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**Report of the Chief Planning Officer**

**PLANS PANEL NORTH & EAST**

**Date: 27 November 2014**

**Subject: APPLICATION 14/04602/FU –Retrospective application for air conditioning system to rear elevation of 6 Sandhill Oval, Alwoodley, Leeds, LS17 8EA**

**APPLICANT**

Councillor D Cohen

**DATE VALID**

6 August 2014

**TARGET DATE**

1 October 2014

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**Electoral Wards Affected:**

**Alwoodley**

Yes

Ward Members consulted  
(referred to in report)

**Specific Implications For:**

Equality and Diversity

Community Cohesion

Narrowing the Gap

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

1. Development to accord with approved plans.
2. Within 2 months of planning permission details shall be submitted to the LPA for written approval of the colour finish for the timber AC housing.
3. The approved external air conditioning plant shall be installed and maintained in accordance with the approved details. The system shall limit noise to a level at least 5dBA below the existing background noise level (L90) when measured at the nearest noise sensitive premises with the measurements and assessment made in accordance with BS4142:1997.
4. The timber housing around the AC units hereby approved shall be constructed in accordance with the approved plans within 8 weeks of the date of this planning permission and shall be retained and maintained for the full period that the AC Units are in situ.

## **1.0 INTRODUCTION**

- 1.1 This application is brought before the Plans Panel as the applicant is an elected Member of the Council. As outlines below the application is considered to be, on balance, acceptable in terms of visual and acoustic impact.

## **2.0 PROPOSAL**

- 2.1 The applicant is seeking retrospective planning permission for eight air conditioning units (AC units) located to the north-east elevation at first floor. Prior to this retrospective application and the subsequent installation of the eight AC units the property had four existing AC units; one to the south-western elevation and three to the rear elevation. These AC units were in situ prior to a recently approved extension being constructed.
- 2.3 In addition to the AC units a timber housing would be erected around the units. This will act to screen the units as well as reducing the noise output and allowed air permability. This element of the application is not retrospective. Details of the colour the timber would be painted can be secured by condition. This element of the application is not retrospective and has been pursued by the LPA to soften the appearance of the AC units from limited vantage points within the neighbouring garden area of No.4 and from more oblique views from an upstairs bedroom window.
- 2.4 A noise report has also been submitted with this application and the findings of this report concludes that the overall sound level at the nearest window of the adjacent dwelling, with the housing in place and all eight AC units operating, will be compliant with the LPA's requirements and be rated at 6dB below the background sound level.

## **3.0 SITE AND SURROUNDINGS**

- 3.1 The application site is located on Sandhill Oval in the Alwoodley area of the City. Sandhill Oval is located east of Harrogate Road and south of Sandhill Mount. The Sandhills are residential in character and appearance with detached and semi-detached properties set generally within medium to large plots defining this part of Alwoodley. Building materials within the area are brick and render. The streets have grass verges with some level of on-street tree coverage but planting is generally located within domestic plots forming part of the front boundaries. To the west of Sandhill Oval are various amenities including a public house, a restaurant and various retail functions.
- 3.2 The application site itself comprises of a large two storey, double fronted detached property constructed in red brick under a hipped tiled roof set within a large plot. The dwelling is set back from the highway with a vehicular access to the left hand side of the property with a separate pedestrian access punctuated in the front boundary treatment of a low level brick wall with a well maintained hedge behind.
- 3.3 To the rear of the property there are existing extensions i.e. a sun room at single storey and two storey flat roofed extensions, as well as a single storey outbuildings to the southern boundary. The garden is landscaped and is bounded timber fencing, hedging and trees.
- 3.4 Sandhill Oval has a decline in ground level from south to north and properties follow this land level do that in terms of the site No.8 Sandhill Oval is located at higher ground level and No. 4 at lower ground level. The sloping land is also evident to the

rear garden of the application site. To the rear of the site the properties to the south west are located at lower ground level.

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

- 4.1 14/00852/FU - Two storey, first floor and single storey extension and new first floor side window – Approved by Plans Panel on 27 March 2014.

#### **5.0 THE HISTORY OF NEGOTIATIONS**

- 5.1 In light of concerns regarding visual and acoustic intrusion in terms of the neighbouring occupants at No.4 Sandhill Oval the Local Planning Authority (LPA) requested that a housing around the AC units be designed and submitted as part of this application, furthermore the LPA requested that a noise assessment be undertaken and a report submitted to establish the noise output and its effect on the nearest noise sensitive property which would also be No.4 Sandhill Oval. The applicant agreed to these requests and has sought to work fully with the LPA.

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

- 6.1 Six letters of notification were posted to the neighbours in the closest proximity to the application site. These letters were posted on 7 August 2014 advising of the proposal and that any representations should reach the LPA by the 1 September 2014. Due to an error within the description further letters were issued on the 11 August 2014.
- 6.2 Eight letters of representation have been received in response to the notification letters. The points raised have been summarised below:
- A laurel bush has been cut down in height to reveal a greater view of the AC units No.4 Sandhill Oval.
  - The development is not legal as the proper planning procedures have not been followed given the retrospective nature of the application.
  - No site notices were displayed and no letters of notification were received by No's 1, 3 and 4 Sandhill Oval.
  - Drainage – A soakaway has been dug next to No.4's fence what will be the impact on No.4?
  - What has been done about a spring which has been discovered in the garden of No.6?
  - Given the applicants position as a Leeds Councillor a serious breach of regulations has occurred by putting the AC units up without planning permission.
  - Visual intrusion (including the AC units and associated fixtures and wires) from the back bedroom window and garden area of No.4 Sandhill Oval. The boundary planting along the common boundary will at some point require pruning which will increase visibility of the AC units.

- Disturbance from noise output.
- Out of keeping within a residential context and the character and appearance of the wider area.
- Noise from the AC units will increase as the units age.
- The applicant should have to re-apply for his recently approved extension as no notification was received.
- The AC units should be positioned at ground floor level.
- Potential buyers of neighbouring properties would be put off given the existence of the AC units.
- Sets a precedent.

## **7.0 CONSULTATIONS RESPONSES:**

- 7.1 Environmental Protection Team (EPT) – No objections subject to a condition relating to the AC units having a limited noise level at least 5dBA below the existing background noise level (L90) when measured at the nearest noise sensitive premises with the measurements and assessment made in accordance with BS4142:1997.

## **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 adopted Core Strategy, saved policies within the Unitary Development Plan (Review 2006) and the Natural Resources and Waste Development Plan Document (2013).
- 8.2 Core Strategy  
Policy P10: refers to design.
- 8.3 Saved policies within the UDP  
Policy GP5: Development should not cause loss of amenity and resolve detailed considerations.  
Policy BD6: refers to extensions/alterations should respect the design of the original building.

The Householder Design Guide (2012) – The guide gives advice on how to achieve high quality design for extensions and additions to existing properties, in a sympathetic manner that respects the spatial context. The below policies contained within this document are considered relevant;

Policy HDG1: All extensions, additions and alterations should respect the scale, form, proportions, character and appearance of the main dwelling and the locality.

Particular attention should be paid to:

- i) the roof form and roof line;
- ii) window detail;
- iii) architectural detail;
- iv) boundary treatments and;
- v) materials

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

### 8.3 National Planning Policy Framework (2012):

This document promotes sustainable (economic, social and environmental)

- The Government attaches great importance to the design of the built environment. Good design is a key aspect of sustainable development, is indivisible from good planning, and should contribute positively to making places better for people. Development should respond to local character and history, and reflect the identity of local surroundings and materials, while not preventing or discouraging appropriate innovation and are visually attractive as a result of good architecture and appropriate landscaping. The NPPF also states that in determining applications, great weight should be given to innovative designs which help raise the standard of design more generally in the area.
- Guidance on the use of Planning Conditions is contained within the Planning Policy Guidance.

## 9.0 MAIN ISSUES

- Character and Appearance and Visual Amenity
- Noise Disturbance
- Other Matters
- Conclusion

## 10.0 APPRAISAL

### Character and Appearance and Visual Amenity

- 10.1 The proposed AC units are located to the rear of the existing dwelling on the north-eastern elevation and are outside of the public realm, therefore the development would have no impact on the street-scene. The AC units would be seen from No.4 Sandhill Oval (the property directly to the north-east of the application building) and those residential properties on Harrogate Road (576 – 562 and the flats above the shopping parade next to the Lord Darcy Public House) although these properties are located some 40m from the AC Units. The most affected site however is No.4 Sandhill Oval.
- 10.2 The AC units can be seen from various areas within the lower part of the rear garden area of No.4. The units are less evident from the part of the garden nearer the house (No.4) as the existing boundary planting acts to provide a screen. However, it is not

unreasonable that at some point the height of this planting could be reduced either by the applicant or the neighbour to increase visibility of the units. It could be argued that cutting the height would be counteractive to the screening but the reality is that it could happen and conditions controlling the height of the planting would not be reasonable nor would they be easily enforceable.

- 10.3 AC units are not usual on residential dwellings, other than perhaps flats above commercial uses and then the units are viewed as accepted and appropriate within what is essentially a mixed context of commercial and residential uses. Such development of a 'traditional' dwelling within a built up and established residential context is not regarded as common. This does not however mean that such development is inappropriate but it does mean that a more sensitive approach must be sought in terms of reducing the visual intrusion. As it stands the AC units that have been attached to No.6's side elevation wall can be seen by the neighbour at No.4 from the lower part of their garden and from an upper floor bedroom window, albeit it is considered that the outlook from this window would be largely oblique views of the AC units. It is perhaps fair to say that the knowledge that the units are in situ gives a emphasised perception of the plant equipment.
- 10.4 The level of AC units is not insignificant at 8 and whilst in real terms there would be an increase in 4 units given that the application property already had 4 other AC units attached, the proposed positioning and the cumulative number as a cluster does amplify their visual appearance. In order to reduce the visual impact negotiations have taken place with the applicant and his agent to provide a screen for the units. The applicant has been keen to work with Officers in order to achieve an agreeable solution; a timber screen is proposed to house the units, this will also have a roof on so that the units are enclosed but for small gaps between the timber slats to allow for necessary air flow to penetrate. It is considered that the proposed timber housing will significantly reduce the visual impact on the neighbours and would appear as a more 'domestic' feature albeit at first floor. The timber would be painted and the final colour of this can be secured by condition.

#### Noise Disturbance

- 10.5 As part of the assessment of this application a technical view has been sought from the Environmental Protection Team (EPT) regarding the potential for noise nuisance from the AC units; they were of the view that the information initially provided as part of this application failed to adequately demonstrate the acoustic output of the AC units. In response to this view, and as detailed above, a housing (with ventilation) around the AC units was requested to assist with the reduction of any noise.
- 10.6 It is considered that when all 8 units are running together the noise output would be emphasised and therefore may increase the noise above the db(a) which has been annotated on the submitted drawings. However without a noise report it was not clear what impact would occur and the provided details did not go far enough to demonstrate that the noise output would be within and would remain within acceptable limits. Therefore the LPA requested that an acoustic assessment was commissioned and the resulting report submitted to the LPA for assessment and to demonstrate the acoustic output against the nearest sensitive property.
- 10.7 Subsequently a noise report has been submitted and this has been passed to the EPT for a technical view. The EPT advise that the noise report calculates that the noise levels will meet the standard planning condition of 5dB below the background noise level at the nearest noise sensitive premises with the proposed mitigation measures in place ( i.e. the acoustic fence). This is considered acceptable if these levels are met;

the noise report does not state what level each AC unit is operating at, however the manufactures data submitted for the new plant indicates a level of around 50dB for each unit. The combined noise of 8 AC units would give a higher level of perhaps 59 dB. The noise report states that all the AC units were all operating fully at the time of the assessment. In practice however this may be typical rather than the extreme of all units operating at maximum levels. There is also the possibility of low frequency noise still being an issue especially at 63hz especially in warm weather should the units be on during the night. Therefore it is considered prudent to impose a planning condition that requires the AC units to be maintained in accordance with the approved details and that noise shall be limited to a level at least 5dBA below the existing background noise level (L90) when measured at the nearest noise sensitive premises.

- 10.8 In light of the findings of the noise report and the subsequent assessment by the Councils Environmental Protection Team and the proposed conditions listed at the head of this report, it is considered that the noise output would be limited and withholding planning permission on this basis would likely leave the Council in a weak position at any subsequent appeal.

#### Other Matters

- 10.9 In response to the seven notification letters eight letters of representation have been received from local residents. The majority of the objections have already been covered within this report. With regard to other points raised the following comments are made:

- Drainage – A soakaway has been dug next to No.4's fence what will be the impact on No.4 and what has been done about a spring which has been discovered in the garden of No.6?

This falls outside the scope of this application and the above matters would be better dealt with by a Building Inspector.

- The development is not legal as the proper planning procedures have not been followed given the retrospective nature of the application.
- Given the applicants position as a Leeds Councillor a serious breach of regulations has occurred by putting the AC units up without planning permission.

It is not an offence to carry out development without first gaining Planning Permission and in such instances a mechanism of a retrospective application process to seek to remedy breaches of planning control. Once the breach was identified the applicant has sought to resolve the issue through discussion and negotiation with the LPA and the submission of this retrospective application.

- No site notices were displayed and no letters of notification were received by No's 1, 3 and 4 Sandhill Oval.
- The applicant should have to re-apply for his recently approved extension as no notification was received.

Neighbour notification letters were issued on the 7 August 2014 to No's 1,3,4,5 and 8 Sandhill Oval and to No's 576 and 578 Harrogate Road. These letters contained an incorrect description that was input onto the LPA's system and this description was

then subsequently amended and further letters were issued to the above addresses on the 11 August 2014. Therefore the Council has followed its statutory duty. The second point above does not form part of this application however in the interests of fullness and clarity; the LPA issued notifications to No's 1,3,4,5 and 8 Sandhill Oval and to 576 and 578 Harrogate Road on the 21 February 2014. The applicants earlier application for an extension to his property was taken through due process and was considered to be acceptable by North and East Plans Panel Members who granted planning permission.

- Potential buyers of neighbouring properties would be put off given the existence of the AC units.

This is not a material planning consideration and market values of neighbouring properties as a result of development cannot be used as an element of assessment in planning applications.

- The development sets a precedent.

The principle of such development in this location would be accepted but each case must be assessed on its merits (i.e. number of units, location, model, noise output etc).

## **11.0 CONCLUSION**

- 11.1 After due consideration on the impact on neighbouring residents, namely those residing at No.4 Sandhill Oval, it is considered that, on balance, and for the reasons detailed above and subject to the conditions at the head of this report that planning permission should be granted.

### **Background Papers:**

Planning application file.

Certificate of Ownership (Cert A) signed by the agent for the applicant: 30 July 2014.







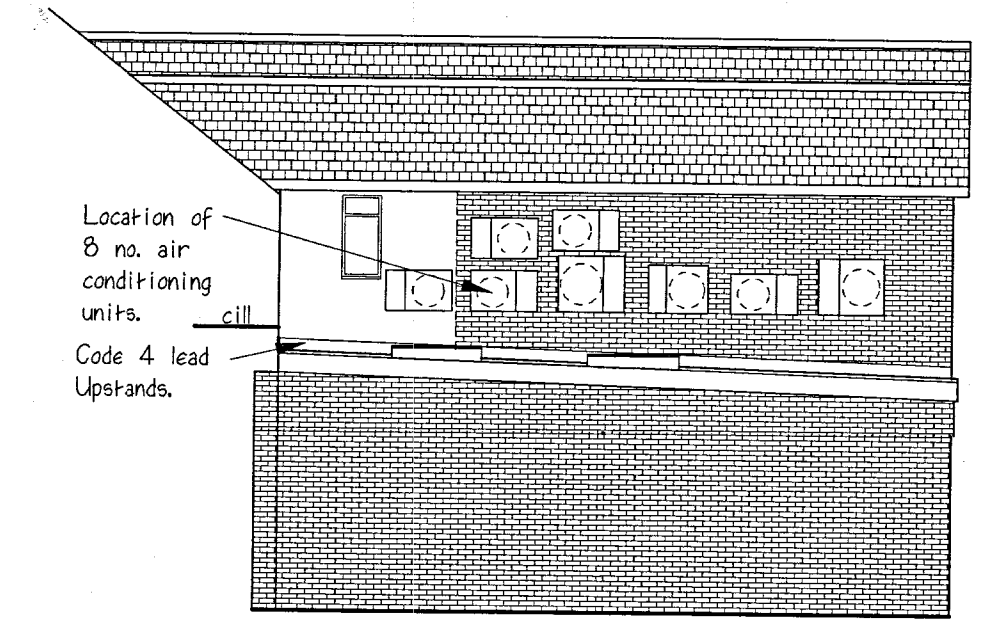
PREVIOUS REAR ELEVATION



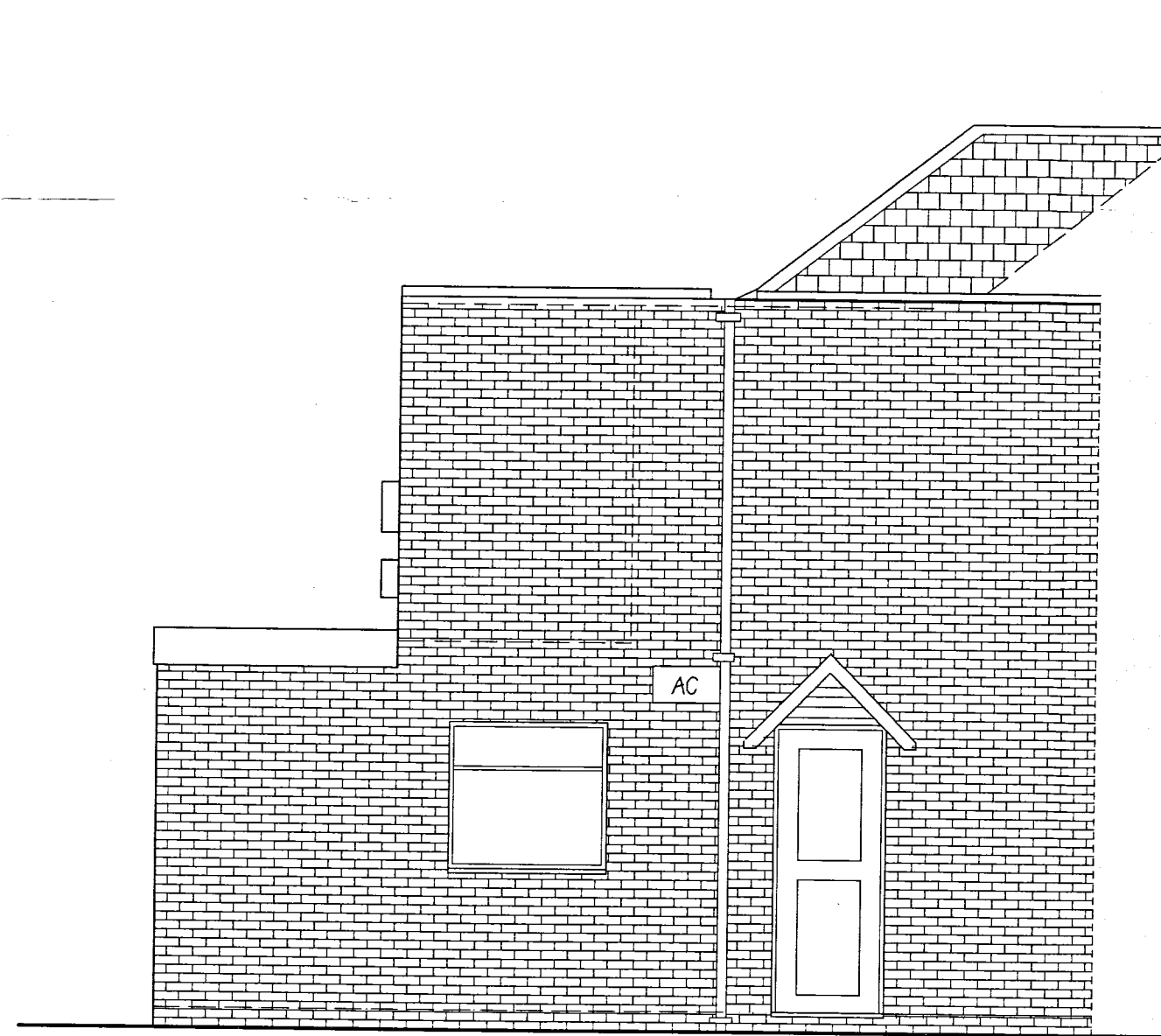
AREAS OF DETAIL

REAR ELEVATION

ELEVATIONS SHOWING AIR CONDITIONING DETAILS.



SIDE ELEVATION



PREVIOUS SIDE ELEVATION

ELEVATIONS SHOWING PREVIOUS POSITIONS OF EXISTING AIR CONDITIONING UNITS [AC] EXTERNALLY BEFORE THEIR REMOVAL TO NEW POSITIONS AFTER CONSTRUCTION OF THE NEW EXTENSIONS.

**General Specifications**  
 Relates to the extension of 4 no. existing air conditioning units linked to 4 no. new air conditioning units all sited in locations where shown. (Preferable to their original unsightly positions noted on ex. elevations).

All the AC units are from Mitsubishi Industries.  
 The air conditioning comprises of repositioning of the 4no. existing units and 4no. new units with all sizes listed below: (Input, size & sound).  
 Existing units sizes (4no).  
 2- 2.5kW x 540 x 780 x 290 49db(A) sound pressure.  
 1- 3.5kW x 540 x 780 x 290 51db(A). 1- 6kW x 650 x 880 x 340 50db(A).  
 New units sizes (4 no). 3- 5kW x 640 x 800 x 340 53db(A) 1- 6kW abd.  
 8 No. Units in total.

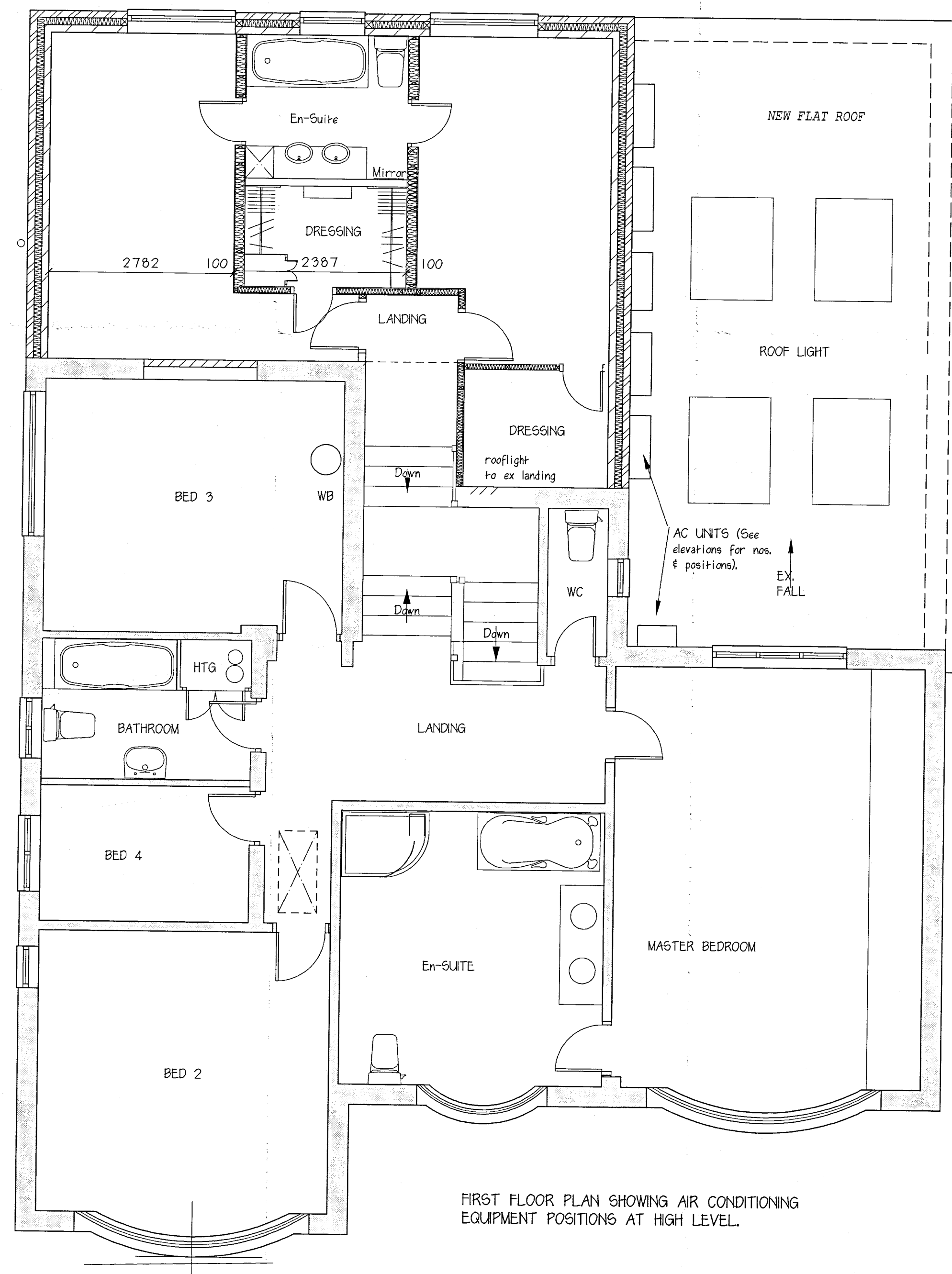
All sited to provide adequate air flow through for trouble free operation.  
 The units which contain DC inverters are almost inaudible when running.  
 The units are all equipped with Digital Inverters and are very energy efficient & all have SEER (Energy Label) of A + +. These are much more energy efficient for heating than are hot water central heating systems. Hence the applicant's continuation with this system due to the reduction in energy consumption.

The location of the units, high up, allows free air flow and are visually unobtrusive to surrounding properties. There is a substantial Laurel in height and size providing an almost natural screen on the boundary between houses nos. 4 & 6. Siting elsewhere around the house would have a visual impact if high up and air flow problems if sited at ground level.

The system is to be installed by specialist air conditioning and cooling contractor.  
 On completion the system is to be commissioned, tested and left operational. All the data is also to be provided to the Building Inspector.

**NOTE:**  
 No dimensions are to be scaled off this drawing.  
 All dimensions are to be verified on site prior to commencement of any works being carried out.  
 Any discrepancies to be notified to M. R. Hart & Associates.

Attached are a Location plan and a block plan.



FIRST FLOOR PLAN SHOWING AIR CONDITIONING EQUIPMENT POSITIONS AT HIGH LEVEL.

LEEDS CITY COUNCIL  
 28 AUG 2014  
**REVISED**

REV A.  
 AC unit positions entered in error.  
 Positions shown are correct.  
 Drg no. DC/MRH/IAC is to be replaced  
 by drawing no. DC/MRH/IAC (A).

**M.R. HART & ASSOCIATES**  
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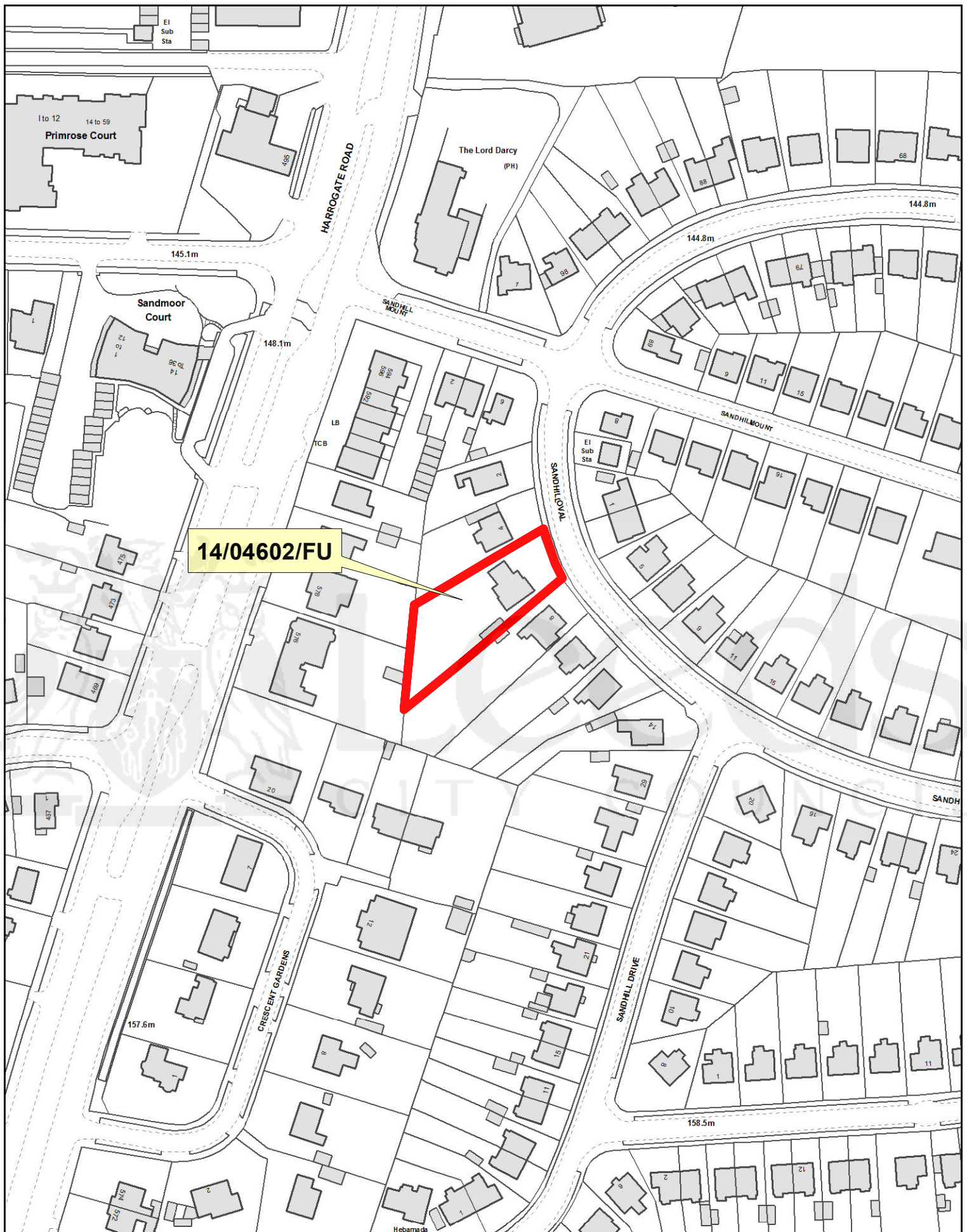
CLIENT : MR. & MRS. D. A. COHEN

PROJECT : PROPOSED AIR CONDITIONING  
 EXTENSION TO 6 SANDHILL OVAL  
 LEEDS LS17 8EA.

DRAWING : PROPOSED DETAILS

SCALE: 1/50 1/100 DRAWN BY: MRH DATE: 27/07/14

DRAWING No: DC/MRH/IAC (A)



14/04602/FU

# NORTH AND EAST PLANS PANEL

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PRODUCED BY CITY DEVELOPMENT, GIS MAPPING & DATA TEAM, LEEDS CITY COUNCIL

SCALE : 1/1500

