

Report of the Chief Planning Officer

NORTH AND EAST PLANS PANEL

Date: 19th October 2017

Subject: APPLICATION 17/04543/FU – Change of use from single dwelling house (C3) to small HMO (C4) at 21 Nickleby Road, Burmantofts, Leeds, LS9 7QX

APPLICANT

Mr and Mrs S & F Roberts

DATE VALID

14th July 2017

TARGET DATE

25th August 2017

Electoral Wards Affected:

Burmantofts and Richmond Hill

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. Time limit on full permission (3yrs)
2. In accordance with approved plans
3. Details of cycle storage facilities to be submitted
4. Layout to be maintained in accordance with approved plans (i.e. no more than 3 bedrooms)

1.0 INTRODUCTION:

- 1.1 This application is presented to Plans Panel at the request of Ward Councillor Asghar Khan who has cited a range of concerns and impacts arising from the proposed HMO use which are summarised under para.6.2 of this report.

2.0 PROPOSAL:

- 2.1 The applicant seeks planning permission to change the use of a property on Nickleby Road from a dwellinghouse currently occupied in the C3 planning use class to a small house in multiple occupation (HMO) (between 3-6 occupants) in the C4 planning use class.

- 2.2 No changes to the external or internal layout of appearance of the property or site are proposed as part of the application.
- 2.3 Planning permission is required as the property falls within the Council's Article 4 Direction area which controls changes of use from the C3 planning use class to the C4 planning use class.

3.0 SITE AND SURROUNDINGS:

- 3.1 21 Nickleby Road is a mature red brick mid-terrace house which accommodates three bedrooms. The property has a projecting bay window feature and a step out to the pavement at the front and a small garden to the rear. The garden is enclosed by a ground floor projection to the rear, vegetation and wall/railings. The garden has a gated access to Back Glenthorpe Terrace.
- 3.2 Nickleby Road is situated in Burmantofts and Richmond Hill ward and forms part of a cluster of terraced streets comprising the Walfords (Rd, Mt, Ave, Terr) and the Glenthorpes (Ave, Mt, Terr, Cres) that lie to the northern side of York Road (A64). To the north and east of this cluster are commercial and industrial uses. To the west is a grouping of residential tower blocks with two storey height residential properties beyond. To the south, beyond York Road, is a dense arrangement of Victorian back-to-back terraces. The local area is not recognised to have a high concentration of HMOs and council records indicate that two other HMOs exist nearby with one accommodated at the end of Nickleby Road and the other along Walford Mount.

4.0 RELEVANT PLANNING HISTORY:

- 4.1 None.

5.0 HISTORY OF NEGOTIATIONS:

- 5.1 None.

6.0 PUBLIC/LOCAL RESPONSE:

- 6.1 The application has been publicised by means of site notice.
- 6.2 A letter of representation received from Ward Councillor Asghar Khan stating objection to the proposals on the following summarised grounds:
- Negative impact from HMO's i.e. increased levels of crime and increase in antisocial behaviour.
 - When numbers of single people are congregated in one place and many are economically inactive there is a high risk of Socio Economic problems that affect the local community.
 - Loss of family housing in the area.
 - Creating this HMO will add additional demands on an already stretched refuse and clean neighbourhoods service.
 - The turnover of tenants in an HMO tends to be higher leading to a deterioration in community cohesion.
 - Concerned regarding the effective monitoring of ex-offenders; whilst there is a societal need to rehabilitate people it should not be done in a residential setting.
 - Increased demand for on-street parking and extra bins on street.

- The area has a high level of social deprivation and community cohesion is already faltering here as owner occupiers are moving away from the area due to landlords buying up the housing and letting to tenants who struggle to engage and have a positive impact on the community.
- The balance and health of the community would be further undermined if another HMO was licensed in the street.

6.3 9 letters of objection received from the public stating objection to the proposed change of use and the grounds are summarised below:

- Proposed change to the property would have an unacceptable change to the character of the area; inappropriate in family area with young children.
- Area is and has always been a high balance of families or couples. There are a small number of retired people in the area that have lived here many years, this is a result of a good community spirit in the area where neighbours become friends as a result of longevity from living in a stable community.
- HMO would attract short term residents, and as the HMO could be used for hostel /homeless people etc. this is a concern for residents.
- The knowledge of a safe and caring community could be jeopardised by a HMO; a tight knit neighbourhood and an HMO would undo recent good work (however small the HMO may be);
- There are already several individuals currently living at this address coming and going all day and night; seen an increase in traffic; some 5 or 6 cars associated with the property at the moment.
- HMO will cause additional demand for parking and a higher volume of traffic in a child family area; neighbour will not be able to park outside their houses- cause unease between residents, as well as having a safety impact on the young children that play in this street.
- HMO's have a potential to increase for unreasonable disturbance as well as an increase on public and private amenities.
- There are currently no other HMO's in the area, there are many in surrounding areas in Leeds 6, Leeds 7 and Leeds 8- approval on one HMO would set an influx in the area of further applications. There a number of rentals in the area but rented out to families or couples as the area is focused on family living environment.
- Concern is maintaining a safe and sustainable housing market and feel the addition of a HMO would have an impact on the house prices in the area.
- These tiny through terraces were never meant to be communal dwellings.
- Application submission not forthcoming about the type of people to occupy the house; concern about who is residing there temporarily- safety risk for child playing on street.
- Prior failure of at least 2 HMOs (one at 29 Nickleby Rd) which were effectively used as a dumping ground for people who brought with them a series of constant events including perpetual loud music, violence, drugs, racism, crime and intimidation.
- Noise and disturbance and will not feel safe and secure in my home should a number of people be coming and going at all times of the day and night.

6.4 A petition containing 80 signatures (from 62 individual households) has also been received. The petition includes signatures from the objectors referenced above and cites the following reasons for the City Council to refuse planning permission:

- HMO is an unacceptable change of character for the area.
- This is a family orientated family environment.

- There is currently and will be an increase in volume in traffic, putting residents children in danger.
- The property is already occupied and being used as a HMO. There are no HMO's in the area.
- There is cause of unreasonable disturbance.

6.5 1 letter of support received from the public although no specific grounds of the support were provided.

7.0 CONSULTATION RESPONSES:

7.1 Highways: No objection, parking requirements of the existing and proposed use are similar.

7.2 Private Sector Housing Team: If permission granted a range of consideration to be taken in to account incl. compliance with Housing Act 2004, limit number of occupiers; occupants would normally be of defined social group (e.g. students, work colleagues) occupying property in similar manner- experience suggests that not normally found in this area of Leeds; communal living/ kitchen/ dining facilities may lead to occupiers retreating to own rooms; adequate bin storage facilities to be provided.

7.3 Flood Risk Management: No objection.

8.0 PLANNING POLICIES:

8.1 As required by Section 38(6) of the Planning and Compulsory Purchase Act 2004 this application has to be determined in accordance with the Development Plan unless material considerations indicate otherwise. The development plan currently comprises the adopted Local Development Framework Core Strategy (2014), those policies saved from the Leeds Unitary Development Plan (Review 2006) (UDP) and the Natural Resources and Waste Local Plan DPD.

Local Plan

8.2 The Local Development Framework Core Strategy was adopted by the Council on 12th November 2014. The following policies contained within the Core Strategy are considered to be of relevance to this development proposal:

General Policy – Sustainable Development and the NPPF
Policy H6 – HMOs, Student Accommodation and Flat Conversions

8.3 The most relevant saved policies from the Leeds Unitary Development Plan are outlined below.

GP5 - Development control considerations including impact on amenity

Supplementary Planning Documents and Guidance

8.4 Relevant supplementary planning documents and guidance are outlined below:

- Parking SPD (January 2016)

Other Relevant Local Documents

- 8.5 Other relevant local documents include:
- LCC Advisory Standards for Houses in Multiple Occupation (January 2012)

National Planning Policy Framework

- 8.6 The National Planning Policy Framework (NPPF) (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 Paragraph 50 of the NPPF states: "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... plan for a mix of housing based on current and future demographic trends, market trends and the needs of different groups in the community (such as, but not limited to, families with children, older people, people with disabilities, service families and people wishing to build their own homes)".
- 8.8 Paragraph 69 of the NPPF states that: "the planning system can play an important role in facilitating social interaction and creating healthy, inclusive communities".

Article 4 Direction – C3 to C4

- 8.9 The application site falls within an area that is subject to an Article 4 Direction. The Council confirmed the making of an Article 4 direction which requires planning permission for the conversion of dwelling houses (Class C3 use) to houses in multiple occupation (HMOs) (Class C4 use) of between 3 and 6 unrelated occupants in 2011. The direction came into force on 10th February 2012.
- 8.10 The Article 4 Direction was introduced in response to changes to the Town and Country Planning (General Permitted Development) Order 1995 (as amended) in October 2010 and to the Town and Country Planning (Use Classes) Order 1987. At that time the government stated that Article 4 directions could be used by Local Authorities to remove permitted development rights for a change of use from the C3 use class to the C4 use class in areas where high concentrations of HMOs are leading to the harmful impacts.
- 8.11 Revised guidance contained within 'Department for Communities and Local Government Replacement Appendix D to Department of the Environment Circular 9/95: General Development Consolidation Order 1995 November 2010' in relation to the use of Article 4 directions for this purpose was published by the government on the 4th November 2010. This guidance states that Article 4 directions can be used where the exercise of permitted development rights would 'undermine local objectives to create or maintain mixed communities'.
- 8.12 The council recognises that HMOs can provide an affordable type of housing and contribute to the overall mix of housing types and tenures available. However it is also recognised that high concentrations of HMOs can result in numerous harmful impacts.
- 8.13 The government published the report 'Evidence Gathering – Housing in Multiple Occupation and possible planning response – Final Report' in September 2008. This

report identified the following impacts that occur as a result of high concentrations of HMOs:

- Anti-social behaviour, noise and nuisance
- Imbalanced and unsustainable communities
- Negative impacts on the physical environment and streetscape
- Pressures upon parking provision
- Increased crime
- Growth in private sector at the expenses of owner-occupation
- Pressure upon local community facilities and
- Restructuring of retail, commercial services and recreational facilities to suit the lifestyles of the predominant population

8.14 In making the Article 4 direction the Council recognised that some or all of the above impacts are occurring in areas with existing high concentrations of HMOs in Leeds. The Article 4 Direction boundary was subsequently chosen to include areas which are either recognised to be suffering from some, or all, of the harmful impacts identified above or be likely to suffer encroachment of HMO concentrations due to their proximity to existing areas of high concentrations.

8.15 The Article 4 direction does not serve as a justification for refusing or approving planning permission in the Direction area. Planning applications which are required by the Direction will be assessed against national and local planning policies.

9.0 MAIN ISSUES:

1. Housing Mix and Balanced Communities
2. Design and Character
3. Other matters

10.0 APPRAISAL:

Housing Mix and Balanced Communities

10.1 The existing property is occupied as a dwellinghouse under the C3 planning use class and the applicant advises that two tenants currently reside at the property.

10.2 The application site is not allocated for any specific purpose within the city council's development plan and is located within the established residential area of Burnmantofts with ready access to public transport links (along York Road) and a range of shops and amenities to the opposite side of York Road. The conversion of the property to an HMO would retain its use for residential purposes and this would be compatible with the predominantly residential surroundings. On the case officer's site visit, the properties along Nickleby Road and adjacent streets appeared generally well kept with no obvious signs of HMOs or negative impacts on the physical environment and streetscape, including parking provision.

10.3 Core Strategy Policy H6 (HMOs, Student Accommodation and Flat Conversions) is the relevant local planning policy for this development proposal and Part A of that policy specifically relates to the creation of new HMOs. It is recognised that policy relates to HMOs occupied by all individuals and not solely those occupied by students. Part A of Policy H6 aims to ensure:

- (i) a sufficient supply of HMOs is maintained in Leeds
- (ii) HMOs are located in areas well connected to employment and educational institutions associated with HMO occupants
- (iii) the detrimental impacts through high concentrations of HMOs are avoided where this would undermine the balance and health of communities
- (iv) to ensure that the proposal address relevant amenity and parking issues, and
- (v) this would not lead to the loss of housing suitable for family occupation in areas of existing high concentrations of HMOs.

10.4 Broadly, the policy approach seeks to tackle types of accommodation that have resulted in housing and population imbalances in certain parts of the city. The policy's wider objective, to address housing and population imbalances through the creation of mixed, sustainable communities, are consistent with paragraph 50 of the NPPF (*at the time of the Core Strategy adoption the examining Inspector noted "the maintenance of mixed and diverse communities is a legitimate policy objective and accords with national guidance"*).

10.5 Having regard to the detailed criteria for Part A, Policy H6, the following observations in relation to this application proposal are set out below:

- (i) A search of LCC Council Tax records and the database of HMO Licenses issued by LCC shows that there are few HMOs in this part of Burmantofts with 1 HMO present at the end of Nickleby Road and 1 other on an adjacent street, Walford Mount. Otherwise, individual HMO properties are infrequently located on streets further afield to the west and to the south (on the other side of York Road). To provide some context, the neighbouring streets of Nickleby Road and the Walfords (Rd, Mt, Ave, Terr) and the Glenthorpes (Ave, Mt, Terr, Cres) contain around 175 properties in total demonstrating the low proportion of HMOs in the locality. Whilst some unlicensed properties could be present, the loss of this individual property from the existing family housing stock is not considered to have a significant impact on the availability of family housing in the area as many still exist. Arguably, the conversion of the dwelling to form an additional HMO would assist in improving the choice of housing types and tenures in this part of Burmantofts and satisfies this policy criterion.
- (ii) The property is situated along Nickleby Road near to York Road which is a major arterial road linking the City Centre with Burmantofts, its eastern districts and destinations throughout Leeds. Accordingly, the application property has good access to public transport services and a range of shops and amenities available along York Road. Close proximity to the commercial premises to the north (off Torre Road) and access to the city centre also provide potential employment opportunities and educational institutions. Thereby, in accordance with this particular policy criteria.
- (iii) In assessing the impact on a 'community' Policy H6 should not be assessed on a single street basis but on a wider community area. As searches of the LCC Council Tax records, HMO License database and planning permission reveal most of the surrounding houses remain occupied by families, couples and single people with HMO properties lightly spread within the community. The application site does not fall within a part of the city that is recognised to have a high concentrations of HMOs, such as areas within Hyde Park, Headingley or Woodhouse where some streets contain up to eighty or ninety percent HMOs. Such circumstances led to the formation of planning policies over the past decade to address such severe housing and population imbalances. As commented above, the immediate area does not have a high concentration of HMO type

accommodation and predominantly offers terraced housing which is generally suitable for family occupation. For these reasons, the proposal would not result in an unacceptable increase of HMOs in the locality which would undermine the balance and health of communities. Accordingly, this proposal is considered to satisfy this policy criterion.

- (iv) Leeds UDP Policy GP5 aims to protect amenity including neighbouring amenity. Core Strategy policy P10 aims to protect general and residential amenity and it is recognised that HMOs can impact on neighbouring amenity in a number of ways. The government report 'Evidence Gathering – Housing in Multiple Occupation and Possible Planning Response' notes that this can include through anti-social behaviour, noise and nuisance. This can result from an increased number, or different pattern, of comings and goings of up to 6 adults in a HMO (C4 use) compared to a family living in the same property or from the different lifestyles of a group of adults living together in a property rather than a family for example. In the subject property the internal layout would not be altered so the existing 3 bedrooms (all situated on the first floor) would remain. The overall intensity of its use would therefore unlikely to be materially different from occupation as a single family dwelling. There may be a different pattern of comings and goings, and occupants may lead different lifestyles, but it is not considered that in this instance the accommodation available would create unacceptable situation in terms of potential noise and disturbance concerns for adjoining residents such as to justify refusal on these grounds. The objections from some of the neighbouring properties in this regard have been noted, but as set out above and in the previous sections are not considered to be of such significance or potential harm as to warrant a refusal.

It is considered the proposal would not result in a significant intensification in the occupancy of the property. The illustrated room configuration retains the existing internal arrangements and avoids an inappropriate juxtaposition of living and sleeping areas and potential harm to the amenity of occupiers through noise transmission. In addition, it is considered that each bedroom will be provided with adequate internal space and light penetration to the rooms. The applicant will also be made aware of the technical requirements as set out in the housing legislation through any informative on the decision notice should permission be granted.

The occupiers will have access to a small communal amenity space to the rear although the quality and usability of the space is somewhat limited due to its confined space. However, in view of the dense arrangement of properties that surrounds, this modest provision of amenity space is not considered to be out of character with the other terraced residences that exist within this part of Burmantofts. The proposal will have sufficient space to accommodate ancillary items such as bins and cycle storage and details of the cycle storage shall be secured by planning condition. A condition covering bin storage is not considered necessary as the proposal is not considered to differ greatly from the existing arrangements.

Nickleby Road contains an arrangement of terrace houses and the occupiers are entirely reliant on space being available on-street in which to park their vehicles. The identified property is a 3 bedroom dwelling which brings with it its own parking demand and this would be balanced against the parking requirements for a 3 bedroom HMO. On this basis, the Highway officer considers that a highway objection would be difficult to justify and officers concur with this assessment.

(v) In regard to concerns relating to the loss of housing suitable for family occupation in areas of existing high concentrations of HMOs, the determination of this point relates to whether the area has an existing high concentration of HMOs. As commented above, the immediate area does not have a high concentration of HMO type accommodation and predominantly offers terraced housing which is generally suitable for family occupation. In this particular instance, it is not considered that the proposal would unacceptably reduce the stock of family housing in this street and the local area and this policy criterion is satisfied.

- 10.6 Further to the above considerations, it is noted that the supporting text to Policy H6 states that: *"In the interpretation of H6A (iii) it is recognised that some streets (or 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, in the interpretation of H6A (v) 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"*. It is clear that the vast majority of properties in Nickleby Road and adjacent streets are occupied in the C3 planning use class and are of a size and location which would be suitable for family occupation. As such it is not considered that the aforementioned exemption to the policy would be applicable. 10.7 Overall, it is considered that the proposal would not make a significantly harmful contribution to wider housing mix and community balance concerns so as to justify a refusal. As such the proposal is considered to comply with Core Strategy Policy H6 and the guidance contained within the NPPF.

Design and Character

- 10.8 The proposal will not result in any external changes to the property or site layout and as such the proposal is not considered to be significantly harmful in design and character terms. As such the proposal is considered to be in compliance with Leeds Core Strategy Policy P10 in this respect.

Other matters

- 10.9 The application site lies within Flood Zone 1 and the proposal would not substantially change the surface water drainage arrangements at the site so no flood risk/drainage issues arise.

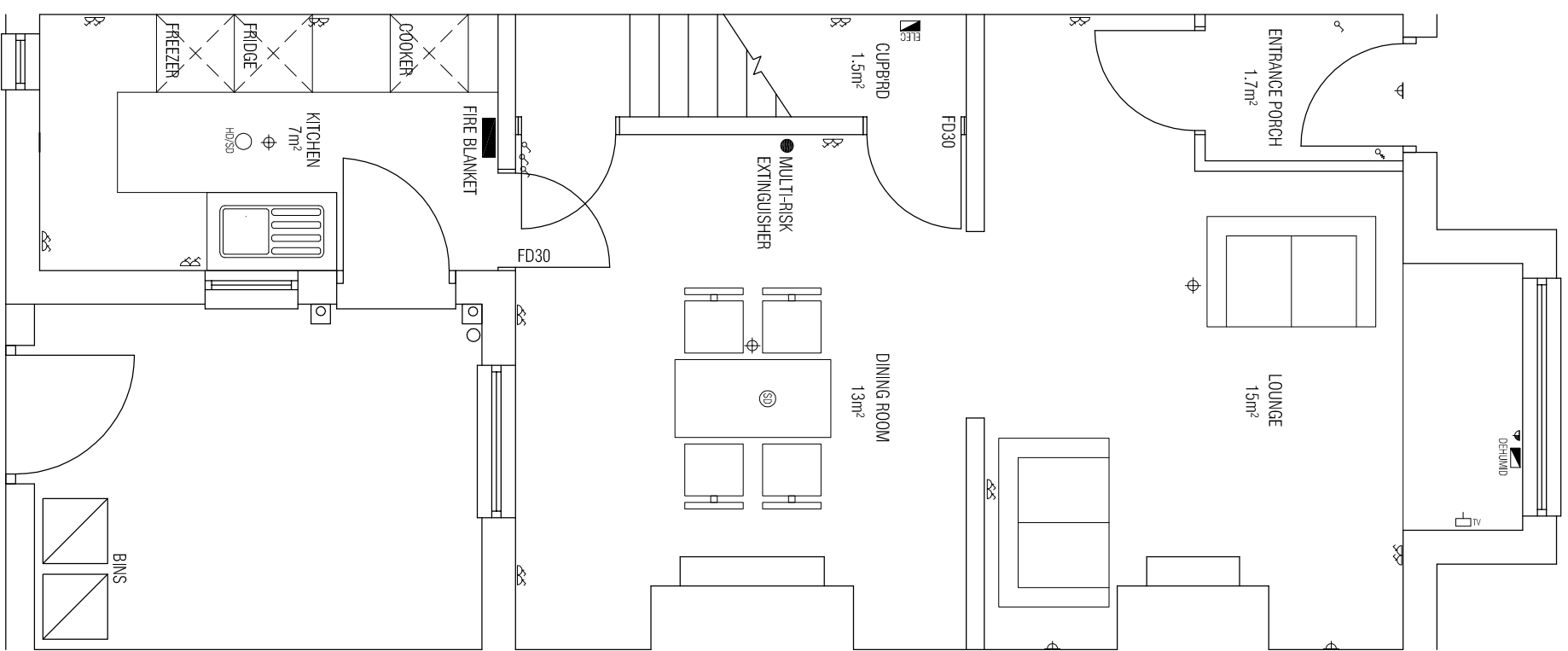
11.0 CONCLUSION

- 11.1 For the reasons outlined in the above report, it is concluded that the proposed change of use from a C3 dwelling to a C4 HMO along Nickleby Road would not result in an unacceptable increase of HMOs in the locality that would undermine the balance and health of the community and would not unduly impact on the residential amenity of highway network of the locality. It is therefore considered to accord with up-to-date planning policies within the Development Plan with no material considerations to indicate otherwise. In accordance with guidance within the NPPF and Section 38(6) of the Planning and Compulsory Purchase Act, it is recommended that the application be approved subject to conditions.

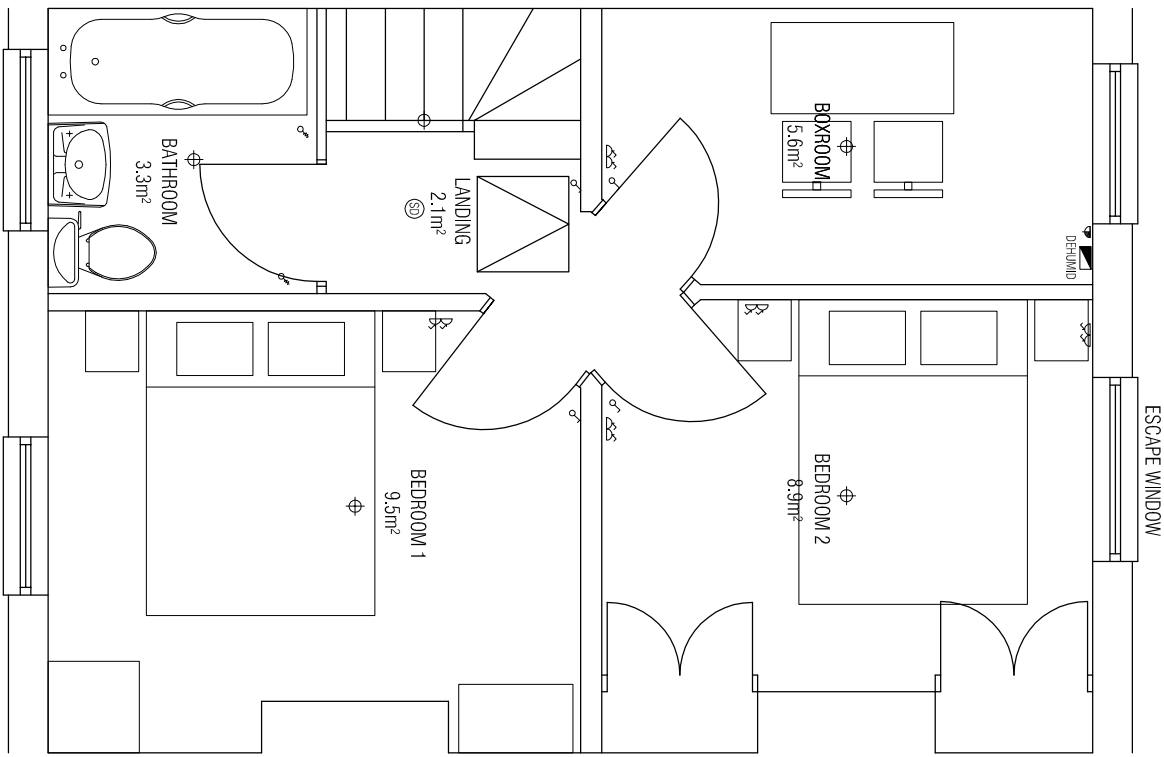
Background Papers:

Application file - 17/04543/FU

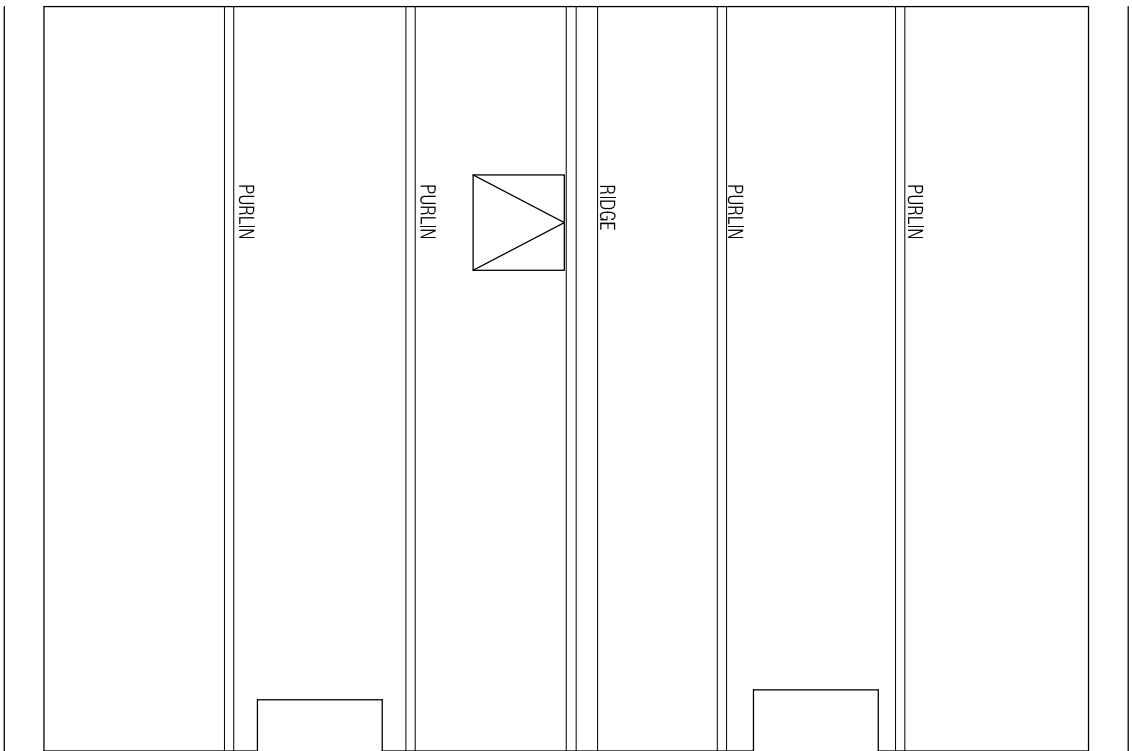
Certificate of Ownership – Mr & Mrs Roberts



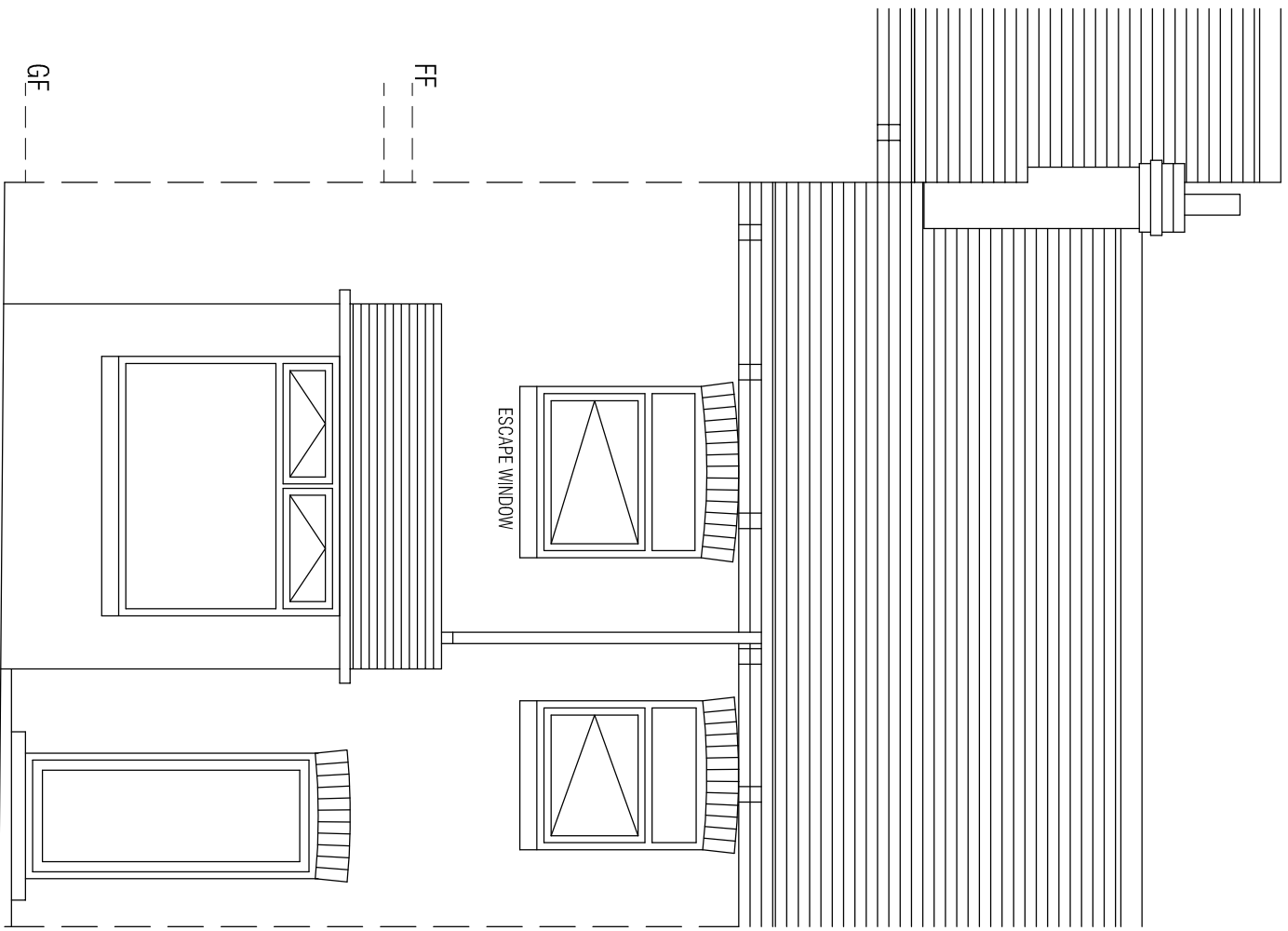
GROUND FLOOR PLAN



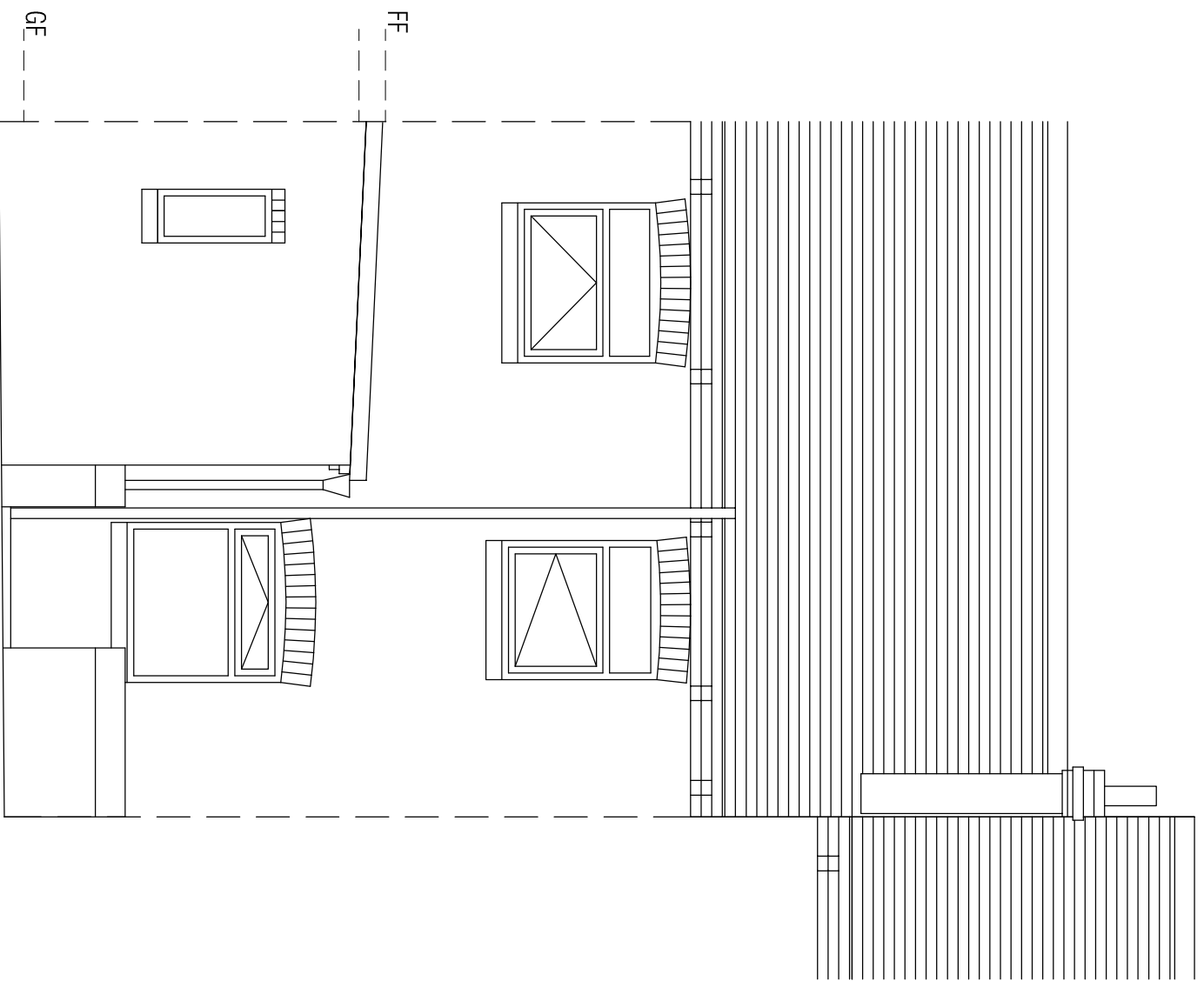
FIRST FLOOR PLAN



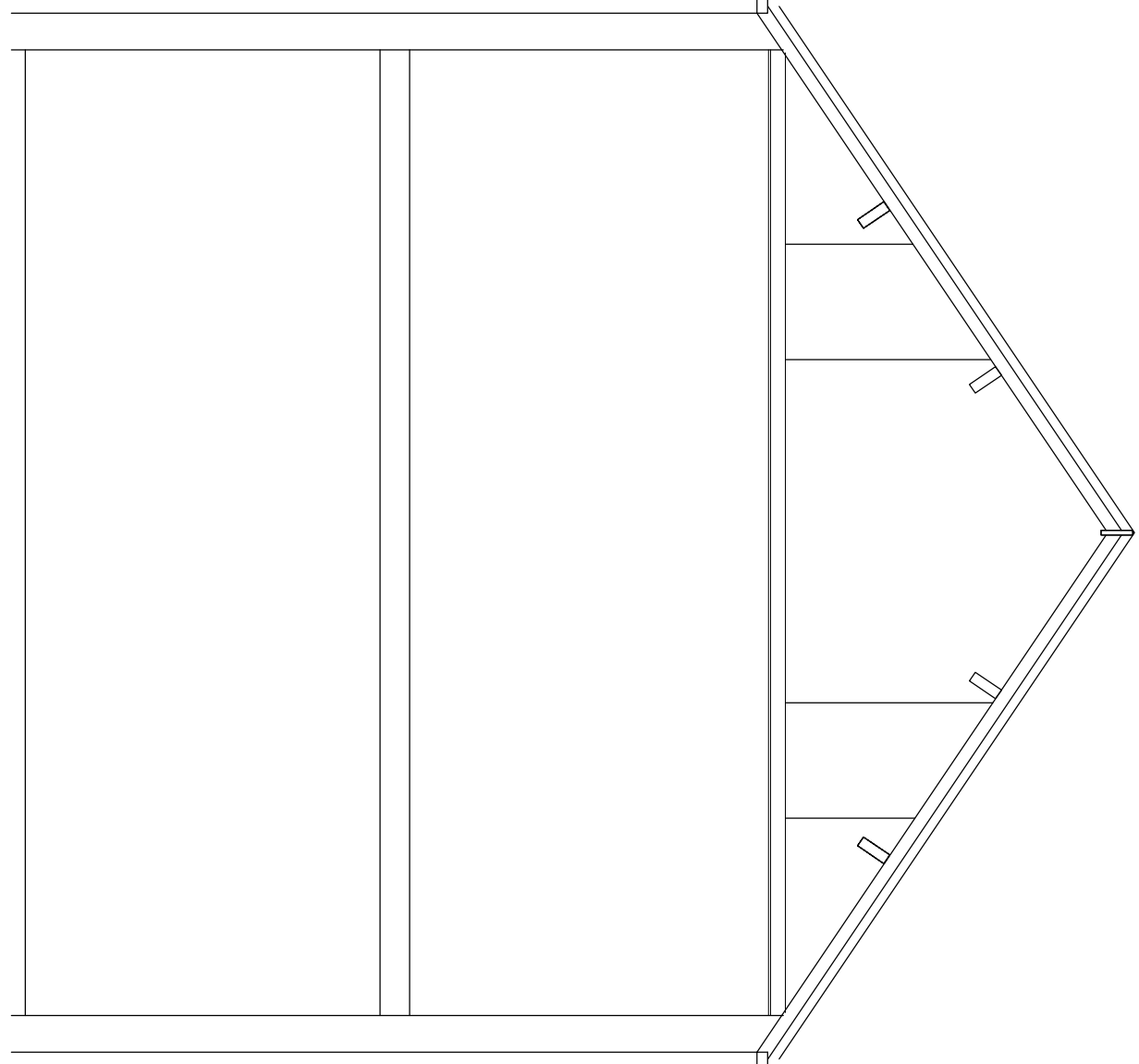
ROOF PLAN



FRONT ELEVATION



REAR ELEVATION



SECTION

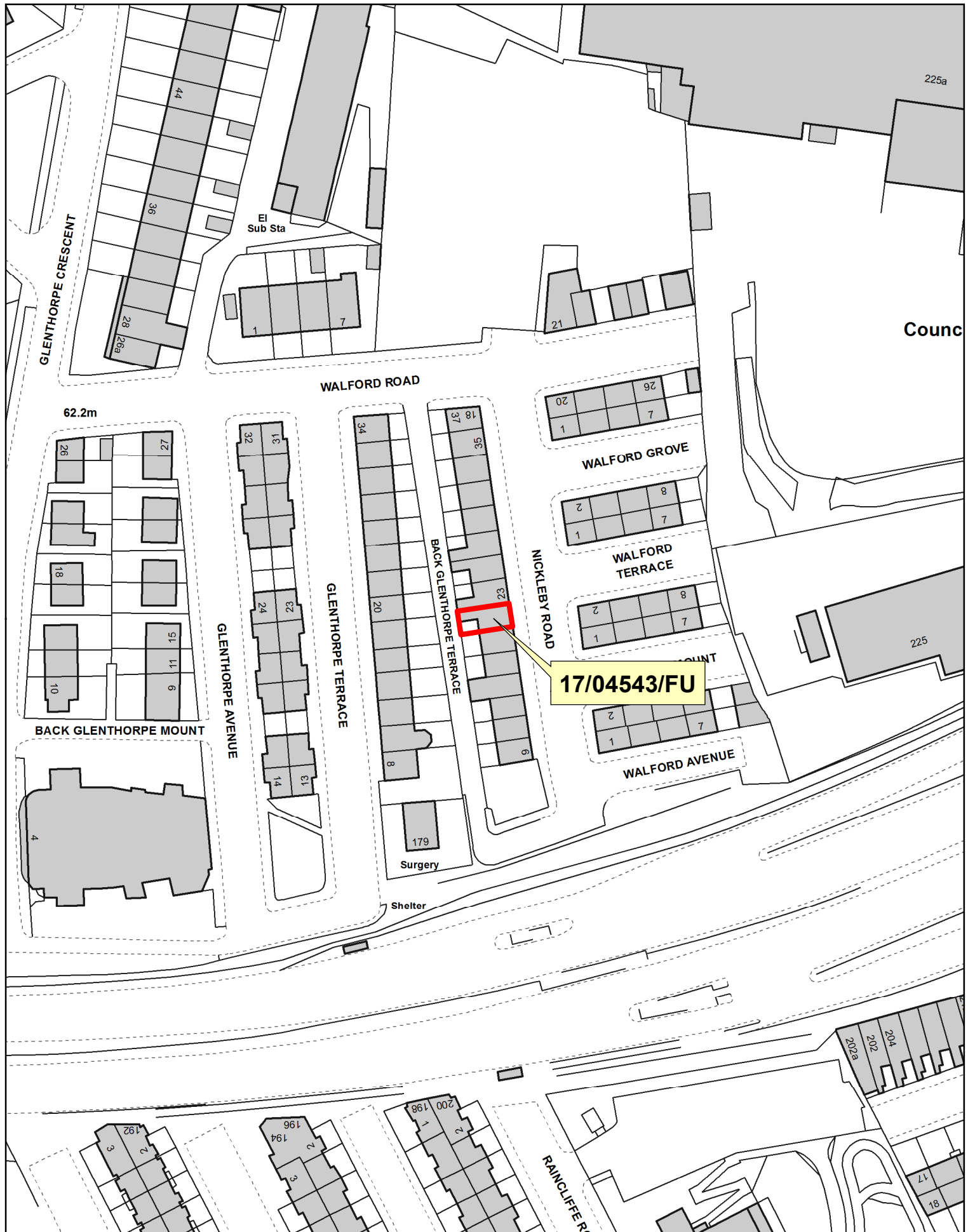


LOCATION PLAN @ 1:1250 SCALE

REVISION
No reliance should be placed upon dimensions which are scaled off this drawing.
Please see annotation.
Project.

MR & MRS ROBERTS
21 NICKLEBY ROAD
LEEDS
LS9 7OX

PLANNING DRAWING
PROPOSED PLANS & ELEVATIONS



NORTH AND EAST PLANS PANEL

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SCALE : 1/1000

