



NORTH AND EAST PLANS PANEL

Meeting to be held in Civic Hall, Leeds on
Thursday, 7th June, 2018
at 1.30 pm

MEMBERSHIP

Councillors

S Arif
R Grahame
Jenkins
E Nash
K Ritchie
N Walshaw
(Chair)
Wenham

D Collins
Seary
G Wilkinson

M Dobson

Agenda compiled by:
Debbie Oldham
Governance Services
Civic Hall
Tel: 0113 3788656

A G E N D A

Item No	Ward	Item Not Open		Page No
1			<p>SITE VISIT LETTER</p> <p>APPEALS AGAINST REFUSAL OF INSPECTION OF DOCUMENTS</p> <p>To consider any appeals in accordance with Procedure Rule 15.2 of the Access to Information Rules (in the event of an Appeal the press and public will be excluded)</p> <p>(*In accordance with Procedure Rule 15.2, written notice of an appeal must be received by the Head of Governance Services 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 the following 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, as follows:-</p>	

Item No	Ward	Item Not Open		Page No
3			<p>LATE ITEMS</p> <p>To identify items which have been admitted to the agenda by the Chair for consideration</p> <p>(The special circumstances shall be specified in the minutes)</p>	
4			<p>DECLARATIONS OF DISCLOSABLE PECUNIARY INTERESTS</p> <p>To disclose or draw attention to any disclosable pecuniary interests for the purposes of Section 31 of the Localism Act 2011 and paragraphs 13-16 of the Members' Code of Conduct.</p>	
5			<p>APOLOGIES FOR ABSENCE</p>	
6			<p>MINUTES - 26TH APRIL 2018</p> <p>To confirm as a correct record the minutes of the meeting held on 26th April 2018.</p>	3 - 12
7	Cross Gates and Whinmoor		<p>16/05185/FU - APPEAL SUMMARY CHANGE OF USE OF GROUND FLOOR FROM DOCTORS SURGERY/PHARMACY TO PUBLIC BAR, TWO STOREY REAR EXTENSION; BEER GARDEN AREA; EXTERNAL ALTERATIONS INCLUDING NEW DOORS AND WINDOWS, CONDENSER AND EXTRACTION EQUIPMENT TO ROOF; NEW FENCING AND PARKING TO REAR 39 AUSTHORPE ROAD CROSS GATES LEEDS LS15 8BA</p> <p>The Report of the Chief Planning Officer advises Members of an appeal summary in relation to change of use of ground floor from doctors surgery/ pharmacy to public bar, two storey rear extension; beer garden area; external alterations including new doors and windows, condenser and extraction equipment to roof,; new fencing and parking to rear at 39 Austhorpe Road, Crossgates, Leeds, LS15 8BA.</p> <p>(Report attached)</p>	13 - 30

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8	Harewood		<p>18/01447/FU TWO DETACHED HOUSES LAND OPPOSITE 6 TO 10 CHURCH DRIVE EAST KESWICK LEEDS</p> <p>The report of the Chief Planning Officer requests Members to consider an application for two detached houses on land opposite 6 to 10 Church Drive, East Keswick, Leeds.</p> <p>(Report attached)</p>	31 - 44
9	Cross Gates and Whinmoor		<p>17/06469/FU CHANGE OF USE OF FORMER RESIDENTIAL CARE HOME TO FORM 12 BED HOUSE IN MULTIPLE OCCUPATION MOUNT CARMEL 88 CHURCH LANE CROSS GATES LEEDS LS15 8JE</p> <p>The report of the Chief Planning Officer requests consideration on an application for change of use of former residential care home to form 12 bed house in multiple occupation at Mount Carmel, 88 Church Lane, Crossgates, Leeds, LS15 8JE</p> <p>(Report attached)</p>	45 - 60
10	Cross Gates and Whinmoor		<p>17/07114/RM RESERVED MATTERS APPLICATION FOR CONSTRUCTION OF 18 FLATS AND ASSOCIATED CAR PARKING FORMER SITE OF STANKS FIRE STATION SHERBURN ROAD SWARCLIFFE LEEDS LS14 5DW</p> <p>The report of the Chief Planning Officer advises Members of a reserved matters application for construction of 18 flats and associated car parking on former site of Stanks Fire Station, Sherburn Road, Swarcliffe, Leeds, LS14 5DW.</p> <p>(Report attached)</p>	61 - 72

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11	Garforth and Swillington		<p>18/01519/FU TWO STOREY REAR EXTENSION 43 NEW STURTON LANE GARFORTH LEEDS LS25 2NW</p> <p>The report of the Chief Planning Officer advises the Panel of an application for a two storey rear extension at 43 New Sturton Lane, Garforth, Leeds, LS25 2NW.</p> <p>(Report attached)</p>	73 - 80
12			<p>DATE AND TIME OF NEXT MEETING</p> <p>The next meeting of North and East Plans Panel will be held on Thursday 5th July 2018, at 1:30pm.</p>	

Third Party Recording

Recording of this meeting is allowed to enable those not present to see or hear the proceedings either as they take place (or later) and to enable the reporting of those proceedings. A copy of the recording protocol is available from the contacts named on the front of this agenda.

Use of Recordings by Third Parties– code of practice

- a) Any published recording should be accompanied by a statement of when and where the recording was made, the context of the discussion that took place, and a clear identification of the main speakers and their role or title.
- b) Those making recordings must not edit the recording in a way that could lead to misinterpretation or misrepresentation of the proceedings or comments made by attendees. In particular there should be no internal editing of published extracts; recordings may start at any point and end at any point but the material between those points must be complete.

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To all Members of North and East
Plans Panel

Planning Services

The Leonardo Building
2 Rossington Street
Leeds
LS2 8HD

Contact: David Newbury
Tel: 0113 37 87990
david.m.newbury@leeds.gov.uk

Our reference: NE Site Visits
Date: 29th May 2018

Dear Councillor

SITE VISITS – NORTH AND EAST PLANS PANEL – THURSDAY 7th June 2018

Prior to the meeting of the North and East Plans Panel on Thursday 7th June 2018 the following site visits will take place:

Time	Ward	
9.45am		Depart Civic Hall
10.00 - 10.10am	Crossgates & Whinmoor	17/07114/RM – Former Stanks Fire Station, Sherburn Road, Swarcliffe
10.15 - 10.25am	Crossgates & Whinmoor	17/06469/FU – Mount Carmel, 88 Church Lane, Cross Gates
10.40 - 10.55am	Garforth & Swillington	18/01519/FU – 43 New Sturton Lane, Garforth
11.25 - 11.35am	Harewood	18/01447/FU – Land opp. 6 to 10 Church Drive
12.00 (noon)		Return to Civic Hall

For those Members requiring transport, a minibus will leave the Civic Hall at 9.45am. Please notify David Newbury (Tel: 37 87990) if you wish to take advantage of this and meet in the Ante Chamber at 9.40am. If you are making your own way to the site please let me know and we will arrange an appropriate meeting point.

Yours sincerely

David Newbury
Group Manager

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NORTH AND EAST PLANS PANEL

THURSDAY, 26TH APRIL, 2018

PRESENT: Councillor N Walshaw in the Chair

Councillors B Cleasby, R Grahame,
S Hamilton, S McKenna, E Nash, J Procter,
K Ritchie, B Selby, P Wadsworth and
G Wilkinson

121 Appeals Against Refusal of Inspection of Documents

There were no appeals against refusal of inspection of documents.

122 Exempt Information - Possible Exclusion of the Press and Public

There were no exempt items.

123 Late Items

There were no formal late items.

However, supplementary information had been circulated to Members prior to the meeting in relation to agenda item 9 – 17/00655/OT – Outline application for residential development of up to 140 dwellings, public open space, flood alleviation measures, landscaping, new access from A58 and pedestrian / cycle access from The Drive at land at Wetherby Road, Bardsey, Leeds.

124 Declarations of Disclosable Pecuniary Interests

No declarations of disclosable pecuniary interests made.

However, declarations of other interest were made by the following Councillors:-

- Councillor John Procter informed the meeting that he lived in Bardsey. In relation to Item 7 – Outline application for residential development of up to 140 new homes, public open space, flood alleviation measures, landscaping, new access from 58 Wetherby Road and pedestrian/ cycle access from The Drive, and land at Wetherby Road Bardsey, Leeds LS17. He said that this would not affect his ability to consider the application with an open mind
- Councillor Ron Grahame informed the meeting that his wife Councillor Pauleen Grahame was the local ward member for Crossgates and Whinmoor in relation to Item 10 – Demolition of existing buildings and structures, ground remediation and earthworks for future site redevelopment radial Park Manston Lane, Manston, Leeds LS15 8ST.

He said that this would not affect his ability to consider the application with an open mind.

125 Apologies for Absence

Apologies for absence were received from Councillors M Harland. Councillor. B Selby attended the meeting as substitute for Councillor Harland.

It was noted that Councillor S McKenna had informed the Chair he would be arriving late.

126 Minutes of 22nd March 2018

RESOLVED – That the minutes of the meeting held on 22nd March 2018, be recorded as a correct record.

CHAIRS COMMENT

The Chair noted that the meeting would be the last for the following Members who were retiring from the Council:-

- Cllr. B Cleasby
- Cllr, S McKenna
- Cllr. J Procter
- Cllr. B Selby

127 17/00655/OT - OUTLINE APPLICATION FOR RESIDENTIAL DEVELOPMENT OF UP TO 140 NEW HOMES, PUBLIC OPEN SPACE, FLOOD ALLEVIATION MEASURES, LANDSCAPING, NEW ACCESS FROM A58 WETHERBY ROAD AND PEDESTRIAN/ CYCLE ACCESS FROM THE DRIVE LAND AT WETHERBY ROAD BARDSEY LEEDS LS17

The report of the Chief Planning Officer presented an outline application for residential development of up to 140 dwellings, public open space, flood alleviation measures, landscaping, new access from A58 and pedestrian/cycle access from The Drive at land at Wetherby Road, Bardsey, Leeds.

Members were informed the proposal was for a residential development of up to 140 dwellings on an area of land designated as Green Belt. The applicant's (the Bramham Park Estate and Sandby (Bardsey) Ltd) case was based upon very special circumstances which relate to the refurbishment and restoration of a number of important heritage assets, including a significant number of Grade 1, Grade1* and Grade 2 listed buildings.

The Panel was advised of the following points:-

- Case put forward for special circumstances for the heritage benefits
- The site had been to Panel in November 2016 when Members had undertaken a site visit;
- The house and gardens were of local and national importance;
- There was a disrepair deficit of £10.7m.

- The Bramham Estate host a number of events including Bramham Horse Trials, Leeds Festival and has been used on a number of occasions for filming;
- All money generated through Capital receipts would be used for urgent repairs;
- The application is within the Green Belt
- Application site is not within the Site Allocation Plan (SAP)
- Site located between The Drive and First Avenue
- Lower part of the site is located within flood risk land
- Located within the conservation area of East Keswick and Bardsey cum Rigton;
- Application had been submitted in outline with all matters reserved apart from access;
- 35% of the 140 proposed dwellings would be affordable housing;
- Section 106 agreement would provide 100% of the proceeds from the development would be used for the refurbishment of the heritage sites of the house and garden on the Bramham Estate;
- An independent viability assessment had been provided which agreed with the conclusions of the officers;
- 509 letters of objection had been received;
- Speed limit signs on the A58 would be relocated as part of the access proposals; and
- The Biggin a house located on the site was capable of conversion to flats. It was noted to be economically viable and that if money was input to this it could generate an income in its own right for the longevity of the estate.

Members were shown photographs and plans throughout the presentation.

Members were reminded of paragraph 14 of the NPPF which was read out at the meeting and set at paragraph 10.7 of the submitted report.

Members were further advised of the following:-

- The three reasons for refusal;
- Correction to paragraph 10.155 bullet point V: The harm ascribed to the issue of accessibility is 'significant' and not 'limited'.
- A late representation from a local resident who was unable to attend the meeting that supported the Bardsey Parish Council objection and that the development must not proceed.

Nick Lane-Fox, the applicant and Adam Key from Savills were in attendance at the meeting and informed the Plans Panel of the following points:

- 27 Grade 1 listed structures require repairs at a cost of £10.7m and this was rising;
- 100% of the proceeds from the development would go towards the repairs;
- The estate had no other assets to sell;
- They were offering public access to the park free of charge on 365 days of the year;

- The importance of the heritage locally and nationally of the house and gardens;
- That paragraph 10.35 of the submitted report in relation to heritage matters had not been followed up; and
- The application had taken 4 years to get to this point.

In response to Members comments and questions the following points were noted:-

- The proceeds from the development would only be used for urgent repairs and would not be towards the general up keep of the estate;
- There was currently a 10k circuit round the park which was open to the public. However the offer from the estate was to open the grounds which would be one and a half times the size of Roundhay to walk around free of charge to the public including free parking;
- Current access to the house was by appointment;
- Access would be restricted during the Horse Trials and the Leeds Festival due to the security and safety aspect; and
- The walled garden and 66 acres of the park where many of the structures were would also be open to the public for a charge of £4 per adult, £3 for senior citizens and concessions, and £2 for children.

Mr Fox-Lane said that the Bramham Estate was different to that of Harewood as the content of Harewood was more significant including a park landscaped by Capability Brown. Mr Fox-Lane said he was trying to keep the estate as an asset for the future in keeping what was special about Bramham Park with its 18 Century landscaped gardens.

In attendance at the meeting to speak for the recommendation was Mark Russell a Chartered Town Planner with Ethical Partnership on behalf of Bardsey Action Group, Bardsey Parish Council and Keswick Parish Council. Also in attendance were Peter Gilan, Tim Gittins and Chris Sidle to answer questions.

Members were informed of the following points:-

- Conflicts with Planning Policy and Neighbourhood Plan aspirations;
- Harmful to the Green Belt;
- Failure to prove very special circumstances;
- Failure to evidence alternative funding streams;
- Failure to follow Historic England's guidelines for repairs;
- Bardsey Neighbourhood Plan voted against this land being used for development and conflicts with community priorities as is located within Green Belt;
- Council Policy does not allow development on Green Belt;
- Full option assessment was absent so unable to demonstrate that all options had been explored and exhausted;
- Not demonstrated consideration of other revenue streams to generate income to fund repairs scheme;
- Nearby Stockeld Park had become a visitor attraction to help fund repairs and up-keep;

- The Neighbourhood Plan did not rule out development and a survey taken had identified the need for a small number of much smaller houses principally for elderly downsizers and young people as starter homes;
- The Neighbourhood Plan sets out a proposal for 55 properties within the settlement of Bardsey;
- No assessment had been carried out on noise in relation to the Leeds Festival;
- The two retail units described at paragraph 10.107 were a hairdressers which had been there a number of years and a convenience store which had been closed and had now been sold. It was not known what the retail unit was to become; and
- Currently people who live in the area travel to Collingham or further afield for shopping.

Members discussed:

- Policy of Green Belt
- Weight given to Neighbourhood Plan
- Special circumstances
- Accessibility
- Flooding issues

RESOLVED – To refuse the application for the reasons set out in the submitted report.

Cllr. S McKenna arrived at the meeting at 14:45 during the presentation of this item and therefore did not participate in this item.

128 16/06951/FU - DEMOLITION OF EXISTING BUILDINGS; CONSTRUCTION OF SIX APARTMENTS WITH ASSOCIATED ACCESS, LANDSCAPING AND CAR PARKING 7 WAKEFIELD ROAD GARFORTH LEEDS LS25 1AN

Further to minute number 105 the Panel considered a further report from the Chief Planning Officer on the demolition of existing buildings and construction of six apartments with associated access, landscaping and car parking at 7 Wakefield Road, Garforth.

At the 22nd February 2018 Plans Panel North and East meeting Members resolved to defer consideration of the application to seek amendments to the layout of the proposed flats so that they all accord with the emerging Minimum Space Standards (Policy H9 of the Core Strategy Selective Review, February 2018)

It was noted that Panel Members had been content with the principle of the development, the design of the development, parking provision and raised no objections to the drainage / flooding aspect of the proposal. It had been agreed at the meeting that the application should be brought back to the Panel for determination.

Draft minutes to be approved at the meeting
to be held on Date Not Specified

Members were advised of the amendments made to the proposal which were set out in the submitted report.

Members noted that the internal floorspaces of each of the proposed flats now complied with the emerging Minimum Space Standards. The increases to the internal space had resulted in an enlargement of the external dimensions of the building but, as proposed, the increases in these dimensions were not considered to have altered the previous assessments made in regard to the proposal's impact on visual amenity and residential amenity.

It was also noted that in response to Members comments at the previous meeting alterations had also been made to the siting of the bin storage and parking arrangements.

Councillor Mark Dobson attended the meeting and spoke against the recommendations for the following reasons:-

- Density of the site
- Close proximity to the busy junction
- Flood alleviation and impact on the nearby flood zone
- Impact on sewage in the area

Members noted that 15 and 7 of Cyprus Grove located to the rear of the proposed development flood regularly.

Members were advised that a condition had been proposed in relation to construction traffic and that conditions could be added in respect of the provision of permeable hardstanding and the provision of oil interceptors.

RESOLVED – To grant permission subject to the specified conditions set out within the officer report for Plans Panel North and East 22nd February 2018, Appendix 1 of the submitted report and subject to the addition of conditions in respect of the provision of permeable hardstanding and the provision of oil interceptors.

129 16/07871/FU - REPORT TO FOLLOW RESIDENTIAL DEVELOPMENT COMPRISING OF 27 NO. APARTMENTS AND 15NO. DWELLING HOUSES FORMER PUB RATHMELL ROAD HALTON LEEDS LS15 0NZ

Further to minute number 47 the Plans Panel considered a further report of the Chief Planning Officer of a planning application for a residential development comprising of 27 flats and 15 houses with parking and greenspace at the former public house site, Rathmell Road, Halton.

The proposal had previously been brought to Plans Panel on 14th September 2017. The application had been considered on the basis it would meet its full affordable housing and greenspace requirements and formal planning permission was granted on 30th November 2017 following completion of the S106 agreement.

Draft minutes to be approved at the meeting
to be held on Date Not Specified

Members were informed that since the permission was granted, it had come to light an error with the original Viability Appraisal was made which had significant implications in terms of the scheme's ability to reasonably deliver the S106 obligations as currently signed up to.

The Panel heard that the error relates to the failure to include the communal areas associated with the flat blocks.

It was noted there are 3 blocks of flats within the development so the original costs assessed were significantly below (by £389,536) what they should have been. In addition, further information had been obtained regarding the site preparation works which had pushed up the costs relative to the original estimates.

The submitted report outlined the revised viability case relating to the original permission and for Members to consider if they were willing to agree the proposed Deed of Variation to the original S106 agreement.

The Panel noted that the proposed Deed of Variation did not form part of a formal planning application so was not subject to publicity, Ward Members had been advised of the revised situation in January 2018, but had not offered any comments either in support or against the proposal. It was also noted that no neighbour representations had been received at the application stage.

The Panel were informed that the Viability Appraisal concluded the development would not generate sufficient profit to be able to deliver the Council's normal policy ask in respect of affordable housing and greenspace contributions.

Officers were of the opinion the proposed Deed of Variation could be supported as it would help delivery of the scheme which would promote a number of positive regeneration benefits.

Members discussed who was at fault and why and how the error had occurred.

Members were still of the view that the proposal to develop the site for housing was a good one. However, Members did not want to miss the opportunity to secure affordable housing in this location.

The Chair moved a proposal for higher density on the site that would allow for the site to be viable and policy compliant for affordable houses to be built.

The Plans Panel considered the proposal, at the conclusion of the discussions it was moved to defer consideration to allow for further negotiations in respect of an alternative scheme that provides for affordable housing.

RESOLVED – To defer for further negotiations to increase the density of the development to facilitate the provision of affordable housing and to report back to the next available meeting.

CHAIRS COMMENT

The Chair paid tribute to those Members of the Plans Panel who would be stepping down at the forthcoming elections on 3rd May 2018.

The Chair thanked Councillors Brian Cleasby, Stuart McKenna, John Procter and Brian Selby for their work and contributions on North and East Plans Panel.

Each of the Councillors stepping down gave a brief speech in relation to their time on Plans Panel and that they had learnt a lot and enjoyed the process.

The Chair wished them well for the future.

130 18/00778/FU - DEMOLITION OF EXISTING BUILDINGS AND STRUCTURES, GROUND REMEDIATION AND EARTHWORKS FOR FUTURE SITE REDEVELOPMENT RADIAL PARK MANSTON LANE MANSTON LEEDS LS15 8ST

The submitted report of the Chief Planning Officer set out an application for the demolition of existing buildings and structures, ground remediation and earthworks for future site redevelopment at, Radial Park, Manston Lane, Manston, LS15 8ST.

The land was an allocated phase 1 housing site (HG2-120) within emerging Site Allocations Plan and permission with an identified capacity of 450 units. It was expected that a planning application for residential development would be submitted in early summer.

Works to clear and remediate the site were previously granted planning permission in May 2016 (14/02521/FU) and this included the prior extraction of coal. Permission was granted, subject to conditions, including that no development take place until the Manston Lane Link Road (MLLR) had been constructed and was operational for public use.

It was noted that this was formally the Vickers Tank Site.

Photographs and plans were shown throughout the presentation.

Members were advised of the following points:-

- That the revised remediation strategy no longer proposed the prior extraction of coal and permission was now sought to commence the initial stages of the development demolition, site clearance, and initial earthworks prior to the opening of the MLLR.

- There would be some loss of trees across the site, however trees would remain along the railway line.
- 23 letters of objection had been received. The representations referred to the noise levels, dust levels, traffic, harm and impact on the area.
- Noise attenuation structures in the form of fencing were to be erected.
- MLLR was due to open in Autumn 2018.
- Traffic levels would be monitored prior to the opening and use of the MLLR. Safe-guards were to be adopted should the traffic levels rise above those predicted and work would be stopped.

Mr Eamon Judge was in attendance at the meeting and spoke against the recommendations.

Mr Judge spoke at length about the impact of additional traffic specifically HGV's on the local highway network in particular on the Crossgates town centre required for the removal of demolition material and the import of raw materials to allow the grouting. Mr Judge highlighted the fact that the previous permission had included a condition to prevent the commencement of works until the MLLR opened and that there was also a condition that vehicles over three tonnes should only enter or depart the site via the MLLR.

Phil Brook on behalf of the applicant and John Booth, Highways Consultant attended the meeting.

Mr Brook and Mr Booth reiterated the points set out in the submitted report on processes proposed to mitigate the impact on residents.

In response to Members questions it was noted that if permission was granted that mobilisation could start on the site towards the end of May 2018. Stage 3 which would include the grouting process would start mid-October 2018 when the MLLR is anticipated to be opened allowing traffic to enter and depart via the MLLR towards the East avoiding the sensitive routes in Crossgates.

Members were advised of Conditions 4 and 17 set out in the submitted report.

RESOLVED – To defer and delegate to the Chief Planning Officer for approval as set out in the submitted report.

131 Date of next meeting

It was noted that there were no plans for any further meetings of the North and East Plans Panel planned during the remainder of the current municipal year.

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Originator: David Jones

Tel: 0113 2224409

Report of the Chief Planning Officer

NORTH AND EAST PLANS PANEL

Date: 7th June 2018

Subject: 16/05185/FU - Appeal by JD Wetherspoon Plc against Leeds City Council's failure to determine a planning application for change of use of ground floor from Doctors surgery/Pharmacy to Public Bar, two storey rear extension; beer garden area; external alterations including new doors and windows, condenser and extraction equipment to roof; new fencing and parking to rear, 39 Austhorpe Road, Leeds, LS15 8BA.

The appeal was allowed and an application for full costs against the Council was also successful.

Electoral Wards Affected:

Cross Gates and Whinmoor

Yes

Ward Members advised

Specific Implications For:

Equality and Diversity

Community Cohesion

Narrowing the Gap

RECOMMENDATION:

Members are asked to note the following appeal and costs decisions.

1.0 BACKGROUND

- 1.1 The application was formally considered by Plans Panel on 17th August 2017 and was recommended for approval by officers. However, during consideration of the application at the August meeting, Panel Members were not content that the highway and noise considerations had been fully explored and deferred the application for officers to undertake further negotiations.
- 1.2 In view of the nature of the concerns Members expressed during the meeting which the applicant considered had been fully resolved after detailed decisions with officers, the applicant decided to appeal against non-determination.
- 1.3 Members were advised verbally of the non-determination appeal at the September meeting and a number stated their disappointment that such action had been taken, considering it to be somewhat premature. Notwithstanding this, Members did confirm

that officers were to contest the appeal on the grounds of highway safety relating to the access arrangements and also due to noise disturbance concerns.

- 1.4 As the appeal timetable allowed for more formal consideration of the grounds to contest the appeal, a further report was considered at the October meeting, where it was recommended that the following detailed reasons for contesting the appeal would be advanced:
1. The proposed development would by reason of its size and close proximity to residential and commercial properties result in a serious loss of amenity to nearby residents and the existing dental practice. The harm would arise from the operation of internal and external areas (the beer garden) and the resulting patron noise associated with its use. This harm to residential amenity and impacts on the existing dental practice outweighs the considerable weight afforded to the re-use and restoration of the building and the economic benefits of the proposed use. As such the proposal is contrary to Saved Unitary Development Plan (Review 2006) policy GP5 and guidance in the National Planning Policy Framework paragraph 17 detailing Core Principles which includes always seeking a good standard of amenity for all existing and future occupants of land and buildings.
 2. The Local Planning Authority considers the proposed loading and unloading arrangements for the site which seek to route movements from Austhorpe Road would cause pedestrian and vehicle conflict. Austhorpe Road is a busy and congested stretch of the highway network and the unloading point is in close proximity to a well-used bus shelter and junction of Church Lane. As a result of a combination of these factors the proposed development would be detrimental to highway safety and is contrary to Policy T2 of the Core Strategy, saved UDP Review policy GP5 and the general highway guidance as contained within the National Planning Policy Framework.
- 1.5 Panel resolved to note the report and agreed the suggested reasons to contest the appeal. It is these reasons upon which officers based its case.

2.0 ISSUES IDENTIFIED BY THE INSPECTOR

- 2.1 The main issues are the effect of the proposed development on: highway safety; and the living conditions of the occupiers of neighbouring residential properties with particular regard to noise and disturbance and upon the operation of the dental practice within the same building as the appeal site.

3.0 SUMMARY OF COMMENTS

Highway safety

- 3.1 The appeal site was previously in use partly as a doctors' surgery and partly as a pharmacy. The Council points out that the servicing requirements for a public house are different to the previous use as a doctors' surgery. However, the pharmacy would have required deliveries to take place, as would any other retail use to which the premises might alternatively be put. The former doctors' surgery and pharmacy have relocated elsewhere in Cross Gates and the Inspector considered therefore that the appropriate measure to assess the impact of deliveries is the alternative retail use to which the site could be put.

- 3.2 Any alternative retail use would require deliveries and the Inspector attached significant weight to the likely impact of alternative uses on deliveries to the premises and consider that the impact of proposed change of use would likely be neutral. The alternative would be for the premises to remain vacant unless another use that would not require significant deliveries could be identified. The Inspector did not have sufficient evidence to consider whether a dental practice use in the whole building would be viable. The Inspector concluded that an alternative use without requiring significant deliveries to be unlikely to materialise and attached limited weight.
- 3.3 Vehicles are already permitted to stop for unloading but the type of truck likely to be used for deliveries to the appeal site if used as proposed would be large and there is a potential to interfere with the use of the bus stop. However, the Council's Highways Department has identified road improvements that could be secured by condition that would make the impact on traffic conditions acceptable and would improve visibility at the junction between Austhorpe Road and Church Lane. Consequently, subject to the road improvements the Inspector considered the proposed development would be acceptable.

Living Conditions

- 3.4 The appeal site is in close proximity to the nearby residential areas and use of the site as a public bar will inevitably involve an element of noise and disturbance. Noise is likely to arise from customers' use of the beer garden, which the scheme proposes to address by the construction of a 3m high acoustic fence. The appellant has estimated that the beer garden would be used by 30 or so customers at peak times, of whom roughly one third might be talking at any one time. The Council has suggested that the beer garden could accommodate up to 67 customers and has questioned the estimate that only one third would be talking at any given moment. Clearly, not everyone would be talking together as conversation requires listening as well as speaking and as some customers would likely be part of groups rather than couples, an estimate that one-third of customers might be talking did not seem unreasonable to the Inspector.
- 3.5 Occupancy of the beer garden by 67 customers would be maximum capacity and is likely to occur infrequently, and be more common in warm, dry weather and at weekends and public holidays. While the figures given are clearly only estimates, an assessment based on an average number in the region of 30 or so customers is a reasonable representative figure from which to gauge likely noise at any given moment. However, even if the number of customers using the beer garden was at the maximum capacity level suggested by the Council it would not alter the Inspector's conclusions. Comments from interested parties about the noise assessment provided by the appellant were considered by the Inspector but there was no evidence that undermined the assessment's conclusions and the Inspector noted that the Council's Environmental Health Officer found the noise mitigation measures suggested acceptable.
- 3.6 The nearest dwellings to the appeal site are No 3 East View to the north and No 15 Beulah Terrace to the north-west and the nearest elevation of each property is 20 metres or so from the beer garden. No 3 would be separated from the beer garden by an existing unmade track, the proposed rear extension comprising the kitchen, a refuse store and the parking area for the dental practice. No 15 would be separated from the external drinking area by its own rear fence, the width of North Road and the parking area for the dental practice. The addition of the 3 high acoustic fence would also provide a visual barrier between No 15 and the beer garden that would be likely to limit any view to a relatively small area. There are no windows at No 3 that would overlook the site.

- 3.7 An acoustic fence would not eliminate all noise and late at night even limited noise can become intrusive. However, the appellant has suggested a 10.00pm cut off time after which the area would be closed save for customers using a smoking shelter and this can be controlled by a condition. The Inspector considered that these measures taken together would likely be sufficient to prevent any unacceptable harm to the living conditions of the occupiers of neighbouring dwellings from noise and disturbance caused by customers at the site.
- 3.8 Although other cases of dismissed appeals on similar amenity grounds were put forward for consideration, the Inspector stated that each appeal had to be considered on its merits.
- 3.9 Whilst the Inspector had regard to the interested party comments in regards to noise and disturbance in the surrounding streets and anti-social behaviour, these matters do not lead to a different conclusion in this regard.
- 3.10 The dental practice on the first floor of the building is a sensitive noise receptor due to the need for patient consultation and surgical dentistry procedures that might occur on the premises. Noise from customers using the external drinking area during the daytime would be in the context of the busy commercial area to the front of the premises. At peak times for a public bar when the rear drinking area could be expected to be most used, namely evenings and weekends, there is no evidence that the dental practice would be operating and therefore the impact of any disturbance would be minimal.
- 3.11 The condenser and extraction equipment to be placed in the roof space of the extension would be muted and would be positioned at the furthest point on the site from the dentist's consulting rooms, and further away than the traffic on Austhorpe Road. Noise from the operation of the business as a public house is likely to be intrusive but could be mitigated by sound insulation in the ceiling as recommended in the appellant's sound insulation tests which could be secured by a condition. Therefore, while the dental practice is a sensitive noise receptor the use of the premises would not have an unacceptable detrimental effect.
- 3.12 The Inspector concluded that the appeal scheme would not have an unacceptable detrimental effect on the living conditions of the occupiers of neighbouring properties or the operation of the dental practice.

Section 106 Planning Obligation

- 3.13 Notionally, the SPD would require premises with the capacity of the proposed development to have 122 parking spaces but that is not appropriate for a town centre location with good public transport and pedestrian access. It is also likely that many users of the site would be in the town centre for other purposes, particularly during the daytime when shops and other premises are also open. While there would be some reliance on offsite parking, this would apply to those visiting other premises, and these premises if put to an alternative use.
- 3.14 However, there is an existing pressure on parking in the vicinity of the site and the parking available for other commercial uses at the Cross Gates Shopping Centre would not be available in the evenings. This would be the peak time for the use of the appeal site and those relying on motor vehicles to travel to the site would likely have to seek parking in the nearby residential streets. At the Council's request, the appellant submitted a Unilateral Undertaking (UU) for a management contribution of £15,000 to allow the highway authority to review the parking impact of the use when established and implement measures should these be considered necessary.

- 3.15 The UU is clearly directly related to the development and I consider the sum to be fairly and reasonably related in scale and kind to the development. Because of the potential impact on parking and the resultant effect on the living conditions of the occupiers of neighbouring premises the Inspector considered that the obligation is necessary to make the development acceptable in planning terms.
- 3.16 For the reasons set out above, the Inspector considered the appeal should be allowed, subject to conditions and the Unilateral Undertaking.

4.0 APPLICATION FOR FULL COSTS AGAINST THE COUNCIL

- 4.1 The Planning Practice Guidance (PPG) advises that costs may be awarded against a party who has behaved unreasonably and thereby caused the party applying for costs to incur unnecessary or wasted expense in the appeal process. The PPG makes it clear that a local planning authority is at risk of an award of costs if it behaves unreasonably by failing to determine an application when there were no substantive reasons to justify the delay and where better communication with the applicant would have enabled the appeal to be avoided altogether.
- 4.2 The applicant submits that the Council acted unreasonably by failing to determine the application and that while there was significant consultation and negotiation during the application process, delay occurred as a result of the Environmental Health Officer revising opinions that required deferment when agreement with the applicant on proposals and suitable conditions had been achieved. Further delay was caused when Members sought views on potential amendments to the scheme and the revisiting of issues which has already been considered and ruled out, namely the use of North Road for deliveries.
- 4.3 The application was first received in August 2016 but not referred to members until June 2017, which the Inspector considered should have provided ample time to resolve any issues between the parties. However, the matter was not considered at the June meeting and only referred back to the August meeting where it was subsequently deferred by Members. The Inspector acknowledges Members disappointment with the applicant's chosen course of action, including the suggestion that matters were not far from being resolved but didn't think this was actually the case as Members resolved to defend the appeal at both the September and November meetings.
- 4.4 In considering the actual reasons for refusal, the Inspector is also critical of the Council and concludes that Members preferred the opinion of interested persons over the professional opinion of the applicant's noise consultant and its own Environmental Health Officer in relation to noise and disturbance when there was no alternative technical evidence upon which to base such a conclusion. The Inspector goes on to conclude the Council maintained positions on matters that could have been dealt with by condition, such as the highway safety issues and the noise and disturbance issues. In this respect the applicant was entitled to appeal to obtain a decision.
- 4.5 In summary, the Inspector considered the Council's inconsistency in changing positions on matters where there was no material change of circumstances demonstrates a want of substantive reasons to justify the delay and has caused the applicant to incur the unnecessary costs of lodging and pursuing an appeal. The Inspector therefore found that unreasonable behaviour resulting in unnecessary or wasted expense has been demonstrated and that a full award of costs is justified.

4.6 In response to the Inspector's decision to award a full award of costs against the Council, a claim for £8,550 plus VAT has been submitted and is currently under consideration.

5.0 IMPLICATIONS

5.1 The appeal decision and award of costs raises some implications which require further consideration going forward.

5.2 Firstly, although the NPPF places a clear duty on local planning authorities to engage and work positively with applicants, care still needs to be taken to ensure the timeframes within which these discussions/negotiations take place to ensure they are not unduly protracted. This also applies to the entire decision making process including consideration at Panel.

5.3 With regards to issues that are of a technical nature which in these case was most notably noise, great care needs to be taken if coming to a view that is contrary to the relevant technical experts. In particular there is a clear need to substantiate any concerns with appropriate evidence as failure to do so places the Council at risk of an award of costs.

5.4 Linking into the above, there is also a need to be very careful about not changing positions on matters where there is no material change in circumstances, as this results in delays which can be deemed to be unreasonable leading to additional costs for applicants which in turn they make seek to recover.

Background papers:

Application file: 16/01585/FU

Appeal and Costs decisions appended



Appeal Decision

Site visit made on 4 January 2018

by **D Guiver LLB(Hons) Solicitor**

an Inspector appointed by the Secretary of State

Decision date: 13 February 2018

Appeal Ref: APP/N4720/W/17/3183420

39 Austhorpe Road, Cross Gates, Leeds LS15 8BA

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a failure to give notice within the prescribed period of a decision on an application for planning permission.
 - The appeal is made by J D Wetherspoon plc against Leeds City Council.
 - The application Ref 16/05185/FU, is dated 16 August 2016.
 - The development proposed was originally described as '*full application for change of use on ground floor from doctor's surgery/pharmacy to public bar, two-storey rear extension, external alterations including new doors and windows, condenser and extraction equipment to roof, new fencing and parking to rear (resubmission of application 15/05889/FU)*'.
-

Decision

1. The appeal is allowed and planning permission is granted for change of use on ground floor from doctor's surgery/pharmacy to public bar, two-storey rear extension, external alterations including new doors and windows, condenser and extraction equipment to roof, new fencing and parking to rear at 39 Austhorpe Road, Cross Gates, Leeds LS15 8BA in accordance with the terms of the application, Ref 16/05185/FU, dated 16 August 2016, subject to the conditions in the attached Schedule.

Application for costs

2. An application for costs was made by J D Wetherspoon plc against Leeds City Council. This application is the subject of a separate Decision.

Preliminary Matters

3. In my decision above I have removed words from the description of development which are not acts of development. The appellant has submitted an executed unilateral undertaking (UU) pursuant to section 106 of the Town and Country Planning Act 1990, which would secure a contribution towards the highway authority's review of the impact of the proposed change of use on off-site parking and to implement any appropriate measures identified. I will address this issue below.

Main Issues

4. The main issues are the effect of the proposed development on:
 - highway safety; and

- the living conditions of the occupiers of neighbouring residential properties with particular regard to noise and disturbance and upon the operation of the dental practice within the same building as the appeal site.

Reasons

5. The appeal site is located to the north side of Austhorpe Road which is the main shopping street within Cross Gates town centre. In the vicinity of the appeal site Austhorpe Road is predominantly commercial in character but north of the site the area is mainly residential. The site comprises a two-storey building located at the junction of Austhorpe Road with North Road to the west. With the exception of part of the first floor which is occupied by a dental surgery, the building is vacant and boarded up.
6. The proposal is to change the use of the ground floor at the appeal site from a doctors' surgery/pharmacy to a public bar, to construct a two-storey rear extension and to install condenser and extraction equipment in the roof-space of the extension. The scheme also envisages the creation of an external drinking area (the beer garden) and external alterations including new doors and windows, and new fencing. The existing dental surgery at first floor level is to remain as a self-contained unit, though its waste storage and parking provision would be altered as part of the scheme.

Highway Safety

7. The proposal will require deliveries of food and drink in significant quantities. Loading and unloading would take place in front of the property and deliveries would enter the premises through the doors in the front elevation, or into a goods lift, also in the front elevation. To facilitate these deliveries, large vehicles would be required to stop on Austhorpe Road close to the appeal site and near a bus shelter, and goods would be carried across the footpath to the premises. The bus shelter sits towards the eastern end of the bus stop bay, which is approximately 30 metres long and the northern side of the carriageway is otherwise subject to parking restrictions with some allowance for loading.
8. Austhorpe Road is a busy street serving Cross Gates town centre and a number of commercial and retail properties, and also provides a main access route for the residential areas north and south of the road. Interested parties have referred to road traffic collisions on this busy stretch of the highway. However, the Council has confirmed that there have been no recorded accidents in the immediate vicinity of the site and the nearby junctions with North Road and Church Lane over the last 5 years.
9. The appeal site was previously in use partly as a doctors' surgery and partly as a pharmacy. The Council points out that the servicing requirements for a public house are different to the previous use as a doctors' surgery. However, the pharmacy would have required deliveries to take place, as would any other retail use to which the premises might alternatively be put and for which the building already has consent. The former doctors' surgery and pharmacy have relocated elsewhere in Cross Gates and there is no evidence before me that a return to such a use is likely. I consider therefore that the appropriate measure to assess the impact of deliveries is the alternative retail use to which the site could be put.
10. Any alternative retail use would require deliveries, which I take into account. I attach significant weight to the likely impact of alternative uses on deliveries to the premises and consider that the impact of proposed change of use would likely be

neutral. The alternative would be for the premises to remain vacant unless another use that would not require significant deliveries could be identified. There is a suggestion in the papers before me that the dental practice occupying the first floor expressed an interest in the premises but I do not have evidence to show whether such a use is a reasonable prospect, would be viable or the extent to which the dental practice would occupy the building. There is also an indication that the dental practice has identified alternative premises. Therefore, I consider an alternative use without requiring significant deliveries to be unlikely to materialise and I attach limited weight to the suggestion.

11. Vehicles are already permitted to stop for unloading but the type of truck likely to be used for deliveries to the appeal site if used as proposed would be large and there is a potential to interfere with the use of the bus stop. However, the Council's Highways Department has identified road improvements that could be secured by condition that would make the impact on traffic conditions acceptable and would improve visibility at the junction between Austhorpe Road and Church Lane. Consequently, subject to the road improvements the proposed development would be in accordance with Policy T2 of the Leeds Local Development Framework Core Strategy 2014 (the Core Strategy) and saved Policy GP5 of the Leeds Unitary Development Plan Review 2006 (the UDP) which together seek to ensure that developments provide safe and secure access and maximise highway safety.

Living Conditions

12. The appeal site is in close proximity to the nearby residential areas and use of the site as a public bar will inevitably involve an element of noise and disturbance. Noise is likely to arise from customers' use of the beer garden, which the scheme proposes to address by the construction of a three-metre high acoustic fence. The appellant has estimated that the beer garden would be used by 30 or so customers at peak times, of whom roughly one third might be talking at any one time. The Council has suggested that the beer garden could accommodate up to 67 customers and has questioned the estimate that only one third would be talking at any given moment. Clearly, not everyone would be talking together as conversation requires listening as well as speaking and as some customers would likely be part of groups rather than couples, an estimate that one-third of customers might be talking does not seem unreasonable.
13. Occupancy of the beer garden by 67 customers would be maximum capacity and is likely to occur infrequently, and be more common in warm, dry weather and at weekends and public holidays. Beer gardens are often used by customers as a smoking area and therefore their presence might be for a very short period before returning inside and it is reasonable to conclude that numbers and noise generated will vary from time to time. While the figures given are clearly only estimates, an assessment based on an average number in the region of 30 or so customers is a reasonable representative figure from which to gauge likely noise at any given moment. However, even if the number of customers using the beer garden was at the maximum capacity level suggested by the Council it would not alter my conclusions. I have considered comments from interested parties about the noise assessment provided by the appellant but I do not have before me any evidence that undermines the assessment's conclusions and note that the Council's Environmental Health Officer found the noise mitigation measures suggested acceptable.
14. The nearest dwellings to the appeal site are No 3 East View to the north and No 15 Beulah Terrace to the north-west and the nearest elevation of each property is 20

metres or so from the beer garden. No 3 would be separated from the beer garden by an existing unmade track, the proposed rear extension comprising the kitchen, a refuse store and the parking area for the dental practice. No 15 would be separated from the external drinking area by its own rear fence, the width of North Road and the parking area for the dental practice. The addition of the three-metre high acoustic fence would also provide a visual barrier between No 15 and the beer garden that would be likely to limit any view to a relatively small area. There are no windows at No 3 that would overlook the site.

15. An acoustic fence would not eliminate all noise and late at night even limited noise can become intrusive. However, the appellant has suggested a 10.00pm cut off time after which the area would be closed save for customers using a smoking shelter and this can be controlled by a condition. These measures taken together would likely be sufficient to prevent any unacceptable harm to the living conditions of the occupiers of neighbouring dwellings from noise and disturbance caused by customers at the site.
16. I have been referred to a recent appeal decision¹ in which permission to use an area of land as a beer garden for a public house was refused. While the Inspector's decision is a material consideration to which I have had regard, I note that pivotal to his decision was an opinion by the Council's Environmental Health Officer that the noise associated with the use would probably amount to a statutory nuisance. In the application subject to this appeal the Environmental Health Officer has accepted the noise mitigation measures, subject to the imposition of conditions and therefore the circumstances are not directly comparable. In any event I must consider this appeal on its individual merits.
17. Whilst I have had regard to the interested party comments in regards to noise and disturbance in the surrounding streets and anti-social behaviour, these matters do not lead me to a different conclusion in this regard.
18. The dental practice on the first floor of the building is a sensitive noise receptor due to the need for patient consultation and surgical dentistry procedures that might occur on the premises. Noise from customers using the external drinking area during the daytime would be in the context of the busy commercial area to the front of the premises. At peak times for a public bar when the rear drinking area could be expected to be most used, namely evenings and weekends, there is no evidence that the dental practice would be operating and therefore the impact of any disturbance would be minimal.
19. The condenser and extraction equipment to be placed in the roof space of the extension would be muted and would be positioned at the furthest point on the site from the dentist's consulting rooms, and further away than the traffic on Austhorpe Road. Noise from the operation of the business as a public house is likely to be intrusive but could be mitigated by sound insulation in the ceiling as recommended in the appellant's sound insulation tests report dated June 2016 which could be secured by a condition. Therefore, while the dental practice is a sensitive noise receptor the use of the premises would not have an unacceptable detrimental effect.
20. The appeal scheme would not have an unacceptable detrimental effect on the living conditions of the occupiers of neighbouring properties or the operation of the dental practice and therefore would be in accordance with Policy GP5 of the UDP which

¹ APP/X1165/W/17/3168794 dated 13 June 2017

seeks to protect the occupiers of neighbouring properties from environmental intrusion.

Section 106 Planning Obligation

21. Paragraph 204 of the National Planning Policy Framework states that planning obligations should only be sought where they meet the following three tests:
 - they are necessary to make the development acceptable in planning terms;
 - they are directly related to the development; and
 - they are fairly and reasonably related in scale and kind to the development.
22. Interested parties raised the issue of parking associated with the use of the site and the Council also considered this issue with regard to the Leeds City Council Parking Supplementary Planning Document 2016 (the SPD). Notionally, the SPD would require premises with the capacity of the proposed development to have 122 parking spaces but that is not appropriate for a town centre location with good public transport and pedestrian access. It is also likely that many users of the site would be in the town centre for other purposes, particularly during the daytime when shops and other premises are also open. While there would be some reliance on offsite parking, this would apply to those visiting other premises, and these premises if put to an alternative use. I note that the Council reached the same conclusion.
23. However, there is an existing pressure on parking in the vicinity of the site and the parking available for other commercial uses at the Cross Gates Shopping Centre would not be available in the evenings. This would be the peak time for the use of the appeal site and those relying on motor vehicles to travel to the site would likely have to seek parking in the nearby residential streets. At the Council's request, the appellant submitted a Unilateral Undertaking for a management contribution of £15,000 to allow the highway authority to review the parking impact of the use when established and implement measures should these be considered necessary.
24. The UU is clearly directly related to the development and I consider the sum to be fairly and reasonably related in scale and kind to the development. Because of the potential impact on parking and the resultant effect on the living conditions of the occupiers of neighbouring premises I consider that the obligation is necessary to make the development acceptable in planning terms. The Council has commented on the UU and confirms its view that it is necessary. The scheme would be in accordance with Policy T2 of the Core Strategy, which seeks to secure contributions to off-site highway improvements.

Conditions

25. The conditions set out in the accompanying schedule are based on those suggested by the Council. Where necessary I have amended the wording of these in the interests of precision and clarity in order to comply with the advice in the Planning Practice Guidance.
26. In the interests of proper planning I have imposed the standard condition in respect of time limits. For certainty I have imposed a condition requiring compliance with the plans. In the interests of enhancement of the character and appearance of the area I have imposed conditions relating to facing materials and landscaping but as there are no trees or hedges on the site I have not imposed any condition in relation to retention or replacement.

27. In the interests of highway safety, to ensure that visibility is not restricted and to facilitate deliveries, I have imposed a condition relating to improvements of the junction of Austhorpe Road with Church Lane. To ensure that parking and turning for the dental practice will be provided I imposed a condition requiring the siting and maintenance of the rear parking area. As no other parking would be provided I have not imposed a condition requiring the submission of details of parking for cycles and motorcycles. Because deliveries are to be taken through the front of the premises, I have not imposed a condition requiring improvements to the footpath in North Road, which are not relevant to the proposed development. Given the size of the proposed development and restriction on hours of construction and demolition work, a condition requiring submission of details of access, storage, parking, loading and unloading of all contractors' plant, equipment, materials and vehicles is not necessary.
28. To ensure the amenity of neighbours is not unnecessarily disrupted I have imposed conditions to mitigate the effects of noise and limiting the hours of construction work on the site, the operation of the business, deliveries and the disposal of waste. I have not imposed a condition requiring the submission and approval of a delivery management plan as the restriction on delivery hours makes such a condition unnecessary. As the approved plans show the location of the refuse store it is not necessary to impose a condition requiring submission of details for this element of the development. The cumulative effect of the conditions imposed means that a condition requiring compliance with a management plan is unnecessary.
29. The appellant's Geo-environmental Investigation Report identified shallow mining as a potential risk and recommended further site investigation works to establish ground conditions and identify any necessary remedial measures. I have therefore imposed a condition requiring the investigation to be undertaken prior to the development proceeding.

Conclusion

30. For the reasons given above, and taking into account all other matters, I conclude that the appeal should succeed.

D Guiver

INSPECTOR

Schedule

- 1) The development hereby permitted shall begin not later than three years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans: 7409-13-Rev C; 7409-100-Rev C; 7409-101-Rev A; 7409-12.
- 3) No development shall take place until samples of all external facing and roofing materials have been submitted to and approved by the local planning authority in writing. The relevant works shall be carried out in accordance with the approved sample details.
- 4) No development shall commence until details of both hard and soft landscape works have been submitted to and approved in writing by the local planning authority. These details shall include:
 - i) a statement setting out the design objectives and how these will be delivered;
 - ii) earthworks showing proposed finished levels or contours;
 - iii) boundary treatments;
 - iv) hard surfacing materials;
 - v) planting;
 - vi) an implementation programme.

The landscaping works shall be carried out in accordance with the approved details before any part of the development is brought into use in accordance with the agreed implementation programme. The completed scheme shall be managed and/or maintained in accordance with an approved scheme of management and/or maintenance.

- 5) No development shall take place until details of the standards to which the works comprising build-outs at the junction of Church Lane and Austhorpe Road (including loading bay markings) are to be constructed shall have been submitted to and approved in writing by the local planning authority. No part of the development shall be brought into use until the works have been completed in accordance with the approved details.
- 6) No part of the development shall be brought into use until space has been laid out within the site in accordance with drawing no. 7409-100-Rev C for three cars to be parked for use by visitors to the dental practice and that space shall thereafter be kept available at all times for those purposes.
- 7) Construction work shall not take place until a scheme for the proposed acoustic fencing shall have been submitted to and approved in writing by the local planning authority. All works which form part of the scheme shall be completed before the development shall be brought into use and retained thereafter.
- 8) Before the use hereby permitted takes place, equipment to control the emission of fumes and smell from the premises shall be installed in accordance with a scheme for noise control to be first submitted to and approved in writing by the local planning authority. All equipment installed as part of the approved scheme shall thereafter be operated and maintained in accordance with that approval and retained for so long as the use continues.

- 9) Demolition or construction works shall take place only between 0800 and 1800 on Monday to Friday and 0900 and 1400 on Saturdays, and shall not take place at any time on Sundays or on Bank or Public Holidays.
- 10) The premises shall only be open for customers between the following hours: 0700 – 2330 Sunday to Thursday; and 0700 – 0030 the following day on Fridays and Saturdays.
- 11) No food or drink sold or supplied to customers shall be consumed other than in the areas identified as the customer area and the beer garden on drawing no. 7409-100-Rev C.
- 12) The beer garden shall only be open for customers for the consumption of food and drink between 0900 and 2200 on any day and the doors between the beer garden and the customer area shall remain closed between 2200 and 0900 the following day except for transit between the beer garden and the customer area for customers using the smoking shelter and staff employed at the premises.
- 13) Deliveries shall be taken at the site only between 0800 and 1800 on Monday to Saturday, between 0900 and 1300 on Sundays or on Bank or Public Holidays.
- 14) No bottles, glass or other waste shall be taken to or, disposed of in, any area open to the air before 0900 and after 2100 on any day.
- 15) No amplified music or television broadcast shown at the premises shall be audible outside the premises.
- 16) No development shall take place until a site investigation of the nature and extent of any shallow mine workings has been carried out in accordance with a methodology which shall have previously been submitted to and approved in writing by the local planning authority. The results of the site investigation shall be made available to the local planning authority before any development takes place. If any land instability or safety issues are found during the site investigation, a report specifying the measures to be taken to remediate the site to render it suitable for the development hereby permitted shall be submitted to and approved in writing by the local planning authority. The site shall be remediated in accordance with the approved measures before development takes place.
- 17) The building shall be adapted so as to provide sound insulation against internally generated noise within the adjoining commercial premises located on the 1st floor of the building of not less than that indicated by Noise Rating Curve 35. The sound insulation works shall be completed before the use of the building begins and retained thereafter.



Costs Decision

Site visit made on 4 January 2018

by D Guiver LLB(Hons) Solicitor

an Inspector appointed by the Secretary of State

Decision date: 13 February 2018

Costs application in relation to Appeal Ref: APP/N4720/W/17/3183420 39 Austhorpe Road, Cross Gates, Leeds LS15 8BA

- The application is made under the Town and Country Planning Act 1990, sections 78, 322 and Schedule 6, and the Local Government Act 1972, section 250(5).
 - The application is made by J D Wetherspoon plc for a full award of costs against Leeds City Council.
 - The appeal was against the failure of the Council to issue a notice of their decision within the prescribed period on an application for planning permission originally described as 'full application for change of use on ground floor from doctor's surgery/pharmacy to public bar, two-storey rear extension, external alterations including new doors and windows, condenser and extraction equipment to roof, new fencing and parking to rear (resubmission of application 15/05889/FU)'.
-

Decision

1. The application for an award of costs is allowed in the terms set out below.

Reasons

2. The Planning Practice Guidance (PPG) advises that costs may be awarded against a party who has behaved unreasonably and thereby caused the party applying for costs to incur unnecessary or wasted expense in the appeal process. The PPG makes it clear that a local planning authority is at risk of an award of costs if it behaves unreasonably by failing to determine an application when there were no substantive reasons to justify the delay and where better communication with the applicant would have enabled the appeal to be avoided altogether.
3. The applicant submits that the Council acted unreasonably by failing to determine the application and that while there was significant consultation and negotiation during the application process, delay occurred as a result of the environmental health officer revising opinions that required deferment when agreement with the applicant on proposals and suitable conditions had been achieved. Further delay was caused when members sought views on a potential amendment to the scheme that had already been considered and rejected on officer advice, namely the use of the side entrance on North Road for deliveries.
4. The application was first received in August 2016 but not referred to members until June 2017, which should have provided ample time to resolve any issues between the parties. However, the matter was deferred to a second committee meeting in August 2017 at which point the matter was again deferred to a third meeting in September 2017. By the time of the third committee meeting the

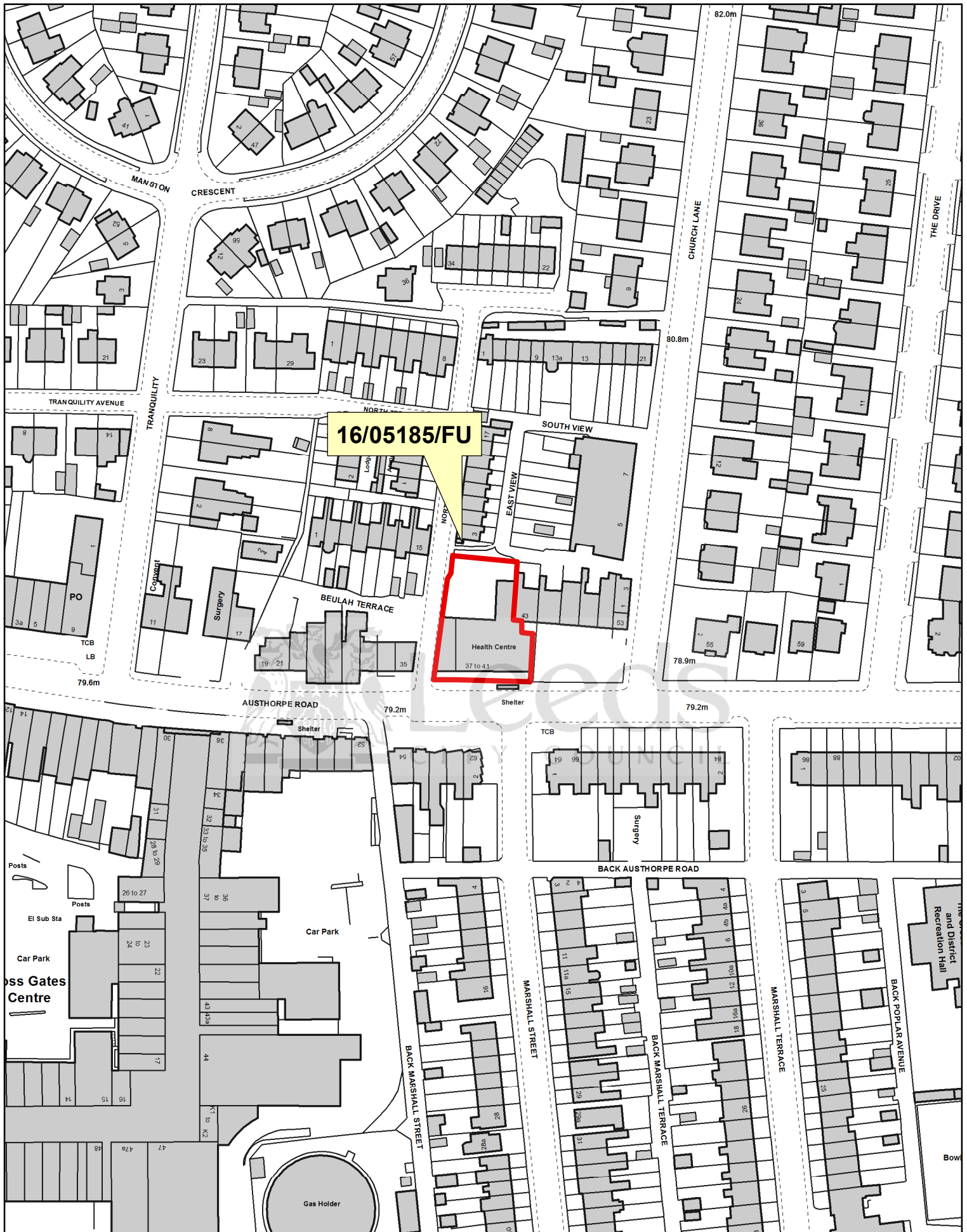
- applicant had already issued its appeal. However, it is clear from the Council's evidence in reporting members' disappointment with the applicant's decision to appeal when they felt matters were close to resolution, that the Council was not in a position to determine the application even at this late stage.
5. Members were asked to provide reasons for a refusal and referred to highway concerns and the living conditions of the occupiers of neighbouring dwellings. Members preferred the opinion of interested persons over the professional opinion of the applicant's noise consultant and its own environmental health officer in relation to noise and disturbance when there was no alternative technical evidence upon which to base such a conclusion. This suggests that agreement on the noise and disturbance issues was not close despite members statement to the contrary.
 6. As a result of delays a period of just over one year elapsed between the Council validating the application and the applicant submitting its appeal. In its appeal response the Council maintained positions on matters that could have been dealt with by condition, such as the highway safety issues and the noise and disturbance issues, where appropriate mitigation measures were identified for both matters. The Council states that outstanding matters could have been addressed and the matter put back before members for a decision but the significant delay and concern over officers changing advice after seeming agreement lead to the conclusion that the applicant was entitled to appeal to obtain a decision.
 7. I consider the Council's inconsistency in changing positions on matters where there was no material change of circumstances demonstrates a want of substantive reasons to justify the delay and has caused the applicant to incur the unnecessary costs of lodging and pursuing an appeal. I therefore find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the Planning Practice Guidance, has been demonstrated and that a full award of costs is justified.

Costs Order

8. In exercise of the powers under section 250(5) of the Local Government Act 1972 and Schedule 6 of the Town and Country Planning Act 1990 as amended, and all other enabling powers in that behalf, IT IS HEREBY ORDERED that Leeds City Council shall pay to J D Wetherspoon plc, the costs of the appeal proceedings described in the heading of this decision, such costs to be assessed in the Senior Courts Costs Office if not agreed.
9. The applicant is now invited to submit to Leeds City Council, to whom a copy of this decision has been sent, details of those costs with a view to reaching agreement as to the amount.

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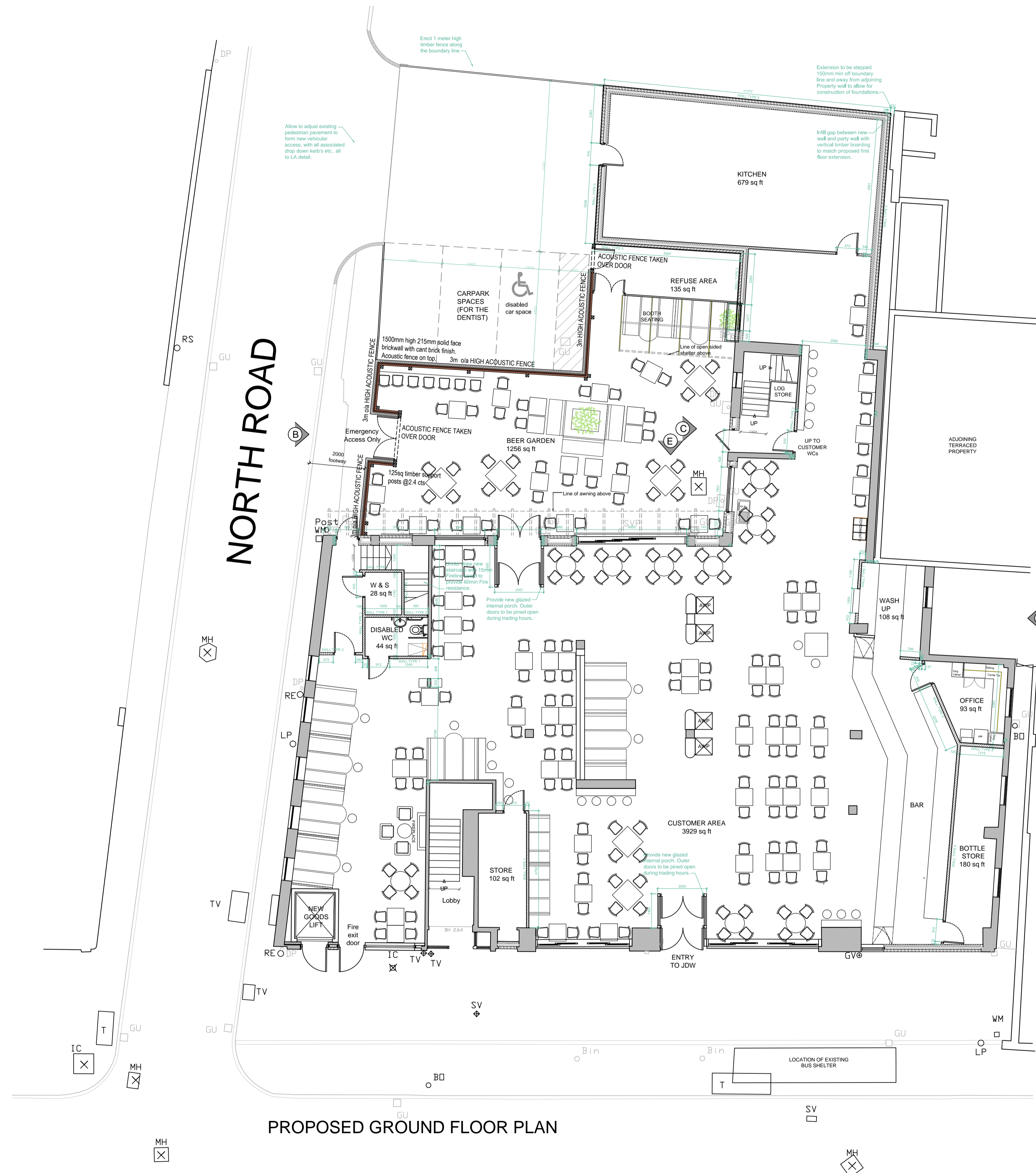
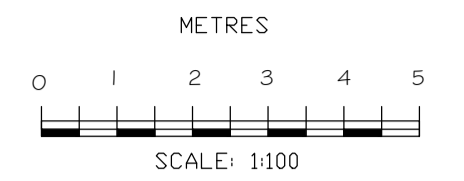
INSPECTOR



NORTH AND EAST PLANS PANEL



NOTE - Responsibility is not accepted for errors made by others in scaling from this drawing. All construction information should be taken from figured dimensions only



REVISIONS

- REV A: CARPARK DRIVE WIDTH INCREASED FROM 6m TO 7m AP/KP 09.06.17
- REV B: BEER GARDEN AREA AMENDED AKS 29.06.17
- REV C: PLANNING REQUIREMENTS; 3METRE HIGH OVERALL ACOUSTIC FENCE, 1500mm lower wall with cant finish and 1500mm Acoustic fence on top. Doors to be Acoustic ACP 19.07.17

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CLIENT	JD WETHERSPOON PLC		
PROJECT	PUB NO: 7402 CHURCH VIEW SURGERY CROSSGATE, LEEDS		
DRAWING	PROPOSED GROUND FLOOR OPTION 2		
SCALE	DATE	DRAWN	
A1/1:100	JUN 2017	AKS	
PROJECT No	DRAWING No	REVISION	
7409	100	C	



Originator: Matt Walker

Tel: 0113 378 8033

Report of the Chief Planning Officer

NORTH AND EAST PLANS PANEL

Date: 7th June 2018

SUBJECT: 18/01447/FU – Two detached houses, land opposite 6 to 10 Church Drive, East Keswick, Leeds

APPLICANT	DATE VALID	TARGET DATE
JWT Developments Ltd	02.03.2018	TBC

Electoral Wards Affected:

Harewood

Yes

Ward Members consulted
(Referred to in report)

Specific Implications For:

Equality and Diversity

Community Cohesion

Narrowing the Gap

RECOMMENDATION: GRANT PERMISSION subject to the specified conditions:

1. Standard time.
2. Plans to be approved.
3. Provision of details of drainage scheme
4. Unexpected contamination condition
5. Soil importing condition
6. Provision of Electrical Vehicle Charging Points
7. Condition of maximum driveway gradient
8. Details of cycle storage facilities
9. Laying out of vehicle spaces
10. Submission of levels information
11. Protection for hedging and build methodology re hedges and trees/protection measures
12. No side facing windows
13. No conversion of garages
14. Removal of permitted development rights concerning roof alterations, extensions, outbuildings and boundary treatments
15. Inspection and agreement of all external materials and surfacing materials

1.0 INTRODUCTION

1.1 Over recent years there have been a number of planning applications submitted at this site for new build residential development. These have been considered by Plans Panel. This submission follows the recent dismissal of an appeal for a scheme for 3 houses at the site and this current proposal seeks to address the concerns raised by the planning Inspector. In light of the planning history of the site it is considered appropriate to report this planning application to Plans Panel for determination.

2.0 PROPOSAL:

2.1 The applicant seeks full planning permission for the erection of two detached houses each with a detached single garage, landscaping and provision of new footway across the site frontage on land between 11 and 37 Church Drive, East Keswick, LS17 9EP. The properties are proposed to be constructed of stone and slate, with front projecting gables, window head and sill details and chimneys.

2.2 The application is accompanied by the following information and supporting documents:

- Site, layout and elevation plans
- Statutory declaration
- Phase I Desktop Study

3.0 SITE AND SURROUNDINGS:

3.1 The application site is located within the village of East Keswick and falls within the Conservation Area. The application site initially formed part of the St Mary's Church. In 1965 the church grounds were reduced in size and the remaining land has since been used for residential developments. The application site has remained open and undeveloped however, now forms part of an established residential estate.

3.2 The site forms a relatively small area of open land between two blocks of 2 storey flats. The flats and open land are contained by hedges and other boundary treatments to the north, east and south and by Church Drive to the west. As such the land and flats appear to form part of a wider parcel of land. The surrounding dwellings are broadly similar in terms of scale and design. The eastern boundary of the site is overlooked by detached dwellings. The eastern boundary is landscaped with hedging approximately 2 metres high.

3.3 Church Drive is defined by mid- to late twentieth century residential development of a spacious nature, and predominantly of detached two storey dwellings. Generously proportioned, the siting and layout of these dwellings are considered to have a sense of spaciousness about them, aided significantly by the consistent and reasonably generous spacing between them, particularly but not exclusively at first floor level.

3.4 The terraced blocks that flank the appeal site deviate somewhat from the prevailing form and layout of the surrounding residential development. However, they are set within open-plan areas that surround the blocks on three sides and, together with the application site and oval central space, create a distinct sense of place within the otherwise developed wider residential area. The application site and its immediate surroundings are of a character and appearance distinct from the historic core of the village along Moor Lane and about its junction with Main Street.

4.0 RELEVANT PLANNING HISTORY:

- 4.1 08/01482/LA - Outline application to erect residential development, approved by plans panel on 27.06.2008.
- 4.2 11/02553/EXT - Extension of time for planning application no. 08/01482/LA, approved under delegated powers, 15.08.2011.
- 4.3 15/06760/FU (appeal ref: APP/N4720/W/16/3163512) - Three detached houses with detached garages to vacant land, appealed for non-determination, appeal dismissed 27.02.2017.

The Inspector dismissed the appeal on the basis that the narrow gaps between the three dwellings and the relatively shallow spaces between the back edge of the highway and the front of the proposed dwellings would make the proposed development appear cramped and result in the overall layout of the development lacking the spaciousness that characterises the locality. Therefore, it was found that the proposal failed to preserve the distinctive character and appearance of the locality and significant characteristics of this part of the Conservation Area.

The Inspector also found that due to the close proximity of the dwelling to the ground floor windows of the flats to the south, the proposed development would raise issues of over-dominance, and would be harmful to the living conditions of those occupants.

- 4.4 17/02357/FU (appeal ref: APP/N4720/W/17/3183595) - One detached dwelling with garage and one pair of semi-detached dwellings with garages, associated landscaping and new footway to frontage, appealed for non-determination, appeal dismissed 23.01.2018.

Had the application been formally determined the LPA would have expressed the following three reasons for refusal of the application:

'The Local Planning Authority considers that the proposed development for 2 semidetached and 1 detached dwellings, owing to their siting, size and separation distances from neighbouring properties would result in a cramped form of development which would be harmful to the spatial character of the area and the East Keswick Conservation Area, contrary to Policy P10, P11 of the Core Strategy, saved Policy GP5 and N19 of the Unitary Development Plan (Review 2006), guidance with SPG Neighbourhoods for Living and guidance within the National Planning Policy Framework.'

'The Local Planning Authority considers that the proposed development, owing to the close proximity of the development to the windows of the adjacent flat to the south will appear overly dominant and enclosing to the extent that it would be detrimental to the living conditions of the occupants of the flat. As such, the proposal would be to contrary to Policy P10 of the Core Strategy, saved Policies GP5 and BD5 of the Unitary Development Plan (Review 2006), guidance with SPG Neighbourhoods for Living and guidance within the National Planning Policy Framework.'

'The Local Planning Authority considers that the proposed bedroom windows, due to their close proximity to garden areas of the dwellings beyond the rear boundaries of the site, would significantly overlook the neighbouring garden areas to an extent that

would be harmful to their privacy. Therefore, it is considered that the proposal conflicts with Policy P10 of the Core Strategy and with Saved Policy GP5. The proposal is also considered to conflict with the advice contained within the National Planning Policy Framework.'

- 4.5 As noted above, the appeal was dismissed. The inspector made comment that highway safety and parking provision as proposed were not reasons to dismiss the appeal, however townscape and design issues concerning the level of separation between properties and the impact upon the amenity of the adjacent southern terraced block's occupiers was considered to be unacceptable. Consequently the appeal was considered to fail on that basis.

5.0 HISTORY OF NEGOTIATIONS:

- 5.1 Following the initial submission negotiations have taken place between the applicant and officers to improve upon the relationship and level of separation with the site's rear boundary in respect of overlooking distances to properties beyond it. Revised plans were received on 23.05.2018. The applicant has also provided revisions with regard to improving the width of driveways in line with the comments and advice of highways.

6.0 PUBLIC/LOCAL RESPONSE:

- 6.1 The application was publicised by site notice on 06.04.2018, and by newspaper advertisement on 04.04.2018.

- 6.2 12 letters of objection from members of the public and one general comment from East Keswick Parish Council have been received. The comments received and concerns expressed by contributors are summarised as follows:

- a. Loss of outlook
- b. Loss of light
- c. Over-dominance from garaging
- d. Protective fencing erected on site is too high / loss of view from fencing
- e. Loss of parking provision in the street / displacement of two on –street parking spaces
- f. Land is associated with local authority dwellings and is not suitable for privately owned properties / land should be used to build council housing
- g. Over development
- h. Loss of privacy
- i. The development as proposed should be for single storey dwellings / original consent pertained to single storey development
- j. Lack of dimensions on submitted drawings
- k. Potential for damage to boundary hedging
- l. Loss of open space and gaps between housing
- m. No dialogue between the developer and neighbours
- n. Smaller dwellings are required as noted within the draft Neighbourhood Plan
- o. Negative impact upon house prices
- p. Sleep disruption from building process for those working night shifts
- q. Disruption to pets
- r. Disruption to wildlife

Points (a,b,c,e,g,h,k,l) are material planning considerations and are addressed within the appraisal below from 10.0 onwards.

- 6.3 Point (d) is noted and relates to site safety infrastructure installed to enclose the application site pre-commencement of any works. The comment does not relate directly to the relevant merits of the planning proposal under consideration.
- 6.4 Point (f) is noted however the application must be determined upon its merits as a proposal for privately owned housing. The ownership of the site is not within the control of the Local Authority nor do the adopted planning policies within the Development Plan delineate between proposals for private or local authority housing.
- 6.5 Point (i) is noted and whilst the 2008 outline application (see Relevant Planning History) was predicated on single storey development, the application under appraisal here is an application for full planning permission to be determined upon its own individual merits, rather than a reserved matters submitted as a corollary of the grant of outline planning permission. The proposal under appraisal also follows two relevant dismissed appeals for two storey development at the site.
- 6.6 Point (j) is noted however all submitted plans have been provided as scale drawings. Of note is the recommended condition at the head of this report requiring the provision of levels information should members be minded to approve the proposals as presented.
- 6.7 Point (m) is duly noted and whilst open dialogue between developers and neighbours is always encouraged, this matter does not go to the heart of the application's merits as a planning proposal.
- 6.8 Point (n) is noted however the Neighbourhood Plan and its policies are currently at pre-submission stage and cannot be afforded weight in the determination process.
- 6.9 Point (o) is not a material planning consideration as the impact upon house prices can only be speculative and cannot be accurately quantified.
- 6.10 Point (p) is noted however this matter does not go to the heart of the planning merits of the proposal under appraisal.
- 6.11 Point (q) is noted however this matter does not go to the heart of the planning merits of the proposal under appraisal.
- 6.12 Point (r) is noted however the application site is not a designated wildlife site. Of note is the recommended condition at the head of this report concerning appropriate protection for boundary hedging during the build process.

7.0 CONSULTATION RESPONSES:

- 7.1 Conservation Team – No objections
- 7.2 Flood Risk Management – Requirement to secure drainage scheme details by condition
- 7.3 Contaminated Land Team - No objections subject to details reserved by condition concerning unexpected contamination and the importing of soil.
- 7.4 Highways – No objection subject to increased driveway width (addressed by revised plan), provision of Electrical Vehicle Charging Points (to be secured by condition)

and implementation of new 2m footway to be addressed through a section 278 agreement with the highway authority.

8.0 PLANNING POLICIES:

8.1 Conservation area: Section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 states that in the exercise, with respect to any buildings or other land in a conservation area of any functions under the Planning Acts, that special attention shall be had to the desirability of preserving or enhancing the character or appearance of that area.

8.3 Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that planning applications are determined in accordance with the Development Plan unless material considerations indicate otherwise. The Development Plan for Leeds currently comprises the Core Strategy (2014), saved policies within the Leeds Unitary Development Plan Review (2006) and the Natural Resources and Waste Development Plan Document (2013) and any made neighbourhood plan. The following sections are most relevant:

Local Planning Policy

8.2 The Core Strategy is the development plan for the whole of the Leeds District. Some saved policies of the UDP Review also apply. The following policies are relevant:

Spatial Policy 1	Location of Development
Policy P10	Design
Policy P11	Conservation
Policy H2	Windfall Housing
Policy T2	Accessibility requirements and new development
Policy EN5	Managing Flood Risk

Saved Policies of the Leeds Unitary Development Plan Review (2006):

8.3	Policy GP1	Land use and the proposals map
	Policy GP5	General planning considerations
	Policy BD5	Buildings to be designed with consideration given to their own amenity and those of their surroundings
	Policy N19	Seeks to ensure developments preserve and/or enhance the character of the Conservation Area
	Policy LD1	Landscaping should reflect the character of the area

Relevant Supplementary Planning Guidance:

8.4 Neighbourhoods for Living SPD

Neighbourhoods for Living was adopted in December 2003 and seeks to supplement the UDPR, providing further clarity for developers and designers in Leeds regarding the themes and principles of residential design and the character and essence of Leeds. The main topics of the document are split into four themes, which include Use, Movement, Space and Form. Some of the main objectives are to ensure that proposals reflect local character, enhancing positive aspects and mitigating negative ones, to provide built forms that contribute positively to the townscape, and to create high quality building design with appropriately designed elements.

8.5 East Keswick Village Design Statement

New buildings should be in character; materials should relate well to surroundings; roof design should avoid steep pitches, high gables and hipped roofs; tight knit texture of village to be reflected; and appropriate parking should be provided. The VDS identifies the site as falling within the Conservation Area. The site is not identified as significant open space or an important local feature (open space) in the VDS.

8.6 Parking SPD

This Supplementary Planning Document (SPD) is designed to bring together a number of elements relating to parking, previously contained within various sections of the Unitary Development Plan (Review 2006) as well as setting out Council policy.

National planning policy guidance:

- 8.6 The National Planning Policy Framework was published on 27th March 2012 and sets out the Government's planning policies for England and how these are expected to be applied alongside other national planning policies. In this case the following sections are most relevant:

Section 7 Requiring good design
Decision-taking
Annex 1 Implementation

Neighbourhood Planning

- 8.7 The East Keswick Neighbourhood Plan is still at an early stage, being at the pre-submission consultation draft stage. It is noted in the draft plan that the site is identified as a site being proposed as Local Green Space. The LPA have made comments on this and specifically the proposal to safeguard a number of sites as Local Green Space, including the appeal site. Given the draft nature of the plan, the policies contained in this document can be afforded no weight in the decision making process at this stage.

9.0 MAIN ISSUES:

Principle of development
Design / Impact upon the Conservation Area
Impact upon Neighbours and Residential Amenity
Highway Safety and Parking

10.0 APPRAISAL:

Principle of Development

- 10.1 The principle of constructing dwellings on the site was established under a 2008 application and then again in 2011 (see Planning History section of the report). The key planning policy change that has occurred since the 2011 approval has been the adoption of Core Strategy. Policy H2 of the document is an important consideration in so far as the principle of the development is concerned. The application site can be considered to be a non-allocated housing site as defined by policy H2 of the Leeds Core Strategy. The first part of policy H2 requires new housing development on non-allocated land to not exceed the capacity of local infrastructure. The site being located in an existing residential area with good road links to nearby local centres, suggests that the proposal for two dwellings on the site would not exceed the capacity of local infrastructure and therefore the proposal is considered to meet the aims of this part of the policy.
- 10.2 The second part of policy H2 states, amongst other things, states that greenfield land should not be developed if it makes a valuable contribution to the visual and spatial character of an area. The Inspector Decision Notice relating to the first appeal on the site (15/06760/FU) stated that with regards to developing the site; *'The development would not impact upon the setting of the historic core of the village, and in this way I find no conflict with CS Policy P11.'*
- 10.3 The inspector's comments on this matter are also consistent with those made at paragraph 13 of the more recent appeal decision concerning application 17/02357/FU (appeal ref APP/N4720/W/17/3183595) which stated *'It is a matter of agreement that the principle of residential development on this site has previously been found to be acceptable, and that the Council do not object to the current proposal in those terms.'*
- 10.4 It is therefore considered that the principle of housing at the site has been established by both earlier permissions and appeal decisions and accords with the current adopted policies within the adopted Development Plan. The merits and planning judgement associated with the proposal are therefore concentrated towards detailed design, amenity and highways considerations, appraised below.

Design / Impact upon the Conservation Area

- 10.5 Section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 obliges a local authority to pay special attention to the desirability of preserving or enhancing the character or appearance of a conservation area when granting planning permission.

Officer objections to the previously refused and appealed scheme did not centre on the detailed design of the three houses formerly proposed, rather it was the arrangement of and, lack of separation between the individual dwellings and impact from this relationship between elements of built form on the wider townscape which was considered to be unacceptable. In both recent appeal decisions the inspector was mainly silent on the matter of the detailed design of the dwellings themselves, other than to advise that whilst the design would not copy that of nearby houses, the two-storey detached houses with ridges parallel to the road would preserve key aspects. In both previous cases the Local Planning Authority did not express an objection to the detailed design of houses.

- 10.6 In design terms, the scale, design and proportions of the currently proposed dwellings under appraisal along with proposed detailing concerning materials (stone and slate), use of chimneys and appropriate window proportions are considered to be acceptable, subject to conditions concerning the inspection of materials to ensure quality.
- 10.7 Evident in both previous appeal decisions was the need to retain a sense of space around each property and between the two houses and surrounding terraced blocks in order to preserve the townscape and the conservation area's existing prevailing character.
- 10.8 The two detached houses for which permission is sought would be located with a 7 metre gap between the pair, contrasting the more limited 5 metre gap formerly proposed between the single detached house and pair of semi-detached houses in the previously refused layout. Typically, in the immediate street scene, individual units are separated from one another by gaps of between approximately 3 - 5.5 metres. Within the previous appeal decision, the inspector advised:
- 'It is accepted that the proposal would exceed the minimum separation distances between dwellings as set out within 'Neighbourhoods for living: A guide for residential design in Leeds' Supplementary Planning Guidance (SPG). However, as my colleague previously concluded, the provisions set out within the SPG are just guidance and consideration of context is vital in considering the effect of a proposal on the character and appearance of the area. I did not find semi-detached dwellings to be representative or characteristic of the surrounding development whilst the overall layout of the proposed development would be cramped, lacking the judicious spacing, and spaciousness, that I saw characterises much of the surrounding development.'*
- 10.9 A 17.5 metre separation is proposed between the two storey side gable elevation at plot 1 and the southern-most adjacent terrace. The current layout also shows a detached garage at approximately 9.7 metres from the adjacent terrace, however given its generous setback and single storey form and massing, it is not considered to harmfully impact in townscape/urban grain terms.
- 10.10 An approximate 7.9 metre separation distance is proposed between the gable elevation of plot 1 and the adjacent northern terrace's when measured from the corner of both buildings. Whilst this distance has been reduced from the 11 metre separation in the previously refused scheme, it is again the case that a single storey element of built form formerly proposed to the plot 1's northern elevation has been omitted from the new layout. In order to further reduce the impact from the terrace, where the previously proposed houses sat forward of the northern terrace's eastern gable elevation, the current layout sees the houses drawn back level and further east than the terrace's side elevation, reducing their prominence. Again, as is the case with plot 2, the proposed single storey garage is shown as being drawn back significantly from the site frontage and is not considered at the height proposed to harmfully impede upon the gap between the two proposed houses.
- 10.11 This arrangement is therefore considered to overcome the previous objections by officers concerning the loss of key gaps, the appearance of an over developed site and the provision of an inadequate level of separation between old and new features of built form in the street scene.

Impact upon Neighbours and Residential Amenity

10.12 As a corollary of the previously dismissed appeals, the applicant has sought within this submission to overcome the identified objections to the scheme from both the inspector and received objections from neighbours during this an earlier iterations of development proposed. Further revisions to the scheme to address concerns were received on 23.05.2018. The issues are summarised as follows:

Loss of outlook

- 10.13 The principle concerns with regard to outlook relate to the impact upon ground floor primary windows at both 11 Church Drive (and the view onto Plot 1) and 37 Church Drive (view onto plot 2). Adopted guidance suggests that a 12 metre separation distance should exist between two storey development and windows.
- 10.14 With regard to the impact upon views from 11 Church Drive, the proposed two storey massing would fall short of the 12 metre separation distance at 9.7 metres separation. However the 12 metre separation guidance figure assumes that the view from the habitable room window would face directly onto the new two storey massing, which is not the case with regard to the relationship between plot 1 and the window in question, where the proposed layout shows Plot 1 is to be set back from line of sight out of the window towards the eastern site boundary. The two storey massing proposed would in fact interrupt only 30 degrees of a 90 degree field of view from the window. Furthermore, Plot 1 would be at a slightly lower land level than the window which is considered to reduce the impact further and this is considered to be an acceptable relationship.
- 10.15 With regard to the impact upon views from the ground floor window of 37 Church Drive, the level of separation far exceeds the recommended 12 metres, with just over 17 metres proposed as separation. Of note here is that 37 Church View and the terrace within which the neighbour resides is at a slightly lower land level than plot 2. In terms of outlook, the two storey massing of the proposed dwelling would interrupt only 32 degrees of a 90 degree field of view from the window and this, alongside the proposed level of separation are considered to mitigate for the change in land levels between plot 2 and the neighbour, thereby maintaining an adequate standard of outlook for the occupier in residential amenity terms.

Loss of light

- 10.16 It is noted that, within the received objections there is a perception that the proposed development would introduce a harmful loss of light to neighbouring properties. With regard to the occupants of 37 Church Drive, the proposed development would be situated due north of this neighbour's habitable room front facing windows and there would therefore be no impacts by virtue of orientation and relation to the sun path of east-south-west). With regard to the impact upon habitable room windows at 11 Church Drive, whilst the proposed dwellings would be located due south east of the nearest primary ground floor window, as noted above, the land level to this property is lower than the window in question. Shadow path calculations undertaken during the application process indicate that some shadowing around mid morning in early winter would occur to the window, however during spring and summer months where there is an expectation that the receipt of light be greater, there would be no additional impacts and overshadowing would not occur to any area adjacent to the application site for any sustained period.

Over-dominance from garaging

- 10.17 Objections regarding over-dominance from proposed garages have been noted and are considered to be addressed. Following revision of the proposals both individual detached garages (one to each plot) have been revised to be set outside of the 90 degree field of vision which is reasonable to attain from front facing ground floor windows to habitable rooms at both 11 and 37 Church Drive.

Over development

- 10.18 In light of the reduced number of units proposed compared to previous proposals, levels of proportionate and private garden spaces and the ability to maintain suitable separation between each property and surrounding boundaries, the proposals as presented are no longer considered to constitute and over development of the application site.

Loss of privacy

- 10.19 The comments received concerning overlooking have been duly noted and are reflected in revisions supplied by the applicant. During the application process, officers expressed concerns that the development failed to achieve adequate separation to the rear boundary to prevent overlooking. As a result of revisions received on 23.05.2018 on which this appraisal is based, the plans demonstrate that the development would maintain the recommended 7.5 metre separation distance between first floor windows and the rear boundary of the site. As a consequence it is considered the development would not harmfully overlook neighbours beyond the eastern boundary. Controls on the future insertion of windows to side elevations of the proposed houses at both plots 1&2 are required and would be controlled by conditions in the event of approval, to ensure no overlooking of either garden space or habitable room windows at either of the two adjacent terraces could take place. Proposed front facing windows would provide a linear outlook of the public highway and open plan frontage of this area of the Church Drive street scene are considered to be views consistent with those attained from surrounding and established residential properties.

Highway Safety and Parking

- 10.20 Of note are a number of local resident objections concerning the loss of on-street parking provision.
- 10.21 The comments made by the inspector within appeal decision APP/N4720/W/16/3163512 concerning planning application 15/07670/FU are of relevance. At paragraph 28 of that decision the appeal inspector confirmed

'Residents express concern at loss of parking and point out that there is little or no dedicated parking for the flats consequently the occupants park their vehicles on the road by the site and that the proposal will adversely affect highway safety. However the proposal makes provision for the parking needs of the proposed dwellings and there are no objections to the proposals from the Highway Authority'.

This view is consistent with the view given by the appeal inspector at paragraph 17 of the later of the two relevant appeal decisions which concerned application 17/02357/FU (appeal ref APP/N4720/W/17/3183595) in which the inspector advised

'It is noted that the Council do not object to the design of the proposed dwellings per se, and I have also noted that the proposal would make adequate provision for the

parking needs of the proposed dwellings and there are no objections to the proposal from the Highway Authority.'

10.22 Highways officers have been consulted on the current application and have offered no objections to the proposals as presented, other than to express requirements for the widening of driveways to 3.3 metres (secured by revised plan) and a series of recommended conditions concerning the provision of Electrical Vehicle Charging Points and cycle parking.

11.0 **CONCLUSION**

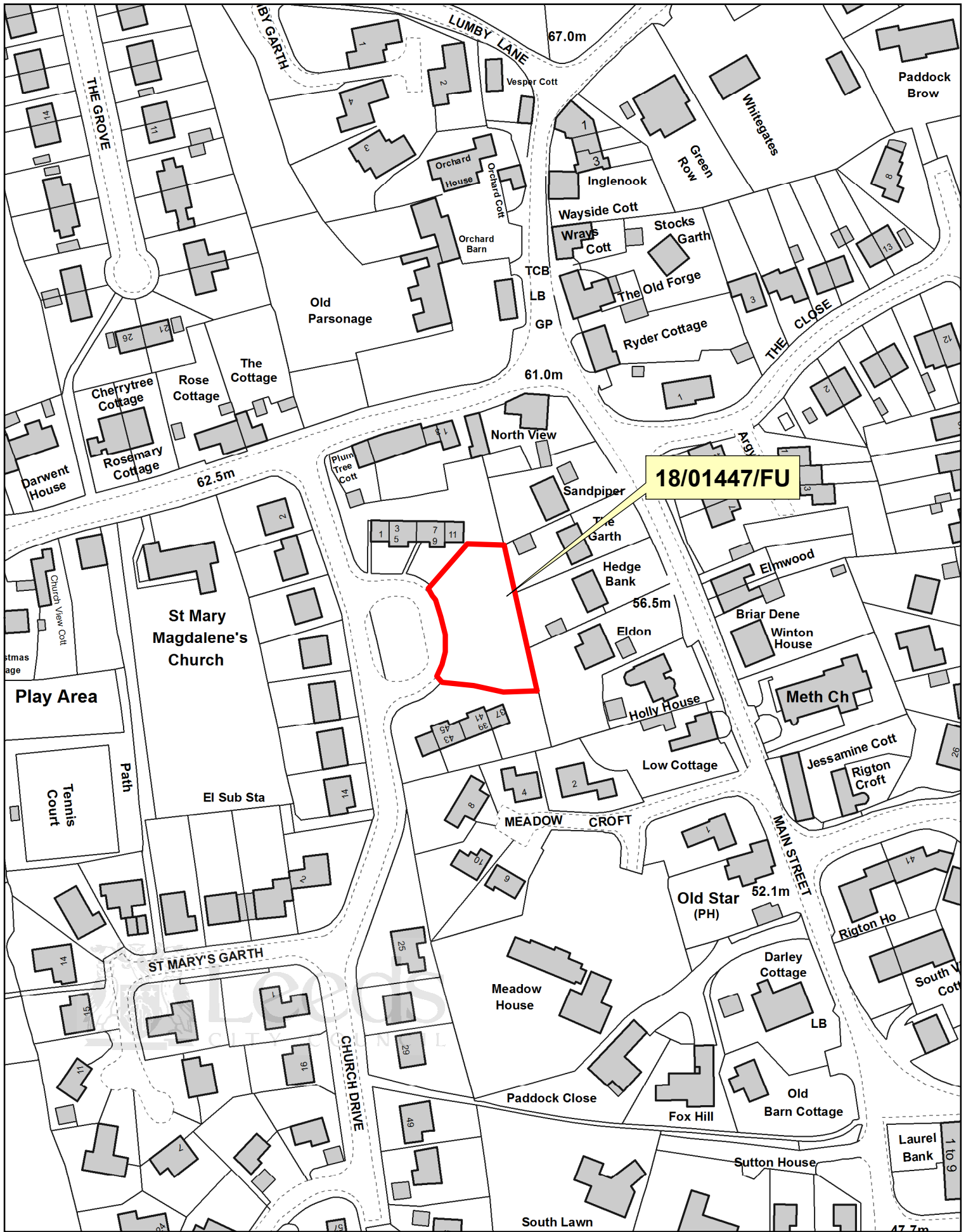
11.1 That for the reasons outlined above, the proposal as presented has overcome previous reasons for refusal of applications for the development of housing in this location, the proposal is considered to accord with local and national planning policies and guidance and with regard to all other material planning considerations, the application is acceptable and subject to the conditions detailed at the head of this report, recommended for approval.

Background files:

Application case files

Certificate of Ownership – Certificate A completed

12 letters of objection



NORTH AND EAST PLANS PANEL



61.0m

North View

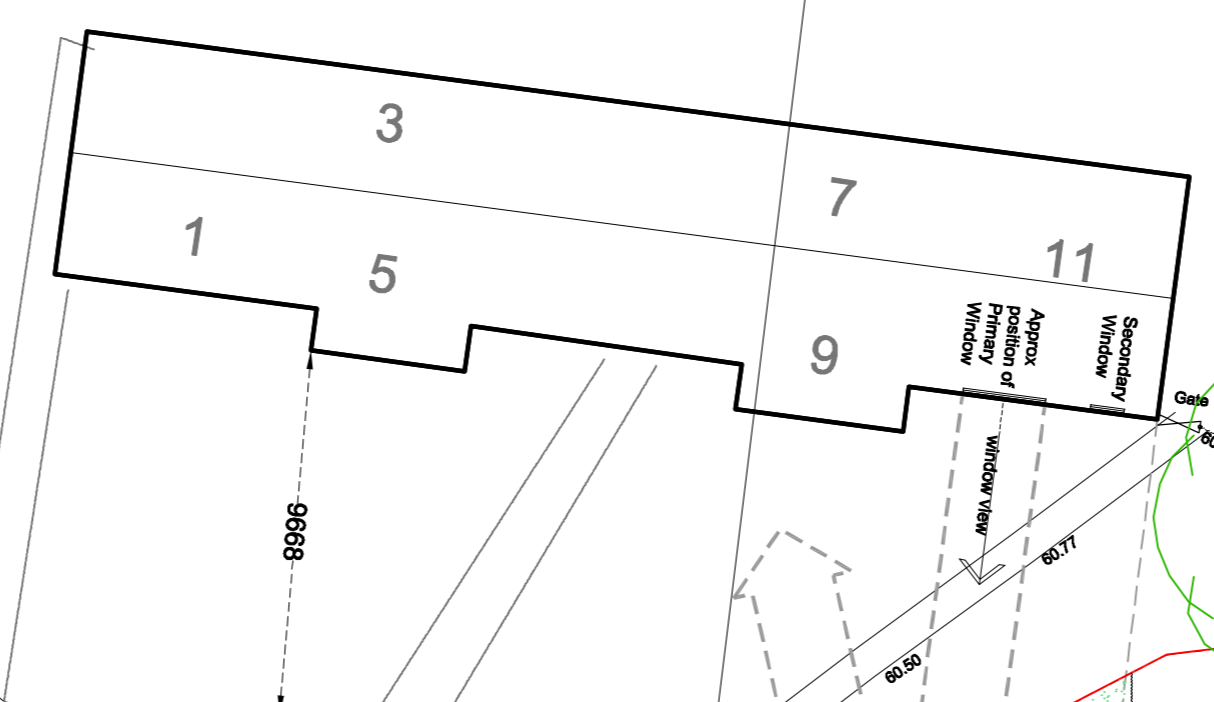
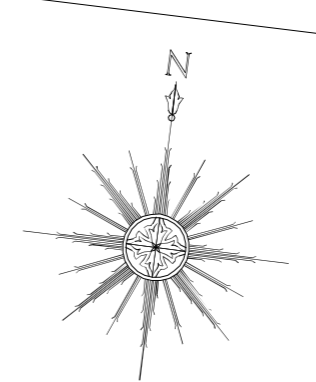
West End Store

Plum Tree Cott
PO

Sandpip

44450m

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Originator- D Jones
Tel: 0113 2224409

Report of the Chief Planning Officer

NORTH AND EAST PLANS PANEL

Date: 7th June 2018

Subject: 17/06469/FU – Change of use of former residential care home to form 12 bed house in multiple occupation at 88 Church Lane, Cross Gates, Leeds 15

APPLICANT	DATE VALID	TARGET DATE
Mr Jamie Paul	2 nd October 2017	8 th June 2018.

<p>Electoral Wards Affected:</p> <p>Crossgates & Whinmoor</p> <div style="border: 1px solid black; display: inline-block; padding: 2px;">Yes</div> Ward Members consulted (referred to in report)	<p>Specific Implications For:</p> <p>Equality and Diversity <input type="checkbox"/></p> <p>Community Cohesion <input type="checkbox"/></p> <p>Narrowing the Gap <input type="checkbox"/></p>
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RECOMMENDATION: GRANT PERMISSION subject to the following conditions:

1. Time limit on full permission;
2. Approved plans
3. Parking to be laid out and to be non-allocated
4. Cycle parking to be provided
5. Laying out of amenity space
6. Sound insulation scheme
7. Full details of bin store
8. Rooms only to be used for specified uses

1.0 INTRODUCTION:

1.1 Application reference 17/06469/FU is a resubmitted application for change of use of a residential care home (C2) to form house in multiple occupation (sui generis), at the former Mount Carmel Residential Home, 88 Church Lane Cross Gates. The revised proposal was submitted as a 16 bedroom HMO, and has been amended to a 14 bedroom, and finally, 12 bedroom HMO. The latest scheme is considered acceptable and is recommended for approval.

- 1.2 The application is being considered at Plans Panel at the request of Councillor Grahame, who has raised concerns on matters relating to highway safety.

2.0 PROPOSAL:

- 2.1 The proposal is a resubmitted application for change of use of a residential care home (C2) to form a 12 bedroom house in multiple occupation (sui generis).

The bedrooms would be provided as follows:

Lower ground floor – 3 bedrooms

Upper ground floor – 4 bedrooms

First floor – 4 bedrooms

Roof space – 1 bedroom

- 2.2 The reduction from 20 beds to 12 beds allows two amenity/lounge areas to be created on the lower ground floor, two on the first floor, and four on the first floor.
- 2.3 A kitchen, laundry and stores would be provided on the lower ground floor, and a bathroom would be provided on the first floor.
- 2.4 There is an area of car parking provided to side/rear of the property which shows 6 parking spaces to be laid out, and includes the demolition of an outbuilding, which appears to be used for storage purposes at present.
- 2.5 A new cycle store is provided within the lower ground floor of the main building to offer secure cycle parking for all residents. A new refuse store is provided with a keypad entry to allow for management of waste and recyclable materials for the convenience of residents and waste disposal operatives.
- 2.6 The proposed development seeks to demolish the existing conservatory and porch to the rear of the property in order to remove the potential for noise disturbance from residents within the conservatory and to provide additional amenity space. A noise assessment has been undertaken to assess the levels of noise arising from the property being operated as a HMO which is submitted in support of this planning application. A soundproof fence along the rear boundary is proposed to mitigate the impact on neighbouring properties.
- 2.7 Additional planting and landscaping is proposed to the southern and eastern boundaries of the site to screen the property from neighbouring residential properties. An acoustic barrier in the form of a timber panel face and additional planting are proposed for screening purposes and noise containment purposes.

3.0 SITE AND SURROUNDINGS:

- 3.1 The property is a substantial detached red brick property on three floors, which has had substantial extensions to the rear, including a three storey rear extension, two storey side extension and large conservatory to the rear. The conservatory is 6.3m in depth and 5.6m in width. A detached brick storage building abuts the eastern site boundary. The parking area to the rear/side is hard surfaced, and parking for two cars is available to the site frontage. There are some small trees to the side/rear boundaries.

- 3.2 A detached two storey house abuts the southern site boundary and houses also abut to the eastern boundary. Houses at the rear are set down at a lower level than the application site, and there is a retaining wall to the rear of the garage.
- 3.3 There is a primary school playing field abutting the northern boundary, with other open land opposite Church Lane, to the west.
- 3.4 The area is mainly residential in character.

4.0 RELEVANT PLANNING HISTORY:

- 4.1 16/03505/FU - Retrospective application for change of use of residential care home (C2) to form 20 bedroom house in multiple occupation (sui generis). The application comprised:
- 4.2 The lower ground floor had five bedrooms, sharing kitchen facilities (x2), laundry room and access into the communal conservatory. The upper ground floor had a further six rooms, with shared kitchens and common room. The first floor had nine rooms, accessed from two internal staircases, and had a shared bathroom and store room. A total of 20 bedrooms were therefore provided. There is an area of car parking provided to side/rear of the property which the application form stated that 15 car parking spaces are available within the site. None of the spaces are marked out. The rear parking area was gated.
- 4.3 The application was refused on 24.08.2016 for the following reasons:
1. The Local Planning Authority considers the off-street parking provision within the site to be inadequate and when associated with the general increase in demand for parking associated with the HMO use, will and has resulted in on-street parking in the locality to the detriment of the safe and free flow of traffic and pedestrian convenience and safety. As such, the proposed development is contrary to Policy T2 of the Core Strategy, Policy GP5 of the saved Unitary Development Plan Review (2006) and would be contrary to Leeds Parking Policy SPD (December 2015) and guidance within the National Planning Policy Framework.
 2. The Local Planning Authority considers the change of use to a HMO has resulted in an unacceptable intensification of the use of the site resulting in a significant reduction in amenity to local residents living conditions through increased noise and disturbance as a result of general comings and goings and activity levels. The application therefore fails to comply with Policy H6 of the Core Strategy, Policy GP5 of the saved Leeds Unitary Development Plan Review (2006), supplementary planning guidance within SPG:13 'Neighbourhoods for Living' and guidance within the National Planning Policy Framework.
 3. The Local Planning Authority considers the change of use to a HMO has led to an unacceptable intensification of the use of the site resulting in an inadequate standard of amenity for occupiers of the use due to a lack of on-site amenity space, inadequate proposals for storage of waste, lack of secure and appropriate cycle storage facilities and the poor ratio of communal rooms to bedrooms. The proposal therefore fails to comply with Policy H6 of the Core Strategy, Policy GP5 of the Leeds Unitary Development Plan (Review 2006), supplementary planning guidance within SPG:13 'Neighbourhoods for Living' and guidance within the National Planning Policy Framework.

- 4.4 The subsequent appeal was dismissed. The Inspector made the following comments: The proposed use would generally involve a younger and more energetic, socially active age group which would intensify activity on the site, including visits by non-residents and delivery vehicles. Vehicle movements to and from the property would be significantly increased creating noise and disturbance from parking manoeuvres, revving engines, in-car sound systems and the slamming of vehicle doors. The existing storage building on the eastern boundary of the site would be demolished to provide additional parking space, and in doing so would bring a noise source closer to adjoining dwellings and gardens and at an elevated level. It follows that pedestrian movements within the site would also increase. These activities would be intrusive for neighbouring occupiers, especially late at night when ambient noise levels are low.
- 4.5 It is likely that the use would also generate more noise within the conservatory and adjacent patio area when tenants and visitors are socialising. Such activity would be particularly intrusive for neighbouring occupiers during fine weather when windows and doors are likely to be open and gardens in use. Again, this would be especially problematic late at night when neighbours should be able to enjoy reasonable peace and quiet.
No issues of overlooking – no new openings are proposed.
Inadequate amenity space for up to 20 tenants.
- 4.6 The *Advisory Standards for Houses in Multiple Occupation* document appears to be aimed at the HMO licensing rather than planning process. No development plan policies or supplementary planning guidance for such facilities has been referred to. Most of the bedrooms are en-suite and appear to be of a reasonable size. In conjunction with the two common rooms, the conservatory and the kitchen/dining and laundry facilities. They would provide a reasonable level of internal amenity space for tenants and therefore find no conflict with Policy H6 of the Core Strategy in this respect.
- 4.7 The frequency of vehicles using the access and parking area would not be so great that tenants in rooms adjacent to these spaces would suffer from vehicle fumes. No technical evidence has been presented to show that daylight and sunlight levels reaching rooms, and especially those at lower ground floor level, would be inadequate. Sound insulation within the building could be required by condition.
- 4.8 Cycle storage facilities and adequate bin storage measures could not be secured by condition if the appeal was to succeed.
- 4.9 It was concluded that the proposal would materially harm the living conditions of nearby residents and would fail to provide adequate living conditions for occupiers of the subject building. As such, it would conflict with Policy GP5 of the UDP, Policy H6 of the Core Strategy and relevant amenity objectives in the Framework.
Church Lane is a busy road and a bus route which serves a large residential area, and traffic levels were high at the time of my morning site visit.
- 4.10 The Council's parking standards for a HMO is one space per two units. In the case of the appeal proposal this equates to 10 off-street spaces. The submitted drawings show two spaces to the front of the building and eight to the rear following demolition of the storage building. The parking standards also require 20 secure cycle spaces.
- 4.11 The parking area adjacent to the northern side of the building would have to be levelled to accommodate the three bays shown on the drawings. This could be required by planning condition. Extension of the dropped kerb at the site access on

Church Lane could also be required in order to ensure a safer ingress and egress for vehicles.

- 4.12 It is likely that turning manoeuvres associated with the four spaces on the rear (eastern) boundary of the site would be obstructed by the cycle storage area adjacent to the conservatory. This could result in vehicles reversing on to Church Lane. The two parking spaces to the front of the building involve vehicles reversing on to or off the carriageway. This compromises the safety of road users, including those undertaking the manoeuvre, as well as the safety of pedestrians. It is unclear, however, whether the two spaces are long established or have been more recently provided to serve the proposed development. No conclusion reached on this point.
- 4.13 It may be that the rationalisation and rearrangement of the parking layout and cycle storage facilities on the site could resolve these matters and prevent on-street parking. However, in the absence of plans or other evidence to clearly demonstrate that these measures could be achieved the Inspector was unable to conclude that the development could function without compromising highway and pedestrian safety.
- 4.14 Accordingly, the proposal conflicts with Policies H6(C) and T2 of the Core Strategy which requires sufficient easily accessible and appropriately located off and on-street car and cycle parking. It also breaches Policy GP5 of the UDP which requires proposals to maximise highway safety and avoid problems of highway congestion.
- 4.15 Ventilation, fire risk and means of escape are matters for other legislation to deal with.
- 4.16 16/00074/FU - Retrospective application for change of use of residential care home (C2) to form house in multiple occupation (sui generis). Refused on 04.04.16 for the following reasons:
1. The Local Planning Authority considers the level of off-street parking provision within the site to be inadequate and when associated with the general increase in demand for parking associated with the HMO use will and has resulted in on-street parking in the locality to the detriment of the safe and free flow of traffic and pedestrian convenience and safety. As such, the proposed development is contrary to Policy T2 of the Core Strategy, Policy GP5 of the saved Unitary Development Plan Review (2006) and would be contrary to Leeds Parking Policy SPD (December 2015) and guidance within the National Planning Policy Framework.
 2. The Local Planning Authority considers the change of use to a HMO has resulted in an unacceptable intensification of the use of the site resulting in a significant reduction in amenity to local residents living conditions through increased noise and disturbance as a result of general comings and goings and activities levels. The application therefore fails to comply with Policy H6 of the Core Strategy, Policy GP5 of the saved Leeds Unitary Development Plan Review (2006), supplementary planning guidance within SPG:13 'Neighbourhoods for Living' and guidance within the National Planning Policy Framework.
 3. The Local Planning Authority considers the change of use to a HMO has led to an unacceptable intensification of the use of the site resulting in an inadequate standard of amenity for occupiers of the use due to lack of on-site amenity space, inadequate proposals for storage of waste, lack of cycle storage facilities and the poor ratio of communal rooms to bedrooms. The proposal therefore fails to comply with Policy H6 of the Core Strategy, Policy GP5 of the Leeds Unitary Development Plan (Review 2006), supplementary planning guidance within SPG:13 'Neighbourhoods for Living' and guidance within the National Planning Policy Framework.

- 4.17 08/00856/FU - Addition of conservatory and porch to rear of residential home (amendment to planning permission 07/00546/FU). Approved 06.05.2008.
- 4.18 07/00546/FU - Three storey rear extension and single storey side extension to residential home. Approved 19.03.2007.
- 4.19 06/05248/FU - 3 storey rear extension to residential home- Withdrawn 13.11.06.
- 4.20 H32/358/89 - Alterations and 2 storey extension to form 8 bedrooms, bathrooms, toilets and sitting area and laying out of 6 car park spaces. Approved 19.10.1989.
- 4.21 H32/99/89/ - Alterations and 3 storey extension, to form sitting room, 10 bedrooms, bathroom and toilets, to side and rear - Refused 21.03.1989.
- 4.22 H32/158/88 – Change of use of dwelling to Aged Persons Home.

5.0 HISTORY OF NEGOTIATIONS

- 5.1 Officers have sought to respond positively to the concerns that have been raised which has resulted in a reduction of the total number of bedrooms reducing from 16 to 12. Two car parking spaces adjacent to the site access have been deleted due to safety concerns and an increase in size of amenity space to the rear of the building has been achieved.

6.0 PUBLIC/LOCAL RESPONSES:

- 6.1 The application was advertised by site notices dated 27th October 2017 and by letters to local residents. In response to this publicity the following representations have been received.
- 6.2 Ward Councillor Grahame objects to the proposal. She raises concerns regarding the amount of cars parked outside Mount Carmel on the road. Church Lane is a busy road with a bus service every 10 minutes passing side by side which makes it very difficult for the traffic flow when cars are parked on the road. There have been incidents when the cars park in front of the houses next to the building. Also at night time there are often groups outside the building.
- 6.3 In addition to the above, 6 letters of objection have been received raising the following concerns:
- The reduction from 20 to 16 beds will have negligible effect on the parking situation. Parking on Church Lane, a busy road especially at school start and finish times, creates a danger to both pedestrians and traffic and delays public transport.
 - The type of occupant, as proven, are to a large degree van/vehicle owners and as such the 8 parking spaces for 16+ occupants and visitors seems to be totally inadequate.
 - The front two spaces appear to project into the pavement outside of the curtilage of the site and also block a fire escape door
 - Parking space number 8 will not exist because the boundaries are incorrect according to the Land Registry Documents.

- It is not clear whether the two spaces have a dropped kerb/access that would have to be kept clear which would reduce highway parking - this is important because this local is heavily used as a drop off for the 4 adjacent schools. Pedestrian visibility is also a concern.
- Question the inadequacy of amenity space area compared to the area of accommodation and number of occupants.
- The designated area for parking cannot possible hold the required amount of cars necessary for a building of this size. For cars to enter/exit the car park safely the dropped kerb is not in the correct place.
- Will suffer from noise from vehicles arriving and departing at all hours. This does not take into consideration casual visitors vehicles.
- The noise from residents in the summer months has been substantial due to barbeques and social gatherings by residents. This also reduces the available parking area.
- The presence of different individuals, each with his/her own needs and routines, in a HMO of this size easily leads to numerous comings and goings throughout much of the day and evening. Some tenants commencing shifts at 6.00 am, some on 'nights', others working flexitime, some on "zero hours" contracts, called in to work for a few hours as and when organisations demand and dictates. Others working late into the evening, in pubs or casinos, for example, neatly illustrated by an existing/past tenant's comment on the previous application Number 16/03505/FU: "Everyone works and have different shift patterns."
- The limited outdoor amenity space is directly at the other side of our fence, therefore partying with large amounts of people is an immense source of nuisance especially when the weather is warm and windows are open. As, many windows overlook our property we have lack of privacy which is a considerable concern as it will be a totally different population from a care home.
- The Noise Impact Assessment that was carried out by Environment Noise Solutions has no real relevance as the adjoining property was not taken into consideration. When the garage is demolished noise will travel further and louder, so therefore is not a true and valid assessment.
- No material change from the previous rejected proposal. Only one fire exit from room 16, there should be another.
- HMO is inappropriate so close to a school. The property would be more suited to self-contained flats. Transient and sometimes vulnerable people do not make good neighbours for the children at the adjacent four schools and gun shots have been heard from the garden.
- The boundary is incorrectly shown on the layout plan.
- Inadequate bin storage proposed.
- The property does not have a HMO licence.

6.4 Cross Gates Watch - objection

- This proposed HMO is very poorly positioned - very close to existing housing and next to and overlooking a primary school. The school has a large purpose built enclosed nature garden with a pond, trees and natural habitat next to the proposed HMO. There are also open playing fields and seated areas for children to eat in summer months close by.
- The change of use to a HMO remains an unacceptable intensification of the use of the site resulting in a significant reduction in amenity to local residents' living conditions through increased noise and disturbance as a result of general activity levels and comings and goings.

- The current waste storage arrangements are inadequate for a 16 bed/unit HMO and are therefore a poor design
- The parking and highways considerations at the present moment remains in conflict with policies H6 (C) and T2 of the Core Strategy which requires sufficient easily accessible and appropriately located off and on-street car and cycle parking. It is also in breach of policy GP5 which requires proposals to maximise highway safety and avoid problems of highway congestion.
- Other serious matters such as facilities and rooms for the disabled and soundproofing are not addressed and therefore do not meet policy requirements. The applicant clearly has not heeded sufficiently the Officer's advice that he takes note of what the Inspector said in his report of 13 April 2017.

6.5 The application was initially amended from 16 bedrooms to 14 bedrooms and re-advertised. Objections were received from three local residents and Cross Gates Watch, who state that earlier concerns had not been addressed.

6.6 The application was subsequently amended from 14 bedrooms to 12 bedrooms, and the application was re-advertised. One letter of representation received stating objections on residential amenity and highway safety grounds, as previous.

7.0 CONSULTATION RESPONSES:

7.1 Highways – The revised layout shows 12 bedrooms and six parking spaces, in a form which complies with guidance, and as such, no objections are raised.

7.2 Flood Risk Management – No objections. The site is located in flood risk zone 1 and there are no records of any reported flooding incidents on or near the site. Records indicate there are no watercourses or drainage assets within the site boundary.

7.3 Housing – If permission is granted, recommend a sound insulation scheme. The residential units must comply with the requirements of the Housing Act 2004. Housing also advise that the HMO Licence application was refused on 4 April 2016, and the owner does not have a current application for a licence, so would have to apply again. The owner was advised as to what they would have to do to meet the HMO licencing criteria, (to create more communal kitchen area).

7.4 Neighbourhoods & Housing - No objection to the proposed change of use in principle but would recommend that the Housing Regulation team are consulted.

8.0 PLANNING POLICIES:

8.1 Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that applications should be determined in accordance with the development plan unless material considerations indicate otherwise. The Development Plan for Leeds currently comprises the Core Strategy, saved policies within the Leeds Unitary Development Plan (Review 2006) and the Natural Resources and Waste Development Plan Document (2013), the Aire Valley Area Action Plan (2017) and any made Neighbourhood Plans.

Local Planning Policy

8.2 The Core Strategy sets out the strategic planning policy framework for the district until 2028. The following core strategy policies are relevant:

P10: Design issues
T2: Highway safety and parking provision
H6: Houses in Multiple Occupation, Student Accommodation and Flat Conversions

8.3 Policy H6 of the Leeds Core Strategy is of particular relevance to this proposal. This states that proposals for HMOs should seek to ensure that adequate for HMOs should be made, but emphasises that the location of HMOs should be balanced so as to avoid any undue concentration of student occupation by avoiding excessive concentrations of student accommodation (in a single development or in combination with existing accommodation) which would undermine the balance and wellbeing of communities.

8.4 This policy does, however, recognise that there are likely to be cases where the existing levels of HMOs are such as to make it very unlikely that a particular street or streets will not be suitable for family occupation and states "*it is recognised that some streets (or a part of a street) may already have such a high concentration of HMOs that the conversion of remaining C3 dwellings will not cause further detrimental harm. Also, it may be the case that the remaining C3 dwellings would be unappealing and effectively unsuitable for family occupation. In such circumstances Policy H6A would not be used to resist changes of use of such dwellings to HMOs*".

8.5 The site is not specifically allocated but the following saved UDP Review (2006) policy is considered to be relevant:

GP5: Seeks to ensure all detailed considerations are resolved including amenity and highway safety matters.

Other supplementary guidance:

8.6 Leeds City Council Advisory Standards for Houses in Multiple Occupation – this document sets out the minimum recommended space standards for HMOs.
Parking (December 2015)
Neighbourhoods for Living

National Planning Policy Framework:

8.7 This sets out the government's aims for promoting growth and sustainable forms of development.

8.8 Paragraph 50 of the National Planning Policy Framework states that in order to "deliver a wide choice of high quality homes, widen opportunities for home ownership and create sustainable, inclusive and mixed communities, local planning authorities should [amongst other objectives] plan for a mix of housing based on current and future demographic trends, market trends and the needs of different groups in the community" with paragraph 64 stating that "*Permission should be refused for development of poor design that fails to take the opportunities available for improving the character and quality of an area and the way it functions*".

9.0 MAIN ISSUES

1. Principle of development
2. Amenity (residents and nearby occupiers)
3. Highway considerations
4. Representations

10.0 APPRAISAL

Principle of development

- 10.1 Houses in Multiple Occupation often present an array of issues in terms of overcrowding, noise and disturbance, bins, unkempt gardens etc. and are usually found to manifest themselves in specific parts of the City. However, it is also recognised that HMOs, in a controlled environment, can make a valuable contribution to meeting some housing needs. Policy H6 of the Leeds Core Strategy specifically recognises this and is one of the main means of assessment and so deals with *inter alia* changes of use or conversions of existing dwellings for use as HMO's.
- 10.2 The policy advises that development proposals for new HMOs will be determined against the following main points albeit other material planning considerations could clearly exist and each application must be considered on its own merits:
- (i) To ensure that a sufficient supply of HMOs is maintained in Leeds,
 - (ii) To ensure that HMOs are distributed in areas well connected to employment and educational destinations associated with HMO occupants,
 - (iii) To avoid detrimental impacts through high concentrations of HMOs, which would undermine the balance and health of communities,
 - (iv) To ensure that proposals for new HMOs address relevant amenity and parking concerns,
 - (v) To avoid the loss of existing housing suitable for family occupation in areas of existing high concentrations of HMOs.
- 10.3 The host building is a red brick detached and substantially extended property within a residential area. It is considered that the site is in a reasonably sustainable location, with good access to local facilities within walking distance.
- 10.4 There are no known properties on Church Lane that have been sub-divided to be used as a HMO. In addition, the local housing mix has good levels of family housing thereby representing a diverse mix of housing options without the creation of high concentrations of HMOs. Furthermore, there is no loss of a single family dwelling as the property was previously in use a residential care home (within Class A2). As such, subject to the resolution of parking and amenity concerns (criterion iv above), there would be no objection in principle to an HMO in this location.

Amenity

- (1) Nearby residents
- 10.5 The application was originally submitted as a change of use to 16 bedroom HMO. The change of the building to a 16 bedroom HMO would intensify the site - this intensification is considered to be significantly greater than the activity that would typically occur from the property if used as either a residential care home or a traditional family dwelling, in terms of activity levels and the resulting noise and disturbance. Nearby residents have stated the comings and goings of residents and visitors has caused noise and disturbance issues, which is unsurprising given the number of individual bedrooms which have been created. The essentially self-contained nature of these individual bedrooms is also such that significant numbers of visitors to the property are also likely, not only those visiting occupiers from a social perspective but also those providing services - such as the delivery of mail/packages and even takeaways during the evenings.

- 10.6 In dismissing the appeal, the appeal Inspector acknowledged that the proposed use would generally involve a younger and more energetic, socially active age group which would intensify activity on the site, including visits by non-residents and delivery vehicles. Vehicle movements to and from the property would be significantly increased creating noise and disturbance from parking manoeuvres, revving engines, in-car sound systems and the slamming of vehicle doors. The existing storage building on the eastern boundary of the site would be demolished to provide additional parking space, and in doing so would bring a noise source closer to adjoining dwellings and gardens and at an elevated level. It follows that pedestrian movements within the site would also increase. These activities would be intrusive for neighbouring occupiers, especially late at night when ambient noise levels are low. Environmental Protection officers concur with Planning Officers that the reduction from 20 bedrooms to 16 bedrooms and the introduction of an acoustic fence will not prevent harmful noise and disturbance to immediate neighbours, given the nature of the occupancy and the number of occupiers.
- 10.7 Whilst it is accepted the previous care home use would have had similar occupation levels and would have included some staffing requirements, the overall activity levels would have been less than would typically occur from a 20 bedroom HMO use. The care home use would also certainly have followed a relatively routine schedule whereby activities levels would have been focused in the day time which is not a situation which is likely for such a large HMO use. The longer term nature of the care home occupants (relative to HMO occupiers who often tend to rent on a more short term basis) and its more 'local community' focus whereby at least some residents are likely to have been from the surrounding area is such that a more harmonious existence between the use and the surrounding residents would typically occur. Indeed, no recorded complaints in connection with the previously use have been identified which supports this general opinion. The planning history for the care home use also supports this as it has been allowed to grow incrementally over a long period of time and if the use were to have caused a problem it would not have been permitted to extend. The same conclusion cannot be reached for the new HMO use and the overall level of use in combination with its close proximity to residential properties, including those on two immediate boundaries is such it is not considered appropriate to recommend approval for the 16 bedroom HMO use originally applied for due to its adverse impact on the living conditions of surrounding neighbours.
- 10.8 Due to these concerns, and highway safety concerns (see appraisal below) the application has been amended from 16 bedrooms to 12 bedrooms. The main issues of concern is from differing lifestyle uses comparing nearby residents to this HMO and assuming that the tenants will typically be young people and yet this is not always the case and may change over time. There would have been a lot of coming and goings when it was a care home from staff movements working different shifts, visitors, care professionals, deliveries and emergency visits although there would have been limited use of the garden. The residential care home had a capacity for 20 residents. Given the size of the building, the previous use as a 20 person residential care home, and proposed acoustic boundary treatment, and the lack of an objection from Environmental Health officers, on balance, the proposal is now considered to propose an acceptable level of occupation.
- 10.9 The building itself will provide sufficient attenuation from activities carried out inside although no sound insulation scheme can prevent people from leaving windows and doors open and being noisy. The noise report provided suggests nearby residents wouldn't have their sleep disturbed by normal activities from the property at night (23:00 to 07:00 hours) especially with the close boarded fence proposed. The

reduction from 20 bedrooms to 12 bedrooms represents a significant reduction in the amount of activity at the site. The demolition of the conservatory will reduce some of the activity within the rear area in the evening. Although it is acknowledged that the provision of rear of open amenity space will still allow some activity, albeit on a reduced level.

10.10 Some residents have stated that there is overlooking from windows, however, these windows are considered to be a sufficient distance to boundaries so as to comply with minimum distances as set out in Neighbourhoods for Living. No new openings are proposed. The appeal Inspector agreed with the local planning authority on this point. The outbuilding is now proposed to be demolished, however this will not open up views of the neighbours due to the distance from existing windows and the presence of a close boarded fence.

(2) Occupiers of the building

10.11 The outlook and generally the size of bedrooms identified as part of the change of use are considered to be acceptable. A reduction in the total number of bedrooms has also allowed some rooms to have access to their own living room. The appeal Inspector did not raise any concerns in this regard on the previous, more intensive proposal. There are rooms occupied in very close proximity to communal rooms and kitchens, and it is possible that there may be some noise transmission between rooms, however this issue could be dealt with by a suitable condition to require appropriate sound insulation details. Environmental Protection officers have stated that a suitable scheme would be required.

10.12 It is considered that the revised proposal provides adequate outdoor amenity space for residents, as the reduction in car parking from around 9 spaces to 6 spaces, and the demolition of the garage and conservatory allows a significant area of amenity space to be provided. There is now area of amenity space proposed to the front of the building, where substandard parking area is currently provided. Whilst the amenity space will improve the setting of the building, it would not be particularly useful as amenity space as it would not be private. On the previous scheme, given its limited size, the appeal Inspector considered that the area is inadequate to provide satisfactory private amenity space for up to 20 tenants and any visitors. The revised proposal has less tenants, and a greater area of amenity space, and is now considered acceptable.

10.13 The ratio of communal rooms to bedrooms was previously of some concern and combined with the lack of other facilities and outdoor space indicated the previous HMO use proposal was over-intensive to the extent that the living conditions for occupiers of the building itself were poor and sub-standard. The appeal Inspector however did not agree with this concern, although it is now noted that there are greater indoor facilities proposed in the form of additional lounge/amenity rooms, as well as less bedrooms.

Highway considerations

10.14 In respect of the previous appeal proposal, the Inspector stated that:

The two parking spaces to the front of the building involve vehicles reversing on to or off the carriageway. This compromises the safety of road users, including those undertaking the manoeuvre, as well as the safety of pedestrians.

10.15 These spaces have been deleted from the current application, as the parking adjacent to the main site access is considered to be highly undesirable, as it would generate reversing manoeuvres next to the main entrance to the site.

- 10.16 The scheme has been revised such that 12 bedrooms are provided. The Council's adopted Parking Guidelines require that car parking is required at 50% number of bedrooms, therefore 6 parking spaces should be provided. Previously, for a 20 bedroom HMO, 10 parking spaces would need to be provided, and the Inspector stated that the rationalisation and rearrangement of the parking layout and cycle storage facilities on the site could resolve parking concerns and prevent on-street parking. It is considered that 6 parking spaces, as shown on the layout, to the side and rear, with the frontage parking deleted, addresses previous concerns raised by Highways Officers and by the appeal Inspector.
- 10.17 Accordingly on-street parking is unlikely, and Highways Officers raise no objections to the proposal and unallocated parking is proposed to maximise its use.

Representations

- 10.18 The main issues identified within the objections are considered to have been addressed within the report. Issues regarding licensing and fire regulations are not addressed, as they are dealt with under separate legislation.

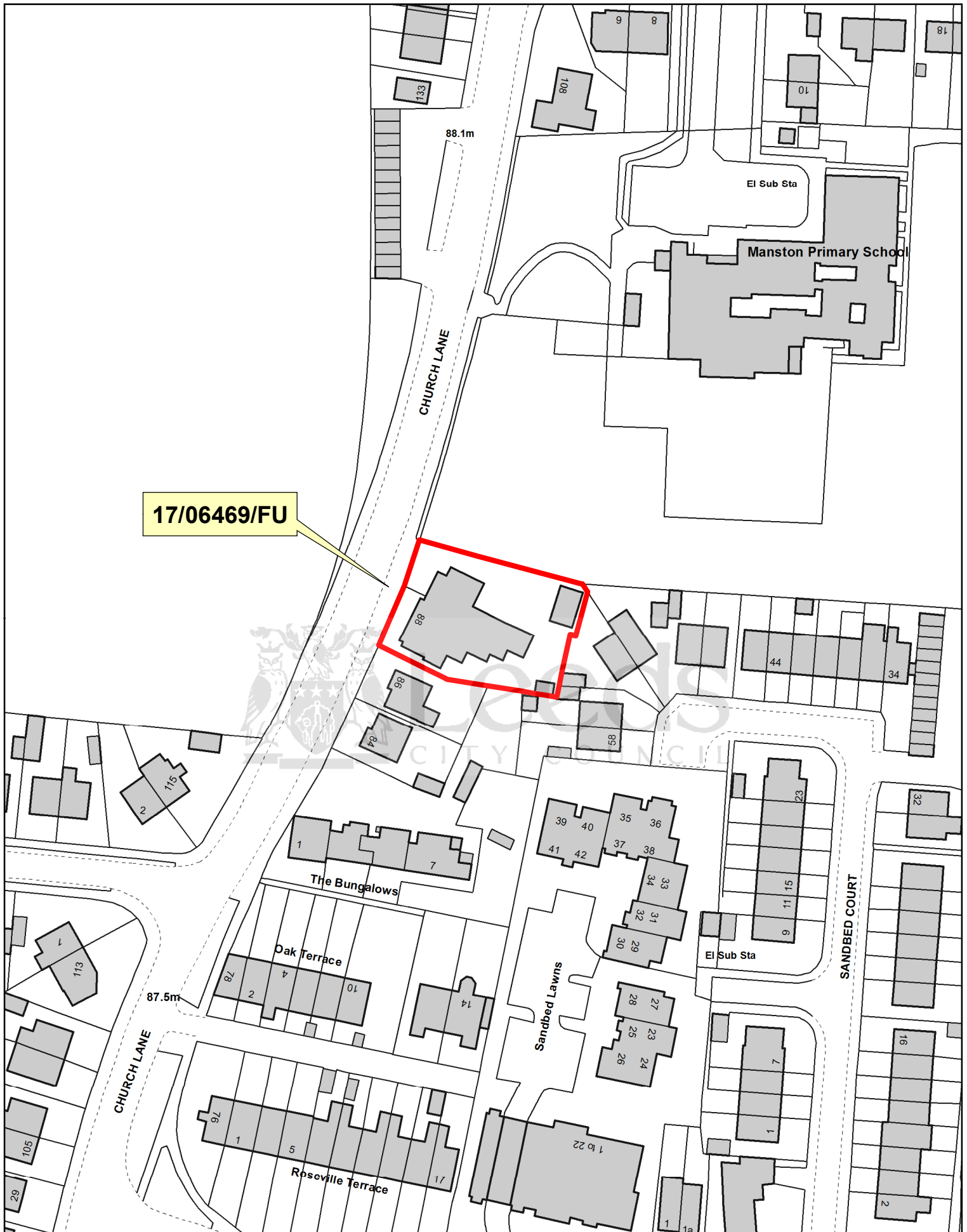
11.0 CONCLUSION

- 11.1 A previous application for a 20 bedroom HMO was refused and dismissed on appeal. It is considered that a reduction to 12 bedrooms does materially improve the amenity for adjoining residents, and does materially improve the amount of amenities for residents of the HMO also. Furthermore, the parking requirements of the HMO use can adequately be accommodated off-street and there would be no harm to highway safety. The 12 bedroom HMO use can therefore be supported and planning permission is recommended to be granted, subject to the conditions specified.

Background Papers:

Application and history files.

Certificate of Ownership sign by the applicant/agent.



NORTH AND EAST PLANS PANEL



NOTE:
 INFORMATION IS BASED ON RECEIVED
 SKETCH AND MEASURED. PLAN IS SUBJECT
 TO FULL MEASURED BUILDING SURVEY TO
 ENSURE ACCURACY

**EXISTING ACCOMMODATION
 SCHEDULE**

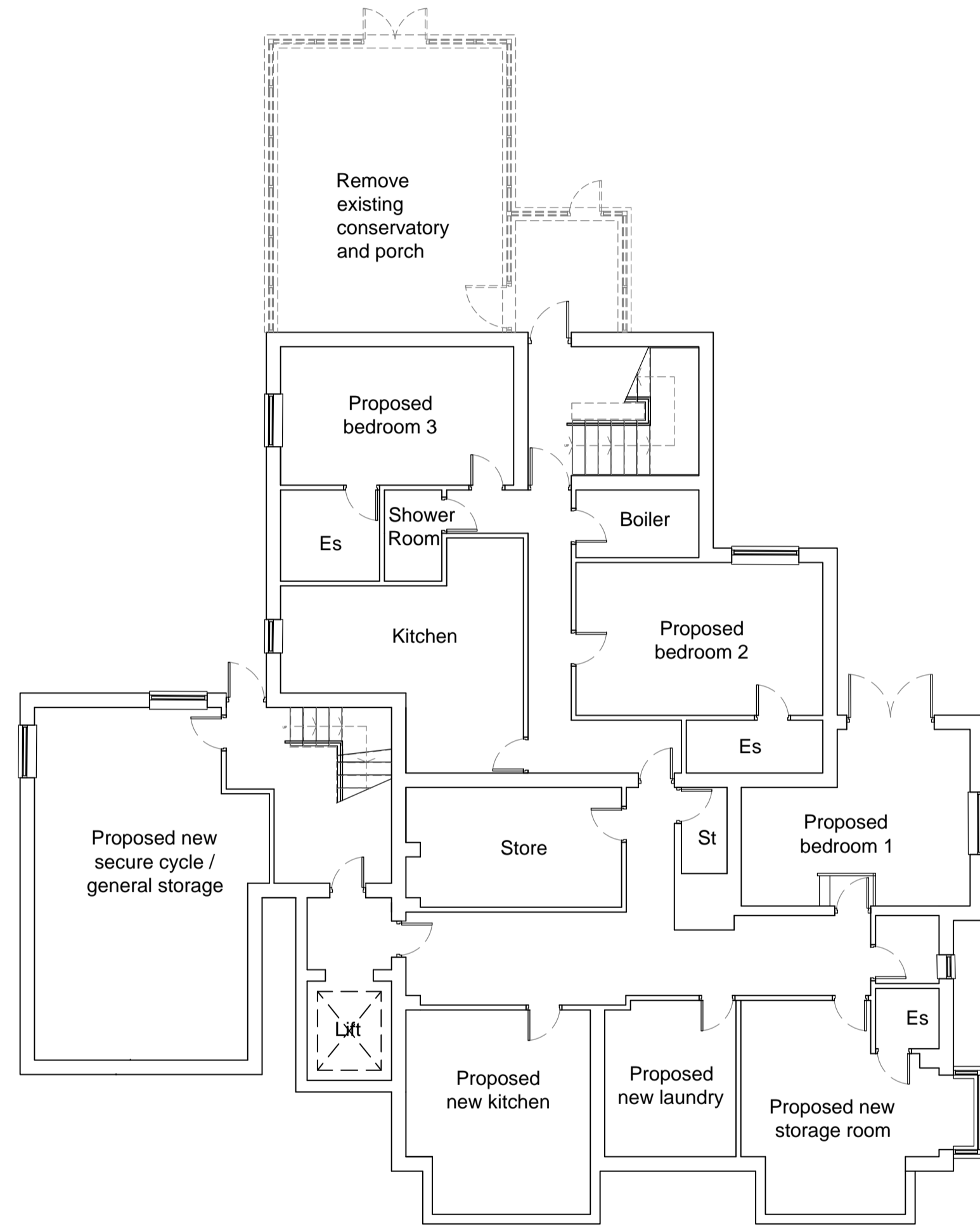
Lower Ground 5 bedrooms
 Upper Ground 5 bedrooms
 First Floor 9 bedrooms
 Second Floor 1 bedrooms

Total Existing 20 bedrooms

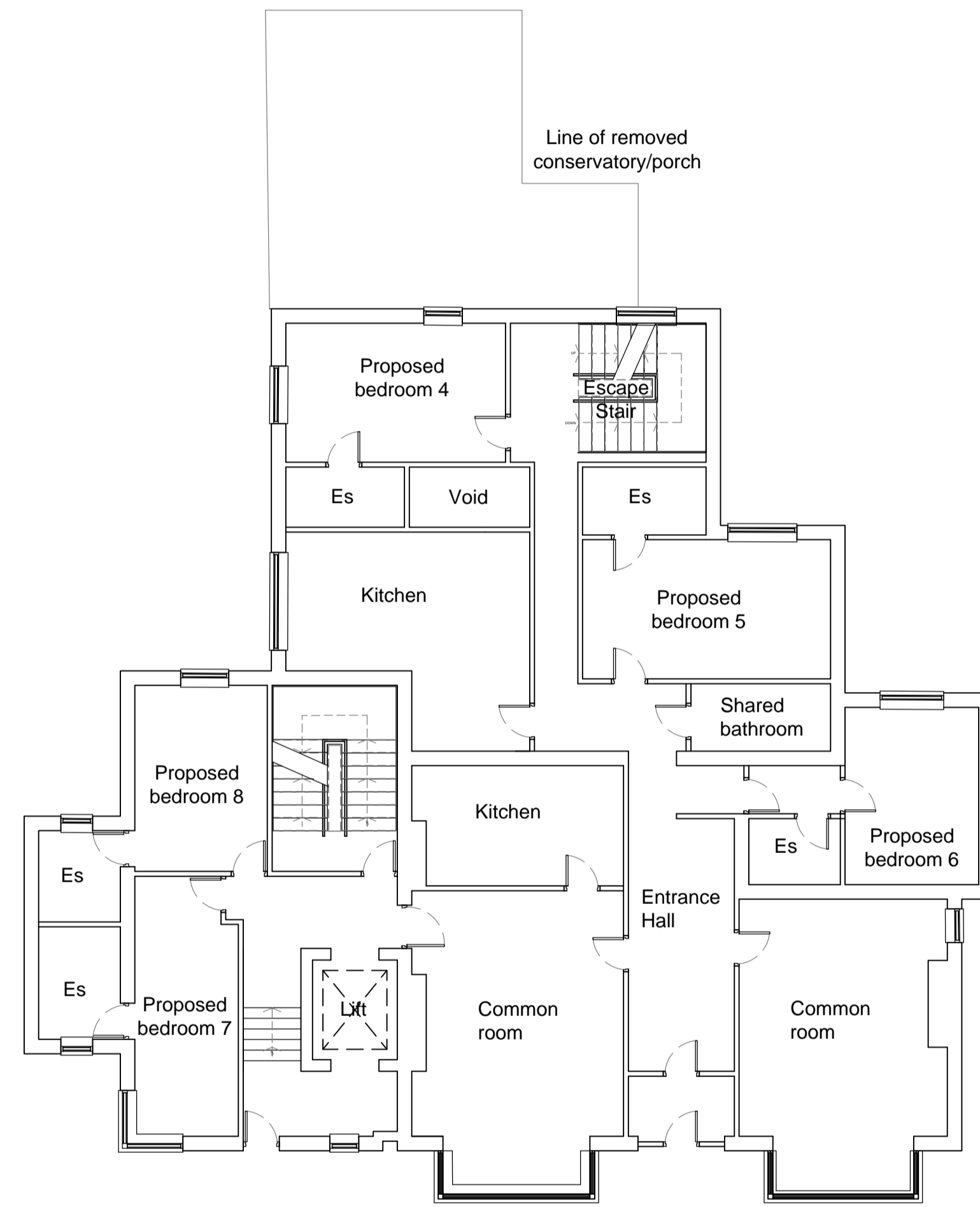
**PROPOSED ACCOMMODATION
 SCHEDULE**

Lower Ground 3 bedrooms
 Upper Ground 5 bedrooms
 First Floor 7 bedrooms
 Second Floor 1 bedrooms

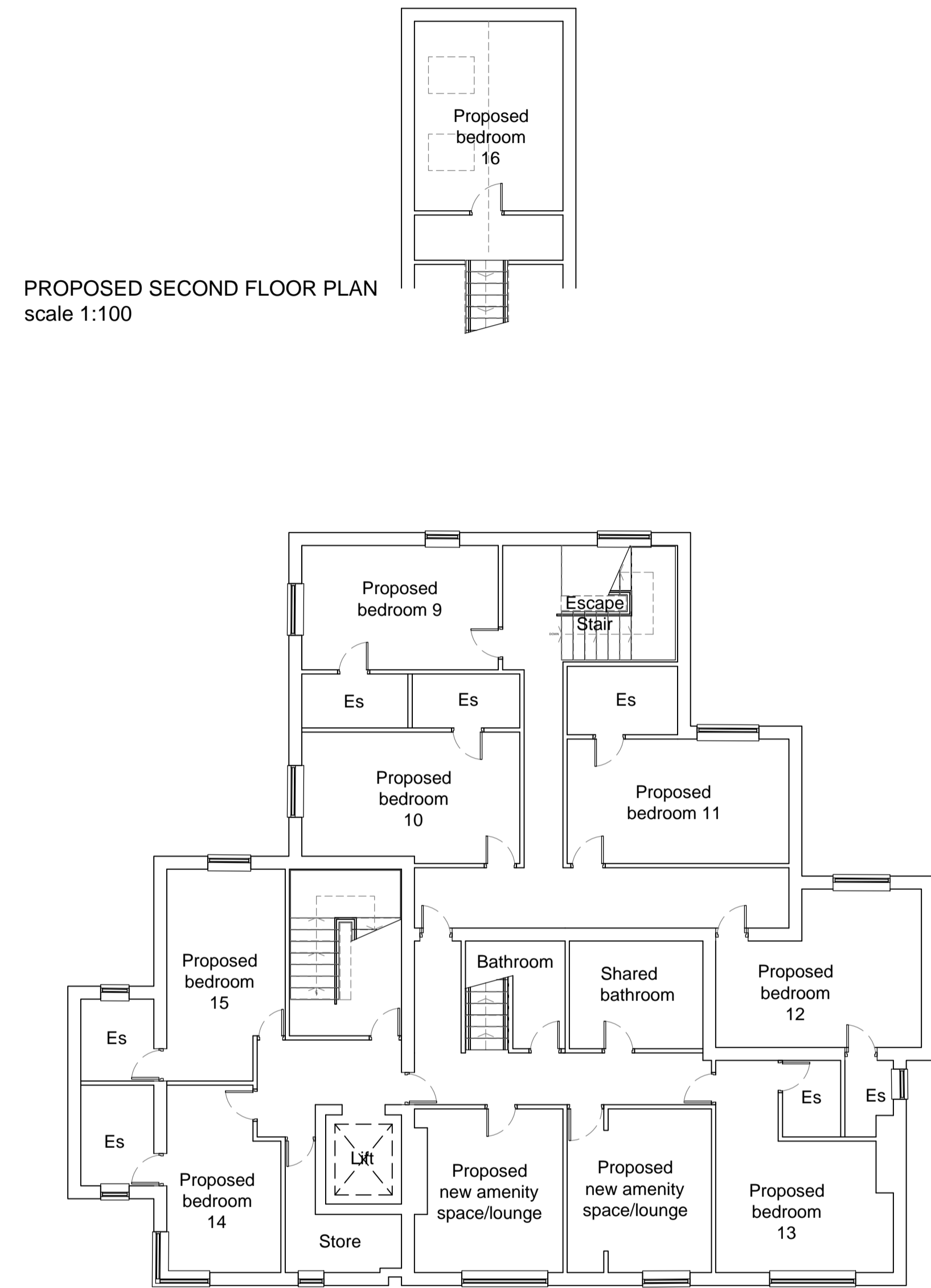
Total proposed 16 bedrooms



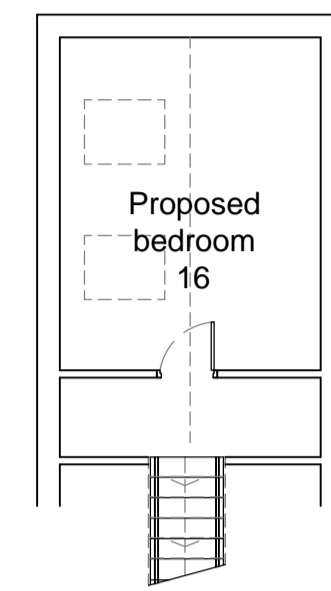
PROPOSED LOWER GROUND FLOOR PLAN
 scale 1:100



PROPOSED UPPER GROUND FLOOR PLAN
 scale 1:100



PROPOSED FIRST FLOOR PLAN
 scale 1:100



PROPOSED SECOND FLOOR PLAN
 scale 1:100

PROJECT		
Proposed Refurbishment		
88 Church Lane Crossgates Leeds LS15 8JE		
PURPOSE OF DRAWING		
PLANNING		
CLIENT		
Jamie Paul		
DRAWING TITLE		
Proposed GA Plans		
DATE	DRAWING NO	REVISION
June 2017	003	-
JOB NO	SCALE	DRAWN
2017-003	see dwg	AUTOCAD

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Originator: J.Bacon
Tel: 0113 2224409

Report of the Chief Planning Officer

Plans Panel North and East

Date: 7th June 2018

Subject: 17/07114/RM Reserved matters application for the construction of 18 flats and associated car parking at the Former Stanks Fire Station, Sherburn Road, Swarcliffe, Leeds LS14.

APPLICANT	DATE VALID	TARGET DATE
Hirst SSAS	14 th November 2017	Extension to be agreed

Electoral Wards Affected:

Cross Gates and Whinmoor

Yes Ward Members consulted (referred to in report)

Specific Implications For:

Equality and Diversity

Community Cohesion

Narrowing the Gap

RECOMENDATION: DEFER AND DELEGATE approval to the Chief Planning Officer subject to the completion of a Section 106 to secure the following:

Offsite Greenspace enhancements (£57,258.98)
Affordable housing provision (3no. units)

In the circumstances where the Section 106 has not been completed within 3 months of the Panel resolution to grant planning permission, the final determination of the application shall be delegated to the Chief Planning Officer.

1. In accordance with approved plans
2. Unallocated parking
3. Sustainability requirements

1.0 INTRODUCTION:

- 1.1 This application is brought to Plans Panel North and East as this represents a revision to an application proposal which was previously considered by Panel Members at this site.

2.0 PROPOSAL:

- 2.1 This reserved matters application involves the laying out of 18 flats (comprising 13 two-bed, 4 three-bed and 1 one-bed flats) arranged in two separate blocks. The application addresses matters associated with the layout, scale, appearance and landscaping of the site. The flat development is to be accessed by a single access, off Stanks Drive and leads to a parking court that aligns the north-eastern boundary. The parking court contains 28 parking bays (incl. 2 disabled) with bin and cycle storage facilities adjacent.
- 2.2 The flat blocks are two storey in height, constructed in brick and have tiled dual pitched roofs. The flats have communal garden areas to the central and southern corner of the site. A pedestrian footway connection is shown to the north-western side of the site. Some tree retention is shown on the site frontage to the south-western corner, adjacent to the Stanks Drive/ Sherburn Road junction with new tree planting/ landscaping arranged across the site.

3.0 SITE AND SURROUNDINGS:

- 3.1 The application site formerly contained a fire station building with an associated drill tower to the side. The buildings on site have been demolished leaving a cleared site enclosed by high metal fencing. The site is either hardsurfaced (and used as vehicle circulation and parking) or grass. The site also contains a mature tree grouping to the site's south-west corner and two other trees to the western and northern parts of the site. All on-site trees are protected by a TPO confirmed in 2015 when the fire station site was initially earmarked for closure.
- 3.2 The application site occupies a corner plot at the junction of Stanks Drive, Sherburn Road and Sledmere Place. The site occupies elevated ground level relative to Stanks Drive, plateauing centrally where the former buildings stood and then rising to the north. There is a ginnel that runs along the north-eastern side of the site. The locality is residential in character containing compact rows of two storey terrace dwellings.

4.0 RELEVANT PLANNING HISTORY:

- 4.1 16/07555/FU - Construction of 13 houses - Refused (15/05/17) on the grounds relating to the overdevelopment of the site; adverse impact of design, car parking arrangements (incl. parking court/ parking to front), protected trees; fail to make provision for greenspace enhancements. Appeal dismissed by the Inspector on the basis that the proposal was likely to increase opportunities for crime and antisocial behaviour and would have an unacceptable effect on the character and appearance of the area where the landscape is concerned. During the appeal proceedings the appellant submitted a Unilateral Undertaking in respect of a contribution towards the provision of greenspace and consequently, the Inspector did not consider the issue of the provision of greenspace further.

16/01766/OT - Outline application for residential development with associated access - Approved (12/05/16) – (Access only applied for).

15/04403/DEM - Demolition of Fire Station- Approved (27/08/15).

2015/12 - Tree Preservation Order – Covers all on-site trees

5.0 HISTORY OF NEGOTIATIONS:

5.1 Prior to the submission of this reserved matters application the applicant met with Planning officers to review the appeal decision and to develop a revised form of development that responded to the concerns that had been raised. The main response was to move towards flats rather than houses as before. During the course of the application a number of amendments have also been carried out to the layout resulting in a re-configuration of the parking.

6.0 PUBLIC/LOCAL RESPONSE:

6.1 The application was advertised by 5 site notice displays posted adjacent to the site dated 1st December 2017 and 33 neighbour notification letters. Letters of representation have been received from 10 households in response to the public notification process albeit not all are from the immediate area.

6.2 9 letters express support to the proposals on the following summarised grounds:

- Well thought out development; plenty of parking/ open areas to use; secure cycle parking; benefit of electric vehicle charge points; need for apartments in area; improvement to previous application; visually pleasing;
- Nice to see development use the site to provide nice attractive housing; nice size back gardens; proposal attractive and parking plentiful.
- Whilst construction will be a disruption site is in need of development.
- Bring much needed housing to the area and with a shortage of homes;
- Provide employment opportunities.

6.3 1 letter of objection received expressing the following summarised grounds:

- Insufficient parking on site (doesn't cater for visitors/ long wheel based vehicles).
- Site borders a busy junction (a main access to estate) served by multiple high frequency bus services- inadequate parking provide so park on adjacent streets causing traffic chaos, strain on existing parking arrangements- increased pollution, congestion and conflict between new and existing residents.
- Suggest reduction in flat numbers to make parking proportionate.
- Cycle storage facility to be located centrally within site.

7.0 CONSULTATIONS RESPONSES:

7.1 Highways: No objection. Conditions recommended.

7.2 Flood Risk Management: No objection. Conditions recommended.

- 7.3 Contaminated Land: No objection. Conditions recommended.
- 7.4 West Yorkshire Combined Authority: Request Residential Metrocards be provided for occupiers; no objection to relocation of shelter subject to being retained within catchment area (costs to be incurred by applicant- £7,000).

8.0 PLANNING POLICIES:

8.1 Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that applications should be determined in accordance with the development plan unless material considerations indicate otherwise. The Development Plan for Leeds currently comprises the Core Strategy, saved policies within the Leeds Unitary Development Plan (Review 2006) and the Natural Resources and Waste Development Plan Document (2013), the Aire Valley Area Action Plan (2017) and any made Neighbourhood Plans.

Local Planning Policy

8.2 The Core Strategy sets out the strategic planning policy framework for the district until 2028. The following core strategy policies are relevant:

- SP1: Location of development in main urban areas on previously developed land
- T2: Seeks to ensure that new development does not harm highway safety
- H2: New housing on non-allocated sites
- H3: Housing density
- H4: Housing Mix
- H5: Affordable housing
- P10: Seeks to ensure that new development is well designed and respect its context
- P12: Landscape
- G4: On-site greenspace for major residential developments
- EN1: Sustainability
- EN2: Sustainable construction methods/materials
- EN4: District Heating
- EN5: Seeks to manage and mitigate flood risk
- ID2: Planning obligations and developer contributions

8.3 The site is not specifically allocated but it lies within an area identified by regeneration policy objectives to address area, neighbourhood and community issues. The relevant saved UDP Review (2006) policies are listed below for reference:

- GP5: Seeks to ensure that development proposals resolve detailed planning considerations, including amenity.
- N23: Retention and provision of incidental openspace within developments
- N25: Seeks boundaries of sites to be designed in a positive manner using walls, hedged or railings where appropriate to the character of the area.
- R2: Area based regeneration initiatives.
- BD5: Seeks to ensure new development protects amenity.
- LD1: Seeks for landscape schemes to complement and where possible enhance the quality of the existing environment.

8.4 The following Natural Resources and Waste policies are also considered to be relevant:

MINERALS3: Surface Coal resources.

AIR1: Major development proposals to incorporate low emission measures.

WATER1: Water efficiency, including incorporation of sustainable drainage.

WATER4: Effect of proposed development on flood risk.

WATER 7: All developments are required to ensure no increase in the rate of surface water run-off to the existing formal drainage system and development expected to incorporate sustainable drainage techniques.

LAND1: Supports principle of development on previously developed land and requires submission of information regarding the status of the site in term of contamination.

Supplementary Planning Guidance

- 8.5 Neighbourhoods for Living (SPG13, adopted).
Sustainable Urban Drainage (SPG22, adopted).
Street Design Guide (SPD, adopted).
Designing for Community Safety (SPD, adopted).
Sustainable Design and Construction (SPD, adopted).
Leeds Parking Policy (SPD, adopted).

National Planning Policy

- 8.6 The National Planning Policy Framework (2012) sets out the Government's planning policies for England and how these are expected to be applied. It sets out the Government's requirements for the planning system. The National Planning Policy Framework must be taken into account in the preparation of local and neighbourhood plans and is a material consideration in planning decisions.
- 8.7 The introduction of the NPPF has not changed the legal requirement that applications for planning permission must be determined in accordance with the development plan unless material considerations indicate otherwise. The policy guidance in Annex 1 to the NPPF is that due weight should be given to relevant policies in existing plans according to their degree of consistency with the NPPF. The closer the policies in the plan to the policies in the Framework, the greater the weight that may be given. It is considered that the local planning policies mentioned above are consistent with the wider aims of the NPPF.
- 8.8 The NPPF gives a presumption in favour of sustainable development and has a strong emphasis on achieving high quality design. Of particular relevance, the national planning guidance attaches great importance to the design of the built environment and is indivisible from good planning (para.56, NPPF) and seeks development proposals to add to the overall quality of the area, create attractive and comfortable places to live and respond to local character and create safe and accessible environments (para.58, NPPF).

DCLG - Technical Housing Standards 2015

- 8.9 This document sets internal space standards within new dwellings and is suitable for application across all tenures. The housing standards are a material consideration in dealing with planning applications. The government's Planning Practice Guidance advises that where a local planning authority wishes to require an internal space standard it should only do so by reference in the local plan to the nationally described space standard. With this in mind the city council is currently progressing to adopt the national standard, building on work already done in developing the

Leeds Standard which is applied to all Council schemes and which seeks to influence private sector development to achieve better quality housing. This work is being progressed as part of the Core Strategy Selective Review which the Executive Board recently endorsed at its meeting on 8th February 2018. Accordingly some weight can now be attached to these requirements.

- 8.10 The proposal comprises an arrangement of one, two and three bedroom flats. The housing standards require such property types to provide 50sqm, 61sqm and 74sqm of gross internal floorspace. Each of the flats satisfies the respective guidelines with the one bed flat offering 61sqm, the two bed flats also offering 61sqm and the three bed flat offering 74.6sqm. The implications of this are further discussed within the residential amenity section (para. 10.9) of the appraisal.

9.0 MAIN ISSUES

1. Principle of development
2. Impact on design, visual amenity and character
3. Impact on residential amenity
4. Highway implications
5. Greenspace
6. Affordable Housing
7. Sustainability
8. Flood risk and drainage
9. Land contamination
10. Community Infrastructure Levy (CIL)

10.0 APPRAISAL

Principle of development

- 10.1 The application site benefits from an extant outline planning permission (Ref: 16/01766/OT) which established the acceptability of redeveloping the site for residential purposes. This reserved matters application addresses matters associated with the layout, scale, appearance and landscaping of the site.
- 10.2 As was noted within previous planning submissions, the site is not allocated for any specific purpose within the development plan and given the former fire station use is considered previously developed in nature. The site lies within an established residential estate, is served by existing highways and has good access to public transport and local services and is considered to be in a sustainable location. Nevertheless, the overall acceptability of this proposal is subject to other material considerations being satisfactorily resolved and these are discussed further below.

Impact on design, visual amenity and character

- 10.3 The application site lies within an area predominantly defined by conventional brick built two storey terraced housing stock although more recent developments, within the wider estate, have provided a contemporary variation. High rise tower blocks are also visible within the estate. The proposed flat blocks adopt an appropriate domestic height and scale with simple architectural detailing and material finish (brick, tiled roof) that would be considered compatible with the buildings in this estate.

- 10.4 The development proposal comprises an arrangement of two separate two storey height blocks which are oriented to face out towards existing highways which would provide good natural surveillance and activity to these public facing elevations with the bedroom windows located to the rear, overlooking the communal amenity space/car park internal to the site. The majority of the parking is positioned along the north-eastern boundary allowing a more sizable and meaningful communal garden area to be created centrally within the site and at the rear of the blocks which will be of benefit to future occupiers. Overall, it is considered that the appearance of the flat blocks and the configuration of the internal rooms is acceptable and that the proposal achieved good separation distances from the site edge and the properties beyond.
- 10.5 Having regard to the topography of the site regard is given to the rising ground levels towards the northern portion of the site. The slightly lower ground level and proposed boundary fencing would assist in screening the cars from view from the nearest dwellings to the north-east as well as helping to buffer any impacts on these existing dwellings from car noise/ shining headlights etc.
- 10.6 From a landscape perspective, the site contains protected trees (comprising 3 moderate quality trees, 3 low quality trees with only 1 unsuitable for retention). As was the case under the previous planning application it is accepted that some tree removal may be necessary to achieve an efficient build out of the site. Nevertheless, this revised proposal responds positively to the presence of prominent trees along the site's southern Sherburn Road frontage, setting the block well away from these features to ensure they are not compromised which will assist the development's assimilation within the street view.

Impact on residential amenity

- 10.7 The proposed residential development is clearly, in use terms, compatible with nearby residential properties. The application site is bounded by highways to three sides with a wide ginnel aligning its remaining boundary. Accordingly, it is considered that sufficient separation distance exists between the proposal and existing residential properties to ensure that no undue overlooking, overshadowing or dominance impacts will arise for those occupiers. However, it is to be recognised that a development has the potential to not only impact on its surroundings and the occupants of houses adjacent to the site but through poor design fail to provide the future occupants of the development with a satisfactory standard of accommodation in terms of outlook and usable private outdoor amenity space.
- 10.8 The proposed flats will share communal garden areas across the site and taking account of the usability and quantity of space provided it is considered that adequate outdoor amenity space is to be provided for future occupiers.
- 10.9 In addition to the provision of reasonable level of outdoor space and outlook there is also the need to ensure the internal accommodation being offered is adequate. On this issue, the government introduced optional national technical housing standards which state the minimum quantum of accommodation for dwellings as well as room heights and sizes. The guidance which accompanies this document makes it clear local authorities are only permitted to refer to the national standards through the introduction of an appropriate local plan policy. As specified in para. 8.9 and 8.10, the national space standards do not currently form part of the adopted development plan but the Council is moving towards this position. With this in mind, the affected flats all appear to be of reasonable proportions and each is accessed off a communal hallway. Each flat has an aspect to the front and rear and the habitable

rooms are served by windows that will allow for reasonable outlook and daylight penetration.

- 10.10 Overall, this resubmitted proposal is not considered to unreasonably impact on the residential amenity of nearby residences and would provide an adequate level of accommodation for future occupiers in terms of outlook, receipt of daylight and amenity space.

Highways implications

- 10.11 The application site is located within an established residential area and future occupiers would have good access to the shopping and community facilities and general amenities situated nearby as well as access to existing bus services.
- 10.12 The proposed development is served by an existing point of access off Stanks Drive which leads to a parking court (28 spaces). The position of the access is acceptable and has been established through the outline permission. Works are however necessary to re-form the existing junction to a standard suitable for serving a residential development. Off-site highway works would be required to reinstate a redundant junction to the former fire station off Sherburn Road and to provide the access to the proposed car parking area off Stanks Drive.
- 10.13 In terms of parking provision, a total of 28 off-street spaces are provided within the site and this accords with the Council's parking standards. Furthermore, to ensure parking opportunities are maximised a condition is included as part of the officer recommendation for all the spaces to remain unallocated.
- 10.14 West Yorkshire Combined Authority has requested a contribution is made towards the provision of Residential Metrocards for future occupiers although the scheme only involves 18 flats which would fall some way short of the thresholds for the provision of Travel Plan and a formal requirement to introduce additional sustainable transport measures (50 dwellings). Accordingly, given the modest scale of development and that the site is well connected to existing amenities and public transport links (where residents are likely to utilise public transport in any event) it is not considered that such a request could reasonably be justified and the requested provisions have not been sought in this instance.

Greenspace

- 10.15 By virtue of the scale of development (in excess of 10 units) the proposal is required to make provision for greenspace enhancements. Such a requirement is normally identified at the outline application stage but where it has not happened it is still a legitimate policy requirement that can be considered as part of the reserved matters submission. The Core Strategy recognises that not every development site is capable of accommodating the required greenspace within the site boundary and advises that in certain circumstances, and taking into account the characteristics of the site, it may be possible to provide new greenspace or improvements to existing greenspace off-site in lieu of on-site provision (generating a sum of £57,258.98). Improvements are to be secured through Section 106 agreement and this work is being progressed, including the identification of a local project where the monies can be directed.

Affordable Housing

- 10.16 As with greenspace contributions, the development proposal is required to provide affordable housing on-site at a level to comply with Core Strategy policy H5 (i.e. 15% target equals 3 units). Works to secure this provision will also be included within the Section 106 agreement.

Sustainability

- 10.17 The applicant advises that the design and construction method adopted will have high sustainability credentials and details of such an approach can be adequately covered by a planning condition seeking full details on how the development achieves the Core Strategy's carbon dioxide reductions and energy needs.

Flood risk and drainage

- 10.18 In regard to the flood risk and drainage, the application site lies outside any identified flood risk zone and it is considered planning conditions imposed under the outline permission will secure details of the surface water drainage scheme (which will consider infiltration drainage and sustainable drainage methods). On this basis, the Flood Risk Management officer raise no objection.

Land contamination

- 10.19 In respect of land contamination matters, officers have reviewed the submitted Phase 1 desk study report accompanying the application which recommends that a Phase 2 site investigation is carried out and contamination officers are content that such additional work is covered by the conditions attached to the outline permission.

Community Infrastructure Levy (CIL)

- 10.20 CIL was adopted by Full Council on the 12th November 2014 and was implemented on the 6th April 2015. The application site is located within Zone 2a, where the liability for residential development is set at the rate of £23 per square metre (plus the yearly BCIS index). Based upon the floorspace involved a contribution of £31,678 is generated. This information is not material to the planning decision and is provided for Panel Member's information only.

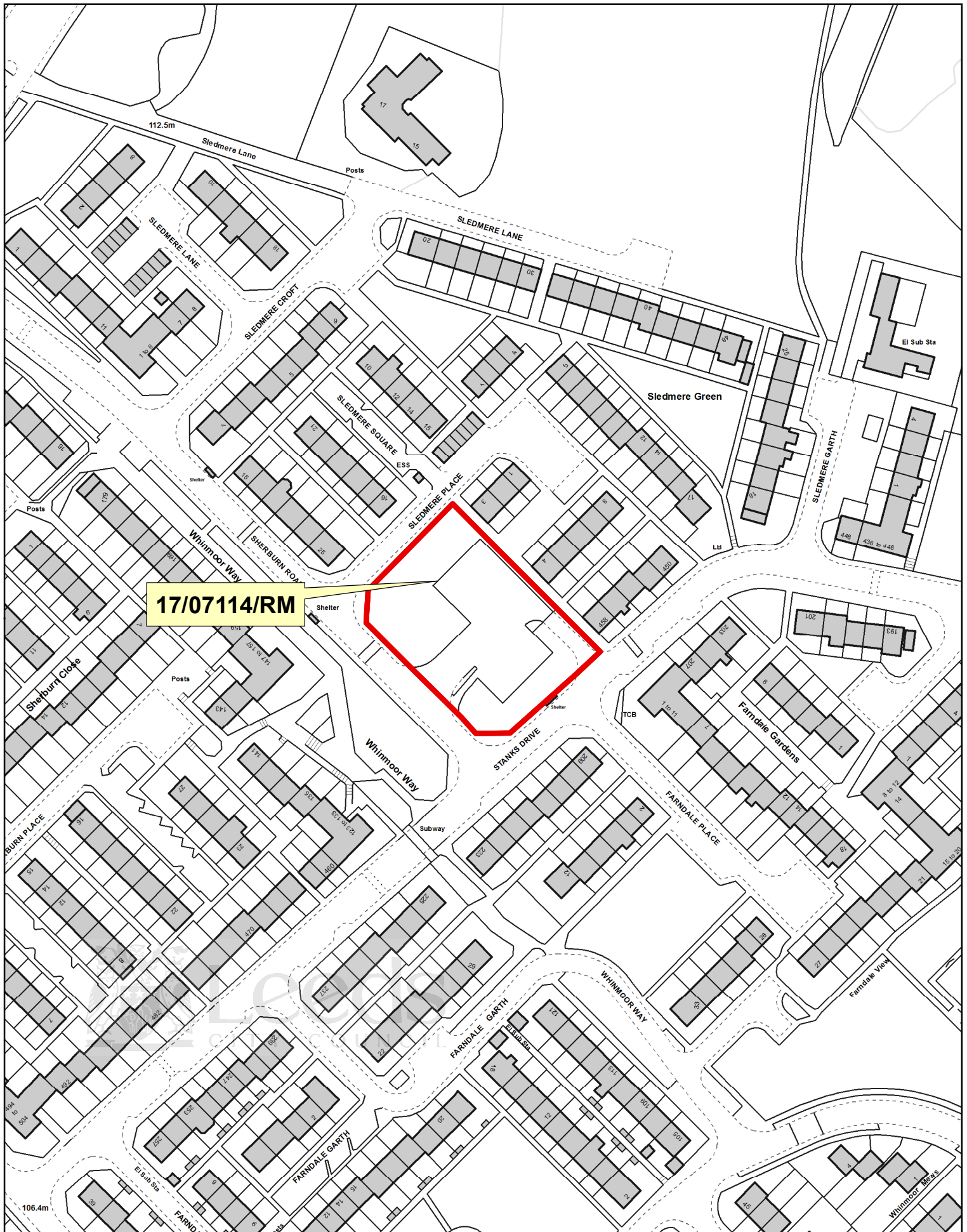
11.0 CONCLUSION

- 11.1 The principle of re-developing this site for residential purposes is considered acceptable in this location and established through outline permission. Amendments undertaken to the layout, siting, design and appearance of the proposed development are considered to have adequately resolved previous planning concerns. Accordingly, this proposal is recommended for approval although a defer and delegate recommendation is advanced on the basis a Section 106 is also required.

Background Papers:

Application and history files.

Certificate of Ownership signed by the appointed planning agent on behalf of the applicant dated 29th October 2017.



17/07114/RM

NORTH AND EAST PLANS PANEL

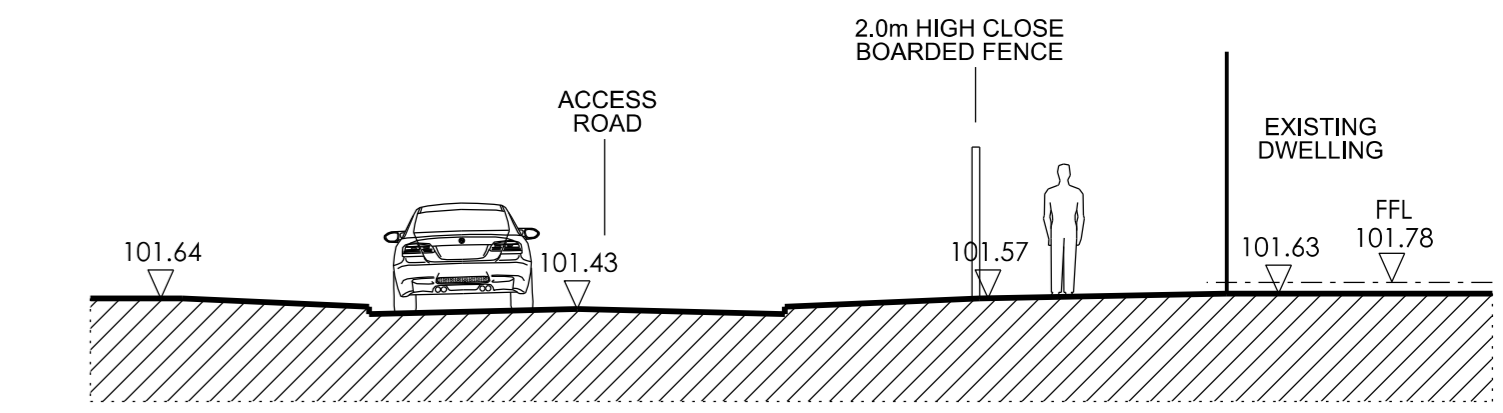


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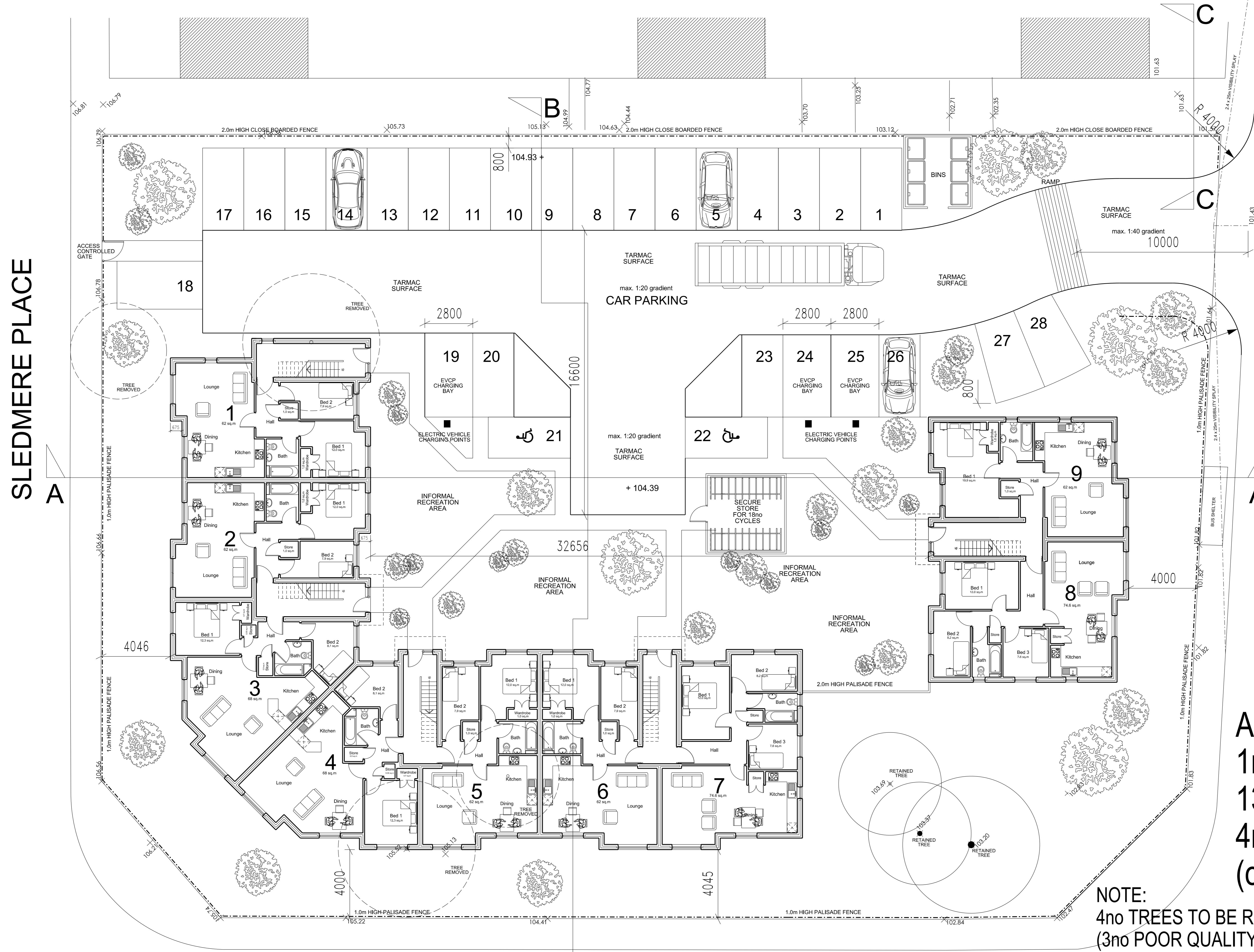
NOTE:
ALL DIMENSIONS/LEVELS
TO BE VERIFIED ON SITE
PRIOR TO COMMENCEMENT



ELEVATION TO SHERBURN ROAD



SITE SECTION C-C



SLEDMERE PLACE

STANKS DRIVE

SHERBURN ROAD

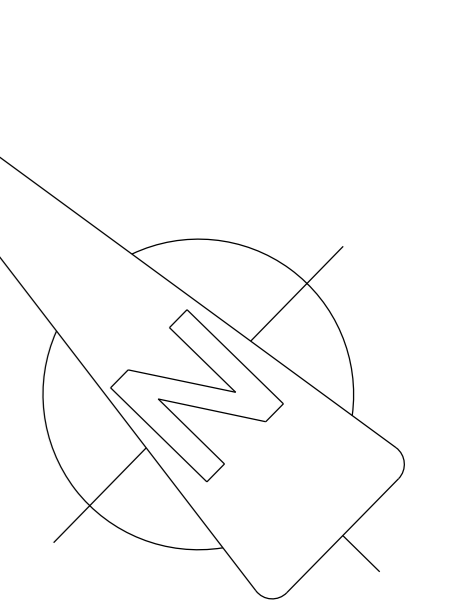
ACCOMMODATION
 1no. 1 bed 2 person Flat at 61 sq.m
 13no. 2 bed 3 person Flats at 61 sq.m
 4no. 3 bed 4 person Flats at 74.6 sq.m
 (over 2 storeys).

NOTE:
4no TREES TO BE REMOVED
(3no POOR QUALITY, 1no MODERATE QUALITY).

REVISION P

PROPOSED APARTMENTS SITE LAYOUT

SCALE - 1:100 @ A0 - 1:200 @ A2



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Originator: K Sandhu
Tel: 0113 222 4409

Report of the Chief Planning Officer

NORTH AND EAST PLANS PANEL

Date: 7th June 2018

Subject: 18/01519/FU – Two storey rear extension at, 43 New Sturton Lane, Garforth, LS25 2NW

APPLICANT	DATE VALID	TARGET DATE
Mr G Driver	6 th March 2018	1 st May 2018

<p>Electoral Wards Affected:</p> <p>CROSSGATES AND WHINMOOR</p> <p><input type="checkbox"/> Yes Ward Members consulted (referred to in report)</p>	<p>Specific Implications For:</p> <p>Equality and Diversity <input type="checkbox"/></p> <p>Community Cohesion <input type="checkbox"/></p> <p>Narrowing the Gap <input type="checkbox"/></p>
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RECOMMENDATION: GRANT PERMISSION subject to the following conditions:

1. Time limit on full permission;
2. To be built in accordance with the submitted plans
3. Materials to Match
4. No insertion of side facing windows
5. Side windows to be obscure glazed

1.0 INTRODUCTION

1.1 This application seeks planning permission for the construction of a two storey rear extension. The application has been brought to Plans Panel at the request of Ward Councillor Dobson due to concerns regarding the impact upon the character of the area. Concerns about the impact on the neighbours are also raised. A senior officer review has also been carried out in light of the representations made by Councillor Dobson which has concluded the development complies with the council's adopted planning policies and guidance and that planning permission should be granted.

1.2 As will be outlined below it is considered that the proposal accords with the relevant policies and guidance and thus is recommended for approval.

2.0 PROPOSAL:

- 2.1 As noted above the application seeks permission for a rear extension. This will involve the removal of the existing conservatory and the construction of a two storey rear extension. This builds partly over the existing single storey rear extension and will stretch the full width of the rear elevation, be approx. 3.4m in depth and a hipped roof is proposed. One new ground floor rear window is proposed and two new first floor windows. It would be set 1m away from the common boundary with no. 6 Braemar Drive.

3.0 SITE AND SURROUNDINGS:

- 3.1 The application relates to a two storey, detached dwelling located just off New Sturton Lane in Garforth. The dwelling is constructed from brick and has tiled, gabled roof. The house is located just off New Sturton Lane and accessed via a small drive serving three dwellings, with the housing to the north accessed via a private drive coming from Braemar Drive to the north. The house is set back from the highway behind a small front drive with parking to the side. A domestic garden is located to the rear and enclosed by a mixture of fencing and vegetation.
- 3.2 The wider area is primarily residential and broadly characterised by detached and semi-detached gabled dwellings. The houses in the immediate vicinity have a staggered siting and many of the properties in the locality have been extended in some form.

4.0 RELEVANT PLANNING HISTORY:

- 4.1 33/135/99/FU Single storey rear extension and porch to side
Approved

5.0 HISTORY OF NEGOTIATIONS:

- 5.1 At the request of officers the roof of the extension has been hipped to lessen the massing of the extension.

6.0 PUBLIC/LOCAL RESPONSE:

- 6.1 The application was advertised by neighbour notification letter on 16th March. Multiple representations have been made by the neighbour from 6 Braemar Drive who lie to the north raising concerns about overshadowing and loss of light to a side porch, and garden, their comments are maintained despite the revision to the scheme.

7.0 CONSULTATIONS RESPONSES:

- 7.1 None

8.0 PLANNING POLICIES:

- 8.1 Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that planning applications are determined in accordance with the Development Plan unless material considerations indicate otherwise. The Development Plan for Leeds currently comprises the Core Strategy (2014), saved policies within the Leeds

Unitary Development Plan (Review 2006) and the Natural Resources and Waste Development Plan Document (2013), The Aire Valley Area Action Plan and any made Neighbourhood Development Plan.

Local Planning Policy

8.2 The following Core Strategy policy is relevant to the proposal:

P10 Seeks to ensure that new development is well designed and respect its context.

The following saved UDPR policies are also relevant:

GP5: Seeks to ensure that development proposals resolve detailed planning considerations, including amenity.

BD6: Seeks to ensure that development proposals respect the scale, form and detail of the original building.

BD5: Seeks to ensure new development protects amenity.

8.3 The following SPD's/SPG's are also relevant:

Householder Design Guide – policies HDG1 and HDG2. The HDG sets out that as a general rule of thumb two storey rear extensions when sited on a common boundary should not project more than one metre beyond the rear of the neighbouring property. It also sets out this extent of projection may be increased where the extension is set away from the common boundary. This explanatory text informs the interpretation of the relevant policies set out in the HDG and UDP.

National Planning Policy

8.3 The National Planning Policy Framework (2012) sets out the Government's planning policies for England and how these are expected to be applied. It sets out the Government's requirements for the planning system. The National Planning Policy Framework must be taken into account in the preparation of local and neighbourhood plans and is a material consideration in planning decisions.

8.4 The introduction of the NPPF has not changed the legal requirement that applications for planning permission must be determined in accordance with the development plan unless material considerations indicate otherwise. The policy guidance in Annex 1 to the NPPF is that due weight should be given to relevant policies in existing plans according to their degree of consistency with the NPPF. The closer the policies in the plan to the policies in the Framework, the greater the weight that may be given. It is considered that the local planning policies mentioned above are consistent with the wider aims of the NPPF. Draft revisions to the NPPF are currently being consulted upon; at the present time these carry little weight.

8.5 The Planning Practice Guidance (PPG) provides comment on the application of policies within the NPPF. The PPG also provides guidance in relation to the imposition of planning conditions. It sets out that conditions should only be imposed where they are necessary, relevant to planning and; to the development to be permitted; enforceable; precise and; reasonable in all other respects. The Neighbourhood Planning Act 2017 requires that all pre-commencement conditions are agreed in advance with applicants.

9.0 MAIN ISSUES

- 1) Design and Character
- 2) Neighbour Amenity
- 3) Representations

10.0 APPRAISAL

Design and Character

10.1 The National Planning Policy Framework states that “good design is indivisible from good planning” and authorities are encouraged to refuse “development of poor design”, and that which “fails to take the opportunities available for improving the character and quality of an area and the way it functions, should not be accepted”. Policy P10 of the Core Strategy seek to ensure that new development is of high quality and is appropriate to its context and this is also reflected in saved UDP policies GP5 and BD6 and policy HDG1 of the Householder Design.

10.2 As noted above the application dwelling is a two storey, detached property which is located within a residential area, largely characterised by two storey, gabled properties. It is noted that Councillor Dobson has raised concerns regarding the impact upon the character of the area. However, the extension is located to the rear of the dwelling, within the domestic garden, and is a modest addition which wholly reflects the simple, gabled vernacular of the application property. The materials to be used, the window proportions and the general form are all in keeping with the existing house. The proposal will not adversely affect the house’s spatial setting in that a reasonable degree of separation is maintained to the neighbouring dwellings and a generous rear garden remains. It is also noted that many houses in the area, have been extended and so the original form and layout of the wider area has evolved over the years. As such it is considered that development is in keeping with the character of the dwelling and the wider area and will not cause harm to the visual amenity of the area. For these reasons it is considered that the proposal complies with policies BD6 and HDG1.

Residential Amenity

10.3 Policies GP5 and BD5 (UDPR) note that extensions should protect amenity and this advice is expanded further in policy HDG2 which notes that “all development proposals should protect the amenity of neighbours. Proposals which harm the existing residential amenity of neighbours through excessive overdominance, overshadowing or overlooking will be strongly resisted”.

10.4 Concern has been raised by the neighbour whose property lies to the north-east that the proposed extension will cause harm through the loss of light to the rear garden and a side porch area which is well used as a seating area. The neighbour states that the side window and glass door/porch to the kitchen/diner will be overshadowed causing a significant loss of light to that room. However, these are a secondary source of light and outlook from this room with the primary window facing over the rear garden. At two stories in height the extension does add a reasonable degree of additional mass in proximity to both immediate neighbouring gardens. However, this said, the application property is set forward of both neighbours, and thus the proposed rear extension barely projects (1m beyond the rear of the main body of no.6) beyond the neighbouring rear elevations, and when the distance retained to the boundaries is taken into consideration, it is not

considered that the two storey extension can be said to unreasonably overdominate neighbouring rear windows nor the rear garden area. Despite being located to the south west of 6 Braemar Drive, the existing staggered relationship means that the impact through direct overshadowing is also very limited and is not considered to cause unreasonable harm.

- 10.5 The extension will result in some loss of direct sunlight to the kitchen/diner and the rear garden during the afternoon, and this will have some impact upon the amenity of the occupiers of 6 Braemar Drive. However, whilst this impact is noted, it must also be acknowledged that for permission to be refused the impact must be unreasonably harmful. The loss of some sunlight for a small portion of the day is not considered to represent so harmful an impact that refusal would be warranted. When coming to this conclusion regard has been had to the fact that the resultant relationship between the houses is very similar to that which exists across the city and accords with the guidance set out in the HDG.
- 10.6 The application does include new first floor rear facing bedroom windows which will allow oblique views across neighbouring gardens, however such views are common within residential contexts and cannot be said to cause unreasonable harm. The distances retained to the dwelling to the rear is sufficient to prevent harmful levels of overlooking. The introduction of first floor side facing windows could be harmful, however, it serves a bathroom and a condition will be added for it to be obscure glazed to prevent any overlooking issues.
- 10.7 As such the application is acceptable in this regard it is considered that the proposal complies with policies that seek to protect residential amenity, GP5, BD5 and HDG2.

11.0 CONCLUSION

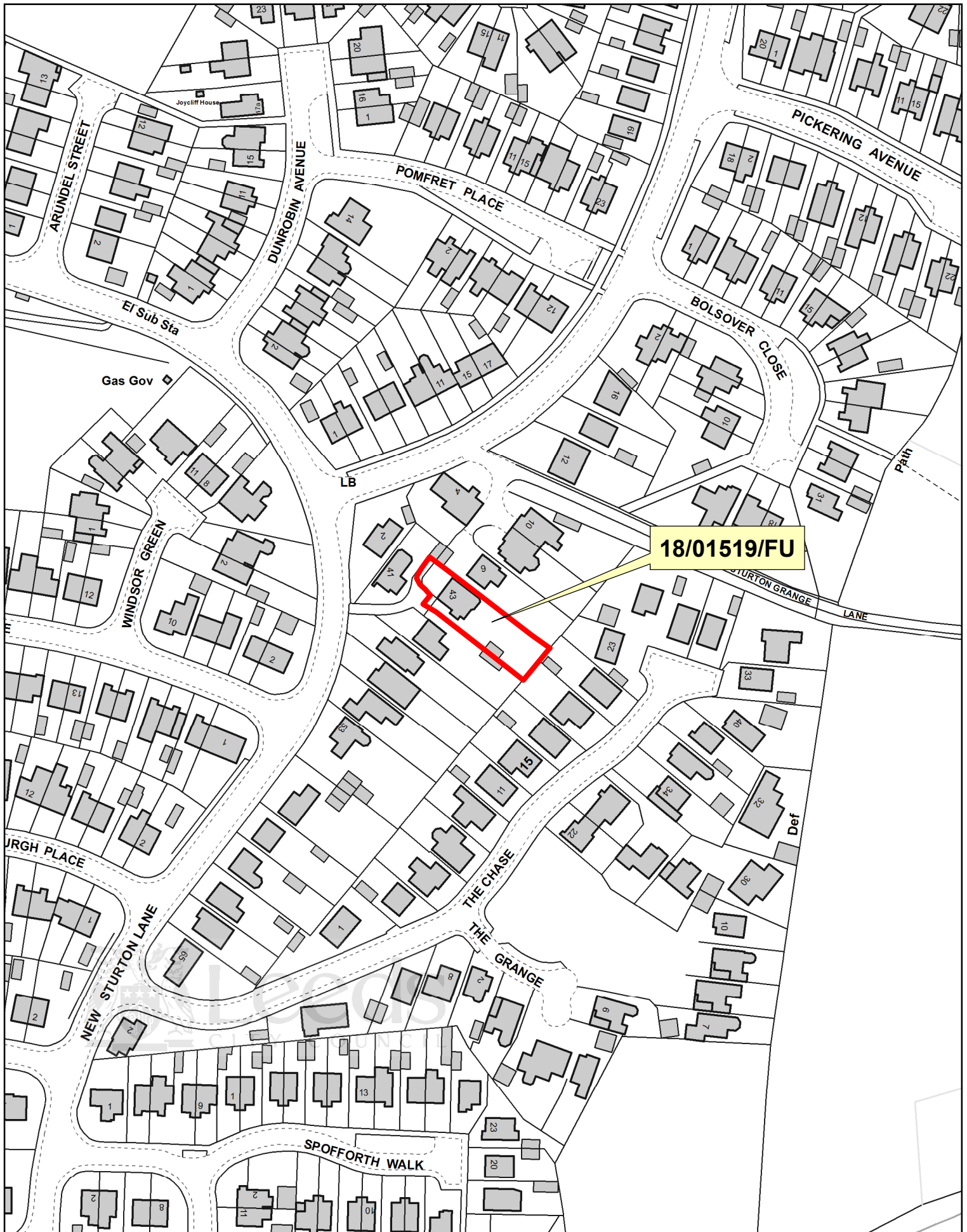
- 11.1 The application is therefore considered to be acceptable. The extension is considered to be an in keeping addition that will not harm the character of the dwelling nor the wider area, and will not have an unreasonably harmful impact upon near neighbours.

Background Papers:

Application files

18/01519/FU

Certificate of ownership: Certificate A signed by the agent



NORTH AND EAST PLANS PANEL



NOTES

PLEASE DO NOT SCALE FROM THIS DRAWING

MAIN CONTRACTOR TO CHECK ALL MEASUREMENTS ON SITE PRIOR TO CONSTRUCTION.

THE SITE PLAN IS BASED ON THE INFORMATION PROVIDED VIA THE ORDNANCE SURVEY PLAN AND SUBJECT TO A DETAILED SITE SURVEY.


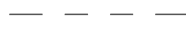

THE LAYOUT OF THE GARDEN IS AN INDICATION ONLY. ALL MEASUREMENTS (POSITIONS OF WALLS, PATHS, MANHOLES) MUST BE CHECKED ON SITE AND NOT TAKEN FROM THIS DRAWING.

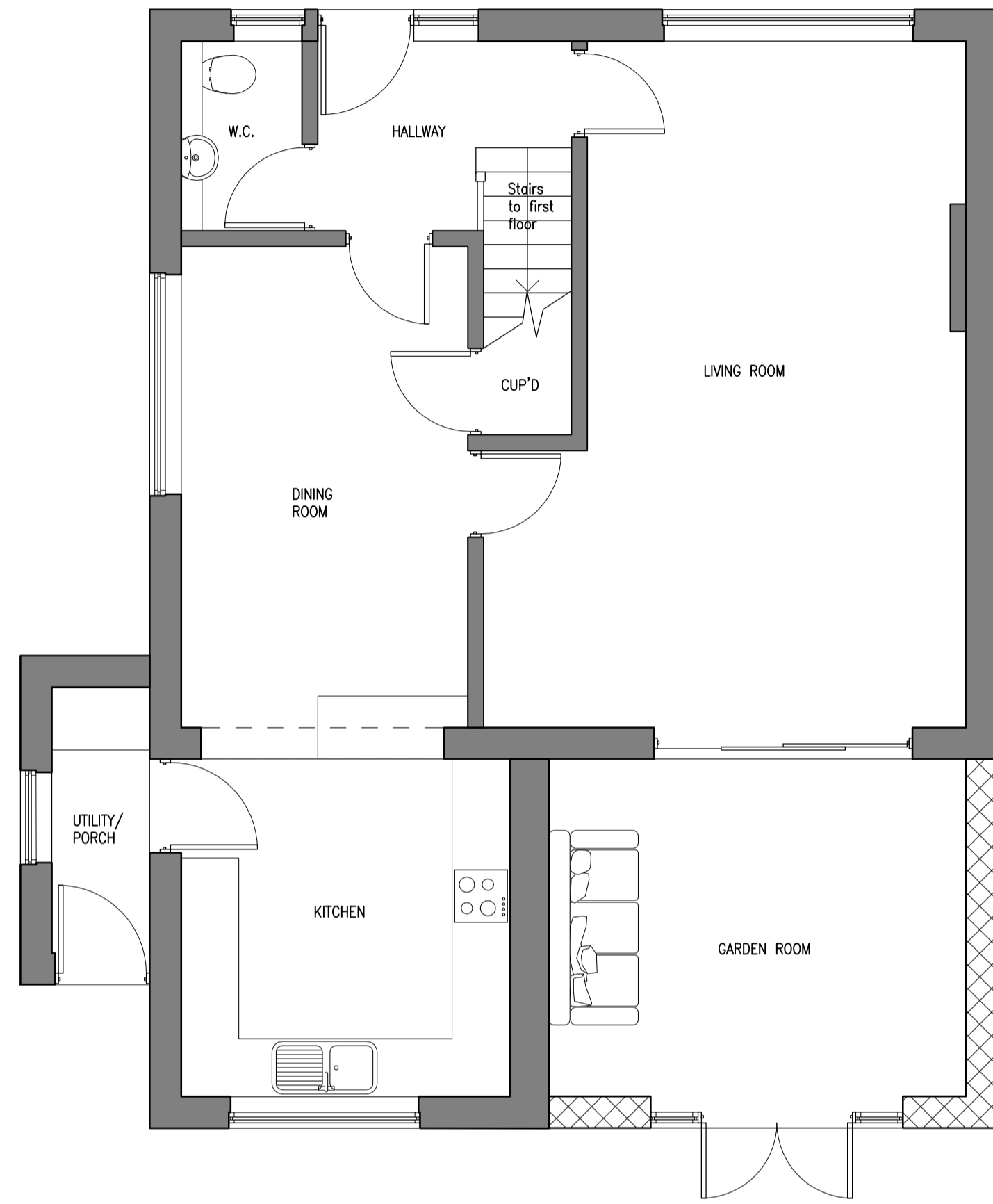
STRUCTURAL ENGINEER TO PROVIDE ALL STRUCTURAL DETAIL DESIGN AND CALCULATIONS, WHERE REQUIRED.

MAIN CONTRACTOR TO ENSURE ALL MECHANICAL AND ELECTRICAL SPECIFICATIONS ARE IN LINE WITH APPROVED DOCUMENTS PARTS B, L, F & P AND INSTALLED BY COMPETENT PERSONS.

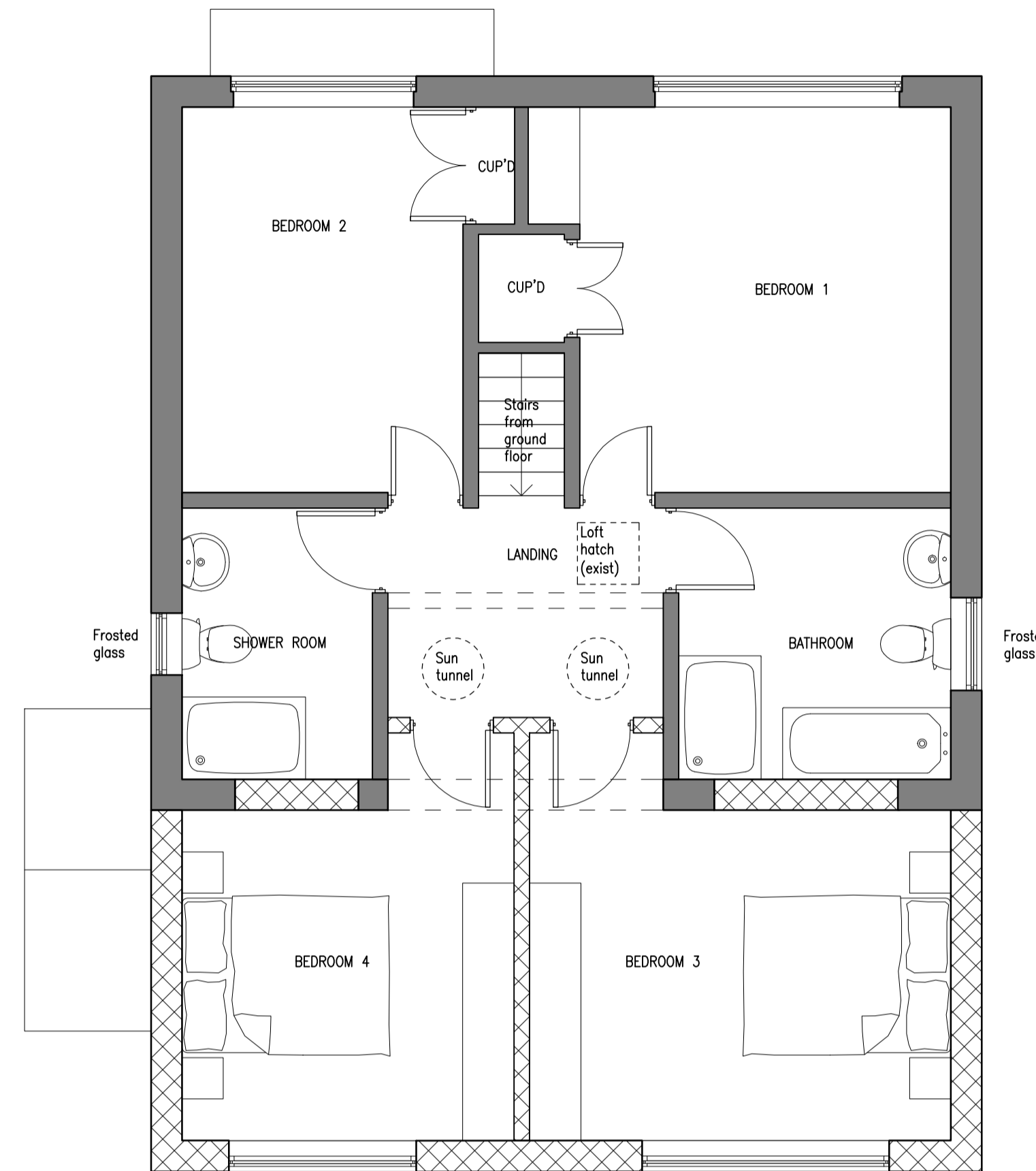
ALL NEW LIGHTING TO USE ENERGY EFFICIENT BULBS (WITH APPROPRIATE IP RATINGS FOR BATHROOMS & EXTERNAL USE).

KEY

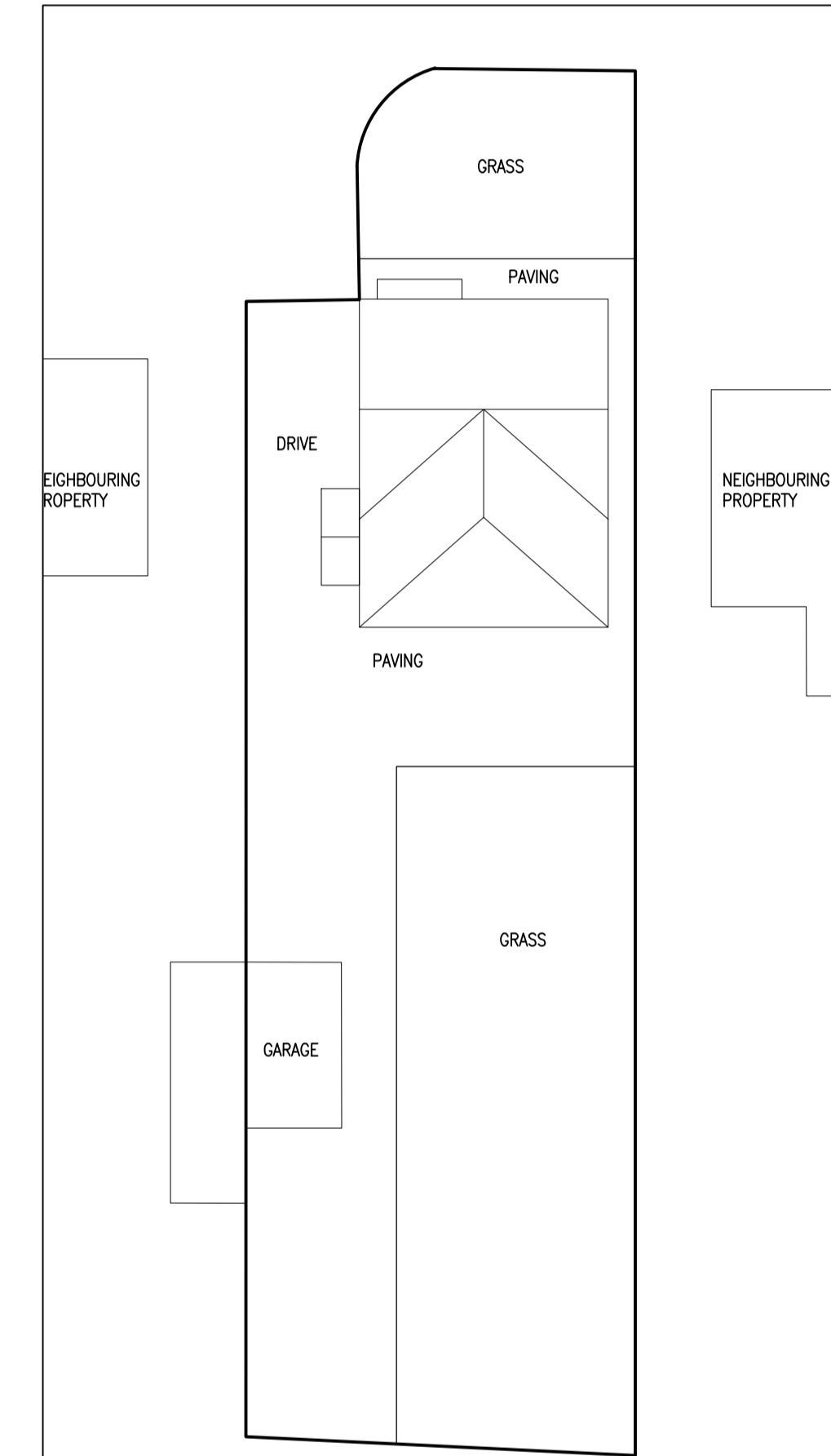
-  EXISTING WALLS RETAINED
-  EXISTING WALLS REMOVED
-  NEW WALLS BUILT



PROPOSED GROUND FLOOR PLAN 1:50



PROPOSED FIRST FLOOR PLAN 1:50

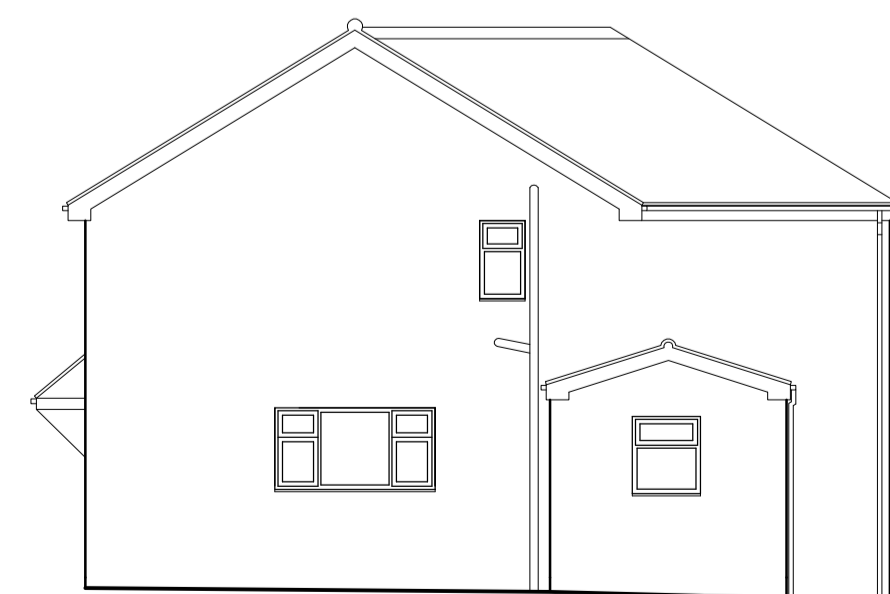


PROPOSED SITE PLAN 1:200

- OUTLINE EXTERNAL MATERIALS**
- WALLS – BRICK
 - ROOF – TILES
 - WINDOWS – UPVC
 - GUTTERING & DOWNPIPES – UPVC
 - ALL NEW MATERIALS TO MATCH EXISTING WHERE POSSIBLE.



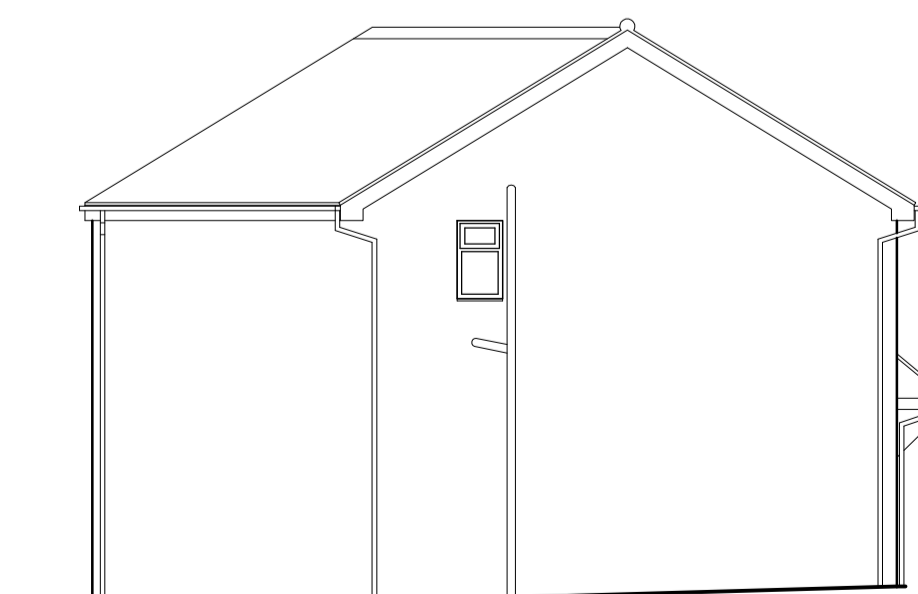
PROPOSED FRONT ELEVATION 1:100



PROPOSED SIDE ELEVATION 1:100



PROPOSED REAR ELEVATION 1:100



PROPOSED SIDE ELEVATION 1:100

FOR DESIGN / PLANNING

- REVISIONS**
- A 01-02-18 REDESIGN TO INCLUDE 2 STOREY EXTENSION FULL WIDTH OF HOUSE
 - B 12-02-18 MINOR AMENDMENTS TO FIRST FLOOR LAYOUT
 - C 28-02-18 WALL BETWEEN BED 3 & 4 AMENDED
 - D 05-03-18 WINDOWS TO BED 3 & 4 AMENDED
 - E ROOF STYLE UPDATED FOLLOWING PLANNING COMMENTS.

PROJECT
43 NEW STURTON LANE, LEEDS

DRAWING TITLE
PROPOSED PLANS AND ELEVATIONS

DRAWING NO 371- 002 **REV E** **SCALE** VARIES@A1

DRAWN BY J. BUTTERWORTH **DATE** 08-12-17

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