



## Report of the Chief Planning Officer

### NORTH AND EAST PLANS PANEL

Date: 14<sup>th</sup> September 2017

**Subject: 17/02540/FU - Demolition of existing house and erection of eight flats with basement car parking, landscaping and associated works at Heather Royd, Wigton Lane, Alwoodley.**

#### APPLICANT

Mr Michael Lever

#### DATE VALID

21<sup>st</sup> April 2017

#### TARGET DATE

21<sup>st</sup> July 2017 (Agreed  
Extension of Time)

#### Electoral Wards Affected:

Alwoodley

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. Standard 3 Year implementation
2. Plans Approved
3. Materials to be submitted
4. Implementation of mature planting of trees following demolition of current property on site but before commencement of any excavation and construction works
5. Implementation of tree protection measures prior to commencement of works on site
6. Drainage
7. Land Contamination standard conditions
8. Hours of construction
9. Vehicle space laid out prior to use
10. Submission of scheme showing entrance gates set back 5 metres from pavement
11. Detail of foot way crossing and re-instatement of existing crossings
12. Standard Landscaping condition
13. Submission of Bat Mitigation Plan and licence issued by Natural England
14. Construction compound and management Plan

15. Submission of and installation of Granite Sett sleeping policemen on internal access road
16. Tree/vegetation protection measures during construction
17. Retention of identified trees and planting

## **1.0 INTRODUCTION**

1.1 This application is brought to Plans Panel at the request of Councillor Cohen who objects to the proposal for the following reasons:

- The development would completely dominate the neighbouring properties
- This kind of development is inappropriate and completely contradicts the surrounding street scene
- There is too much massing on the site
- The proposal will have significant impact on the visual amenity of the area
- The proposed development will overlook its neighbour's properties and would be very intrusive of their privacy
- This current proposed plan is too similar to an earlier application which was refused

1.2 The request sets out reasons that are material planning considerations that give rise to concerns affecting more than neighbouring properties and therefore it is appropriate for the application to be considered by Plans Panel.

## **2.0 PROPOSAL**

2.1 The proposal seeks the demolition of the existing dwelling on the site and its replacement with a single building that will contain 8 flats. The development will accommodate car parking provision for the residents in the form of basement car parking, which is shown to be accessed from a widened access point off Wigton Lane through remote controlled steel gates. These will be part of a reconstructed front boundary treatment that uses reclaimed/matching materials and will be constructed to a height of 1.65 metres. An existing pedestrian access point to the east will be retained and will provide access to the bin store which will be 'hidden' behind the boundary wall, whilst a new pedestrian access gate immediately to the west, constructed from similar material to the vehicular gates will be inserted in the re-constructed boundary wall.

2.2 The proposed structure is a two storey building with a roof that contains accommodation, overall therefore the development spans four floors. The ground floor consists of an entrance lobby giving access to a stairwell and lift and the 'front door' of four of the proposed flats. These flats are each 3 bedroom, all en-suite and each have a single reception room and a combined kitchen dining room. The master bedrooms have walk-in dressers and each flat has a separate wc.

2.3 The first floor replicates the general pattern of the flats below except that they have accommodation on two floors with a bed suite/sun room and study on the second floor which are accessed by stairs located in the flats entrance lobby. The two flats which are to the frontage of the proposed property, facing Wigton Lane each have a balcony facing Wigton Lane and a recessed balcony in the roof, on the second floor facing the rear of the site.

2.4 The flats to the rear of the building have balconies serving the lounge/dining rooms facing the side boundaries of the site. They also have balconies facing the

rear boundary of the site at first floor level with similar balconies recessed into the roof serving the bedrooms in the second floor. One each facing the side boundaries of the site and one each facing the rear boundary of the site.

- 2.5 The basement provides car parking spaces for 16 cars, two per unit. It also provides 8 storage units, one each for each unit. The lift and stairwell provide access from the interior of the building and vehicular access is from the frontage from a drive that curves from the entrance gates towards the basement entrance in a southerly direction. This access drive also gives access for 6 visitor car parking spaces close to the south east boundary which is the common boundary with number 14 Wigton Lane.
- 2.6 In terms of space around the proposed building the main front elevation will be 15 metres to the front boundary of the site with Wigton Lane increasing to 25 metres on that part of the elevation containing the pedestrian and vehicular access points.
- 2.7 Going clockwise around the site, the south east elevation will lie 5.5 metres at its closest point with the common boundaries of properties in High Ash Drive. This elevation is shown as having windows serving the kitchen/diner and the reception room in that wall that lies 5.5 metres to the boundary at ground floor. There are no windows in the upper floor(s) of that wall.
- 2.8 The rest of this part of the elevation facing High Ash Drive lies 13 metres from the common boundary with numbers 2 and 2a High Ash Drive which at ground floor contains the bedrooms 1-3 and the en-suite to bedroom 1. A projection of circa 1.9 metres brings the ground floor dining room as close as 11 metres to the common boundary with number 2a High Ash Drive.
- 2.9 At first floor this pattern is repeated except that the kitchen/dining room is contained within the main envelope of the building, making the distance of the windows serving that room to be 13 metres (with the boundary to 2 and 2a). The roof space contains a balcony which does have the effect of pushing the actual windows of the study and bed suite back from the edge of main envelope of the building by an additional 3.2 metres making the overall distance of the window to the common boundary with 2 and 2a High Ash Drive 16.2 metres. However the balcony that these windows give access too means that they will come closer and their front edges will be circa 14.2 metres from the common boundary with those properties in High Ash Drive.
- 2.10 The rear elevation at ground floor level and within the main envelope of the building is 11.5 metres from the common boundary with the rear garden of 2a High Ash Drive, (its garden wraps around the corner of the application site and so is longer than the garden of its neighbour at 2 High Ash Drive at this point.)
- 2.11 At ground floor the reception rooms of the rear ground floor flats have projecting windows measuring some 1.9 metres which reduces this distance down to circa 9 metres at its closest. It appears that the boundary fluctuates at this point and parts of this common boundary are closer to 10 metres away from that (rear) boundary as a result.
- 2.12 The relationship of the first floor is that the kitchen/dining rooms, which are wholly contained in the envelope of the main building will have windows serving them at 11.5 metres from that boundary as will the adjacent Reception rooms. However these reception rooms once again have balconies which measure circa 1.8

metres deep bringing the front edge of those balconies to 9.7 metres at the closest point.

- 2.13 These two boundaries which are the south east and south west facing boundaries are characterised by some mature planting, much of which appears to be on the neighbours side of the boundary, but some of which is on the application side of the boundary.
- 2.14 The final elevation which is the North West elevation comes at its closet point to the common boundary with properties in Alwoodley Gate at 11 metres. Windows in this elevation at this closest point serve bedrooms however the ground floor flat's dining room is shown with a predominantly glazed projection that brings it to circa 9.4 metres to the common boundary with those properties.
- 2.15 The first floor has a dining/kitchen and en-suite and bedroom window in this elevation at 11 metres from that boundary. The second floor has two balconies running parallel to that boundary and one perpendicular to it, the rear most balcony is set back from the main building envelope by approximately 1.2 metres which means that its front edge is circa 17.2 metres from the common boundary, however the front most balcony with a similar set in from the main building envelope will have the front edge of it at circa 12.2 metres. The central and perpendicular balcony to the boundary will lie circa 14.4 metres from the common boundary
- 2.16 The remainder of the land surrounding the proposed building is allocated as private space for occupiers of the ground floor flats or shared lawn amenity space for communal use. It is shown de-marked by hedge planting.

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

- 3.1 The site is located on Wigton Lane which is a wholly residential area. The nearest none residential uses being the golf course and grammar school to the north and the cluster of shops at the opposite end of Wigton Lane with its junction with Wike Ridge Lane. The area is characterised by relatively large dwellings in various sized plots and along Wigton Lane itself there is no coherence of design to the individual dwellings which is the element that contributes to the character of Wigton Lane that is otherwise defined in the public realm by the deep roadside, the relatively generous spatial setting between the houses verges, the strong boundary enclosures to the front and the mature planting.
- 3.2 All of which give the feel of a verdant and spacious sub-urban setting. The roads that spur off Wigton Lane do tend to have more uniformity in their house designs, but this is not apparent on Wigton Lane itself.
- 3.3 To the west of the application site on the opposite side of Wigton Lane and near to the entrance to the Golf Club is a block of flats which have been in existence for some time and apart from Wigton Court which is some distance to the east of the application site, is the only other flatted development on Wigton Lane.

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

- 4.1 The following applications are considered to be relevant:

12/01391/FU – Demolition of existing dwelling and erection of flats – Withdrawn

13/05817/FU – Demolition of existing dwelling and erection of 8 number flats – Withdrawn

13/00740/FU – Demolition of existing dwelling and erection of 8 number flats – Withdrawn

15/00051/FU - Demolition of house and erect block of eight flats with basement car parking – Refused. Subsequently dismissed on Appeal

PREAPP/16/00405 - Demolish dwelling and erection of block of 8 flats with basement car parking – Advice issued particularly in regards to the provision of a landscaping buffer on the south eastern boundary.

- 4.2 The key element of this history is the appeal inspectors decision which in summary confirmed that in the Appeal Inspectors opinion the location of the building was acceptable in respect of its relationship to all boundaries except for its relationship to the properties on High Ash Drive, where due to the elevated position of windows and balconies the perception of being overlooked and a subsequent loss of privacy would occur. The Inspectors decision also refers to the overbearing impact that such a change in mass of building would have on the occupiers of the properties in High Ash Drive.
- 4.3 The inspector’s conclusions on the level of amenity space for future residents and the overall design concept, including the levels of car parking etc were all acceptable. The Appeal inspector also concluded that there was no reason to object to the principle of flatted development in this location.

## **5.0 HISTORY OF NEGOTIATIONS:**

- 5.1 The main elements of negotiations that have been undertaken with the applicant in respect of this proposal have been since the dismissal of the appeal following the refusal of an earlier scheme which was determined under officer delegated powers. Officers advised that the main concerns raised by the appeal inspector related to the development and its relationship to the existing properties on High Ash Drive. In order for officers to be able to support any future scheme attention to this matter would need to be addressed.
- 5.2 In response the applicant suggested a screen of mature planting that would be implemented prior to construction commencing on site. This would result in the views from the rear gardens of those properties to be obscured as the planting would be implemented with semi-mature trees grown to a height of approx. 6.0 metres. Officers accepted that this may be a way forward but expressed further concerns with regards to the longevity of such a solution as whilst it is standard practice to impose conditions requiring the re-planting of any vegetation that dies out within a specified time period from the first planting season that it is implemented, the aims of this condition are to ensure sufficient time to allow the landscaping to establish itself rather than to ensure its longevity in the interests of a specific amenity issue. In response to this the applicant has submitted a unilateral undertaking under sec. 106b of the Town and Country Planning Act that ensures:
- Prior to the implementation of the landscape scheme they will notify the Council so that the planting can be inspected to ensure it is compliant with the terms of the proposed landscape drawing.

- That once approved, the landscaping scheme shall be maintained by the developer initially and then by the management company that will be necessary to set up to maintain the generality of the flatted development.
- Said management company to be set up prior to the occupation of any flat.
- The purchaser of each flat will have a share in the management company.
- That prior to the occupation of 75% of the flats the agreed maintenance arrangement of the landscaped area that will be the responsibility of the Management Company shall be submitted to the LPA for approval.
- That the management company shall in perpetuity maintain the landscaped area subject to any written variations agreed with the Council from time to time.

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

6.1 The application has been advertised by site notice the time for comment expiring on 2 June 2017. As a result of this publicity 33 objections have been made. Comments made are:

- Proposal destroys the local area due to size of building and being out of character with the area
- Additional Traffic
- Noise
- Will set a precedent for more flatted development
- Site is a fine example of executive accommodation
- Unbalance mix of housing in area
- Inappropriate Design contrary to the NPPF
- Adverse impact on wider streetscene
- Contrary to emerging Alwoodley Neighbourhood Plan
- Out of scale and overwhelming
- Larger than surrounding properties
- Not a sustainable location
- Impact on nearby traffic light controlled junction
- Development is for profit only and not to meet the needs of the locality
- Additional pollution
- Rejected at appeal
- Earlier applications for similar development have been rejected
- Exacerbate current situation caused by nearby school
- Overbearing
- Loss of Trees
- 8 Flats would increase the population and vehicles in a single house premises
- Loss of sunlight
- Disturbance
- Flats not necessary to support housing supply in Leeds
- Impact on Bats
- Drainage
- Loss of family home will deter potential senior executives to Leeds
- Submission is a "war of attrition" against the City Council
- Proposed boundary of trees will still be overbearing and oppressive
- Not a meaningful contribution to the housing supply and therefore in not necessary
- Up to 48 people could live on a site that accommodated a single family
- Change from a 2 storey to 3 storey building not appropriate

- Specific concern regarding children having to use this side of Wigton Lane to walk along due to no pavement on opposite side of road vis-à-vis the increase in vehicular movements into and out of the site.

6.2 Harewood Parish Council also objects to this proposal on the grounds that it is out of character with the area, Highways issues, impact on the street scene, loss of privacy, loss of light.

6.3 Councillor Cohen also objects and his concerns have been reported in the introduction to the report.

## **7.0 CONSULTATIONS RESPONSES:**

7.1 Nature Conservation: The site is a roost for a scarce species of Bat in the Leeds district and a licence is required from Natural England. The view of the Nature Conservation Officer on the submitted report dealing with this is that such a licence will be issued and so recommends a condition be imposed ensuring this is acquired prior to work commencing on site.

7.2 Contaminated Land: No objections subject to the imposition of standard conditions and directives.

7.3 Flood Risk Management: No objections subject to the imposition of conditions relating to the submission of a feasibility report into the use of infiltration drainage methods and a scheme detailing surface water drainage works.

7.4 Highways: No objections in principle, though a straighter alignment for the access to the underground car park would be preferred. That the impact on traffic movements during peak hours will be 5 vehicles over each hour which is not considered to represent a material increase in the existing levels of traffic using Wigton Lane. Feedback from Traffic Team indicates that queues from the traffic light controlled junction of Harrogate Road and Wigton Lane do not presently generate queues of 50 car lengths which is the length of gap between the site and that junction. Concludes that site is in a sustainable location for highway purposes. Requests that gates be set back 5 metres from back edge of pavement to allow a vehicle to stand clear of the highway whilst the gates are opened and the gates must open inwards. This can be controlled by condition.

## **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 (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 plans.

### Local Planning Policy

8.2 The most relevant Core Strategy policies are outlined below:

Spatial Policy 1	Location of Development
Spatial Policy 6	Housing requirement and allocation of housing land
Spatial Policy 7	Distribution of housing land and allocations
Policy H2	New housing on non-allocated sites

Policy H3	Density of Residential Development
Policy P10	Design
Policy P12	Landscape
Policy T2	Accessibility Requirements and New Development
Policy G2	Creation of new Tree Cover
Policy G7	Protection of important Species and Habitats
Policy EN5	Managing Flood Risk

8.3 Of the UDPR the following policies re considered relevant:

GP5 – Seeks to deal with matters through the planning process  
 BD5 – Seek to ensure new developments have regard to their own and their neighbour’s amenity.

8.4 The advice given in Neighbourhoods for Living regarding minimum space standards and protecting amenity is also considered relevant to this proposal

#### National Planning Policy Framework

8.5 This document sets out the Government's overarching planning policies on the delivery of sustainable development through the planning system and strongly promotes good design.

8.6 The NPPF confirms that at its heart is a presumption in favour of sustainable development. For decision taking, this means approving proposals that accord with the development plan without delay and where the development plan is silent, absent or relevant polices are out of date, granting permission unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the NPPF taken as a whole, or specific policies in the NPPF indicate that development should be restricted.

8.7 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.

8.8 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, 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.

## **9.0 MAIN ISSUES**

9.1 The main issues relating to this proposal are:

- The principle of the development and the appeal Inspectors findings
- Highway safety
- Design
- Amenity of both future occupiers and those of the current neighbours

## **10.0 APPRAISAL**



### The principle of the development and the appeal Inspectors findings:

- 10.1 The proposal is located in an area that is residential in character with non-residential uses few and far between. Therefore in simple terms the principle of a residential development in this residential area is considered appropriate. However, there have been concerns expressed by Ward Members and members of the public that there is a character on Wigton Lane that should be protected. This character is predominantly of large detached dwellings in large plots. These dwellings are all of unique design and contribute to the character which, it is argued, should be protected. The only dissenting developments on Wigton Lane are the flats to the west on the opposite side of the road nearer to the Golf Club entrance and Wigton Court which it also on the opposite side of Wigton Lane and to the east. In addition to this, the argument is that the more recent of these two developments, the one to the west is much smaller in scale and on cursory inspection appears as a single unit rather than an apartment block.
- 10.2 These arguments for retention of the existing character and 'justification' for preventing the further erosion of the character of Wigton Lane are noted, however it is difficult to justify such an argument in the absence of any planning policy that explicitly identifies this character and subsequently seeks to preserve it. Paragraph 58 of the NPPF does state that developments should "respond to local character and history and reflect the identity of local surroundings and materials, while not preventing or discouraging appropriate innovation;" and goes on at Paragraph 60 to say "Planning policies and decisions should not attempt to impose architectural styles or particular tastes and they should not stifle innovation, originality or initiate through unsubstantiated requirements to conform to certain development forms or styles. It is however proper to seek to promote or reinforce local distinctiveness." The principle in decision making it that it is up to the decision maker to decide what weight to give to such policy statements in any particular case. In this instance, in the absence of any explicit local plan policies or neighbourhood plan for Wigton Lane it is considered that the term "local character" should be given weight only inasmuch as it relates to the residential character of the area. There is no evidential basis upon which to substantiate an objection to the introduction of flatted development into this residential area as a matter of principle.
- 10.3 The appeal Inspector concluded that she did... "*not concur with the view of some third parties that the appearance of the building would appear out of character with the area and I find it well designed from an aesthetic standpoint*"... whilst this is as much relevant to the design issues discussed below it is also relevant to the principle of the development as at no point did the appeal inspector in considering the scheme raise concerns with regards to the principle of the development due to its nature as a flatted development or due to its bulk and massing in relation to surrounding properties or due to it differing design ethos.

### Highway safety:

- 10.4 Despite concerns raised by local residents regarding the increase in traffic movements to and from the site if the application is permitted, the impact of the development is considered to be low and not be a cause for concern. The site entrance is sufficiently distant from the junction with Harrogate Road and there is sufficient off street car parking provision made within the site itself. The standards of car parking provided are considered sufficient to meet the needs of this proposed development and meet policy requirements.

- 10.5 The highway comments regarding the access to the undercroft car parking are noted. It is however considered that to change the proposed access drive to a straighter alignment would not only expose the garage door and entrance way to greater public visibility but would also detract from the character that the currently submitted layout seeks to achieve, and it should be noted that the drive as submitted is capable of accommodating two vehicles travelling in opposing directions. However, should planning permission be granted it is recommended that a condition be imposed that requires the installation of granite sett sleeping policemen which will force vehicles to slow down to an acceptable speed and minimise the chance of conflict as a result of the driveway's shape. In all other respects the conditions recommended by the Highway consultee are considered acceptable. It should be noted that the access arrangements are the same as those proposed under the appeal scheme and the Inspector did not raise an objection to this aspect of the proposal.
- 10.6 Comment regarding the location of the gates are noted and it is considered that a condition requiring a set-back of 5.0 metres from the back edge of pavement can be imposed to ensure that a vehicle can stand clear of the highway whilst the gates open and the same condition can ensure that the gates open inwards to the site to prevent any overhang of the pavement.
- 10.7 In her conclusions, the appeal Inspector also noted that she had not *"been presented with any cogent evidence that the appeal proposal would adversely affect traffic conditions in the area"*.

#### Design:

- 10.8 There is no doubt that the proposed building is somewhat larger both in terms of its footprint and elevation than the existing unit on site and surrounding units neighbouring the application site. This however is not, in itself, necessarily a reason for refusal. The design is considered to be coherent and suitable for this location in principle given the area is a mixture of larger than average properties in reasonably large plots particularly on the Wigton Lane frontage.
- 10.9 From Wigton Lane the development will appear as a large two storey building with a significant roof atop it. However the proposal is rarely seen in two dimensions as views flat onto the development only occur generally if a viewer makes a concerted effort to view the building in such a way. What will be much more apparent is that the building is in fact a three storey building (above ground level anyway), due to the existence of patio windows, balconies and roof gardens particularly at roof level. However given the depth of the building into the site from Wigton Lane these are concerns which manifest themselves not so much from the design perspective but from the neighbour's amenity perspective.
- 10.10 As mentioned above, the Appeal inspector concluded that it was her opinion that the design was acceptable. It is therefore concluded that the proposal complies with Policy P10 of the Core Strategy.

#### Amenity of both future occupiers and those of the current neighbours:

- 10.9 This was the issue upon which the earlier decision made upon application reference 15/ 00051/FU and the appeal decision turned upon. Given that the Planning Inspectorates decision is a material consideration in this matter it is important to understand that the Inspector had a single issue in relation of the

proposed building and its impact on the amenity of future occupiers of the block itself and those amenities currently enjoyed by occupiers of surrounding residential properties.

- 10.10 In respect of the relationship of the proposals to the north east boundary, the common boundary with Alwoodley Gates, she concluded that there existed sufficient distance and existing mature planting to overcome any concerns in regards to loss of privacy and potential overlooking, a conclusion that officers agree with in assessing the current proposal.
- 10.11 Likewise in respect of the relationship of the rear facing elevation and the properties that abut the common boundary to the south east a similar conclusion was drawn. The existence of dense mature vegetation and the distance between the rear elevation and that common boundary removed concerns with regards to overlooking, loss of privacy and impact due to bulk and massing. It should be noted that these conclusions were drawn on the basis of the Appeal inspector undertaking her visit to the site during “the winter leaf fall on the deciduous specimens” (Paragraph 4). Again in assessing the current proposal Officer concur with this conclusion as the relationships between these two boundaries has not altered.
- 10.12 It is concluded therefore that a rejection of the proposals on the basis that it would adversely impact on the amenities of occupiers of properties in Alwoodley Gates would not be sustainable and that the proposal complies with policies P10, GP5 and BD5 of the Local Plan in respect of this part of the proposal.
- 10.13 The main concern of officers as borne out by the appeal decision made in favour of the Council in respect of application 15/00051/Fu is the relationship of the proposed development on the amenities of occupiers of 2 and 2a High Ash Drive. The proposal represents a significant increase in height and therefore bulk and massing in relation to the common boundary with these two properties and under the originally submitted scheme there was little comfort that this relationship could be mitigated in any meaningful way. The actual position of the building in relation to these properties has not altered between the 2015 scheme and the scheme presently under consideration, but what is materially different in this case is the inclusion with the submission of a Unilateral Undertaking from the applicant which makes certain provisions to ensure that a permanent green screen is implemented and maintained as part of the overall development proposals.
- 10.14 The provisions of that Unilateral Undertaking which has been assessed by Legal Officers and Planning Officers of the council will ensure:
- a) A scheme of semi mature trees and associated landscaping will be implemented prior to construction work commencing on site. (but after demolition of the existing building on the site)
  - b) That the management of this semi-mature tree belt will be undertaken by the establishment of a management company to be set up prior to 75% occupation of the units approved
  - c) That the management company will be responsible for the implementation of a management plan of the landscaping for the lifetime of the development
  - d) That the management plan will be agreed by the Local Planning Authority prior to its adoption and transference to the responsibility of the Management Company.

- 10.15 Whilst the proposals have not altered in any other respect since the appeal decision was issued there is a material and significant change with the provision of the landscaping (described below) and the submission of this Unilateral Undertaking to secure its implementation and maintenance. The tree planting scheme if implemented at a height of 6.5 metres will achieve two results. Firstly it will provide a degree of privacy to occupiers of the properties on High Ash Drive in terms of potential overlooking from windows and balconies in the roof of the proposed building. Cross sections have been submitted to demonstrate this. These are proposed at a reasonable distance from the common boundary anyway, however their elevated height above ground level means that there is an increased risk of overlooking from them. The direct line of sight from these balconies and other windows on that side elevation will be obscured by the implementation of the semi-mature tree planting. It is important that the tree planting is implemented following demolition but prior to construction work commencing as the size of the trees proposed will require craning in due to their size and root bowl. Conditions requiring the implementation of British Standard Tree Protection Measure to these trees, and indeed all retained vegetation on site, will ensure that the construction practice will not hurt or otherwise damage these trees.
- 10.16 The other function that these trees will fulfil is to screen the added bulk and massing of the building from views from the gardens of those properties on High Ash Drive. It is not expected that there will be total screening of the building, but there will be significant breaking up of the side elevation and roof scape from much of the space in those gardens. This will replace the present view of the side elevation of the existing property which is close to the common boundary and will be replaced by the side elevation of the proposed building at a distance of 5/6 metres from that common boundary. It will also replace the single storey element of the present building that is currently screened by planting on the High Ash Drive side of the boundary and will break up views of the enlarged side elevation of the proposed building that will sit approximately 13.6 metres from that common boundary. It is considered that whilst the views from the rear garden of 2a High Ash Drive will change materially, the impact on the amenities of occupiers of that property will not be so adversely impacted so as to justify a refusal of planning permission given the Unilateral undertaking submitted. The landscaping will afford privacy and a softening element to the parts of the proposal that will be visible from rear garden of 2a High Ash Drive.
- 10.17 The existence of the Unilateral Undertaking that will be enforceable by the Council in much the same way that the requirements of a Sec.106 Agreement is, will provide additional obligations that this barrier will be maintained. In addition the choice of using 6.5 metre trees will mean that over time their effectiveness will improve as they grow to full maturity under a well maintained regime.
- 10.18 Given that the conclusion of the appeal Inspector was on the basis that the scheme would *“appear unduly oppressive and overbearing in relation to numbers 2 and 2a High Ash Drive and would adversely affect their outlook and the privacy of occupiers of those dwellings”* (Paragraph 13), it has been incumbent on the applicant to overcome those particular issues. The combination of the submitted drawing showing the scheme and the Unilateral Undertaking containing the above mentioned provisions is considered sufficient to overcome those concerns and it is concluded that the proposals now comply with Policies P10, GP5 and BD5 of the Local Plan.

10.19 In other respects, given the propose positioning of the building on the site, its distance from boundaries with neighbouring properties and the orientation of the building in respect of adjoining properties it is not considered that any adverse overshadowing, loss of light or loss of views will occur that are sufficient to justify a refusal of planning permission. In this respect the proposal is considered to be compliant with Policies P10, GP5 BD5 of the Local Plan and to advice found in the SPG Neighbourhood for Living. It is considered that there is sufficient amenity space provided for future occupiers of the proposed unit and that this provision is also complemented by the provision of balconies within the structure itself.

Issues raised by objectors not covered in main body of report:

10.20 Noise – This is from two main sources, the noise and disturbance during construction and the general increase in ambient noise as a result of the intensification of the use. In respect of the increase in noise and disturbance during the construction period this can be controlled by condition that limits activities on the site, including demolition and site clearance to:

07:30-19:00 Mon- Fri

08:00-13:00 Sat

No works to be undertaken on Sunday's or Bank Holidays

In respect of the general increase in ambient noise as a result of the intensification of use of the site, this is not considered to be sustainable as the end use is residential in nature and the increase in density for 8 units, given the area of the site is not considered to be sufficient to justify a refusal of planning permission.

10.21 Precedent for similar development: Each case is treated on its merits and in the absence of any adopted policy on this matter each scheme put before the planning authority has to be measured against the extant policies of the Council pertaining at the time.

10.22 Current property is a fine example of executive accommodation: This is not in itself a matter for the planning system to determine nor does it have any weight in assessing the merits of the case.

10.23 Unbalance the Mix of Housing in the area: Arguably the scheme adds to the mix of the area. Much has been made of the 'traditional' residential nature of the area being family housing with few examples of flats in the locality. The provision of a flatted development on Wigton Lane might be argued to help address this 'unbalance'.

10.24 Contrary to the Emerging Alwoodley Neighbourhood Plan – The site does not lie within the remit of the Alwoodley Neighbourhood Plan boundary and in fact lies within the Parish of Harewood (albeit within the Ward of Alwoodley).

10.25 Development is for profit only: This is not a material planning consideration

10.26 Additional Pollution: It is not considered that 8 units will contribute significantly to the issue of pollution in the immediate locality.

10.27 Rejected at appeal and rejection of earlier proposals: Whilst vexatious applications can be rejected to be determined by Local Planning Authorities, there are rules about when this can be exercised, however and notwithstanding this, the

power to refuse to deal with applications is not one that should be exercised in a draconian manner and where the applicant is making genuine moves to resolve issues the case should be assessed fully. In this case it is considered that due consideration to the issue raised by the appeal Inspector has been given to the development and that it is only right and proper that a full assessment of its merits be undertaken.

- 10.28 Not necessary to support housing supply in Leeds: This is accepted and it has been concluded by both the Appeal Inspector and Officers prior to the appeal that the contribution the scheme would make to the housing supply would not outweigh the harm identified and that led to its rejection. This however does not constitute a reason for refusal when all other material considerations are acceptable and indeed that it will make a small contribution to the housing supply is a positive.
- 10.29 Loss of family home will deter potential senior executives to Leeds: This is not a planning issue.
- 10.30 War of attrition against the City Council: It is considered that it is legitimate for developers to seek to address issues where they are able to do so in a non-vexatious manner.

## **11.0 CONCLUSION:**

- 11.1 In addressing the issue of loss of privacy and loss of outlook from the properties on High Ash Drive in a robust way it is considered that the scheme is now acceptable, in that amenity space is adequately provided, and there are no Highway concerns in terms of the proposals impact on the public Highway, it is therefore concluded that planning permission can be recommended for approval subject to the conditions recommended above.

### **Background Papers:**

Application files: 17/02540/FU

Certificate of ownership: Certificate B signed Notice served on Mrs Lever as sole owner of property

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# Appeal Decision

Site visit made on 25 February 2016

**by Alison Roland BSc DipTP MRTPI**

**an Inspector appointed by the Secretary of State for Communities and Local Government**

**Decision date: 23 March 2016**

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**Appeal Ref: APP/N4720/W/15/3138403**

**Heather Royd, Wigton Lane, Alwoodley, Leeds, LS17 8SA.**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
  - The appeal is made by Mr Michael Lever against the decision of Leeds City Council.
  - The application Ref: 15/00051/FU, dated 23 November 2014 was refused by notice dated 11 June 2015.
  - The development proposed is demolition of existing house and erection of eight apartments with basement car parking.
- 

## Decision

1. The appeal is dismissed.

## Main Issue

2. The main issue in this appeal is the implications of the proposal for the living conditions of surrounding residents, by virtue of the potential for oppressive overbearing effects and loss of outlook and privacy.

## Reasons

3. The appeal property comprises a substantial detached dwelling fronting Wigton Lane, set within a generous plot. It is bound on its North Western side by properties on Alwoodley Gates and to its South Eastern side by No 14 Wigton Lane and Nos 2 and 2A High Ash Drive. The proposals would see the existing dwelling demolished and replaced by a substantially larger two storey building with accommodation in the roof space.
  4. The proposed building would be set back some distance from the rear garden boundaries with Nos 1 and 2 Alwoodley Gates. In addition, there is dense mature tree planting along the boundaries with those properties, some of which is evergreen. I saw at my visit that notwithstanding the winter leaf fall on the deciduous specimens, views from the appeal site towards those properties are strongly filtered by the trees.
  5. With this in mind and bearing in mind that the external roof gardens and balcony are likely to be most intensively used in the summer months, when greater screening will be afforded by trees in leaf along the boundary, I consider that there is adequate separation between the proposed building and
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those particular properties, to the extent that the building would not appear overbearing, nor give rise to a material loss of outlook or privacy to their occupants. It would also be possible to impose planning conditions requiring the retention of planting within the appeal site along this particular boundary.

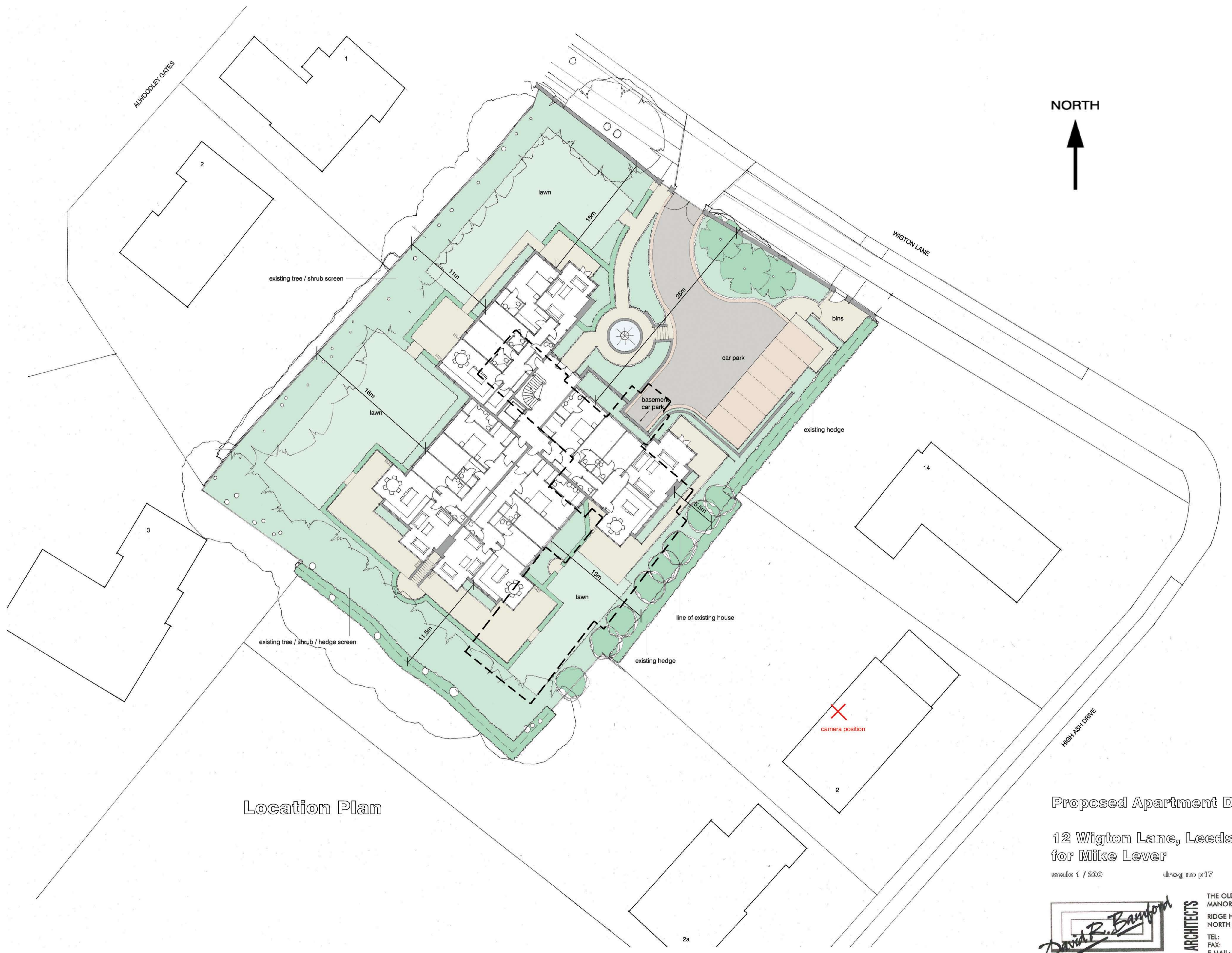
6. The boundary between the appeal site and No 3 Alwoodley Gates is similarly screened by trees (albeit more deciduous in nature). The proposed building would be orientated with its South Western corner closest to that particular property, to the extent its main bulk would be offset relative to it. The South Easterly façade to No 3 would also not be directly overlooked from the windows, balconies or roof gardens and views would be filtered by the trees. I therefore consider that the appeal proposal would have an acceptable relationship with that property, to the extent the living conditions of its occupiers would not be materially harmed.
7. However, I have reservations about the relationship of the proposed building to Nos 2 and 2a High Ash Drive. The boundary between the appeal site and those properties is rather more open (particularly in the case of No 2), which has a neat trimmed hedge. This being the case, I consider that the height and depth of the building would tend to loom large relative to the gardens to those properties and it would have oppressive, overbearing effects thereon. This would especially be the case with No 2 High Ash Drive which would be presented with a substantial two storey wall at around 5.5 metres from the rear boundary of that property.
8. I take the appellant's point in this regard that the existing rearwards extension to Heather Royd currently stands rather closer to the boundaries with those properties than the side of the proposed building. Nonetheless, as a single storey wing, its relationship with those properties is entirely different to the bulk and massing presented by a substantial two storey building with roof space accommodation.
9. I also have concerns about the potential for overlooking (both perceived and actual) from the proposed first floor windows and second floor roof gardens, as they would be substantially elevated relative to the gardens to Nos 2 and 2a High Ash Drive, which currently enjoy a considerable degree of privacy imparted by the long side wall to the existing building. I appreciate that there is an existing window in the first floor gable of Heather Royd Facing No 2, but given its very modest proportions, I do not consider it is comparable to the impact the appeal proposal would have, with several larger windows at first floor and the roof terraces at higher level.
10. With regard to the first floor balconies, the appellant says that those closest to the properties on High Ash Drive would be fitted with 1.8 metre opaque glass screens, which would prohibit any direct overlooking and I agree that a suitably worded condition could address this matter. Nonetheless, my concerns relating to overlooking centre on the second floor roof gardens and number of windows at first floor which would face these particular properties.
11. I appreciate that the appeal proposals include extensive landscaping and tree planting (including the use of standard trees at 4.5 metres height). However, this would take many years to mature before it provided any appreciable screening of the site from Nos 2 and 2a High Ash Drive.



12. I also understand the appellant's case that the separation distances between the appeal building and surrounding dwellings in many instances exceeds the minimum distances set out in the Neighbourhoods for Living Supplementary Planning Guidance (2003) (SPG). However, the proposal would introduce a substantial building of considerably greater scale relative to surrounding dwellings and with main living accommodation extending far deeper into the rear of the site than would normally be the case. It is thus rather different in terms of its potential impacts than is typically the case, where development is sited towards the frontage of the plot, with open amenity areas to the rear.
13. Overall on the main issue, whilst I conclude that the appeal proposal would not unacceptably harm the living conditions of occupiers of Nos 1-3 Alwoodley Gates, this is outweighed by my finding that it would appear unduly oppressive and overbearing in relation to Nos 2 and 2a High Ash Drive and would adversely affect their outlook and the privacy of occupants of those dwellings. The proposal would thus conflict with Policies P10 of the Leeds Local Development Framework Core Strategy (2014) and Policies GP5 and BD5 of the Leeds Unitary Development Plan Review (2006), together with advice in the SPG, which seek to ensure that development resolves detailed design considerations and does not result in a loss of amenity or privacy to nearby occupants.
14. I have had due regard to the benefits offered by the scheme, including the contribution it would make to the provision of additional housing accommodation (it is anticipated there is to be substantial housing growth within Leeds), and the sustainable location of the appeal site within a main urban area. I also do not concur with the view of some third parties that the appearance of the building would appear out of character with the area and I find it well designed from an aesthetic standpoint. Neither have I been presented with any cogent evidence that the appeal proposal would adversely affect traffic conditions in the area. Nonetheless, for the reasons given, I conclude that the harms identified significantly and demonstrably outweigh the benefits offered by the scheme. The appeal therefore fails.

*ALISON ROLAND*

INSPECTOR



Location Plan

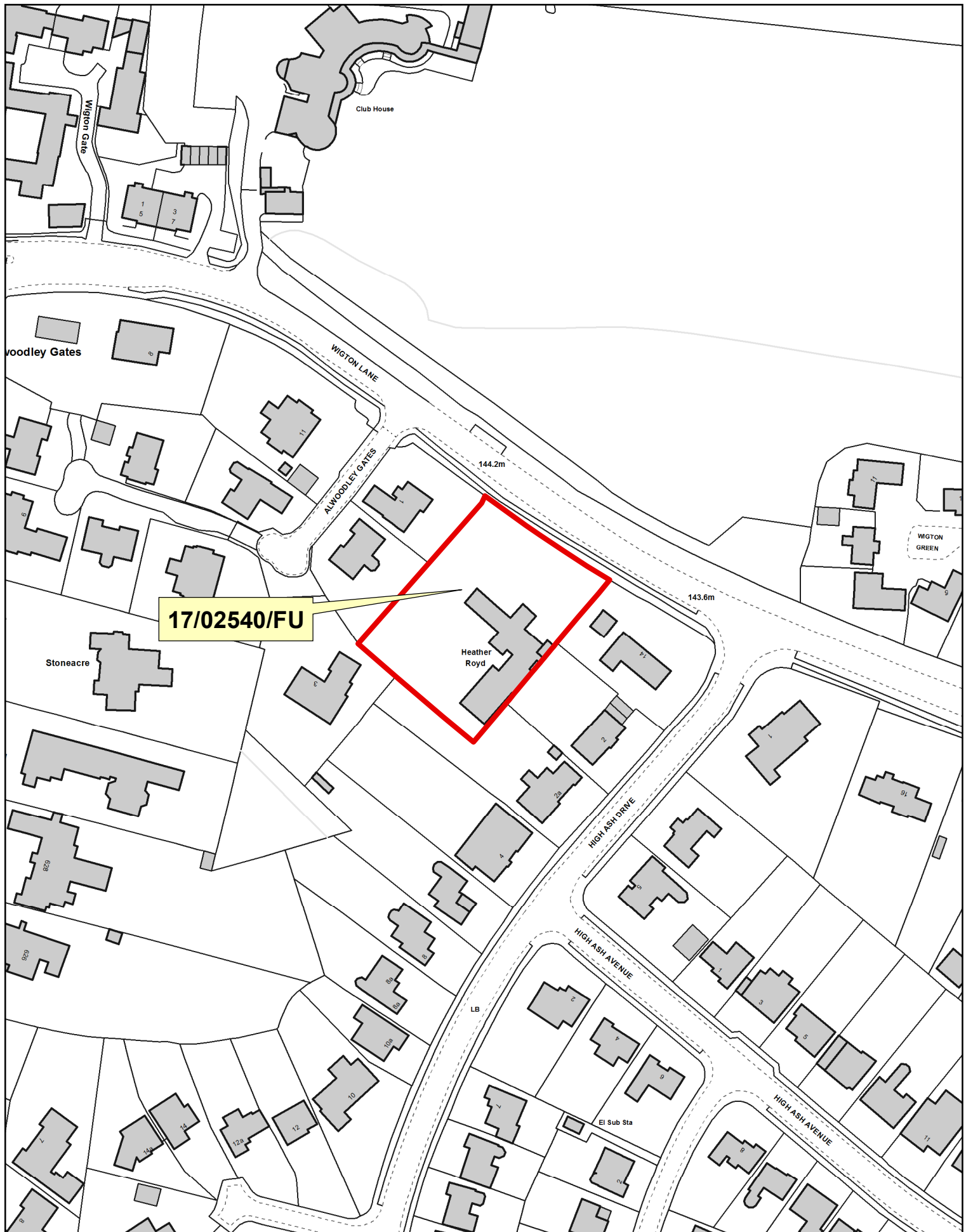
Proposed Apartment Development

12 Wigton Lane, Leeds  
for Mike Lever

scale 1 / 200      drwg no p17      12/4/17



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# NORTH AND EAST PLANS PANEL

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

SCALE : 1/1500

