

PLANNING APPLICATION NUMBER: P15/0160

Type of approval sought	Full Planning Permission
Ward	Halesowen North
Applicant	Malcolm Shelley, Heedgrove Limited
Location:	STREETBIKE, MUCKLOW HILL, HALESOWEN, B62 8BW
Proposal	VARIATION OF CONDITION 6 OF PLANNING APPROVAL P14/1582 TO BE REVISED TO 'THE PREMISES KNOWN AS RETAIL AREA 2 ON PLAN NUMBER '13-1374/08L' SHALL NOT BE OPEN TO THE PUBLIC BEFORE THE HOURS OF 0700 NOR AFTER 2300 MONDAY TO SUNDAYS AND PUBLIC HOLIDAYS' (TEMPORARY UNTIL 31 MARCH 2016)
Recommendation Summary:	APPROVE SUBJECT TO CONDITIONS

SITE AND SURROUNDINGS

- 1 The application site is a distinctive 1950s two storey building which is positioned on the corner of Mucklow Hill and Long Lane. The property was purpose built as a garage and previously operated as a motorbike sales and servicing centre. The site now stands vacant. The site area is 0.3ha and the property features an access from Long Lane on the eastern side which leads to a large area of hard-standing for parking to the north of the property. The building features a side addition on the northern side. The building is listed on the Council's Sites and Monuments Record.
- 2 The site is located within a fairly mixed use area with many residential and commercial properties nearby. No. 202 Long Lane and Nos. 1 and 2 Greenhill Road (residential properties) abut the northern side of the site. Abutting the Western boundary are No. 3 Greenhill Road and Nos. 6 and 8 Mucklow Hill. Across the highway to the east are Nos. 185 – 188A Long Lane and Flat 1 Halesowen Road. The Stag and Horseshoes public house is on the opposite side of the highway and is also featured on the Council's Sites and Monuments Record.

- 3 The site is located within The Stag Local Centre and on a prominent corner location between Mucklow Hill and Long Lane. The highway to the front is part of the Strategic Highway Network and a bus route. The ground level does lower towards the north of the site.

PROPOSAL

- 4 This application seeks to vary condition 6 of planning permission P14/1582 from *'The premises known as retail area 2 on plan number '13-1374/08L' shall not be open to the public before the hours of 0700 nor after 2300 Monday to Saturdays or before 0900 or after 1800 on Sundays and Public Holidays'* to *'The premises known as retail area 2 on plan number '13-1374/08L' shall not be open to the public before the hours of 0700 nor after 2300 Monday to Sundays and Public Holidays'*
- 5 The application is submitted with a planning statement (which advises WM Morrison would be operator of the unit) and a noise assessment.
- 6 Planning application P14/1582 was granted in December 2014 and involved a change of use to A1 retail, together with extensions and other alterations to the building.

HISTORY

APPLICATION No.	PROPOSAL	DECISION	DATE
P14/0553	Change of Use to A1 and A5 use. Two storey side extension with new access stair and lift, first floor extension, blocking up of windows, doors and roller shutters. Associated works to car park.	Withdrawn	06-Aug-2014
P14/1582	Change of use to A1 (retail). Two storey side extension with	Granted	23-Dec-2014

	new access stair and lift, first floor extension, blocking up of windows, doors and roller shutters and provision of new shop front windows to side elevation. Associated works to car park (resubmission of withdrawn application P14/0553)		
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PUBLIC CONSULTATION

- 7 One letter of objection received, following consultation with 33 adjoining neighbours.
Main issues raised:

- Site is adjoined by houses
- Extended hours would impact on amenity from noise, comings and goings associated with the proposed unit.

OTHER CONSULTATION

- 8 Group Engineer (Highways): No objection
- 9 Head of Environmental Health and Trading Standards: Request temporary permission for 12 months to enable situation to be assessed.

RELEVANT PLANNING POLICY

- National Planning Guidance
National Planning Policy Framework (2012)
Planning Practice Guidance (2014)
- Black Country Core Strategy (2011)
CEN5 District Centres and Local Centres
TRAN2 Managing Transport Impacts of New Development

ENV 2 Historic Character and Local Distinctiveness

- Unitary Development Plan (2005) (Saved Policies)
 - DD1 Urban Design
 - DD3 Design of Retail Development
 - DD4 Development in Residential Areas
 - HE5 Buildings of Local Historic Importance
 - EP7 Noise Pollution
- Supplementary Planning Guidance/Documents
 - Affordable Housing Supplementary Planning Document
 - Parking Standards Supplementary Planning Document (2012)
 - PGN4. Retail development

ASSESSMENT

10 The main issues are

- Neighbour Amenity
- Access and Parking
- Design

Neighbour Amenity

11 The application site is located within a fairly residential area with houses abutting the northern and western boundaries. There are also dwellings in fairly close proximity to the east and south.

12 The last use of the site was a quasi retail use with daytime opening hours, including Sundays. The proposed retail use which was approved in December 2014, was considered to be an intensification of the use of the site and given the proximity of nearby residents to the site, there were concerns that noise from activities at the site could adversely affect the amenities of residents.

- 13 It was considered that the proposals for A1 retail use are appropriate given the site is located on a busy junction with high levels of road traffic noise and other commercial uses nearby, including a public house. It was therefore considered that the proposals would be generally in keeping with surrounding uses and activity levels and that residential amenity can be protected through appropriate restrictions on hours of operation and deliveries to control noise from the site, and one of the conditions imposed (No. 6) sought to restrict weekday opening times to Monday to Saturday to 0700 to 2300hrs and Sundays and Bank Holidays to 0900 to 1800hrs.
- 14 The applicant advises seeking to vary condition 6 that the restrictions regarding the Sundays and Bank Holiday times would not be in line with WM Morrison's '*M Local*' convenience store business model, which '*seeks to provide their fresh food stores over extended shopping hours*'.
- 15 In supporting the application the applicants note that there are a number of close by uses which operate late on Sunday evenings including fast food takeaways, a public house and the Centre Point convenience store which almost opposite the site on Long Lane. They also make reference to other activity and road noise within the area.
- 16 The Head of Environmental Health and Trading Standards advises that the assessment of the opening hours in this location on the original application was based on a subjective assessment of the considered likely impact, additional noise associated with the store opening would have on nearby residents; this includes impact type noise from sources such as car doors slamming, car engines, people talking/shouting etc, which are more likely to disturb residents during quieter early morning and late evening periods.
- 17 The applicant has stated that road traffic noise will mask these impact noises; however, The Head of Environmental Health and Trading Standards considers that this will not necessarily be the case, particularly at more sensitive times when background noise levels are lower. As stated previously, The Head of Environmental Health and Trading Standards considers that the approved new retail

premises represent a significant intensification of use of the site compared to its previous use and there is potential for extended opening hours to adversely affect nearby residents due to noise.

- 18 The Head of Environmental Health and Trading Standards is of the view that if the applicant is confident as stated, that the extended opening hours will not adversely affect nearby residents, then the imposition of a temporary permission should not be a problem as there would be no reason why a permanent permission could not be granted, providing residential amenity has not been adversely affected during the temporary period.
- 19 The Head of Environmental Health and Trading Standards is concerned about allowing a permanent permission at this stage as there would be little jurisdiction to address this type of noise under alternative legislation should residents suffer noise disturbance once permission is granted. Given that the planning standard of amenity is greater than that which is imposed under statutory nuisance legislation a higher level of protection would be afforded to residents through planning conditions than could be provided by statutory nuisance legislation, which can also be the subject of appeal, has a statutory defense to negotiate and is generally not particularly effective for noise types such as those raised and which are to be controlled in this instance.
- 20 Therefore the Head of Environmental Health and Trading Standards is of the opinion that a 12 month temporary permission for extended opening on Sundays and Public Holidays is the most reasonable arrangement in this situation until the use is operational and the impact on residents has been fully assessed through monitoring the operation of the proposed use.

Access and Parking

- 21 The Group Engineer (Highways) does not consider that the proposed additional opening hours would have any detrimental impact to highway safety.

Design

- 22 The proposed additional opening hours would have no implications in terms of design or visual impact for this identified heritage asset.

CONCLUSION

- 23 To allow for the impact on adjoining neighbours to be assessed, a 12 month temporary period for extended hours is considered to be appropriate. Consideration has been given to policies CEN5 District Centres and Local Centres TRAN2 Managing Transport Impacts of New Development and ENV 2 Historic Character and Local Distinctiveness of the Black Country Core Strategy and saved policies DD1 Urban Design DD3 Design of Retail Development DD4 Development in Residential Areas HE5 Buildings of Local Historic Importance and EP7 Noise Pollution of the Dudley Unitary Development Plan.

RECOMMENDATION

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

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: 13-1374/14B, 13-1374/05B, 13-1374/06H, 13-1374/07F, 13-1374/08L and 13-1374/11.
3. No development shall commence until details of road safety works, including improvements to pedestrian crossing facilities in the vicinity of the site, have been submitted to and approved in writing by the Local Planning Authority. Prior to first use of the development hereby approved the road safety works and pedestrian crossing facilities should be implemented in full accordance with the approved details and shall remain as approved for the life of the development.
4. Delivery vehicles to the site, whether loaded or unloaded shall only enter the site Monday to Saturday between 0700 and 0900 and between 1800 and 2100 and

on Sundays and Public Holidays only between 0900 and 1800 and at no other time for the lifetime of the development.

5. The premises known as retail area 1 on plan number '13-1374/08L' shall not be open to the public before the hours of 0700 nor after 1800 Monday to Saturdays or before 0900 or after 1800 on Sundays and Public Holidays.
6. Until 31 March 2016 the premises known as retail area 2 on plan number '13-1374/08L' shall not be open to the public before the hours of 0700 nor after 2300 Monday to Sundays and Public Holidays.

From 1 April 2016 the premises known as retail area 2 on plan number '13-1374/08L' shall not be open to the public before the hours of 0700 nor after 2300 Monday to Saturdays or before 0900 or after 1800 on Sundays and Public Holidays.


7. The premises known as retail area 3 on plan number '13-1374/08L' shall not be open to the public before the hours of 0700 nor after 2200 Monday to Saturdays or before 0900 or after 1800 on Sundays and Public Holidays.
8. No development shall commence until a scheme for a continuous acoustic barrier to be constructed along the northern boundary of the site adjacent to 202 Long Lane to a minimum height of 1.8 metres (as measured from the ground level) and minimum surface density of 10 kg/m² shall be submitted to and approved in writing by the Local Planning Authority. All works which form part of the approved scheme shall be completed before the approved use commences. The existing 1.8 metre barrier located on the northern and western boundary of the site and the new approved barrier shall be retained throughout the life of the development.
9. 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 (2014) (Methods for rating and assessing industrial and commercial sound) and/or its subsequent amendments.
10. 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.
11. Prior to the development first being brought into use details of 2 electric vehicle charging bays with electric charging points in accordance with the Council's Standards (Parking Standards SPD) shall be submitted to the Local Planning Authority and approved in writing. The details shall include signs and bay markings indicating the bays will be used for parking of electric vehicles only whilst being charged. The electric charging points and bays will be provided in accordance with the approved details prior to first use and maintained as such for the life of the development.
12. Prior to the development first being brought into use details of a one way system to ensure a left turn out only onto Mucklow Hill shall be submitted to the Local Planning Authority and approved in writing. The approved one way system shall

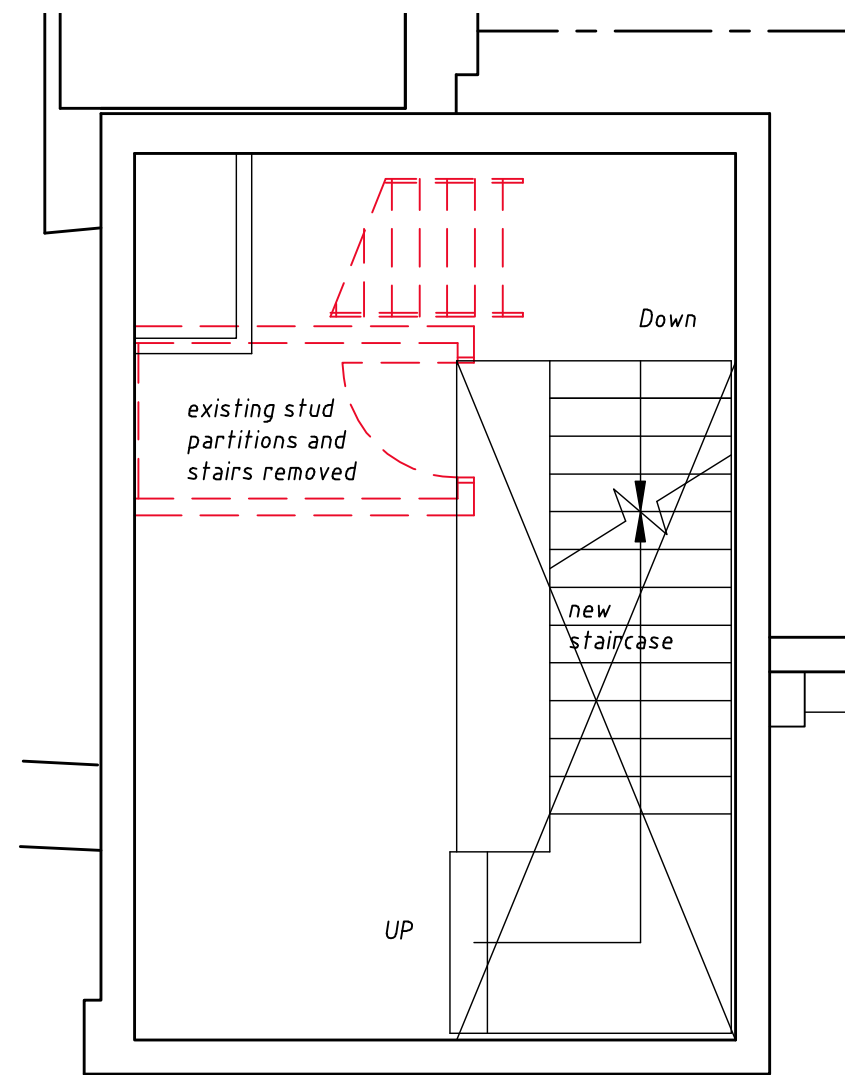
be completed prior to the first use of the development hereby approved and shall be maintained for the life of the development.

13. Prior to the development first being brought into use details of the vehicular and pedestrian access and egress into the site shall be submitted to and approved in writing by the Local Planning Authority. The approved points of access and egress will be provided prior to the first use and maintained for the life of the development.
14. Prior to the development first being brought into use details of internal pedestrian access routes and block paving shall be submitted to and approved in writing by the Local Planning Authority. These shall be provided in accordance with the approved details prior to first occupation and maintained for the life of the development.
15. Prior to the first use of the development details of internal secure and undercover staff cycle storage and shower facilities shall be submitted to and approved in writing by the Local Planning Authority. These facilities shall be provided in accordance with the approved details prior to the first use and maintained for the life of the development.
16. Prior to the first use of the development details of the loading and unloading area with barrier control system shall be submitted to the Local Planning Authority and approved in writing. These shall be provided in accordance with the approved details prior to being brought into use and maintained for the life of the development.
17. Prior to the first use of the development details of real time camera monitoring systems shall be submitted to the Local Planning Authority and approved in writing. These systems shall be provided in accordance with the approved details prior to the first use and maintained for the life of the development.
18. Prior to the first use of the development details of a travel plan, including a named travel plan officer, commitment for each store to join Company Travel Wise, undertaking surveys within three months of opening and Realistic targets to promote sustainable travel modes shall be submitted to the Local Planning Authority and approved in writing. These shall be provided in accordance with the approved details prior to first occupation and maintained for the life of the development.
19. The existing first floor areas above proposed retail areas 2 and 3 (noted as void on plan number 13-1374/07F) shall not be used at any time for any for the sale or storage of retail goods for life of the development.
20. No development shall commence until 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.
21. The units shall not be combined unless otherwise agreed in writing by the Local Planning Authority.
22. The total sales area of Unit 2 will not exceed 280m² net in order to enable any operator within the C-Store sector to trade outside of the 6 hour limit imposed under the Sunday Trading Act 1994 for the life of the development unless otherwise agreed in writing by the Local Planning Authority.
23. No development shall commence until an Economic and Community Development Statement has been submitted to and approved in writing by the

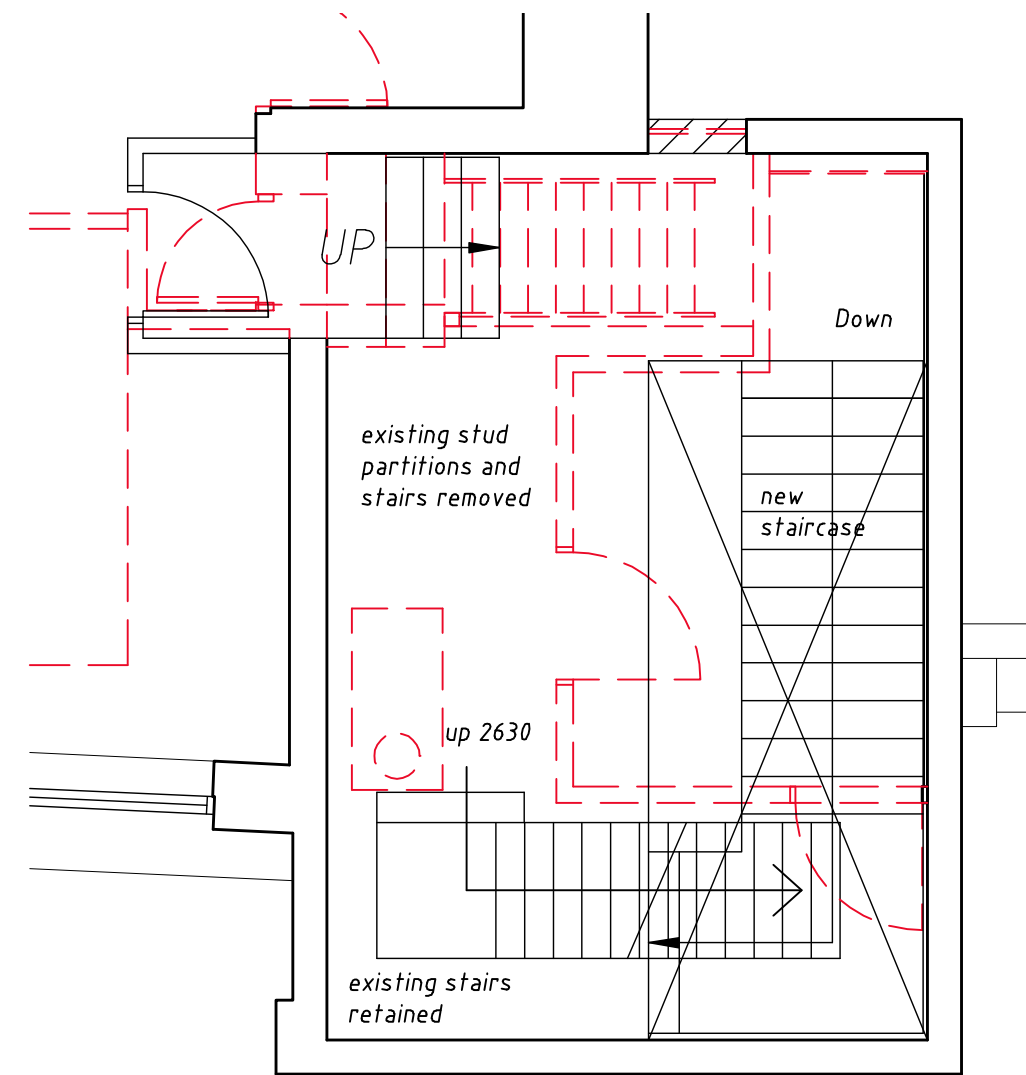
Local Planning Authority. The Statement shall address as a minimum, measures to increase the number of jobs open to local people available on the site and the development of initiatives that support activities to upskill local unemployed people of working age so as to support them into sustained employment 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.

24. The first floor area above proposed retail area 1 (shown on plan number 13-1374/06H) shall not be used at any time for any for the sale of retail goods for life of the development.

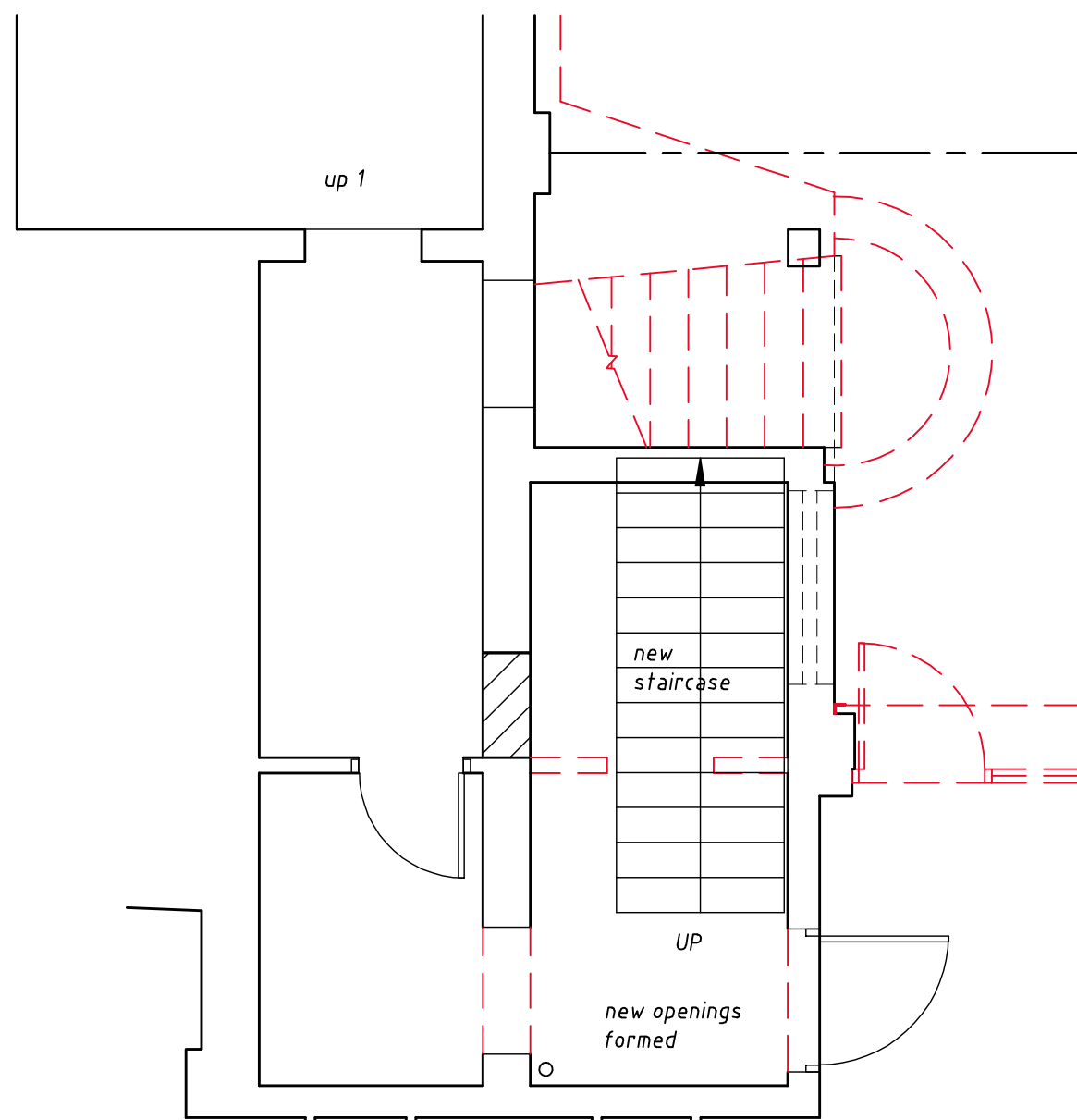
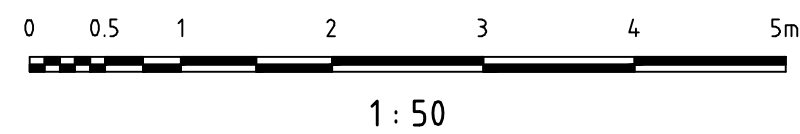




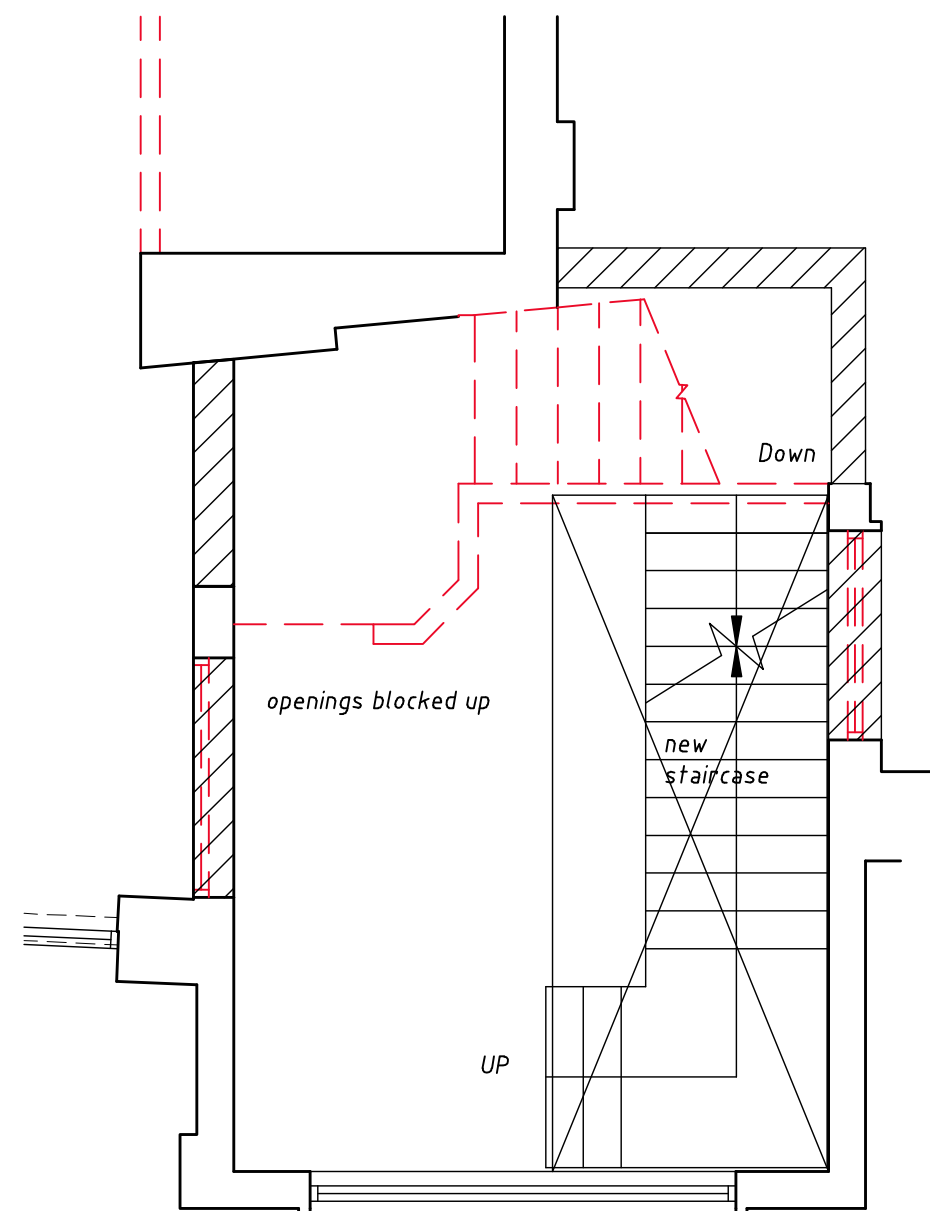
Mezzanine Floor



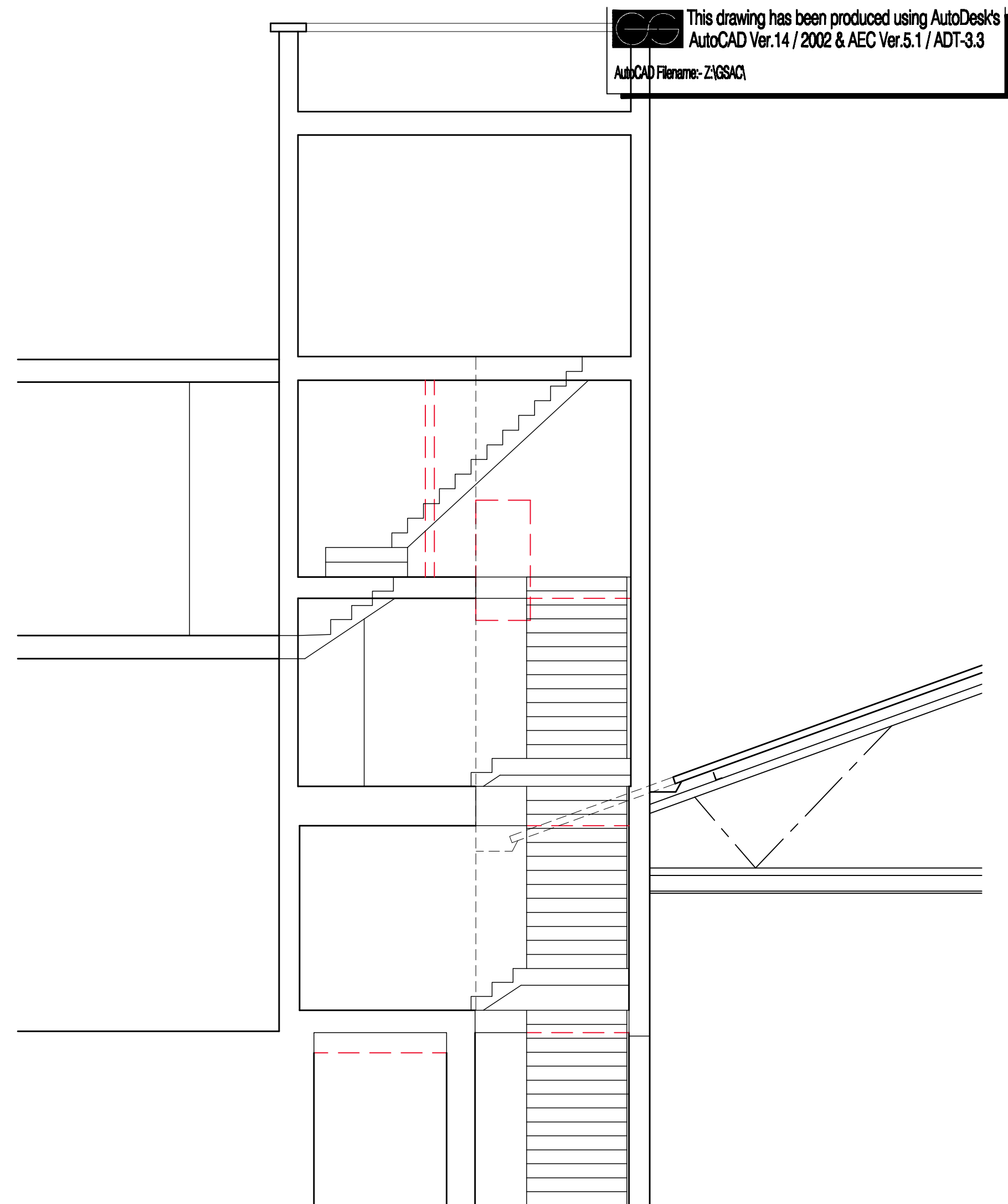
First Floor



Lower Ground Floor



Ground Floor



Cross Section

rev.	date	drawn	chk'd
1	1:50@A2	JE	GSA
2	June14		
3	13-1374/11		

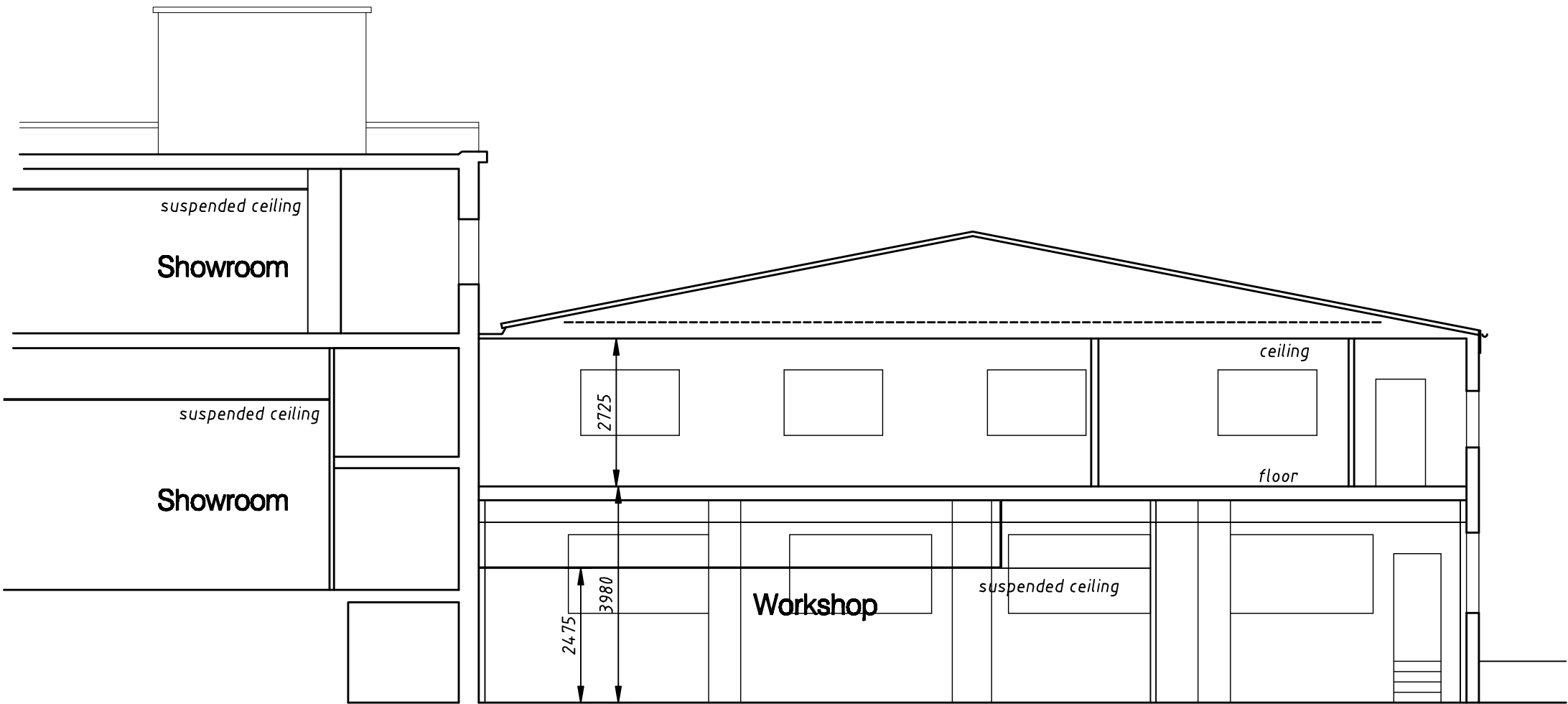
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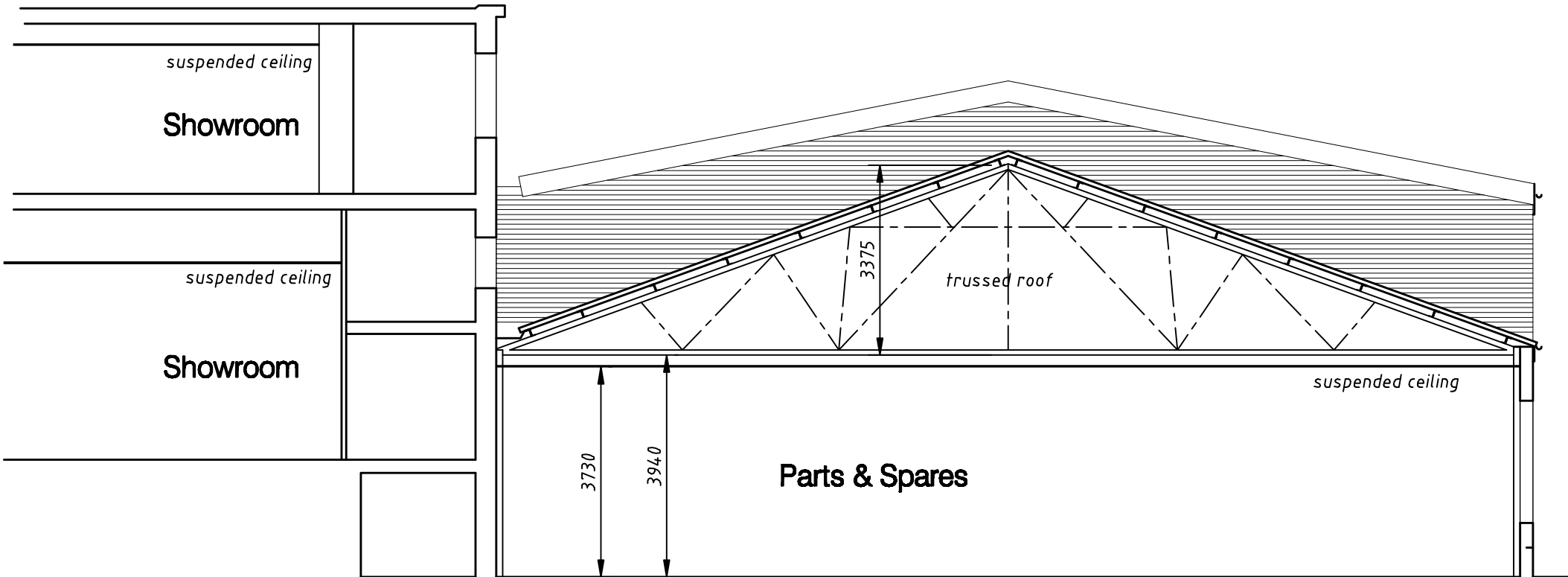
Streetbike
Mucklow Hill
Halesowen
B62 8BW

Proposed Tower Stairs

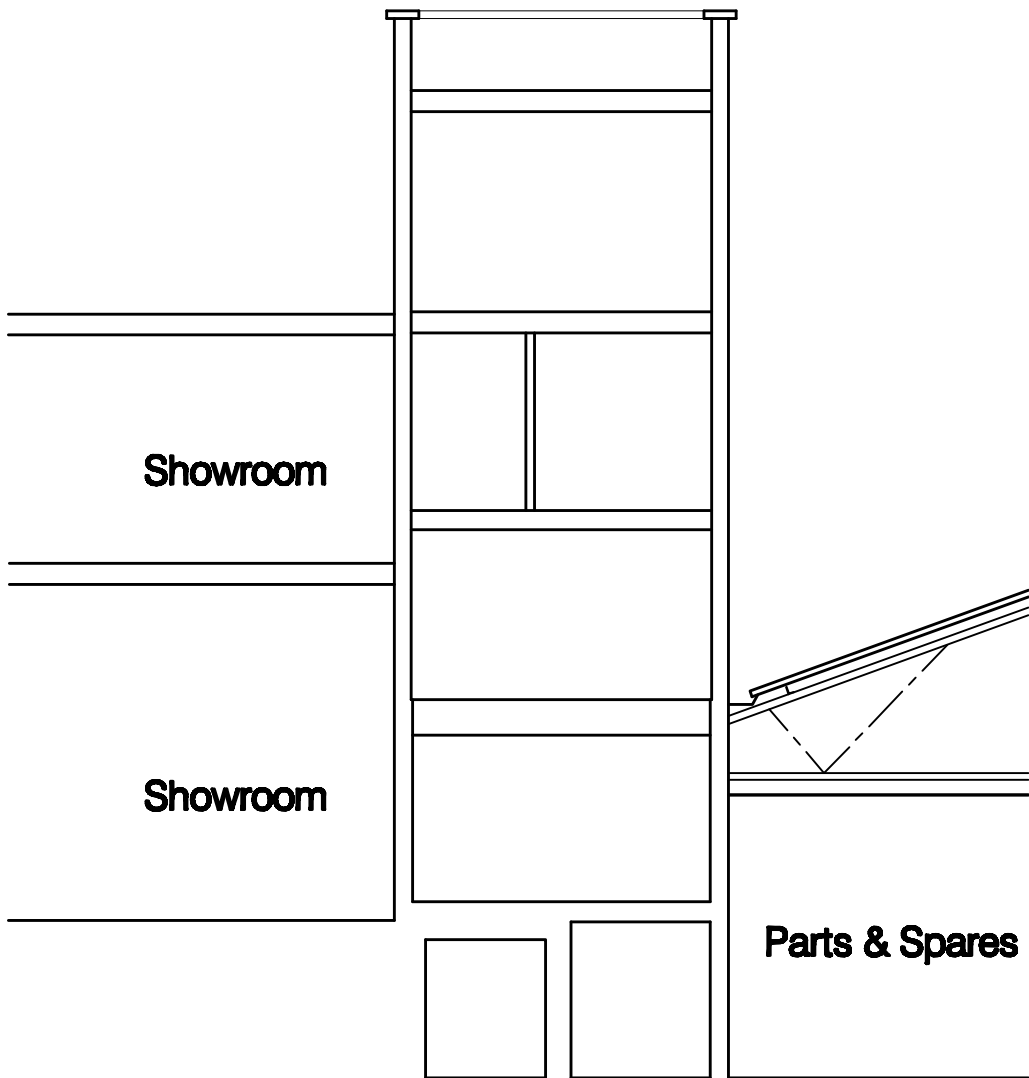
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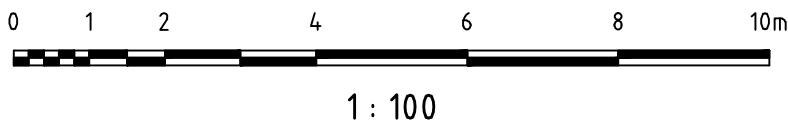
Cross Section through rear Two Storey



Cross Section through Parts and Spares



Cross Section through Tower



B	06.12.13	Section thro tower added, elevation omitted	TD
A	27.11.13	Additional information added.	TD
rev.	date		drawn chk'd
<div><div><div></div><div></div></div><div>Gould Singleton Architects Earls Way, Halesowen, West Midlands, B63 3HR</div></div> <div><div>Tel: 0121 550 0359 Fax: 0121 550 8088 e-mail: postmaster@gould-singleton.co.uk</div><div>Streetbike Mucklow Hill Halesowen B62 8BW</div></div>			
1:100@A2	Oct 13	Cross Sections	This drawing and the building works depicted are the copyright of the Architects and may not be reproduced except by written permission. This drawing must be read and checked against any specialist drawings and information provided. Do not scale prints. Figured dimensions
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