



Report of the Chief Planning Officer

NORTH AND EAST PLANS PANEL

Date: 20th February 2014

Subject: 13/03029/FU – New section of wall, increase in height to part of existing wall and timber pedestrian gate at Dene Cottage , Linton Lane, Linton, LS22 4HL

APPLICANT

Mrs Sara Jamieson

DATE VALID

4th July 2013

DATE DETERMINED

9th October 2013

Electoral Wards Affected:

Harewood

Yes

Ward Members consulted
(referred to in report)

Specific Implications For:

Equality and Diversity

Community Cohesion

Narrowing the Gap

RECOMMENDATION:

Agree a sample panel on site and not take enforcement action in the event that the wall is completed in accordance with the agreed details.

1.0 INTRODUCTION

1.1 This report relates to an application for a new wall and gates which was recently approved by Plans Panel (3rd October 2013). Condition 5 of the planning permission stated that:

Development shall not commence until a sample panel of the dry stone wall has been submitted to and approved in writing by the Local Planning Authority. The panel shall be erected on site to establish the details of the stone, construction method and coping detail. The stonework shall be constructed in strict accordance with the sample panel(s), which shall not be demolished prior to completion of the development.

In the interests of visual amenity and to ensure that the stonework harmonises with the character of the area, in accordance with adopted Leeds UDP Review

(2006) policies GP5, BD6 and N19, and the National Planning Policy Framework.

- 1.2 The reference to a dry stone wall was included at the request of Members. The applicant is unwilling to comply with this condition. The applicant has set out that the boundary wall was not a dry stone wall it was just that the mortar was not immediately evident. The new section of wall has been constructed to match the existing sections of wall that has at the same time been re-pointed.

2.0 SITE AND SURROUNDINGS:

- 2.1 The application relates to a detached dwelling which is sited just north of Linton village core and within the conservation area. The property was once a small cottage built in a pastiche Arts and Crafts style, however recent extensions have substantially enlarged the dwelling. Sections of these building works remain unauthorised. The property is largely rendered and has a slate roof.

- 2.2 The property is sited within a generous plot and is set back from Linton Lane and is orientated side-on to the highway with its principal elevation facing toward its main amenity space which is to the front of the property. The plot and wider area are very verdant and this is an important part of the semi-rural character of the area. The bank of trees and vegetation to the north of the site are visible from Linton Lane and form an important backdrop to this section of the village. Boundary treatments within the area vary in height and design. Post and rail fencing, walls and vegetation are most in keeping with the agrarian character of the village, although larger, suburban style boundary treatments are in evidence.

- 2.3 The existing boundary treatment to the eastern side of the site is largely formed by a 1.5m (approx.) high wall constructed of stone set in loose, irregular courses. The wall is topped with vertical stones to give a castellated effect. A section of the boundary wall has been demolished to allow construction access for the extension. Other sections of the boundary are formed by fencing and established vegetation softens both the wall and the fence.

3.0 RELEVANT PLANNING HISTORY:

- | | |
|--------------|---|
| 31/2/97/FU | Part two storey and part first floor side extension with new dormer windows
Approved |
| 31/148/04/FU | Two storey side extension with balcony to front
Refused |
| 31/281/04/FU | Part two storey part single storey side extension with balcony to side of first floor
Approved |
| 09/01910/FU | Part single storey and part two storey side, front and rear extension with balcony over part, dormer windows to side and rear of extension, and new raised terrace area to front
Approved |
| 12/02122/FU | Two storey extension to front, side and rear with balconies to side, new entrance porch to front, raised terrace to rear and replacement bay window to side |

Withdrawn

12/04456/FU Two storey extension to front, side and rear including dormer with juliet balcony to side and dormer to rear; raised terrace with balustrading above to front and new bay window to other side
Approved (panel)

13/03029/FU New section of wall, increase in height to part of existing wall and timber pedestrian gate
Approved (panel)

4.0 HISTORY OF NEGOTIATIONS:

4.1 The applicant has sought the advice of officers who are of the view that the condition would be difficult to enforce.

5.0 PUBLIC/LOCAL RESPONSE:

5.1 Not applicable

6.0 CONSULTATIONS RESPONSES:

6.1 Not applicable

7.0 PLANNING POLICIES:

7.1 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

7.2 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.

N19 All new buildings and extensions within or adjacent to conservation areas should preserve or enhance the character or appearance of the area by ensuring that:

i. The siting and scale of the building is in harmony with the adjoining buildings and the area as a whole;

ii. Detailed design of the buildings, including the roofscape is such that the proportions of the parts relate to each other and to adjoining buildings;

iii. The materials used are appropriate to the environment area and sympathetic to adjoining buildings. Where a local materials policy exists, this should be complied with;

iv. Careful attention is given to the design and quality of boundary and landscape treatment.

BC7: Development within conservation areas will normally be required to be in traditional local materials.

N25: Boundaries of sites should be designed in a positive manner, using walls, hedges, or railings where appropriate to the character of the area. All paving materials should accord with the character of adjacent buildings and surrounding areas.

7.3 **Supplementary Planning Guidance/Documents**

Linton Conservation Area Appraisal and Management Plan

7.4 **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

7.5 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.

7.6 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.

7.7 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.

8.0 MAIN ISSUE

- 1) Design and Character/Conservation Area

9.0 APPRAISAL

Design and Character/Conservation Area

- 9.1 The main issue in considering this matter is whether it is expedient to pursue enforcement action in relation to condition 5 which specifies that the new sections of wall should be of a dry stone construction. The detail relating to the method of construction was applied at the request of Members in order to ensure that the new wall matched the style of the existing wall to the front of the property.
- 9.2 The applicant has since re-pointed the existing section of wall so that its mortar joints are now evident. As such, were the condition to be enforced the new section of wall would not match the existing wall and there would be a visual discontinuity between the two elements. The samples of walling which have been constructed demonstrate that the stone selection and coursing method are appropriate. As such it is only the construction method which remains outstanding. As the purpose of the condition was to ensure that the new sections of wall harmonised with the existing sections of wall it is not considered necessary nor reasonable expedient to pursue enforcement action.

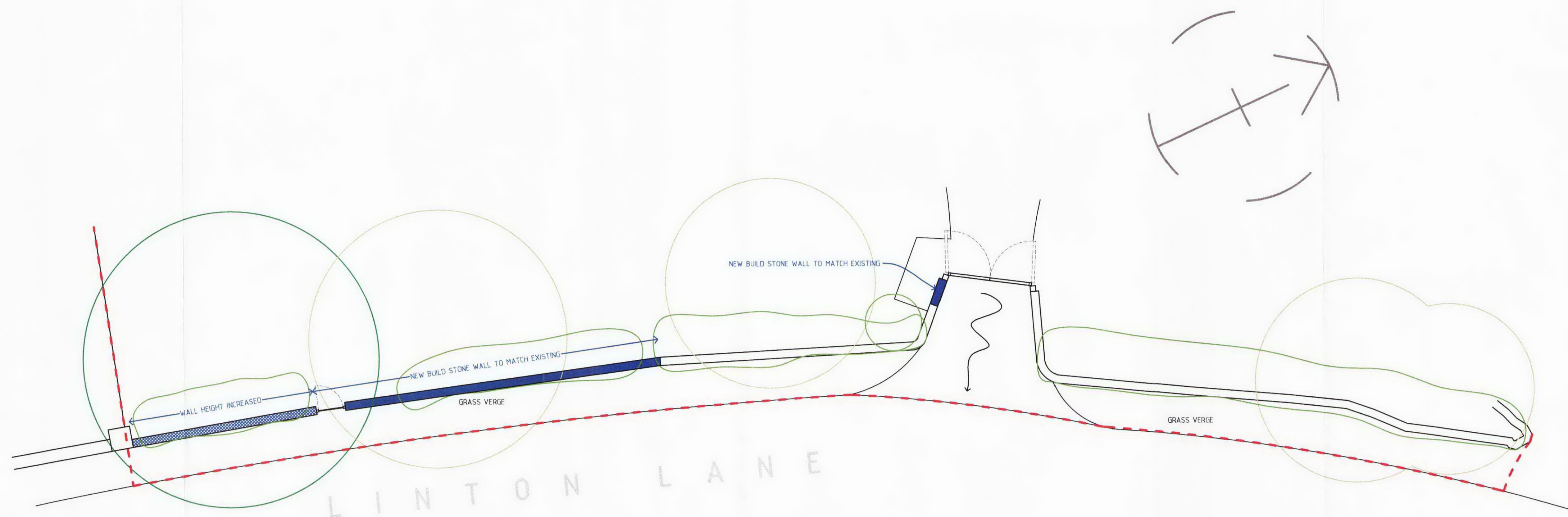
10.0 CONCLUSION

- 10.1 It is considered that enforcing the condition would be contrary to advice set out in circular 11/95 and as such it would not be expedient to pursue enforcement action.

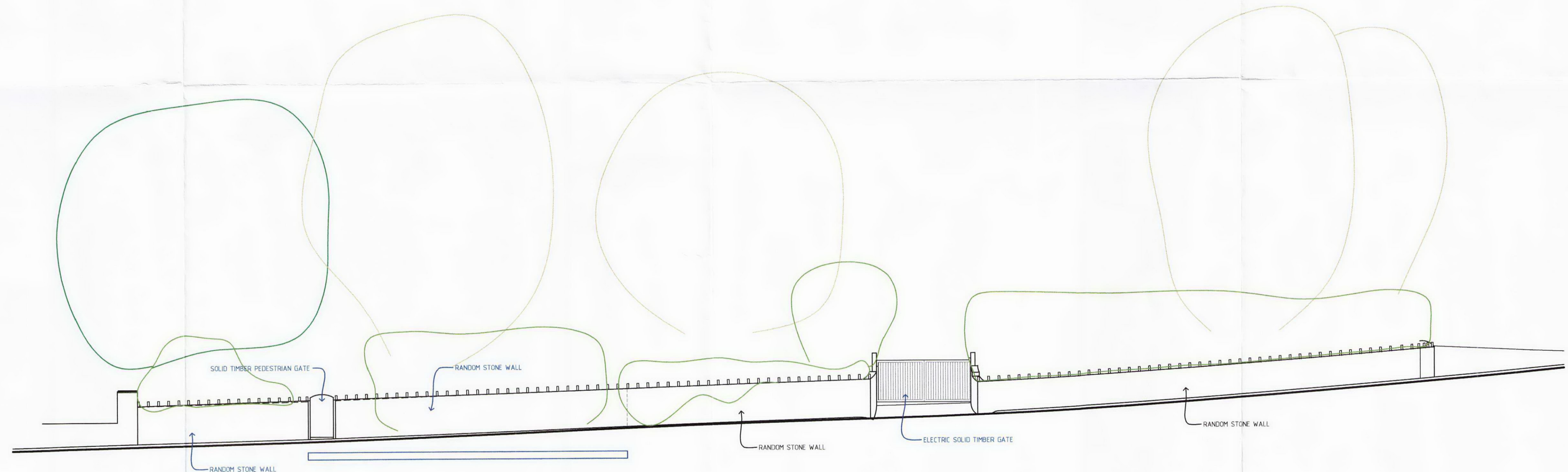
Background Papers:

Application files 13/03029/FU
Certificate of ownership: Certificate A signed by applicant

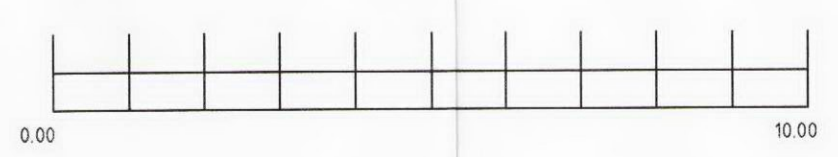
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19 SEP 2013
REVISED



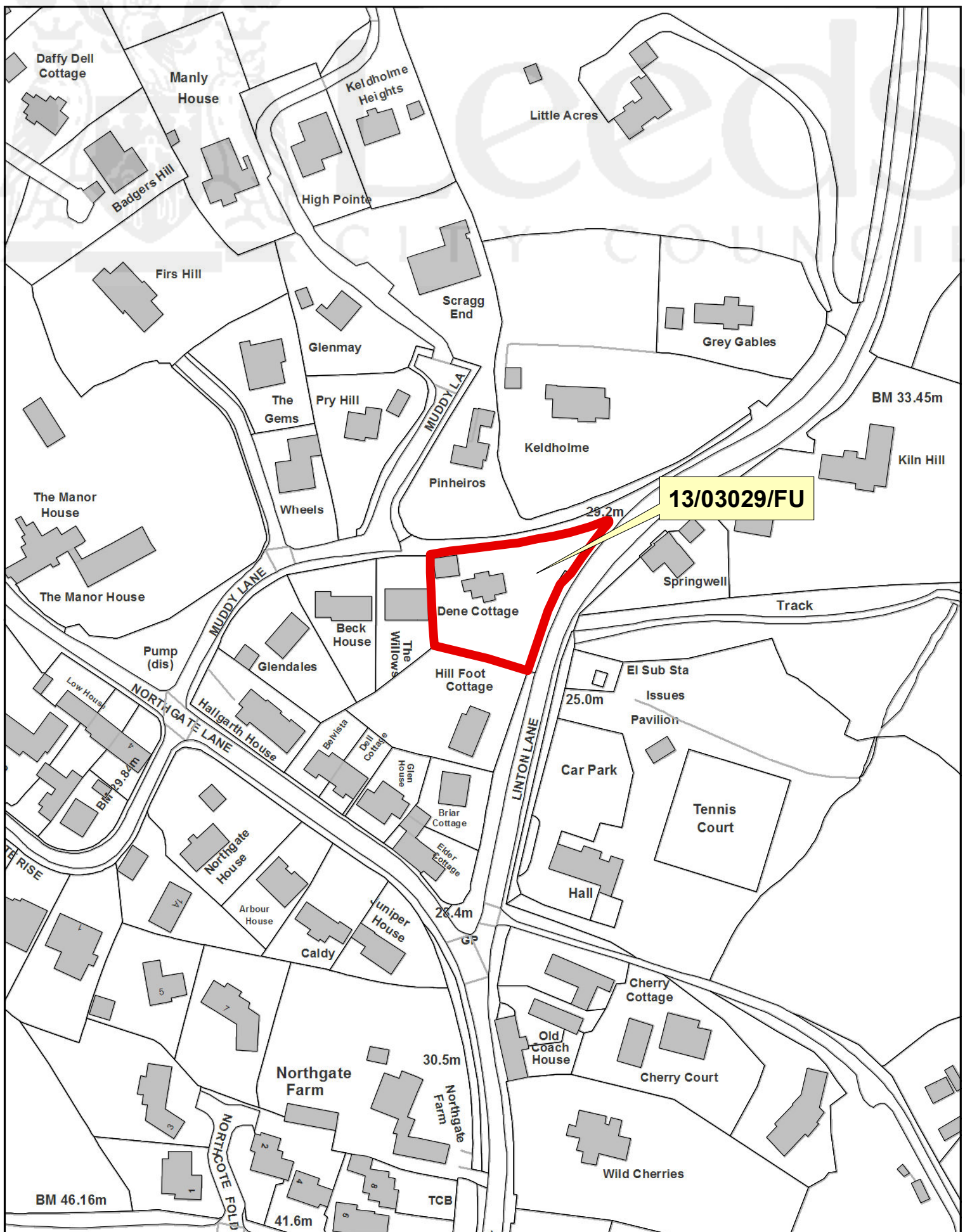
PLAN



BOUNDARY ELEVATION - LINTON LANE



NOTES.
TREES HAVE NOT BEEN SURVEYED. SIZE AND SHAPE APPROXIMATE.



NORTH AND EAST PLANS PANEL

