

PLANNING APPLICATION NUMBER:P07/1715

Type of approval sought	Full Planning Permission
Ward	LYE & WOLLESCOTE
Applicant	Mr Munir
Location:	48 - 49, HIGH STREET, LYE, STOURBRIDGE, WEST MIDLANDS, DY9 8LQ
Proposal	CHANGE OF USE FROM (A1) RETAIL TO (A3) RESTAURANT WITH TAKEAWAY FACILITY. TWO STOREY SIDE AND REAR EXTENSIONS AND ERECTION OF EMERGENCY EXIST STAIRS. CREATION OF 8 NO. BEDSITS.
Recommendation Summary:	APPROVE SUBJECT TO A 106 AGREEMENT

SITE AND SURROUNDINGS

1. The site is located at the eastern end of Lye High Street and consists of two buildings, one being in retail use (no.48), the other (no.49) in use as a takeaway. Both buildings are locally listed. The site forms part of a parade of buildings in commercial use. Immediately in front of the buildings is a vehicle parking layby. At the rear of no.49 there is a service yard and parking area accessed from the High Street. Both buildings have residential accommodation at first and second floor (3no. flats in total).

PROPOSAL

2. Permission is sought to use the site as a restaurant and take away, with opening hours of 11 a.m. – 11 p.m. A two storey side/rear extension is proposed to provide additional floor space for the proposed use at ground floor and increased residential accommodation space at first and second floor (8no.bedrooms are to be created, with communal lounge, kitchen and bathroom facilities).

HISTORY

3. None relevant.

PUBLIC CONSULTATION.

4. The Reverend of Christ Church on the High Street objects to the proposal on the grounds of over-proliferation of restaurants and takeaways on the High Street.

OTHER CONSULTATION

5. Group Engineer – (Development): no objection to the application.
6. The Head of Environmental Protection: no objection subject to conditions, including a restriction on the occupation of the proposed flats to members of the owners' family and persons employed at the restaurant/takeaway only.

RELEVANT PLANNING POLICY

7. Adopted UDP

DD8 (Provision of Open Space, Sport and Recreation Facilities);

CR5 (Regeneration and Development of Centres);

CR11 (Retail (A3) Uses);

HE5 (Buildings of Local Historic Importance);

AM14 (Parking)

ASSESSMENT

8. Key Issues

- Principle of the proposed use;
- Impact on the locally listed buildings;
- Residential amenity;
- Parking/highway safety;
- Planning obligations.

9. Principle of the Use

The site lies outside of the protected frontages area of Lye High Street and therefore there is no objection in principle to the loss of the retail unit. Policy CR5 of the UDP

identifies established centres as being the primary location for A3 uses, as well as a preferred location for new residential development.

10. Locally Listed Buildings

Policy HE5 of the UDP states that the Council will resist development which will involve inappropriate alteration or extension to buildings on the Local List. The proposal involves minor alterations to the existing shop fronts and the addition/insertion of new windows and doors on the side elevations, in addition to the proposed two storey side/rear extension. These works will alter the appearance of the buildings, although the essential fabric of the buildings (particularly on the front elevations) which gives them their special character will be retained. Historic Environment Officers have expressed support for the proposal, subject to conditions requiring different (more appropriate) materials to be used on the proposed shop front from those shown on the submitted plans.

11. Residential Amenity

Policy CR11 states that permission for A3 uses in local centres will normally be granted unless there would be an adverse impact on environmental quality, residential amenity, or public or highway safety. The Head of Environmental Protection is satisfied that the use would not have any detrimental impact on environmental quality and residential amenity subject to the imposition of conditions relating to the submission of details of the proposed fume extract system and a restriction on noise levels from plant and machinery. In addition, because there is potential for future occupants of the proposed flats to be adversely affected by noise and odour, the Head of Environmental Protection recommends that a condition should be imposed restricting occupation. However Circular 11/95 advises that such conditions are undesirable except in special circumstances, and case law has previously held that this type of restriction is likely to be unreasonable and possibly unenforceable. The proposed use would have no greater impact on amenity at other nearby residential properties than that resulting from the existing takeaways and restaurants along the High Street.

12. Parking/Highway Safety

The Group Engineer – Development has no objection to the proposal. Policy AM14 of the UDP seeks to reduce reliance on car usage and reduce congestion. This is a sustainable location, within walking distance of local catchment areas and well served by public transport. Existing parking provision at the rear of the site is considered sufficient to meet the needs of the future occupants of the building. Customers of the restaurant can park their vehicles in one of the many existing car parks in the vicinity of the site, whilst customers collecting a takeaway can park in the short stay layby immediately to the front of the site. It is therefore considered that the proposed use would not have any adverse effect on highway safety.

13. Planning Obligations

In accordance with Policies DD7 and DD8 of the UDP and adopted SPD 'Detailed Guidance on Open Space, Sport and Recreation Provision' the development attracts a requirement for a commuted sum to be paid. This can be dealt with in a legal agreement to accompany the application. Members should note that this application was submitted prior to the adoption of the Planning Obligations SPD and therefore the sum will be towards the provision and enhancement of public open space and play areas only.

CONCLUSION

14. The proposed use of the buildings is acceptable in principle in the local centre and would not have any adverse effect on environmental quality, residential amenity, or highway safety. The proposed alterations to the buildings will not have any detrimental effect on their special character. As such the proposal is in accordance with Policies CR5, CR11 and HE5 of the UDP.

RECOMMENDATION

15. It is recommended that planning permission be granted subject to the following conditions:

REASON FOR APPROVAL

The proposed use of the buildings is acceptable in principle in the local centre and would not have any adverse effect on environmental quality, residential amenity, or highway safety. The proposed alterations to the buildings will not have any detrimental effect on their special character.

The decision to grant planning permission has been taken with regard to the policies and proposals in the Dudley Unitary Development Plan set out below and to all relevant material considerations including supplementary planning guidance:

CR5 (Regeneration and Development of Centres);

CR11 (Retail (A3) Uses);

HE5 (Buildings of Local Historic Importance);

AM14 (Parking)

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

NOTE FOR APPLICANT: For the avoidance of doubt, this permission relates to the following plans dated 28/12/07: shopfront & shutter details, proposed ground floor layout, proposed front elevation, proposed rear elevation, proposed right side elevation, proposed left side elevation, and the following plans dated 10/07/07: proposed first floor and proposed second floor.

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 use hereby approved shall not commence until a scheme for the treatment of fumes to reduce smell and for their extraction has been submitted to the local planning authority for approval. The approved scheme shall thereafter be retained for the lifetime of the use.
3. Any plant, machinery or equipment installed or operated shall not cause background noise levels to be increased by more than 5dB(A) at any nearby noise sensitive premises.

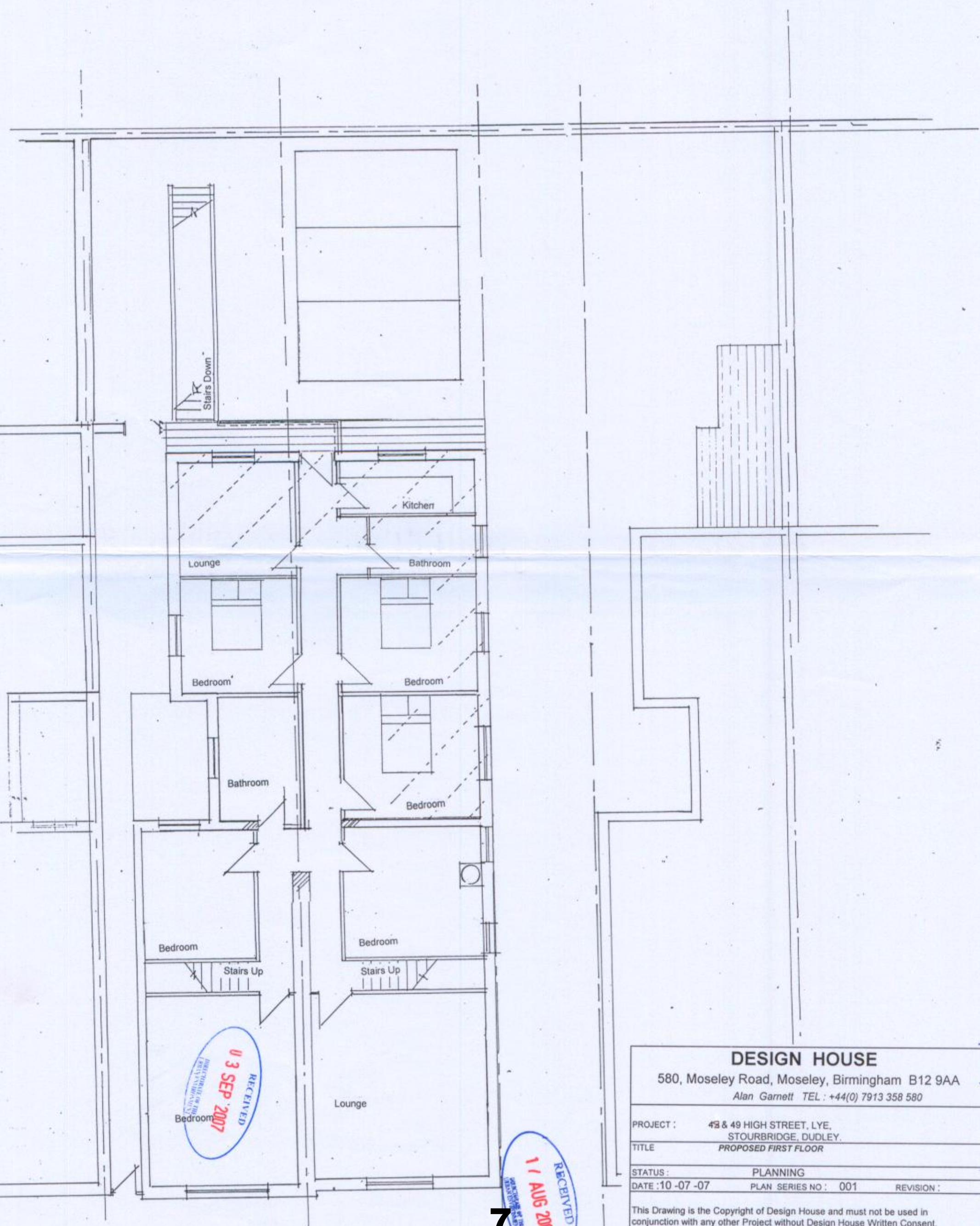
4. Before any machinery or plant is used on the premises it shall be enclosed with sound insulating material and mounted so as to prevent conducted noise and vibration, in accordance with a scheme to be submitted to and approved by the local planning authority.
5. Notwithstanding the details shown on the approved drawings for the shop front elevation detail, the shopfront framing shall be constructed of timber (and not aluminium as specified on the plans) and the roller shutter shall be portcullis type powder coated in a colour and finish to be first agreed in writing by the local planning authority (and not 55% visibility as specified on the plan). Prior to the commencement of development the following shall be submitted to and approved in writing by the local planning authority:

- Large scale architectural drawings, to a scale of not less than 1:5 of the shop front including drawings of sections and profiles of decorative mouldings, glazing bars, pilasters, fascia, heads, cills and glazing bars together with their relationship to the roller shutter.
- Large scale architectural drawings, to a scale of not less than 1:5 of all timber windows and doors, including drawings of sections and profiles of jambs, heads, cills and glazing bars together with their relationship to masonry apertures.
- Details of the colour and finish of the shop front, windows, doors, etc.
- Details/samples of the type, texture, colour and bond of the brickwork to be used in the construction of the external walls.
- Details/samples of the type, texture and colour of the roofing tiles.

The external windows, doors, shop front and associated features installed in the building shall be in accordance with the approved details and shall not be replaced, except in accordance with the same approved details. The external finishes shall be colour coated in accordance with the same approved details prior to the occupation/use of the building and the colour shall not be changed without the prior written agreement of the local planning authority.

6. The development shall not begin until a scheme for the provision of off-site public open space and play area improvements has been submitted to and approved in writing by the local planning authority. The scheme shall include the method, timing and arrangements to comply with the Council's policies for the provision of the infrastructure required in connection with the proposed development.
7. The premises shall not be open to the public before 11.00 hours on Mondays to Saturdays and 12.00 hours on Sundays and Bank Holidays nor after 23.00 hours on Mondays to Saturdays and 22.30 hours on Sundays and Bank Holidays.
8. No goods shall be delivered to or dispatched from the premises before 08.00 hrs on weekdays and 09.00 on Saturdays, nor after 18.00 weekdays and 14.00 hrs on Saturdays, nor at any time on Sundays or Bank Holidays.
9. Any bins within the refuse yard shall not be used / emptied between the hrs of 23.00 and 08.00.

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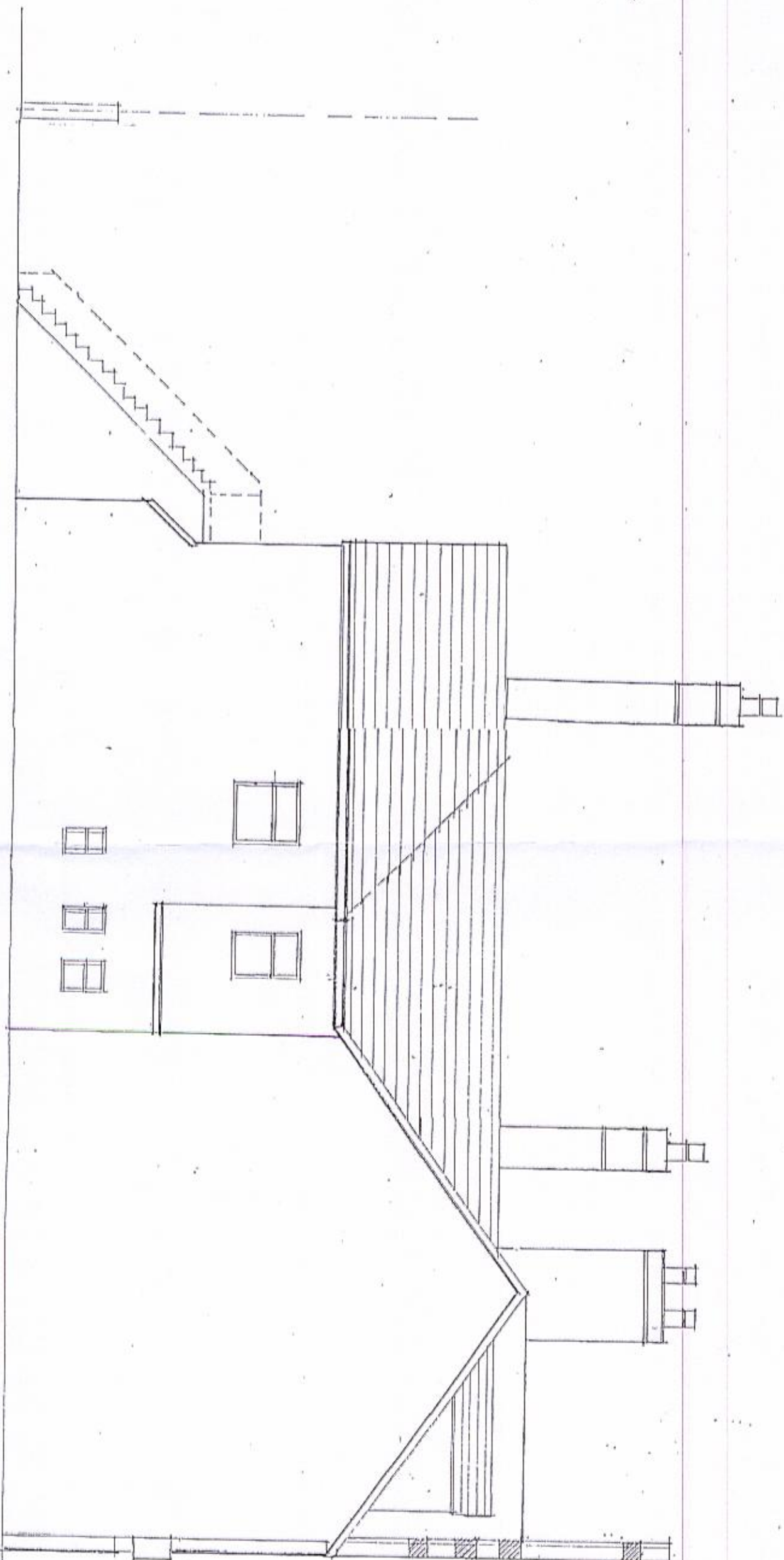
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Proposed First Floor

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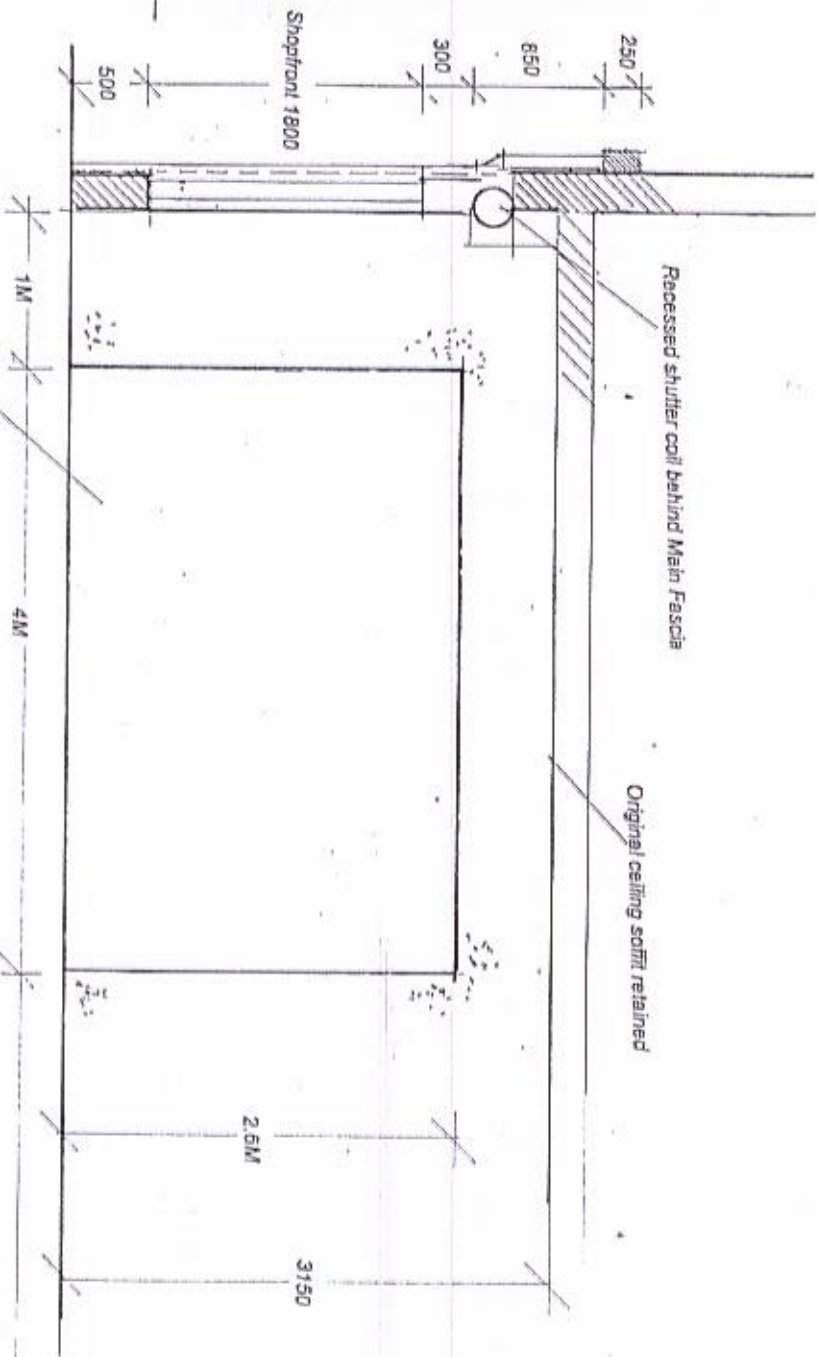
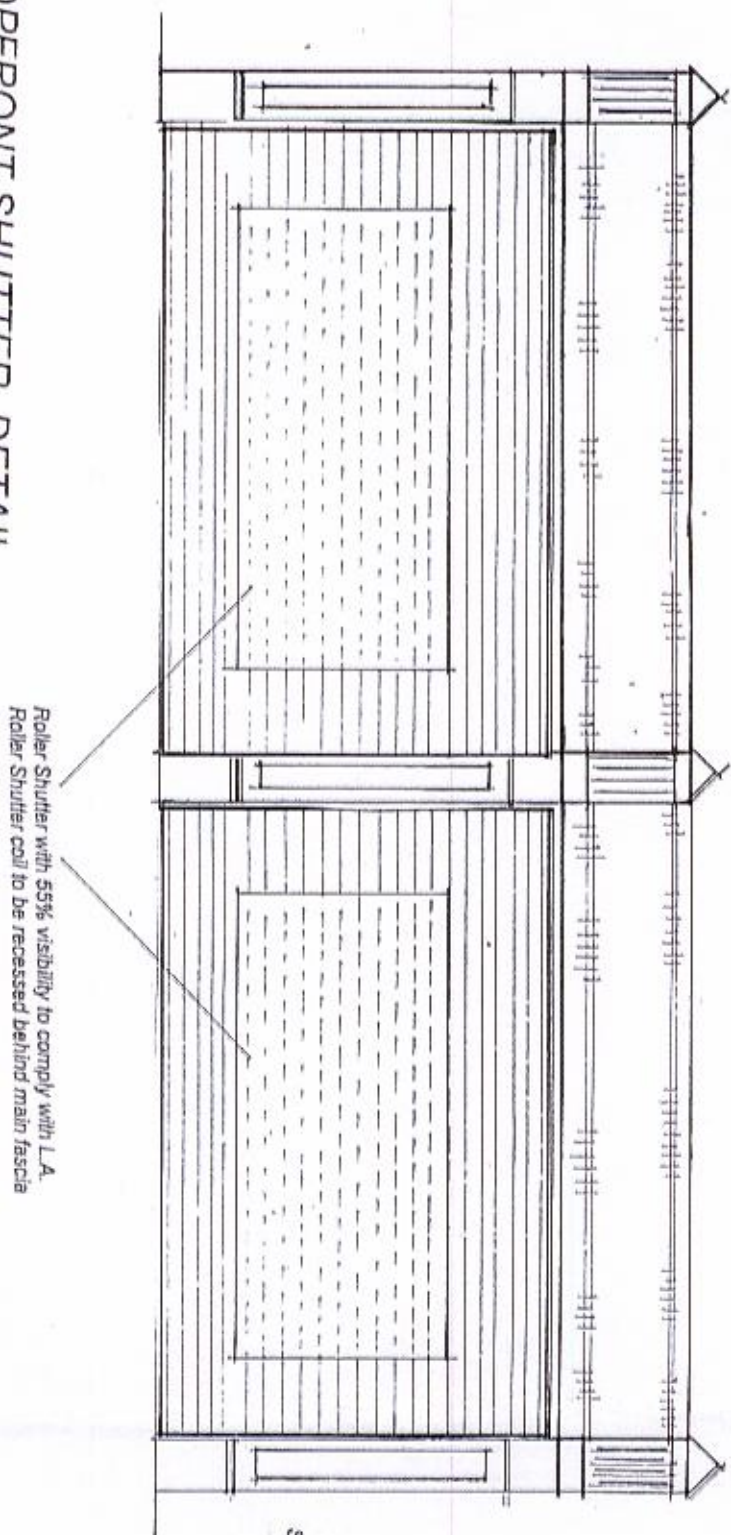
PROPOSED LEFT SIDE ELEVATION

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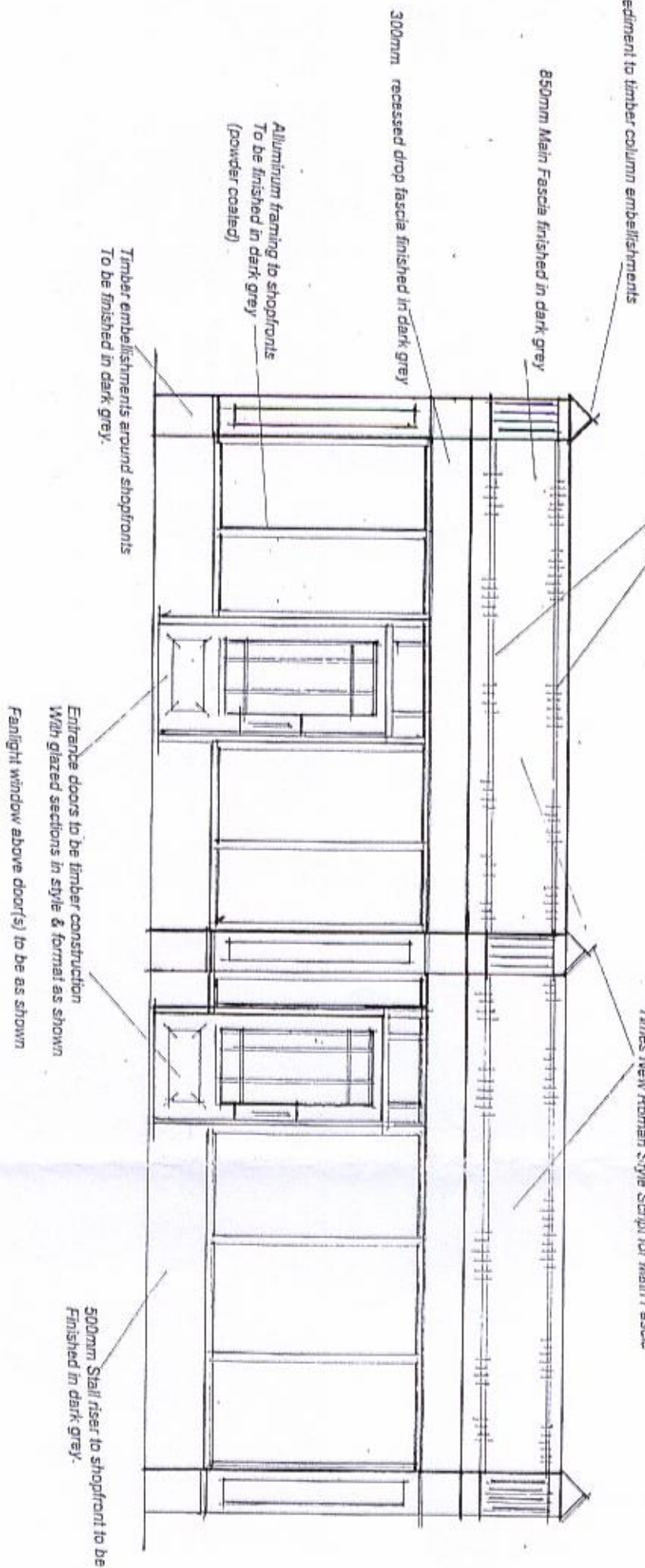
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SHOPFRONT SHUTTER DETAIL



SHOPFRONT SECTION

6



SHOPFRONT ELEVATION DETAIL

AMENDED PLAN

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TITLE: STOURBRIDGE, DUDLEY,

SHOPFRONT & SHUTTER DETAILS

STATUS:

PLANNING

DATE: 28-12-07

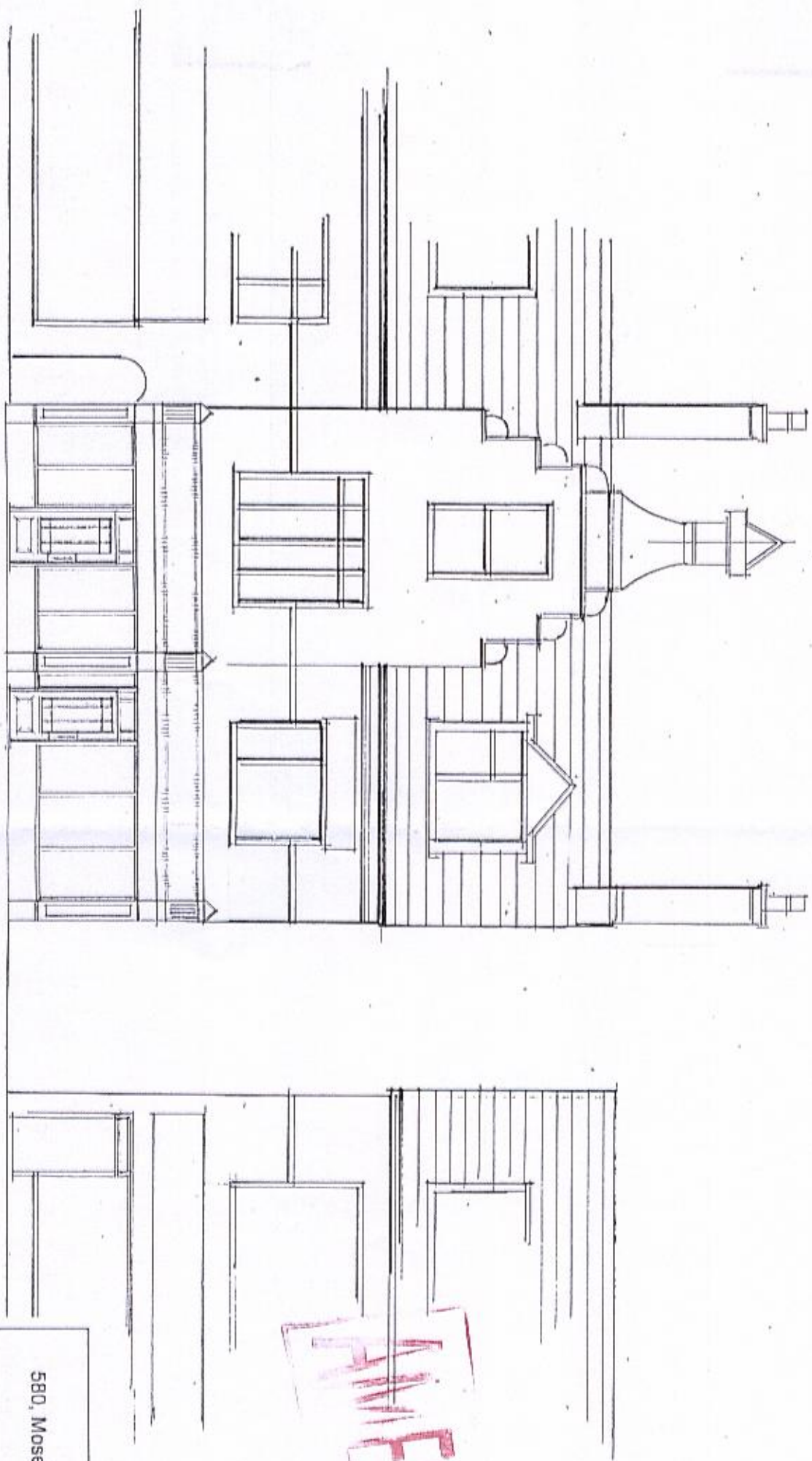
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2021/11/15



PROPOSED FRONT ELEVATION

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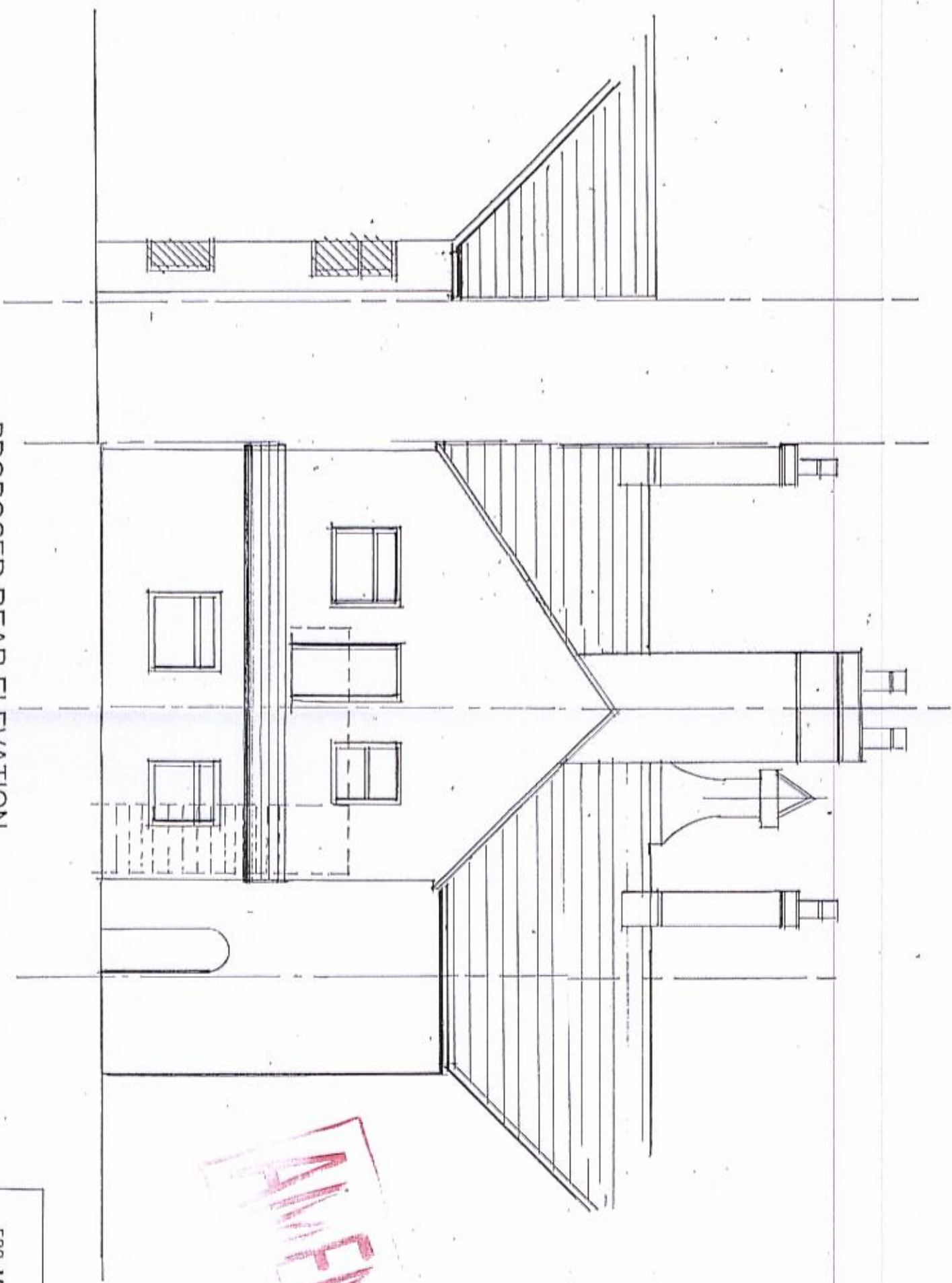
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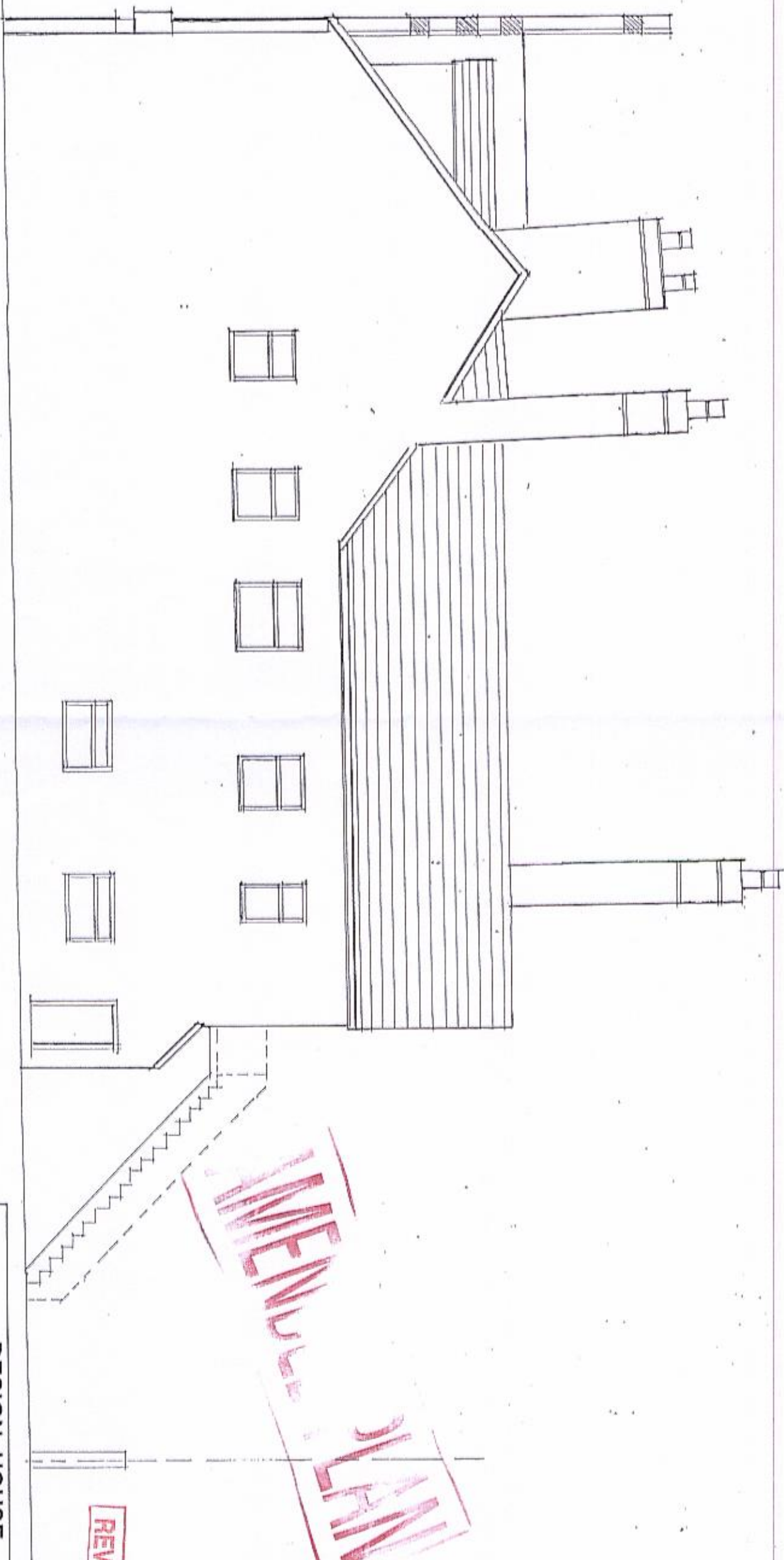
PROPOSED REAR ELEVATION

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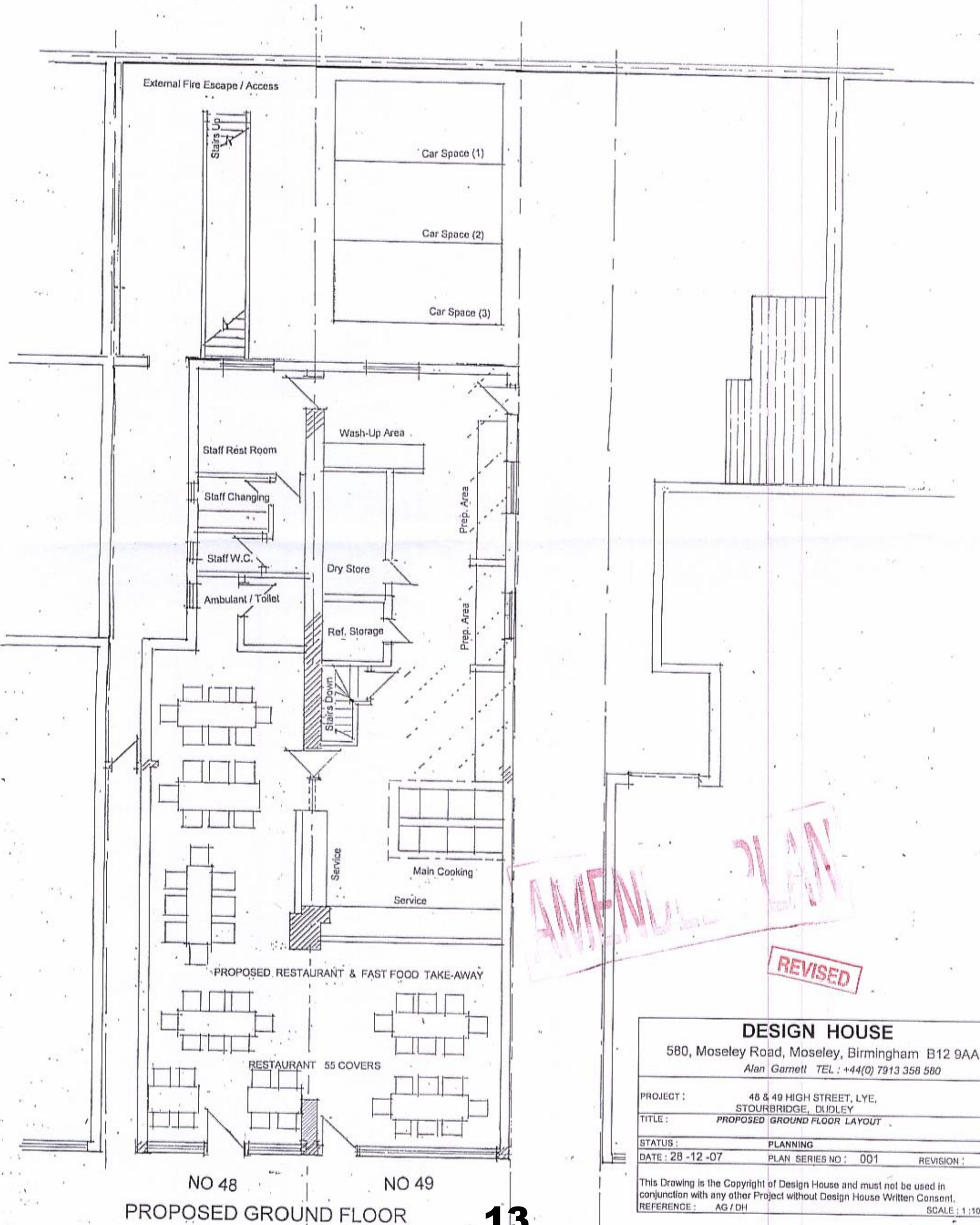
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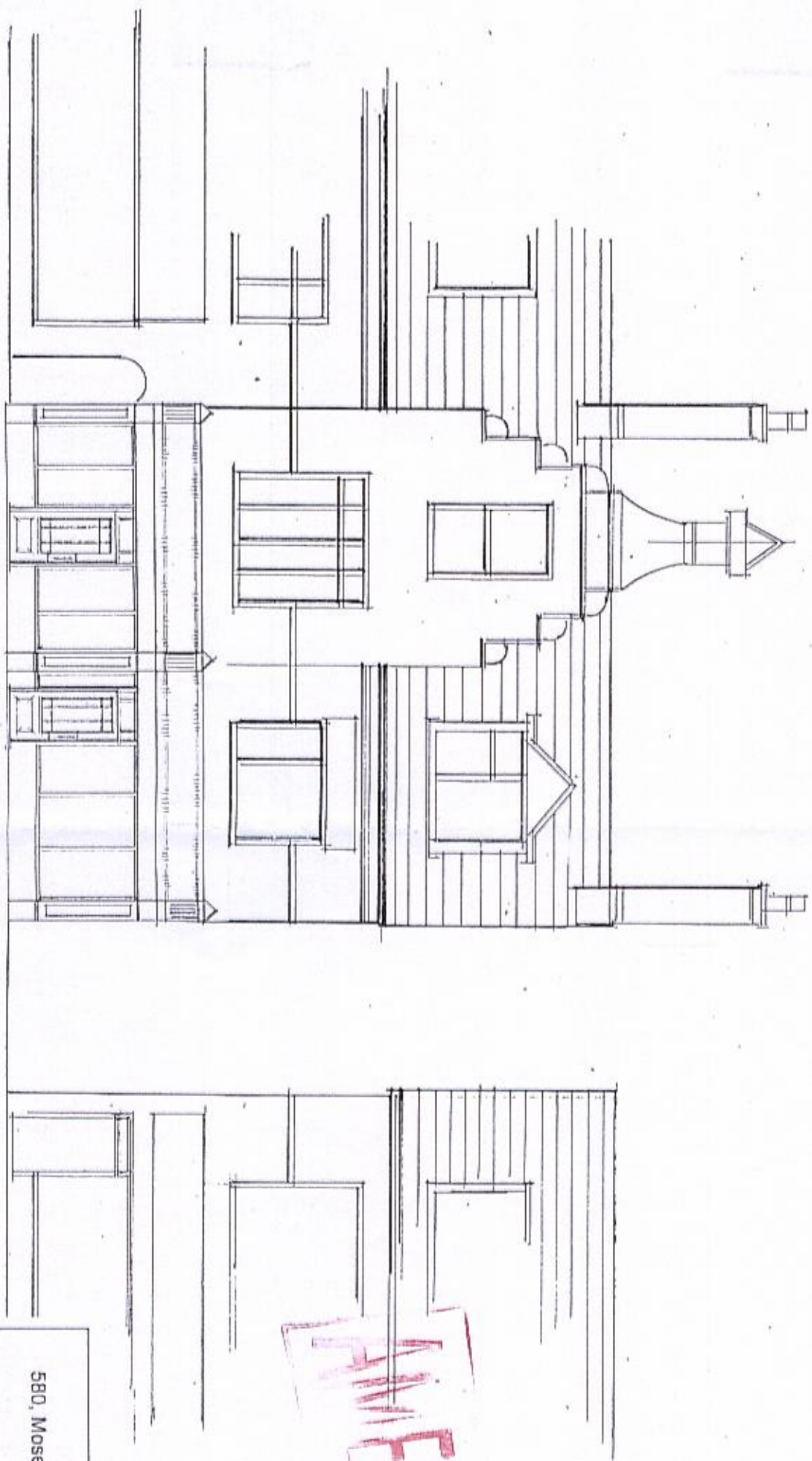
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PROPOSED FRONT ELEVATION

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Land Registry
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title plan

Title number **WM7419**
Ordnance Survey map reference **SO9284SW**
Scale **1:1250**
Administrative area **West Midlands: Dudley**

Port 1715
location plan



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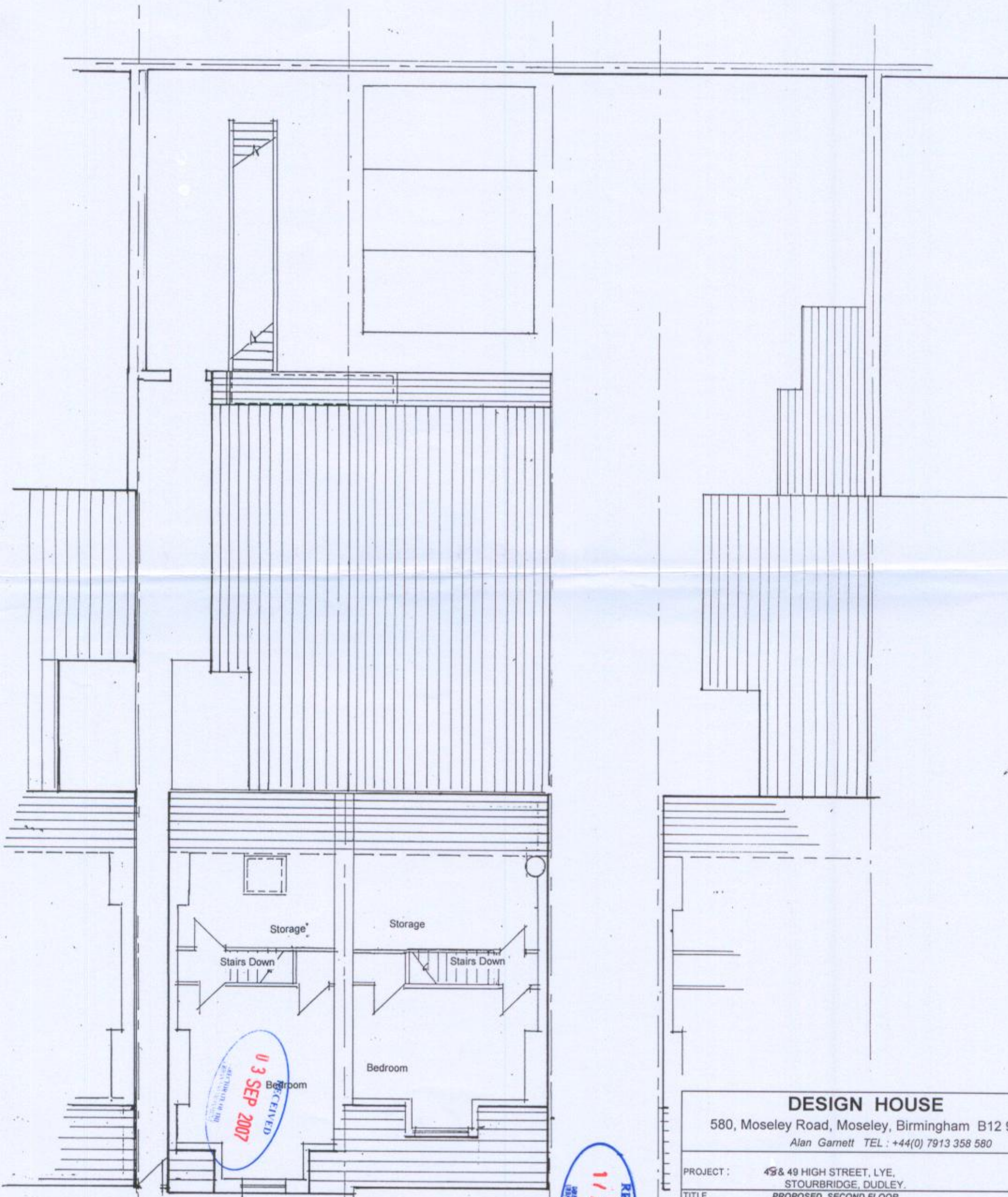
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PROPOSED SECOND FLOOR

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Proposed Second Floor