

PLANNING APPLICATION NUMBER:P12/0029

Type of approval sought	Full Planning Permission
Ward	Brierley Hill
Applicant	Mr S. Hussein
Location:	128, LEVEL STREET, BRIERLEY HILL, DY5 1UA
Proposal	USE OF LAND FOR CAR SALES AND HAND CAR WASH (SUI-GENERIS) WITH NEW ACCESS TO HIGHWAY (RESUBMISSION OF PREVIOUSLY REFUSED APPLICATION P11/0131)
Recommendation Summary:	APPROVE SUBJECT TO CONDITIONS

SITE AND SURROUNDINGS

1. The application site is a vacant, overgrown plot of land located in a commercial area on the route from Brierley Hill High Street to the Merry Hill Centre. Immediately adjacent to the site to the south is a vehicle repair garage, and to the north is a large furniture store with an extensive area of hard surfacing. The site was previously occupied by a public house.

PROPOSAL

2. Permission is sought to use the site for car sales and a hand car wash. The existing access to the site would be retained and a new dropped kerb would be created at the exit point. Two portacabins would be sited for use as a store and an office/staff room towards the western boundary of the site. Parking for up to 13 vehicles would be provided along the southern boundary (the rear of the site) and they would be used for staff cars and for vehicles for sale. The car washing facility would be located towards the centre of the site and the submitted site layout plan shows that space would be set out for four vehicles.

HISTORY

APPLICATION	PROPOSAL	DECISION	DATE
P09/0958	Approval of Reserved Matters for 2no. Units for A3 and A5 Use (Following Outline Approval P04/0581)	Approved Subject to Conditions	09/09
P11/0131	Use of land for car sales and hand car wash (sui-generis) with new access to highway and the erection of an office/staff room and a secure store.	Refused	05/11

4. Application P11/0131 was refused by Committee for the following reason:

'The proposed development of the site would be contrary to Policies CEN1 and CEN3 of the Black Country Core Strategy and Policy 16 of the emerging Brierley Hill Area Action Plan in that it proposes a non-conforming use which would be harmful to the long-term strategic development aims for this part of Brierley Hill centre'.

A subsequent appeal was dismissed, the reasons for which are set out in the Assessment section below.

PUBLIC CONSULTATION

5. Neighbour notification letters have been sent to 23 properties. Two letters of objection have been received from existing businesses on Level Street, raising the following concerns over the proposal:
- The nature of development proposed and the use of portacabins is not appropriate in the context of the surrounding quality commercial environment;
 - On-street parking during peak periods of use will disrupt the free flow of traffic along Level Street;
 - The use may lead to additional unauthorised parking at existing business premises;
 - Water/mud from the site escaping onto Level Street will be a hazard during winter months;
 - Inadequate drainage provision.

6. Two letters of support have been received, stating that the development would provide employment opportunities and the reuse of vacant land.

OTHER CONSULTATION

7. Head of Environmental Health and Trading Standards: No objection.
8. Group Engineer (Development):
- There should be no boundary treatment along the site frontage to ensure good visibility for vehicles;
 - A visibility splay of 2.4m x. 59m is required;
 - Details of site drainage and a maintenance plan should be provided;
 - The areas for access, washing and parking should be surfaced with impervious material;
9. Severn Trent Water: STW has issued to the applicant its Consent for Discharge of vehicle washing to the public foul sewer and has raised no objection subject to a condition requiring further details of drainage plans for the disposal of surface water and foul sewage have been submitted and approved in writing.
10. Environment Agency: No objection.

RELEVANT PLANNING POLICY

11. Black Country Core Strategy (BCCS)
Policy CSP3 (Environmental Infrastructure);
Policy CSP4 (Place Making);
Policy CEN1 (The Importance of the Black Country Centres for the Regeneration Strategy);
Policy CEN3 (Growth in the Strategic Centres)
Policy DEL1 (Infrastructure Provision)

Supplementary Planning Documents

Planning Obligations SPD

Brierley Hill Area Action Plan

Policy 16 – Development Opportunity Blocks BR16A, BR16B and BR16C.

ASSESSMENT

12. The determining issue in the consideration of this application is whether this application satisfactorily addresses the Inspector's reason for dismissing the appeal against the refusal of application P11/0131.
13. Under the Black Country Core Strategy, Brierley Hill is one a number of strategic centres identified in Policy CEN1 to be the main focus for higher order retail, office, leisure, cultural and service activities. Policy CEN3 sets out the additional quantum of floor space to be planned for in each strategic centre. The Brierley Hill Area Action Plan envisages major changes for the centre; the application site lies with opportunity block BR16B which Policy 16 indicates is most suitable for B1 business development and residential development.
14. In assessing the appeal, the Inspector noted that Policy 16 does not preclude other uses and that there was no evidence of proposals for the preferred uses coming forward on the site in the near future which would be prejudiced by the appeal proposal which is still the position now. In the Inspector's opinion the temporary use would provide for some employment use of the site, and on a short term basis would not in a material way hinder the achievement of the high quality design and place making objectives of Policy CSP4 of the Core Strategy.

Impact on Existing Surrounding Uses

- 15 The site has concrete panel fencing along its side and rear boundaries and therefore the proposed use should be able to operate without causing any undue impacts on

activities at the adjacent garage and furniture store. There are no residential properties bordering the application site.

Parking/Highway safety

16. With regard to the comments made by the Group Engineer, conditions can be imposed to ensure the provision of a satisfactory visibility splay from the egress point at the site. The submitted plans show that there would be sufficient space within the site to enable cars to park without having to wait on the highway during busy periods.

Drainage

17. The Inspector considered that the potential effect of the proposed use on drainage was an important amenity matter, and was of the opinion that there was a strong likelihood that any necessary drainage works would be '*relatively extensive and of a permanent nature*'. As such any conditions requiring the implementation of foul and surface water drainage and hard surfacing would amount to an unreasonable requirement in association with a temporary permission, thus negating the value of the permission. Without the conditions the risk to amenity was considered to be unacceptable and could not be overcome. As such the appeal was dismissed on the basis that the concerns relating to drainage outweighed the potential benefit of the development.
18. The applicant did not submit any supporting information with the previous application to demonstrate the extent of the necessary works.
19. For the purposes of this application the applicant has submitted details of the proposed method of drainage of the site, in accordance with Policy CSP3 of the Core Strategy which seeks to ensure that development proposals protect, enhance or expand the strategic network of environmental infrastructure, including drainage systems. Severn Trent Water has assessed the details and given consent for the discharge of trade effluent from the car wash to the public foul water sewer. In addition the applicant has provided a quote for the installation of the necessary drains and tanks, and has advised that they are prepared to accept the quote and carry out the required works as

the costs have been factored into their business plan. The applicant is also of the opinion that the installation of the drainage will be of benefit to any future, more permanent, use of the site, however no information has been submitted to support that claim.

20. With regard to the decision of the Inspector, it is considered that the costs of the required drainage works (approximately £2,000 based on the information contained in the submitted quote) would not be so prohibitively expensive so as to constitute an unreasonable requirement in relation to a temporary consent that would then negate the value of the permission. The applicant is prepared to provide the necessary infrastructure, and it is considered appropriate to impose a condition requiring the development to take place in accordance with the drainage details which have been assessed and approved by Severn Trent Water.

Planning Obligations

21. Black Country Core Strategy 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.
22. Policy DEL1 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.
23. In order for a planning obligation to be considered to be lawful, it must meet the following three tests set out in Regulation 122 of the Community Infrastructure Regulations (CIL) 2010:
 - (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.

24. A development of the type proposed would ordinarily trigger a financial contribution (in this case £7,668) towards improvements to transport infrastructure, as it would result in an increase in trip generations to and from the site. However as it is recommended that planning permission be approved for a temporary period of three years it would not be appropriate to request such a contribution as it would fail test (c) set out above, in that it would not be fairly and reasonably related in scale and kind to the development proposed.

CONCLUSION

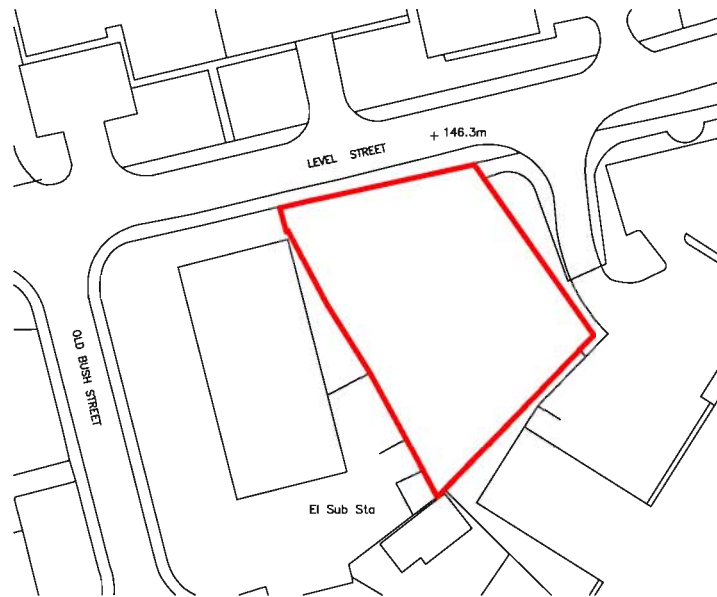
25. It is considered that this proposal satisfactorily addresses the concerns of the Planning Inspector in relation to drainage issues. It is therefore appropriate to grant a temporary three year permission for this proposal so that the acceptability of the development can be reviewed at a later date in relation to the delivery of the adopted Brierley Hill AAP, in accordance with Policy CEN3 of the Black Country Core Strategy and Policy 16 of the adopted Brierley Hill Area Action Plan.

RECOMMENDATION

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

Conditions and/or reasons:

1. The development hereby permitted shall cease on or before three years from the date of this permission.
2. The development hereby permitted shall be carried out in accordance with the details shown on plan drawing no. 1106/001a. The drainage details shown on the plan shall thereafter be retained in perpetuity for the lifetime of the development.
3. Prior to the commencement of development a visibility splay of 2.4m x 59m shall be provided at the junction between the proposed means of access and the highway. The splay shall thereafter be maintained free from obstruction for the lifetime of the development.



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Site:
Former Old Bush PH
128 Level Street
Brierley Hill DY5 1UA
 Title:
Site Plan

Scale:
1/1250
 Drg No.:
1106/002

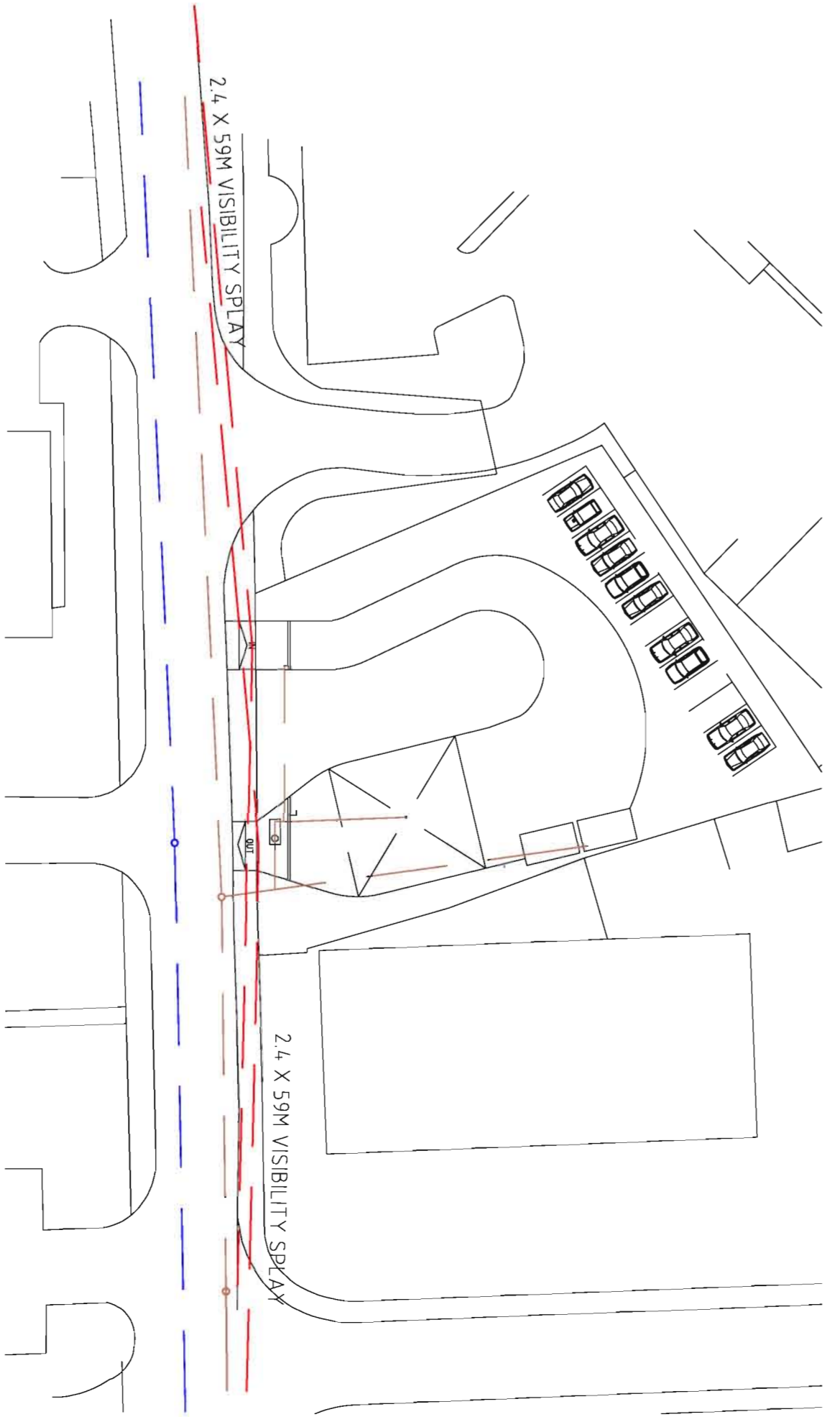
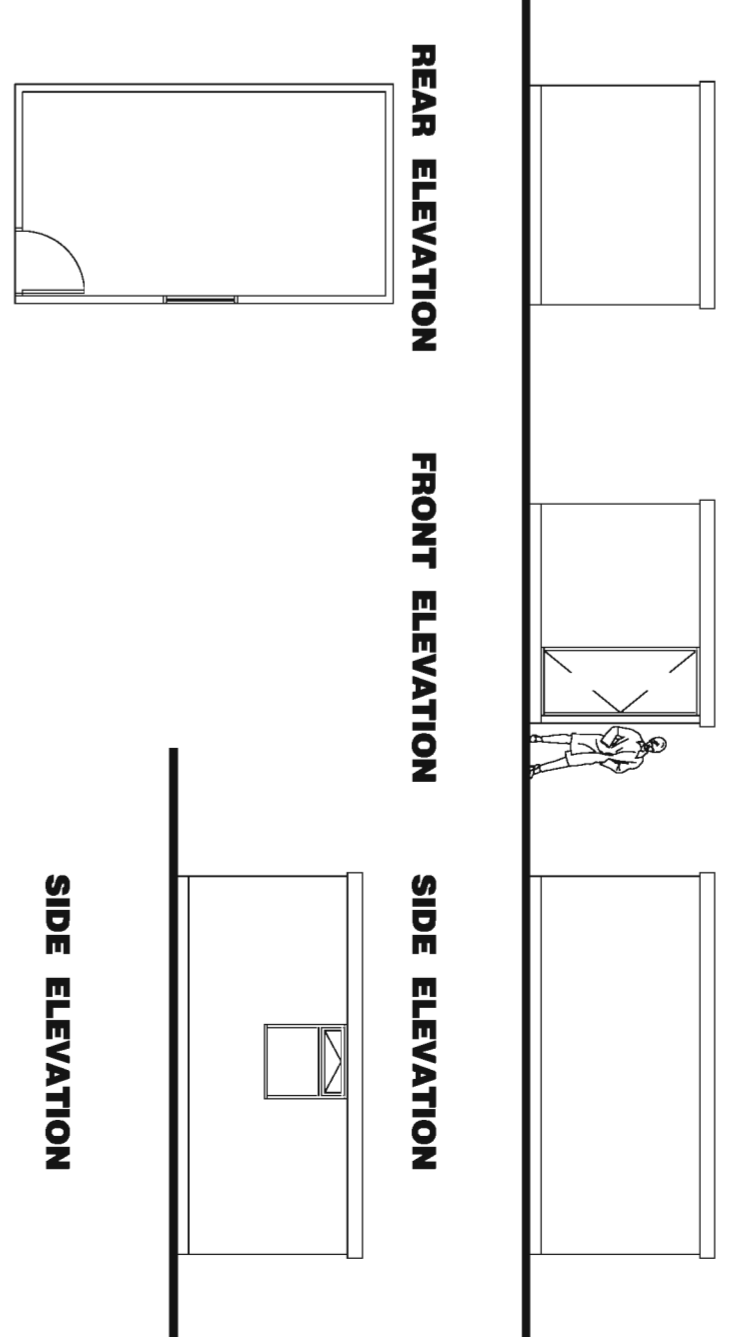
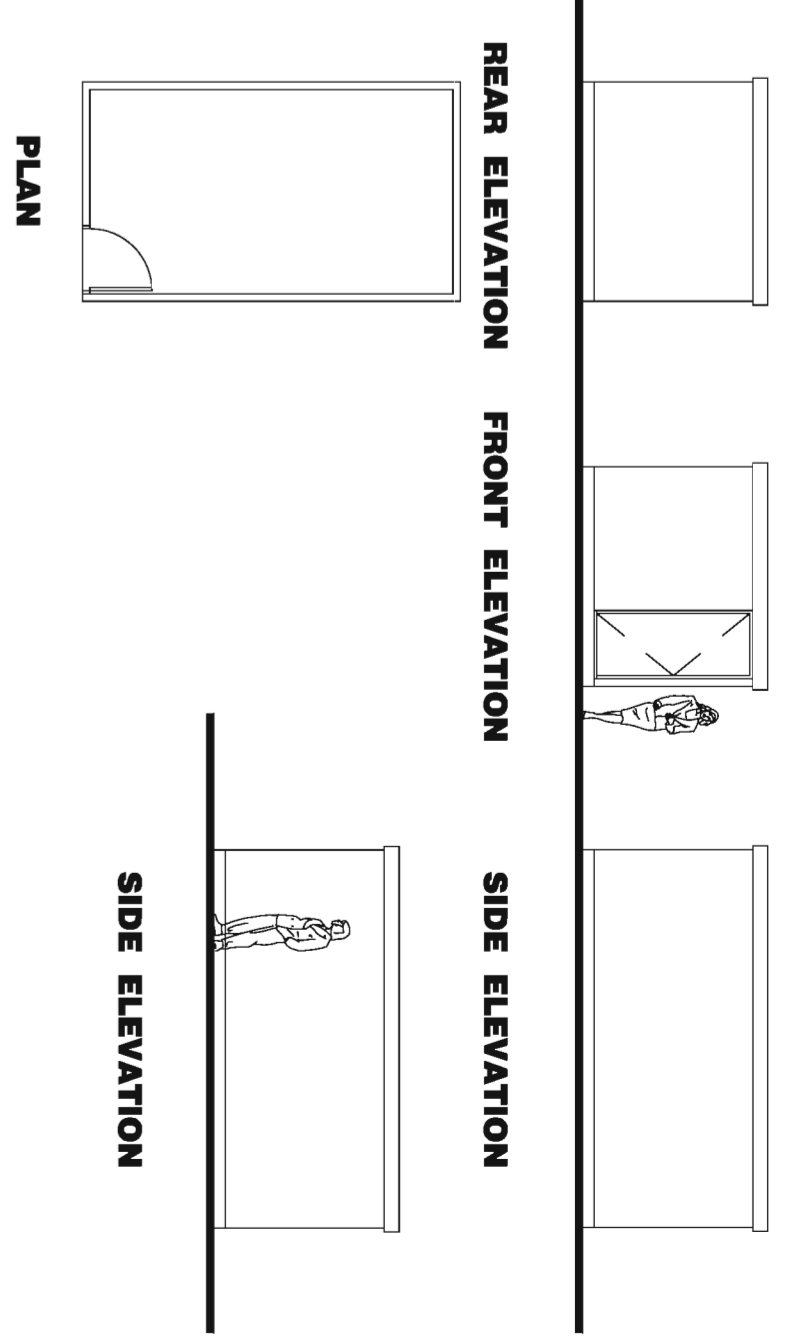
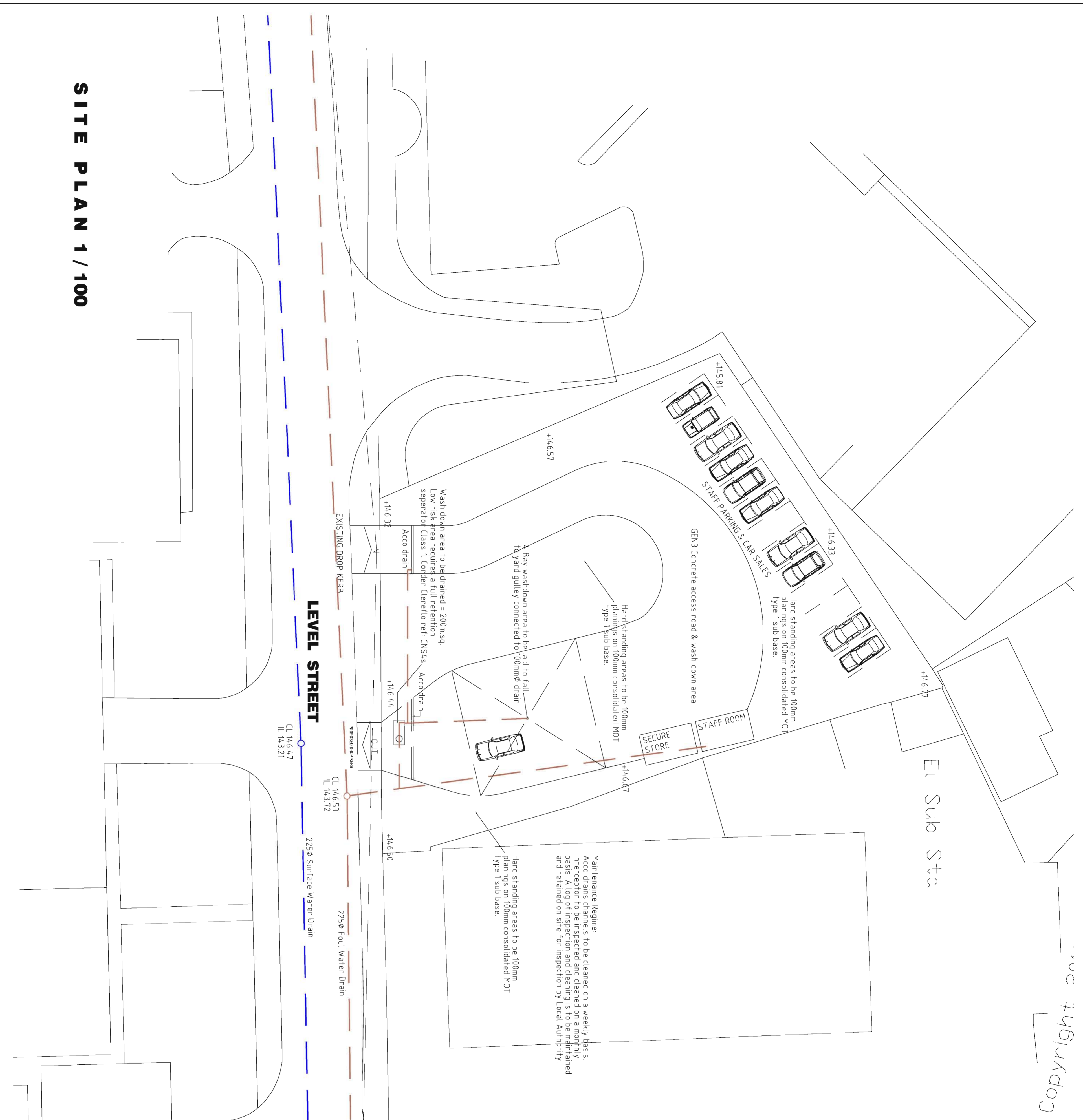
Date:
January 2010
 Sheet Size:
A4

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SITE PLAN 1/100

SITE PLAN 1/500



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Site:
Former Old Bush PH
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 Title:
Site Plan

Scale:
1/100, 1/200 Date:
January 2011
 Dwg No.:
1106/001a Rev:

DRAWN BY: A.J. DENNISON BSC (HONS) MCDAT (CIBB) MIPMS
 CHECKED BY: L.H. HADEN CIBB, DC 2nd CLASS FROM DRAWING
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