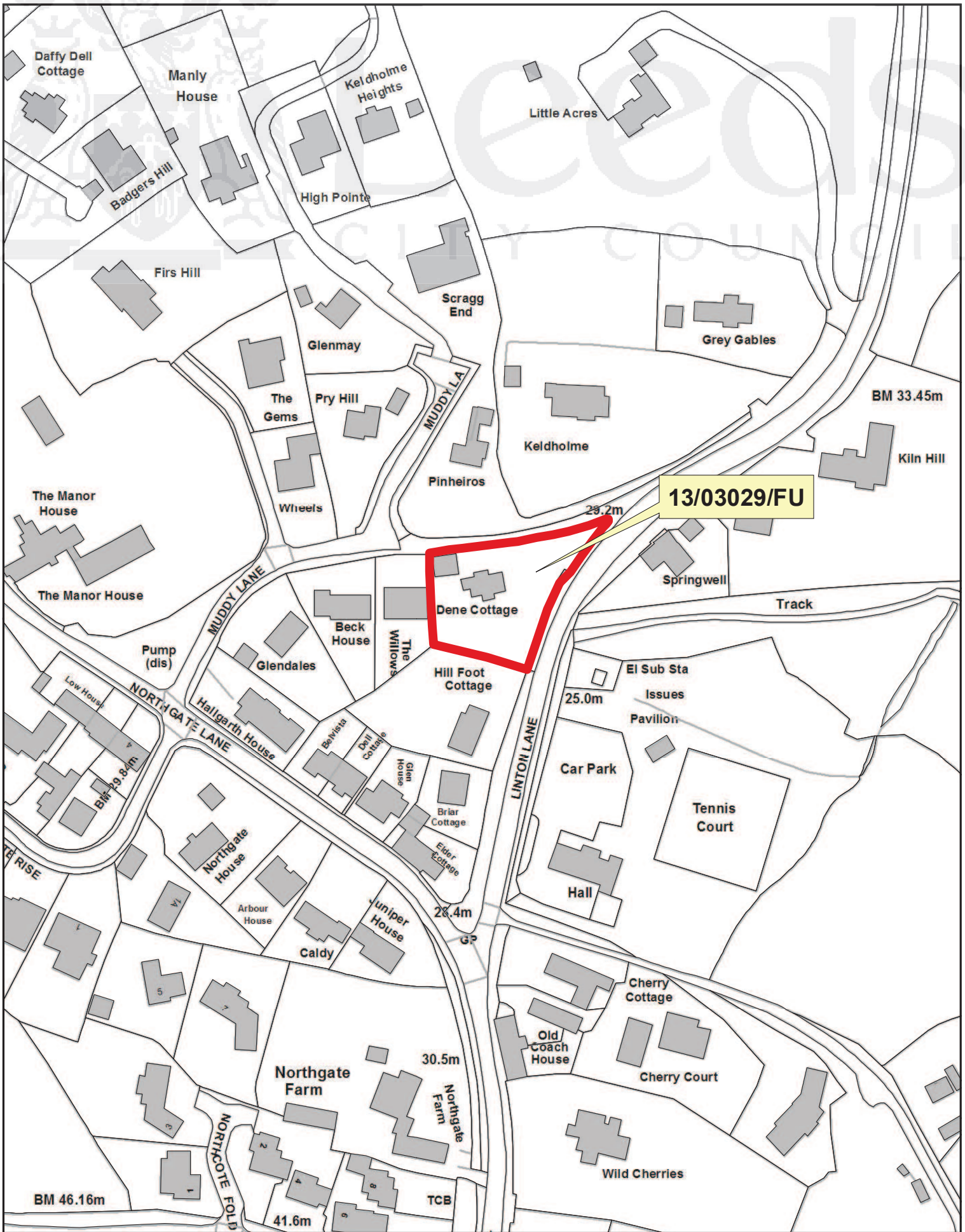
BOUNDARY ELEVATION - LINTON LANE



NOTES:  
TREES HAVE NOT BEEN SURVEYED, SIZE AND SHAPE APPROXIMATE.

**Holdsforth Design Practice Ltd**  
 Boundary wall  
 project  
 Mr & Mrs M. Jamieson, Dore Cottage, Linton Lane, Linton, LS23 4HL.  
 client  
 JAM12LA\_1712 rev 1 date JUNE 2013 scale A1 @ 1:100  
 dwp:mbs

Proposal drawing  
 Boundary wall  
 project  
 Mr & Mrs M. Jamieson, Dore Cottage, Linton Lane, Linton, LS23 4HL.  
 client  
 JAM12LA\_1712 rev 1 date JUNE 2013 scale A1 @ 1:100  
 dwp:mbs



# NORTH AND EAST PLANS PANEL





# Leeds

CITY COUNCIL

Originator:	Chris Marlow
Tel:	0113 222 4409

## Report of the Chief Planning Officer

### PLANS PANEL NORTH & EAST

Date: 3<sup>RD</sup> October, 2013

Subject: Application 13/02290/OT – laying out of access road and erection of a dwelling on land to the rear of 35 Lower Mickletown, Methley, Leeds LS26 9JH

#### APPLICANT

Mr A Thourgood

#### DATE VALID

17<sup>th</sup> May, 2013

#### TARGET DATE

12<sup>th</sup> July, 2013

#### Electoral Wards Affected:

**Kippax and Methley**

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 planning conditions:

1. Submission of reserved matters
2. Time limits for outline permission
3. Development to be sited in Flood Zone 1
4. Samples of walling and roofing materials to be agreed
5. Boundary treatment
6. Provision of footway
7. Laying out of vehicle areas
8. Landscaping / Landscape maintenance
9. Replacement planting period
10. Removal of PD Rights
11. Unexpected contamination
12. Importing of soils

## 13. Construction management plan

### **1.0 INTRODUCTION:**

- 1.1 This application is presented to Plans Panel (East) at the request of Councillors Keith Wakefield and James Lewis in support of local residents concerns relating to the principle of residential development.
- 1.2 Members are advised that the site has an extant outline planning permission for a single dwelling expiring 21<sup>st</sup> February, 2014. In effect, approval of the current application will extend the period for the applicant within which to submit the reserved matters application.

### **2.0 PROPOSAL:**

- 2.1 The application seeks outline planning permission for a dwelling with all matters reserved in relation to layout, access (parking), scale, design and landscaping.
- 2.2 Members are advised that the application was originally submitted as a full application with the necessary details for a detached 2 storey dwelling together with a compensatory flood storage area, and off street parking. Following negotiations with Officers the applicant withdrew the detailed elements of the proposal and requested that the application is considered in "outline only".
- 2.3 Whilst unable to support the original detailed proposal, Officers consider there is scope for the site to accommodate a single dwelling wholly within Flood Zone 1, albeit on a reduced scale.

### **3.0 SITE AND SURROUNDINGS:**

- 3.1 The site is situated to the north side of Lower Mickletown at the junction with Cutler Lane and comprises the former rear garden area to No.35 Lower Mickletown. The site is bounded by tall conifer trees to the east side. The western boundary of the site is open, abutting outbuildings and fencing to adjacent dwellings situated at Waide Buildings and Lower Mickletown. There is a low level mesh fence to the southern boundary with the remaining garden area to 35 Lower Mickletown. The site slopes downwards in a northerly direction. No.35 Lower Mickletown has vehicle access from Cutler Lane. Cutler Lane is not hard-surfaced and leads to open fields (green belt) to the north and a Site of Special Scientific Interest (SSSI). The area is semi-rural in character.

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

- 4.1 Application Ref: 11/01673/RM – one detached house with access off Cutler Lane.

An Officer's report was prepared with a recommendation of approval for consideration by the Plans Panel dated 1 December 2011. However, on the day of the meeting the application was withdrawn from the agenda as a result of a late

representation from the Environment Agency regarding a recent change to the flood zones. The change resulted in the proposal being sited partly within Flood Zone 3. Following the outcome at the Plans Panel meeting Officer's allowed the applicant time to consider his position. The applicant responded by submitting an appeal against the Council's failure to determine the application.

The Inspector considering the appeal identified the main issue of the appeal as the effect on flood risk. The re-classification resulted in part of the dwelling being located in Flood Zone 1, but with a substantial part in Flood Zone 3. As such it failed to meet the requirement of the National Planning Policy Framework and Technical Guidance, that 'more vulnerable' development, including dwelling houses, should not be permitted in Flood Zone 3. Additionally, the Inspector identified that the requirements of saved policies N38A and N38B in the Leeds Unitary Development Plan Review (UDP), which reflect national policy and also require a Flood Risk Assessment, would not be met. Although a Flood Risk Assessment was submitted with the application, it was prepared in March 2010 and did not relate to the current Flood Zones.

In the applicants favour the Inspector noted that the finished floor level of the dwelling would be 14.70m, located at a ground level of 14.161m thereby meeting the requirement of Condition No. 8 of the outline permission (09/05258/EXT). However, the requirements of Condition No.7 meant that the appeal, de facto, could not succeed.

On the main issue therefore, the Inspector concluded that there was no evidence that the proposed location for the dwelling would not result in an increased risk of flooding and dismissed the appeal against non-determination in a letter dated 2<sup>nd</sup> May 2012.

- 4.2 Application Reference: P/09/05258/EXT – extension of permission for outline application (06/05802/OT) to erect a detached a dwelling with access off Cutler Lane. The application was refused under Officer delegated powers on 24<sup>th</sup> August, 2010 on grounds of the proximity to the green belt thereby being harmful to the semi-rural character of the area; and being contrary to the Council's objective in seeking to see brownfield sites developed in preference to greenfield sites. The applicant appealed the decision which was upheld by the appointed Inspector for the Secretary of State and awarded costs against the Council's second reason for refusal. The appeal was allowed in a letter dated 21<sup>st</sup> February, 2011 and the Inspector imposed a condition that stated "the dwelling hereby permitted shall be constructed entirely within that part of the site in flood zone 1".
- 4.3 Application Reference: P/09/04674/RM – reserved matters application for the erection of a 5 bedroom detached house with integral garage. The application was withdrawn dated 13<sup>th</sup> January 2010 given that officers were minded to refuse the application on grounds of over development, and harm to visual and residential amenity.
- 4.4 Application Reference: P/08/00940/RM – 4 bedroom detached house with double garage. Refused 30<sup>th</sup> June 2008, on grounds of over development and harm to visual and residential amenity.

- 4.5 Application Reference: P/07/06565/FU/E – 4 bedroom detached house with integral double garage. Refused 17<sup>th</sup> December 2007 on grounds of over development, harm to visual and residential amenity.
- 4.6 Application Reference: P/06/5802/OT/E – outline application for laying out of vehicular access and erection of a detached dwelling. Permission Granted 24<sup>th</sup> January 2007.
- 4.7 Application Reference: P/06/00546/OT/E – outline application to erect 2 detached dwellings. Refused 11<sup>th</sup> July 2006 on grounds of highway safety / amenity of neighbouring residents / failure to demonstrate site can accommodate two dwellings and accord with the relevant guidance.

## **5.0 HISTORY OF NEGOTIATIONS:**

- 5.1 Following the Inspector's decision to dismiss the appeal against non-determination the applicant submitted the current application. In its original (detailed) form Officers were unable to support the proposed dwelling on grounds of siting and design and subsequent adverse impact on the interests of visual and residential amenity. The applicant then requested that the application be changed to an outline with the only issue under consideration being the principle of development for a dwelling within the red line boundary.

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

- 6.1 The original submission was advertised by a site notice posted adjacent to the site dated 31<sup>st</sup> May, 2013. In addition, neighbour notification letters were forwarded to 14 addresses adjacent to the site dated 22<sup>nd</sup> May, 2013. The application was subsequently re-advertised as an outline application by a site notice posted adjacent to the site dated 19<sup>th</sup> July, 2013 and neighbour notification letters forwarded on 16<sup>th</sup> July, 2013.
- 6.2 Councillors Wakefield and Lewis expressed support for the local resident's concerns.
- 6.3 In response to the original public notification process 4 letters of objection were received from local residents on the following grounds:-
- Visual amenity / out of character
  - Loss of view
  - Design, layout and appearance
  - Amenity – overlooking, overshadowing, overbearing development
  - Sub-standard garden space
  - Overdevelopment
  - Loss of trees and habitats
  - Highway safety: access road / turning area / visibility
  - Potential for subsidence
  - Biased/selective presentation in relation to the Inspectors comments
  - Flooding / Compensatory storage
  - Ground stability

6.4 In response to the additional notification a further 4 letters of objection have been received on the following grounds:

- Frustration over number of planning applications over 7 years with potential for a further 3 years of uncertainty.
- All detailed proposals overly ambitious in scale and practicality

## **7.0 CONSULTATIONS RESPONSES:**

### **Statutory:**

7.1 Environment Agency – no objection subject to conditions relating to the implementation of the compensatory storage measures and finished floor levels no lower than 15m OAD.

### **Non-statutory:**

7.2 Public Rights of Way - In May 2011 the applicant was advised that a claimed byway runs down Cutler Lane crosses the site which is subject to a Definitive Map Modification Order Application based on user and historical evidence. If the application is successful the byway will need to remain open and available for public use at all times.

7.3 Highways Development Services - No objection subject to conditions applied to previous approvals.

7.4 Land Drainage - No objection subject to acceptance by the Environment Agency and the submission of details to deal with surface water drainage works prior to the commencement of development.

7.5 Contaminated Land - No objection subject to conditions relating to the discovery unexpected contamination during the construction process, and importing of soil.

## **8.0 PLANNING POLICIES:**

8.1 The Section 38 (6) of the Planning and Compulsory Purchase Act 2004 requires that applications should be determined in accordance with the development plan unless material considerations indicate otherwise.

8.2 The Development Plan for the area consists of the adopted Unitary Development Review (UDPR), along with relevant supplementary planning guidance and documents.

8.3 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. On 26<sup>th</sup> April 2013 the Council submitted the Publication Draft Core Strategy to the Secretary of State for examination and an Inspector has been appointed. It is expected that the examination will commence in September 2013. As the Council has submitted the Publication Draft Core Strategy for independent examination some weight can now

be attached to the document and its contents recognising that the weight to be attached may be limited by outstanding representations which have been made which will be considered at the future examination.

8.4 The application site is not specifically allocated within the City Council's Unitary Development Plan Review (2006). The following policies are considered to be of relevance:

- Policy GP5 requires development proposals to resolve detailed planning considerations including access, to avoid loss of amenity and maximise highway safety.
- Policy BD5 requires a development to pay regard to its surroundings in terms of amenity, outlook and daylight.
- Policy H4 relates to housing on unallocated sites
- Policy LD1 requires development to include complimentary landscaping.
- Policy N12 urban design
- Policy N13 building design
- Policy N23 complimentary setting of development
- Policy N24 buffer planting to designated areas of green belt
- Policy N25 boundary treatments to reflect character of the area
- Policy T2 refers to development that should be adequately served by existing or proposed highways, capable of being served by public transport and have provision for safe and secure cycle use and parking.
- Policy T24 refers to car parking provision guidelines.

#### Supplementary Planning Guidance/Documents

8.3 SPG13 – Neighbourhoods for Living: A Guide for Residential Design in Leeds.  
The Street Design Guide SPD

#### National Policy

8.4 National Planning Policy Framework (NPPF)  
Including appendix relating to Technical Guidance.

### **9.0 MAIN ISSUES**

1. Principle of development
2. Highway safety
3. Others



## 10.0 APPRAISAL

### Principle of development:

10.1 The principle of development of the site for a single dwelling is established with the presence of a current outline planning permission resulting from the appeal process relating to a previous application (09/05258/EXT). Whilst this decision was made prior to the changes to the flood zones in November 2011 the permission can still be implemented subject to a satisfactory submission of the outstanding reserved matters prior to the expiration of the outline approval on 21<sup>st</sup> February, 2014. In accord with the outline approval the resultant dwelling would have to be sited wholly within Flood Zone 1.

10.2 Officers are mindful that the Inspector's decision accepted that the site was capable of being developed without resulting in harm to the character of the area. It is not possible however, to know to what extent the Inspector's assessment on character at the time was influenced knowing that the majority of the site at that time was in Flood Zone 1. Nevertheless, officers were subsequently able to support the siting of a new dwelling within the northern part of the plot (in respect of application 11/01673/RM) in 2011 before the flood zones were re-modelled. Whilst the successful siting of a dwelling in the southern part of the plot is more challenging, it is considered that it could also accommodate a single dwelling albeit on a reduced scale.

### Highway safety

10.3 Since the first grant of outline planning permission for the site Highway Officers (and subsequent Planning Inspector's) have supported the proposed access to the site subject to conditions relating to the implementation of a footway for that length on Cutler Lane that would serve the development, together with appropriate surfacing to all vehicle areas. As such, the principle of taking access from Cutler Lane has already been accepted. Therefore in terms of the current application no technical highway objections are raised subject to the inclusion of the conditions attached to previous grants of planning permission. It is considered therefore that that the development would not prejudice the interests of highway safety for pedestrians and other road users alike.

### Others

10.4 In response to other issues raised by local residents the loss of view and a right to light are not material planning considerations. In addition, the stability of the land and the potential damage to adjoining property can be material consideration but ultimately it is a civil matter between the respective land owners.

10.5 The resident's concerns in respect of how the applicant's original supporting statement interpreted the Inspectors comments in a positive manner are noted but the Inspector's comments have been given due consideration in this report.

10.6 It is noted that two on-site trees that were intended to be retained as part of an earlier scheme have been felled. The trees however were not protected by a Tree Preservation Order. This was considered previously however the Council's

Landscape Architect did not consider the condition of the trees to be worthy of such protection.

- 10.7 In response to the original submission residents highlighted issues relating to the potential for overlooking, overshadowing and over bearing development and lack of appropriate private amenity space. In some respects the concerns reflected Officers concerns, however given the application is now in outline form these issues no longer a direct consideration of the proposal. Similarly, the inclusion of a compensatory flood storage area is not considered as part, although Officers note that its consultees on this matter accepted the principle of the works.
- 10.8 Officers share resident's concerns over the protracted planning process, however it is considered that it is not just the applicant's overly ambitious aspirations for the site as recent unforeseen circumstances beyond the control of the applicant have played a contributory factor in lengthening the potential development of the site.

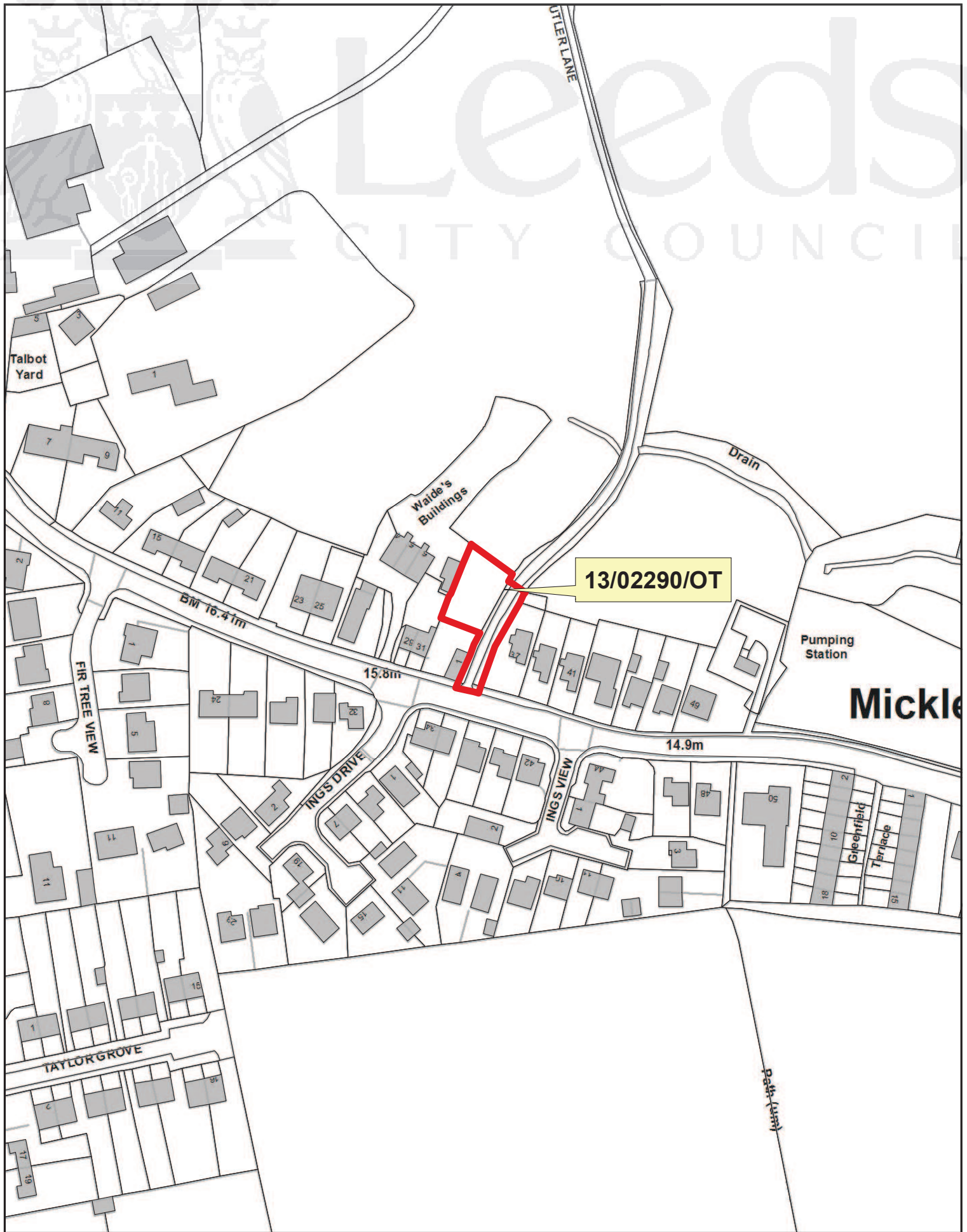
## **11.0 CONCLUSION**

- 11.1 The proposal in outline form is acceptable in terms of the principle, and the means of access as these have been established through previous approvals. As a consequence, the application is recommended for approval subject to the conditions stated.

### **Background Papers:**

Application file: 13/02290/OT.

Certificate of Ownership A completed.



# NORTH AND EAST PLANS PANEL



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