



Report of the Chief Planning Officer

PLANS PANEL NORTH & EAST

Date: 27th March 2014

Subject: Planning Application 12/03841/FU – APPEAL by Mr Robert Marshall against the decision of Leeds City Council to refuse planning permission for a detached dwelling to side garden plot at 7 Brookside, Leeds, LS17 8TD

The appeal was dismissed.

Electoral Wards Affected:

Alwoodley

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 This application sought planning permission for detached part single storey (with accommodation in the roof) part two storey dwelling to the side garden of 7 Brookside. The application was reported to the Plans Panel of 29th November 2012 and a Members site visit was undertaken on that morning. The application was recommended for refusal for reasons relating to that the design and scale of the dwelling and the loss of the mature landscaped garden and this would cause harm to the character of the area. The applicant and an objector both addressed the Panel. The Panel agreed the recommendation and planning permission was refused.

2.0 ISSUES IDENTIFIED BY THE INSPECTOR

2.1 The Inspector identified the main issue to be the effect of the proposed development on the character and appearance of the area.

3.0 SUMMARY OF COMMENTS BY THE INSPECTOR

- 3.1 The Inspector noted that Brookside is characterised by relatively large houses on substantial garden plots. This with the presence of mature trees affords the area a green and spacious character. The Inspector considered that the appeal site that comprised a mature garden with trees and hedgerows and made a significant contribution to the to the attractive qualities of the area (paragraphs 8-9).
- 3.2 The Inspector noted that the proposed dwelling would replace much of the side garden and that its principal elevation would face the side of No.7, rather than towards the street. He concluded that the "...dwelling would appear awkward, contrived and out of keeping with neighbouring properties" (paragraph 10).
- 3.3 The Inspector set out that as the proposed dwelling would extend close to each of its side boundaries and fill most of the plot it would appear cramped and constrained (paragraph 11). He also considered that the loss of the garden would be to the detriment of the area's green and spacious qualities (paragraph 12).
- 3.4 The Inspector concluded that the proposal would be contrary to the National Planning Policy Framework, Neighbourhoods for Living and policies N12 and N13 of the UDP. The appeal was dismissed.
- 3.5 Under the heading "procedural matters" the Inspector referred to comments made in the appellant's appeal statement concerning the outcome of a previous planning application at the site. The appellant had set out that a 2008 planning application for a similar form of development was recommended for permission by officers but Panel resolved that permission should be refused. The appellant stated that at that Panel meeting "Members and the Chair agreed redevelopment of the site was acceptable..." and that the Panel asked officers to "...carry on negotiations...". The appellant progressed to allege that there has been "...incompetent reporting ...or...deliberate concealment of what was discussed and that there has been "...professional negligence...". The Inspector in dealing with these points simply noted that he was mindful that the Council refused this previous application and did not defer it subject to further negotiations and ultimately this is a matter between the Council and the appellant. The Inspector further noted that the Council had previously refused permission for similar forms of development at the appeal site in 2007, 2008 and 2010 and that an application was withdrawn in 2009 (paragraphs 3 – 6 of the appeal decision).

4.0 IMPLICATIONS

- 4.1 The Inspector clearly considered that the merits of the appeal proposal were clear cut and did not criticise the Council's evaluation of its planning merits or the processing of the application. It is interesting that the Inspector chose to set out in some detail the appellant's criticisms of the Council and its processing of the 2008 planning application. In light of that it is appropriate to comment further on this point and to provide Members with further information relating to the appellant's allegations and the consideration of the 2008 application. The appellant in his (prepared and submitted on his behalf by his agent) appeal statement set out:

"3.2 However, as I have already noted in para. 1.2 above, a crucial part of the appellant's case refers to a previous application (LPA ref. 08/00459) in 2008 for a two storey house, located closer to the boundary to the adjoining house, no.3 Brookside. Whilst this application is noted in the LPA's site history no mention has since been made of how this was considered at the relevant Plans Panel in May 2008 nor of the detailed instructions arising from the Panel chair. In fact, I would go

so far as to say that there has either been incompetent reporting of this particular part of the site's history or there has been a deliberate concealment of what was discussed and decided at that time because it has such a clear bearing on events since.

3.4...Specific attention is drawn to pages 103-108 of the Panel agenda. At that point, the SoS will see the description of the proposals at 7 Brookside as 'detached dwelling plot to side garden plot'. Detailed note should also be made of the officer's analysis of the then proposals in the context of the statutory development plan, the UDP Review 2006, the policies quoted from the UDPR, and the officer recommendation for approval subject to conditions. Finally, the case officer's name is quoted on the report. This was the same case officer who dealt with subsequent applications on this site, together with the same area managers.

3.5 The outcome of the Panel's consideration of the 08/00459 application was that members and chair agreed that redevelopment of the site was acceptable but asked officers to carry on negotiations with Mr Marshall on the following basis:

*1. To try to reduce the height of the two storey house, preferably by one storey
2 and to try to move any resulting building away from the boundary of no 3 Brookside, the property of the principal objector.”*

4.2 The appellant's statement progresses to say that the agent was in attendance at the May 2008 Panel and can recall the Panel discussion. Subsequently it was plain that officers were looking to refuse any proposals for development on this land and that this was directly contrary to what the Panel had said in public session. The appellant then states that officers must have received instructions to do so outside of the public purview and behind closed doors and the only people this instruction could have come from was from the same Panel who had instructed them to negotiate a revised scheme (paragraphs 3.6 – 3.8 of the appellant's statement).

4.3 The relevant Panel minute says:

“297 Application 08/00459/FU - Detached dwelling house to side garden plot - land adjacent to 7 Brookside LS17

Plans and photographs were displayed at the meeting. The Panel had visited the site earlier in the day Officers presented the report which sought permission for a detached dwelling on garden land adjacent to 7 Brookside LS17 Members were informed that the Council's Landscape Officer had been consulted as the proposals would result in the removal of a willow and a beech tree, with his view being that the trees were not of sufficient quality to justify their protection. Members were informed that replacement tree planting was included within the proposals

The Panel heard representations on behalf of an objector who attended the meeting Members commented on the following matters:

the siting of the garage and concerns that this was too close to the hedge the scale of the proposals in relation to the amount of land available that the hedge should be protected Members considered how to proceed

RESOLVED - That the Officer's recommendation to approve the application be not agreed and that the Chief Planning Officer be requested to submit a further report to the next meeting setting out the reasons for refusal of the application based upon the Panel's concerns in respect of scale and adverse impact on the character of the area”

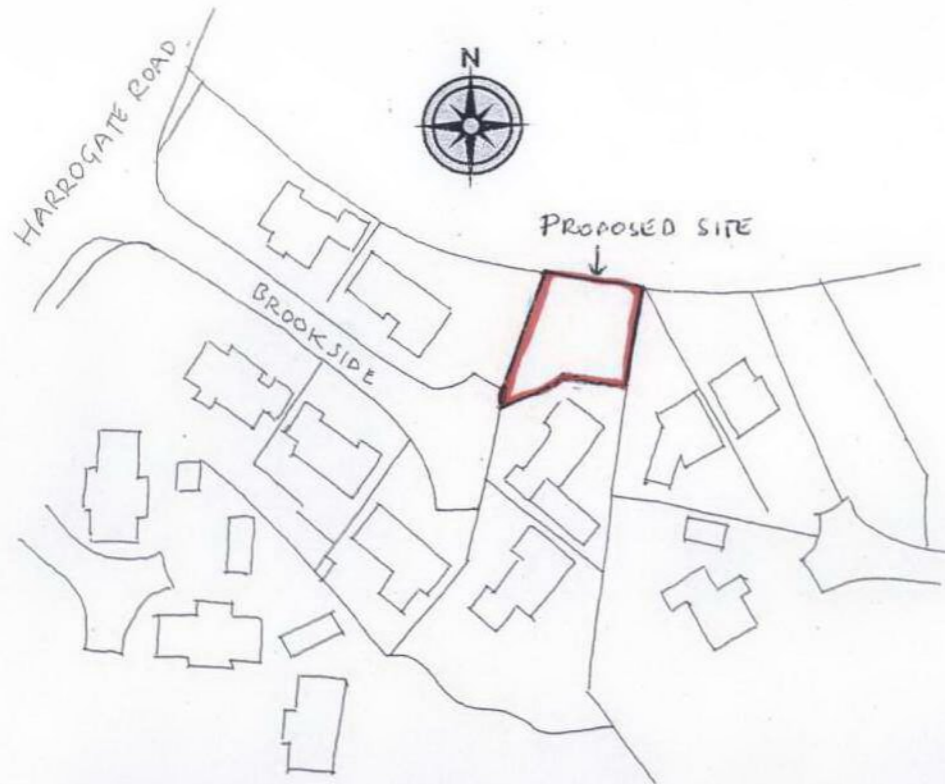
4.3 It is clear that the appellant's recollection of the processing of the 2008 application is contradicted by the agreed minute of the May 2008 Panel meeting. In light of that fact the appellant's comments are without substance and were clearly misplaced. In any event these matters had little relevance to the consideration of the planning merits of the case and consequentially little or no bearing on the determination of the appeal. If the appellant had such serious concerns about the conduct of the Council those matters should have been addressed at that time.

Background Papers

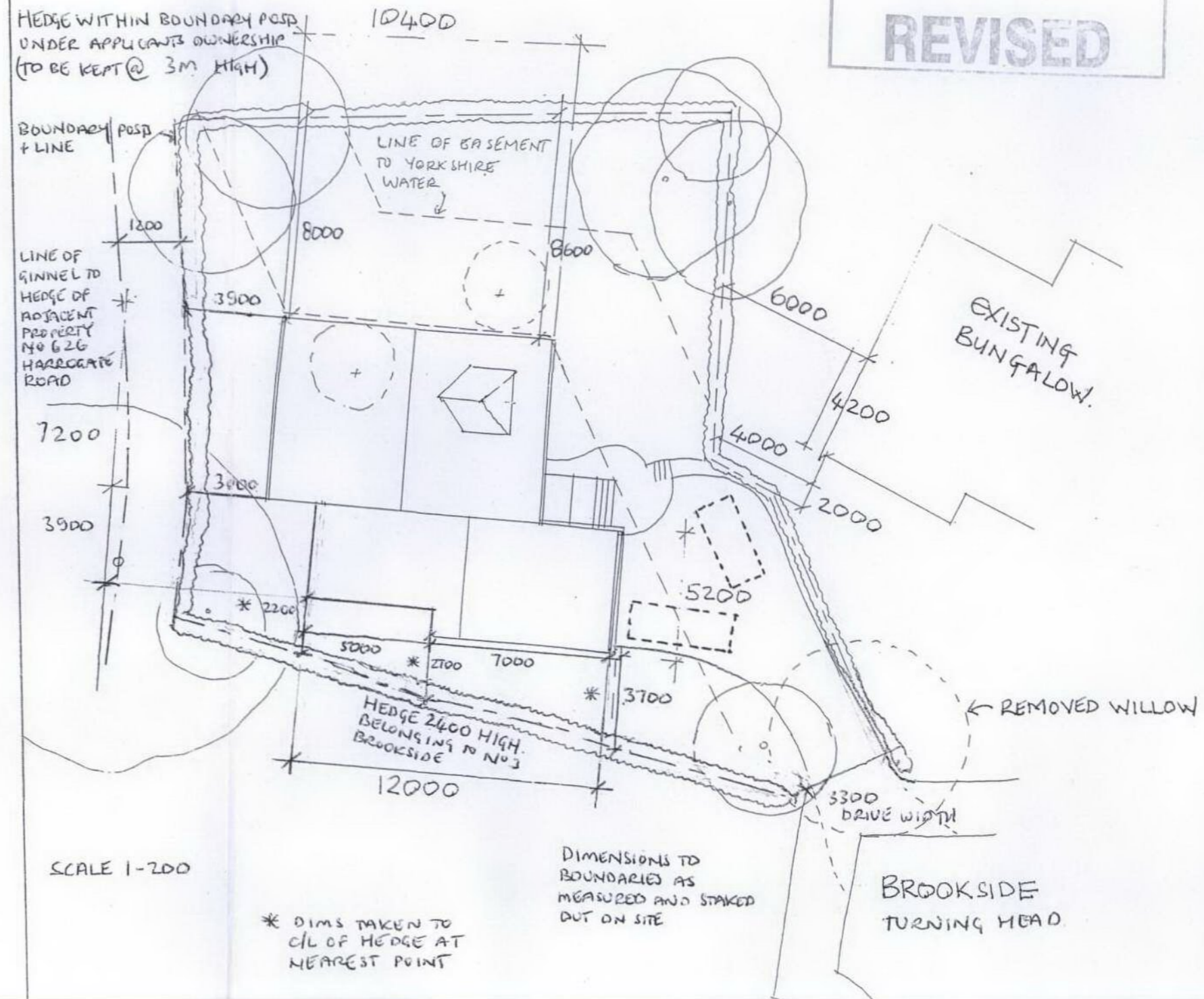
Planning Application File

Inspector's Decision Letter

LEEDS CITY COUNCIL
 - 5 NOV 2012
REVISED



Site location 1:1250



SCALE 1-200

DIMENSIONS TO BOUNDARIES AS MEASURED AND STAKED OUT ON SITE

* DIMS TAKEN TO C/L OF HEDGE AT NEAREST POINT

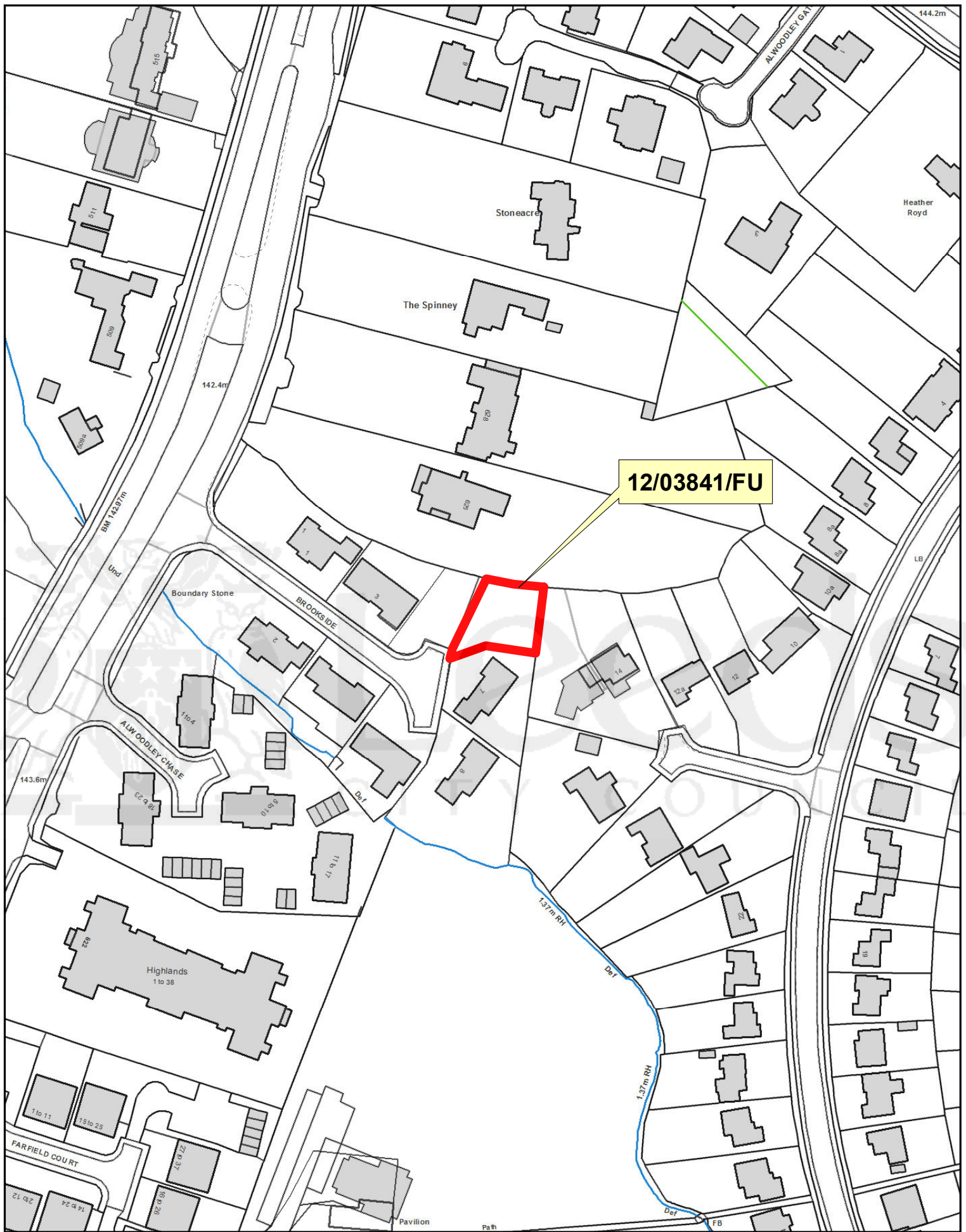
REV B-14-10-12 UTIL/STORY MOVE IN FROM BOUNDARY TO PLOT 3
 DEWE WIDTH INCREASED TO 3.3m
 REVC - 27-10-12 DIMENSIONS AMENDED TO ACTUAL ON SITE MEASUREMENTS - DETAILS ADDED

Pritchard Associates
 12 Carr Manor View
 Leeds LS17 5AQ

NOTES:

All dimensions must be checked on site and not scaled from this drawing

Client Mr Robert Marshall	Scale 1-200	Drawing Title Location and layout	
Job Title Land adjacent 7 Brookside Leeds	Drawn by hsp	Org No. 8.11.1.1	Rev A/Bc
	Date 8.2011		



NORTH AND EAST PLANS PANEL

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SCALE : 1/1500

