



PLANS PANEL (EAST)

Meeting to be held in Civic Hall Leeds on
Thursday, 19th May, 2011
at 1.30 pm

MEMBERSHIP

Councillors

D Congreve
(Chair)

A Taylor

G Latty

R Finnigan

D Wilson

J Procter

R Grahame

P Gruen

M Lyons

K Parker

A G E N D A

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| 1 | | | <p>APPEALS AGAINST REFUSAL OF INSPECTION OF DOCUMENTS</p> <p>To consider any appeals in accordance with Procedure Rule 25 of the Access to Information Procedure Rules (in the event of an Appeal the press and public will be excluded.)</p> <p>(*In accordance with Procedure Rule 25, written notice of an appeal must be received by the Chief Democratic Services Officer at least 24 hours before the meeting)</p> | |
| 2 | | | <p>EXEMPT INFORMATION - POSSIBLE EXCLUSION OF THE PRESS AND PUBLIC</p> <p>1 To highlight reports or appendices which officers have identified as containing exempt information, and where officers consider that the public interest in maintaining the exemption outweighs the public interest in disclosing the information, for the reasons outlined in the report.</p> <p>2 To consider whether or not to accept the officers recommendation in respect of the above information.</p> <p>3 If so, to formally pass the following resolution:-</p> <p>RESOLVED – That the press and public be excluded from the meeting during consideration of those parts of the agenda designated as containing exempt information on the grounds that it is likely, in view of the nature of the business to be transacted or the nature of the proceedings, that if members of the press and public were present there would be disclosure to them of exempt information.</p> | |
| 3 | | | <p>LATE ITEMS</p> <p>To identify items which have been admitted to the</p> | |

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| 4 | | | <p>agenda by the Chair for consideration.</p> <p>(The special circumstances shall be specified in the minutes.)</p> <p>DECLARATIONS OF INTEREST</p> <p>To declare any personal / prejudicial interests for the purpose of Section 81(3) of the Local Government Act 2000 and paragraphs 8 to 12 of the Members Code of Conduct.</p> | |
| 5 | | | <p>APOLOGIES FOR ABSENCE</p> <p>To receive any apologies for absence.</p> | |
| 6 | | | <p>MINUTES</p> <p>To approve the minutes of the Plans Panel East meeting held on 14th April 2011</p> <p>(minutes attached)</p> | 3 - 8 |
| 7 | Wetherby; | | <p>APPLICATION 10/00279/OT - LAND OFF SANDBECK LANE WETHERBY LS22 - POSITION STATEMENT</p> <p>To consider a report of the Chief Planning Officer setting out the position of an outline application to layout access and erect a business and industrial park development, with offices, research and development units, light industrial units, warehouses and retail/amenity block, car parking and attenuation pond</p> <p>(report attached)</p> | 9 - 24 |
| 8 | Harewood; | | <p>APPLICATION 10/04438/FU - CRAGG HALL FARM LINTON LANE LINTON LS22 - POSITION STATEMENT</p> <p>To consider a report of the Chief Planning Officer setting out the position on an application for demolition of existing buildings and erection of</p> | 25 - 38 |

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| 9 | Alwoodley; | | <p>detached 6 bedroom house, laying out of driveway to front and landscaping including creation of sunken garden and pond</p> <p>(report attached)</p> <p>APPLICATION 10/04588/FU - 505 HARROGATE ROAD MOORTOWN LS17</p> <p>To consider a report of the Chief Planning Officer on an application for the demolition of existing house and erection of 4 three storey semi-detached houses with attached garages</p> <p>(report attached)</p> | 39 - 48 |
| 10 | Gipton and Harehills; | | <p>APPLICATION 10/05634/FU - 25 - 29 FLORENCE STREET HAREHILLS LS9</p> <p>To consider a report of the Chief Planning Officer on a retrospective application for change of use of domestic appliance storage with ancillary workshop to car repair centre</p> <p>(report attached)</p> | 49 - 58 |
| 11 | Roundhay; | | <p>APPLICATION 10/05711/FU - 11 OLD PARK ROAD GLEDHOW LS8</p> <p>To consider a report of the Chief Planning Officer on an application for alterations to existing unlawful residential annexe to form 3 bedroom residential annexe</p> <p>(report attached)</p> | 59 - 78 |
| 12 | Chapel Allerton; | | <p>APPLICATION 11/00915/FU - GROVE LANE HEADINGLEY LS6</p> <p>To consider a report of the Chief Planning Officer on an application for three storey residential care home with basement car parking, laundry, kitchen and stores</p> <p>(report attached)</p> | 79 - 94 |

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| 13 | City and Hunslet; | | <p>APPLICATION 11/01102/FU - 209 DEWSBURY ROAD HUNSLET LS11</p> <p>To consider a report of the Chief Planning Officer on an application for change of use and alterations from former internet café to pizza takeaway with restaurant facilities (A3/A5 usage)</p> <p>(report attached)</p> | 95 - 104 |
| 14 | | | <p>DATE AND TIME OF NEXT MEETING</p> <p>Thursday 16th June 2011 at 1.30pm in the Civic Hall Leeds</p> | |

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To all Members of Plans Panel
(East) and relevant Town and Parish
Councils

Chief Executive's Department
Governance Services
4th Floor West
Civic Hall
Leeds LS1 1UR

Contact: Angela M Bloor
Tel: 0113 247 4754
Fax: 0113 395 1599
angela.bloor@leeds.gov.uk
Your reference:
Our reference: ppe site visits
Date 11th May 2011

Dear Councillor

SITE VISITS – PLANS PANEL EAST –19TH MAY 2011

Prior to the meeting of the Plans Panel (East) on Thursday 19th May 2011 the following site visits will take place:

| | | |
|-------------------------|-----------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| 10.00am | | Depart Civic Hall |
| 10.10am | Chapel Allerton | Grove Lane Meanwood – Three storey residential care home – 11/00915/FU |
| 10.35am | Roundhay | 11 Old Park Road Roundhay – Alterations to existing annexe to form 3 bedroom residential annexe – 10/05711/FU |
| 11.00am | Harewood | Cragg Hall Farm Linton Lane Linton – Demolition of existing buildings and erection of detached 6 bedroom dwelling; driveway and landscaping – 10/04438/FU |
| 11.30am | Gipton & Harehills | 25 – 29 Florence Street LS9 – Retrospective application for change of use of domestic appliance storage with ancillary workshop to car repair centre – 10/05634/FU |
| 12.00 noon approx | | Return to Civic Hall |

For those Members requiring transport, a minibus will leave the Civic Hall at 10.00am. Please notify David Newbury (Tel: 247 8056) if you wish to take advantage of this and meet in the Ante Chamber at **9.55am**.

Yours sincerely

Angela M Bloor
Governance Officer



Plans Panel (East)

Thursday, 14th April, 2011

PRESENT: Councillor D Congreve in the Chair

Councillors R Finnigan, R Grahame,
P Gruen, G Latty, M Lyons, K Parker,
J Procter, A Taylor and D Wilson

168 Chair's opening remarks

The Chair welcomed everyone to the meeting and asked Members and Officers to introduce themselves

169 Late Items

Although there were no formal late items, Panel Members were in receipt of the following information to be considered at the meeting:

Application 10/04378/FU – Land off Station Lane Thorner LS14 – written representations, photographs and a copy of the Thorner Village Design Statement (minute 175 refers)

170 Declarations of Interest

Councillor John Procter declared a personal interest in application 10/05446/FU – The Coach House Bramham, through knowing the applicant (minute 178 refers)

171 Minutes

RESOLVED - That the minutes of the Plans Panel East meeting held on 17th March 2011 be approved

172 'Planning for Growth' - National advice

Members considered a report of the Chief Planning Officer setting out information sent to all Local Planning Authorities (LPAs) in England by the Chief Planner (Communities and Local Government) in respect of the national objectives in 'Planning for Growth'. Appended to the report was a statement by the Minister for Decentralisation and further information on planning obligations

The Panel's Lead Officer presented the report and informed Members that the Government were placing great importance on delivering sustainable growth and that LPAs were being asked to place significant weight on the need to secure economic growth when considering planning applications. However, whilst the delivery of sustainable economic growth should be looked at favourably, there was no requirement to set aside other planning policies and guidance which existed

In future, Officers' reports to panel would include the degree of weight which should be given to economic factors. Members were informed that in cases where the principle of development was accepted but there were issues around design, highways, etc, greater weight might be placed on economic growth factors and this may lead to a recommendation of approval of an application

Members commented on the following matters:

- how the proposals matched with the Localism Bill and greater involvement in planning decisions by Town and Parish Councils
- whether these proposals were likely to be legally challenged
- the need for greater clarification on the status of the advice, ie is it a material planning consideration or something to have regard to
- concern about how the proposals will affect future planning policy and that it could lead to greater demand for development of greenfield sites which could not be considered as being sustainable
- the impact of the proposals on housing development
- that the Localism Bill would give greater power to local communities as where there was significant objection to a planning application, due consideration should be to reject the application

The Panel's Lead Officer stated that definitive answers could not be given to all of the points raised as whilst some of the context of the Localism Bill was known, the Bill had yet to be finalised. No changes had been indicated to suggest that local opinion by itself could be a determinative factor

It was not known if a legal challenge would be mounted to the Ministerial Statement, but local planning authorities have been asked to have regard to it and it was to be a material planning consideration with weight being given to it when considering an application

Regarding the implications of the proposals on housing development, it was agreed that this be considered in a different forum

RESOLVED - To note the report and attached papers and to have regard to them in making planning decisions

173 Applications 09/0218/FU and 09/04531/FU - Land at Church Fields High Street Boston Spa LS23 - Appeal decision

Further to minute 160 of the Plans Panel East meeting held on 17th March 2011, where Panel received a verbal update on recent appeal decisions for two major housing developments at Church Fields High Street, Boston Spa LS23, Members considered a report of the Chief Planning Officer setting out the Inspector's findings and the implications for the LPA

Officers presented the report and outlined the main issues identified by the Inspector which related to housing land supply; impact upon regeneration and harm to the character and appearance of the Conservation Area

The Inspector's decision had been greatly disappointing, especially as the Inspector seemed to place more weight on national as opposed to local guidance in reaching his decision

The application was accompanied by a Section 106 Agreement which would provide 30% affordable housing together with education and transport contributions; the appeals, which were dealt with by public inquiry, were allowed with a partial award of costs against the Council

Members commented on the following matters:

- the Inspector's view that the RSS figure for housing supply land for Leeds – this being 4300 dwellings per annum - provided a credible level to aim for when there had been much opposition and debate on this figure
- that little regard to the character of Boston Spa had been given in terms of the design of the proposals
- whether the appeal decisions would create a precedent for other residential proposals. Officers stated that if a further phase 2 or 3 site came forward for development, the appeal decisions could make it difficult to resist any allocated sites. Members were informed that further work would be required in the policy section to ensure the housing figures were up to date

Councillor John Procter referred to a Freedom of Information request which he had submitted requesting information from the Planning Inspectorate on recent appeal decisions on greenfield sites in Leeds, which he offered to share with Members once his request had been responded to

RESOLVED - To note the appeal decision

174 Application 10/00337/FU - Ryder Cottage Main Street East Keswick LS17 - Appeal decision

Further to minute 75 of the Plans Panel East meeting held on 28th October 2010 where Panel agreed with the Officer's recommendation to refuse an application for the erection of a 2 storey rear extension at Ryder Cottage Main Street East Keswick, Members received a report setting out the Inspector's decision on the appeal lodged by the applicant

It was the decision of the Inspector to dismiss the appeal in a letter dated 23rd March 2011

RESOLVED – To note the appeal decision

175 Application 10/04378/FU/MIN - Detached 15m high wind turbine - Land off Station Lane Thorner LS14

Plans, drawings and photographs were displayed at the meeting

A site visit had taken place earlier in the day which some Members had attended

Officers presented the report which sought permission for a detached 15m high wind turbine on land off Station Lane Thorner LS14, which was situated in the Green Belt and a Special Landscape Area

Revisions to the siting of the wind turbine had been made as Natural England and Environmental Health had objected to the initial site which had been proposed

The main issues were outlined as set out in the submitted report and Panel was informed that Environmental Health Officers; the Landscape Officer and the Council's Nature Conservation Officer had not raised any objections to the revised proposals

Officers provided the following updates, for Members' consideration:

- six additional objections had been received giving a total of 22 objections to the proposals
- four letters of support had been received

- Councillor Castle had requested the application be deferred as Officers had visited the site after the report had been prepared, leading to the view that further assessments were being made and these should be considered. Members were informed that this was incorrect and that Officers had visited the site recently to produce some photo montages to assist the Panel's deliberations

The Panel heard representations from the applicant's agent and an objector who attended the meeting

Members commented on the following matters:

- whether the wind turbine could be re-sited without any drop in voltage
- the lack of a policy on wind turbines, particularly in view of the increasing number of applications being submitted
- that notice had been taken of objections raised by Natural England and Environmental Health but not local residents
- that many applications which were sited in the Green Belt were recommended for refusal, yet applications for wind turbines in the Green Belt seemed to be considered as being acceptable
- that determination of wind turbine applications should have regard to the impact of the industrial process on the workforce engaged in the production of magnets and that consideration of the application should be deferred

Members considered how to proceed

Following a even number of votes for and against the Officer's recommendation to approve the application, the Chair used his casting vote

RESOLVED - That the application be granted subject to the conditions set out in the submitted report

176 Application 11/00737/FU - One detached house with garage to garden and detached garage to existing house - 29 Carrholm View Chapel Allerton LS7

Plans, photographs and drawings were displayed at the meeting. A site visit had taken place earlier in the day which some Members had attended

Officers presented the report which related to an application for a residential dwelling and garages to an area of land adjacent to 29 Carrholm View LS7. Members were advised that the area of the site was smaller than that shown on the plan displayed at the meeting

Two previous applications had been refused on the grounds of back land development and harm to the character of the area. Members were advised of the revisions to PPS3 which were relevant in this case

By way of clarification, Members were informed that the comments contained in the report should not be attributed to Councillor Lancaster directly, rather they were a report of comments made to her by the applicant

Officers were of the view that the proposal would be harmful to the character of the area and recommended the application be refused

The Panel heard representations on behalf of the applicant's agent who attended the meeting

RESOLVED - That the application be refused for the following reason:

The proposed development, by virtue of its siting and layout within the site and in relation to neighbouring properties and the amount of hardstanding proposed, would fail to reflect the pattern of surrounding development and would appear as an incongruous development within the streetscene, to the significant detriment of the character and appearance of the area, contrary to policies GP5, N12, N13 and BD5 of the Leeds Unitary Development Plan (Review) 2006 and the guidance in SPG13: Neighbourhoods for Living, PPS 1 and PPS3

177 Application 10/05599/FU -Laying out of hard standing and widening of access at St Vincent's School 27 Church Street Boston Spa LS23

Plans and photographs were displayed at the meeting

Officers presented the report which sought permission for the laying out of a hard standing and widening of access at St Vincent's School, Church Street Boston Spa LS23, which was situated in the Boston Spa Conservation Area

Members were informed that the proposals were for the formation of a parking area for seven mini-buses which were used to transport pupils to the school which catered for 77 pupils from primary to secondary age, primarily from the north-west Leeds and Harrogate areas

The school day was from 8.00am – 2.30pm therefore there would not be an increase in traffic during the peak-time hours: the mini-buses were driven by parents/grandparents of the pupils

In terms of impact of the proposals this was minimal and there had been no objections from local residents

Officers updated the report and informed Panel of the following matters:

- only 1 brick pillar had been removed, not 2 as stated in the report
- that the access had been widened by 1.3m, not 3.5m as previously indicated
- that the report should contain a reference to PPS5 – Planning for the Historic Environment

The Chair welcomed students from the school who were attending the meeting

Members commented on the following matters:

- the travel arrangements and whether the transport plan operated by Children's Services could be used. Members were informed that the school was privately run so was outside the remit of Children's Services
- the surfacing of the hardstanding area and whether small setts could be considered. Members were informed that porous gravel was proposed
- that infill planting to the rear of the parking area should be enhanced to fill up the gaps which currently exist, if the hedge is within the ownership of the school

RESOLVED – That the application be granted subject to the conditions set out within the submitted report, subject to the deletion of condition 4 and an additional condition requiring landscaping to the boundary to fill gaps in the hedge

178 Application 10/05446/FU - Change of use of former coach house to form 3 bedroom house with single storey side extension and detached garage - The Coach House Old Vicarage House Vicarage Lane Bramham LS23

Plans and photographs were displayed at the meeting

Officers presented the report which sought a change of use and extensions to form a single dwelling house on Vicarage Lane Bramham LS23, which was situated in the Bramham Conservation Area

The planning history of the site was outlined and Members informed that two previous schemes had been refused on highway grounds. Whilst there remained an objection from highways to the current proposal, this had been considered and Officers were of the view that the benefits which would arise from securing the long term beneficial use of this building served to outweigh these objections, with the application being recommended for approval

RESOLVED - That the application be approved subject to the conditions set out in the submitted report and the following additional conditions:

- development to be carried out in accordance with approved plans
- no use of courtyard area for parking and vehicular access
- no development to commence before a scheme of highway improvement works for Vicarage Lane and Back Lane have been submitted to and agreed in writing by the LPA. Once agreed, the highway works shall be implemented prior to first occupation of the dwelling

179 Application 10/05358/FU - Detached summerhouse to residential care house - Carlton House 24 Wakefield Road Rothwell LS26

Plans, photographs and drawings were displayed at the meeting

Officers presented the report which sought retrospective planning permission for a detached summerhouse within the grounds of Carlton House which was a residential care home on Wakefield Road Rothwell

Members were informed that due to the objections raised by local residents a 12 month temporary permission was being sought to enable the Ward Members to be consulted further about any future application to retain the summerhouse

The Panel considered how to proceed and was of the view that a temporary planning consent was inappropriate in this case

RESOLVED - That a permanent permission be granted with a condition restricting the hours of use of the summerhouse to between 09.00 – 21.00 hours

180 Date and time of next meeting

Thursday 19th May 2011 at 1.30pm in the Civic Hall, Leeds



| | |
|-------------|------------------------------|
| Originator: | Victoria Hinchliff Walker |
| Tel: | 39 51343 |

Report of the Chief Planning Officer

PLANS PANEL EAST

Date: 19th May 2011

Subject: APPLICATION 10/00279/OT, OUTLINE PLANNING APPLICATION TO LAYOUT ACCESS AND ERECT BUSINESS AND INDUSTRIAL PARK DEVELOPMENT, WITH OFFICES, RESEARCH AND DEVELOPMENT UNITS, LIGHT INDUSTRIAL UNITS, WAREHOUSES AND RETAIL/AMENITY BLOCK, CAR PARKING AND ATTENUATION POND ON LAND OFF SANDBECK LANE, WETHERBY, LS22 7TW.

| APPLICANT | DATE VALID | TARGET DATE |
|-------------------|-------------------|--------------------|
| Wetherby Park Ltd | 25/01/10 | 26/04/10 |

Electoral Wards Affected: Wetherby

Ward Members consulted
(referred to in report)

Specific Implications For:

Equality and Diversity

Community Cohesion

Narrowing the Gap

POSITION STATEMENT

Members are requested to note this progress of this report and to give views in relation to a number of issues set out in the report to aid progression of the application.

1.0 INTRODUCTION:

- 1.1 The application relates to a proposal for employment uses on an allocated employment site on the edge of Wetherby. This report is intended to give Members an opportunity to comment on this proposal in order for negotiations with the applicants to proceed with some certainty as to the issues Members feel are particularly relevant, require amending, or any additional information that may be sought.
- 1.2 Members are advised that this application was the subject of a Planning Performance Agreement which expired on 14/04/10.
- 1.3 The application is brought to Panel at the request of Cllr John Procter as Ward Member, who raises concerns about the accessibility of the site, the size and

prominence of one of the proposed buildings and the potential visual impact on Wetherby.

1. PROPOSAL:

- 1.1. The application is submitted in outline only to consider the principle of development, access and layout. Matters relating to scale, appearance and landscaping are reserved for future consideration. The proposal is for a mixed industrial park consisting of:
 - B1a – 5,568 sq m (gross internal area)
 - B1c/B8 – 2,515 sq m
 - A1/A2/A3/A4 – 555 sq m – ancillary provision.
 - Total – 8,638
 - Total site area – 4.31ha.
 - Number of parking spaces = 265 (indicative).
 - One access point off existing roundabout with potentially 4 feeder roads coming off the main access spine.
 - A floodwater storage zone, attenuation pond and buffer zone in the north west corner of the site.
 - Re-routing of existing bridleway, and provision of bridleway through site.
- 1.2. The submitted site plan also shows an area of potential future development including 3,865 sq m of industrial units. This is not included within the current application red line boundary.
- 1.3. A number of office and warehouse unit elevations are provided as examples, it is anticipated that warehouses will be of a maximum 12.5m ridge height, with offices being two storey, typical ridge heights will be around 8.5 – 9m. Varying sizes will be employed, from small scale offices to larger footprints for headquarters. A single storey unit will provide retail/leisure opportunities providing services for employees at the site.
- 1.4. The office units are located on the southern half of the site with the retail block located centrally around an area of open space. The industrial units are all located within the northern half of the site.
- 1.5. A number of reports were submitted with the application including;
 - Design and Access Statement.
 - Planning Support Statement – refers to PPS1, PPS4 and PPG13, RSS policies YH5, E1, E3 and UDP policies GP5, E1, E4:37, N12, N13, N25, N26, N39A, T2, T2b, T5, T6, T7a, T24. States that site is allocated; that there is a need for employment uses to support the local economy; historic development of Wetherby does not suit provision of office space; that the site will provide for a wide range of business occupiers; that the site is in a sustainable location; and that it will be a high quality and bespoke design.
 - PPS4 Assessment – A sequential assessment was carried out which looked at 19 office sites all within the Wetherby and Boston Spa area. None except site deemed suitable.
 - Noise Impact Assessment – Recognises potential harmful impact of road noise, particularly from the adjacent A1 and recommends special glazing,

and other sound insulation measures including mechanical air conditioning so that windows can remain closed.

- Statement of Community Involvement – A public event was advertised and held on 24th November 2008 between 1900 and 2100 at Wetherby Town Hall. 15 people attended and two letters of support were received as a result.
- Flood Risk Assessment – The northern part of the site is within zone 3 High probability flood zone, and the main source of flooding is from the Eel Mires watercourse on the northern boundary. Proposes to discharge surface water run off at a restricted rate (15l/s) into the Eel Mires watercourse. Above ground attenuation pond for flood events. Floor levels to be set above flood level. Flood plains to be re-located.
- Phase 1 Geo-Environmental Assessment. Concluded that the site is historically undeveloped with no landfill in vicinity. The potential environmental risk is therefore low.
- Phase 2 Geo-Environmental Assessment – No remediation considered necessary.
- Transport Assessment – concluded that the access roundabout (existing) will function effectively, no junction modifications are required and parking provision is within guidelines. Also that there are bus stops in close proximity and a Travel Plan framework will encourage non-car modes.
- Ecological Survey – this survey found: Trees suitable for bat roosts. One badger sett. Evidence of water vole burrows and activity. Bat activity over site. Potential for ground nesting birds. The recommendations made included; Re-location of badger sett which will require a Natural England badger exclusion licence. Wildlife corridors throughout site to provide badger foraging. Repeat surveys for water voles. Improvements to habitat for water voles. Retention of trees suitable for bat roosts. Additional tree planting and bat boxes. Nesting bird survey prior to works. Provision of bird boxes. Wood piles for invertebrates.

2. SITE AND SURROUNDINGS:

- 2.1. The application site consists of former agricultural fields split in two by Sandbeck Lane which gives access to a former dwelling, now demolished. The site is currently rough grassland bounded by hedges, with a significant number of trees to the site boundaries, as well as smaller groups of trees interspersed around the site. There are level changes across the site with a rise in land towards the southern tip of this triangular site. The site is prominent from the A1 particularly when approaching from the south although the screening provided by the trees is quite dense.
- 2.2. The site lies to the North East of Wetherby, on its very edge. To the west is the Wetherby Relief Road with the Sandbeck Industrial Estate and a residential estate adjacent. To the North are open fields. To the East is the A1 road, beyond which are the rural areas of north east Leeds including Walton. To the South it is again open and rural. Despite the proximity of the industrial estate this is largely screened by mature planting giving the site a rural character.

3. RELEVANT PLANNING HISTORY:

- 3.1. 31/399/04/FU - Proposal: Conservatory to rear. Approved 05-OCT-04.
- 3.2. H31/237/90/ - Alterations to form new staircase, toilets, changing rooms, first aid room, kitchen and dining room, and extension. Approved 30-JAN-91.

- 3.3. H31/695/78/ - Alterations and extension, to form enlarged lounge to rear and erection of detached stone double garage to side of detached house. Approved 20-DEC-78.
- 3.4. H31/175/74/ - Double stone garage to detached house. Approved 11-JUL-74.
- 3.5. H31/634/75/ - Outline application to erect one detached house, with detached double garage, to riding school premises. Refused 29-MAR-76.
- 3.6. 31/275/94/OT - Outline application to erect industrial warehousing and business units. Application disposed of 21-DEC-01.
- 3.7. H31/286/82/ - Detached farrowing house and detached sow house, to agricultural site. Approved 20-DEC-82.

4. HISTORY OF NEGOTIATIONS

- 4.1. There have been ongoing negotiations regarding sustainability, transport infrastructure, design and landscaping. There have also been ongoing negotiations with the Highways Agency regarding the impact of the site and the Travel Plan. The outcomes of these are dealt with in the appraisal below.

5. PUBLIC/LOCAL RESPONSE:

- 5.1. A site notice for a major development affecting a right of way was posted on 3rd February 2010. Publicity expired on 12th March 2010.
 - Wetherby Town Council – initially the Town Council objected to the scheme, however following a revision in the amount of office space and a presentation by the developers, the Town Council no longer have an objection.
- 5.2. Wetherby Business Association – Object to the application on the following grounds;
 - Land is green belt and should be protected. Development should be within boundary of Wetherby. ***The site is not within the Green Belt.***
 - Inclusion of retail element will draw trade away from town centre. See *assessment below*.
 - Scale of development will affect the setting of the town.
 - No special circumstances to justify the development. Further demand can be accommodated within existing industrial areas which are within distance of the town centre and so contribute to the viability of the town centre.
- 5.3. One letter of objection from a resident raised concerns over noise pollution and increased traffic, as well as raising the issue of existing empty units and retail units.

6. CONSULTATIONS RESPONSES:

Statutory:

- 6.1. Highways DC – Maintain that the Transport Assessment is not yet fit for purpose and requires further amendments. There are also issues regarding internal layout although it is understood that final approval for the layout as shown on drawing AD (00) 018 Rev B was not being sought at this stage. The issues relate to width of spine roads, width of footways, width of bridleway, corner radii of junctions, forecourt sizes etc.
- 6.2. Environment Agency – No objections subject to conditions to ensure development is carried out in accordance with Flood Risk Assessment.
- 6.3. Highways Agency – There have been significant ongoing discussions regarding the Travel Plan and the Transport Assessment. A Holding Direction was issued and has not yet been lifted. Once a s106 containing relevant Heads of Terms has been

submitted and agreed then the Holding Direction will be able to be lifted. The proposal is not expected to have a detrimental effect on the highway network. The HA have confirmed that whilst the Holding Direction is still in place they are happy for the application to proceed to Panel on the basis that no formal determination will be made until a s106 is agreed.

Non-statutory:

- 6.4. SDU Landscape – Master plan does not address issues of retention of existing vegetation, integrity of existing hedges. Lack of information in relation to hedges and trees. Off site planting needs to be taken into account. Full topographical survey needed, to include area up to 20m outside site. Details of levels needed. Little space allowed for meaningful screening around the boundaries. Blank gables in key areas is a concern. Visual impact of proposed buildings from viewpoints. Scheme is bleak with little break up of hard surfacing. *The scheme has undergone revisions since these comments were made, generally though existing trees are to be retained where feasible, particularly those to the boundary of the site. Landscaping is a reserved matter.*
- 6.5. Metro – Concerns over long term sustainability of the site, the site is not within the generally acceptable walking distance for bus stops (400m), therefore site is considered inaccessible. The TA gives mixed messages with regard to public transport provision. Bus use unlikely to be a realistic or attractive mode for employees. The size of the development is not of a scale to warrant or sustain the additional services that would be necessary to make this site more accessible.
- 6.6. Harrogate Borough Council – The Council should satisfy itself that the proposal complies with relevant policy. The layout does not leave much space for landscaping which will be needed to mitigate the visual impact.
- 6.7. Local Plans – The scheme has been revised to take account of policy concerns in respect to the scale of the office element of the original scheme. Earlier policy comments suggested that office development would only be acceptable at this location up to a limit of 5,000 sq m, this being the scale of development that would relate to meeting local employment needs rather than serving a wider catchment. Although this 5,000 sq m limit is exceeded by approximately 10% this is not considered to be a material difference.
- 6.8. Whilst the RSS has been revoked [*comments made prior to reinstatement*] the principle that a free standing market town like Wetherby should meet at least some of its locally generated need for employment remains a relevant consideration in assessing the suitability of the site for development. The sequential test requirements of PPS4 have been addressed satisfactorily for the office element, the proposed B class uses are acceptable in principle because the site is allocated for employment purposes.
- 6.9. The application also proposed 555 sq m of retail/amenity uses which in a free standing application would require a sequential search of other suitable sites. There are concerns that this level of retail could draw trade away from other areas, however if the floorspace of the A1 use is restricted to 200 sq m and this is limited to the sale of convenience goods only then no objection is raised.
- 6.10. The proposal also needs to be judged against policy EC10 of PPS4 which considers issues such as accessibility. It is noted, however, that there are no other employment allocations within or on the edge of Wetherby and this is likely to be the best opportunity available in the town for this scale of economic development. On balance, subject to restriction of A1 floor space via condition there is no objection to the revised scheme on planning policy grounds.

- 6.11. Public Transport Infrastructure Contributions – Considers the site to be inaccessible due to the distance to bus stops and the limited service available. A contribution of £200,000 is recommended which would be put towards improvements in, on and around the Wetherby corridors.
- 6.12. Marston Moor Internal Drainage Board – No objection provided works carried out in accordance with FRA.
- 6.13. WYAAS – Development site is in an area of archaeological potential. This site may represent the medieval settlement of Audby, and a survey carried out in 1993 identified 3 possible archaeological features which are not discussed in the submitted archaeological report. Aerial photo's also show large areas of ridge and furrow surrounding the site. Determination should be deferred until a full evaluation of potential of the site has been provided. A programme of archaeological recording is also required if development is allowed.
- 6.14. Public Rights of Way – Public bridleway no. 6 Wetherby lies adjacent to the south western boundary of the site and includes Sandbeck Lane to the east of the roundabout. Neither of these routes have been identified or recognised in the planning application. There are safety concerns if horse riders and pedestrians are to be mixed with motor vehicles and large lorries. A segregated bridleway should be provided within a landscaped corridor parallel to the access road.

7. PLANNING POLICIES:

Development Plan –

- 7.1. The Development Plan for the area consists of the Regional Spatial Strategy and the adopted Unitary Development Plan Review, along with relevant supplementary planning guidance and documents. The Local Development Framework will eventually replace the UDP but at the moment this is still undergoing production with the Core Strategy still being at the draft stage.
- 7.2. The Regional Spatial Strategy
- 7.3. Under the UDP the application site lies outside of the Main Urban Area (H4), and is designated under E4:37 for 5ha of employment use. The following policies are relevant for consideration of this application;
- SA2 – Encourage development in locations that reduce the need for travel and promote use of sustainable transport forms.
 - SA4 – Promote and strengthen the economic base of Leeds by identifying a balanced range of sites for development.
 - SA7 – Promote physical and economic regeneration of urban land and buildings within the urban areas.
 - SP3 – New development will be concentrated largely within or adjoining the main urban areas and settlements on sites that are or can be well served by public transport.
 - SP6 – Distribution of employment land is based on principles of providing jobs close to homes and anticipating likely market demand.
 - GP5 – General planning considerations.
 - GP1 – Where the proposals map shows a specific use, no other permanent use will be considered.
 - GP7 – Use of planning obligations.
 - GP9 – Community involvement at all stages.

- GP11 – Development to meet sustainable design principles.
- GP12 – Provision of sustainability assessments for major developments.
- N9 – All development proposals should respect and enhance the intrinsic value of land in providing a corridor function.
- N10 – Development not permitted where it adversely affects a Public Right of Way.
- N12 – Urban design principles.
- N13 – Building design principles.
- N23 – Design of incidental open space around developments.
- N24 – Proposal abutting open land should provide for suitable assimilation into the landscape.
- N35 – Development not permitted if it conflicts with interests of protecting best agricultural land.
- N37A – All new development in the countryside should have regard to character of the landscape and contribute positively to it.
- N38B – Planning applications to be accompanied by a Flood Risk Assessment where needed.
- N39A – Incorporation of sustainable drainage principles.
- T2 – Highway issues.
- T2B – Provision of Transport Assessments.
- T2C – Provision of Travel Plans.
- T2D – Developer contributions towards public transport.
- T24 – Parking provision.
- E4 – Land allocated for employment uses – 37 – 5Ha land at Sandbeck Lane.
- E14 – City Centre remains principal location for office development.
- E16 – Office development of an appropriate scale will normally be acceptable in locations well related to town centres as defined in policy S2.
- E17 – Office development specifically encouraged in Wetherby town centre.

Relevant supplementary guidance –

- 7.4. Street Design Guide - gives advice on design of roads and parking layouts.
- 7.5. PTIC – sets out circumstances under which a contribution is required for public transport improvements.
- 7.6. Travel Plans – gives advice and guidance on the use of travel plans.

Government Planning Policy Guidance/Statements

- 7.7. PPS4 Planning for Sustainable Economic Growth – This aims to promote sustainable economic growth by improving the economic performance of towns and cities, promoting regeneration, delivering sustainable patterns of development, promoting vitality and viability of town centres, and raising the quality of life for rural areas. The following policies in this PPS are of particular relevance.

- Policy EC6.2 – In rural areas LPA's should control economic development in open countryside, identify local service centres and locate most new development in or on the edge of existing settlements.
- Policy EC10.1 – LPA's should adopt a positive and constructive approach towards planning applications for economic development. [*Members should note the emphasis put on achieving economic growth in recent government budget announcements*].
- Policy EC10.2 – All planning applications for economic development should be assessed against considerations including sustainability, accessibility, quality design, impact on economic and physical regeneration and impact on local employment.

7.8. PPS1 + Climate Change Supplement – These documents seek to ensure that all development proposals meet sustainable criteria.

7.9. PPG13 – provides guidance and advice on highway design issues, parking etc.

7.10. Written Ministerial Statement: Planning for Growth, 23rd March 2011, (capable of being a material planning consideration).

8.0 MAIN ISSUES

1. Principle of development and sustainability
2. Highway and access issues
3. Design and appearance
4. Landscaping
5. Section 106 Agreement and CIL Regulations

9.0 APPRAISAL

Principle of development and sustainability

- 9.1 The proposal will provide 5,568 m² B1a offices along with 2,515 m² B1b/B1c/B8, and 555 m² ancillary retail uses. The amount of B1a office space has been revised down from the initial submission (13,613 m²) following concerns that the amount of office space proposed would be harmful to principles of PPS4 and would provide much more office space than local need would demand.
- 9.2 A sequential assessment of office space within Wetherby Town Centre was carried out with 19 units identified as being vacant at the time of the survey (January 2010). Four of these were located within Wetherby, 1 was in Boston Spa and the rest were all in out of centre locations (including sites on the Audby Lane, Sandbeck Way and Parkhill estates on the edge of Wetherby). The total amount of office space available within a town centre location was just 357 m². The type of space available was generally small scale units, located above retail units, which would attract independent small businesses who benefit most from the town centre location, e.g. A2 uses and financial and professional services.
- 9.3 In contrast the proposed development seeks to provide a level of office accommodation that is currently unavailable within Wetherby, providing high spec, flexible spaces with large footplates aimed at national corporations. This type of space is not therefore considered to provide direct competition to vacant space that is available within the town centre.

- 9.4 The retail element of the proposal is considered as ancillary and therefore has not been subject to sequential testing. It is considered that provided the amount and type of direct A1 uses is limited by condition then the proposal for this type of use would not impact negatively on the nearby town centre.
- 9.5 The application site is allocated for employment uses and forms a natural extension to Wetherby, adjacent to existing industrial estates and bounded by the A1/M to the east. Given the status of Wetherby as a free standing market town (and identified as a Principal Town in the RSS) it is considered that the area should be providing for locally generated employment needs.
- 9.6 Recent guidance from the Government highlights the need to provide for economic growth. A Written Ministerial Statement by the Minister for Decentralisation was issued on 23rd March 2011 and is capable of being a material consideration makes it clear that the Government expects that development and growth should be approved unless it compromises key sustainable development principles set out in national planning policy. Appropriate weight should be given to the need to support economic recovery and applications that secure sustainable economic growth should be treated favourably.
- 9.7 Issues regarding the sustainability of the site have been raised as the site is not well served by Public Transport and is located 500m (10 – 15 minute walk) from the nearest southbound bus stop, with further stops on Deighton Road (650m). Bus services operate on a 30 minute or hourly basis providing connections to Leeds, Wetherby and Deighton Bar, as well as Harrogate and York. Discussions have taken place with Metro about enhancements to this service but they have commented that they feel it is unlikely that the scale of the development would lead to significant change in provision.
- 9.8 Provision of nearest services would be in Wetherby Town Centre itself which has the full range of facilities and services. The walking distances involved are in the region of 1.3Km, assuming an average walking speed of 4kph this would entail a walk of some 20 minutes. According to the PTIC SPD the site is outside of areas considered as accessible, similar to the majority of industrial and residential estates in Wetherby. There has been a strong objection to the proposal on the grounds that the site is not accessible and would not therefore, reduce reliance on private vehicles.
- 9.9 It is accepted that a 20 minute walk into town on a lunch time, whilst certainly not unachievable, would probably encourage employees to use their cars, or to use on site facilities instead. The walk to the bus stop is not however considered to be so excessive that it would put people off using it, (furthermore the walk is along well lit roads with good footpaths), this is likely to be down more to personal preferences, and the efficiency of the service. There are also large residential areas close by that could be reached by cycling and in which there would be potential for local employees to be drawn from.
- 9.10 The site does not therefore achieve high levels of accessibility and may increase private vehicle usage; however the distances involved for walking are not so excessive that walking or cycling locally would be unachievable. It is further considered that the site is allocated and therefore potential developers will have taken some comfort that their schemes will be looked on favourably. Furthermore it is accepted that Wetherby itself has a need to provide for local employment and economic growth to enable it to continue being a self sustaining town into the future. There is a lack of suitable existing office space within Wetherby that would provide for the needs of larger scale employers. The recent Ministerial Statement Planning for Growth stresses the importance of encouraging growth, particularly where it achieves sustainable growth. On balance therefore the proposal is considered to be

of positive benefit for Wetherby as a whole, and does comply with UDP policies for employment. The reduced accessibility is not considered to be of a significance that would justify refusing development on this allocated site in the current climate.

- 9.11 **Do Panel Members have any concerns regarding the principal of employment use on this site as well as the scale and mix of office use and light industrial / warehousing & distribution, and ancillary uses ?**
- 9.12 **Do Panel Members also feel that the site is sustainable in terms of its location, in light of the UDP designation and Section 106 obligations being sought ?**

Highway and Access Issues

- 9.13 Access is the only matter being applied for at this outline stage. An access, utilising the existing stub road, off the small roundabout is intended which will then feed into 4 smaller estate roads serving the individual units with parking and servicing located around the units themselves.
- 9.14 An estimated 536 employees would be accommodated at the site and the Travel Plan estimates that 90% will travel by car predominantly from Leeds and Wetherby areas, with others from further a-field such as Bradford, Harrogate, Thirsk and York.
- 9.15 The site is well served by the A1 providing good links for employees and servicing to Leeds and northwards to Harrogate and York. The location adjacent to the A1 will mean that employees travelling this way would not need to travel through Wetherby itself. No objections are raised by the Highways Agency with regard to the impact of the scheme on the strategic highway network. There have been extensive negotiations regarding the detail contained within the Transport Assessment however highway officers are still concerned over some elements of information contained within this. It is considered that such issues could be suitably dealt with during re-negotiation of the planning performance agreement and prior to a formal decision being issued.
- 9.16 Parking provision within the site is well catered for with the levels being based on UDP guidelines. The Travel Plan also highlights the provision of cycle parking for staff and visitors as well. With regards to road and parking layouts highway officers have concerns regarding internal road widths, junction radii etc. The application does seek approval for access, notwithstanding this however conditions could be used to ensure that the internal layouts complied with relevant guidelines. Such issues could also be re-visited through the revised timetable for the PPA.
- 9.17 The proposed use raises no issues regarding impact on the strategic highway network, and the layout could be resolved to ensure that the internal layout complies with highway safety standards.
- 9.18 **Are Panel Members satisfied with the proposed access arrangements and are there any other issues that should be addressed ?**

Design and Appearance

- 9.19 The proposal includes a range of types of buildings suited to their intended end uses, including office buildings, industrial units and warehousing. The application is made in outline only so all matters relating to siting, layout, appearance and design are reserved.
- 9.20 A design brief has been included which anticipates units with ridge heights of 8.5 – 10m for offices, and 13m maximum for industrial units. This will result in units that are appropriate for the area and enabling trees to be used to screen the buildings. The units would follow a palette of materials and colours to achieve a consistency in

appearance across the site, whilst being designed to individual specifications. The buildings will sit within an area of Wetherby that is already quite industrial in nature and would certainly not appear to be out of context. The site is visible from the A1 and has potential to be a gateway site, however there is no reason to suppose that the quality of the buildings and the landscaping overall will not provide the correct response to the situation.

- 9.21 **Do Panel Members have any concerns over the proposed layout of the site and are any concerns raised with regard to the indicative scale of the proposed buildings ?**

Landscaping and Biodiversity

- 9.22 The landscaping is again another reserved matter, but there is an indicative proposal being put forward along with the design brief. Existing tree planting to the western side of the site is being retained (and largely falls outside of the red line area anyway).
- 9.23 Part of the area is considered sensitive and this is being set aside for the purposes of flood attenuation with an attenuation pond and landscaped buffer along the northern boundary. The pond will disturb a badger sett, however surveys of this sett reveal very little useage, will little evidence of badgers found in the surrounding areas. A new artificial sett is proposed to be constructed within the buffer zone and works carried out with the relevant English Nature licence in accordance with relevant legislation.
- 9.24 Evidence of bats flying over the site was found, but no roosts. The Wildlife survey proposes that new roosting opportunities be provided for bats to enhance local populations. A further survey prior to development would be needed to assess any changes to the population.
- 9.25 Some limited evidence of water voles was also found in the watercourse on the northern boundary. However the presence of brown rats, and contamination in this watercourse was also found meaning that water vole populations here are likely to be limited. A further survey prior to development would be needed, and the watercourse is to be re-designed and re-graded to provide for flood attenuation, and to provide a more suitable habitat to encourage water vole populations to establish.
- 9.26 Similarly nesting birds are likely to be found on site and as such no works should take place during the nesting season. No other protected species were found on the site. It is important to ensure that when landscaping is considered that the provisions being made for badgers, bats and water voles are supplemented by the creation of wildlife corridors to ensure good access to food supplies and to other populations and territories. A condition requiring such provision could be imposed which would also help to provide a good landscaped setting for the employment uses and contribute to the overall quality of the development.
- 9.27 **Are Panel Members satisfied with the applicant's approach to biodiversity and landscaping ?**

Section106 Agreement and CIL Regulations

- 9.28 The proposal is being put forward with a range of provisions to enable improvements to be made, the detailings of these provisions is yet to be provided as the applicant is reluctant to embark on this process until such time as the principle of development is more readily assured from the Plans Panel. The S106 would however need to include the following;

- Travel Plan, plus a monitoring fee.
- Public Transport Infrastructure Contribution - £200,000.
- Contribution to Wetherby Parking Strategy – as yet unspecified.
- Contribution to Metro towards funding of local bus services, and improvements to the relevant bus shelters.

9.29 From 6 April 2010 guidance was issued stating that a planning obligation may only constitute a reason for granting planning permission for development if the obligation is all of the following:

- **(i) necessary to make the development acceptable in planning terms.** Planning obligations should be used to make acceptable development which would otherwise be unacceptable in planning terms.
- **(ii) directly related to the development.** Planning obligations should be so directly related to proposed developments that the development ought not to be permitted without them. There should be a functional or geographical link between the development and the item being provided as part of the agreement.
- **(iii) fairly and reasonably related in scale and kind to the development** Planning obligations should be fairly and reasonably related in scale and kind to the proposed development.

9.30 According to the draft guidance issued for consultation in March 2010, unacceptable development should not be permitted because of benefits or inducements offered by a developer which are not necessary to make development acceptable in planning terms. The planning obligations offered by the developer include the following:-

- £200,000 as a public transport infrastructure contribution. The proposal is likely to have a significant travel impact and a financial contribution will help to ensure that relevant government and local policies relating to the use of public transport are met. Money would not be ringfenced to the local public transport system as there are no current proposals for the area, however it could be spent on associated transport corridors. The figure has been calculated using the approved formula set out in the SPD which takes into account the size, scale and impact of the proposed development.
- £2,500 as a monitoring fee for a Travel Plan designed to reduce vehicle use by staff and visitors. This is required to ensure that the agreed provisions within the Travel Plan are implemented.
- The contribution to Metro is justified as part of the Travel Plan aims are to improve number of employees traveling by more sustainable modes, and a contribution towards the cost of providing services that employees would use would enable continued provision of these services. The updating of bus stops would provide for real time information displays thereby providing a better service for employees.
- A contribution towards the Wetherby Parking Strategy is sought as employees at the site are considered likely to visit Wetherby town centre, either at lunch times or before or after work and this will have economic benefits for the locality. It could also however increase demand for medium and short stay parking in Wetherby and put pressure on the existing provision. An amount has not yet been calculated as possible strategies are still being considered, however as an example it is estimated that maintenance of the Old Station Car Park would cost £35,000, whilst re-surfacing it would be in the region of £100,000.

9.31 The proposed development could therefore bring about financial benefits for the local area and it is considered that the Council is justified in seeking such contributions.

9.32 **Are Panel Members satisfied over the Heads of Terms of the Section 106 Agreement that would be required ?**

Archaeological Issues

9.33 The West Yorkshire Archaeological Services have indicated that there is a possibility for remains of a mediaeval settlement of Audby to be present in the vicinity of the application site. A condition requiring implementation of a full programme of archaeological recording is recommended, should Panel Members decide to support the scheme at the formal recommendation stage, to ensure that the potential for remains is fully explored and that appropriate mitigation is then put in place to either preserve remains, minimise harm and/or record findings.

Conditions

9.34 A series of conditions would be recommended should Panel Members decide to support the scheme at the formal recommendation stage, which aim to guide the reserved matters phase, or seek additional details to be approved. The applicants have requested an extended time scale for approval of reserved matters which would generally be 3 years. They have requested this be extended to 2016, giving them 5 years for submission of reserved matters. This is requested due to the current economic climate and the likely slow uptake of the site, as well as the potential phasing of the development. A 5 year submission is not considered to be excessive and would provide some additional flexibility and re-assurance for potential developers. It is recommended that a detailed phasing plan be requested as well.

9.35 A sustainability statement would be requested via condition to address the design of the buildings themselves and the construction phases. It has been a while since the application was first submitted and this condition would ensure that the latest approaches are utilized. Similarly a condition requiring that 10% of the energy usage be from renewable or low carbon sources would be recommended to ensure that the proposal helps to minimise the impact on the local environment.

9.36 **Are Panel Members satisfied with imposing a 5 year time limit condition in which the reserved matters should be submitted should the Panel be minded to support the proposal in principle ?**

9.0 CONCLUSION

9.1 The proposed development fulfils an allocation policy within the adopted UDP and will bring employment uses into Wetherby allowing the town to sustain economic growth. There are recognised concerns about the sustainability of the site and access to public transport provision; however such issues should have been adequately dealt with at the time that the site was allocated. The allocations within the UDP exist to provide developers with some sort of assurance and basis on which to put proposals forward. Notwithstanding the poor transport provision the proposal has the potential to provide local employment and people will be able to access the site by car, by foot and cycle, and the bus stops are within walking distances, although not an optimum distance. There may also be benefits in helping to reduce the amount of commuting that takes place from Wetherby to other employment hubs such as Leeds and Harrogate.

- 9.2 The application is made in outline to approve the principle of development with layout and access only. At this stage of the application, Members' views are requested. Specifically:
- (i) Do Panel Members have any concerns regarding the principal of employment use on this site as well as the scale and mix of office use and light industrial / warehousing & distribution, and ancillary uses ?
 - (ii) Do Panel Members also feel that the site is sustainable in terms of its location, in light of the UDP designation and Section 106 obligations being sought ?
 - (iii) Are Panel Members satisfied with the proposed access arrangements and are there any other issues that should be addressed ?
 - (iv) Do Panel Members have any concerns over the proposed layout of the site and are any concerns raised with regard to the indicative scale of the proposed buildings ?
 - (v) Are Panel Members satisfied with the applicant's approach to biodiversity and landscaping ?
 - (vi) Are Panel Members satisfied over the Heads of Terms of the Section 106 Agreement that would be required ?
 - (vii) Are Panel Members satisfied with imposing a 5 year time limit condition in which the reserved matters should be submitted should the Panel be minded to support the proposal in principle ?
 - (viii) Are there other issues which need to be addressed ?

Background Papers:

Application and history files. – see history above.

Certificate of Ownership: Notice was served on P S Dalby, WA Dalby and Louise Nichols of Rose Dene Farm, Walton Road in Wetherby.

LEEDS CITY COUNCIL
Please refer to Decision Notice
16 FEB 2010
REVISED

| NO. | DESCRIPTION | DATE | BY | REASON |
|-----|---------------------------------|-------------|----|-------------|
| 1 | PRELIMINARY LAYOUT | 16 FEB 2010 | AD | AD (00) 004 |
| 2 | REVISIONS TO PRELIMINARY LAYOUT | 16 FEB 2010 | AD | AD (00) 004 |
| 3 | REVISIONS TO PRELIMINARY LAYOUT | 16 FEB 2010 | AD | AD (00) 004 |
| 4 | REVISIONS TO PRELIMINARY LAYOUT | 16 FEB 2010 | AD | AD (00) 004 |
| 5 | REVISIONS TO PRELIMINARY LAYOUT | 16 FEB 2010 | AD | AD (00) 004 |
| 6 | REVISIONS TO PRELIMINARY LAYOUT | 16 FEB 2010 | AD | AD (00) 004 |
| 7 | REVISIONS TO PRELIMINARY LAYOUT | 16 FEB 2010 | AD | AD (00) 004 |
| 8 | REVISIONS TO PRELIMINARY LAYOUT | 16 FEB 2010 | AD | AD (00) 004 |
| 9 | REVISIONS TO PRELIMINARY LAYOUT | 16 FEB 2010 | AD | AD (00) 004 |
| 10 | REVISIONS TO PRELIMINARY LAYOUT | 16 FEB 2010 | AD | AD (00) 004 |
| 11 | REVISIONS TO PRELIMINARY LAYOUT | 16 FEB 2010 | AD | AD (00) 004 |
| 12 | REVISIONS TO PRELIMINARY LAYOUT | 16 FEB 2010 | AD | AD (00) 004 |
| 13 | REVISIONS TO PRELIMINARY LAYOUT | 16 FEB 2010 | AD | AD (00) 004 |
| 14 | REVISIONS TO PRELIMINARY LAYOUT | 16 FEB 2010 | AD | AD (00) 004 |
| 15 | REVISIONS TO PRELIMINARY LAYOUT | 16 FEB 2010 | AD | AD (00) 004 |
| 16 | REVISIONS TO PRELIMINARY LAYOUT | 16 FEB 2010 | AD | AD (00) 004 |
| 17 | REVISIONS TO PRELIMINARY LAYOUT | 16 FEB 2010 | AD | AD (00) 004 |
| 18 | REVISIONS TO PRELIMINARY LAYOUT | 16 FEB 2010 | AD | AD (00) 004 |
| 19 | REVISIONS TO PRELIMINARY LAYOUT | 16 FEB 2010 | AD | AD (00) 004 |
| 20 | REVISIONS TO PRELIMINARY LAYOUT | 16 FEB 2010 | AD | AD (00) 004 |
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| 31 | REVISIONS TO PRELIMINARY LAYOUT | 16 FEB 2010 | AD | AD (00) 004 |
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| 49 | REVISIONS TO PRELIMINARY LAYOUT | 16 FEB 2010 | AD | AD (00) 004 |
| 50 | REVISIONS TO PRELIMINARY LAYOUT | 16 FEB 2010 | AD | AD (00) 004 |

SITE BOUNDARY

NOTE:
LIGHTER SHADED AREA DENOTES AREA OF POTENTIAL FUTURE
DEVELOPMENT WITHIN THE AREA DESIGNATED FOR EMPLOYMENT
USE (E3,37)
BUILDINGS FLOOR AREAS INDICATED ON THE LAYOUT PLAN ARE NETT
AREAS IN SQ. FT.



| NO. | DESCRIPTION | DATE | BY | REASON |
|-----|------------------------------------------|------|----|--------|
| E | 16.02.19 SITE BOUNDARY AND OFF-PARKING | | | SOL |
| D | 11.12.09 LAYOUT AMENDED TITLE BLOCK | | | RAL |
| C | 21.03.09 LAYOUT AMENDED ATTENUATION | | | MC |
| B | 22.11.07 OFFICE UNITS REMOVED (18-22) IN | | | TT |
| A | 16.11.07 LAYOUT AMENDED ATTENUATION | | | TT |

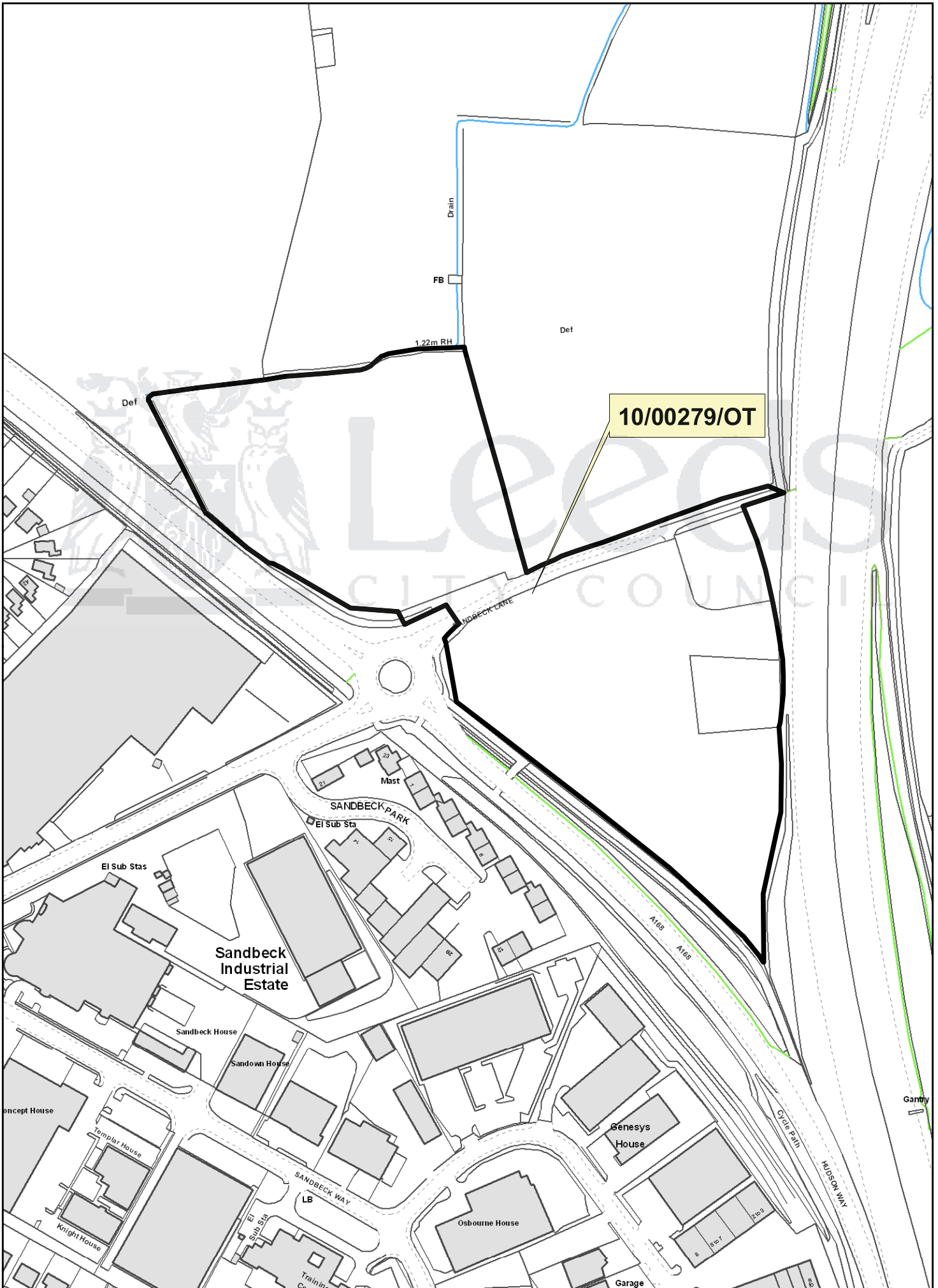
PLANNING

Project No: 5338
Draw No: AD (00) 004
Project Managers: WETHERBY PARK SANDBECK LANE
Drawing: MASTERPLAN
Scale: 1:1000 @A1
Drawn By: RAL
Checked By: DEC 09
Date: DEC 09



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LEEDS CITY COUNCIL
Please refer to Decision Notice
16 FEB 2010
REVISED



EAST PLANS PANEL





Originator: V.Hinchliff Walker
M Sellens
Tel: 39 51343

Report of the Chief Planning Officer

PLANS PANEL EAST

Date: 19th May 2011

Subject: APPLICATION 10/04438/FU, DETACHED DWELLING, CRAGG HALL FARM, LINTON ROAD, LINTON.

| APPLICANT | DATE VALID | TARGET DATE |
|-----------|------------|-------------|
| B Horsley | 12/10/10 | 07/12/10 |

**Electoral Wards Affected: Harewood
(Also lies adjacent to Wetherby Ward).**

Ward Members consulted
(referred to in report)

Specific Implications For:

Equality and Diversity

Community Cohesion

Narrowing the Gap

POSITION STATEMENT:

Members are asked to note the report and comment on the issues raised in the appraisal

1. INTRODUCTION:

- 1.1. This application is for a substantial new house built to a modern design within the Green Belt. There are existing structures on the site and previous planning history including dismissed appeals. The appeals have highlighted that the site has significant value within the Green Belt and makes a considerable contribution to the purpose of including land within the Green Belt. Whilst there has been some support from surrounding residents and occupants for this proposal there is some concern from the Parish Council and Harewood / Wetherby Ward Members about the impact on Green Belt openness and character arising from the development.
- 1.2. The application has passed the 8 week time period, and as such an appeal against non determination could be made. There are issues in relation to the application of policy which arise from this application and some delay in bringing the matter to Panel and so the application is being presented as a position statement to Members so that the issues can be made clear and the views of Members sought. A site visit has also been

arranged prior to Panel so that the context and character of the site can be seen as well as the existing structures on site.

2. PROPOSAL:

- 2.1. The application seeks permission to demolish all the existing buildings on site, and to construct a new dwelling. This will be a large, detached dwelling incorporating sustainable building principles, and has been designed to modernist principles.
- 2.2. The floor area of the proposed building will be 536 m² (ground and first floor) with a basement area of 322 m², and it will sit almost centrally within the site, positioned 7m from the northern boundary. The house is T shaped with a spur on the bottom providing garaging. To the eastern side the walls of the main living area will curve out and a glass wall will give way to a sunken garden feature. On this side the basement level extends out from the main body of the house with the wall featuring a high level of glazing and doorways. The basement will house a swimming pool, sauna, gymnasium and guest suite, and the roof of the basement will provide a terrace area accessed from the living accommodation. The ground floor of the house provides living accommodation, whilst the smaller first floor provides four en-suite bedrooms. Taking the house as a whole (including the basement) it is some 29.7m wide across the width of the site with a depth of between 12.5m at its narrowest point to nearly 34m at its widest.
- 2.3. The house features a flat sedum roof with solar panels, triple glazed windows with timber surrounds and cut ashlar stone for the main body of the walls. Whilst most elevations have high levels of glazing the northern elevation is mostly blank with several small windows providing light for functional rooms such as bathrooms.
- 2.4. The site is proposed to be laid out with the driveway utilising the existing farm access leading up to a forecourt area on the western side of the house. To the east the terrace area and basement provide access to a sunken garden and pond area. Additional landscaping is proposed to enhance the existing, particularly along the west and south boundaries, whilst the area to the east will be left largely untouched.
- 2.5. The existing buildings currently on the site to be demolished include the current farmhouse building, a former farmhouse building, and a number of barns and outbuildings. All are currently vacant.
- 2.6. As part of the proposal the residential curtilage is to be restricted to the house, the sunken garden and a garden area to the north and west. The remainder of the site outside of this curtilage will remain as agricultural/open land and will be planted with woodland and wildflower meadow.
- 2.7. The property has been designed to utilise a number of sustainable technologies and design principles. These include;
 - Orientation with main living areas facing west and south to maximise solar gain.
 - Use of solar panel to provide for heating requirements.
 - Use of sedum roof which provides flood attenuation, reduces surface water run off, provides insulation and enhances biodiversity.
 - Use of glazing and insulating materials to provide thermal efficiency.
 - The pond was originally intended as a grey water recycling system, however following concerns about the impact on neighbours due to odours the pond is now likely to be more of a feature. It will however provide an area for surface water run-off and biodiversity.

- Provision of landscaping, including wildflower meadow which will enhance biodiversity.
- The former quarry site will be looked at to see if the necessary excavations can provide the material for the building of the house.

3. SITE AND SURROUNDINGS:

- 3.1. The application site is a rectangular site of about 1ha in size, and was formerly a quarry resulting in a 5 – 6m high quarry face wall which forms the northern boundary of the site. The site in the main is relatively level although it is some 3m below the level of Linton Lane, whilst to the east land starts to fall away, before giving way to the disused railway cutting outside of the site boundary.
- 3.2. Following cessation of quarrying the site became agricultural. This resulted in a number of buildings and structures being erected including two, 2-storey farmhouse buildings, one of brick and one of stone, and a number of enclosed and open barns and sheds. These structures are grouped loosely on the southern boundary, although there are remains of sheds along the northern boundary as well.
- 3.3. Access to the site is directly off Linton Lane and the road frontage is reasonably well screened by mature tree planting, including a protected sycamore on the south west corner. There are a number of mature trees along the southern boundary, although one of the existing structures is exposed on the boundary, and a few on the northern boundary but in the main the site has become overgrown with grasses, brambles and shrubs.
- 3.4. The quarry face on the northern boundary marks the boundary between Linton and Wetherby and also the boundary between the built up area of Wetherby and the Green Belt. Avon Garth is a relatively modern housing cul-de-sac sat on top of this quarry face with rear gardens overlooking the site.
- 3.5. Linton Lane itself is characterised by very large, modern detached dwellings set in substantial gardens. The character is varied in style but is predominantly open and leafy. Further to the south Linton Lane runs into the heart of the village of Linton, a highly attractive village featuring many arts and crafts properties built of stone. Immediately to the south of the site is the very large club house to Wetherby Golf Club and the extensive car parking area that goes with this. The boundary between the two sites is sparsely planted and the existing buildings are visible in views northwards from Linton Lane. The fairways of the golf course stretch away to the south and down to the banks of the River Wharfe.

4. RELEVANT PLANNING HISTORY:

- 4.1. 08/06886/FU – Demolition of farmhouse and erection of 2 storey 60 bed residential care home for older people with car parking. Refused 25/03/09. Appeal dismissed 20/10/09. In dismissing the appeal the Inspector considered that the proposed care home positioned centrally within the site in an H shape of some 64m width and 31m depth and with a footprint 450m² greater than the existing buildings would form a large conspicuous building on a different scale from the existing farm buildings and house and would result in a significant loss of openness. The Inspector felt that the closing of the gap between Avon Garth and the golf club would extend continuous built development along the eastern side of Linton Lane and encroach into the countryside. The Inspector found that the site is open and makes a considerable contribution to the purposes of including land within a Green Belt and as such is of significant value. The Inspector did not see the site as having the characteristics of an infill site and the retention of its openness is more rather than less important. In terms of character the Inspector remarked that the largely undeveloped and open nature of the site and the

rural character of its buildings make it clearly part of the surrounding countryside and being the last remnant of such land between Linton and Wetherby is of particular value.

- 4.2. 07/01279/FU – Part 2 storey and part 3 storey 60 bed residential care home for the elderly with car parking. Refused 05/07/07. Appeal dismissed 15/05/08. Again the Inspector in dismissing the appeal recognised the importance of this site to green belt purposes.
- 4.3. H31/226/79 – change of use of cow shed to mower repair workshop. Approved May 1979.

5. HISTORY OF NEGOTIATIONS

- 5.1. The applicants engaged in pre-application dialogue with Ward Members and planning officers. Following submission of the scheme there have been ongoing discussions between officers and the applicants to debate the various issues arising. This has resulted in additional landscaping, definition of the residential curtilage, and details on treatment for land outside of the curtilage.

6. PUBLIC/LOCAL RESPONSE:

- 6.1. A site notice advertising the proposal as a departure was posted on 22/10/10. Publicity expired on 12/11/10.

Ward Members

- 6.2. Cllr Rachael Procter has raised concern about the massing of the building and requested a Senior Officer Review. Cllr R Procter also requested that additional landscaping be provided with further tree planting especially along the southern boundary.
- 6.3. Cllr John Procter has raised concerns about the scale, siting, and curtilage of the proposed dwelling and whether the proposal accords with Green Belt policy.

Parish Council

- 6.4. Collingham with Linton Parish Council commented initially that “although the demolition and replacement of the existing buildings can be beneficial, this is a modern building design which should be considered carefully having regard to the Linton Conservation Area status and the character and style of development within the village”. Subsequent comments were made by the Parish Council in December 2010 which raised the issue of the amount of land take beyond the existing footprint of the buildings to be demolished.

General Public

- 6.5. Seven letters of representation have been received including from residents of Avon Garth, the adjacent Wetherby Golf Club and the Collingham with Linton Footpath Action Group.
- 6.6. One letter raised concerns regarding drainage of the site but was otherwise supportive. The Golf Club and residents of Avon Garth all support the scheme stating that the design is appropriate and will enhance the area, as well as making use of a redundant site. The Footpath Action Group make a request that a footpath connection through the site be provided to link up with the disused railway.

7. CONSULTATIONS RESPONSES:

Statutory:

7.1. None.

Non-statutory:

7.2. Highways DC – No objections subject to conditions.

7.3. Flood Risk Management – The Flood Risk Assessment is noted and provided development is in accordance with this there is no objection.

7.4. Environment Agency – No objection subject to conditions. Support the use of sedum roof. SUDs to be used.

8. PLANNING POLICIES:

Development Plan –

- 8.1. The Development Plan for the area consists of the Regional Spatial Strategy and the adopted Unitary Development Plan Review, along with relevant supplementary planning guidance and documents. The Local Development Framework will eventually replace the UDP but at the moment the Core Strategy is still at the draft stage.
- 8.2. The Regional Spatial Strategy deals with strategic locational policies and recognises Wetherby as a principal town where development should be directed to.
- 8.3. Under the UDP the application site lies with designated Green Belt. The following policies are relevant for consideration of this application;
 - SP3 – New development will be concentrated largely within or adjoining the main urban areas and settlements on sites that are or can be well served by public transport.
 - GP5 – General planning considerations.
 - GP11 – Development to meet sustainable design principles.
 - N12 – Urban design principles.
 - N13 – Building design principles.
 - N32 – Green Belt designation.
 - N33 – Except in very special circumstances approval will only be given in the Green Belt for appropriate uses. This includes “limited extension, alteration or replacement of existing dwellings” and “re-use of buildings, where all the detailed criteria of policy GB4 are satisfied”.
 - N24 – Proposal abutting open land should provide for suitable assimilation into the landscape.
 - N39A – Incorporation of sustainable drainage principles.
 - T2 – Highway issues.
 - T24 – Parking provision.
 - GB4 – Changes of use of buildings within Green Belt will only be accepted where criteria are met.
 - GB9 – Redevelopment of any building used for a purpose which is inappropriate in the Green Belt will not be permitted, except in the case of dwellings. Redevelopment of dwellings will be permitted provided all the following criteria are met.

- ❖ Use of the existing building as a dwelling house has planning permission, and the use has not been abandoned.
- ❖ The proposed replacement dwelling and associated works would maintain or enhance the open character and appearance of the locality.
- ❖ The replacement dwelling and any curtilage development would have no greater impact in terms of height or site coverage than the existing dwelling and its associated curtilage development.
- ❖ The building is not incapable of use in its present state and has not become so derelict that it could not be brought back into use only with complete or substantial reconstruction.

Relevant supplementary guidance and other guidance –

- 8.4. Neighbourhoods for Living – provides advice on residential design.
- 8.5. Street Design Guide – provides advice on highway and parking design.
- 8.6. SPG25 – Greening the Built Edge – provides advice on buffer treatments and assimilating built development into the landscape.
- 8.7. SPD – Building for Tomorrow Today – Draft – provides advice on sustainable buildings.
- 8.8. Parish of Collingham with Linton Village Design Statement (a material consideration) – Linton Lane is described as having a semi-rural character with large stone built houses set well back from the road. Frontages should have a green boundary treatment to preserve the character.

Government Planning Policy Guidance/Statements

- 8.9. PPS1 + Climate Change Supplement. Seeks to encourage sustainable development and the most efficient use of land with development encouraged within or adjacent to existing urban areas.
- 8.10. PPG2 – Green Belt. Paragraph 1.5 sets out the five purposes of including land in Green Belts which are:
 - To check the unrestricted sprawl of large built-up areas;
 - To prevent neighbouring towns from merging into one another;
 - To assist in safeguarding the countryside from encroachment;
 - To preserve the setting and special character of historic towns; and
 - To assist in urban regeneration, by encouraging the recycling of derelict and other urban land.
- 8.11. Paragraph 3.4 deals with new buildings and states that construction of new buildings is inappropriate unless it is for certain purposes. This includes the limited extension, alteration or replacement of existing dwellings subject to the criteria laid out in paragraph 3.6.
- 8.12. Paragraph 3.6 states that “*The replacement of existing dwellings need not be inappropriate, provided the new dwelling is not materially larger than the dwelling it replaces. Development Plans should make clear the approach local planning authorities will take, including the circumstances (if any) under which replacement dwellings are acceptable*”.
- 8.13. PPS3 – Housing. Echoes PPS1 with encouragement of sustainable development and provision of housing in sustainable locations.

- 8.14. PPS7 Sustainable Development in the Countryside - Paragraph 10 - Isolated new houses in the countryside will require special justification for planning permission to be granted.
- 8.15. Paragraph 11. *“Very occasionally the exceptional quality and innovative nature of the design of a proposed, isolated new house may provide this special justification for granting planning permission. Such a design should be truly outstanding and ground-breaking, for example, in its use of materials, methods of construction or its contribution to protecting and enhancing the environment, so helping to raise standards of design more generally in rural areas. The value of such a building will be found in its reflection of the highest standards in contemporary architecture, the significant enhancement of its immediate setting and its sensitivity to the defining characteristics of the local area”.*

9. MAIN ISSUES

- Principle of development and accordance with Green Belt policy.
- Design.
- Highway and access issues.
- Other issues.

10. APPRAISAL

Principle of development and accordance with Green Belt policy

- 10.1. Under PPG2 new residential development is deemed to be inappropriate development within the green belt. In some circumstances it may be deemed appropriate if the new dwelling is a redevelopment of an existing dwelling or if it arises out of a change of use of an existing property. In both cases there is a need to ensure that the openness, purposes and character of the Green Belt are preserved, Policies within the UDP that cover both redevelopment and changes of use are GB4 and GB9 (see above).
- 10.2. The importance of this particular site to the purposes of the Green Belt has been explored by previous Inspectors when considering proposals for a Care Home. On two occasions Inspectors agreed that the site formed a clear demarcation between Wetherby and Linton, between the urban and rural areas, and that the openness of the site prevented the merger of the two areas. The site was deemed to make a considerable contribution to the purposes of including land within the Green Belt and therefore had significant value. It is clear therefore that any redevelopment of this site must preserve the openness and ensure that the site continues to contribute to the purposes of Green Belt land.
- 10.3. The applicant views this new dwelling as a replacement for the two that currently exist on site and that therefore the development should be judged under the terms of policy GB9. The applicants argument is based on the fact that within both PPG2, and GB9 there is no explicit requirement for the replacement dwelling to be built on the existing footprint, or within the existing curtilage and therefore, although this proposal falls outside the existing domestic curtilage this is not excluded under policy. The appropriateness of the proposal therefore, rests on the harm to openness, purpose and character.
- 10.4. In considering this issue however, officers take a different view and do not accept that this proposal falls comfortably under this category. It is accepted that the development will result in the demolition of two houses and other buildings and be

replaced with just one single dwelling, however this will be outside of the existing residential curtilage on another, presently open part of the site. It is normal practice in considering such schemes for the existing footprint, or curtilage to be used as the site for the new dwelling. There are instances where schemes have allowed the re-siting of a building but this is generally on the grounds that there is sufficient justification to enable this to be considered.

- 10.5. For this reason it is not considered that the proposal can be considered under policy GB9 and must be regarded as inappropriate development within the Green Belt. To be acceptable therefore very special circumstances should be demonstrated by the applicant which are of sufficient weight to overcome the harm that would result from the development being inappropriate.

Members are asked to confirm in the circumstances of this case that the proposal should be regarded as inappropriate for which very special circumstances need to be demonstrated by the applicant.

Impact on openness

- 10.6. Openness is a key issue, although the term is undefined in guidance, generally however it is taken to mean the absence of development, whether this be built forms, uses, or even just surface coverings. Green Belt purposes include the provision of both visual and literal openness and to prevent merging of urban areas.
- 10.7. This application site is already developed with a number of buildings upon it including two houses, barns and outbuildings. A number of these buildings have been deemed to be capable of redevelopment and have therefore been used to calculate the existing floorspace of development on site. This floorspace equals 586 m², with a volume of 2,000 m³. The existing houses are two storey in nature whilst the barns/workshops are single storey although with significant height. The buildings are largely accumulated along the southern boundary of the site, with some outbuildings against the northern quarry face. The buildings on the southern part of the site consist of some 10 structures which cover quite a wide area and overall have a depth of some 67m set in some 25 m from Linton Lane with a width of about 31m in from the southern boundary. The present gap in terms of openness from the groups of building measures some 27/28m in the centre of the site.
- 10.8. The new house would have an overall floorspace of 858 m² including the basement which is dug into the ground. This represents an increase of 272 m², or 46% (of the floorspace, not the footprint). The volume of the new house will be 2,446 m³, an increase of 446 m³ or 22%. When the footprint or site coverage is calculated, this shows that existing buildings cover an area of 910m². The proposed new dwelling would cover an area of 660m², a reduction of 27% in site coverage. The increases in floorspace and volume are large but the test is whether it is materially larger and this requires assessment of visual and physical impact and is not simply a numbers exercise.
- 10.9. Visually the proposal will replace a loose grouping of buildings with a single, consolidated building that is located centrally within the site, closer to the quarry face. The new building will be no higher than the existing ones on site, indeed the opportunity to site it at a lower level has been taken along with use of a flat roof design resulting in a reduction of 4m from the ridge of the current highest building, and views into the site from Linton Lane will be restricted by the new planting along the road boundary. Views from across the valley will also be quite restricted due to the positioning of the new house behind the adjacent golf club house, and

within an existing fold of land that will help to screen views from the east. Furthermore the removal of the existing buildings will open up views through the site from the access point, currently looking down the access road you see a number of buildings, all of which will be removed.

- 10.10. The southern boundary is quite open, particularly in winter months, and the existing buildings are viewed in conjunction with the golf club car parking contributing to a denser built form which is seen when travelling northwards up Linton Lane. This proposal moves the built form away from the car park, opening up a visual gap, and allows for enhanced planting to provide a visual screen. This will reduce the built form that is visible from this direction. The gap provided along this southern boundary to the new dwelling will be some 24-26m in extent at the closest point with a 7m gap to the quarry wall at the northern end of the site. The cross sections of the new dwelling also show that of the 30m width across the plot some 17m of it will be two storey above existing levels with a flat roof and some 13m single storey. This also needs to be considered. The assessment in relation to openness is critically important in this case given the comments of the Inspector in the last decision about the importance of this site in the green belt and the function it performs. The scale of the dwelling is therefore significant although some is below existing ground level, the width of the dwelling across the site and its siting also results in a different impact on openness to the present arrangement. Members are asked to consider this issue carefully on the site visit.

Members are asked to comment in relation to the impact on openness from this proposal compared to the existing situation and in relation to the scale of the proposal and its siting given the comments of the previous appeal Inspector

Impact of Other Uses

- 10.11. The site is considered to be agricultural in nature, although there are two dwellings, one of which was associated with the farm use and the other with an industrial use, the repair of lawnmowers which appears to have taken place in one of the outbuildings (see planning history). The applicant has looked at varying uses to which the site could be feasibly put under existing planning policy. A continued agricultural use is not considered feasible due to the small size of the holding now.
- 10.12. Residential Use – Under policy GB4 the significant buildings on the site could be converted to residential use, providing for a number of dwellings which could all be extended to some extent under the policy and/or through permitted development rights although this would all be done under separate planning applications with the Council needing to consider any proposals against policy having regard to the function and importance of this site to the Green Belt. Such an approach could have a more detrimental impact than the current proposal for a single dwelling. Re-use and conversion would also not allow for additional woodland planting to the southern boundary, thereby reducing the opportunity to enhance this aspect which is very open from the golf club car park. Such a use could also increase vehicle movements and intensify the use of the site.
- 10.13. Commercial Uses – A change of use to a commercial use could be allowable under policy GB4, again subject to similar criteria such as no impact on openness etc. This would potentially allow nearly 600 m² of commercial uses which could include workshops, starter units, offices etc. Again this would have a potentially detrimental impact on the site due to the large areas that would have to be given

over to parking and the increase in vehicle movements as well as noise and disturbance that could be caused. It is considered that this would result in harm to residential amenity of nearby neighbours, and the intensification of use of the site would be harmful to the sites openness and character.

- 10.14. Equine Uses – Under UDP policy GB13 the site could be converted to equestrian uses, either for private or public use and new buildings could be erected if they were considered essential and again this could potentially result in a worse impact upon openness, as well as residential amenity as a result of vehicle movements.
- 10.15. Holiday Accommodation – uses such as a hotel, bed and breakfast, self catering, camping and caravanning accommodation could be considered appropriate for this site, through re-use of the existing buildings and provision of pitches. Either type of development would require new provision such as parking and ancillary facilities. Residential amenity has potential to be harmed by the increased vehicle movements and general noise.
- 10.16. The reuse of existing buildings could give rise to greater impacts than from a single dwelling and a greater intensity of use. The present application for a single dwelling, provided that the scale was right and impact on openness acceptable, could have sufficient safeguards built into it in terms of control of extensions, size of curtilage and use of the rest of the site to provide protection from future development pressures and safeguard the important contribution it makes to the Green Belt.

Do Members agree that in principle the approval of a single dwelling of a suitable size would provide the best safeguard against future development provided that adequate controls were imposed on future extensions, curtilage and the use of the site?

Design

- 10.17. The application site is now somewhat scruffy in appearance and is steadily decaying, it does however provide a valuable green break in the streetscene and acts as an important visual buffer between the built up area of Wetherby and the village of Linton, especially when travelling south out of Wetherby. Any proposal for this site should therefore seek to preserve this important characteristic.
- 10.18. This proposal helps to preserve this character by limiting the visual impact of the new house through its design. The house is built into the ground which reduces the overall height, and the use of a flat roof further reduces the scale. The roof will be a green roof which will give a natural look to the roof, particularly if seen from across the valley, making it less intrusive than man made materials, however the house is also sited to benefit from screening by the golf club house and from the increased planting around the site. It is recognised that the design is modern but the frontage is set well back and down from Linton Lane and picks up the character of large houses set in spacious plots which are individualistic. The design of this building is considered to be of sound concept and has arisen out of a thorough analysis of the site and its location. Natural materials are proposed in terms of stone and wood but with a sedum roof.
- 10.19. There could be biodiversity improvements as the proposal now restricts the majority of the site (60%) for non-residential purposes, and the treatment of these areas will include woodland planting and wildflower meadows. A plan has been submitted showing a suggested curtilage which includes the house, sunken garden, pond and an area to the west of the house as private garden equating to

40% of the site in total. The removal of the existing buildings provides the opportunity to carry out woodland planting to the southern boundaries, whilst enhancing existing planting along the road frontage. A scheme proposing native species such as Oak, Hornbeam, Beech, Scots Pine and Silver Birch has been put forward, and will also include areas of hedging. This will benefit bird and bat species as well as providing an attractive landscaped setting.

- 10.20. Land to the east of the new dwelling is currently open grass/scrubland and it is proposed to provide a wildflower meadow area here, linking in to the grasslands that lead down to the washland areas of the River. This would provide good habitat for a number of species of flora and fauna.
- 10.21. A management plan for areas outside of the residential curtilage would be required to ensure implementation and ongoing management of the areas. The landscaping scheme proposed would satisfy the requirements of policy N24 and of the guidance in SPG25 on Greening The Built Edge.
- 10.22. The proposal was initially put forward as a true sustainable design featuring renewable heating, use of on site materials, grey water recycling, and design features etc. Whilst some of this has been scaled down, such as the grey water recycling, the proposal still puts forward sustainable design features that are over and above current requirements and which help to minimise the impact that the proposal will have on the locality.

Members are asked to comment on the design and its acceptability in this location given local character

Highway and Access Issues

- 10.23. The access to the site is existing and there would be a decrease in vehicle movements from the existing authorised use of the site. Consequently no concerns are raised by the proposal in terms of highway safety. Visibility splays that have previously been requested in proposals for this site are to be provided which will improve on the existing visibility when exiting the site.
- 10.24. There is no footpath along the site frontage and this has previously been raised by local residents as an issue of concern in considering the applications for a care home. Given the reduction in use of this site as a result of this proposal it is not considered that there would be a need to insist on the installation of a footpath in this location.
- 10.25. The site provides for off-street parking commensurate with a house of this size, and there is adequate provision made for turning within the site. The house itself has level access at ground floor, and it could be readily adapted for residents lifetime needs. The highway and access provisions of this proposal would comply with policy T2, T24, GP5 and with relevant guidance.

Are Members satisfied with the highway aspects of the proposal?

Other Issues

- 10.26. The site can be suitably drained subject to detailing, and the Environment Agency have stated that they fully support the proposal for a sedum roof. No contamination issues are raised. A further survey for bats would be required, and

there is some concern raised over detailing for the design of the pond. Such issues can be suitably catered for through use of appropriate conditions.

Do Members have any further comments about the application or concerns which have not been covered above?

11 CONCLUSION

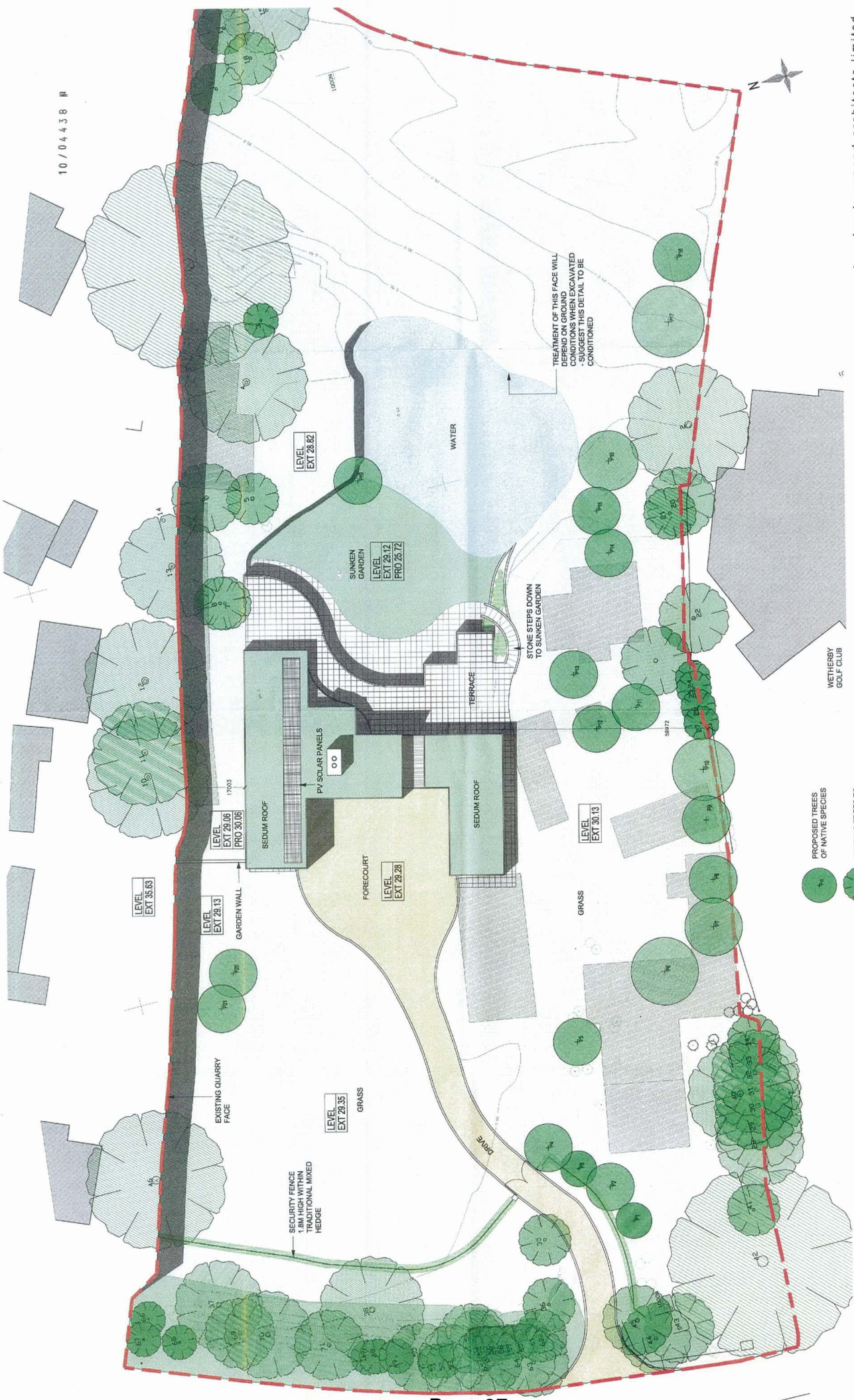
- 11.1** This is an important application for a substantial house on a sensitive site which the last appeal Inspector said was of “particular value” in the Green Belt. It is important therefore that it is carefully considered against Green Belt policy. A number of issues have arisen about which policy is relevant and impact on openness as well as the principle of one house on the site and its design. Members views are sought on these issues at this stage before the application is brought back to Panel for formal determination.

Background Papers:

Application and history files. – see history above.




Certificate of Ownership: Certificate B was served on LNT Construction of 42 Helios 47, Leeds as the owners of the land.

10/0438



TREATMENT OF THIS FACE WILL BE AS PER THE PROPOSED CONDITIONS WHEN EXCAVATED - SUGGEST THIS DETAIL TO BE CONDITIONED

STONE STEPS DOWN TO SUNKEN GARDEN

-  PROPOSED TREES OF NATIVE SPECIES
-  EXISTING TREES TO BE RETAINED
-  EXISTING BUILDINGS TO BE REMOVED

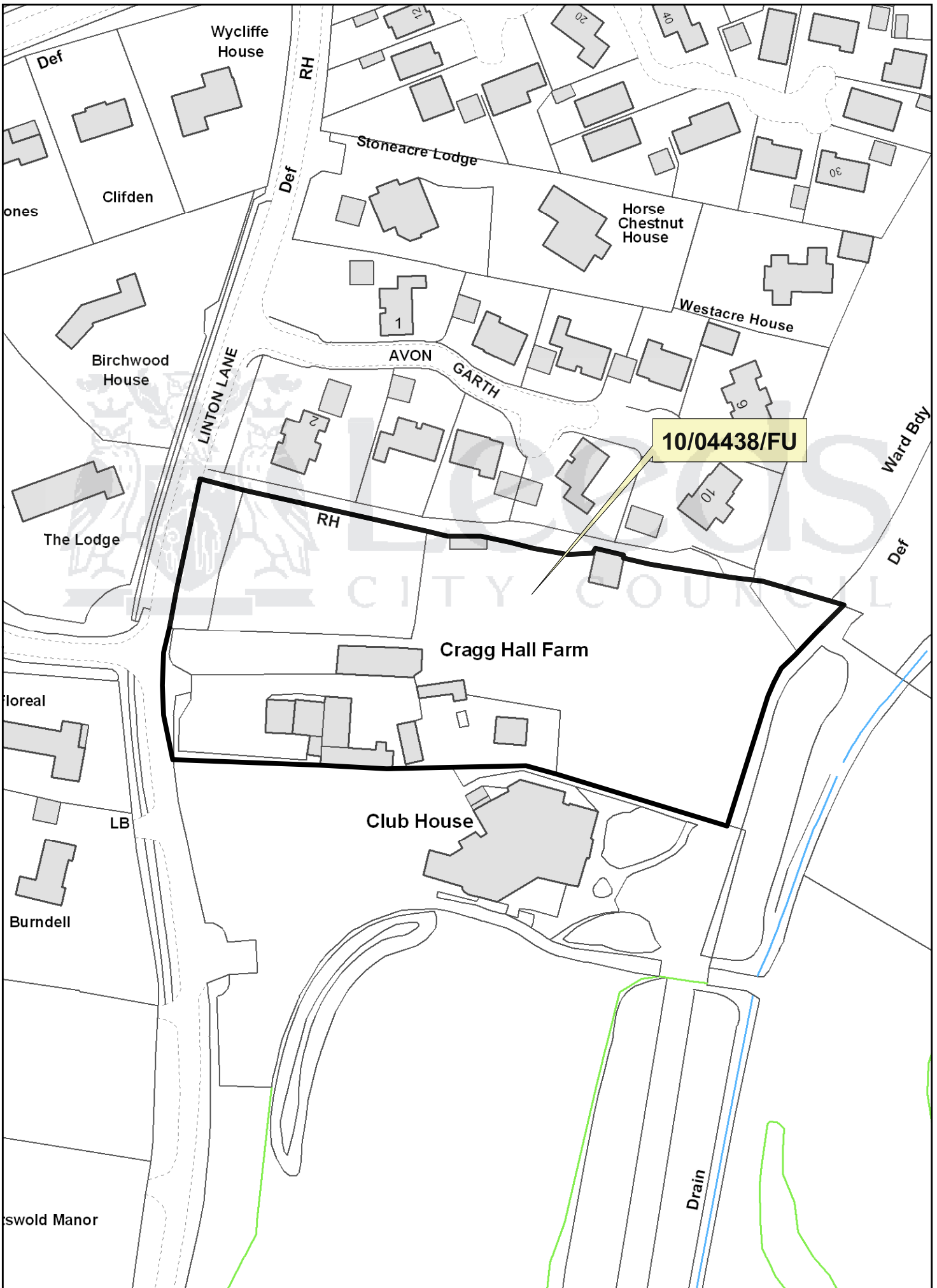
horsley townsend architects limited

PROJECT: BRACKEN HILL FARM, LINTON, LEICESTERSHIRE, LE15 8JN
 DRAWING: AS PROPOSED SITE PLAN
 DATE: 27.09.2010
 SCALE: 1:200
 DRAWN BY: J. TOWNSEND
 CHECKED BY: J. TOWNSEND
 PROJECT NO: 10/0438

REV 001 FOR PLANNING PURPOSES 27.09.2010

PROPOSED SITE PLAN
1:200 SCALE





EAST PLANS PANEL





Originator: Adam Ward

Tel: 395 1817

Report of the Chief Planning Officer

PLANS PANEL EAST

Date: 19th May 2011

Subject: APPLICATION 10/04855/FU –Demolition of existing house and erection of 4 semi-detached three storey houses with garages at 505 Harrogate Road, Alwoodley.

APPLICANT

Urban Development Projects
(Sandmoor) Ltd

DATE VALID

3/11/2010

TARGET DATE

29/12/2011

Electoral Wards Affected:

Alwoodley

Y

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. Time Limits
2. Development carried out in accordance with approved plans
2. Samples of Materials
3. Surfacing Materials
4. Areas to be used by vehicles laid out
5. Landscape Scheme
6. Implementation of Landscaping
7. Protection of Trees
8. Replacement of Trees
9. Development carried out in accordance with Arboricultural Protection Method Statement
10. Notification of per-start meeting for tree issues
11. Details of wall to bridge over tree roots
12. Contamination

- 13. Drainage Details
- 14. Details of Bin Stores
- 15. Retention of Garages

Reasons for approval: The application is considered to comply with Policies GP5, H4, N12, N13, LD1, BD5, T2 and T24 of the UDP (Review 2006), as well as guidance contained within the Council's SPG 'Neighbourhoods for Living' and, having regard to all other material considerations.

1.0 INTRODUCTION:

- 1.1 This application proposes the demolition of the existing dwelling and the erection of 4 semi-detached three storey houses. The proposal follows previous applications for residential development which resulted in planning permission for 9 flats being granted on the site and an adjacent residential plot within Sandmoor Avenue. This application is reported to the Plans Panel at the request of Councillor Harrand. This is due to the concerns raised by Alwoodley Parish Council.

2.0 PROPOSAL:

- 2.1 The scheme relates to a full planning application for the demolition of the existing two storey house and erection of 4 semi-detached houses, three of which have attached garages. The proposed houses would be arranged over three storeys, with the upper floor situated partly below the eaves line and partly within the roof slope. The proposed houses are orientated so that they front onto Sandmoor Avenue, although the corner property is also articulated towards the Harrogate Road frontage. The main facades of the proposed dwellings would all be set back from the Sandmoor Avenue frontage by 12-14m, while the end house would be set back from the Harrogate Road frontage by 16m.
- 2.2 In terms of internal layout, each property has 4 large bedrooms and a small study. The two pairs of semi-detached houses are linked by single attached garages, while the end house to the west has an attached garage. The house on the corner of Sandmoor Avenue and Harrogate Road has 2 open car parking spaces. Therefore, each dwelling has 2 car parking spaces. Each dwelling has its own private rear garden, while the corner property has the benefit of a much larger garden.
- 2.3 Access is gained from a new vehicular access point which would be formed between a gap in the trees along the Sandmoor Avenue frontage. The existing vehicular access onto Harrogate Road would be closed up and a matching stone wall introduced with planting behind. Proposals also involve the retention of the trees along the Harrogate Road and Sandmoor Avenue boundaries.
- 2.4 In terms of design and materials, the proposed houses have a vertical emphasis and incorporate 2 storey bay windows on the front elevations with small gable features above which bisect the eaves line. The dwellings have gable roofs and include centralized chimneys. The entrances include an arched feature, while heads and cills are proposed on the front elevation. In order to provide interest and visual articulation, the corner property includes two 2 storey bays windows and a string course between the ground and first floors. With regard to height, the houses measure 6.7m to the eaves and 10.5m to the ridge according to the submitted plans. Proposed materials include the use of brick, stonework for the heads and cills and a slate roof. All windows and doors would be made from timber.

3.0 SITE AND SURROUNDINGS:

3.1 The site comprises a detached rendered two storey property set within a relatively expansive plot which has remained unoccupied for a number of years. The property is set down from the Harrogate Road level by approximately 2.0m which shows the difference in levels across the site. The site is bounded along the Harrogate Road frontage by stone walling with tree planting behind and along Sandmoor Avenue by mature hedging and mature trees. The application site is set within a residential area that is characterised by a multitude of different architectural styles. Harrogate Road features a number of sites which have been redeveloped to provide more intense development comprising flats. To the south of the site is a site previously occupied by 2 detached houses. Permission has been granted following an appeal for 2 buildings each containing 10 two bedroom flats. This is the Charles Church development which rises to three storeys with accommodation within the roof slopes and was completed a number of years ago. Mature hedging forms the boundary treatment between this development and the application site. Larana House is set down slightly to the west and is a detached stone built property, separated by dense hedging from the application site. To the north on the opposite site of Sandmoor Avenue and on the corner of Harrogate Road is the Miller 3 storey development which comprises a number of apartments. The majority of Sandmoor Avenue is characterised by two storey houses.

4.0 RELEVANT PLANNING HISTORY:

- 4.1 08/06415/FU – In January 2009, planning permission was granted for the demolition of 505 Harrogate Road and Larana House, and the erection of two blocks of nine 3 bedroom apartments with basement parking. This application followed a similar approval in 2007, but with both blocks having a larger footprint together with the inclusion of balconies and a portico.
- 4.2 08/03058/DEM – Demolition of detached residential dwelling: Approved in June 2008.
- 4.2 07/06730/FU – In February 2008, planning permission was granted for the demolition of 505 Harrogate Road and Larana House, and the erection of two blocks of nine 3 bedroom apartments with basement parking.
- 4.3 06/07429 – In December 2006, an application at no. 505 Harrogate Road was submitted for the demolition of the dwelling and erection of a 3 storey block comprising 21 flats. This was withdrawn in February 2007 following concerns over the scale of the development, design, impact on trees and amenity space.
- 4.4 30/585/01 & 30/586/01 – Duplicate applications were submitted which included the plots occupied by Larana House and nos. 503 and 505 Harrogate Road. The scheme included demolition of the three houses and erection of a development of a part 3 and part 4 and part 5 storey block of 22 flats. Planning permission was refused in February 2002 for the following reasons:
1. Out of scale and harmful to character of area.
 2. Impact on living conditions of neighbours due to overlooking and noise.
 3. Use of access and lack of parking.
 4. Lack of amenity space.
 5. Would set a precedent for further similar development.

4.5 H30/539/75 – Change of use of part of house (no. 505 Harrogate Road) to surgeons consultancy: Approved in July 1975.

5.0 HISTORY OF NEGOTIATIONS:

5.1 Since the application was submitted, revised plans have been submitted reducing the number of properties which were proposed. Initially, the application proposed 5 three storey terrace houses. However, following concerns over the design and how they related to the character of the area and inadequate garden sizes, the proposal was amended to propose 4 semi-detached properties instead. Negotiations have also been on-going regarding the impact upon trees and the need to provide detailed information to demonstrate that the trees along the Sandmoor Avenue boundary would not be harmed as a result of the construction of the new internal access driveway. Neighbours have been re-consulted on these amendments.

6.0 PUBLIC/LOCAL RESPONSE:

6.1 The application was initially advertised as 5 terrace houses by way of site notices posted on 12 November 2010. The proposals were then altered to reduce the number of properties to 4 and amended site notices were posted on 25 February 2011 and previous contributors were re-notified by letter. A total of 3 households have objected (2 apartments within Balmoral House, 503 Harrogate Road and the occupant of No. 1 Sandmoor Avenue) as well as the Alwoodley Gates (Leeds) Management Ltd (from the Chairman who is a resident of no. 503 Harrogate Road). The issues raised by local residents relate to the following issues:

- Impact of additional traffic and highway safety;
- Impact on local road junctions, especially since the Grammar School has expanded;
- Inadequate parking provision;
- Impact on privacy due to overlooking;
- Loss of light;
- Drawing is inaccurate and does not show bay window on adjacent property;
- Proposal does not blend in with architectural style of other properties;
- Impact on character of Sandmoor Avenue;
- Nos. 501 and 503 not shown on applicant's OS plan;
- Boundary planting would be difficult due to changes in levels;
- Development should front onto Harrogate Road;
- Increase in noise and disturbance;
- Increased litter and anti-social behaviour;
- Entrance is inappropriate on Sandmoor Avenue;
- Extracts from the Land Registry have been provided which relate to restrictive covenants.

6.2 **Ward Members:** Councillor Harrand requests that the application is referred to the Plans Panel due to the objections raised by Alwoodley Parish Council.

6.3 **Alwoodley Parish Council:** Concerns are raised that the proposal represents over-development of the site which is on the corner of a very busy trunk road. Concerns are also raised over the lack of parking and that redevelopment in the immediate area has started to change the local character of the area considerably. *These comments were made in relation to the proposal for 5 terrace houses.* Following re-

consultation on the proposal for 4 semi-detached houses, the Parish Council's comments about the initial proposals still stand.

7.0 CONSULTATIONS RESPONSES:

Statutory

Highways: No objections, subject to the access width being 5m in width with a 4m

Non-Statutory Consultations:

Drainage: No objections subject to the imposition of conditions.

Contamination: No objections subject to the imposition of conditions.

8.0 PLANNING POLICIES:

8.1 The development plan comprises the Regional Spatial Strategy to 2026 (RSS) and the adopted Leeds Unitary Development Plan (Review 2006). 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. However, the RSS is a strategic planning document, used to inform more detailed policies at a local level. Accordingly, it is not considered that there are any particular policies which are relevant to the assessment of this proposal.

8.2 Unitary Development Plan (Review 2006) Policies:

| | |
|-------------|------------------------------------------------|
| Policy GP5: | General planning considerations |
| Policy H4: | Housing on unallocated sites |
| Policy BD5: | New buildings should not cause loss of amenity |
| Policy N12: | Urban design |
| Policy N13: | Design of new buildings |
| Policy T2: | Transport and highway safety |
| Policy T5: | Safe and secure access |
| Policy T24: | Car parking provision (Appendix 9) |
| Policy LD1: | Landscape proposals |

8.3 SPG: "Neighbourhoods for Living".
SPD "Designing for Community Safety – A Residential Guide"
SPD "Street Design Guide"

8.4 PPS1: Delivering Sustainable Development
PPS3: Housing

9.0 MAIN ISSUES

- i) Principle of Development
- ii) Design and Impact upon Character and Appearance of Area
- iii) Impact on Living Conditions of Neighbours & Future Occupants
- iv) Highway Safety
- v) Impact on Trees
- vi) Other Matters.

10.0 APPRAISAL

10.1 Principle of Development

In June 2010, and after a considerable period after planning permission was granted on this site and the adjoining site for 9 larger apartments, national policy guidance on housing in PPS3 was reissued, with one of the key changes being the removal of private residential gardens from the definition of 'previously developed land'. Amongst the reasons given for this change, the Government cited a desire to give local planning authorities greater control over proposals for residential development on existing garden sites, in the interests of protecting the established character of residential areas and preventing the gradual erosion of this character by piecemeal residential development. In the light of this, whilst the application site is in an existing residential area, close to local amenities and public transport links, it should not be assumed that garden sites such as this are suitable for further residential development. Careful consideration must be given to the contribution that a site makes to the character and amenities of an area, and the impact that such developments would have on this established character.

- 10.2 Furthermore, the site history is a material consideration in the assessment of the current proposal should be afforded significant weight. In January 2009, planning permission was granted for the demolition of 505 Harrogate Road and the adjacent dwelling known as Larana House within Sandmoor Avenue and redevelopment to provide 2 three storey blocks comprising a total of 9 apartments of a considerable size, together with an underground basement parking area. Vehicular access would be taken from Sandmoor Avenue. This permission remains extant until January 2012 and this therefore forms part of the applicant's fallback position, in that this could be implemented. Therefore, given the
- 10.3 Design and Impact upon Character and Appearance of Area
The proposal involves the demolition of a detached house and replacement with 4 semi-detached houses, all of which rise to three storeys inclusive of accommodation within the roof space. The existing house is of a traditional construction and no objections are raised to its demolition given, especially since permission has previously been granted for its demolition.
- 10.4 Streetscene drawings have been provided to demonstrate the impact of the development on the existing townscape. Streetscenes of both the Harrogate Road and Sandmoor Avenue frontages were provided. In terms of the former, this showed the relationship of the proposed end house in relation to the two Charles Church blocks to the south. This illustrates that the development would be significantly lower than the recently constructed apartment block at no. 503. This is, in part, due to the difference in levels between the two sites, with no. 505 being set down by approximately 1.0m.
- 10.5 In terms of the visual impact within Sandmoor Avenue, the land slopes gently downwards from Harrogate Road meaning that the impact on Larana House is critical. In this respect, both the eaves and ridge lines of the nearest dwelling is higher than that of the eaves and ridge of Larana House, the houses are considered to sit comfortably within the streetscene without being unduly harmful. The nearest proposed semi-detached house is also well separated from the Larana House by some 6.0m, thereby providing a good spatial separation. In addition, the natural topography of the land rises upwards towards Harrogate Road, so one would expect houses closer to Harrogate Road to be higher, and to not deny the natural topography.
- 10.6 In terms of the design concept, the proposal has been designed to take the form of detached houses set within relatively large plots, albeit in a semi-detached form. The garages which are well set back from the front façades allow the properties a

generous degree of spatial separation. The properties also have particular design merit and provide visual interest and articulation in the form of two storey projection bays, gable features, arched entrances and a string course. The location of the internal access driveway would also be well screened by the mature boundary plating along the Sandmoor Avenue frontage. Given the style of properties (houses and flats) in the immediate vicinity, it is considered that the scheme has taken the opportunity to improve the quality and character of the area. As such, the proposal is considered to accord with policies GP5, N12 and N13 of the UDP and the guidance set out within PPS1 and PPS3 and Neighbourhoods for Living.

10.8 Impact on Living Conditions of Neighbours & Amenity of Future Occupants

The impact upon the residential amenity of existing adjacent occupants as well as the intended future occupants of the development must be considered. In this respect and with regard to the former, it is not considered that the proposed development would give rise to loss of light, overlooking or would create an overbearing sense of enclosure to the detriment of residential amenity of occupants of nearby properties.

10.9 The residents of no. 503 Harrogate Road raises concerns over the proximity of the houses to the side elevation of the apartment block and impact upon habitable rooms due to the potential loss of privacy due to overlooking and loss of light. In response, the houses are set almost 18m away from the side elevation of 503 Harrogate Road and 11m from the shared boundary. Furthermore, the proposed houses are set down 1.0m below the level of no. 503. As such, it is not considered that the development would be a significant impact on the living conditions of the occupants of 503 Harrogate Road. It is also worth mentioning that the proposed houses are much further away from 503 Harrogate Road than the apartment block was could still be developed as part of the extant scheme. In terms of Larana House, given the 6.0m separation distance and the fact that the rear building lines are similar, it is not considered that the occupants would suffer a loss of amenity. Whilst the access is close to Larana House, only 4 properties would be served from this, and is no different from the access arrangements which existed as part of the extant consent, albeit that the access is closer to a different property.

10.10 In terms of the impact upon the amenity of future occupants, it is considered that the scheme provides a satisfactory standard of accommodation. In particular, all 4 houses are very generously proportioned internally while there is a more than satisfactory level of amenity space, with each property having its own private rear garden. In this respect the proposal provides a good standard of amenity in accordance with the guidance within Neighbourhoods for Living.

10.11 Highway Safety

Proposals involve the creation of a new vehicular access point from Sandmoor Avenue and the closure of the existing access from Harrogate Road. The scheme includes the provision of 2 car parking spaces for each property, including 3 garages which each have an internal dimension of 6m x 3m. It is considered that the access is satisfactory given the closure of the existing access from Harrogate Road, while the level of parking is in accordance with the requirements of the Street Design Guide.

10.12 As such, the proposal is acceptable in terms of highway and pedestrian safety, and in light of the current extant permission for apartments which approved a scheme which included 24 parking spaces, all of which utilised an access from Sandmoor Avenue.

10.13 Impact upon Trees

In terms of the impact upon existing trees, it is important to safeguard those along the Harrogate Road and Sandmoor Avenue frontages. The previous application was accompanied by an arboricultural report and tree survey to demonstrate that no significant trees would be removed or harmed as a consequence of the proposed development. Details were also submitted, following negotiations, of levels and extent of hard surfacing in order to ensure that the root systems of trees would not be harmed. Furthermore, the applicant has provided a detailed tree protection method statement to demonstrate that the proposed internal driveway would not adversely affect the root systems of the trees along the Sandmoor Avenue boundary. Following advice from the Council's Landscape Officer, it is considered that the proposals would safeguard these trees and a number of conditions should be imposed.

11.0 CONCLUSION

11.1 In conclusion, consideration has been given to all the matters raised and in light of the extant permission for 9 apartment in two 3 storey blocks, it is recommended that planning permission is granted subject to the imposition of conditions. Whilst PPS3 has been amended, the fact that there is an extant permission for flats is a material planning consideration which should be afforded significant weight. The proposal also provides a development which takes the opportunity to improve the character and quality of the area. The scale and design of the development is in keeping with the area which the access and level of parking is satisfactory. There will be no significant impact upon the living conditions of neighbours, while an adequate level of amenity space is provided. No adverse harm would also be caused to existing trees. As such, the proposed development is considered to comply with the relevant policies within the development plan and government guidance, and thus it is recommended that planning permission is granted.

Background Papers:

Application files: 08/06415/FU, 08/03058/DEM, and 07/06730/FU.

Ownership Certificate:

Signed as Applicant.

10/04855

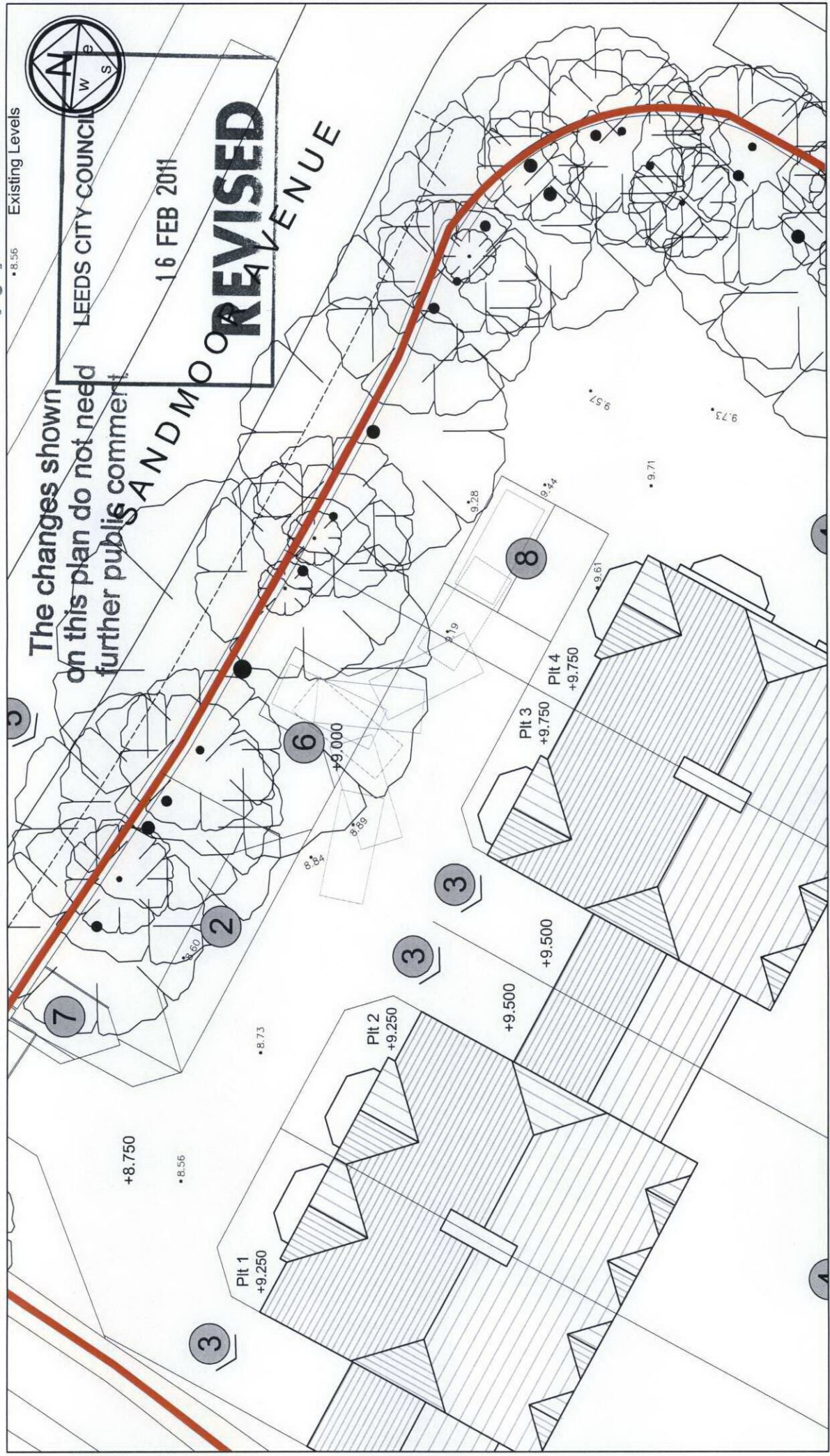
Existing Levels
• 8.56



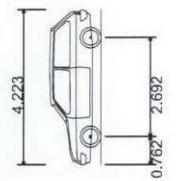
LEEDS CITY COUNCIL
16 FEB 2011
REVISED

The changes shown on this plan do not need further public comment

SANDMOOR AVENUE



INDICATIVE SWEEP PATH SHOWN IS FOR A:



- DB32 Private Car
- Overall Length 4.223m
- Overall Width 1.715m
- Overall Body Height 1.392m
- Min Body Ground Clearance 0.233m
- Max Track Width 1.629m
- Lock to Lock Time 4.00 sec
- Kerb to Kerb Turning Radius 5.780m

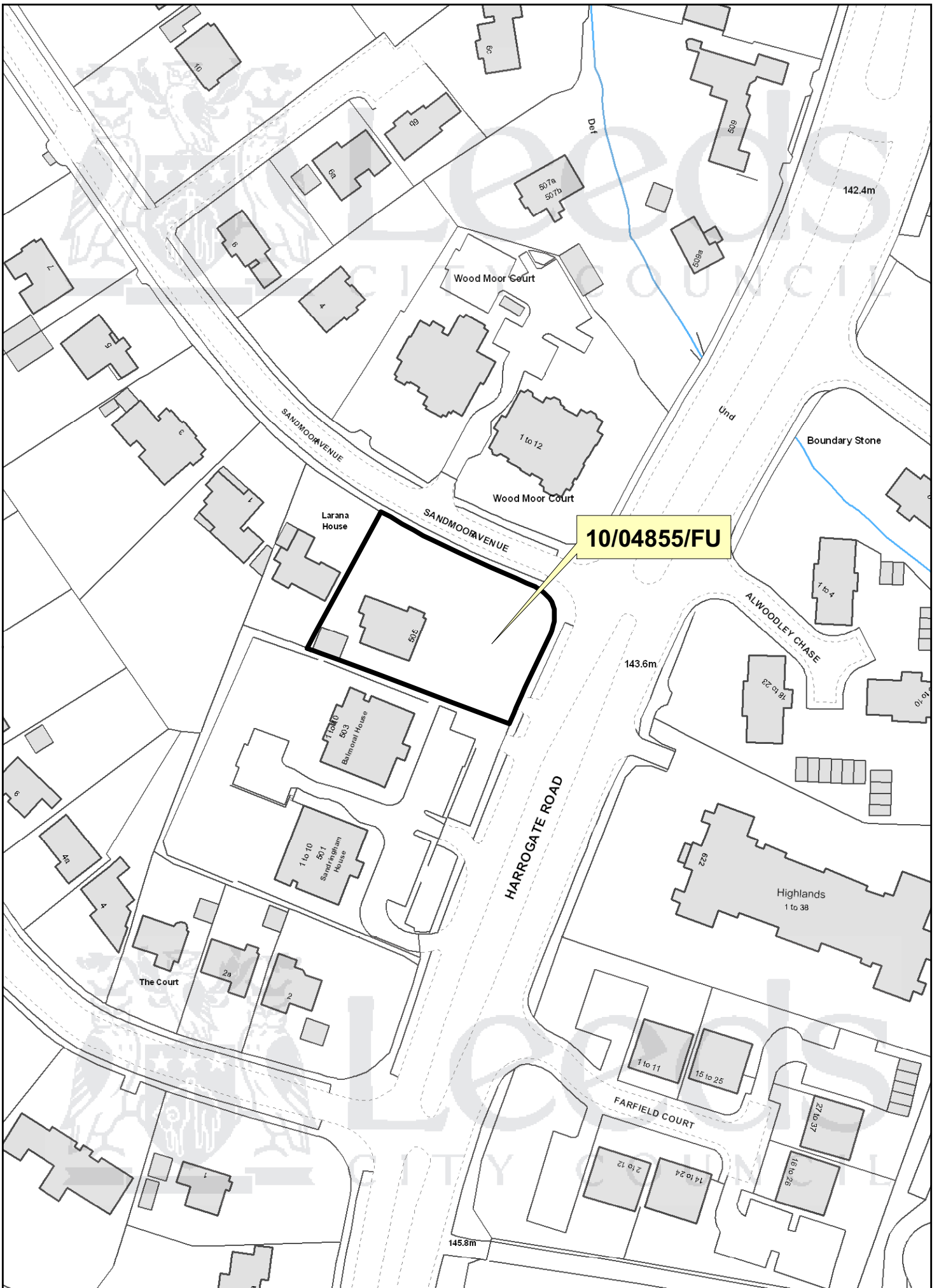
HY CONSULTING Ltd

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PROPOSED RESIDENTIAL DEVELOPMENT
505 HARROGATE ROAD, LEEDS
CAR REVERSING

SCALE: 1/200 @ A4
DATE: FEBRUARY 2011
DRAWING No: 1000701

A4



EAST PLANS PANEL





Originator: Chris Marlow

Tel: 0113 2224409

Report of the Chief Planning Officer

PLANS PANEL EAST

Date: 19th May, 2011

Subject: APPLICATION 10/05634/FU PART RETROSPECTIVE APPLICATION FOR CHANGE OF USE OF DOMESTIC APPLIANCE STORAGE WITH ANCILLARY WORKSHOP TO CAR REPAIR CENTRE AT 25 – 29 FLORENCE STREET, HAREHILLS, LEEDS, LS9 7AW

APPLICANT

Mr Anwan Mudjahed

DATE VALID

10th January, 2011

TARGET DATE

7th March, 2011

Electoral Wards Affected:

Gipton and Harehills

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 planning conditions:

1. Alterations to be carried out within 8 weeks
2. Laying out of vehicle areas/surfacing
3. Parking layout for specific purposes – awaiting repair/collection
4. No vehicle parking outside of specified areas/no on-street repairs
5. Submission of sound insulation scheme
6. All servicing and repairs to be carried out in main building
7. Prior approval of installation of new machinery
8. Details of storage and disposal of litter
9. Restriction of uses to buildings ancillary to main workshop
10. No amplified sound to external areas
11. Hours of delivery, 0730 - 1800 Mon to Sat. None on Sunday or BHs
12. Hours of opening/operation 0830 – 1800 Mon to Sat. None on Sun or BHs

Details of conditions to be deferred and delegated to Officers.

Reasons for approval: The application is considered to comply with policies GP5, BD6, T2 and T24 of the UDP Review and other material considerations, as such the application is recommended for approval.

1.0 INTRODUCTION:

1.1 This application is presented to Plans Panel (East) as it is considered that the line between acceptability or unacceptability of the scheme is so finely balanced to warrant wider discussion beyond delegated officer level.

2.0 PROPOSAL:

2.1 The main component of this application is retrospective and relates to a change of use of former domestic appliance store with ancillary workshop to car repair centre. A second component relates to the formation of ancillary parking on an adjacent site and has yet to take place.

2.2 The application results from a recent refusal of planning permission (10/03577/FU) and has been submitted with a view to overcoming the previous concerns relating to noise disturbance and highway safety issues highlighted in the reasons for refusal.

2.3 To this end, this application includes a Noise Impact Analysis (NIA) and additional land/ property at 29 Florence Street which abuts the site. The additional land is to provide an ancillary parking area for vehicles awaiting repair, and awaiting collection following repair.

2.4 Since the refusal of the original application an Enforcement Notice has been served requiring the applicant to cease the unauthorised use by 4th May, 2011. Prosecution for non-compliance with the notice however is being held in abeyance pending the outcome of the current application. No appeal has been registered against the issue of the notice or the refusal of the original planning application.

3.0 SITE AND SURROUNDINGS:

3.1 The application site is situated to the east side of Florence Street and comprises a tall single storey brick built pitched roof workshop with an attached single storey flat roof brick built building to its rear which has an exit doorway onto Florence Avenue (No. 27 Florence Street); and a single storey flat roof pre-fabricated building (25 Florence Street). In addition, there is a lean-to car repair workshop (that is to be demolished) at No. 29 Florence Street.

3.2 The site includes a shallow forecourt bounded by a 2m high untreated metal palisade security fence. The site is level and sits between a smaller scale car repair/tyre fitting operation and a block of three flats (No. 38 Cowper Road).

3.3 There is a car repair business to the south side of Cowper Road. Florence Street is a popular vehicular and pedestrian thoroughfare linking Ashley Road to the west and Compton Road to the east. The wider area is predominantly residential in character with back-to back housing to the north-west on Florence Street and Florence Avenue.

4.0 RELEVANT PLANNING HISTORY:

4.1 10/03577/FU – retrospective application to change the use from a domestic appliance workshop and ancillary store (Bells Electricals) to a car repair centre. Refused 01-Oct-10.

34/132/96/FU – change of use of car repair garage (29 Florence Street) to private car hire booking office. Refused 14-Oct-96. Appeal dismissed 24-Apr-97.
H32/256/79 – alterations and extension to form storage building. PG 02-Jul-1979.
H32/283/75 – alterations and extension to form storage space to light engineering factory. PG 16-Jun-1975

5.0 HISTORY OF NEGOTIATIONS:

- 5.1 Following commencement of the use as a car repair centre officers met with the applicant to discuss whether planning permission was required to change the use of the premises from the former use as an electrical repair and storage business to a car repair centre. Officers were able to confirm that planning permission was required as the former use is Class B1 (Business/Light Industrial) under the Town & Country Planning (Use Classes) Order 2010, whereas a car repair centre is Class B2 (General Industrial). There is No Permitted Change under the legislation from B1 to B2. At the time Officers expressed concerns that such a use may not be appropriate given its siting in close proximity to residential properties.
- 5.2 Despite officers views about the appropriateness of the use an application (Ref: 10/03577/FU) was submitted seeking retrospective approval for the use of the site at that time being limited to Nos. 25 – 27 Florence Street. The application was refused under delegated officer powers for reasons of harm to the residential amenity of local residents and highway safety concerns.
- 5.3 Following refusal of the application the Council's Compliance Team commenced enforcement proceedings culminating in serving an Enforcement Notice which required cessation of the use by 4th May 2011.
- 5.4 Whilst the unauthorised works continued the applicant asked officers opinion if the inclusion of an adjacent site would help to resolve highway safety issues and in doing so achieve officer support for the scheme as a whole. At the time Officers advised that such a proposal would be hard to overcome the fundamental concerns of the location of the works in a residential area. The applicant did however, submit the current application which includes the area currently occupied by No. 29 Florence Street.

6.0 PUBLIC/LOCAL RESPONSE:

- 6.1 2 site notice displays posted dated 21st January, 2011 requesting comments on the planning application be submitted prior to 11th February 2011.
- 6.2 In response to the public notification process 11 representations have been received from local residents expressing objections to the development on the following grounds:-

Retrospective nature of application

Traffic congestion, parking and highway safety

Oil and debris from repairs littering the street resulting in a hazard for pedestrians

Noise disturbance, unsociable hours of work, late night deliveries

Paint fumes

Inappropriate location

On-Street works

Unsafe environment for pedestrians, in particular children

7.0 CONSULTATIONS RESPONSES:

Statutory:

7.1 None.

Non-statutory:

7.2 Highways comments dated 10th November 2010.

Highway Development Services – “objection” to original layout - existing operation generates significant levels of on-street parking, with some repair works occurring on the highway itself. The Local Planning Authority has investigated this aspect but it is unclear whether these repair works occur in association with the application site or adjacent uses. The proposed spaces are laid out in such a way that will restrict manoeuvrings within the site. The turning circle is substantially short of the space it requires to be effective. This is likely to result in vehicles reversing out onto the highway and potentially displacing parking to outside of the site on street.

Highway comments dated 7th March, 2011.

Based on a revised layout re-configuring the spaces, including the removal of a small portion of the main workshop to assist manoeuvrings.

The situation is not ideal however, the revised layout goes some way to improving the existing situation. The layout is not wholly technically correct although it is clear that some off-street parking can now be achieved within the confines of the site. In effect the inclusion of this area for parking will be beneficial in removing a separate car repair operation. As a consequence, there are no objections to the revised proposal subject to conditions, in particular a condition restricting the area for parking purposes only with no repairs to take place in this area or on the adjacent highway.

7.3 Neighbourhoods and Housing comments dated 3rd February, 2011

Officers have visited the site and assessed the submitted NIA in the context of its surroundings and in response to complaints from local residents. Although within close proximity to residential properties officers consider that the use could operate subject to the inclusion of appropriate conditions, e.g., no paint spraying works, restriction on hours of use, restrictions on uses within different areas within the site, no amplified sound system, together with sound insulation measures where necessary to avoid any adverse impact on local residents living conditions.

8.0 PLANNING POLICIES:

8.1 The development plan comprises the Regional Spatial Strategy to 2026 (RSS) and the adopted Leeds Unitary Development Plan (Review 2006). 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. However, the RSS is a strategic planning document, used to inform more detailed policies at a local level. Accordingly, it is not considered that there are any particular policies which are relevant to the assessment of this proposal.

8.2 The application site is not specifically allocated within the City Council’s Unitary Development Plan Review (2006) although the area is washed over by two area based Initiative policies directed at regeneration issues (R1) and promoting increased green space provision (N3). The following policies are considered to be of relevance:

Policy GP5 requires development proposals to resolve detailed planning considerations including access, to avoid loss of amenity and maximise highway safety.

Policy BD6 requires all alterations and extensions to respect the scale, form, detailing and materials of the original building

Policy T2 refers to development that should be adequately served by existing or proposed highways, capable of being served by public transport and have provision for safe and secure cycle use and parking.

Policy T24 refers to car parking provision guidelines.

9.0 MAIN ISSUES

1. Principle of development
2. Residential amenity
3. Highway safety

10.0 APPRAISAL

1. Principle of development:

10.1 The element of the site identified as 25-27 Florence Street previously traded under the title of Bells Electricals which operated as a repair with ancillary storage facility for domestic electrical items. Under the Town and Country Planning (Use Classes) Order 1987 this is Class B1 use (light industrial). The applicant's use of the site as a car repair centre, under the same legislation is a B2 use Class (general industrial) hence the requirement for the need for a change of use application. The additional element of the land forming part of the current application site and identified for parking purposes (currently 29 Florence Street) has operated as a separate car repair centre without formal planning permission in excess of the period that is required to render it immune from enforcement action.

10.2 Consequently officers consider that the proposed combination of uses is acceptable in principle subject to resolving more detailed issues of residential amenity and highway safety which are discussed below.

2. Residential amenity:

10.3 Prior to the recent activity this section of Florence Street operated as 3 separate uses. The site at No.23 Florence Street (not part of the application site) is a small scale tyre fitting business with its planning status reflecting that of No.29 Florence Street, i.e., without planning permission but immune from enforcement action.

10.4 Bells Electricals (25-27 Florence Street) was a relatively large site but generated little in terms of machinery noise or traffic movements when viewed in context with the smaller scale car repair operations that sat either side of Bells at 23 and 29 Florence Street. In contrast, the current operations are effectively three independent car repair businesses (23 Florence Street; 25-27 Florence Street; and 29 Florence Street). Perhaps not unsurprisingly, the Neighbourhoods and Housing Department have received a number of complaints in respect of the application site relating to problems in the form of noise, late night working, car fumes, oil spills on the footway, and traffic congestion with cars being repaired and parked on-street hindering the free flow of traffic along Florence Street.

10.5 The current application will effectively reduce the number of businesses to two and in doing so represent an opportunity to bring the largest operation under planning controls with the inclusion of appropriate conditions. The applicants operation

proposes to confine car repairs to the main workshop building with three work stations with other buildings within the site to be purely for storage and ancillary office and staff facilities.

10.6 Residents complaints relating to the application site have been thoroughly investigated by Environmental Health Officers and have either resolved issues of a minor nature in agreement with the applicant or been unable to discover a level of disturbance that warranted further action. This is borne out from Environmental Health's comments by not objecting to the proposed application.

10.7 It is therefore considered that the current application represents an opportunity to positively bring the site within planning controls with conditions that can limit the scale, type and location of repairs/operations, its hours of operation and bring parking off the street to within the site and in doing so minimise the impact of the works on the residential amenity of the occupants of nearby housing.

3. Highway safety:

10.8 From Officers visits to the site it is clear that the applicants business is operating beyond the capacity that can be wholly accommodated within the confines of the site. The situation is exacerbated by the adjacent uses resulting in vehicles being parked either side of Florence Street restricting the general free flow of traffic along the highway being the busy thoroughfare linking Ashley Road and Compton Road. Whilst the applicants proposal to create off-street parking at No 29 Florence Street through the closure and integration of this separate use is not ideal, in terms of its layout, it does represent an opportunity to condense the applicants operation to the extended site itself and thereby reducing the reliance to using on-street parking. Highway Officers are conscious that to disregard the applicants improvement to the off street parking facilities by refusing the application would leave the Council with a finely balanced position for an Inspector to consider should an appeal be forthcoming.

10.9 In light of the above it is considered that the application would not represent undue harm to the interests of highway safety for vehicle users and pedestrians alike.

11.0 CONCLUSION

11.1 Officers understand residents concerns over the retrospective nature of the application and do not condone the commencement of any unauthorised uses or development. In this case the Council has pursued appropriate enforcement action and it is only on hold pending the outcome of this application.

11.2 Officers are aware that the siting of a General Industrial Use (B2) including car repairs is generally more appropriate away from residential areas. However, Officers are mindful that such unrestricted uses would still be able to operate at Nos. 23 and 29 Florence Street if the current proposal is refused. In recommending approval of the application Officers consider that this is an opportunity to impose conditions to control many of the issues of concern to local residents.

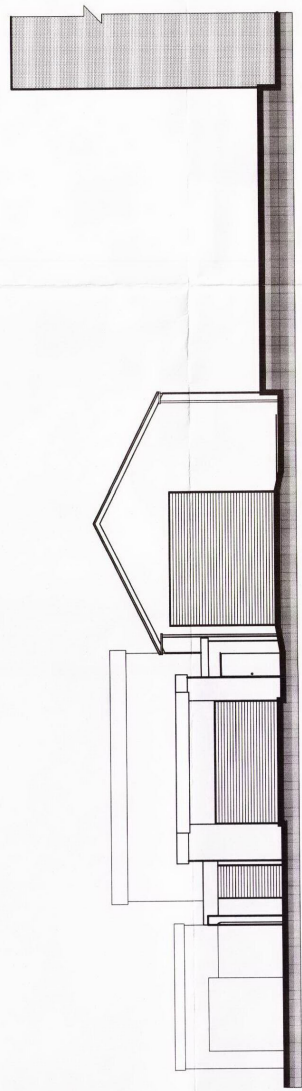
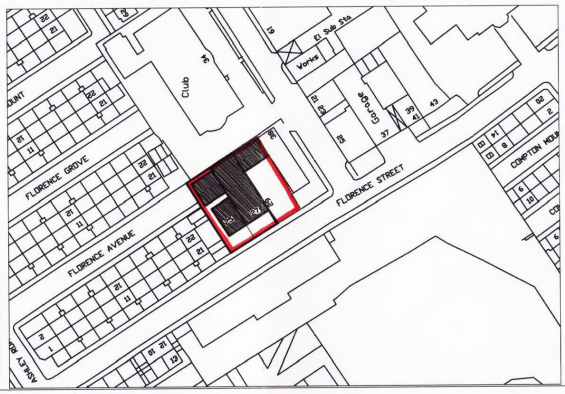
11.3 Officers are mindful of residents concerns regarding the current operations. Officers however, are also mindful that it has no objections to the application from its consultations with Highways and Neighbourhoods and Housing who the Council would be reliant upon to prepare an appeal case should the application be refused and the applicant submits an appeal to the Secretary of State. In such a scenario Officers consider that the Council's case would be vulnerable to challenge with the issues weighing in favour of the applicant.

- 11.4 Officers appreciate that the issues are finely balanced but consider that the recommendation for approval represents the opportunity to control the commercial use of a considerable area of this part of Florence Street and in so doing addressing concerns of local residents relating to amenity and highway safety.

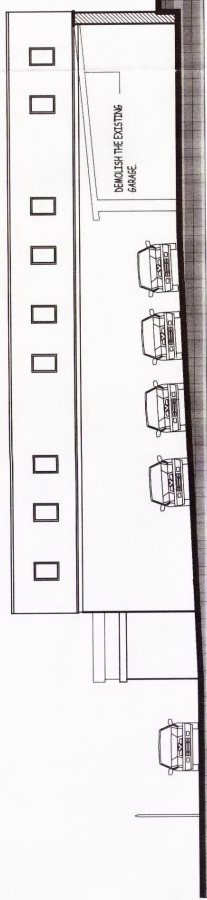
Background Papers:

Application file: 10/05634/FU. Previous refusal 10/03577/FU.
Certificate of Ownership A completed.

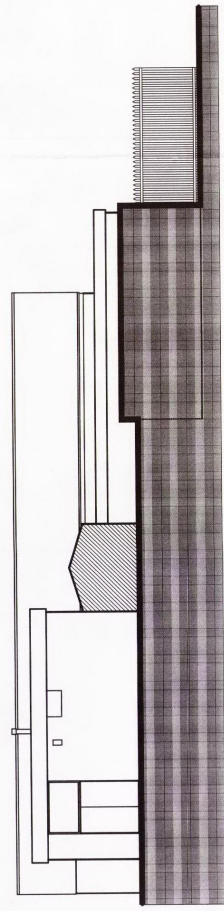
THIS DRAWING INCLUDING ALL TECHNICAL DETAILS THEREIN IS
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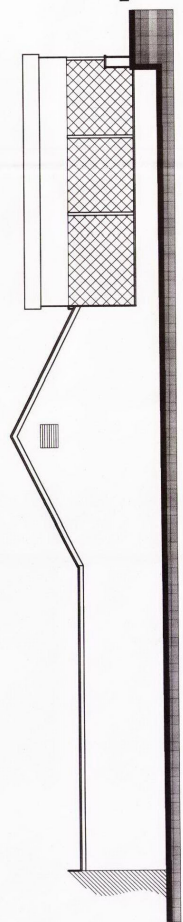
FRONT ELEVATION AS PROPOSED



SIDE ELEVATION AS PROPOSED



SIDE ELEVATION AS PROPOSED



REAR ELEVATION AS PROPOSED

The changes shown
 on this plan do not need
 further public comment

LEEDS CITY COUNCIL
 1 - 1111111111
REVISED

PLANNING APPLICATION

Do not scale from this drawing. Check all dimensions on site

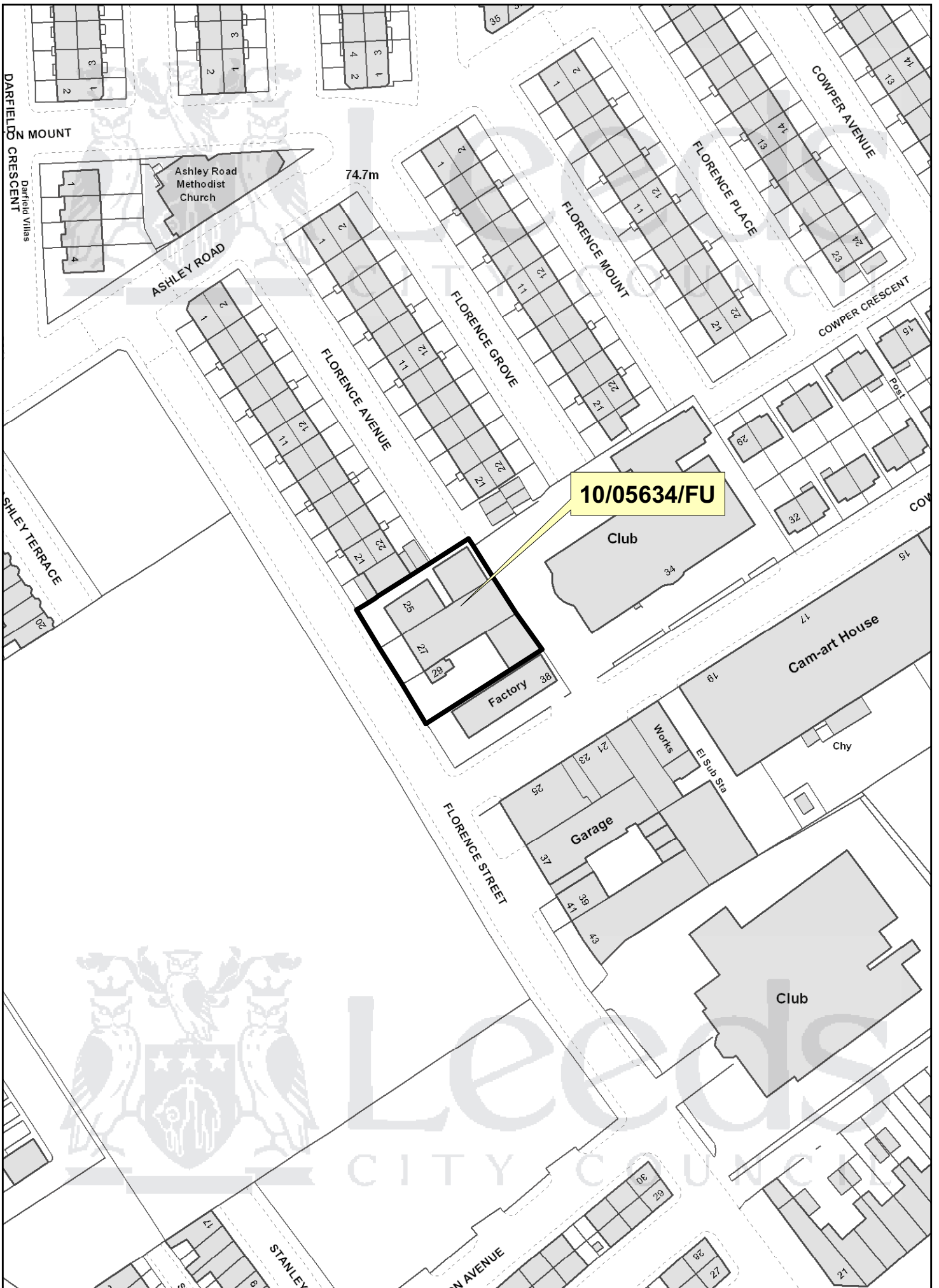
Project
 CHANGE OF USE OF WAREHOUSE TO CAR
 GARAGE, AT FLORENCE STREET LEEDS 9

Drawing title
 ELEVATIONS & OS MAP

B: EXISTING GARAGE DEMOLISHED AJ 28.02.11
 A: RED LINED BOUNDARIES ADJUSTED AJ 10.01.11

JMA CONSULTING
 SUITE 1 2ND FLOOR 60 GREEN ROAD
 LEEDS LS6 4JP
 TEL: 0113 2177051 FAX: 0113 2161273
 E: info@jma-consulting.co.uk

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EAST PLANS PANEL



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Originator: Jillian Rann

Tel: 0113 222 4409

Report of the Chief Planning Officer

PLANS PANEL EAST

Date: 19th May 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

Mr W Hussain

DATE VALID

23rd December 2010

TARGET DATE

17th February 2011

Electoral Wards Affected:

Roundhay

Y

Ward Members consulted
(referred to in report)

Specific Implications For:

Equality and Diversity

Community Cohesion

Narrowing the Gap

RECOMMENDATION:

REFUSE for the following reasons

1. The building, by virtue of its length, scale, massing and siting, and the lack of scope for the planting or re-establishment of a boundary hedge along the north western boundary, would result in an incongruous and unduly prominent development which would detract from the setting of the host property, which is a positive building within the conservation area, from the streetscene, and from views across the registered historic park, and would significantly erode the sense of spaciousness which characterises this part of the conservation area. As such it is considered that the development would be of significant detriment to the character and appearance of Roundhay conservation area, contrary to policies GP5, N12, N13, N19, N25, BD5 and LD1 of the Leeds Unitary Development Plan Review 2006 and the guidance in Supplementary Planning Guidance 13, the Roundhay Conservation Area Appraisal, PPS1 and PPS5.
2. The position of the building in relation to the sycamore tree to the rear of the site is such that it is likely to result in conflicts regarding perceived nuisance from maintenance issues and apprehension regarding the stability of the tree during windy conditions, and lead to pressure for the tree to be removed or radically pruned. The

tree is an important feature within the Roundhay conservation area, and is protected by a Tree Preservation Order, and its loss, together with the loss of the boundary hedge and lack of scope or space for the replacement of this hedge, would be of significant detriment to the character and appearance of the area. Insufficient information has been submitted to demonstrate that such conflicts would not occur, or that an appropriate boundary treatment could be achieved to screen the building. The application is therefore considered to be contrary to policies GP5, N19, N20, N26, BD5 and LD1 of the Leeds Unitary Development Plan Review 2006 and the guidance in Supplementary Planning Guidance 13, Leeds City Council's *Guideline Distances from Development to Trees* document and British Standard 5837: Trees in Relation to Construction.

1.0 INTRODUCTION:

- 1.1 This application is reported to Plans Panel on the basis of the extensive planning and enforcement history relating to the unauthorised building, and because it is considered that the determination of the application has implications for the wider public interest. The Chief Planning Officer has therefore decided not to exercise his delegated powers in this instance.
- 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.
- 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 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, and that either planning permission or a lawful development certificate would be required before that scheme could be implemented. He therefore concluded that 'to allow sufficient time for either consent to be obtained before works can commence' an 8 month period for compliance with the notice was reasonable.
- 1.4 The current application seeks to retain the unauthorised building, but to reduce it in size by reducing its height and its length at first floor level, while retaining the full length of the building at ground floor level. Alterations to the design are also proposed, including new windows and the formation of an archway above the patio doors in the north eastern elevation of the building.

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.
- 2.2 The alterations now proposed to the unauthorised building include:
- Replacement of existing gable-ended roof with a lower, shallower hipped roof and removal of rooflights. Replacement of existing tiles with plain clay tiles.
 - Reducing the length of the building by 3m at first floor level, retaining the full length of the building at ground floor level in the form of a single storey projection to the rear with a monopitch roof.
 - Blocking up of kitchen window in the south western elevation of the building.
 - Replacement of existing UPVC windows with timber framed casements.
 - Creation of an archway above the patio doors in the north eastern elevation.
- 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 14m long at first floor level. The overall height of the building to the ridge would be 6.9m.
- 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) 14m (first floor) |
| Width | 7.2m | 7m | 7m |
| Height | 5m to eaves 6.6m to ridge | 5m to eaves 8m to ridge | 5m to eaves 6.9m to ridge |
| Footprint | 95m ² | 119m ² | 119m ² |
| Floorspace | 158m ² | 344m ² | 275m 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 |

- 2.4 Having compared the details on the submitted plans with the approved plans for the 2007 application, the building as now proposed would still be 1.7m longer at first floor level and 2.7m longer at ground floor level than that which was approved in 2007. It would also be slightly higher (approx 30cm). When the basement is taken into account, the floorspace of the building as now proposed, according to the

submitted plans, is 275m², resulting in a building 72% larger in terms of its floorspace than that which was approved in 2007. The footprint of the building, at 119m², would be 25% larger than that of the building 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. 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, although the section of the hedge adjacent to the application building was lost at the time of the building's construction. Some new planting has now taken place in the area between the north western elevation of the unauthorised building and the boundary with the school fields to the north, however at present this is still relatively low level (under 1m high). 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 are the grounds of Roundhay School, with the school buildings some distance away to the west. 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. The unauthorised building is visible in views along Old Park Road and in more distant views across Roundhay Park from the north east.

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.
- Level of accommodation proposed exceeds that associated with an ancillary annexe, and is of a scale which is detrimental to the character of the area.
- 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 The 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 space for the existing dwelling, disruption to the existing property due to intensification in the use of the site, 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.

5.0 HISTORY OF NEGOTIATIONS:

5.1 Discussions were held between planning and conservation officers, the applicant and their agent prior to the submission of this application. A number of suggestions were considered, including the reduction of the building at first floor level by 2m and the reduction in the height of the roof. Concerns were raised that this was still unlikely to overcome concerns regarding the size of the development and its impact on the conservation area and the health and long term survival of the sycamore tree to the rear.

5.2 The application as originally submitted proposed to reduce the length of the building at first floor level by 2m, as had been discussed prior to the submission of the application. As the applicant was advised prior to the submission of the application, this was not considered to address the previous concerns regarding the size and scale of the building and the potential impact on the tree to the rear, and following discussions with the agent for the application, they were provided with the opportunity to submit revised plans in the light of the concerns raised. Revised plans have now been received showing the first floor of the building reduced by a further metre. It is still proposed to retain the full extent of the ground floor of the building. A revised site plan has also been received which shows the retaining wall alongside the retained ground floor section at the rear of the building realigned, together with a note stating 'existing store wall and railings to be realigned to provide sufficient planting strip for former boundary hedge to be reinstated.'

5.3 In the interests of clarity, the originally submitted plans showing the building reduced by 2m at first floor level will hereafter be referred to as the 'original plans', and the plans which were subsequently submitted, showing the building reduced by 3m at first floor level and the realignment of the retaining wall within the site will be referred to as the 'revised plans.' The consideration of the application is based on the revised plans.

6.0 PUBLIC/LOCAL RESPONSE:

Ward Members

6.1 Two letters were received from Councillor Matthew Lobley in relation to the original plans, who advises that he wishes to object in the 'strongest possible terms' to the application on the following grounds:

- Too much accommodation on site for a single residential plot.
- The site is in a conservation area and all previous issues stand.
- Proposed changes to building are minor and don't address Planning Inspector's objections – they do not make it subservient to the existing house and don't address the issues of damage to the tree, or allow planting of a screen to reduce the visual impact due to the building's proximity to the boundary.
- Use of tarmac area outside the front of the site as parking for the site – obstructs visibility for people exiting neighbouring property, and should not be included in considerations of whether there is sufficient parking on site for the 17 people who the applicant states live at the property.
- Original permission in 2007 was granted on the basis of a demand for the parking of cars within a garage. The building is still not a garage so previous approval should not be used to justify an application for a different development.
- Approval of the application would set a dangerous precedent allowing people to build what they like without permission even in a conservation area, to ignore the decision of a Planning Inspector and to cost the Council millions of pounds.

6.2 Councillor Lobley requested that the application be reported to Plans Panel in the event that officers were minded to approve. He also seeks assurance that the submission of this application will not delay the timescales for enforcement action as set out in the Inspector's decision.

6.3 Two emails have been received from former Ward Councillor Valerie Kendall, advising that she supports Councillor Lobley's reasons for objecting, and reiterating the concern that if this application is approved it will be a precedent for many others. She advises that she supports the effort to prevent the development, understanding that it is diverting time and effort from other work, and raises the following specific concerns:

- Traffic on Old Park Road around the school when pupils arrive and leave, parking of vehicles on the land outside the site by the applicant makes this worse.
- Overuse of the site.
- Abuse of the planning system

Roundhay Conservation Society

6.4 Objected to the proposals on the following grounds:

- Did not object to the 2007 application, on the basis of scale and nature of use. Building as constructed is out of proportion and much larger, and did not include a garage.

- Inspector had regard to effect of the building on the conservation area, the 2007 permission and the needs of the applicant and his family and concluded that the building neither preserves nor enhances the character and appearance of the conservation area. He also stated that any cosmetic changes proposed would not mitigate the harm caused, nor could this harm be overcome by altering the profile of the roof, he concluded that the appeal building was simply too large for the site and that he found 'no overriding personal, religious or cultural reasons for permitting the appeal building to remain.'
- Dangerous precedent if developers are allowed to benefit from breach of planning rules.
- Allowing the development after such a lengthy and exhaustive procedure culminating in a three day inquiry would have major implications for future developments and make a mockery of the detailed involvement of the planning department and the Inspectorate.

6.5 They request that the application is refused and that the applicant adheres to the 2007 permission.

Gledhow Valley Conservation Group

6.6 Object on the following grounds:

- Contrary to UDP policies.
- Alterations proposed are not sufficient to overcome previous refusal reasons regarding materials, scale, length, height and massing of building, or impact on sycamore tree to rear.
- Approved plan included a garage – no garage in unauthorised building, nor is one proposed.
- Insufficient space to the north west to plant a screen hedge.
- Concerns regarding parking of vehicles on area of tarmac outside the front boundary of the site by the applicant. Does the applicant have the consent of the highway authority for the laying out of this area? Concern that this will be included in consideration of parking provision for the site.

6.7 The Group suggests that the building should be demolished as required by the Inspector, and raise concerns that if permitted the application would have serious implications for future planning decisions in Leeds and undermine the work of conservation groups and officers within Leeds. Reference is made to the Roundhay Neighbourhood Design Statement, and concerns that the development would be in breach of the guidance therein.

6.8 In response to the revised plans, a further email was received from the group, raising the following points:

- Proposed changes would not make unlawful building 'lawful.' Should be demolished and started again from scratch.
- Any new building should be in keeping with the conservation area.
- New buildings in conservation areas should be monitored by planning and enforcement officers and retrospective planning applications should not be permitted in conservation areas.

Other public response

6.9 The application as originally submitted was advertised as affecting the character of a conservation area by site notice and press notice, and by neighbour notification letter. Following notification from a local resident that site notices had been removed, new site notices were posted. These were checked by the case officer on 17th

January and were still in place. 27 letters of objection and 2 letters of comment were received from local residents in response to the original plans, raising the following concerns:

- Building will still detract from conservation area – still too prominent and intrusive in distant views across park and from Old Park Road, materials and design unsympathetic and not typical of other dwellings in the street. Proposed minor cosmetic changes do not address this.
- Overdevelopment.
- Ground and first floor of building still extend under the canopy of the purple sycamore to the rear – potential of conflict with the tree remains. Other trees also damaged during construction.
- By leaving foundations and basement of the building in their current position, there is still a risk of stress to the sycamore tree.
- Contrast to recent rebuilding of Roundhay School, which was done sympathetically, retaining the original school façade and meeting conservation requirements.
- Overbearing on property to rear. Loss of privacy to neighbouring residents and to children using school field.
- Too close to school boundary to allow hedge to be planted, meaning that the building cannot be screened and appears obtrusive.
- There are numerous differences between the unauthorised building and what the applicant claims is their 'fallback position' (the 2007 permission) – still larger than the 2007 permission.
- Concern that enforcement action being delayed by submission of a further application for retention of building. Timing of this should not prevent the Council proceeding with its enforcement notice. Council should take appropriate action if the Inspector's decision is not complied with.
- This is a dwelling, not an annexe.
- Large amount of paving in garden – concerns regarding drainage and wildlife.
- Insufficient parking on site for 17 people.
- Parking of cars on tarmac area outside site – do they have consent for works to lay out this area? Impact on visibility from neighbouring properties.
- Original plan included a garage – no garage in new building. Concern regarding possible further application for/development of a garage.
- New policy prevents 'garden grabbing'.
- If permission is granted, permitted development rights for any new outbuildings should be removed.
- Do not believe that personal circumstances of applicant override harm to area resulting from the building.
- Building is unlawful, should not be allowed. Planning regulations have been flouted. Should be demolished. Shouldn't be allowed to keep applying and appealing. Allowing this would bring planning system into disrepute and set a precedent for future developments.
- This has been ongoing for almost 5 years and needs to be brought to a close. It has cost the Council and taxpayers a huge amount.

6.10 Following the receipt of the revised plans, the application was readvertised by site notice and by letter to all those who had made representations on the original plans. In addition to the representations summarised above, 11 further letters of objection have been received in response to the revised plans, many of which reiterate comments made previously. The following concerns are raised:

- No major changes, still overdevelopment, too large for the site, too close to boundary, and still an eyesore, and not in accordance with planning guidelines or in keeping with conservation area.
- Plans don't attempt to address fundamental character and structure of the building, very little difference between these and previous plans appear to be an attempt to further delay enforcement process.
- Previous comments still stand.
- No resemblance to building approved in 2007 - until this original design is implemented, the application should be refused, and building should be demolished as required by appeal Inspector as soon as possible.
- Residents who have complied with requirements of planning system wish to see same standards applied in this case.
- Disappointed to see submission of yet more revised plans. Council should not accept any further revised plans, allowing this to continue brings the planning system into disrepute and is a waste of public money.

7.0 CONSULTATION RESPONSES:

Statutory

7.1 None.

Non-statutory

Highways

7.2 No objection. The existing house has two access points onto Old Park Road, and as such more than adequate off-street parking can be provided.

Contaminated Land

7.3 Historic map review requested. *On the basis that the application is for an ancillary outbuilding which has already been built, no further information has been requested in this respect.*

Flood Risk Management

7.4 No objections.

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 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.

8.2 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

8.3 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
Guideline Distances from Development to Trees: Updated March 2011
Roundhay Conservation Area Appraisal.

Government Planning Policy Guidance/Statements

8.4 The following Planning Policy Guidance (PPGs) and Planning Policy Statements (PPSs) are relevant to the consideration of the application:

PPS1 – Delivering Sustainable Development
PPS5 – Planning for the Historic Environment

Other relevant guidance

8.5 BS5837: Trees in Relation to Construction.

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. Personal circumstances of the applicant
7. Other issues

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.

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

- 10.2 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.
- 10.3 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.'
- 10.4 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.'
- 10.5 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.'
- 10.6 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.*
- 10.7 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.

- 10.8 It is proposed to reduce the length of the unauthorised building by 3m at first floor level only, and to replace the pitched, gable-ended roof with a lower, shallower hipped roof more akin to that which was proposed on the garage building which was approved in 2007. The footprint of the ground floor of the unauthorised building would remain unchanged, and the remaining single storey projection to the rear would be roofed with a monopitch roof, the ridge of which would be around 1.3m higher than that of the single storey projection which would have remained to the rear of the building as approved in 2007.
- 10.9 it is considered that the alterations now proposed to the building fail to address the Inspectors' concerns regarding the size of the building in relation to the back garden area and spaces between existing buildings, and the building's impact on the spaciousness of the conservation area as a result. The ratio of gaps to buildings in the scheme as now proposed is such that the proposed building would still dominate the rear garden area and would fail to preserve the special character of the conservation area. The building would be built in very close proximity to the side boundary with the playing fields with relatively small gaps between its front elevation and the rear extension to the main house, and between its rear elevation and the rear boundary, and would still appear less as an annex and more as a detached dwelling. There are also concerns regarding the potential for the hedge to screen the retained ground floor section since a hedge could be removed or reduced in height without requiring planning permission. In the light of these concerns, it is considered that the development would still detract from the character and appearance of the conservation area and refusal is recommended on this basis.
- 10.10 The applicant's supporting documentation makes reference to the 'fallback position', (i.e. the scheme which was approved in 2007). Whilst this permission has expired, the Council accepted at the public inquiry in July 2010 that it was unlikely permission would be withheld were a new application for an identical development to that approved in 2007 to be submitted. By comparison with this 'fallback position', it is noted that the building as now proposed would still be 1.7m longer at first floor level (14% larger) and 2.7m longer at ground floor level (19% larger) than that which was approved in 2007. It would also be slightly higher (approx 30cm), and 25% larger in terms of its footprint than the previously approved building. For the reasons stated above, this is considered unacceptable.
- 10.11 The proposals to reduce the height of the building and to replace the existing windows with more appropriately designed timber windows are considered to go some way to mitigating the impact of the development, particularly in views along the drive of no.11, however as the Inspector commented in his decision, these alterations and the reduction in height are not sufficient in themselves to overcome the harm that the building causes to the sense of spaciousness of the conservation area, as the building is 'simply too large for this site'. Whilst it is noted that it is now proposed to reduce the length of the building, this would still result in a building which would fill much of the gap between the existing property and buildings to the rear on Ryder Gardens, and which would still be 1.7m longer at first floor level than that for which permission was granted in 2007. In the light of the conservation officer's comments regarding the visual impact of the building on views it is not considered that the proposed reduction in the length of the first floor of the building is sufficient to overcome the Inspector's concerns regarding the length and massing of the building and the detrimental impact that the building has on the sense of

spaciousness which is an important characteristic of the Roundhay conservation area. On this basis it is considered that the development is contrary to policies N12, N13 and N19 of the UDP and the guidance in the Roundhay Conservation Area Appraisal, PPS1 and PPS5.

Trees and landscaping

- 10.12 The tree most affected by the development is the purple-leaved 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.
- 10.13 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.
- 10.14 However, with regard to the relationship between the building and the canopy of the tree, the Inspector did raise concerns. He noted that the branches of the tree extend well over the roof of the unauthorised building, and are very close to the existing structure in places. He considered that the dense crown of the tree resulted in significant shading of the kitchen window in the end elevation, making this area 'gloomy' despite the large window in the south eastern elevation of this room, and that this could lead to pressure from occupants of the building for the crown to be thinned or even for the tree to be felled. He also noted the Council's concerns regarding occupants' apprehensions about the tree during windy conditions and annoyance caused by leaves, twigs and other debris falling onto the roof. In this respect, while he noted that 'with judicious directional pruning it is possible for future growth to be encouraged to develop away from the roof of the building', reducing the risk of physical damage being caused during strong winds, he considered that this was 'an unsatisfactory arrangement where the long term retention of important branches is dependent upon periodic pruning. He noted that in his experience:
- it is not uncommon for occupiers of premises to be fearful of branches that directly overhang their properties, especially where those branches are close to the roof. Such fears are often coupled with annoyance at the general mess the tree is seen to cause from the fall of leaves, twigs and other debris. A situation such as this can lead to frequent requests being made to the Council for consent to remove those branches and such requests cannot always be rejected.*
- 10.15 In the light of this, the Inspector considered that the building is too close to the sycamore tree and, noting the undisputed evidence of the Council and a neighbour that unauthorised pruning works to the tree had already taken place, that there was reason to suppose that 'at some time in the future further action might be taken in respect of the sycamore if occupiers of the appeal building were to find it a cause for concern'. He therefore concluded that the long term amenity value of the sycamore tree was therefore put at risk by its proximity to the appeal building.

- 10.16 Whilst it is now proposed to remove 3 metres from the rear of the building at first floor level, the ground floor of the unauthorised building would be retained in its current position. The applicant has provided a cross section showing the tree canopy and the position of the unauthorised building in relation to this. This drawing demonstrates that even with the proposed amendments to the building, the canopy of the tree to the rear would still overhang the single storey rear projection by at least 2m. The rear elevation of the building would be only 3m from the tree itself according to the submitted cross section, which is considerably closer than the separation distance of 10m recommended in the Council's *Guideline Distances from Development to Trees* document, which updates guidance in the former *Residential Design Aid 4* in this respect.
- 10.17 Whilst the reduction in the height of the rear section of the building would mean that the branches themselves were not in such close proximity to the roof, it is not considered that this would overcome the ongoing annoyance and maintenance issues resulting from the fall of twigs, leaves and other debris from the tree onto the roof, blocking gutters and downpipes, and from moss growth promoted by debris and shade. Significant discolouration of the rear section of the unauthorised building's roof beneath the tree canopy has already occurred, and was clearly evident at the time of the previous application, when the building had only been in place for a relatively short period of time. It is not considered that these concerns would be satisfactorily addressed by reducing the height of this section, since the tree would still overhang this section of the building by around 2m according to the cross section survey plans submitted by the applicant, and would still suffer these problems, making repeated requests for the pruning or felling of the tree likely. It is therefore considered that the long term amenity value of the tree, which is considered to make a positive contribution to the character and appearance of the conservation area, would still be put at risk by its proximity to the annex building.
- 10.18 The revised scheme which has now been submitted proposes to retain the ground floor of the building in its current position, but to block up the kitchen window in the south western elevation, looking onto the tree. As this would remove the outlook from this part of the kitchen onto the tree it is considered that it would partially overcome the Inspector's concerns regarding the indirect conflict between the building's occupiers and the tree insofar as it relates to the oppressive impact that the tree would have on the outlook from this window. Whilst the blocking up of the window would still result in this area of the kitchen being 'gloomy' as identified by the Inspector, and would still lead to a situation which is less than ideal in terms of providing natural light and outlook to the kitchen, it is not considered on balance that refusal of the application on these grounds could be justified. However, in the light of the above discussion regarding the canopy of the tree overhanging this section of the building, it is not considered that this alteration in itself is sufficient to overcome the concerns regarding the annoyance and apprehension that the tree is likely to cause for residents and the potential pressure for the tree's removal as a result.
- 10.19 The applicant's design and access statement (para 6.8.3) states that the current application proposes a single storey development in a similar location to that granted by the 'fallback position' (the 2007 permission) and as previously existed on the site, and that regard must be had to this when assessing the impact of this rear projection on the crown spread of the tree. It states that 'the impact of this fallback position is now the same given the alterations made. Therefore the Council cannot refuse the application due to the proximity of the annex to the sycamore tree.' The single storey projection to the rear of the building as now proposed would extend 2.7m further to the rear than the retained single storey projection on the rear of the building which was granted permission in 2007. The single storey element of the

building approved in 2007 was a part of the pre-existing garage building which was proposed for retention as part of the 2007 scheme with the specific intention, as stated in the documents submitted by the applicant at that time, of ensuring that the building encroached no further into the root/canopy area of the tree than the building which formerly stood on the site. As well as constituting a 19% increase in the length of the building, the additional 2.7m of the building proposed for retention would fall almost entirely beneath the canopy of the sycamore tree, on the basis of the information on the submitted site plan. It is therefore considered that far from being 'the same' or even 'similar' to the 2007 scheme, this additional projection actually constitutes a significant difference to the 'fallback' scheme, which is material to the Council's consideration of the current application, and that refusal of the application on these grounds can therefore be justified.

- 10.20 With regard to the hedge alongside the north western elevation of the building, the appeal Inspector noted that at the time of his site visit in July 2010 new replacement hedging had been planted, and that where there were gaps in this planting they could be filled. He considered that, were the new planting to grow well, then over the space of a few years the prominence of the building would be less than it is at present. While he goes on to say that this would not overcome his concerns regarding the harm caused by the length and massing of the building, it can be inferred from these comments that the Inspector considered the planting and survival/success of a hedge along this boundary to be an important component in providing screening of the building. It is noted that the retention of this boundary hedge was also a condition on the 2007 permission, demonstrating the Council's view regarding the importance of this hedge to the amenities of the area.
- 10.21 At the time of the case officer's most recent visit to view the site from the school playing fields to the north west (07/02/11) the privet hedge plants which were planted before the appeal inquiry in July 2010 did not appear to have become well established. The planting still appeared sparse and was not readily visible in views of the building across the school playing fields to the north, providing very little screening of the building. Privet is a semi-evergreen species, therefore even in winter some leaves would be expected. Upon closer inspection it appeared that while some leaves were in evidence, these were only visible on some of the plants in the wider section of the planting bed, and that on the plants in the narrower section of land, where the retaining wall within the site approaches the boundary, the leaves were actually dying. The landscape officer has advised that this is likely to be a result of the lack of space between the wall's foundations and the site boundary in this position, restrictions in the amount of moisture reaching the soil as a result of the position of the wall's foundations, and the shading provided by the building, and that in view of their current condition and these restrictions on the plants' ability to grow, the long term survival of this hedge appears to be unlikely.
- 10.22 In response to the Inspector's comments that alterations to the retaining wall within the site are likely to be necessary before the remaining gap could be filled with planting, a revised site plan has now been submitted as part of the application. This plan shows a slight realignment of the section of the retaining wall adjacent to the rear part of the unauthorised building, to move it slightly further away from the site boundary with the aim of providing a wider area in which to provide hedge planting. The area between the proposed realigned retaining wall and the site boundary would be no wider than 0.5m at its widest point, reducing down to only 0.2m at the point adjacent to the rear corner of the unauthorised building's ground floor.
- 10.23 As discussed above, there are concerns at present regarding the apparent lack of success of the hedge which has been planted adjacent to the unauthorised

building, where the area available for planting is over twice as wide in parts as that now proposed adjacent to the realigned retaining wall. It is likely that to provide a reasonable density of hedging, at least two staggered rows of planting would be required, however there is insufficient space in the area proposed at present to allow for even a single row of hedge planting. In view of this, and the likely restrictions on the long-term survival of the hedge resulting from the lack of space available and the shading caused by the building, it is considered that there would be insufficient space within this area to plant a hedge of sufficient height or density to provide screening of the building, or with any reasonable prospect of it becoming established and surviving in the long term as if the rear section of the unauthorized building were to be retained. In the light of this, less weight can be given to the applicant's assertions in their design and access statement (Para's 6.6.7 and 6.6.12) that the retained ground floor section of the building 'will not be visible due to the privet hedge' and would therefore be considered to have a 'neutral impact on the character and appearance of the conservation area', as views of this section of the building would still remain due to the lack of sufficient boundary screening. On this basis it is not considered acceptable for the rear section of the building to be retained.

Residential amenity

- 10.24 Concerns regarding the impact of the development on the privacy and amenities of neighbouring residents are noted. 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.
- 10.25 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. However, in the event that the application were to be approved, a condition would need to be included to ensure that the building could only be used as an annexe to the main house and not as a separate dwelling unit.

Highway safety

- 10.26 Neighbours' concerns 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 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.
- 10.27 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 issues and the personal circumstances of the applicant

- 10.28 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'.
- 10.29 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. However, it is not considered in this instance that the personal circumstances of the applicant are sufficiently exceptional as to outweigh the significant harm to the character and appearance of the conservation area and to the amenity value provided by the trees and landscaping at the site, since this harm will continue long after the immediate needs of the applicant and his family have been met. It is therefore not considered that the applicant's personal circumstances are sufficient to justify setting aside adopted development plan policy in this instance.

Other issues

- 10.30 Concerns regarding the amount of hardstanding on the site are noted. No objections have been received from the Council's Flood Risk Management section and therefore it is not considered that refusal of the application on these grounds could be justified.
- 10.31 Concerns relating to 'garden grabbing' are noted, however the changes to PPS3 to remove private residential gardens from the definition of 'previously developed land' relate primarily to the development of new dwellings. The Inspector accepted that the building which has been erected at the site is being used as an annex to the main building, and it is on this basis that the application has been assessed. The intention behind the reclassification of residential gardens was to allow local planning authorities greater control over the development of such sites, in the interests of preserving the character of residential areas. Notwithstanding its status as an annex rather than a new dwelling, the application is nonetheless considered to be unacceptable in terms of its impact on the character of the conservation area.
- 10.32 Concerns have been raised regarding the retrospective nature of the application and the precedent for other unauthorised developments in the event that the application

were to be approved. The local planning authority must consider retrospective and non-retrospective applications in the same way, based on their own merits, and any future developments on this or other sites would similarly be considered on their merits in the light of planning policy and other material considerations.

11.0 CONCLUSION

- 11.1 It is not considered that the amendments proposed to the unauthorised building are sufficient to overcome the previous reasons for refusal and the Inspector's reasons for the dismissal of the appeals in August 2010 on the grounds of the impact of the development on the character and appearance of the conservation area and trees and landscaping and on the boundary hedge at the site. On this basis, it is recommended that the application be refused.

Background Papers:

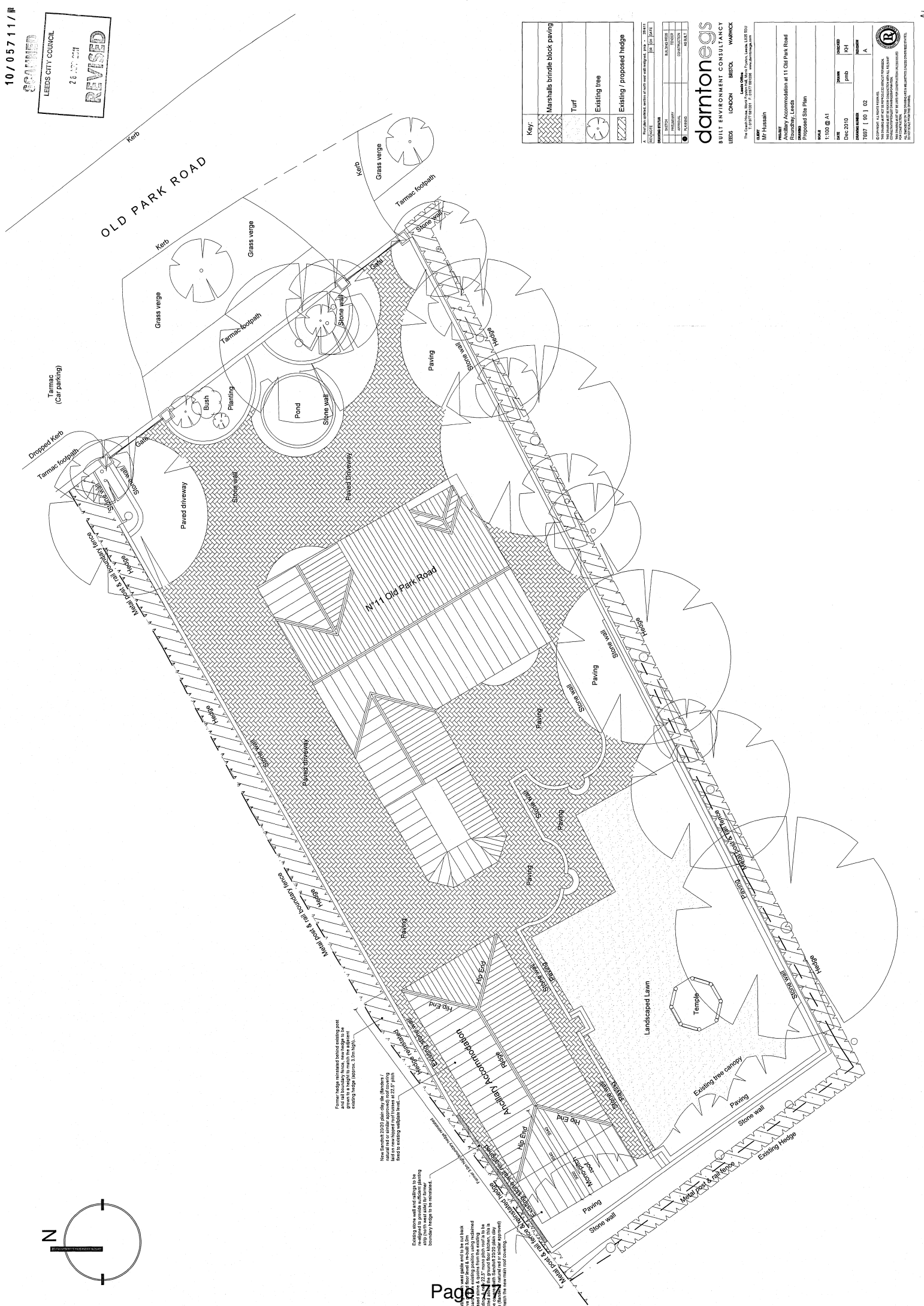
Application and history files 09/03515/FU, 08/06852/FU, 07/00030/FU and 06/05086/FU.
Certificate of Ownership: Signed by applicant.

| Key: | Marshalls brindle block paving |
|------|--------------------------------|
| | Turf |
| | Existing tree |
| | Existing / proposed hedge |

| DATE | BY | REVISION |
|----------|------------|-------------------|
| 28.05.11 | MR HUSSEIN | ISSUED FOR PERMIT |
| 28.05.11 | MR HUSSEIN | ISSUED FOR PERMIT |
| 28.05.11 | MR HUSSEIN | ISSUED FOR PERMIT |

dartonegs
 BUILT ENVIRONMENT CONSULTANCY
 LEEDS LONDON BRISTOL WARWICK

| PROJECT | CLIENT |
|------------------------------------------------------|------------|
| Accommodation at 11 Old Park Road Rothwell, Leeds | Mr Hussain |
| DATE | SCALE |
| Dec 2010 | 1:100 @ A1 |
| DATE | SCALE |
| 1997 (1:50) 02 | A |

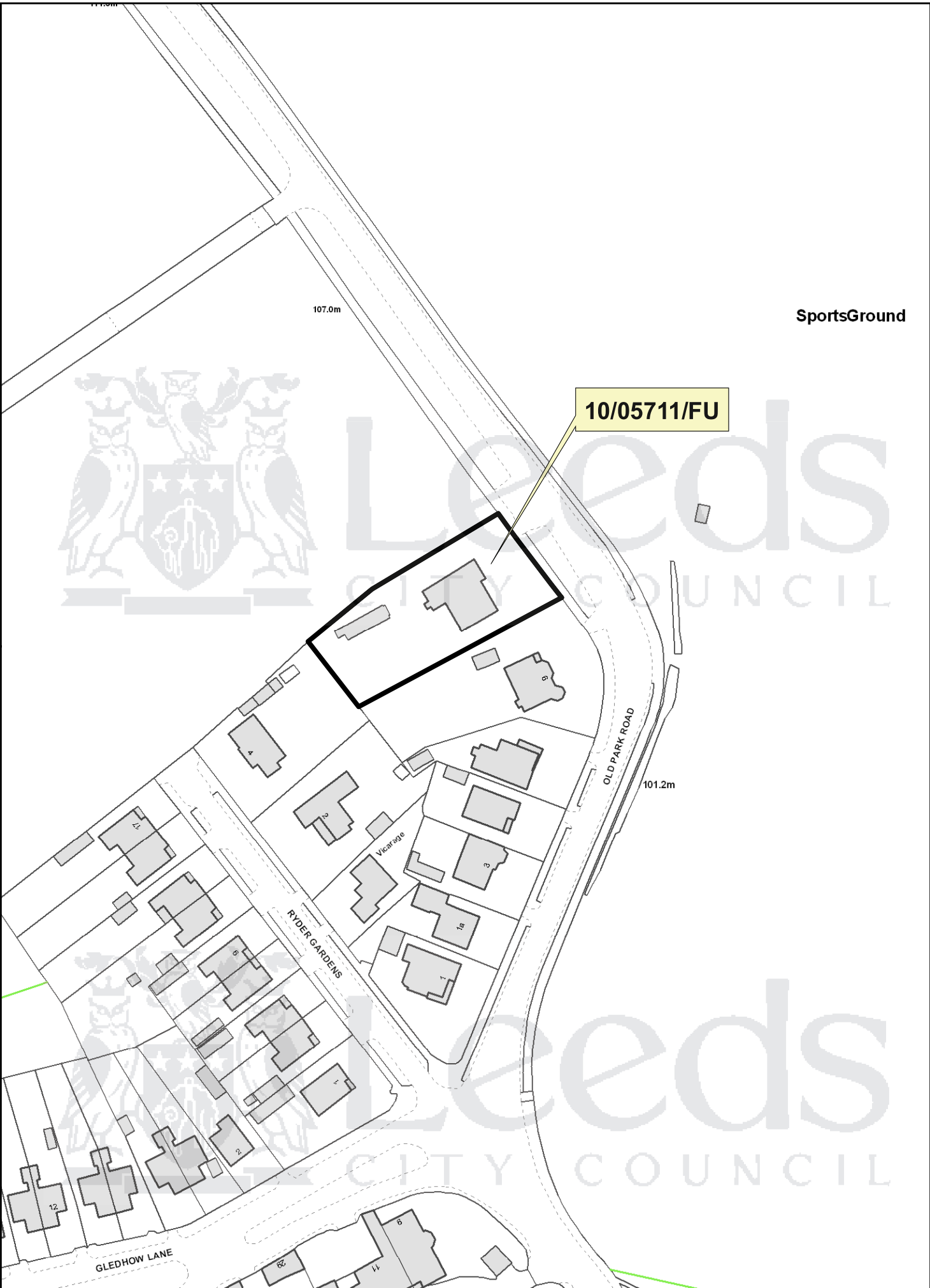


Formal hedge (minimum behind existing post grown to a height to maintain the adjacent existing hedge (minimum 3.0m high).

New French 20/20 plants (to the Western) natural tree or similar approved (not covering existing hedge) to be planted in 2.5' pits.

Existing stone wall and adjacent to the boundary hedge to be retained. Existing stone wall and adjacent to the boundary hedge to be retained.

Existing stone wall and adjacent to the boundary hedge to be retained. Existing stone wall and adjacent to the boundary hedge to be retained.



EAST PLANS PANEL





Originator: Jillian Rann

Tel: 0113 222 4409

Report of the Chief Planning Officer

PLANS PANEL EAST

Date: 19th May 2011

Subject: Application 11/00915/FU – Three storey residential care home with basement car parking, laundry, kitchen and stores at Grove Lane, Headingley, LS6.

APPLICANT

TCWP 008 Ltd

DATE VALID

7th March 2011

TARGET DATE

6th June 2011

Electoral Wards Affected:

Chapel Allerton



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 specified (and any others which he might consider appropriate) and the completion of a legal agreement within 3 months from the date of resolution unless otherwise agreed in writing by the Chief Planning Officer, to include the following obligations:

- (a) Public Transport Contribution – £21,189**
- (b) Metro Bus Stop Contribution – £10,000**
- (c) Travel Plan and Monitoring Fee – £2500**

1. Time limit for implementation.
2. Plans to be approved.
3. Wall and roof materials.
4. Details of means of enclosure to basement car park, including design, materials and colour of proposed entrance shutter and details of boundary treatments/railings to open sided panels around the edge of the car park.

5. Surfacing materials.
6. Preservation of existing trees.
7. Method statement for protection of trees during construction and carrying out of development in relation to trees.
8. Submission of landscaping scheme, including boundary treatments and management plan for 5 years.
9. Implementation of landscaping scheme.
10. Details of construction of landscaped terrace above the roof of the basement car park area, to include planting details.
11. Laying out of vehicular areas.
12. Provision of cycle parking, motorcycle parking and mobility scooter charging points in accordance with approved plans.
13. Provision for contractors during works, including measures to prevent mud on local highways.
14. Scheme for the operation of the proposed basement car park, including measures to ensure that access to the basement car park for staff and visitors remains available at times when the security shutter is closed.
15. Site to be developed with separate systems for foul and surface water drainage.
16. Details of foul and surface water drainage proposals and implementation of drainage scheme.
17. Submission of contaminated land reports.
18. Submission of amended contaminated land reports in the event that unexpected contamination is discovered.
19. Submission of verification report in relation to any remediation works.
20. First floor lounge window in eastern elevation to be obscure glazed.

Reasons for approval: It is considered that the proposed development would reflect the scale and character of surrounding developments and would take the opportunity to improve the character and quality of the area. On balance, it is considered that the proposed development would provide an appropriate level of amenity for future occupiers, and not detract from the amenities of neighbouring residents or from highway safety in the locality. The application is considered to comply with policies GP5, N12, N13, N23, N24, N25, BD5, T2, T2C, T2D, T5, T6, T7A, T7B, T24 and LD1 of the Leeds UDP Review, as well as guidance contained within Leeds City Council's Neighbourhoods for Living SPG, Street Design Guide SPD, Travel Plans SPD, Public Transport and Developer Contributions SPD and PPS1 and, having regard to all other material considerations is considered acceptable

1.0 INTRODUCTION:

- 1.1 This application is reported to Plans Panel at the request of Councillor Dowson on the grounds of the size of the building and the impact on neighbouring residents in terms of overlooking and overshadowing. Councillor Dowson has requested a site visit, and has asked that Members view the site from the garden of one of the neighbouring properties on Cherry Grove to the east.
- 1.2 Permission is sought for a 76 bedroom care home on the site of a former petrol filling station on Grove Lane in Headingley, which is now vacant. Permission was granted in 2007 for a development of 34 apartments on the site, however this permission has now expired.

2.0 PROPOSAL:

- 2.1 Full permission is sought for a 76 bed care home on the vacant site of a former petrol filling station. The building would be predominantly two-storey in appearance, but would also incorporate three storey gable features and dormers in its design, serving a third floor of accommodation within the roofspace. A lower ground floor level is also proposed within the eastern part of the building, providing ancillary facilities including the kitchen and laundry, staff facilities and a basement car park for staff and visitors.
- 2.2 The proposed building would be built in an L-shaped layout, and would be constructed of brick with render at first floor level, a tiled roof and timber doors and windows. While the proposed building does include accommodation within the roofspace, and incorporates some three storey gable elements in its design to the front and rear, it would appear predominantly as a two storey structure with the rooms in the roofspace served by dormers, and two storey bay window features to the front, rear and eastern side elevations.
- 2.3 The main vehicular access point for the care home is proposed in the north eastern corner of the site, with 3 parking spaces close to the entrance and an access drive running alongside the eastern elevation of the building and leading to the proposed basement car parking area, where 17 spaces are proposed for staff and visitors, together with cycle and motorcycle parking and a charging point for electronic scooters. A second access point leading to 6 further parking spaces is proposed in the north western part of the site. An existing lay-by to the front of the site is proposed to be retained for use by ambulances.
- 2.4 Two main areas of amenity space are proposed within the site for future residents. The first, to the south of the building, would consist of a landscaped terrace area which would be situated on the flat roof of the underground car park, and would be landscaped and lawned with paths and patio areas for residents. A path would lead through the site from this terrace area to a second landscaped area within the far western part of the site, where a second patio area and possible summerhouse are proposed. As well as screen planting along the site frontage and landscaping within these amenity areas, larger sections of woodland planting are proposed within the south eastern part of the site, adjacent to the basement car park, and on the land immediately outside the southern boundary of the site, which is also within the applicant's ownership. These planting areas are intended to provide screening of the development in more distant views and to provide a landscaped 'buffer' between the built development and the open rural land to the south to help to assimilate the development into the landscape.

- 2.5 A draft Section 106 Agreement has been submitted to cover the following matters:
- Public Transport contribution – £21,189
 - Upgrading of bus stop adjacent to site – £10,000
 - Travel Plan and monitoring fee – £2500

3.0 SITE AND SURROUNDINGS:

3.1 The site comprises a former petrol filling station and vehicle repair garage located on a triangular shaped site. The former buildings have now been demolished and the site is currently vacant and is relatively overgrown and unkempt in appearance. The site slopes gradually downhill from Grove Lane towards the open land and playing pitches to the rear.

3.2 The site is located within a predominantly residential area close to the junction of Grove Lane and Meanwood Road to the east. There are two storey residential properties to one side (Cherry Grove to the east) and on the opposite side of Grove Lane to the north, and a pair of semi-detached properties close to the western boundary of the site. The land to the rear of the site is open, and includes a protected playing pitch to the south east, an area of proposed public greenspace to the south, and an Urban Green Corridor designation which includes the application site. There are important mature street trees to the Grove Lane frontage and a number of important off-site mature trees towards the rear on the Greenspace and playing pitch, some of which are protected by a Tree Preservation Order (TPO). The site is also visible in wider views from dwellings on Ridge Terrace and from public areas on an elevated area of land around 300m away to the south west.

4.0 RELEVANT PLANNING HISTORY:

4.1 Permission was granted in September 2007 for a residential development of 34 flats with car parking and landscaping (application 07/03240/FU). This permission has now expired. The development proposed at that stage comprised a courtyard of three storey buildings with associated amenity spaces and car parking, including an undercroft parking area with decked amenity space above.

4.2 All other planning history for the site relates to its former use as a petrol filling station.

5.0 HISTORY OF NEGOTIATIONS:

5.1 Discussions regarding the proposed development were held between the applicant and agent and planning, highways, landscape and design officers prior to the submission of the application. The scheme was revised during the course of these discussions to move the proposed building away from the southern boundary and align it more with the site frontage, and to reduce the scale and massing of the building by lowering the eaves and incorporating the second floor accommodation within the roofspace with dormers and gables rather than within an additional third storey as was originally proposed.

5.2 Following receipt of the application for the reduced scheme, some minor changes have been made to the internal highways layout, and to provide additional screen planting around the parking spaces and bin store to the front of the site.

6.0 PUBLIC/LOCAL RESPONSE:

- 6.1 Councillor Dowson has raised concerns regarding the building's height and proximity to the houses on Cherry Grove to the east, and the impact of the development on neighbouring residents in terms of overlooking and overshadowing of their properties as a result. She has requested that the application be reported to Panel in the event that officers are minded to approve it, and that a site visit be carried out by Panel Members.

Woodhouse Ridge Action Group

- 6.2 Object to the proposals as currently submitted, but advise that they would have no objection to the principle of the development, subject to the following matters being resolved:
- Visual impact not sufficiently mitigated by screen planting as is required by UDP policy N24 and Council policy guidance. Building is large scale and replaces a much smaller building. Only limited scope for planting within the site due to large footprint of building and its shape.
 - Character and specification of proposed landscape planting fails to take account of site's location within an Urban Green Corridor – contains too many ornamental species where there should be higher proportions of native trees. Size of trees proposed is too small – should contain a mix of smaller and larger, heavy standard plants.
 - Inadequate planting to Grove Lane frontage, which is locally characterised by residential properties with front gardens, continuous hedging and front walls.
 - Inadequate screening to eastern boundary – should have a native hedge with intermittent native trees.
 - Grass verges to front of site should be retained and not converted to tarmac with bollards as happened at adjacent site.
 - Application should be accompanied by a legal agreement requiring the dedication and management of the adjacent field as public greenspace, with a planting scheme for woodland and wildflower meadows, with paths through.
 - No blue line shown on application plans, although it is understood applicant owns land to south (designated as proposed public greenspace in UDP).

Other public response

- 6.3 The application has been advertised as a major application by site notice and press notice. 6 letters of objection and two letters of comment have been received, raising the following concerns:
- Other residential properties in area are similar heights, this is too high, and will dwarf neighbouring properties and dominate the landscape. Does not respect size, scale and spacing of neighbouring properties. Contrary to UDP.
 - Development too high and too close to properties on Cherry Grove to the east – will overlook and overshadow, and will be overbearing to neighbouring residents. Might be acceptable if it were 1 or 2 storeys.
 - Overshadowing will result in neighbouring residents having to use artificial lighting – impact on energy consumption.
 - Close to busy road – is it a suitable location for a care home. Where will visitors park?
 - Hedge on southern boundary is insufficient to screen development – will take a long time for saplings to grow to screen a development of the height proposed.
 - Screen planting proposed in field to south of site – would like assurance that there is no prospect of a future application to extend the care home into this field, and that the field is secured as green space.

- Concern regarding building on green field/sports pitches to rear of site – currently used by local people for recreation.
- Impact on drainage/capacity of existing sewers.
- Submitted drawings include part of neighbouring property within red line boundary.
- Impact on property values.

7.0 CONSULTATIONS RESPONSES:

Statutory

Highways

7.1 No objections in principle, subject to a number of changes to the proposed internal layout and the carrying out of off-site highway works, for which a Section 278 Agreement would be required.

7.2 Revised plans have been received in the light of the comments received, and the agent has confirmed their agreement to the off-site highway works identified. The highways officer has advised that they have no objections to the revised plans, subject to conditions and the submission of a S278 Agreement to cover the off-site highway works.

Yorkshire Water

7.3 No objections, subject to conditions.

Non-statutory

Flood Risk Management

7.4 No objections, subject to conditions.

Contaminated Land

7.5 No objection subject to conditions.

West Yorkshire Police

7.6 Advice provided on design of entrances, boundaries etc to optimise security.

Transport Policy/Travelwise

7.7 No objections – Travel Plan and monitoring fee of £2500 to be part of Section 106 Agreement.

Public Transport

7.8 Based on the number of bedrooms proposed, a contribution of £21,189 is required towards public transport improvements, in accordance with the 'Public Transport Improvements and Developer Contributions' SPD.

Access Officer

7.9 Suggestions were made regarding the plans as originally submitted. Revised plans have been received, addressing these comments, therefore no objections.

Metro

7.10 Contribution of £10,000 requested to cover the cost of upgrading the bus stop to the north of the site on Grove Lane to provide a Real-Time Information display.

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 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.
- 8.2 The site is within an Urban Green Corridor as designated in the UDP. The land immediately to the south of the site, where the off-site buffer planting is proposed, is designated as proposed public greenspace in the UDP, and the playing fields to the south east are designated as protected playing pitches. A number of off-site trees adjacent to the southern boundary of the site are protected by a Tree Preservation Order (TPO). The following UDP policies are relevant to the consideration of the application:

GP5 – General planning considerations
N12 – Urban design
N13 – Design and new development
N23 – Design of incidental open space around new developments
N24 – Buffer planting on developments adjacent to open land
N25 – Design of boundary treatments
BD5 – New buildings and amenity
T2 – Highway safety
T2C – Travel plans
T2D – Public transport contributions
T5 – Access for pedestrians and cyclists
T6 – Access for disabled people
T7A&B – Secure cycle and motorcycle parking
T24 – Parking provision
LD1 – Landscaping

Relevant supplementary guidance

- 8.3 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
SPD – Street Design Guide
SPD – Public Transport and Developer Contributions
SPD – Travel Plans

Government Planning Policy Guidance/Statements

- 8.4 The following Planning Policy Guidance (PPGs) and Planning Policy Statements (PPSs) are relevant to the consideration of the application:

PPS1 – Delivering Sustainable Development

9.0 MAIN ISSUES

1. Principle of development
2. Design, visual amenity and landscaping
3. Residential amenity
4. Highways
5. Section 106 obligations
6. Other issues

10.0 APPRAISAL

Principle of development

- 10.1 The site was formerly occupied by a petrol filling station and vehicle repair garage consisting of several buildings and a canopy with extensive areas of hardstanding, and as such is considered to constitute previously developed land. The principle of residential development on the site has been established via the granting of planning permission for flats in 2007, and whilst this permission has now expired, it is considered in the light of the above that the principle of a care home development on the site is acceptable, subject to all other material planning considerations, as discussed below.

Design and visual amenity

- 10.2 The concerns regarding the height and scale of the proposed development and its impact on the streetscene are noted. The site is located within a mixed streetscene which includes two storey semi-detached and terraced properties to the north of the site on the opposite side of Grove Lane, a relatively wide road. Properties on Cherry Grove to the east include 2 storey conventional detached houses immediately to the east of the site's eastern boundary, with three storey flats further east on Grove Lane at the junction with Meanwood Road.
- 10.3 Permission was granted in September 2007 for the development of 34 flats on the site. The building proposed at that time was of a contemporary three storey design incorporating pitched roof sections with rooflights and higher flat-roofed three storey elements projecting through the eaves into the roof. The building as approved had an L-shaped footprint, with the blocks running parallel with the southern and western boundaries of the site and parking areas to the front, between the building and Grove Lane, and within an undercroft basement garage area. The eaves heights of the approved flats building and the care home now approved are broadly similar, with some variations due to the differences between the siting of the proposed buildings and the variations in levels within the site. However, the roof pitch as approved was shallower than that of the care home now proposed and the overall height of the building lower as a result. Whilst this permission expired in 2007, it was granted relatively recently and is considered to provide a reasonable indication in terms of parameters for a redevelopment of this site.
- 10.3 Whilst the care home would have accommodation over three storeys, the building would be predominantly two storey in its scale and design, with most of the rooms on the upper floor served by dormers, and three storey sections being restricted to intermittent gable features rather being than the dominant elements in the building's design as they are in the flats on Cherry Grove to the east. The eaves height of the proposed building would be 6.2m to the north elevation. Although the proposed building would be higher than the buildings immediately to the east of the site, the wider streetscene incorporates a greater variety of building heights and designs, including three storey flats further to the east as well as the two storey houses to the north and east. In this context, it is not considered that the proposed development is such that it would appear incongruous or unduly prominent by virtue of its height or scale.
- 10.4 The design of the proposed building includes features which are characteristic of others in the streetscene, including bay windows and forward-projecting gables, and materials which reflect those used on surrounding buildings. Whilst the building frontage facing onto Grove Lane would be almost 68m long, a variety of measures have been included in order to minimise the massing and presence of the building

within the streetscene, including design features such as gables, dormers and bay windows, the use of a varied palette of materials, including stone window features and the use of render at first floor level, and the setting back of the eastern section of the building further back into the site by around 3m. It is considered that the design and layout of the building would reflect the scale and character of surrounding development, and that the proposals take the opportunity to improve the character and quality of the streetscene and the wider area in this respect.

- 10.5 Woodhouse Ridge Action Group have raised a number of concerns regarding the proposals for landscaping and planting within and around the site. The site is adjacent to an area of open land and playing fields to the south, and any building proposed on the site would be visible from these areas, and also in wider views across the open land from the elevated land further away to the south west. Policy N24 of the UDP states that where development proposals abut open land, 'their assimilation into the landscape must be achieved as part of the scheme', and that if existing landscape features would not achieve this, a landscaped 'buffer' area will usually be required to deal positively with the transition between the built development and the adjacent open land.
- 10.6 The proposals as submitted include the provision of a 10m wide area of 'buffer' planting within the area of land immediately to the south of the proposed building, which is within the applicant's ownership, with the aim of screening the development from the playing fields/open land immediately to the south and the elevated ridge further away to the south east, and helping to assimilate the development into the landscape. This planting would be of a 'woodland' character, and incorporate a mix of 'understorey' planting to provide shorter term cover and screening, together with larger trees which will grow to maturity to provide screening in the longer term. The proposals include the retention of the TPO trees to the south of the site. Following discussions with the landscape officer regarding the design and scale of this planting and the nature of the species proposed, revised plans have been received which show an area of planting which the landscape officer has advised would be of an appropriate density and character to achieve an appropriate transition between the development and the rural land to the south, and it is considered that the proposals would comply with the requirements of policy N24 in this respect.
- 10.7 In response to the indicative landscaping proposals as originally submitted, concerns were raised by both the landscape officer and Woodhouse Ridge Action Group regarding the nature and character of some of the planting proposed within the site, which was considered to be inappropriate in its character in certain areas, or to be insufficiently large or dense to provide screening of parking areas for example. Following discussions with the landscape officer, revised indicative landscaping plans have now been submitted to include species which are now considered to be more appropriate to the purposes for which they are proposed, with denser species included around the parking areas and bin storage area to the front of the site and ornamental species confined more to the residents' amenity areas. The indicative details submitted are now considered to be appropriate in terms of both the character and appearance of the site and the aims of the site's inclusion within a designated Urban Green Corridor. Conditions are recommended requiring more specific details of individual species, planting densities, and the management and maintenance of the landscaping within and around the site. It is also recommended that details of the proposed terrace area to the rear of the building, which would be created over the roof of the proposed underground parking area, be submitted for approval by condition to ensure that this is appropriately laid out and that the construction of this area is sufficient to allow the establishment and continued survival of planting to this area.

10.8 In the light of the above, it is considered that the design and scale of the building, and the layout and character of the landscaping proposed would be acceptable, and that the proposed development would not appear as an incongruous or unduly prominent feature within the Grove Lane streetscene or within wider views of the site across the open land to the south. It is considered that the proposed development would improve the character and quality of this derelict site, and the proposals are considered to be acceptable in this respect.

Residential amenity

10.9 The concerns of neighbouring residents, particularly those on Cherry Grove to the east of the site, with regard to the size of the proposed building and the impact on their amenity in terms of overlooking, overshadowing and overdominance, are noted.

10.10 The nearest neighbouring properties to the site are those on Cherry Grove to the east. The alignment of the proposed building with Grove Lane to the north means that the eastern section of the building facing Cherry Grove would be situated at an angle in relation to the rear elevations of these neighbouring properties, with the rear sections of the proposed building stepped in further away from the common boundary. Neighbourhoods for Living recommends a separation distance of 7.5m between bedroom windows and site boundaries. At their closest point, the bedroom windows in the eastern elevation would be at least 9m from the eastern boundary at first floor level and 9.6m at second floor level, with other bedrooms being further away as the building steps away from the eastern boundary. According to the submitted plans, the proposed bedroom windows in the eastern elevation would all be over 20m from the rear elevations of properties on Cherry Grove. Whilst it is noted that the building would be slightly higher than the two storey properties to the east, and would incorporate rooms in the roofspace, it is considered on balance, in view of the additional separation distances proposed, which are over 1.5m in excess of those recommended in Neighbourhoods for Living, and the angling of the building away from the boundary, which would go some way to preventing direct views into neighbouring properties, that it would be difficult to justify refusal of the application on the grounds of overlooking.

10.11 The closest windows to the eastern boundary of the site would be the lounge windows proposed at ground and first floor levels in the rear section of the building's eastern 'wing', which would be only 7.2m from the boundary at their closest point, which is less than the 10.5m recommended in Neighbourhoods for Living in relation to 'main' room windows. As these windows are secondary windows serving these lounges, rather than the primary sources of light and outlook, it is considered on balance that concerns regarding overlooking in this respect could be satisfactorily overcome by the use of appropriate boundary treatments at ground floor level and the use of obscure glazing in the first floor windows. Conditions to this effect are recommended as part of any permission.

10.12 The proposed building would be predominantly two storey in its design, and whilst it would have a greater roof height overall than the flats approved in 2007, the eaves height of this part of the building, at around 7m, would be similar to the previously approved building. The approved flats building was proposed to run almost parallel to the eastern boundary, at a distance of around 9.6m away on average. In addition, the height and massing of the building as approved would have remained relatively constant along this projection, with high vertical elements and flat-roofed dormer features projecting above the eaves into the roof. In comparison, it is considered that the orientation of the proposed care home building at an angle to the eastern

boundary, and its design and layout, with the rear sections stepped further away from the boundary and the roof height gradually stepped down, would serve to break up the scale and massing of the building. On balance, it is considered that in view of the predominantly two storey appearance and height of the building and its design, siting and orientation in relation to neighbouring properties to the east, it would not be of such a height or proximity to neighbouring dwellings as to constitute an overbearing or overdominant feature, and it is considered that any increase in overshadowing of neighbouring properties would be marginal and insufficient to justify refusal of the application on these grounds.

- 10.13 In terms of the relationship between the proposed building and other neighbouring properties to the north and west, it is considered in view of the height of the proposed building and the separation distances between the building and neighbouring dwellings, that any increase in overlooking or overshadowing would be marginal and insufficient to warrant refusal on these grounds.
- 10.14 It is considered that the design and siting of the proposed building is such that it would provide an appropriate level of outlook from all bedrooms and from communal lounge and dining areas. Two main outdoor amenity areas are proposed for residents, one to the rear of the building, where a landscaped terrace is proposed above the roof of the basement parking area, and a second in the western part of the site, where additional planting is proposed to provide screening of this area for use by residents. Ramps and paths are proposed between these two garden areas, together with numerous other paths throughout the site to provide access to amenity areas for future residents. It is considered that the layout of the scheme and the proposed amenity areas would ensure that future residents have access to a variety of outdoor spaces, and would provide an appropriate level of amenity in this respect.

Highways

- 10.15 Following the receipt of revised plans addressing a number of minor concerns in relation to the proposed internal layout of the site and the basement parking area, the highways officer has advised that they have no objections to the proposals, subject to conditions and the provision of off-site highway works, which would be addressed via a separate Section 278 Agreement. Subject to the recommended conditions therefore, it is considered that the proposals are acceptable in this respect and would not detract from highway safety.

Section 106 Agreement

- 10.16 The applicant has agreed to provide contributions of £21,189 towards public transport improvements and £10,000 towards the upgrading of the bus stop to the north of the site to provide a real-time information display. These matters, together with the submitted travel plan and monitoring fee (£2500) are to be covered by Section 106 Agreement.
- 10.17 In terms of the Section 106 Agreement, on 6 April 2010 guidance was issued stating that a planning obligation may only constitute a reason for granting planning permission for development if the obligation is:

(i) necessary to make the development acceptable in planning terms

Planning obligations should be used to make acceptable development which would otherwise be unacceptable in planning terms.

(ii) directly related to the development; and

Planning obligations should be so directly related to proposed developments that the development ought not to be permitted without them. There should be

a functional or geographical link between the development and the item being provided as part of the agreement.

(iii) fairly and reasonably related in scale and kind to the development

Planning obligations should be fairly and reasonably related in scale and kind to the proposed development.

- 10.20 According to the draft guidance issued for consultation in March 2010, unacceptable development should not be permitted because of benefits or inducements offered by a developer which are not necessary to make development acceptable in planning terms. The planning obligations offered by the developer relate to the provision of contributions towards public transport improvements, a travel plan and monitoring fee and the upgrading of a bus stop adjacent to the site.
- 10.21 Officers are of the view that its provision is necessary to make the development acceptable in planning terms. The public transport improvements and travel plan requirements have been calculated and provided in accordance with the Council's *Travel Plans* and *Public Transport Improvements and Developer Contributions* SPDs, and it is considered that the nature and scale of the development proposed is such that the requirement for the upgrading of the bus stop to the north of the site is fairly and reasonably related to the development in accordance with UDP policies encouraging sustainable travel and improved access for pedestrians. The proposed obligations are physically and functionally related to the development site and the level of provision offered is considered to be fairly and reasonably related to the proposed development.
- 10.22 Woodhouse Ridge Action Group have requested that a legal agreement be submitted to cover the laying out of the open space to the south of the site as public greenspace, including the provision of woodland planting, wildflower meadow and paths through the site. The Council's UDP policies and SPG guidance in relation to the provision of Greenspace refer only to the requirement for such provision as part of residential schemes of 10 dwellings or more (C3 use class), whereas the proposed development is for a care home on the site (C2 use class). Whilst it is noted that the land to the south of the site is designated as proposed public greenspace in the UDP, it is not considered that there is any policy justification for the requirement of greenspace provision as part of the development, and such a requirement would therefore not meet the tests for planning obligations set out above and has not been requested in this instance.

Other matters

- 10.23 Concerns regarding the impact of the proposed development on drainage are noted. Neither Yorkshire Water nor the Council's Flood Risk Management section have raised any objections to the proposals on this basis, therefore it is not considered that refusal of the application on these grounds could be justified.
- 10.24 In response to concerns that the submitted site plan included part of a neighbouring site, the plans have been revised to exclude this land. The location plan has also been updated to include the land to the south, which is also within the applicant's ownership, within a blue line boundary, in response to concerns raised by local residents.
- 10.25 Concerns have been raised that the development of this site could lead to pressure for the open land to the south to be developed in the future. With the exception of the proposed 'buffer' planting outside the southern boundary of the site to provide screening of the development, no works are proposed to this land to the south as

part of this application. Any application for proposals to develop the land to the south would need to be considered on its own merits and in the light of relevant planning policy, guidance and other material planning considerations. At present the land to the south is identified in the UDP as a potential site for greenspace provision, therefore regard would need to be had to this designation in the event that an application for the development of this site were to be submitted.

- 10.26 Concerns regarding the impact of the proposed development on property values are not material planning considerations and cannot be given any weight in the determination of this application.

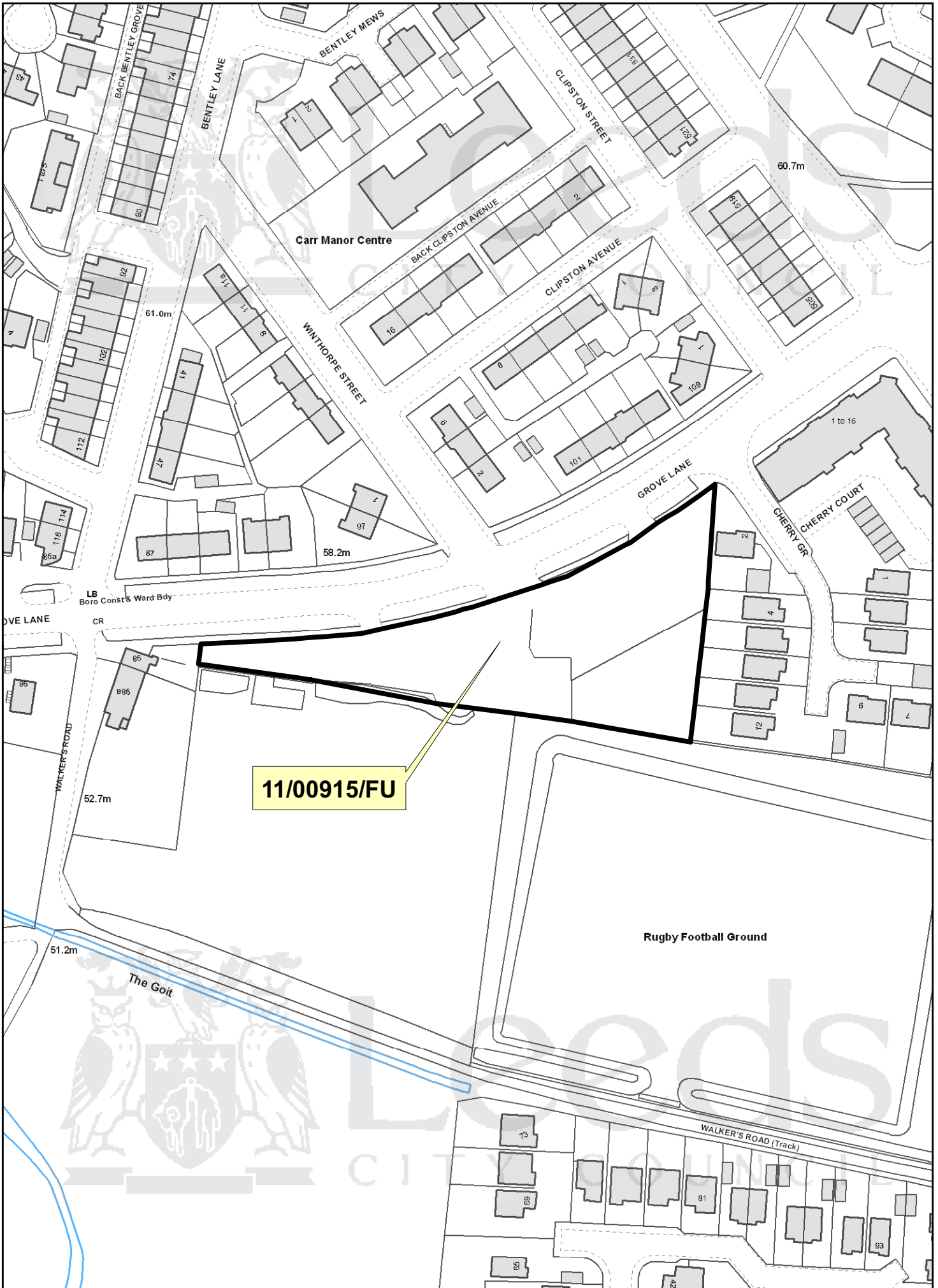
11.0 CONCLUSION

- 11.1 It is considered that the proposals would provide a well-designed development which would reflect the scale and design of surrounding properties and would take the opportunity to improve the character and quality of the area. It is considered on balance that the scheme would not detract from the amenities of neighbouring residents or from highway safety in the locality, and it is considered that the proposals would provide an appropriate level of outlook and amenity for future residents. The scheme would provide contributions towards public transport improvements in the local area, and the upgrading of a bus stop to the north of the site, and would include a travel plan and provision for its monitoring and evaluation, in accordance with Council policy and guidance. The proposed development is therefore considered to comply with relevant policies in the Leeds UDP, together with local and national planning guidance, and it is therefore recommended that the application be approved, subject to the conditions set out above.

Background Papers:

Application file and history files 07/03240/FU.

Certificate of Ownership: Signed on behalf of applicant.



11/00915/FU

EAST PLANS PANEL



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Originator: Martha Hughes

Tel: 0113 222 4444

Report of the Chief Planning Officer

PLANS PANEL EAST

Date: 19 May 2011

Subject: APPLICATION 11/01102/FU Change of use and alterations from former Internet cafe to pizza takeaway with restaurant facilities (A3/A5 usage) at 209 Dewsbury Road, LS11

APPLICANT

Mr A Shabani

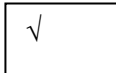
DATE VALID

17 March 2011

TARGET DATE

12 May 2011

Electoral Wards Affected:



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

1. Standard time limit (3 years)
2. Development in accordance with approved plans
3. Details of sound insulation to first floor flat to be submitted
4. Hours of opening 08:00 – 22.00 Monday to Saturday, 10.30 to 22.00 Sundays and Bank Holidays.
5. Hours of delivery 07.00 to 22.00 Monday to Saturday with no deliveries on Sundays or Bank Holidays.
6. The rear entrance/ exit and yard area shall not be used between the hours of 21.00 – 07.00 and all rear doors and windows at the ground floor of the premises shall be kept closed shut after 21.00 – 07.00. In the interests of residential amenity.
7. Extract ventilation to be taken through existing chimney
8. A scheme of odour control measures relating specifically to the food to be prepared and sold at/ from the premises shall be submitted to the Local Planning Authority and approved in writing prior to the operation of the use hereby approved. The odour control measures shall then be installed in accordance with the approved details prior to the commencement of the approved use and shall be maintained as such for the

lifetime of the use. The scheme shall be prepared in accordance with the approved details and shall be maintained as such for the lifetime of the use. The scheme shall be prepared in accordance with Defra Guidance; Guidance on the Control of Odour and Noise from Commercial Kitchen Exhaust Systems. Should the food to be prepared and sold from the premises alter, the scheme for odour control shall be updated accordingly and then implemented prior to the additional food preparation taking place and retained in place in accordance with the revised details for the lifetime of the use.

9. Submission of details of any mechanical ventilation or air conditioning units
10. Submission of details of sound insulation of plant and machinery (including extraction systems, fans, ducts, air conditioning units.)
11. Provision of grease trap

Reason for approval;

The application is considered to comply with policies S2, SF8, SF15 and GP5 of the UDP Review, and having regard to all other material and subject to conditions to protect residential amenity is considered acceptable.

1.0 INTRODUCTION:

- 1.1 This application is brought to Plans Panel at the request of Councillor Iqbal due to concerns regarding residential amenity.

2.0 PROPOSAL:

- 2.1 The application proposes a change of use at the ground floor of the premises from an internet café (A1 use) to a restaurant and hot food take away (A3/A5 use). The proposed floor plans show a café area to the front of the premises with a counter and kitchen behind. There is a basement at the premises which is proposed to be used as a store area.
- 2.2 Details submitted with the application propose that the ventilation would be taken through the existing chimney to ventilate the cooking area.
- 2.3 The proposed hours of opening are 08.00 to 23.00 Monday to Saturday and 10.30 to 23.00 Sundays.

3.0 SITE AND SURROUNDINGS:

- 3.1 The site is an existing vacant shop (formerly an internet café) with first floor flat above located within Dewsbury Road town centre. The property is identified as part of the secondary frontage of the town centre on the UDP proposals map.
- 3.2 The property is located close to the junction of Dewsbury Road with Tunstall Road and is to the south of the existing BP Petrol Filling Station on Dewsbury Road. The ground floor shop has a floorspace of 85 square metres.
- 3.3 The property backs onto Back Burton Terrace. Burton Terrace is a residential street of terraced properties with small gardens facing Back Burton Terrace. The first floor flat above the premise is laid out with a living room and dining room above the proposed take away and restaurant, with bedrooms at second floor.

4.0 RELEVANT PLANNING HISTORY:

4.1 None relevant

5.0 HISTORY OF NEGOTIATIONS:

5.1 Officer Pre Application advice that principle of proposed change of use is not considered to conflict with policies S8 or SF15 but impact to residential amenity must be taken into consideration.

6.0 PUBLIC/LOCAL RESPONSE:

6.1 The application was advertised by way of site notices posted on 31 March 2011 and the publicity period expired on 21 April 2011.

6.2 4 Letters of objection have been received from residents on Burton Terrace raising the following objections;

(i) The shopfront will encourage cars to park on Dewsbury Road very close to a the BP service station where there are already many accidents at the entrance and exit of the forecourt and this will worsen the situation.

(ii) If cars do not park on Dewsbury Road then they will park on Back Burton Terrace which is a cul-de-sac less than 6m wide and would hinder access for residents and emergency vehicles.

(iii) It is not unreasonable to assume that existing parking restrictions will continue to be flouted as they are at present.

(iv) Inconsiderate parking already takes place on Back of Burton Terrace due to inadequate parking for existing businesses on Dewsbury Road, which makes access difficult for elderly residents and people with children's buggies as this is the only step free access to properties on Back Burton Terrace. .

(v) A similar proposal was refused at 215 Dewsbury Road on highway grounds

(vi) Concerns are expressed regarding increased foot traffic past Back Burton Terrace as residents have in the past had problems with people using the cul-de-sac and adjacent gardens as a public convenience and an increase in foot traffic would worsen the problem.

(vii) Potential noise problems from patrons of the proposed use would disturb the quiet enjoyment of the residential properties.

(viii) Concerns regarding odours from cooking and from waste just 6m away would prevent the objector from enjoying their garden or having windows open in the summer.

(ix) Noise from the kitchen area of the proposed unit would be detrimental

(x) Potential for vermin to be attracted by the food stuffs in bins on a residential street. Rats have been seen in the area and there are fears that unchecked food waste stored improperly could lead to vermin. Streetscene services problems are only addressed when prompted by residents.

(xi) There are more than sufficient takeaway restaurants in the area

(xii) Already problems with discarded takeaway cartons and packaging in the street and gardens and another take away would be intolerable.

(xiii) Existing problems of fly-tipping and inappropriate storage of waste from existing businesses as well as theft and unauthorised use of non commercial bins. Residents have to take great care in getting rid of litter and maintain a pleasant environment and the business proposed would stretch residents ability to do this.

- (xiv) Anything that would encroach further into the already not quite private space and make it unsafe for the children could only be a bad thing. Residents should be allowed the safe enjoyment of what small gardens they have.
- (xv) loss of property value

7.0 CONSULTATIONS RESPONSES:

Highways

- 7.1 The site is accessible via alternative modes of transport. Deliveries will be similar to the existing use and therefore no concerns are raised. A takeaway restaurant may have the potential to attract more frequent short stay visitors by car. However the area adjacent to the proposed unit is heavily protected by Traffic Regulation Orders. No highway objections are raised.
- 7.2 Letters of objection have referred to a refused application for a hot food take away at 215 Dewsbury Road in 1999 on the grounds that the use could lead to increases in on street parking. However, since this refusal Highways advise that highway objections relating to uses which may attract or encourage parking on lengths of highway already controlled by Traffic Regulation Orders have not been substantiated for some time in light of numerous appeal decisions where Inspectors found that Local Authorities should enforce the parking restrictions if parking problems became apparent. Legal advice has been sought on this matter in the past and the advice is that an application should not be refused on highway grounds where there is a separate power (contained within the Traffic Management Act 2004) to deal with parking in restricted areas through the issue of Parking Contravention Notices (PCN's).
- 7.3 Objections have also referred to accidents at the entrance and exit to the adjacent Petrol Filling Station forecourt which the proposed use would worsen. Highways have looked at the accident record and note that a large number of accidents relate to cars leaving the forecourt and then slowing to turn into Linden Road opposite. Based on the accident history record and the legal advice that parking restrictions should be enforced to control any on street parking problems Highway advice is that it is difficult to substantiate that the proposed use would increase the likelihood of accidents occurring.

Environmental Health

- 7.4 There are residential properties to the rear of the site and above the proposed development. Potential exists for noise and odour from activities associated with the takeaway to disturb the occupants of nearby residential premises, including those living on Back Burton Terrace and above the premises, from comings and goings of customers to the premises especially in the late evenings. Conditions would minimise some of the potential disturbance however complaints may still result as noise from patrons on street would be uncontrollable.
- 7.5 Conditions required to ensure that the noise levels from plant and machinery are 10 dBA below background noise levels. The discharge of extracted air through the chimney should ideally be 1m above ridge height of the roof, or not less than 1m above the roof eaves. The design and access statement states that the premises will be used for the preparation of hot toasted sandwiches, panini's and pizzas and if this is the case then the odour from the premises should be moderate. As the existing chimney which the extract ventilation is to be taken through is some 0.5m above the ridge height of the premises and the nearby dormer window, it is not anticipated that this will lead to odour problems. Additional measures such as the

use of carbon filters could help mitigate any additional odours if the application premises were to start cooking anything deep fried like burgers, chicken or preparing food such as curries. Guidance about odour can be found in the Defra guidance; Guidance on the control of odour and noise from commercial kitchen exhaust systems.

Licensing

- 7.6 The applicant is not proposing hot food sales or deliveries after 23.00 therefore a Premises License is not required.

8.0 PLANNING POLICIES:

- 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 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.

GP5: General criteria for development.

T2: Highway considerations

S2: Vitality and viability of Town Centre's

SF8: Secondary Shopping Frontages

SF15: Hot Food Take Away's

9.0 MAIN ISSUES

1. Principle of proposed change of use
2. Highway considerations
3. Impact to residential and visual amenity
4. Conclusion

10.0 APPRAISAL

1. Principle of proposed change of use

- 10.1 The proposed change of use relates to an existing shop unit within a secondary frontage of Dewsbury Road town centre. Policy SF8 advises that within secondary shopping frontages, proposals for change of use of retail at ground floor level to non retail within use class A3 (which formerly included both restaurant and hot food take away uses) will be determined on their own merits.
- 10.2 The supporting text then advises that the aim of the Secondary Frontage Policy is to safeguard the overall retailing character of shopping centres, whilst recognising that non retail and specialist uses do provide a service, and should be made available to the public as a secondary element of a shopping centre.
- 10.3 The secondary frontage which the application premises forms part of is 207 to 215 Dewsbury Road. The current uses within this frontage comprise a travel agents (A2 use) which appears to be closed, a cash converters shop (A1), food shop (A1) and a recruitment office (A2) together with the application premises a vacant internet café (A1).
- 10.4 The proposal would therefore introduce an A3/ A5 use to this frontage, and two A1 uses would still be present together with two A2 uses. The premises is vacant at

present and therefore the proposal will bring the premises back into use. The vacant A2 use at 207 (travel agents) could be converted back to an A1 use without the need for planning permission.

- 10.5 It is therefore considered that the change of use of the premises to A3/A5 at ground floor use will not harm the retailing function of the centre and the principle of the proposed change of use does not conflict with policy SF8 of the UDP. Therefore the acceptability of the change of use should be considered against policy SF15 in terms of planning considerations for hot food Take Aways.

2. Highway considerations

- 10.6 Policy SF15 advises amongst other criteria that hot food Take Aways will not normally be acceptable unless they can meet all highway and road safety requirements.
- 10.7 Highway Officers have advised that there are no objections on highway safety to the proposed change of use. However objections have been received relating to highway safety concerns, regarding increases in on street parking on Dewsbury Road and Back of Burton Terrace leading to problems for residents as well as potential to increase the number of accidents due to the proximity to access to BP petrol filling station (PFS) where there accidents have already occurred.
- 10.8 Highway Officers comments on these issues are set out above in section 7 of the report. It is recognised that a takeaway restaurant may have the potential to attract more frequent short stay visitors by car however Highways advise that the area adjacent to the application premises is heavily protected by Traffic Regulation Orders and legal advice is that this restriction should be enforced to maintain highway safety if problems are apparent. The refusal of a hot food take away at 215 Dewsbury Road in 1999 has been considered, however appeal decisions in recent years maintain that on street parking concerns where traffic regulation orders are in place should be enforced.
- 10.9 In relation to the accident record on Dewsbury Road at the entrance/ exit to the BP PFS, Highway Officers do not consider that the proposed use is likely to lead to an increase in accidents and that the accident history record relates to problems with vehicles leaving the PFS and slowing to turn into Linden Road off Dewsbury Road.
- 10.10 Concerns have been raised that cars would park on Back Burton Terrace therefore restricting access for residents. It is considered that Back Burton Terrace as a cul-de-sac is not convenient for patrons of the take away to park in as access out of the terrace is so restricted and would require vehicles to reverse out onto Tunstall Road a busy main road. There is a public car park on the opposite side of Tunstall Road adjacent to the community centre which would be more convenient. On balance it is therefore not considered that Back Burton Terrace would see a particular increase in comings and goings of vehicles which would justify refusal of the application due to the restricted access arrangements which would be likely to deter customers from parking here.
- 10.11 The premises are an existing commercial use and although vacant at present could be reoccupied and deliveries are expected to be similar to the existing permitted use. Highways Officers have not raised any objections to the proposed change of use and it is not considered that there are grounds for refusing the proposed change of use on highway safety matters.

3. Impact to residential and visual amenity

- 10.12 Policy SF15 advises that proposals for hot food Take Aways will not normally be acceptable unless they are not likely to raise concerns for residents by way of visual intrusion and fumes, cooking smells, litter and food spillage, operation at unsocial hours, congregating of customers, parking and vehicle movements and noise.
- 10.13 The representations received from residents on Burton Terrace have raised concerns regarding increased foot traffic past Back Burton Terrace, potential noise problems from patrons of the take away, odours from cooking and from waste, potential for the use to attract vermin and litter.
- 10.14 In terms of noise nuisance, it is recognised by the Environmental Health Officer that there is potential for disturbance, however subject to conditions to ensure that the noise levels from plant and machinery are 10 dBA below background noise levels and it is expected that the noise level of the proposed system would be able to comply with, there are no objections from Environmental Health. Further conditions are recommended to control noise from the premises, and it is recommended that a condition restricts the use of the rear access/ entrance and yard after 9pm and that all windows and doors are closed after 9pm.
- 10.15 The hours of opening are recommended to be until 22.00 which is earlier than the standard hours suggested under policy SF15.
- 10.16 In terms of potential odours associated with cooking at the premises. the applicant proposes that the premises will be used for the sale of cold and hot sandwiches and paninis and pizzas. On this basis the applicant does not consider that deep frying of food will occur which would be more likely to result in odours. The applicant proposes to install a single stage filtration system which will have a noise level of 44dba at 3m from the fan and the extraction rate will be of a light loading up to 0.25m/s.
- 10.17 Given that there is potential for the food preparation to alter once planning permission is granted, it is considered that a condition can be imposed to ensure that an appropriate scheme for odour control relating to the food to be prepared at the premises is provided to ensure that odour nuisances do not occur (Condition 8 as set out at the start of this report).
- 10.18 Environmental Health advise that the discharge of extracted air through the chimney should ideally be 1m above ridge height of the roof, or not less than 1m above the roof eaves this will therefore dissipate any odours away from open windows of nearby properties. The existing chimney projects 0.5m above the ridge height, and whilst this is not the full 1m which is preferable, it is almost 1m above the height of the closest dormer window at No. 32 Burton Terrace and the recommended condition regarding odour control should ensure that adequate filters are provided if the type of food to be prepared expands beyond Panini's and pizza's. It is considered that the proposed arrangements through the existing chimney maintain visual amenity to the rear of the property and avoid unsightly external flues or awkward projections above the ridge of the roof height.
- 10.19 In relation to potential increases in litter associated with the proposed use, there is an existing litter bin on Dewsbury Road in front of No. 207 therefore although residents concerns are noted regarding increased litter, there is on street provision for disposal of litter. In relation to concerns regarding the storage of waste from the business and concerns regarding attracting vermin, the premises has a small yard area to the rear accessed from Back Burton Terrace which is bounded by a 1m brick boundary wall with railings above and an access gate. It is considered that this

area will provide a suitably enclosed area for bin storage as it would for the existing commercial use. The applicant has advised that the bins would be collected/emptied by way of a private contractor using an 1100 litre bin collected weekly initially and increasing should this capacity be exceeded.

- 10.20 Objections have also been received relating to footfall and increases comings and goings past Back Burton Terrace. It has to be appreciated that this site lies within a designated town centre and as such a certain level of activity has to be expected. The entrance to the premises is located on Dewsbury Road away from Back Burton Terrace and the direction which customers take after visiting the take away/restaurant could be a number of routes. The use will operate into the evening, however a certain level of evening activity would occur in the town centre anyway and it is not considered that increases in activity associated with the proposed use would be so significant to be harmful to residential amenity of residents of Burton Terrace. Nevertheless, an earlier restriction to opening hours than requested by the applicant is recommended until 10pm only.
- 10.21 In terms of amenity to the first floor flat above the premises, the applicant advises that they will occupy the flat and environmental health are content with this arrangement, however it is not considered that it could be controlled via condition that only the owner can live in the flat as this would be unreasonable. Therefore it is recommended that a sound insulation scheme be submitted to ensure that noise from the restaurant/ take away use below does not result in noise and disturbance to the first floor flat.
- 10.22 There are residential properties on the opposite side of Dewsbury Road (No's 228 - 244) however these properties are some 23m away from the application site and face onto a busy main road. It is not considered that any associated activity from the proposed use would result in a loss of residential amenity to these properties.
- 10.23 Other comments raised in objection letters relate to loss of property value, however this is not a planning matter. Objections also refer to there being sufficient take aways within Dewbsury Road town centre already, however in general this is a matter of competition and as set out at the start of the appraisal it is not considered that the proposed A3/A5 use will threaten the retail function of the town centre.
- 10.24 Subject to the conditions recommended at the start of this report, it is considered that the proposed use would not conflict with the requirements of policy SF15 and that on balance the proposed use within the secondary frontage of a town centre is considered to be acceptable in terms of the relationship to nearby residential properties.

11.0 4. CONCLUSION

- 11.01 The site is located within a designated S2 centre. The entrance to the site faces onto the main road of Dewsbury Road and the associated activity would generally relate to this frontage. The principle of the proposed change of use is not considered to harm the retail function of this secondary frontage but will bring back into use a vacant unit.
- 11.02 The relationship to residential properties at the rear of the site have been considered in detail in terms of potential noise disturbance, visual amenity concerns and any associated litter or odours relating to the proposed use. On balance it is considered that the concerns can be mitigated against by way of conditions as set

out at the start of the report, and that any increases in activity will not be so significant to unduly harm residential amenity give the location of the site within an S2 centre.

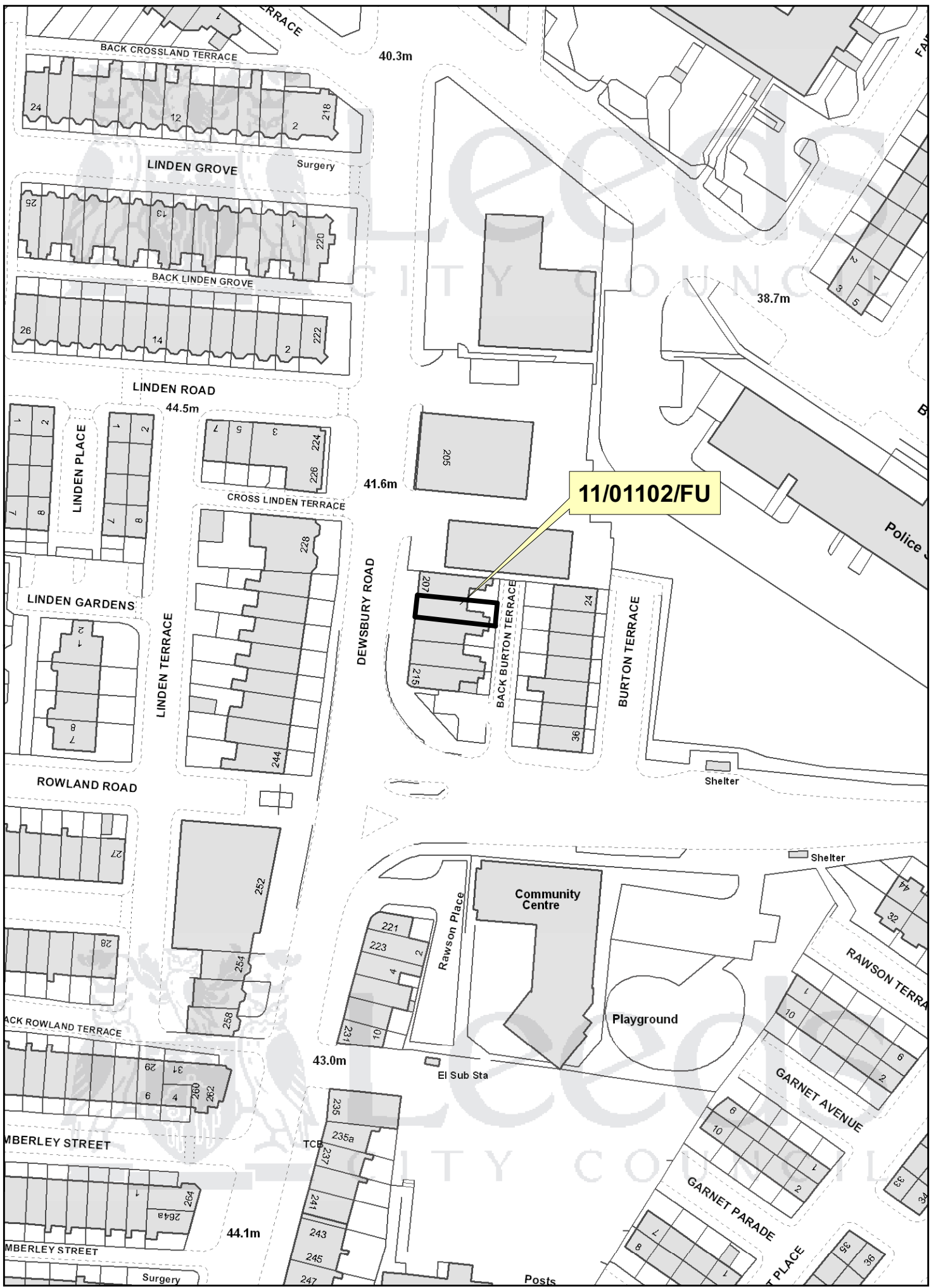
11.03 There are no highway concerns regarding the proposal given the existing TRO's which can be enforced to restrict any unsafe parking and the availability of a public car park close by on Tunstall Road.

11.04 The application is recommended for approval subject to the condition set out at the start of this report.

Background Papers:

Application file: 11/01102/FU.

Certificate of Ownership; Certificate A signed on behalf of applicant.



11/01102/FU

EAST PLANS PANEL

