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## Report of the Chief Planning Officer

#### NORTH AND EAST PLANS PANEL

Date: 7<sup>th</sup> 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:	Specific Implications For:	
Harewood	Equality and Diversity	
Yes Ward Members consulted (Referred to in report)	Community Cohesion	

# **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 <u>08/01482/LA</u> Outline application to erect residential development, approved by plans panel on 27.06.2008.
- 4.2 <u>11/02553/EXT</u> Extension of time for planning application no. 08/01482/LA, approved under delegated powers, 15.08.2011.
- 4.3 <u>15/06760/FU</u> (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
  - I. 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 it's 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 it's 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):

	Policy GP1 Policy GP5 Policy BD5	Land use and the proposals map General planning considerations 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
I	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 27<sup>th</sup> 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 presubmission 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 twostorey 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 mind 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.'

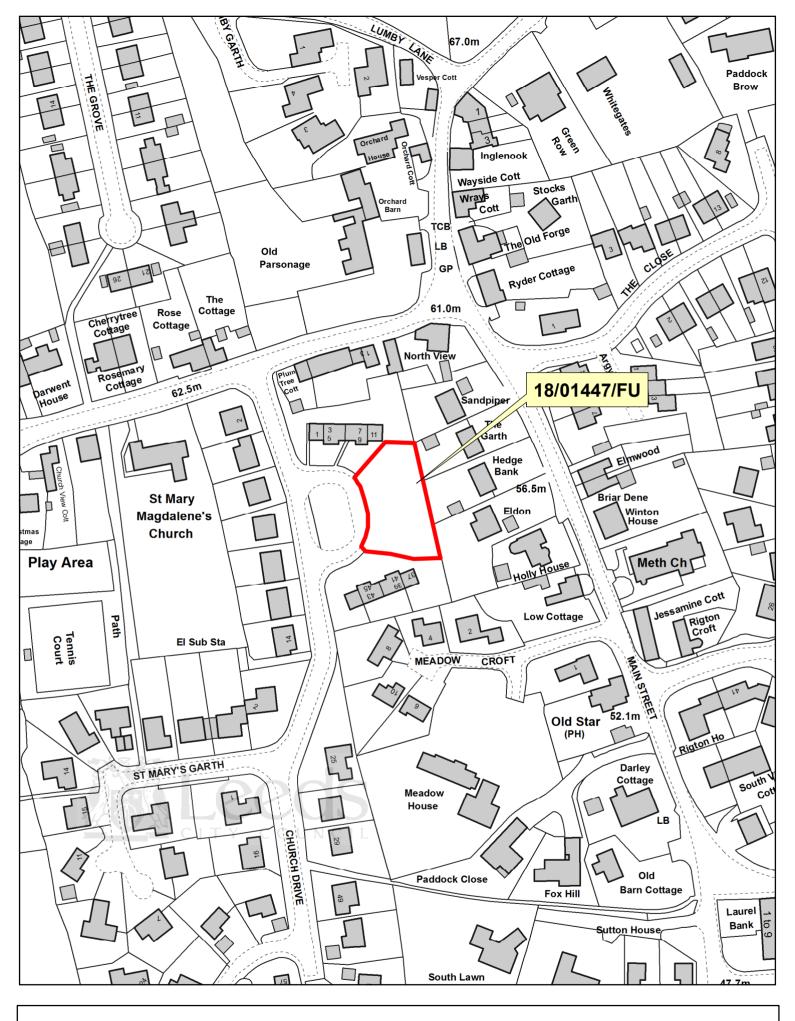
10.22 Highways officers have been consulted on the current application and have offered no objections to the proposals as presented, other than to express requirements for the widening of driveways to 3.3 metres (secured by revised plan) and a series of recommended conditions concerning the provision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

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PRODUCED BY CITY DEVELOPMENT, GIS MAPPING & DATA TEAM, LEEDS CITY COUNCIL

SCALE : 1/1500

