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## NORTH AND EAST PLANS PANEL

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Meeting to be held in Civic Hall, Leeds on  
Thursday, 25th June, 2015  
at 1.30 pm

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### MEMBERSHIP

#### Councillors

R Grahame	B Cleasby	J Procter
M Harland		G Wilkinson
C Macniven		P Wadsworth
B Selby		
S McKenna		
N Walshaw		
(Chair)		
A McKenna		

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**Agenda compiled by:**  
**Angela Bloor**  
**Governance Services**  
**Civic Hall**  
**Tel: 0113 24 74754**

# AGENDA

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 15.2 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 15.2, 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>	

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5			<b>APOLOGIES FOR ABSENCE</b>	
6			<b>MINUTES</b>  To approve the minutes of the North and East Plans Panel meeting held on 28 <sup>th</sup> May 2015  (minutes attached)	3 - 12
7	Moortown		<b>APPLICATION 15/00889/FU - 8 KINGS MOUNT MOORTOWN LS17</b>  Further to minute 11 of the North and East Plans Panel meeting held on 28 <sup>th</sup> May 2015, where Panel deferred determination of an application for a single storey side/rear extension for further negotiations to take place regarding the bulk of the extension and its impact on the neighbouring dwelling, to consider a further report of the Chief Planning Officer  (report attached)	13 - 22
8	Garforth and Swillington		<b>APPLICATION 14/03109/OT - FORMER MIAMI BUILDING LOTHERTON WAY GARFORTH LS25</b>  To consider a report of the Chief Planning Officer on an outline application for the demolition of existing building and erection of development comprising foodstore, petrol filling station, car parking, means of access and associated works  (report attached)	23 - 42



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9	Gipton and Harehills		<p><b>APPLICATION 15/02121/FU - 15 AND 17 SANDHURST ROAD HAREHILLS LS8</b></p> <p>To consider a report of the Chief Planning Officer on an application for change of use of houses (C3) to form educational facilities and cultural learning centre (D1)</p> <p>(report attached)</p>	43 - 52
10	Garforth and Swillington		<p><b>APPLICATION 11/03908/FU - 12 CHURCH LANE SWILLINGTON LS26</b></p> <p>To consider a report of the Chief Planning Officer on an application for the variation of condition 6 of approval 09/04265/FU to allow revised opening hours</p> <p>(report attached)</p>	53 - 60
11	Harewood		<p><b>APPLICATION 14/05876/FU - TWO HOOTS FARM HAREWOOD AVENUE HAREWOOD</b></p> <p>To consider a report of the Chief Planning Officer on an application for installation of ground mounted photovoltaic panels and associated infrastructure</p> <p>(report attached)</p>	61 - 76
12			<p><b>DATE AND TIME OF NEXT MEETING</b></p> <p>Thursday 30<sup>th</sup> July 2015 at 1.30pm in the Civic Hall, Leeds</p>	

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**Third Party Recording**

Recording of this meeting is allowed to enable those not present to see or hear the proceedings either as they take place (or later) and to enable the reporting of those proceedings. A copy of the recording protocol is available from the contacts named on the front of this agenda.

Use of Recordings by Third Parties– code of practice

- a) Any published recording should be accompanied by a statement of when and where the recording was made, the context of the discussion that took place, and a clear identification of the main speakers and their role or title.
- b) Those making recordings must not edit the recording in a way that could lead to misinterpretation or misrepresentation of the proceedings or comments made by attendees. In particular there should be no internal editing of published extracts; recordings may start at any point and end at any point but the material between those points must be complete.

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  
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Your reference:  
Our reference: n&e pp site visits  
Date 16<sup>th</sup> June 2015

Dear Councillor

**SITE VISITS – NORTH AND EAST PLANS PANEL – THURSDAY 25<sup>TH</sup> JUNE 2015**

Prior to the meeting of the North and East Plans Panel on Thursday 25<sup>th</sup> 2015 the following site visits will take place:

9.50am		Depart Civic Hall
10.00am	Gipton and Harehills	15 & 17 Sandhurst Road Harehills – Change of use of houses to form educational facilities and cultural learning centre – 15/02121/FU
10.25am	Garforth and Swillington	12 Church Lane Swillington – variation of condition to allow revised opening hours – 11/03908/FU
10.40am	Garforth and Swillington	Miami Building , Lotherton Way – outline application for the demolition of existing building and erection of development comprising foodstore, petrol filling station, car parking, means of access and associated works – 14/03109/OT
11.20am	Harewood	Two Hoots Farm – Harewood Avenue – installation of ground mounted photovoltaic panels and associated infrastructure – 14/05876/FU

For those Members requiring transport, a minibus will leave the Civic Hall at **9.50am**. Please notify David Newbury (Tel: 247 8056) if you wish to take advantage of this and meet in the Ante Chamber at **9.45am**.

Yours sincerely

Angela M Bloor  
Governance Officer



## NORTH AND EAST PLANS PANEL

THURSDAY, 28TH MAY, 2015

**PRESENT:** Councillor N Walshaw in the Chair

Councillors R Grahame, M Harland,  
C Macniven, J Procter, G Wilkinson,  
B Cleasby, B Selby, S McKenna and  
A McKenna

### 1 Chair's opening remarks

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

### 2 Declarations of Disclosable Pecuniary Interests

There were no declarations of disclosable pecuniary interests

### 3 Apologies for Absence

Apologies for absence had been received from Councillor Wadsworth

### 4 Minutes

**RESOLVED** - That the minutes of the North and East Plans Panel meeting held on 9<sup>th</sup> April 2015 be approved

### 5 Matters arising from the minutes

With reference to minute 151 of the North and East Plans Panel meeting held on 9<sup>th</sup> April 2015, - Applications 14/06051FU and 14/06052/LI – Crown Hotel 128 High Street Boston Spa Wetherby, the Panel's Lead Officer advised that the application had been withdrawn by the applicant

### 6 Application 14/05078/FU - The Old Forge Cottage Forge Lane Wike LS17 - Appeal summary

Further to minute 113 of the North and East Plans Panel meeting held on 8<sup>th</sup> January 2015, where Panel further considered an application for the demolition of an existing cottage and erection of new dwelling with detached garage and indicated it would have refused the application had an appeal

Draft minutes to be approved at the meeting  
to be held on Thursday, 25th June, 2015

against non-determination not have been lodged, Members considered a report of the Chief Planning Officer setting out the Inspector's decision

The Inspector had noted there was a fall-back position in this case which was important, however as the applicant had not proved that the fall-back position could be achieved, less weight was applied to this and the appeal was dismissed

The Panel's Lead Officer stressed the importance of this decision when considering applications where fall-back positions existed, especially where these were evidenced

**RESOLVED** – To note the appeal summary set out in the submitted report

## **7 Application 15/00737/FU - Erection of nine self-contained flats off Sutton Approach LS14**

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

Officers presented the report which related to an application for a residential development comprising nine self-contained flats, in two blocks, off Sutton Approach LS14

The planning history of the site was outlined, with Members being informed that previous concerns about the site being former allotments had been investigated, with Officers now satisfied this was not the case and therefore the principle of development of the site was acceptable

The layout of the development was presented, with concerns being outlined in relation to the tandem arrangement of buildings and the lack of amenity space, with these being cited in the recommendation before Panel to refuse the application

The Panel heard representations from the applicant's agent who provided information to Members which included:

- that the proposals complied with Neighbourhoods for Living and the Street Design Guide
- that the scheme was similar in form and mass to the surrounding properties
- that the scheme could not be considered as backland development
- the size of the amenity space

Members discussed the application and commented on the following matters:

- the shared amenity space and how this would work practically
- that this was brownfield site and was ready for development
- safety in view of the proximity of a former mine. The presenting Officer advised that the Coal Board had not stipulated any special requirements in respect of the proposals
- the proposed layout and the amount of amenity space being provided

The Panel considered how to proceed. The need for the site to be developed was supported however the extent of the proposals were considered to amount to overdevelopment and that a smaller development on

the site might be more suitable. In supporting the Officer's recommendation, Panel hoped the developer would consider a smaller scheme for the site which better respected the character of the area

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

The local planning authority considers that the proposed development as evidenced by the tandem arrangement of buildings and extent of hardstanding which when viewed in context with the spatial characteristics of the plot and the relationship to its surroundings, represents an overdevelopment of the site resulting in harm to the visual amenity of the site and character of the area. Furthermore, it is considered that the proposed development would by reason of its layout, building footprint and off-street parking requirements, fail to provide the future occupants of the proposed flats with adequate amenity space resulting in an overall sub-standard level of accommodation, prejudicial to the interests of residential amenity. Accordingly, the proposed development is thereby contrary to the City Council's Core Strategy (2014) policy P10, the saved UDP Review (2006) policies GP5 and BD5 and the guidance contained within the Neighbourhoods for Living SPG

Under Council Procedure Rule 16.5, Councillor R Grahame required it to be recorded that he voted against the matter

**8 Application 15/00203/FU - Part demolition of existing buildings and erection of three terraced houses with parking - 13/15 Parkside Road Meanwood LS6**

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

Officers presented a report which sought approval of the partial demolition of existing buildings and the erection of three terraced houses with parking at 13-15 Parkside Road, Meanwood. The application site incorporated a stone building and associated yard, together with No.17 Parkside Road, with the driveway of this property being incorporated into proposed parking for the new development whilst still providing parking for No. 17 Parkside Road

Members were informed that the site needed developing however Leeds Civic Trust had objected to the application, with concerns being raised about the loss of the stone building which was felt to have some historic value. Members were advised that the site was not within a Conservation Area and the stone building was not Listed

Clarification was sought on the property affected by the proposals for the driveway. The Panel's Lead Officer confirmed this was No.17 Parkside Road and that there had been an error on the drawings which indicated the property affected was No. 14 Parkside Road

Members were also informed that the applicant owned part of the adjoining stone building which was marked on the plan as additional residential accommodation. If this was existing residential use, the LPA would not have control over that refurbishment. It was reported that there

had been anti-social behaviour on the site and that the refurbishment of this additional element might address this problem

The Panel heard from a local resident who was also speaking on behalf of a number of neighbours and who highlighted concerns with the application which included:

- the heritage value of the buildings; that these formed part of the Fosse estate and comprised quality stone and many attractive features
- overdevelopment
- lack of parking for No.13 Parkside Road
- minimum amenity requirements were not being met
- that 4 bed properties were being proposed so families with children could reasonably be expected to occupy these dwellings

The Panel then heard representations from the applicant's agent who provided information to Members, which included:

- the amount of time spent on bringing the scheme forward
- that the heritage argument was not accepted
- that the issue of on-street parking was addressed by the scheme
- confirmation that the property affected by the driveway proposals was No. 17 Parkside Road
- that a garden space would be provided
- that the option existed for the site to be returned to commercial use

Members discussed the application, with the main issues raised relating to:

- restricting the development of the roofspace to Plot 1 as a living space to avoid further intensification of the site. The Panel's Lead Officer advised that a condition could be included to restrict the roofspace of Plot 1 from being used for habitable accommodation
- the nature of the concerns raised by a Ward Member
- issues of overlooking
- concerns the proposals represented overdevelopment and that two dwellings might be considered more appropriate
- the loss of amenity

The Panel considered how to proceed

**RESOLVED** - To defer determination of the application for one cycle due to concerns regarding overdevelopment and overlooking and to request further negotiations take place to see if a scheme could be put forward with a reduced height, reduced number of dwellings and which addressed the issues of overlooking, and for a further report to be brought back to Panel for determination of the application

## **9 Application 15/01177/FU -Two detached dwellings at 7 Westfield Lane Kippax LS25**



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

Officers presented a report seeking approval of an application for two detached dwellings at 7 Westfield Lane, Kippax, which would be sited on the remnants of a former industrial building. The difference in land levels was brought to Members' attention as were the mix of house types in the immediate area

The planning history of the site was outlined, with Members being informed that a scheme for three detached dwellings had been withdrawn earlier in the year following on from an earlier scheme for three detached houses with integral garages, which had been refused

The proposal before Panel was outlined, which was for two, substantial dwellings, sited with the bulk of the development in a more central location than on previous schemes. Following submission of revised plans one previous representation had been resubmitted and the receipt of an additional objection was reported which had raised the fact that Westfield Lane had been reinstated as part of a bus route

In terms of design, the scheme presented as a typical two storey property but due to the level differences the accommodation was sited over three storeys

If minded to approve the application, an additional condition was proposed relating to implementation of footway widening

The Panel heard representations from an objector who outlined his concerns with the proposals, which included:

- the size of the proposed dwellings and the increase in height
- overshadowing and overmassing
- highway safety issues
- levels of car parking being proposed and the possibility of on-street parking resulting from the development
- land stability issues
- the vagueness of the plans and the impact of the proposals on existing dwellings

The Panel then heard from the applicant's agent who provided information about the application which included:

- the development of the site was much needed; was a brownfield site; would provide family homes and was being developed by a local business man who would employ local people
- that the scheme had been reduced to address the concerns raised on the previous proposals
- that the access was considered to be acceptable
- that the highway proposals were considered to be acceptable

Members discussed the application, with the main issues raised relating to:

- land slippage. The presenting Officer advised that the land fell steeply from the road. However, the fall in gradient was less severe towards the rear of the site where it shared a common boundary with a residential property. Retaining structures were proposed near to the rear of the proposed new dwellings but none were required near to the boundary with the neighbouring

dwellings as existing levels were shown to be maintained in this area

- car parking provision, which would be two on-drive spaces and double garages
- the reinstatement of the bus route. The Panel's Highways Officer advised this was a positive aspect in terms of sustainability
- land ownership in respect of the land to the rear of the site. The applicant indicated the land to the rear of the site was not in his ownership

Members considered how to proceed

**RESOLVED** - That the application be granted subject to the conditions set out in the submitted report and an additional condition in respect of the implementation of footway widening

**10 Applications 15/00771/FU and 15/00772/LI - Partial demolition, alterations to form ten dwellings, erection of energy centre and stores, new access road and balancing ponds - Ledston Hall Hall Lane Ledston WF10**

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

Officers presented the report which sought planning approval and Listed Building consent for works to the Grade I Listed Ledston Hall, as outlined in the report before Panel

Members were informed that the building was on the buildings at risk register; that the proposals would provide residential accommodation as well as enabling some public use of the building, although due to the limited size of the rooms, these could not cater for large functions.

As part of the proposals, a later inserted brick wall would be removed and replaced by a glazed link across two floors

The proposed energy centre would be sited behind hedging to obscure views of this and would feed into an historic pipework tunnel

The main issues were summarised as relating to:

- highways – concerns about how the public car park would function; that the development was not in a sustainable location and so would be a car borne development and would give rise to the ten residential dwellings taking access from a private drive – in excess of the guidance. Officers considered that in this particular case, the number of dwellings taking access from a private drive would not be detrimental to highway safety or have a detrimental impact on the access or the site
- Green Belt – the works to the Hall were acceptable but the works within the grounds constituted inappropriate development and the new build would cause some slight harm. However Officers were of the view that there were very special circumstances which outweighed the harm, through inappropriateness, in that the proposals would bring back into viable use a Grade I Listed Building

- the Listed Building – that minimal works were proposed to this and that the applicant had worked with English Heritage in drawing up the scheme

Members discussed the applications and commented on the following matters:

- the costs associated with the proposals; the importance of ensuring the Listed Building was dealt with at an early stage to prevent further deterioration and the need for further details on the use of the public space and how the residential accommodation would sit alongside that public use
- car parking; concerns that would not be formally laid out and the need for construction traffic to be catered for. Members were informed that there was sufficient car parking for the residential accommodation and that 45 spaces had been indicated on the plans for public car parking
- the importance of the 17<sup>th</sup> Century building and the need to ensure its retention

The Chair invited a representative of the applicants to address the Panel and provide factual information on issues which had been raised. Members were informed that there was a charitable trust which had assets and resources to fund the works; that English Heritage were pushing for particular works to be undertaken and that applications had been submitted to the Heritage Lottery Fund. In terms of educational use, which was proposed, contacts had been made with the local Universities and that construction training and estate management were being considered through the Council's Employment and Skills initiative. The education facilities would also be tailored for primary school children and space would be available for hire, although this use would be limited by the relatively small sized rooms, with the majority of the income being generated from letting the residential accommodation

The Panel considered how to proceed

**RESOLVED** - i) That the applications be granted subject to the conditions set out in the submitted report

ii) That Officers be asked to provide help and guidance to the applicants to secure additional funding for works to preserve the Listed Building

## **11 Application 15/00889/FU - Single storey side and rear extension - 8 Kings Mount Moortown LS17**

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

Members were informed that the application had been brought to Panel as the neighbour who had objected to the proposals was an Elected Member

Officers presented the report which sought approval for a single storey side and rear extension at 8 Kings Mount Moortown LS17 and highlighted the elements of the extension which could be built under Permitted Development

Members were informed that part of the extension was sited close to the neighbouring property and to the only window in one particular room of

that property. Officers considered that although the gap between the extension and the neighbouring property was narrow, in terms of what could be built under Permitted Development, it was acceptable

The Panel discussed the application with concerns being raised at the proposed arrangement of the extension; its size; scale and the impact on the boundary wall in terms of its maintenance

The Panel considered how to proceed

**RESOLVED** – To defer determination of the application to enable further negotiations to take place to reduce the bulk of the extension, with particular regard to that element which contains the proposed kitchen, so as to reduce the impact on the neighbouring property and for the Chief Planning Officer to submit a further report in due course for determination of the application

## **12 Preapp/15/00260 - Preapplication proposals for a Maggie's Centre on land at St James Hospital Beckett Street LS9**

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

Members received a presentation from the applicant's representatives who outlined proposals for the development of a 'Maggie's Centre' which would provide practical, emotional and social support to people with cancer, their family and friends, on land at St James Hospital

The following details were provided:

- the design of the building, which would resemble a series of hand crafted ceramic pots
- the amenity spaces which would be created, which would include roof gardens and smaller, private areas
- the room layouts, with the kitchen being the heart of the Centre
- the views afforded from the top level of the building
- the landscaping proposals, with the aim being to provide a changing, seasonal landscape; that site specific species were being proposed and that the aim was to create a well-established woodland at an early point in the development of the scheme

Members were most impressed with the proposals and commented on the following specific issues::

- the involvement of local primary school children in the project and the naming of the site. Members were informed this could be developed in conjunction with St James Hospital. The possibility of displaying local children's artwork around the building was suggested
- the number of community groups in the local area who could help with the project. The importance of embedding the Centre into the local community and for local volunteers to be involved in supporting the Maggie's Centres was stated by one of the applicant's team
- environmental noise issues from the surrounding area. Members were informed that an acoustic expert would be

engaged by the applicant and that the use of rugs, soft furnishings, blinds and possibly baffles would help reduce external noise levels within the Centre

- car parking; that this was a particular issue in the area and needed to be given careful consideration

In response to the specific points raised in the report, Members provided the following comments:

- that the principle of developing this part of the hospital site was supported
- that the architectural quality of the building and its proposed landscaping were excellent
- that if a planning application was submitted, Panel wished to see the scheme again in view of the innovative and fascinating proposals which had been put forward in the presentation

**RESOLVED** - To note the report, the presentation and the comments now made

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

Thursday 25<sup>th</sup> June 2015 at 1.30pm in the Civic Hall, Leeds

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Originator: Glen Allen

Tel: 0113 2478023

## Report of the Chief Planning Officer

### NORTH AND EAST PLANS PANEL

Date: 25<sup>th</sup> June 2015

**Subject: 15/00889/FU - Single storey side and rear extension at 8 Kings Mount Moortown, Leeds, LS17 5NS**

APPLICANT	DATE VALID	TARGET DATE
Mr & Mrs Gary and Kirsty Neilson and Wilson	16 February 2015	13 April 2015

#### Electoral Wards Affected:

**Moortown**

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. However, if Members are minded to refuse permission a suggested reason is set out at paragraph 1.3 of the report.**

1. Standard 3 Year time limit
2. Development to be carried out in accordance with approved plans.
3. Submission of materials to be used.
4. No windows to be inserted in side elevation facing number 6 Kings Mount during or subsequent to construction of the extensions hereby permitted.

## 1.0 INTRODUCTION

1.1 This application is brought back to Plans Panel following consideration at its meeting on 28<sup>th</sup> May where Members resolved to:

To defer determination of the application to enable further negotiations to take place to reduce the bulk of the extension, with particular regard to that element which contains the proposed kitchen, so as to reduce the impact on the neighbouring property and for the Chief Planning Officer to submit a further report in due course for determination of the application

1.2 Following that meeting the applicant's agent was contacted to discuss the possibility of reducing the size of the extension with particular regard to the kitchen element. Having discussed this with their clients, and assessed the implications of such a reduction, the applicants have concluded that they wish to application to be determined as submitted for the following reasons:

- The extension has been designed to meet the needs of a growing family by incorporating a family room with access to the garden, utility room and study.
- It utilizes unattractive and wasted land to the side of the house.
- 80% of the extension could be done as permitted development.
- The proposal is significantly smaller than that built at No.10.
- Following the receipt of the objection from the residents of No.6 the plans were altered to reduce the impact on them even though this was at additional cost to the applicant.
- Although it is appreciated that the build impacts on number 6 the applicant does not believe it will prevent them from enjoying their property and surrounding gardens.

The agent has made the following points:

- Whilst it is possible to gain a concession under the building regulations for the reductions in the size of the single storey side extension previously negotiated by officers the kitchen is classed as a habitable room and therefore subject to more 'stringent' rules in terms of internal headroom clearance.
- This allied with the projection of the extension not being materially different to the extension that exists at number 6, (having only a 400mm projection beyond the rear elevation at number 6), thereby negating any impact on the rear facing patio door windows of that extension, and
- That whilst the proposed kitchen is close the common boundary with number 6 Kings Mount, it will still be 2 metres away from it.

1.3 Accordingly the previous report is set out below for Members consideration. However, if Members are minded to refuse planning permission a suggested reason is set out below for Members consideration. The wording of the suggested reason reflects points made in the discussion of the application at the May Panel:

The bulk and massing of the proposed extensions is considered too large and will result in a detrimental impact on the amenities of occupiers of the neighbouring property by reason of loss of outlook from and overbearing impact on their private rear garden space, these being amenities that occupiers of this property can reasonably expect to continue to enjoy. As such the proposal is considered contrary to policy P10 of the Core Strategy, saved policies GP5 and BD6 of the Unitary Development Plan (Review) 2006 and to the advice given in the SPG Householder Design Guide and to advice in the National Planning Policy Framework on good design.

## **2.0 PROPOSAL**

2.1 The proposal seeks a single storey rear and side extension that wraps around the property. The extension proposed consists of a full width rear flat roof extension projecting 4 metres from the rear elevation of the property. This then projects out by an additional 300 mm to form the kitchen extension at that part of the house which forms the 'wrap-around'. The side element of the extension is shown to be set 150mm away from the common boundary with number 6 Kings Mount. The rear



elevation of the single storey extension will have a window serving a study/bedroom, sliding glass doors in the middle section serving the proposed family/garden room and then a further window serving a proposed kitchen. Due to levels differences the Family/Garden room will access onto an external patio area which has a raised planter to the side and steps down to the lawned area.

- 2.2 The side extension is a smaller part of the development having been reduced in size through negotiations with the applicant. This consists of a step in from the boundary of an additional 150 mm and a reduction in height over the original submission of 850 mm resulting in an overall height of side extension of 2.8 metres above the applicant's ground level. The land levels drop further on the neighbour's side of the boundary by a further 0.3-0.4 metres. This part of the extension is some 3.8 metres long and projects out from the side wall of the original dwelling by 2.45 metres.

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

- 3.1 The site is a detached dwelling situated in a row of predominantly detached 2 storey dwellings fronting Kings Mount. The dwellings are generally evenly spaced and set in mature gardens. The houses are of brick and with tiled roofs. The houses would appear to date from the 1930's and include features such as bay windows, chimneys, timber detailing and recessed doorways.
- 3.2 The land slopes downhill from the west to the east and also slopes from the south to the north, hence the rear gardens of the properties are to the north of the dwellings on this side of Kings Mount and all in varying degrees slope to the north away from the houses themselves. Likewise, dwellings to the west of the application site sit on higher ground than the application site and those to the east are on lower ground.
- 3.3 Kings Mount itself runs in a roughly north east south west orientation to the south of the application site. Other than public highway the remaining land in the immediate vicinity is in exclusively residential use.

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

- 4.1 None

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

- 5.1 The application was submitted with no pre-application advice given. During the processing of the application concern was raised regarding the originally submitted drawings, in particular the relationship of the side extension in relation to a window that exists in the side elevation of the neighbouring property at number 8 Kings Mount that serves the kitchen in that property. As a result of those concerns the drawings that are the subject of this report were submitted. These reduced the overall height of the side element of the extension by 850mm and set it from the common boundary by an additional 150mm.

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

- 6.1 The application has been advertised by the delivery of 6 letters to occupiers of nearby and adjacent dwellings. The time for comment to this consultation exercise

which was undertaken twice due to the receipt of amended drawings expired on 9<sup>th</sup> April 2015. The second round of neighbour consultation resulted in one letter of objection from the occupier of number 6 Kings Mount, comments made are:

- Objections are raised on the grounds of significant massing on the boundary: The extension is flat roofed and will be a flat wall extending in excess of 2 meters above the boundary fence.
- An extension this high and right on the boundary will detract from the amenity currently enjoyed.
- It is unnecessary for the extension to be both flat roofed and right up to the boundary fence/wall. A large extension would still be able to be built that doesn't impact on No.6 Kings Mount in this way.

## **7.0 CONSULTATIONS RESPONSES:**

7.1 None

## **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 Core Strategy, saved policies within the Leeds Unitary Development Plan (Review 2006) and the Natural Resources and Waste Development Plan Document (2013).

### Adopted Local Policies:

8.2 Adopted Core Strategy:

- P10 - Design

### Saved UDP Policies:

- GP5 - seeks to ensure that all development proposals resolve the detailed planning considerations, including residential amenity for existing and future occupiers.
- T2 - states that new development should not cause new problems for highway safety and efficiency, or exacerbate existing risks and congestion.
- BD6 - All alterations and extensions should respect the scale, form, detailing and materials of the original building.

### Relevant Supplementary Planning Guidance includes:

8.4 Supplementary Planning Guidance "Householder Design Guide" – that includes guidance that the design and layout of new extensions and that they should have regard to the character of the local area the impact on their neighbours.

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

- i) the roof form and roof line;
- ii) window details;

- iii) architectural features;
- iv) boundary treatments and;
- v) materials.

Extensions or alterations which harm the character and appearance of the main dwelling or the locality will be resisted.

HDG2 All development proposals should protect the amenity of neighbours. Proposals which harm the existing residential amenity of neighbours through excessive overshadowing, overdominance or overlooking will be strongly resisted.

Supplementary Planning Document: "Street Design Guide".

### National Planning Policy

- 8.5 The National Planning Policy Framework (NPPF, March 2012) gives a presumption in favour of sustainable development and has a strong emphasis on high quality design. The following section is particularly relevant:

7 Requiring good design

## **9.0 MAIN ISSUES**

- 9.1 The main issues in connection with this development are:
- o Design
  - o Impact on Neighbours Amenity

## **10.0 APPRAISAL**

### Design

- 10.1 By its very nature the design is a simple form, creating additional internal space for the occupiers of the dwelling. Given that the proposal is single storey in height with the side extension set back from the front elevation of the house it is considered that the flat roof finish raises no specific design concerns.
- 10.2 The drawings indicate that the finishing materials proposed are to vary across the development and not necessarily match the materials of the original dwelling. To this end a condition is recommended that these materials are submitted for approval in order that they can be fully assessed.

### Impact on Neighbours Amenity

- 10.3 The initial drawings showed a more bulky side extension. As outlined above it was considered that this single storey side extension would have an adverse impact on the outlook of a window serving the kitchen of the next door property at number 6 Kings Mount. Amended drawings were received which reduced the size of this part of the extension so that it lies 850 mm lower than the roof of the 'wrap around' part of the proposal and is set in from the common boundary by an additional 150 mm. The remainder of the side extension abuts the common boundary. These are relatively small amounts, and given that number 6 is set at a lower level, do not mitigate the impact of this part of the extension as much as they might otherwise do. The extension will still project significantly above the boundary fence.

- 10.4 The materials to be used on the side element of the extension are shown to be matching materials to that of the main side wall of the dwelling which means that in terms of neighbours amenity, the impact will be one of bringing that wall in closer proximity to the window that serves the kitchen of number 6. Originally that side window would have been a secondary window to the kitchen, however due to the existence of a single storey extension on the rear of number 6; Kings Mount, it is now the only window allowing direct light into that room. The room is not totally devoid of other light sources as 'borrowed' light does come from that extension, however it is evident from a site visit that the kitchen is somewhat darker even on sunny days than would have otherwise have been the case.
- 10.5 The "wrap around" element and the rear extension have greater height and this scales from the application plan at 3.6m (as scaled from the ground level on the applicants land). The rear projection is similar to that of the extension at No.6. The overall height, in combination with the change in levels, proximity to the boundary and extent of projection all add to the impact on the residents No.6.
- 10.6 However, to balance against this impact, it should be remembered that there are no planning restrictions on the dwelling at number 8 Kings Mount and the occupiers of that property could construct a single storey extension along the entire length of their property up to a height of 3 metres from the ground level of the applicants property. The proposal indicates the single storey side element of the extension to be circa 3.0 metres above the ground level of the adjoining property at number 6 Kings Mount (a difference of circa 0.4 metres). Having regard to all of these factors it is considered that a reason for refusal could not be substantiated on harm to the amenities of the residents of No.6.
- 10.7 In respect of the impact on the amenities of occupiers at number 10 Kings Mount there are no concerns as there are no windows in their side elevation that directly overlook the proposed extension and there is a full driveway width and an existing garage structure that separates the side of the rear extension facing that property.

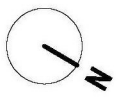
## **11.0 CONCLUSION**

- 11.1 It is still the view of officers that this proposal does not adversely affect the amenities of the neighbours at number 6 Kings Mount sufficiently to justify a refusal of planning permission. That element of the development that does have a direct impact on the amenities of the occupiers of the adjoining property has been negotiated with the applicants to be as diminutive as possible and still be useable in a practical sense.
- 11.2 The concerns raised by Members at the last Plans Panel meeting regarding the rear corner element of the proposed development and its size are noted and whilst the difference in land levels between the two properties are to the disadvantage of the occupiers of number 6, the added perception of bulk and massing that this contributes to is not considered sufficiently bad to justify a refusal of planning permission. In all respects the proposed extension complies and exceeds the design advice contained in the Councils Householder Design Guide including the 45 degree rule and the acceptable projection distances advised in that document for rear extensions. However, if Members are mindful to refuse planning permission a reason for refusal is suggested in the recommendation section above.

**Background Papers:**

Application files: 15/00889/FU

Certificate of ownership: Signed by applicants as sole owners



NO. 10

DRIVE

GARAGE

SHED

PATIO

LAWN

GRP or SPM  
'flat' roof

steps down  
to lawn

planter

GRP or SPM  
'flat' roof

GRP or SPM  
'flat' roof

2450

4000

300

150

NO. 6

19 BATCLIFFE DRIVE  
FAR HEADINGLEY  
LEEDS  
LS6 3QB  
Tel: 07760 254610  
E: RUS@RUSSELLHUNTARCHITECTS.CO.UK

REV	NOTE	DATE	BY			
B	Further amendment to design of utility and vvc element of side extension	23/03/15	Rus			
A	Design of utility and vvc element of side extension amended	16/03/15	Rus			
CLIENT Gary Neilson & Kirsty Wilson						
PROJECT 8 Kings Mount, Leeds, LS17 5NS						
TITLE Proposed Site Plan						
PROJECT NO	DRAWING NO	SCALE	DATE	STATUS	DRAWN	CHECKED
1208	L(-1)12B	1:100@A3	Jan 15	Planning	Rus	Rus





# NORTH AND EAST PLANS PANEL



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Originator: David A Jones

Tel: 0113 2478000

## Report of the Chief Planning Officer

### *Plans Panel North and East*

Date: 25<sup>th</sup> June 2015

**Subject: APPLICATION 14/03109/OT – Outline application for the demolition of the existing building and erection of a foodstore, petrol filling station, car parking, means of access and associated works at the former Miami building site, off Lotherton Way, Garforth**

<b>APPLICANT</b>	<b>DATE VALID</b>	<b>TARGET DATE</b>
KUC Properties Ltd	27/05/14	31/07/15

<p><b>Electoral Wards Affected:</b></p> <p><b>Garforth &amp; Swillington</b></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 to the Chief Planning Officer for approval subject to the conditions outlined below, the expiry of the public notification period and new representations being received that raise significant new planning issues and the completion of a S106 agreement to cover the following:**

- Improvements to local bus stops (x2) comprising of shelters, real time information, accessibility kerbing and associated lining.
- Travel Plan monitoring fee of £2,500
- Employment and training initiatives (applies to both the construction phase and once operational).

**In the circumstances where the S106 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. Standard time limit for submission of Reserved Matters and implementation thereafter
2. Outstanding Reserved Matters: Appearance, Landscaping, Layout, Scale
3. Plans as approved

4. Restriction on floorspace to the main foodstore to be no greater than: Net sales area of 2,787sqm (split into 2,090sqm of convenience & 697sqm of comparison)
5. Delivery of off-site highway junction improvements
6. Car Park and servicing management plan to be agreed
7. Construction Method Statement to be agreed
8. Detailed Travel Plan Required
9. Surface Water scheme (including being passed through appropriate interceptors) to be agreed
10. No construction over existing sewer unless first agreed
11. Bat roost/bird nest opportunities to be secured in detailed design
12. Implementation of agreed landscape scheme
13. Long term management of landscaping
14. Coal legacy site investigation required
15. Phase II site investigation report required
16. Amended remediation report if unexpected findings made
17. Verification report post remediation

Full wording of wording of the conditions to be delegated to the Chief Planning Officer including any revisions or additions as considered appropriate.

## **1.0 INTRODUCTION**

- 1.1 This application is brought to Plans Panel as it represents a departure from the adopted development plan in that it proposes a new foodstore (retailing) in an out of centre location. The application also represents a significant proposal for the Garforth area and has attracted a considerable number of third party representations, including a request for a Panel decision by Ward Councillors Mark Dobson and Andrea McKenna.

## **2.0 PROPOSAL**

- 2.1 This application is submitted in outline with only the means of access in addition to the principle having been applied for at this stage. Detailed matters relating to the appearance, landscaping, layout and scale of the development are therefore reserved albeit and application is accompanied by a design and access statement and indicative plans which shown how the site could potentially be set out.
- 2.2 For the purpose of assessing the application from both a retail policy and highway safety perspective, the supporting documents identify the development would comprise of a foodstore with a 4,939 sqm gross floor area (equating to a net sales floor area of 2,787 sqm). The sales area would then be broken down into 2,090 sqm of convenience floor space and 697sqm of comparison floor space. A separate Petrol Filling Station (PFS) is also proposed and a 333 space car park (including 15 x disabled bays and 15 x parent and child bays) is shown.
- 2.3 The supporting plans and design and access statement reflect the above quantum's and propose to form a new signal controlled access into the site direct from Aberford Road. The PFS is shown to be positioned just off the main access road towards the Lotherton Way/Aberford Road junction with the main car park located beyond to the east. The foodstore itself is positioned further east and towards the site's northern boundary. The customer entrance would therefore face the main car park and separate servicing via Fusion Point is identified to the rear.

- 2.4 The outline nature of the application and lack of a named operator at this stage is such that the basic size parameters are understood to meet the needs of a variety of different supermarket retailers.
- 2.5 Prior to the formal submission of this application, the applicant's statement of community consultation indicates the following measures were undertaken to obtain views from the local community.
- A meeting with the Garforth Traders Association
  - Public exhibition and accompanying website,
  - Separate meetings with local residents living near the site
  - Briefing for Ward Members
- 2.6 A total of 355 formal responses were received/registered of which it is reported 80% were in favour of the proposals.
- 2.7 During consideration of the application, the proposed access arrangements have been revised from those originally submitted due to highway safety concerns and how the junctions would impact on through traffic. The new access arrangements have been simplified and no longer propose signals to the Bar Lane junction (only provision of a right turn lane). Junction improvements are now also proposed at the top of Main Street.

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

- 3.1 The application site extends to 2.7ha and is situated within a mixed use area of Garforth. Positioned on the northern side of Aberford Road the site currently contains a substantial industrial building (known locally as the Miami building) and has a floor area of circa 17,000 sqm of which 1,600 sqm is ancillary office accommodation. The current building occupies most of the site although two modest staff/visitor car parks exist and are accessed via Lotherton Way and Aberford Road respectively. Separate servicing is also available to the rear via Fusion Point.
- 3.2 The main building was developed in the early 1980's and has a dated and somewhat rundown appearance now. Aberford Road is several metres higher than the floor slab of the building although the ground does fall away quickly when travelling north. Limited landscaping is available along the Aberford Road and Lotherton Way frontages but otherwise the entire site is built on or hard surfaced.
- 3.3 The part of the existing building has recently been occupied by Poundland on what is understood to be a short term/low rent contract.
- 3.4 The area surrounding the site is mixed in terms of the range of uses which can be found. The site forms the southern edge of an established industrial area which extends to the north and east but also includes a number of office buildings (primarily to the east). The Tesco supermarket is situated directly to the west on the opposite side of Lotherton Way beyond which residential properties can be found. Residential properties also face onto the site on the opposite side of Aberford Road. Garforth railway station is approximately 200m to the east

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

4.1 There is no relevant planning history relative to the consideration of this planning application.

## **5.0 HISTORY OF NEGOTIATIONS:**

5.1 The applicant entered into pre-application discussions March 2013 in relation to the potential for bringing the site forward for a foodstore development. Officers provided initial advice confirming a detailed impact and sequential assessment would be required to justify what is clearly an out of centre site and also that the traffic impact and access arrangements for the scheme would be a key issue to resolve.

5.2 Discussions regarding the above two main issues have continued and in particular the access arrangements have been the subject of considerable scrutiny. Negotiations regarding the proposed access arrangements have included an assessment as to why the existing Lotherton Way access and main junction with Aberford Road could not be utilised and upgraded and also how best to resolve what is already known to be a difficult situation in terms of how the Bar Lane junction operates and would be affected.

5.3 The outcome of the above is revised access arrangements for the main Aberford Road junction and also off site junction improvement works for both Bar Lane and the top of Main Street.

## **6.0 PUBLIC/LOCAL RESPONSE**

6.1 The scheme has been advertised as both a major and departure application via sites notices. The application has also been advertised within the Yorkshire Evening Post.

6.2 The initial consultation period expired 11/07/14 and attracted the following representations:

6.3 Ward Councillors – Combined comments have been received from Councillors Mark Dobson and Andrea McKenna:

- Highlights traffic as a main issue to be resolved but if an acceptable solution can be found could offer certain advantages including the generation of many local jobs, an untended and dilapidated brownfield site being brought back into use (which is preferable to any encroachment onto greenbelt/greenfield land).
- An understanding of national policy in terms of preferring existing commercial locations first is given but consider the site is near enough to the centre to satisfy this requirement.
- Garforth only has one supermarket at present which results in many residents travelling further afield which has a knock on environmental impact.
- Consider Garforth Main Street would not be adversely impacted due to its unique and diverse offer and that Tesco moving out in 2005 didn't cause problems.
- A relaxation of parking arrangements is also suggested to help alleviate current issues of on-street parking.
- Plans Panel determination is requested to ensure the application is heard in an open forum.

- 6.4 Neutral comments (4) - neither for or against the proposal but state the following:
- Highway improvement works are necessary
  - Existing parking problems (associated with staff at Fusion Court) need looking at
  - Pedestrian crossing facilities needed over Aberford Road
- 6.5 Objection comments (21 individual and 17 standard format letters from local residents. 3 letters from commercial interests (representing local land interests and Thorpe Park) also received.
- Access arrangements are unacceptable and serious issues already exist
  - Concerned about a lack of end user being specified
  - Problems with litter and signage within the area already
  - Scheme proposes a lack of landscaping
  - Loss of value to own home due to congestion issues
  - Dangerous stretch of road due to speeding
  - No need for another foodstore or PFS – One next door and many further afield.
  - Existing building could be adapted for indoor sports use for local community
  - Adverse impact on the viability and vitality of Garforth centre (Kippax also referenced separately as already struggling)
  - Concerned about the appearance of the foodstore
  - Noise from delivery vehicles or bottle bank
  - Loss of the site from employment use as considered to be a good site (efforts to market it also not robust)
  - Foodstore use is a departure from planning policy which promotes centres first
  - Proposal would be the size of a super-store so would also sell non-food and affect the town centre
  - Viability of Tesco would be affected
  - Garforth area is set to expand over next 15 years as proposed in the Site Allocations Plan. Public consultation still being undertaken with many objections. No proposals for the site as part of this process so should stay as it is.
  - Local highway network is substandard in many places and cannot be improved so the development will add to existing congestion
  - Query if the proposals are based on an accurate plan and challenge various points made in the submitted Transport Assessment.
  - Ash Lane junction is sub-standard and is shown to be used affecting highway safety
  - Toll Bar Garage access restricted as part of the proposals
  - Number of signal controlled crossing will cause further congestion
  - Notification period and site notice not adequate
  - Better alternative site identified as part of the Site Allocation Plan at Town End (top of Main Street) and is sequentially more preferable
  - Need a cinema, swimming pool, sports centre or affordable housing, not a supermarket
  - Applicant only offering the existing building 'as is' but come easily upgrade it to make it more attractive
  - Existing building now let so claim it is not suitable for employment use should be given no weight

- Concerned about the impact on trade and therefore the deliverability of the foodstore at Thorpe Park which provides the capital receipt to deliver infrastructure including the Manston Lane Link Road
- Query the acceptability and robustness of the submitted retail impact assessment as various assumptions appear overstated

6.6 Support comments (7 individual and 83 standard support pledges from local residents:

- Regenerating the under-used brownfield site which is an eyesore
- Bringing new supermarket competition to rival Tesco
- Creating around 250 new jobs is welcomed

6.7 A second consultation was also undertaken more recently following the receipt of revised highway/access proposals and supporting information. This consultation expires on the day of the Panel meeting (25/06/15). At the time this report was prepared the following additional representations had been received:

4 Objections received stating:

- Highway concerns still remain as waiting lane widths are inadequate and no provision for cyclists or pedestrians
- Removal of signals will restrict movements and cause longer queues
- The Main Street junction alterations are inadequate
- Only highway issue resolved is access to Toll Bar Garage – all previous concerns remain
- No adequate HGV turning for Bar Lane
- No linked signal controls

6.8 Should any further representations be received, these will be reported verbally to the Panel as part of the officer presentation.

## 7.0 CONSULTATIONS RESPONSES

### Statutory

7.1 **Environment Agency** – No objection subject to conditions dealing with pollution prevention. Advice offered in respect of surface water and foul drainage management and how to protect groundwater and deal with land contamination.

7.2 **Coal Authority** – Occur with the recommendations of the coal mining risk assessment report that coal mining legacy potentially poses a risk and that intrusive site investigation is required prior to development. No objection subject to a condition securing this.

### Non-statutory

7.3 **Highway Officer** – (Original comments) The proposed signals for the Bar Lane junction risks conflict between traffic turning into and out of the Toll Bar garage site. The position of the pedestrian crossing between the site access and Bar Lane junction could also create conflict with users due to queuing traffic. Overall the number of signal controlled crossings and their spacing is a concern and has the potential to cause conflict between different user groups and driver confusion. In addition, further clarification is required regarding aspects of the submitted Traffic Assessment.

(Revised comments) The revisions undertaken to the access arrangements and off-site junctions are Bar Lane and Main Street are considered to satisfactorily mitigate the traffic impact of the development. The proposed development is regarded as acceptable in highway terms. The off-side highway works would be delivered via a S278 Agreement and would be subject to detailed design as part of that process. Condition recommended.

- 7.4 **West Yorkshire Combined Authority** – The site is well positioned relative to bus services and meets the Council’s accessibility criteria requiring access to a 15 minute service to Leeds, Wakefield or Bradford. In addition the site is within walking distance of Garforth train station. To encourage greater use of public transport upgraded bus stops to provide shelters and real time information displays are recommended at a cost of £40,000. Appropriate kerbing and clearways to these stops is also required.

Support improvements at the Bar Lane junction including the right turn lane as traffic often has to queue at peak periods. The Traffic Assessment modelling suggests there is capacity at the Aberford Road/Barroebly Lane/Main Main Street junction which is surprising given the queues that currently exist – particularly west bound approach to the junction at the evening peak. This is to some extent exacerbated when rail users are existing the station but the development may worsen this delay for all traffic using at this junction. Express some concern about the number of signal controlled junctions in a small stretch and pedestrian phases should be incorporated rather than separate.

- 7.5 **Travelwise Officer** – The submitted travel plan is a framework document rather than a full travel plan. Detailed comments made in respect of areas to be included and the requirement for a Travel Plan Co-ordinator to be in place prior to the opening of the store needs to be secured. A monitoring fee of £2,500 also needed.

- 7.6 **Contaminated Land** – A phase one report has been submitted and indicates a phase two study is required but the site and end use are low vulnerability. No objection subject to conditions.

- 7.7 **Flood Risk Management** – The submitted Flood Risk Assessment appropriately considers the issue of flooding and drainage. The proposals for surface water discharges and attendant attenuation storage are acceptable in principle and conditions recommended to secure the full scheme once the detailed layout is known.

- 7.8 **Yorkshire Water** – The submitted layout although potentially subject to change shows building over an existing sewer. This is not acceptable to Yorkshire Water as it could jeopardise its ability to maintain the sewer network. Detailed conditions recommended including no building over existing sewers unless arrangements to divert or formally close down the on-site sewer has been formally agreed.

- 7.9 **Nature Conservation** – The existing building provides no real opportunity for bat roosts so a detailed survey not required. Condition recommended to secure bat roosts/bird nest opportunities as part of the sites redevelopment and to avoid removal of landscape features during the nesting season.

## 8.0 PLANNING POLICIES

- 8.1 Section 38 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.
- 8.2 The development plan for Leeds is made up of the adopted Core Strategy (2014), saved policies from the Leeds Unitary Development Plan (Review 2006) (UDP) and the Natural Resources and Waste Development Plan Document (DPD), adopted January 2013.

### **Core Strategy**

- 8.3 The Core Strategy is the development plan for the whole of the Leeds district. The following core strategy policies are relevant:
- SP1- Delivery of spatial development strategy.
  - SP2- Support for a centres first approach directing retail, offices, leisure... supported by sequential and impact assessments
  - P5 – Food stores
  - P10 – High quality design.
  - P12 – Good landscaping.
  - T2 – Accessibility.
  - G8 – Biodiversity improvements.
  - EN1 – Carbon dioxide reduction measures
  - EN2 – Sustainable construction.
  - EN5 – Managing flood risk.
  - EC3 – Safeguarding existing employment land and industrial areas
  - ID2 – Planning obligations and developer contributions.

### **Saved UDP Review**

- 8.4 The following saved policies within the UDP Review 2006 are also considered to be of relevance:
- GP5: Seeks to ensure that development proposals resolve detailed planning considerations, including amenity.
  - LD1: Seeks for landscape schemes to complement and where possible enhance the quality of the existing environment.
  - N23: Incidental space around built development should provide a visually attractive setting.
  - N25: Development and Site Boundaries.
  - T7A: Cycle parking requirements.
  - T7B: Motorcycle parking requirements
  - T24: Refers to car parking guidelines.
  - BD5: Requires new buildings to give consideration to both their amenity and that of their surroundings.

### **Natural Resources and Waste Development Plan**

- 8.5 The following DPD policies are considered to be relevant:
- WATER 7: All developments are required to ensure no increase in the rate of surface water run-off to the existing formal drainage system and development expected to incorporate sustainable drainage techniques.



LAND1: Supports principle of development on previously developed land and requires submission of information regarding the status of the site.

### Supplementary Planning Guidance and Documents

8.6 The following SPD documents are relevant to the consideration of this application:

Travel Plans – Supplementary Planning Document (2012)  
Building for Tomorrow: Sustainable Design and Construction (2010)(SPD)  
Sustainable Urban Drainage (2004) (SPD)

### National Planning Policy

- 8.7 The National Planning Policy Framework (NPPF), published on 27<sup>th</sup> March 2012, and the National Planning Practice Guidance (NPPG), published March 2014, replaces previous Planning Policy Guidance/Statements in setting out the Government's planning policies for England and how these are expected to be applied. One of the key principles at the heart of the Framework is a presumption in favour of Sustainable Development.
- 8.8 The introduction of the NPPF has not changed the legal requirement that applications for planning permission must be determined in accordance with the development plan unless material considerations indicate otherwise. The policy guidance in Annex 1 to the NPPF is that due weight should be given to relevant policies in existing plans according to their degree of consistency with the NPPF. The closer the policies in the plan to the policies in the Framework, the greater the weight that may be given.
- 8.9 With regard to retail development, the NPPF advises at Paragraph 24 that a sequential assessment is required for applications proposed town centre uses in out of centre locations. Paragraph 26 sets the threshold for the requirement for an impact assessment (which for Leeds is 1,500sqm). The impact assessment should include an assessment on existing, committed or planned public or private investment within a centre or centres falling within the catchment and also the impact on the vitality and viability of those centres. Paragraph 27 confirms that applications which fail the sequential test or would have a significant adverse impact on vitality or viability should be refused.
- 8.10 In terms of transport considerations, Section 4 of the NPPF relates to promoting sustainable transport and confirms at Paragraph 32 that all developments that generate significant amounts of traffic should be supported by a Transport Assessment. Paragraph 34 confirms that plans and decisions should ensure developments that generate significant movement are located where the need to travel will be minimised and the use of sustainable transport modes can be maximised. The use of Travel Plans is also encouraged (Paragraph 36).
- 8.11 With regard to meeting the challenge of climate change, the NPPF confirms that planning plays a key role in securing radical reductions in greenhouse gas emissions and providing resilience to the impacts of climate change including flood risk. Paragraph 94 of the NPPF advises that local planning authorities must adopt proactive strategies to mitigate and adapt to climate change whilst Paragraph 96 advises that in determining applications, local planning authorities should expect new development to comply with adopted Local Plan policies on local requirements for decentralised energy supply unless it can be demonstrated by the applicant,

having regard to the type of development involved and its design, that this is not feasible or viable. Paragraph 103 also requires developments not to increase flood risk elsewhere.

- 8.12 Paragraphs 213 to 216 are also considered relevant in view of the comments made in some third party representations. The paragraphs relate to plan making and decision-taking and highlight that decisions should be taken in accordance with the NPPF and adopted policies which accord with it but also confirms policies in emerging plans can also be given weight. The amount of weight will however depend on the level it has reached in terms of preparation, if there are unresolved objections and also its overall conformity with the NPPF itself.

## **9.0 MAIN ISSUES**

1. Principle of retail development on this site
2. Highway issues
3. Amenity considerations (Design and Residential)
4. S106 matters
5. Other matters
6. Response to representations

## **10.0 APPRAISAL**

### **Principle of Retail Development on this site**

- 10.1 Consideration of this issue falls into two main parts. The first relates to the loss of the building as an existing employment site and how this then relates to the Council's overall strategy in terms of maintaining an adequate supply of employment land across the city in accordance with Core Strategy policy EC3. On the basis this first issue can be satisfied, it is then necessary to consider the impact the retail development would have on centres within an identified catchment in recognition the site occupies an out of centre location so is a departure from the statutory development plan. As part of this, a sequential test also needs to be undertaken.

### **Loss of Employment Land:**

- 10.2 In considering the first issue relating to the safeguarding of employment/industrial land, whilst the site has recently been brought back into use, the current occupier (Poundworld) is on a 12 month short term lease expiring at the end of March 2016. The lease is also understood to include break clauses thereafter (applicable to both tenant and landlord) providing 3 months notice is given. The rent relative to the market average is low (and has been applied to the warehouse floorspace only) and the deal is understood to have been reached as it is conducive to both parties – in that it provides the landowner with an on-site presence therefore reducing the potential for antisocial activity and it also fills a short term warehousing capacity issue for Poundworld whilst a new building is constructed at its existing facility at Normanton – scheduled to be completed in March 2016. In this respect the current use can best be described as a temporary use offered at favourable rates which the applicant suggests is unsustainable in the long term.

- 10.3 Prior to the recent occupation, the building had been marketed for over 12 months but remained vacant and previous occupiers were also only secured on relatively short leases. Factors advanced by the applicant which contribute to the site being considered unattractive to potential occupiers are reported to boil down to the building's age and that it no longer provides the optimum type of accommodation now sought. These issues include the building having a relatively low eaves height

of 8m (when 10m to 12m is usually preferred for vertical stacking systems), the lack of loading bays (including docking stations) meaning little flexibility for the internal layout and slower loading/unloading, the disproportionate size of the building relative to the small amount of parking/ and size of the service yard, not being directly off the M62 and also the large space given over to office space (which is proportional quite high and impacts on the business rates payable). Even the absence of translucent panelling within the roof is advanced as an issue since it means running costs are higher relative to other more modern buildings as lighting is always required. These factors, combined with the availability of other sites within the area for employment uses (and supported by the most recent Employment Land Review – updated 2010 which indicates the area will have a surplus over the plan period) all contribute to a position whereby the likely take up of the site for employment purposes appears low.

10.4 In challenging the above position, some third party representations suggest the marketing for the site has not been robust and also that the applicant could make improvements to the existing building to make it more attractive and also that it could be redeveloped completely but for an employment end use. It is clearly difficult for officers to comment on the robustness of the marketing undertaken but the fact the building is now let demonstrates it is still preferable to the applicant for the building to be occupied and bringing in some income even if only on a short term basis. The points about the building being improved or the entire site redeveloped are noted but the availability of other sites is such that it would be unreasonable for officers to insist on this when considering this issue.

10.5 For the above reasons, officers are of the opinion it is not considered appropriate to resist the loss of the site from the pool of employment land and find no conflict with Core Strategy EC3 as other sites are available. The fact the proposed end use could comfortably sit alongside the existing employment activities so would not compromise their operation going forward and that relatively speaking foodstores are good employers in their own right (both full and part time) adds weight to this view.

#### **Impact Assessment:**

10.6 With respect to the second strand of accepting the principle of retail development on the site, it's out of centre location requires a detailed sequential and impact assessment of centres falling within a catchment area which is determined by a 10 minute drive time as specified by Core Strategy policy P8. This covers the centres (and edge of centres) of Garforth, Kippax, and Cross Gates (although the applicant has also considered the impact of the scheme on Rothwell and Seacroft District Centre as well). In considering the applicant's impact assessment, both the *solus* (individual) impact of the new Garforth foodstore has been considered as well as the cumulative impact of the scheme, incorporating the projected impacts from the Thorpe Park consent.

10.7 The two most significant impacts of the *solus* scheme are on the Tesco store at Aberford Road (34.6%) and the Sainsbury's at Colton (10.4%). Both of these schemes are out of centre and therefore do not benefit from NPPF protection. The NPPF only requires that the Impact Assessment shows that the proposal does not have a significant adverse impact upon centres, and investment within centres. The impact upon these two stores can therefore be discounted, as they are both significantly removed from their nearest centres.

10.8 With respect to Garforth and Kippax centres, at 3.8% and 2.9% respectively, the impacts are on balance, considered to fall within acceptable limits. In coming to this

view it is noted that enshrined within the NPPF is a presumption that 'like-affects-like'. This therefore suggests supermarkets affect supermarkets, far more than they do town centres in general (if those centres are not anchored by a supermarket).

- 10.9 In assessing the development's impact further afield, the projected impact upon Morrison's in Rothwell is high (5.4% solus, 14.7% cumulative). It must however be considered that a) the Morrison's is known to be significantly overtrading, and b) the proposed new scheme at Thorpe Park is likely to have a reduced cumulative convenience impact since a smaller foodstore offer appears more likely to come forward. Similarly at Seacroft (2% solus, 16.8% cumulative), the store is known to be overtrading and the same issue with Thorpe Park applies. The projected impacts at Marks & Spencer, Cross Gates (1.2% solus, 5.6% cumulative) are considered to be within acceptable limits.
- 10.10 As can be seen from the figures above, the cumulative impacts of the 2 schemes are a cause for some concern. However, the vast majority of this impact derives from the Thorpe Park scheme itself rather than the proposed foodstore at Garforth, whose impact is relatively modest on nearby centres. Question marks clearly exist against the delivery of the convenience elements of the consented Thorpe Park scheme, particularly in light of the recent variation of condition application for the Thorpe Park site which proposes to significantly reduce the convenience floorspace of the scheme which in turn reduces its potential impact.
- 10.11 The comparison impacts of the scheme are much smaller than those already stated, given the essentially convenience-led nature of the proposed supermarket. In solus terms the comparison impact is not considered to be material, never resulting in more than an 0.8% impact on a designated centre. Accordingly it would be unreasonable to suggest the development would have a harmful impact on the vitality and viability of these centres that warrants refusal, despite the concerns raised by some third parties on this issue.
- 10.12 Another consideration in terms of impact is the possible effect the proposal would have on the food offer at Thorpe Park itself as although it is not an identified centre, the introduction of retail was permitted as enabling development to help contribute towards the cost and also to bring forward the delivery of essential infrastructure in the form of the Manston Lane Link Road (MLLR). Accordingly the need to ensure any potential impact falls within acceptable tolerances is very important. The agent for Thorpe Park also draws the Council's attention to this same issue and has objected due to concerns about impact upon the deliverability of the foodstore as it offers the possibility of an early capital receipt but critically triggers the requirement for the MLLR and other public infrastructure including Green Park.
- 10.13 In considering the situation at Thorpe Park and potential impact the current proposal could have, the site is noted to fall outside of the Primary Catchment Area (which focuses on Garforth and Kippax) for the site which will limit its overall impact. The assessment also highlights a lack of operator interest at Thorpe Park and the high amount of convenience floor space proposed relative to current market requirements which is seeing a move back towards smaller scale formats. Both of these factors indicate difficulties for Thorpe Park in attracting a foodstore operator already. Indeed, these comments appear to be well founded as it was over a year ago when the Thorpe Park application was granted permission and the current condition variation application favours more comparison floorspace over convenience in order to provide greater flexibility. As already stated, a move towards more comparison shopping at Thorpe Park only lessens the potential impact the

current proposal could have albeit the impact based on the approved scheme is in any event considered to be acceptable.

- 10.14 In conclusion, on a solus basis, the convenience impacts of this individual scheme are modest on the designated centres of Cross Gates, Garforth, Kippax and Seacroft. The cumulative impact of the scheme when combined with commitments is a cause for some concern. However, this is as a direct result of the Thorpe Park scheme for which a condition variation application has been made which would reduce this predicted impact if granted permission and implemented. Where those impacts are highest, Rothwell and Seacroft, the impacts are focused on superstores which anchor those centres. These stores are nevertheless shown to be trading well and are overtrading relative to company averages so it seems unlikely a store at Garforth would result in these superstores closing. Based on the available evidence, the application is not therefore considered to result in significant adverse impact on centres or in-centre investment.

#### **Sequential Test:**

- 10.15 The applicant has completed a sequential test which considers sites within and on the edge of the identified centres. This assessment demonstrates the limited availability of sites within existing centres (as only small shop units are generally vacant) and none are considered suitable for the size of development proposed. This is also the reason why the Garforth Tesco was approved in an out of centre location originally.
- 10.16 One site which is available and is also advocated in a third party representation as being suitable is the former PFS site at the top end of Main Street and known locally as the Town End site. This site does not fall within the Town Centre boundary but is clearly an edge of centre site so is sequentially more preferable than the Miami site. However, its size is limited and would also not accommodate the proposed development. The representations suggest this site can be extended to include neighbouring land (which is currently within the Green Belt) as it is identified within the Site Allocation Plan as a potential mixed use development site (so could potentially include retail). Whilst the basic reasoning behind these comments are understood, it would be premature to attach any real weight to these proposals. Furthermore, the initial proposals have now been deleted as confirmed by the Executive Board decision in February so the development potential of this wider site is no longer being advanced as part of the next phase of public consultation into the Site Allocation Plan. Accordingly the redevelopment of an existing brownfield site is preferred from a policy position over development within the Green Belt.

#### **Highway issues**

- 10.17 Policy T2 of the Core Strategy advises that new development should be located in accessible locations and with safe and secure access for pedestrians, cyclists and people with impaired mobility with appropriate parking provision. The NPPF seeks to support sustainable transport solutions but it advises at Paragraph 32 that development should only be prevented or refused on transport grounds where the residual cumulative impacts of development are severe.
- 10.18 In considering the above, it is recognised congestion issues on the local highway network already exist as Aberford Road is a main distributor road for Garforth and also provides direct access to the M1 motorway to the east. For this reason the impact of the proposed development needs to be carefully considered as its scale is such that it will generate a significant amount of traffic in its own right. The existing

congestion issues are primarily down to poorly functioning junctions in the locality. The most obvious junction (and that referenced in many of the third party representations) is that between Aberford Road and Bar Lane where right turning traffic regularly restricts through traffic whilst it waits to turn off the main road.

- 10.19 In seeking to respond to this issue, the original proposals sought to introduce signal controls to the Bar Lane junction to help facilitate right turning into Bar Lane from Aberford Road. A separate signal controlled pedestrian crossing was also proposed between the Bar Lane junction and the new access point (also signal controlled) onto Aberford Road to serve the proposed foodstore.
- 10.20 In considering the acceptability of these access arrangements, the need to retain access to the Toll Bar Garage site as well as the proposal to provide 3 sets of signal controlled junctions within such a short stretch of road were identified as being problematic and a simpler solution was considered necessary to assist with through traffic, access arrangements to the garage site and also to aid highway safety by reducing the likelihood of drivers becoming confused.
- 10.21 Following a review of different option arrangements possible to the applicant without requiring third party land and which also included demonstration that the existing Lotherton Way junction could not be utilised and improved, the access arrangements were amended and removed the signal controlled component of the Bar Lane junction and also the separate pedestrian crossing facility. A right turn lane along Aberford Road with associated widening is still proposed at the Bar Lane junction and a pedestrian crossing facility/phase is to be added to the main junction into the site. These arrangements combined with junction improvements at the top of Main Street (again to better accommodate right turning in both directions so as improve through traffic) are therefore considered to strike the right balance between improving existing congestion issues and accommodating the additional traffic associated with the proposed development.
- 10.22 In terms of accessibility issues in the wider sense, the outline nature of the application means the detailed pedestrian and cycle facilities within the site are not fully worked up but the site is positioned on a main bus route which offers regular services to nearby towns and linking into the City Centre. Furthermore, Garforth Train Station is a short walk to the west and also provides a direct and quick route into the City Centre. The accessibility of the site is therefore considered to be acceptable and a detailed Travel Plan is proposed to be secured by condition since not only is the application submitted in outline but an end operator is also not known at this stage. The monitoring fee is nevertheless to be included within the site specific S106 contributions and improvements to local bus stop facilities are also to be secured to ensure this form of public transport is as attractive as possible.

### **Amenity considerations (Design and Residential)**

- 10.23 As an outline application with all matters reserved except for the means of access the ability to consider these issues in full is clearly not possible. Accordingly a general assessment is therefore undertaken in terms of the likely impacts and includes consideration of the indicative proposals set out in the design and access statement and also the conclusions reached in supporting documents.

#### **Design considerations:**

- 10.24 The site is located within a mixed use area but forms part of a wider industrial estate with such buildings forming the main backdrop when viewing the site from Aberford Road. The existence of a large, aging industrial building on the site and occupying

most of its footprint is also very pertinent in terms of the scope which exists to bring forward substantial design improvements as part of the site's redevelopment.

- 10.25 The requirement for parking at foodstores is significant and accordingly the size of the resulting building will be considerably smaller, certainly in footprint but also potentially in height than the existing building. In this respect and noting the difference in levels between the site and Aberford Road the most likely layout proposal is that reflected in the submitted design and access statement. Accordingly the building would be taken away from the Aberford Road frontage providing the opportunity for the built form to recede further into the background and for views to be filtered through the introduction of additional landscaping at the site's boundary. In this respect improvements to the site's visual impact can clearly be achieved and will be fully assessed as part of any subsequent reserved matters application.

**Residential amenity:**

- 10.26 The site's existing industrial use and the other commercial activities which take place around it, including the existence of Aberford Road as a main local distributor road are such that the introduction of a foodstore on the site is not considered to give rise to residential amenity issues which cannot be resolved. In fact, a foodstore scheme has the potential to offer improvements for local residents through a reduction in HGV movements and overall noise levels relative to that which could take place as part of the site's authorised employment use.
- 10.27 The detailed design of the building and layout is not known but the strong desire by foodstore operators (and endorsed by Highway Officers for safety reasons) to separate customer parking with back of house activities such as deliveries does show the servicing arrangements for the site will not alter from the existing situation. These arrangements are favourable for local residents and limit the potential for noise disturbance since a number of commercial buildings act as a buffer between this part of the site and the houses on the opposite side of Aberford Road. The proposed opening and delivery hours for the development are also unknown at this stage and will be assessed in detail as part of any reserved matters submission.

**Section 106**

- 10.28 Policy ID2 of the Core Strategy advises that where development would not otherwise be acceptable and a condition would not be effective, a Planning Obligation will be necessary before planning permission is granted. The relevant tests for the imposition of a Planning Obligation are reflected and accord with guidance within the NPPF as set out at Paragraph 204, that planning obligations should only be sought where they are necessary to make the development acceptable in planning terms, directly related to the development; and fairly and reasonably related in scale and kind to the development.
- 10.29 In this case, the following measures will be secured by means of a Section 106 Planning Obligation:
1. Travel Plan monitoring fee of £2,500;
  2. Local employment initiatives;
  3. Offsite bus stop improvement works

**Other Matters**

**Drainage:**

- 10.30 The Garforth area is known to suffer from drainage problems as, although not identified within a flood risk area, the existing infrastructure fails on occasion causing serious problems. The topography of the surrounding area is such that the land will generally drain to the north which is away from where the main problems have been experienced previously. In this respect officers are confident an acceptable drainage solution can be achieved for the redevelopment of the site via the use of planning conditions. The condition will also pick up on Yorkshire Water's concern about only building over the existing sewer if it is diverted or closed and replaced with a new one - matters which cannot be fully resolved until a detailed layout for the site has been finalised.

**Land Contamination/Stability:**

- 10.31 The site is not known to be been previously contaminated and a foodstore is not considered to be a sensitive end use. As such, the issue of land contamination can be adequately addressed by the use of conditions. Similarly the potential for previous coal mining activity to cause stability issues has been correctly identified within the relevant report and the Coal Authority is content for this issue to be addressed through the use of a condition.

**Sustainability:**

- 10.32 The need for major applications to address sustainability issues as outlined in Core Strategy policies EN1 and EN2 are understood but can only realistically be assessed when the detailed design of the development is finalised. As such the requirements of these policies are effectively deferred to the reserved matters stage.

**Economic Development:**

- 10.33 The application has to potential to generate a significant number of permanent full and part time job opportunities in addition to those which could come forward at the construction phase. Training and employment clauses are therefore to be incorporated within the Section 106 to work towards local employment targets and will be a requirement on the foodstore operator whoever that might be. This is a positive consideration and job creation and economic related development should be given appropriate weight in reaching a balanced assessment of the application in accordance with guidance within the NPPF.

**Response to Representations**

- 10.34 As can be seen from the third party representations received, this application very much divides opinion.
- 10.35 Many of those who have objected to the development are concerned about the impact on the local highway network in view of the problems with congestion already experienced. A number also raise concern about the foodstore's impact on Garforth centre and that a further out of centre store will lead to its decline. The loss of the site from local employment land stock features as a negative with suggestions the applicant could do more to make it attractive. Interested parties also object due to the potential impact on Thorpe Park in terms of being able to attract a foodstore operator and that a sequentially more preferable site exists at Town End and has been identified within the Site Allocation Plan as a possible mixed use site where a foodstore would be better suited.
- 10.36 Those who are supportive of the application cite the lack of competition with the existing Tesco store, the positive impact redeveloping the site will have in terms of



removing an eyesore and also the employment opportunities a foodstore proposal brings.

- 10.37 All of the above main issues have been addressed in the appraisal section of the report. Other matters such as the detailed design of the building can only be fully considered at the reserved matters stage and it is not a requirement to specify an end operator as any permission granted would go with the land.

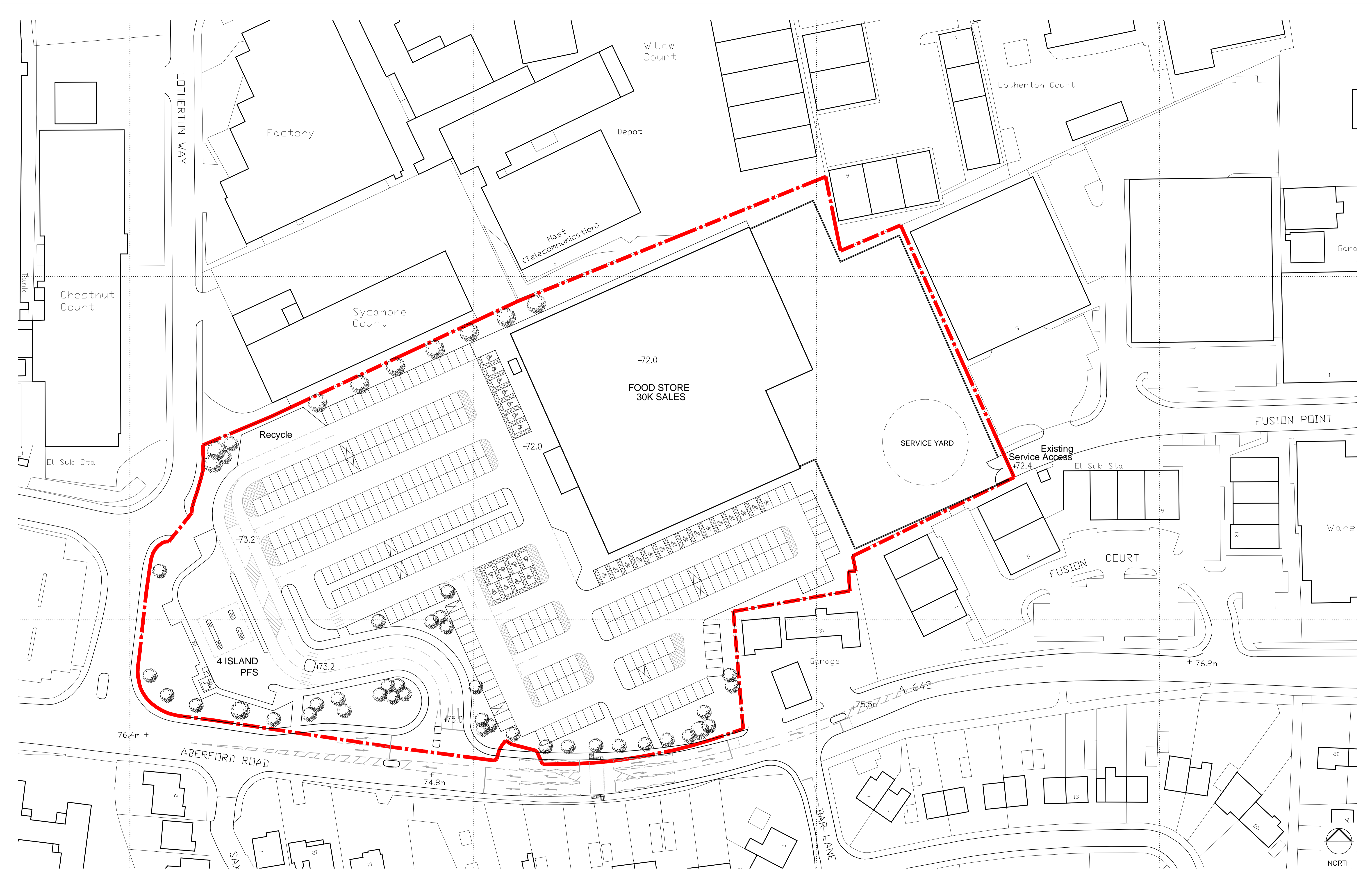
## **11.0 CONCLUSION**

- 11.1 This application proposes a significant amount of retail development in an out of centre location and so is a departure from the adopted development plan. In recognition of this fact, the applicant has undertaken an Impact Assessment and Sequential Test in line with both local and central government planning policy. The loss of the site from its existing use also has to be considered.
- 11.2 In considering the loss of the site from its existing employment use first, its previous history of short term leases is telling and its limitations as raised by the applicant in terms of it being attractive to the market relative to other sites have been given some weight. The availability of other site's within this part of the city is also of relevance and combined these factors are considered to be sufficient not to object to the loss of the site from the City's pool of employment land.
- 11.3 The Impact of the proposed use on existing centres, most notably Garforth, Kippax and Crossgates is considered to fall within acceptable tolerances and the impact further afield (at Seacroft and Rothwell) is focused on the main supermarkets in these centres which are both overtrading so can more readily absorb the impact. No serious impact on Thorpe Park is also predicted and no sequentially preferable sites exist.
- 11.4 The proposed development is recognised as a significant generator of traffic and the area is already known to experience congestion problems particularly during peak periods. To ensure the development's traffic impact can be safely accommodated within the local highway network without severely impacting on capacity the original access arrangements and junction improvement works have therefore been revisited and simplified. Further improvements works to the junction of Main Street have also been added to help address these concerns.
- 11.5 The application gives rise to a number of other matters but its outline nature is such that these cannot be fully or reasonably considered until receipt of a reserved matters application. This application therefore focuses on the principle of the development and also the proposed access arrangements since this is the only detailed matter applied for at this stage. Both the principle and revised access arrangements are considered to be acceptable and accordingly the application is recommended for approval, subject to the completion of a S106 and the conditions specified.

### **Background papers:**

Application file: 14/03109/OT

Certificate of Ownership: Signed on behalf of applicant



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 REFER TO ENGINEERS DRAWING "1011-SK-100" FOR HIGHWAYS  
 DETAILS TO ABERFORD ROAD

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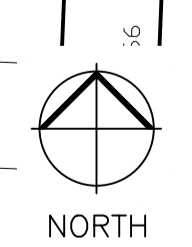
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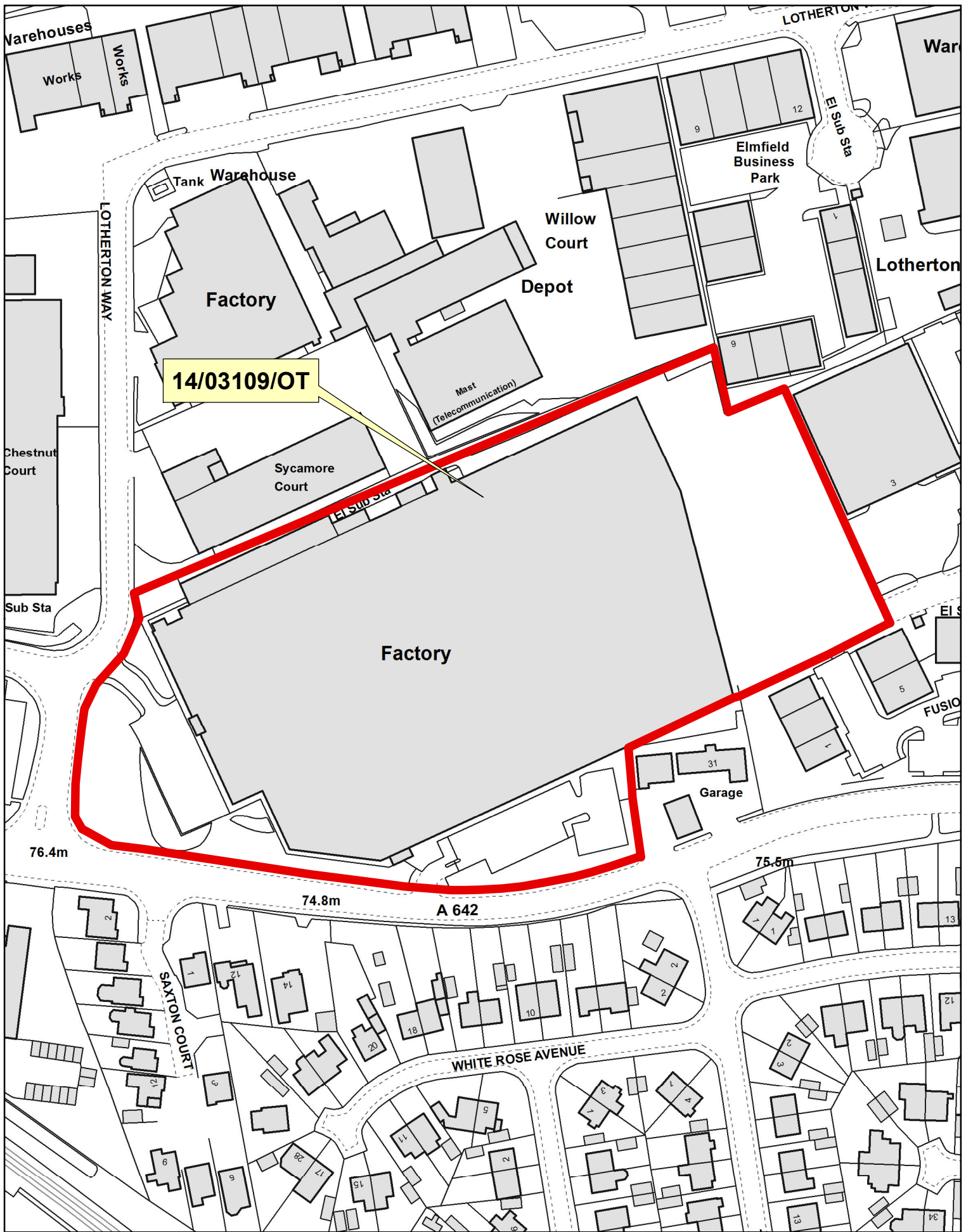
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# NORTH AND EAST PLANS PANEL



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Originator:	J.Bacon
Tel:	0113 2224409

## Report of the Chief Planning Officer

### *Plans Panel North and East*

Date: 25<sup>th</sup> June 2015

**Subject: 15/02121/FU Change of use of houses (C3) to form educational facilities and cultural learning centre (D1) at 15 and 17 Sandhurst Road, Leeds LS8.**

APPLICANT	DATE VALID	TARGET DATE
LECS Education Centre LTD- Prof Abdul Rehman	21 <sup>st</sup> April 2015	16 <sup>th</sup> June 2015

<p><b>Electoral Wards Affected:</b></p> <p><b>Gipton &amp; Harehills</b></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: REFUSE on the following grounds:**

1. The Local Planning Authority considers the development to represent an over intensive use of the application properties which results in a high level of activity and associated comings and goings, including vehicle movements and accordingly has a significant detrimental impact on the living conditions of nearby residents through noise and disturbance. Accordingly, the development is contrary to the adopted Core Strategy (2014) policy P9, saved UDP Review (2006) policy GP5 and the general guidance within the NPPF which seeks to ensure development proposals do not adversely impact on and are appropriate to their surroundings.
2. The Local Planning Authority considers the scale of the use attracts significant vehicle movements to the site and a demand for parking which cannot be accommodated thereby resulting in indiscriminate parking along Sandhurst Road which is already heavily parked to the detriment of the free and safe operation of the local highway network. The development is therefore contrary to adopted Core Strategy (2014) policy T2 and saved Unitary Development Plan (Review 2006) policies GP5 and T24 and the guidance contained within the NPPF which seeks to ensure the highway impacts of development are acceptable.

## **1.0 INTRODUCTION:**

- 1.1 This planning application is brought to Plans Panel North and East because of the proposed use in terms of its potential impact on surrounding residents and because similar schemes in the area have also been considered by the Panel previously.
- 1.2 The use is a community use and is also ongoing and if planning permission is refused then the council in all likelihood will proceed to take enforcement action to seek the cessation of the use. The applicant has set out that the use has been ongoing since 2006 but this has not been substantiated by evidence that details the nature and extent of that use.

## **2.0 PROPOSAL:**

- 2.1 This planning application seeks to retain the use of two mid-terraced dwellinghouses as a children's educational and cultural learning centre. The internal accommodation within each of the properties comprises:

Basement:	2 storage rooms
Ground floor:	2 classrooms
First floor:	1 classroom; bathroom and office (at No.15)/ storage room (at No.17)
Second floor:	2 classrooms

- 2.2 The centre is understood to employ 5 part-time staff and classes take place at the following times:

16.00-20.00hours (Mon- Fri)

10.00-20.00hrs (Sat & Sun)

- 2.3 The applicant has provided the following additional information regarding the use of the site:

- The use of No.15 and 17 Sandhurst Road for educational purposes began back in September 2006 with works associated with the proposed use completed in September 2013.
- The proposal seeks to provide education for children through religious and social activities after school.
- Each classroom will be capable of accommodating 10 students resulting in up to 50 children per property.

- 2.4 No external alterations to the application properties have been carried out.

- 2.5 The application is accompanied by letters of support from Ward Councillors Hussain and Maqsood. As reported within the section 6 of this report, Councillor Maqsood now objects to the application.

## **3.0 SITE AND SURROUNDINGS:**

- 3.1 The application site lies to the northern side of Sandhurst Road and contains two mature red brick two storey mid-terrace dwellings. The dwellings stand to the back edge of the pavement and have a yard to the rear, accessed via the alley-gated Back Sandhurst Road. Both No.15 and 17 have dormer extensions to the front and rear roof planes.
- 3.2 Sandhurst Road lies off Harehills Lane and gently rises to the east and is characterised by a dense arrangement of two storey red brick through terrace dwellings. The area is residential in nature although commercial properties are visible along Harehills Lane.

#### **4.0 RELEVANT PLANNING/ENFORCEMENT HISTORY:**

##### 4.1 Application site:

ENF/13/01060/BUDP3 Use of domestic properties for educational purposes (Relating to No. 17).

ENF/13/00945/BUDP3 Use of domestic property for educational purposes (Relating to No. 15).

ENF/09/01381/BUDP3 Unauthorised change of use from residential to business (Relating to No. 15 – case closed as no breach identified).

##### 4.2 Nearby similar applications:

14/01679/FU Change of use of 2 dwellings to education centre at Nos. 1-3 Sandhurst Avenue- Approved (24/07/14).

14/05517/FU Change of use of dwelling to community learning centre at Nos. 5-7 Sandhurst Avenue- Approved (09/01/15).

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

- 5.1 None undertaken as this is a retrospective application which the applicant is seeking to regularise.

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

- 6.1 The application was advertised by site notice posted adjacent to the site dated 8<sup>th</sup> May 2015. Letters of representation have been received from 10 households in response to the public notification process.

- 6.2 The letters of objection received cite the following summarised grounds:
- Traffic in street is very bad- parents drop-off/pick-up block street; cars trying to park just gridlock the street; can't park outside own house; damage to residents cars; traffic increased ridiculously over past 2 years.
  - Noise from 4pm-8pm is unbearable (chants and prayers by megaphone; should not have to hear in own home Mon-Sun; when windows are open it is louder)

- Applicant should use the mosque nearby to teach classes- avoid disrupting neighbours; unfair on local residents and is a nuisance; business in heart of residential area; the applicant needs proper premises.
- So many children in premises are a Health & Safety issue; safety of children on street.
- Litter on street is ridiculous.

6.3 Ward Cllr Maqsood has raised an objection to the application given the high volume of objections received from local residents.

6.4 Ward Cllr Harington queried the appropriateness of the properties for educational use, reported parking problems along street and questioned health and safety. In addition, Ward Cllr Harington relayed conversations from residents who were objecting to the application (on grounds of increased parking; noise from classes; health and safety with so many children) and another group who said these concerns were not justified.

## 7.0 CONSULTATIONS RESPONSES:

### Statutory:

7.1 None.

### Non-statutory:

7.2 Highways: Objection. The numbers of students attending (alongside staff) is significant and the use of two family dwellinghouses in such an intensive use cannot be supported. The proposal is also detrimental to highway safety.

## 8.0 PLANNING POLICIES:

8.1 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. The Development Plan for Leeds currently comprises the Core Strategy, saved policies within the Leeds Unitary Development Plan (Review 2006) and the Natural Resources and Waste Development Plan Document (2013).

### Local Planning Policy

8.2 The Core Strategy is the development plan for the whole of the Leeds district. The following core strategy policies are considered to be relevant:

- SP4: Identifies East Leeds as an area given priority for regeneration funding and resources.
- P9: States that access to local community facilities and services, such as education is important to the health and wellbeing of a neighbourhood. Facilities and services should not adversely impact on residential amenity and should where possible, and appropriate, be located in centres with other community uses.
- P10: Seeks to ensure that new development is well designed and respect its context.
- T2: Seeks to ensure that new development does not harm highway safety.



8.3 The application site is not specifically designated within the saved UDP Review (2006). Nevertheless, the following policies are also considered to be relevant:

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

BD5: Seeks to ensure new development protects amenity.

T24: Provides guidance on parking requirements for different uses.

8.4 No policies within the Natural Resources and Waste DPD (2013) are considered to be relevant:

8.5 Supplementary Planning Guidance:  
Street Design Guide (SPD, adopted)

8.6 National Planning Policy  
The National Planning Policy Framework (2012) sets out the Government's planning policies for England and how these are expected to be applied. It sets out the Government's requirements for the planning system. The National Planning Policy Framework must be taken into account in the preparation of local and neighbourhood plans and is a material consideration in planning decisions.

8.7 The introduction of the NPPF has not changed the legal requirement that applications for planning permission must be determined in accordance with the development plan unless material considerations indicate otherwise. The policy guidance in Annex 1 to the NPPF is that due weight should be given to relevant policies in existing plans according to their degree of consistency with the NPPF. The closer the policies in the plan to the policies in the Framework, the greater the weight that may be given. It is considered that the local planning policies mentioned above are consistent with the wider aims of the NPPF.

8.8 The NPPF gives a presumption in favour of sustainable development and identifies its social role, '*supporting strong, vibrant and healthy communities by providing the supply of housing required to meet the needs of present and future generations... with accessible local services that reflects the communities needs and support its health, social and cultural well-being*' (para.7, NPPF). Moreover, the NPPF identifies a range of core planning principles which should to underpin decision-making and these include, '*to seek a good standard of amenity for all existing and future occupants of land/ buildings*' and '*deliver community and cultural facilities and services to meet local needs*'. Highway safety issues also need to be fully considered as part of any development proposals.

## 9.0 MAIN ISSUES

1. Principle of development
2. Impact on residential amenity
3. Highway implications
4. Other matters

## 10.0 APPRAISAL

Principle of development:

- 10.1 This application seeks to retain a children's educational facility for religious and social activities held during out-of-school hours currently operating out of two mid terraced properties. The applicant has advised that the provision of the classes started back in 2006. As set out in the introduction this has not been substantiated but if this is correct over the intervening years it would appear the level of activity at the properties has increased. Residential council tax has only ever been paid for these properties.
- 10.2 Policy P9 of the Core Strategy lends support to the principle of such uses recognising their importance to health and wellbeing of a neighbourhood. However, the policy also states that such uses should not adversely affect residential amenity. It is not uncommon for these types of uses to be located within residential areas and accessible to the local community and generally no objection would be raised to the introduction of such a use within a residential setting providing no adverse residential amenity or highway safety impacts arise. Indeed, it is recognised that planning permission has recently been granted to convert dwellings to community education centres on a nearby street, Sandhurst Avenue (Nos. 1-3 and 5-7). These proposals related to two pairs of semi-detached dwellings and it was considered that the scale of their use coupled with the provision of off-street parking and controls on the activities and opening times they would not harm the amenity of nearby residents.
- 10.3 The proposed change of use clearly involves the loss of two houses from the local area which runs counter to the Council's requirement to deliver additional housing. Officers are mindful of this and ordinarily the loss of existing serviceable housing stock would be resisted, however in this situation a community facility is proposed to serve the needs of local residents. In this respect whilst the loss of units from the overall housing stock is regrettable, the community benefits associated with improved local facilities is considered to outweigh any impact on housing numbers and the principle could be supported in this instance subject to all other considerations being acceptable.

Impact on residential amenity:

- 10.4 As discussed above, educational uses are commonly located in residential settings and this is the case here. Accordingly, it is appropriate to give due regard to the impact of the use on the amenity of those nearby residents.
- 10.5 The applicant has outlined the scale and operation of the proposed use. The submitted floor plans indicate that much of the properties are given over to classroom space with additional storage rooms and a bathroom. Each dwelling accommodates five classrooms with the potential for each classroom to cater for up to 10 children. This means that in all, the application proposal has the potential to accommodate up to 100 children at any one time during each educational session. These sessions are held during the late afternoon/ evening time on weekdays and morning and afternoon/ evening times at weekends.
- 10.6 The application properties are mature mid-terrace dwellings surrounded by residential properties. The properties provide limited outdoor space (yard to the rear) and are reliant on on-street parking for occupiers and visitors. By virtue of the terraced nature of the surroundings this residential area is densely formed and brings neighbours in close proximity to one another so they are more susceptible to changes in activity at the premises and the associated comings and goings at neighbouring properties.
- 10.7 The application properties are modest sized terrace properties and the potential number of children attending the educational sessions is significant. Considering the

educational sessions are concentrated during the evenings at a frequency of seven days a week the comings and goings at the premises occur at a time where neighbouring residents would have the reasonable expectation to relax and enjoy their own homes without undue disturbance.

- 10.8 The sheer volume of children attending would inevitably result in pick-ups and drop-offs by car and competition for parking spaces and congestion outside the premises are issues reported by neighbours. The combined activity of the opening and shutting of car doors; stationary engines running; talking and shouting of children/ parents entering and leaving the premises at the levels proposed is considered unreasonable and harmful to the residential amenity of neighbours.
- 10.9 Whilst the activities associated with the educational use could be contained within the fabric of the building it is inevitable that the windows will need to be opened (especially during summer months) and voices/ shouting from children or tutors will spill out onto the street and disturb neighbours. It is clear from the objections received that local residents experience a loss of amenity.
- 10.10 Ultimately, it is considered that the given the modest size of the properties and the position within a residential street that it is unsuitable for level of activity proposed. The absence of any meaningful amenity space or off-street parking provision would mean the activities take place in close proximity to neighbours to the detriment of their amenity.

#### Highways implications:

- 10.11 It is recognised that the nature of the proposed use is likely to mean that children would walk or cycle to the premises and that the majority of car journeys generated are likely to be a drop-off/ pick up activity rather than long stay parking. However, the numbers of children attending is of such volume that Highways Officers consider that significant issues with on-street parking would be generated which could even impact onto Harehills Lane. The dense residential nature of this locality with through-terraces means that existing residents have no off-street car parking provision and are reliant on on-street parking which are often at or near capacity in terms of on-street parking. Accordingly, the proposed change of use of two family dwellings into such an intensive use is considered to be detrimental to highway safety.

#### Other matters:

- 10.12 The proposals have been made by a particular group to educate children through religious and social activities. The application has been determined on the basis of planning policies and guidance which have been subject to relevant equality assessments and involvement processes, and, as noted above, in the light of the policies within the adopted development plan which seek to ensure the provision of and access to community facilities for all sections of the population. The application has been assessed solely on its planning merits and in the light of this policy and guidance. This includes given due weight to the benefits of the development against any harm caused by the use.

## **11.0 CONCLUSION**

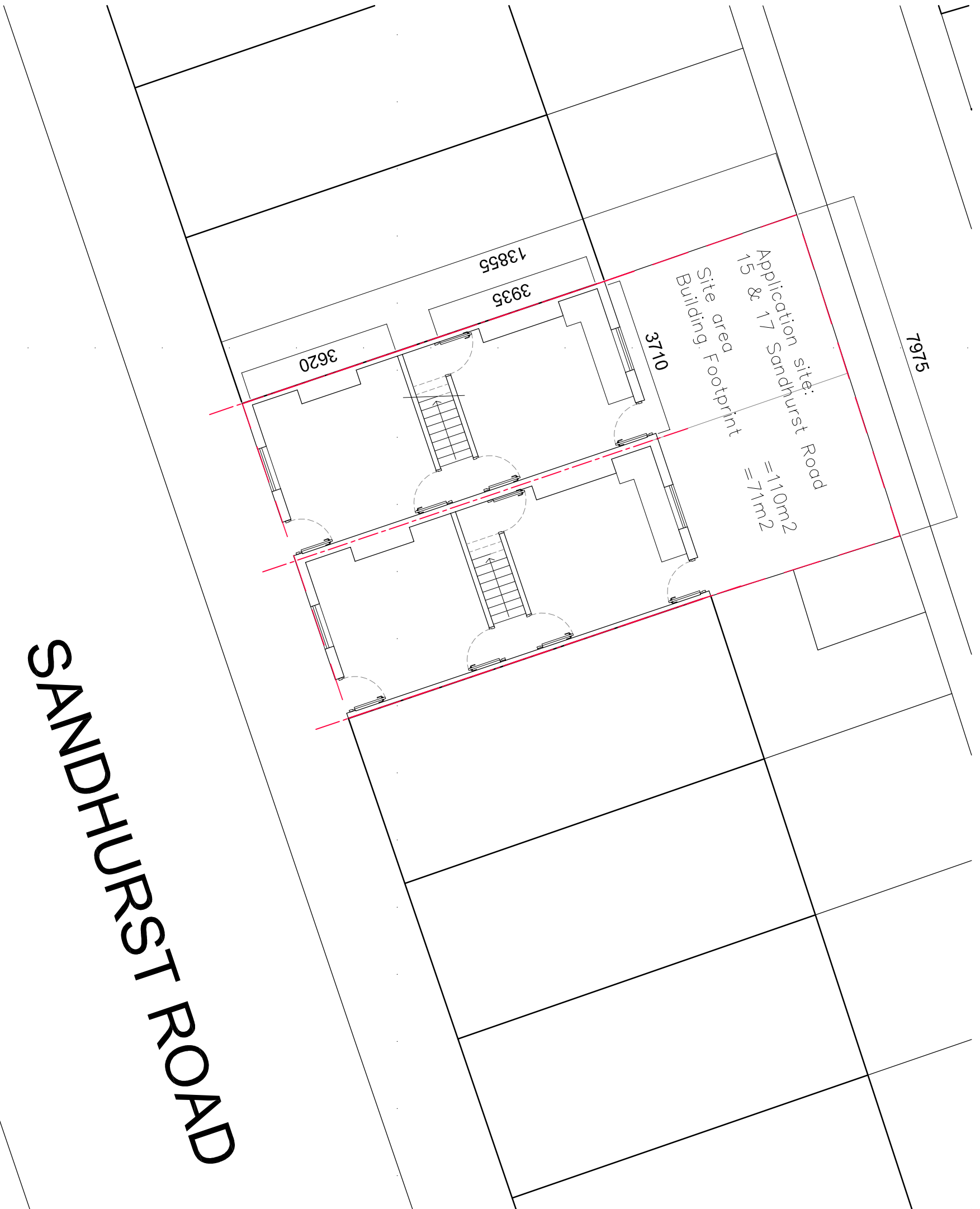
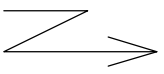
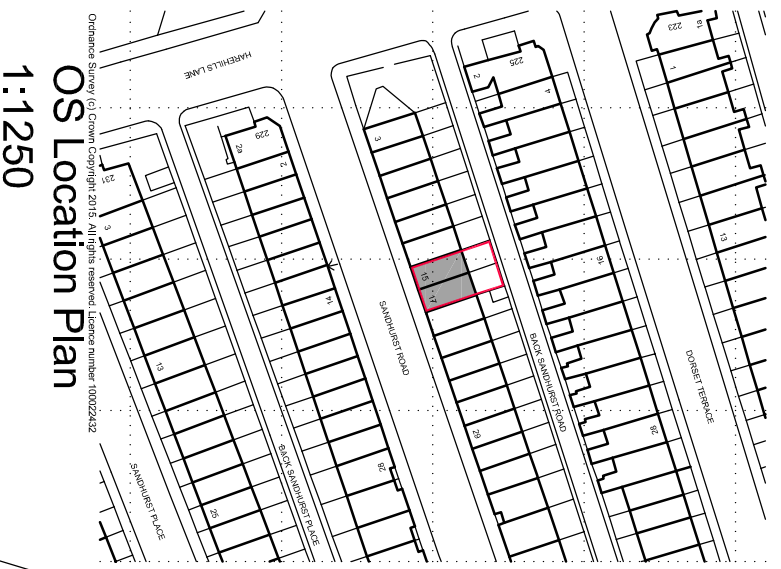
- 11.1 The proposed development is considered to be sound in principle as the loss of two residential properties to a community use is not considered to amount to a reason

for refusal in its own right. However, by virtue of the scale of the proposed use and the close proximity of the premises to neighbouring terraces the proposal results in serious amenity issues for nearby residents and prejudice the interests of highway safety. Consequently the application is recommended for refusal.

**Background Papers:**

Application and history files.

The appointed planning agent has certified that the requisite notice has been served to the land owners (Abdul Majeed Sabir and Mohammed Farooq) on 14<sup>th</sup> April 2015.



Site Plan  
1:100

# OS Location Plan Site Plan

**GENERAL NOTES:**  
 STRUCTURAL ALTERATIONS SUBJECT TO STRUCTURAL ENGINEERS COMMENTS AND DESIGN CALCULATIONS SHALL BE OBTAINED BY THE APPOINTED BUILDING CONTRACTOR AND SUBMITTED FOR APPROVAL BEFORE WORKS COMMENCE ON SITE.  
 ALL WORKS TO BE CARRIED OUT TO THE LATEST BUILDING REGULATIONS, BRITISH STANDARDS AND APPROVED CODES OF PRACTICE.  
 WHERE FURTHER CLARIFICATIONS, AMENDMENTS OR ADDITIONAL WORKS ARE REQUIRED CONTRACTORS SHALL REFER TO THE CLIENTS FOR FURTHER DETAILS AND INSTRUCTIONS.  
 ALL MATERIALS AND DETAILS TO BE PROVIDED BY THE CONTRACTOR FOR CLIENT APPROVAL.

Contractor must verify all dimensions on site before commencing any work or stop drawings. If this drawing exceeds the quantities taken in any way the Architects are to be informed before the work is started.  
 Only figured dimensions to be taken from this drawing.  
 Drawings based on Ordnance Survey and / or existing record drawings - design and drawing content subject to Site Survey, Structural Survey, Site Investigation, Planning and Statutory Requirements and Approvals.  
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 Tel: 0113 3689911  
 E-Mail: info@cia-architecture.co.uk

# SANDHURST ROAD



Client	Prof. Abdul Rehman	Project Name	Change of Use from Residential (C3) to Educational Facilities (D1)
Site Address	15 & 17 Sandhurst Road LS8 3QP	Scale	1:1250 1:100
Out-Drawing Reference	1510 (PL) 001	Revision	A
		Sheet	A3
		Date	April 2015
		By	CJA





# NORTH AND EAST PLANS PANEL





Originator: David B Jones

Tel: 0113 247 8030

## Report of the Chief Planning Officer

### *Plans Panel North and East*

Date: 25<sup>th</sup> June 2015

**Subject: APPLICATION 11/03908/FU – Variation of condition 6 of approval 09/04265/FU to allow opening hours of 1600 to 2330 hours Monday to Saturday and 1600 to 2300 hours on Sundays at 12 Church Lane, Swillington, Leeds LS26 8DX**

<b>APPLICANT</b>	<b>DATE VALID</b>	<b>TARGET DATE</b>
Mr M Gill	15/09/11	10/11/11

<p><b>Electoral Wards Affected:</b></p> <p><b>Garforth &amp; Swillington</b></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: GRANT permission subject to the following conditions:**

1. Time limit
2. Plans as approved
3. Hours of opening

### **1.0 INTRODUCTION:**

1.1 This application is brought to Plans Panel North & East, as the application seeks variation to a condition attached to planning permission 09/04265/FU which was the result of a East Plans Panel decision at its meeting on 11/02/10. Minutes from this meeting indicate that Members supported the application partly because the opening hours for the hot food takeaway would be restricted to match the existing opening hours of the adjoining Off-license. A direction was therefore added to the decision notice at Members request advising the applicant that any future applications to extend the hours of opening would be unlikely to be viewed sympathetically.

- 1.2 Notwithstanding the above, it should be noted that the opening hours of the Off-license are not controlled by any planning conditions due to its historic nature and the Off-license and Hot food takeaway are now under separate ownership, albeit the previous applicant still has a landlord role.

## **2.0 PROPOSAL:**

- 2.1 The applicant originally applied to extend the hours of opening of the hot food takeaway shop to one hour earlier and one hour later than the existing, 7 days a week, resulting in opening hours of 1600 to 2330 hours Monday to Sunday. However, this was subsequently amended to 1600 to 2330 hours Monday to Saturday and 1600 to 2300 hours on Sundays in order to comply with the relevant policy SF15 of the UDP (Review 2006). The determination of the application has been delayed whilst issues relating to an unauthorised flue and proposed extension had been addressed.

## **3.0 SITE AND SURROUNDINGS:**

- 3.1 The application site consists of a large, detached, two storey, red brick property, formerly a dwelling house, occupying a spacious corner plot at the junction of Church Lane with Neville Grove.
- 3.2 The property has existing single storey extensions to both sides, including a large flat roof extension along the west side elevation and a single storey extension with mono-pitch roof along the east side elevation.
- 3.3 The extended property accommodates a mixed commercial and residential use, with an existing Off-licence at ground floor level and more recently a hot food takeaway within the single storey extension along the east side elevation of the property. Residential accommodation is situated above the shop which is understood to be occupied separate to the ground floor commercial uses.
- 3.4 The property has a large car park to the front providing off-street parking for the commercial uses and an enclosed yard along the western side of the property, enclosed by high privet hedge and with a separate vehicular access off Neville Grove. The property also has an enclosed garden to the rear and east side of the property.
- 3.5 The surrounding area is predominantly residential in character and a small housing scheme (comprising of 8 properties) has in fact recently been constructed to the west (beyond the adjoining electricity sub-station) to the east on the former church hall site. A Fish and Chip shop can nevertheless be found on the adjacent corner of the Church Lane and Neville Grove junction although its current opening hours (albeit unrestricted in planning terms) are relatively short and are limited to ....

## **4.0 RELEVANT PLANNING HISTORY:**

- 4.1 12/02840/FU - Alterations involving part ground floor and part first floor extension to form one flat and new chimney stack. Application withdrawn 23.08.2012
- 4.2 10/01212/COND – Discharge of conditions application for Nos. 3, 5, 9, 12, 13, 14, 15 and 17 of Planning Application 09/04265/FU, approved 30/04/10.



- 4.3 09/04265/FU – Change of use of part of living accommodation and part of shop to take away hot food shop, involving new shop front, flue to rear, new vehicular access and additional customer car parking to serve proposed takeaway shop, approved 18/02/10.
- 4.4 08/06109/FU – Change of use of part of living accommodation and part of shop to takeaway hot food shop involving new shop front, new vehicular access and 4 additional car parking spaces, withdrawn 22/12/08.
- 4.5 08/04883/FU – Two storey side extension and part two storey, part first floor extension to other side and rear of shop, forming enlarged shop, with three 2 bedroom flats and one 1 bedroom flat over, approved 09/10/08.
- 4.6 08/02764/FU – Two storey side extension and part two storey, part first floor extension to other side and rear of shop, forming enlarged shop with four 2 bedroom flats and one 1 bedroom flat over, withdrawn 07/07/08.

## **5.0 PUBLIC/LOCAL RESPONSE:**

- 5.1 The application was advertised by site notices posted on 21/10/11. The publicity period expired on 11/11/2011.
- 5.2 One letter of representation (unsigned and no address provided) has been received expressing the following points/concerns:
- Unauthorised development has taken place
  - Extended hours of opening were raised as a concern with the original application
- 5.3 All material planning considerations arising from these comments are addressed within the appraisal section of this report.

## **6.0 HISTORY OF NEGOTIATIONS:**

- 6.1 The applicant originally applied to extend the hours of opening to one hour earlier and one hour later than the existing, 7 days a week which would have resulted in opening hours of 1600 to 2330 hours Monday to Sunday. However, further to discussions with officers the Sunday hours were reduced in order to comply with advice provided in UDP policy SF15.

## **7.0 CONSULTATION RESPONSES:**

- 7.1 Non-statutory

Highways – no objections in view of the off-street parking at the front of the shop, as such it would be difficult to justify an objection to a change in the opening hours.

Environmental Protection team – an extension of the evening opening hours may lead to the increased potential for complaints relating to noise from patrons visiting the premises – therefore recommend opening hours are not extended. Confirmation

provided that no complaints have been received by the department regarding the hot food takeaway use.

- 8.1 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. The Development Plan for Leeds currently comprises the Core Strategy, saved policies within the Leeds Unitary Development Plan (Review 2006) and the Natural Resources and Waste Development Plan Document (2013).

#### Local Planning Policy

- 8.2 The Core Strategy is the development plan for the whole of the Leeds district. The following core strategy policies are considered to be relevant:

T2: Seeks to ensure that new development does not harm highway safety.  
P4: Where a proposal involves evening opening, account will be taken of the proposal in relation to the proximity of the premises (and associated parking requirements), to nearby residential accommodation, the nature and character of the neighbourhood parade and existing noise levels.

- 8.3 The application site is not specifically designated within the saved UDP Review (2006). Nevertheless, the following policies are also considered to be relevant:

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

- 8.4 No Natural Resources and Waste policies are also considered to be relevant:

#### National Planning Policy

- 8.5 The National Planning Policy Framework (2012) sets out the Government's planning policies for England and how these are expected to be applied. It sets out the Government's requirements for the planning system. The National Planning Policy Framework must be taken into account in the preparation of local and neighbourhood plans and is a material consideration in planning decisions.

- 8.6 The introduction of the NPPF has not changed the legal requirement that applications for planning permission must be determined in accordance with the development plan unless material considerations indicate otherwise. The policy guidance in Annex 1 to the NPPF is that due weight should be given to relevant policies in existing plans according to their degree of consistency with the NPPF. The closer the policies in the plan to the policies in the Framework, the greater the weight that may be given. It is considered that the local planning policies mentioned above are consistent with the wider aims of the NPPF.

- 8.7 The NPPF gives a presumption in favour of sustainable development and has a strong emphasis on achieving high quality design. Of particular relevance, the national planning guidance attaches great importance to the design of the built environment and is indivisible from good planning (para.56, NPPF) and seeks development proposals to add to the overall quality of the area, create attractive and comfortable places to live and respond to local character (para.58, NPPF).

## **9.0 MAIN ISSUES**

1. Principle of development
2. Impact on residential amenity
3. Highways
4. Other issues

## **10.0 APPRAISAL**

### Principle of development

- 10.1 The principle of having a hot food takeaway in this location has already been established by the granting and implementation of the previous planning permission (09/04265/FU). Notwithstanding this, the acceptability of the extended opening hours proposed still needs to be assessed, primarily in accordance with policy SF15 of the UDP (Review 2006) as it specifically relates to hot food takeaway shops.

### Impact on residential amenity

- 10.2 Core Strategy Policy S4 is specifically concerned with hot food takeaway shops and its main aim is to protect neighbouring residents living conditions, particularly in cases where amenity concerns are raised due to the close proximity of residential properties. In this case the nearest residential property is the flat above the Off-licence although the use is also noted to be surrounded by other residential properties.
- 10.3 In considering this application which relates solely to an extension of existing opening hours, criteria iii and iv are clearly not relevant. Furthermore, as highway officers are satisfied with the existing parking/access arrangements at the site, criteria ii is also considered to have been met. Particularly as the 'other planning requirements' (which in this case are considered to be the planning conditions attached to the original application) have either been agreed and implemented or in the case of the implemented design of the extension and extraction flue not fully matching the agreed details revisions are being addressed via a separate planning application (which itself is considered to be acceptable). It is therefore the issues raised in criteria i which are of relevance and in particular those relating to operating at unsocial hours and any potential congregating of customers, associated vehicle movements and the resulting noise of these activities.
- 10.4 In cases such as this where there are concerns regarding residential amenity, In this case, the applicants have agreed to amend the proposal with hours of opening until 2300 hours on Sundays.
- 10.5 The hours of opening as originally applied for in the previous application corresponded with the hours of opening of the adjoining Off-licence and a Direction was attached to the previous permission advising that a proposal to extend the hours of opening would be unlikely to be viewed sympathetically. However, it is considered that it would be difficult to resist the current proposal to extend the opening hours of the hot food takeaway which is compliant with planning policy specific to the use and which experience shows would be difficult to justify at appeal. It should also be noted that the Council's Environmental Protection team have not received any complaints in respect of the existing takeaway shop.
- 10.6 In light of the above, the proposal is considered to be acceptable on residential amenity grounds.

### Highways

- 10.7 The proposal raises no specific road safety concerns given the amount of off-street car parking at the property. As such, the proposed development is considered to be acceptable on highway grounds.

### Other issues

- 10.8 In response to the concerns raised, the unauthorised flue is subject to enforcement proceedings.

### **11.0 CONCLUSION**

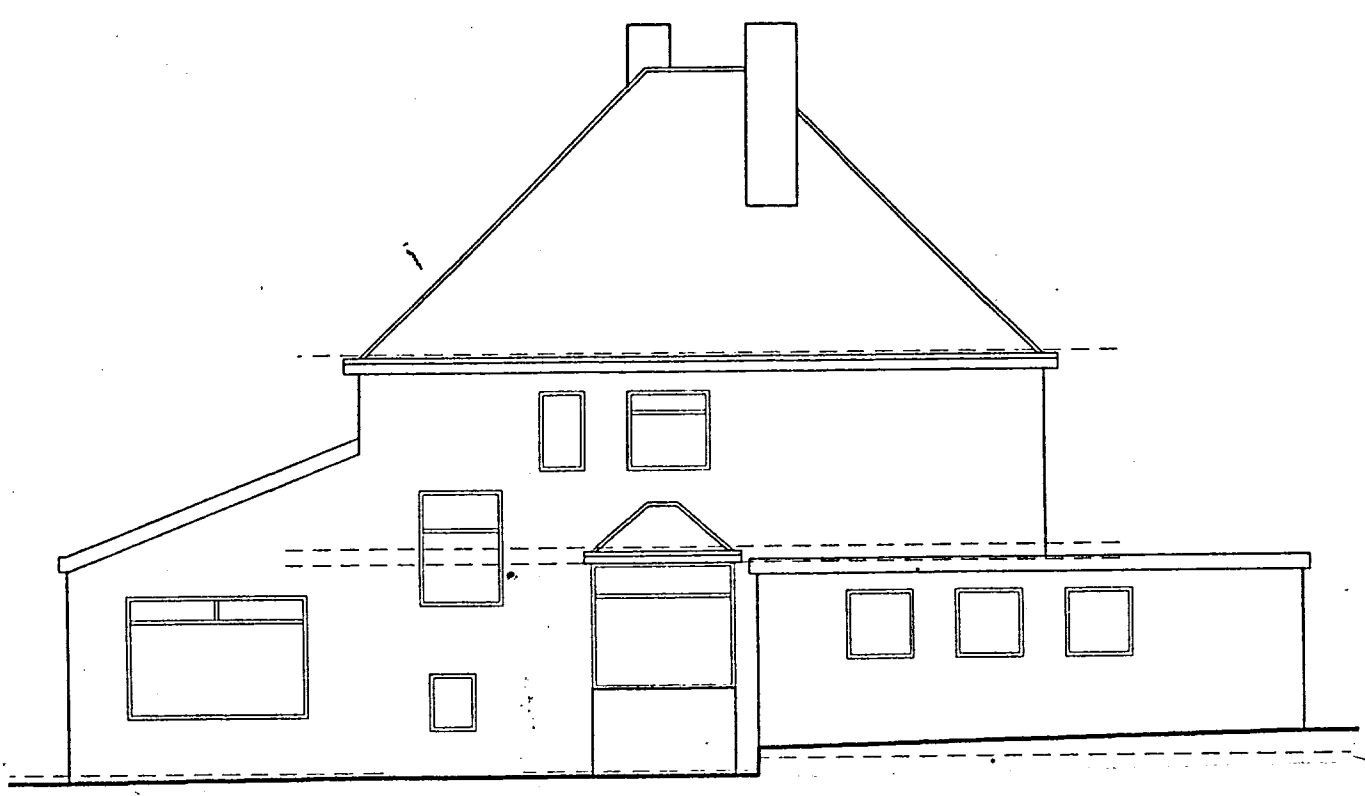
- 11.1 For the above reasons, with consideration to all other planning considerations, including residential amenity and highways, the proposed development is considered to be acceptable and is recommended for approval subject to conditions.

### **Background Papers:**

Application file: 11/03908/FU

Certificate of Ownership: the applicant Mr M Gill

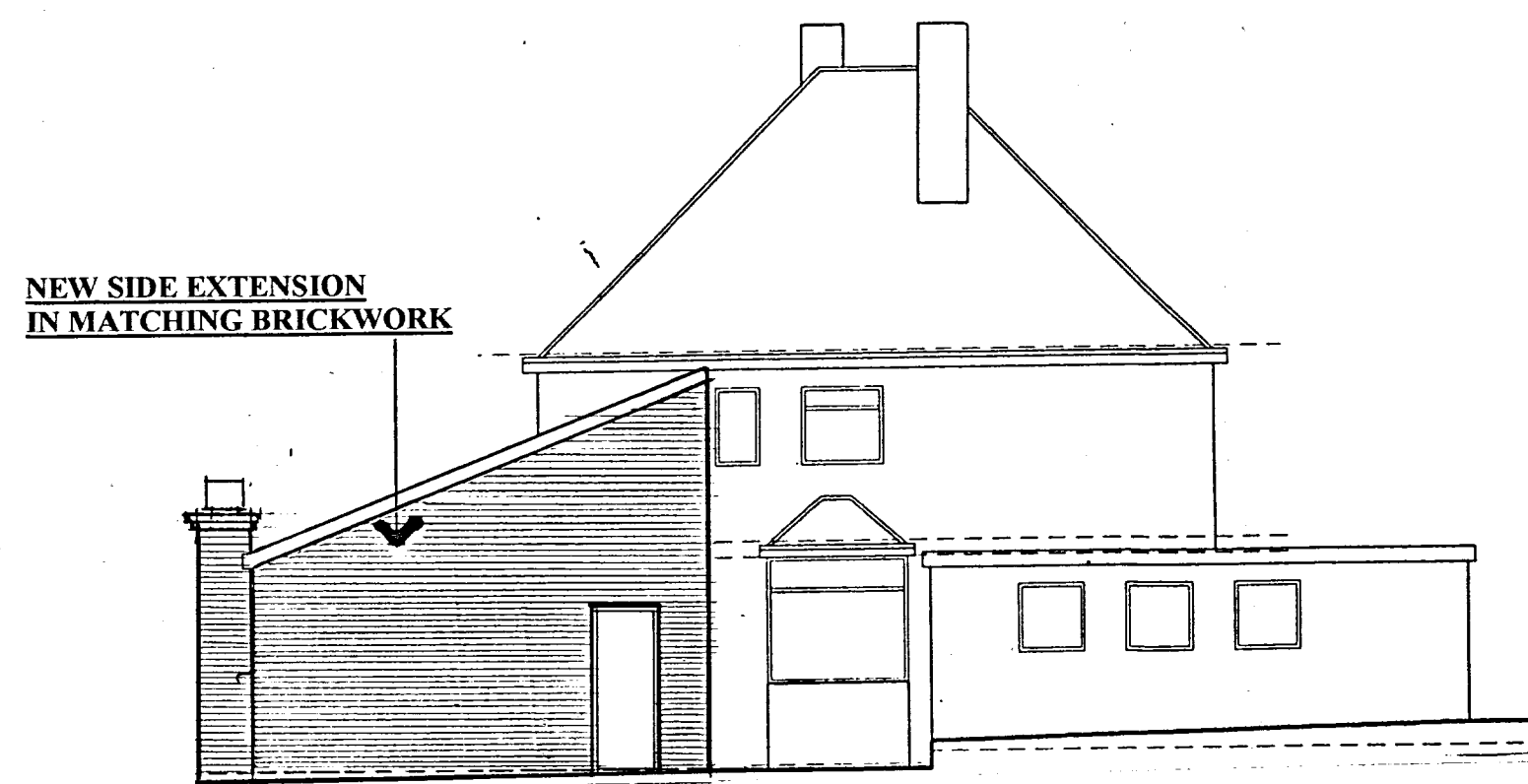
LEEDS CITY COUNCIL  
12 DEC 2011  
**ADDITIONAL**



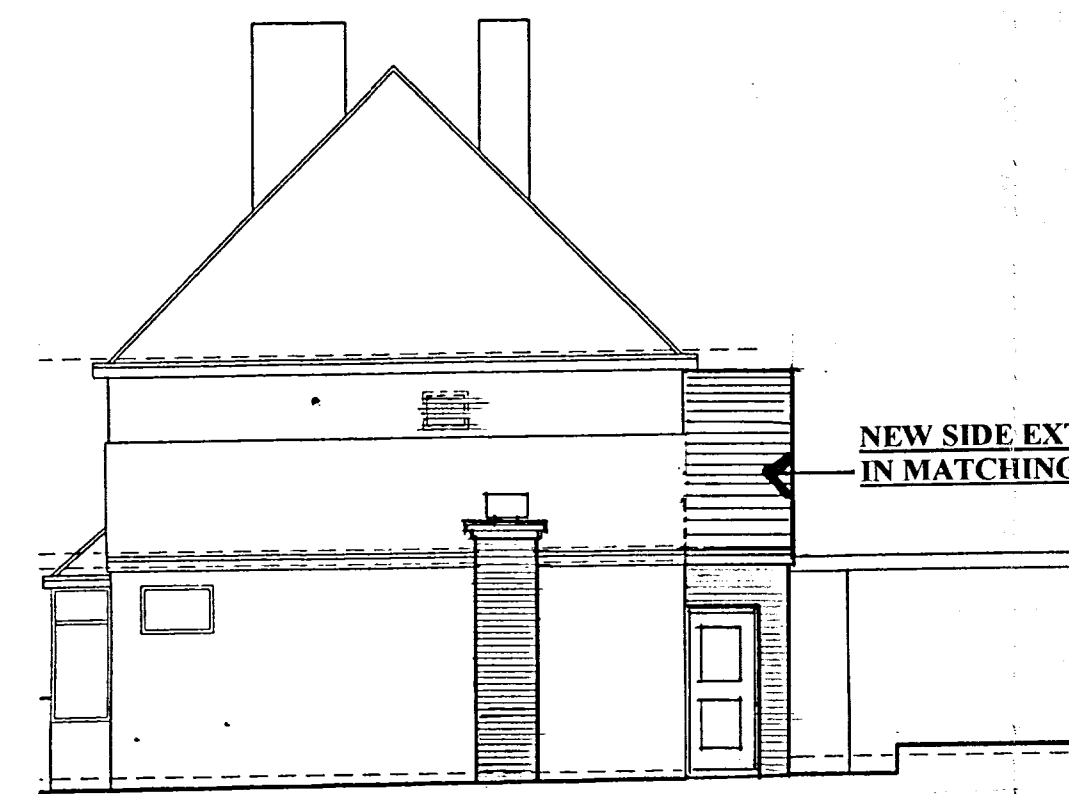
REAR ELEVATION



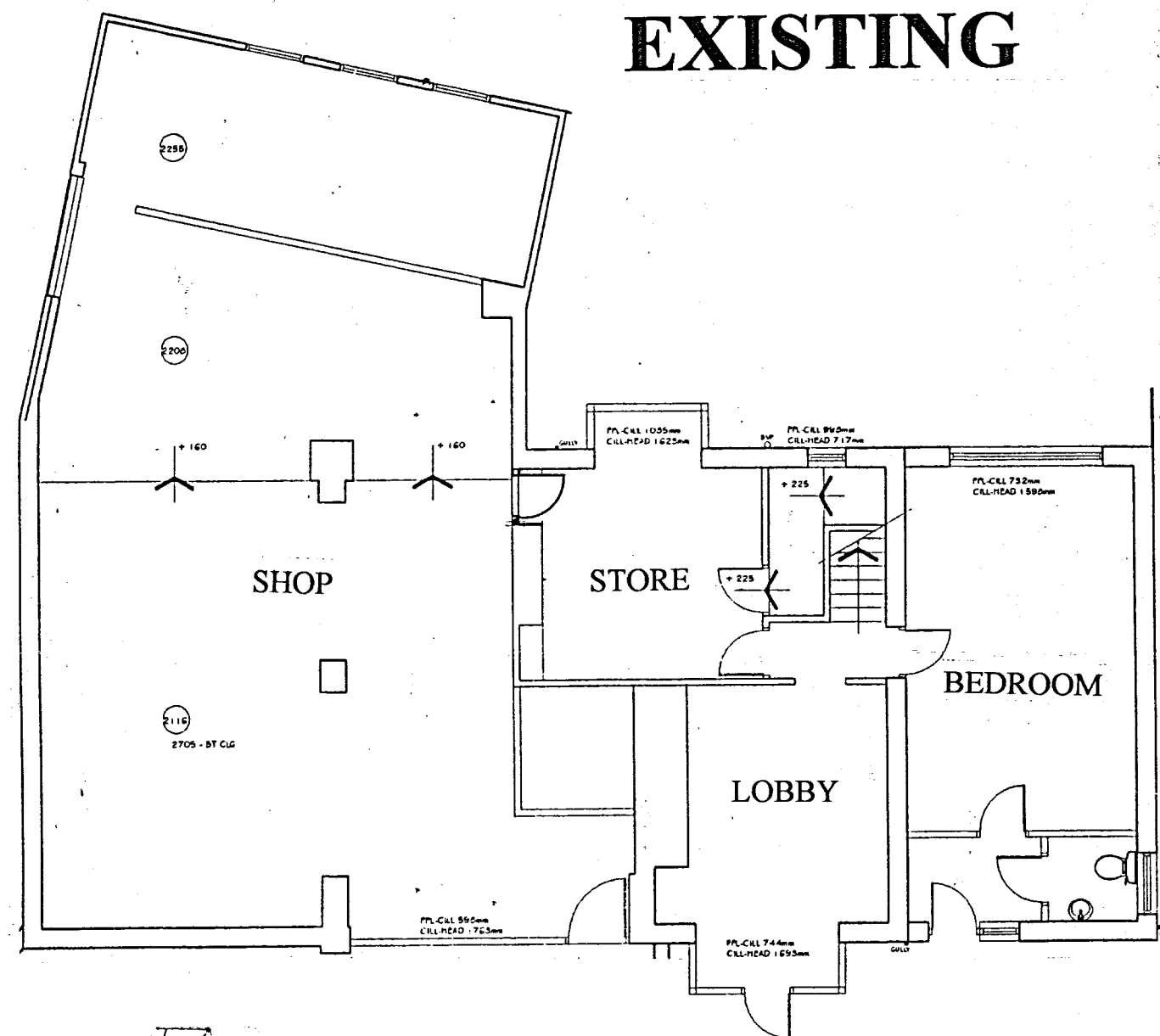
FRONT ELEVATION  
EXISTING



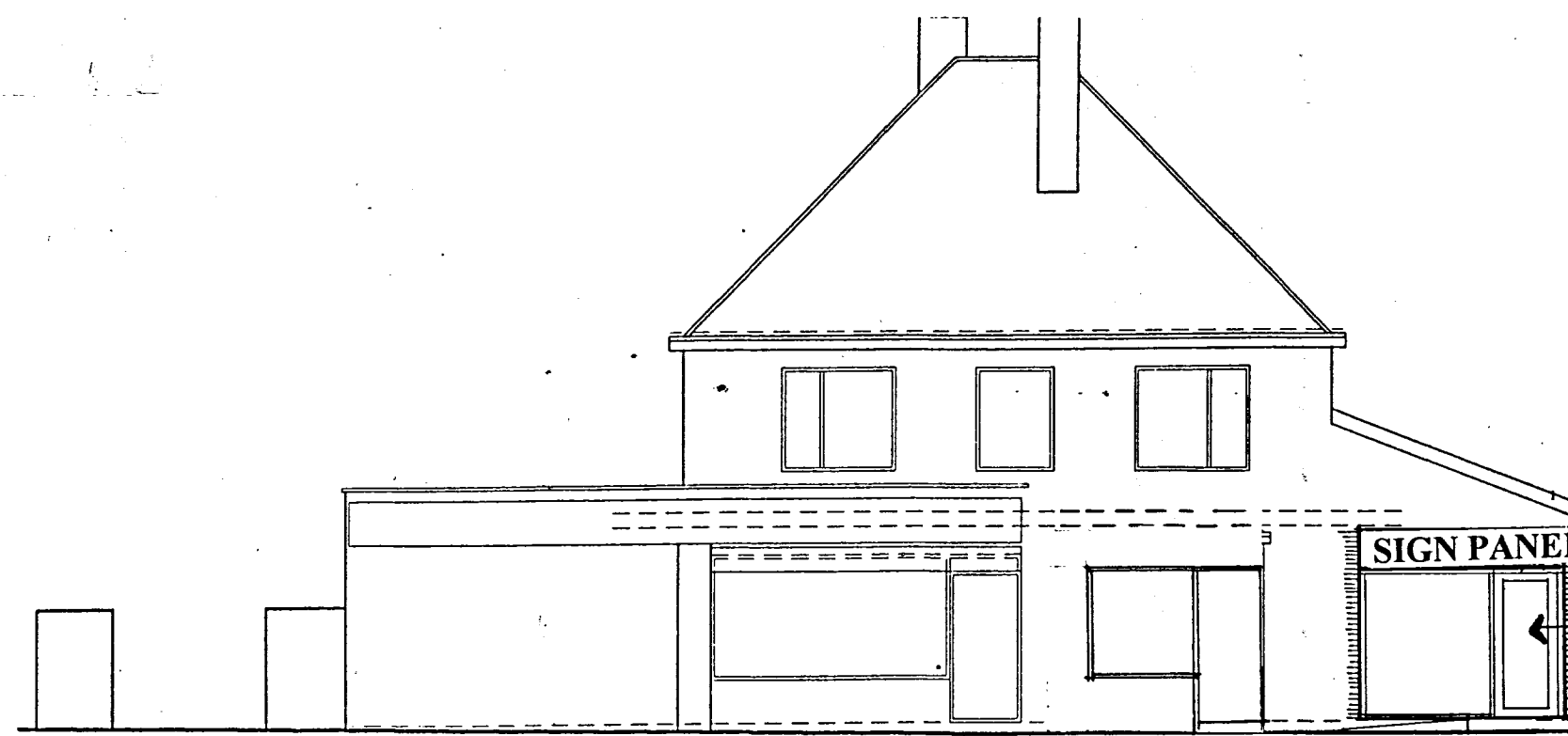
REAR ELEVATION



SIDE ELEVATION



GROUND FLOOR PLAN  
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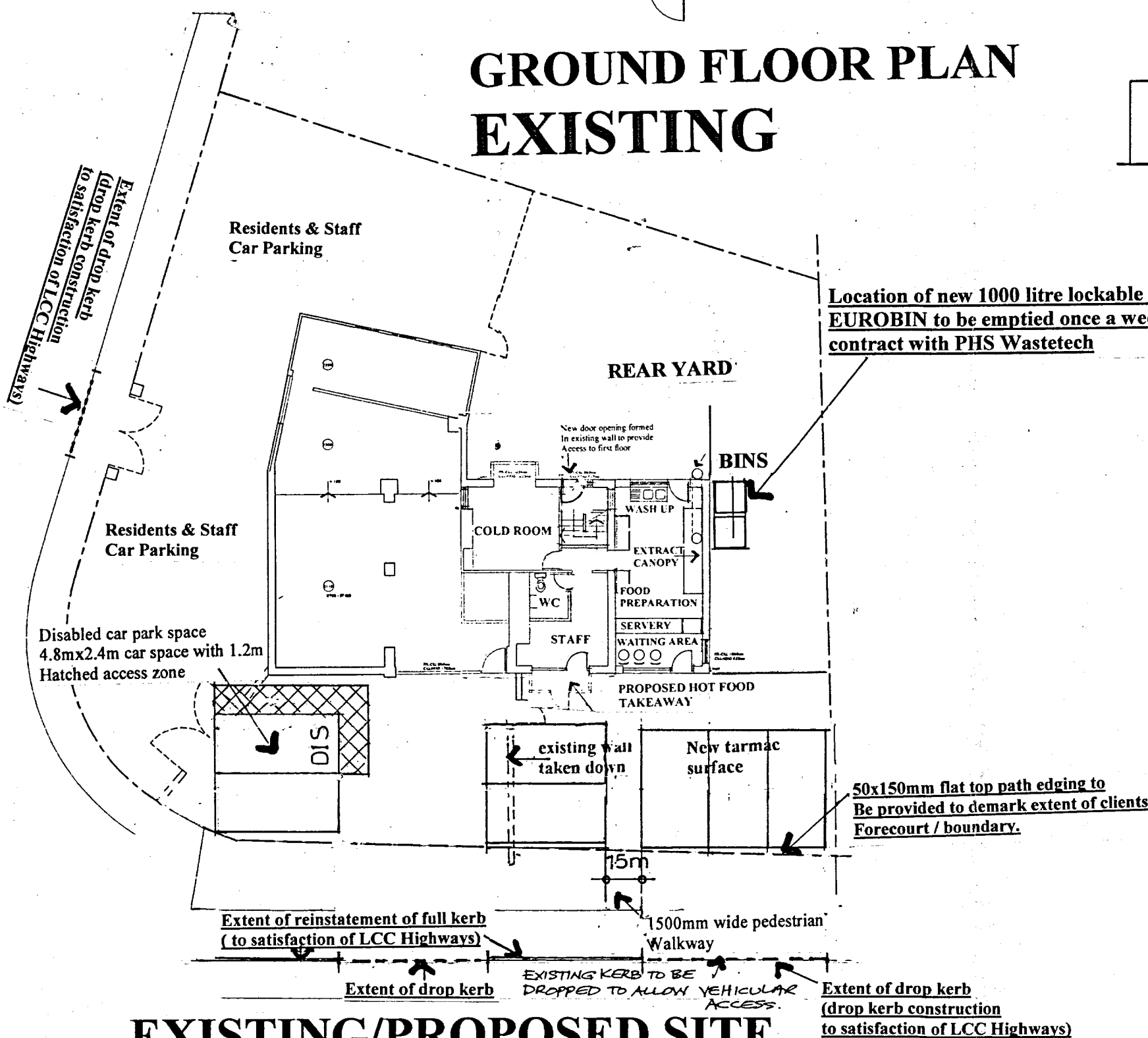


FRONT ELEVATION  
PROPOSED

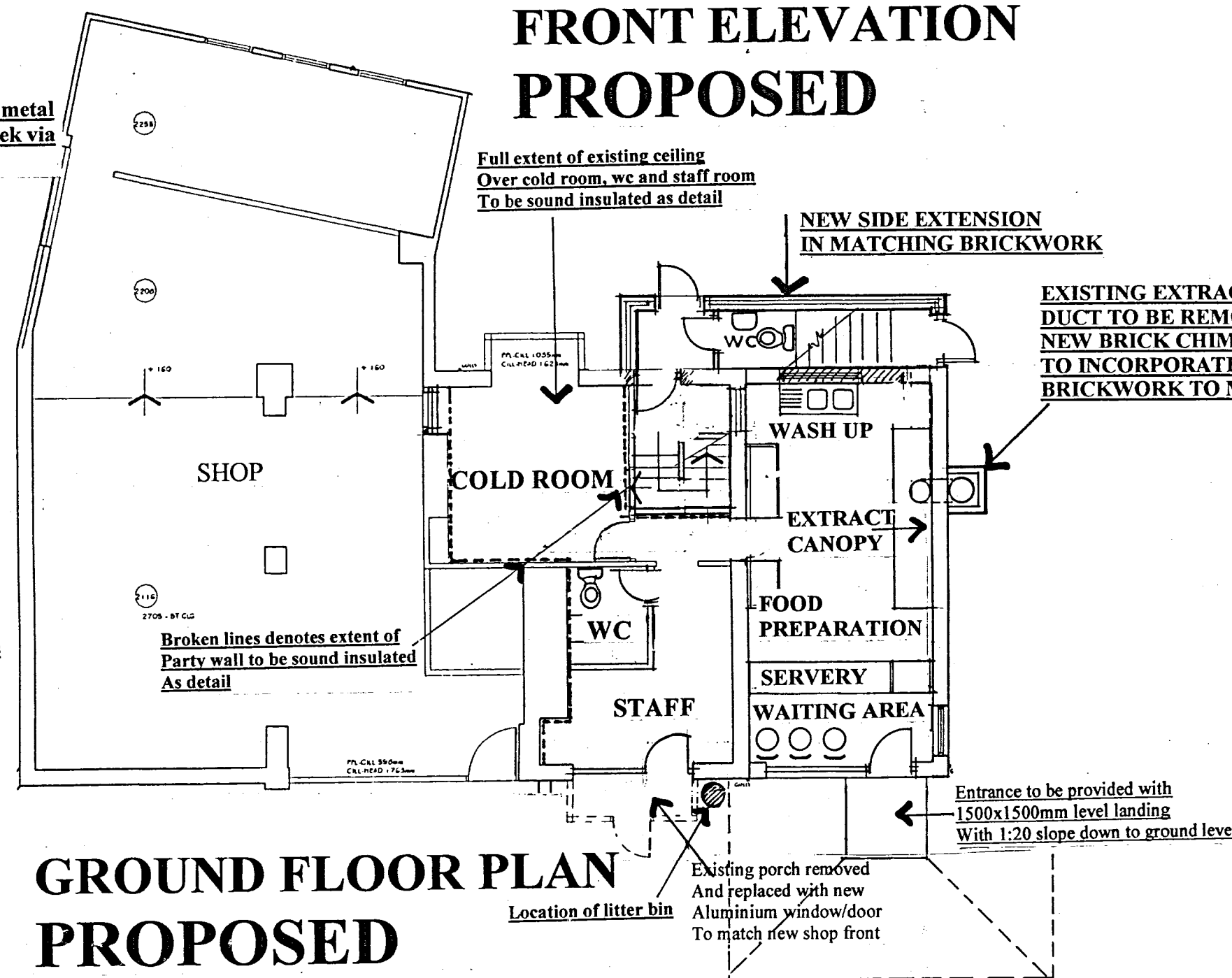
EXISTING EXTRACT VENTILATION DUCT TO BE REMOVED.  
NEW BRICK CHIMNEY STACK BUILT TO INCORPORATE NEW DUCT.  
BRICKWORK TO MATCH EXISTING

Sign panel and sign to be Subject of separate planning application

Existing door and window removed and new shopfront and entrance doors fitted.  
New door and window to be Powder Coated Aluminium glazed in either laminated or toughened safety glass.  
Shop windows to be fitted with trickle vents to provide ventilation at rate of 4000sq mm/M sq.  
Manifestation to all glazed areas to comply with Part M of current Building Regulations

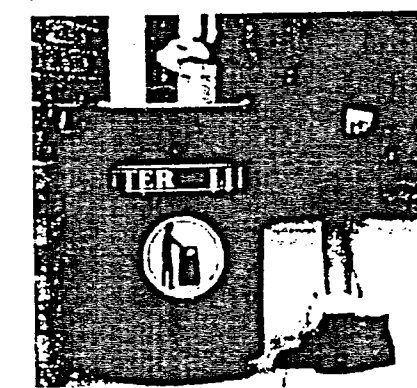


EXISTING/PROPOSED SITE PLAN



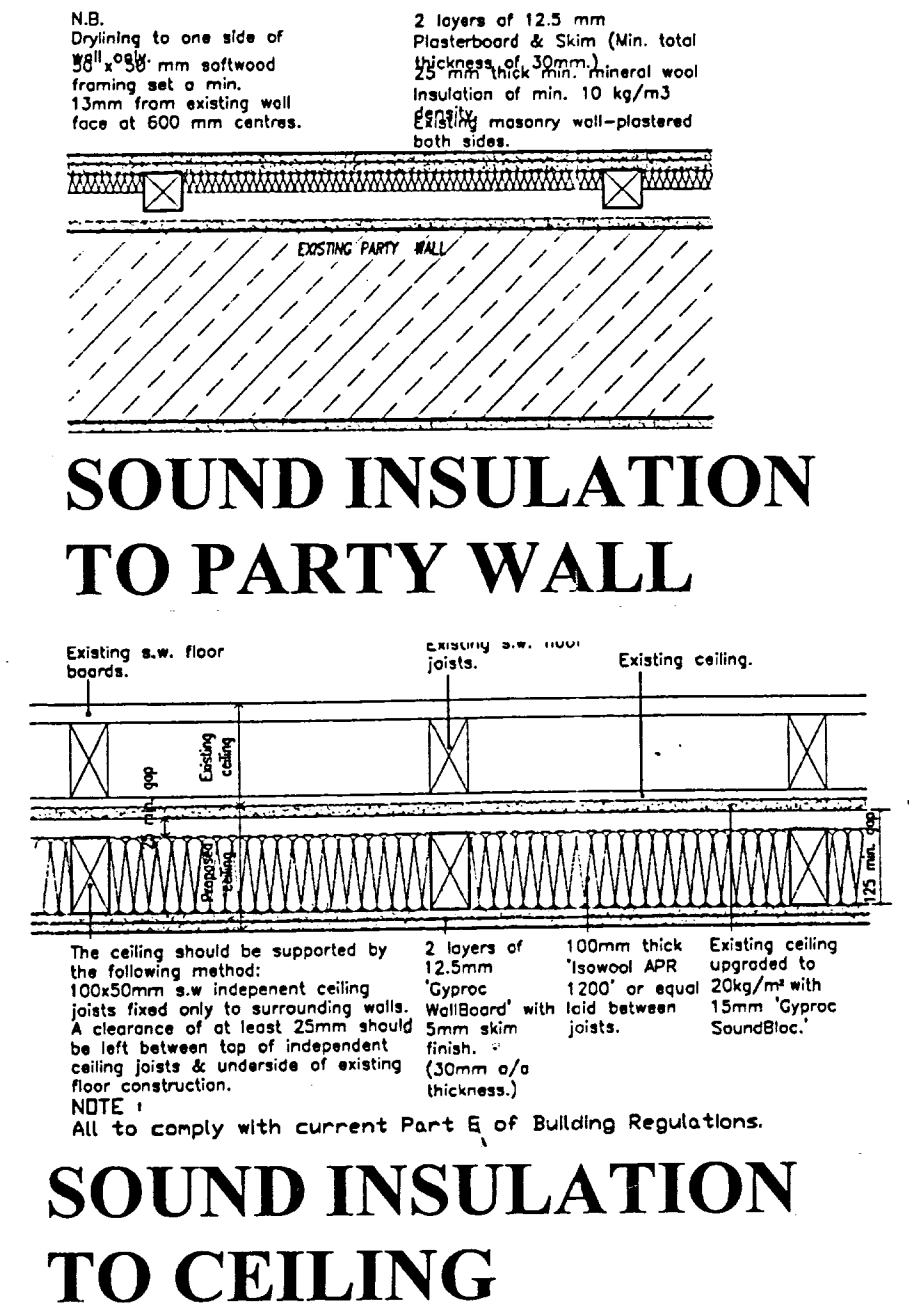
GROUND FLOOR PLAN  
PROPOSED

EXISTING EXTRACT VENTILATION DUCT TO BE REMOVED.  
NEW BRICK CHIMNEY STACK BUILT TO INCORPORATE NEW DUCT.  
BRICKWORK TO MATCH EXISTING



Admiral Litter Bin

Admiral Litter Bin  
A stylish, open-topped Litter Bin with a textured finish. Supplied with a coated steel liner with twin drop handles. The Durapop material bin resists vandalism and the textured finish is a deterrent to fly posters. Bin features two attractive, circular Bin-it molts. Litter bin min 66 litre capacity bin secured to floor and emptied



SOUND INSULATION TO PARTY WALL  
SOUND INSULATION TO CEILING

- REV F NOV 2011  
As built rear extension added  
Relocation of existing extract ventilation  
Duct shown
- REV E MARCH 2010.  
Details added in relation to discharge  
Of Planning Conditions
- REV D December 2009  
Car parking arrangement altered to suit  
Actual site boundary  
Rear Elevation and floor plan corrected
- REV C NOVEMBER 2009  
ACCESS OFFICERS REQUIREMENTS ADDED
- REV B  
CAR PARK LAYOUT REVISED
- REV A 20/10/2009  
Internal ground floor rearranged  
As required by client

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

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

P.S.RIYAT & ASSOCIATES LTD  
Architectural Designers and Planning Consultants  
Benson House, 14 Benson Street, Leeds LS7 1BL  
Tel: 0113 2455492 Fax: 0113 2443800  
E-Mail: riyat@btinternet.com

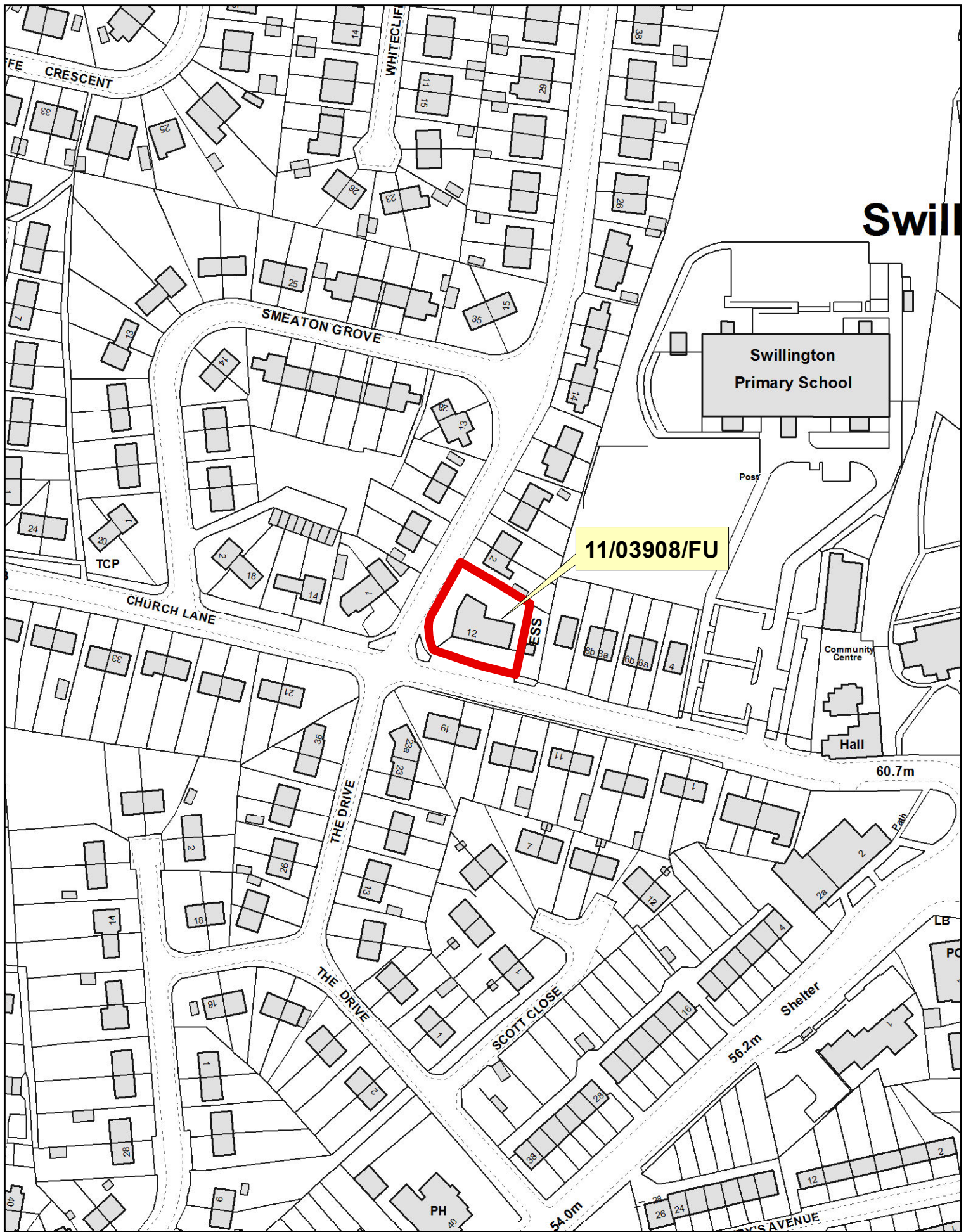
Client:  
MR C CHRISTODOULOU

Project:  
PROPOSED ALTERATIONS & CHANGE OF USE AT 12 CHURCH LANE SWILLINGTON LEEDS LS7 6DX

Drawing:  
EXISTING & PROPOSED SITE PLAN, FLOOR PLANS AND ELEVATIONS

Scale: 1:100 & 1:200  
Date: OCT 2008  
Drawing No: 1495/20/ABCD/DEF





# NORTH AND EAST PLANS PANEL





Originator: L. White

Tel: 0113 247 8000

## Report of the Chief Planning Officer

### NORTH AND EAST PLANS PANEL

Date: 25<sup>th</sup> June 2015

**Subject: APPLICATION 14/05876/FU – Installation of ground mounted photovoltaic panels and associated infrastructure at Two Hoots Farm, Harewood Avenue, Leeds, LS17 9LB.**

APPLICANT	DATE VALID	TARGET DATE
Mr J. Cobbald	08/10/14	30/06/15

<p><b>Electoral Wards Affected:</b></p> <p><b>Harewood</b></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: GRANT permission subject to the following conditions:**

1. Development to commence within 3 years.
2. Temporary development time limit of 25 years from date of implementation.
3. Plans as approved.
4. Applicant to advise Local Planning Authority in writing of date of implementation.
5. Retention of existing on-site landscape planting to boundaries.
6. Landscape provision to include i) planting south of Harewood Avenue and east of the solar array; ii) a wildflower meadow mix to be sown on affected land underneath and adjacent to the solar array and iii) the hedgerow south of the solar array to be gapped-up to provide a continuous hedge and enabled to grow higher. Implementation timescales to be agreed.
7. Management of planting and landscape for the duration of the development.
8. Construction of approved development to be carried out between 0800 hours and 1800 hours Mondays – Fridays only.
9. Glass reinforced plastic building to be coloured dark green upon installation.
10. All trenches to be backfilled and the affected land restored to its former condition within 1 month of the completion of all engineering works, other than for the requirement contained in condition 6(ii).
11. Unexpected contamination to be managed.
12. All imported soils to be clean.

13. Decommissioning Statement to be provided 6 months prior to the permission expiring.

## **1.0 INTRODUCTION:**

- 1.1 The planning application is brought to Plans Panel at the request of Ward Councillors A. Castle and R. Procter, who wish for Plans Panel to have a debate on the proposal, given its location and the potential for it to impact upon the open views of the countryside.
- 1.2 The application site is located within the Green Belt and a Special Landscape Area, to which there would be harm. The proposed development forms a renewable energy development. Officers consider that there are material considerations that clearly outweigh the harm by inappropriateness and other harm. As such, the proposed development is recommended for approval.

## **2.0 PROPOSAL:**

- 2.1 Planning permission is sought for the installation of a 150kW ground mounted photovoltaic array consisting of 654 photovoltaic panels on steel frames. Each photovoltaic panel would measure 0.99m wide by 1.64m long, orientated at a fixed angle of 30 degrees to the horizontal with a maximum height of 2.96m above ground level. A 0.5m fixed clearance below each panel would remain.
- 2.2 The panels would be constructed in a single row of 217m (length) by 4.26m (width) but arranged such that the array is 3 portrait panels high. The total area of land which the solar array would cover is approximately 923m<sup>2</sup>. The row is aligned east-west to optimise solar gain. The surface of the photovoltaic panels would be non-reflective.
- 2.3 Connection to the national grid would be via underground cabling. The total length of cabling would be approximately 136m. A shallow trench for the cable would be engineered to approximately 0.3m wide, with a total area of 41m<sup>2</sup>. A glass reinforced plastic unit measuring 2m x 2m x 2m would enclose a new incoming supply meter and the transformer would be pole-mounted, to connect to the National Grid.
- 2.4 Access to the proposed site would be via the existing farm access off Harewood Avenue. The installation of the solar array would take approximately 2-3 weeks. Two transit vans per day (4 movements in total) would be associated with the installation phase.
- 2.5 A proposed landscaping scheme consists of a 20m depth of tree and hedge planting behind the existing-planted frontage with Harewood Avenue and along the eastern part of the solar array.

## **3.0 SITE AND SURROUNDINGS:**

- 3.1 Two Hoots Farm comprises a 43 acre farm estate set within a gently undulating landscape within the open countryside. The application site is within the designated Green Belt and within a Special Landscape Area (No. 8: Collingham/ East Keswick/ Bardsey/ Scarcroft/ Thorner/ Shadwell).
- 3.2 The application site is located within the farm estate, which is used for arable production and grazing for sheep, free range turkeys, beef cattle and pigs. The land is classified as Grade 3a agricultural land.



3.3 The application site is generally located within the central part of the farm estate and east of the main farm buildings. The solar array would be installed 20m north of an existing hedgerow that generally bisects the northern part of the farm estate from the southern part. The closest part of the solar array is located approximately 230m south of Harewood Avenue and 290m west and 250m north of Moor Lane. The closest residential dwelling is located on Moor Lane approximately 80m to the west of the proposed development and the curtilage of the East Keswick Cricket Club is located approximately 70m to the northeast. A large 'L-shaped' soil bund exists on the estate west of the application site, which provides some physical separation from the farm buildings and wider landscape to the west.

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

- 4.1 Compliance Case ref. 15/00335/UOPS3: A complainant alleges that soils have been imported to the site and that an existing soil bund on the land has been/is being re-engineered and increased in height. Officers are currently investigating.
- 4.2 Compliance Case ref. 15/00096/NCP3: The built agricultural workers dwelling has not been constructed in accordance with planning permission ref. 13/02487/FU and without all pre-commencement conditions being discharged. Officers are currently investigating.
- 4.3 PREAPP/14/00334: pre-application enquiry for 654 photovoltaic panels. Advice provided in May 2014. Officers did not support the development as the proposal did not include any substantial landscape planting within the farm estate.
- 4.5 Planning Permission ref. 13/02487/FU: 4 bedroom detached agricultural workers dwelling, 23.09.13.
- 4.6 Planning Application ref. 11/03919/FU: 3 bedroom detached agricultural workers dwelling, refused on 23.11.12.
- 4.7 Planning Permission ref. 31/343/03/FU: Detached agricultural livestock building (duplicate of application 31/21/01/FU), 20.09.04.
- 4.8 Planning Permission ref. 31/479/02/FU: Retrospective application for side extension to Dutch barn, 13.02.03.
- 4.9 Planning Permission ref. 31/21/01/FU: Detached agricultural livestock building, 20.09.04.
- 4.10 Planning Permission ref. 31/20/01/FU: Detached bulk feed bin to farm, 19.03.09.
- 4.11 Planning Application ref. 31/247/00/FU: Detached mobile home and detached store to farm, refused on 10.09.07.
- 4.12 Planning Application ref. 31/239/00/DE: Agricultural determination for detached feed silo to agricultural building, refused on 30.11.00.
- 4.13 Planning Application ref. 31/238/00/DE: Agricultural determination for detached agricultural building and silo to farm, refused on 30.11.00.
- 4.14 Planning Permission ref. 31/184/99/DE: Determination to erect agricultural building, 19.08.1999.

4.15 Planning Permission ref. 31/47/99/DE: Determination to erect agricultural building, 16.04.99.

## **5.0 PUBLIC/LOCAL RESPONSE:**

5.1 The application was advertised by site notice and in the press. Four letters of objection have been received from members of the public and one from East Keswick Parish Council.

5.2 Members of the public object for the following reasons:

- a) inappropriate development in the Green Belt;
- b) the proposed site is located on prime agricultural land;
- c) the development would be an encroachment on the countryside, detrimental and out of character;
- d) the solar array would be readily visible from vantage points in the area;
- e) screen planting should be provided prior to installation;
- f) the proposed development would set a precedent for other similar development;
- g) financial benefits may not outweigh environmental benefits.

5.3 East Keswick Parish Council objects for the following reasons:

- a) inappropriate development in the Green Belt contrary to the NPPF;
- b) the proposal is not justifiable as a "special circumstance" in the absence of any evidence supporting the assertion that it would create a sustainable farm covering their electrical needs and possibly providing an additional source of income; and,
- c) the Design and Access Statement states that it would not be visible from A659 to the north. This is not correct as it is very easy to see the hedge that would be to the south of the panels, agricultural equipment parked in front of it and sheep sheltering in front of it. When the trees have lost their leaf cover during autumn and winter, the panels will be clearly seen;
- d) Should Leeds City Council be inclined to grant approval to the application, a condition should be attached stating that a screen to the North of either 3m high coniferous trees or the present bund wall be extended, and should be provided prior to the installation of any panels.

5.4 The planning application is brought to Plans Panel at the request of Ward Councillors A. Castle and R. Procter, who wish for Plans Panel to have a debate on the proposal, given its location and the potential for it to impact upon the open views of the countryside.

## **6.0 HISTORY OF NEGOTIATIONS:**

6.1 In April 2014 the applicant requested pre-application advice on the proposed development. Officers responded by not supporting the basic proposal (ref. PREAPP/14/00334). Councillor R. Procter supported the officer opinion.

6.2 The applicant submitted the planning application as per the information contained in the pre-application request. In January 2015 officers requested a 20m depth of tree and hedge planting along the farm estate's frontage with Harewood Avenue and a pocket of planting east of the solar array, to offer some screening of the proposed development from more sensitive areas. In March 2015 the applicant provided plans for a screening bund but this was rejected by officers, given that it would be out of scale with the landscape. The applicant replaced this proposal in May 2015 with a

planting scheme to reflect the planting recommendations made by officers in January.

- 6.3 Councillors A. Castle and R. Procter have requested that the Plans Panel make a decision on the planning application, given the location of the proposed development and the potential for it to impact upon the open views of the countryside.

## **7.0 CONSULTATION RESPONSES:**

- 7.1 Highways Development Control Team – no objection.
- 7.2 Environmental Health Team – no objection, subject to working hours for installation.
- 7.3 Contaminated Land Team – no objection, subject to the imposition of 2 conditions and 2 directions.
- 7.4 Conservation Team – no objection.
- 7.5 Landscape Scheme – no objection, subject to conditions on planting and maintenance.
- 7.6 Nature Team – no objection but encourages the creation of a wildflower meadow on the land affected by the proposed development.
- 7.7 West Yorkshire Archaeology Advisory Service – no objection.
- 7.8 Yorkshire Water – no objection.
- 7.9 Natural England – no objection.

## **8.0 PLANNING POLICY**

- 8.1 Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that planning applications should be determined in accordance with the development plan unless material considerations indicate otherwise. The Development Plan for Leeds currently comprises the Core Strategy 2014, the Natural Resources and Waste Development Plan Document 2013 and the saved policies of the Leeds Unitary Development Plan Review 2006.
- 8.2 Core Strategy policies of relevance are:

**EN3 Low Carbon Energy:** The Council supports appropriate opportunities to improve energy efficiency and increase the large scale (above 0.5 MW) commercial renewable energy capacity, as a basis to reduce greenhouse gas emissions. This includes wind energy, hydro power, biomass treatment, solar energy, landfill gas, and energy from waste [extract].

**P12 Landscape:** The character, quality and biodiversity of Leeds' townscapes and landscapes, including their historical and cultural significance, will be conserved and enhanced to protect their distinctiveness through stewardship and the planning process.

8.3 Natural Resources and Waste Local Plan policies of relevance are:

**GP1 General Policy:** When considering development proposals the Council will take a positive approach that reflects the presumption in favour of sustainable development contained in the National Planning Policy Framework [extract].

**Energy 2 Small Scale & Micro-Generation Criteria:** Where micro-generation development requires planning permission, the Council will encourage proposals for technologies that are acceptable in terms of their impact on: 1. Landscape 2. Visual amenity 3. Noise 4. Safety 5. Ecology 6. Conservation of the built environment. Cumulative effects of development will also be considered.

**Land 2 Development & Trees:** Development should conserve trees wherever possible and also introduce new tree planting as part of creating high quality living and working environments and enhancing the public realm [extract].

8.4 Unitary Development Plan saved policies of relevance are:

**GP5 General Policy:** Development proposals should resolve detailed planning considerations and 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 [extract].

**N32 Green Belt:** The site is located within the designated Green Belt.

**N33 Green Belt exceptions:** Inappropriate development in the Green Belt should not be approved except in very special circumstances.

**N35 Agricultural Land:** Development will not be permitted if it seriously conflicts with the interests of protecting areas of the best and most versatile agricultural land.

**N37 Special Landscape Areas:** development will be acceptable provided it would not seriously harm the character and appearance of the landscape. The siting, design and materials of any development must be sympathetic to its setting and, where necessary, landscaping of the site will be required [extract].

**N37A Countryside:** all new development should: i. have regard to the character of the landscape in which it is set, and maintain particular features which contribute to this; ii. where appropriate, contribute positively to restoration or enhancement objectives by incorporation of suitable landscape works [extract].

**N49 Ecology:** Design of new development, including landscaping, should minimise its potential adverse impact [extract].

**T2 Transport:** New development should normally be served adequately by existing highways and will not create or materially add to problems of safety, environment or efficiency on the highway network [extract].

8.5 The following guidance is also considered to be relevant:

East Keswick Village Design Statement 2002.  
National Planning Policy Framework 2012.  
National Planning Practice Guidance.

## 9.0 MAIN ISSUES

1. Principle of development.
2. The effect of the proposed development on the character and appearance of the landscape.
3. The effect of the proposed development on agricultural land.
4. The effect of the proposed development on nearby heritage assets.
5. The effect of the proposed development on the living conditions of the nearest residents.
6. The effect of the proposed development on ecological interests.
7. The effect of the proposed development on highway safety.
8. Other considerations.
9. Whether there are any other considerations which are capable of clearly outweighing the harm of inappropriateness, and any other harm, such that very special circumstances sufficient to justify the grant of planning permission have been demonstrated.

## 10.0 APPRAISAL

### 1. Principle of development

- 10.1 **Renewable Energy:** The development plan supports the development of renewable and low carbon energy developments and this is reinforced by the NPPF.
- 10.2 **Green Belt:** The application site is located in the Green belt. The proposed ground-mounted solar panels and glass reinforced unit are defined as buildings for the purposes of para. 89 of the NPPF. The definition of a building includes any structure or erection, but excludes plant and machinery, or any structure in the nature of plant or machinery. There is some machinery involved here, but the main part of the development above ground is made up of structures and buildings. Officers accept the applicant's claim that there are elements of engineering in the proposal, such as trench works and installation of the structures into the ground, and hence the scheme is caught by both paras. 89 and 90 of the NPPF.
- 10.3 The construction of such new buildings in the Green Belt is regarded as inappropriate in Green Belt, which in turn means that the proposed development is harmful, by definition. Para. 88 of the NPPF directs local planning authorities to ensure that substantial weight is given to any harm to the Green Belt. Para. 91 of the NPPF states that elements of many renewable energy projects will comprise inappropriate development and that applicants will need to demonstrate very special circumstances if projects are to proceed. 'Very special circumstances' will not exist unless the potential harm to the Green Belt by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations. Saved policy N33 of the UDP reflects the thrust of the advice of the NPPF and requires that very special circumstances are demonstrated for development such as this to be permitted. The East Keswick Village Design Statement at policy C4(a) states that planning permission should be resisted for inappropriate development in the Green Belt.
- 10.4 The considerations put forward by the applicant are:
- a) Para. 91 of the NPPF: '*Very special circumstances may include the wider environmental benefits associated with increased production of energy from renewable sources*';

- b) Para. 14 of the NPPF: *'At the heart of the NPPF is a presumption in favour of sustainable development'*;
- c) Environmental benefits: 150,000kW of electricity generated per annum. Two Hoots Farm uses approximately 20,000kW of electricity per annum (13.3%). Surplus electricity would be exported to the National Grid, providing a wider community benefit and adding to the Governments targets for the use of renewable energy. The photovoltaic array would generate enough electricity to supply approximately 33 homes. The generation of electricity using photovoltaic panels does not produce carbon dioxide but would reduce CO<sub>2</sub> emissions by 8,600kg (compared against each kWh of electricity produced by power stations using fossil fuels).
- d) Economic benefits: The proposal would reduce the costs of the farming business and increase profitability at Two Hoots Farm. Surplus electricity exported to the National Grid would generate an additional source of income for the farming business. The NPPF at para. 28 support the development of a prosperous rural economy.
- e) Landscape: The photovoltaic array would be located adjacent to an existing farm complex and would be a temporary use of land, albeit long-term. Any harm to the Green Belt and landscape would be minor and outweighed by the wider environmental benefits.
- f) The proposed development is likened to a 50kW solar array that was granted on appeal at Roker Lane, Pudsey, Leeds in 2012 (ref. APP/N4720/A/12/2171606) and a 10MW solar farm at Rowles Farm, Bletchington, Oxfordshire in 2014 (ref. APP/C3105/A/13/2207532). Two decision notices have also been provided by the applicant for reference purposes, these being at Trewartha Farm in St. Agnes (ref. PA13/11561) and land at Ainderby Steeple in North Yorkshire (ref. 14/00471/FUL).

10.5 **Special Landscape Area:** The proposed development is located within a designated Special Landscape Area (SLA) (No. 8: Collingham / East Keswick / Bardsey / Scarcroft / Thorner / Shadwell). Policy N37 of the UDP states that development will be acceptable provided it would not seriously harm the character and appearance of the landscape. The East Keswick Village Design Statement at policy C4(b) states that planning permission should be resisted for any development which would materially harm the special quality of the landscape.

10.6 The applicant has identified that the application site is within a SLA but states that it does not qualify for special protection within the NPPF which provides at para. 115:

*'Great weight should be given to conserving landscape and scenic beauty in National Parks, the Broads and Areas of Outstanding Natural Beauty, which have the highest status of protection in relation to landscape and scenic beauty. The conservation of wildlife and cultural heritage are important considerations in all these areas, and should be given great weight in National Parks and the Broads'*

10.7 Officers accept that the protection of landscapes should be commensurate with their status but in order to accord with Section 38(6) of the Planning and Compulsory Purchase Act 2004, planning applications should be determined in accordance with the development plan. The Leeds development plan is up-to-date and no part of the NPPF relevant to this planning application replaces it. There is no justification for the

applicant to be dismissive of the requirements of policy N37. As such, the high landscape value of the SLA should be protected from visually harmful development and be maintained and improved where necessary in order to safeguard its attractive character and appearance. This policy is further reinforced by policies N37A and P12. Officers therefore consider that the applicant has not given due regard to policy N37 commensurate with its local status and importance.

## **2. Character and appearance**

- 10.8 Officers encompass in this section the effect of the proposal on the visual amenities of the Green Belt in line with para. 80 of the NPPF. The landscape does not have any national special designation but locally, the application site and wider landscape quality is a designated SLA in the development plan. The special qualities of the landscape are referenced in the East Keswick Village Design Statement.
- 10.9 The site and wider area has distinct areas within it. Firstly, there is the area around the application site. This is a large field consisting of pasture grazing land. There are hedge-lines to all boundaries and some established trees along the northern boundary with Harewood Avenue. The land slopes gently downwards from Harewood Avenue to the southern field boundary hedge and beyond. Secondly, there is a large 'L-shaped' soil bund and built development associated with Two Hoots Farm to the west of the proposed solar array and the grid connection point and associated infrastructure would be immediately south of this area. Officers consider that this part of the farm estate has a small scale vertical emphasis which is of low to moderate sensitivity to change. Thirdly, the majority of the farm estate is open land and there is a strong sense of tranquillity and peacefulness. The vertical emphasise of the farm buildings is encapsulated within the larger farm estate that is shared with the wider rural landscape. Fourthly, the wider landscape is scattered with other farmsteads and some dwellings, with Harewood House further to the west. The SLA is typified by a series of rolling ridges that allow attractive middle and long distance views along the valleys. Officers consider that the landscape has a large scale horizontal emphasis of moderate to high sensitivity. A second SLA (No. 7 Harewood) designates the landscape further west, which consists of the high quality landscape of Harewood House and Park and Gardens (Grade I).
- 10.10 Officers consider that short-middle distance views of the proposed solar array would be gained from Harewood Avenue to the north. There are gaps in the established tree line and officers agree with the Parish Council that when trees are not in full leaf, the solar array would be more apparent. More open views of the site would be gained from certain vantage points along Moor Lane to the east, particularly from the buildings at Vicarage Farm and the cricket ground. Longer distance views to the solar array would also be gained from the south, both within the valley and from the opposite side of it. These views would either be permanent-long distance from dwellings/farms or intermittent long-distance views from public highways.
- 10.11 Given a) the quality of the landscape, b) the landscape character's sensitivity to change and c) the visibility of the solar array from both public and private vantage points (close to and far away) within the local landscape, the impact of the solar array on the local landscape would be harmful. In noting the harmful impact, officers consider that the overall effect would be moderately harmful, depending on the particular position of the viewer.
- 10.12 Although the majority of the farm estate is open, sharing the rural attributes of the wider countryside, the proposed development is sited adjacent to the vertical structures at Two Hoots Farm. The application site is currently also in agricultural

use but the elevation and locations of the solar array and the GRP building would be viewed in association with the built development. Notwithstanding that the proposed elements of the development would be free-standing, in this instance; they would be of a scale that would assimilate with the scale of the surroundings. It is generally agreed that visual impacts reduce with distance and this is considered to be the case here. The solar array is likely to be visible from vantage points in the landscape to the south, south-east and south-west but the harm to these longer-distance views is considered to be low-moderate. Screen planting would go some way to reducing the visual harm over time. It is therefore recommended that the hedgerow just south of the proposed site for the solar array should be gapped-up to provide for a continuous hedgerow and properly managed to grow higher via planning conditions, in order to offer a degree of screening of the array's main elevation.

- 10.13 With regard to the identified shorter-medium distance views it has been considered necessary for the applicant to provide a full landscape planting scheme to enable the solar array to be better screened from the north and east. As such, the applicant has proposed a scheme for a 20m depth of planting behind the existing planting on the southern side of Harewood Avenue and a clump of planting to the eastern side of the solar array to mitigate views from Moor Avenue. The scheme would soften views of the solar array from the more sensitive viewpoints and, over a period of time (say 10 years), would go some way to mitigating the visual impact of the solar array in addition to incorporating enhancement objectives. In doing so, officers consider that the harm to the appearance of the landscape and the impact to visual amenity would be reduced to an acceptable level but not wholly offset.
- 10.14 The proposed landscape planting would contribute to meeting the request of the East Keswick Parish Council and policy C7 of the East Keswick Village Design Statement, which states:

*'Where appropriate valuable woodlands, trees, hedges and other landscape features in the countryside around the village should be protected and enhanced.'* [Extract]

- 10.15 Officers therefore recommend that the proposed development generally meets the requirements of policies N37, N37a, P12, Land 2, Energy 2 and part of GP5 of the development plan and the Village Design Statement in this respect.

### **3. Agricultural Land**

- 10.16 The applicant has advised that the land is Grade 3 agricultural land. Officers have identified the land is considered to be classed as Grade 3a of the Agricultural Land Use Classification, which the NPPF identifies as being the best and most versatile agricultural land. Para. 112 the NPPF states:

*'Local planning authorities should take into account the economic and other benefits of the best and most versatile agricultural land. Where significant development of agricultural land is demonstrated to be necessary, local planning authorities should seek to use areas of poorer quality land in preference to that of a higher quality.'*

- 10.17 The applicant has advised that the field upon which the solar array is proposed (21 acres) is permanent pasture grazing land and has been for some time. The solar array would cover an area of 0.2 acres, which equates to less than 1% of the field, with the remainder of the field being 20.8 acres and the additional 22 acres of land owned by the Applicant continuing the current agricultural use, alongside the



generation of renewable energy. Therefore, despite the agricultural land being classified as the best and most versatile, the impact of the proposed development on the agricultural use of the land would be negligible and temporary, albeit long-term. There are also no other parts of the farm estate of poorer quality that could offer a more preferable location for the proposed development. Officers therefore consider that the proposed development would not seriously conflict with the interests of protecting areas of the best and most versatile agricultural land, to accord with policy N35 and para.112 of the NPPF.

#### **4. Heritage and Archaeological Assets**

- 10.18 Given the location and scale of the solar array and its associated infrastructure, officers consider that the proposed development would not impact on the setting of any listed buildings or conservation areas or archaeology. As such, the proposed development accords with policy Energy 2.

#### **5. Living Conditions**

- 10.19 There are considered to be no significant impacts on living conditions arising from the installation of the proposed solar array or planting works. The surface of the proposed photovoltaic panels would be non-reflective. Other than for the installation works, there would be no significant noise arising from the operation of the panels. Officers however recommend that installation works take place between the hours of 8am and 6pm on Monday to Fridays. As such, the proposed development accords with policies GP5 and Energy 2.

#### **6. Ecological Interests**

- 10.20 The applicant has carried out a desk-top survey of the area within 500m radius of the application site and some investigation regarding a nearby pond and has determined that there are no ecological designations or existing features that would be adversely affected by the proposed development.
- 10.19 Natural England advises that the application site is in close proximity to the East Keswick Fitts Site of Special Scientific Interest but they consider that the proposed development would not damage or destroy the interest features for which the site has been designated.
- 10.21 Officers consider that the planting scheme detailed in para. 10.13 would offer a net gain for biodiversity. A wildflower meadow mix is also recommended by the Council's Ecologist on the affected land underneath and adjacent to the solar array. This is recommended to be conditioned, together with a separate condition recommended to require maintenance of new and existing areas of vegetation within the farm estate for the lifetime of the proposed development. Officers therefore consider that the proposed development accords with the requirement of policies N49, P12 and Energy 2.

#### **7. Highway Interests**

- 10.22 There would be very few vehicular movements associated with proposed development, inclusive of planting works and installation/decommissioning works. Officers therefore consider that there would be no significant impact on highway safety, environment or efficiency on the highway network arising from the proposed development, to accord with policy T2.

## 8. Other considerations

- 10.23 The applicant has put forward a number of considerations in support of the proposed development. These principally, but not wholly, relate to the established policy background relating to renewable energy. The NPPF identifies the presumption in favour of sustainable development and policy GP1 of the development plan reflects this.
- 10.24 The applicant asserts that the predicted electrical output of the proposed solar array would wholly serve the business at Two Hoots Farm. The excess electricity generated, which would account for approximately 86.7% of the array's output, would be fed into the National Grid for national use. That electricity would benefit a small number of homes but would nevertheless make a positive contribution to reducing the dependence on electricity generated from fossil fuels and CO<sub>2</sub>. These considerations carry great weight, as does the weight to be afforded to the economic sustainability and diversity of a farming business.
- 10.25 Officers accept what is stated in the appeal decisions provided by the applicant and referred to at para. 10.4(f) of this report. However, little weight can be afforded to these decisions as they do not bear a clear comparison to what is proposed at Two Hoots Farm. The Roker Lane appeal decision relates to a ground-mounted photovoltaic array that has an output of a third of that currently proposed. The landscape character and appearance of that appeal site in Pudsey also bears no comparison to the current case in Harewood / East Keswick. The second identified appeal decision, in Oxfordshire, relates to a substantially larger solar farm, as do the identified planning permissions provided for St. Agnes and North Yorkshire. Although some basic comparisons can be drawn, officers recommend that very little weight can be afforded to the appeal decisions provided by the applicant.
- 10.26 The concerns raised by members of the public and East Keswick Parish Council are covered in the above assessment, other than for the following two issues.
- 10.27 On the issue of whether the development would set a precedent for similar development in the area, officers can advise that each planning application is assessed on its own merits. Although it is likely that other renewable energy development could share similar environmental benefits to that currently proposed, it does not follow that permission would be granted. Planning decisions are made on a case-by-case basis and would be subject to separate and objective assessment.
- 10.28 On the issue that the applicant has not provided a financial appraisal to demonstrate that the electrical demand of the farm business would be satisfied by the proposed development, officers have referred to para. 98 of the NPPF, which states:
- 'When determining planning applications, local planning authorities should not require applicants for energy development to demonstrate the overall need for renewable or low carbon energy and also recognise that even small-scale projects provide a valuable contribution to cutting greenhouse gas emissions.'*
- 10.29 For the above reason, officers do not consider it necessary to request a financial appraisal from the applicant.

## **9. The balance of considerations**

- 10.30 Turning to the planning balance, set out below is a synopsis of those matters which must be taken into account, followed by an assessment of where the correct balance lies.
- 10.31 The matters which weigh against the proposal (the harm) are threefold. Firstly, by definition, the proposed development constitutes inappropriate development in the Green Belt and this attracts substantial weight in its own right. Secondly, there would be some harm to the openness and purposes of the Green Belt, which is of moderate weight. Thirdly, there would be a degree of harm to the character and appearance of the landscape and Special Landscape Area, but this could be largely mitigated and is therefore considered to be of minor-moderate weight overall.
- 10.32 The matters which weigh in favour of the proposal are also threefold. Firstly, there is strong national support for renewable energy in order to tackle the effects of climate change, which is a significant factor in favour of the proposal, and carries substantial weight. Secondly, the Council's targets for renewable energy, together with the anticipated provision of 10MW of micro-generation including solar power by 2021, are considerations of significant weight. Thirdly, the national support for the development and diversification of agricultural and other land-based rural businesses, are considerations of moderate weight.
- 10.33 The competing matters in the balance are all of importance but for this planning application officers consider that the case for renewable energy, and the support given to it at both national and local level clearly outweighs the harm by inappropriateness and the other harm identified. Officers are therefore satisfied that the other considerations demonstrated amount to the very special circumstances necessary to justify development in this case. As a result there is no conflict with policy N33 on Green Belt. The proposed development would not seriously harm the character and appearance of the landscape by virtue of the required landscape planting measures. As a result there is no conflict with policy N37 on Special Landscape Areas.

## **11.0 CONCLUSION**

- 11.1 Officers conclude that subject to the imposition of conditions the proposed development is, on balance, acceptable and it is considered that very special circumstances exist and that any potential harm to the Green Belt by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations. In reaching this conclusion officers have taken into account all material considerations and representations, received from members of the public, the East Keswick Parish Council and consultee bodies. Officers have taken into account the concerns of Ward Councillors A. Castle and R. Procter and consider that the above assessment provides the information required by Members in order for Plans Panel to make a decision. For the reasons given above the planning application is recommended for approval.

### **Background Papers:**

Application file: 14/05876/FU.

Certificate of Ownership: the applicant Mr J Cobbald.

Pre-Application file: PREAPP/14/00334.

Applicants

Mr John Cobbald &  
 Mr Richard Cobbald  
 Two Hoots Farm  
 Harewood Avenue  
 Harewood  
 Leeds, LS17 9LB

Site Address

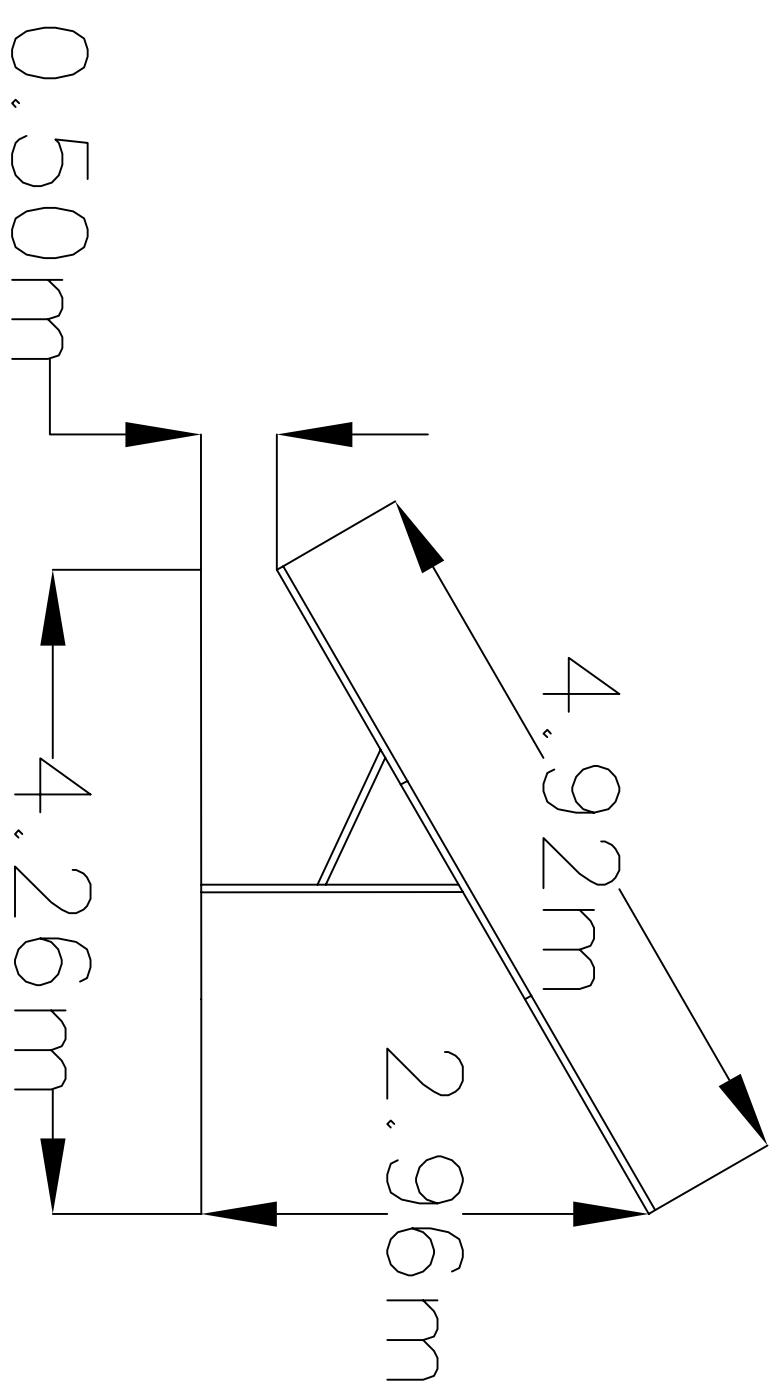
Two Hoots Farm  
 Harewood Avenue  
 Harewood  
 Leeds  
 LS17 9LB

Drawing Reference

30/09 14/ Profile View/KC

Project

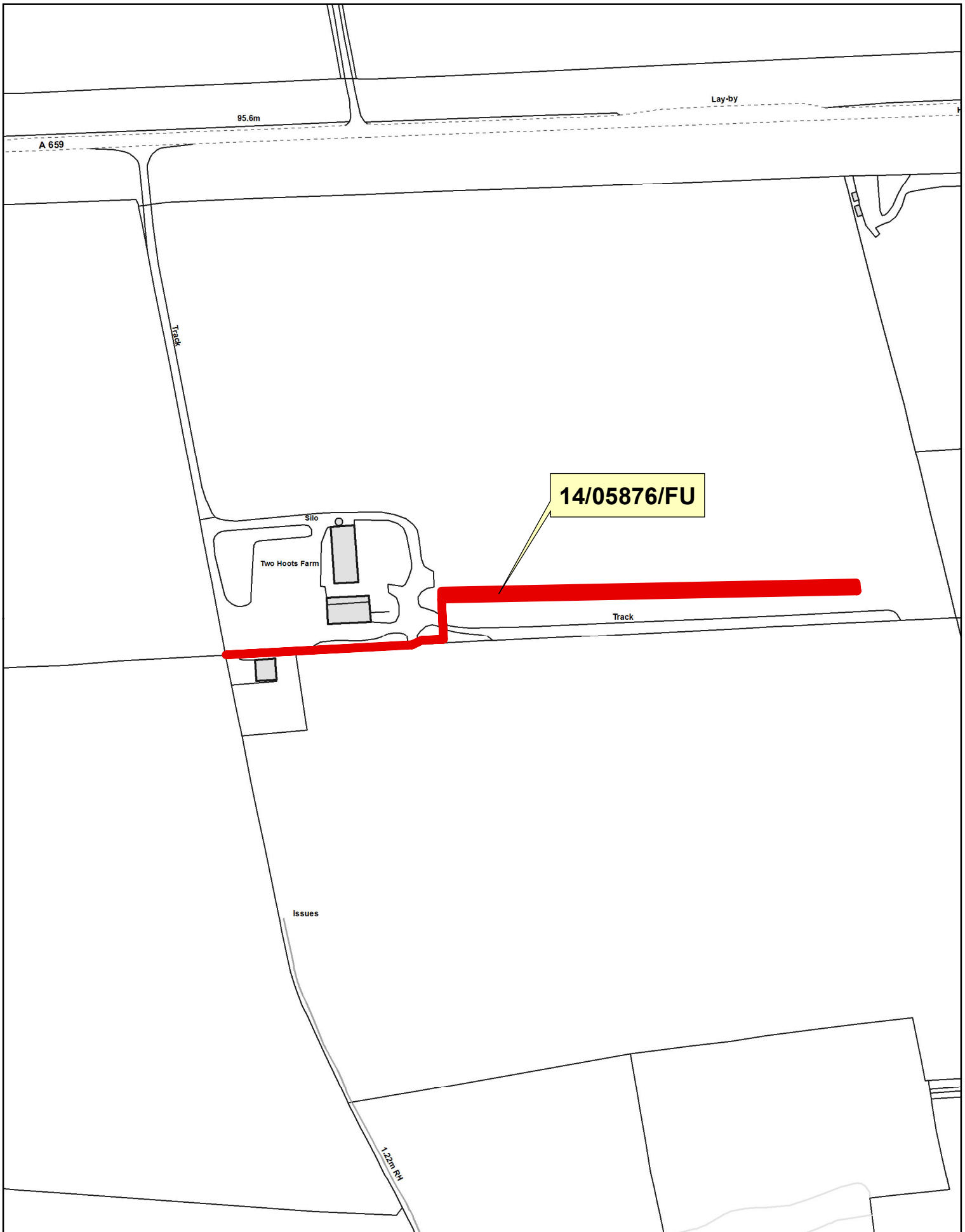
Installation of 150kW Ground  
 Mounted Photovoltaic Array



Scale

1:50





# NORTH AND EAST PLANS PANEL



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