



## Report of the Chief Planning Officer

### NORTH & EAST PLANS PANEL

Date: 7<sup>th</sup> April 2016

**Subject: 15/06738/FU – Retrospective application for double garage with gym snooker and cinema rooms above Ling Beeches, Ling Lane, Scarcroft, Leeds.**

#### APPLICANT

Mr T Khalid

#### DATE VALID

9 November 2015

#### TARGET DATE

4 January 2016

#### Electoral Wards Affected:

Harewood

Yes

Ward Members consulted  
(referred to in report)

#### Specific Implications For:

Equality and Diversity

Community Cohesion

Narrowing the Gap

### RECOMMENDATION: GRANT PERMISSION subject to the specified conditions:

1. Time limit
2. The garage to be completed in accordance with the approved plans.
3. Prior to any further building work re-commencing, the first floor windows on eastern side elevation of the garage shall be blocked with matching stonework, with the cills and lintels removed and will be retained as such for the life time of the development.
4. Planning Permission shall be obtained before any new windows, doors, dormers or extensions are constructed within the garage.
5. Prior to first use of the garage, the two ground floor rear elevation widows serving the workshop (as indicated on the approved plans) shall be obscure glazed and retained as such for the lifetime of the development.
6. The carrying out of the remedial works (de-compaction and removal of debris by hand etc.) prior to work on the garage re-commencing.
7. Requiring the protective fencing as per BS5837:2012 be erected prior to any further work.
8. Implementation of the approved landscaping prior to the re-commencement of the work , with a 5 year maintenance period.
9. Supervision of the works by an Arboriculturist

10. The garage / outbuilding shall remain ancillary to the enjoyment of the main dwellinghouse and shall not be used as a separate dwellinghouse.

11. Landscape scheme to be retained for the lifetime of the development.

## **1.0 INTRODUCTION**

1.1 The application seeks retrospective permission of a large garage that has been constructed within the site. The application is brought to Plans Panel at the request of Cllr Rachael Procter who raises concerns in relation to the visual impact of the development and the harm the development causes to neighbouring residential amenity.

## **2.0 PROPOSAL:**

2.1 The application seeks retrospective planning consent for a large outbuilding with accommodation in the roof, that is under construction to the rear of this site. The garage measures 6.6m in height, 17m in width and 10.7m in depth. The garage features three dormer windows in its front elevation. The outbuilding is of a stone construction. A number of trees within the site have been removed to accommodate the development. Whilst the size of this particular plot is substantial, it is unfortunate that the applicant has chosen to firstly start works on site without planning permission, and secondly to locate the building within the north eastern boundary, close to neighbouring properties.

2.2 It is also worth noting that a substantial outbuilding/garage could be erected on this substantial plot without the need for planning permission under permitted development regulations. This could be up to 4m in height, provided that it does not have an eaves height greater than 2.5m and contains no more than one storey. In theory, buildings could be erected which cover up to 50% of the curtilage, subject to criteria over their height and siting. With this particularly substantial curtilage, such buildings could be significant. However, in practice the presence of numerous trees protected by a Tree Preservation Order may restrict this.

## **3.0 SITE AND SURROUNDINGS:**

3.1 The application site relates to a white rendered detached cottage which is set within a very substantial plot off Ling Lane. Dwellings adjoin the site to the north, east and west. The plot is substantially wooded benefiting from a blanket Tree Preservation Order that was made in the 1970's. Views into the site, in particular the garage that has been constructed, is limited from the public realm with the building being only visible from the residential gardens of the properties that adjoin the site from the east. The wider street contains dwellings of a various scale and form set within substantial plots.

## **4.0 RELEVANT PLANNING HISTORY:**

4.1 None

## **5.0 HISTORY OF NEGOTIATIONS:**

5.1 Following comments from the Landscape Officer concerning the impact of the

development on the existing trees and the nature of the trees that have been removed, the applicant has submitted further reports indicating that the trees that were removed did not benefit from the Tree Preservation Order. This, the applicant argues, is because the trees that were removed were not present when the TPO was originally served. To compensate for the tree loss, further trees and shrubs are proposed to be planted. The applicant has also submitted an assessment that evaluates the impact of the development on existing trees.

5.3 Following concerns raised by Officer's that the windows in the first floor eastern side elevation would raise overlooking concerns the applicant was advised to remove these windows. The revised plans do this.

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

6.12 Neighbour Notification letters posted:

6.3 Six letters of objections received, which raise the following issues;

- The building raises overlooking issues particularly affecting the dwellings to the east of the site.
- The building is visible from the rear garden areas of the properties to the east of the site (The Glade) and appears as a visual intrusive feature that harms the character of the area
- Loss of protected Trees
- Cause issues of Over-dominance/ Overshadowing.
- The building blocks sun light
- The plans are not architecturally drawn as they do not adequately assess the impact of the development upon neighbours
- The building affects the special character of the area
- House prices will be affected
- The windows in the rear elevations all need to be blocked
- The garage in the side elevation also needs to be blocked
- A new TPO needs to be served for the additional trees that will be planted
- The applicant has not complied with Building Regulation
- The garage, by law, needs to be set 28m away from No.5 The Glade and the plans need to show finished floor levels with 45 degree and 60 degree lines.

## **7.0 CONSULTATIONS RESPONSES:**

Statutory  
None

Non-Statutory

7.2 Landscape Officer raises no objection but makes the following comments;

- Damage has been limited and the evidence to pursue further action in respect of the tree removals and damage caused during construction is lacking.
- The relationship of the building to the Oak is not ideal but the option of insisting on a demolition may cause more damage to trees.
- The report proposes remedial action and a comprehensive screening planting plan is provided and this should be delivered.

## 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), together with relevant SPGs and SPDs.

### 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 relevant:

P10 Seeks to ensure that new development is well designed and respect its context.

P12 Seeks to ensure that Leeds' landscape character is retained.

- 8.3 The following saved UDP policies are also relevant:

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

LD1: Seeks to ensure the quality of good landscaping.

### Leeds City Council Householder Design Guide adopted April 2012

- 8.4 This guide provides help for people who wish to extend or alter their property. It aims to give advice on how to design sympathetic, high quality extensions which respect their surroundings. This guide helps to put into practice the policies from the Leeds Unitary Development Plan which seeks to protect and enhance the residential environment throughout the city. Under the chapter entitled 'Special Situations', guidance at page 15 of the guide highlights that extensions or alterations to listed buildings or buildings in conservation areas must be very carefully designed to ensure that they are in keeping with the character and appearance of the locality and goes on to refer to UDPR Policy N19. The following policies from the guide are relevant:

- **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 detail;
  - iii) Architectural features;
  - iv) Boundary treatments and
  - v) Materials;
  
- **HDG2** All development proposals should protect the amenity of neighbors. Proposals which harm the existing residential amenity of neighbors' through excessive overshadowing, over-dominance or overlooking will be strongly resisted.

## National Planning Policy

- 8.4 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.
- 8.5 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 to them. The following sections of the NPPF are most relevant to the consideration of this application:
- 8.5. 7 Requiring good design
  - 9 Protecting Green Belt land
  - 11 Conserving and enhancing the natural environment

## **9.0 MAIN ISSUES**

- Visual Amenity/design and character
- Impact on neighbours
- Trees
- Representations

## **10.0 APPRAISAL**

### Visual Amenity/design and character

- 10.1 This is a retrospective application for a large ancillary building within the garden of a dwelling on Ling Lane. The curtilage is very substantial and it is unfortunate that the applicant has chosen to construct the building to the boundary which is closest to its neighbour within The Glade. The building is located towards the north east corner of the plot and is set back behind the main house. It is understood that that it is partly sited on an area of land which previously accommodated a previous outbuilding/garage, albeit being smaller. There is significant vegetation and mature tree planting within the site which renders the proposed building difficult to see from Ling Lane. Whilst there are glimpses of its roof, these are not prominent within the streetscene and it would be almost impossible to see when the trees are in full foliage. Therefore in terms of its impact upon the character of the area, the proposal is acceptable in terms of its design and visual amenity.
- 10.2 It is noted that the building is visible from the rear garden area of some of the dwellings on The Glade, and particularly from no. 5. However, it is considered that the development is situated a sufficient distance away from the garden area and from the main windows of neighbouring dwellings so as not to appear overly dominant to a degree that would harm visual amenity or appear intrusive. The landscape scheme that has been proposed which includes the planting of heavy duty and mature shrubs will ensure that the views of the development from neighboring gardens will be

softened, which will further ease the visual impact of the development from neighbouring dwellings.

### Impact on neighbours

- 10.3 Significant concerns have been raised by the occupants of the dwellings that adjoin the site from the west in particular the occupant of No.5 The Glade. The primary concern raised relates to the impact on privacy particularly as the garage stands in a much more elevated position than their house. The objector also raises concerns that the building raises issues of overshadowing, dominance and will block sunlight.
- 10.4 It is considered that the garage will not raise significant issues of dominance or overshadowing subject to the required mitigation measures. The garage is set almost 7m away from the boundary of the nearest dwelling, and over 17m away from the windows of the dwelling themselves including the windows of No.5 The Glade. It is considered that the scale of the building in relation to the neighbouring dwellings is adequate, and does not harm neighbouring residential amenity by way of dominance or overshadowing provided that the proposed planting scheme is fully implemented and fully maintained thereafter. Given the distances, it is considered that the building does not block views from neighbouring windows or significantly block natural light into windows or gardens.
- 10.5 In terms of privacy, the two first floor windows in the eastern gable elevation that were originally shown directly facing No.5 The Glade raised significant concerns. These windows have now been removed from the plans and this will be conditioned to prevent their re-insertion in the future. Two of the ground floor windows in the rear elevation facing No.5 the Glade, will also be obscure glazed to limit overlooking and secured by condition. The remaining window in the rear elevation will maintain a distance of 7.5m from the boundary and whilst also considering the fact that the landscaping scheme proposed around the garage will obscure views out from this window, it is considered that the window in question does not raise privacy issues.

### Trees

- 10.6. Allegations have been made by the neighbours that there had been removal of protected trees to allow the development to be built, and the owner was subsequently asked to provide an Arboricultural report to address concerns in respect of tree loss, tree damage and planting to enhance screening to adjacent properties and maintain the overall tree cover. The assessment of the scheme in terms of the trees was made by the landscape officers and their findings are outlined within the following four subsections.

#### *Tree Loss*

- 10.7 In respect of tree loss, the Arboricultural report notes that the Tree Preservation Order (TPO) was made in 1977 as an Area designation. This means that the Order protects trees that were there at the time the Order was made only. The report identifies that trees have been removed but that these would not have been present in 1977, not being in excess of that age. Though there is no conclusive evidence to support this view, neither is there any evidence to the contrary to support further action in this respect.

#### *Damage due to construction*

- 10.8 The building has been constructed in a traditional fashion with strip footing foundations and block walls. It is as yet incomplete. Concerns were raised as to potential damage to the roots of adjacent trees in particular a large Oak, caused by

construction work. Inspection by the Landscape Officer's revealed that though the works are close to the tree, there is little sign of serious root disturbance. This is likely to be due to the presence of an historic wall deflecting roots to the opposite side of the build, and the run of the original sewer from the property (between tree and new build) which will also have influenced development of the root system. The Oak appears healthy and stable. It will be prudent however, to monitor the condition of the tree in the future, as the report states.

- 10.9 The report notes the possibility of compaction caused by the works, and recommends remedial measures such as compressed air de-compaction, mycorrhizal incorporation (beneficial fungi that aids absorption of nutrients into the tree). This should be carried out and any building debris removed prior to any work recommencing and then followed by erection of tree protective fencing.

#### *Proximity to the building*

- 10.10 Had the proposal been submitted for consideration prior to construction, the distances to trees requirements would have been referred to and it is clear that the Oak is significantly closer than would be desired. However, little damage has occurred as set out in the report and as viewed on site. As the report states, demolition of the structure and breaking up of the foundations may cause damage beyond what may have occurred with the original works.

- 10.11 The relationship of the tree to the building is not ideal, but further excavation may be counter-productive. Significant damage appears to have been avoided which is mostly down the influence of the drain and old wall on the rooting pattern. The nature of the building – garage with cinema/gym above makes it likely that there will not be the pressure for works to remove/prune for light etc. as there may be with a residential building. Therefore, the retention of the building as built is the least worst option in respect of the tree.

#### *New Planting*

- 10.12 The proposed planting to enhance screening has been set out and proposes extensive planting to the boundary with the properties on The Glade, from where the new build is most visible. The plan included 12 new trees at heavy standard size, 3.6-4.2 metres overall height and a lower level evergreen screen of Laurel and Rhododendron. Following discussion, it has been agreed that the size of the trees be increased to extra heavy standard size – 4.2- 5 metres overall height, and an additional 4 large Holly introduced to enhance the evergreen element. The planting, establishment and maintenance details are acceptable. The only additional requirements being the support of the trees with 2 stakes and horizontal bar rather than a single stake, provision of irrigation during establishment and the provision of spiral guards to the stem. The landscaping scheme would be secured through condition and it is important that this is fully implemented prior to any commencement of works on site.

#### Representations

- 10.8 The concerns raised by neighbours with regards to the impact of the development upon neighbouring residential amenity and upon visual amenity has been addressed within the report. The concerns raised relating to the loss of trees, has also been addressed within the report.
- 10.9 The concerns raised the applicant has not complied with Building Regulation, is a separate matter which falls outside the scope of this Planning Application.

- 10.10 The concerns raised relating to the impact house values is not a material planning consideration.
- 10.11 The concerns relating to the drawings not giving consideration to neighbouring amenity, is noted. It is considered that the drawings are accurate and adequately allows Local Planning Authority to assess the scheme in terms of its impact upon amenity.
- 10.12 The comments made by the occupant of No.5 The Glade that three of the windows in the rear elevation of the garage needs to be blocked, is noted. It is considered that these windows provide natural light in to the rear aspect of the garage and therefore it would be unreasonable to ask the applicant to remove these windows. To alleviate privacy concerns, two of the windows have been conditioned to be obscure glazed. Whilst the remaining window (furthest away from the No.5), due to separation distance from No.5, will not raise overlooking issues.
- 10.13 The comments made by the occupant of No.5 The Glade that a side elevation door facing No.5 also needs to be blocked, is also noted. However, the door in question does not feature any windows and is set a good distance away from the boundary of No.5. Therefore, it is not considered that this door would raise privacy issues or any other amenity issues.
- 10.14 A request has also been made that the Council should serve a new TPO so the new trees that are planted are not removed. It is considered that a new TPO is not necessary and that retention of the trees and landscaping that will be planted can be adequately protected via conditions.
- 10.15 The occupant of No.5 The Glade has also commented that the garage, by law, needs to be set 28m away from No.5 The Glade and the plans need to show finished floor levels with 45 degree and 60 degree lines. The separation distance of the garage have been assessed and for a building of this size and the angle at which it is positioned from neighboring dwellings, it is concluded that the proposal does not raise amenity issues. There are no separation distances enshrined in planning law. There is however separation distance guidelines set out in planning policy and it is considered that the proposal broadly meets those guidelines.

## **11.0 CONCLUSION**

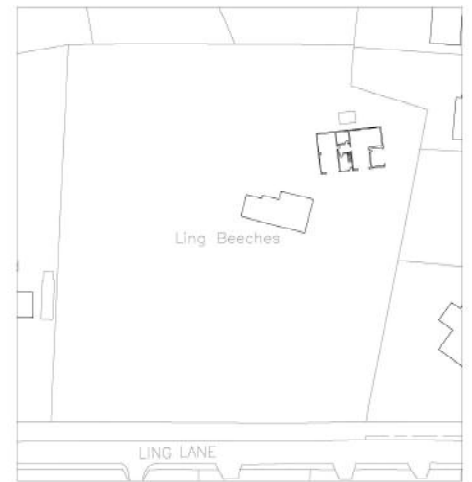
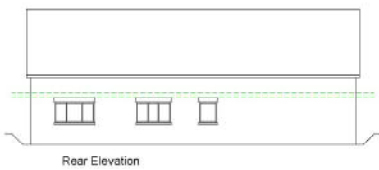
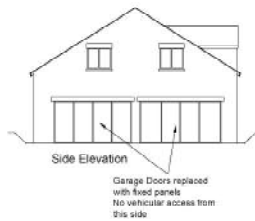
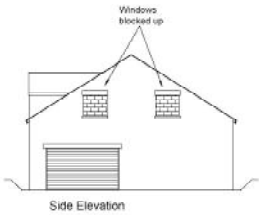
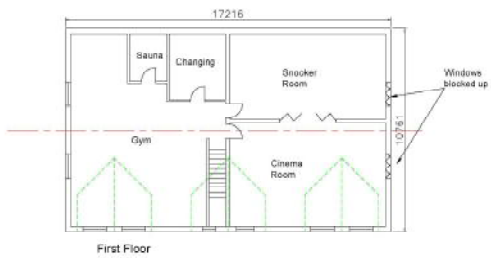
- 11.1 It is considered that the building with the necessary conditions will not have an adverse impact upon the character of the area or upon neighbouring residential amenity. The tree loss that has occurred on site and the impact of the development upon trees is not an ideal situation, but it is not an issue that the scheme can be refused upon. The Landscape Officer has also assessed the application in relation to impact on trees and with regards to the trees that have been lost, and have not raised significant objections subject to conditions that have been outlined at the head of the report. Therefore, on balance, it is considered that the proposal complies with planning policy guidance and is recommended for approval.

### **Background Papers:**

Application file: 15/06738/FU

Certificate of ownership: Certificate A signed by the applicant Mr T Khalid





Rev. A Eastern first floor windows blocked up, western garage doors replaced with fixed panels.

Ling Beeches, Ling Lane  
Proposed double garage, gym, snooker and cinema room

Proposed PLANS AND ELEVATIONS

DATE: 15/02/2016  
DRAWN BY: [Name]  
CHECKED BY: [Name]  
SCALE: 1:50  
PROJECT: A - Feb 2016

AS SHOWN @ A1  
01112015



# NORTH AND EAST PLANS PANEL

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

SCALE : 1/1500

