

Originator: Martin Sellens

Tel: 0113 2478172

Report of the Chief Planning Officer

PLANS PANEL EAST

Date: 6th October 2011

Subject: Application 10/05711/FU – Alterations to existing unlawful residential annexe to form 3 bedroom residential annexe at 11 Old Park Road, Gledhow, Leeds, LS8 1JT

APPLICANT DATE VALID TARGET DATE

Mr W Hussain 23rd December 2010 17th February 2011

Electoral Wards Affected:	Specific Implications For:		
Roundhay	Equality and Diversity Community Cohesion		
Yes Ward Members consulted (referred to in report)	Narrowing the Gap		

POSITION STATEMENT:

Members are asked to note the report and will be updated verbally at the meeting of any further developments since the report was written

1.0 INTRODUCTION:

- 1.1 This application was last presented to Plans Panel on 19th May 2011 with a recommendation to refuse permission on the grounds of the size of the building, the impact on the tree to the rear of the site and the lack of information to demonstrate that a hedge could be planted along the north western boundary to screen the building. Members at that meeting resolved to defer the application to allow further discussion on the following matters:
 - The extent of the ground floor to be reduced further;
 - The side wall of the building to be sited to allow for a substantial hedge to be planted.
- 1.2 A meeting was held between planning and landscape officers and the applicant's agent and landscape consultant on 15th June to discuss the matters raised at Panel in May. Members' requests for the building to be further reduced in size and pulled away from rear and side boundaries have been reiterated to the agent on several

occasions. Further information was subsequently submitted which set out the specifications for a hedge to be planted to the side within the existing boundary abutting the current building and demonstrating how it would be watered and maintained. A further report to Panel in July was withdrawn to enable discussions to continue but concern has been expressed about the time that has elapsed and the Head of Planning services promised at the last Panel that a report would be brought to this Panel updating members of the present position.

- 1.3 Following the July Panel meeting the applicants have been exploring the possible purchase of an area of land adjoining the annex building from the playing fields of the adjacent Roundhay school to provide a wider strip of land in which to plant a hedge, and specifications for the planting and management of a hedge in this area. This has been a complex process given the involvement of ESCo, the PFI provider and the school. It is understood that this matter is to be discussed at a Governors' meeting on 27th September, and Members will be updated on the outcome and implications of this at the Panel meeting.
- 1.4 Revised plans were received on 16th September showing the additional approximately 21square meters of land on the school playing field site included within the site with a realigned metal post and rail fence boundary and a hedge planted between the realigned boundary and the existing annex building. The plans have been uploaded on public access and local people made aware and given further opportunity to comment. The size of the building and its massing remains the same as was presented to Members at Panel back in May.
- 1.5 For Members' reference, the table from the previous Panel report comparing the building 'as built', the 2007 permission and the current proposals is repeated below:

	2007 Permission	Existing unauthorised building	Current proposal	
Length	14.4m (ground floor)	17m (ground and first floor)	17m (ground floor)	
	12.3m (first floor)		14m (first floor)	
Width	7.2m	7m	7m	
Height	5m to eaves	5m to eaves	5m to eaves	
	6.8m to ridge	8m to ridge	6.8m to ridge	
Footprint	95m ²	119m ²	119m ²	
Floorspace	158m ²	344m ²	275m ²	
Basement	None	Storage/gym	Storage	
Ground	Double garage, shower	Living room, hall,	Living room, hall,	
Floor	room, store, games room	cloakroom, kitchen/dining	cloakroom, kitchen/dining	
		room	room	
1 st Floor	1 bedroom, store, lounge,	3 bedrooms, bathroom	3 bedrooms, bathroom	
	bathroom, kitchenette			
2 nd Floor	None	Playroom	None	

- 1.6 Members will recall that this application was submitted following an Inspectors decision on an enforcement appeal heard at a Public Inquiry in July 2010. In the decision dated 19th August 2010 the appeals were dismissed and the enforcement notice upheld with corrections. The enforcement notice directs that the unauthorised building be demolished within 8 months and the land reinstated to garden within 10 months.
- 1.7 Members will be aware that planning permission was given in 2007 for an annex

building on the site and this was a material consideration at the Inquiry as it is now in representing a fallback position that the Council has previously considered was

acceptable. There were previously structures where the annex is located but they were single storey in appearance.

1.8 Members should also note that at the Inquiry the needs of the appellant and his family for the accommodation provided by the development (a total of 17 people in an extended family) was taken into account. The Inspector recognised that the religious and cultural needs of the appellant and his family are material planning considerations which need to be taken into account in reaching a decision. In the appeal the Inspector found no overriding personal, religious or cultural reasons for permitting the appeal building to remain.

2.0 ADDITIONAL INFORMATION RECEIVED

- 2.1 Further to the deferral of the application from the Panel meeting in May and the subsequent meeting with the applicant's agent and landscape consultant, the following information has been received:
- Repositioning of north western boundary and realignment of retaining wall within site

 A revised site plan has been submitted, showing the applicant's proposal to
 purchase a triangular shaped strip of land from the school playing fields to the north
 west of the building and to realign the retaining wall to the north west of the building
 to widen the area in which to plant a hedge. As revised, the rearmost section of the
 retaining wall would directly abut the single storey ground floor projection of the
 unauthorised building, and in the event that the school were to agree to sell the land
 to the applicant, a strip of land around 2.5m wide would then be available to plant a
 hedge alongside this section of the building. Cross sections showing the width of the
 proposed hedge in relation to the building have also been provided.
- 2.3 These revised plans are accompanied by a construction specification for the works to realign the retaining wall. This includes the provision of a waterproof layer between the section of the retaining wall adjoining the annexe to prevent damp in this location, and the provision of an irrigation channel within the planting bed, fed from the downpipe to the rear of the annexe. The specification advises that the works proposed in this respect would be carried out once works were completed to the roof and first floor of the annexe building to prevent new soil in this area being contaminated by building materials.

Planting and maintenance schedule for hedge

2.4 This includes a specification for the type of planting proposed within the enlarged planting bed (privet hedging), and details of how this planting would be implemented, including species sizes and densities, soil and mulch specifications and details of watering and irrigation. A maintenance schedule for a period of 3 years following the planting of the hedge is also provided, including weeding, watering and fertilisation and the replacement of any plants which die within this period. This confirms that the planting would be inspected by the applicant's landscape consultant upon completion of the retaining wall works and irrigation installation, following the planting of the hedge to inspect its health and the standard of the works, and regularly during maintenance works throughout the specified three year period to check that maintenance is being carried out in accordance with the specification.

Additional elevations

2.5 A further elevation drawing has also been provided which shows the height to which a 2m hedge would grow in relation to the annexe building and the size of the annexe

building as now proposed in comparison to the extent of the building approved in 2007.

Timescale for carrying out the works

2.6 This advises that in the event that permission were to be granted for the works as now proposed, works would be able to commence on the alterations to the annex building 1 month after the decision, and be completed so that the planting beds and retaining walls could be constructed before 1st March 2012 with hedgerow species subsequently planted.

3.0 REPRESENTATIONS RECEIVED

- 3.1 The additional details discussed above have been received in two sets as follows:
 - a) The first set of plans, containing the information relating to the realignment of the retaining wall and the planting and maintenance specifications for the hedge, was received on 27th June 2011
 - b) The revised site plan showing the proposal to purchase additional land from the school to the north west, with associated revisions to the sections showing the width of the hedge was received on 16th September.

Following the receipt of the first set of plans in June, these were emailed to Ward Members, Roundhay Conservation Society, Gledhow Valley Conservation Group, and the immediate neighbour to the rear of the site, seeking their comments, and made available to view on the Council's Public Access website for neighbours and local residents to view and comment on. The second set of revised plans, received 16th September, has been advertised by site notice and individual notification letters to those who have previously commented. The comments below relate to the additional information received since the application was deferred from Panel in May, and are additional to the 37 letters of objection and 3 letters of comment which have previously been received and which were summarised in the previous report to Members.

- 3.2 Two further emails of objection have been received from Councillor Lobley since the application was discussed at Plans Panel in May, one in response to each set of revised/additional information which has been received. His concerns are as follows:
 - Very disappointed to see that the recommendations of Panel in May have been ignored with regard to the size of the annexe building itself. Lack of any further changes to the size of the building is not acceptable.
 - Plans make the assumption that the boundary will be moved onto Roundhay School land not aware that this has been agreed to.
 - Using playing field land to plant a hedge is contrary to the importance that this space is given in the Roundhay Conservation Area Appraisal which notes that 'the playing field in front of Roundhay School is an important space.'
 - Building is still too large amended roof type and tiling does not address this

 still fills most of the space between the existing dwelling and the rear
 boundary of the application site. 'Glimpsed views of deep rears gardens' are
 identified as important in Conservation Area Appraisal. This does not
 enhance conservation area, it detracts.
 - Doubtful that a hedge would feasibly grow to screen the building within a reasonable time period. Concerns that this could fail or be removed.
 - Issues around damage to sycamore tree to the rear of the site remain.

- Lack of on site parking the off-site car parking shown on road side should not be relied upon to provide parking for the site.
- Maintains strong objection to the application and urges its refusal on the basis that it 'flies in the face of the Panel's requests for change'.
- 3.3 Leeds Civic Trust have written to express their concern about the failure to resolve this unauthorised development, and about the size of the building which has been erected in comparison with that for which permission was originally granted, and advise that this issue is 'of vital importance to the planning of the whole city.' The letter states that 'the planning system is there, amongst other reasons, to protect the environment and the visual character of different parts of the city ' and that it is 'vital that the planning system works effectively and equitably.' Reference is made to the recently adopted Roundhay Neighbourhood Design Statement, and to the existing conservation area appraisal, both of which were drawn up in consultation with the local community before being adopted by the Council, and the Civic Trust raise concerns that such efforts to maintain the area's character will be 'seriously undermined and many people will be dismayed and disillusioned with the planning system if urgent action is not taken in this case.'
- 3.4 Gledhow Valley Conservation Group have reiterated their objection to the proposals on the following grounds:
 - Changes proposed are minor and do not address most significant points raised by the appeal Inspector.
 - Footprint and floorspace of the building remain much larger than building approved in 2007.
 - Ridge level would still be 30cm higher than the building approved in 2007.
 - The gap in which it is proposed to plant a hedge is very narrow, and its
 position so close to the building and to the north west of the building means
 that it would be in shade for much of the year, compromising its growth and
 its ability to provide the screening required.
 - The statement submitted with the 2007 application stated that trees and hedges would not be pruned or felled. This has not been the case, as is evidenced by the need to plant a hedge now.
 - If permission is granted it would send a message that local authorities are powerless to stop unauthorised developments which are harmful to the character of conservation areas.
 - The application should be refused and the developer required to reinstate the building to what was approved in 2007.
- 3.4 19 further objections have been received in response to the revised and additional information received since the last Plans Panel meeting. The following concerns are raised:
 - No changes are proposed to the building, contrary to the wishes of Panel as requested at the meeting in May. Disappointed to see that the requirements of planning officers, the Inspector and now the Plans Panel have again been ignored in terms of removing or further reducing the unauthorised building.
 - Abuse of process applicant sought permission for a garage then built a house. If this is allowed the whole development control process loses its validity. Councillors should refuse these applications where planning approvals have been disregarded to avoid public disillusionment with planning process.

- Even if agreement is reached regarding further modifications to the scheme, doubt that these will be complied with in the light of what has been done before.
- Uncertainty as to why this has been further delayed in the light of the comprehensive and well reasoned officer report recommending refusal and the receipt of 70 objections from local residents, including elected representatives.
- Roundhay Neighbourhood Design Statement now adopted if this and concerns of conservation groups are to be ignored, what are their purpose?
- Concern regarding ability to grow a hedge in such a confined space and right up against the wall of a building – significant risk of root systems being affected by realigned retaining wall and irrigation trench.
- The building remains inappropriate, intrusive, overbearing and out of keeping with others in the conservation area.
- The ground and first floor of the building will remain under the canopy of the purple sycamore tree to the rear therefore issues relating to the potential to damage to the tree canopy remain.
- Hedge will not completely screen building.
- Approving this would set precedent that you can build what you like wherever you like as long as you can plant a hedge to screen it.
- Ongoing detrimental effect of building and retaining wall on the roots of the tree to the rear.
- Building still does not contain a garage, despite applicant's original supporting statement setting out the need for this. Concern that a garage will be constructed at a later date, further reducing garden area and amount of space for rainwater run-off.
- Concern regarding short timescale allowed for comments on plan, particularly as applicant waited 4 months after appeal to submit new application to local authority in December. Attempts to delay enforcement process.
- Amount of public money spent in trying to resolve this matter, which has been ongoing for 5 years.
- Further delays in reporting application back to Plans Panel.

4.0 POLICY

- 4.1 The adopted development plan policies and supplementary and national guidance relevant to the consideration of the application were detailed in the report to Panel on 19th May and are therefore not repeated here. However, since the deferral of the application from Plans Panel in May there has been a change in that the Roundhay Neighbourhood Design Statement (NDS) was adopted as a Supplementary Planning Document by Leeds City Council in June 2011. The NDS identifies important aspects of the character of the different areas of Roundhay, and sets out priorities for future enhancement together with guidance for the design of new developments.
- 4.2 One of the key principles identified for new developments in Roundhay is that they 'must respect the special character and context of Roundhay ward.' A number of the general principles identified in this section are relevant to the consideration of this application, and advise that development in the area should:
 - 'Relate well to the topography and landscape of the place'
 - 'Be integrated into the pattern of existing developments'
 - 'Address important short and long views and vistas'
 - 'Respect the scale, proportions and aspects of neighbouring buildings'

- 'Use materials which match in colour, texture and quality those used in existing buildings'
- 'Extensions, including garages, should not dominate the original building.'

5.0 APPRAISAL

- 5.1 In deferring this application from Plans Panel on 19th May, Members made specific reference to negotiations taking place on the following matters:
 - The extent of the ground floor to be reduced further.
 - The side wall of the building to be sited to allow for a substantial hedge to be planted.
- Despite several encouragements to do so there have been no revisions made to the size or footprint of the building since the application's deferral from Panel in May. Instead the applicant's agent has sought to demonstrate that a hedge can be satisfactorily planted, established and maintained to the boundary which will give significant screening along the side boundary. Officers were not convinced that this could take place within the existing boundary of the site and so the applicant has looked at whether a small amount of land could be acquired from the school to enable this to happen. That process has taken some time but is coming to a conclusion. Without the certainty that the land could be acquired then no reliance can be placed upon the screening proposals set out in the latest revised plans because they could not be delivered.

Potential for planting of a hedge

- 5.3 Concerns have previously been raised that there is insufficient space, natural light and moisture in the area between the building and the north western boundary to plant a hedge which would survive and grow to an adequate height and density to screen the unauthorised building. A previous attempt to plant a hedge in this area at the time of the appeal inquiry in July 2010 does not appear to have become well established or maintained. Recent observations on site also show that the hedge to the front of the plot is not in a good condition and elsewhere along the boundary it has been allowed to grow but appears straggly and lacking in bulk.
- 5.4 Following the application's deferral from Plans Panel in May, additional information has been provided which seeks to overcome these concerns, including a proposal to purchase additional land from the school to the north east to provide a wider strip of land in which to plant a hedge, and to realign the retaining wall adjacent to the building to provide a wider planting bed and incorporate an irrigation system. This is accompanied by a detailed specification prepared by the applicant's landscape consultant setting out a programme for the planting of a hedge and its maintenance over a period of three years. This includes a proposal to use more mature hedge plants than those which have previously been planted, to replace any plants which die within the 3 year establishment period, and for the landscape consultants to carry out regular inspections of the planting throughout this period. On the basis of the additional information submitted in this respect the landscape officer has advised that, whilst planting conditions in this area are not ideal, it would be difficult to argue with certainty that a hedge would not grow to a height of around 2m over a period of 2-3 years, and that on this basis refusal of the application on the grounds that a hedge could not be grown in this area may be difficult to justify.

Whether the planting/success of a hedge would overcome the impact of the development on the character and appearance of the conservation area

- 5.5 Additional elevation plans have been provided by the applicant showing the extent of the building which would be screened if the new hedge were to grow to a height of 3.5m, which would be comparable to the height of the remaining hedge to the front of the application building and the hedge along the north western boundary of 4 Ryder Gardens to the rear. At the meeting with the applicant's representatives, their landscape consultant advised that if successful, it would take 2-3 years for a hedge to grow to the height of the sills of the building's first floor windows.
- 5.6 The appeal Inspector considered that, were planting to grow well along the site's north western boundary it could reduce the prominence of the building over the space of a few years. However he goes on to say that this would not overcome his concerns regarding the harm caused by the length and massing of the building in the proposal before him. In reaching a decision on this application therefore it is necessary to consider the impact of the size and massing of the building on the character and appearance of the conservation area. The key judgment to be made by Members therefore is whether the resultant building now before Panel would preserve or enhance the conservation area.
- In reaching that view Members need to remember that the proposed building under consideration is lower in height and has less massing than the building the Inspector reached a view on in August 2010. The height will be reduced from the current ridge height of 8m to 6.8m the same height as approved by the Council in 2007. The existing gable ends of the annex will be removed and replaced by hipped ends which significantly reduces the massing at each end and is also consistent with the 2007 Council permission. The length of the annex will remain at the current length of 17m but will be reduced by 3m at first floor level at the rear bringing the first floor length down to 14m and removing the first floor from being in direct conflict with the canopy of the protected purple leaved sycamore tree at the rear. In comparison with the 2007 Council permission the first floor will extend 1.7m longer and the ground floor 2.6m longer.
- The Inspector noted that, as detailed in the Roundhay Conservation Area Appraisal, 'open space, whether in the form of parkland, a playing field, the separation between the fronts of houses and adjoining roads, or just in terms of the gaps between houses, gives the locality a sense of spaciousness', and that this was a characteristic he considered worthy of preservation or enhancement.
- The Inspector noted that views of the building from the playing fields of the school to the north were 'conspicuous' and that, whilst not an area to which the public have unrestricted access, the fields were likely to be well used, making views from this area an important consideration. In this respect he notes that when viewed from the playing fields the existing building, by reason of its height and length, 'dominates the rear garden of no. 11 and it appears to fill much of the visible space between the rear of the main house and the neighbouring property [to the rear]' He also comments that while the unauthorised building is an annex to the main house, its length was 'comparable to that of nearby dwellings', and appeared to be of a size 'more akin to a detached dwelling than of a structure that is ancillary to the main house.' On this basis, he concluded that when viewed from the playing fields, the building 'significantly erodes the sense of spaciousness that would otherwise exist between properties.'
- In terms of views from Old Park Road and Roundhay Park, the Inspector comments that the existing building is visible through gaps between street trees on Old Park Road, and that from this direction 'the considerable bulk of the structure is readily apparent and its adverse impact upon the openness of the area is clearly seen.' He

noted that even if a hedge were to grow well along the boundary, much of the building would still be visible, and that the 'height, length and massing of the structure would still be readily apparent'. He therefore concluded that 'accordingly, the harm caused by the development might be lessened but it would not be materially overcome by replacing the hedge.'

5.11 In reassessing the present proposal it is clear that there are improvements in relation to massing which if implemented will reduce the harm to the conservation area. The height of the building will be reduced and it will not now appear to be of a "similar height to the secondary ridge of the main house" but lower - however it is clear that it will still be a outbuilding which will have an impact on the conservation area. Whilst the first floor massing has been reduced the length of the building is the same. If the hedge can be made to work with sufficient land so that it grows and matures then screening will reduce views but will not hide the first floor or roof of the building from public view. The judgement that members will need to come to is whether sufficient change has been made so that the building preserves the character and appearance of the conservation area and does not seriously harm the sense of spaciousness that is an important feature of the locality. Members should bear in mind that the Inspector in his decision did state that "this harm could not be overcome by altering the profile of the roof. The appeal building is simply too large for this site".

Impact on the tree to the rear of the building

5.12 The Inspector concluded on this issue that the long term amenity value of the sycamore would be put at risk by its proximity to the appeal building and was a further disadvantage of the development. It is considered that this issue has been largely dealt with by the removal of a 3m length of the first floor, taking the bulk of the first floor away from the canopy and making a blank gable to the tree and removing the ground floor kitchen window from the rear which directly faced the trunk. The Inspector considered that the building of the annex had not led to any visible signs of placing the tree at risk – the proposed changes would improve the present situation and whilst not ideal are not sufficient to continue to object on this ground. There would however be some ongoing annoyance and maintenance issues resulting from the fall of twigs, leaves and other debris from the tree onto the single storey roof, blocking gutters and downpipes, and from moss growth promoted by debris and shade but it is not considered these would be sufficient to claim that pressure would be placed to remove the tree and so the long term amenity value of the tree would be maintained within the local area.

Other issues

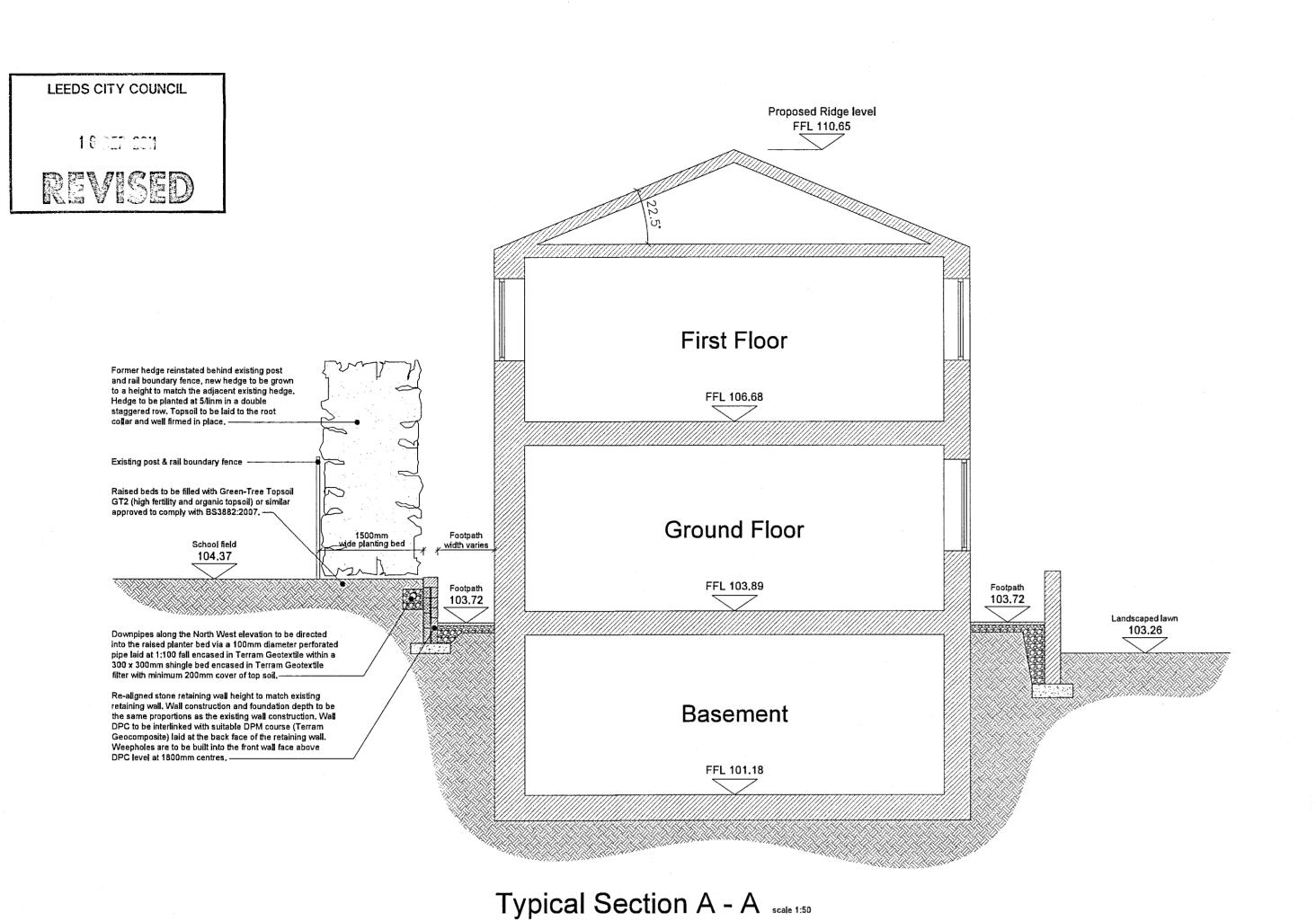
5.13 A number of other issues and concerns have been raised by local residents which have been raised previously and were addressed in the previous report to Plans Panel in May.

6.0 CONCLUSION

6.1 This report updates Panel on an important application which is of significant interest within the city. Members will be updated at Panel on any further changes at the Panel meeting but the report sets out where the application has got to and the main considerations for Members to address.

Background Papers:

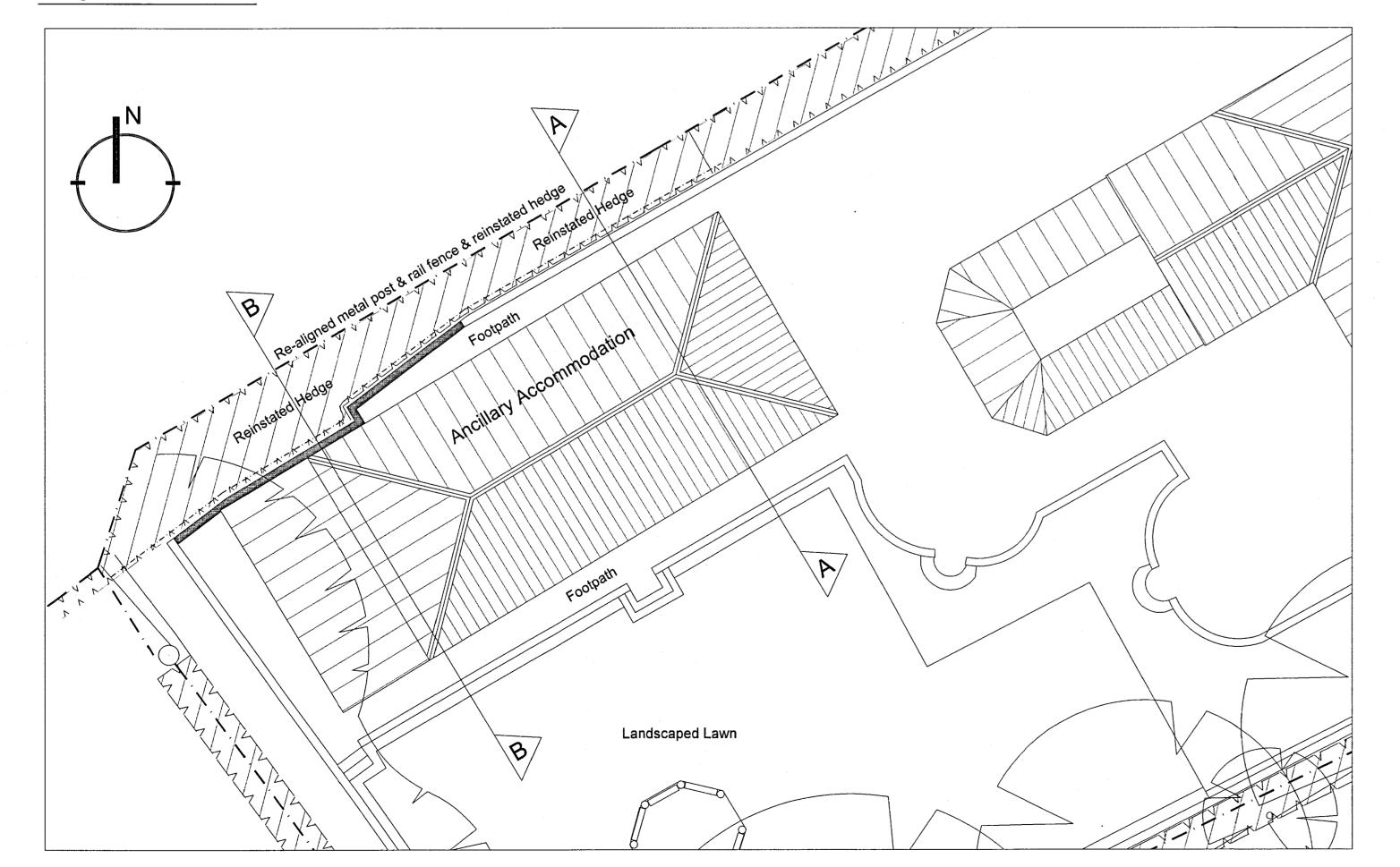
Application and history files 09/03515/FU, 08/06852/FU, 07/00030/FU and 06/05086/FU. Certificate of Ownership: Signed by applicant.

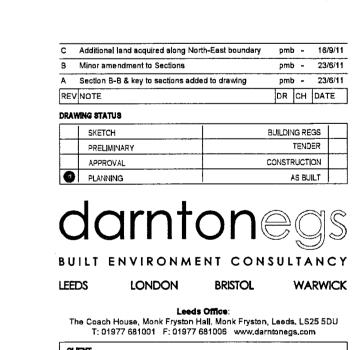


LEEDS CITY COUNCIL Proposed Ridge level First Floor Former hedge reinstated behind existing post and rail boundary fence, new hedge to be grown to a height to match the adjacent existing hedge. FFL 106.68 Hedge to be planted at 5/linm in a double staggered row. Topsoil to be laid to the root collar and well firmed in place. Existing post & rail boundary fence -Raised beds to be filled with Green-Tree Topsoil GT2 (high fertility and organic topsoil) or similar approved to comply with BS3882:2007. **Ground Floor** School field 104,37 FFL 103.89 Footpath 103.72 Downpipes along the North West elevation to be directed into the raised planter bed via a 100mm diameter perforated pipe laid at 1:100 fall encased in Terram Geotextile within a 300 x 300mm shingle bed encased in Terram Geotextile filter with minimum 200mm cover of top soil. Re-aligned stone retaining wall height to match existing retaining wall. Wall construction and foundation depth to be the same proportions as the existing wall construction. Wall DPC to be interlinked with suitable DPM course (Terram Basement Geocomposite) laid at the back face of the retaining wall. FFL 101.18

Typical Section B - B scale 1:50

Key to Sections:

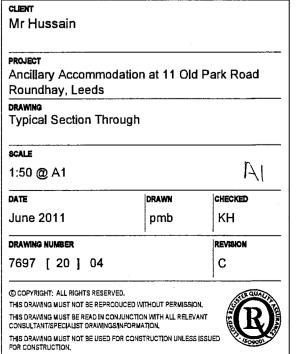




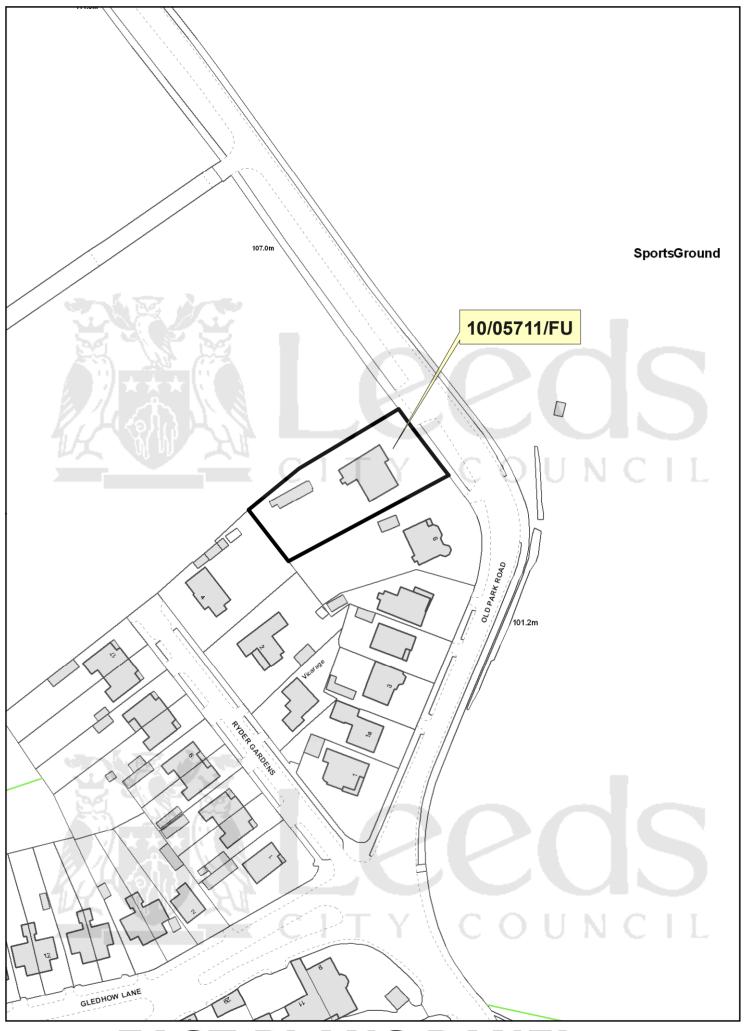
10/05711

1 S SEP 2011

LEEDS CITY COUNCIL



ALL DIMENSIONS ON THIS DRAWING ARE IN MILLIMETRES (UNLESS OTHERWISE STATED). DO NOT SCALE FROM THIS DRAWING.



EAST PLANS PANEL