



Report of the Chief Planning Officer

PLANS PANEL EAST

Date: 17th May 2012

Subject: APPLICATION 12/00501/FU – Variation of condition 2 (approved plans) of approval 09/03138/FU for MINOR MATERIAL AMENDMENT relating to Three 4 bedroom detached houses with integral garage to rear garden and replacement detached double garage to existing dwelling to the rear of 10 Elmete Avenue, Scholes, Leeds, LS15 4BL

APPLICANT

JWT Developments

DATE VALID

7 February 2012

TARGET DATE

3 April 2012

Electoral Wards Affected:

Harewood

Yes

Ward Members consulted
(referred to in report)

Specific Implications For:

Equality and Diversity

Community Cohesion

Narrowing the Gap

RECOMMENDATION:

GRANT PERMISSION subject to the following conditions:

Conditions

1. Timescales for development – to be completed within 3 months.
2. Materials to match those approved under original permission.
3. Removal of permitted development rights for insertion of additional first floor windows in east and west elevations.
4. Removal of permitted development rights for extensions, roof alterations and outbuildings.
5. Landscaping and Implementation
6. Drainage and implementation
7. Replacement planting
8. Retention of boundary fence

Informatives

1. Duty to comply with provisions of Party Wall Act
2. Consent does not imply access onto adjacent land.

Reasons for approval: When considering the proposed amendments against that shown on the drawing approved by the Inspector; it is on balance, considered that the variance in Plot 3 is not significantly worse than that proposed at the time of the appeal decision in terms of the impact upon residential amenity and visual amenity of the wider area. Accordingly the application for the amendment to Plot 3 is recommended for planning permission.

1.0 INTRODUCTION AND THE HISTORY OF NEGOTIATIONS

- 1.1 This application is brought to the Plans Panel for consideration at the request of Councillor Rachael Procter, given the history of the application site.
- 1.2 This report does not consider whether the principle of residential development is acceptable as this has already been established by a planning Inspector at the appeal for non-determination (see planning history). What this report seeks to set out is whether or not the alterations from the approved scheme, namely the dwelling to occupy Plot 3, are of greater harm in respect of affecting the living conditions of existing occupants on Elmete Croft. This is considered to be the only material planning consideration that varies from the considerations and conclusions of the Inspector at the time of his decision. All other matters considered by the Inspector at the time of appeal are considered to remain unaltered, i.e. design, character and appearance, and principle of development.
- 1.3 As a result of a complaint, Enforcement Action was instigated by the Council and Officers conducted a site visit regarding the ongoing development of the site for three dwellings.
- 1.4 At a meeting it was agreed by all parties (Council Officers and the developer) that the house on Plot 3 is erroneously sited and is approximately 300mm – 500mm closer to the existing garage at No. 4 Elmete Croft. Moreover, there was agreement that the ground levels of Plot 3 had been increased by some 400mm – 750mm, and that this increase had not been shown on the plan which was subsequently approved by the Inspector (see planning history).
- 1.5 At the time of the meeting the developer was also informed that none of the pre-commencement conditions had been formally discharged by the Council and therefore all work which has been carried out to date, has been done at the developers own risk.
- 1.6 In light of the above the development has not been implemented in accordance with the plans approved by the Inspector, as such it was agreed that a breach of planning control had taken place and steps were required to remedy the breach. The developer was made aware that the proposal could not be considered under an application for a non-material amendment, given that material issues arise, particularly which were evident at the application stage.
- 1.7 A formal planning application was submitted to seek to regularise the situation in the form of a minor material amendment. This effectively, is a Section 73 application which seeks to amend the planning condition which lists the approved drawing numbers, to those drawings now put forward for consideration. The developer was advised to include details of levels, including sections through the site with neighbouring properties, as well as clear proposals for the height, form, and siting of the necessary boundary treatments.

- 1.8 The Council requested that all works on Plot 3 cease, other than the works to make the building secure and to finish off minor jobs, until the required planning application had been determined.

2.0 PROPOSAL

- 2.1 This application seeks to permission to vary condition 2 of planning permission 09/03138/FU. In effect, it is a Section 73 application for a minor material amendment which seeks to substitute the drawings previously approved under the previous application which was allowed on appeal by the Planning Inspector.
- 2.2 It is clear that the levels on site have been raised in relation to Plot 3 to build the foundations of the house. In addition a retaining wall has been built close to the boundary with the properties within Elmete Croft to the east. The retaining wall measures 400mm at its lowest point, rising to 750mm at its highest point, depending on where the measurement is taken. As such, the level of the land is higher on the application site than that of its neighbours to the east. In addition, a timber fence has been erected on top of the retaining wall and the applicant proposes to retain this and to reduce it to a height of 1.5m as measured from the application site. Furthermore, the house has been incorrectly sited and is approximately 400mm closer to the eastern boundary than approved. Approval for this re-siting forms part of the application. In order to compensate for this amended siting and increase in levels, the applicant proposes to amend the roof design of the house by changing from a house with gable ends to a hipped roof on both sides. In order to compensate for the hedge that has been removed and which was supposed to be retained by planning condition, the applicant proposes a replacement hedge in place of where the previous beech hedge was removed, adjacent to the boundary with Elmete Croft.

3.0 SITE AND SURROUNDINGS

- 3.1 The application site was previously a long, linear garden to the rear of no. 10 Elmete Avenue which is located at the northern end fronting onto Elmete Avenue. The site sits in a row of long gardens; however the gardens to the east have been developed into the Elmete Croft development. The application site is now under development which can be regarded as substantially completed. Numbers 3 and 4 Elmete Croft directly overlook the application site at a distance of approximately 8m. Both of these properties feature rear conservatories in the rear garden areas. To the south are rear gardens of houses on Belle Vue Road, again these properties are quite close and are set at an oblique angle to the application site. To the west is the rear garden area of No. 8.
- 3.2 No.10 Elmete Avenue is a detached dormer bungalow, which is fairly typical of the locality, which is a relatively low density residential area comprising of bungalows and two storey dwellings. Boundaries are identified by hedges and trees, although along the eastern boundary planting has been removed and replaced by a 1.8m high close boarded timber fence. The houses approved by the Inspector are all located to the rear, with two of the houses now complete. The dwellings are constructed from stone and render under a slate roof. Construction work on the house on Plot 3 ceased a number of months ago to seek to remedy the breach of planning control. As such, the scaffolding is still in situ.

4.0 RELEVANT PLANNING HISTORY:

- 4.1 The site has been the subject of numerous planning applications over recent years. The house has been the subject of four individual applications for domestic house extensions in 1978, 1979, 1981 and 2002 respectively. None of these are particularly material to the consideration of the current application.
- 4.2 In 1992 and 1993 there were 2 planning applications (Refs. 32/243/92/FU and 32/149/93/FU) for the erection of a detached dwelling within the rear garden area. Both of these applications were refused.
- 4.3 In 2006, an outline planning application was submitted (Ref. 20/22/06/OT) for the erection of 12 flats in two 2 storey blocks. This application was refused for two reasons, namely, the impact upon the character of the area due to the siting, size and spatial setting of the proposed buildings; the impact on the living conditions of adjacent properties due to the size of buildings and vehicular movements; and the impact on trees. This refused application was the subject of an appeal which was dismissed by the Inspector in his decision letter dated 19th December 2006 (Ref. APP/N4720/A/06/2021907).
- 4.4 A further outline application was submitted in 2007 (Ref. 07/04094/OT) for the erection of 12 flats in two 2 storey blocks. This application was also refused for reasons of, impact on the living conditions of neighbours due to vehicular movements from the turning area; that a 2m high screen with cause over dominance to the adjacent property's private amenity space, and lack of a suitable and adequate amenity space for future occupants.
- 4.5 In 2009, a full planning application was submitted (Ref. 09/01168/FU) for the erection of three 4 bedroom detached houses and a replacement double garage. Permission was refused as it was considered that vehicular activity would result in disturbance by reason of noise, causing harm to the living conditions of adjacent occupants; and impact on adjacent trees.
- 4.6 Again, in 2009 a full application was submitted (Ref. 09/03138/FU) for the erection of three 4 bedroom detached houses and a replacement detached double garage. This resulted in the applicant appealing to the Secretary of State following the failure of Leeds City Council to determine the application. It should be noted that prior to the appellants submitting the appeal, a report was taken to the Plans Panel setting out suggested reasons for refusal if the Local Planning Authority would have been in a position to determine the application. The suggested reasons for refusal were as follows:

(i) "The Local Planning Authority considers that the proposed dwellings will be out of keeping with the spatial character of the area due to their location within an area of rear gardens. As a consequence the development is considered to be detrimental to the character and appearance of the locality, and the overall design is inappropriate in its context, and fails to take the opportunities available for improving the character and quality of an area. The proposal, if allowed, would also create a precedent for similar development on neighbouring garden areas to the further detriment of the spatial character of the area. The application is therefore contrary to Policies H4, GP5, N12 and N13 of the Unitary Development Plan (Review 2006) and guidance contained within SPG13 Neighbourhoods for Living and the guidance set out within Planning Policy Statement 1 Delivering Sustainable Development and PPS3 Housing."

(ii) The proposed residential development is considered to result in overdevelopment of the site as a result of the site characteristics, the number of properties proposed

and the layout. This results in harm to residential amenity as a result of overlooking, noise and disturbance from vehicles, inadequate waste disposal provision and poor space about dwellings. The proposal is therefore considered to be contrary to guidance in Neighbourhoods for Living, and policies GP5 and H4 of the adopted UDP and to guidance contained in PPS3 Housing.

- 4.7 The appeal was allowed by the Inspector by notice dated 17 August 2010. The Inspector commented that the 3 dwellings would not be out of character with the general pattern of development and would not be too dissimilar to the linear form of housing development on Elmete Croft immediately to the east of the site which was also built on rear garden land. The Inspector also considered the impact upon the living conditions of the occupants within Elmete Croft and concluded that there would be no significant loss of privacy and no material loss of light.
- 4.8 In August 2011 an application was received to discharge conditions (Ref. 11/03692/COND) attached to the planning permission granted at appeal. This application sought to discharge Conditions 3, 4, 5, 6 and 12 (relating to materials, parking and drainage). Further to the assessment of the submitted details all but condition 6 (landscaping) were discharged.

5.0 PUBLIC/LOCAL RESPONSE:

- 5.1 Three site notices were posted; one on Belle Vue Road, one on Elmete Croft and one Elmete Avenue on the 24 February 2012 advertising the application.
- 5.2 Nine letters of representation have been received, including letters received from adjacent neighbours within Elmete Croft. Objections are raised to the proposal raising the following concerns:
- Abuse of the planning process;
 - Increase in land levels is unacceptable;
 - Re-siting of house is unacceptable;
 - Proposal will be overbearing;
 - Proposal will result in overlooking and loss of privacy;
 - Detrimental impact on outlook;
 - The house is too close to the boundary and too high;
 - Flooding has occurred due to increase in land levels and additional built form of development and hardstanding areas;
 - Flooding due to increased levels is impacting upon foundations of neighbours detached garage;
 - Loss of existing beech hedge;
 - Overlooking when using utility door in side of house;
 - House on Plot 3 should be completely demolished;
 - Unacceptable and long working hours resulting in increased noise and disturbance, including the burning of site rubbish;
 - Conditions imposed by Inspector do not protect amenity;
 - Similarities between this site and 56 The Drive at Crossgates;
 - Loss of value to property.
- 5.3 One letter of support has been received. However, this is from the owner/occupant of no. 10 Elmete Avenue who was to the original applicant for the 3 detached houses and therefore had a financial interest in the site.

5.4 The Parish Council were notified on the 15 February 2012. The Parish Council have not provided a response.

5.5 Following the receipt of revised plans which proposes to change the gable ends to hipped ends and reduce the height of the fence, neighbours were re-notified by letters dated 3 May 2012. To date, 1 letter of objection has been received. The issues raised are:

- Acknowledgement that change to roof profile is a positive design feature;
- Concern remains over landscape and boundary treatment;
- Surface water disposal does not meet SUDS standards;
- Flooding exacerbated by increase in land levels;
- Loss of visual and physical amenity to adjacent properties.

6.0 CONSULTATIONS RESPONSES:

6.1 None

7.0 PLANNING POLICIES:

7.1 The development plan includes the Regional Spatial Strategy to 2026 (RSS), the adopted Leeds Unitary Development Plan (Review 2006) (UDP) and Supplementary documents. The RSS was issued in May 2008 and includes a broad development strategy for the region, setting out regional priorities in terms of location and scale of development. In view of the relatively small scale of this proposal, it is not considered that there are any particular policies which are relevant to the assessment of this application. The Local Development Framework will eventually replace the Leeds UDP (2006) but at the moment this is still undergoing production with the Core Strategy still being at the draft stage

7.2 The following Leeds UDP policies are relevant to the consideration of the application.

Policy GP5 - refers to development proposals should seek to avoid loss of amenity.

Policy BD6 – refers scale, form and detailing

Policy H4 - refers to housing on other sites not identified in the UDP.

Policy N12 - refers to urban design

Policy N13 - refers to the design of buildings having regard to the character and appearance of their surroundings

Supplementary Planning Documents

Neighbourhoods for Living: A guide for residential design in Leeds (Dec 2003)

7.3 National Guidance

From 27 March 2010 The National Planning Policy Framework (NPPF) took the place of the PPS's and PPG's and is now a material consideration when making planning decisions. The NPPF sets out the range of the Government's planning policies and sets out the requirements for the planning system but only to the extent that it is relevant, proportionate and necessary to do so. In particular there is an emphasis on decision making at a local level where communities and their accountable Councils can produce their own distinctive local and neighbourhood plans, which reflect the

needs and priorities of communities through up to date development plans to achieve the economic, environmental and social aspects of sustainable development.

- The economic role – contributing to building a strong, responsive and competitive economy, by ensuring that sufficient land of the right type is available in the right places and at the right time to support growth and innovation; and by identifying and coordinating development requirements, including the provision of infrastructure.
- The social role – supporting strong, vibrant and healthy communities, by providing the supply of housing required to meet the needs of present and future generations; and by creating a high quality built environment, with accessible local services that reflect the community's needs and support its health, social and cultural well-being;
- The environmental role – contributing to protecting and enhancing our natural, built and historic environment; and, as part of this, helping to improve biodiversity, use natural resources prudently, minimise waste and pollution, and mitigate and adapt to climate change including moving to a low carbon economy.

8.0 MAIN ISSUES

- Principle of development
- Effect on visual amenity
- Effect on residential amenity
- Other matters
- Representations

9.0 APPRAISAL

Principle of development

- 9.1 The principle of this residential development on Greenfield land has already been accepted in light of the Inspectors decision to grant planning permission. The permission was implemented and two out of the three houses have been built.

Effect on visual amenity

- 9.2 The design of the house on Plot 3 has been revised to address the issues associated with the increase in land levels and its subsequent impact upon the living conditions of neighbours. To this end, the approved design has been amended from a house with gable ends, with the eastern facing gable orientated towards the rear gardens of nos. 4 and 5 Elemete Croft, to a house with a hipped roof. From a visual perspective, the design of this roof form is considered to be acceptable and results in a balanced and symmetrical front elevation. The height to the eaves and overall ridge height is similar to the two houses recently built on this site, while proposed materials would match the recently constructed dwellings. Furthermore, the house on Plot 3 is located towards the end of the former rear garden of no. 10 Elemete Lane, some 55m from the street frontage. As such, the proposed house is not prominent within the streetscene and from the public domain.
- 9.3 It is therefore considered that within the context in which the development would be seen, the visual amenity of the application site and the wider area would remain within acceptable limits.

Effect on residential amenity

- 9.4 In comparing the approved plans permitted on appeal by the Inspector, it is relevant to highlight the main differences now being proposed. These can be summarised as follows:
- Proposal is sited approx. 400mm closer to boundary with no. 4 and 5 Elmete Croft;
 - Site levels have been increased by approx. 400mm at their lowest point to up to 750mm at their highest point;
 - A retaining wall has been built along part of the eastern side boundary, adjacent to no. 4 Elmete Croft;
 - A timber fencing measuring 1.5m in height measured from the ground level of the application site has been built on top of the retaining wall;
 - The roof form of the dwelling has changed from gable ends to hipped ends.
 - Height of house from ground level to ridge has been lowered by 100mm.
 - Beech hedge has been removed and is proposed to be re-planted with a new hedge, except behind the neighbour's garage.
- 9.5 A number of objections have been received from local residents, including those most directly affected including occupants of nos. 4 and 5 Elmete Croft. The proposals must therefore be assessed to determine and consider the impact of the proposed amendments to the house, the difference in levels and boundary treatment upon such occupants, mindful of the extant approval for a dwelling on this site.
- 9.6 The increase in site levels, in probability has come about due to the foundations of the house been built above ground, rather than excavated with a trench and building the foundations beneath existing levels. Notwithstanding this, it is generally assumed that any house built will naturally need to increase its ground floor finished floor levels due to the need for a damp proof course. That said, an increase of some 400mm – 750mm is over and above what one would expect as a standard building technique. An increase in land levels therefore has the knock on effect of making the house even higher than was originally permitted.
- 9.7 The approved scheme did not indicate any difference in land levels according to the approved plans. This effectively showed a house located approx. 2.1m from the eastern side boundary with a gable end orientated towards no. 4 Elmete Croft rising to a ridge height of some 8.0m. The proposal now includes an increase in ground levels of approximately 500mm adjacent to the rear garden of no. 4 Elmete Croft and a house which proposes a hipped end. Thus, the height of the proposed house would measure 5.1m from its associated ground level to the eaves. The roof would then slope away from the side boundary, rising to a ridge height of 7.9m. When coupled with the change in levels, the actual distance from the neighbours garden level at no. 4 Elmete Croft to the eaves height of the proposed house would be 5.6m. This contrasts to the approved scheme which would present a gable elevation to the neighbours garden which would rise to an overall height of 8.0m, although it is acknowledged that the gable would taper towards a point where the ridge is formed.
- 9.8 This difference in actual height must also be considered in light of the closer proximity of the house to the side boundary, which is some approx. 400mm closer than that approved. In considering this closer proximity now proposed, it is appropriate to balance the proposed amendments to the roof form. In this instance,

it is considered that the reduction on the bulk and height of the side wall from changing from a gable to a hipped end is significant. This enables the scale of the house to be reduced and is considered to outweigh the proximity of the house which is now being proposed. In summary, it allows for a slightly improved relationship and should be afforded significant weight. It is therefore considered, on balance, that the revised siting, height and roof form of the proposed house would not have an unacceptable impact upon the living conditions of neighbours in terms of dominance, loss of privacy and loss of light, over and above the scheme which was approved by the Inspector. As such, the margins between what was approved and is now being proposed is not significant to warrant coming to a different conclusion.

Other matters

- 9.9 The applicant has also erected a timber screen fence above the retaining wall along the boundary with no. 4 Elmete Croft. The approved scheme sought to retain the existing beech hedge (through a condition), behind which (to the west) a timber acoustic fence would be erected. However, the applicant has removed a section of the beech hedge along a section of the rear garden with no. 4 Elmete Croft and erected a timber fence on top of the retaining wall. It is proposed to reduce the height of the fence to 1.5m as measured from the application site's ground level. This is proposed to protect the privacy of adjacent property from overlooking. In assessing this, the area adjacent to the neighbour's garden is the access drive and integral garage to the proposed house. While some overlooking may occur, it is not considered to be significant given the height of the proposed fence and the fact that it is more likely that a car will be parked in front of the garage, and is therefore not an area where occupants would congregate for any length of time.
- 9.10 Whilst a section of the beech hedge has been removed, and without permission from the Council, it is proposed to replace this with a new hedge in exactly the same position. This will be within the red line site boundary, but in reality when on site, it has the elusion of being entirely within the rear garden of no. 4 Elmete Croft. However, this was the situation with the beech hedge and therefore the applicant is able to provide this. Further information has been sought regarding the planting of the hedge and its future maintenance given the presence of the existing timber fence, as the hedge would effectively sit behind the fence.
- 9.11 A number of concerns have been raised, particularly from the occupants of no. 4 and 5 Elmete Croft, on the issue of flooding as a direct result of the increase in levels. A drainage scheme was previously submitted and approved by the Council as part of the planning conditions associated with the approved scheme. However, it is understood that flooding problems are still taking place as the drainage scheme has not been implemented as the applicant advises that this is not feasible until the scaffolding is removed. It is therefore considered that planning conditions should be imposed to ensure its implementation to solve the existing problems. A neighbour has also expressed concern over the impact upon flooding on the ground levels and foundations associated with his detached garage. The applicant will therefore be reminded of their obligations under the Party Wall Act.

Representations

- 9.12 A number of letters of objection have been received from local residents raising concerns on a number of issues. The matters associated with the impact on residential amenity, landscaping and flooding have been addressed above. Issues

associated with site construction and the value of property are covered by other legislation and are not material planning considerations.

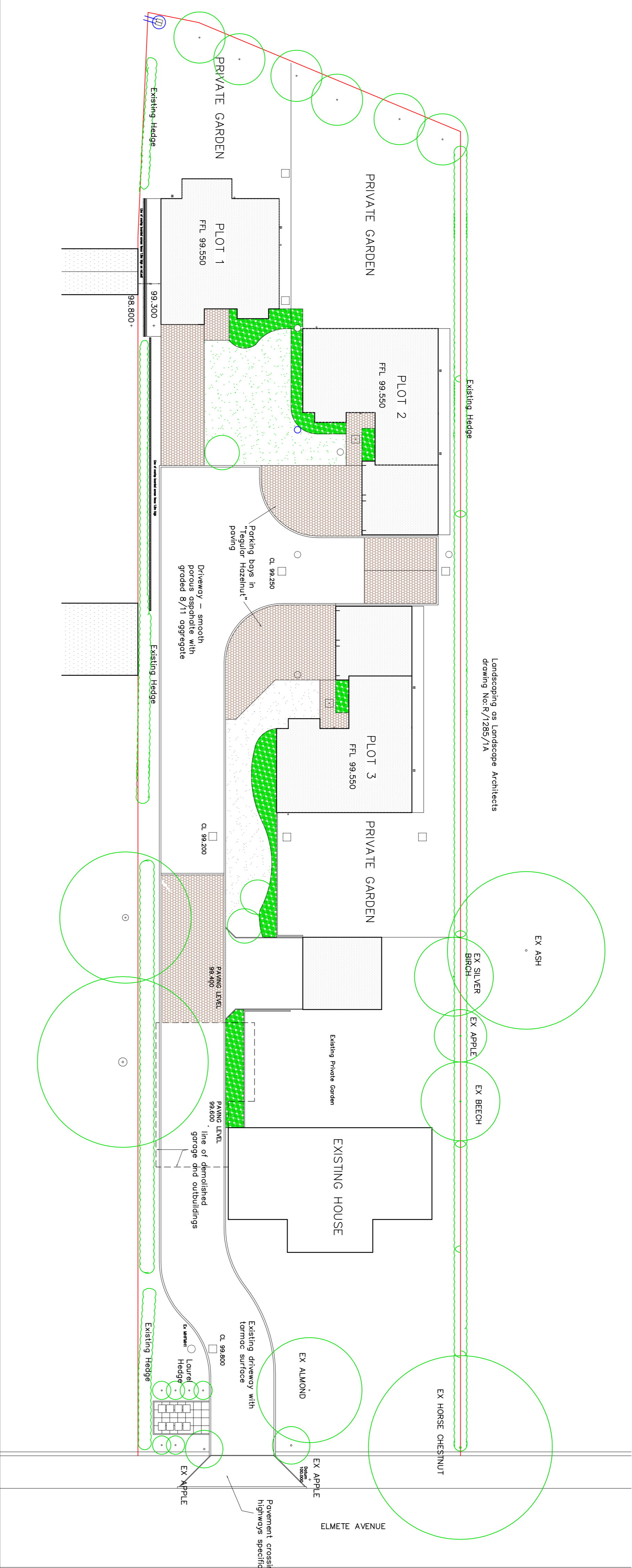
11.0 CONCLUSION

11.1 After careful consideration, it is considered that this application is recommended for approval for the above reasons and subject to the conditions at the head of this report. On the balance of the increased height and proximity of House Type B the cumulative effect is not considered to be significantly greater than the scheme approved subject to the appeal. In respect of the visual impact upon the character of the area, the house is set well back from Elmete Avenue and is not prominent within the streetscene. Nevertheless, the design and materials of the house are considered to be visually acceptable. Accordingly the application is recommended for approval.

Background Papers:

History files listed above and 12/00501/FU

Certificate of Ownership signed by the applicant (Mr Jason Townsend)

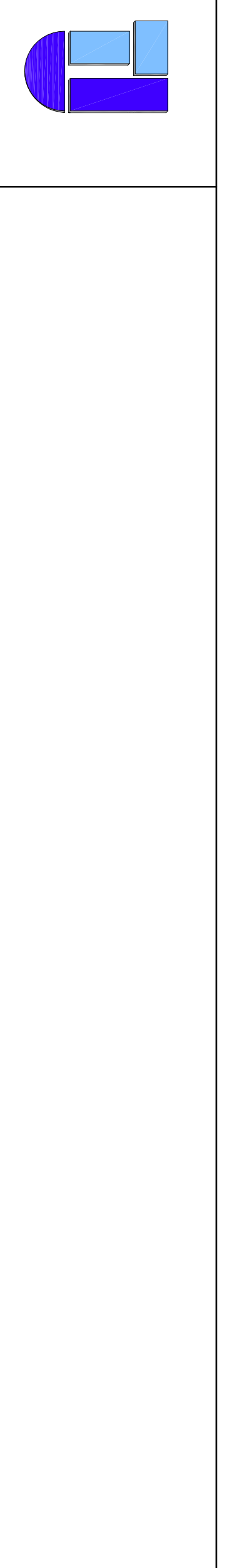


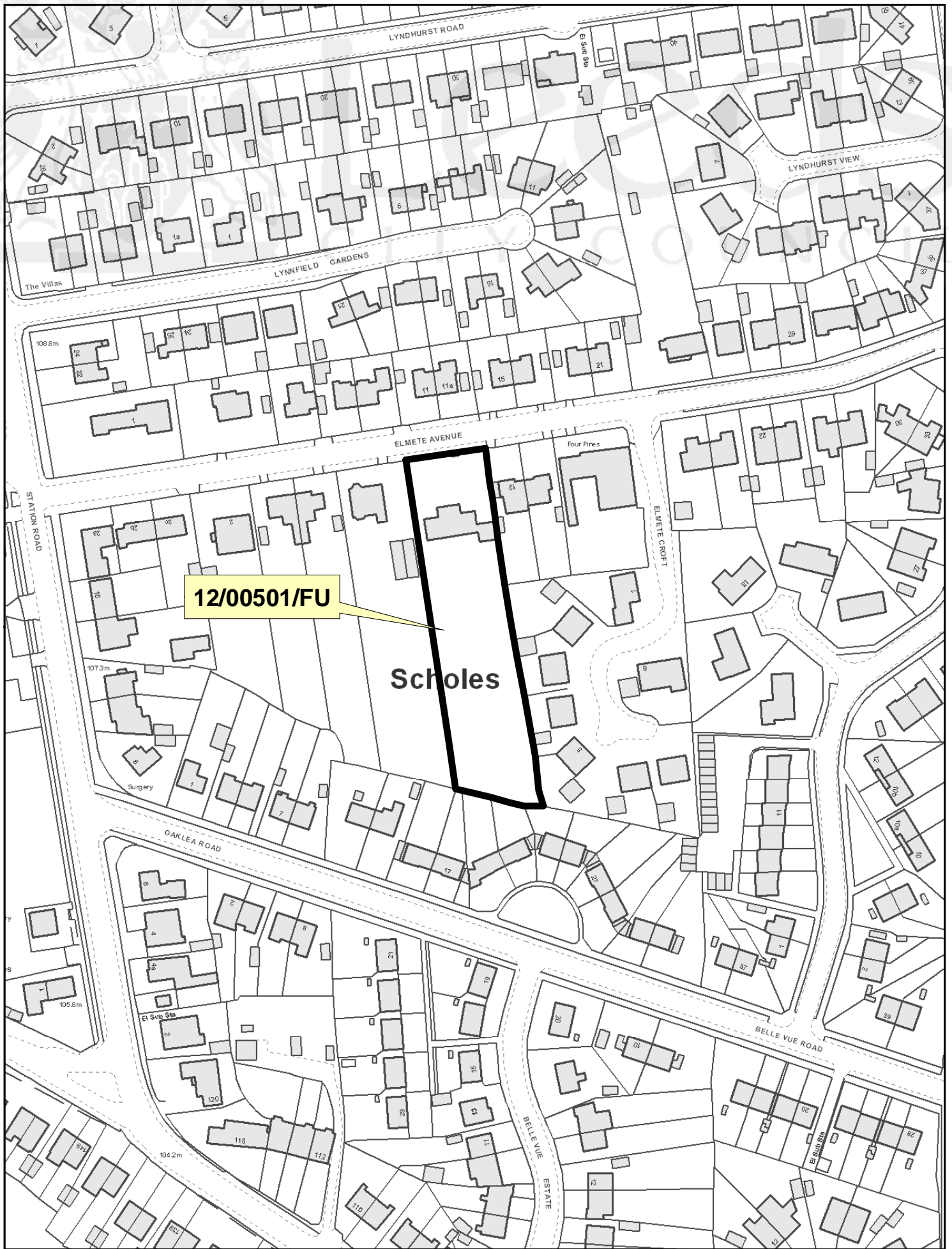
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PROPOSED HOUSE TYPE B
PLOT 1, ELMETS AVENUE
SCHOLES

Date: JANUARY 2012		Scale: 1:200 @A1	
Drawn By: [Blank]		Checked: [Blank]	
Ref: 11/06	Dwg. No. 011	Rev. [Blank]	

Revisions.			
Date	Suffix	Description	Date





12/00501/FU

Scholes

EAST PLANS PANEL

