



## Report of the Chief Planning Officer

### PLANS PANEL NORTH & EAST

Date: 4 August 2016

**Subject: APPLICATION 16/00652/FU – Retrospective application for a change of use of a dwelling house (C3 use class) to a 6 bedroom House in Multiple Occupation (C4 use class) at 18 Borrough Avenue, Gledhow, Leeds, LS8 1LR.**

#### APPLICANT

Property Angels

#### DATE VALID

8 February 2016

#### TARGET DATE

4 April 2016

#### Electoral Wards Affected:

Roundhay

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. Accord with approved plans
3. Details of sound proofing
4. Details of secure cycle parking
5. Details of bins and bin storage
6. Details of access point including dropped kerbs supported by swept path analysis

#### 1.0 INTRODUCTION

- 1.1 This application seeks retrospective planning permission for the conversion of 18 Borrough Avenue, formerly in use as a dwelling, to a House in Multiple Occupation (Class C4 of the Use Classes Order).
- 1.2 The application was brought to 2 June 2016 Panel at the request of former Councillor Bill Urry who cited his reasons as increased levels of noise and disturbance from the C4 use and additional parking pressures and safeguarding issues for the child minding operation to the adjoining property due to uncertainty of

whom will reside at No.18 Borrough Avenue as well as increased levels of noise and disturbance.

- 1.3 Consideration of the application was deferred with the Panel minute recording the resolution as:

“That this item be deferred whilst clarification on Core Strategy H6 was sought.”

This application was put to Members advising that there was not a concentration of HMO's on Borrough Avenue. Officers have looked at the wider geographical area and Officers remain of the view that the numbers of HMO's within the area set out below are not regarded as a high concentration and cover a wide area of search. Therefore the application is considered to accord with requirements of Policy H6. Officers now have access to a mapping tool that is linked to council tax records (based on council tax records and the HMO register) which they did not have during the earlier assessment of the application. This has revealed HMOs in the following streets:

- Borrough Avenue x 1 HMO
- Borrough View x 1
- Brackenwood Green x 2
- Chandos Gardens x 4
- Chandos Avenue x 2
- Chandos Terrace x 1
- Chandos Place x 3

## **2.0 PROPOSAL**

- 2.1 The proposed development seeks retrospective planning permission for the conversion of a dwelling house in the C3 use class to a 6 bedroom House in Multiple Occupation (HMO). No external alterations to the building are proposed.

The layout would be over tow floor and comprise of:

### Ground Floor

Entrance hall

Communal kitchen and dining/living areas

Bathroom

Two bedrooms

### First floor

Four bedrooms

Bathroom

- 2.2 The existing garden areas to the rear and side would provide the external amenity areas with the rear garden being the private amenity space.
- 2.5 Parking provision would be three spaces to an existing hard-standing area to the front. The vehicular and pedestrian entrance into the site from Borrough Avenue would remain.

## **3.0 SITE AND SURROUNDINGS**

- 3.1 The wider area is residential in character and is located within a well-established residential settlement close to public transport routes and local amenities and is therefore located within a sustainable location. Borrough Avenue appears to have been developed over time with properties ranging from traditional brick built, hipped roofed semi-detached properties and pitched roofed bungalows to its eastern side whilst to the western side are pre-fabricated pitched roofed semi-detached properties some retaining the concrete finish whilst others have had brick slips added to their elevations.
- 3.2 The application relates to No.18 Borrough Avenue, The property is a semi-detached bungalow constructed in red brick under a tiled pitched roof. The original building has been extended to the side and front with a box dormer to the rear. The roof-space offers habitable space with the dormer, roof lights and a side elevation window serving the rooms within the roof-space.
- 3.3 The site is located to close to the junction of Borrough Avenue and Chandos Avenue and the dwelling occupies a corner plot that is bounded to the front by a red brick wall with a dropped kerb and punctuation within the wall allowing access into the site from the highway. The front of the site has a hard-standing area and a lawned section to the northern side. To the rear is the private garden area that is bounded in the main by 1.5m -1.8m high closed panel timber fencing.
- 3.4 At the time of the Officers site visit the bins were stored to the rear of the building.

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

- 4.1 08/05394/FU - Retrospective application for enlarged side extension and insertion of door and window. 1.7m high boundary wall and gates to front – Approved
- 4.2 30/6/02/FU - Single storey side extension with rooms in the roof and porch to front

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

- 5.1 None

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

- 6.1 The application has been advertised by site notice dated the 26 February 2016. In response 11 letters of objection (the occupant of No.16 Borrough Avenue has written in several times and counting those comments as a whole the quantum of representation is 11). In addition comments from (former) Cllr Urry have also been received and a petition containing 85 signatures from local residents.
- 6.2 The issues raised by local residents have been summarised below:
- Residents received no notification other than a press advert
  - Inaccurate details submitted with the application (i.e. detached property, length of time operating as an HMO and the details on the OS Map annotating a surgery)
  - Highways safety
  - Potential safeguarding implications on children in the care of the child-minder at No.16 Borrough Avenue.
  - Occupant of No.16 has concerns regarding the impact this will have on her business as a child-minder.

- Parents of children under the care of occupant of No.16 concerns regarding safeguarding.
- Impact on market value of other properties.
- The HMO is in operation without planning permission.
- Increased levels of noise and disturbance
- Inadequate sound proofing demonstrated by recent incidents with loud music being played late into the night.
- Loss of a family unit in a street where families and older residents live.
- Residents of the HMO would unlikely add to the existing community spirit.
- The rear garden area is not of sufficient size for six individual residents.
- This development would set a precedent.
- The HMO would detrimentally alter the character of the street and surrounding area resulting in a less attractive proposition for families to reside in the immediate area.

6.3 Former Councillor Urry raises objections regarding additional parking pressures and safeguarding issues for the child minding operation to the adjoining property due to uncertainty of whom will reside at No.18 Borrough Avenue as well as increased levels of noise and disturbance.

## **7.0 CONSULTATIONS RESPONSES:**

7.1 Highways: No objections have been raised with regard to the parking provision and the impact on highway safety. However conditions have been suggested regards the re-positioning of the existing telegraph pole within the highway verge on Borrough Avenue and that the existing footpath crossing need widening. In addition conditions regarding cycle parking and that parking be laid out and to remain unallocated.

## **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.

### Local Policy

The Development Plan for Leeds currently comprises:

- (i) The Leeds Core Strategy (Adopted November 2014). This is the main document of the Local Development Framework (LDF).
- (ii) Saved UDP Policies (2006) – Appendix 1 of the Core Strategy.
- (iii) The Natural Resources and Waste Local Plan (2013).

8.2 The plans aim is to guide development and investment decisions and to provide a framework for Development Plan Documents. Following the adoption of the Core Strategy and the Natural Resources and Waste Local Plan, a number of UDP Policies have been deleted which are also identified in Appendix 1 of the Core Strategy. In addition to the saved UDP Policies a number of site specific policies are also saved until they are superseded by the Site Allocations Plan, Aire Valley Area Action Plan or future Development Plan Documents once adopted.

8.3 The below Core strategy and saved UDP (2006) policies, supplementary development documents and national guidance are considered to be relevant to this application.

### Core Strategy

General Policy – Sets out the presumption in favour of sustainable development

Policy SP1: Seeks to concentrate the majority of new development within the main urban areas and ensure that development is appropriate to its context.

Policy H4 – Housing Mix

Policy H6 Part A– Conversions to HMO's

Policy T2 – Accessibility requirements and new development

### Saved UDP (2006)

Policy GP5: Development should not cause loss of amenity and resolve detailed considerations.

Policy BD5: Seeks to ensure new development protects amenity.

Supplementary Planning Guidance 13 - Neighbourhoods for Living.

Street Design Guide

Parking

### National Policy

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

- This document promotes sustainable development (economic, social and environmental). Section 6 – Creating a wide choice of homes, of the National Planning Policy Framework (NPPF) is relevant to the consideration of this application.
- Guidance on conditions is provided within the Planning Policy Guidance.

#### 8.4 DCLG - Technical Housing Standards 2015:

The above document sets internal space standards within new dwellings and is suitable for application across all tenures. The housing standards are a material consideration in dealing with planning applications. The government's Planning Practice Guidance advises that where a Local Planning Authority wishes to require an internal space standard it should only do so by reference in the local plan to the nationally described space standard. With this in mind the City Council is currently developing the Leeds Standard. However, as the Leeds Standard is at an early stage within the local plan process, and is in the process of moving towards adoption, only limited weight can be attached to it at this stage. The standards would apply to new builds and not to conversions.

In any event, and for the purposes of clarity and giving an indication as to the nature of the accommodation provided, it should be noted that the proposal exceeds the standards set out above.

In this instance the proposal consists of six bedrooms with communal facilities therefore the housing standards require at the highest minimum internal floor area and storage 132 sq/m for 6 bedrooms, 8 bed-spaces (the maximum has been used as some rooms could reasonably accommodate double beds). The internal floor area of the bedrooms would be:

Bedroom 1: 14.1 sq/m

Bedroom 2: 13.1 sq/m

Bedroom 3: 12.1 sq/m

Bedroom 4: 11.9 sq/m

Bedroom 5: 8.5 sq/m  
Bedroom 6: 24.7 sq/m

The total internal floor-space including bathrooms, living, dining and kitchen areas as well as a storage/utility room and hallways equates to some 170 sq/m.

## 9.0 MAIN ISSUES

- Principle of Development and amenity
- Highway matters
- Character and appearance
- Other matters

## 10.0 APPRAISAL

### Principle of Development and amenity

- 10.1 Sustainable Development is a key aspect of the current planning policy framework at both national and a local level. Spatial Policy 1 of the Leeds Core Strategy (LCS) seeks to ensure that new development is concentrated in the main urban areas in order to ensure that shops, services and public transport are easily accessible. The application site is located within a wider established area of a residential settlement and is in current residential use as an unauthorised HMO and has historically been used for residential purposes. The site comprising a semi-detached property with associated off-street parking and gardens. The site is close to local facilities and good public transport routes and as such is considered to be in a sustainable location.
- 10.2 HMO's often present an array of issues and the government has recognised that high concentrations of HMOs in an area can lead to negative issues of:
- Increased anti-social behaviour, noise and nuisance
  - Imbalanced and unsustainable communities
  - Negative Impacts on the physical environment and streetscapes
  - Pressures upon parking provision
  - Increased crime
  - Growth in the private sector at the expense of owner-occupation
  - Pressure on local community facilities
  - Restructuring of retail, commercial services and recreational facilities to suit the lifestyles of the predominant population.
- 10.3 However the LPA recognise that HMOs, in a controlled environment, can make a valuable contribution to meeting some housing needs. The applicant has submitted supporting information regarding the proposed occupants of the HMO as professionals and key workers but in reality the LPA would be unable to monitor this and attaching conditions to restrict the type of occupant would not be reasonable and thus fails the test set out in the Planning Policy Guidance (PPG). Moreover, the HMO operator/owner could very easily sell off its asset to an operator/owner who had a business model that was less specific to residents of the property. Therefore whilst the supporting information is noted little weight to this can be given.
- 10.4 Policy H6(A) of the Leeds Core Strategy deals with *inter alia* conversions of existing dwellings for use as HMO's. Development proposals for new HMOs, within the area of Leeds covered by the Article 4 Direction for HMOs proposals for new HMOs, will be determined against the below points:

- (i) To ensure that a sufficient supply of HMOs is maintained in Leeds,
- (ii) To ensure that HMOs are distributed in areas well connected to employment and educational destinations associated with HMO occupants,
- (iii) To avoid detrimental impacts through high concentrations of HMOs, which would undermine the balance and health of communities,
- (iv) To ensure that proposals for new HMOs address relevant amenity and parking concerns,
- (v) To avoid the loss of existing housing suitable for family occupation in areas of existing high concentrations of HMOs.

- 10.5 Saved UDP Policy GP5 also requires development proposals to avoid loss of amenity. Records show that within the street and nearby streets as set out in the introduction of this report, indicate that there are a number of HMO's, however given the geographical area of search and the cumulative numbers it is not considered that the numbers of HMO's represent a high concentration within the immediate area and Officers remain of the view, using the new data source (the mapping system linked to council tax) that there would not be cumulative harm from the granting of permission for this application adding to the number of HMO's. The number of HMO's are more dispersed and in a relatively low density area. The area would still be dominated by family housing.
- 10.6 The proposal would likely increase the level of activity at the property over and above that associated with occupation of the dwelling by a single family in respect of coming and goings of tenants and visitors and the manoeuvring of any vehicles associated with tenants and visitors. The OS Map shows that at some point the unit operated as a surgery and therefore there will have been a greater degree of activity from this property on the street. There is a greater degree of separation between dwellings than is found in higher density areas of the City and this in union with the historic use of the property is a factor to consider in terms of noise and disturbance. Therefore, it is considered that on balance, the six bedroom HMO will not be unduly harmful to the living conditions of the neighbouring properties. Concerns have been raised by local residents regarding the impact of noise generated from within the property, this can be addressed by appropriate sound proofing.
- 10.7 The living conditions within the HMO for current and future occupants is considered acceptable in terms of bedroom sizes, communal areas and the number of bathrooms. It is noted that a first floor bedroom is much smaller than the others at 8.5sq/m. The city council's Advisory Standards for HMO's prepared by the Housing Regulations Team – Housing Services (January 2012) sets advice to assist landlords, managing agents and developers to design, improve and maintain houses in multiple occupation to a reasonable standard. This is not a planning policy document and should be afforded limited weight. However, it does provide some helpful guidance. The standards cover both licensed and non-licensable HMOs. These standards relate to Category A – bedsit and Category B – shared houses only. Separate advice is available for Category C – hostels. In this instance the conversion relates to a Category B HMO. This document sets out space standards and states that bedrooms should be 10sq/m except where a separate communal living room is provided in which case the bedroom may be 6.5sq/m. As such the smallest bedroom proposed is above this advice. There are good levels of internal space, good opportunities for natural light and outlooks, albeit bedroom 3 only has a skylight but on balance this can be accepted in light of the roof levels of internal communal space. It is therefore considered that the living conditions of occupants of No.18 would be acceptable.

- 10.8 As part of this assessment Officers have engaged with LCC's Council Tax Service to establish what information they hold. This has been used in union with the mapping data source now made available to Officers which confirms that in the immediate area the concentration of HMO numbers is higher than was found without the new mapping data source but in Officers view does not represent a high concentration.
- 10.9 The provision of the shared house could provide a greater choice of housing and accords with the LCS in that the Cities Strategic Housing Market Assessment - 2011 anticipates growth in the need for HMOs in the early years of the Development Plan to accommodate for young people and because of strong demand for private rented accommodation from working people unable to buy.

#### Highways matters

- 10.10 Leeds Core Strategy Policy T2 seeks to ensure that all developments achieve safe and secure access and are located in accessible locations and part (iv) of Policy H6 deals with parking concerns. As part of this application a technical view was sought from Highways. No objections have been raised by Highways with regard to the level of parking provision and the impact or on matters of highway safety. However, conditions were suggested regards the re-positioning of the existing telegraph pole within the highway verge on Borrough Avenue to allow the parking layout to work. This was previously put to the applicant's agents as this could prove costly. The agents have now responded with a revised parking layout plan showing three cars parked on the site seeking to avoid the relocation of the pole. Highways have commented upon this and have made suggestions to re-locate the access and provide swept path analysis for a larger car. These matters can be conditioned along with all relevant highways works, cycle parking and that the parking be laid out and to remain unallocated.

#### Character and Appearance

- 10.11 The change of use application does not propose any alterations to the property and the buildings appearance it would remain as existing. The building would also remain in residential use within a residential context and whilst not a family home it would not alter the appearance of the street or immediate area. The character would remain residential albeit breaching the current family and/or older occupancy. Conditions can be imposed for details bin storage to cater for the increased intensification.
- 10.12 The HMO has a garden area. The advice set out in SPG13 – Neighbourhoods for Living, is that private amenity for flats should seek to achieve a minimum area of 25% of the total gross floor area excluding vehicular provisions. The garden area to the rear is supplemented by a lawned area to the side but in reality it would be the rear area that would be utilised due to its private nature. The rear garden is some 69 sq/m and is considered to be an acceptable level of garden space to cater for the occupants of the HMO as it would if the property was to return to family occupation.

#### Other matters

- 10.13 This application has attracted 11 letters of representation a petition with 85 signatures and the matter being called to Panel by former Cllr Urry regarding additional parking pressures and safeguarding issues for the child minding operation to the adjoining property due to uncertainty of whom will reside at No.18 Borrough Avenue as well as increased levels of noise and disturbance. Local residents have made comments regarding impact on amenity and highway safety. Matters of



principle, character and appearance and highways have already been covered within this report. Other matters raised by way of representation are:

- Residents received no notification other than a press advert
- Inaccurate details submitted with the application (i.e. detached property, length of time operating as an HMO and the details on the OS Map annotating a surgery)
- Potential safeguarding implications on children in the care of the child-minder at No.16 Borrough Avenue.
- Occupant of No.16 has concerns regarding the impact this will have on her business as a child-minder.
- Parents of children under the care of occupant of No.16 concerns regarding safeguarding.
- Impact on market value of other properties.
- The HMO is in operation without planning permission.
- Residents of the HMO would unlikely add to the existing community spirit.
- This development would set a precedent.

- 10.14 A site notice was posted notifying residents of the planning application and the details submitted with the application regarding the property type and details of occupancy has been corrected by the agent for the applicant. The property is clearly a semi-detached property and the Officers site visit would have established this without submitted corrections. The details on the OS map are historical and the annotation is set by the Ordinance Survey not the agent or applicant. The application has not been assessed on the assumption that a surgery still exists and Officers are aware that such annotation stem from when such medical functions often sat at the end of residential streets and do not necessarily outline a true use at the current time.
- 10.15 No evidence has been provided that the application site not being in family use would be harmful to childrens safety. The duty of care would fall with the child minding operator and it is not considered that the assumptions made should used to detriment the scheme. The fact that a child minding business sits next to a HMO seems to be no different than a childrens nursery that operates within a commercial context e.g. offices and restaurants where high footfall and transience exist. Such uses in such contexts exist across the City. Notwithstanding this, Officers do appreciate the concerns, but consider little weight can be given to this.
- 10.16 Impact on market values is not material to the assessment of this application and whilst frustrating for both residents and the LPA it is not an offence to enter into development prior to gaining planning permission (other than in the case of unauthorised display of advertisements or works to Listed Buildings). However, the use of the site as a HMO is a planning breach and this application seeks to remedy that breach.
- 10.17 With regards precedent; legally the LPA must have regard to its current policy regime at the time of assessment and in the event of planning permission being granted there would be a reasonable chance that other such applications may follow within the immediate area and the Courts have ruled that it is a reasonable expectation from applicants that LPA's demonstrate a consistency in decision making (*Poundstretcher v Secretary of State for the Environment and Liverpool City Council - 1989*). The consequences of creating a precedent may be material; however, such precedent in any area must be measured on its merits and full consideration on whether all circumstances are the same. As set out in the Courts (*Roberts v Brent Council – 2008*). As such, if any further applications for conversions to HMO's are

received they must be assessed on their merits and against the current Policy requirement set out in the Development Plan.

## **11.0 CONCLUSION**

- 11.1 In light of the above, the principle of the HMO on this site within the immediate location is considered to be acceptable in policy terms and the impact on residential amenity is not considered to be, on balance unduly harmful whilst highways and all other material planning matters are considered to be acceptable and these matters could be secured by relevant conditions. Subject to the conditions at the head of this report it is recommended that planning permission be granted.

### **Background Papers:**

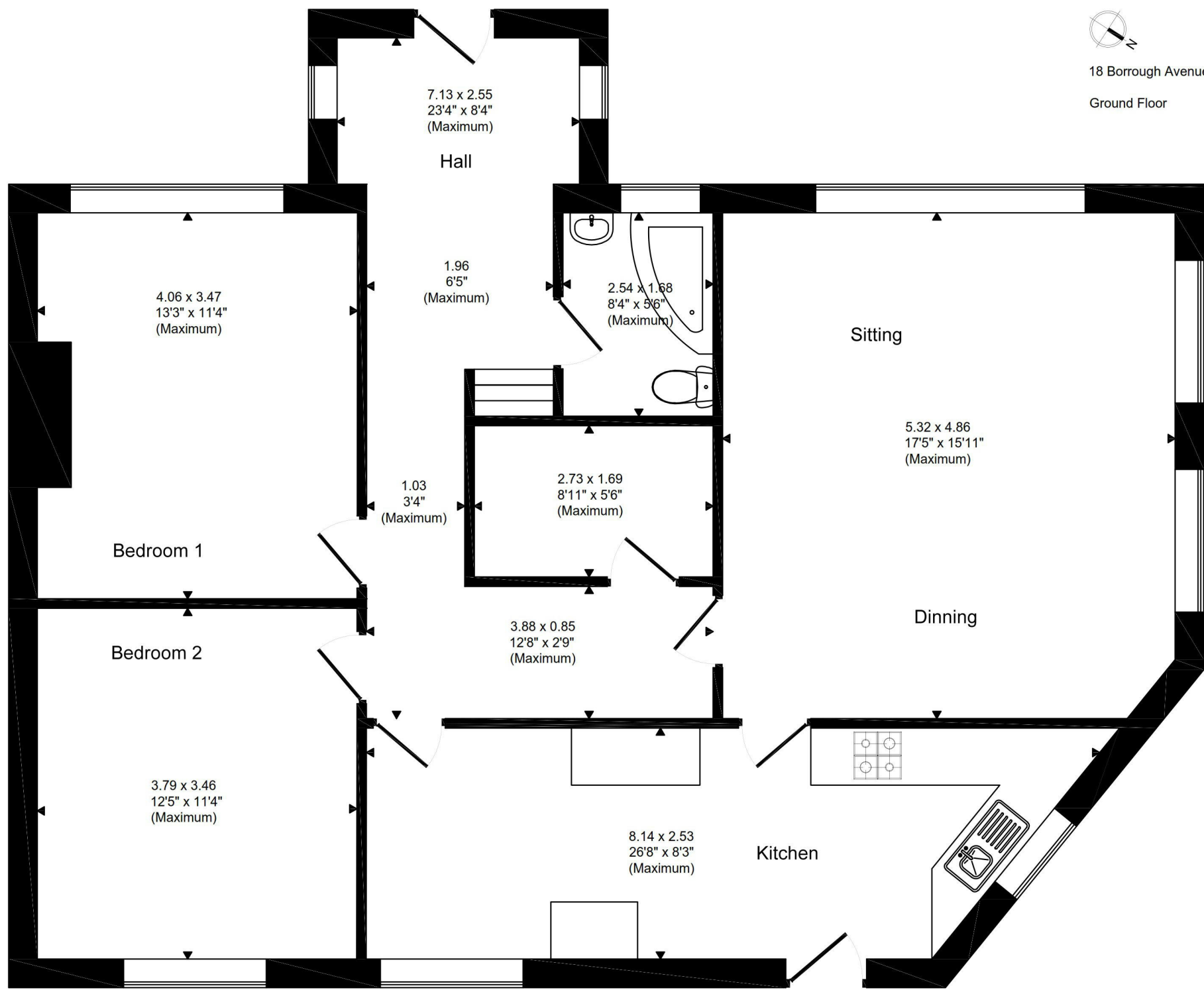
Application file

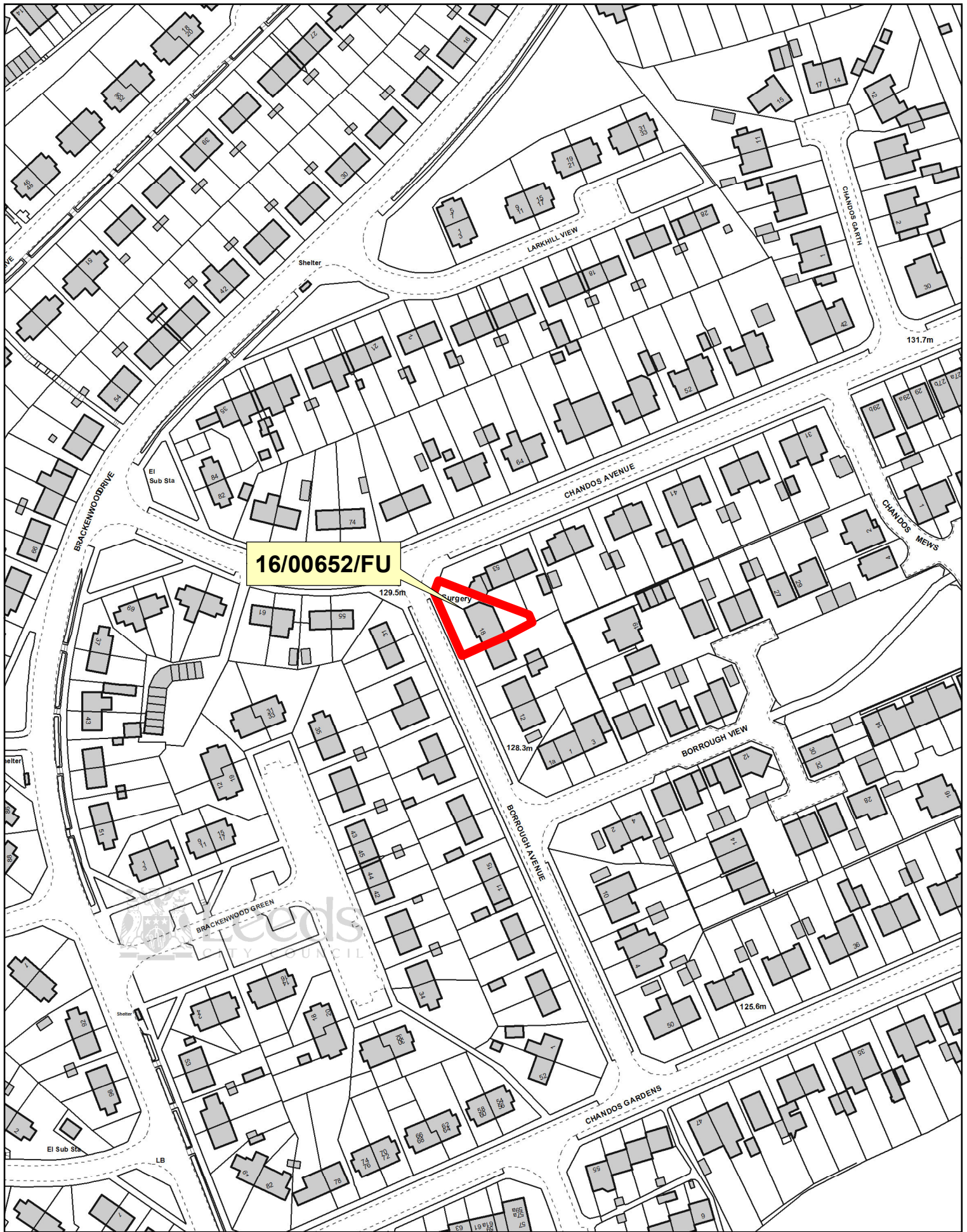
Certificate of ownership: Certificate B signed by the agent 1 February 2016.



18 Borough Avenue

Ground Floor





# NORTH AND EAST PLANS PANEL

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SCALE : 1/1500

