

# **DEVELOPMENT CONTROL COMMITTEE**

**MONDAY 12<sup>TH</sup> MAY 2014**

**AT 6:00PM  
IN COMMITTEE ROOM 2  
AT THE COUNCIL HOUSE  
DUDLEY**

**If you (or anyone you know) is attending the meeting and requires assistance to access the venue and/or its facilities, could you please contact Democratic Services in advance and we will do our best to help you**

**MANJIT JOHAL  
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You can view information about Dudley MBC on  
<http://www.dudley.gov.uk/>**



## **IMPORTANT NOTICE MEETINGS AT THE COUNCIL HOUSE**

Welcome to the Council House

**In the event of the alarm sounding, please leave the building by the nearest exit. There are Officers who will assist you in the event of this happening, please follow their instructions.**

Please turn off your mobile phones and mobile communication devices during the meeting.

Thank you for your co-operation.

### **DEVELOPMENT CONTROL COMMITTEE**

**Let me first inform you that this is a Committee Meeting of the Council, members of the public are here to observe the proceedings and should not make contributions to the decision-making process.**

Applications are taken in numerical order with any site visit reports first, followed by applications with public speaking, then the remainder of the agenda.

Officers have explained the public speaking procedures with all those present who are addressing committee. Will speakers please make sure that they do not over-run their 3 minutes?

There will be no questioning by Members of objectors, applicants or agents, who will not be able to speak again.

All those attending this Committee should be aware that additional papers known as the "Pre-Committee Notes" are placed around the table and the public area. These contain amendments, additional representations received, etc, and should be read in conjunction with the main agenda to which they relate. They are fully taken into account before decisions are made.

**Our Ref:**  
MKJ120514

**Your Ref:**

**Please Ask For:**  
Mrs M Johal

**Telephone No:**  
01384 815267

1<sup>st</sup> May 2014

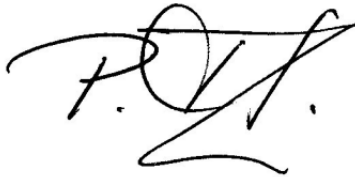
Dear Councillor

**DEVELOPMENT CONTROL COMMITTEE**  
**Monday 12<sup>th</sup> May 2014 at 6.00 p.m.**

You are requested to attend a meeting of the Development Control Committee to be held on Monday 12<sup>th</sup> May, 2014 at 6.00 p.m. in Committee Room 2 at the Council House, Dudley, to consider the business set out in the agenda below.

The agenda and public reports are available on the Council's Website [www.dudley.gov.uk](http://www.dudley.gov.uk) and follow the links to Councillors in Dudley and Committee Management Information System.

Yours sincerely



Director of Corporate Resources

**AGENDA**

1. APOLOGIES FOR ABSENCE

To receive apologies for absence from the meeting.

2. APPOINTMENT OF SUBSTITUTE MEMBERS

To report the appointment of any substitutes for this meeting of the Committee.

3. DECLARATIONS OF INTEREST

To receive declarations of interest in accordance with the Members' Code of Conduct.

4. MINUTES

To approve as a correct record and sign the minutes of the meeting held on 22<sup>nd</sup> April 2014.

5. PLANS AND APPLICATIONS TO DEVELOP (PAGES 1 – 140)

6. ENFORCEMENT REPORT (PAGES 141 - 150)

To consider a joint report of the Director of Corporate Resources and the Director of the Urban Environment

7. TO ANSWER ANY QUESTIONS UNDER COUNCIL PROCEDURE  
RULE 11.8 (IF ANY)

Distribution:

To all Members of the Development Control Committee

A Ahmed	Casey	J Martin	Perks	Roberts
Mrs Westwood	C Wilson	Wright	Zada	



## **AGENDA INDEX**

Please note that you can now view information on Planning Applications and Building Control Online at the following web address:

(Upon opening this page select 'Search for a Planning Application' and when prompted input the appropriate planning application number i.e. P09/---)

<http://www.dudley.gov.uk/environment--planning/planning/online-planning-and-building-control>

### **PLANS AND APPLICATIONS TO DEVELOP**

Pages 1 – 28	P14/0270 – 1 Whittington Road, Norton, Stourbridge – Demolition of Existing Dwelling and Erection of 14 No Dwellings with Associated Access Road and Garages
Pages 29 – 73	P14/0274 – Morrisons, Stallings Lane, Kingswinford – Demolition of Existing Industrial Unit, Petrol Filling Station and Food Store. Erection of New Food Store (A1), Petrol Filling Station and Associated Car Parking and Delivery Areas all on One Level (Resubmission of Approved Planning Application P12/0666)
Pages 74 – 78	P13/0374 – 1 Southwood Close, Kingswinford – Fell 1 Scots Pine Tree
Pages 79 – 94	P14/0461 – Workshop Rear of 2 Belgrave Road, Halesowen – Demolition of Existing Workshop and Erection of New Workshop for Car Repairs and Spares – (Retrospective) (Resubmission of Withdrawn Planning Application P13/1392)
Pages 95 – 106	P14/0462 – Fox and Goose Public House, Bromley Lane, Kingswinford – Erection of 3 No Dwellings
Pages 107 – 115	P14/0466 – 30 Worcester Lane, Stourbridge – Single Storey Front and Side/Rear Extensions and First Floor Side Extension
Pages 116 – 140	P14/0560 – Land Between Dudley Black Country Living Museum and Dudley Zoological Gardens, Dudley – Revised Access and Landscaping Proposals Over a Wider Area Relative to Previous Approval P12/1598 to Link to Dudley Canal Trust

## **DEVELOPMENT CONTROL COMMITTEE**

Tuesday 22<sup>nd</sup> April, 2014 at 6.00 pm  
In Committee Room 2, The Council House, Dudley

### **PRESENT:-**

Councillor Zada (Chair)  
Councillor Casey (Vice-Chair)  
Councillors A Ahmed, Caunt, J Martin, Perks, Roberts, Mrs Westwood and Wright

### **OFFICERS:-**

Mr I Hunt, Mrs H Martin and Mrs S Willettss (all Directorate of the Urban Environment), Mrs G Breakwell and Mrs M Johal (Directorate of Corporate Resources)

### 83      **APOLOGIES FOR ABSENCE**

Apologies for absence from the meeting were submitted on behalf of Councillors C Wilson and Roberts.

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### 84      **APPOINTMENT OF SUBSTITUTE MEMBER**

It was reported that Councillor Caunt had been appointed as a substitute member for Councillor Wilson for this meeting only.

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### 85      **DECLARATIONS OF INTEREST**

No Member made a declaration of interest in accordance with the Members' Code of Conduct.

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### 86      **MINUTES**

#### **RESOLVED**

That the minutes of the meeting of the Committee held on 31<sup>st</sup> March, 2014, be approved as a correct record and signed.

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A report of the Director of the Urban Environment was submitted on the following plans and applications to develop. In addition, where appropriate, details of the plans and applications were displayed by electronic means at the meeting. In addition to the report submitted, notes known as Pre-Committee notes had also been circulated updating certain of the information given in the report submitted. The content of the notes were taken into account in respect of the applications to which they referred.

- (i) Plan No P13/1887 – The Hearty Goodfellow, 3 Maughan Street, Dudley – Two Storey Rear Extension to Create 2 No Retail Units with 2 No Flats Above (Following Demolition of Existing Toilets and Store). Single Storey Side Extension to Existing Building to Create Restaurant/Public House and Provision of Additional Flat on First Floor

Decision: Approved, subject to conditions, numbered 1 and 3 to 11 (inclusive), as set out in the report submitted, together with the deletion of condition, numbered 12, replacement of condition, numbered 2 and reworded condition, numbered 4, as follows:-

2. No development shall commence until the site layout plan 12:63:12c showing the provision of a) 24 spaces at the site which accord with the dimensions set out in the parking standards SPD and b) a widened entrance to the parking area has been submitted to and approved in writing by the Local Planning Authority. The development shall take place in accordance with the approved details and shall remain as such in perpetuity.
4. Prior to the commencement of development, details of loading and unloading and details of turning facilities for all service vehicles to enter and egress in a forward gear shall be submitted to and approved in writing by the Local Planning Authority. The development shall take place in accordance with the approved details and shall remain as such in perpetuity.

- (ii) Plan No P14/0325 – Alliband Business Services Ltd, 14A-14B, Enville Road, Wallheath – Change of use from Mixed Use Retail (A1) and Office (B1A) to Retail Only (A1) with Proposed New Shop Front

Decision: Approved, subject to conditions, numbered 1 to 6 (inclusive), as set out in the report submitted.

The meeting ended at 6.30 pm.

# PLANNING APPLICATION NUMBER: P14/0270

Type of approval sought	Full Planning Permission
Ward	Norton
Applicant	Kendrick Homes Ltd/Oriel College Oxford
Location:	<b>1, WHITTINGTON ROAD, NORTON, STOURBRIDGE, DY8 3BL</b>
Proposal	<b>DEMOLITION OF EXISTING DWELLING AND ERECTION OF 14 NO. DWELLINGS WITH ASSOCIATED ACCESS ROAD AND GARAGES</b>
Recommendation Summary:	<b>APPROVE SUBJECT TO CONDITIONS</b>

## SITE AND SURROUNDINGS

- 1 The application site is approximately 0.88 hectares and is bound by residential properties along Whittington Road, Eveson Road, Harringay Road and Norton Road. The site also bounds onto a single dwelling to Hungerford Road.
- 2 The site consists of a single storey dwelling which is arranged around a quadrangle with evidence suggesting the building incorporates an older former agricultural barn.
- 3 Within the extensive garden is a group of outbuildings, a pool with concrete retaining walls, a well and an extensive mature belt of trees along Eveson Road which is the subject of a group Tree Preservation Order.
- 4 There is also sporadic planting and trees within the main part of the garden, including a yew tree, however these are not protected.
- 5 The wider area is residential in character although there are varying ages and styles of properties. For example, the dwellings immediately opposite the site onto Whittington Road are post war bungalows, but those on Eveson Road are predominantly inter-war detached and semi-detached houses. The dwellings which

face Norton Road are two-storey detached dwellings and those to the rear of the site along Harringay Road and Hungerford Road are typically bungalows.

## PROPOSAL

- 6 The proposed development consists of the demolition of the existing single storey dwelling and its associated outbuildings and the construction of 14 new detached houses. The proposed dwellings would all be two-storey in height and would contain either 4 or 5 bedrooms.
- 7 The proposal includes the provision of a new vehicle access from Eveson Road, which would be formed through part of the belt of trees which front onto that road. The rest of the tree belt would be retained.
- 8 Within the site the access drive splits in two with the drive running to the south west serving three dwellings, and seven dwellings to the east.
- 9 Four of the proposed dwellings would face directly onto Whittington Road with parking to the side of the relevant dwelling.
- 10 During the course of the application amended plans have been submitted which has resulted in some of the proposed dwellings being moved further away from the existing neighbouring dwellings. In addition the amendments would ensure an existing yew tree is retained and that there is a better relationship with the proposed access drive.
- 11 The proposed development would have a density of 16 dwellings to the hectare.
- 12 The application was submitted with a Design and Access Statement, a tree survey and an ecological assessment and addendum.

## HISTORY

APPLICATION	PROPOSAL	DECISION	DATE
86/51596	Conversion and extension to barn to provide detached residence.	Granted	13/11/86

## PUBLIC CONSULTATION

- 13 Notification letters were sent to the occupiers of 79 neighbouring properties and the application was also advertised in the local press and with a site notice. As a result 25 letters of objection have been received (including, one address where three letters have been received, and another where two letters have been received). The main issues raised relate to:

- Reference made to newspaper article/wishes of late owner that site was going to be used for other purposes such as school, nursing home or small residential development
- Loss of light/outlook and overlooking to houses to Norton Road
- Right to light issues
- Number of dwellings should be reduced
- Dwellings too close to boundary
- Trees should be retained along boundaries with existing dwellings
- Sewer crosses site which has had blockages
- No water management statement with application
- Increase in traffic
- Traffic speeds in area
- Problems with parking to doctors surgery
- Access drives are not wide enough
- Large vehicles would not be able enter the site
- Gardens are substandard
- Impact to nature conservation assets
- Impact to children's health
- Disturbance from traffic
- Glare from headlights at night
- Design and Access Statement is "non compliant"

- No planning statement
- Plans are inaccurate/not detailed and do not include details of materials
- Development is below threshold for affordable housing
- Development is not in keeping with area
- Density is too low
- Density is too high
- Not enough variety of house types within the scheme
- Not enough parking
- Site is not previously developed – target of 95% on previously developed sites
- Purchased house adjoining site as believed it would not be developed.
- Devaluation of property values
- Video showing water running along Norton Road submitted

14 Letters of objection have been received from two of the Local Ward Members raising the following matters:

- No pavements or lighting within the proposed site
- Insufficient parking
- Too dense
- No long term management of trees
- Development may be against wishes of late owner
- Due consideration not given to neighbours in producing the layout
- Access would be unsafe
- There is a group tree preservation order to the site
- Roads within site are too narrow
- Dwellings are too high
- Concerns about buildings to boundaries
- Sewer crosses site and has become blocked
- Officers should meet developers before application is presented to committee

## OTHER CONSULTATION

- 15 Group Engineer (Highways): No objection, subject to conditions.
- 16 Head of Environmental Health and Trading Standards: No objections.
- 17 Design and Development Manager (Urban Design): No objection to layout in principle, but modifications to layout and detailing to dwellings are required.
- 18 West Midlands Police: No lead should be used below roof level, fence and gates should be 2.1m high and should be fixed. Secured by Design doors and windows should be used.
- 19 West Midlands Fire Service: Tenders should be able to reach within 45m of each dwelling. The base of the tree crown should be no less than 3.7m. Suitable water supply should be provided.

## RELEVANT PLANNING POLICY

### National Planning Guidance

- National Planning Policy Framework (2012)
- Technical Guidance to the National Planning Policy Framework (2012)
- Manual for Streets

### Black Country Core Strategy (2011)

- CSP2 Development Outside the Growth Network
- CSP4 Place Making
- DEL1 Infrastructure Provision
- HOU2 Housing Density, Type and Accessibility
- TRAN5 Influencing the Demand for Travel and Travel Choices
- ENV 1 Nature Conservation
- ENV 2 Historic Character and Local Distinctiveness
- ENV 3 Design Quality



- ENV 8 Air Quality

#### Unitary Development Plan (2005) (Saved Policies)

- DD1 Urban Design
- DD4 Development in Residential Areas
- NC1 Biodiversity
- NC6 Wildlife Species
- NC9 Mature Trees
- NC10 The Urban Forest

#### Supplementary Planning Guidance/Documents

- Nature Conservation Supplementary Planning Document
- New Housing Development Supplementary Planning Document (2012)
- Planning Obligations Supplementary Planning Document (2011)
- Design for Community Safety Supplementary Planning Guidance
- Parking Standards Supplementary Planning Document (2012)
- PGN 12. The 45 degree code

## **ASSESSMENT**

20 The main issues are

- Principle
- Design
- Density
- Neighbour Amenity
- Occupier Amenity
- Access and Parking
- Trees and Landscape
- Nature Conservation
- Planning Obligations
- Homes Bonus

## Principle

- 21 The principle of residential development is considered to be acceptable on this site as it lies within a wider predominantly residential area and the current use of the site is residential. The site does not come under any specific designation within the adopted Black Country Core Strategy, nor the saved Unitary Development Plan (UDP). However, new residential development must be consistent with guidance as set out in the National Planning Policy Framework (NPPF) and all other relevant policies within the adopted Development Plan.
- 22 In terms of the NPPF the previous presumption in favour of the redevelopment of existing garden land for residential purposes (contained in PPS3) has been removed. However there is no presumption against such development and there is a clear focus that each potential development site should be considered on its own merits as to whether it is suitable for residential redevelopment.
- 23 As such Policies ENV2 of the Black Country Core Strategy and DD4 of the Dudley Unitary Development Plan as well as the New Housing Development Supplementary Planning Document are key material planning considerations.
- 24 Policy ENV2 – Historic Character and Local Distinctiveness states that *“All new development should aim to protect and promote special qualities, historic character and local distinctiveness of the Black Country in order to help maintain its cultural identity and strong sense of place. Development proposals will be required to preserve and, where appropriate, enhance local character and those aspects of the historic environment together with their setting which are recognised as being of special historic, archaeological, architectural, landscape or townscape quality”*
- 25 One of the character areas which is given special attention within the policy relates to areas of low density mid 20<sup>th</sup> Century private and public housing developments.
- 26 Also of relevance to the application is Policy DD4 – Development in Residential Areas - of the Dudley Unitary Development Plan. The policy requires development

proposals to have no adverse impact on character or amenity, to be in scale with its surroundings and provide sufficient parking. The policy also requires development to have no adverse impact to neighbour amenity.

- 27 It is therefore considered that subject to an assessment of the detailed layout, design and impact of the proposal on the amenities of the occupiers of existing neighbouring properties, the proposed dwellings, the character of the area, trees and nature conservation interests that the principle of the redevelopment of the site for residential purposes would be acceptable.

#### Loss of Existing Dwelling

- 28 The existing dwelling is a large single storey building with a courtyard quadrangle. The vast majority of the building is comparatively modern, although part of the building incorporates a 19<sup>th</sup> century former agricultural building.
- 29 The retention of this building has been considered, however, very little of this building remains in its original form with significant extensions and the introduction of new large openings. Therefore the retention of the building on historic environment grounds could not be justified in this instance.
- 30 The outbuildings within the garden similarly are not considered to be of any particular architectural or historical interest.

#### Design and Layout

- 31 As stated above the wider area is principally residential in character with a variety of house types and ages. The area is also defined by development facing onto roads or private drives and is generally of low to medium density (i.e. a typical outer suburban character as defined by the New Housing Development Supplementary Planning Document).

- 32 Four of the proposed dwellings would face onto Whittington Road (Plots 11 to 14) with the remaining plots facing onto the proposed private drives serving the site which would fit with this general character.
- 33 The house types in themselves are considered to be acceptable with the proposed front elevations incorporating considerable architectural detailing. Such detailing includes chimneys, window head and cill detailing, together with quoin and hanging tile detail.
- 34 The layout has also been designed to retain the majority of the protected tree belt road frontage to Eveson Road which is a particularly distinctive feature within the area, as well as the non protected yew tree within the site. A more detailed assessment of tree and landscape issues is considered below.

#### Density

- 35 Policy HOU2 – Housing Density, Type and Accessibility of the Black Country Strategy states that all new developments should aim to be developed at an average of 35 dwellings per hectare.
- 36 The New Housing Development Supplementary Planning Document also seeks this general target but acknowledges that in Outer Suburban locations such as this, lower density development of around 20 dwellings per hectare is more appropriate.
- 37 The proposed development would have a density of 16 dwellings per hectare. Whilst this is slightly below the indicative density for this location and that of the prevailing density within the area it is considered appropriate in this instance. This is due to the presence of the protected trees along the main road frontage which prevents the development of this section of the site.

### Neighbour Amenity

- 38 The New Housing Development Supplementary Planning Document sets out the required separation distances between existing and proposed residential development. The SPD states that there is a requirement for a 14m separation distance between an elevation which contains habitable windows and either a blank elevation or one which only contains non habitable windows. In the case where opposing habitable windows are proposed, particularly to the sensitive rear elevation this distance should be 22m.
- 39 During the process of the application the siting of the proposed dwellings associated with this application have been amended to ensure these distances are achieved. For example there is in excess of 22m between opposing habitable windows of the dwelling proposed for Plot 7 and No. 9 Harringay Drive, and there would be 14m or more between the side elevations of the dwellings proposed for plots 8 and 14, and Nos.126 to 136 Norton Road.
- 40 Similar changes have been made to ensure the proposed separation distances are acceptable with regard to other dwellings to Harringay Drive, most notably Nos. 7 to 9, in relation to Plots 1 to 3.
- 41 In addition Plot 1 has been repositioned to minimise the impact to No. 21 Eveson Road as it was considered that the initial proposal would have resulted in the overlooking of the rear garden of No.21 to an unacceptable degree.

### Occupier Amenity

- 42 The garden sizes of some of the dwellings are a little shorter than required by the New Housing Development Supplementary Planning Document (which requires a minimum of 11m). However, the width of the proposed gardens makes up the minimal deficiencies, and therefore no concerns are raised in terms of the amenities of the potential future occupiers of the proposed dwellings in this regard.

### Access and Parking

- 43 Policy TRAN2 – Managing Transport Impacts of New Development of the Black Country Core Strategy, states that planning permission should not be granted for development where proposals are likely to have significant transport implications.
- 44 The proposed main vehicular access to the site would be taken from Eveson Road. It is considered that this access provides adequate visibility splays for both pedestrians and vehicular traffic. The width of the access into the site for the first part of the drive would be 4.5m and it is considered to be sufficient to allow refuse vehicles to enter the site should this section of road be adopted by the Council.
- 45 The rest of the access arrangements within the main site would be provided from shared private drives that would not therefore need to be to an adoptable standard. Government advice contained within Manual for Streets encourages the use of shared surfaces such as those shown on the submitted plans.
- 46 The access arrangements for the houses which would face onto Whittington Road are also considered to be acceptable with sufficient sight lines.
- 47 The proposed parking provision and the proposed garages are considered to be in accordance with the Councils adopted standards, and as such the Group Engineer (Highways) raises no objection to the proposal.
- 48 Conditions requiring the provision of electric vehicle charging points, bin collection points and the implementation of the access and parking arrangements prior to first occupation are proposed.

### Trees and Landscape Issues

- 49 Saved Policy ENV9 – Mature Trees of the Dudley Unitary Development Plan states that where appropriate and where possible the Council will seek to retain trees for their amenity and wildlife value. Proposals for development will be required to

include protection for the trees. Where the loss includes mature or veteran trees are unavoidable they should be replaced by appropriate native species.

- 50 Saved Policy NC10 – The Urban Forest states that where trees occur on development sites, the applicant will be required to provide full details and demonstrate that the Councils good practice have been followed. Proposals involving the loss of trees will be required to include measures for their replacement.
- 51 The application has been submitted with a full site survey with the existing trees on the site plotted. In addition the application has been submitted with a tree condition survey.
- 52 The front part of the site along Eveson Road includes a band of trees. These trees are subject of a group Tree Preservation Order. The proposed layout shows the retention of these existing trees in the main. However, a section of trees will need to be removed to enable the new access drive into the site to be provided. The location chosen is at the point where the trees are at their thinnest to minimise the impact. The Council Tree Protection Officer is happy with this approach.
- 53 Within the rest of the site the trees are more thinly spread and in many cases are more typical garden trees and none of these are currently protected or would be likely to be of such value to warrant their protection.
- 54 Initially it was proposed that the yew tree was to be removed but the applicant was able to reposition the layout to facilitate its retention. Other plots have also been modified to reduce impact.
- 55 The loss of the other trees within the site is considered to be regrettable, however, in this case the Tree Protection Officer is satisfied there would be no harm to amenity.

- 56 With regard to nature conservation, which is considered below, mitigation measures will be required to offset the impact as recognised by the applicants own ecological assessment.
- 57 To ensure the retained trees continue to remain in good health a number pre commencement conditions are proposed.
- 58 The applicant has also submitted a soft and hard landscape strategy for the site which provides some brief details how the finalised details are to be provided on site. It also provides details on how the retained trees and communal space along the boundary Eveson Road is to be managed, but also what additional planting will required.

#### Nature Conservation

- 59 The applicant has submitted a comprehensive Ecological Survey which has been satisfactorily undertaken by a Professional Ecologist. The Ecological Survey concluded that no designated nature conservation sites would be adversely affected by proposed development on this site. However, the most important feature on the site is the large section of broad-leaf woodland along the northern boundary.
- 60 The Ecological Survey noted that there are no signs of roosting bats in any of the buildings on site however, the site may play host to foraging and commuting bats on occasion. In addition, the site shows the presence of nesting birds in the mature trees and the survey suggests a strategy to mitigate against any adverse effects upon these species. These recommendations should be included as conditions on the granting of any planning permission.
- 61 An addendum to the ecological report has been submitted after it was discovered that badgers setts may be present on the site. However, it is confirmed that the features on site are not used by badgers or any other protected species and therefore the application cannot be reasonably resisted on nature conservation grounds.



## Planning Obligations

- 62 Black Country Core Strategy (BCCS) Policy DEL1 'Infrastructure Provision' sets out the adopted policy framework for Planning Obligations within Dudley and the Planning Obligations SPD provides further detail on the implementation of this policy; these policy documents were prepared in accordance with national legislation and guidance on planning obligations.
- 63 Policy DEL1 requires all new developments to be supported by sufficient on and off-site infrastructure to serve the development, mitigate its impact on the environment, and ensure that the development is sustainable and contributes to the proper planning of the wider area.
- 64 In determining the required planning obligations on this specific application the following three tests as set out in the Community Infrastructure Levy (CIL) Regulations, in particular Regulation 122, have been applied to ensure that the application is treated on its own merits:
- a) necessary to make the development acceptable in planning terms;
  - b) directly related to the development;
  - c) fairly and reasonably related in scale and kind to the development.
- 65 Following consideration of the above tests the following planning obligations are required for this application:

### **On-Site Provision (to be secured by condition)**

- Public Realm
  - Nature Conservation Enhancement/Mitigation
  - Public Art
  - Air Quality Enhancement
- 66 It is considered that these contributions meet the necessary tests as stated above in that they contribute to the delivery of a sustainable development, are being provided

directly on the development site itself and are deemed to be in scale and kind to the proposed development.

- 67 This development complies with the requirements of BCCS Policy DEL1 and the Planning Obligations SPD.

#### New Home Bonus

- 68 Clause (124) of the Localism Act states that: Local Planning Authorities are to have regard to material considerations in dealing with applications including any local finance considerations, so far as material to the application. A “local finance consideration” means a grant or other financial assistance that has been, or will or could be, provided to a relevant authority by a Minister of the Crown. This may be taken to cover the payment of New Homes Bonus, or sums that a relevant authority has received, or will or could receive, in payment of CIL.
- 69 The New Homes Bonus is designed to create an effective fiscal incentive to encourage local authorities to facilitate housing growth. It will ensure the economic benefits of growth are more visible within the local area, by matching the council tax raised on increases in effective stock.
- 70 The Bonus will sit alongside the existing planning system and provides local authorities with monies equal to the national average for the council tax band on each additional property and paid for the following six years as a non-ring fenced grant.
- 71 Whilst the clause makes it clear that local finance matters are relevant to planning considerations can be taken into account, it does not change the law in any way. It is not a new basis for planning policy and it remains unlawful for planning permissions to be “bought”.
- 72 This proposal would provide a net increase of 13 houses generating a grant of 13 times the national average council tax for the relevant bands

- 73 Whilst this is a significant sum of money the planning merits of the proposal are acceptable in any event and therefore this is not accorded significant weight.

#### Drainage Issues

- 74 The concerns regarding the crossing the site of a drain is noted. However, this matter is covered by other regulatory legislation and normally cannot be considered to be a material planning consideration.

### **CONCLUSION**

- 75 The proposed development is considered to be acceptable in principle, is of acceptable design and would fit into its wider surroundings. In addition the proposed development would have adverse impact to neighbour amenity or highway safety. Careful consideration has also been given to the protected trees and nature conservation assets at the site. Consideration has been given to policies CSP2 Development Outside the Growth Network CSP4 Place Making DEL1 Infrastructure Provision HOU2 Housing Density, Type and Accessibility TRAN5 Influencing the Demand for Travel and Travel Choices ENV 1 Nature Conservation ENV 2 Historic Character and Local Distinctiveness ENV 3 Design Quality and ENV 8 Air Quality of the Black Country Core Strategy and saved policies DD1 Urban Design DD4 Development in Residential Areas NC1 Biodiversity NC6 Wildlife Species NC9 Mature Trees and NC10 The Urban Forest of the Dudley Unitary Development Plan.

### **RECOMMENDATION**

It is recommended that the application be APPROVED subject to the following conditions:

#### Notes to Applicant/Informative

In dealing with this application the Local Planning Authority have worked with the applicant in a positive and proactive manner, seeking solutions to problems arising in relation to dealing with the application, by seeking to help the applicant resolve technical detail issues

where required and maintaining the delivery of sustainable development. The development would improve the economic, social and environmental concerns of the area and thereby being in accordance with paragraphs 186 and 187 of the National Planning Policy Framework.

Conditions and/or reasons:

1. The development hereby permitted shall be begun before the expiration of three years from the date of this permission.
2. The development hereby permitted shall be carried out in accordance with the following approved plans: 333-01-03 A, 333-01-04, 333-01-03 (new vehicular access), 333-01-03 A (site layout), 333-03-01, 333-03-02 A, 333-04-01, 333-04-02 A, 333-06-01, 333-06-02 A, 333-08-01, 333-08-02 A, 333-09-01, 333-10-01, landscape strategy plan, except insofar as required by other conditions attached to this permission.
3. No part of the development hereby permitted shall be commenced until detailed plans and sections showing existing site levels and finished floor levels of the dwellings have been submitted to and approved in writing by the Local Planning Authority and the development thereafter shall only be carried out as approved.
4. No part of the development hereby permitted shall be commenced until a schedule of all materials to be used on the walls and roofs of the buildings has been submitted to and approved in writing by the Local Planning Authority and thereafter the development shall only be constructed in accordance with these details.
5. No part of the development hereby permitted shall be commenced until large scale drawings of verges, eaves, chimneys, window surrounds and door surrounds have been submitted to and approved in writing by the District Planning Authority and thereafter the development shall only be carried out in accordance with these details.
6. No part of the development hereby permitted shall be commenced until full details of soft landscaping works have been submitted to and approved in writing by the Local Planning Authority. These details must include, where appropriate, planting plans, written specifications, a schedule of plants including species, plant sizes and proposed numbers/densities and a programme of implementation. Plans must also include accurate plotting of all existing landscape features.

The works approved as part of this condition shall be completed within the first planting season following the first occupation of any part of the development.

Any trees or shrubs planted in pursuance of this permission including any planting in replacement for it which is removed, uprooted, severely damaged, destroyed or dies within a period of five years from the date of planting shall be replaced by trees or shrubs of the same size and species and in the same place

unless otherwise agreed in writing by the Local Planning Authority

7. No part of the development hereby permitted shall be commenced until full details of hard landscape works have been submitted to and approved in writing by the District Planning Authority. The details must include existing and proposed finished levels or contours; the position, design and materials of all site enclosures, car parking layout and other vehicular and pedestrian areas; hard surfacing materials, minor artefacts and structures (e.g. street furniture, play equipment, refuse areas, lighting etc;) and any retained historic features and proposals for restoration.

The works approved as part of this condition shall be completed ( before the first occupation of any part of the development.

8. A. No development shall commence until details of the access road and parking areas have been submitted to and agreed in writing by the LPA. These shall include details of lines, widths, levels, gradients, form of construction, drainage and lighting.  
B. No part of the development shall be occupied until the access roads and parking areas have been provided in accordance with the approved details and shall be maintained thereafter for the life of the development.
9. No development shall commence until details of nature conservation enhancement works have been submitted to and approved in writing by the Local Planning Authority. The nature conservation enhancement works shall thereafter be provided in accordance with the approved details prior to first occupation of the development and be maintained for the life of the development.
10. No development shall commence until details of public realm works have been submitted to and approved in writing by the Local Planning Authority. The public realm works shall thereafter be provided in accordance with the approved details prior to first occupation of the development and be maintained for the life of the development.
11. No development shall commence until details of works of public art have been submitted to and approved in writing by the Local Planning Authority. The works of public art shall thereafter be provided in accordance with the approved details prior to first occupation of the development and be maintained for the life of the development.
12. No development shall commence until an Economic and Community Development Statement has been submitted to and approved in writing by the Local Planning Authority. The Statement shall address as a minimum, measures to increase the number of jobs open to local people available on the site and the development of initiatives that support activities to upskill local unemployed people of working age so as to support them into sustained employment as outlined in the Council's Planning Obligations Supplementary Planning Document. The development shall be implemented in accordance with the approved Statement and retained in accordance with the Statement for the lifetime of the development.

13. No development shall commence until details for the provision of external electric vehicle charging point(s) have been submitted to and approved in writing by the Local Planning Authority. The Electric Charging point(s) shall thereafter be provided in accordance with the approved details prior to first occupation of the development and be maintained for the life of the development.
14. No structure or means of enclosure or planting exceeding 0.5m in height shall be located within the visibility splay to the access drive to the site.
15. No part of the development hereby permitted shall be commenced until details of the positions, design, materials and type of boundary treatment or means of enclosure have been submitted to and approved in writing by the Local Planning Authority. No part of the development shall be occupied until these works have been carried out in accordance with the approved details.
16. No part of the development hereby permitted shall be commenced until details of the maintenance of the landscape areas outside of domestic curtilages, including details of its implementation for a minimum period of five years from first planting has been submitted to and approved in writing by the Local Planning Authority.
17. No development shall commence until details of the bin collection point for the site has been submitted to and approved in writing by the Local Planning Authority. The collection point shall be provided in accordance with the approved plans prior to first occupation of any of the dwelling served by the driveway from Everson Road. The bin collection point shall thereafter be retained for the life of the development.
18. No development shall take place until there has been submitted, and approved in writing by the local planning authority details of the tree protection measures on site. The agreed tree protection measures shall be erected / installed prior to the commencement of the development hereby approved (including any tree felling, tree pruning, demolition works, soil moving, temporary access construction and or widening, or any operations involving the use of motorised vehicles or construction machinery), and shall not be taken down moved or amended in any way without prior written approval of the local planning authority. The tree protection details shall include:
  - a. A plan showing the location and identification (with reference to a survey schedule if necessary) of all trees on, or directly adjacent to the development site, that are to be retained during construction. These trees are to be marked with a continuous outline.
  - b. A plan showing the location and identification (with reference to a survey schedule if necessary) of all the trees on, or directly adjacent to the development site that are to be removed prior to, or during development. These trees are to be marked with a dashed outline.
  - c. A plan showing the extent of the Root Protection Area, which is to be protected by physical barriers during development. The extent of the area that is to be protected will be calculated in accordance with Clause 4.6 of British Standard BS:5837 - 2012 'Trees in Relation to Design, Demolition and Construction- Recommendations'.

d. Design details of the proposed protective barriers and ground protection to be erected around the trees during development. Any protection barriers should be designed and constructed in accordance with the provisions set out in section 6.2 of British Standard BS:5837 - 2012 'Trees in Relation to Design, Demolition and Construction- Recommendations'.

19. No development or other operations shall commence on site or in connection with the development hereby approved, (including any tree felling, tree pruning, demolition works, soil moving, temporary access construction and or widening, or any operations involving the use of motorised vehicles or construction machinery) until a detailed Arboricultural Method Statement has been submitted to and approved in writing by the Local Planning authority. No development or other operations shall take place except in complete accordance with the approved Method Statement. Such method statement shall include full detail of the following:

- Implementation, supervision and monitoring of the approved Tree Protection Plan.
- Implementation, supervision and monitoring of the approved Treework Specification.
- Implementation, supervision and monitoring of all approved construction works within any area designated as being fenced off or otherwise protected in the approved Tree Protection Plan.
- Timing and phasing of arboricultural works in relation to the approved development.

20. No development or other operations shall commence on site or in connection with the development hereby approved, (including any tree felling, tree pruning, demolition works, soil moving, temporary access construction and or widening, or any operations involving the use of motorised vehicles or construction machinery) until a detailed tree felling / pruning specification has been submitted to and approved in writing by the Local Planning Authority. No development or other operations shall commence on site until the approved tree felling and pruning works have been completed. All tree felling and pruning shall be carried out in full accordance with the approved specification and the requirements of British Standard 3998 (2010) Recommendations for Tree Work.

21. All excavations to be undertaken within the Root Protection Area (as defined by Clause 4.6 of British Standard BS:5837 - 2012 'Trees in Relation to Design, Demolition and Construction- Recommendations') of any existing trees on site shall be undertaken in accordance with NJUG Guidelines for the Planning, Installation and Maintenance of Utility Apparatus in Proximity to Trees (NJUG Volume 4).

22. No development or other operations shall commence on site in connection with the development hereby approved, (including any tree felling, tree pruning, demolition works, soil moving, temporary access construction and or widening, or any operations involving the use of motorised vehicles or construction machinery) until a detailed service (gas, electricity and telecoms) and foul and surface water drainage layout has been submitted to and approved in writing by the Local Planning Authority. Such layout shall provide for the long term

- retention of the trees. No development or other operations shall take place except in complete accordance with the approved service/drainage layout.
23. No development shall take place until there has been submitted to and approved in writing by the local planning authority technical details of any proposed pathway / hard surfacing / driveway / parking area within the Root Protection Area (as defined by Clause 4.6 of British Standard BS:5837 - 2012 'Trees in Relation to Design, Demolition and Construction - Recommendations') of any existing tree situated on or off the site. The details of the vehicular access and parking areas shall include existing and proposed ground levels, materials to be used and the relative time of construction within the whole development and must be in accordance with appropriate guidelines, namely Clause 7.4 of British Standard BS:5837 - 2012 'Trees in Relation to Design, Demolition and Construction- Recommendations' and Arboricultural Advisory & Information Service Practice Note 'Driveways Close to Trees' (1996). Any driveway / parking areas within the Root Protection Area of existing trees must be constructed using 'no-dig' techniques incorporating appropriate surfaces to avoid damage to trees and to prevent any potential direct or indirect damage caused by trees.
  24. Prior to the commencement of development, details of the works for the disposal of foul and surface water drainage shall be submitted to and approved in writing by the Local Planning Authority. All works shall be completed in accordance with the approved details prior to the occupation of the dwellings hereby permitted.
  25. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995 (or any Order revoking or re-enacting that Order with or without modification) no development covered by Part 1, Classes A, B and C of Schedule 2 to that Order shall be carried out without planning permission granted by the District Planning Authority.
  26. To ensure that a high standard of landscape associated with the development is achieved and to ensure that the approved landscaping is properly maintained and to comply with policies DD1 and DD4 of the Dudley Unitary Development Plan.





Job: WHITTINGTON ROAD, STOURBRIDGE.

Title: OWNERSHIP PLAN & LOCATION

Date: FEB' 14

Drawing No: 333-01-02

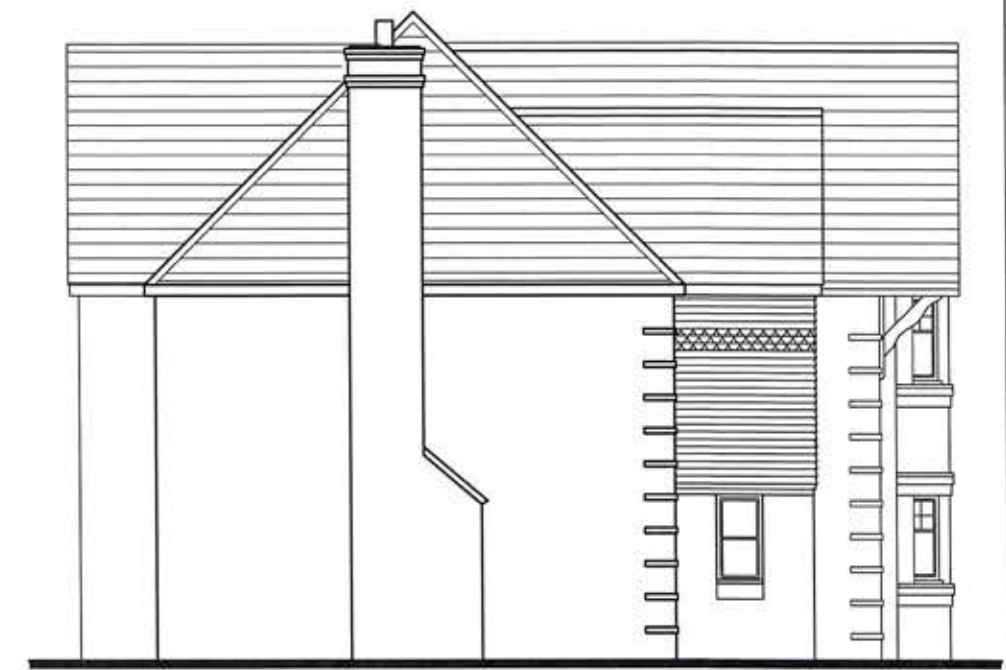
Scale: 1:500

Revision:





FRONT ELEVATION



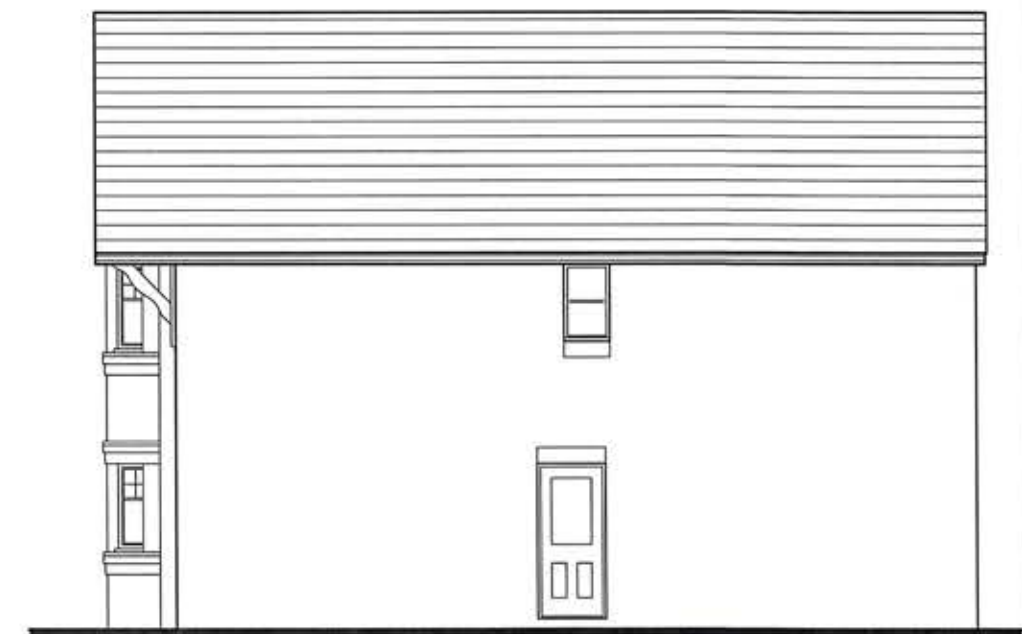
SIDE ELEVATION



ALTERNATIVE RENDER FRONT ELEVATION  
1:150



REAR ELEVATION



SIDE ELEVATION

Rev A - Alternative elevation added 15/04/14

Job: WHITTINGTON ROAD, STOURBRIDGE.

Title: PLOTS 2, 4 AND 6 ELEVATIONS

Date: FEB' 14

Scale: 1:100

Drawing No: 333-04-02

Revision: A



2014 AD

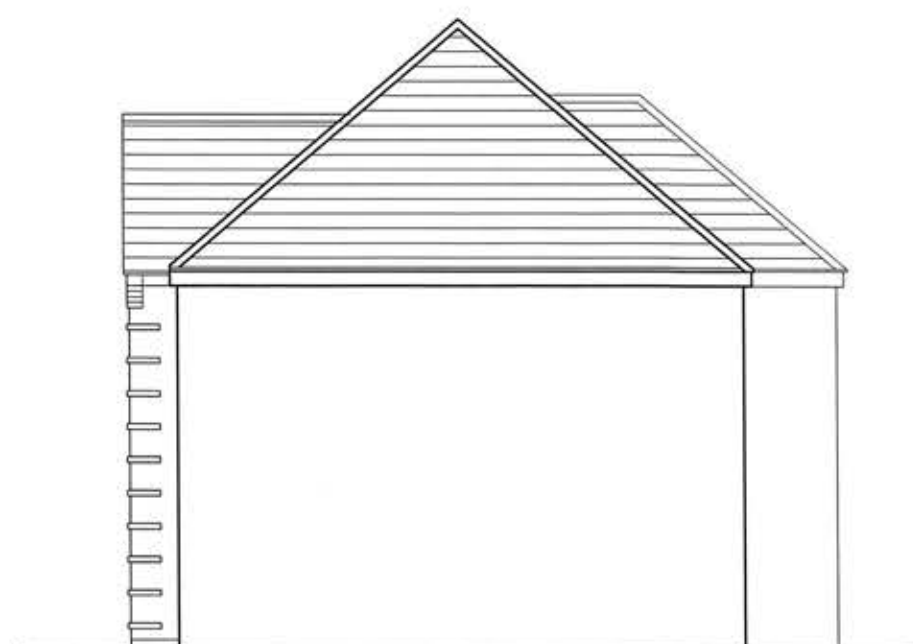




ALTERNATIVE FRONT ELEVATION



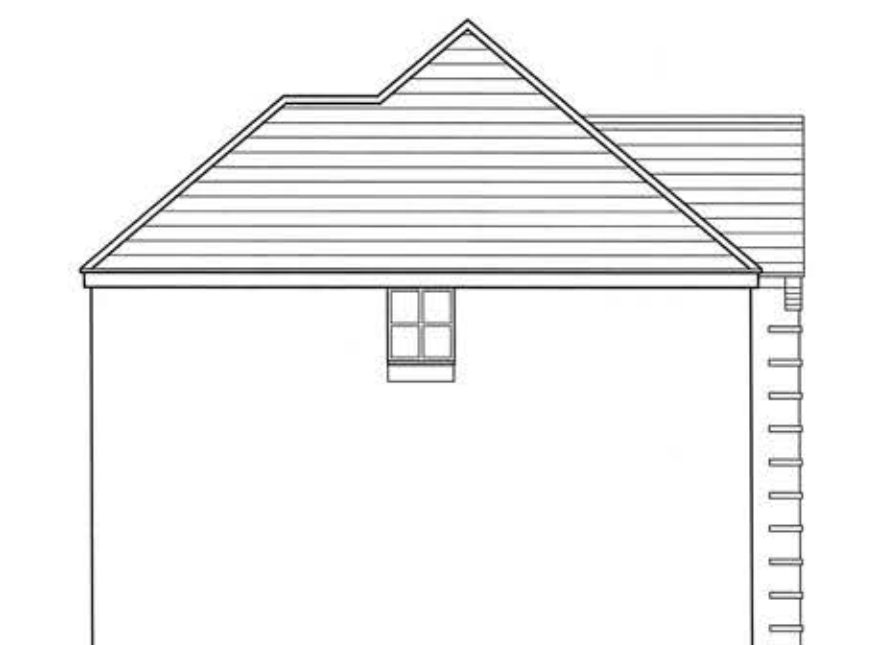
FRONT ELEVATION



RIGHT SIDE ELEVATION



REAR ELEVATION



LEFT SIDE ELEVATION

Rev A - Alternative elevation added 15/04/14

Job: WHITTINGTON ROAD, STOURBRIDGE.

Title: PLOTS 10, 11 AND 12 ELEVATIONS

Date: FEB' 14

Scale: 1:100

Drawing No: 333-06-02

Revision: A



2014 AD



ALTERNATIVE FRONT ELEVATION



FRONT ELEVATION



REAR ELEVATION



SIDE ELEVATION



SIDE ELEVATION

Rev A - Alternative elevation added 15/04/14

Job: WHITTINGTON ROAD, STOURBRIDGE.

Title: PLOTS 1, 3, 5, 7, 8 & 9 ELEVATIONS

Date: FEB' 14

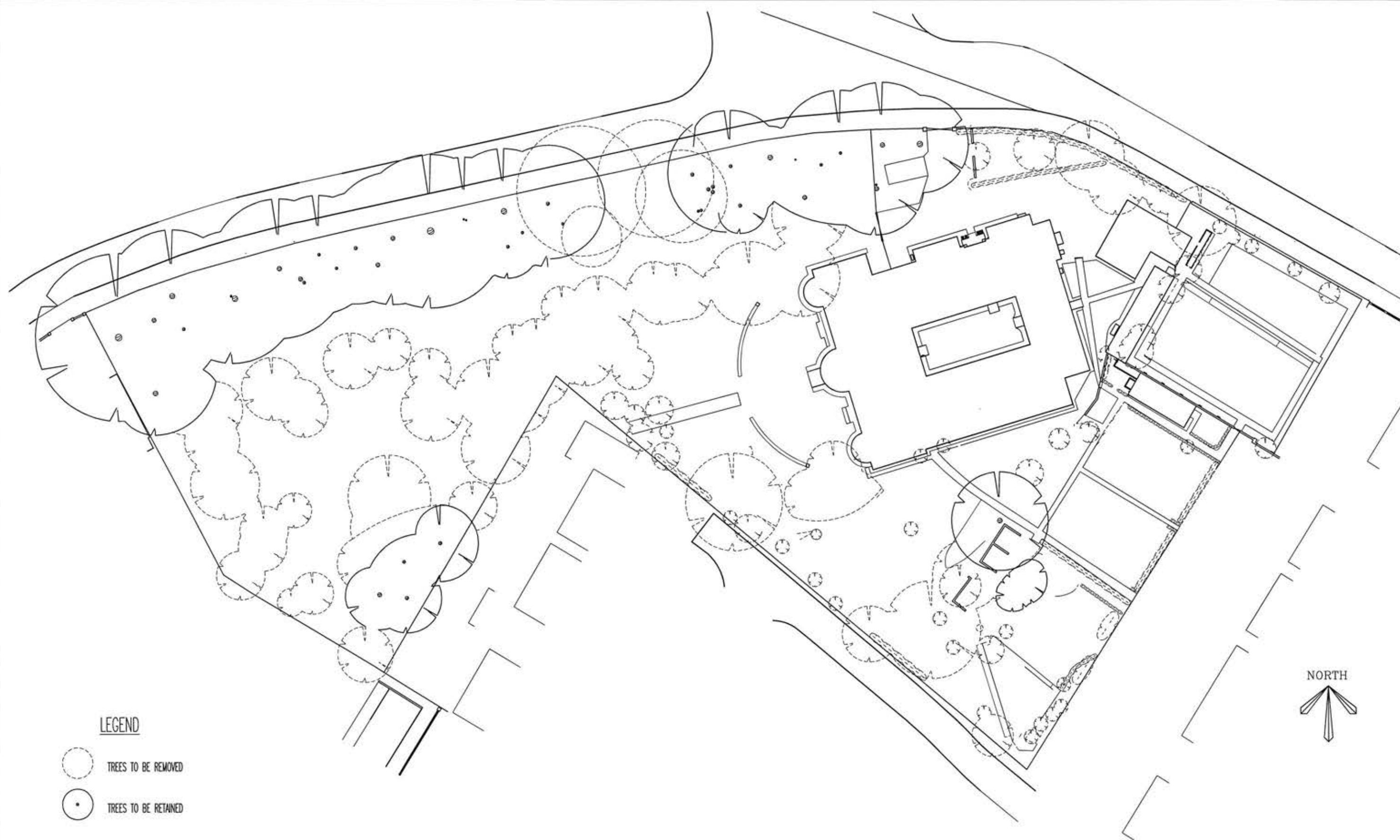
Drawing No: 333-03-02

Scale: 1:100



Revision: A







**LEGEND**

-  TREES TO BE REMOVED
-  TREES TO BE RETAINED

Rev A - Yew tree retained to the south east of the site 15/04/14

Job: WHITTINGTON ROAD, STOURBRIDGE

Title: TREES RETAINED

Date: FEB 14

Drawing No: 333-01-03

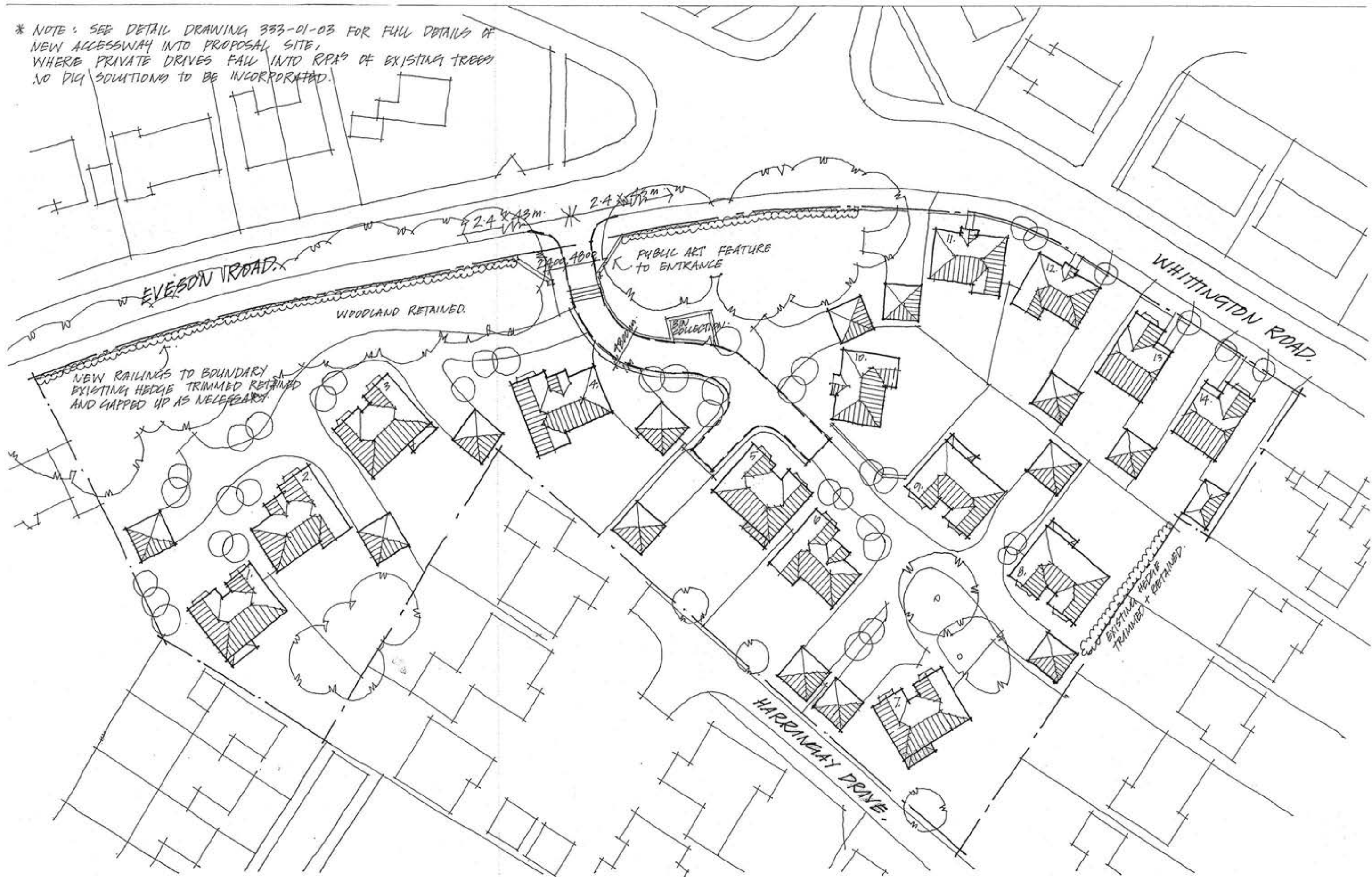
Scale: 1:500

Revision: A





\* NOTE: SEE DETAIL DRAWING 333-01-03 FOR FULL DETAILS OF NEW ACCESSWAY INTO PROPOSAL SITE, WHERE PRIVATE DRIVES FALL INTO RPAS OF EXISTING TREES. NO DIG SOLUTIONS TO BE INCORPORATED.



Job: WHITTINGTON ROAD, STOURBRIDGE.

Title: SITE LAYOUT

Date: FEB' 14

Drawing No: 333-01-03

Scale: 1:500

Revision: A



2014 AD





ALTERNATIVE FRONT ELEVATION



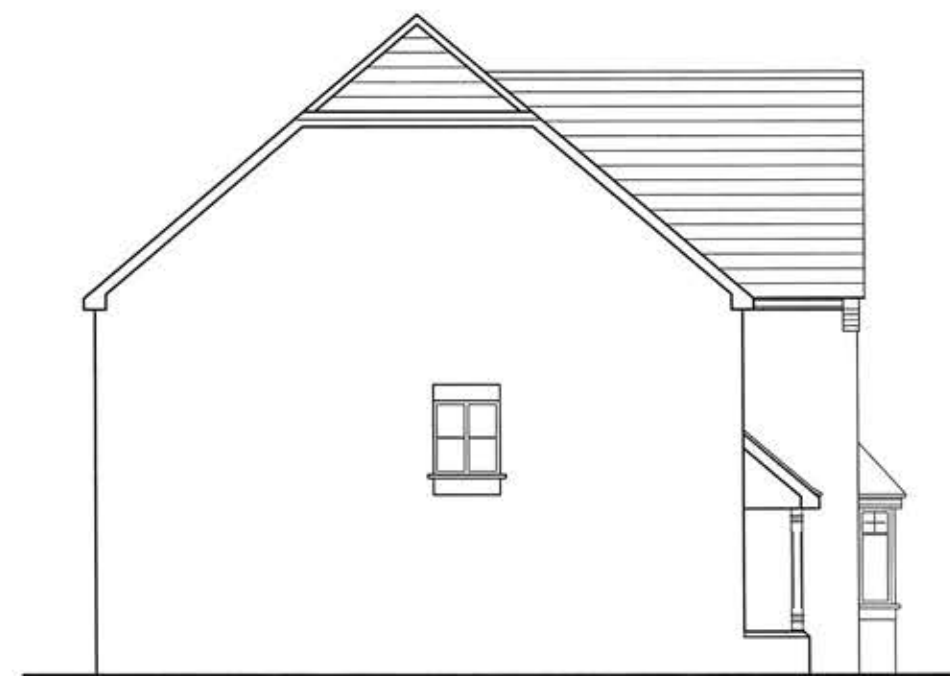
FRONT ELEVATION



SIDE ELEVATION



REAR ELEVATION



SIDE ELEVATION

Rev A - Alternative elevation added 15/04/14

Job: WHITTINGTON ROAD, STOURBRIDGE.

Title: PLOT 13 AND 14 ELEVATIONS

Date: FEB' 14

Scale: 1:100

Drawing No: 333-08-02

Revision: A



2014 AD

## PLANNING APPLICATION NUMBER: P14/0274

Type of approval sought	Full Planning Permission
Ward	Kingswinford North and Wall Heath
Applicant	Optimisation Developments Ltd
Location:	<b>MORRISONS, STALLINGS LANE, KINGSWINFORD, DY6 7SH</b>
Proposal	<b>DEMOLITION OF EXISTING INDUSTRIAL UNIT, PETROL FILLING STATION AND FOOD STORE. ERECTION OF NEW FOOD STORE (A1), PETROL FILLING STATION AND ASSOCIATED CAR PARKING AND DELIVERY AREAS ALL ON ONE LEVEL (RESUBMISSION OF APPROVED PLANNING APPLICATION P12/0666)</b>
Recommendation Summary:	<b>APPROVE SUBJECT TO CONDITIONS</b>

### SITE AND SURROUNDINGS

1. The 2.83ha application site consists of two sites. The first site is an existing supermarket complex with car parking, petrol filling station and associated signage. The existing Morrisons store has a gross floor area of 3871sq.m and retail sales area of 2024 sq.m.
2. The petrol filling station lies in the south-western part of the site, currently providing 4 pump islands and 16 nozzles.
3. The car park provides 287 spaces and contains a number of galvanised metal/polycarbonate trolley shelters and illuminated by lighting columns.
4. It is bounded to the north by a dense landscaping belt (designated within a Site of Local Importance for Nature Conservation) beyond which there is residential development off Hawkeswell Drive and industrial development off Ham Lane.
5. The previously extended supermarket warehouse is located in the west of this site with a service yard extending northwards along the western boundary of the site.



Following development of the warehouse extension, the service yard is completely separated from Hawkeswell Drive.

6. A parade of shops known as the Charterfield shopping centre is located to the west, some of which have flats above. These units are served by a dedicated service yard and car parking enclosed by existing rear elevation of the supermarket. Going further along the western boundary there is landscaping and fencing forming the boundary to Hawkeswell Drive, with residential units opposite.
7. On the opposite side of Stallings Lane there is a public green, abutted by residential development.
8. The second part of the site is land directly to the east of the existing supermarket site, comprising of a vacant distribution warehouse (formerly Bibby Route One) on the Oakdale Trading Estate. This unit is current accessed via Ham Lane, from a road running through the Oakdale Trading Estate to the north of the unit. This part of the application site is higher than the supermarket level, and is enclosed by palisade fencing. It is bounded to the west by the existing supermarket site, to the north and east by a range of industrial uses, and to the south by Stallings Lane beyond which are residential dwellings.
9. There is a heavily landscaped frontage to Stallings Lane, particularly to the industrial unit.

## **PROPOSAL**

10. This application is an amendment to a previously approved application P12/0666 for the demolition of the existing supermarket and industrial unit, and the construction of a 6843 sq.m. replacement store with a net retail sales area of 3756 sq.m located in the eastern part of the site.
11. This current proposal is for the construction of a 5932 sq.m. replacement store with a net retail sales area of 3415 sq.m.

12. Rather than be split level between a lower level car park from which a glazed travelator atrium would provide access to the store, it is proposed to build the store lower into the site. This to allow the sales floor, car parking and service yard at one level. Retaining walls to the north and south of the store are proposed.
13. 379 car parking spaces are proposed compared to the 407 previously approved. These spaces are split as follows;
  - 297 standard spaces
  - 21 staff parking spaces
  - 17 parent and child spaces
  - 20 disabled width spaces
  - 18 disabled marked spaces
  - 6 electric charging spaces.
14. Eight motorcycle spaces and 28 cycle spaces would also be provided.
15. The main vehicular access into the site would continue to be from Stallings Lane, where a new traffic light controlled junction (approved under previous planning application P12/0666) would be provided on the junction of the store with this main road.
16. To overcome level differences, delivery vehicles would be routed through the car park rather than the previously approved dedicated access/exit point utilise the former main access to the industrial unit from Ham Lane.
17. A pedestrian access will be created from the residential Hawkswell Drive to the west of the site; this will be linked to the store entrance through the main car park via a dedicated pedestrian walkway incorporating crossing points.
18. The replacement petrol filling station (PFS) would be located in the western part of the site, providing 12 pumps (6 islands) and a kiosk. This would include LPG facilities, a new mechanical car wash, car/jet wash and air & vac facilities.

19. The supporting planning statement advises that the proposed development would provide up to 368 permanent jobs (120 full-time and 248 part time).
20. The proposed store opening hours would be 7am-11pm Monday to Saturday and 10am-4pm on Sundays, with delivery/servicing of the site taking place from 6am to 10pm, 7 days a week. The previous application P12/0666 had a condition allowing deliveries from 6am to 11pm for a period of 6 months from date of occupation to monitor the impact upon neighbours.
21. The application is accompanied by the following surveys/reports:
  - Design and Access Statement
  - Supporting Planning Statement
  - Retail Assessment
  - Transport Assessment and Travel Plan
  - Employment Land Study
  - BREEAM Pre-assessment report and Renewable Energy Statement
  - Flood Risk and Drainage Assessment
  - Site Investigation Report comprising of Geo-environmental Appraisal
  - Air Quality Assessment
  - Acoustic Impact Assessment
  - Ecological Assessment
  - Archaeological Desk-Based Assessment
  - Landscape Design Statement and Soft Landscape Works Maintenance Report
  - Pre-Development Tree Survey
  - Statement of Public Consultation and Community Engagement

## RECENT HISTORY

APPLICATION No.	PROPOSAL	DECISION	DATE
P05/1252	Erection of covered trolley shelters	Approved with	15-Jul-2005

		conditions	
P05/2657	Erection of 3 m high metal fence and gates (retrospective)	Refused	06-Feb-2006
P06/0284	Installation of window security shutters	Approved with conditions	27-Mar-2006
P06/0467	Erection of 2 m high boarded fencing with matching gates enclosing service yard (resubmission of refused application P05/2657)	Approved with conditions	16-May-2006
P06/1296	Erection of warehouse extension creation of new service yard with new gates and wall. Alterations to parking area.	Approved with conditions	22-Sep-2006
P08/1273	Erection of warehouse extension. Creation of new service yard with new gates and wall. Alterations to parking area.	Approved with conditions	20-Oct-2008
P11/0156	Increase height of western boundary fence by 1 m.	Withdrawn	10-May-2011
P11/0157	Removal of condition 6 of planning approval P08/1273 which states 'No deliveries shall be made to the site before the hours of 08.00 nor after 20.00 Monday to Saturday, or before the hours of 10.00 nor after 18.00 hours on Sundays and Bank Holidays'.	Withdrawn	10-May-2011
P11/0633	Removal of condition 6 of planning approval P08/1273 which states 'No deliveries shall be made to the site before the hours of 08.00 nor after 20.00 Monday to Saturday, or before the hours of 10.00 nor after	Dismissed on appeal	13-Feb-2012

	18.00 hours on Sundays and Bank Holidays' (resubmission of withdrawn application P11/0157)		
P11/0634	Increase height of western boundary fence by 1m (resubmission of withdrawn application P11/0156)	Dismissed on appeal	13-Feb-2012
P12/0301	Temporary Variation of condition 6 of planning permission P08/1273 to read 'No deliveries shall be made to the site before the hours of 0700 nor after 2000 Monday to Saturday, or before the hours of 1000 nor after 1800 hours on Sundays and Bank Holidays'.	Approved with conditions	11-Jul-2012
P12/0666	Demolition of existing industrial unit, petrol filling station and foodstore. Erection of new foodstore (A1), petrol filling station and associated car parking and delivery areas.	Approved with conditions	20-02-2013

## PUBLIC CONSULTATION

22. Following consultation with some 172 adjoining and adjacent premises, the positing of a site notice and press notice, 1 letter of support was received, summarised as follows;

- No objection to new store
- Cafe would be beneficial to the area.

## OTHER CONSULTATION

23. Group Engineer (Highways): Concerns regarding the details within the Transport Assessment submitted by the applicant. Discussions with the applicants transport consultant are ongoing and the Group Engineer's conclusions will be reported in detail within a pre committee note.
24. Head of Environmental Health and Trading Standards: No objection subject to conditions. Geoenvironmental appraisal report submitted with application identifies contamination, recommends further works and outlines possible remediation. Offset any commuted sum requirements for Air Quality by encouraging additional on-site air quality mitigation measures and condition to control impacts of demolition/construction. Control of operating hours and measures to reduce noise impact.
25. Environment Agency: No objection raised, subject to condition requiring mitigation measures to be secured and implemented.
26. West Midlands Fire Service: No objection.
27. West Midlands Police: No objection, but suggestions provided for increased security measures for the proposed store and petrol filling station.

## RELEVANT PLANNING POLICY

28. National Planning Policy Framework (NPPF) 2012.  
Section 1 – Building a Strong Competitive Economy  
Section 2 – Ensuring the Vitality of Town Centres  
Section 7 – Requiring Good Design
29. Black Country Core Strategy (2011)  
CSP1 The Growth Network  
CSP4 Place Making  
DEL1 Infrastructure Provision

DEL2 Managing the Balance between Employment Land and Housing  
 EMP1 Providing for Economic Growth  
 EMP3 Local Quality Employment Areas  
 EMP4 Maintaining a Supply of Readily Available Land  
 EMP5 Improving Access to the Labour Market  
 CEN1 The Importance of Black Country Centres for Regeneration  
 CEN2 Hierarchy of Centres  
 CEN4 Regeneration of Town Centres  
 CEN7 Controlling Out-of-Centre Development  
 TRAN1 Priorities for the Development of the Transport Network  
 TRAN2 Managing Transport Impacts of New Development  
 TRAN5 Influencing the Demand for Travel and Travel Choices  
 ENV1 Nature Conservation  
 ENV2 Historic Character and Local Distinctiveness  
 ENV3 Design Quality  
 ENV5 Flood Risk, Sustainable Drainage Systems and Urban Heat Island  
 ENV7 Renewable Energy  
 ENV8 Air Quality  
Appendix 2 – Detailed Proposals for Regeneration Corridors and Strategic Centres -  
 RC10 Pensnett – Kingswinford

30. Saved UDP policies (2005)

DD1 Urban Design  
 DD3 Design of Retail Development  
 DD4 Development in Residential Areas  
 DD5 Development in Industrial Areas  
 DD9 Public Art  
 DD10 Nature Conservation and Development  
 UR9 Contaminated Land  
 HE8 Archaeology and Information  
 EP6 Light Pollution  
 EP7 Noise Pollution

31. Supplementary Planning Documents

Parking Standards SPD

Planning Obligations SPD

Access for All SPD

Historic Environment SPD

Nature Conservation SPD

32. Other relevant documents

Planning for Town Centres', Saved Practice Guidance on need, impact and the sequential approach, GVA Grimley, December 2009

Black Country Centres Study, GVA Grimley, November 2009

Dudley Borough District and Local Centre Health Check Reviews 2011 (Annual Review)

## ASSESSMENT

33. The key issue in determination of this application is the extent to which the scheme differs from the extant permission and the impact upon the following;

- Loss of employment land
- Principle of retail
- Highway safety including access and parking ;
- Design;
- Residential Amenity;
- Nature Conservation;
- Flood Risk;
- Renewable Energy;
- Access for All;
- Planning Obligations.

Justification provided under previous application P12/0666

34. It is considered that the originally submitted supporting Planning Statement provides pertinent justification for the new store. This stated that the proximity of the existing store to residential development, whilst a benefit in terms of sustainable access, has



resulted in conflicts between operational requirements and the interests of residential amenity, and is effectively instrumental in the store having to be serviced through the customer car park which leads to concerns about customer safety

35. The existing Morrison's store comprises of a former Safeway outlet acquired in 2004 and not purpose built to Morrisons requirements. Although the store has been adapted initially through the original 'fit-out' to trade as Morrisons, and more recently via the warehouse extension, it falls well short of the Company's current specification and indeed customer requirements and expectations;
- i. The store building is not large enough to accommodate adequate warehousing and fresh food preparation area or a sales area of sufficient size
  - ii. As a result, aisles are narrow, shelf space limited, a full range of goods cannot be carried, shelves have to be stocked during store opening hours
  - iii. This in turn results in a store which is congested, there are insufficient checkouts, and there is queuing back from the checkouts into the aisles
  - iv. The store is unable to accommodate a customer cafe and appropriate amount of staff and office space
  - v. The Petrol Filling Station is too small to meet current levels of demand with consequent queuing within the site.
36. The acquisition of the adjacent land, however, provides an opportunity to assemble a site which is large enough to accommodate a new purpose built store and PFS. The principal drivers to the site layout are;
- To relocate the store building as far as possible from existing residential development
  - To minimise the interaction between service vehicles, residential development and customer access/car parking, and so to relocate the store building where it can be serviced through the adjacent industrial area while maintaining the existing customer vehicle access point off Stallings Lane.

- To maintain and where possible improve existing levels of pedestrian permeability, connectivity, and linkage between the store and the unit shops
- To overcome the level changes between the two component areas of the site to provide easy movement of pedestrians between car parking and the store
- To provide a fully inclusive development with accessible car parking spaces located in close proximity to the store entrance
- To relocate the PFS to an appropriate location relative to the new store
- To exploit and enhance existing landscaping with new landscaping

#### Background to current proposal

37. The basis of the proposal remains as the existing approval (planning reference - P12/0666), to demolish the existing store and petrol filling station and develop a replacement food store on adjacent land, provide an enlarged car park and construct a new petrol filling station, on the site of the existing store.
38. Since planning permission was granted last year, Morrisons has reconsidered a number of elements of the scheme to ensure the store can operate as efficiently as possible, and has been amended in the following key areas;
39. The floorspace of the foodstore (supermarket) has been reduced from 6843 to 5932 sq.m gross (3756 to 3415 sq.m net retail floorspace);
40. The store is lowered into the site in order that the sales floor, car parking and service yard are all on one level (rather than having a raised store level served by traveller or service lifts).
41. The location of the store entrance has been relocated slightly to allow for positioning the customer cafe in the south-west corner of the store, creating an active frontage.
42. The car park layout has been amended to reflect store footprint changes on one level.

43. 379 car parking space reflecting the decrease in retail floorspace (this was originally 407 spaces).
44. Delivery vehicles are to be routed through the car park due to the difference in level between the proposed service yard and previously permitted delivery access from Ham Lane.
45. No changes to the Petrol filling station or site access from Stallings Lane are proposed.

#### The Release of Employment Land

46. The site is located within Regeneration Corridor 10: Pensnett – Kingswinford. The application site is shown as an area proposed for 'local employment retention' (Policy EMP3) within RC10, although the delineation of boundaries and the figures provided are illustrative and only give a broad indication of the scale of change. The detailed boundaries and exact figures will be defined in the Development Strategy Development Plan Document which is currently being progressed. Local quality employment areas are characterised by a critical mass of industrial, warehousing and service activity in fit for purpose accommodation with good access to local markets and employees.
47. Before releasing any employment land it must be demonstrated by the applicant that the proposals comply with the requirements of Policy DEL2: 'Managing the Balance between Employment Land and Housing.' In particular, before considering the release of employment land we will:
  - Ensure satisfactory arrangements for the relocation of existing occupiers to safeguard the existing employment base;
  - Ensure that the development does not adversely affect the operation of existing or proposed employment uses;
  - Ensure that the site is no longer viable and required either for employment use, including relocation of businesses displaced from sites released to other uses, or for other employment-generating uses.

48. Policy DEL2 also states that any proposals resulting in the loss of employment land submitted in advance of the adoption of AAPs (Area Action Plans) or SADs (Site Allocation Documents) should demonstrate a comprehensive approach, making best use of available land and infrastructure and not prejudicing existing and neighbouring uses. Incremental development will only be allowed where it would not prejudice master planning of the wider area.
49. This element of planning policy was satisfied under the previous planning approval (P12/0666).
50. The applicant's Employment Land Study (Nov 2011) indicated that the loss of the distribution warehouse would not have an adverse impact on the supply of employment land.
51. The reasoning for this is as follows, particularly in relation to Policy DEL2 criterion:
- The property is vacant and has been marketed to let by way of assignment or sublet of an existing lease for over 18 months without any significant interest. The property has been offered to the market on flexible terms with incentives available to potential occupiers. Therefore, arrangements will not be required to relocate any existing occupiers from the property into alternative accommodation.
  - The proposed development will not adversely affect the existing or proposed employment uses on the site as there are no existing employment uses on site.
  - In respect of neighbouring employment accommodation, there are no proposed alterations to the site boundary which would restrict adjacent employment uses. In respect of proposed employment uses, there have not been any proposed employed uses identified through the marketing campaign and it is not anticipated that there are any realistic prospects of achieving any economic level of occupancy in the future.
  - The property comprises a distribution warehouse extending to 44,786 sq ft and the building dates from the 1960's/70's and was formerly occupied by Bibby, as a distribution depot. The building falls short of modern distribution requirements, particularly in respect of constrained yard areas and the limited eaves height of the accommodation.

- The applicants Employment Land Report, produced by Dove Haigh Phillips, also lists a total of 600,000 sq ft of vacant local premises, in superior condition, within a 1 – 2 mile radius which is currently vacant and on the local Kingswinford commercial property market.
52. The loss of the 1 unit in this location would not prejudice master-planning of the wider area, given that Morrison's already operate from a large part of the overall application boundary. The industrial property occupies a peripheral location on the Oakdale Industrial Estate which is adjacent to the existing Morrisons supermarket and given its established use the redevelopment of the foodstore including the vacant unit would not compromise existing and neighbouring uses. The redevelopment of the property would not cause the loss of any existing jobs or have an adverse effect on any adjacent jobs – on the contrary provide net additional jobs.
53. The replacement foodstore would provide employment for up to 368 people (120 full-time and 248 part-time). The existing store currently supports 279 jobs (111 full-time and 168 part-time), so the proposed development would result in an uplift in employment of 9 full-time positions and 80 part-time resulting in an overall uplift of up to 89 jobs. Staff currently employed at the existing store will be transferred to the new store. All the leading supermarket operators offer a range of training programmes for employees across the workforce and Core Strategy Policy EMP5 'Improving Access to the Labour Market' will be applied to ensure the recruitment and training of local people.
54. Given that the overall site area would remain in commercial use, it is unlikely to prejudice existing and neighbouring uses, and would not prejudice master planning of the wider area.
55. For these reasons it is consider that compliance with BCCS Policies DEL2, EMP1, EMP3, EMP4 and EMP5 has been demonstrated.

#### Retail policy

56. The existing Morrisons store has a gross floor area of 3,871 sq. m and a retail sales area of 2,024 sq. m
57. The approved replacement store (P12/0666) would have had a gross floorspace of 6,843 sq.m. and a retail sales area of 3,756 sq m.
58. This current application seeks permission for a reduced quantum of retail floorspace to P12/0666 from 6843 to 5932 sq.m gross (3756 to 3415 sq.m net). This would result in uplift from the existing store of 2,061 sq.m. gross (1,391 sq.m. net retail sales)
59. The split is 75/25 (as per the approved scheme), therefore in the revised proposal, the floorspaces will be 2,561 sq.m convenience and 854 sq.m comparison floorspace.
60. Compared with the floorspace distribution of the existing store, the floorspace uplift figures are:
  - gross: +2,061 sq. m, 34% - 3871 sq.m to 5932 sq.m
  - total retail sales: +1,391 sq. m, 41% - 2024 sq. m to 3415 sq. m
  - convenience: +689 sq. m, 27% - 1872 sq.m to 2,561 sq.m
  - comparison: +702 sq. m, 82% - 152 sq.m to 854 sq.m
61. The existing Morrisons' supermarket is an out-of-centre foodstore located adjacent to a parade of 11 shops known as the Charterfield shopping centre. The Morrison's supermarket is located approximately 1km to the north east of Kingswinford District Centre and close to Wall Heath Local Centre. The parade of shops is protected by Policy CEN6 in the Black Country Core Strategy which seeks to ensure the provision and retention of local shops and other centre uses to meet essential day-to-day needs.

62. As the foodstore proposed has a gross floor area exceeding 200 m<sup>2</sup> it should be assessed against the requirements of Policy CEN7 'Controlling Out-of-Centre Development. Core Strategy Policy CEN7 deals with controlling out-of-centre development and requires such proposals to assess sequentially preferable sites. It states that proposals for out-of-centre development will only be considered favourably where all of the impact assessments in national guidance have been satisfied. It requires developments to be accessible by a choice of means of transport and acknowledges that the strategy is to accommodate investment in existing centres and consequently it is necessary to provide strong justification for out-of-centre schemes.
63. The NPPF in Paragraph 24 state that Local Planning Authorities 'should apply a sequential test to planning applications for main town centre uses that are not in an existing centre and not in accordance with an up-to-date Local Plan. Paragraph 24 also requires that applicants and local planning authorities should demonstrate flexibility on issues such as format and scale.
64. As part of the previous application, it was concluded that there were no 'suitable, viable and available sites' within or adjacent to Kingswinford District Centre that could accommodate either the proposed development as a whole or a food store the size of the proposed uplift in floorspace. Given that no sequential sites have been identified within the proposed catchment area of the proposed development and on that basis the assessment passes the test.
65. In terms of the impact assessment Para 26 of the NPPF states 'when assessing applications for retail, leisure and office development outside of town centres, which are not in accordance with an up-to-date Local Plan, local planning authorities should require an impact assessment if the development is over a proportionate, locally set floorspace threshold.'
66. Core Policy CEN7 states that any proposal for a town centre use in an out-of-centre location, whether brought forward through a Local Development Document or planning application, will only be considered favourably if the impact assessments

contained in the most recent national guidance are satisfied. The NPPF Paragraph 26 confirms *‘when assessing planning applications for retail, leisure and office development outside of town centres, which are not in accordance with an up-to-date Local Plan, local planning authorities should require an impact assessment if the development is over a proportionate, locally set floorspace threshold.’* The Core Strategy requires an impact assessment for proposals over 200 sq. m gross floorspace. This should include assessment of:

- The impact of the proposal on existing, committed and planned public and private investment in a centre or centres in the catchment area of the proposal; and
- The impact of the proposal on town centre vitality and viability, including local consumer choice and trade in the town centre and wider area, up to five years from the time the application is made. For major schemes where the full impact will not be realised in five years, the impact should also be assessed up to ten years from the time the application is made.

67. In respect of the anticipated level of impact on District and Local Centres and existing convenience provision within the catchment area the proposal will have a negligible impact on existing trading patterns and on stores performance against company average. In general, the additional floorspace proposed as part of the replacement store is unlikely to be any more attractive than at present to customers who undertake their shopping in smaller local stores. On the assumption that stores catering for ‘main food’ shopping needs compete on a like for like basis with similar stores, it is reasonable to conclude that small stores catering for ‘top up’ shopping needs will continue to trade alongside main foodstores, providing a complementary offer.
68. With regard to the impact of the proposal in retail terms, the proposed replacement foodstore will have less impact on existing retail facilities and nearby defined centres by virtue of its smaller floorspace when compared to the extant permission (P12/0666). The proposal would provide the applicant a much needed qualitative improvement to food retailing in this location, relieving the substandard conditions in the existing store.



69. The proposal would not undermine the relevant objectives of BCCS Policies CEN1, CEN4, CEN5, CEN6 and complies with the requirements of BCCS Policy CEN7, the development would be consistent with the sequential approach and retail impact tests set out in the NPPF, which ensure the vitality of town centres and main urban areas.

Highway safety including access and parking

70. These alternative Morrisons store proposals reduce the size of the replacement store compared to that previously approved. As the reduced size store would result in a reduced trip generation, the revised store proposals will have a reduced impact on the transport network, compared to that already accepted and approved.
71. The site access arrangements (i.e. same access but upgraded to signalised (traffic lights) operation) previously approved for the new store are again proposed for this reduced size replacement store. The applicant considers that this arrangement offers the greatest benefit to the development and the local transport network, providing significant improvements for pedestrians and offering a greater degree of control, which is beneficial to manage the fluctuations in traffic associated with the store and through traffic on Stallings Lane.
72. During discussions on the previous application, the Group Engineer (Highways) required the applicant to agree to a Section 278 works schedule to include modification of Stallings Lane to provide a new signal controlled junction including pedestrian facilities, introduction of a pedestrian refuge on Stallings Lane, creation of new public highway linking the store to Stallings Lane, street lighting and Highway Drainage, this can be secured by Grampian condition.
73. Submission of a Transport Assessment and traffic survey data from the existing Kingswinford and similar Morrison's Store indicate that the proposed layout which includes an internal mini-roundabout would not result in excessive queuing, this due to the increased number of pumps (12 instead of 8) and more 'pay at pump' facilities. This layout should not result in instances of blocking back onto Stallings Lane.

74. It is noted that a dedicated left turn storage lane is provided along the site access road at the mini-roundabout, which would cater for any extraordinary queuing into the petrol filling station.
75. There is also a 'keep clear' marking proposed at the mini-roundabout to help ensure that traffic going forward into the store car park is not obstructed by queuing traffic into the petrol filling station.
76. Difference in site levels between the previously approved service vehicle access off Ham Lane and the proposed lower store level, have resulted in the applicant amending the servicing arrangements. In line with the current situation, delivery vehicles will access the service yard via the store car park, from the existing site entrance on Stallings Lane. The main access to the site is already designed to cater for large tanker deliveries to the petrol filling station, and can accommodate articulated vehicles. No car parking spaces are situated along the route from the site entrance to the service yard, allowing safe movement of HGV's through the site. Notwithstanding this, it is not uncommon to have delivery vehicles to access food stores through the customer car park, indeed, this is the current practice at this site.
77. The Parking Standards SPD (2012) has an A1 Food Retail maximum parking standard of 423 parking spaces. The development provides a total of 379 parking spaces, which is considered to be sufficient to cater for the stores needs.
78. 2% of the total parking provision should be allocated for powered two wheeled vehicles, the provision of 8 powered two-wheeler parking spaces would be adequate.
79. The Parking Standards SPD (2012), Table 7 Minimum Standards for Disabled Parking Space Provision requires that for A1 retail development; 6% of the total parking provision plus 1 space for each disabled employee to be marked as disabled bays and 4% of the total parking provision as widened disabled bays. The

provision of 38 disabled and widened parking spaces are provided, which would comply with the council standards.

80. The refreshed *Parking Standard & Travel Plan SPD* has an A1 Retail cycle parking standard of 1 space for every 400sq.m of Gfa for staff and 1 space for every 500sq.m for customers. Also facilities over 200sq.m Gfa should provide a minimum of 2 cycle spaces and a shower facility. The development shows 28 cycle parking spaces. As these should be secure, well lit and undercover, a condition showing the design of cycle shelters is required.
81. The refreshed *Parking Standards SPD, paragraph 9.5* requires that 5% of all parking spaces in commercial or non-residential developments are covered with electric charging points. This requires provision of 21 electric vehicle charging points. Given this relatively new technology, this amount of spaces would seem a little excessive. From an air quality perspective, as per the last application (P12/0666), the Council is prepared to accept a lower number of 6 electric charging points with provision for additional points at a later stage if and when demand increases. This can be secured by condition.
82. The accompanying Travel Plan seeks to promote sustainable travel to and from the proposed development. The key objectives of the Travel Plan are to reduce the need to travel by car, improve travel choice by enhancing and promoting sustainable and healthy modes of transport, and to create an awareness of and promote the Travel Plan as early as possible. A number of measures along with timescales are put forward to meet these objectives. Onsite parking facilities for cycles, motorcycles and electric cars would encourage contribute toward this.
83. BCCS Policies CSP4 and TRAN4 seek the provision of easy access by walking, cycling and public transport to centres and a permeable street network with pedestrian priority that gives maximum freedom of movement, and Policy. Saved UDP Policy DD1 requires that development proposals should provide pedestrian routes that make movement easier through and within the built up area.

84. Dedicated pedestrian walkways and pedestrian crossing points are provided throughout the car park, providing direct, safe and convenient routes to the Store entrance. Pedestrians can gain access to the site at multiple locations, principally from the Stallings Lane frontage.
85. Pedestrian access can also be gained at the west of the site, off Hawkeswell Drive. A dedicated pedestrian walkway links with pedestrian crossing points through the car park. This route will be of particular use for linked trip making with the Charterfields shopping centre and also pedestrian trips from the substantial residential area to the west of the store.
86. The implementation of a new traffic light system at the junction would improve highway safety, more than ample parking is provided on site, improvements are made for pedestrian connectivity and the site is supported by a Travel Plan which aims to encourage travel by sustainable modes of transport. The development would be in accordance with BCCS Policies CSP4, TRAN2, TRAN4, TRAN5 and Saved UDP Policies DD1 and DD4 are complied with.

#### Design

87. In respect of design issues, the NPPF requires that a high quality of design should be sought in developments. Policy ENV3 of the Core Strategy advises that development proposals across the Black Country can deliver a successful urban renaissance through high quality design that stimulates economic, social and environmental benefits. Saved Policy DD1 of the UDP requires that new developments should make a positive contribution to the character and appearance of the area.
88. The existing store entrance is weakly defined at present with little articulation to the facade and lacking a main focal point. In particular the southern elevation fronting Stallings Lane provides a limited activated frontage which has been obscured to accommodate standard equipment.

89. Generally the store will be single storey and will be approx 7.9 metres (from sales floor level) in height to the top of the parapet. The entrance tower will be higher at 9 metres to provide a focal point for entry to the building.
90. The amended layout has been adapted to allow the café to be located on the south western corner of the plan which allows views onto the main car park and equally gives an active glazed frontage to the southern elevation. The plans show that this would be visible from Stallings Lane and from the main access into the site.
91. The layout allows for a temporary entrance to the northern end of the checkout mall, this facilitates the phasing of the construction process, and opening of the new store prior to demolition of the existing petrol filling station immediately adjacent the new entrance.
92. The store incorporates a largely glazed entrance tower to form a focal point, this features brise soleil to help reduce overheating in the summer, and elements of aluminium fascia. The west and south elevations provide large areas of glazing which provide a modern and active elevation facing the main public interface.
93. The rest of the building utilises composite cladding and brickwork to base of building, this ensures a modern yet sympathetic external finish to break up the massing of the building and create variety to the facade.
94. Bringing the entire store on the same level, ensure that the store would be less imposing on the streetscene than the extant permission. Given that it would be approximately 35m away from Stallings Lane, it would not be overbearing within the streetscene.
95. Whilst the service yard would not be served by a separate access as per the previous approval, it would still be to the rear of the store adjacent to industrial uses away from any prominent views from the street and other public areas, this would represent an improvement to the existing situation.

96. The petrol filling station would be positioned closer to Stallings Lane than at present, but further back than the original supermarket. The external finish of the kiosk wall, car wash and canopy would incorporate composite cladding to match the store. This element would make a positive contribution to the Stallings Lane frontage.
97. The shrub and tree planting would perform a dual purpose of providing an attractive setting for the replacement store, whilst benefitting ecological species. The opportunity for a new landscaped strip along the western boundary would improve the visual amenity along Hawkeswell Drive. Within the site new or reinforcing landscaping would enhance the amenity value, providing an attractive and welcoming environment for users of the site, as well as complimenting the architecture of the proposed buildings. This would amply off-set the loss of the woodland strip which ran through the centre of the site (these trees were removed last year as they were not subject of a tree preservation order).
98. BCCS Policy ENV3 requires that the Building Research Establishment Environmental Assessment Method (BREEAM) Very Good or above is achieved for development other than residential at the time of submitting the proposal for planning permission, to demonstrate a commitment to achieving high quality sustainable design. This BREEAM Pre-Assessment report confirms that the design proposals will meet the BREEAM Very Good standard and the proposal is therefore compliant with BCCS Policy ENV3.
99. The proposal makes a positive contribution to place making through high quality design. It would therefore comply with the NPPF, BCCS Policies CSP4 and ENV3, and Saved UDP Policies DD1, DD3 and DD4.

#### Residential Amenity

100. As outlined above one of the major drivers for the layout of the store was to remove the service yard away from nearest neighbours along Hawkeswell Drive and those residential occupiers above units in Charterfields Shopping Centre.

101. The proposed re-development of the Morrisons' store would incorporate re-location of the delivery service yard to the north of the new site. In terms of noise, this is much more preferable to the existing situation as there are no residential properties in close proximity to the proposed service yard. It should also be noted that the proposed store and service yard will be at a lower position within the site and will be enclosed by retaining walls to the north and existing bank to the south, which would provide additional noise attenuation.
102. As explained above, the entrance route for vehicles to access the proposed service yard is located in the existing position. With a condition to control hours of delivery, it is not envisaged that deliveries to the Morrisons store will adversely contribute to residential amenity of neighbours on the opposite side of road or beyond the car park.
103. The proposed plans show that the petrol station and car wash are to be re-located to the south-west of the new site. During discussions on the previous application, concerns were expressed by the Head of Environmental Health and Trading Standards, the mechanical car wash was re-positioned away from the western boundary to adjacent the site access road. On this western side, there would still be a jet wash and air & vac facilities.
104. There is a 3m acoustic barrier extending largely adjacent the service yard of Charterfields Shopping Centre and partially onto Hawkeswell Drive. Along with the erection an acoustic barrier, restrictions to the operating hours of the petrol filling station, car and jet wash, air & vac facilities would need to be controlled, a condition is suggested. This would ensure that the residential amenities of nearby residents would not be adversely affected in accordance with Saved UDP Policies DD4 and EP7.
105. The new supermarket would be sited at least 60m away from dwellings opposite on Stallings Lane and Avondale Close. The drop in the store level along with the retention of intervening landscaping, would ensure that the outlook or privacy of these residents is not harmed.

106. The petrol filling station would be sited some 45m from properties in Cornwall Close, the closest of which would have the gable elevation fronting Stallings Lane. No harm upon these residents would arise.
107. The new planting belt alongside the western boundary would help provide a visual screen of the development from properties in above Charterfields Shopping Centre and Hawkeswell Drive. The separation distances (at least 65m) in any case are satisfactory to ensure no harm upon these occupiers.
108. As long as all replacement and new lighting masts within the car park are shielded, this would obviate light spillage onto Hawkeswell Drive, protecting the amenities of these residents in accordance with Saved UDP Policies EP6 and DD4. A condition is required to secure this.
109. The development has been designed to ensure that the residential amenity of nearby occupiers would not be adversely affected in accordance with Saved UDP Policy DD4.

#### Nature Conservation

110. The woodland strip which ran through the centre of the site to the SLINC, was not protected and comprised of generally poor specimens that would have been difficult to satisfactorily retain during any re-development of the site. As these trees were not subject to a Tree Preservation Order, these have already been removed.
111. The applicant's Ecologist has provided a scheme to bolster the balance of mitigation and the amount of nature conservation enhancements.
112. This substantially strengthens habitat linkage across the site. This has been achieved by a proposed belt of shrub/tree planting along the west boundary of the site. Most of this belt is shown to be 8.26 m wide, of which 6.26 m would contain dense, native, shrub and tree planting. This belt will provide cover and habitat, and a strong link across the site that is likely to be used by a variety of birds and other species.



113. The other 2m in the belt would consist of low growing ground cover and ornamental species because it lies adjacent to car parking spaces, where there are specific maintenance requirements. However, eight of these ornamental species are included on published lists (for example, by Natural England, Butterfly Conservation, Bumblebee Conservation Trust, RSPB) of non-native plants that are beneficial to wildlife, so this area will also provide some ecological benefit. It will also provide a minor ecotone and buffer along the edge of the dense scrub, which will benefit some species.
114. The landscaping proposals also include new blocks of ornamental and native planting on the south and east boundaries. Along the eastern boundary there would also be a low maintenance wildflower/grass meadow mix to improve general biodiversity of the site. This area supplements the existing, adjacent area of off-site vegetation and would thus also strengthen habitat connections around the site towards the SLINC, and in the general area.
115. The Ecology report also recommends that a range of bat roosting and bird breeding boxes should be incorporated within the development. These could either be installed on suitable trees or other structures around the edge of the site, or built into the external walls of the new supermarket and other buildings. These measures can be secured by conditions.
116. As long as the required landscaping scheme and other ecological enhancements are secured by condition, the proposal would not have a significantly harmful impact upon nature conservation in accordance with BCCS Policies ENV1 and Saved UDP Policies DD10, NC1 and NC10.

#### Flood Risk

117. Policy ENV5 of the Core Strategy requires that proposals for development must demonstrate that the level of flood risk associated with the site is acceptable.

118. A Flood Risk Assessment has been submitted. The Environment Agency (EA) previously advised that the proposed development will be acceptable subject to a condition to secure measures to limit surface water run-off back to equivalent greenfield rates as detailed in the Revised Flood Risk Assessment.
119. The EA also acknowledged that they recognise that sustainable drainage may be difficult to achieve on this site but ask that all options are thoroughly investigated as part of a condition to provide a detailed surface water drainage scheme. The FRA acknowledges that the final design of the gravity drainage systems and the attenuation volumes are subject to detailed design.
120. The drainage information and suggested conditions would ensure that the development complies with BCCS Policy ENV5.

#### Renewable Energy

121. As the proposed foodstore is more than 1,000 sq m gross floorspace Policy ENV7 will be applied.
- ‘All non-residential developments of more than 1,000 sq m floorspace (whether new build or conversion) must incorporate generation of energy from renewable sources sufficient to off-set at least 10% of the estimated residual energy demand of the development on completion. The use of combined heat and power facilities should be explored for larger development schemes. An energy assessment must be submitted with the planning application to demonstrate that these requirements have been met.’*
122. The Renewable Energy Statement sets out renewable technologies as a heat harvester unit to pre-heat domestic hot water and the provision of space heating using renewable waste heat from refrigeration.
123. The use of waste heat from refrigeration to pre-heat domestic hot water and provide space heating is not strictly speaking renewable energy. However it is akin to Combined Heat and Power albeit on a smaller level (as mentioned in ENV7) this is acceptable in terms of meeting the requirements of ENV7. Compliance of ENV7 is also demonstrated by achieving 2 credits under issue Ene 5 and gaining a ‘very

good' BREEAM rating. Calculations show an estimated 10% of energy saving through this technology.

124. Morrisons are also demonstrating other activities to reduce energy use through the carbon hierarchy; avoid emissions, reduce emissions and replace emissions. In addition the design and access statement mentions the use of photovoltaic panels to generate renewable energy.
125. Subject to imposition of a condition to secure the above measures, the development would comply with Saved UDP Policy ENV7.

#### Access for All

126. New development offers the greatest opportunities to achieve the principles of inclusive. The proposal makes satisfactory provision of disabled and parent & toddler car parking spaces in accordance with the Parking Standards SPD. A dropping off point which can be used by Ring and Ride.
127. Confirmation has been provided by the applicant that the proposed entrances will be easily identifiable by ensuring doors and or door frames contrast in colour from other elements of the building. Glazed entrance doors, adjacent to, or incorporated within glazed screens (which pose particular problems for people with visual impairments) would also be easily identifiable, by contrasting in colour the top and sides of the entrance door frame
128. The applicant has also confirmed that pedestrian crossings within the site, pedestrian ramped access, stepped access, door manifestations, structural columns located within the pedestrian access route would be designed in accordance with the Access for All SPD.
129. The proposed development has been designed to ensure that it contributes to creating an inclusive built environment in accordance with the principles laid out in the Access for All SPD.

#### Planning Obligations

130. Black Country Core Strategy Policy DEL1 'Infrastructure Provision' sets out the adopted policy framework for Planning Obligations within Dudley and the Planning Obligations SPD provides further detail on the implementation of this policy; these policy documents were prepared in accordance with national legislation and guidance on planning obligations. Policy DEL1 requires all new developments to be supported by sufficient on and off-site infrastructure to serve the development, mitigate its impact on the environment, and ensure that the development is sustainable and contributes to the proper planning of the wider area.
131. The obligations potentially triggered according to the Planning Obligations SPD are Economic and Community Development, Transport Infrastructure Improvements, Air Quality Improvements, Nature Conservation Enhancements and Public Art. In determining the required planning obligations on this specific application the following three tests as set out in the CIL Regulations, in particular Regulation 122, have been applied to ensure that the application is treated on its own merits:
- b) necessary to make the development acceptable in planning terms
  - c) directly related to the development;
  - d) fairly and reasonably related in scale and kind to the development.

Following consideration of the above tests only the following obligations are required for this application:

#### **On-Site Provision (to be secured by condition)**

Economic and Community Development - Statement required to be submitted and approved by the council prior to commencement. It would be an obligation on the developer to enter into a local employment statement with the council in order to provide for economic and community development benefits. This could be in the form of commitments to sourcing building materials locally and the provision of jobs for local people in both the construction and end-use phases.

Air Quality Improvements – Policy ENV8 of the Core Strategy advises that adequate and satisfactory mitigation measures must be secured for developments that generate an increase in the number of trips to and from a development site. The preference is for this to be provided through on-site provision. In lieu of a financial contribution it is considered that the provision of electric vehicle charging points, cycle parking provision, commitment to low emission delivery vehicles within the development will help to contribute to the aims of the Council's Air Quality Action Plan in respect of emission reduction initiatives.

Nature Conservation Enhancements - The required enhancements can be sought by ensuring that the development takes place in accordance with the recommendations of the ecological appraisal and that details of enhancement measures are submitted for approval (by condition).

Public Art - Policy CSP4 of the Core Strategy requires the provision of public art in major developments, to support and enhance the cultural and social development and identity of the Black Country. In this case an art feature could satisfactorily be accommodated within the public realm area to the front of the proposed store on the Stallings Lane frontage or within the site. Details can be sought by condition.

132. It is considered that these contributions meet the necessary tests as stated above in that they contribute to the delivery of a sustainable development, are being provided directly on the development site itself and are deemed to be in scale and kind to the proposed development. This development complies with the requirements of BCCS Policy DEL1 and the Planning Obligations SPD. The applicant has agreed to the provision of these onsite planning obligations.

## CONCLUSION

133. In line with the NPPF, positive impacts would arise in terms of contributing toward sustainable development incorporating economic, social, environmental benefits.
134. The proposed development will lead to the positive improvement of an existing, partly vacant site. It will support the spatial objectives of the Black Country Core

Strategy and for Regeneration Corridor 10 which seeks to serve day-to-day shopping needs and have sustainable regeneration benefits. The Core Strategy Policy CSP1: 'The Growth Network,' promotes community services and local shops to serve new residential communities. The Regeneration Corridors provide the most sustainable locations for economic growth across the Black Country.

135. It has been demonstrated that the industrial site is no longer viable and required employment use. Given that overall site area would remain in commercial use, it is unlikely to prejudice existing and neighbouring uses, and would not prejudice master planning of the wider area. The principle of utilising the land for the food store is acceptable. The development would be consistent with the sequential approach and retail impact tests set out in the NPPF, which ensure the vitality of town centres and main urban areas.
136. The development would generate economic outputs, physical regeneration and local employment. The development could create 368 jobs in full and part-time positions. The development will also generate jobs in the construction phase of the development. The proposal would therefore generate a significant number of new jobs and economic benefits to Dudley, the Black Country and the West Midlands as a whole, at a time of high unemployment.
137. With respect to the environmental benefits of the scheme the development makes a positive contribution to place making through high quality design contributing to creating an inclusive built environment. The re-located delivery service yard away from residents would represent an improvement to the existing situation; relevant conditions would ensure that residents are protected from the replacement store and petrol filling station.
138. The implementation of a new traffic light system at the junction would improve highway safety, more than ample parking is provided on site, improvements are made for pedestrian connectivity and the site is supported by a Travel Plan which aims to encourage travel by sustainable modes of transport.

139. As long as the required landscaping scheme and other ecological enhancements are secured by condition, the proposal would not have a significantly harmful impact upon nature conservation. The Flood Risk Assessment demonstrates that the level of flood risk associated with the site is acceptable. The development incorporates generation of energy from renewable sources to comply with council guidance.
140. In terms of social benefits the development will help to achieve the NPPF aim of supporting the health and social well-being of communities, by creating a high quality built environment, utilising a partly vacant site and by providing an additional option for the residents of the Borough to purchase a range of quality, healthy foods.
141. It would therefore comply with National Planning Policy Framework (NPPF) 2012, Black Country Core Strategy (2011) CSP1 The Growth Network, CSP4 Place Making, DEL1 Infrastructure Provision, DEL2 Managing the Balance Between Employment Land and Housing, EMP1 Providing for Economic Growth, EMP3 Local Quality Employment Areas, EMP4 Maintaining a Supply of Readily Available Land, EMP5 Improving Access to the Labour Market, CEN1 The Importance of Black Country Centres for Regeneration, CEN2 Hierarchy of Centres, CEN4 Regeneration of Town Centres, CEN7 Controlling Out-of-Centre Development, TRAN1 Priorities for the Development of the Transport Network, TRAN2 Managing Transport Impacts of New Development, TRAN5 Influencing the Demand for Travel and Travel Choices, ENV1 Nature Conservation, ENV2 Historic Character and Local Distinctiveness, ENV3 Design Quality, ENV5 Flood Risk, Sustainable Drainage Systems and Urban Heat Island, ENV7 Renewable Energy, ENV8 Air Quality, Appendix 2 – Detailed Proposals for Regeneration Corridors and Strategic Centres - RC10 Pensnett – Kingswinford, Saved 2005 UDP policies DD1 Urban Design, DD3 Design of Retail Development, DD4 Development in Residential Areas, DD5 Development in Industrial Areas, DD9 Public Art, DD10 Nature Conservation and Development, UR9 Contaminated Land, HE8 Archaeology and Information, EP6 Light Pollution, EP7 Noise Pollution, Supplementary Planning Documents: Parking Standards, Planning Obligations, Access for All, Historic

Environment and Nature Conservation, and Saved 'Planning for Town Centres Practice Guidance on Need, Impact and the Sequential Approach.

## **RECOMMENDATION**

142. It is recommended that the application be APPROVED subject to the following conditions:

### **INFORMATIVE NOTE – THE COAL AUTHORITY**

#### **ALL DEVELOPMENTS WITHIN COALFIELD STANDING ADVICE AREAS**

The proposed development lies within a coal mining area which may contain unrecorded mining related hazards. If any coal mining feature is encountered during development, this should be reported to The Coal Authority.

Any intrusive activities which disturb or enter any coal seams, coal mine workings or coal mine entries (shafts and adits) requires the prior written permission of The Coal Authority.

Property specific summary information on coal mining can be obtained from The Coal Authority's Property Search Service on 0845 762 6848 or at [www.groundstability.com](http://www.groundstability.com)

### **APPROVAL STATEMENT INFORMATIVE**

*In dealing with this application the local planning authority have worked with the applicant in a positive and proactive manner, seeking solutions to problems arising in relation to dealing with the application, by seeking to help the applicant resolve technical detail issues where required and maintaining the delivery of sustainable development. The development would improve the economic, social and environmental concerns of the area and thereby being in accordance with paragraphs 186 and 187 of the National Planning Policy Framework.*

### **INFORMATIVE NOTE – THE ENVIRONMENT AGENCY**

*The applicant is advised to consider the advice set out in the Environment Agency consultation response dated 3<sup>rd</sup> April 2014.*



Conditions and/or reasons:

1. The development hereby permitted shall be begun before the expiration of three years from the date of this permission.
2. The development hereby permitted shall be carried out in accordance with the following approved plans: P(100) 01/Rev A, P(204) Rev C, P(202) Rev D, P303/Rev A, P206/Rev A, P302/Rev C, P402/Rev C, P(100) 02/Rev N, P(403)/Rev C (only with regard to PFS sections), P (500) 01, P301/Rev F, 1230-11-02 Rev B, 1230/11-03 Rev C, 1230-11-04 Rev B, 1230-11-SK1-23-10-12 Rev A (only with regard to the western boundary landscaping), 1230-11-RP002 Rev C, 6830/006/Rev B and 6830/001/Rev G (insofar as they show the layout of the proposed junction and approved internal access arrangements, including the access and signage arrangements of the proposed PFS).
3. The overall floorspace of the foodstore shall be limited to no more than 5,932 m<sup>2</sup> gross floorspace. No more than 3,415 m<sup>2</sup> of the floorspace of the building shall be used for net retail sales, with no more than 2,561 m<sup>2</sup> of that net floorspace shall be used for the sale of convenience goods and no more than 854 m<sup>2</sup> net floorspace shall be used for the sale of comparison goods.
4. Prior to the commencement of development (save for the demolition of the existing industrial unit), details of the types, colours and textures of the materials to be used on the external surfaces of the buildings hereby approved shall be submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in complete accordance with the approved details.
5. Prior to the commencement of development (save for the demolition of the existing industrial unit), details of the existing and proposed levels of the site (including finished floor levels), which should be related to those of adjoining land and highways, shall be submitted to and approved in writing by the Local Planning Authority. The development shall proceed in accordance with the approved levels.
6. Prior to the commencement of development (save for the demolition of the existing industrial unit) details of the types, colours and textures of the materials to be used in the hard surfacing of the development hereby approved shall be submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in complete accordance with the approved details and retained for the lifetime of the development unless otherwise agreed in writing with the Local Planning Authority.
7. No development shall begin (save for the demolition of the existing industrial unit) until an assessment of the risks posed by any contamination has been submitted to and approved by the Local Planning Authority. Such an assessment shall be carried out in accordance with authoritative UK guidance.
8. Where the approved risk assessment (required by Condition 7) identifies contamination posing unacceptable risks, no development shall begin (save for the demolition of the existing industrial unit) until a detailed scheme to protect the development from the effects of such contamination has been submitted to and approved by the Local Planning Authority.

9. Unless otherwise agreed in writing with the LPA, the approved scheme (required by Condition 8) shall be implemented and a verification report submitted to and approved by the LPA, before the development (or relevant phase of the development) is first occupied/brought into use.
10. No development shall begin (save for the demolition of the existing industrial unit) until an assessment of the risks posed by any ground gases or vapours has been submitted to and approved by the Local Planning Authority. Such an assessment shall be carried out in accordance with authoritative UK guidance.
11. Where the approved risk assessment (required by Condition 10) identifies ground gases or vapours posing unacceptable risks, no development shall begin (save for the demolition of the existing industrial unit) until a detailed scheme to protect the development from the effects of such contamination has been submitted to and approved by the Local Planning Authority.
12. Unless otherwise agreed in writing with the LPA, the approved scheme (required by Condition 11) shall be implemented and a verification report submitted to and approved by the LPA, before the development (or relevant phase of the development) is first occupied/brought into use.
13. Development shall not commence (save for the demolition of the existing industrial unit) until additional proposals to encourage the use of low emissions vehicles have been submitted to and approved in writing by the Local Planning Authority, including, but not limited to, the following examples,
  - i. Provision of a low emissions delivery fleet and/or specification of a minimum Euro standard for delivery vehicles
  - ii. Provision of alternative fuels at the petrol station
  - iii. Provision of measures to discourage idling of delivery or passenger vehicles on the supermarket premises, e.g. appropriate signage, external power supply for refrigerated vehicles etcAll works which form part of the approved scheme shall be completed before occupation of the relevant phase unless otherwise agreed in writing by the Local Planning Authority. The measures in the agreed scheme shall be maintained throughout the life of the development.
14. Development shall not commence until a construction dust management plan has been submitted to and approved in writing by the Local Planning Authority. The plan should set out those measures to be employed to minimise dust impacts during the site preparation and construction phase of the development. All works which form part of the scheme shall be implemented throughout the site preparation and construction phase of the development.
15. Development shall not commence (save for the demolition of the existing industrial unit) until a scheme for provision of active electric vehicle charging points and associated electrical infrastructure for future expansion has been agreed in writing by the Local Planning Authority. An active charging point shall be provided adjacent to each allocated parking space and shall be designated for the sole use of electric vehicles. The charging point shall be supplied by an independent 32 amp radial circuit and equipped with a type 2, mode 3, 7-pin socket conforming to EN61296-2.

16. Prior to commencement of the permitted use, a scheme for a continuous acoustic barrier constructed along the boundary of the site with Charterfields Shopping Centre as indicated on the approved plan P(100)02 revision N shall be submitted to and approved in writing by, the Local Planning Authority. The barrier shall be a minimum height of 3 metres measured from the ground level of Charterfields Shopping Centre and minimum surface density of 10 kg/m<sup>2</sup>. All works which form part of the approved scheme shall be completed before the approved use commences. The barrier shall be retained throughout the life of the development.
17. The existing car park boundary fence along Hawkeswell Drive shall be retained for the lifetime of the development.
18. The car wash, jet wash and air vacuum facility hereby approved shall not be operated before 0700 hours or after 2100 Monday to Saturday nor before 0900 nor after 1800 on Sundays and Public Holidays.
19. The petrol station shall not be open to the public before the hours of 0600 nor after 2300 Monday to Saturdays or before 0800 nor after 2200 on Sundays and Public Holidays.
20. The rating level of noise emitted from any fixed plant and/or machinery associated with the development shall not exceed background noise levels by more than 5dB(A) between the hours of 0700-2300 (taken as a 60 minute LA90 at the nearest noise sensitive premises) and shall not exceed the background noise level between 2300-0700 (taken as a 5 minute LA90 at the nearest noise sensitive premises). All measurements shall be made in accordance with the methodology of BS 4142 (1997) (Method for rating industrial noise affecting mixed residential and industrial areas) and/or its subsequent amendments. Where access to the nearest noise sensitive property is not possible, measurements shall be undertaken at an appropriate location and corrected to establish the noise levels at the nearest noise sensitive property. Any deviations from the LA90 time interval stipulated above shall be agreed in writing with the Local Planning Authority.
21. Prior to first use of the development hereby approved, a scheme of lighting along with the means of shielding light spillage shall be submitted and approved in writing by the Local Planning Authority. The approved scheme shall be installed and operational prior to first use of the development and thereafter retained for the lifetime of development, unless otherwise agreed in writing with the LPA.
22. If during development contamination not previously identified is found to be present at the site then no further works shall be carried out until the developer has submitted and obtained written approval from the LPA.
23. The development permitted by this planning permission shall only be carried out in accordance with the approved Flood Risk & Drainage Assessment/ Rev C (February 2014) and the following mitigation measures detailed within the FRA: Limiting surface water run-off event back to equivalent greenfield rates and demonstrate sufficient storage in the 1 in 100 year plus climate change storm event.
24. No development (save for the demolition of the existing industrial unit) shall take place until the detailed surface water drainage scheme for the site, based on sustainable drainage principles and an assessment of the hydrological and hydrogeological context of the development, has been submitted to and

approved in writing by the Local Planning Authority. The drainage strategy should demonstrate the surface water run-off generated up to and including the 1 in 100 year plus 20% critical storm will not exceed the run-off from the undeveloped site following the corresponding rainfall event. The scheme shall subsequently be implemented in accordance with the approved details before the development is completed.

25. At least 10% of the energy supply of the development shall be secured from decentralised and renewable or low-carbon energy sources (as described in the glossary of Planning Policy Statement: Planning and Climate Change (December 2007). Prior to the occupation of the store, works detailed within the approved Renewable Energy Strategy shall be implemented in full accordance with the Strategy and retained as operational thereafter, unless otherwise agreed in writing with the LPA.
26. No development shall commence (save for the demolition of the existing industrial unit) until details of nature conservation enhancement works have been submitted to and approved in writing by the Local Planning Authority. The nature conservation enhancement works shall thereafter be provided in accordance with the approved details prior to first occupation of the development and be maintained for the life of the development.
27. No development shall commence (save for the demolition of the existing industrial unit) until details of works of public art have been submitted to and approved in writing by the Local Planning Authority. The works of public art shall thereafter be provided in accordance with the approved details prior to first occupation of the development and be maintained for the life of the development.
28. No development shall commence until an Economic and Community Development Statement has been submitted to and approved in writing by the Local Planning Authority. The Statement shall address as a minimum, measures to increase the number of jobs open to local people available on the site and the development of initiatives that support activities to upskill local unemployed people of working age so as to support them into sustained employment as outlined in the Council's Planning Obligations Supplementary Planning Document. The development shall be implemented in accordance with the approved Statement and retained in accordance with the Statement for the lifetime of the development.
29. Notwithstanding the plans submitted, proposed entrances should be easily identifiable by ensuring doors and or door frames contrast in colour from other elements of the building. Pedestrian crossings within the site, pedestrian ramped access, stepped access, door manifestations, structural columns located within the pedestrian access route should comply with design guidance set out in the Access for All SPD.
30. Landscaping works shall be implemented in accordance with plan no: 1230/11/03/Rev C before the end of the first planting season following initial occupation of the development, this shall be subject to the Soft Landscape Works Maintenance and Management proposals (Doc Ref No: 1230/11/RP003/Rev B), unless otherwise agreed in writing with the LPA.
31. The development shall not commence trading until an updated travel plan has been submitted to and approved in writing by the Local Planning Authority, to include details of a travel plan co-ordinator, staff travel survey, car parking

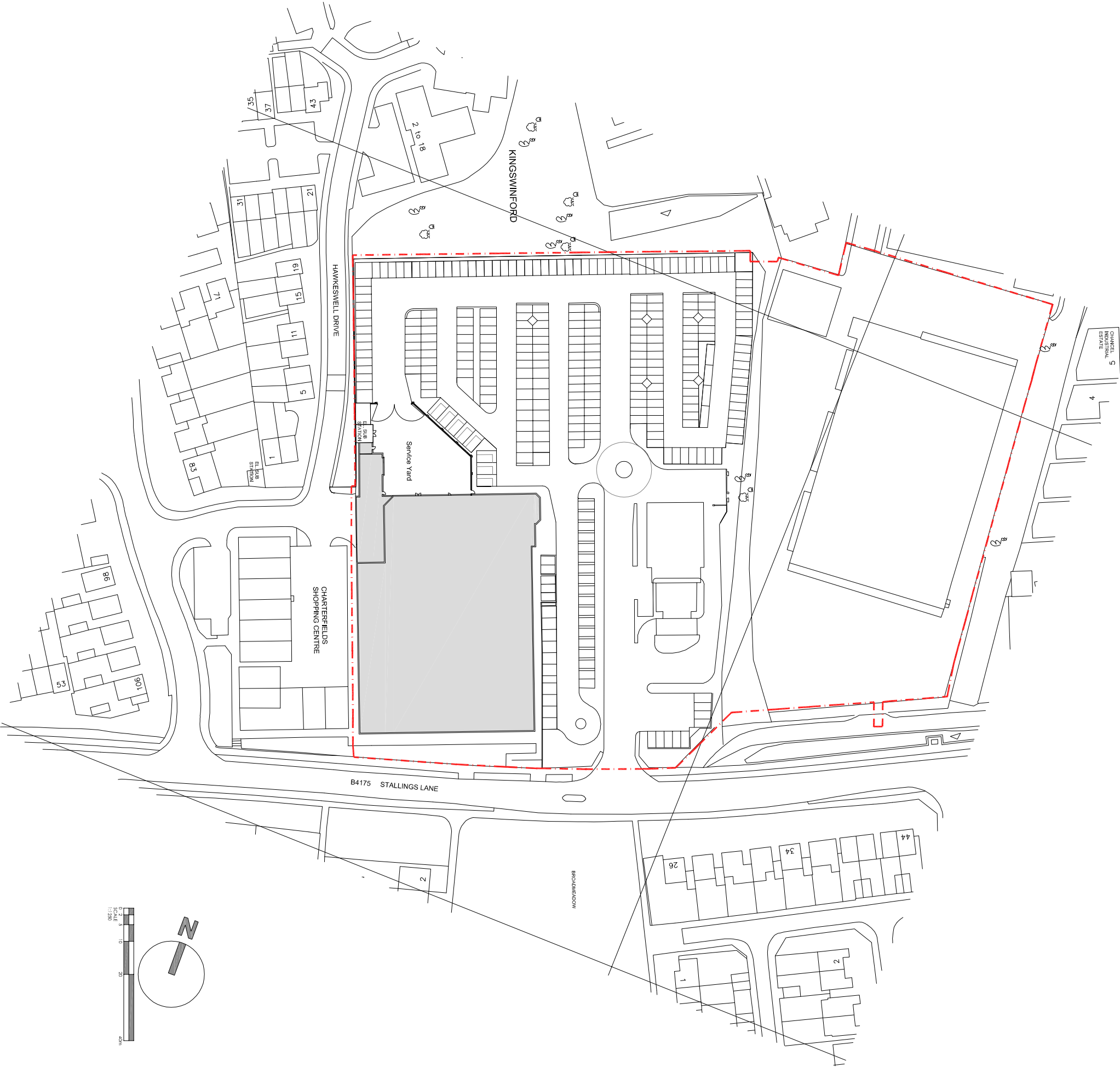
- management, walking and cycling initiatives, publicity and marketing, set targets & monitoring and to join company travel wise in Dudley together with a timetable for each of the elements. The travel plan shall be implemented in accordance with the details approved and remain operational for the life of the development.
32. Within 12 weeks of the building being brought into use, a final Certificate shall be issued certifying that BREEAM (or any such equivalent national measure of sustainable building which replaces that scheme) rating 'Very Good or above' has been achieved for this development, and submitted to the Local Planning Authority.
33. No development shall take place (save for the demolition of the existing industrial unit) until a construction management plan or construction method statement has been submitted to and been approved in writing by the Local Planning Authority. The approved plan/statement shall be adhered to throughout the construction period. The statement shall provide for:
- Parking of vehicle of site operatives and visitors
  - routes for construction traffic
  - hours of operation
  - method of prevention of mud being carried onto highway
34. No development (save for the demolition of the existing industrial unit) shall take place until there has been submitted, and approved in writing by the Local Planning Authority details of the tree protection measures on site. The details shall include:
- a. A plan showing the location and identification (with reference to a survey schedule if necessary) of all trees on, or directly adjacent to the development site, that are to be retained during construction. These trees are to be marked with a continuous outline.
  - b. A plan showing the location and identification (with reference to a survey schedule if necessary) of all the trees on, or directly adjacent to the development site that are to be removed prior to, or during development. These trees are to be marked with a dashed outline.
  - c. A plan showing the extent of the Root Protection Area, which is to be protected by physical barriers during development. The extent of the area that is to be protected will be calculated in accordance with Clause 4.6 of British Standard BS:5837 - 2012 'Trees in Relation to Design, Demolition and Construction - Recommendations'.
  - d. Design details of the proposed protective barriers and ground protection to be erected around the trees during development. Any protection barriers should be designed and constructed in accordance with the provisions set out in section 6.2 of British Standard BS:5837 - 2012 'Trees in Relation to Design, Demolition and Construction - Recommendations'.
35. No development shall commence (save for the demolition of the existing industrial unit) until a detailed Arboricultural Method Statement has been submitted to and approved in writing by the Local Planning authority. No development or other operations shall take place except in complete accordance with the approved Method Statement. Such method statement shall include full detail of the following:
- Implementation, supervision and monitoring of the approved Tree Protection

Plan.

- Implementation, supervision and monitoring of the approved Treework Specification.
- Implementation, supervision and monitoring of all approved construction works within any area designated as being fenced off or otherwise protected in the approved Tree Protection Plan.
- Timing and phasing of arboricultural works in relation to the approved development.

36. No development shall commence (save for the demolition of the existing industrial unit) until a detailed tree felling / pruning specification has been submitted to and approved in writing by the Local Planning Authority. No development or other operations shall commence on site until the approved tree felling and pruning works have been completed. All tree felling and pruning shall be carried out in full accordance with the approved specification and the requirements of British Standard 3998 (2010) Recommendations for Tree Work.
37. All excavations to be undertaken within 6 metres of the stem of existing trees on site shall be undertaken in accordance with NJUG Publication number 10 'Guidelines for the Planning, Installation and Maintenance of Utility Services in proximity to Trees'.
38. No development shall commence (save for the demolition of the existing industrial unit) until a detailed service (gas, electricity and telecoms) and foul and surface water drainage layout has been submitted to and approved in writing by the Local Planning Authority. Such layout shall provide for the long term retention of the trees. No development or other operations shall take place except in complete accordance with the approved service/drainage layout.
39. No development shall take place (save for the demolition of the existing industrial unit) until there has been submitted to and approved in writing by the Local Planning Authority technical details of any proposed pathway / hard surfacing / driveway / parking area within 3 metres of the outer canopy spread of any existing tree situated on or off the site. The details of the vehicular access and parking areas shall include existing and proposed ground levels, materials to be used and the relative time of construction within the whole development and must be in accordance with appropriate guidelines, namely Clause 7.4 of British Standard BS:5837 - 2012 'Trees in Relation to Design, Demolition and Construction - Recommendations' and Arboricultural Advisory & Information Service Practice Note 'Driveways Close to Trees' (1996). Any driveway / parking areas within 3 metres of existing trees must be constructed using 'no-dig' techniques incorporating appropriate surfaces to avoid damage to trees and to prevent any potential direct or indirect damage caused by trees.
40. Unless otherwise agreed in writing the development shall not commence until the detailed design of the highway improvements on Stallings Lane, associated section of new public highway, temporary works required to facilitate these improvements and timescales for the works have been submitted for approval. The development should not commence trading until the highway scheme has been approved in writing and implemented in accordance with the agreed details.

41. The development shall not commence (save for the demolition of the existing industrial unit) until a detailed traffic management scheme for the control of vehicles within the development site has been submitted and agreed in writing. The development should not commence trading until the traffic management scheme has been implemented in accordance with the agreed details and maintained for the life of the development.
42. The development shall not commence trading until the parking area (including the disabled and widened, powered two-wheeler, and parent & toddler parking spaces) has been surfaced and marked out in complete accordance with the approved plans, and thereafter maintained for parking for the life of the development.
43. The service yard shall be used solely for the servicing for the store. No open storage shall be permitted within the service yard and the service yard should remain operational for the life of the development.
44. Prior to first use of the development hereby approved, details of well lit, undercover and secure cycle parking facilities (providing at least 26 cycle parking spaces) should be submitted to and approved in writing by the LPA, and thereafter implemented in accordance with the approved details and maintained for no other purpose for the life of the development.
45. No work involving ground disturbance or demolition shall begin until the developer has secured the implementation of a programme of archaeological work in accordance with a Written Scheme of Investigation (WSI) which has first been submitted to and approved in writing by the Local Planning Authority.
46. Notwithstanding the provisions of the Town and Country Planning Act 1990 (as amended) and schedule 2 part 42 class A of the Town and Country Planning (General Permitted Development Order) 1995 (as amended) (or order revoking or reacting that order with or without amendment) the food store shall not be extended externally or internally (including the provision of a mezzanine) without the express grant of planning permission.
47. No deliveries or despatches shall be made to or from the site, and no delivery or despatch vehicles shall enter or leave the site (whether laden or unladen), before the hours of 0600 nor after 2300 Monday to Saturday, or before 0800 or after 2200 on Sundays and Public Holidays.
48. Prior to the commencement of development (save for the demolition of the existing industrial unit), details of the materials, including colours, of the retaining walls hereby approved on the site shall be submitted to and approved in writing by the Local Planning Authority. The development shall proceed in accordance with the approved details prior to occupation and the walls shall be retained and maintained as approved for the lifetime of the development.



CONSTRUCTION STAFF AND OPERATIVES MUST ENSURE THE PRINCIPAL CONTRACTOR HAS PROVIDED THOROUGH AND ACCURATE INFORMATION ON ALL HEALTH AND SAFETY ASPECTS RELATING TO THE DESIGNS DERIVED ON THIS DRAWING INCLUDING THE REVIEW OF:

- DESIGNER/CONTRACTORS RISK ASSESSMENTS
  - METHOD STATEMENTS
  - PERMIT TO WORK
  - CONSTRUCTION PHASE HEALTH AND SAFETY PLAN
- THE DESIGNER NOTE THAT THE FOLLOWING HEALTH AND SAFETY RISKS HAVE NOT BEEN ELIMINATED DURING THE DESIGN PROCESS.

revision	date	by	chk
A	Red line amended adjacent to highway	02/1/13	RAB

All dimensions to be verified on site, and the Architect informed of any discrepancy. All drawings and specifications should be read in conjunction with the Health and Safety Plan; all conflicts should be reported to the CDM Co-ordinator.

DO NOT SCALE THIS DRAWING

This drawing is the copyright of  
Bowman Riley Architects Limited.



MORRISONS  
Wm MORRISON SUPERMARKETS PLC

drawn by	checked by	date	scale
CM	RAB	APR 2012	1:1250@A3

project  
**PROPOSED NEW SUPERMARKET &  
PETROL FILLING STATION**  
drawing title

SITE LOCATION PLAN

project number	drawing number	revision
6939	P(100)01	A



## NOTES

This drawing is based on following documents:

Bowman Riley Architects Proposed Site Plan 6939-P(100)02  
Rev L.

Refer to Midland Tree Surgeons Ltd Pre-Development Tree Survey  
dated February 2014.

Tree locations shown are based on Information provided by CSL Surveys;  
drawing 9675-01.

Tree retention is to be reviewed by arboricultural consultant with regard to  
protection of trees and adjacent construction.

All tree work to be in accordance with the requirements of BS5837:2012.

### PROPOSED THICKET MIX PLANTING (300mm depth of topsoil)

Where woodland or thicket is planted next to a hard  
surface/kerb/fence, it should be positioned 1m from the edge.

Transplants planted in groups of 7-15 of the same species on a 1.0m grid.

%	Species	Common Name	Size	Age	Root/Pot
20%	Corylus avellana	Hazel	400-600mm	1+1	OG
30%	Crataegus monogyna	Hawthorn	400-600mm	1+1	OG
10%	Ilex aquifolium	Holly	400-600mm	2L	OG
10%	Ligustrum vulgare	Privet	400-600mm	1+1	OG
5%	Prunus spinosa	Blackthorn	400-600mm	1+1	OG
15%	Salix caprea	Goat willow	600-800mm	1+0	OG
10%	Viburnum opulus	Guellder Rose	400-600mm	1+1	OG

### PROPOSED GRASS VERGES (150mm depth of topsoil)

To be seeded with DLF Trifolium Pro 120 Slowgroth at a rate of  
35-50g/m<sup>2</sup>.

### PROPOSED PRO FLORA 10 GRASSLAND MEADOW AREAS TO REAR OF STORE (species subject to Ecologist recommendations) (Cultivated subsoil to a depth of 200mm)

### EXISTING GRASS AREAS OFF SITE To be reinstated as necessary following construction works and seeded with DLF Trifolium Pro 120 Slowgroth at a rate of 35-50g/m<sup>2</sup>.

### PROPOSED FENCE (TO ARCHITECTS SPECIFICATION)

### SLOPE

### SITE BOUNDARY

C: Minor alteration to drawing key. 18/02/14 MAB  
B: General updates to layout in accordance with revised site master plan. 17/02/14 MAB  
A: Revised to Bowman Riley dwg SK009 Rev B recvd 23/10/12. 25/10/12 MGO  
REV NOTE DATE AUTH



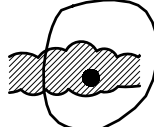
CLIENT  
**Morrisons Supermarkets PLC**

PROJECT  
**New Superstore, Stallings Lane  
Kingswinford**

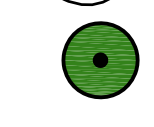
DRAWING  
**Landscape Concept**

CONTRACT	1230/11	DRG NO.	03
DATE	19/04/2012	DRAWN	KSN
ISSUE	Planning	CHECKED	MG
SCALE	1:500	ORIG SHEET	A1
CAD FILE	230-11-03 Landscape Concept-Sections-23-10-12.dwg	REV	C

## KEY

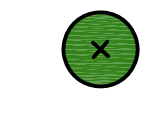


EXISTING TREES AND VEGETATION  
TO BE RETAINED  
(Refer to BCA Tree protection plan' dwg 1230/11-02



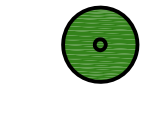
SEMI-MATURE TREE  
(Tree pit size: 2000x2000x1000mm backfilled with topsoil)  
20-25cm stem girth  
6.0-7.0m height  
3m clear stem  
Rootballed

Species	Common Name
Acer platanoides	Norway Maple
Acer saccharinum	Silver Maple



EXTRA HEAVY STANDARD TREES  
(Tree pit size: 1500x1500x900mm backfilled with topsoil)  
18-20cm stem girth  
4.5-6.5m height  
1.8-2.1m clear stem  
Rootballed

and



EXTRA HEAVY STANDARD TREES  
(Tree pit size: 1000x1000x750mm backfilled with topsoil)  
14-16cm girth  
4.25-6.0m height  
1.8-2.1m clear stem  
Rootballed

Species	Common Name
Acer platanoides	Norway Maple
Acer saccharinum	Silver Maple
Betula pendula	Silver Birch
Malus sylvestris	Crab Apple
Quercus robur	English Oak
Prunus avium	Wild Cherry
Sorbus aucuparia	Rowan
Tilia x europaea	Common Lime



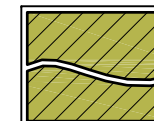
PROPOSED CONIFEROUS TREES  
(Tree pit size: 1000x1000x750mm backfilled with topsoil)  
2.5-3.0m height  
Rootballed

Species	Common Name
Pinus sylvestris	Scots Pine



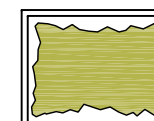
PROPOSED SPECIMEN SHRUBS  
(450mm depth of topsoil)

Species	Supply Size	Pot Size
Amelanchier canadensis	900-1200mm	15L
Berberis darwinii	900-1200mm	15L
Mahonia x media 'Winter Sun'	900-1200mm	15L
Viburnum x burkwoodii	900-1200mm	15L



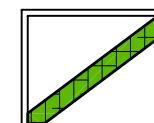
PROPOSED ORNAMENTAL SHRUB PLANTING  
(450mm depth of topsoil)  
Ultimate plant height is above 1m.

Species	Supply Size	Pot Size	Spacing
Buddleja davidii	600-800mm	3L	750mm c/s
Choisya temata	300-400mm	3L	600mm c/s
Cornus alba 'Sibirica'	400-600mm	3L	600mm c/s
Cornus stolonifera 'Flaviramea'	600-800mm	3L	600mm c/s
Corylus avellana	600-800mm	OG	600mm c/s
Corylus maxima 'Purpurea'	400-600mm	3L	750mm c/s
Ilex aquifolium	400-600mm	2L	750mm c/s
Mahonia aquifolium	300-400mm	3L	600mm c/s
Photinia fraseri 'Red Robin'	400-600mm	3L	750mm c/s
Prunus laurocerasus	300-400mm	3L	600mm c/s
Pyracantha 'Saphyr Red'	400-600mm	3L	600mm c/s
Viburnum x burkwoodii	300-400mm	3L	600mm c/s
Viburnum tinus	300-400mm	3L	600mm c/s



PROPOSED LOW GROUNDCOVER PLANTING  
(450mm depth of topsoil)  
Ultimate plant height is below 1m.

Species	Supply Size	Pot Size	Spacing
Berberis frikartii 'Amstelveen'	400-600mm	3L	500mm c/s
Choisya 'Aztec Pearl'	300-400mm	3L	500mm c/s
Cornus stolonifera 'Kelsey'	200-300mm	3L	450mm c/s
Cotoneaster conspicuus 'Decorus'	300-400mm	3L	500mm c/s
Escallonia 'Apple Blossom'	400-600mm	3L	500mm c/s
Hebe pinguifolia 'Sutherlandii'	200-300mm	3L	500mm c/s
Hedera helix 'Hibernica'	400-600mm	2L	400mm c/s
Hypericum x moserianum	300-400mm	3L	500mm c/s
Lavandula angustifolia	200-300mm	3L	450mm c/s
Lonicera nitida 'Maygreen'	300-400mm	2L	600mm c/s
Lonicera periclymenum	300-400mm	2L	600mm c/s
Pachysandra terminalis	150-200mm	2L	400mm c/s
Prunus laurocerasus 'Cherry Brandy'	300-400mm	3L	600mm c/s
Pyracantha coccinea 'Saphyr Yellow'	400-600mm	3L	500mm c/s
Rosa 'Kent'	300-400mm	3L	450mm c/s
Rosa 'Yellow Frau Dagmar'	300-400mm	3L	450mm c/s
Rubus 'Betty Ashburner'	300-400mm	2L	500mm c/s
Stephanandra incisa 'Crispa'	200-300mm	2L	500mm c/s
Symphoricarpos x c. 'Hancock'	400-600mm	3L	500mm c/s
Viburnum davidii	200-300mm	3L	450mm c/s
Vinca minor 'Alba'	150-200mm	2L	400mm c/s



PROPOSED DETERRENT HEDGE PLANTING  
(450mm depth of topsoil)  
Planted at 450mm centres in a double staggered row. Rows to  
be 500mm apart. To be maintained at 1.2m high.

Species	Size	Pot size
Berberis verruculosa	300-400mm	3L

NOTE:  
Discussion with adjoining owners  
with regard to existing trees  
condition-refer to Midland Tree  
Surgeons report.

Existing boundary  
fencing to be retained

SERVICE  
YARD

PROPOSED STORE

FFL: 83.00

Proposed fence to  
architects specification

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HAWKSWELL DRIVE

CHARTERFIELDS  
SHOPPING  
CENTRE

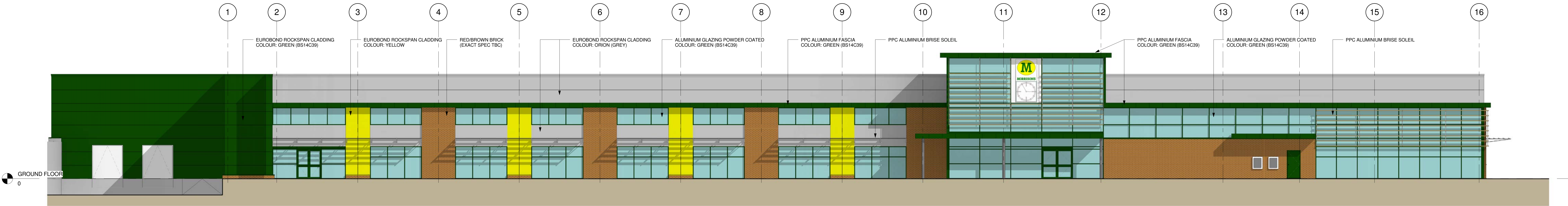
FUEL STATION

FFL: 82.85

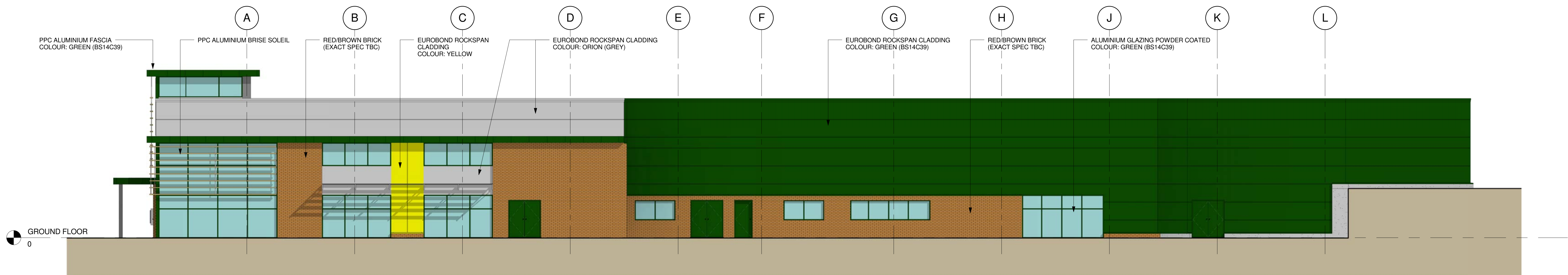
STALLINGS LANE

PROPOSED FENCE

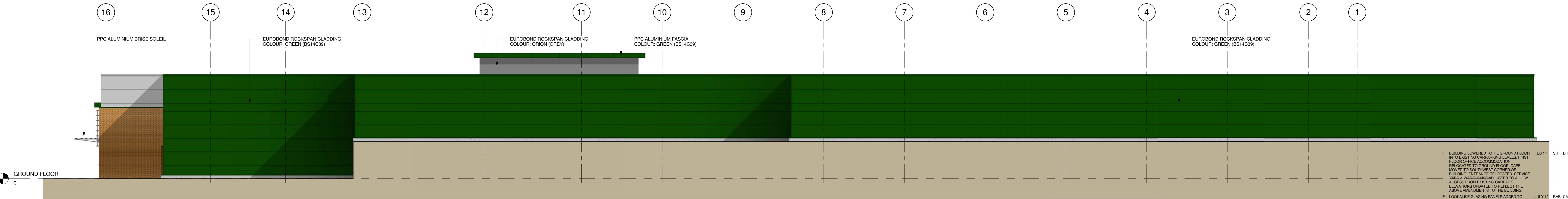




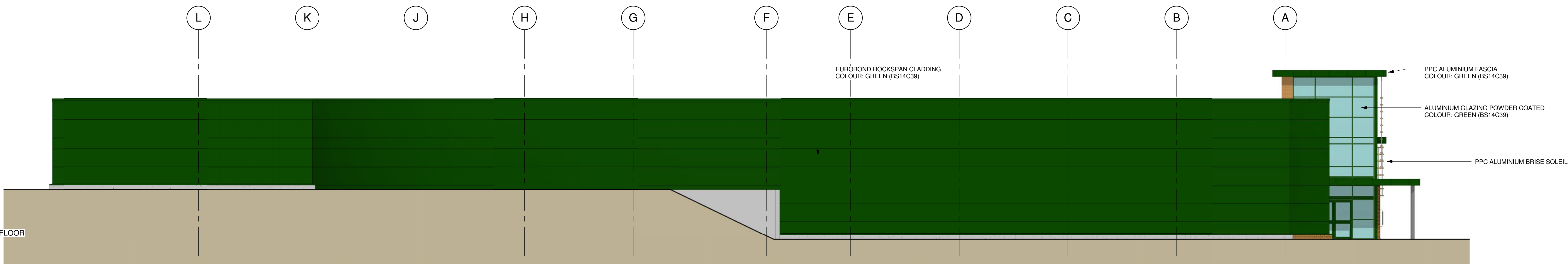
1 WEST ELEVATION  
1 : 100



2 SOUTH ELEVATION  
1 : 100



4 EAST ELEVATION  
1 : 100



3 NORTH ELEVATION  
1 : 100

F	BUILDING LOWERED TO THE GROUND FLOOR INTO EXISTING CARPARKING LEVELS. FIRST FLOOR OFFICE ACCOMMODATION RELOCATED TO GROUND FLOOR. CAFE MOVED TO SOUTHWEST CORNER OF BUILDING. ENTRANCE RELOCATED. SERVICE YARD & WAREHOUSE ADJUSTED TO ALLOW ACCESS FROM EXISTING CARPARK. ELEVATIONS UPDATED TO REFLECT THE ABOVE AMENDMENTS TO THE BUILDING.	FEB 14	SH	DH
E	LOOKALIKE GLAZING PANELS ADDED TO LOWER PORTION OF EAST ELEVATION	JULY 12	RAB	CH
D	PLANT ROOM ADDED	MAY 12	SH	DH
C	CLIENT LOGO CHANGED TO DDL	APR 12	SH	CH
B	REDUCED HEIGHT OF ELEVATIONS FOLLOW COMMENTS FROM MORRISONS	MAR 12	SH	CH
A	ELEVATIONS UPDATED TO SUIT REMOVAL OF MEZZANINE LEVEL	FEB 12	SH	CH

At dimensions to be verified on site, and the Architect informed of any discrepancy. All drawings and specifications should be read in conjunction with the Health and Safety Plan; all conflicts should be reported to the CDM Coordinator. This drawing is the copyright of Bowman Riley Architects Limited. © DO NOT SCALE THIS DRAWING

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<input type="checkbox"/> planning	<input type="checkbox"/> tender	<input type="checkbox"/> record

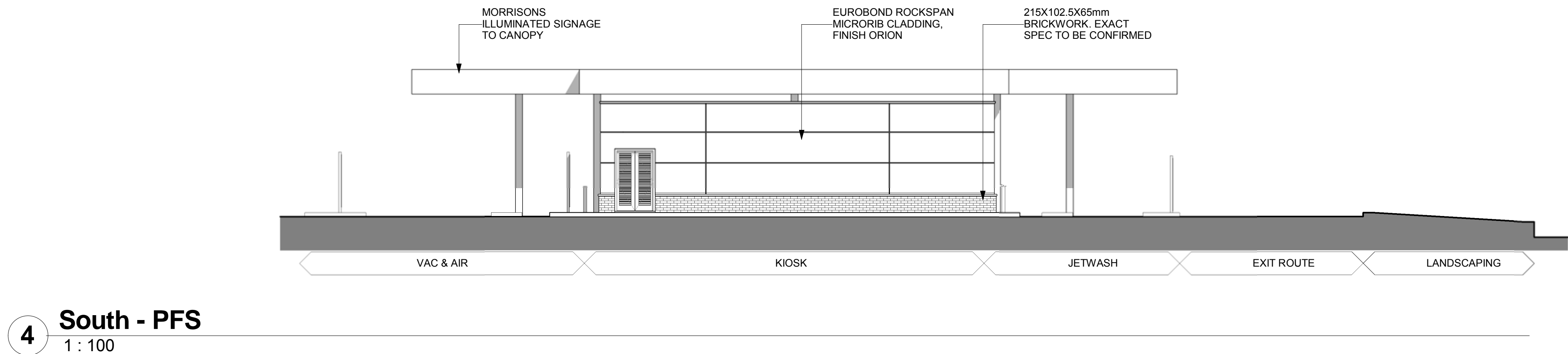
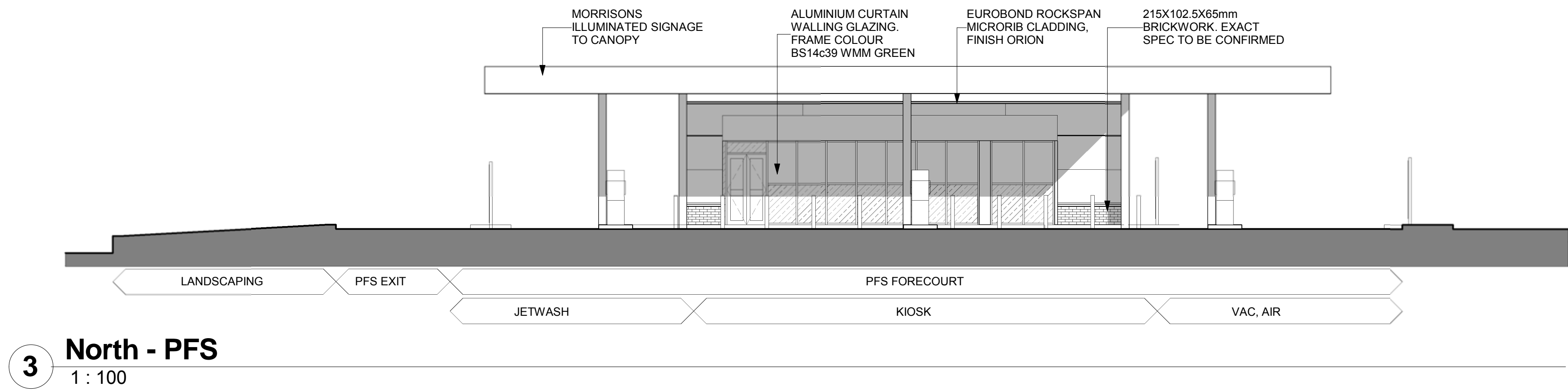
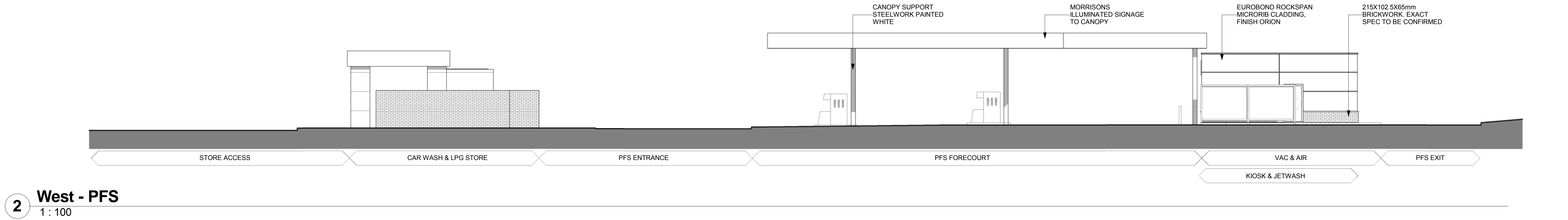
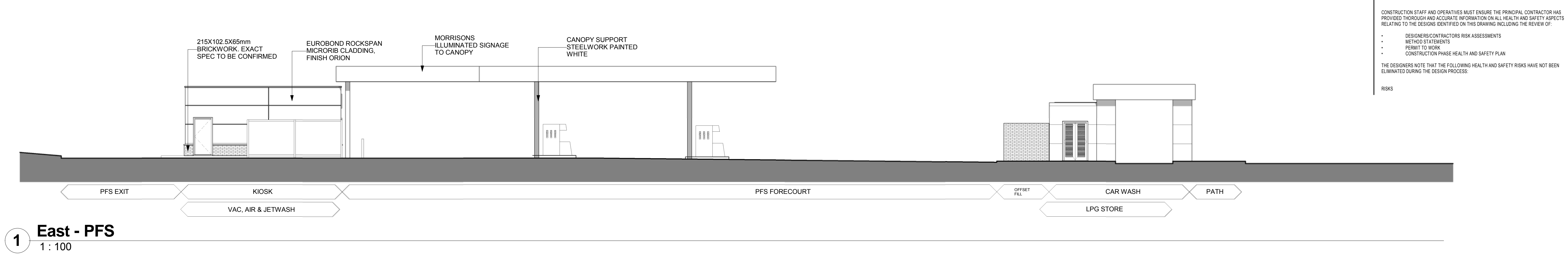
bowmanriley architects

Wellington House Olley St Sileghen N Yorkshire BD23 1EL  
LEEDS | LONDON | SHIPTON | DELHI  
01756 750611 www.bowmanriley.com

			
OPTIMISATION DEVELOPMENTS LTD			
drawn by	checked by	date	scale @ A0
DH	SH	07/30/13	1 : 100
PROPOSED NEW SUPERMARKET KINGSWINFORD			
PROPOSED ELEVATIONS			
project number	drawing number	revision	
6939	P301	F	

file reference: G:\P\6939 - Kingswinford6939 - 03 CAD Revit\KINGSWINFORD OPTION 19.rvt





C	PFS updated to new layout	NOV 2012	CM	SH
B	client logo changed to ODL	APR 2012	CM	SH
A	PFS cladding finish changed to orion	Mar 2012	CM	SH
	revision	date	by	chk

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client

M

OPTIMISATION DEVELOPMENTS LTD

drawn by

checked by

date

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14/03/12

1 : 100

project

PROPOSED NEW SUPERMARKET KINGSWINFORD, DUDLEY

drawing title

PROPOSED PFS ELEVATIONS

project number

drawing number

revision

6939

P302

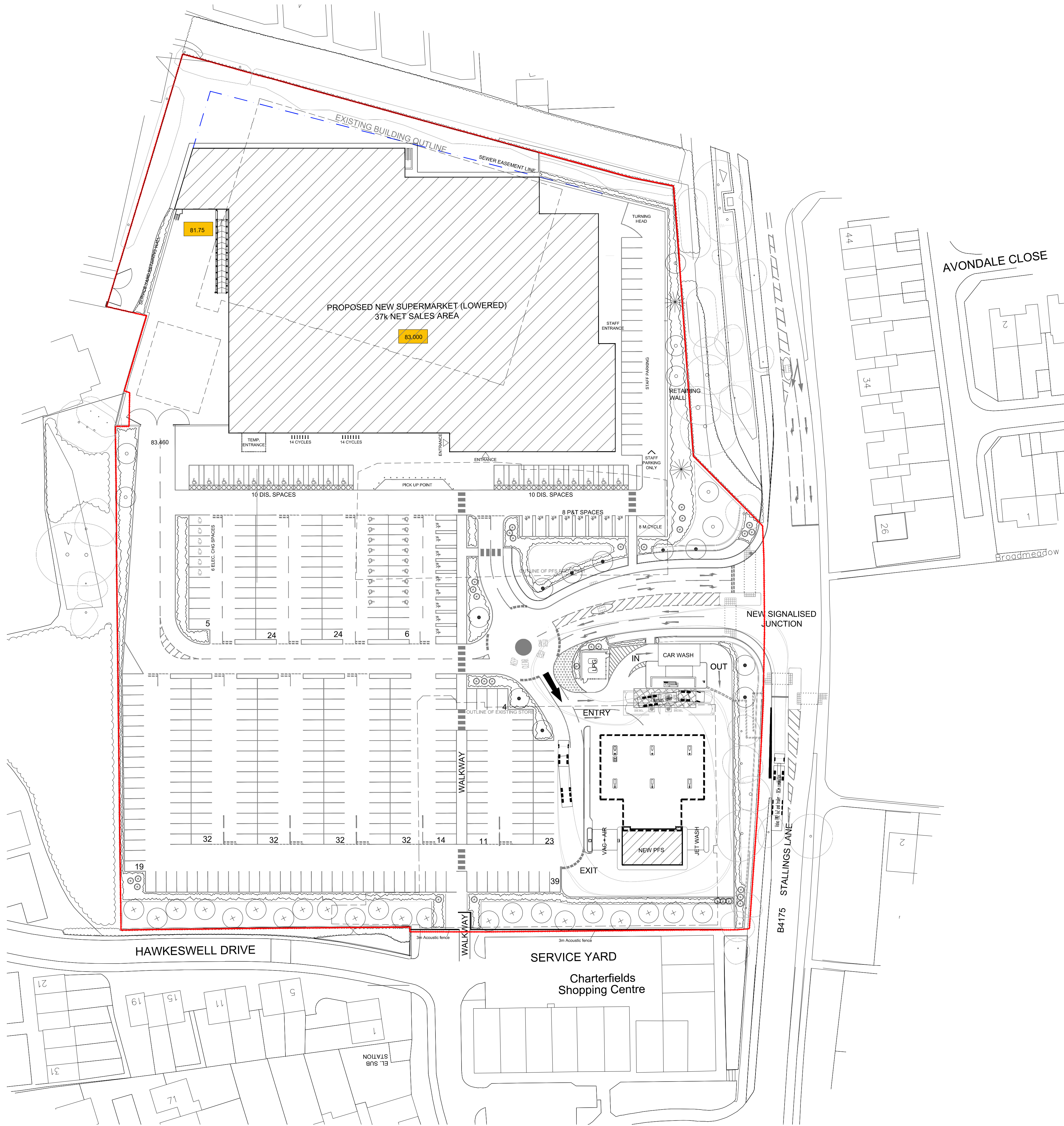
C

LEEDS SKIPTON - wellington house - oley street - skipton - north yorkshire - BD23 1EL - 01756 795 611 - bowmanriley.com

bowmanrileyarchitects

file reference: G:\\_P-M\6939 - Kingswinford\6939 - 03 CAD\Revit\40K Without Mezz Rev A.rvt





Construction staff and operatives must ensure the principal contractor has provided thorough and accurate information on all health and safety aspects relating to the designs identified on this drawing including the review of: <ul style="list-style-type: none"><li>• Designers/contractors risk assessments</li><li>• Method statements</li><li>• Permit to work</li><li>• Pre construction information</li></ul> The designers note that the following health and safety risks relating to this drawing have not been eliminated during the design process:	
ref	residual risk

## PROPOSED CAR PARKING NUMBERS

SUPERSTORE CAR PARKING NUMBERS:	
297 STANDARD SPACES	
21 STAFF PARKING SPACES	
17 PARENT & CHILD SPACES	
20 DISABLED WIDTH SPACES	
18 DISABLED MARKED SPACES	
6 ELEC. CHARGING SPACES	
379 TOTAL PARKING SPACES	
280 EXISTING CAR PKG SPACES	
ADDITIONAL 99 SPACES	
8 MOTORCYCLE SPACES	
28 CYCLE SPACES	

N	SECONDARY ENTRANCE OMITTED, DELIVERY POD OMITTED, DELIVERY BAY LOWERED TO TIE IN WITH SALES FLOOR, CAR PARK LAYOUT AMENDED TO ACCOMMODATE DELIVERIES, LANDSCAPE UPDATED.	17.02.14	SJH	SJH
M	SECONDARY ENTRANCE ADDED, DELIVERY POD AMENDED.	10.10.13	SJH	SJH
L	STORE LOWERED, DELIVERIES POD ADDED, CAR PARK LAYOUT AMENDED TO ACCOMMODATE NEW STORE PLAN	02.06.13	SJH	SJH
K	CAR PARK & PFS LAYOUT AMENDED, LANDSCAPING BUFFER ALONG WESTERN SITE BOUNDARY INCREASED FOLLOWING COMMENTS FROM LPA.	29.10.12	SJH	SJH
J	ACOUSTIC FENCE POSITION HIGHLIGHTED.	05.09.12	RAB	SJH
I	CAR PARKING AREAS ADJUSTED AND DEFINED.	31.08.12	RAB	SJH
G	PROPOSED LANDSCAPING ADDED	23.04.12	SJH	SJH
F	CAR WASH PLANT REPOSITIONED TO INCREASE LANDSCAPING BUFFER TO WESTERN BOUNDARY. CLIENT LOGO CHANGED TO DOL.	16.04.12	SJH	SJH
E	P&T SPACES ADDED AT HIGHER CAR PARK LEVEL, ACCESS ROAD LINE AMENDED.	28.03.12	SJH	SJH
D	DISABLED CAR PARK LAYOUT AMENDED, ACCESS TO PFS AMENDED, LANDSCAPE STRIP ADDED ALONG WESTERN BOUNDARY OF THE SITE.	15.03.12	SJH	SJH
C	SIGNALISED JUNCTION LAYOUT ADDED	25.01.12	SJH	SJH
B	CAR PARK AMENDED TO ACCOMMODATE ACCESS UPPER CAR PARK LEVEL	15.12.11	SJH	SJH
A	CAR PARK REDESIGNED TO INCREASE PARKING NUMBERS, INCLUDING RAMP TO UPPER CAR PARK AND ROAD JUNCTION	29.11.11	SJH	SJH
revision		date	by	chk

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 OPTIMISATION DEVELOPMENTS LTD			
drawn by	checked by	date	scale @ A1
PR	SJH	JAN 14	1:500
PROPOSED NEW SUPERMARKET KINGSWINFORD			
PROPOSED SITE PLAN			
project number	drawing number	revision	
6939	P(100)02	N	

## PLANNING APPLICATION NUMBER: P14/0374

Type of approval sought	Tree Preservation Order
Ward	Kingswinford South
Applicant	Mr John Donaghie
Location:	<b>1, SOUTHWOOD CLOSE, KINGSWINFORD, DY6 8JL</b>
Proposal	<b>FELL 1 SCOTS PINE TREE</b>
Recommendation Summary:	<b>REFUSE</b>

### SITE AND SURROUNDINGS

1. The tree subject to this application is an early mature pine tree that is located in the garden of 1 Southwood Close, Kingswinford. The tree stands adjacent to a similar size cedar tree and is visible from the adjacent Bromley Lane and forms a prominent visual feature when travelling up Bromley Lane from Cot Lane. The tree is considered to provide a moderate to high amount of amenity to the surrounding area.
2. The tree is protected as Tree 25 of TPO 206 that was served in 1987. The TPO protects trees in Southwood Close, and the adjacent Oakfield Avenue and West View Drive.

### PROPOSAL

3. Summary of proposals for the works as written on application form is as follows:
  - Fell 1 pine tree.
4. The tree has been marked on the attached plan.

### HISTORY

5. There has been one previous Tree Preservation Order applications on this site.

Application No	Proposal	Decision	Date
P05/0463	Fell 1 Cedar Tree	Approved with conditions	16/05/05

## PUBLIC CONSULTATION

6. A letter of support has been received from an adjacent neighbour. They support the application due to concerns about the safety of the tree following strong winds over the winter, future forecasted strong winds and the potential for damage or injury should the tree fail onto the adjacent Bromley Lane.

## ASSESSMENT

### Tree(s) Appraisal

<i>Tree Structure</i>	<b>Tree 1</b>
TPO No	T25
Species	Pine
Height (m)	12m
Spread (m)	8m
DBH (mm)	450mm
Canopy Architecture	Good
Overall Form	Good
Age Class <i>Yng / EM / M / OM / V</i>	Early Mature

### *Structural Assessment*

Trunk / Root Collar	Good – No signs of any root plate movement	
Scaffold Limbs	Good	
Secondary Branches	Good	
% Deadwood	3%	
Root Defects	None Evident	
Root Disturbance	None Evident	
Other		
Failure Foreseeable <i>Imm / Likely / Possible / No</i>	Whole No	Whole No

### *Vigour Assessment*

Vascular Defects	None Evident
Foliage Defects	None Evident
Leaf Size	Good
Foliage Density	Good
Other	

*Overall  
Assessment*

Structure	Good
Vigour	Good
<b>Overall Health</b>	<b>Good</b>

**Other Issues**

Light Obstruction	Some
Physical Damage	None Evident
Surface Disruption	None Evident
Debris	Some

**Amenity  
Assessment**

Visible	Yes
Prominence	High
Part of Wider Feature?	No
Characteristic of Area	Yes
<b>Amenity Value</b>	<b>High / Moderate</b>

**Further Assessment**

7. The applicant has proposed to fell the tree as they consider it to have outgrown its location, concerns about the trees' safety in strong winds and due to the tree blocking light from the garden and house.
8. On inspection the tree was found to be in a good condition with no major defects present. No evidence of any root plate movement was observed around the base of the tree, nor was any significant structural defects observed in the above ground portion of the tree.
9. With regards to the applicant's concern over the safety of the tree, they have not submitted any supporting tree report demonstrating that the tree is in any way pre-disposed to partial or complete failure. As no evidence of any defects was observed during the site visit it is not considered that there are any grounds for the felling of the tree as a result of any impaired condition.
10. It is also not accepted that the tree causes sufficient light obstruction to the garden or the house to prevent the reasonable enjoyment of the property. The tree is situated on the eastern side of the south facing garden and will only block morning sunlight from the house and garden, similarly the tree is located a sufficient distance away

from the main living room windows of the house, not to obstruct a significant amount of diffuse daylight during overcast days.

11. Similarly it is not considered that the tree has out grown its location. It is considered that the size of garden in which the tree stands could support a larger tree without having any detrimental impact on the reasonable enjoyment of the property.
12. Overall it is not considered that the reasons put forward for the felling of the tree are sufficient to justify the detrimental impact on the amenity of the area that would result from the felling. As such it is recommended that the application is refused.

## **CONCLUSION**

13. No evidence of root plate instability, or structural defects were provided with the application and none were observed during the site visit. As such it is not considered that there are any grounds for the felling of the tree on the grounds of poor condition or impaired stability.
14. It was not considered that the tree prevents the reasonable enjoyment of the garden or property by virtue of its size, proximity to the house, or the extent of light obstruction. As such it is not considered that the tree should be felled on these grounds. Overall, it is not considered that the felling of the tree or the subsequent loss of public amenity has been justified by the reasons for the application and as such it is recommended that the application is refused.

## **RECOMMENDATION**

15. It is recommended that application is REFUSED for the reasons set out below.

Conditions and/or reasons:

1. The tree provides a moderate to high amount of amenity to the surrounding area and users of Southwood Close and Bromley Lane. No evidence of any root plate instability or structural defects was provided with the application or observed during inspection, and it is not considered that the tree prevents the reasonable enjoyment of the adjacent property by virtue of its size, location or shading. As such, the reasons for the application and the supporting information do not sufficiently justify the detrimental effect on the local amenity that would result from the proposed felling.





T1

BROMLEY LANE

Ward Bdy  
CR

115.5m

## PLANNING APPLICATION NUMBER: P14/0461

Type of approval sought	Full Planning Permission
Ward	Halesowen North
Applicant	Mr Mario Zarelli
Location:	<b>WORKSHOP REAR OF 2, BELGRAVE ROAD, HALESOWEN, B62 9HA</b>
Proposal	<b>DEMOLITION OF EXISTING WORKSHOP AND ERECTION OF NEW WORKSHOP FOR CAR REPAIRS AND SPARES (RETROSPECTIVE) (RESUBMISSION OF WITHDRAWN PLANNING APPLICATION P13/1392)</b>
Recommendation Summary:	<b>APPROVE SUBJECT TO CONDITIONS</b>

### SITE AND SURROUNDINGS

1. The application site is located to the northern side of Belgrave Road near to the Local Centre of Shell Corner. Belgrave Road predominantly comprises of terraced residential properties. These terraced properties benefit from long, albeit narrow plots. The terraced properties are set back from the highway and benefit from small frontages demarcated by low level brick walls.
  
2. The application site relates to a parcel of land located to the rear of the end of terraced property of No. 2 Belgrave Road. No. 2 Belgrave Road, historically related to a ground floor shop (A1 Use) with accommodation over; however, the property was been converted into 2 No. apartments (Nos. 2a / 2b Belgrave Road) in circa 2005. These apartments remain in the same ownership as the application site.
  
3. The parcel of land located to the rear of No. 2 Belgrave Road historically related to a private garden area serving this property; however, the parcel of land has been occupied by a commercial structure in use as a garage 'Motor Car Spares and Repairs' for a number of years and is afforded a lawful Sui Generis Use. Vehicular access to the site is via the western flank elevation of No. 2a / 2b Belgrave Road which leads to a small area of concrete hardstanding to the frontage of the garage.

4. Bounding the application property to the east is the mid terraced property of No. 3 Belgrave Road, whilst bounding the application site to the west is located No. 1 Belgrave Road, which comprises a large plot with walled garden area. Bounding the application site to the rear is No. 122 Nimmings Lane, a commercial property with modern infill extensions comprising of 'Bill Samson Carpets and Flooring'.

## PROPOSAL

5. The application seeks planning permission for the part retention of a recently constructed steel framed garage workshop finished in dark green profiled steel sheeting. The scheme also proposes remedial works to modify the design of the garage workshop to reduce its size.
6. The existing workshop has been constructed without the benefit of planning permission and currently adopts a pitched roof over but as part of this planning application remedial work is proposed to the symmetrical roof to allow for asymmetrical alterations to the eastern roof plane (adjacent to No.3 Belgrave Road) to allow for it to be lowered.
7. The workshop has replaced a previous structure that occupied a larger footprint on the site but had similar dimensions.
8. The workshop adopts an irregular footprint measuring 7.6 metres in width and 13.7 metres in depth along the shared boundary with No. 1 Belgrave Road, to the west and 15.1 metres in depth along the shared boundary with No. 3 Belgrave Road to the east.
9. The workshop is set in 0.5 metres from the shared boundary with No. 3 Belgrave Road and 0.7 metres from the shared boundary with No. 1 Belgrave Road (the previous structure extended the full width of the plot). The rear elevation of the workshop would abut and form part of the shared boundary with No. 122 Nimmings Lane.

10. The workshop would measure 4.0 metres in height to the eaves along the shared boundary with No. 1 Belgrave Road and 2.9 metres in height to the eaves along the shared boundary with No. 3 Belgrave Road. The workshop would measure 4.55 metres in height to the ridge.
11. The workshop is afforded roller shutters to the front elevation and a uPVC door and window. The remainder of the elevations are blank. The steel framed garage workshop would be finished in dark green profiled steel sheeting following remedial works.
12. The scheme also proposes the introduction of 0.6 metre high trellis to be installed along the length of the 2.3 metres high facing brick boundary wall with No. 3 Belgrave Road.

## HISTORY

13. Application Site (including No. 2a / 2b Belgrave Road)

APPLICATION	PROPOSAL	DECISION	DATE
HN/66/18	Full planning permission for a covered yard	Approved	01 March 1966
HB/69/108	Full planning permission for a car port	Approved with Conditions	21 March 1969
86/50597	Full planning permission for the erection of a storeroom	Approved with Conditions	03 June 1986
P05/0188	Full planning permission for a change of use of ground floor shop (A1 Use) to 1 No. one bedroom flat to include demolition of existing single storey rear extension and various elevational changes	Approved with Conditions	11 March 2005
P13/1392	Full planning permission for the demolition of existing workshop and erection of a new workshop for car repairs and spares (retrospective)	Withdrawn	20 February 2014

14. The planning application submitted under planning reference P13/1392 was withdrawn following the request of the Local Planning Authority to allow further work to satisfy concerns with regard to design and residential amenity issues.

## **PUBLIC CONSULTATION**

15. The application was advertised by way of neighbour notification letters being sent to the occupiers of seven properties within close proximity to the site and by the display of a site notice. The final period for comment expires on 28 April 2014.
16. To date, in response to the public consultation exercise, a representation has been received from a local resident expressing concern to;
- Although the structure will be slightly altered it still remains the same height in the centre and will still continue to block sunlight to the rear garden;
  - The building has been brought forward and now towers over the adjacent patio area of the rear garden;
  - The garage has only been brought back into use over the last twelve / eighteen months. It is alleged that the owner has been working from his other business premises previously;
  - The structure runs the whole length of the adjacent rear garden and is very unsightly;
  - The original building could not be seen from the rear garden and was brick built and reasonably sound proof. The new structure is made from corrugated metal material and looks and sounds like a factory has been built in the adjacent garden and within close proximity to my home.
  - The structure is not in keeping with any of the adjoining properties or buildings within the area.
  - It is considered that the updated plans have not resolved or provided any solutions to initial concerns and objections raised. The adjacent property would still be left without sunlight, a very unsightly building in view of the garden and noise that carries on throughout the day into the evenings and over the weekends.

17. Should any further written representations be received following the public consultation exercise then they shall be reported as a pre-committee note.

## OTHER CONSULTATION

18. Head of Environmental Health and Trading Standards: No objection subject to conditions relating to sound attenuation, hours of operation of the premises and hours to control deliveries and dispatches from the premises in order to protect nearby residents.
19. Group Engineer Highways: Normally such a proposal in a residential area would not be supported but it is recognised that the lawful use has been established at the site over a number of years. In this instance no objection is therefore raised.

## RELEVANT PLANNING POLICY

### National Planning Guidance (2012)

- The National Planning Policy Framework
- Technical Guidance to the National Planning Policy Framework
- Circular 11/95 – The Use Conditions in Planning Conditions

### Black Country Core Strategy (2011)

- TRAN2 Managing Transport Impacts of New Development
- ENV2 Local Character and Distinctiveness
- ENV3 Design Quality

### Saved Unitary Development Plan (2005)

- DD1 Urban Design
- DD4 Development in Residential Areas
- EP7 Noise Pollution

## ASSESSMENT

### 20. Key Issues

- Principle
- Design
- Neighbour Amenity
- Access and Parking

#### Principle

21. The site is classed as previously developed land (urban brownfield land) as recognised in the definition set out in Annex 2 (Glossary) of the National Planning Policy Framework (NPPF) 'Previously developed land'. Paragraph 17 of the NPPF (indent 8) ...*'encourages the effective use of previously developed land by reusing land that has been previously developed (brownfield land)'*...
22. The 'brownfield' site is located within a sustainable location, near to the Local Centre of Shell Corner which is served by a number of nearby public services and commercial premises. The site is also situated within a residential area.
23. The lawful use of the 'brownfield' site has long been established as a garage workshop use (Sui Generis) and as such the use of the site is not being considered as part of this retrospective planning application; however, the existing structure with proposed remedial works is.
24. The proposed design should have regard to the form and layout of surrounding development whilst not having a detrimental impact upon surrounding residential amenity.

#### Design

25. Policies ENV2 (Historic Character and Local Distinctiveness) and ENV3 (Design Quality) of the Black Country Core Strategy (BCCS) requires that all development demonstrates a clear understanding of historic character and local distinctiveness.

26. Saved Policies DD1 (Urban Design) and DD4 (Development in Residential Areas) of the Dudley Unitary Development Plan seek to ensure that new development applies principles of good urban design making a positive contribution to the character and appearance of the area, ensuring that the scale, nature and intensity of use of the proposed development would be in keeping with the surrounding area and that the proposed development would not result in a detrimental effect upon highway safety.
27. The site, for a number of years has been used as a garage workshop and was, until very recently, occupied by a substantial timber and block work structure with a Belfast curved roof over. That structure occupied a larger footprint than the existing structure on site; however, the applicant has advised that the structure was in a poor state of repair and considered to be at the end of its serviceable life due to stability concerns with cracked blockwork and rotten roof timbers. As a consequence, the applicant decided that the best way forward was to replace the existing structure, piecemeal, while still being able to operate as a business.
28. A steel frame was therefore constructed through and over the timber and blockwork building, allowing it to be taken down from inside. This steel frame building finished in dark green profiled steel sheeting is now, in part, subject to this retrospective planning application as the applicant failed to apply for the requisite planning permission, citing that works stemmed from repair and maintenance of the existing structure on site.
29. As part of this application, remedial works are also proposed to modify the design of the garage workshop through the realignment of the eastern roof plane to lower the roof line and form an asymmetrical roof to allow for a reduction in both the scale and massing of the structure along the boundary with No.3 Belgrave Road.
30. Whilst the setting and commercial design of the structure is out of character with the prevailing residential character of the area, consideration and material weighting have to be given to the previous built form occupying the site. The new structure (as proposed) represents a narrower structure by virtue of it being set in from the side boundaries (0.7 metres from the side boundary with No. 1 Belgrave Road and 0.5



metres from the side boundary with No. 3 Belgrave Road), comparable to the original structure which abutted both side boundaries. The rear boundary wall of the site forms the rear elevation of the structure and utilises the former rear elevation of the previous structure.

31. The submitted drawing accompanying the planning application annotates that the structure is approximately 0.85 metres higher to the ridge than the previous structure, whilst the eastern roof plane would be a comparable height to the height of the original height of the curved roof along the boundary with No.3 Belgrave Road. The structure as now proposed is considered to be no more obtrusive in the streetscene than the previous building occupying the site and whilst in the main, given the 'backland' position the structure is afforded, the structure would remain screened from views within the wider streetscene. It is therefore considered that, on balance, the scheme would cause no demonstrable harm to the streetscene or character of the area and would accord with the aspirations of Policies ENV2 (Local Character and Distinctiveness) and ENV3 (Design Quality) of the BCCS and Saved Policy DD1 (Urban Design) of the Dudley Unitary Development Plan.

#### Neighbour Amenity

32. Saved Policy DD4 (Development in Residential Areas) of the Dudley Unitary Development Plan (UDP) applies in the consideration of development proposals within residential areas. Saved Policy DD4 seeks to ensure that development would not adversely impact upon residential amenity.
33. During the site inspection, it was apparent that the development impacts upon the adjoining property of No. 3 Belgrave Road and the residential amenity afforded to the occupiers of that property in terms of outlook and daylight; however, it should be considered that a wider structure has been present at the rear of No. 3 Belgrave Road for a number of years and of a comparable scale and mass to the structure subject to this planning application.

34. During the site inspection it was also noted that the scale and massing of the structure, projecting some 1.8 metres above the shared 2.3 metre high boundary wall has a detrimental impact upon residential amenity for No. 3 Belgrave Road despite now being set in 0.5 metres from this boundary; however, to mitigate this impact, the scale and mass of the structure is to be reduced along this shared boundary to a comparable height of the previous structure. In addition, a 0.6metre high timber trellis is also proposed to be position on top of the full length of the boundary wall with No. 3 Belgrave Road to provide further screening of the structure. This trellis would be positioned level with the eaves height of the structure. It is therefore considered that the reduced scale and mass would improve both outlook and daylight for the occupier of this property comparable to the existing unauthorised built form and in a similar arrangement to the previous structure present on site.
35. During the public consultation process, concerns were also raised with regard to noise arising from the use and structure; however, it is considered through conditions, adequate noise attenuation would be achieved to ensure residential amenity would not be compromised. It is therefore considered that given the historic use and the previous built form of the site, that the development as proposed under this application would have no greater impact upon residential amenity.

#### Access and Parking

36. The access and parking arrangements would remain unaltered and therefore the scheme would have no adverse impact upon highway safety as a result of the development. The scheme as proposed would be in accordance with Policy TRAN2 (Managing Transport Impacts of New Developments) of the BCCS.

## **CONCLUSION**

37. Given the historic use and previous built form present on the backland site, combined with the proposed remedial works to further reduce the scale and mass of the structure and improve its relationship with the surrounding residential properties, it is considered that, on balance, the scheme is considered to cause no substantial demonstrable harm to neighbouring properties and there would be no adverse effect

on the street scene or the character of the area. The proposal is therefore considered compliant with the relevant planning policies and guidance.

## RECOMMENDATION

38. It is recommended that the application be APPROVED subject to conditions.

### Approval Statement

In dealing with this application the Local Planning Authority have worked with the applicant in a positive and proactive manner, seeking solutions to problems arising in relation to dealing with the application, by seeking to help the applicant resolve technical detail issues where required and maintaining the delivery of sustainable development. The development would improve the economic, social and environmental concerns of the area and thereby being in accordance with paragraphs 186 and 187 of the National Planning Policy Framework.

### Informative

#### All developments within coalfield standing advice area

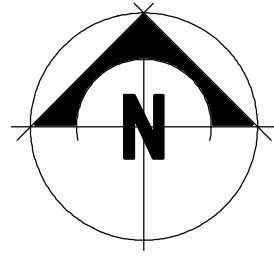
The proposed development lies within a coal mining area which may contain unrecorded mining related hazards. If any coal mining feature is encountered during development, this should be reported to the Coal Authority.

Any intrusive activities which disturb or enter any coal seams, coal mine workings or coal mine entries (shafts and adits) requires the prior written permission of The Coal Authority.

Property specific summary information on coal mining can be obtained from The Coal Authority's Property Search Service on 0845 762 6848 or at [www.groundstability.com](http://www.groundstability.com)

Conditions and/or reasons:

1. The development hereby permitted shall be carried out in accordance with the following approved plans: 'GD1321/02', 'GD1321/04 Revision B', 'GD1321/01' and 'GD1321/03
2. The approved building shall be constructed to provide sound attenuation against internally generated noise of not less than 35 dB averaged over the frequency range of 100-3150Hz. The approved works shall be retained for the life of the development unless agreed in writing with the Local Planning Authority.
3. The building hereby approved shall not be used for the purpose of business activities before the hours of 08:00 nor after 18:00 Monday to Saturday and not at all Sundays and Public Holidays.
4. No deliveries or despatches shall be made to or from the site, and no delivery or despatch vehicles shall enter or leave the site (whether laden or unladen), before the hours of 08:00 nor after 18:00 Monday to Saturday, or at all on Sundays and Public Holidays.
5. Within 3 months from the date of this permission the elevational and roof alterations shall be constructed in strict accordance with Drawing No. GD1321/04 Revision B and shall be maintained and retained throughout the lifetime of the development unless otherwise agreed in writing by the Local Planning Authority.
6. Within 3 months from the date of this permission, 0.6 metre high timber trellis shall be installed along the entire length of the rear shared boundary wall with No. 3 Belgrave Road and in strict accordance with Drawing No. GD1321/04 Revision B. The timber trellis shall be maintained and retained throughout the lifetime of the development unless otherwise agreed in writing by the Local Planning Authority.



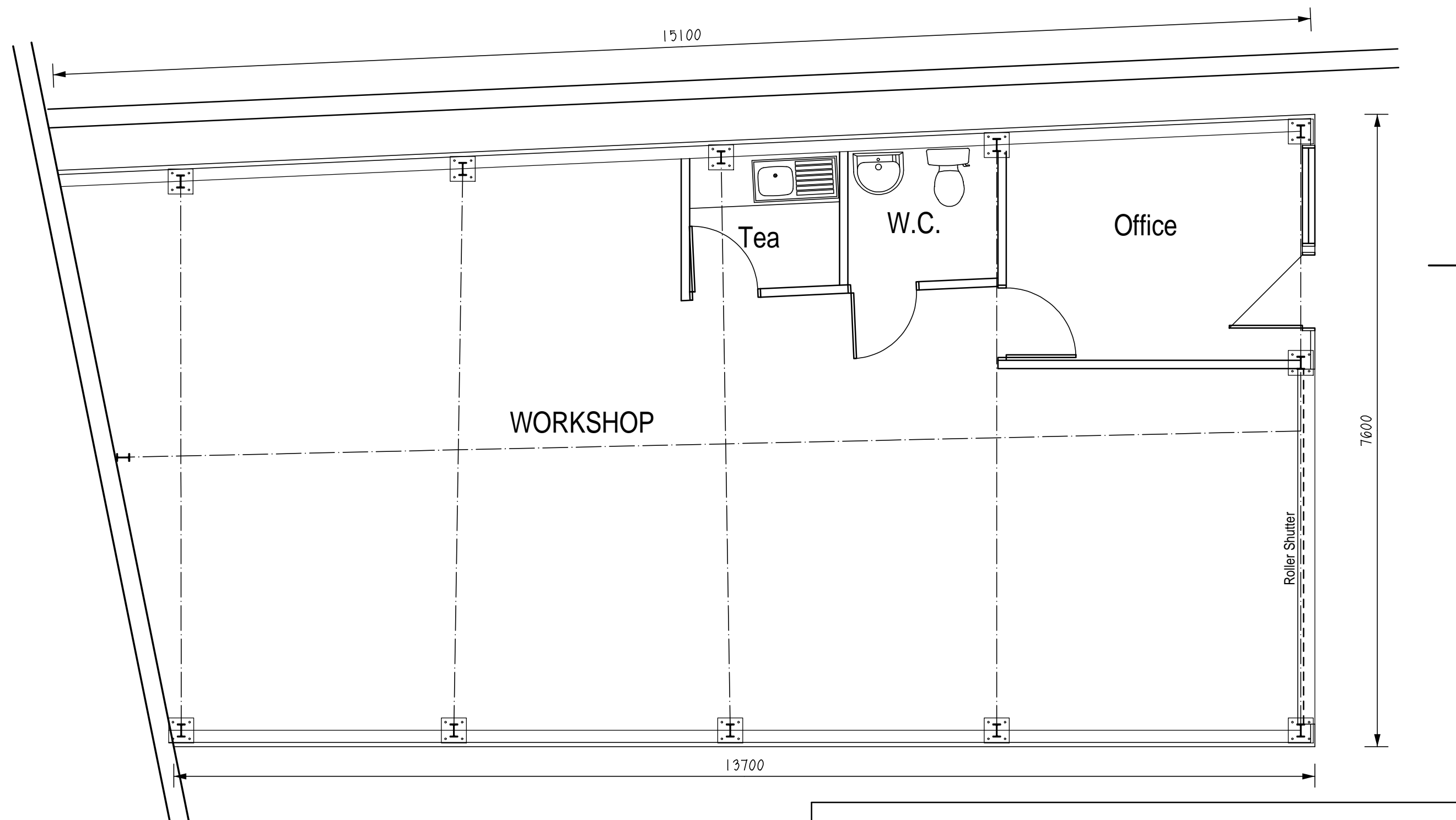
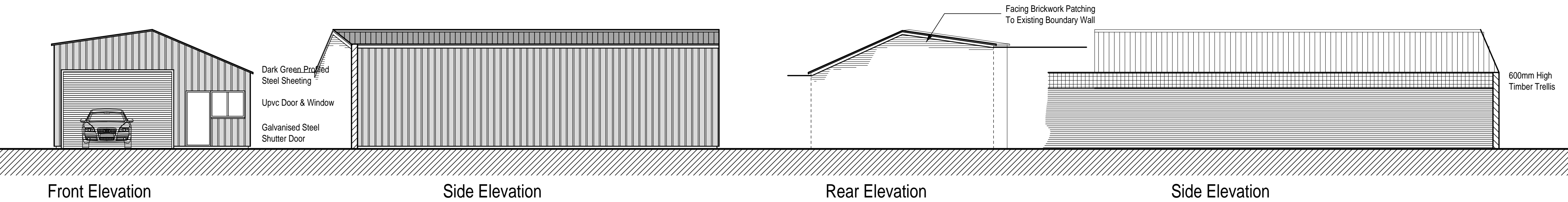
LOCATION PLAN Scale 1:1250



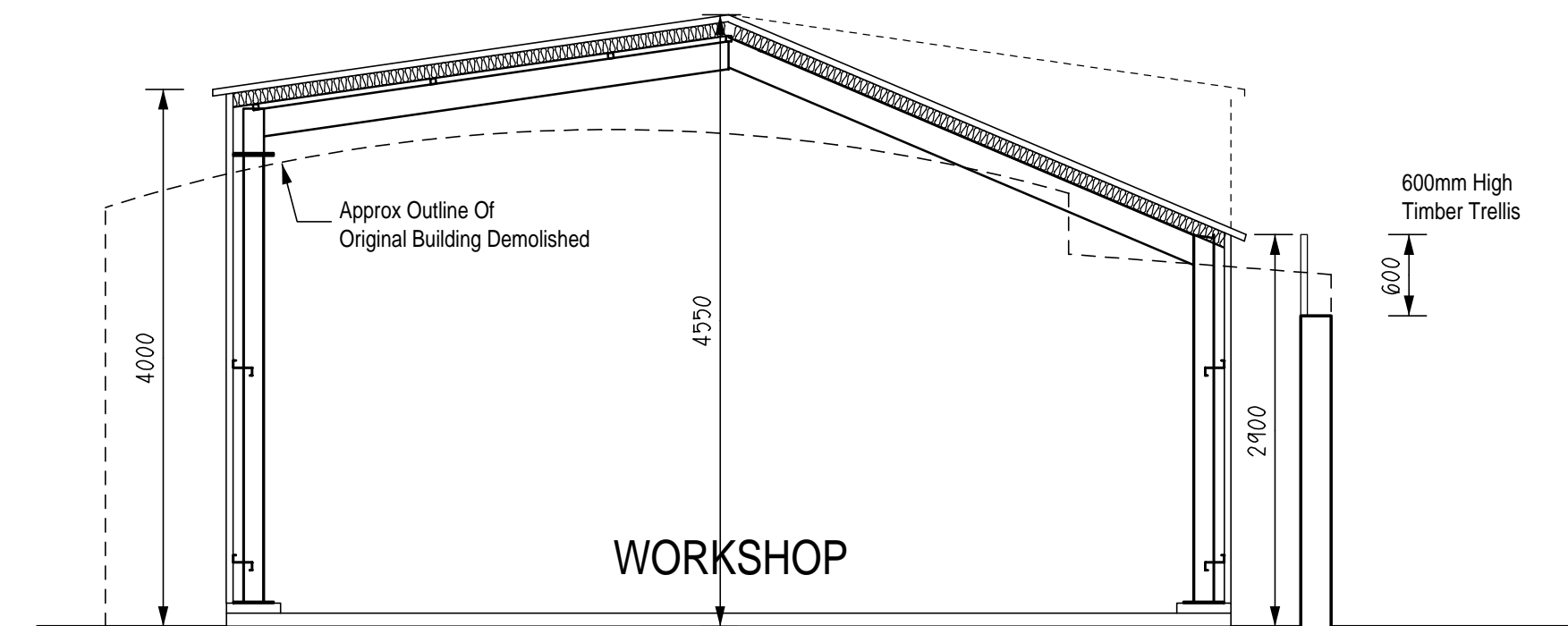
Architectural Services

49, The Crescent,  
Cradley Heath,  
West Midlands.  
B64 7JS  
Tel 0121 602 6233  
Mob 07939 436557

client	MR MARIO ZARELLI	drawing	LOCATION PLAN	date	OCT 2013
contract	MOTORCAR SPARES & REPAIRS			scale	1:1250
	REAR OF 2, BELGRAVE ROAD, HALESGATE, B62 9HA			drawing no	GD1321/02



PROPOSED PLAN



Proposed Cross Section

YARD

REV.	DATE	DESCRIPTION	BY
B	07/01/14	EAVES HEIGHT REDUCED FURTHER FOLLOWING PLANNERS COMMENTS	GCD
A	02/01/14	EAVES HEIGHT REDUCED & TRELLIS ADDED TO BOUNDARY WALL	GCD

**GD Designs**  
Architectural Services

49, The Crescent,  
Cradley Heath,  
West Midlands.  
B64 7JS  
Tel 0121 602 6233  
Mob 07939 436557

contract  
MOTORCAR SPARES & REPAIRS  
REAR OF 2, BELGRAVE ROAD,  
HALESOWEN. B62 9HA

drawing  
PROPOSED REMEDIAL WORKS

client  
MR MARIO ZARELLI

scale  
1:50/1:100

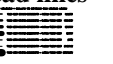
date  
DEC 2013

drawing no  
GD1321/04 B

rev  
B

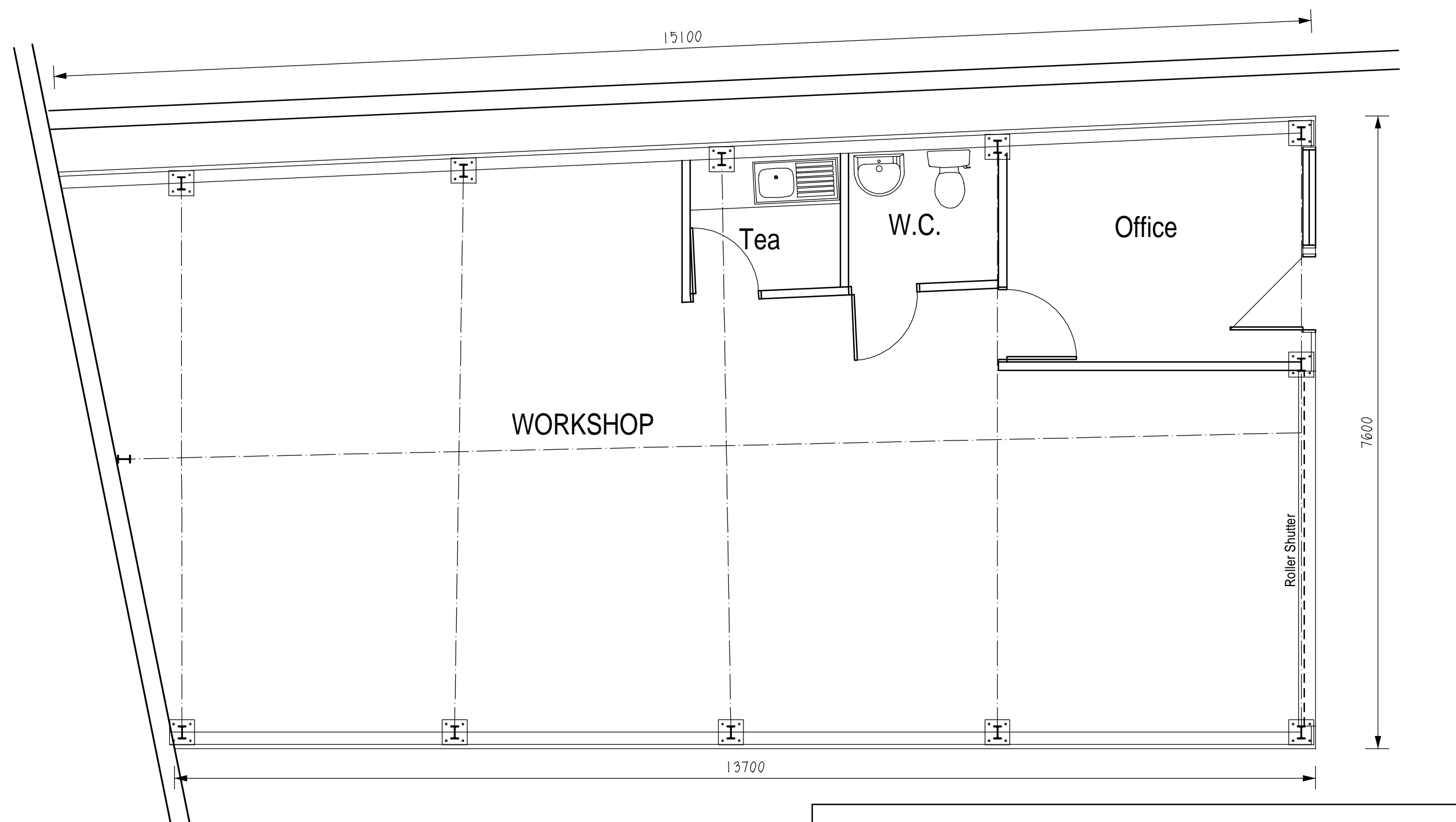
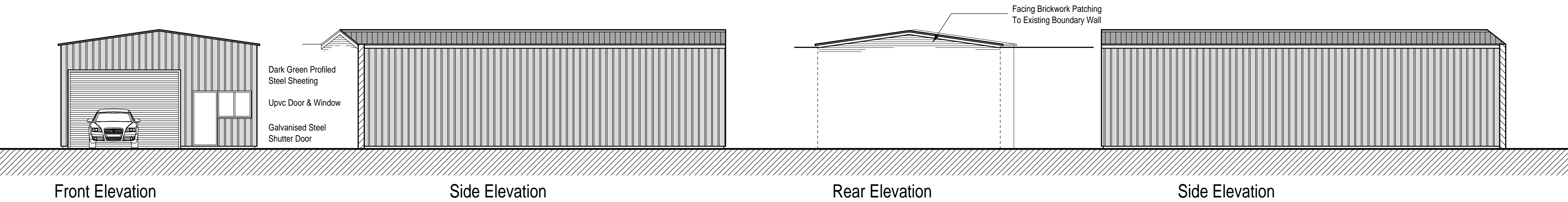
plot  
T.M.E.  
10/10/14  
DATE  
28/04/2014

cad lines

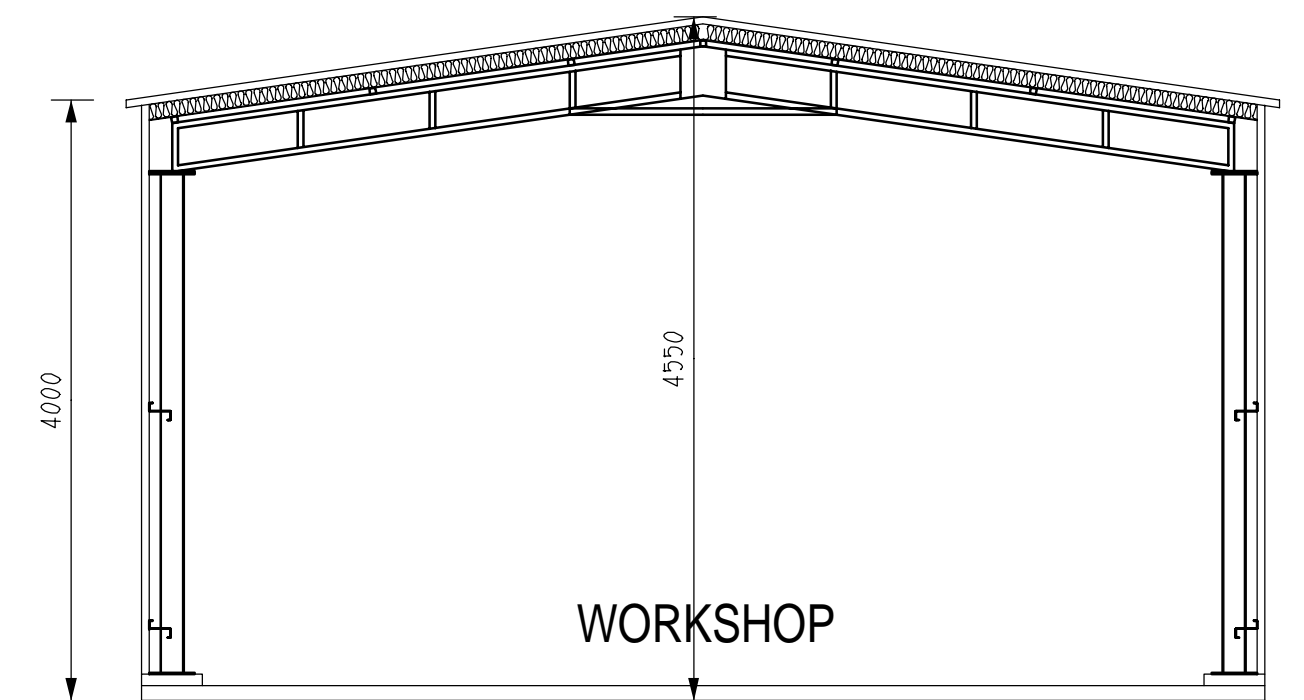








AS BUILT PLAN



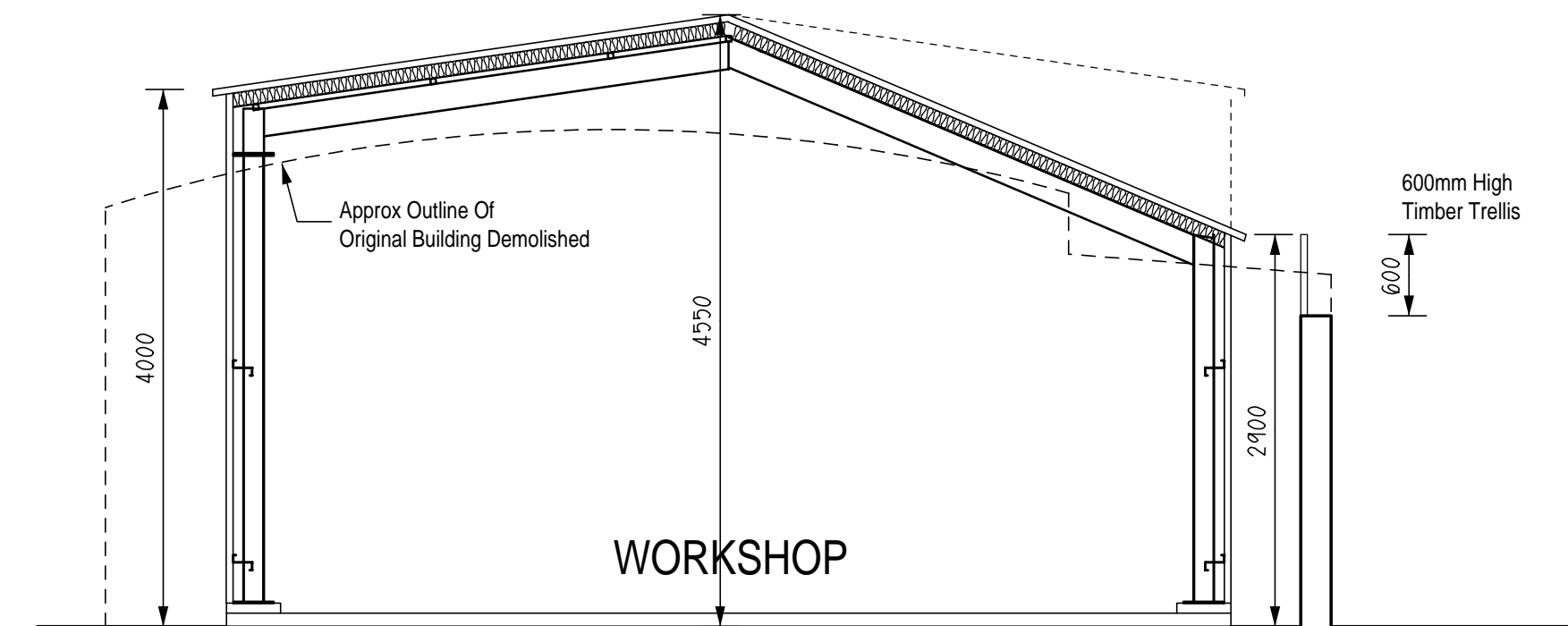
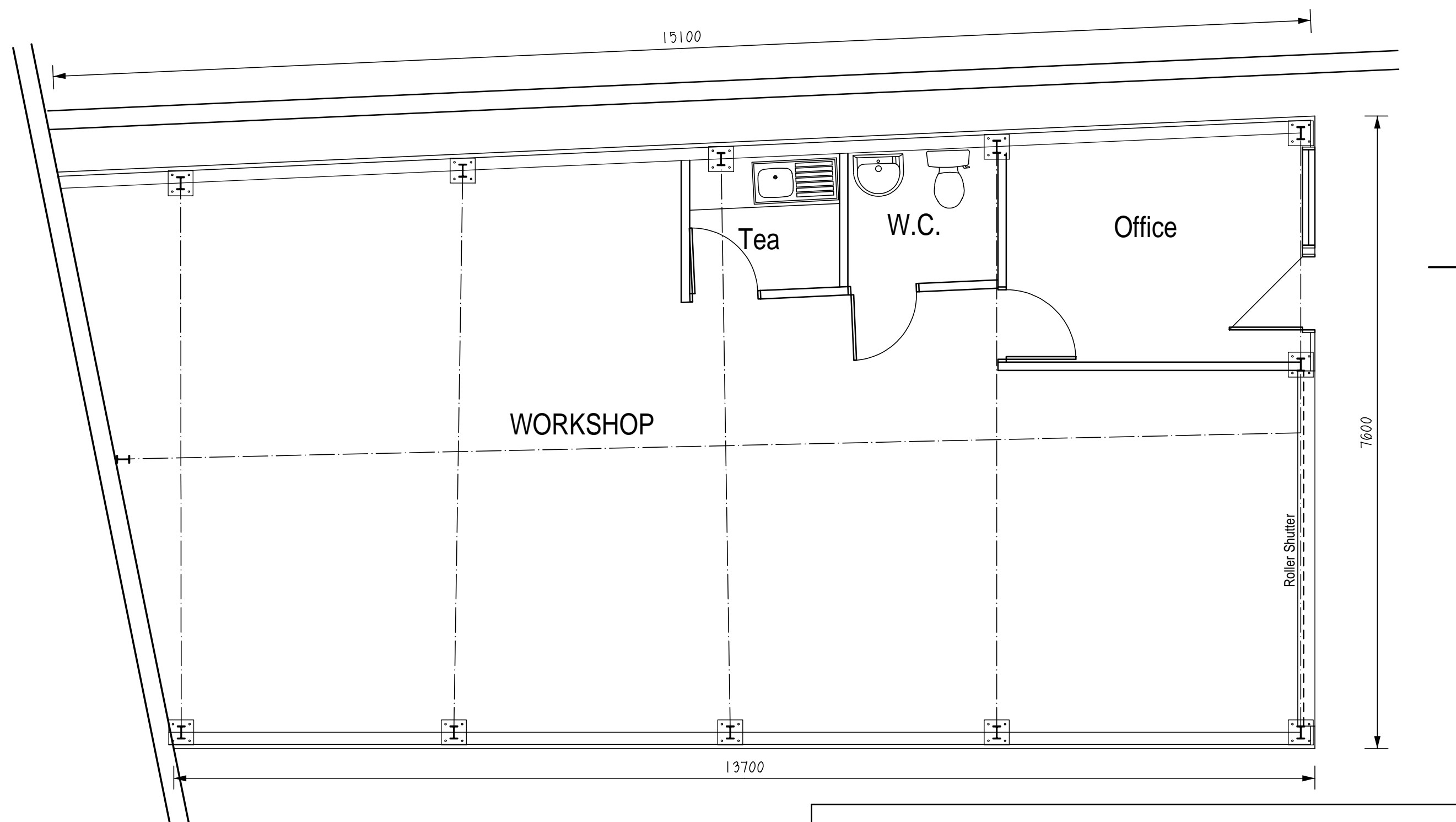
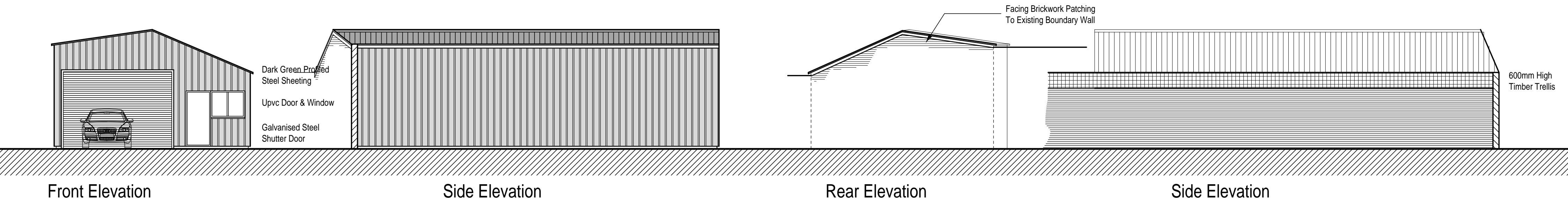
As Built Cross Section

YARD

REV	DATE	DESCRIPTION	BY
<b>GD Designs</b> Architectural Services			
contract MOTORCAR SPARES & REPAIRS REAR OF 2, BELGRAVE ROAD, HALESOWEN. B62 9HA			
drawing AS BUILT PLANS & ELEVATIONS			
client MR MARIO ZARELLI			
scale 1:50		date SEPT 2013	
drawing no GD1321/01		rev 1	
plot 16/09/2013		cad lines 10/10/2013	
drawn by GCD			

49, The Crescent,  
Cradley Heath,  
West Midlands.  
B64 7JS  
Tel 0121 602 6233  
Mob 07939 436557





YARD

REV.	DATE	DESCRIPTION	BY
B	07/01/14	EAVES HEIGHT REDUCED FURTHER FOLLOWING PLANNERS COMMENTS	GCD
A	02/01/14	EAVES HEIGHT REDUCED & TRELLIS ADDED TO BOUNDARY WALL	GCD

**GD Designs**  
Architectural Services

49, The Crescent,  
Cradley Heath,  
West Midlands.  
B64 7JS  
Tel 0121 602 6233  
Mob 07939 436557

contract  
MOTORCAR SPARES & REPAIRS  
REAR OF 2, BELGRAVE ROAD,  
HALESOWEN. B62 9HA

drawing  
PROPOSED REMEDIAL WORKS

client  
MR MARIO ZARELLI

scale  
1:50/1:100

date  
DEC 2013

drawn by  
GCD

drawing no  
GD1321/04 B

rev

plot

cad lines

T.M.E.  
14/01/14  
D.A.T.E.  
01/01/2014

## PLANNING APPLICATION NUMBER:P14/0462

Type of approval sought	Full Planning Permission
Ward	Wordsley
Applicant	Mr S. Taylor, Crofter Homes
Location:	<b>FOX AND GOOSE PUBLIC HOUSE, BROMLEY LANE, KINGSWINFORD, WEST MIDLANDS.</b>
Proposal	<b>ERECTION OF 3 NO. DWELLINGS</b>
Recommendation Summary:	<b>APPROVE SUBJECT TO CONDITIONS</b>

### SITE AND SURROUNDINGS

1. The application site has an area of 627 sq m and comprises an area of hard standing and grass verge which was formerly used as a parking area for the Fox and Goose PH, now a Tesco Metro store.
2. Adjoining the western boundary of the site is the car park for the Tesco store whilst to the north is Bromley Lane and an area of open space. To the east of the site is the access road to Randall Close whilst adjoining the southern boundary is the rear garden of 31 Randall Close complete with a 1.8m high close boarded fencing and a dense line of conifer trees.
3. The area surrounding the application site is generally residential housing with the exception of the Tesco store, with a petrol station and The Crestwood secondary school being located on the opposite side of Bromley Lane.

### PROPOSAL

4. The application seeks permission for one, 3 bed detached house and a pair of 2 bed semi detached houses, with each dwelling having two car parking spaces.

5. The semi detached dwellings would face towards Bromley Lane, whilst the front face of the detached dwelling would face towards Randall Close and would be dual fronted to allow an active frontage along Bromley Lane. The dwellings would be brick built and a traditional design with 11m long rear gardens for the semi detached and 10m for the detached dwelling.
6. Revisions to the scheme have been made to address an easement that crosses the site, the full extent of the highway to be stopped up and the new highway to be created and improved, driveway widths and off street parking facilities.

## HISTORY

7.

APPLICATION No.	PROPOSAL	DECISION	DATE
P09/0631	Erection of 2 dwellings	Refused	09/07/09
P10/0146	Erection of 2 dwellings	Granted	12/05/10
P12/0392	Erection of 2 dwellings	Granted	09/05/12
P13/1249	Erection of 3 no. dwellings	Withdrawn	15/10/13
P14/0021	Erection of 3 no. dwellings	Withdrawn	04/03/14

8. The application P13/1249 was withdrawn as there were issues regarding the stopping up plan, a parking dominated frontage, no active frontage along Randall Close and small rear gardens.
9. The application P14/0021 was withdrawn as there were highway issues in regard to the position of the driveway at the bellmouth of the junction, insufficient driveway widths and the submitted plans did not address the full extent of the highway to be stopped up and the new highway to be created and improved.

## PUBLIC CONSULTATION

10. The application was advertised by way of neighbour notification to twenty seven neighbouring properties and a site notice. Public consultation time expires 14 May 2014. No objections have been received.

## OTHER CONSULTATION

11. Group Engineer (Highways) – the development does not raise any highway objections subject to conditions relating to the provision of parking areas prior to first occupation and that the applicant will need to enter into a S247 agreement with the local highway authority in respect of stopping up the highway.
12. Head of Environmental Health and Trading Standards – no adverse comments
13. West Midlands Police – no objections

## RELEVANT PLANNING POLICY

14. National Planning Policy Framework (2012)

The National Planning Policy Framework (NPPF) sets out the Governments planning policies for England and how these are expected to be applied. The NPPF is a material consideration in planning decisions, but does not change the statutory status of the development plan as the starting point for decision making. Proposed development that accords with an up-to-date Local Plan should be approved.

15. Black Country Core Strategy (2011)

- DEL1 Infrastructure Provision
- TRAN2 Managing Transport Impacts of New Development
- TRAN5 Influencing the Demand for Travel and Travel Choices
- CSP1 The Growth Network
- CSP2 Outside the Growth Network

- ENV3 Design Quality
- HOU1 Delivering Sustainable Housing Growth
- HOU2 Housing Density, Type and Accessibility

16. Saved Dudley Unitary Development Plan (2005)

DD1 Urban Design

DD4 Development in Residential Areas

EP7 Noise Pollution

UR9 Contaminated Land

UR10 Unstable Land

17. Supplementary Planning Document

New Housing Development – A Guide to Establishing Urban Context

Parking Standards

Planning Obligations

Nature Conservation

## ASSESSMENT

18. The main issues for consideration in this application are as follows:

- Principle
- Residential Amenity
- Design
- Access and Parking
- Planning Obligations

Principle

19. The application site is a vacant plot that is located within an established residential area and notwithstanding all other material considerations it is considered that a small residential scheme would not adversely impact upon the character of the area. Furthermore the principle of residential development at the application site was

confirmed in 2010 and 2012 by the granting of planning permission for two dwellings respectively. The principle of redeveloping the site for residential purposes is therefore acceptable, in compliance with Saved Policy DD4.

#### Residential Amenity

20. The pair of semis would have 11m long rear gardens and individual side driveways whilst the detached house would have a dual frontage and a 10m long rear garden. The houses would face towards open space to the north and would be adjacent to the Tesco's small car park to the west and Randall Close to the east. At the rear, to the south, there would be a separation distance of 20m between the rear of the detached house and the rear of 31 Randall Close and 21m between the pair of semis and 31 Randall Close. Given the separation distances and the existing line of conifer trees in the rear garden of 31 Randall Close that obscures 31 and its rear garden from the proposed dwellings it is considered that the siting of the proposed dwellings would not impact upon residential amenity, in accordance with Saved Policy DD4 of the UDP (2005).

#### Design

21. There are a number of residential designs and types in the locality ranging from detached, semi-detached to terraced development from a range of eras. The proposed development would be traditional style brick built gabled roof houses that would not look out of place or adversely impact upon the character of the area, in compliance with Saved UDP Policies DD1 and DD4.

#### Highways & Parking

22. Each dwelling would have two off street parking spaces accessed from Bromley Lane and there would be a newly created pavement at the front of the dwelling for safer pedestrian access. There are no highway objections subject to conditions relating to the provision of the off street parking prior to first occupation of the dwellings and that the applicant will need to enter into a S247 agreement with the local highway authority in respect of stopping up a part of the highway.

## CONCLUSION

23. The siting and the external appearance of the proposed dwellings are considered to be acceptable. The proposed scheme has made full and efficient use of the land and the scheme conforms to the local context and character of the area. Neighbours amenity and street scene are not considered to be detrimentally affected and the scheme is in accordance with the Core Strategy and Saved UDP Policies.

## RECOMMENDATION

24. It is recommended that delegated authority to APPROVE be given to the Director of the Urban Environment, subject to conditions and the expiration of the site notice time on 14 May 2014 and no material objections being received and;

That the applicant be invited to make an application to the Secretary of state, under S247 of the Town and Country Planning Act 1990 (as amended) to close, create and improve highways as shown on drawing 1051-06-01 Rev B to enable development authorised by planning permission to take place. The full costs and works to the Local Authority's satisfaction shall be met by the developer who will also be required to enter into a legal agreement with the Highway Authority in order to dedicate land as Highway.

## APPROVAL STATEMENT INFORMATIVE

In dealing with this application the local planning authority have worked with the applicant in a positive and proactive manner, seeking solutions to problems arising in relation to dealing with the application, by seeking to help the applicant resolve technical detail issues where required and maintaining the delivery of sustainable development. The development would improve the economic, social and environmental concerns of the area and thereby being in accordance with paragraphs 186 and 187 of the National Planning Policy Framework.

## **NOTE TO APPLICANT**

The granting of planning permission does not confirm the structural integrity of the proposed development. Local Planning Authorities do not have a duty of care to individual landowners when granting applications for planning permission and are not liable for loss caused to an adjoining landowner for permitting development. Sections 77 and 78 of the Building Act 1984, provides Local Authorities with powers to take action with respect to dangerous buildings/structures. Therefore, should the development raise concerns in the future with respect to its structural stability there are powers under separate legislation to planning that would enable the situation to be rectified.

### **Informative**

#### **All developments within coalfield standing advice area**

The proposed development lies within a coal mining area which may contain unrecorded mining related hazards. If any coal mining feature is encountered during development, this should be reported to the Coal Authority.

Any intrusive activities which disturb or enter any coal seams, coal mine workings or coal mine entries (shafts and adits) requires the prior written permission of The Coal Authority.

Property specific summary information on coal mining can be obtained from The Coal Authority's Property Search Service on 0845 762 6848 or at [www.groundstability.com](http://www.groundstability.com)

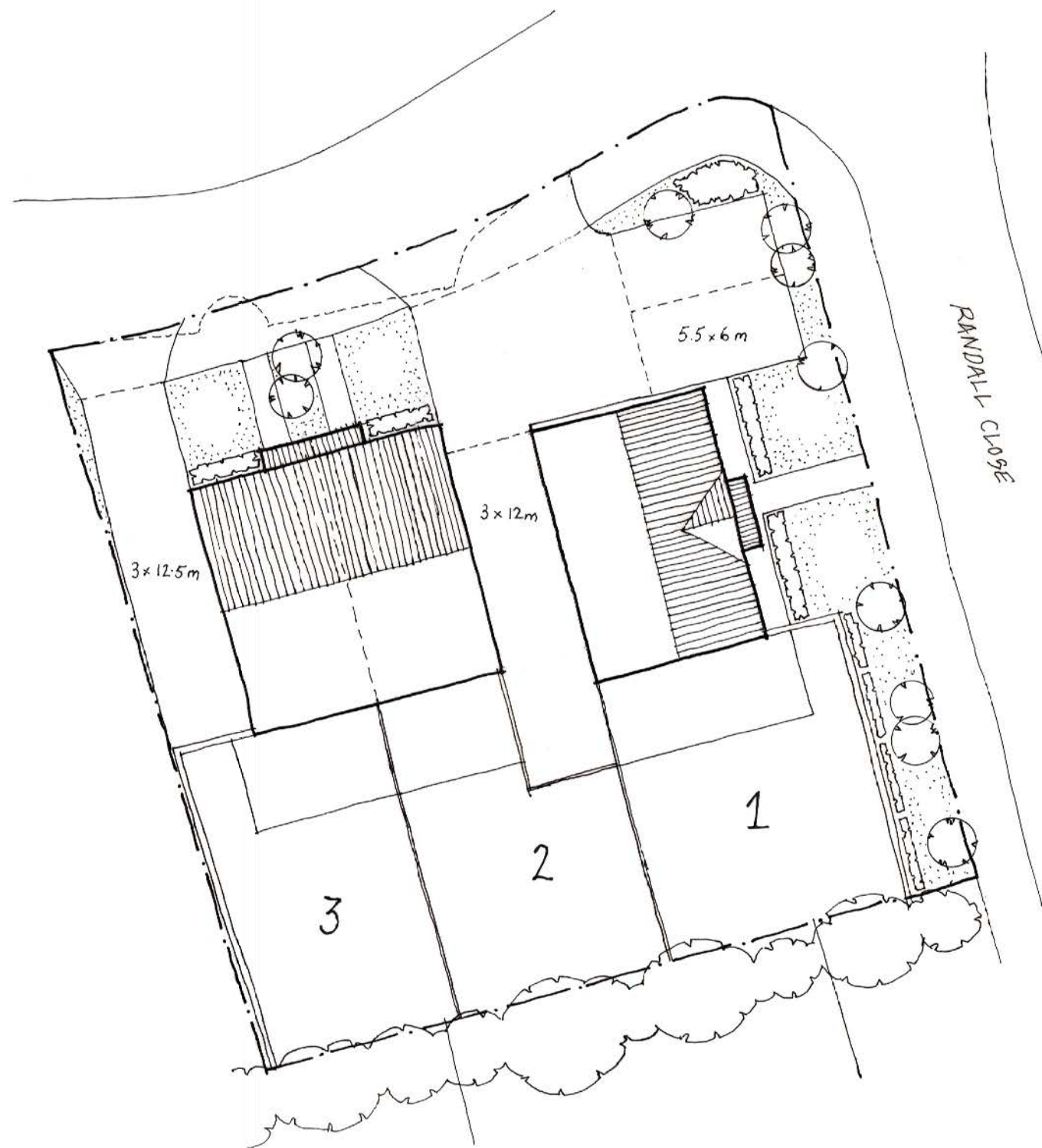
The granting of planning permission does not enable a developer to obstruct a public highway. Orders must be complete to enable development. The applicant is advised to consult with all statutory undertakers prior to any application to the Secretary of State as these bodies are statutory consultees to any highway stopping up orders.



As it is believed that a portion of the application land lies within the freehold of the Council, the applicant is advised to consult with the Director of Corporate Resources at the earliest opportunity.

Conditions and/or reasons:

1. The development hereby permitted shall be begun before the expiration of three years from the date of this permission.
2. The development hereby permitted shall be carried out in accordance with the following approved plans: 1051-01-01 Rev B, 1051-04-01 Rev A, 1051-05-01 and 1051-06-01 Rev B.
3. Prior to the commencement of development, details of the landscaping scheme for the site shall be submitted to and approved in writing by the Local Planning Authority. The agreed scheme shall be implemented in accordance with the approved details before the end of the first planting season following initial occupation of the development.
4. Prior to the commencement of development, details of the types, sizes and locations of the boundary treatments around the site and shall be submitted to and approved in writing by the Local Planning Authority. The boundary treatment shall be carried out in complete accordance with the approved details prior to the occupation of the dwellings hereby approved and thereafter retained for the lifetime of the development unless otherwise agreed in writing with the Local Planning Authority.
5. Prior to first occupation of the dwelling, the means of access and parking areas will be provided in accordance with the approved details and graded, levelled, surfaced, drained and marked out. These areas will be maintained for no other purpose for the life of the development.
6. Prior to the commencement of development, details of the types, colours and textures of the materials to be used on the external surfaces of the buildings hereby approved shall be submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in complete accordance with the approved details.
7. The development shall not commence until details of the footways to include, lines, widths, levels, gradients, drainage, lighting and cross sections have been submitted to and approved in writing by the LPA.
8. No dwelling shall be occupied until the footways have been implemented in accordance with the approved details in condition 7 and shall be retained thereafter for no other purpose for the lifetime of the development.
9. No development shall commence until details for the provision of external electric charging points have been submitted to and approved in writing by the Local Planning Authority. The Electric Charging point(s) shall thereafter be provided in accordance with the approved details prior to first occupation of the development and be maintained for the life of the development.



SITE LAYOUT 1:200



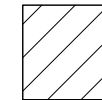
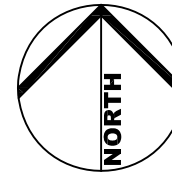
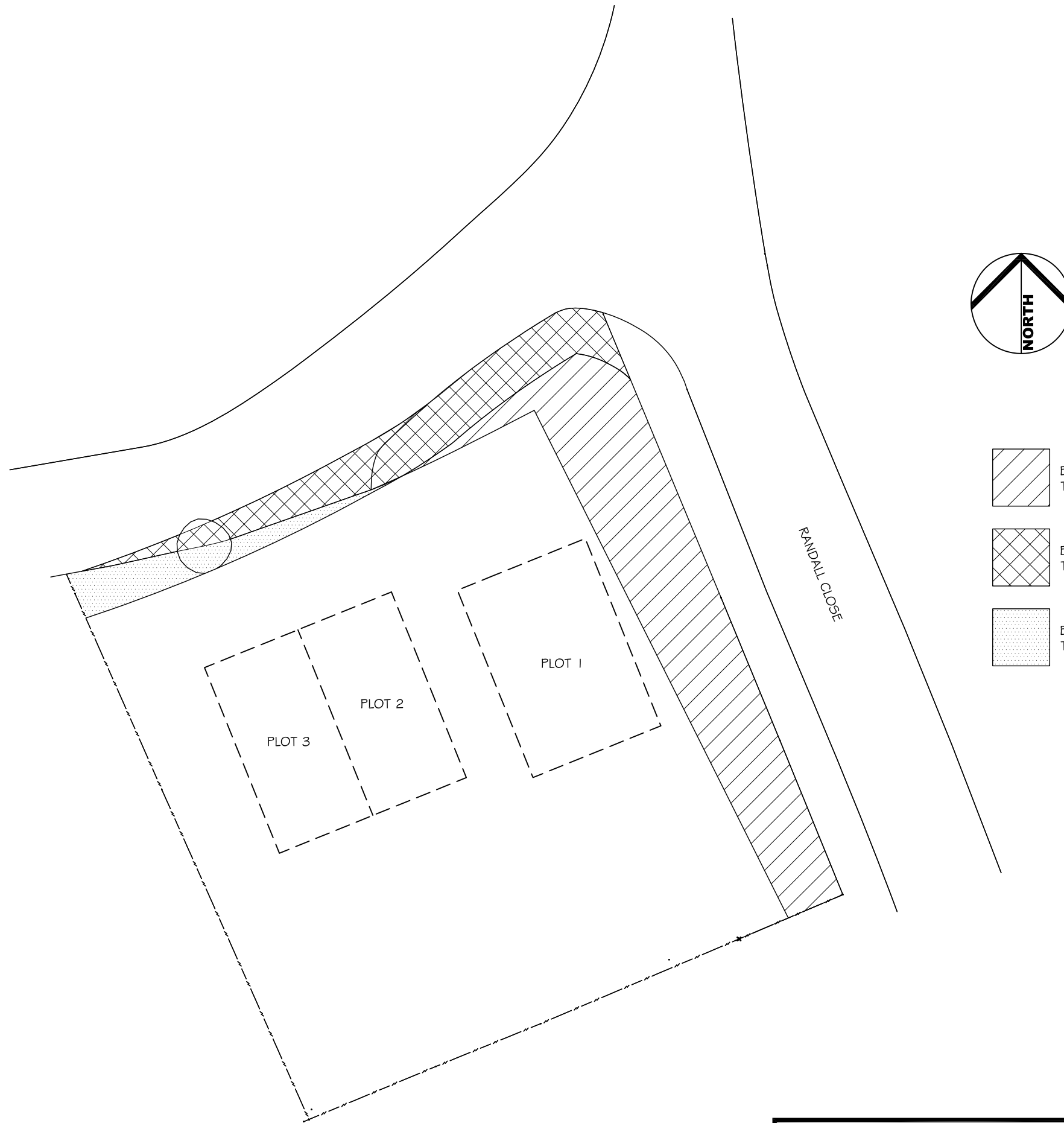
STREET SCENE 1:200



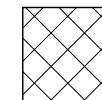
LOCATION PLAN 1:1250



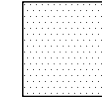
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Title:	SITE PLAN, LOCATION PLAN AND STREET SCENE	Scale:	AS STATED @ A3	Revision:	B



EXTENT OF HIGHWAY LAND  
TO BE STOPPED UP



EXTENT OF HIGHWAY  
TO BE IMPROVED



EXTENT OF NEW HIGHWAY  
TO BE PROVIDED

Job:  
DEVELOPMENT AT FORMER FOX & GOOSE  
PUBLIC HOUSE, BROMLEY LANE, KINGSWINFORD  
Title:  
HIGHWAY STOPPING UP PLAN

Date:  
SEPT '13

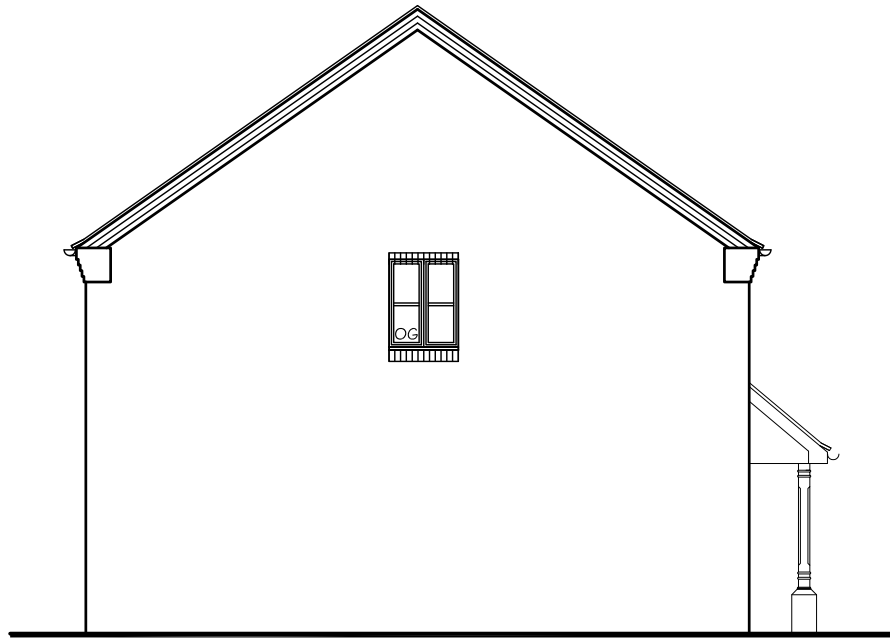
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Drawing No:  
1051-06-01

Revision:  
B



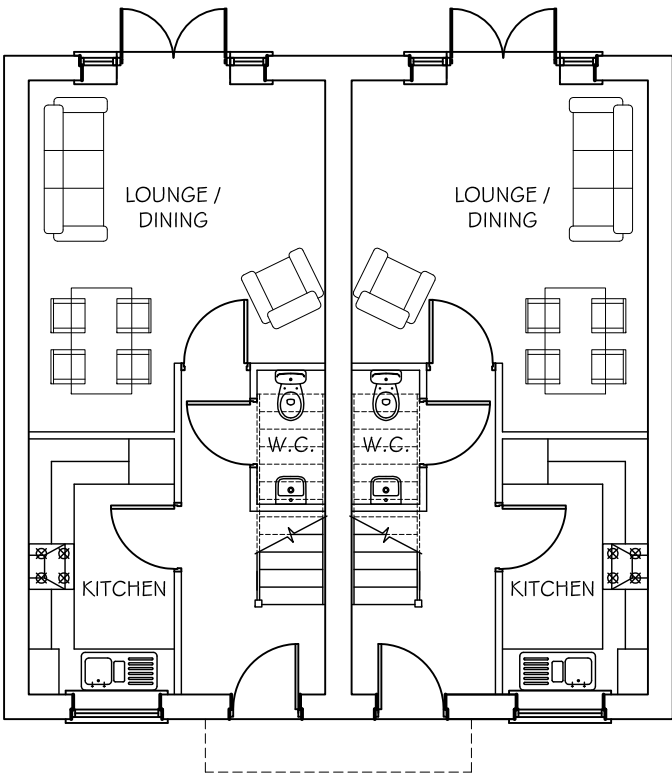
FRONT ELEVATION



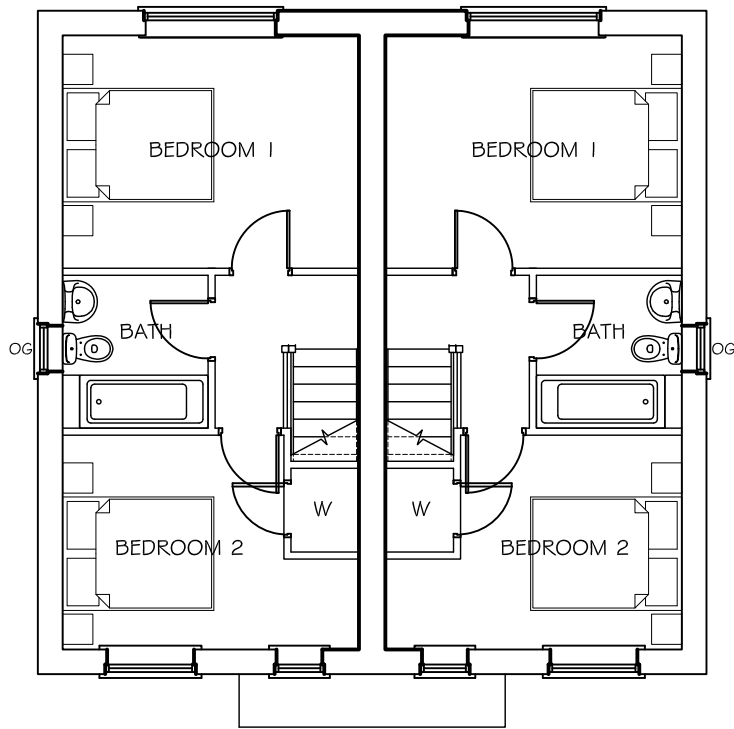
SIDE ELEVATION



REAR ELEVATION



GROUND FLOOR



FIRST FLOOR

GROUND FLOOR  
32.4m<sup>2</sup> / 349ft<sup>2</sup>

FIRST FLOOR  
32.4m<sup>2</sup> / 349ft<sup>2</sup>

TOTAL AREA = 64.8m<sup>2</sup> / 698ft<sup>2</sup>

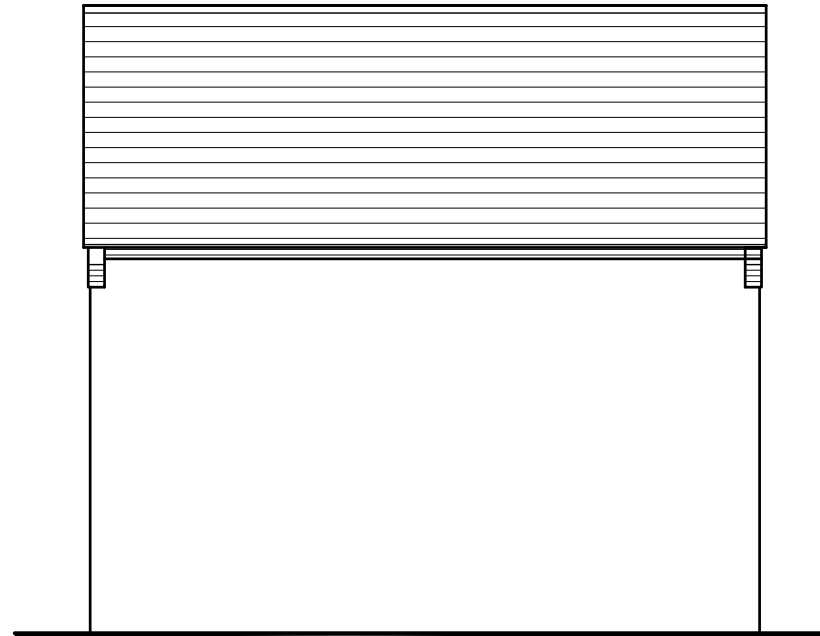
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Title:	PLOTS 2&3 PROPOSED PLANS & ELEVATIONS	Scale:	1:100 @ A3	Revision:	-



FRONT ELEVATION



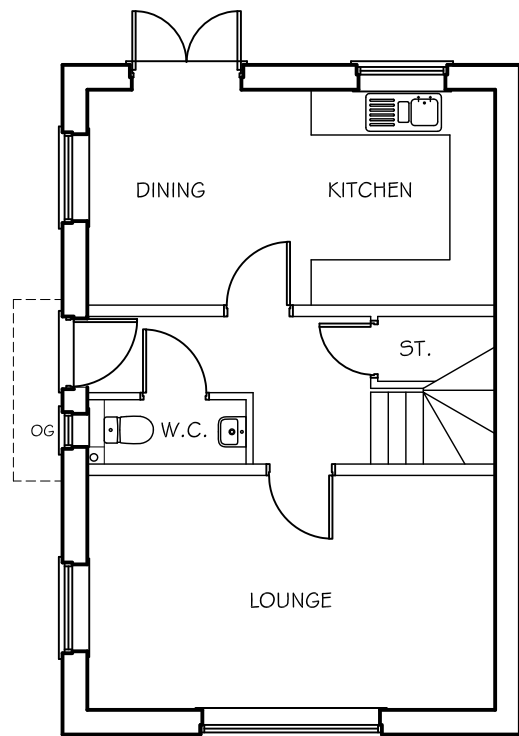
SIDE ELEVATION 01



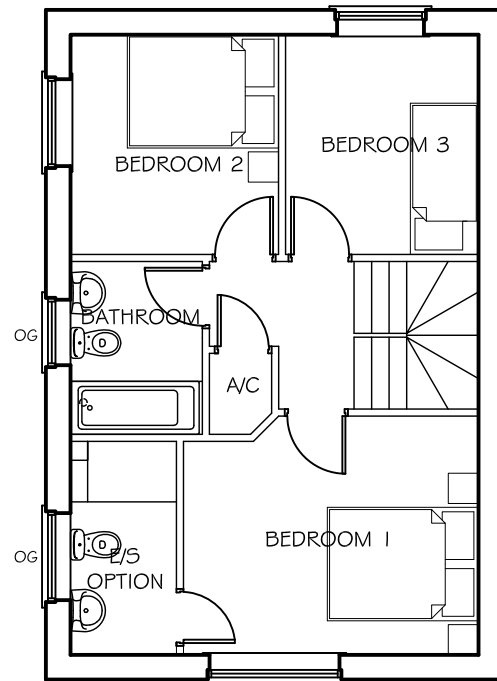
REAR ELEVATION



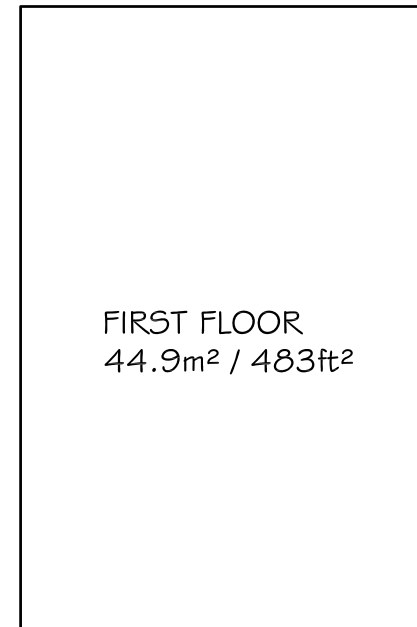
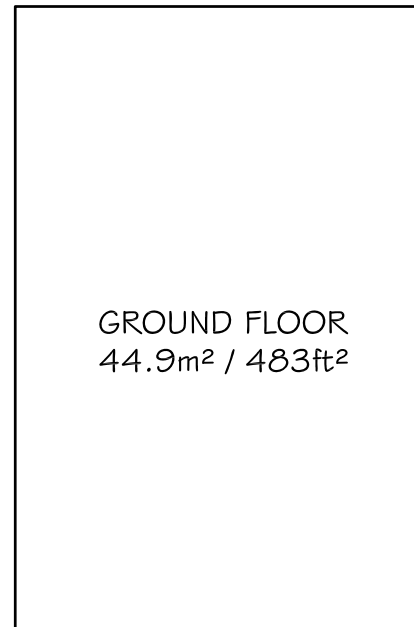
SIDE ELEVATION 02



GROUND FLOOR



FIRST FLOOR



TOTAL AREA = 89.8m² / 966ft²

Job:	DEVELOPMENT AT FORMER FOX & GOOSE PUBLIC HOUSE, BROMLEY LANE, KINGSWINFORD	Date:	JAN '13	Drawing No:	1051-04-01
Title:	PLOT 1 - PROPOSED ELEVATIONS AND PLANS	Scale:	1:100 @ A3	Revision:	A

## PLANNING APPLICATION NUMBER: P14/0466

Type of approval sought	Full Planning Permission
Ward	Norton
Applicant	Mr G. Grainger
Location:	<b>30, WORCESTER LANE, STOURBRIDGE, DY8 2PE</b>
Proposal	<b>SINGLE STOREY FRONT AND SIDE/REAR EXTENSIONS AND FIRST FLOOR SIDE EXTENSION</b>
Recommendation Summary:	<b>APPROVE SUBJECT TO CONDITIONS</b>

### SITE AND SURROUNDINGS

1. The application site measures 648m<sup>2</sup> and the property is a detached pitched roof dwelling built in the 1960s. The property benefits from a single storey flat roofed front and side projection with rear conservatory and glazed verandah. The property benefits from a driveway to the front and a rear garden.
2. No. 28 Worcester Lane is positioned to the North whilst No. 32 Worcester Lane is positioned to the South. Abutting the rear of the site is No. 19 Appleton Avenue. To the front are Nos. 53A and 55 Worcester Lane at over 43m distance.
3. The surrounding area is predominantly residential with the majority of this street consisting of detached dwellings of a similar age but varying design to the application property.

### PROPOSAL

4. This application is on the Development Control Committee agenda as the applicant is related to an employee of the Directorate of the Urban Environment.

5. This proposal seeks approval for a first floor side extension and a one and two storey rear addition and front extension. This development would provide an enlarged verandah and porch at ground floor with a fifth bedroom at first floor.
6. The existing verandah would be enlarged by 0.75m in width and 1.85m in length so the total brick built verandah would measure 1.85m in length and 4.5m in width. The verandah would also be brick-built.
7. The first floor side addition would line through with the original front and rear elevations and would measure 4.5m in width, 6.75m in length with a 7.25m high pitched roof above. Part of the side addition would be built above the proposed verandah extension.
8. The single storey front addition would project 1.75m to the front of the existing living room and would measure 3.75m in width with a 3.15m high flat roof above.

## HISTORY

9. This property has one previous relevant application.

APPLICATION	PROPOSAL	DECISION	DATE
SB/67/269	Extension to existing house to form a new playroom and sun lounge	Approved	21.07.67

## PUBLIC CONSULTATION

Direct notification was carried out to five surrounding properties to advertise the proposal.

No written representations commenting on the scheme have been received; the latest date for receipt of comment was 16<sup>th</sup> April 2014.

## OTHER CONSULTATION

None required.

## RELEVANT PLANNING POLICY

### Saved Unitary Development Plan Policies (UDP) (2005)

- DD1 Urban Design
- DD4 Development in Residential Areas

### Supplementary Planning Documents / Guidance

- Parking Standards SPD (2012)
- PGN12 45 Degree code guidelines
- PGN 17. House extension design guide

## ASSESSMENT

10. The proposed development must be assessed with regard to its design and whether it would be compatible with the existing dwelling and the character of the area. The potential impact on the amenity of nearby neighbours must also be assessed along with the relevant parking standard requirements.
11. The key issues are
  - Design
  - Neighbour Amenity
  - Access and Parking



### Design

12. Policy DD4 of the saved UDP states that extensions to residential dwellings will be allowed provided they do not adversely affect the character of the area or residential amenity. The 1960s property currently features a flat roofed front and side projection with rear conservatory.
13. The proposed brick-built ground floor rear verandah addition would be very modest in size and scale and would not be considerably larger than the existing verandah. The modest additional foot-print and brick-built nature of the proposal would help to integrate the development with the original house. This part of the addition would not be visible from the street and would have no adverse impact on visual amenity. This rear addition would also link with the proposed first floor side addition.
14. The proposed first floor side extension would be of an acceptable width in terms of the host property and would not appear as overly large or dominant. A first floor gap would remain to the northern side and the property would still appear as a detached house and would ensure that there would be no terracing effect with No. 32 Worcester Lane. The general design would also replicate that of the host property and would be in-keeping with the dwellinghouse. The roof type, height and slope as well as the fenestration would match with that of the original house and the side addition would therefore be considered as an in-keeping and subservient addition to the host property.
15. The application property already features flat roof projections to the front of the house. The front projection would be very modest in size and would not project as far to the front as the existing garage projection. The proposed flat roof would match with the existing flat roofed additions and the fenestration would be acceptable. The proposed front addition would therefore have no adverse visual impact on the host property or street scene.
16. The overall size and scale of the proposals would not be excessive considering the overall footprint of the property. The proposed scheme would have no adverse visual impact on the host property or street scene as the overall design would be

acceptable on this age of property. The additions would integrate with the host dwelling and surrounding area.

17. In these respects the proposal would comply with Policy DD4 – Development in Residential Areas of the saved UDP (2005) and PGN 17 – House Extension Design Guide.

#### Neighbour Amenity

18. There would be no impact on residential amenity for the occupiers of No. 28 Worcester Lane resulting from the side / rear extensions as these additions would be screened from the occupiers and they would be over 19m from the boundary with this house. The front addition would also be very modest in size and 6m from the house. Due to the modest size and position the proposals would not impact on daylight provision or outlook for the occupiers. The proposal would have no impact on privacy for the occupiers as the only facing window would be a ground floor side facing window would not impact on privacy as this is for a non-habitable room and at single storey level.
19. The additions would have no adverse impact on the residential amenity experience by the occupiers of No. 30 Worcester Lane. Whilst the extension would project 2.8m past the rear elevation of No. 30 it would be at least 2.5m from the side elevation of that property and due to the orientation of the houses would have no adverse impact on daylight provision or outlook for the occupiers. There would be no breach of the 45 degree code guidelines to the nearest habitable room windows (the lounge at ground floor and a bedroom at first floor) and therefore no impact on amenity for the occupiers. Despite the projection past the rear elevation and proximity to the boundary the two storey wall would not appear over-bearing to the occupiers due to the set off the boundary. There are no side facing windows on No. 32 which would be impacted.
20. The front additions would not be visible to the occupiers of No. 30 so would have no impact on amenity. There are also no proposed windows as part of the scheme which would impact on privacy.

21. The additions would be at least 43m from the properties to the front on Worcester Lane. At this distance there would be no adverse impact on outlook, daylight provision or outlook for the occupiers.
22. The proposal would be at least 17m from the side of No. 19 Appleton Avenue and no closer than the existing house. At this separation distance the proposal would have no adverse impact on residential amenity for the occupiers.
23. It is considered that there would be no demonstrable harm to the occupiers of neighbouring properties as a result of the proposed extensions. The development would therefore comply with Policy DD4 – Development in Residential Areas, PGN 12 – The 45 Degree Code - or PGN 17 – House Extension Design Guide.

#### Access and parking

24. The proposal would not result in the loss of any parking spaces and at least three spaces would remain on the frontage following the development and no additional spaces would be required and the development would comply with the Parking Standards SPD (2012) and Policy DD4 of the saved Unitary Development Plan (2005).

## **CONCLUSION**

25. It is considered that the proposed extensions would be acceptable due to the overall size and in-keeping design. The proposals would not have an adverse impact on the visual appearance of the host property or street scene.
26. The extensions would not have an adverse impact on the residential amenity experienced by the occupiers of neighbouring properties.
27. The proposal would have no adverse impact on parking provision and there would be no impact on highway safety as a result of the proposal.

28. As such, the development would comply with Policy DD4 (Development in Residential Areas) of the saved Dudley UDP and PGN 17 (House Extension Design Guide).

## **RECOMMENDATION**

29. It is recommended that the application is APPROVED subject to the following conditions:

## **APPROVAL STATEMENT INFORMATIVE**

In dealing with this application the Local Planning Authority have worked with the applicant in a positive and proactive manner, seeking solutions to problems arising in relation to dealing with the application, by seeking to help the applicant resolve technical detail issues where required and maintaining the delivery of sustainable development. The development would improve the economic, social and environmental concerns of the area and thereby being in accordance with paragraphs 186 and 187 of the National Planning Policy Framework.

### **Informative Note**

The proposed development lies within an area which may contain unrecorded mining related hazards. If any coal mining feature is encountered during development, this should be reported to The Coal Authority.

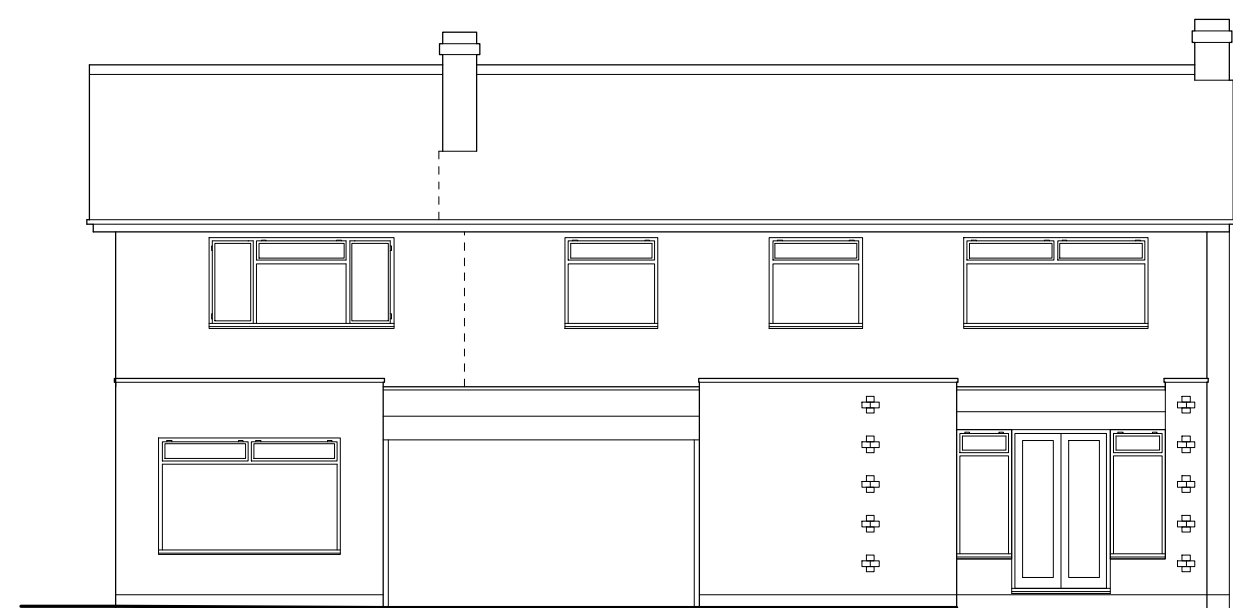
Any intrusive activities which disturb or enter any coal seams, coal mine workings or coal mine entries (shafts and adits) requires the prior written permission of The Coal Authority.

Property specific summary information on coal mining can be obtained from The Coal Authority's Property Search Service on 0845 762 6848 or at [www.groundstability.com](http://www.groundstability.com)

Conditions and/or reasons:

1. The development hereby permitted shall be begun before the expiration of three years from the date of this permission.
2. The development hereby approved shall be carried out in accordance with the details shown on plan labelled '14:22:02'
3. The materials to be used in the approved development shall match in appearance, colour and texture those of the existing building unless otherwise agreed in writing with the Local Planning Authority.

Do not scale. Figured dimensions only to be taken from drawing.  
The contractor is to visit the site and be responsible  
for taking & checking dimensions relative to this work.



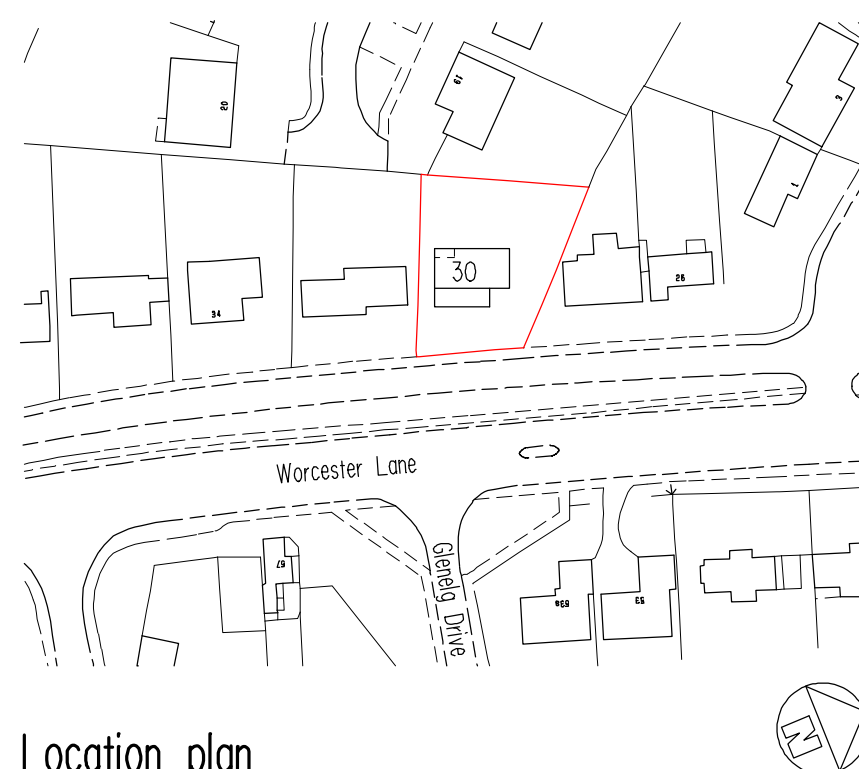
Front elevation



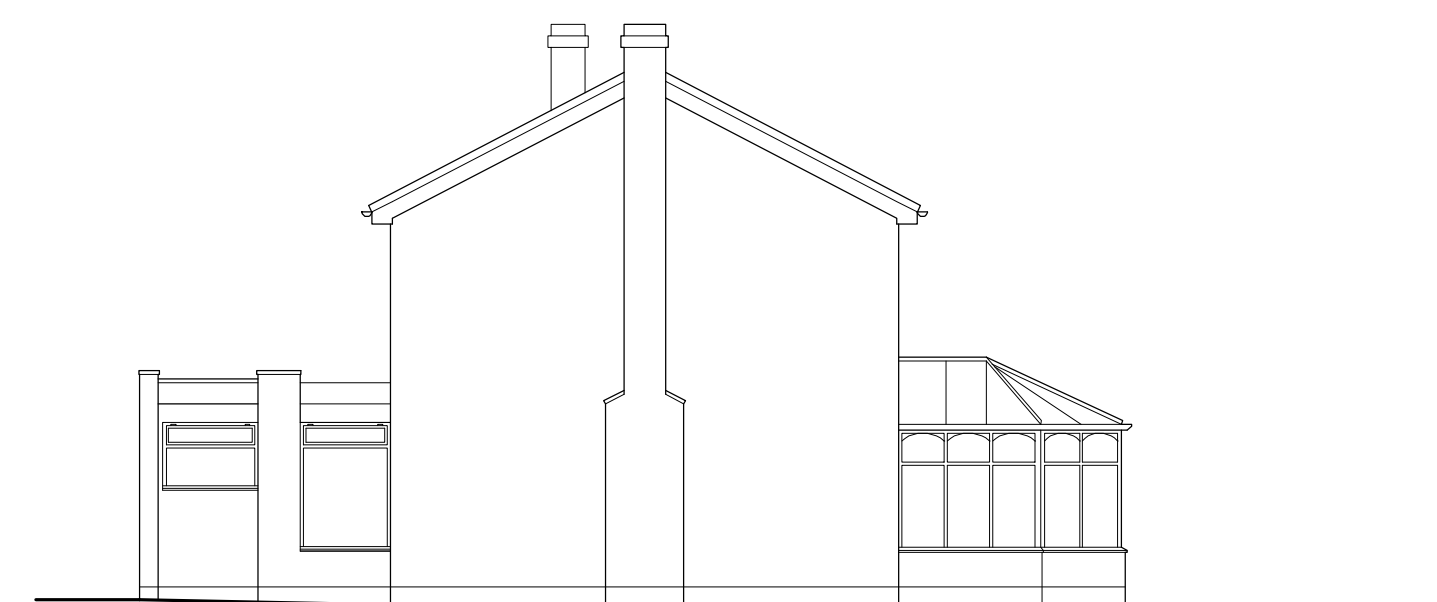
Side elevation



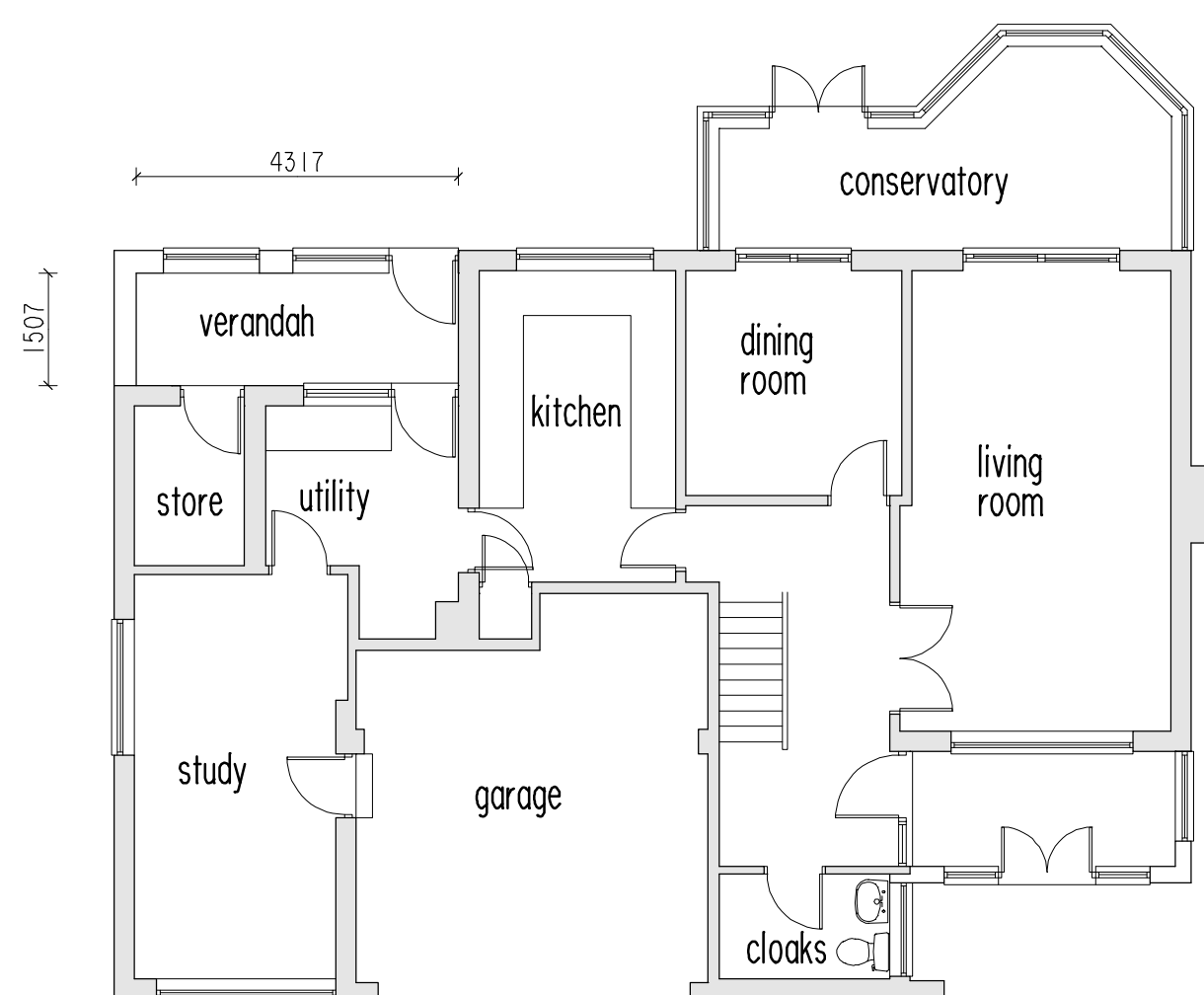
Rear elevation



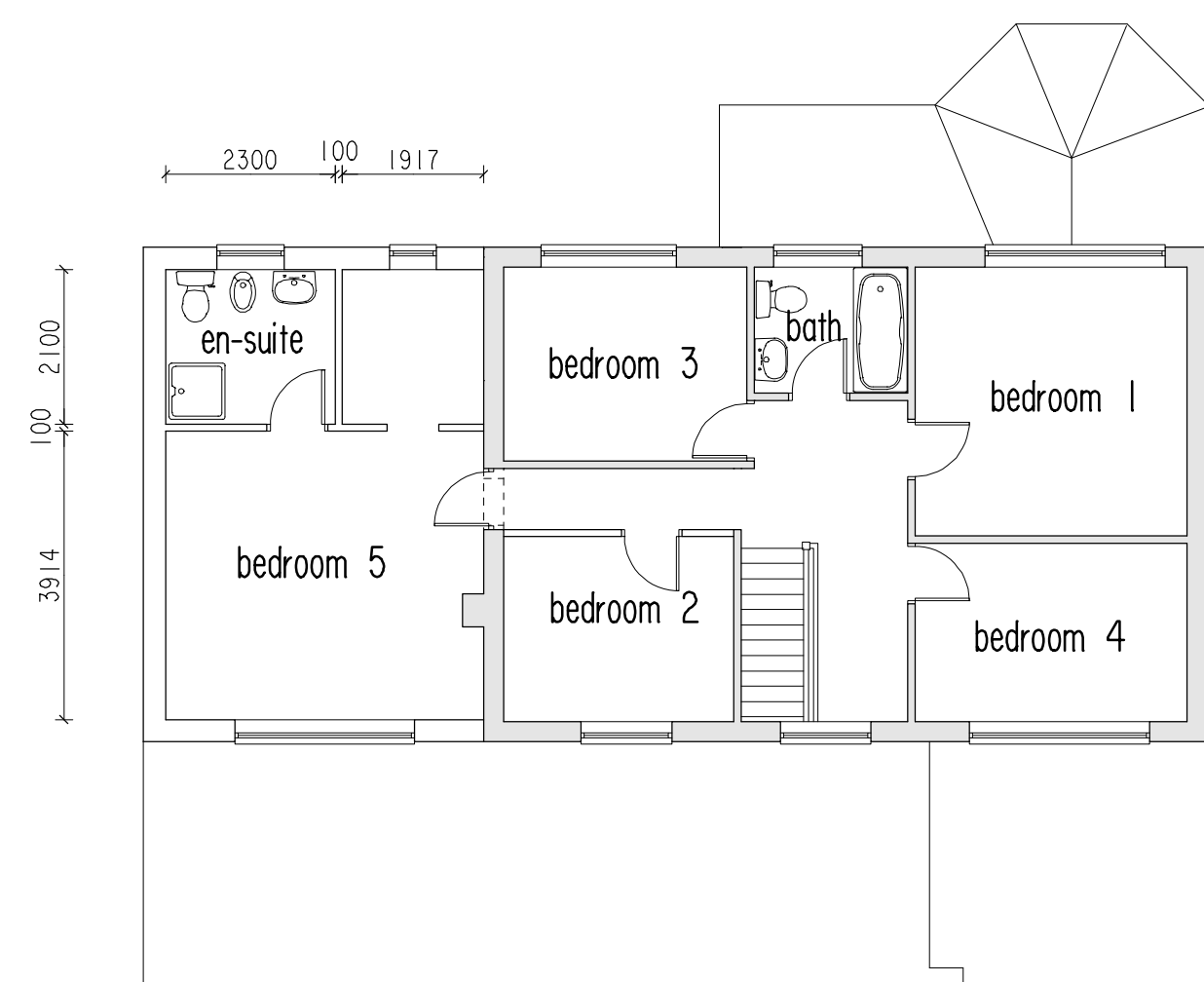
Location plan



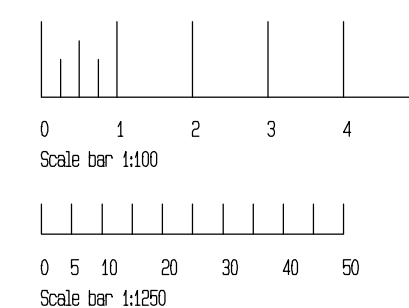
Side elevation



Ground floor plan



First floor plan



Mr. G. GRAINGER  
PROPOSED EXTENSION  
30 WORCESTER LANE  
PEDMORE, STOURBRIDGE  
PROPOSALS  
14:22:02

Scale 1:100 1:1250  
Date March 2014

**MFL Design**

Architectural Design Service  
5 Glynn Crescent,  
Halesowen,  
West Midlands,  
B63 2PZ  
Tel. 01384 561334



## PLANNING APPLICATION NUMBER: P14/0560

Type of approval sought	Full Planning Permission
Ward	Castle & Priory
Applicant	Head of Economic Development, Dudley MBC
Location:	<b>LAND BETWEEN DUDLEY BLACK COUNTRY LIVING MUSEUM AND DUDLEY ZOOLOGICAL GARDENS, DUDLEY, WEST MIDLANDS</b>
Proposal	<b>REVISED ACCESS AND LANDSCAPING PROPOSALS OVER A WIDER AREA RELATIVE TO PREVIOUS APPROVAL P12/1598 TO LINK TO DUDLEY CANAL TRUST</b>
Recommendation Summary:	<b>APPROVE SUBJECT TO CONDITIONS</b>

### SITE AND SURROUNDINGS

1. The site measures 0.5 hectares and comprises of land to the west of the Dudley Canal Trust and to the south of the Birmingham New Road. The site is significantly elevated above the Dudley Canal Trust and Dudley Canal and comprises an existing footpath enclosed by woodland and scrub. The site extends southwards to include part of the former disused railway that lies to the west of the Black Country Living Museum. The northern boundary of the site adjoins Birmingham New Road.
  
2. The site lies within a central location adjoining the existing tourist attractions of the Dudley Zoological Gardens located to the south-west, the Black Country Living Museum located to the south-east and the Dudley Canal Trust located to the north-east.
  
3. The site is located to the north-east of Dudley town centre, approximately 100 metres from the primary retail area. In this regard, the site has ease of access to the bus station. The site adjoins the strategic highway network (A4123, A4037 and A459), with good access to bus services and accessibility by the private car.

## PROPOSAL

4. In October 2012, £4.5m of European funding was awarded towards the redevelopment of the wider site to create shared visitor facilities. The project revolves around creating new access and infrastructure to create one shared arrival point for visitors to Dudley Zoo and Castle, the Black Country Living Museum and the Dudley Canal Trust. In addition to improving the connectivity of the existing facilities, it is hoped that the new infrastructure will provide a catalyst for new private sector investment and jobs as a result of new mixed use leisure planned for the northern part of the site.
5. The objectives of the project are to:
  - Reverse the long term economic decline;
  - Increase levels of employment;
  - Increase footfall in the town centre;
  - Increase the percentage of positive visitors perception, and
  - Provide a benchmark and allow Dudley to build upon its special qualities.
6. The applicant states that the ERDF funding would provide *“a lifeline to the town to regenerate a former Brownfield site where it is hoped it will have a positive impact upon attracting investment and visitors back into the town.”*
7. In developing the project, some of the key objectives were to:
  - Make use of Castle Hill site.
  - Stimulate tourism
  - Provide car parking facilities including exemplary disabled provision and electric charging points, together with a coach park separated from drop-off facilities and main car parking.
  - Retain the current access for deliveries to the Zoo.
  - To develop a safe environment for pedestrians and to integrate accessible routes within the design.



- To provide a new visitor hub to be staffed at peak times through the Dudley Ambassador scheme and provide visitor information for the three attractions.
  - To create a new entrance into the Zoo.
  - To divert the public right of way into a legible, accessible and pleasant alternative, running alongside a delineated cycle way.
  - To recognise and conserve the site's existing and potential biodiversity, including water courses, linking adjacent habitats within the wider green network.
8. Planning permission was granted in 2012 (P12/1598) for the wider redevelopment of the Castle Hill site. The scheme included the provision of new car parking areas, a recreational route, visitor hub building and new visitor entrance to Dudley Zoological Gardens to serve the existing tourist attractions and to improve the connectivity and physical links between them. Works have commenced on site with the signalised junction off Tipton Road now operating and vehicles using some of the newly created car parking areas.
9. This planning application seeks to amend the original recreational link that was approved as part of P12/1598 into the Dudley Canal Trust. The amended design includes a larger site area extending up to the Birmingham New Road to improve access into the site to overcome physical constraints on the site in terms of the change in levels between the proposed recreational route and Dudley Canal Trust site.
10. The recreational route itself would remain largely unchanged from that originally approved as part of the wider scheme, being 3 metres wide and constructed with a hard anti-slip resin bond surface. The amended scheme would extend the recreational route further towards the north-west to provide a more gradual sloped access into the Dudley Canal Trust. The scheme would now also include a viewing platform off the recreational route, providing views over and down towards Dudley Canal.

11. The proposals would involve the re-grading of the existing land and the erection of a 'webwall' retaining system along much of the western boundary to the recreational route to facilitate the creation of an accessible recreational route, through cut and fill engineering works to link Dudley Canal Trust with the wider Castle Hill development. The webwall retaining system would be of various heights up to a maximum of 2.5m high, to allow the creation of a wild flower seeded face. Bell shaped bollards would be used as an ornamental barrier along parts of the recreational route adjoining the steep bank. The webwall would adjoin a regraded bank to the west and the recreational path to the east. Both sides of the recreational route would be landscaped with forestry planting, wild flower areas, ornamental planting and a small element of mown grass.
12. The planning application has been supported with a suite of detailed plans and technical reports including:
- Planning Statement
  - Ecological Appraisal
  - Masterplan
  - Habitats Plan
  - Ecological Appraisal
  - Land Train Route Cross-Sections
  - Land Train Proposals
  - Planting Proposals

## HISTORY

APPLICATION	PROPOSAL	DECISION	DATE
P04/0091	Outline application for the redevelopment for major visitor attractions.	Approved with conditions	21/02/07
P09/1575	Provision of new signalised access and pedestrian crossing facility	Approved with conditions	02/02/10

P10/0007	Temporary car park consisting of 221 spaces of which 14 are disabled together with approximately 140m of 6m wide access.	Approved with conditions	24/02/10
P12/1005	Provision of 85m length of highway including new roundabout providing link from Tipton Road into Castle Hill development.	Approved with conditions	11/10/2012
P12/1598	Creation of new car park providing 600 parking spaces and coach parking facilities with associated secondary access off the main access road, provision of a surfaced recreational route linking existing tourist attractions, erection of a visitor hub, provision of a new visitor entrance to Dudley Zoological Gardens, associated infrastructure works and diversion of a Public Right of Way	Approved with conditions	12/03/2013
P12/1598/A1	Non material amendment to previous approved application P12/1598	Approved	23/12/2013
P12/1598/A1	Non material amendment to previous approved application P12/1598	Approved	26/03/2014

P12/1598/C1	Discharge of Conditions 11, 19, 20 , 21, 22, 28, 29, 32, 35, 36, 37, 38, 39, 40, 41 & 42	Approved	21/11/2013
P12/1598/C1	Discharge of condition 14	Approved	03/03/2014

## PUBLIC CONSULTATION

13. The application was advertised by way of neighbour notification letters being sent to the occupiers of properties that adjoin the site, the placing of an advertisement within the local press and the display of a site notice. The latest date for comments is the 8<sup>th</sup> May 2014. At the time of writing the report, one letter of support has been received. Any subsequent letters or consultation responses received will be reported in a pre-committee note.

## OTHER CONSULTATION

14. Group Engineer (Development): No objections.
15. Head of Environmental Health and Trading Standards: No objections.
16. Canal and River Trust: Comments awaited at the time of writing.
17. The Coal Authority: Comments awaited at the time of writing.
18. Sandwell and Wolverhampton MBC: Comments awaited at the time of writing.

## RELEVANT PLANNING POLICY

### National Planning Guidance (2012)

19. The National Planning Policy Framework (NPPF) sets out the Governments planning policies for England and how these are expected to be applied. The NPPF is a

material consideration in planning decisions, but does not change the statutory status of the development plan as the starting point for decision making. Proposed development that accords with an up-to-date Local Plan should be approved.

20. The NPPF advises that the purpose of the planning system is to contribute to the achievement of sustainable development. Paragraph 9 of the NPPF states that:

*“Pursuing sustainable development involves seeking positive improvements in the quality of the built, natural and historic environment, as well as in people’s quality of life, including (but not limited to):*

- *Making it easier for jobs to be created in cities, towns and villages;*
- *Moving from a net loss of bio-diversity to achieving net gains for nature;*
- *Replacing poor design with better design;*
- *Improving the conditions in which people live, work, travel and take leisure...”*

21. In terms of decision making, the NPPF states that the golden thread of decision making means:

- *“approving development proposals that accord with the development plan without delay; and*
- *Where the development plan is absent, silent or relevant policies 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 this Framework, taken as a whole; or*
  - *Specific policies in this Framework indicate development should be restricted.”*

22. Paragraphs 117 and 118 of the NPPF set out the importance of the consideration of the impacts of proposed development upon nature conservation stating that *“all development should promote the preservation, restoration and recreation of priority habitats, ecological networks and the protection and recovery of priority species populations”* and that *“opportunities to incorporate biodiversity in and around developments should be encouraged”*

23. Technical Guidance to the National Planning Policy Framework

- Circular 11/95 – The Use Conditions in Planning Conditions
- CIL Regulations

Black Country Core Strategy (2011)

- CSP1 – The Growth Network
- CSP3 – Environmental Infrastructure
- CSP4 – Place Making
- DEL1 – Infrastructure Provision
- CEN2 – Hierarchy of Centres
- CEN4 – Regeneration of Town Centres
- TRAN4 – Creating Coherent Networks for Cycle and for Walking
- TRAN5 – Influencing the Demand for Travel and Travel Choices
- EMP5 – Improving Access to the Labour Market
- EMP6 – Cultural Facilities and the Visitor Economy
- ENV1 – Nature Conservation
- ENV3 – Design Quality
- ENV5 – Flood Risk

Dudley Community Strategy 2005-2020

- Creating a prosperous Borough – ensuring the development of Dudley as a sub-regional focus for leisure and tourism development and actively building upon existing leisure attractions in the centre.
- Heritage and Culture – redevelopment of Dudley Castle and Zoo to help preserve the historic nature of the site.

Council Plan 2012-2013

- RE2 Regeneration, Skills and Employment – increase the contribution of creative industries and the visitor economy for the economic regeneration of the Borough.

#### Unitary Development Plan (2005)

- DD1 – Urban Design
- DD10 – Nature Conservation and Development
- UR10 – Unstable Land
- AM13 – Public Rights of Way
- NC1 – Biodiversity
- NC6 – Wildlife Species
- NC9 - Mature Trees
- NC10 – The Urban Forest
- EP6 – Light Protection

#### Supplementary Planning Guidance/Documents

- Dudley Town Centre Area Development Framework (ADF) (December 2005)
- Planning Obligations Supplementary Planning Document (SPD) (September 2011)
- Parking Standards SPD (June 2012)
- Nature Conservation SPD (September 2006)

## **ASSESSMENT**

24. The main issues are

- Principle
- Design, Layout, Landscape and Public Realm
- Nature Conservation
- Trees
- Land Contamination and Ground Stability
- Planning Obligations

#### Principle

25. The principle of development has already been established by the granting of planning permission in 2012 for the development of this and the wider Castle Hill site (P12/1598). The wider scheme, which would include the proposals subject to this application would form the first phase of a wider project to develop the site in a way

that would assist in the development of the visitor economy of the Borough and in particular an expansion in visitor numbers at the Zoological Gardens, The Black Country Living Museum and The Dudley Canal Trust, as well as facilitating the development and regeneration of Dudley town centre as a centre for entertainment, leisure and recreation.

26. The proposed development would provide new infrastructure to help support and develop the existing tourist facilities within the area. The amended recreational route into the Dudley Canal Trust would represent an improved design to the original scheme forming part of P12/1598, in terms of its accessibility and extending up to the Birmingham New Road. The extension of the infrastructure works up to Birmingham New Road would provide a public face for the development to the road thereby increasing the prominence of the tourist attractions to visitors.
27. Improvements to the original recreational route between the existing attractions (Zoo, Black Country Living Museum) and the Dudley Canal Trust would serve as a basis of enhancing the existing visitor experience and providing a platform for long term improvements in overall visitor numbers and the future expansion of the existing attractions. In this regard, the proposed development would be in accordance with saved Policies UR3 and DTC2 of the Dudley Unitary Development Plan.
28. The proposals would also be consistent with the strategic aims and objectives of the Black Country Core Strategy (BCCS) which seeks to develop the role of Dudley Town Centre as a tourist destination within Regeneration Corridor (RC) 11a and highlight its historic character and assets. Policy CEN4 of the BCCS states that *“it will be important to recognise the special role of Dudley Town Centre....it will also be suitable for the town centres to provide entertainment, leisure and cultural facilities....”* and, within RC11a, Dudley TC is recognised as being enhanced as *“a tourism focus of regional and national repute (based on Black Country Museum, Dudley Zoo, Dudley Castle, Dudley’s geological and heritage assets).....”*



29. Policy EMP6 of the BCCS is also relevant and aligns with the proposed enhancement/expansion of the tourism facilities at this location. That policy states that *“visitor attractions will be developed and enhanced at key destinations to ensure that accessibility is maximised and to continue to raise the quality of the visitor experience throughout the Black Country”.....including “Dudley Town Centre (especially the Zoo and Castle, The Black Country Living Museum ....”*
30. In addition to the above, the proposed development would support the golden threads of both the Dudley Community Strategy 2005-2020 and the Council Plan 2012-2013 in developing and facilitating the sub-regional focus of Dudley as a centre for leisure and tourism development to help create a prosperous Borough.

#### Design, Layout, Landscape and Public Realm

31. The amended recreational route leading to the Dudley Canal Trust would provide a recreational route suitable for visitors to the adjoining tourist attractions and a potential land train route set within a landscaped setting. The proposals would involve engineering works to provide a pathway linking land set at a significantly lower level than the upper part of the site. The pathway would involve the creation of a planted retained wall with re-graded bank behind and new forestry planting, ornamental planting and wildflower areas planting alongside the route. The amended scheme would also provide a viewing platform looking towards Dudley Canal. The amended design would result in the creation of a new entrance into the Dudley Canal Trust site that would enhance its presence set within the wider complex of tourist attractions. The scheme would retain the existing public right of way that connects the former railway line with the Birmingham New Road.
32. The amended scheme retains the principles of the landscape design previously approved by P12/1598 with the recreational route set within a landscaped area of native forestry, ornamental and wildflower planting. The proposed development would significantly improve the existing landscape and environment of the existing public right of way providing views over the canal. The amended scheme would improve the visual appearance of site as it adjoins Birmingham New Road providing a backdrop of a green wall of planting and ground cover. The landscape design

would also screen the adjoining industrial units with retained mature trees on the western side of the existing embankment. The proposals would result in the loss of a number of trees, but the loss of these would be compensated by the creation of an enhanced visitor landscape that would be accessible by all.

33. In short, the proposed design and layout of the development would meet a functional need (parking and access) accommodated within a planned landscape setting that resolves long-standing regeneration needs and which would provide a complementary entrance and approach to major tourist attractions within the Black Country from the Tipton Road. The landscaping strategy relating to the wider project and the detailed landscaping scheme forming part of the Dudley Canal Trust entrance would assimilate the development into its surroundings and enable the delivery of a cohesive and comprehensive design. The proposed development would be in accordance with Policies CSP4 and ENV3 of the BCCS and saved Policy DD1 of the Dudley Unitary Development Plan.

#### Nature Conservation

34. The site is not covered by any statutory designated nature conservation sites. Land adjoining the southern-western part of the site includes part of Peggy's Meadow, which is a non-statutory designated Site of Local Importance for Nature Conservation (SLINC). This site is of nature conservation value due to its unimproved neutral grassland. The site lies within a Wildlife Corridor and a Bat Migration Corridor as identified by the Birmingham and Black Country Nature Conservation Strategy. The SLINC has local importance in terms of its nature conservation value.
35. Whilst the site is not covered by statutory designations, the local and regional importance of the site and the potential impacts of the proposed development upon the existing habitats and species must be considered. It would be important that in accordance with saved Policies DD10, NC1 and NC6 of the Dudley Unitary Development Plan that the proposed development retains habitat of value and does not have an adverse impact upon notable species. Where the removal of habitat is unavoidable then suitable mitigation and enhancement should be included within the proposed development.

36. The site is of some nature conservation value in terms of its habitat and species it supports. The application site comprises a linear area of woodland that follows the line of the dismantled railway. The wooded area is characterised by ash and sycamore with low level plants comprising hawthorn, willow, elder and bramble.
37. The habitat within the site and records with respect to species identify that the site has the potential to be used by bats, badgers and breeding birds. The applicant has submitted an Ecological Appraisal to identify the presence of both important flora and fauna within the site and has assessed the impact of the proposed development upon these species along with proposed mitigation measures.
38. Bats and their places of refuge are protected in the UK under the Wildlife and Countryside Act 1981 (as amended) and The Conservation of Habitats and Species Regulations 2010 (as amended). Badgers are protected under the Badger Protection Act 1992.
39. The Ecological Appraisal submitted in support of the proposed development confirms no evidence for the presence of bats. The trees with potential to be impacted by the proposals did not exhibit any significant features that could be used by roosting bats. There are two trees within the site that have potential for bat roosting. The proposed development would result in these trees being felled. The applicant's ecologist considers these impacts to be minor in nature providing appropriate avoidance measures are undertaken to ensure the protection of the bat population.
40. The proposed recreational route would result in a loss of vegetation along the wildlife and bat corridor to accommodate pedestrians and a land train. The proposals would open up the existing woodland habitat. The linear woodland is currently enclosed, dense and provides continuous cover and a dark habitat bats to fly through. The loss of integrity of the linear woodland through it being widened would result in a permanent adverse impact and lighting could have a potential adverse impact upon the bat population.

41. In summary, the proposed development would have an adverse impact upon habitats that are of importance to bats. The impacts of the proposed development upon boundary features are important as the site forms part of a wildlife corridor. The development would result in the loss of tree and scrub habitat that provides an important habitat for the foraging of bats as well as providing a buffer between the application site and the SINC.
42. The proposed development does, however, put forward an overall landscaping scheme that would mitigate against the potential impacts upon bats, which are a protected species. The proposed development of the site could therefore be implemented without having significant adverse ecological impacts. The landscape design of the overall wider project along with this amended scheme would provide additional habitats in the form of trees and species appropriate planting to provide scope to continue to connect habitats within the northern part of the site and the bat migration routes to the east. Mitigation and enhancement features for the species included within the overall planting scheme include the provision of:
- Continuous linear features of forestry planting
  - Limited lighting proposed within the overall development in order to reduce impacts upon the movement of bats.
43. The proposed landscape design for the amended recreational route to the Dudley Canal Trust would maintain a permeable landscape habitat for bats. The incorporation of the mitigation strategy for bats within the overall development would ensure an overall reduction in residual impacts. The proposed development would therefore not have a significant adverse effect on the local bat population. In this regard, the proposed development would be in accordance with saved Policies DD10, NC1 and NC6 of the Dudley Unitary Development Plan.
44. The habitat inherent within Peggy's Meadow and woodland located to the north west of the site provide suitable foraging, commuting and sett construction habitat for badgers. In this regard, the site is of value to badgers. The proposed development would result in an increase in human activity within the site and the loss or disturbance of existing habitats that are suitable for badgers. The latest survey found

no evidence of badgers within the site and therefore further mitigation is not considered appropriate.

### Trees

45. The proposed development would involve the felling of some individual trees and some groups or parts of groups of trees. The trees to be removed are not significant in terms of their public amenity value or as structural components within the local landscape. The proposed development would be underpinned by a detailed landscaping scheme that will provide significant replacement planting. The replacement planting would largely form part of the overall nature conservation enhancement and mitigation scheme with tree planting to form appropriate habitats to bats whilst also providing a landscaped setting for the development. The development would retain a number of trees; conditions would be needed to protect retained trees during the construction of the development. The proposed development would be in accordance with saved Policies NC9 and NC10 of the Dudley Unitary Development Plan.

### Ground Stability

46. The application site falls within an area that was previously subjected to past mining activity and is supported by a Coal Mining Risk Assessment. The site would be subjected to further and continuing ground investigation which includes a small number of rotary open boreholes to identify any coal and/or coal workings which may be within influencing distance of the site and a structural assessment of the existing canal tunnel that runs through the application site.
47. Deep limestone workings beneath the site have been stabilised and there may be coal crops located close to the site. The applicant's advisors consider that it is extremely unlikely that historically they would have jeopardised the safety of the rail network by undermining the site and mined the coal. However, continuing ground investigation will confirm this.

48. Although a rail line originally passed over the canal tunnel this has been abandoned and not operated for many years. The bridge associated with the railway line has been demolished and levels reduced. The proposed development would involve cut and fill to link the proposed recreational route with the Dudley Canal Trust site. Due to the age of the tunnel, an assessment of the integrity of the tunnel will be undertaken to ensure that the proposed development would not result in stability issues. However, any risks have already been greatly reduced due to the demise of the rail network. The proposed mitigation works would ensure compliance with saved Policy UR10 of the Adopted Dudley Unitary Development Plan (2005).

#### Planning Obligations

49. Black Country Core Strategy Policy DEL1 'Infrastructure Provision' sets out the adopted policy framework for Planning Obligations within Dudley and the Planning Obligations SPD provides further detail on the implementation of this policy; these policy documents were prepared in accordance with national legislation and guidance on planning obligations.
50. Policy DEL1 requires all new developments to be supported by sufficient on and off-site infrastructure to serve the development, mitigate its impact on the environment, and ensure that the development is sustainable and contributes to the proper planning of the wider area.
51. In determining the required planning obligations on this specific application the following three tests as set out in the CIL Regulations, in particular Regulation 122, have been applied to ensure that the application is treated on its own merits:
- e) necessary to make the development acceptable in planning terms;
  - d) directly related to the development;
  - e) fairly and reasonably related in scale and kind to the development.

52. Following consideration of the above tests the following planning obligations are required for this application:

On-Site Provision (to be secured by condition)

- Nature Conservation Mitigation and Enhancements in accordance with recommendations set out within this report.

53. The detailed landscaping scheme submitted as part of the planning application includes the proposed nature conservation mitigation and enhancement scheme. Subject to a condition ensuring the delivery of the scheme as shown on the submitted drawings, this would ensure its implementation. This would meet the necessary tests as stated above in that they contribute to the delivery of a sustainable development, are being provided directly on the development site itself and are deemed to be in scale and kind to the proposed development.

54. This development complies with the requirements of BCCS Policy DEL1 and the Planning Obligations SPD.

## CONCLUSION

55. The scheme would help in delivering sustainable development making a positive contribution towards:

- the local economy in the form of delivering the first phase of a major development thereby supporting job creation and the expansion of the visitor economy;
- the creation of a good quality development providing additional opportunities for recreational use in the form of walking and cycling thereby supporting the health and well-being of the local community (social role);
- the enhancement of the natural environment through improvements to biodiversity (environmental role).

56. The proposals would form part of a wider project to develop the site in a way that would assist in the development of the visitor economy of the Borough and in particular an expansion in visitor numbers at the Zoological Gardens, The Black

Country Living Museum and The Dudley Canal Trust as well as facilitating the development and regeneration of Dudley town centre as a centre for entertainment, leisure and recreation.

57. The proposed development would facilitate the delivery of shared visitor facilities for the existing tourist attractions in the form of improved linkages between the site for pedestrians and cyclists. The infrastructure would be set within a landscaped environment that would serve to assimilate the proposed development into the surrounding area whilst also ensuring the delivery of ecological mitigation and enhancement.
58. The proposed development would involve the loss of a number of trees and groups of trees. The loss of the trees would not raise visual amenity concerns and the proposed landscaping scheme would include replacement tree planting in the interests of creating a landscaped setting for the site and to retain the integrity of existing wildlife corridors and ecological habitats.
59. The proposed development would result in the loss of some of the existing habitat. Subject to the implementation of the nature conservation enhancement and mitigation scheme forming part of the overall development and conditions to ensure the delivery of a robust landscaping and public realm strategy, the overriding economic regeneration benefits of the development facilitating improvements to the visitor economy in accordance with regional and local planning policy would outweigh any potential harm arising from the scheme.

## **RECOMMENDATION**

60. It is recommended that the application be APPROVED subject to conditions.

### APPROVAL STATEMENT INFORMATIVE

In dealing with this application the Local Planning Authority have worked with the applicant in a positive and proactive manner, seeking solutions to problems arising in relation to dealing with the application, by seeking to help the applicant resolve



technical detail issues where required and maintaining the delivery of sustainable development. The development would improve the economic, social and environmental concerns of the area and thereby being in accordance with paragraphs 186 and 187 of the National Planning Policy Framework.

#### CANAL AND RIVER TRUST INFORMATIVE

The applicant/developer is advised to contact the Works Engineering Team on 01827 252000 of the Canal and River Trust in order to ensure that any necessary consents are obtained and that the works comply with the Trust's "Code of Practice for Works affecting Canal & River Trust."

#### Conditions and/or reasons:

1. The development hereby permitted shall be begun before the expiration of three years from the date of this permission.
2. The development hereby permitted shall be carried out in accordance with the following approved plans: Figure 1, Rev A, Canal Trust 01 Rev B, Canal Trust 02 Rev A and Canal Trust 04 Rev A.
3. No works should commence, or continue, if the most recent protected species survey and assessment is over 12 months old. These surveys and assessments must be of, or above, the standard detailed within the Nature Conservation SPD. They must include the whole of the site (including appropriate areas adjacent to the site) and be carried out by an experienced and qualified ecological consultant and integrated into a site mitigation plan. All of these must be submitted to and approved in writing by the Council before any works commence (or continue). All works must be carried out in accordance to the approved plan.
4. Before development begins a plan detailing outside lighting will be submitted and approved in writing by the LPA. All works must be carried out in accordance to the approved plan and conform to these requirements for the life of the development. All outside lighting should conform to the Bat Conservation Trust and Institute for Lighting Engineers' guidance 'Bats and lighting in the UK'. It should be close to the ground and directed downwards and away from the surrounding wildlife habitat.
5. Prior to the commencement of development intrusive site investigation works shall be undertaken in order to establish the exact situation regarding the coal mining legacy issues of the site. Should the site investigations confirm the need for remedial works to treat any of the mine entries and/or any areas of shallow mine workings, and/or any other mitigation measures (e.g. gas protection) to ensure the safety and stability of the proposed development, these works should be undertaken prior to the commencement of development.

6. No development shall take place until there has been submitted, and approved in writing by the Local Planning Authority details of the tree protection measures on site. The details shall include:
- a. A plan showing the location and identification (with reference to a survey schedule if necessary) of all trees on, or directly adjacent to the development site, that are to be retained during construction. These trees are to be marked with a continuous outline.
  - b. A plan showing the location and identification (with reference to a survey schedule if necessary) of all the trees on, or directly adjacent to the development site that are to be removed prior to, or during development. These trees are to be marked with a dashed outline.
  - c. A plan showing the extent of the Root Protection Area, which is to be protected by physical barriers during development. The extent of the area that is to be protected will be calculated in accordance with Clause 4.6 of British Standard BS:5837 – 2012 ‘Trees in Relation to Design, Demolition and Construction– Recommendations’.
  - d. Design details of the proposed protective barriers and ground protection to be erected around the trees during development. Any protection barriers should be designed and constructed in accordance with the provisions set out in section 6.2 of British Standard BS:5837 – 2012 ‘Trees in Relation to Design, Demolition and Construction– Recommendations’.
7. No development or other operations shall commence on site or in connection with the development hereby approved, (including any tree felling, tree pruning, demolition works, soil moving, temporary access construction and or widening, or any operations involving the use of motorised vehicles or construction machinery) until a detailed Arboricultural Method Statement has been submitted to and approved in writing by the Local Planning authority. No development or other operations shall take place except in complete accordance with the approved Method Statement. Such method statement shall include full detail of the following:
- Implementation, supervision and monitoring of the approved Tree Protection Plan.
  - Implementation, supervision and monitoring of the approved Treework Specification.
  - Implementation, supervision and monitoring of all approved construction works within any area designated as being fenced off or otherwise protected in the approved Tree Protection Plan.
  - Timing and phasing of arboricultural works in relation to the approved development.

8. No development or other operations shall commence on site or in connection with the development hereby approved, (including any tree felling, tree pruning, demolition works, soil moving, temporary access construction and or widening, or any operations involving the use of motorised vehicles or construction machinery) until a detailed tree felling / pruning specification has been submitted to and approved in writing by the Local Planning Authority. No development or other operations shall commence on site until the approved tree felling and pruning works have been completed. All tree felling and pruning shall be carried out in full accordance with the approved specification and the requirements of British Standard 3998 (2010) Recommendations for Tree Work.
9. All excavations to be undertaken within 6 metres of the stem of existing trees on site shall be undertaken in accordance with NJUG Publication number 10 'Guidelines for the Planning, Installation and Maintenance of Utility Services in proximity to Trees'.
10. No development or other operations shall commence on site in connection with the development hereby approved, (including any tree felling, tree pruning, demolition works, soil moving, temporary access construction and or widening, or any operations involving the use of motorised vehicles or construction machinery) until a detailed service (gas, electricity and telecoms) and foul and surface water drainage layout has been submitted to and approved in writing by the Local Planning Authority. Such layout shall provide for the long term retention of the trees. No development or other operations shall take place except in complete accordance with the approved service/drainage layout.
11. No development shall take place until there has been submitted to and approved in writing by the Local Planning Authority technical details of any proposed pathway / hard surfacing / driveway / parking area within 3 metres of the outer canopy spread of any existing tree situated on or off the site. The details of the vehicular access and parking areas shall include existing and proposed ground levels, materials to be used and the relative time of construction within the whole development and must be in accordance with appropriate guidelines, namely Clause 7.4 of British Standard BS:5837 – 2012 'Trees in Relation to Design, Demolition and Construction—Recommendations' and Arboricultural Advisory & Information Service Practice Note 'Driveways Close to Trees' (1996). Any driveway / parking areas within 3 metres of existing trees must be constructed using "no-dig" techniques incorporating appropriate surfaces to avoid damage to trees and to prevent any potential direct or indirect damage caused by trees.
12. Prior to the commencement of the development details shall be submitted to and approved in writing by the Local Planning Authority of proposed drainage associated with the development. The drainage system should prevent surface water run off into the adjoining highway and land and should adopt sustainable drainage techniques where possible. The scheme shall be implemented in accordance with the approved drainage system and retained for the lifetime of the development.









High profile quality ornamental planting to frontage, including advanced nursery stock tree planting within boundary line to screen the road & promote enclosure of space when viewed from land train route

Fence to level off higher up the bank so that it links to billboard structure at approx 2.4m AGL to discourage climb-over at vulnerable point

Consider the notes on proposed tree planting and fence line

1. Trees planted after fence installation for precise positioning.
2. Trees located 3m away from fence line to discourage fence climbing.
3. Large specimen trees in proximity to fence line so that security cameras can peer under canopies to view fence line.
4. Linked to Point 3 above, tree planting reduced on bank itself to avoid screening of fence.
5. Some planting of smaller tree species concentrated outside the fence line to bulk up existing, provide a backdrop and break the stark appearance of the fence line which will run along the crown of the bank.
6. Quality of railing fence (design sensitive/appropriate to the standard of the Canal Trust proposals, the location of the fence line and the surrounding landscape) to be a prominent feature on the top of the bank.

Completely re-graded bank stabilised with Geo-Jute and sown with wild flower/grass mix. Planting to be done in the autumn to allow time for establishment of the mix. To reduce maintenance on steep bank

Maintenance access gate as and where appropriate

255x125 H82 kerbs to be installed at all corners of fenced areas to provide a clear boundary (where use of bell bollards)

All existing vegetation on the bank above the retaining wall to be removed

1. Increase stability around corner.
2. Lessen impact - view from Canal Trust.
3. Increase strength of wall

Better of wall reduced (inside less steep) at corners to provide a clear boundary and to reduce contamination of land to link this stone path to the main road.

Forestry planting on the side of the land train route comprises mainly semi-native shrub mix to conserve views into the Canal Trust site

View of Canal Trust site and the canal - the fence line should be designed to be visible from the other side of the fence (towards the canal)

Length of railing fence extended for safety reasons near canal revetment and steep bank

Recommend continuing new fence to prevent cast of fencing styles when viewed from the Canal Trust site

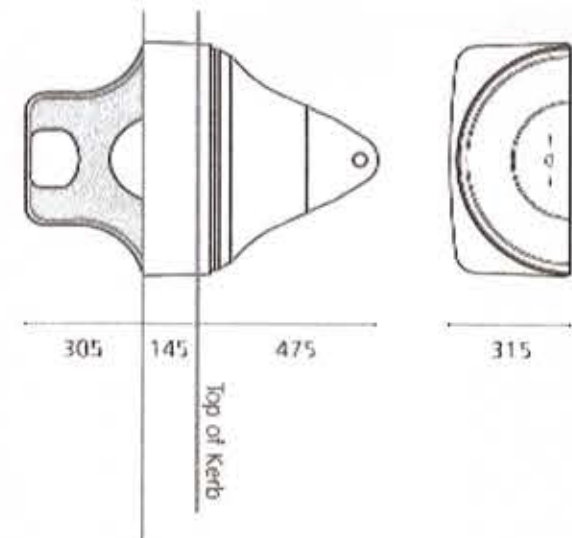
More open setting to re-graded bank to provide orientation and allow light to land train route

Cut and fill only required to track to track level; no retaining wall required

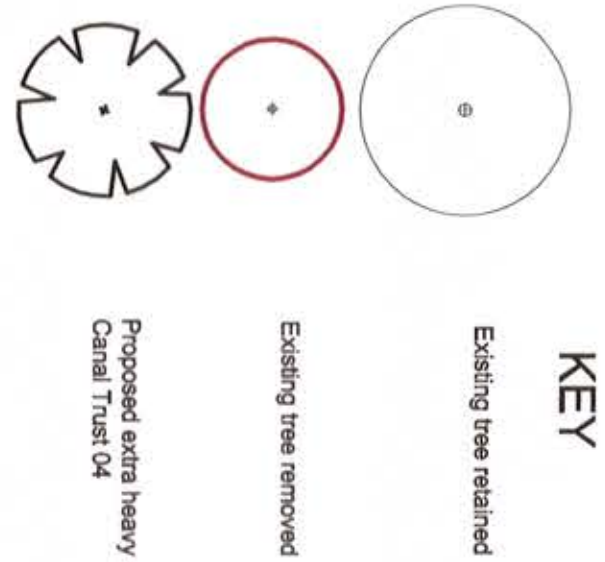
Forestry planting on this side of the land train route to control unwanted views and provide buffer to existing track at the base of the bank



13



BELL - KERBLINE  
BELL 600  
Cast iron traffic bollard  
Weight: 80kg



- Proposed forestry planting - mainly semi-native shrub mix - planted into GreenTech Geo-Jute and seeded with wild flower mix. See Dwg L1324 Canal Trust 04
- Proposed ornamental planting. Planned into Geo-Jute on steep sections. See Dwg L1324 Canal Trust 04
- Proposed mown grass areas
- Proposed wild flower areas
- Crushed stone connection land train route to reduce contamination of surface
- 3.25m width (surface width - inside of kerbs) land train route finished in anti-slip resin bound for its intended use. Care should be taken to ensure appropriate train route elsewhere. Darker tones are recommended such as Criglon Green. Path to be set at a constant grade of 1:20 with 140 crossfalls.
- Existing feature as shown and to be removed as necessary

- Proposed 200x200x1000mm timber bollard stained dark brown
- Cross-section as indicated on Dwg L1324 Canal Trust 02
- Furniture Bell Bollard - Kerbline 600 (Bell 600 - 1/2 bollard) 2.2m intervals. www.furniturebells.com

- Existing level
- Proposed spot level
- Proposed gully as detailed
- Proposed timber post & 3 rail fence, stained dark brown
- Existing boundary fence to be removed on Canal Trust boundary (retain on western boundary to industrial site)
- Proposed conservation style 2m high steel railing boundary fence/black painted. Double access gate to detail indicated and opens inwards to site
- Proposed H82 unless otherwise indicated as BN H82 4N (left hand) and H82BN (right hand). Drop kerbs as indicated

- 2.5m high AS9 Weibull system in green colour comprises 4200 length x 1000 width x 250mm height cellular units filled with 10mm aggregate. See Dwg L1324 Canal Trust 02 & 03

**Wolverhampton**  
City Council  
Landscape and Ecology Practice

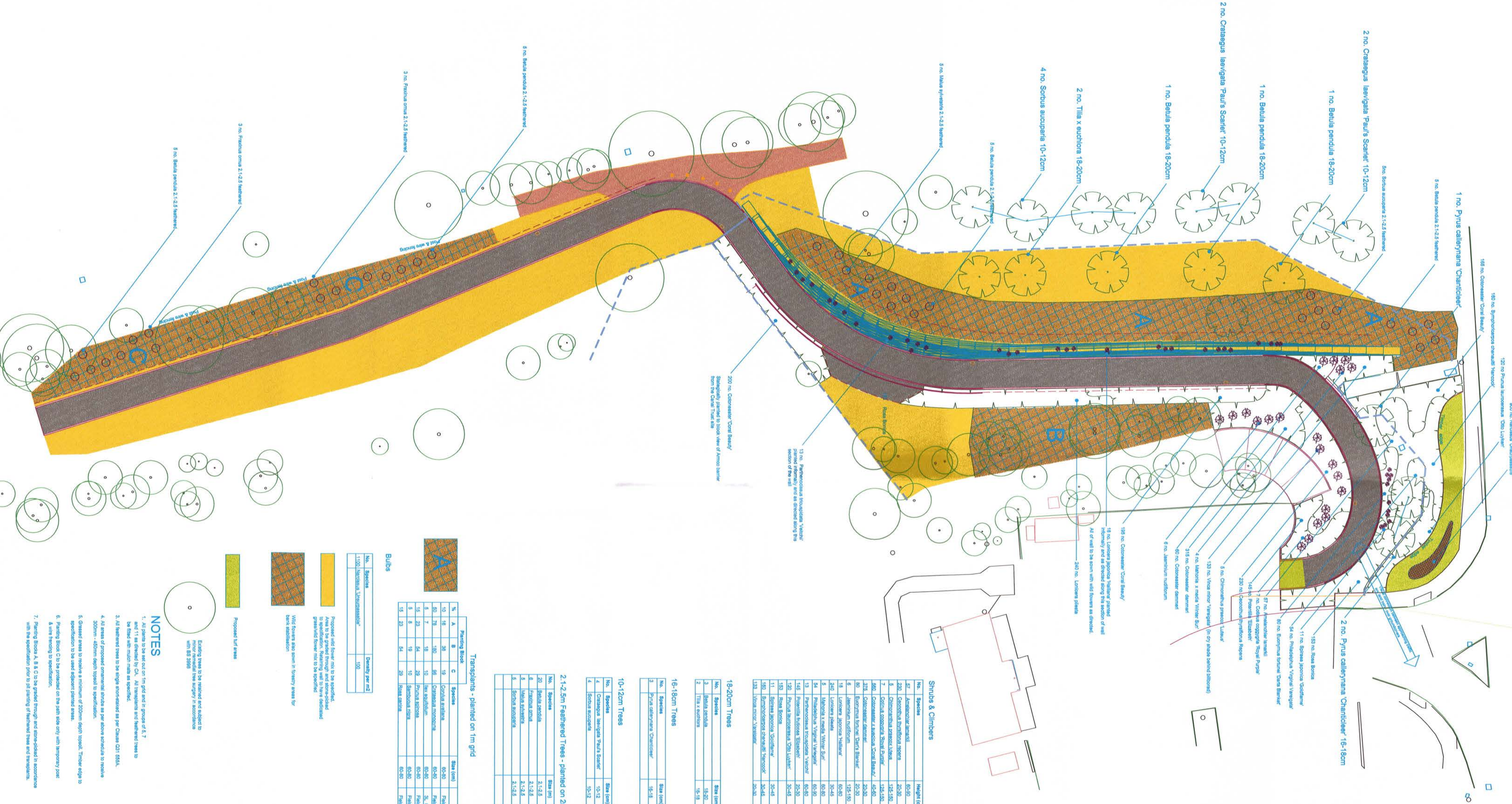
City Services,  
Cathedral Street Depot, Canal Street,  
Wolverhampton WV10 0AN  
Tel: 01902 556423  
Fax: 01902 550899  
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Do not scale from this drawing

DATE	DWG SIZE	DRAWN BY	CHECKED
Jan 2014	1/200	A1	ED D'Vye
JOB NO.	DWG NO.	REV	
L1324	Canal Trust 01	B	



EUROPEAN UNION  
Investing in Your Future  
European Regional  
Development Fund 2007-13





**Notes**

1. All plants to be set out on 1m grid and in groups of 5, 7 and 11 as directed by CA. All transplants and feathered trees to be filled with multi media as specified.

2. All feathered trees to be single anchored as per Clause 101.05.04.

3. All areas of proposed ornamental areas are per above schedule to receive 200mm - 400mm depth topsoil to specification.

4. All areas of proposed ornamental areas are per above schedule to receive 200mm - 400mm depth topsoil to specification.

5. Grassed areas to be protected on the path side only with temporary post and wire fencing to specification.

6. Planting Block C to be protected on the path side only with temporary post and wire fencing to specification.

7. Planting Blocks A, B & C to be protected through and surrounded by appropriate with the specification prior to all planting of feathered trees and transplants.

**Transplants - planted on 1m grid**

No.	Species	Density per m2
100	<i>Prunus laurocerasus</i>	100

**Bulbs**

No.	Species	Density per m2
1000	<i>Hyacinthus orientalis</i>	1000

**10-12cm Trees**

No.	Species	Size (cm)	Specification
1	<i>Prunus laurocerasus</i>	10-12	Root balled
2	<i>Prunus laurocerasus</i>	10-12	Root balled

**16-18cm Trees**

No.	Species	Size (cm)	Specification
1	<i>Prunus laurocerasus</i>	16-18	Root balled
2	<i>Prunus laurocerasus</i>	16-18	Root balled

**18-20cm Trees**

No.	Species	Size (cm)	Specification
1	<i>Prunus laurocerasus</i>	18-20	Root balled
2	<i>Prunus laurocerasus</i>	18-20	Root balled

**Shrubs & Climbers**

No.	Species	Height (cm)	Post Size (L)	Min Breaks	Density per m2
1	<i>Prunus laurocerasus</i>	10-12	3	3	3
2	<i>Prunus laurocerasus</i>	10-12	3	3	3
3	<i>Prunus laurocerasus</i>	10-12	3	3	3
4	<i>Prunus laurocerasus</i>	10-12	3	3	3
5	<i>Prunus laurocerasus</i>	10-12	3	3	3
6	<i>Prunus laurocerasus</i>	10-12	3	3	3
7	<i>Prunus laurocerasus</i>	10-12	3	3	3
8	<i>Prunus laurocerasus</i>	10-12	3	3	3
9	<i>Prunus laurocerasus</i>	10-12	3	3	3
10	<i>Prunus laurocerasus</i>	10-12	3	3	3
11	<i>Prunus laurocerasus</i>	10-12	3	3	3
12	<i>Prunus laurocerasus</i>	10-12	3	3	3
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99	<i>Prunus laurocerasus</i>	10-12	3	3	3
100	<i>Prunus laurocerasus</i>	10-12	3	3	3

**Wolverhampton City Council**

**Landscaping and Ecology Practice**

City Services  
Oliver Street Depot, Canal Street  
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**Project**

**Castle Hill Development**

**Dudley Canal Trust**

**Planting Proposals**

**Site**

**Jan 2014**

**1/200**

**A1**

**Ed Doyle**

**REV**

**L1324**

**Canal Trust 04**

**A**



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**DEVELOPMENT CONTROL COMMITTEE**

**JOINT REPORT OF THE DIRECTOR OF CORPORATE RESOURCES AND THE  
DIRECTOR OF THE URBAN ENVIRONMENT**

**ENFORCEMENT ACTION**

**PURPOSE OF REPORT**

1. To consider whether enforcement action should be authorised in respect of the case(s) referred to in the Appendix to this report.

**BACKGROUND**

2. Section 172(1) of the Town and Country Planning Act 1990, provides that, where it appears to a Local Planning Authority that there has been a breach of planning control then the Authority may issue an Enforcement Notice requiring the breach to be remedied. However, before making this decision, the Authority must consider that enforcement action is expedient having regard to the provisions of the development plan and to any other material consideration.
3. A breach of planning control is as follows:
  - (a) Where development has been carried out without the grant of planning permission or;
  - (b) If any condition or limitation subject to which planning permission was granted has not been complied with
  - (c) A material change of use of land has taken place.
4. For certain types of breach of planning control an Enforcement Notice only be issued within four years from the date of the breach. The four year rule relates to:
  - (a) The carrying out without planning permission of building, engineering, mining or other operations in, on over or under land.
  - (b) Change of use to use as a dwelling house.
5. In the case of any other breach of planning control no enforcement action may be taken after the end of the period of ten years beginning with the date of the breach.
6. Under Section 187A of the Town and Country Planning Act 1990, the Council may issue a breach of condition notice against which there is no right of appeal. Failure to comply with the notice results in a summary offence. This power should only be exercised where the planning condition is clear and precise. There are two statutory defences to a prosecution namely:



- (a) The defendant took all reasonable steps to secure compliance with the condition.
  - (b) The defendant no longer has control of the land to which the enforcement notice relates.
7. The Enforcement Notice must be served on the owner and occupiers of the land and any person having an interest in the land which, in the opinion of the Authority, will be materially affected by the Notice. In addition, the notice must be served at least 28 days before the date on which it comes into effect.
- The notice must:
- (a) Specify the breach of planning control
  - (b) The steps required to remedy the breach or any steps which are to be taken either to make the development comply with the planning permission previously granted or remove or alleviate any injury to amenity caused by the development.
  - (c) Specify the period for compliance.
  - (d) The reasons why the Authority consider it expedient to issue an Enforcement Notice.
8. Any person served with an Enforcement Notice other than a breach of condition notice may appeal against it to the Secretary of State for the Environment at any time before the Notice comes into effect. Pending the outcome of any such appeal the Enforcement Notice will be of no effect.
9. Circular 10/97, Planning Policy Guidance 18 from the Department for Transport, Local Government and the Regions makes it clear that enforcement action should only be taken when it is clearly justified on planning grounds and there is no suitable alternative means of remedying a clear breach of planning control. In other words, an Enforce Notice should only be issued as a last resort. If the Authority consider it unlikely that they would grant planning permission for a development they should warn the developer or his agent that they may be compelled to issue an Enforcement Notice unless the breach of planning control is remedied.

## **FINANCE**

10. There are no direct financial consequences arising from this report although the Committee may wish to bear in mind that, on any subsequent appeal to the Secretary of State for the Environment, an award of costs may be made against the Council if it is found that Enforcement Action was unreasonable, vexatious or frivolous.

## **LAW**

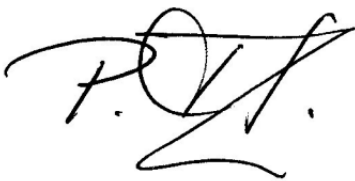
11. The relevant statutory provisions and Planning Policy Guidance from the Department for Transport, Local Government and the Regions (DTLR) have been referred to in paragraphs 2, 6 and 9 of this report.

## **EQUALITY IMPACT**

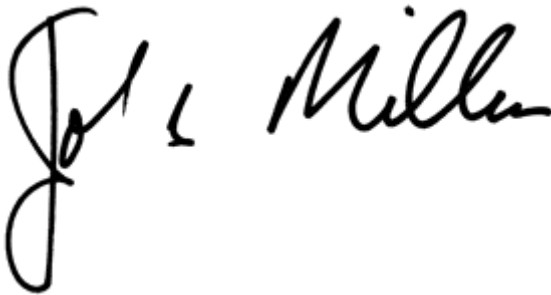
12. The proposals take into account the Council's Equality and Diversity Policy.

## **RECOMMENDATION**

13. It is recommended that enforcement action should be authorised in respect of the case(s) referred to in the Appendix to this report.



.....  
DIRECTOR OF CORPORATE RESOURCES



.....  
DIRECTOR OF THE URBAN ENVIRONMENT

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WARDS AFFECTED:  
Netherton, Woodside and St.  
Andrew's

REPORT TO DEVELOPMENT CONTROL COMMITTEE SEEKING  
AUTHORITY FOR ENFORCEMENT ACTION

**ENFORCEMENT**

LOCATION

2, Fulwood Crescent, Dudley, DY2 0SQ

REF

F/134/02/01/N

**BACKGROUND**

1. This report relates to unauthorised works which have been undertaken to a domestic dwelling house. Specifically, a front canopy has been erected and brown plastic pillars added without the necessary planning permission.
- 2 The property is a semi-detached house to which several extensions and alterations have been made over the years. These include a two storey side extension, a single storey side extension and a single storey rear extension.
- 3 In addition to the previous additions to the property, a planning application (reference P11/1623) was submitted in December 2011 which proposed the erection of a single storey side extension and the addition of a decorative canopy, supported by brick columns, to stretch across part of the property's frontage. This application was approved in March 2012. However, in August 2012 it came to the attention of officers that the development had not been completed in accordance with the approved plans. Specifically, the canopy had been erected across the whole of the property's front elevation, rather than across

part of it as had been approved, and also the canopy was being supported by brown plastic columns, rather than by brick columns as had been approved. A canopy of this scale and design had originally been proposed when planning application P11/1623 was submitted, however following the expression of concern by the Local Authority that the proposed design would result in the canopy appearing overly prominent and visually incongruous, the design was amended by the applicant to that which was subsequently approved. The completed development therefore followed the original proposed design despite this having being deemed unacceptable in planning terms.

- 4 The resulting enforcement investigation confirmed that a planning breach had taken place and the property owners were therefore invited to submit a retrospective planning application to regularise the breach. This application (reference P13/0526) was received in October 2012.
- 5 Planning application P13/0526 was assessed against the usual planning criteria, and was refused under delegated powers on 3<sup>rd</sup> December 2012. The following reason was given for refusal of the application: -

*The scale, design and materials of the front canopy roof and pillars are inappropriate additions for a dwelling of this type, being visually unsympathetic to the traditional style of the property itself and failing to respect the character of the wider locality. These additions to the property appear incongruous and discordant in the street scene. The development is thus contrary to BCCS policies ENV2 & 3, saved policy DD4 -Development in Residential Areas of the adopted Dudley Unitary Development Plan (2005) and Supplementary Planning Guidance Note 17 – House Extension Design Guide.*

- 6 Following refusal of the application, the applicants submitted an appeal to the Planning Inspectorate seeking to overturn the decision. This appeal was duly considered and was dismissed by the Inspector in

early 2014. In dismissing the appeal, the Inspector concurred with the Local Authority's view that the materials which had been used in the development were obtrusive and inappropriate in their surroundings, and that the scale of the canopy was such that it appeared overly dominant, particularly in this prominent elevated location. The Inspector therefore held that the development was harmful to the character and appearance of the area and was therefore unacceptable.

- 7 In light of the reasons given for the refusal of the application, and the fact that the unauthorised canopy and pillars remain in place, it is now considered necessary to take formal enforcement action against the unauthorised development which has taken place. This report therefore seeks authority for the service of an Enforcement Notice on the property. It is proposed that the Notice should require the property owners either to reverse the unauthorised development by removing entirely the canopy and pillars, or to implement the scheme previously approved under application P11/1623, which proposed a similar smaller canopy constructed of more appropriate materials.

## **BREACH OF PLANNING CONTROL**

Without planning permission, and within the last four years, the erection of a section of canopy to the front of the property and also the installation of four supporting brown plastic pillars.

## **WHAT IS REQUIRED TO BE DONE**

### **EITHER**

- i) Demolition of the whole of the front canopy including the unauthorised section and the section which is supported by the unauthorised pillars.

### **OR**

- ii) The removal of the unauthorised section of canopy and of the four brown plastic pillars, and the replacement of the plastic pillars with brick pillars,



as shown in the attached drawing (taken from the plan 'Job no. 4498 – Drawing No. 02 - Revisions B'), which was approved under planning application P11/1623.

- iii) Whether option (i) or (ii) is taken, any building materials, debris and other waste which is produced during the works must also be removed.

#### **TIME FOR COMPLIANCE**

Two months after this notice takes effect.

#### **REASONS FOR ENFORCEMENT**

The scale, design and materials of the front canopy roof and pillars are inappropriate additions for a dwelling of this type, being visually unsympathetic to the traditional style of the property itself and failing to respect the character of the wider locality. These additions to the property appear incongruous and discordant in the street scene. The development is thus contrary to BCCS policies ENV2 & 3, saved policy DD4 -Development in Residential Areas of the adopted Dudley Unitary Development Plan (2005) and Supplementary Planning Guidance Note 17 – House Extension Design Guide.

#### **ENCLOSURES:**

1. Excerpt from the plan 'Job no. 4498 – Drawing No. 02 - Revisions B', which was approved under planning application P11/1623, showing the extent of the approved canopy and the brick pillars which were also granted consent at that time.
2. Photograph showing the development as it currently stands.

#### **RECOMMENDATION**

It is recommended that enforcement action is authorised against the unauthorised canopy and pillars.

**Location Map showing site location**



**Extract from plans approved under application P11/1623 which show the width of the approved canopy and the approved brick pillars**



It is recommended that enforcement action is authorised against the unauthorised canopy and pillars.

**Location Map showing site location**



**Extract from plans approved under application P11/1623 which show the width of the approved canopy and the approved brick pillars**



**Photographs showing the current unauthorised development No. 2**  
**Fulwood Crescent**

