

PLANNING APPLICATION NUMBER:P12/0074

Type of approval sought	Full Planning Permission
Ward	St. James's
Applicant	Dudley Estates Ltd
Location:	FORMER WYKO OFFICES, 1, HIGH STREET, DUDLEY, WEST MIDLANDS, DY1 1QW
Proposal	CHANGE OF USE OF REDUNDANT OFFICE SPACE (B1) TO 2 NO. APARTMENTS (C3) AND ASSOCIATED PARKING.
Recommendation Summary:	REFUSE

SITE AND SURROUNDINGS

- 1 The application site is located near to the junction of High Street/Queens Cross and Vauxhall Street, outside the confines of Dudley town centre and is often known as No.1 High Street or the Wyko site.
- 2 The planning application site consists of a ground floor unit within a larger building complex of two/three storey buildings which are constructed of brick. The buildings are the subject of a number of building phases. Other authorised uses within the building complex includes offices (B1), general industry (B2) and warehousing (B8).
- 3 To the rear of the site is a car park and servicing area which is accessed from Vauxhall Street. The access is also partly shared with an adjoining industrial premises.

PROPOSAL

- 4 This planning application seeks consent to convert part of the existing first floor and second floor B1 office accommodation into two self contained flats close to the access road. Access to the accommodation would be at grade to the first floor flat (flat 7) and via an external staircase access to the second floor flat (flat 16). External alterations would involve the insertion of a number of new windows which

look onto the access and adjoining industrial premises. Pedestrian access would be gained via a newly provided footway encroaching into the existing vehicular access.

5 The application is submitted with a covering letter and design and access statement. The applicant has also issued a statement countering comments of neighbours and consultees Main issues raised:

- The adjoining premises have been vacant for two years
- WYKO premises on the opposite side of the road are not undergoing redevelopment
- No security risk to the adjacent vacant unit
- Current Government policy appears to be moving towards change of use from office to residential without planning consent
- With regard to the observations of the Head of Environmental Health and Trading Standards, “whilst an application may have previously been refused, planning and times have moved on, as has need, demand and usage of sustainable premises”.
- In view of housing need it is felt that the amenity of future occupiers of the residential accommodation, **if** industrial activity were **ever** to recommence on this site, would be fully aware of this potential and could safeguard amenity by double glazing and other remedial measures.
- The Applicant has previously submitted evidence, from a marketing point of view suggesting that employment uses are no longer viable on this site.
- Site is in a sustainable location, in an area where there is housing need and one whereby the traditional pattern of use has changed from employment to other use classes and where there is little, if any, potential for B2/B8 employment uses to re-emerge
- The Black County Core Strategy, identifies area for mixed use and future housing need. There is **no** element of local employment retention. The BCCS clearly identifies an increased need for housing land and the strategy in itself indicates an over-supply in relation to employment land, especially in the B2 use class

HISTORY

APPLICATION	PROPOSAL	DECISION	DATE
99/51267	Erection Of Two-Storey Extension To Vacant Office Building And Change Of Use To Classes B1 And B8.	Granted	19/08/99
P01/0471	Change Of Use And Conversion Of Second-Floor From Offices To One And Two Bedroomed Flats.	Withdrawn	23/05/01
P02/0291	Extension And Change Of Use Of Office Block For B1 (Business Use) And B8 (Warehousing And Distribution) With Wyko Offices	Dismissed	02/05/02
P03/1545	Change Of Use Of First Floor From B1 And B8 Use To 13 No. Flats Over Ground Floor B1 And B8 Use	Refused	13/1/2004
P03/1554	Extension To Create Floor space Ground And First Floor (Amendment To P02/0291)	Granted	04/12/03
P04/2619	Change Of Use Of First Floor From B1 & B8 To 13 No. Apartments Over Ground Floor B1 & B8 Use (Resubmission Of Withdrawn	Refused	02/02/2005
P08/0199	Change Of Use Of First Floor Offices To 12 No. Apartments Over Ground Floor B1 & B8 Use	Withdrawn	06/05/2008
P08/1028	Creation Of 1 No. 1 Bedroom First Floor Apartment (Retrospective) (Resubmission Of Withdrawn Application P08/0199)	Withdrawn	P08/1028
P08/1555	Change of use from first floor office (B1) to residential accomodation (caretakers flat) (C3) and Head Office/ conference/ meeting room	Refused	03/09/2008
P09/0275	Change of use from B1/B8 to mixed use at ground floor A1/B1and first floor	Refused	

	B1/C3		
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- 6 This application shares similar characteristics with a number of the above applications, where the applicant has sought to use part or all of the building for residential purposes. All of these applications have either been refused or withdrawn by the applicant. P04/2619 was also dismissed on appeal, with the Inspector citing loss of employment land, the potential impact on adjoining commercial operations, the impact on occupier amenity that the adjoining commercial uses would have, as well as related parking/access issues.

PUBLIC CONSULTATION

- 7 One letter of objection has been received following consultation with 18 adjoining neighbours and the posting of a site notice. Main issues raised:
- Adjoining premises are empty and are presently being marketed for industrial use.
 - Access would be required on a regular basis
 - Presently parking issues on Vauxhall Street
 - Existing noise from nearby industrial premises
 - Concern about complaints from potential residents
 - New windows would cause potential conflict
 - Would set precedent for further flats within building
 - 24 hour pedestrian access would make boundary vulnerable.

OTHER CONSULTATION

- 8 Group Engineer (Development): Object. Reference made to previous concerns and objections. This application does not overcome these concerns.
- 9 Head of Environmental Health and Trading Standards: The principle of residential accommodation in this building has previously been refused by Dudley Council and was the subject of an unsuccessful appeal and subsequent unsuccessful applications.

The situation remains largely as it was at the time of the appeal in that the proposed residential accommodation would be adjacent to unrestricted B2 industrial uses, it would be affected by road noise and the adjoining ground floor has B8 use.

There would be a conflict of interest with the proposed development affecting the viability of neighbouring industrial premises and the harmful impact on the amenity of the future occupiers of the residential accommodation by noise arising from the industrial premises. Recommend refusal.

RELEVANT PLANNING POLICY

- National Planning Guidance

PPS1 - Delivering Sustainable Development

PPS3 – Housing

PPS4 – Planning for Sustainable Economic Growth

The Draft National Planning Policy Framework (NPPF) was published for consultation on 25 July 2011. It is a consultation document and therefore subject to potential amendment; however, the Planning Inspectorate have issued guidance which makes it clear that the NPPF is capable of being a material consideration and therefore regard has to be had for the document. However, given the early stage of development that the document is in, the weight to be given to it will be a matter for the decision maker in each particular case. The current Planning Policy Statements, Guidance notes and Circulars remain in place until cancelled.

- Black Country Core Strategy

CSP1 The Growth Network

CSP4 Place Making

DEL1 Infrastructure Provision

DEL2 Managing the Balance Between Employment Land and Housing

HOU1 Delivering Sustainable Housing Growth

HOU2 Housing Density, Type and Accessibility

EMP1 Providing for Economic Growth

EMP4 Maintaining a Supply of Readily Available Land

TRAN2 Managing Transport Impacts of New Development

- Saved Unitary Development Plan

DD1 Urban Design

DD4 Development in Residential Areas

DD5 Development in Industrial Areas

EP1 Incompatible Land Uses

EP7 Noise Pollution

- Supplementary Planning Guidance/Documents

Parking Standards and Travel Plans Supplementary Planning Document

New Housing Development Supplementary Planning Document

Planning Obligations Supplementary Planning Document

Design for Community Safety Supplementary Planning Guidance

PGN3. New housing development

ASSESSMENT

10 The main issues are:-

- Policy – Loss of Employment
- Noise and Occupier Amenity Issues
- Neighbour Amenity
- Design
- Neighbour Amenity
- Planning Obligations
- Homes Bonus
- Other Issues

Policy – Loss of Employment

11 In the Black Country Core Strategy (BCCS), the site is located in Regeneration Corridor RC11a Dudley – Brierley Hill in an area broadly identified in the future for mixed use, where local employment retention and future housing is anticipated.

- 12 The BCCS requires an increased need for housing land. However, it is important to ensure that sufficient land and premises is safeguarded for employment land use purposes. Policy DEL2 – Managing the Balance between Employment Land and Housing provides the policy basis for doing so.
- 13 Policy DEL2 states that before considering the release of employment land outside of areas identified for new housing the Council will:
- 1) Ensure satisfactory arrangements for the relocation of existing occupiers to safeguard the existing employment base;
 - 2) Ensure that the development does not adversely affect the operation of existing or proposed employment uses;
 - 3) Ensure that the site is no longer viable and required either for employment use, including relocation of businesses displaced from sites released to other uses, or for other employment-generating uses.
- 14 Building on criteria 2, Policy DEL2 is clear that any proposals resulting in the loss of employment land submitted in advance of the adoption of Area Action Plans (AAP) or Site Allocations Documents (this being the Development Strategy Development Plan Documents), should demonstrate a comprehensive approach...not prejudicing existing and neighbouring uses.
- 15 This application proposes the change of use of part of the office space to provide two apartments, resulting in the majority of the site remaining as offices and warehouse premises. It is considered that a comprehensive approach to the provision of housing development in this location has not been demonstrated, given the presence of surrounding industrial premises and the impact that a residential land use could have on their operations.
- 16 Saved policy EP1 of Dudley Unitary Development Plan - Incompatible Uses supports this approach which states that “*development will not be permitted if it would result in unacceptable harm to residential amenity*”. Due to the potential conflict between the proposed use and adjoining employment land, consultation

with Environment Protection colleagues is paramount in determining the amenity of potential residential occupiers and the impact this would have on the future operation of existing employment uses.

- 17 In relation to criterion 3 of Policy DEL2, the submitted design and access statement indicates that the existing premises have been empty for over six years, despite an exhaustive advertising campaign. However, marketing evidence to justify employment uses are no longer viable on site has not been submitted with the application. Whilst details have been submitted with earlier applications, no up to date evidence has been submitted with this application with particular regard to Policy DEL2.
- 18 Therefore, in line with BCCS Policy DEL2, before considering the release of employment land, the council will need to be ensured that the development does not adversely affect the operation of existing employment uses and that the site is no longer viable and required either for employment use or for other employment generating-generating uses. Proposals should demonstrate a comprehensive approach not prejudicing existing and neighbouring uses. It is considered that this has not been demonstrated by the applicant and therefore the general principle of residential use cannot be supported. Consideration is given to other material planning matters below.

Noise and Occupier Amenity Issues

- 19 The site is located within a wider established employment area with the adjoining uses having long established and unrestricted B2 (General Industrial) uses which have the potential to cause nuisance by way of noise, vibration or odour, as well as the associated vehicle movements. The nearest of these adjoining uses would be less than 15m away from the proposed residential apartments. This relationship would be exacerbated by the provision of new windows facing directly onto the adjoining industrial premises.

- 20 The close proximity of the proposed residential apartments to the long established B2 employment uses is considered to be an issue as future residents may be subject to an unacceptable degree of nuisance which would be harmful to their amenity. In addition the close proximity of the residential use could prejudice or inhibit the operation of the adjoining and long established B2 uses, and this concern has been expressed by adjoining business.
- 21 The proposed flats would have no private amenity space and as such would be contrary to PGN3 – New Housing Development. Furthermore the lack of amenity would be compromised by the exposed first floor balcony access to the one of the flats.

Neighbour Amenity

- 22 There are no residential properties close to the site, and therefore no concerns are raised in terms of existing neighbour amenity.

Design

- 23 The only external changes are some new windows in the side elevation overlooking the access. The design of these is considered to be appropriate and in keeping with the building.

Access and parking

- 24 The Group Engineers (Development) makes reference to previous comments expressed in planning applications P08/0199 and P09/0275 in relation to the mixing of commercial vehicles with residential traffic including pedestrians. These concerns still remain with this application in that the main use of the site will still be employment.
- 25 Whilst the amended plans now show the provision of a dedicated pedestrian access, which was not shown on previous applications, this has resulted in

narrowing the access onto Vauxhall Street to between 3m and 6m. This would provide insufficient space for HGVs to enter and leave site in a satisfactory manner, as well as making it difficult for them to manoeuvre within the site. In addition this access is shared with an adjoining industrial premises which again would have its access adversely affected by the proposed changes.

- 26 In fact it is likely that larger vehicles would need to encroach on the proposed pedestrian access to manoeuvre within the site, which would be a potential hazard to pedestrians. The Inspector in an earlier appeal decision (P04/2619) noted that even if a pedestrian facility could be provided it would be likely to impact on the movements of large vehicles entering and using the site. This application demonstrates that these concerns were justified and therefore refusal is recommended.

Planning Obligations

- 27 No planning obligations are required in this case because the number of units proposed is below the threshold outlined in the adopted Supplementary Planning Document on Planning Obligations.

National Home Bonus

- 28 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. A “local finance consideration” means a grant or other financial assistance that has been, or will or could be, provided to a relevant authority by a Minister of the Crown. This may be taken to cover the payment of New Homes Bonus, or sums that a relevant authority has received, or will or could receive, in payment of Community Infrastructure Levy.
- 29 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.

- 30 The Bonus will sit alongside the existing planning system and 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.
- 31 Whilst the clause makes it clear that local finance matters are relevant to planning considerations and can be taken into account, it does not change the law in any way. It is not a new basis for planning policy and it remains unlawful for planning permissions to be “bought”.
- 32 This proposal would provide 2 houses generating a grant of 2 times the national average council tax for the relevant bands plus an enhancement payment for 6 years.
- 33 Whilst this consideration is material, the proposal is considered to be unacceptable on a number of other grounds and the allocation of NHB is not considered to be of sufficient weight to overcome the harm arising and therefore fails to justify departing from adopted Development Plan policy.

Other Issues

- 34 The applicant makes mention of the Government intention to allow commercial premises to be used for housing without the need for planning permission. However, these proposals were made in a consultation paper “Relaxation of Planning Rules for Change of Use from Commercial to Residential” published on 8th April 2011. The consultation ended on 30th June 2011 and the results from that consultation are not yet known. At this stage it is therefore premature to take those proposals into account in any planning application and proposals will continue to be considered in line with the adopted development plan.

CONCLUSION

35 The applicant has failed to provide any justification for the loss of the existing employment uses at the site, nor have they demonstrated that a comprehensive approach for the area can be delivered. Moreover, the future occupiers of the dwellings would be susceptible to noise and disturbance from the established B2 uses within the area, and these uses would be potentially affected by complaints from residents which would have a potentially adverse impact on the viability of adjoining businesses. In addition no private amenity space has been provided for potential occupiers, and the mix of commercial and residential uses have the potential to cause highway safety issues. In addition the proposed pedestrian route would inhibit HGV movement, and is likely to be encroached upon by large vehicles entering or leaving or manoeuvring within the site. Consideration has been given to policies CSP1 The Growth Network, CSP4 Place Making, DEL1 Infrastructure Provision, DEL2 Managing the Balance Between Employment Land and Housing, HOU1 Delivering Sustainable Housing Growth, HOU2 Housing Density, Type and Accessibility, EMP1 Providing for Economic Growth, EMP4 Maintaining a Supply of Readily Available Land, TRAN2 Managing Transport Impacts of New Development of the Black Country Core Strategy and saved policies DD1 Urban Design, DD4 Development in Residential Areas, DD5 Development in Industrial Areas, EP1 Incompatible Land Uses and EP7 Noise Pollution of the Dudley Unitary Development Plan.

RECOMMENDATION

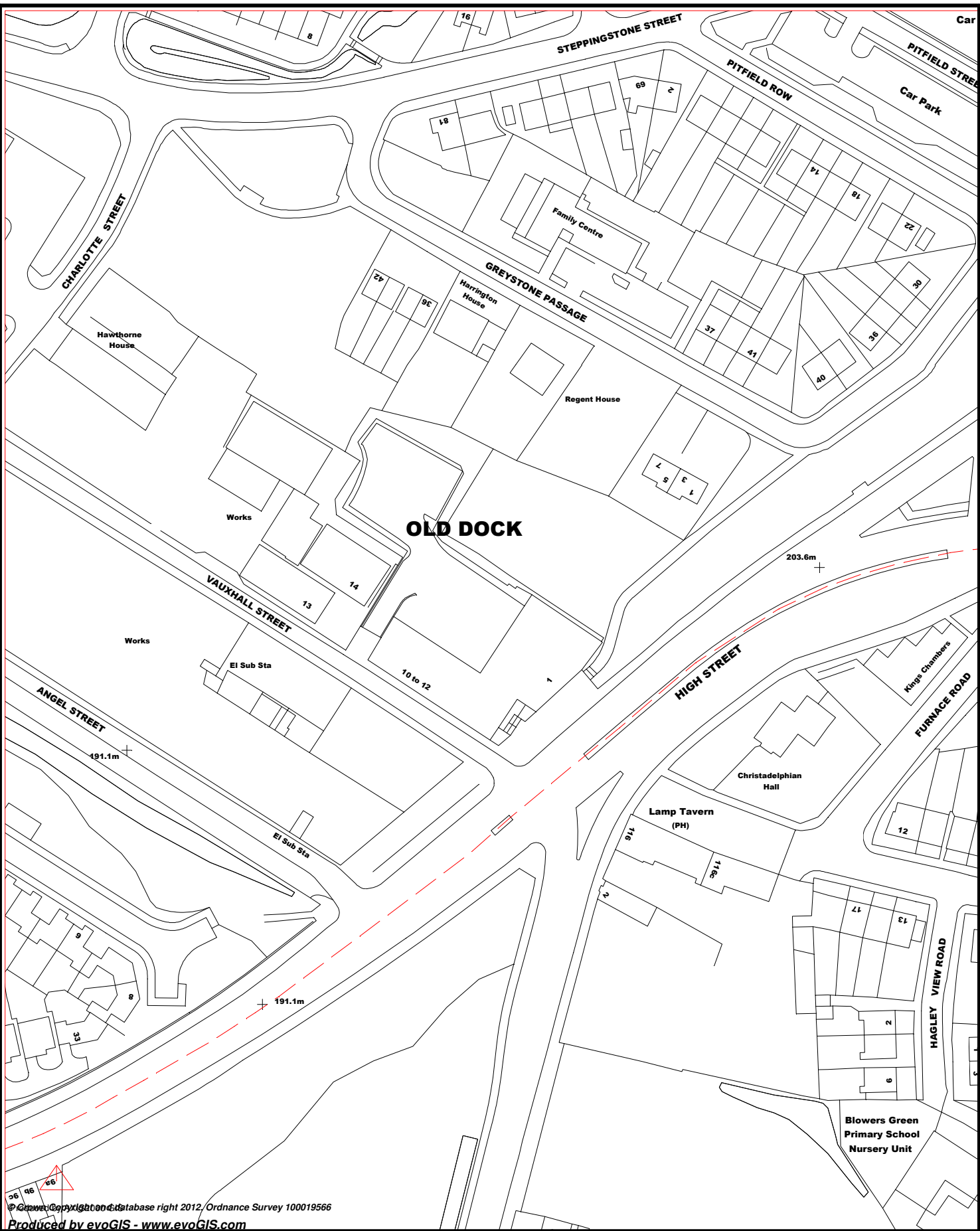
It is recommended that the application be REFUSED for the following reasons:

Conditions and/or reasons:

1. In line with Black Country Core Strategy Policy DEL2, before considering the release of employment land, the council will need to be assured that the development does not adversely affect the operation of existing employment uses and that the site is no longer viable and required either for employment use or for other employment generating-generating uses. Proposals should demonstrate a

comprehensive approach not prejudicing existing and neighbouring uses. It is considered that this has not been demonstrated by the applicant and therefore the general principle of residential use cannot be supported and therefore the proposed development is considered to be contrary to policy DEL 2 of the Black Country Core Strategy.

2. The development would be likely to adversely affect the vitality and viability of nearby industrial and warehousing firms arising from complaints from the occupiers of the proposed flats due to noise and disturbance which may require the introduction of statutory abatement measures. As such the proposed development would be contrary to policy DEL2 of the Black Country Core Strategy and saved Policies EP1 and EP7 of the Dudley Unitary Development Plan.
3. The introduction of residential uses within a principally commercial site has the potential to cause safety conflicts between pedestrians and large vehicles entering and leaving the site. In addition the provision of the new pedestrian access within part of the existing vehicular access to the site would adversely affect the ability of large vehicles to enter and leave and manoeuvre within this and the adjoining site. In addition the restrictions to the access width would lead to vehicles having to drive over part of the pedestrian route and again raising the potential for conflict. The proposed development is therefore contrary to policy TRAN2 of the Black Country Core Strategy and saved policy DD4 of the Dudley Unitary Development Plan.
4. The proposal would provide unsatisfactory living accommodation due to noise and disturbance from traffic noise and the surrounding industrial and warehouse uses. As such, the development would be contrary to saved policy DD4 of the Dudley Unitary Development Plan.



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DIRECTORATE OF THE URBAN ENVIRONMENT,
 Director of the Urban Environment,
 John Millar

DATE: 20-MAR-2012 TIME: 13:14:51

Scale: 1 : 1250

DEFENSE (A1)
Existing floor plans
P12/0074

REVISED
28 JAN 2012
W Jones Associates Ltd
Chartered architects

client: Dudley Estates Ltd
address: Tormal Wyke Offices High St, Dudley
project: proposed part conversion of use
drawing: ground & first floor plans as existing
number: 09
scale: 1:100 @ A1
date: November 2011
revision:

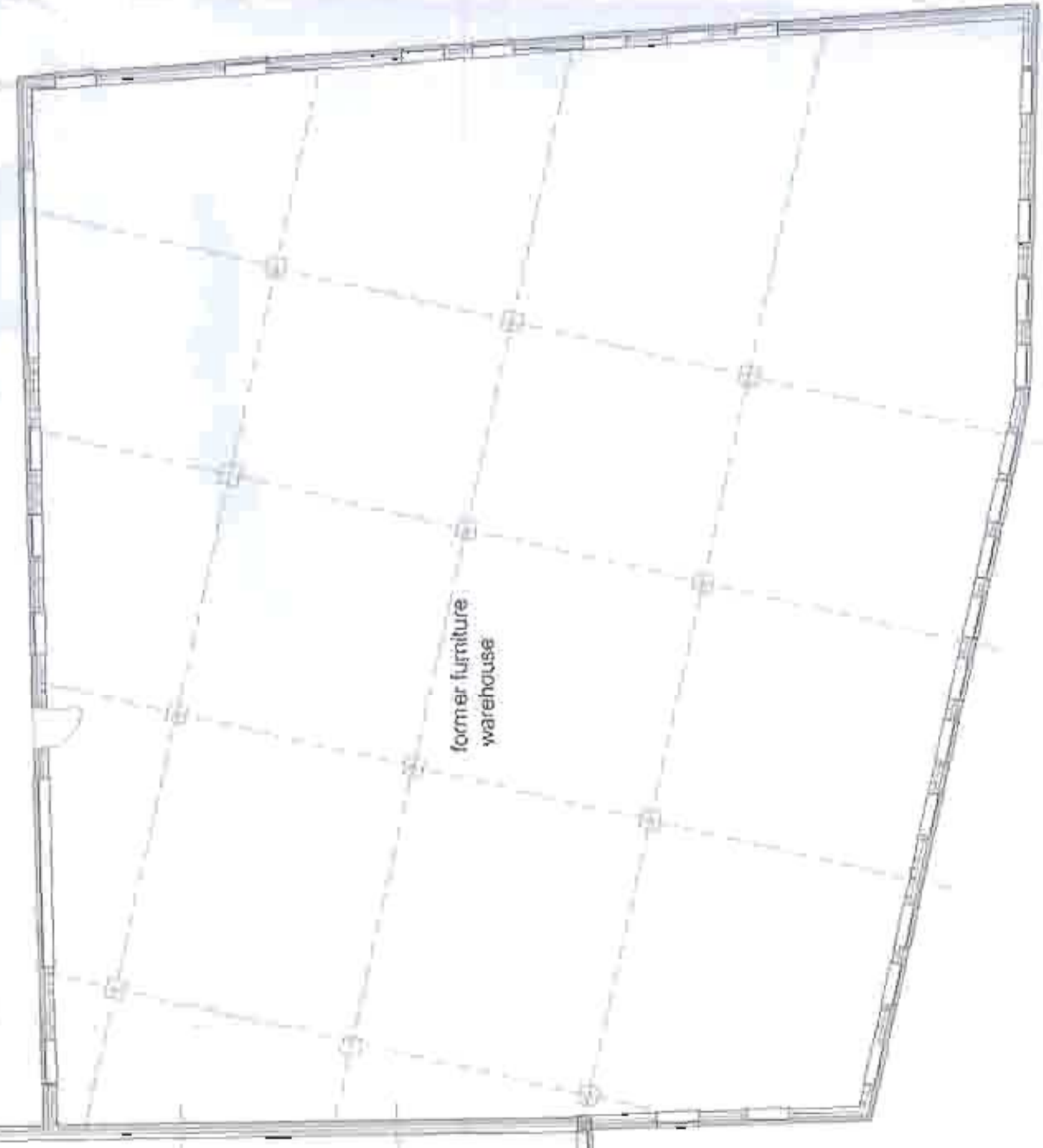
2a Woodlands Rd, Coakley, Kidderminster
Worcestershire, DY10 3TL
01582 850356 m.079 10 815660
e-mail: jags@waynejones.com.uk



first floor



warehouse



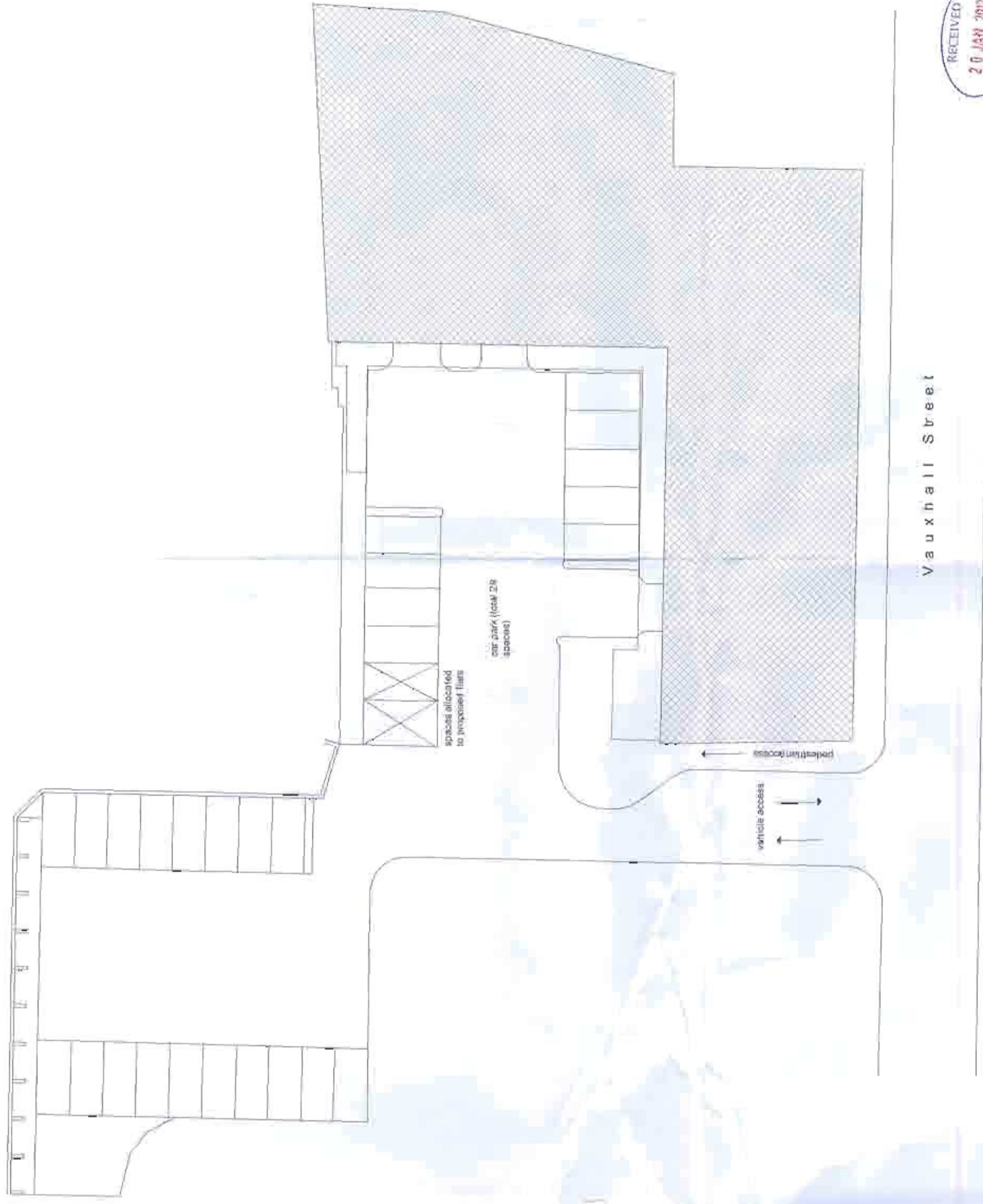
former furniture
warehouse

ground floor
AS EXISTING

Design (AS)
 Existing and proposed
 site layout
 Piz/out



site layout
 AS EXISTING



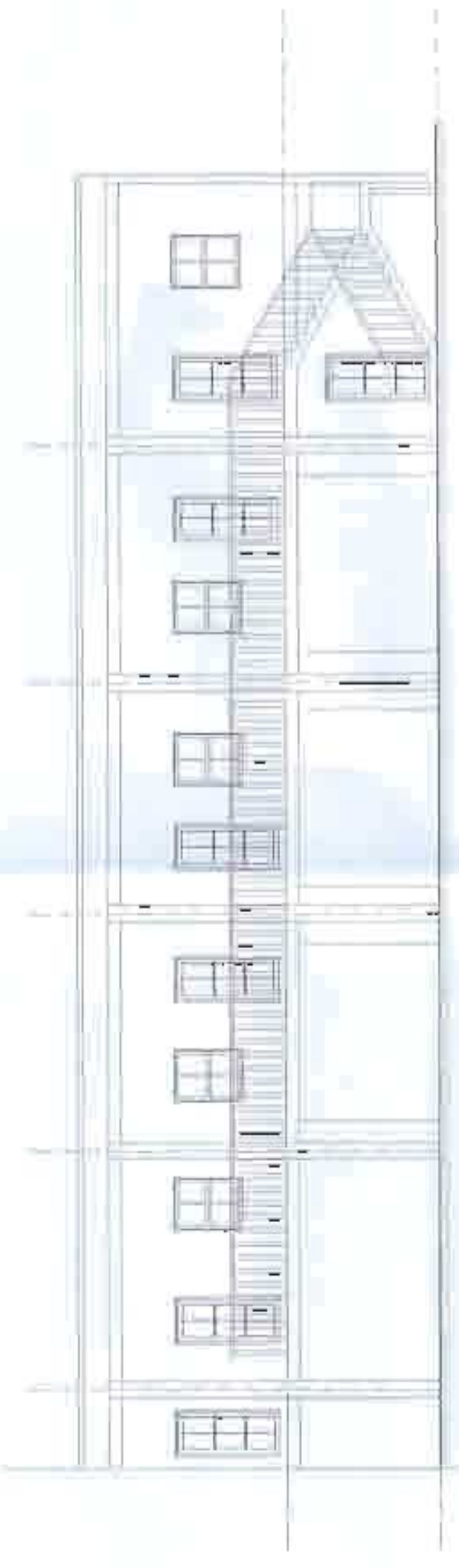
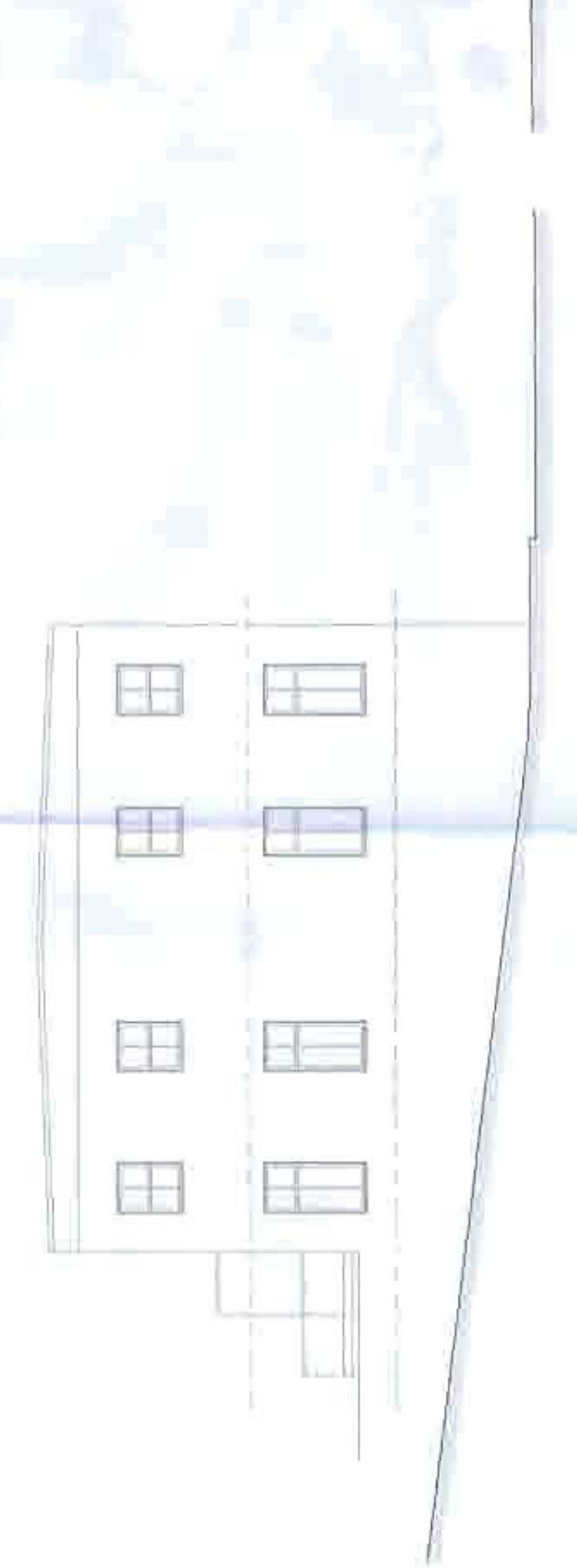
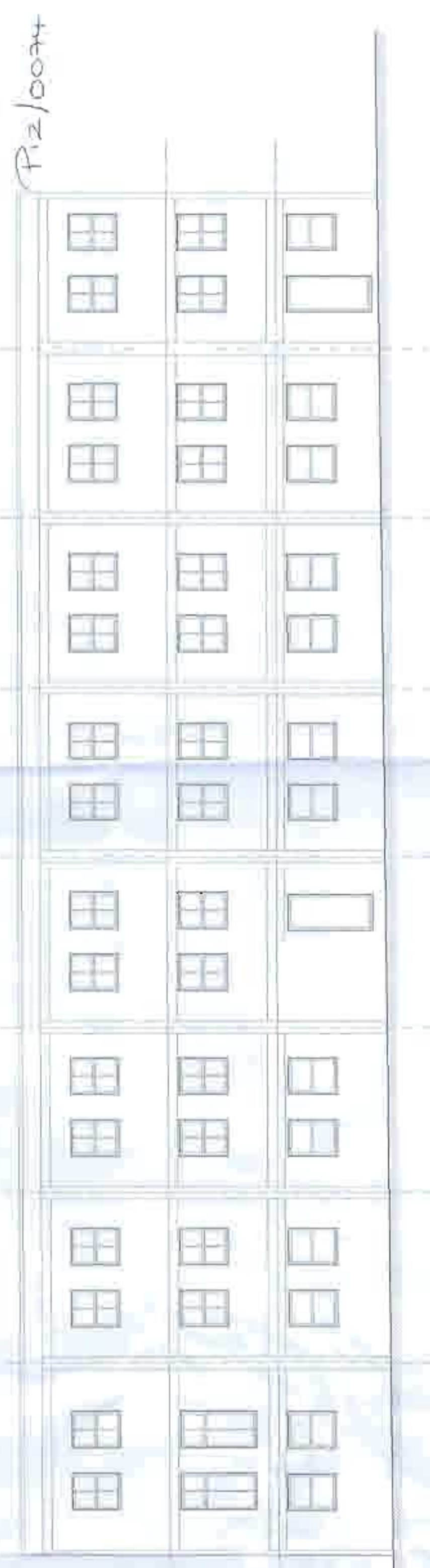
site layout
 AS PROPOSED

W Jones Associates Ltd
 chartered architects

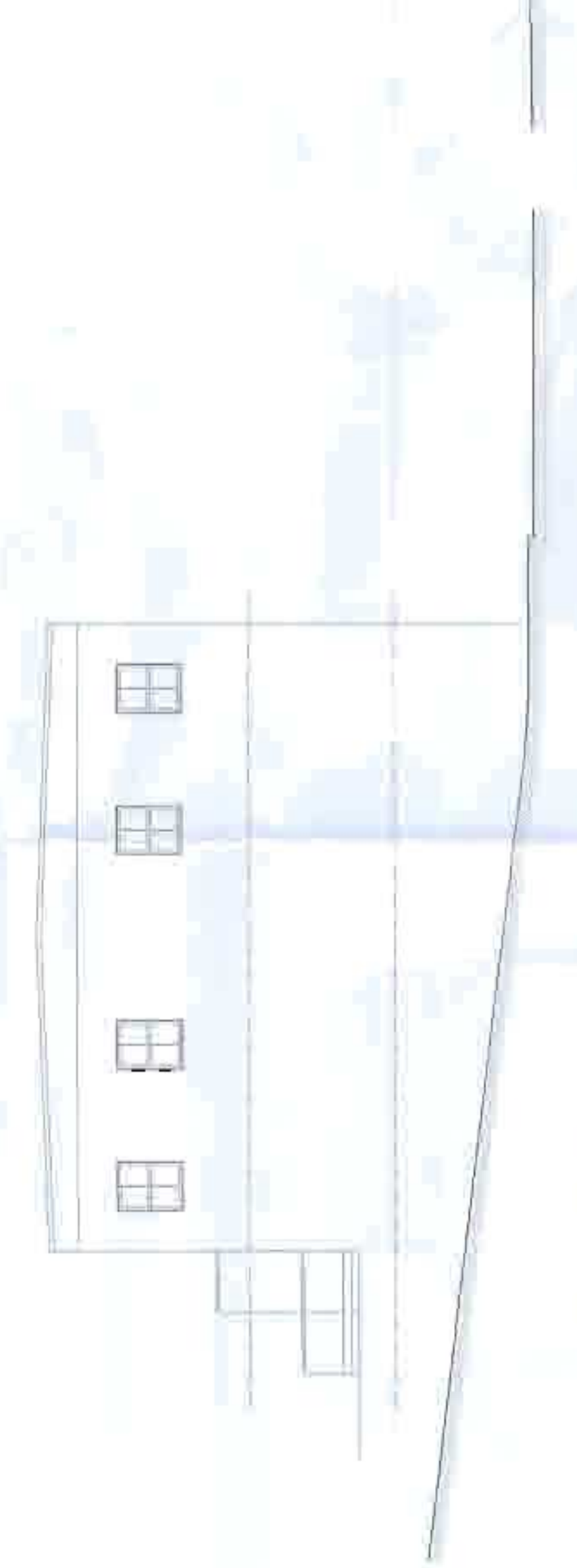
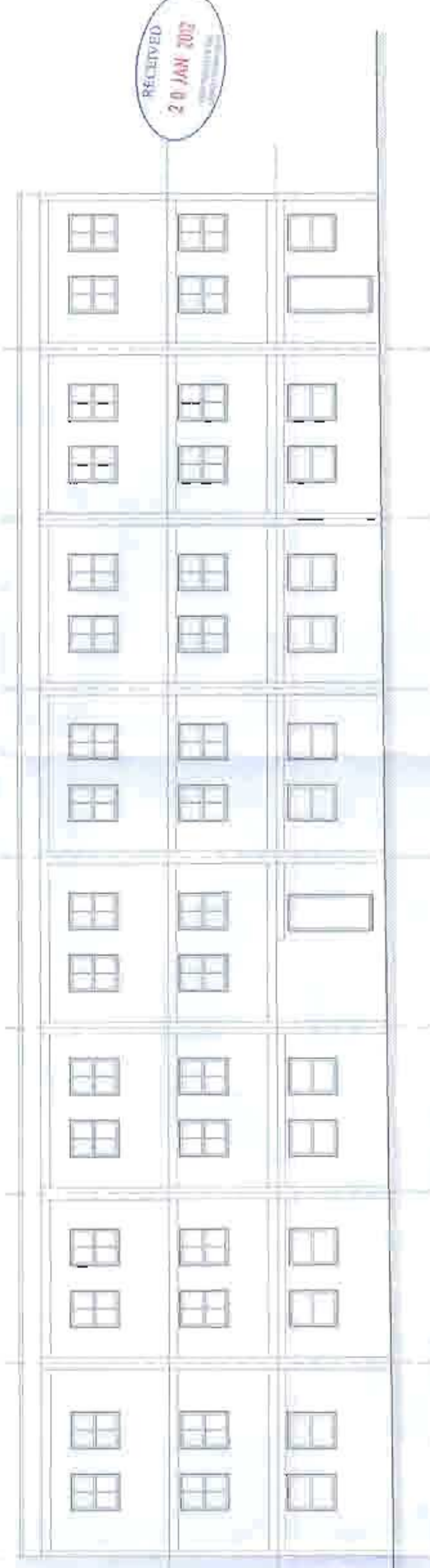
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address:	Stroms Wyke offices High St, Dunlop
project:	proposed part change of use
drawing:	subsequent to meeting & as proposed
number:	02
scale:	1:200 @ A1
date:	November 2011
revision:	

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DC 95WA (A1)
Existing and proposed elevations

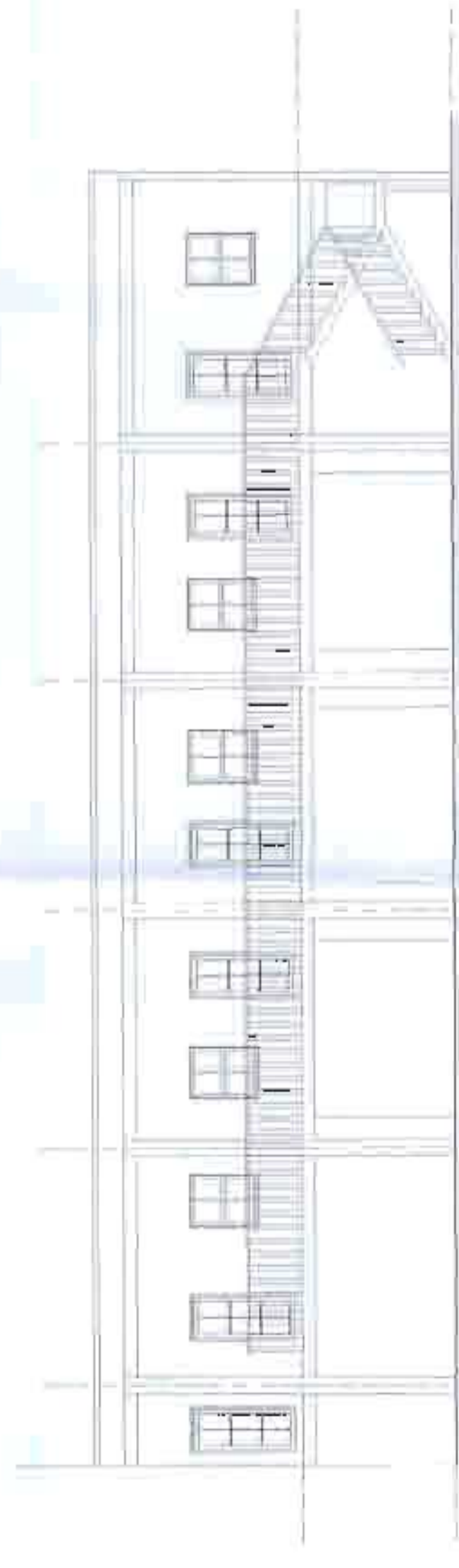


AS PROPOSED



SIDE ELEVATION

FRONT (VAUXHALL STREET) ELEVATION



REAR (CAR PARK) ELEVATION

AS EXISTING

W Jones Associates Ltd
Chartered architects

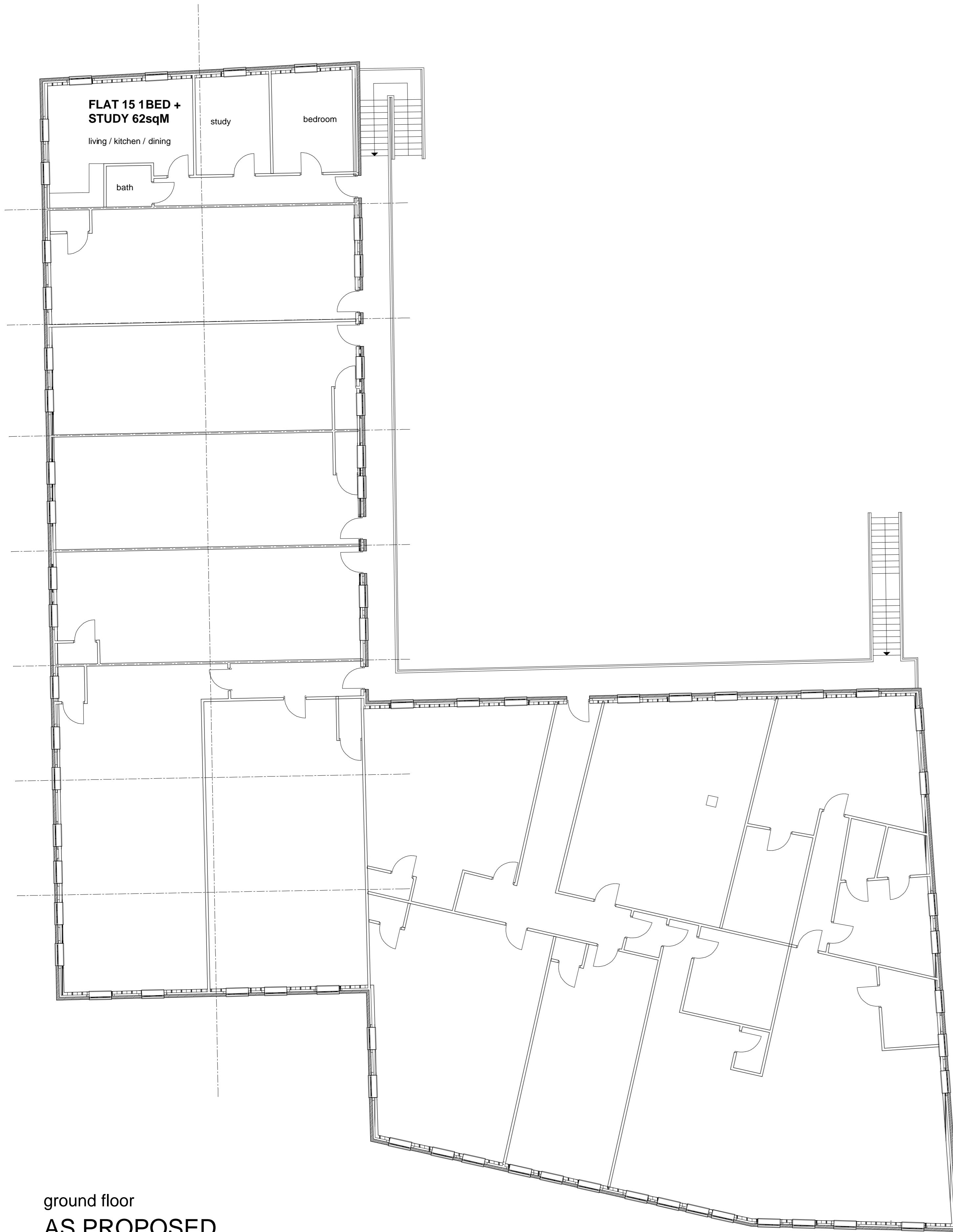
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address	Foston, Wye, Gwent, NP23 5LW
project	proposed main change of use
drawing	elevations as existing and as proposed
number	015
scale	1:100 (A1)
date	November 2011
revision	

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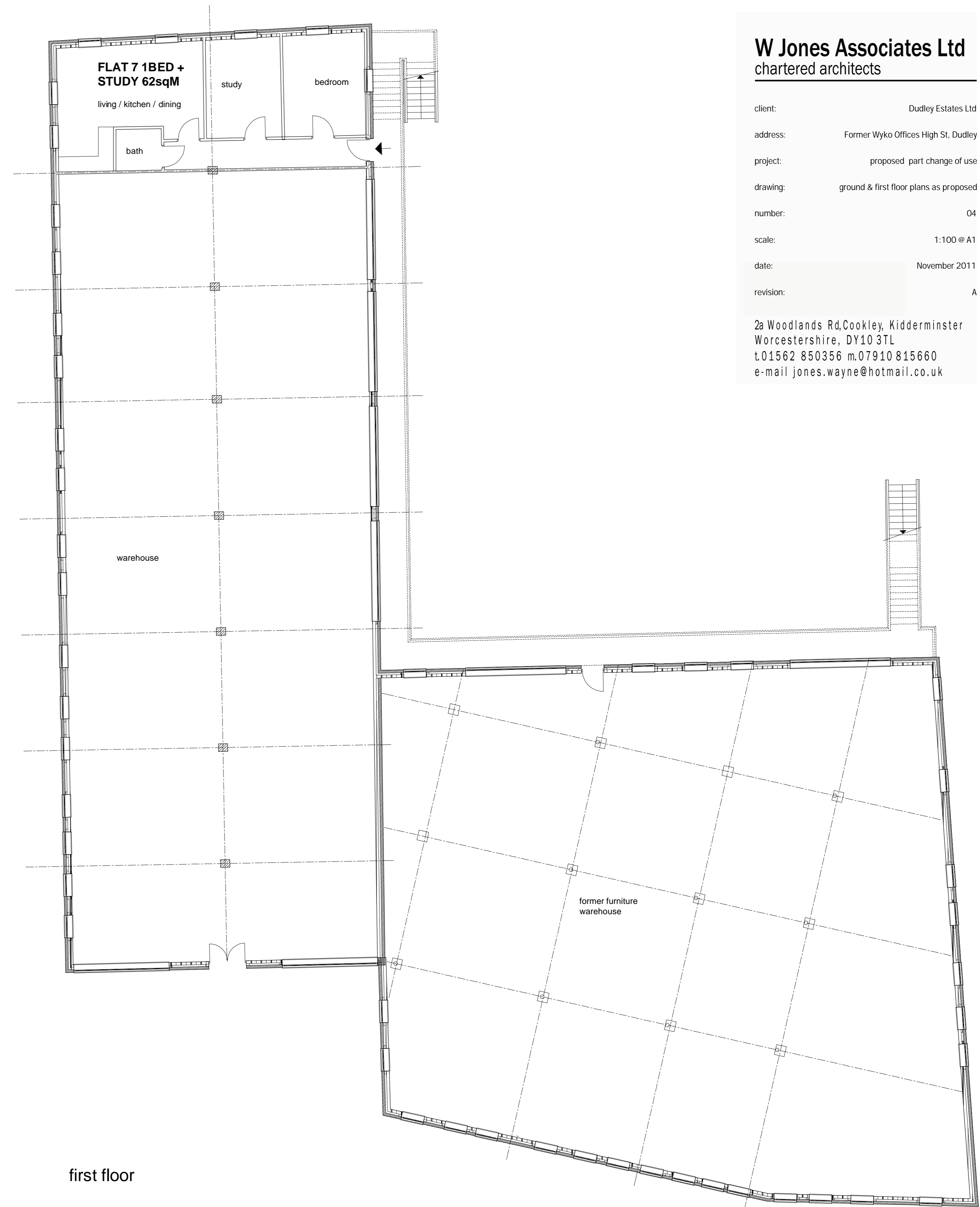
W Jones Associates Ltd
chartered architects

client: Dudley Estates Ltd
 address: Former Wyko Offices High St, Dudley
 project: proposed part change of use
 drawing: ground & first floor plans as proposed
 number: 04
 scale: 1:100 @ A1
 date: November 2011
 revision: A

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ground floor
AS PROPOSED



first floor