



# **Meeting of the Development Control Committee**

**Monday, 22<sup>nd</sup> December, 2014 at 6.00pm**

**In the Council Chamber, at the Council House, Priory Road, Dudley**

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- In the event of the alarms sounding, please leave the building by the nearest exit. There are Officers who will assist you in the event of this happening, please follow their instructions.
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**The Democratic Services contact officer for this meeting is Manjit Johal,  
Telephone 01384 815267 or E-mail [manjit.johal@dudley.gov.uk](mailto:manjit.johal@dudley.gov.uk)**

## **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 placed around the table and the public area. These contain amendments, additional representations received, etc, and should be read in conjunction with the main agenda to which they relate. They are fully taken into account before decisions are made.

2. Apologies for absence.
3. Appointment of substitute Members.
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 2<sup>nd</sup> December, 2014 as a correct record.
6. Plans and Applications to Develop (See Agenda Index Below) (Pages 1 – 180)
7. Confirmation of Tree Preservation Orders (Pages 181 - 203)
8. Public Consultation on the Dudley Area Action Plan 'Preferred Options' Stage Document (Pages 204 - 206)
9. To consider any questions from Members to the Chair where two clear days notice has been given to the Director of Corporate Resources (Council Procedure Rule 11.8).



**Director of Corporate Resources**

**Dated: 10<sup>th</sup> December, 2014**

**Distribution:**

**All Members of the Development Control Committee:**

Councillor Q Zada (Chair)

Councillor K Casey (Vice-Chair)

Councillors A Ahmed, D Caunt, A Goddard, J Martin, C Perks, R Scott-Dow and D Vickers

## **AGENDA INDEX**

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

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

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

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

Pages 1 – 80	P14/1265 – Brierley Hill Steel Terminal, Moor Street, Brierley Hill – Demolition of Existing Buildings. Erection of an Advanced Conversion Technology (ACT) and Anaerobic Digestion (AD) Facility and Education Centre with Parking, Landscaping, Retaining Structures and Associated Works (Resubmission of Refused Planning Application P12/1287)
Pages 81 – 91	P14/1207 – 1 Coxcroft Avenue, Quarry Bank, Brierley Hill – Erection of 1 No Dwelling and Garage
Pages 92 – 102	P14/1483 – 233 Wolverhampton Road, Sedgley, Dudley – Erection of a Detached Double Garage in Front Garden
Pages 103 – 110	P14/1540 – Foxyards Primary School, Foxyards Road, Tipton – Fell 1 Mountain Ash and 2 Beech Trees: Crown Lift 1 Beech Tree Together with Formative Pruning: Fell and Poison Selective Species 1M off Fence Line: Selective Removal and Reduction of Shrubs Rear of properties 829-825 BNR
Pages 111 – 126	P14/1581 – Seven Stars, Gospel End Road, Dudley – Erection of Single Storey Side/Rear Extension, New Shopfront and Entrance Doors. New Ramped Access with Handrails, New Lighting and Associated External Works
Pages 127 – 148	P14/1582 – Streetbike, Mucklow Hill, Halesowen – Change of use to A1 (Retail). Two Storey Side Extension with New Access Stair and Lift, First Floor Extension, Blocking up of Windows, Doors and Roller Shutters and Provision of New Shop Front Windows to Side Elevation. Associated Works to Car Park (Resubmission of Withdrawn Application P14/0553)
Pages 149 – 164	P14/1592 – Unit 2, 100 Dock Lane, Dudley – Change of use from (B8) to Private Members Club with Photographic Studio and New Smoking Shelter (Sui Generis)
Pages 165 – 180	P14/1654 – Land at Rear of 1 and 3 Mons Hill, (off Dawlish Road), Dudley – Erection of 3 No Dwellings (Retrospective) with New Parking (Resubmission of Refused Application P14/1113)

**Minutes of the Development Control Committee**  
**Tuesday 2<sup>nd</sup> December, 2014 at 6.00 pm**  
**In the Council Chamber, The Council House, Dudley**

**Present:-**

Councillor Q Zada (Chair)  
Councillor K Casey (Vice-Chair)  
Councillors A Ahmed, D Caunt, A Goddard, C Perks, R Scott-Dow, E Taylor and D Vickers

**Officers:-**

G Breakwell (Senior Solicitor), M Johal (Democratic Services Officer), P Reed (Principal Development Control Officer) and S Willetts (Planning Control Manager)

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45     **Apology for Absence**

An apology for absence from the meeting was submitted on behalf of Councillor J Martin.

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46     **Appointment of Substitute Member**

It was reported that Councillor E Taylor had been appointed to serve in place of Councillor J Martin for the meeting of this Committee only.

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47     **Declarations of Interest**

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

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48     **Plans and Applications to Develop**

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



The following person was in attendance at the meeting and spoke on the planning application indicated:-

<b><u>Application No</u></b>	<b><u>Objectors/supporters who wishes to speak</u></b>	<b><u>Agent/Applicant who wishes to speak</u></b>
P14/1524		Mr Green – Applicant

<b><u>Application No</u></b>	<b><u>Location/Proposal</u></b>	<b><u>Decision</u></b>
P14/1349	9 Brick Kiln Lane, Lower Gornal, Dudley – Erection of Detached Outbuilding to Create a Residential Annexe (Part Retrospective)	Approved, subject to conditions, numbered 1 to 3 (inclusive), as set out in the report submitted.
P14/1423	Briar Court, Baptist End Road, Dudley – Conversion of Existing Carport and Bin Store to Create 1 No Dwelling with Associated Car Parking	Approved, subject to conditions, numbered 1 to 6 (inclusive), as set out in the report submitted.
P14/1524	45 Cross Lane, Sedgley, Dudley – Fell 1 Beech Tree	Refused, for the reason as set out in the report submitted.

#### 49 **Confirmation of Tree Preservation Orders**

A report of the Director of the Urban Environment was submitted requesting consideration as to whether the following Tree Preservation Orders (TPO) should be confirmed with or without modification in light of the objections that had been received.

The following person had indicated that he wished to speak at the meeting and spoke on the tree preservation order indicated:-

<b><u>TPO No</u></b>	<b><u>Objectors/supporters who wishes to speak</u></b>	<b><u>Agent/Applicant who wishes to speak</u></b>
TPO/0091/QBD	Mr Terry Wood – objector	

<b><u>TPO No</u></b>	<b><u>Location/Proposal</u></b>	<b><u>Decision</u></b>
TPO/0091/QPD	Land in Quarry Road, Netherton	Deferred for a Site Visit

TPO/0097/SED Radnor Road, Sedgley Confirmed without modification.

The meeting ended at 6.50 pm.

CHAIR

# PLANNING APPLICATION NUMBER:P14/1265

Type of approval sought	Full Planning Permission
Ward	Brierley Hill
Applicant	Clean Power Properties Ltd &, Network Rail Infrastructure Ltd
Location:	<b>BRIERLEY HILL STEEL TERMINAL, MOOR STREET, BRIERLEY HILL, DY5 3AG</b>
Proposal	<b>DEMOLITION OF EXISTING BUILDINGS. ERECTION OF AN ADVANCED CONVERSION TECHNOLOGY (ACT) AND ANAEROBIC DIGESTION (AD) FACILITY COMPRISING OF A PYROLYSIS PLANT, DIGESTION FACILITY AND EDUCATION CENTRE WITH PARKING, LANDSCAPING, RETAINING STRUCTURES AND ASSOCIATED WORKS (RESUBMISSION OF REFUSED PLANNING APPLICATION P12/1287)</b>
Recommendation Summary:	<b>REFUSE</b>

## SITE AND SURROUNDINGS

- 1 The application site comprises approximately 2 hectares which mostly consists of (or was last used) as railway sidings for the former Brierley Hill Steel Terminal, although more recently has been used for the processing and the storage of ferrous and non ferrous materials as well as a permanent way depot.
- 2 The majority of the site is flat (due to its former use) although the western part of the site slopes down towards the adjoining industrial estate and the former branch line to Pensnett.
- 3 Since the application was first submitted the site has been cleared except for the boundary fencing and the lighting towers.
- 4 To north of the application site is the Brian Hill (RDF) site, this has most recently been used as a waste transfer station, although this use has now ceased. To east of the site is the former Oxford, Worcester and Wolverhampton (OWW) railway line

which is still 'live'. On the eastern side of this railway line is the former Royal Brierley Crystal site which has been and continues to be developed for new housing, and is just over 60m away from the site boundary - a number of listed buildings are included within this site. A number of the new dwellings are single aspect with blank elevations facing onto the railway line with the application site beyond. Also on the eastern side of the railway line is the established North Street Industrial Estate.

- 5 The wider area is mixed in character although it is predominantly characterised by residential development with pockets of industry mostly notably the North Street Industrial Estate, the Brian Hill (RDF) site and the Moor Street Industrial Estate. Other notable features within the locality include Marsh Park, which is close to North Street and the Grade II listed Parish Church which is around 390m to the east of the site. 250m to the west of the site is the Stourbridge Canal.
- 6 Immediately to the west of the site is a permissive public right of way which links Moor Street with Springfields Road which consists of an area of dense inter war municipal housing. The permissive right of way is located below a steep bank with the application site above. This bank is mostly faced in scrub topped by a palisade fence.
- 7 Direct road access to the site is from Moor Street (unclassified) which runs from Brierley Hill High Street (formerly A461) to Brierley Hill Road (B4180), and is mostly fronted by interwar and post war residential development. The nearest dwellings which face onto Moor Street are within 15m of the site boundary. Access to Moor Street can also be achieved via North Street which is fronted by recent residential development as well as along Addison Road and Hawbush Road, all of which run through to the A461, which are mostly fronted by interwar housing.
- 8 There are also routes to the north of Moor Street (i.e. William Street and Fenton Street), which again are fronted by residential development, which provide access through to the B4180.

- 9 The application site, as is the whole Borough, is located within an Air Quality Management Area and is subject to a Borough air quality action plan.

## PROPOSAL

- 10 This is a full planning application for the removal of the majority of railway track on the site and the construction of an Energy from Waste (EfW) plant, also known as an Energy Recovery Centre (ERC). This is a resubmission of planning application P12/1287 which was refused by the Council in August 2013.
- 11 The proposed ERC which would process circa 195,000 tonnes of waste per annum and would be anchored by two complementary technologies comprising of an 8MWe (megawatt electrical) Pyrolysis Advanced Conversion Technology (ACT) plant which would recover approximately 128,000 tonnes of mixed solid waste (MSW) and Commercial and Industrial Waste (C&I) per annum and a 2MWe (megawatt electrical) Anaerobic Digestion (AD) facility which would recover approximately 67,000 tonnes of green (pure biomass) waste per annum. Associated with the application is the provision of new areas of hard standing and parking and manoeuvring space, the provision of retaining structures and the associated making up of land along the western and south western part of the site.
- 12 The ERC would consist of a purpose-designed building which would measure some 130m in length, 40m in width and 9m in height to the ridge. The building would have a modern functional industrial appearance with pale green and metallic grey metal cladding. There would also be four flue stacks which would be 25m in height. Three of these would be associated with the gas engines and would be grouped together at the rear of the building and the fourth would be for the pyrolysis and would be located on the east flank elevation. The nearest dwelling would be 60m away from this proposed building.
- 13 The site would also accommodate 4 no. metal/concrete external anaerobic digestion (AD) tanks with maximum heights of 8m above ground level. These tanks would be located in a line alongside the vehicular entrance towards the north west

of the site, with the nearest of these tanks being 23m away from the closest dwelling.

- 14 The ERC building would be subdivided into four zones, with the non hazardous waste received and prepared within the Waste Reception Area (Zone 1), which the applicant advises would be sealed and operated under negative pressure (i.e. the pressure within the building is kept at lower level than outside to reduce the likelihood of odour escaping from the building). There would be a dedicated reception bay for the processing and pumping of pure biomass wastes and slurries directly to the digester tanks for anaerobic digestion treatment. Since the last application this reception area has been modified to enable the provision of an airlock facility to allow for the loading and unloading of vehicles to the site.
- 15 All other waste streams would be transferred into the Waste Processing and Treatment Area (Zone 2) where the waste would pass through an autoclaving (sterilization/cleaning process) and mechanical separation processing line that would remove and segregate all potential recyclates (plastics, metal, glass etc.) into recycle bays for off-site recycling. The remaining biomass material would then be conditioned to create a fibre flocculent (woody or fleecy mass) that would be advanced to the Pyrolysis Area (Zone 3) and converted to synthesis gas (*syngas*).
- 16 The pyrolysers are heated through a solid fuel burner system which utilises the char (burnt charcoal like) residues from the pyrolysis process as fuel to create the heat for the system. The *syngas* passes through a gas cleaning line and is stored in a gas holding vessel prior to combustion. The final component is the Power Generation Zone (Zone 4), where all gases from the ACT and AD elements are fed to three gas engines that are coupled to an electrical generation plant producing approximately 10MWe. The electrical generation would be provided for the National Grid network. The facility would also be designed with a 'heat loop' which would be constructed around the perimeter of the site that would allow future connections to be made into a district heating system.
- 17 A flow chart showing the various stages of the process is appended to this report.

- 18 It is estimated that the facility would recover up to 30% of the waste received for recycling. Furthermore, there would be no end products that cannot be utilised in the process again or reused as an aggregate material. The primary waste stream would be vitrified ash (melted charcoal ash) which would be used off site as an aggregate material. In addition, it is estimated that approximately 90% of the material used in the AD plant would remain after processing, with half being fed back into the autoclave process or blended directly with the biomass fibre prior to pyrolysis and the other half exported off site for use as a fertilising agent.
- 19 The proposed facility would operate 24 hours a day, 7 days a week, throughout the year except during shutdowns required for maintenance, although deliveries to and from the site are only expected during the daytime. This could be controlled by means of condition if approval is granted.
- 20 The proposal also includes a dedicated rail loading area, which could allow, from a fork-lift, vehicles to load containers or compacted recyclable material directly onto rail wagons. This element would not be immediately implemented and would ultimately depend on commercial viability, states the applicant.
- 21 The application is submitted with an Environmental Statement, a Coal Report, a Sustainability Assessment, an energy assessment, a BREAM Assessment, a planning statement, and Odour Management Plan and a Design and Access Statement.
- 22 The Environmental Statement (ES) includes sections covering transport and access; air quality and odour; noise and vibration; townscape and visual amenity; ecology and nature conservation; water quality, hydrology and flood risk; soils geology and land contamination; waste management; and archaeology and cultural heritage. The ES also includes a description of the site and the proposed development, a section on methodology, as well as an assessment of the demolition and construction stage.

- 23 The difference between this application and the previously refused application is that the proposed building has been reconfigured to include airlocks to the vehicle reception area of the main building. The submitted EIA has been amended accordingly, as well as some of the supporting information accompanying the application.

## HISTORY

APPLICATION	PROPOSAL	DECISION	DATE
P12/1287	Demolition of existing buildings. Erection of an Advanced Conversion Technology (ACT) and Anareobic Digestion (AD) facility comprising of a pyrolysis plant, digestion facility and education centre with parking, landscaping, retaining structures and associated works	Refused	29/08/13

- 24 The application site has historically been used as railway sidings associated principally with the transshipment of steel products. More recently the site has been used for processing and storage of ferrous and non ferrous metals, as well as being used informally as a permanent way depot, with aerial photographs showing rail ballast storage at the site. The site has now been cleared.
- 25 The previously refused application was for a form of development which is virtually identical to that proposed within this planning application. That application was refused by the Development Control Committee in August 2013 on the basis the site was not considered to be appropriate use of land given the proximity of sensitive receptors and the potential for odour from the proposed operation. This decision was appealed in January 2014. However, the appeal was subsequently withdrawn by the applicant in May 2014.



26 890 letters of objection received, following consultation with approximately 500 adjoining neighbours and persons who made comments on the previous application and subsequent appeal. In addition site notices have been posted in the locality and an advert has been published within a local newspaper. Main issues raised:

- Strong risk of odours and emissions from site with neighbours close by
- reference made to odour incidents at other sites, most notably at a site in Cannock – that site is much further away from housing than in Brierley Hill
- Concern about potential explosive risk from AD tanks – reference made to incidents at other sites
- Increase in skip lorries and refuse vehicles with resulting fumes, noise and vibration
- Frequency of large vehicles to site
- Odours and spillages of waste on way to site
- Increased danger to pedestrians and cyclists, including school children
- Reference to RDFD site and over concentration of waste sites
- Reduces the likelihood of housing being developed
- Negative effect upon cohesion, health and prosperity of the community
- Noise from turbines
- Concerns about wildlife
- Reference made to ORR document outlining an agreement between applicant and Network Rail about the site handling up to 400,000 TPA, and that third parties should be able to use the proposed rail terminal
- Reference to permit application being bespoke and such a new and untested technology
- Site in Birmingham which have planning permission should be built and operated first
- HGVs in the locality use inappropriate roads already
- Weak bridge to Moor Street
- Potential impact to wall to North Street from additional HGVs
- Odours from Leaking HGVs

- Potential increase in accidents
- More than the prescribed numbers would enter and leave the site
- Impact to local schools
- HGVs will make cycling less attractive
- Would undo improvements to the area
- Odours from Lister Road site from time to time
- Will prevent further housing development within the area
- DMBC poorly maintains area
- Copy letters of comments to EA regarding permit application
- Jobs will not be for locals
- Council public health officer should be consulted

27 In addition a petition of 28 names has been received objecting to the application, and the Brockmoor School has submitted 29 letters of objection to the proposed development, raising no additional issues to those outlined above.

28 1 letter of support received. Main issues raised:-

- Company are prepared to invest in site
- Allows reuse of railhead
- Project would create jobs
- Allows for recycling and reduces need for waste to go to land fill or to be burnt
- Previous refusal overcome with airlock

## OTHER CONSULTATION

29 Group Engineer (Highways): Substantive Concerns - Same issues as raised within the previous application, which included concerns regarding traffic generation and potential impact to amenity and the lack of a contract regarding waste transport operator for the site.

However, conditions can be imposed (which have been agreed in principle with the applicant) restricting the operation of the development to no more than 60 loads

(120 in/out movements) per day on average over the course of a week with a maximum number of loads per day of 70 (140 in/out movements) together with the provision of weight restrictions to selected routes within the area. The provision of cycle parking, the use of low emission vehicles and the submission of a travel plan. It is considered that the proposed conditions and/or planning obligations can be enforced and on this basis the Highway Authority would not raise any fundamental highway concerns to the proposed development.

There are some additional concerns regarding the age of the accident and traffic flow data within the TA but this is not considered to be such a fundamental issue to justify the refusal of the application on highway grounds.

- 30 WSP Parsons Brinckerhoff (Consultants): The Head of Environmental Health and Trading Standards; and the Head of Planning have appointed a specialist environmental consultancy to consider the issues relating to odour. He concludes that there are deficiencies with the submitted odour management plan and other assumptions made with the application. He also considers that the permitting process, due to the close proximity of neighbours, may not be able to provide sufficient protection and that the risk of system failure or other processes and the proximity of housing mean the site is not suitable for the proposed use.
- 31 Head of Environmental Health and Trading Standards: Substantive Concerns based on the assessment of the specialist environmental consultancy.
- 32 Head of Planning (Land Contamination Team): No objection, subject to conditions.
- 33 Environment Agency: Object in principle to the proposed development as submitted because it is contrary to the Black Country Core Strategy – Policy WM4 – Key Locational Considerations for New Waste Management Facilities and NPPF Para. 109, additionally, they state:-

*‘Whilst the proposed development would have little potential to cause odour and dust problems in the middle of a large industrial area, the proximity of housing 23*

*metres away from the digestate tanks and 15 metres away from the site boundary means the potential for issues or complaints is greater.*

*'We understand from reviewing the information submitted in support of the planning application that the Applicant intends to adopt technical and operational measures for odour control of a high standard.*

*'Our experience is that anaerobic digestion plants in close proximity to residential development can have the potential to cause odour amenity problems. We note that other sites that we are already regulating which have residential property significantly further away from the proposed development have generated complaints from local residents.*

*'Because of the close proximity of residential development and the nature of the proposed activities, any breakdown or failure to follow procedures poses a risk of offensive emissions outside the site boundary.*

*'We acknowledge that the applicant has applied for an environmental permit for the proposed development. The application for an environmental permit considers how the proposed development will be regulated. Our objection to the planning application is solely in response to the locational constraints of the proposed development in line with Policy WM4, within the remit of the planning system.*

*'Our comment in response to this formal planning consultation does not prejudice the submitted Environmental Permit Application which has not yet been determined'.*

34 Severn Trent Water: No objection subject to conditions

35 English Heritage: No representations received.

36 Natural England: No objection.

- 37 Canal and Rivers Trust: No objection
- 38 Coal Authority: No objection subject conditions.
- 39 Health and Safety Executive: No representations received.
- 40 West Midlands Police: Note the proposed traffic and the impact this may have on the highway network.
- 41 West Midlands Fire Service: No objection, subject to access for fire appliances and the provision of an additional hydrant.
- 42 National Planning Casework Unit (DCLG): No representations received.

## RELEVANT PLANNING POLICY

- National Planning Guidance

National Planning Policy Framework (2012)

Technical Guidance to the National Planning Policy Framework (2012)

Planning Practice Guidance (2014)

Planning for the Historic Environment – Historic Environment Practice Guide

National Planning Policy for Waste

- Black Country Core Strategy (2011)

CSP1 The Growth Network

CSP3 Environmental Infrastructure

CSP4 Place Making

DEL1 Infrastructure Provision

EMP1 Providing for Economic Growth

EMP2 Actual and Potential High Quality Strategic Employment Areas

EMP3 Local Quality Employment Areas

EMP4 Maintaining a Supply of Readily Available Land

TRAN2 Managing Transport Impacts of New Development

TRAN3 The Efficient Movement of Freight

TRAN4 Creating Coherent Networks for Cycle and for Walking  
TRAN5 Influencing the Demand for Travel and Travel Choices  
ENV 1 Nature Conservation  
ENV 2 Historic Character and Local Distinctiveness  
ENV 3 Design Quality  
ENV 4 Canals  
ENV 5 Flood Risk, Sustainable Drainage Systems and Urban Heat Island  
ENV 7 Renewable Energy  
ENV 8 Air Quality  
WM1 Sustainable Waste and Resource Management  
WM3 Strategic Waste Management Proposals  
WM4 Locational Considerations for New Waste Management Facilities  
WM5 Resource Management and New Development

- Unitary Development Plan (2005) (Saved Policies)

DD1 Urban Design  
DD4 Development in Residential Areas  
DD5 Development in Industrial Areas  
DD9 Public Art  
DD10 Nature Conservation and Development  
UR9 Contaminated Land  
NC1 Biodiversity  
NC6 Wildlife Species  
NC9 Mature Trees  
NC10 The Urban Forest  
HE5 Buildings of Local Historic Importance  
HE6 Listed Buildings  
HE7 Canals  
HE8 Archaeology and Information  
HE10 Sites of Regional Importance (Ancient Monuments)  
HE11 Archaeology and Preservation  
EP1 Incompatible Land Uses  
EP3 Water Protection

EP6 Light Pollution

EP7 Noise Pollution

- Supplementary Planning Guidance/Documents

Access for All Supplementary Planning Document

Design for Community Safety Supplementary Planning Guidance

Historic Environment Supplementary Planning Document

Nature Conservation Supplementary Planning Document

Parking Standards Supplementary Planning Document (2012)

Planning Obligations Supplementary Planning Document (2011)

## ASSESSMENT

43 The main issues are

- Policy
- Design, Visual Impact and Landscape
- Transport
- Noise, Vibration, Air Quality Odour and Neighbour Amenity
- Drainage
- Contaminated Land
- Coal Mining
- Nature Conservation
- Cultural Heritage
- Other Considerations
- Planning Obligations
- Principle/Policy
- Design
- Neighbour Amenity
- Occupier Amenity
- Access and Parking
- Nature Conservation
- Planning Obligations
- National Homes Bonus

- Other Issues

## Policy

- 44 The National Planning Policy Framework (NPPF) was adopted in March 2012 and has a presumption in favour of sustainable development, and clearly states that where the Development Plan is silent on an issue and that there would be no adverse impact that planning permission should be granted.
- 45 The main thrust of the NPPF is to create economic growth, whilst supporting strong, vibrant and healthy communities, as well as seeking to protect and enhance the natural and built environment.
- 46 The NPPF is relatively silent on the matters of waste management. However, Paragraphs 120 to 128 deal with pollution control, health and quality of life.
- 47 Paragraph 120 in particular states *‘That to prevent unacceptable risks from pollution..... planning policies and decisions should ensure that new development is appropriate for its location. ‘The effects (including cumulative effects) of pollution on health, the natural environment or general amenity and the potential sensitivity of the area or proposed development to adverse effects of pollution should be taken into account’*
- 48 Paragraph 122, states that Local Planning Authorities should not seek to replicate or reconsider the controls which are controlled by pollution control regimes, but instead should focus on whether the proposed development is an acceptable use of land.

The NPPF Paragraphs 123 and 124) states that decisions should consider the issues of noise and impacts to quality of life as well as carefully considering the issues of air quality management.



- 49 In addition to the NPPF, the Government has recently published the National Planning Policy for Waste, which replaces PPS10 and sets out criteria for producing waste strategies and development policies, but also provides advice on determining planning applications. It states when considering planning applications Local Planning Authorities should consider the likely impact on the local environment and on amenity, including odour, and how the proximity of sensitive receptors and the extent to which adverse odours can be controlled through the use of appropriate and well-maintained and managed equipment.
- 50 Other considerations should include protection of water quality and resources and flood risk management; land instability; nature conservation; the historic environment; air emissions, including dust; vermin and birds; noise; light and vibration and litter.
- 51 Additionally, the capacity of existing and potential transport infrastructure to support the sustainable movement of waste, and products arising from resource recovery, seeking when practicable and beneficial to use modes other than road transport needs to be considered as does the cumulative impact of existing and proposed waste disposal facilities on the well-being of the local community, including any significant adverse impacts on environmental quality, social cohesion and inclusion or economic potential, and any proposed development in the vicinity should be taken into account in considering site suitability and the envisaged waste management facility.
- 52 The application site is located within Black Country Core Strategy (BCCS) Regeneration Corridor 11b for *'future housing growth for around 330 additional homes'* could potentially preclude a waste management proposal at this location in that BCCS Policy WM4 - Locational Considerations for New Waste Management Facilities which states that new facilities should avoid areas of future housing growth. Policy WM4 is considered in more detail below.
- 53 Albeit the area surrounding and including the application site is currently identified in the BCCS for future housing growth, there is a need for some flexibility and that, as

residential sites come forward, the release of employment land towards residential redevelopment be closely monitored and balanced to ensure sufficient employment land remains. (BCCS Policy CSP1 The Growth Network supporting text paragraph 2.20). Therefore, the continued employment use of the site cannot be reasonably resisted, subject to other material considerations.

- 54 The Supporting text to BCCS Policy WM2 – Protecting and Enhancing Existing Waste Management Capacity) sets out criteria for defining what is a ‘strategic waste management site’, and this includes:
- *All facilities likely to make a significant contribution towards existing waste management capacity, such as:*
  - *Recovery / treatment / processing facilities with an annual throughput capacity of more than 50,000 TPA (tonnes per annum).*
- 55 A proposed energy from waste (EfW) facility at Moor Street, Brierley Hill is not included amongst anticipated strategic proposals identified under BCCS Policy WM3 – Strategic Waste Management Proposals - in Table 17 ‘Proposed Locations for New Strategic Waste Management Infrastructure’. Therefore, the proposal needs to be assessed against BCCS Policy WM4.
- 56 BCCS Policy WM4 – Key Locational Considerations for All Waste Management Proposals sets out a number of criteria for assessing the acceptability of an application of this nature.
- 57 The policy requires proposals to demonstrate how they would contribute towards the diversion of waste away from landfill, the delivery of new waste management capacity and diversification of the range of available waste management facilities. In addition applications should include details of the proposed operation and technologies involved the type of waste to be processed, the maximum through put and the sources of waste.

- 58 The policy also seeks to address the need for waste arising from within the Black Country being managed within the Black Country, and where possible it should be managed as close to the source as possible.
- 59 All proposals should be expected to *'minimise adverse visual impacts, potential detrimental effects on the environment and human health and localised impacts on neighbouring uses from noise, emissions, odours vermin and litter. To minimise such impacts, wherever possible, waste management operations should be contained within a building or other physical enclosure'*. The design of proposed building and structures should make a positive contribution. In this case the majority of the functions, bar the weighbridge and vehicle wash areas, would be contained within a new purpose built building.
- 60 The second part of Policy WM4 relates to issues regarding preferred locations for enclosed waste facilities. The policy states that the preferred location for such uses should be within defined employment areas, although it does recognise that not all uses may be suitable on all types of employment land, particularly if a site is proposed close to where significant housing growth is proposed.
- 61 Operations which are considered as suitable uses on employment land (and are included within this proposal) include anaerobic digestion, energy from waste, pyrolysis and gasification.
- 62 In the final part of Policy WM4, there are a number of criteria which need to be considered as to whether the proposed use of site waste management would be suitable. This is assessed below.

Whether the proposal supports national and local waste strategies which seek to reduce the amount of waste being sent to land fill as well as facilitating greater rates of recycling.

- 63 The National Planning Policy for Waste states that recovery and recycling are preferred ways of managing waste in that are located higher up the waste hierarchy than landfill.
- 64 In this case energy would be recovered from waste through the generation of 10Mwe of electricity per annum. In addition the applicant has stated that they expect to recycle up to 20% of the material entering the site, and that residual ash from the pyrolysis process and material from the AD process can be reused for other purposes.

Whether the waste is well related to its source (i.e. will the waste be arising from the Black Country) and whether the location is well located in relation to the sources of waste it will be managing

- 65 The applicants planning statement states that the proposed waste management facility will treat waste arising from '*the immediate Dudley and Black Country area*'. Whilst this cannot be guaranteed or controlled through the imposition of planning conditions no evidence has been put forward to suggest that this would not be the case.
- 66 In addition the BCCS implies there is sufficient waste capacity for such a facility as proposed, in that Policy WM3 identifies a shortfall of waste management facilities amounting to 510,000 tonnes per annum (tpa) for commercial and industrial (C&I) waste, with an additional shortfall in waste transfer of 155,000tpa.
- 67 There is a Black Country consensus that the above figures should be interpreted as a *minimum* requirement to address the shortfall in waste management facility provision – proposals additional to this capacity shortfall would remain supported in principle (as economic growth and job creation) subject to the requirements of Policy WM4 and other plan policy.

- 68 The submitted Planning Statement states that this proposal would contribute 200,000tpa towards satisfying the C&I and transfer waste management capacity gap set out above in Black Country terms.

Whether the location is suitable for the type of facility and whether it is capable of accommodating more than one technology and/or handling more than one type of waste.

- 69 The applicant's Planning Statement advises that the proposed development would be adaptable to change in that it can treat most types of waste (excepting hazardous) and uses two complementary technologies.

Whether the proposal allows co-location with related uses or provides other benefits such as management of a range of waste types, produces heat and/or power, or produces useful by-products.

- 70 In this case the site co-located with the adjoining Brian Hill (RDF) site and as such there could be some potential for synergy between the two sites notwithstanding the current management issues with the RDF site. However, more importantly the site has the ability to make use of two differing recovery technologies to enable the production of up to 10Mwe of electricity per annum. In addition the proposal allows for the exploration of residual heat through the provision of a heat loop which could potentially serve a wider district heating system, although this would not be readily achievable without significant further investment and disruption.

Whether the proposal involves the reuse of previously developed land

- 71 As stated in the Cultural Heritage section of this report the site has a long history of employment uses. Most recently the site has been used as railway sidings, the processing of metals and as a permanent way depot. Therefore the application site can be clearly considered to constitute previously developed land.

Whether the proposal contributes towards a positive environmental transformation of the Black Country

- 72 As stated above the proposed development would provide significant benefits in terms of additional employment and through the regeneration of an underused employment site. Further matters relating to visual impact, nature conservation and cultural heritage are considered below in detail.

Whether the proposal is compatible with adjoining uses, in terms of the waste handled or the technology used.

- 73 The applicants planning statement and ES discuss whether the waste management proposal is compatible with neighbouring land uses and that the site would handle non-hazardous waste. Industrial/employment land use exists to the west and to the north of the site, but there is also a significant number of residential land within close proximity of the site to the East (across the rail line) and also to the North and South.
- 74 This is one of the most significant issues relating to this proposed development and these matters are considered in much greater detail in the Noise, Vibration, Odour and Neighbour Amenity section of this report.

Whether the proposal supports economic growth and would retain or create new jobs.

- 75 The site is presently under used and this proposal would allow for the regeneration of previously developed land. The applicant advises that the completed development would provide up to 30 jobs, although whether these are full time or whether these are new or relocated jobs is not known. In addition short term employment would be created during the construction phase. The applicant has also stated that an educational facility would be located within the building which would enable school and community groups to learn about the process at the site.

Whether the proposal would address the impacts on the local highway network and provide the potential for moving waste by rail or by canal.

- 76 The applicant has submitted a detailed Transport Assessment which has been thoroughly considered by the Group Engineer (Highways). This matter is considered in more detail elsewhere in the Transport section of this report.
- 77 In terms of the use of rail and canal transport, the site is close to both these and these matters are also considered in more detail elsewhere in this report.
- 78 However, the application includes the partial retention of railway sidings at the site and whilst they are not proposing to include them in the development at this time there is a potential to bring waste into the site by rail and it would also be possible to export bulk recyclable waste to more distant recycling facilities in the future.
- 79 BCCS Policy TRAN3 - The Efficient Movement of Freight states: *Existing and disused railway lines as shown on the Transport Key Diagram will be safeguarded for rail related uses. Sites with existing and potential access to the rail network for freight will be safeguarded for rail related uses.* Supporting text to this Policy stresses the importance of the (disused) Stourbridge-Walsall-Lichfield route – (also known as the former OWW) which passes through or alongside the application site. This proposal would not undermine this policy.

#### Policy Conclusion

- 80 As stated above there is presently a significant shortfall in the provision of waste management facilities within the Black Country. This proposed development with a 200,000 tonnes per annum capacity would go a significant way to addressing the identified shortfall.
- 81 The proposal would enable a more effective and sustainable form of waste management than that of landfill and would provide benefits in terms of electricity

generation and the future potential for district heating using residual heat from the facility.

- 82 The proposed development would result in the regeneration of a currently underused and previously developed site, in the form of a significant investment which could lead to the creation of long term employment for up to 30 people.
- 83 The proposed development retains and enables the site to be served by means of transport other than road which would contribute towards sustainable development.
- 84 It is considered that the principle of the proposed use on this site would be acceptable, however, there are a number of detailed issues associated with the proposed development which need closer examination to ascertain whether the specific proposal is an appropriate use of land with particular regard to transport, the amenity of the occupiers of neighbouring residential properties in terms of noise, vibration and odour and wider issues such as air quality, particularly given the revised waste guidance from Government.

#### Design, Visual Impact and Landscaping

- 85 The site sits within BCCS Regeneration Corridor 11B where a number of adjacent and nearby large industrial premises have been historically located, but where the trend has over some time has seen the introduction of residential redevelopment, resulting in a more mixed land use.
- 86 One such former industrial site close by is that of the former Royal Brierley Crystal factory, where relatively recent development for residential use has seen its important historic buildings retained and converted for residential use. This is located to the North East of the application site off North Street, which lies between the still active railway corridor and the application site.
- 87 Other redevelopment for residential use that has been undertaken within the locality includes the former industrial land to the north of Moor Street at Foxdale Drive. Residential development from the mid 20<sup>th</sup> century is also located opposite the site



entrance on Moor Street and at a lower level to the western edge, formed by the Canal and pre war residential areas of Springfield Road.

- 88 The Brian Hill (RDF) waste site is located on the north westerly edge of the site, and its elevated factory buildings form a backdrop within the north westerly views out of the site and towards the Moor Street-scene at the front of the site.
- 89 One of the key issues in the consideration of this application is the potential visual impact of the proposed development on the character and appearance of the local area.
- 90 The application site is located on a plateau upon which semi-natural vegetation has become established that forms some level of screening of the site. Along the Western boundary of the site is a steep bank that drops down approximately 4 metres away from the site.
- 91 Within the surrounding area there is a wide variety in terms of the scale and mass of the built form, ranging from the relatively tall flatted residential development at the junction of Moor Street and North Street, the medium height re-developed Royal Brierley Crystal Factory, with its single aspect three storey and blank facade facing the railway line and application site and large industrial warehousing and factory premises, whilst the surrounding streetscape is generally characterised by two-storey residential developments of the 20<sup>th</sup> Century.
- 92 The ES submitted in support of the application has considered the views of the development from both nearby and more distant positions along with an assessment of the proposals impact using wire-frame modelling.
- 93 The application initially proposed the erection of the storage tanks within a remodelled and retained Western boundary, which would have necessitated the removal of the established vegetation. This would have resulted in a negative impact on the footpath below and wider views of the site. The revised scheme proposes instead to locate the tanks in a more Northerly position within the site

which would reduce their visual impact, subject to the proposed landscaping being brought forward.

- 94 The proposal now includes a length of retaining structure which has the potential to be constructed as a green wall which would further reduce the visual impact of the proposal. This is a matter that could be controlled through an appropriate condition.
- 95 It is proposed to paint the tanks in an olive and grey-green non-reflective colour that would reduce the potential for glare and reflection within the local environment. This matter could also be controlled by condition.
- 96 The main building would be a relatively long, low and rolled roof construction and its blank wall facade would reflect the appearance of the rear single aspect town houses located on the opposite side of the railway line.
- 97 The height and appearance presence of the proposed chimney stacks would add a vertical intrusion into the immediate visual scene, which in the main cannot be mitigated from, save for the colour of the stacks which should also be finished in a non-reflective paint. The height of the stacks relates to the technical operation of the plant, and the submitted impact study has shown that they would be viewable from Marsh Park, especially in winter when the trees are without leaf. However to some degree they would be seen against the backdrop of the urban development beyond, rather than just viewed against the sky which would reduce their visual impact.
- 98 In terms of the potential effect of visual intrusion and harm caused by the stacks to the residential properties immediately around the development site, the view of the stacks will be partially integrated and screened by the landscape and tree planting proposed as part of the development. The views of the stacks immediately along the entrance from Moor Street and from the residential areas opposite will have the operational building in the foreground of the stacks, which creates a composite image of new factory form.

- 99 The presence of factory chimneys within this overall scene is considered as acceptable within the context of the historic Black Country scene, where industrial and residential development has and does co-existed as part of the overall place.
- 100 in terms of the proposed main building the design and cladding approach to be adopted would help to contain the large mass within a relatively low structure and the curved roof, along with the proposed materials, would help to assimilate it into the site. It is considered that the massing and design of the proposed processing building is acceptable and it is considered that it would respond well to the site its setting.
- 101 Historical industrial forms, such as that retained within the former Royal Brierley Crystal factory site, often have a particular quality and charm, being constructed in brick with architectural detailing with it Grade II listed status.
- 102 Modern factories, and in particular those with large storage tanks, rarely present opportunities to add to local character, as is the case here. Indeed, there is a need for additional landscaping and planting to help screen it to and help integrate the development visually.
- 103 Mitigation measures are required to improve the streetscape and public realm through the introduction of additional hard and soft landscaping. This could be achieved through appropriately worded conditions.
- 104 The landscape proposals shown within the proposed plans will help to assimilate the proposed built form into the site and the surrounding area. They provide the basis for the detailed specifications that would need to be secured by condition.
- 105 The choice of tree and planting species would need to reflect the need to achieve adequate growth in terms of height and spread to provide the screening that the applicant has shown to be necessary. At the same time, planting needs to add to the bio-diversity and nature conservation value and play a role in the local multifunctional green-infrastructure.

- 106 It is considered that subject to the landscape and design approach being implemented in full the proposal would assimilate into the local physical environment as much as possible given the scale and nature of the proposal.

#### Transport - Policy

- 107 UDP Saved Policy DD4 - Development in Residential Areas states that there should be no detrimental effect upon highway safety as a result of the development and that adequate parking and manoeuvring space should be provided within a development. This is also reinforced by Saved UDP Policy DD6 - Development in Industrial Areas.
- 108 Policy TRAN2 – Managing Transport Impact of New Development of the BCCS states that *‘Planning permission will not be granted for development proposals that are likely to have significant transport implications unless applications are accompanied by proposals to provide acceptable levels of accessibility and safety by all modes of transport to and from all parts of a development, in particular, access by walking, cycling, public transport and car sharing. ‘These proposals should be in accordance with an agreed Transport Assessment, where required, and include implementation of measures to promote and improve such sustainable transport facilities through agreed Travel Plans and similar measures.’*
- 109 Also of relevance is BCCS Policy WM4 – Key Locational Considerations for All Waste Management Proposals that states that impacts to the highway and transport network will be a key consideration, including the potential to move waste by rail or by canal.
- 110 Also of relevance to the application is the adopted Parking Standards Supplementary Planning Document (2012).

### Transport – Parking

- 111 The proposal is classed in planning use terms as *sui generis* but is similar to a B2 / B8 use (General Industrial / Storage and Distribution). The building would have a Gross Floor Area (GFA) of 5,700 sq m. The maximum parking standard for B2 uses is 1 space per 70 sq m and B8 is 1 space per 150 sq m. This gives a maximum standard of between 81 to 38 spaces respectively. The application indicates the site will employ up to 30 staff but with no more than 10 on site at any one time. 16 parking spaces would be provided which includes 2 disabled parking bays. This would be adequate for the proposed use and complies with the maximum standards policy in comparison to a B2 or a B8 use.
- 112 If building were to be used for an alternative B2 use in the future (which would need planning permission) there may be a significant shortfall in parking provision leading to issues on the highway network and therefore, a condition would need to imposed restricting the use of the building should the application be acceptable in all other respects.
- 113 The site itself is considered to have an acceptable access and provides sufficient space within the site for the parking and manoeuvring of HGVs within the site.

### Transport – Accidents

- 114 The applicants transport consultant investigated accidents in the area and concludes that there were 31 accidents resulting in 43 casualties in the last 5 years. A pedestrian accident cluster was identified at the five ways junction in High Street but there were no discernable patterns to the accidents and nothing to suggest there is a problem with the Highway. None of the accidents involved HGVs. However, it is noted that the data submitted with the current application is a little dated by it would be sufficient to justify refusal of the application.

## Transport – Traffic Generation

- 115 Information taken from the applicants Transport Assessment (TA) indicates the plant requires delivery of approximately 650 tonnes of mixed source waste per day up to 200,000 tonnes per year.
- 116 The waste is brought into the building and pure biomass wastes are separated and put into the anaerobic digestion process. Remaining wastes are then put through the autoclave process which heats the waste at high pressure. Biomass material will turn into a fibre flocculent.
- 117 Recyclable materials such as glass, plastics and metal will be separated at this stage and removed from site. The resultant fibre flocculent and gases from anaerobic digestion are then used to produce energy.
- 118 The assumption that 200,000 tonnes of waste per year is required concurs with figures from a similar approved energy site at Sinfin Lane, Derby where permission was secured at appeal, as well as at a site in Washwood Heath in Birmingham where the applicant has planning permission. A similar proposal is also still under consideration in west London, as the site in question is subject of the improvement line for High Speed 2 (HS2)
- 119 The transport consultant for this proposal produced details of assumed delivery characteristics which rely on a large proportion of deliveries being undertaken by 32 tonne, 70m<sup>3</sup> capacity bulk trailers. The consultant has stated that the number of lorries delivering to the site would be in the region of 60 loads per day.
- 120 A concern is that the waste being delivered to the site would be collected direct from source and not from a waste treatment collecting site. There is no information in the application to demonstrate where all the individual sources of waste are located. There is also no information regarding any agreement with an operator stating how the waste material is to be transported.

- 121 The transport consultant has not confirmed the applicant will operate the facility directly. Therefore, a new operator may not plan to transport waste to the site in the same manner as assumed by the transport consultant.
- 122 There is there a possibility that the number of vehicles delivering waste to the site could be much higher than that assumed by the consultant.
- 123 Some of the local sites from where waste could be collected may be difficult to access by large bulk 32 tonne lorries and it may be that most of the deliveries will be by smaller refuse type lorries or skips that can more easily access restricted servicing areas.
- 124 Typically smaller skip lorries have a capacity of 8 to 10m<sup>3</sup> and with densities of 0.25 tonnes per m<sup>3</sup> full loads will be in the region of 3 tonnes. Indeed 3 tonnes was an average load confirmed by the transport consultant from a survey at a waste collection site handling similar waste to that in this proposal.
- 125 Based on the importation of 650 tonnes of waste per day this could result in up to 200 loads or 400 lorry movements per day. The TA for the energy site at Sinfin Lane which receives some compacted waste from municipal waste transfer stations, assumes 270 lorry movements per day which is for a similar sized development.
- 126 The applicant has suggested a condition limiting the number of waste delivery lorry loads to an average of 60 per day across a week but not exceeding 70 on any one day. The applicant has suggested that a detector could be placed on the weighbridge that counts the number of vehicles and tonnage that could provide real time information via the internet that can be checked remotely. In addition, any Environmental Permit issued by the Environment Agency requires the collection, storage and inspection of data relating to the size and number of vehicles using an onsite weighbridge, where again a condition could be imposed to allow access to this information.

- 127 The majority of waste deliveries would be expected to occur between 0700 and 1400hrs, during this period the traffic flow on Moor Street is some 3,200 vehicles. If the level of lorry deliveries can be controlled to that assumed by the applicant then the effects on residents will not be significant given the overall level of traffic.
- 128 If the level of lorry deliveries cannot be controlled and the operation of the business is such that it requires many smaller loads per day then there will be a significant effect on residential amenity, an additional lorry every 1.2 minutes and a 10% increase in traffic levels could be expected.
- 129 Routes to the site show Farmers Bridge that crosses over the canal near the junction with Addison Road. The reconstruction and strengthening of this bridge is top of the bridge priority list, however, the programming of this work is dependent on Government funding.
- 130 Although a weight limit has not yet been implemented the current assessment indicates that the bridge will be unable to carry load of up to 40 and 44 tonnes in the long term. Monitoring is in progress and it is possible that an 18 tonne weight limit will be imposed shortly.
- 131 The next bridge along Moor Street travelling towards Brierley Hill town centre is Moor Street No.2 bridge over the Kingswinford Freight Line. The assessment for this bridge is that it is sufficient for the 40/44 tonne highway loading provided that the edges, which are weak, are protected. This work was carried out in 2010/2011 by installing safety kerbs as vehicle protection. This resulted in the reduction in the carriageway width which now operates with single way working and the use of traffic lights. To allow this bridge to become two way would require the bridge to be widened which is unlikely in the short to medium term.
- 132 The bridge closest to the town centre is Moor Street No.1 bridge over the Oxford, Worcester and Wolverhampton (OWW) rail line and is close to the road junction with North Street. The main part of the bridge has been assessed as being capable of carrying the 40/44 tonne highway loading, however, there are triangular sections



at each end of the bridge which are weak. Network Rail has not requested any weight limit due to these weak sections, however, this does not mean that the bridge will remain unlimited.

- 133 The Highway Authority has a duty under Section 41 of the 1980 Highways Act to maintain Highways and associated structures in a state for use that is fit for purpose. The 1999 EU directive requires that that all UK bridges have a loading capacity of 40 tonnes. The Government has produced a code of good practice as a result of the above '*Management of Highway Structures 2005*', which this Authority adheres to.
- 134 The applicant submitted a TA briefing note on 18 September 2012, stating that the development proposes to use bulk trailers with a 32 tonne capacity with an average payload of 28 tonnes. Using these large vehicles the applicant hopes to ensure the number of lorry movements is limited to that within the proposed condition (a maximum of 70 per day).
- 135 However, the state of the bridges either side of the site will significantly impact on the operation of the energy generation facility. Should the condition of the bridges deteriorate then average payloads will have to be reduced in order not to exceed the maximum weight restriction on the bridges and hence the number of lorry trips per day would need to increase to provide the facility with the 650 tonnes of waste per day it requires. In this scenario the operator could not comply with the proposed condition limiting the number of loads.
- 136 Given the current issues with structural integrity of Farmers Bridge, should the development come into operation the additional heavy traffic (up to 32 tonne capacity bulk loaders) could have potential serious implications for the bridge. This would necessitate the imposition of a Traffic Regulation Order (TRO) to restrict heavy lorries of over 18 tonnes gross weight from using the bridge. A further contribution towards illuminated signing on the bridge and a diversion signing would also be required.

- 137 The Council identified Brierley Hill as an air quality management area in 2003 due to the exceedences of the national UK air quality objective for nitrogen dioxide.
- 138 The value of 40 µg/m<sup>3</sup> was breached at a number of monitors located along the High Street and Mill Street in close proximity to the Five Ways junction with Moor Street.
- 139 The Brierley Hill Air Quality Action Plan adopted by Dudley Council included a £30M package of measures as part of the Brierley Hill Sustainable Access Network. This involved a number of road network improvements and the construction of Venture Way, which provides an alternative option for vehicles travelling along the heavily congested High Street.
- 140 The Brierley Hill Air Quality Management Area and Action Plan have now been replaced by the Dudley Borough Air Quality Management Area and Action Plan and Brierley Hill remains high on the priority list as a sensitive air quality location.
- 141 Monitoring is carried out at the Five Ways junction and shows that exceedences of the air quality objective were removed following completion of the Venture Way in 2008. These improvements have been sustained over a four year period, but the area remains highly sensitive as the air quality objective is only just met.
- 142 Paragraph 124 of the NPPF states '*Planning policies should sustain compliance with and contribute towards EU limit values or national objectives for pollutants, taking into account the presence of Air Quality Management Areas and the cumulative impacts on air quality from individual sites in local areas. Planning decisions should ensure that any new development in Air Quality Management Areas is consistent with the local air quality action plan*'.
- 143 In order to achieve this it is necessary to ensure that any additional traffic movements impact as far away from this area as practicable supporting the proposal to access the site via carefully selected routes specifically excluding Brierley Hill High Street or Mill Street.

- 144 The TA included a proposed route for the heavy / waste transportation vehicles in acknowledgment of the Council's concerns to avoid heavy vehicles using Brierley Hill High Street.
- 145 The proposal raises concerns with the prospect of heavy vehicles using North Street. The area was previously characterised by industrial land uses but over recent years large scale residential development has taken place and the character of North Street in particular has changed. The Traffic Manager is concerned regarding a large number of heavy vehicles using the residential North Street. He therefore requires an environmental 7.5 tonne weight limit in North Street. The cost of this work should be funded by the applicant as part of any legal agreement.
- 146 Similarly, concern was previously raised by the Traffic Manager that heavy vehicles might use Hawbush Road and Addison Road and a 7.5 tonne environmental limit is also required in those roads. The cost of this work should be funded by the applicant as part of any legal agreement.
- 147 Given the concerns regarding air quality in Brierley Hill it is important that heavy traffic is not allowed to travel north from the site to the High Street. The potential for heavy traffic to use the High Street is enhanced by the condition of the bridges, where structural limits on Farmers Bridge in the short term may force heavy traffic to divert to High Street. The Traffic manager therefore requires a 7.5 tonne environmental weight limit covering that section of Moor Street between High Street and Albion Street, including Albion Street and Talbot Street.
- 148 The lorry route proposed in the TA also indicated using Victoria Street, however, this will not be possible as it has a short section of one way operation at its junction with Bank Street.
- 149 Because the site could be affected by the imposition of an 18 tonne MGW restriction on Farmers Bridge in the short term, the alternative interim route would be via Fenton Street and Station Street passing a low 13 foot low bridge to the north. To

help share the amount of increased traffic the environmental weight limit on North Street to the south of the site could be delayed until Farmers Bridge has been reconstructed to cater for 44 tonne loads.

- 150 However, there is a risk that funding to reconstruct Farmers Bridge may not be available for some years after the opening of the energy generation facility, should the planning application be approved.
- 151 Lorries operating along these roads would not be expected to cause any Highway safety issue but could affect residential amenity. However, it should be borne in mind that regardless of the approval of the energy generation facility the restrictions imposed by the weak bridges would, in any case, result in existing heavy traffic having to use alternative residentially dominated streets such as North Street.
- 152 The information provided by the transport consultant indicates the applicant/operator will have an agreement with an independent waste transport operator. Therefore the applicant operator will not have direct control over the vehicles and delivery times.
- 153 This has raised problems in similar developments in the borough where vehicles will wait on street prior to entering the site if an environmental restriction of access times is imposed.
- 154 Therefore to control this, a Traffic Regulation (TRO) prohibiting waiting on adjacent streets would be required, which would need to be funded by the applicant.

#### Transport - Public Rights of Way and Structures

- 155 The proposed service yard would be some 4m above an adjacent footpath that would also run alongside the proposed storage tanks.

- 156 There is no objection to this in principle, however, conditions should be attached to any permission to secure further detailed design with supporting information and sections
- 157 During the construction process access would also be required to construct the supporting structure from the footpath and therefore the PROW will need to be reinstated following completion of the development. The estimate of the works to reinstate the footpath from Moor Street to Springfield Road is £50,000.
- 158 The development is proposed to employ some 30 people and it is likely that many of these would be living in the local area. This presents a good opportunity for people to walk or cycle to the site.
- 159 Reinstating the footpath after construction and connecting it to Springfield Road would further encourage walking and cycling and links the development with existing sustainable infrastructure. This is fully supported by BCCS Policies TRAN 1, TRAN 2, TRAN 4 and TRAN 5.

#### Transport – Cycling

- 160 The Planning Obligations SPD requires that cycle storage and staff shower facilities are provided for all new developments.
- 161 Overlooked, well lit, secure and undercover cycle parking facilities should be incorporated into any developments that have the potential to attract cyclists. Cycle parking should be located in positions that will encourage their use and where possible within the building. The provision of shower facilities plays an important role in encouraging people to cycle.
- 162 The TA considers there will be some 34 staff travel movements by all modes, i.e. 17 two way trips. Cycle storage for the Councils 10% requirement would therefore equate to 2 parking spaces. However, given the potential that employees would be drawn from the local area there is a greater probability for travel by cycle.

- 163 BCCS Policies TRAN1, TRAN2, TRAN4, TRAN5 require new developments to provide adequate cycle infrastructure to help encourage a modal shift towards cycling.
- 164 Cycle stores have been shown adjacent to the parking area but these are unlikely to be used. The Group Engineer (Highways) suggests a secure area within the building, possibly adjacent to the offices is found to store up to 4 cycles. This can be increased in line with outcomes of the travel plan in future years. Staff shower facilities would also be required.
- 165 Therefore a condition is required providing details of the cycle parking and shower facilities.

#### Transport – Rail and Canal

- 166 As stated in the Policy section of this report Policy TRAN3 – Efficient Movement of Freight of the BCCS encourages the use of rail and waterways to carry freight. The policy also states that *‘Sites with existing and potential access to the rail network for freight will be safeguarded for rail related uses’*.
- 167 In this case the vast majority of the site would be lost as sidings, although at present the fixed link to the adjoining railway line has been lost.
- 168 The applicant, however, is showing as part of the proposal the retention of a siding which would potentially enable waste to be brought into the site, and taken away by rail. Loading and unloading would be from fork lift trucks or similar. Therefore the rail head facility would still be retained, although in a reduced form.
- 169 In this case the applicant advises that at this stage it is unlikely that any waste is likely to come to site by rail, and this is an assumption of the TA. However, they do see an opportunity to take away bulk items away from site.

- 170 Matters relating to the canal are considered in the Cultural Heritage section of this report below.

### Transport – Travel Plan

- 171 The travel plan framework submitted in support of the application acceptable, subject to the staff cycle and shower facilities being implemented prior to first use of the building in accordance with the Parking Standards Supplementary Planning Document.
- 172 The Group Engineer (Highways) advises that prior to the first use of the facility details of the travel plan and the name of the travel plan coordinator will be submitted to the LPA. Within 3 months of the development coming into operation a staff travel survey will be undertaken. Further surveys should need to be undertaken at 3 years and 5 years from the date of opening. Targets, measures and further surveys would need to be agreed between the designated travel plan coordinator and the Authority's Travel Plan officer.

### Transport – Conclusion

- 173 The Group Engineer (Highways) as with the previous application has some substantive concerns, in that the application has not been able to provide sufficient evidence that shows the number of delivery vehicles stated in the applicants transport assessment can be achieved. Further, no information has been provided of an agreement with a waste transport operator showing the types of vehicles that are assumed to be used in the operation of the proposal.
- 174 There is no proposal to bring waste to the site in a compacted form from a designated waste transfer station and it is considered that collecting waste material from the local area may not be possible using large 32 tonne capacity bulk trailers.

- 175 It is the Group Engineers (Developments) view that the number of heavy vehicles generated by the development could reach some 400 movements per day which would have a significant effect on residential amenity and pollution in the local area.
- 176 However, conditions can be imposed a restricting no more than 60 loads (120movements) per day on average which is which can be enforced. Subject to the additional conditions controlling the provision of weight restrictions to selected routes within the area, the provision of cycle parking, the use of low emission vehicles and the submission of a travel plan the Highway Authority would not raise on balance any fundamental highway concerns to the proposal.
- 177 There are some concerns regarding the age of some the submitted data with the current application as this is the same data submitted with the earlier application. However, as stated above this is not considered to be a significant enough issue to refuse the application.

#### Noise, Vibration, Air Quality Odour and Neighbour Amenity - Policy

- 178 Members will recall that a similar application was considered by the Development Control Committee in August 2013, for a similar development and will recall that the application was refused for the following reason:

*'The proposed application site would be located within 20m of existing residential development and is likely to be close to future residential development. A significant consideration when assessing the application is policy WM4 of the Black Country Core Strategy which requires waste operations to be compatible with neighbouring uses. Similarly Saved Policy DD5 of the Dudley Unitary Development Plan requires new industrial development to safeguard the amenity and environmental quality of adjacent residential areas.*

*'In this case the site is located close to residential properties and as such there is a likelihood that the amenity enjoyed by the occupiers of those dwellings could be*



*adversely affected by odour associated with the proposed waste operation, and as such the site is not considered to be an appropriate location for the proposed use.*

*'The proposed development is therefore contrary to Policy WM4 of the Black Country Core Strategy, together with Saved Policies DD4 and DD5 of the Dudley Unitary Development Plan'.*

- 179 In an attempt to overcome these objections the applicant has now resubmitted the planning application with some modifications to the design of the building, with the introduction of an air lock and the submission of an Air Quality Management Plan, together with other changes to the EIA.
- 180 This application, like the previous one, raises issues relating to air quality, noise and odour. Should the plant go ahead it will require an A1 permit from the Environment Agency (EA), which will regulate emissions of odour, noise and emissions from the site as part of the Integrated Pollution Prevention Control (IPPC) regime. The applicant has submitted an application to the EA and this is still being considered and has been subject to separate public consultation. The EA has also been consulted on this planning application by the Council.
- 181 Saved Policy EP1 - Incompatible Land Uses - of the Dudley UDP states that, *'Development will not be permitted if it would result in unacceptable harm to residential amenity/property; shopping areas; community facilities; the enjoyment of open spaces; or the interests of nature conservation. 'The Council will seek to minimise the effect of existing incompatible land uses, particularly those within residential areas, town centres, important open spaces and where their location would unreasonably constrain the beneficial use of neighbouring land. Where this is not feasible or desirable the Council will consider the relocation of these industries.'*
- 182 Saved Policy DD5 – Development in Industrial Areas – states that amongst other things that development will be required to *'Maintain or enhance the character and environmental quality of the area in terms of scale, design and intensity of use'* as

well as *'safeguard the amenity and environmental quality of adjacent residential areas'*

- 183 BCCS Policy WM4 – Key Locational Consideration for All Waste Management Proposals, details the criteria for the siting of waste management facilities. One of the requirements of the policy is to consider *'whether the proposal is compatible with neighbouring uses (taking into account the nature of the wastes being managed, the technologies used, the hours of operation and cumulative effects)....'*

- 184 NPPF Section 11, Conserving and Enhancing the Natural Environment, contains the following paragraphs:

*Para. 122. 'In doing so, local planning authorities should focus on whether the development itself is an acceptable use of the land and the impact of the use, rather than the control of processes or emissions themselves where these are subject to approval under pollution control regimes. Local planning authorities should assume that these regimes will operate effectively. Equally, where a planning decision has been made on a particular development, the planning issues should not be revisited through the permitting regimes operated by pollution control authorities'.*

- 185 The recently released National Planning Policy for Waste states at Para 7, bullet point 3, that Local Planning Authorities considering planning applications should consider the likely impact on the local environment and on amenity against the criteria set out in Appendix B. In particular the following are relevant

*g) air emissions, including dust – 'Considerations will include the proximity of sensitive receptors, including ecological as well as human receptors, and the extent to which adverse emissions can be controlled through the use of appropriate and well-maintained and managed equipment and vehicles'.*

*h) odours – 'Considerations will include the proximity of sensitive receptors and the extent to which adverse odours can be controlled through the use of appropriate and well-maintained and managed equipment'.*

*j) noise, light and vibration – ‘Considerations will include the proximity of sensitive receptors. The operation of large waste management facilities in particular can produce noise affecting both the inside and outside of buildings, including noise and vibration from goods vehicle traffic movements to and from a site. Intermittent and sustained operating noise may be a problem if not properly managed particularly if night-time working is involved. Potential light pollution aspects will also need to be considered’.*

Noise, Vibration, Air Quality Odour and Neighbour Amenity - EA Guidance for Developments Requiring Planning Permission and an Environmental Permit

186 EA guidance published in October 2012 states that an application such as this should ideally be run in parallel with a permit application to allow issues pertinent to both applications to be dealt with at the same time (parallel tracking). However, neither the EA nor the Council have powers to compel this to happen. Currently a permit application has been submitted to the EA but this is understood to be a generic permit application for all the applicants’ sites (i.e. Birmingham, North Ealing, Eastleigh, Leeds etc) and is not being parallel tracked. The guidance document goes on to say that, within 250 metres of residential development, anaerobic digesters would require ‘further measures’ to protect people and the environment. Such measures could include increased stack height (over that approved by planning), fully enclosed systems and negative pressure.

187 The guidance does state that the EA would advise when there is a lack of supporting evidence and may object if this is the case. Also, that there does not appear to be any reason why the EA could not object to the planning application on grounds of odour:

*‘In some cases we will object to a planning application. This may relate to specific concerns or a lack of evidence supplied in terms of mitigating environmental impacts. In these cases we will seek to resolve our concerns through discussions*

*with the applicant to seek the necessary further information or amendments. We are often then able to withdraw our objection.'*

#### Noise, Vibration, Air Quality Odour and Neighbour Amenity - Noise

188 The application includes a noise impact assessment that deals with noise in a general sense. The assessment does not identify individual items of plant and their respective noise levels and then calculate a predicted noise emission. It instead takes a notional 'maximum' internal building level of 85dBA and calculates a noise level at the closest residential property based on building/distance attenuation. No basis for the 85dBA level has been given. The applicant states that there will be little or no externally located plant, although these details would ultimately be controlled by the EA.

189 The NPPF position on noise states that:

*Para. 123. Planning policies and decisions should aim to:*

- avoid noise from giving rise to significant adverse impacts on health and quality of life as a result of new development;*
- mitigate and reduce to a minimum other adverse impacts on health and quality of life arising from noise from new development, including through the use of conditions;*
- recognise that development will often create some noise and existing businesses wanting to develop in continuance of their business should not have unreasonable restrictions put on them because of changes in nearby land uses since they were established; and*
- identify and protect areas of tranquillity which have remained relatively undisturbed by noise and are prized for their recreational and amenity value for this reason.*

190 The main concern regarding noise was initially with the previous application was the potential disturbance from deliveries late into the evening. In correspondence with

the Council the applicant with the previous application they agreed to a condition which would prevent deliveries from taking place outside normal working hours. This has effectively overcome the main noise concern. The Head of Environmental Health and Trading Standards is of the opinion that noise relating to all other aspects of the operation would be controlled by conditions contained within the Environmental Permit issued by the EA and has no objection on noise grounds.

#### Noise, Vibration, Air Quality Odour and Neighbour Amenity - Odour

191 The Environment Agency objects to the revised planning application in that,

*‘....the proposed development would have little potential to cause odour and dust problems in the middle of a large industrial area, the proximity of housing 23 metres away from the digestate (AD) tanks and 15 metres away from the site boundary means the potential for issues or complaints is greater.*

*‘We understand from reviewing the information submitted in support of the planning application that the Applicant intends to adopt technical and operational measures for odour control of a high standard.*

*‘Our experience is that anaerobic digestion plants in close proximity to residential development can have the potential to cause odour amenity problems. We note that other sites that we are already regulating which have residential property significantly further away from the proposed development have generated complaints from local residents.*

*‘Because of the close proximity of residential development and the nature of the proposed activities, any breakdown or failure to follow procedures poses a risk of offensive emissions outside the site boundary.*

*‘We acknowledge that the applicant has applied for an environmental permit for the proposed development. The application for an environmental permit considers how the proposed development will be regulated. Our objection to the planning*

*application is solely in response to the locational constraints of the proposed development in line with Policy WM4, within the remit of the planning system'*

- 192 Additionally the EA make reference to Para. 109 of the NPPF for their objection which requires,

*'The planning system should contribute to and enhance the natural and local environment by - Preventing both new and existing development from contributing to or being put at unacceptable risk from, or being adversely affected by unacceptable levels of soil, air, water or noise pollution or land instability'*

- 193 The Council has also employed an environmental consultancy to assess the planning application regarding a detailed review of the robustness of the odour modelling techniques and results, a critique of the odour assessment, a review of the odour management plan, an evaluation of the proposed odour abatement technology, a review of the contingency arrangements for prevention of emissions during abnormal operating conditions and the Suitability of Site Location. They also looked at the issue of air quality which considered elsewhere within this report.

- 194 In consideration of the application the consultants note the urban surrounding and the close proximity of housing less than 20m away from the site boundary.

- 195 They also note that no firm supportive AD waste application case studies for a similar setting have been presented in support of this application. This lack of information, they consider, does not allow an informed and objective judgement to be made within the context of an existing urban context, and provides no positive argument to support the case that the process is suitable for its proposed setting.

- 196 The consultants advise that, the sites operational information and the design specification for the odour abatement plant are both novel and innovative. However, they consider that experimentation and continuous development of such technologies is inappropriate within locations such as this, with the risk of novel

technology failing resulting in a heightened risk of odour nuisance. Such a partnership of an AD plant and pyrolysis plant have as yet, not been fully tested as a complete integrated system within a site of a similar setting within the UK.

- 197 Therefore, they consider the urban nature of the site, with a significant residential population in close proximity, is not an appropriate location for the development or testing of novel technology where there is a risk of significant environmental impact and loss of amenity on the existing and future residential population (NPPF 120).
- 198 Overall the consultants in their assessment conclude that the applicants have failed to objectively identify all reasonably foreseeable abnormal operating conditions which may lead to releases of odour and failed to demonstrate, objectively, that the control of emissions will be sufficient to prevent odours occurring beyond the site boundary. As a result, it is further concluded that the development of this facility may significantly alter the character of the locality and potentially be detrimental to the amenity of the neighbourhood. The commissioning period of the facility will attract a greater risk of potential odour releases from the site. This is due to the innovative and novel combination of waste treatment technology alongside heightened uncertainty of site management practices and processes during the initial operating period. The length of this commissioning period is unknown at this stage and may extend to weeks if not months. Therefore the heightened likelihood of significant, regular and frequent odour emissions could continue indefinitely or until the regulator (the EA) is forced to take action to make the activity cease.
- 199 They consider a clear odour risk exists due a weak malodourous waste rejection management plan and significant lack of certainty over the transport of malodourous waste material to and from the site when a delivery is refused. Due to the frequent of movement of large amounts of odourous waste material in and out of this large and complex site, combined with the extensive fugitive odour sources identified in this report, will result in odour emissions becoming a regular and frequent feature of the operation of this installation.

- 200 They further consider that the site will inevitably lead to increased risk of annoyance and loss of amenity due to odours. These risks of loss of amenity and subsequent odour complaints are sufficiently high that the proposed site is considered inappropriate for the development.
- 201 It is considered that there is a significant risk that failures in the containment of odour at the proposed facility will occur, resulting in the emissions of offensive odour. Offensive odour emissions of this type ultimately have a detrimental impact upon both residential and industrial occupants, giving rise to significant loss of amenity. Given the sites close proximity to other users and the detrimental impact that offensive odour have upon the enjoyment of an occupants property, even a limited release of such odours will result in an overbearing perception of an odour nuisance amongst the local community. The proposal therefore is considered to conflict with NPPF (Paras. 109,110, 120 and 122), BCCS Policy WM4 as well as saved policies DD4 and DD5.
- 202 The EA also state that their comments regarding the planning application do not prejudice the determination of the submitted Environmental Permit Application which has yet to be determined.
- 203 The A1 permit application requires the submission of an odour management plan (OMP), which has also now submitted with this planning application. The plan would need to address emissions of odour from all aspects of the process and the EA would enforce compliance against the plan. Should the development proceed the Agency would consider pre-operational conditions to ensure that the proposed odour control methods are effective. However, the EA H4 Odour Management Guidance on Approval of Odour Management Plans states:

*'We recognise that no OMP can cover every eventuality and even if you are taking all the appropriate measures specified in your approved OMP, odour pollution may occur.'*



*'Where all appropriate measures are being used but are not completely preventing odour pollution, a level of residual odour will have to be accepted'.*

- 204 The relationship between IPPC and development control has been tested in court and there is relevant and binding case law that should be taken into account in this case. In *Hopkins developments Ltd V secretary of state 2006* it was held that a Planning Inspector had been entitled to conclude that, despite pollution control measures, it was inappropriate to grant planning permission for the development of a site as a concrete plant due to the impact of dust. Planning guidance clearly stated that he should focus on whether the development itself was an acceptable use of the land and the impacts that it would have, rather than on the control of the processes or emissions of the development.
- 205 In the High Court case *Harrison and Secretary of State and Cheshire West and Chester Council 2009* it was concluded that the planning system has to determine whether the development itself is an acceptable use of land and the impact of those uses. Also that the guidance in, now withdrawn, PPS23 worked on the assumption that an appropriate location is chosen for a particular activity not that pollution control will make any activity acceptable in any given situation.
- 206 Moreover, the consultants note that due to the transitory nature of odour, and in order to detect any significant odour releases at the time of complaints, authorised officers of the EA would need to conduct enforcement visits to site within minutes of an odour complaint being recorded. However this is considered unlikely since the Agency's compliance officers are located at some distance from the site.
- 207 Furthermore, a significant uncertainty exists with the interpretation of the model operating condition relating to odour emissions within permits issued by the Agency, which include the following odour boundary condition:

*'Emissions from the activities shall be free from odour at levels likely to cause pollution outside the site, as perceived by an authorised officer of the Environment*

*Agency, unless the operator has used appropriate measures, including, but not limited to, those specified in any approved odour management plan, to prevent or where that is not practicable, to minimise, the odour.'*

- 208 The above condition implies that where 'appropriate measures' are in place, such as an odour abatement scheme, emissions from the activities are not required to be free from odour at levels likely to cause pollution from outside the site. Rather, the above condition appears to allow the existence of an 'odour at levels likely to cause pollution outside the site' where an 'appropriate measure' is in place.
- 209 This position is corroborated by several recent prosecutions for odour nuisance that have occurred at waste and processing facilities (Barr v Biffa Waste Services Ltd [2012]; Anslow and others v Norton Aluminium Ltd [2012]; [Dobson & Ors v Thames Water Utilities Ltd \(No 2\)](#) [2011]). A number of these sites were deemed to have been operating within the conditions of their operating permit, yet odour nuisance from those sites was significant enough to attract a successful prosecution. Therefore it is apparent that permitting a site provides no guarantee that significant odour releases and odour complaints will not occur.
- 210 It is accepted that the control of emissions will be regulated by the EA and the NPPF clearly states this. However, when taking into account the EA's comments in this case objecting in land use terms, the comments of the environmental consultants and also H4 Guidance on the Head of Environmental Health and Trading Standards has **substantive concerns** that, even with the proposed odour control methods, there will be an underlying level of odour associated with the development which the EA permit will not be able to effectively control and that this residual odour will lead to significant loss of amenity for nearby residents.

#### Noise, Vibration, Air Quality Odour and Neighbour Amenities – Air Quality

- 211 Traffic movements generated by the development will be restricted by planning conditions and will be well dispersed away from the immediate environs of the site as discussed in the transport section of this report. As such, there are no predicted

major traffic related air quality impacts in surrounding areas of poor air quality although there is likely to be a small impact on cumulative pollutant emissions.

- 212 The Head of Environmental Health and Trading Standards with the previous application considered the issue of nitrogen oxide emissions from the emission stacks serving the pyrolyzers and gas engines and the impact on the surrounding environs. The applicants with this and the previous application have undertaken stack modelling for nitrogen oxide emissions based on 'typical' emissions of 10 and 12.5mg/m<sup>3</sup>. This is considerably less than the emission limits values given in the relevant permitting guidance notes.
- 213 Brierley Hill High Street lies within the Dudley MBC declared air quality management area where execution of the air quality action plan has reduced levels of nitrogen dioxide to below the national objective of 40µg/m<sup>3</sup>. Emissions of up to 12mg/m<sup>3</sup> nitrogen oxides from the proposed 25 metre chimney stacks are shown to have no significant impact on air quality in the immediate vicinity of the development. Modelling of nitrogen oxide emissions up to the maximum permissible emission limit value of 200mg/m<sup>3</sup> undertaken by the Head of Environmental Health and Trading Standards has shown that nitrogen oxide levels in the vicinity of the development i.e. Moor Street will raise nitrogen dioxide levels by 3-4µg/m<sup>3</sup>. This in itself would not raise levels in Moor Street above the national objective level.
- 214 Modelling would suggest that compliance with the objective levels *could* be 'sustained' in Brierley Hill High Street with the lower emission limit value but potential problems could arise with the higher value. The Head of Environmental Health and Trading Standards will be able to comment on the permit application and the EA has indicated that any views expressed will be taken into account.
- 215 The Councils environmental Consultant and the Head of Environmental Health and Trading Standards therefore has with the previous application raised no objection on the grounds of air quality, subject to any planning approval requiring that the

appropriate mitigation is provided to control emissions of nitrogen oxides and particulate matter appropriately.

#### Noise, Vibration, Air Quality Odour and Neighbour Amenity – Physical Impact

- 216 In addition to the operational issues the impact the proposed built form has on residential amenity needs to be considered.
- 217 The nearest dwellings to the site are Nos. 47, 47B and 47C Moor Street which less than 20m to the south of the site boundary. The main windows to these flats look onto Moor Street itself and towards the site. A significant issue would be the relationship between the habitable windows to these flats and the proposed tanks. In this case the closest of the tanks would be around only 23m away, although it would be to be side and therefore on balance would be acceptable in terms of built form.
- 218 There are not considered to be any issues with regard the physical impact of the main building, as the flats to the former Royal Brierley Crystal site on the far side of the railway line are single aspect.

#### Noise, Vibration, Air Quality Odour and Neighbour Amenity – Public Safety

- 219 During the appeal process the issue of risk regarding the AD tanks was brought to the attention of the Local Planning Authority and as such the applicant was asked provide additional information on the risk.
- 220 In response the applicant advises that the proposed ERC *'Has been designed to fully comply with a number of regulatory instruments and has to be designed to be intrinsically safe'*. The key legislation the facility must comply with is the Dangerous Substances and Explosive Atmosphere Regulations (DSEAR) 2002.
- 221 The applicant adds that *'DSEAR puts duties on employers to protect people from risks to their safety from fires, explosions and similar events in the workplace, this*

*includes members of the public who may be put at risk by work activity. It is a legal requirement to comply with DSEAR and hence any plant that is constructed will need to be designed such that there is no risk of explosion and risk to the public'.* As part of the detailed design process a hazard and operability study (HAZOP) will be required.

- 222 The applicant also advises that the site will be regulated by the EA as part of the IPC permitting regime. The applicant advises that the permit will only be issued on the proviso that the all of the necessary HSE regulations are complied with and the plant design has undergone a HAZOP study to remove any of the residual risks to an appropriate level.
- 223 There is no evidence before the Council that can counter this view, particularly as the HSE have not commented on the application.

#### Noise, Vibration, Air Quality Odour and Neighbour Amenity – Conclusion

- 224 It is not considered that the applicant has provided sufficient technical details of noise levels and nitrogen oxides. Instead the applicant has provided general statements and assurances that there will be no noise and nitrogen oxide emissions will be controlled without impacting on the surrounding environment. Moreover, there are considered to be significant deficiencies regarding the submitted odour information with the application.
- 225 All of these aspects will be regulated by the EA under the A1 permit and the applicant will be required to submit detailed proposals to the EA when they as part of the permit application.
- 226 Whilst there is now a permit application in place the Council consider that even with a permit in place and with the conditions actively enforced there is likely to be residual emissions, particularly with regards to odour, that are likely to impact on residential amenity. The Head of Environment Health and Trading Standards therefore has substantive concerns with regards to the negative impact of odour on

amenity, particularly given the views of the environmental consultant and the planning comments of the EA. Guidance and case law would also suggest that the Council can take such matters into account when arriving at its decision and that it does not need to rely solely on the pollution control regime which cannot make '*all types of activities acceptable for any given location*'.

- 227 Policy WM4 of the BCCS, details the criteria for the siting of waste management facilities. One of the requirements of the policy is to consider '*whether the proposal is compatible with neighbouring uses (taking into account the nature of the wastes being managed, the technologies used, the hours of operation and cumulative effects)....*' and to certain extent is replicated by the National Waste Strategy. In this case it has not been demonstrated that there would be no harm to amenity and therefore it is considered the proposal would be contrary to the adopted Development Plan Policy.
- 228 In addition the NPPF states that '*Local planning authorities should focus on whether the development itself is an acceptable use of the land...*' which is reinforced by the provisions of the recently adopted National Waste Strategy. In this case due to the substantive concerns raised by the Head of Environmental Health and Trading Standards (supported by the environmental consultant) and objection from the EA, the strong risk of impact to amenity in terms of odour is not considered to be an acceptable use of the land. Therefore it is not considered that the application can be considered to be an acceptable use of the land.
- 229 This view was supported in legal advice taken when the Council refused the previous planning application at the site.

#### Nature Conservation - Policy

- 230 Saved Policy DD10 – Nature Conservation and Development of the UDP states that the Council will ensure the effects of development on wildlife features are taken into account. Where damage is unavoidable the policy states that appropriate mitigation will be required.

- 231 Saved Policy NC1 Biodiversity of the UDP states that the Council is committed to the protection and enhancement of biodiversity, and advises that opportunities will be sought through the planning process to contribute towards the delivery of the Birmingham and Black Country Biodiversity Action Plan (BAP) targets for habitats and species.
- 232 Saved Policy NC6 – Wildlife Species states that *‘Development that is likely to have an adverse impact on species that are specifically protected by law, are rare and vulnerable in the Black Country and/or are the subject of a Species Action Plan in the UK or a Local BAP will only be permitted where it can be clearly demonstrated that measures to protect the species’ are included by provision of a an ecological survey’* and that an impact assessment must be carried out by appropriately qualified person and that the needs of any species should be included within the layout and that any adequate mitigation to any effect can be provided that does not adversely affect a species or habitat. Policy ENV1 – Nature Conservation of the BCCS also reflect these requirements.
- 233 In addition to the above there is further advice within the Nature Conservation Supplementary Planning Document, the NPPF and the various statutory controls through the Habitat Directives and the Wildlife and Countryside Act.
- 234 Within Chapter 11 of the submitted ES, the impact of the development on nature conservation assets is considered.
- 235 There are three statutory sites within the locality indentified in the applicant’s desk study, Fen Pools Special Area of Conservation (SAC) and Site of Special Scientific Interest (SSSI), Buckpool and Fens Pools Local Nature Reserve (LNR) and Saltwells LNR. These are between one and 1.8km away from the site. These range from being of regional to international value.
- 236 There are 8 non-statutory designated sites within the area identified by the applicant these are Buckpool and the Leys Site of Importance for Nature Conservation (SINC)

(1.2 kilometres northwest of the Site), Stourbridge Canal SLINC (250 metres west of the Site at its closest point), Lloyds, Brettell Lane Site of Local Importance for Nature Conservation (SLINC) (800 metres southwest of the Site) Church Yard at Delph Road (SLINC)(500 metres southeast of the Site), Dudley No. 1 Canal SLINC (700 metres east of the Site), Stourbridge Extension Canal, Fen Pools SLINC (approximately 1 kilometre northwest of the Site), Stourbridge Railway Line SLINC (approximately 800 metres south of the Site) and the Stourbridge – Dudley Railway Wildlife Corridor. The latter of these is the railway line which is immediately to the east of the site.

- 237 During the Extended Phase I Habitat Survey submitted with the application the following habitats were identified on site: bare ground, buildings, scrub and ephemeral/short perennial. Bare ground is the dominant habitat type on site and includes large sections of hard standing. This habitat is therefore considered to be of negligible value and has been scoped out of further assessment.
- 238 The area to the west of the main railway yard is dominated by large areas of scrub. There is also scrub on the embankment around the neighbouring waste processing plant in the northeast corner of the site. This habitat type is common and widespread throughout the UK and the local area, with little intrinsic value. However, along with the adjacent areas of ephemeral/short perennial vegetation, it supports a population of grass snake, which are of Local Value. It also supports foraging bats and is likely to support nesting birds. As well as providing habitat for a range of wildlife. The scrub forms part of a larger semi-natural habitat corridor that extends beyond the Site boundaries along the Stourbridge – Dudley Railway Wildlife Corridor and the nearby Stourbridge Canal. Within the Site, this habitat meets the criteria for the Birmingham and Black Country BAP Habitat – ‘Woodland’ (which includes scrub and naturally regenerating woodland). Taking all of the above factors into account, in the context of its surrounding habitats the scrub is considered to be of local value.
- 239 There are small areas of grass between encroaching areas of scrub on the disused railway embankment towards the western edge of the site. As with the scrub, this



habitat is of a common and widespread type with little intrinsic value. However, in conjunction with the neighbouring scrub, this habitat supports a low population of Grass Snake and other wildlife and forms part of a larger corridor of semi-natural habitats. Within the Site, this habitat meets the criteria for the UK BAP Priority Habitat – ‘Open Mosaic Habitats on Previously Developed Land’ and the Birmingham and Black Country BAP Habitat – ‘Urban Wasteland’. Taking all of the above factors into account, in the context of its surrounding habitats this habitat is considered to be of Local Value.

#### Nature Conservation Impact - Construction Phase

- 240 The Site is extremely unlikely to support any bat roosts, but has been assessed as being of County Value for foraging and commuting bats, including Noctule, Common Pipistrelle, Soprano Pipistrelle and Greater Horseshoe, based on the results of the Bat Activity Survey
- 241 The scrub on site and semi-natural habitats is likely to support a range of nesting birds, as well as a range of common and widespread foraging birds during the breeding and non-breeding seasons. Given that the suitable nesting and foraging habitats on site are common and widespread in the surrounding landscape, overall the site is considered to only be of value within the zone of Influence for birds.
- 242 The site has been found to support a low population of grass snake and is considered to be of local value for reptiles.
- 243 During the construction stage it not considered that the three statutory sites would be impacted upon due to the distance from the site but also due to the substantial developed areas in the intervening space. Similarly the non-statutory sites are considered to be too distant from the site to be affected by the proposed construction activities, except for the railway corridor which could be affected by construction activities such as dust, given its proximity to the site. However, given that the value of the corridor relates to its role as a connecting habitat rather than

any intrinsic floral or faunal interest its role as a corridor is unlikely to be affected by such impacts.

- 244 All vegetation within the site, including the scrub and ephemeral/short perennial areas will be cleared. It is therefore certain, that the construction phase will have a significant adverse effect on on-site habitats at the Local level, prior to any mitigation. Vegetation clearance will reduce the amount of suitable bat foraging habitat in the area. However, given the limited extent of suitable foraging habitat on site and the relative abundance of such habitats elsewhere in the vicinity, that the construction phase could have a significant adverse effect on bats up to County level. Removal of scrub during the construction phase will result in the loss of suitable bird nesting/foraging habitat and could result in birds being harmed and nests being damaged/destroyed if undertaken during the nesting season. However, the Wildlife and Countryside Act (WCA) protects bird nests from destruction, and this can be appropriately conditioned.

#### Nature Conservation Impact - Operational Stage

- 245 The ES states there is potential for light and noise generated during the operation of the proposed facility to disturb and deter wildlife from using the non-active (western) section of the Stourbridge – Dudley Railway Wildlife Corridor, prior to mitigation. The Wildlife Corridor could also be affected by contaminated runoff and airborne pollutants prior to mitigation. However, given that the value of the corridor relates to its role as a connecting habitat rather than any intrinsic floral or faunal interest, and that its role as a corridor is unlikely to be affected by such pollutants, this particular effect would not be significant. Overall, based on potential disturbance of the western part of the corridor, it is considered unlikely that the operational phase will have a significant adverse effect on the Wildlife Corridor up to Local level, depending on the amount and timing of light and noise generated by the operational activity.
- 246 The only other non-statutory site close enough to be affected during the operational phase is the nearest section of the Stourbridge Canal SLINC (approximately 250

metres west of the Site), which could potentially be affected by contaminated run off and airborne pollutants generated by the proposed waste processing activities, prior to mitigation. The operational phase is considered unlikely (to have a significant adverse effect on the SLINC up to Local level, depending on the magnitude, type and frequency of any pollution emissions and the extent of the SLINC area that is affected. Any emissions from the site would be controlled by the Environment Agency Permitting regime.

- 247 In respect of bats there is potential for light spill generated by the operational facility to deter them from foraging/commuting within the Site or its environs. However, given that the bat species recorded most frequently on site during the surveys (i.e. Noctule and Pipistrelle species) are not typically sensitive to artificial lighting and given the presence of alternative, more extensive foraging habitats and flight corridors nearby, it is considered unlikely that the operational phase will have a significant adverse effect on bats up to county level. In addition a condition would be proposed with regard to external lighting at the site, should the application be acceptable on other grounds.
- 248 No adverse effects on birds, reptiles or amphibians are predicted for the operational phase.

#### Nature Conservation - Proposed Mitigation

- 249 A vegetation screen (comprising a diverse mix of native trees and shrubs of local provenance and characteristic of the area – as listed in the Nature Conservation Supplementary Planning Document) would be planted around the boundary of the Site to minimise disturbance of wildlife using the adjacent wildlife corridor. In addition, a sensitive lighting strategy will be designed and implemented to minimise light spill. It is concluded that the residual effects on on-site habitats after mitigation will be negligible.
- 250 The habitat creation mentioned would compensate for the loss of bat foraging habitat during the construction phase, as the structural and compositional diversity

of the new habitat will support an abundance of bats' insect prey species. In addition new bat boxes are proposed and the light spill reduction measures mentioned above would mitigate against operation phase impacts on bats to a negligible level.

- 251 To avoid harming birds and/or damaging/destroying nests during scrub removal works, such works should be undertaken outside of the main bird nesting season. As an additional enhancement, bird nest boxes will also be installed on appropriate locations on buildings and retained trees throughout the site. At least 10 boxes would be installed, including a range of different types suitable for different bird species,
- 252 A combination of phased vegetation clearance, installation of reptile-proof fencing and destructive searches will be employed to avoid harming potential grass snake colonies during the construction phase. The habitat creation mentioned above would compensate for loss of reptile habitat during the construction phase. The habitat areas will also include at least three specially constructed reptile hibernacula (i.e. rubble or log piles covered with turf). The mitigation measures detailed for reptiles would also minimise the likelihood of harm to amphibians.

#### Nature Conservation – Age of Report

- 253 The above nature conservation assessments and assumptions were based on survey work which was carried out in 2012 at the latest. Ordinarily nature conservation reports and assessment are usually only good for 12 months due to the migratory nature of potential protected species.
- 254 In response to this the applicant advises that the *'...ecology specialists and they are of the opinion that the ecological surveys carried out in 2012 are still relevant and valid for the current application. 'The protected species surveys are barely two years old and are therefore still considered to be relevant and valid, particularly given the nature of the site. 'Any further assessment is therefore likely to draw the*

*same conclusions and we are of the opinion that this is not necessary, particularly as a large area of the site is covered with hard standing'.*

- 255 The Council has no evidence before it to counter this view, particularly as Natural England has raised no objection to the planning application.

#### Nature Conservation – Conclusion

- 256 In conclusion there would be no impact to the statutory protected sites and the potential significant effects on the SLINCs closer to the site are associated with runoff and airborne pollutants generated during the operational phase. These will be mitigated to a negligible level by on site mitigation measures. Potential significant effects on the wildlife corridor are associated with disturbance by light and noise from the site during the construction period would be temporary but cannot be completely avoided.
- 257 Potential significant effects on bats, birds, grass snake and amphibians relate to loss of on-site habitat and, with the exception of bats, harm caused during vegetation clearance. These could be mitigated to a negligible level by compensatory habitat creation and employment of appropriate strategies to avoid harm. In the case of bats and birds there are likely to be significant beneficial effects associated with site enhancements.

#### Cultural Heritage - Policy

- 258 The NPPF provides advice on planning procedures covering designated heritage assets (e.g. World Heritage Sites, Scheduled Ancient Monuments, Listed Buildings, Conservation Areas, Registered Parks & Gardens and Registered Battlefields) and also non-designated heritage assets which are of heritage interest and therefore a material planning consideration. Paragraph 128 states that where a development site includes or has the potential to include heritage assets with archaeological interest, Local Planning Authorities should require developers to submit an appropriate desk-based assessment and, where necessary, a field evaluation.

- 259 Policy ENV2 – Historic Character and Local Distinctiveness of the BCCS, states that *‘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 identity and strong sense of place. Development proposals will be required to preserve and, where appropriate, enhance local character and those aspects of the historic environment together with their settings which are recognised as being of special historic, archaeological, architectural, landscape or townscape quality’.*
- 260 Saved Policy H3 – Conservation Areas states that the Council will safeguard and enhance approved Conservation Areas. The policy further states that proposals or works which would be detrimental to a conservation area its or setting, and which could prejudice views into or out of a designation will be resisted.

#### Cultural Heritage – Archaeology

- 261 The archaeological desk based assessment submitted as part of the ES identifies that the former Moor Lane Glassworks and the Moor Lane Bottleworks were located within the application site boundary. The former was the first glassworks to be built at Brierley Hill around 1744 and was demolished in 1870. The latter was built before 1771 and was demolished before 1910. Archaeological remains of both glassworks could to be significant as they could contain evidence of the development and decline of the glass working industry in Brierley Hill between the mid 18<sup>th</sup> and late 19<sup>th</sup> centuries.
- 262 Because of this potential archaeological significance an archaeological trial trench evaluation was carried out in July 2012 following consultation with the Council’s Historic Environment Team. The results confirmed that the northern part of the site has been heavily truncated by late 19<sup>th</sup> century quarrying and mining activity where at least 3.5m of made ground was revealed. It is possible that remains of the former Moor Lane Glassworks could still survive on the street frontage, although it is possible that the quarrying has destroyed any such remains. The results to the south confirmed that some features associated with the Moor Lane Bottle Works

survive at a depth of over 1m but these features have been severely damaged and cut away by later activity.

- 263 The ES concludes that there should be no significantly invasive works close to the Moor Street frontage where parts of the glassworks may survive, apart from the need to provide service runs. This means the vast majority of any remains would be retained in situ if they are present.

#### Cultural Heritage – Listed Buildings

- 264 To the east of the site is the Grade II listed Royal Brierley Crystal Glassworks, which dates from 1870.
- 265 The ES states that the former glass works would be physically unaffected by the proposed development, although it states that its setting could be affected. The ES outlines that historically the site was surrounded by other industrial and housing sites, and after the demolition of the Moor Lane Bottle Works (see above) the area became dominated by railway sidings. Therefore the long term character of the locality is regarded as industrial. The proposed use similarly could be described as industrial.
- 266 The ES notes that the setting of the glassworks has changed recently with new housing development, as well as the ongoing conversion of the complex into apartments itself.
- 267 In conclusion, the ES states that the impact on the setting of the listed glassworks would be neutral to minor adverse, and that proposed planting along the railway corridor would help to soften the proposed development.
- 268 Due to the nature of the application English Heritage have been consulted. In this case they raise no objection to the proposed development.

### Cultural Heritage – Brierley Hill Conservation Area

269 The Brierley Hill Conservation Area is located approximately 170m to the east of the Site. The immediate western outlook from the Conservation Area towards the site has historically been industrial with workers housing, a process which has since changed with the construction of more modern housing close to the site. The visual appraisal submitted with the application has established that from the highest point of the Conservation Area, around St. Michaels Church, the mass of the new development would be concealed by other built development and planting. Although the ES states that proposed stacks would be visible from the churchyard their visual intrusion into the landscape would be limited by the already existing brick chimney of the Grade II listed Royal Brierley Crystal Glassworks.

### Cultural Heritage – Stourbridge Canal

270 The Stourbridge Canal is located 250m to the west of the site and as such Saved Policy HE7 - Canals of the UDP is relevant and recognises the recreational, environmental, the historic and nature conservation value of the network. The policy requires proposed development which is adjacent to canals to conserve and where possible improve the character of the network.

271 Policy ENV4 – Canals, of the BCCS again recognises the important resource the network is across the Black Country. Amongst other issues, the policy states the need to protect (and enhance) the visual amenity of the network.

272 In this case the Canal and Rivers Trust (formally British Waterways) have no comments to make.

### Cultural Heritage - Conclusion

273 As a whole the proposed development is not considered to be harmful to the cultural heritage of the area, with the worst case scenario concluded with the ES is the slight adverse impact on the setting of the listed Brierley Crystal Glassworks.



## Other Considerations

- 274 A significant thrust of the NPPF (particularly at paragraph 18) is economic growth and the jobs and prosperity this creates. In this case the applicant advises that the proposed development would provide up to 30 jobs at the operational stage, on top of the jobs which would be created during the construction phase.
- 275 The applicant is also proposing an educational facility within the proposed plant. The applicant advises within its Design and Access Statement states that the facility will allow for the process to be explained to organised parties and the public with a viewing gallery into the plant.
- 276 The applicant makes reference to the potential to provide a district heating system using residual heat from the facility to heat local businesses and homes. This would be the way of a 'heat loop' which would encircle the site to where connections could be made. Whilst the concept of district heating is welcomed (and which is presently being implemented in Birmingham city centre), without the provision of extensive infrastructure beyond the site there would be no significant benefit to businesses and homes in the area.
- 277 However, the electricity generation from the plant (at up to 10MWe (megawatt electrical)) would be of more benefit in that it would have the potential to provide power for up to 10,000 homes although this would feed directly into the grid rather than to dwellings or businesses close to the site.
- 278 During the course of the application it has been brought to the attention of the Council of an agreement between the applicant and Network Rail which is published to the Office of Rail Regulation (ORR) website.
- 279 The document implies that the *'subject to the availability of waste and recyclates and, securing any additional consents required, it is anticipated that up to 400,000 tonnes per annum of waste/recyclate could theoretically be managed through the*

*new rail freight interchange*'. The document also states that the freight sidings should be available for the use of third party operators, in addition to the applicant.

- 280 The weight of this document is unknown, which is the view taken by the EA, but is a significant departure from the information submitted with this application and which is currently before the EA regarding the permit application.
- 281 In being aware of this document, the Council wrote to the applicant on 9 October 2014 requesting an explanation for the difference between the planning application and the information that was contained within the ORR report, but at the time the agenda was prepared no response had been received.
- 282 However, had the application have been acceptable on other grounds, conditions would have been imposed limiting the amount of HGVs that could enter and leave the site, which would be a limiting factor on the amount of waste which could be processed by the site, unless it were to come in and leave by rail.

#### Planning Obligations

- 283 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.
- 284 Policy DEL1 of the BCCS requires all new developments to be supported by sufficient on and off-site infrastructure to serve the development, mitigate its impact on the environment, and ensure that the development is sustainable and contributes to the proper planning of the wider area.
- 285 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.

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

*Off-Site Provision (to be secured by S106 Agreement)*

- Traffic Regulation Order and Signage – Farmers Bridge (Moor Street) - £10,000
- 7.5 T Environmental weight limit (inc signage) – North Street - £11,000
- 7.5 T Environmental weight limit (inc signage) – Hawbush Road – £14,000
- 7.5 T Environmental weight limit (inc signage) – Addison Road - £11,000
- 7.5 T Environmental weight limit (inc signage) – Moor Street (between Albion Street and High Street), including Albion Street and Talbot Street – £14,000
- Heavy Lorry Route signing strategy - £8,000
- Traffic Regulation Order – Waiting Restrictions in streets close to site - £5,000
- Upgrade of right of way from Moor Street to Springfields Road - £50,000
- Contribution towards programmed local road safety scheme on Moor Street – £6,799.00
- Air Management Strategy
- Monitoring and Management Charge £1926.50 (10% of planning fee)
- **Total £131,725.50**

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

- On Site Public Art
- Economic and Community Development Statement
- On Site Nature Conservation Enhancement/Mitigation
- On Site Air Quality Enhancement – Electric Vehicle Charging Points

- 287 It is considered that these contributions meet the necessary tests in that they contribute to the delivery of a sustainable development, are being provided directly on the development site itself and are deemed to be in scale and kind to the proposed development.
- 288 With regard to the Traffic Regulation Orders and Environmental Weight Limits, these are considered to be essential in that without the provision of such obligations the proposed development would be unacceptable in that HGVs would be able access the site via residential streets, potentially affecting residential amenity over a wide area, and through Brierley Hill High Street, where it would have the potential to detrimentally impact upon air quality management issues. If the development were acceptable in all other respects a negative worded condition would need to be imposed.
- 289 With regard to the contribution towards a local safety scheme on Moor Street, the request for the obligation is considered to meet the tests in the CIL regulations in that the development would lead to an increase in traffic using the street, and that all traffic related to the site would have to use Moor Street. In addition the proposed works are programmed and costed.
- 290 The upgrade to the footpath between Moor Street and Springfields Road is also considered to reasonably relate to the development in that it would allow a more sustainable access to the site for pedestrians and cyclists.
- 291 With regard to the Economic and Community Development Statement, public art, and air quality enhancement are long standing requirements of the Planning Obligations SPD. Both of these requirements also relate back to the Council plan which seeks to promote health and well being of residents as well as seeking economic growth.
- 292 Nature conservation mitigation is a key recommendation of the ES, and therefore is essential to make the development acceptable. The enhancement works are a key requirement of the SPD and the NPPF also encourages enhancement. In this case

this would benefit existing assets in the area by providing improved linkages between corridors.

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

294 The applicant has agreed to the payment of these onsite/offsite planning obligations. However, in this case these obligations in themselves do not make the proposal acceptable in planning terms.

## CONCLUSION

295 The proposed development is not considered to have any adverse impact on the highway network capacity or air quality, subject to the imposition of Environmental Weight Limits to the surrounding road network together with planning conditions limiting the number of HGVs entering and leaving the site. Similarly, there are no concerns in respect of design, visual impact or setting of heritage assets. It is not considered that the proposed operation would have an adverse impact in terms of noise or vibration, subject to the imposition of appropriate planning conditions. However, there are substantive concerns that residential amenity could be adversely affected by odour, due to the close proximity of the proposed waste plant to existing and proposed dwelling houses, and as such the proposed development is not considered an appropriate use of the site.

296 Consideration has been given to policies CSP1 The Growth Network CSP2 Development Outside the Growth Network CSP3 Environmental Infrastructure CSP4 Place Making DEL1 Infrastructure Provision EMP1 Providing for Economic Growth TRAN2 Managing Transport Impacts of New Development TRAN3 The Efficient Movement of Freight TRAN4 Creating Coherent Networks for Cycle and for Walking TRAN5 Influencing the Demand for Travel and Travel Choices ENV 1 Nature Conservation ENV 2 Historic Character and Local Distinctiveness ENV 3 Design Quality ENV 4 Canals ENV 5 Flood Risk, Sustainable Drainage Systems and Urban Heat Island ENV 7 Renewable Energy ENV 8 Air Quality WM1 Sustainable Waste and Resource Management WM3 Strategic Waste Management

Proposals and WM4 Locational Considerations for New Waste Management Facilities of the Black Country Core Strategy and Saved Policies DD1 Urban Design DD3 Design of Retail Development DD4 Development in Residential Areas DD5 Development in Industrial Areas DD9 Public Art DD10 Nature Conservation and Development NC1 Biodiversity NC6 Wildlife Species HE6 Listed Buildings HE7 Canals HE8 Archaeology and Information HE11 Archaeology and Preservation EP1 Incompatible Land Uses EP3 Water Protection and EP7 Noise Pollution of the Dudley Unitary Development Plan.

## RECOMMENDATION

It is recommended that the application be REFUSED for the following reason(s):

- 1) The proposed application site would be located within 20m of existing residential development and is likely to be close to future residential development. A significant consideration when assessing the application is policy WM4 of the Black Country Core Strategy which requires waste operations to be compatible with neighbouring uses. Similarly Saved Policy DD5 of the Dudley Unitary Development Plan requires new industrial development to safeguard the amenity and environmental quality of adjacent residential areas.

In this case the site is located close to residential properties and as such there is a likelihood that the amenity enjoyed by the occupiers of those dwellings could be adversely affected by odour associated with the proposed waste operation, and as such the site is not considered to be an appropriate location for the proposed use.

The proposed development is therefore contrary to Policy WM4 of the Black Country Core Strategy, together with Saved Policies DD4 and DD5 of the Dudley Unitary Development Plan.

### Informative

The Local Planning Authority is aware of the requirement of Paragraph 186 and 187 in the National Planning Policy Framework to work with the applicant in a positive and proactive

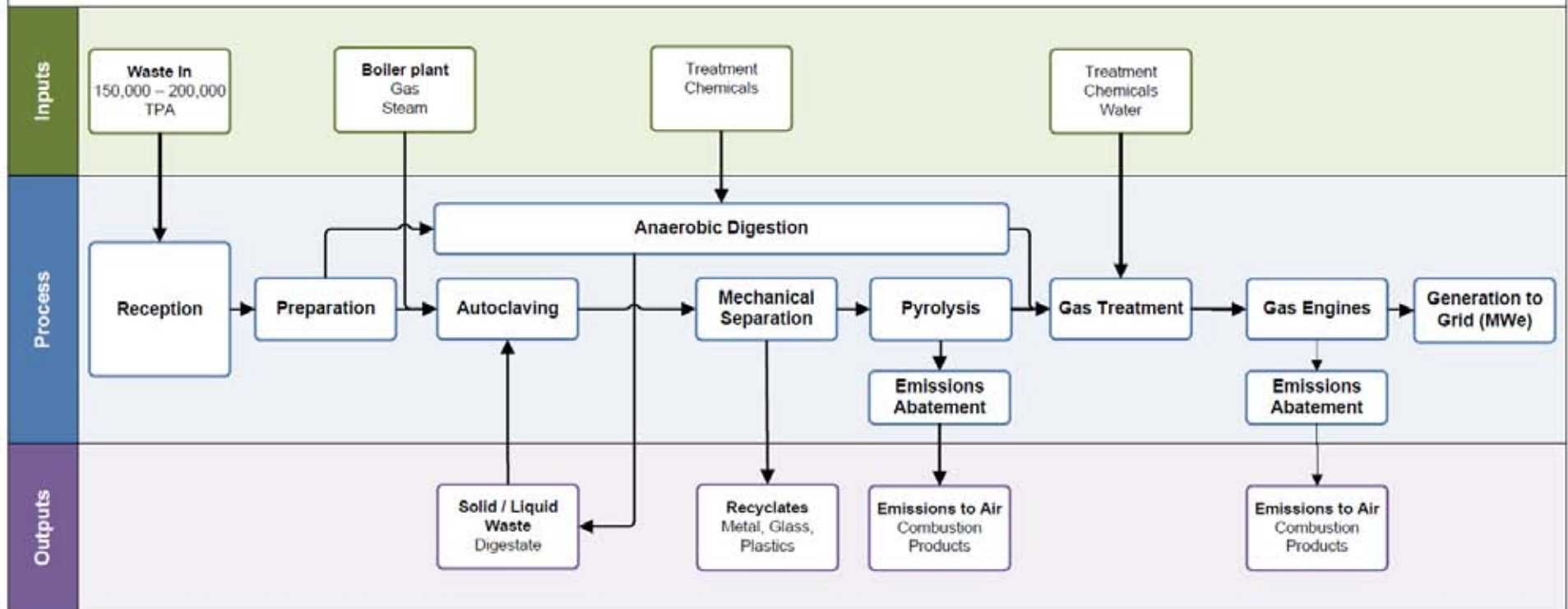
manner, seeking solutions to problems arising in relation to dealing with the application. In this case, despite receipt of amended plans and other supporting information in addition to the previous application there are insurmountable issues relating to residential amenity that have not been satisfactorily resolved to demonstrate that the scheme would result in the creation of a sustainable form of development and thereby failing to improve the economic, social and environmental conditions of the area.

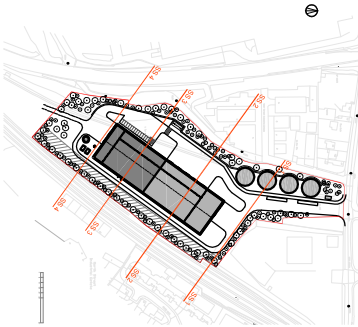
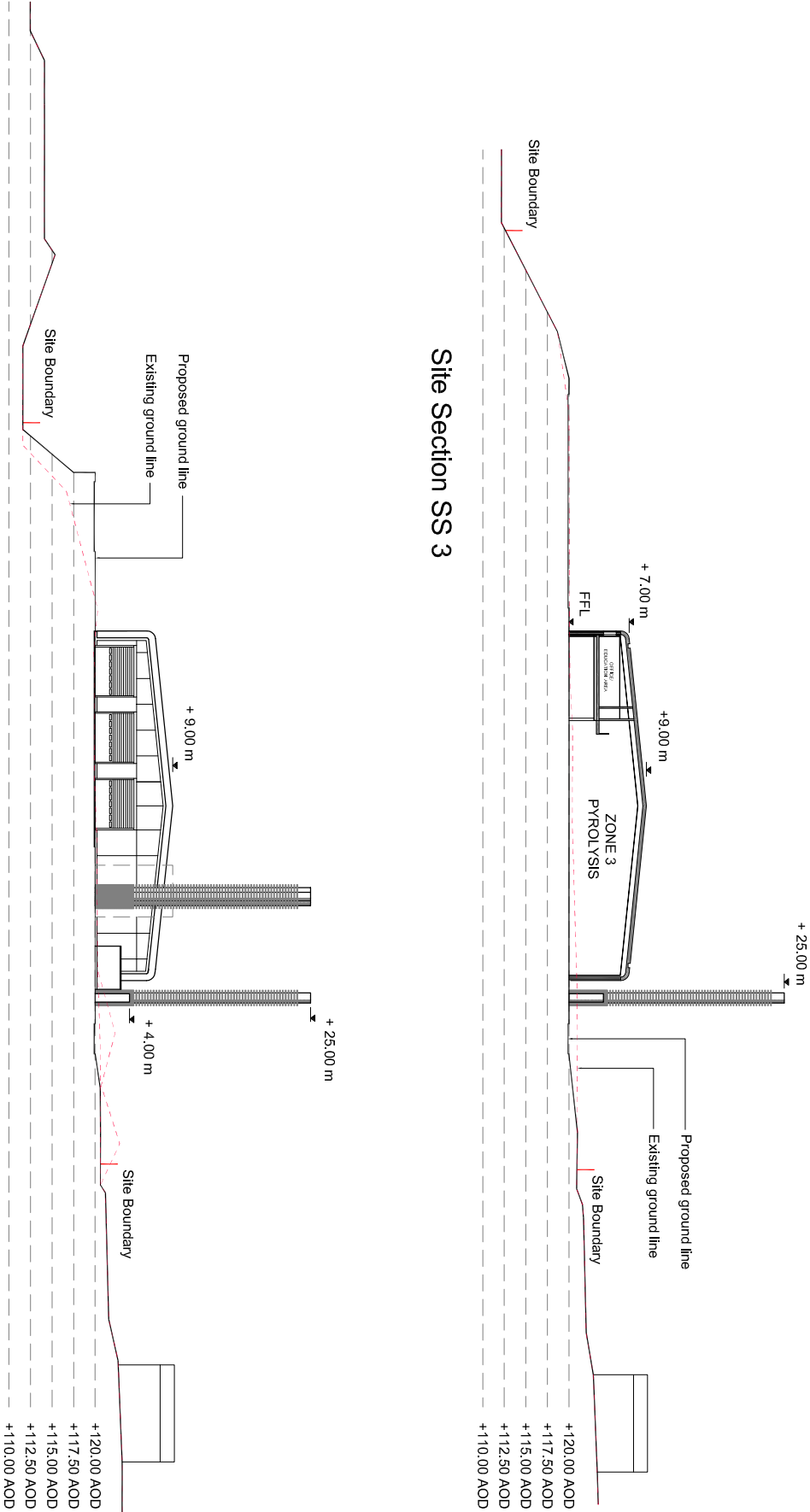
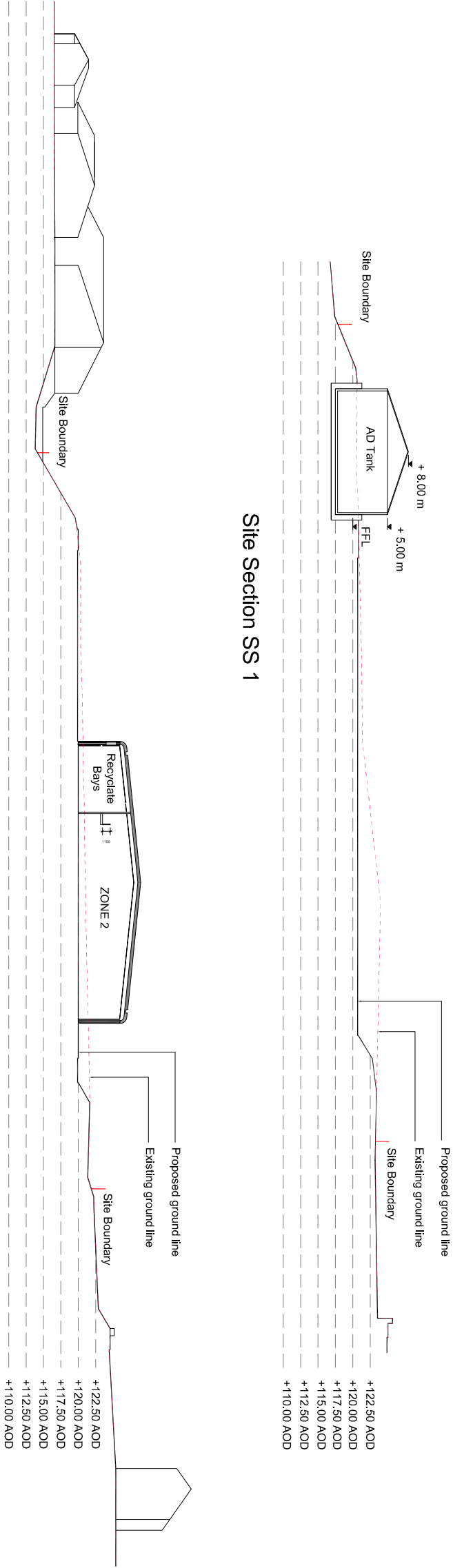
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70



# Clean Power Properties Ltd - Waste to Energy Plant Simplified Process Schematic





- Notes:
1. Do not scale from this drawing.
  2. All dimensions are in millimeters unless otherwise stated.
  3. All dimensions must be checked on site.
  4. The designer's shall be notified of any discrepancies.
  5. This drawing has been produced for sole use on this project and is not intended for use by any other person or any other purpose.
- DRAWING NOTES:**
1. For Site Section Locations, refer to Proposed Site Layout drawing CPPL-13/10-01

/ 01.07.14 PLANNING APPLICATION ISSUE.

REV	DATE	REVISION DETAILS	BY
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**PROJECT TITLE**

Advanced Conversion Technology & Anaerobic Digestion Facility, BRIERLEY HILL

**DRAWING TITLE**

Proposed Site Sections 1

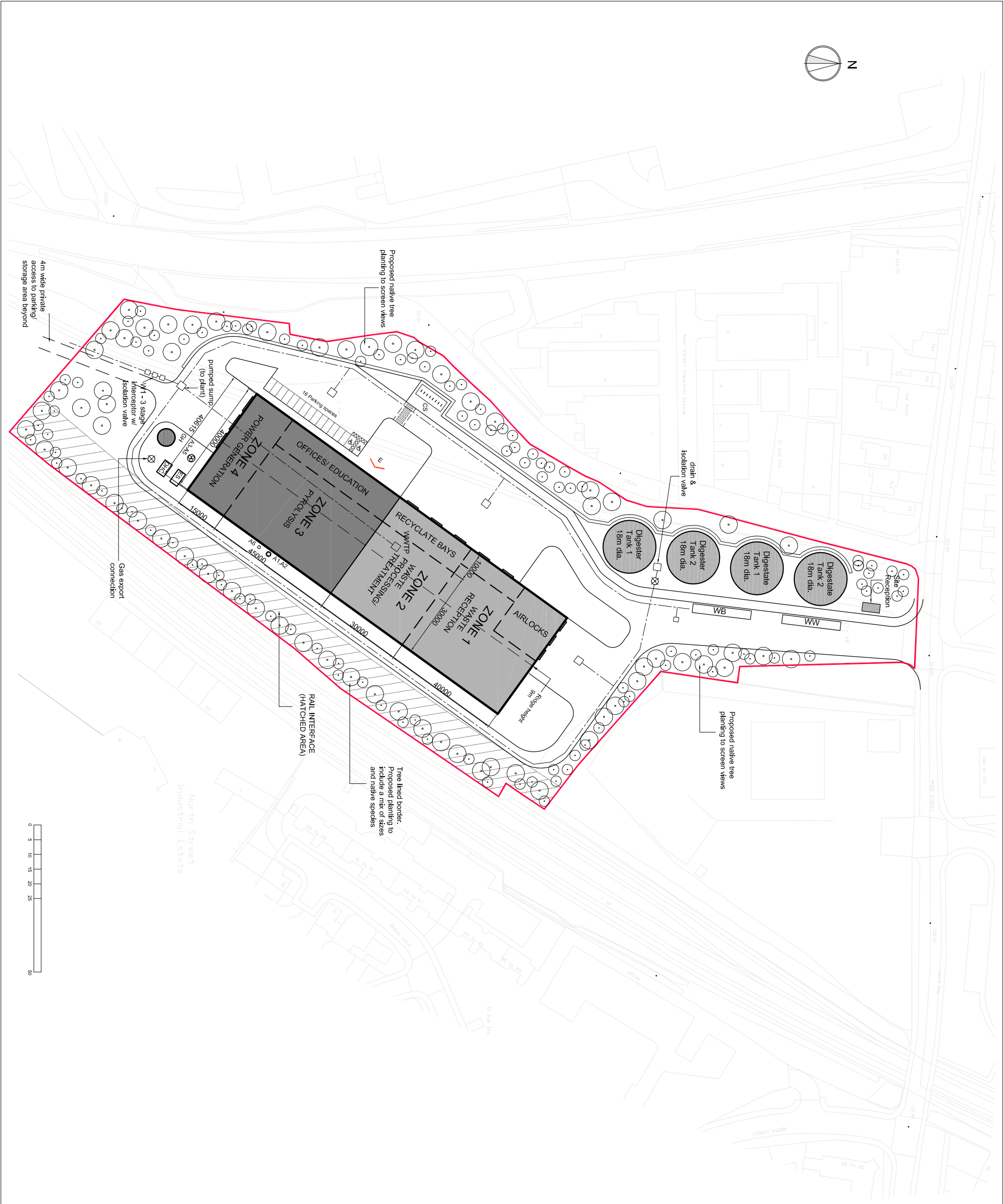
**CLIENT**

Clean Power Properties Ltd & Network Rail Infrastructure Ltd

**STATUS**

PLANNING APPLICATION

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A3	01.07.14	CPPL-13/05-05	/



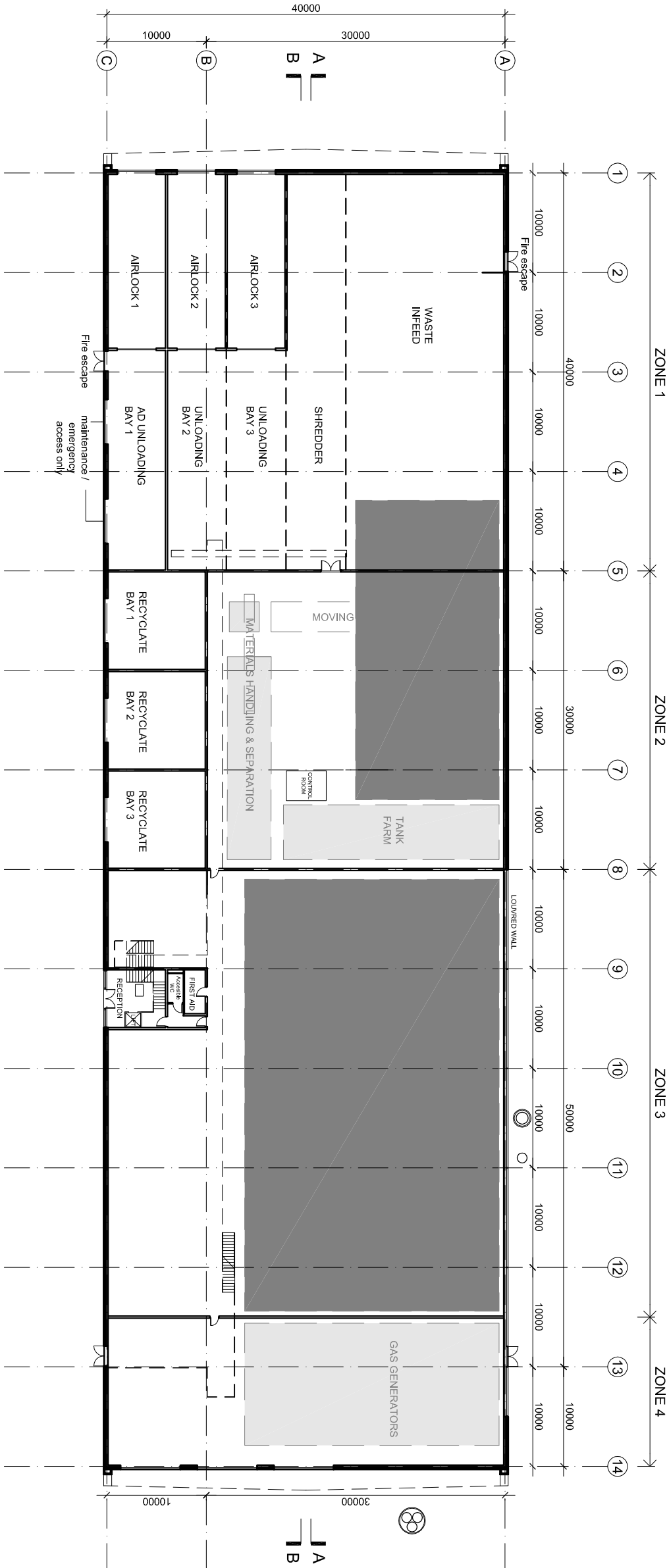
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<div><div>LEGEND:</div><div><div>WW: Wheel washing</div><div>WB: Weigh Bridge</div><div>GFS: Gas flare stack</div><div>GH: Gas holder tank</div><div>DHC: District Heating Connection</div><div>ES: Electrical Substation</div><div>CS: Cycle Store</div><div>SS 1-4: Site Section Lines</div><div>E Main Entrance</div><div>New Trees</div><div>Gas export connection</div></div></div>			<div><div>PROJECT TITLE</div><div>Advanced Conversion Technology &amp; Anaerobic Digestion Facility, BRIERLEY HILL</div><div>DRAWING TITLE</div><div>Proposed Site Layout</div><div>CLIENT</div><div>Clean Power Properties Ltd &amp; Network Rail Infrastructure Ltd</div><div>STATUS</div><div>PLANNING APPLICATION</div><div>SCALE</div><div>1:1250</div><div>AT A3</div><div>JW</div><div>CHECKED</div><div>RW</div><div>RV</div><div>DRG SIZE</div><div>A3</div><div>DATE</div><div>01.07.14</div><div>DRAWING NUMBER</div><div>CPPL-13/10-01</div><div>REV</div><div>/</div></div>		
<div><div>entran</div><div>environmental &amp; transportation</div><div>12 GREENWAY FARM, BATH ROAD, WICK, BRISTOL BS30 5RL</div><div>TEL : 0117 937 4077</div></div>			<div><div>REV</div><div>DATE</div><div>REVISION DETAILS</div><div>BY</div></div>		
<div><div>/</div><div>01.07.14</div><div>PLANNING APPLICATION ISSUE</div></div>					



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LEVEL 00



ZONE KEY	
ZONE 1	WASTE RECEPTION
ZONE 2	WASTE PROCESSING / TREATMENT
ZONE 3	PYROLYSIS
ZONE 4	POWER GENERATION

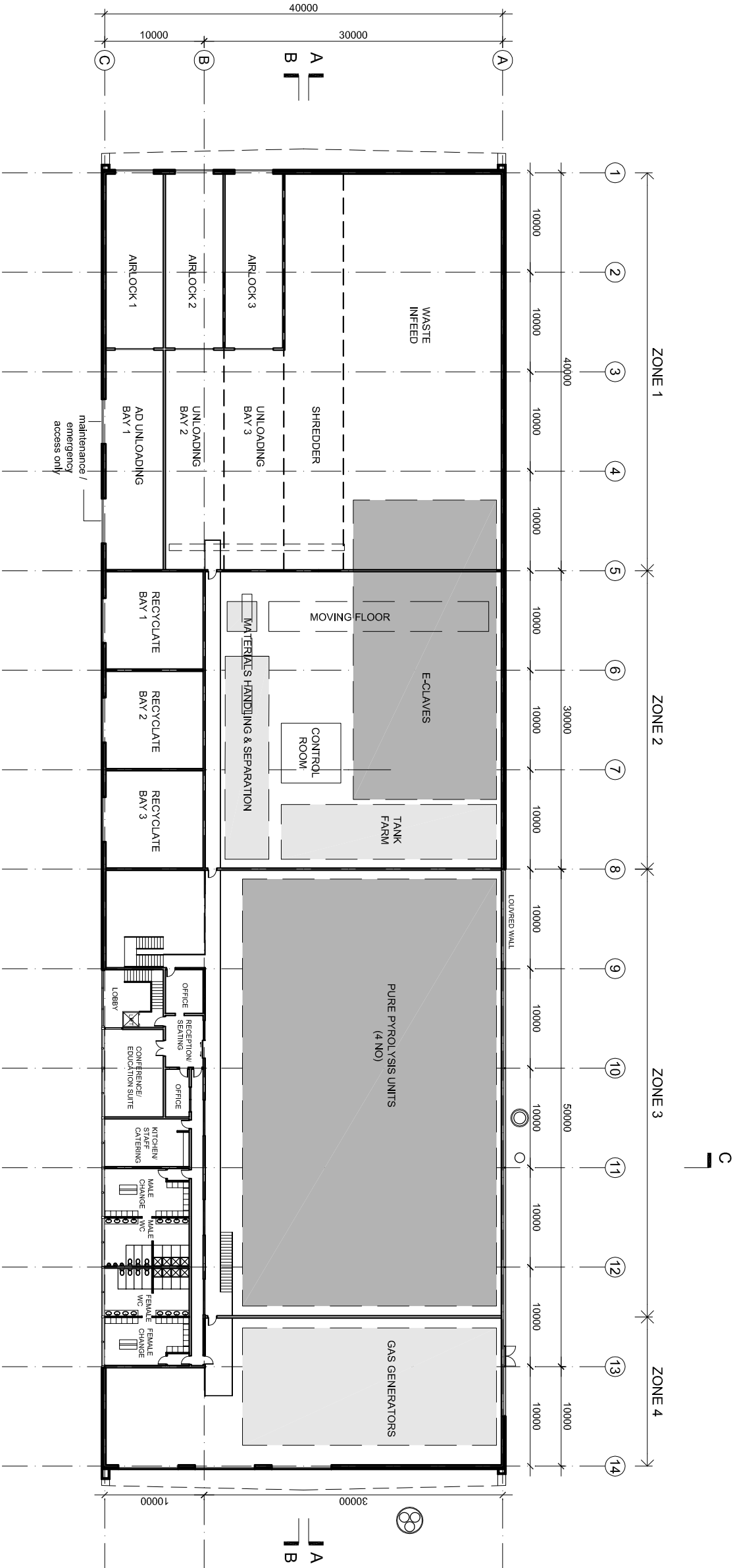
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REV	DATE	REVISION DETAILS
BY		
PROJECT TITLE		
Advanced Conversion Technology & Anaerobic Digestion Facility, BRIERLEY HILL		
DRAWING TITLE		
Proposed Floor Plan LEVEL 00		
CLIENT / ARCHITECT		
Clean Power Properties Ltd & Network Rail Infrastructure Ltd		
STATUS		
PLANNING APPLICATION		
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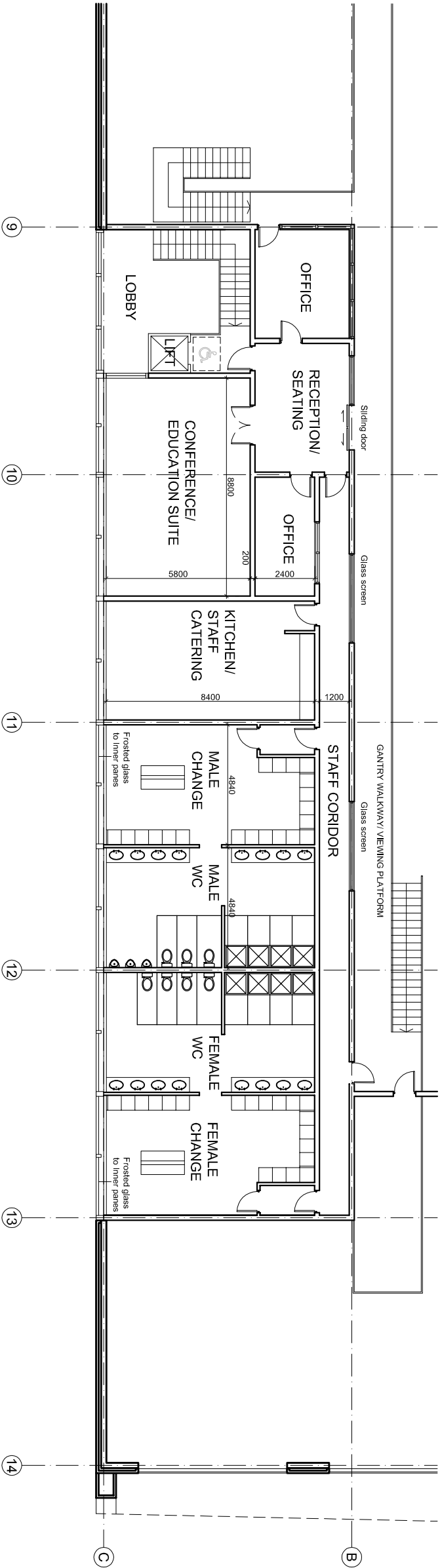


LEVEL 01

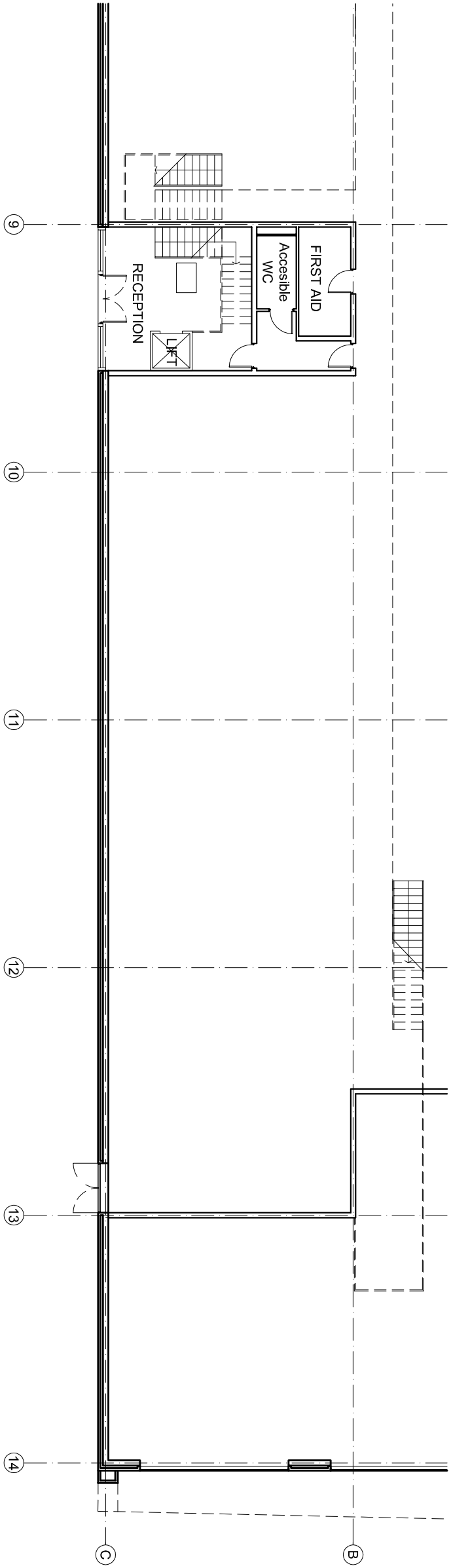
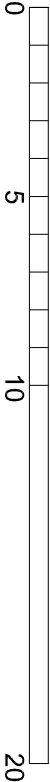
ZONE KEY	
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ZONE 2	WASTE PROCESSING / TREATMENT
ZONE 3	PYROLYSIS
ZONE 4	POWER GENERATION

PROJECT TITLE		12 GREENWAY FARM, BATH ROAD, BRISTOL, BS30 5RL TEL : 0117 937 4077	
Advanced Conversion Technology & Anaerobic Digestion Facility, BRIERLEY HILL			
DRAWING TITLE		Proposed Floor Plan LEVEL 01	
CLIENT / ARCHITECT		Clean Power Properties Ltd & Network Rail Infrastructure Ltd	
STATUS		PLANNING APPLICATION	
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LEVEL 01  
Office, Education & Staff Facilities



LEVEL 00  
Reception Lobby

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12 GREENWAY FARM, BATH ROAD,  
BRISTOL, BS30 5RL  
TEL : 0117 937 4077

PROJECT TITLE  
Advanced Conversion Technology &  
Anaerobic Digestion Facility  
BRIERLEY HILL

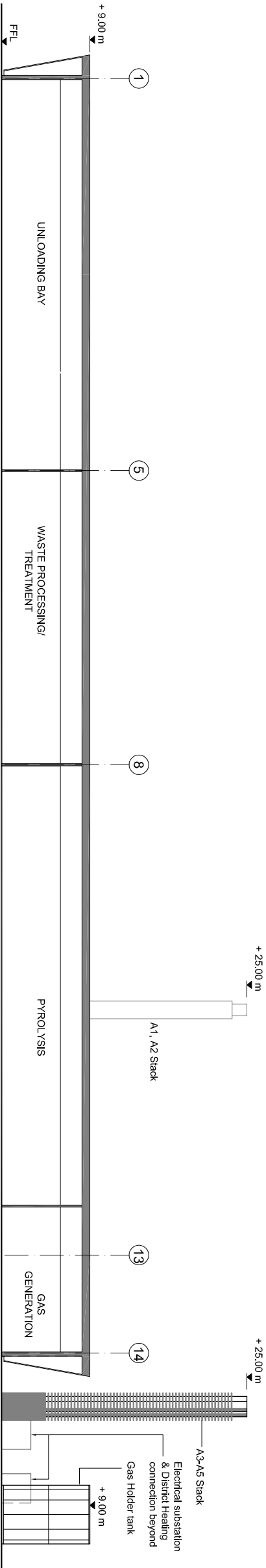
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Proposed Floor Plan Level 00 & Level 01  
Office, Education & Reception Areas

CLIENT / ARCHITECT  
Clean Power Properties Ltd &  
Network Rail Infrastructure Ltd

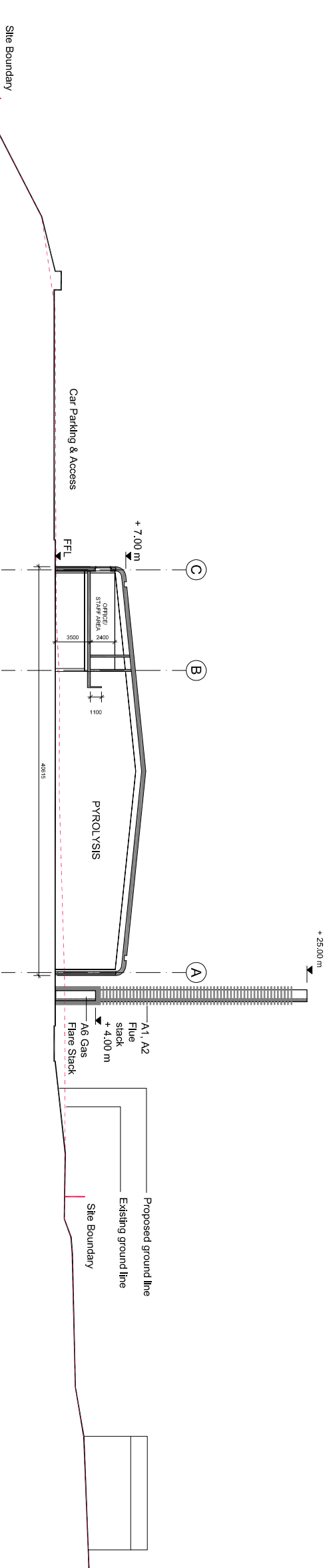
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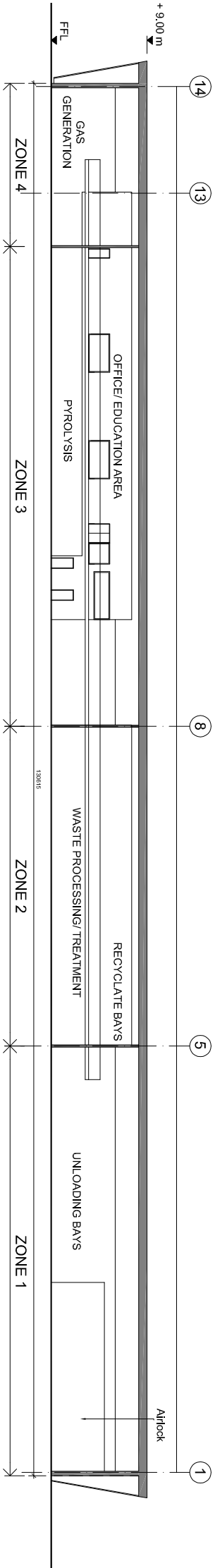
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SECTION A-A



SECTION C-C



SECTION B-B



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/ 01.07.14 PLANNING APPLICATION ISSUE.

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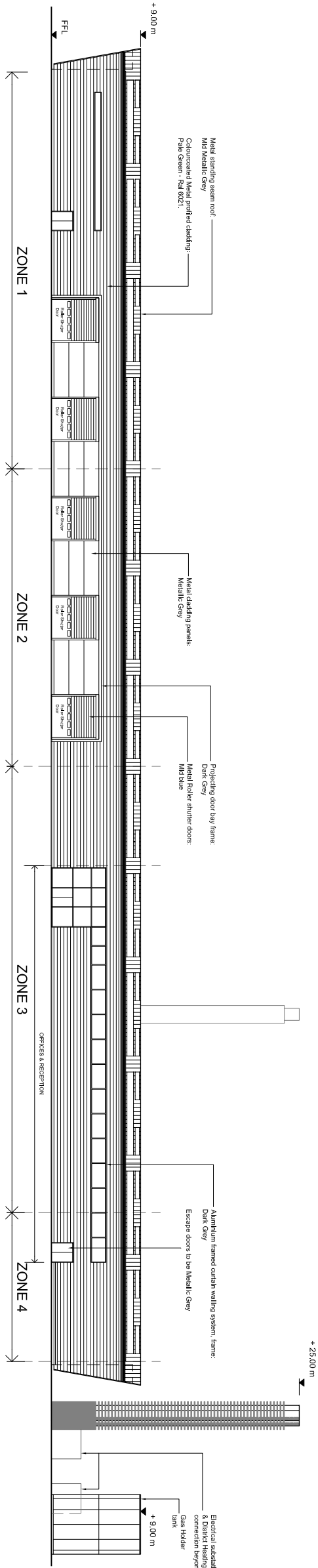
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BRIERLEY HILL

DRAWING TITLE  
Proposed Sections

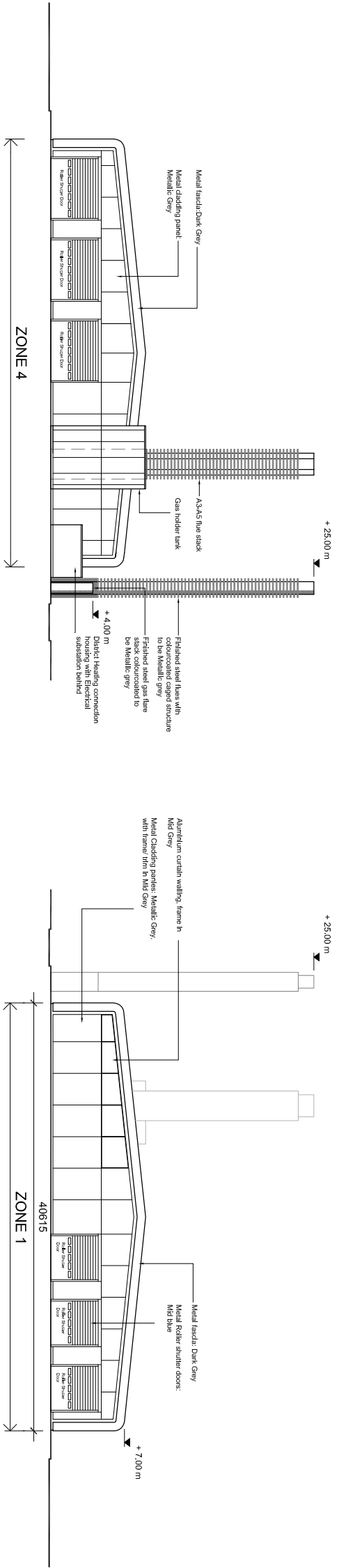
CLIENT  
Clean Power Properties Ltd &  
Network Rail Infrastructure Ltd

STATUS  
PLANNING APPLICATION

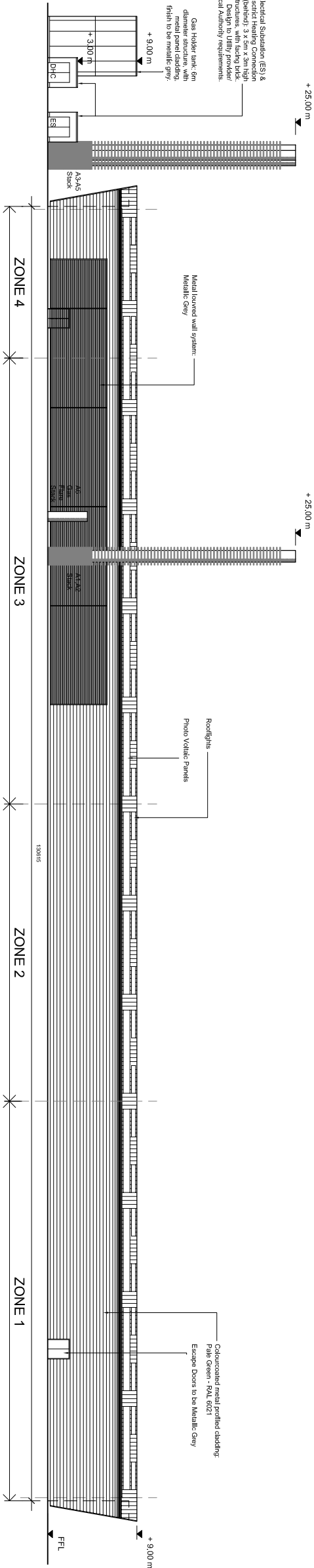
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CHECKED RW	APPROVED RW
DWG SIZE   DATE A3 01.07.14	DRAWING NUMBER CPPL-13/20-01
REV /	REV /



North West Elevation



South West Elevation



South East Elevation



- Notes:
1. Do not scale from this drawing.
  2. All dimensions are in millimeters unless otherwise stated.
  3. All dimensions must be checked on site.
  4. The designer shall be notified of any discrepancies.
  5. This drawing has been produced for sole use on this project and is not intended for use by any other person or any other purpose.
- DRAWING NOTES:
1. This drawing represents the schematic design, and is subject to detail design development.
  2. The building interior is to be kept under negative pressure to prevent odour impacts.
  3. All waste reception & deliveries will be carried out within the building.
  4. Roof lights are to maximise natural daylight within the building.

ZONE KEY	
ZONE 1	WASTE RECEPTION
ZONE 2	WASTE PROCESSING & TREATMENT
ZONE 3	PYROLYSIS
ZONE 4	POWER GENERATION

01.07.14 PLANNING APPLICATION ISSUE

REV	DATE	REVISION DETAILS	BY
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12 GREENWAY FARM, BATH ROAD  
WICK, BRISTOL, BS30 5RL  
TEL : 0117 937 4077

PROJECT TITLE  
Advanced Conversion Technology & Anaerobic Digestion Facility,  
BRIERLEY HILL

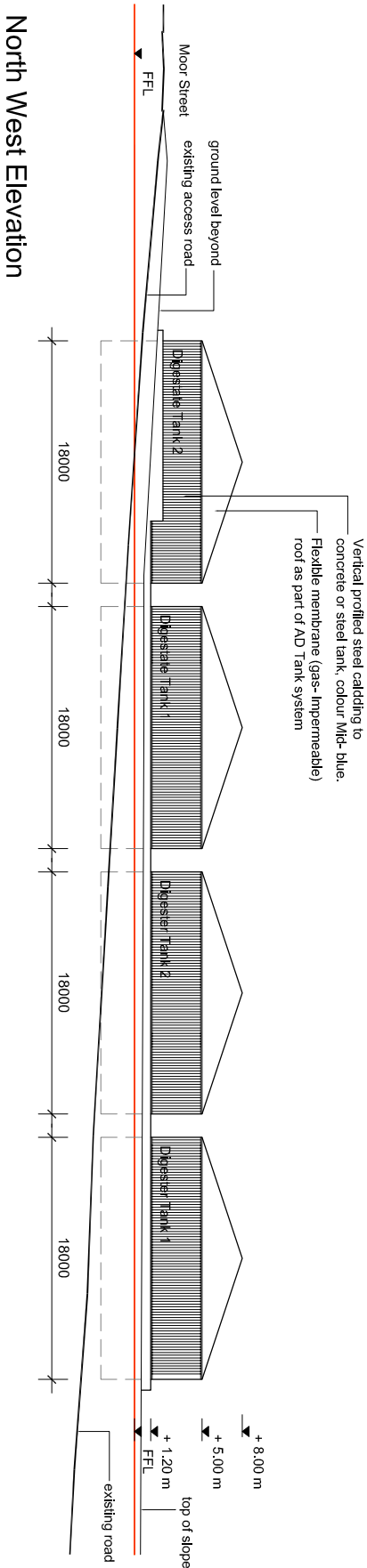
DRAWING TITLE  
Proposed Elevations 1

CLIENT  
Clean Power Properties Ltd & Network Rail Infrastructure Ltd

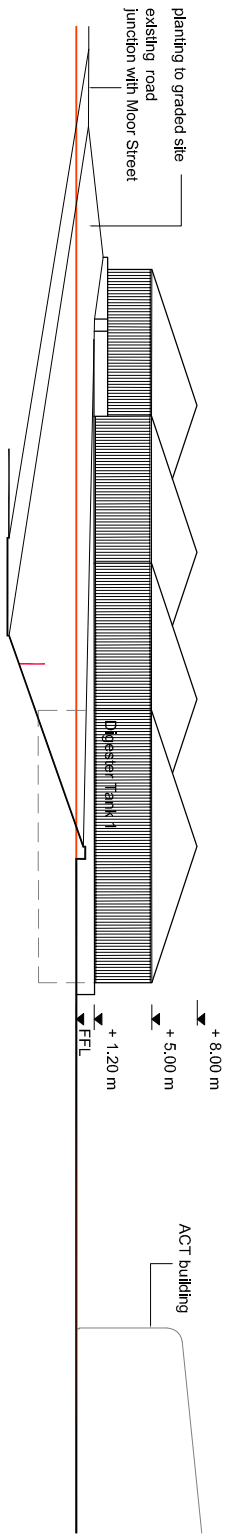
STATUS  
PLANNING APPLICATION

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A3	01.07.14	CPPL-13/30-01	/

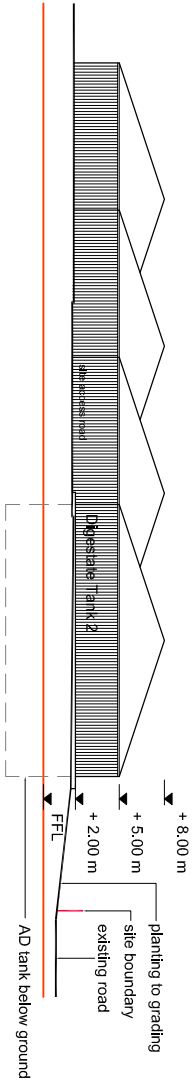




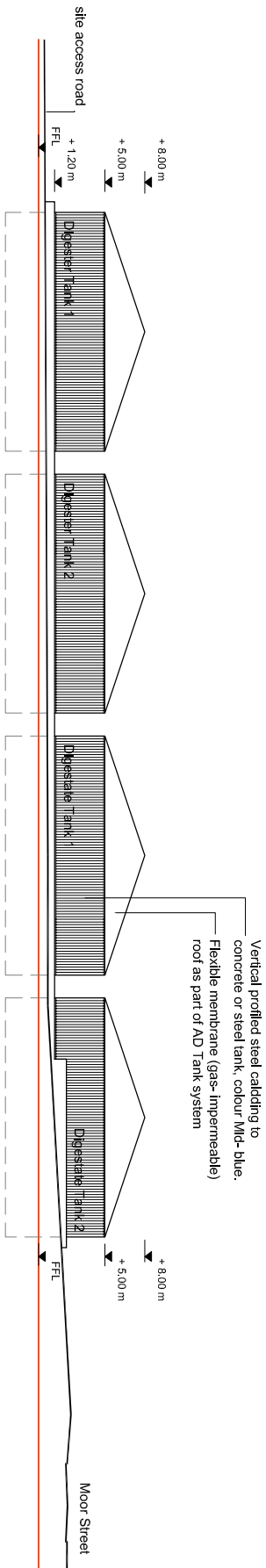
North West Elevation



South West Elevation



North East Elevation



South East Elevation



- Notes:
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  4. Roof lights are to maximise natural daylight within the building.

ZONE KEY	
ZONE 1	WASTE RECEPTION
ZONE 2	WASTE PROCESSING & TREATMENT
ZONE 3	PYROLYSIS
ZONE 4	POWER GENERATION

/ 01.07.14 PLANNING APPLICATION ISSUE

REV	DATE	REVISION DETAILS	BY
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12 GREENWAY FARM, BATH ROAD  
WICK, BRISTOL, BS30 5RL  
TEL : 0117 937 4077

PROJECT TITLE  
Advanced Conversion Technology &  
Anaerobic Digestion Facility,  
BRIERLEY HILL

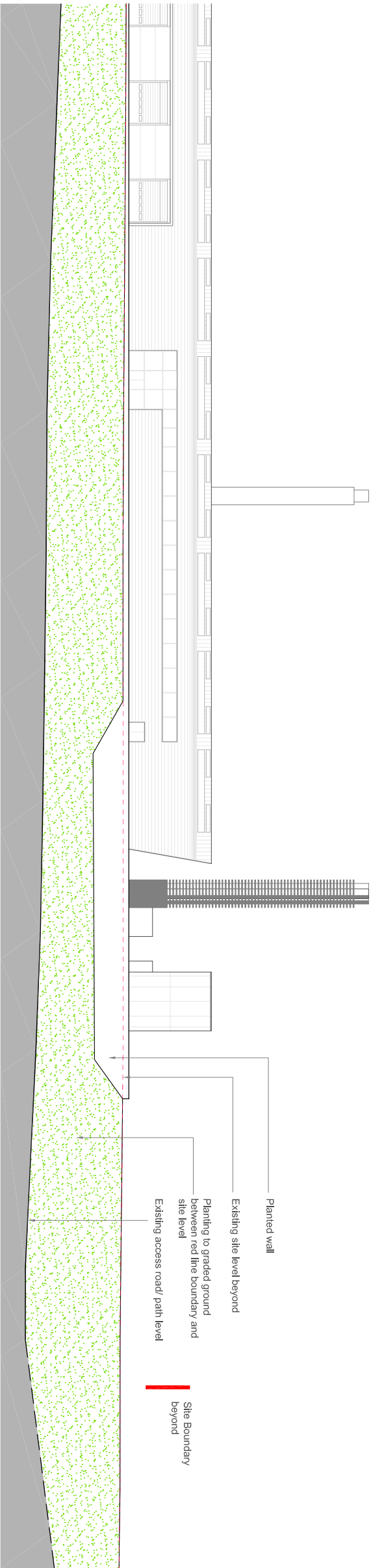
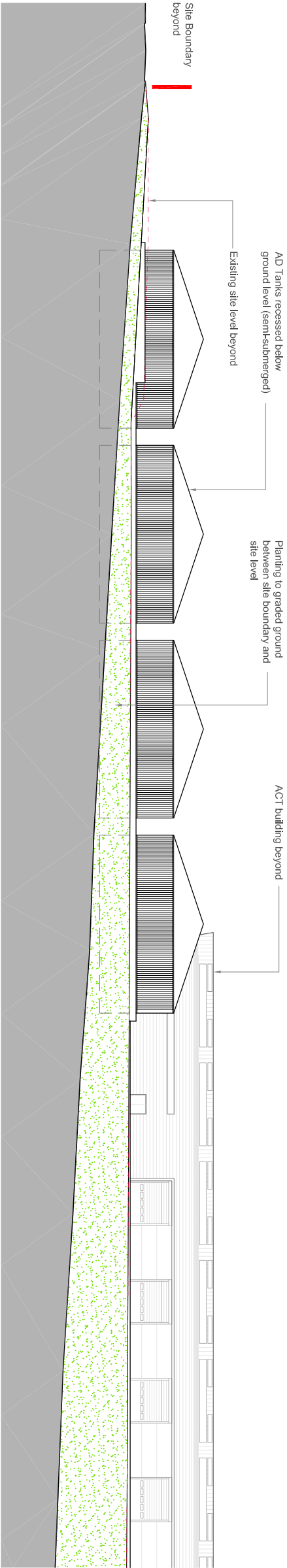
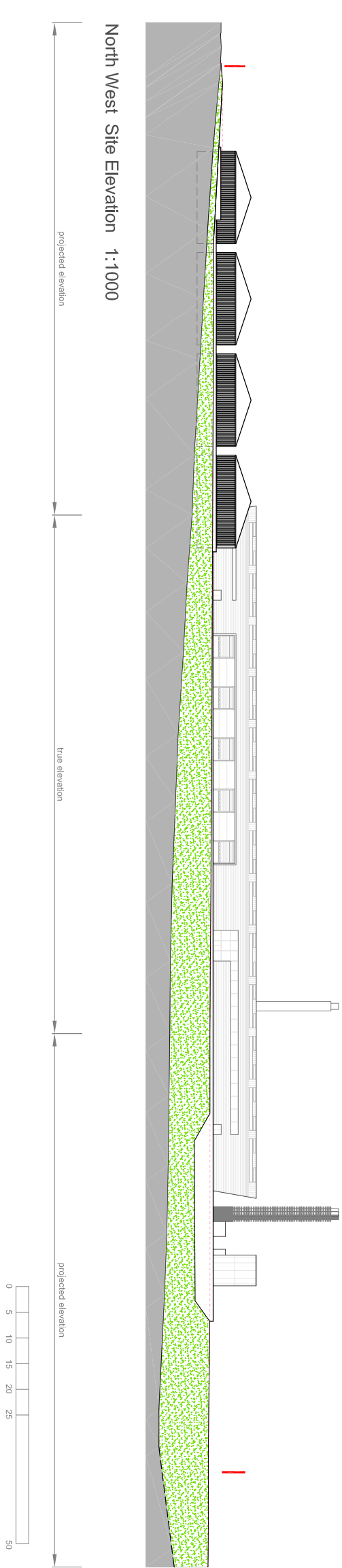
DRAWING TITLE  
Proposed Elevations 2  
Anaerobic Digestion (AD) Tanks

CLIENT  
Clean Power Properties Ltd &  
Network Rail Infrastructure Ltd

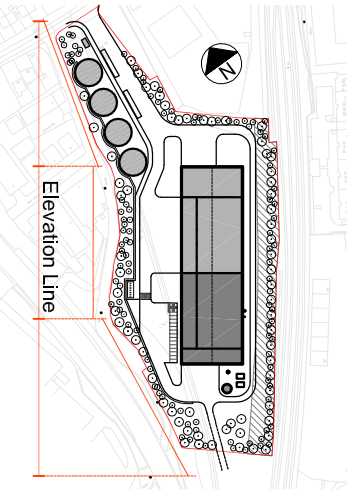
STATUS  
PLANNING APPLICATION

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CHECKED	APPROVED	
RW		RW

DRG SIZE	DATE	DRAWING NUMBER	REV
A3	01.07.14	CPPL-13/30-02	/



- Notes:
1. Do not scale from this drawing.
  2. All dimensions are in millimeters unless otherwise stated.
  3. All dimensions must be checked on site.
  4. The designers shall be notified of any discrepancies.
  5. This drawing has been produced for sole use on this project and is not intended for use by any other person or any other purpose.
- DRAWING NOTES:
1. For Site Section locations, refer to Proposed Site Layout drawing CPPL-13/10-01



/ 01.07.14 Planning Application Issue

REV	DATE	REVISION DETAILS	BY



12 GREENWAY FARM, BATH ROAD  
BRISTOL, BS30 5RL  
TEL : 0117 937 4077

PROJECT TITLE			
Advanced Conversion Technology & Anaerobic Digestion Facility, BRIERLEY HILL			
DRAWING TITLE			
Proposed Elevations 3 Site Elevation (West)			
CLIENT			
Clean Power Properties Ltd & Network Rail Infrastructure Ltd			
STATUS			
PLANNING APPLICATION			
SCALE		DRAWN	
1:1000 & 1:500		AT A3	
CHECKED		APPROVED	
RVW		RVW	
DRG SIZE	DATE	DRAWING NUMBER	REV
A3	01.07.14	CPPL-13/30-03	/

## PLANNING APPLICATION NUMBER:P14/1207

Type of approval sought	Full Planning Permission
Ward	Quarry Bank & Dudley Wood
Applicant	Mr C. SHAW
Location:	<b>1, COXCROFT AVENUE, QUARRY BANK, BRIERLEY HILL, DY5 2ED</b>
Proposal	<b>ERECTION OF 1 NO. DWELLING AND GARAGE</b>
Recommendation Summary:	<b>APPROVE SUBJECT TO CONDITIONS</b>

### SITE AND SURROUNDINGS

1. The application site is the triangular-shaped side and rear garden area of no.1 Coxcroft Avenue, a 1980's semi-detached house located at the end of a cul-de-sac. Coxcroft Avenue is characterised by similarly-styled two storey semi-detached houses, the houses on the same side of the road as the site being set along a staggered build line. There are a number of mature trees and hedges along the southern (side) and western (rear) boundaries. The site is at an elevated level above the gardens of houses on Bickon Drive to the south, there being a 2m drop in levels from the northern end to the southern end of the site. To the west are houses and an apartment block on Thorns Road which are at a higher level than the site.

### PROPOSAL

2. Permission is sought to erect a 3-bedroom detached house at the site with an attached garage. Access to the property will be via a newly-created driveway at the end of the cul-de-sac. The development would have an irregular-shaped rear/side garden, 8m long at its longest point and 21m at its widest. The first floor accommodation is to be provided in the roof space of the building, with box dormers on the front and rear elevations.

## PLANNING HISTORY

3.

APPLICATION	PROPOSAL	DECISION	DATE
P08/0575	Erection of One pair of 3no. Semi-Detached Dwellings with Associated Access and Parking	Refused	February '09
P10/0472	Erection of 1 no.Dwelling	Approved with Conditions	June 2010

4. Application P08/0575 was refused on the grounds that the proposed development would have an adverse effect on the amenities of the occupants of properties on Bickon Drive by reason of loss of outlook resulting from the elevated position of the proposed development and its close proximity to the site boundary, contrary to Policy DD4 of the UDP. A subsequent appeal was dismissed. The Inspector concurred with the Council's reason for refusal, and was also of the opinion that the development would appear out of place in its surroundings and would lead to a loss of outlook and privacy at the properties to the rear on Thorns Road.
5. The proposed development is identical to approved application P10/0472.

## PUBLIC CONSULTATION

6. Neighbour notification letters have been sent to 25 properties. Four letters have been received, objecting to the development on the grounds that the development will result in a loss of daylight and that the removal of trees at the site will result in overlooking of adjoining properties and loss of privacy.

## OTHER CONSULTATION

7. Group Engineer (Development): No objection.

Head of Environmental Health: No objection.

## RELEVANT PLANNING POLICY

### 8. National Planning Policy

National Planning Policy Framework (NPPF) 2012

Black Country Core Strategy 2011

Policy HOU2 (Housing Density, Type and Accessibility)

Saved 2005 UDP Policies

Policy DD1 (Urban Design)

Policy DD4 (Development in Residential Areas)

Supplementary Planning Documents

New Housing Development SPD 2012

Parking Standards SPD 2012

## ASSESSMENT

### 9. Key Issues

- Principle of the development;
- Impact on the character and appearance of the area;
- Residential amenity;
- Parking provision.

Principle

10. In assessing this application it is important to note that permission was previously granted for an identical development to that now proposed. In national planning policy terms the NPPF (introduced in 2012) states that local planning authorities should consider the case for setting out policies to resist inappropriate development of residential gardens, for example where development would cause harm to the

local area. The fact that the proposal involves the development of a garden is not necessarily a reason for refusal in itself, provided that the development makes a positive contribution to the character of the area.

11. The NPPF also advises that housing applications should be considered in the context of a presumption in favour of sustainable development. Given that the site is within an established urban setting there is, in principle, national policy support for the type of development proposed, subject to the development being appropriate to the context of the area.

### Character

12. Policy HOU2 of the Core Strategy requires that new housing developments should be of high quality design. Saved Policy DD1 requires that developments should make a positive contribution to the appearance of an area. Policy DD4 of the UDP seeks to ensure that residential development will be allowed where there would be no adverse effect on the character of the area. The design and scale of the building proposed would be similar to existing properties within the cul-de-sac and is therefore considered to be acceptable. The total garden area to be provided is approximately 130 square metres, which exceeds the 65 sq m guideline amount set out in the New Housing Development SPD for 3-bedroom houses and is of a similar size to gardens in the vicinity at adjacent properties. It is considered that the development provides sufficient private amenity space for the future occupants of the house.

### Residential Amenity

13. The side elevation of the proposed building would be approximately 20m from the rear windows of the nearest properties on Bickon Drive, which is 6m in excess of the guideline set out in the New Housing Development SPD for distance between existing windows and gable walls of new houses. Even allowing for the change in levels between the houses on Bickon Drive and the area of the site where the proposed building is to be located, it is not considered that the development would

have any harmful impact on outlook. There are no habitable room windows on the side elevation facing Bickon Drive and as such no loss of privacy will occur.

14. With regard to the impact on properties on Thorns Road, there is only one habitable room window on the rear elevation at first floor - this window would be sited close to the site's northern boundary, and would overlook the rear parking court of a flatted development on Thorns Road rather than the houses. The distance between this window and the rear windows of the flats would be 20m, 2m below the guideline set out in the New Housing Development SPD for distances between new and existing dwellings. Given that the properties on Thorns Road are at a higher level than the site, and the existing trees along the boundary are to be retained, it is not considered that the development would result in a loss of privacy to the occupants of the flats. The distance separation between the proposed building and the nearest house on Thorns Road (no.27) would be 22m, in accordance with SPD guidance.
15. In view of the above it is considered that the development accords with Saved UDP Policy DD4 in that it would not have any adverse impact on residential amenity.

#### Parking provision

16. Policy DD4 also requires that new developments should not have any harmful effect on highway safety. The Parking Standards SPD requires the provision of 3 parking spaces for a 3-bed dwelling, which in this case can be accommodated within the proposed garage and driveway. As such the development will not result in on-street parking.

## CONCLUSION

17. The proposed development would not have any adverse effect on the amenities of the occupants of existing nearby properties, the character of the area or highway safety. As such the proposal does not contravene UDP Policy DD4.

## RECOMMENDATION

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

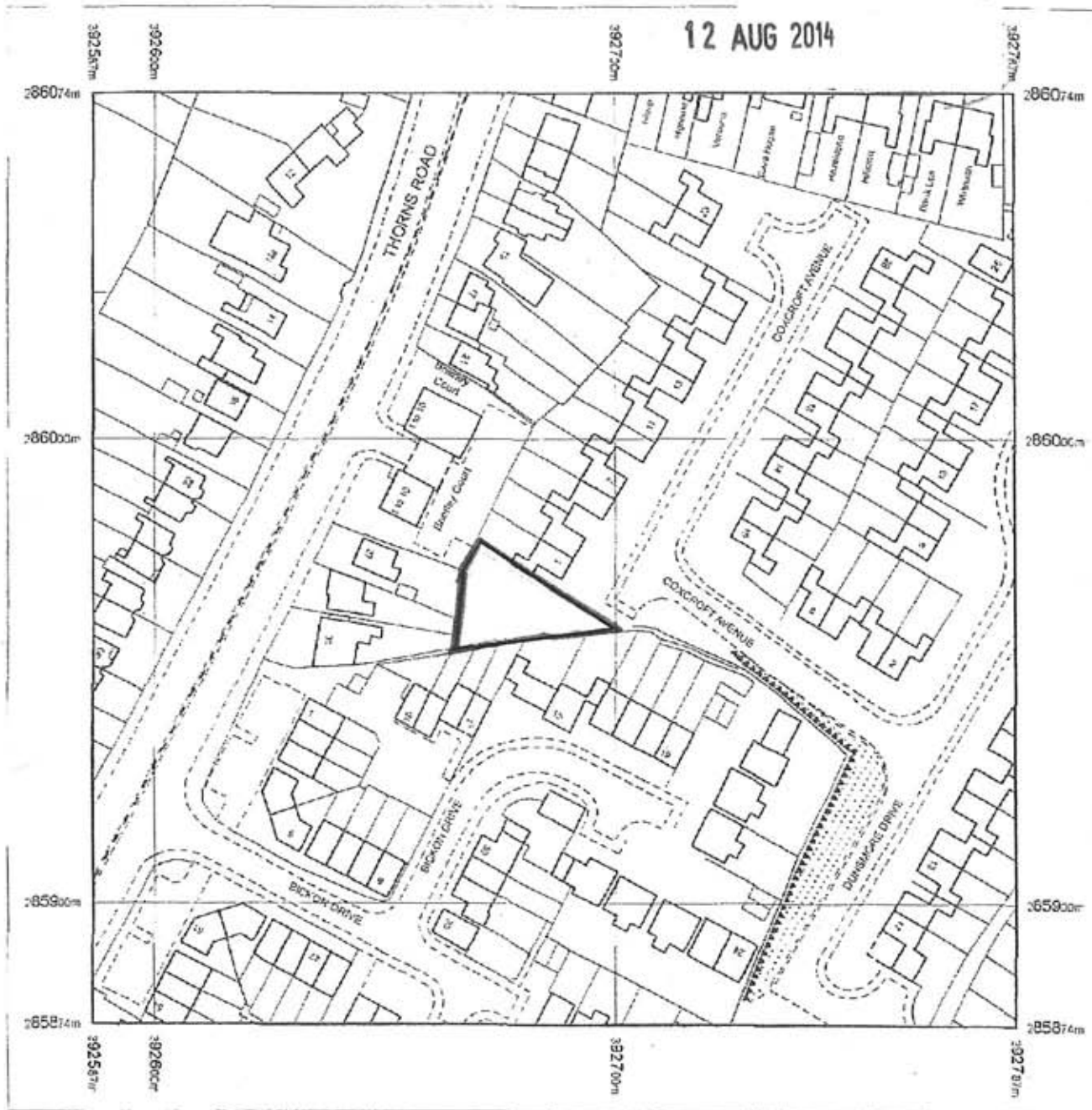
### APPROVAL STATEMENT INFORMATIVE

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

### Conditions and/or reasons:

1. The development hereby permitted shall be begun before the expiration of three years from the date of this permission.
2. Prior to the commencement of development details of the proposed levels of the site (including finished floor levels), which should be related to those of adjoining land and highways, shall be submitted to and approved in writing by the Local Planning Authority. The development shall proceed in accordance with the approved levels.
3. Prior to the commencement of development, details of the types, colours and textures of the materials to be used on the external surfaces of the buildings hereby approved shall be submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in complete accordance with the approved details.
4. Prior to the commencement of development details of the boundary treatments, including retaining walls, to be installed on the whole site shall be submitted to and approved in writing by the Local Planning Authority. The development shall proceed in accordance with the approved details, which shall be installed on site prior to occupation and thereafter maintained for the lifetime of the development unless otherwise agreed in writing by the Local Planning Authority.
5. For the avoidance of doubt this permission relates to plan drawing nos 2,3,4 and 5.





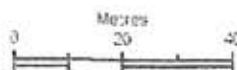
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The representation of a road track or path is no evidence of a right of way

The representation of features as lines is no evidence of a property boundary



Scale 1:1250

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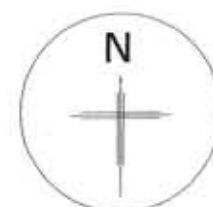
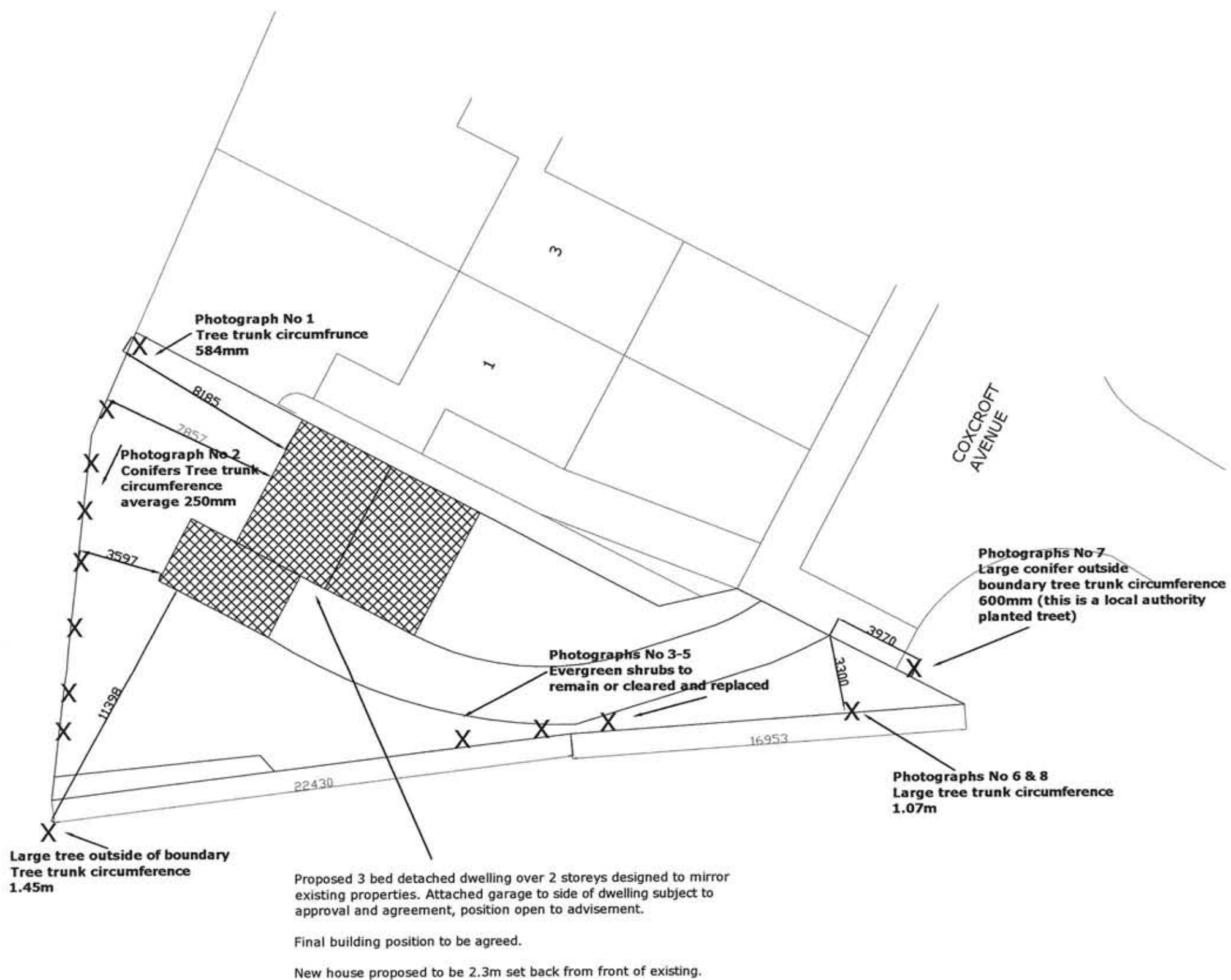
Client:  
Messrs. Carl and  
Colin Shaw

Date:  
18/03/2008

Site Address:  
1 Coxcroft Avenue  
Quarry Bank  
Brierley Hill

Org No:

**01**



Site Address:  
1 Coxcroft Avenue  
Quarry Bank  
Brierley Hill

Date:  
14/10/2014

Drawn by:  
R Hayward

Drg No:  
**5**

Project title:  
Proposed  
development a  
single 3 bed  
detached house and  
garage

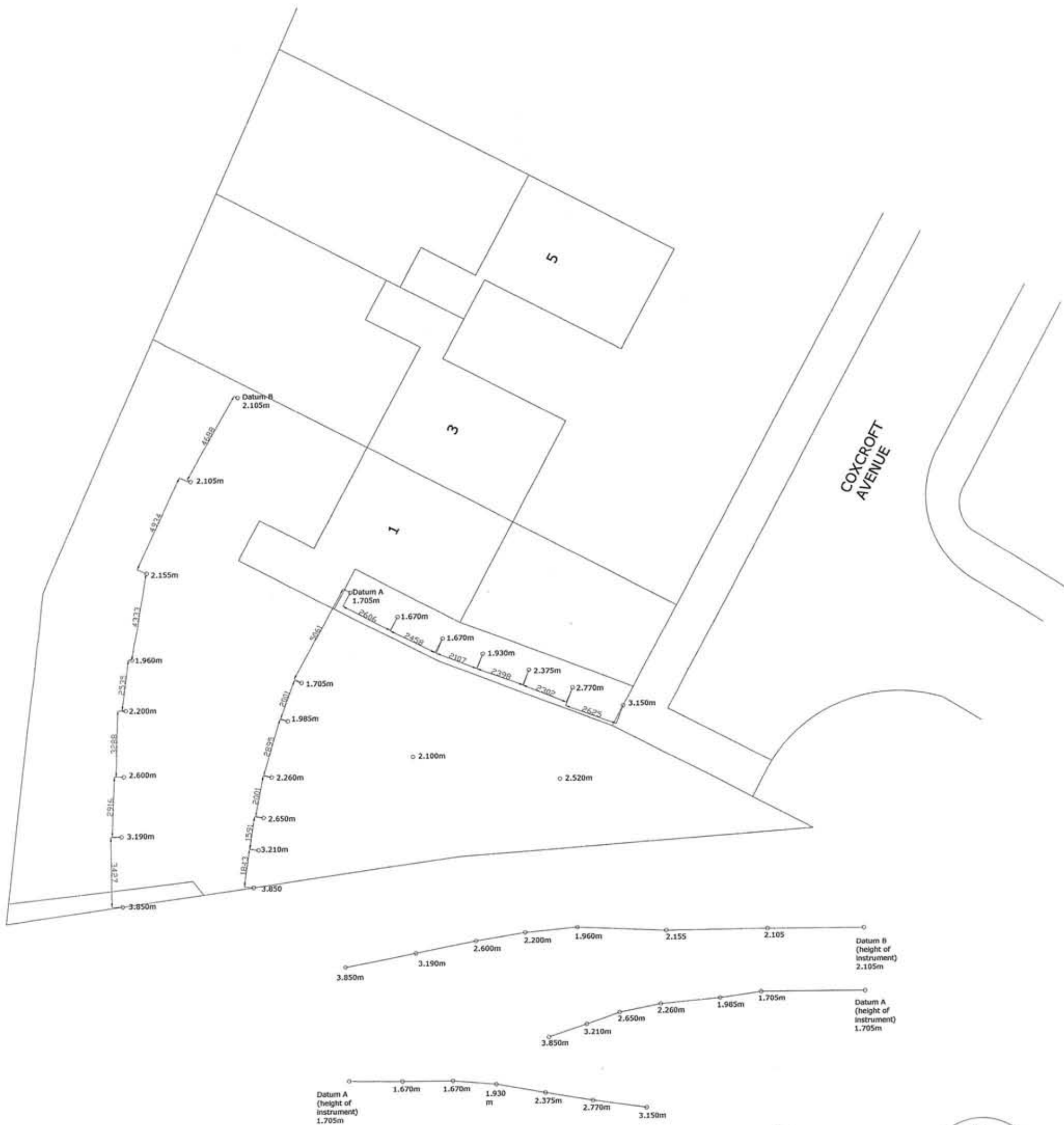
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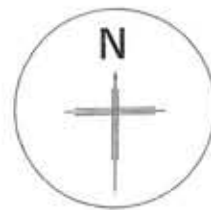
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Surveyors House  
32 Bramble Close  
Cradley Heath  
West Midlands  
B64 5QQ

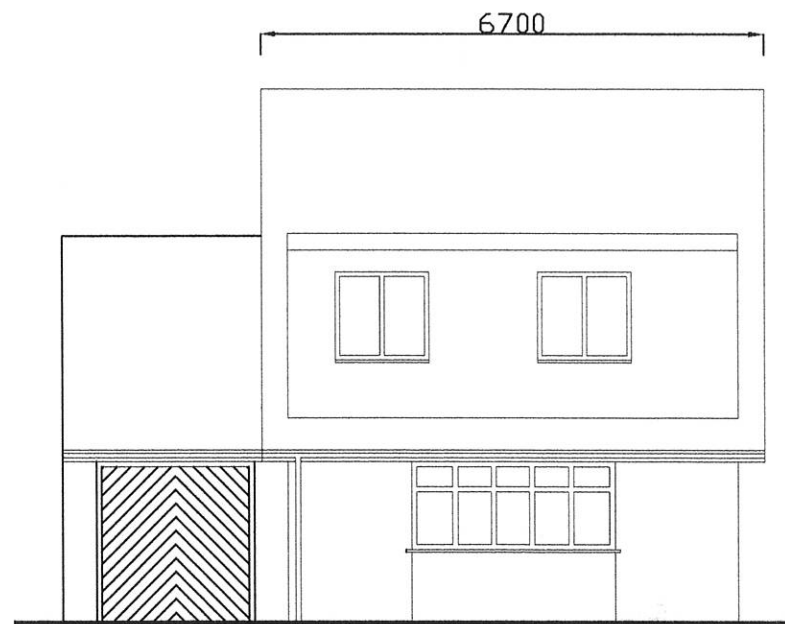
Client:  
Mr Colin Shaw



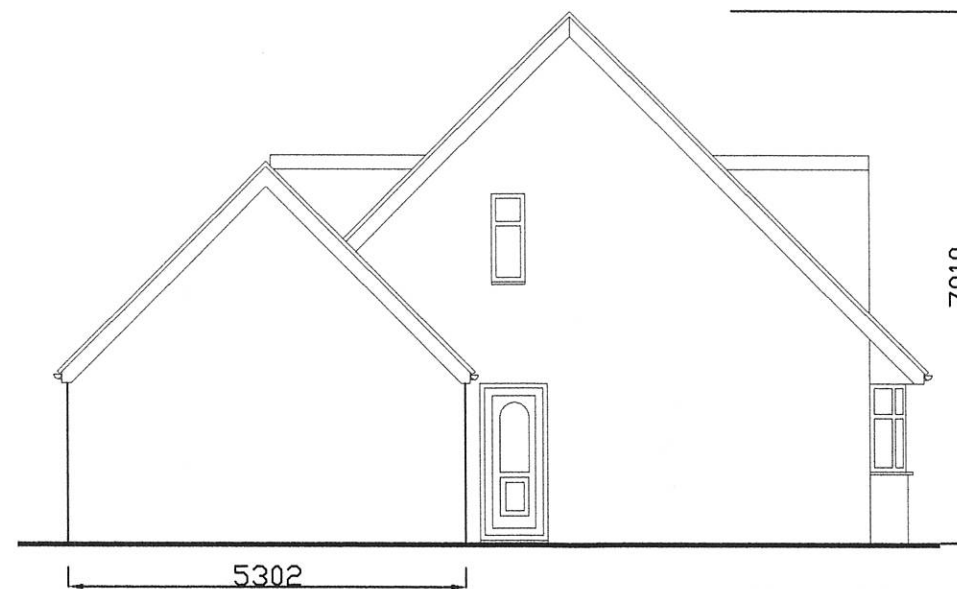
12 AUG 2014



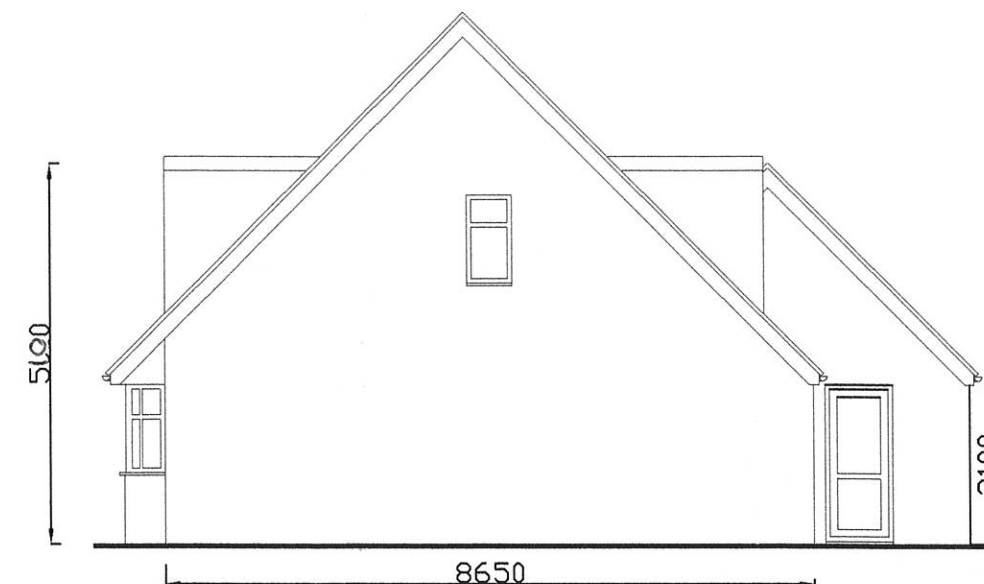
Site Address: 1 Coxcroft Avenue Quarry Bank Brierley Hill  Client: Messrs. Carl and Colin Shaw	Date: 18/03/2008  Drawn by: R Hayward	Drg No:  <b>04</b>	Project title: Proposed development of 1No 2 storey, 3 bed house.	Drg Title: Existing site Layout with ground levels.  Scale:1:200	Copyright, R Hayward, Not to be reproduced without permission	Hayward Building Consultancy Ltd.  Surveyors House 32 Bramble Close Cradley Heath West Midlands B64 5QQ
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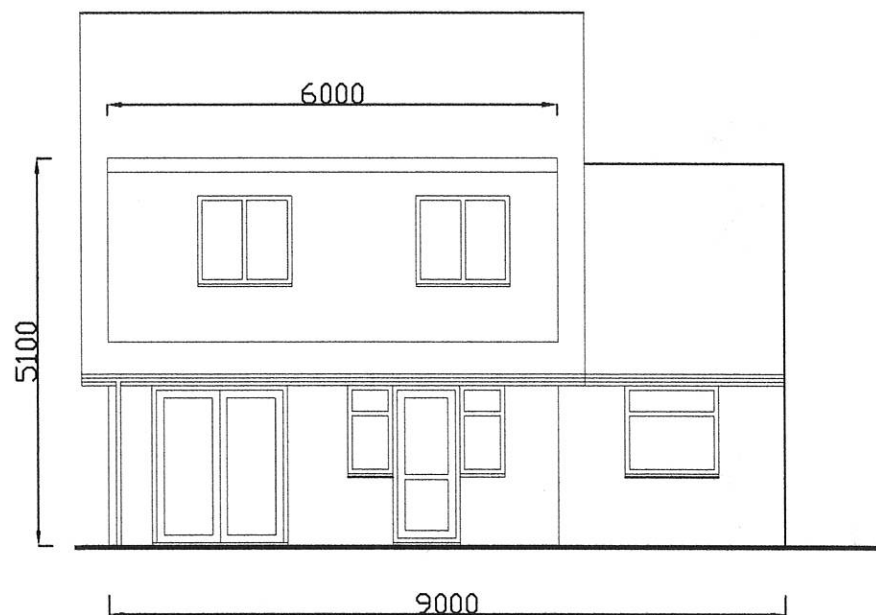
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ELEVATIONS



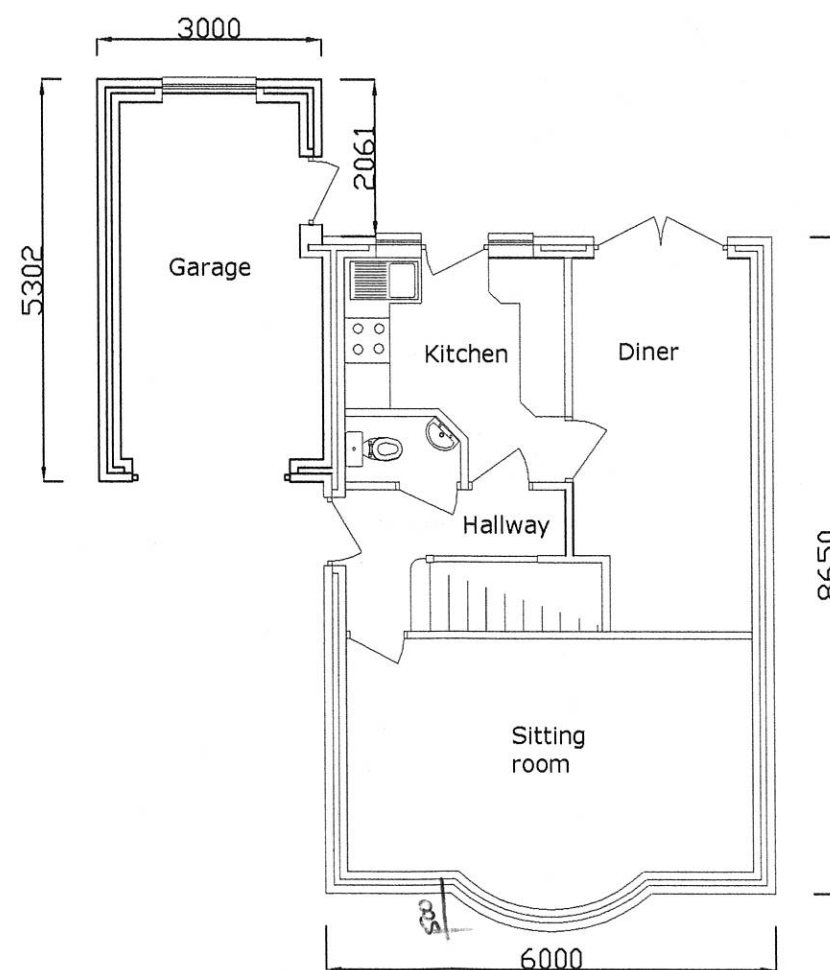
PROPOSED SIDE  
ELEVATION



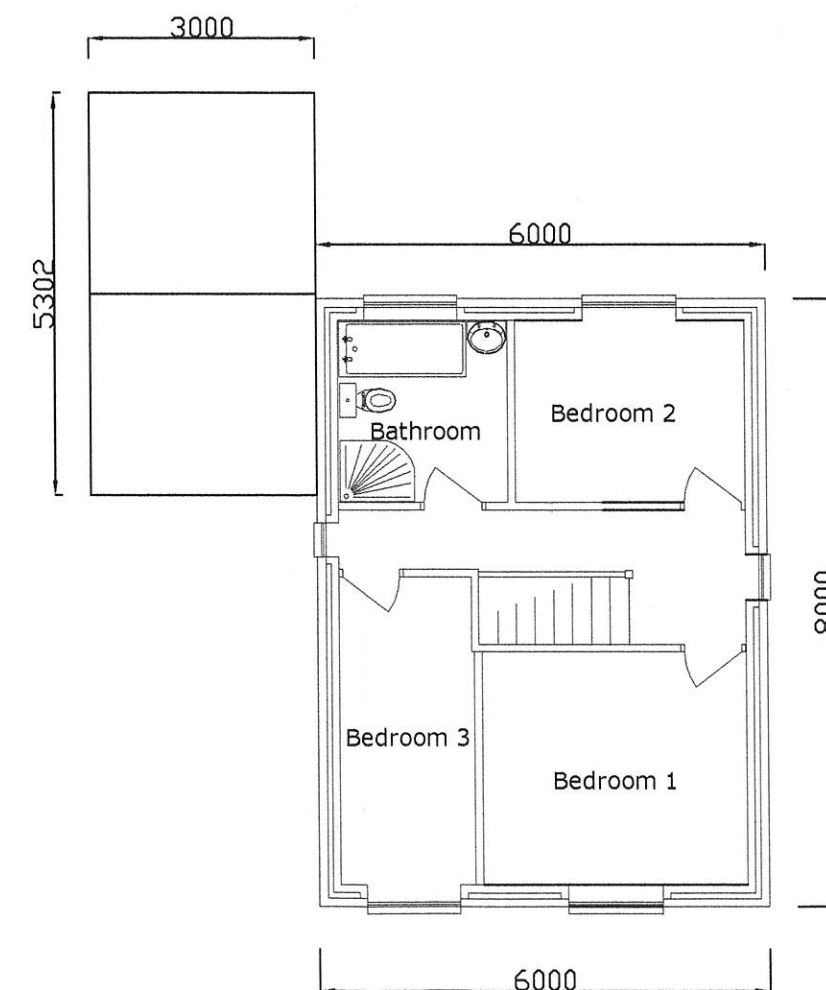
PROPOSED SIDE  
ELEVATION



PROPOSED REAR  
ELEVATIONS



PROPOSED GROUND  
FLOOR LAYOUT



PROPOSED 1st floor  
layout


Site Address: Adjacent No 1 Coxcroft Avenue, Quarry Bank, Brierley Hill Client: Mr Colin Shaw	Project title: Proposed development of one 3 bed getached house	Drawn by: R Hayward Drg No: <b>03</b> Revised	Date: 13/10/2014 Scale:1:100	Drg Title: Proposed elevations and floor layout (revised) Copyright, R Hayward, Not to be reproduced without permission	32 Bramble Close Cradley Heath West Midlands B64 5QQ
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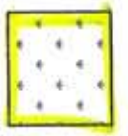


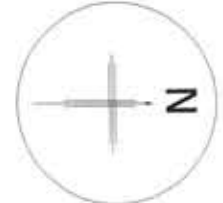
12 AUG 2014



**Legend**

 **House location proposed**

 **front soft landscaping**



Site Address: 1 Coxcroft Avenue Quarry Bank Brierley Hill	Date: 12/01/2010	Dwg No:	Project title: Proposed development of 1No 2 storey, 3 bed house.	Dwg Title: Proposed site layout	Scale: 1:200	Copyright, R Hayward, not to be reproduced without permission	Hayward Building Consultancy Ltd. Surveyors House 32 Bramble Close Cradley Heath West Midlands B64 5QQ
Client: Messrs. Carl and Colin Shaw	Drawn by: R Hayward	02					

## PLANNING APPLICATION NUMBER:P14/1483

Type of approval sought	Full Planning Permission
Ward	Sedgley
Applicant	I TURNER
Location:	<b>233, WOLVERHAMPTON ROAD, SEDGLEY, DUDLEY, WEST MIDLANDS, DY3 1QR</b>
Proposal	<b>ERECTION OF A DETACHED DOUBLE GARAGE IN FRONT GARDEN</b>
Recommendation Summary:	<b>APPROVE SUBJECT TO CONDITIONS</b>

### SITE AND SURROUNDINGS

1. The application property is a late 1980's era detached property set within a line of similar properties accessed via an access drive from Wolverhampton Road. The property is set back approx 22m from Wolverhampton Road to allow for the driveway and front parking area and there is a line of relatively dense tree coverage along the boundary with Wolverhampton Road that obscures the row of properties from view.
2. At the front of the property there is a parking area immediately in front of the dwelling, a private drive that gives access to the neighbouring property 235 Wolverhampton Road and a gravelled area between the private drive and the line of trees adjoining Wolverhampton Road.
3. Within the grounds of the neighbouring property, 235 Wolverhampton Road, there is a detached garage located within the front parking/amenity area of the property.

## PROPOSAL

4. Permission is sought for a detached garage measuring 6.2m wide by 6.1m long and sited at the front of the property within the existing gravelled area and behind the hedge adjacent to Wolverhampton Road.

## HISTORY

5.

APPLICATION No.	PROPOSAL	DECISION	DATE
88/52581	Erection of 3no 4 bed detached houses	Granted	09/02/89

## PUBLIC CONSULTATION

6. The application has been advertised by way of neighbour notification with 3 letters sent out and 6 emails of objection being received from 2 properties, either side of the application site raising the following issues:
- Garage would be an eyesore/loss of light
  - Open plan layout
  - Existing access issues
  - Spoil view
  - Deeds say no free standing building and fencing to be erected at front of properties.
  - Support an extension to the existing house.

## OTHER CONSULTATION

7. None required

## RELEVANT PLANNING POLICY

### 8. Saved Dudley UDP (2005)

DD1 – Urban Design

DD4 – Development in Residential Areas

NC10 – The Urban Forest

#### Supplementary Planning Documents

New Housing Development – Revised 2013

#### Supplementary Planning Guidance

PGN 17 – The 45° code

## ASSESSMENT

### 9. The key issues for consideration in this application are as follows:

- Impact on Street Scene/Design
- Residential Amenity

#### Impact on Street Scene/Design

10. The proposed garage would be well screened from Wolverhampton Road due to the line of trees next to the road boundary. Conditions can be attached to any permission to ensure there is a tree protection and retention plan in place. In regards to materials it is required that the garage would be built in brick to match the existing house which would be confirmed by condition. The garage would have a shallow gabled roof to match the design of the application property and it is considered that proposed extension would not unduly harm the visual amenity or the character of the area, in accordance with saved policy DD4 of the UDP (2005).



### Residential Amenity

11. Saved Policy DD4 advises that developments should only be allowed where they would not have any adverse impact on residential amenity. The key issue in the assessment of this application therefore is the impact of the proposed garage on the amenities of the occupants of the neighbouring properties.
12. The proposed garage would be sited to the front of the application property, separated by the front parking area and private drive access. The neighbouring properties would be separated from the garage by a distance of approx 16m. As in the case of the application property the garage would be separated from neighbouring houses by the private drive access and respective front garden/parking areas and the garage would be set against the line of existing tree screening and hedgerow which will remain and is conditioned as such. Taking into account the siting and size of the proposed garage it is considered that the garage would not adversely impact upon residential amenity in accordance with saved policy DD4 of the adopted UDP (2005).

## CONCLUSION

13. It is considered that the proposed development is acceptable in terms of scale and appearance, would not have a detrimental impact on residential amenity and the street scene and is compliant with Saved Policy DD4 of the Adopted UDP.

## RECOMMENDATION

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

## APPROVAL STATEMENT INFORMATIVE

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

Informative

### All developments within coalfield standing advice area

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

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

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

## NOTE TO APPLICANT

The granting of planning permission does not confirm the structural integrity of the proposed development. Local Planning Authorities do not have a duty of care to individual landowners when granting applications for planning permission and are not liable for loss caused to an adjoining landowner for permitting development. Sections 77 and 78 of the Building Act 1984, provides Local Authorities with powers to take

action with respect to dangerous buildings/structures. Therefore, should the development raise concerns in the future with respect to its structural stability there are powers under separate legislation to planning that would enable the situation to be rectified.

Conditions and/or reasons:

1. The development hereby permitted shall be begun before the expiration of three years from the date of this permission.
2. The development hereby permitted shall be carried out in accordance with the following approved plans: T/01/14 Rev A, 500/1 and 1250/1.
3. Notwithstanding the approved plans, details of the types, colours and textures of the materials to be used on the external surfaces of the buildings hereby approved shall be of brick which shall be submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in complete accordance with the approved details and thereafter maintained for the lifetime of the development.
4. No development shall take place until there has been submitted to, and approved in writing by the Local Planning Authority details of the tree protection measures on site. The details shall include:
  - a. A plan showing the location and identification (with reference to a survey schedule if necessary) of all trees on, or directly adjacent to the development site, that are to be retained during construction. These trees are to be marked with a continuous outline.
  - b. A plan showing the location and identification (with reference to a survey schedule if necessary) of all the trees on, or directly adjacent to the development site that are to be removed prior to, or during development. These trees are to be marked with a dashed outline.
  - c. A plan showing the extent of the Root Protection Area, which is to be protected by physical barriers during development. The extent of the area that is to be protected is to be calculated in accordance with Clause 5.2 of British Standard BS: 5837 - 2005 'Trees in Relation to Construction - Recommendations'.
  - d. Design details of the proposed protective barriers to be erected around the trees during development. Any protection barriers should be designed and constructed in accordance with the provisions set out in section 9.2 of British Standard BS:5837 - 2005 'Trees in Relation to Construction - Recommendations'.

5. The garage hereby approved shall not be sold off or sub-let separately from the main dwelling but used wholly incidental to the main dwelling.
6. All the existing trees and hedges indicated on the approved drawings to be retained shall be protected by suitable fencing and at a suitable distance as outlined in BS:5837 - 2005 - 'Trees in Relation to Construction', or such alternatives as may be agreed in writing by the Local Planning Authority. Such fences shall be erected before any materials are brought onto site or development commences. No materials shall be stored, no rubbish dumped, no fires lit and no buildings erected inside the fence(s), nor shall any changes in ground level be made within the fence(s) unless previously agreed in writing by the Local Planning Authority.
7. The existing trees and hedges shown on the approved plans to be retained shall not be damaged or destroyed, uprooted, felled, lopped or topped during the construction period of the development without the 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.



LOCATION PLAN  
233 WOLVERHAMPTON  
ROAD  
SEDGLEY

SCALE : 1:1250  
DRG NO:1250/1  
DATE : 18 AUG 2014

MICHAEL DAVIES MCIAI  
ARCHITECTURAL  
DESIGN & PLANNING  
SERVICES

7 MILL POOL CLOSE, WOMBOURNE,  
WOLVERHAMPTON, WVS 8HS.

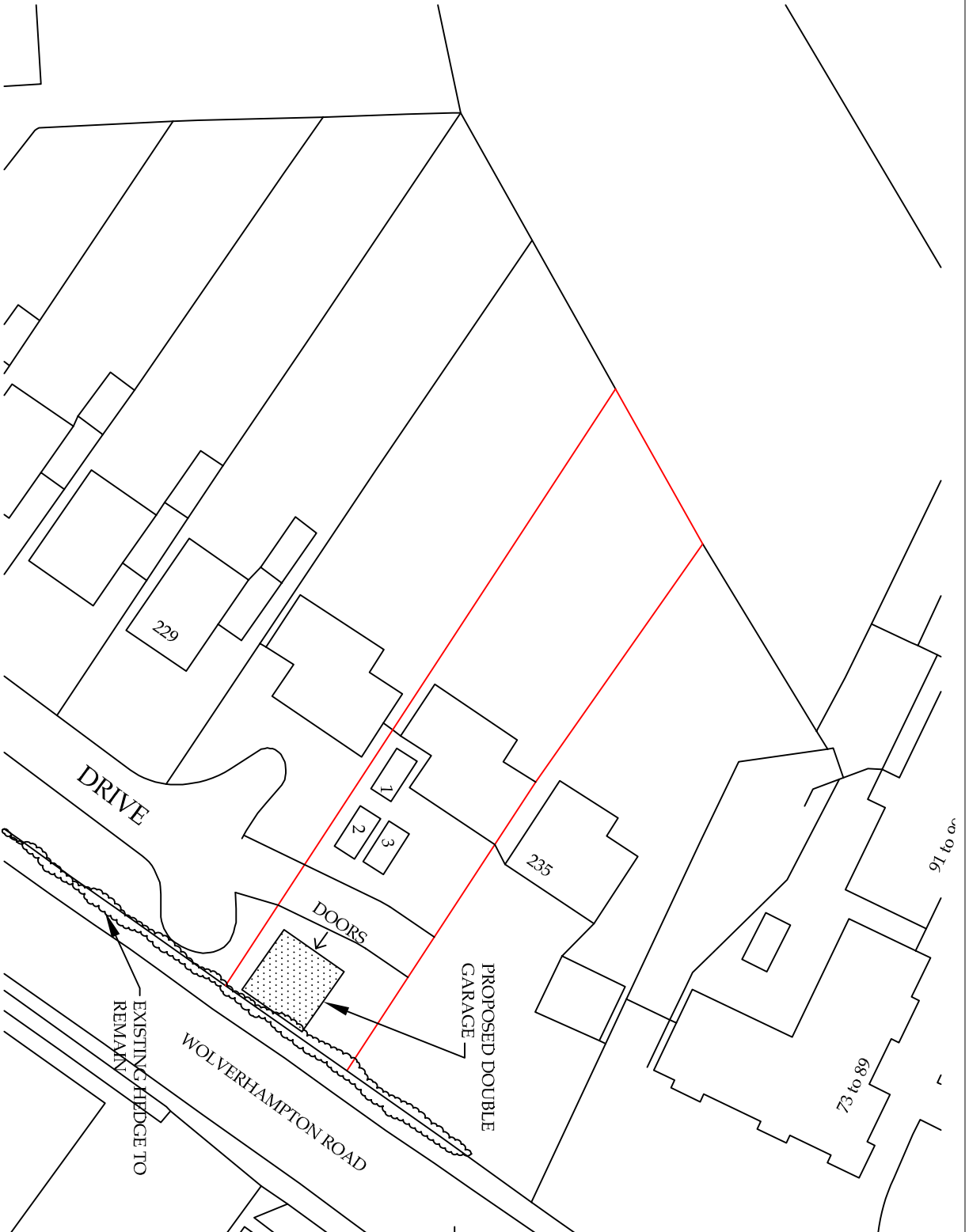
TELEPHONE : 01902 893284  
EMAIL : michael.w.davies@talktalk.net



A4

CROWN COPYRIGHT  
ALL RIGHT RESERVED  
LICENCE NUMBER  
100020449





**BLOCK PLAN**  
**233 WOLVERHAMPTON**  
**ROAD**  
**SEDGLEY**

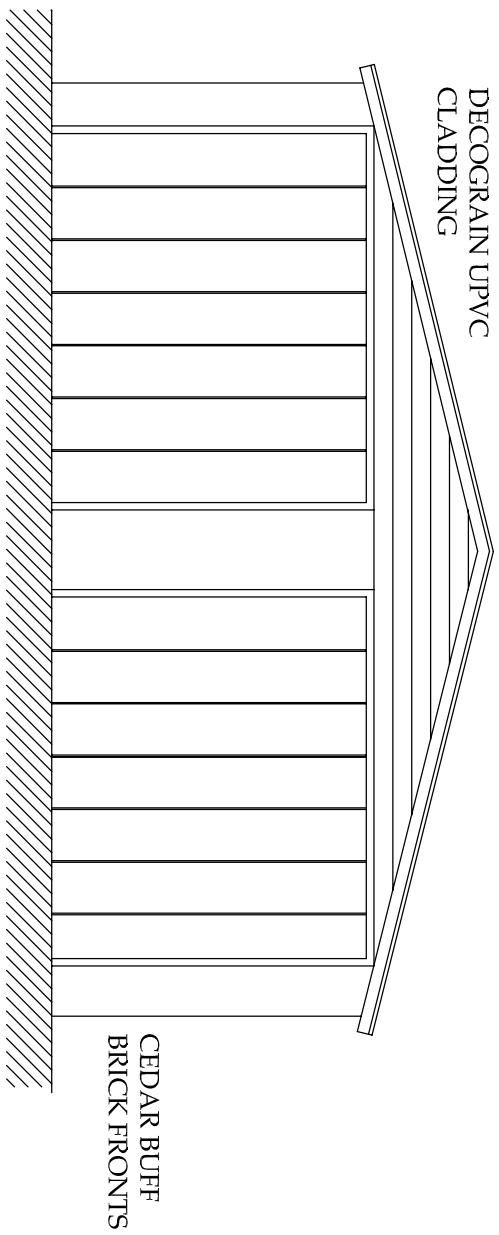
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**DATE : 18 AUG 2014**

**MICHAEL DAVIES MCIAI**  
**ARCHITECTURAL**  
**DESIGN & PLANNING**  
**SERVICES**

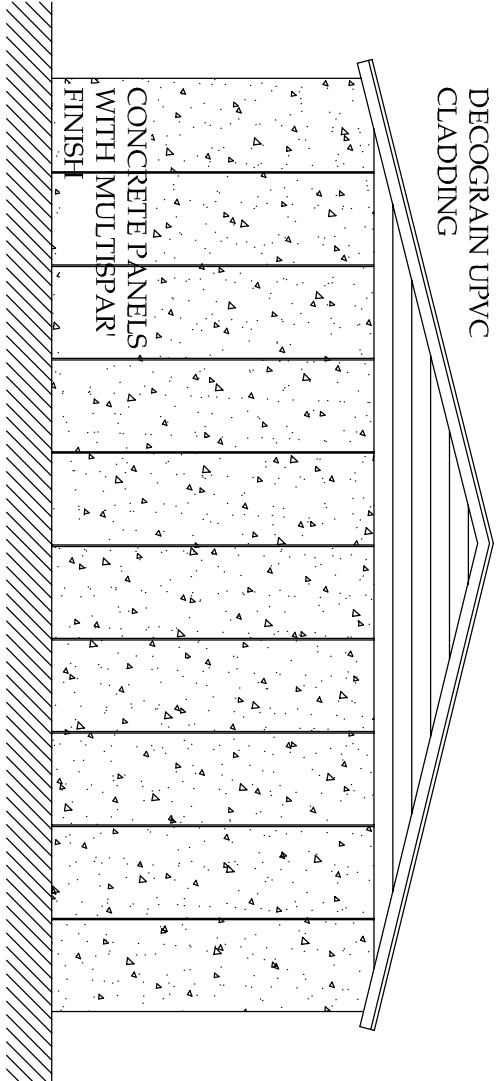
**7 MILL POOL CLOSE, WOMBOURNE,**  
**WOLVERHAMPTON, WV5 8HS.**  
**TELEPHONE : 01902 893284**  
**EMAIL : michael.w.davies@talktalk.net**



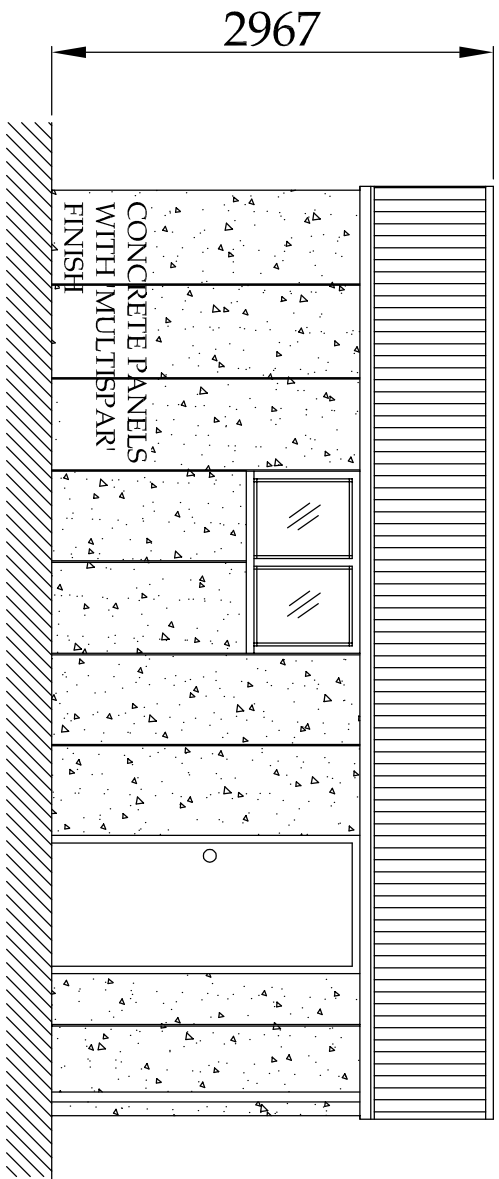
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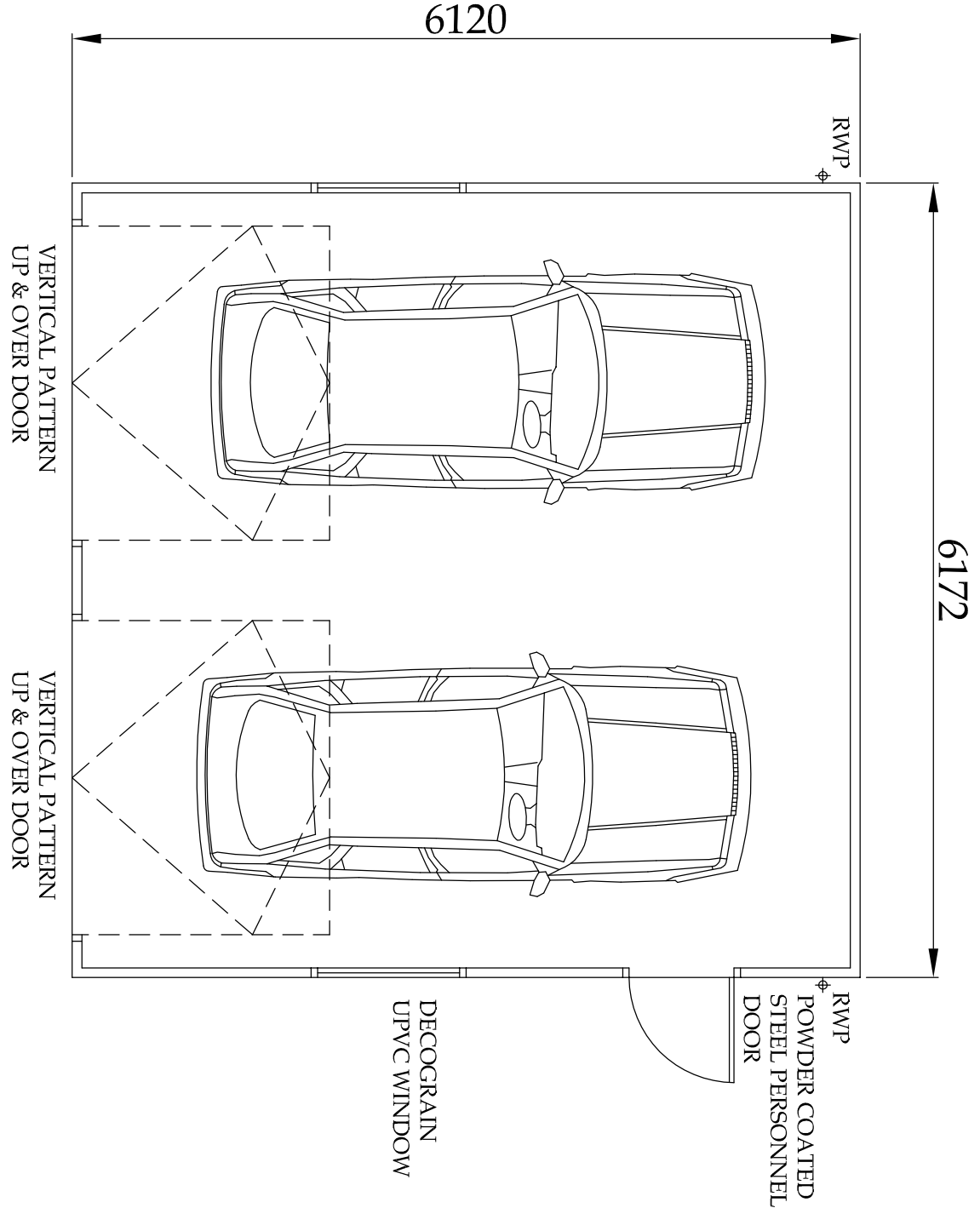
FRONT ELEVATION



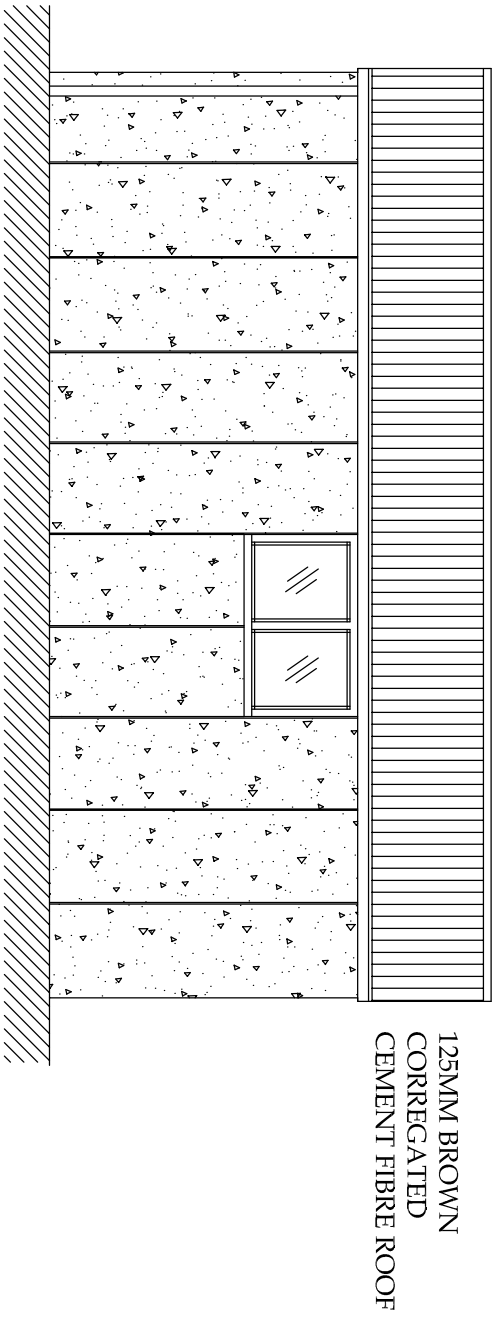
REAR ELEVATION



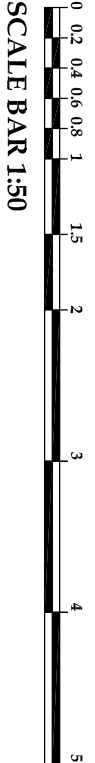
RIGHT ELEVATION



PLAN



LEFT ELEVATION



NOTE :	USE FIGURED DIMENSIONS ONLY + CHECK OTHERS ON SITE		
R E V I S I O N S			
TITLE : DETACHED GARAGE 233 WOLVERHAMPTON ROAD SEDCLEY			
DATE : 5/10/14	DRG NO : T/01/14	SCALE : 1:50	
AGENT : MICHAEL DAVIES MCIAT ARCHITECTURAL DESIGN & PLANNING SERVICES 7 MILL POOL CLOSE, WOLVERHAMPTON, WV5 8HS. TELEPHONE : 01902 893284			
FOR LPA APPROVAL PURPOSES ONLY			



## PLANNING APPLICATION NUMBER: P14/1540

Type of approval sought	Tree Preservation Order
Ward	Castle and Priory
Applicant	Mr A Allison, DMBC-Greencare
Location:	<b>FOXYARDS PRIMARY SCHOOL, FOXYARDS ROAD, TIPTON, WEST MIDLANDS, DY4 8BH</b>
Proposal	<b>FELL 1 MOUNTAIN ASH AND 2 BEECH TREES: CROWN LIFT 1 BEECH TREE TOGETHER WITH FORMATIVE PRUNING: FELL AND POISON SELECTIVE SPECIES 1M OFF FENCE LINE: SELECTIVE REMOVAL AND REDUCTION OF SHRUBS REAR OF PROPERTIES 829-825 BNR.</b>
Recommendation Summary:	<b>APPROVE SUBJECT TO CONDITIONS</b>

### TREE PRESERVATION ORDER NO: TPO 420 (1994) – A1

#### SITE AND SURROUNDINGS

- The trees subject to this application are 3 beech trees, and a mountain ash tree that are located within the grounds of Foxyards School in Dudley. There are a number of large trees located around the site. The beech trees subject to this application are situated adjacent to the rear boundary of 11, Foxyards Road and the mountain ash is located within the rear playground of the school. The beech trees are considered to provide a moderate amount of amenity to the surrounding area and the mountain ash is considered to provide a low amount of amenity to the surrounding area.
- The trees are protected as part of “Area 1” of tree preservation order 420 that was served in 1994. This order covers the whole school site and protected all trees that were present in 1994.

#### PROPOSAL

- Summary of proposals for the works as written on application form is as follows:
  - Fell 1 mountain ash (T1), fell 2 beech (T2 & T3) and crown lift 1 beech (T4) to provide 3.5 metres clearance from ground level.
- The trees have been marked on the attached plan.

5. The application form also proposed to clear various vegetation back from the south-eastern boundary of the school site. However on inspection this vegetation to be removed was found to be comprised of either trees that are too young to be protected by this order or shrub species. As such this element of the application does not require permission.

## HISTORY

6. There have been nine previous Tree Preservation Order applications submitted in relation to these trees.

Application No	Proposal	Decision	Date
95/50978	Fell 3 sycamore trees	Refused	07/09/95
98/51698	Fell 3 lime trees and prune 2 lime trees	Approved with conditions	07/01/99
99/50699	Prune 3 trees	Approved with conditions	08/07/99
P01/2015	Fell 3 sycamore trees	Approved with conditions	17/01/02
P02/0173	Prune 1 ash and 1 lime tree	Approved with conditions	17/05/02
P04/1373	Fell 2 poplar trees	Approved with conditions	27/09/04
P09/0169	Crown reduce 7 elm trees	Approved with conditions	13/02/09
P11/0752	Crown reduce 7 elm trees	Approved with conditions	10/08/2011
P14/0562	Various tree works	Approved with conditions	09/06/2014

## PUBLIC CONSULTATION

7. No public representations have been received.

## ASSESSMENT

### Tree(s) Appraisal

<i>Tree Structure</i>	<b>Tree 1</b>	<b>Tree 2</b>
TPO No	A1	A1
Species	Mountain Ash	Beech
Height (m)	6	9
Spread (m)	5	5

DBH (mm)	180	200
Canopy Architecture	Good	Moderate – Slender
Overall Form	Good	Poor – slender
Age Class <i>Yng / EM / M / OM / V</i>	Early Mature	Young

*Structural  
Assessment*

Trunk / Root Collar	Good	Good
Scaffold Limbs	Good	Good
Secondary Branches	Good	Moderate
% Deadwood	3%	7%
Root Defects	None Evident	None Evident
Root Disturbance	None Evident	None Evident
Other		
Failure Foreseeable <i>Imm / Likely / Possible / No</i>	Whole No	Whole No

*Vigour Assessment*

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

*Overall  
Assessment*

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

**Other Issues**

Light Obstruction	No	No
Physical Damage	None evident	None evident
Surface Disruption	None Evident	None Evident
Debris	Some	Some

**Amenity  
Assessment**

Visible	Yes	Yes
Prominence	Low	Moderate
Part of Wider Feature?	Yes	Yes
Characteristic of	Yes	Yes

Area		
<b>Amenity Value</b>	<b>Moderate</b>	<b>Moderate</b>

<i>Tree Structure</i>	<b>Tree 3</b>	<b>Tree 4</b>
TPO No	A1	A1
Species	Beech	Beech
Height (m)	9	9
Spread (m)	5	7
DBH (mm)	200	350
Canopy Architecture	Moderate – Slender	Good
Overall Form	Poor	Moderate
Age Class <i>Yng / EM / M / OM / V</i>	Young	Early Mature

*Structural  
Assessment*

Trunk / Root Collar	Good	Good
Scaffold Limbs	Good	Good
Secondary Branches	Good	Moderate
% Deadwood	3%	3%
Root Defects	None Evident	None Evident
Root Disturbance	None Evident	None Evident
Other		
Failure Foreseeable <i>Imm / Likely / Possible / No</i>	Whole No	Whole No

*Vigour Assessment*

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

*Overall  
Assessment*

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

**Other Issues**

Light Obstruction	No	No
Physical Damage	None evident	None evident

Surface Disruption	None Evident	None Evident
Debris	Some	Some

**Amenity  
Assessment**

Visible	Yes	Yes
Prominence	Moderate	Moderate
Part of Wider Feature?	Yes	Yes
Characteristic of Area	Yes	Yes
<b>Amenity Value</b>	<b>Moderate</b>	<b>Moderate</b>

**Further Assessment**

8. The application has been submitted by the Council's Greencare Department in order to undertake works to the trees that have been identified as part of the ongoing maintenance requirements of the site.
9. The removal of the mountain ash tree has been proposed as the tree is situated in the middle of the playground, and the school wishes to re-claim and re use the relatively small section of play ground that it occupies.
10. Had the tree provided much in the way of amenity to the surrounding area, then the ground for the application would have been unlikely to be considered sufficient justification.
11. However as this tree is relatively small, and not publicly visible outside to the playground in which it stands, it is not considered that the tree provides sufficient amenity to the local area to allow any reasonable objection to its removal.
12. As there will be no impact on the amenity of the area due to the removal of the tree, it is not considered that any mitigation planting is required.
13. The two beech trees to be removed are one of a number of similar beech trees that form a very tight group of trees adjacent to the rear boundary of 11, Foxyards Road. The removal of these trees has been proposed in order to thin out the group to reduce the competition between the trees, improve the development of the adjacent trees and to reduce the impact on the neighbouring property.

14. The removal of these trees will not have any significant impact on the amenity value of the group of beech trees as the group will still remain a prominent feature adjacent to the main drive of the school.
15. As the works have been proposed to thin the group out for the benefit of the surrounding trees it is considered that the requirement of replacements in this instance would be counter-productive in the long run.
16. The beech to be crown lifted is the largest of the beech tree in this group of trees. It is proposed to lift the tree to 3.5 metres in order to improve the form of the tree and reduce competition with the adjacent trees. Again the proposed works will have little impact on the amenity value of the group.
17. Overall it is considered that the proposed works are acceptable and as such it is recommended that the application be approved.

## CONCLUSION

18. This application proposes the felling of a mountain ash, 2 beech trees and crown lifting of a beech tree to provide 3.5 metres clearance from ground level.
19. The proposed works will have little impact on the amenity of the area. The mountain ash is a relatively small tree that is not visible beyond its immediate location and the works to the beech trees will not have any noticeable impact on the appearance of the group of beech trees in which they stand.
20. Given the limited impact of the works it is recommended that the application be approved.

## RECOMMENDATION

21. It is recommended that application is approved subject to the stated conditions set out below.

### Reason For Approval

The proposed works are considered to be justified by virtue of the trees conditions, and their location. The works will have little impact on the amenity of the area and are considered to be in accordance with the good management of the trees.

Conditions and/or reasons:

1. The tree works subject of this consent shall be carried out in accordance with British Standard BS 3998:2010 'Recommendations for Tree work'.



+ 152.1m

SEDGLEY ROAD WEST

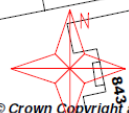
BENBECK GROVE

Foxyards  
Primary School

T1

T2  
T3  
T4

EVANS CLOSE





## PLANNING APPLICATION NUMBER:P14/1581

Type of approval sought	Full Planning Permission
Ward	Sedgley
Applicant	Marston's Estates Limited
Location:	<b>SEVEN STARS, GOSPEL END ROAD, DUDLEY, DY3 3LT</b>
Proposal	<b>ERECTION OF SINGLE STOREY SIDE/REAR EXTENSION, NEW SHOPFRONT AND ENTRANCE DOORS. NEW RAMPED ACCESS WITH HANDRAILS, NEW LIGHTING AND ASSOCIATED EXTERNAL WORKS</b>
Recommendation Summary:	<b>APPROVE SUBJECT TO CONDITIONS</b>

### SITE AND SURROUNDINGS

1. This is an early 1960's public house located in a primarily residential area, approximately 375m from Sedgley local centre. The building is predominantly of two storey height, with single storey extensions. The site currently has 48 parking spaces, to the front, side and rear of the building. Within the south-eastern corner of the site is a servicing area, enclosed by fencing. The site is bounded to the rear (south) by the gardens of houses on Brownswall Road and to the east by houses on Gospel End Road. There is a petrol filling station immediately adjacent to the west.

### PROPOSAL

2. The applicant has advised that the public house is surplus to requirements and is to be converted to a retail food store with the benefit of permitted development rights. This application is for the erection of a single storey rear extension to the building, external alterations and elevational changes in connection with the proposed retail use.
3. The proposed extension would be flat-roofed, brick built and would cover the full width of the building, projecting 5m from the rear elevation. A new enclosed service

yard is to be created in the area between the rear of the extension and the site's southern boundary.

4. To the front of the building a replacement ramp and handrails are to be provided. A new shop front is to be installed, incorporating a sliding entrance door and a new powder coated window.
5. A new 1.8m high timber fence is to be erected along the rear boundary with No's 95-101 Brownswall Road, set in 0.6m from the existing boundary fence. 14no. 6m high lighting columns are also to be erected. The existing car park is to be reconfigured to provide 25 car parking spaces.

## **HISTORY**

6. None relevant to the assessment of the application.

## **PUBLIC CONSULTATION**

7. At the time of writing the report 109 letters of objection have been received, raising the following concerns over the proposed development:
  - The development will adversely affect the vitality of existing local shops and shops in Sedgley local centre;
  - There is no need for a new shop in this location;
  - The development will increase the volume of traffic in the area, to the detriment of highway safety;
  - Insufficient parking provision;
  - The operators of the public house allow parents to park their cars at the premises when collecting or dropping off children at the local school – the loss of this arrangement will result in additional vehicles being parked on nearby roads instead, creating additional safety problems in the area;
  - Loss of the public house as a valued community facility;
  - Loss of amenity due to light spillage and increased noise from activities at the site, in particular from delivery vehicles during early morning hours;

- The development will lead to anti-social behaviour problems at the site;
- The proposed extensions and alterations would be out of keeping with the appearance of the building.

8. Six letters have been received expressing support for the proposal on the following grounds:

- A new store in this location would be beneficial to local residents;
- A store will have less noise and anti-social behaviour impacts on nearby residents than the existing public house.

## OTHER CONSULTATION

9 Group Engineer (Development): The proposed extension will result in an additional 13 vehicle movements from the site during the a.m.(8-9 am) peak and 16 movements during the pm (5-6pm) peak, which equates to an additional vehicle movement every 4 minutes during the am and pm peaks. The extension will increase traffic volumes on Gospel End Road by less than 2% only and will not detrimentally affect the operational capacity of the local highway network. Accident data for an area 50m to either side of the site shows that have not been any injury accidents within the last three years.

To accord with the standards set out in the Parking Standards SPD a food retail unit of the size proposed should provide 31 parking spaces. The trip rate information included within the applicant's Transport Statement provides data on vehicle accumulation within the site and predicts a maximum occupancy of 17 vehicles between 2pm and 3pm. On this basis the number of parking spaces to be provided is considered to be acceptable.

The Highway Authority is aware that parents are allowed to use the car park at the site to park whilst collecting/dropping off children who attend a primary school on Cotwell End Road. A car park management scheme is required to ascertain the volume of parent parking and what impact this would have on the operation of the

retail facility if it were to continue and if necessary what measures the operator will need to put in place to control the situation.

There is sufficient space available at the rear of the building to accommodate a 3-point turn by a delivery vehicle and enable them to exit the site in forward gear, rather than having to reverse out through the parking area which could potentially be hazardous to the safety of customers. A service management plan should be submitted to show how the rear servicing area is to be enclosed to prevent vehicle and customers from entering it during delivery times, which could potentially include the provision of a vehicle barrier.

Coal Authority: No objection:

Environmental Management Division: Rear shields and side baffles should be fitted to the proposed lighting units, to limit glare to vehicular traffic and prevent light spillage to neighbouring residential properties.

Land Quality: No objection subject to a risk assessment being carried out if contamination is found during development works.

Head of Environmental Health: No objection subject to the imposition of the following conditions in order to safeguard the amenities of occupants of nearby dwellings:

- The premises shall not be open to the public before the hours of 0700 or after 2300 Monday to Sunday;
- No deliveries or despatches shall be made to or from the site, and no delivery or despatch vehicles shall enter or leave the site before the hours of 0700 or after 2200 Monday to Saturday, or before 1000 or after 2000 on Sundays and Public Holidays;
- Limit on noise emitted from any fixed plant and/or machinery associated with the development.

## RELEVANT PLANNING POLICY

### 10. National Planning Policy

National Planning Policy Framework 2012

#### Black Country Core Strategy 2011

Policy CEN6 (Meeting Local Needs for Shopping and Services)

Policy CEN7 (Controlling Out-of-Centre Development)

#### Saved 2005 UDP Policies

Policy DD3 (Design of Retail Development)

Policy DD4 (Development in Residential Areas)

#### Supplementary Planning Documents

Parking Standards SPD (2012)

Access For All SPD (2013)

## ASSESSMENT

11. In assessing this application Members should note that the proposed change of use of the building from a public house (A4) to retail (A1) constitutes permitted development and therefore does not form part of this application. Members may also be aware that the public house has recently been designated as an 'Asset of Community Value', its status as such enabling community groups to bid for the asset when it is sold. This is not a material consideration in the assessment of the application. The determining issues in the assessment of this application therefore are:

- The principle of the proposed use of the site;
- Impact on the character of the area;
- Impact on residential amenity;
- Highway safety

## Principle

12. While the proposed change of the use of building constitutes permitted development the proposal also involves the alteration and extension of the building with a consequent increase in retail floor space. The gross internal area of the extension would be 119 sq. metres, resulting in a total proposed retail floor space of 383sq.metres. The site is not located within a district or local centre and is therefore in an 'out of centre' location. The National Planning Policy Framework (NPPF) requires that a 'sequential test' is applied to applications for town centre uses (such as the one proposed) that are not located within an existing centre. A sequential test should consider town centre first, then edge of centre locations and then out of centre locations as being appropriate. The key policy issue therefore is whether the proposed 'extended' store is acceptable in this out of centre location.
13. Policies CEN6 and CEN7 are part of a set of policies contained within the Core Strategy to guide retail development within the Black Country. Policy CEN7 advises that *'any proposal for a town centre use in an out of centre location will only be considered favourably if the impact assessments contained in the most recent national guidance are satisfied, or the requirements of CEN6 are satisfied'*. Policy CEN6 states the following:

*"New small-scale local facilities outside defined centres of up to 200 square metres gross, or extensions to existing facilities which would create a unit of up to 200 square metres gross will be permitted if it can be shown that all of the following requirements are met:*

- The proposal is of an appropriate scale and nature to meet a specific day-to-day need of a population within convenient, safe walking distance for new or improved facilities;*
- Local provision could not be better met by investment in a nearby centre;*
- Existing facilities that meet day-to-day needs will not be undermined.*
- Access to facilities by means other than by car would be improved and, in particular, will be within convenient, safe walking distance of the community it is intended to serve."*

14. Although the proposal would result in a development which would ordinarily be addressed under Policy CEN7, due to the larger part of the proposal constituting permitted development it is considered that the criteria set out in Policy CEN6 should be utilised for the assessment of the proposal. Nonetheless, a sequential test and an impact test have been undertaken by the applicant in accordance with the requirements of the NPPF and Policy CEN7 to help bolster the evidence for the suitability of the application site. The information submitted demonstrates that a range of 'sequentially preferable' sites have been assessed, but were considered not to meet the needs of the applicant for a combination of reasons including site availability, size and that a comprehensive development involving additional land would be required. The applicant has stated in the supporting documentation submitted with the application that, whilst it is accepted that a town centre location would be more suitable for a convenience food store, the intention of the proposed development is to serve the top-up shopping needs of local residents and passing trade.
15. With regard to the requirements of Policy CEN6, the applicant has provided the following information to support the proposal in relation to each of the four bullet points:
- The application is for a small extension only to a building which benefits from permitted development rights for conversion to retail use, and is therefore of an appropriate scale as a local convenience retail store;
  - The sequential assessment carried out demonstrates that there are no sequentially preferable sites capable of accommodating the amount of development proposed;
  - Sedgley is a strong retail centre which provides a good range of retail uses including a number of convenience stores and supporting services to benefit from linked trips. The existing centre will not be undermined by the proposed development;
  - The proposal is accessible by a choice of means of transport.

16. Officers have assessed the submitted information and are of the opinion that the development is of a suitable scale and nature relative to this location and will serve the needs of the local community for day-to-day convenience goods. The submitted sequential test has discounted a number of sites as being unsuitable because of size limitations given the floor space requirements of the proposed convenience store. The findings of the test demonstrate that there are no more suitable sites in terms of availability, viability and location other than the application site within the catchment area that could come forward for this type of development. Officers consider the test to be comprehensive in its approach.
17. The impact test submitted by the applicant concludes that there would not be any adverse impacts on the vitality and viability of Sedgley centre as a result of this development as Sedgley is currently a strong centre and the proposal would be performing a supporting role with the function of top-up shopping. There are currently 10 units operating as convenience shops along Sedgley High Street and the centre is performing well compared with the national and regional averages. Additionally, there are no planned investments within Sedgley centre which could be prejudiced by the proposal. The proposed use will also create employment opportunities within the local area. Officers are satisfied based on the submitted information that proposed development would be of a scale which serves a local catchment only without having an adverse impact on existing supermarkets in the local centre.
18. The application site is within easy walking and cycling distance of a substantial number of residential properties. The site is located on a key bus route with bus stops located immediately adjacent to the site entrance. The development would therefore be readily accessible by the community it is intended to serve.

#### Character

19. Saved Policy DD3 of the UDP requires that retail developments should provide active elevations to public areas which are in scale and proportion with the street scene and service areas which are not prominent in views from the street or other



service areas. With regard to the latter the proposed service area will be located at the rear of the building and will not be visible from Gospel End Road. Existing trees within the rear gardens will provide screening of the service area from the houses to the south. The proposed alterations to the ground floor front elevation of the building are of an appropriate design and scale, and the provision of a large window to one side of the entrance door will ensure that the development provides an active elevation to Gospel End Road.

#### Residential Amenity

20. Saved Policy DD4 advises that developments should be allowed where they would have no adverse impact on the character of the area. The proposed use of the building is acceptable in principle in a residential setting and general activities associated with the development should not have any greater impact on the amenities of residents in the immediate vicinity than the existing public house.
21. The applicant has submitted a noise impact assessment which advises that the potential impact of noise from deliveries and plant to be installed will be minimal and may even improve the situation over the current use as a public house. The proposed close boarded timber fence along the southern and eastern boundaries of the site will assist in protecting residential amenity, particularly in rear garden areas. Should permission be granted the conditions recommended by the Head of Environmental Health relating to opening hours, delivery times and noise levels from service plant should be imposed, to safeguard the amenities of surrounding residents. In addition a condition will be required seeking details of the shields and baffles to be installed within the lighting units, to ensure that the occupants of nearby dwellings are not affected by the location of the lights or pollution arising from glare.

#### Highway Safety

22. Saved Policy DD4 requires that developments should not have any adverse impact on highway safety. The number of parking spaces to be provided is considered by the Group Engineer to be appropriate to the scale of the development and the

dimensions of the spaces accord with the standards set out in the Parking Standards SPD. As such the development in itself will not result in on-street parking which could potentially be harmful to highway safety. Should permission be granted the condition recommended by the Group Engineer relating to servicing arrangements should be imposed, in order to provide an enclosed manoeuvring area for delivery vehicles which is separated from parked cars and the movements of customers within the car park.

23. The use of the car park by the parents of children at the local school cannot be prevented by an approval for this proposed development and as such it must be accepted that parents may continue to use it when the store is operational. If permission is granted, a car park management plan as recommended by the Group Engineer should be sought by condition.

## **CONCLUSION**

24. The proposed development is of a suitable scale and nature relative to this location and will serve the needs of the local community for day-to-day convenience goods. Information submitted by the applicant demonstrates that there are no more suitable sites in terms of availability, viability and location other than the application site that could come forward for this type of development. The development would not have any adverse impacts on the vitality and viability of Sedgley centre and will also create employment opportunities within the local area. The development will have no harmful effect on the character of the area, residential amenity or highway safety. As such the proposal complies with Saved Policies CEN6, CEN7, DD3 and DD4 of the Unitary Development Plan.

## **RECOMMENDATION**

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

Conditions and/or reasons:

1. The development hereby permitted shall be begun before the expiration of three years from the date of this permission.
2. No development shall commence until details for the provision of external electric vehicle charging point(s) have been submitted to and approved in writing by the Local Planning Authority. The Electric Charging point(s) shall thereafter be provided in accordance with the approved details prior to first occupation of the development and be maintained for the life of the development.
3. Prior to the commencement of development, details of the types, colours and textures of the materials to be used on the external surfaces of the buildings hereby approved shall be submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in complete accordance with the approved details.
4. No deliveries or despatches shall be made to or from the site, and no delivery or despatch vehicles shall enter or leave the site (whether laden or unladen), before the hours of 0700 or after 2200 Monday to Saturday, or before 1000 or after 2000 on Sundays and Public Holidays.
5. The premises shall not be open to the public before the hours of 0700 nor after 2300 Monday to Sunday.
6. The development hereby permitted shall be carried out in accordance with the following approved plans: 4214-P10F, 4214-P11G and 4214-P13E.
7. No development shall commence until details of the proposed shields and baffles to be installed on the proposed lighting columns have been submitted to and approved in writing by the local planning authority. The approved shields/baffles shall thereafter be retained for the lifetime of the development.
8. The rating level of noise emitted from any fixed plant and/or machinery associated with the development shall not exceed background noise levels by more than 5dB(A) between the hours of 0700-2300 (taken as a 60 minute LA90 at the nearest noise sensitive premises) and shall not exceed the background noise level between 2300-0700 (taken as a 15 minute LA90 at the nearest noise sensitive premises). All measurements shall be made in accordance with the methodology of BS4142 (2014) (Method for rating and assessing industrial and commercial sound) and/or its subsequent amendments. Where access to the nearest noise sensitive property is not possible, measurements shall be undertaken at an appropriate location and corrected to establish the noise levels at the nearest noise sensitive property. Any deviations from the LA90 time interval stipulated above shall be agreed in writing with the local planning authority.
9. In the event that contamination is found at any time when carrying out the approved development it must be reported immediately to the Local Planning Authority and confirmed in writing. A risk assessment must be undertaken, and where remediation is necessary a remediation scheme must be prepared, all of which is subject to the approval in writing of the Local Planning Authority.

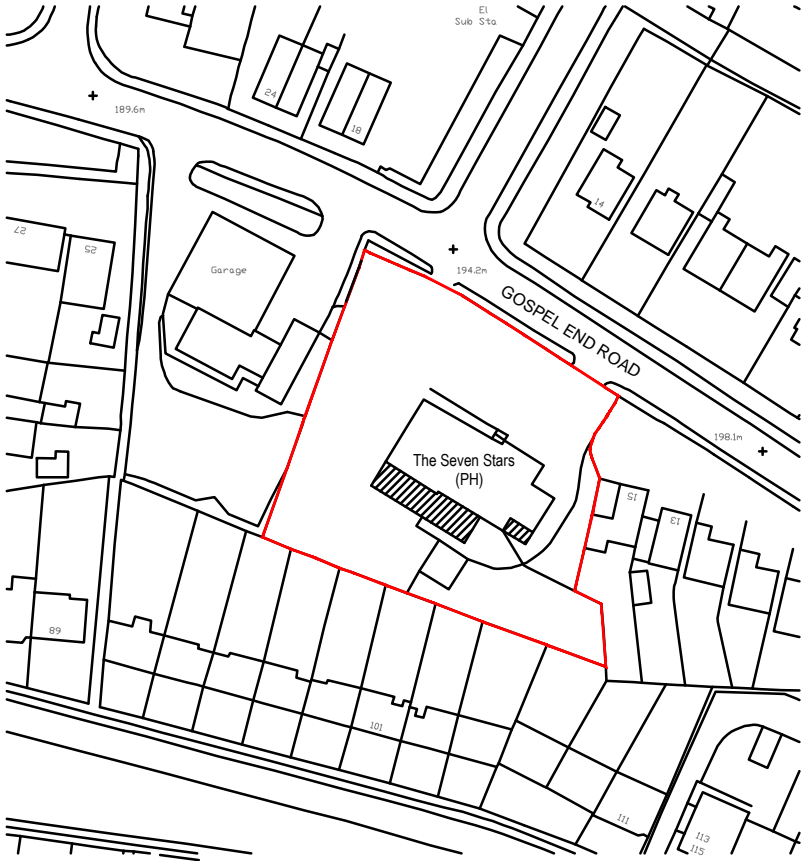
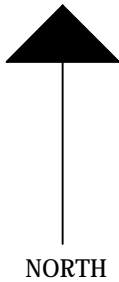
Following completion of measures identified in the approved remediation scheme such completion shall be certified and a verification report must be prepared, which is subject to the approval in writing of the Local Planning Authority.

10. No development shall commence until details of a car park management plan, to include measures to control the use of the car park by parents of children attending local schools, has been submitted to and approved in writing by the local planning authority. The development shall thereafter take place in accordance with the approved details.
11. No development shall commence until a service management plan, setting out details of how the servicing area at the site is to be enclosed during delivery times to prevent access by customers and their vehicles, has been submitted to and approved in writing by the local planning authority. The development shall thereafter take place in accordance with the approved details and the approved measures retained for the lifetime of the development.

Key:

- PROPOSED BOUNDARY LINE

- PROPOSED EXTENSION



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Do Not Scale This Drawing For Construction Purposes

CDM - Significant Design Hazards

Hazard	Control

Rev	Date	Description	Drawn	Checked

Amendments

Drawing Status

Preliminary

■ Quantity Surveying

■ Project Management

■ Architecture

■ Construction Safety

PROJECT

SEVEN STARS  
GOSPEL END ROAD  
SEDGLEY  
DY3 3LT

CLIENT

MARSTONS ESTATES LTD

TITLE

LOCATION PLAN

SCALE

1:500 @ A3

DATE

AUGUST 2014

DRAWN BY	CHECKED BY	DRAWING No.	REV
RM	DF	4214-P00	-

The Old Bake House, Kirton, Lincolnshire, PE20 1EH  
t: 01205 724016 f: 01205 724470 e: kmb@kmb-ltd.co.uk



EXISTING POLE AND SIGN  
FRAME TO BE RETAINED  
IN-SITU



- Key:
- +69.39 - EXISTING LEVEL
  - [10.39] - PROPOSED LEVEL
  - [X] - PEDESTRIAN ZONE MARKED WITH WHITE THERMOPLASTIC PAINT
  - [ ] - PARKING SPACES MARKED WITH WHITE THERMOPLASTIC PAINT
  - ° - EXISTING EXTERNAL LIGHT
  - BOL - EXISTING BOLLARD
  - - 100MM DIA UPVC DUCT FOR TOTEM SIGN
  - BOL - NEW BOLLARD
  - DBOL - NEW DROP BOLLARD
  - ECP - ELECTRICAL VEHICLE CHARGING POINT
  - FOR EXTERNAL LIGHTING DETAILS REFER TO HOLOPHANE DRAWING R1 TO ACHIEVE AVERAGE 33 LUX TO CAR PARK.
  - [ ] - PROPOSED EXTENSION

RETAINING WALL TO BE TAKEN DOWN LOCALLY IN VICINITY OF VERTICAL CRACK, ROOTS AND VEGETATION TO BE REMOVED BEHIND THE WALL AND WALL REBUILT TO MATCH EXISTING TOGETHER WITH BACKFILLING WITH TOPSOIL TO REINSTATE THE ORIGINAL GROUND PROFILE

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Do Not Scale This Drawing For Construction Purposes

CDM - Significant Design Hazards

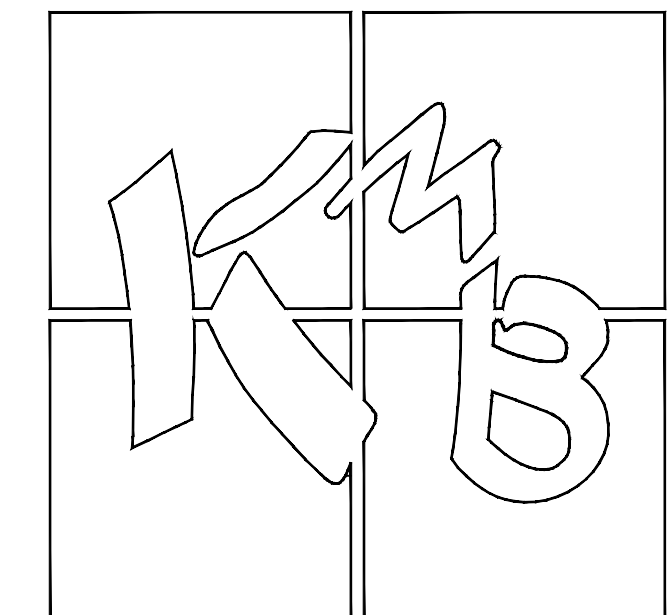
Hazard	Control

SITE AREA: 0.241 HECTARES (2414.159M<sup>2</sup>)

F	08.12.14	BOH shop front window revised to NE Elevation, new bollards added to car park and track removed.	BF	DF
E	01.12.14	Shop front windows added to NE Elevation.	BF	DF
D	24.11.14	Ramp revised.	BF	DF
C	27.10.14	ATM and Entrance door revised.	BF	DF
B	24.10.14	Site boundary line amended.	BF	DF
A	13.10.14	Removal of ATM location and Plant Area location, extension indicated and car park levels amended.	BF	DF

Amendments

Drawing Status



- Quantity Surveying
- Project Management
- Architecture
- Construction Safety

PROJECT  
SEVEN STARS  
GOSPEL END ROAD  
SEDCLEY  
DY3 3LT

CLIENT  
MARSTONS ESTATES LTD

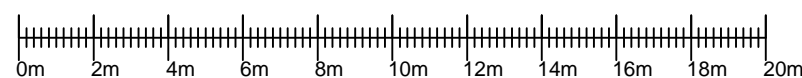
TITLE  
SITE LAYOUT

SCALE  
1:200 @ A1

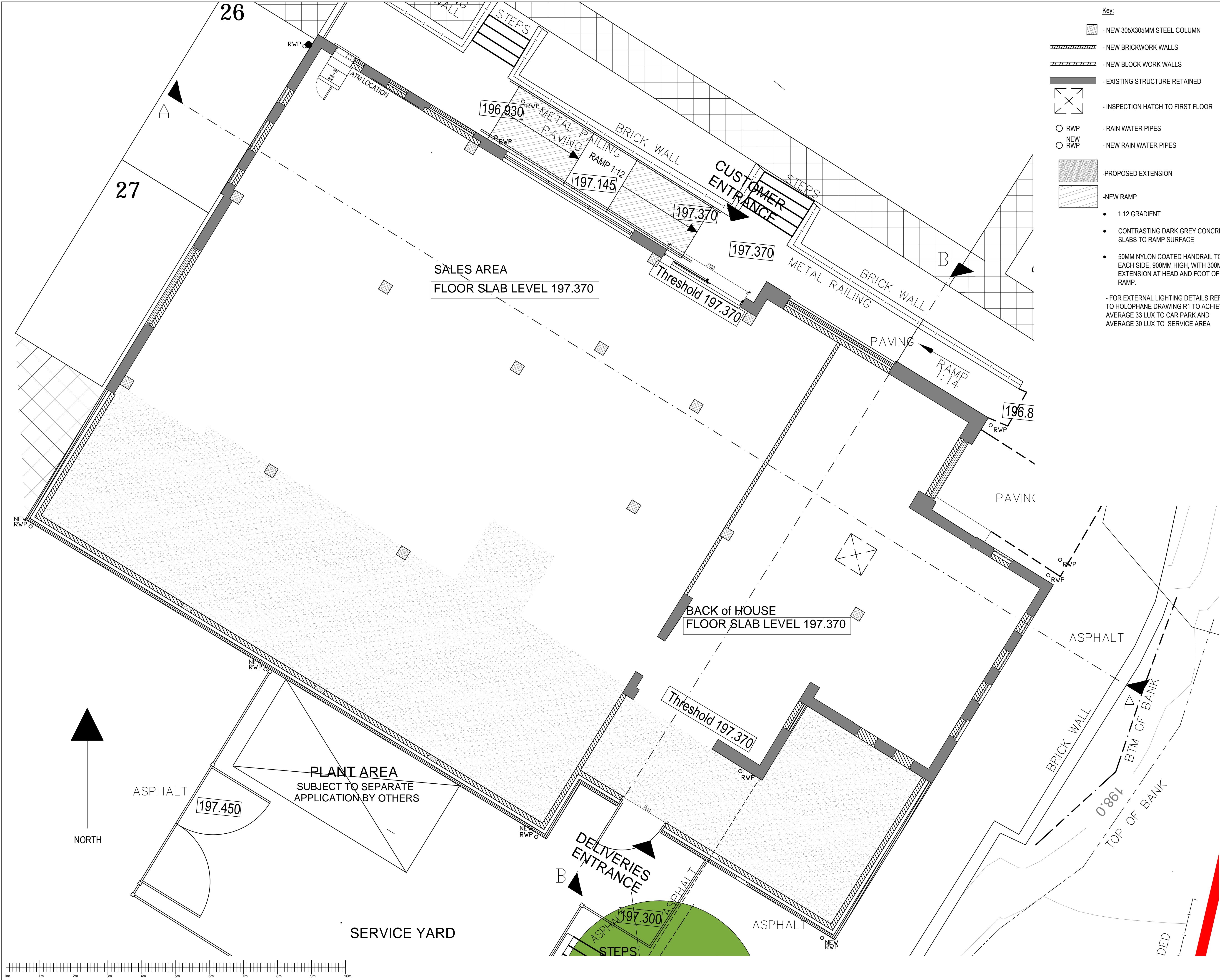
DATE  
SEPT 2014

DRAWN BY JTQ	CHECKED BY DF	DRAWING NO. 4214-P10	REV F
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The Old Bake House, Kirtan, Lincolnshire, PE20 1EH  
t: 01205 724016 f: 01205 724470 e: kmb@kmb-ltd.co.uk





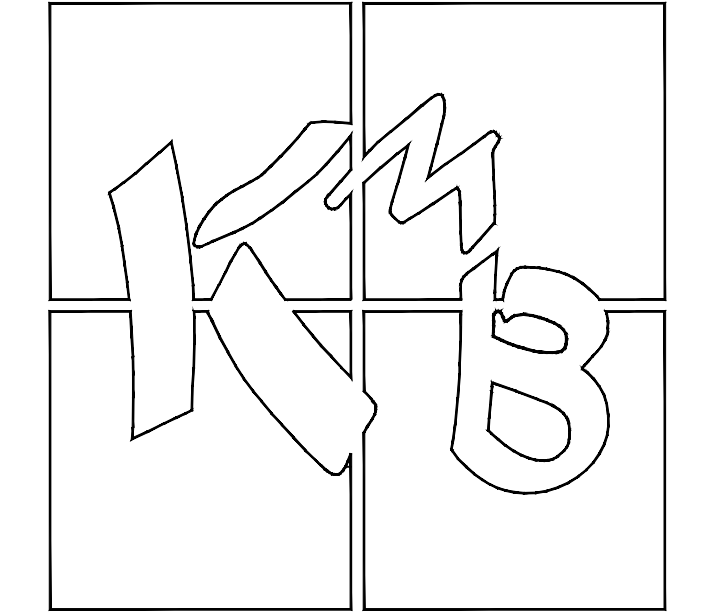


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Do Not Scale This Drawing For Construction Purposes	
CDM - Significant Design Hazards	
Hazard	Control

Floor Areas (M²)  
Trading Area - 280.56 M²  
Back of House Area - 111.99 M²  
Gross Ground Floor Internal Floor Area- 392.55 M²

G	08.12.14	BOH shop front window revised on NE Elevation and back removed.	BF	DF
F	01.12.14	Shop front windows added to NE Elevation	BF	DF
E	24.11.14	Ramp revised.	BF	DF
D	31.10.14	Floor Areas revised.	BF	DF
C	27.10.14	ATM and entrance door revised.	BF	DF
B	24.10.14	Key notes revised.	BF	DF
A	13.10.14	Extension revised and car park levels amended.	BF	DF

Amendments
Drawing Status



■ Quantity Surveying		■ Architecture	
■ Project Management		■ Construction Safety	
PROJECT SEVEN STARS GOSPEL END ROAD SEDGLEY DY3 3LT			
CLIENT MARSTONS ESTATES LTD			
TITLE GROUND FLOOR GENERAL ARRANGEMENT			
SCALE 1:50 @ A1		DATE AUGUST 2014	
DRAWN BY JTQ	CHECKED BY DF	DRAWING No. 4214-P11	REV G
The Old Bake House, Kirtan, Lincolnshire, PE20 1EH t: 01205 724016 f: 01205 724470 e: Kmb@kmb-ltd.co.uk			



Key:

EXISTING WINDOWS TO BE CLEANED DOWN, MADE GOOD AND REDECORATED BS00E55

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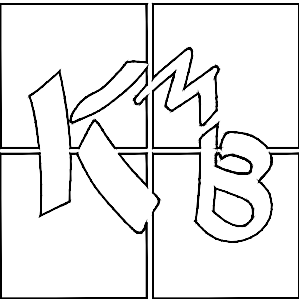
CDM - Significant Design Hazards

Hazard	Control

E	08.12.14	Left shop front window revised on NE Elevation	BF	DF	
D	01.12.14	Shop front windows added to NE Elevation	BF	DF	
C	24.11.14	Ramp revised.	BF	DF	
B	27.10.14	Shop front installation note removed from NE Elevation and Door note revised on SW Elevation.	BF	DF	
A	13.10.14	Lighting shown, extension revised, frame for door and screen revised and ATM revised.	BF	DF	

Amendments

Drawing Status



- Quantity Surveying ■ Architecture  
■ Project Management ■ Construction Safety

PROJECT  
SEVEN STARS  
GOSPEL END ROAD  
SEDGLEY  
DY3 3LT

CLIENT  
MARSTONS ESTATES LTD

TITLE  
ELEVATIONS

SCALE  
1:100 @ A1

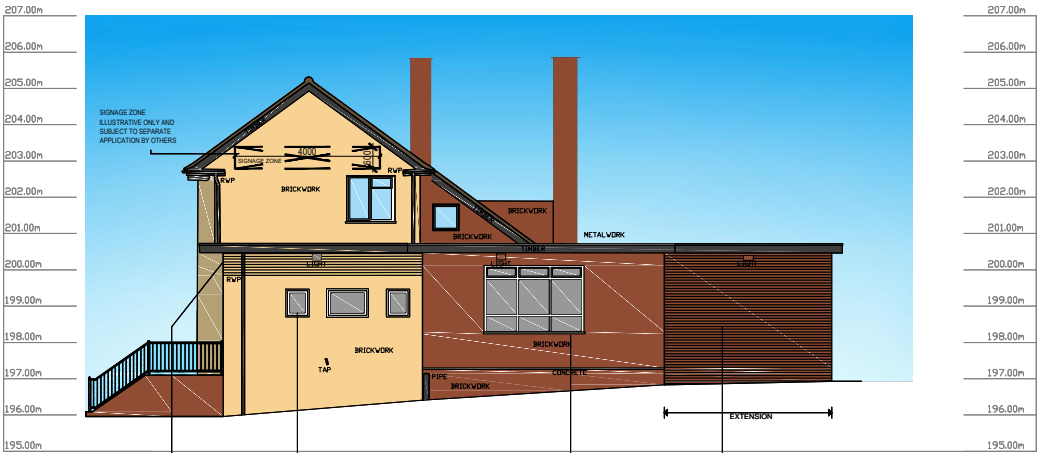
DATE  
AUGUST 2014

DRAWN BY JTG	CHECKED BY DF	DRAWING No. 4214-P13	REV E
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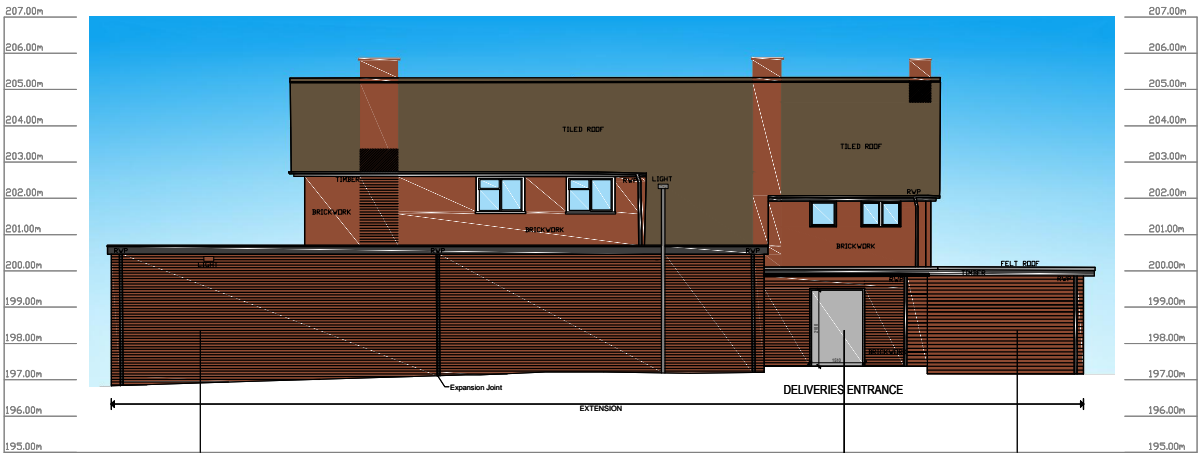
The Old Bake House, Kirtton, Lincolnshire, PE20 1EH  
t: 01205 724016 f: 01205 724470 e: Kmb@kmb-ld.co.uk



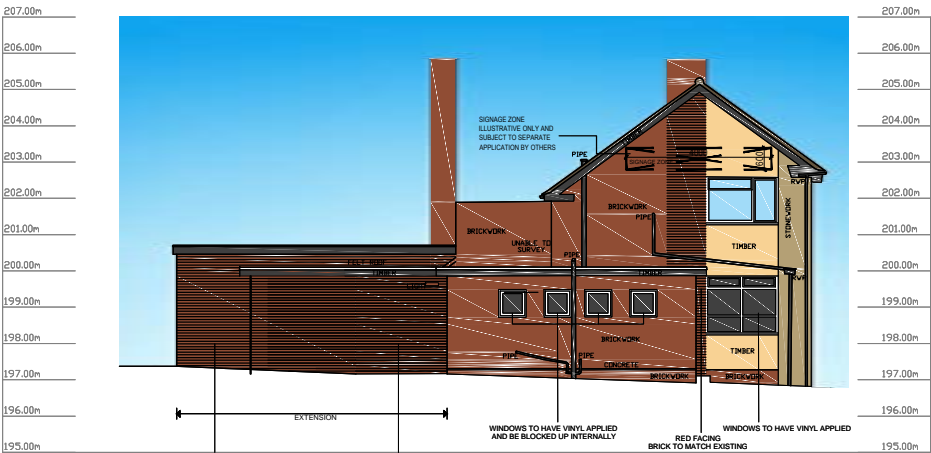
NORTH EAST ELEVATION



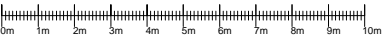
NORTH WEST ELEVATION



SOUTH WEST ELEVATION



SOUTH EAST ELEVATION





## PLANNING APPLICATION NUMBER:P14/1582

Type of approval sought	Full Planning Permission
Ward	Halesowen North
Applicant	Mr M Shelley, Heedgrove Ltd
Location:	<b>STREETBIKE, MUCKLOW HILL, HALESOWEN, B62 8BW</b>
Proposal	<b>CHANGE OF USE TO A1 (RETAIL). TWO STOREY SIDE EXTENSION WITH NEW ACCESS STAIR AND LIFT, FIRST FLOOR EXTENSION, BLOCKING UP OF WINDOWS, DOORS AND ROLLER SHUTTERS AND PROVISION OF NEW SHOP FRONT WINDOWS TO SIDE ELEVATION. ASSOCIATED WORKS TO CAR PARK (RESUBMISSION OF WITHDRAWN APPLICATION P14/0553)</b>
Recommendation Summary:	<b>APPROVE SUBJECT TO CONDITIONS</b>

### SITE AND SURROUNDINGS

1. The application site is a distinctive 1950s two storey building which is positioned on the corner of Mucklow Hill and Long Lane. The property was purpose built as a garage and currently operates as a motorbike sales and servicing centre. The site area is 3130m<sup>2</sup> and the property features an access from Long Lane on the eastern side which leads to a large area of hard-standing for parking to the north of the property. The building features a side addition on the northern side. The building is listed on the Council's Sites and Monuments Record.
2. The site is located within a fairly mixed use area with many residential and commercial properties nearby. No. 202 Long Lane and Nos. 1 and 2 Greenhill Road (residential properties) abut the northern side of the site. Abutting the Western boundary are No. 3 Greenhill Road and Nos. 6 and 8 Mucklow Hill. Across the highway to the east are Nos. 185 – 188A Long Lane and Flat 1 Halesowen Road. The Stag and Horseshoes public house is on the opposite side of the highway and is also featured on the Council's Sites and Monuments Record.

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

## PROPOSAL

4. This proposal seeks approval for a change of use of the site to create two food units (areas 1 and 2) and one non food (area 3) all of which would be Use Class A1. The access would remain as existing with an access and egress point off Long Lane and an egress point onto Mucklow Hill. Parking would be provided on the car park on the northern side as well as some spaces on the southern and eastern sections of the site
5. The proposal includes a two storey side extension on the northern side to create a stairway, a first floor addition to provide storage space, new windows on the eastern side and bin stores on the western edge of the car park. There would also be works to the car park and removal of the palisade fence and gates.
6. The two storey side addition for the stairwell and lift would measure 3.7m in width, 7.8m in length and 7.35m in height with a flat roof.
7. The first floor extension would measure 16.3m in width, 7.7m in length and 8.75m in height with a pitched roof. There would be louvres to the side elevation.
8. The 3 bin stores would abut the western and south-western edge of the car park and would measure 1.8m in maximum height. They would consist of mesh fencing and the existing 1.8m high concrete post and panel fence to the rear would be retained.
9. A 1:12 access ramp measuring 1m in maximum height would be positioned abutting the western side of the site. An area of level access would be provided at the top of

the ramp to provide access for the servicing areas. The plans show that a 1.8m high fence would also be inserted above the ramp on the western elevation.

10. The amended plans show that the existing flue on the south-western side of the site would be retained. Five windows would also be inserted on the northern elevation.

11. A design and access statement and a Transport Statement have been submitted in support of the application.

## HISTORY

12. This property has nine previous relevant applications.

APP NO.	PROPOSAL	DECISION	DATE
95/50933	Change of use of former Bells Garage to non-food retail class A1 and light industrial operations Class B1	Approved with conditions	17.08.1995
99/50990	Change of use from (A1) retail to motor car and / or motorcycle sales showroom and servicing (sui generis)	Approved with conditions	09.08.1999
P00/51948	Retrospective application for a change of use from offices Ancillary to main occupier to offices (b1) for independent	Approved with conditions	26.02.2001
P01/0419	Replace existing roller shutter door with sliding door and reinstate two showroom display windows along the mucklow	Approved with conditions	04.05.2001
P01/1203	Application under section 73 to vary condition 1 of planning Permission p00/51948.	Approved with conditions	03.09.2001
P03/1867	Retrospective application for erection of extraction flue	Approved with conditions	01.04.2004
P14/0553	Change of Use to A1 and A5 use. Two storey side extension with new access	Withdrawn	06.08.2014

	stair and lift, first floor extension, blocking up of windows, doors and roller shutters. Associated works to car park.		
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## PUBLIC CONSULTATION

Direct notification was carried out to thirty-two surrounding properties to advertise the proposal. Seven neighbours and one Ward Councillor have made written representations objecting to the proposal. The latest date for receipt of comments was 26<sup>th</sup> November 2014.

The comments were based on the following material planning considerations:

- The proposal would result in an increase in noise and nuisance for neighbours as well as an increase in litter.
- There would be an increase in delivery vans and trucks attending the site, as well as additional cars which would increase traffic, congestion and fumes on an already busy junction which is frequently congested. This would impact on pedestrians as there are no crossings at the top of Long Lane / Mucklow Hill which would result in a further impact on safety. This is a particular issue for the nearby school children. The congestion could also encourage some drivers to use the wrong side of the highway to access the site if the road is busy.
- Sufficient parking would not be provided on-site;
- There would be an increased problem with the parking of delivery vehicles as large delivery lorries would increase the traffic converging on this area. There is no provision for loading and unloading of delivery vehicles as part of the proposal;
- Articulated delivery lorries do not use the car park area and already pull up onto the highway causing an obstruction. There is no room for lorries to safely pull onto the car park and turn around effectively without blocking the road. There would also be an increase in the number of delivery vehicles servicing the store and no loading area has been shown on the plans. Unloading is already an issue in this area;

- Due to the recent application at the old MEB site (P14/0612) there would already be an increase in traffic for this highway junction. The increase in traffic could not be sustained in this location.
- The proposal would impact on privacy for the residential properties nearby on Greenhill Road;
- The intensification of the use would have an impact on parking, increased traffic and noise;
- A further supermarket / retail unit is not required in this area as there are many others in close proximity;
- The extension would be closer to the residential properties and would overlook and increase noise levels;
- The intensification, scope and scale of the development would be too large for the site;
- The opening and delivery hours should be restricted as increased opening hours from the existing situation would impact further on residential amenity;
- The car park immediately abuts the properties on Greenhill Road and due to the increase use of this car park and increased hours of use this would further impact on the neighbouring properties;

Other non planning considerations such as the impact on local businesses and reduction in security as the car park would not be closed off at night.

## OTHER CONSULTATION

- Group Engineer (Highways): No objections subject to the provision of an enhanced pedestrian facility, amendments to the egress onto Mucklow Hill and the suggested conditions.
- Head of Environmental Health and Trading Standards: No objections subject to the suggested conditions.

## RELEVANT PLANNING POLICY

### National Planning Policy

- National Planning Policy Framework (NPPF) (2012)

#### Black Country Core Strategy (BCCS) (2012)

- CSP2 – Development Outside the Growth Network
- CEN1 – The Importance of the Black Country Centres for the Regeneration Strategy
- CEN2 – Hierarchy of Centres
- CEN5 – District and Local Centres
- CSP5 – Transport Strategy
- TRAN2 – Managing Transport Impacts of New development
- TRAN5 – Influencing the Demand for Travel and Travel Choices
- ENV2 - Historic Character and Local Distinctiveness
- ENV3 - Design Quality
- DEL1 – Infrastructure Provision
- EMP5 – Improving Access to the Labour Market

#### Saved Unitary Development Plan (2005)

- DD1 - Urban Design
- DD2 – Mixed Use
- CR13 – Residential Development in Centres

#### Supplementary Planning Document(s)

- Parking Standards SPD (2012)
- Planning Obligations

### **ASSESSMENT**

13. The proposed development must be assessed with regard to its principle and the proposed design within the context of the local area. The amenity of nearby residential properties as well as any highway and parking matters must also be assessed.

14. The key issues are

- Principle

- Design
- Impact on Heritage Assets
- Residential Amenity
- Vehicle Parking and Highway Safety

### Principle

15. The application site is located within the Stag Local Centre at the junction of Mucklow Hill and Long Lane. The premises are used by Streetbike for the sale, servicing and maintaining of motorcycles, including the sale of clothing and helmets. Within the premises a café has also operated for several years.

16. The proposal is for a change of use to create 3 separate commercial retail units:

- Area 1: Two storey retail unit (Use Class A1) of 513.7m<sup>2</sup> at ground floor and 297.7m<sup>2</sup> at first floor. The total area would measure 811.4m square metres and the unit would be used for non-food retail.
- Area 2: Non-food retail unit (Use Class A1) of 420 square metres. The ground floor will be used purely for retail and the first floor will be void.
- Unit 3 – Non-food retail unit (Use Class A1) of 223 square metres.
- There are no proposed operators for the units as part of the planning application. The first floors above units 2 and 3 would be left void.

17. As stated above the site is located within the Stag Local Centre boundary (Core Strategy Policy CEN5: District and Local Centres). Within the hierarchy of centres (Core Strategy Policy CEN2) The Stag is in the third level and the main function of the centre is to meet the day-to-day convenience shopping and local service needs of the local area. There is a need for the smaller centres to be flexible to respond to particular circumstances such as a defined local need or a special local role or opportunity such as to support a regeneration scheme.

18. Policy CEN5 permits individual convenience retail developments of up to 500 square metres where they are appropriate to the scale and function of the centre. The proposed convenience units are under the threshold and it is considered that they would enhance the retail offer of the local centre. As such the proposed convenience stores would be in accordance with Policy CEN5.

19. As such, there would be no in principle Planning Policy objection to the application subject to there being no adverse impact on highway safety or residential amenity.

### Design

20. The proposed two storey side extension on the northern side and the first floor side addition would be fairly well screened from the highway due to the set back from Long Lane. The proposal would be generally in-keeping with the appearance of this part of the building and would have no adverse visual impact on the property. These additions would not be visible from the Mucklow Hill side and would not detract from the visual appearance of the distinctive 1950s building.

21. The additional windows on the northern side would be acceptable on this building taking into account the existing appearance.

22. The proposed access and driveway is already in place and would also feature no alterations. As such, the development would be acceptable from a design point of view and would comply with Policy DD1 and DD4 of the saved UDP (2005).

23. The bin stores would be fairly modest in height and would be well screened from the occupiers to the rear / side due to the boundary treatment on-site. The bin stores would also not be overly visible from the street scene due to the position within the site. Due to the position, size and mesh design the bin stores would have no adverse impact on the appearance of the site.



24. The flue on-site is an existing part of the property and would have no further impact on visual amenity.

#### Impact on Heritage Assets

25. The application property is listed on the Council's Sites and Monuments Record due to the distinctive 1950s corner design. The public house opposite, The Stag and Three Horseshoes, is also listed on the Sites and Monuments Record.

26. There are no objections to the scheme from a Historic Environment perspective subject to the retention of the existing shop fronts on the original sections of the building.

#### Residential amenity

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

28. The existing use of the site is as a retail use with daytime opening hours, excluding Sundays. The proposed retail use represents an intensification of the use of the site. Given the proximity of nearby residents to the site, there are concerns that noise from activities at the site could adversely affect the amenities of residents. The proposals are for A1 retail use only, however, and the site is located on a busy junction with high levels of road traffic noise and other commercial uses nearby, including a public house. It is therefore considered that the proposals would be generally in keeping with surrounding uses and activity levels and that residential amenity can be protected through appropriate restrictions on hours of operation and deliveries to control noise from the site.

29. It is considered that the 1.8 metre fence on the northern and western boundaries will provide acoustic protection for adjacent residents for noise from use of the car park. The amended plans show that the height of the fencing where the site adjoins

No.202 Long Lane would be increased to 1.8m in height which would be sufficient to ensure there would be acoustic protection for the occupiers of this property.

30. The proposals would not impact on daylight or immediate outlook for any surrounding occupiers due to the orientation of nearby properties and fairly minor additions considering the size of the site. Although the first floor and two storey additions would be closer to the properties to the north a separation distance of 34m to the houses on Greenhill Road and 28m to the properties on Long Lane would ensure that the extensions would not significantly impact on outlook or daylight provision for the occupiers.

31. With regards to the residential properties to the west of the site the alterations to the building would have no adverse impact on amenity. The fence would be a maximum of 2.8m in height but considering the existing appearance of the building there would be further impact on daylight provision or outlook for the occupiers. The boundary fence would also ensure that the privacy of the occupiers of properties on Mucklow Hill would be maintained.

32. The houses to the south and east of the site would be a sufficient distance away to ensure that there would be no adverse impact on residential amenity for the occupiers.

33. There have been no objections from the Head of Environmental Health and Trading Standards subject to the suggested conditions regarding opening hours, the delivery vehicles and noise on-site. The proposal would therefore be found to be in accordance with Policy EP7 and DD4 of the saved UDP (2005).

#### Access and Parking

34. Access to the site would remain as existing from Long Lane and exits would be available onto Long Lane and Mucklow Hill. The majority of parking spaces would be provided in the car park to the northern side but there would also be some spaces provided on the southern and eastern sections of the site. Servicing of the

units is proposed from the Long Lane entrance, and there would be a one way system in place on the site.

35. Taking into account the size of the units on-site the parking accumulation figures for the proposed 3 units would be for up to 63 spaces to be provided. The proposed parking plan shows that 40 spaces would be provided on-site. However, the expected parking demand for the whole site has been calculated and the parking demand would only be breached a few times between 12:00 and 16:00.
36. The service area will also be closed to customers before 09:00 and this will leave 20 spaces available. Up to 09:00 it is not anticipated that the parking accumulation would exceed 20 vehicles. The applicant has also indicated he will accept a condition that staff will not park on the site except for electric charging. Given these factors, the parking provision is therefore considered to be acceptable to the Group Engineer (Highways).
37. The Group Engineer (Highways) has some concerns over the impact on the roundabout and pedestrian safety due to the increase in pedestrians that will be crossing the highway at this point.
38. In the last 5 years there have been 20 injury accidents at the site with 8 accidents involving pedestrians and 5 involving cyclists and motorcyclists who are most vulnerable at roundabouts. The proposed increase in traffic movements combined with increased pedestrian movements therefore raises concern. The submitted Transport Consultant stated 5 of the pedestrian accidents involved children and there was a cluster of accidents at the existing pelican crossing on Halesowen Road.
39. As such, the adjacent junction is not considered as the safest option for pedestrians and other vulnerable road users. A traffic signal junction would improve safety but this would likely result in much further delay. Therefore, the proposal would be found acceptable subject to a new pedestrian access on the existing Long Lane arm of the adjacent roundabout in the vicinity of the store. It is proposed that this is

secured through an appropriately worded planning condition. The crossing would need to be provided before any of the approved retail units first opened.

40. The busiest period for the stores would be on a Friday in the PM peak, at this time the local network is also very congested. Between 17:00 and 18:00 the number of vehicles entering the roundabout are :-

- Mucklow Hill - 1100 vehicles
- Long Lane - 700 vehicles
- Halesowen Road - 940 vehicles
- Kent Road - 750 vehicles

41. The development would attract new trips but a proportion of the vehicles entering the site would already be on the network. However, trips will be redistributed at the roundabout; in particular as Long Lane is the main access point there will be increased traffic on this arm waiting to enter the roundabout.

42. The Group Engineer (Highways) has assessed the junction and the effects of the development were assessed on a computer model which indicated that delay would increase on all the arms of the roundabout apart from Kent Road which would still operate under reserve capacity. Mucklow Hill would run at over reserve capacity.

43. Theoretically this indicated greater queues on all arms but in reality it is considered that drivers will not wait in long queues and will find alternative routes or travel at different times. It is important to note, the flows on the arms are impacted between the periods of 17:00 to 18:00, outside of these times all the arms operate within reserve capacity.

44. In summary, the proposal would be considered to comply with the Parking Standards SPD (2012) as sufficient car parking spaces and servicing and manoeuvring areas would be provided on-site. Subject to the provision of a new pedestrian crossing along Long Lane, the amendments to the egress onto Mucklow Hill and the suggested conditions the proposed scheme would comply with the

requirements of Policies TRAN2, TRAN5 and CSP5 of the BCCS and the Parking Standards SPD (2012).

## CONCLUSION

45. The proposal would be acceptable in terms of principle due to the location within a local centre. Subject to the suggested conditions there would be no impact on residential amenity for the surrounding occupiers. In addition, subject to a new pedestrian crossing along with the proposed amendments to the egress onto Mucklow Hill and the suggested conditions the proposal would now be considered to comply with the Parking Standards SPD (2012) and Policy TRAN2 of the BCCS. There would be no off-site planning obligations required to mitigate for the development. Subject to the suggested conditions the proposed scheme would therefore comply with the relevant policies.

## RECOMMENDATION

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

Conditions and/or reasons:

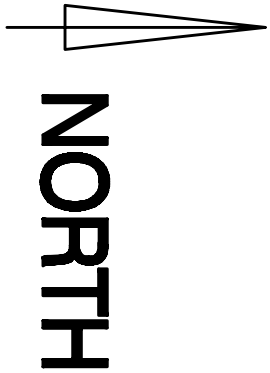
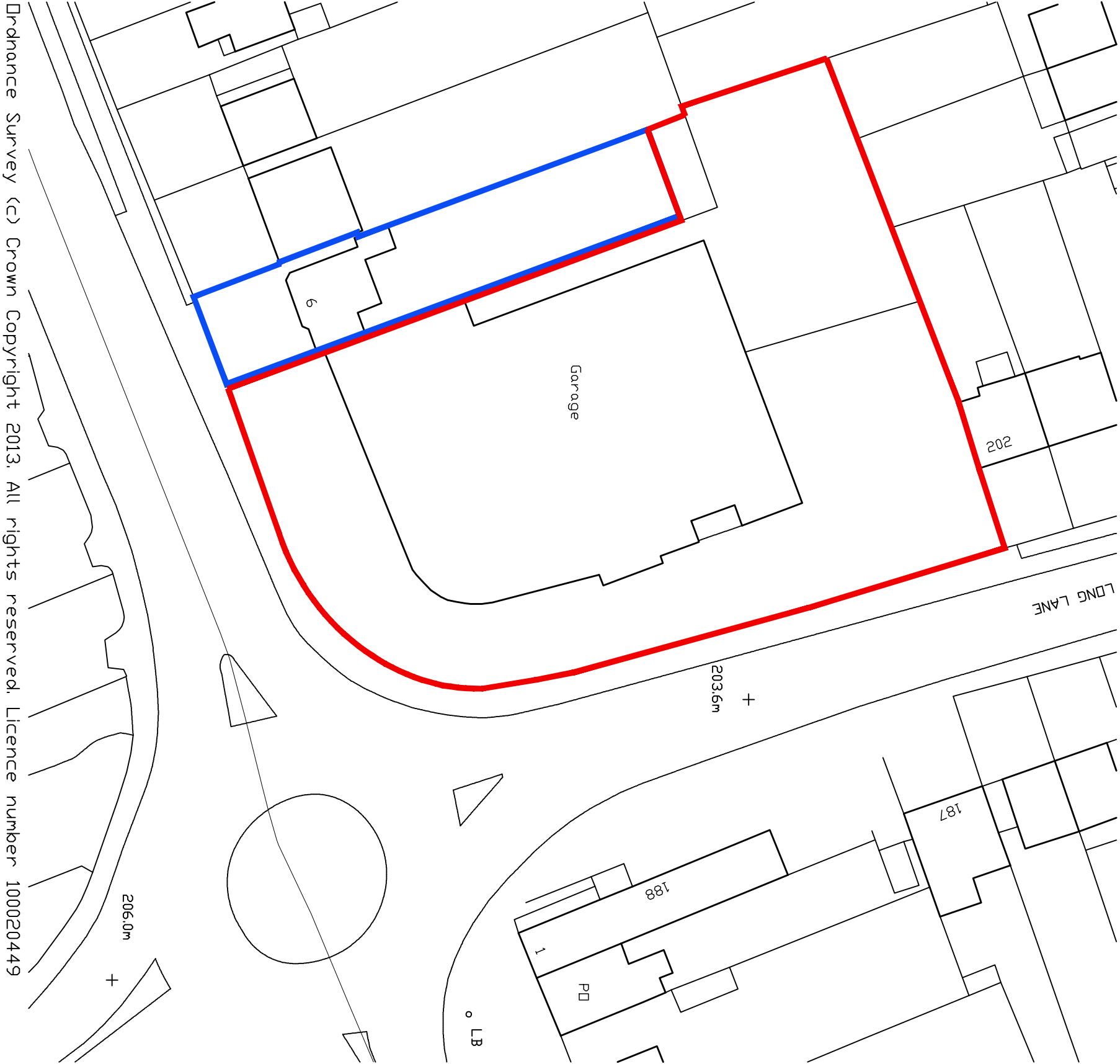
1. The development hereby permitted shall be begun before the expiration of three years from the date of this permission.
2. The development hereby permitted shall be carried out in accordance with the following approved plans: 13-1374/14B, 13-1374/05B, 13-1374/06H, 13-1374/07F, 13-1374/08L and 13-1374/11
3. No development shall commence until details of road safety works, including a pedestrian crossing facility on Long Lane, have been submitted to and approved in writing by the Local Planning Authority. The approved scheme of works shall be completed prior to the first use of the development hereby approved and shall remain as approved for the life of the development.
4. No delivery vehicles, whether loaded or unloaded, shall enter or leave the site, before the hours of 0700 nor after 2100 Monday to Saturday, or before 0900 or after 1800 on Sundays and Public Holidays for the life of the development.
5. The premises shall not be open to the public before the hours of 0700 nor after 2200 Monday to Saturdays or before 0900 or after 1800 on Sundays and Public Holidays.
6. No development shall commence until a scheme for a continuous acoustic barrier to be constructed along the northern boundary of the site adjacent to 202 Long Lane to a minimum height of 1.8 metres (as measured from the ground level) and minimum surface density of 10 kg/m<sup>2</sup> shall be submitted to and

approved in writing by, the Local Planning Authority. All works which form part of the approved scheme shall be completed before the approved use commences. The existing 1.8 metre barrier located on the northern and western boundary of the site and the new approved barrier shall be retained throughout the life of the development.

7. The rating level of noise emitted from any fixed plant and/or machinery associated with the development shall not exceed background noise levels by more than 5dB(A) between the hours of 0700-2300 (taken as a 60 minute LA90 at the nearest noise sensitive premises) and shall not exceed the background noise level between 2300-0700 (taken as a 5 minute LA90 at the nearest noise sensitive premises). All measurements shall be made in accordance with the methodology of BS 4142 (2014) (Methods for rating and assessing industrial and commercial sound) and/or its subsequent amendments.
8. Where access to the nearest noise sensitive property is not possible, measurements shall be undertaken at an appropriate location and corrected to establish the noise levels at the nearest noise sensitive property. Any deviations from the LA90 time interval stipulated above shall be agreed in writing with the local planning authority.
9. Prior to the development first being brought into use details of 2 electric vehicle charging bays with electric charging points in accordance with the Council's Standards (Reference SPD) shall be submitted to the Local Planning Authority and approved in writing. The details shall include signs and bay markings indicating the bays will be used for parking of electric vehicles only whilst being charged. The electric charging points and bays will be provided in accordance with the approved details prior to first use and maintained as such for the life of the development.
10. Prior to the development first being brought into use details of a one way system to ensure a left turn out only onto Mucklow Hill shall be submitted to the Local Planning Authority and approved in writing. The approved one way system shall be completed prior to the first use of the development hereby approved and shall be maintained for the life of the development.
11. Prior to the development first being brought into use details of the vehicular and pedestrian access and egress into the site shall be submitted to and approved in writing by the local planning authority. The approved points of access and egress will be provided prior to the first use and maintained for the life of the development.
12. Prior to the development first being brought into use details of internal pedestrian access routes and block paving shall be submitted to and approved in writing by the local planning authority. These shall be provided in accordance with the approved details prior to first occupation and maintained for the life of the development.
13. Prior to the first use of the development details of internal secure and undercover staff cycle storage and shower facilities shall be submitted to and approved in writing by the local planning authority. These facilities shall be provided in accordance with the approved details prior to the first use and maintained for the life of the development.
14. Prior to the first use of the development details of the loading and unloading area with barrier control system shall be submitted to the local planning authority and approved in writing. These shall be provided in accordance with the

approved details prior to being brought into use and maintained for the life of the development.

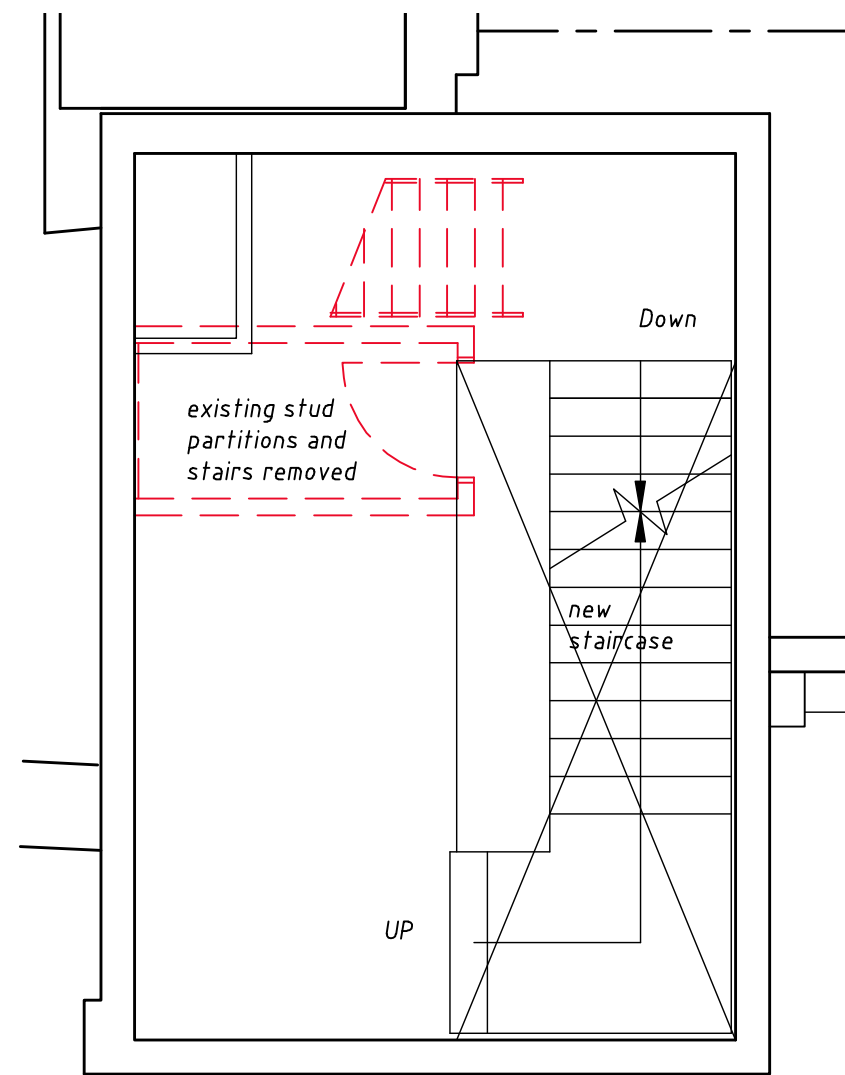
15. Prior to the first use of the development details of real time camera monitoring systems shall be submitted to the local planning authority and approved in writing. These systems shall be provided in accordance with the approved details prior to the first use and maintained for the life of the development.
16. Prior to the first use of the development details of a travel plan, including a named travel plan officer, commitment for each store to join Company Travel Wise, undertaking surveys within three months of opening and Realistic targets to promote sustainable travel modes shall be submitted to the local planning authority and approved in writing. These shall be provided in accordance with the approved details prior to first occupation and maintained for the life of the development.
17. The first floor areas above proposed retail areas 2 and 3 shall be void and shall not be used for any other purposes for the life of the development.
18. No development shall commence until details of the types, colours and textures of the materials to be used on the external surfaces of the buildings hereby approved shall be submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in complete accordance with the approved details.
19. The units shall not be combined unless otherwise agreed in writing by the local planning authority.
20. The total sales area of Unit 2 will not exceed 280m<sup>2</sup> net in order to enable any operator within the C-Store sector to trade outside of the 6 hour limit imposed under the Sunday Trading Act 1994 for the life of the development unless otherwise agreed in writing by the local planning authority.
21. No development shall commence until an Economic and Community Development Statement has been submitted to and approved in writing by the Local Planning Authority. The Statement shall address as a minimum, measures to increase the number of jobs open to local people available on the site and the development of initiatives that support activities to upskill local unemployed people of working age so as to support them into sustained employment as outlined in the Council's Planning Obligations Supplementary Planning Document. The development shall be implemented in accordance with the approved Statement and retained in accordance with the Statement for the lifetime of the development.



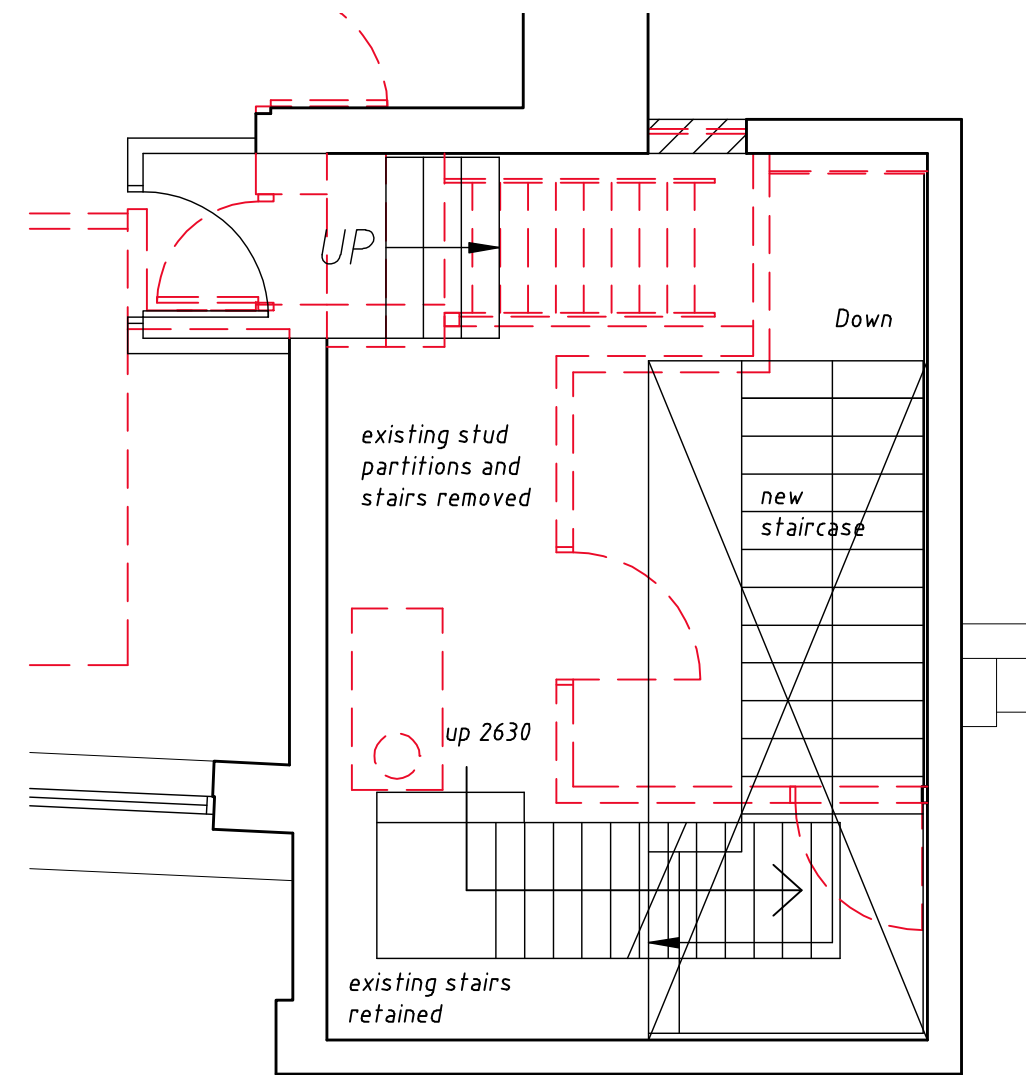
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1:500@A3	14/03/14	gsh/mh	GSA
STREETBIKE	MUCKLOW HILL	HALESOWEN	B62 8BW
GOULD SINGLETON ARCHITECTS	Earls Way, Halesowen, West Midlands, B63 3HR	Tel: 0121 550 0359	Fax: 0121 550 8086
		e-mail: jps@gsa.co.uk	gould-singleton.co.uk
number	13-1374/L	checked	EXISTING SITE LOCATION PLAN

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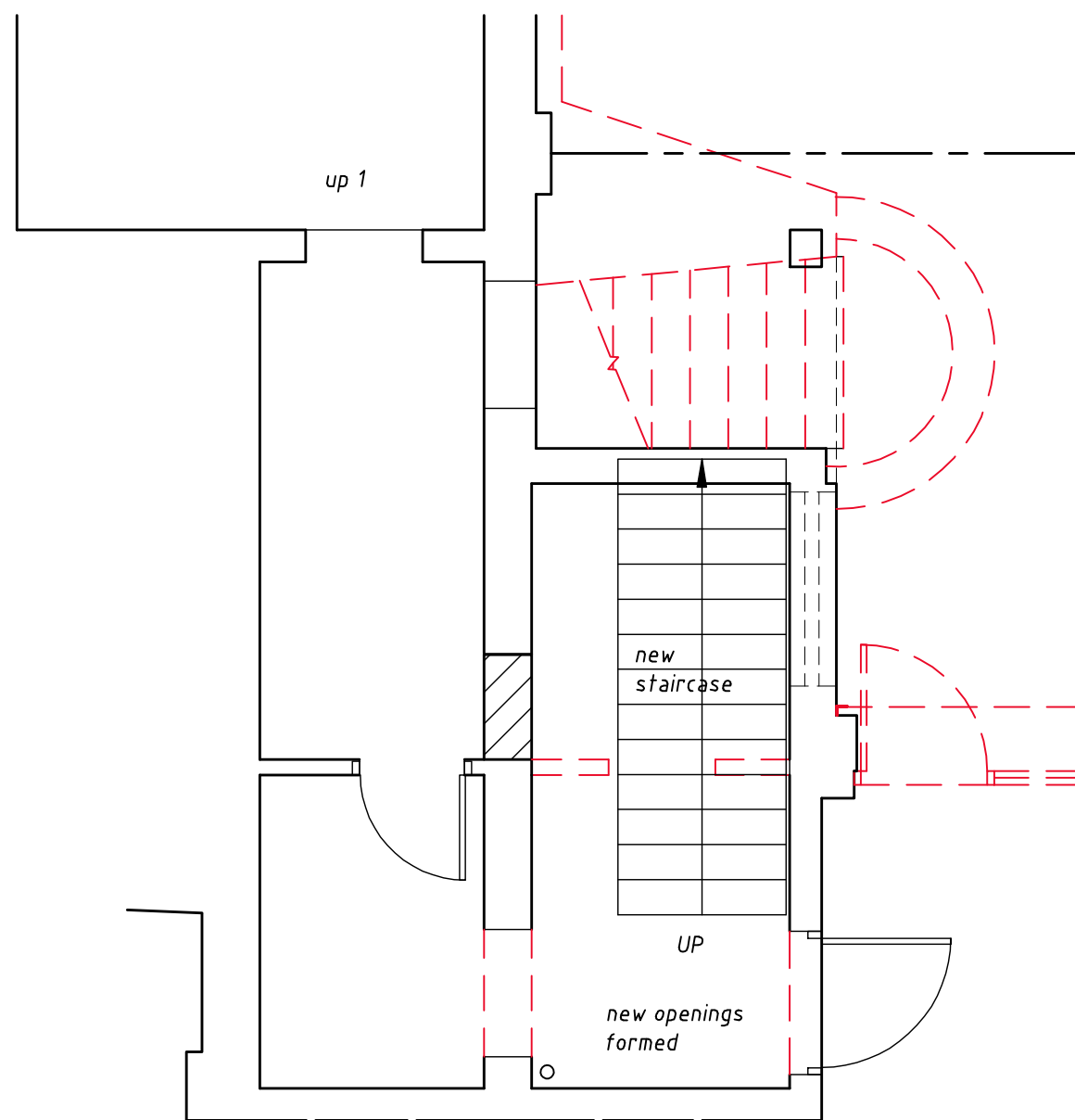




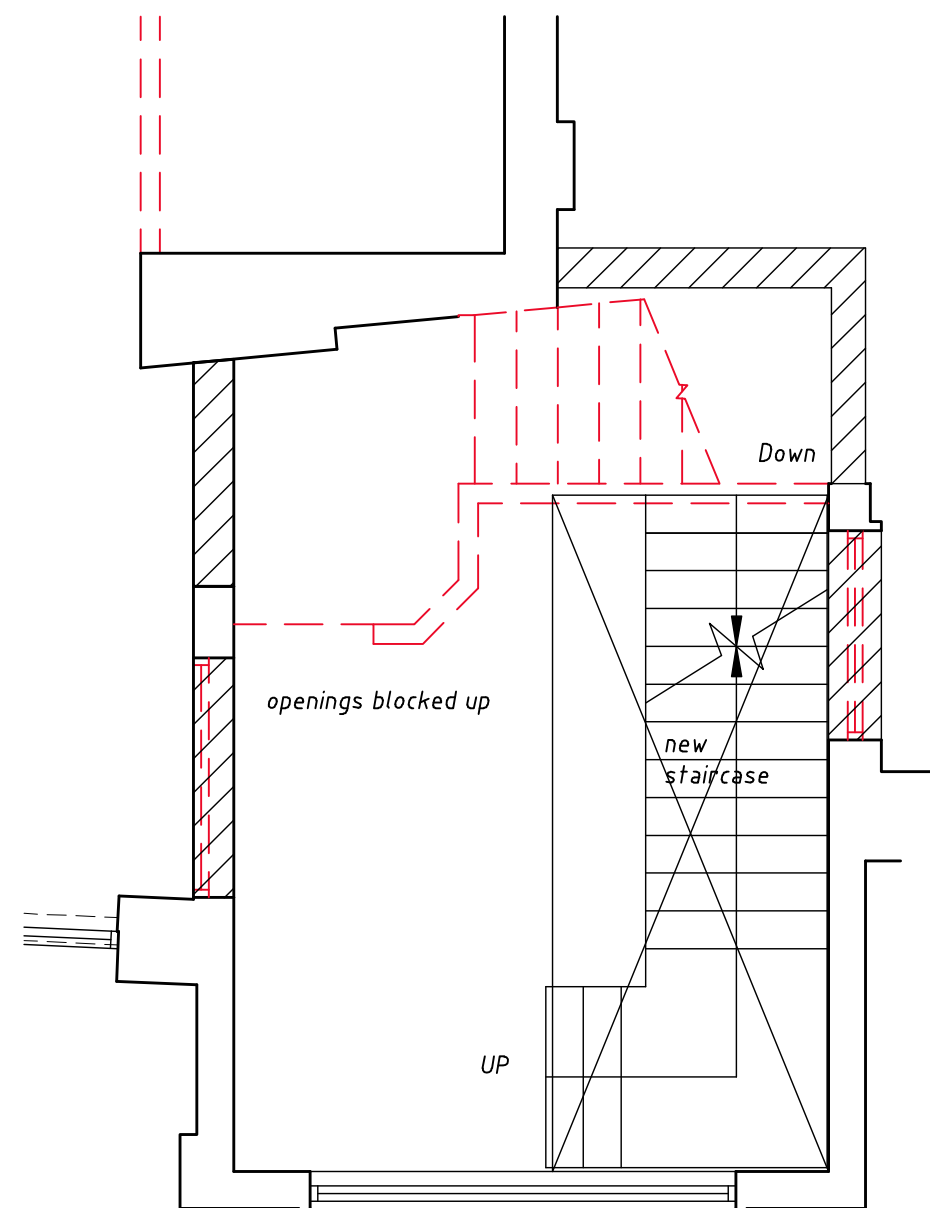
Mezzanine Floor



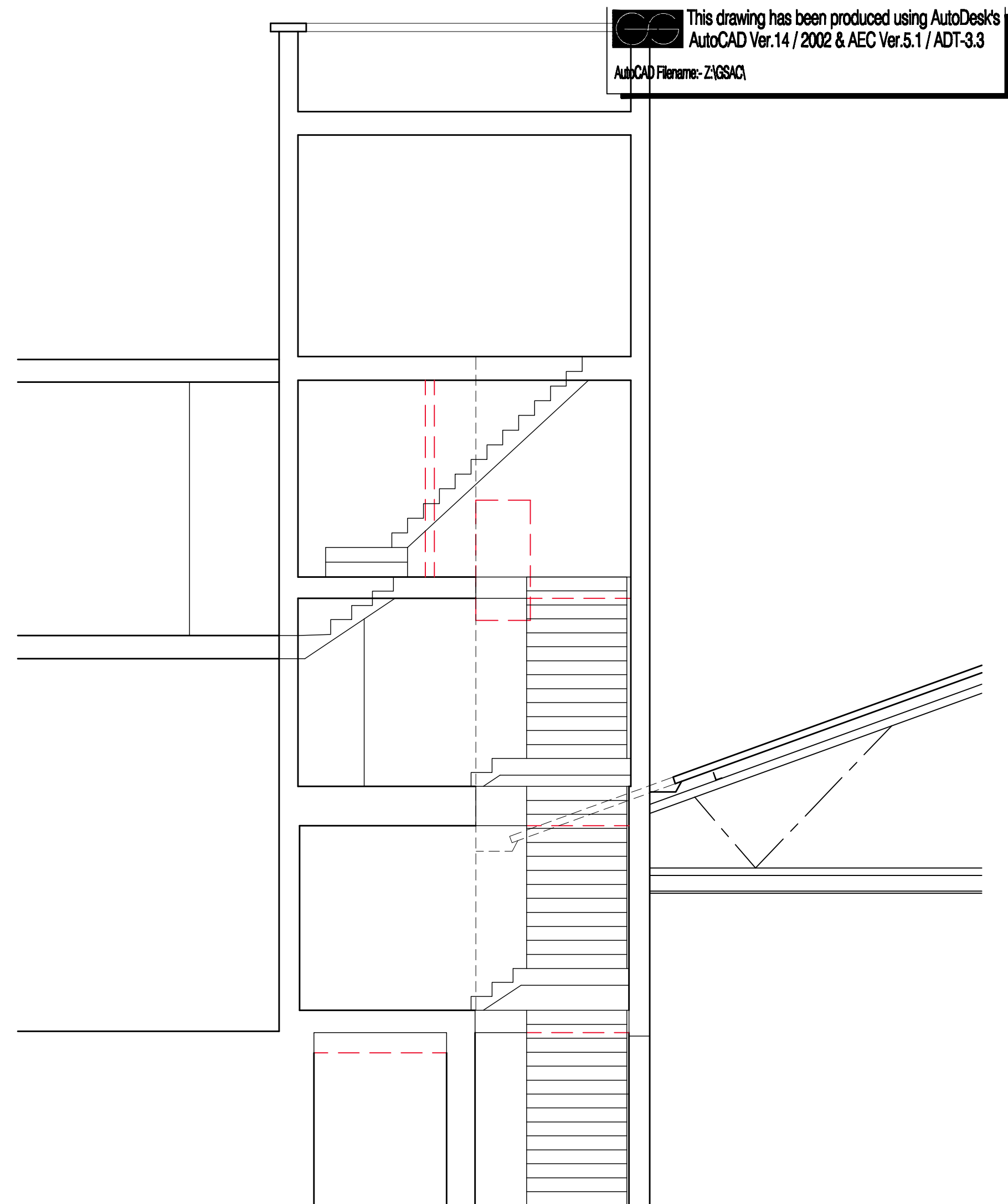
First Floor



Lower Ground Floor



Ground Floor



Cross Section

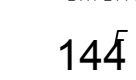
rev.	date	drawn	chk'd
1	1:50@A2	JE	GSA
2	June14		
3	13-1374/11		

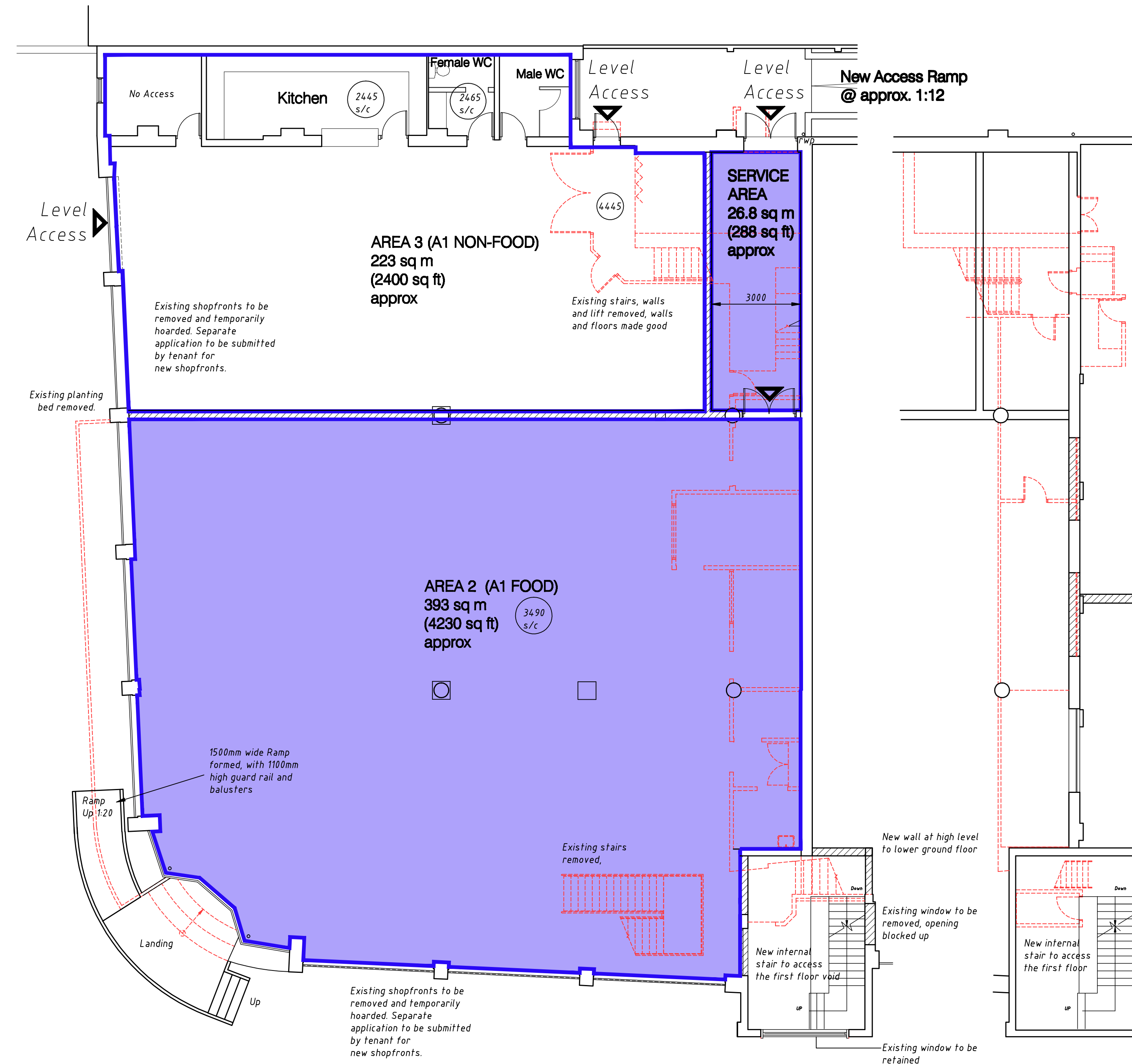
**Gould Singleton Architects**  
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e-mail: postmaster@gould-singleton.co.uk

**Streetbike**  
Mucklow Hill  
Halesowen  
B62 8BW

**Proposed Tower Stairs**

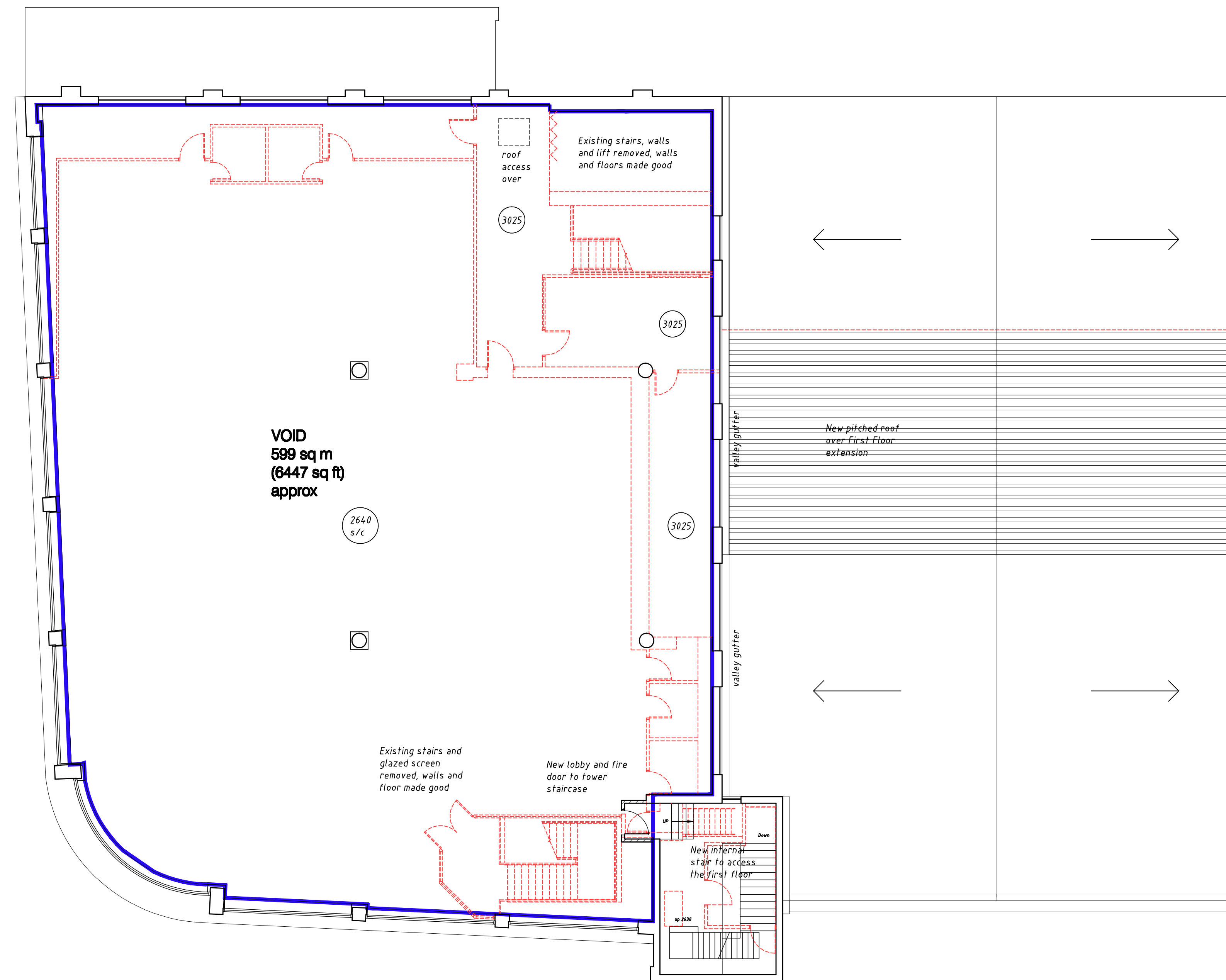
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## Ground Floor 1:100

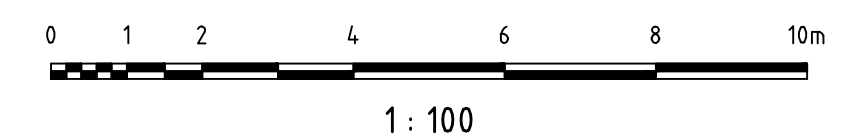
## Mezzanine



## First Floor

## SCHEDULE OF AREAS

FIRST FLOOR VOID	599 sq m	(6447 sq ft)	
FIRST FLOOR ACCESS EXTENSION	23.3 sq m	(251 sq ft)	
<b>FIRST FLOOR TOTAL</b>	<b>622.3 sq m</b>	<b>(6698 sq ft)</b>	<b>or thereabouts</b>
<b>GROUND FLOOR AREA 2</b>	<b>393 sq m</b>	<b>(4230 sq ft)</b>	
<b>GROUND FLOOR AREA 2 SERVICE</b>	<b>26.8 sq m</b>	<b>(288 sq ft)</b>	
<b>GROUND FLOOR AREA 3</b>	<b>223 sq m</b>	<b>(2400 sq m)</b>	
<b>GROUND FLOOR ACCESS</b>	<b>29.9 sq m</b>	<b>(322 sq ft)</b>	
<b>MEZZANINE ACCESS</b>	<b>23.3 sq m</b>	<b>(251 sq ft)</b>	
<b>GROUND FLOOR TOTAL</b>	<b>696 sq m</b>	<b>(7491 sq ft)</b>	<b>or thereabouts</b>
<b>OVERALL TOTAL</b>	<b>1318.3 sq m</b>	<b>(14189 sq ft)</b>	<b>or thereabout</b>



E	31.10.14	Tower stair amended	TD
D	26.03.14	Changes to area allocation.	JG
C	27.01.14	Revised for planning application.	PF
B	21.01.14	New fire escape omitted at rear of unit 3 and areas updated.	PF
A	14.01.14	Proposed rear access/service area shown.	TD

rev.	date		drawn	chk'd
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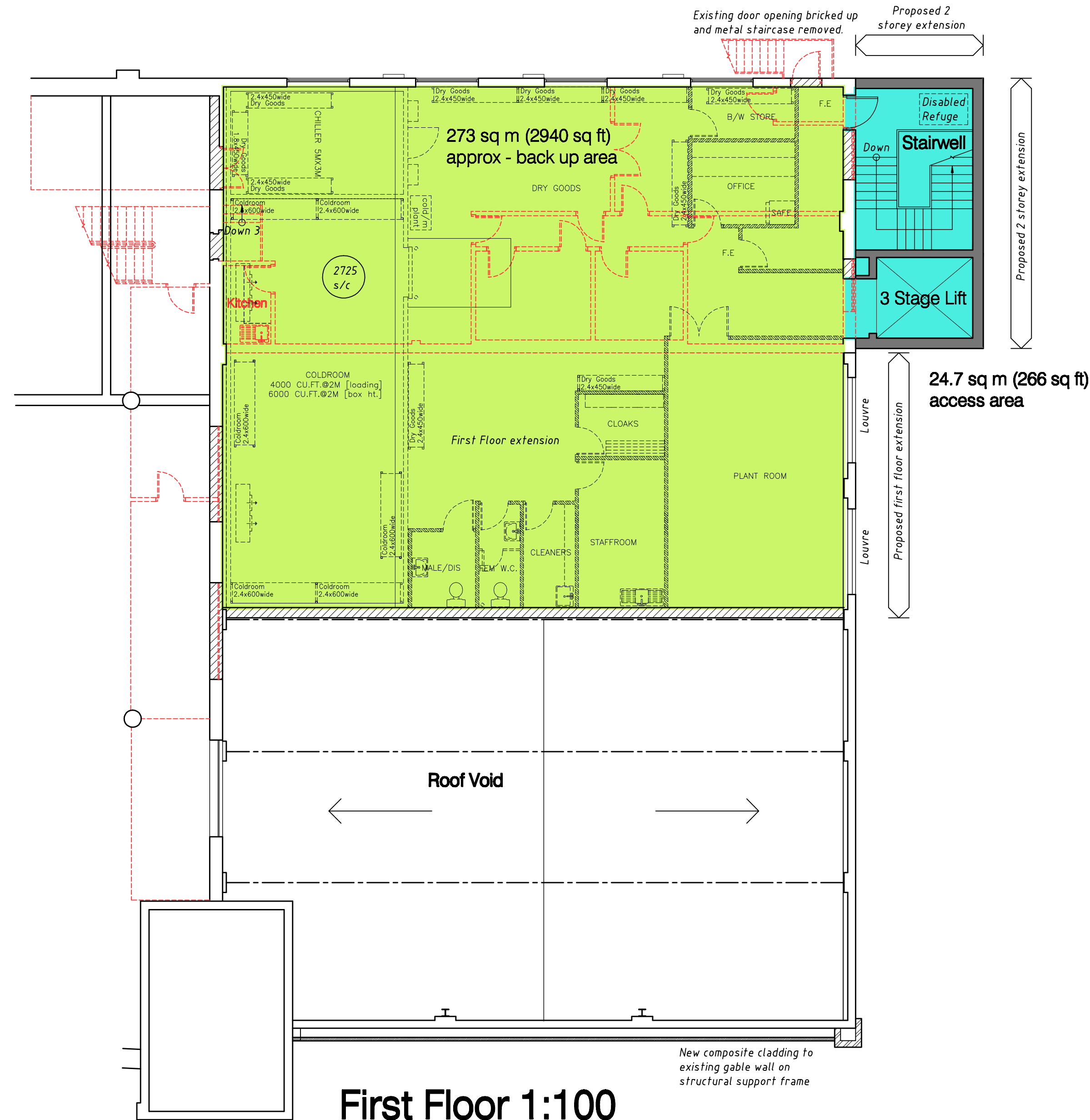
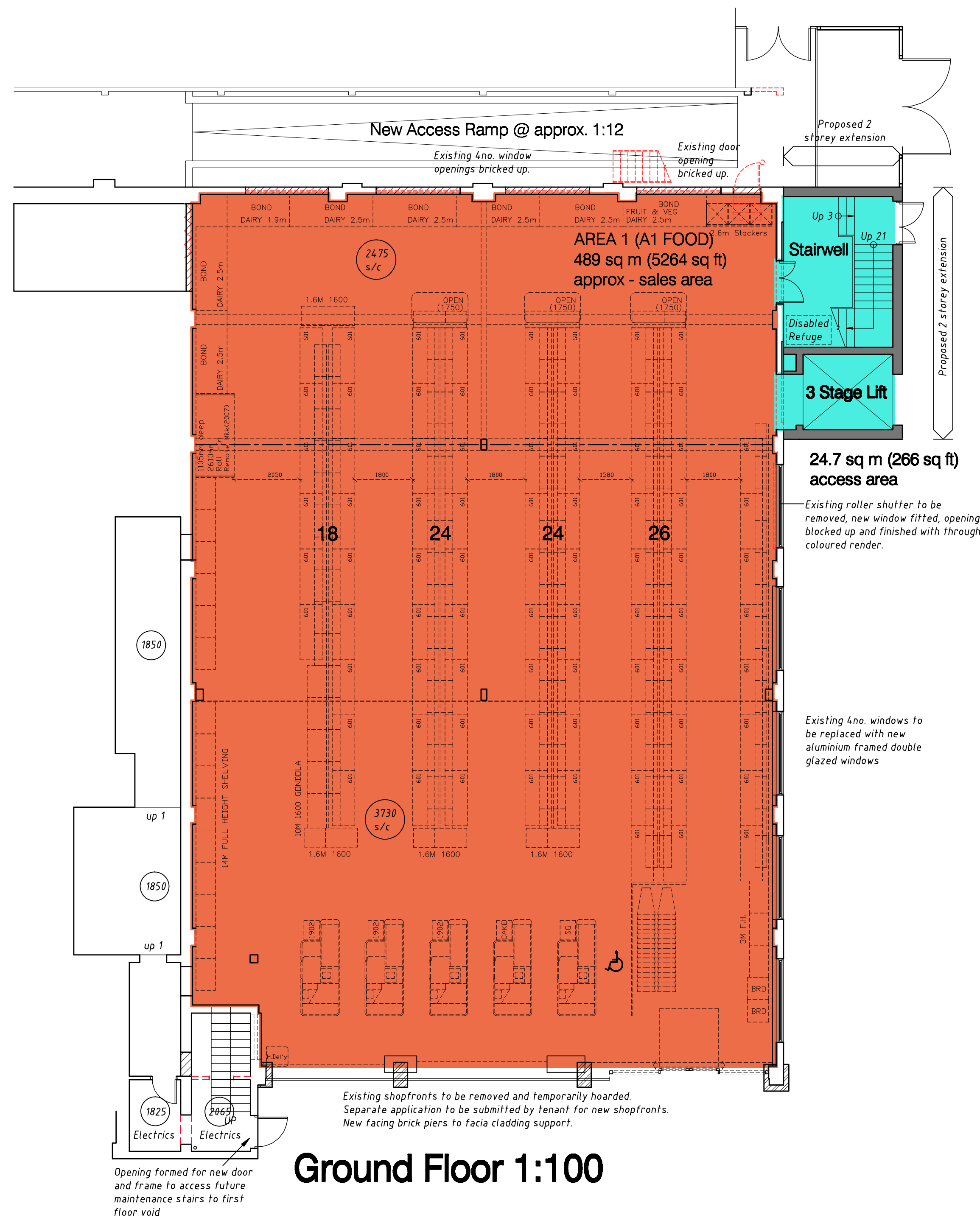
number	13-1374/07
drawn	TD/PF
date	May 2013
scales	1:100@A

Streetbike  
Mucklow Hill  
Halesowen  
B62 8BW

Floor Plans - Areas

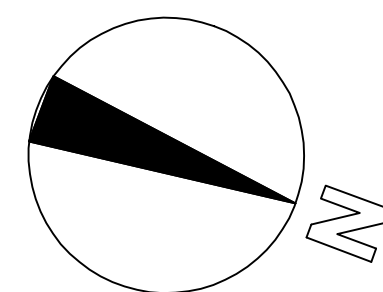
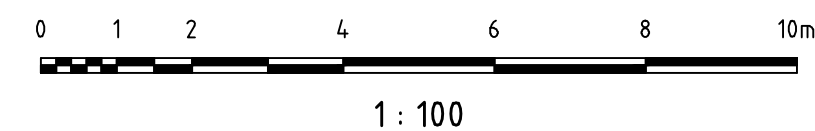
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## SCHEDULE OF AREAS

FIRST FLOOR EXISTING	134 sq m	(1442 sq ft)
FIRST FLOOR BACK UP EXTENSION	139 sq m	(1496 sq ft)
FIRST FLOOR ACCESS EXTENSION	24.7 sq m	(266 sq ft)
<b>FIRST FLOOR TOTAL</b>	<b>297.7 sq m</b>	<b>(3204 sq ft) or thereabouts</b>
<b>GROUND FLOOR EXTENSION</b>	<b>489 sq m</b>	<b>(5263 sq ft)</b>
<b>GROUND FLOOR ACCESS EXTENSION</b>	<b>24.7 sq m</b>	<b>(266 sq ft)</b>
<b>GROUND FLOOR TOTAL</b>	<b>513.7 sq m</b>	<b>(5529 sq ft) or thereabouts</b>
<b>OVERALL TOTAL</b>	<b>811.4 sq m</b>	<b>(8733 sq ft) or thereabouts</b>



F	30.10.14	Updated to Elevational amendments	TD
F	24.03.14	Updated to Iceland fit out.	JG
E	27.01.14	Revised for planning application.	PF
D	21.01.14	Proposed Lift and stair moved outside existing envelope.	PF
C	07.01.14	Notes to Area's amended	TD
B	09.12.13	Proposed Lift and Stairs shown	TD
A	27.11.13	First floor area adjusted to suit truss locations.	TD
rev.	date		drawn/chk'd



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1:100@A1

**Streetbike**  
**Mucklow Hill**  
**Halesowen**  
**B62 8BW**

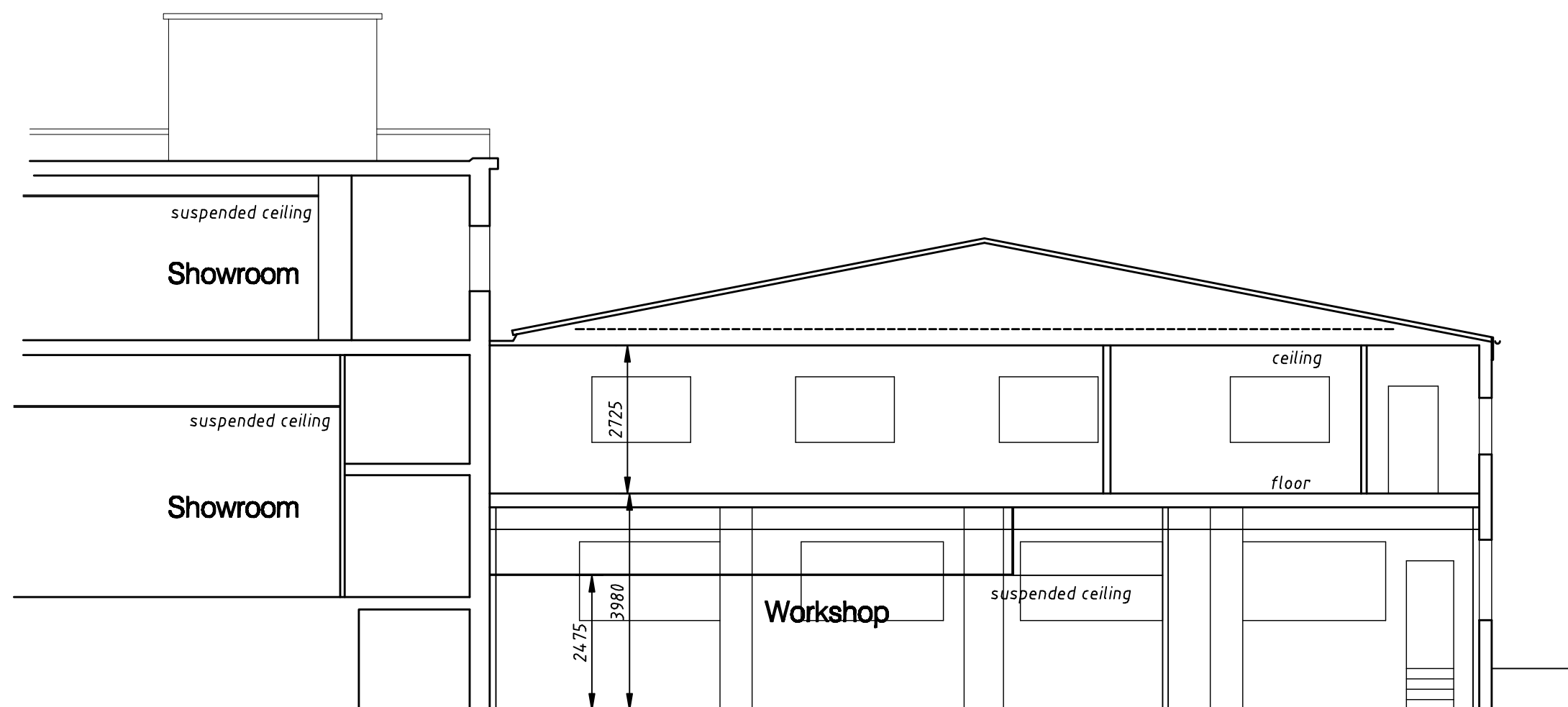
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JG GSA

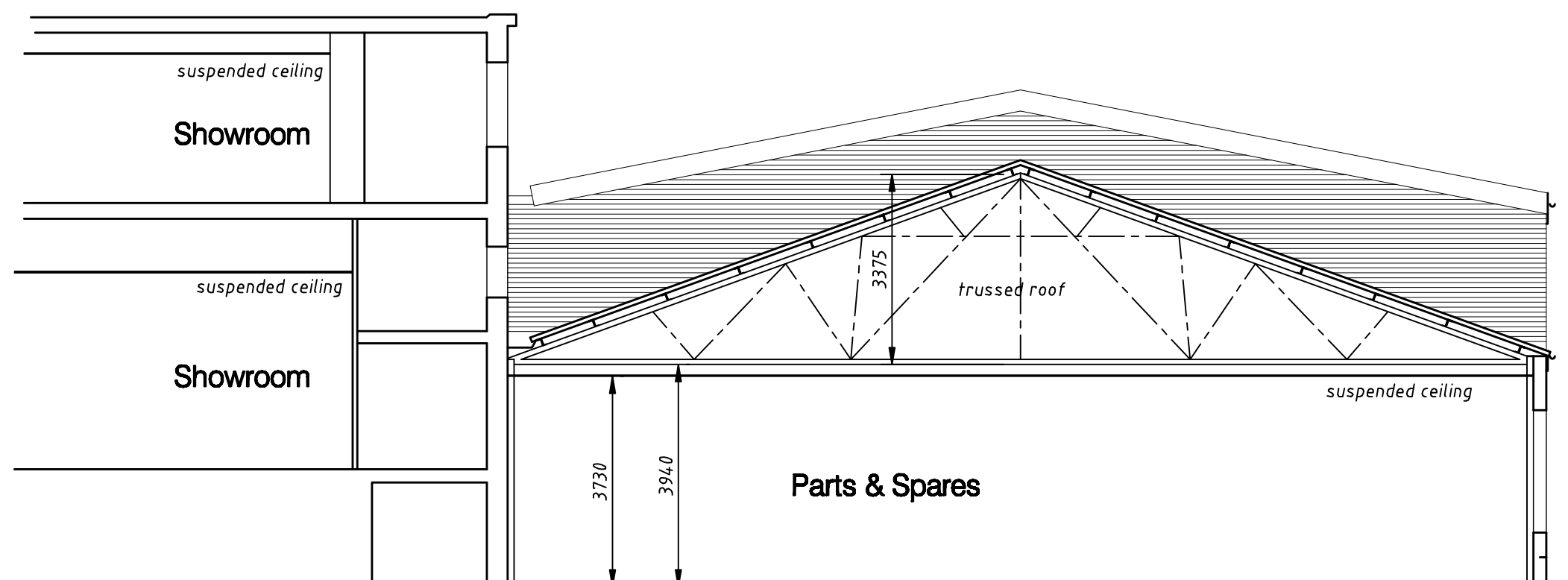
**Floor Plans - Areas**

13-1374/06G

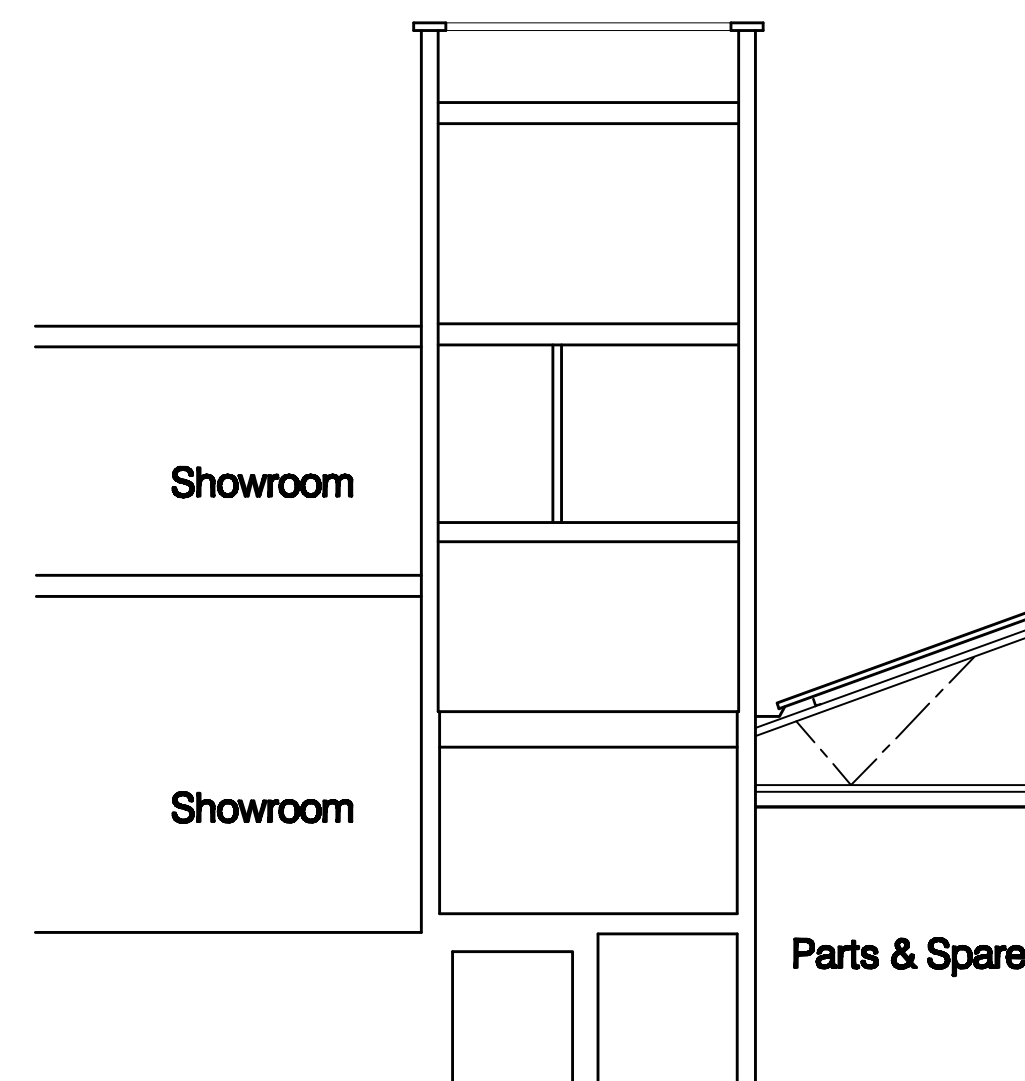
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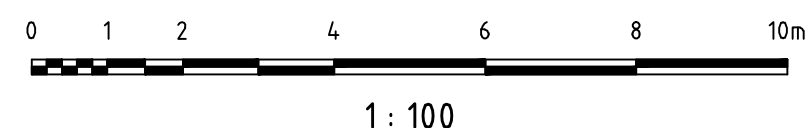
Cross Section through rear Two Storey



Cross Section through Parts and Spares



Cross Section through Tower



B	06.12.13	Section thro tower added, elevation omitted	TD
A	27.11.13	Additional information added.	TD
rev.	date		drawn chk'd



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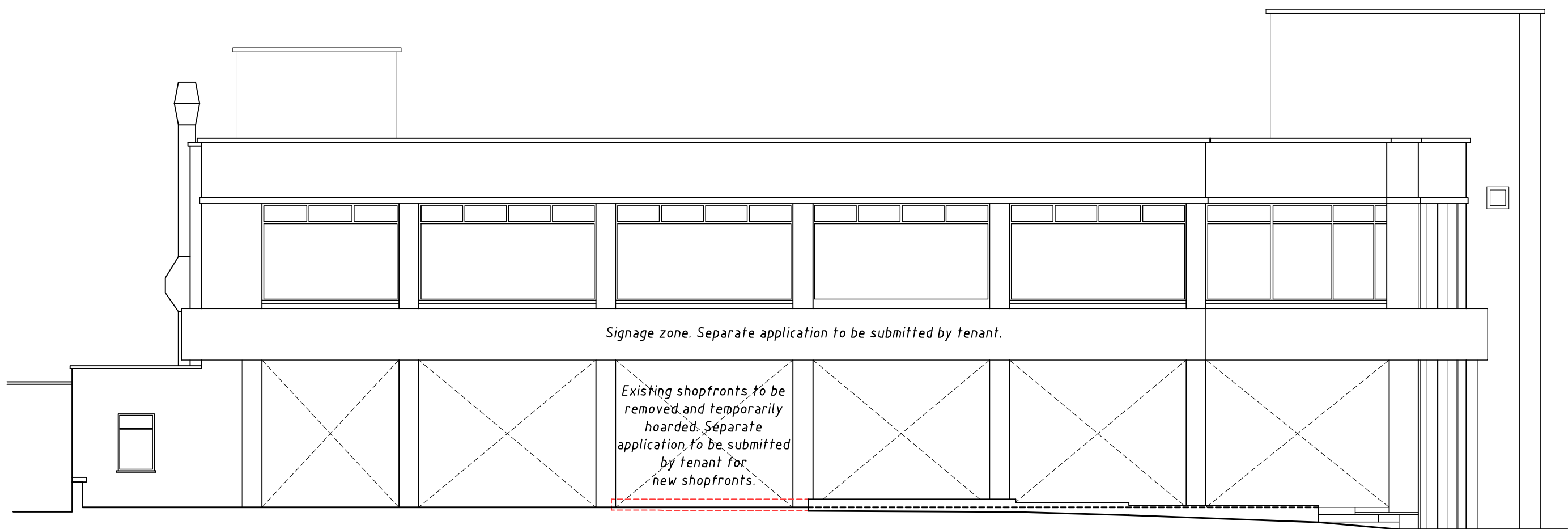
Tel: 0121 550 0359 Fax: 0121 550 8088  
e-mail: postmaster@gould-singleton.co.uk

1:100@A2  
Oct 13  
TD GSA  
13-1374/05B

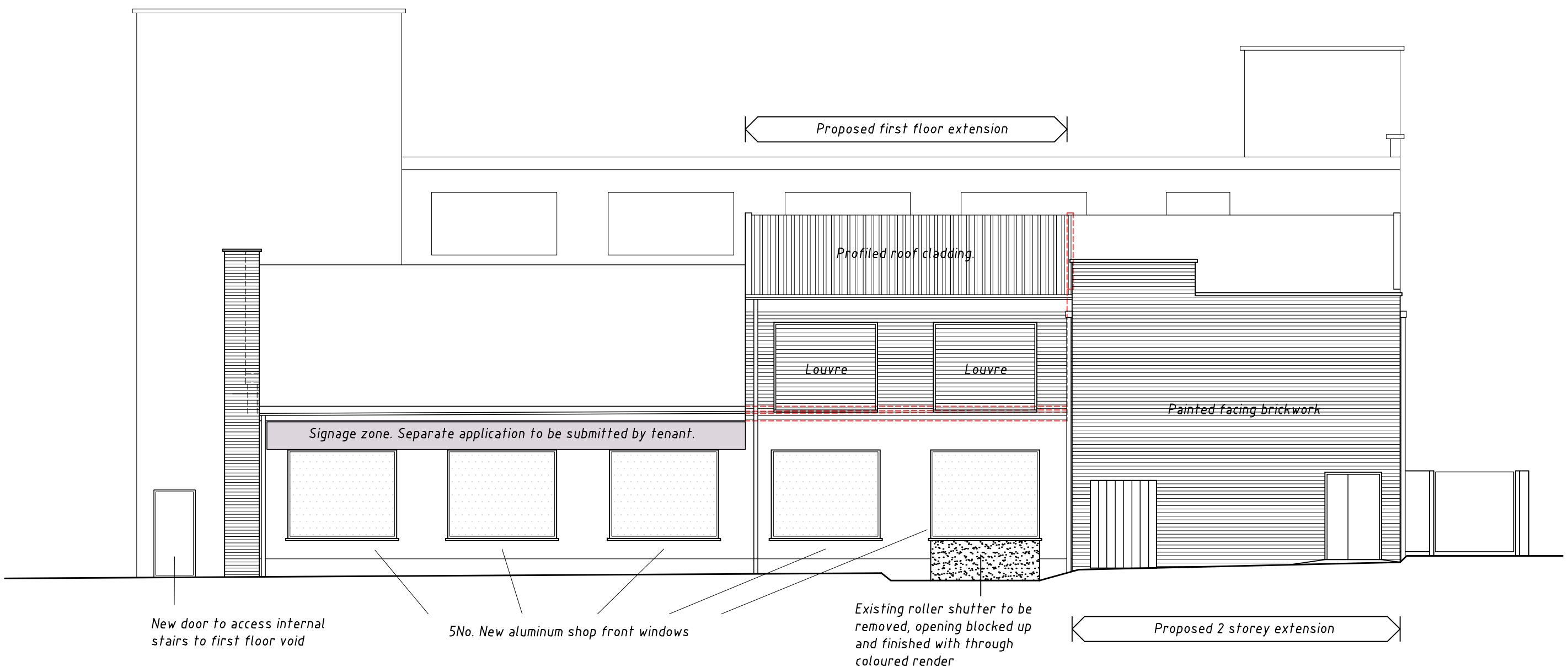
**Streetbike**  
**Mucklow Hill**  
**Halesowen**  
**B62 8BW**

**Cross Sections**

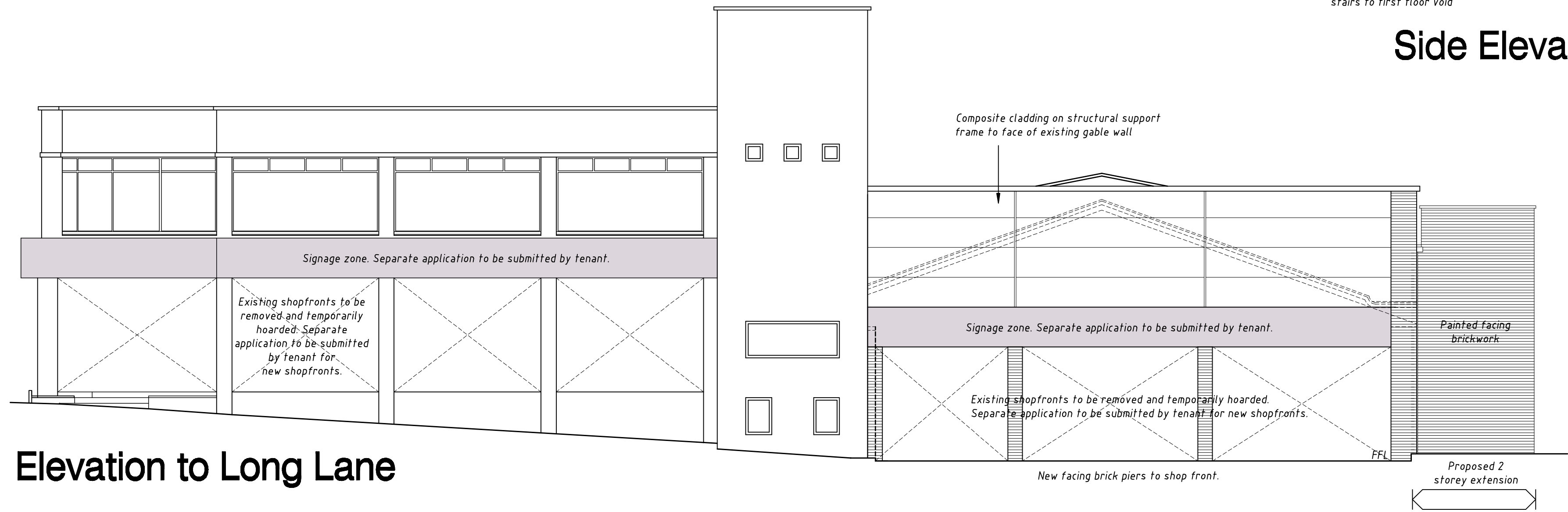
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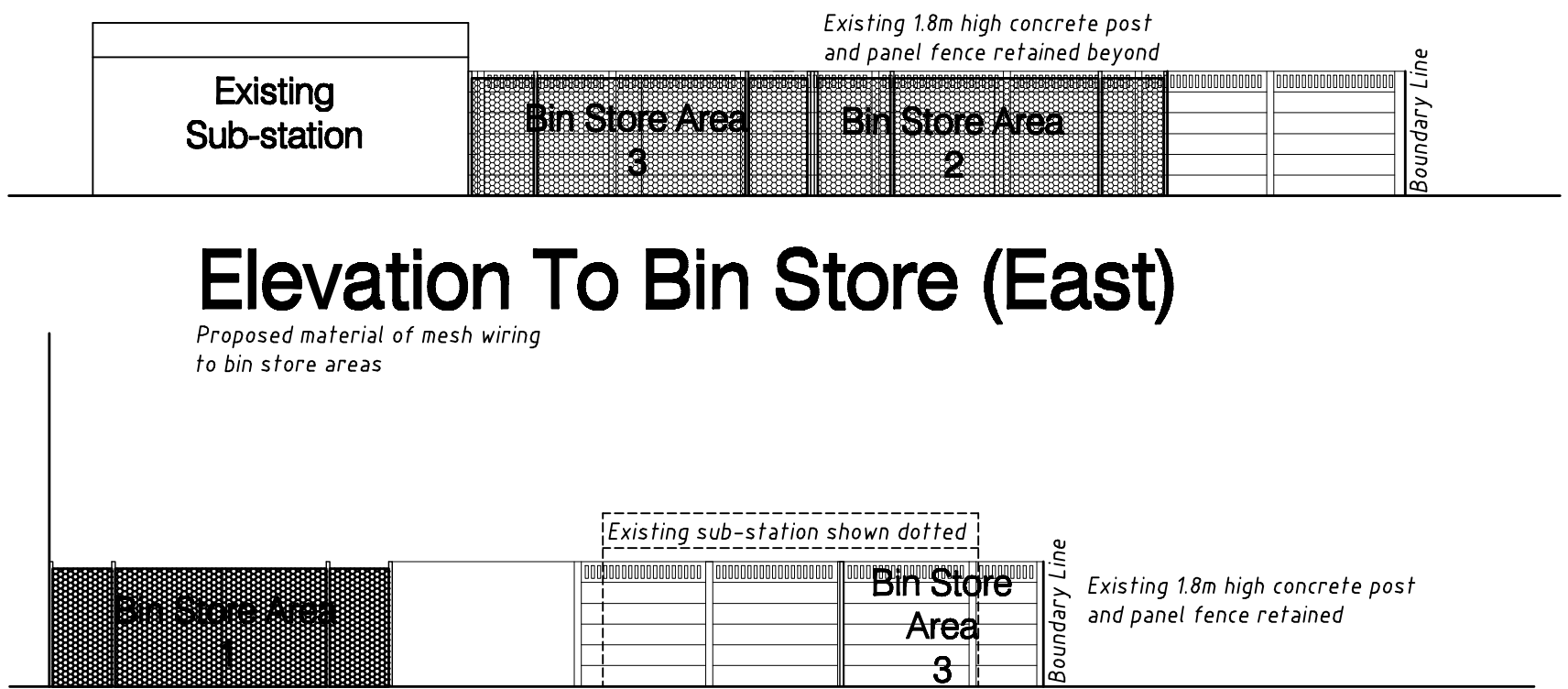
Elevation to Mucklow Hill



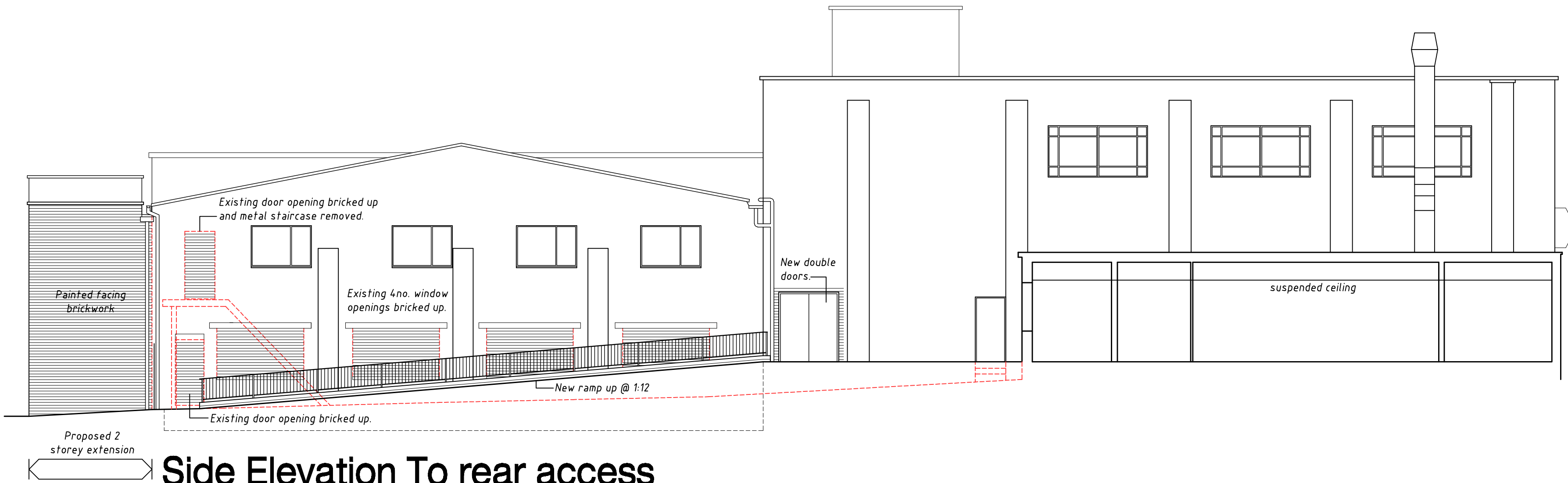
Side Elevation To Car Park



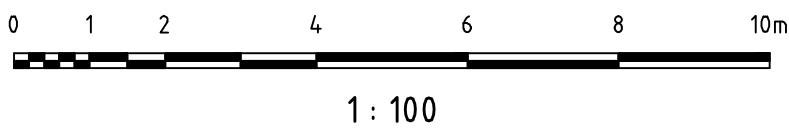
Elevation to Long Lane



Elevation To Bin Store (East)



Side Elevation To rear access



number drawn date scale	A	31.10.14	Bin store elevations added.	TD
	rev.	date		drawn chk'd
	1:100@A1			
	Jan 2014			
PF	GSA			
	checked			
13-1374/14A				

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**Streetbike**  
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**Proposed Alternative Elevations**

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## PLANNING APPLICATION NUMBER:P14/1592

Type of approval sought	Full Planning Permission
Ward	St. James's
Applicant	Mrs Jennifer Hutchinson, Basic Desires Ltd
Location:	<b>UNIT 2, 100, DOCK LANE, DUDLEY, WEST MIDLANDS., DY1 1SN</b>
Proposal	<b>CHANGE OF USE FROM (B8) TO PRIVATE MEMBERS CLUB WITH PHOTOGRAPHIC STUDIO AND NEW SMOKING SHELTER (SUI GENERIS)</b>
Recommendation Summary:	<b>APPROVE SUBJECT TO CONDITIONS</b>

### SITE AND SURROUNDINGS

1. 100 Dock Lane is located on the corner of Dock Lane and Cleveland Street within a wider industrial and commercial area on the outskirts of Dudley Town centre. The site consists of a larger building which has been subdivided into 5 units. This site lies within Regeneration Corridor 11a as defined by the Black Country Core Strategy. The Regeneration Corridors are where investment and development will be focussed up to 2026 and RG11 is intended to feature a rejuvenated Dudley town centre with surrounding high quality housing and employment areas. No.100 Dock Lane lies outside an area identified for local employment retention and future housing growth near to Dudley Town centre.
  
2. Adjacent to the western side of the building is a small area of green space and a driveway to access other industrial premises. To the rear, sits a builders yard which is fenced off with high industrial palisade fencing of approximately two metres in height. Beyond this land to the south, sits a large factory building. The application site is located immediately opposite the car parking serving Dudley Leisure Centre. The nearest residential properties are some 80m away at the junction of Ludgate Street and Dock Lane located to the west of the application site, with further



residences approximately 100m away at the junction of Steppingstone Street and Oxford Street to the northeast.

3. The application site measures approximately 550sqm overall which includes the application premises and car park to the eastern side. The application relates to the ground floor unit (Unit 2) measuring 189sqm within the larger building which is made up of five units in total. Unit 2 sits to the rear of Unit 1 which runs along the frontage to Dock Lane. Access to Unit 2 is gained via a common entrance on the ground floor of Unit 5 which is at the rear adjacent to Cleveland Street.
4. The car parking area is enclosed by a low boundary wall and is accessed off Cleveland Street via a dropped kerb. There are no parking restrictions along Dock Lane or in the vicinity of the site. There are no mature trees on site and there is a change in ground level as Cleveland Street sits on a slight incline.

## PROPOSAL

5. This proposal seeks approval for a change of use to a '*Sui Generis*' use that does not fall within any general use class. The previous use of this building was as B8, warehousing, storage and distribution with an element of A1 retail. The proposed use as a Private Members Club and photographic studio does not fit into any one specified Use Class category, although the photographic studio could fall under an office category (B1). The Private Members Club would be most similar to a nightclub/social club, and is therefore considered to be '*Sui Generis*', a use not falling within a specified Use Class.
6. The applicant has described the club as a 'Private Members Alternative Interest Club', the location and operation of which will be considered in land use planning considerations. The purpose of this report is to assess the suitability of the proposed use from a land use planning perspective and not to consider a moral judgement on the nature of the club.
7. The development will involve internal reconfiguration to provide a main bar area, a photographic studio a toilet block and admin area. There are no proposed changes



to the external elevations aside from repainting the external walls and the inclusion of a smoking shelter adjacent to the entrance doors of Unit 5.

8. The club will be accessed via double doors located in Unit 5 to the rear of the premises. The smoking shelter is to be positioned to the front of these doors, adjacent to the building. The smoking shelter will measure 3m wide and 2m deep and be constructed using a timber frame and clear polycarbonate roof. One side will remain fully open and the 2 remaining sides will feature mid line trellis in order to retain privacy for the members but to allow a degree of 'openness'.

## HISTORY

APPLICATION	PROPOSAL	DECISION	DATE
DY/53/394	Different use of foundry premises – conversion into manufacturing clothier factory	Approved with conditions	12/12/53
DY/55/184	Different use of land – proposed erection of chain link fencing and use of land as a building site	Approved with conditions	21/04/55
DY/59/335	New lavatory block at factory	Approved	22/07/59
DY/60/300	Proposed alterations, repairs, extensions and conversion to existing factory	Approved with conditions	28/07/60
DY/62/161	Development of land for erection of offices, canteen and car park	Approved with conditions	23/03/62
DY/61/285	New machine shop, parking, dispatch and boiler house	Approved with conditions	05/04/62
DY/65/193	Taking off existing pitched roofs and replace with flat roofs, build in new window	Approved with Conditions	23/07/65
DB/73/13081	Erection of 2 storey extension to form office and store room	Approved with conditions	19/12/73
CC/78/2308	Alterations to stockroom for retail purposes	Refused	16/10/78

82/50224	Use of premises as night club	Refused	28/06/82
82/51961	Use of premises at night club	Approved with conditions	20/12/82
83/52319	Change of use from workshop offices and stores to trade paint sales offices and stores	Approved with conditions	09/01/84

## **PUBLIC CONSULTATION**

9. The application was advertised by way of ten neighbour notification letters being sent to the occupiers of neighbouring properties and units within close proximity to the site, plus the display of a site notice. The latest date for comments was the 2<sup>nd</sup> December 2014 with one written representation being received from the Leisure Centre. The main point of the representation included;
  - a. Members using the Club at 100 Dock Lane could use the car park at Dudley Leisure Centre which may prevent customers of the Leisure Centre finding a parking space.
  - b. Request that conditions regarding parking are put in place upon the granting of permission.
  
10. A petition of objection was also received on the 9<sup>th</sup> December. The petition signed by 66 people, raises the following considerations:
  - a. The application site is located in a residential area, opposite the Leisure Centre and near to religious buildings and may have a negative impact on children, public safety and local amenities.
  - b. The opening times would cause detriment to residential amenity by way of noise and disturbance and a potential rise in crime and disorder
  
11. It is noted that none of the addresses of the signatories lie within 100m of the application site, with the furthest being in Wolverhampton. A request has been received from a Ward Councillor for the application to be determined by the Development Control Committee.

## OTHER CONSULTATION

12. Comments have been sought from Highways, Environmental Protection and the West Midlands Police.

### Group Engineer – Highways

- There is sufficient car parking provision within the land controlled by the applicant to cater for the day to day needs of the scheme and there is spare capacity available on the adjacent roads that would not prejudice highway safety in the vicinity.
- Subject to conditions requiring the retention of the off-street car parking for the life of the development there are no objections to the development.

### The West Midlands Police, Crime Reduction Team

- The Police raise no objection in principle. Non material planning comments are that an intruder alarm remotely monitored with police response is recommended.

### Head of Environmental Health and Trading Standards

- No objection raised.

## RELEVANT PLANNING POLICY

### Black Country Core Strategy (2011)

- CSP1 The Growth Network
- DEL2 Managing the Balance Between employment Land and Housing
- ENV 3 Design Quality

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

- DD1 Urban Design
- DD4 Development in Residential Areas
- DD5 Development in Industrial Areas

## Supplementary Planning Documents / Guidance

- Parking Standards Review SPD

## **ASSESSMENT**

13. The proposed development must be assessed firstly to ascertain whether the principle of the development is acceptable. The proposal must also be assessed with regard to design and compatibility with the existing premises and character of the surrounding area, in terms of potential impact on the amenity of neighbouring uses and car parking provision.

14. The key issues are

- Principle of Development
- Design and Visual Amenity
- Neighbour Amenity
- Parking Provision

### Principle of Development

15. Core Strategy Policy CSP1 sets out how the Growth Network, which includes the Regeneration Corridors and Strategic Centres, will be the focus for growth, regeneration and land use change up to 2026. This Policy aims to help deliver the Core Strategy spatial objectives where sustainable development and the re-use of redundant land and buildings is an important element.

16. Policy DEL2 within the Core Strategy is applied in certain circumstances to help manage the balance between employment land and primarily housing, but also other uses. Often, when a change of use is proposed for premises where the previous use was employment, the applicant may be required to demonstrate how the requirements of Core Strategy Policy DEL2 have been met. In particular this would relate to demonstrating that the site is no longer required for employment use and ensuring that the development does not adversely affect the operation of existing or proposed employment uses nearby.

17. In this instance, it is noted that the application building has been vacant for a significant time and it has been marketed thoroughly which would suggest that the site is no longer viable for employment use. Prior to the adoption of the Core Strategy, this wider site was designated as a Local Employment Area within the Unitary Development Plan. This designation has since been removed thereby recognising that changes to alternative uses away from employment may be appropriate. Notwithstanding this, the site is adjacent to other buildings which are used primarily for industrial and employment uses and it will be important to consider the future operations of these businesses. As the hours of operation will be mainly in the evening and night-time, most of the adjacent premises will be closed and therefore it is considered that there would be minimal disturbance to their continued operations. Additionally, the applicant has undertaken a sound test for amplified music being played within the Unit and from this test, it is perceived that noise from within the Club would not adversely affect the residential properties and neighbouring premises.
18. It is considered that the proposed use is unlikely to adversely affect or prejudice the neighbouring uses and it will reuse an otherwise redundant building. Indeed, the reuse and maintenance of this part of the building is perceived as positive economic improvement which will help combat decline of this industrial area. Therefore the principle of this proposed use would be considered as acceptable in this location. It is also worth noting that the planning history on this site indicates that permission was granted in 1982 for a nightclub in this building.

#### Design and Visual Amenity

19. Policy ENV3 of the Core Strategy states that development proposals across the Black Country should feature high quality design that stimulates economic, social and environmental benefits. This approach is supported through Saved UDP Policy DD1, Urban Design which requires all development to apply the principles of good urban design including consideration of crime prevention measures.

20. The site lies outside the town centre boundary and does not fall within the Conservation Area or a Townscape Heritage Area. The surrounding uses are mainly light industry and the nearest residential properties are approximately 100 metres away. The building sits opposite a public car park serving the Leisure Centre. It is proposed that no external alterations will take place to accommodate the proposed change of use apart from the installation of an outside smoking area. The character of the building is comparable with the industrial surroundings, and has recently benefited from an aesthetic enhancement to the external appearance. The proposed use will not feature signage or external advertising. In this respect, the design and visual amenity of the building would not affect the street scene or be contrary to the character of the area.
21. The proposed outdoor smoking area measures 3m x 2m and is positioned adjacent to the triple entrance doors outside Unit 5. The first two sections of the door would abut the smoking shelter and the side which would run perpendicular to the building would remain fully open. The remaining two sides will feature mid line trellis which will protect the privacy of the club members and also conform with the Smoke Free (Premises and Enforcement) Regulations 2006 made under the Health Act 2006.

#### Neighbour Amenity

22. As noted above, the building is surrounded by similar industrial style buildings and the closest residences are approximately 80m away at the junction of Dock Lane and Ludgate Street. Measures to mitigate any potential noise impact have not been considered necessary with residents of the closest properties being unlikely to be affected by noise from amplified music within the building. The club note that it has previously operated under the name 'Flair Studios' for 3 years on Wolverhampton Street in the town centre with no knowledge of disruption or concerns being raised during this period.
23. The signed petition raises concerns regarding potential noise and disturbance, however, the residential addresses of the signatories are all located over 100m away from the application site with a good number being in Brierley Hill, Sedgley and further afield. They are therefore highly unlikely to be adversely affected by the

proposal. The petition objection also stated that the application site lies within a residential area but as noted above, the area is predominantly industrial with a degree of mixed use. The Sikh Temple lies over 100m away and the nearest primary school is approximately 300m away. Again, it is unlikely that these uses will be adversely affected by the proposal due to the proposed hours of operation and its position amongst generally industrial or commercial premises.

24. The proposed use is also unlikely to affect the amenity of nearby industrial premises as the hours of operation would be mostly in the evenings and weekends when the other operations are generally not operational.

25. It is therefore considered that in terms of neighbour amenity the proposal would be compliant with Policies DD1, DD4 and DD5 in the Adopted UDP.

#### Car Parking

26. The site boundary shown on the submitted plans indicates the open area to the east of 100 Dock Lane to be utilised for car parking. The parking area measures approximately 330sqm. The observations received from the Leisure Centre state that members visiting the club could use the car park at the Leisure Centre for parking. The Group Engineer is of the opinion that there is sufficient car parking provision within the land controlled by the applicant to cater for the use, with spare capacity available on the adjacent roads that would not prejudice highway safety in the vicinity. There are no parking restrictions on Dock Lane and it is a highway capable of providing on street parking with no detriment to other road users.

27. It is therefore considered unlikely that club members would need to utilise the Leisure Centre car park, however, this car park is currently not controlled and is open to public use whether users of the Leisure Centre or not.

28. It is considered that the car parking provision provided on site and available on street will be sufficient to serve the proposed development, consistent with the Parking Standards SPD.

## CONCLUSION

29. This proposed development will involve the reuse of an otherwise redundant building which has been shown to be no longer viable for further warehouse or commercial use. The reuse of the premises as a private members club and photographic studio will provide an economic use within this area and be consistent with the Core Strategy spatial objectives. It is unlikely that the proposed use would cause any adverse impact to the occupants of residential properties or to the future operations of nearby industrial premises. The proposed car parking provision is considered acceptable and any possible overspill parking could be accommodated on streets in the vicinity without prejudicing highway safety. On this basis, it is considered that the proposed change of use is acceptable in land use planning terms in this location and is compliant with the relevant development plan policies.

## RECOMMENDATION

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

### APPROVAL STATEMENT INFORMATIVE

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

### Informative Note

The proposed development lies within an area that has been defined by The Coal Authority as containing potential hazards arising from coal mining. These hazards can include: mine entries (shafts and adits); shallow coal workings; geological fissures; mine



gas and previous surface mining sites. Although such hazards are often not readily visible, they can often be present and problems can occur as a result of development taking place, or can occur at some time in the future.

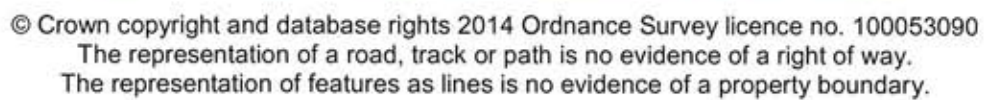
It is recommended that information outlining how the former mining activities affect the proposed development, along with any mitigation measures required, be submitted alongside any subsequent application for Building Regulations approval

Any intrusive activities which disturb or enter any coal seams, coal mine workings or coal mine entries (shafts and adits) requires the prior written permission of The Coal Authority. Such activities could include site investigation boreholes, digging of foundations, piling activities, other ground works and any subsequent treatment of coal mine workings and coal mine entries for ground stability purposes. Failure to obtain Coal Authority permission for such activities is trespass, with the potential for court action.

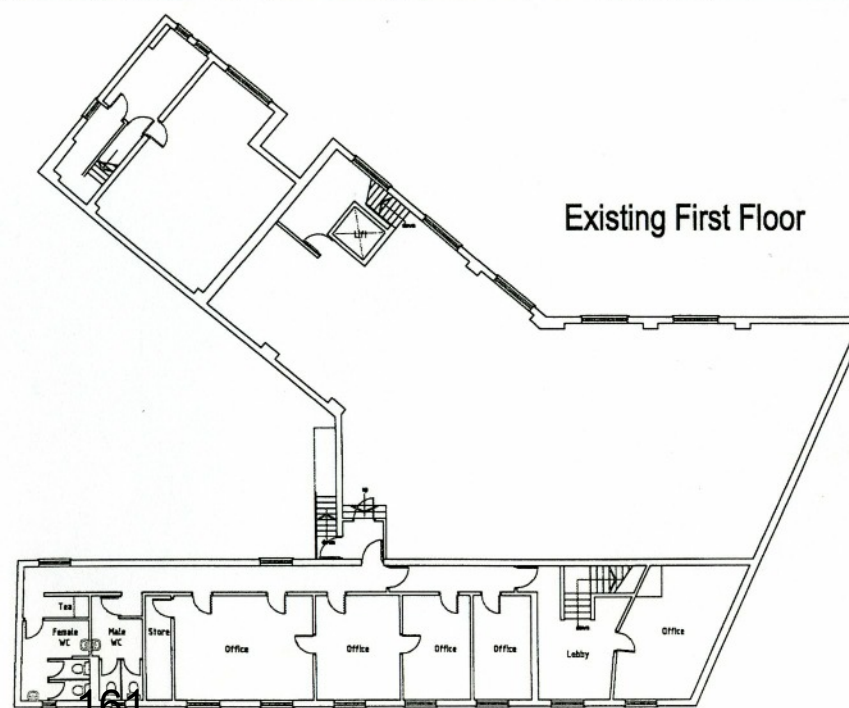
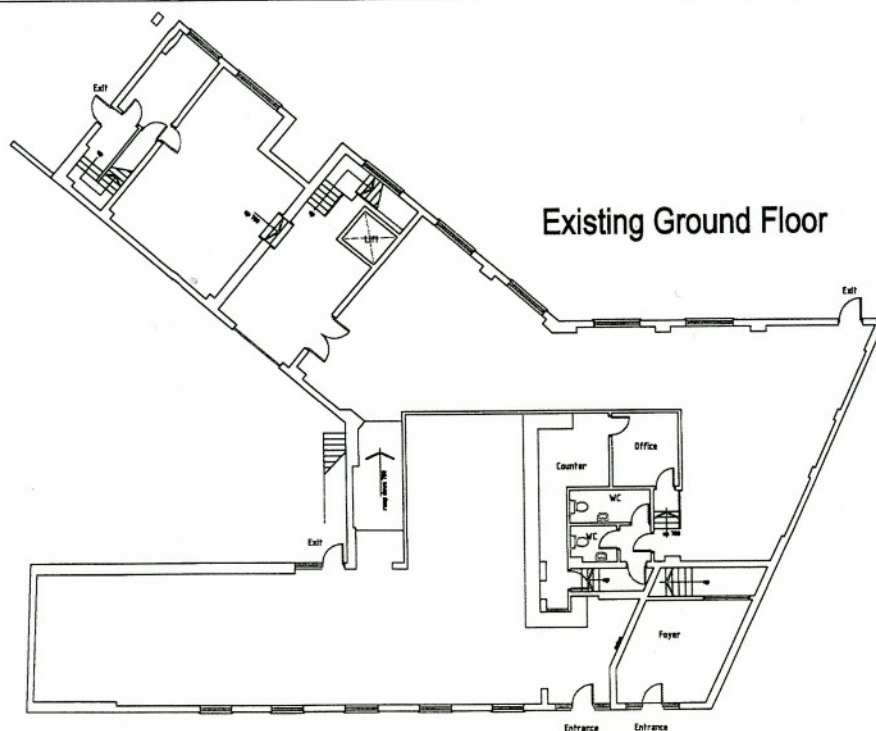
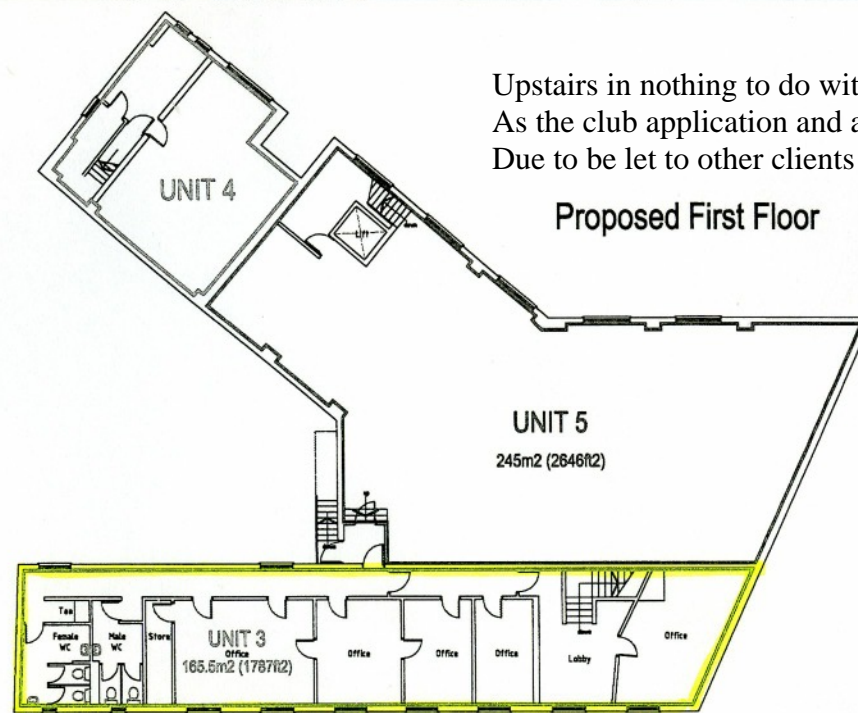
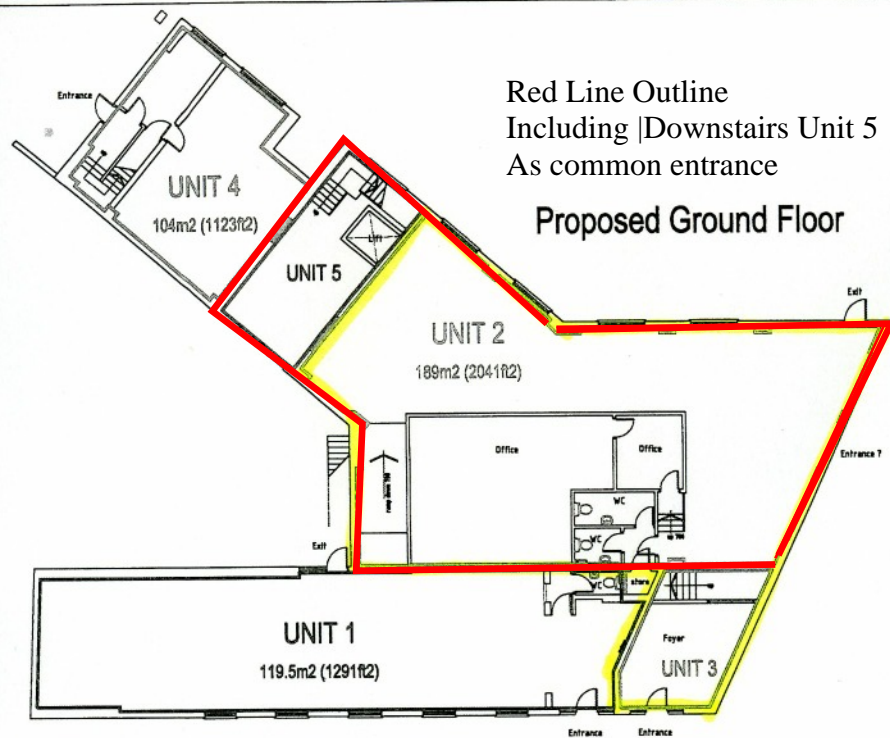
Property specific summary information on coal mining can be obtained from The Coal Authority's Property Search Service on 0845 762 6848 or at [www.groundstability.com](http://www.groundstability.com)

Conditions and/or reasons:

1. The premises shall not be open to the public before the hours of [1200] nor after [2300] Sunday to Thursday, before [1200] or after [0200] on Fridays and Saturdays
2. The development hereby permitted shall be carried out in accordance with the following approved plans listed in schedule, New boundary plan, red line boundary including car park, proposed floor layout, smoking shelter sketch
3. The development hereby permitted shall be begun before the expiration of three years from the date of this permission.
4. The off-street car parking outlined in red shall be retained for the life of the development.



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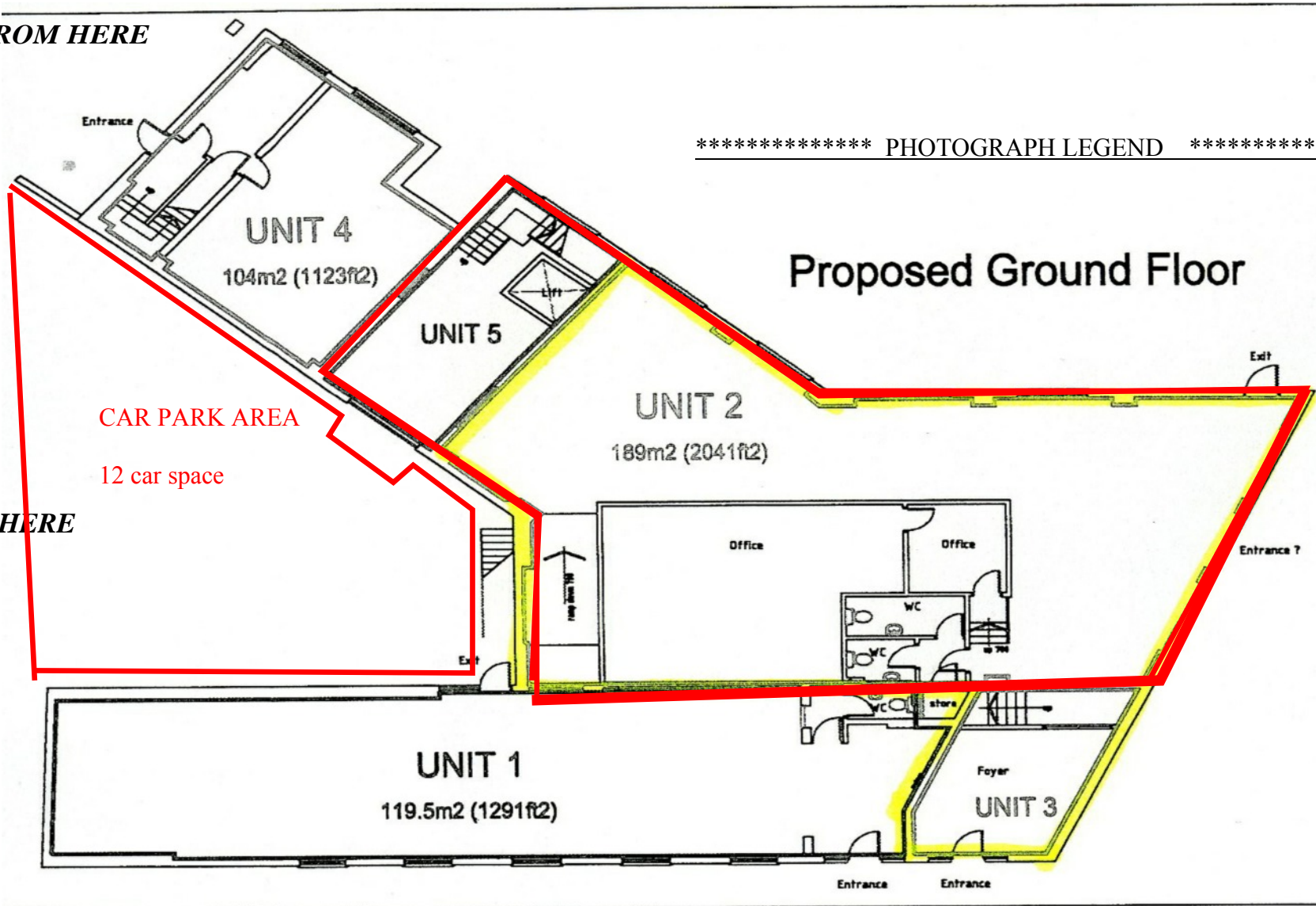
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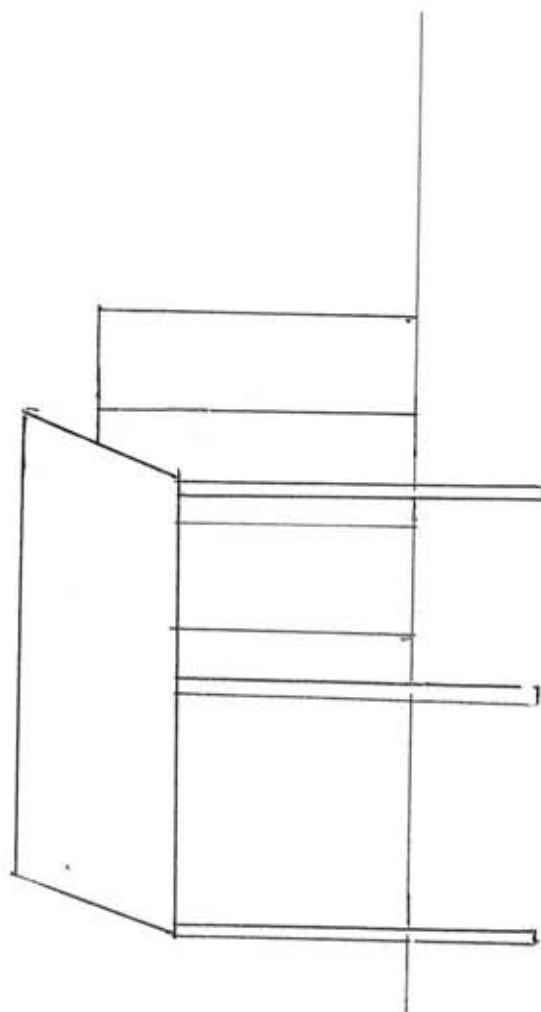
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\*\*\*\*\* PHOTOGRAPH LEGEND \*\*\*\*\*

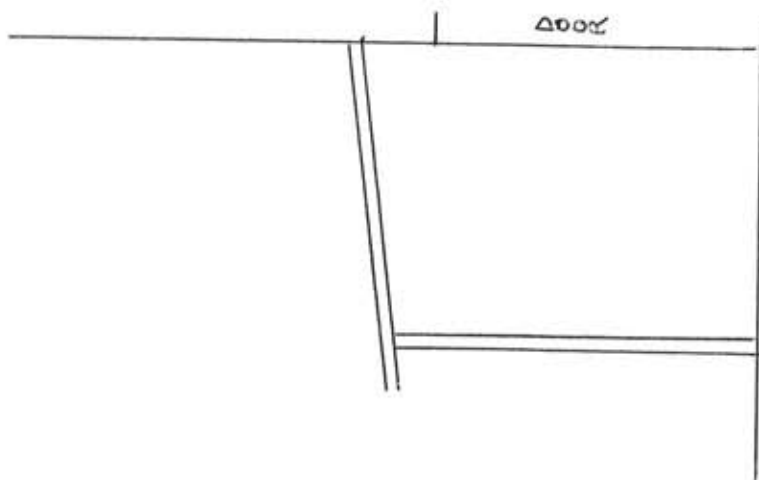
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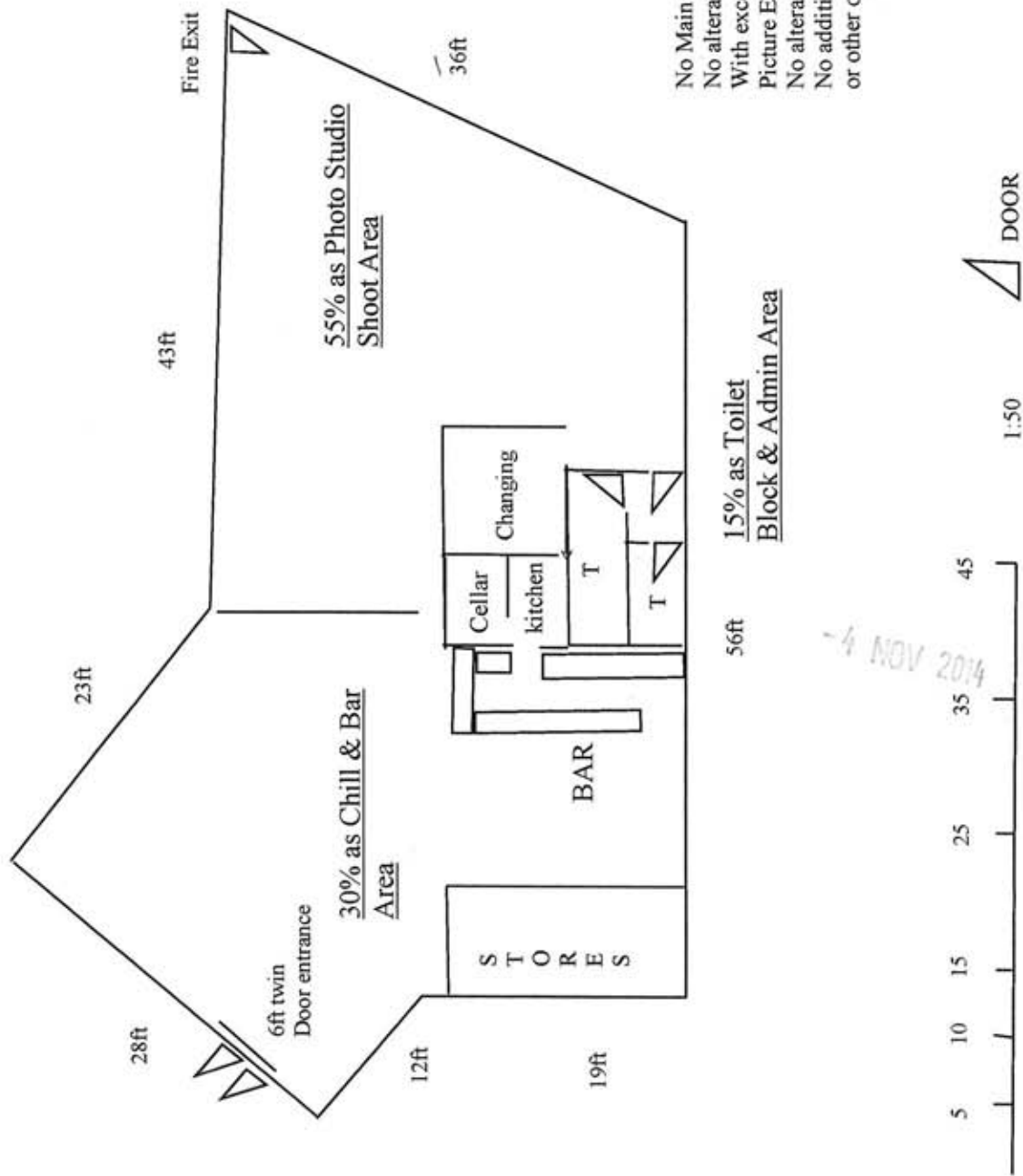
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SHOKING SHELTER





No Main Building works are to be undertaken.  
No alterations to external of building  
With exception of Smoking Shelter  
Picture Enclosed/Attached.  
No alterations to main entrances or exit points.  
No additions or alterations to windows  
or other openings

## PLANNING APPLICATION NUMBER: P14/1654

Type of approval sought	Full Planning Permission
Ward	Upper Gornal & Woodsetton
Applicant	Mr K. Clair
Location:	<b>LAND AT REAR OF 1 &amp; 3, MONS HILL, (OFF DAWLISH ROAD), DUDLEY, WEST MIDLANDS, DY1 4LT</b>
Proposal	<b>ERECTION OF 3 NO. DWELLINGS (RETROSPECTIVE) WITH NEW PARKING (RESUBMISSION OF REFUSED APPLICATION P14/1113)</b>
Recommendation Summary:	<b>APPROVE SUBJECT TO CONDITIONS</b>

### SITE AND SURROUNDINGS

- 1 The application site relates to a plot of land measuring 0.19 hectares. Access to the site is made from Dawlish Road off a bridleway (suitable for pedestrian and vehicular traffic). The bridleway serves existing dwellings at Mons Hill and connects with a public right of way onto the Mons Hill/Wrens Nest Nature Reserve. A branch from the bridleway will serve this planning application site.
  
- 2 The bridleway provides access onto the Mons Hill/Wrens Nest linear open space. Mons Hill and Wrens Nest are subject to both local and national planning protection designations. The access to the land rises as it climbs south west towards Mons Hill. The site is afforded some screening by trees to the north and east of the site. To the west is a development of three detached houses at a higher level and to the south is a recently completed detached house to the side of the original Mons Hill Cottage. To the north the land is undeveloped and the site commands views over this open land which is designated as a Local Park. Beyond the site the land levels fall sharply away towards houses to the north in Woodsetton Close.
  
- 3 The site previously formed part of the original site of No.1 Mons Hill Cottage which contained a house and some kennelling. Over the past five years planning

applications have been submitted and approved for the erection of 4 dwellings on that site. The dwelling (3 Mons Hill) immediately adjacent to Mons Hill Cottage has been fully constructed and is occupied. The other Plots: Nos.2, 3 and 4 are located at 90 degrees to No. 3 and have a separate access to the side of this dwelling. Of these plots indicated on the location plan, Plot 2 is complete however Plots 3 and 4 are at different stages of construction.

- 4 The land forms part of the urban fringe and is characterised by sporadic development with important links being provided between urban and rural areas with the land extending up towards Mons Hill Nature Reserve and open land to the south.

## PROPOSAL

5. This is a part retrospective planning application for the erection of 3 detached dwellings (Plots 2, 3 and 4) which has been submitted after the refusal of planning application P14/1113, following a Committee site visit on 10<sup>th</sup> September and the authorisation of Enforcement Action against plot 4, relative to deviations from the approved development (Planning application reference P12/1233).
6. The deviations to the previous approval were as follows:
  - A. Increase in the finished floor levels of the houses:
    - Plot 2 has been constructed 0.25m higher than previously approved,
    - Plot 3 has been constructed 1.02m higher and
    - Plot 4 has been constructed 1.8m higher.
  - B. House type changes including the omission of integral garages to all plots and a change in roof height to all plots.
  - C. Roof details showed attic trusses being used that would allow for accommodation to be formed in the attic space. This has had an impact of increasing the overall height of the dwellings by approximately 1.5 metres. The overall height of the approved dwellings was approximately 7.5 metres with the 'as built' dwellings being approximately 9 metres in height. This was in addition to the increase in the ground level height.



- D. Parking layout amendments showed that external vehicle parking spaces were being provided across the frontages of all three of the plots.
- E. The indicated access road, in conjunction with the indicated frontage car parking areas would not be capable of accommodating vehicles reversing off the driveway of plot 3 and being clear of trees that were to be retained as part of the development.
7. The current application seeks to maintain plot 2 in its current form as a three bedroom house, having no integral garage and two frontage car parking spaces. The house was built at a level 0.25m higher than approved and with a steeper roof pitch giving an overall roof ridge height, 1.14m higher than that approved.
8. Plot 3 is proposed to be maintained as a three bedroom house with no integral garage and with a frontage garden, rather than frontage car parking which is inoperable in this location, given the proximity of trees to be retained. Two car parking spaces are now located to the side of the dwelling at the end of the access turning head. The house was built at a level 1.03m higher than approved and is proposed to be completed with the same roof pitch as originally approved. The plot will therefore have an overall roof ridge height 1.03m higher than that approved.
9. Plot 4 is now proposed to be a three bedroom dormer style house with no integral garage and with a frontage garden. Two car parking spaces are located at the head of the access drive which is located in front of the dwelling. The house was built at a level 1.80m higher than approved and is now proposed to be completed with an asymmetric roof pitch containing dormer windows to the front and rear. The reduced height of the dwelling means that the plot will have an overall roof ridge height 0.1m higher than that originally approved. Dormer windows in the rear and facing towards the dwelling at the rear will serve bathroom accommodation and be obscure glazed to prevent inter-visibility and loss of privacy.

10. The site access drive has been revised to accommodate service vehicles and manoeuvring whilst having an alignment and construction that will ensure the retention of trees adjacent to its route. Additional tree planting is proposed adjacent to, and at the head of the access drive, with replacement tree planting in rear gardens and hedgerow planting to the side of plot 4. Revised plan KC/14/101 A indicates the raised area of land to the side of this plot to be chamfered down adjacent to the boundary. Revisions have also been undertaken to the roof pitch and the size and location of the dormer windows.

## HISTORY

11.

APPLICATION	PROPOSAL	DECISION	DATE
CC/78/2698	Detached House And Garage.	Refused	14/12/78
81/51834	Erection Of One Bungalow And Garage.	Granted	3/11/81
83/52137	Use Of Garage As Office	Refused	11/11/83
P08/1071	Erection of 4 No. 3 bedroom detached dwellings with garages	Refused	20/08/08
P09/1030	Erection of 4 no. dwellings (Resubmission of refused planning application P08/1071).	Granted	03/11/09
P12/0258	Erection of 1 dwelling (part retrospective)	Granted	19/06/12
P13/0094	Single storey side extension at 3 Mons Hill	Granted	27/03/13
P13/0190	Erection of 3 dwellings (part retrospective).	Refused	01/07/13
P13/1233	Proposed 3, 3 bedroom dwellings and garages	Granted	29/10/13

P13/1233/C1	Discharge of Conditions 3, 4, 5, 7, 8, 10, 11, 12, 13 and 15.	Approved	23/01/14
P13/1233/C2	Discharge of Conditions 7, 10, 11 and 12.	Approved	04/07/14
P14/1113	Erection of three houses (Retrospective)	Refuse and Enforce	10/09/14

Application P14/1113 was refused for the following reasons;

1. The combination of the artificial increase of height of the land and the increase of height of the dwellings by up to 3.3m over dominates both the site, neighbouring land and properties. The development fails to preserve the distinctive character of Mons Hill, contrary to the Council's New Housing SPD and Black Country Core Strategy policy ENV 2 & SO2 and DD4 of the saved UDP.
2. The revised scheme with the omission of the garages will result in an inoperable, parking dominated frontage, with a lack of front garden landscaping or suitable enclosure, hedgerows, or front boundary treatments, to the detriment of the visual amenity of the locality which would fail to preserve the distinctive character of Mons Hill, contrary to the Council's New Housing SPD and Black Country Core Strategy policy ENV 2 & SO2 of the saved UDP.
3. The proposed site layout, design and levels would not provide sufficient distance between the rear facing habitable room windows of Plot 7 and 9 Mons Hill and the private rear amenity space and windows of the adjacent dwelling, which would be detrimental to any potential occupier's privacy and residential amenity, by reason of overlooking, unduly constrained outlook and overbearing impact, contrary to PGN 3, New Housing SPD and DD4 of the saved UDP.

## **PUBLIC CONSULTATION**

12. Notification letters have been sent to the occupiers of 28 neighbouring properties and the application has also been advertised with a site notice.
13. At the time of writing the report no objections had been received however the consultation period does not expire until the 17th December. Any comments received will be reported to Members in a Pre-Committee note.

## OTHER CONSULTATION

14. Group Engineer (Highways): No objections to submitted plans.
15. Head of Environmental Health and Trading Standards: No objections.
16. Coal Authority: No Objections.
17. National Grid: National Grid apparatus in the form of a high pressure gas pipeline is located in close proximity to the development which has been taken into account with the siting of the development and formation/capping of the access road.

## RELEVANT PLANNING POLICY

18. National Planning Policy Framework (NPPF) (2012)

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

19. Black Country Core Strategy (2011)

- CSP1 The Growth Network
- CSP3 Environmental Infrastructure
- CSP4 Place Making
- TRAN2 Managing Transport Impacts of New Development
- ENV 1 Nature Conservation
- ENV 2 Historic Character and Local Distinctiveness
- ENV 3 Design Quality

20. Saved Unitary Development Plan (2005)

- DD1 Urban Design

- DD4 Development in Residential Areas
- NC5 Site of local Importance for Nature Conservation
- NC1 Biodiversity
- NC6 Wildlife Species
- NC9 Mature Trees
- SO6 Local Park
- SO2 Linear Open Space

21. Supplementary Planning Documents

- New Housing Supplementary Planning Document
- Parking Standards Supplementary Planning Document

## ASSESSMENT

22. The main issues remain as
- Principle
  - Design and Character
  - Residential Amenity
  - Access and Parking
  - New Homes Bonus
  - Trees

Principle/Policy

23. When the previous planning application P09/1030 was approved, the whole site constituted 'previously developed land' (PDL) in accordance with the then extant definition as the site formed garden land at No. 1 Mons Hill and its associated kennels.
24. The principle of the erection of dwellings on this site is considered to have been established with the previous permissions and is a material consideration when considering the current proposed development.

25. However, whilst the principle of the development may be established, the form and character of these dwellings in this urban fringe location, and their impact on the occupiers of neighbouring residential properties remains an important consideration.

### Design and Character

26. The site is located within an area classified within the New Housing SPD as 'Rural Fringe' which is also close to the outer suburbs and open land. The context and character of the Rural Fringe is described within the SPD as comprising predominantly single family residential properties within the landscape. The building line and frontage treatment should comprise varying front and side set back with lawns and hedges. The buildings are generally 1 or 2 storey and are set within parks, green belt and green wedges with a typical density between 15 and 30 dwellings per hectare (dph).
27. The SPD general development and guidance criteria states '*frontages should be private with gated large front gardens. The dwellings should be no higher than the surrounding development. There should be no buildings forward of the existing building line. Density of proposed new build should be between 15-30 dwellings per hectare*'.
28. The density of the dwellings would continue be 17 dph, which would accord with the New Housing SPD guidelines for rural fringe areas.
29. The previous approval (P13/1233) addressed earlier concerns relating refused application P13/0190 as the dwellings had been reduced in scale to two floors and 3 bedrooms (a reduction from 4/5 bedrooms) thus reducing the requirement for parking provision at the site from 9 spaces to 6 spaces and providing for a frontage which was less dominated by car parking.
30. The lower roofline of the approved scheme (approximately 7.5m) reduced the scale of the dwellings and their impact upon dwellings fronting Mons Hill and upon the setting of the development. The reduced level of parking helped increase the amount of landscape that was then provided to the frontage of the dwellings. This

acted to break up the expanse of hard surfaced areas which would otherwise have resulted in the parking areas merging with the new access road and turning area.

31. The recently refused scheme again demonstrated unacceptable 'in principle' characteristics that are considered to be addressed by a reduction in the scale of the development (plots 3 and 4) and the significantly revised access arrangements in conjunction with revised car parking arrangements and landscaped front gardens, again to plots 3 and 4.
32. The reduction in the height of Plot 4 to within 0.1m of the ridge height of the previous approval is considered to have addressed the cumulative impacts of increased ground levels and roof height on adjacent land and property. The design of the roof and dormer elements of plot 4 has been the subject of revision, which is now considered to be of an acceptable appearance overall.
33. It is therefore considered that the development proposed would not now have an adverse impact upon the character and amenities of the area and that it would therefore accord with Policy ENV2 & 3 of the BCCS, Policies DD1 & DD4 of the adopted Dudley UDP (2005).

#### Residential Amenity

34. The dwellings have been constructed on made up land that has increased the floor level of the dwellings between 0.25 and 1.8m above the levels previously approved.
35. No.8 Mons Hill is situated at the rear of the application site and is located side-on to the proposed dwellings. As a consequence the rear elevations of both Plots 3 and 4 face towards the rear amenity area of that property. A boundary wall has now been completed to the side of 8 Mons Hill that will limit significant overlooking from Plot 3.
36. The dwelling being constructed at Plot 3 is situated a minimum of 9.5 metres from the rear boundary and the dwelling at Plot 4 is within 7.5 metres of the boundary.

37. Due to the reduced height and revised design of plot 4 to a dormer house with only bathroom accommodation at first floor facing the rear, the overlooking of the property to the rear will be prevented. Conditions will also preclude future extensions or the insertion of additional window openings in these dwellings.
38. It is therefore considered that the development would not result in an unacceptable impact on the privacy and amenities of the occupiers of the neighbouring residential property, contrary to Policies DD1 & DD4 of the adopted Dudley UDP (2005).

#### Access and parking

39. Access to the site is via a surfaced single track bridle way which runs from Dawlish Road. The application is for three, three bedroom dwellings, with each dwelling having two external car parking spaces in an accessible location. The revised line and form of construction of the access will maintain the presence of trees and accommodate the safe access and manoeuvring of service vehicles.
40. It is considered that no detrimental impact would arise as a result of the proposal in terms of parking and highway safety in the locality, in compliance with saved UDP Policy DD4 and also with the provisions of the Parking Standards Supplementary Planning Document which relate to public safety.

#### Trees/Landscaping

41. There are trees on site but the majority are outside the boundary of the site forming the north eastern boundary. Here the land slopes down to the existing brewery sit and the trees are fairly mature. Some spoil is still deposited on this land near to the tree base, but the construction method and line of the access will not prejudice the health of these trees. Additional tree planting is indicated adjacent to and at the end of this access and also in rear gardens as replacements for those trees which were supposed to have been retained. Hedgerow planting adjacent to plot 4 will soften the appearance of the boundary with the Local park.



## New Home Bonus

42. Clause (124) of the Localism Act states that: Local planning authorities are to have regard to material considerations in dealing with applications including any local finance considerations, so far as material to the application.
43. The New Homes Bonus is designed to create an effective fiscal incentive to encourage local authorities to facilitate housing growth. It will ensure the economic benefits of growth are more visible within the local area, by matching the council tax raised on increases in effective stock.
44. The Bonus provides local authorities with monies equal to the national average for the council tax band on each additional property and paid for the following six years as a non-ring fenced grant. In addition, to ensure that affordable homes are sufficiently prioritised within supply, there will be a simple and transparent enhancement of a flat rate £350 per annum for each additional affordable home.
45. This proposal would provide 3 houses generating a grant of 3 times the national average council tax for the relevant bands per annum for 6 years.
46. Whilst this is a significant sum of money the planning merits of the proposal are unacceptable in any event and therefore this is not accorded significant weight.

## **CONCLUSION**

47. The principle of residential development is established and the current form of development is now acceptable in principle due to the amelioration of former adverse impacts of this development upon sensitive urban fringe setting. The development is now of a scale comparable with that previously proposed and will no longer appear as incongruous or have a dominating impact on the land to the north east and to neighbouring properties. This scheme has no unacceptable harm upon neighbour amenities or the character of the area. Consideration has been given to Policies CSP1 The Growth Network, CSP3 Environmental Infrastructure, CSP4 Place Making, TRAN2 Managing Transport Impacts of New Development, ENV 1

Nature Conservation, ENV 2 Historic Character and Local Distinctiveness and ENV 3 Design Quality of the Black Country Core Strategy and saved policies DD1 Urban Design, DD4 Development in Residential Areas, SO6 Local Park, NC1 Biodiversity, NC6 Wildlife Species, NC9 Mature Trees, NC5 Site of local Importance for Nature Conservation, NC10 The Urban Forest and SO2 Linear Open Space of the Dudley Unitary Development Plan.

## 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.
2. The development hereby permitted shall be carried out in accordance with the following approved plans: KC14/101/A , KC14/100, Location Plan
3. No materials other than those indicated on the approved plans shall be used without the approval in writing of the Local Planning Authority. T
4. No further development shall commence until details of the type position, design, materials and appearance of boundary treatments or means of enclosure have been submitted to and approved in writing by the Local Planning Authority. No part of the development shall be occupied until these works have been carried out in accordance with the approved details.
5. No further development shall commence until full details of soft landscaping works have been submitted to and approved in writing by the Local Planning Authority. These details must include, where appropriate, planting plans, written specifications, a schedule of plants including species, plant sizes and proposed numbers/densities and a programme of implementation. Plans must also include accurate plotting of all existing landscape features. The works approved as part of this condition shall be completed within the first planting season following the first occupation of any part of the development.

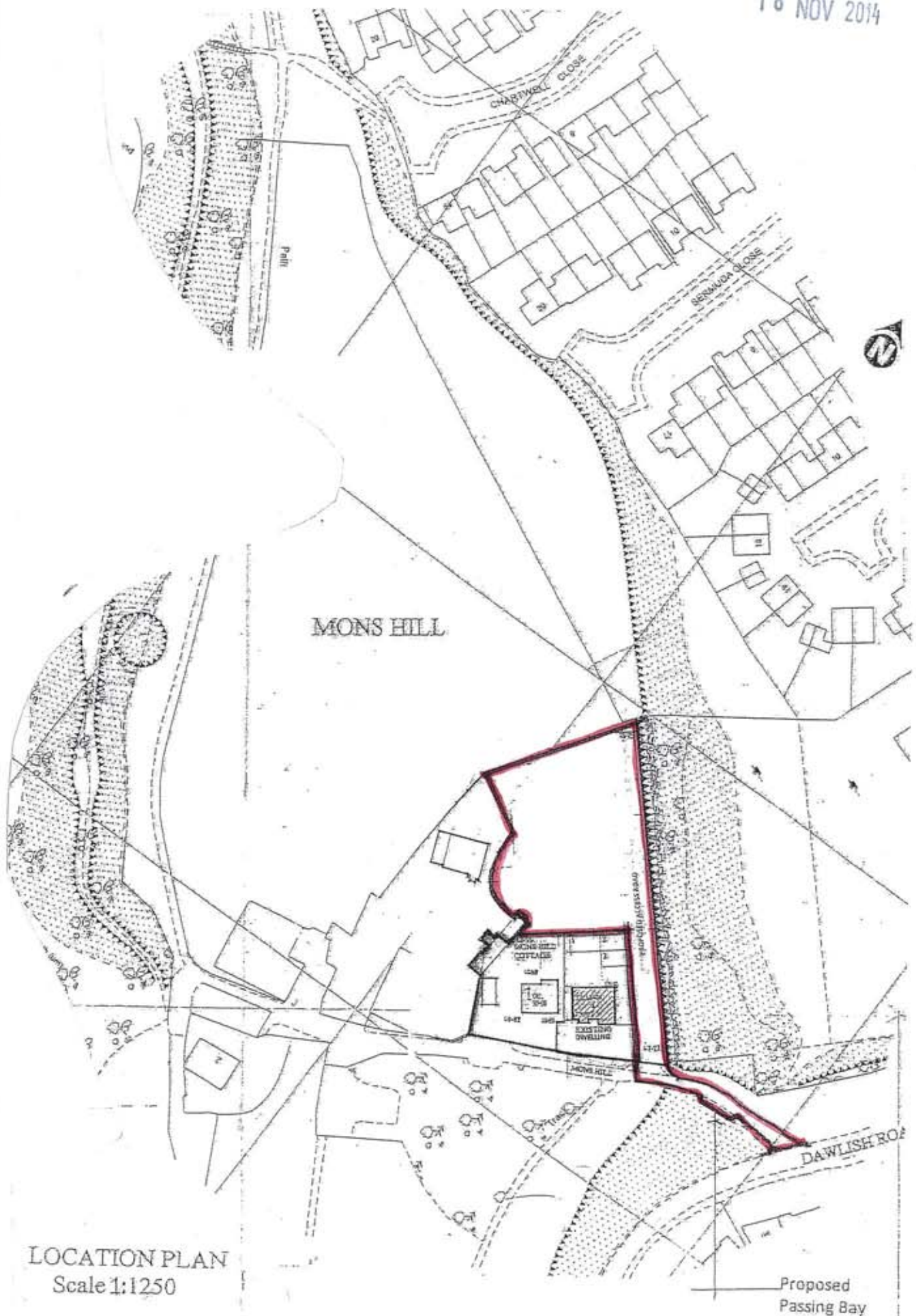
Any trees or shrubs planted in pursuance of this permission including any planting in replacement for it which is removed, uprooted, severely damaged, destroyed or dies within a period of five years from the date of planting shall be replaced by trees or shrubs of the same size and species and in the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

6. Notwithstanding the details shown on the approved plans no gates shall be constructed across the access to the site without the express grant of planning permission.
7. No further development shall commence until there has been submitted to, and approved in writing by the Local Planning Authority details of the tree protection

measures on site. The details shall include:

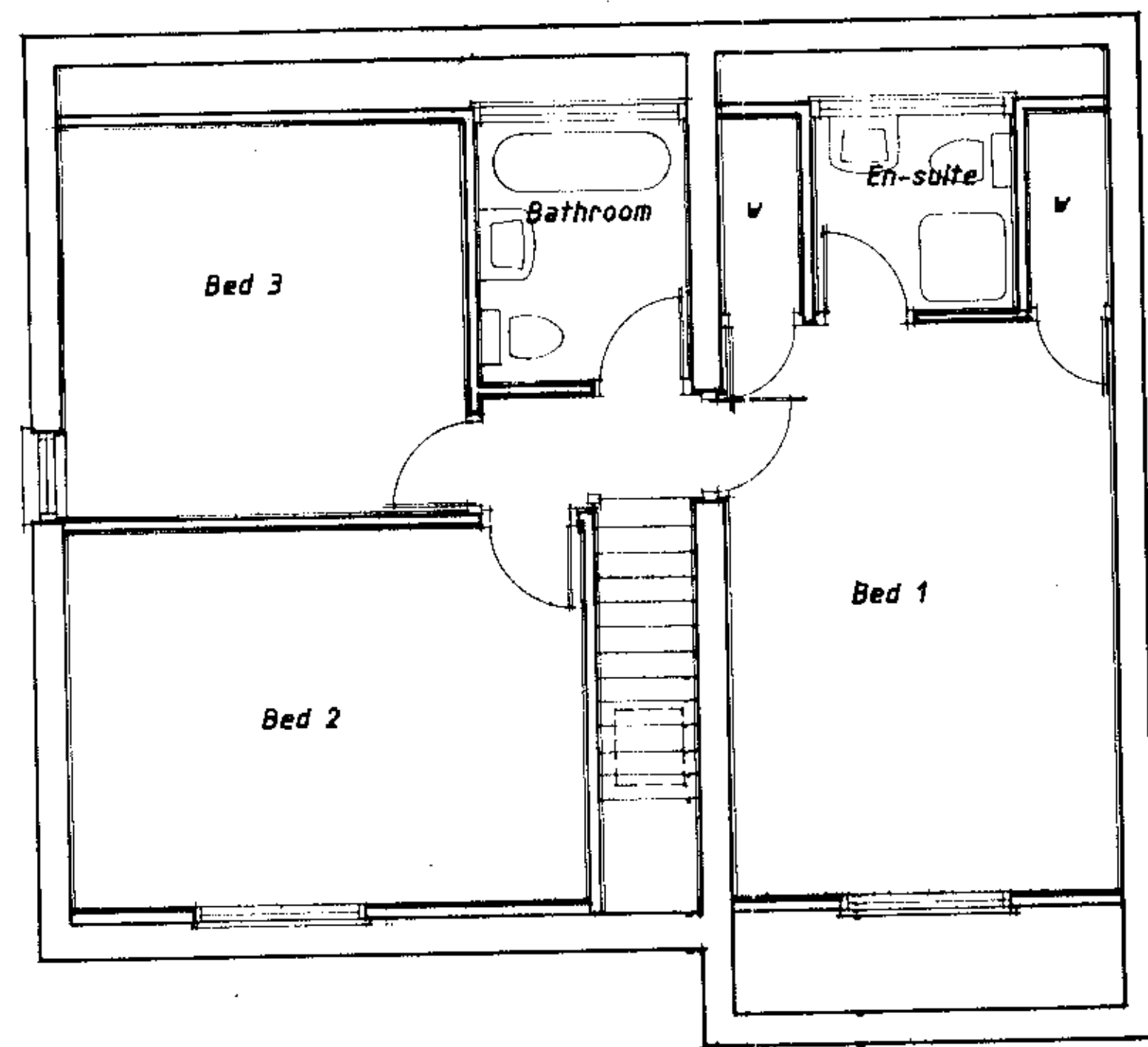
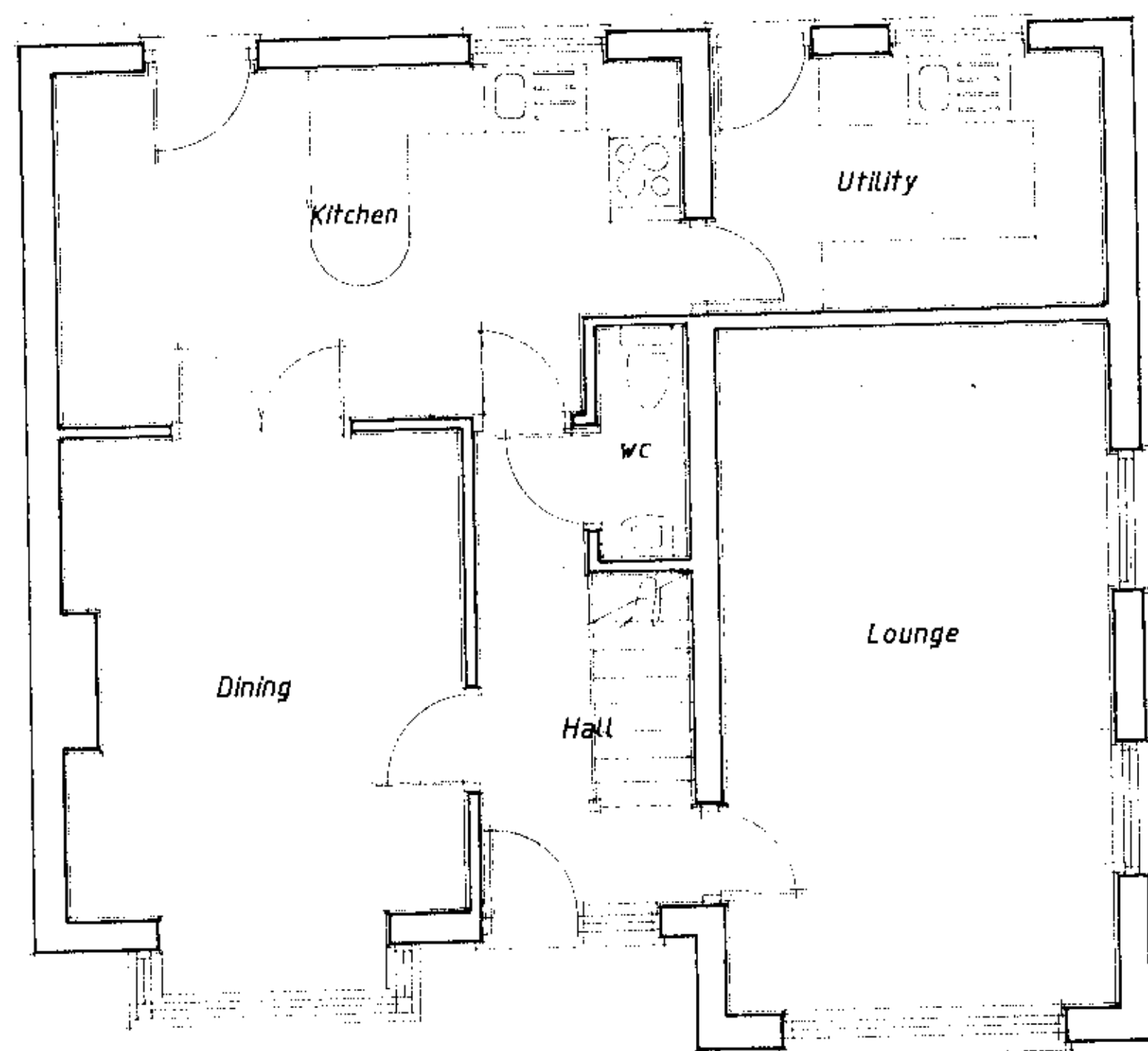
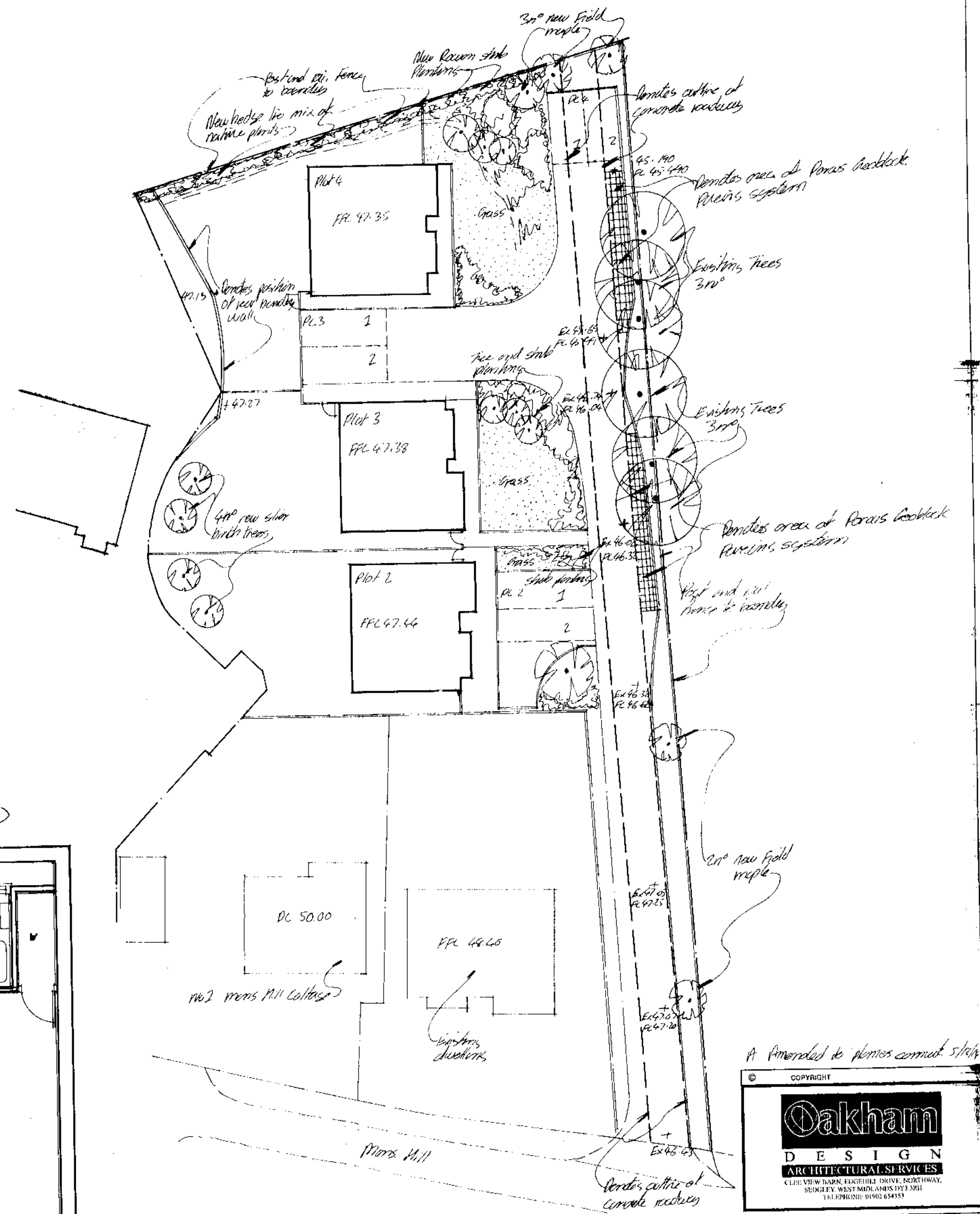
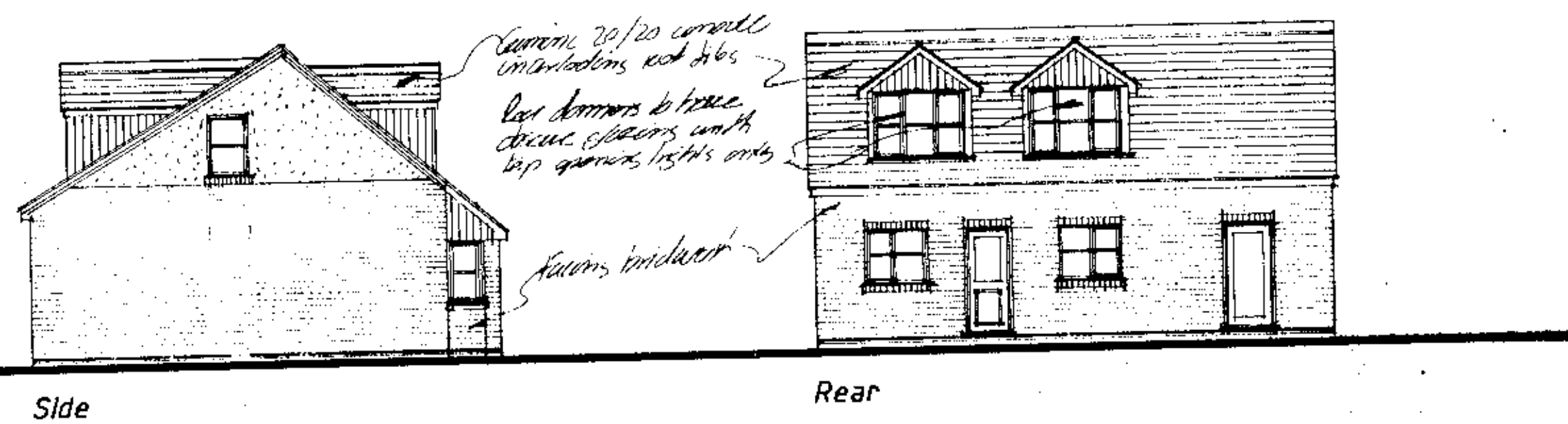
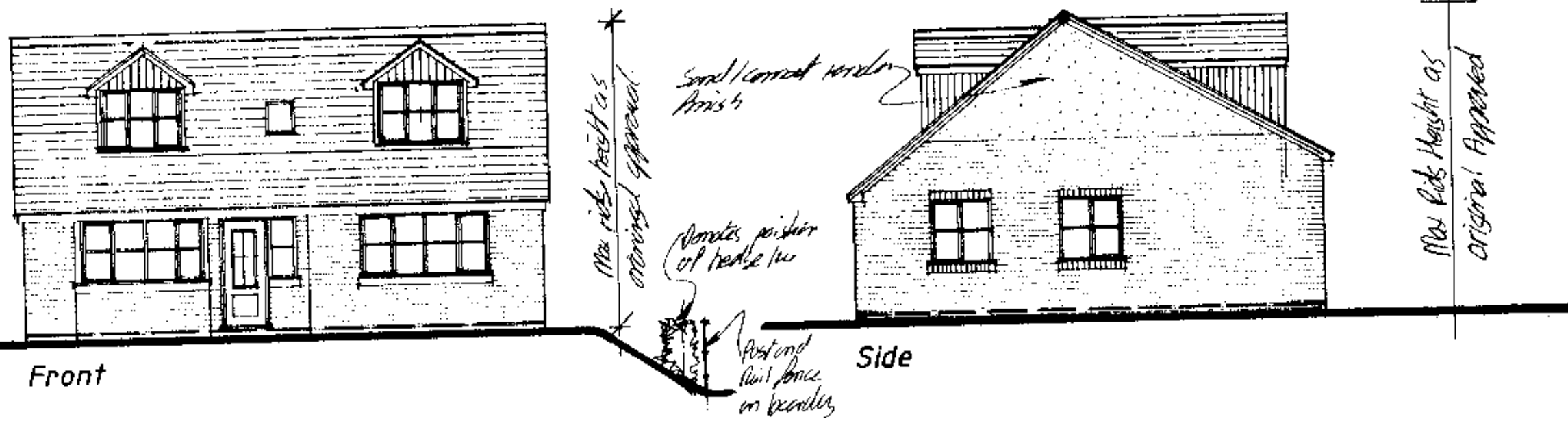
- a. A plan showing the location and identification (with reference to a survey schedule if necessary) of all trees on, or directly adjacent to the development site, that are to be retained during construction. These trees are to be marked with a continuous outline.
  - b. A plan showing the location and identification (with reference to a survey schedule if necessary) of all the trees on, or directly adjacent to the development site that are to be removed prior to, or during development. These trees are to be marked with a dashed outline.
  - c. A plan showing the extent of the Root Protection Area, which is to be protected by physical barriers during development. The extent of the area that is to be protected is to be calculated in accordance with Clause 5.2 of British Standard BS: 5837 – 2005 'Trees in Relation to Construction – Recommendations'.
  - d. Design details of the proposed protective barriers to be erected around the trees during development. Any protection barriers should be designed and constructed in accordance with the provisions set out in section 9.2 of British Standard BS:5837 – 2005 'Trees in Relation to Construction – Recommendations'.
8. Demolition of any buildings and clearance of trees and other vegetation should avoid the bird nesting season (March-September inclusive) unless a bird assessment with recommendations is carried out by a qualified ecologist with 7 days of the works commencing. The assessment should be submitted to and approved in writing by the local planning authority before works begin. All works to be carried out in accordance with the approved assessment's recommendations.
  9. No further development shall commence until details for the provision of external electric charging points have been submitted to and approved in writing by the Local Planning Authority. The Electric Charging point(s) shall thereafter be provided in accordance with the approved details prior to first occupation of the development and be maintained for the life of the development.
  10. Notwithstanding the provision of the Town and Country Planning (General Permitted Development) Order 1995 (as amended) no development covered by Schedule 2 Article 3 Part 1 Classes A, B, C, D, E and F or Part 2 Classes A and B of Schedule 2 of that order shall be carried out without planning permission granted by the Local Planning Authority.
  11. No further development shall commence until details of nature conservation enhancement works have been submitted to and approved in writing by the Local Planning Authority. The nature conservation enhancement works shall thereafter be provided in accordance with the approved details prior to first occupation of the development and be maintained for the life of the development.

18 NOV 2014



LOCATION PLAN  
Scale 1:1250

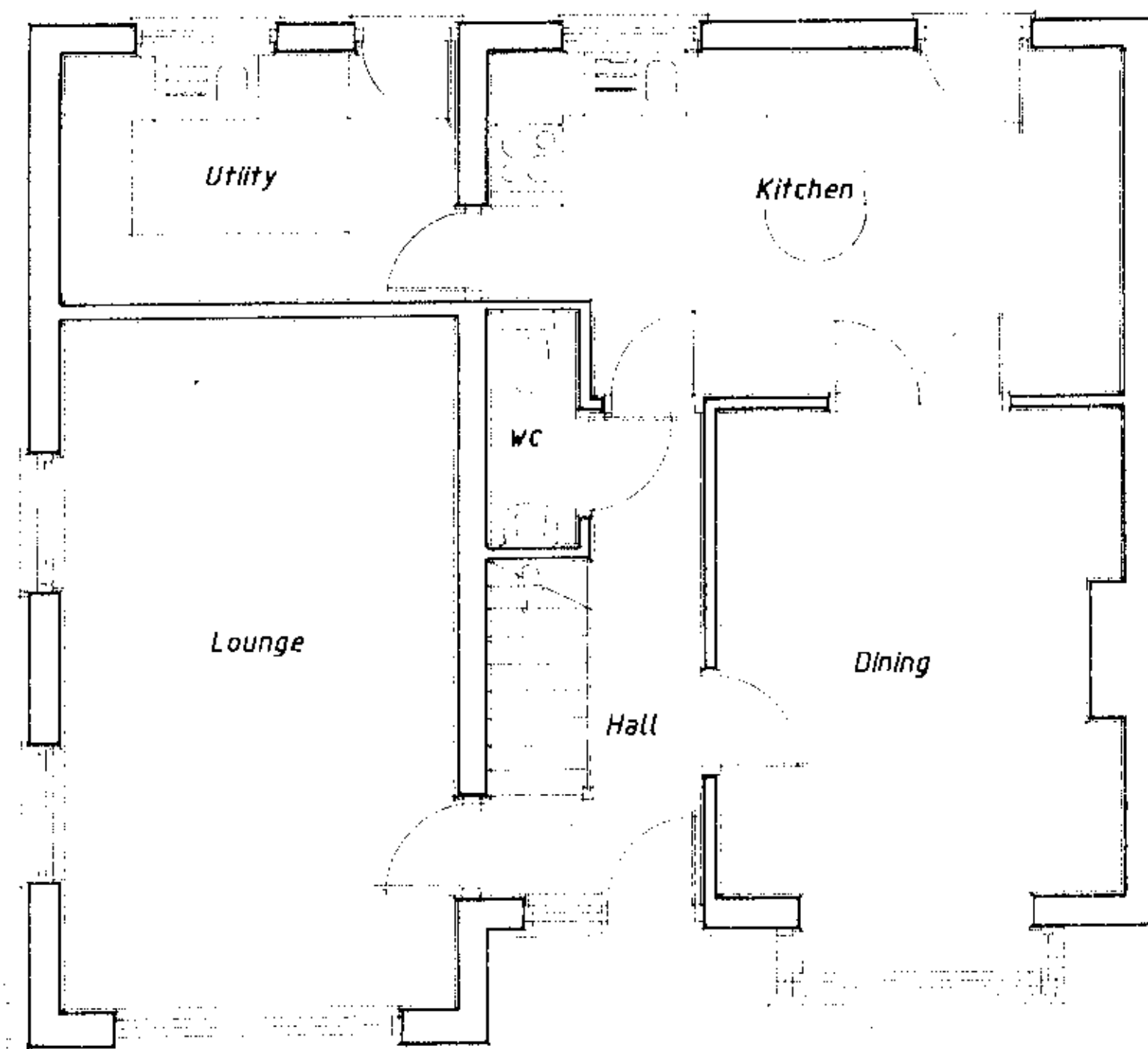
Proposed  
Passing Bay



Ground floor plan

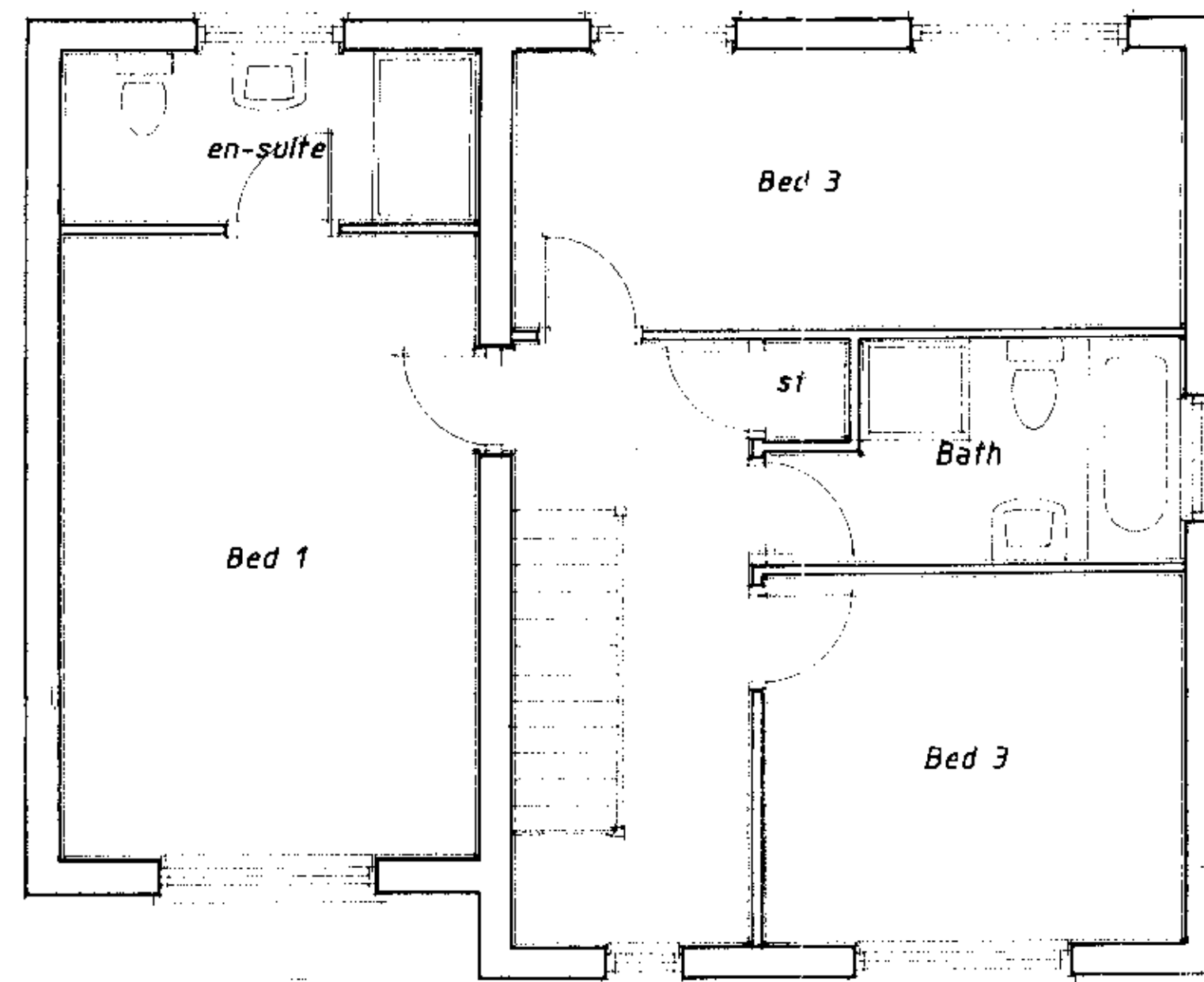
*First floor plan*



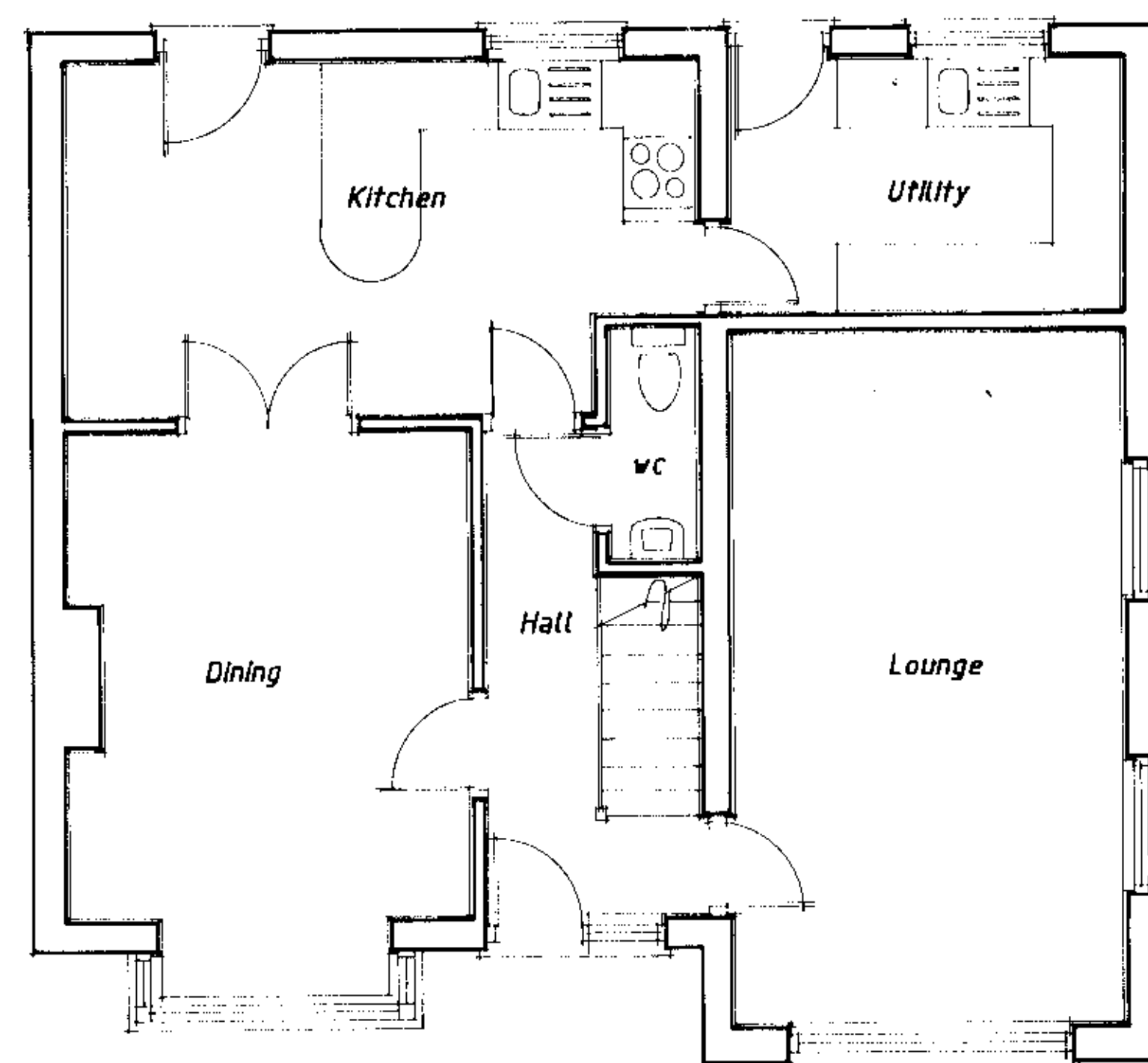


Ground floor plan

Layout plot 3

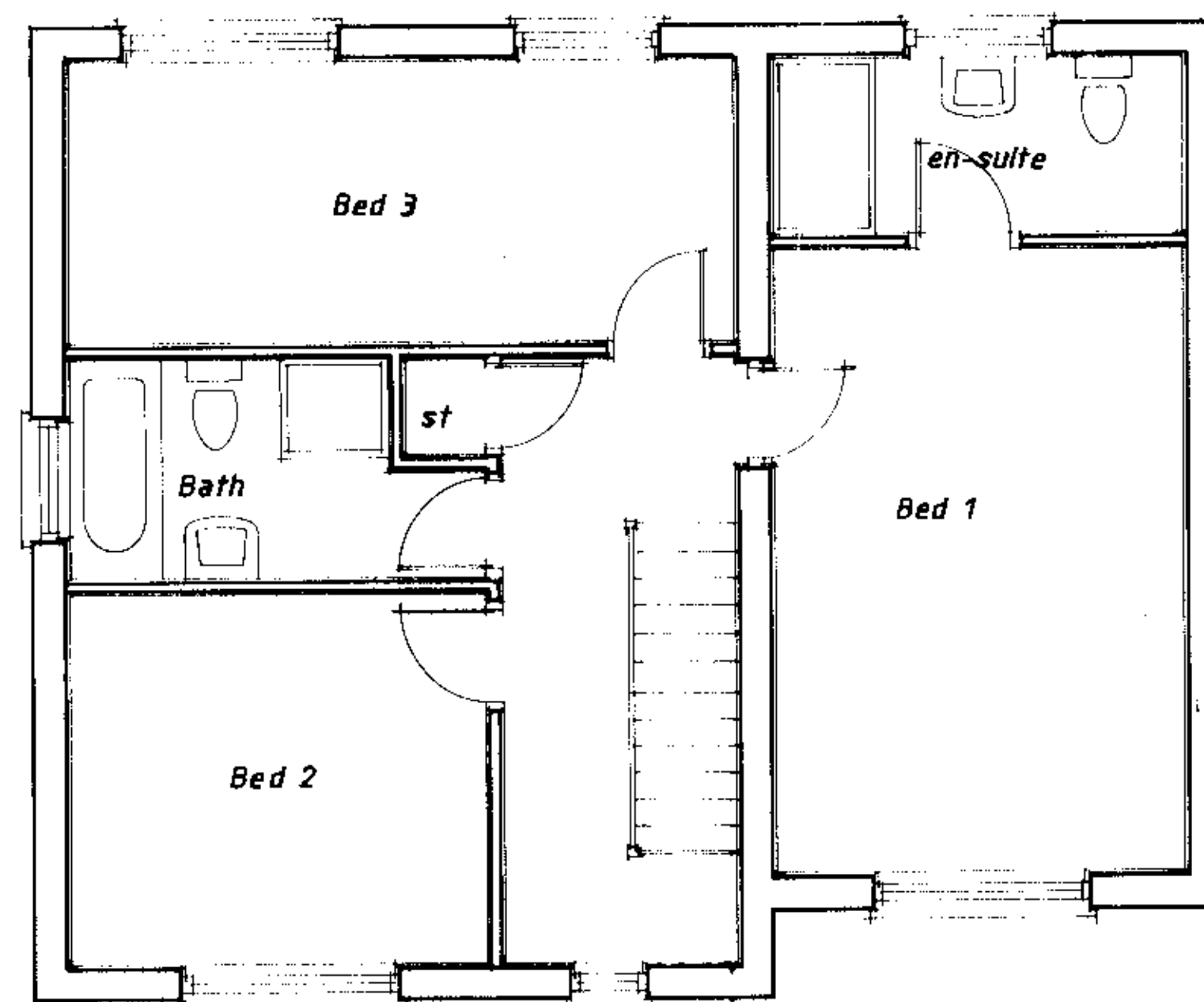


First floor plan



Ground floor plan

Layout plot 2



First floor plan



JOB TITLE	
Land adjacent to 1 Mons Hill Dudley DY1 4LT	
SCALE	DATE
1:50~1:100	Oct 2014
DRAWING TITLE	
Proposed 3 bedroom detached dwellings Plots 2 and 3	
JOB No.	DRAWING No.
KC/14/100	

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**DEVELOPMENT CONTROL COMMITTEE**

**REPORT OF THE DIRECTOR OF THE URBAN ENVIRONMENT**

**CONFIRMATION OF TREE PRESERVATION ORDERS**

**PURPOSE OF REPORT**

1. To consider whether or not the below Tree Preservation Order(s) should be confirmed with or without modification in light of the objections that have been received.

**BACKGROUND**

2. Section 198 of the Town and Country Planning Act 1990, provides that, where it appears to a local planning authority that it is expedient in the interests of amenity to make provision for the preservation of trees or woodlands in their area, they may for that purpose make an order with respect to such trees, groups of trees or woodlands as may be specified in the order.
3. A tree preservation order may, in particular, make provision—
  - (a) for prohibiting (subject to any exemptions for which provision may be made by the order) the cutting down, topping, lopping, uprooting, willful damage or willful destruction of trees except with the consent of the local planning authority, and for enabling that authority to give their consent subject to conditions;
  - (b) for securing the replanting, in such manner as may be prescribed by or under the order, of any part of a woodland area which is felled in the course of forestry operations permitted by or under the order;
  - (c) for applying, in relation to any consent under the order, and to applications for such consent, any of the provisions of this Act mentioned in subsection (4), subject to such adaptations and modifications as may be specified in the order.
4. Section 4 of the Town and Country Planning (Tree Preservation) (England) Regulations 2012 allows the Council to make a direction that the order shall take effect immediately for a provisional period of no more than six months.
5. For a tree preservation order to become permanent, it must be confirmed by the local planning authority. At the time of confirmation, any objections that have been received must be taken into account. The Town and Country Planning (Tree Preservation) (England) Regulations 2012 sets out the procedure for confirming tree preservation orders and dealing with objections.

6. If the decision is made to confirm a tree preservation order the local planning authority may choose to confirm the order as it is presented or subject to modifications.
7. New tree preservation orders are served when trees are identified as having an amenity value that is of benefit to the wider area.
8. When determining whether a tree has sufficient amenity to warrant the service of a preservation order it is the council's procedure to use a systematic scoring system in order to ensure consistency across the borough. In considering the amenity value of a tree factors such as the size; age; condition; shape and form; rarity; prominence; screening value and the presence of other trees present in the area are considered.
9. As the council is currently undergoing a systematic review of the borough's tree preservation orders, orders will also be served where there is a logistical or procedural benefit for doing so. Often with the older order throughout the borough, new orders are required to replace older order to regularise the levels of protection afforded to trees.
10. Where new orders are served to replace older orders, the older orders will generally need to be revoked. Any proposed revocation of orders shall be brought before the committee under a separate report.

## **FINANCE**

11. There are no direct financial consequences arising from this report although the Committee may wish to bear in mind that the refusal or approval subject to conditions, of any subsequent applications may entitle the applicant to compensation for any loss or damage resulting from the Council's decision (Section 203 of the Town and Country Planning Act 1990)

## **LAW**

12. The relevant statutory provisions have been referred to in paragraph 2, 4, 5 and 10 of this report.

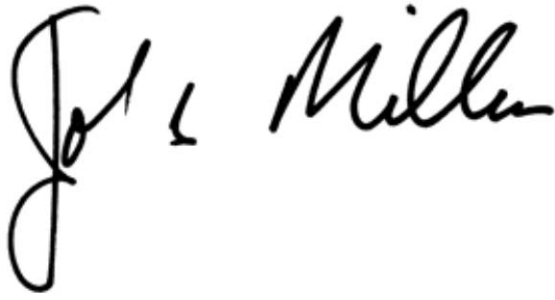
## **EQUALITY IMPACT**

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

## **RECOMMENDATION**

14. It is recommended that the tree preservation orders referred to in the Appendix to this report should be confirmed.





.....  
DIRECTOR OF THE URBAN ENVIRONMENT

Contact Officer: James Dunn  
Telephone 01384 812897  
E-mail james.dunn@dudley.gov.uk

### **List of Background Papers**

Appendix 1.1 – TPO/0099/QBD – Confirmation Report;  
Appendix 1.2 – TPO Plan and Schedule as served;  
Appendix 1.3 – Plan identifying objectors;

Appendix 2.1 – TPO/0102/SED – Confirmation Report;  
Appendix 2.2 – TPO Plan and Schedule as served;  
Appendix 2.3 – Plan identifying objectors;

***APPENDIX 1.1***

***Confirmation Report for***

***The Borough of Dudley (Land in Quarry Road, Netherton (TPO/0091/QBD))  
Tree Preservation Order 2014***

Tree Preservation Order

Order Title

Case officer

Date Served

Recommendation

TPO/0099/QBD
55,56 & 57 Lantern Road, Netherton
James Dunn
07/07/14
Confirm

## **SITE AND SURROUNDINGS**

1. The Tree Preservation Order covers two lime trees, and two beech trees in the front garden of 57 Lantern Road and a lime tree and a sycamore tree in the rear gardens of 55 and 56 Lantern Road respectively.
2. The 4 trees in the front garden of 57 Lantern Road are prominently visible in the street scene of Lantern Road. The trees in the rear gardens of 55 & 56 are publicly visible between the properties in Paint Cup Row.
3. The Tree Preservation Order was served following a request from a member of the public to assess the trees in Lantern Road for protection following works to other trees.

## **PUBLIC REPRESENTATIONS**

4. Following the service of the order, objections were received from the owner of 57 Lantern Road about the 4 trees (T1-T4) in the front of their property and from the resident at 7a Paint Cup Row regarding the tree (T5) adjacent to their boundary. The objections are based on the following points:
  - The tree roots is lifting the pavement in front of 57 Lantern Road;
  - The driveway of 57 Lantern Road is being affected by the roots;
  - The roots have reached the property of 57 Lantern Road;
  - The trees are taller than the house and could cause serious damage to the building in the event of them falling or being struck by lightning;
  - The tree blocks the light from the street lamp;
  - The trees can cause damage to the street light and telegraph wires;
  - The leaves cause safety issues on the adjacent road and pavements;
  - The cars parked on the drive get hit by twigs and branches in adverse weather;
  - The trees will cover over the main entrance to the property if left un-pruned;
  - Branches protrude and damage the fence at the front of the property;
  - The owners of 57 Lantern Road have no intention of removing the trees, but merely wish to keep them managed at an appropriate height;
  - The resident at 7a Paint Cup Row has concerns about the safety of the tree in the rear of 55 Lantern Road due to previous failure of branches from the tree which has caused damage to the shed and summerhouse.

## RESPONSE TO OBJECTIONS

5. The trees subject to the TPO were all assessed and found to provide a sufficient amount of amenity to the area to warrant protection under the TPO.
6. It was noted that the pavement in front of 57 Lantern Road has been lifted by a root of the westernmost lime tree (T1). Any root damage to the public highway is the responsibility of the Highway Authority and the Owners of the property are not liable for the cost of repair. Root damage to the public highway is a common occurrence in the urban area, and generally the Highway Authority will seek to repair the pavements rather than require the removal of the tree.
7. If the damage to the public highway became sufficiently bad as to warrant works to the tree, then subject to the relevant notices being served by the Highways Authority, permission would not be required to undertake the required works. As such the damage to the highway is not considered grounds to prevent the confirmation of the TPO.
8. On inspection some root traces were observed in the tarmac driveway of the property, but no major damage was noted. If further damage is caused by the roots of the tree, then the TPO provides a mechanism to secure permission to undertake some judicious root pruning to limit the impacts of the trees. If the damage becomes sufficiently bad, and there is no reasonable alternative action that could be taken in order to remedy the problems, then permission may be granted to fell the tree. However it is not considered that the damage is sufficiently bad enough at present to prevent any of the trees being protected by the TPO.
9. Whilst the roots may have reached the property, this in itself is not considered reasonable grounds to prevent the confirmation of the TPO. In terms of potential damage to the property due to the presence of roots; tree related subsidence is dependent on many factors, and not just the presence of tree roots. Given that it is, at present, impossible to predict the likelihood of such damage, it is considered inappropriate to prevent the confirmation of the order on a speculative basis.
10. On inspection no major defects were observed in the trees. It was noted that the trees have been pollarded in the past, and have since had their canopies pruned. Overall subject to reasonable maintenance to the trees it is not considered that they are in any way pre-disposed to failure. Also given the limited chances of the trees being struck by lightning, it is not considered that the possibility of failure can, in this instance, be used as a justification to prevent the confirmation of the TPO.
11. It was noted that the crown of trees 3 and 4 hangs low around the top of the adjacent street lamp and may be blocking some of the light from the street lamp. Given that the Highways Act 1980 requires that trees be pruned to keep clearance from street lights, then permission is not required in order to maintain a reasonable

clearance from the street light. As such it is not considered that the current obstruction of the street lamp is sufficient grounds to prevent the confirmation the TPO.

12. As discussed above permission is not required to provide an adequate clearance from the street light. This should prevent any damage to the street light. On inspection no telegraph wires were seen to pass through the trees, and therefore the chances of damage are considered minimal.
13. The issues relating to leaf fall from the trees are not considered to be sufficient grounds to prevent the confirmation of the TPO. Whilst leaf fall can sometimes cause issues, it is a natural process that must be tolerated if we are to enjoy the benefits of having mature trees in an urban area.
14. Mature trees, and lime trees in particular are prone to losing small twigs throughout the year. Lime trees are also known for producing a reasonable amount of deadwood within their crowns. This deadwood is prone to falling in unsettled weather. Normally such branches do not cause any damage, although some of the larger deadwood can.
15. Under the TPO permission is not required to remove deadwood, and as such this can be removed on a regular basis in order to prevent it falling of the tree. As such the presence of the TPO is not considered to present an obstacle to the removal of deadwood in order to prevent it from falling on the cars on the drive.
16. It is accepted that the two lime trees will need to be pruned on a reasonably regular basis in order to ensure the reasonable access to the driveway. It is not considered that permission would be required in order to provide the minimal required for both pedestrian and vehicular access to the property. If further pruning is required then, subject to an application, ongoing permission could be granted for a regular programme of works to ensure the required clearances.
17. If there are any branches that are likely to cause damage to the adjacent fence, then permission could be sought to remove these branches. It is considered unlikely that permission would ever be refused for such a request, where the works are required in order to prevent damage.
18. The purpose of a TPO is not to prevent reasonable works to protected trees, but to prevent the felling or significant works that, with a view to the amenity value of the trees, have not been justified. Given the pruning history of the trees at 57 Lantern Road, permission is likely to be granted for the re-pruning of the trees at appropriate intervals to ensure that the trees are maintained in a condition appropriate to their structure and location.
19. In relation to the tree adjacent to the garden of 7a Paint Cup Row, no obvious defects were observed in the tree at the time of inspection. It is likely that previous

branch failures have been limited to the shedding of deadwood. Given the lack of obvious defects, it is not considered that the condition of the tree should be grounds to prevent the confirmation of the TPO. However should any works be required in order to keep the tree in an appropriate condition, then an application could be made to secure permission.

20. Having considered the grounds of objection, it is not considered that there are sufficient grounds to prevent the confirmation of the order.

## **CONCLUSION**

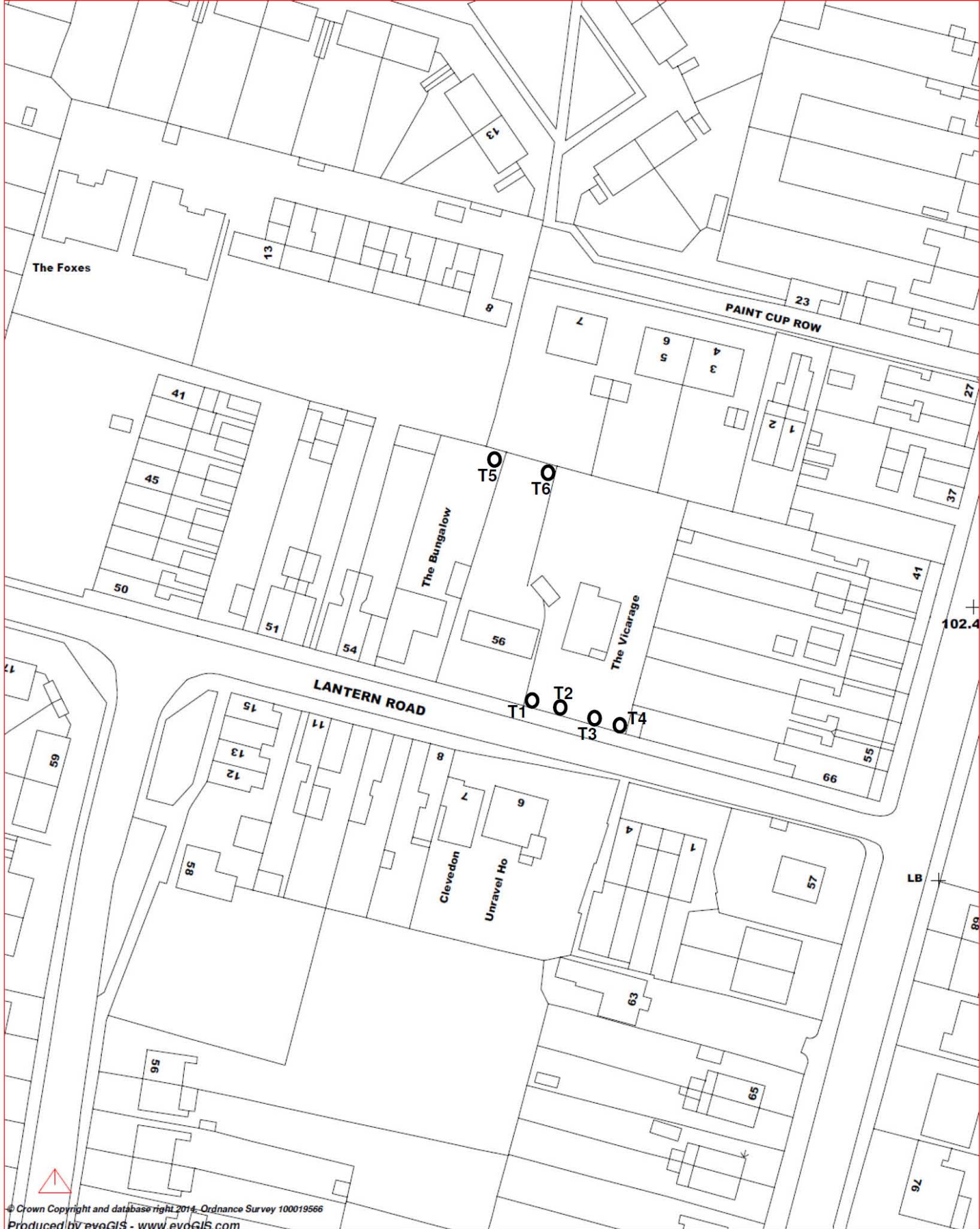
21. The trees subject to this order provide a sufficient amount of amenity to the surrounding area to warrant their inclusion within the TPO. It is not considered that the grounds for the objections are sufficient to prevent the TPO from being confirmed, and whilst the trees will need managing in the future, it is not considered that the presence of a TPO would create any unreasonable obstacles to the appropriate management of the trees.

## **RECOMMENDATION**

22. It is recommended that the Tree Preservation Order be confirmed without modification.

## ***APPENDIX 1.2***

### ***Tree Preservation Order Plan and Schedule As Served***



Map referred to in the Borough Council of Dudley

55,56 & 57 Lantern Road, Netherton (TPO/0099/QBD)

190

Tree Preservation Order 2014



# SCHEDULE

## Specification of trees

### Trees specified individually (encircled in black on the map)

<i>Reference on map</i>	<i>Description</i>	<i>Situation</i>
T1	Lime	Front Garden of The Vicarage, 57 Lantern Road, Netherton.
T2	Lime	Front Garden of The Vicarage, 57 Lantern Road, Netherton.
T3	Copper Beech	Front Garden of The Vicarage, 57 Lantern Road, Netherton.
T4	Copper Beech	Front Garden of The Vicarage, 57 Lantern Road, Netherton.
T5	Lime	Rear Garden of The Bungalow, 55 Lantern Road, Netherton.
T6	Sycamore	Rear Garden of 56 Lantern Road, Netherton.

### Trees specified by reference to an area (within a dotted black line on the map)

<i>Reference on map</i>	<i>Description</i>	<i>Situation</i>
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**NONE**

### Groups of trees (within a broken black line on the map)

<i>Reference on map</i>	<i>Description</i>	<i>Situation</i>
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**NONE**

### Woodlands (within a continuous black line on the map)

<i>Reference on map</i>	<i>Description</i>	<i>Situation</i>
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**NONE**

### ***APPENDIX 1.3***

#### ***Plan Identifying Objectors Properties***

**★ - *Objection Received from Property***



Map referred to in the Borough Council of Dudley

55,56 & 57 Lantern Road, Netherton (TPO/0099/QBD)

193

Tree Preservation Order 2014

***APPENDIX 2.1***

***Confirmation Report for***

***The Borough of Dudley (Gospel End Road/South View Road/Caswell Road,  
Sedgley (TPO/0102/SED)) Tree Preservation Order 2014***

Tree Preservation Order

Order Title

Case officer

Date Served

Recommendation

TPO/00102/SED
Gospel End Road, South View Road and Caswell Road, Sedgley
James Dunn
25/07/14
Confirm without modification

## **SITE AND SURROUNDINGS**

1. The Tree Preservation Order protects various trees in the properties on Gospel End Road, 37 Caswell Road, and 40 South View Road.
2. The trees are all considered to provide public amenity to the local area.
3. The order has been served following a review of existing TPOs in the area and whilst not all of the trees subject to the new order were not previously protected, they were assessed as being worthy of protection under the review.

## **PUBLIC REPRESENTATION**

4. Following the service of the order objections were received from the resident at 35 Caswell Road, 38 South View Road and 42 South View Road. The objections are based on the following points:
  - The beech tree (T2) in front of 37 Caswell Road and the Scots pine (T1) tree in the front garden of 40 South View Road are large trees and very close to the adjacent properties;
  - The home insurance premiums for the property have increased due to the proximity of the tree;
  - There are concerns about the roots of the trees interfering with the drains and the foundations of the adjacent properties;
  - Concerns about the safety of the tree and the potential for damage in the event of failure;
  - The beech tree (T16) in the rear garden of 58 Gospel End Road does not provide much in the way of public amenity;
  - The tree was not protected under the previous TPO;
  - The tree obstructs light from the property;
  - The leaf fall from the tree is a nuisance;
  - Falling branches from the Scots pine (T1) tree in the front garden of 40 South View Road have caused damage to the car parked on the adjacent drive;
  - There are problems with sap falling onto the car parked on the adjacent drive;
  - The driveway is subsiding adjacent to the tree;
  - The tree is an inappropriate species choice due to its location adjacent to a house.

## **RESPONSE TO OBJECTIONS**

5. It is accepted that the beech tree (T3) in front of 37 Caswell Road is a large trees and that it has some overbearing impact on the adjacent properties. However this tree is considered to provide considerable amenity to the area, and would have been present prior to the houses being built.
6. Similarly the pine tree in the front garden of 40 South View Road has an overbearing impact on the immediately adjacent properties. However it is also a very prominent tree that provides a substantial amount of amenity to the surrounding area.
7. Given the high amenity value of these trees it is considered that the impact on the adjacent properties is not sufficient to prevent the confirmation of the TPO.
8. Whilst the presence of large trees in proximity to properties can sometimes lead to increased premiums, it is not considered that this is an issue that should have any impact on the confirmation of a TPO. If this was accepted as a valid reason to prevent the confirmation of a TPO then it would leave a significant number of large trees without protection.
9. As no evidence was submitted to demonstrate that the beech trees adjacent to either 37 Caswell Road (T2) or 38 South View Road (T16) has, or is likely to cause any structural damage to the adjacent property, it is not considered that the TPO should be removed from these trees on a speculative basis; especially tree related subsidence is dependent on many factors and, at present impossible to predict with any degree of accuracy.
10. On inspection no major defects were observed in wither the beech tree adjacent to 37 Caswell Road (T2), or the Pine tree in the front garden of 40 South View Road (T1). Overall, subject to reasonable maintenance to the trees, it is not considered that they are in any way pre-disposed to failure. As such it s not considered that the conditions of the trees is any reason to prevent the confirmation of the order. If the trees decline in health in the future, then the TPO allows for permission to be granted for works to maintain them in an appropriate condition.
11. The beech tree (T16) in the rear garden of 58 Gospel End Road is publicly visible along with adjacent trees for a significant distance along the arm of South View Road that joins Langland Drive. Whilst not the most prominent tree it is considered that the tree provides sufficient amenity value to warrant protection.
12. Despite the objectors claim that the tree wasn't previously protected, records show that the tree was protected as T4 of TPO 694 that was served in 2002
13. As the T16 is situated adjacent to the southern boundary of the objector's property, it is accepted that it will block light form the property from early to mid-afternoon. However it is not considered that the impact on the property is so great that it

should prevent the confirmation of the TPO. Also an application could be made to undertake works to the tree that would limit the amount of light obstructed.

14. The issues relating to leaf fall or sap fall from the trees are not considered to be sufficient grounds to prevent the confirmation of the TPO. Whilst leaf fall and sap fall can sometimes cause issues, they are natural processes that must be tolerated if we are to enjoy the benefits of having mature trees in an urban area.
15. With the exception of a small number of dead branches on the northern side of the pine tree no obviously defective branches were observed. As such the chances of further branch failure are considered to be limited. To this end it is not considered that the confirmation of the TPO should be prevented on the grounds of potential future branch fall.
16. It was noted that the retaining wall adjacent to the pine trees appears to be in the process of moving away from the vertical. Given the nature of the movement it is not considered that the tree is the cause of the movement, but more related to the natural ground pressure behind the wall.
17. Given that the wall is likely to need repair it is considered that if there are no other viable alternatives to the repair or rebuilding of the wall that will not require the removal of the tree then this may be appropriate grounds to fell the tree. This would need to be the subject of a formal TPO application, and it would be for the applicant to demonstrate that there are no other reasonable alternatives to the removal of the tree. As such it is not considered, on balance, that the confirmation of the TPO should be prevented by the current movement of the wall.
18. Whilst Scots pine may not be the ideal species choice for this location, this part of Sedgley is characterised by relatively large trees that are located through the housing estates that cover the area. As such it is not considered that the relationship between the tree and the houses is sufficiently bad or out of character to warrant the removal of the tree. As such the confirmation of the TPO on this tree should not be prevented for this reason.
19. Overall it is considered that the trees subject to this TPO provide a sufficient amount of amenity to the surrounding area to justify the confirmation of this order and their continued protection.

## **CONCLUSION**

20. It is not considered that any of the objections raised to the TPOs are sufficient to prevent the confirmation of the order.

## **RECOMMENDATION**

21. It is recommended that the Tree Preservation Order be confirmed without modification.

## ***APPENDIX 2.2***

### ***Tree Preservation Order Plan and Schedule As Served***





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 Produced by evoGIS - www.evoGIS.com

Map referred to in the Borough Council of Dudley

Gospel End Road/Caswell Road/  
 South View Road, Sedgley (TPO/0102/SED)  
 199

Tree Preservation Order 2014



Scale: 1 : 1250

## SCHEDULE

### Specification of trees

**Trees specified individually**  
(encircled in black on the map)

<i>Reference on map</i>	<i>Description</i>	<i>Situation</i>
T1	Pine	40 South View Road, Sedgley
T2	Purple Beech	37 Caswell Road, Sedgley
T3	Silver Birch	37 Caswell Road, Sedgley
T4	Silver Birch	37 Caswell Road, Sedgley
T5	Silver Birch	37 Caswell Road, Sedgley
T6	Beech	36 Gospel End Road, Sedgley
T7	Cedar	42 Gospel End Road, Sedgley
T8	Lime	44 Gospel End Road, Sedgley
T9	Sycamore	44 Gospel End Road, Sedgley
T10	Purple Beech	54 Gospel End Road, Sedgley
T11	Silver Birch	54 Gospel End Road, Sedgley
T12	Silver Birch	54 Gospel End Road, Sedgley
T13	Beech	52 Gospel End Road,

## Sedgley

T14	Silver Birch	58 Gospel End Road, Sedgley
T15	Beech	58 Gospel End Road, Sedgley
T16	Beech	58 Gospel End Road, Sedgley

### **Trees specified by reference to an area** (within a dotted black line on the map)

<i>Reference on map</i>	<i>Description</i>	<i>Situation</i>
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**NONE**

### **Groups of trees** (within a broken black line on the map)

<i>Reference on map</i>	<i>Description</i>	<i>Situation</i>
-------------------------	--------------------	------------------

**NONE**

### **Woodlands** (within a continuous black line on the map)

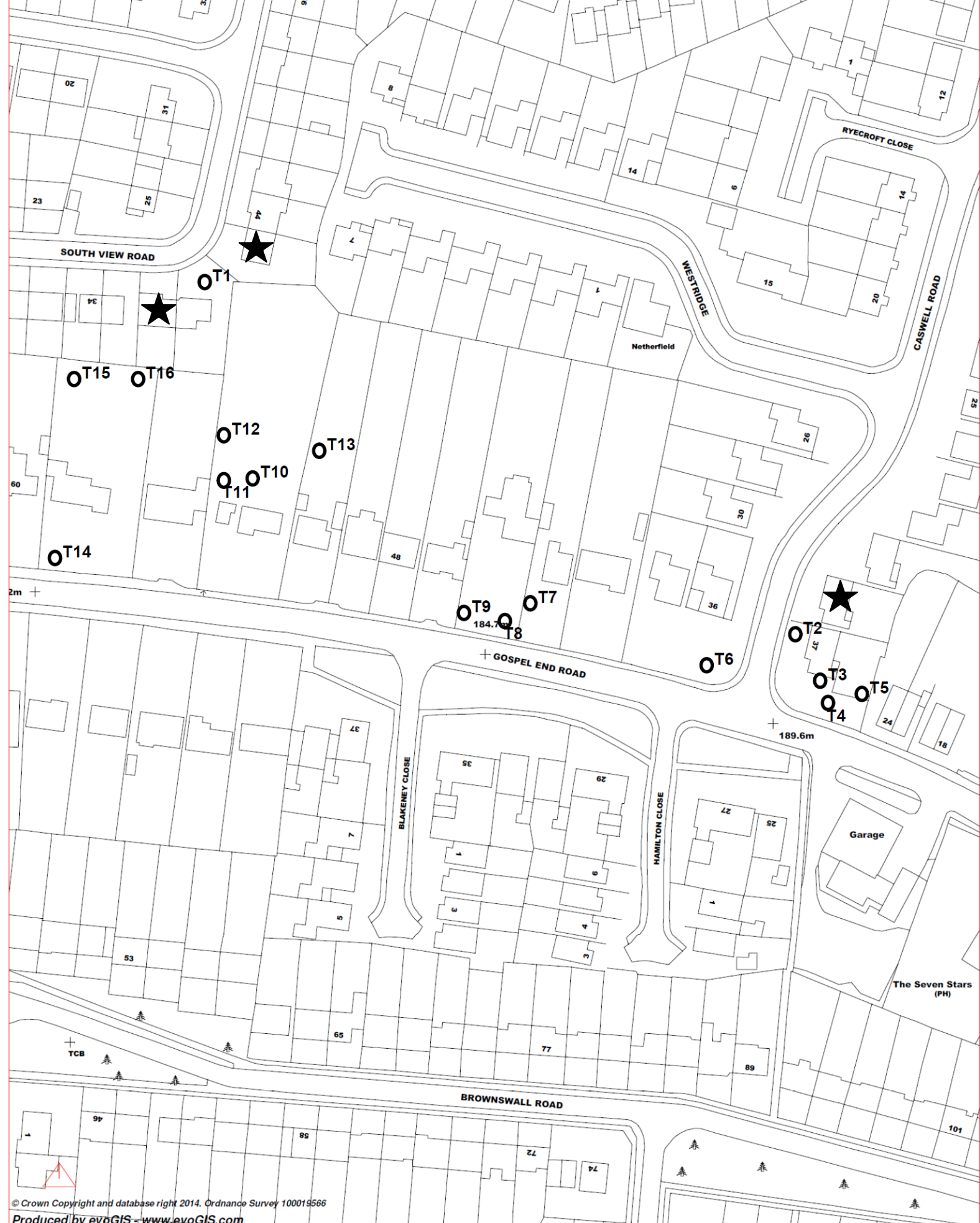
<i>Reference on map</i>	<i>Description</i>	<i>Situation</i>
-------------------------	--------------------	------------------

**NONE**

## ***APPENDIX 2.3***

### ***Plan Identifying Objectors Properties***

**★ - *Objection Received from Property***



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Produced by evoGIS - [www.evoGIS.com](http://www.evoGIS.com)

Map referred to in the Borough Council of Dudley

**Gospel End Road/Caswell Road/  
South View Road, Sedgley (TPO/0102/SED)  
203**

Tree Preservation Order 2014



Scale: 1 : 1250

**Meeting of the Development Control Committee – 22<sup>nd</sup> December 2014**  
**Report of the Director of the Urban Environment**

**Public consultation on the Dudley Area Action Plan ‘Preferred Options’ stage document**

**Purpose of Report**

1. To inform Development Control Committee of Cabinet’s approval for the Preferred Options stage of the Dudley Area Action Plan (AAP) document to be used as a basis for public consultation commencing in January 2015 for a period of 6 weeks.

**Background**

2. The preparation of an AAP for Dudley is a key activity in delivering a priority of the Council Plan (2013 – 2016) improving the vibrancy and attractiveness of the Borough’s town centres.
3. Within the Black Country Core Strategy (adopted in 2011) a framework to regenerate and plan the sub region up to 2026. Dudley is identified within a network of town centres that form a distinctive and valued part of the Black Country’s character. The general aim of the Core Strategy is to shape and revitalise these centres to meet the communities needs in the most accessible and sustainable way. The policies of the Dudley AAP seek to carry forward and provide a focus for delivering change and regeneration on the ground.
4. The Dudley AAP will guide new investment in Dudley Town Centre up to 2026, including identifying where new development should be located along with the infrastructure required to support the growth and to benefit the local community and local environment in general.
5. The AAP is a planning document against which decisions on planning applications will be made for the period 2016 – 2026. The Preferred Options document considers such issues as:
  - Which areas need regenerating, and which need to be conserved.
  - What new development is needed and where this should happen.
  - Where the primary shopping area of the Town Centre is, thereby guiding retail and non-retail development to appropriate locations.
  - Whether any new or enhanced infrastructure is needed to service the Town Centre, such as public spaces, streets or green infrastructure.
  - What principles should guide new development, particularly in terms of urban design.

6. The 'Preferred Options' document sets out a vision, strategy and policies for the town centre which have been informed by earlier consultation stages and the 'Issues and Options' stage consultation undertaken between March and April 2014 following cabinet approval in March 2014, where overall support was expressed for the key issues and suggested ways forward within the Plan. Several town centre consultation events were held where members of the public, landowners and developers provided their views on the planning issues and sites within the Dudley AAP boundary. During the 6-week consultation period an 'Issues and Options' response form was available to download on the Council's website as well as a separate online questionnaire. More than 90% of the 91 online respondents offered their support to the Council's emerging proposals for the future of Dudley town centre.
7. The AAP needs to deliver the retail floorspace requirements which are set out in the Black Country Core Strategy Policy CEN4 'Regeneration of Town Centres,' for Dudley. These being 5,000 m<sup>2</sup> net of convenience (food) and 15,000 m<sup>2</sup> gross of comparison (clothes, white goods etc) retail floorspace. Implementation of one or more of the three approved foodstore planning consents in the town centre will help deliver these floor space totals.
8. On the 4<sup>th</sup> December 2014 Cabinet approved the document for consultation and it is proposed that the Preferred Options document will be available on the Council's website as well as main libraries and Council Offices during the 6 week period of consultation from the 16<sup>th</sup> January 2015 until Friday 27<sup>th</sup> February 2015 to allow consultees to identify any further issues for inclusion or to provide comments or suggested improvement. A copy is also available in the Members' Room. Notification of the consultation details will be sent (by letter and/or email) to Statutory Consultees, landowners, agents and key stakeholders who have expressed a wish to be involved in developing the document. There will also be an online questionnaire and a series of drop in events for the public and Members in the town centre during this period. The exact locations, dates and times of these will be confirmed and advertised in due course. Under the Localism Act 2011 the Council has a new "duty to co-operate" with its neighbouring Councils and key stakeholders. Various meetings continue to be held to ensure that the Council can meet its obligations in relation to this duty.
9. Any representations following the consultation period will be incorporated, if appropriate, into the next stage of the plan process. It is anticipated that the final draft of the document will be published in autumn 2015 for consultation prior to submission to the Secretary of State for Communities and Local Government.

## **Finance**

10. The Dudley Area Action Plan will be funded from existing budgets and resources dedicated to the production of Development Plan Documents and other such statutory planning documents.

## **Law**

11. The production of the Dudley Area Action Plan is necessary in order to update and replace the Dudley chapter of the Dudley Unitary Development Plan (UDP) and will deliver those regeneration requirements for the town set out in the Black Country Core Strategy.



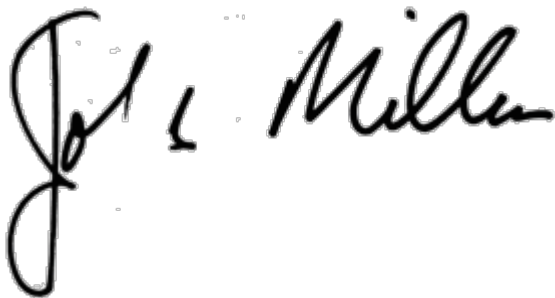
12. The Dudley Area Action Plan is a Development Plan Document (DPD), produced in accordance with the relevant provisions of the Planning and Compulsory Purchase Act 2004, the Town and Country Planning (Local Planning) (England) Regulations 2012 and the NPPF (2012). When adopted, the Dudley AAP will form part of Dudley's statutory planning framework and will be used as the basis for decisions in planning applications for development in the Town.
13. In addition Section 2 of the Local Government Act 2000 allows the Council to do anything that it considers is likely to promote or improve the economic, social or environmental well-being of the area.

### **Equality Impact**

14. The Dudley Area Action Plan will set the planning framework for the development of Dudley Town Centre up to 2026. The Area Action Plan will seek to ensure that sufficient homes, shops and employment, social and recreational facilities are planned and provided for in that time to meet the needs of the communities in the area. This will include meeting the needs of children and young people by seeking to provide sufficient facilities for them as well as having a positive effect for future generations.
15. This consultation document is accompanied by a 'Preferred Options' Sustainability Appraisal (SA) Report. The SA Report promotes sustainable development through the integration of environmental, social and economic conditions into the AAP's preparation.

### **Recommendation**

16. That Development Control notes Cabinet's decision to approve the Dudley Area Action Plan (AAP) Preferred Options document to be used as a basis for public consultation commencing on 16th January 2014 for a period of six weeks.

A handwritten signature in black ink, appearing to read 'J. B. Millar'. The signature is fluid and cursive, with the first letters of the first and last names being capitalized and prominent.

**J. B. Millar**

**Director of the Urban Environment**

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