



Report of the Chief Planning Officer

SOUTH AND WEST PLANS PANEL

Date: 5 October 2017

Subject: Planning Application 17/03561/FU - A detached dwelling (retrospective) on land at 183 Haigh Moor Road, Tingley, WF3 1EN

APPLICANT

Mr J North

DATE VALID

13 June 2017

TARGET DATE

13 October 2017

Electoral Wards Affected:

Ardsley and Robin Hood

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 following conditions:

1. Time limit for completion of works
2. Development carried out in accordance with approved plans
3. Revoking permitted development rights
4. Submission of a sample of obscure glazing
5. Samples of materials for dwelling and boundary wall
6. Vehicle parking to be laid out and retained
7. Cycle parking to be provided
8. Refuse store to be provided
9. Height of the boundary treatment across site frontage
10. Provision and retention of biodiversity measures
11. Re-use of salvaged materials for dwelling and yard
12. Landscaping scheme
13. Retention of dummy window
14. The Council is to be notified when works commence and agreement on site of position of footings, eaves and ridge height
15. Height of dwelling must not exceed height shown on approved elevation (L14/5816/303a).

1.0 INTRODUCTION

- 1.1 This application is brought to South and West Plans Panel due to the long and complex planning history at this site.
- 1.2 Members of Plans Panel should be aware that Cllr Tom Leadley, locally elected ward member for Morley North, lives in the property adjacent to the application site and has submitted objections to the development in his capacity as a resident.

2.0 PROPOSAL

- 2.1 This application relates to a site at No.183 Haigh Moor Road, Tingley, Leeds, WF3 1EN and seeks consent for a detached dwellinghouse. The application seeks consent for alterations to the existing dwelling in situ which does not benefit from planning consent.
- 2.2 The existing property measures 9.8m in width, 7.07m in depth with a pitched roof measuring 5.46m to the eaves and 7.72m to the ridge. The dwelling is constructed out of stone with a slate tiled roof. The applicant is required to demolish the existing property in accordance with an Enforcement Notice issued on 25 August 2016 and a subsequent appeal decision on 6 February 2017 upholding the notice.
- 2.3 This applicant proposes to demolish part of the dwelling and rebuild with a reduced height and reduced footprint with the front façade set further back from the front site boundary. The proposed detached dwelling measures 9.8m in width, 6.1m in depth with a pitched roof measuring 5.3m to the eaves and 6.8m to the ridge. The ground levels change across the site and the proposed dwelling is 6.65m in height from ground floor finished floor level to ridge. The dwelling is to be constructed from stone with a tiled slate roof, re-using the materials salvaged from the partial demolition of the existing dwelling. The property as proposed will provide a detached 3 bedroom property comprising a front porch (1m in depth), lounge and kitchen/dining room at ground floor level and three bedrooms and a bathroom at first floor level.
- 2.4 A garage previously proposed (and subsequently refused) to serve the dwelling is no longer proposed and two off street parking spaces adjacent to the dwelling are provided instead. Cycle parking and a bin store are also to be provided to the rear of the site. The site boundary is also to be realigned. A new dry stone wall is to be constructed along the front boundary and a replacement dry stone wall is to be constructed along the side boundary separating 183 and 183b Haigh Moor Road.

3.0 SITE AND SURROUNDINGS

- 3.1 The application site is located off Haigh Moor Road to the east of existing residential properties in Haigh Moor Road. It forms part of a group of dwellings including Nos. 181, 183b and 185. The adjacent property to the east (183B) is Grade II listed and is owned by the applicant. This property was previously a barn and was converted into a dwelling post 2007 after obtaining planning permission. A garage has been constructed to the rear of 183b for which retrospective consent was granted in 2016. There are two residential properties located adjacent to the application site; 181 to the west and 185 to the south, separated by an existing access road. The application site is not located within the Green Belt, although the Green Belt boundary is located in close proximity to the site. The immediate area is mainly

residential, however there are open fields and farmland to the east and south of the site.

- 3.2 It is noted that the dwelling, as described in paragraph 2.2 is currently occupied but does not benefit from consent. The existing property was built in an attempt to implement planning permission 14/05475/FU for the demolition of a cottage attached to 181 and redevelopment of the site to provide a detached dwelling. During the construction of the dwelling the Council received complaints that the scheme was not being built in accordance with the approved drawings, with the footings of the new dwelling much larger than was approved. The dwelling subsequently constructed on site had a larger footprint, was taller and wider and closer to the front boundary than the approved dwelling. Following enforcement investigations it came to light that the drawings submitted for the application were inaccurate and the development could not be constructed in accordance with the approved plans. The applicant decided to continue construction at their own risk and the dwelling, with a footprint of 76m² was completed in late 2016. The timeline of events is set out in further detail in paragraph 4.3 of this report.
- 3.3 The application site is unallocated in the UDP and the Draft Publications Site Allocations Plan.

4.0 RELEVANT PLANNING HISTORY

- 4.1 Planning is noted in the Introduction to this report the application site has a long and complex planning history. The relevant planning applications are outlined below:

183 Haigh Moor Road

13/05674/FU	Alterations including two storey extension with chimney to side; raise eaves and roof height to part of existing rear extension	Refused 28.05.15
14/02926/FU	Detached dwelling to site of semi-detached house	Refused 24.07.14
14/05475/FU	Detached dwelling to site of semi-detached house	Approved 12.01.15
15/00419/COND	Consent, agreement or approval required by conditions 3, 6 and 10 of Planning	Refused 22.07.15
15/02989/FU	Variation of condition 2 (approved plans) of planning approval 14/05475/FU for MINOR MATERIAL AMENDMENT to allow increased footprint and repositioning of new dwelling	Refused 27.08.15

15/05445/FU	Retrospective application for detached house and realignment of plot boundary	Refused 18.6.16
15/05446/FU	Detached garage and realignment of plot boundary	Refused 18.1.16

183b Haigh Moor Road

07/00261/FU & 07/00260/LI	Change of use of barn to 2 bedroom dwelling	Approved 2.10.08
10/02404/FU & 10/02567/LI	Detached single garage to the rear	Refused 22.7.10
13/05621/FU & 13/05786/LI	Detached garage to rear	Approved 11.3.14
16/02946/FU	Retrospective application for detached garage at rear	Approved 4.7.16

4.2 The relevant planning enforcement cases for 183 Haigh Moor Road are outlined below:

15/00303/NCP3 Breach of planning permission 14/05475/FU Issued 25.8.16

4.3 The relevant timeline of events for the site is as follows:

January 2015: Planning permission was granted at the site for the erection of a detached house to replace the existing cottage at No.183 Haigh Moor Road (14/05475/FU). This followed an earlier planning refusal (14/02926/FU) in 2014. Shortly after the applicant then applied to discharge the conditions attached to the planning approval (15/00419/COND) however the LPA were not satisfied with the detail and the request was refused.

March 2015: It was reported to the Council's Enforcement Team that the building was not being built in accordance with the approved plans. As such, an enforcement case was set up to investigate whether a breach of planning control had occurred. Investigations have since revealed that the dwelling as part built is wider, deeper, taller and further forward in the plot than the approved scheme (14/05475/FU). There are also a number of minor elevational detail differences.

August 2015: The applicant applied to vary condition 2 (relating to the approved plans) of previous planning approval (14/05475/FU) for a 'minor material amendment' to allow increased footprint and repositioning of new dwelling under application reference (15/02989/FU) in an attempt to try and regularise the unauthorised development. This application was refused as the amended proposal put forward was not appropriate to be considered as a 'minor material amendment'.

Planning Enforcement issued a Temporary Stop Notice which was served on the applicant on 18th August 2015 by the Planning Enforcement Team under planning enforcement reference 15/00303/NCP3. The Temporary Stop Notice required the applicant to cease any further works internal or external on the detached two storey dwelling and detached garage.

Following investigations by the Planning Enforcement Team it was discovered that the dwelling has not been built in accordance with the previously approved plans 14/05475/FU. Therefore the dwelling as constructed represents unauthorised development. The following differences were noted in comparison to the approved scheme:

- As built, the main ridge of the roof is 0.52m higher than the previously approved plans and 0.32m higher than indicated on the plans submitted.
- As built, the eaves height measures 5.46m which is 0.16m higher than the eaves height previously approved and indicated on the plans submitted.
- As built, the width of the extension measures 9.8m which is 0.785m wider than the previously approved plans.
- As built, the depth of the extension measures 7.070m which is 0.78m deeper than the previously approved plans.
- As built, the front elevation of the porch is sited 4.15m from the boundary wall shared with the adjacent neighbour at No.185 Haigh Moor Road. This is 2.49m closer to the adjacent neighbouring property No.185 Haigh Moor Road than the previously approved plans.

September 2015: The applicant submitted two applications; 1. Retrospective consent for the detached dwelling and realignment of the plot boundary (15/05445/FU) and 2. A detached garage and realignment of the plot boundary (15/05446/FU). At the time of the officer site visit, the detached dwelling house was near to completion; stone walls had been constructed up to roof height level, the ground and first floor windows had been inserted, the roof had been fully constructed using hung slate tiles and footings for the detached garage had been dug.

January 2016 – Planning permission was refused for the retention of the dwelling as built and realignment of the plot boundary on 18 January 2016. The application was refused on the grounds that the proposal failed to provide good amenity for future occupants due to inadequate external amenity space and protect existing amenity of 185 in terms of privacy and outlook due to the overbearing impact. The application was also considered to represent overdevelopment due to the size and scale and harmful to the character of the area by virtue of harm to the setting of the neighbouring Grade II listed building (183b) and the character of the cluster of non-designated historical buildings in the vicinity.

Permission was also refused for the erection of a detached garage adjacent to the new dwelling on 18 January 2016 on the grounds that the proposed garage would occupy a significant part of the garden space which would lead to harm of the future occupiers of the new dwelling. The proposed garage in addition to the dwelling was also considered to appear too cramped within the plot and represented overdevelopment of the site, harmful to the setting of the neighbouring listed property (183b) and the cluster of non-designated heritage assets.

May 2016 – Unauthorised building works recommenced to complete construction and make the dwelling habitable.

The applicant lodged appeals against the refusal of the retention of the dwelling as built and the proposed garage.

August 2016 – Planning enforcement served an enforcement notice on 25 August 2016 requiring demolition of the dwelling and removal of the unauthorised foundations for the garage.

October 2016 – The application lodged an appeal against the enforcement notice and withdrew the appeal against the refusal of the proposed garage.

February 2017 - The Planning Inspector dismissed an appeal against the refusal of the application (15/05445/FU) and upheld an enforcement notice to demolish the dwelling and remove all of the materials, infill the trenches and grass seed the exposed areas within 12 months of the decision. The Inspector considered that there was no significant harm to the character and appearance of the area or the setting of the Listed Building. He also considered that the level of external amenity space for the occupiers of the dwelling was acceptable. However the Inspector concluded that there would be significant and unacceptable harm to the living conditions of No.185 with regard to their outlook and privacy.

5.0 HISTORY OF NEGOTIATIONS

- 5.1 During the course of this application the applicant has submitted revised plans annotated to show the dimensions of the dwelling and distances to the boundary and neighbouring garden and turning area for vehicles.
- 5.2 Further revisions have also been made to the proposed development, namely the reduction of the front porch from 1.6m in depth to 1m. The ridge height has also been reduced and the overall height of the property has been reduced from 7.2m to 6.8m (6.65 from finished floor level).

6.0 PUBLIC/LOCAL RESPONSE

- 6.1 The application has been advertised by Site Notice (affecting the setting of a listed building) and neighbour notification Letter. The neighbour notification letters were posted out on 3rd July 2017 and the site notice was posted on 4 August 2017. The publicity period expired on 25 August 2017.
- 6.2 On 17 July Councillor Leadley initially objected to the application (in capacity as a local resident) on the following grounds:
 - There is a lack of clarity and accuracy in the plans
 - Plans should include dimensions
 - The reduction in size of 183 seems insufficient to mitigate to an acceptable level the ill effects identified by the appeal inspector.

He provided subsequent objection on 24 August following receipt of revised proposed site plan raising the following concerns:

- The clearance between the primary windows and the boundary is less than 10.5m as required in Neighbourhoods for Living SPG
- The clearance between the 'secondary' first floor bedroom windows is less than 7.5m as required in the SPG
- No 183 is set higher than 185 therefore greater separation distances are required i.e. 8.5m as a minimum
- The height, width and massing are still too great

- There are discrepancies with the streetscene drawings submitted in 2014 and as part of this application with regards to the ridge height
- The omission of the porch would set 183 further back from the boundary with 185
- The setting back of the front elevation is not enough to overcome the Inspector's concerns about preserving the residential amenity of 185.

6.4 Councillor Leadley provided comments on 25 September raising the following concerns:

- The proposed ridge height is higher than No. 181 and higher than approved under 14/05475/FU.
- Drawing L14/5816/304a is inaccurate in terms of height
- The first floor windows still do not meet the guidance in Neighbourhoods for Living
- The insertion of a dummy window in the front façade and use of obscure glazing is not in accordance with the Inspector's comments
- The front porch should be omitted and front façade set further back
- The dwelling as proposed would not be granted permission on its own merits

6.5 Ward Members have been consulted on the application. Councillor Dunn has raised concerns that the proposed reduction in size of the dwelling is not in line with the dimensions it should be. He requests that stringent controls are in place to make sure the proposed dwelling is true to size.

7.0 CONSULTATION RESPONSES

7.1 Highways:

The parking and access arrangements are as previously approved on 14/05475/FU. Highways officers have reviewed the scheme and raise no objection.

7.2 Flood Risk Management:

No objection

7.3 Conservation

On the basis of the Inspector's decision that the existing dwelling does not result in significant harm to the character and appearance of the area or the setting of the listed building, no objection has been raised by conservation officers. However the proposed boundary change could disturb an area of cobbles surfacing. The applicant is requested to explore the potential to reuse any disturbed material. This is to be secured by condition.

8.0 PLANNING POLICIES

8.1 Section 38 (6) of the Planning and Compulsory Purchase Act 2004 requires that applications should be determined in accordance with the development plan unless material considerations indicate otherwise. The Development Plan for Leeds comprises the Adopted Core Strategy (2014), saved policies within the Leeds Unitary Development Plan (Review 2006) and the Natural Resources and Waste Development Plan Document (2013) and any made neighbourhood plan.

Adopted Core Strategy

8.2 The following Core Strategy policies are considered most relevant:

Policy H2: New housing on non-allocated sites
Policy P10: Design
Policy P11: Conservation and Listed Buildings
Policy P12: Landscape
Policy T2: Accessibility requirements and new development
Policy EN5: Managing flood risk

Saved Policies - Leeds UDP (2006)

8.3 The following saved policies within the UDP are considered most relevant to the determination of this application:

GP5: Development Proposals should resolve detailed planning considerations.
BD5 – Amenity
N14 – Listed Buildings
N17 – Listed Buildings

Submission Draft Site Allocations Plan (SAP)

8.4 The site is not allocated in the Draft Site Allocations Plan.

Relevant supplementary guidance:

8.5 Supplementary Planning Guidance provides a more detailed explanation of how strategic policies of the Unitary Development Plan can be practically implemented. The following SPGs are most relevant and have been included in the Local Development Scheme, with the intention to retain these documents as 'guidance' for local planning purposes:

- Neighbourhoods for Living SPG13

National Planning Policy Framework (NPPF)

8.6 The National Planning Policy Framework (NPPF), published on 27th March 2012, and the National Planning Practice Guidance (NPPG), published March 2014 replaces previous Planning Policy Guidance/Statements in setting out the Government's planning policies for England and how these are expected to be applied. One of the key principles at the heart of the Framework is a presumption in favour of Sustainable Development.

8.7 The NPPF constitutes guidance for Local Planning Authorities and its introduction 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.

8.8 The NPPF establishes at Paragraph 7 that there are three dimensions to sustainable development: economic, social and environmental of which the provision of a strong, vibrant and healthy community by providing the supply of housing required to meet the needs of present and future generations is identified

as a key aspect of the social role. Within the economic role, it is also acknowledged that a strong and competitive economy can be achieved by ensuring that sufficient land of the right type is available in the right places and at the right time to support growth and innovation.

- 8.9 Paragraph 17 sets out twelve core planning principles, including to proactively drive and support sustainable economic development to deliver the homes, business and industrial units, infrastructure and thriving local places that the country needs, conserving heritage assets, ensuring high quality design but also encouraging the effective use of land by reusing land that has been previously developed (brownfield land), provided that it is not of high environmental value.
- 8.10 Paragraph 132 states that when considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation. Furthermore any harm or loss of heritage assets should require clear and convincing justification and substantial harm or loss of a grade II listed building should be exceptional.

9.0 MAIN ISSUES

- 9.1 The main issues to consider in the determination of this application include the following:

- Principle of development
- Design, character and setting of Listed Building
- Residential Amenity
- Highway Safety/Accessibility
- Flood Risk
- Response to representations
- Planning Obligations and CIL

10.0 APPRAISAL

Principle of development

- 10.1 The site has been in residential use for a substantial period of time, with a small dwelling attached to No. 181 in situ until 2 015. The principle of residential development at the site is therefore considered acceptable as was demonstrated in granting the recent planning approval for a detached dwelling at the site in January 2015.
- 10.2 The planning history of the site, including the findings of the planning enforcement case, is detailed in the Planning History section of this report. Notwithstanding the history, the current proposal must be assessed on its individual planning merits.
- 10.3 In considering the merits of the planning application submitted it is important to consider what, if any, fallback position exists. It is well established that a fallback position, where it exists, is a relevant material planning consideration for any proposed scheme. As noted above it is clear that the dwelling erected on site has not been implemented in accordance with the approved plans and conditions in relation to application 14/05475/FU. As such the dwelling which has been erected does not benefit from planning permission and therefore represents an unauthorised

structure and an unacceptable form of development which was refused permission by the Council. This decision upheld by the Planning Inspector.

- 10.4 In normal circumstances the applicant would have a fallback position in the form of the approved scheme, to which weight should be attached as appropriate. However, following the determination of planning application 14/05475/FU the submitted plans were found to be inaccurate. The inaccuracies in the plans show a larger application site than actually exists. Given the discovery of these inaccuracies it is apparent that the dwelling approved under 14/05475/FU could not in practice be built out. It is therefore considered that the previous planning permission does not represent a viable fallback position and should be attached very little weight in the consideration of the current planning applications.
- 10.5 Following the refusal of the application to retain the dwelling as built in January 2016, and the subsequent appeal decision in February 2017, the applicant now seeks consent for a revised scheme to alter the existing dwelling which seeks to overcome the reasons the Inspector dismissed the appeal. The impact on the character and appearance of the area, the setting of the listed building and the impact on the amenity of neighbours and future residents are considered in detail in the following sections of this report.

Design, Character and Setting of the Listed Building

- 10.6 The application site is situated on the edge of an existing established residential area. However the character of the application site itself is strongly defined by the wider rural setting in the Green Belt and designated special landscape area beyond. The adjacent Grade II listed converted barn to the east and the neighbouring cluster of non-designated historic buildings nearby are examples of the rural heritage of the site.
- 10.7 The Leeds Core Strategy includes a number of policies relating to conservation and design which are relevant. Policy P10 outlines a number of key principles which fall under the wider objective of ensuring new development delivers high quality inclusive design. Policy P11 looks to conserve and enhance the historic environment. Saved UDP policies including GP5 and BD5 encourage good design and policy N14 sets out a presumption in favour of the preservation of listed buildings.
- 10.8 The application to retain the dwelling as built was refused by the council due to the harm to the character of the area, in particular to the setting of the neighbouring Grade II listed building (183b) and the harm to the non-designated historical buildings. In addition to this the failure to maintain adequate separation distances to neighbouring residential properties and provide for an adequate garden area represent poor design features which added to the overall view that the proposal represents an overdevelopment of the plot.
- 10.9 In the appeal decision the Inspector concluded that the dwelling as built does not result in significant harm to the character and appearance of the area or the setting of the listed building. The Inspector acknowledged that the as built dwelling is larger and more prominent than other nearby properties. However he stated that its design, detailing and materials are compatible with the rest of the group of properties.

- 10.10 On the basis of the Inspector's conclusions regarding the impact of the as built dwelling on the character and setting of the area and Listed Building, the conservation officer has not raised any objection to the dwelling as proposed. However the conservation officer has raised concerns over the plot boundary change would disturb an area of cobbled surfacing. The conservation officer recommends the applicant explores the potential to reuse any disturbed material on the site. This is dealt with by condition.
- 10.11 The proposed dwelling, which will generally match the as built dwelling in terms of character, design and materials, is considered to preserve the character and appearance of the area and the setting of the Listed Building in accordance with Core Strategy policies P10 and P11 and saved UDP policies GP5, BD5, and N14 and the guidance contained within the National Planning Policy Framework in these respects. Furthermore the reduced height and footprint reduces the overbearing impact of the dwelling and addresses the previous concerns regarding overdevelopment of the site.

Residential Amenity

- 10.12 Leeds Core Strategy policy P10 aims to protect general and residential amenity Saved UDP policy GP5 aims to protect amenity including the amenity of future occupants and policy BD5 states:

'All new buildings should be designed with consideration given to both their own amenity and that of their surroundings. This should include usable space, privacy and satisfactory penetration of daylight and sunlight.'

- 10.13 The Council's Neighbourhoods for Living SPG looks to ensure development proposals provide a good level of amenity for future occupiers. Paragraph 17 of the NPPF requires local planning authorities to always seek to secure high quality design and a good standard of amenity for all existing and future occupants of land and buildings. New residential development should provide a good level of amenity for future occupiers and protect the amenity of neighbours. This includes protecting privacy and outlook and ensuring that residential development provides good quality outdoor amenity areas for the enjoyment of future occupiers.
- 10.14 The below table provides a comparison between the approved scheme, the 'as built' dwelling refused in 2015 and the proposed scheme. The footprint of the proposed dwelling is 11m² smaller than the as built dwelling. The depth of the proposed dwelling is also to be reduced by 1.52m by virtue of the rebuilding the front façade set back from the front boundary and reducing the projection of the porch.

	Approved Dwelling (14/05475/FU)	Dwelling As Built (15/05445/FU)	Dwelling As Proposed
Height	7.2m (7.05m*)	7.7m (7.4m*)	6.8m (6.65m*)
Width	9m	9.8m	9.8m
Depth	6.3m + 1.5m (porch) (7.8m)	7.09m + 1.65m (porch) (8.74m)	6.16m + 1.06m (porch) (7.22m)
Footprint	61.5m ²	76m ²	65m ²
Distance from main ground floor windows to front boundary	3.7m	2.6m	3.4m
Distance from	8.3m	6.2m	7.1m

ground floor windows to boundary of No. 185			
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(Measurements from drawings submitted. The approved dwelling (14/05475/FU) could not be implemented as red line boundary and measurements were inaccurate.

*Height measured from ground floor finished floor level (confirmed by the architect).

Privacy

- 10.15 The as built dwelling was refused due to the insufficient separation distance from the front windows of the property to the site boundary and the boundary of No.185. The position of the porch does not meet the necessary distance of 4m to the boundary of No. 185, the ground floor 'main' windows do not meet the minimum distance of 10.5m to the boundary and the first floor 'secondary' bedroom windows do not meet the minimum distance of 7.5m to the boundary as set out in the Neighbourhoods for Living SPD. The existing ground and first floor level windows are located 2.6m to the front site boundary and 6.2m to the boundary wall of the neighbouring property, No. 185. The application site also sits at a higher level than No.185 and therefore looks down over the garden of No. 185. On this basis the development as built was considered to significantly harm the neighbour's privacy on the basis that the private garden of No. 185 and their windows are overlooked. The application was refused by the Council on this basis and upheld at appeal.
- 10.16 The Inspector notes that the first floor windows, due to the close distance, allows for direct overlooking into the garden at the rear of No. 185 and angular views towards their rear windows. The Inspector considered there to be a *'significantly harmful loss of privacy, both real and perceived, for occupiers of No. 185 with regard to the use of their garden and rear habitable rooms.'*
- 10.17 The dwelling now proposed is set further back within the site, maintaining a separation distance of 3.4m from the site boundary to the front windows at ground and first floor level. With the inclusion of the access road a distance of 7.1m between the front windows and the boundary wall of No. 185 will be maintained. It is acknowledged that this does not comply with the guidance on separation distance set out in Neighbourhoods for Living. At ground floor level the separation distance falls 3.4m short of the recommended distance for 'main' windows. However it is considered that overlooking could be mitigated by the provision of planting along the front boundary e.g. a laurel hedge. This would provide some privacy screening from views from the ground floor level windows and improve the amenity of No. 185. A condition requiring details of landscaping is attached.
- 10.18 The distance from the first floor 'secondary' windows to the neighbouring boundary wall is 0.4m less than the 7.5m recommended in the SPG. To address the issue of overlooking from the first floor windows, the applicant is proposing elevational changes to the front and side elevations of the dwelling. The master bedroom is to be served by a clear glazed window in the side elevation and an opaque glazed window, centrally located within the front elevation. The front first floor window serving the master bedroom is to be replaced with a dummy (bricked up) window in order to prevent overlooking of the garden and into the windows of No. 185 from the master bedroom. The side window will allow natural light penetration and some outlook from this bedroom. Another first floor window with clear glass is proposed to serve the second bedroom and allows some overlooking into the neighbouring garden. However, given the angle it would not allow direct overlooking into the windows of No.185. It is not considered that overlooking from this window towards

the garden would be so significant to refuse permission. It is considered that the applicant has sought to reduce the impact of the development on the privacy of occupiers of No.185 whilst still providing good quality accommodation for the future occupier of the dwelling.

- 10.19 During the appeal process the applicant sought to overcome the concerns regarding overlooking. It was suggested that a subtle form of obscure glazing is used for the first floor bedroom windows. The Inspector concluded that the obscure glazing would still allow outward views and would not adequately mitigate the loss of privacy. The removal of the first floor window was also considered by the Inspector, but he concluded that this would result in an *'irregular and discordant pattern of openings in the front elevation which would be harmful to the character and appearance of the highways of the building and to the local area.'*
- 10.20 Officers have considered the use of opaque glazing or a dummy window, taking into account the Inspector's concerns regarding the appearance of the property. It is considered important to prevent perceived overlooking into No.185 as well as real and therefore the dummy window would be preferable to protect the amenity of No.185. A condition to retain this dummy window in perpetuity is attached. A condition is also recommended requiring the smaller front facing window serving the master bedroom to be non-openable and a sample of obscure glazing to be submitted. This will ensure there would be no outward views from the master bedroom towards No. 185.

Dominance and outlook

- 10.21 In the appeal decision, the Inspector considered the impact of the as built dwelling on the amenity of neighbouring properties, in particular No. 185 and stated that the *'height, width and massing, together with its position close to No. 185 has a significantly dominant and overbearing impact on the occupiers of that property. As such it adversely and unacceptably harms their outlook.'* The proposed dwelling is to be rebuilt at 6.8m in height and therefore is 0.6m lower than the as built dwelling. The lower ridge height and the increased separation distance is considered to somewhat address the Council and the Inspector's concerns regarding the dominance and overbearing impact of the dwelling and the outlook of No.185. The depth of the porch has also been reduced to 1m which further reduces the overbearing impact of the dwelling.

Private Amenity Space

- 10.22 With regards to private amenity space provided as part of application 15/05445/FU, it is noted that application was refused on the basis of a lack of external amenity space. It was considered that the dwelling as built combined with the proposed detached garage failed to achieve an acceptable level of private amenity space. However the Inspector concluded that *'the outside space on site is modest, but I find it is not unacceptable in terms of providing an adequate level of external space for normal residential amenity purposes.'*
- 10.23 The proposed development would provide approximately 117m² of usable amenity space to the rear, side and front of the house for the residents of the dwelling. This includes a lawned area to the side of the dwelling. The proposed external amenity space exceeds the SPG requirement for the garden to be two thirds of the gross floor area of the dwelling. The reduced footprint of the dwelling and the omission of the garage previously proposed results in an acceptable provision of private amenity

space in accordance with Core Strategy Policy P10 and guidance contained in Neighbourhoods for Living SPG

Conclusion

- 10.24 For the reasons set out above it is considered that the proposed dwelling with a smaller footprint and set further back from the front boundary will not have such a significant impact on the living conditions of occupants of No. 185 in terms of overlooking, outlook and over dominance to justify refusal of planning permission. Therefore the proposed development is considered to be generally in accordance with Policy P10 of the Core Strategy, saved policy GP5 and BD5 of the UDP. The application should be considered on its own merits, notwithstanding the history of the site, the proposed development is considered acceptable.

Highways safety and accessibility

- 10.25 The principle of a dwelling in this location has been previously accepted. Two off street parking spaces within the site have been provided adjacent to the boundary with 183b and would be retained. Cycle parking and refuse storage are also proposed to the rear and side of the property.
- 10.24 The proposed site plan shows the driveway and turning area for vehicles as well as the existing access road which is within the applicant's ownership. It is considered that the proposal complies with aims of policy T2 of the adopted Core Strategy.

Flood Risk

- 10.25 During the course of the application the applicant provided a drainage layout which demonstrates how surface water and foul water will drain. Flood Risk Management officers have reviewed the plan and have raised no objection.

Response to Representations

- 10.26 Given the history of the site, particularly the discrepancies in the plans approved under 14/05475/FU, there is significant concern among local residents and Ward Members regarding the accuracy of the plans submitted for this application and whether the dwelling will be rebuilt in accordance with these plans.
- 10.27 Revised plans have been submitted which include dimensions of the proposed dwelling. The site location plan and site layout plan identifies the site area is approximately 285m² which corresponds with the Council's own mapping system. The architect has confirmed that the drawings submitted as part of this application are accurate and therefore it is considered that the proposal can be satisfactorily assessed on the basis of these drawings. Appropriate conditions are attached to ensure that the works carried out are in strict accordance with the application submission and undertaken within six months of this decision. A condition requiring the dwelling is built in accordance with the dimensions as shown on the proposed plans is attached. A condition is also attached to ensure the Council are notified within 7 days of works commencing on site, to agree the position of the front wall with the Council on site and to agree the height of the eaves and ridge with the council on site. Ongoing monitoring by enforcement officers will also be carried out and necessary remedial action would be taken if the dwelling is not rebuilt in accordance with the approved drawings.

- 10.28 The grounds of Councillor Leadley's objection have been largely addressed within this report. Councillor Leadley accepts that some progress has been made through negotiation, however the progress made is not enough with regards to protecting the amenity of the occupants of No. 185. With regards to the height of the proposed ridge, Councillor Leadley makes comparisons to the approved scheme (14/05475/FU). The proposed elevations and the officer's report for 14/05475/FU identify the dwelling as 7.2m in height (although it is recognised the plans provided at this time were incorrect). The proposed dwelling to be rebuilt lower in height than what was accepted by officers in under 14/05475/FU at 6.8m (6.65m from finished floor level) as annotated on the proposed elevation (L14/5816/303a). A condition is also attached to ensure main ridge of the dwelling does not exceed the total height of the dwelling as shown on L14/5816/303a. Councillor Leadley requests that monitoring is carried out to ensure the changes shown on the plans are physically replicated on site. It is considered that the conditions identified above would satisfactorily address his concerns on this matter. Councillor Leadley also states that the proposed development, if not retrospective, would not be granted permission on its own merits. However officers consider that the development as proposed is acceptable on its own merits.

Planning Obligations and Community Infrastructure Levy

- 10.28 The Community Infrastructure Levy (CIL) Charging Schedule was adopted on 12th November 2014 with the charges implemented from 6th April 2015 such that this application is CIL liable on commencement of development at a rate of £45 per square metre of chargeable floorspace.
- 10.29 The CIL requirement for this development is based on the floorspace of the proposed dwelling and equates to £4401.

11.0 CONCLUSION

- 11.1 The proposed development involves the partial demolition of the existing unauthorised dwelling and the rebuilding of the front façade to provide a dwelling with a reduced footprint and lower ridge height. The proposed alterations result in the front façade set further back within the site to provide greater separation distance between the dwelling and the boundary of No. 185 to reduce the impact of the development on the amenity of the occupants No. 185. Alterations to the front windows i.e. the use of obscure glazing and a dummy window are considered to further protect the privacy of No. 185.
- 11.2 Paragraph 49 of the NPPF confirms that housing applications should be considered in the context of the presumption in favour of sustainable development and Paragraph 14 of the NPPF advises that development proposals that accord with the development plan should be approved without delay unless any adverse impacts of doing so would *significantly and demonstrably outweigh the benefits*, when assessed against the policies in the Framework taken as a whole, with regard to the social, economic and environmental dimensions of the plan. If the adverse impacts do not significantly and demonstrably outweigh the benefits then the development should be considered sustainable. It is therefore necessary to undertake such a planning balance exercise.
- 11.3 In terms of the potentially adverse impact it is recognised that the dwelling to be rebuilt is located in close proximity and at a higher level than No.185. The separation distance between the dwelling and the boundary of 185 does not comply with the

guidance contained within the Neighbourhoods for Living SPG and could result in overlooking or a sense of being overlooked.

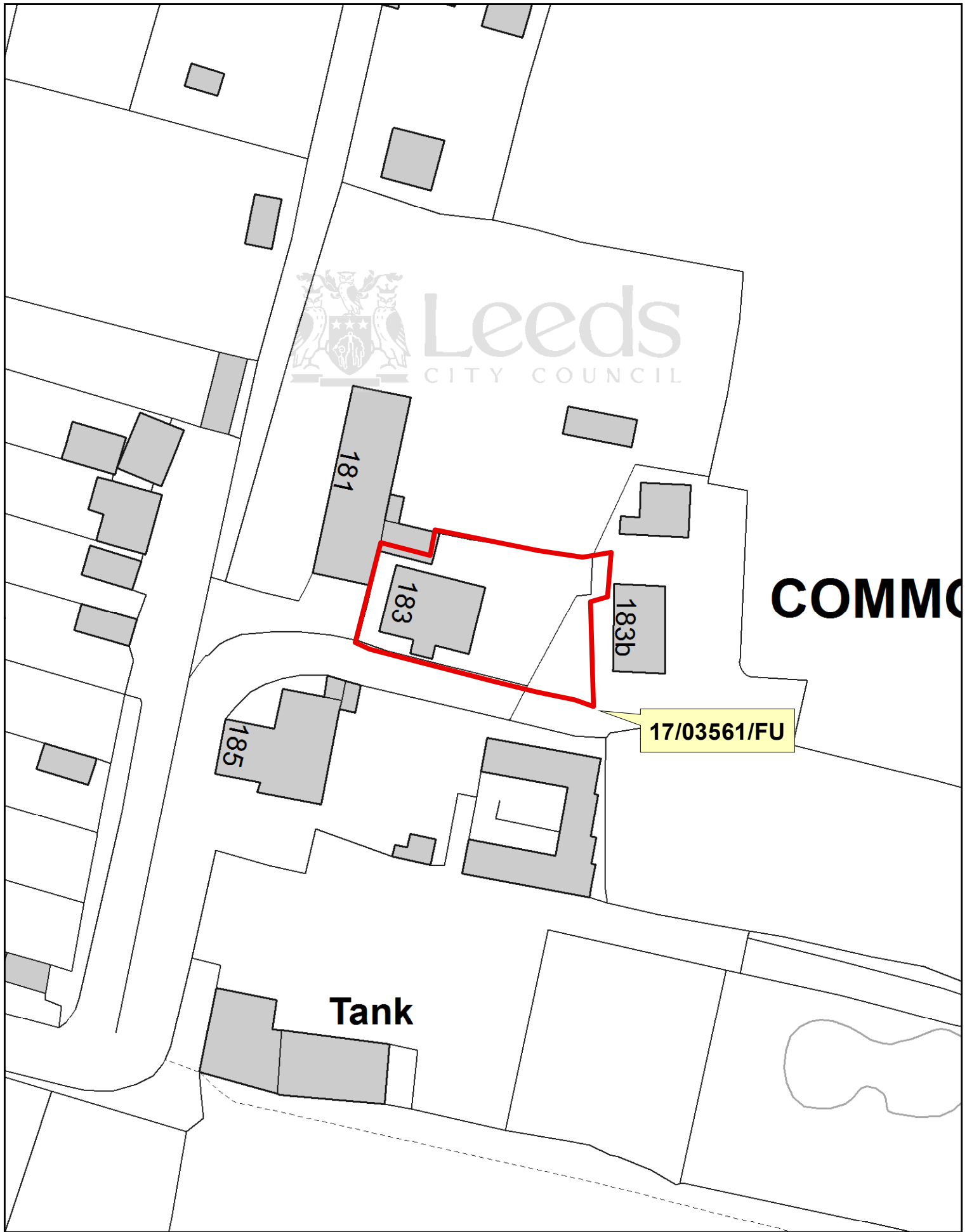
- 11.4 The benefit of the proposed development is the provision of a dwelling with a large garden suitable for a family, for which there is a requirement across the city. If this application is refused the applicant would be required to comply with planning enforcement notice which requires the applicant to demolish the existing dwelling in its entirety, remove the foundations and lay topsoil and grass seed over the area.
- 11.5 Overall it is considered that the proposed alterations to reduce the footprint and height of the dwelling along with the use of dummy window would reduce the impact on No. 185 and improve the relationship between the development and the neighbouring property. On balance, it is not considered the adverse impact significantly and demonstrably outweighs the benefits of the provision of a family dwelling. Notwithstanding the history of the site it is considered that the development as proposed is acceptable in accordance with the NPPF, Core Strategy Policy H2, P10, P11, T2 and Saved UDP Policies GP5.

Background Papers:

Certificate of Ownership – Signed by applicant

Planning application file

Appeal Decision dated 6 February 2017.



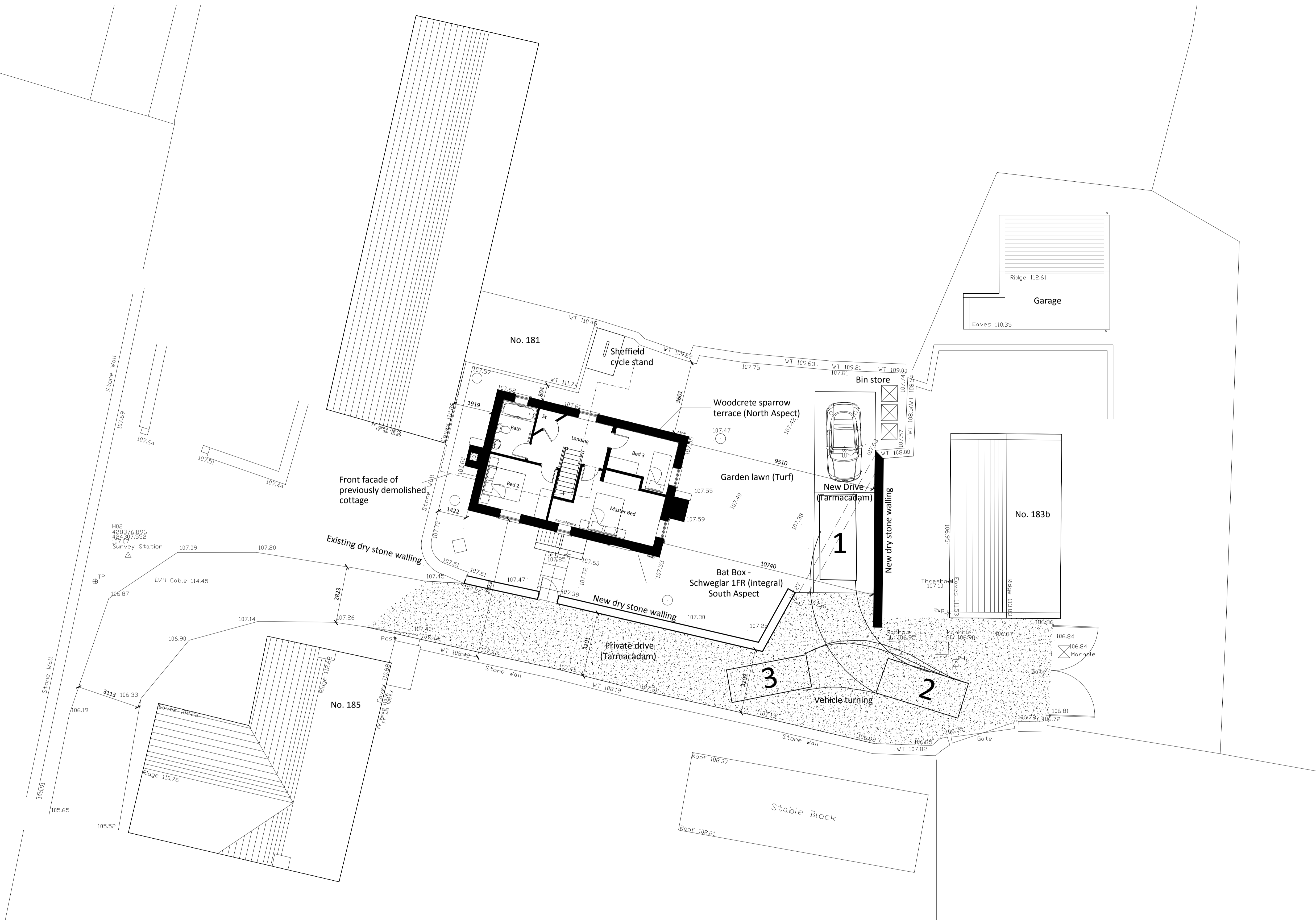
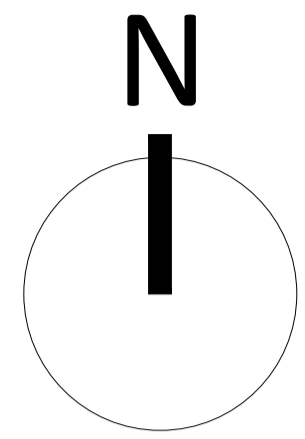
SOUTH AND WEST PLANS PANEL

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

SCALE : 1/500





Reference	East	North	Elevation	Description
GPS01	428406.107	424307.779	107.20	Survey Station
GPS02	428376.895	424307.545	107.06	Survey Station
H02	428376.896	424307.552	107.07	Survey Station
H03	428406.527	424312.867	107.42	Survey Station

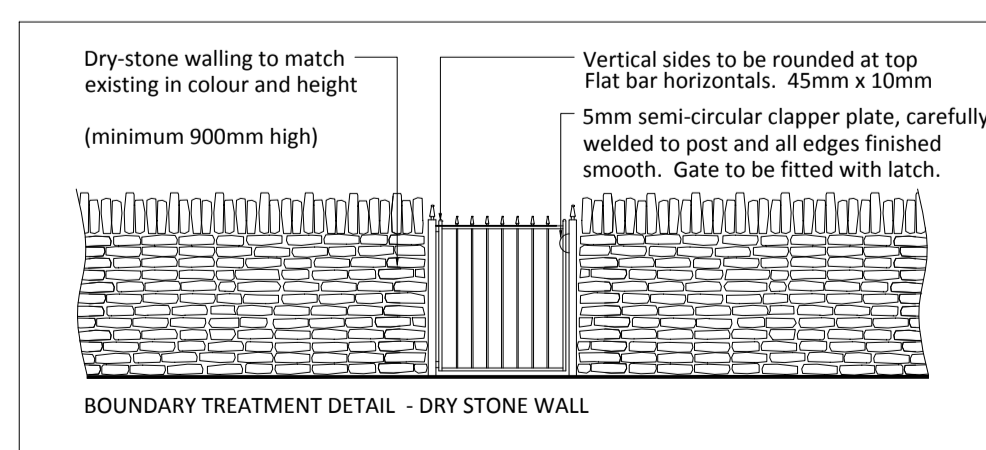
Control & Datum Information
 Grid Orientation: Survey related to Ordnance Survey "OSGB36" at control point GPS01
 real-time correction received via Leica Geosystems "Smart Net" service.
 Level Datum:

Rev	Description	By	Date

Surv.	Drawn	Date	Chkd	Date
NH	NH	10.08.15		

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WILDLIFE HABITAT SPECIFICATION

The development should include the following:

- (1) 1 bat tube similar to the Schweglar 1 FR box fitted integral to suitable elevation of the new build (southerly aspect)
- (2) 1 woodcrete sparrow terrace located on a suitable (northern aspect) elevation of the new build

Revisions:

No.	Comment	Date	By
A	Bin storage area and cycle stand shown	07-17	MW(J)
B	Vehicle turning shown	07-17	MW(J)
C	Additional dimensions added at the request of the Planning Officer	08-17	MW(J)
D	Revised porch	09-17	MW(J)

Drawing Status:
 Preliminary Planning Permission Building Regulation Tender Construction

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Proposed Dwelling at 183 Haigh Moor Road, Tingley WF3 1EN

Drawing Title: **Proposed Site Plan**

Client: **Mr John North**

Drawn	Checked	Date	Scale	Sheet Size	Drawing No.	Rev.
MW(J)		05/17	1:100	A1	L14/5816/302d	

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