



## Report of the Chief Planning Officer

### *PLANS PANEL WEST*

Date: 4 November 2010

**Subject: APPLICATION 10/04111/FU – Widening of existing access to serve electricity substation, existing dwelling and proposed dwelling, 180 Otley Road, Headingley, LS16 5LH**

**APPLICANT**  
Mr B Howgate

**DATE VALID**  
09.09.2010

**TARGET DATE**  
04.11.2010

#### **Electoral Wards Affected:**

Weetwood

No

Ward Members consulted  
(referred to in report)

#### **Specific Implications For:**

Equality and Diversity

Community Cohesion

Narrowing the Gap

#### **RECOMMENDATION:**

##### **Refuse planning permission for the following reason:**

1) The proposal would result in additional turning manoeuvres onto the A660 which is designated as a Primary Route and which carries in excess of 26,000 vehicles per day. It is considered that such manoeuvres could potentially be hazardous and conflict with the safe and free flow of traffic on this heavily trafficked area of the highway network. In addition the servicing requirements of this proposal would be met, at least in part, on street which would be detrimental to the safety of vulnerable road users, especially cyclists, in such a heavily trafficked environment. The proposal is therefore considered to be contrary to Policies GP5 and T2 of the adopted Leeds Unitary Development Plan, with respect to access and highway safety, efficiency, and amenity.

#### **1.0 INTRODUCTION:**

1.1 The Chief Planning Officer considers that this application should be referred to the Plans Panel for determination following the request of a Local Ward Member (Councilor Sue Bentley- Weetwood) who supports the proposal on the grounds of similar access arrangements onto Otley Road from nearby properties.

## **2.0 PROPOSAL:**

- 2.1 The proposal involves widening the existing access from 3metres to 5metres by resiting the gate post. The proposal is to serve the new dwelling (a bungalow) constructed on site at 180 Otley Road (approved in 2009 but with access out onto Otley Road from the Village Hotel). The access would also serve the existing dwelling house at 180 Otley Road (the applicants property) and the YEDL electricity sub station currently located adjacent to the existing access.

## **3.0 SITE AND SURROUNDINGS:**

- 3.1 The site consists of a bungalow set in a rectangular area of land adjacent to the A660 Otley Road. The site lies to the south-east of the older lodge dwelling at 180 Otley Road. The site is roughly grassed and contains a number of protected trees which are mainly sited around the site boundaries. The site is bounded from Otley Road by a stone wall, which is approximately 1.8m in height. The older dwelling at 180 Otley Road is a 1½ storey Victorian 'lodge', which originally was constructed as the gatehouse for the building which is now operates as the Village Hotel. This dwelling is Grade Two Listed and the site is within the Headingley Conservation Area. The principle access to both dwellings is via the entrance to the Village Hotel, and there is an existing secondary access to the site directly from the A660 the use of which is restricted to the substation and the older lodge by virtue of a planning condition attached to the permission for the new bungalow.
- 3.2 The site lies in an established suburban residential area, which is dominated by Edwardian architecture and the popular 'Arts and Crafts' designs of the early 20<sup>th</sup> century. However, this section of Otley Road is mainly developed on its opposite southern side. The northern side of Otley Road, where this application site lies is sparsely developed, and characterised by the length of stone wall with trees beyond.
- 3.3 The application site has traditionally been in separate ownership from that of the dwelling at 180 Otley Road, and owned by Yorkshire Water until recently. The owner of 180 Otley Road bought the site from Yorkshire Water in recent years. The new residential property has been constructed in the garden but has not been occupied as a residential unit at present.

## **4.0 RELEVANT PLANNING HISTORY:**

- 4.1 09/04004/FU: Widening of existing access to serve electricity substation and existing dwelling. Withdrawn  
07/05766/FU: Detached annexe/art studio to garden. Approved of dwelling house but appeal to remove planning conditions applied restricting Permitted Development Rights for Access onto Otley Road and Outbuildings Dismissed.  
06/06013/OT: Outline application to erect one detached. Approved dwelling.  
06/02134/OT: Outline application to erect one detached. Refused dwelling with vehicular access to Otley Road also dismissed at Appeal.  
26/275/05/FU: Detached games room (domestic). Approved  
26/655/04/FU: Change of use of vacant land to domestic. Withdrawn garden with pedestrian access

26/144/02/FU: Single storey rear extension and conversion Approved of part of loft to bedroom to lodge house

26/147/02/LI: Listed building application to erect single. Approved storey rear extension and conversion of part of loft to bedroom

## **5.0 HISTORY OF NEGOTIATIONS:**

5.1 The site has a long planning history. The applicant has been advised that the use of the access from Otley Road is not considered safe and should not be intensified and that the access through the Village Hotel is more appropriate in highway safety terms. The refused applications and two dismissed appeals on this matter have been highlighted to the applicant.

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

6.1 The application has been advertised on site by the means of a site notice. No representations have been received.

## **7.0 CONSULTATIONS RESPONSES:**

### **Non Statutory Consultees:**

7.1 HIGHWAYS: Object to the proposal on the grounds of highway safety due to the potential intensification of the access and right hand turns access the A660. They consider that the alternative existing access through the Village Hotel is more appropriate in safety terms for both the existing dwelling and the proposed dwelling (which is the access approved as part of the new build property located in the grounds of 180 Otley Road).

## **8.0 PLANNING POLICIES:**

8.1 The application should be determined in accordance with the Development Plan by virtue of Section 38(6) of the Planning and Compulsory Purchase Act 2004, unless material considerations indicate otherwise.

### **Local Planning Policies:**

8.2 Locally Leeds City Council has begun work on the Local Development Framework ("LDF") with the Local Development Scheme most recently approved in July 2007. This provides a timetable for the publication and adoption of the Local Development Documents.

8.3 In the interim period a number of the policies contained in the Leeds Unitary Development Plan ("UDP") have been 'saved'. The Leeds UDP Review was adopted in 2006. The most relevant Policies in the adopted Leeds Unitary Development Plan are listed below.

- Policy GP5: Development proposals should resolve detailed planning considerations;
- Policy T2: Development should not create problems of highway safety; and

## **9.0 MAIN ISSUES:**

9.1 It is considered that the main issues in this case are:

- Visual amenity;

- Highway access, pedestrian and cyclist safety; and
- Change in planning circumstances since previous refusals and dismissed appeals

## 10.0 APPRAISAL:

### Visual Amenity:

- 10.1 The development is considered acceptable in terms of visual impact as the widening works would be fairly minor in nature in relation to the setting and appearance of the listed building and in relation to the desirability of preserving or enhancing this part of the Headingley Conservation Area and the setting of the listed building.

### Highway access, pedestrian and cyclist safety:

- 10.1 The highway Authority has assessed the principle of intensifying the use of this access. It is still considered that as the proposals would intensify the use of the access onto a Primary Distributor Road (A660) that there would be detriment to highway safety. When assessing the impact of the proposal consideration has been given to the intensity of use of the access at present and the likely increase in usage of the access if permission were granted. At present the intensity of the use of this access is low and infrequent. The sub station is located directly behind the access and as such it appears to not be in use by the occupier of 180 Otley Road who has access to his property through the Village Hotel. The latter has an access to the north-west of the site which is a recognised junction with appropriate kerb radii, a right turn lane and internal turning facilities.
- 10.2 The frequency of visits by YEDL to the sub station is low. To intensify the use of this access by making it available to serve the new bungalow as well as offering an alternative access to the existing dwelling house would result in an increase in turning right across the A660 into the site and when exiting the site to head towards Lawnswood roundabout. Although the existing dwelling at 180 Otley Road is understood to have a right to use this access because it is obstructed by the substation in reality it is not usable. The appeal Inspectors also noted that that the access appeared not to be in use other than by YEDL. As such it is considered that this increase in intensity of use directly onto A660 would cause potential conflict between vehicles, pedestrians and cyclists. The proposal is considered to be in conflict with UDP policies GP5 and T2 in this regard.

### Change in planning circumstances since previous refusals and dismissed appeals

- 10.2 The site has been the subject of previous planning applications and appeals that have been refused and subsequently dismissed, based on the access to the site being taken directly from the A660. The applicant has an existing means of access which is located off the Village Hotel access road and this is considered more than adequate to serve the existing dwellings. The applicant was granted planning approval for the dwelling in the garden of 180, Otley Road only on the basis that the access would be via the existing access point from the Village Hotel access road. Initially this proposed dwelling was refused partially on the grounds that the access would be directly from Otley Road, the applicant overcome this reason for refusal by using the access from the Village Hotel. As indicated above, subsequent attempts to have the resulting condition removed by the applicant have failed at appeal.
- 10.3 The applicant has referred to the recent appeal decision to allow an extension and conversion of 222 Otley Road to 3 flats with a widened access and 4 parking spaces as having a bearing on this proposal. However, the access to 222 Otley Road is the only existing means of access to that site and given that the property is

already a substantial sized dwelling it was considered that the proposed development (and the improvements to that access width) would not result in a material increase in use of that access. Furthermore, the Inspector, in dismissing the recent appeal relating to this development at 180 Otley Road referred to the application at 222 Otley Road in his Report and concluded that the impact of access from 180 Otley Road onto the A660 directly was likely to harm highway safety and the merits of the cases of the two applications was not similar. The two appeal decisions at this property are appended to this report. Accordingly it is considered there is no material change in planning circumstances since the appeal decisions at this site to allow this application.

## 11.0 **Conclusion**

11.1 In conclusion it is considered that the proposal would result in demonstrable harm to highway and pedestrian and cyclist safety by reason of intensifying the use of the access. The proposal is considered to be contrary to policies GP5 and T2 of the adopted UDP and as there are considered to be no material changes in planning circumstances since the appeals for a similar proposals were dismissed to warrant a change in recommendation. Accordingly the application is recommended for refusal for the reasons set out above.

### **Background Papers:**

Application file and appeal decisions



# Appeal Decision

Site visit made on 24 November 2009

by **Martin Whitehead** LLB BSc(Hons)  
CEng MICE

an Inspector appointed by the Secretary of State  
for Communities and Local Government

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Decision date:  
7 December 2009

## Appeal Ref: APP/N4720/A/09/2110939 180 Otley Road, Leeds LS16 5LH

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a grant of planning permission subject to conditions.
- The appeal is made by Mr Barry Howgate and Ms Janey Walklin against the decision of Leeds City Council.
- The application Ref P/09/00830/FU, dated 23 February 2009, was approved on 22 April 2009 and planning permission was granted subject to conditions.
- The development permitted is change of use from a teenage annexe/studio to 5 bedroom detached house including first floor and new roof lights.
- The conditions in dispute are-
  - No 14 which states that: *'The development hereby permitted shall not commence until full details of boundary treatments to completely segregate the electrical sub-station from the remainder of the site have been submitted to and approved in writing by the local planning authority. This boundary treatment shall be installed and/or planted before first occupation of the dwelling and shall then be retained for the lifetime of the development.'*
  - No 17 which states that: *'Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995 (or any orders revoking and re-enacting that Order with or without modification), planning permission shall be obtained before any extensions to the dwelling, outbuildings, roof alterations or dormers are erected within the curtilage of the site.'*
- The reasons given for the conditions are-
  - No 14: *'In the interests of highway safety and to ensure the existing access from the A660 serves only the electricity sub-station which is located on the site.'*
  - No 17: *'As the local planning authority wish to keep control over the erection of these buildings.'*

## Decision

1. I dismiss the appeal.

## Main issues

2. Whether Condition 14 is reasonable and necessary to protect highway safety on the A660 Otley Road; and whether Condition 17 is reasonable and necessary to protect the character and setting of listed buildings, trees that are subject to Tree Preservation Orders and the living conditions of neighbouring residents.

## Reasons

### Condition 14

3. The purpose of the condition is to prevent the use of the existing access from the A660 Otley Road to an electricity sub-station to gain vehicular access to the permitted dwelling. Otley Road is a Primary Distributor road and, as such,

carries a large volume of traffic. It also has a cycle and bus lane along it across the access. The Highway Authority has noted that records show that 4 personal injury accidents due to right turn conflicts have been reported near to the access in the last 5 years. It refers to expert guidance that advises against permitting additional individual accesses to properties from Primary Distributors.

4. The access can currently be used for 180 Otley Road, but the principal access to that dwelling is via a roadway that serves the Village Hotel, which is more convenient as it is closer to the dwelling. Therefore, although I observed at the site visit that an area adjacent to the sub-station has been gravelled, it is likely that the access is rarely used, either to gain access to the existing dwelling or to the sub-station. The access would be more convenient for the permitted dwelling than via the roadway to the Village Hotel. Therefore, without the condition, it would be likely to be more widely used. As such, there would be a resulting significant increase in right turn manoeuvres from Otley Road into the access, which the evidence indicates would harm highway safety.
5. At the site visit I observed that the access is relatively narrow and is gated at the back of the footway, leaving very little off road space for vehicles to wait in whilst the gates are opened. Also, the sub-station building partially obstructs entry so that vehicles have to turn sharply around it. These factors make the access less safe to use than the alternative via the Village Hotel roadway. Therefore, increased use of it should not be encouraged on highway safety grounds.
6. In support of the appeal, the appellant has referred to other existing and proposed accesses from Otley Road, including proposals for the intensification of use of the access to No 222. However, based on the limited information that I have been given, they are significantly different from the appeal access, either in relation to their likely use or their dimensions and relative orientation. Therefore, they are not directly comparable, and I have determined this appeal on its own individual planning merits in the light of prevailing policies and guidance.
7. I find that Condition 14 is both reasonable and necessary to protect highway safety on the A660 Otley Road. It is also necessary to ensure that the development would comply with Leeds Unitary Development Plan (Review 2006) (UDP) Policy T2 with respect to the need to ensure that new development does not add to problems of safety on the highway network.

#### **Condition 17**

8. The listed lodge at 180 Otley Road is a relatively small stone building in an isolated location near to the entrance to the roadway serving the Village Hotel and other more recent development. It is clearly visible from the adjacent Otley Road, above a stone built boundary wall. The buildings at the nearby Water Treatment Works are at a lower level, set back from the road, and therefore are less prominent in the street scene. Also, the Village Hotel is a sufficient distance away from the road and the lodge to ensure that it has a limited impact on its setting or character.
9. Although the permitted dwelling is about 80m from the listed lodge, its curtilage is significantly nearer and it is clearly visible from the adjacent Otley

Road. Its design, which has stone walls and a pitched roof, has taken account of the need to respect the character and setting of nearby listed buildings. As such, I do not consider it unreasonable to require alterations, extensions and outbuildings to also be designed to ensure that they preserve the setting of the listed buildings, in accordance with national guidance given in paragraph 2.16 of Planning Policy Guidance: *Planning and the Historic Environment* (PPG15). On this basis, it is necessary for the local planning authority to be able to control the design and appearance of alterations and extensions to the dwelling and new outbuildings.

10. Another reason that justifies the necessity of a condition to control outbuildings and extensions is the relatively large number of trees on the site that are the subject of a Tree Preservation Order (TPO). In order to ensure that these trees are adequately protected during the construction of any structures within the curtilage of the dwelling, the local planning authority should be able to first have the opportunity to determine the impact on any roots and canopies. I am not satisfied that the TPO would offer sufficient protection to the trees on its own.
11. I accept that the permitted dwelling would be a sufficient distance away from other dwellings and gardens to ensure that any extensions or alterations that could be carried out under permitted development rights would not have an unacceptable harmful effect on the neighbours' living conditions. However, the harm that could be caused to the character and setting of the nearby listed building and the health of TPO'd trees provides sufficient justification for the removal of permitted development rights for extensions, roof alterations and dormers to the dwelling, and outbuildings within its curtilage.
12. I find that Condition 17 is both reasonable and necessary to protect the character and setting of listed buildings and trees that are subject to Tree Preservation Orders. It is also necessary to ensure that the development would comply with UDP Policy BD5, which requires new buildings to be designed with consideration to their surroundings; UDP Policy GP5 which seeks, amongst other things, to ensure that new development resolves detailed planning considerations, including design; and PPG15.

**Overall Conclusion**

13. For the reasons given above, and having regard to all matters raised, I conclude that the appeal should fail.

*M J Whitehead*

INSPECTOR





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# Appeal Decision

Site visit made on 12 February 2007

by **Ruth V MacKenzie BA(Hons) MRTPI**

an Inspector appointed by the Secretary of State for  
Communities and Local Government

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Date: 22 February 2007

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**Appeal Ref: APP/N4720/A/06/2030435**

**Land adjacent to 180 Otley Road, West Park, Leeds LS16 5LH**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant outline planning permission.
  - The appeal is made by Mr B Howgate against the decision of Leeds City Council.
  - The application (Ref No P/06/02134/OT, dated 3 April 2006) was refused by notice dated 14 September 2006.
  - The development proposed is a single residential building plot.
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## Decision

1. I dismiss the appeal.

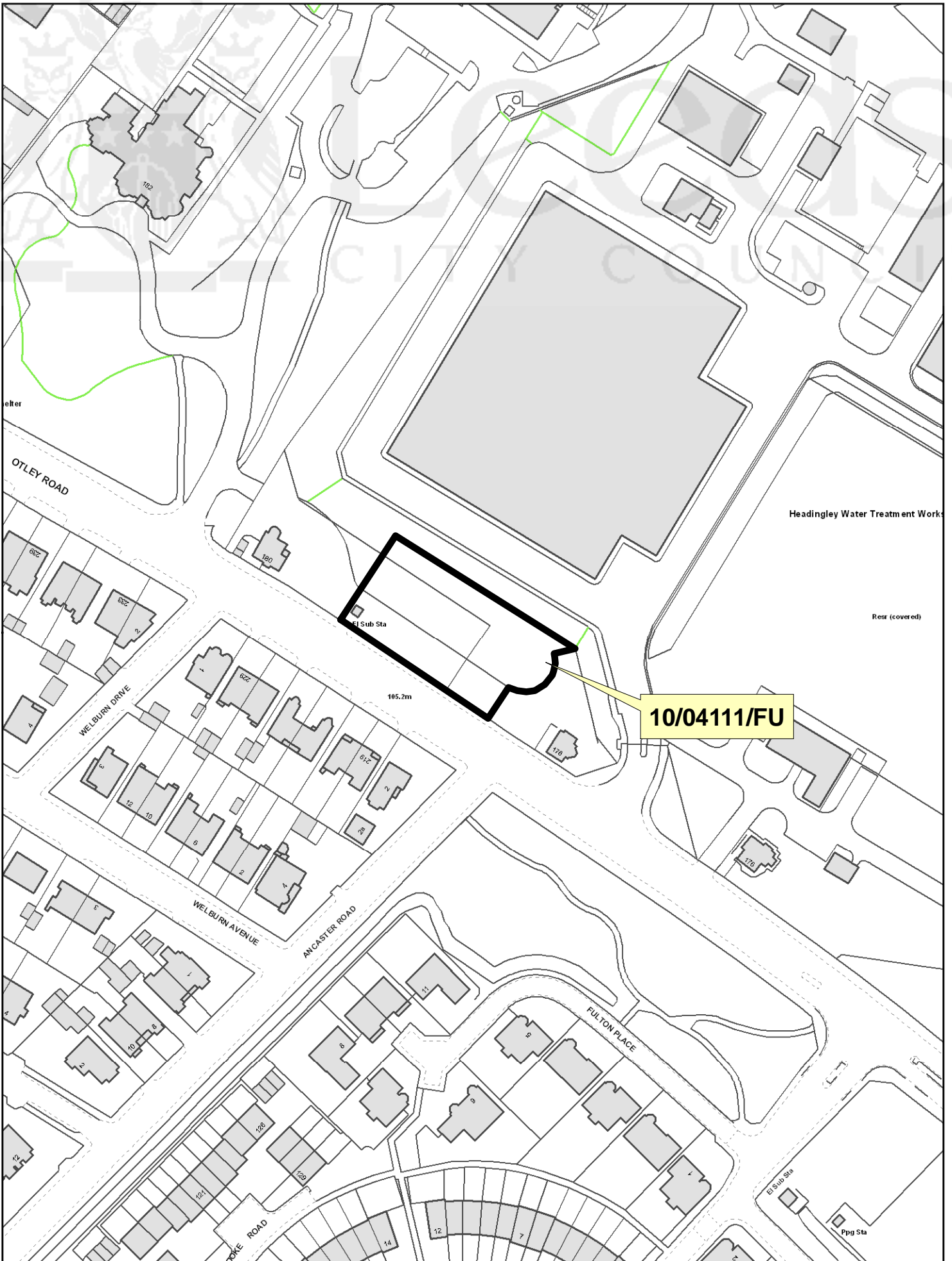
## Inspector's Reasons

2. The planning application has been made in outline. Access is the only matter that has not been reserved for later determination. The site forms part of No 180's garden which runs parallel to Otley Road, about 5km from Leeds city centre. An existing access into the site would be closed off. A new access, built to the Highway Authority's requirements, would be created about 12m away. I have treated the plan which shows the siting of a proposed dwelling as being purely illustrative.
  3. Otley Road (the A660) is a Primary Distributor road that carries about 26,000 vehicles in and out of Leeds on most days. It is also part of the primary route network for buses. The existing access into the site is used by utility companies to gain access to a sub-station in the appellant's garden. The appellant can use this access too, but the principal access to his property is off a roadway which serves The Village Hotel. I consider it reasonable to suppose that the sub-station access is rarely used, either by the utility company or by the appellant. The neglected condition of its gateway supports this view. In contrast, I consider that the proposed access into the appeal site would be used several times a day by the future occupants of the proposed dwelling and their visitors.
  4. Drivers and cyclists wanting to turn right out of the proposed access, away from Leeds City Centre, would have to wait for a gap in the flow of traffic in the nearside bus/cycle lane and the adjoining inbound lane. Having found a gap, they might have to wait in the middle of the road for a safe opportunity to join the outbound traffic. Drivers and cyclists travelling in an outbound direction and wanting to turn right into the site might have to wait in the middle of the road whilst waiting for a safe opportunity to cross the 2 lanes of inbound traffic.
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5. The middle of the road is marked with chevrons but, unlike the entrance to The Village Hotel, it is not marked with a separate lane and refuge for right turning traffic. In my view, it would be a vulnerable position in which to wait, particularly for cyclists. There is a 30mph speed limit along this stretch of Otley Road, and safety cameras have recently been installed. I understand that accidents have reduced as a result, but nevertheless I see no justification for a development that would result in additional right-turning movements across this busy stretch of main road on a regular and frequent basis.
6. I anticipate that some short-term visitors to the proposed dwelling, such as delivery drivers, would choose to park in the bus/cycle lane outside the site instead of pulling into the new access. Bus drivers and cyclists using the bus/cycle lane would then have to pull into the outer lane of traffic in order to overtake the parked vehicle, thereby disrupting the flow of traffic and putting themselves and other road users at risk.
7. The appellant argues that the proposed access would merely be a replacement for an existing access, and is acceptable for that reason. But, in my view, it would be used so much more frequently than the existing sub-station access that it cannot be assessed on that basis. There is a well-established general presumption against individual dwellings having frontage accesses onto Primary Distributors, and yet this is what the appellant is proposing. Furthermore, policies T2 and GP5 of the adopted Leeds Unitary Development Plan seek to maximise highway safety and, in my view, the proposed access flies in the face of the objectives of these policies.
8. The appellant has drawn my attention to other accesses along Otley Road which are now used more intensively because of recent planning permissions granted by the Council. It is difficult to draw meaningful comparisons between these accesses and the one that is currently proposed. Each one is different, and each one should be considered on its own merits; as I have done in this case.
9. I have reached the view that the proposed residential building plot is unacceptable on highway safety grounds. It would result in additional turning manoeuvres on a Primary Distributor, and this would jeopardise the safety of highway users.
10. There is disagreement about whether the site is greenfield or previously-developed land. From outward appearances, it appeared to be garden land within the curtilage of No 180, but there may be other factors of which I am unaware that should be taken into account. I am therefore unable to reach a firm view. I do not consider this to be critical to my decision because there is nothing that could outweigh the considerations that have led me to conclude that the appeal should be dismissed on highway safety grounds.

*Ruth V MacKenzie*

INSPECTOR



# WEST PLANS PANEL

