

PLANNING APPLICATION NUMBER: P09/1275

Type of approval sought	Full Planning Permission
Ward	ST JAMESS
Applicant	Mr Jagdish Singh
Location:	CHARLTON HOUSE, 51, NEW STREET, DUDLEY, DY1 1HQ
Proposal	CHANGE OF USE FROM OFFICES (B1) TO RESTAURANT (A3).
Recommendation Summary:	APPROVE SUBJECT TO CONDITIONS

SITE AND SURROUNDINGS

1. The application site relates to Charlton House, a prominent Grade II listed building located within the Dudley Town Centre Conservation Area at the junction of New Street with Priory Street.

2. Charlton House is located against the back edge of the New Street and Priory Street footway and was built between 1810 and 1820, during the Regency period; and is personified by this era by the New Street Stucco elevation depicted by a recessed door within a moulded stone door case with slim pilasters with entablature and ground floor bow windows either side. The sash windows to this elevation at first floor level benefit from twelve panels whilst the windows at second floor level benefit from nine panels and are inserted in moulded architraves to denote the understated elegance of this assumed former Merchant House. The windows on the Priory Street elevation show equal consideration to good design principles with vertical emphasis, though some of the vertical window bars have been removed to the lower sashes of all the ground floor windows to this elevation.

3. Charlton House has been erected upon a stone foundation course which supports the brickwork walls though the only remaining exposed brickwork can be found to the rear of the property. The remaining elevations benefit from a render treatment, as do

the three large chimneys. A low level rendered wall with railings over is located to the frontage and abutting the back edge of the pavement. Charlton House benefits from a slate roof over and comprises a complicated roof design of both hipped and pitched types with a number of concealed abutments, valley gutters and flashing details. The building is a good example of its period with external alterations to the building having been limited. The building has been disused for some time with its last known use to being for office accommodation.

4. Located to the rear of the site is a hard standing car park area within which is located a trap door leading to the cellar underneath Charlton House. The car park area serving Charlton House is relatively confined and leads to the rear of the adjacent buildings fronting New Street and Priory Street, most noticeably the adjacent building of No. 49 New Street which benefits from a shared access with the application site and No. 19 Priory Street (Priory Chambers). Both the adjacent surrounding highways of New Street and Priory Street benefit from parking restrictions with designated parking bays located either side of the sites vehicular access onto New Street whilst a bus stop is positioned on the opposite side of New Street.

PROPOSAL

5. This is a full planning application proposing the change of use of the premises from offices (B1 use) to restaurant (A3 use). The change of use would also include a fume extraction unit which would exit the building via the chimney, projecting some 1 metre above the ridge. The application also relates to internal alterations, however, as the majority of the proposed alterations to the building are internal and as such do not require not planning permission, these alterations are being dealt with through the parallel listed building application (P10/1276).
6. The applicant states that opening hours would be 9:00 to 23:00 (Monday-Saturday) and 10:00 to 22:30 (Sunday and Bank Holidays). The premises would employ a total of 2 full time staff and 2 part time staff. No specific parking provision has been made within the site but parking is available on the road to the frontage of the site and within the wider town centre locality.

7. The application is accompanied by a design and access statement and a schedule of proposed works. The building has been identified as a high priority for grant assistance through the Dudley Townscape Heritage Initiative Scheme (THI). The proposals, which include necessary repairs and work to enable the vacant floorspace to be brought back into use, are eligible through the THI scheme. A grant application is therefore being encouraged. The proposed works are funded as part of the THI which is funded by the Heritage Lottery Fund and Advantage West Midlands (AWM).

HISTORY

8. Planning history.

APPLICATION No.	PROPOSAL	DECISION	DATE
86/51530	Listed Building Consent for the demolition of derelict outbuildings	Approved with conditions	22 January 1987
88/50204	Full Planning Permission for the construction of a car park	Refused	28 April 1988
98/50486	Full Planning Permission for the use of land at the rear of the property as a customer car park	Refused	18 June 1998
98/51453	Full Planning Permission for the formation of customer car park at the rear of the property	Approved with conditions	12 November 1998

PUBLIC CONSULTATION

9. The application was advertised by way of neighbour notification letters being sent to the occupiers of twenty five properties within close proximity to the site. The final period for comment expired on 28 October 2009. No comments or objections were received.

OTHER CONSULTATION

10. **Group Engineer (Development):** has concerns on the ground that it would be difficult for delivery vehicles to use the loading bay and manoeuvre to exit in forward gear thereby raising highway safety concerns.
11. **Head of Environmental Health and Trading Standards:** The proposed development would be located in close proximity to existing residential accommodation. Therefore, there is a potential impact on the amenity of the residencies from cooking odours and noise from the restaurant. Although no adverse comments are raised regarding the proposed development, there needs to be controls in place to protect residential amenity.
12. The proposed flue would be sited through the chimney from the first floor kitchen which would enable the flue to discharge 1 metre above the ridge. A scheme would need to be submitted before cooking operations commence detailing odour extraction and treatment, as well as a scheme to minimise noise impacts to ensuring surrounding residential amenity would not be prejudiced. In terms of noise from the commercial operations at the restaurant and the activities of the customers the hours of opening and times of deliveries would need to be restricted to protect neighbouring residents from excess noise.

RELEVANT PLANNING POLICY

- **Adopted Dudley Unitary Development Plan (2005)**
 - Policy S2 Creating a more Sustainable Borough
 - Policy S4 Heritage Assets
 - Policy S5 Local Distinctiveness
 - Policy DD1 Urban Design
 - Policy DD3 Design of Retail Development
 - Policy DD4 Development in Residential Areas
 - Policy DD6 Access and Transport Infrastructure
 - Policy DD7 Planning Obligations

Policy CR1 Hierarchy of Centres
Policy CR11 Retail (A3) Uses and Amusement Arcades
Policy EP5 Air Quality
Policy EP7 Noise Pollution
Policy AM3 Strategic Highway Network
Policy AM15 Personal Mobility
Policy UR1 Central Employment Zone
Policy DTC2 Street Blocks
Policy DTC2 (XVI) Established Areas
Policy HE1 Local Character and Distinctiveness
Policy HE4 Conservation Areas
Policy HE6 Listed Buildings

- **Supplementary Planning Documents**

Parking Standards and Travel Plans
Dudley Town Centre Area Development Framework
Dudley Town Centre Conservation Area Management Plan
Historic Environment
Parking Standards and Travel Plans
Planning Obligations

- **Supplementary Planning Guidance**

Dudley Town Centre Area Character Area Appraisal
PGN28 Hot Food Takeaway Shops, Restaurants and Cafes (Class A3 Uses)

- **National Planning Guidance**

PPS1 Delivering Sustainable Development
PPG4 Industrial and Commercial Development and Small Firms
PPS6 Town Centres
PPG13 Transport
PPG15 Planning and the Historic Environment
PPS23 Planning and Pollution Control

13. Key Issues

- Principle
- Design and Historic Building Issues
- Neighbour Amenity
- Access and Parking
- Planning Obligations

Principle

14. The application site lies within Block 13 (DTC2 (XVI) Established Areas) of the adopted Dudley Unitary Development Plan town centre inset plan. Where new development or a change of use is proposed within these areas, favourable consideration will be given provided that the proposal does not conflict with other policies in the Plan or will result in a loss of amenity to surrounding land users. Therefore no objection is raised in principle subject to all other materials planning considerations.
15. The building is a Grade II listed building within the Dudley Town Centre Conservation Area and as such the application has to be considered alongside policies HE1 (Local Character and Distinctiveness), HE4 (Conservation Areas) and HE6 (Listed Buildings) of the adopted Dudley Unitary Development Plan, which seeks to protect and where possible enhance the Boroughs heritage assets.

Design and Historic Building Issues

16. The majority of the proposed works are internal and are thereby covered by the parallel listed building consent application (P09/1276), however, certain external works require planning permission including the extraction flue. The change of use from offices (B1 use) to restaurant (A3 use) also requires planning consent.

17. The extraction flue would be sited through the chimney from the first floor kitchen which would enable the flue to discharge 1 metre above the ridge to ensure surrounding occupiers would not suffer a loss of amenity through cooking odour whilst the flue would not appear visually prominent by being concealed within the existing chimney stack. In terms of noise, a scheme to minimise the noise impact of the flue would be required as part of any planning approval to ensure existing residential amenity would not be prejudiced for existing surrounding occupiers.

18. The change of use from an accountancy office (B1 use) albeit a vacant premises to a restaurant (A3 use) and the associated activities of the customers; the hours of opening would be restricted to 9:00 to 23:00 (Monday-Saturday) and 10:00 to 22:30 (Sunday and Bank Holidays) whilst the times of deliveries would be restricted to protect neighbouring residents from excess noise and to ensure highway safety and peak traffic flows would not be prejudiced. The hours for delivery would be restricted between 10:00 to 15:00. It is considered that the proposed change of use within this regard would accord with policy, whilst preserving and enhancing a vacant Grade II Listed Building as well as preserving and enhancing the character of the Town Centre Conservation Area. The proposed use would also, in a small way, increase employment opportunities within the Borough and more specifically within the Dudley Town Centre to provide an additional 2 full time and 2 part time jobs.

Neighbour Amenity

19. Policy DD4 (Development in Residential Areas) of the adopted Dudley Unitary Development Plan applies in the consideration of development proposals within residential areas. Policy DD4 seeks to ensure that development would not adversely affect the character of the area or residential amenity.

20. The site is located within a town centre location and the majority of nearby uses are either retail or commercial, including space at first and second floor level, however, there are residential properties within the locality. It is considered that through robust conditioning to control hours of operation as well as servicing of the restaurant and the control of the discharge of odours, residential amenity would not

be prejudiced and no concerns have been raised through the public consultation process. This element of the scheme is considered to comply with the relevant policy criteria.

Access and Parking

21. New Street (A4168) forms part of the strategic highway network. These roads are for long distance and strategic traffic. Street parking and direct frontage access will be kept to a minimum to ensure the effective flow of traffic, and the Council will give a high priority to improvements and traffic management measures to assist traffic flows; in accordance with policy AM3 (Strategic Highway Network) of the adopted Dudley Unitary Development Plan.
22. The proposed development does not require off street parking in view of the developments position within Dudley Town Centre with both on street and off street parking available within close proximity of the site. The site is also located opposite a bus stop and is therefore well served by public transport. The lack of any customer parking provision is therefore not considered to be an issue.
23. The principle of deliveries to the site from New Street is established from the previous office use (B1 use). However, the size of vehicle used to service a restaurant and the frequency of deliveries to this facility are considered to be significantly different from the previous use by the Group Engineer. A revised site layout plan has been submitted showing suggested vehicle manoeuvres required for a service vehicle to enter and exit the loading bay to the rear of the site in a forward gear. The Group Engineer has overlaid vehicle manoeuvre swept paths on the service area of the revised plan and based on these it would be difficult to turn a standard family saloon car within the service area, in a reasonable number of manoeuvres (normally 3). Therefore, it is considered that it would be difficult for a light goods vehicle, which can reach nearly 7.5 metres in length to enter and exit the site in a forward gear and obviously should any vehicle be parked in the service area, any chance of manoeuvring would be lost. However, it should be borne in

mind that off street parking serving the development is not required given the town centre location and this scenario is considered remote.

24. It is considered probable that delivery vehicles would either manoeuvre on New Street with a bus stop on the opposite side of the carriageway and reverse into the site, between the vehicles within the designated parking bays which are adjacent the footway crossing or service on-street in close proximity to the junction of New Street with Priory Street. Whilst both of these situations raise highway safety concerns and would detrimentally affect the convenience of other highway users in the vicinity by causing some disruption to traffic flow along New Street whilst deliveries are made, the principle of deliveries to the site from New Street is already established from the previous use and servicing arrangements already afforded to the site. It is considered that the proposed change of use would not differ so significantly from the existing servicing arrangement afforded to the premises to warrant a refusal of this application on highway grounds. Furthermore, it is considered that a condition restricting hours of deliveries to the premises between the hours of 10:00 to 15:00 to avoid peak traffic flows would help to mitigate the impact of the operation upon users of the strategic highway.

Planning Obligations

25. The proposed development would normally attract contributions towards nature conservation and transport infrastructure improvements. However, in this case it is not reasonable to request any contributions as the project has demonstrated a significant shortfall and the project will be economically unviable without grant aid through the THI process.

CONCLUSION

26. On balance, the proposed use of the listed building as a restaurant (A3 use) is considered to be acceptable. The proposed external changes to incorporate the flue within the existing chimney stack is also considered to be acceptable whilst ensuring the change of use and all ancillary development would contribute towards

improving the condition and appearance of the vacant Grade II listed building as well as preserving and enhancing the character of the Town Centre Conservation Area. Whilst concern is expressed relating to the servicing or manoeuvring of vehicles on the strategic highway of New Street, the principle of deliveries to the site from New Street is already established from the previous office use (B1 use). The scheme will only become economically viable through the assistance of works being funded as part of the Dudley THI which is funded by the Heritage Lottery Fund and AWM. It is therefore considered that the benefits of the change of use to the vacant listed building currently falling into a state of disrepair, within the Dudley Town Centre Conservation Area are outweighed by any concerns raised through the consultee process.

RECOMMENDATION

27. It is recommended that planning permission is granted subject to conditions:

Reason for approval

On balance, the proposed use of the listed building as a restaurant (A3 use) is considered to be acceptable. The proposed external changes to incorporate the flue within the existing chimney stack is also considered to be acceptable whilst ensuring the change of use and all ancillary development would contribute towards improving the condition and appearance of the vacant Grade II listed building as well as preserving and enhancing the character of the Town Centre Conservation Area. Whilst concern is expressed relating to the servicing or manoeuvring of vehicles on the strategic highway of New Street, the principle of deliveries to the site from the New Street highway is already established from the previous office use (B1 use). The scheme has only become economically viable through the assistance of works being funded as part of the Dudley THI which is funded by the Heritage Lottery Fund and AWM. It is therefore considered that the benefits of the change of

use to the vacant listed building currently falling into a state of disrepair, within the Dudley Town Centre Conservation Area are outweighed by any potential concerns raised through the consultee process.

The decision to grant planning permission has been taken with regard to the policies in the adopted Dudley Unitary Development Plan (2005) and to all relevant material considerations:

The above is intended as a summary of the reasons for the grant of planning permission. For further detail on the decision please see the application report.

Note to Applicant

This permission relates to the Plan labelled Drawing No. 09.5024.05.B (Revision B), date stamped '21 January 2010', Drawing No. 09.5024.03.AB, 09.5024.01, 09.5024.02, 09.5024.04 and OS Sitemap, unless otherwise agreed in writing by the Local Planning Authority.

Informative

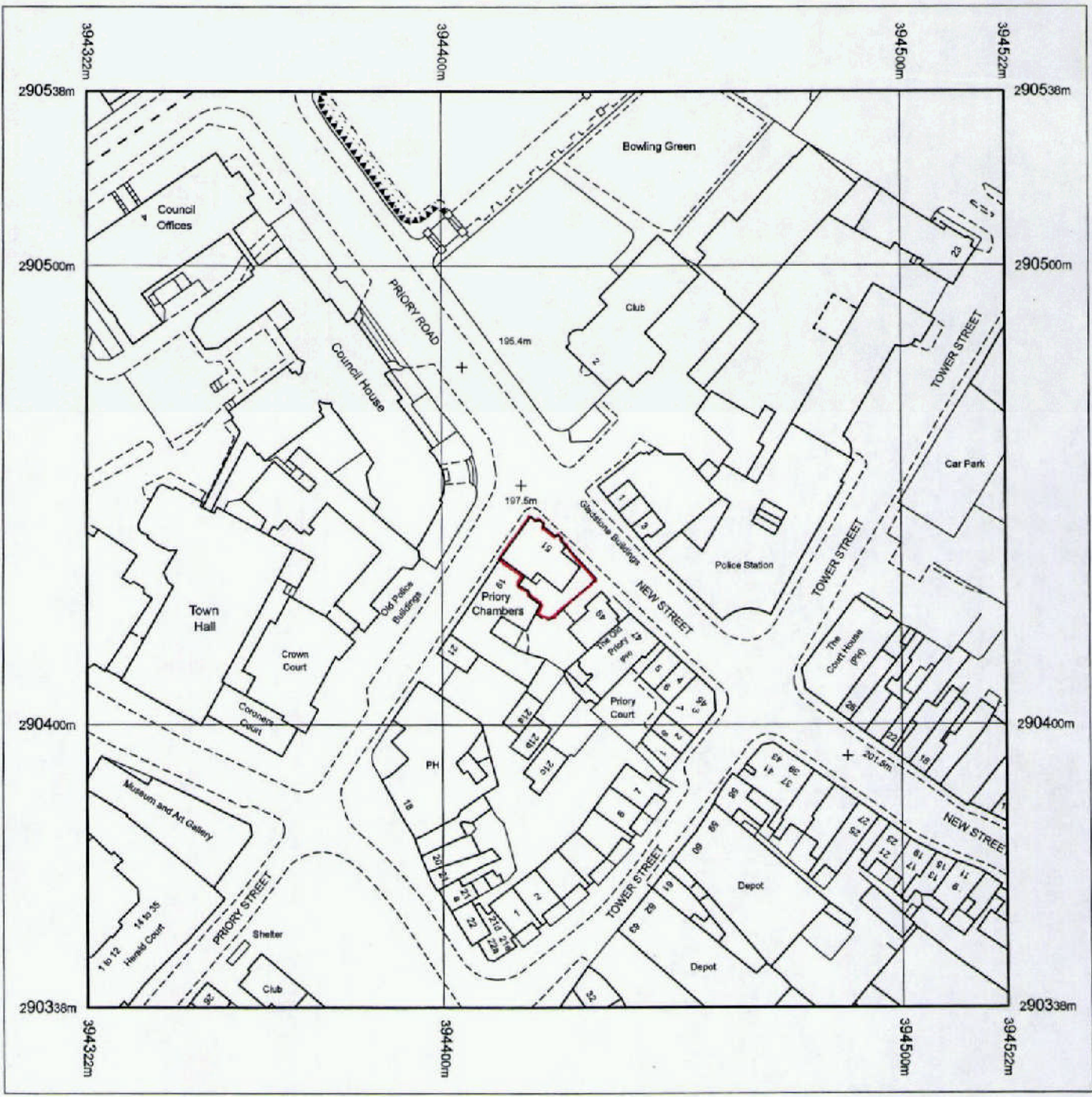
The applicant should be aware that works cannot commence on site until Listed Building Consent for the proposed works has also been granted and associated conditions fully discharged.

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 change of use and ventilation flue hereby permitted shall not commence / be installed until a detailed Repairs Schedule for the Listed Building has been submitted to and approved in writing by the local planning authority and the schedule shall thereafter be implemented in strict accordance with the approved details prior to the first occupation of the building.

3. Development shall not begin until details have been submitted to and approved in writing by the local planning authority of the proposed ventilation flue and how it is to be taken through the existing chimney.
4. Prior to the commencement of the change of use, a scheme containing full details of arrangements for internal air extraction, odour control, and discharge to atmosphere from cooking operations, including any external ducting and flues, shall be submitted to and approved in writing by the Local Planning Authority. The works detailed in the approved scheme shall be installed in their entirety before the use hereby permitted is commenced. The equipment shall thereafter be maintained in accordance with the manufacturer's instructions and operated at all times when cooking is being carried out unless otherwise agreed beforehand in writing with the Local Planning Authority.
5. Before any fixed plant and machinery for internal air extraction, odour control, and discharge to atmosphere from cooking operations is used, a scheme to mitigate disturbance to other occupiers of the building from conducted noise and vibration arising from its operation shall be submitted to and approved in writing by the local planning authority. All works that form part of the approved scheme shall be completed before first use of the plant or machinery, and retained during use of the plant or machinery for the duration of the development.
6. Fixed plant and/or machinery associated with the development shall not cause background noise levels at any nearby dwelling to be exceeded by a Noise Rating Level of more than 5 dB(A), as assessed under the methodology of BS 4142 (1997) (Method for rating industrial noise affecting mixed residential and industrial areas) and/or its subsequent amendments.
7. The premises shall not be open to the public outside the following hours; 09:00 to 23:00 Mondays to Fridays, 09:00 to 23:30 Saturdays and 10:00-22:30 Sundays and Bank Holidays.
8. No delivery vehicles whether loaded or unloaded shall enter or leave the site, before the hours of 10:00 nor after 15:00 Monday to Saturday, and not at all on Sundays and Bank Holidays.

Location Plan
PO91275



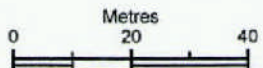
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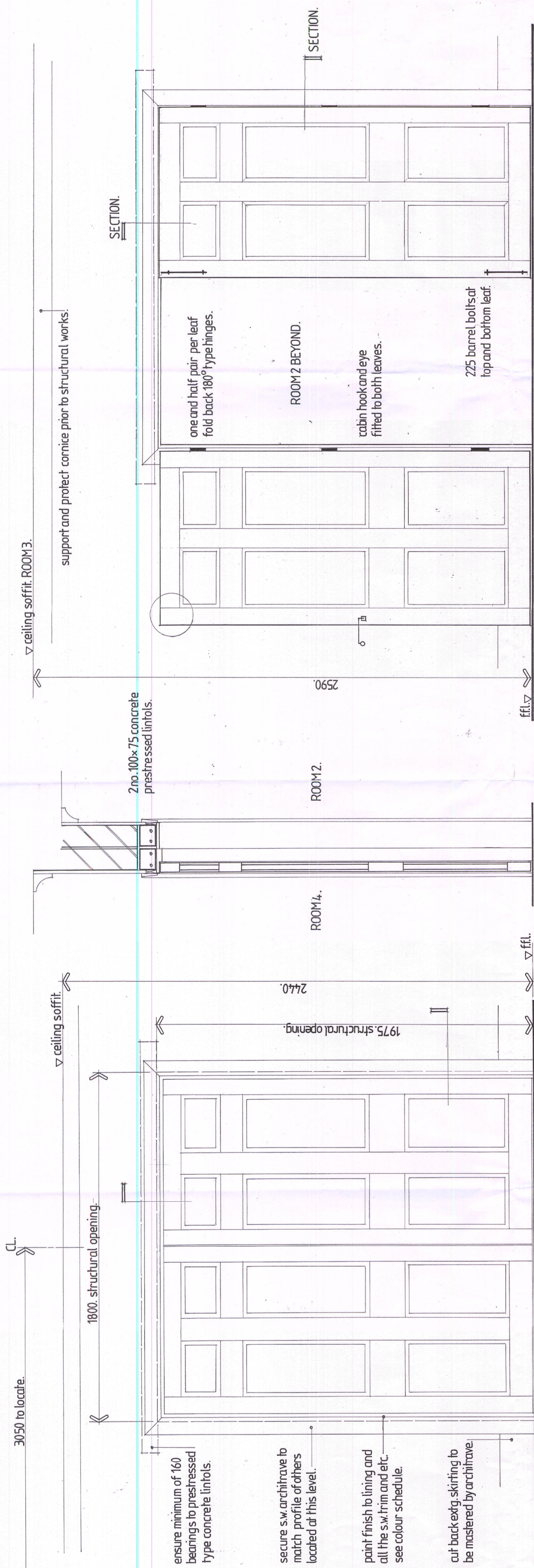
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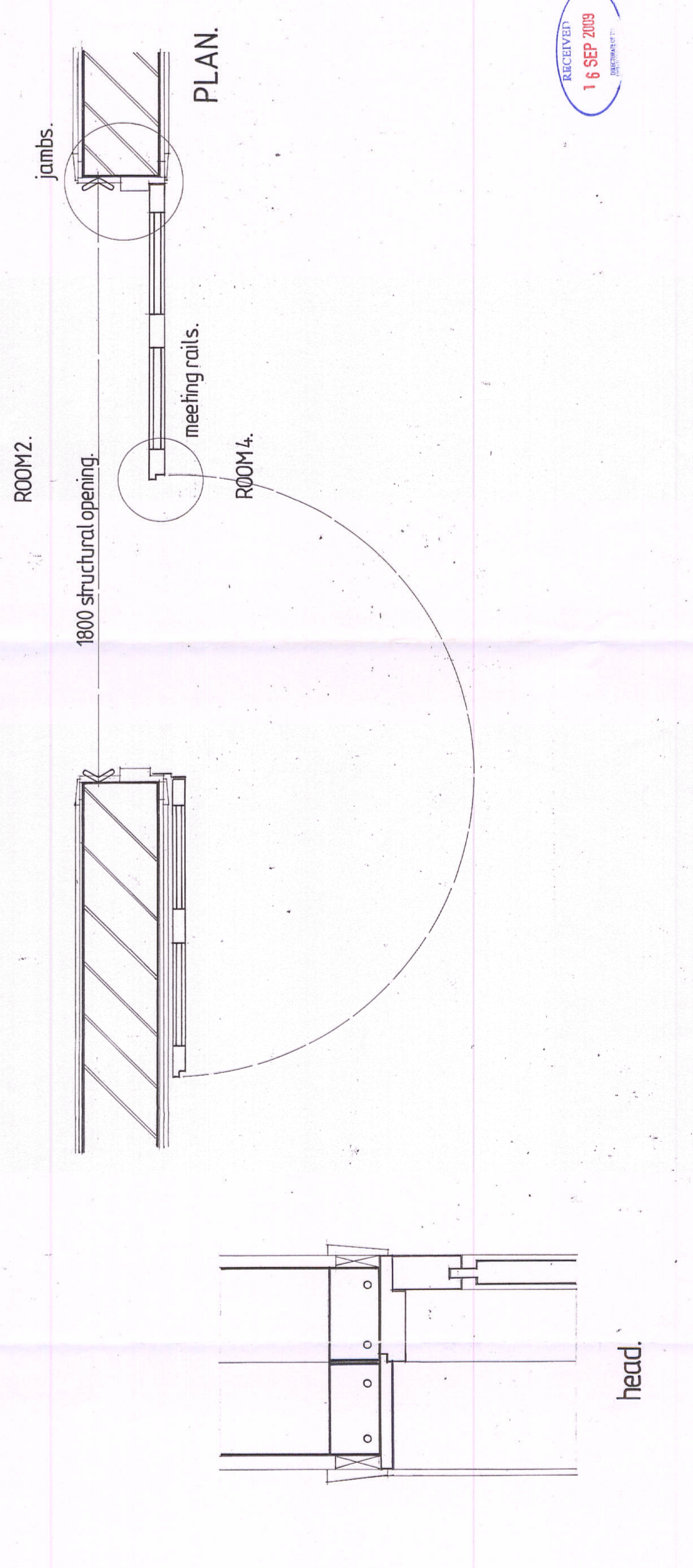
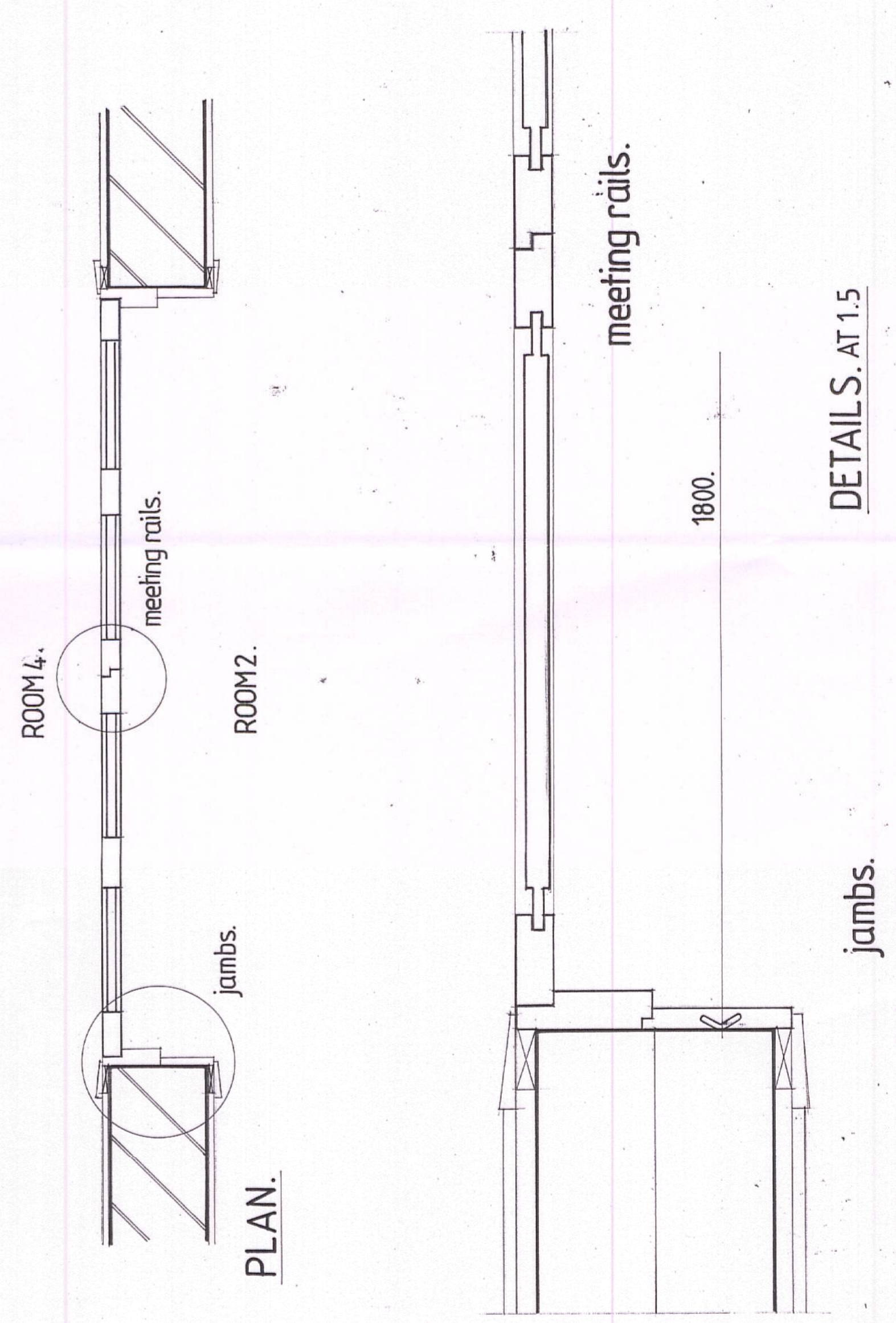


Sizes and levels on this drawing are given in millimetres. It scales at 1:10

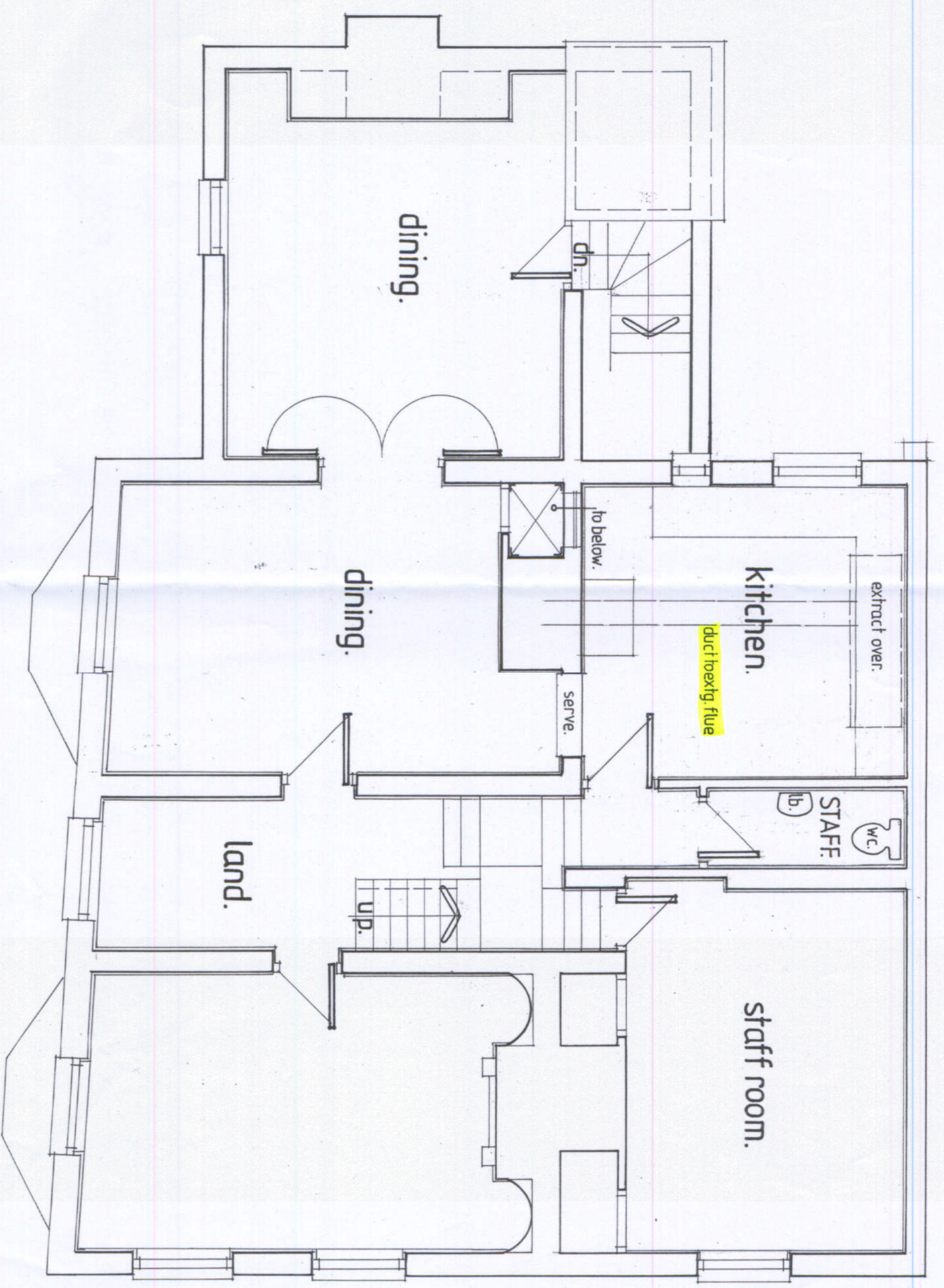


ELEVATION. proposed double doors. FROM ROOM 2. Shown closed at 1:10
 All surfaces to be painted finish. See colour schedule.

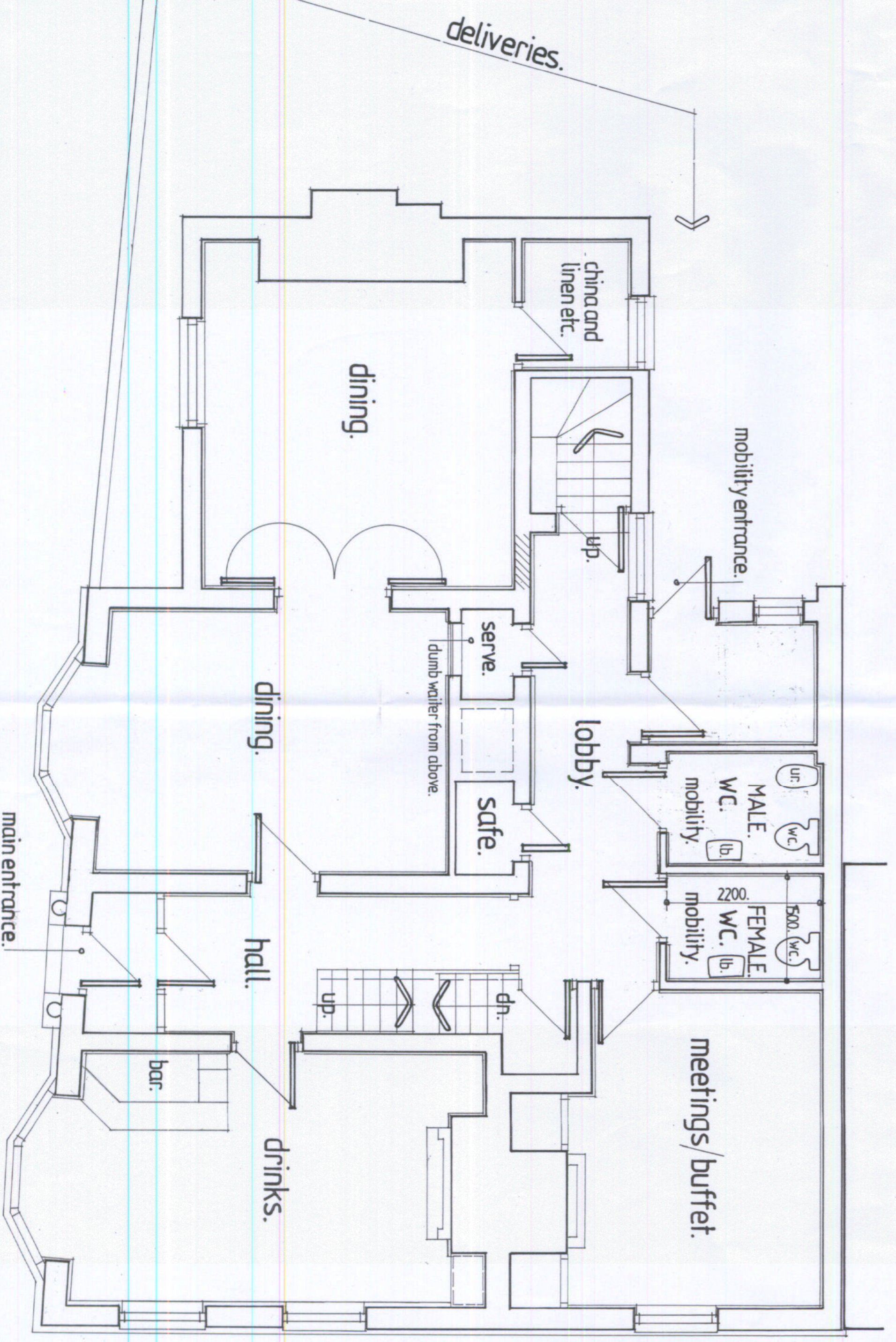
ELEVATION. one leaf open. FROM ROOM 4. Selected hardware and fittings to be black japanned.
 All surfaces to be painted finish. See colour schedule.



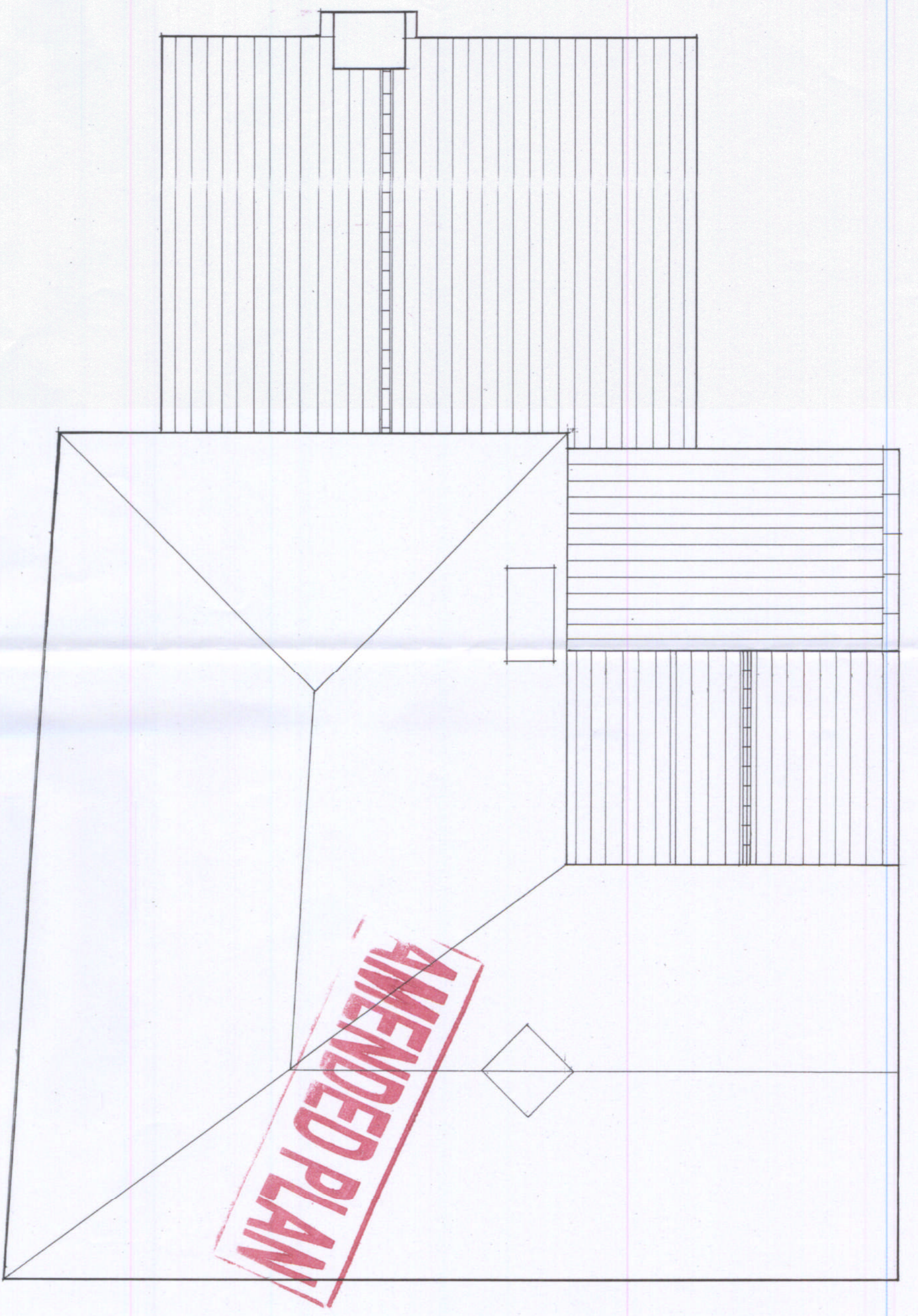
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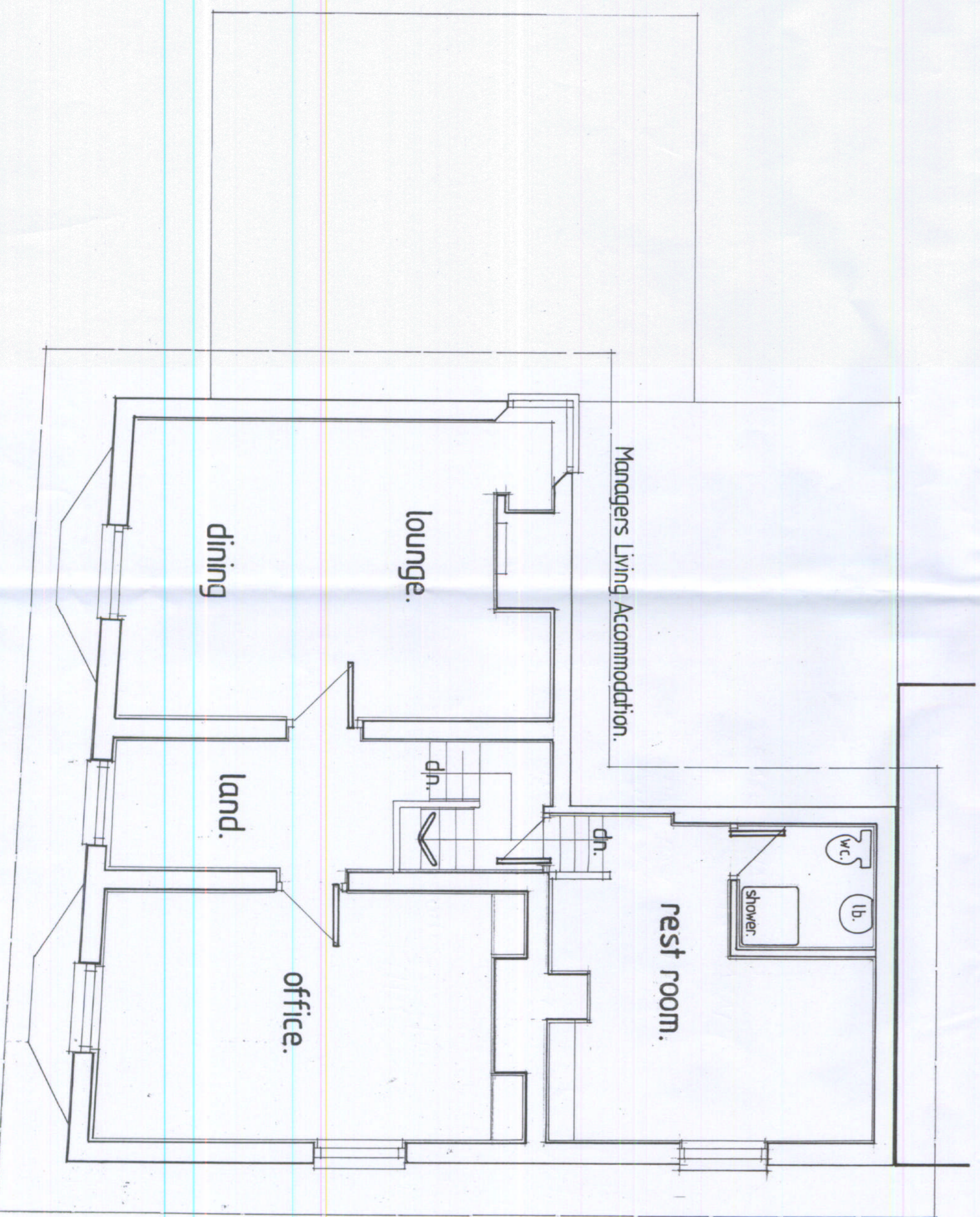
PROPOSED PLAN, first floor.



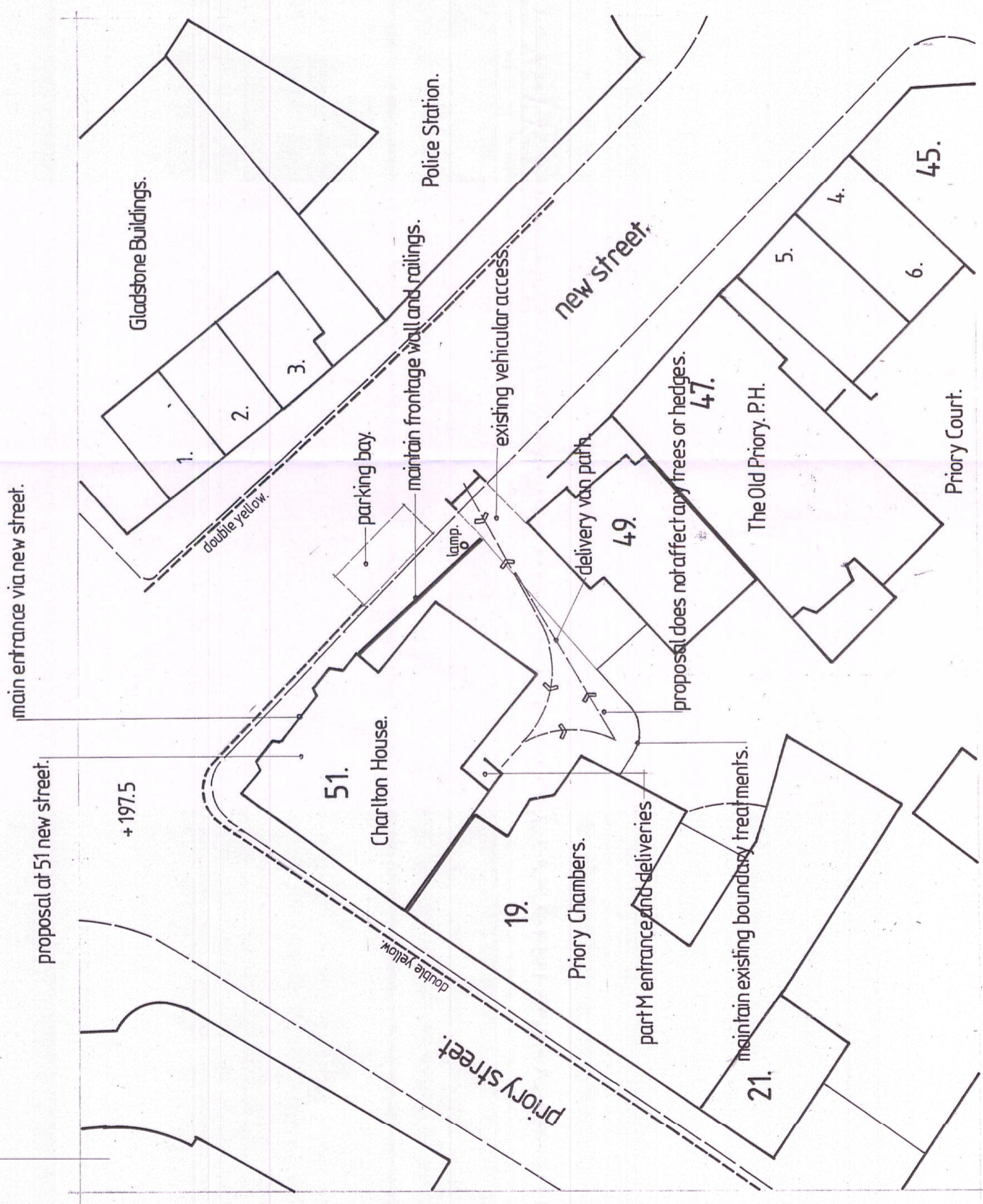
PROPOSED PLAN, ground floor.



ROOF PLAN.



PROPOSED PLAN, second floor.



AMENDED PLAN



SITE PLAN at 1.200