



Report of the Chief Planning Officer

NORTH AND EAST PLANS PANEL

Date: 29th October 2015

Subject: Appeal and Costs application by Mr C Hattersley regarding the refusal of planning permission, under application reference 14/02619/FU, for change of use of a stable including alterations to form one holiday cottage off Wetherby Road, Scarcroft, Leeds, LS14 3HJ

The appeal was allowed

Electoral Wards Affected:

Harewood

Yes

Ward Members advised of decision

Specific Implications For:

Equality and Diversity

Community Cohesion

Narrowing the Gap

RECOMMENDATION: Members are asked to note the following appeal and costs decision summaries:

1.0 BACKGROUND:

- 1.1 The application for the conversion of a timber stable block in the Green Belt to form a single dwelling for holiday use was first considered at the 21st August 2014 meeting of the North and East Plans Panel. At this meeting the application had been recommended for approval. At the meeting Members deferred consideration of the application for a site visit and requested further information was provided on the totality of the [conversion] works. Members also asked officers to seek a view from neighbouring planning authorities, in particular in North Yorkshire, to see how they had approached similar applications.

- 1.2 The application was subsequently reported back to the 23rd October 2014 meeting with the requested further information and the views of a number of neighbouring Local Planning Authorities. Being of the view that the totality of the [conversion] works demonstrated that the building was not of permanent *and* substantial construction, in light of the additional information supplied and the views of neighbouring planning authorities, officers felt therefore that the application did not comply with the relevant exemption in the National Planning Policy Framework (NPPF) sought. At this point therefore the officer recommendation on the application became one of refusal.
- 1.3 Panel considered the amended recommendation, in light of information obtained at the site visit, and felt that the application did not propose the conversion of a building that was of permanent and substantial construction, and that in any event the development of the site of the stables for a dwelling would have a greater impact on openness than the existing structure and use. The applicant sought to appeal the decision by way of a hearing which was held over one day on 04th August 2015. An application for costs against the Council was made at the hearing. The appeal was allowed but the costs application dismissed.

2.0 ISSUES IDENTIFIED BY THE INSPECTOR:

- 2.1 The Inspector considered that the main issues were: whether the proposal would be inappropriate development in the Green Belt, and; its effect on the openness and the purposes of the Green Belt.

3.0 SUMMARY OF APPEAL DECISION:

- 3.1 In considering the substantive point on conversion regarding the nature of the building to be converted, the Inspector viewed the sample panel of thermal cladding and waterproofing that was prepared for Member's earlier site visit. Having viewed the sample panel and the building the Inspector noted that, whilst it was in good condition and clearly intended to be permanent, the timber based structure was clad in part by thin ply board, the external walls were tied to the floor with metal straps, and there were gaps between the walls and the roof. The Inspector went on to note that the roof is constructed in corrugated fibre cement sheeting which is not insulated and would need replacing and she heard from the appellant at the hearing that the building was not watertight. Consequently the Inspector was not persuaded that the structure was of permanent *and* substantial construction and the appeal proposal did not therefore benefit from the exemption under the fourth bullet of paragraph 90 of the NPPF [the re-use of buildings provided that the buildings are of permanent and substantial construction].
- 3.2 The Inspector then examined whether or not the site was a brownfield site. In doing so she had regard to the fact that the stables constituted development that had required planning permission, and furthermore, following the Council's approval of applications to remove conditions restricting the use of the stables to occupants of Ashfield House, the Inspector considered that the site fell within the definition of previously developed land. Logically the Inspector then went on to consider if the proposal were acceptable as the re-development of a brownfield site (paragraph 89 of the NPPF, sixth bullet). Under para 89 any redevelopment of a brownfield site should not have any greater impact on openness.

- 3.3 Members of Panel felt that as the re-development of a brownfield site the proposed residential use would have a greater impact on openness than the existing equine use. The Inspector accepted the Council's point at the hearing that the effect on openness is not necessarily restricted to permanent physical works, with attendant bin store, parking area and domestic paraphernalia all having an effect on openness. However, the Inspector felt that given the building's size the former equine use of the site would have resulted in the parking of horse-boxes and cars in any event, and that consequently the impact of the development on openness would be minimal.
- 3.4 The Inspector noted that the site is enclosed by vegetation and boundary fencing/walling on all sides and that as such it is not readily visible from the surrounding area, including the adjacent public right of way. Furthermore, the Inspector noted that the site lies in the midst of a group of residential properties, rather than occupying a position in an open or isolated location, and that as such the development would not compromise the purposes of the Green Belt, which amongst other things, seeks to check the unrestricted sprawl of built up areas and to assist in safeguarding the country side from encroachment. As such the Inspector therefore concluded that the proposal would not be inappropriate development in the Green Belt and consequently allowed the appeal.
- 3.5 In allowing the appeal the Inspector took account of the letters of objection from third parties, who were concerned about the increase in traffic along the public right of way, and at the junction of the lane with the A58, but reasoned that there was no evidence to suggest that there would be an increase in traffic over the existing situation, or that such an increase would be harmful to highway safety. The Inspector also felt that the external appearance of the building would not alter significantly, and that there were therefore no harmful impacts on the character and appearance of the area.

4.0 COSTS DECISION

- 4.1 The appellants claimed that the Council had acted unreasonable in that: officer advice changed between Panel meetings; the Council was made aware of the sixth bullet of paragraph 89 of the NPPF [limited infilling or the partial or complete redevelopment of previously developed sites which would not have a greater impact on the openness of the Green Belt], but there were no discussions on this; officers did not meet requests for deferral of the application; officers did not properly review the NPPF or give evidence on openness; and that the reason for refusal on openness and the works required to convert the building were unsubstantiated.
- 4.2 In rebuttal at the hearing officers suggested that the Council had not acted unreasonably in that: whilst the recommendation had changed it was within the gift of Members to reach their own view; that a clear audit trail of meetings with the appellant evidenced communication between the appellant and the Council; that the appeal process exists to deal with differences of opinion and that Members had reached their own view on openness, which is subjective; and that Members had the benefit of a presentation from the applicant at the meeting and had held a site visit to view the physical works proposed. Officers also highlighted that a post-refusal meeting was held but that officers were unable to provide positive advice on a re-submission, in light of the decision of Panel on openness, and that a complaint about the handling of an application is not of itself a grounds for costs.

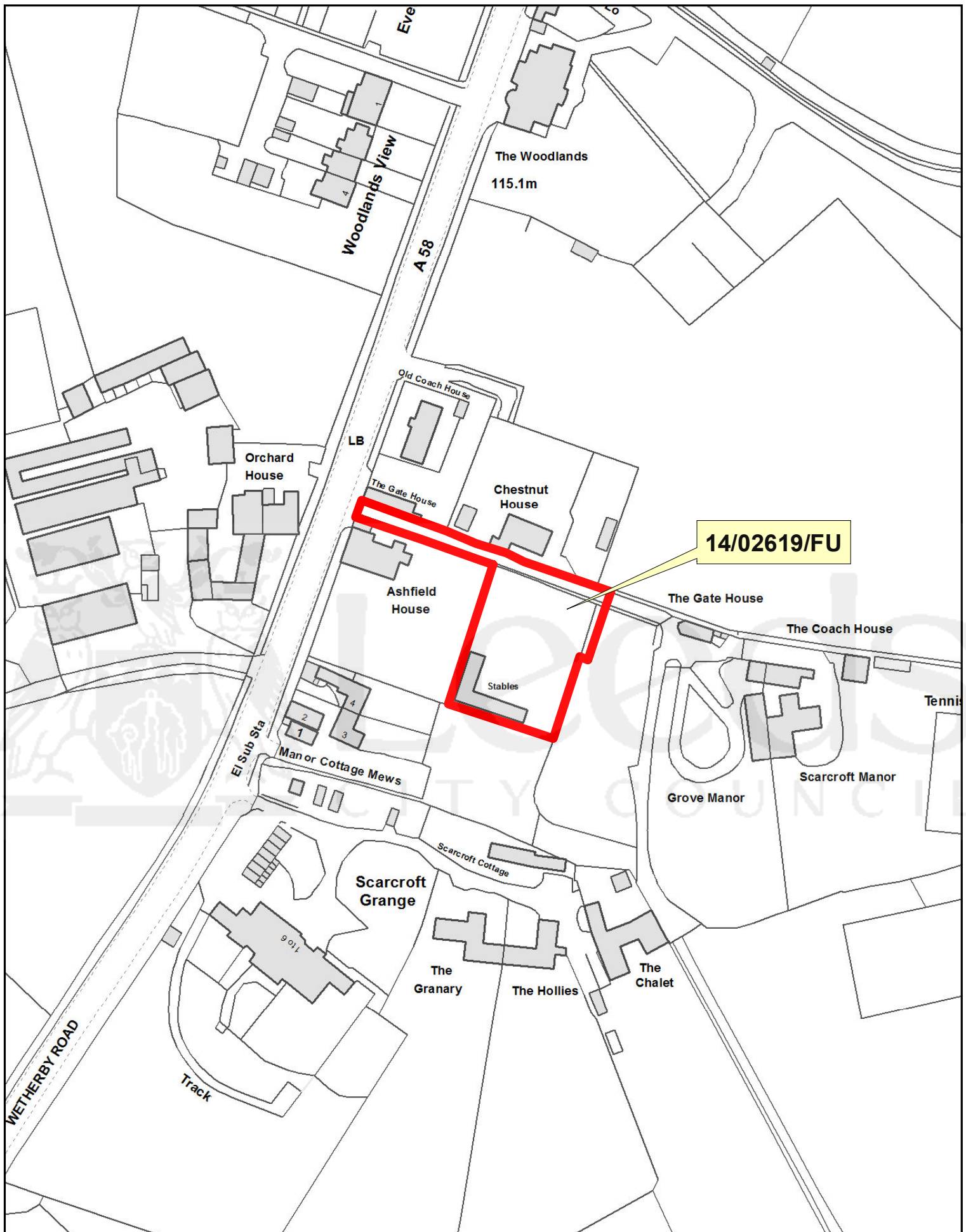
- 4.3 In dismissing the costs application the Inspector had regard to whether the Council had behaved unreasonably and caused the appellant to incur any unnecessary or wasted expense in the appeal process, and whether or not the Council had failed to produce evidence to substantiate each reason for refusal.
- 4.4 The Inspector held that whilst she had reached a different conclusion to the Council in terms of openness she was satisfied that evidence provided during the appeal on these matters was specific and objectively assessed. Whilst the report to Panel did not discuss openness she held that the reason for refusal given in this respect was clear and precise, and the Council's statement of case provided further analysis in terms of the impact of the development.
- 4.5 The Inspector agreed that the Council was right to refer to the amount of building work required in considering it as a means to assess whether the building is of 'permanent and substantial construction'. The Council's evidence on why it considered the building did not amount to a building of permanent and substantial construction was set out in the report and appeal statement and consequently she held that the Council did not act unreasonably in this respect.
- 4.6 The costs decision states that the change in recommendation followed the submission of further information and advice, and Members of Panel were clearly entitled to consider this. The Inspector noted there was a discussion at the meeting about whether the site constituted a brownfield or an infill site and that the appellants had an opportunity to present their case verbally at the meeting. The Inspector was therefore satisfied that the relevant tests were considered by officers and Members.
- 4.7 The Inspector saw no reason to doubt that Members would have reached the same conclusion had the Panel report been more complete. As a result there would have been no need to refer the matter back to Panel as part of on-going case management once the appeal was lodged, and the Council did not act unreasonably in this respect. As such the matter is one of disagreement between the parties which could have only been resolved at appeal and therefore the appellant had not been put to unnecessary or wasted expense.

5.0 IMPLICATIONS:

- 5.1 The decision vindicates the decision of the Council not to accept lightweight timber stables as being of permanent and substantial construction for conversion purposes in the Green Belt, but it does highlight that there are circumstance where they may be considered to be brownfield sites and that their residential conversion to dwelling in the Green Belt may be held to be acceptable. Ultimately, however, the appeal decision rested on a subjective view over the impact of the proposals on openness, and the Inspector simply arrived at a different view to that of the Council in this case. There are therefore no wider implications stemming from this appeal decision.

Background Papers:

Application file: 14/02619/FU



NORTH AND EAST PLANS PANEL

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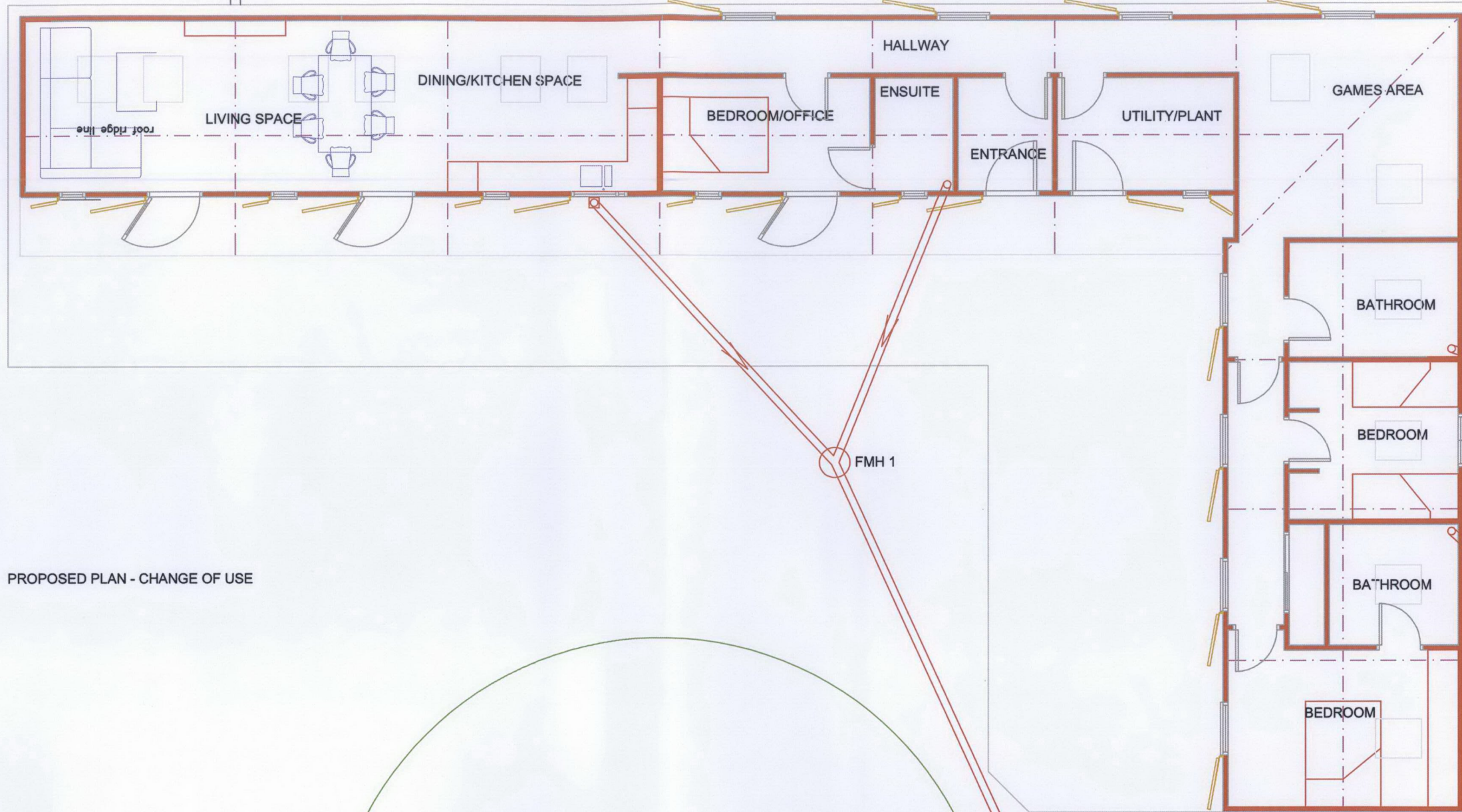
PRODUCED BY CITY DEVELOPMENT, GIS MAPPING & DATA TEAM, LEEDS CITY COUNCIL

SCALE : 1/1500

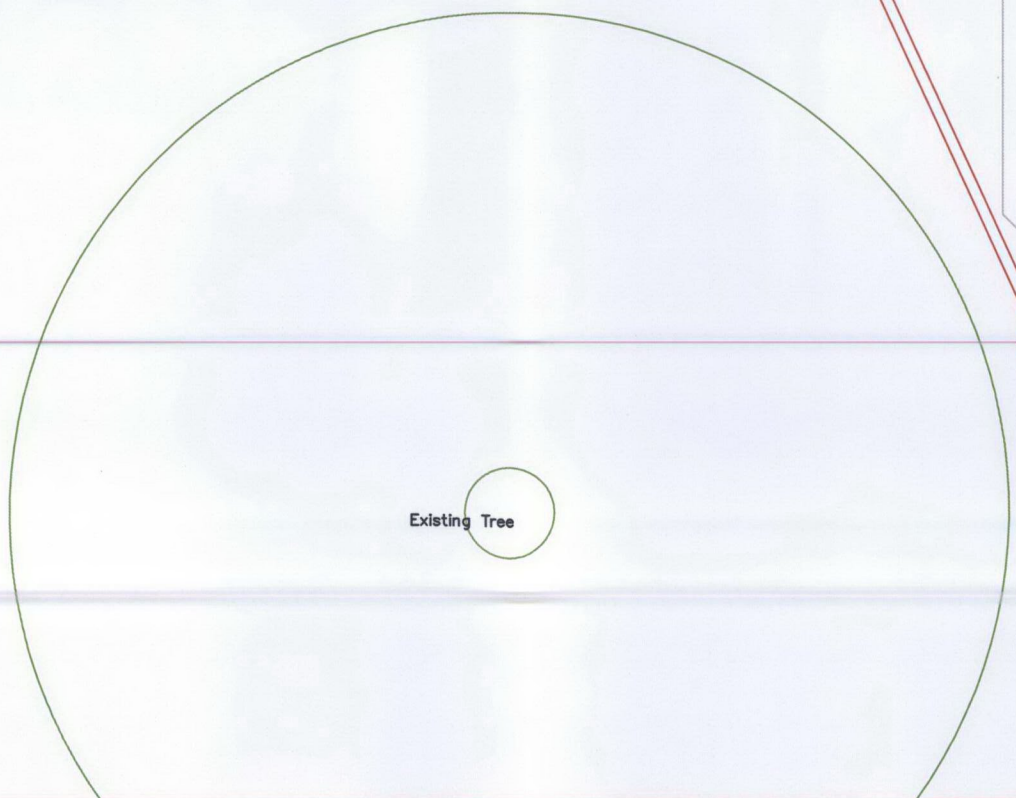


14 / 02619 №

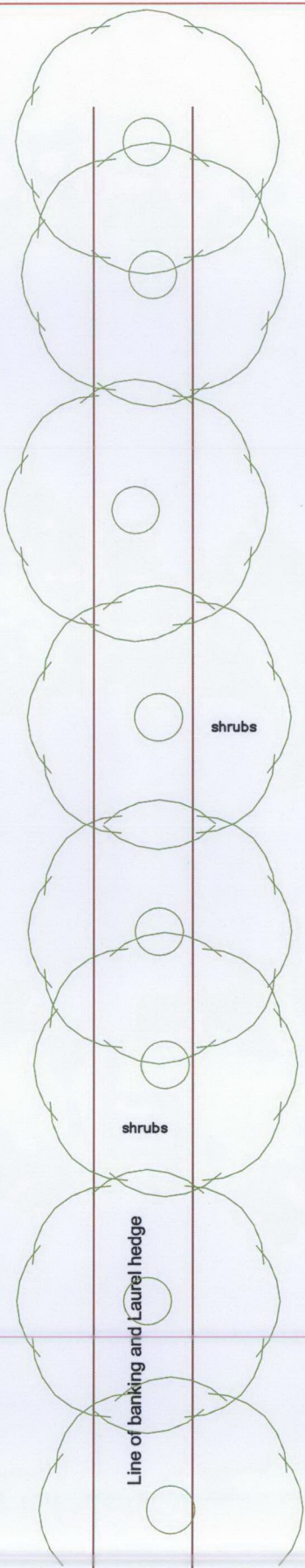
Line of partial fence and variety of hedge/planting and trees



PROPOSED PLAN - CHANGE OF USE



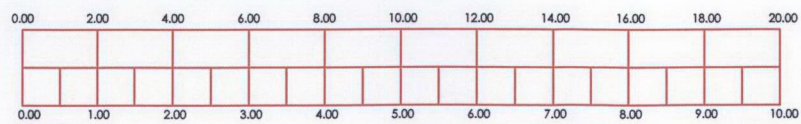
Existing Tree



shrubs

shrubs

Line of banking and Laurel hedge



SCALE

<p>Peach Architectural Design Ltd</p>	
<p>31 Grosvenor Buildings Crescent Road Scarcroft North, Yorkshire LS14 3HU Tel/Fax : 01423 529 723 Mobile : 0773 081 7911</p>	
Date	Drawn By
JANUARY 2014	SP
Scale	Revision
<p>Stable Building Off Wetherby Road, Scarcroft LS14 3HU PROPOSED PLAN</p>	
<p>Job No. HTSIX/PR/PL/01</p>	
<p>This drawing is the property of Peach Architectural Design Ltd. Do not scale. All dimensions and levels to be checked on site prior to construction. All work to be carried out to current HNSO approved documents.</p>	

PLANNING SERVICES
27 MAY 2014
DEVELOPMENT DEPARTMENT

Line of wire fence and Leylandi hedge