



**Report of the Chief Planning Officer**

**PLANS PANEL EAST**

**Date: 10<sup>th</sup> June 2010**

**Subject: APPLICATION 10/00060/FU – Amendment to permission 23/436/03/FU (Change of use involving first floor extension and new second floor of workshop to 10 flats) for alterations to unauthorised works to approved scheme at Tennyson Street, Morley**

<b>APPLICANT</b>	<b>DATE VALID</b>	<b>TARGET DATE</b>
MSS Developments	16.02.10	18.05.10

**Electoral Wards Affected:**

**Morley South**

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:**

1. Works to commence on the implementation of the approved scheme within 3 months of the date of this permission unless otherwise agreed in writing.
2. Within 1 month of the date of this permission the applicant shall submit a schedule of works for the completion of the development within a period to be agreed in writing which shall be no longer than 12 months from the date of permission, unless otherwise agreed in writing.
3. Development to be in accordance with approved plans
4. Use of materials as agreed as part of the planning application, unless otherwise agreed in writing with the LPA.
5. Details of heads of basement windows to Tennyson Street to be agreed
6. Landscaping scheme to be submitted
7. Implementation of landscaping
8. Replacement planting within 5 years
9. Provision of cycle parking prior to occupation
10. Details of all pedestrian accesses to be agreed.
11. Parking spaces to remain unallocated

12. Details of air vents and all rainwater goods to be submitted and approved in writing prior to installation.

**Reasons for approval:** The application seeks to rectify unauthorised and unacceptable works which have been carried out at the site and is considered that the revised scheme by reason of its appearance and scale sits well in the streetscene and no undue harm results to highway safety or residential amenity. As such it is an acceptable scheme which overcomes the shortcomings of the works which have been carried out and the proposal complies with policies GP5, H4, N4, N13, T2, T24, BD5 and BD6 of the UDP Review and, having regard to all other material considerations, is considered acceptable.

## **1.0 INTRODUCTION:**

- 1.1 This application is brought to Plans Panel at the request of Councillor Leadley due to concerns regarding the relationship with existing properties and the car parking arrangements and Councillor Leadley has requested that Members visit the site to consider these issues.
- 1.2 Planning permission has been granted for a residential development at the site. A development has taken place but this does not comply with the planning permission granted and is not considered to be acceptable. This application proposes changes to the design and form of the works as carried out in order to improve the development.

## **2.0 PROPOSAL:**

- 2.1 This is a full application to regularise and amend works which have been carried out at the site to convert an existing former industrial building into 10 flats. Permission was granted in 2003 however there are significant differences between the approved scheme and the development carried out. The works carried out are not considered to be acceptable in their current form and therefore this application proposes amendments to the development in order to bring it to a form of development closer to the approved scheme and which could be considered acceptable in its own right.
- 2.2 In 2003 permission was granted through application 23/436/03/FU for the change of use of the building involving first floor extension and new second floor of workshop to 10 flats. The second floor extension was to have a pitched roof which was raised approximately 1 metre higher than the adjoining terraced properties, but which at the lower eaves height came down to meet the adjoining ridge of the terrace (15 Tennyson Street). The approved development included a first floor to be clad in grey composite panels and for the second floor extension to be timber clad to the front elevation. The approved scheme included first and second floor balconies. 7 parking spaces were shown to serve the development, accessed from South Parade via a parking court within the applicant's ownership serving an adjacent residential development – City Mills (23/475/01/FU).
- 2.3 Works have taken place to convert the former industrial building into 10 flats referred to as 'Fab Pad apartments' by the applicant but these works are not in accordance with the plans approved for application 23/436/03/FU. At ground floor 6 one bed apartments are laid out which also now include stairs down to a basement level which is referred to as a 'Den'/ living room space. This is an addition to the 2003 scheme. At first floor there are 3 units; 2 x 1 bed plus study, and also one 2 bed flat.

Two of the first floor units have access onto a balcony overlooking Tennyson Street. Within the second floor extension a 2 bed unit has been created which also has a balcony/ terrace.

- 2.4 The applicant has submitted a schedule of the 'defects' which have occurred in the development as constructed compared to the approved development granted planning permission 23/436/03/FU and these are as follows;
- Ridge height and pitch to additional second storey roof
  - Eaves depth and profile
  - Window arrangements
  - Quality of cladding
  - Coping details
  - Additional lower level fenestration to existing façade to Tennyson Street
  - Ground levels and landscaping in parking court
  - Loss of 1 parking space
- 2.5 The amendments the applicant is seeking to the work which has been carried out are as follows;
- i) Roof of second floor addition is to be re constructed and the pitch is to be lowered to almost meet the ridge height of the adjacent terrace no. 15 Tennyson Street.
  - ii) The metal cladding to the second floor is proposed to be replaced with cedar cladding.
  - iii) First and second floor eaves are reduced in thickness and aluminium fascias and soffits proposed.
  - iv) Existing cladding to all 4 elevations is to be replaced with Kingspan Optimo cladding in accordance with sample provided
  - v) The first floor window arrangement will be amended closer to the approved design.
  - vi) The industrial type ribbed cladding to the first floor South West elevation will be replaced with through coloured render. Cedar boarding will also be installed on the ground floor South West elevation to cover breeze block infill to existing openings adjacent to the fire escape access.
  - vii) The infilled window to the first floor south east elevation will be rendered.
  - viii) New heads are proposed to the lower level windows inserted facing Tennyson Street.
  - ix) Landscaping plan provided detailing proposed works within the parking court.
- 2.6 The revised scheme results in a reduction of 1 parking space to serve the development and 6 parking spaces are proposed within a parking court to the south of the flats, accessed from South Parade which also provides access to the 12 new build flats at City Court which have undercroft parking provision and a further 4 parking spaces within the parking court.
- 2.7 Bin storage was a condition of the previous approved scheme and as part of this application the applicant proposes to create an enclosed bin storage area off Peel Street and residents will be able to use the rear access to take rubbish to the bins. A cycle store is also provided adjacent to the rear access.
- 2.8 The applicant has provided samples of the proposed render, cladding panels, cedar paneling and the balcony fittings and these will be available for Members to consider on site.

- 2.9 A s106 legal agreement has been completed by the applicant and accompanies this application, to pay the outstanding greenspace commuted sum for the development - 50% of which will be payable on the grant of planning permission and the legal agreement requires that the other 50% shall be paid prior to the first occupation of the development.

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

- 3.1 The site is a former brick built industrial building within a mixed residential/commercial area of Morley. The site faces onto Tennyson Street and has a footpath accessing the rear of the building off Peel Street. Access into the parking area to the south of the site is off South Parade.
- 3.2 The brick building was originally part single storey and part 2 storey. The applicant has inserted windows into a basement level and has also added a first floor above the original single storey element and added a second floor to the building.
- 3.3 The site is part of a number of buildings in the same ownership which are bounded by Peel Street, South Parade and Tennyson Street. To the rear of the site is 'City Mills', a commercial office/light industrial building and yard. To the south of the site is City Court a new build 3 storey residential development of 12 flats with undercroft parking which shares access through the car park of the application site.

### **4.0 RELEVANT PLANNING HISTORY:**

- 4.1 07/05546/FU - 13 Tennyson Street - Amendment to permission 23/436/03/FU (Change of use involving first floor extension and new second floor of workshop to 10 flats) 2nd floor extension to create two further flats (12 flats in total). Refused 04.01.2008 on grounds of lack of suitable parking and impact to residential amenity.
- 4.2 23/436/03/FU - 13 Tennyson Street - Change of use involving first floor extension and new second floor of workshop to 10 flats. Approved - 22.10.2003
- 4.3 23/475/01/FU - South Parade (adjacent site) - Detached 3 and 4 storey block of 12 two bedroom flats and extension to mill to form industrial. Approved – 06.09.2002

### **5.0 HISTORY OF NEGOTIATIONS:**

- 5.1 In August last year it became apparent that development at the site had begun in advance of pre commencement conditions (approved under 23/436/03/FU) which needed to be discharged. However it then became apparent that, the development which had been carried out at the site was not in accordance with the approved plans. The applicant was advised that the planning permission had not been implemented and therefore the development at the site was unauthorised.
- 5.2 A site meeting took place on 17 August 2009 and the applicant was advised to stop all works on site in order to negotiate an agreed way forward before any works recommence. Officers advised that they would be unable to support the retention of the works which have been carried out, should an application be submitted.
- 5.3 Negotiations have since been taking place to discuss possible alterations to improve the appearance of the first and second floor additions to the building in relation to the thickness of the eaves profile, the roof form of the second floor, the

reinstatement and addition of cedar panels and re-cladding of the upper floors with improved materials.

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

6.1 A neighbour notification letter was sent to No. 12 Tennyson Street on 17 February 2010. The application was also advertised by way of site notices posted around the site on 19 February 2010 as well as an advert in the Morley Advertiser on 25 February 2010.

### Morley Town Council

6.2 Morley Town Council wrote on 10<sup>th</sup> March and have made the following comments:

- In relation to 2003 application (23/436/03/FU), the Town Council were concerned about the balconies overlooking Tennyson Street and about car parking which proposed 20 spaces shared between a block of 12 new flats and the 10 flats proposed on this site and were concerned that this was not enough in an area characterised by terraced houses without off street parking.
- In 2007 the Town Council point out that a revised application was made and objected to that proposal which would have extended the top storey across the whole of the building to make 12 flats on the grounds that overlooking from balconies suffered by terrace houses across on Tennyson Street would have been greater than in the 2003 application because of the full second storey proposed. The application also did not refer to any parking provision and no on site greenspace would have been provided.
- Works at the site have not been done according to the 2003 permission and work has stopped. The Town Council recognise that the purpose of the latest application is to regularise and modify the scheme as build to produce a match between it and an amended version of the 2003 permission. Twenty parking spaces shared with the twelve new built flats are offered again, though their arrangement is unsatisfactory as none are within the red line, some would be over a footway and block a pedestrian gate, and would make movement in and out of the undercroft spaces beneath the new flats difficult if not impossible.
- The Town Council state that there have been many deviations from the 2003 permission; some can be rectified, such as amending the pitches and eaves of roofs and using cedar boarding instead of profiled metal industrial cladding, though the submitted drawings are confused and likely to lead to further misunderstandings. Perhaps the most remarkable features are the semi-basement 'dens' beneath the apartments, which have no basis at all in the agreed permission. The Town Council remain unhappy about the balconies, which would overlook the houses and gardens on the opposite side of Tennyson Street. A large diameter plastic pipe outlet near a top corner of each of the large windows on the original Tennyson Street façade is not shown on drawings and is not clear what they are for.
- The Town Council raise concerns regarding the latest application and the level of certainty however they recognise that as work has gone as far as it has then a practical solution must be found. However the Town Council state that whatever is agreed must be clear to all sides and capable of being implemented without further deviation, ad hoc improvisation or scope for dispute and confusion.

- 6.3 The Town Council have been informed of negotiations with Officers in relation to the proposed alteration to the pitched roof of the new 2<sup>nd</sup> floor of the development together with the more subtle revisions such as the eaves details (reduced thickness) and agreement reached in respect of the quality of materials. Furthermore the Town Council were advised that the applicant has entered into a section 106 agreement for the outstanding greenspace payment.
- 6.4 Councilor Leadley has written (letter dated 13th May) to advise that the Town Council considered this information at the meeting on 11 May 2010 and appreciated the efforts which have been made by Leeds Officers to resolve the long running and difficult problems which have arisen from the ad hoc improvisations which have appeared during implementation of the permission. However, because of the continued doubts about the relationship of the new flats to the terrace houses across Tennyson Street and the practicality of the off street parking to be shared with the already occupied new build flats within the City Mills original curtilage, the Town Council consider that Plans Panel East Members should be asked to consider the revised proposal after a site visit, to see if there was any scope for further improvement. Councilor Leadley requests that this application is determined by Plans Panel East and that Members visit the site to assess for themselves what is now proposed, to look at the relationship between the flats (known as Fab Pads) and the houses across Tennyson Street and to examine the proposed parking arrangements.

## **7.0 CONSULTATIONS RESPONSES:**

**Statutory:** none received

**Non-statutory:**

**Highways** – No objections, cycle parking should be conditioned to be provided.

**Land Drainage** – No comments

## **8.0 PLANNING POLICIES:**

- 8.1 The development plan comprises the Regional Spatial Strategy to 2026 (RSS) and the adopted Leeds Unitary Development Plan (Review 2006). 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. However, the RSS is a strategic planning document, used to inform more detailed policies at a local level. Accordingly, it is not considered that there are any particular policies which are relevant to the assessment of this proposal.
- 8.2 The site is unallocated in the Unitary Development Plan (UDP). The following policies apply:

### UDP

- GP5 – Detailed Planning Considerations
- H4 – Residential Development (unallocated sites)
- N4 – Greenspace hierarchy
- N13 – Design and new buildings
- T2 – Highway Safety
- T24 – Parking
- BD5 – Amenity and new buildings

## BD6 – Alterations/Extensions

Planning Policy Statement 1 – Delivering Sustainable Development (2005)  
Planning Policy Statement 3 – Housing (2006)

Supplementary Guidance Note 4 – Greenspace relating to New Housing Development (1998)  
Supplementary Planning Guidance Note 13 – Residential Design Guide (2003)  
Supplementary Planning Document – Street Design Guide (2009)

### 9.0 MAIN ISSUES

1. Principle
2. Character
3. Residential amenity
4. Greenspace
5. Highways
6. Conclusion

### 10.0 APPRAISAL

#### 1. Principle

- 10.1 The principle of residential use of the building and the extensions has been accepted through application 23/436/03/FU. The matter for consideration as part of this application is therefore the differences between the works proposed to alter the unauthorised works which have taken and the approved scheme.

#### 2. Impact on character

- 10.2 The development as built is considered to be an obtrusive feature mainly due to the roof form of the second storey and also the cladding materials used which are considered to be of an industrial nature. The proposed amended application is considered to address these two main issues, and the alterations to the second floor roof as well as the better quality materials together with the additional amendments set out in paragraph 2.5 are considered to ensure that the completed scheme will not detract from visual amenity.
- 10.3 A list of the proposed amendments to the development as carried out are set out in paragraph 2.5. The applicant has worked with Officer's to try to address the unauthorised elements of development which have been carried out. Advice has been sought from the design officer with regard to the opportunities to improve the scheme.
- 10.4 Much negotiation took place regarding the roof form of the second floor of the development as it was considered that this was a key element which could not remain as built. The proposed alteration of the second floor roof pitch to bring this closer to the approved scheme reduces the lower eaves of the roof almost to the ridge height of the adjacent terrace is considered to be a significant improvement which brings the scheme closer to the original permission. The highest part of the second storey roof is approximately 1.5m higher than the approved scheme (which was approx 1m above the terrace). The applicant has advised that survey drawings of the adjacent terrace at the time of the 2003 application were incorrect and this therefore accounts for part of the difference. Nevertheless, this alteration to the roof form is a significant improvement to bring the development closer to the approved scheme.

- 10.5 Further subtle changes to the development as built will bring the development closer to the approved scheme, such as the alterations to the fenestration and the eaves thickness.
- 10.6 The use of more suitable, better quality cladding on the development will improve the appearance of the extensions and remove the industrial appearance of the works carried out. The cladding panels, cedar cladding and render samples agreed between officers and the applicant have all been discussed with the Design Officer who is satisfied that the quality of the materials will improve the development to an acceptable standard. The agreement of materials as part of this application will reduce any uncertainties in the completion of the development.
- 10.7 Another significant revision will be the addition of landscaping within the car park which will soften the relationship of the parking court to the streetscene of Tennyson Street. The Landscape Officer has considered the landscaping proposed and whilst the scheme put forward is generally a reasonable landscape scheme, the Landscape Officer has provided some detailed comments regarding the plant and tree species proposed and these have been forwarded to the applicants, however if the scheme is not revised by the time of the Plans Panel meeting then this matter could be conditioned. The boundary wall which has been erected adjoining Tennyson Street would remain with a planting bed of between 4m and 8m depth.
- 10.8 In relation to the insertion of the low level windows these will serve the additional ancillary accommodate within the 'dens' which has been created. The lower level of accommodation increase the general level of accommodation within these units and on balance the windows are not considered to affect the character of the development. The applicant is proposing to replace the heads of the window openings with better quality.
- 10.9 Overall it is considered that the combination of the alterations to the roof, eaves and fenestration together with the use of better quality materials within the development will result in a conversion scheme which sits comfortably within this residential area and does not detract from visual amenity. The agreement of materials through the course of this application is considered to be an important factor in ensuring that the works are regularised to result in an acceptable scheme.

### 3. Residential amenity

- 10.10 The Town Council and Councillor Leadley have raised concerns regarding the impact of the proposed balconies on residential amenity in terms of the relationship with existing terraces on Tennyson Street and potential overlooking. Balconies were part of the approved development under application 23/436/03/FU and the officer assessment of this application stated that *'residential use of the site would lead to an increase in overlooking of some of the neighbouring properties on the opposite side of Tennyson Street from the existing window openings and the proposed balcony areas. It is considered that given the separation between the buildings and the level of overlooking existing from the street, the residential amenities of the neighbouring properties will not be unduly affected.'*
- 10.11 There is a distance of some 12 metres from the first floor and second floor balconies and the windows within the terraces on the opposite side of Tennyson Street and slightly reduced distance to the front gardens. It is considered that this element of the development has not altered from the approved scheme, other than the design of the balcony fittings and balustrades and the principle of balconies has therefore been established. The balconies also result in the extensions to the first and second



floor being set back from the main front elevation of the building which assists in reducing the visual presence and dominance of the development in the streetscene.

- 10.12 In terms of the basement/ lower ground space which has been created, this space is proposed to be used as ancillary accommodation to the main ground floor living space and is referred to by the applicant as a 'den'. This space will be served by a small window at this lower level. As the space will not provide primary habitable accommodation it is not considered to raise any concerns regarding residential amenity.
- 10.13 The development was approved without any on site private amenity provision and the 2003 officer report states that *'the scheme fails to meet guidelines of Residential Design Aid 'Space about Dwellings' but given that the proposal is a conversion of an existing building, a more flexible approach can be adopted.'* It is considered that this flexibility is still relevant.

#### 4. Greenspace

- 10.14 In terms of greenspace provision under policy N4 of the UDP Review and SPG 4 – Greenspace relating to new housing development, SPG4 recognises that the provision of an area of on site greenspace for developments of between 10 and 50 dwellings will often not be practicable and where on site greenspace provision is deemed not feasible a financial contribution to the provision of off site greenspace will be required. Given that there is no private amenity space, it is considered that a financial contribution to off site greenspace is even more of a priority as future occupiers will rely on access to off site greenspace.
- 10.15 The greenspace requirements of this site are considered to be best met via a financial contribution which would go towards the provision of and/or the enhancement to greenspace within the community area or adjoining community area in accordance with policy N4 of the UDP Review 2006 and guidance contained within SPG4.
- 10.16 The greenspace calculation for the development based on current rates is as follows;
- |                                  |                |
|----------------------------------|----------------|
| N2.1 -                           | £5,238         |
| N2.2 -                           | £2,619         |
| N2.3 -                           | £2,619         |
| Maintenance of N2.1 Greenspace - | £3,974.36      |
| Fees -                           | £1,571.52      |
| <b>Total sum required -</b>      | <b>£16,023</b> |
- 10.17 The applicant has entered into an s106 agreement to pay the above commuted sum towards greenspace provision. Members will be aware from previous officer reports that new tests relating to the legality of planning obligations have been introduced by way of new secondary legislation in the form of the Community Infrastructure Levy (CIL) Regulations introduced by Central Government as of 6 April 2010 which impact on planning obligations.
- 10.18 Whilst the focus of the CIL is to give local authorities the ability in future to levy a charge on a wide range of development proposals within their area the regulations also introduce a new legal test relating to the use of planning obligations based on the existing policy tests. The effect of this is that it will be unlawful for a planning obligation to be taken into account in a planning decision to authorise development if the obligation is not:

- (a) necessary to make the development acceptable in planning terms (test (a))
- (b) directly related to the development (test (b)); and
- (c) fairly and reasonably related in scale and kind to the development (test (c)).

10.19 These legal tests have been applied to the obligation in the S106 agreement which the applicant has entered into as part of the application relating to the greenspace contribution and this obligation is considered particularly necessary as future residents will rely on off site greenspace provision, the requirement is directly related to the development as it will secure provision in locations which as closely as possible meet the needs of the residents of the development and the contribution has been calculated on the basis of the location of the site and the number of residential units and is therefore reasonably related to the scale and kind of development. As such, the obligation is considered to be compliant with the three new legal tests. This contribution is in accordance with policy clearly set out in SPG4 and the development would not be considered acceptable without this obligation.

#### 5. Highways

10.20 Approved application 23/436/03/FU showed 7 spaces within the red line layout plan for 10 units; it also showed the provision of 4 further spaces which possibly would be shared with the 12 flats approved under 23/475/01/FU (which were also served by undercroft parking) within the same ownership. At the time of the 2003 permission for the 10 flats, the officer report stated that a reduced level of parking was considered acceptable as it is a conversion from an industrial use, close to S2 centre and has good public transport links.

10.21 This application now includes the whole of the parking court accessed off South Parade within the red line of this application site, and includes a layout of 10 parking spaces including one disabled space. Although the area previously identified for the Tennyson Street flats now only allows for 6 parking spaces to be laid out (due to steps required due to levels differences) Highways do not have any objections to this parking layout and reduction of 1 space as it is considered that the parking court will be used on an unallocated basis. Furthermore on street parking would be available in front of the site on Tennyson Street and a pedestrian access into the site from Tennyson Street will be retained.

10.22 Morley Town Council has raised concerns regarding the parking layout and access to the undercroft parking for City Court. There will be a distance of 6 metres from the parking court surface spaces parallel to the access, and the undercroft parking for City Court flats. This distance is considered to be sufficient to allow vehicles to manoeuvre and the parking arrangements are considered acceptable, however pedestrian access to the proposed flats and also to City Mills needs to be clarified and the applicant has been asked to provide more details of this prior to the Plans Panel meeting.

### **11.0 CONCLUSION**

11.1 This application seeks to improve unauthorised developments which have been carried out at the site. The amended scheme to alter the development, together with samples of materials which have been agreed with the applicant are considered acceptable to overcome the concerns regarding the form of and quality of works which have been carried out and to bring the development more closely in line with the 2003 approved scheme.

11.2 Members are asked to approve the application as set out in the recommendation at the start of this report, in order to allow works to recommence on site and to

complete the development which is within a residential area and is currently considered to be detracting from visual amenity. Members are advised that Officers have negotiated over the past 10 months with the applicant to achieve the scheme which is now considered to be acceptable and is considered to be a reasonable and improved solution to the form of development which has taken place and which is not considered acceptable to remain in its current form.

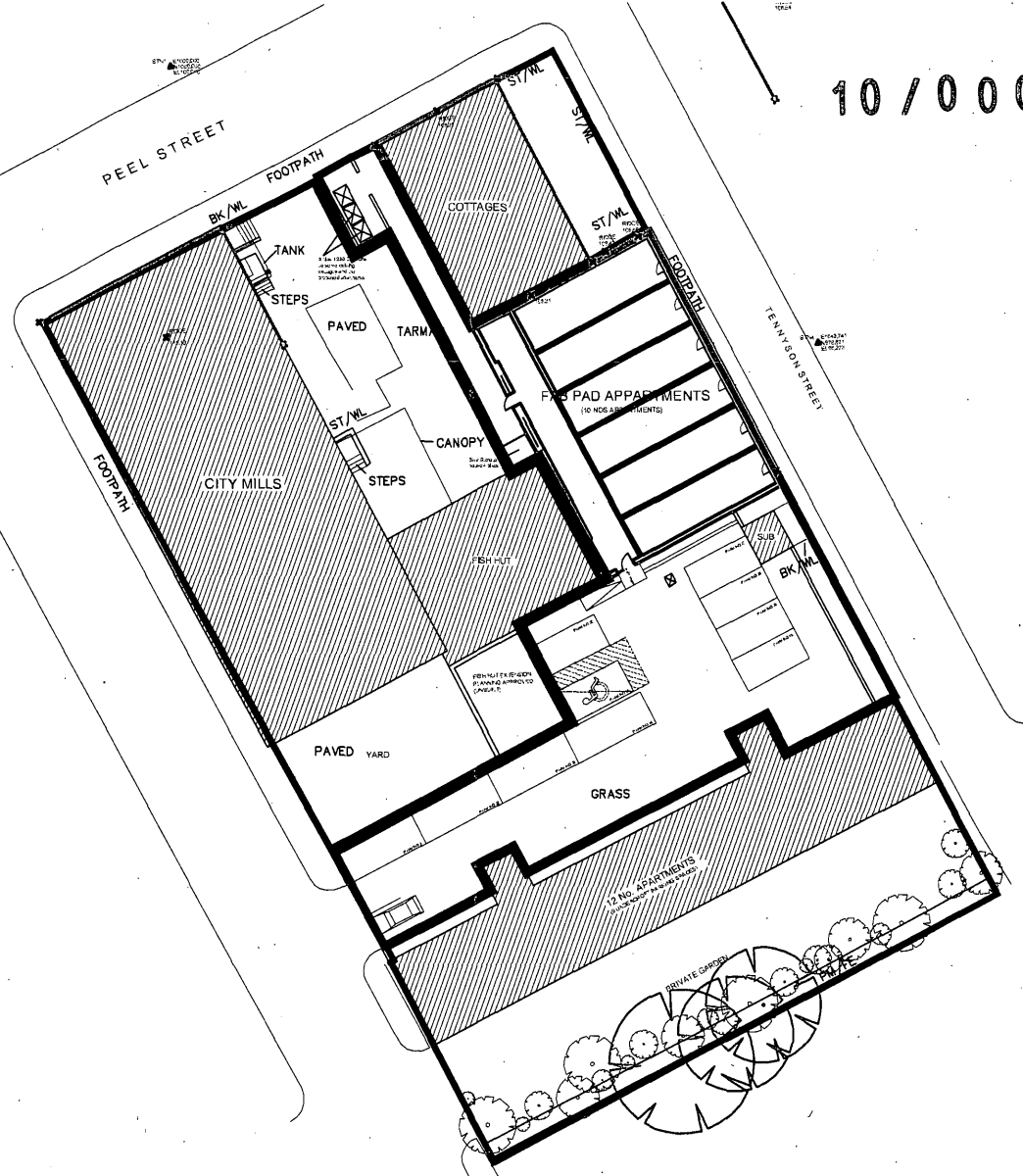
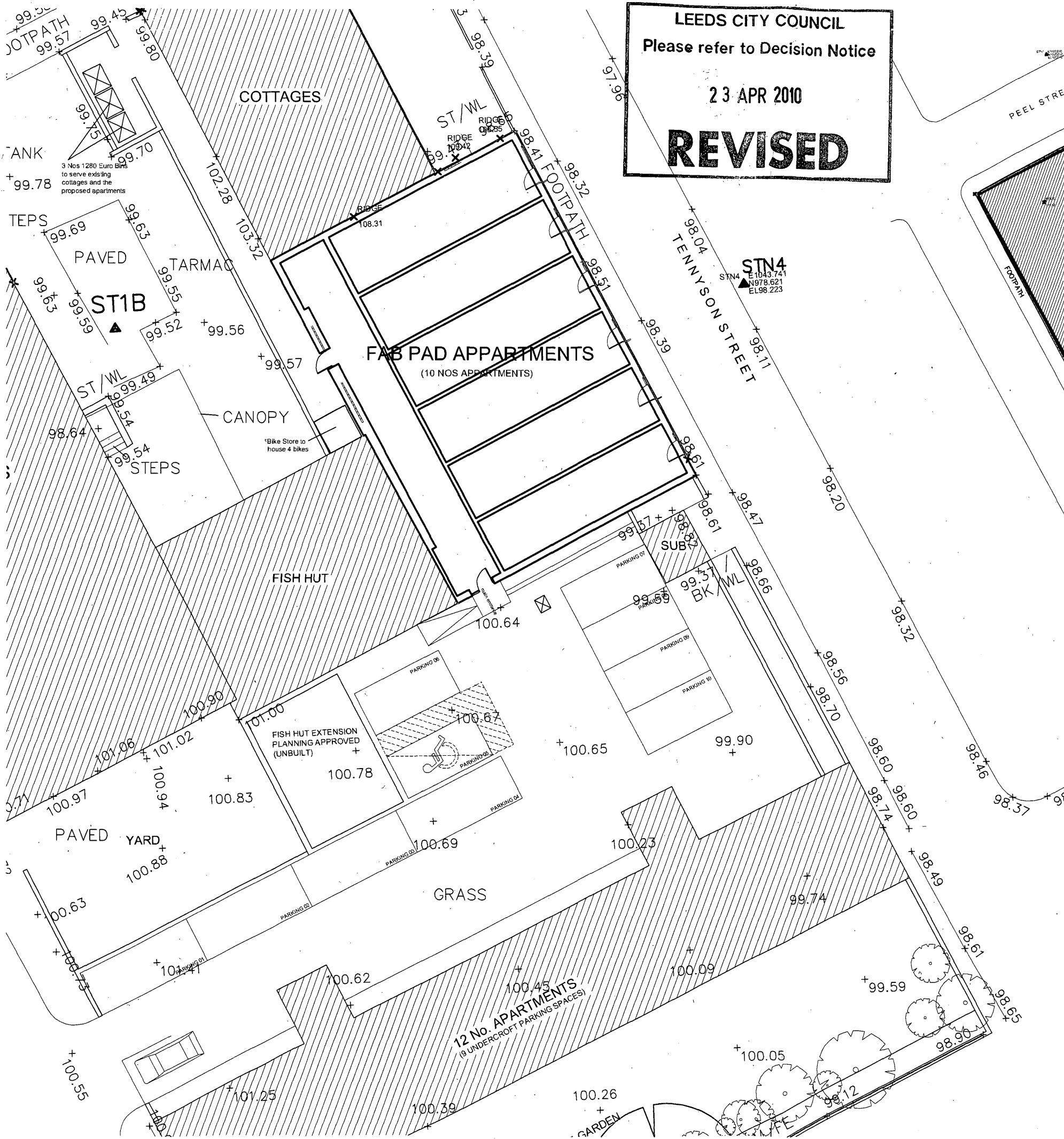
**Background Papers:**

Application file and 23/436/03/FU

Certificate of Ownership signed by applicant

LEEDS CITY COUNCIL  
 Please refer to Decision Notice  
 23 APR 2010  
**REVISED**

10/00060



LOCATION PLAN 1:500

- C - RED AND BLUE LINE BOUNDARIES ADDED
- NEW LOCATION OF BIN STORE AND BIKE STORE
- B - CAR PARKING ARRANGEMENT AMENDED - LANDSCAPING DESIGN T.B.C.
- A - INFORMATION FROM INDEPENDENT SURVEY ADDED TO LOCATE EXACT POSITION OF THE EAVES AND THE RIDGE TO THE ADJACENT BUILDINGS



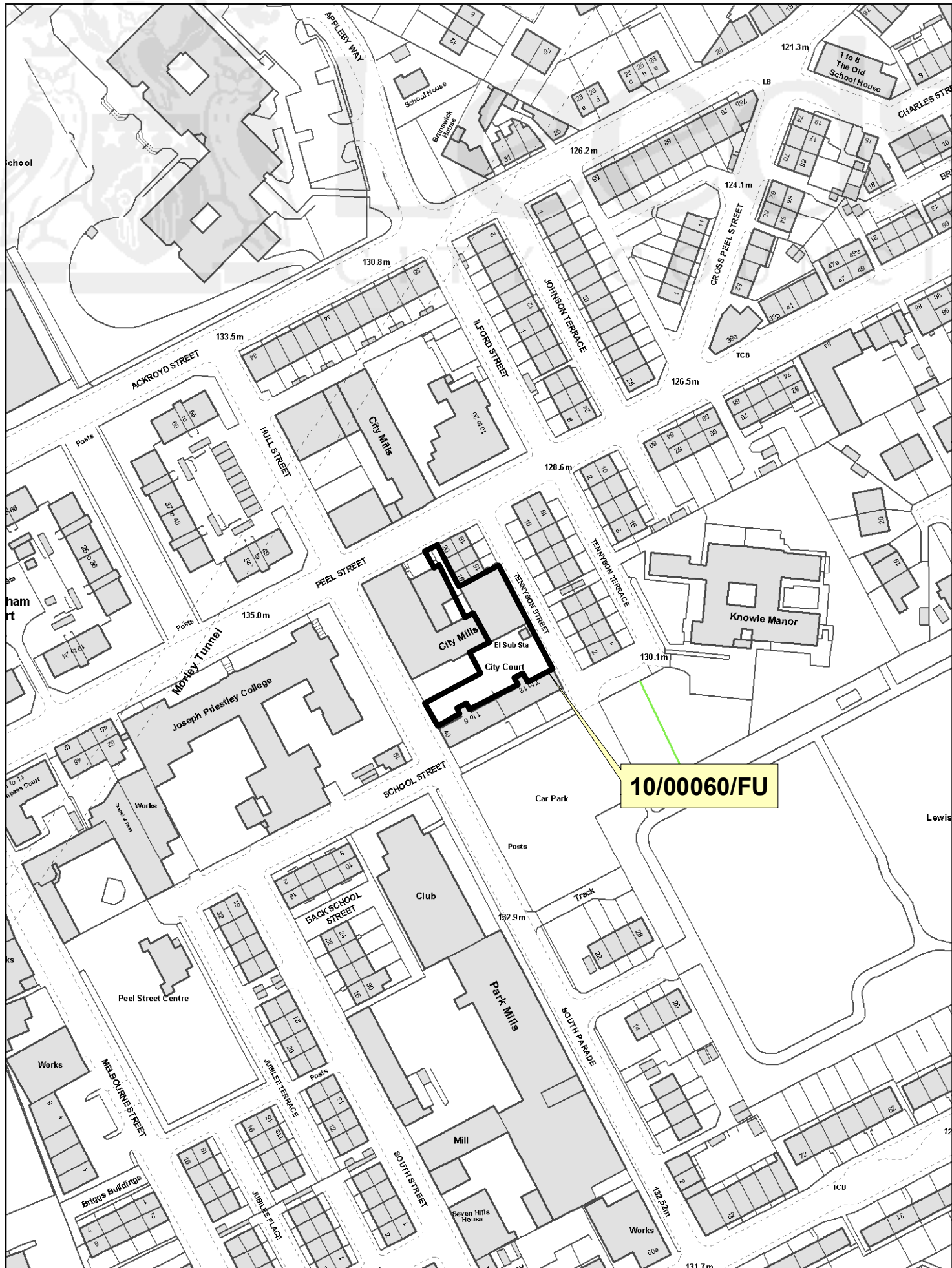
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DRAWN	CHECKED	DATE	SCALE	REVISION
JH		08/09	1:200/1:500	

A3

Client	MSS DEVELOPMENTS
Job	FAB PADS
Title	PROPOSED SITEPLAN AND LOCATION PLAN
Dwg. No.	1688-018

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# EAST PLANS PANEL

Scale 1/1500

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