



Report of the Chief Planning Officer

PLANS PANEL NORTH AND EAST

Date: 29th November 2012

Subject: Application 12/01597/FU – Alterations to existing unauthorised residential annexe at 11 Old Park Road, Gledhow, LS8 1JT.

APPLICANT

Mr Wajid Hussain

DATE VALID

19th April 2012

TARGET DATE

14th June 2012

Electoral Wards Affected:

Roundhay

Yes

Ward Members consulted
(referred to in report)

Specific Implications For:

Equality and Diversity

Community Cohesion

Narrowing the Gap

RECOMMENDATION:

DEFER and DELEGATE approval to the Chief Planning officer subject to the conditions suggested below and the receipt of a completed and signed unilateral undertaking from the applicants restricting occupation of the annexe building to family members of the occupants of the main dwelling, and tying the applicants into completion of the works to comply with the plans now submitted within a period of 8 months from the date of the decision.

In the circumstances where the unilateral undertaking has not been completed within 3 months of the resolution to grant planning permission, the final determination of the application shall be delegated to the Chief Planning Officer.

Conditions

1. Development to commence within [period to be specified in accordance with timescales in legal undertaking to be submitted by applicant, once these are agreed].
2. Development to be carried out in accordance with approved plans.
3. Roofing materials to be clay tiles to match main dwelling – details to be submitted for approval within 1 month of the date of decision.

4. Windows to be side-hung, painted or stained timber casements and door to be timber – colour, sections and profiles and details of mullions to be submitted for approval within 1 month of the date of decision.
5. Any blocking up of existing openings, including openings left by relocation of windows and the blocking up of the kitchen window in the south western elevation, to be carried out in stone and with pointing etc to match that used on the existing annexe building.
6. Hedge along north western boundary to be retained at a height of no less than 2m and, in the event that any part of the hedge dies, to be replaced with species to the same specification as those detailed in the horticulturalist's email submitted as part of the application within 3 months.
7. Management and maintenance schedule for hedge, to include regular visits by suitably qualified professional, to be submitted for approval within 1 month of the date of decision.
8. Removal of permitted development rights for any further extensions or outbuildings within the site, including rooflights or lightwells to annexe building.

Informatives

1. Attention drawn to unilateral undertaking restricting occupancy of building to family members of the occupants of the main dwelling and setting timescales for completion of the building.

Reasons for approval

The changes now proposed to the building are considered, on balance, to address previous concerns regarding the scale, massing and design of the building and its resultant impact on the character and appearance of the site and the conservation area, and the health of the sycamore tree to the rear of the building. The proposals are now considered to comply with policies GP5, N12, N13, N19, N20, N25, N26, N28, BC2, BD5, T2, T24 and LD1 of the Leeds Unitary Development Plan Review 2006, together with the guidance in SPG13: Neighbourhoods for Living, Roundhay Neighbourhood Design Statement SPD, Roundhay Conservation Area Appraisal, Leeds City Council's Guideline Distances from Development to Trees document and the National Planning Policy Framework, and having regard to all other material planning considerations, are considered acceptable.

1.0 INTRODUCTION

- 1.1 This application is reported to Plans Panel because of the extensive planning and enforcement history relating to this site, most recently Plans Panel's refusal of a previous application for alterations to the unauthorised building in October 2011, as well as the significant level of public interest in the proposals.
- 1.2 The application relates to an unauthorised annexe building which stands in the rear garden of an existing dwelling at 11 Old Park Road in Gledhow. Permission was granted in February 2007 for a detached two storey building with a double garage and games room to the ground floor with a one bedroom 'granny flat' above, to replace a detached single storey garage which formerly stood to the rear of the dwelling. The approved building included the retention of a small single storey garden store which stood to the rear of the former garage. The building which now stands on the site was not built in accordance with the plans approved at that time, and is 4.7m longer at first floor level, 2.7m longer at ground floor level, 1.4m higher and of a different design, with gable ends rather than a hipped roof and with no integral garage. The unauthorised building also includes a basement and rooms in

the roofspace which were not part of the original permission. A comparison of the unauthorised building, the building approved in 2007, and the current proposals is provided in Table 1 below.

- 1.3 Permission was refused for the retention of the unauthorised building in May 2009 and again in August 2009, and an enforcement notice was subsequently served, requiring the building to be demolished. Appeals against the second refusal and the enforcement notice were dismissed in August 2010 following a public inquiry in July 2010. The enforcement notice as amended by the appeal Inspector required the building to be demolished within 8 months of the date of his decision (i.e. by 19th April 2011), and the site to be reinstated to garden within 10 months (i.e. by 19th June 2011). In determining these timescales for compliance, the Inspector noted that he understood it was the appellant's intention to implement the scheme approved in 2007 in the event that the appeal was dismissed.
- 1.4 A subsequent application was submitted in December 2010, proposing some alterations to the building, but still proposing the retention of the building at a size which was larger than that for which permission was granted in 2007. The application was refused by Plans Panel East in October 2011 on the grounds that the changes proposed were still insufficient to overcome previous reasons for refusal and the concerns of the appeal Inspector regarding the scale and massing of the building and the resultant impact on the Roundhay conservation area.
- 1.5 Since the refusal of the previous application, further discussions have been held with the applicant, reiterating once again the advice that the building should have no greater impact visually than that for which permission was granted in 2007. Following these discussions, the current application has been revised, and now proposes the reduction of the first floor of the building to a length no greater than that which was previously approved, whilst retaining the ground floor and the basement below in their current positions. Visual improvements to the windows and the roof are also proposed, and the hedge which has now been planted alongside the north western side of the building, replacing that which was lost along the boundary with the school site during the building's construction, is proposed to be retained.

2.0 PROPOSAL:

- 2.1 Permission is now sought for alterations to the existing unauthorised building to create a smaller annexe building. The supporting documentation for the application states that the building provides additional living space for the applicant's extended family, and the appeal Inspector took the view that on this basis it was appropriate to assess the building as an annexe/ancillary building to the main house, rather than as a separate dwelling. It is therefore on this basis that the current application has been considered. A draft unilateral undertaking has been submitted by the applicants as part of the application, which would legally restrict occupancy of the annexe building solely to family members of the occupants of the main dwelling on the site. Following legal advice as to the most appropriate means of ensuring that the works now proposed to remedy the unauthorised development are completed within a reasonable timescale, it has been suggested to the applicants that the undertaking should also set a timescale for the completion of the works which, in the event that the current application is approved, would then legally commit the applicant to carrying out the works within these timescales. An update on this will be provided to Members at the Plans Panel meeting.
- 2.2 The alterations now proposed to the unauthorised building include:

- Reducing the length of the building's first floor to 12.3m, which is identical to the building which was approved in 2007 (a reduction of 4.7m from the unauthorised building as constructed). The ground floor of the building would remain as constructed, as would the basement, which was not part of the original permission. The first floor would be reduced by 3.55m in length to the rear, with a hipped roof being provided over the remaining ground floor area, and by 1.15m to the front, with a monopitch roof above this remaining ground floor projection.
- Replacement of existing gable-ended roof with a lower, shallower hipped roof and removal of rooflights.
- Replacement of existing concrete roof tiles with plain clay tiles to match the main dwelling.
- Blocking up of kitchen window in the south western elevation of the building.
- Changes to existing windows:
 - Repositioning of some windows to accommodate the changes to the first floor
 - Replacement of UPVC windows with timber casements and door with a timber boarded door
 - Changes to the design of the windows to incorporate features such as glazing bars and mullions.

2.3 The proposed alterations would result in the removal of the accommodation in the roofspace of the building, but would allow the basement area to be retained. According to the submitted plans, the proposed building as amended would be 17m long at ground floor level, as it is at present, and 12.3m long at first floor level. The overall height to the ridge would be 6.7m.

2.4 The table below sets out the dimensions and details of the accommodation provided in the unauthorised building at present, the building approved in 2007 and the amended building now proposed:

	2007 permission	Existing unauthorised building	Current proposal
Length	14.4m (ground floor) 12.3m (first floor)	17m (ground and first floor)	17m (ground floor) 12.3m (first floor)
Width	7.2m	7m	7m
Height	5m to eaves 6.6m to ridge (Hipped roof)	5m to eaves 8m to ridge (Gable-ended pitched roof)	5m to eaves 6.7m to ridge (Hipped roof)
Footprint	95m ²	119m ²	119m ²
Floorspace	158m ²	344m ²	246m ²
Basement	None	Storage/gym	Storage
Ground floor	Double garage, shower room, store, games room.	Living room, hall, cloakroom, kitchen/dining room	Living room, hall, cloakroom, kitchen/dining room
First Floor	1 bedroom, store, lounge, bathroom, kitchenette	3 bedrooms, bathroom	3 bedrooms, bathroom
Second Floor	None	Playroom	None

Table 1: Comparison of building as approved, constructed and now proposed

2.5 Having compared the details on the submitted plans with the approved plans for the 2007 application, the length of the first floor of the building as now proposed would

be identical to that which was approved in 2007, although the ground floor would be 2.6m longer. It would also be slightly higher (approx 10cm). The footprint of the building, at 119m², is 25% larger than that of the building approved in 2007. However, as the building as constructed is slightly narrower than that which was originally approved, the reduction in the length of the first floor back to 12.3m means that the footprint of the first floor would actually now be slightly smaller than approved in 2007.

3.0 SITE AND SURROUNDINGS:

- 3.1 The application relates to an unauthorised building to the rear of 11 Old Park Road, built in 2008-2009. The main house is a stone and render detached dwelling with a red tile roof, a front gable with half-timber detailing and bay windows. The unauthorised building is constructed of stone, with a concrete pan-tile roof, and has accommodation over 4 storeys, including a basement and rooms in the roofspace, served by large rooflights. The building has a pitched roof with gable ends and brown UPVC windows and doors.
- 3.2 The front of the site has been laid out with hardstanding, and a low stone wall and black metal gates and railings mark the front boundary. Much of the north western boundary of the site is enclosed by a hedge over 2m high. The section of the hedge adjacent to the application building was lost at the time of the building's construction, but a new hedge has subsequently been planted and has seen some growth. There are a number of mature trees along the rear boundary of the site which are protected by a Tree Preservation Order (TPO), including a purple-leafed sycamore immediately to the rear of the unauthorised building.
- 3.3 The site is within Roundhay conservation area, and the main dwelling is identified as a positive building in the conservation area appraisal. Old Park Road runs along the western edge of Roundhay Park, a registered historic park to the east of the site. To the north west of the site, and directly adjoining its boundary, are the grounds of Roundhay School, with the school buildings some distance away to the west. The unauthorised building is clearly visible in views from Old Park Road, across the school playing fields, and in more distant views across Roundhay Park from the north east.
- 3.4 Mature trees form a key part of the area's character, both in public spaces such as the park, and in private areas like the school grounds and the gardens of residential properties. One of the recurring themes of the Roundhay Conservation Area Appraisal, is the importance of open space to the character of the conservation area, and the appeal Inspector noted that sense of spaciousness that this open space, including parkland, playing fields and the gaps between houses, was a characteristic he considered worthy of preservation and enhancement.

4.0 RELEVANT PLANNING HISTORY:

- 4.1 The first proposal for an outbuilding/detached building in the grounds of 11 Old Park Road was submitted in August 2006 (application 06/05086/FU) and sought permission for a replacement detached double garage and games room with granny flat over. The application was withdrawn in October 2006 following advice from the local planning authority that the proposed building was too large, and concerns regarding the impact on trees around the site.
- 4.2 A revised application was submitted in January 2007 for a smaller building, again to contain a detached garage with granny flat over (application 07/0030/FU). The

details submitted with the 2007 application showed a building 14.4m long at ground floor level and 12.3m long at first floor level, and 6.6m high. The approved building had a shallow hipped roof, and details submitted with the application confirmed that the building had been designed 'to have as little impact as possible on the surrounding area', and that materials would match the existing building.

- 4.3 Construction works commenced on site in early 2008, and during the course of the works it became evident that the building was not being constructed in accordance with the approved plans, and enforcement action commenced. During the construction of the unauthorised building, and prior to the serving of an enforcement notice, the first application to retain the building was submitted in December 2008 (reference 08/06852/FU). The application was refused in May 2009 for the following reasons:
- Height, length, scale, design, materials and siting of the building and the loss of the boundary hedge result in a building which fails to reflect the character of surrounding development and detracts from the host building, the streetscene and the conservation area, including views across the registered historic park.
 - Amount of accommodation exceeded that associated with an ancillary annexe.
 - Proximity to trees to the rear – likely damage to roots, concerns regarding light and stability and pressure for trees to be removed or radically pruned.
 - Insufficient information that an appropriate replacement boundary treatment could be achieved to the west.
- 4.4 A second application to retain the building was submitted in August 2009 (reference 09/03515/FU) and was accompanied by accurate survey plans of the site and the building and additional supporting documentation setting out the applicant's justification for the building. The application was refused in September 2009 for the three reasons set out above, as well as reasons relating to the loss of amenity for the existing dwelling and overdevelopment of the site.
- 4.5 An enforcement notice was served in relation to the unauthorised building in August 2009, requiring the demolition of the building and the reinstatement of the garden area. Appeals against the enforcement notice and the second refusal of planning permission were dismissed in August 2010 following a public inquiry in July 2010. As part of the appeal the applicants submitted a Unilateral Undertaking offering to restrict the use of the building to occupation by family members only.
- 4.6 Following the dismissal of the planning and enforcement appeals in August 2010, in which the Inspector considered in some detail the nature of the scheme previously approved in 2007, a subsequent application was received in December 2010, seeking to retain the building with alterations. Whilst this included the replacement of the gable-ended roof with a hipped roof and visual improvements to the windows similar to those which form part of the current application, it proposed a reduction of only 3m at first floor level (leaving a building which was still 1.7m longer than that approved in 2007). The application was refused by Plans Panel in October 2011 on the grounds that these reductions were insufficient to overcome previous concerns, and that the scale and massing of the building would still be excessive and detract significantly from the character and appearance of the site, the streetscene and the conservation area.

5.0 HISTORY OF NEGOTIATIONS:

- 5.1 Following the refusal of the previous application in October 2011, further discussions took place with the applicants and their representatives, and the current application was received in April 2012. As originally submitted, the current application proposed to reduce the first floor by 4m (2m from the front of the building and 2m from the rear), leaving flat-roofed areas above the remaining ground floor projections. The drawings submitted also omitted the visual improvements to the windows which had previously been included, and included the kitchen window which the applicants had previously agreed to block up to overcome earlier concerns regarding the relationship between this window and the tree to the rear.
- 5.2 In response to the application as submitted, significant concerns were raised by planning and conservation officers that the building was still larger than that approved in 2007, that the visual improvements to the windows and roofing materials previously agreed to had been deleted from the proposals again, and that the flat-roofed ground floor sections would appear incongruous and fail to reflect the character of surrounding development, causing further detriment to the conservation area. A further meeting was subsequently held with the applicants, who were advised that, as had consistently been advised previously, the building as proposed should be no larger than that which had been approved in 2007. Detailed advice was also provided by the conservation officer regarding the changes that would need to be incorporated into the windows and doors of the building in terms of their materials and design in order to overcome his concerns in this respect. The applicants were also asked to provide a unilateral undertaking, restricting the occupancy of the building to family members of the occupants of the main dwelling, and a timetable for carrying out the works that they would need to undertake in order to bring the unauthorised building in line with a revised and reduced proposal, should permission be granted.
- 5.3 Following this meeting, revised plans have been received which although retaining the ground floor of the building as constructed (2.6m longer than the permitted building), now show the first floor reduced to 12.3m, which is identical to the building approved in 2007, with pitched/hipped roofs above the retained ground floor areas, replacing the flat roofs which were originally proposed. The revised plans also incorporate the changes suggested by the conservation officer, including the replacement of the large UPVC windows with timber windows incorporating features such as glazing bars and mullions which are more characteristic of other buildings in the locality. The kitchen window in the rear elevation, facing the TPO sycamore tree, is now once again proposed to be blocked up. A draft unilateral undertaking and timetable for the carrying out of the necessary reconfiguration works to bring the building in line with the plans now submitted have also been received, indicating a timescale of 28 weeks for the completion of the works, with key phases within this identified. As discussed below, it has been suggested to the applicants that these timescales are incorporated into the unilateral undertaking, although at the time of writing a revised draft of this document including this is awaited. A further update on this will be provided at the Plans Panel meeting.

6.0 PUBLIC/LOCAL RESPONSE:

- 6.1 Following the receipt of revised plans as part of the application as discussed above, the proposals were re-advertised and all those who had previously commented were notified that revised plans had been submitted, with the plans being made available to view online. For clarity, it is noted in each section below whether the comments

reported relate to the plans as originally submitted with the current application or to the revised plans which were subsequently received.

Roundhay Conservation Society

- 6.2 Roundhay Conservation Society advised that whilst they had no objections to the building proposed in 2007, the building as constructed is far larger, and they note that subsequent applications and appeals to retain the building were refused and dismissed. In response to the plans as originally submitted, they advised that the proposals still failed to respond to previous reasons for refusal and that the building would remain out of proportion, and as an eyesore in the conservation area. Concerns were also raised that allowing the unauthorised building to remain in this form could set a precedent for similar unauthorised developments, to the further detriment of Roundhay's character. They reiterated previous comments that the building should be changed back to the size of that which was approved in 2007.

Roundhay Planning Forum

- 6.3 In response to the plans as originally submitted, the Roundhay Planning Forum advised that the changes made still failed to address their previous objections, and raised concerns regarding the failure of the Council to take further action to enforce against the unauthorised building in the light of the appeal Inspector's findings, and the precedent for similar developments in the future if this was not done.

Gledhow Valley Conservation Group

- 6.4 In response to the application as originally submitted, the Group raised concerns that a further application had been submitted which was little different to previous refused proposals, and significant concerns that no further steps had been taken to require the demolition of the building in accordance with the enforcement notice upheld by the Inspector, advising that this led to a feeling of powerlessness amongst the local community to do anything about unauthorised developments which are harmful to their local areas.

Leeds Civic Trust

- 6.5 The Civic Trust have also raised concerns that no further action has been taken to pursue compliance with the enforcement notice requiring the demolition of the unauthorised building, and the potential for lengthy inaction in such cases to bring the planning system into disrepute.

- 6.6 In response to the plans as originally submitted, they noted that neither the reductions to the first floor length or to the height of the building would bring it back in line with those approved in 2007, and that the ground floor would remain as built, with flat-roofed sections to either end. In this respect they raised concerns that the proposal would still be excessive in volume and length in this sensitive area, and that the resulting design with its flat roofed sections was unacceptable in its form and massing.

- 6.7 The Civic Trust advised that in the event that planning permission were to be granted for a revised scheme, this should be subject to a condition or agreement that the work would be carried out and completed within a very limited timescale.

Other local response

- 6.8 The application was originally advertised by site notice, posted 4th May 2012. 8 letters of objection were received in response to the plans as originally submitted, including one from former Ward Member Matthew Lobley, raising the following concerns:

- Building still too large, overbearing, not subservient to the main house, and inappropriate in conservation area and close to Listed frontage of Roundhay School.
- Flat-roofed projections completely out of keeping with neighbouring buildings and the historic character of the area.
- Previous proposals to improve the appearance of the windows now removed from the plans again.
- Proposals would not receive permission if submitted as a new application.
- Still fails to address previous concerns of residents, Members, appeal Inspector and Council Officers.
- Insufficient space for screen planting between the building and the boundary, and building is still too large irrespective of any screening.
- Inconsistencies between submitted plans.
- Ground floor still proposed to be retained at its full length – potential implications for long-term health of TPO tree to the rear in terms of space for roots to grow, stability, and pressure for pruning/removal in the future as the tree overhangs the building.
- Lack of enforcement action to uphold Inspector’s decision and ensure demolition of the building is causing significant public disillusionment with planning process.
- Precedent for other similar unauthorised developments if no action is taken.

6.9 Two letters of support were received in relation to the plans as originally submitted, making the following comments:

- Building is well constructed and not an eyesore.
- Changes proposed to reduce the roof height and the mass of the building are sufficient.
- Larger buildings exist within the conservation area without causing harm.
- Understand that there is permission for a larger building.
- The matter has gone on for too long, the applicant has worked with the planners, and the application should now be approved.

6.10 Following the receipt of the revised plans letters were sent to all those who had previously commented on the application notifying them of the revisions. No comments have been received at the time of writing, but an update on any comments received will be provided to Members at the Plans Panel meeting.

7.0 CONSULTATIONS RESPONSES:

Statutory

7.1 None.

Non-statutory

7.2 None.

8.0 PLANNING POLICIES:

Development Plan

8.1 The development plan includes the Regional Spatial Strategy to 2026 (RSS) and the adopted Leeds Unitary Development Plan (Review 2006) (UDP). The RSS was issued in May 2008 and includes a broad development strategy for the region, setting out regional priorities in terms of the 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 consideration of this application.

8.2 The Publication Draft of the Core Strategy was issued for public consultation on 28th February 2012 with the consultation period closing on 12th April 2012. Following consideration of any representations received, the Council intends to submit the draft Core Strategy for examination. The Core Strategy sets out strategic level policies and vision to guide the delivery of development investment decisions and the overall future of the district. As the Core Strategy is in its pre submission stages only limited weight can be afforded to any relevant policies at this point in time.

8.3 The site is in Roundhay conservation area. Roundhay Park, to the east, is a registered historic park, and is designated as Green Belt and greenspace. The park and the grounds of Roundhay School to the north west are designated as Urban Green Corridor. The following UDP policies are relevant to the consideration of the application:

GP5 – General planning considerations

N12 – Urban design

N13 – Design and new buildings

N19 – New development in conservation areas

N20 – Retention of features that contribute to the character of a conservation area

N25 – Development and site boundaries

N26 – Landscaping schemes

N28 – Historic parks and gardens

BC2 – Materials in conservation areas

BD5 – Amenity and new buildings

T2 – Highways

T24 – Parking

LD1 – Landscape design and retention of trees and vegetation.

Relevant supplementary guidance

8.4 The following Supplementary Planning Guidance (SPGs) and Supplementary Planning Documents (SPDs) are relevant to the consideration of the application:

SPG13 – Neighbourhoods for Living: A Guide for Residential Design in Leeds

Roundhay Neighbourhood Design Statement SPD – Adopted June 2011

Guideline Distances from Development to Trees: Updated March 2011

Roundhay Conservation Area Appraisal – Adopted September 2004.

National Planning Policy

8.5 The National Planning Policy Framework (NPPF) was published on 27th March 2012 and replaces previous Planning Policy Guidance/Statements in setting out the Government's planning policies for England and how these are expected to be applied. One of the key principles at the heart of the Framework is a presumption in favour of Sustainable Development.

8.6 The NPPF makes specific reference to the protection of the historic environment as a key role of the planning system in achieving sustainable development. Paragraph 131 advises that when making decisions on planning applications which affect heritage assets such as conservation areas, local planning authorities should take account of:

- The desirability of sustaining and enhancing the significance of heritage assets and putting them to viable uses consistent with their conservation

- The positive contribution that conservation of heritage assets can make to sustainable communities including their economic vitality
- The desirability of new development making a positive contribution to local character and distinctiveness.

9.0 MAIN ISSUES

1. Principle of development
2. Visual amenity and impact on character and appearance of the conservation area
3. Trees and landscaping
4. Residential amenity
5. Highway safety
6. Equality and personal circumstances of the applicant
7. Unilateral undertaking and timescales for changes to building

10.0 APPRAISAL

Principle of development

10.1 Despite the Council's concerns regarding the nature of the accommodation provided and the potential for the building to be used as a separate dwelling, the appeal Inspector accepted that the building provides living accommodation additional to that provided by the main house, and is used solely as an annex to the main house, not as a separate dwelling, and he considered the appeal on that basis. In the light of this, the consideration of the current application is also made on the basis of the building being an annex to the existing dwelling, rather than a separate dwelling. The principle of an ancillary outbuilding to the rear of 11 Old Park Road was established through the permission granted for a detached garage and granny annexe in 2007, and is still considered to be acceptable, subject to other material considerations such as the impact of any such building on the conservation area and the trees to the rear of the site.

10.2 The applicant has submitted a unilateral undertaking as part of the application which would form part of the decision and, if approved, would legally restrict occupancy of the annexe solely to family members of the occupants of the main dwelling.

Visual amenity and impact on character and appearance of the conservation area

10.3 The appeal Inspector identified one of the recurring themes of the Roundhay Conservation Area Appraisal as being the importance of open space to the character of the conservation area. He noted that '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.

10.4 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 and therefore views from this area were 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] at no. 4 Ryder Gardens.' 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.’

- 10.5 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 these directions ‘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 a new hedge had been planted along the boundary between the site and the school, but considered that even if the hedge were to grow well, 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.’
- 10.6 The Inspector noted that the length and massing of the existing building were not readily apparent when viewed along the drive to no.11, but that the height was very evident in this view and that the steeply pitched roof and gable elevation ‘accentuate the height of the structure in a way that challenges the dominance of the main house,’ making the building ‘incongruously tall.’
- 10.7 In the light of his comments on the appearance of the building as set out above, the appeal Inspector concluded that:
- The appeal building, due to its inappropriate height, length and massing, neither preserves nor enhances the character or appearance of the Conservation Area. Rather it materially harms the sense of spaciousness that is an important feature of the locality. Such harm could not be overcome by [a number of alterations suggested to the windows and materials as part of the appeal]. Nor could this harm be overcome by altering the profile of the roof. The appeal building is simply too large for this site.*
- 10.8 In the light of the Inspectors conclusions regarding the existing building on the site, the key considerations in assessing the amendments now proposed to the building are whether they would overcome his concerns regarding the height, length and massing of the building and the resultant loss to the ‘sense of spaciousness’ which is such an important part of the conservation area’s character. The judgment to be made is whether the resultant building would preserve or enhance the conservation area.
- 10.9 On the basis of the plans originally submitted with the current application, planning and conservation officers raised concerns that the building was still larger than that which was approved in 2007 and would still be too large compared with ancillary structures in surrounding gardens, occupying too much of the garden and disrupting the relationship of the buildings to the gardens and the open spaces around them. Concerns were also raised that the flat-roofed projections proposed to the front and rear of the building, and the retention of the large UPVC windows and the asymmetrical arrangement of the fenestration resulting from the changes to the building would be incongruous and uncharacteristic of buildings within the conservation area, and would be of significant detriment to the conservation area as a result.
- 10.10 Following a further meeting with the applicants, revised plans were received, reducing the first floor of the building to the same size as the building approved in 2007, and incorporating changes to the design and materials of the doors and

windows, together with the replacement of the proposed flat-roofed areas with pitched/hipped roofs.

- 10.11 The proposed reduction of the first floor of the building to a length of 12.3m would bring this back in line with that which was approved in 2007. Although the replacement hipped roof would be slightly higher than was originally approved, it is not considered that this would not significantly affect its massing or visual presence. It is therefore considered that this aspect of the development would not have a materially greater impact than the originally approved development in terms of its scale, height or massing, and that the building as now proposed would therefore appear as a more subservient feature within the setting of the main dwelling, maintaining greater separation from it and surrounding properties. On balance, in the light of this, it is considered that the proposed changes to the upper floor would preserve the sense of spaciousness which was identified by the Inspector as an important feature of the locality, and the character of the conservation area as a result.
- 10.12 The ground floor of the building is proposed to be retained as constructed, 2.6m longer than originally approved. Whilst this obviously now occupies a greater depth of garden and sits much closer to the rear boundary, it is noted that the height of these parts of the building is proposed to be reduced so that they would be only 2m to the eaves, with relatively shallow pitched/hipped roofs. Combined with the ground levels in this part of the site, which are lower than those of the adjacent playing fields and neighbouring garden, this reduction in height means that much of these sections of the building would be screened by a 2m high boundary treatment along the boundary between the building and the adjacent playing fields, with only a relatively small section of the higher rear hipped roof likely to be visible above this. It is therefore considered on balance therefore that the additional length of the building's ground floor would not be readily discernible in views of the site from surrounding public viewpoints and from the school playing fields. In view of this, and the significant reductions proposed to the length of the first floor as discussed above, it is not considered on balance that the building as now proposed would have a significantly greater impact in terms of its size and massing than the building for which permission was granted in 2007, or that refusal of the application on this basis could now be substantiated.
- 10.13 The acceptability of the current proposals relies heavily on the ability to screen the ground floor areas of the building from public views with a boundary treatment which is reflective of and appropriate to the character of the conservation area. To this end, the retention and survival of the hedging along the boundary between the building and the school playing fields is critical. As part of the application, correspondence has been provided from a horticulturalist who confirms that he has planted a series of 2.5m-3m high privet plants within the area between the building and the school fields. Whilst noting the relatively small growing area available, he advises that the quality and size of the hedge plants provided, combined with a maintenance program of soil enrichment and selective pruning would allow this to become established to provide a degree of screening comparable to that of the existing privet hedge in the front part of the site within 2-3 years. Three trees (a mountain ash, white beam and flowering cherry), have also been planted within the site to supplement this screen planting. In the light of this, and subject to conditions requiring a detailed maintenance and management schedule for the hedge to ensure its ongoing survival and growth, and requiring the hedge to be retained at a height of no less than 2m, or replaced in the event that it dies, it is considered on balance that the proposals are acceptable in this respect.

10.14 Following extensive discussions with the conservation officer regarding the scheme, a number of changes to the design and materials of the building have been incorporated into the revised proposals. These include the replacement of the large UPVC windows with timber casements including glazing bars and mullions to more closely reflect the design and character of surrounding development, the introduction of timber doors, and the replacement of the concrete roof tiles with clay tiles to match the existing building. In the light of these changes and the reductions in the size of the building now proposed, the conservation officer has advised that the building as now proposed would retain an acceptable degree of subservience to the host property, and that its design would more appropriately reflect the character of surrounding development within the conservation area. On this basis, it is considered that the development as now proposed would, on balance, preserve the character and appearance of the conservation area, and that refusal of the application on these grounds could not be justified. Conditions relating to the roofing materials, the design, colour and materials of the windows and doors, and the blocking up of any openings with stone to match the existing annexe building, are recommended to ensure that these works are carried out using appropriate materials and to an acceptable standard.

10.15 Whilst it is proposed to retain the basement, which was not part of the originally approved scheme, this area is not visible and has no impact on the character and appearance of the area, and on this basis it is not considered that refusal of this aspect of the proposals could be justified.

10.16 Whilst the changes now proposed are considered to be acceptable and to result in a building which would not detract from the setting of the host building or the spacious character of the conservation area, it is noted that additional development could be carried out within the site under permitted development rights which, together with the building as now proposed, could result in an overdevelopment of the site or the erosion of this setting and character. It is therefore recommended that permitted development rights for any further extensions or outbuildings to the property are removed, to allow the implications of any further developments on the site to be fully considered by the local planning authority.

Trees and landscaping

10.17 The tree most affected by the development is the purple-leafed sycamore immediately to the rear of the unauthorised building. The appeal Inspector considered that the tree 'makes a positive contribution to the character and appearance of the conservation area and deserves to be safeguarded'. Since the appeal decision, the tree in question and a number of others along the south western boundary of the site have been protected by a TPO.

10.18 With regard to the potential impact of the building on the roots of the sycamore tree, which a number of local residents have raised concerns about, the Inspector noted that a retaining wall and raised patio was built to the rear of the site, adjacent to the tree, in 2003, and that this was likely to have had an adverse impact on the trees roots, but that the tree was not showing any evident signs of distress as a result. In the light of this he concluded that it was difficult to conclude with any certainty that the more recent excavation works to construct the building would have caused material harm to the roots of the tree. It is not therefore considered that refusal of the application on this basis could be justified.

10.19 The Inspector did consider that the long term amenity value of the sycamore would be put at risk by its proximity to the appeal building. 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 these grounds. 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.

Residential amenity

- 10.20 In view of the distance between windows in the building and neighbouring properties, no significant increase in overlooking of neighbouring properties is anticipated. In view of its orientation in relation to neighbouring dwellings and positioning to the rear of the neighbours' garage to the rear, it is considered that it would not have such a significant impact in terms of overshadowing or have such an overbearing impact on neighbouring dwellings or their gardens as to justify refusal on these grounds. On balance therefore it is not considered that the building would be detrimental to the amenities of neighbouring residents.
- 10.21 Previous reasons for the refusal of the application based on the loss of amenity space for the existing dwelling and the impact of the new building on the amenities of the existing dwelling's occupiers in terms of noise and disturbance were based on the concern that the building could be used as a separate dwelling. However as the Inspector at the public inquiry accepted that the building is an annex to the existing building and should be considered as such, it is not considered that refusal of the application on this basis could be justified, as all occupiers of the site would be from the same family group. The applicants have submitted a unilateral undertaking as part of the current application restricting occupancy of the building to family members of the main dwelling, and subject to the completion/signing of this undertaking prior to the determination and its inclusion as part of the decision, the proposals are considered to be acceptable in this respect.

Highway safety

- 10.22 Concerns have previously been raised regarding the level of parking available, the fact that the building no longer contains a garage, and the use of an area of hardstanding outside the site for parking by the applicants are noted. The highways officer has confirmed that the area of parking outside the site was not included in their consideration of the application in terms of assessing access to the site and the level of parking available. On the basis of the land included within the site, excluding this area, the highways officer has previously advised that as there are two accesses to the property they consider that there is more than sufficient off-street parking available, and that refusal of the application on these grounds could not be justified.
- 10.23 In terms of the laying out of the area of hardstanding outside the site, which is within the adopted highway, it appears from aerial photographs dating back to 1999 that this area has been in existence for some time. Whilst the consent of the highway authority may have been required for these works, it is unlikely that planning permission would have been required for these works, since Old Park Road is not a classified road. The highways officer has not raised any concerns regarding the existence of this area or its use for parking, and therefore on this basis, and as there

is sufficient parking within the site without relying on this area, it was not considered expedient to pursue this matter further in this instance.

Equality and personal circumstances of the applicant

- 10.24 Section 38 of the Planning and Compulsory Purchase Act 2004 requires that 'if regard is to be had to the development plan for the purpose of any determination to be made under the planning Acts the determination must be made in accordance with the plan unless material considerations indicate otherwise'. Whilst the personal circumstances of an applicant can be a material planning consideration, the view held by the Courts is that 'such circumstances, when they arise, fall to be considered not as a general rule but as an exception to a general rule to be met in special cases' and that such matters should only be given direct effect 'as an exceptional or special circumstance'.
- 10.25 It is noted that the building in question has been constructed by the applicant to allow his extended family to live together as a family unit, in accordance with their religious and cultural beliefs. The local planning authority and the appeal Inspector agree that the religious and cultural needs of the applicant and his family are material planning considerations to be weighed in the balance in the determination of this application, together with other matters such as the impact of the development on the character and appearance of the conservation area and on the tree to the rear of the site, and specific consideration has been given to the cultural requirements of the applicant and their extended family. As discussed above, the changes which are now proposed to the building are considered, on balance, to address previous concerns regarding the impact of the development on the conservation area and the TPO tree to the rear, and the current proposals are now considered to represent a reasonable balance between providing accommodation for the applicant and their family and preserving the character and appearance of the conservation area.

Unilateral Undertaking

- 10.26 A draft unilateral undertaking is expected to be submitted by the applicant, which is intended to form part of the decision on the application and, if the application is approved, would legally restrict the occupancy of the annexe building solely to family members of the occupants of the main dwelling on the site.
- 10.27 As part of the application, the applicant has provided a timetable which details the works which are required in order to change the building from its current construction and into compliance with the plans which have been submitted. This indicates that the works themselves would take a period of 28 weeks.
- 10.28 Legal advice has been sought as to how best to ensure that, if permission is granted for the revised scheme now proposed, the works to bring the unauthorised building in line with these proposals are carried out within a reasonable time period. In the light of this advice, it is suggested that the most appropriate means of securing the completion of these works would be through the incorporation of these timescales within the applicant's unilateral undertaking, including timetables for the submission of details to discharge conditions and allowing for a period for these to be assessed and considered by the local planning authority. A condition covering this is also recommended, as detailed above. This suggestion has been relayed to the applicants, and an update in this respect will be provided to Members at the Plans Panel meeting.

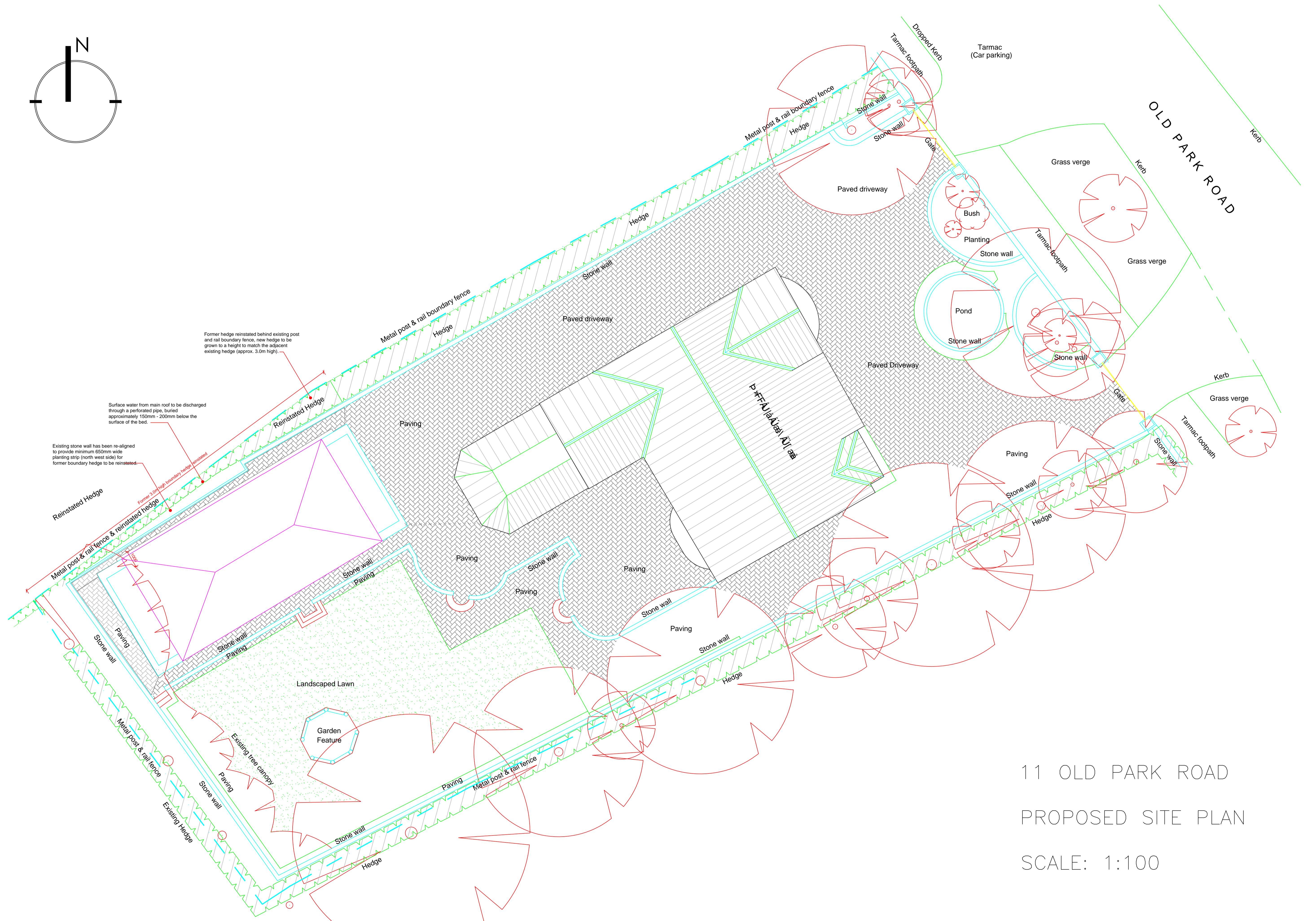
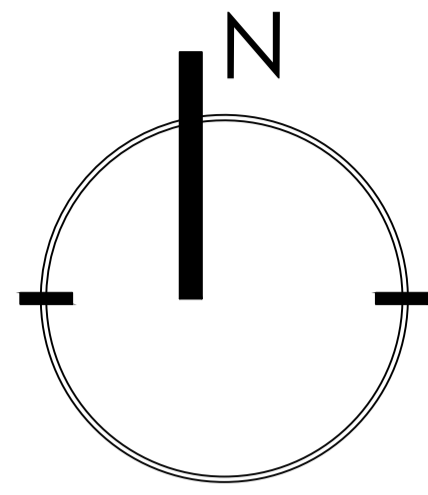
11.0 CONCLUSION

- 11.1 On balance, and in the light of the above, it is considered that the changes which are now proposed to the unauthorised building would result in a building of an acceptable size, scale and massing, which would incorporate features and materials which are more appropriate to the character and appearance of the site, the streetscene and the surrounding area. It is therefore considered that, subject to the conditions recommended above and the completion of the unilateral undertaking before the decision is issued, the proposals are acceptable, and it is therefore recommended that the application is approved.

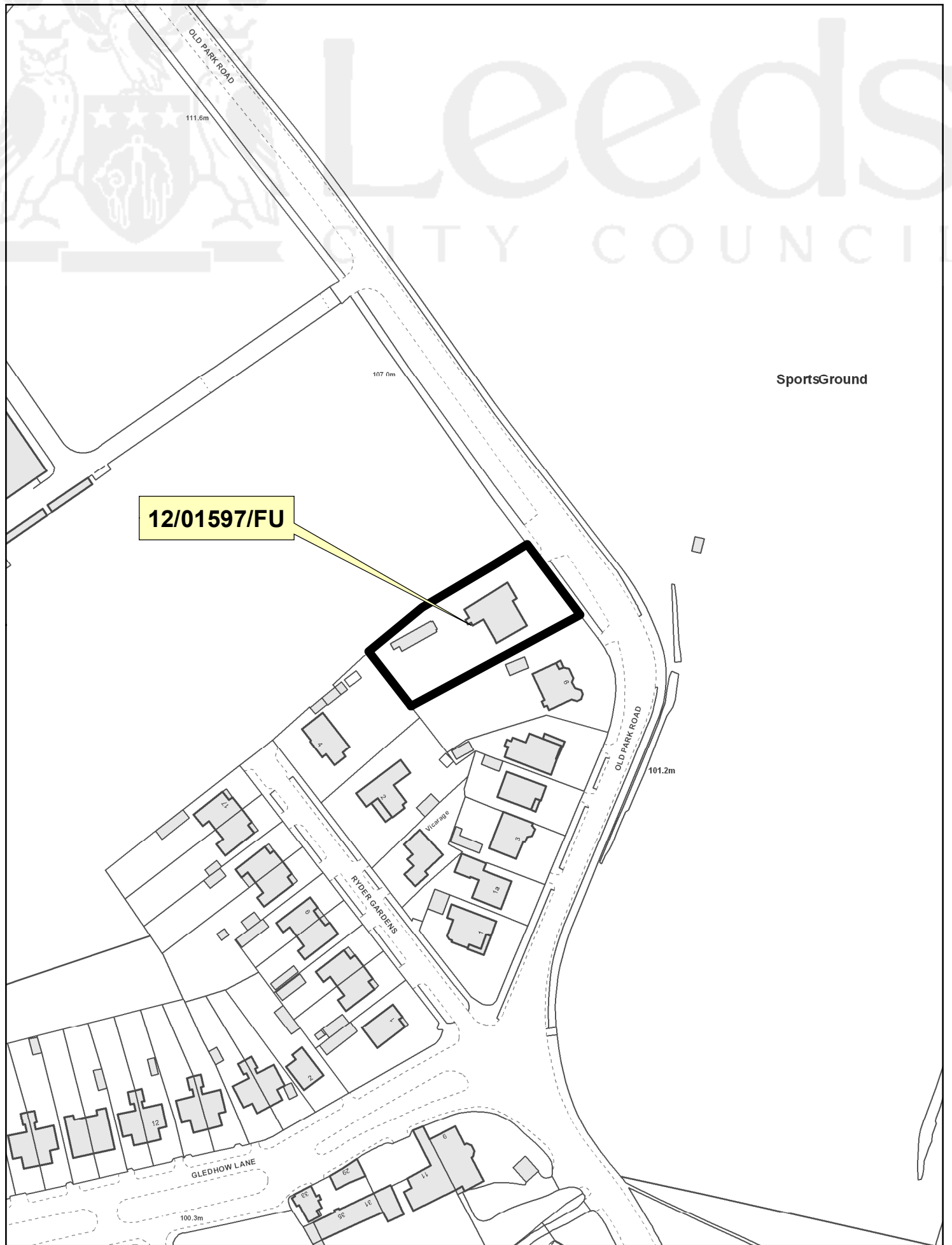
Background Papers:

Application and history files 10/05711/FU, 09/03515/FU, 08/06852/FU, 07/00030/FU and 06/05086/FU.

Certificate of Ownership: Signed by applicant.



11 OLD PARK ROAD
PROPOSED SITE PLAN
SCALE: 1:100



NORTH AND EAST PLANS PANEL

