

PLANNING APPLICATION NUMBER: P09/1681

Type of approval sought	FULL PLANNING PERMISSION
Ward	HAYLEY GREEN & CRADLEY SOUTH
Applicant	DEAN NOCK
Location:	ROSE & CROWN, HAGLEY ROAD, HALESOWEN, B63 4JP
Proposal:	ERECTION OF SMOKING SHELTER (RETROSPECTIVE) (RESUBMISSION OF REFUSED APPLICATION P09/0863)
Recommendation summary:	APPROVE SUBJECT TO CONDITIONS

SITE AND SURROUNDINGS

1. The application site measures 2470 square metres and comprises a two storey public house built during the 1950's with its associated car parking area and beer garden. The site is located within a predominantly residential area comprising a mix of house types. The southern boundary of the site is adjoined by the rear boundaries of semi detached dwellings located in Huntlands Road. The northern boundary is adjoined by the side boundary of a detached dwelling and opposite the site there are terraced dwellings.

PROPOSAL

2. The proposal seeks the erection of a smoking shelter (Retrospective) (Resubmission of refused application P09/0863). The structure is located 9.5m from the rear of the public house and 15m from the rear of dwellings in Huntlands Road. The summer house is rectangular in shape and measures 5.6 metres wide and 4.5 metres deep. The shelter stands 3 metres high and comprises wooden panelling and open sections forming the sides, windows and door openings. Outside the smoking shelter are located 13 No. seating areas, bins and an external storage area.
3. The application is accompanied by a design & access statement, which states that since the recent refusal of P09/0863, television monitors and internal lighting have been removed from the shelter. It is proposed to remove some of the timber panels forming

the sides of the shelter in order to conform with the 50% open side rule for smoking shelters.

HISTORY

4. None relevant

APPLICATION No.	PROPOSAL	DECISION	DATE
P09/0863	Erection of summer house (Retrospective)	Refused	28.8.09

PUBLIC CONSULTATION

5. Direct neighbour consultation has been undertaken, to which there have been 3 objections received on the following grounds:

- Unacceptable increase in the level of noise and disturbance caused by customers to surrounding residents, since the erection of the summer house. Regardless of any modification, this will remain an issue. Noise levels at weekends have increased recently.
- New licensing regulations extended outside drinking times, whereby allowing people to drink outside until 11.30 pm in the week and 12.30 am on Fridays and Saturdays. This has ruined the enjoyment of homes of the surrounding residents. One of the letters confirms no objection to use as a smoking shelter, but not as a place of entertainment as previously

6. One letter of support has been received on the following basis:

- The smoking shelter is a well designed structure, which would conform with smoking regulations and would encourage customers to use, preventing them from congregating on the pavement at the front of the public house and causing obstruction to pedestrians.

OTHER CONSULTATION

7. Head of Environmental Health: Further to the comments made in relation to application number P09/0863, it is reiterated that whilst conditions could be applied restricting the use of amplification equipment within and outside the structure, conditions cannot control the general behaviour, movement and activities of its users.
8. Presence of the shelter as highlighted in the design and access statement will attract people to this area at times when they would usually not e.g. in light rain, late evening etc as will presence of tables and chairs however, use as a smoking shelter is likely to attract fewer people for shorter lengths of time than the summerhouse as described by the previous application. There have been previous complaints about noise from the use of the current structure (as a summerhouse) relating to client behaviour and use of the TV. Given that the proposals are now for a smoking shelter only, it is recommended that temporary approval is granted in order to establish if there is likely to be loss of amenity to neighbouring residents from this use, subject to condition to prevent use of external forms of live or amplified music, televisions or external speakers to be used within the smoking shelter at any time.

RELEVANT PLANNING POLICY

9. Unitary Development Plan (UDP) (adopted 2005)

Policy DD4 - Development in Residential Areas

Policy EP7 - Noise Pollution

10. Regional Spatial Strategy

QE3 - Creating a high quality built environment for all

ASSESSMENT

11. The Public House use has been established since at least the 1950's. The seating area within the rear parking area has been established in a similar location for some time and is a facility that would normally be associated with a Public House use, however, it has

gradually increased in size from 2005, with the addition of mini marquees providing shelter over by 2006.

12. There have been objections and a letter of support received from the surrounding residents on the grounds of noise pollution.

13. The Head of Environmental Protection provided comments further to those provided in relation to application number P09/0863. These comments reiterated that conditions cannot control the general behaviour, movement and activities of its users. However, following removal of entertainment, lighting and side timber panels to conform with 'The Smoke-Free (Premises & Enforcement) Regulations 2006, it is considered that use as a smoking shelter is likely to attract fewer people for shorter lengths of time than the summerhouse as described by the previous application. It is therefore considered that temporary approval is considered appropriate, in order to establish if there is likely to be a loss of amenity to neighbouring residents arising from this use. Subject to conditions, the proposal is considered to comply with Policy EP7 of the Adopted Dudley Unitary Development Plan (2005).

CONCLUSION

14. The proposed use as a smoking shelter is a necessary facility in connection with the established Public House use, which would be likely to attract fewer people for shorter lengths of time than as a summerhouse. It is therefore considered that temporary approval is appropriate, in order to establish if there is likely to be loss of amenity to neighbouring residents from this use and subject to condition the proposal would comply with Policy EP7 of the Adopted Dudley Unitary Development Plan (2005).

RECOMMENDATION

15. It is recommended that the application be approved subject to the following conditions:

Reason for Approval

16. The proposed use as a smoking shelter is a necessary facility in connection with the established Public House use, which would be likely to attract fewer people for shorter lengths of time than the summerhouse. It is therefore considered that temporary

approval is considered appropriate, in order to establish if there is likely to be loss of amenity to neighbouring residents from this use, subject to condition. The proposal would thus comply with Policy EP7 of the Adopted Dudley Unitary Development Plan (2005).

The decision to grant planning permission has been taken with regard to the policies and proposals in the adopted Dudley Unitary Development Plan (2005) and to all other relevant material considerations.

The above is intended as a summary of the reasons of the grant of planning permission. For further detail on the decision please see the application report.

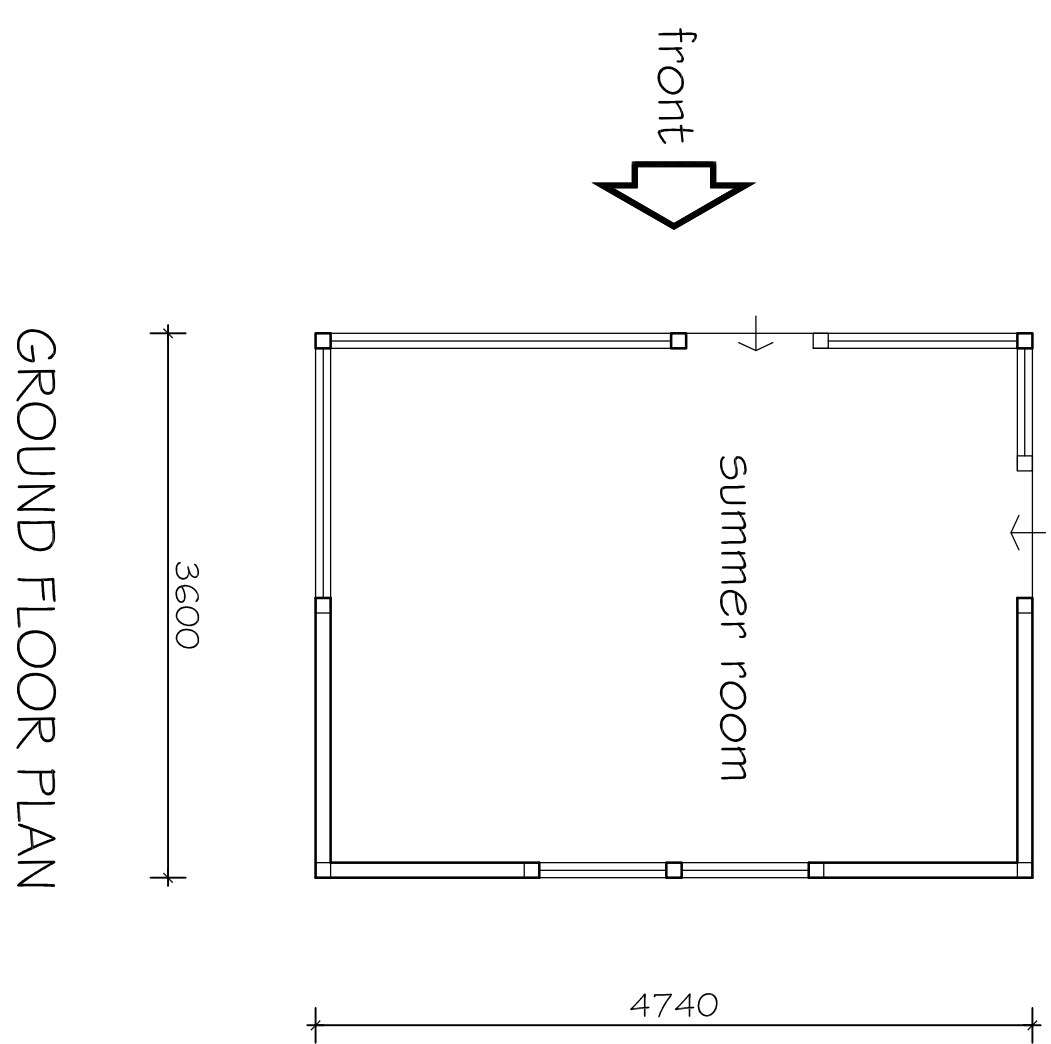
NOTE FOR APPLICANT:

The development hereby permitted shall be built in accordance with the approved plan numbered 28/05/09, unless otherwise agreed in writing by the Local Planning Authority.

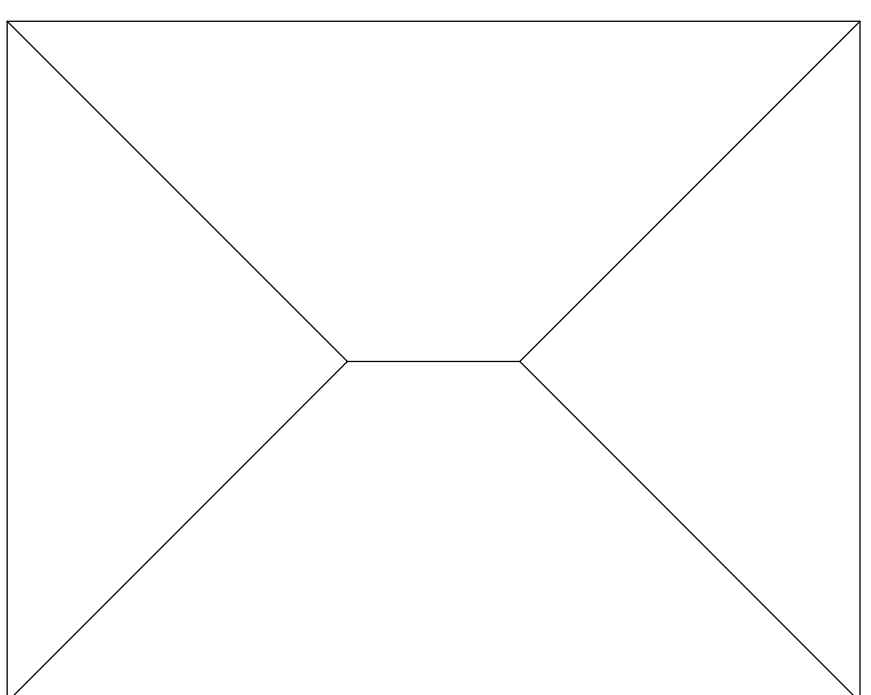
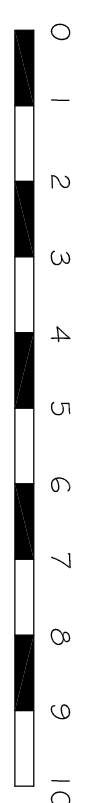
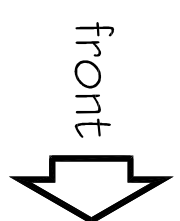
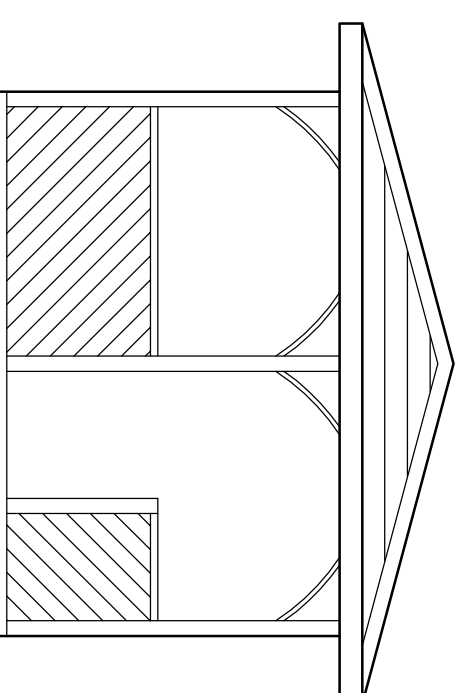
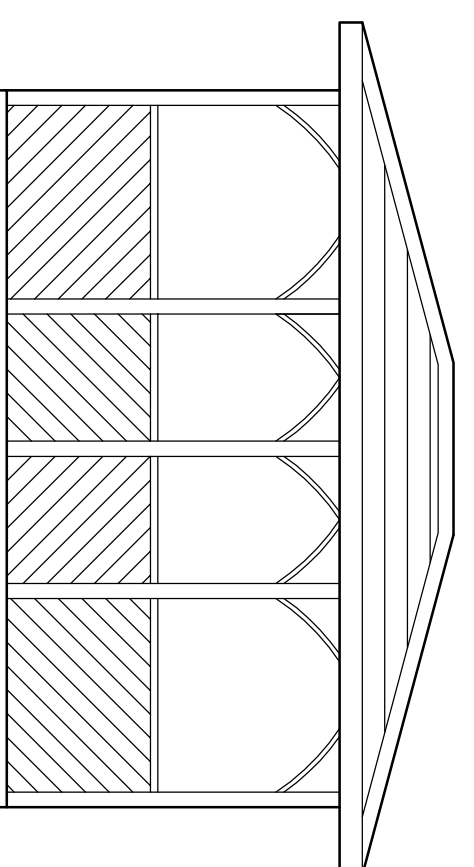
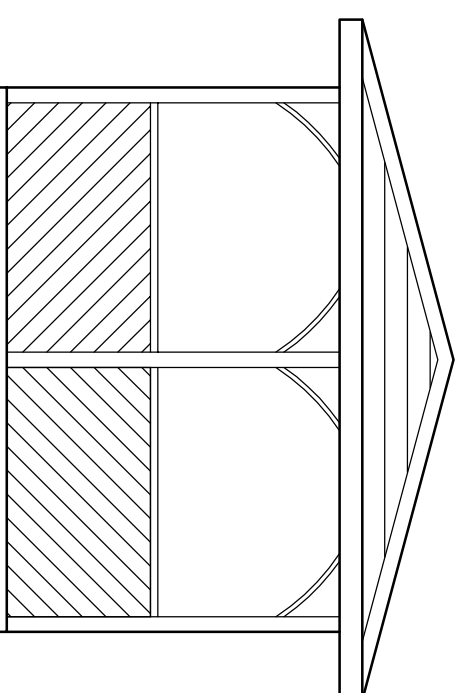
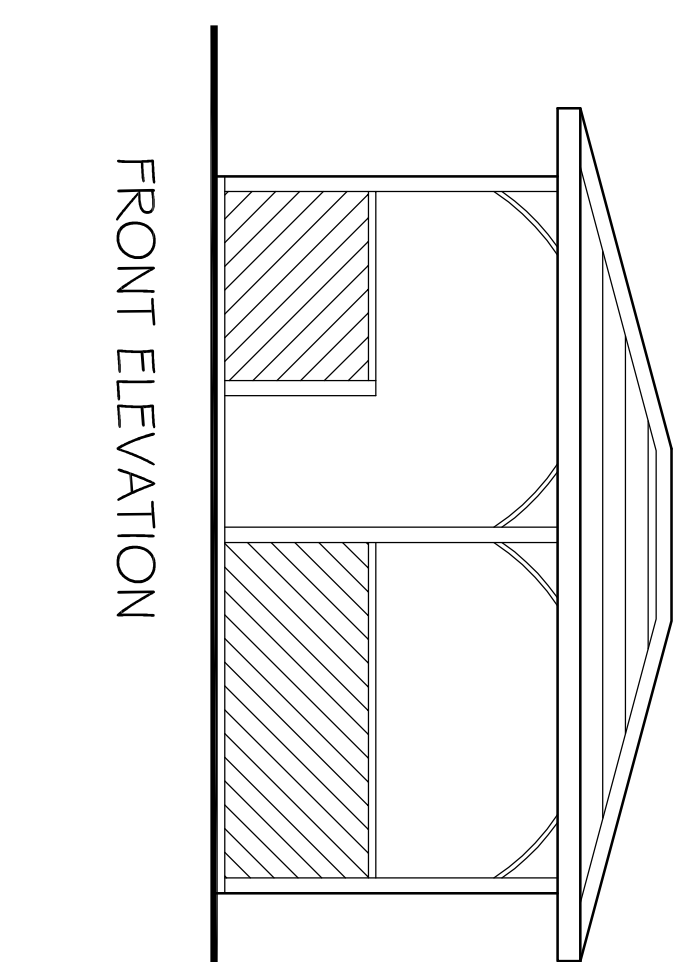
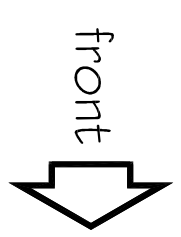
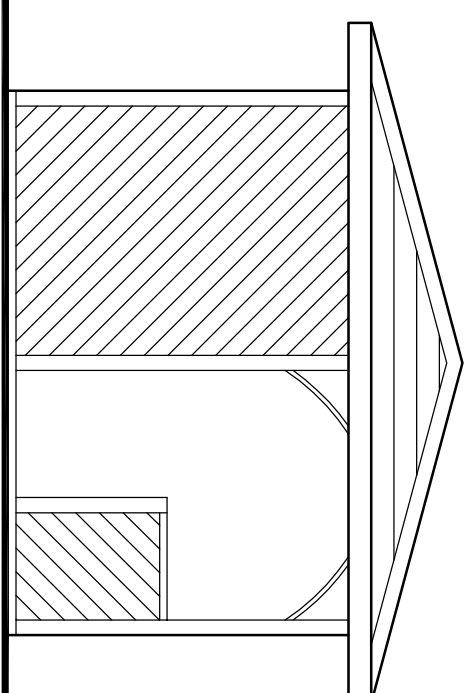
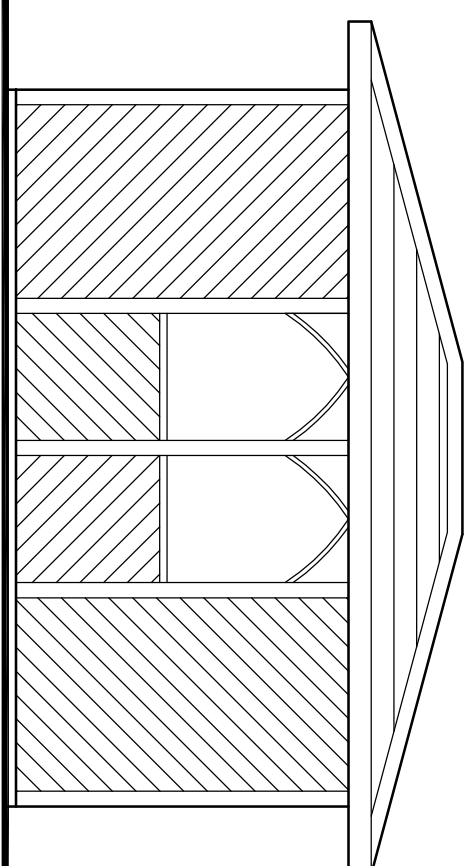
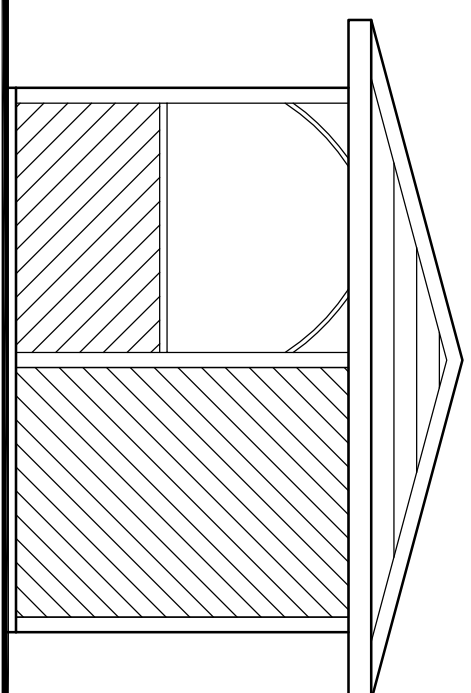
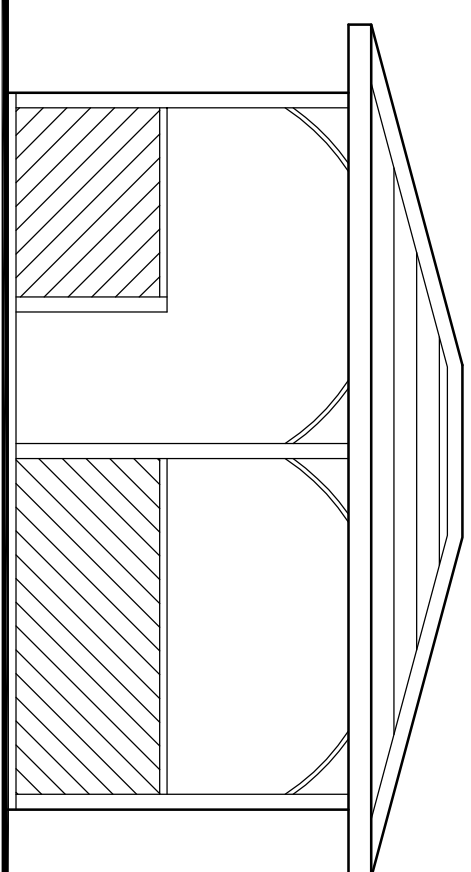
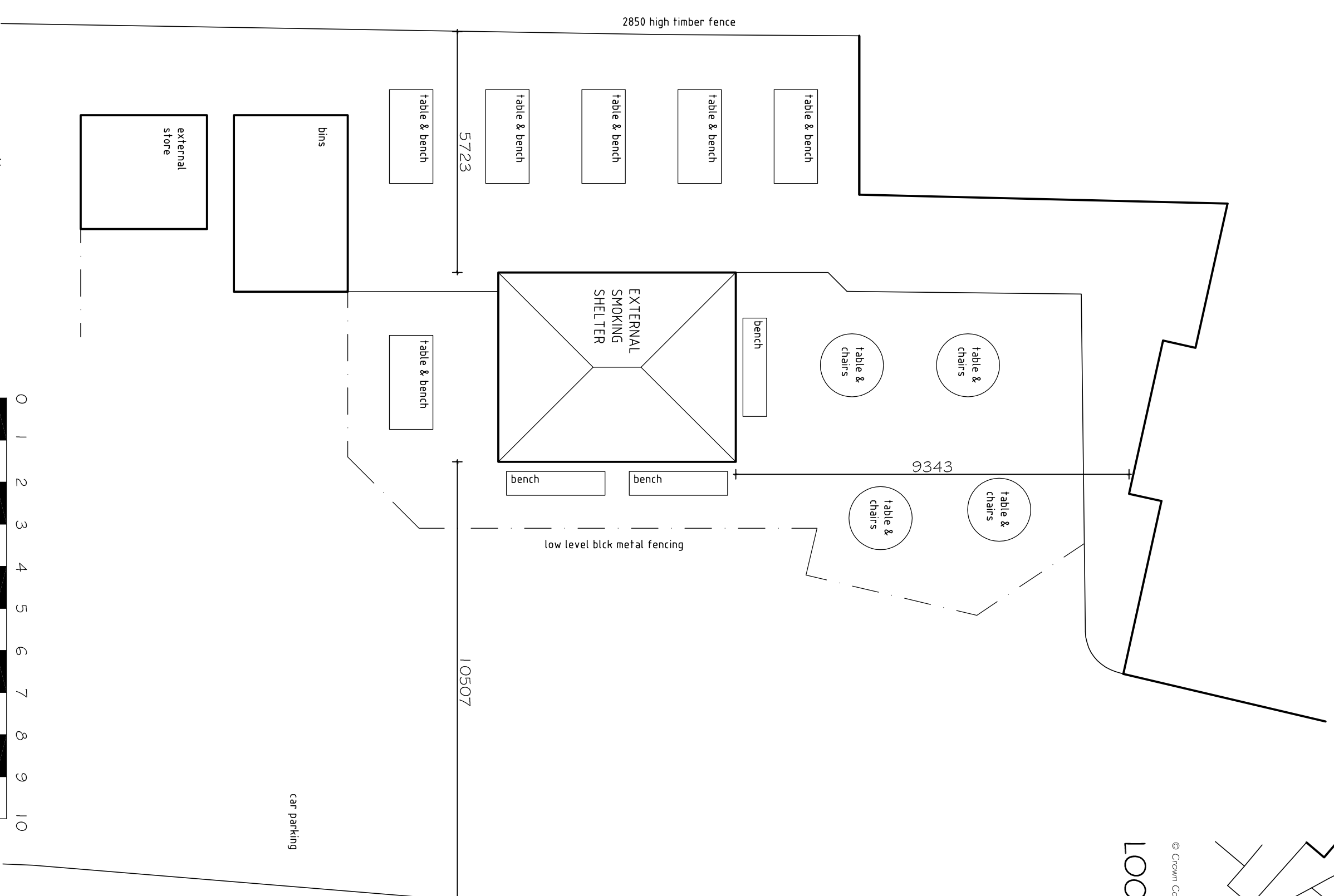
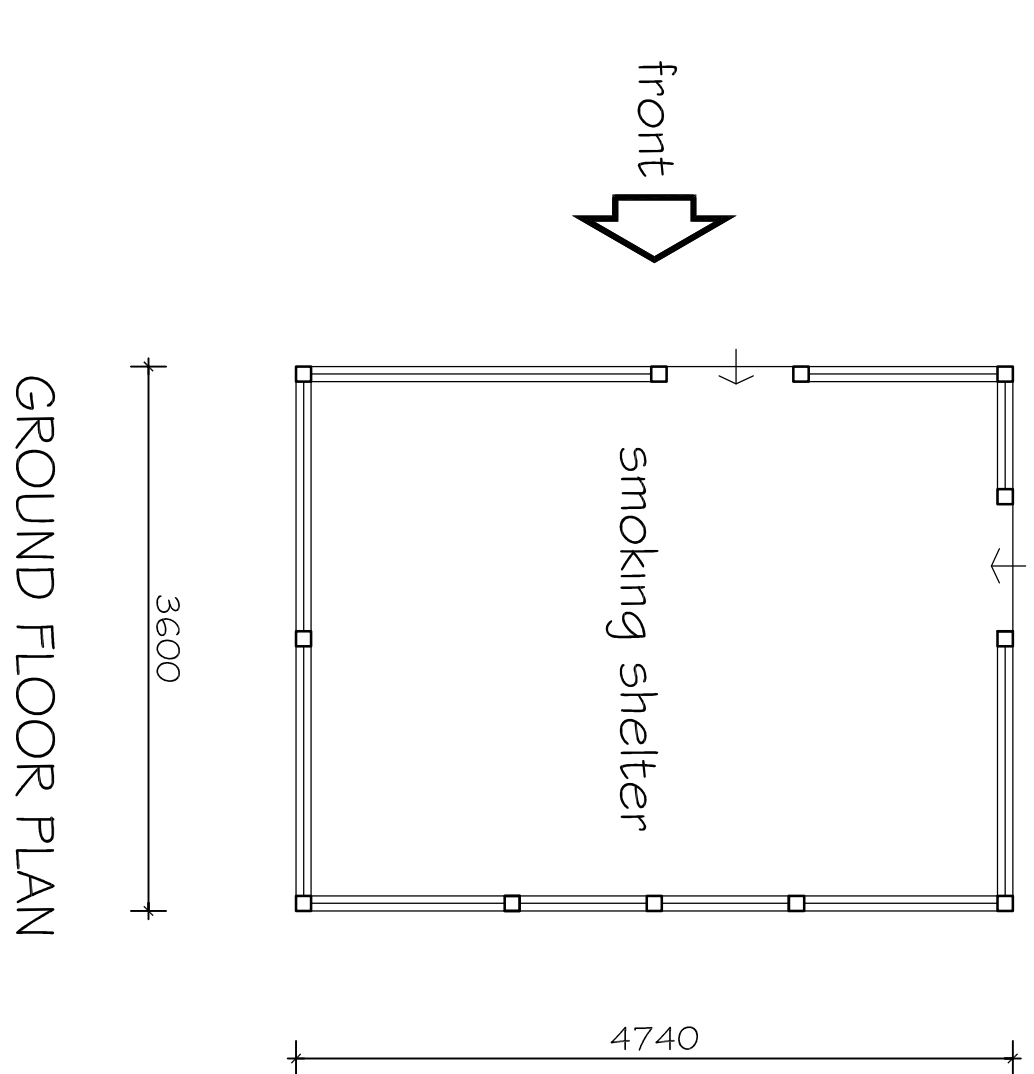
Conditions and/or reasons:

1. BA19I Temporary consent
2. No form of live or amplified music, televisions or external speakers shall be used within the smoking shelter at any time.

EXISTING



PROPOSED



NOTES:

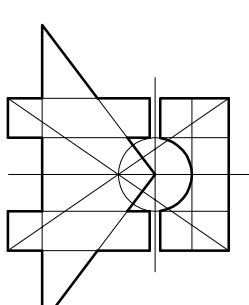
BROWN FELT ROOF TILES,
GREEN TIMBER FRAMING, FLOOR &
DIAGONAL SHIP LAP BOARDING

Rev A: scheme revised following planning refusal 25 nov 2005

SPRINGFIELD

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client
The Rose & Crown Public House

project
Hagley Road
Halesowen B63 4JF

drawing

External Smoking Shelter

Nov 2009 1:50

Warning number
28/05/09

rev	drawing number
A	001051000

ROOF PLAN

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LOCATION PLAN 1:12500