

Meeting of the Development Control Committee

Wednesday 18th August 2021 at 6.00pm
In the Council Chamber at the Council House, Priory Road,
Dudley

Agenda - Public Session

(Meeting open to the public and press)

1. Chair's Announcement.

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 the 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 available to view on the Council's Committee Management Information System (CMIS). 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.

2. Apologies for absence.

3. To report the appointment of any substitute members serving for this meeting of the Committee.

4. To receive any declarations of interest under the Members' Code of Conduct.



5. To confirm and sign the minutes of the meeting held on 14th July 2021 as a correct record.
6. Plans and Applications to Develop
 - (a) Planning Application No. P20/1306 – Land at Bourne Street and Cedar Avenue, Coseley, Dudley – Erection of 72 dwellings with associated open space, infrastructure and associated works – Pages 1 – 49.
 - (b) Planning Application No. P20/1801 – Pegasus Grab Hire, Bott Lane, Lye, Stourbridge – The continued use of land as an aggregate sorting and recycling facility and the installation of new aggregate washing facility (Retrospective) – Pages 50 – 73.
 - (c) Planning Application No. P21/0178 – 11 Hagley Road, Stourbridge – Change of use from Hair Salon (E) to Hot Food Takeaway (sui generis) with alterations to elevations to include extract flue, fresh air intake grill and new shop front and door – Pages 74 – 93.
 - (d) Planning Application No. P21/0533 – 1 Lodge Close Halesowen – Two storey side extension (following demolition of existing snug and utility) – Pages 94 – 105.
 - (e) Planning Application No. P21/1010 – 52 Mount Pleasant, Kingswinford – Two storey side/rear extensions, single storey rear extension and single storey side extension to create garage (Retrospective) – Pages 106 – 123.
7. To consider any questions from Members to the Chair where two clear days' notice has been given to the Monitoring Officer (Council Procedure Rule 11.8).



Chief Executive
Dated: 10th August, 2021

Distribution:

Councillor A Goddard (Chair)
Councillor D Harley (Vice-Chair)
Councillors D Corfield, M Hanif, S Mughal, C Neale, W Sullivan, E Taylor and M Westwood.



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Submitting Apologies for Absence

- Elected Members can submit apologies by contacting Democratic Services (see our contact details below). Members wishing to appoint a substitute should notify Democratic Services as soon as possible in advance of the meeting. Any substitute Members must be eligible to serve on the meeting in question (for example, he/she must have received the training required by the Council).

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**Minutes of the Development Control Committee
Wednesday 14th July 2021 at 6.00 pm
In the Town Hall, St James's Road, Dudley**

Present:

Councillor D Harley (Vice-Chair in the Chair)
Councillors D Corfield, M Hanif, S Mughal, D Stanley, W Sullivan, M Westwood and E Taylor.

Officers: -

I Hunt – Project Engineer, C Mellor – Planning Manager, P Mountford – Head of Planning and Regeneration, E Napier and H Yorke – Both Principal Planning Officers (Directorate of Regeneration and Enterprise), T Glews – Public Protection Manager (Directorate of Public Health and Wellbeing), G Breakwell – Solicitor and K Buckle – Democratic Services Officer (Directorate of Finance and Legal).

Also in Attendance: -

19 members of the public

9. **Apologies for Absence**

Apologies for absence from the meeting were submitted on behalf of Councillors A Goddard and C Neale.

10. **Appointment of Substitute Member**

It was reported that Councillor D Stanley had been appointed as a substitute Member for Councillor C Neale, for this meeting of the Committee only.

11. **Declarations of Interest**

Councillors D Stanley and M Westwood declared non-pecuniary interests in Agenda Item No. 6(b) – Planning Application No. P21/0315 – 46 Zoar Street, Lower Gornal, Dudley, as Councillor D Stanley had lodged an objection against the application and Councillor M Westwood was the Chair of Governors at the Redhall Primary School, who had also raised an objection.

12 **Minutes**

Resolved

That the minutes of the meeting held on 2nd June 2021 be approved as a correct record and signed.

13. **Change in Order of Business**

Pursuant to Council Procedure Rule 13(c) it was: -

Resolved

That the order of business be varied and the agenda items be considered in the order set out in the minutes below.

14. **Plans and Applications to Develop**

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

The following persons were in attendance at the meeting, and spoke on the planning applications as indicated: -

<u>Application No.</u>	<u>Objectors/Supporters who wished to speak</u>	<u>Agent/Applicant who wished to speak</u>
P21/0165	Councillor K Shakespeare and Mr J Sandhu (Objectors)	Ms L Grimason (Applicant)
P21/0611	Mr D Thompson	Mr M Thompson (Applicant)
P21/0840	Councillor N Barlow (Supporter)	
P21/0866	Councillor P Miller and Ms S Norman (Objectors)	Mr G Costigan (Applicant)

- (a) **Planning Application No. P21/0165 – The Greyhound, Norton Road, Norton, Stourbridge – Demolition of 1 no. public house and erection of 1 no. care home and associated works**

In considering the report, Members considered the objections raised by a Ward Councillor and a local resident, as outlined in the report and as reported on at the meeting, concerning the over intensification of the building and the building being too large for the site, together with objections raised by the West Midlands Police in relation to no information being provided in relation to security measures for the Residential Care Home. Members also considered the architecture of the proposed building to be out of character with the local area.

Resolved

That the Planning Application be refused for the reasons of: -

The proposed development by virtue of its scale, bulk and massing would result in an incongruous, unsympathetic and overly dominant addition to the street scene that would result in the site appearing overdeveloped and would be detrimental to the visual amenity of the surrounding area. The proposal is therefore contrary to the guidance contained within the National Planning Policy Framework (2019); The National Design Guide (2019); Policy ENV2 Historic Character and Local Distinctiveness, ENV3 Design Quality, HOU1 Delivering Sustainable Housing Growth, HOU2 Housing Density, Type and Accessibility, and CSP4 Placemaking of the Black Country Core Strategy (2011); Policies S6 Urban Design and L1 Housing Development, Extensions and Alteration to Existing Dwellings of the Dudley Borough Development Strategy (2017) and the New Housing Supplementary Planning Document (2013).

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- (b) **Planning Application No. P21/0611 –10 John Road, Halesowen,
– Two storey and single storey side and rear extensions**

Resolved

That the application be approved subject to conditions numbered 1 to 5 as set out in the report submitted.

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- (c) **Planning Application No. P21/0840 – Land adjacent to Kingsbridge Bar, 83 Bridgnorth Road, Wollaston – Change of Use from residential courtyard (C3) to public house outdoor seating area (sui generis) for a temporary period of one year with associated works to include the installation of mechanical plant for internal chiller unit (Retrospective)**

Resolved

That the application be approved subject to conditions numbered 1 to 5 inclusive as set out in the report submitted.



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- (d) **Planning Application No. P21/0866 - Gibbons Industrial Park, Pensnett – Extension and alteration to existing portal framed building to provide storage and distribution (B8) with ancillary office accommodation and other ancillary works**

Resolved

That the application be approved subject to conditions numbered 1 to 13 and 15 to 17 as set out in the report submitted, amended condition 14 and an additional condition numbered 18, as set out below: -

14. No HGV movement would take place on the eastern area of the site beyond the eastern line of the application building as shown on drawing 1311:12a (Proposed Site Plan), extended across the length of the application site between the hours of 20.00 and 07.30 Mondays to Fridays, 19.00 - 08.00 Saturdays, and at no time on Sundays or Public Holidays.

REASON: To protect the amenities of nearby residents in accordance with Borough Development Strategy 2017 Policy D5 Noise Pollution and Policy L1 Housing Development, extensions and alterations to existing dwellings Policy D2 Incompatible Land Uses (in part).

18. Work shall not begin on the demolition and construction of the development until a method statement for the control of dust and emissions arising from the demolition and construction of the development had been submitted to and approved by the local planning authority. All works which form part of the approved scheme would be implemented throughout the construction and demolition phase of the development.

REASON: To minimise the impacts to air quality associated with the development and to protect the health and well-being of residents in accordance with BCCS Policy ENV8 - Air Quality.

At this juncture Councillors D Stanley and M Westwood left the meeting for the consideration and determination of the application below only.

- (e) **Planning Application No. P21/0315 – 46 Zoar Street, Lower Gornal Dudley – Erection of a detached garage, studio and pergola (Retrospective)**

Resolved



That the application be approved subject to conditions numbered 1 and 2, as set out in the report submitted.

CHAIR

The meeting ended at 7.40 pm



DC/9

PLANNING APPLICATION NUMBER: P20/1306

Type of approval sought	Full Planning Permission
Ward	Upper Gornal and Woodsetton Ward
Agent	Miss V. Lane
Case Officer	Richard Stevenson
Location:	LAND AT BOURNE STREET AND CEDAR AVENUE, COSELEY, DUDLEY
Proposal	ERECTION OF 72 DWELLINGS WITH ASSOCIATED OPEN SPACE, INFRASTRUCTURE AND ASSOCIATED WORKS
Recommendation Summary:	APPROVE SUBJECT TO CONDITIONS

SITE AND SURROUNDINGS

1. The site comprises a former quarry and tip extending over approximately 2.8 hectares which was in-filled from the early 1950s until the mid-1980s, with the finished levels generally reflecting those of adjoining rear gardens. The site is surrounded on all sides by post-war, semi-detached dwellings in Elmdale Road, Hockley Road, Cedar Avenue and Bourne Street. The site main access is off Bourne Street between the existing dwellings. The access is enclosed by metal galvanised palisade fencing with gates set back from the highway. The site also has a secondary access off Cedar Avenue (located between No. 1 Cedar Avenue and 28 Hockley Road).
2. The site levels fall from north to south by approximately 8 metres and also fall in level from west to east by approximately 6 metres. The access into the site is initially tarmac, leading to grass/bare ground fringed with scrub and some self sett trees which have established since infilling was completed.
3. The site is located within a predominantly residential area characterised by post-war semi-detached dwellings. Located immediately opposite the access to the site to the

west is Turls Hill, an area of natural green grazing land and Hurst Hill Wood. Turls Hill is designated as Green Belt, an Area of High Historic Landscape Value (AHHLV) and a Site of Local Importance for Nature Conservation (SLINC).

PROPOSAL

4. This is a full application for the erection of 72 dwellings, together with modified access from Bourne Street, a cycle way and emergency access from Cedar Avenue, together with an on-site nature conservation mitigation area, areas of open space and flood attention features.
5. Ten of the dwellings would have two bedrooms, 58 would have three bedrooms with the remaining 14 units having four bedrooms. Parking will be mostly located to the front or to the side of the proposed dwellings. All the accommodation within the site will be of two storey scale.
6. Levels will be adapted within the site to accommodate remediation, drainage and flood risk alleviation, which would require the provision of retaining structures, some within the site, but also adjacent to neighbouring gardens, most notably in the southern and south-eastern part of the site.
7. During the course of the application the number of residential units in the development has been reduced from 79. In addition, the western part of the site is now to be left undeveloped so that it can provide on-site nature conservation mitigation.
8. There have also been modifications to the site layout to accommodate issues raised by Highways and Urban Design Officers, as well as to ensure that a satisfactory relationship can be provided within adjoining neighbours. The latter has been demonstrated in the form of cross section drawings through the site.
9. The application has been accompanied by a number of supporting documents including;

- A Design and Access Statement
- Planning Statement
- Geotechnical information, which has been updated
- Flood Risk Assessment and Drainage Strategy, which has been updated
- Coal Mining Risk Assessment
- Transport Statement
- A Travel Plan
- Tree Survey
- Ecological Assessments
- Construction Management Plan

10. It should be noted that there is an extant outline permission for residential development on the site which was allowed on appeal for up to 100 dwellings. This permission does not expire until Spring 2022.

HISTORY

APPLICATION No.	PROPOSAL	DECISION	DATE
P04/1332	Erection of 36 dwellings with associated infrastructure	Refused	13/10/05
P10/1245	Residential Development (outline) (access to be considered)	Refused	23/06/11
P17/0184	Outline application for residential development for up to 100 dwellings (access to be considered)	Allowed on Appeal	13/3/19

11. Planning application P17/0184 was refused by the Development Control Committee against officer recommendation with reasons for refusal relating to highway safety and land contamination. A subsequent appeal was allowed with full and significant costs being awarded to the applicant against the Council.

12. As indicated above, the outline planning permission for the site is still live and confirms the principle of residential development within as acceptable. The Secretary of State assessed the issues of site land contamination and highway safety when considering the appeal, which had been the concerns of the Development Control Committee.
13. The above application differed from the current application, being outline, rather than full as now proposed, it proposed significantly more dwellings including apartments and did not provide a detailed site layout, levels, details of design, landscaping and remediation proposals.

PUBLIC CONSULTATION

14. During the first round of statutory consultation, 81 letters of objection were received following letters to 120 adjoining neighbours, the posting of a site notice and the publication of an advert within a local newspaper. A further full round of consultation was carried out following the receipt of revised plans and remediation proposals, with a further 87 letters of objection being received. Additionally, two letters of objection have been received from the Local Member of Parliament and three letters from local ward members. The main issues raised relate to the following matters;

Land Contamination, Stability and Public Health

- Previous use as a tip which included the deposition of toxic and hazardous materials including heavy metals and asbestos
- There has been a smell of gas from the site
- Redevelopment of site would release the toxic and hazardous materials, including heavy metals and asbestos
- Potential for underground fires from the tipped material
- Reference made to a site in Coseley where there is land contamination
- Concerns about children playing within gardens
- Potential long-term health issues from the site
- Will make health conditions worse?

- Levels of Toxicity above safe levels
- Have no confidence in survey work that has been carried out
- Previous use of site for mining, including shafts within site
- Claimed deficiencies/mistakes with submitted geotechnical information
- Methane levels within the site are increasing
- Reference made to methane explosions in 1913 and 1980s.
- Capping does not prevent people from digging within gardens
- Other sites which have been developed in the Borough are not representative as they are former industrial sites and not tips and reference is made to the second MP letter which was shared with residents suggesting concerns be raised.

Highways issues

- Roads within the estate are too narrow
- Current problem with speeding traffic along Bourne Street
- Bourne Street is congested
- Current problem with speeding traffic along Bourne Street
- Traffic calming does not address problems elsewhere on the network, i.e. Tipton Road
- Issues with visibility from the proposed accesses
- High number of road traffic accidents to Bourne Street

Drainage Issues

- Flood risk to dwellings in Cedar Avenue
- Exiting issues with sewage capacity within the area
- Increase in surface water runoff due to hard surfaces

Infrastructure

- Current issues with GP capacity within the area
- Issues with school places within the area, there is currently a waiting list for local school

Nature Conservation and Invasive Species

- Loss of habitat/impact to nature conservation

- Loss of SLINC
- Impact to protected species (i.e. Bats, Hedgehogs, Badgers)
- Japanese Knotweed within site
- Loss of Trees and Trees already removed from site
- Photograph of an amphibian submitted
- Some want trees removed from site

Design and Amenity

- Loss of privacy from overlooking
- Design and layout is out of character with the surrounding area
- Disruption from construction, i.e. dust, noise
- Security issues to rear boundaries

Other Matters

- Previous applications have been refused
- Site should be used a park/public open space
- Disruption from construction, i.e. dust noise
- Planning Inspectorate should not have given planning permission
- Dwellings will not be mortgageable, due to previous use
- Perceived housing shortage
- Impact to human rights
- No one will be able to afford the houses
- Reference to Miami building collapse and Grenfell
- Noise/damage from pile driving/ground compaction
- Note initial objections from the Urban Designer and from the Highway Authority

15. Additionally, seven further letters were received but have been discounted as the representations were not duly made.

OTHER CONSULTATION

16. Head of Planning and Regeneration (Highway Engineer): No objection, subject to conditions controlling visibility splays to Bourne Street, together with the provision of

traffic calming to Bourne Street. Satisfied that the non-motorised access from Cedar Avenue provides appropriate emergency access. Car parking levels and locations within the development is considered to be satisfactory.

17. Head of Planning and Regeneration (Land Contamination Team): No objection, following the receipt of the updated 'Geo-Environmental Assessment Report and Remediation Strategy' by Travis Baker Geo-Environmental Ltd. Whilst the previous Outline application was approved at appeal, this application is a new Full application, hence a substantially greater amount of information was required to support residential development at the site. The techniques employed in the investigation and proposed remediation of this site are recognised industry standards for many sites within the Dudley borough and across the UK. In addition, relative to the future users of the site, appropriate mitigation measures have been put forward. Also, there are appropriate measures to mitigate any perceived risks to surrounding residents during the redevelopment of the site, which was a key requirement of the Remediation Strategy. Appropriate conditions are required.
18. Head of Planning and Regeneration (Urban Design): A number of recommendations have been taken up by the applicants following initial comments. Whilst some areas of concern remain, it is accepted that this has to be balanced against the constraints within the site and to provide nature conservation mitigation.
19. Environmental Safety and Health: No objection, subject to conditions relating to dust control and air quality.
20. Lead Local Flood Authority: No objection, subject to conditions. Consider the proposed sustainable drainage is satisfactory. The applicant has also demonstrated that development would not compound any exiting drainage issues in relation to properties to Cedar Avenue.
21. Severn Trent Water: No objection, subject to drainage conditions.

22. Environment Agency: No objection, subject to conditions relating to ground water protection.
23. Coal Authority: No objection, subject to conditions in relation to coal mining and ground stability.
24. West Midlands Police: No objection.

RELEVANT PLANNING POLICY

- National Planning Guidance
Planning Policy Framework (2019)
Technical Guidance to the National Planning Policy Framework (2012)
Planning Practice Guidance (2019)
Community Infrastructure Levy Regulations (as amended) (2014)
- Black Country Core Strategy (2011)
CSP1 The Growth Network
CSP3 Environmental Infrastructure
CSP4 Place Making
DEL1 Infrastructure Provision
HOU1 Delivering Sustainable Housing Growth
HOU2 Housing Density, Type and Accessibility
HOU3 Delivering Affordable Housing
TRAN2 Managing Transport Impacts of New Development
TRAN4 Creating Coherent Networks for Cycle and for Walking
ENV 1 Nature Conservation
ENV 2 Historic Character and Local Distinctiveness
ENV 3 Design Quality
ENV 5 Flood Risk, Sustainable Drainage Systems and Urban Heat Island
ENV 7 Renewable Energy
ENV 8 Air Quality

- Dudley Borough Development Strategy (2017)
 - S1 Presumption in favour of Sustainable Development
 - S2 Planning for a Healthy Borough
 - S3 Renewable Energy
 - S4 Flood Risk
 - S5 Minimising Flood Risk and Sustainable Drainage Systems (SuDS)
 - S6 Urban Design
 - S7 Landscape Design
 - S17 Access & Impact of Development on the Transport Network
 - S21 Nature Conservation Enhancement, Mitigation and Compensation
 - S22 Mature Trees, Woodland and Ancient Woodland
 - L1 Housing Development, extensions and alterations to existing Dwellings
 - L3 Provision of Affordable Housing in New Developments
 - L4 Type, Tenure and Location of Affordable Housing in New Developments
 - D2 Incompatible Land Uses
 - D3 Contaminated Land
 - D4 Unstable Land
- Supplementary Planning Guidance/Documents
 - CIL Charging Schedule (2015) (updated 2017)
 - Design for Community Safety Supplementary Planning Guidance (2002)
 - Nature Conservation Supplementary Planning Document (2016)
 - New Housing Development Supplementary Planning Document (2013)
 - Parking Standards Supplementary Planning Document (2017)
 - Planning Obligations Supplementary Planning Document (2016)

ASSESSMENT

25. The main issues are
- Principle/Policy
 - Design and Layout
 - Neighbour Amenity
 - Occupier Amenity

- Access and Parking
- Land Contamination and Remediation – General
- Land Contamination – Ground Water
- Coal Mining
- Ground Remediation Techniques
- Trees
- Nature Conservation
- Flood Risk
- Air Quality
- Open Access Land
- Renewable Energy
- Air Quality
- Impact to Local Infrastructure
- Planning Obligations
- Financial Material Considerations
- Other Issues

Principle/Policy

26. The planning system is underpinned by the NPPF, which maintains a presumption in favour of sustainable development. This includes ensuring that planning decisions are plan led and that Local Planning Authorities proactively drive and support sustainable economic development to deliver the homes, business and industrial units, infrastructure and thriving local places that the country needs.
27. The site is designated for housing (HO.17) within the adopted Dudley Borough Development Strategy (2017). Policy HOU1 of the BCCS seeks to ensure the delivery of 63,000 houses. 2,556 houses of the overall total will be delivered outside of the designated Growth Network. The application site lies outside of the Growth Network.

28. The site forms part of the Strategic Housing Land Availability Assessment (SHLAA) (2015/16). The site is therefore considered as being available, suitable and achievable for residential development. The fact that the site forms part of the SHLAA and is designated for housing development within the Dudley Borough Development Strategy means that it forms part of the Council's five year land supply.
29. It should also be noted that the site designation is to be carried forward in the emerging Black Country Plan which will replace the current Black Country Core Strategy, as well as the current allocations within the Dudley Borough Development Strategy.
30. The site is also subject of an outline planning permission for up to 100 dwellings, which was granted by the Secretary of State following refusal by the Development Control Committee. The applicants could also rely on this permission until March 2002 to submit the first of the reserved matters applications. This further reinforces why the principle of residential development at the site is acceptable.

Design and Layout

31. The proposed layout of the site is built around a loop road which is in general accordance with the indicative plans submitted with the outline application. The loop road concept has the advantage of enabling a perimeter block or modified perimeter block to be provided which is model form of urban design, but also serves a secure by design purpose and allows for less wide roads to be provided than would be the case otherwise.
32. In this case the applicants, subject to the constraints offered by the site, caused by mine shafts, opencast mining areas with an effective no build ridge through the site and badger setts, have best tried to conform to this concept. This includes providing a garden to garden arrangement with existing dwellings to the north, east and south (albeit with nature conservation mitigation between) as this provides more privacy and is more appropriate from a security point of view. Again, with the constraints

within the site, the applicants have also managed to generally reflect this arrangement within the loop road.

33. Dwellings to corner plots have generally been designed to be dual aspect, which improves natural surveillance and therefore follows good secure by design practice.
34. There are some parts of the site internal frontage which have wider areas of car parking, however, the parking spaces are generally interspersed by soft landscaping every four spaces which goes some way to reducing dominance.
35. The house types are considered to be acceptable and are similar to the ones which the developer has used at a site currently being built in Brierley Hill, that offer variety and detailing, including the use of porches and soldier courses above window openings. The variety of roof types, whether conventional gables or hipped roofs adds more interest to the roofscape.
36. It is noted that neighbours have concerns that area is defined by semi-detached dwellings and as such the proposed development, with its wider variety of house types could be out of keeping. This could be considered to be true in terms of immediate surroundings, however, the development will not be specifically viewed in this way with the site setting its own internal context. In the wider area which includes infill developments such as Helmsdale Way and Andersleigh Road, and further north on Bourne Street, there is a more varied streetscape. It is apparent that the wider area includes terrace dwellings as well as flatted housing which forming part of a 1960s housing renewal scheme. Additionally, Policy HOU2 – Housing Density, Type and Accessibility of the BCCS requires developments of more than 15 dwellings to include a variety of house types to meet local need.
37. The western part of the site is to remain undeveloped as this will act a nature conservation mitigation and off-set area to maintain protected species. This also allows for the best tree specimens to be retained within the site. Public access is not expected to this area, as with other sites such as the former Longlands development Stourbridge. Other soft landscaped areas are to be provided around the proposed

drainage ponds and swales which typically form part of newer larger housing schemes due to the need to provide on-site sustainable drainage. These areas will also have considerable nature conservation benefits.

Neighbour Amenity

38. A number of residents have expressed concerns about overlooking and loss of privacy from the proposed development, particularly in relation to proposed ground level increases, chiefly in the south eastern part of the site, closest to existing dwellings to Cedar Avenue.
39. The Council has long established separation distance requirements which are attached at Appendix 1 of the adopted New Housing Development Supplementary Planning Document. For example, there is a requirement of a 22m separation between opposing habitable room windows where there is no significant change in levels, rising to 28m where there is significant change in ground levels.
40. With regard to Elmdale Road, to the north of the site where properties are slightly higher, or fairly close to that of the site, the separation distances run between 29m and 60m which are in excess of minimum separation distances. Similarly, to the east of the site (Cedar Avenue) separation distances are typically around 40 to 50m, which again, are well in excess of the minimum separation distance requirements.
41. As noted above, ground levels are being raised along the southern/south eastern boundary (also to Cedar Avenue) with the provision of a retaining structure at the boundary. There would be in the region of a 29m to 31m separation distance in this location, which would, relative to the change in levels, be in line with the adopted standards. Moreover, the provision of appropriate boundary treatments would reduce potential overlooking from gardens to adjoining residential properties.
42. The applicants have satisfactorily demonstrated compliance with these separation distances through the submission of a selection of cross sections which are

appended to this report and will be included within the officer presentation to the Development Control Committee.

43. There are no separation issues regarding the dwellings facing onto Bourne Street and the vast majority of Hockley Road, as this area is to remain undeveloped in that it would be used for nature conservation mitigation.
44. From an amenity and privacy perspective, it is not considered that surrounding residents would not be adversely affected, given that the proposed development would comply with the Councils adopted standards.

Occupier Amenity

45. The application site is located within an essentially residential area and positioned away from any principal highways with elevated background noise. As such, future residents would not be subject to any undue noise, nor is there any requirement to provide any acoustic treatment to any of the dwellings.
46. Additionally, due to the separation distances between dwellings within the site, and the garden lengths and sizes which generally accord with adopted standards at Annex A of the New Housing Development Supplementary Planning Document, no adverse impacts upon occupier amenity are indicated.

Access and Parking

47. Development Plan Policies TRAN2 and S17 in the Black Country Core Strategy and the Dudley Borough Development Strategy respectively ensure that development proposals should give consideration to highway safety, car parking and non-motorised highway users. Additionally, appropriate weight needs to be given to Paragraph 111 of the NPPF, which states that “Development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe”

48. Unlike the previous outline approval, there will be only one vehicular access from Bourne Street. The Highway Officer is satisfied that the proposed access would have sufficient visibility, with the conditions proposed by the Secretary of State to be reimposed.
49. The Highway Officer has again required the provision of traffic calming to Bourne Street, as it recognised there have been persistent issues with vehicles traveling above the speed limit, which the proposed traffic calming would seek to address. This is a matter that has been noted through the neighbour notification process and the same traffic calming is proposed to the design required by the Secretary of State when he considered and allowed the appeal.
50. The provision of the non-motorised access from Cedar Avenue is considered to be acceptable, in that it would promote more sustainable travel and improve permeability by providing more direct cycling (DBDS Policy S18) and walking routes to local facilities. Moreover, this access will also serve as an emergency access route into the site should it ever be required.
51. The road layout within the site forms a loop and follows that shown on the indicative outline planning application plans. The car parking is considered to be appropriate and is in general accordance with the parking Standards Supplementary Planning Document. Therefore, there are no substantive concerns from a highway safety perspective.

Land Contamination and Remediation – General

52. The thrust of planning policy at both a national, regional and local level requires that previously developed land, particularly where vacant, derelict or underused, is prioritised for development over greenfield sites. Given the historic industrial processes which have been undertaken in the Black Country, the redevelopment of derelict and redundant land is likely to result in the remediation of land affected by

contamination and is therefore, an important issue to address when delivering new development.

53. Where a site is affected by contamination, responsibility for securing a safe development rests with the developer and/or landowner. It is therefore vital that land contamination is dealt with properly and in an appropriate manner to ensure that development is 'suitable for use' and does not present any unacceptable risks to people, property or the wider environment. The remediation of land contamination which may affect ground or surface waters must be dealt with in a manner consistent with an established risk management framework.
54. Policy D3 – Contaminated land of the Dudley Borough Development Strategy states that, *“Where it is known or suspected that land contamination is present or the proposed use is sensitive or vulnerable to land contamination, it is necessary for the applicant to provide sufficient, relevant information to enable a proper assessment of the proposal to be made in the determination of an application”*.
55. The application site, like many in the Black Country, has historically been used for coal mining and open cast mining and not uncommonly has then been back-filled, having been used as a tip from the 1950s to the 1980s. Other examples of such sites in the Borough include Middlepark Road and Dark House Lane.
56. From readily available records, from information submitted with both this and earlier applications and by recent site investigations with on-site sampling, it is apparent that toxic materials including heavy metals, hydrocarbons and asbestos have been deposited on the site from the 1950s through to the 1980s. This has also been confirmed by long standing residents in responses to the neighbour notification process.
57. A significant amount of supporting information was submitted with the previous applications, including the outline application which was approved at appeal. However, given that this is full application and due to known ground issues relating to the site, in conjunction with the concerns expressed by residents and elected

representatives, additional and robust information has been required from the requested from the applicants in terms of ground conditions, mitigation and remediation.

58. In considering the information submitted by the applicants, the Council's Contaminated Land Team have needed to consider whether the remediation proposals are adequate to ensure a safe and suitable redevelopment of the site. Firstly, the Team agree that given the nature of the site and the fact that it is surrounded on all sides by existing residential properties, the site should be disturbed as little as possible. In addition, a clean cover layer of imported soils above an anti-dig warning membrane is to be provided to all gardens and landscaped areas, and appropriate protection measures are to be provided to the new dwellings with respect to ground gases. These remediation proposals are similar to those adopted across many other sites within the Dudley Borough and across the UK as a whole as a means of minimising any potential risks from contamination. Appropriate conditions attached to any approval of the application will require the applicant to demonstrate the remediation requirements have been achieved in practice.
59. The applicant has also taken on board concerns raised by both local residents and the Council's Contaminated Land Team about any potential risks to surrounding residents during the redevelopment of the site. Environmental management controls have been proposed to minimise and mitigate any construction impacts on the local environment (such as dust, noise and vibration). These, in addition to the remediation proposals outlined above, offer increased confidence that the site can be made safe and suitable for residential use whilst also minimising any impacts on surrounding residents.
60. It should again be noted when considering this application, that there is an extant outline planning permission for residential development and that the Secretary of State when considering the appeal, gave careful consideration to contamination and concluded *"I therefore find that the contamination on the site could be effectively*

dealt with without harming health, safety or amenity of local residents and future occupants of the proposed development. Subject to the attachment of suitable conditions, the proposed development would therefore comply with policy D3 of the Dudley Borough Development Strategy". The Secretary of State noted in his decision letter that it had been possible to remediate similar sites in Dudley and the wider Black Country. This further reinforces why the principle of residential development at the site is acceptable.

Land Contamination – Ground Water

61. As well as the matters discussed above, consideration needs to be given the protection of ground water, including water courses and aquifers as part of the development of the site. In this case the Environment Agency are the relevant statutory consultee.
62. They are of the view that the site is within a fairly low risk environmental setting in the context of Controlled Waters given the underlying strata. However, the culverted watercourse lies in close proximity to the site too and could thus also be considered a potential receptor at risk from any on-site contamination.
63. They note from the submitted information that parts of the site have been filled by up to 25m. Groundwater is typically encountered at between 8.5 to 11 m below ground level. The soils tested showed some elevated total concentrations for organic and metal contaminants.
64. The Environment Agency are of the view that removal of the infill is not an economical option here and ground water is generally below that of the culverted water course and there are no concerns about the underlying aquifer.
65. They consider that the infilling and stabilisation of all mineshafts and workings will greatly reduce the potential for groundwater movement locally and that the planned above-ground development will lead to reduced infiltration and thus potential pollution migration.

66. Furthermore, they consider that any foundations, whether vibro-compaction or piled, are unlikely lead to specific additional pollution pathways being created in this setting, as these connections have already existed for many decades. As a precaution, the monitoring of perimeter groundwater quality and that of culvert has been requested, however, the Environment Agency raise no objection to the proposed development subject to a number of planning conditions.

Coal Mining

67. The application site like much of the Coseley area, has been subject of a legacy of coal mining, with number of shafts being known to be present within the site. As such, Policy D4 _ Unstable land of the Dudley Bough Development Strategy is of relevance, which requires an applicant to provide sufficient and proportionate information to determine the extent of stability and what works are required to mitigate any potential impact.
68. In this case a Coal Mining Risk Assessment has been submitted with the application which has been assessed by the Coal Authority that are a statutory consultee.
69. The Coal Authority notes that the submitted assessment correctly identifies that the application site has been subject to past coal mining activity. In addition to the mining of deep coal seams, the Coal Authority records indicate that the site has been subject to historic recorded underground coal mining at shallow depth and other unrecorded underground coal mining. In addition, twenty-eight recorded mine entries) are located within, or within 20m of the planning boundary and the site has also been subject to past surface mining activities.
70. The Coal Authority are content that there are appropriate recommendations within the Coal Mining Risk Assessment report, for the carrying out of ground investigations in relation to mine workings and the mine entries within the submission. They content that the report goes on to confirm that these investigations will inform any required remedial measures.

71. The Coal Authority also note that intrusive site investigations should be and undertaken by persons and should be appropriate to assess the ground conditions on site in order to establish the coal-mining legacy present and the risks it may pose to the development and inform any mitigation measures that may be necessary. Therefore, the Coal Authority raise no objection subject to conditions.
72. The Coal Authority note, as part of the amended plans that Plot 68 (formerly Plot 75) has now be repositioned, which as a result means that it will straddle the high wall of the former surface extraction that runs through the site. The submitted remediation strategy does, however, confirm that bespoke foundations (i.e. piling) will be required for those plots straddling the high wall, which will be a matter for the Building Regulations.

Ground Remediation Techniques

73. Following the concerns expressed by local residents in relation the proposed Ground Improvement and stabilisation, the applicant's geo-environmental consultants were requested to provide further information on this matter. The current remediation strategy has highlighted the potential for settlement of the made ground materials below the development and identified a number of options for improving the settlement characteristics of the near surface soils. These have included excavation and re-compaction; dynamic compaction techniques; vibro replacement and surcharging. The possible use of excavation and re-compaction was dismissed in order to minimise the risk of releasing contaminants, odours. The use of vibro replacement was also dismissed as this method could introduce preferential pathways for groundwater and ground gases.
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74. The potential use of dynamic compaction methods and surcharging was therefore highlighted. There are a number of dynamic compaction methods available, each of which work on slightly different principles and therefore some may work better than others in certain ground conditions. Given the known variability of the ground it is not currently known which technique will be the most appropriate for the site in

terms of ground improvement and potential nuisance to local residents. To identify whether a dynamic compaction technique will be suitable a trial would be undertaken to include the placement of vibration monitors on the boundary to measure the ground vibrations being generated by the working plant. The monitors provide direct readings to confirm whether such vibrations are likely to cause nuisance or damage. Should the techniques be shown to cause inappropriate levels of ground vibration alternative techniques will be trialled.

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75. In the situation that dynamic compaction is not appropriate then surcharging can be adopted, in this technique the area to be treated is covered by a 'stockpile' of soil materials at a set height of some 3m. When settlement is substantially complete the surcharge is moved on to the next area and the process repeated. Site won soils would not be used for the surcharge to minimise the risk of releasing contaminants. It would therefore be proposed to use imported clean cover ahead of when it is required, to use as temporary surcharge. With this this technique ground vibrations are minimised.

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76. In relation to concerns regarding possible ground vibrations from the installation of driven concrete piles, again it is not known which piling method is to be adopted as this will also be guided by the results of the mineworkings treatment. If a driven piling method is appropriate for the ground conditions vibration monitoring will again be undertaken to confirm whether the installation of the piles is causing inappropriate ground vibrations. Should this be the case then the piling method can be changed to rotary techniques such as continuous flight auger or bored piles.

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Mineworkings and Mineshaft Investigations and Treatment

77. There are two issues to be addressed with regards to mining, being. the investigation and treatment of mineshafts within the site boundary and the investigation and treatment of shallow mineworkings beneath the house plots and roads.

Mineshafts

78. There are numerous records of mineshafts within the site and where these are considered to be within influencing distance of the site, they will be searched for by

probe drilling. When located they will be treated by drilling and grouting to ensure there are no remnant voids in the former mineshaft column. Where appropriate, a mineshaft cap will be constructed over the located mineshaft. Depending on treatment afforded to each mineshaft, a development stand-off will be established around the shaft where house plots will not be constructed. The mineshaft investigation and treatment works will take place following the site clearance in order to confirm the site layout.

Mineworkings

79. The site investigations undertaken to date have highlighted the potential for shallow workings beneath the site which could present a stability issue to the proposed development if not addressed. It is therefore proposed to investigate the proposed plot areas and roads on a grid pattern to identify any remnant voids (workings) and stabilise them by injecting grout. Once this exercise is complete, the risk of future subsidence due to mineworkings will be minimised. Following the site clearance works, boreholes will be drilled on a regular grid pattern below the proposed roads and house plots. Where workings are identified and high levels of grout injected, the additional boreholes are drilled on a reduced grid to ensure the former workings are fully treated.

Trees

80. Dudley Borough Development Strategy Policy 22 – Mature trees, Woodland and Ancient Woodland states that, where trees are affected by proposed development, the applicant will be required to provide full details of any impact. Proposals involving loss of mature or semi-mature trees will normally be required to include replacement planting.
81. Since the tipping operations at the site ceased a number of years ago, self-set trees became established along with other general vegetation. A number of those trees were removed a few years ago for the undertaking of site surveys, with a Forestry Commission Licence requiring restocking thereafter.

82. A tree survey submitted with the application confirms that the best remaining specimen trees within the site are located to the west of the site, where there are Badger setts. These trees were not previously removed due to the presence and potential disturbance to setts. As it is proposed that the protected species will be retained on site in the same area, these trees will be retained.
83. There are opportunities elsewhere within the site, to provide additional native tree planting which would contribute towards nature conservation mitigation and enhancement. Standard tree protection conditions are therefore proposed in association with landscaping requirements.

Nature Conservation

84. As well as the site being an allocated Housing site within the Dudley Borough Development Strategy (Ref HO.17), the site is also designated as a Site of Local Importance for Nature Conservation (SLINC). This designation does not, however, preclude the development of the site subject to appropriate mitigation or enhancement being put in place, in accordance with Black Country Strategy Policy ENV1 and the NPPF.
85. Due the proposed loss of areas of SLINC the applicant has submitted a series of nature conservation assessments to support the planning application. In addition, an assessment has been provided in relation to Badgers due the known location of setts within the site. These reports have been assessed by the Birmingham and Black Country Wildlife Trust.
86. The existing habitat is described as scrub and grassland habitat with a lower grade of nature conservation value . As the grassland and scrub habitat are covered under the non-statutory site allocation and these habitats should be given an ecological importance of Local, as per CIEEM Guidelines for Ecological Impact Assessment in the UK and Ireland. These means the site overall is no more than of local value.

87. Within the assessment of effects and mitigation measures chapter of the ecological report, it is stated that the development would result in minimal impacts to nature conservation in terms of habitats. Additionally, it is clear from the layout that areas have been provided for mitigation and enhancement particularly to the west of the site (principally required for badgers) as well as a corridor which runs around the northern and eastern parts of the site. However, the wildlife trust consider that details of mitigation and enhancement require further information which should be provided by condition.
88. Overall, the Wildlife Trust are in agreement with conclusions in relation to protected species, including in relation to badgers and the mitigation area to the west of the site. However, they note that badgers within the existing site are likely to have a number of key external foraging areas, one being the Turls Hill SLINC and the other being the site itself. As such, the development will result in the loss of a portion of foraging resource in close proximity to their sett, both temporarily and permanently. The development will retain green space for foraging within the site and the badgers current commuting paths to foraging areas away from the site.
89. It is still likely that once the residential houses are in operation the Badgers will not only use the green space corridors designated for them, they will also be entering gardens and potential building outlier setts within them which could ultimately result in conflict with residents. Ideally future residents should be made aware of their presence prior to moving into the area to reduce this potential conflict. Whilst this matter cannot be conditioned, appropriate notes will be added to any decision notice.
90. The wildlife trust have also suggested that signage to Bourne Street would be appropriate to make drivers aware of badgers commuting across the road to Turls Hill SLINC. This matter can be conditioned.
91. It should be noted that the development will also require a separate consent from Natural England in relation to the Badger sett mitigation works. In recommending approval of the application, regard has been given to there being Badgers on site,

balanced against the public interest test of providing new residential development to meet identified need on an identified housing site.

Drainage

92. Policy ENV5 - Flood Risk, Sustainable Drainage Systems and Urban Heat Island of the Black Country Core Strategy, requires that Black Country authorities will seek to minimise the probability and consequences of flood risk by adopting a strong risk-based approach in line with government guidance. Proposals for development must demonstrate that the level of flood risk associated with the site is acceptable in terms of the Black Country Strategic Flood Risk Assessment and government guidance.
93. In particular, larger developments such this should include Sustainable Drainage Systems (SUDs), unless it would be impractical to do so, with an expectation where possible, to reduce surface water flows back to equivalent greenfield rates. In this case the Lead Local Flood Authority (LLFA) as statutory consultee would require that the proposed development can be achieved with no risk of flooding and without increasing flood risk to third parties and if anything, a net betterment.
94. It is known that there are surface water drainage issues within the site, as well as know issues with a number of dwellings which are located on Bourne Street and Cedar Avenue. There is also known to be a culvert that runs under part of the site, and these have been key considerations.
95. As part of the application, sustainable drainage techniques have been incorporated into the development, including the provision of above ground mitigation in the form of ponds and swales, together with the use of storage creates under drives and communal parking areas. Additionally, consideration has been given to neighbours in Cedar Avenue through the provision of a land drain to the southern boundary to capture surface water not intercepted by the sustainable drainage.

96. The development has been modelled on sustainably managed surface water arising from the development up to the 1 in 100 year +30% climate change storm event, with a 10% allowance for future Urban Creep and such the LLFA raise no objection to the proposed development subject to an appropriately worded planning condition.
97. With regard to sewage disposal, Severn Trent Water which are the sewage undertaker have raised no objections in relation to the development, subject to the imposition of their standard planning condition.

Renewable Energy

98. Black Country Core Strategy Policy ENV7 - Renewable Energy requires that residential developments of 10 units or more gross (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. In this case the applicants have asked that the equivalent energy reduction be provided through a fabric first approach. Whilst this is not the preferred preference, this has been agreed previously elsewhere in the Borough as a means of improving the sustainability of the development and reducing the requirements for energy consumption.

Air Quality

99. Environmental Safety and Health overall have no objection in principle to the proposed development in terms of air quality, subject to the imposition of conditions in relation nitrogen dioxide (NO_x) output from gas boilers at the site, together with the provision of in plot electric vehicle charging points, in accordance with our adopted Parking Standards Supplementary Planning Document.
100. Environmental Safety and Health also asked for a dust control condition to be imposed, but given the applicants have submitted a Construction Management Plan, this will be conditioned to ensure that dust during construction is minimised.

Open Access Land

101. The site was designated as Open Access Land under Section 4 of the Countryside and Rights of Way (CROW) Act 1981. It is one of only two such areas in the Borough, the other being the open land around Netherton Church. Initially, Natural England objected to the 2010 application proposals, however, when informed that public access to the site was prohibited and that remediation of the site to facilitate access would necessarily involve removal of all the existing vegetation (upon which the Access Land designation relied) Natural England withdrew its objection to the application. When reconsulted they have advised that the designation under Section 4 of the CROW should not have any weight in the planning process or interfere with the ability to develop the land. This was a view shared by the Secretary of State in determining the earlier appeal.

Impact to Local Infrastructure

102. A number of comments have been received in relation to the impact of the development upon local infrastructure, including a perceived lack of local school places which would be exacerbated by the additional residents, as well as impact to the local health and GP services.
103. The impact upon infrastructure is a material consideration in relation a planning application in accordance with NPPF, the Community Infrastructure Levy (CIL) Regulations and Black Country Core Strategy (BCCS) Policy DEL1 'Infrastructure Provision' and the adopted Planning Obligations Supplementary Planning Document.
104. With regard to education contributions these are payable where there is known to be a deficiency of places within local schools and would normally be levered through a Section 106 agreement. In this case, whilst there is acknowledged short fall of local school spaces, the applicants have, through the submission of a viability assessment (referred to below) and independently assessed by a Council appointed

surveyor, demonstrated that the proposed development would not be sufficiently viable to proceed if the required education contribution were to be sought. This matter was also acknowledged by the Secretary of State in the previous outline approval, which was for significantly greater number of units and that the scheme could only sustain a £5000 contribution.

105. With regard to health and GP services, the Clinical Commissioning Group (CCG) are the relevant health authority statutory consultee when a Development Plan is prepared. This to ensure, that the authority is able to plan services according to local need. The CCG were therefore consulted as part of the Borough Development Strategy to aid planning for health provision when the site allocation for Housing was mandated. Moreover, health is factored into the Community Infrastructure Levy (CIL), however, whilst this development would potentially be liable for CIL, it is located within an area of the Borough where the contribution rate is £0, due to the lower land values.

Planning Obligations

106. 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.
107. Policy DEL1 requires all new developments to be supported by sufficient on and off-site infrastructure to serve the development, to mitigate its impact on the environment, to ensure that the development is sustainable and contributes to the proper planning of the wider area.
108. 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.

109. In this case the applicants have submitted a viability assessment which has been independently assessed. In this case it has been determined that the proposed development would not attract any planning obligations because the scheme would offer insufficient return to make any contributions affordable.

Financial Material Considerations

110. Section (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' 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 the Community Infrastructure Levy (CIL).
111. The section 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'.
112. This proposal would provide 72 houses generating a New Homes Bonus grant of 72 times the national average council tax for the relevant bands.
113. As a residential development, the proposal is liable for CIL, but the site falls within Zone 1 which has a £0 rate thus no CIL charge is required
114. Whilst these matters represent significant sums of money, the planning merits of the proposal are acceptable in any event and therefore this is not accorded significant weight.

Other Matters

115. A number of neighbour objections have been raised as part of the statutory publicity as to whether the site should be designated as open space. On the basis the Development Plan designation is as a housing site, the Local Planning Authority has to consider the planning application accordingly. Moreover, the Local Planning Authority is only able consider the planning application that is before it. In any event, the site is in private ownership and is not suitable for use as open space with public access unless remediation of the site had taken place.
116. Comments have been received stating the site would not contribute towards housing need, in that the dwellings would not be mortgageable. However, given that specialist finance can be available, cash buyers could purchase or that the developer could rent as part of build to let or as rented affordable housing, this concern cannot be given any significant weight.
117. Concerns have raised about disruption during the construction process. Whilst this can only be given limited weight the applicants have offered up a Construction Management Plan which seeks to take account of adjoining occupiers, in relation to noise and dust.

CONCLUSION

118. The proposed residential development is considered to be acceptable in principle given the site is an allocated housing site within the adopted Dudley Borough Development Strategy and is the subject of an extant outline planning permission for up to 100 residential units. Access to and from the site, subject to the provision of off-site traffic calming is considered to be acceptable. The provision of parking accords with the adopted standards, and the development is generally considered to be acceptable from a design and amenity point of view, given the on-site constraints. Additionally, the applicants have provided sufficiently robust information in relation to ground gases land contamination, coal mining and ground water pollution for no objection to be sustained on these grounds. Moreover, sufficient nature conservation mitigation measures can be put in place to offset the impact of the development including providing sufficient protection for existing badgers.

Consideration has been given to policies within the Black Country Core Strategy (2013); and the Dudley Borough Development Strategy (2017).

RECOMMENDATION

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.
REASON: To comply with Section 91(1) of the Town and Country Planning Act, 1990 as amended by Section 51 of the Planning and Compulsory Purchase Act 2004.
2. The development hereby permitted shall be carried out in accordance with the following approved plans:
SKM135-PL-01 Rev W Planning layout
SKM135-BTP-01 Rev F Boundary Treatment Plan
KM135-MP-01 Rev E Materials Plan
Cedar-Planning Drawings (Sheet 1-Hipped) A3
Cedar-Planning Drawings (Sheet 2-Brick) A3
Cedar-Planning Drawings (Sheet 3-Brick-Render) A3
Cedar-Planning Drawings A3 - AS Hand
Cedar-Planning Drawings A3 - OPP Hand
Dee Planning Drawings A3 - AS Hand
Dee Planning Drawings A3 - OPP Hand
Dee SA Planning Drawings A3 - AS Hand
Dee SA Planning Drawings A3 - OPP Hand
Grantham Planning Drawings A3 - AS Hand
Grantham Planning Drawings A3 - OPP Hand
Irwell Planning Drawings A3 - AS Hand
Irwell Planning Drawings A3 - AS Hand
Trent Planning Drawings A3 - AS Hand
Weaver Planning Drawings A3 - AS Hand
Weaver Planning Drawings A3 - OPP Hand
9104 - Close Board Fence - Concrete Base Panels-NSD 9104
MSD9001 - Wall Type 1
NSD 9000 Mid-02 - Knee Rail Fence
Geo-Environmental Assessment Report and RMS 19188-REP-003 (Parts A-F)
SKM135-SEC-01 Site Sections
AAC5652_RPS_XX_XX_DR_C_100-01 Engineering layout P08
AAC5652_RPS_xx_xx_DR_C_200 Private Drainage P04
SK06 Bourne Street Traffic Calming Scheme dated 29/06/20 (at appendix F of the Transport Statemnet)
2050-TGW-TR001 Rev A

6407.03 LD 1 of 3 Jul'21

6407.04 LD 2 of 3 Jul'21

6407.05 LD 3 of 3 Jul'21

6407.06 Tree Pit LD Jul'21

Construction Environmental Management Plan, Land off Bourne Street & Cedar Avenue dated February 2021

Unless otherwise required by other conditions attached to this planning permission.

REASON: For the avoidance of doubt and in the interests of proper planning.

3. In accordance with Annex D of 2050-TGW-TR001 Rev A, site clearance and remediation works shall not proceed until Construction Exclusion Zones have been erected to protect the RPAs of the T6-T11, T13-T16, G2-G5 and the portion of W1 which is located to the east of the approved estate road (shown on planning Layout SKM135-PL-01 Rev V). Barriers and ground protection shall conform to clause 6.2 of BS 5837:2012 'Trees in Relation to Design, Demolition and Construction- Recommendations'. Tree protection measures shall not be removed, replaced or amended in any way during construction operations without prior written approval of the Local Planning Authority.

REASON: To ensure that those trees and hedges to be retained on the development site are not subject to damage because of either works carried out on site or during the carrying out of such works in accordance with DBDS Policy S22.

4. 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).

REASON: To ensure that those trees and hedges to be retained on the development site are not subject to damage because of either works carried out on site or during the carrying out of such works in accordance with DBDS Policy S22.

5. The existing trees shown to be retained shall not be damaged or destroyed, uprooted, felled, lopped or topped during the construction period of the development without prior written consent of the local planning authority. Any trees removed without such consent or dying or being seriously damaged or diseased during that period shall be replaced with healthy trees of such size and species as may be agreed in writing by the local planning authority.

REASON: To ensure that those trees and hedges to be retained on the development site are not subject to damage because of either works carried out on site or during the carrying out of such works in accordance with DBDS Policy S22.

6. Unless otherwise agreed in writing by the Local Planning Authority, the development hereby permitted shall proceed in complete accordance with the details on approved plans:

Detailed landscaping plans 6407.03 LD 1 of 3 Jul'21 6407.04 LD 2 of 3 Jul'21

6407.05 LD 3 of 3 Jul'21

The agreed scheme shall be implemented in accordance with the approved details within the first planting season following the first occupation of the

development, unless otherwise agreed in writing by the Local Planning Authority. 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.

REASON In order to make a positive contribution to place-making and provide a high quality open space is properly maintained in accordance with BCCS Policies CSP4 - Place-Making, ENV 2 Historic Character and Local Distinctiveness, ENV3 - Design Quality and DEL1 - Infrastructure Provision and Borough Development Strategy 2017 Policy S6 Urban Design and Policy L1 Housing Development, extensions and alterations to existing dwellings Policy D2 Incompatible Land Uses (in part) and LR1 - Open Space

7. The development shall not be first occupied until a schedule of landscape maintenance to the areas of open space and any communal areas (excluding private gardens), 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. The open space and any communal areas shall thereafter be cared for in accordance landscape maintenance scheme.

REASON In order to make a positive contribution to place-making and provide a high quality open space is properly maintained in accordance with BCCS Policies CSP4 - Place-Making, ENV 2 Historic Character and Local Distinctiveness, ENV3 - Design Quality and DEL1 - Infrastructure Provision and Borough Development Strategy 2017 Policy S6 Urban Design and Policy L1 Housing Development, extensions and alterations to existing dwellings Policy D2 Incompatible Land Uses (in part) and LR1 - Open Space

8. The development shall not be first occupied until details of the future management of the open space and any communal areas (excluding private gardens) which are not to be transferred to the Council have been submitted to and approved in writing by the Local Planning Authority. The open space and any communal areas shall thereafter be maintained and managed in accordance with the approved details for the life of the development.

REASON In order to make a positive contribution to place-making and provide a high quality open space is properly maintained in accordance with BCCS Policies CSP4 - Place-Making, ENV 2 Historic Character and Local Distinctiveness, ENV3 - Design Quality and DEL1 - Infrastructure Provision and Borough Development Strategy 2017 Policy S6 Urban Design and Policy L1 Housing Development, extensions and alterations to existing dwellings Policy D2 Incompatible Land Uses (in part) and LR1 - Open Space

9. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order (England) 2015 (or any order revoking and re-enacting that Order), at no time during the life of the development shall the areas approved for landscaping and open space be used for any other purpose unless otherwise agreed in writing by the Local Planning Authority.

REASON: To preserve the character and visual amenities of the area, in accordance with BCCS Policy ENV2.

10. Boundary walls, fences and railings shown on plan SKM132-BTP-01 Rev D shall be installed in accordance with the approved plans prior to the relevant dwelling being first occupied. Any boundary walls, fences and railings to highway

boundaries shall thereafter be retained for the life of development and shall not be removed or any other alteration carried to them, including the insertion of gates unless otherwise agreed in writing by the Local Planning Authority.

REASON: To preserve the character and visual amenities of the area, in accordance with BCCS Poliy ENV2.

11. No development shall commence (excluding ground clearance) until;
 - a) a scheme of intrusive investigations has been carried out on site to establish the risks posed to the development by past coal mining activity, and;
 - b) any remediation works and/or mitigation measures to address land instability arising from coal mining legacy, as may be necessary, have been implemented on site in full in order to ensure that the site is safe and stable for the development proposed.The intrusive site investigations and remedial works shall be carried out in accordance with authoritative UK guidance.

REASON: In the interests of land stability and public safety and to comply with DBDS Policy D4. (CA)
12. Prior to the occupation of the development, or it being taken into beneficial use, a signed statement or declaration prepared by a suitably competent person confirming that the site is, or has been made, safe and stable for the approved development shall be submitted to the Local Planning Authority for approval in writing. This document shall confirm the methods and findings of the intrusive site investigations and the completion of any remedial works and/or mitigation necessary to address the risks posed by past coal mining activity.

REASON: In the interests of land stability and public safety and to comply with DBDS Policy D4. (CA)
13. Unless otherwise agreed in writing by the Local Planning Authority, the development hereby permitted shall proceed in complete accordance with the details approved on plans:
SKM135-SEC-01 Site Sections
AAC5652_RPS_XX_XX_DR_C_100-01 Engineering layout P08
AAC5652_RPS_xx_xx_DR_C_200 Private Drainage P04
unless otherwise agreed in writing by the Local Planning Authority.

REASON: To ensure the satisfcaory apperance of the developmnet and to comply with BCCS Policy ENV2.
14. Site clearance, remediation and construction of the development shall proceed in complete accordance with the approved 'Construction Environmental Management Plan, Land off Bourne Street & Cedar Avenue' dated February 2021 unless otherwise agreed in writing by the Local Planning Authority.

REASON: To protect the amenity of residents in the vicinity of the site during construction of the development and to comply with DBDS Policies D5 and D6.
15. Within the development hereby permitted, no buildings, compounds, structures or enclosures which are required temporarily shall be placed or erected on the site or on adjacent land other than in accordance with the approved details in Appendix 3, Construction Environmental Management Plan dated February 2021 and unless otherwise agreed in writing by the Local Planning Authority (Notwithstanding the provisions of Part 4 of Schedule 2 of the Town and Country Planning (General Permitted Development) Order (England) 2015 (or any order revoking or re-enacting that Order with or without modification). The compound and other buildings and works shall be removed within 3 months of the last

dwelling being occupied.

REASON: To protect the amenity of residents in the vicinity of the site during construction of the development and to comply with DBDS Policies D5 and D6.

16. Development shall not commence (excluding site clearance and remediation works) 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 available to local people at the site and the development of initiatives that support activities which will up skill local unemployed people of working age so as to support them into sustained employment. The development shall be implemented in accordance with the approved Statement and operated in accordance with the Statement for the lifetime of the development

REASON: In order to facilitate the creation of local jobs for local people in the interests of economic and community development in accordance with DBDS Policy S1.

17. No dwellings shall be first occupied until details of onsite energy micro generation with an equivalent 10% of the sites energy needs has been submitted to and approved in writing by the Local Planning Authority, unless the applicants can demonstrate that the equivalent reduction in energy use can be achieved through an equivalent fabric first enhancement approach. The onsite micro generation or the equivalent fabric first enhancement shall therefore be installed/constructed in accordance with the approved details. The approved scheme shall thereafter be retained and maintained for the life of the development unless otherwise agreed in writing by the Local Planning Authority.

REASON: In the interests of air quality and climate change and to comply with BCCS Policies ENV7 and ENV8

18. In order to minimise the impact of the development on local air quality, any gas boilers provided within the development must meet a dry NO_x emission concentration rate of <40mg/kWh.

REASON: In the interests of air quality and climate change and to comply with BCCS Policies ENV7 and ENV8

19. No part of the development hereby permitted shall be occupied until visibility splays to the new accesses have been provided at the junction with Bourne Street with an 'x' set back distance of 2.4 metres and a 'y' distance of 43 metres. No structure or vegetation exceeding 600mm in height above the adjoining highway shall be placed or allowed to grow within the visibility splay for the life of the development unless otherwise agreed in writing by the Local Planning Authority

REASON: In the interests of highway safety and to comply with BCCS Policy TRAN2.

20. Prior to first occupation all redundant dropped kerbs should be replaced with matching full height kerbs and the adjacent Highway made good.

REASON: In the interests of highway safety and to comply with BCCS Policy TRAN2.

21. The development shall not be first brought into use until details of the access(es) into the site, together with parking and turning area(s) [including details of lines, widths, levels, gradients, cross sections, drainage and lighting] have been submitted to and approved in writing by the Local Planning Authority. For the avoidance of doubt, this includes the vehicular access from Bourne Street and

the emergency access from Cedar Avenue. The development shall be laid out in accordance with the approved details and these area(s) shall thereafter be retained and not be used for any other purpose for the life of the development.
REASON: In the interests of highway safety and to comply with BCCS Policy TRAN2.

22. No above ground development shall commence until the signage associated with the traffic calming has been installed in accordance with plan SK06 Bourne Street Traffic Calming Scheme dated 29/06/20 (at appendix F of the Transport Statement). The development shall thereafter shall not be fully occupied until the traffic calming has been completed in accordance with plan SK06 Bourne Street Traffic Calming Scheme dated 29/06/20 (at appendix F of the Transport Statement).

REASON: In the interests of highway safety and to comply with BCCS Policy TRAN2.

23. The development shall not be first occupied/used until the electric vehicle charging points have been provided in accordance with the details and locations shown on 'SKM135-PL-01 Rev W Planning Layout' unless otherwise agreed in writing by the Local Planning Authority. The charging points shall thereafter be retained and maintained for no other purpose for the life of the development.

REASON: In the interests of highway safety and to comply with BCCS Policy TRAN2.

24. The development shall not be first occupied/used until the bin collection points to private drives have been provided in accordance with the locations shown on 'SKM135-PL-01 Rev W Planning Layout' unless otherwise agreed in writing by the Local Planning Authority. The bin stores shall thereafter be retained and maintained for no other purpose for the life of the development.

REASON: In the interests of highway safety and to comply with BCCS Policy TRAN2.

25. The development hereby permitted should not commence, excluding site clearance and remediation works, until drainage plans for the disposal of foul and surface water flows have been submitted to and approved by the Local Planning Authority. The scheme shall be implemented in accordance with the approved details before the development is first brought into use.

REASON: To ensure the site is adequately drained and to comply with BCCS Policy ENV5.(STWA)

26. Notwithstanding the details contained within the ecological assessment, no development shall commence (excluding site clearance) until full details of nature conservation mitigation and enhancement including the management of the nature conservation mitigation areas to the west, north and west of the site have been submitted to and approved in writing by the Local Planning Authority. The approved nature conservation mitigation and enhancement shall thereafter be provided in accordance with a timetable to be agreed in writing by the Local Planning Authority.

REASON: In the interests of nature conservation enhancement and mitigation at to comply with BCCS Policy ENV1

27. Prior to the first occupation or use of the development details of the type and location of bat roost provision on the site shall be submitted to and approved in writing by the Local Planning Authority. Prior to the first occupation or use of the development the agreed provision shall be installed on site and thereafter

maintained and retained for the lifetime of the development.

REASON: In the interests of nature conservation enhancement and mitigation at to comply with BCCS Policy ENV1

28. Prior to the first occupation or use of the development details of the type and location of bird nesting provision on the site shall be submitted to and approved in writing by the Local Planning Authority. Prior to the first occupation or use of the development the agreed provision shall be installed on site and thereafter maintained and retained for the lifetime of the development.

REASON: In the interests of nature conservation enhancement and mitigation at to comply with BCCS Policy ENV1

29. The development shall not be first occupied until details of badger warning signage to Bourne Street has been submitted to and approved in writing by the Local Planning Authority. The signage shall be installed in accordance with a timetable to be agreed by the local planning authority. The signage shall thereafter be retained for the life of the development.

REASON: In the interests of nature conservation enhancement and mitigation at to comply with BCCS Policy ENV1

30. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order (England) 2015 (or any order revoking or re-enacting that order with or without modification) no development referred to in Schedule 2, Part 1, Classes A, AA, B, C and D or Part 20 Classes AC and AD of that order shall be carried out without the express grant of planning permission.

REASON: In the interests of the privacy and amenity of surrounding residents in accordance with Borough Development Strategy 2017 Policy L1 Housing Development, extensions and alterations to existing dwellings Policy D2 Incompatible Land Uses (in part)

31. Surface water drainage works shall be implemented in complete accordance with the approved details contained within AAC5652 - Land off Bourne Street, Dudley Issue 4 (RPS 22/03/21). The scheme shall be thereafter managed and maintained in accordance with the approved details for the life of the development. None of the development shall be occupied until surface water drainage works have been implemented in accordance with the approved details.

REASON: in the interests of sustainable drainage and comply with BCCS Policy ENV5.

32. The development hereby approved shall proceed in complete accordance with 'Geo-Environmental Assessment Report and Remediation Strategy' by Travis Baker Geo-Environmental Ltd, dated 27 May 2021 unless otherwise agreed in writing by the Local Planning Authority.

REASON: To ensure that the risks associated with any contamination are reduced to acceptable levels and that the health and wellbeing of future occupiers are protected and to ensure that the development complies with Borough Development Strategy 2017 Policy D3 Contaminated Land and the NPPF.

33. Following implementation and completion of the approved remediation scheme as required by condition 33 above and prior to the first occupation of the development or an individual dwelling a verification report shall be submitted to and approved in writing by the Local Planning Authority to confirm completion of the remediation scheme in accordance with approved details.

REASON: To ensure that the risks associated with any contamination are reduced to acceptable levels and that the health and wellbeing of future occupiers are protected and to ensure that the development complies with Borough Development Strategy 2017 Policy D3 Contaminated Land and the NPPF.

34. Prior to the commencement of construction works (excluding site clearance), the additional investigation and treatment of contaminated hotspot areas as detailed within the 'Geo-Environmental Assessment Report and Remediation Strategy' by Travis Baker Geo-Environmental Ltd, dated 27 May 2021 must be undertaken, and a verification report shall be submitted to and approved in writing by the Local Planning Authority.

REASON: These details are required to ensure that the risks associated with any contamination are reduced to acceptable levels and that the health and wellbeing of future occupiers are protected and to ensure that the development complies with Borough Development Strategy 2017 Policy D3 Contaminated Land and the NPPF.

35. Following the investigation and remediation of those areas required by condition 35 above, remediation of the site must be undertaken in complete accordance with the Remediation Strategy as detailed within the 'Geo-Environmental Assessment Report and Remediation Strategy' by Travis Baker Geo-Environmental Ltd, dated 27 May 2021 unless otherwise agreed in writing by the Local Planning Authority. Furthermore, no part of the development shall be brought into use or individual dwelling first occupied until the relevant verification report(s) have been submitted to and approved in writing by the Local Planning Authority to confirm completion of the remediation scheme in accordance with approved details.

REASON: These details are required prior to ensure that the risks associated with any contamination and ground gases/vapours are reduced to acceptable levels and that the health and wellbeing of future occupiers are protected and to ensure that the development complies with Borough Development Strategy 2017 Policy D3 Contaminated Land and the NPPF.

36. The Environmental Management controls as detailed in Section 12.0 of the 'GeoEnvironmental Assessment Report and Remediation Strategy' by Travis Baker GeoEnvironmental Ltd, dated 27 May 2021 must be employed for the duration of the redevelopment of the site unless otherwise agreed in writing by the Local Planning Authority.

REASON: In the interests of protecting the amenity of neighbouring property and to comply with BCCs Policy ENV8.

37. In the event that contamination is found at any time when carrying out the approved development, which was not previously identified, development shall STOP on that part of the site affected by the undiscovered such contamination and it must be immediately reported in writing to the Local Planning Authority. An additional investigation and risk assessment must be undertaken and where remediation is necessary, a remediation scheme must be prepared, which shall be submitted to and approved in writing of the Local Planning Authority. Following approval, such remediation scheme shall be implemented on site in complete accordance with approved details unless otherwise agreed in writing

by the Local Planning Authority.

REASON: To ensure that the risks associated with any contamination are reduced to acceptable levels and that the health and wellbeing of future occupiers are protected and to ensure that the development complies with Borough Development Strategy 2017 Policy D3 Contaminated Land and the NPPF.

38. No materials other than those indicated on the KM135-MP-01 Rev E Materials Plan shall be used without the approval in writing of the Local Planning Authority.

REASON: In the interests of the visual amenities of the area and to comply with BCCS Policies CSP4 - Place-Making and ENV2 - Historic Character and Local Distinctiveness and

Borough Development Strategy 2017 Policy S6 Urban Design and Policy L1 Housing Development, extensions and alterations to existing dwellings Policy D2 Incompatible Land Uses (in part)

39. Prior to the commencement of development (excluding site clearance) the following components of a scheme to deal with the risks associated with contamination of the site shall each be submitted to and approved, in writing, by the local planning authority:

a) A preliminary risk assessment which has identified:

- all previous uses
- potential contaminants associated with those uses
- a conceptual model of the site indicating sources, pathways and receptors
- potentially unacceptable risks arising from contamination at the site.

b) A site investigation scheme, based on (a) to provide information for a detailed assessment of the risk to all receptors that may be affected, including those off site

c) The site investigation results and the detailed risk assessment (b) and, based on these, an options appraisal and remediation strategy giving full details of the remediation measures required and how they are to be undertaken

d) A verification plan providing details of the data that will be collected in order to demonstrate that the works set out in (3) are complete and identifying any requirements for longer-term monitoring of pollutant linkages, maintenance and arrangements for contingency action

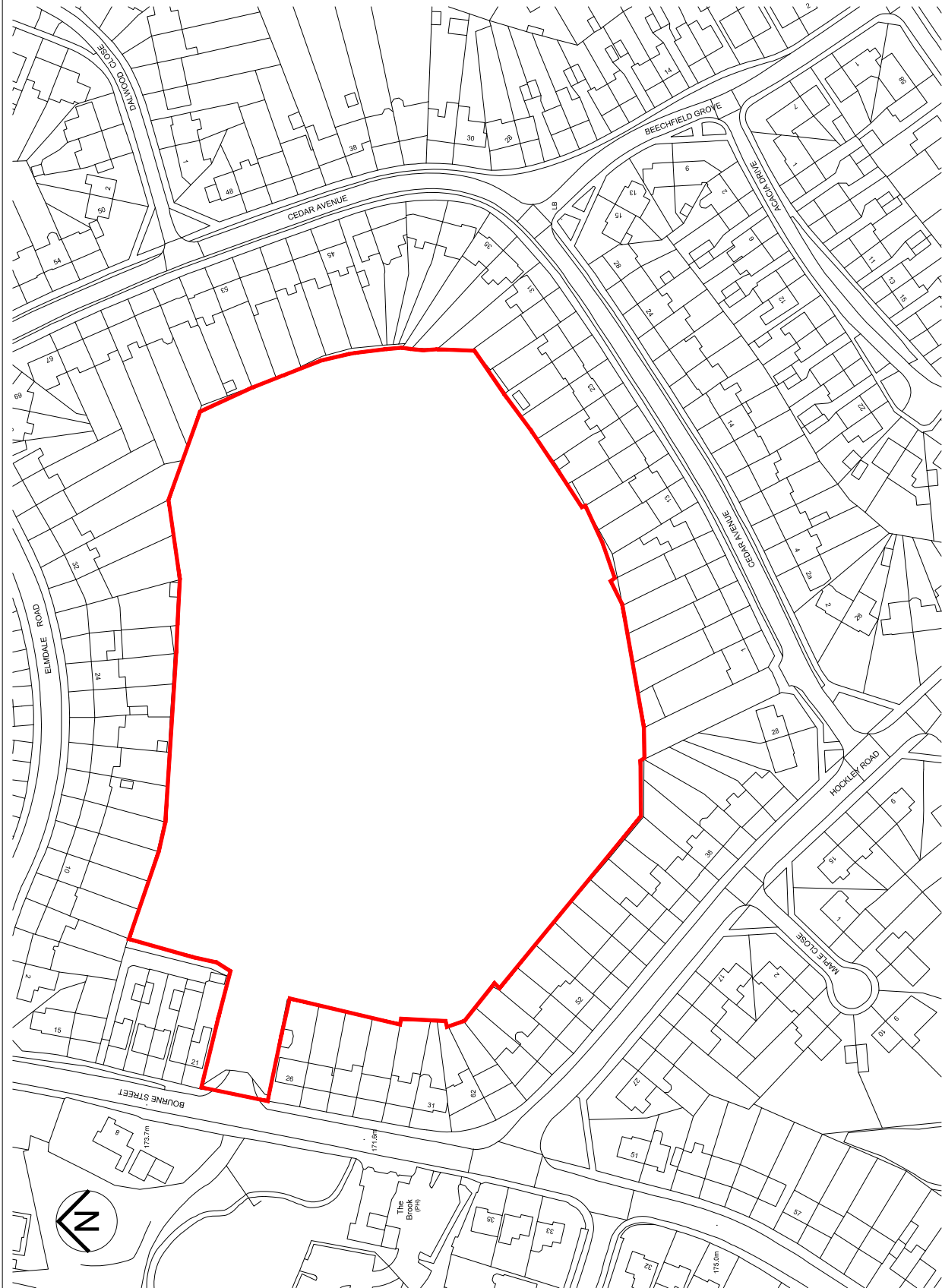
Any changes to these components require the express consent of the local planning authority. The scheme shall be implemented as approved.

REASON: To prevent the pollution of Controlled Waters, notably the underlying Secondary A groundwater aquifer and the Swan Brook and to comply with BCCS Policy ENV5.(EA)

40. Prior to the occupation of any part of the permitted development], a verification report demonstrating completion of the works set out in the approved remediation strategy and the effectiveness of the remediation shall be submitted to and approved, in writing, by the local planning authority. The report shall include results of sampling and monitoring carried out in accordance with the approved verification plan to demonstrate that the site remediation criteria have been met.

REASON: To ensure that any remedial works where required are completed to a satisfactory standard and to comply with BCCS Policy ENV5. (EA)

41. No infiltration of surface water drainage into the ground is permitted other than with the express written consent of the Local Planning Authority, which may be given for those parts of the site where it has been demonstrated that there is no resultant unacceptable risk to controlled waters.
REASON: To ensure the protection of Controlled Waters and to comply with BCCS Policy ENV5. (EA)
42. No development shall commence (excluding site clearance and land reclamation) until details of the design, materials and colour(s), of the retaining walls hereby approved on the site have been submitted to and approved in writing by the Local Planning Authority. The development shall thereafter be completed 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.
REASON: In the interests of the visual amenities of the site and the surrounding area and to comply with Borough Development Strategy 2017 Policy S6 Urban Design and Policy L1 Housing Development, extensions and alterations to existing dwellings and Policy D2 Incompatible Land Uses (in part).
43. Demolition or construction works shall not take place outside 18:00 hours to 07:00 hours Mondays to Fridays and 17:00 hours to 08:00 hours on Saturdays nor at any time on Sundays or Public Bank Holiday unless otherwise agreed in writing by the Local Planning Authority.
REASON:: To protect the amenity of nearby residents in accordance with Policy ENV8 and BCCS Policy D5.





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**COUNTRYSIDE**
Places People Love

Countryside Properties (UK) Limited
The Courtyard, 110 High Street, Bury, Greater Manchester
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Tel: 0161 250 2000
www.countryside-properties.com

with: **BOURNE STREET
COSELEY**

title: **LOCATION PLAN**

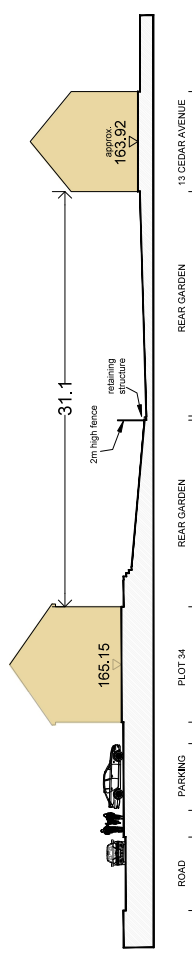


drawn by: **PT**
checked:
scale: **1:1250**
date: **MAY 2020**

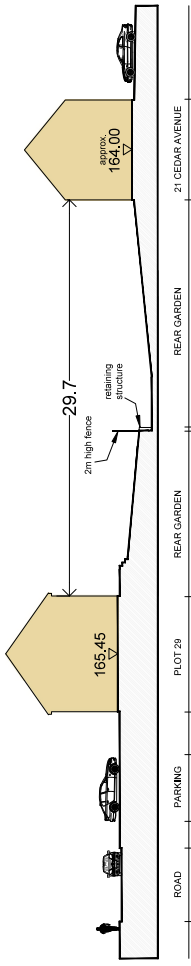
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sheet no:
revision:



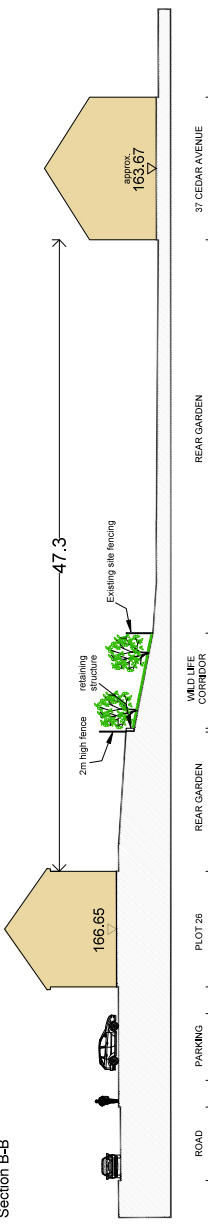
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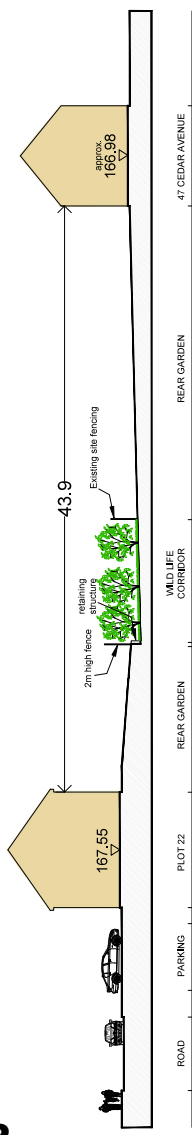
Section A-A



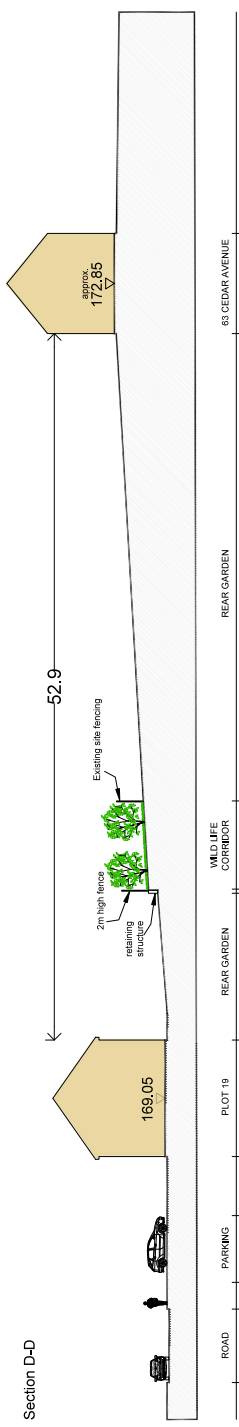
Section B-B



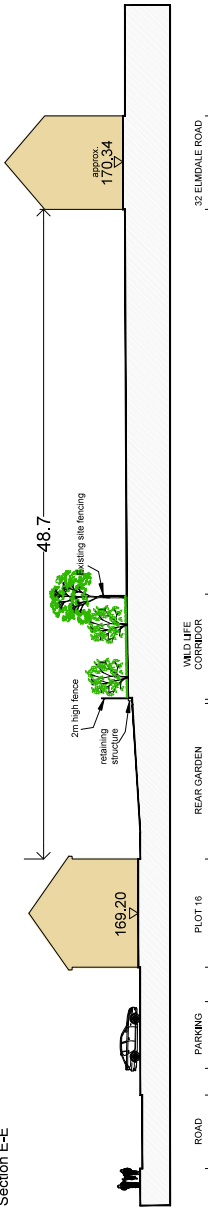
Section C-C




Section D-D



Section E-E



Section F-F



COUNTRYSIDE
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CountrySide Properties (UK) Limited
CountrySide Properties (UK) Limited
100 The Quadrant, London, E14 7LJ
Tel: 020 7461 1000
www.countrysideproperties.com

BOURNE STREET
COSELEY

SECTIONS

Scale: 1:200
Date: JUNE 21
Drawn by: RHJR
Checked:

Project no: SKM135-Sec-01
Sheet no: Sheet 1 of 1
Revised:

HOUSE TYPE	HA	NUMBER	SCFT	TOTAL SCFT	Mid	End	Total
Overall		10	662	2		10	10
1st Floor		10	1962	2		10	10
2nd Floor		10	860	3		10	10
3rd Floor		10	860	3		10	10
4th Floor		10	860	3		10	10
5th Floor		10	860	3		10	10
6th Floor		10	860	3		10	10
7th Floor		10	860	3		10	10
8th Floor		10	860	3		10	10
9th Floor		10	860	3		10	10
10th Floor		10	860	3		10	10
11th Floor		10	860	3		10	10
12th Floor		10	860	3		10	10
13th Floor		10	860	3		10	10
14th Floor		10	860	3		10	10
15th Floor		10	860	3		10	10
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18th Floor		10	860	3		10	10
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20th Floor		10	860	3		10	10
21st Floor		10	860	3		10	10
22nd Floor		10	860	3		10	10
23rd Floor		10	860	3		10	10
24th Floor		10	860	3		10	10
25th Floor		10	860	3		10	10
26th Floor		10	860	3		10	10
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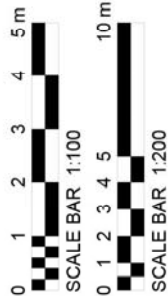
NOTES

- PATHS GENERALLY TO BE 300mm WIDE.
- PATHS GENERALLY TO BE 200 X 180mm UNLESS NOTED OTHERWISE.
- FINISHING CLAYS TO BE 100mm ABOVE A FINISHING CLAY OR PATIO IS ADJACENT TO A DWELLING TO ALLOW FOR A GRAVEL MARGIN.
- ALLOWING STRIP TO BE PROVIDED WHERE TURNING RADIUS IS LESS THAN 10m.
- WHITE STONE CHIPPINGS.
- GROUND LEVEL ADJACENT TO DRIVE TO BE 50mm BELOW ALL UNLESS OTHERWISE NOTED.
- THROUGHOUT FRONT ENTRANCES TO HAVE LEVEL THROUGHOUT.
- MATERIAL REFERENCE:
 - 6.0 - BRICK - RANGERS
 - 6.1 - BRICK - RANGERS
 - 6.2 - BRICK - TLE HANGING
- METRES DIMENSIONS:
 - 0 - 0.05 METRES
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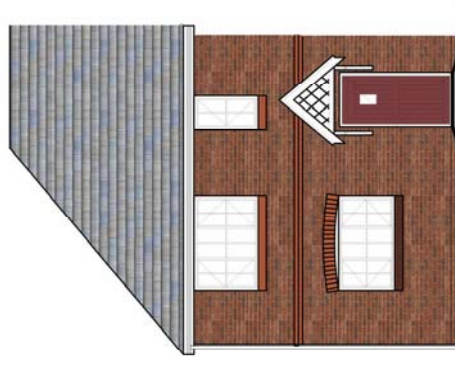
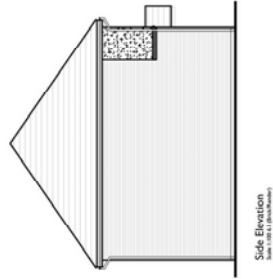
GROUND FLOOR PLAN
SCALE 1:100

FIRST FLOOR PLAN
SCALE 1:100



The Cedar			
Old Ref :	-	Gross Area :	900 sqft
Ground Floor :	450 sqft	First Floor :	450 sqft
Circulation :	- sqft	Net to Gross	- %
Storage	- m ²		

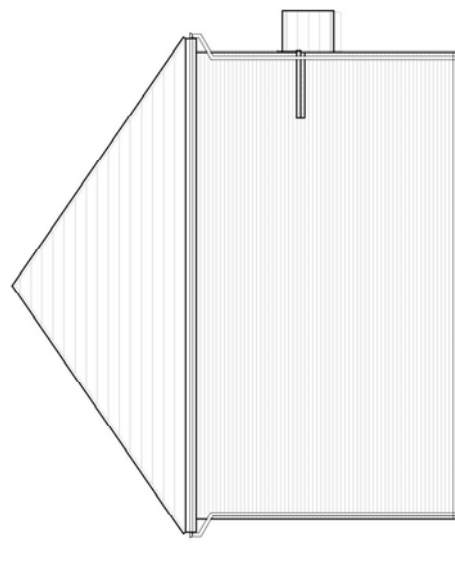
ALL Areas and dimensions are taken to **STRUCTURAL FINISH**.



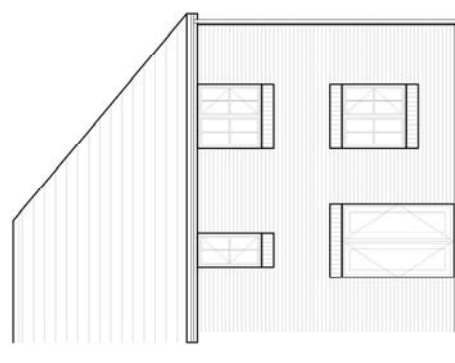
Front Elevation
Scale 1:100 6.0 (Brick)



Front Elevation
Scale 1:100 6.1 (Brick/Render)



Side Elevation
Scale 1:100 6.0 (Brick)



Rear Elevation
Scale 1:100 6.0 (Brick)

Cedar

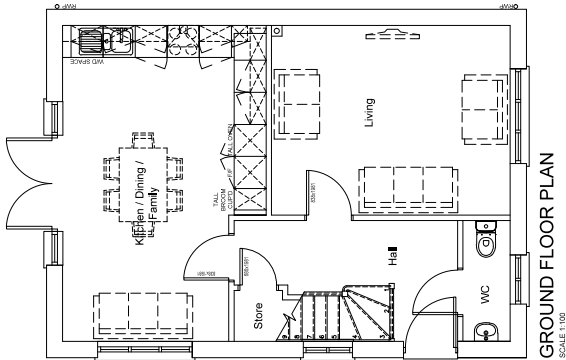
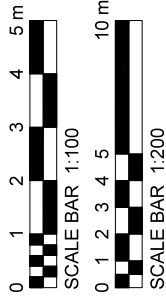
(900sqft / 83.61m²)

(ALL Areas and dimensions are taken to **STRUCTURAL FINISH**.)

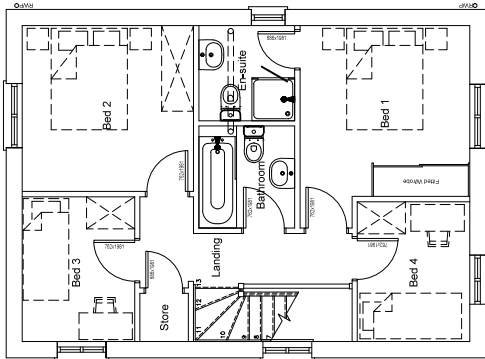


Partnerships North

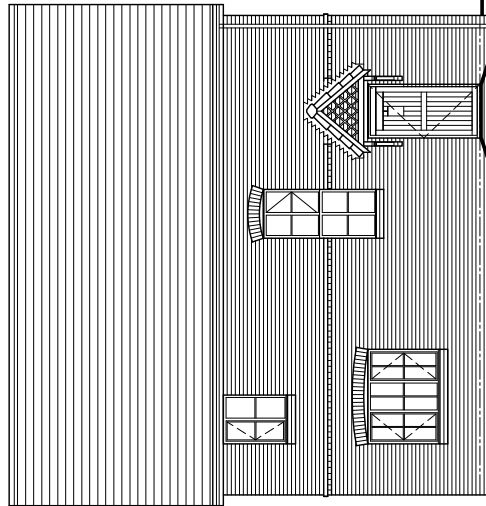
The Dee SA	
Gross Area :	1062 sqft
Ground Floor :	531 sqft
First Floor :	531 sqft
Second Floor :	N/A
Circulation :	144 sqft
Net to Gross	13.7 %
All Areas and dimensions are taken to STRUCTURAL FINISH.	



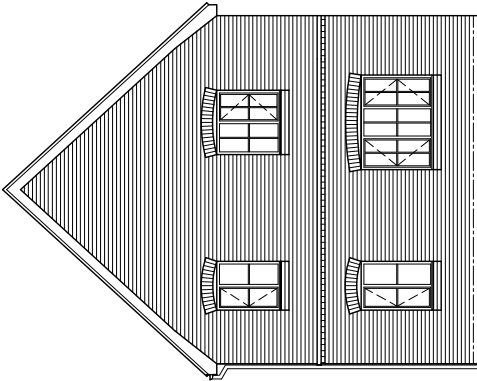
GROUND FLOOR PLAN
SCALE 1:100



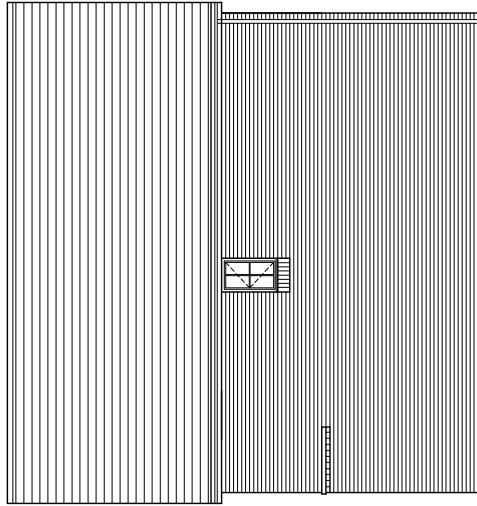
FIRST FLOOR PLAN
SCALE 1:200



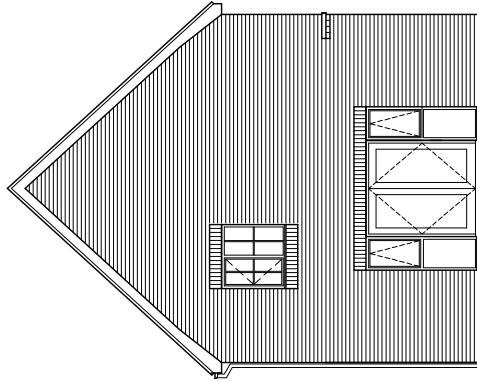
SIDE ELEVATION
SCALE 1:100



FRONT ELEVATION
SCALE 1:100



SIDE ELEVATION
SCALE 1:100



REAR ELEVATION
SCALE 1:100

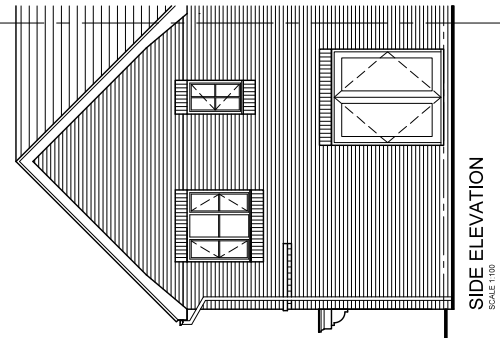
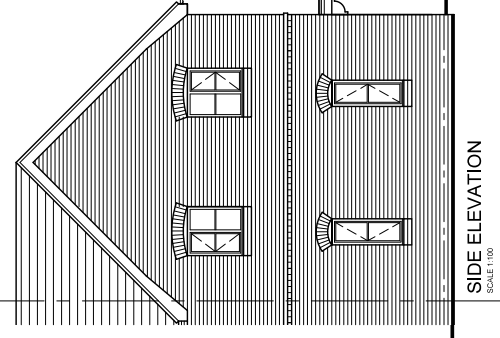
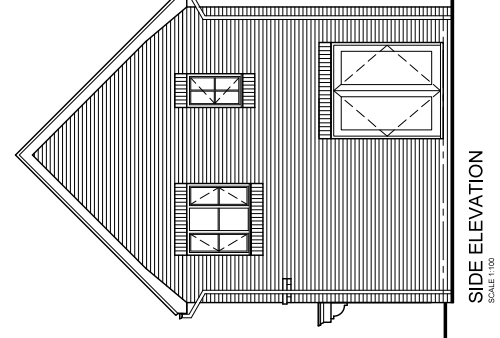
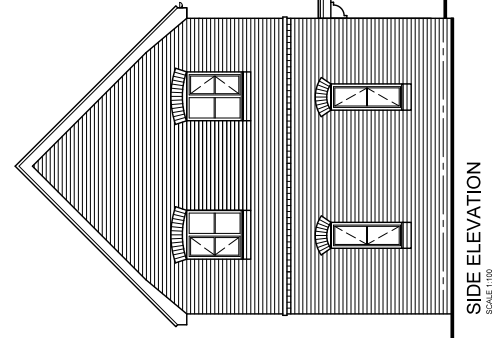
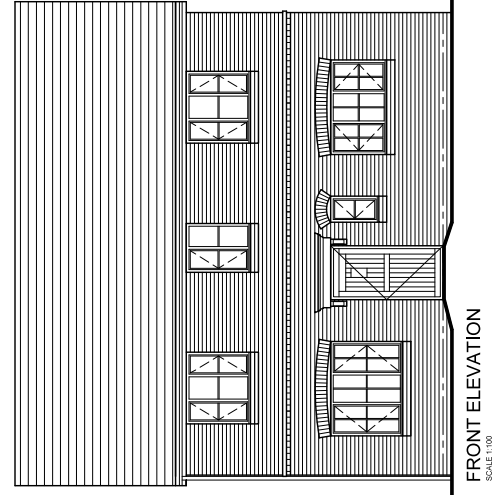
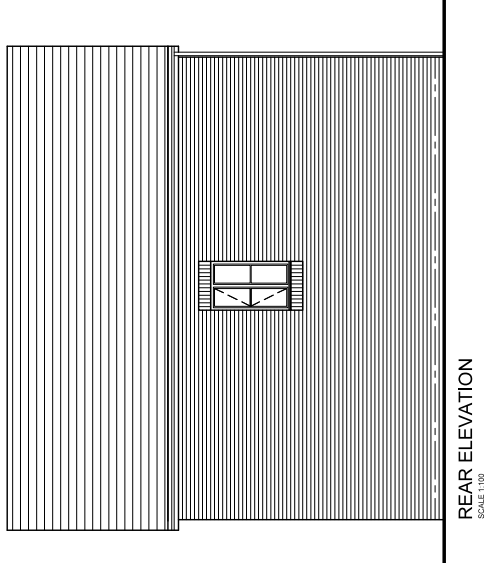
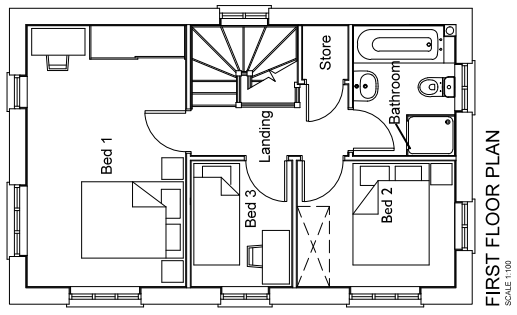
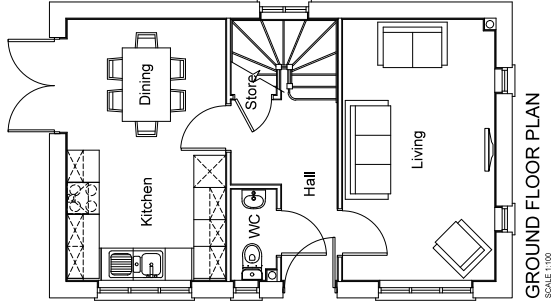
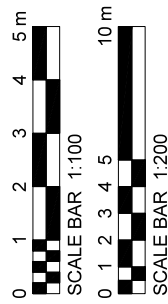


The Dee SA
(1062sqft) DEE SA-01 (Sigma)

OPP - Hand

Partnerships North

The Grantham	
Gross Area :	850 sqft
Ground Floor :	425 sqft
First Floor :	425 sqft
Circulation :	90 sqft
Net to Gross	11%
All Areas and dimensions are taken to STRUCTURAL FINISH.	



The Grantham

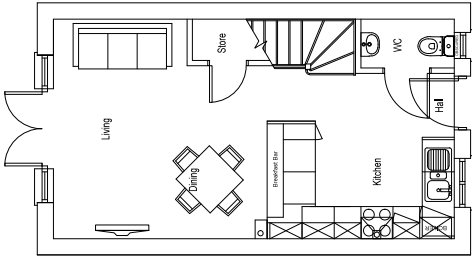
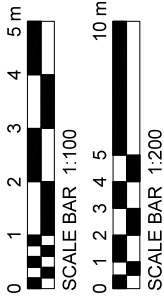
(850sqft) GRAN-01 (Sigma)



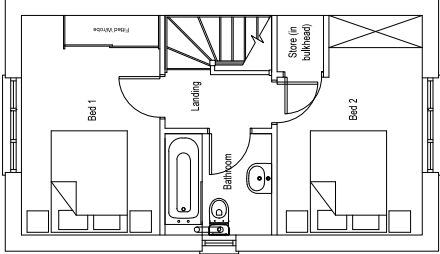
OPP - Hand

Partnerships North

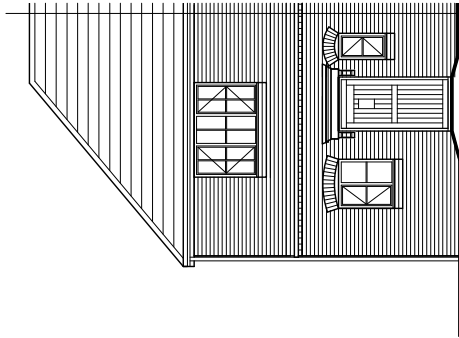
The Irwell	
Gross Area :	662 sqft
Ground Floor :	331 sqft
First Floor :	331 sqft
Second Floor :	N/A
Circulation :	99 sqft
Net to Gross	15 %
All Areas and dimensions are taken to STRUCTURAL FINISH.	



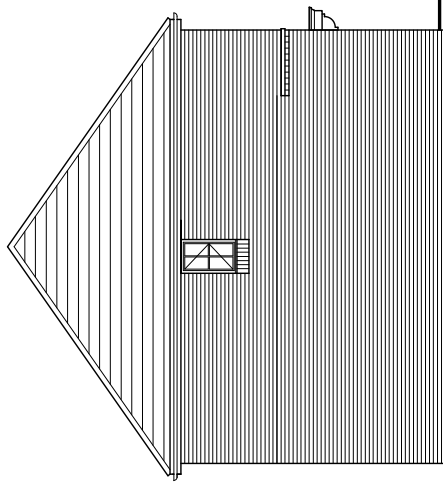
GROUND FLOOR PLAN
SCALE 1:100



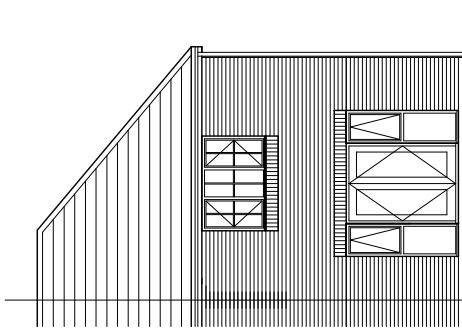
FIRST FLOOR PLAN
SCALE 1:100



FRONT ELEVATION
SCALE 1:100 (approx)



SIDE ELEVATION
SCALE 1:100



REAR ELEVATION
SCALE 1:100

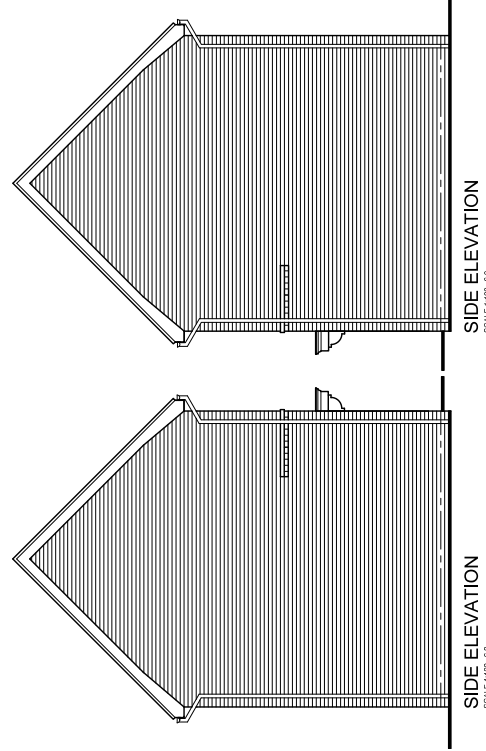
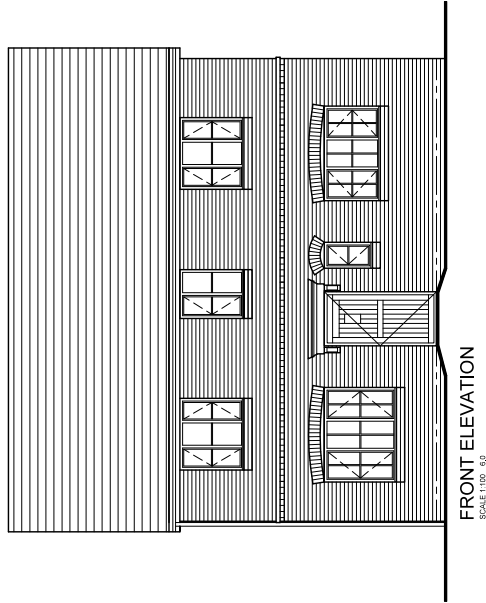
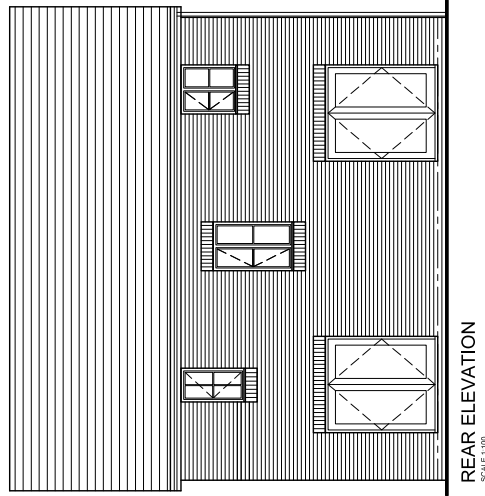
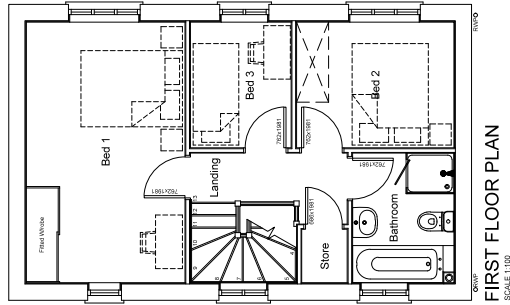
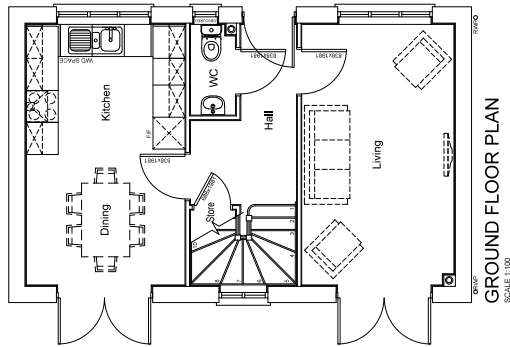
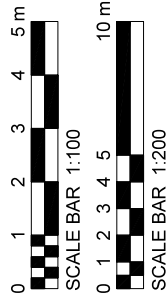
The Irwell
(662sqft) IRWE-01 (Sigma)

AS - Hand



Partnerships North

The Trent	
Gross Area :	850 sqft
Ground Floor :	425 sqft
First Floor :	425 sqft
Circulation :	90 sqft
Net to Gross	11%
All Areas and dimensions are taken to STRUCTURAL FINISH.	



FRONT ELEVATION
SCALE 1:100 6.0

SIDE ELEVATION
SCALE 1:100 6.0

SIDE ELEVATION
SCALE 1:100 6.0

The Trent

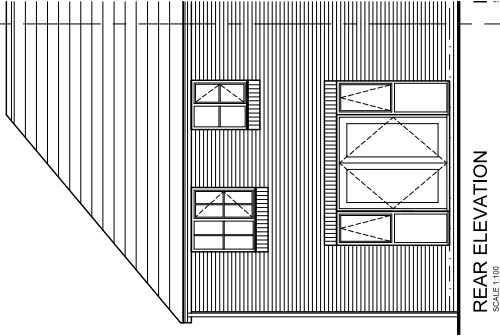
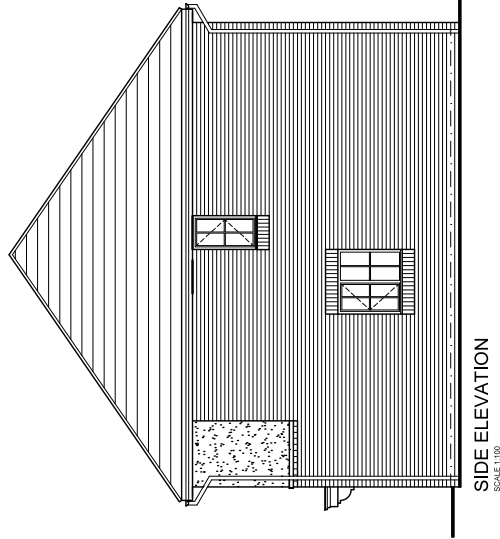
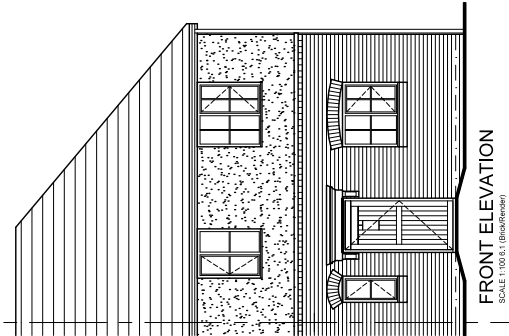
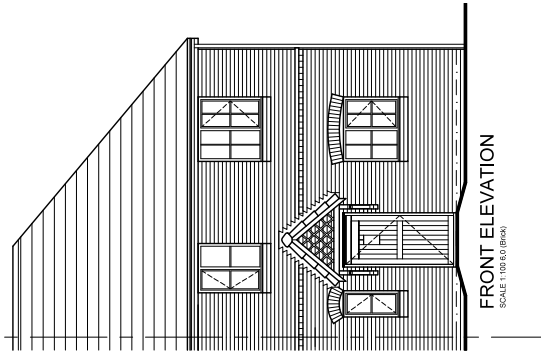
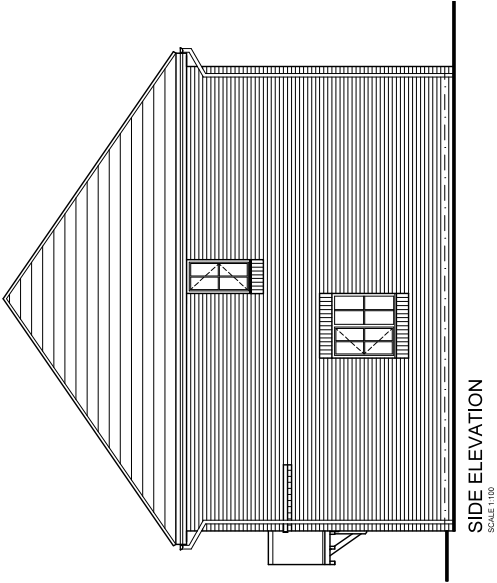
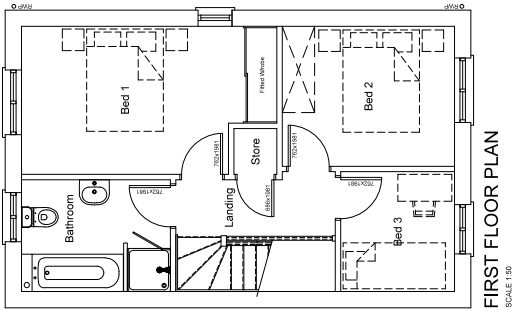
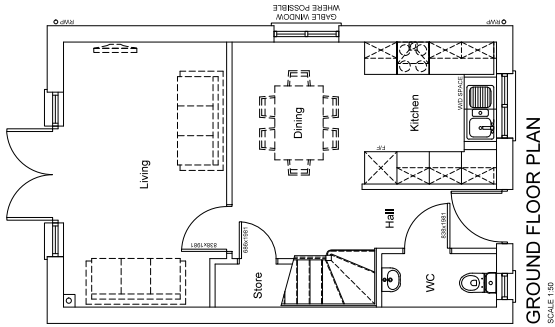
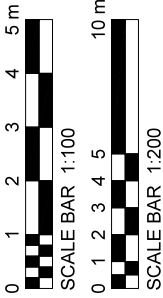
(850sqft) TREN-01



Partnerships North

AS - Hand

The Weaver	
Old Ref :	S/3/850
Gross Area :	850 sqft
Ground Floor :	425 sqft
First Floor :	425 sqft
Circulation :	129 sqft
Net to Gross	15 %
All Areas and dimensions are taken to STRUCTURAL FINISH.	



The Weaver
(850sqft) WEAV-01 (Sigma)

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OPP - Hand



Partnerships North

PLANNING APPLICATION NUMBER: P20/1801

Type of approval sought	Full Planning Permission
Ward	Lye and Stourbridge North Ward
Agent	Rawdon Gascoigne
Case Officer	Richard Stevenson
Location:	PEGASUS GRAB HIRE, BOTT LANE, LYE, STOURBRIDGE, DY9 7AW
Proposal	THE CONTINUED USE OF LAND AS AN AGGREGATE SORTING AND RECYCLING FACILITY AND THE INSTALLATION OF NEW AGGREGATE WASHING FACILITY (RETROSPECTIVE)
Recommendation Summary:	APPROVE SUBJECT TO CONDITIONS

This application was withdrawn from the Development Control Committee agenda on 2 June 2021 following the late submission of Counsels opinion by the applicant and to allow time for the Local Planning Authority to assess the additional information and obtain its own Counsel opinion.

SITE AND SURROUNDINGS

1. The application site consists of the western and part of the northern area of the former Helix stationery factory site. Since 2018, when a temporary, three year approval was granted, this site has been used as an aggregate recycling facility, with onsite structures and plant including portacabins, a weigh bridge and an aggregate screener. There is also an area of aggregate storage mostly to the western end of the site. Access to the site is presently from Bott Lane.
2. To the north of the application site is Bott Lane, which also provides access to the Vanguard Foundry premises, a vacant storage site and six small industrial units. Bott Lane, for part of its alignment beyond the application site is a public footpath rather than a road, which runs towards Timmis Road.

3. To the south west of the site is a large electricity transformer station, with the Worcester-Birmingham railway line running along the southern boundary of the application site in a cutting.
4. Beyond the eastern boundary of the application site is the remaining open area of the former cleared Helix site, which has planning permission for open storage. On the opposite side of Engine Lane are numerous residential properties and some remaining industrial uses that face toward the site. Two waste transfer operations are located off Engine Lane before the junction with Bott Lane.
5. 140 metres to the north of the application site is an allocated housing site located within the Stour Valley where there is a current planning application for the residential development of 132 houses.

PROPOSAL

6. This application seeks approval to continue the use of the application site on permanent basis, as an aggregate sorting and recycling facility beyond August 2021, when the temporary planning permission is due to expire. The temporary permission had been granted for a period of three years, due to the planning policy aspiration to redevelop the wider area to for housing, being closely associated with the allocated Caledonia housing site and being in close proximity to a sustainable transport node at Lye railway station.
7. In addition to seeking permanent planning permission for the use, the applicant is seeking to reconfigure the internal layout of the site, so that a new aggregate washing facility can be installed. From a site visit undertaken on the 14th of May 2021 was apparent that the aggregate washing facility had been installed, but not then commissioned.

8. The new washing facility is located in the north western corner of the site and consists of structure of some 10m high with an overall length of some 84m that will include tanks and conveyors.
9. The supporting planning statement outlines that 80 employees are based at the application site, with wider business employing around 160 people, and states that the proposed investment would create an additional 30 to 50 jobs.
10. Principal clients are noted to include a number of utility companies, which require aggregates and excavated materials from their operations to be cleaned, sorted and recycled so that they can be reused within their respective businesses.
11. The applicant states in their supporting statement that they are seeking a permanent permission and assert that they have looked at relocating the business to other sites. Such sites are stated to have been ruled out as being too far from their current base and primary customer base, or that such sites are not currently available.
12. In addition to the planning statement, the application is supported by a coal mining risk assessment, a flood risk assessment, an air quality assessment, a noise assessment and transport statement. The latter three of these submissions have been updated in response to comments made by consultees
13. Following the publication of the agenda for the 2 June 2021 Development Control Committee the applicant submitted a letter dated 28 May 2021 direct to the Head of Planning and Regeneration and members of the Development Control Committee. This letter requested that at least a five-year temporary planning permission be granted, or that the use of the site should terminate if an outline planning permission is granted upon or on an adjoining site for residential development. In addition, the applicant requested changes to proposed Condition 4 (lighting), Condition 5 (opening hours) – requesting longer operational hours, Condition 7 (dust management) and Conditions 8 and 9 (coal mining).

14. Within the letter the applicant made reference to the environmental and employment benefits of the proposal as well as arguing that the development accords with the development plan. Additionally, the applicants state that no firm proposals for residential development have come forward in the locality.
15. On 1 June the applicant submitted a further letter with a Counsel opinion attached, the main points of which are summarised below;
- That the proposals for a permanent planning permission accord with the development plan (reference to Appendix 2 to the BCCS expressly includes 167ha of employment land within RC131, supporting the broad strategy that RC13 will comprise a mix of different uses including housing and employment. Indeed, the BCCS envisages the need for an additional 30ha of employment during the long term.)
 - An employment generating use accords with the spatial strategy for the area and the site's allocation under H13.26;
 - There is no evidence that a housing developer is likely to come forward to develop the site for housing in the short or medium term – there is no planning permission at the site, even if an application were prepared it would take some time to come forward. Reference is made to letter of support from Vanguard stating they were not looking to relocate.
 - There is no evidence that a suitable alternative location for the applicants' operations has been identified, or that one will be found in the short to medium term.
 - The site owner (the applicants landlord) is not currently willing to sell the site;
 - If a permanent planning permission is granted and the Council determines the site should be redeveloped, then the Council can use its CPO powers to acquire the land. In this regard the grant of a permanent planning permission would not frustrate the delivery of the Council's wider regeneration objectives. There would likely to be significant adverse consequences of limiting operations on site for a temporary period, resulting in insecurity for the applicant and ultimately the potential they may cease operations within the local authority area and relocate, preventing the Council from meeting their zero-waste growth target and the loss of jobs currently based in Dudley to another area.

HISTORY

16.

APPLICATION No.	PROPOSAL	DECISION	DATE
P14/1604	Prior approval under Part 31 for demolition of former Helix Site	Granted	03-Dec-2014
P16/1337	Installation of a Short Term Operating Reserve (STOR) to include fuel stores, generators, switchgear container, cabinets and 4.5m acoustic fencing	Withdrawn	28-Oct-2016
P18/0218	Change of Use of the land to allow for the recycling of aggregate material. Provision of a portacabin, parking and a 3m high earth bund	Granted (Temp until Aug 2021)	30-May-2018

17. P18/0218 was granted for a temporary period of three years, due to the planning policy aspiration to redevelop the wider area to for housing, being closely associated with the allocated Caledonia housing site and being in close proximity to a sustainable transport node at Lye railway station. The temporary permission was to enable the applicant to continue to operate and have time to find a permanent site, before planning policies for future housing in the area were progressed. It should be noted that the applicant had to relocate to this site from a nearby site to the north of Bott Lane. The site previously occupied by the applicant to the north of Bott Lane did not have the benefit of planning permission and was the subject of enforcement action, due to adverse impacts upon the Stour Valley and the future development of the allocated Caledonia housing site. The enforcement action was the subject of an appeal by the applicant to the Planning Inspectorate, which was dismissed for the above reasons. The Local Planning Authority, thereafter, assisted the applicant to occupy the current site for an appropriate temporary basis.

PUBLIC CONSULTATION

18. Following direct consultation with 34 adjoining neighbours, the posting of a site notice and the publication of an advert within a local newspaper, 14 letters of objection have been received. The main issues raised relate to:

- Site is not currently complying with planning conditions
- Vehicles are entering and leaving the site out of hours
- Noise and dust issues associated with the site
- Vehicles travel along streets with weight limits
- Vehicles turning onto Dudley Road are dangerous
- Work has started on installing the machinery at the site.
- Should not be located close to residential uses
- Trees should be planted to hide the site

It should be noted that one of the respondents lives close to the site, with a number of the other respondents living to the north of Caledonia, on the far side of the Stour valley, but with views to the site. Additionally, 12 further objection letters where no address, no full addresses or are anonymous have been received. These letters cannot be afforded any weight.

19. In addition 8 letters of support (including one via a ward member) have been received. Main issues raised.

- Provides jobs
- Supports local business
- Important facility for borough
- concerned about job security.

Twelve further letters of support were submitted but cannot be afforded any weight as no address was provided.

For clarification the supporters of application are from the following locations, 10– no address provided, 2 – Kingswinford, 2 – Lye, 1 – Manchester, 1 – Kidderminster, 1 - West Bromwich, 1 – Tividale, 1 - Cradley Heath, and 1 - Halesowen

20. One further letter has been received from a local ward Councillor stating they have been contacted by neighbours who have reported issues in relation to noise, dust and working hours. Residents are not confident that such issues can be resolved.

OTHER CONSULTATION

21. Head of Planning and Regeneration (Highway Engineer): No objection.
22. Head of Planning and Regeneration (Land Contamination Team): No objection
23. Head of Environmental Health and Trading Standards: Notes the joint regulation of the site with the Environment Agency. Satisfied that the additional proposed plant will not have an adverse noise impact and is likely to represent an improvement from a dust point of view. Requests the re-imposition of previous planning conditions.
24. Group Engineer (Highways) (PROW officer): No objection.
25. Lead Local Flood Authority: Acknowledge that the EA are the principle regulatory body. Applicants will need to demonstrate that any pollutants are retained within the site.
26. Environment Agency: Whilst the EA are the licensing/permitting body for the site, they only offer comments in relation to controlled waters only, and as such recommend a planning condition accordingly.
27. Network Rail: No response received.
28. Western Power Distribution: No response received.
29. National Grid: No response received.
30. Coal Authority: No objection subject to conditions.

RELEVANT PLANNING POLICY

- National Planning Guidance

National Planning Policy Framework (Revised 2018)

Technical Guidance to the National Planning Policy Framework (2012)

Planning Practice Guidance (2014)

National Planning Policy for Waste (2014)

- Black Country Core Strategy (2011)

CSP1 The Growth Network

CSP3 Environmental Infrastructure

CSP4 Place Making

DEL2 Managing the Balance Between Employment Land and Housing

RC13 Regeneration Corridor

TRAN2 Managing Transport Impacts of New Development

ENV 2 Historic Character and Local Distinctiveness

ENV 3 Design Quality

ENV 8 Air Quality

WM1 Sustainable Waste and Resource Management

WM2 Protecting and Enhancing Existing Waste Management Capacity

WM4 Locational Considerations for New Waste Management Facilities

MIN2 Production of Aggregate Minerals

- Dudley Borough Development Strategy (2017)

S1 Presumption in favour of Sustainable Development

S4 Flood Risk

S5 Minimising Flood Risk and Sustainable Drainage Systems (SuDS)

S6 Urban Design

S13 Areas of High Historic Landscape Value (AHHLV)

S14 Registered Parks and Gardens and Designed Landscapes of High Historic Value (DLHHV)

S17 Access & Impact of Development on the Transport Network

S27 River Stour and its Tributaries

L8 Protecting the Viability and Integrity of Industrial and Business Uses

D2 Incompatible Land Uses

D3 Contaminated Land

D5 Noise Pollution

- Supplementary Planning Guidance/Documents
Parking Standards Supplementary Planning Document (2017)

ASSESSMENT

31. The main issues are

- Principle
- Amenity – Noise and Dust
- Visual Appearance
- Highway Safety
- Drainage
- Nature Conservation and Trees
- Response to Request to Alter Proposed Planning Conditions
- Other Issues

Principle

32. The site lies within a housing growth area within Regeneration Corridor 13 in the Black Country Core Strategy Policy CSP1 which seeks, inter alia, in Regeneration Corridors “a sustainable mix of modern, strategic high quality employment land and new residential communities well supported by community services and local shops, set within and linked by comprehensive networks of attractive green infrastructure with cycling and pedestrian routes”. In appendix 2 to the Black Country Core Strategy (p109) the key diagram for RC13 seems to indicate the site as being “Opportunity for around 225 new homes near to Lye centre and station”.

33. The Dudley Borough Development Strategy builds on the strategy in the Black Country Core Strategy Policy and “provides the detailed land use allocations and designations within these broad areas to meet the Borough’s housing and employment land requirements up to 2026”. Page 106 of the Dudley Borough Development Strategy provides “This corridor will be consolidated as a housing corridor through the development of outdated or obsolete areas of industrial land and the exploitation of the excellent main-line rail links.” The application site is part of allocation H13.26 “West of Engine Lane, north of the railway, Lye” described on p112 as “Range of options considered including industrial, residential or mixed uses close to Lye centre.” 90 dwellings on 6ha are identified for the period 2016-21.
34. Moreover, the wider area within Lye is identified to deliver housing led regeneration. Underpinned by ‘Garden City’ principles, and with the particular advantages of the River Stour corridor running through the area, the aim is to create new housing development with an attractive environment, and where health and wellbeing are paramount considerations. The Council is therefore working with the West Midlands Combined Authority towards achieving this vision.
35. The Council continues to promote the site as part of a housing-led regeneration scheme in the emerging Black Country Plan although other uses compatible with neighbouring residential use are not excluded. It is expected that by the date of the Development Control Committee this will be out for its first round of public consultation.
36. The previous planning permission which expired on 1 August 2021 was granted temporary planning permission on the basis it allowed three years for the applicants to find a permanent site, following their need to relocate from the unauthorised site on the north of Bott lane which was unsuitable given the proximity of an allocated housing site and due to its position on elevated land which had been the subject of two enforcement notices, both upheld at appeal.
37. Additionally, whilst it was accepted that a recycling of aggregate material (sui generis) use is an important process which is to be encouraged, it was the location

which raised concerns from a permanence point of view. At that point it was considered that if the recycling use on this site were to be granted permanent permission, it would seriously undermine the ability to achieve the aims of a comprehensive housing regeneration project, as the use has great potential to adversely affect residential amenity. A recycling plant not only requires on-site noise mitigation, but it also generates dirt and dust and by its nature, requires the frequent movement of large vehicles into and out of the site through the surrounding road network which would be clearly incompatible with housing.

38. With this application, the applicant is now seeking permanent use of the land for the recycling of aggregate material, together with the provision of new processing plant within the site, in addition to, or to replace the more traditional screening equipment which has been used up to now.
39. The questions to assess here, based on the current application before the Council are;
- Is it appropriate to grant a permanent planning permission?
 - Is it appropriate to refuse the application?
 - Are there circumstances that imply a time limited permission instead or some other restriction, based up of the adopted Development Plan and any other relevant material considerations?
40. From a policy perspective the same Development Plan policies are still in place at this point in time, as they were when the last planning application was considered. The only difference is that the emerging Black Country Plan is now a consideration.
41. Para 48 of the NPPF (revised July 2021) states that, *Local planning authorities may give weight to relevant policies in emerging plans according to:*
- a) the stage of preparation of the emerging plan (the more advanced its preparation, the greater the weight that may be given);*

b) the extent to which there are unresolved objections to relevant policies (the less significant the unresolved objections, the greater the weight that may be given); and

c) the degree of consistency of the relevant policies in the emerging plan to this Framework (the closer the policies in the emerging plan to the policies in the Framework, the greater the weight that may be given.

42. With regard to a) and b) as the plan is still at a very early stage, given that it is only at its first round of public consultation, secondly objections to the plan are currently not known given that consultation is still been undertaken. Therefore, these considerations cannot be given any weight.
43. However, arguably there is some consistency between both the adopted Development Plan and the emerging Plan due to continued emphasis on housing growth along the wider corridor but also in the wider Lye area. As such some weight could be attached to this.
44. However, setting aside as to how much weight the emerging policies and allocations, the existing policy context is relatively clear. In that the emphasis in relation to the adopted Black Country Strategy, where there is clear and stated desire for housing led regeneration near to Lye centre and station in accordance with the key diagram for RC13 in accordance with Regeneration Corridor 13.
45. Moreover, the Dudley Borough Development Strategy supports housing growth along Regeneration Corridor 13 through the redevelopment of outdated or obsolete areas of industrial land such as the application site. In particular it should be noted that the application site is a housing allocation within the adopted Development Strategy (ref H13..26), although mixed uses and industrial options could be considered. There is, however, nothing to imply that the recycling facility, with its associated dust, noise and heavy vehicle movements would be an appropriate mixed use or industrial in the context of the policy.

46. As such it is considered that for reasons previously stated at Paragraph 37 above, the proposed development would prejudice the delivery of the wider area for housing and as such it would be not be appropriate to support a permanent planning permission as requested by the applicants. As such, the only obvious conclusion would be to recommend refusal of the application on that basis.
47. However, this has to be balanced against making best use of land, the need to protect jobs and allow the applicant to find a more appropriate site which would not undermine the stated aim of housing regeneration in and around Lye. Moreover, given that in the short term there is a low prospect of the site coming forward for housing, it would be appropriate to grant a further temporary planning permission for a period of up to three years, subject to appropriately worded conditions to control operations, together with other conditions requested by statutory consultees.
48. It is noted that the applicants state there is no evidence that the site is likely to be promoted for residential use and that the owner has no intention of so doing. Nor, the applicants say, is the Vanguard Foundry site (to the north) likely to be available for residential development. However, it is reasonable to have regard consideration that in the event that the current use of the site were to cease, then the site owner would be likely (as a matter of commercial reality) to promote the site for housing rather than leave it “idle”. Even if the owners of the Vanguard site have no current intention or need to move or make their site available as part of a wider regeneration scheme, as a matter of common sense, that does not mean they never would if the opportunity arose.
49. Moreover, there are examples within the Borough where there were sites for which there was little prospect of them coming forward for housing in the short term, to then be proven wrong. Such examples are apparent to the north of Brierley Hill where this happened within a short period.
50. The applicants refer to a letter of support of May 2020 from Vanguard Foundry which was included within the applicants planning statement. It is not known if the letter

reflects current circumstances, in that it is known that author of the letter which provided support, no longer works for the company in question.

51. The applicants Counsel seems to suggest that the Council might be motivated to grant only a temporary permission in order to reduce the potential compensation payable, in the event that it becomes necessary to use Compulsory Purchase Order powers to bring forward the site for regeneration. This was not a consideration, with consideration being solely based on a Development Plan desire to seek the wider regeneration of the area for residential purposes.
52. The applicants Counsel also infers that there is not alternative site to which the applicant could move to the short to medium term. This is considered to be somewhat disingenuous given that at any time, sites which were of appropriate requirements could come forward in the short to medium term to which the Council could be party to positive discussions.
53. It is noted that the applicant has recently invested at the site. However, this was done without the express grant of planning permission and such was done at the risk of the applicant. However, given the modular nature of the equipment it is understood that it is capable of relocation within a relatively short timeframe.

Amenity – Noise and Dust

54. The applicants recycle excavated material by crushing, screening and blending to produce aggregate for construction and highways maintenance schemes and has operated at the site since 2018, under a temporary planning permission which is due to expire in August. This temporary permission followed on from the relocation from an adjoining site following an unsuccessful enforcement appeal and was allowed to enable the applicants time to find a permanent site.
55. The current operation is controlled through a number of planning conditions, in conjunction with the Environment Agency, through operating conditions contained in a bespoke Environmental Permit. The investigation and enforcement of issues around noise and dust are primarily the remit of the Environment Agency.

56. The current application proposes a continuation of the aggregates recycling operations at the site, but significantly, the proposal goes on to change the mode of operation to a wet aggregates system. The ramifications of this would be to install a significant, engineered item of plant that will wash and screen the incoming material in such a manner that almost all of the solid material can be recycled. From an environmental perspective, the proposed wet processing methods preclude many of the dust emission risks presented by current and traditional methods, including that the processed material will be damp throughout. This is a matter that seems to be surprisingly understated in the accompanying Air Quality Assessment, however, the Head of Environmental Health and Trading Standards is inclined to request that we retain the current condition No. 7 (appropriately worded to suit) relating to dust suppression and dust management schemes in order to safeguard the wider site in general (e.g. tracked material around the site).
57. Turning to potential noise impacts, the Head of Environmental Health and Trading Standards generally concurs with the findings of the submitted Noise Impact Assessment. The early draft of the report focused only on the current situation, whereby the amended version includes calculations to demonstrate the impact of introducing the proposed wet system; the consequence of which is a calculated reduction in noise in the order of 2 to 3 dB LAeq at the nearest noise sensitive receptors on Caledonia and Engine Lane. This is partially a function of both the current screeners being desisted with, whilst the current Crusher will remain and operate 2 to 3 days a week.
58. The Head of Environmental Health and Trading Standards has discussed the hours of operation with the applicant, and is advised that the wet aggregate processing will take place in approximately two, four hour blocks daily throughout the week, which can be accommodated within the current restricted hours, which officers consider should remain in place.

59. In summary, the Head of Environmental Health and Trading Standards has no objection to planning permission being granted, subject to a similar suite of conditions to those attached to the current planning consent:

Highway Safety

60. The applicants have submitted an updated and revised Transport Statement which has clarified changes proposed to vehicle trips. The statement implies that increased HGV movements are expected to result in only 2 additional trips per day, together with the net potential increase of up to 15 members of staff. The Highways Officer considers this will have a negligible increase on the total volume of vehicles using the classified road network (A4036, Dudley Road) adjacent to the site and as such, no objection is raised.
61. It is noted that residents have raised concerns about vehicles associated with the site using weight restricted highways in the vicinity of Caledonia to access the site. Unfortunately, the planning process is not able to directly control or condition vehicle movements over the public highway.
62. The Highway officer has noted that improvements to the wheel wash facilities may be required given photographs recorded on Google Streetview dated October 2020, which indicate material transfer from HGV's beyond the extent of the site and to the junction of Bott Lane with the classified road network. However, it should be noted that an operational management requirement covering this issue will be contained within the Environment Agency, Environmental Permit for the site and such the Local Planning Authority should not replicate any conditions attached to the licence.

Visual Impact

63. As noted above and at the request of the applicant, submitted plans have been amended, with the overall height of the proposed plant reduced by around 4 to 5 metres from that originally proposed. The length of the plant has, however, increased with its various conveyor belts and sorting faculties to around 84m.

64. Whilst it is considered that there is some visual impact from the plant, views from existing dwellings are to Engine Lane limited by the positioning of the existing noise bund to the eastern boundary as well as existing stockpiles within the site, as such views are generally only available from Bott Lane, which is more industrial in character. There are views across the Stour Valley to the north. However, the development, is within a principally urban area, with taller adjoining industrial buildings and large substation, it forms part of wider townscape. Moreover, the operation is located away from the immediate edge of the Stour Valley which was a major concern regarding the previous site on the other side of Bott Lane. As such no objection can reasonably be sustained on grounds of visual impact. However, a condition in relation to the height of stored material on site is required as this would not assimilate into the general built environment given its form and appearance.

Drainage

65. The applicants advise that the proposed new plant will operate a closed system and as such there should be no issues directly in relation to drainage. Moreover, the operation of the plant and the wider site will be controlled through the Environment Agency permitting regime.

Nature Conservation and Trees

66. The site consists of an operational and previously cleared site with the concrete pad of the buildings retained. As such there are no concerns with regard to trees or nature conservation.

Response to Request to Alter Proposed Planning Conditions

67. The applicants letter submitted prior to the 2 June Development Control Committee requested changes to a number of conditions. In relation to condition 4 (lighting) the condition has been amended and is included as the condition at the end of this report.

68. The applicants have asked for longer operational hours in addition to those proposed by condition 5. This condition replicates the existing one which is attached to the current temporary planning permission. Given the proximity of housing to Engine Lane this is not considered to be appropriate from an amenity point of view. The under enforcement of the condition which has been suggested would be unacceptable for the same reason.
69. A dust management plan has been submitted after the officer report for the 2 June Development Control was published in relation to proposed condition 7. However, given this relates to the existing operation and makes no reference to the new plant, the condition as currently proposed needs to be imposed to ensure adequate controls are maintained.
70. The applicant has asked for the proposed coal mining conditions (Nos. 8 and 9) to be removed. However, given the comments of the Coal Authority these need to be imposed, particularly given the scale of the new plant which is already in place, and difference to the light weight more mobile plant which was previously used. However, the wording of the conditions attached to the officer report is considered to provide significant flexibility if required. The applicant, in installing the plant without the benefit of planning permission which has currently been done is at the applicants own risk. Moreover, any matters arising from land stability in accordance with the NPPF is the land owner and developers responsibility.

Other Matters

71. The Local Planning Authority and the Head of Environmental Health and Trading Standards are aware that a number of the objections submitted, relate to current noise, dust issues and the possibility that the site is operating outside of it currently approved operating hours.
72. Whilst complaints have been received from time to time, the Head of Environmental Health and Trading Standards has been unable to verify such complaints. Such investigations with regard to noise, in co-operation with the Environment Agency,

have been particularly complicated due to the presence of many other industrial / commercial noise sources in the Stour Valley and generally there not being a clear line of site from noise sources to complaints which have been received from residents on the north side of the Stour Valley.

73. A number of such complaints have later been attributed to other noise sources. It must also be noted that whilst the Council has received complaints, other reports may have been made directly to the Environment Agency as the regulator for the site. The Head of Environmental Health and Trading Standards, having made an approach to the Environment Agency, is advised of no current regulatory issues and that the introduction of the proposed plant would require a variation to the current Environmental Permit to reflect changes in operation.
74. From a purely planning perspective, it should be noted that no formal planning enforcement complaint has been received in relation to the hours of operation from residents, despite numerous comments being made in relation to this application. However, based on the comments received in connection with this application, an enforcement file has been set up unilaterally, but presently there is no evidence currently before the Council, to demonstrate that there is regular breach of the hours of operation condition.
75. Irrespective of this, the applicants have been advised that the existing hours of operation condition would be re-imposed on the advice of the Head of Environmental Health and Trading Standards to protect residents from out of hours working. There has been no outward objection from the applicants to this approach.

CONCLUSION

76. The proposed development if given a permanent permission could undermine the stated Development Plan aims of delivering housing to the area around central Lye and its railway station, in that the use would be incompatible due to general nuisance. However, given the likelihood of a residential role coming forward in the short to medium term a temporary permission is considered appropriate which will give the

applicants further time to seek an appropriate and permanent location for the operation, which would not prejudice housing led regeneration benefits for the area. Consideration has been given to National Planning Policy Guidance, policies within the Black Country Core Strategy (2013); and the Dudley Borough Development Strategy (2017).

77. Moreover, the Local Planning Authority has given full consideration to the applicants supporting information, including their submitted Counsels opinion, as well the Local Planning Authority's own Counsels opinion.

RECOMMENDATION

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

Conditions and/or reasons:

1. The development/use hereby permitted shall cease on or before 1 September 2024 and the site reinstated to its previous condition within 8 weeks of development/use ceasing.
REASON: The development must be of a temporary nature as its long term retention would be inappropriate relative to Black County Core Strategy Policies CSP2 and RC13 and DBDS Policies D2, D5 and D6, as its long term retention would prejudice the residential based regeneration of the wider Lye area.
2. The development hereby permitted shall be carried out in accordance with the following approved plans:
200729_P01_R4
MGR111 - Pegasus 2021 Elevations -Layout
REASON: For the avoidance of doubt and in the interests of proper planning.
3. The acoustic barrier adjoining the access road into the site and the noise bund along the eastern boundary of the site as shown on the approved plans shall be retained for the life of the development.
REASON: To protect amenity and to comply with DBDS Policies D2 , D5 and D6.
4. No additional lighting shall be installed until a scheme for the minimisation of the effect of light glare on nearby properties is submitted to the Local Planning Authority for written approval. The works in the approved scheme shall be completed before any lighting equipment to which this approval relates is operated and shall be maintained during such operation for the life of the development.

REASON: To protect amenity and to comply with DBDS Policies D2 , D5 and D6.

5. 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 06.30 nor after 18.00 Monday to Friday; before the hours of 07.00 nor after 14.00 on Saturdays and not at all on Sundays and Public Holidays.

REASON: To protect amenity and to comply with DBDS Policies D2 , D5 and D6.

6. Aggregate processing activities shall not be operated before 08.00hours or after 17.00 hours Monday to Friday; before the hours of 08.00 nor after 13.00 on Saturdays and not at all on Sundays and Public Holidays Saturday.

REASON: To protect amenity and to comply with DBDS Policies D2 , D5 and D6.

7. Within three months of this decision (unless otherwise agreed in writing by the Local Planning Authority) updated details of dust management, suppression and mitigation shall be submitted to and approved in writing by the Local planning Authority. These details shall include the provision of close-meshed netting to the boundary with the transformer site, -water sprinkler suppression system to boundary of processing areas, the provision of wet, wheel wash system and secondary jet wash to prevent mud tracking onto highways, plus the implementation and maintenance of visual observations record to monitor possible dust emission incidents

-provision of a dust management plan detailing the above and other management measures (e.g. onsite speed restrictions, complaint procedures) to eradicate / minimise dust emissions from the site and associated traffic

The development shall thereafter be operated in complete accordance with the approved management, suppression and mitigation works/strategy for the life of the development.

REASON: To protect amenity and to comply with DBDS Policies D2 , D5 and D6.

8. Within three months of this decision (unless otherwise agreed in writing by the Local Planning Authority);
 - a) a risk assessment and site investigation shall be carried out to establish the risks posed to the aggregate washing development by past coal mining activity utilising intrusive site investigations if necessary, and;
 - b) any remediation works and/or mitigation measures required to address land instability arising from coal mining legacy, as may be necessary, shall be implemented on site in order to ensure that the site is made safe and stable for the development proposed in accordance with a timetable to be submitted to and agreed in writing by the Local Planning Authority.

The intrusive site investigations and remedial works shall be carried out in accordance with authoritative UK guidance.

REASON: In the interests of public safety and to comply with DBDS Policy D4

9. Within three months of this decision (unless otherwise agreed in writing by the Local Planning Authority), a signed statement or declaration prepared by a suitably competent person confirming that the site is, or has been made, safe and stable for the approved development shall be submitted to the Local Planning Authority for approval in writing. This document shall confirm the

methods and findings of the necessary site investigations and the completion of any remedial works and/or mitigation necessary to address the risks posed by past coal mining activity.

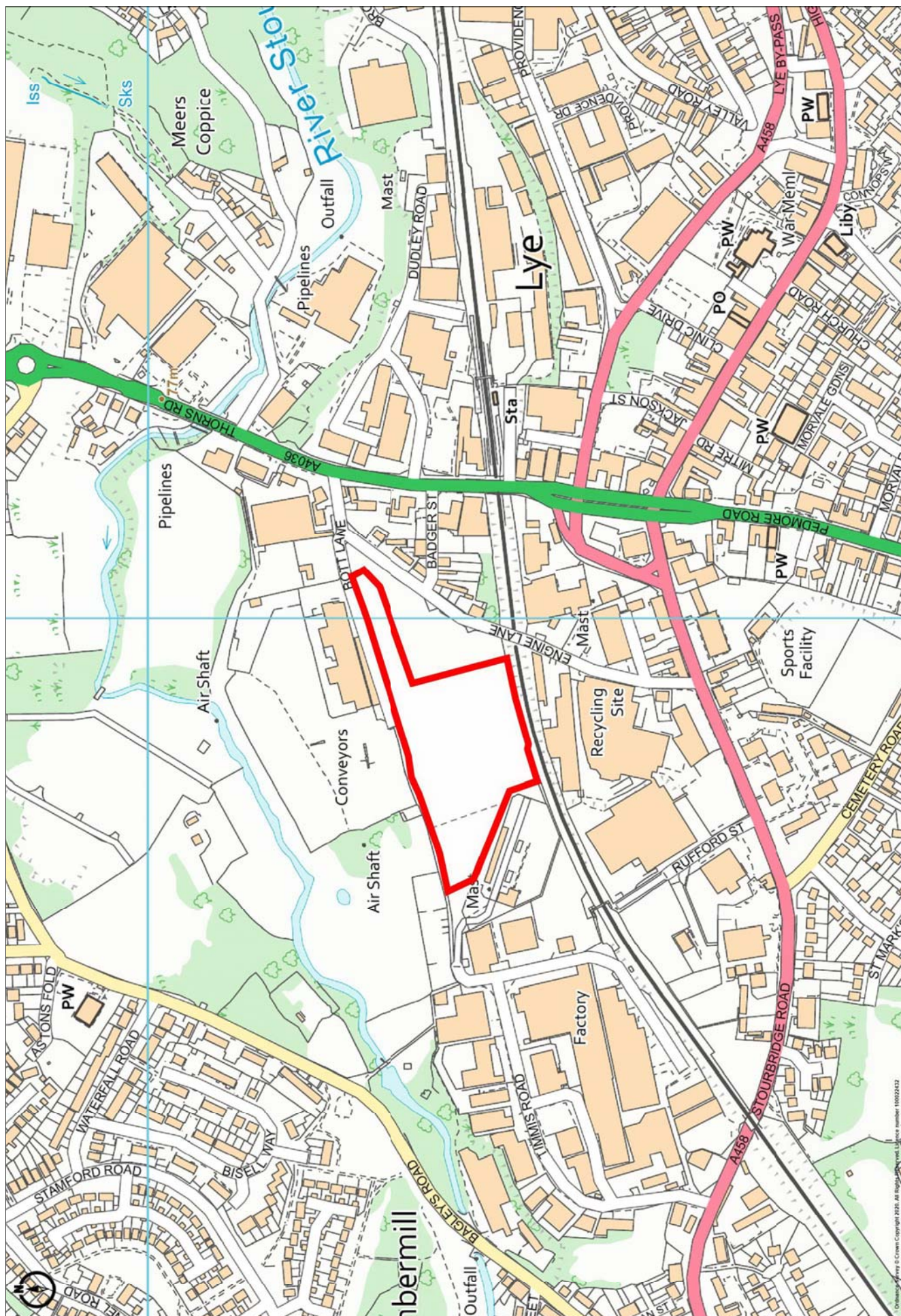
REASON: In the interests of public safety and to comply with DBDS Policy D4

10. No materials shall be stored, stacked or deposited within 3 metres of the northern boundary of the site.

REASON: In the interests of visual amenity and to comply with Borough Development Strategy 2017 Policy S6 Urban Design, Policy L1 Housing Development, extensions and alterations to existing dwellings Policy D2 Incompatible Land Uses (in part) and Policy L8 Protecting the Viability and Integrity of Industrial and Business Uses (in part) Policy D2 Incompatible Land Uses (in part).

11. No materials or goods shall not be stored, stacked or deposited to a height exceeding 4 metres.

REASON: In the interests of visual amenity and to comply with Borough Development Strategy 2017 Policy S6 Urban Design, Policy L1 Housing Development, extensions and alterations to existing dwellings Policy D2 Incompatible Land Uses (in part) and Policy L8 Protecting the Viability and Integrity of Industrial and Business Uses (in part) Policy D2 Incompatible Land Uses (in part).



PLANNING APPLICATION NUMBER: P21/0178

Type of approval sought	Full Planning Permission
Ward	Wollaston and Stourbridge Town Ward
Agent	Keith Mellor, Tetrattech
Case Officer	Stephanie Hollands
Location:	11, HAGLEY ROAD, STOURBRIDGE, DY8 1QH.
Proposal	CHANGE OF USE FROM HAIR SALON (E) TO HOT FOOD TAKEAWAY (SUI GENERIS) WITH ALTERATIONS TO ELEVATIONS TO INCLUDE EXTRACT FLUE, FRESH AIR INTAKE GRILL AND NEW SHOP FRONT AND DOOR.
Recommendation Summary:	APPROVE SUBJECT TO CONDITIONS

SITE AND SURROUNDINGS

1. The application site comprises a three-storey building of flat roof design, at 11 Hagley Road, Stourbridge, DY8 1QH. The premises are located to the northern end of a block of what appears to have previously been 6 identical three storey buildings within the urban area of Stourbridge. An enclosed yard area is located to the rear.

2. The premises were most recently in use as a hair salon (Use Class E(a)) to the ground floor with a two-storey self-contained 3-bedroom apartment above. The premises are currently vacant at ground floor.

3. The western frontage of the property is located directly to the back of pavement, to the northern edge lies an access driveway leading to a large parking area to the rear, a large stand-alone building of high visual aesthetics is located to the north beyond the access drive, and further commercial units are located adjoined to the south. To the adjacent western edge of Hagley Road lie further commercial businesses.

4. Other uses immediately surrounding the area encompasses a wide variety of commercial uses, including an estate agent adjoined, a fitness centre, funeral directors, public house, solicitors, physiotherapy practice, children's day nursery, motor vehicles showrooms and function suits.
5. In terms of parking facilities, no parking is permitted directly to the front of the premises on Hagley Road to either of the eastern or western edges, however parking is permitted a short distance to the south on the eastern edge of the road, restricted to 2 hours between 7am and 7pm. To the rear of the site via the adjoined access drive off Hagley Road lies a large surface level car park and further large surface car parks are located to the rear east off Church Street and to the west on Union Street.
6. The building is not listed and is not located within a Conservation Area.
7. The subject of this application No.11 Hagley Road, Stourbridge is a three-storey late 18th/early 19th century end of terrace building identified within the Stourbridge Area Action Plan (AAP) to be a building of 'Medium Positive Contribution'. It is located within Character Zone 10 'Stourbridge Historic Core' which is also identified in the AAP to be an 'Area of High Historic Townscape Value (HTV 37)'.
8. Located immediately to the north of the application site are three designated heritage assets:
 - a pair of Grade II listed K6 Telephone boxes recorded on the Council's Historic Environment Record (HER) as HER No.1714 and
 - the Grade II listed former Country Court – HER 1699.
 - the Grade II listed former Stourbridge Library and Technical college – HER 1700

PROPOSAL

9. This application seeks consent for change of use from hair salon (E) to hot food takeaway (sui generis).

10. The proposal also includes minor external alterations to the building to accommodate the proposed use, including the location of an extract flue and fresh air intake grill to the north western side elevation and new shop front and door, decorated to RAL9005.
11. The proposal seeks operating hours of 11:00 to 23:00 seven days per week.
12. The extraction system has been specifically designed to Papa John's specifications and details can be found in the submitted 'Supporting Information on the Proposed Extraction System and Plant' document. The design reflects the nature of the cooking operation where all products are oven cooked using conveyor ovens only. The baking (rather than frying) of food limits the odours associated with the use. The extraction system will remove heat produced during the process and air supply system would remove oven fumes and ventilate the premises.
13. Papa John's (GB) Ltd have a centrally controlled logistics operation to deliver the fresh dough and other products necessary to meet the business needs of each store. The delivery model is company-wide and based on three deliveries per week; two food deliveries from the main distribution centre, using fixed-bed ten tonne delivery vehicles; and one by the drinks supply partner, Coca Cola, utilising a 7.5 tonne non-articulated delivery vehicle. Food deliveries would be made on regular days to maintain stock levels in the store. Deliveries would be received to the rear of the unit. Delivery vehicles need only be present at the site for approximately 20 minutes.
14. A Planning Statement with a further addendum has been submitted in support of this application, which also includes a Noise Management Plan.

PLANNING HISTORY

15.

APPLICATION No.	PROPOSAL	DECISION	DATE
P06/2238	Display 1 no. revolving barber pole	Approved with conditions	19/01/2007
P05/2188	Proposed change of use from office (A2) to hot food takeaway (A5).	Refused	01/12/2005
99/51863	INTERNALLY ILLUMINATED FASCIA SIGNS, ONE TO THE FRONT AND ONE TO THE SIDE AND INTERNALLY ILLUMINATED PROJECTING SIGN.	Approved with conditions	31/01/2000

P05/2188 Reasons for refusal:

- The proposed change of use would appear inappropriate in the context of the surrounding professional organisations and would have an adverse impact on the general amenity of the surrounding area, by reason of additional rubbish, litter and cooking odours generated by the A5 use and customers using the facility. It would therefore contravene Policies DD1 (Urban Design), CR12 (Retail A3 Uses and Amusement Arcades) of the adopted Dudley Unitary Development Plan and Planning Guidance Note 28 (Hot Food Takeaways).
- The proposed fume extraction system would be visible within the street scene and would, therefore, have a detrimental impact on the setting of the nearby listed building. It would therefore be contrary to policy HE5 (Buildings of Historic Importance) and Planning Guidance PPG15 (Planning and the Historic Environment).
- The development would be likely to attract short term on-street parking generated by car-borne customers of the development that would be detrimental to the safe and efficient operation of the public highway, it would therefore be contrary to Policy

DD6 (Access and Transport Infrastructure) of the Revised Dudley Unitary Development Plan.

PUBLIC CONSULTATION

16. The application was advertised by way of a site and press notices being displayed and direct neighbour notification. Eleven letters of objection have been received from local occupiers with the following concerns summarised below:

- No off-road parking/unauthorised parking/obstruct access/danger to road users/overloading private car park/security
- No accessible space for refuse containers
- Litter/waste/refuse storage
- Deliveries/no availability of safe loading area
- Previous refusal
- Not sitting comfortably with existing uses
- Unsightly building
- Not located in a town centre retail area
- Infestations, noise, potential rodent problems and health and safety reasons
- Issue of public health and public nuisance
- Adversely affect the siting and structure of Listed structures
- Out of character with the area
- Unpleasant smells
- Existing pizza shops on the high street
- Numerous empty shops within the town centre

17. Following re-consultation on the amended plans (addressing Historic Environment's concerns), which expired on 16th July 2021 six objections have now been received from local occupiers objecting to the application with the following comments summarized below:

- Access issues
- Potentially dangerous
- Location of bins and air conditioning inductor

- Rat and mice problems/vermin
- Use can be accommodated with the town centre in empty shops
- Parking and services
- Nuisance
- Out of character
- Inconsiderate parking
- Existing pizza places in Stourbridge, not necessary
- Waste rubbish
- Grade II listed buildings

OTHER CONSULTATION

18. Highways: No objections and recommend approval.
19. Environmental Safety and Health Team: Recommend that conditions be attached to any approval relating to air quality and noise.
20. Planning Policy Team: No objections in principle.
21. Historic Environment: Recommended on-balance that the application be recommended for approval subject to conditions.

RELEVANT PLANNING POLICY

22. Legislation
Sections 66(1) and 72(1) of the *Planning (Listed Buildings and Conservation Areas) Act 1990*
23. National Planning Guidance
Technical Guidance to the National Planning Policy Framework (2012)
Community Infrastructure Levy Regulations (as amended) (2014)

National Planning Policy Framework (NPPF, Feb 2019) – specifically Chapter 16,
Conserving and enhancing the historic environment

NPPF Planning Practice Guidance (PPG)

Historic England Good Practice Advice notes (GPAs)

- GPA 2: Managing Significance in Decision-Taking (2015)
- GPA 3: The Setting of Heritage Assets (2017)

Historic England Advice Notes (HEANs)

- HEAN 2: Making Changes to Heritage Assets (Feb 2016)
- HEAN 12: Statements of Heritage Significance (Oct 2019)

24. Black Country Core Strategy (2011)

- DEL1 Infrastructure Provision
- ENV2 Historic Character and Local Distinctiveness
- ENV 3 Design Quality
- CSP3 Environmental Infrastructure
- CSP4 Place Making
- CSP5 Transport Strategy
- CEN6 Meeting Local Needs for Shopping and Services
- TRAN2 Managing Transport Impacts of New Development
- TRAN5 Influencing the Demand for Travel and Travel Choices
- CSP1 The Growth Network
- CSP2 Development Outside the Growth Network

25. The Dudley Borough Development Strategy (2016)

- S1 – Presumption in favour of Sustainable Development
- S2 - Planning for a Healthy Borough
- S6 - Urban Design
- S8 - Conservation and Enhancement of Local Character and Distinctiveness
- S9 - Conservation Areas
- S10 - Listed Buildings

- S11 - Buildings of Local Historic or Architectural Importance
- S12 - Areas of High Historic Townscape Value (AHHTV)
- S15 - Heritage Assets of archaeological interest, Scheduled Ancient Monuments and Archaeological Priority Areas (APA)
- S17 – Access and Impact of Development on the Transport Network
- D1 – Access for All
- D2 – Incompatible Land Uses
- D5 – Noise Pollution
- D9 – Hot Food Takeaways
- D12 – Control of Advertisements
- L12 Shop Front Security

26. Stourbridge Area Action Plan (Oct 2013)

- Policy 21 - Conservation and enhancement of local character and distinctiveness in Stourbridge)
- Policy 22 - Areas of high historic townscape value (AHHTV)
- Policy 24 - Archaeological Priority Areas (APA)

27. Supplementary Planning Documents

- Access for All Supplementary Planning Document
- CIL Charging Schedule (2015) (updated 2017)
- Parking Standards Supplementary Planning Document (2016)
- Planning for Health SPD (2013)
- PGN 5 – Retail frontages
- Historic Environment SPD (2017)
- Shopfront & Advertisement SPD (2017)

28. Urban Historic Landscape Characterisation (UHLC)

- Black Country HLC (2009)
- Borough-wide UHLC (2016)
- Stourbridge UHLC (Aug 2011)

29. West Midlands Combined Authority Guidance

- West Midlands Design Charter

<https://www.wmca.org.uk/media/3647/wmdesigncharter.pdf>

ASSESSMENT

30. The key issues in determination of this application are:

- Principle/Policy
- Design and appearance
- Amenity issues
- Highway safety
- Financial Material Considerations

Principle/Policy

31. The site is located within an Area of High Historic Townscape Value, within the Stourbridge AAP area, and lies approx. 100m from Stourbridge Town Centre.

32. The application proposes to convert the unit for a hairdressers (Class E) to a hot food takeaway (Sui Generis), As the site is located within SAAP Boundary Policy 9 [hot food takeaway] needs to be considered, this focuses primarily on hot food takeaways within the town centre, but does state that hot food takeaways should not result in bunching. Additionally, DBDS policy D9 [hot food takeaways] states for sites which are not located within the town centre or within a protected frontage:

'Elsewhere hot food takeaways will be permitted where they do not create or exacerbated a concentration (typically 3 or 4) those uses.'

33. While there are a number of hot food takeaways located within the town centre. From google street view (oct. 2020) there does not appear to be any hot food takeaways located in any of the adjacent units or in the immediate vicinity.

34. Additionally, SAAP Policy 9 states that proposals for hot food takeaways should not have an adverse impact on amenity and highway safety and any associated equipment should not be visually dominant within the townscape.

35. DBDS Policy D9 also states:

'In all Locations, planning permission for hot food takeaways will only be granted where in addition to the above considerations, there would not be an adverse impact on public or highway safety'

36. It is therefore considered that for the proposed development to be considered acceptable in terms of SAAP Policy 9 and DBDS Policy D9, it must be demonstrated that the development would not result in highway safety problems, and would be acceptable in terms of the impact on residential uses, such as the residential flat above the site.

37. The site is also located within an AHHTV, therefore any external changes will need to be sympathetic to the surrounding streetscape, in line with Stourbridge AAP Policy 22 [Areas of High Historic Townscape Value].

Design

38. The development would bring a vacant unit back into use which in turn would enhance the existing positive characteristics of the locality including public realm. As such the development would not have any detrimental impact on the overall character of the surrounding area.

39. The application site is located within a row of commercial properties with residential properties nearby. The new shop front would have no adverse impact on outlook, daylight provision or privacy for these nearby occupiers of those residential properties.

40. The the location of the extract flue and fresh air intake grills to the north western side elevation would not be highly visible from the street scene. As such it is not considered there would be any detrimental impact to the visual amenity of the surrounding area.

41. Historic Environment have noted and welcomed that the applicant has made amendments to the scheme, (Addendum to the planning statement dated 28/07/21) and to the amended floor plans and elevations. This information was been provided in order to address original concerns raised by Historic Environment.
42. The additional information provided, coupled with the imposition of suitably worded conditions is considered to be sufficient in order to overcome the original concerns raised by Historic Environment.

Amenity issues

43. The application site is located at the end of a row of commercial properties in a mixed-use commercial/residential area along this part of Hagley Road.
44. The Environmental Safety and Health Team do not object the proposed development and suggest a number of safeguarding conditions to limit noise and air pollution.
45. The Environmental Safety and Health Team note the applicant has submitted a kitchen ventilation scheme in support of the application. It should be noted that this scheme relates to the actual intended cooking operations as a pizza takeaway. The odour potential of different types of cooking are clear and which would necessitate varying levels of control to control kitchen odours. It is accepted that the proposed scheme is acceptable at controlling the odours from this pizza establishment although The Environmental Safety and Health Team are not satisfied that it is suitable and adequate for general unrestricted takeaway usage.
46. Subject to the above-mentioned conditions, it is not considered that the proposed uses would have any detrimental impact on the amenity of surrounding residential occupiers in the vicinity. The use is appropriate for a parade of local shops such as this and the proposal accords with local and national planning policy.

Highway safety

47. The Applicant has clarified the waste storage location and also that no branded vehicles will remain at the premises overnight. Both items may have created obstruction of the shared side access or the public footway at the front of the building.
48. The proposed scheme is therefore consistent with the requirements of Policies TRAN2, and CSP5 of the adopted BCCS and the Parking Standards SPD (2017).
49. With regards to the recommended condition by the Environmental Safety and Health Team in relation to electric vehicle charging points, as there is no on-site parking provision this condition is not appropriate in this instance.

Financial Material Considerations

50. Section (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' 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 the Community Infrastructure Levy (CIL). The section 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'.
51. The proposal is not liable for CIL for the following reason(s):
 - less than 100 square metres of CIL Liable retail floor space

CONCLUSION

52. The principle of the proposed use in this location is considered acceptable and would bring a vacant unit back into use. The proposal respects the historic character and distinctiveness of the area making a positive contribution to place making through high quality design with appropriate conditions imposed. There would be no detrimental impact on residential amenity of nearby occupiers. It is also considered that there would be no detrimental impact on highway safety. The proposal would therefore comply with Core Strategy and Development Strategy Policies.

RECOMMENDATION

53. 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.
REASON: To comply with Section 91(1) of the Town and Country Planning Act, 1990 as amended by Section 51 of the Planning and Compulsory Purchase Act 2004.
2. The development hereby permitted shall be carried out in accordance with the following approved plans unless otherwise agreed in writing by the local planning authority: Addendum to planning statement dated 28/07/21 and Drawing Nos 20108-11 REVISION B, 20108-12 REVISION B, 20108-03 REVISION A, 20108-02 REVISION A and 20108-01.
REASON: For the avoidance of doubt and to safeguard the quality and visual appearance of the host property and of the Stourbridge Historic Core Area of High Historic Townscape Value (AHHTV) in accordance with Policy S12 (Areas of High Historic Townscape Value) of the adopted Dudley Borough Development Strategy and Policy 21 (Conservation and enhancement of local character and distinctiveness in Stourbridge) and Policy 22 (Areas of High Historic Townscape Value) of the Stourbridge Area Action Plan.
3. Notwithstanding the details shown in the submitted plans and provided in the addendum development shall not begin until full details/samples of the type, texture and colour of all materials to be used in external elevations have been submitted to and approved in writing by the Local Planning Authority.
REASON: To safeguard the quality and visual appearance of the host property and of the Stourbridge Historic Core Area of High Historic Townscape Value (AHHTV) in accordance with Policy S12 (Areas of High Historic Townscape Value) of the adopted Dudley Borough Development Strategy and Policy 21 (Conservation and enhancement of local character and distinctiveness in Stourbridge) and Policy 22 (Areas of High Historic Townscape Value) of the Stourbridge Area Action Plan.
4. In order to minimise the impact of the development on local air quality, any gas boilers provided within the development must meet a dry NO_x emission concentration rate of <40mg/kWh.
Reason: To safeguard the air quality of the Borough which is an Air Quality Management Area in compliance with the Black Country Core Strategy Policy ENV8 and the adopted Air Quality SPD.
5. Should the type of food being cooked at the premises alter in any way from that of a pizza takeaway, a revised scheme containing full details of arrangements for internal air extraction, odour control, and discharge to atmosphere from cooking operations, shall be submitted to and approved in writing by the Local

Planning Authority. The works detailed in the approved scheme shall be installed in their entirety before the use hereby permitted is commenced. The equipment shall thereafter be maintained in accordance with the manufacturer's instructions and operated at all times when cooking is being carried out unless otherwise agreed beforehand in writing with the Local Planning Authority.

REASON: To protect the amenities of nearby residents and comply with Borough Development Strategy 2017 Policy L1 Housing Development, extensions and alterations to existing dwellings
Policy D2 Incompatible Land Uses (in part)

6. The premises shall not be open to the public, nor shall deliveries from the premises be made, before the hours of 11:00 nor after 23:00 on any day.

REASON: To protect the amenities of nearby residents in accordance with Borough Development Strategy 2017 Policy D5 Noise Pollution and Policy L1 Housing Development, extensions and alterations to existing dwellings
Policy D2 Incompatible Land Uses (in part).

7. The rating level of sound emitted from any fixed plant and/or machinery associated with the development (including the discharge of cooking fume from a flue) shall not exceed background sound levels by more than 5dB(A) between the hours of 0700-2300 (taken as a 15 minute LA90 at the nearest sound sensitive premises) and shall not exceed the background sound level between 2300-0700 (taken as a 15 minute LA90 at the nearest sound 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.

Where access to the nearest sound sensitive property is not possible, measurements shall be undertaken at an appropriate location and corrected to establish the noise levels at the nearest sound sensitive property.

Any deviations from the LA90 time interval stipulated above shall be agreed in writing with the local planning authority.

REASON: To protect the amenities of nearby residents in accordance with Borough Development Strategy 2017 Policy D5 Noise Pollution and Policy L1 Housing Development, extensions and alterations to existing dwellings
Policy D2 Incompatible Land Uses (in part).

8. The scheme submitted for internal air extraction, odour control, and discharge to atmosphere from cooking operations, is approved in writing by the Local Planning Authority. The works detailed in the approved scheme shall be installed in their entirety before the use hereby permitted is commenced. The equipment shall thereafter be maintained in accordance with the manufacturer's instructions and operated at all times when cooking is being carried out unless otherwise agreed beforehand in writing with the Local Planning Authority.

REASON: In the interests of air quality and the amenities of surrounding premises in accordance with BCCS Policy ENV8 - Air Quality and Borough Development Strategy 2017 Policy S5 Minimising Flood Risk and Sustainable Drainage Systems (SuDS).

9. Notwithstanding the details shown on the submitted plans, development shall not commence until large scale architectural drawings of the proposed new shop front and proposed entrance doors to be used in the external elevations and their colour, finish and materials have been submitted to and approved in writing by the local planning authority. The work will be undertaken in accordance with

the addendum to the planning statement dated 28th July 2021 and Large scale architectural drawings at 1:1, 1:2 or 1:5 of the sections and profiles of jambs, heads, sills, glazing bars, fascia's, pilasters, stallriser and headings together with their relationships to masonry apertures shall be provided. Development shall proceed in accordance with the agreed details and be retained for the lifetime of the development.

The external windows, shop front, doors and associated features installed on the building shall be in accordance with the approved details and shall not be replaced, except in accordance with the same approved details and without the prior written agreement of the local planning authority. The shopfronts and doors shall be of timber construction.

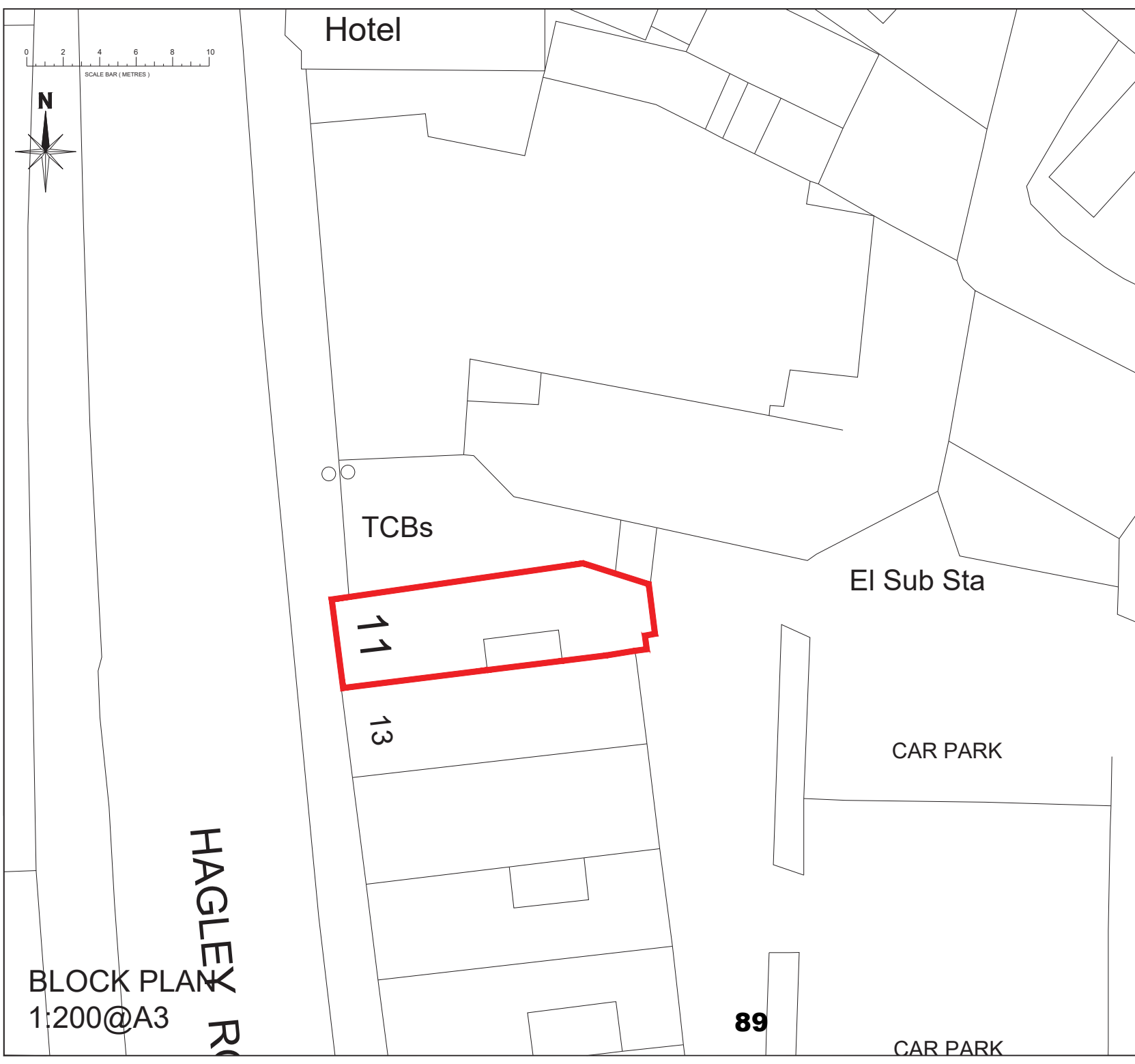
REASON: To safeguard the quality and visual appearance of the host property and of the Stourbridge Historic Core Area of High Historic Townscape Value (AHHTV) in accordance with Policy S12 (Areas of High Historic Townscape Value) of the adopted Dudley Borough Development Strategy and Policy 21 (Conservation and enhancement of local character and distinctiveness in Stourbridge) and Policy 22 (Areas of High Historic Townscape Value) of the Stourbridge Area Action Plan and to ensure the shopfront is 'secured by design' and accessible for all in accordance with Policy L12 (Shop Front Security), Policy D1 (Access for All) of the Dudley Borough Development Strategy and in accordance with the adopted Shopfront & Advertisement SPD (2017).

10. The change of use hereby approved shall not come into use until the existing shopfront and side entrance has been replaced and the new shopfront and side entrance installed in strict accordance with the details approved under condition 9 above.

REASON: To safeguard the quality and visual appearance of the host property and of the Stourbridge Historic Core Area of High Historic Townscape Value (AHHTV) in accordance with Policy S12 (Areas of High Historic Townscape Value) of the adopted Dudley Borough Development Strategy and Policy 21 (Conservation and enhancement of local character and distinctiveness in Stourbridge) and Policy 22 (Areas of High Historic Townscape Value) of the Stourbridge Area Action Plan.

11. Notwithstanding the details shown on the submitted plans development shall not begin until details have been submitted to and approved in writing by the Local Planning Authority of the final location of all vent pipes, flues, air intake and extraction equipment terminals and details provided of their exact design, colour and finish in order to demonstrate that they will not have a detrimental impact on the host building or on the Stourbridge Historic Core AHHTV. The scheme shall be implemented in accordance with the approved details and retained for the lifetime of the development.

REASON: To safeguard the quality and visual appearance of the host property and of the Stourbridge Historic Core Area of High Historic Townscape Value (AHHTV) in accordance with Policy S12 (Areas of High Historic Townscape Value) of the adopted Dudley Borough Development Strategy and Policy 21 (Conservation and enhancement of local character and distinctiveness in Stourbridge) and Policy 22 (Areas of High Historic Townscape Value) of the Stourbridge Area Action Plan.

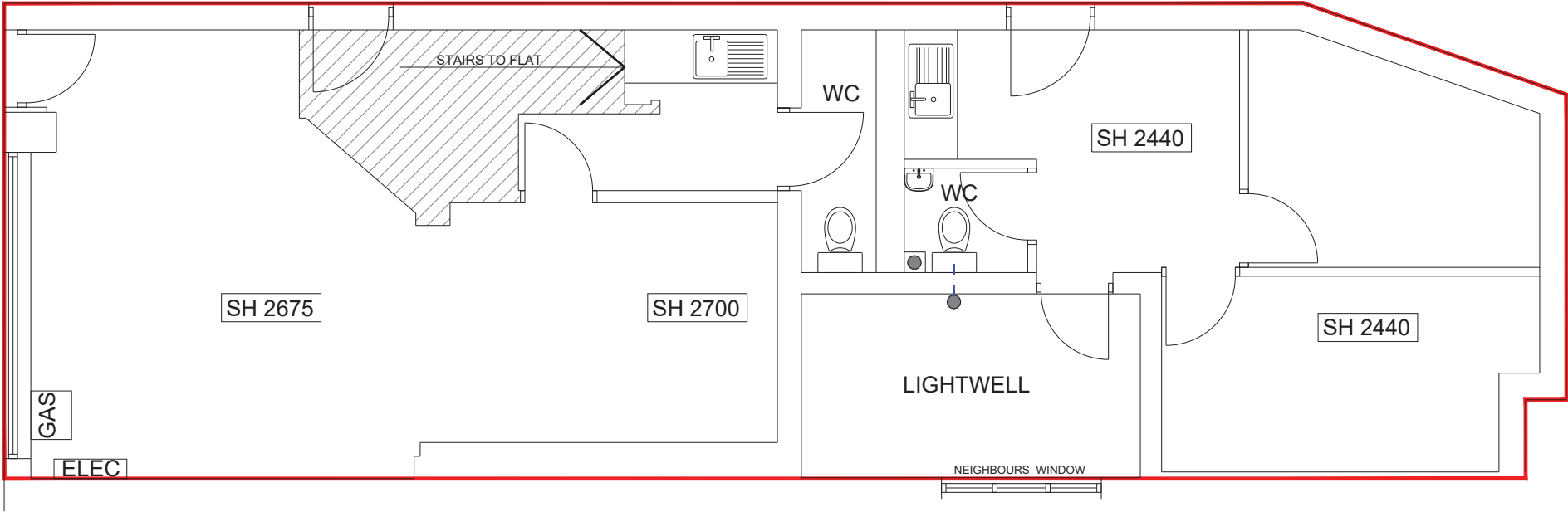
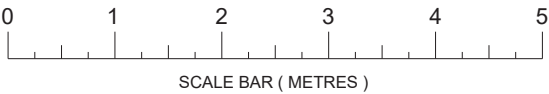


BLOCK PLAN
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LOCATION PLAN
1:1250@A3

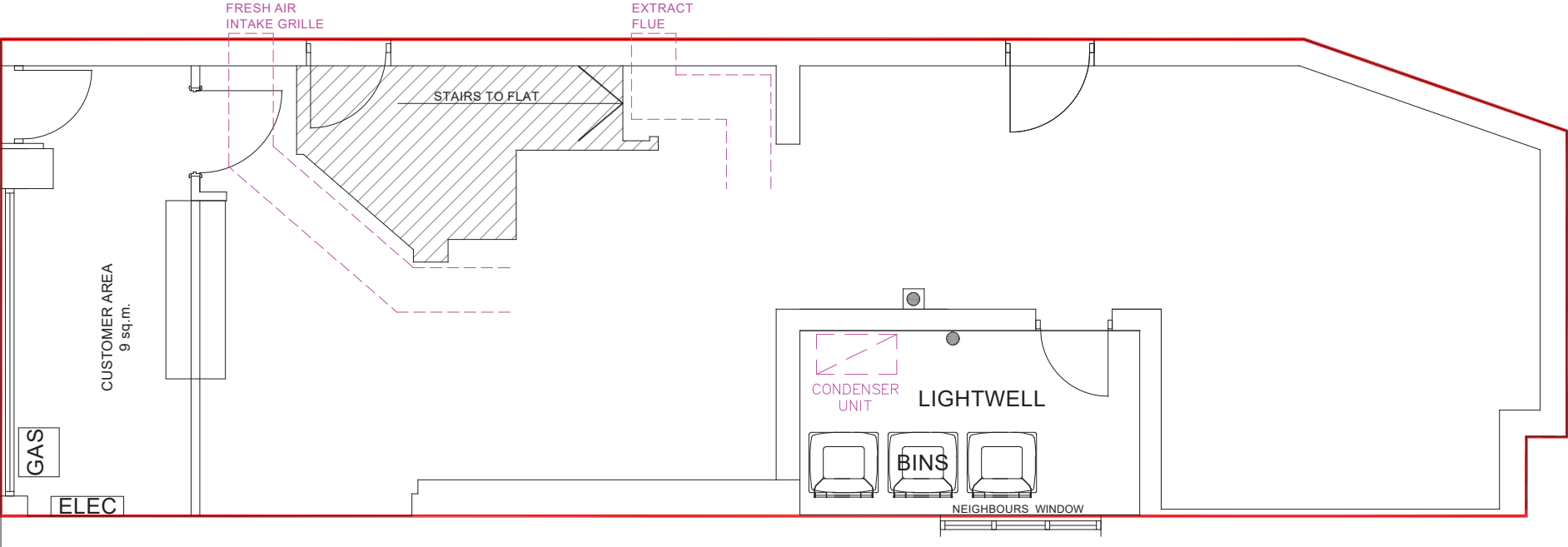
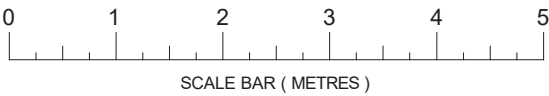
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CLIENT -			
PROJECT 11 HAGLEY ROAD STOURBRIDGE DYS 1QH			
DRAWING TITLE LOCATION & BLOCK PLAN			
SCALE 1:200@A3 1:1250@A3	DRAWN BY MAS	CHECKED -	DATE JAN'20
DRAWING NUMBER 20108-01		REVISION -	



EXISTING GROUND FLOOR
66 sq.m / 710sq.ft.

CH - SUSPENDED CEILING HEIGHT SH - STRUCTURAL / SOFFIT HEIGHT BH - BEAM HEIGHT			
A	DRAWING REVISED	19.01.21	MAS
REV	AMENDMENT	DATE	OWN
MA DESIGN MARTIN ANTHONY DESIGN LIMITED			
CLIENT -			
PROJECT 11 HAGLEY ROAD STOURBRIDGE DY8 1QH			
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DRAWING NUMBER 20108-02		REVISION A	

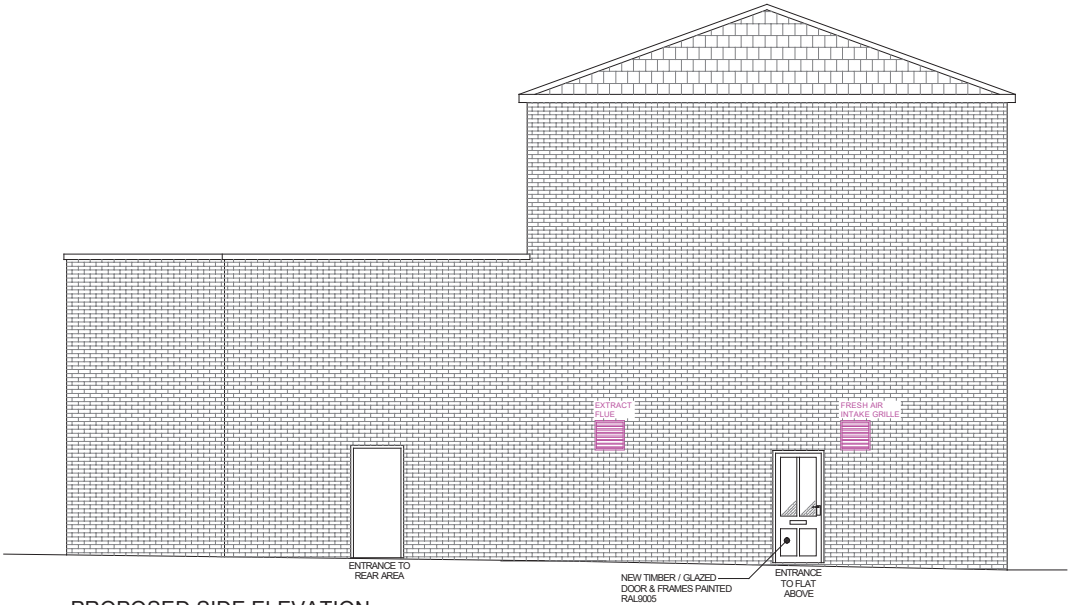
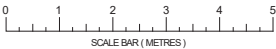
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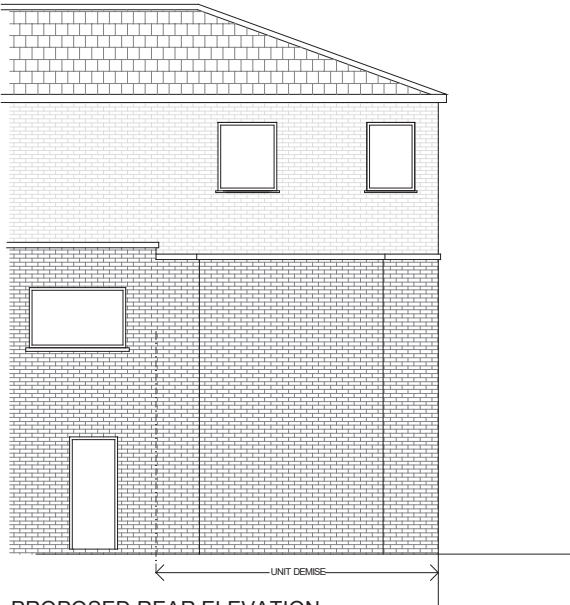
PROPOSED GROUND FLOOR
75 sq.m / 807sq.ft.

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B	DRAWING REVISED	07.21	MAS
A	DRAWING REVISED	14.5.21	MAS
MA DESIGN MARTIN ANTHONY DESIGN LIMITED			
CLIENT -			
PROJECT 11 HAGLEY ROAD STOURBRIDGE DY8 1QH			
DRAWING TITLE PROPOSED PLAN			
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DRAWING NUMBER	REVISION		
20108-12	B		

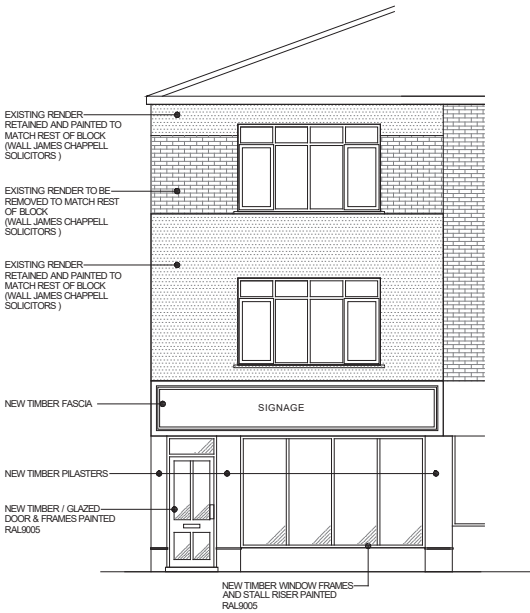
ELEVATIONS 1:100@A3



PROPOSED SIDE ELEVATION NORTH WEST



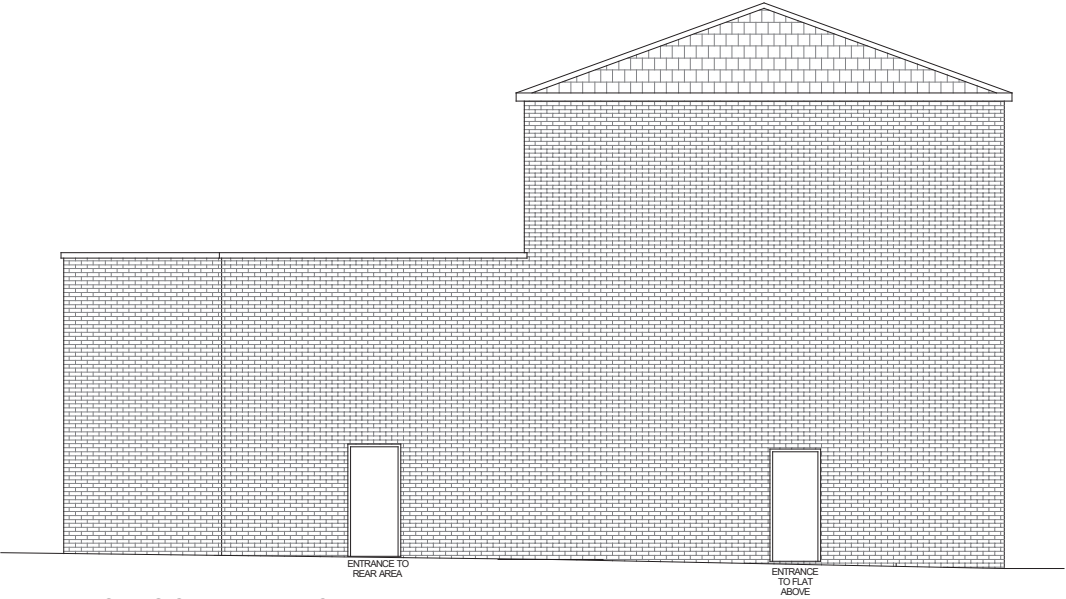
PROPOSED REAR ELEVATION EAST



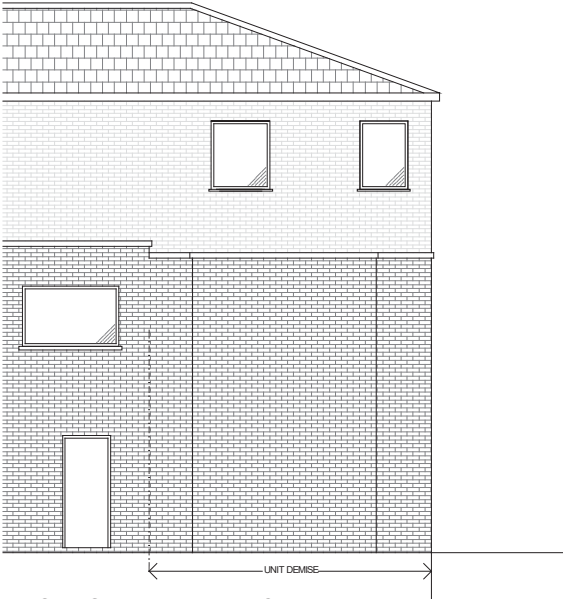
PROPOSED FRONT ELEVATION WEST

NOTE
SEE SIGNAGE CONTRACTORS DRAWINGS FOR SIGNAGE DETAILS

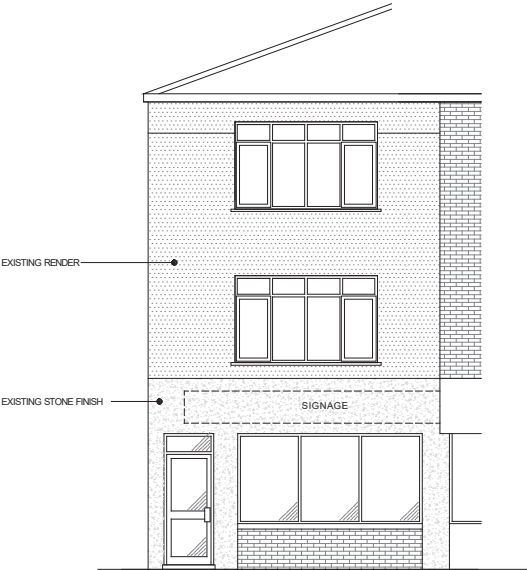
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CLIENT -			
PROJECT 11 HAGLEY ROAD STOURBRIDGE DY8 1QH			
DRAWING TITLE PROPOSED ELEVATIONS			
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DRAWING NUMBER 20108-11	REVISION B		



EXISTING SIDE ELEVATION
NORTH



EXISTING REAR ELEVATION
EAST



EXISTING FRONT ELEVATION
WEST

A	DRAWING REVISED	4.5.21	MAS
REV	AMENDMENT	DATE	CHD
MA DESIGN MARTIN ANTHONY DESIGN LIMITED			
CLIENT -			
PROJECT 11 HAGLEY ROAD STOURBRIDGE DYS 1QH			
DRAWING TITLE EXISTING ELEVATIONS			
SCALE 1:100@A3	DRAWN BY MAS	CHECKED -	DATE JAN'20
DRAWING NUMBER 20108-03		REVISION A	

PLANNING APPLICATION NUMBER: P21/0533

Type of approval sought	Full Planning Permission
Ward	Halesowen South Ward
Agent	Martin Faulkner, TDF Design
Case Officer	Stephanie Hollands
Location:	1, LODGE CLOSE, HALESOWEN, B62 0BG.
Proposal	TWO STOREY SIDE EXTENSION (FOLLOWING DEMOLITION OF EXISTING SNUG AND UTILITY).
Recommendation Summary:	REFUSE

SITE AND SURROUNDINGS

1. The application site is a detached property located on the corner plot of a cul de sac in a well-established residential area characterised by large detached houses within generous plots. The property to the south west, 2 Lodge Close, stands 2.75m back from the application site. The properties to the north of the application site, 1 and 3 Lapal Lane North are detached houses. 13 Lodge Close (opposite) is a detached bungalow.
2. Opposite the site, 13 Lodge Close is a detached bungalow which has a single storey side elevation set back 10.65m from the rear of the pavement.
3. 2 and 4 Lapal Lane North are set back 8.4m and 9.7m from the rear of the pavement respectively.
4. The property benefits from being previously extended to the side and rear with the erection of a garage and the erection of a boundary wall.

PROPOSAL

5. This application seeks the approval of the demolition of existing snug and utility and erection of a two-storey side extension to create a 2nd lounge with an en-suite bedroom above.
6. The original dwelling stands at 14.8m wide and the proposed extension is 4.9m wide and 7.9m deep with subservience to the original front of the dwelling of 0.9m.

PLANNING HISTORY

7.

Application	Proposal	Decision	Date
81/52060	Erection of garage	Approved, with conditions	22/10/81
80/50410	Erection of boundary wall	Approved, with conditions	13/03/80
P02/2213	Removal of requirement to comply with approved plans (79/1020) by not providing a visibility splay	Refused	17/03/03
P08/1473	Demolition of existing lounge and utility and erection of a two-storey side extension to create utility/kitchen and lounge with 2 no. en-suite and 1 no. bedroom above.	Refused	10/11/08
P09/1338	Two storey side extension (following demolition of utility and snug) (Resubmission of	Refused	20/11/2009

	refused application P08/1473)		
P12/0152	Single storey rear extension	Approved with Conditions	14/03/12
P12/0637	Single storey rear extension (Resubmission of approved application P12/0152)	Approved with Conditions	27/06/2012

8. P08/1473 reasons for refusal:

- The proposed development would by virtue of its design, scale and massing in relation to the original dwelling, dominate the existing property and appear as an obtrusive feature in the street scene, contrary to Policy DD4 of the Unitary Development Plan (2005) and Planning Guidance Note 17 – House Extension Design Guide.
- The proposed development would project beyond the building lines of neighbouring properties and erode the currently open character of the corner location thus having a detrimental impact on the visual amenity of the area contrary to Policy DD4 of the Unitary Development Plan (2005) and Planning Guidance Note 17 – House Extension Design Guide.

9. P09/1338 reasons for refusal:

- The proposed development would by virtue of its design, scale and massing in relation to the original dwelling appear as an obtrusive and unduly prominent feature in the street scene to the detriment of the character and amenities of the area, contrary to Policy DD4 of the Unitary Development Plan (2005) and Planning Guidance Note 17 – House Extension Design Guide.
- The proposed development would project beyond the established building lines of neighbouring properties and erode the currently open character of the corner location thus having a detrimental impact on the visual amenity of the area contrary to Policy DD4 of the Unitary Development Plan (2005) and Planning Guidance Note 17 – House Extension Design Guide.

PUBLIC CONSULTATION

10. A total of 9 neighbours have been consulted and one response has been received from an occupier of Lapel Lane North. Concerns have been raised on the grounds of:
- Size of the extension because it will project beyond the boundary wall and will therefore breach the visibility splay line.
11. Councillor Vickers has indicated support for the application, on the following grounds:
- fits the local scene, is perfectly acceptable in building regulations and will be an asset to the area. Cllr Vickers has referred the application to Development Control committee in accordance with the Council's constitution.

OTHER CONSULTATION

12. Head of Planning and Regeneration (Tree Protection): Further information required.

RELEVANT PLANNING POLICY

13. National Planning Policy Framework (NPPF) 2019
14. Black Country Core Strategy (2011)
- CSP4 Place making
 - ENV2 Historic Character and Local Distinctiveness
 - ENV3 Design Quality
15. Dudley Borough Development Strategy (2017)
- S1 Presumption in favour of Sustainable Development
 - S6 Urban Design
 - L1 Housing Development, extensions and alterations to existing Dwellings
 - S22 Mature Trees and Woodland

16. Supplementary Planning Documents / Guidance

- PGN 12 - The 45 Degree Code.
- PGN 17 - House extension design guide
- Nature Conservation SPD

ASSESSMENT

17. The proposed development must be assessed with regard to its design and whether it would be compatible with the existing dwelling and the character and appearance of the surrounding area. The potential impact on the amenity of nearby neighbours must also be assessed along with the relevant parking standard requirements.

18. The key issues are:

- Policy
- Design
- Neighbour amenity
- Trees
- Parking

Policy

19. Policy ENV2 – Historic Character and Local Distinctiveness – of the Black Country Core Strategy outlines that development proposals will be required to preserve and enhance local character and those aspects of the historic environment together with their settings which are recognised as being of special historic, archaeological, architectural, landscape or townscape quality. The policy outlines that this includes areas of extensive lower density suburban developments of the mid-20th century including public housing and private developments of semi-detached and detached housing as being one which requires special attention.

20. Dudley Borough Development Strategy Policy S6 – Urban Design states that a proposed extension must make a positive contribution to the character and appearance of the area with appropriate massing and bulk.

21. Dudley Borough Development Strategy Policy S22 Mature Trees and Woodland states development which would adversely affect Ancient Woodland and Ancient Trees will not be permitted, and measures will be taken to restore these areas, and where appropriate, expand them with new complementary planting, particularly to encourage linked woodland areas. In addition, the Council will ensure that other woodland as well as ancient, notable or veteran trees are protected and will seek to encourage the appropriate management of existing trees and woodland, and additional tree planting. Where trees are affected by development, applicants will be required to provide full details of any impact. Proposals involving the loss of mature and semi-mature trees will normally be required to include replacement tree planting. The Council will require that native species of local provenance are used in planting and landscaping wherever possible. A list of suitable species can be found in Dudley Council's adopted Nature Conservation SPD.
22. Policy L1 Housing Development, Extensions and Alterations to Existing Dwellings of the Dudley Borough Development Strategy, amongst other things, outlines that extensions should be in scale and balance with the whole of the original building; and the design of which should be of an appropriate form, siting, scale, and mass, with the use of appropriate materials, which respect and are responsive to the context and character of the surrounding area. It further outlines that all extensions must not cause unacceptable harm to the amenities of the occupiers of neighbouring dwellings, including harm arising from loss of privacy, outlook and sunlight, taking into account factors such as levels, orientation and the separation of development.
23. Para. 2.1 of Planning Guidance Note No. 17 (PGN 17) – House Extension Design Guide states that “The Council seeks to ensure that house extensions and alterations: -
- Relate to the character of the original house in terms of scale, materials and design details.
 - Do not harm the occupiers of adjacent properties, i.e. daylight, outlook, privacy.

- Are of a high standard of design and layout and are compatible with the character of the surrounding area”.

24. Para. 4.4 of Planning Guidance Note No. 17 (PGN 17) – House Extension Design Guide states two storey extensions to corner properties will be required to take into account the visual impact upon the side road and not be unduly prominent nor out of character in the street scene.

Design

25. The proposed side extension would not be appropriate in terms of design, scale and massing in relation to the existing dwelling. Although the proposal features a step back at the front of the property at both ground floor and first floor level it is considered that the extension as proposed would dominate the existing property due to the excessive width, which would not integrate with the original dwelling.
26. In addition to the issue of massing, it is also considered that due to the position of the application property and the high visibility of its front, side and rear elevations from Manor Lane, Lapal Lane North and Manor Abbey Road there would be a detrimental effect on the visual amenity of the area due to the prominence and siting of the inactive side elevation fronting Lapal Lane North. It is considered that any extension towards the boundary and forward of the established building line with Lapal Lane North would negatively impact on the openness of the corner plot to the detriment of the wider street scene.
27. The application property is located on a prominent corner plot and although there is an existing single storey side extension in this location, which has a notable lesser impact due to its size and scale, it is considered that the principle of two storey side extension in this location is not considered acceptable. This would be due to the proposed two storey extension creating a highly visible, overly prominent addition that would undermine the original design and proportions of the property and would dominate the corner setting, thereby, detracting from the wider street scene. Therefore, the proposal would fail to comply with planning policies, particularly

PGN17 which seeks to ensure extensions to existing dwellings are appropriate in scale and character to that of the host dwelling.

28. It is also worth noting that since both previous refusals P08/1473 and P09/1338 of very similar proposals in terms of location, scale, mass and design the same relevant guidance remains in place (PGN 17 - House extension design guide).

Neighbouring amenity

29. The proposed scale and massing of the extension would have a detrimental impact on the character and visual amenity of Lodge Close, because it is considered that the projection of the side extension would be beyond that of the existing building lines of 13 Lodge Close and 2 and 4 Lapal Lane North therefore appearing as an incongruous and intrusive feature in the street scene that erodes the currently open character of the corner locations, contrary to the Council's Planning Guidance Note 17 – House Extension Design Guide and Policy L1 Housing Development, Extensions and Alterations to Existing Dwellings of the Dudley Borough Development Strategy.
30. The application property occupies a corner plot meaning there would be no direct negative impact in terms of outlook and 45 Degree Code Guidelines on the occupiers of neighbouring properties as a result of the proposed development.

Trees

31. The application site boundary to the side and rear on this prominent corner plot is lined with tree hedging and individual trees. Although not protected, there are existing trees within the vicinity of the proposed development. The constraints posed by the vegetation are not identified on the plans and the potential loss of these trees as part of the boundary treatment would have a detrimental impact on the application site, wider street scene and surrounding area contrary to Borough Development Strategy Policy S22.
32. The Tree Preservation Team have stated in the absence of constructive detail in order to assess the application from an arboricultural perspective, a detailed

arboricultural assessment is required in accordance with BS5837:2012. The submitted report should address what impact the proposal will have on the protected trees and provide details in terms of how the existing snug and utility area will be demolished, and the new extension will be constructed without having a negative and detrimental impact on the longevity of the trees and their contribution to the immediate and wider landscape aspect.

Parking

33. The existing garage and spaces on the driveway will remain to provide adequate car parking to the side of the property to comply with Council Policy Guidelines without having any detrimental impact on the wider street scene.

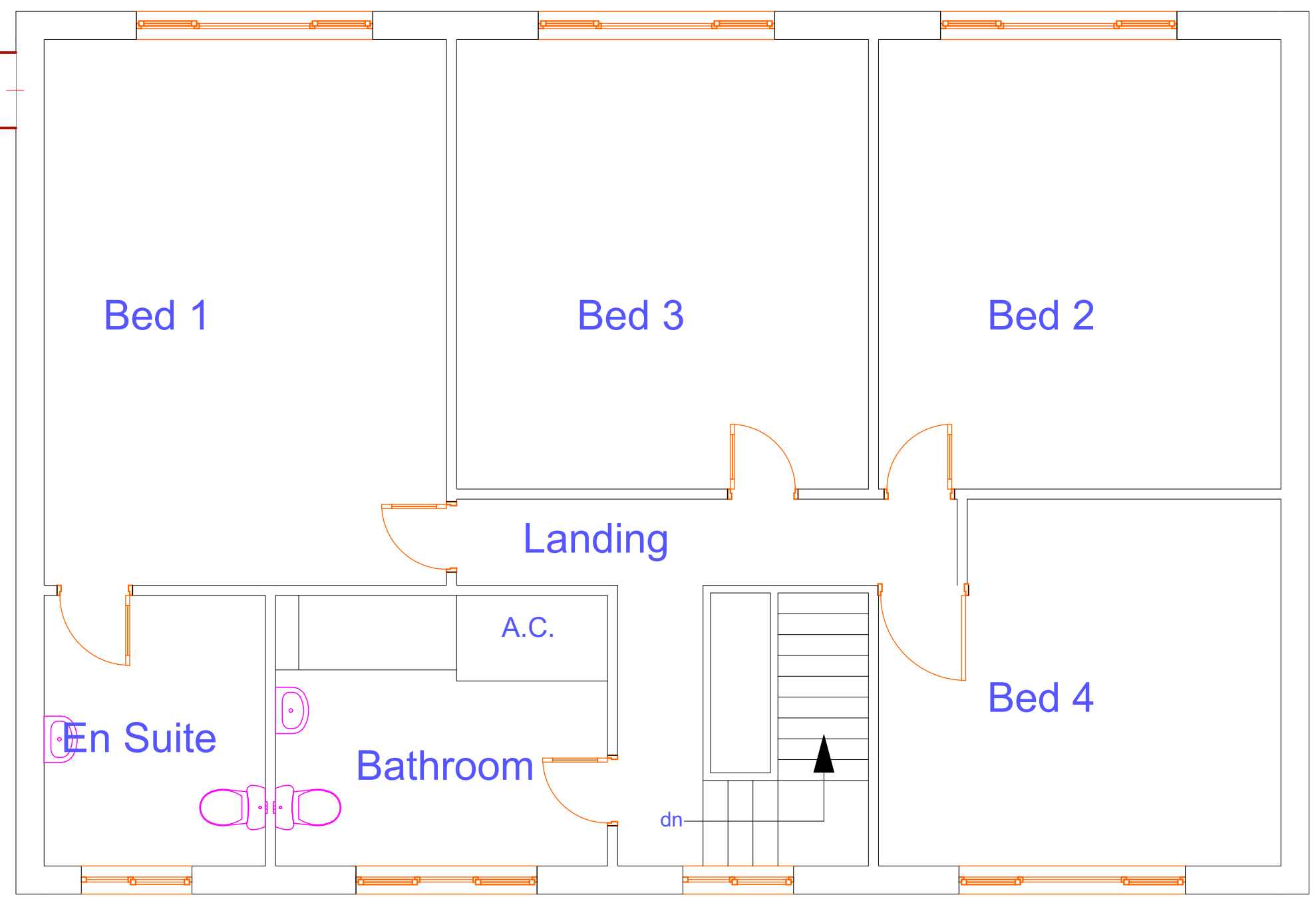
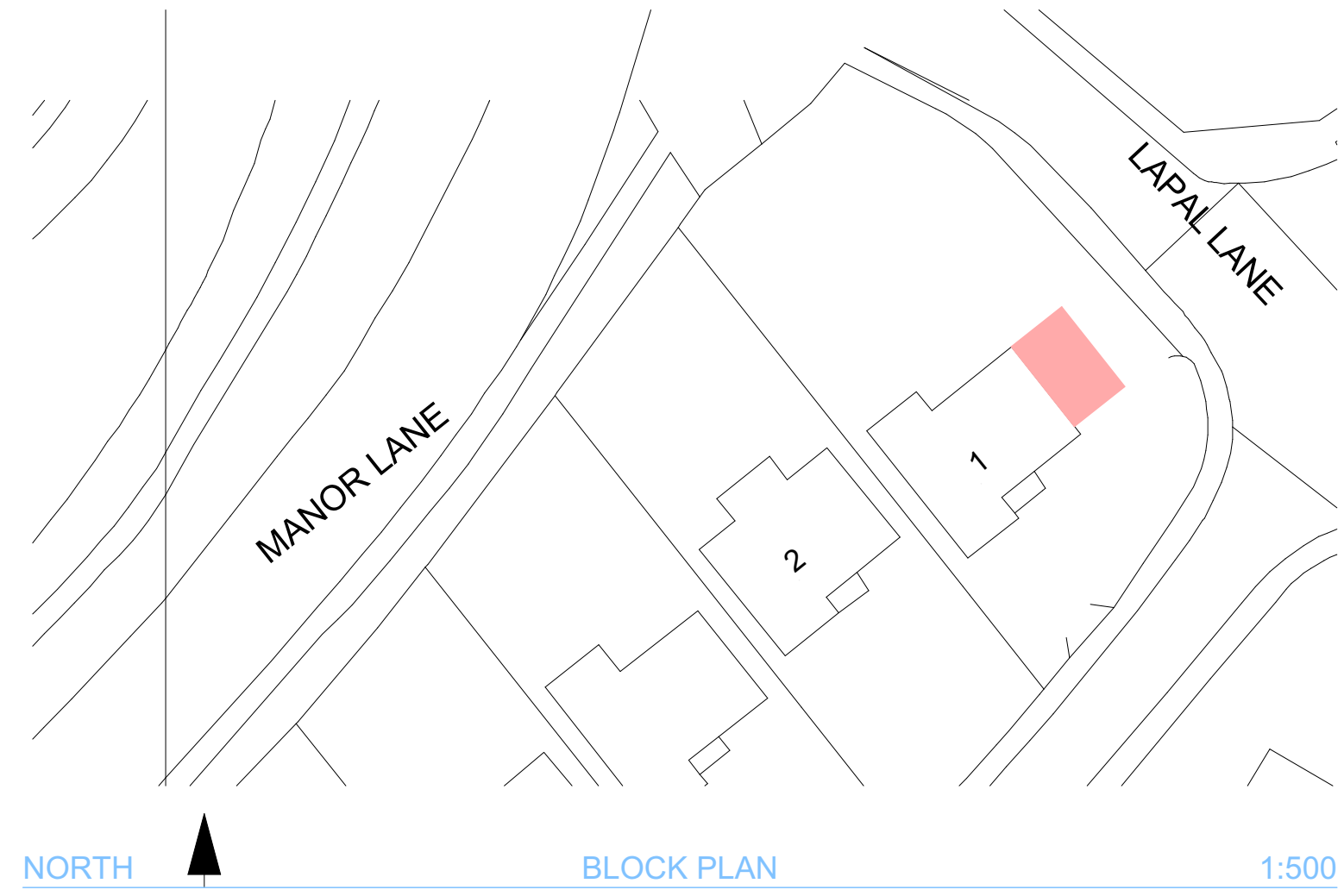
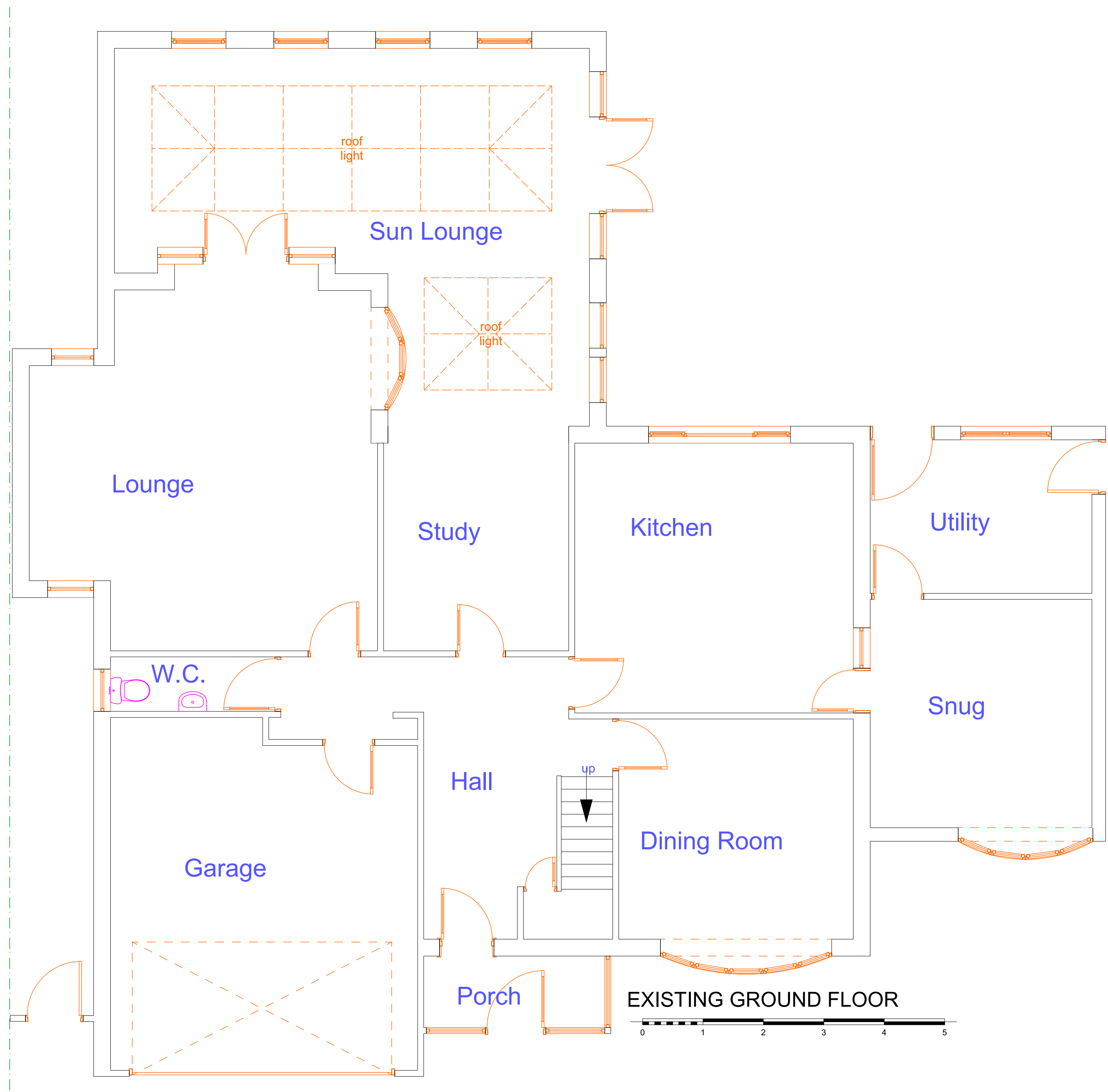
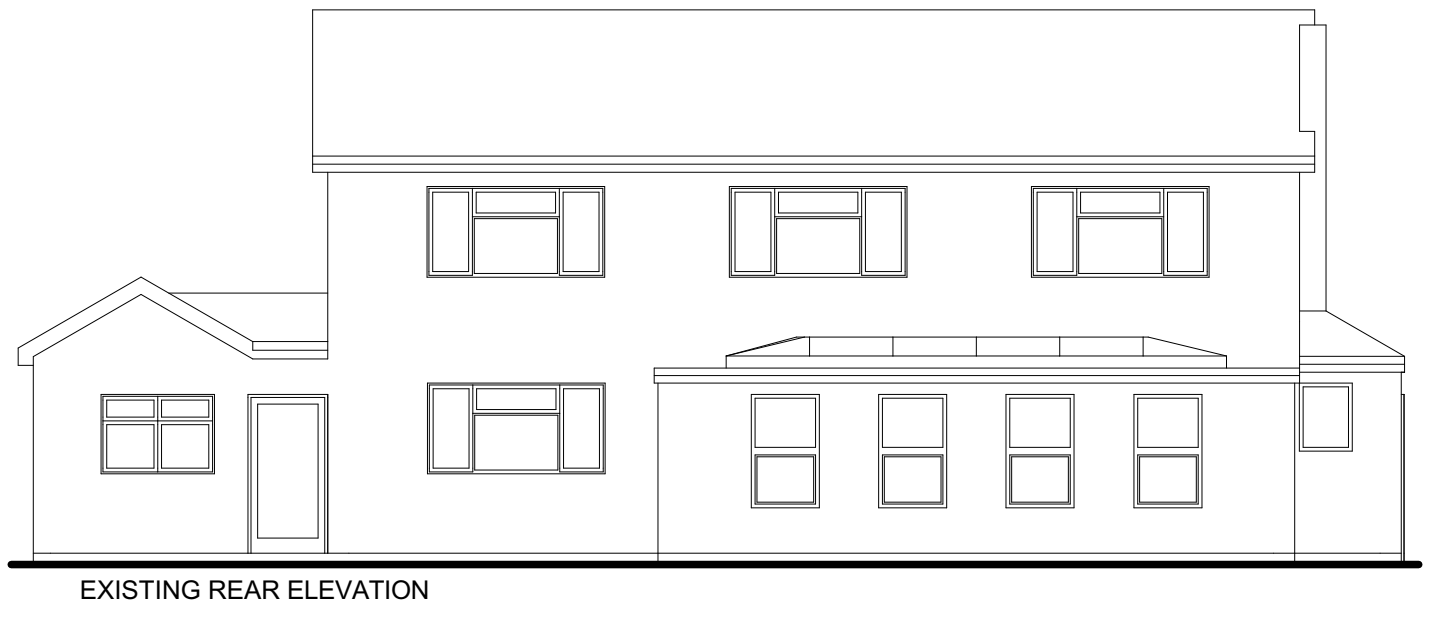
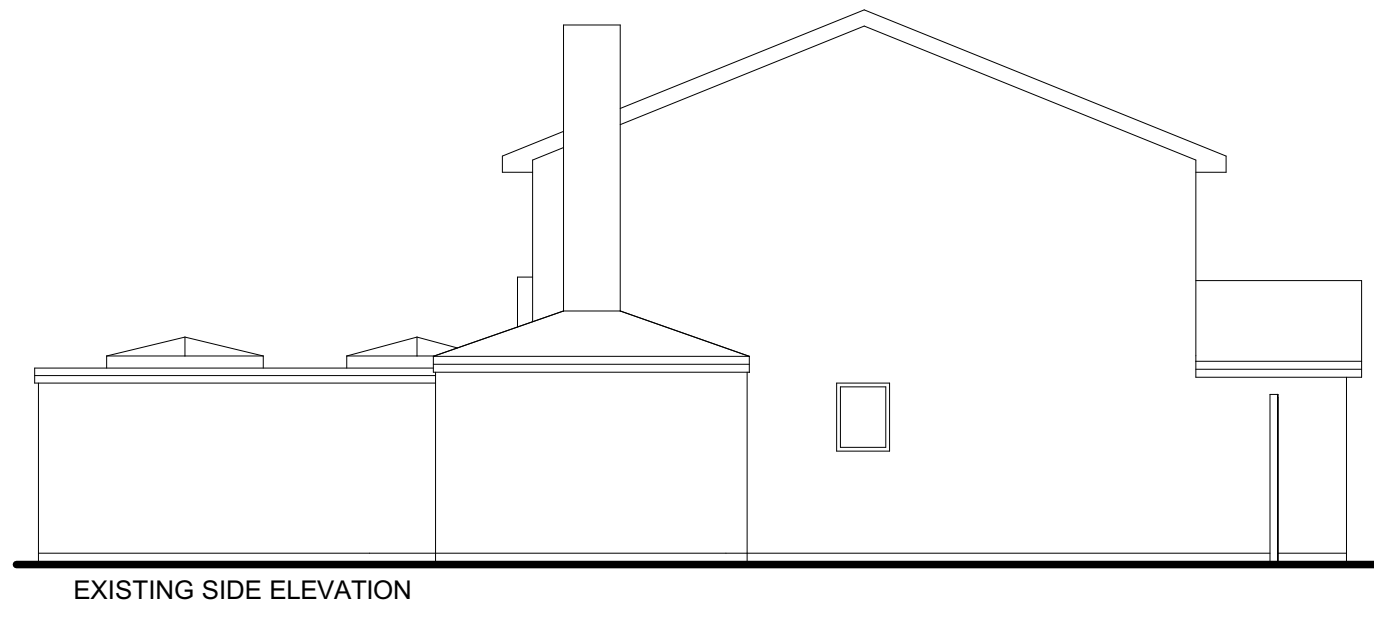
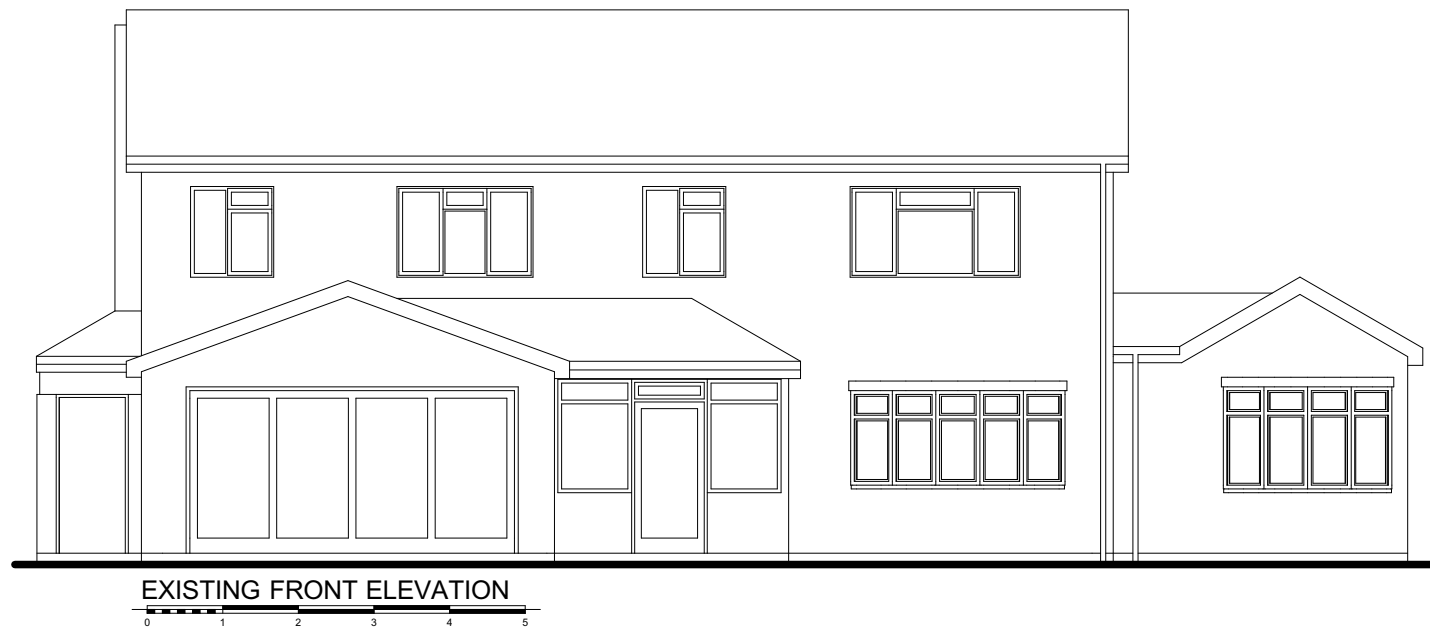
CONCLUSION

34. Due to its scale and massing the proposed extension would dominate the original dwelling and appear as an incongruous feature within the street scene. Although no loss of residential amenity, there is an impact and subsequent loss of visual amenity to the area caused by the proposed development. It is considered that the mass of the proposed side elevation with proposed gable end would overbear the street scene resulting in a detrimental visual appearance of the property and the character of the area. In addition to which, the proposed side elevation would project beyond the building lines of properties at 13 Lodge Close and 2 and 4 Lapal Lane North and therefore not be in keeping with the current street scene. The proposed development is therefore in contravention policies contained within ENV2 of the Black Country Core Strategy (2011), Policies S6, S22 and L1 of the Dudley Borough Development Strategy (2017) and Planning Guidance Note 17 (The House Extension Design Guide).

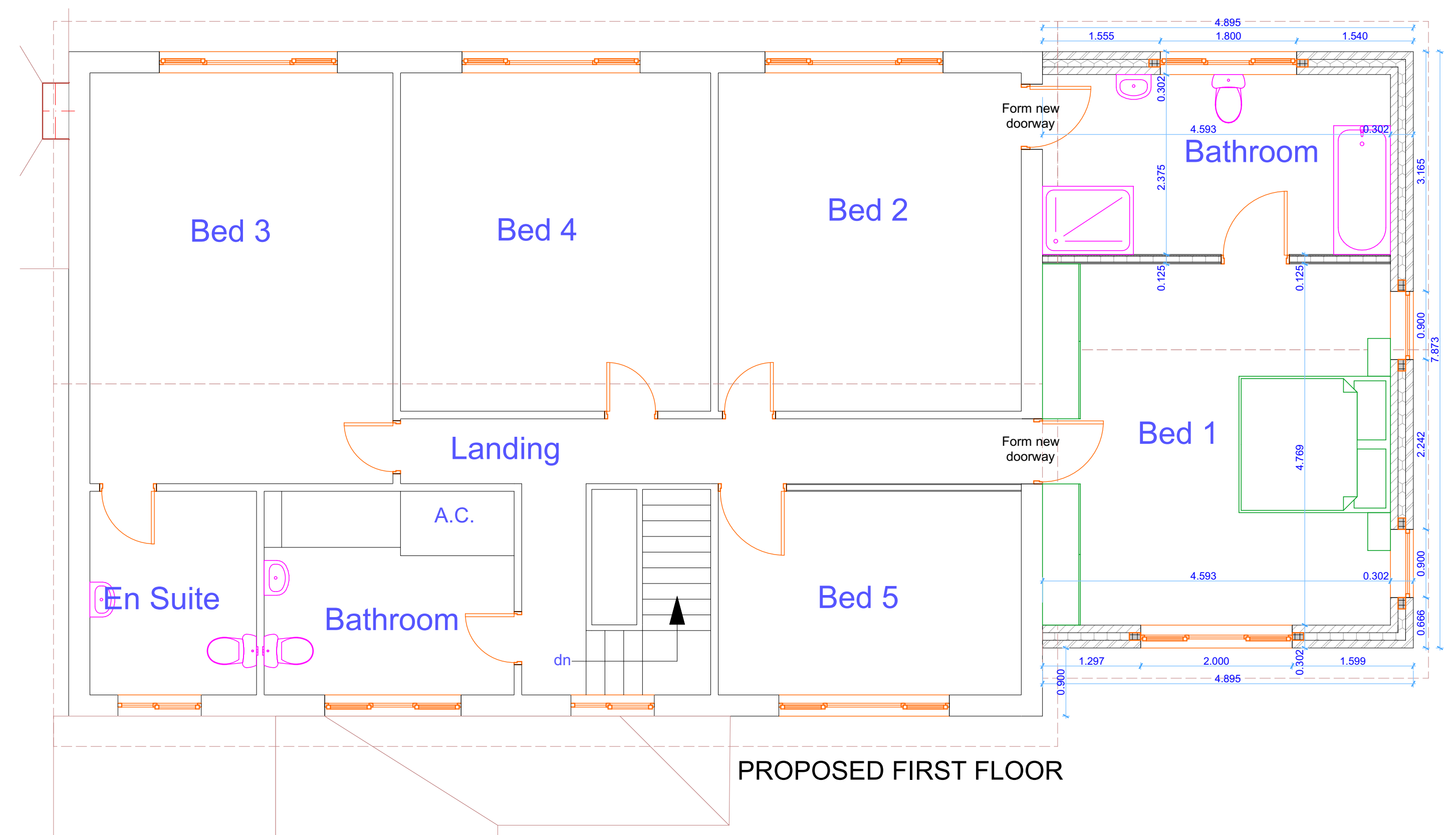
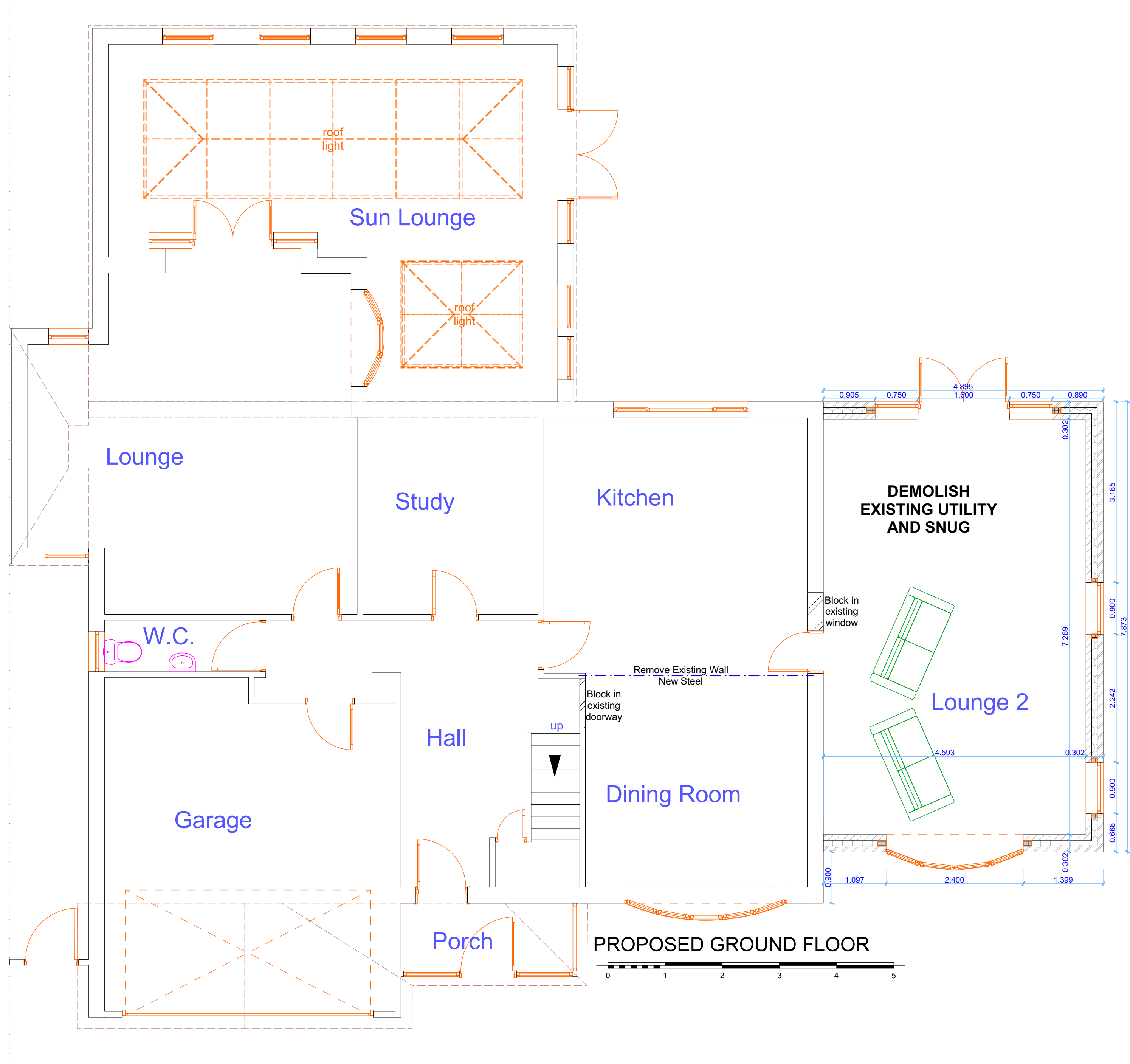
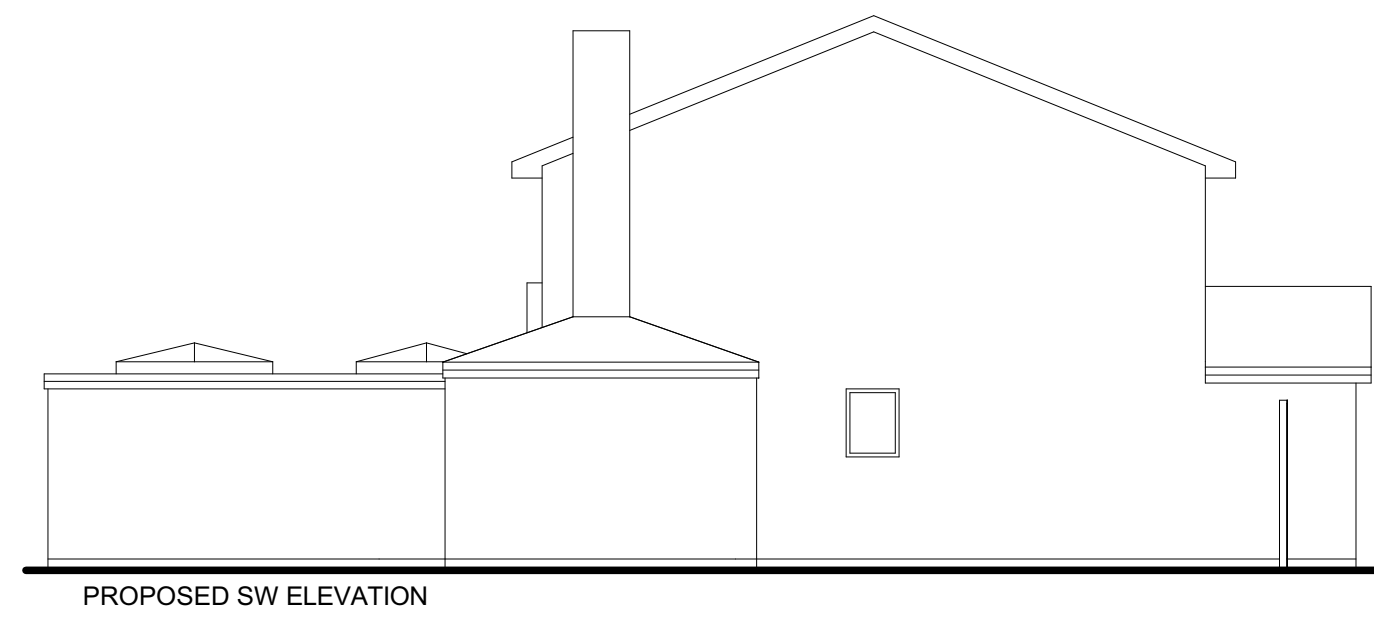
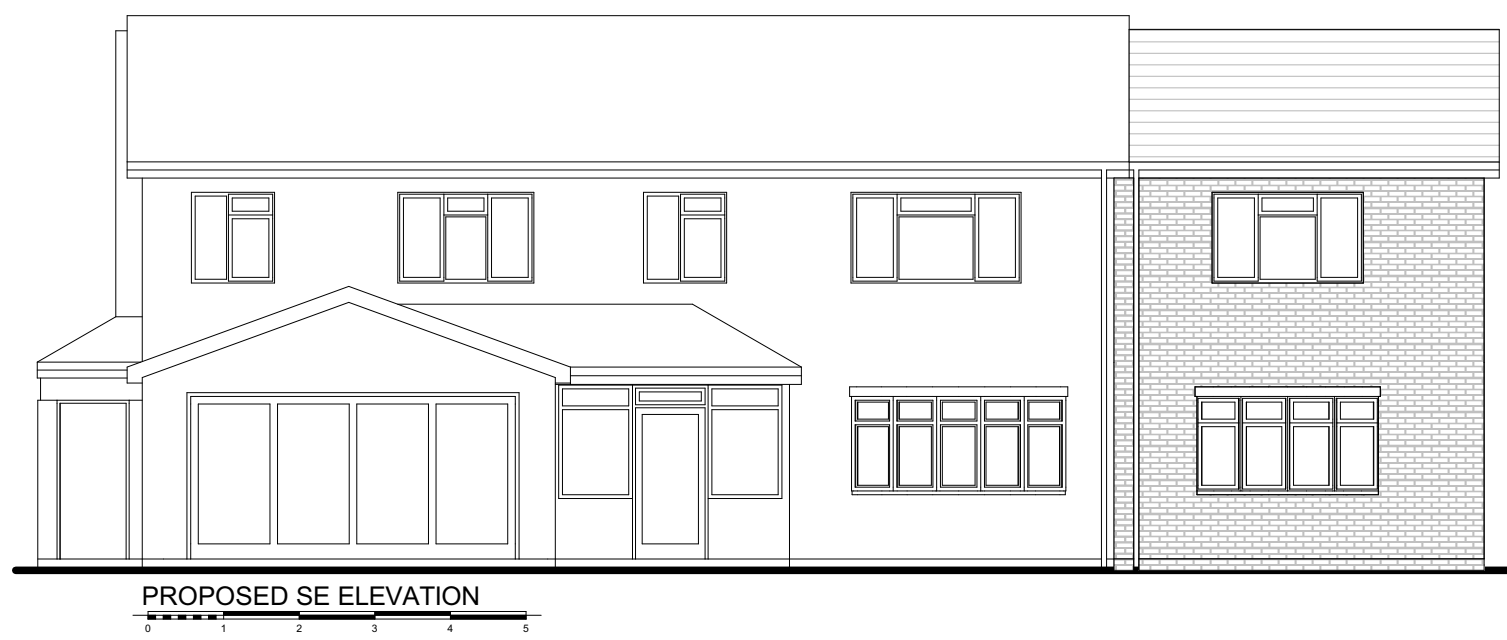
RECOMMENDATION

35. It is recommended that the application is REFUSED for the following reasons.

1. The proposed development by virtue of its design, scale and massing in relation to the original dwelling, would dominate the existing property and appear as an obtrusive feature in the street scene, contrary to Policy ENV2 of the Black Country Core Strategy (2011), Policies S6, and L1 of the Dudley Borough Development Strategy (2017) and Planning Guidance Note 17 (The House Extension Design Guide).
2. The proposed development would project beyond the building lines of neighbouring properties and erode the currently open character of the corner location thus having a detrimental impact on the visual amenity of the area contrary to Policy ENV2 of the Black Country Core Strategy (2011), Policies S6, and L1 of the Dudley Borough Development Strategy (2017) and Planning Guidance Note 17 (The House Extension Design Guide).
3. There are insufficient details submitted in regards to justifying the loss of existing trees, or the impact of adjoining mature trees and subsequent mitigation and replacement contrary to Borough Development Strategy Policy S22.



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1 LODGE CLOSE HALESOWEN WEST MIDLANDS B62 0BG			
PROPOSED TWO STORY SIDE EXTENSION			
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1 LODGE CLOSE HALESOWEN WEST MIDLANDS B62 0BG			
PROPOSED TWO STORY SIDE EXTENSION			
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PLANNING APPLICATION NUMBER: P21/1010

Type of approval sought	Full Planning Permission
Ward	Kingswinford South Ward
Agent	Mr J. Jowitt
Case Officer	Stephanie Hollands
Location:	52, MOUNT PLEASANT, KINGSWINFORD, DY6 9SE.
Proposal	TWO STOREY SIDE/REAR EXTENSIONS, SINGLE STOREY REAR EXTENSION AND SINGLE STOREY SIDE EXTENSION TO CREATE GARAGE (RETROSPECTIVE).
Recommendation Summary:	REFUSE AND ENFORCE

SITE AND SURROUNDINGS

1. The subject of this application is 52 Mount Pleasant, it is recorded on the Council's Historic Environment Record (HER) as HER No.7517 and it is on the Council's 'Local List'. It is a detached, double-fronted, 19th century brick cottage with its original principal front elevation facing into the plot and its side, gable end, facing the main Mount Pleasant Road. It is one of the earliest buildings surviving within this Street, the majority of the dwelling houses located within Mount Pleasant having been erected post World War 2. In 2019 an application was submitted to the local planning authority (P19/1040) for the erection of an extension to the property. The application was approved subject to a number of conditions.
2. The application site is located within the Historic Township of Wordsley (HER 12307) and it falls within the A491 Corridor, which is one of 8 major Character areas identified in the Borough-wide UHLC, a key evidence base for the Dudley Borough Development Strategy.

3. The application site is located within an established residential area where a variety of property types are present. The application site has a very large rear garden.
4. No. 50 Mount Pleasant is a detached dwelling located to the east of the application site and is set further back from the front elevation of the application property.
5. No. 60 Mount Pleasant is also a detached dwelling located to the west of the application site with a forward projecting garage, but set further back from the front elevation of the application property. This property also has a side facing kitchen window.
6. Located to the rear of the application site is the side elevation of No. 61 Kingsley Road.

PROPOSAL

7. This application seeks retrospective consent for the erection of two-storey side/rear extensions, single storey rear extension and single storey side extension to create a garage.
8. Other changes also include the formation of a new vehicular entrance off Mount Pleasant and the change of use of the existing front lawned garden into hard standing parking area.
9. The application is supported by a Heritage Impact Assessment (January 2021).

HISTORY

10.

APPLICATION	PROPOSAL	DECISION	DATE
P20/1913	Erection of an attached garage (retrospective).	Withdrawn	08/02/2021

P19/1040/C1	Discharge of Conditions 3, 4, 5, 6, 7, 8, 9, 10 & 11.	Approved	14/04/2020
P19/1040/A1	Non-material amendment to previously approved application P19/1040.	Approved	06/01/2020
P19/1040	Single and two storey side/rear extension (following demolition of existing bathroom and kitchen) and erection of detached garage in rear garden (following resubmission of withdrawn planning application P19/0183).	Approved with conditions	27/09/2019
P19/0182	Erection of two detached dwellings	Withdrawn	26/03/2019
P19/0183	Erection of a two storey rear/side extension (following demolition of existing kitchen and bathroom).	Withdrawn	26/03/2019

11. In 2019 an application was submitted to the local planning authority (P19/1040) for the erection of an extension to the property. The application was approved subject to a number of conditions after working closely with both Historic Environment and Highways. The approved scheme provided a detached garage at the rear of the site leaving the front lawned garden and boundary treatment (timber picket fence and hedge) in-situ with vehicular access maintained to the eastern side of the property.

12. The approved application also imposed conditions in respect of the treatment of the elevations. It is noted that in addition to erecting a garage and vehicular drive without consent, a number of other unauthorised alterations to the property have taken place which in summary are as follows:
- Unauthorised windows not in accordance with the approved details
 - Unauthorised porch on the south-facing elevation
 - Unauthorised blocking up of a door opening in the west-facing elevation
13. Despite the approved scheme being in-place, it was not implemented, and instead an alternative scheme, not in accordance with the approved plans has been erected and it is for this scheme that retrospective consent is being sought.
14. It is understood by the Local Planning Authority that the previous Applicant/builder did not build in accordance with the approved plans and upon completion sold the property. The new owner purchased the property, which was not built in accordance with the approved plans and the correct checks at the time of purchasing were not carried out. The burden is on the land and responsibility now lies with the new owner.

PUBLIC CONSULTATION

15. The application was advertised by way of neighbour notification letters being sent to the occupiers of 7 properties.
16. Eight letters of support have been received from local residents.
17. Cllr Miller has provided the following comments in support of the application:
- Supports this application.
 - This is a long running saga as the Applicant's bought the house after the alterations were made. The developer had told them everything was in order, so they bought the property as a home for themselves and the Applicant's parents whose father was seriously ill at the time so they could care for him. The gentleman has since passed away.
 - Planning regulations were ignored by a professional builder.

- The Applicants have had to go to great expense due to someone else's incompetence, they have had the trauma of dealing with this at the same time as grieving for the father.

18. Cllr Harley has provided the following comments in support of the application:

- Supports this application.
- Considers it absolutely awful what the Applicants have had to endure. Therefore, it is paramount that the application is supported.

OTHER CONSULTATION

19. Highways: Reluctant to support this application without material reasons, such as ground conditions, that prevented construction of the original proposal.

20. Historic Environment: Strongly objects to the proposals and recommends refusal.

RELEVANT PLANNING POLICY

21. National Planning Policy Framework (NPPF)

National Planning Policy Framework (NPPF, Feb 2019) – specifically Chapter 16, *Conserving and enhancing the historic environment*

NPPF Planning Practice Guidance (PPG)

Historic England Good Practice Advice notes (GPAs)

- GPA 2: Managing Significance in Decision-Taking (2015)
- GPA 3: The Setting of Heritage Assets (2017)

Historic England Advice Notes (HEANs)

- HEAN 2: Making Changes to Heritage Assets (Feb 2016)
- HEAN 12: Statements of Heritage Significance (Oct 2019)
- HEAN 14: Energy Efficiency and Historic Buildings: How to Improve Energy Efficiency (June 2020).

Other Historic England Guidance

- Historic England - Traditional Windows: their care, repair and upgrading (2017)
- Historic England - Easy Access to Historic Buildings (2015)

22. Black Country Core Strategy (2011)

- CP3 – Environmental Infrastructure
- CP4 – Place Making
- ENV2 Historic Character and Local Distinctiveness
- ENV3 Design Quality

23. Dudley Borough Development Strategy (2017)

- S1 Presumption in favour of Sustainable Development
- S6 Urban Design
- L1 Housing Development, extensions and alterations to existing Dwellings
- S8 Conservation and Enhancement of Local Character and Distinctiveness
- S11 Buildings of Local Historic or Architectural Importance

24. Supplementary Planning Documents / Guidance

- PGN 12. The 45 Degree Code.
- PGN 17. House extension design guide
- Historic Environment SPD (2017)

25. Urban Historic Landscape Characterisation (UHLC)

- Black Country HLC (Aug 2007)
- Borough-wide UHLC (2017)

ASSESSMENT

26. Key issues:

- Policy/Principle

- Impact on the significance of the Heritage Assets and impact on local character and distinctiveness
- Neighbouring amenity
- Highway safety

Policy/Principle

27. Paragraph 203 of the NPPF states that the effect of an application on the significance of a non-designated heritage asset should be taken into account in determining the application. In weighing applications that affect directly or indirectly, a non-designated heritage asset, a balanced judgment will be required having regard to the scale of any harm or loss to the significance of the heritage asset.
28. The NPPF defines 'significance' of a heritage asset as: - *'The value of a heritage asset to this and future generations because of its heritage interest. That interest may be archaeological, architectural, artistic or historic. Significance derives not only from a heritage asset's physical presence but also from its setting'* (NPPF, page 71).
29. The NPPF describes setting of a heritage asset as follows: - *The surroundings in which a heritage asset is experienced. Its extent is not fixed and may change as the asset and its surrounds evolve. Elements of a setting may make a positive or negative contribution to the significance of an asset, may affect the ability to appreciate that significance or may be neutral* (NPPF, P 71).
30. Paragraph 130 (c) of the NPPF states planning decisions should ensure that developments are *'sympathetic to local character and history, including the surrounding built environment and landscape setting...'*
31. Para.197 of the NPPF states that in determining planning applications, local authorities should take account of:
 - *The desirability of sustaining and enhancing the significance of heritage assets and putting them to viable uses consistent with their conservation;*
 - *The positive contribution that conservation of heritage assets can make to sustainable communities including their economic vitality; and*

- *The desirability of new development making a positive contribution to local character and distinctiveness.*
32. *Policy ENV2 of the BCCS promotes how the historic character and an areas local distinctiveness is a key element of the transformation. 'All development should aim to protect and promote the special qualities, historic character and local distinctiveness of the Black Country in order to help maintain its cultural identify 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 settings which are recognized as being of special historic, archaeological, architectural, landscape or townscape quality'*
 33. *In addition to statutorily designated and protected historic assets particular attention should be paid to the preservation and enhancements oflocally designated special landscape areas and other heritage-based site allocations*
 34. *Development proposals that would potentially have an impact on any of the above distinctive elements should be supported by evidence included in Design and Access Statements which demonstrates that all aspects of the historic character and distinctiveness of the locality have been fully assessed and used to inform proposals.*
 35. *Policy S8 (Conservation and Enhancement of local Character and distinctiveness) of the DBDS requires all development within the borough to take account of the locally distinctive character of the area in which they are sited and 'Physical assets which positively contribute to the local character and distinctiveness of the Borough's landscape and townscape, should be retained and, wherever possible, enhanced and their settings respected'.*
 36. *Policy S11 (Buildings of Local Historic or Architectural Importance) of the DBDS requires development proposals which contain positive measures to conserve and enhance buildings on the local list. Proposals for change of use to locally listed buildings are required to demonstrate how this would contribute to its conservation whilst preserving or enhancing its architectural or historic interest and conserving and*

enhancing its significance'. This policy further states that it will resist development which will involve 'Inappropriate alteration or extension to buildings or structures on the Local List' and 'have a detrimental impact on the setting or context of buildings or structures on the Local list including development which conflicts with the intrinsic historic value of the building and its setting and local character of the wider area'.

37. The Council's Historic Environment SPD provides guidance in section 6e on how to achieve locally distinctive design by employing the Building in Context Principles, there are 8 in total with the Principle 1 being '*A successful project will start with an assessment of the value of retaining what is there*'.
38. The proposed application fails to demonstrate how it is in accordance with all of the above policies and as such it is recommended the application be recommended for refusal.

Impact on the significance of the Heritage Assets and impact on local character and distinctiveness

39. The proposal to remove the front boundary (located back of pavement) of No.52 Mount Pleasant and to replace its lawned front garden to form a vehicular entrance and tarmac drive/parking area to gain access to a new attached garage, collectively have resulted in a wholly inappropriate set of alterations to a buildings on the Council's Local List. As is clearly evident from photographs, these alterations have not only had a detrimental impact on the setting and context of 52 Mount Pleasant they have also detrimentally impacted on the local character and distinctiveness of the area. The proposal to erect an attached garage that is so physically close the neighbouring property has resulted in the property almost merging into next door, so rather than it retaining its distinctive detached appearance, it is now looks as if it is forming part of a terrace.
40. Para.203 of the NPPF states that the effect of an application on the significance of a non-designated heritage asset should be taken into account in determining the application. In weighing applications that directly or indirectly affect non-designated

heritage assets, a balanced judgement will be required having regard to the scale of any harm or loss and the significance of the heritage asset.

41. Whilst the applicant has submitted a Heritage Impact Assessment with this application, there is no additional supporting information provided by the applicant to justify why an attached garage is now proposed, particularly when one considers that there is already a double detached garage approved under the P19/1040 application! The submitted Heritage Statement, whilst providing a detailed summary of the NPPF and the Council's Policies, comes to the conclusion that the proposals contained in this application will not harm the significance of the heritage asset (No.52). Historic Environment fundamentally disagrees with this conclusion and is of the view that the proposals contained in this application will substantially harm the significance of the heritage asset.
42. Furthermore, the applicant has failed to provide 'clear and convincing' justification for the harm proposed by failing to explain how these proposals could be considered to be sustainable development and are justifiable. Whilst a covering letter has been provided by the agent acting on behalf of the applicant which sets out the personal circumstances of the applicants and what adaptations are they require due to ill health, it is not clear from the limited information provided how those needs could not have been equally met by the approved scheme. No formal statement has been provided by the applicant setting out clearly the proposed design and access of this retrospective scheme and how it can be considered to be sustainable development.
43. Whilst it is acknowledged that within the NPPF there is a presumption in favour of sustainable development it clarifies the meaning of sustainable development. Paragraph 8 of the NPPF advises that to achieve sustainable development, economic, social and environmental objectives should be pursued in mutually supportive ways.
44. The submitted scheme fails to demonstrate how it is in accordance with the NPPF as it fails to demonstrate the economic, social and environmental gains of the proposed scheme.

45. Whilst Historic Environment is very sympathetic to the personal circumstances of the applicants, Historic Environment is unable to support the proposals contained in this application and recommends the application be recommend for refusal.

Neighbouring amenity

46. The proposed development would do no significant harm to the residential amenity of the occupiers of the neighbouring properties. The development would comply with the Authority's 45 Degree Code policy guideline in relation to all of the habitable windows at the neighbouring residential dwellings, thereby ensuring that the neighbours were not adversely affected in terms of the receipt of light and the enjoyment of outlook, and would cause no other substantial harm in terms of overshadowing, overlooking, or overbearing. The proposed development would therefore comply with PGN12 and PGN17, in terms of protecting the amenity of neighbouring occupiers.
47. The ground floor side facing window in the development would be a light source to a non-habitable room, therefore there would be no loss of privacy or increased overlooking resulting from the development.
48. There is a side facing window at No. 60 which is the sole light source to the kitchen/dining room. In considering the potential impact upon the kitchen/dining room regard should be had to the proximity to the existing boundary, which currently sits at 1.2m. Subsequently, it is not considered that this window can reasonably be protected as they effectively borrow light from the application property.
49. There would be a separation distance of 28.7m between the rear elevation of the proposed extension and the rear common boundary with No. 61 Kingsley Road.

Highway safety

50. The development complies with adopted parking standards with regard to minimum dimensions both inside the garage and on the frontage of the property.

51. However, as part of the original application P19/1040, consideration was given to the need for on-street parking for the terraced properties opposite the site. It was considered beneficial at that time to minimise reversing conflict and retain the existing side access with provision of an internal arrangement that would allow entry and egress in a forward gear. Furthermore, a side door was incorporated within the utility room for direct loading / unloading of goods into the kitchen from the driveway.
52. It was recognised that this arrangement would also maintain the cottage garden frontage.
53. Highways are reluctant to support this application without material reasons, such as ground conditions, that prevented construction of the original proposal.

CONCLUSION

54. No.52 Mount Pleasant is a locally listed heritage asset that positively contributes to the local character and distinctiveness of the Kingswinford townscape. The proposal to erect an attached garage and to form a vehicular entrance drive off Mount Pleasant as proposed will harm the significance of No.52 Mount Pleasant and collectively result in an inappropriate alteration and extension to a building on the Council's Local List. The proposals conflict with the intrinsic historic value of the building and its detached setting, furthermore the proposal fail to respond adequately to the local character, distinctiveness and context of the locally listed building and to the local area and as such is considered not to be sustainable development and is therefore contrary to paragraphs 8, 197 and 203 of the NPPF and contrary to Policies CSP3, CSP4, and ENV2 of the Black Country Core Strategy and contrary to Policies S8 (Conservation and Enhancement of Local Character and Distinctiveness) and S11 (Buildings of Local Historic or Architectural Importance) of the adopted Dudley Borough Development Strategy.
55. Paragraph 8 of the NPPF advises that to achieve sustainable development, economic, social and environmental objectives should be pursued in mutually supportive ways. The applicant has failed to demonstrate the economic, social and

environmental gains of the proposed scheme, particularly in the absence of clear and convincing justification for the harm proposed to significance of the heritage asset and the negative impact this will have on the local character and distinctiveness of the area. The proposal fails to respond adequately to the local character, distinctiveness and context of the local area and as such is considered not to be sustainable development and is contrary to paragraphs 8, 192 and 197 of the NPPF and contrary to Policies CSP3, CSP4, and ENV2 of the Black Country Core Strategy and contrary to S8 (Conservation and Enhancement of Local Character and Distinctiveness) and S11 (Buildings of Local Historic or Architectural Importance) and of the adopted Dudley Borough Development Strategy.

RECOMMENDATION

56. It is recommended that the application is REFUSED and the applicant be advised that they are in breach of the conditions approved under the P19/1040 and that Enforcement Action is authorised to address this matter.

Conditions and/or reasons:

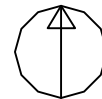
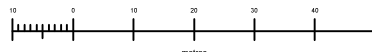
1. No.52 Mount Pleasant is a locally listed heritage asset that positively contributes to the local character and distinctiveness of the Kingswinford townscape. The proposal to erect an attached garage and to form a vehicular entrance drive off Mount Pleasant as proposed will harm the significance of No.52 Mount Pleasant and collectively result in an inappropriate alteration and extension to a building on the Council's Local List. The proposals conflict with the intrinsic historic value of the building and its detached setting, furthermore the proposal fail to respond adequately to the local character, distinctiveness and context of the locally listed building and to the local area and as such is considered not to be sustainable development and is therefore contrary to paragraphs 8, 197 and 203 of the NPPF and contrary to Policies CSP3, CSP4, and ENV2 of the Black Country Core Strategy and contrary to Policies S8 (Conservation and Enhancement of Local Character and Distinctiveness) and S11 (Buildings of Local Historic or Architectural Importance) of the adopted Dudley Borough Development Strategy.
2. The applicant has failed to demonstrate the economic, social and environmental gains of the proposed scheme, particularly in the absence of clear and convincing justification for the harm proposed to significance of the heritage asset and the negative impact this will have on the local character and distinctiveness of the area. The proposal fails to respond adequately to the local

character, distinctiveness and context of the local area and as such is considered not to be sustainable development and is contrary to paragraphs 8, 192 and 197 of the NPPF and contrary to Policies CSP3, CSP4, and ENV2 of the Black Country Core Strategy and contrary to S8 (Conservation and Enhancement of Local Character and Distinctiveness) and S11 (Buildings of Local Historic or Architectural Importance) and of the adopted Dudley Borough Development Strategy.

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Rev A 22.6.21 Correction to title block scale 1:1250

PLANNING INFORMATION ONLY

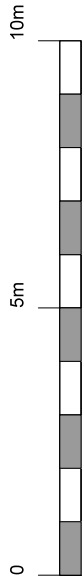
SITE:
52 MOUNT PLEASANT, KINGSWINFORD, DY6 9SE

LOCATION PLAN

DRAWING NUMBER 5010-AL-001 Rev A
SCALE: 1:1250
DATE: 2.5.21

DRAWING NUMBER 5010-AL-011
SCALE: 1:50
DATE: 7.5.21





43.3 Proposed Window - West Elevation
Scale: 1:25

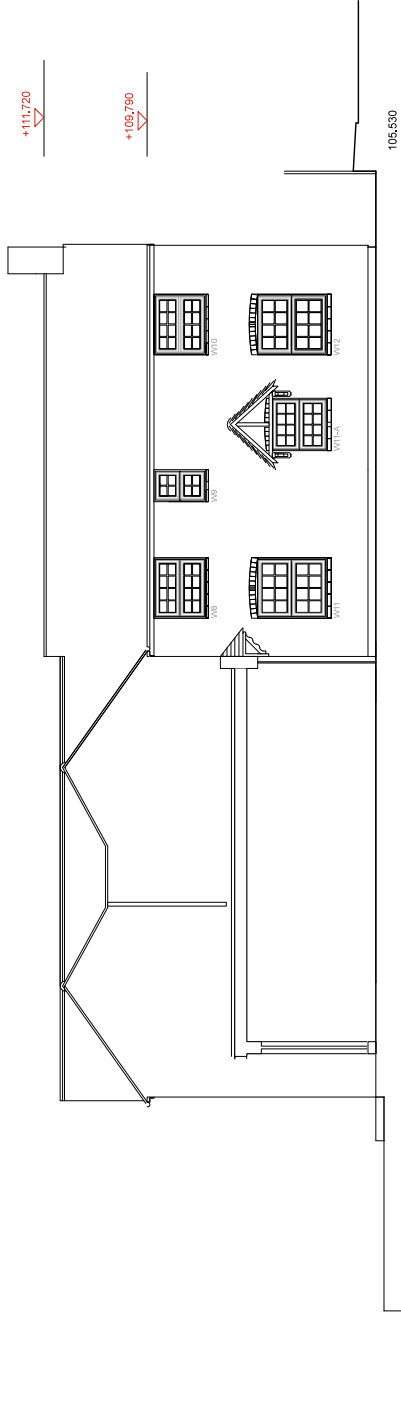


43.4 Proposed Window - North Elevation
Scale: 1:25

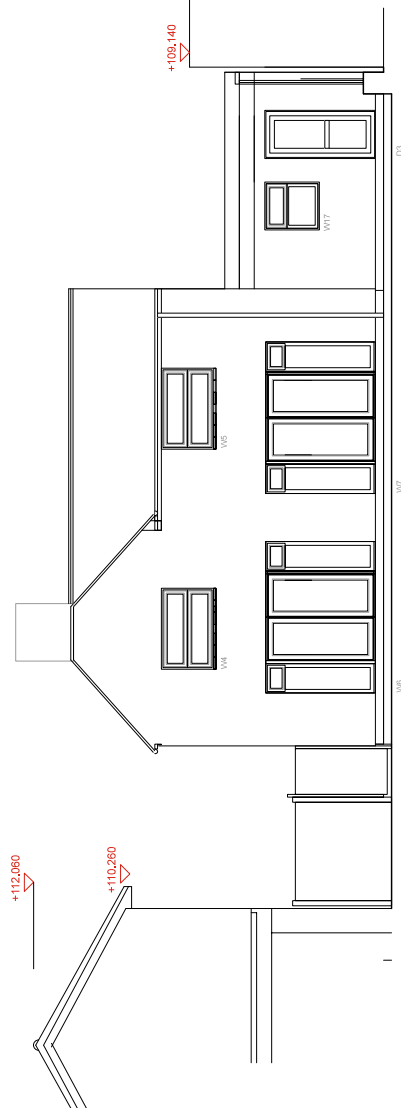
PLANNING INFORMATION ONLY

SITE:
52 MOUNT PLEASANT, KINGSWINFORD, DY6 9SE
PROPOSED ELEVATIONS AS CONSTRUCTED

DRAWING NUMBER 5010-AL-043
SCALE:
1:50
DATE:
1.5.21



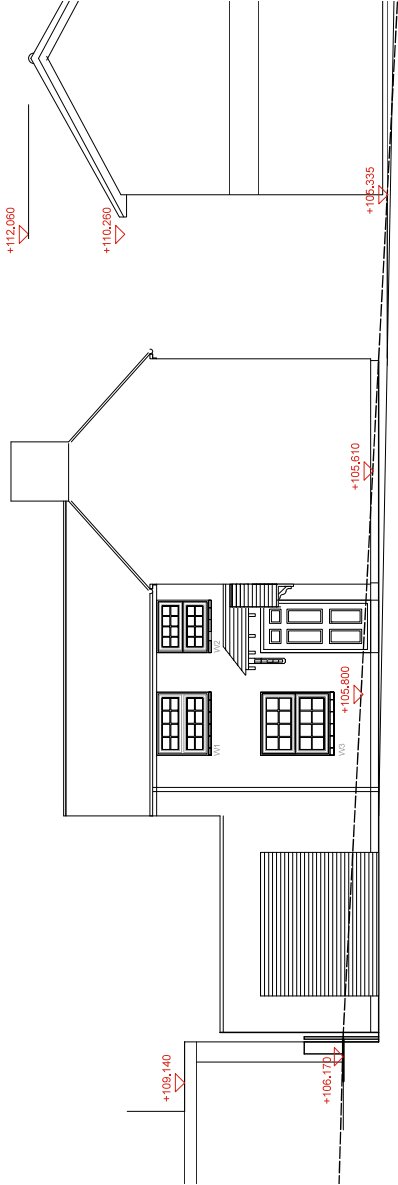
43.1 SIDE ELEVATION WEST
Scale: 1:50



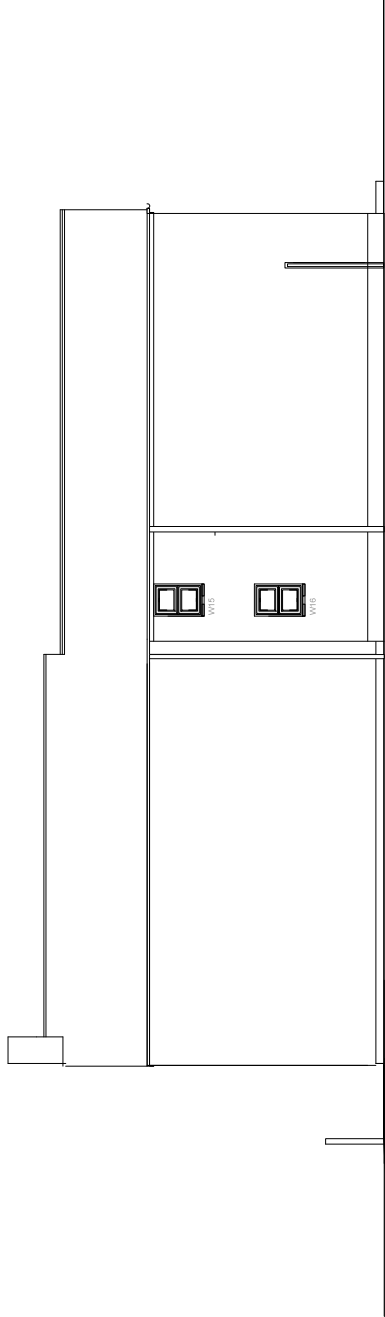
43.2 REAR ELEVATION NORTH
Scale: 1:50



42.3 Proposed Window - South Elevation
Scale: 1:25



42.1 FRONT ELEVATION SOUTH
Scale: 1:50



42.2 SIDE ELEVATION EAST
Scale: 1:50

PLANNING INFORMATION ONLY

SITE:
52 MOUNT PLEASANT, KINGSWINFORD, DY6 9SE
PROPOSED ELEVATIONS AS CONSTRUCTED

DRAWING NUMBER 5010C-AL-042
SCALE: 1:50
DATE: 1.5.21

Material considerations	Non Material considerations
Layout: does it reflect the character of the area, does it protect existing resident's amenity, does it provide sufficient amenity space, and does it protect businesses/future residents from noise/odour/dust complaints.	Market competition (competition with centres in terms of the requirement for a sequential approach to town centre development is material, but general competition with local shops or business is not).
Design and appearance: materials, scale, massing, style of development in terms of proportions, vertical or horizontal emphasis, heights. Appropriate to host building, immediate neighbours and wider street scene.	Loss of view (unless you own all the land between you and the view you have no right to it).
Landscaping: is this appropriate, sufficient, particularly if forming a screen or providing some form of mitigation	Loss of property value
Highway safety: can safe access and egress be made, is there sufficient car parking, can the site be serviced by fire engines, bin lorries, delivery vehicles.	Matters covered by other legislation
Impact on heritage assets/nature conservation; does the development have a positive, neutral or negative impact on heritage assets. Can the impact be mitigated through the provision of enhancements elsewhere?	Matters that can be adequately controlled by the imposition of a suitably worded condition.
Planning history: has a similar scheme been approved before/refused before? Is there appeal history.	The fact the application is for a retrospective development. Development without consent is not unlawful - it only becomes so once formal enforcement action is taken and the developer fails to comply.
	The fact the application is a repeat application (repeat non amended applications can in exceptional circumstance be refused to be registered but once registered they must be

	considered on their merits).
	The fact the developer/applicant has a history of non compliance with conditions/consents. Non compliance is dealt with through planning enforcement not through decision making.
	What may or may not happen as a result of the decision in the future.