



Report of the Chief Planning Officer

NORTH AND EAST PLANS PANEL

Date: 6th September 2018

Subject: 18/03496/FU: Amendment to condition 2 (approved plans) of planning permission 15/00648/FU to allow changes to the elevations in order to regularise detailed variations from the plans approved at Site of former 264 Alwoodley Lane, Alwoodley.

The variations are;

- An increase in height of the overall building by 0.9 metres at the main ridge line
- Moving of entrance to a central position
- Re positioning of roof lights in the front facing roof plane
- Introduction of roof lights in side facing roof plane
- Addition of obscurely glazed windows in side elevations
- Rear roof pitches of the projecting gables are shallower
- Re siting of bin store
- Reorientation of the external staircase to the rear of the building

APPLICANT

Mr Charles Babbage

DATE VALID

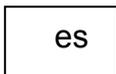
05 06 2018

TARGET DATE

31 07 2018

Electoral Wards Affected:

Alwoodley



Ward Members consulted referred to in report

Specific Implications For:

E quality and Diversity

Community Cohesion

Narrowing the Gap

RECOMMENDATION: Defer and Delegate to the Chief Planning Officer to grant Planning Permission following the expiry of a public consultation to be undertaken with adjacent neighbour once amended drawings are received showing the boundary wall that has been constructed to the rear and subject to no new material planning issues being raised subject to the conditions below:

1. Windows inserted on the side elevations to be obscurely glazed to level 3 on the obscurity level and none opening

2. No enlargement of and/or additional opening to be inserted on the side elevations without the prior submission and approval of an application for planning permission.
3. Use of materials as approved under previous permission
4. Implementation of Tree Care
5. Implementation of Tree Protection
6. Implementation of front boundary treatment
7. Details of footway crossing if any alterations to be made to existing
8. Provision of Cycle Motorcycle Parking
9. Drainage in accordance with approved details
10. Balustrades to be implemented as approved
11. Implementation of Wall e traction units as approved
12. Implementation of works management plan as approved
13. Ground levels to be submitted and approved

1.0 INTRODUCTION

- 1.1 This application is brought to Plans Panel at the request of Councillor Garrand on the grounds that a precedent is likely to be set by this variation. The redevelopment of this site was previously determined at Plans Panel on 9th April 2015 at the request of Ward Members, and this variation should therefore be reported due to the scheme being locally sensitive.
- 1.2 At the time of writing an amended drawing showing the construction of a boundary wall where a hedge is shown to be retained was awaited. As a result, upon submission of this amended drawing a further period of consultation will need to be undertaken hence the request for Delegated Authority in the recommendation. It is expected that the wall itself would constitute permitted development however for the completeness of the development and in the interests of transparency it is considered important that this alteration along with all the proposed amendments is clearly shown on the submitted drawings.

2.0 PROPOSAL

- 2.1 The proposal seeks various minor amendments to the previously approved scheme which include

- An increase in height of the overall building by 0.9 metres at the main ridge line
- Moving of entrance to a central position
- Re positioning of roof lights in the front facing roof plane
- Introduction of roof lights in side facing roof plane
- Addition of obscurely glazed windows in side elevations
- Rear roof pitches of the projecting gables are shallower
- Re siting of bin store
- Reorientation of the external staircase to the rear of the building

3.0 SITE AND SURROUNDINGS:

- 3.1 The site consists of the largely completed development approved under reference 15/0648/FU. The building is situated within an extensive plot, with a long rear garden sloping downhill from the rear of the building, towards the southern boundary between the site and the golf course to the rear.

- 3.2 The immediate area has a prevalence of substantial, detached residential buildings, spaciouly arranged in relatively large, mature gardens which is one of the key components in defining the character and appearance of the residential environment. Although a number of mature trees and much of the vegetation have now been removed from the application site, this is not representative of the surrounding area, where most properties retain their mature landscaped character.
- 3.3 Due to the gradients from Alwoodley Lane towards the north, down to the golf course to the south of the site, the application building, and its closest neighbours along this stretch of Alwoodley Lane, sit significantly below the level of the highway. Views of these properties are therefore confined to the upper floors and their roofs. This, together with the intermittent screening provided by the planting in the front gardens, has the effect of making these dwellings much less conspicuous in the views along the street than occurs elsewhere along Alwoodley Lane. This is a distinctive characteristic of this small stretch of Alwoodley Lane which distinguishes it from many of the other roads in the locality.

4.0 RELEVANT PLANNING HISTORY:

- 4.1 Reference 15/00648/FU Demolition of existing house and erection of three storey block of two flats Approved by Plans Panel 9th April 2015.
- 4.3 16/05061/COND Consent, agreement or approval required by conditions 3, 4, 7, 8, 10, 13, 14, 15, 17, 19, 20 and 22 of 15/00648/FU Determined under Officer Delegated Powers Approved on 13th September 2016.
- 4.4 Reference 13/05711/FU for the redevelopment of the site 3 storey block of 3 flats with basement car parking. This application was refused for reasons relating to its design, scale and massing of the building and overly dominant roof form,
- 4.5 The refusal was subsequently appealed Ref. APP/N4720/A/14/2222928 and was dismissed. The Inspector concluded that

The site lies within the built up area and to my mind there is no fundamental objection to the principle of a development of apartments on this site. Indeed the provision of apartments would provide greater choice for residents .

.the building would be harmful to the character of the area because of its design, scale and massing contrary to Policy GP5 of the Leeds Unitary Development Plan Review 2006 UDP which seeks to avoid problems of environmental intrusion and with Policy N12 which sets out the fundamental priorities for urban design and Policy N13 which requires that the design of all new buildings has regard to the character and appearance of their surroundings..

- 4.6 Reference 12/02060/FU for redevelopment of the site with a three storey block of three flats, with basement car parking. This application was appealed for non determination and at the appeal the LPA gave its putative reasons for refusal had it been in a position to determine the application permission would have been refused for reasons relating to its scale and design causing harm to the character of the area that by reason of its height and depth it would be over dominant and result in a loss of privacy and harm to trees.

This appeal was dismissed with the Inspector concluding that

I have found that the proposal would result in no unduly harmful effects on highway safety, or on the living conditions of nearby residents with regard to privacy, noise and disturbance. Whilst it would have a harmful long term effect on the adjacent hedge and trees, the amended scheme would be unlikely to do so. Nevertheless, the harm that would be caused to the character and appearance of the area, and to the living conditions of adjacent occupiers with regard to outlook, daylight and sunlight provide compelling grounds to dismiss the appeal .

The Inspector for this appeal also noted that

The proposal is for a substantial block of 3 flats over three storeys with a basement car park, and although it differs from the previous scheme, it has been drawn up with the previous appeal decision in mind. I have considered the appellant's photographs of other properties nearby, and was able to see at my visit that there are examples of developments of flats in Alwoodley Lane and the other streets nearby, including High Winds on Arrogate Road. I also note the concerns of local residents regarding the loss of a family home, but consider that flats such as those proposed could be occupied by families, and need not necessarily detract from the residential character of the area, depending on the nature of the scheme .

- 4.7 A previous application for the redevelopment of the site with a larger block of 3 flats was withdrawn in September 2011 ref 11/02987/FU following concerns regarding the size and scale of the building, the lack of amenity for future residents, the impact on neighbouring residents and the access arrangements. Following the withdrawal of this earlier application and before the submission of that to which the above appeal related, discussions were held with the agent regarding a revised scheme. Concerns regarding the scale and massing of the proposed building were reiterated, and suggestions as to how these might be overcome, including considerable reductions to the size of the building, were discussed. In the light of concerns regarding the impact of the proposed development on the street scene and neighbouring properties, the agent was advised that any subsequent application would also need to be accompanied by a landscaping scheme, and by details of how they intended to ensure that existing landscaping and screening along the site boundaries would be retained as part of the proposals.
- 4.8 Planning permission was granted in May 2009 to replace the existing dwelling with a larger 5 bedroom detached house, following a previous permission for extensions to the existing building in July 2006 refs 09/00992/FU and 30/642/05/FU .
- 4.9 A number of previous refusals for the redevelopment of this site and the adjacent site of No.266 with larger proposed developments of size and eight flats, and an application to redevelop both sites resulting in eight flats in two blocks was refused in September 2007 on the grounds that the development's siting, scale, massing and design, including its projection into the rear garden areas, would be out of character and detrimental to the street scene, and that the access width and gradient were unacceptable ref 07/04971/FU . A subsequent appeal was submitted APP/N4720/A/07/2059074 and, although highway safety matters were resolved during the course of this, it was nonetheless dismissed on the basis that the proposed development would unacceptably harm the character and appearance of this part of Alwoodley Lane.
- 4.10 The variations in the implemented scheme were reported to the Compliance team on 20th December 2017 and following an investigation into the alleged breaches the

developer was invited to make an application for planning permission to attempt to regularise the changes that had been implemented. This invitation was made on a without prejudice basis in order that an opportunity to fully assess the accumulation of alterations could be made through the planning process.

5.0 HISTORY OF NEGOTIATIONS:

- 5.1 When the breach was reported to the compliance team, the normal approach was undertaken with an initial assessment being made by a compliance office firstly as to whether a breach had occurred and then once this had been established making an assessment as to the severity of that breach. As the accumulation of variations to the development resulted in a deviation from that approved as more than none material, but not so severe in planning terms to justify immediate and what might be interpreted as draconian action, it was advised to the developer that they should submit an application to vary the terms of the original approval so that the alterations could be fully assessed through the planning application process.
- 5.2 Members will be aware that in the interests of fairness to all parties involved, both the developer and the occupiers of surrounding properties, this course of action allows for a fair and publically accessible process within which the variations can be assessed and is often taken as an approach to seek to resolve breaches and decide if a breach is severe enough to warrant Enforcement Action.

6.0 PUBLIC/LOCAL RESPONSE:

- 6.1 The application has been advertised by site notice and newspaper advert. As a result of this publicity 15 letters of objection have been received. Reasons for objection include

- Increase in height results in development being over dominant
- Adverse impact on amenities of neighbours
- Impact on street scene
- Enforcement could have prevented/rectified breach
- Will set precedent allowing other developers to flout the planning rules
- Neighbourhood Plan refers to concerns about the replacement of houses with flatted development
- Application is an attempt to get Planning Permission by Stealth
- Will ruin what was once a pleasant residential area
- What is proposed would never have been approved originally
- Loss of view from neighbouring properties and properties opposite site
- Leeds has done little to enforce against the breach

7.0 CONSULTATION RESPONSES:

- 7.1 Due to the nature of this application the only consultee has been the Parish Council who have made the following comments
- 7.2 aving considered the plans and listened to the views of neighbours, the Parish Council is of the view that this is actually a retrospective application, although this is not stated in the plans.

As stated previously, the Parish Council strongly object to this application. With reference to the application to vary condition 2 although the proposed 0.9m addition to the height of the building might be said not to materially affect the street scene, we nevertheless feel that, not for the first time a precedent could be said to have been set which is regrettable.

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 , the Natural Resources and Waste Development Plan Document 2013 and any made Neighbourhood Plan.

Local Planning Policy

8.2 The most relevant Core Strategy policies are outlined below

Spatial Policy 1	Location of Development
Spatial Policy 7	Distribution of housing land and allocations
Policy 2	New housing on non allocated sites
Policy P10	Design
Policy T2	Accessibility Re quirements and New Development

The following saved UDP policies are also relevant

Policy GP5	Seeks to ensure that development proposals resolve detailed planning considerations, including amenity.
Policy BD5	Seeks to ensure new development protects amenity.
Policy LD1	Seeks to ensure that development is adequately landscaped
Policy N23	Refers to open space and the retention of existing features which make a positive visual contribution.
Policy N25	Refers to boundaries around sites
Policy T24	Refers to parking

8.3 The Alwoodley Neighbourhood Plan A referendum was held on 28th June 2018 and the Neighbourhood Plan now forms part of the Local Development Plan. The relevant policy from this neighbourhood Plan is

BE2 Local Character and Design

8.4 National Planning Policy Framework

The revised National Planning Policy Framework NPPF was published on 24th July 2018 and sets out the Government's planning policies for England and how these are expected to be applied, alongside other national planning policies. The NPPF seeks to boost the supply of housing whilst prioritising the reuse of previously developed land, and sets out the presumption in favour of sustainable development. In this case Section 12 Achieving well designed places is considered most relevant.

9.0 MAIN ISSUES

- 9.1 Impact of alterations on
Amenity
Streetscene
Highways Issues
The Issue of Precedent

10.0 APPRAISAL

Amenity

- 10.1 Except for the increase in the height of the building above the original approval of 0.9 metres to the ridge the bulk and massing of the building is as originally approved. In addition the footprint, save for the re orientation of the rear stair case is the same and the property s location within the site is also the same as that approved. These relatively small variations referred to above are not considered to have any adverse impact on the amenity of occupiers of adjoining properties due to the distance from the common boundaries and the impact of the scheme in terms of its bulk and massing was fully assessed under the original application. As there are no material alterations in this regard the potential impact of the proposed amendments are considered neutral compared to the original scheme.
- 10.2 The insertion of windows to the side elevation is a material alteration which requires fuller consideration. Side facing windows have the potential to more directly overlook the private space of the adjoining properties due to the more direct relationship between their orientation and those common boundaries. In this instance however, the proposal indicates that the newly inserted windows would be obscurely glazed and this can be conditioned requiring the level of obscurity to be to level 3 and that the obscured nature of the glazing shall be retained for the lifetime of the development. As an additional safeguard, a condition preventing the enlargement and insertion of new windows can also be imposed for the purposes of clarity.
- 10.3 The increase in height of the ridge over the original approval by 0.9 metres also needs to be addressed in terms of the potential impact on neighbour s amenity. The additional increase in height has resulted from the requirements of the conditions relating to internal site gradients to the frontage of the site where there was a requirement, in the interests of safety, for minimum gradients of the drive to be achieved. It should be stressed that it is not unusual for relatively minor alterations to occur between the granting of planning permissions and their implementations in relation to such matters as these.
- 10.4 The re configuration of the skylights in the roof slopes will not, it is considered adversely affect neighbour s amenity. The angle of slope means that any form of direct overlooking when the windows are open is difficult if not impossible to achieve. When closed such windows usually only afford a view of the sky. As such there are no concerns regarding this amendment.
- 10.5 Given the relationship of the building vis à vis the neighbouring properties it is considered that the increase in height of the ridge compared to that originally approved of 0.9 metres does not materially and detrimentally impact on the residential amenities of occupiers of properties either side of the application site.

This is a function of the plot sizes being fairly generous and any additional overshadowing or perception of overbearing impact being minimal compared to the impact that the original scheme would have had, which was assessed to be an acceptable level of impact given the changes proposed for the site as a whole.

Streetscene

- 10.5 The increase in height over that previously approved, will render the property marginally more prominent in the street. However the scheme is already set down from the street level due to the internal levels of the site dropping quickly as it does on the neighbouring properties as well. The ridge height will be higher than either of the properties either side as shown on the streetscape drawing. However it needs to be taken into account that there is a considerable setback from Alwoodley Lane itself which when combined with the lower nature of the properties along this part of Alwoodley Lane due to the levels differences makes, it is considered, the increase in height is minimal in terms of any potential and adverse impact on the street scene.
- 10.6 The remaining alterations are considered to improve marginally the scheme in that a central entrance and the re location of the bin store to a less obvious location are all considered to be improvements. The insertion and re configuration of the rooflights is considered to be neutral in their impact on the general street scene and the alterations to the rear are not visible and so have no impact on views from the public realm.

Highways Issues

- 10.7 The scheme is constructed in accordance with the approved conditions that were the subject of the original planning permission. On this basis there is no alteration of the scheme in relation to highways issues and thus there are no material planning matters to be considered as part of this revised scheme.

The Issue of Precedent

- 10.8 Many of the objections received have raised concern that if this particular proposal is given consent this will set a precedent, give the green light to other abuses and otherwise weaken the stance of the Local Planning Authority in relation to other breaches that may occur in the future on this or other sites. The Local Planning Authority should consider available options to resolve a planning breach in accordance with planning legislation and guidance and with due consideration given to the nature and scale of the breach which has occurred. Regularisation of a breach of planning can be an appropriate solution in circumstances such as this. This does not preclude the Local Planning Authority from taking enforcement action at a later date should it be considered necessary. Furthermore, an assessment will be undertaken on a case by case basis and therefore no precedent is set.
- 10.9 The planning system is not intended to be a draconian punisher of the perpetrators of breaches of the controls that are in place and as Members will be aware there are many solutions to the development of any one site all of which will be equally acceptable. This is demonstrated in the common approach to enforcement which is discussed in the History of Negotiations paragraphs above.
- 10.10 That said there will be instances where the breach identified is so clearly unacceptable that the Planning Authority has the tools available to it to take action

to rectify and/or minimise the breach that has taken place. It is, however, considered that this case is not such a case and that the proper and correct approach was to invite an application in order that the merits of the variations to that applied can be fully assessed. Had the findings of that assessment been that the variations were sufficiently detrimental to interests of acknowledged importance so as to justify a refusal of planning permission, then that is the recommendation that would have been made by officers. However, even taking into account the accumulation of variations it is not considered that there will be any material harm caused as a result. And to reiterate, even so, each case is treated on its own individual merits and there is no concept of precedent in planning. The approval of this case will not result in the rubber stamping of future similar breaches of planning control.

11.0 CONCLUSION

- 11.1 The accumulation of amendments that have been implemented do not cause demonstrable harm and as such it is considered that the proposed variations are granted planning permission subject to the conditions at the head of this report. There is no need to reinstate many of the original conditions as these have already been discharged and have either been implemented and or are awaiting implementation through the completion of the development on site.

Background Papers:

Application files 18/03496/FU

Certificate of ownership Certificate A signed on behalf of applicant as owner of site.

All dimensions are to be checked on site, any discrepancies are to be reported to the Architect before work commences. Do not scale from this drawing.

This drawing is to be read in conjunction with all relevant consultants and specialists drawings / documents, any discrepancies are to be reported to the Architect before the affected work commences.

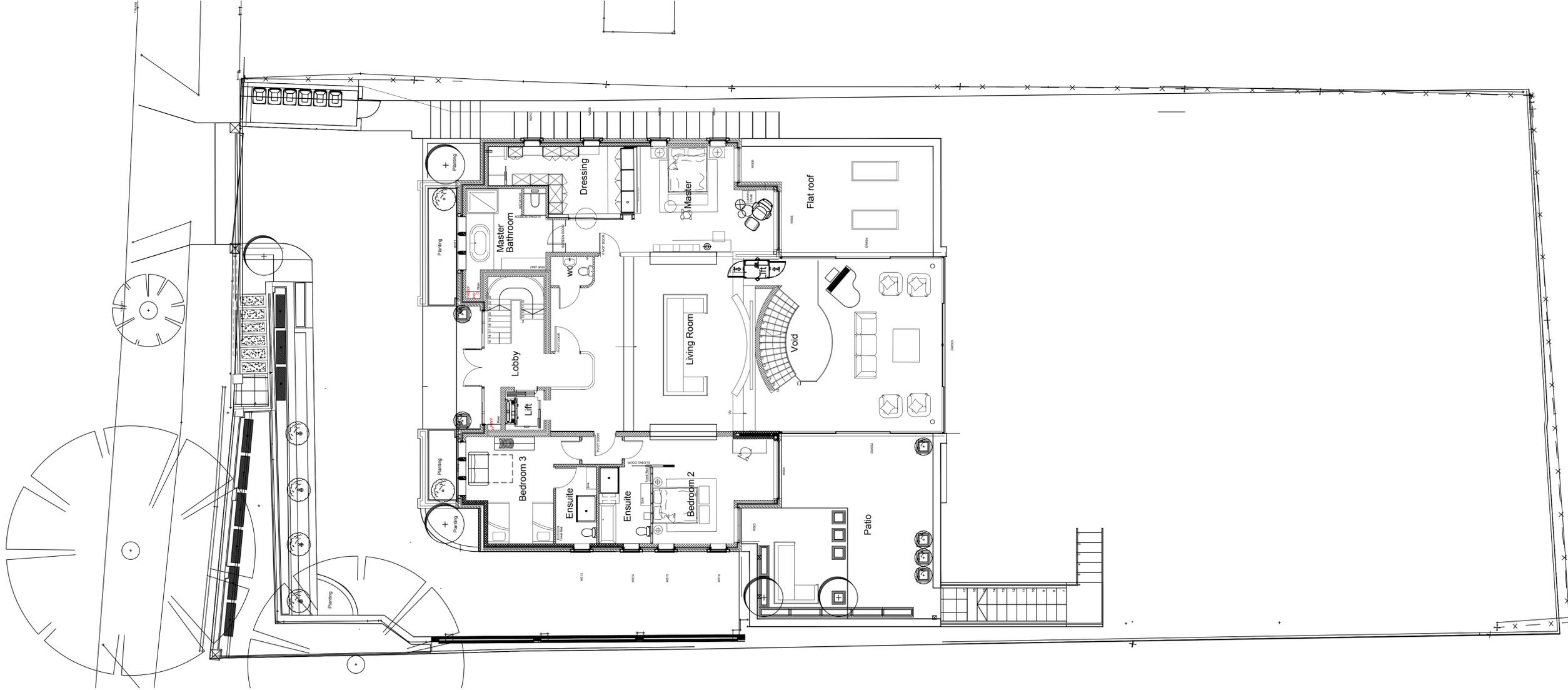
All structural components shown are indicative only. Details / calculations of structural members are to be provided by the Structural Engineer.

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REVISION	DATE	COMMENT
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CLIENT DETAILS 264 ALWOODLEY LANE ALWOODLEY LEEDS	DRAWING No 2017065(PL)02	REVISION
DRAWING INFO Site Plan as Proposed	SCALE 1:100	DATE 14/05/18
		DRAWN BY JH