



## Report of the Chief Planning Officer

### PLANS PANEL NORTH and EAST

Date: 1<sup>st</sup> November 2012

Subject: APPLICATION Ref: 12/01141/FU DETACHED HOUSE AT PLOT 1 LAND ADJACENT TO 8 LOWTHER AVENUE, GARFORTH.

#### APPLICANT

MR & MRS JOHNSON

#### DATE VALID

19<sup>TH</sup> MARCH 2012

#### TARGET DATE

14<sup>th</sup> MAY 2012

#### Electoral Wards Affected:

Garforth & Swillington

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 on full permission (3yrs).
2. Development in accordance with approved plans.
3. Details of external walling and roofing materials to be submitted.
4. Details of boundary treatments to be submitted.
5. Restriction to prevent vehicular access taken from Lowther Avenue.
6. Restriction to prevent conversion of garage.
7. Details of landscaping to be submitted and implemented in accordance with approved details.
8. Retained vegetation shown to be retained to be fully safeguarded during construction.
9. Provision of replacement tree/ vegetation.
10. Restriction to obscure glaze windows to side elevation.
11. Restriction on the construction of further extensions.
12. Restriction on the insertion of windows at ground and first floor side elevations.
13. Assessment of ground conditions to be undertaken (by structural engineer) to assess stability and safety of site (coal mining legacy).
14. Report any unexpected significant contamination encountered during works.

15. Any imported soils to be tested for contamination and suitability for use.
16. Restriction imposed on the hours of construction (between 08.00-18.00hrs Mon-Fri; 09.00-14.00hrs Sat; and not at all on Sun or B/H).

**Reasons for approval:** This application is considered to comply with policies GP5, BD5, N12, N13, N25, T2 of the UDP Review and Neighbourhoods for Living and having regard to the fallback scenario as well as all other material considerations the application for this detached dwelling is recommended for approval.

## **1.0 INTRODUCTION:**

- 1.1 This application is presented to Plans Panel (North and East) in light of the recent planning history at the site which has involved the submission of a number of amendment applications where discrepancies have been identified within the originally approved plans.

## **2.0 PROPOSAL:**

- 2.1 This application seeks permission to construct a detached dwelling. Planning permission was granted in 2011 (Ref:11/00412/FU) for a detached dwelling at this site and this permission remains extant. The planning permission included a pair of detached dwellings which were of similar appearance and positioned alongside each other. The approved dwelling adjacent to this application site has been constructed however no building works have commenced to this particular application site. Ultimately, this current application illustrates alterations to that extant permission involving the addition of a single storey rear extension, the insertion of additional side windows and the removal of a chimney feature. Otherwise, in terms of its overall design and size the detached dwelling remains the same as previously approved and are described in more detail below.
- 2.2 The proposed dwelling is positioned centrally within the site and is set back from the Lowther Drive pavement by around 14m and set away from Lowther Avenue to the rear by around 13m. The dwelling will obtain its vehicular access from the front (Lowther Drive) via a driveway. The dwelling plot will incorporate a garden area to the front and rear with low stone walling, close boarded fencing and supplementary landscaping provided.
- 2.3 The detached dwelling is predominantly two storey in height with its main bulk laid out in an L-shaped footprint. The dwelling elevates to a height of 5.6m (to eaves) and 8.9m (to ridge). The building is positioned 1.6m from its common boundary with No.9 Lowther Drive and 2.7-3m from its side gable. The dwelling projects forward of the garage of No.9 Lowther Drive by 1.8m and is set back from its rear wall by 2m. The dwelling is separated from the recently constructed dwelling to its side by 1.3m.
- 2.4 The detached dwelling incorporates a two storey gable element to the front with a splayed bay window feature and a lean-to roof extending over the porch and integral garage. The dwelling has both hipped and pitched roof forms and accommodates a bedroom within its roofspace. The dwelling is to be constructed of red/ brown brick and roof tiles with additional architectural detailing provided by reconstituted stone heads, cills and quoins to the windows and bay feature. The main aspect windows are positioned on the front and rear elevations with windows serving the utility, kitchen, landing, bathroom, shower room and secondary living room windows located to the side elevations.

- 2.5 The amendments detailed within this application illustrate the addition of single storey extension to infill the north-eastern corner of the dwelling and is set in 1m from the outer side wall and positioned 2.4m away from the common boundary with No.9 Lowther Drive. The extension is 4.8m in length and 2.6m in width and uses a simple lean-to roof.
- 2.6 Furthermore, alterations detailed to the internal layout of the dwelling have meant that the window configuration has been altered with a first floor bathroom window and two ground floor family room windows to provide additional light are proposed to be inserted to the side elevation (north facing).

### **3.0 SITE AND SURROUNDINGS:**

- 3.1 The application site was previously associated with No.8 Lowther Avenue and formed part of its side garden area until planning permission was implemented for two detached dwellings on the land (Ref:11/00412/FU). The application site is laid out as lawn with a hedge aligning the Lowther Drive frontage and the common boundary with No.9 Lowther Drive. There is established vegetation visible to the rear boundary bordering Lowther Avenue. The construction work for the adjacent detached dwelling (which was also detailed in Ref:11/00412/FU) has largely been completed and this stands to the south side of the site, enclosed by fencing to its side garden boundaries.
- 3.2 The application site is level and lies adjacent to an extended dormer style bungalow property (No.9 Lowther Drive) to the north in which a high hedge stands between. The property is constructed of stone with a rendered blank side gable elevation that faces onto the application site. There is a modest sized silver birch tree positioned close to the rear of No.9, adjacent to this site's common boundary. The newly constructed two storey dwelling (of similar appearance to this proposed dwelling) stands to the south of the site. Properties to the opposite side of Lowther Drive are two storey in height and mainly constructed of red brick.
- 3.3 The application site lies within a residential location that contains a varied mix of house type designs and arrangements. Lowther Drive comprises detached and semi-detached, two storey and single storey height dwellings including properties set within sizable garden plots and others built tight up to the edges of their respective plots. There is a variety of building positions visible with properties set back from the street by differing distances and also in tandem style form. The adjacent Lowther Avenue predominantly contains detached two storey properties but also contains a large residential care home complex.

### **4.0 RELEVANT PLANNING HISTORY:**

- 4.1 A brief summary of the relevant planning applications is set out below however these are discussed in more detail in the appraisal section of this report (see paras.10.1 and 10.2):

11/00412/FU 2 detached dwelling houses- Approved (14/04/11)

10/05529/EXT Extension of time period of app 08/04671/RM- Withdrawn (26/04/11)

10/04329/FU Amendment to house type- Approved (10/12/08)

08/04671/RM Reserved Matters application for 2 dwellings- Approved (10/12/08)

07/04028/OT Outline application for 2 detached dwelling houses- Approved (17/08/07)

06/07010/FU Erection of new and repositioning of 2m high electric gates to rear and front, 1.8m high front and side boundary walls and detached double garage to rear at No.9 Lowther Drive- Approved (22/01/07)

33/164/02/FU Dormer window and balcony to rear at No.9 Lowther Drive- Approved (03/03/04)

## **5.0 HISTORY OF NEGOTIATIONS:**

5.1 During the course of the application amendments to the scheme were carried out and these are summarised below:

- Applicant confirms to undertake appropriate site investigation works prior to commencement of development to confirm coal mining conditions and enable mitigation measures, if necessary.
- The width of the rear extension reduced to afford sufficient set away from an off-site tree.
- Reduction in the size of the first floor obscure glazed (bathroom) window and the additional ground floor windows to northern side elevation.
- Revised streetscene plan submitted to accurately depict the ridge heights of the adjacent property positioned at No.9 Lowther Drive as well as an amendment to delete the chimney feature from the side of the dwelling.

## **6.0 PUBLIC/LOCAL RESPONSE:**

6.1 8 neighbour notification letters sent out dated 23<sup>rd</sup> March 2012.

4 letters of representation received raising comment on the following matters:

- Contractors/ development access should not be achieved via Lowther Drive; applicant has no authority for use of Lowther Avenue.
- Application address states Lowther Avenue but access achieved off Lowther Drive; Lowther Avenue has much easier access to the housing and be of little or no inconvenience to the residents of Lowther Avenue.
- The Lowthers is a quiet urban estate with accesses which do not prevent access/egress, the housing is low density and have reasonable sized gardens providing residents with open views of green spaces.
- House granted permission (and being built adjacent to site) is much bigger and considerably higher than anticipated and spoiled the environment.
- The current housing development has devalued their property (No.10 Lowther Drive) & neighbour has recently taken property off the market.
- Builders constructed the adjacent plot have taken months to complete the work.
- Understand that legal restrictions exist on the height of the development; breach of covenant which states only one single storey dwelling may be erected on the land adjacent to No.8 Lowther Avenue (no higher than adjoining bungalows).
- Proposed development would create overdevelopment of area; not in keeping with surrounding buildings (predominantly bungalows); 3 storey dwelling an eyesore in an otherwise uniform area and affect the character of the existing surroundings.
- Of particular concern (to No.9 Lowther Drive) is loss of light, loss of privacy, overshadowing and overbearing. The property is considerably larger than their property both in height and length which will impact the enjoyment of their property.
- Given close proximity of dwelling (to neighbour) difficult to see how the dwelling can be built.
- Loss of established trees and hedgerows, affecting visual amenity.
- No objection to a bungalow being built.

- The laying out of a driveway to opposite side of existing driveway (No.12 Lowther Drive).
- Issues with building work at adjacent plot with heavy vehicles causing damage to Lowther Drive road surface/ boundary walling.
- Too late to do anything with house being built but question whether heights were overlooked- roofline at least 30% higher.

6.2 A further 8 neighbour notification letters were sent out on 28<sup>th</sup> September 2012 to notify neighbours of further revisions to the original submission. No further representations received.

## 7.0 CONSULTATIONS RESPONSES:

### **Statutory:**

7.1 Coal Authority comments dated 4<sup>th</sup> April 2012. Objection lodged and request for applicant to submit a risk assessment.

7.2 *Revised* Coal Authority comments dated 9<sup>th</sup> May 2012. Applicant submitted a risk assessment report in which it was confirmed the applicant would undertake appropriate site investigation works before development commences. Therefore, objection is withdrawn subject to imposition of a planning condition covering investigation works.

### **Non-statutory:**

7.3 Flood Risk Management comments dated 30<sup>th</sup> March 2012. No objections and details of the drainage can be adequately be dealt with via building regulations. (Previously confirmed that dense clay soils preclude option to use infiltration drainage).

7.4 Highways comments dated 13<sup>th</sup> April 2012. No objections stated. Comments request all construction/development vehicular movements via Lowther Drive; request to be consulted at condition discharge stage.

## 8.0 PLANNING POLICIES:

### Development Plan

8.1 The Development Plan for the area consists of the Regional Spatial Strategy and the adopted Unitary Development Plan Review (UDPR), along with relevant supplementary planning guidance and documents. The Local Development Framework will eventually replace the UDPR but at the moment this is still undergoing production with the Core Strategy still being at the draft stage. The Publication Draft of the Core Strategy was issued for public consultation on 28<sup>th</sup> February 2012 with the consultation period closing on 12<sup>th</sup> April 2012. Following consideration of any representations received, the Council intends to submit the draft Core Strategy for examination. The Core Strategy set sets out strategic level policies and vision to guide the delivery of development investment decisions and the overall future of the district. As the Core Strategy is in its pre submission stages only limited weight can be afforded to any relevant policies at this point in time.

8.2 The application site is unallocated within the City Council's Unitary Development Plan. Nevertheless, the following policies are considered to be of relevance:

Policy GP5 refers to development proposals should seek to avoid loss of amenity. Policy H4 (UDP Review) refers to housing on other sites not identified in the UDP.

Policy N12 seeks to ensure development respect fundamental priorities for urban design.

Policy N13 refers to the design of all new buildings should be of high quality and regard to character/ appearance of surroundings.

Policy N25 seeks to ensure positive boundary treatments/features are used and/or retained.

Policy BD5 refers to new buildings be designed with consideration to both own amenity and surroundings.

Policy T2 refers to new development and highways.

8.3 Supplementary Planning Document:  
Neighbourhoods for Living: A guide for residential design in Leeds (Dec 2003).

8.4 National Planning Policy Guidance:  
National Planning Policy Framework (NPPF, 2012)

## 9.0 MAIN ISSUES

1. Principle of development and planning background
2. Impact on design and character
3. Impact on residential amenity
4. Highways implications
5. Other matters

## 10.0 APPRAISAL

### Principle of development and planning background:

- 10.1 This application site has been subject to a number of recent planning applications following the initial grant of outline planning permission in 2007 (Ref: 07/04028/OT). This original permission established the principle to construct two dwellings adjacent to 8 Lowther Avenue. This current planning application relates to one of those approved plots and as referred to in para.3.1 the construction work to the other plot has been largely completed.
- 10.2 Following the grant of outline permission a reserved matters application (Ref: 08/04671/RM) was submitted and approved in 2008. A further amendment application was approved to the adjacent plot in 2010 under planning permission Ref:10/04329/FU to insert additional side windows and remove a chimney feature. In addition, an 'extension of time period application' was submitted in 2010 (Ref: 10/05529/EXT) to keep alive the planning permission for this plot. However, during the consideration of this application it came to light that there were inaccuracies in the site measurements (a site survey showed that the site was around 3m deeper than originally shown and meant that the position of the two approved dwellings, in relation to the adjacent properties, would be off-set). Accordingly, a further planning application was submitted, and subsequently approved (Ref:11/00412/FU) to regularise the plotting error detailed within previous permissions. The 2010 extension of time period application was withdrawn.
- 10.3 Overall, the principle for residential development at this site has already been fully established through the grant of outline planning permission 07/04028/OT, reserved matters 08/04671/RM and the extant full planning permission 11/00412/FU.

Impact on design and character:

- 10.4 The design, appearance and character considerations outlined within the previous applications at the site remain relevant to this proposal as this latest application displays only modest changes to the dwelling benefiting extant planning permission.
- 10.5 Through previous planning applications revisions to achieve a development of an appropriate scale and size were undertaken. Whilst the proposed dwelling is still large (5 beds), those revisions reduced the overall visual bulk and created additional space between the proposal and its immediate neighbours. The spatial relationship achieved between properties has been deemed acceptable in view of other properties opposite along Lowther Drive that have either been built up to their respective side boundaries or extended close to this point (eg. Nos.14-22). As a result, the detached and semi-detached dwellings along Lowther Drive have reduced spaces between and accordingly this tighter spatial relationship is now characteristic of the area. Such considerations reflect the advice contained within Neighbourhoods for Living for residential proposals, whereby regard is to be given to local character before offering guideline separation distances (for example, 2.5m to side boundaries). In addition to this, the 14m set back achieved off the front of Lowther Drive accentuates the general impression of space at the site and it is considered that the proposal would not be harmful to the general spatial character when viewed along the street.
- 10.6 Since the grant of the extant permission work has commenced to the adjacent plot and the immediate neighbours have commented that the property is higher than was originally foreseen and have objected to this detached dwelling given the resultant additional impact. Having reviewed the earlier approved plans, it does appear that the original streetscene plan incorrectly showed the adjacent neighbouring property (No. 9 Lowther Drive) as being taller than it is in reality. The streetscene plan originally submitted with this application appeared to have repeated the same drawing error in respect of the ridge height of No. 9 (and appears to be a copy of the original plan used with previous applications) but since the construction of the new dwelling adjacent it allows for a more accurate height comparison than may have previously existed.
- 10.7 A site visit undertaken as part of the consideration of this application supports this. Based on assessing the relative proportions of No.9 (the height of its eaves and window cills) against the height of the newly constructed dwelling, No.9's roof ridge appears to be lower than as originally shown on plan. The height of the newly constructed dwelling adjacent conforms with the details shown on its approved plans so is not in dispute.
- 10.8 In light of these identified concerns, the applicant commissioned a further survey to accurately depict the respective heights of No.9 Lowther Drive, the proposed dwelling and the newly constructed dwelling adjacent. The results of this exercise show that there is a 2.4m difference between the ridge height of this proposed detached house and the ridge height of No.9 rather than the 1.6m difference as shown in the extant planning permission. These revised plans were subsequently re-publicised to neighbours and objectors but no further comment has been received.
- 10.9 The height relationship between the dwellings originally depicted in the extant permission was incorrectly drawn and cannot be achieved. Notwithstanding this

drawing error, the previous planning permissions have been granted and accordingly the size of both dwellings as shown on the approved elevations has been agreed. In this respect a fallback position has been established and the current application (with the exception of the single storey rear extension, the deletion of the chimney feature and the window alterations) proposes a dwelling with the same dimensions. Some residents appear to be aware of the dwelling height discrepancy but may be unaware of the implications associated with the fallback position that has been established. In the light of this, whilst the concerns expressed by local residents regarding the height of the dwelling are noted, in view of the fallback position officers are of the opinion an objection based on the overall size of the dwelling within the streetscene and relative to the neighbouring property could not be substantiated at appeal.

- 10.10 Notwithstanding the above considerations, the overall design of the building reflects the appearance of the newly constructed dwelling adjacent and includes a number of features (stone heads, cills, bay feature) which give the dwelling a more characterful appearance. In particular, the use of a single projecting front gable and bay window feature mimic the appearance of the dwellings opposite (Nos.12-20). In addition, the proposal will provide for a section of low stone wall with supplementary landscaping behind and is considered to reflect the low stone walling typical along Lowther Drive. Further details of the boundary treatment are to be secured by condition although the applicant has indicated that the hedge to the side boundary is to be cut back.
- 10.11 The proposed single storey extension forms part of the amendments from the extant permission and as this element is located to the rear it will be largely unseen from public vantage points. By virtue of its position to the rear within an existing recess the extension will be tucked behind the bulk of the main house and the presence of trees and tall vegetation aligning the rear boundary (frontage on to the private road of Lowther Avenue) will filter views. Ultimately, it is considered that the single storey extension, which will not project beyond the outer side/rear wall of the originally approved dwelling, will have minimal wider visual impact. In addition to this, the removal of the chimney feature to the northern side wall is not considered to significantly detract from the appearance of the dwelling and will replicate the look of the newly constructed adjacent dwelling.
- 10.12 During this application process the dimensions of the single storey extension have been amended to increase the separation distance away from the common boundary and the modest sized silver birch tree to the rear of No.9 Lowther Drive. Typically a distance of around 4m should normally be sought to ensure adequate separation however given that the tree has minimal wider visual merit and that the rear wall of No.9 already stands within 3m from the tree, a separation distance of 3m from the proposed extension is considered adequate.
- 10.13 In conclusion to the design and character considerations, significant regard is to be placed on the extant planning permission for a detached dwelling at this site which has established a fallback position. It is observed that Lowther Drive contains a mix of property types with properties having reduced spaces between and allied to the set back available from the street will ensure that this proposal will not be significantly harmful to spatial character. The appearance and proposed use of external materials are considered appropriate and accordingly, the application is considered to comply with current policy guidance.



Impact on residential amenity:

- 10.14 As with the design and character issues discussed above, the main impact of this development has previously been considered and accepted under the extant planning permission meaning that the applicant could proceed to implement that permission. This application proposal does however include changes with the introduction of a single storey extension, removal of a chimney feature and the insertion of additional windows to the side elevation.
- 10.15 The proposed dwelling is positioned between the residential properties of No.9 Lowther Drive to the north and a newly constructed dwelling to the south. Accordingly, it is important that the scale and position of the dwelling does not unduly overbear, over-dominate or overlook the adjacent neighbours. Ultimately, these considerations have already been assessed through previous applications with the outcome being that the building's siting within the plot and positioning of main windows to the front and back adequately ensure residents living conditions are retained within reasonable limits.
- 10.16 As described in para 2.3 the detached dwelling is predominantly two storey in height with its main bulk laid out in an L-shaped footprint. The shorter section of two storey height elevation will stand adjacent to the blank gable wall of No.9 and will not project beyond its rear elevation. Owing to this L-shaped footprint, the two storey rear projection is stepped away from the neighbour at No.9. Overall, the rear projection extends beyond the neighbour's rear wall by 2.6m and set away from the common boundary with No.9 by 4.5m and by 5.8m from their property. As assessed previously it was noted that the dwelling will be sited adjacent to the blank side gable of No.9. This side of the property contains a garage and a garage room to the rear with no habitable rooms directly adjacent to this side boundary. This circumstance remains unchanged and accordingly the relationship that would exist and detailed within the revised elevation drawings are considered to be acceptable.
- 10.17 The proposed dwelling will stand forward of No.9's garage, adjacent to the neighbour's driveway. The proposed dwelling will also stand in advance of the first floor bedroom window of the neighbour's property (which faces to the front) but is positioned further away from the common boundary affording adequate separation distance between this dormer and the proposed dwelling and preventing adverse impact on this window. As with this proposed dwelling, the footprint of No.9 is also L-shaped with the main living accommodation set away from the common side boundary. Within its forward projection, No.9 has a living room containing windows to the front and side. The proposed dwelling will be positioned some 9m from these side windows and is not considered to be in direct alignment with the room's outlook. Furthermore, this living room is served by additional windows that face out to Lowther Drive and it is considered that the proposal would not significantly affect No.9's living conditions.
- 10.18 On this basis, it is considered that the proposal is sufficiently set away from the common boundary so as not to be unduly overbearing or dominating to the neighbour at No.9. Although the dwelling is to be positioned to the south of the neighbour the set away achieved from the common boundary will ensure the overshadowing impacts are not unreasonable. Furthermore, with respect to the bay windows proposed to the front of this proposed dwelling, the windows are splayed away from the adjacent neighbours and will not directly overlook with any views at oblique angles. In order to protect neighbouring privacy a restrictive

condition is to be imposed to prevent the further insertion of windows to the side elevations.

- 10.19 This application proposes amendments to the detached dwelling benefiting extant planning permission and the residential amenity implications of those changes are discussed below.
- 10.20 The proposed single storey extension will infill the rear recess and stand adjacent to the common boundary with No.9 Lowther Drive. The rear extension projects beyond the rear wall of No.9 by approximately 2.5m and is positioned approximately 3.5m from the property and 2.4m from the common boundary. The extension will stand adjacent to the neighbour's garage and room to rear of the garage, away from the main habitable rooms of the neighbours. In view of the single storey nature of the extension, the available separation distances to boundaries and the room arrangement of No.9 the extension is not considered to have an adverse impact on the amenity of the neighbour. Similarly, the proposed extension will not be seen from the newly constructed dwelling adjacent as it will be hidden by the bulk of the main house.
- 10.21 In respect of the additional windows, the first floor window is to serve a bathroom and is to be obscure glazed preventing views towards the neighbour at No.9 Lowther Drive. Moreover, the window will be positioned adjacent to the rising apex of the neighbour's roof limiting sight of this opening. The two additional ground floor windows are narrow in form and will supplement the main aspect window to the front. These windows will face out onto the existing hedge which aligns this side of the site and beyond is the blank gable end of the neighbour's garage. The latest revised plan indicates the intention to cut back the hedge to the applicant's side and erect a close-boarded fence along the side boundary to prevent overlooking and details of such fencing will be secured by planning condition. Furthermore, it is considered necessary to impose a condition to ensure the first floor side window is obscure glazed.
- 10.22 Returning to the broader assessment on the suitability of this dwelling it is to be noted that the dwelling will stand in an identical position and be of identical external measurements (aside from the single storey extension, and deletion of the chimney feature) to the dwelling benefiting extant planning approval and will stand adjacent to a similarly designed property. These properties will be very much viewed as a pair. Accordingly, the spatial relationship between the two has previously been accepted and this proposal results in no material change to that arrangement and can be accepted. Although the proposed rear extension will take up more private garden space the proposed dwelling is still considered to provide adequate garden areas to the front and rear for the benefit of future occupiers. However, in order to maintain control on any future extensions a restriction is to be imposed on the property to require planning permission to further extend the property.

Highways implications:

- 10.23 This proposed development raises no highways implications over and above the highways considerations made under the extant planning permission Ref:11/00412. A number of residents have expressed concern about the suitability of Lowther Drive to accommodate further accesses due to the street's narrow width and concern about the position of driveways. Ultimately, Lowther Drive is an adopted highway and is considered to be of suitable design and construction to

serve the proposed dwelling. The dwelling incorporates an integral garage and has a lengthy driveway to accommodate parked vehicles. Therefore, it is considered that the proposal will not adversely impact on the free and safe use of the highway. Details of the proposed boundary treatments are to be secured by planning condition to ensure that the height of the treatments do not interfere with driver visibility and the details can be assessed at that stage. In addition, highway officers have recommended a condition is imposed to require contractors to use Lowther Drive due to its superior construction to Lowther Avenue (private road).

Other matters:

- 10.24 A further matter has arisen during the consideration of this application concerning the existence of a covenant preventing the construction of more than one single storey dwelling at the site. During previous planning applications at this site (and adjacent plot) similar matters concerning a covenant have been raised (for example, residents commented that a covenant prevented access being obtained via Lowther Drive). Ultimately, the covenants relate to legal land ownership and private access arrangements which the local planning authority could not resolve. Essentially, it is for those parties involved to settle any disputes and that the determination of this planning application would not absolve those affected of their rights/ responsibilities. It is therefore considered that this situation does not preclude the local planning authority from determining this planning application.
- 10.25 Nearby residents have also expressed concern about the disruption caused during construction, pointing to the time taken to complete the newly constructed dwelling adjacent. It is accepted that nearby residents will suffer some degree of disturbance during construction works, however, this will be in the short-term and it would be unreasonable to withhold planning permission on this basis. A construction working hours condition is however proposed to offer residents with some protection from unreasonable working hours.
- 10.26 In regards to drainage matters, officers within the Flood Risk Management team raise no objections to the submitted proposals and advise that the soils are clay and not suitable for infiltration drainage systems and that the details of drainage can be adequately addressed through the building regulations procedure.
- 10.27 The application site was formerly a private domestic garden and according to the previously submitted historical maps there is no evidence of contaminative uses at the site. There are no landfills in the area but it is requested that should any unexpected contamination be encountered during construction this is reported to the local authority. To ensure no unclean soils are imported on site a further condition is recommended.
- 10.28 The application site lies within a defined Coal Mining Development Referral Area and consideration should be placed on the potential presence of unrecorded shallow coal mining workings. The applicant submitted a risk assessment report and the statutory consultee, The Coal Authority, have recommended that a planning condition be imposed requiring appropriate intrusive site investigation. As such, a condition can be worded to this effect.

**11.0 CONCLUSION**

- 11.1 The proposed development follows the previous grants of planning permission and is, on balance, considered to be compatible with the character and appearance of Lowther Drive and Lowther Avenue. The proposed amendments to the original grant of planning permission will have minimal visual impact to the

wider locality and the site circumstances will mitigate the impacts of these changes. Overall, it is considered that the proposed dwelling will not unreasonably impact on the residential amenity of nearby neighbours allied to restrictions on the future insertion of windows and extensions. Moreover, the proposal is not considered to be detrimental to highway safety and will be required, through planning condition, to have due regard to the locality's coal mining legacy. Therefore, this application merits planning support.

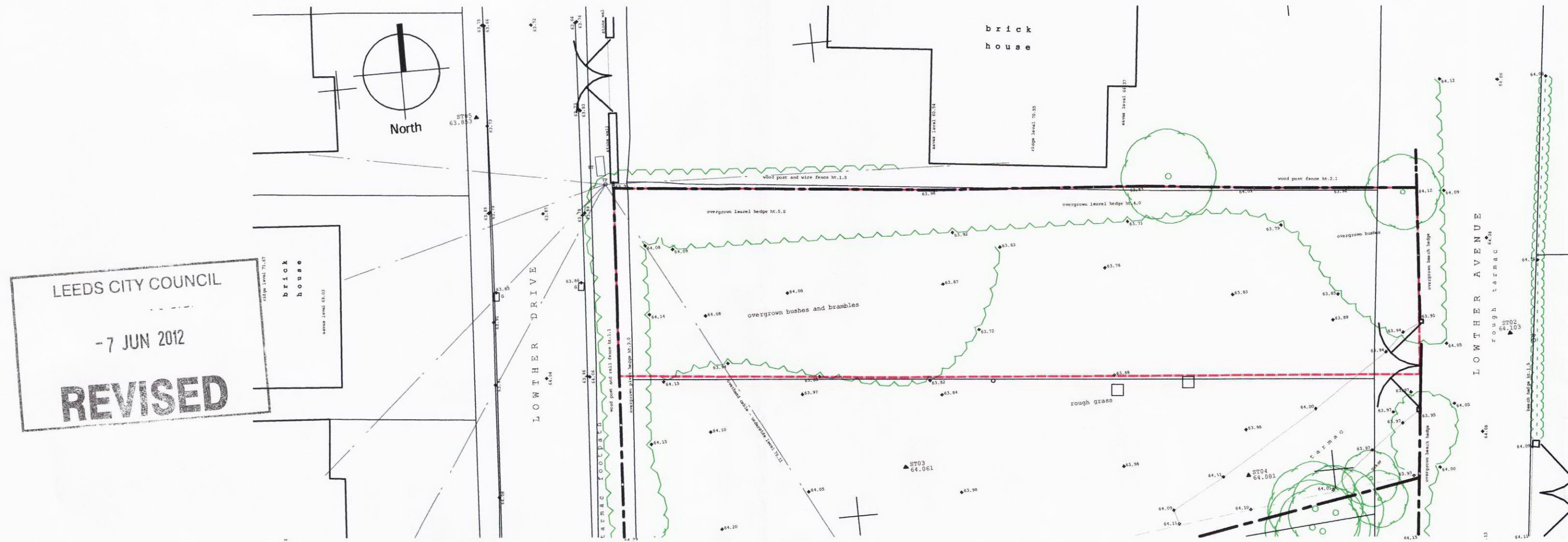
**12.0 Background Papers:**

Application file: 12/01141/FU.

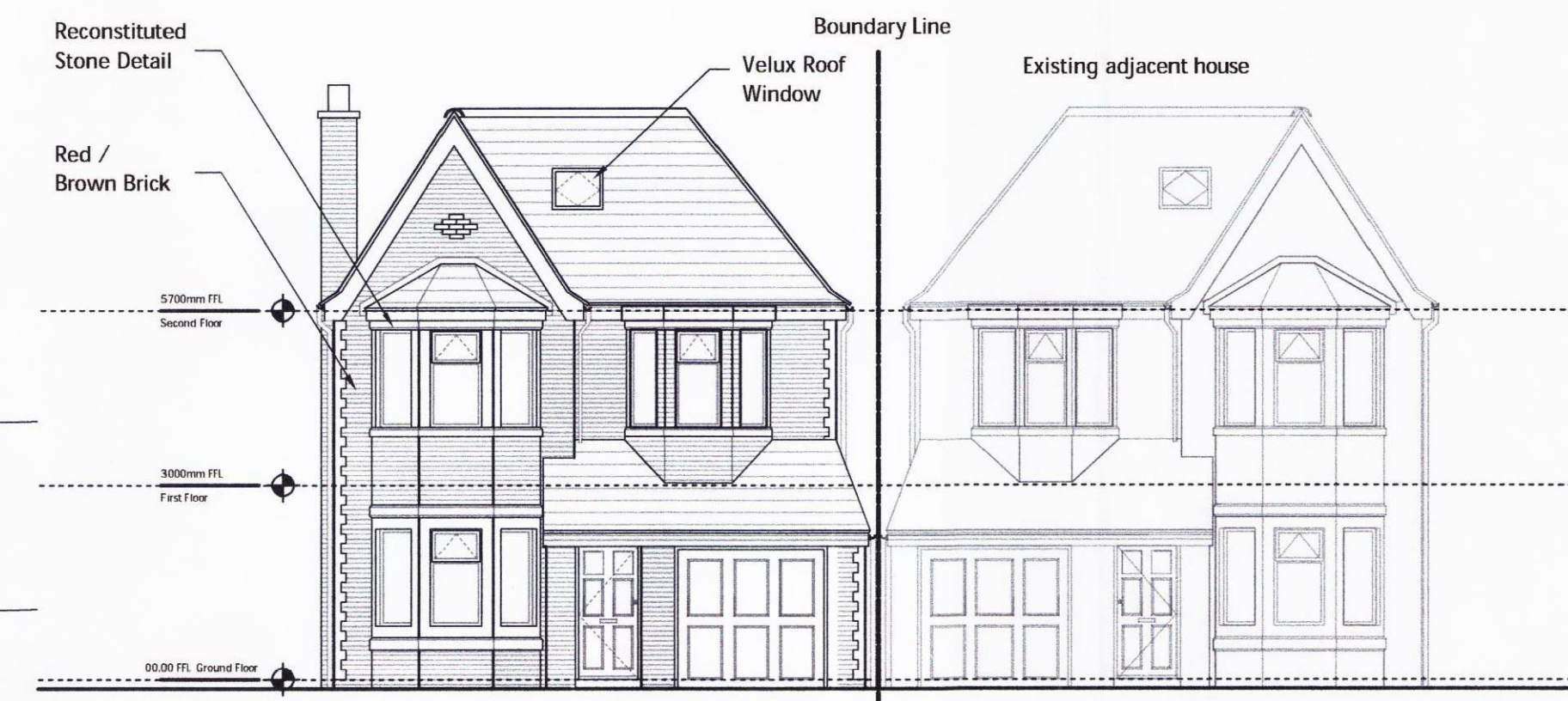
Certificate of Ownership (Cert B) given requisite notice to the landowner via the appointed agent dated 12<sup>th</sup> March 2012.

PLEASE NOTE:  
The contractor must visit the site and be responsible for checking and verifying all dimensions, measurements, levels, existing drains/sewer positions and services prior to the commencement of the work and the manufacture of any purpose made components.  
Any discrepancies are to be notified to Heas Architects.  
DO NOT SCALE OFF THIS DRAWING.  
THE CONTRACTOR IS RESPONSIBLE for ensuring all works comply with the relevant building regulations and/or statutory requirements whether or not they are specifically noted on this plan. This drawing shall be read in conjunction with all relevant consultancies and / or specialist drawings / documents. The materials and workmanship of all relevant trades and building operations shall comply with the recommendations of current British Standards and codes of practice.  
IF IN DOUBT REFER TO HEAS ARCHITECTS.  
As far as reasonably practicable, this design has been prepared in such a way as to reduce the risks to the health and safety of persons who may be affected.  
This drawing remains the copyright of Heas Architects and may not be copied without prior written permission.

Rev	Date	Details	Drawn by
A	16.2.12	Utility & Master bedroom windows removed	AMN
B	08.03.12	Render removed, window design revised, quins added to rear	AMN
C	22.05.12	3m protection zone to tree indicated, GF extension reduced in size, Window design revised all following planner comments	AMN

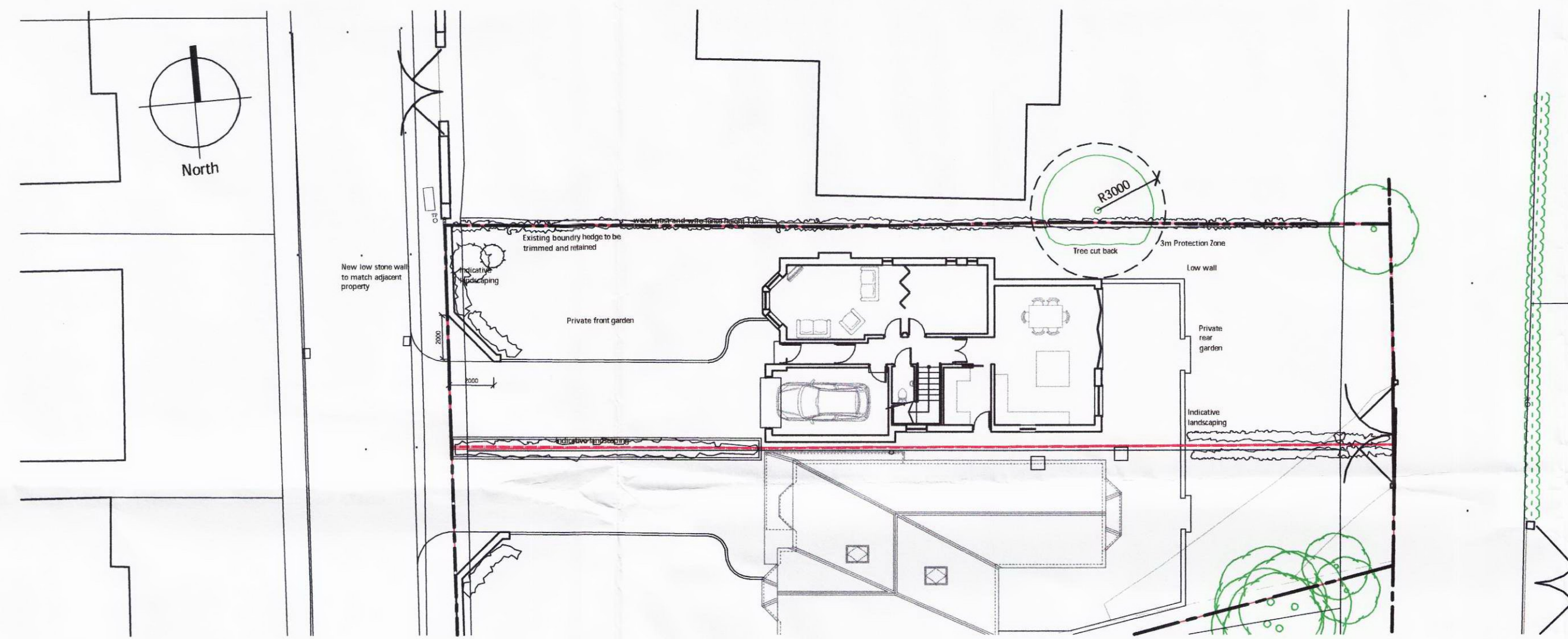


Site Plan - Existing  
Scale 1:200

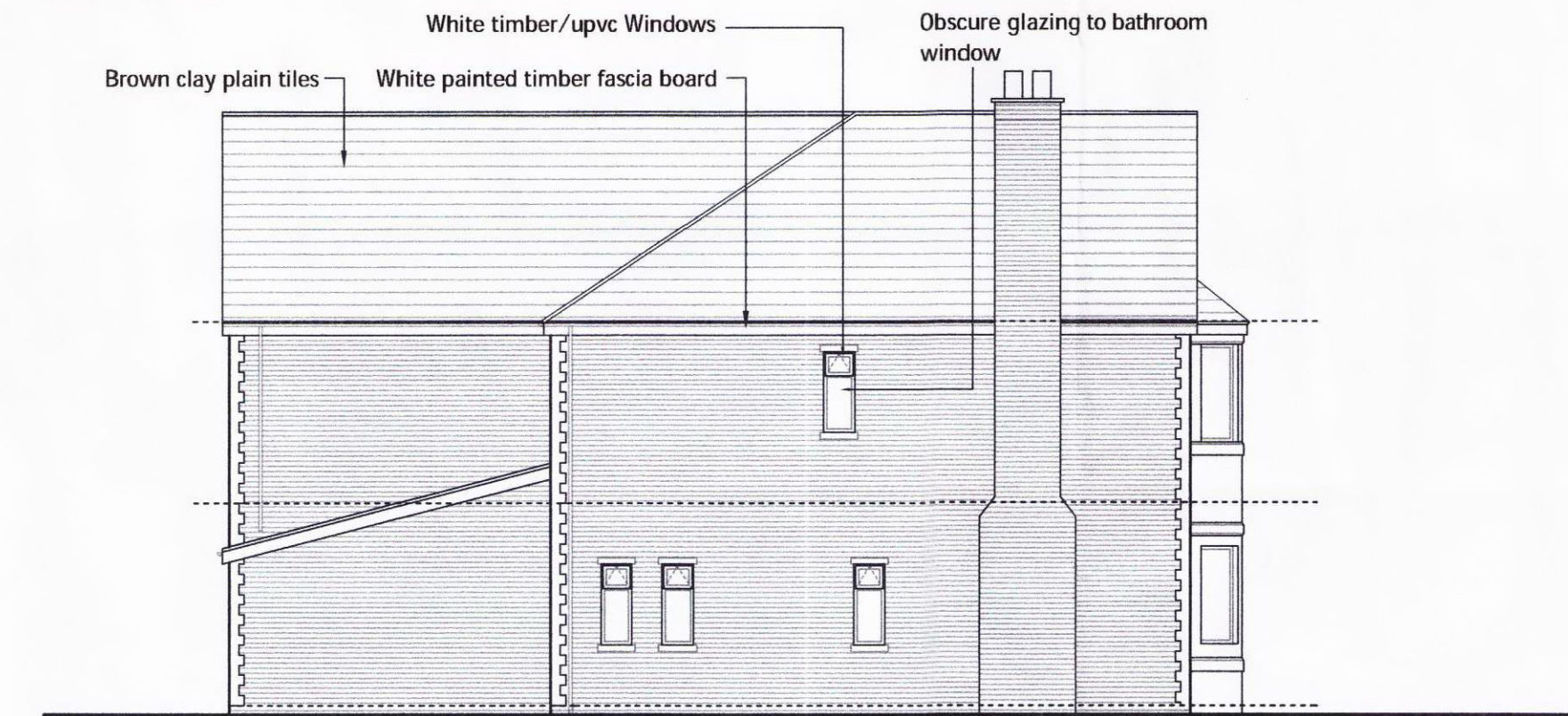


Elevations - Proposed - West (Front)  
Scale 1:100

LEEDS CITY COUNCIL  
-7 JUN 2012  
**REVISED**



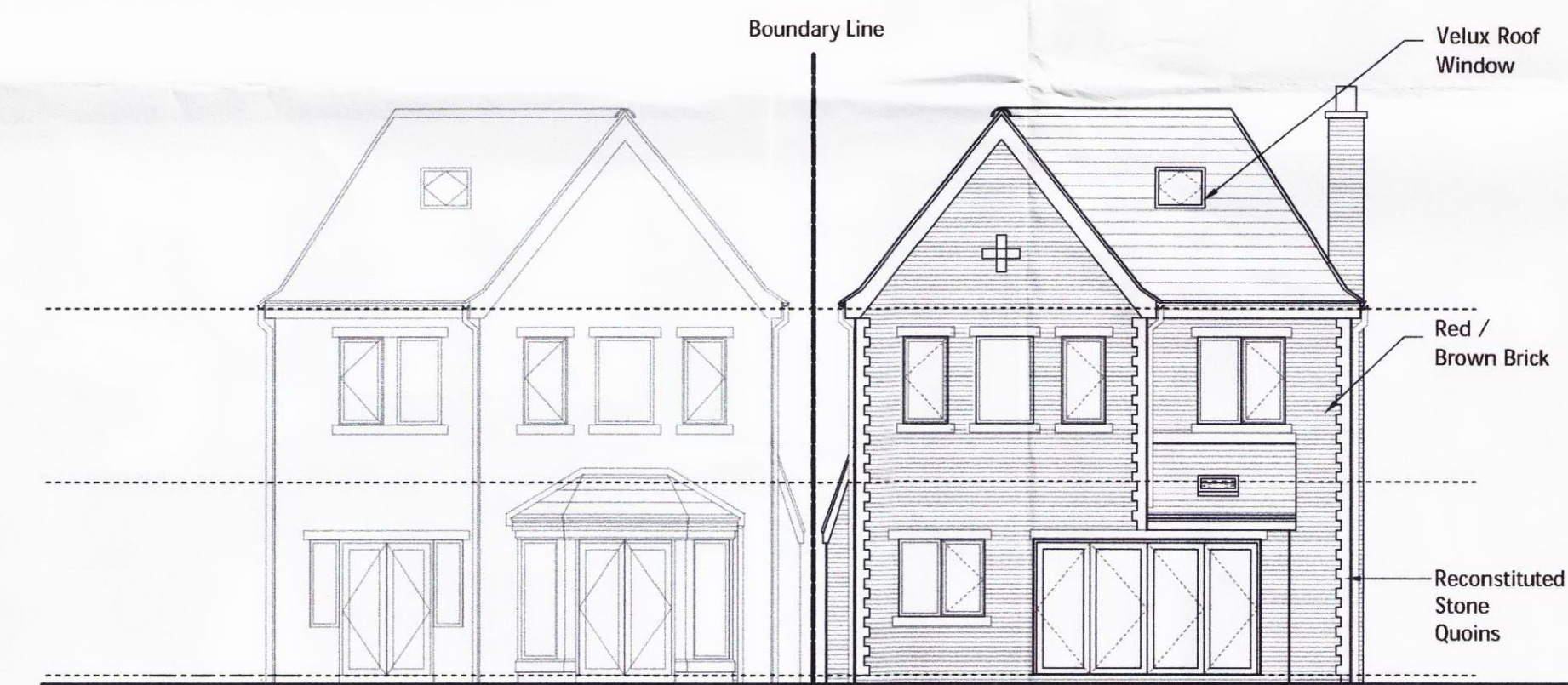
Site Plan - Proposed  
Scale 1:200



Elevations - Proposed - North (Side)  
Scale 1:100



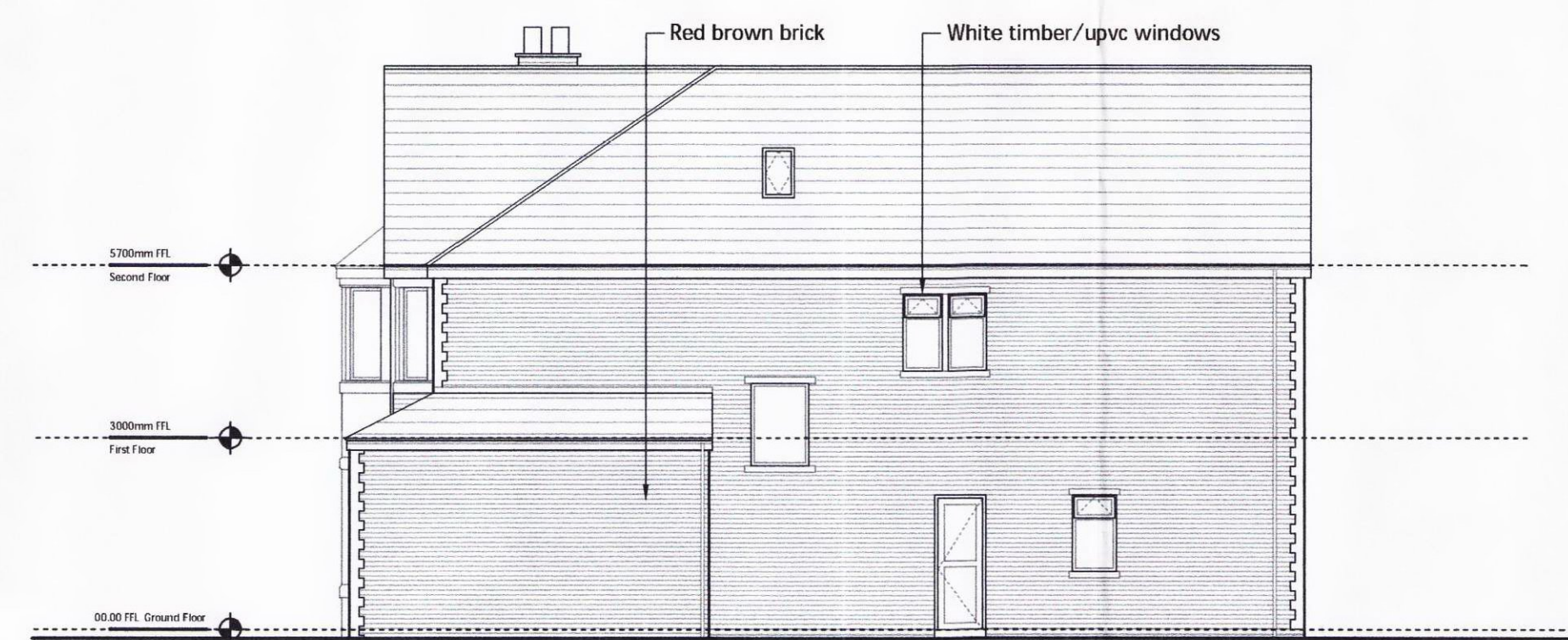
Location Plan  
Scale 1:1000



Elevations - Proposed - East (Rear)  
Scale 1:100

1:2500	0	100m	200
1:1250	0	50m	100
1:1000	0	10	20
1:500	0	5	10
1:200	0	2	4
1:100	0	1	2
1:50	0	1	2

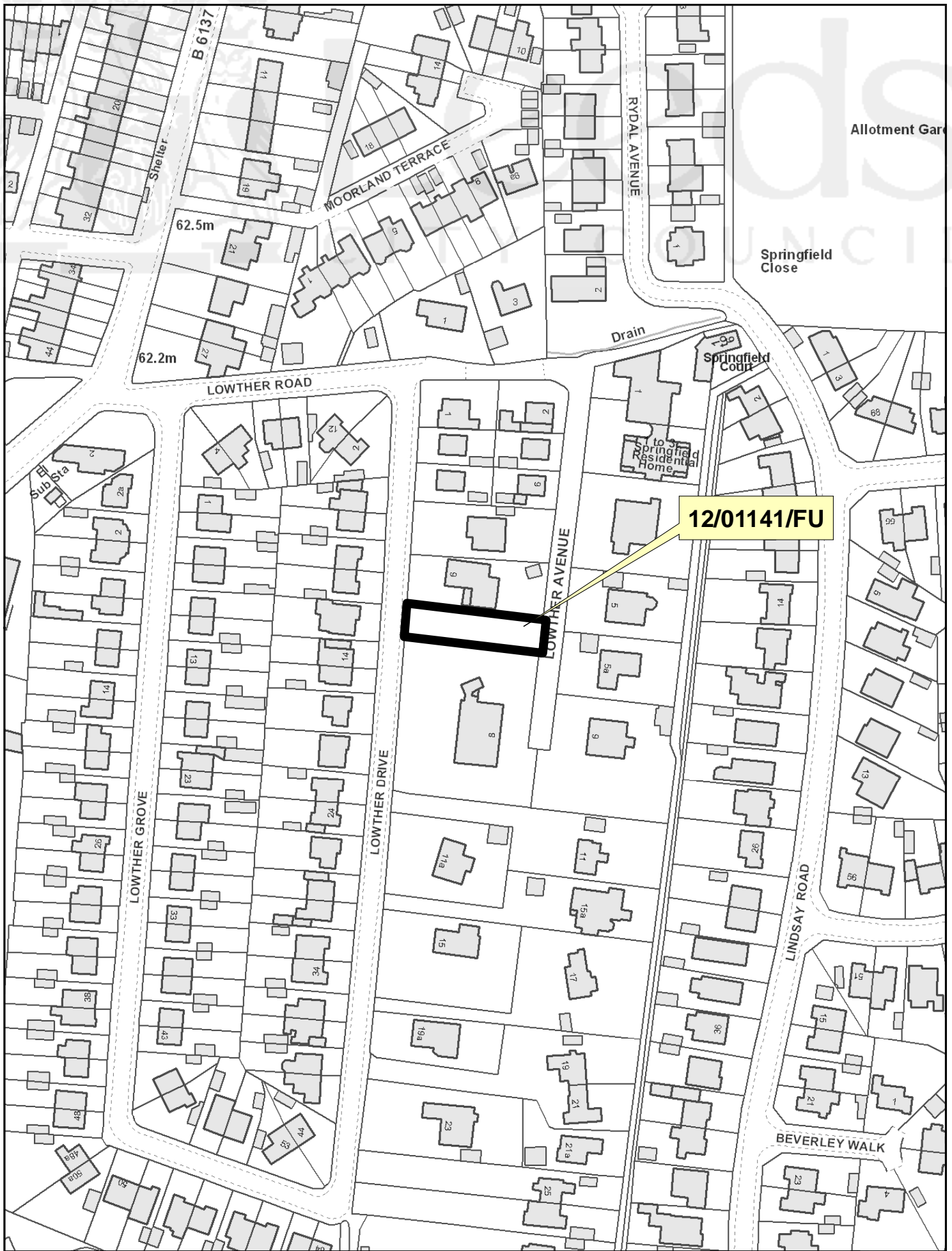
LEEDS CITY COUNCIL  
-7 JUN 2012  
**REVISED**



Elevations - Proposed - South (Side)  
Scale 1:100

**Gary & Jenny Johnson**  
client  
Proposed New Dwelling  
Plot 1 Lower Avenue  
Garforth  
Leeds  
project  
Proposed Plans  
And Elevations  
title  
Planning  
status  
02/02/2012 DG  
date  
1:100/200/1000 @ A1 AMN  
scale  
**(03) 01**  
C  
703 - 01  
job number

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12/01141/FU

# NORTH AND EAST PLANS PANEL

