



Leeds
CITY COUNCIL

Originator: Victoria Hinchliff
Walker
Tel: 39 51343

Report of the Chief Planning Officer

PLANS PANEL EAST

Date: 11/03/10

Subject: APPLICATION 09/04871/FU. – THREE BEDROOM DETACHED HOUSE WITH DETACHED DOUBLE GARAGE, 36 WEST PARK AVENUE, ROUNDHAY, LEEDS, LS8 2EB

APPLICANT
Mr D Barham

DATE VALID
30/11/09

TARGET DATE
25/01/10

Electoral Wards Affected: Roundhay

Ward Members consulted
(referred to in report)

Specific Implications For:

Equality and Diversity

Community Cohesion

Narrowing the Gap

RECOMMENDATION:

This application is now the subject of an appeal against non-determination. Members are asked to advise whether they would support the proposal or object to it. Suggested conditions and reasons for refusal are set out below.

1. Standard time limit.
2. Plans approved.
3. Approval of all walling and roofing materials, including for the replacement garage.
4. Details of hard and soft landscaping.
5. Landscape implementation.
6. Details of all boundary treatments.
7. Details of surface water drainage.
8. Details showing provision of minimum 5m width on West Park Road.
9. Removal of permitted development rights for extensions, outbuildings or garages.
10. Details of finished floor levels to be submitted.
11. Surfacing of driveway.
12. No vehicular access to be taken from West Park Road.
13. Redundant sections of bellmouth of West Park Road with West Park Avenue to be reinstated to footway under Section 62 of Highways Act 1980.

14. Applicant needs to obtain approval for the affected width of West Park Road to be stopped up under Section 257 of the Town and Country Planning Act 1990 (direction).

Reasons for approval: The application is considered to comply with policies GP5, H4, T2, T24 of the UDP Review, as well as guidance contained within Neighbourhoods for Living and, having regard to all other material considerations including the extant planning permission on the site, is considered acceptable.

Reasons for Refusal; The Local Planning Authority considers that the proposed dwelling, as a result of its siting in a side garden area, will be out of keeping with the spatial character of the area and would introduce an intrusive element harmful to the character and appearance of the local area. The application is therefore contrary to Policies H4, GP5, N12 and N13 of the Unitary Development Plan (Review 2006) and guidance contained within SPG13 Neighbourhoods for Living and the guidance set out within Planning Policy Statement 1 Delivering Sustainable Development and PPS3 Housing.

1. INTRODUCTION:

- 1.1. This application is brought to Panel at the request of Ward Councillors Kendall and Lobley who raise concerns regarding the impact of the development and the widespread local concern. A previous scheme of similar layout was also refused at Panel, however this was subsequently allowed on appeal.
- 1.2. This application was deferred from Panel on 11/02/10 following a request for a Member site visit from Councillor Lobley who has concerns about the impact of the development on West Park Road and to consider the style of the house in relation to neighbouring properties on the edge of the Conservation Area.
- 1.3. Minutes from Panel 11/02/10:
 - The Chair reported that a request to defer consideration of application 09/04871/FU – 36 West Park Avenue Roundhay LS8 for a site visit had been received from Councillor Lobley to consider the style of the house in relation to neighbouring properties on the edge of the Conservation Area.
 - RESOLVED - To defer consideration of the application to the next meeting to enable a site visit to take place

2. PROPOSAL:

- 2.1. This application is made in full and the proposal is similar to the application that was allowed on appeal. A single detached dwelling will be erected in the side garden of number 36. A detached garage is provided to the rear, accessed by a driveway which utilises the existing driveway to no. 36. The main change between this current scheme and the allowed scheme is that the driveway has been re-sited from West Park Road to the existing access point for number 36 off West Park Avenue. The footprint of the house remains the same as the allowed scheme but it is pushed further away from number 36 to enable the appropriate driveway width to be achieved.
- 2.2. The proposal involves the conversion of part of the highway to garden.

3. SITE AND SURROUNDINGS:

- 3.1. The application site is the side garden area of no. 36, and incorporates part of what is lawfully the verge of West Park Road. The encroachment commenced a number of years ago; however Network Management do not believe it to be expedient to take action and have no objection in principle. Properties on both sides of West Park Road have encroached to similar extents.

- 3.2. The application site is a corner plot bounded by West Park Avenue to the south and West Park Road to the east. To the west is no. 34 which is attached to 36, and to the north is the rear garden area of 19 West Park Drive (East). Number 36 is a semi-detached property, two storeys in height and of white render. Driveway access up the side of the building gives access to garaging at the rear of the site. To the side is a large garden bounded by hedges. A hedge internal to the side garden area would appear to mark the true extent of West Park Road.
- 3.3. The area is typified by semi-detached and detached, large properties set in generous gardens, with individual access points giving access to garages and drives set to the sides or rear of properties.
- 3.4. The site is not within a Conservation Area, however it does lie close to the Roundhay Conservation Area, the boundary of which is some 200m to the east running along Park Lane.

4. RELEVANT PLANNING HISTORY:

- 4.1. 07/04223/FU - Three bedroom detached house with detached double garage. Refused by Panel 07.10.2008 on the grounds of harm to spatial character. The application was appealed (ref: APP/N4720/A/08/2090698) and the appeal allowed. In determining the appeal the Inspector commented that "As a matter of fact and degree I consider that the appeal site does not appear in the street scene as a corner plot but as part of a gap in the developed frontage and containing a generally unmade track used by pedestrians and some vehicles.....I consider that any reduction in the open aspect would not result in material harm to the visual qualities of the street scene or the character and appearance of the area....it is contended that the footprint, scale, mass, height and size of the proposed dwelling is similar to that of no. 36. In addition I noted that there exist in the street scene other 2 storey detached dwellings... comparable to the proposed...."
- 4.2. The appeal was allowed subject to conditions which included the widening of West Park Road to a minimum 3.8m carriageway width, and on the proviso that an order under Section 247 of the Town & Country Planning Act be obtained.
- 4.3. 06/02965/FU - Five bed detached house with detached double garage. Refused 13/07/06 on the grounds of – "The development by reason of its design, height and overall site coverage and by reason of the extent of the narrowing of West Park Road, will result in an incongruous and alien form of development out of character with the area and contrary to Unitary Development Plan Policies GP5 and BD5."
- 4.4. This application was appealed, reference APP/N4720/A/06/2026818/WF. The appeal was dismissed 30/01/07. The Inspector considered that this proposal was a much reduced footprint to that which had previously been dismissed on appeal, and that the proposal provided adequate amenity space with no adverse effect on privacy, outlook or daylight requirements. However the proposal had an uncharacteristic tall and narrow appearance, which would be strikingly different from the surrounding properties. The proposal would have an unacceptable adverse effect on the character and appearance of the street scene contrary to GP5 and BD5.
- 4.5. 30/666/03/FU - Erection of five bedroom detached dwelling house and detached double garage. Refused 07/02/05. Determined at Panel on 03/02/05 and refused on the grounds of being an incongruous and alien form of development out of character with the area contrary to Unitary Development Plan Policies GP5 and BD5.
- 4.6. This was appealed; reference APP/N4720/A/05/1186654. The appeal was dismissed 11/01/06. The Inspector considered that the spaces between the buildings and the generously sized leafy, front gardens contributed to an air of verdant openness along the highways in this area, and that this was particularly so at the junctions where the properties with side gardens added to the spaciousness. It was considered that due to

the scale and massing of the proposal it would appear incongruous and cramped and that a building so close to the track of West Park Road would unacceptably reduce the sense of openness in the vicinity and be detrimental to visual amenity. The Inspector further considered that the loss of hedges and greenery would detract from the existing pleasant leafy ambience.

- 4.7. 30/438/05/FU - 5 bedroom detached dwelling house with detached double garage. Withdrawn 24/11/05.
- 4.8. 30/408/03/FU - 7 bedroom three storey detached dwelling house with detached double garage to garden site. Withdrawn 21/08/03.
- 4.9. There have also been a number of similar applications at the adjacent property number 34 as follows. This property was granted approval for a side and rear extension in 2003 which has been constructed.
- 4.10. 30/439/05/FU - 5 bedroom detached dwelling house with detached double garage. Refused 21/10/05 by Panel on the grounds that the proposal was an incongruous and alien form of development out of character with the area contrary to Unitary Development Plan Policies GP5 and BD5.
- 4.11. 30/665/03/FU - Erection of five bedroom detached dwelling house and detached double garage. Refused 07/02/05. Determined at Panel on: 03/02/05. Refusal was similar to that above. This decision was appealed (reference APP/N4720/A/05/1186289) and the appeal dismissed 21/12/05.
- 4.12. Both the appeal site and the adjacent site at number 34 were the subject of an enforcement case - reference 07/00482/UHD3 relating to an unauthorised fence along the boundary. This case has been closed and it has been determined that although there was a breach it was not expedient to take action.

5. PUBLIC/LOCAL RESPONSE:

- 5.1. The application was advertised by means of a general site notice of development affecting a public right of way which was posted on 25/11/09. Neighbour notification letters were sent out on 23/11/09. Publicity expired on 31/12/09.
- 5.2. Ward Councillor Comment – Cllr Lobley objects to the proposal on the grounds that the proposed house is not in keeping with others in the area, impact on West Park Road and the right of way along there, loss of garden site. Cllr Lobley also raises concerns about existing hedging creating an unsafe environment, and the accuracy of the plans.
- 5.3. Cllr Kendall has requested the application be brought to Panel on the grounds of the lengthy planning history of the site and the history of refusals, as well as concerns regarding encroachment onto the highway.
- 5.4. Roundhay Conservation Society – Request that the application is refused on the same grounds as previously.
- 5.5. West Park Action Group – Object to the proposal as the house will be incongruous in the street scene, poor design, encroachment. They also raise the issue that the appeal decision should have been invalid due to inaccuracies over land ownership certificates.
- 5.6. General Public Comment – A further 23 objection letters have been received to the proposal which all raise concerns regarding the design and appearance of the proposal, loss of a corner plot, proposed dwelling does not adhere to established building lines, encroachment of road, loss of West Park Road.

6. CONSULTATIONS RESPONSES:

Non-statutory:

- 6.1. Highways – No objection in principle subject to conditions. A stopping up order under Section 257 of the Town & Country Planning Act 1990 is required for West Park Road, and other conditions regarding access surfacing etc. are required.
- 6.2. Public Rights of Way – The area lies in a part of Leeds that has no definitive map as yet, however this is anticipated shortly. Part of West Park Road along the eastern side of the site was converted from a public vehicular highway to public footpath status in 1974. The width of this footpath is 12.5 – 13m and includes land between the privet and leylandii hedges and some of the land that will be built over under this proposal. The footpath will appear as Leeds City Footpath no. 7 in the definitive map. Part of the right of way is also required for vehicular access. Whilst partial extinguishment of the route may be acceptable and full stopping up would not be.
- 6.3. An application for a Definitive Map Modification Order to add a byway open to all traffic to the Definitive Map and Statement has been received. In light of the evidence of use submitted for this application and the current width of the footway then any width of less than 5m for West Park Road is unacceptable.

7. PLANNING POLICIES:

Development Plan –

- 7.1. The development plan includes the Regional Spatial Strategy to 2026 (RSS) and the adopted Leeds Unitary Development Plan (Review 2006) (UDP). The RSS was issued in May 2008 and includes a broad development strategy for the region, setting out regional priorities in terms of location and scale of development. In view of the relatively small scale of this proposal, it is not considered that there are any particular policies which are relevant to the assessment of this application.
- 7.2. Unitary Development Plan (Review) (UDPR)
 - GP5 – general planning considerations.
 - H4 – housing on unallocated sites.
 - N12 – urban design principles.
 - N13 – building design principles.
 - T2 – highway and access.
 - T24 – car parking guidelines.

Relevant supplementary guidance –

- 7.3. Neighbourhoods for Living.

Government Planning Policy Guidance/Statements

- 7.4. PPS1 – Delivering Sustainable Development
- 7.5. PPS3 – Housing. It should be noted that PPS3 would have been used by the Inspector in the 2008 appeal that was allowed, however the previous appeals would have been considered in light of the predecessor PPG3 Housing. The main differences between the two documents relate to procedures for identifying housing land and supply which have no direct bearing on this particular application. PPS3 however re-iterated the need for good quality design and gives more weight to sustainable design issues.
- 7.6. The government has recently sought to clarify the issue of development on previously developed land in relation to garden sites. In a recent letter to Chief Planning Officers (19/01/10) changes to PPS3 were proposed which resulted in a sentence being moved from an annex into the main text to emphasise that there is no presumption that development on previously developed land is acceptable or that the whole of a site curtilage should be developed.

8. MAIN ISSUES

- Principle of Use
- Previous history and the main changes to the approved scheme.
- Rights of way.

9. APPRAISAL

Principle of Use

- 9.1. Recent revisions to PPS3, paragraph 41, stress that although a site is brownfield it is not necessarily suitable for development, or that the whole of the area should be developed. With regards to the application site it is a brownfield site, and is also located in a residential area, close to shops, local facilities and public transport. The site is therefore considered an appropriate location for a residential use and development here would comply with policies GP5 and H4 and with PPS3.

Previous history

- 9.2. As identified in the history section this site has seen a number of applications for a single dwelling, all of which have been refused on the grounds of the impact on the spatial character of the area. This argument however was not upheld by the Inspector who allowed the previous application. Due to issues over land ownership which are believed to impact on the ability to deliver the requisite width of road under Condition 8 of the appeal decision, the applicant has been unable to proceed with this approved proposal.
- 9.3. To overcome this, the applicant proposes to move the house slightly to the east to allow a driveway to be formed to the western side of the proposed house, utilising the access point that the property currently uses. No other changes are proposed, other than a slight amendment to the side elevation where a chimney has been altered to provide sufficient driveway width, and the insertion of a bay at first floor level along with re-positioning of the French windows on the rear elevation. The garage to the rear is in the same position as approved; only it will be rotated to allow access from the front rather than the side.
- 9.4. The proposal still provides the same amount of garden space, parking provision and distances around, and the move to the side is only of 2m. This allows a distance from the side elevation to the centre line of West Park Road (as shown on submitted plans) of 5m, whereas the approved scheme provides a distance of 7m. The width of West Park Road on the proposed plans is shown as 3.2m (in total across the centre line) now, previously it was 3.8m.
- 9.5. The previous appeal decision is a material consideration that must be given considerable weight, especially given the very limited changes that this new application seeks and the fact that there have been no policy changes fundamental to the proposal. It is not considered that the new proposal raises any new issues that would lead to an alternative decision. The proposal is therefore considered to comply with policies GP5, T2, H4, N13 and with guidance in Neighbourhoods for Living.

Rights of Way

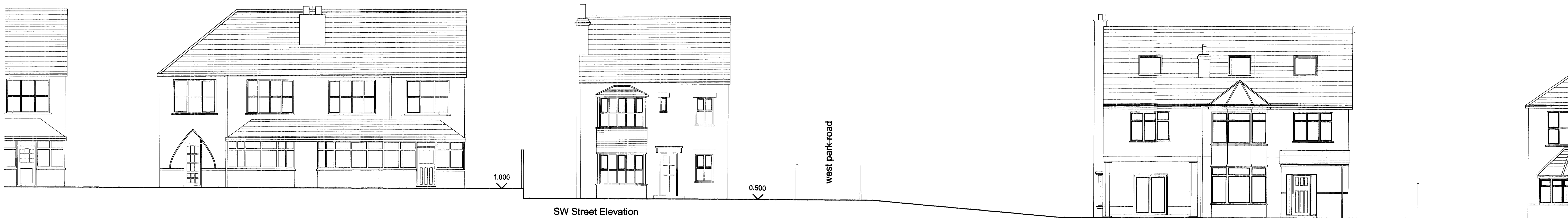
- 9.6. The comment from Public Rights of Way Officers above highlights that West Park Road is about to be entered onto the Definitive Map, and that a minimum width of 5m should be allowed for. Measuring from the centre line of West Park Road, this could still be achieved although it would mean the loss of approximately a 1m strip of garden space from the scheme. It is considered that this could be achieved through a condition requiring approval of the boundaries to the residential curtilage.

10. CONCLUSION

- 10.1. On balance it is considered that there are no planning reasons for overturning the recent Inspectors decision, the new siting of the proposed house does not raise any new concerns that were not addressed in the Inspectors decision and there has been no change in policy that would be of relevance.
- 10.2. Members should be aware that an appeal against non-determination has now been made and accepted by the Inspectorate. A decision cannot therefore be made by the Council, however Members are asked to consider the scheme and advise whether or not they would have been minded to approve or refuse. Although the Officer recommendation is that the scheme is acceptable, due to the tight timescales involved with the appeal process a suggested reason for refusal is also provided.
- 10.3. Members are advised to have regard to Circular 03/09 on Costs Awards and the advice that to refuse a previously approved like for like scheme could result in costs being awarded against the Council.

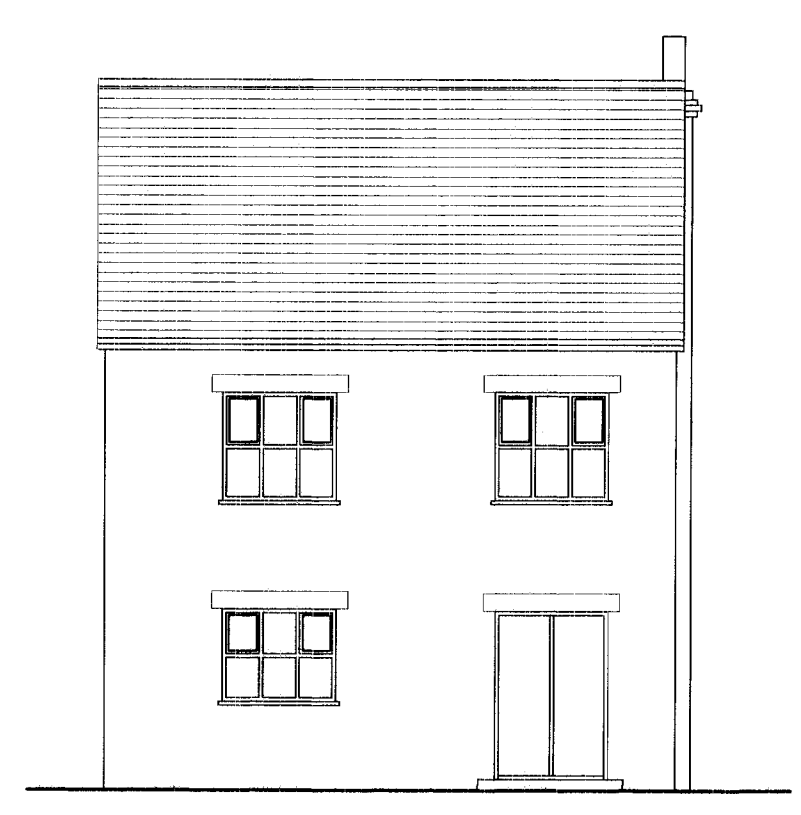
11. Background Papers:

- 11.1. Application and history files. – see planning history section above for full history and references.
- 11.2. Certificate of Ownership: signed as applicant.

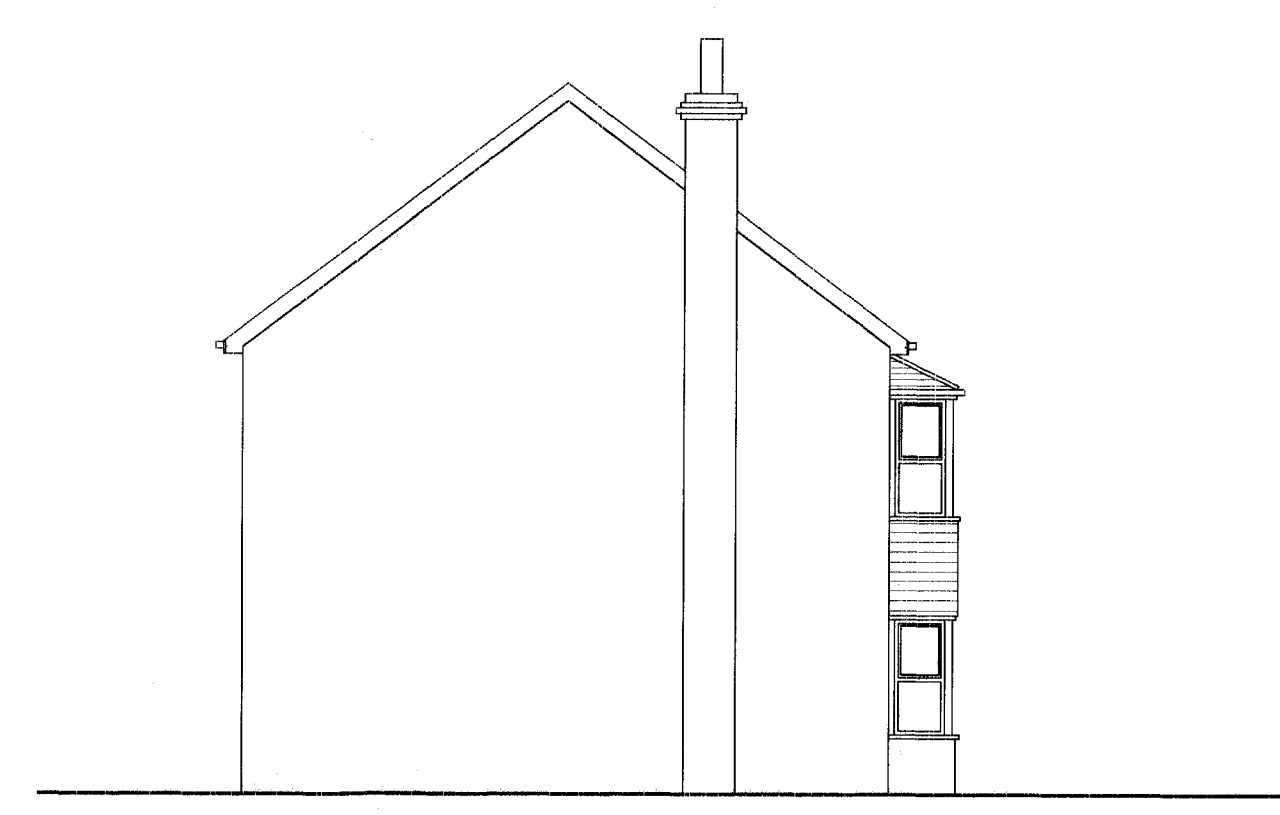


SW Street Elevation

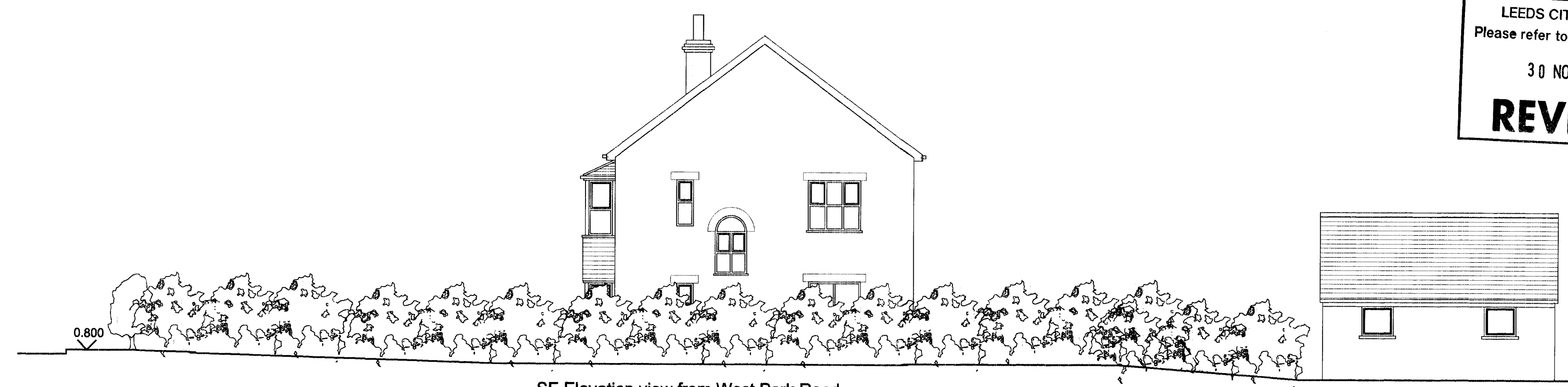
west park road



NE Elevation

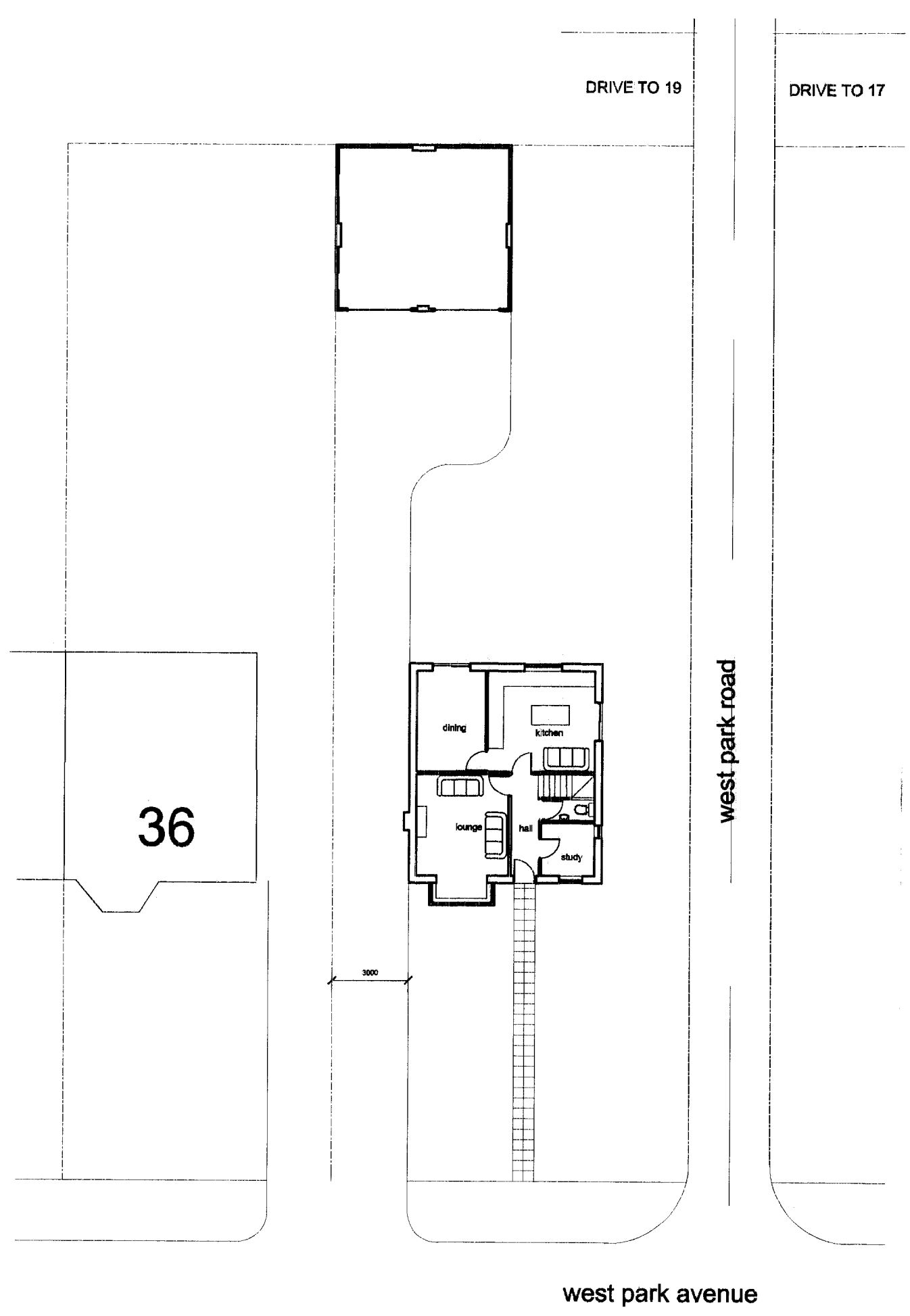


NW Elevation



SE Elevation view from West Park Road

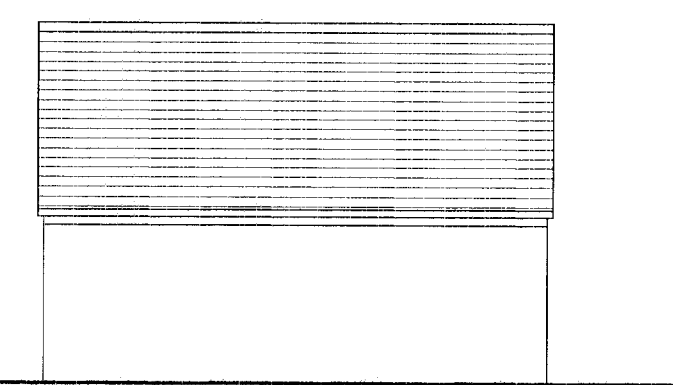
LEEDS CITY COUNCIL
Please refer to Decision Notice
30 NOV 2009
REVISED



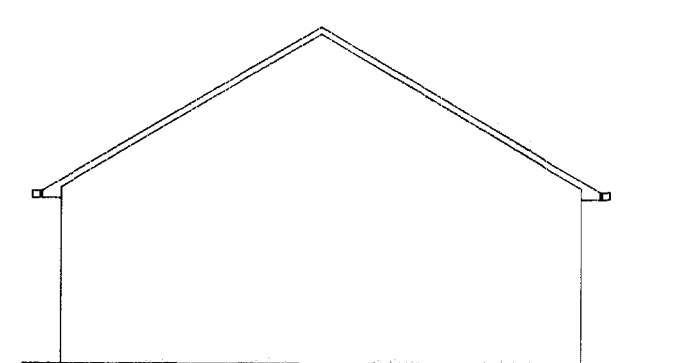
SITE LAYOUT B



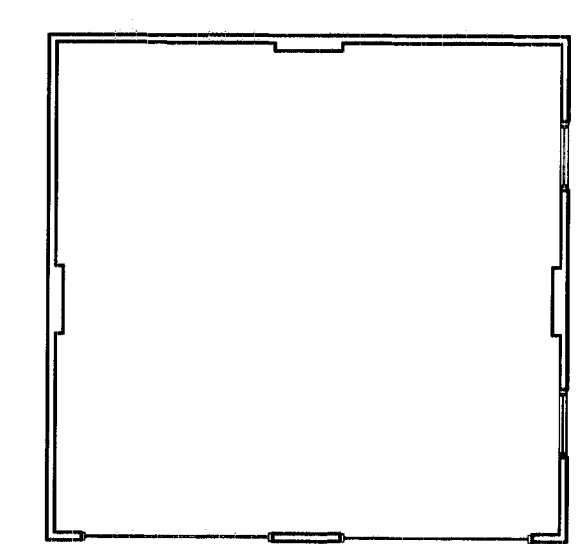
SE Elevation



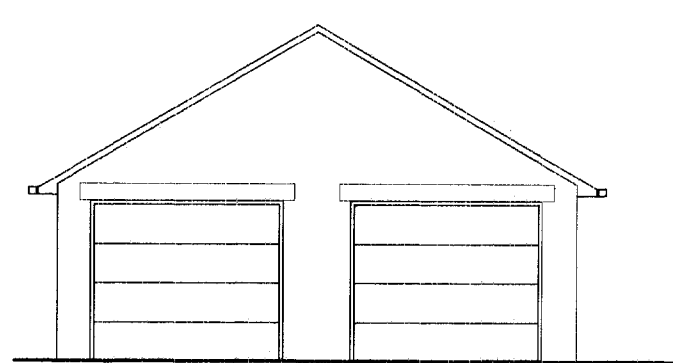
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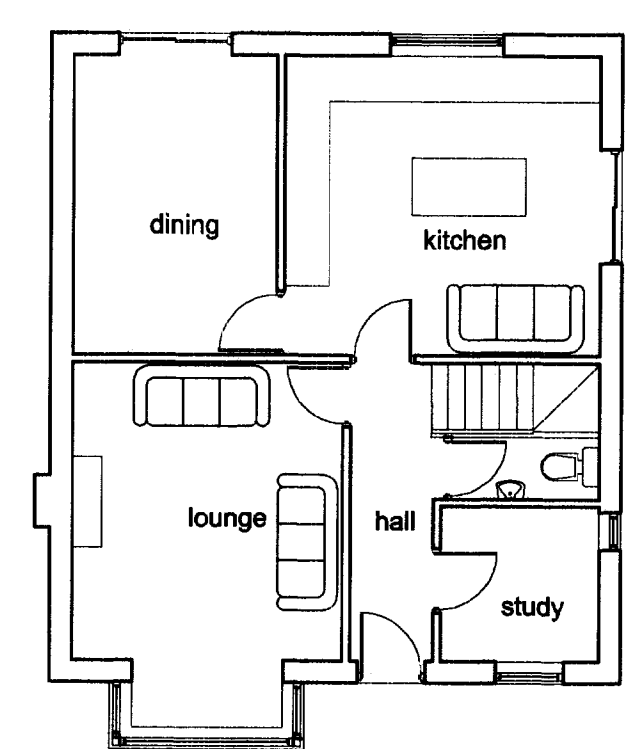
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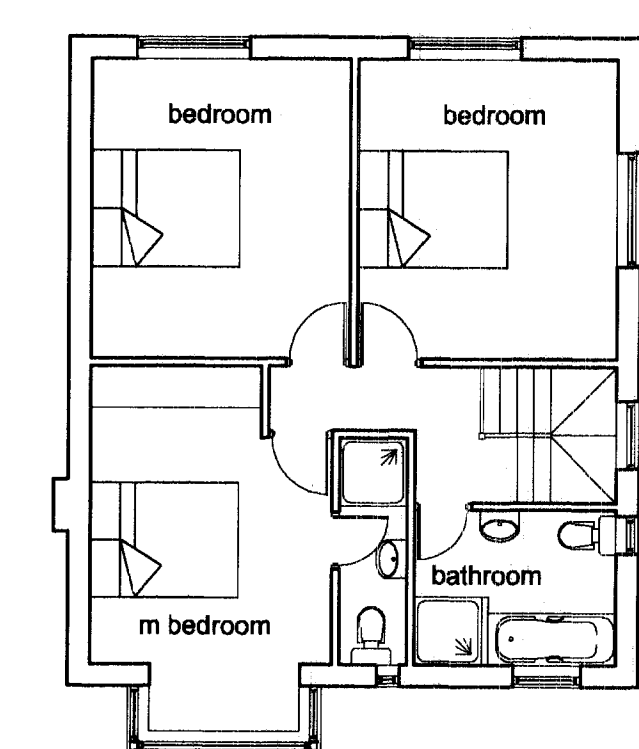
Plan of Garage



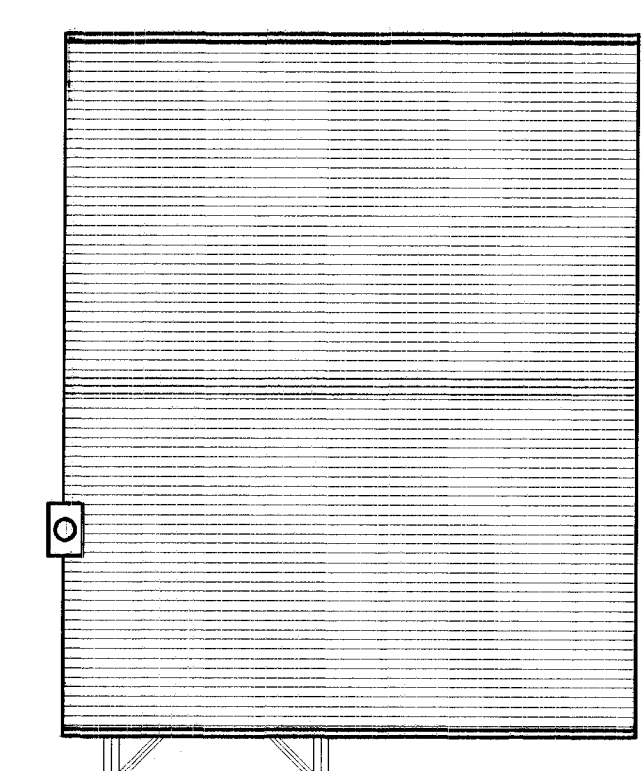
SW Elevation



GROUND FLOOR PLAN



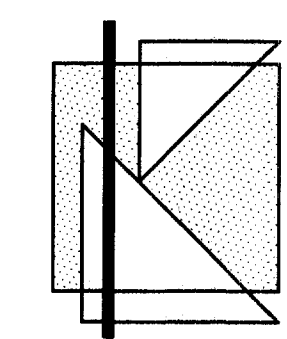
FIRST FLOOR PLAN



ROOF PLAN

Rev A - house redesigned wider at planners request

Earl C Kaye & Associates
architecture
space planning
property management



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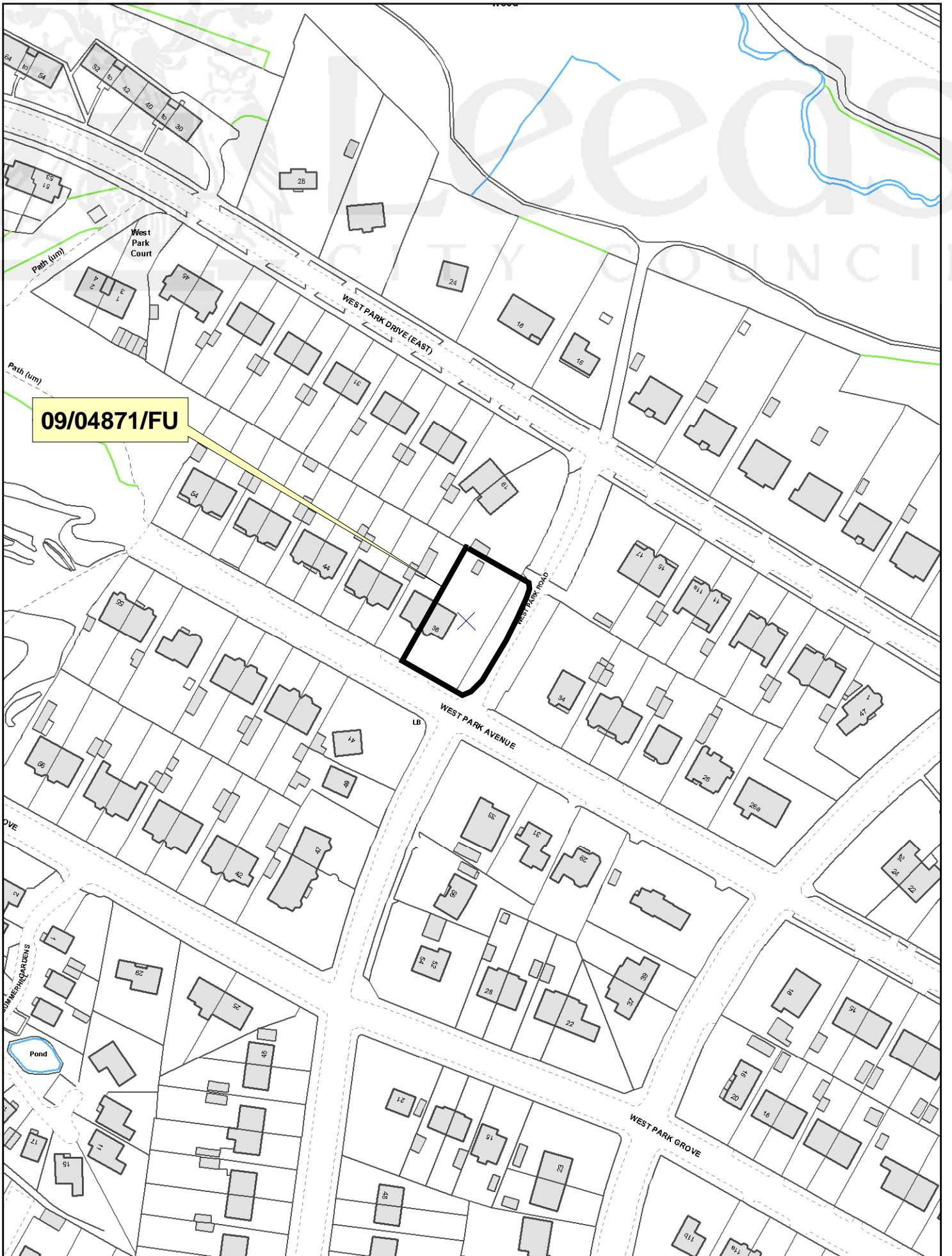
PROJECT
Proposed New House
36a West Park Avenue
Leeds LS8 2EB

DRAWING
New 3 Bedroom House
General Arrangement

SCALE 1:100 DATE Nov 2009

DRAWING NO. 240/9423/200

Do not scale from this drawing.
All dimensions to be checked on site.
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09/04871/FU

EAST PLANS PANEL

Scale 1/1500