Leeds CITY COUNCIL

Originator: Glen Allen

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Report of the Chief Planning Officer

NORTH AND EAST PLANS PANEL

Date: 22 March 2018

Subject: 17/04368/FU – Retrospective application for dwelling with new detached outbuilding to rear; Wigton Court, Alwoodley, Leeds.

APPLICANT	**DATE VALID**	**TARGET DATE**
Mr C Durkin C/O Agent	4 July 2017	26th March 2018

Electoral Wards Affected:	**Specific Implications For:**
Alwoodley	Equality and Diversity ☐ Community Cohesion ☐ Narrowing the Gap ☐
Yes – Ward Members consulted (Referred to in report)	

RECOMMENDATION: GRANT PERMISSION subject to the following conditions:

1 Standard Time Limit
2 Standard reference to approved drawings
3 Materials to be submitted
4 Landscaping
5 Bin storage provision
6 Standard Land Contamination Conditions
7 Submission of a Surface Water Drainage Strategy
8 Removal of all PD rights for dwelling
9 Extraction facilitates for outbuilding to be submitted for approval.

1.0 INTRODUCTION

1.1 This application is brought to Plans Panel at the request of Councillors Harrand, Buckley and Cohen as the revised proposal:

- Clearly lies outside of the parameters of the original approval,
- The development lies on what was formerly green field land,

- The proposal is a gross over development of the site,
- The visual impact and cumulative effect of the proposal will be detrimental to occupiers of properties in the Wike Ridges that will be overlooked by the proposed development.

1.2 The Councillors raise material planning considerations that give rise to concerns affecting more than neighbouring properties and therefore it is appropriate for the application to be determined by the Plans Panel.

2.0 PROPOSAL

2.1 The proposal seeks in part, to vary an earlier approval (13/01614/FU) for the 'redevelopment' of the site through the refurbishment of Wigton Court itself the original building on the site and which constitutes several apartments, and the construction of a separate dwelling to the rear of the that building on land that was originally the garage court for the apartments. The parking provision for the apartments was re-located within the site. The variation to that permission relates to the proposed dwelling and does not alter the refurbished apartment building itself.

2.2 Since the grant of that permission, and the partial implementation of that earlier permission, the site has changed ownership and the new owner seeks to change the dwelling that was approved under the original permission and to provide an outbuilding at the bottom of the garden to the proposed dwelling that will provide a gym, patio, covered pool and garden store. The outbuilding is proposed in the north east corner of the site and has an "L" shaped foot print, which projects approximately half way across the rear boundary which is the common boundary to properties in the Wike Ridges development.

2.3 The new house which also forms part of the proposal has already been commenced hence the reference to 'retrospective' in the description, and this proposal seeks to add and additional 'storey' to the dwelling to that already approved.

2.4 Other alterations include the provision of a terraced landscaped garden, replacing the naturally sloping garden of the original proposal.

3.0 SITE AND SURROUNDINGS:

3.1 The site lies on the north side of Wigton Lane and is wholly surrounded by existing residential properties. To the east and west are single dwellings houses that are the predominant form of development along this part of Wigton lane. To the south beyond Wigton Lane itself that runs in a roughly east west direction are detached residential properties and to the north properties that from the Wike Ridges development back onto the application site.

3.2 The site slopes from Wigton Lane to its rear boundary, with Wigton Lane being the high part of the site. The Wike Ridges development continues to slope away from the application site to the Brenden Drain running roughly east west to the north of that development.

3.3 Wigton Court itself appears to date from the 1960's or 1970's and is a development of apartments. The refurbishment of those apartments under the earlier permission has been completed and the block is currently occupied. As part of this permission was also granted for the construction of a modern dwelling

to the rear that was located on the original garage court for the apartments. This gave the impression of being 'set into' the natural slope of the site and did not consume any additional 'greenfield' land of the site due to the previously developed nature of the garage court upon which it was proposed. The superstructure of this house currently exists on site.

4.0 RELEVANT PLANNING HISTORY:

4.1 The following planning history is considered to be relevant:

12/04848/FU	Refurbishment and extensions, including raised roof height and balconies, of existing flats; replacement of garage block to rear with undercroft car parking with terrace over; construction of two detached houses to rear; alterations to landscaping to form private and communal amenity areas	Withdrawn
13/01614/FU	Alterations to flats including single storey rear extension with terrace over, Juliet balcony, roof lights, bin store and new boundary treatment to front	Approved
13/05516/COND	Consent, agreement or approval required by conditions 3, 4 and 5 of Planning Application 13/01614/FU	Approved
14/03655/FU	Variation of condition 2 (Plans schedule) of approval 13/01614/FU to vary the form of the approved elevations	Approved
16/03198/FU	First Floor Rear Extension	Approved

5.0 HISTORY OF NEGOTIATIONS:

5.1 Since the submission of the application the location and the foot print of the proposed outbuilding near to the northern boundary has been reduced and the terracing of the garden has been negotiated to be a less 'engineered' solution.

5.2 As originally submitted the outbuilding was along the entire width of the northern boundary that is shared with the properties accessed from the Wike Ridges development. That original outbuilding was also in the form of a 'L' shaped foot print but mirrored that which is currently under consideration, the current proposal having being flipped so that the 'L' shape is north east corner of the site rather than the north west corner of the site.

5.3 In addition to this it was proposed to provide a terraced garden that has resulted in the proposed outbuilding to be raised above ground level and thus appear, from the rear, as a two storey structure albeit one screened by existing vegetation along that common boundary with properties on the Wike Ridges development.

5.4 The scheme currently under consideration removes the need for the outbuilding to be supported by construction methods and allows it to sit on the revised ground levels. The terraced garden likewise will provide for two areas of level garden space the higher one adjacent to the proposed dwelling with a gentle slope away and the lower level garden at grade with the out building.

6.0 PUBLIC/LOCAL RESPONSE:

6.1 The application has been advertised by site notice and letters sent to occupiers of identifiable residential properties surrounding the application site including the occupiers of Wigton Court itself.

6.2 A further round of consultation was undertaken upon the receipt of the amended plans and the time for comment to this most recent round expired on 9th February 2018. Comments of support and objection have been received covering the following issues:

Support Comments (6 in total):

- Site has been a mess for some time thus support the proposals to help tidy it up
- State of site currently detracts from the area
- Design appears modern and attractive
- Will not cause any further harm to surrounding residents
- Will not result in overlooking
- Existing trees will screen out building
- As the outbuilding is for domestic use it will not cause any noise or disturbance more than any other residential property.
- Residents of Wigton Court never have had right of access into the garden space of the new house.
- Will offer additional privacy
- Development will enhance area

Objection Comments (18 in total including Alwoodley Councillors and the Parish Council:

- Proposal represents gross overdevelopment of site
- The site is essentially the garden space for the re-furbished flats and now the whole of the amenity space is under the control of the future occupier of the house
- New scheme likely to encroach significantly into the 'Greenfield' part of the site
- Visual Impact will be very detrimental to occupiers of properties in the Wike Ridges development.
- Height of outbuilding unacceptable
- Obscure light to gardens in the Wike Ridge development
- Affect the value of neighbouring property
- Access to outbuilding from Wike Ridge properties not acceptable.
- Allowing the development will set a precedent
- Scheme is simply for profit
- Retrospective application which is at odds with the over-arching design principles already agreed by Leeds CC.
- Concerns about emissions from plant room for pool
- Potential for noise from plant room
- Access for the maintenance of Leylandii trees on boundary would be restricted
- Impact of roots on foundations of existing buildings
- Application is not detailed enough thus neighbours can't make a full assessment
- Drainage

- A warranty should be provided by the developer that any damage will be made good.
- A condition survey of the Wike Ridge properties should be undertaken so any future impact of the Wigton Court development on these properties can be monitored against the information recorded by that survey.
- The current planning permission contains a condition that prevents the sub-division or cordoning off of the garden from Wigton Court
- The works that have already being carried out cannot be reasonable given the restraints of the previous planning permission.
- Developers have failed to consider the character of the area
- Adversely impact on the open green character compared to other Wigton Lane properties
- Reference is made to the Alwoodley Neighbourhood Plan (which does not cover this part of Alwoodley Ward)
- Development seeks to provide a luxury lifestyle which does not fulfil the aims of affordable housing for Leeds City Council
- Proposal does not comply with the House Holder Design Guide
- Increase in height of dwelling will impact on privacy
- Out building will appear as a two storey structure
- Bin store will attract rats and emit smells
- Large conifers are not a permanent fixture to screen development and they are contrary to Sec. 8 of the Anti Social Behaviour Act 2003
- Overshadowing
- The detached building is not reasonably ancillary to the main dwelling
- The detached building is out of keeping with residential nature of the locality in an affluent area on the edge of Green Belt land
- Reduce value of neighbouring properties
- Will set a precedent for future proposals along Wigton Lane

7.0 CONSULTATIONS RESPONSES:

7.1 Highways: - Condition Bin Store
Flood Risk Management: - Condition drainage scheme
Contaminated Land: - Low risk site due to residential - use standard land contamination conditions

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 (2014), saved policies within the Leeds Unitary Development Plan (Review 2006) and the Natural Resources and Waste Development Plan Document (2013) and any made Neighbourhood Plans.

Local Planning Policy

8.2 The most relevant Core Strategy policies are outlined below:

Spatial Policy 1	Location of Development
Spatial Policy 7	Distribution of housing land and allocations

Policy H2	New housing on non-allocated sites
Policy P10	Design
Policy T2	Accessibility Requirements and New Development

8.3 Relevant policies form the UDP:

GP5 – General Considerations
BD6 – Impact of developments on amenity

8.4 Advice in the Supplementary Planning Guidance Documents Neighbourhoods for Living (in relation to the new build dwelling) and the Housholder Design Guide (in respect of the alterations to the dwelling) are considered relevant.

National Planning Policy Framework

8.5 This document sets out the Government's overarching planning policies on the delivery of sustainable development through the planning system and strongly promotes good design and sustainable development. There is a strong presumption in favour of sustainable development running throughout the NPPF.

9.0 MAIN ISSUES

9.1 The main issues are considered to be:
Principle of the development
Neighbour amenity
Highways issues
Objections comments not covered in main body of report

10.0 APPRAISAL

Principle of the development

10.1 The development, by virtue of the earlier grant of planning permission for the creation of a single unit of accommodation on the former garage area for Wigton Court is considered acceptable as a matter of principle.

10.2 The creation of an outbuilding near to the north boundary, as a matter of principle is also considered acceptable. There exists for the dwelling, as approved, Permitted Development rights (PD) under the General Permitted Development Order 2015. These would allow for the development of a substantial free sanding building up to 50% of the garden space of the dwelling across the entire width of the common boundary. The main restriction would be that the height of such a building within 2 metres of the boundary would be restricted to 2.5 metres height. It is therefore incumbent for the consideration of this proposal to assess if the additional increase in height of the outbuilding over and above this PD right would be sufficiently harmful on the amenity of occupiers of the neighbouring properties to justify a refusal of planning permission. This will be discussed in more detail in the amenity section below.

10.3 In relation to the “In Principle” issue, a number of the objections received appear to assume that the earlier permission that established the principle of the dwelling house development somehow represents the maximum extent of potential development on this site and that the Local Planning Authority is in some way

constrained by the limits of that permission. This is not necessarily the case and this discussion is not seeking to add a value judgement to this aspect one way or the other at this stage, but the simple facts are that an earlier permission, or indeed refusal is a material consideration in the determination of any future development proposals for the same site, but they in no way limit the consideration of future proposals in any absolute sense. So that this permission exists and is extant, is a consideration rather, than as is suggested in the objections, a limit that the LPA have imposed on the site for the development potential of the site.

10.4 The addition of an additional storey albeit in part only, on the approved dwelling is also considered acceptable in this instance as a matter of principle. The site is located in a part of Leeds where two storey dwellings are commonplace and indeed this part of the application site is located adjacent to Wigton Court which sits higher than the proposed dwelling and at three storeys.

Neighbour amenity

10.5 This falls into two main areas; (i) the potential loss of amenity due to the alterations to the dwelling house itself and (ii) the potential loss of amenity as a result of the proposed out building.

(i) Impact of the alterations to the dwelling:

10.6 The alterations to the dwelling itself include the insertion of an upper floor over part of the building compared to that originally proposed. This is restricted to the part of the proposed dwelling that lies closest to Wigton Court itself and would be seen to be to the 'rear' of the dwelling. The north facing windows therefore overlooks the roof of the ground floor living space of the dwelling and the glazed atrium. The distances of the first floor 'extension' to the common boundary to the north with properties on the Wike Ridges development exceed the minimum distances advocated at starting points in the SPD, Neighbourhoods for Living, (relevant to the property as a new dwelling). They measure well in excess of 30 metres, this, combined with the proposed landscaping on the boundary will minimise if not prevent any direct overlooking of those properties.

10.7 Similarly the relationship of this rear elevation is such that these windows are set in from the nearest side boundary to the west and views of the neighbour's garden on the west side of the application site will not significantly overlook that garden and views of it will be, at worst, the bottom end of the garden, where that garden abuts the boundary of the properties on the Wike Ridges development and so at such a distance as to be acceptable.

10.8 There are no concerns regards the development relationship to the common boundary with the neighbours to the east and west. This is due to the limited scale of the extension, the orientation of the extension (it is set to the north) and the degree of separation. And the additional floor to the dwelling has no impact on the amenity of occupiers of Wigton Court itself. Cross sections of the proposed development will be displayed at the Plans Panel meeting so these relationship can be clearly seen.

(ii) Impact on amenity due to outbuilding;

10.9 It is accepted that the outbuilding will be higher than what would be allowed under normal PD rights. However, any measurements of the PD allowances are always

as a matter of course taken on the developer's side of the boundary regardless of any levels differences between sites. This can, in some instances, lead to significant disparities. It should be noted that if planning permission is granted, there is, as part of that recommendation the suggestion that a condition be imposed that removes further PD rights from the site for the single dwelling. This is to maintain control over any future developments given the additional development proposed under this proposal.

10.10 From the Wigton Court side of the boundary the single storey outbuilding will appear at a height of around 2.5 metres with a shallow sloping roof towards the rear of the building. The proposal indicates additional planting between the outbuilding and the common boundary with the Wike Ridge development properties which will give additional screening over and above that afforded the development by existing trees on the Wike Ridge development properties.

10.11 The distances between the rear elevation of the proposed outbuilding and the rear elevation of the nearest neighbouring property on the Wike Ridges development is circa 13.4 metres. If the structure was left to be built under any PD rights the site may enjoy, this could be built on the boundary at circa 11 metres distance to the rear elevation. Any screening would thus rely solely on the existing lower lying planting on that neighbours side of the boundary. These distances relate to the relationship between the outbuilding and 71 Wike Ridge Avenue and they are greater for 69 Wike Ridge Avenue by between approximately 0.75 - 2 meters. It is considered therefore that the proposal is compliant with Policies GP5, BD6 of the UDPR, to P10 of the Core Strategy and to advice in the HDG and Neighbourhoods for Living.

10.12 In terms of loss of light, the site lies due south of properties on Wike Ridge Avenue and there will be some additional overshadowing as a result. This will be variable through the year and through the day, with the worst case scenario being during the winter months, when the sun is at its lowest in the sky through the middle part of the day. A significant portion of the garden to number 69 and to a lesser degree number 71 could be in shadow. This of course coincides with the time of year when the garden is less likely to be used as an amenity resource. During the summer months the impact of the out building will be lessened by the increased height of the sun in the sky, however some over shadowing will still occur. For both properties directly affected this will be greater for the occupiers of number 69 where the entire width of the rear boundary will have the single storey extension across it. However, this is also the property that presently has a relatively mature vegetation belt along this boundary which itself will be presently causing overshadowing on their garden space. By mid-afternoon and into the evening, particularly during the summer months, the overshadowing impact of the proposed out building will be lessened due to the position of the sun in the sky vis-à-vis the out building. In conclusion, whilst it is acknowledged that there will be a degree of overshadowing as a result of this out building proposal, it is considered that it is not sufficiently detrimental to the amenities of occupiers of neighbouring properties to justify a refusal of planning permission and that the scheme is compliant with Policies GP5 and BD6 of the UDPR and advice found in the HDG and Neighbourhoods for Living.

10.13 The outbuilding is proposed for the housing of a pool and gym will require some plant to be installed that is not normally associated with domestic development. Concern has been raised regarding the potential for noise and emissions from the building as a result of this. On the application drawings the plant is shown to be wholly contained within the confines of the building and thus contain any noise in

particular. It is considered that a condition requiring details of extraction facilities be submitted to the LPA through the imposition of a condition.

Highways issues

10.14 The scheme provides more off street car parking that would normally be required for a development of this size and as such is compliant with Policy T2 of the Core Strategy. Information relating to the location of a bin store within 25 metres of the bin collection point is required but this can be dealt with by means of a condition as recommended at the head of this report.

Objections comments not covered in main body of report

10.15 The following paragraphs deal with those objections that are not dealt with in the main body of the report:

Proposal represents gross overdevelopment of site

10.16 The scheme represents an increase in intensity of the development of the site, however subject to the safeguard of the conditions recommended it is not considered to lead to an over development of the site.

The site is essentially the garden space for the re-furbished flats and now the whole of the amenity space is under the control of the future occupier of the house

10.17 This was historically the case however, and despite one of the objectors claiming that there are planning restrictions on this, no such condition exists on the permission that was issued in 2013 for the refurbishment of the flats and the construction of the dwelling to the rear. As such and from the planning point of view, the owner can subdivide the site as he sees fit into two planning units, and the proposal as submitted needs to be treated on its own individual planning merits.

New scheme likely to encroach significantly into the 'Greenfield' part of the site

10.18 Whilst the development of green field sites or what is commonly referred to as "garden grabbing" is generally resisted by Leeds that is not what is happening in this instance. The principle of the additional dwelling is established by the earlier grant of planning permission and the erection of out buildings under Class E of Part 1 of Schedule 2 of the General Permitted Development Order 2015 is a right that this approved property would enjoy. Those buildings are ancillary to the occupation of the main dwelling and as such does not constitute a garden grabbing exercise, which typically involves the further subdivision of a plot to create two or more plots that in themselves would be self-contained. This is not the case here.

Affect the value of neighbouring property

10.19 This is not a material Planning Consideration

Access to outbuilding from Wike Ridge properties not acceptable.

10.20 This is not a material planning consideration and is covered in the Party Wall Act to settle any disputes between private land owners as to accessibility for the purposes of maintenance etc.

Allowing the development will set a precedent

10.21 Any planning approval can be used as a reference for being a material consideration for future developments and weigh in their acceptability, or otherwise, however it is does not set a precedent and it is up to future decision

makers to decide what weight previous decisions are given when considering contemporary proposals.

Scheme is simply for profit

10.22 This is not a material planning consideration

Retrospective application which is at odds with the over-arching design principles already agreed by Leeds CC.

10.23 The retrospective (in part) nature of the proposal is not determinative in the acceptability or otherwise of the material planning considerations of the case.

Impact of roots on foundations of existing buildings

10.24 The site is located at the end of the respective gardens of both the application site and the properties adjoining the application site and so it is considered that there will be little impact of tree roots on existing buildings.

Application is not detailed enough thus neighbours can't make a full assessment

10.25 It is considered that there is sufficient information within the application for a decision to be made.

A warranty should be provided by the developer that any damage will be made good.

10.26 This is not a material planning consideration and it is up to the parties involved to make any necessary indemnity arrangements.

A condition survey of the Wike Ridge properties should be undertaken so any future impact of the Wigton Court development on these properties can be monitored against the information recorded by that survey.

10.27 It is not fully understood that is meant by this, however once again it is considered that this is not a material planning consideration and it is up to the parties involved to make any necessary indemnity arrangements.

Development seeks to provide a luxury lifestyle which does not fulfil the aims of affordable housing for Leeds City Council

10.28 Affordable housing considerations do not apply to single domestic developments

The detached building is out of keeping with residential nature of the locality in an affluent area on the edge of Green Belt land

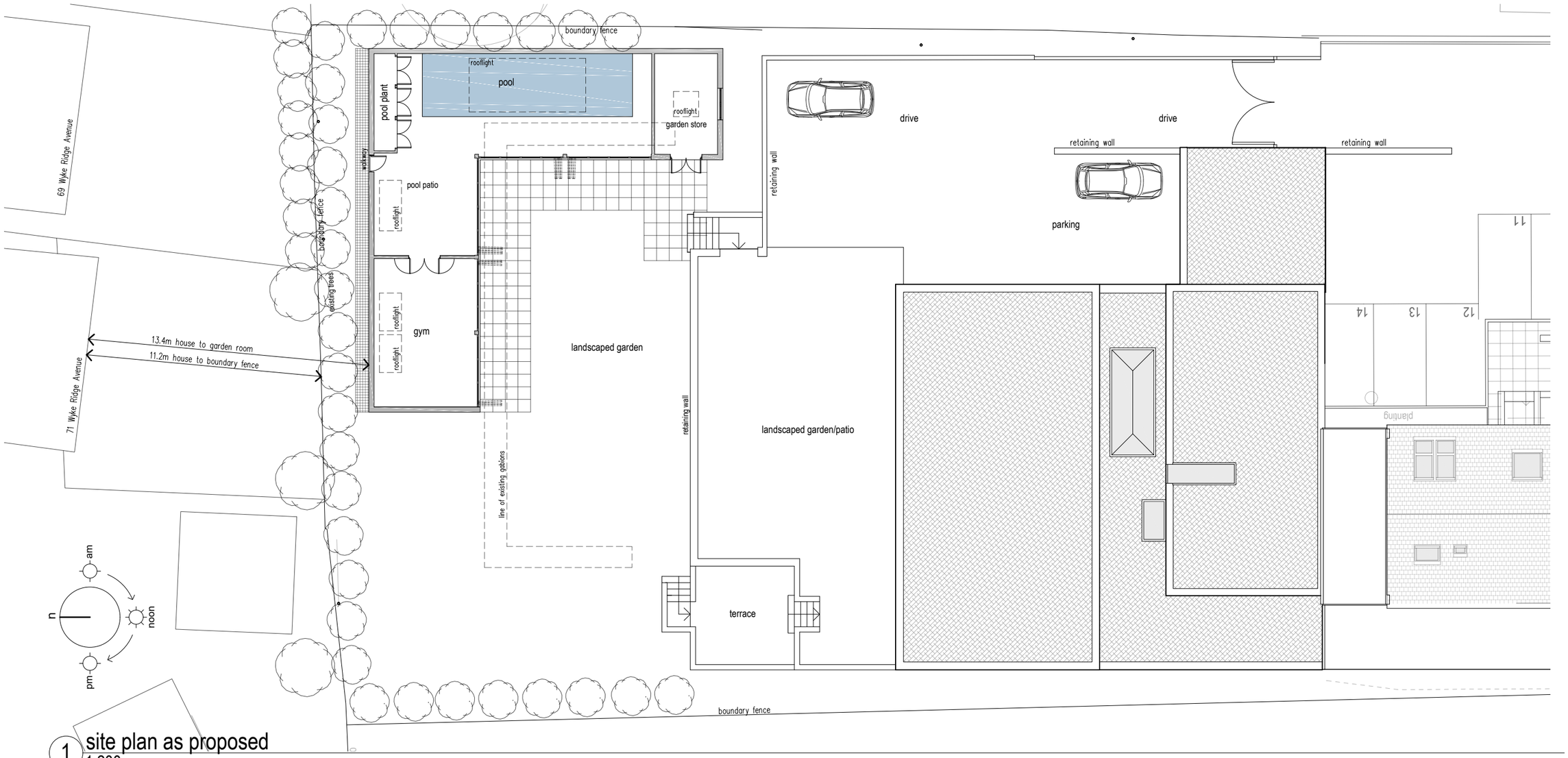
10.29 The site is not within or on the edge of the Green Belt.

11.0 CONCLUSION

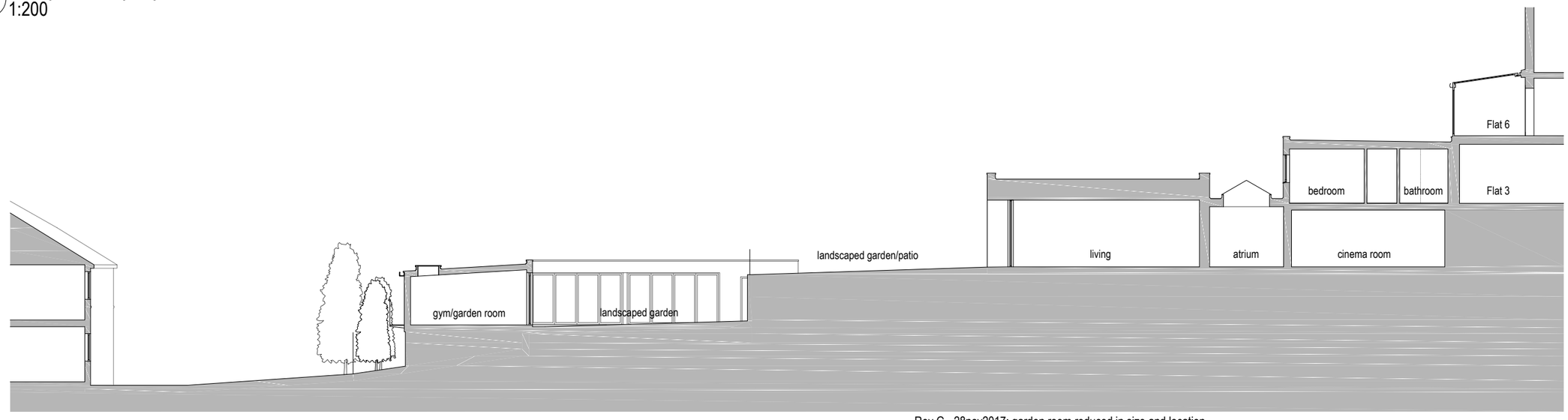
11.1 On balance it is considered that the proposal as amended are acceptable and that the proposal now complies with the policies of the Core Strategy, the UDPR and the NPPF and as such, subject to the recommended conditions that planning permission can be granted.

Background Papers:

Application files: 17/04368/FU
Certificate of ownership: Applicant signed as sole owner of application site



1 site plan as proposed
1:200



2 section as proposed
1:200

Rev.G - 28nov2017: garden room reduced in size and location
Rev.F - 22aug2017: garden room reduced in size and height; neighbouring houses indicated
Rev.E - 02aug2017: photovoltaic panels relocated closer to southern parapet
Rev.D - 01aug2017: roof to garden room amended

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status: Planning
scale : 1:200@A3
date : nov.2017

client: Mr & Mrs C Durkan
project: New dwelling, Wigton Court, Wigton Lane, Leeds
title: garden room elevations

dwg no. 596.27
rev. G

NORTH AND EAST PLANS PANEL

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

SCALE : 1/1500