



**Report of the Chief Planning Officer**

**NORTH AND EAST PLANS PANEL**

**10<sup>th</sup> February 2022**

**Subject: 21/08219/FU – Single storey side extension at The Lodge, Newsam Green Road, Newsam Green, LS26 8AG**

**APPLICANT**

Mr S Fox

**DATE VALID**

22<sup>nd</sup> October 2021

**TARGET DATE**

TBA

**Electoral Wards Affected:**

**Garforth and Swillington**

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
2. Approved Plans
3. Materials to be agreed (including window materials)

Directions

4. Development cannot commence prior to the receipt of listed building consent

**INTRODUCTION:**

1. This application is for the construction of a single storey side extension which will meet the identified needs of a family member. For reasons relating to data protection and safeguarding issues these identified needs are set out in a separate, confidential report (see appendix 1).

2. The development is inappropriate within the Green Belt and also affects the character of a Grade II listed building, as well as the setting of the Grade II\* listed Leventhorpe Hall. As such the issues raised by the development are of greater than local significance, and a criterion of the Officer Delegation Scheme is therefore met. It is therefore appropriate to report the application to Plans Panel for determination. No corresponding Listed Building application for the alterations has been submitted.
3. A similar scheme was proposed four years ago under application 17/06313/LI, where a single storey side extension would have formed an extended kitchen. No corresponding full application was proposed. Although acceptable in respect of its heritage impacts, the application was ultimately withdrawn as officers advised a full planning application would not be supported as it would be inappropriate development within the Green Belt.
4. The current proposal is also inappropriate development within the Green Belt. However, set out in the accompanying report, the supporting information submitted in relation to a family member's needs is considered to amount to the necessary very special circumstances. Approval is thus recommended.

#### **PROPOSAL:**

5. The application seeks permission to construct a single storey side extension. This will be set to the rear of an existing link-detached addition and measures 3.8m in width by 3.2m in depth, with a gabled roof. An existing side window is to be blocked up and new side and rear windows inserted. The extension would be constructed of matching materials.

#### **SITE AND SURROUNDINGS:**

6. The application relates to a Grade II listed lodge house, set at the entrance to Leventhorpe Hall from Newsam Green Road. The property dates from the mid-19<sup>th</sup> century (1860) and is constructed from ashlar sandstone with a slate roof. The dwelling is heavily articulated, with a deep soffit depth and decorative bargeboard, stone window surrounds, projecting stone cill and six pane, wooden sliding sash windows. The property also benefits from a neoclassical portico to its south elevation.
7. The property originally had a modest L-shaped form (identified as the lounge, dining room and bedrooms two and three on the plans), with a simple cross gabled roof form. The house has been substantially extended to the side and rear and now includes two secondary side gables, a link-detached side extension, conservatory to the rear and garden outbuilding(s).
8. The property is sited at the northernmost entrance to Leventhorpe Hall, and clearly designed as a lodge house to the grander dwelling. The hall itself is Grade II\* listed, and is a John Carr, late 18<sup>th</sup> Century, Palladian design. Ancillary buildings within the grounds (some of which are also listed) have largely been converted to private dwellings and/or holiday lets. The gate piers that lie to the front of the dwelling mark the estate entrance and are separately Grade II listed. The most decorative elements of the lodge house front the access road to the hall; a further track is set to the north providing access to a large agricultural building.
9. The dwelling is sited within the Green Belt, with the residential estate of Leventhorpe Hall to the west and agricultural land to all other sides. Swillington and Oulton

villages lie approximately half a mile to the east and south respectively. A public footpath runs west along the fields to the east terminating on Newsam Green Road.

#### RELEVANT PLANNING HISTORY:

10. 17/06313/LI Listed building application for a single storey extension, internal alterations, demolish and rebuild existing wall  
**Withdrawn** - officer concerns relating to a full application being inappropriate development within the Green Belt  
2017
- 33/309/04/FU Single storey side extension  
**Refused** – harmful impact upon character  
2004
- 33/310/04/LI Listed building application for a single storey side extension  
**Refused** – harmful impact upon character  
2004
- 33/110/00/FU Single storey extension conservatory and detached garage to rear  
**Approved**  
2000
- 33/109/00/LI Listed building application for single storey extension conservatory and detached garage to rear  
**Approved**  
2000
- 33/147/99/LI Listed building application for addition of conservatory to rear  
**Approved**
- H33/724/80/ Alterations to form bathroom and extension to form kitchen to detached bungalow.  
**Approved**  
1980
- H33/1021/78/ Alterations, to form new bathroom, and extension, to form kitchen with dining area, to side of detached bungalow.  
**Withdrawn**  
1978
- H33/419/76/ Outline application to erect extension, to detached cottage.  
**Approved**  
1976
- H33/418/76/ Outline application to demolish existing cottage, and erect new detached cottage to garden site.  
**Refused** – Impact upon Green Belt  
1976

#### HISTORY OF NEGOTIATIONS:

11. None

## **PUBLIC/LOCAL RESPONSE:**

12. The development has been advertised by Site Notice posted on 15<sup>th</sup> December 2021 and within the Yorkshire Evening post on 24<sup>th</sup> December 2021. Letters have also been sent to the six nearest residential dwellings.
13. In response, one letter of objection has been received. This notes the modest size of the lodge and the history of extensions, and raises concerns about the impact upon the property's character. Reference is also made to a covenant.
14. Swillington Parish Council raise no objections.

## **CONSULTATIONS RESPONSES:**

### 15. Non-Statutory Consultations

Conservation: Consider the proposal does not cause harm to heritage assets.

## **PLANNING POLICIES:**

16. 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 (amended 2019), the Site Allocations Plan (2019), saved policies within the Leeds Unitary Development Plan (Review 2006) (included as Appendix 3 of the SAP) and the Natural Resources and Waste Development Plan Document (2013) (NRWLP), The Aire Valley Area Action Plan and any made Neighbourhood Plan.

### Local Planning Policy

17. The Core Strategy 2014 (as amended by the Core Strategy Selective Review 2019) sets out strategic level policies and vision to guide the delivery of development investment decisions and the overall future of the district. For the purposes of decision-making in relation to this application, the following Core Strategy (amended 2019) policies are relevant:

P10 Seeks to ensure that new development is well designed and respect its context.

P11 Heritage assets

18. The Site Allocations Plan was adopted in July 2019. Following a statutory challenge, Policy HG2, so far as it relates to sites which immediately before the adoption of the SAP were within the green belt, has been remitted to the Secretary of State and is to be treated as not adopted. All other policies within the SAP remain adopted and should be afforded full weight. The site is unallocated within the SAP but identified as Green Belt.

19. The following saved UDPR policies are also relevant:

GP5 Seeks to ensure that development proposals resolve detailed planning considerations, including amenity

BD5 Seeks to ensure new development protects amenity

<u>BD6</u>	Seeks to ensure that development proposals respect the scale, form and detail of the original building
<u>N16</u>	Sensitive extensions to listed buildings
<u>N17</u>	Preservation of special interest of listed buildings
<u>N33</u>	Development within the Green Belt

20. The Natural Resources and Waste Local Plan (NRWLP) was adopted by Leeds City Council on 16th January 2013 and is part of the Local Development Framework. The Plan sets out where land is needed to enable the City to manage resources, like trees, minerals, energy, waste and water over the next 15 years, and identifies specific actions which will help use natural resources in a more efficient way. No NRWLP policies are relevant.

#### Neighbourhood Planning

21. There is no neighborhood plan relevant to the development:

#### Supplementary Planning Guidance

22. Householder Design Guide  
Policies HDG1 (design), HDG2 (residential amenity) and HDG3 (Green Belt)

#### National Planning Policy

23. The National Planning Policy Framework (2021) (the Framework) sets out the Government's planning policies for England and how these are expected to be applied. The Framework must be taken into account in the preparation of local and neighbourhood plans and is a material consideration in planning decisions.
24. The introduction of the Framework 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 Framework 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 Framework, the greater the weight that may be given. It is considered that the local planning policies mentioned above are consistent with the wider aims of the Framework.
25. The following sections of the Framework are most relevant for the purposes of determining this application:
- 2. Achieving sustainable development;
  - 4. Decision-making;
  - 12. Achieving well-designed places;
  - 13. Protecting Green Belt land;
  - 16. Conserving and enhancing the historic environment.
26. The Planning Practice Guidance (PPG) provides commentary on the application of policies within the Framework. The PPG also provides guidance in relation to the imposition of planning conditions. It sets out that conditions should only be imposed where they are necessary; relevant to planning and to the development to be permitted; enforceable; precise; and reasonable in all other respects. The Neighbourhood Planning Act 2017 requires that for all applications determined after

October 2018 any pre-commencement conditions are agreed in advance with applicants.

### **MAIN ISSUES:**

- 1) Green Belt
- 2) Heritage Assets
- 3) Neighbouring Amenity
- 4) Very Special Circumstances – the Public Sector Equality Duty and The Best Interests of the Child
- 5) Representations
- 6) Planning Balance

### **APPRAISAL:**

#### Green Belt

27. The property is located within the Green Belt. As outlined within the Framework, the essential characteristics of Green Belt are their openness and their permanence. Paragraph 149 of the Framework notes that a local planning authority should regard the construction of new buildings as inappropriate in the Green Belt, save for the noted exceptions. Paragraph 150 provides for other development within the Green Belt (aside from the noted exceptions) that might not be inappropriate, provided they preserve the openness and do not conflict with the purposes of including land in the Green Belt.
28. The main issues in relation to this application are therefore;
- (i) whether the proposal constitutes inappropriate development in the Green Belt as set out in the Development Plan and having regard to national policy set out in the Framework. This document advises that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances, and;
  - (ii) if it is inappropriate development, whether the harm by reason of inappropriateness, and any other harm is clearly outweighed by other considerations, so as to amount to the very special circumstances necessary to justify the development.

These issues will be discussed in turn.

29. Local Policy regarding extensions within the Green Belt is within saved policy N33 of the UDP and HDG3 of the Householder Design which notes that approval will only be given for the limited extension, alteration or replacement of existing dwellings. Both policies are broadly in compliance with the Framework (Paragraph 149(c)) as they seek to control extensions to existing buildings within the Green Belt, and whilst the wording of both represents the long superseded PPG2, the difference between 'limited extension' within HDG3 and 'not...disproportionate' with the Framework is semantic only. As such in accordance with paragraph 219 of the Framework these policies are afforded full weight.

30. The Framework and UDP provide no guidance on how to interpret what constitutes not-disproportionate or limited extensions, however the Householder Design Guide notes that approximately a thirty percent increase over and above the volume of the original building is generally considered to be a reasonable interpretation of a limited extension (HDG3). In order to be considered acceptable development within the Green Belt, extensions should not only be limited but should not conflict with the fundamental purposes of the Green Belt, nor cause any other harm. These matters will be addressed in turn.
31. In order to calculate the percentage increase of the proposed extensions it is first necessary to establish what is the original building within the definition of the Town & Country Planning Act 1990. As noted within the site and surroundings (above) the original dwelling was L-shaped, and this is noted within the listing description. The floor plans allow this to be easily identified as the current lounge, dining room and bedrooms two and three. The planning history also suggests the ensuite and bathroom are formed from an historic store. The plans for the 1980 application show all other elements of the dwelling are extension.
32. The agent has provided two sets of volume calculations. The initial set of calculations concluded the cumulative volume of all existing and proposed extensions represented a 60% increase on the original dwelling. The agent has subsequently revised these to suggest a 27% increase. It is unclear how this second figure has been derived, and officer calculations accord with the 60% figure. This does not include the existing outbuilding for which no information has been provided. Assuming modest dimensions for the outbuilding based on observations (7m x 2.5m, and an eaves and ridge height of 2.0m and 3.0m) this would be an additional 53m<sup>3</sup>, and take the total percentage increase to 75%
33. Thus the proposal represents a cumulative percentage increase which is, at least, more than twice the 30% threshold. It is accepted that a volumetric assessment, whilst an extremely useful tool, could be considered a somewhat simplistic assessment, which applied rigidly could mean a proposal at 29% is acceptable and one at 31% is not regardless of other relevant site circumstances. However at over a 60% increase on the original dwelling the application proposal is not a marginal case and the proposal must be considered to represent a disproportionate addition. The application therefore does not fall within the exceptions at 149(c) and all the expected policy consequences flow from this, namely that the proposal is inappropriate, harmful by definition and substantial weight must be given to this harm. The application must also not be approved unless other considerations sufficient to amount to the necessary very special circumstances to *clearly* outweigh the identified harm exist.
34. As noted it is also necessary to address the impact upon openness. The question of openness has been before the courts on many occasions and is held to be an open textured concept capable of having both visual and spatial aspects. It is also the case that the impacts of openness are not limited to public vantage points, and that openness is best considered as an absence of development.
35. In and of itself the extension has relatively modest dimensions, however it is attached to the existing link-detached side extension, and has been designed in such a manner that would be visibly wider than this element of the property, and projects into currently open areas of the site. There is thus both visual and spatial harm to openness. This said, the extension does sit within the defined curtilage of an existing residential dwelling, and does not have a significant impact upon wider long range

views and thus the harm the openness is considered to be modest only. However, as with any harm to the Green Belt (Framework paragraph 148) substantial weight must be given to this identified harm.

36. The application is thus inappropriate by definition with further harm to openness identified, and as directed by the Framework the development cannot be approved unless there are other considerations, sufficient to clearly outweigh all cumulative harm. As will be outlined below the needs of a family member have been identified. This matter is discussed in further detail within the accompanying confidential report, with a brief summary provided in paragraphs 47 to 56 below. The balance of all relevant factors is undertaken within the final conclusion of this report.

#### Preservation of Heritage Assets and Visual Amenity

37. Listed Building: Section 16(2) of the Planning (Listed Buildings and Conservation Areas) Act 1990 states that, in considering whether to grant listed building consent for any works, the local planning authority shall have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses. In a policy context this special regard is addressed by section 16 of the Framework which requires that the impact of development upon a heritage asset be accurately assessed, and if harm is identified that there are public benefits to outweigh that harm (199-202), whilst policies P10 and P11 of the Core Strategy seek to protect heritage assets and visual amenity. Further detailed policies relating to the retention of features within Listed Buildings are saved from the UDP Review (2006). Section 12 of the Framework is also relevant.
38. As noted at paragraph 12 (above), the one letter of representation received notes the existing extensions to the dwellinghouse along with its listed status, and suggests further additions would be harmful. However, it is a long established principle that change and extension cannot be considered harmful as an a-priori fact, and indeed the Framework recognises this by only requiring public benefits in the event harm is identified.
39. The character of dwelling is derived from several factors which combine to produce its special interest. It has associative interest through its connection to Leventhorpe Hall, with its siting and scale contributing to appearance as a lodge dwelling. It also has obvious architectural interest which is derived from its shape, form, materials and deliberately ornate articulation.
40. The original scale and form of the dwelling has already been severely diluted, with its L-shaped plan form no longer discernible, and the property extended to the point that the additions are disproportionate to the original dwelling. The simplicity of its cross-gabled form has given way to a melange of additions, which create their own visual interest, and through which the history of the property can be discerned from its physical form.
41. The extension which is proposed is sited to the north of the property, away from its largely unaltered and primary southern elevation. It is reasonably modest in scale and set to the rear of the existing link-detached bathroom additions, continuing the gable of this extension. Thus from the majority of public points of view the extension is read as visually separate from the main body of the dwelling and is considered in keeping with the gradual accretion of additions over time. It is thus considered that the siting, scale and design of the extension have a neutral impact upon the special interest of the heritage asset.

42. The proposal also has the ability to harmfully affect the setting of Leventhorpe Hall, and here the key element to be protected is the relationship between the two buildings. The southern elevation of the application property is the most critical in this regard, facing onto the access driveway and containing the neo-classical portico which references the Palladian nature of Carr's design for the Hall. This elevation remains unaffected, directly or indirectly, and extension does not harmfully increase the scale of the dwelling. It will still clearly be an ancillary lodge to a larger estate house, and as such the associative interest of the building is unharmed, a matter confirmed by conservation officers. As no harm has been identified to either the application dwelling or the wider Leventhorpe Hall estate, the tests within the Framework which require public benefits to be identified in the event of harm are not engaged.
43. It is noted that the current application is not accompanied by a listed building application, and there are likely to be matters of fine detail which would need to be resolved under such a submission. For instance, the blocking up of the existing opening, 1:20 details of the proposed windows, jointing details for materials etc. Whilst the lack of this information is regrettable, it is nonetheless the case that the current extension could not be constructed without securing a further consent, and it is appropriate for such detailed matters to be addressed as part of any future submission. The current application is sufficient to conclude the proposal does not cause harm to a heritage asset in respect of its siting, scale, form and broad design, and thus there is no conflict with national or local policies in this regard.
44. It is also necessary to consider the visual impact of the extension within its wider context. Although the extension is appended to an existing addition, overall it does not appear harmfully scaled or discordant in visual terms. The dwelling will still appear as a small, historic lodge house set within a semi-rural context. As such the extension will not cause harm to the visual amenity of the wider area.

#### Neighbouring Amenity

45. Core Strategy Policy P10 and saved UDP Policy GP5 require that development should protect amenity whilst Policy BD5 requires that "all new buildings should be designed with consideration given to both their own amenity and that of their surroundings". This means that the development must provide a reasonable standard of amenity for future occupants, whilst also protecting the amenity of surrounding residents.
46. As will be explored further below the extension has been designed to meet the needs of an individual with complex needs, and thus there are no concerns in relation to the amenity of future occupants. There are no near neighbours, with the closest residential property situated some 150m distant, and thus there are no concerns in relation to neighbouring amenity. As such, the proposal accords with policies designed to protect residential amenity.

#### Very Special Circumstances - Public Sector Equality and The Best Interests of the Child

47. The question of what constitutes very special circumstances is almost impossible to define, as these will always be unique to a case, and in most circumstances there will be a range of factors which feed into an overall balancing exercise. Appeal decisions over a number of years have established that the concept of 'very special' does not equate to the exceptional or rare, however it is also the case that general,

usual or routine circumstances, including normal planning considerations will rarely be considered to amount to very special circumstances. Personal circumstances could be considered very special, as these will almost always been unique to a case, however it is rare that personal circumstances are given significant weight in planning decisions. Indeed, the majority of householder applications are underpinned by a personal need of the applicant (eg a playroom for growing children or a bedroom for a dependent relative), and were anything other than very modest weight attributed to personal benefits then almost all householder applications would be approved, as the benefit to the applicant would outweigh other identified harms.

48. Whilst this is noted, it is considered the circumstances which underpin the current application, as set out in the accompanying confidential report, can be given very substantial weight. The application is accompanied by supporting information which identifies that the extension is required to meet the needs of a family member who has a protected characteristic under the Equality Act 2010. As children also reside with the property the proposal calls into consideration the United Nations Commission on the Rights of the Child.

#### *Public Sector Equality Duty*

49. In determining the planning application, the Council has to comply with the public sector equality duty. Section 149 of the Equality Act 2010 sets out the Public Sector Equality Duty whereby a public authority must, in the exercise of its functions (which includes planning) have due regard to the need to –

- a) Eliminate discrimination, harassment, victimisation and any other conduct prohibited by the Act.
- b) Advance equality of opportunity between persons who share a relevant protected characteristics and persons who do not share it;
- c) Foster good relations between persons who share a relevant protected characteristic and persons who do not share it.

50. With regard to b) above due regard must be given to the need to:

- a) Remove or minimise disadvantages suffered by persons who share a relevant protected characteristic that are connected to that characteristic;
- b) Take steps to meet the needs of persons who share a relevant protected characteristic that are different from the needs of persons who do not share it;
- c) Encourage persons who share a relevant protected characteristic to participate in public life or in any other activity in which participation by such persons is disproportionately low.

The relevant protected characteristics include age, disability, gender, pregnancy and maternity, race, religion or belief, sex, sexual orientation.

51. This Public Sector Equality duty is in part supported by policy H10 of the Core Strategy, which whilst this relates only to new build residential development, is nonetheless a policy which acknowledges the need to provide accessible and adaptable dwellings as part of the city's growing housing stock. Whilst there is no specific Development Plan policy that explicitly supports adaptations to existing

dwelling to ensure they are accessible, this is nonetheless a matter that the Framework highlights at paragraph 62, noting that the housing needs of all sections of society should be considered.

52. The proposed extension provides facilities for a person with a protected characteristic. The extension is considered to be modest in scale, designed solely for this purpose alone, and does not include any other extraneous accommodation. The proposal solely seeks to meet the needs of an individual who is protected under the Equality Act, and meeting this need is a material consideration to which significant weight can be given.

#### *The Best Interests of the Child*

53. Article 3(1) of The United Nations Convention on the Rights of the Child requires that:

In all actions concerning children, whether undertaken by public or private social welfare institutions, courts of law, administrative authorities or legislative bodies, the best interests of the child shall be a primary consideration (author emphasis).

54. *Stevens v Secretary of State for Communities & Local Government & Anor* [2013] EWHC 792 (Admin) addressed the relationship between this consideration and planning policy, in particular the balance of this directive and Green Belt policy. The judgement established that such a directive did not automatically override Green Belt policy, but in cases where the rights of a child were activated, a decision maker must have regard to the UNCRC rights, as well as the ECHR right to a private and family life. The fact the best interests of the child were a primary consideration did not make them the primary consideration, and relevant planning weight must be assigned according to the merits of each unique case, and it remained open to the decision maker to refuse planning permission even if this would adversely affect a child or family.

55. As set out within the accompanying report, children are resident within the property. Due to the specific circumstances of this application, the refusal of planning permission would have a uniquely disproportionate impact upon the family unit. These specific circumstances mean refusal of planning permission would not serve the best interest of a child or children. Meeting the best interests of a child or children is, in this specific instance, a matter which can carry substantial weight.

56. Both the Public Sector Equality Duty and the best interests of the child are 'other considerations' which therefore weigh in favour of the application. The final balance of all material considerations and whether these clearly outweigh the Green Belt harm is undertaken at the foot of this report.

#### Representations

57. All material considerations raised through objections have been discussed above. Concern has been raised about the presence of a covenant which restricts the ability to extend dwellings within the Leventhorpe Hall estate. A covenant is not a material planning consideration, being a private legal agreement to which the council is not a party. As such this matter cannot carry weight and cannot be considered in the overall balance.

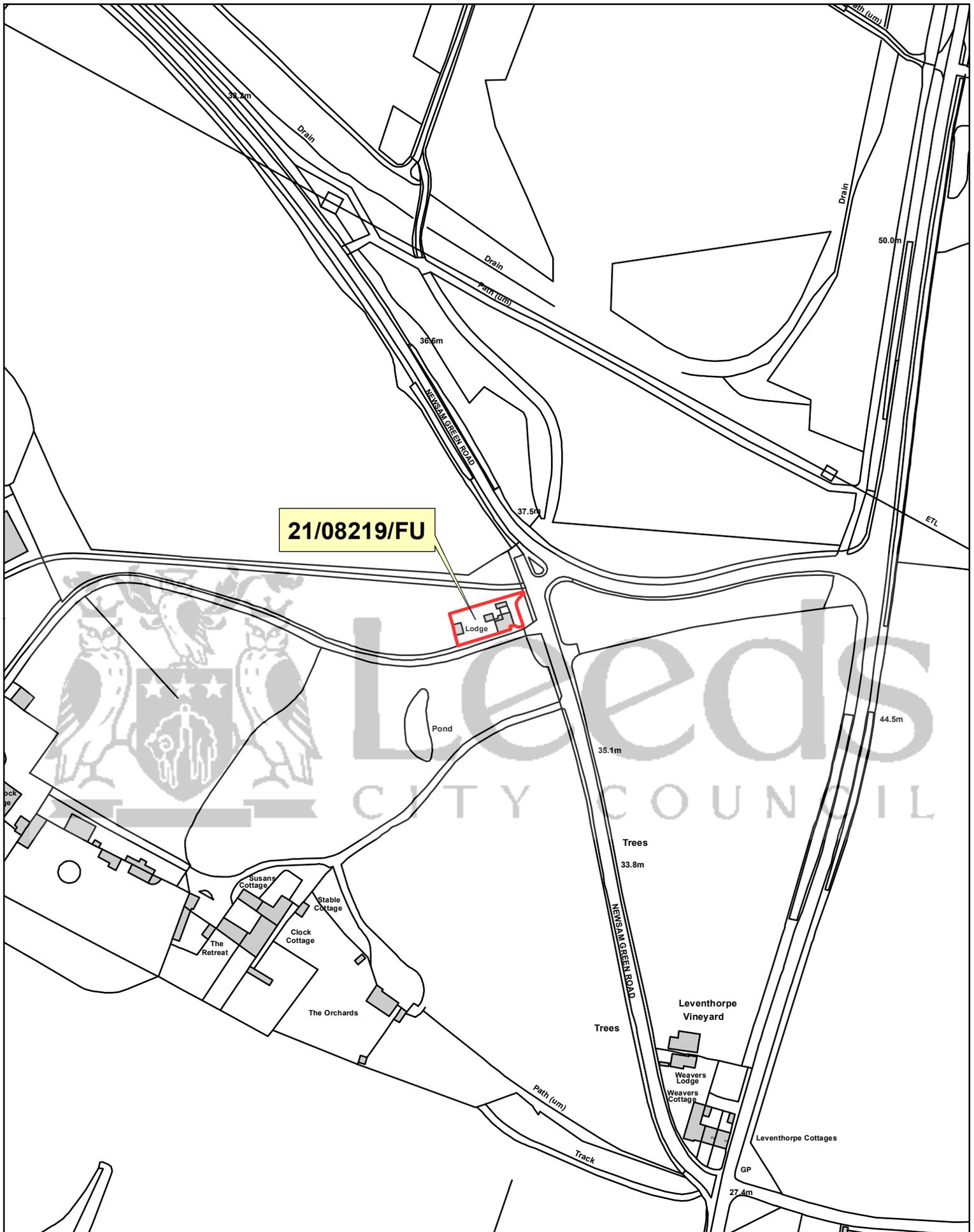
#### **PLANNING BALANCE AND CONCLUSION:**

58. The application is inappropriate development within the Green Belt and causes some modest harm to openness. These harms must be given substantial weight.
59. The application will not cause harm to visual amenity, heritage assets, or residential amenity. These are all neutral matters which weigh neither for nor against the proposal.
60. The application will meet the needs of person who has a protected characteristic under the Equality Act; this benefit is given significant weight. The application will also assist in safeguarding the best interests of a child or children. In these unique circumstances this benefit is given substantial weight.
61. The identified significant and substantial benefits are other considerations, which together, clearly outweigh the identified substantial harm to the Green Belt. The necessary very special circumstances therefore do exist in this instance and the application is recommended for approval.

**Background Papers:**

Application files                    21/08219/FU

Certificate of ownership:    Certificate A signed by the agent



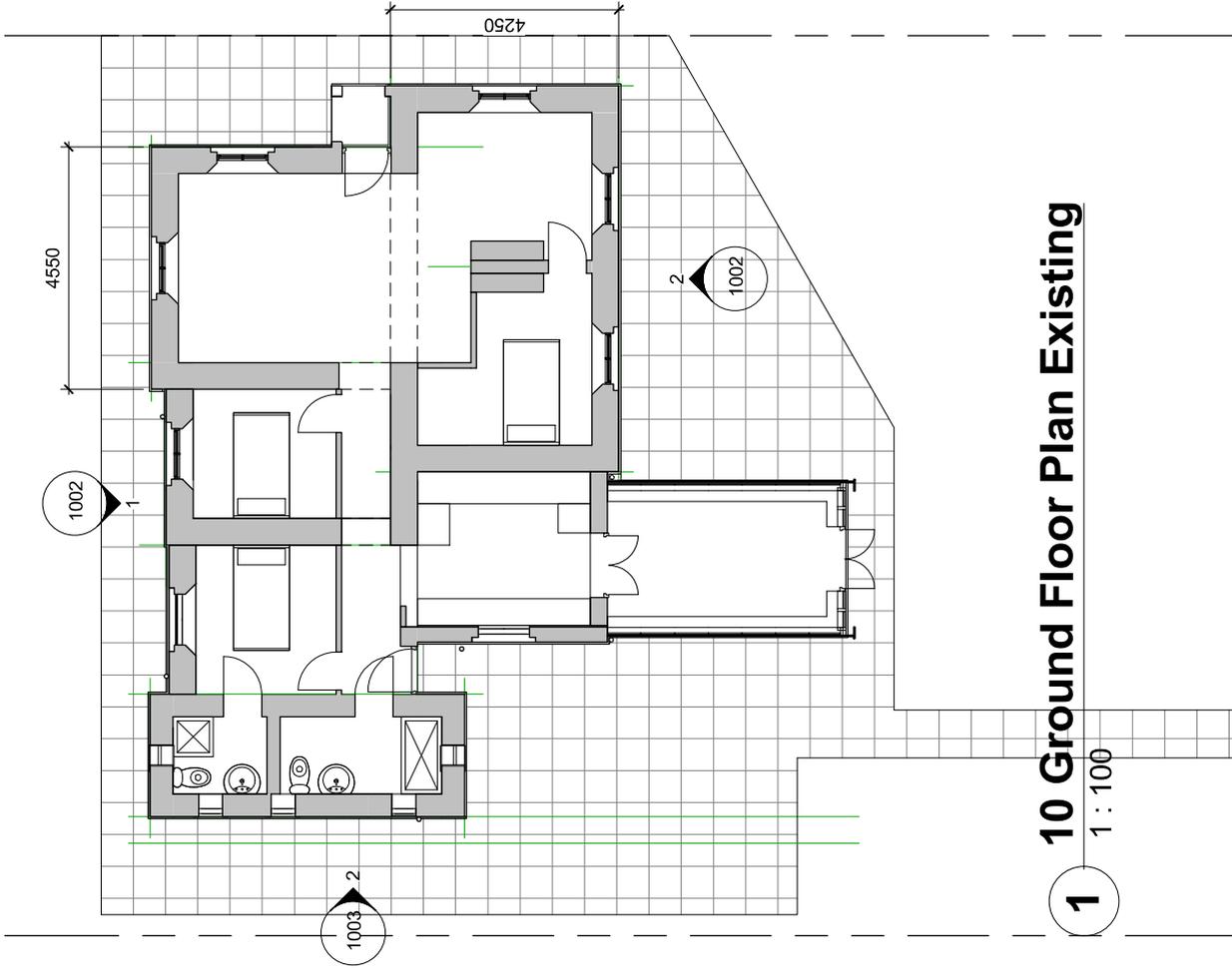
# NORTH AND EAST PLANS PANEL

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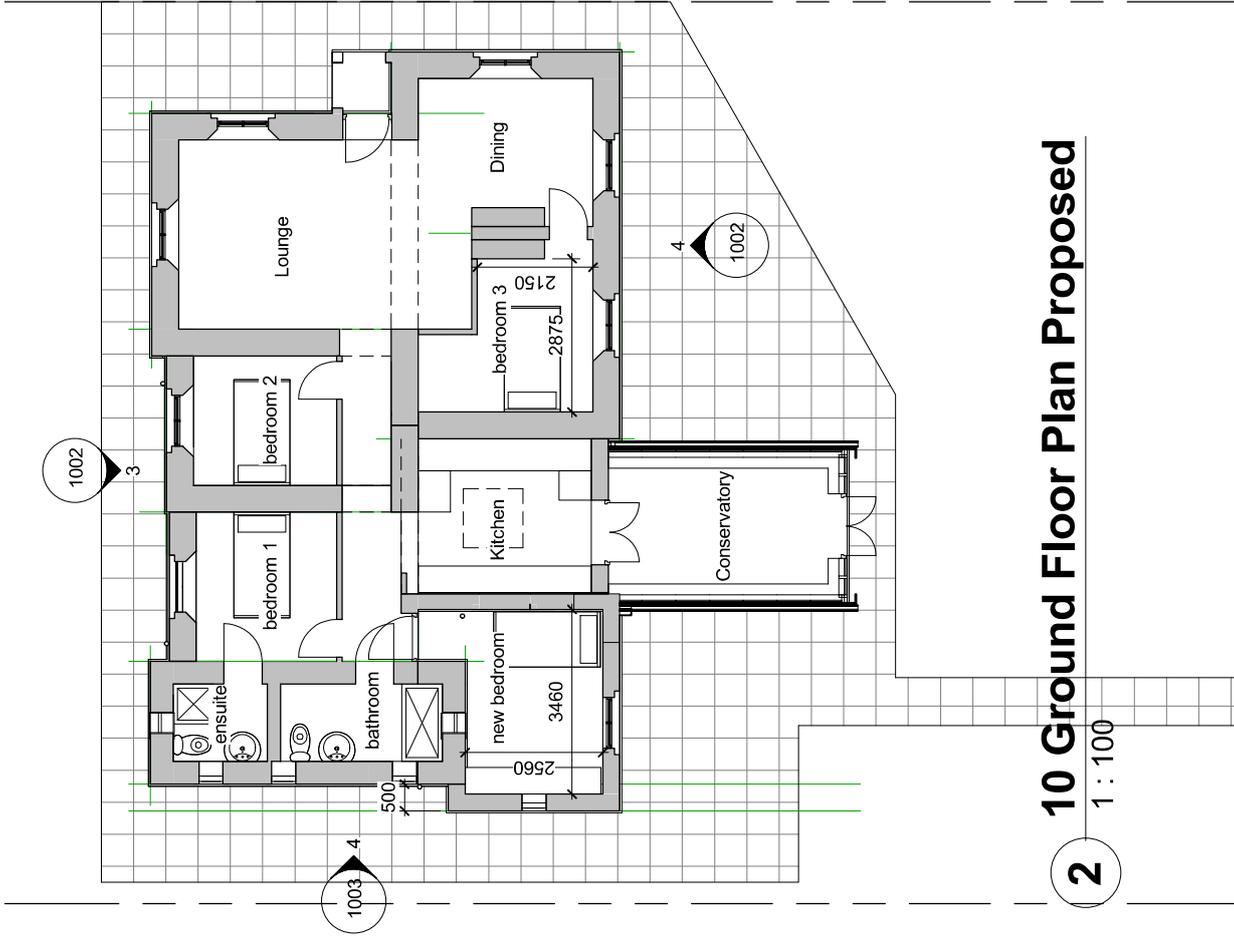
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# 10 Ground Floor Plan Existing

1 1 : 100



# 10 Ground Floor Plan Proposed

2 1 : 100

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 Job Name  
**Fox Residence**  
**The Lodge LS26 8AG**  
 Newsham Green Road  
 Drax, Wetherby  
**Ground Floor Plans**

Scale  
**V2a**  
 Scale at A3 - South North at A1  
 Sheet by  
**GJW**  
 Job Number  
**1747**  
 Drawing Number  
**1001**  
 Issue Date  
**24/09/2021**