



## Report of the Chief Planning Officer

### *South and West Plans Panel*

Date: 27 August 2020

**Subject: 20/01735/FU – Change of use from C3 (dwelling house) to C2 (residential institution) at 68 Billingbark Drive, Leeds, LS13 4RX**

<b>Applicant:</b>	<b>Date Valid</b>	<b>Target Date</b>
Cambian Group	16/03/20	11/05/20

#### **Electoral Wards Affected:**

Armley

Yes Ward Members consulted  
(Referred to in report)

#### **Specific Implications For:**

Equality and Diversity

Community Cohesion

Narrowing the Gap

**RECOMMENDATION: GRANT PERMISSION subject to the following conditions**

#### **Conditions:**

1. Time limit – 3 years.
2. Development to be carried out in accordance with approved plans.
3. Restrictions on number of residents that reside at the site at any one time to three.
4. Restrictions on number of resident staff on site at any one time to three.
5. Implement the bin and cycle storage pre-occupation of the development hereby approved.
6. Details of electric vehicle charging points to be submitted for written approval.
7. Samples of the proposed cladding materials to the buildings front elevation.

#### **1.0 INTRODUCTION:**

- 1.1 The application is brought to Plans Panel at the request of Cllr James McKenna who has set out his reasons as:

- The area is not suitable for a children's home, there will be no chance for children to interact productively with community due to frequency of change.
- Concerns regarding the safeguarding policies of the Council being able to be met.
- That the area is isolated from appropriate levels of service (e.g. medical and education) and bus provision which may make travel for vulnerable children problematic.
- Concerned over lack of public consultation by the Company.

## **2.0 PROPOSAL**

- 2.1 The proposal is for the change of use of a dwelling house within the Use Class C3 to a residential home within Use Class C2.
- This home will be for three children/young people aged 8-18 years of age on expected long term residencies.
  - The home will be supported by 3 staff; 2 resident and 1 non-resident, 24 hours a day. Shifts will swop over in the morning with the non-resident staff member going home in the evening, meaning the movement of staff will be at or around these times. It would be usual that there will be two staff members staying in the house over-night with 1 staff member working through the night.
  - The existing garage would be converted into habitable space and the existing garage door opening would be in-filled.
  - The existing off-street parking facilities to the sites driveway located to the front would be utilised. This provides space for approximately four vehicles.

## **3.0 SITE AND SURROUNDINGS:**

- 3.1 The application site comprises a detached 6 bedroom dwelling, set within a sizeable generally triangular plot, located on Billingbawk Drive, Leeds, LS13 4RX. There are gardens to the side and rear and an area of hard-standing to the front.
- 3.2 The wider character of the area is residential with detached and semi-detached dwellings sitting from the mid-late 20<sup>th</sup> century being the prevailing form of development.
- 3.3 There are good amenities and services relatively close to the site:
- Bramley Village Medical centre is approx. 0.6m away,
  - The nearest schools are approx. 12-20 minute walk or 3 to 6 minute drive
  - Shopping facilities are around 0.3 miles to the north (7 minute walk or a 2 minute drive) or 0.6 miles to the south-west (3 minute drive or 12 minute walk).
  - Public transport routes sit close by along Stanningley Road.
- 3.4 It is considered that given the existing amenities and the well-established residential settlement, the site can be regarded as being within a sustainable location.

## **4.0 RELEVANT PLANNING HISTORY:**

- 4.1 19/07520/CLP- Certificate of Proposed Lawful Development for Change of Use from residential property (C3) to a Care Home (C3 (b)) with conversion of Garage to

habitable accommodation. This was refused as Officers were of the view that a material change of use would occur as the proposed use as a care home, where staff operate on a rota basis, would fall within C2 of the Use Classes Order.

- 4.2 16/07459/FU - 13 Wellington Grove, Bramley for a Change of use of dwelling (C3) to a residential children's care home (C2) – This site falls outside of the area of the site but given that the proposal is for a change of use from a C3 to a C2 use the findings of the Inspector dealing with the subsequent and relatively recent appeal are considered to be relevant in this instance. The LPA refused this application for the below reason:

*The Local Planning Authority consider that the proposed use of the host property as a Children's Care Home (C2 Use Class) is unacceptable by reason of the increased noise and disturbance from the comings and goings of staff associated with the running of the proposed use, resulting in the intensification of the use of the building, which would result in multiple users that would be above those levels reasonably expected if the building was in use as a family home. This would therefore have an undue effect on the living conditions of neighbouring residents, compounded by the back-to-back nature of the dwellings. As such the proposal is contrary to saved Policy GP5 of the Leeds UDP (2006) and the advice contained within the National Planning Policy Framework (2012).*

*The Local Planning Authority considers that this property, a back to back house, is unsuitable for the provision of specialist care for children due to the lack of outdoor amenity area, limited scope for private/quiet rooms, and the higher levels of noise transfer from surrounding properties. It is considered that the likelihood of the children to be homed here having severe emotional and behavioural disabilities would be higher than with a typical family and that the type of property could therefore create a more harmful environment for them to live in. This would be detrimental to their amenity, contrary to policy GP5 of the UDP.*

This was subsequently allowed at appeal. With regard to noise and disturbance the Inspector notes in his findings that:

*".....it is argued that the potential emotional and behavioural difficulties of a child at the property would contribute to adverse and excessive noise and disturbance from within the property for neighbouring occupiers. However, I have seen no substantive evidence to support this. Furthermore, whilst the children likely to reside at the property may have such difficulties, I find it unreasonable to assume that such behavioural and emotional needs would inevitably result in anti-social behaviour and excessive noise or disturbance".*

Member's attention is drawn to the above as it is pertinent to the determination of this application now before Panel. It should also be noted that the Inspectors finds refer to the change of use of a back-to back property, thereby much smaller than the application site with much less outdoor space.

## **5.0 HISTORY OF NEGOTIATIONS:**

- 5.1 The proposal before Members is unchanged from the date of its submission.

## **6.0 PUBLIC/LOCAL RESPONSE:**

6.1 This application was advertised by 1 x site notice posted opposite the site on the 3 June 2020. This application has attracted 6 letters of objection including one from Councillor James McKenna.

Ward Members.

6.2 Councillor McKenna has objected to the application for the reasons cited in Paragraph 1.1

Other Public Response

6.3 The material planning issues raised by 4 local residents are summarised below:

- There has been a lack of notification regarding the proposal.
- A care home of this nature will be damaging to the character and reputation of the area and is an inappropriate use within the area.
- Increased levels of noise and disturbance.
- Potential for anti-social behavior.
- The increase in the fear of crime as a result of the proposal.
- Additional pressures on the Policing of the area.
- What assurances are given regarding the occupancy limits?
- Potential for CCTV
- Increased disturbance from bin collection and installation/maintenance of the electric vehicle charging points.

**7.0 CONSULTATION RESPONSES:**

Highways

7.1 No objections subject to a condition for the installation of electric vehicle charging points.

Flood Risk Management

7.2 No objections

Children's Services (CS)

7.3 Due to proximity to LCC children's homes, and current existing private provision supporting children with similar needs within these immediate communities (LS13) Leeds Children's Services would not support establishing further children's homes at this location. CS also stressed that whilst they welcome new providers developing services to meet children's needs within the districts communities they would encourage these being established within other communities across Leeds where there is appropriate resource and support to meet these children's needs.

**8.0 PLANNING POLICIES:**

8.1 Section 38 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 is made up of the a Core Strategy (Review 2019), saved policies from the Leeds Unitary Development Plan (Review 2006) (UDP), the Site Allocations Plan (2019) and the Natural Resources and Waste Development Plan Document (DPD), adopted January 2013, the Aire Valley Leeds AAP, as well as any made neighbourhood plans.

Relevant Policies from the Core Strategy are:

- GENERAL POLICY – Presumption in favour of sustainable development
- SP1 – Location of development in main urban areas on previously developed land.
- P10 – Design, context and amenity consideration
- T2 – Accessibility

Relevant Saved Policies from the UDP are:

- GP5 – General planning considerations

Supplementary Planning Guidance and Documents

8.4 The following SPGs and SPDs are relevant:

- SPG13 – Neighbourhoods for Living: A Guide for Residential Design in Leeds
- Street Design Guide SPD
- Parking SPD

National Planning Policy

8.5 The National Planning Policy Framework (NPPF). One of the key principles at the heart of the Framework is a presumption in favour of Sustainable Development.

8.6 The below sections of the NPPF are considered to be most relevant:

- Section 2 – Achieving sustainable development
- Section 8 – Promoting healthy and safe communities
- Section 9 – Promoting sustainable transport

## 9.0 MAIN ISSUES

1. Principle of development
2. Character and Appearance
3. Impact on residential amenity
4. Highways
5. CIL
6. Other issues

## 10.0 APPRAISAL

Principle of development

10.1 Spatial Policy 1 of the Core Strategy relates to the location of development and confirms the overall objective to concentrate the majority of new development within and adjacent to urban areas, taking advantage of existing services, high levels of accessibility, priorities for urban regeneration and an appropriate balance between brownfield and Greenfield land.

10.2 The proposal seeks to change the use of No.68 Billingbalk Drive from a family house within the Use Class C3 to a residential care home within the Use Class C2.

10.3 The proposed end use would be within a well-established urban area that sits relatively close to existing amenities (shopping, medical and education) within

Bramley. The travel times to these shopping and service areas are the same as they would be if the house stayed within a C3 use, and there is no requirement that a residential care home operating from an existing building would need to be any closer to the existing local amenities than the surrounding residential population on Billingbark Drive or the nearby streets. Moreover, the immediate area is well served by public transport routes to local, town and the City Centre. Therefore site is considered to be within a sustainable location.

- 10.4 The Applicant asserts that the use would seek to function as a family environment with residents living as a household. This would respond to the residential context of the area and the number of occupants at any one time would be no more than one could expect if a family occupied the site. This proposed use and the occupancy limits of three children/young people and the three members of staff, would in Officers view have a neutral impact on the local services as there could be a very similar if not the same impact from a family occupation of the site. This would be a residential care home within a residential area, albeit the dynamics differ from a family home (i.e. that the carers would work there rather than it being their home).
- 10.5 The use is considered to accord with the aims of Spatial Policy 1 and there is no policy context that could reasonably prevent a change of use from a C3 use to C2 and therefore the principle of the change of use is considered to be acceptable.

#### Character and Appearance

- 10.6 There are no physical changes proposed to the external parts of the building as part of this application to the building or its grounds other than the in-filling of the garage door opening with cladding. A condition is recommended for samples of this material. It is not considered that the use of the site with the limited level of three residents and associated on-site staff and any visiting support specialists would change the residential character of the site or over-intensify it beyond what could reasonably be expected if this detached dwelling set within a sizeable plot remained in family use.
- 10.7 The scheme is considered to be compliant with the aims of the strands of Core Strategy Policy P10 that refers to character and context (the amenity strands of P10 are dealt with below), saved UDP Policy GP5 and the advice contained within the NPPF.

#### Impact on residential amenity

- 10.8 It is not considered the proposal would have any impact on existing residents, in terms of over-shadowing and over-looking as there are no alterations proposed to the building or its plot.
- 10.9 The care home would provide accommodation for young people likely having a variety of issues, and until referrals are made it is not clear exactly to what extent of care and supervision the individual will need. Nevertheless, this is a care home with a duty of care and one that will be subject to assessment by a regulatory body.
- 10.10 The building is detached and separated from its neighbours by a rear garden, Driveway and a public footpath. Whilst it could be argued that the chances of noise and disturbance could be higher than if a family occupied the property, any instances of difficulties would be dealt with by the specialist carers that will be on site. It is not

considered that any levels of noise and disturbance from the three residents and the on-site care team would be significantly greater than a family situation and there is no evidence to suggest otherwise.

- 10.11 It is a usual requirement that operators record and log any complaints made about a care home, and that the regulatory body (i.e. OFSTED) would then investigate. In principle and dependent upon the scenario, operators run the risk of their licenses being revoked should they fail to meet the relevant and required standards.
- 10.12 In Officers opinion the proposed use would not result in unduly increased comings and goings from staff changes and transportation of the residents than the existing C3 use. The home will be supported by 3 staff, 24 hours a day, working on a rota basis that would see a swop over in the mornings. Subsequently, the movement of staff would be around those times. It would be usual that there will be 2 staff members staying in the house overnight to meet any needs through that time. As with a family home visits and activity could occur at similar times and at a similar level of vehicles and visitors.
- 10.13 In light of the above, Officers acknowledge that many attributes of family life would occur however, the nature of the occupation, involving the rotation of the care workers due to their shift patterns, the comings and goings to the site may on occasion be more numerous than could be anticipated for most family homes but it is not considered that the levels of comings and goings would be significantly greater than those a family could attract. The impact on the surrounding neighbours would not be unduly harmful. Moreover, conditions restricting resident numbers to no more than 3 residents and 3 members of staff will ensure that the site would not be overly intensified.
- 10.14 Officers are of the view that the scheme is compliant with Core Strategy Policy P10, saved UDP Policy GP5 and with the advice set out in the NPPF.

#### Highways

- 10.15 As part of this application a technical view was sought from Highways who have indicated that the surface parking area provides for adequate levels of off-street parking for up to 4 vehicles, and no highway safety issues have been raised. Conditions have been suggested by Highways for waste collections details and cycle parking, but these are not recommended for imposition other than to implement the bins and cycle parking as shown on the proposed site plan.
- 10.16 Therefore, Highways have concluded that the proposal are acceptable in highways terms. The scheme is compliant with Core Strategy Policy T2, saved UDP Policy GP5 and with the advice set out in the NPPF.

#### Children's Services/Safeguarding

- 10.17 CS have raised concerns regarding the proposed use in this location. Due to proximity to LCC children's homes, and current existing private provision supporting children with similar needs within these immediate communities (LS13) CS could not support establishing further children's homes at these locations. However, there is no planning policy context that would support refusal on the basis of the above.

- 10.18 Cllr McKenna has raised concerns regarding safeguarding, and this matter has been looked at very carefully by Officers. Officers have conferred with Legal colleagues on this issues and the advice received was that safeguarding issues would be a matter outside of the parameters of National and Adopted Planning policy, and therefore Officers are able only to look at the implications of the proposed end use in terms of the planning impact of noise and disturbance.

### CIL

- 10.19 The proposal is a change of use and is therefore exempt from CIL under the Community Infrastructure Levy Regulations 2010 (as amended 2011, 2012, 2013, and 2014)

### Other issues

- 10.20 The points raised in representation have in the main been covered within the above report. With regard to the other concerns raised through representation in respect to anti-social behavior and increased fear of crime, there is no evidence to suggest that the young people placed at the site will present a safety issue above and beyond children that form part of a family unit, and any pressures on Policing within the area would not form a robust or reasonable basis for withholding planning permission.
- 10.21 Limited weight can only be attached to the concerns raised within representation regarding increased disturbance from bin collection and installation/maintenance of the EVCP's. It is unlikely that bin collection will be more intensive than the existing domestic collection service and EVCP's are accepted features in a domestic context and are elements of sustainable transport infrastructure that is supported through planning policy.
- 10.22 The comments regarding CCTV cameras are duly noted. There are allowances through Permitted Development rights that allow the installation of such equipment, however it is not considered reasonable or necessary to attach a condition restricting CCTV equipment, and to do so would not meet the test for the imposition of planning conditions as set out in the NPPF.

### Inclusivity

- 10.23 Local Planning Policy seeks to ensure developments proposals are accessible to all. This proposal is predominantly for a change of use with only small external changes to a garage door which will be bricked up, the house therefore remains as is. It is noted that there are small steps up to the main entrance doors, however the providers will need to comply with any disability requirements as laid down by Ofsted and depending on the individual needs of the occupants. Should additional installations be required externally such as an access ramp then planning permission will be required. There would be adequate space within the site constraints to undertake any such work.

## **11.0 CONCLUSION**

- 11.1 The proposal is considered to comply with both national and adopted local planning policy in terms of establishing sustainable development. The application site would operate within a use that would attract occupation and levels of noise and disturbance

from comings and goings, akin to those that could reasonably and likely occur if a family resided at this address.

11.2 The size of the building and its grounds provides suitable accommodation for three residents and the on-site staff. There is sufficient on-site parking for staff and visitors and the site is located within a sustainable location.

11.3 It is therefore recommended that this application is approved, subject to the suggested conditions set out at the head of this report.

### **Background Papers**

Application Files:



20/01735/FU

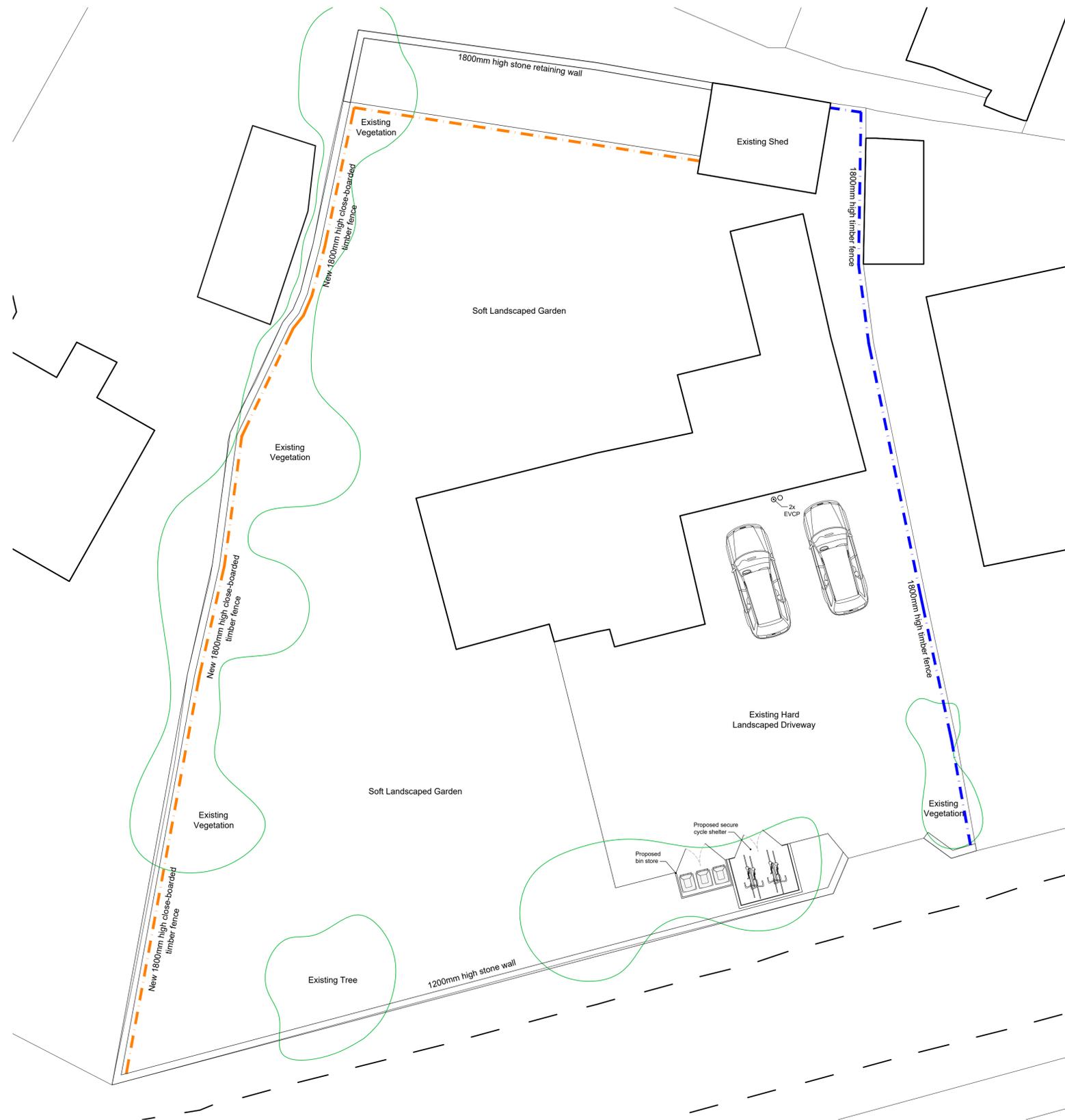
# SOUTH AND WEST PLANS PANEL

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

SCALE : 1/1500





Proposed Site Plan  
Scale - 1:100 @ A1



**WHITEHOUSE, LEEDS**  
PLANNING SUBMISSION



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Subject to statutory approvals and survey.  
**Areas:**  
Building areas are liable to adjustment over the course of the design process due to the ongoing construction detailing developments.  
**Risk Assessment:**  
In accordance with CDM Regulation 7, 11 & 18, significant hazards have been identified and are eradicated through the design process.  
Refer to the current Designers Risk Information Schedule for further details.

revisions		
P1	PRIMARY ISSUE	03.12.19 GRH
P2	Plan updated as per planning comments	01.05.20 GRH

**PLANNING**

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Project: **WHITEHOUSE** Job Number: **AR318-19**  
68 BILLINGBAUK DRIVE  
LEEDS, LS13 4RX

Client: **CAMBIAN GROUP**

Drawing Title: **PROPOSED SITE PLAN** Drawing Size: **A1**

Drawn	Date	Scale	Casefile
GRH	02.12.2019	1:100	-
Reviewed by	Drawing No.	Rev.	
RRB	(00)-02	P2	