



Report of the Chief Planning Officer

NORTH AND EAST PLANS PANEL

Date: 20th February 2014

Subject: 13/05716/FU – Variation of condition 16 of approved application 13/01857/FU (Residential development of 11 No. detached dwellings with associated access, car parking, drainage and landscaping) to remove two proposed islands on Wetherby Road which are currently part of the approved section 278 works at Castle Mona Lodge, Wetherby Road, Scarcroft, Leeds, LS14 3AS

APPLICANT

Shepherd Homes Ltd

DATE VALID

11th December 2013

TARGET DATE

12th March 2014

Electoral Wards Affected:

Harewood

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 specified conditions.

Condition

1. The off-site highway works shown on the approved plans shall be fully implemented prior to occupation of any of the dwellings hereby approved.

In the interests of highway safety and in compliance with policies GP5 and T2 of the UDP (Review).

1.0 INTRODUCTION

- 1.1 This application seeks to vary condition 16 of an approved residential development for eleven houses. The application was considered by Plans Panel on 5th September and permission was granted subject to conditions. These conditions included off-site highway works which sought to provide a right turn ghost island and two refuge islands. As will be outlined below it is not possible to incorporate the

refuge islands within the width of the carriageway and permission is sought to remove these from the scheme.

- 1.2 The application is brought to Panel at the request of Councillor Rachael Procter due to the history of the site and concerns regarding highway safety.

2.0 SITE AND SURROUNDINGS:

- 3.1 The application site is a 0.98 hectare paddock which located to the north of Scarcroft's village hall. Although the site is a relatively large area of open land with the Green Belt located to the immediate west, established housing lies to the north and east, and the site lies adjacent to the built-up areas of the village. The surrounding housing is of mixed character and includes some historic dwellings although the bulk of the housing stock reflects the styles of motifs of the twentieth century. The existing disused access point is bracketed by two pairs of stone gateposts.

- 3.2 There is a slight gradient within the area with the land falling away to the north-east. Protected trees lie within the site and along its borders. The boundary planting is augmented with other self seeded vegetation and this landscaping forms a buffer to the adjacent Green Belt as well as the established housing. Development has commenced on site.

- 3.3 Access to the site is taken from Wetherby Road (A58) which is the main route between Leeds and Wetherby. It is an abnormal load route and thus can accommodate busses and HGVs. Within the residential area of Scarcroft the road has a speed limit of 30mph.

4.0 RELEVANT PLANNING HISTORY:

- 4.1 33/232/99/OT Outline application to erect residential development
Withdrawn
- 33/240/00/OT Outline application to erect residential development
Refused
Appeal Dismissed
- 11/01550/OT Laying out of access road and erection of 11 houses
Approved
- 11/05716/FU Residential development of 11 No. detached dwellings with associated access, car parking, drainage and landscaping
Approved

5.0 HISTORY OF NEGOTIATIONS:

- 5.1 Following the grant of planning permission it became clear that the refuge islands could not be accommodated within the width of the existing carriageway. The applicants approached planning and highway officers to discuss the possibility of submitting an application to vary the condition. Officers considered that the condition was not reasonably required by the development and would be difficult to enforce. An application was encouraged on this basis.

6.0 PUBLIC/LOCAL RESPONSE:

6.1 The application has been advertised site notice and newspaper advert as a Major development. Letters have been sent to those who commented on the original application.

- Councillors Anne Castle and Matthew Robinson object to the loss of the refuge islands and note that they may help to slow down traffic speeds;
- the Parish Council note that the islands would protect cars turning right and may help slow down traffic and prevent overtaking;
- the occupant(s) of 8 Larch Wood Close note that the refuge islands would not be used to cross the A58 but may help slow down traffic and prevent overtaking;

7.0 CONSULTATIONS RESPONSES:

7.1 Statutory

Highways	No objection. Note that the islands are desirable but are not essential to the acceptability of the scheme. The ghost islands are similar to others along the A58 and appropriate pedestrian facilities are available to the north of the site.
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8.0 PLANNING POLICIES:

8.1 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 Leeds Unitary Development Plan (Review 2006) and the Natural Resources and Waste Development Plan Document (2013).

Local Planning Policy

8.2 The Leeds Unitary Development Plan (Review 2006) is the development plan for the whole of the Leeds district. Relevant planning policies in the Leeds Unitary Development Plan (Review 2006) are listed below:

GP5: Development proposals should resolve detailed planning considerations.

T2: New development should not adversely affect the highway network:

8.3 **Supplementary Planning Guidance/Documents**

Street Design Guide Supplementary Planning Document (Main Report) was adopted in August 2009 and includes guidance relating to highway safety and design.

8.4 **Emerging Local Development Framework Core Strategy**

The Core Strategy was submitted to the Secretary of State for Communities and Local Government on 23rd April 2013. The Secretary of State appointed a Planning Inspector to conduct the examination of the plan, which commenced on 7th October and ended on 23rd October. The Inspector's report is awaited. At this stage the only issues which the Inspector has raised concerning the soundness of

the plan relate to the affordable housing policy and the Council's evidence on Gypsies and Travellers. As the Core Strategy has been the subject of independent examination (October 2013) and its policies attract some weight, albeit limited by the fact that the policies have been objected to and the Inspector's Report has yet to be received (currently anticipated in Spring 2014).

National Planning Policy

8.5 The National Planning Policy Framework (2012) sets out the Government's planning policies for England and how these are expected to be applied. It sets out the Government's requirements for the planning system. The National Planning Policy Framework must be taken into account in the preparation of local and neighbourhood plans and is a material consideration in planning decisions.

8.6 The introduction of the NPPF has not changed the legal requirement that applications for planning permission must be determined in accordance with the development plan unless material considerations indicate otherwise. The policy guidance in Annex 1 to the NPPF is that due weight should be given to relevant policies in existing plans according to their degree of consistency with the NPPF. The closer the policies in the plan to the policies in the 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 NPPF.

8.7 Paragraph 35 of the NPPF states:

Developments should be located and designed where practical to:

- give priority to pedestrian and cycle movement and have access to high quality public transport facilities;
- create safe and secure layouts which minimise conflicts between traffic and cyclists or pedestrians, avoiding street clutter and where appropriate establish home zones

8.8 Circular 11/95 advises on the use of planning conditions. Paragraph 14 notes that:

On a number of occasions the courts have laid down the general criteria for the validity of planning conditions. In addition to satisfying the court's criteria for validity, the Secretaries of State take the view that conditions should not be imposed unless they are both necessary and effective, and do not place unjustifiable burdens on applicants. As a matter of policy, conditions should only be imposed where they satisfy all of the tests described in paragraphs 14-42. In brief, these explain that conditions should be

- i. necessary;
- ii. relevant to planning;
- iii. relevant to the development to be permitted;
- iv. enforceable;
- v. precise; and
- vi. reasonable in all other respects.

9.0 MAIN ISSUE

- 1) Highway Safety

10.0 APPRAISAL

Highway Safety

- 10.1 The main issue in considering this application is whether the refuge islands which were initially proposed as part of the section 278 agreement are reasonably required to mitigate harm to highway safety caused by the development. All other offsite highway works (namely the dedicated right-turn from Wetherby Road) remain unchanged and will be delivered.
- 10.2 Highway officers are clear in stating that whilst the islands may be desirable they are not essential to the acceptability of the development of eleven houses. The purpose of the islands is to provide refuge for pedestrians crossing the A58, so that each carriageway can be crossed when clear, rather than requiring both carriageways to be crossed in a single operation. As noted by highways officers and within the comment received from a local resident there is no need for pedestrians to cross the A58 at this point. A signalised pedestrian crossing facility is located 180m to the north of the site and this crossing point provides easy access to the local public house and the nearest bus stops.
- 10.3 It is also noted that the proposed refuge islands cannot be accommodated within the existing carriageway width. Wetherby Road is an abnormal load route and if the islands were to be installed the road would be too narrow for the abnormal loads the road must be able to carry. Whilst it is possible that the carriageway could be widened the applicant is unwilling to bear this expense when the islands are not required to make the development acceptable and there is no justified need for the provision of refuge islands within the area.
- 10.4 Concern has been raised by Ward Members, the Parish Council and a local resident regarding the loss of the islands with attention drawn to the fact that the islands may reduce the speed of traffic within the area and may prevent overtaking. Whilst the islands might achieve these ends, government guidance is clear in stating that planning conditions must be reasonably related to a development and can only seek to mitigate harm caused by the development. Conditions cannot be used to mitigate existing harm which is not related to a development.
- 10.5 As the A58 passes through Scarcroft Village it is a 30mph road. Whether drivers obey this speed limit and/or overtaking manoeuvres are carried out along its length is not a matter that is related to the development. The authority cannot reasonably insist that the applicant undertake work that is not required to mitigate the impact of their development in order to potentially alleviate an existing problem caused by drivers committing traffic offences. Imposing unjustified highway works would be unreasonable, and unreasonable behaviour can lead to the award of costs at the appeal stage.

11.0 CONCLUSION

- 11.1 The application is therefore considered to be acceptable. The pedestrian refuge islands are not required to make the residential development acceptable and their loss would not harm highway safety. To retain the condition would be contrary to advice set out in circular 11/95, and as such the application is compliant with the relevant policies and guidance and approval is recommended.

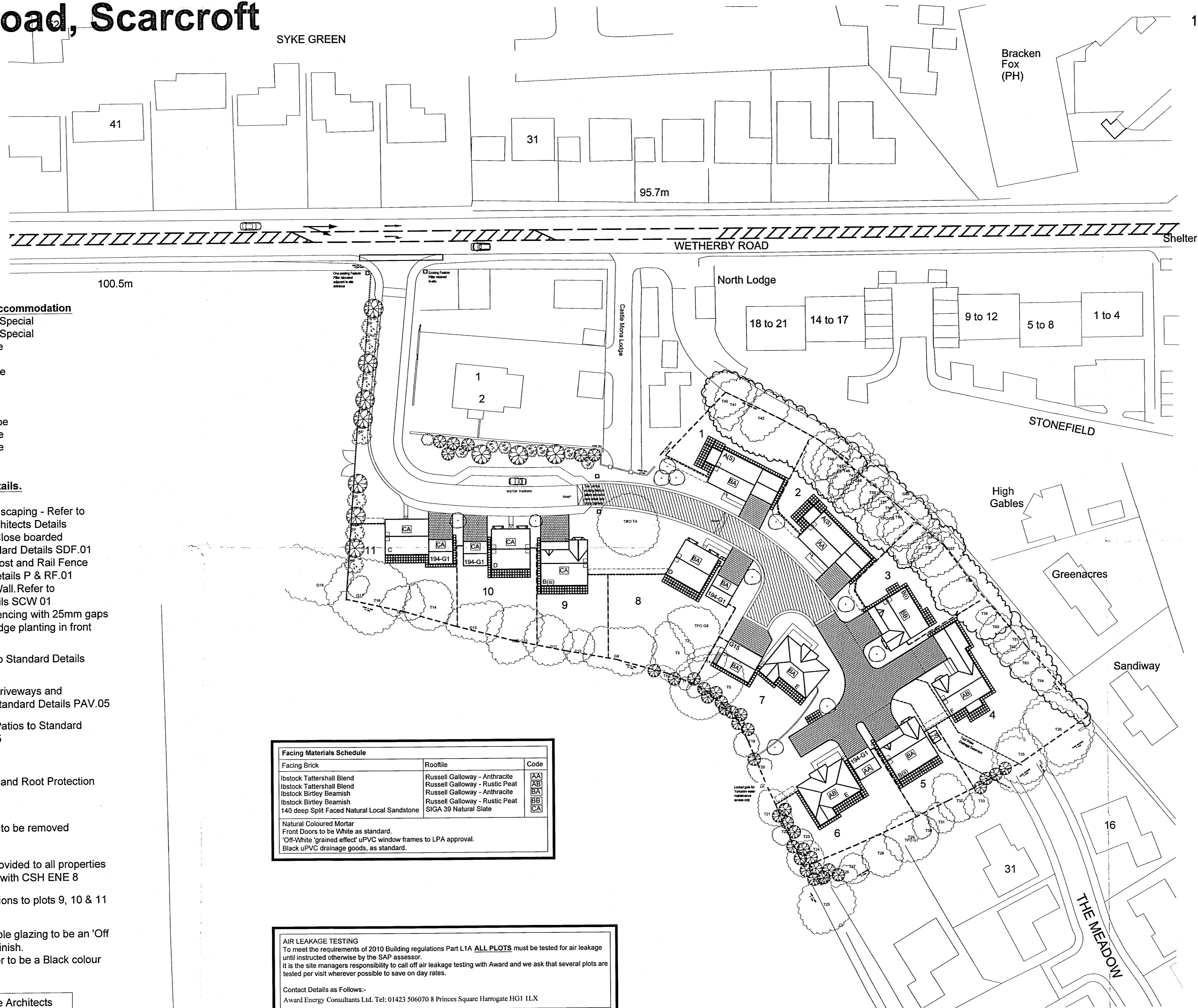
Background Papers:

Application files 13/05716/FU
Certificate of ownership: Certificate A signed by applicant (Shepherd Homes Ltd)

Proposed Residential Development at Wetherby Road, Scarcroft

13 / 05 / 16

C:\Drawing Information\Client Logos\Shepherd Homes 2007.dwg



Schedule of Accommodation

- Plot 1 - A Type Special
- Plot 2 - A Type Special
- Plot 3 - B(i) Type
- Plot 4 - F Type
- Plot 5 - B(ii) Type
- Plot 6 - E Type
- Plot 7 - E Type
- Plot 8 - D Type
- Plot 9 - B(iii) Type
- Plot 10 - D Type
- Plot 11 - C Type

Enclosure Details.

- Indicative Landscaping - Refer to Landscape Architects Details
- 1.8m Timber Close boarded Fence to Standard Details SDF.01
- 1.2M Timber Post and Rail Fence to Standard Details P & RF.01
- 1.8m Screen Wall. Refer to Standard Details SCW 01
- 1.5m Screen fencing with 25mm gaps and screen hedge planting in front
- Garden Gate to Standard Details SDF 01
- Block Paving driveways and Footpaths to Standard Details PAV.05
- Rear Garden Patios to Standard Details PAV.05
- Existing Trees and Root Protection Areas
- Existing Trees to be removed
- Cycle Store provided to all properties in accordance with CSH ENE 8
- Chimney locations to plots 9, 10 & 11

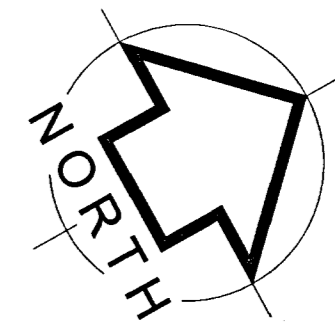
All UPVC double glazing to be an 'Off White' colour finish.
All garage door to be a Black colour finish.

Refer to Landscape Architects details for proposed Landscaping

Facing Materials Schedule		
Facing Brick	Rooftile	Code
ibstock Tattershall Blend	Russell Galloway - Anthracite	[AA]
ibstock Tattershall Blend	Russell Galloway - Rustic Peat	[AB]
ibstock Birtley Beamish	Russell Galloway - Anthracite	[BA]
ibstock Birtley Beamish	Russell Galloway - Rustic Peat	[BB]
140 deep Split Faced Natural Local Sandstone	SIGA 39 Natural Slate	[CA]

Natural Coloured Mortar
Front Doors to be White as standard.
*Off-White 'grained effect' uPVC window frames to LPA approval.
Black uPVC drainage goods, as standard.

AIR LEAKAGE TESTING
To meet the requirements of 2010 Building regulations Part L1A **ALL PLOTS** must be tested for air leakage until instructed otherwise by the SAP assessor.
It is the site managers responsibility to call off air leakage testing with Award and we ask that several plots are tested per visit wherever possible to save on day rates.
Contact Details as Follows:-
Award Energy Consultants Ltd. Tel: 01423 506070 8 Princes Square Harrogate HG1 1LX

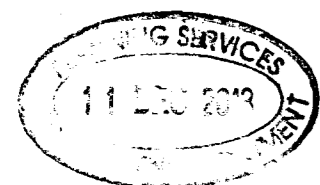


Rev	By	Note	Date
F	MM	Proposed traffic Islands removed From Wetherby Road and garages now site specific	29.11.13
E	MM	Plot materials updated to suit LA requirements. Drive extended near plot 6 and gate added to suit S104.	16.10.13
D	JG	Chimneys added to the following plots 1, 2, 3, 4, 5, 8, 9, 10 & 11.	09.09.13
	MM	Materials Schedule and air leakage regime added to drawing	
C	JG	Refuse vehicle tracking added to layout. Driveway length to Plot 7 reduced to 6m	16.08.13
B	JG	Boundary fence to Plot 7 Driveway reduced.	11.07.13
A	JG	Layout updated in accordance with comments from Highway Officer and Planning design review meeting	18.06.13

PRA ARCHITECTS
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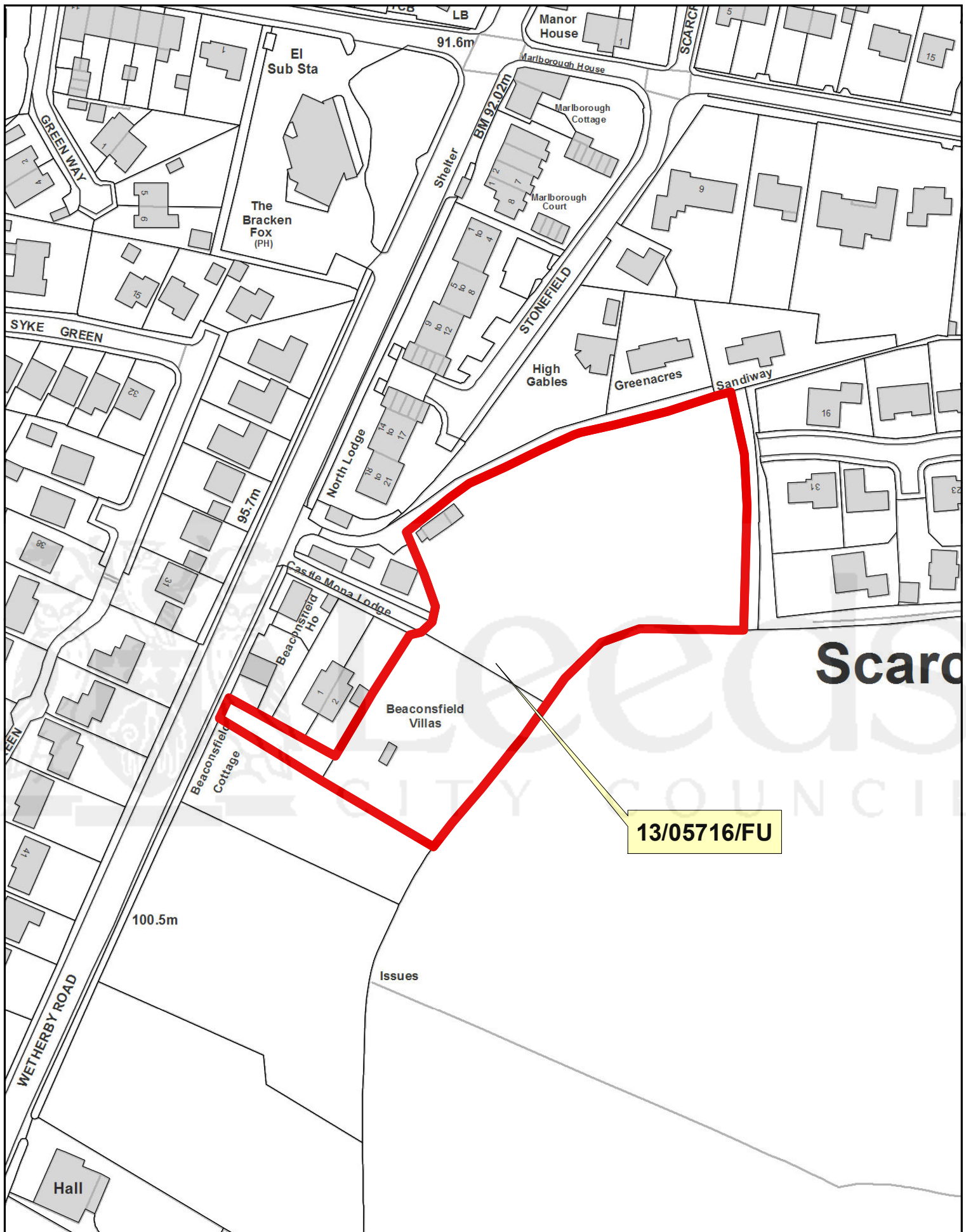
PROJECT	Wetherby Road, Scarcroft		
TITLE	Proposed Site Layout		
CLIENT	Shepherd Homes		
DATE	27.03.13	SCALE	1:500@A1
DWG. NO	Y81:854.03	REVISION	F
DRAWN	JG	CHECKED	PJR

DO NOT SCALE FROM DRAWINGS. ANY DISCREPANCIES TO BE NOTIFIED TO THE ARCHITECTS. COPYRIGHT RESERVED



Proposed Site Layout

'CASTLE CROFT'



NORTH AND EAST PLANS PANEL

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PRODUCED BY CITY DEVELOPMENT, GIS MAPPING & DATA TEAM, LEEDS CITY COUNCIL

SCALE : 1/1500

