



Report of the Chief Planning Officer

PLANS PANEL EAST

Date: 19th May, 2011

Subject: APPLICATION 10/05634/FU PART RETROSPECTIVE APPLICATION FOR CHANGE OF USE OF DOMESTIC APPLIANCE STORAGE WITH ANCILLARY WORKSHOP TO CAR REPAIR CENTRE AT 25 – 29 FLORENCE STREET, HAREHILLS, LEEDS, LS9 7AW

APPLICANT

Mr Anwan Mudjahed

DATE VALID

10th January, 2011

TARGET DATE

7th March, 2011

Electoral Wards Affected:

Gipton and Harehills

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 planning conditions:

1. Alterations to be carried out within 8 weeks
2. Laying out of vehicle areas/surfacing
3. Parking layout for specific purposes – awaiting repair/collection
4. No vehicle parking outside of specified areas/no on-street repairs
5. Submission of sound insulation scheme
6. All servicing and repairs to be carried out in main building
7. Prior approval of installation of new machinery
8. Details of storage and disposal of litter
9. Restriction of uses to buildings ancillary to main workshop
10. No amplified sound to external areas
11. Hours of delivery, 0730 - 1800 Mon to Sat. None on Sunday or BHs
12. Hours of opening/operation 0830 – 1800 Mon to Sat. None on Sun or BHs

Details of conditions to be deferred and delegated to Officers.

Reasons for approval: The application is considered to comply with policies GP5, BD6, T2 and T24 of the UDP Review and other material considerations, as such the application is recommended for approval.

1.0 INTRODUCTION:

1.1 This application is presented to Plans Panel (East) as it is considered that the line between acceptability or unacceptability of the scheme is so finely balanced to warrant wider discussion beyond delegated officer level.

2.0 PROPOSAL:

2.1 The main component of this application is retrospective and relates to a change of use of former domestic appliance store with ancillary workshop to car repair centre. A second component relates to the formation of ancillary parking on an adjacent site and has yet to take place.

2.2 The application results from a recent refusal of planning permission (10/03577/FU) and has been submitted with a view to overcoming the previous concerns relating to noise disturbance and highway safety issues highlighted in the reasons for refusal.

2.3 To this end, this application includes a Noise Impact Analysis (NIA) and additional land/ property at 29 Florence Street which abuts the site. The additional land is to provide an ancillary parking area for vehicles awaiting repair, and awaiting collection following repair.

2.4 Since the refusal of the original application an Enforcement Notice has been served requiring the applicant to cease the unauthorised use by 4th May, 2011. Prosecution for non-compliance with the notice however is being held in abeyance pending the outcome of the current application. No appeal has been registered against the issue of the notice or the refusal of the original planning application.

3.0 SITE AND SURROUNDINGS:

3.1 The application site is situated to the east side of Florence Street and comprises a tall single storey brick built pitched roof workshop with an attached single storey flat roof brick built building to its rear which has an exit doorway onto Florence Avenue (No. 27 Florence Street); and a single storey flat roof pre-fabricated building (25 Florence Street). In addition, there is a lean-to car repair workshop (that is to be demolished) at No. 29 Florence Street.

3.2 The site includes a shallow forecourt bounded by a 2m high untreated metal palisade security fence. The site is level and sits between a smaller scale car repair/tyre fitting operation and a block of three flats (No. 38 Cowper Road).

3.3 There is a car repair business to the south side of Cowper Road. Florence Street is a popular vehicular and pedestrian thoroughfare linking Ashley Road to the west and Compton Road to the east. The wider area is predominantly residential in character with back-to back housing to the north-west on Florence Street and Florence Avenue.

4.0 RELEVANT PLANNING HISTORY:

4.1 10/03577/FU – retrospective application to change the use from a domestic appliance workshop and ancillary store (Bells Electricals) to a car repair centre. Refused 01-Oct-10.

34/132/96/FU – change of use of car repair garage (29 Florence Street) to private car hire booking office. Refused 14-Oct-96. Appeal dismissed 24-Apr-97.
H32/256/79 – alterations and extension to form storage building. PG 02-Jul-1979.
H32/283/75 – alterations and extension to form storage space to light engineering factory. PG 16-Jun-1975

5.0 HISTORY OF NEGOTIATIONS:

- 5.1 Following commencement of the use as a car repair centre officers met with the applicant to discuss whether planning permission was required to change the use of the premises from the former use as an electrical repair and storage business to a car repair centre. Officers were able to confirm that planning permission was required as the former use is Class B1 (Business/Light Industrial) under the Town & Country Planning (Use Classes) Order 2010, whereas a car repair centre is Class B2 (General Industrial). There is No Permitted Change under the legislation from B1 to B2. At the time Officers expressed concerns that such a use may not be appropriate given its siting in close proximity to residential properties.
- 5.2 Despite officers views about the appropriateness of the use an application (Ref: 10/03577/FU) was submitted seeking retrospective approval for the use of the site at that time being limited to Nos. 25 – 27 Florence Street. The application was refused under delegated officer powers for reasons of harm to the residential amenity of local residents and highway safety concerns.
- 5.3 Following refusal of the application the Council's Compliance Team commenced enforcement proceedings culminating in serving an Enforcement Notice which required cessation of the use by 4th May 2011.
- 5.4 Whilst the unauthorised works continued the applicant asked officers opinion if the inclusion of an adjacent site would help to resolve highway safety issues and in doing so achieve officer support for the scheme as a whole. At the time Officers advised that such a proposal would be hard to overcome the fundamental concerns of the location of the works in a residential area. The applicant did however, submit the current application which includes the area currently occupied by No. 29 Florence Street.

6.0 PUBLIC/LOCAL RESPONSE:

- 6.1 2 site notice displays posted dated 21st January, 2011 requesting comments on the planning application be submitted prior to 11th February 2011.
- 6.2 In response to the public notification process 11 representations have been received from local residents expressing objections to the development on the following grounds:-

Retrospective nature of application
Traffic congestion, parking and highway safety
Oil and debris from repairs littering the street resulting in a hazard for pedestrians
Noise disturbance, unsociable hours of work, late night deliveries
Paint fumes
Inappropriate location
On-Street works
Unsafe environment for pedestrians, in particular children

7.0 CONSULTATIONS RESPONSES:

Statutory:

7.1 None.

Non-statutory:

7.2 Highways comments dated 10th November 2010.

Highway Development Services – “objection” to original layout - existing operation generates significant levels of on-street parking, with some repair works occurring on the highway itself. The Local Planning Authority has investigated this aspect but it is unclear whether these repair works occur in association with the application site or adjacent uses. The proposed spaces are laid out in such a way that will restrict manoeuvrings within the site. The turning circle is substantially short of the space it requires to be effective. This is likely to result in vehicles reversing out onto the highway and potentially displacing parking to outside of the site on street.

Highway comments dated 7th March, 2011.

Based on a revised layout re-configuring the spaces, including the removal of a small portion of the main workshop to assist manoeuvrings.

The situation is not ideal however, the revised layout goes some way to improving the existing situation. The layout is not wholly technically correct although it is clear that some off-street parking can now be achieved within the confines of the site. In effect the inclusion of this area for parking will be beneficial in removing a separate car repair operation. As a consequence, there are no objections to the revised proposal subject to conditions, in particular a condition restricting the area for parking purposes only with no repairs to take place in this area or on the adjacent highway.

7.3 Neighbourhoods and Housing comments dated 3rd February, 2011

Officers have visited the site and assessed the submitted NIA in the context of its surroundings and in response to complaints from local residents. Although within close proximity to residential properties officers consider that the use could operate subject to the inclusion of appropriate conditions, e.g., no paint spraying works, restriction on hours of use, restrictions on uses within different areas within the site, no amplified sound system, together with sound insulation measures where necessary to avoid any adverse impact on local residents living conditions.

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 application site is not specifically allocated within the City Council's Unitary Development Plan Review (2006) although the area is washed over by two area based Initiative policies directed at regeneration issues (R1) and promoting increased green space provision (N3). The following policies are considered to be of relevance:

Policy GP5 requires development proposals to resolve detailed planning considerations including access, to avoid loss of amenity and maximise highway safety.

Policy BD6 requires all alterations and extensions to respect the scale, form, detailing and materials of the original building

Policy T2 refers to development that should be adequately served by existing or proposed highways, capable of being served by public transport and have provision for safe and secure cycle use and parking.

Policy T24 refers to car parking provision guidelines.

9.0 MAIN ISSUES

1. Principle of development
2. Residential amenity
3. Highway safety

10.0 APPRAISAL

1. Principle of development:

10.1 The element of the site identified as 25-27 Florence Street previously traded under the title of Bells Electricals which operated as a repair with ancillary storage facility for domestic electrical items. Under the Town and Country Planning (Use Classes) Order 1987 this is Class B1 use (light industrial). The applicant's use of the site as a car repair centre, under the same legislation is a B2 use Class (general industrial) hence the requirement for the need for a change of use application. The additional element of the land forming part of the current application site and identified for parking purposes (currently 29 Florence Street) has operated as a separate car repair centre without formal planning permission in excess of the period that is required to render it immune from enforcement action.

10.2 Consequently officers consider that the proposed combination of uses is acceptable in principle subject to resolving more detailed issues of residential amenity and highway safety which are discussed below.

2. Residential amenity:

10.3 Prior to the recent activity this section of Florence Street operated as 3 separate uses. The site at No.23 Florence Street (not part of the application site) is a small scale tyre fitting business with its planning status reflecting that of No.29 Florence Street, i.e., without planning permission but immune from enforcement action.

10.4 Bells Electricals (25-27 Florence Street) was a relatively large site but generated little in terms of machinery noise or traffic movements when viewed in context with the smaller scale car repair operations that sat either side of Bells at 23 and 29 Florence Street. In contrast, the current operations are effectively three independent car repair businesses (23 Florence Street; 25-27 Florence Street; and 29 Florence Street). Perhaps not unsurprisingly, the Neighbourhoods and Housing Department have received a number of complaints in respect of the application site relating to problems in the form of noise, late night working, car fumes, oil spills on the footway, and traffic congestion with cars being repaired and parked on-street hindering the free flow of traffic along Florence Street.

10.5 The current application will effectively reduce the number of businesses to two and in doing so represent an opportunity to bring the largest operation under planning controls with the inclusion of appropriate conditions. The applicants operation

proposes to confine car repairs to the main workshop building with three work stations with other buildings within the site to be purely for storage and ancillary office and staff facilities.

10.6 Residents complaints relating to the application site have been thoroughly investigated by Environmental Health Officers and have either resolved issues of a minor nature in agreement with the applicant or been unable to discover a level of disturbance that warranted further action. This is borne out from Environmental Health's comments by not objecting to the proposed application.

10.7 It is therefore considered that the current application represents an opportunity to positively bring the site within planning controls with conditions that can limit the scale, type and location of repairs/operations, its hours of operation and bring parking off the street to within the site and in doing so minimise the impact of the works on the residential amenity of the occupants of nearby housing.

3. Highway safety:

10.8 From Officers visits to the site it is clear that the applicants business is operating beyond the capacity that can be wholly accommodated within the confines of the site. The situation is exacerbated by the adjacent uses resulting in vehicles being parked either side of Florence Street restricting the general free flow of traffic along the highway being the busy thoroughfare linking Ashley Road and Compton Road. Whilst the applicants proposal to create off-street parking at No 29 Florence Street through the closure and integration of this separate use is not ideal, in terms of its layout, it does represent an opportunity to condense the applicants operation to the extended site itself and thereby reducing the reliance to using on-street parking. Highway Officers are conscious that to disregard the applicants improvement to the off street parking facilities by refusing the application would leave the Council with a finely balanced position for an Inspector to consider should an appeal be forthcoming.

10.9 In light of the above it is considered that the application would not represent undue harm to the interests of highway safety for vehicle users and pedestrians alike.

11.0 CONCLUSION

11.1 Officers understand residents concerns over the retrospective nature of the application and do not condone the commencement of any unauthorised uses or development. In this case the Council has pursued appropriate enforcement action and it is only on hold pending the outcome of this application.

11.2 Officers are aware that the siting of a General Industrial Use (B2) including car repairs is generally more appropriate away from residential areas. However, Officers are mindful that such unrestricted uses would still be able to operate at Nos. 23 and 29 Florence Street if the current proposal is refused. In recommending approval of the application Officers consider that this is an opportunity to impose conditions to control many of the issues of concern to local residents.

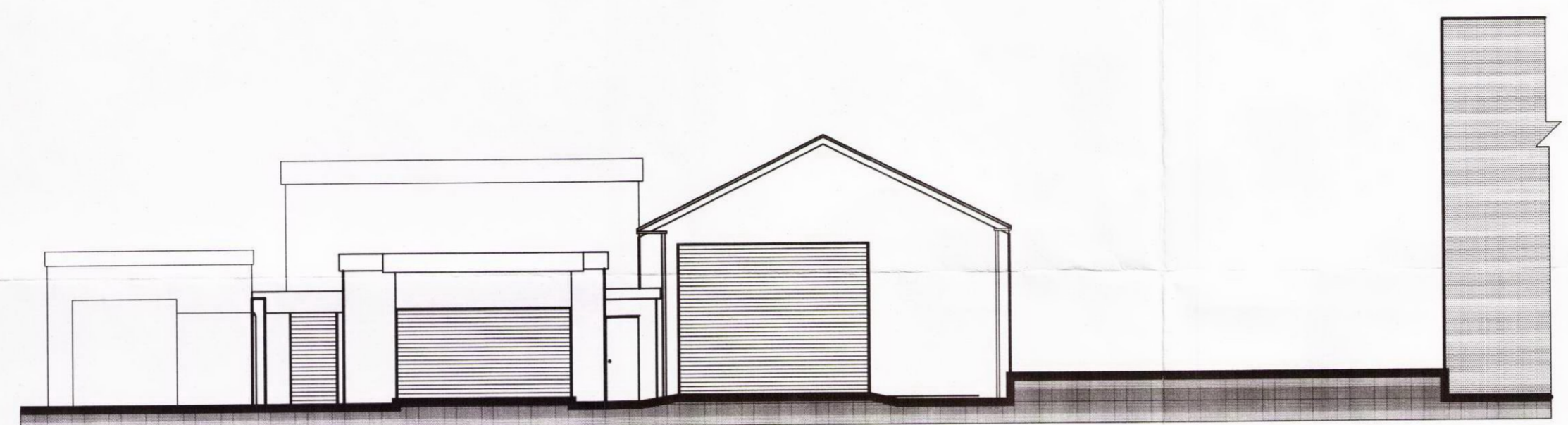
11.3 Officers are mindful of residents concerns regarding the current operations. Officers however, are also mindful that it has no objections to the application from its consultations with Highways and Neighbourhoods and Housing who the Council would be reliant upon to prepare an appeal case should the application be refused and the applicant submits an appeal to the Secretary of State. In such a scenario Officers consider that the Council's case would be vulnerable to challenge with the issues weighing in favour of the applicant.

- 11.4 Officers appreciate that the issues are finely balanced but consider that the recommendation for approval represents the opportunity to control the commercial use of a considerable area of this part of Florence Street and in so doing addressing concerns of local residents relating to amenity and highway safety.

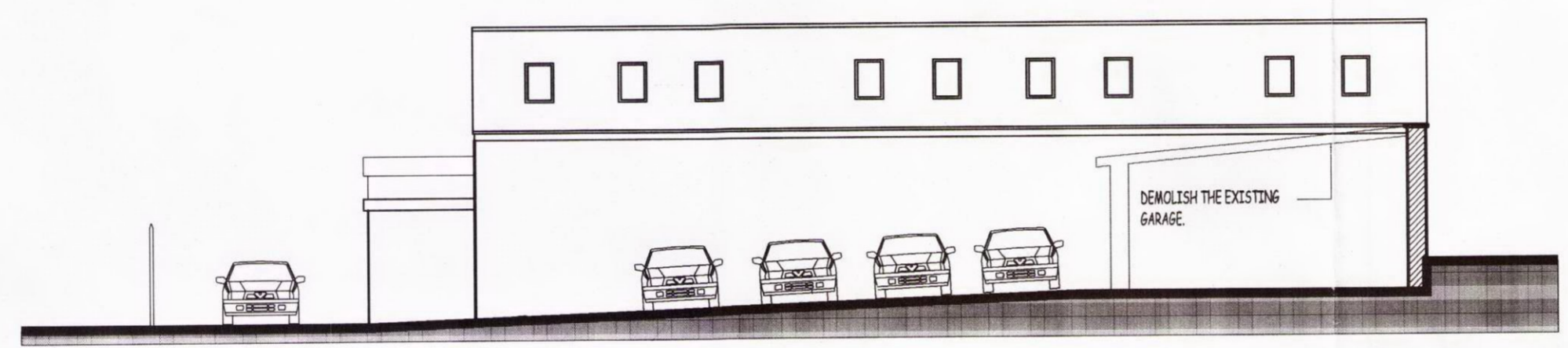
Background Papers:

Application file: 10/05634/FU. Previous refusal 10/03577/FU.
Certificate of Ownership A completed.

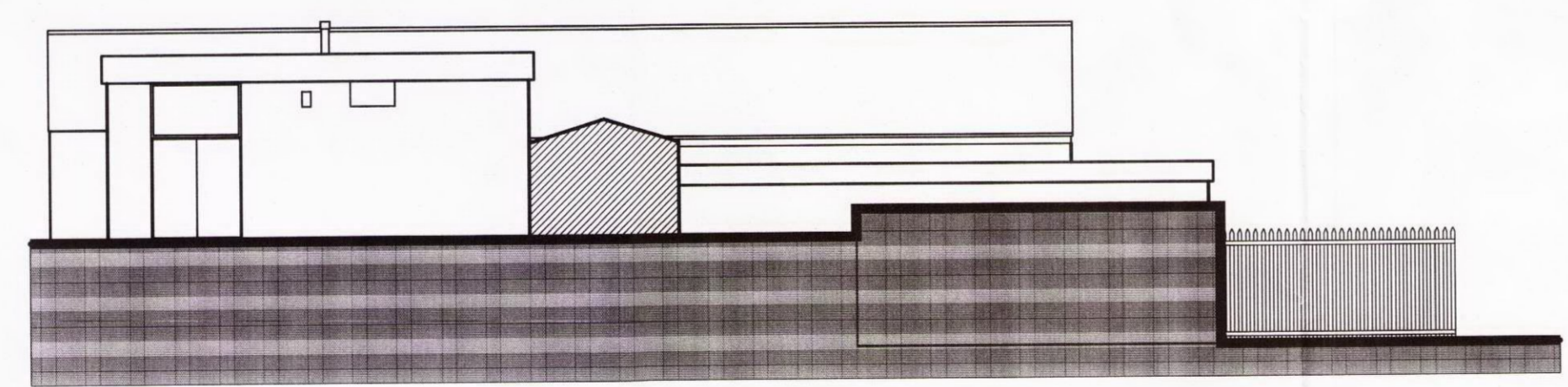
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FRONT ELEVATION AS PROPOSED



SIDE ELEVATION AS PROPOSED



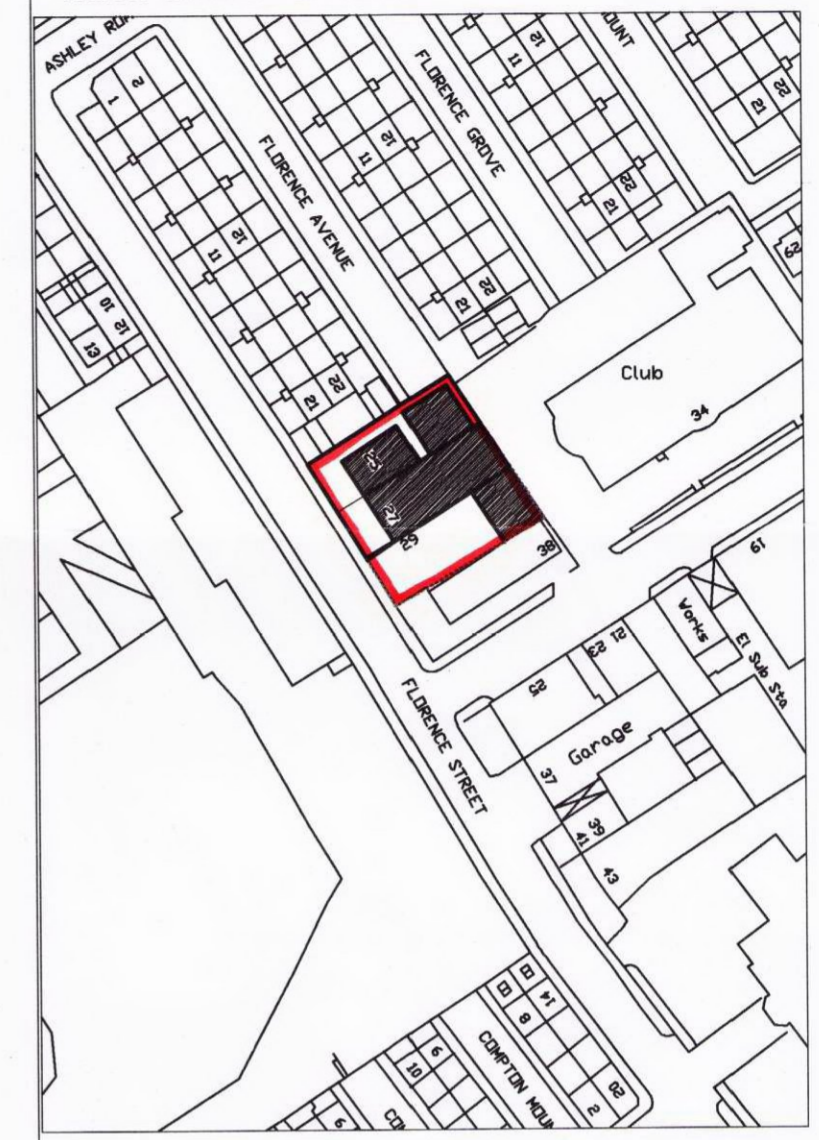
SIDE ELEVATION AS PROPOSED



REAR ELEVATION AS PROPOSED

The changes shown on this plan do not need further public comment

LEEDS CITY COUNCIL
1 - MAR 2011
REVISED



B: EXISTING GARAGE DEMOLISHED AJ 28.02.11
A: RED LINED BOUNDARIES ADJUSTED AJ 10.01.11

PLANNING APPLICATION

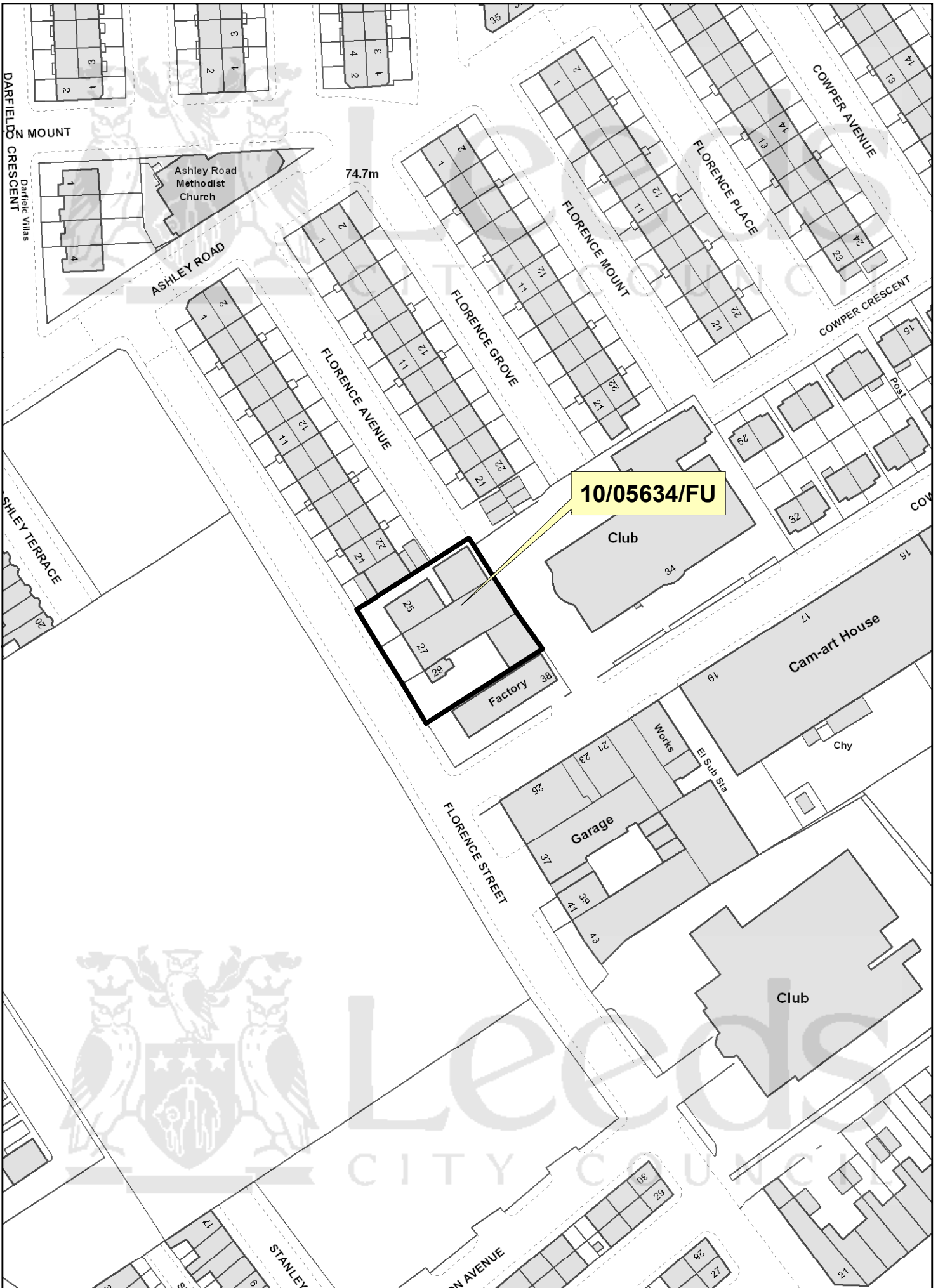
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Project
CHANGE OF USE OF WAREHOUSE TO CAR GARAGE, AT FLORENCE STREET LEEDS 9

Drawing title
ELEVATIONS & OS MAP

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Scale	Drawing no	Rev
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EAST PLANS PANEL

