



## Report of the Chief Planning Officer

### PLANS PANEL NORTH & EAST

Date: 30 July 2015

**Subject: 14/02769/FU – APPEAL by Mr Carroll against the decision of Leeds City Council to refuse retrospective planning permission for amendments to an outbuilding granted planning permission in 2002 (Ref. 30/120/02/FU) at 24 Wetherby Road, Roundhay.**

**The appeal was allowed and the costs claim against the Council refused.**

#### Electoral Wards Affected:

Roundhay

Yes

Ward Members consulted  
(referred to in report)

#### Specific Implications For:

Equality and Diversity

Community Cohesion

Narrowing the Gap

#### RECOMMENDATION:

Members are asked to note the following appeal and costs claim decision.

### 1.0 BACKGROUND

1.1 This application sought retrospective planning permission to amend an outbuilding previously granted permission in 2002 but not built in accordance with the approved plans. The proposal was put before Members with an Officer recommendation to grant planning permission however, Members disagreed and resolved to refuse as it was considered that the proposed development was unacceptable as it would result in an outbuilding of a size that would not be in keeping with the established character and appearance of the Conservation Area by reason of a combination of its extent and height and that by reasons of a combination of its overall mass, extent of projection and proximity to No.26 Wetherby Road resulted in a dominant and overbearing form of development that would overshadow the adjoining property causing harm to the amenities of the residents of that property.

1.2 Submitted with the appeal against the Councils decision was a Costs Claim.

## **2.0 ISSUES IDENTIFIED BY THE INSPECTOR (Appeal)**

2.1 The Inspector identified the main issues to be: The effect of the proposed development on the character and appearance of the Roundhay Conservation Area; and its effect on the living conditions of the occupiers of No 26 Wetherby Road, with regard to outlook and daylight.

## **3.0 SUMMARY OF COMMENTS BY THE INSPECTOR**

### Character and Appearance

3.1 The Inspector noted the appeal property comprises a large detached stone built dwelling set well back from Wetherby Road within a large plot. The dwelling's front garden, which includes mature trees, separates it from Wetherby Road and a shorter, but still substantial, rear garden separates it from Back Wetherby Road and that it is located within the Roundhay Conservation Area. The Inspector noted that there were numerous buildings in the rear gardens of properties along Wetherby Road taking a variety of forms, ranging from small garages to more substantial buildings and that they are built in a range of materials varying in height from one to one and a half storeys and acting as subordinate buildings to their host properties along Wetherby Road.

3.2. It was noted that whilst much of the appeal building would be largely unchanged, it is proposed to reduce its ridge height, whereby it would be some 0.45 metres lower at the front and 0.2 metres lower at the rear. The Inspector observed the appeal property from various locations and in his view the outbuilding has an overall appearance that would be in keeping with this part of Roundhay Conservation Area. The form of the proposed development reflects, and fits in with, the varied character of buildings in the gardens situated between the rear of Wetherby Road and Back Wetherby Road. The proposed materials, of natural stone under a red clay tile roof, would provide an appropriate balance of old and new and would not lead the proposed development to appear incongruous in its surroundings.

3.3 In light of the above the Inspector was mindful that the Council's Conservation Officer was of the view that the appeal development, as shown on the submitted plans, would preserve the special character and appearance of the main dwelling and the wider Conservation Area.

### Living Conditions

3.4 The Inspector noted that the building runs along the common boundary to the rear of No's 24 and 26 Wetherby Road. The Inspector was satisfied that the proposed development would result in sufficient natural light reaching the rear garden and windows of No.26 for most of the day. It was also noted that the building was clearly visible from the rear of No 26; subject to the lowering of the roof as proposed, the buildings height and pitch would be such that it would not appear unduly dominant when seen from No 26. It was found that due to the relatively large size of its rear garden, the outlook from the rear, and from within the garden of No 26, would be largely characterised by a sense of openness. The proposal, due in particular to its proximity and length, would be visible from No 26, but in the Inspectors view this would not be to an oppressive, or otherwise harmful extent.

## Costs

- 3.6 The application for costs was refused. The appellant set out a timeline relating to the building the subject of the appeal however failed to refer to any specific unreasonable behaviour by the Council. The Inspector notes that the Council did not pursue any planning breach until 2012, when it opened an Enforcement case. The appellants subsequently submitted a planning application.
- 3.7 Whilst the Officer's report recommended approval, the Council refused the planning application. The Inspector comments that the Council was under no obligation to agree with the views of its Officers. In determining the appeal, the Inspector came to a different conclusion to that of the Council, but this in itself does not mean that the Council acted unreasonably in reaching the conclusion that it did and that taking all of the information before him into account, the Inspector found that unreasonable behaviour resulting in unnecessary or wasted expense, as described in Planning Practice Guidance, had not been demonstrated and that a full award of costs was not justified.

## Conclusions

- 3.8 In his conclusions the Inspector found that the proposed development would preserve the character and appearance of the Roundhay Conservation Area and that there would be no conflict with the National Planning Policy Framework (NPPF), Core Strategy Policies P10 and P11, saved Leeds UDP policies GP5, BD6 and N19, or with the Leeds Householder Design Guide (2012), which together amongst other things, protect local character. Furthermore he found that the proposed development would not harm the living conditions of the occupiers of No 26 Wetherby Road, with regards to outlook and daylight and subsequently there was no conflict with the NPPF, Core Strategy Policy P10, Saved UDP Policies GP5 and BD6, or the Leeds Householder Design Guide, which together amongst other things, protect residential amenity.
- 3.9 The Inspector found that unreasonable behaviour resulting in unnecessary or wasted expense as described in the Planning Policy Guidance had not been demonstrated.

## Decision

- 3.10 The appeal was allowed however the cost application was refused; both decisions are dated 6<sup>th</sup> May 2015.

## **4.0 IMPLICATIONS/MOVING FORWARD**

- 4.1 The approved scheme must now be implemented in accordance with the approved plans. There is still an Enforcement notice in place on the building as constructed which has not been complied with. The appellants have been informed that should they undertake the alterations now approved within a reasonable timescale (i.e. 3 months) no further action will be taken in relation to this.
- 4.2 The appellants have confirmed that they intend to commence the alterations to the outbuilding during October (or earlier) and that all works will be complete by the end of November 2015. Officers have raised concern with the appellant regarding the length of time proposed. There is consideration being given as to whether the Council now needs

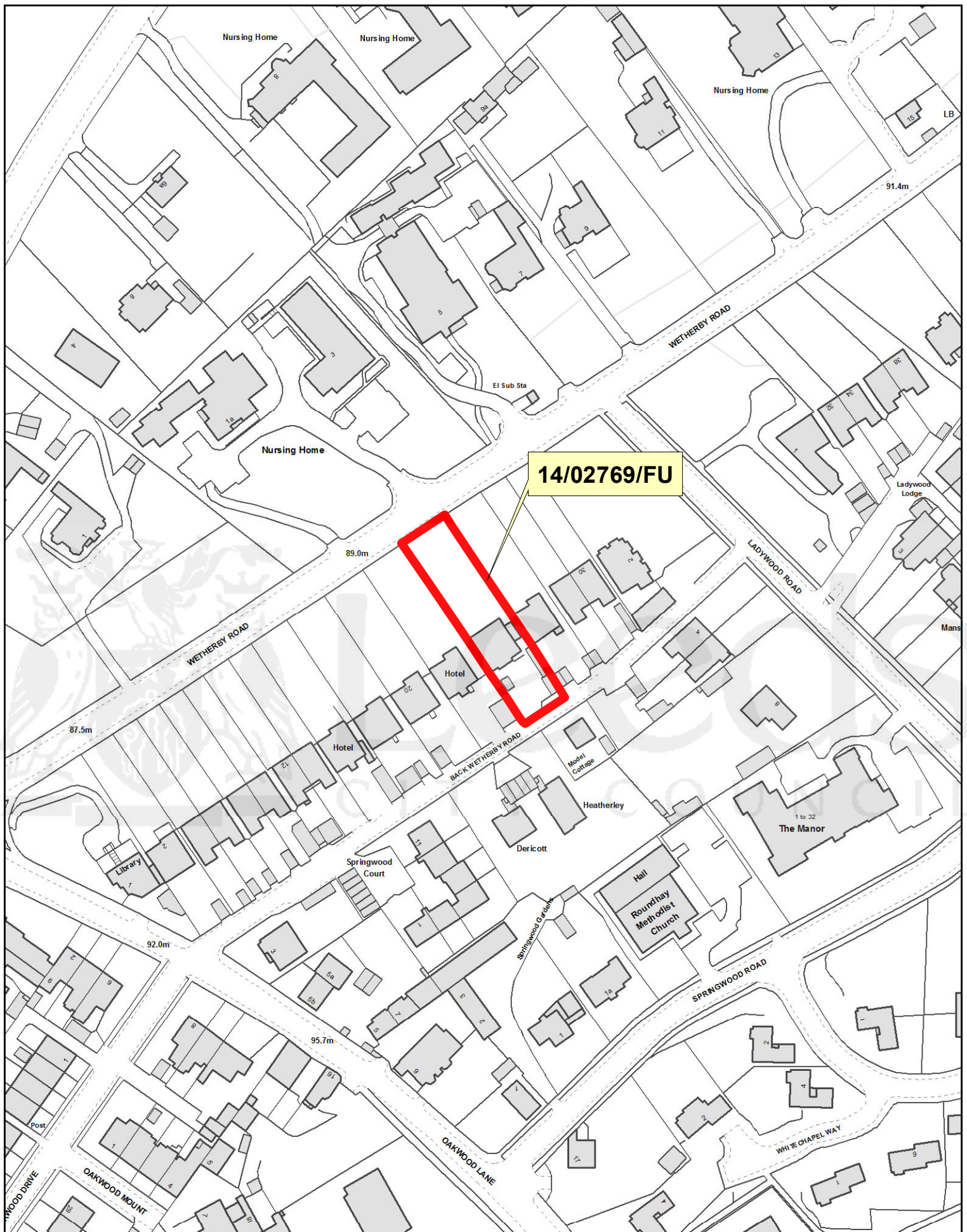
to issue a further Enforcement Notice to secure the completion of the works. Officers are keen to work with the appellant to ensure this matter is brought to a satisfactory conclusion and have offered to attend a pre start meeting prior to the commencement of the works.

4.3 This decision opens up the potential for proposals akin to the appeal scheme to be submitted for other similar properties nearby. However, the Roundhay Conservation Area has a number of character areas with specific variables that contribute to their special characters and each application must be assessed on their individual merits.

### **Background Papers**

Planning Application Files

Inspector's Decision Letters



# NORTH AND EAST PLANS PANEL

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