



## Report of the Chief Planning Officer

### PLANS PANEL NORTH & EAST

Date: 20<sup>th</sup> February 2014

### Subject: ENFORCEMENT APPEAL SUMMARY

Enforcement case 13/00293/NCP3 – Appeal by Mr Shabir Ahmed against an enforcement notice which required the dismantling of the development as built and its reconstruction in accordance with the plans and elevation drawings to planning permission 12/01887/FU at 41A Stainburn Crescent, Moor Allerton, LS17 6NE

The appeal was allowed

#### Electoral Wards Affected:

Moortown

Yes

Ward Members consulted  
(referred to in report)

#### Specific Implications For:

Equality and Diversity

Community Cohesion

Narrowing the Gap

#### RECOMMENDATION:

Members are asked to note the following appeal decision.

#### 1.0 BACKGROUND

- 1.1 The appeal relates to an enforcement notice issued after planning permission was refused for amendments to an approved planning application (12/01887/FU) for a part two storey, part single storey side and rear extension at 41A Stainburn Crescent, Moor Allerton, LS17 6NE for the following reason;

The Local Planning Authority consider that the cumulative impact of the existing extension (dormer window) and the proposed two storey/single storey side/rear extension results in a form of development which fails to respect the scale and design of the existing dwelling and which is therefore harmful to the character of the wider residential area. As such the application is contrary to policies GP5 and BD6 of the Unitary Development Plan Review (2006), policy HDG1 of the Householder Design Guide as well as advice contained within the National Planning Policy Framework.

- 1.2 The application sought to make small changes to the approved scheme. The width of the single storey side extension was narrowed to correct an earlier error on the approved drawings regarding the width of the driveway, access into a lower basement area was included to the rear and alterations were made to the access from the rear of the property into the garden at ground floor level. A single storey rear extension at the lower ground floor level was also shown on the plan.
- 1.3 Development had commenced on site, although works had ceased before the panel meeting and have subsequently been held in abeyance. Officers considered that the changes which were sought were not harmful and recommended approving the application. Members resolved not to accept the officer recommendation and the application was refused for the reason outlined above.

## **2.0 ISSUES IDENTIFIED BY THE INSPECTOR**

- 2.1 The Inspector considered the appeal under ground A (that planning permission should be granted for the changes). The inspector quashed the enforcement notice and granted planning permission for the development already carried out. The Inspector identified the main issues to be whether the existing structures, if completed, would:
- cause greater harm to the character of the dwelling than the approved application;
  - cause greater harm to neighbour amenity than the approved application.

## **3.0 SUMMARY OF COMMENTS BY THE INSPECTOR**

- 3.1 The Inspector considered that the differences between the approved planning application (12/01887/FU) and the partially built structures were not harmful. The changes to the width of the application were inconsequential and had no effect on the appearance of the building nor the living conditions of neighbours. The alterations to the access from the rear of the property into the garden at ground floor level had no significant visual impact and did not adversely affect the living conditions of neighbours and indeed may have slightly reduced the amount of overlooking. The Inspector considered the additional access at the lower ground floor level to be of no consequence. The single storey rear extension to the lower ground floor was considered permitted development and formed no part of the enforcement notice nor the Inspector's Decision. The Inspector also drew attention to the fact that the Council had failed to provide justification for the harm identified in the enforcement notice.
- 3.2 As the structures are partially built the Inspector imposed a condition to ensure that the extension is not brought into use until details of the proposed roof materials, the design and materials of the windows and external doors and the means of access from the rear ground floor into the garden has been submitted to and approved in writing by the council and the development completed in accordance with the approved details.

## **4.0 IMPLICATIONS**

- 4.1 In assessing the appeal the Inspector judged the impact of the partially built extension against the planning application granted in 2012. The Inspector found the changes to be inconsequential and considered that the Council had not justified the harm identified in the enforcement notice. In assessing only the changes between the as built extension and the approved planning application the Inspector made it

clear that the extension could not be assessed from first principles. Essentially disquiet regarding a previous grant of planning permission cannot form a reason for refusal when amendments are sought to an approved scheme. The amended scheme can only be refused if the changes themselves would be materially harmful. This material harm must be identified, quantified and assessed against policy. Members' attention is drawn to the fact that Inspectors can now grant an award of costs in circumstances where an authority has behaved unreasonably even if the appellant does not actively seek a costs claim. Failure to identify harm and justify a reason for refusal is unreasonable behaviour. The Inspector did not award costs in this instance.

**Background Papers**

13/00293/NCP3

13/00565/FU

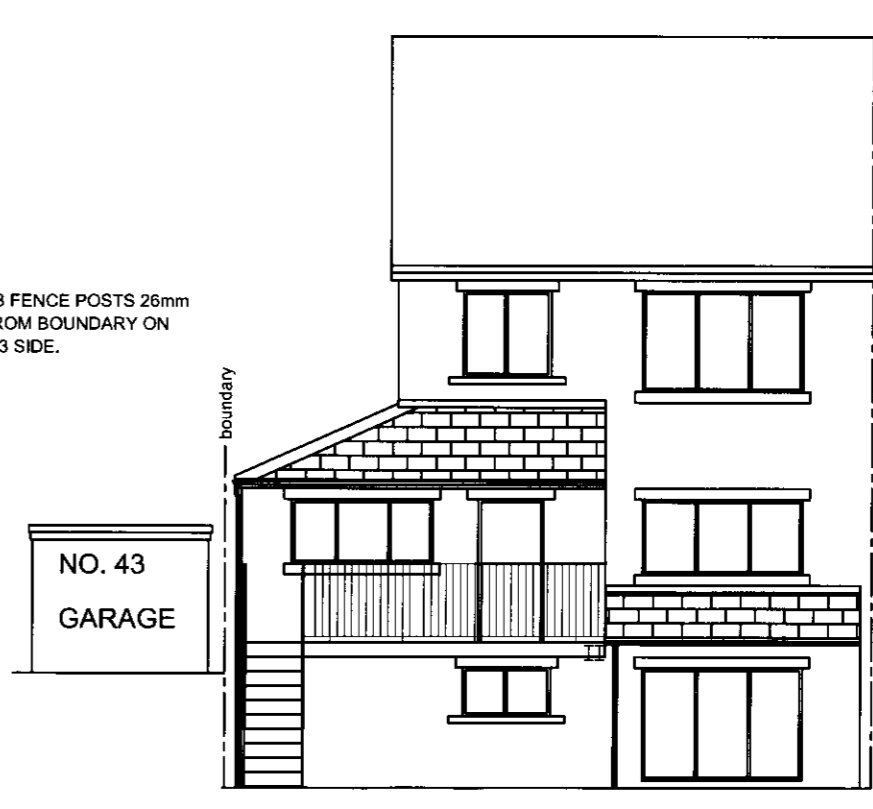
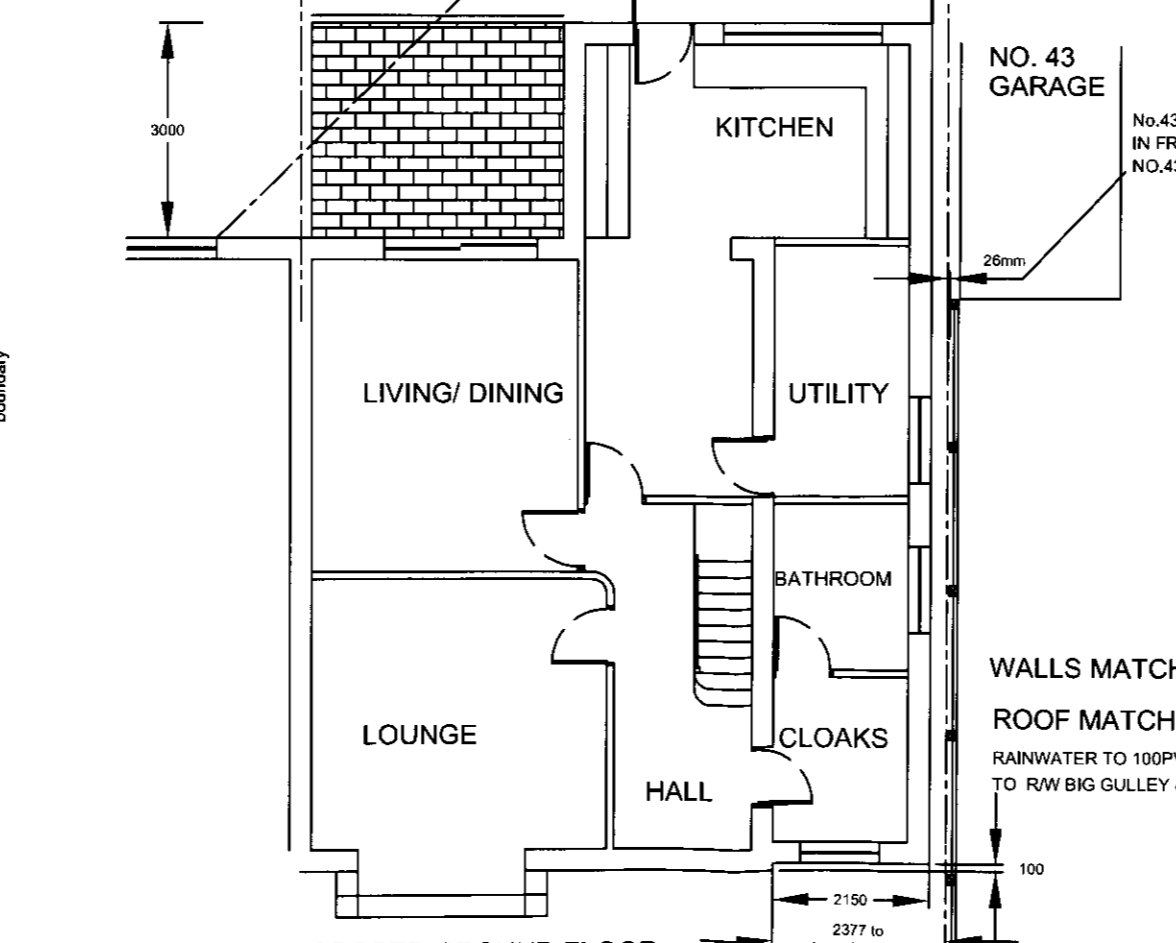
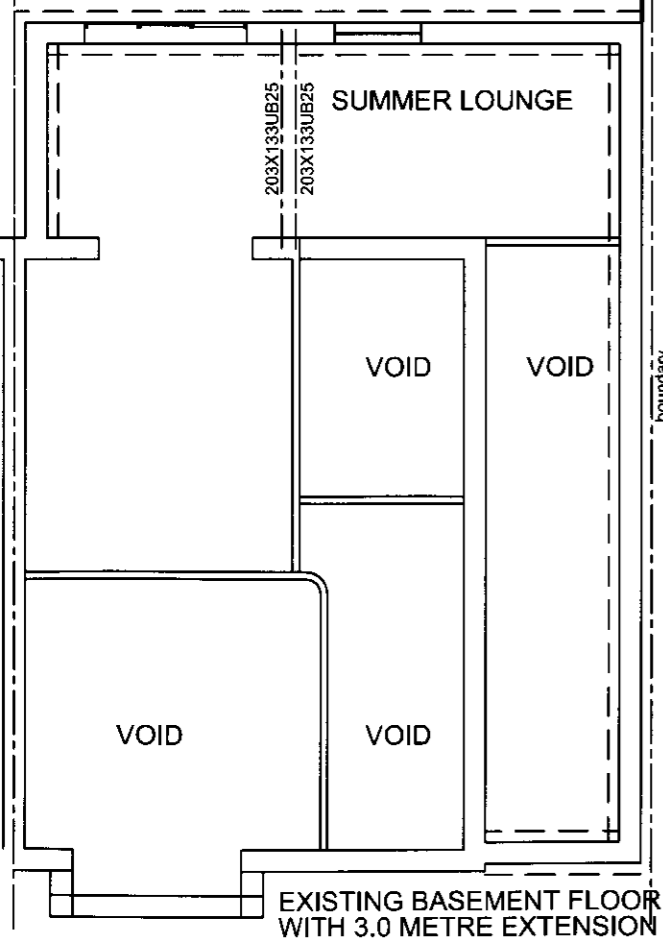
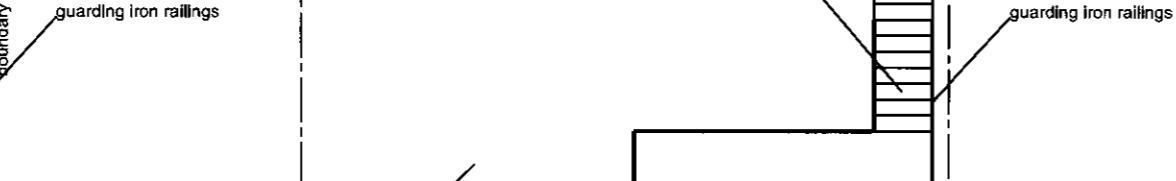
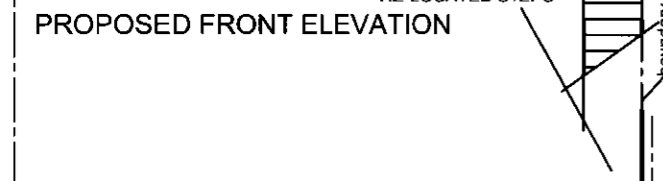
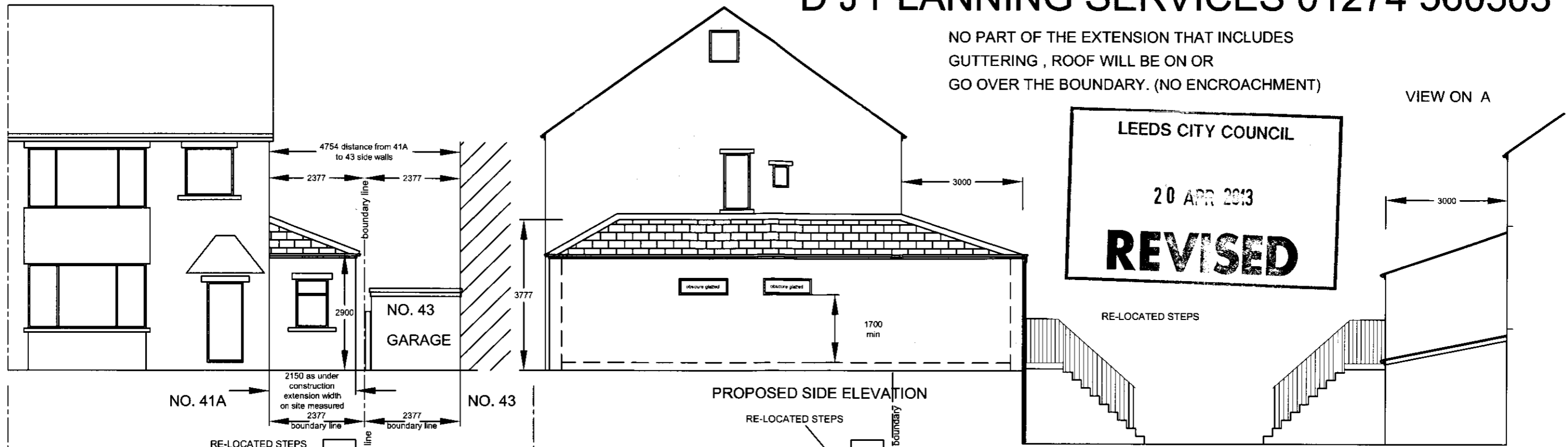
Inspector's Decision Letter

# D J PLANNING SERVICES 01274 560503

NO PART OF THE EXTENSION THAT INCLUDES GUTTERING, ROOF WILL BE ON OR GO OVER THE BOUNDARY. (NO ENCROACHMENT)

VIEW ON A

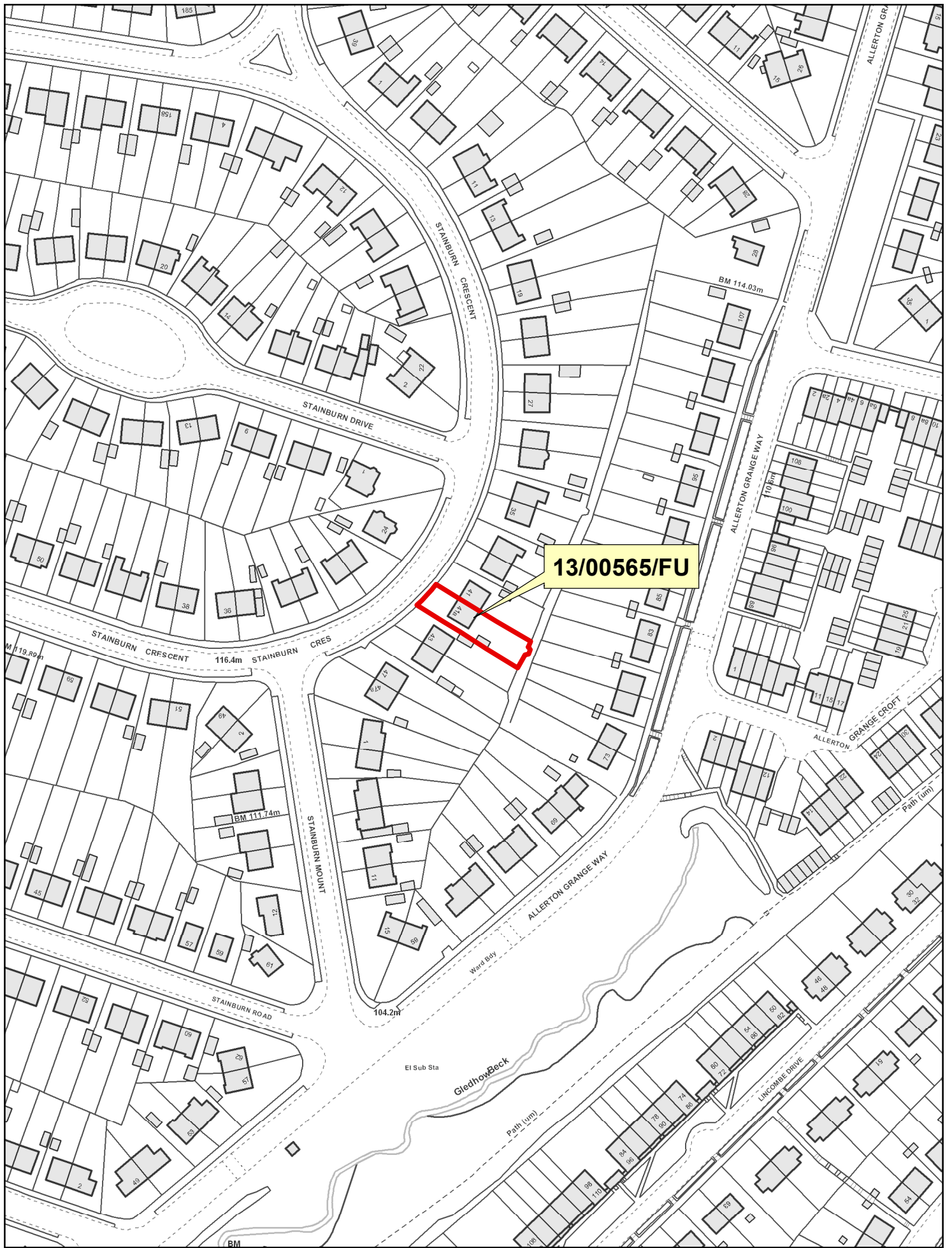
LEEDS CITY COUNCIL  
20 APR 2013  
**REVISED**



WALLS MATCHING BRICK  
ROOF MATCHING TILES  
RAINWATER TO 100PVC GUTTER & 75 D PIPE TO R/W BIG GULLEY & ON SITE R/W DRAIN.

SCALE 1:100

**PROPOSED EXTENSION TO REAR AT BASEMENT LEVEL & RE-LOCATED ACCESS TO REAR GARDEN 41 A STAINBURN CRESCENT**  
LEED LS17 6NE  
MR S YOUSAF



13/00565/FU

# NORTH AND EAST PLANS PANEL

