



Report of the Chief Planning Officer

NORTH AND EAST PLANS PANEL

Date: 18th March 2021

Subject: 20/07883/FU- Change of Use from dwelling to 5 bed House in Multiple Occupation (C4) at 41 Spencer Place, Chapeltown, Leeds, LS7 4DQ

APPLICANT

MR A Ali

DATE VALID

30.11.2020

TARGET DATE

25.01.2021

**Electoral Wards Affected:
Chapel Allerton**

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 conditions specified below:

1. Standard 3 year implementation time limit.
2. Compliance with approved drawings.
3. No conversion of utility area to habitable rooms (i.e. living/dining/kitchen/bedrooms).
4. No occupation of any bedroom until the kitchen (including associated conversion works) and living room have been fully provided. These rooms shall be retained for the life of development.
5. Details of waste storage and cycle store provided prior to occupation and retained for life of development.

INTRODUCTION

1. This application seeks permission for a change of use from a single dwelling into a 5-bedroom House in Multiple Occupation (HMO) (Use Class C4). It is brought to Plans Panel at the request of the Chapel Allerton Ward Councillors. The Ward Councillors are concerned that the area features high level of HMO's, which are putting pressure on local infrastructure including on street parking. The Ward Councillors feel that this site should remain as a family home. The Councillors also

highlight that this area of Leeds benefits from an Article 4 Direction and it is suggested that this carries a presumption that any application that proposes to change the use of a single dwelling to a HMO will be refused. As some of these issues are material planning considerations that give rise to concerns affecting more than neighbouring properties the exceptions set out in the Officer Delegation Scheme are met and it is appropriate to report the application to Plans Panel for determination.

- Members are advised that the Article 4 Direction does not automatically result in any presumption that an application proposing a change of use to a HMO should be refused. An Article 4 Direction simply removes what would otherwise be an automatic permitted development right for such a change of use, thereby necessitating that a planning application for this development is submitted. The Article 4 Direction does not serve as a justification for refusing or approving planning permission in an area with an Article 4 Direction. Planning applications which fall under the auspices of the Direction will still need to be judged against national and local planning policies and on their own merits.

PROPOSAL

- Permission is sought to change the use of a house from a single family dwelling (Use Class C3) to a House in Multiple Occupation (HMO) (Use Class C4) thereby allowing the dwelling to be occupied by 5 unrelated persons. Shared facilities would still be provided nonetheless, most notably the ground floor kitchen and living room. Smaller kitchens are also proposed at first floor and second floor level.
- The layout would consist of the following, and a comparison to the Council's emerging planning guidance on HMO's is also provided below (see also paragraphs 19 to 21 and 44 to 45). Note that the table does not include the smaller shared kitchen and bathrooms proposed at first and second floor level, as these are additional facilities. The table includes the larger kitchen and living rooms space at ground floor level:

	Room Use	Size Proposed (approx.)	Draft SPD HMO (minimum requirement)
Ground Floor	Living area	18m ²	15 m ²
	Kitchen/ Dining	16 m ²	12m ²
	Bedroom with En-suite	18 m ²	14.4m ²
First Floor	Bedroom 2 with En-suite	15.8m ²	14.4m ²
	Bedroom 3	19.5m ²	11m ²
Attic Floor	Bedroom 4 with En-suite	17.8m ²	14.4m ²
	Bedroom 5 with En-suite	14.6m ²	14.4m ²

5. No off-street parking is available and would continue to be provided on-street.

SITE AND SURROUNDINGS

6. The application site lies within a densely developed residential area. The application property is a large end of terrace Victorian, red brick property. The immediate area features large Victorian brick built residential dwellings, and larger detached properties opposite. The Planning History shows only one HMO granted approval on the street, with the council's HMO records showing that potentially up to 20 properties being used as an HMO. There are a number of properties on the street that have been converted to form flats. The basement on the site was approved to be used as a self-contained flat in 2008 (see planning history).

RELEVANT PLANNING HISTORY

7. 20/08325/FU- First floor extension over existing garage. Pending Consideration
8. 08/04734/FU- Alterations to form one 1 bedroom basement flat. Approved
9. 10/03688/FU- Retrospective application for change of use of residential garage to form retail unit. Refused

HISTORY OF NEGOTIATIONS

10. Following the applicant being advised to ensure the scheme meets the standards set out within the council's SPD on HMO's, revised plans were submitted amending the layout. The revised plans reduced the number of bedrooms proposed from six to five.

PUBLIC/LOCAL RESPONSE

11. The application was advertised by site notice dated 23.12.2020. No representations from neighbours have been received.
12. Chapel Allerton Ward Councillors have objected to the change of use of the family home. The Ward Councillors are concerned that the area features high levels of HMO's, which are putting pressure on local infrastructure including on street parking. The Ward Councillors feel that this site should remain as a family home. The Councillors also highlight that this area of Leeds benefits from an Article 4 Direction and argue therefore as a result this application should be refused.

RELEVANT PLANNING POLICIES

13. Section 38(6) of the Planning and Compulsory Purchase Act states that for the purpose of any determination to be made under the Planning Acts, the determination must be made in accordance with the development plan, unless material considerations indicate otherwise. The development plan comprises the Core Strategy 2019 (as amended), those policies saved from the Leeds Unitary

Development Plan (Review 2006) (UDP), the Aire Valley Leeds Area Action Plan (2017), the Natural Resources and Waste Local Plan (2013 and 2015), the Site Allocations Plan (2019). There are no policies relevant to this proposal in the latter 3 policy documents and there is no Neighbourhood Plan for the area.

Core Strategy

14. The Core Strategy sets out strategic level policies and vision to guide the delivery of development decisions and the overall future of the district. The most relevant local planning policies from the Core Strategy for the purposes of determining this application include:

P10 - Highlights that new development for buildings and spaces, and alterations to existing, should be based on a thorough contextual analysis and provide good design that is appropriate to its location, scale and function. Proposals should accord with principles around size, scale, design, layout, character, surroundings, public realm, historic / natural assets, visual, residential and general amenity, safety, security and accessibility to all.

T2 - Accessibility requirements and new development

H6(A) - Within the area of Leeds covered by the Article 4 Direction for HMOs, development proposals for new HMOs will be determined:

- (i) To ensure that a sufficient supply of HMOs is maintained in Leeds;
- (ii) To ensure that HMOs are distributed in areas well connected to employment and educational destinations associated with HMO occupants;
- (iii) To avoid detrimental impacts through high concentrations of HMOs, which would undermine the balance and health of communities;
- (iv) To ensure that proposals for new HMOs address relevant amenity and parking concerns;
- (v) To avoid the loss of existing housing suitable for family occupation in areas of existing high concentrations of HMOs.

Unitary Development Plan

15. Relevant Saved Policies from the Unitary Development Plan are:

GP5 - Development proposals should resolve detailed planning considerations at the application stage.

BD5 - General Amenity issues.

National Planning Policy

16. Revised in February 2019, the National Planning Policy Framework (NPPF) sets out the Government's overarching planning policies and how they should be applied to ensure the delivery of sustainable development through the planning system and strongly promotes good design. The NPPF must be taken into account in the preparation of local and neighbourhood plans, and is a material consideration in planning decisions.
17. The introduction of the NPPF has not changed the legal requirement that applications for planning permission must be determined in accordance with the

development plan unless material considerations indicate otherwise. The policy guidance in Annex 1 to the NPPF is that due weight should be given to relevant policies in existing plans according to their degree of consistency with the NPPF. The closer the policies in the plan to the policies in the NPPF, the greater the weight they may be given. The provisions within the NPPF are given further articulation and practical consideration in the National Planning Practice Guidance (NPPG).

18. The following paragraphs from the NPPF are considered to be of particular relevance:

Paragraph 12 - Presumption in favour of sustainable development
Paragraph 17 - Twelve planning principles
Paragraph 61 - The creation of balanced and mixed communities

Leeds City Council Supplementary Planning Guidance/Documents

19. The following Supplementary Planning Documents is relevant:

- Draft Supplementary Planning Document (SPD) Houses in Multiple Occupation, Purpose-Built Student Accommodation and Co- Living Amenity Standards.

20. This is an emerging SPD, which has been published for initial consultation between 18 January and 1 March 2020. The NPPF is clear on the weight that can be attached emerging plans/policies as follows:

48. Local planning authorities may give weight to relevant policies in emerging plans according to:

a) the stage of preparation of the emerging plan (the more advanced its preparation, the greater the weight that may be given);

b) the extent to which there are unresolved objections to relevant policies (the less significant the unresolved objections, the greater the weight that may be given); and

c) the degree of consistency of the relevant policies in the emerging plan to this Framework (the closer the policies in the emerging plan to the policies in the Framework, the greater the weight that may be given).

21. On the basis that the SPD being at an initial draft and at the early stages of the adoption process, it can only be given very limited weight in decision-making. The guidance in the SPD cannot be relied upon as a reason for refusal at this early stage. This proposal is considered against the SPD's requirements at paragraphs 44 and 45 below.

Article 4 Direction to control changes of use to C4 Houses in Multiple Occupation.

22. The Council confirmed the introduction of an Article 4 Direction which requires planning permission for the conversion of dwelling houses (Use Class C3) to houses in multiple occupations (HMO's) (Use Class C4) of between 3 and 6 unrelated occupants in 2011. The Direction came into force on 10th February 2012.

23. The Article 4 Direction provisions were 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 this 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 were leading to the harmful impacts.

24. The Council recognises that HMO's 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 HMO's can result in numerous harmful impacts.
25. 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 or were likely to suffer encroachment of HMO concentrations due to their proximity to existing areas of high concentrations.
26. As noted above, Members are therefore reminded that an Article 4 Direction simply removes what would otherwise be an automatic permitted development right for a change of use from Use Class C3 to Use Class C4, thereby necessitating that a planning application for such a development is submitted. 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 still be judged against national and local planning policies and on their own merits.

CONSULTATIONS RESPONSES

27. Highways –. A highway objection on the basis of any increase to on-street parking could not be justified given that required parking for the current use and the proposed use are the same. No objection subject to a cycle parking condition.
28. Flood Risk Management – The application site is located in Flood Zone 1 so no objection.

MAIN ISSUES

- Housing Delivery
- Inclusivity and the Public Sector Equality Duty
- Residential Amenity
- Highways/Waste Considerations
- Representations

APPRAISAL

Housing Delivery

29. Housing Delivery is a key material consideration. The NPPF requires that Local Planning Authorities maintain a sufficient amount and variety of land so that housing can come forward where it is needed, and that the needs of groups with specific housing requirements are met. Within this context the size, type and tenure of housing needed for different groups should be assessed and reflected in policies including for (among others) those who require affordable housing, older persons, people with disabilities and travellers. Planning policies should also identify a supply of specific, deliverable sites for a period of five years.

30. Policy H6 of the Core Strategy seeks to ensure that new HMO proposals are sustainably located, provide a range of housing types within the district, offer a good standard of amenity and do not harm existing communities.
31. The application property lies within the council's Article 4 Direction Area and thus planning permission is required for the conversion of the C3 dwellinghouse to a C4 HMO. The intention of the Article 4 Direction is to ensure that the Local Planning Authority can ensure communities within the city remain mixed and balanced, and that the negative impacts of a large concentration of HMO's do not occur.
32. Policy H6 sets out general objectives to plan for sustainable and balanced communities and to control the growth of forms of housing which can lead to harmful pressures on the local housing stock and services of an area. Part A of the policy relates to HMO's and outlines five criteria against which applications will be determined, recognising the need to provide a sufficient supply of HMO's as well as the need to prevent harm in some instances.
33. Part of A of the policy aims to ensure that (i) a sufficient supply of HMO's is maintained in Leeds, (ii) HMO's are located in areas well connected to employment and educational institutions associated with HMO occupants, (iii) the detrimental impacts through high concentrations of HMO's are avoided where this would undermine the balance and health of communities, (iv) to ensure that proposals for new HMO's address relevant amenity and parking concerns; and (v) would not lead to the loss of housing suitable for family occupation in areas of existing high concentrations of HMO's.
34. The proposal is considered to satisfy criteria (i) and (ii) of part A in that the proposal will assist in ensuring an adequate supply of HMO's is maintained in Leeds. The application property is situated within the Main Urban Area close to bus stops, and within reasonable walking distance of the City Centre. Local services and schools are located within the wider residential area and the dwelling is located close to open amenity space. As such is it considered that the property is sustainably located, satisfying H6(A) (i) and (ii).
35. Turning then to criterion (iii) – that is, the need to avoid detrimental impacts of a high concentration of HMO's where the balance and health of communities would be harmed. HMO's can result in a more frequent turnover of residents, resulting in a more transient community which lacks strong ties to an area. In turn this can result in a higher likelihood of antisocial behaviour, stemming from a lack of psychological connection to an area.
37. A search of the council tax and HMO Licenses records show that on Spencer Place 8 properties have been converted into HMO's with a further 12 properties that have student exemptions and thus could also be currently used as HMO's. A planning history search shows that 18 properties on this street have been converted into flats. Given that the street features approximately 149 houses, it is considered that approximately 74% of the properties on the street remain as single dwellings. The following adjoining streets have been assessed for numbers of HMOs, and the data shows that the number of HMO's in the wider area are lightly spread:
- Leopold Street 1 HMO (out of approx. 44 houses)
 - Louis Street 1 HMO (out of 40 house approx.)
 - Frances Street 1 HMO (24 houses approx)
 - Cowper Street 4 HMO's (56 approx. houses)

- Spencer Mount 0 HMO's (5 approx. houses)
- Rossington Grove 1 HMO (18 approx house)
- Grange Avenue 16 HMO's (93 approx. houses)
- Shepherds Lane 0 HMO's (approximately 43 houses)
- Pasture Road 2 HMO's (approximately 37 houses)
- Harehills Avenue 25 HMO's (approximately 148 houses)

38. It is accepted that some HMO's would not be recorded on the council's databases. However, considering with the records that the Council do poses, it would be difficult to argue that a high concentration of such uses exists whilst the vast majority of houses within the area appear to remain as single family dwellings. Furthermore, there is no direct evidence to suggest any existing difficulties with infrastructure that have been suggested by Ward Councillors, are being experienced within the area as a direct result of a high concentration HMO's. Thus whilst there are other HMO's within the surrounding streets, it is not considered that there is a significant concentration of HMO's within the area, and as such it is not considered that allowing the proposal would undermine the balance or cohesion of the local community.
39. As will be outlined further in the report there are no significant concerns relating to amenity or highway safety and thus the application satisfies criterion (iv). Criterion (v) relates to the loss of family housing in areas of existing high concentration of HMO's. However, as noted it is not considered the evidence shows a particularly high concentration of HMO's within the area, such that would substantiate this concern or would in itself amount to a reason for refusal.

Inclusivity and the Public Sector Equality Duty

40. The Equality Act 2010 contains within it the Public Sector Equality Duty (PSED) which requires not just that public bodies work to positively prevent those with protected characteristics being placed at a disadvantage, but also that public bodies exercise their functions in a way that is designed to reduce the inequalities of outcome which result from socio-economic disadvantage.
41. There is a clear link between poverty and disadvantage, and HMO accommodation does provide low cost housing. Thus provision of this tenure will likely result in an increase in the percentage of individuals within lower socio-economic bands within an area. It should however also be noted that cities require receptor communities, that are those which provide appropriate accommodation for new residents as they establish themselves within an area. Policy H6 acknowledges this need by providing a positive framework for provision of different tenures, whilst also noting the need to prevent harm. As outlined above it is not considered that there is a high percentage of HMO's within the immediate vicinity of the application property and as such the aggregate impacts of disadvantage (e.g. poor health outcomes, lower educational achievement etc.) will not be heightened by the provision of one additional HMO property. As such it is not considered that allowing the application will breach the council's duty to reduce inequalities of outcome resulting from socio-economic disadvantage.
42. The Equality Act also requires the council to positively eliminate discrimination for those with any of the nine protected characteristics (e.g. race, gender etc.) and the characteristic that is most relevant to the proposal is disability. Given that the proposal relates to the conversion of an existing building and given its size and scale there is limited opportunity to provide for or to alter the internal layout to make

rooms and floors more accessible to those with limited mobility. Physical mobility is only one aspect of disability however, and although it is not possible to make the current dwelling accessible to all, there is no evidence the proposal will materially worsen access to the city's housing stock to those who are characterised as disabled under the Act. As such it is not considered that allowing the application will breach the council's duty to reduce discrimination for those with protected characteristics.

Impact upon Residential amenity

43. Leeds Core Strategy policy P10 aims to protect general and residential amenity and policy H6 part A makes specific reference to the amenity of future occupants of HMOs. Saved UDP policy GP5 aims to protect amenity which includes the amenity of future occupants, and those already living within the area. The Council's Draft SPD Houses in Multiple Occupation, Purpose-Built Student Accommodation and Co- Living Amenity Standards, is also relevant. The SPD is at an early stage of adoption and therefore carries little weight, but it can be used as a guide to assess the standard of accommodation that is being proposed.
44. The property provides single bed spaces in all five bed rooms. In compliance with the emerging SPD, each of the bedrooms are proposed with en-suite whilst kitchens are proposed on all floors and a separate living space has been proposed within the building. Therefore, the proposal is considered acceptable with regards to the number of shared rooms that are proposed. As shown on the Table in the Proposal section of the report, the sizes of the bedroom, bathrooms and shared spaces such as the kitchen and living space meet the standards set out within the emerging SPD.
45. Furthermore, in compliance with the emerging SPD, each room will be served with windows that offer a good level of sunlight penetration, ventilation and outlook. Furthermore, the habitable rooms will not be overlooked. The property features a good size garden to the rear which will provide communal space for both the basement level flat and the residents of the HMO.
46. It is possible that neighbouring residents will be aware of activity through the noise of engines, car doors and the impact of headlights, however it is very unlikely that this will be perceptibly different from the existing activity created by on-street parking. As such it is not considered there will be a significant increase in noise and disturbance. The proposal is therefore considered to be acceptable both in relation to the amenity of future occupiers and that of near neighbours.

Highway/Waste considerations

47. Policy T2 of the Core Strategy seeks to ensure that development proposals are in an accessible location and adequately served by existing or programmed highways and by public transport, and with safe and secure access for pedestrians, cyclists and people with impaired mobility.
48. The existing dwellings consists of a two-bedroom basement flat with a four-bedroom dwelling above. The Highway's Team comments that, under current parking standards, the property would require up to 4 parking spaces.
49. At present the property does not include any off-street car parking provision and the proposal as submitted does not change this situation. The matter of parking provision has been raised as a concern by Ward Members. However, despite the

change of use, Highway Officers have expressed no concern regarding parking provision –noting that the demands of a C3 dwelling and that of the C4 proposal are similar with a slight shortfall of potentially on additionally one parking space requirement. As requested, a condition requiring cycle parking will be attached to the decision notice.

50. There is a relatively large area of external space some of which can be utilised for an appropriately designed bin storage facility. There is a relatively long and narrow area to the front and an enclosed yard to the rear. A condition is suggested to require the necessary details to be submitted for consideration and implementation.

Representations

51. The concerns of Ward Members in relation to parking issues, the numbers of HMO's in the area and the loss of a family home are noted within the above report and have been addressed in the relevant sections.

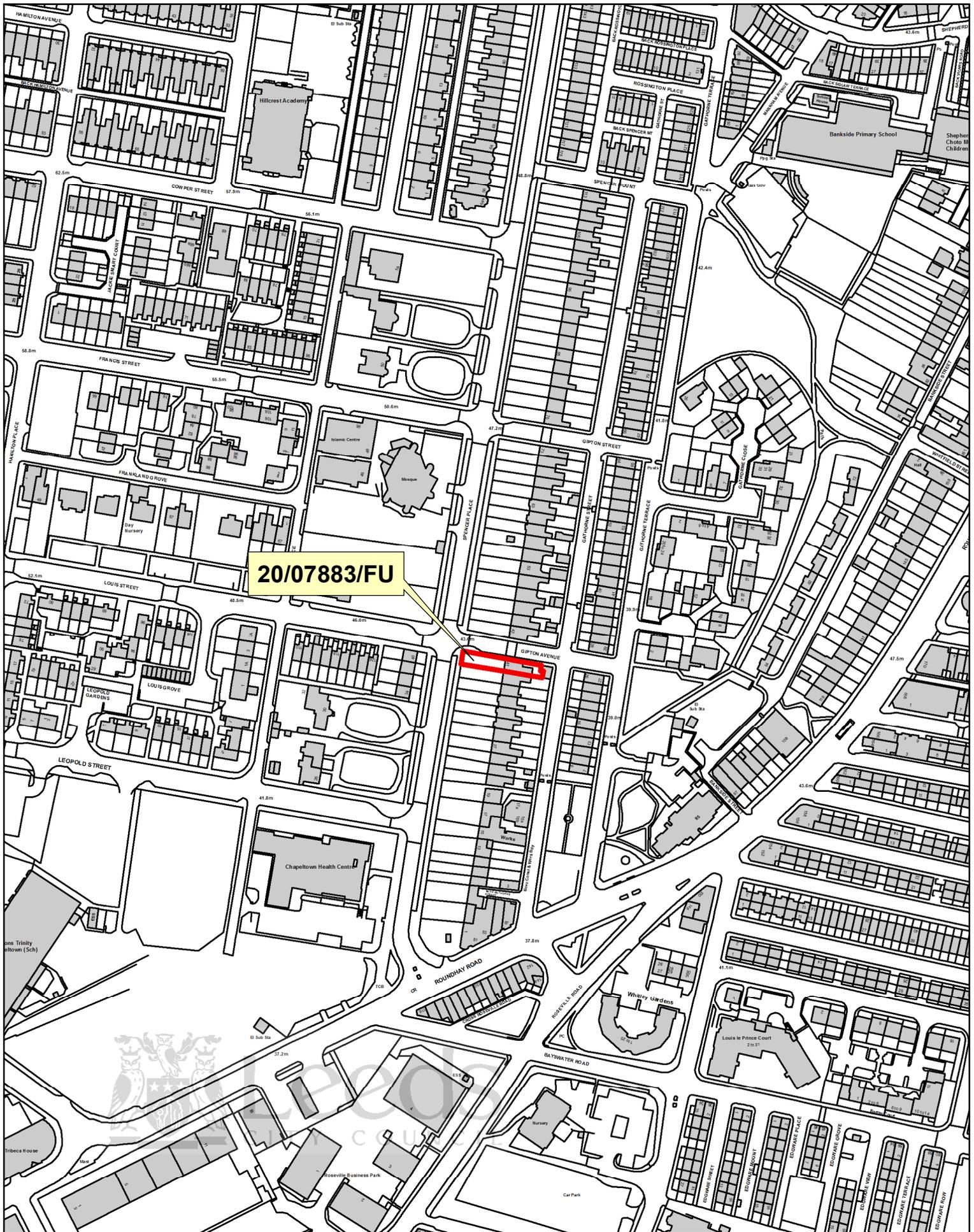
CONCLUSION

52. The development accords with the aims and intentions of local housing policies and contributes towards a varied housing tenure within the city. This is in accordance with the NPPF's emphasis upon housing provision, although in light of the council's robust supply of housing land, is a material benefit given only moderate weight.
53. It is considered that the proposal provides a good standards of living for future occupants and that the development will not harm neighbouring residential amenity or highway safety.
54. Given the above, it is considered that the development accords with the local and national planning policies and thus is recommended for approval.

Background Papers:

Application file: 20/07883/FU

Certificate of ownership: signed by Agent Mr P Riyat



20/07883/FU

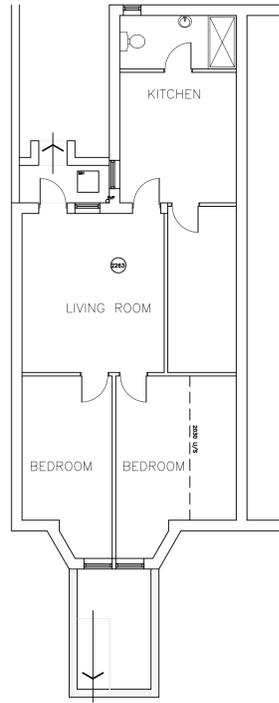
NORTH AND EAST PLANS PANEL

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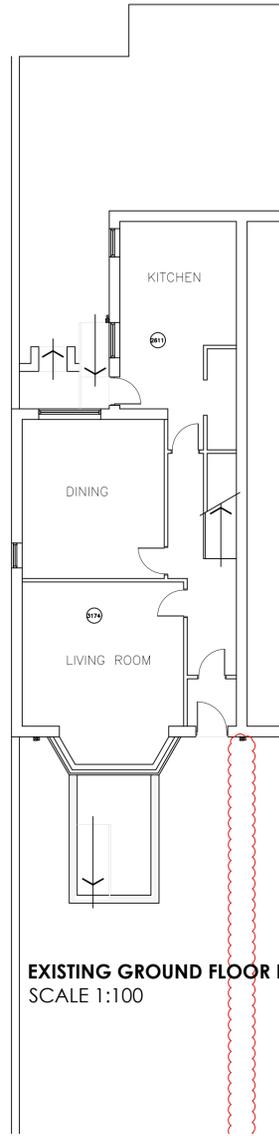
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SCALE : 1/2500

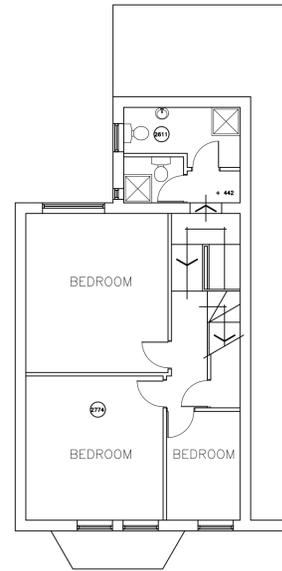




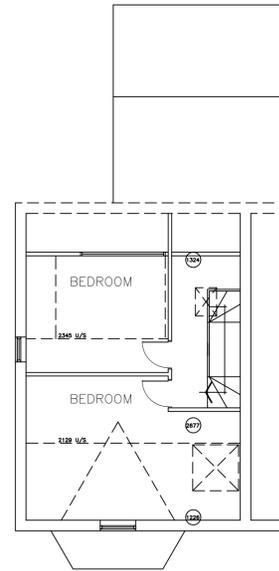
EXISTING BASEMENT FLOOR PLAN
SCALE 1:100



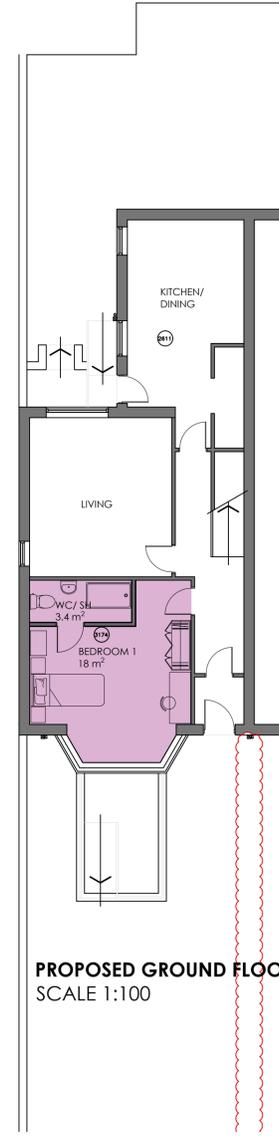
EXISTING GROUND FLOOR PLAN
SCALE 1:100



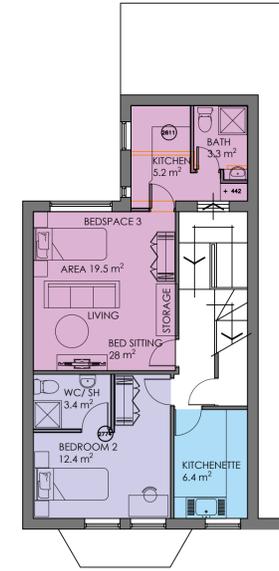
EXISTING FIRST FLOOR PLAN
SCALE 1:100



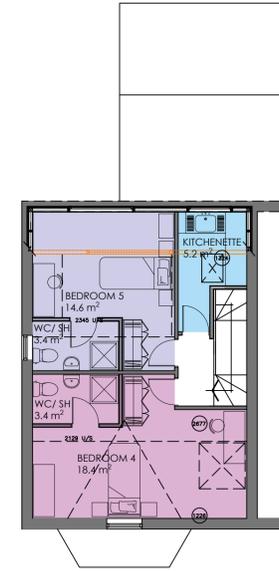
EXISTING SECOND FLOOR PLAN
SCALE 1:100



PROPOSED GROUND FLOOR PLAN
SCALE 1:100



PROPOSED FIRST FLOOR PLAN
SCALE 1:100



PROPOSED SECOND FLOOR PLAN
SCALE 1:100

PLEASE NOTE THESE DRAWINGS ARE FOR PLANNING AND BUILDING REGULATION PURPOSED ONLY

NOTE:
THE CONTRACTOR IS TO CHECK AND VERIFY ALL BUILDING AND SITE DIMENSIONS, LEVELS AND SEWER INVERT LEVELS AT CONNECTION POINTS BEFORE WORKS COMMENCE.

ALL DRAWINGS MUST BE READ WITH AND CHECKED AGAINST ANY STRUCTURAL AND / OR OTHER SPECIALIST DRAWINGS PROVIDED.

ALL WORKS TO COMPLY WITH BRITISH STANDARDS, CODES OF PRACTICE, CURRENT BUILDING REGULATIONS AND CARRIED OUT TO THE SATISFACTION OF THE BUILDING INSPECTOR. ALL MATERIALS TO COMPLY WITH THE RELEVANT BRITISH STANDARDS

NOTE:
ALL DIMENSIONS ARE NOTIONAL AND TO BE CHECKED AND VERIFIED PRIOR TO COMMENCING ANY BUILDING WORKS

A	INTERNAL LAYOUT REVISED	06/01/2021	SR
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REVISIONS	DATE	BY
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RIYAT ASSOCIATES LTD

Architectural Designers and Planning Consultants

Benson House, 14 Benson Street, Leeds LS7 1BL.
Telephone: 0113 2455492 Fax: 0113 2443800 E-Mail: info@psriyat.com

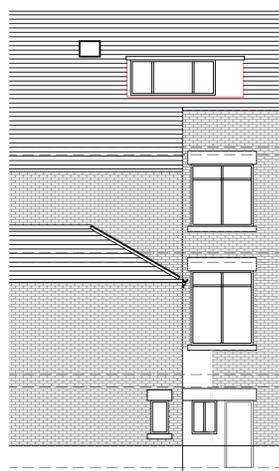
Client:
MR A ALI

Project
PROPOSED ALTERATIONS AND EXTENSION AT 41 SPENCER PLACE, LEEDS LS7 4DQ

Drawing:
EXISTING AND PROPOSED PLANS AND ELEVATIONS

Scale: As Shown @ A1	Drawing No. 3192/01
Date: OCT 2020	
Drawn by: SR	A

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EXISTING SIDE ELEVATION
SCALE 1:100



EXISTING REAR ELEVATION
SCALE 1:100



EXISTING FRONT ELEVATION
SCALE 1:100



LOCATION PLAN
SCALE 1:1250