



Report of the Chief Planning Officer

NORTH AND EAST PLANS PANEL

Date: 27th November 2014

Subject: 14/00457/FU – Demolition of existing cottage and erection of new dwelling with detached garage, The Old Forge Cottage, Leeds, LS17 9JU

APPLICANT	DATE VALID	TARGET DATE
Mr and Mrs S Reynolds	27 th August 2014	22 nd October 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: DEFER and DELEGATE approval to Chief Planning Officer subject to the conditions specified and subject to the completion of a Section 106 agreement to secure the following:

- Undertake not to construct any additional extensions, roof alterations or outbuildings.

In the circumstances where the Section 106 has not been completed within 3 months of the resolution to grant planning permission the final determination of the application shall be delegated to the Chief Planning Officer.

1. Time limit on full permission;
2. Development carried out in accordance with approved plans
3. Materials to match (stone and stone slate roof);
4. Details of windows;
5. Landscape scheme including replacement planting and boundary treatments;
6. No insertion of additional windows;
7. Laying out of parking area;
8. Archaeological recording and watching brief;
9. PD restriction – extensions, roof alterations, outbuildings, fences and walls.

1.0 INTRODUCTION

- 1.1 This application seeks permission for a replacement dwelling within the Green Belt
- 1.2 The application is brought to Panel as it is a departure from the development plan. The application is inappropriate development within the Green Belt, however officers consider that there are very special circumstances which outweigh this harm. These very special circumstances are outlined in the report below.

2.0 PROPOSAL:

- 2.1 The applicant seeks permission to construct a replacement dwelling in the Green Belt. This essentially rebuilds the existing dwelling in a marginally revised location and adds a two storey rear extension, a single storey side extension and a detached garage.
- 2.2 The replacement dwelling will be approximately 10.4m in length, 4.8m in width and its eaves and ridge will be 4.3m and 5.7m. The side extension will be approximately 3.3m in width and the two storey rear extension will be 4.2m in depth.

3.0 SITE AND SURROUNDINGS:

- 3.1 The application relates to a partially derelict two storey cottage which is located within Wike, a small residential hamlet which is washed over by the Green Belt. The dwelling is constructed from locally sourced sandstone and has a gabled, stone slate roof. The property is typical of an agrarian vernacular style and has a simple shape and form. It has a central front door with windows to either side and chimneys on each gable which results in a balanced appearance. The property has been extended to the rear with a lean-to addition and also with a dormer window to gain head-height above.
- 3.2 It is set just off Forge Lane and residential properties lie to front and both sides. The property has a large rear garden which includes a stone built, historic barn. This has consent to be converted into a dwelling, and then the wider plot will be subdivided between the two houses. An application is currently being considered which marginally alters the boundary between the two houses.

4.0 RELEVANT PLANNING HISTORY:

- | | | |
|-----|--------------|--|
| 4.1 | 13/01312/FU | Change of use and extension of existing barn to form one dwelling with attached garage
Approved |
| | 14/05113/CLP | Certificate of lawful development for two storey rear extension, single storey rear extension, porch to front and detached garage to side
Approved |
| | 14/06093/FU | Variation of condition 2 of previous approval 14/01312/FU to amend the boundary
Pending Consideration |

5.0 HISTORY OF NEGOTIATIONS:

5.1 The applicant has undertaken extensive pre-application discussions with officers and continued to engage throughout the application process to resolve concerns regarding the impact upon the Green Belt and the character and appearance of the replacement dwelling.

6.0 PUBLIC/LOCAL RESPONSE:

6.1 The application has been advertised by neighbour notification letters sent on 1st September, by a site notice posted on 12th September and in the Yorkshire Evening Post.

6.2 Objection letters have been received from five properties and support letters from 6 properties, including two from outside the immediate area.

6.3 The concerns of objectors centre around the size and scale of the proposed replacement dwelling, in particular its height, and the impact upon the character and appearance of the village. Concern is also expressed about whether the application complies with the policies relating to house extensions and replacement dwellings. Access is also raised as a concern.

6.4 The support letters draw attention to the derelict nature of the cottage and the positive impact a replacement dwelling would have upon the character and appearance of the wider area. Support is also offered for the scale of the proposed development.

6.5 Harewood Parish Council do not object to the scheme.

7.0 CONSULTATIONS RESPONSES:

7.1 WYAS Note that the site lies within a known area of archaeological potential and request that conditions relating to building recoding and a watching brief are imposed.

Highways No objection subject to the laying out of parking areas

Drainage No objection

PROW No objection

Contaminated Land No objection

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 Core Strategy, saved policies within the Leeds Unitary Development Plan (Review 2006) and the Natural Resources and Waste Development Plan Document (2013).

Local Planning Policy

8.2 The Core Strategy is the development plan for the whole of the Leeds district. The following core strategy policies are relevant:

P10 Seeks to ensure that new development is well designed and respect its context.

T2 Seeks to ensure that new development does not harm highway safety.

The following saved UDP policies are also relevant:

GP5: Seeks to ensure that development proposals resolve detailed planning considerations, including amenity.

BD5: Seeks to ensure new development protects amenity.

N33: Seeks to restrict inappropriate development in the Green Belt.

National Planning Policy

8.3 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.

8.4 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.

8.5 Paragraph 89 of the NPPF is relevant to the consideration of this application.

9.0 MAIN ISSUES

- 1) Green Belt
- 2) Design and Character
- 3) Neighbour Amenity
- 4) Highway Safety

10.0 APPRAISAL

Green Belt

10.1 The property is located within the Green Belt. As outlined within the National Planning Policy Framework (NPPF) the essential characteristics of Green Belt are their openness and their permanence. Policy N33 of the UDP and paragraph 89 of the NPPF state that the construction of new buildings within the Green Belt is inappropriate. Inappropriate development is harmful to the Green belt and substantial weight should be given to this harm. Inappropriate development should not be approved except in very special circumstances.

10.2 Both local and national policy contain a list of exceptions whereby development might be considered not inappropriate; this is policy N33 of the UDP and paragraph 89 of the NPPF. Policy N33 allows for the replacement of a dwelling and the NPPF

allows for the replacement of a building provided the new building is in the same use and is not materially larger than the one it replaces. The UDP does not include caveat “not materially larger” however as The NPPF is a more recent policy and the development plan should be considered ‘out of date’ in this respect and thus the wording of national policy carries significant weight in this instance and supersedes the more general UDP wording.

- 10.3 The replacement dwelling which is proposed is larger than the existing house. The detailed volume calculations provided by the applicant indicate that it will be approximately 80% larger. The application is therefore inappropriate development, which is by definition harmful, and the NPPF notes that substantial weight should be given to this harm. The application therefore cannot be approved unless there are very special circumstances which outweigh this harm.
- 10.4 Before moving on to outline what these very special circumstances, it is useful to summarise the authority’s current position in relation to replacement dwellings in the Green Belt, and also offer some commentary on the notion of a ‘permitted development (PD) fall-back’. Historically the authority has allowed replacement dwellings which are larger than the existing house. This approach was predicated upon the fact that dwellings can be extended within the Green Belt through both the planning process and the permitted development regulations. Where the authority has allowed enlarged replacement dwellings permitted development rights have been removed. However, in many cases applicants have sought to further enlarge the houses through the planning process. Whilst officers have resisted these extensions and looked to the planning history as justification, the Planning Inspectorate have allowed many appeals. All have considered that the replacement dwelling marks a new chapter, and that the planning history of a different building is not relevant. Inspectors have then assessed the proposals against the existing building and in the majority of cases found them to be compliant with policy and allowed the appeals.
- 10.5 As a consequence the authority is no longer able to allow enlarged replacement dwellings to be constructed, as it is difficult to restrict their further enlargement. There have been a number of pre-application discussions and planning applications in recent months in which applicants have sought to use the generous permitted development rights within the Green Belt as justification for a substantially enlarged dwelling, however these have generally either not progressed to application stage, or have been refused.
- 10.6 However, the fact remains that dwellings within the Green Belt do have very generous permitted development rights. Extensions can be constructed to the rear, both sides, and sometimes also to the front. It is also possible to cover half the curtilage of the property in outbuildings such as swimming pools, garages, garden rooms etc. Whilst having regard to the specific circumstances of the case the authority will generally continue to resist arguments which propose an enlarged dwelling based upon a PD fall-back position which seeks to ‘max-out’ the PD rights, or where the ‘fall-back’ has no realistic chance of being built.
- 10.7 Yet there are circumstances in which the PD fall-back can be given weight and in which the authority would be unreasonable to dismiss or ignore these rights, for instance where a PD proposal is relatively modest and has a reasonable chance of being constructed. It will always be a matter of judgement as to whether a proposal has a reasonable chance of being constructed, however where the fall-back is very similar to the proposed development and is not excessive, officers are minded to give the fall-back position some weight.

- 10.8 As noted above the application is considered to be inappropriate development, however there are very special circumstances which outweigh the harm through inappropriateness. The very special circumstances largely rely upon the presence of a modest PD fall-back which closely resembles the replacement dwelling and which has a reasonable chance of being constructed. This PD fall-back position has been secured through the grant of a lawful development certificate (this is a quasi-legal determination that simply establishes whether a particular proposal can be erected lawfully as permitted development without need to refer to the local planning authority for planning permission) and allows a 3.0m deep two storey rear extension, a single storey side extension, a porch to the front and a single garage. This is considered to be a reasonable and modest proposal, and is indeed similar to many applications across the Leeds district. The applicant is not seeking to 'max-out' the PD position, for instance by proposing a triple garage, or by including large outbuildings within the rear garden, but is simply proposing to extend the dwelling to create a relatively modest family house. As such this PD fall back can be given some weight, and would not set a precedent for future replacement dwellings which sought to create large houses based upon unreasonable or unrealistic PD fall-backs.
- 10.9 The application currently under consideration essentially re-builds the existing cottage in a slightly different location, adds a two storey rear extension, a single storey side extension and a detached single garage. The proposed rebuilt house would have a volume of approximately 651m³ and the PD house a volume of 653m³. The new dwelling will be slightly wider than the current house (1.0m) but will be 1.0m shallower than the PD house; the eaves line will be marginally higher, but its chimneys lowers; the side extension will be marginally narrower and the porch marginally shallower. As such the replacement dwelling would not be materially larger than the PD fall back position.
- 10.10 The removal of PD rights would ensure that no further extensions or outbuildings were constructed and the right to construct fences and walls would also be removed to ensure that suburban style boundary treatments are not erected at a later date. In order to guard against future extensions through the planning process the applicant has agreed to enter into an S106 agreement which commits to no further development on the site. The combination of the S106 and the removal of PD rights means that the authority has taken all possible steps to ensure that the house will not be enlarged in the future.
- 10.11 There are also benefits to the appearance of the dwelling through the rebuild route. The rear extension would be a dual hip, which lessen the mass of the roof and allows the extension to appear more subordinate. The side extension also has a revised roof design which lessens its visual mass and reduces its bulk and scale.
- 10.12 Overall it is therefore considered that there are very special circumstances which outweigh the harm through inappropriateness. The proposed replacement dwelling is similar to the PD fall-back position and is materially the same size, scale and volume. This PD position has a reasonable chance of being constructed and thus weight can be attached. The replacement dwelling would be better designed than the PD dwelling, and would allow the authority to restrict any further development on the site through a combination of conditions and a unilateral undertaking. As such the application is considered to comply with national and local planning policy to control development in the Green Belt.

Design and Character

- 10.13 The National Planning Policy Framework states that “good design is indivisible from good planning” and authorities are encouraged to refuse “development of poor design”, and that which “fails to take the opportunities available for the improving the character and quality of an area and the way it functions, should not be accepted”. Core Strategy policy P10 and saved UDP policy GP5 seek to ensure that development is of high quality avoid loss of amenity.
- 10.14 Concern has been raised by local residents regarding the design of the proposed replacement dwelling and the possibility that it represents the overdevelopment of the site. When the application was first submitted the design of the house was considered harmful. It was materially larger than the PD fall-back position, was relatively wide, included a two storey side extension, an integral garage and a one and a half storey element to the rear. Officer, like neighbours, were concerned that this was an overly suburban intrusion into a rural area.
- 10.15 The scale of the dwelling has subsequently been reduced, suburban features such as the integral garage removed and the overall height of the house lowered so that it is no higher than the existing dwelling. The application now retains the scale, form and character of the existing cottage, and the increase in size is created by the addition of ‘extensions’. This then means although the new house will be constructed on one operation, when built it will resemble an extended cottage, and will sit appropriately alongside the other extended houses within Wike village. Its size, scale and form are appropriate to the rural character of the area and it will harmonise well with its surroundings. The use of natural stone for the walls and stone slate for the roof will ensure that it remains in-keeping with the other houses in the village; details of the windows will also be reserved be condition. As such, on balance, the application is considered to comply with the relevant policies.

Residential Amenity

- 10.16 Saved policy GP5 notes that extensions should protect amenity policy BD6 notes that “all new buildings should be designed with consideration given to both their own amenity and that of their surroundings”. The proposal raises no significant concern in this respect.
- 10.17 Although neighbouring dwellings lie to all sides of the proposed house, these are set a sufficient distance to prevent any harm to future occupants though unreasonable overdominance, overshadowing or overlooking. The proposed accommodation and garden space would also provide an acceptable level of amenity for future occupants.
- 10.18 The new dwelling would also not harm near neighbours. The new house would result in additional mass close to the common boundary with Prospect View to the east, however it is set some distance from the main windows and garden area of this property and its impact would be absorbed by the garages and parking area. The extended house would also be positioned slightly closer to Smithy Cottage to the south and is set at a higher level, however the only substantial change to the scale of the property to the front is the 1.0m increase in width and the presence of the single storey side extension. The two houses are separated by an access drive and a distance of approximately 18m and this is considered to be more than adequate to prevent harm. As such no harm through overdominance or overshadowing is anticipated.

- 10.19 The largest impact will be upon the proposed barn conversion to the rear of the replacement dwelling. The new house will extend 3.0m closer to the common boundary and will therefore also include rear facing windows which are closer to the garden of the barn. However, the two houses retain an adequate separation distance to prevent harm through overdominance or overshadowing and the rear windows retain at least 7.5m to the common boundary. This means that the upper floor bedroom windows comply with the requirements of Neighbourhoods for Living, and whilst the ground floor windows do not retain sufficient distance, these can be screened by the provision of an adequate boundary treatment. A condition will be imposed preventing the insertion of windows within the east side gable which could have a harmful impact upon Prospect View. As such the application is acceptable in this regard.

Other Matters

- 10.20 Saved policy GP5 states that “development proposals should seek to resolve detailed planning considerations including highway safety”. In order to be considered acceptable in respect of highway safety development proposals must not prevent two cars parking within the curtilage of a dwelling. The works which are proposed will create one secure parking space within the garage and an additional space to its frontage. Saved policy LD1 also seeks to ensure that the landscape character of an area is retained. Because the dwelling is derelict there is a significant amount of self seeded vegetation which has been allowed to grow freely. This vegetation is not protected but does have some amenity value. As such a condition requiring a landscape scheme, including replacement planting will be imposed.

Representations

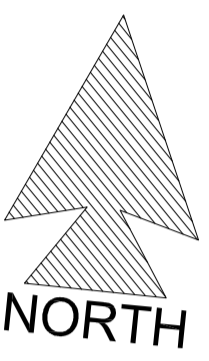
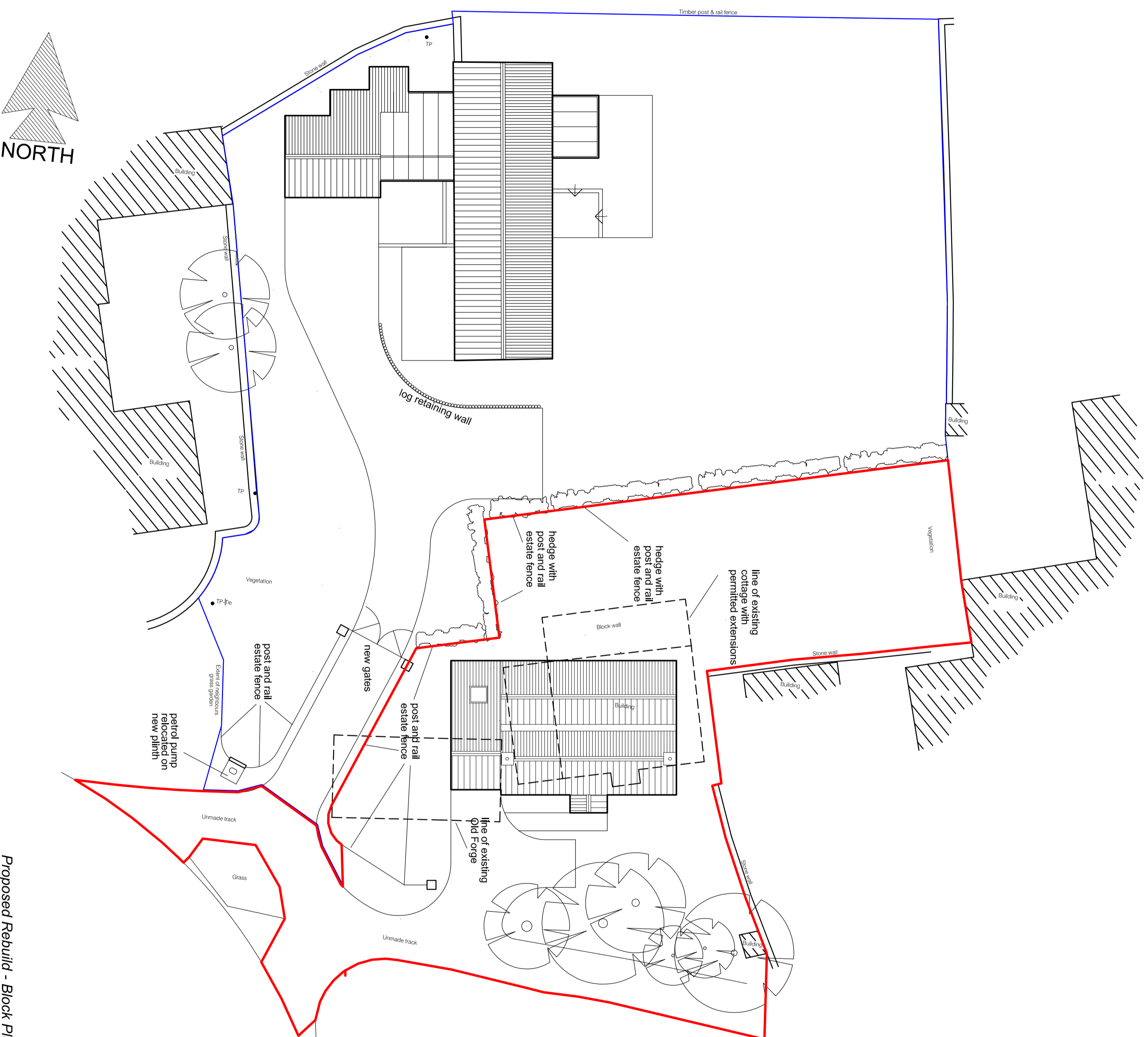
- 10.21 All material considerations raised through representations have been discussed above. The concerns regarding access and ownership along the track to the front of the house are a civil matter and not material to the consideration of the application.

11.0 CONCLUSION

- 11.1 The application is therefore considered to be acceptable. The rebuilt dwelling is inappropriate development, however there are considered to be very special circumstances which outweigh this harm. The replacement would not harm design and character, neighbour amenity nor highway safety. As such the application is compliant with the relevant policies and guidance and approval is recommended.

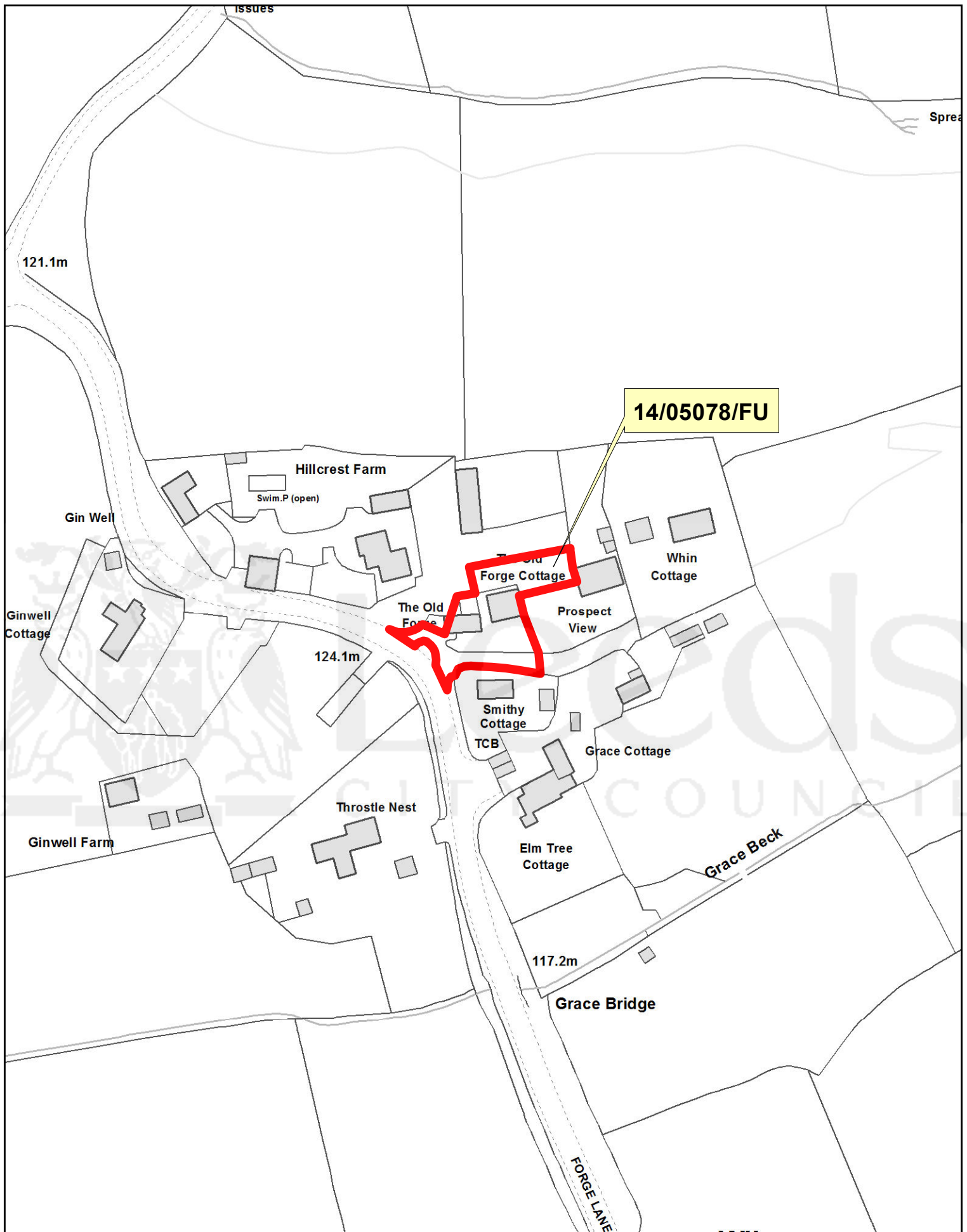
Background Papers:

Application files 14/05078/FU
Certificate of ownership: Certificate A signed by the agent



Mr and Mrs Reynolds
Forge Cottage, Forge Lane Wilke
Proposed Rebuild - Block Plan scales 1:200 19-08-2014 dwg. no. 2433-05-02

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NORTH AND EAST PLANS PANEL

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