



Report of the Chief Planning Officer

SOUTH & WEST PLANS PANEL

Date: 25th August, 2016

Subject: APPLICATION 16/03011/FU – Change of use of dwelling (C3) to House in Multiple Occupation (C4) at 18 Welton Grove, Hyde Park, Leeds. LS6 1ES

APPLICANT

Mr K L James

DATE VALID

11th May, 2016

TARGET DATE

26th August, 2016

Electoral Wards Affected:

Hyde Park & Woodhouse

Yes

Ward Members consulted
(referred to in report)

Specific Implications For:

Equality and Diversity

Community Cohesion

Narrowing the Gap

RECOMMENDATION: REFUSE PERMISSION for the following reasons:

1. The Local Planning Authority considers that the proposed change of use to a House in Multiple Occupation would lead to an unacceptable intensification of use of the site resulting in a significant reduction in amenity to local residents through increased noise and disturbance and comings and goings with a resultant cumulative impact in association with other C4 HMOs in the street and immediate locality. The proposal therefore fails to comply with Policy H6 of the Leeds Core Strategy, Saved Policy GP5 of the Leeds Unitary Development Plan (Review 2006), supplementary planning guidance within SPG:13 'Neighbourhoods for Living' and guidance within the National Planning Policy Framework.
2. The Local Planning Authority considers that the proposal would lead to the loss of a house suitable for family occupation contrary to Criterion v of policy H6 of the Adopted Core Strategy and further contribute to the housing imbalance in this area. Further to this, the proposal put forward is also considered to be contrary to the wider objectives of National Planning Policy Framework (NPPF) paragraph 50 which aims to create sustainable, inclusive and mixed communities and ensure local planning authorities plan for a mix of housing based on current and future demographic trends, market trends and the needs of different groups in the community.

1.0 INTRODUCTION:

1.1 This application is brought to the Panel at the request of Councillor Neil Walshaw who supports the application. The grounds for support are summarised in the 'Representations' section of the Appraisal.

2.0 PROPOSAL:

2.1 The proposal is to change the use of a single dwelling (C3) to a House in Multiple Occupation (C4).

2.2 The proposed use would allow between 3 and 6 unrelated individuals to live in the property.

2.3 The application does not propose any external alterations to the property.

3.0 SITE AND SURROUNDINGS:

3.1 The site comprises a mid-terraced house of red brick construction which dates from the early Edwardian era.

3.2 The property has no front garden, but has a compact yard area to the rear.

3.3 The property does not have any off-street parking spaces.

3.4 The property is of similar appearance and scale to others and is in a primarily residential area which has a high concentration of densely packed residential dwellings.

4.0 RELEVANT PLANNING HISTORY:

4.1 No recent planning history at this address.

4.3 Relevant Planning Appeals:

Appeal reference APP/N4720/W/16/3145215 – Change of use to HMO at 14 Brudenell Street, Leeds LS6. Appeal dismissed 26/05/2016.

Appeal reference APP/N4720/A/12/2177820 – Change of use to HMO at 11 Quarry Mount Place, Leeds LS6. Appeal Dismissed November 2012.

Appeal reference APP/N4720/A/13/2195802 – Change of use to HMO at 16 Glossop Street, Leeds LS6. Appeal Dismissed October 2013.

5.0 HISTORY OF NEGOTIATIONS:

5.1 No record of any pre-application enquiries or negotiations.

6.0 PUBLIC/LOCAL RESPONSE:

6.1 The application has been advertised by means of a Site Notice.

6.2 Ward Councillor Neil Walshaw has written in support of the proposal and to ask that this application be referred to the Plans Panel.

6.3 The Leeds HMO Lobby has written to object to this application.

7.0 CONSULTATION RESPONSES:

7.1 The following consultations have been carried out for this application.

7.2 Highways. The Highways Officer has commented that the proposal would be acceptable subject to conditions relating to bin storage and cycle parking.

7.3 Neighbourhoods & Housing. The Housing Officer has commented that the proposal would need to comply with the requirements of the Housing Act. Conditions would therefore be recommended if approval were to be subsequently granted.

7.4 LCC Council Tax. Council Tax records indicate the following with regard to the adjoining properties:
Council Tax records indicate that 33 percent of the existing properties on Welton Grove are recorded as being in single family occupancy for Council Tax purposes, with the properties on either side of the host property being recorded as HMOs.

8.0 PLANNING POLICIES:

8.1 The Development Plan for Leeds comprises the adopted Core Strategy (2014), saved policies from the Leeds UDP (Review 2006) and the Natural Resources and Waste DPD (2013).

Local Policy

8.2 Relevant policies in the Core Strategy are as follows:

- Policy P10: New development will be expected to provide high standards of design appropriate to its scale, location and function and taking into consideration local context, car parking and the prevention of crime.
- Policy T2: New development should be located in accessible locations and served by existing or programmed highways improvements, public transport and infrastructure for pedestrians, cyclists and the disabled.
- Policy H6: This states that proposals for HMOs should seek to ensure that adequate provision for HMOs should be made, but emphasizes that the location of HMOs should be balanced so as to avoid any undue concentration of student occupation by avoiding excessive concentrations of student accommodation (in a single development or in combination with existing accommodation) which would undermine the balance and wellbeing of communities

8.3 The most relevant saved Policies from the Leeds Unitary Development Plan are listed below: -

- UDP policy GP5 seeks to ensure all detailed planning considerations are resolved as part of the application process including the protection of local residents amenities.

Relevant Supplementary Guidance:

8.4 Supplementary Planning Documents provides a more detailed explanation of how strategic policies of the Unitary Development Plan and Core Strategy can be practically implemented. The following SPDs are relevant and have been included in the Local Development Scheme, with the intention to retain these documents as 'guidance' for local planning purposes.

- Parking SPD - This was approved in 2016 and sets out recommended minimum standards for parking.

9.0 MAIN ISSUES:

9.1 The following main issues have been identified:

- Principle of use and Housing Mix
- Impact on neighbouring amenity
- Highway safety and parking
- Bin storage
- Applicant's case in support of the proposal
- Representations

10.0 APPRAISAL:

Principle of use and housing mix

- 10.1 The conversion of houses falling within the C3 planning use class to houses in multiple occupation (HMOs), including both those falling within C4 and sui generis use classes, has made a significant contribution to the current imbalance between family housing and HMOs. At the time of introducing an Article 4 Direction in February 2012 the Council noted that many, if not all, of the impacts outlined in the national government published report 'Evidence Gathering – Housing in Multiple Occupation and possible planning response – Final Report' from September 2008 were occurring in the LS6 area”.
- 10.2 Following the introduction of the Article 4 Direction in Leeds and the adoption of the Core Strategy, planning applications for changes of use to HMOs falling within C4 planning use class have been determined taking into account Core Strategy Policy H6 and Saved UDP Policy GP5.
- 10.3 Core Strategy Policy H6 includes specific criteria for determining proposals for new HMOs, in part in response to the changes to the Town and Country Planning (General Permitted Development) Order 1995 (as amended) and the Town and Country Planning (Use Classes) Order 1987 in 2010. The relevant part of Policy H6 which relates to HMOs also relates to HMOs occupied by all individuals and not solely those occupied by students.
- 10.4 Policy H6 aims to avoid high concentrations of HMOs which would undermine the balance and health of communities. This policy, among other things, aims to ensure that (i) a sufficient supply of HMOs is maintained in Leeds, (ii) HMOs are

located in areas well connected to employment and educational institutions associated with HMO occupants, (iii) the detrimental impacts through high concentrations of HMOs are avoided where this would undermine the balance and health of communities and (v) this would not lead to the loss of housing suitable for family occupation in areas of existing high concentrations of HMOs.

- 10.5 The proposal put forward is considered to be in conflict with criteria (iii) and (v) of Policy H6 in that the application property is considered to be in a street where there is a marked imbalance between family dwellings and shared accommodation, with Council Tax records indicating that 66 percent of the existing properties are HMOs. To further increase the number of HMOs in this street would therefore serve only to exacerbate the current imbalance and cannot be supported.
- 10.6 The wider area is already considered to suffer from detrimental impacts associated with the high concentration of HMOs. This proposal would lead to the loss of a house suitable for family occupation in a street which is considered to still retain a reasonable mix of family and shared properties, thus contributing to the wider issue of harm resulting from unacceptable concentrations of HMOs. It is therefore noted that although the proposal would add to the supply of HMOs in compliance with criterion (i), no information has been provided by the applicant to demonstrate that there is currently an insufficient supply of HMOs in this locality.
- 10.7 It is acknowledged that the application property is in an area that is well connected to employment and educational institutions, thereby complying with criterion (ii).
- 10.8 The submitted proposal is therefore considered to be contrary to the wider aims Core Strategy Policy H6 in that it would be likely lead to significant harm by creating further imbalance to the housing stock in the local area. The proposal would also lead to the loss of housing suitable for occupation by a family in a locality where there is a high concentration of HMOs.
- 10.9 The submitted proposal is also considered to be contrary to the wider objectives of National Planning Policy Framework (NPPF) paragraph 50 which aims to create sustainable, inclusive and mixed communities and ensure local planning authorities plan for a mix of housing based on current and future demographic trends, market trends and the needs of different groups in the community.
- 10.10 The aforementioned recent planning appeal decisions, which were for conversions of properties falling within the C3 planning use class to the C4 planning use class, at 11 Quarry Mount Place, 14 Brudenell Street and 16 Glossop Street (both in the LS6 postcode) have also been taken into consideration. The Inspectors for all of these appeals came to a similar conclusion with respect to housing mix considerations and as such these decisions have been given significant weight.
- 10.11 Further to the above it is noted that the supporting text to Core Strategy Policy H6 states that:
"In the interpretation of H6A(iii) it is recognised that some streets (or part of a street) may already have such a high concentration of HMOs that the conversion of remaining C3 dwellings will not cause further detrimental harm. Also, in the interpretation of H6A(v) it may be the case that the remaining C3 dwellings would be unappealing and effectively unsuitable for family occupation. In such circumstances Policy H6A would not be used to resist changes of use of such dwellings to HMOs".

10.12 In this instance, taking into account data obtained from the LCC Council Tax register, it is not considered that the concentration of HMOs in this locality is sufficient as to make the remaining C3 dwellings unsuitable for family occupation.

Impact on neighbouring amenity

10.13 Saved UDP Policy GP5 aims to protect amenity including neighbouring amenity.

10.14 Core Strategy Policy P10 aims to protect general and residential amenity. Policy H6, amongst other things, aims to ensure (i) the detrimental impacts through high concentrations of HMOs are avoided where this would undermine the balance and health of communities and (iv) proposals for new HMOs address relevant amenity concerns.

10.15 Neighbouring amenity can be impacted in a number of ways. The national government report 'Evidence Gathering – Housing in Multiple Occupation and possible planning response – Final Report' notes that this can include through anti-social behaviour, noise and nuisance. This can result from an increased number, or different pattern, of comings and goings of up to 6 adults in a C4 HMO compared to a family living in the same property or from the different lifestyles of a group of adults living together in a property rather than a family for example.

10.16 The City Council has refused similar applications for the conversion of C3 properties to C4 HMOs, including those at 11 Quarry Mount Place, 14 Brudenell Street and 16 Glossop Street, all in the LS6 postcode, in 2012, 2013 and 2015 respectively. Those proposals were judged to result in a harmful impact on neighbouring amenity to residents in surrounding streets due to an over-concentration of HMOs in their respective localities. Those planning refusals were the subject of appeals and the Planning Inspectors in each case agreed with the City Council in this respect. As such those decisions have been given significant weight.

10.17 Planning Use Class C4 would allow between 3 and 6 occupants. The proposal put forward at the application site could therefore lead to the occupation of the property by up to 6 adults, thereby resulting in a significant increase in comings and goings, to the detriment of neighbouring amenity.

10.18 There is no recent planning history relating to the use of the adjoining properties, although Council Tax records indicate that 33 percent of the existing properties on Welton Grove are recorded as being in single family occupancy for Council Tax purposes, with the properties on either side of the host property being recorded as HMOs. As such, it is considered that the proposal is likely to result in an unacceptable impact on the existing amenity levels of adjacent properties due to the increased comings and goings to the application property by up to six unrelated individuals, which is considered unacceptable.

10.19 Although it is acknowledged that there is a relatively high number of HMOs in the locality, the nature of this street is such that it is not considered to have reached the stage where HMOs are the norm, but is instead still considered to have a reasonable mix of family and shared properties. This view is reinforced by Council Tax records.

- 10.20 It is furthermore considered that the proposal would be likely to lead to a harmful impact on neighbouring amenity in the locality due to the cumulative impact in addition to existing student housing and HMOs. A number of properties nearby are not occupied by students or occupied as HMOs, and it is considered that those properties would likely be affected by the creation of a further HMO.
- 10.21 The proposal is therefore considered to create significant harm in relation to neighbouring residential amenity and is considered contrary to the aims of Leeds UDP Policy GP5 which aims to protect amenity. The proposal is also considered contrary to Core Strategy Policy P10 which aims to protect residential and general amenity, Policy H6A criterion (iii) which aims to avoid detrimental impacts through high concentrations of HMOs, Policy H6A criterion (iv) which aims to protect amenity, and the guidance contained within the NPPF.

Highway safety and parking

- 10.22 Policies contained within the Street Design Guide SPD and Parking SPD aim to ensure adequate off street car parking spaces are provided to serve new residential development in order to prevent a significant increase in on-street car parking on residential streets which can lead to wider parking congestion and highway safety concerns. Core Strategy Policy T2 outlines accessibility and parking provision requirements for new development.
- 10.23 The existing property does not have any off-street car parking spaces. The proposal as submitted does not include any additional car parking spaces, and also gives no indication as to how cycles would be securely stored. As noted above, the City Council considers that there is a potential for an increase in parking demand from up to 6 adults living together when compared to the occupation of the property by a family. However, the City Council's Highways Officer has indicated verbally that a refusal on Highways grounds would be unreasonable given that the property does not currently have any off-street parking, and that details of cycle storage could potentially be dealt with via condition.

Bin storage

- 10.24 The proposal does not indicate any changes to the existing bin storage facilities. In the absence of details to indicate how additional needs for bin storage would be safely accommodated off-street, it is therefore considered that the increase in occupancy of the property to accommodate up to six unrelated individuals is potentially likely to result to result in an unsustainable demand for bin storage at a property with inadequate space to accommodate the requisite number of bins, thereby resulting in the storage or deposit of bins on the highway. This could however potentially be dealt with via condition, and is not considered sufficient grounds to support a separate reason for refusal.

Applicant's case in support of the proposal

- 10.25 The applicant states that he needs to sell the property in order to finance the purchase of a bungalow to cater for the medical needs of his father, the current occupant, and that the current property cannot be converted to meet those needs due to its design and layout.

- 10.26 The applicant has further stated that he has been advised by several Estate Agents that the host property is unsaleable unless it is granted planning permission for use as HMO, on the grounds that:
- 1) the property sits in the heart of student-occupied HMOs and would therefore be undesirable for any family or first-time buyer;
 - 2) Potential landlords are allegedly the target market for properties in this location and will not therefore pay a fair price, with a recent valuation being 90 percent less than the price for which the next door property was recently sold;

Representations

- 10.27 Ward Councillor Neil Walshaw has written to support this application and has requested by email that this application be referred to the Plans Panel for determination by Members on the grounds that the special medical needs of the applicant are such as to override policy considerations in this case, as he considers that the failure to assist the applicant in procuring the best value market price for the property would serve only to cost the City Council more in the long term when Health Costs are factored in. This is on the basis that the market value of a HMO is typically reported to be significantly greater than that of a similar property in single family occupancy only.
- 10.28 With reference to the points raised by Ward Councillor Neil Walshaw, issues relating to the likely increased sales value of the property as a means to facilitate medical care costs are not considered to carry sufficient weight as to form a significant material planning consideration. In fact, the issue of increased market sales value to facilitate special family needs is one which, if followed to its logical conclusion, would likely be used as an argument on a wider scale by applicants keen to sell their properties for a higher price, thereby setting an unwelcome precedent which would undermine the aims of Policy H6, which seeks to maintain a balance between family housing and HMOs irrespective of market values.
- 10.29 The Leeds HMO Lobby has written to object to the application, stating that the proposal is contrary to local and national planning policies with regard to the creation of sustainable, balanced communities, and that the proposal is contrary to local amenity through noise and disturbance. This objection also refers to previous cases for changes of use to Houses in Multiple Occupation in the locality. This objection is considered to concur with the Officer recommendation to refuse the application.

11.0 CONCLUSION:

- 11.1 The proposal is considered contrary to the aims of Policy H6, which seeks to promote and maintain a balance between family occupation and HMOs.
- 11.2 Officers consider that the host property is suitable for family occupation, as it is reasonably spacious property with its own garden, in close proximity to local shops.
- 11.3 Whilst the Local Planning Authority is sympathetic to the needs of the applicant and his family, no significant weight can be given to issues arising from property values, with Planning Case Law being clear that the consideration of house prices is not a material consideration. Whilst some limited weight can be given to the special circumstances of the applicant, officers consider that the applicant has not clearly demonstrated that the property cannot be sold at a reasonable market value for a family dwelling.

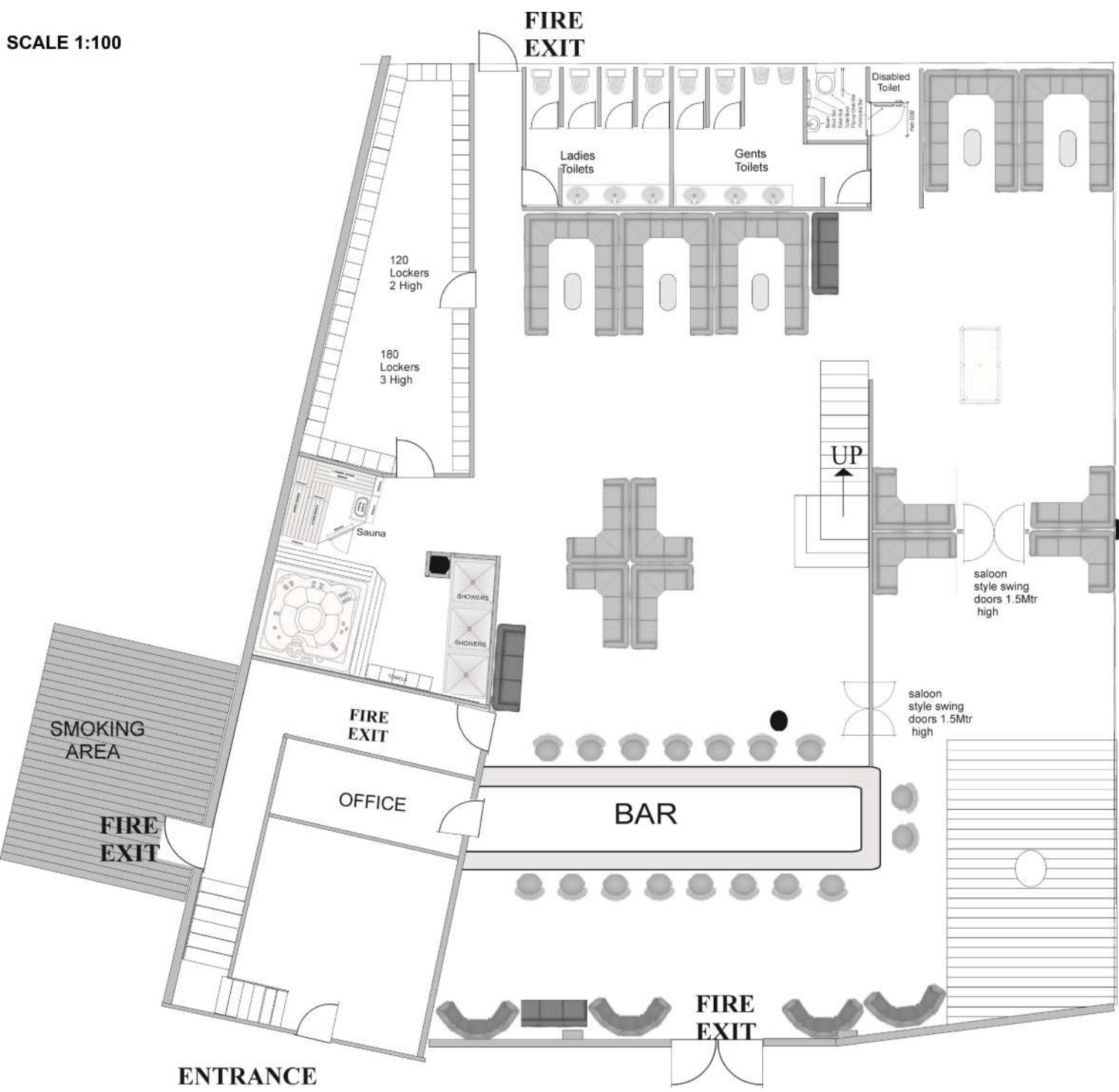
11.4 The Panel is therefore recommended to refuse planning permission.

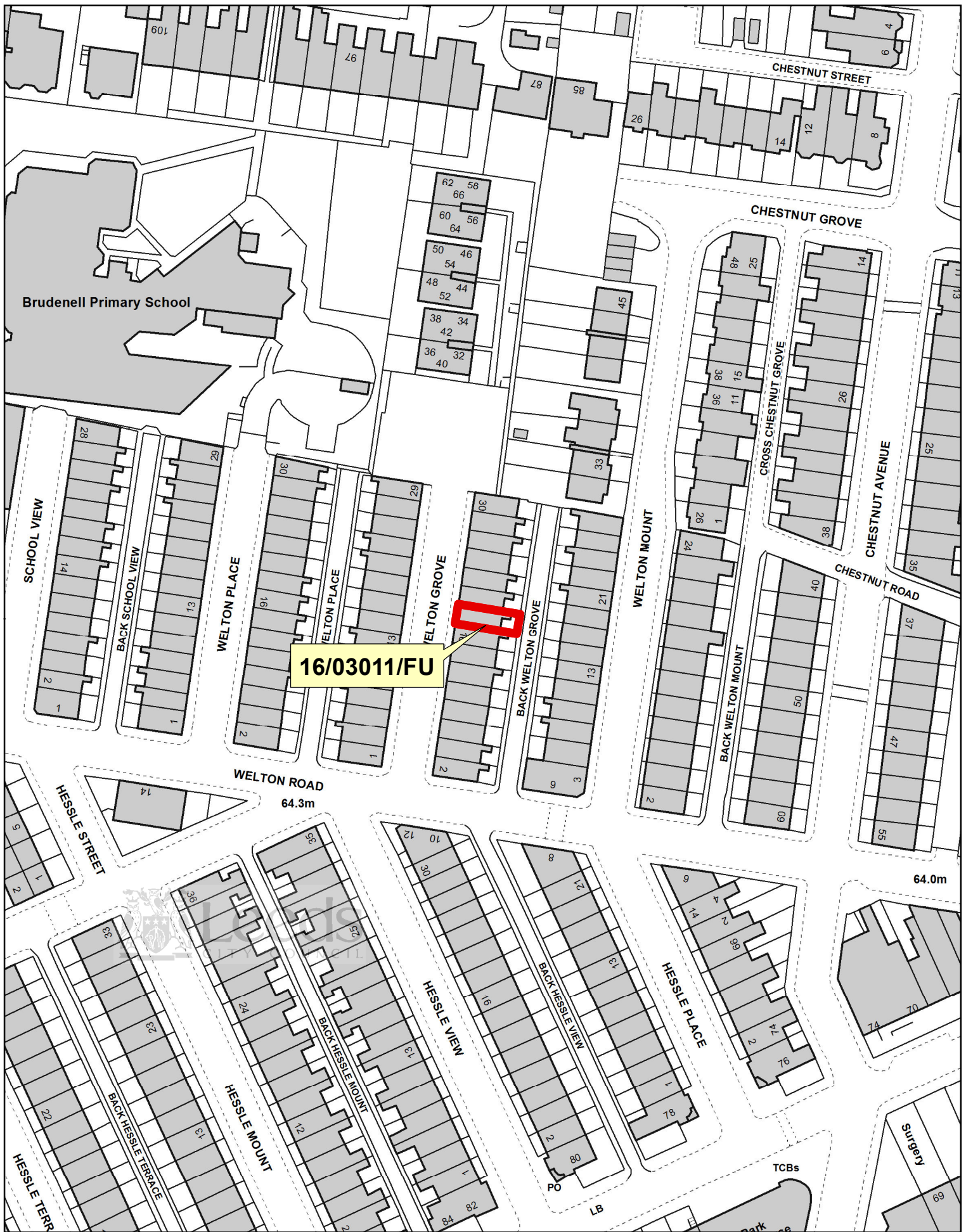
Background Papers:

Application file: 16/03011/FU

Certificate of Ownership: Signed by applicant

SCALE 1:100





SOUTH AND WEST PLANS PANEL

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

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