
Report of the Chief Planning Officer

PLANS PANEL WEST

Date: 25 May 2011

Subject: APPLICATION 11/00704/FU – REMOVAL OF CONDITION 01 FROM PLANNING PERMISSION REFERENCE P/07/05389/FU IN ORDER TO ALLOW THE PERMANENT RETENTION OF THE EXISTING ANIMAL STABLES AND THE CONTINUED USE OF THIS BUILDING FOR ANCILLARY CARE PURPOSES AT HICKORY THICKET, WEST CHEVIN ROAD, OTLEY, LEEDS, LS21 3HA.

APPLICANT
Options Group

DATE VALID
21 February 2011

TARGET DATE
18 April 2011

Electoral Wards Affected:

Otley & Yeadon

☐ Y

Ward Members consulted
(referred to in report)

Specific Implications For:

Equality and Diversity ☐

Community Cohesion ☐

Narrowing the Gap ☐

RECOMMENDATION:

Grant planning permission subject to the following conditions: -

1. In accordance with the approved plans.
2. The use hereby permitted shall be discontinued and the buildings shall be demolished and the land restored to its previous appearance upon the cessation of Options Group ownership or management of Hickory Thicket or after a period of 5 years, whichever is the sooner.
3. The animal stables shall be used for private use only and not for livery purposes or any other commercial horse or animal business.
4. The building shall be used in conjunction with the adjoining existing 2 flats at Hickory Thicket only and shall not be severed from Hickory Thicket through being separately sold or let.
5. In granting permission for this development the City Council has taken into account all material planning considerations including those arising from the comments of any

statutory and other consultees, public representations about the application and Government guidance and policy as detailed in the Planning Policy Guidance Notes and Statements, and (as specified below) the content and policies within Supplementary Planning Guidance (SPG), the Regional Spatial Strategy 2008 (RSS) and The Development Plan, the Leeds Unitary Development Plan Review 2006 (UDPR).

Policies N33, GB1, GB13, N37 and GP5.

On balance, the City Council considers there are very special circumstances to justify this development in the Green Belt.

1.0 INTRODUCTION:

- 1.1 This application is being brought to Plans Panel West for determination at the request of Councillors Kirkland and Campbell (Otley and Yeadon Ward) Local Ward Councilors, who have raised objects on the grounds that the proposals are contrary to Green Belt policies.

2.0 PROPOSAL:

- 2.1 The application seeks permission for the removal of condition 01 from planning permission reference P/07/05389/FU in order to allow the permanent retention of the existing building. Condition 01 attached to that permission requires the building to be removed by 20 January 2012.

3.0 SITE AND SURROUNDINGS:

- 3.1 The application site is located on the edge of Otley on the north side of West Chevin Road. It forms part of the curtilage of the former residential dwelling known as Hickory Thicket. It is bounded to the north and west by a large field, to the south by West Chevin Road and to the east by residential properties.
- 3.2 The current use of the property is as a residential home for young autistic adults allowing them to live independently in the community. It is currently arranged as two flats, one on each floor of the two storey converted dwelling. Related ancillary care and administrative facilities are also provided from the site.
- 3.3 The application site is located within the statutory Green Belt.

4.0 RELEVANT PLANNING HISTORY:

Original Permission:

- 4.1 A permanent planning application was submitted in July 2005 for a detached animal stables to field at the site under reference 29/231/05. Hickory Thicket was at that time being run by the same applicant (Options Group Ltd) and occupied by 4 adults with Autistic Spectrum Disorder (ASD) living as one household.
- 4.2 When the original application for the detached building was submitted it was supported by a range of information regarding the proposed use of the building as well as letters of support from various care related bodies. The primary justification for the building (with the attached six acres of fields) was to provide space for animal pens and to provide for animal interaction with residents of the site in order that they could learn from the experiences and develop relationships that assist them in understanding their responsibilities to society.

4.3 The original application was presented to members of Plans Panel West on the 3rd November 2005 and notwithstanding being a permanent application Members resolved to approve a temporary consent subject to a number of conditions. The most relevant of these being: -

- Condition 01 - The use hereby permitted shall be discontinued on or before 20.01.2012 and the buildings shall be demolished and the land restored to its previous appearance.
- Condition 02 - The animal stables shall be used for private use only and not for livery purposes or any other commercial horse or animal business.
- Condition 05 - The animal stables shall be used in conjunction with the adjoining existing dwelling at Hickory Thicket only, and shall not form a separate unit at any time.

Amended Permission(s):

4.4 A retrospective consent was granted in 2007 under reference 07/05387/FU for the change of use of Hickory Thickett from a dwelling house into 2 flats (one 1 bedroom and one 2 bedroom). The proposal did not include any external alterations and the property was still being operated by the same applicant (Options Group Ltd) and being occupied by adults with Autistic Spectrum Disorder (ASD). Members should note that this application was not considered to result in a change of use from a C3 (b) as defined in the Use Class Order (Amended 2005) 1987 to a C2 use (Residential Institutions).

4.5 Due to the alterations approved in the above permission an accompanying application (07/05398/FU) was also submitted with sought consent to vary condition 5 of planning permission 29/231/05 which bound the use of the animal stables to Hickory Thickett as a dwelling house. This application was also approved and varied that condition to allow the animal stables to be bound to the 2 flats within Hickory Thickett.

- Condition 01 - The use hereby permitted shall be discontinued on or before 20.01.2012 and the buildings shall be demolished and the land restored to its previous appearance.
- Condition 02 - The animal stables shall be used for private use only and not for livery purposes or any other commercial horse or animal business.
- Condition 05 - The animal stables shall be used in conjunction with the adjoining existing 2 flats at Hickory Thicket only, and shall not form a separate unit at any time.

4.6 The current proposals before Members seeks permission for the removal of condition 01 from that permission in order to allow the permanent retention of the existing building and for its continued use for ancillary care purposes additional to animal husbandry.

4.7 In addition, the following planning history on the site is also considered relevant:-

- 29/86/03/CLU: Certificate of lawful use issued in January 2004 confirming that Hickory Thicket could be used as a dwelling not associated with any agricultural use.
- 29/48/05: Change of use of part of field to enlarged garden – Approved 15/4/05 (Agreed an extension of the residential curtilage in line with adjoining gardens).
- 07/01103/FU: Planning permission granted in May 2007 for a detached animal shelter adjacent to the detached animal stables.

4.8 There is no other relevant planning history for the site.

5.0 HISTORY OF NEGOTIATIONS:

5.1 Following the publicity of the application, the applicant submitted a detailed response to the comments received by interested third parties and Local Ward Members.

6.0 PUBLIC/LOCAL RESPONSE:

6.1 The application has been advertised on site by the means of three site notice, located on West Chevin Road. The site notices were displayed from the 11 March 2011 and gave reference to a departure from the Development Plan. The site Notices gave a publicity period which expired on the 1 April 2011.

6.2 The application has also been published in the local press (Wharfe Valley Times) from the 17 March 2011 and gave reference to a departure from the development plan. The press advertisement gave a publicity period which expired on the 1 April 2011.

Councillors:

6.3 Councillor Graham Kirkland (Otley and Yeadon Ward) objects to this application as, the building is in an advanced state of dilapidation and it is a considerable time since there were any animals were kept in the building. The site is green belt and therefore there seems to be no reason to set green belt policy aside.

6.4 Councillor Colin Campbell (Otley and Yeadon Ward) objects to the application and has stated that while he believes it might be reasonable to allow the development of an agricultural building in the greenbelt (and on the important landscape area of the Chevin) he is unsure what the rational is for a building which may be used to develop IT skills or used as a sensory room. When the original application was received it was indicated that a building of this size was required because individuals would be transported to the site to learn to care for animals. This is not happening and he is unclear as to why the four residents of Hickory Thicket require such a large shed unless of course it is to be used in a wider context.

Local Residents:

6.5 6 letters of objection have been received from local residents and their objections can be summarised as follows: -

- The original planning permission was granted for agriculture use to house animals. This building is now not being used for this purpose and the future use of the building is now being changed.

- The site now has a dilapidated and un-used appearance;
- The future intended uses clearly have no place on a green belt site and the application should be refused;
- Concerned that if an extension of planning permission was granted, they may inappropriately develop the use of these buildings further in the future;

7.0 CONSULTATIONS RESPONSES:

Statutory Consultees:

- 7.1 None – due to the nature of the application.

No-Statutory Consultees:

- 7.2 OTLEY TOWN COUNCIL:
The Town Council objects to the removal of condition 1 and believes the original decision should be upheld in respect of condition 1.

8.0 PLANNING POLICIES:

- 8.1 As required by Section 38(6) of the Planning and Compulsory Purchase Act 2004 this application has to be determined having regard to the Development Plan which consists of the adopted Regional Spatial Strategy for Yorkshire and the Humber of May 2008 and the Leeds Unitary Development Plan (Review 2006).

REGIONAL PLANNING POLICIES:

- 8.2 The Regional Spatial Strategy for Yorkshire and the Humber to 2026 (RSS) was adopted in May 2008 and sets out a strategic framework for development up to 2026.
- 8.3 However, it is not considered that this proposal raises any issues of regional significance.

LOCAL PLANNING POLICIES:

- 8.4 Locally Leeds City Council has begun work on our 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.
- 8.5 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. This proposal should comply with these policies in accordance with Section 38(6) of the Planning and Compulsory Purchase Act 2004, unless material considerations indicate otherwise.
- 8.6 The application site lies within the greenbelt, therefore the specific development Leeds Unitary Development Plan policies are: -
- Policy N33: refers to approval in the Green Belt shall only be given for certain developments unless very special circumstances.

- Policy GB1: Defines the intent of the Green Belt Policies and specifies the characteristics of the Green Belt to be preserved and encouraged.
- Policy N37: refers to development proposals within Special Landscape Area will only be acceptable were they do not harm or detract form the characteristics of the area.
- Policy GP5: refers to development proposals should seek to avoid loss of amenity.

NATIONAL PLANNING POLICY:

8.7 In addition to the principal elements of planning policy other advice contained in Planning Policy Guidance Notes and replacement national Planning Policy Statements (PPS) may be of relevance to the submitted proposal. This includes:

- PPG2: Green Belts;
- PPS7: Sustainable development in rural area;

9.0 MAIN ISSUES:

9.1 Having considered this application and representation, it is the considered view that the main issues in this case are:

- Whether the proposal would constitute inappropriate development within the Green Belt;
- The effect of the proposal on the openness of the Green Belt;
- The effect of the proposal on the character and appearance of the area; and
- Whether any harm by reason of inappropriateness and any other harm would be clearly outweighed by other considerations so as to amount to 'very special circumstances' necessary to Justify the application.

10.0 APPRAISAL:

Procedural matters:

10.1 Whilst the structure is built, the existing permission requires its removal on site by 20 January 2012. It should be therefore considered as a temporary building. Although the application description is couched as a variation of condition, it would, in effect result in the issuing of a new fresh permission subject to conditions differing from the original.

Inappropriate development in the Green Belt:

10.2 PPG2 states that there is a general presumption against inappropriate development within the Green Belt. Inappropriate development is, by definition, harmful to the Green Belt and very special circumstances are required to justify such development. Paragraph 3.12 of PPG2 states that the making of material changes in the use of land are inappropriate development unless they maintain the openness and do not conflict with the purposes of including land in the Green Belt. This guidance is

reflected in Policy N33 of the Leeds Unitary Development Plan Review (UDP), adopted in 2006.

- 10.3 Policy N33 of the UDP sets out the general presumption against inappropriate development in the Green Belt which should not be approved except in very special circumstances. The construction of any new buildings in the Green Belt would be inappropriate unless it is for one of the limited range of circumstances set out under Policy N33 which do not include ancillary care facilities.
- 10.4 Part of the justification for the building was to provide space for animal pens and to provide for animal interaction with residents of the site in order that they could learn from the experiences and develop relationships that assist them in understanding their responsibilities to society. Whilst this previous use of the building was agricultural in nature, the building is now mainly used for other care and therapeutic purposes ancillary to the lawful use as a residential home as and when required.
- 10.5 Bearing the above in mind it is considered that the proposed building would amount to inappropriate development in the Green Belt and conflict with the main purposes of the Green Belt in accordance with the development plan policy N33 and the advice in PPG2.

The effect of the proposal on the openness of the Green Belt;

- 10.6 The building is a relatively small, single storey structure. Its agricultural in form and design and the topography of the area means that the building is set at a much lower level than adjacent public land. This means that pedestrians and car users along West Chevin Road actually look over the building when looking into the distance. Similarly if viewed from the private land on the other side, the building would be seen against the backdrop of the wall that retains West Chevin Road.
- 10.7 Notwithstanding the above, any new building in the Green belt by its very nature would reduce the openness of the Green Belt which is its most important attribute.

The effect of the proposal on the character and appearance of the area:

- 10.8 The building is approximately 24.4m in length with a width of 8m at the end. It is 3.3m to ridge height and 2.5m to the eaves with a floor area of 133m². It is situated close to the building to allow the residents access from within the residential curtilage. It is also placed close to the residential dwelling to reduce the impact on the openness of the green belt by keeping it within the existing built form
- 10.9 The building is set into the bund/slope of the land to screen the buildings further within the site. Efforts were made on the original permission to reduce the impact of the building in the Green Belt and conditions to ensure a landscaping scheme of local species and replacement timber post and rail outer fence with a native hedgerow were secured and was carried out.
- 10.10 It was considered that timber shiplap boarding with a felted roof was more appropriate for the previous use for the building, which was for animal pens. The colours of the materials which were used were also agreed and implemented.
- 10.11 Whilst some objections relate to the building having an unused appearance and being dilapidated, officers challenge this assertion. The building is essentially agricultural in form and its design and materials are compatible with both the building's surroundings. The building's appearance and construction are not of a

temporary nature and the building is appropriate for permanent retention without any modification.

- 10.12 As such the proposals would not have a adverse impact on the character and appearance of the area

Very Special Circumstances:

- 10.13 Policy N33 of the UDP and PPG2 advises that “very special circumstances to justify inappropriate development will not exist unless the harm by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations”. In turning to those considerations put forward by the applicant weighs in favour of the development.
- 10.14 The applicant is Options Group Ltd a provider of services for young people with an Autistic Spectrum Disorder (ASD). The existing residential dwelling is used for 4 young adults with care provided. Whilst Options Group Ltd have other facilities in the region, the facilities within the application proposal have been and will continue to be used by the residents of Hickory Thicket only.
- 10.15 The original use of the building was for the stabling of small groups of rare breed animals (*such as Kune Kune pigs, Soay sheep and Pygmy goats*) to be looked after by young people living at Hickory Thicket. The reasoning behind this was that there is an essential need for the animal pens to be designed in a way that enables the young people to appropriately interact with the animals, learn from the associated experiences and develop relationships that assist them in understanding their responsibilities to society’.
- 10.16 Support was given for this proposal as it was felt that that proposal provided essential ancillary care facilities for the residents of Hickory Thicket and thus provided ‘very special circumstances’ to justify the development.
- 10.17 Whilst the building remains used for approved purposes at times and is still laid out as per the relevant planning permission, the spaces within it have also been used for other care and therapeutic purposes ancillary to the lawful use as a residential home as and when required.
- 10.18 The applicant contends that this is because it has been necessary to respond to the individual needs of residents as their specific care and development requirements change over time.
- 10.19 The individual spaces that form the building provide a significant enhancement to the quality of the service that is offered to the four residents who currently live at the site. Each of them possesses severe intellectual impairment. This means that all rely heavily upon high levels of staff support and a highly structured environment and programme of activities to develop existing skills and have opportunity to experience new activities. The main impact of Autism is that people have significant issues with social skills, communication and flexibility of thought, leaving the individual extremely vulnerable and particularly 'at risk' in the wider community without support.
- 10.20 It is considered that while the main building provides an ideal and safe living environment and is structured so that each person has the opportunity to build upon existing daily living skills in the home, it has limitations in terms of providing opportunities to residents in experiencing day to day activities that we may take for

granted, which may cause major problems for these individuals if presented in the wider community.

- 10.21 For instance, at times one of the spaces in the detached building has been used to perform desk top activities (i.e. arts/crafts/music) and IT which would normally only be associated with specialist day care provisions. While some of these activities might be conducted within the general home setting, the building presents an environment which is 'context specific' which has seen a dramatic increase in the uptake of these types of activities since they were moved to the barn building. It has been possible, therefore, to provide a predictable structure of activities in a familiar and safe environment that the residents enjoy.
- 10.22 The applicant has stated that the use of space as an activity area has also provided a opportunity for the young residents to enjoy social functions which without the building be present was virtually impossible to implement. This has meant that the residents have opportunities to enjoy birthday parties and other special occasions incorporating family and peers whereas this was impossible before. In the past, trying to implement such activities in the main home resulted in some serious incidents due to the limited space.
- 10.23 The applicant has also stated that, at times, space in the building is also used as a relaxation room where the residents will spend time engaged in sensory activities which is for many people with their disabilities an essential part of their development as many have extreme sensitivities to light/sounds/smells. This has provided a controlled and safe, context specific area in which the residents can enjoy sensory stimulation as opposed to being overwhelmed in non-specific environments.
- 10.24 On balance it is considered that although the building is not being used strictly for its original intent, it is still being utilised as an essential ancillary care facility for the existing residents and that sufficient evidence has been provided to justify 'very special circumstances' of sufficient weight to justify inappropriate development in this Green Belt location.
- 10.25 These 'very special circumstances' are associated to the building being used solely by and ancillary to Hickory Thicket and conditions have been suggested to ensure the building is not used for other commercial uses or split from the main building and planning unit of Hickory Thicket.
- 10.26 The previous approval was granted on a temporary basis and it is considered appropriate that this permission should also be for a temporary five year period and in addition that the building must be removed should the applicant cease ownership or management of Hickory Thicket.

Other Considerations:

- 10.27 Given the siting of the building relative to its neighbours, it is considered that the development will not give rise to residential amenity concerns given the low key nature of the site's use. This has been borne out by the fact that the building has now been in use for a number of years without any formal complaints from nearby residential occupiers.

11.0 CONCLUSION:

- 11.1 Whilst it is considered that the building would amount to inappropriate development in the Green Belt and it would reduce the openness of the Green Belt, 'very special circumstances' have been provided to demonstrate that the building is required in association with the development of the autistic residents.
- 11.2 It is considered that the application proposal is in line with central government policy objectives which seek to ensure consideration is given to social inclusion and recognising the needs of everyone as well as supporting the provision of small-scale, local facilities to meet community needs.
- 11.3 The proposal is therefore considered to comply with policies N33, N37 and GP5 of the Unitary Development Plan and the government guidance contained within Planning Policy Guidance Notes 2 'Green Belts' and is recommended accordingly.

Background Papers:

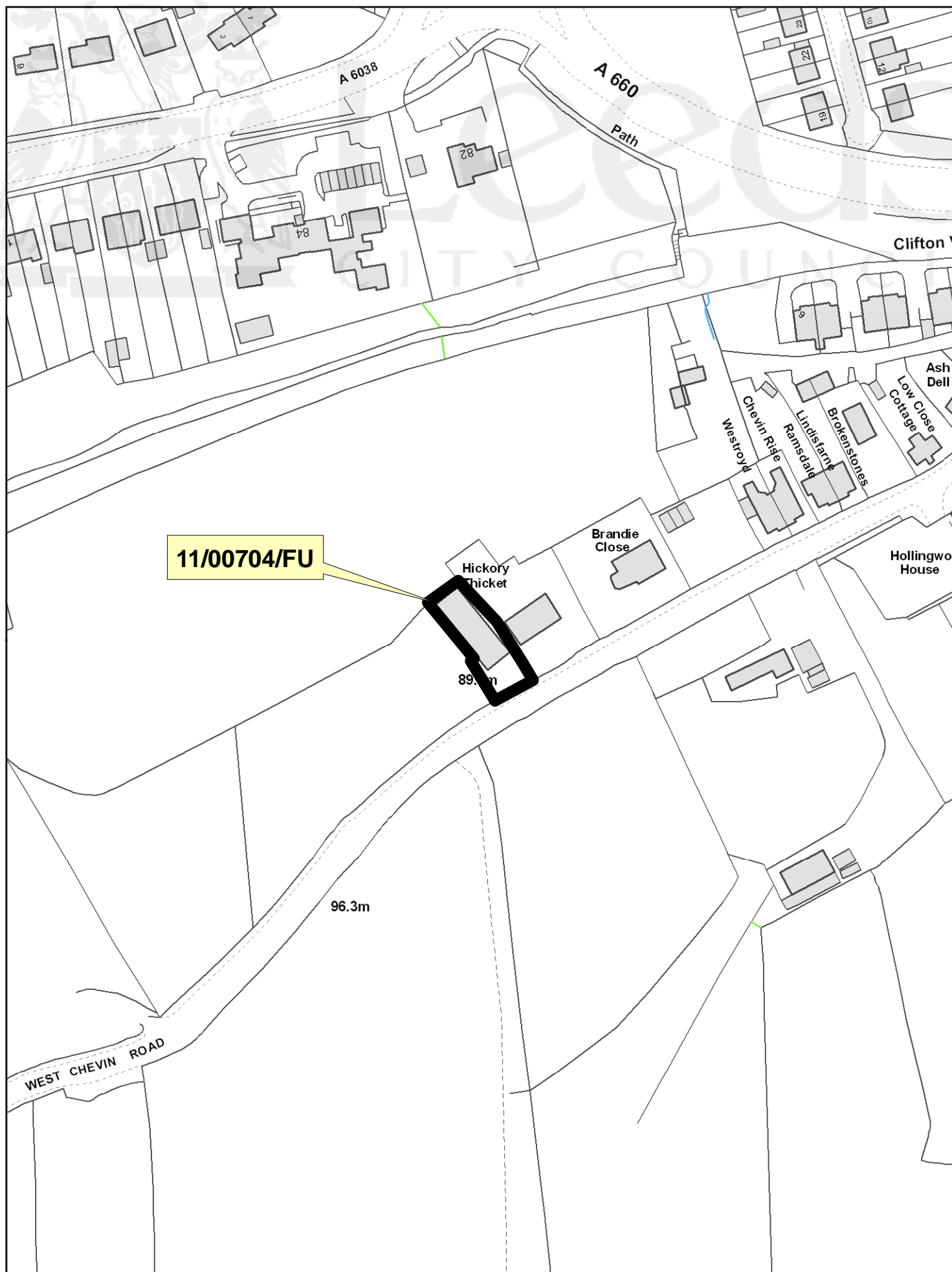
Application file 11/00704/FU

Certificate of Ownership

Application file 29/231/05

Application file 07/05398/FU

Application file 07/05387/FU



WEST PLANS PANEL

