



# Meeting of the Development Control Committee

**Monday, 2<sup>nd</sup> February, 2015 at 6.00pm**

**In Committee Room 2, at the Council House, Priory Road, Dudley**

## **Please note the following:**

- 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.
- There is no smoking on the premises in line with national legislation. It is an offence to smoke in or on these premises.
- The use of mobile devices or electronic facilities is permitted for the purposes of recording/reporting during the public session of the meeting. The use of any devices must not disrupt the meeting – Please turn off any ringtones or set your devices to silent.
- If you (or anyone you know) is attending the meeting and requires assistance to access the venue and/or its facilities, please notify the officer below in advance and we will do our best to help you.
- Information about the Council and our meetings can be viewed on the website [www.dudley.gov.uk](http://www.dudley.gov.uk)
- Elected Members can submit apologies by contacting the officer named below. The appointment of any Substitute Member(s) should be notified to Democratic Services at least one hour before the meeting starts.
- 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 12<sup>th</sup> January, 2015 as a correct record.
6. Plans and Applications to Develop (See Agenda Index Below) (Pages 1 – 91)
7. Confirmation of Tree Preservation Orders (Pages 92 - 108)
8. Local Development Scheme 2015 – 2018 (Pages 109 – 121)
9. Review of the Relevant National and Local Policies, Planning Legislation and National Guidance Concerning the Change of use or Redevelopment of Public Houses (Pages 122 – 130)
10. To consider any questions from Members to the Chair where two clear days notice has been given to the Strategic Director (Resources and Transformation) (Council Procedure Rule 11.8).



**Strategic Director (Resources and Transformation)**

**Dated: 21<sup>st</sup> January, 2015**

**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 - 17	P14/1607 – Gigmill, South Road, Norton, Stourbridge – Change of use of Premises to Retail use. Erection of Single Side and Side/Rear Extensions with Entrance Doors. New Ramped Access with Handrail , New Lighting and Associated External Works
Pages 18 - 27	P14/1655 – 21 Kiniths Way, Halesowen- Installation of Antenna Mast and Antennas in Rear Garden (Retrospective)
Pages 28 - 36	P14/1665 – 11 Tree Acre Grove, Cradley, Halesowen – Erection of a Steel Mast and Radio Antennas (Retrospective)
Pages 37 - 51	P14/1683 – The Struggling Man, 57 Salop Street, Dudley – Change of use from Public House (A4) to Hot Food Takeaway (A5) with Fume Extraction, Elevation Changes to Include New Door
Pages 52 - 65	P14/1720 – Arcal Lodge Care Home, Arcal Street, Sedgley, Dudley – Part Demolition and Conversion of Care Home to 14 No Dwellings
Pages 66 - 71	P14/1786 – 17 Greenway, Sedgley, Dudley – Thin and Lift 1 No Plane Tree
Pages 72 - 79	P14/1788 – 61 Birch Coppice, Quarry Bank, Brierley Hill – Replace Flat Roof with Pitched Roof (Retrospective)
Pages 80 - 91	P14/1807 – Coronation Gardens, Priory Road, Dudley – Demolition of Existing Wall and Replacement with New Brick Boundary Wall

**Minutes of the Development Control Committee**

**Monday 12<sup>th</sup> January, 2015 at 6.00 pm**  
**in Committee Room 2 at the Council House, Dudley**

**Present:-**

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

**Officers:-**

H Martin (Head of Planning), J North (Development Control Officer), P Reed (Principal Development Control Officer) and S Willetts (Planning Control Manager) (All Directorate of the Urban Environment); G Breakwell (Senior Solicitor) and H Shepherd (Democratic Services Officer) (Directorate of Corporate Resources).

---

58     **Declarations of Interest**

In accordance with the Members' Code of Conduct Councillor K Casey declared a non-pecuniary interest in relation to agenda item no. 8 Tree Preservation Order TPO/0110/SED (Northway/Eversley Grove) as he was employed by the Constituency Member of Parliament who had written to object to the order on behalf of residents.

---

59     **Minutes**

Resolved

That the minutes of the Committee held on 22<sup>nd</sup> December, 2014, be approved as a correct record and signed.

---

60     **Informal Site Visit (Confirmation Report for The Borough of Dudley (Land in Quarry Road, Netherton (TPO/0091/QBD))**

Consideration was given to the confirmation report for the Borough of Dudley (Land in Quarry Road, Netherton (TPO/0091/QBD)) in respect of which Members of the Committee had undertaken an informal site visit earlier that day.

Mr Wood, objector, was in attendance at the meeting and spoke on the order.



<u>TPO No</u>	<u>Location/Proposal</u>	<u>Decision</u>
TPO/0091/QBD	Land in Quarry Road, Netherton	Confirmed, subject to the following modifications:  That the area subject to the objection W1 and identified in Appendix 1.3 of the report submitted, be removed from the order.

In considering the order, Members considered the land to be scrub land which was unmanaged with unwanted species taking over. It was further considered that the trees situated on the site were not in a good condition and did not warrant a tree preservation order and that the potential factory expansion and the creation of further jobs overrode the need for the tree preservation order to be made on the area subject to the objection.

61 **Change in Order of Business**

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

Resolved

That agenda item no. 8 Confirmation of Tree Preservation Orders be the next item of business.

62 **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 was in attendance at the meeting and spoke on the order indicated:-

<u>TPO No</u>	<u>Objectors/supporters who wishes to speak</u>	<u>Agent/Applicant who wishes to speak</u>
TPO/0110/SED	Mr Cox	

<u>TPO No</u>	<u>Location/Proposal</u>	<u>Decision</u>
TPO/0110/SED	Northway/Eversley Grove, Sedgley	Confirmed, subject to the following modifications:  Trees 10 and 11 to be deleted from the order.

In considering the order Members commented on the size and age of tree 11 and referred to Mr Cox's suggestion that replanting a similar tree would be easier to maintain if tree 11 was not included in the order and removed in the future.

TPO/0105/QBD	Mushroom Green No. 2, Netherton	Confirmed, subject to the following modification:  The position of Tree 6 be amended.
--------------	------------------------------------	---

**63 Plans and Applications to Develop**

A report of the Director of the Urban Environment was submitted on the following plans and applications to develop. Where appropriate, details of the plans and applications were displayed by electronic means at the meeting. In addition to the report submitted, notes known as Pre-Committee notes had also been circulated updating certain 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:-

<u>Application No</u>	<u>Objectors/supporters who wishes to speak</u>	<u>Agent/Applicant who wishes to speak</u>
-----------------------	---	--

P14/1591	Ms Kim Hyde	
----------	-------------	--

<u>Application No</u>	<u>Location/Proposal</u>	<u>Decision</u>
-----------------------	--------------------------	-----------------

P14/1591	Blakesley House, Moden Hill, Sedgley – Single storey rear extension, first floor side extension and extend existing roof over to create habitable room in roofspace with rear dormers.	Approved, subject to conditions, numbered 1 to 3 (inclusive), as set out in the report submitted.
----------	--	---

P14/1498	<p>The Woodside Liberal Club, 278 Stourbridge Road, Dudley – Outline Application for demolition of existing building and erection 11 no. residential units (Access and layout to be considered) (Resubmission of withdrawn application P14/0967)</p>	<p>Approved, subject to:-</p> <ul style="list-style-type: none"> <li>(a) The applicant entering into a Section 106 Agreement for a contribution towards improvements to pathways at Woodside Park totalling £21,253.45 and a management and monitoring charge of £1000.</li> <li>(b) The completion of the Agreement by 22<sup>nd</sup> February 2015 and in the event of this not happening, the application being refused if appropriate.</li> <li>(c) Conditions numbered 1 to 25 (inclusive) as set out in the report submitted and that the Director of the Urban Environment be authorised to make amendments to these as necessary.</li> </ul>
P14/1542	<p>Dudley College, Mons Hill Campus, Wrens Hill Road, Dudley – Approval of reserved matters for erection of 43 Dwellings (Following outline Approval P11/0652)</p>	<p>Approved, subject to conditions numbered 1 and 4 to 9 (inclusive) as set out in the report submitted, amended conditions numbered 2 and 3, as set out below and additional conditions numbered 10 and 11 as set out below:-</p> <ul style="list-style-type: none"> <li>2. The development hereby permitted shall be carried out in accordance with the following approved plans: B5851 (PL) 01 Rev C, B5851 PL 02 Rev A, B5851 (PL) 03 Rev C, B5851 PL 05 Rev A, B5851 PL 06 B, B5851 PL 07B, B5851 PL 10, B5851 PL 1, B5851 PL 12, B5851 PL 13, B5851 PL 14, B5851 PL 15, B5851 PL 16, B5851 PL 17, B5851 PL 18, B5851 PL 19, B5851 PL 20, B5851 PL 21, B5851 PL 30, AE1431-01 Rev B and unreferenced TamLite Plan unless otherwise agreed in writing by the Local Planning Authority, or otherwise required by any other condition attached to this permission.</li> </ul>

3. The facing materials to the dwellings, walls, other boundary details and areas of hard standing and paving shall be provided in accordance with Plan B5851 PL 06 Rev B unless otherwise agreed in writing by the Local Planning Authority.
10. Development shall not begin on phase 1 (excluding demolition) until a scheme for protecting residents in the proposed phase 1 dwellings (plots 32-43) from noise from extraction equipment at Dudley College has been submitted to and approved in writing by the local planning authority. All works which form part of the approved scheme shall be completed before occupation of the permitted dwellings, unless otherwise agreed in writing by the Local Planning Authority.
11. No development shall commence until details for the provision of an 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.

---

64 **Questions from Members to the Chair under Council Procedure Rule 11.8**

Pursuant to Council Procedure Rule 11.8 a question was asked by Councillor Caunt and responded to by the Head of Planning as follows:-

## Question

At the meeting of the full Council on 1<sup>st</sup> December 2014 an amended motion was unanimously adopted requiring the preparation of an urgent report on the planning aspects of the closure of Public Houses. Prior to the meeting of the Development Control Committee on 22<sup>nd</sup> December, 2014 I was assured by a senior Officer of the Council that the report would be presented to the Development Control Committee on 12<sup>th</sup> January, 2015 (this evening).

- (1) On what date was the report referred to above prepared and signed off by Officers?
- (2) What efforts were taken to arrange to present the report to the Cabinet Member referred to in the Council adopted resolution?
- (3) When did the Cabinet member consider the report?
- (4) In view of the urgency that the Council expressed, why is the report not on the agenda this evening? On previous occasions we have received amended agendas and agenda items, even after the deadline of a Committee, why has this not occurred on this occasion?
- (5) Is it considered to be satisfactory that a Council resolution requiring urgent action should take two months to come to the Development Control Committee?

## Response

- (1) Following Full Council on Monday 1<sup>st</sup> December we were notified to prepare on 2<sup>nd</sup> December, 2014.

We immediately undertook the research and review in the following 11 working days with an initial scope prepared by 18<sup>th</sup> December for discussion with the Cabinet Member.

Following that briefing further work was requested, a report was drafted and discussed again with the Cabinet Member on 5<sup>th</sup> January, 7 working days later.

Due to diary commitments this could not be brought forward before the Christmas break and in any event the closing date for the January Committee was 22<sup>nd</sup> December, 2014.

The final report was signed off on 9<sup>th</sup> January, 2015.

- (2) As stated above the Cabinet Member was initially briefed and taken through the scope of the research on 18<sup>th</sup> December, 2014. Additional work was requested and the Cabinet Member was briefed again on 5<sup>th</sup> January, 2015 and following that discussion the report was finalised and issued for final sign off.

- (3) As above.
- (4) The resolution from Full Council stated "...and that a report is submitted to the Cabinet Member for Regeneration for consideration and then to be reported back to the next available Development Control Committee".
- (5)

Following notification of the motion, officers immediately undertook a detailed review of national legislation, national and local policy and looked at the approach other Local Planning Authorities had taken on this issue.

Action was taken promptly and immediately, however the deadline for the DC committee for 12<sup>th</sup> January, 2015 was 22<sup>nd</sup> December, 2014.

Although the Cabinet Member was initially briefed on 18<sup>th</sup> December further work had to be undertaken and the final sign off of the report was not achievable within this 3 day period.

However, the report was prepared to be presented "to the next available Development Control Committee", i.e. the 2<sup>nd</sup> February, 2015.

The review has indicated that to meet the requirements of the motion would mean a change in national legislation (outside of the gift of the Council) and the inclusion of a new policy in the emerging Dudley Borough Development Strategy which is not due for adoption until Spring 2016. Therefore the report was not considered to constitute an emergency item justifying late inclusion on the agenda.

---

The meeting ended at 7pm.

CHAIR

# PLANNING APPLICATION NUMBER: P14/1607

Type of approval sought	Full Planning Permission
Ward	Norton
Applicant	Marston's Estates
Location:	<b>GIGMILL, SOUTH ROAD, NORTON, STOURBRIDGE, WEST MIDLANDS, DY8 3UL</b>
Proposal	<b>CHANGE OF USE OF PREMISES TO RETAIL USE. ERECTION OF SINGLE SIDE AND SIDE/REAR EXTENSIONS WITH ENTRANCE DOORS. NEW RAMPED ACCESS WITH HANDRAIL, NEW LIGHTING AND ASSOCIATED EXTERNAL WORKS</b>
Recommendation Summary:	<b>APPROVE SUBJECT TO CONDITIONS</b>

## SITE AND SURROUNDINGS

1. The application site consists of a predominantly two storey 1960's public house with single storey elements located on the corner of Broadway and South Road in Stourbridge.
2. The public house which has a car park to the Broadway elevation has been extended and altered over the years.
3. The site immediately adjoins dwellings which face onto South Road and onto The Broadway. The nearest two being No. 1 The Broadway and No. 150 South Road, to the south and east of the site respectively.
4. Opposite the site is a Scout HQ, a park and former petrol station and shop.

## PROPOSAL

5. This application is for the extension of the existing public house, together with other alterations including a new shop front and service area. The application is also for a change of use to A1 retail from A4 public house.

6. Associated with the works are amendments to the car parking layout and new external lighting.
7. In terms of the proposed enlargements, this involves an extension to the south west of the building infilling a corner, with a further extension along the (eastern) rear part of the building. Alterations generally include replacement windows and doors or blocking up or relocation of existing doors and/or windows.
8. The application is submitted with a Transport Assessment, a retail assessment and noise assessment.

## HISTORY

APPLICATION No.	PROPOSAL	DECISION	DATE
SB/48/37	Licensed premises.	Granted	21/02/50
SB/55/15	New licensed premises	Granted	22/02/55
SB/56/35	New licensed premises.	Granted	09/05/56
SB/62/298	New public house (the brickmakers arms)	Granted	06/11/62
81/52639	Erection of new garage and conversion of existing garage to bottle store.	Granted	07/04/82
82/50463	Erection of new garage and conversion of existing garage to bottle store.	Granted	07/04/82
P02/1409	Creation of side beer garden and external renovation.	Granted	22/08/02
P06/2345	Erection of an all weather garden facility	Granted	07/02/07



## PUBLIC CONSULTATION

9. 2 letters of objection received, following notification of 31 adjoining neighbours and the posting of a site notice. Main issues raised are:
- Concerns about security of site should the pub close
  - What will the opening hours/delivery hours be?
  - Concerns about deliveries and close proximity of house and fence
  - Concerns about lighting
  - Concerns about noise from plant
  - Traffic
10. A third letter of objection was received, however, no address was provided and as such cannot be afforded any weight.

## OTHER CONSULTATION

11. Group Engineer (Highways): Concerns regarding service arrangements to the site and further information is required allow this to be assessed. Also require additional information regarding pedestrian movements to the site. Generally no other objections, with the proposed parking amount considered acceptable and other matters which can be controlled by condition.
12. Group Engineer – Lighting: The proposed lighting is not considered to be suitable and could cause glare outside of the site. Amended details are required.
13. Head of Environmental Health and Trading Standards: No objection subject to conditions.
14. Head of Planning (Land Contamination Team): No objection.

## RELEVANT PLANNING POLICY

- National Planning Guidance  
National Planning Policy Framework (2012)  
Planning Practice Guidance (2014)
- Black Country Core Strategy (2011)  
CSP2 Development Outside the Growth Network  
DEL2 Managing the Balance Between Employment Land and Housing  
CEN6 Meeting Local Needs for Shopping and Services  
CEN7 Controlling Out-of-Centre Development  
TRAN2 Managing Transport Impacts of New Development  
ENV 2 Historic Character and Local Distinctiveness
- Unitary Development Plan (2005) (Saved Policies)  
DD1 Urban Design  
DD4 Development in Residential Areas  
EP6 Light Pollution  
EP7 Noise Pollution
- Supplementary Planning Guidance/Documents  
Access for All Supplementary Planning Document  
Parking Standards Supplementary Planning Document (2012)

## ASSESSMENT

15. The main issues are
- Principle/Policy
  - Design
  - Historic Environment Issues
  - Neighbour Amenity
  - Access Parking and Lighting
  - Disabled Access
  - Flood Risk

- Other Issues

Principle/Policy

16. While not explicitly stated within the application form or description of the proposal, it is clear from other parts of the submission, that it is intended the proposed works would give effect to a change of use of the planning unit to an A1 Food Convenience Store, from an A4 Public House.
17. While such a change of the use from a public house (A4) to an A1 Retail Use would be regarded as permitted development under Class A of Part 3 of the Town and Country (General Permitted Development) Order 1995 (as amended), this proposal also involves the extension of the building and therefore an increase in retail floor space. This results in a total proposed retail floor space of approximately 380 sq m gross, including an extension of 98 sq m.
18. The applicants have therefore sought to apply the provisions of Black Country Core Strategy Policy CEN6, to seek to demonstrate that this proposed development would be a small local facility to serve the local community's needs. These provisions specify that the proposal is required to:-
  - Be of an appropriate scale and nature to meet a specific day to day need of a population within convenient, safe walking distance of new improved facilities;
  - Local provision could not be better met by investment in a nearby centre;
  - 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.
19. The above measure relating to local provision not being met in an existing centre has rightly, given the scale and nature of the development, resulted in the applicants undertaking a retail assessment and Sequential Test approach. Thereby identifying the proposal as a Main Town Centre Use in an out of centre location, requiring an assessment under the provisions of Black Country Core Strategy Policy CEN7 and Section 2 of the NPPF, particularly paras 24 to 27.

20. It is considered that the applicants have undertaken these assessments appropriately and proportionately, particularly given the fall back position given by the permitted development rights, and therefore, have been able to demonstrate that the relevant planning tests have been met: in that they have demonstrated that there are no sequentially preferable sites available to accommodate this use, and while there will be some impact on Wollaston Local Centre, this will not be significant. *(although there is some disagreement with the applicants' view that the location of a potentially sequentially preferable site within a Conservation Area is a potentially overly- restrictive aspect.)*
21. However, it is considered reasonable to ensure that no additional A1 retail floor space is created at this site through the implementation of permitted development rights (e.g. the conversion of the upper floor to retail sales area or an extension of 100 sq m, as allowed under the Town and Country Planning (General Permitted Development) Order 1995 (as amended), without the opportunity for the Local Planning Authority to assess any such future increase in such floor space, however limited in scale, at this out of centre location in terms of its potential impact on the vitality and viability of existing centres.

#### Design

22. The building dates from the 1960s and has been extend and altered over the years and such the building is not considered to be any significant architectural value.
23. The alterations to the building involve extensions to the south western corner and along the eastern side of the building, together the blocking up and modification of existing openings to the building. The most notable changes in terms of this would be to the western (The Broadway) elevation where the new shop doors would be provided.
24. Due to the nature of the existing building the proposed changes are considered to be acceptable.

25. To facilitate the amendments to the car parking layout at the site the existing landscaping around the perimeter of the site is to be removed. Whilst this is regrettable there are no significant planning reasons to resist this. However, once the development is to complete there is an opportunity for replacement landscaping to be provided, which can be conditioned.

#### Historic Environment Issues

26. The site is understood to be the former site of a water driven plating forge for the manufacture of spades, shovels and hoes (HMR 7790). Given this and as the proposed extension would appear to involve excavation, it is considered reasonable that should this scheme be considered favourably, that a condition be attached which would require an archaeological watching brief during construction. This would align the proposal with Black Country Core Strategy Policy ENV2.

#### Neighbour Amenity

27. The site is located immediately adjacent to a number of residential properties, mostly notably No. 1 The Broadway and No. 150 South Road. Whilst it is accepted that the established use would have had an effect on neighbour amenity the proposal that is currently being considered raises different issues such as condensing plant associated with the fridge's and freezers within the proposed store and the location of the proposed service area, with the more intensive servicing that is likely to be required to support a food store.
28. The Head of Environmental Health and Trading Standards accepts that the change of use of these premises from a public house to a retail convenience store could constitute permitted development and must consider the fallback position. Comments have therefore been provided on the potential impact of the change in terms of noise and appropriate conditions have been suggested to protect residential amenity.
29. The premises are in close proximity to residential dwellings on two sides and there is potential for conflict, particularly from noise from deliveries and from mechanical services that are to be installed. The applicant has submitted a noise impact

assessment that suggests the impact will be minimal and may even improve the situation over the current use as a public house. For this to be the case it has been assumed that the opening hours of the store will be restricted to 0700 to 2300 hours and the associated delivery times will be restricted to 0700 to 2200 hours (1000 to 2000 hours on Sundays).

30. Furthermore, the Head of Environmental Health and Trading Standards has recommended a condition to limit any noise arising from the service plant that is to be installed as part of the development. The applicant also proposes a close boarded timber fence along the southern and eastern boundaries of the site which should further protect residential amenity, particularly in rear garden areas.
31. In terms of the physical works, these are not considered to pose any significant harm to neighbour amenity in that No. 150 South Road is elevated above the site, and in the case of No. 1 The Broadway, the building being extended would be no closer to the dwelling. Additionally No. 1 is also located to the south of the site where sunlight would not be directly affected.

#### Access, Parking and Lighting

32. Access to the site would be from The Broadway as at present which is considered to be acceptable.
33. Goods access would also be from South Road, with egress onto The Broadway Road to enable a one way system for deliveries. The advantage of this system would be that a HGV can enter and leave the site in forward gear and avoid conflict with users of the main car park. There are presently some concerns regarding whether the levels will allow this to be achieved. Further details have been requested and will be provided through pre committee notes.
34. In terms of the parking for the site the adopted standards require a maximum of 1 space per 14 sq m for A1 retail, which equates to a maximum requirement of 29 spaces. The development provides 20 spaces and therefore complies with maximum parking standards policy.

35. Based on local surveys a store may require provision from 1 space per 19 sq m up to 1 space per 17 sq m, i.e. between 22 and 24 spaces.
36. It is likely that a very busy store in the peak periods may result in on- street parking of between two to four vehicles, however this would not raise fundamental Highway safety concerns.
37. Some concerns have been raised regarding lighting at the site, from the Group Engineer. The concerns relate to the type of lighting that is proposed and the potential to cause glare outside of the site. Should the application be acceptable in all other respects this matter could be the subject of the suggested condition, unless requested amended details are submitted prior to determination.

#### Disabled Access

38. The existing disabled access is to be retained and as such no objections are raised from the Councils Access Officer. He, however, does advise that the main entrance automatic sliding door and fixed side screen should have colour contrasting manifestations at two heights in accordance with access standards. He advises that this can be conditioned.

#### Flood Risk

39. The proposed site is both within Zone 2 (at risk of a 1 in 100 years flood risk event) and Zone 3 (1 in 1000). The applicants have necessarily submitted a site specific flood risk assessment (FRA) to address this issue. This concludes that the proposal can be safely implemented without increasing flood risk to itself or the surrounding development, and that consequently, no mitigation measures are necessary. Therefore it is considered that this issue has been successfully demonstrated as not being significant.

### Other Matters

40. A resolution of full Council was passed regarding the loss of public houses on 1 December 2014. This however, whilst a material consideration, cannot be given any significant weight in determining a planning application as it is not a stated or adopted planning policy of the Local Planning Authority, which should normally be contained within a Development Plan or Supplementary Planning Document.

## **CONCLUSION**

41. The proposed development is considered to be acceptable in principle and would have no adverse impact on local centres. Moreover, through the use of appropriate conditions the proposal can be made to be acceptable in terms of neighbour amenity. Additionally the proposed development is considered to acceptable in terms of highway safety and design. Consideration has been given to policies CSP2 Development Outside the Growth Network DEL2 Managing the Balance Between Employment Land and Housing CEN6 Meeting Local Needs for Shopping and Services CEN7 Controlling Out-of-Centre Development TRAN2 Managing Transport Impacts of New Development and ENV 2 Historic Character and Local Distinctiveness of the Black Country Core Strategy and saved policies DD1 Urban Design DD4 Development in Residential Areas EP6 Light Pollution and EP7 Noise Pollution of the Dudley Unitary Development Plan.

## **RECOMMENDATION**

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

### Notes to Applicant/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:

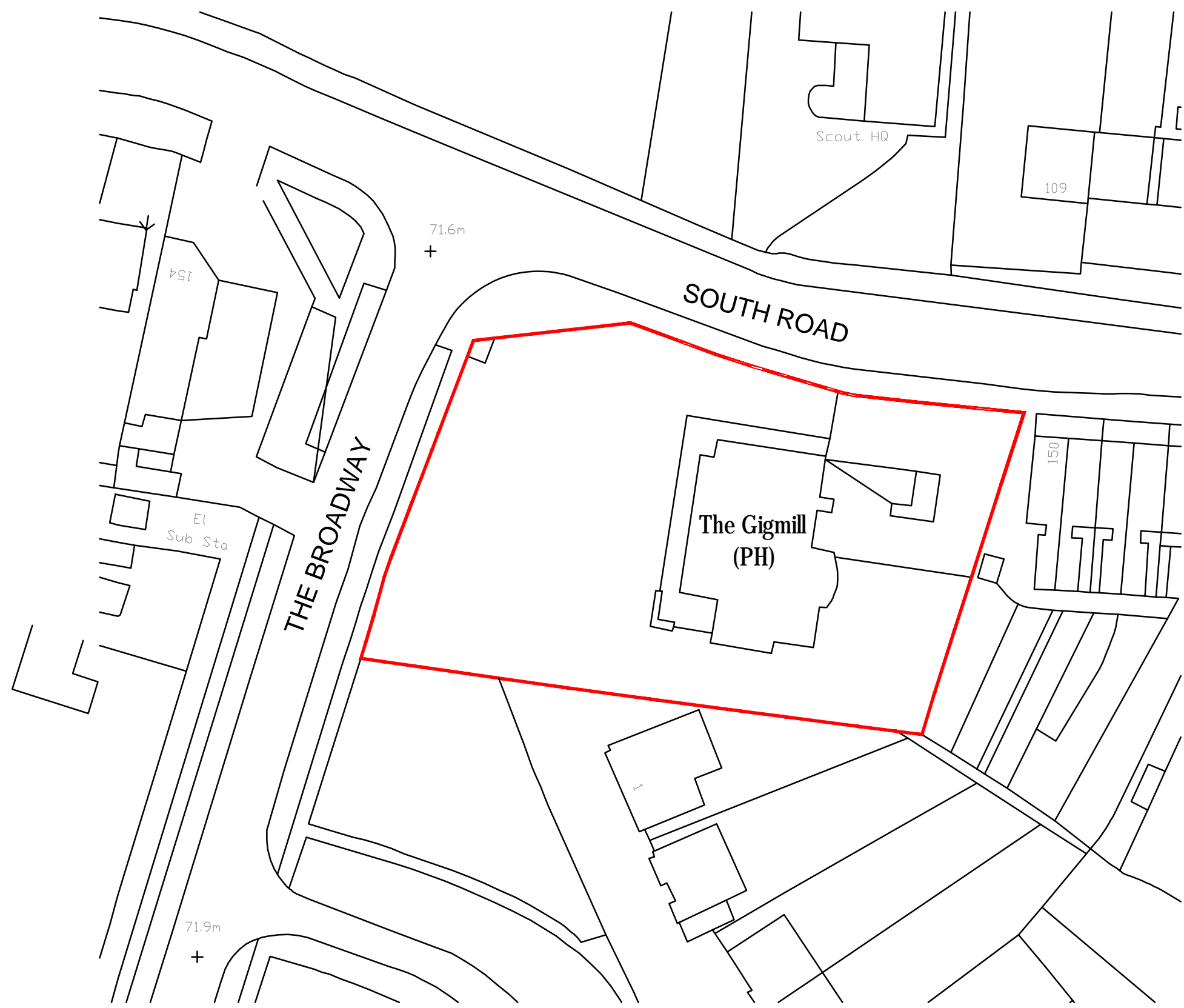
1. The development hereby permitted shall be begun before the expiration of three years from the date of this permission.
2. The development hereby permitted shall be carried out in accordance with the following approved plans: 41215-P10 Rev E, P11 Rev C, P12, P13 Rev C.
3. No materials other than those indicated on the approved plans shall be used without the approval in writing of the Local Planning Authority.
4. The building shall not be occupied until the area shown on the approved plan attached hereto has been graded, paved, drained and marked out in accordance with that plan and that area shall not thereafter be used for any purpose other than the loading, unloading, parking and manoeuvring of vehicles, unless otherwise agreed in writing with the Local Planning Authority.
5. Prior to the occupation/use of the development hereby permitted the parking area shall be surfaced and marked out in complete accordance with the approved plans, and thereafter maintained available for parking.
6. No development shall commence until details of secure cycle parking facilities in accordance with the Council's parking standards have been submitted to and approved in writing by the Local Planning Authority. The cycle parking shall thereafter be provided in accordance with the approved details prior to first occupation of the development, shall be made available at all times and be maintained for the life of the development.
7. The development hereby approved shall not be occupied until a Travel Plan has been submitted to and approved in writing by the Local Planning Authority, including details of a Travel Plan Co-ordinator, Staff Travel Survey, Car Parking Management, Walking and Cycling initiatives, Publicity and Marketing, Set targets and monitoring and to join Company Travel Wise in Dudley together with a timetable for the implementation of each such element. The Travel Plan shall be implemented in accordance with the details approved by the local planning authority and remain operational for the life of the development.
8. No development hereby approved until precise details of external lighting to the building and the car park has been submitted to and approved in writing by the Local Planning Authority. The lighting shall thereafter be provided in accordance with the approved details prior to the first use of the building and shall be retained as such for the life of the development.
9. The premises shall not be open to the public before the hours of 0700 or after 2300 Monday to Sunday.
10. 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.
11. 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.

12. 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.
13. All service vehicles shall enter and exit the service area in a forward gear and shall access and egress the Highway also in a forward gear.
14. The main entrance automatic sliding door and fixed side screen should have colour contrasting manifestations at two heights in accordance with access standards.
15. The first floor accommodation shall not be used for the retail sales.
16. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995 (or any Order revoking or re-enacting that Order with or without modification) no development covered by Part 2, Classes CA, F, G and J of Schedule 2, and Part 42 of Schedule 2 to that Order shall be carried out without planning permission granted by the District Planning Authority.
17. The use hereby permitted shall not be commence until a scheme providing acoustic barriers to the site boundary with adjoining dwellings has been submitted to and approved in writing by the local planning authority and all works which form part of the approved scheme have been completed. The works shall be retained for the lifetime of the development unless otherwise agreed in writing with the Local Planning Authority.



Key:  
 - TITLE BOUNDARY LINE

Copyright KMB Ltd.  
 Do Not Scale This Drawing For Construction Purposes

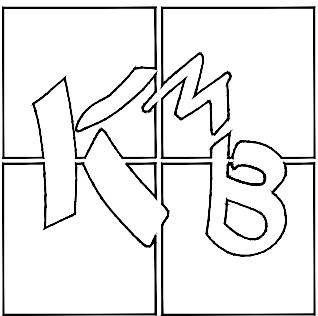
CDM - Significant Design Hazards

Hazard	Control

Rev	Date	Description	Drawn	Checked
A	19.03.14	Title boundary amended	df	dfp

Amendments

Drawing Status



- Quantity Surveying
- Project Management
- Architecture
- Construction Safety

PROJECT  
 GIGMILL  
 SOUTH ROAD  
 STOURBRIDGE  
 DY8 3UL

CLIENT  
 MARSTONS ESTATES LTD

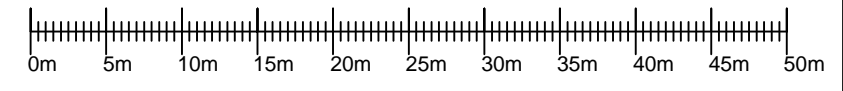
TITLE  
 LOCATION PLAN

SCALE  
 1:1250 @ A3

DATE  
 Feb 2014

DRAWN BY	CHECKED BY	DRAWING No.	REV
RM	DF	4215-P00	A

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



Do Not Scale This Drawing For Construction Purposes

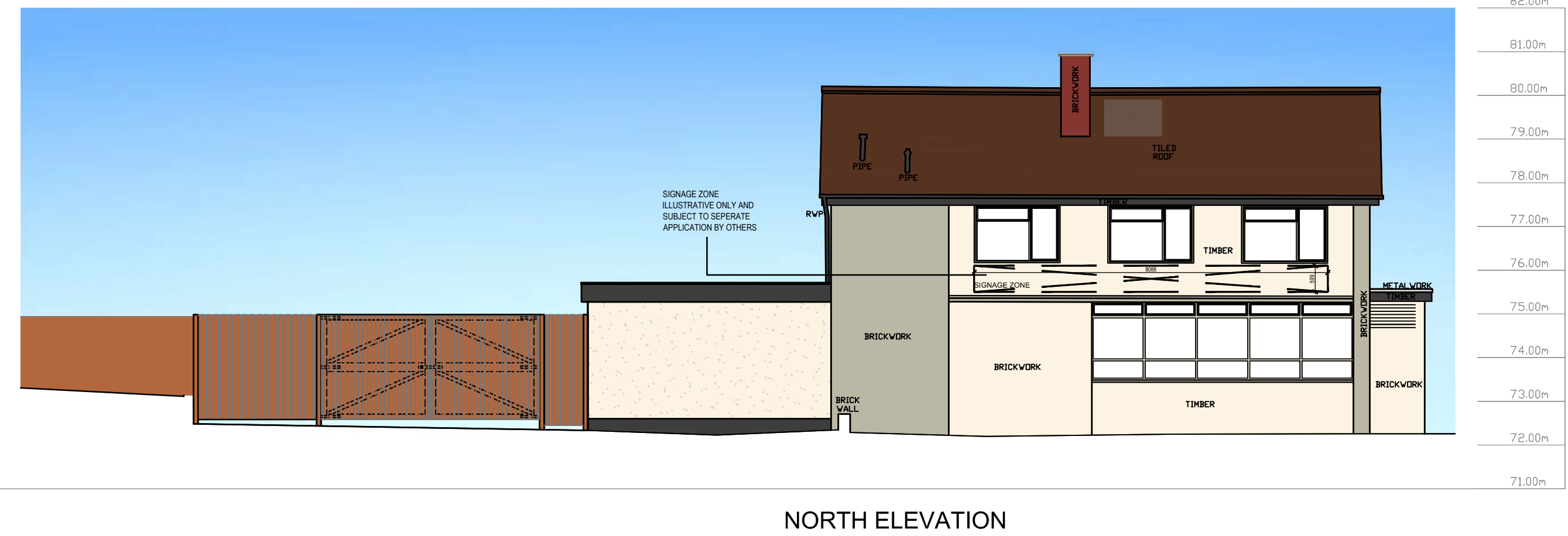
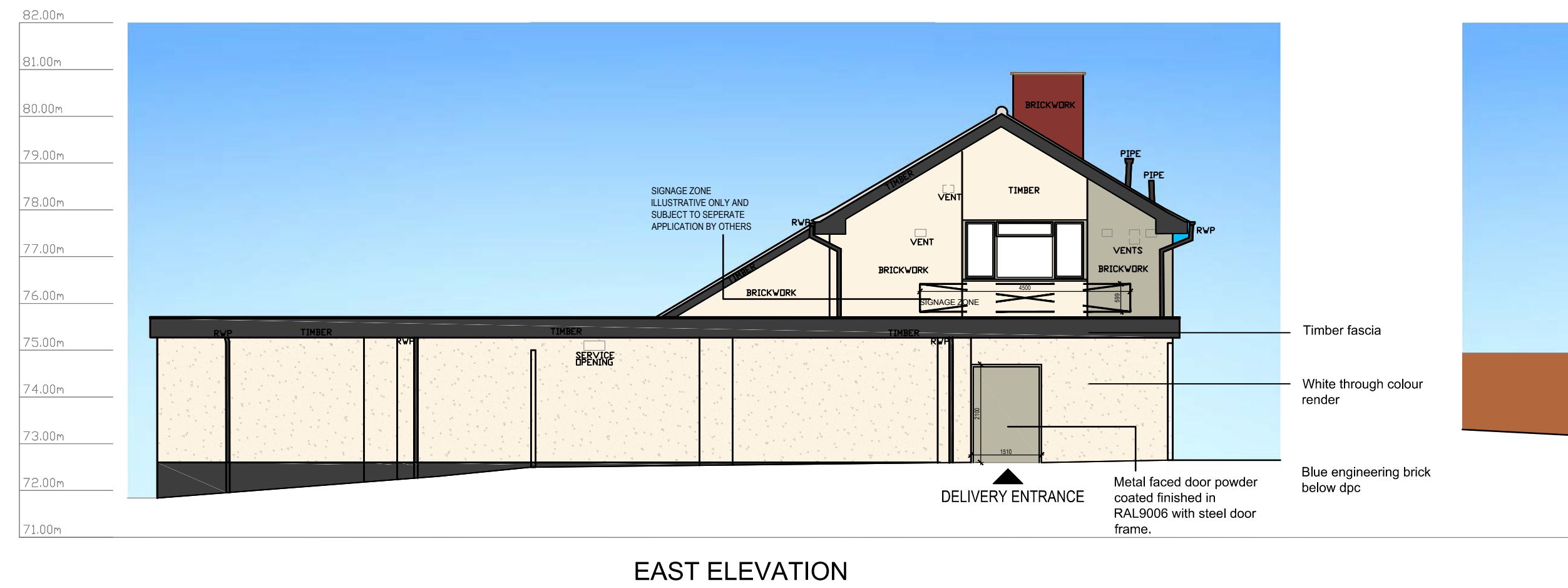
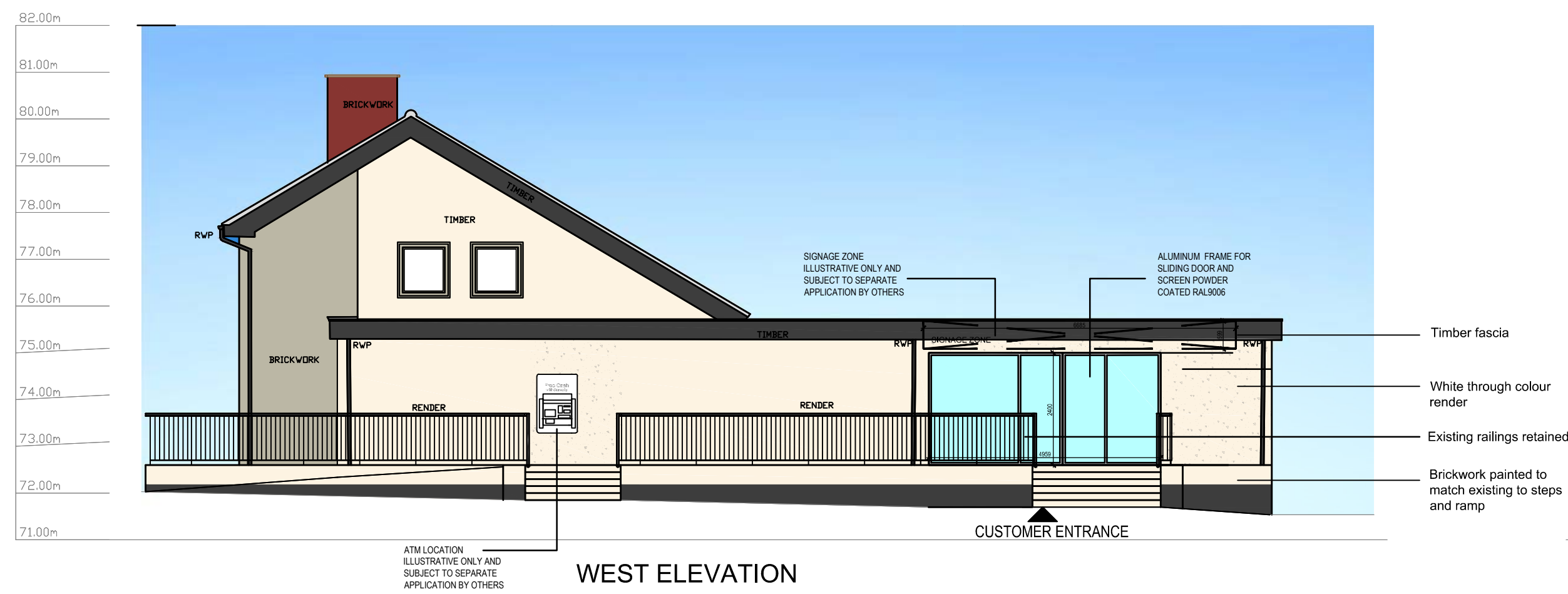
CDM - Significant Design Hazards

Hazard	Control

Key:

EXISTING WINDOWS TO BE CLEANED DOWN, MADE GOOD AND REDECORATED BS00E55  
 EXISTING GUTTERS TO PITCHED ROOF REPLACED WITH BLACK PVC GUTTERS

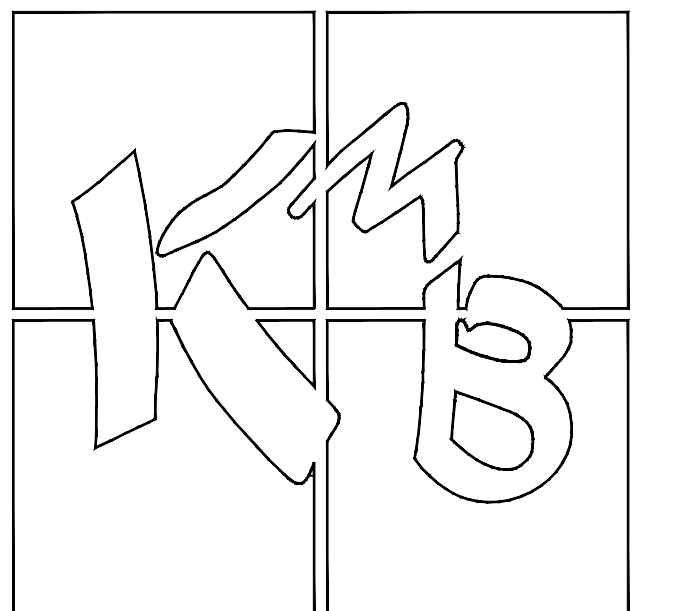
 - AREA OF DAMAGED ROOF TILES TO BE MADE GOOD



Rev	Date	Description	By	Check
C	04.11.14	Installation of shop front and doors note removed from West Elevation.	BF	DF
B	03.11.14	Entrance screen, doors and notes revised and ATM shown on West Elevation.	BF	DF
A	28.10.14	Door note revised on East Elevation.	BF	DF

Amendments

Drawing Status



- Quantity Surveying
- Project Management
- Architecture
- Construction Safety

PROJECT  
 GIGMILL  
 SOUTH ROAD  
 STOURBRIDGE  
 DY8 3UL

CLIENT  
 MARSTONS ESTATES LTD

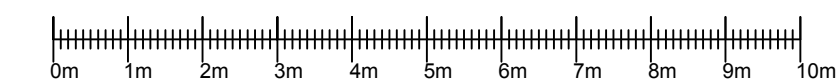
TITLE  
 ELEVATIONS

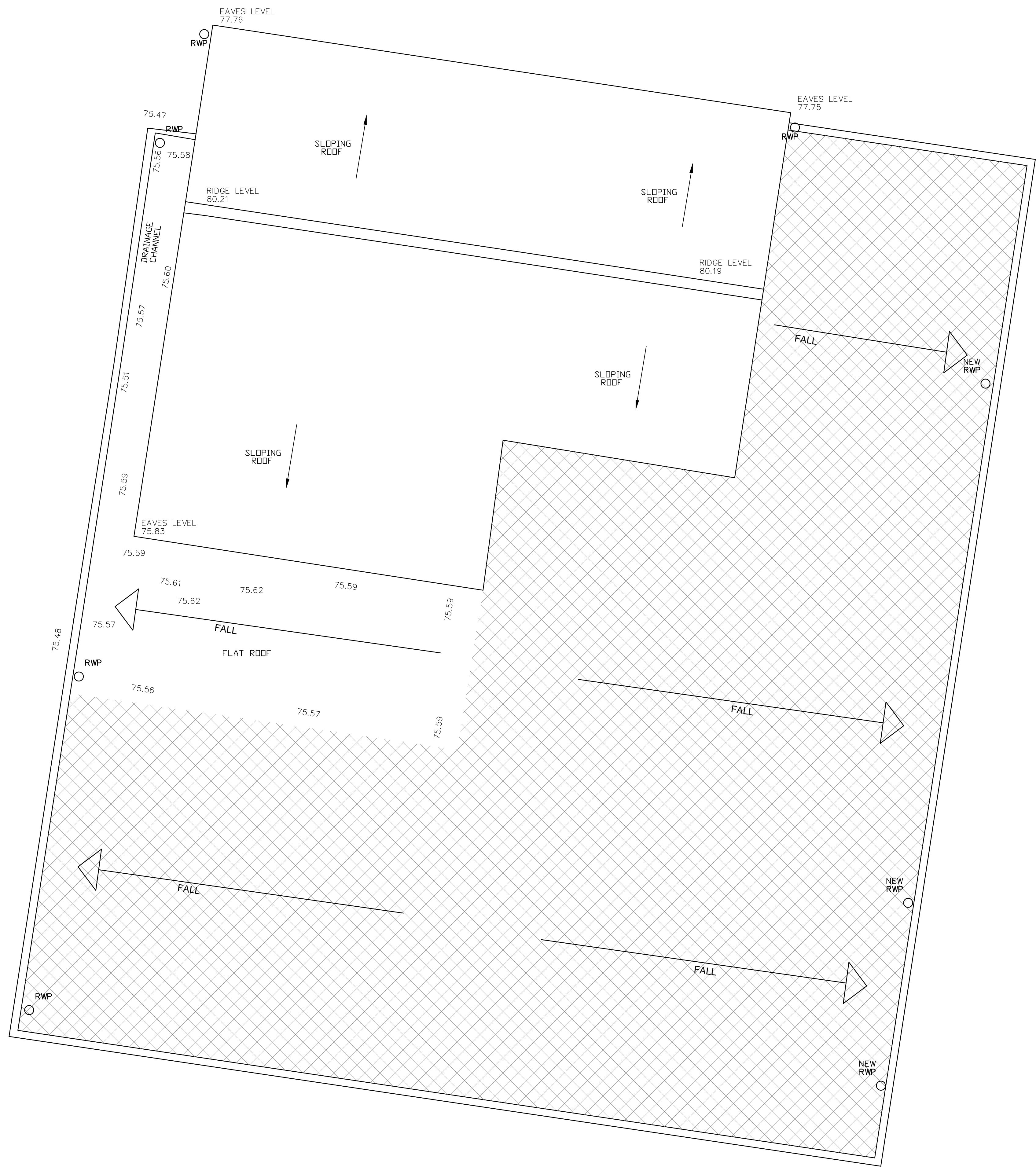
SCALE  
 1:100 @ A1

DATE  
 SEPT 2014

DRAWN BY	CHECKED BY	DRAWING NO.	REV
JTQ	DF	4215-P13	C

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

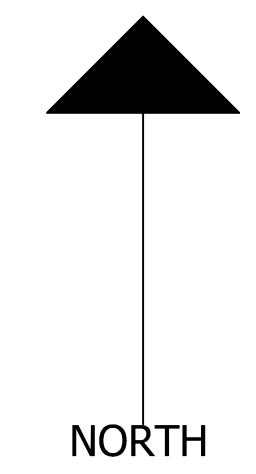




▨ - AREA OF NEW FLAT ROOF FINISH

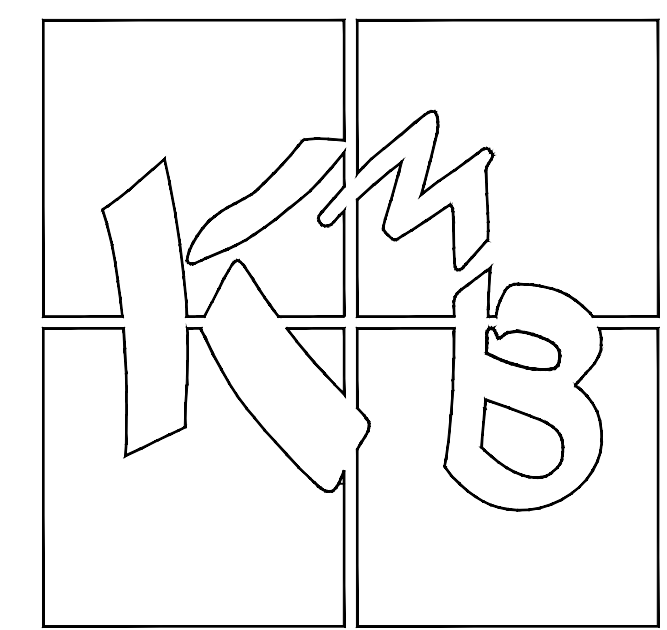
RWP ○ - EXISTING RAIN WATER PIPE RETAINED

NEW RWP ○ - NEW RAIN WATER PIPE



Copyright KMB Ltd.	
Do Not Scale This Drawing For Construction Purposes	
CDM - Significant Design Hazards	
Hazard	Control


Amendments  
Drawing Status



- Quantity Surveying    ■ Architecture
- Project Management    ■ Construction Safety

PROJECT  
GIGMILL  
SOUTH ROAD  
STOURBRIDGE  
DY8 3UL

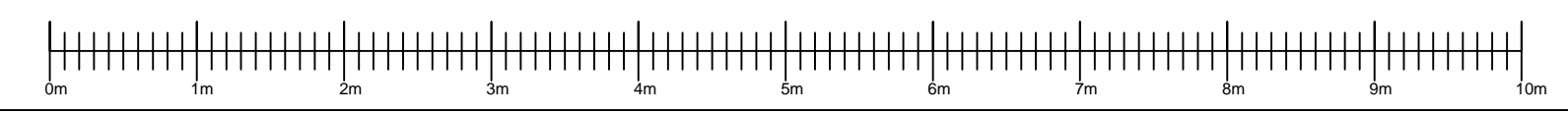
CLIENT  
MARSTONS ESTATES LTD

TITLE  
ROOF GENERAL ARRANGEMENT

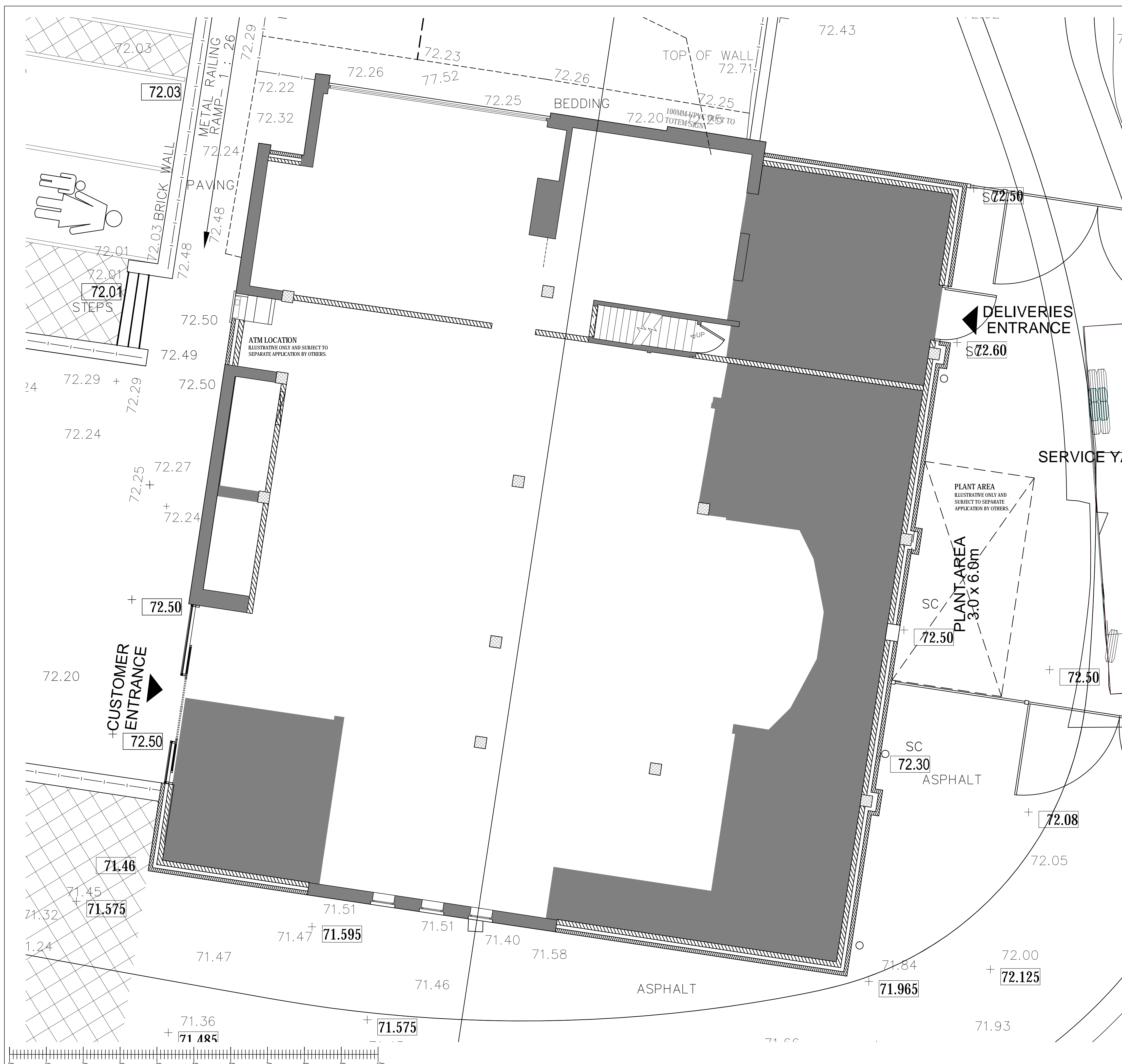
SCALE: 1:50 @ A1      DATE: SEPT 2014

DRAWN BY	CHECKED BY	DRAWING No.	REV
JTQ	DF	4215-P12	-

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







- Key:**
- NEW 305X305MM STEEL COLUMN
  - NEW BRICKWORK WALLS
  - NEW BLOCK WORK WALLS
  - EXISTING STRUCTURE RETAINED
  - 900MMx2100MM ACCESS PANEL TO VOID
  - PROPOSED EXTENSION

Copyright KMB Ltd.

Do Not Scale This Drawing For Construction Purposes

CDM - Significant Design Hazards

Hazard	Control

Scale: 1:50 @ A1

Client: MARSTONS ESTATES LTD

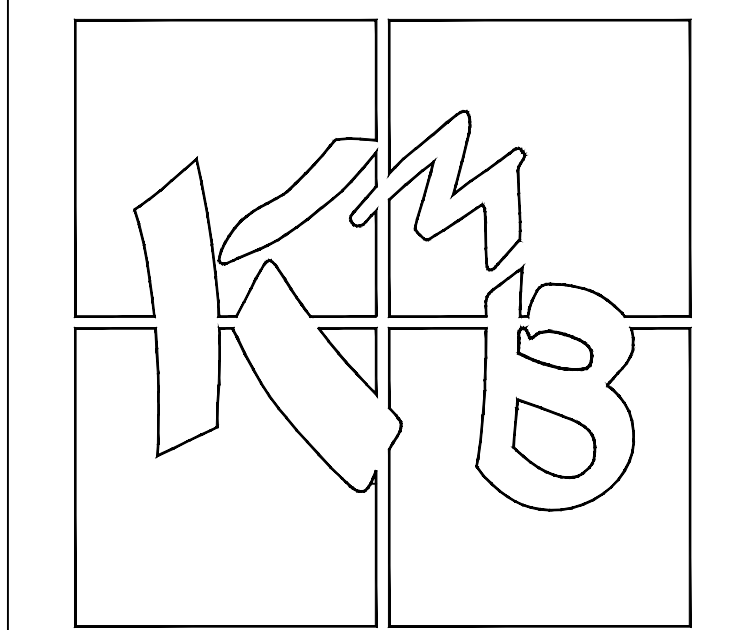
Title: GROUND FLOOR GENERAL ARRANGEMENT

Date: SEPT 2014

Rev	Date	Description	By	Check
C	03.11.14	ATM location and plant area shown and front entrance revised.	BF	DF
B	28.10.14	key notes revised and area of extension shown.	BF	DF
A	10.10.14	Car park levels amended.	BF	DF

Amendments

Drawing Status



- Quantity Surveying
- Architecture
- Project Management
- Construction Safety

PROJECT  
GIGMILL  
SOUTH ROAD  
STOURBRIDGE  
DY8 3UL

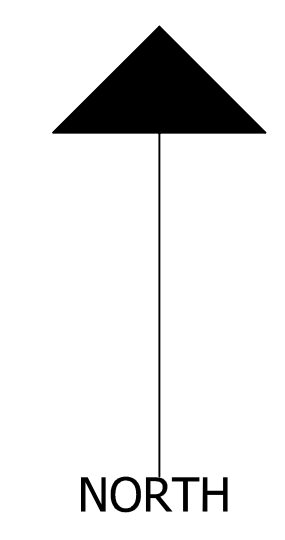
CLIENT  
MARSTONS ESTATES LTD

TITLE  
GROUND FLOOR GENERAL ARRANGEMENT

SCALE: 1:50 @ A1      DATE: SEPT 2014

Drawn By	Checked By	Drawing No.	Rev
JTQ	DF	4215-P11	C

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





Do Not Scale This Drawing For Construction Purposes

CDM - Significant Design Hazards

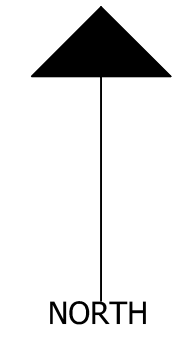
Hazard	Control

SITE AREA: 0.227 HECTARES (2268.889m<sup>2</sup>)

- Key:**
- 69.30 - EXISTING LEVEL
  - 69.300 - PROPOSED LEVEL
  - ▨ - PEDESTRIAN ZONE MARKED WITH YELLOW THERMOPLASTIC PAINT
  - - PARKING SPACES MARKED WITH WHITE THERMOPLASTIC PAINT
  - ⊙ - EXISTING EXTERNAL LIGHT
  - - 100MM DIA UPVC DUCT FOR TOTEM SIGN
  - ECPO - ELECTRICAL VEHICLE CHARGING POINT
  - ▨ - AREA OF EXTENSION

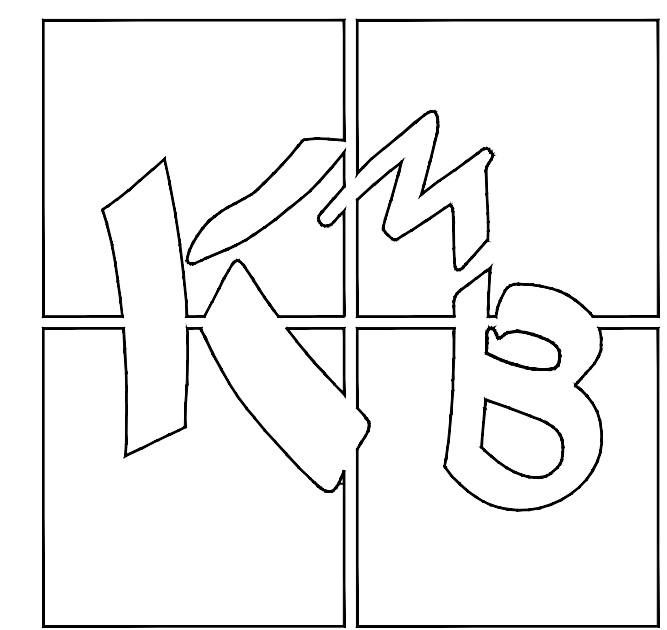


EXISTING POLE AND SIGN FRAME TO BE RETAINED IN-SITU



Rev	Date	Description	By	Check
E	03.11.14	ATM location and plant area shown and front entrance revised.	BF	DF
D	22.10.14	Car park levels amended.	BF	DF
C	10.10.14	Car park levels amended.	BF	DF
B	18.09.14	Car park surface to go back to reprints and the levels have been revised.	BF	DF
A	15.09.14	Minor revisions.	BF	DF

Amendments  
Drawing Status



- Quantity Surveying
- Project Management
- Architecture
- Construction Safety

PROJECT  
GIGMILL  
SOUTH ROAD  
STOURBRIDGE  
DY8 3UL

CLIENT  
MARSTONS ESTATES LTD

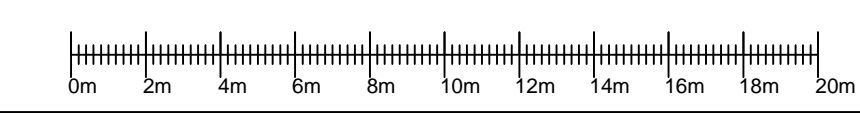
TITLE  
SITE LAYOUT

SCALE  
1:200 @ A1

DATE  
SEPT 2014

DRAWN BY	CHECKED BY	DRAWING No.	REV
JTQ	DF	4215-P10	E

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



## **PLANNING APPLICATION NUMBER: P14/1655**

Type of approval sought	Full Planning Permission
Ward	Halesowen North
Applicant	Mr L. Goodby
Location:	<b>21, KINITHS WAY, HALESOWEN, B62 9HJ</b>
Proposal	<b>INSTALLATION OF ANTENNA MAST AND ANTENNAS IN REAR GARDEN (RETROSPECTIVE)</b>
Recommendation Summary:	<b>APPROVE SUBJECT TO CONDITIONS</b>

### **SITE AND SURROUNDINGS**

1. The application site consists of an inter-war semi-detached dwelling located within a cul-de-sac of similarly designed properties.
2. Behind the dwelling is a splayed garden with a maximum length of 27m. To either side of the garden are the private gardens of adjoining dwellings.
3. To the rear of the site is the flank wall of a bungalow which is located in Fairhaven Croft and a garage parking court which is accessed from Fairfield Drive. Beyond the garage court is a development of six bungalows.

### **PROPOSAL**

4. This is a retrospective planning application for the erection of 8m high amateur radio mast and associated antennas which are attached to the top of the mast.
5. The mast is of a slim line lattice and is of collapsible design which means it can be laid horizontally reducing the height to around 2m when not in use. A photograph has been submitted with the application to show this.



6. The mast is located close to the south western boundary of the site, about 16.5m from the house and 9.5m from the end of the garden.
7. The mast and associated antennas are used by one of the residents of the property to facilitate their amateur radio hobby.
8. The applicant has submitted a 12 name petition in support of the application.

## HISTORY

9. None.

## PUBLIC CONSULTATION

10. Six letters of objection have been received, following consultation with 12 adjoining neighbours, the posting of a site notice and the publication of a notice. Main issues raised:
  - Higher than house
  - Unable to sell house
  - Visual Impact/impact to view
  - Previous mast constructed at site
  - Does not need to be as high
  - Reference made to Planning Guidance Note 13 – Radio Aerials and Satellite Antennae, which advises mast should be located closer to house, and should be positioned behind existing landscape features.
11. Additionally, one letter of support has been received, main issues raised:
  - There have been amendments at the site for at least 8 years
  - Does not harm view
  - Does not cause interference
  - Mast is lowered when not used

## OTHER CONSULTATION

12. None

## RELEVANT PLANNING POLICY

- National Planning Guidance  
National Planning Policy Framework (2012)  
Planning Practice Guidance (2014)
- Black Country Core Strategy (2011)  
ENV 2 Historic Character and Local Distinctiveness
- Unitary Development Plan (2005) (Saved Policies)  
DD1 Urban Design  
DD4 Development in Residential Areas
- Supplementary Planning Guidance/Documents  
PGN 13. Radio aerials and satellite antennae

## ASSESSMENT

13. The main issues are:

- Policy
- Visual Impact and Neighbour Amenity

### Policy

14. There are no specific policies within either the Black Country Core Strategy or the Dudley Unitary Development Plan which directly deal with amateur radio installations, however, Saved Policy DD4 – Development in Residential Areas is of relevance and requires development proposals to be in keep in with the surrounding area and not to have an adverse impact upon amenity.

15. Also of relevance to the application is Planning Guidance Note 13 – Radio Aerials and Satellite Antennae which should be treated as material consideration.
16. The Note states that application will as far as possible be judged on the effect that an extended mast is likely to have on the visual amenities of neighbours in the area as it is reasonable to expect that the apparatus will be used frequently.
17. Appropriate choice of site is considered to be crucial. Equipment should not be obtrusive from the highway or areas of public open space and a position at the side or rear in preference to the front of the building is essential. Additionally the note states position close to the rear elevation of the building often minimises the impact on the surroundings.
18. The outlook from adjoining buildings, gardens and footpaths should be safeguarded by utilising existing natural screening. Conditions for natural plant screening will be attached where this is considered to be effective.
19. In certain circumstances the notes implies that a condition requiring the mast to be retracted (where possible) may be appropriate.
20. At a national level the former Planning Policy Guidance (PPG) Note 8 on Telecommunications at Para 80 stated a particularly sympathetic attitude towards the installation of masts for amateur radio operators. However, this has not been replicated by in the National Planning Policy Framework or Planning Practice Guidance.

#### Visual Impact and Neighbour Amenity

21. As stated above this a retrospective planning application for the erection of an 8m high slim line metal lattice mast and associated antennas within the rear garden of 21 Kiniths Way. The mast which is set onto to concrete pad is designed to be retractable, so that it can be lower into a horizontal alignment.

22. In terms of views from public areas these are generally limited by the existing dwelling and other dwellings in the surrounding area. Views for example can only be glimpsed through the narrow gap to No. 21 and down the access to the garage court onto Fairfield Drive.
23. Therefore, public views of the mast when it is in the up position are relatively limited.
24. It is considered that the mast in its up position can be seen from adjoining gardens and houses as there is little or no screening available to the mast, other than existing conifers within the applicants garden, the boundary fence, the applicants garage and the adjoining bungalow which is to Fairhaven Croft. Therefore, the mast would be visually intrusive when in the up position.
25. In terms of physical impact the slim line lattice design means therefore would be no impact in terms of light or overbearing impact.
26. The applicant states that when the mast is unused and is in its horizontal alignment it is understood to be no higher than 2.5m, which is not much higher than the boundary fences and is below the height of the adjoining bungalow, the applicants garage and the garages within the court to the rear
27. The applicant has advised that he would be amenable to a condition requiring the mast to be kept in the retractable position when not in use.
28. In weighing up the planning merits of the case it is considered that there are issues regarding visual impact to neighbours, despite the relatively slim line nature of the mast. However, this is significantly reduced when the mast when us in retracted state. Therefore, as such the imposition of condition requiring the mast to kept in retracted or lowered state when not in use is considered appropriate in this case, particularly as the applicant would be willing to accept a planning condition.

## CONCLUSION

29. The mast is not considered to cause any harm in terms of public views, however, there are some concerns regarding the visual amenity of adjoining neighbours. However, an appropriate condition which requires the mast to only be in the vertical state when in use would reduce the impact to an acceptable level. Consideration has been given to Policy ENV 2 Historic Character and Local Distinctiveness of the Black Country Core Strategy and saved Policies DD1 Urban Design and DD4 Development in Residential Areas of the Dudley Unitary Development Plan.

## RECOMMENDATION

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

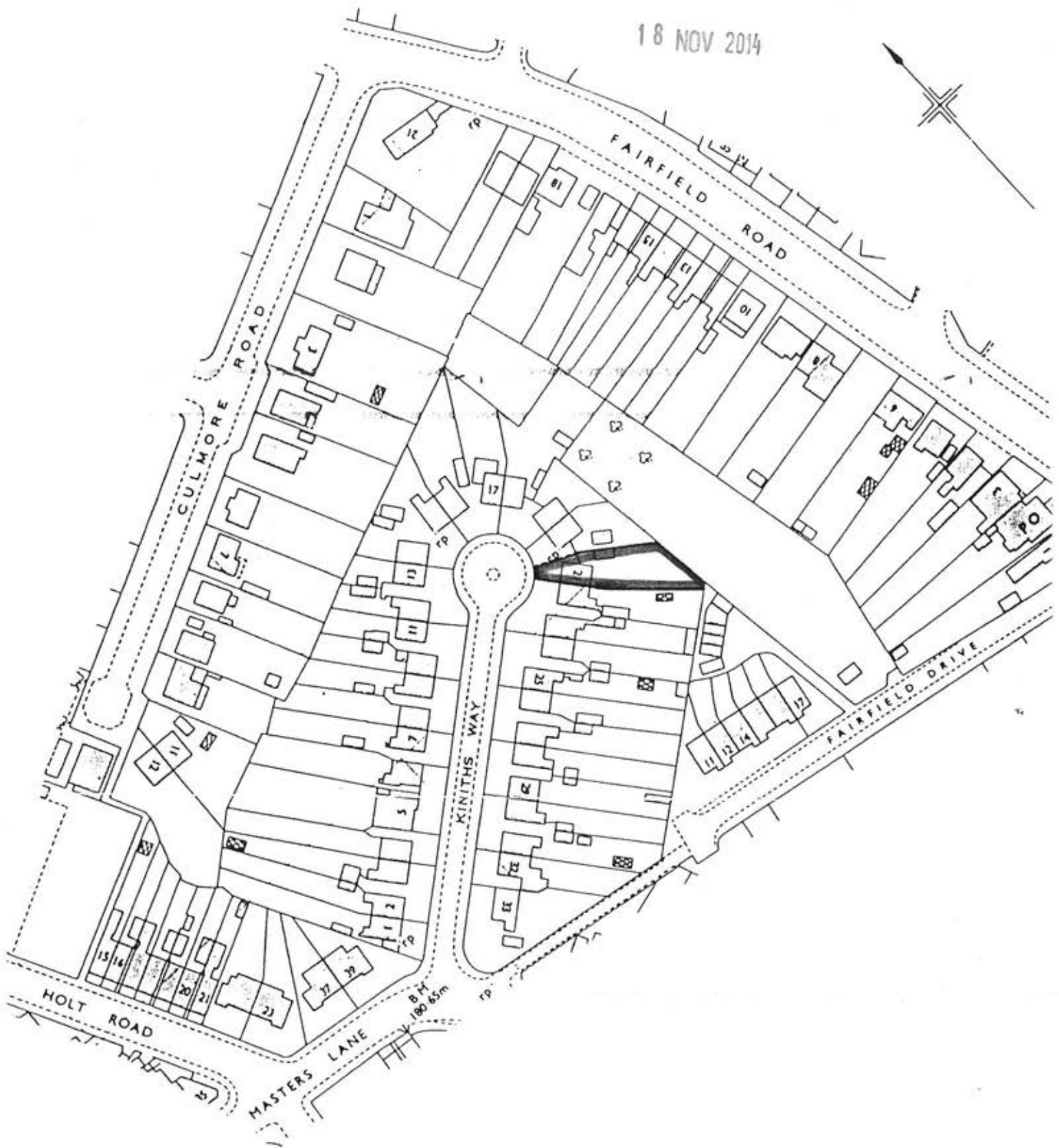
### Notes to Applicant/Informative

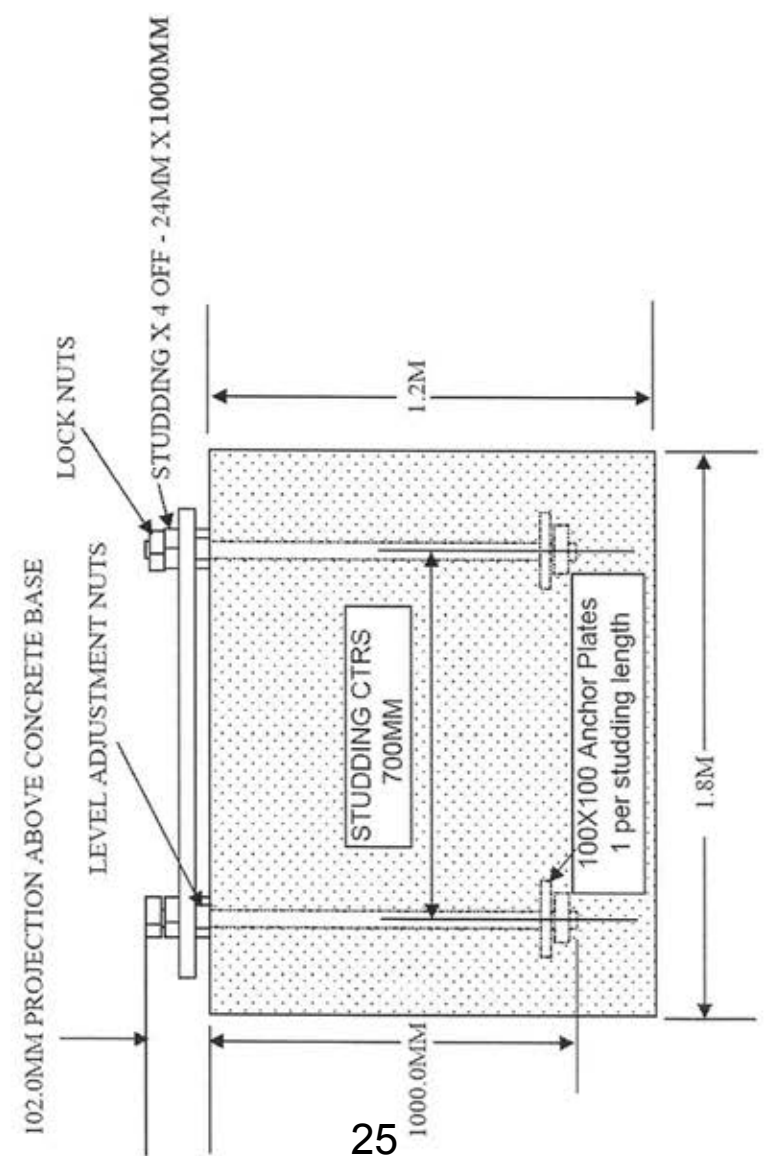
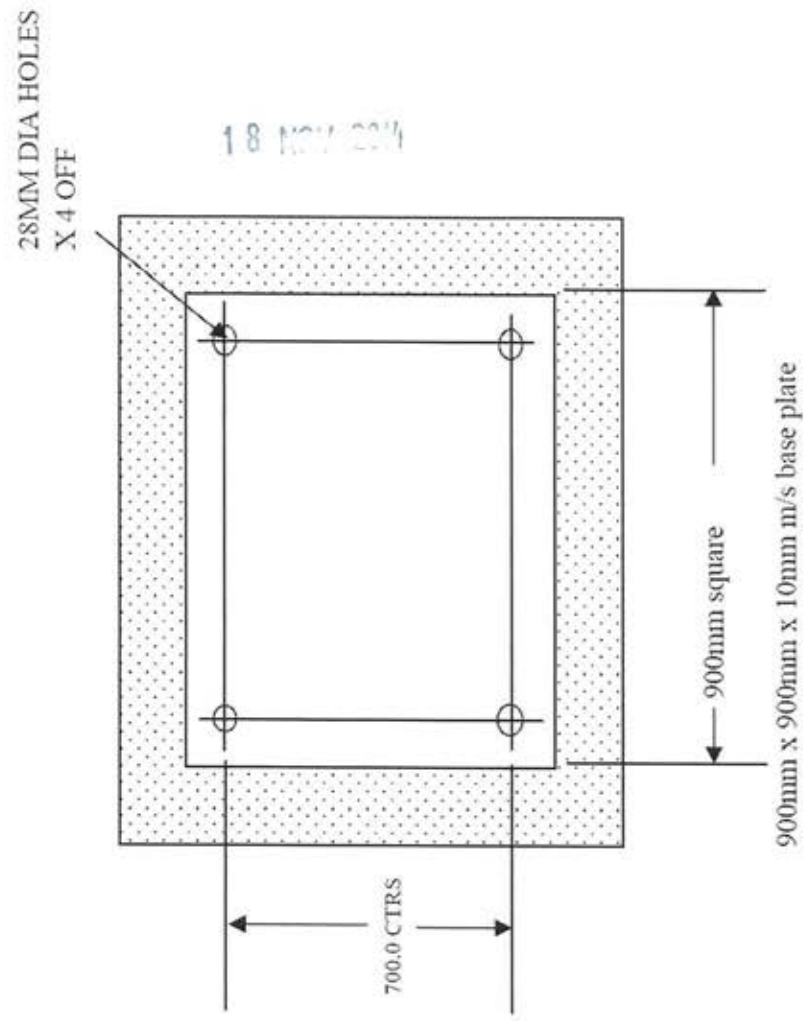
In dealing with this application the Local Planning Authority have worked with the applicant in a positive and proactive manner, seeking solutions to problems arising in relation to dealing with the application, by seeking to help the applicant resolve technical detail issues where required and maintaining 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 carried out in accordance with the following approved plans: Unreferenced plans and specification submitted with the planning application.
2. When the apparatus is not in use, the mast shall be maintained in its retracted, horizontal position.

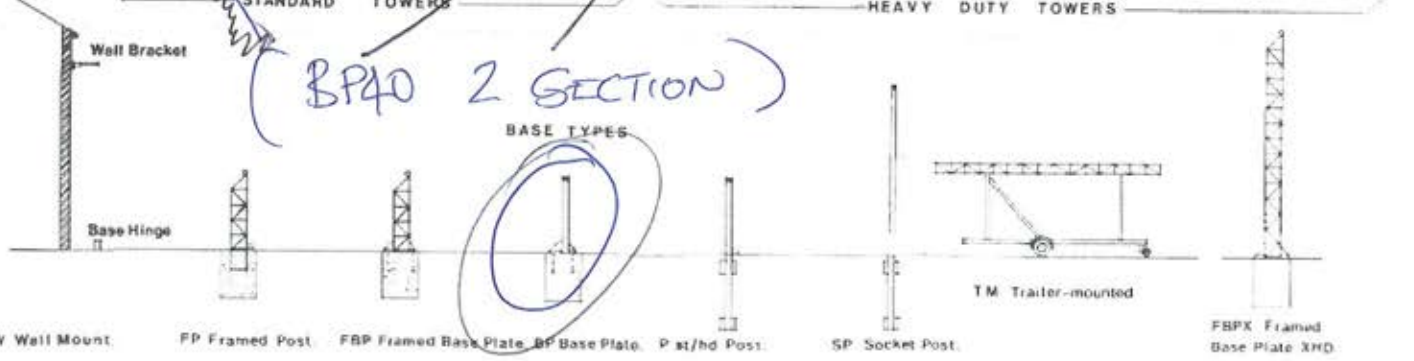
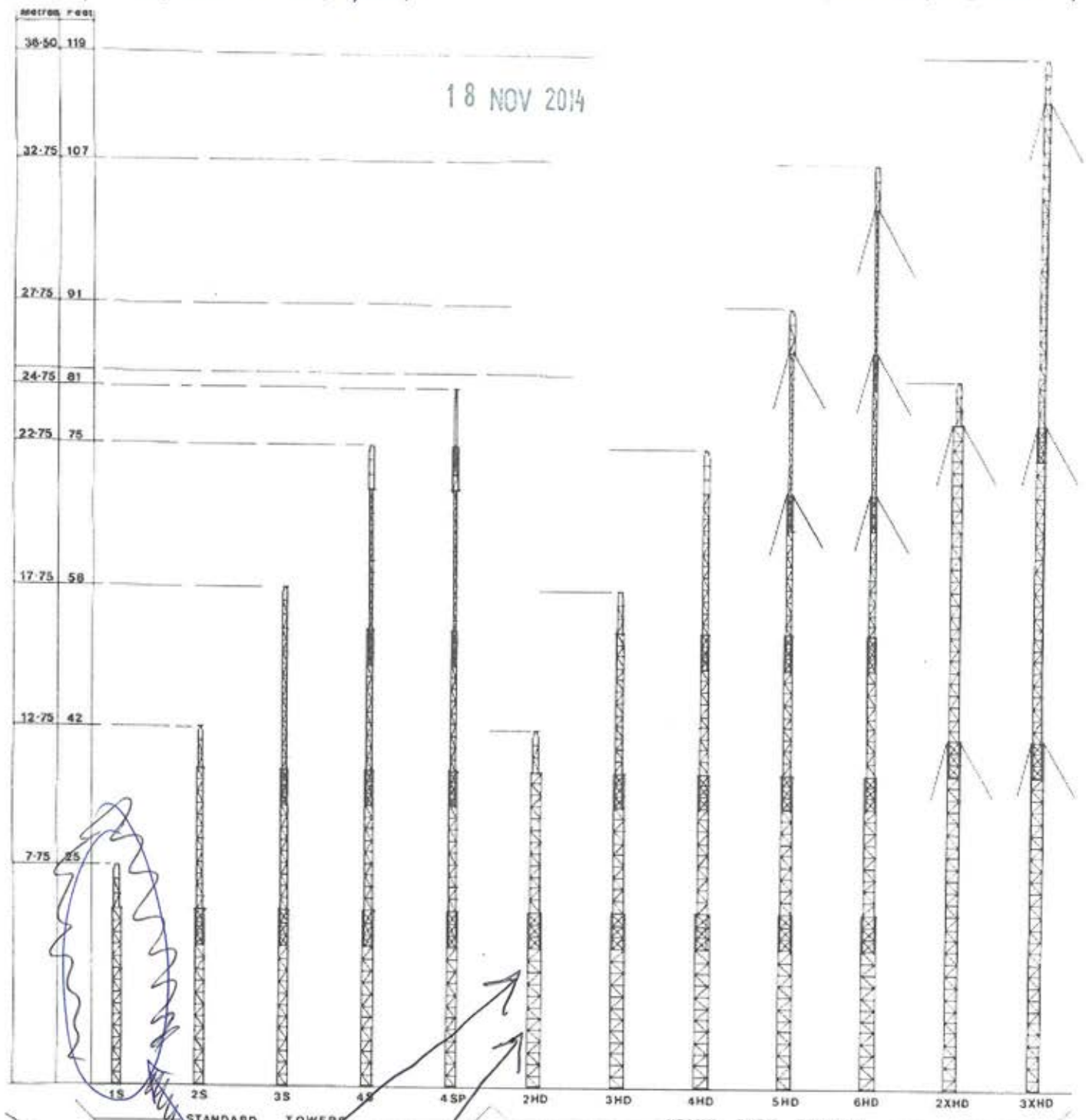
18 NOV 2014





3 TONNES OF SUPER STRENGTH CONCRETE  
WAS USED TO MAKE THIS  
BASE AND SUNK INTO THE  
GROUND.

18 NOV 2014



To specify a particular tower merely quote the tower/ base; e.g. a 3S/FP is a standard 3S tower complete with FP type base.

**SPECIFICATIONS**

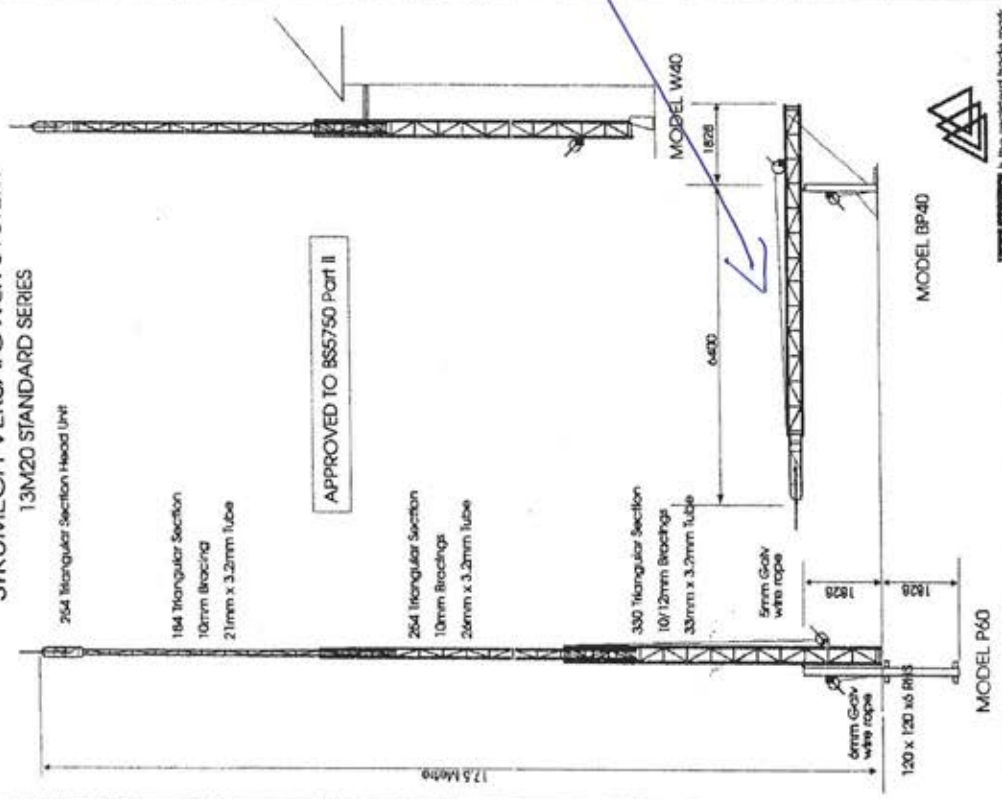
		STANDARD MODELS									HEAVY DUTY MODELS																
		1S		2S		3S		4S		4SP		2HD		3HD		4HD		5HD		2XHD		3XHD					
		M	Ft	M	Ft	M	Ft	M	Ft	M	Ft	M	Ft	M	Ft	M	Ft	M	Ft	M	Ft	M	Ft	M	Ft		
Nominal extended height		7.75	25	10.75	40	13.75	50	20.75	75	24.75	91	32.75	107	37.75	123	42.75	139	52.75	171	62.75	203	72.75	235	82.75	267		
Design load		7.75	25	8.00	27	8.50	28	9.00	29	11.00	38	12.75	42	17.75	58	20.75	75	27.75	101	32.75	127	37.75	153	42.75	179	47.75	205
Wind	Gusts	40 mph	475	680	275	800	275	900	160	330	30	68	75	160	100	220	150	330	200	440	275	600	375	830	475	1050	
		75 mph	400	800	275	800	275	800	150	330	30	68	100	220	150	330	200	440	275	600	375	830	475	1050			
	Engaged	60 mph	240	525	175	275	80	175	40	100	15	33	75	160	100	220	150	330	200	440	275	600	375	830	475	1050	
		75 mph	200	515	170	265	80	125	10	25	6	12	100	220	150	330	200	440	275	600	375	830	475	1050			



18 NOV 2014

THIS IS  
MY MODEL  
OF HAST  
2 SECTIONS

STRUMECH VERSATOWER SYSTEM  
13M20 STANDARD SERIES



STRUMECH is the registered trade mark

## **PLANNING APPLICATION NUMBER: P14/1665**

Type of approval sought	Full Planning Permission
Ward	Hayley Green & Cradley South
Applicant	Mr Kenneth Woolley
Location:	<b>11, TREE ACRE GROVE, CRADLEY, HALESOWEN, B63 2EY</b>
Proposal	<b>ERECTION OF A STEEL MAST AND RADIO ANTENNAS (RETROSPECTIVE)</b>
Recommendation Summary:	<b>APPROVE SUBJECT TO CONDITIONS</b>

### **SITE AND SURROUNDINGS**

1. The application site consists of an immediately post war end terrace house within an area of immediately post war dwellings. To rear of the house is the main garden area to the house.
2. To the rear of the site are the gardens to the houses to Hedgefield Grove which are set below the application site.

### **PROPOSAL**

3. This is a retrospective planning application for the erection of 9m high amateur radio mast and with an inverted umbrella style antenna which is attached to the top of the mast. The overall height is similar to that of the adjoining house.
4. The mast is of a slim lined design and is of collapsible/retractable design which means it can be laid horizontally reducing the height to not much more than 2m when not in use. A photograph has been submitted with the application to show this.
5. The mast in the rear garden is approximately 3m away from the house.

6. The mast and associated antenna is used by one of the residents of the property to facilitate their amateur radio hobby.
7. The applicant has submitted a 12 name petition in support of the application.
8. Four letters of support were submitted with the application.

## HISTORY

9. None.

## PUBLIC CONSULTATION

10. Two letters of objection received, following consultation with 12 adjoining neighbours and the posting of a site notice and the publication of an advert. Main issues raised:

- Visual Impact
- Looks industrial and out of place in a residential area
- Will put persons off from buying house in the future
- Will devalue property value
- Impact to wildlife as attachments
- Creates noise

## OTHER CONSULTATION

11. None

## RELEVANT PLANNING POLICY

- National Planning Guidance  
National Planning Policy Framework (2012)  
Planning Practice Guidance (2014)

- Black Country Core Strategy (2011)  
ENV 2 Historic Character and Local Distinctiveness
- Unitary Development Plan (2005) (Saved Policies)  
DD1 Urban Design  
DD4 Development in Residential Areas
- Supplementary Planning Guidance/Documents  
PGN 13. Radio aerials and satellite antennae

## ASSESSMENT

12. The main issues are:
- Policy
  - Visual Impact and Neighbour Amenity

### Policy

13. There are no specific policies within either the Black Country Core Strategy or the Dudley Unitary Development Plan which directly deal with amateur radio installations, however, Saved Policy DD4 – Development in Residential Areas is of relevance that requires development proposals to be in keep in with the surrounding area and not to have adverse impact to amenity.
14. Also of relevance to the application is Planning Guidance Note 13 – Radio Aerials and Satellite Antennae which should be treated as material consideration.
15. The Note states that application will as far as possible, be judged on the effect that an extended mast is likely to have on the visual amenities of neighbours in the area as it is reasonable to expect that the apparatus will be used frequently.
16. Appropriate choice of site is considered to be crucial. Equipment should not be obtrusive from the highway or areas of public open space and a position at the side or rear in preference to the front of the building is essential. Additionally the note a

states position close to the rear elevation of the building often minimises the impact on the surroundings.

17. The outlook from adjoining buildings, gardens and footpaths should be safeguarded by utilising existing natural screening. Conditions for natural plant screening will be attached where this is considered to be effective.
18. In certain circumstances the notes implies that a condition requiring the mast to be retracted (where possible) may be appropriate.
19. At a national level the former Planning Policy Guidance (PPG) Note 8 on Telecommunications at Para 80 states that a particularly sympathetic attitude towards the installation of masts for amateur radio operators. However, this has not been replicated by in the National Planning Policy Framework or the Planning Practice Guidance.

#### Visual Impact and Neighbour Amenity

20. As stated above this a retrospective planning application for the erection of an 9m high slim line metal mast and its associated antenna within the rear garden of 11 Tree Acre Grove. The mast which is set onto to concrete pad is designed to be retractable, so that it can be lowered into a horizontal alignment.
21. In terms of views from public areas these are generally limited by the existing dwelling and other dwellings in the surrounding area, although the antenna does slightly protrude above the roofline. However, general views for example can only be glimpsed through the narrow gaps between properties and many cases are read against the closely located house and trees which are within or adjoining the garden to the site.
22. Therefore, the public views of the mast when it is in the up position are relatively limited.

23. It is considered that mast when is it is in its up position can be seen from adjoining gardens and houses. However, the general siting is in accordance with the advice with Planning Guidance Note 13 in that is close to the house, rather than further down the garden, and there is some planting in the vicinity of the site which again softens the installation.
24. In terms of physical impact the slim line design means therefore would be no impact in terms of light or overbearing impact.
25. In weighing up the planning merits of the case it is considered that there are issues whilst there would be some visual impact to close adjoining neighbours, the mast has been well sited to reduce its impact by locating it close to the house. Moreover, the mast is slimmed line in its design, has the potential to be retracted when out of use and there is some planting within or close to the site which reduces impact. Therefore the installation is considered to be acceptable.

#### Other Matters

26. One of the neighbours has raised concerns regarding noise and the stability of the mast.
27. In terms of noise the applicant responds by stating the installation makes no noise. However, a condition can be imposed regarding noise as has been previously imposed on a similar installation elsewhere.
28. In terms of stability the applicant advises that the mast has been constructed in accordance with the manufacturer's specification and is set into a 2 tonne concrete base. Additionally it is understood that the mast is retractable which means it can be lowered in the case of bad weather.

## **CONCLUSION**

29. The mast is not considered to cause any harm in terms of public views. However, there are some concerns regarding visual amenity of adjoining neighbours but on balance due to the slim line design, its proximity to the main house and the presence

of trees within the area the development is considered acceptable. Consideration has been given to Policy ENV 2 Historic Character and Local Distinctiveness of the Black Country Core Strategy and saved Policies DD1 Urban Design and DD4 Development in Residential Areas of the Dudley Unitary Development Plan.

## RECOMMENDATION

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

### Notes to Applicant/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 carried out in accordance with the following approved plans: Unreferenced plans submitted with the application.
2. 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 (1997) (Method for rating industrial noise affecting mixed residential and industrial areas) 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.

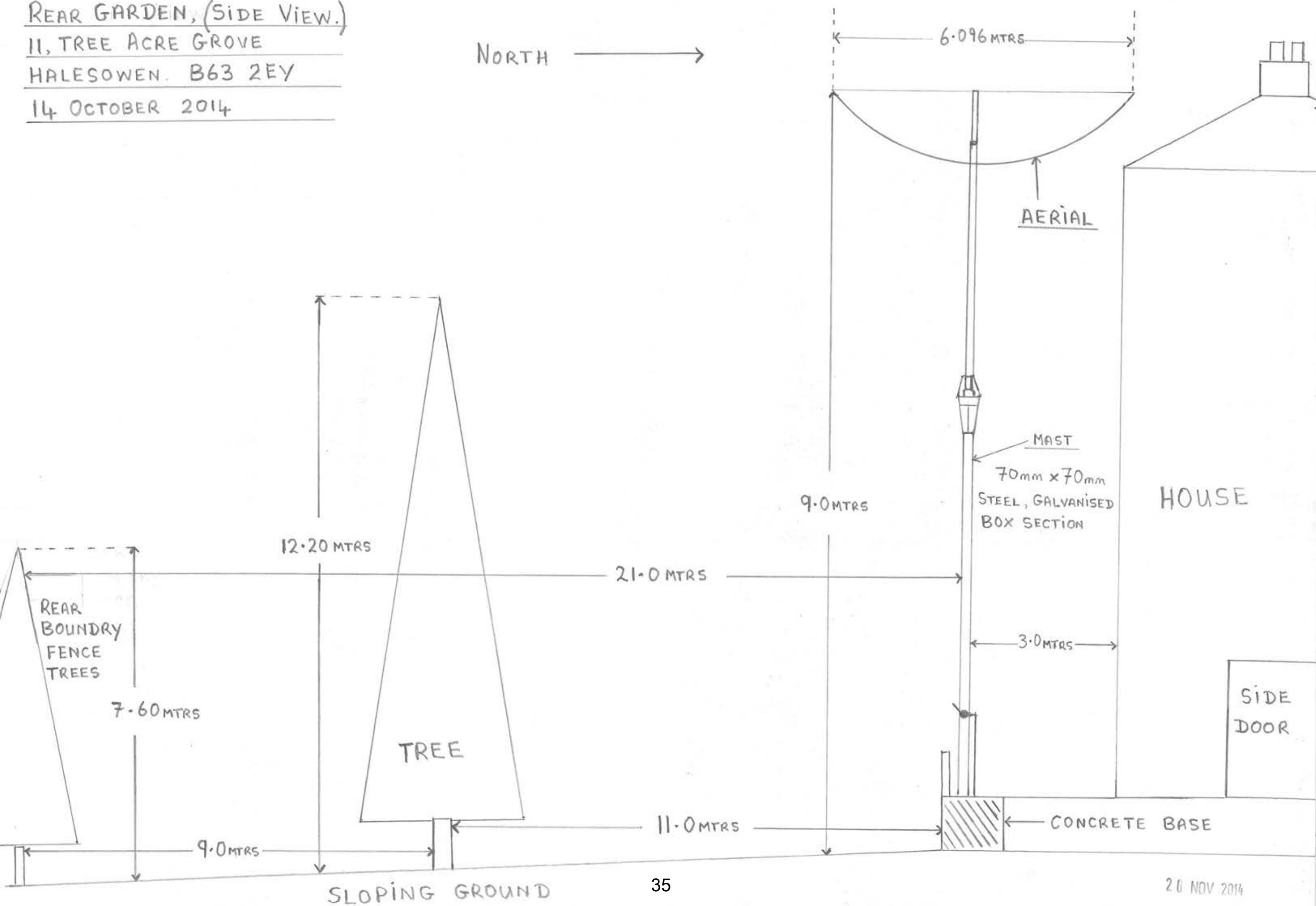






REAR GARDEN, (SIDE VIEW.)  
11, TREE ACRE GROVE  
HALESOWEN. B63 2EY  
14 OCTOBER 2014

NORTH →

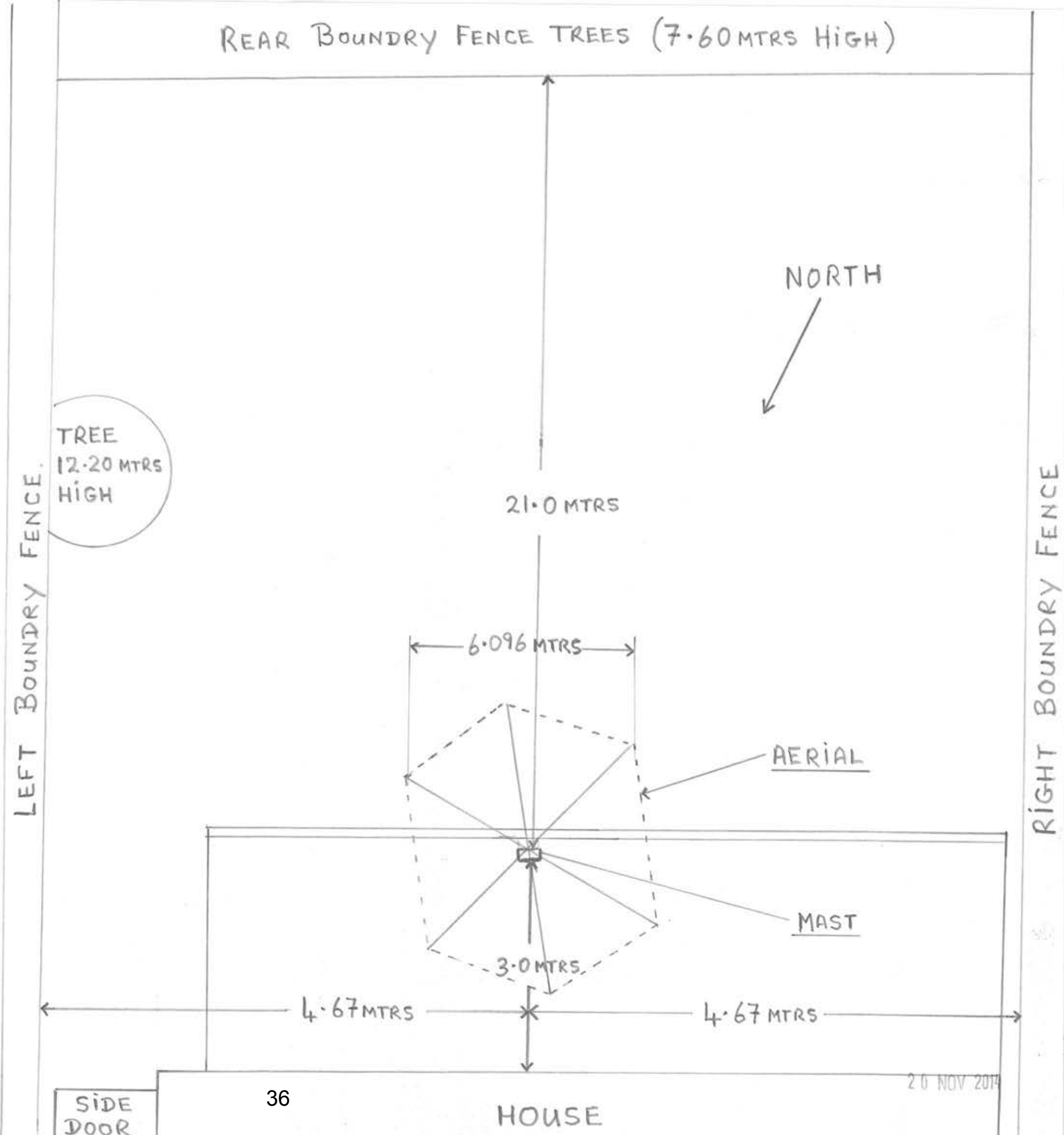


REAR GARDEN, (AERIAL VIEW)

11, TREE ACRE GROVE

HALESOWEN. B63 2EY

14 OCTOBER 2014



## PLANNING APPLICATION NUMBER: P14/1683

Type of approval sought	Full Planning Permission
Ward	St James's
Applicant	Mr Dave Bancroft, Papa Johns (GB) Ltd
Location:	<b>THE STRUGGLING MAN, 57, SALOP STREET, DUDLEY, WEST MIDLANDS, DY1 3AY</b>
Proposal	<b>CHANGE OF USE FROM PUBLIC HOUSE (A4) TO HOT FOOD TAKE-AWAY (A5) WITH FUME EXTRACTION. ELEVATION CHANGES TO INCLUDE NEW DOOR</b>
Recommendation Summary:	<b>APPROVE SUBJECT TO CONDITIONS</b>

### SITE AND SURROUNDINGS

1. The currently vacant application site is The Struggling Man Public House which is recorded on the Council's Historic Environment Record (HER - 12914) and as such is considered to be a 'Heritage Asset'. It is located in a prominent position on the corner of Salop Street and Dibdale Road.
  
2. The building features three prominent double height bay windows with hipped roofs over. The main roof is pitched with a tile finish. The rear of the building has several single storey flat roof elements. There is also a rear flat two storey element which extends into the roof and forms part of an existing 3-bed residential unit on the first floor, this element is accessed from the rear as well as from the public house internally. The rear yard is elevated in level from the site frontage.
  
3. The frontage is hardsurfaced and accommodates several outdoor benches and enclosed by 1m high railings. Wrapping around the side elevation is an existing tarmac car park which is laid out for 10 cars, and is accessed via Dibdale Street.
  
4. Adjoining the south-eastern elevation is a vehicular access track which leads to the rear of the premises, in addition to serving Blake's Sheds, which is located on a

higher land level. This adjacent land is enclosed by a combination of metal rail and wire mesh fencing.

5. The rear of the site is adjoined by public open space, this being elevated in height from Salop Street and approximately level with the first floor of the public house.
6. To the north-west, on the opposite side of a Dibdale Street, is an Esso petrol filling station and Tesco Express (shop).
7. On the opposite side of Salop Street are former local authority three storey flats, set back between 16-27m from the footway.
8. To the west of the car park are residential dwellings, fronting Dibdale Street and located almost perpendicular to the rear elevation of the application premises.

## PROPOSAL

9. Change of use from public house (A4) to hot food take-away (A5) with new kitchen extract flue at the rear through the pitched roof. The first floor residential unit is to be retained as existing.
10. The application is accompanied by supporting information on the proposed extraction system and plant.
11. The application form outlines the opening hours as, Monday to Sunday 10.00am to 11.00pm.
12. During the course of the application elevation changes to replace the ground floor sash windows with aluminium windows and create an entrance door in the middle bay, were removed due to concerns about the impact upon the heritage asset.
13. The existing entrance door would be used as a main customer access, and the door replaced with a single leaf glass door.

14. A new red-line location plan was also submitted to show a wider site area that permitted the deliveries to take place at the rear of the property.

## RECENT HISTORY

APPLICATION No.	PROPOSAL	DECISION	DATE
87/51019	Extension to form toilet accommodation.	Approved with Conditions	24/08/87

## PUBLIC CONSULTATION

15. Direct notification was carried out to 123 adjoining and adjacent premises, and a site notice and newspaper advert were posted. The notification period expired 27<sup>th</sup> December 2014, as a result of which 3 representations have been received, summarised as follows;
- Wide range of takeaways on Highfield Road and Salop Street, takeaway has no benefit in this location.
  - The food outlet Shanghai Fusion, which was located opposite had problems before it closed, indicating a lack of local need for a food outlet
  - Will not enhance local area – Council should look to enhance area
  - Pub has been eyesore for years, though it needs redevelopment, a takeaway is not the answer
  - Will add to litter in this area – already get litter here from McDonalds at the former Pig on the Wall site. May cause rat problem
  - Will attract more groups of youths, causing trouble and noise for residents
  - External appearance of the building should not be altered (door and windows). This old, distinctive building should be respected as such.

## OTHER CONSULTATION

16. Group Engineer (Highways): Following a request to provide off-street servicing arrangements and parking for the retained residential unit, there are no objections subject to conditions.
17. Head of Environmental Health and Trading Standards: No objection, subject to conditions.

## RELEVANT PLANNING POLICY

18. Black Country Core Strategy policies (2011)
  - CSP2 –Development Outside the Growth Network
  - CSP4 – Place Making
  - DEL1 - Infrastructure Provision
  - EMP1 – Providing for Economic Growth
  - TRAN2 – Managing Transport Impacts of New Development
  - TRAN4 - Creating Coherent Networks for Cycling and for Walking
  - ENV2 - Historic Character and Local Distinctiveness
  - ENV3 – Design Quality
19. Saved UDP policies (2005)
  - DD1 – Urban Design
  - DD4 – Development in Residential Areas
  - EP7 – Noise Pollution
20. Supplementary Planning Documents
  - Planning Obligations (2011)
  - Parking Standards (2012)
  - Planning for Health (2013)

## ASSESSMENT

21. The key issues in determination of this application is the principle of development and the impact upon;
- the character and appearance of the area
  - highway safety
  - residential amenities
  - whether provision is made for Planning Obligations

### Principle

22. The BCCS envisages and supports the creation of an economically prosperous Black Country. Indeed, BCCS Policy CSP2 acknowledges areas outside the Growth Network provide;
- A strong network of...community facilities
  - A constant supply of small-scale development opportunities
  - Provide local employment opportunities to serve nearby communities.
23. The Planning for Health SPD is a material consideration in assessing planning proposals. The SPD imposes a set of criteria for assessing all new A5 applications which includes resisting any new hot food takeaways which fall within 400m of the entrance or exit of any existing school or youth centred facility, as well as considering the impact on amenity and other factors as noted above. The Struggling Man Public House lies just within the 400m Exclusion Zone for Bishop Milner RC School, being a distance of approximately 392m.
24. Whilst this is strictly within the exclusion zone for hot food takeaway uses, the applicant has provided the following justification;
- The applicant Papa John's (GB) Ltd do not use oil and no frying occurs, all produce is baked and the company also offer healthy options.
  - The food offering is based on food to take away and eat at home rather than food which can be eaten on the go.

- In addition, they are on the very edge of the 400m area and are predominantly a delivery operation, with approximately 60% of all orders delivered.
- The proposed opening hours are standard for Papa John's (GB) Ltd stores nationwide and reflect the company's business model.
- The proposed change of use would bring back into use a currently vacant heritage asset which has been vacant since 2014 and which, following decreased turnover is unviable as a public house.
- It would maintain and bring in to active use the building as a heritage asset, create up to 20 jobs and provide activity in the locality.

25. The LPA accept the applicant's point that it is food that is generally bought to take home rather than eat on the go, and is supportive of putting the heritage asset into a commercial use which would create employment opportunities.

26. It is evident that the type (in terms of portion size) and prices of the food offering would not really be appealing to school children coming out of school. The opening hours would not therefore need to be restricted to avoid school closing times.

27. The positive benefits in terms of re-use of a vacant heritage asset, employment generation and that the type of food offered is not going to be attractive to school children therefore outweighs the concern that it is located within the 400m exclusion zone for hot food takeaways advocated in the Planning for Health SPD. The principle of the development is therefore acceptable.

#### Character and appearance

28. According to Chapter 12 of the NPPF '*...heritage assets are an irreplaceable resource*' that should be conserved in a manner appropriate to their significance. The fact that the building is on the Council Historic Environment Record (HER) indicates that it is considered to be of significance and contribute considerably to the local character and distinctiveness of this local area.



29. BCCS policies CSP4 'Place Making', ENV2 'Historic Character and Local Distinctiveness' and ENV3 'Design Quality' requires that all development demonstrates a clear understanding of historic character and local distinctiveness and demonstrates how proposals make a positive contribution to place-making and environmental improvement through high quality design.
30. On this basis it is welcomed that the ground floor sash windows are to be retained. The replacement customer entrance door would be glazed and single leaf, which would be appropriate in terms of function and appearance.
31. The proposed fume extraction has been designed to be discrete, concealed as best as possible by the existing chimney stack.
32. As described above, the applicant suggests that some 60% of trade would be delivery, unlike the former pub use which would have attracted more visitors to the premises (prior to its demise). The scale, nature and intensity of the use of the building would be appropriate in this location, it is set within partly commercial surroundings (Tesco and Blake's Sheds), and itself is a vacant public house.
33. The proposed use would not harm the wider historic character and distinctiveness of the area. It would therefore comply with BCCS Policies CSP4, ENV2 and ENV3, and Saved UDP Policies DD1 and DD4.

#### Highway Safety

34. The applicant provides the following statement on deliveries
  - Papa John's (GB) Ltd have a centrally controlled logistics operation delivering fresh dough and other products necessary for the business needs of each store. The store delivery model across the company is based on three deliveries per week; two deliveries are from the main distribution centre, using fixed-bed 10 tonne delivery vehicles and one is by the drinks supplier, utilising a 7.5 tonne non-articulated delivery vehicle.
  - Food deliveries would be made twice a week, on regular days, to maintain stock levels in the store and drinks deliveries would be made once per week.

- Deliveries could be made to the rear yard, using the adjacent side access to the rear yard. The applicant will be granted a right of access to use this access for the purposes of getting to the rear yard.
- Once operational, the applicant will have roughly similar weekly delivery times, and these could be set out in a Management Plan for Deliveries, that the Council could request by condition prior to occupation of the unit.

35. The amended site layout plan shows 8 spaces for the hot food takeaway including one disabled space, and 2 spaces allocated for the residential unit. Separate cycle parking has also been provided for the hot food takeaway and residential use. This provision is acceptable for the proposed use.
36. The proposal is unlikely to cause any adverse impact upon the operation of the highway and therefore complies with the requirements of Saved UDP Policy DD4 and the Parking Standards SPD.

Residential amenity

37. Immediately adjacent uses are largely commercial in nature; however, there are residential properties beyond the western boundary of the existing car park. The nearest of these is 17, which has a gable elevation some 32m away from the car park. Properties on the opposite side of Salop Street are between 40-48m away from the front elevation of the application premises. Given the previous use of the premises as a public house, and car parking utilised in conjunction with that use, the separation distances to residential dwellings are acceptable to ensure that no adverse impact upon neighbours would arise.
38. Public houses would typically have generated noise for adjacent neighbours, having opening hours later than those currently being sought. The Head of Environmental Health and Trading Standards raises no objection to the proposal, recommending conditions to restrict opening hours, no later than 11pm daily and to control noise levels of the extraction flue.

39. With appropriate conditions, the amenity of adjacent occupiers would be protected and therefore the proposal would comply with Saved UDP Policy DD4.

#### Planning Obligation

40. 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.
41. 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.
42. In addition to applying Policy DEL1 and the SPD, in identifying the required planning obligations on this application the following three tests as set out in the CIL Regulations (April 2010), 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.
43. Following consideration of the above tests the only potential planning obligations (Transport Infrastructure and Air Quality Improvements) were not considered to be reasonable or directly related to this proposal.

## CONCLUSION

44. The positive benefits in terms of re-use of a vacant heritage asset, employment generation and that the type of food offered is not going to be attractive to school children outweighs the concern that it is located within the 400m exclusion zone for hot food takeaways advocated in the Planning for Health SPD. The principle of the

development is therefore acceptable. The proposal respects the character and distinctiveness of the area making a positive contribution to place making. There would be no adverse impact upon residential amenities of adjacent occupiers and highway safety. The proposal would comply with the National Planning Policy Framework (NPPF), Black Country Core Strategy, Saved UDP, and adopted Supplementary Planning Documents.

## RECOMMENDATION

45. It is recommended that the application be APPROVED subject to the following conditions;

### APPROVAL STATEMENT INFORMATIVE

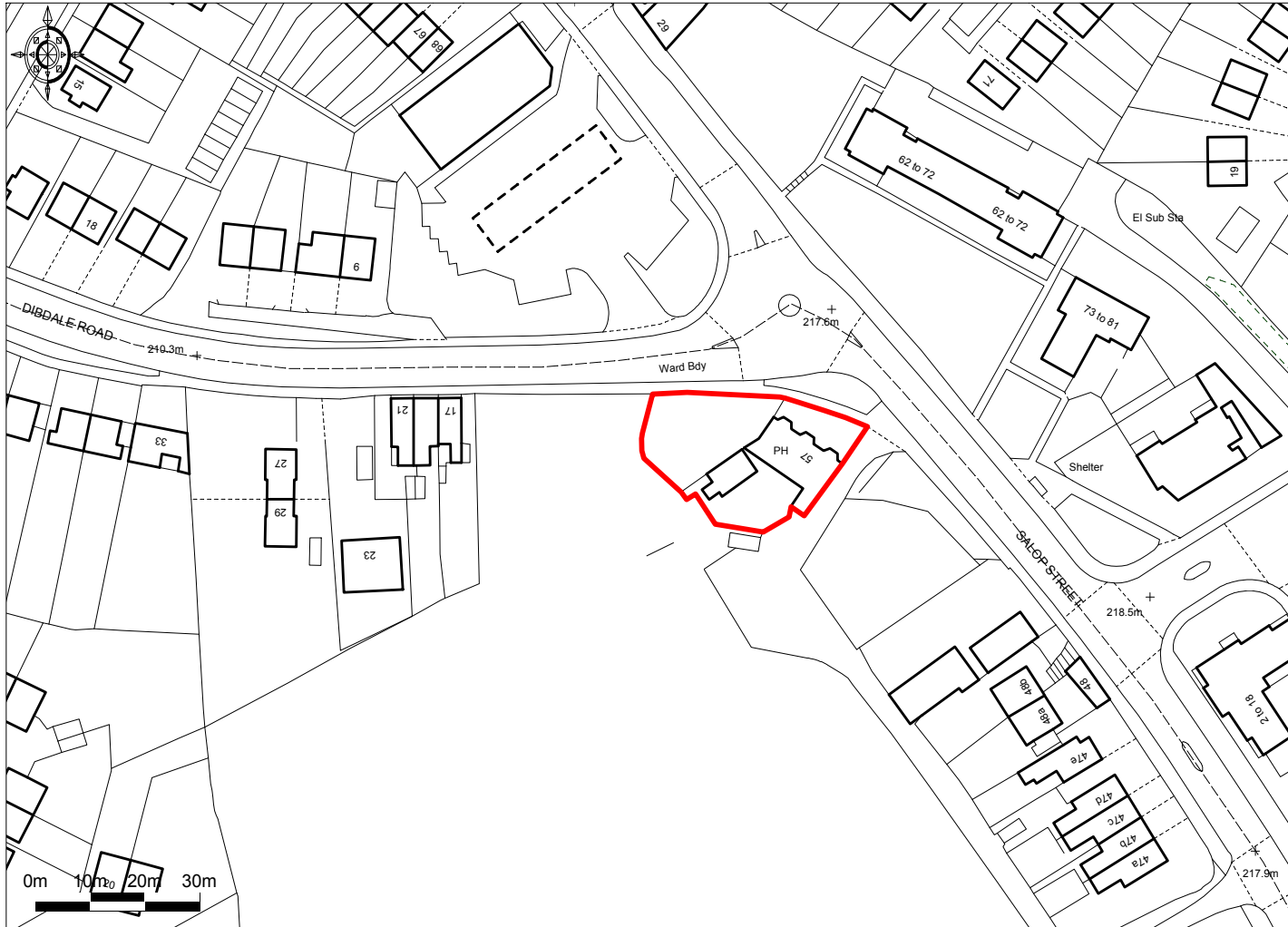
In dealing with this application the Local Planning Authority have worked with the applicant in a positive and proactive manner, seeking solutions to problems arising in relation to dealing with the application, by seeking to help the applicant resolve technical detail issues where required and maintaining 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. The development hereby permitted shall be carried out in accordance with the following approved plans: 00441-03C, 00441-06C, 00441-07B.
3. Prior to the commencement of development, details of the type and colour of the front door to access the customer area 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.

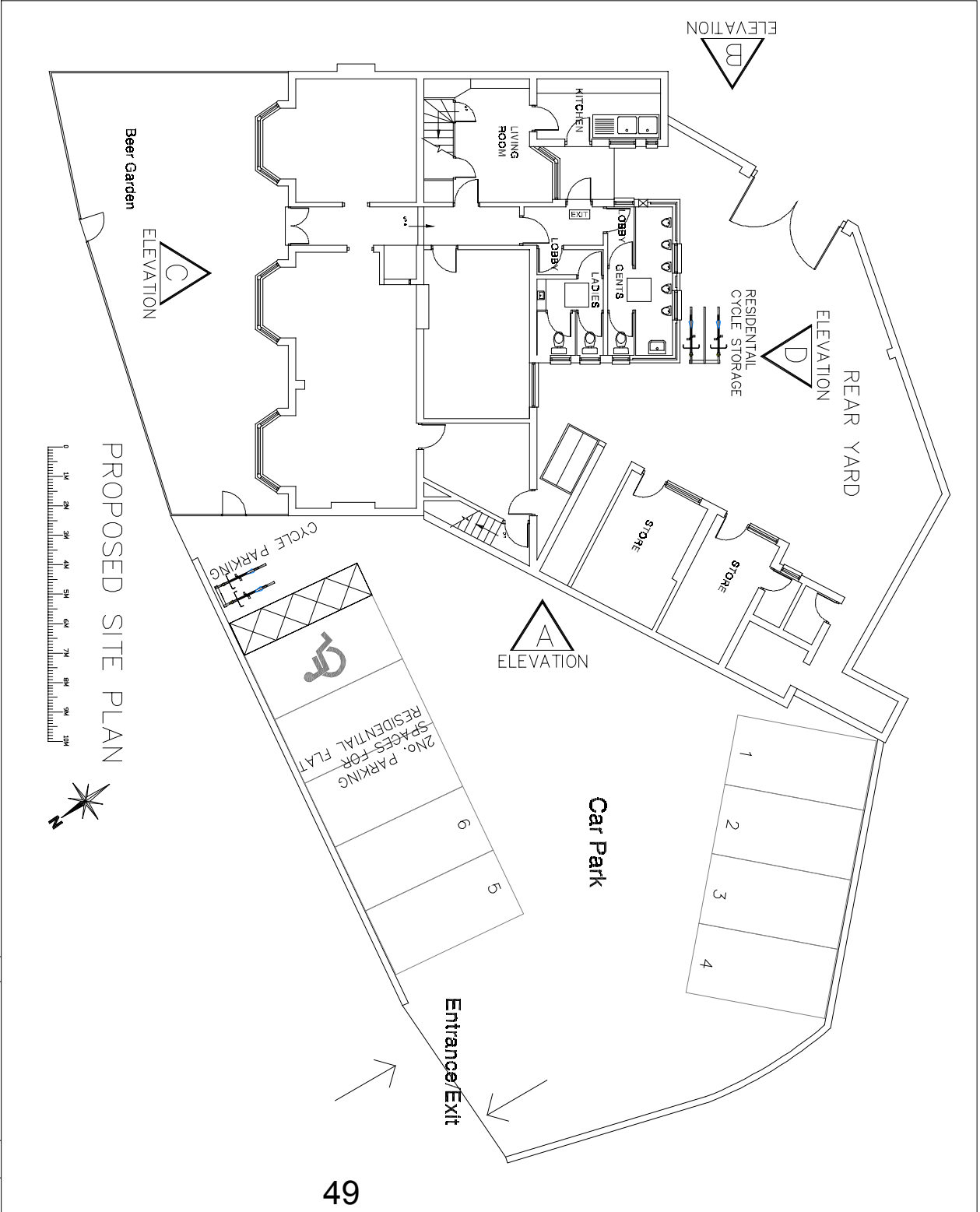
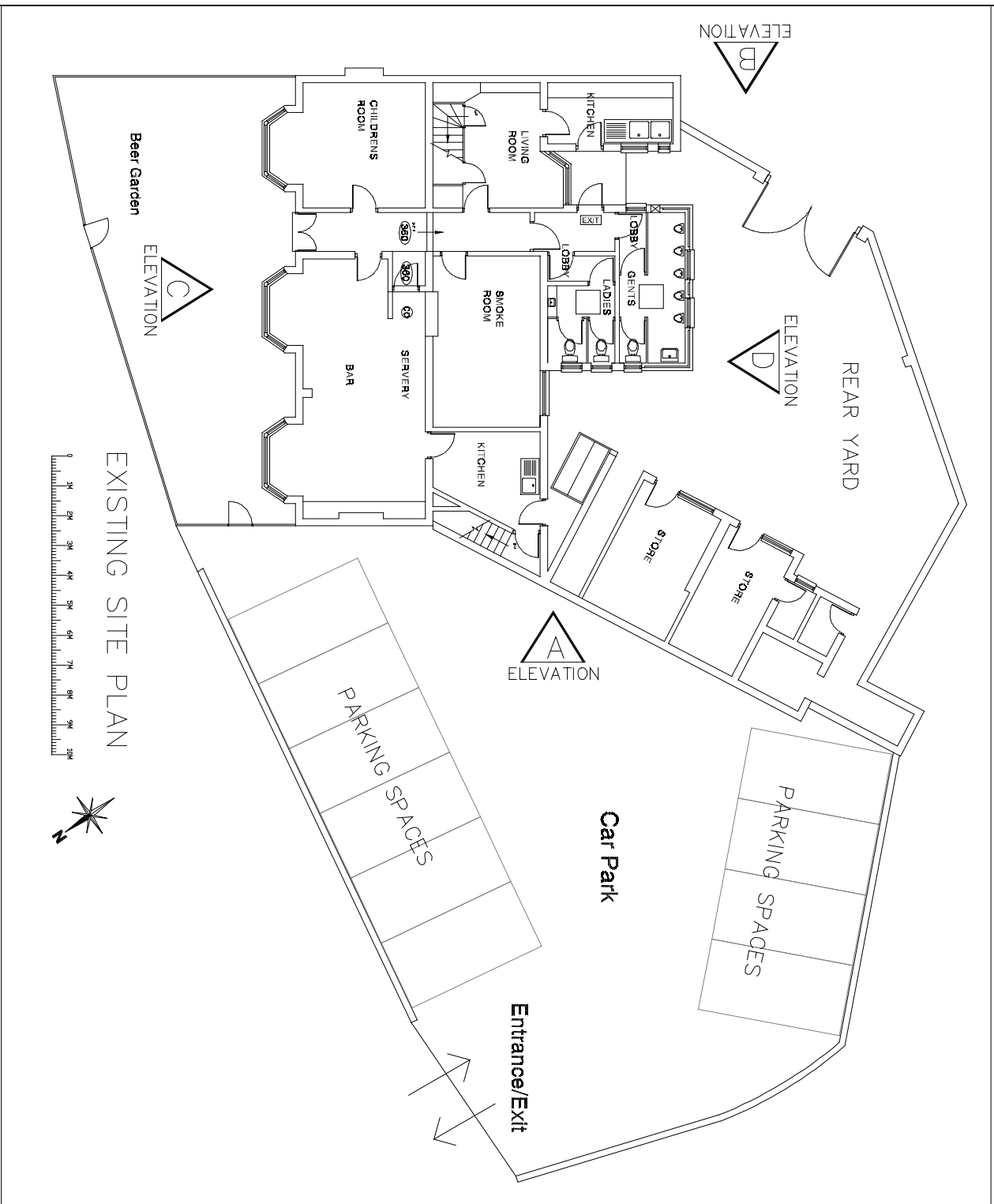
4. The development hereby approved shall not be operated before 10:00 hours or after 23:00 on any day.
5. The rating level of noise emitted from any fixed plant and/or machinery associated with the development (including the discharge of cooking fume from a flue shall not exceed background noise levels 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. 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.
6. Before any internal fixed plant or machinery associated with the development 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 use of the plant or machinery and retained during use of the plant or machinery for the duration of the development.
7. Prior to the use of the development hereby permitted, the scheme submitted with this planning application containing the details of arrangements for internal air extraction, odour control, and discharge to atmosphere from cooking operations, including any external ducting and flues, shall be installed in their entirety before the use commences. 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.
8. Prior to the use of the development hereby permitted the parking area shall be surfaced and marked out in complete accordance with plan no: 00441-07/Rev B and thereafter maintained available for parking for the lifetime of the development.
9. No development shall commence until details of secure cycle parking facilities in accordance with the Council's parking standards have been submitted to and approved in writing by the Local Planning Authority. The cycle parking shall thereafter be provided in accordance with the approved details prior to first occupation of the development, shall be made available at all times and be maintained for the life of the development.

Location Plan  
Struggling Man Public House, 57 Salop Street, Dudley



Ordnance Survey © Crown Copyright 2015. All rights reserved. Licence number 100022432. Plotted Scale - 1:1250





REV	AMENDMENT	DATE	CHKD
B	DRAWING REVERSED	12.1.15	MAS
A	DRAWING REVERSED	8.1.15	MAS

**MARTIN DESIGN**

CLIENT  
 Papadonk GBU Ltd

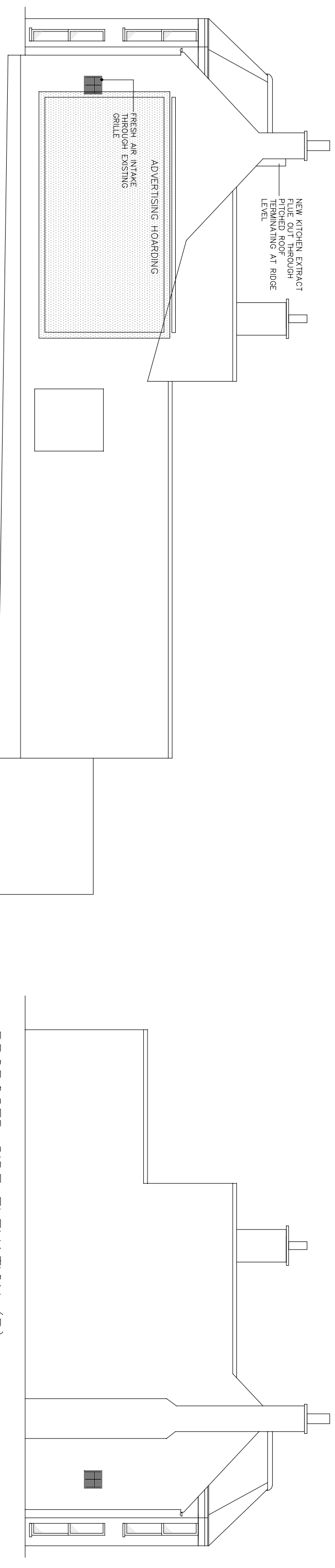
PROJECT  
 STRUGGLING MAN PUBLIC HOUSE  
 DUDLEY

DRAWING TITLE  
 SITE PLAN

SCALE	DRAWN BY	CHECKED	DATE
1:200@A3	MAS		NOV14
DRAWING NUMBER	REVISION		
00441-07	B		

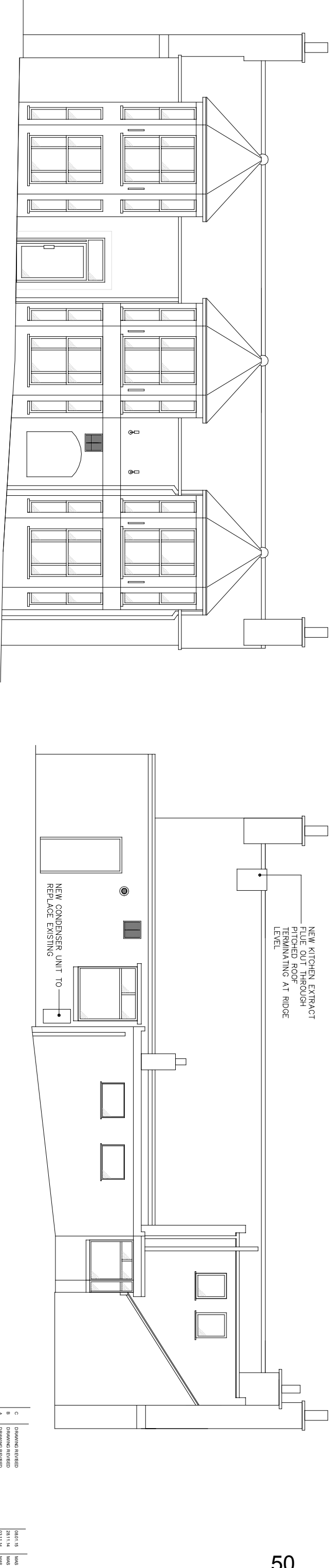
CONTRACTORS MUST VERIFY ALL DIMENSIONS CAREFULLY BEFORE COMMENCING ANY WORK ON SHOP DRAWINGS

IF THIS DRAWING INCLUDES THE SIGNATURE OF ANY REGISTERED ARCHITECTS THEY MUST BE SIGNED BEFORE THE DRAWING IS PRINTED  
MARTINDALE DESIGN



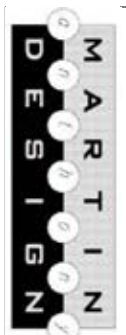
PROPOSED SIDE ELEVATION (A)  
NORTH WEST

PROPOSED SIDE ELEVATION (B)  
SOUTH EAST



PROPOSED FRONT ELEVATION (C)  
NORTH EAST

PROPOSED REAR ELEVATION (D)  
SOUTH WEST

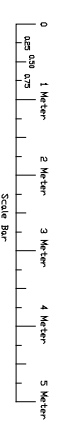


CLIENT  
Papadonk/GB Ltd

PROJECT  
STRUGGLING MAN PUBLIC HOUSE  
DUDLEY

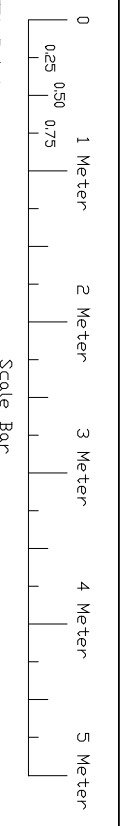
DRAWING TITLE  
PROPOSED ELEVATIONS

SCALE	DRAWN BY	CHECKED	DATE
1:100@A3	MAS	-	SEPT'14
DRAWING NUMBER	REVISION		
00441-06	C		

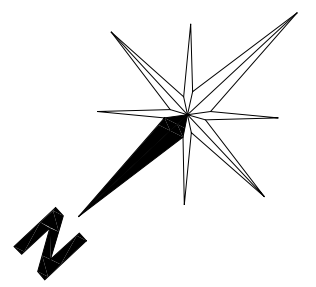




CONTRACTORS MUST VERIFY ALL DIMENSIONS AND LEVELS BEFORE COMMENCING ANY WORK ON-SITE OR OFF-SITE.  
 IF THIS DRAWING PROVIDES THE DIMENSIONS AND LEVELS ARCHITECTS ARE TO BE RECORDED BEFORE THE WORK BEGINS.  
 Martin/Design Group



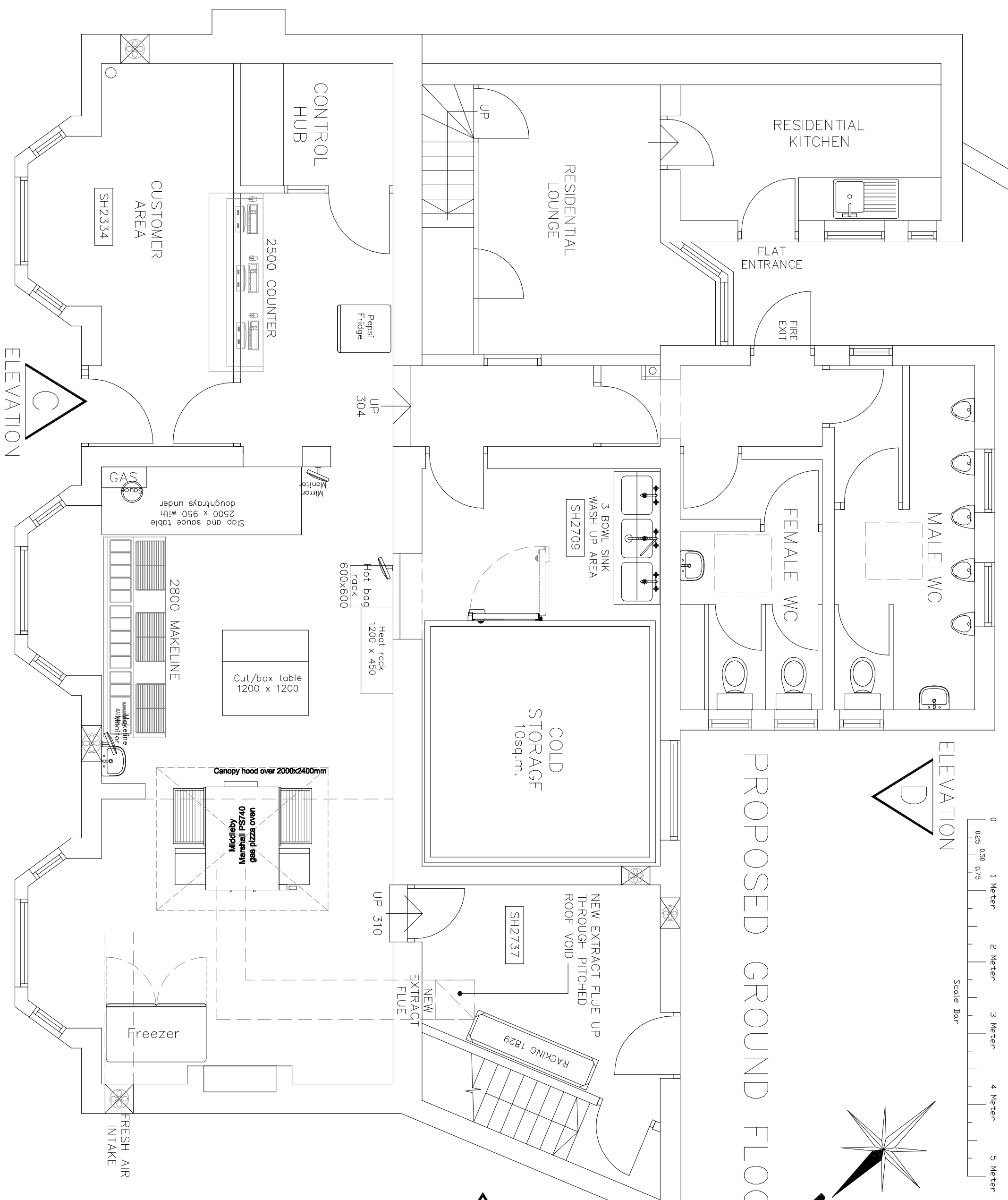
ELEVATION  
**D**



PROPOSED GROUND FLOOR

ELEVATION  
**B**

ELEVATION  
**A**



CLIENT	Papalohnk/GB Ltd
PROJECT	STRUGGLING MAN PUBLIC HOUSE DUDLEY
DRAWING TITLE	PROPOSED GROUND FLOOR PLAN
SCALE	1:50@A3
DRAWING NUMBER	00441-03
DATE	JUL14
REVISION	C

REV	AMENDMENT	DATE	CHKD
C	DRAWING REVERSED	08/11/15	MAS
B	DRAWING REVERSED	28/11/14	MAS
A	LAYOUT REVERSED	03/11/14	MAS

<b>M</b>	<b>A</b>	<b>R</b>	<b>T</b>	<b>I</b>	<b>N</b>
<b>D</b>	<b>E</b>	<b>S</b>	<b>I</b>	<b>G</b>	<b>N</b>

## **PLANNING APPLICATION NUMBER: P14/1720**

Type of approval sought	Full Planning Permission
Ward	Upper Gornal & Woodsetton
Applicant	Mr Steve Wilson, DMBC (DACHS Building Services)
Location:	<b>ARCAL LODGE CARE HOME, ARCAL STREET, SEDGLEY, DUDLEY, DY3 1TG</b>
Proposal	<b>PART DEMOLITION AND CONVERSION OF CARE HOME TO 14 NO. DWELLINGS</b>
Recommendation Summary:	<b>APPROVE SUBJECT TO CONDITIONS</b>

### **SITE AND SURROUNDINGS**

1. The site is a former Council-operated care home which has been vacant for 10 years. The surrounding area is entirely residential. The existing buildings at the site are part single storey and part two storey.

### **PROPOSAL**

2. It is proposed to convert the buildings to 8 bungalows (1x3bed, 2x2bed & 4x1bed) and 6 apartments (3x2bed & 3x1bed). Existing flat roofed linked sections and kitchen areas are to be demolished to leave three separate blocks of dwellings. No extensions are proposed. Vehicle access will be via an existing access drive within the north western corner of the site and 21 parking spaces are to be provided. Railings 1.2m high are to be erected along the site frontages to Arcal Street and gardens are to be provided for six of the bungalows.
3. The applicant has advised that the development forms part of the Council's new house building project and is designed to meet the need in the Borough for smaller homes, in particular for people with disabilities and older people.

## HISTORY

4. None.

## PUBLIC CONSULTATION

5. Neighbour notification letters have been sent to 42 properties and a site notice posted. No representations have been received in response to the consultation exercise.

## OTHER CONSULTATION

6. Head of Environmental Health and Trading Standards: No objection.

Group Engineer (Highways): The development requires the provision of 20 unallocated parking spaces. The proposed number of spaces is acceptable subject to a condition requiring that they remain unallocated. The location of the cycle stores shown on the layout plan is not acceptable and should be located closer to the building in an overlooked position.

Chief Fire Officer: No objection.

## RELEVANT PLANNING POLICY

7. National Planning Policy  
National Planning Policy Framework (NPPF) 2012  
  
Black Country Core Strategy 2011  
Policy HOU1 (Delivering Sustainable Housing Growth)  
Policy HOU2 (Housing Density, Type and Accessibility)  
Policy DEL1 (Infrastructure Provision)

Saved 2005 UDP Policies

Policy DD1 (Urban Design)

Policy DD4 (Development in Residential Areas)

Supplementary Planning Guidance

Parking Standards SPD

New Housing Development SPD

Planning Obligations SPD

## ASSESSMENT

8. The key issues in the assessment of this application are:

- Principle;
- Impact upon the character of the area;
- Residential Amenity;
- Highway safety;
- Planning Obligations.

Principle

9. This scheme constitutes the provision of affordable housing and an increase in social housing stock on a brownfield site which is in a relatively sustainable location. The proposal therefore complies with the advice given in the NPPF (paragraphs 49 and 51) that housing applications should be considered in the context of the presumption in favour of sustainable development and that Local Planning Authorities should identify and bring back into residential use empty housing and buildings. The development also accords with Policy HOU1 of the Core Strategy which seeks the provision of 95% of new build housing on previously developed land and Policy HOU3 which seeks the provision of a minimum 11,000 new affordable dwellings between 2006 and 2026.

Impact upon the character of the area

10. Policy HOU2 of the Core Strategy states that the density and type of new housing provided on each site will be informed by, amongst other things, the need to achieve high quality design and minimise amenity impacts. Saved Policy DD1 requires that developments should make a positive contribution to the appearance of an area. Policy DD4 of the UDP states that new developments should not have any adverse impact on the character of an area.
11. The density of the proposed development (23 dwellings per hectare) would be appropriate to the existing pattern of development in the wider area. The proposals involve repair work to the existing buildings, new boundary treatments and additional landscaping, all of which will improve the appearance of the site from its existing state. The proposal involves the removal of one existing tree, which will not have any harmful impact on the visual amenities of the area.
12. For the reasons set out above it is considered that the development will have a positive impact on the character of the area. As such it accords with Policy HOU2 of the Core Strategy and Saved Policies DD1 and DD4 of the UDP.

#### Residential Amenity

13. Saved Policy DD4 also advises that new development in residential areas will only be allowed where there would be no adverse effect upon residential amenity. The development will not result in any loss of privacy, outlook or light to dwellings in the immediate vicinity. In this respect the proposal complies with Saved Policy DD4.
14. The development does not provide any dedicated amenity space for use by the occupants of the proposed flats or two of the bungalows. This is, however, a relatively constrained site where amenity space can only realistically be provided within the existing landscaped areas along the site's eastern boundary for use by the occupants of the adjoining bungalows. The remainder of the site will mainly be occupied by the access drive, parking areas and peripheral landscaping where the provision of further amenity dedicated amenity space would not be feasible, but which is not specifically required or necessary due to the intended occupant groups.

### Highway safety

15. Saved Policy DD4 advises that developments should be allowed where there would be no adverse impact on highway safety. With regard to the comments of the Group Engineer a condition can be imposed relating to the provision of unallocated parking. Resiting of the cycle storage area can also be sought by condition.

### Planning Obligations

16. In accordance with Policy DEL1 of the Core Strategy and the Planning Obligations SPD, the development triggers a requirement for the provision of improvements to air quality, public realm and economic and community development. The submitted layout plan shows that an electric vehicle charging point and cycle parking are to be provided within the development, which will help to improve air quality. The proposed new railings will create an attractive feature within the street scene that will therefore contribute to an improvement to the public realm. A condition can be used to secure an economic and community development statement to ensure that locally sourced labour and materials are used in the development.

## CONCLUSION

17. The development represents the re-use of previously-developed land within an urban area for housing at an appropriate density. The development would make a positive contribution to the character of the area, and would not have any detrimental impact on residential amenity or highway safety. The proposal therefore complies with Policies HOU1 and HOU2 of the Core Strategy and Saved Policies DD1 and DD4 of the Unitary Development Plan.

## 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.

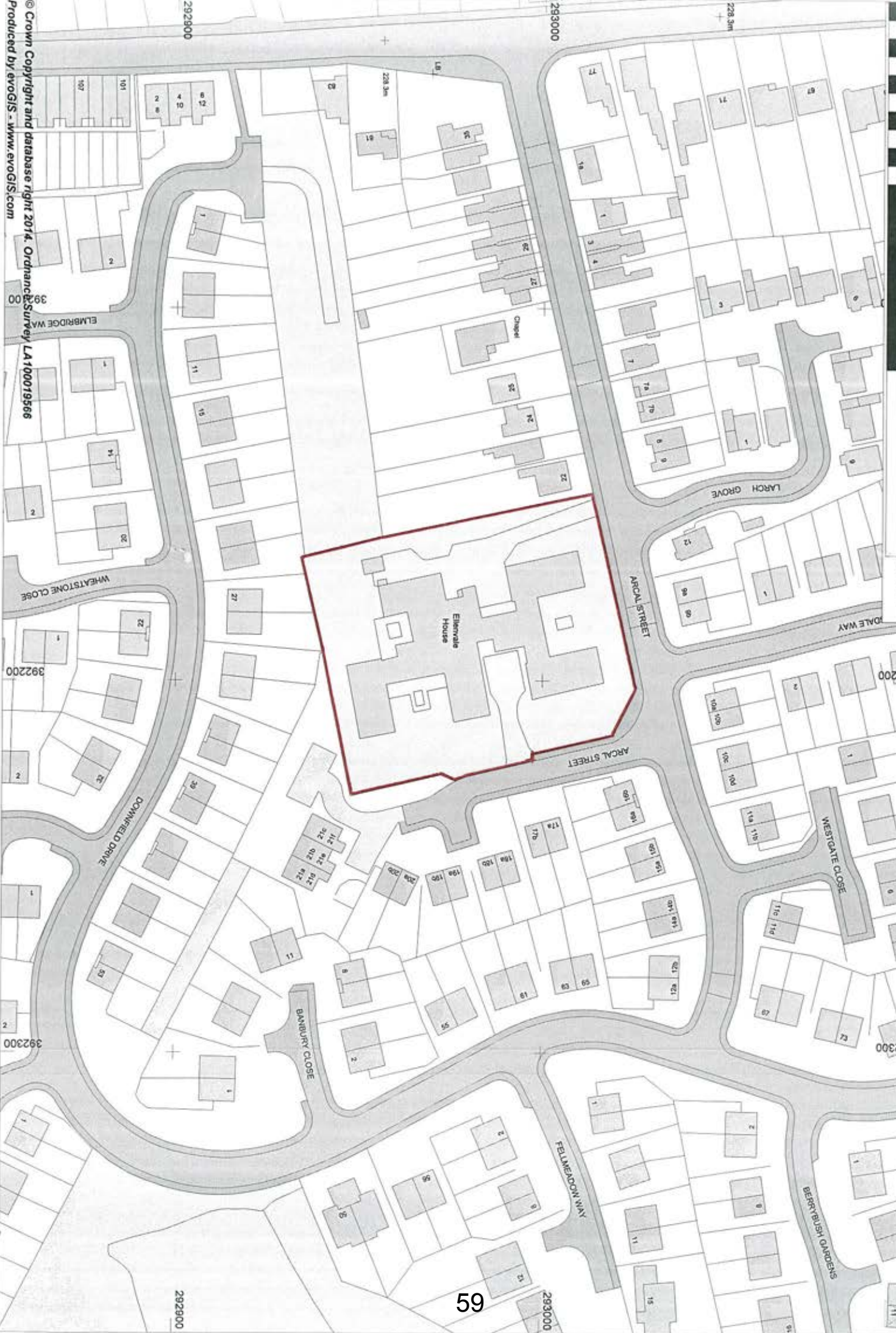
### Conditions and/or reasons:

1. The development hereby permitted shall be begun before the expiration of three years from the date of this permission.
2. The development hereby permitted shall be carried out in accordance with the following approved plans: NB/AL/P/07, NB/AL/P/04 Rev B, NB/AL/P/03 Rev B, NB/AL/P/09, NB/AL/P/08, NB/AL/P/06 and NB/AL/P/01.
3. 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.
4. No development shall commence until details of secure cycle parking facilities in accordance with the Council's parking standards have been submitted to and approved in writing by the Local Planning Authority. The cycle parking shall thereafter be provided in accordance with the approved details prior to first occupation of the development, shall be made available at all times and be maintained for the life of the development.
5. Prior to the occupation of the dwellings hereby approved, the parking and turning areas shown on the approved plans shall be provided and thereafter maintained for these purposes for the lifetime of the development.
6. No development shall take place until there has been submitted, and approved in writing by the local planning authority details of the tree protection measures on site. The agreed tree protection measures shall be erected / installed prior to the commencement of the development hereby approved (including any tree felling, tree pruning, demolition works, soil moving, temporary access construction and or widening, or any operations involving the use of motorised vehicles or construction machinery), and shall not be taken down moved or

amended in any way without prior written approval of the local planning authority. The tree protection details shall include:

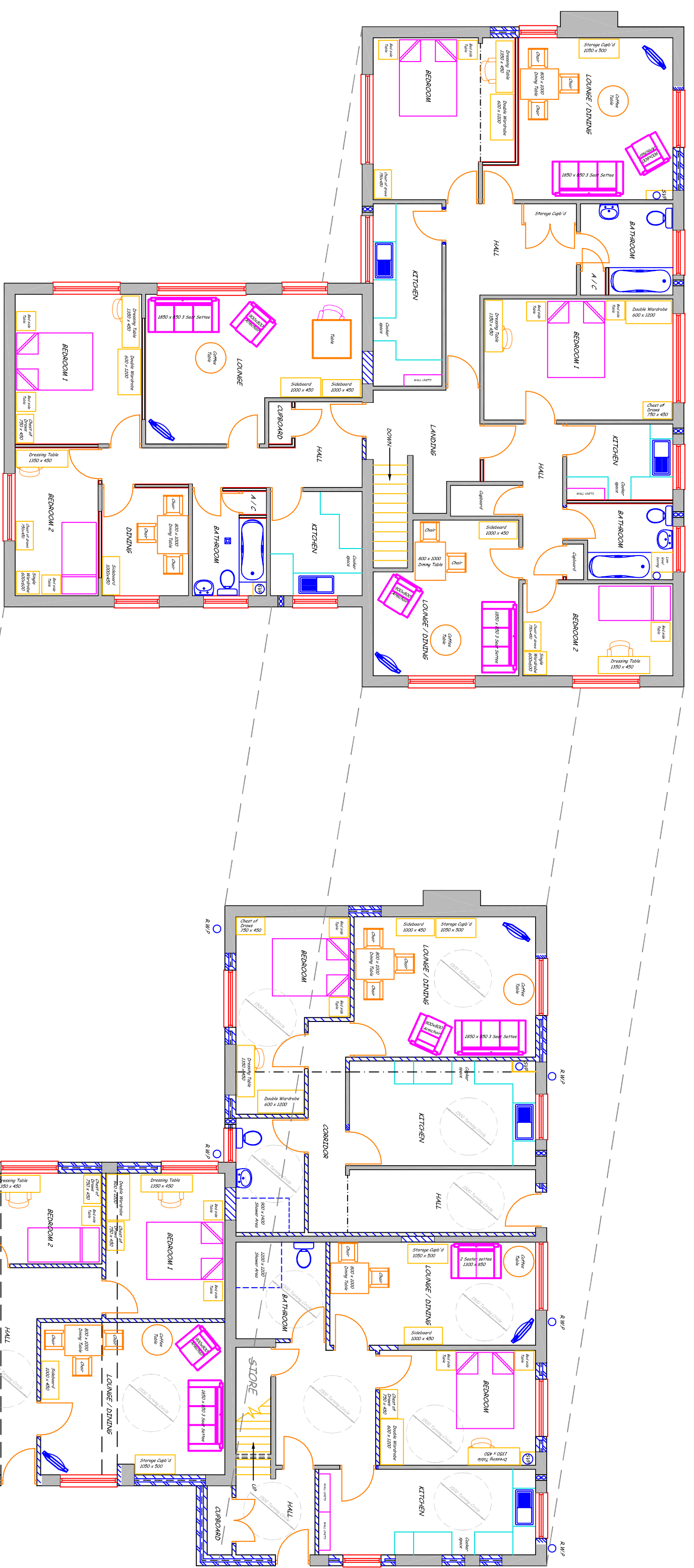
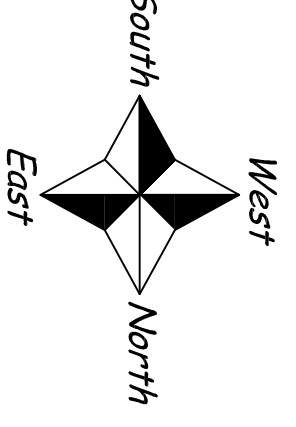
- a. A plan showing the location and identification (with reference to a survey schedule if necessary) of all trees on, or directly adjacent to the development site, that are to be retained during construction. These trees are to be marked with a continuous outline.
  - b. A plan showing the location 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 will be calculated in accordance with Clause 4.6 of British Standard BS:5837 - 2012 'Trees in Relation to Design, Demolition and Construction- Recommendations'.
  - d. Design details of the proposed protective barriers and ground protection 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 6.2 of British Standard BS:5837 - 2012 'Trees in Relation to Design, Demolition and Construction- Recommendations'.
7. The parking spaces shown on the approved site layout plan shall at no time be allocated to specific dwellings.



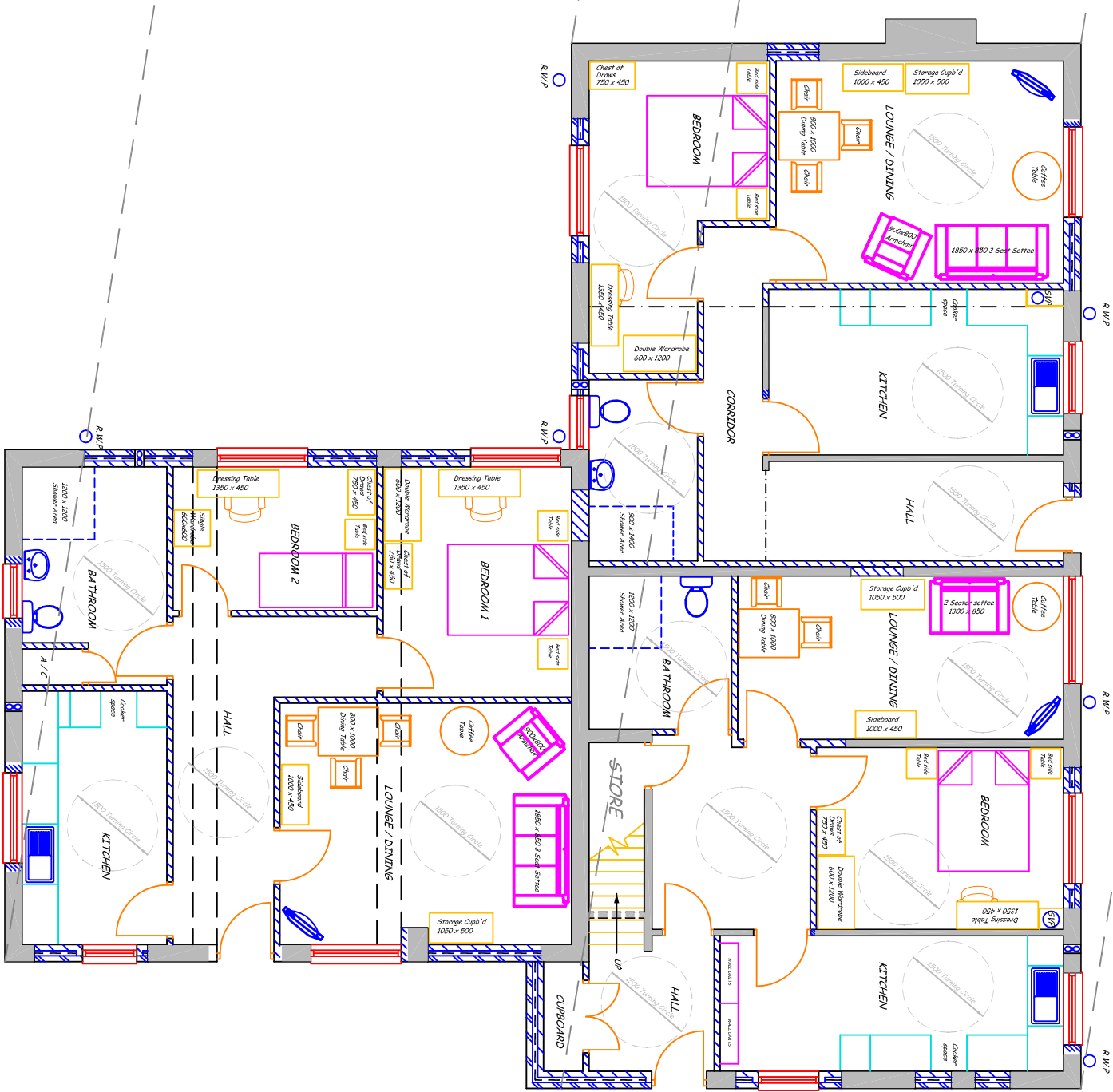


Elmhurst House

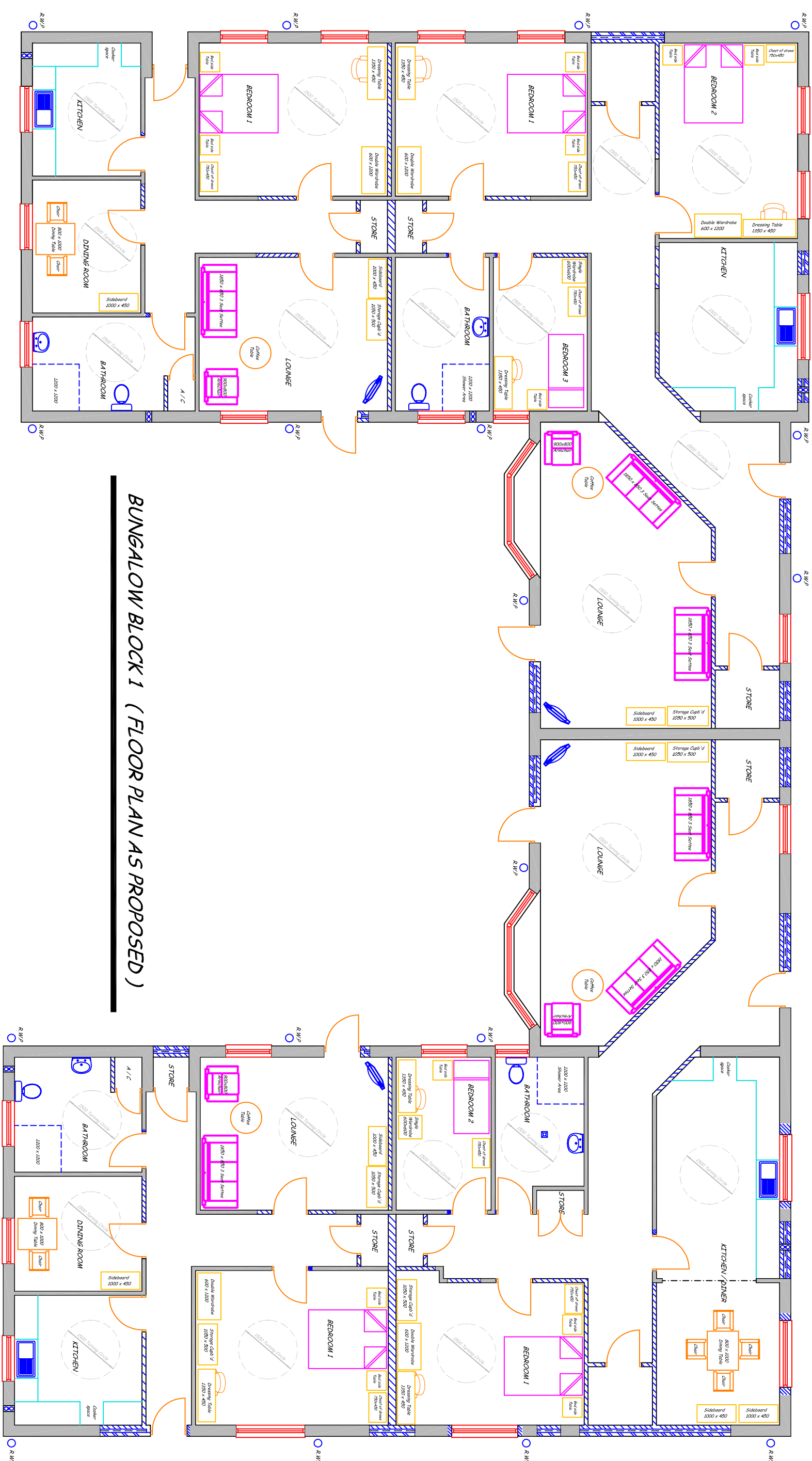




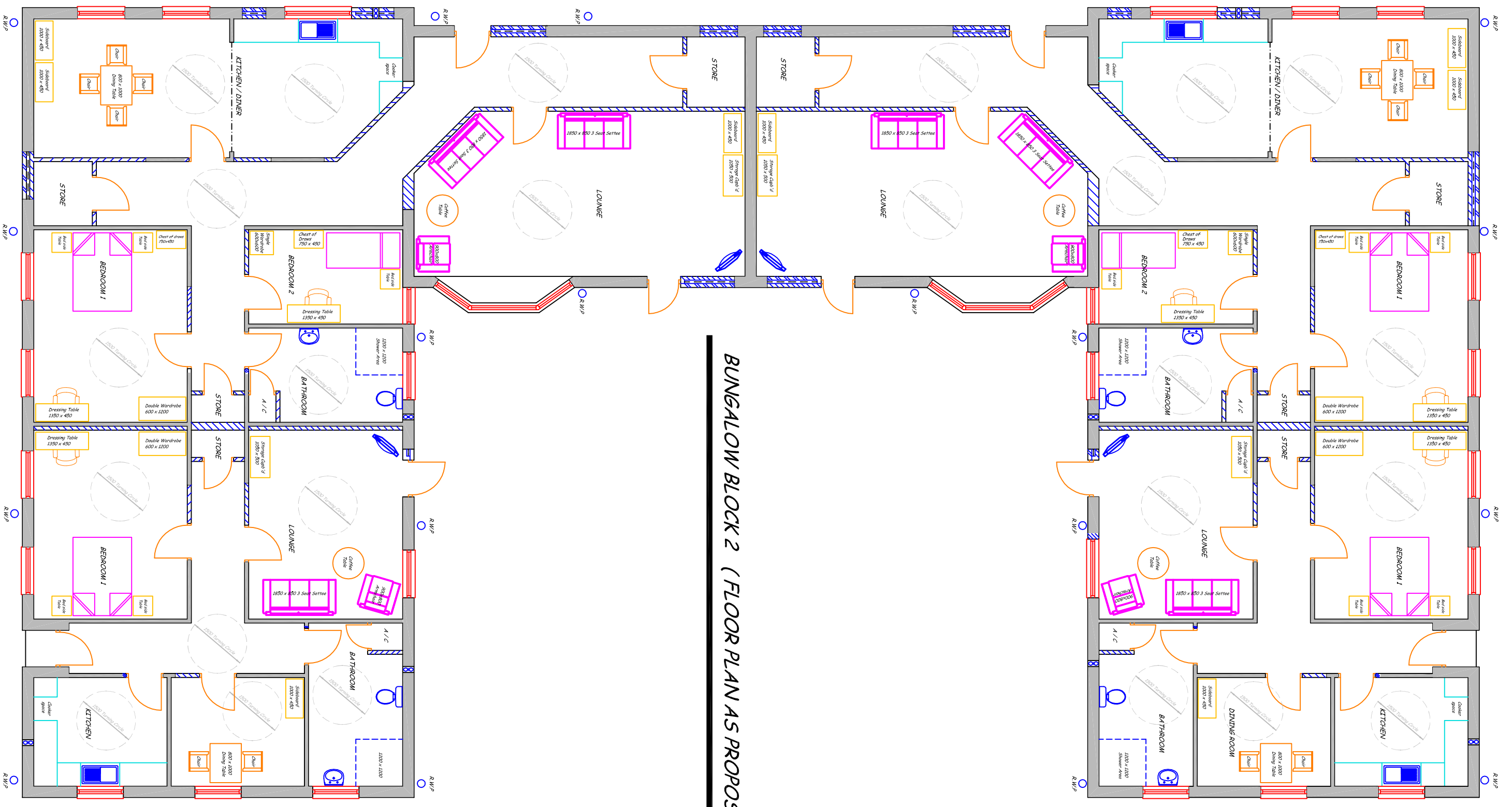
APARTMENT BLOCK (1st FLOOR PLAN AS PROPOSED)



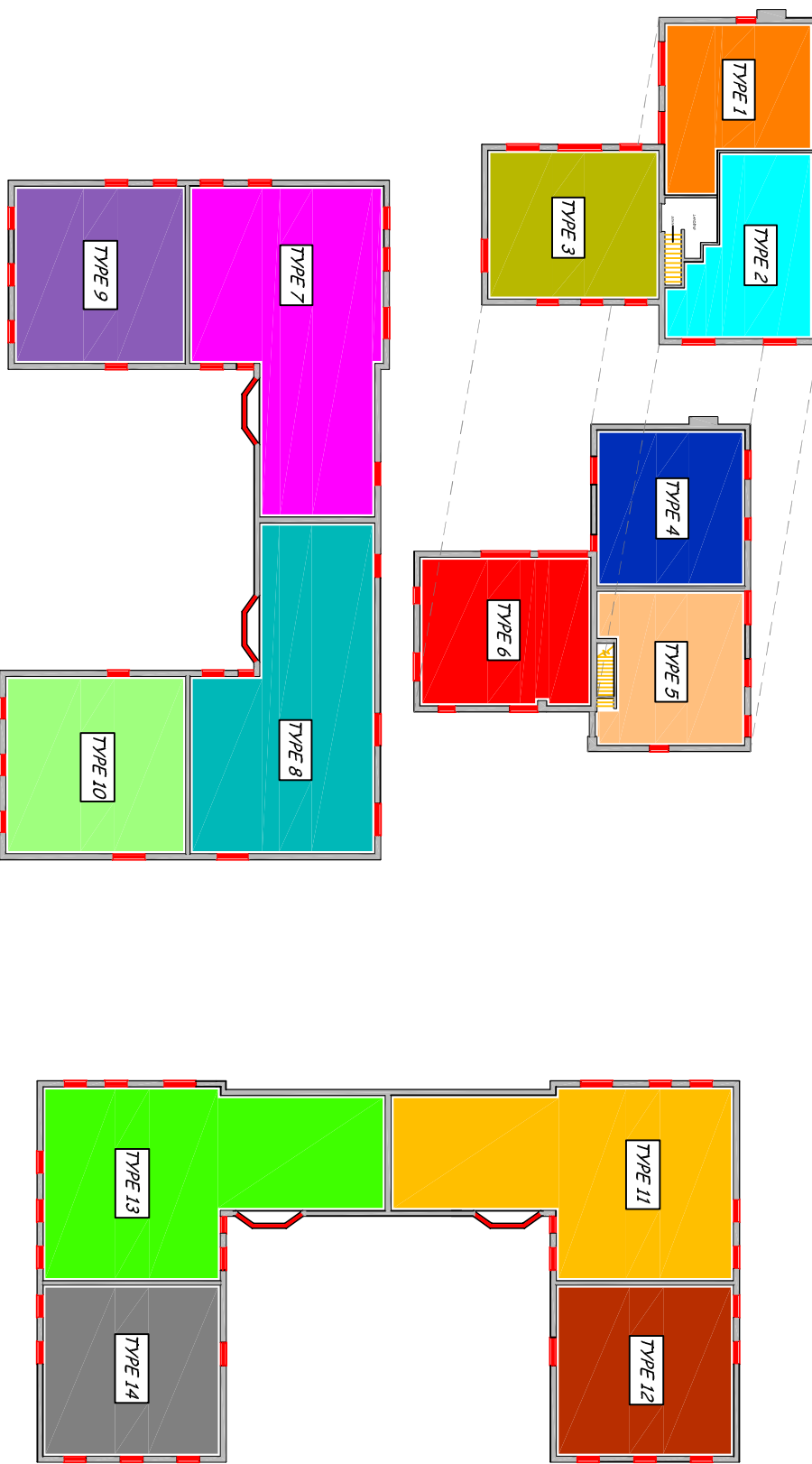
APARTMENT BLOCK (GROUND FLOOR PLAN AS PROPOSED)



BUNGALOW BLOCK 1 (FLOOR PLAN AS PROPOSED)



BUNGALOW BLOCK 2 (FLOOR PLAN AS PROPOSED)



PLAN INDICATING BUNGALOW TYPES (N.T.S)

**Dudley**  
Metropolitan Borough Council

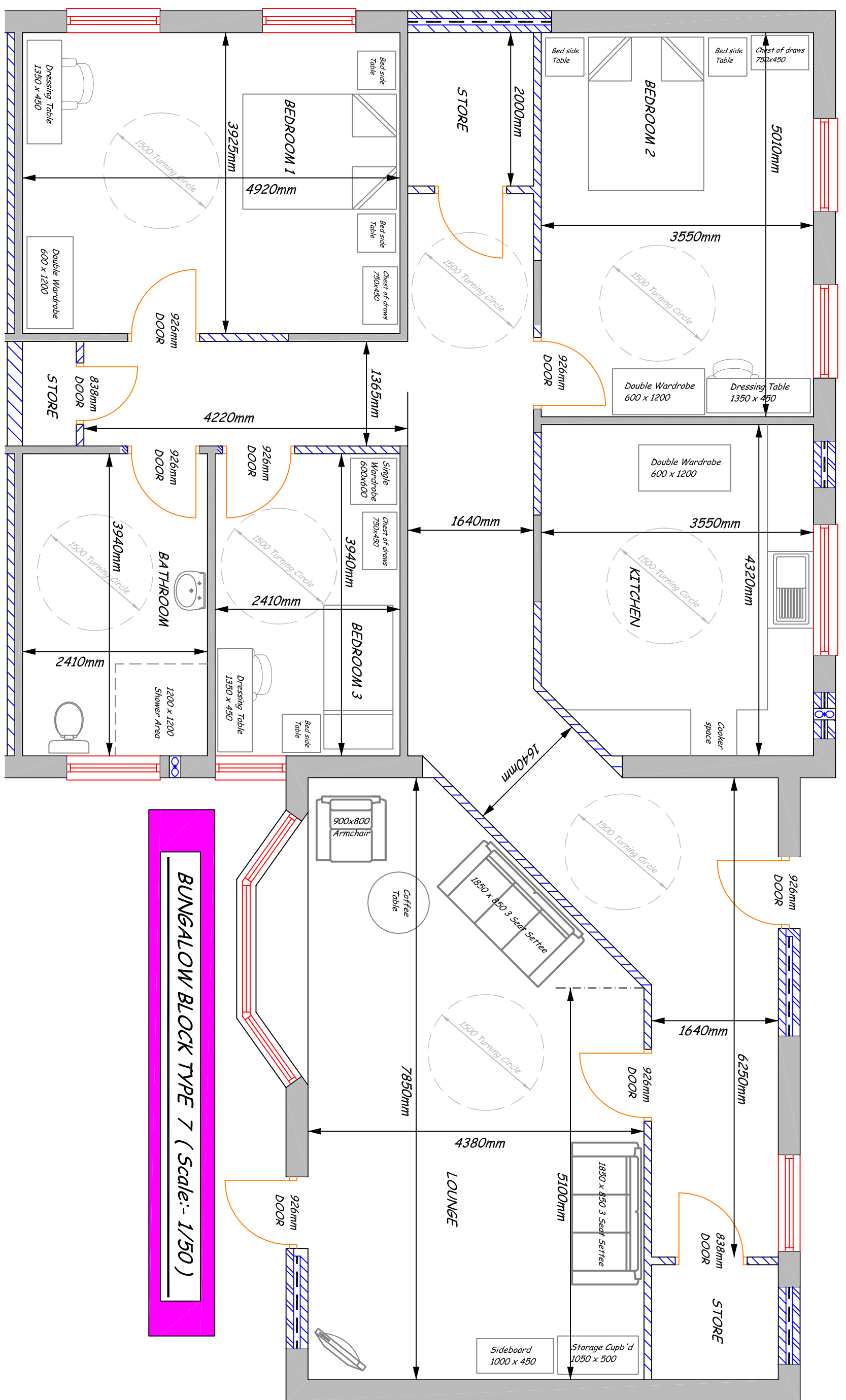
Minor Contracts Team  
Building Services, Adult & Community Housing  
Forge House  
Stourbridge Road  
Brierley Hill

Title: CONVERSION OF ARCAL LODGE  
CARE HOME INTO 14 No INDIVIDUAL  
DWELLINGS, ARCAL ST, SEDGLEY  
D/3 176  
FLOOR PLANS AS PROPOSED

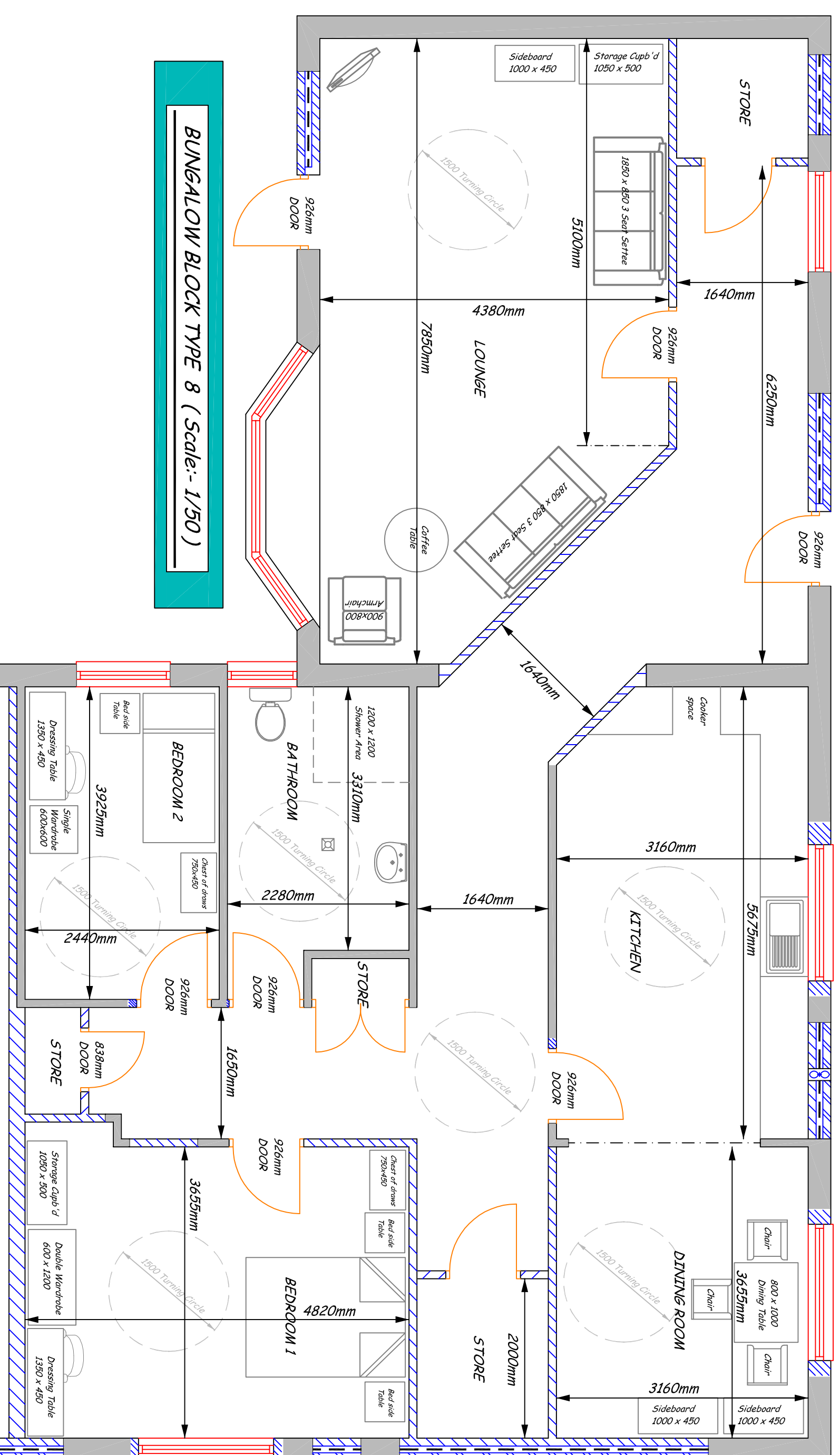
Date: NOV 14 Scale: 1 / 100 (A1)

By: R.H. Dwg No: NB/AL/P/06

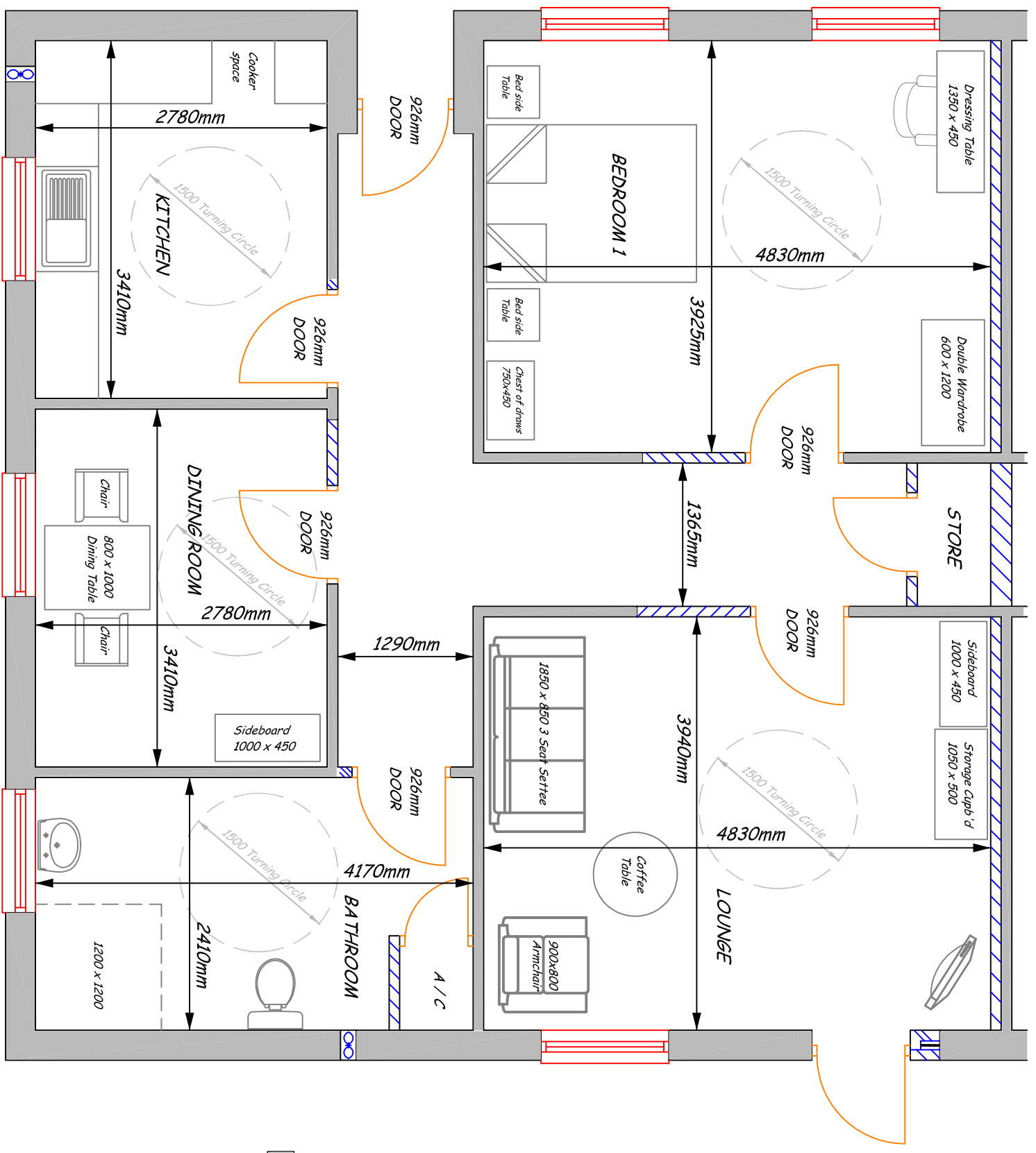




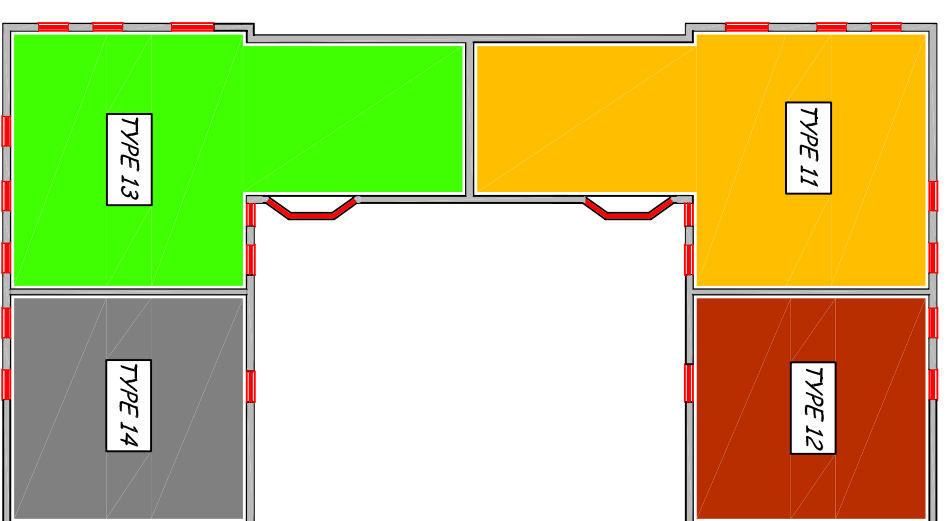
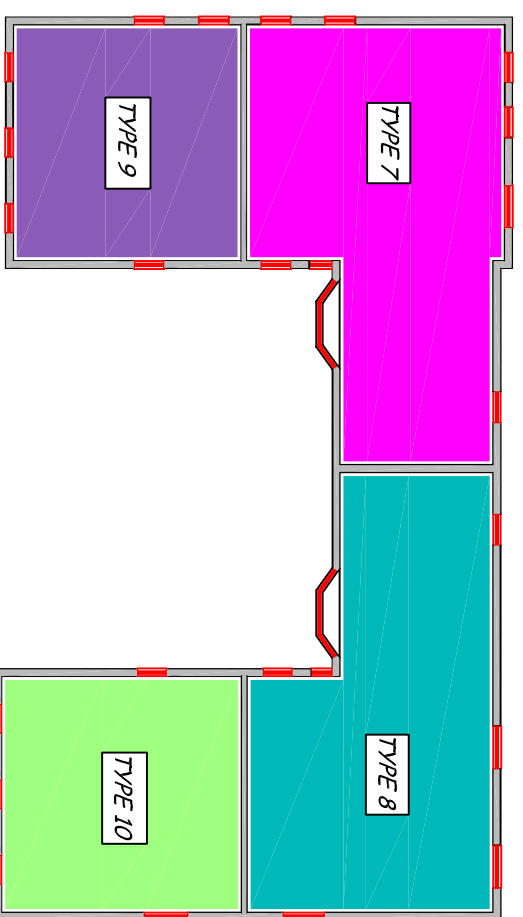
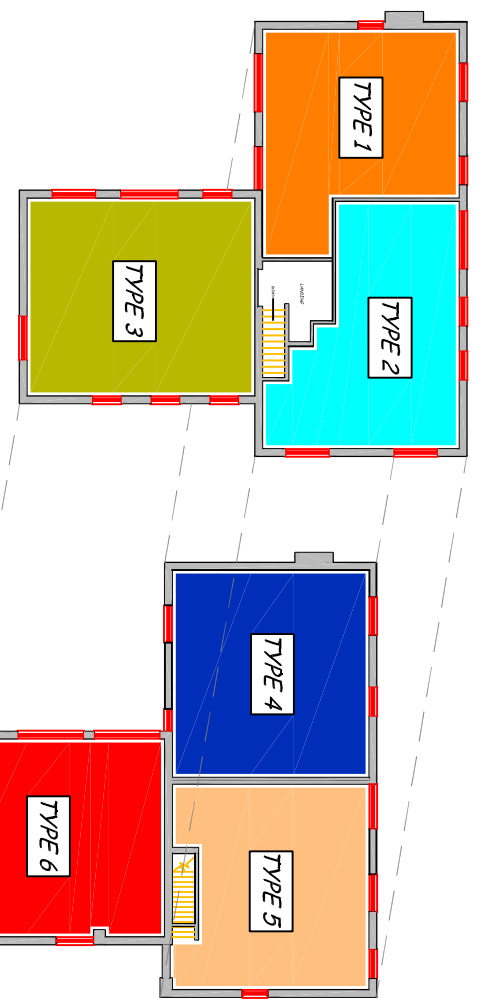
BUNGALOW BLOCK TYPE 7 (Scale:- 1/50)



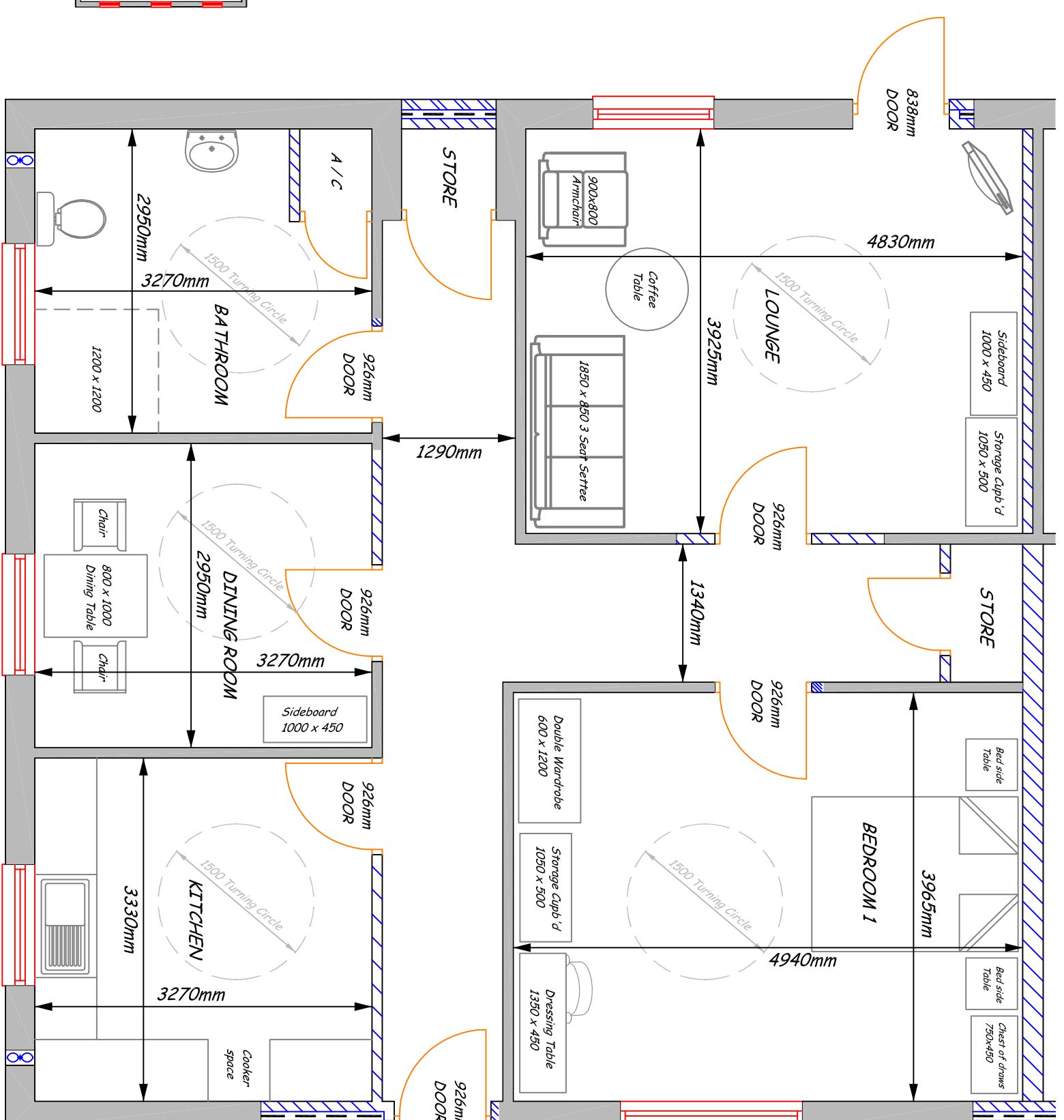
BUNGALOW BLOCK TYPE 8 (Scale:- 1/50)



BUNGALOW BLOCK TYPE 9 (Scale:- 1/50)



PLAN INDICATING BUNGALOW TYPES (N.T.S)



BUNGALOW BLOCK TYPE 10 (Scale:- 1/50)

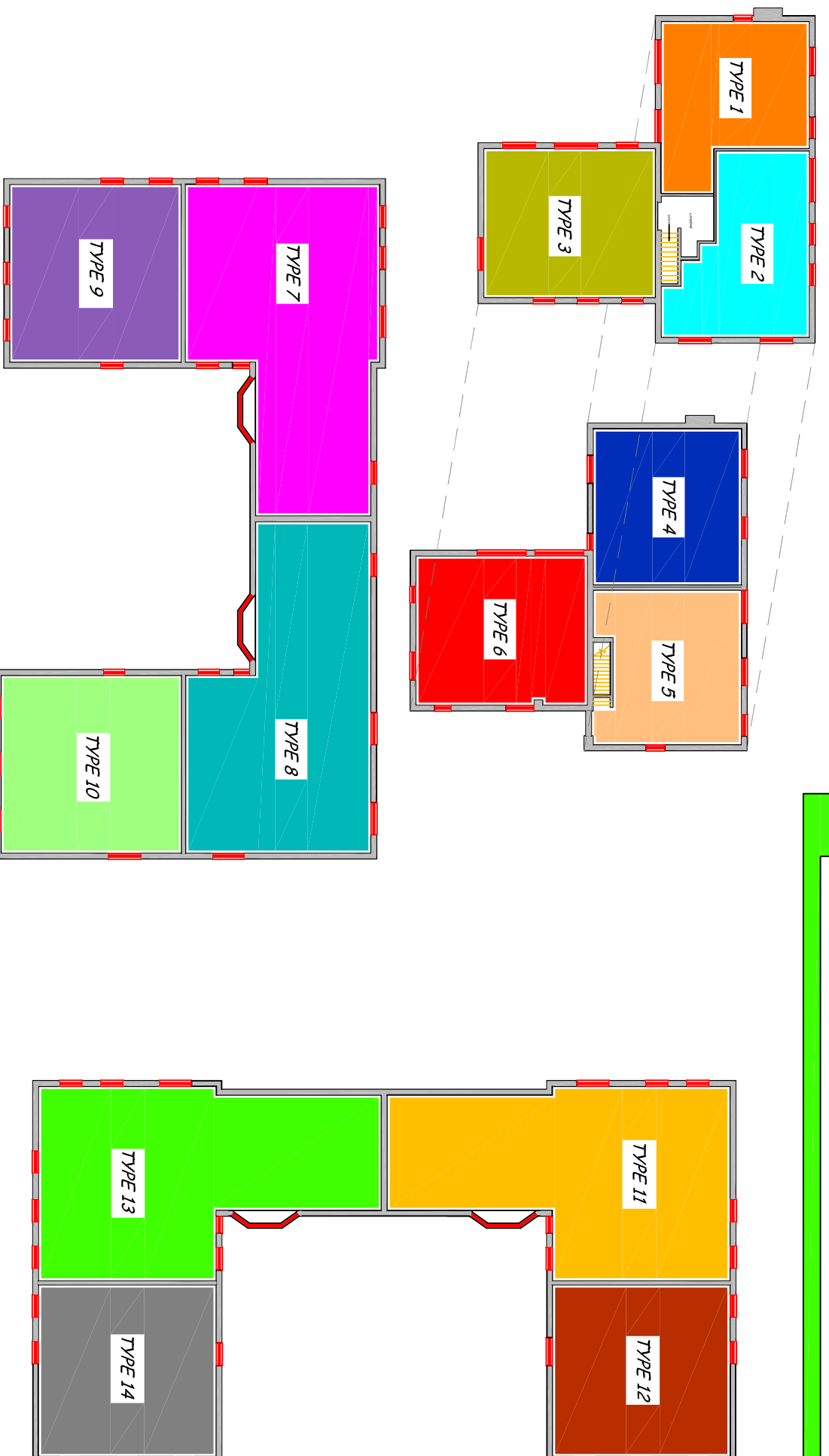
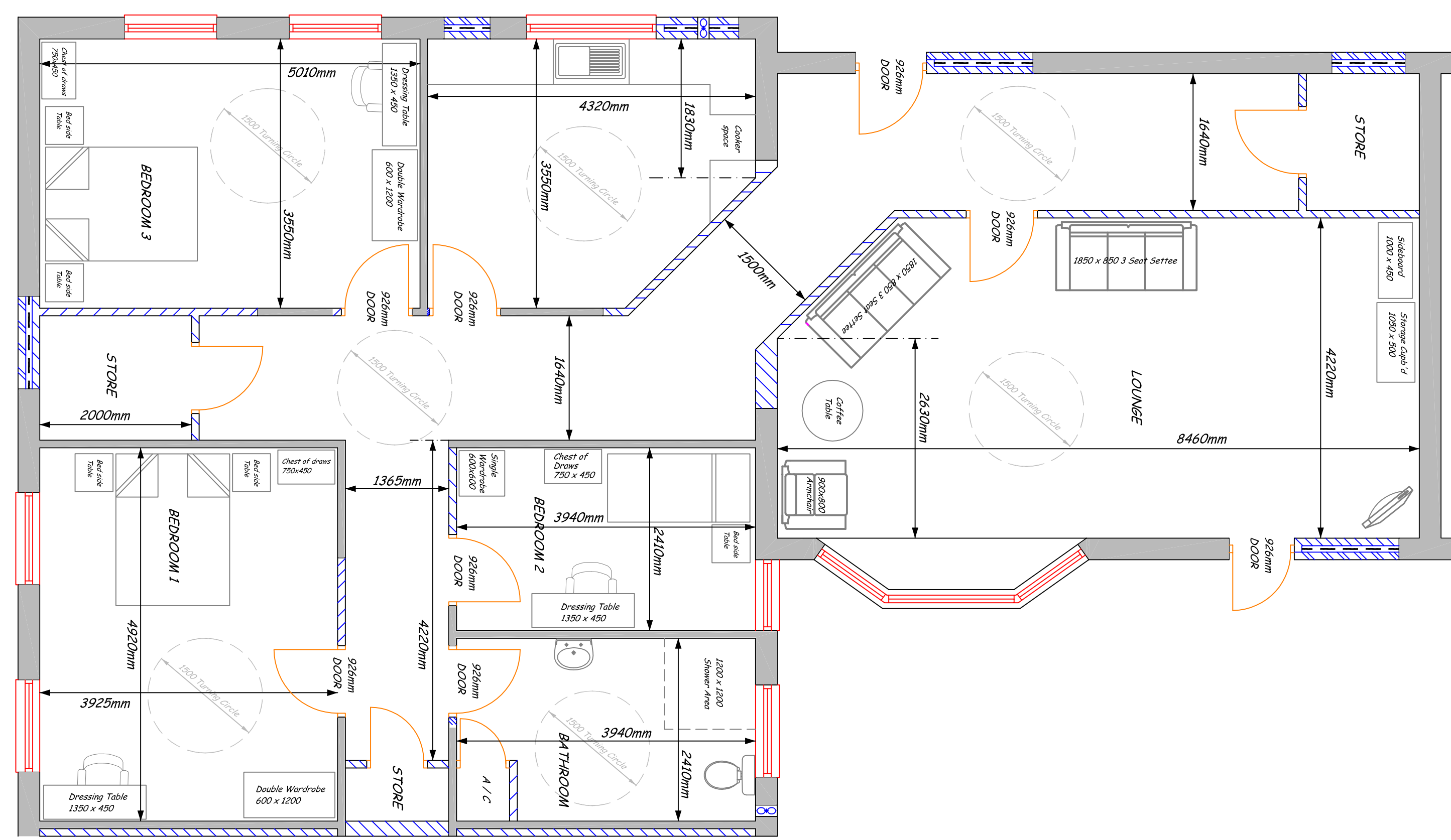
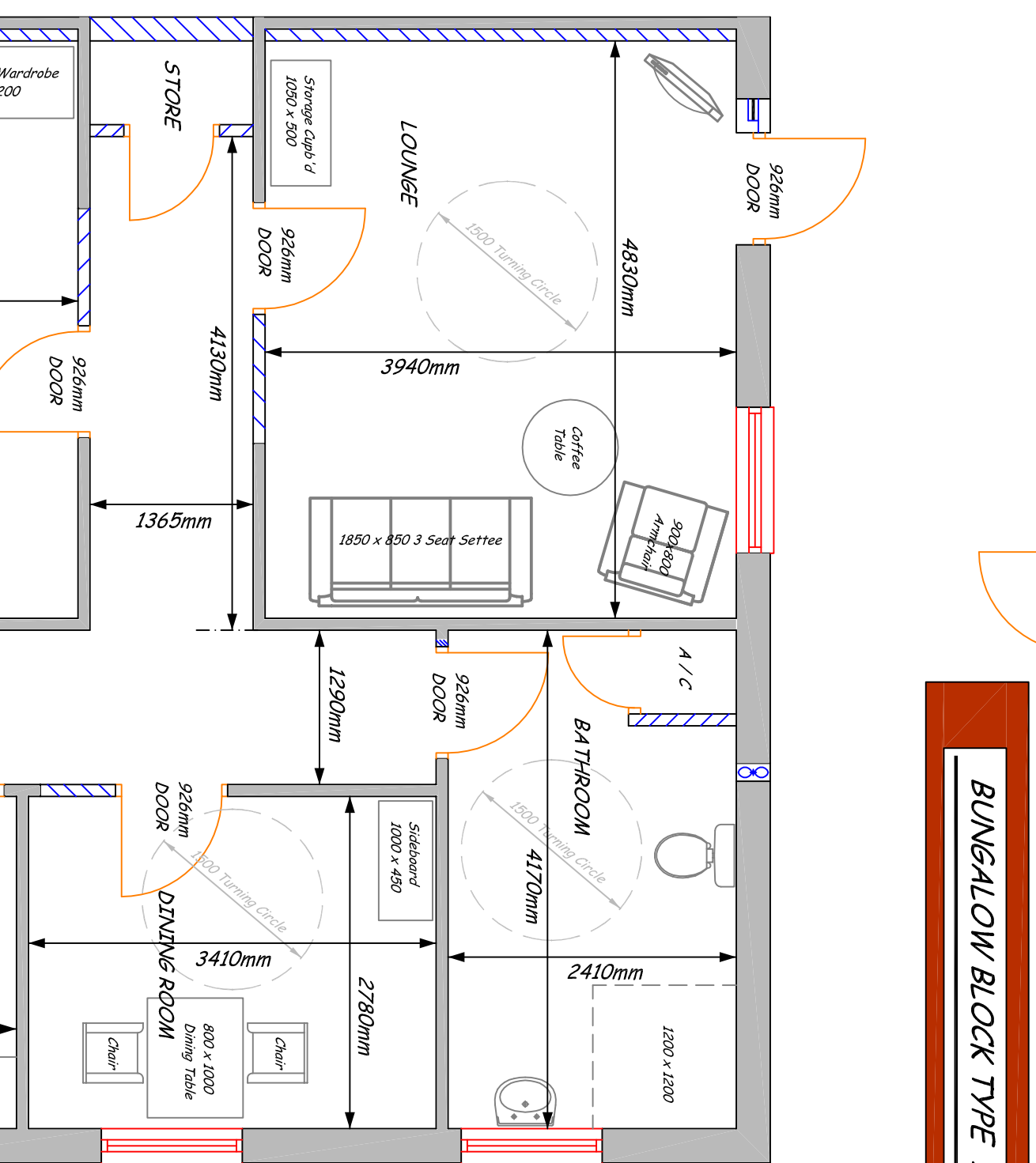
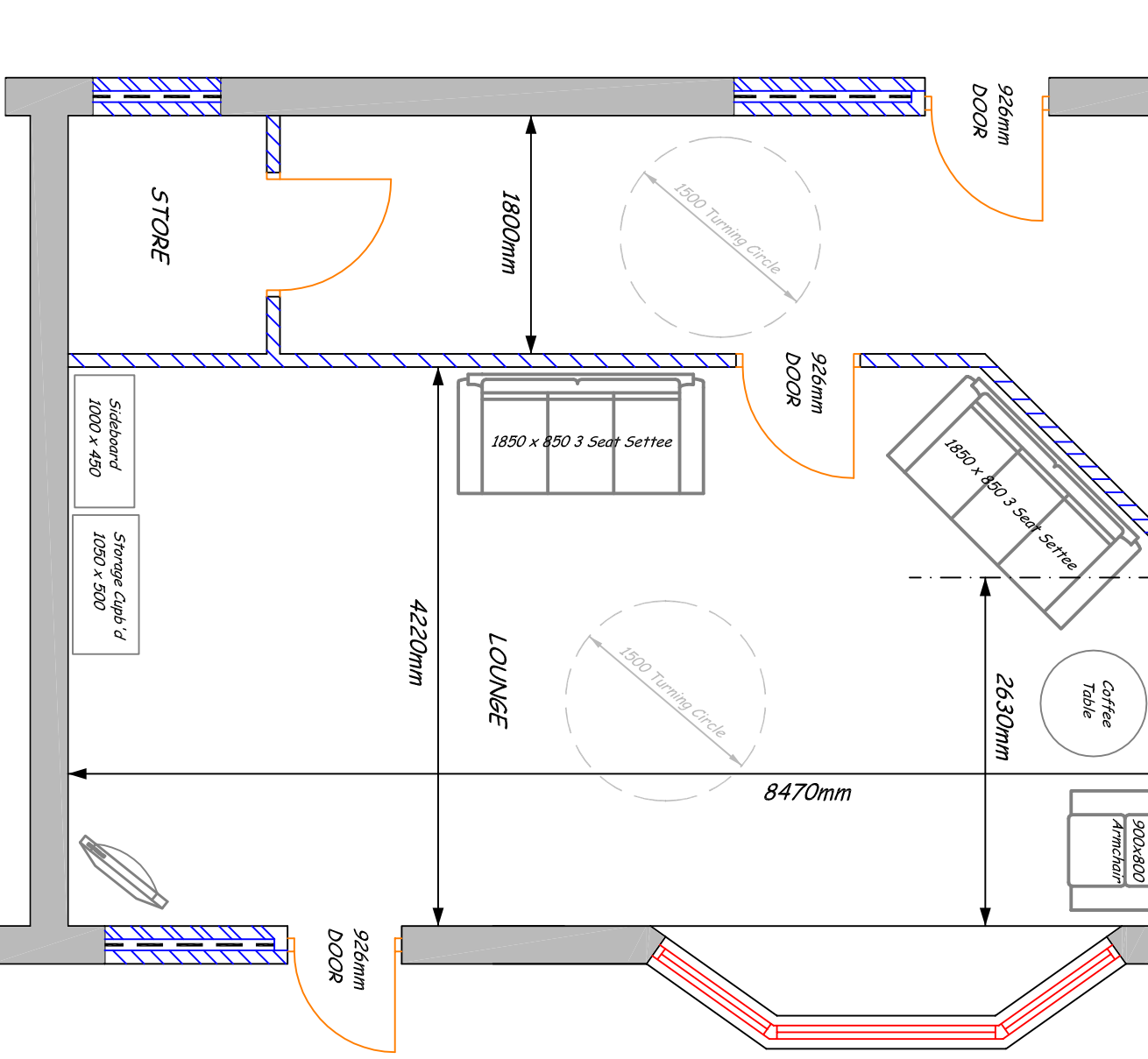
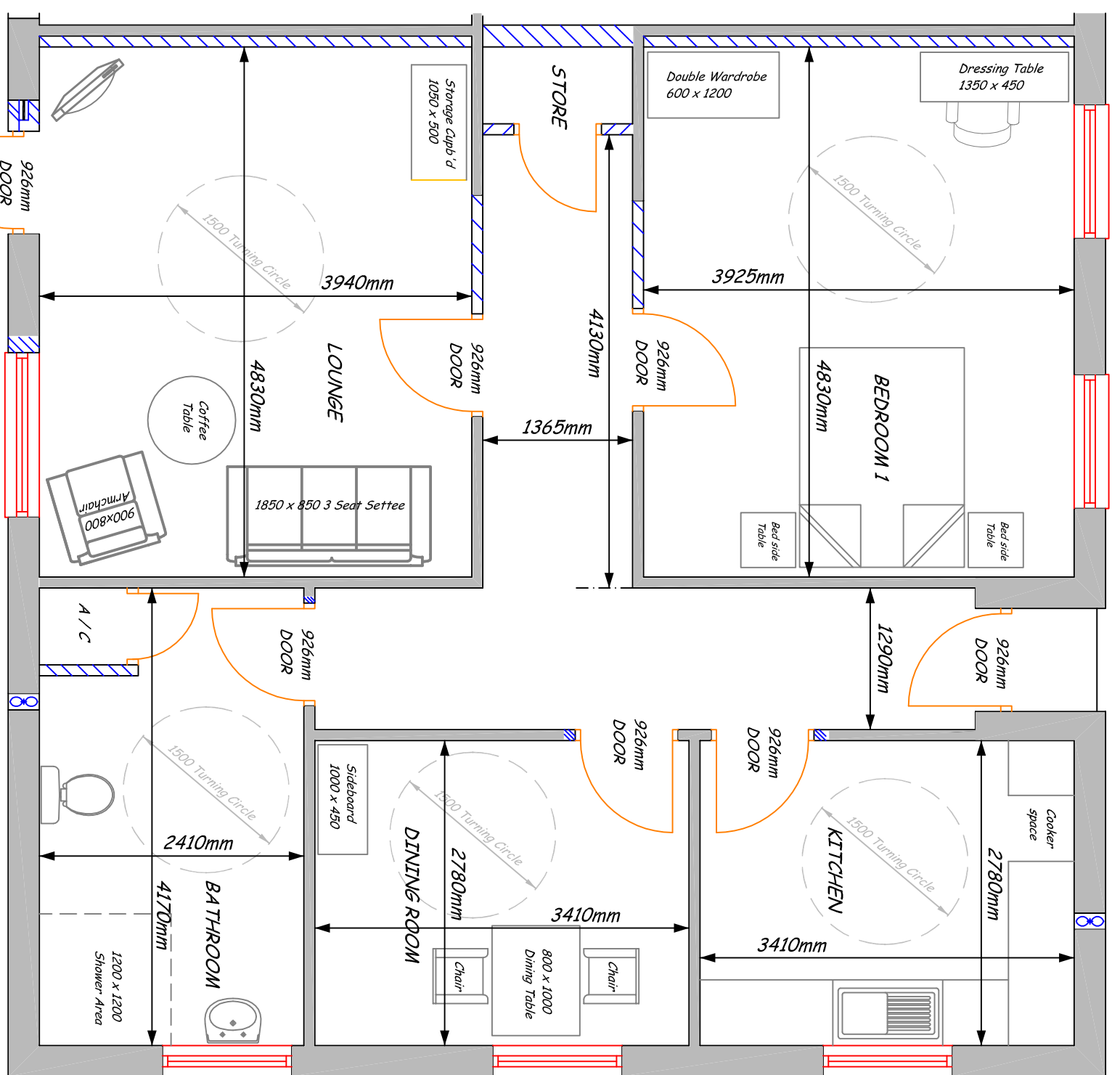
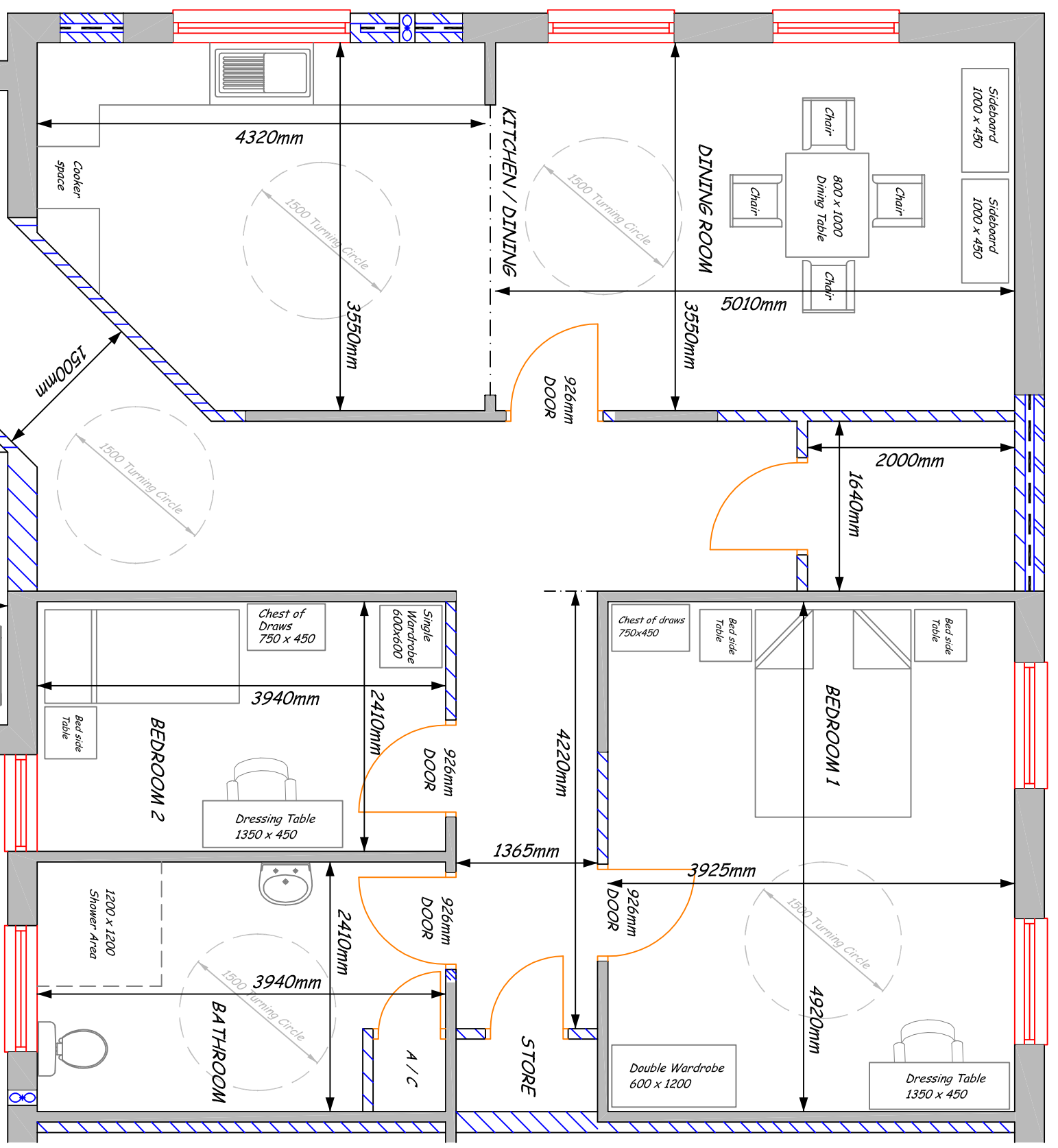
**Dudley**  
Metropolitan Borough Council

Minor Contracts Team  
Building Services: Adult & Community Housing  
Forge House  
Shoatbridge Road  
Brierley Hill

The CONVERSION OF ARCAL LODGE  
CARE HOME INTO 14 No INDIVIDUAL  
DWELLINGS, ARCAL ST, SEDGLEY  
DY3 1TG  
TYPES 7, 8, 9, & 10

Date: **NOV 14** Scale: **1/50 (A1)**  
By: **R.H** Dwg No: **NB/AL/PP/08**





PLAN INDICATING BUNGALOW TYPES (N.T.S.)

BUNGALOW BLOCK TYPE 11 (Scale: 1/50)

BUNGALOW BLOCK TYPE 14 (Scale: 1/50)

BUNGALOW BLOCK TYPE 12 (Scale: 1/50)

BUNGALOW BLOCK TYPE 13 (Scale: 1/50)



Minor Contracts Team  
Building Services, Adult & Community Housing  
Frog House  
Shoatbridge Road  
Brierley Hill

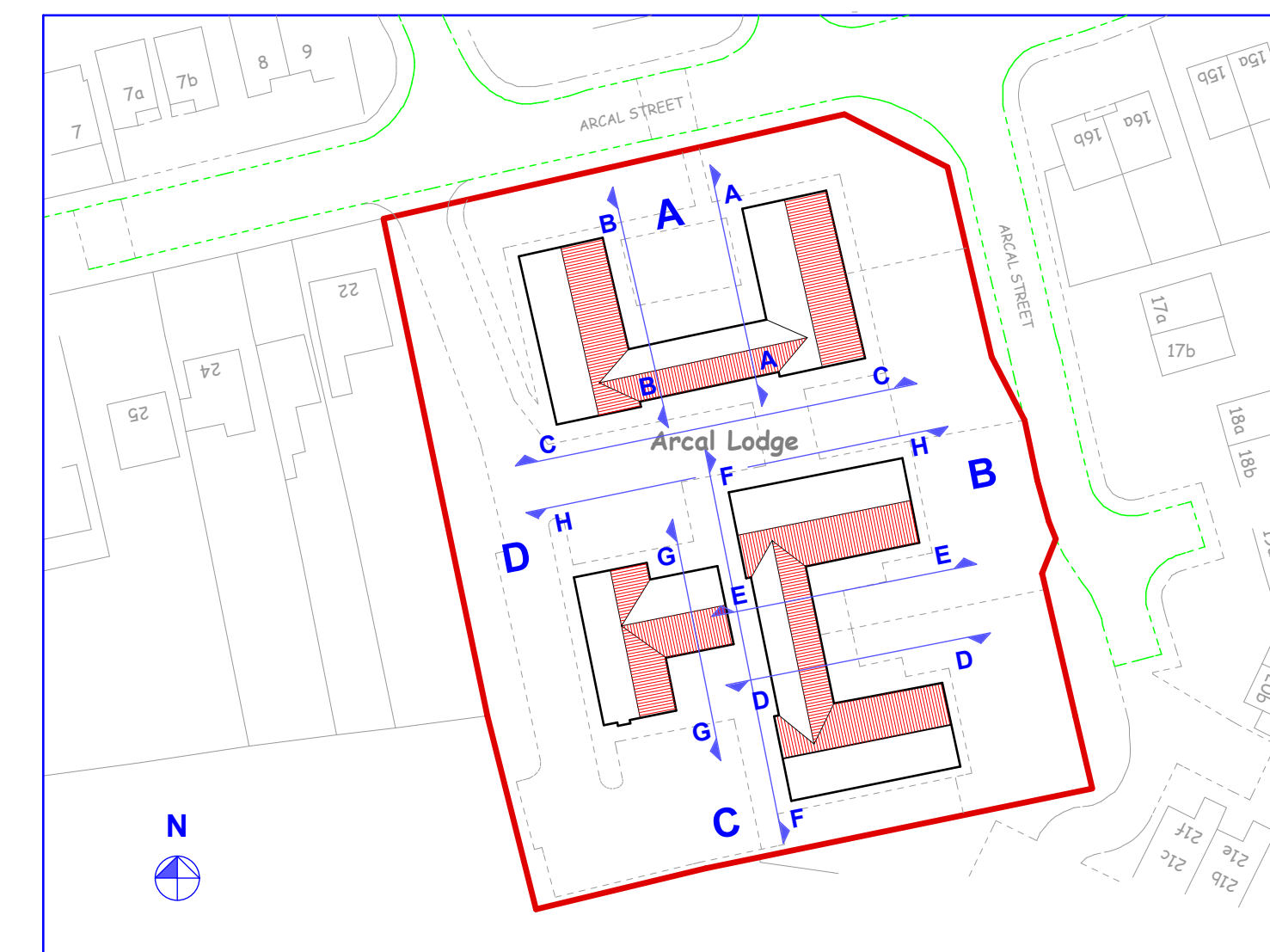
The CONVERSION OF ARCAL LODGE  
CARE HOME INTO 14 No INDIVIDUAL  
DWELLINGS, ARCAL ST, SEDGLEY  
DWS 1TG  
TYPES 11, 12, 13 & 14

Date: NOV 14  
Scale: 1/50 (A1)  
By: R.H  
Dwg No: NB/AL/1/P/09





**PROPOSED NORTH ELEVATION - [A]**



**PROPOSED SITE PLAN - (SCALE 1:750)**



**PROPOSED EAST ELEVATION - [B]**



**PROPOSED SOUTH ELEVATION - [C]**



**EXTERNAL FINISHES:-**

EXTERNAL FACING BRICKWORK AS EXISTING.

EXISTING BRICKWORK PREVIOUSLY INTERNAL TO BE EXTERNALLY FINISHED IN TRADITIONAL BRICK SLIP CLADDING SYSTEM; BRICK SLIP FINISH, TEXTURE & COLOUR TO MATCH EXISTING; BEDDED IN ADHESIVE MORTAR AND POINTED USING A COLOURED POLYMER POINTING MORTAR; COLOUR TO MATCH EXISTING.

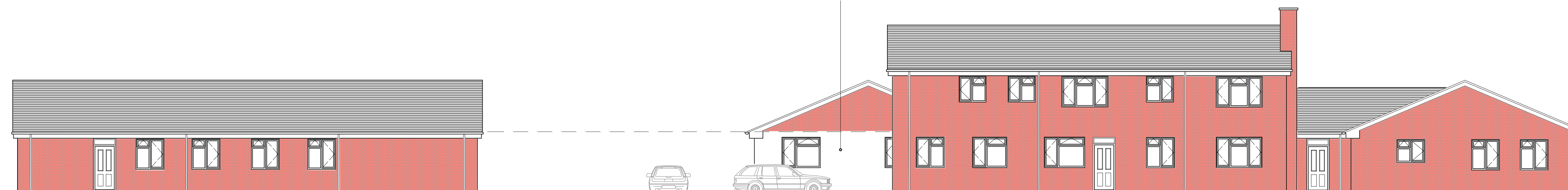
ROOF TILING - AS EXISTING

NEW PVCu FASCIAS & SOFFITS; COLOUR - WHITE  
NEW PVCu H/R GUTTER & R.W.PIPES; COLOUR - BLACK.

NEW PVCu WINDOWS; TO GIVE TYPICAL 'U' VALUE OF 1.4 W/m2K; MINIMUM ENERGY RATING B.  
ALL WINDOWS TO MEET LATEST SECURED BY DESIGN STANDARDS.  
FRAME COLOUR - WHITE

EXTERNAL DOORS; GRP FACED COMPOSITE DOORSETS TO HAVE A TYPICAL 'U' VALUE OF 1.4 W/m2K;  
MINIMUM ENERGY RATING D; COMPLY WITH LATEST SECURED BY DESIGN STANDARDS.  
DOORS TO HAVE MINIMUM EFFECTIVE CLEAR OPENING WIDTH OF 800MM AND MAXIMUM 15MM HIGH THRESHOLD IN ACCORDANCE WITH LIFETIME HOMES CRITERIA.  
PVCu FRAMES; COLOUR - WHITE  
DOOR LEAF; COLOURED AS STANDARD COLOUR RANGE.

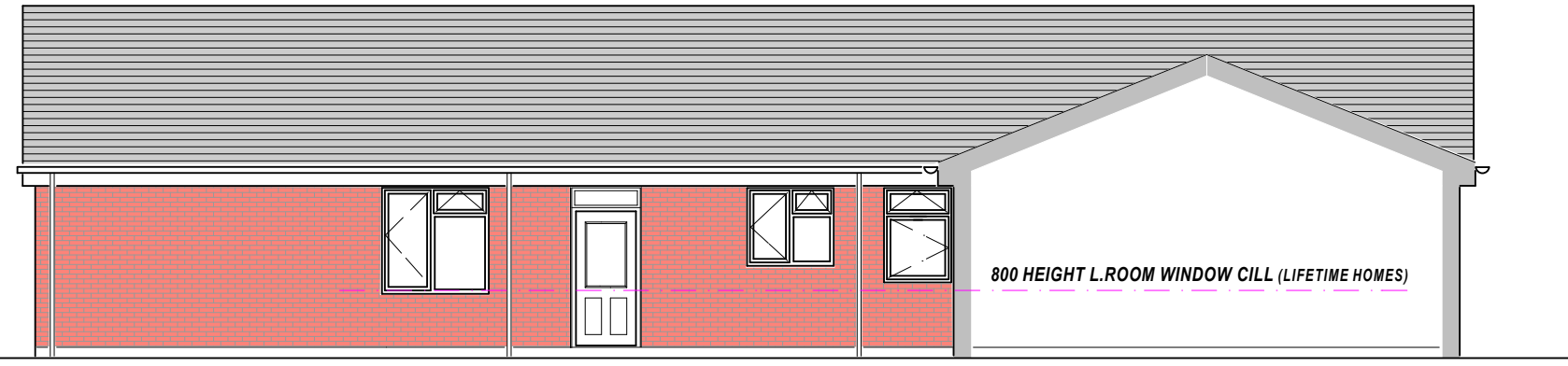
EXTERNAL WALL AREA TO BE MADE GOOD; TO MATCH EXISTING FOLLOWING FLAT ROOF LINK BUILDING DEMOLITION; SEE NOTES



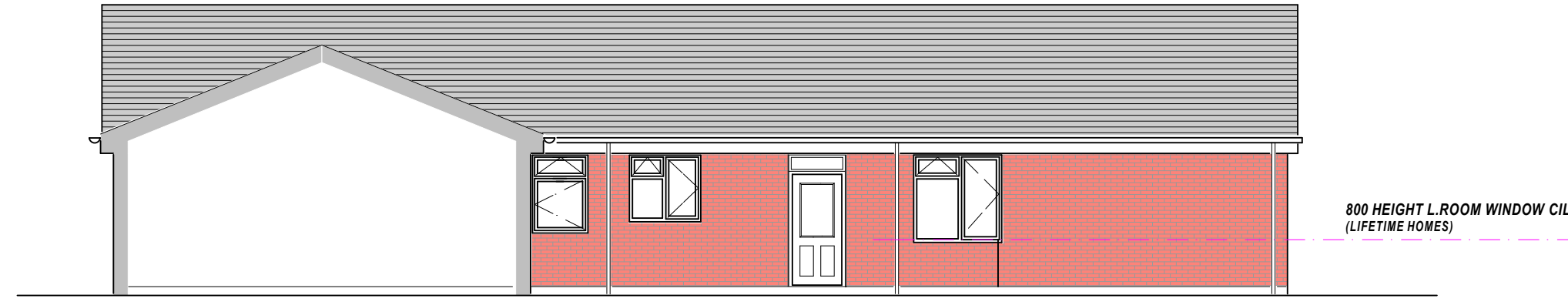
**PROPOSED WEST ELEVATION - [D]**

Revision.		
Rev. B	ELEVATIONS REVISED TO MATCH PLAN LAYOUTS	
Rev. A	EXTERNAL FINISHES ADDED	
<b>Dudley</b> Metropolitan Borough Council		
MINOR WORKS TEAM BUILDING SERVICES ADULT COMMUNITY & HOUSING SERVICES FORGE HOUSE, STOURBRIDGE ROAD, BRIZERLEY HILL, DY5 1LD		
Title <b>CONVERSION OF ARCAL LODGE CARE HOME INTO 14 No INDIVIDUAL DWELLINGS, ARCAL ST, SEDGLEY, DY3 1TG.</b>		
<b>PROPOSED ELEVATIONS (1).</b>		
Date: SEPT 2014	Scale: 1:100	Plot Size: A1
By: A.O.	Drg.No: NB/AL/P/ 03	<b>B</b>

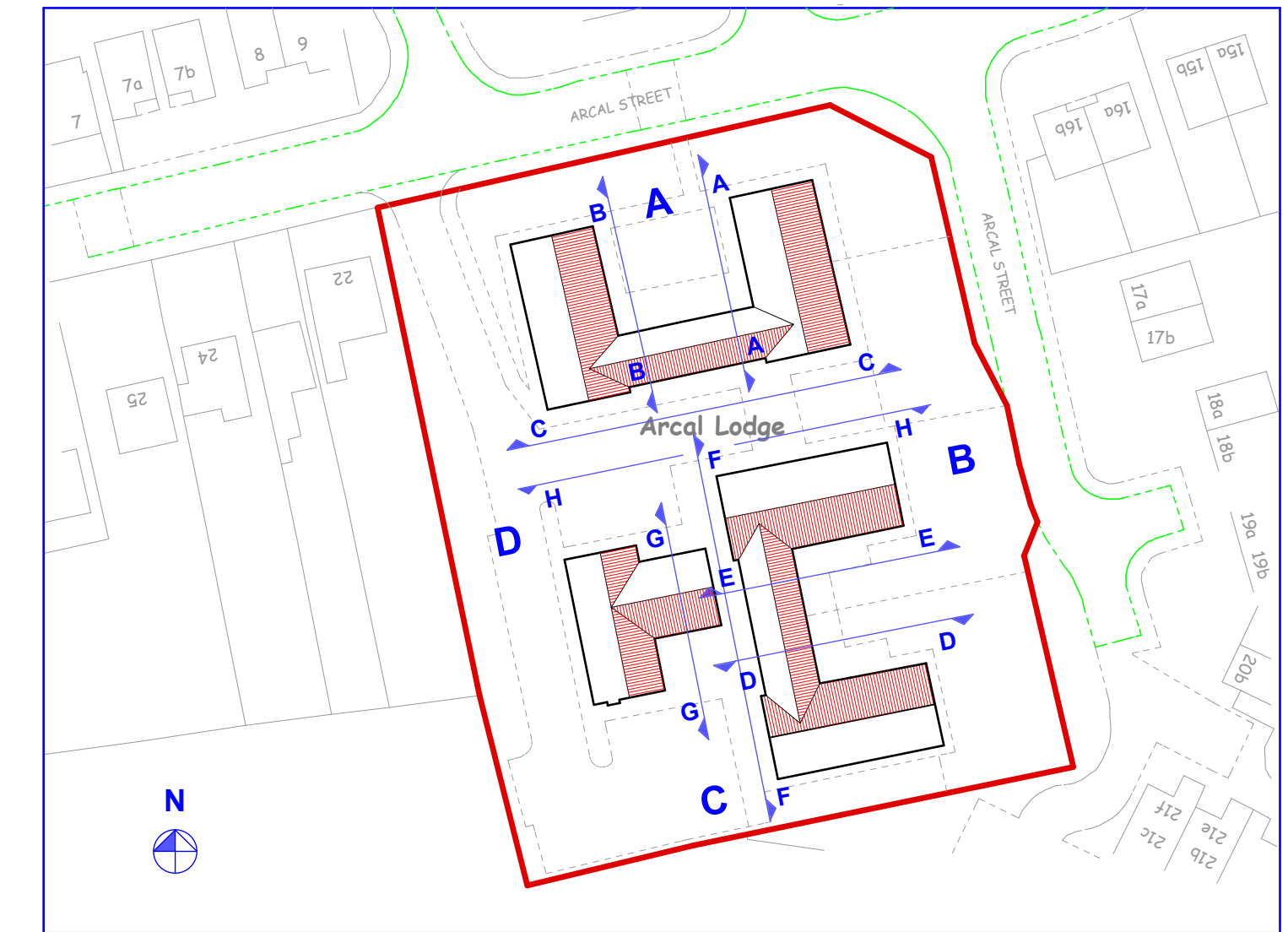




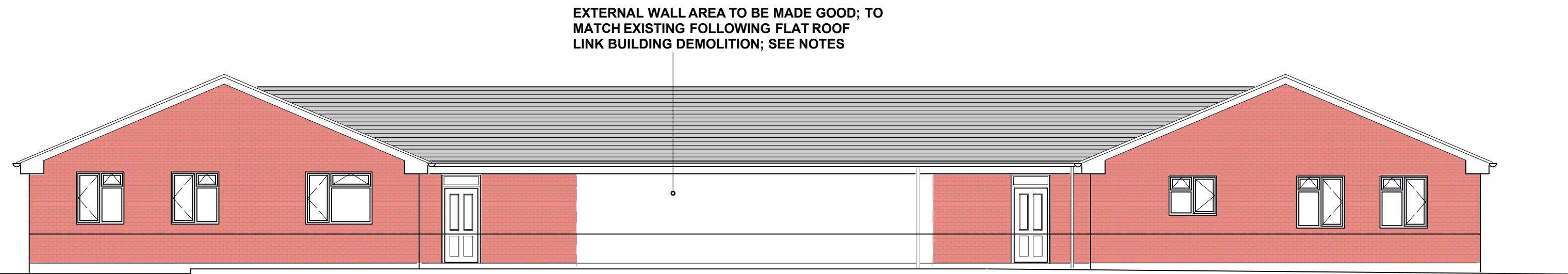
**PROPOSED ELEVATION ON A-A**



**PROPOSED ELEVATION ON B-B**



**PROPOSED SITE PLAN - (SCALE 1:750)**



**PROPOSED ELEVATION ON C-C**

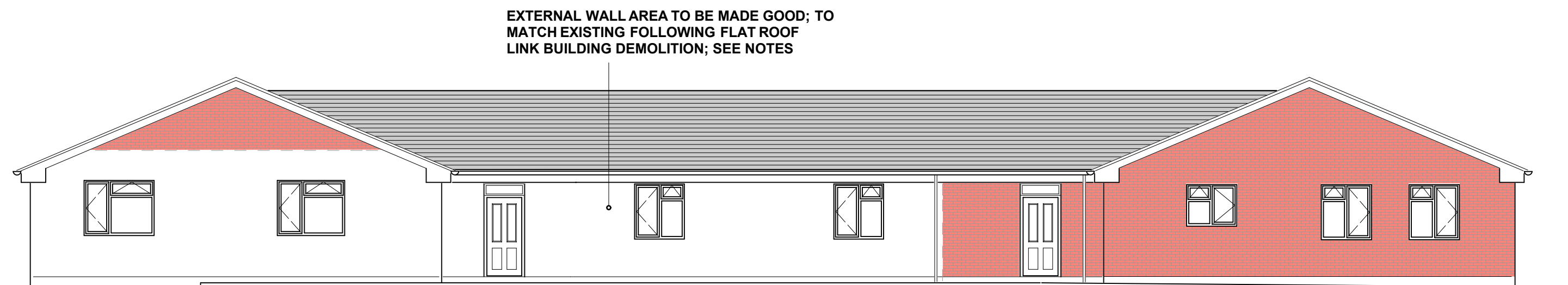
EXTERNAL WALL AREA TO BE MADE GOOD; TO MATCH EXISTING FOLLOWING FLAT ROOF LINK BUILDING DEMOLITION; SEE NOTES



**PROPOSED ELEVATION ON D-D**



**PROPOSED ELEVATION ON E-E**



**PROPOSED ELEVATION ON F-F**

EXTERNAL WALL AREA TO BE MADE GOOD; TO MATCH EXISTING FOLLOWING FLAT ROOF LINK BUILDING DEMOLITION; SEE NOTES

**EXTERNAL FINISHES:-**

EXTERNAL FACING BRICKWORK AS EXISTING.

EXISTING BRICKWORK PREVIOUSLY INTERNAL TO BE EXTERNALLY FINISHED IN TRADITIONAL BRICK SLIP CLADDING SYSTEM; BRICK SLIP FINISH, TEXTURE & COLOUR TO MATCH EXISTING; BEDDED IN ADHESIVE MORTAR AND POINTED USING A COLOURED POLYMER POINTING MORTAR; COLOUR TO MATCH EXISTING.

ROOF TILING - AS EXISTING

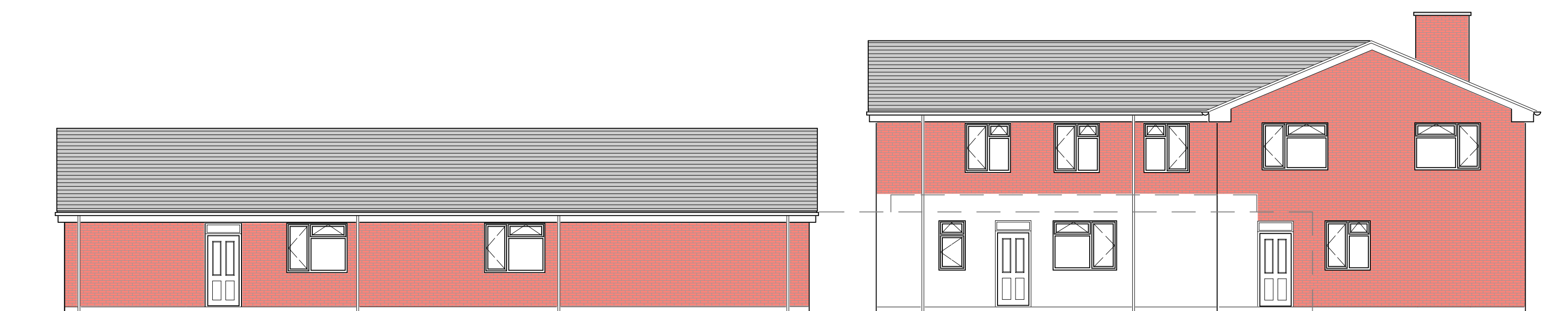
NEW PVCu FASCIAS & SOFFITS; COLOUR - WHITE  
NEW PVCu H/R GUTTER & R.W.PIPES; COLOUR - BLACK.

NEW PVCu WINDOWS; TO GIVE TYPICAL 'U' VALUE OF 1.4 W/m2K; MINIMUM ENERGY RATING B. ALL WINDOWS TO MEET LATEST SECURED BY DESIGN STANDARDS. FRAME COLOUR - WHITE

EXTERNAL DOORS: GRP FACED COMPOSITE DOORSETS TO HAVE A TYPICAL 'U' VALUE OF 1.4 W/m2K; MINIMUM ENERGY RATING D; COMPLY WITH LATEST SECURED BY DESIGN STANDARDS. DOORS TO HAVE MINIMUM EFFECTIVE CLEAR OPENING WIDTH OF 800MM AND MAXIMUM 15MM HIGH THRESHOLD IN ACCORDANCE WITH LIFETIME HOMES CRITERIA. PVCu FRAMES; COLOUR - WHITE  
DOOR LEAF; COLOURED AS STANDARD COLOUR RANGE.



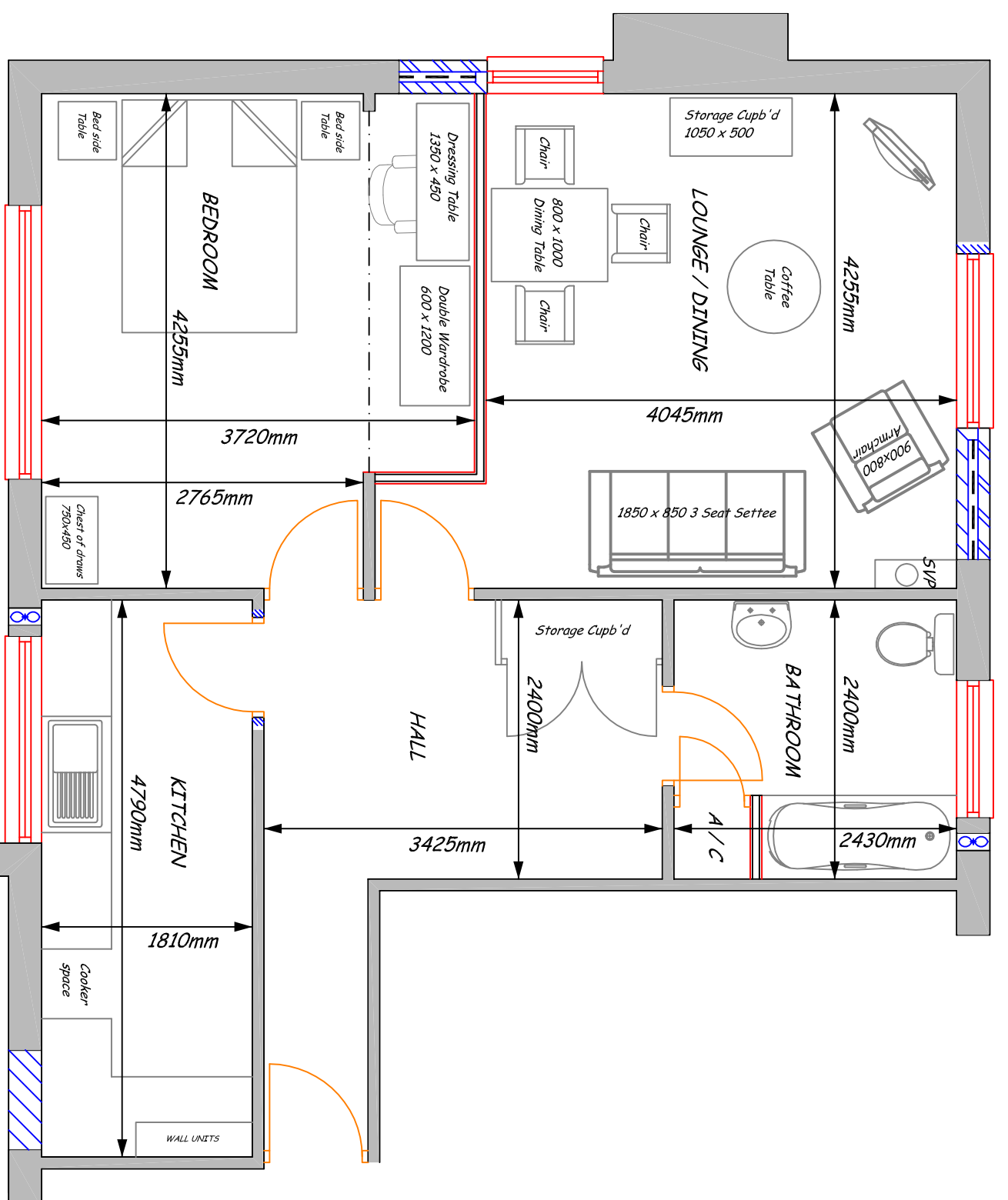
**PROPOSED ELEVATION ON G-G**



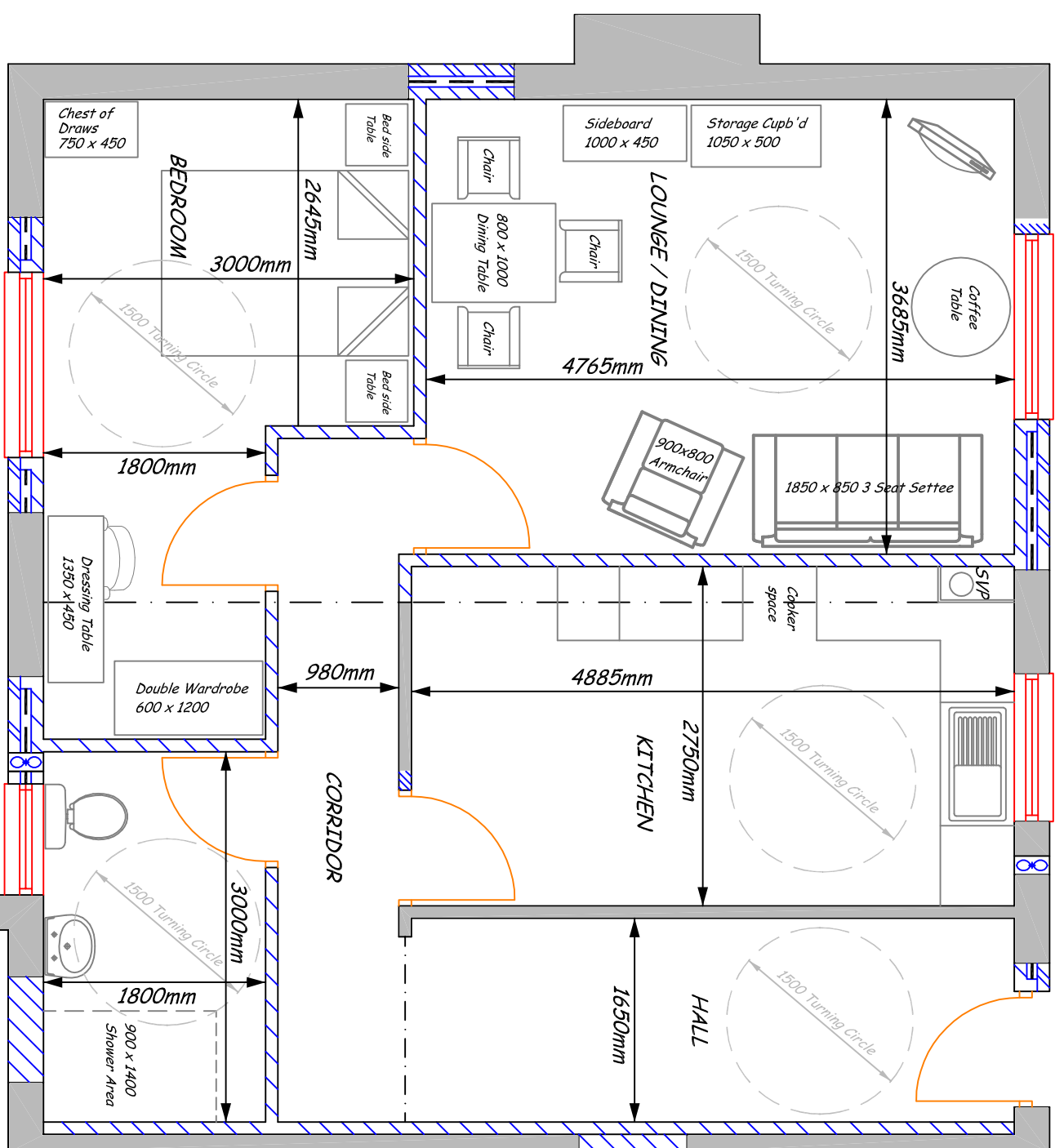
**PROPOSED ELEVATION ON H-H**

Revision.		
Rev. B	ELEVATIONS REVISED TO MATCH PLAN LAYOUTS	
Rev. A	EXTERNAL FINISHES ADDED	
<b>Dudley</b> Metropolitan Borough Council		
MINOR WORKS TEAM BUILDING SERVICES ADULT COMMUNITY & HOUSING SERVICES FORGE HOUSE, STOURBRIDGE ROAD, BRIZERLEY HILL, DY5 1LD		
Title		
CONVERSION OF ARCAL LODGE CARE HOME INTO 14 No INDIVIDUAL DWELLINGS, ARCAL ST. SEDGLEY, DY3 1TG.		
PROPOSED ELEVATIONS (2).		
Date: 5EPT 2014	Scale: 1:100	Plot Size: A1
By: A.O.	Drg.No: NB/AL/P/ 04	B

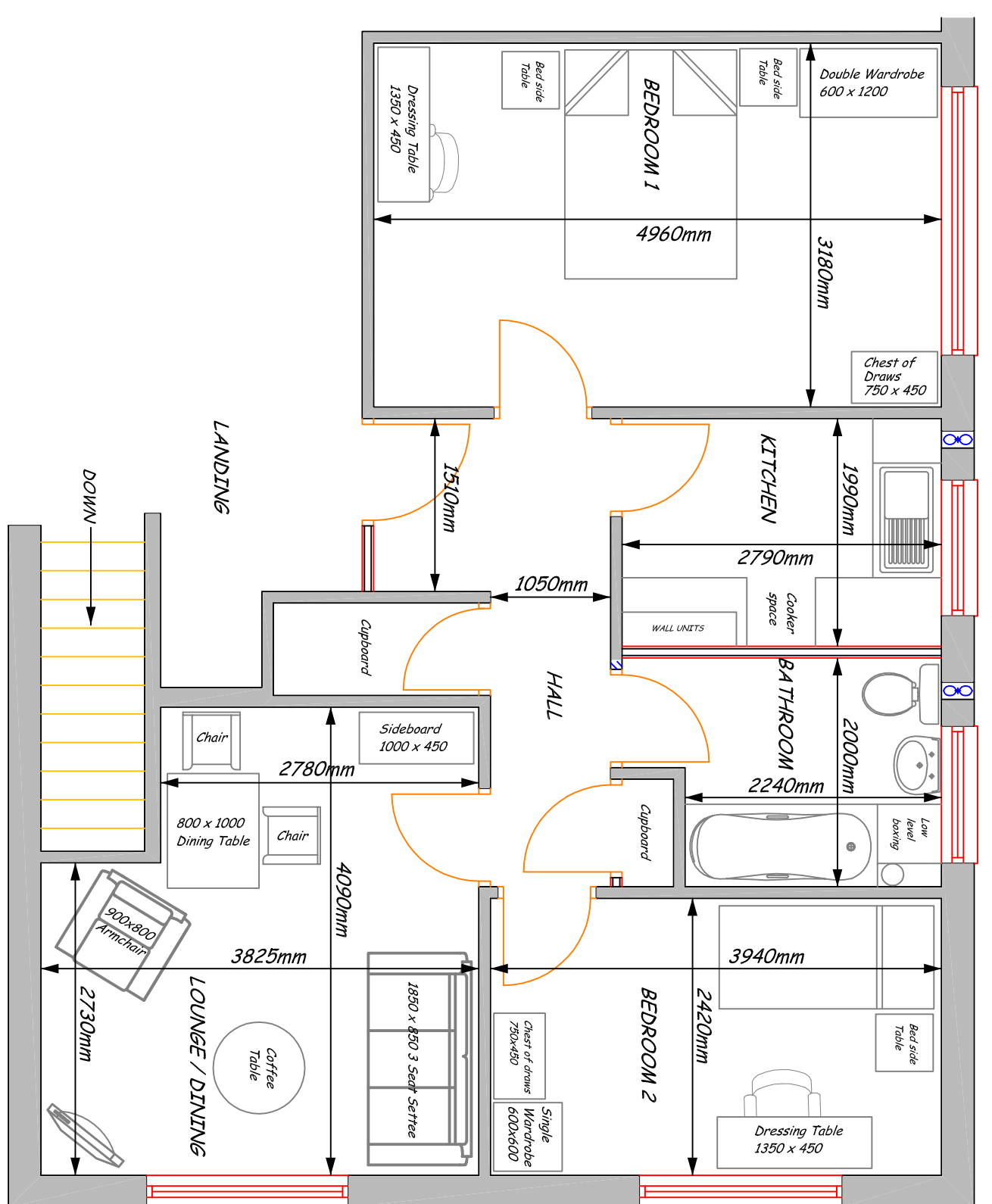




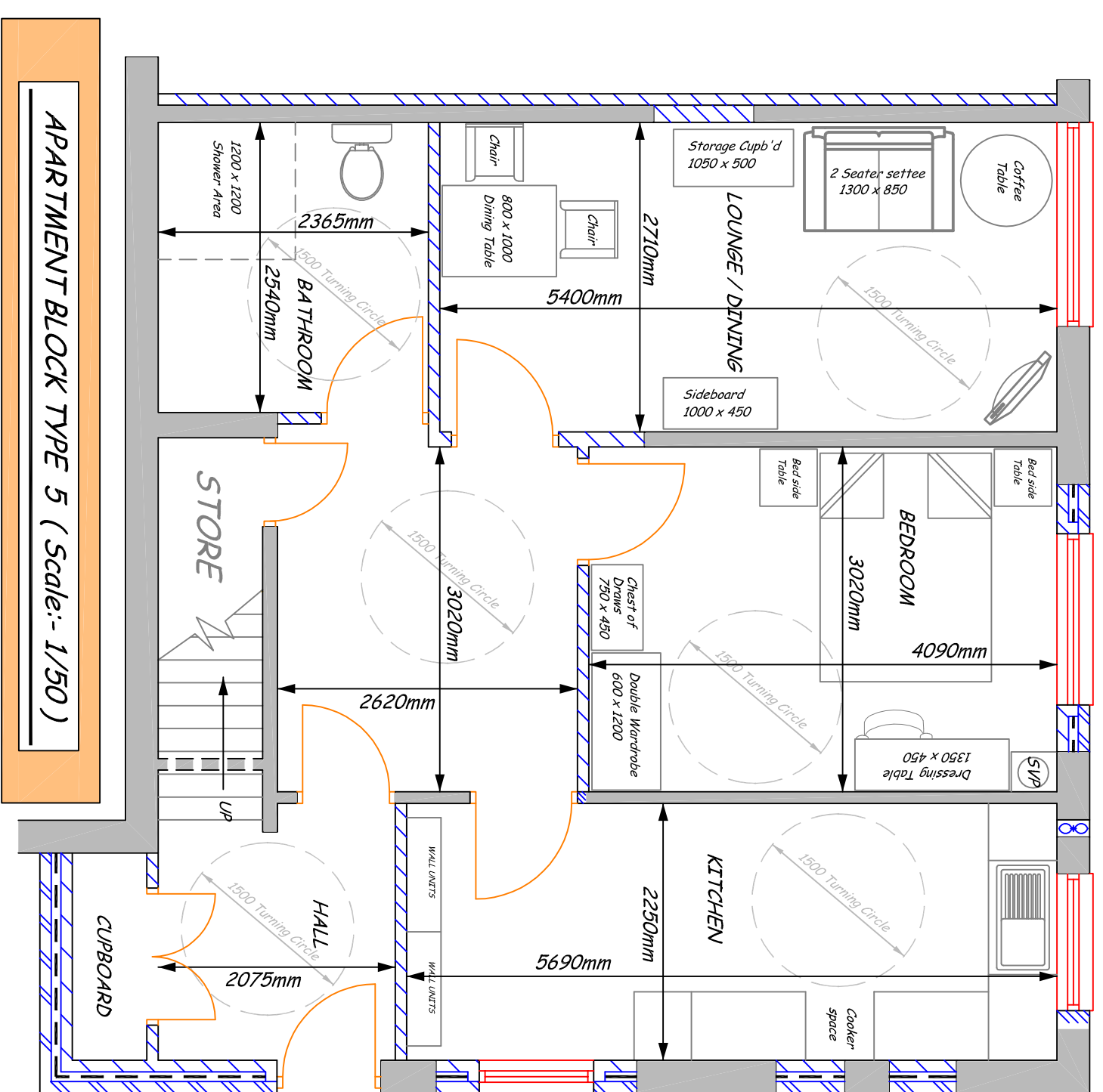
APARTMENT BLOCK TYPE 1 (Scale: 1/50)



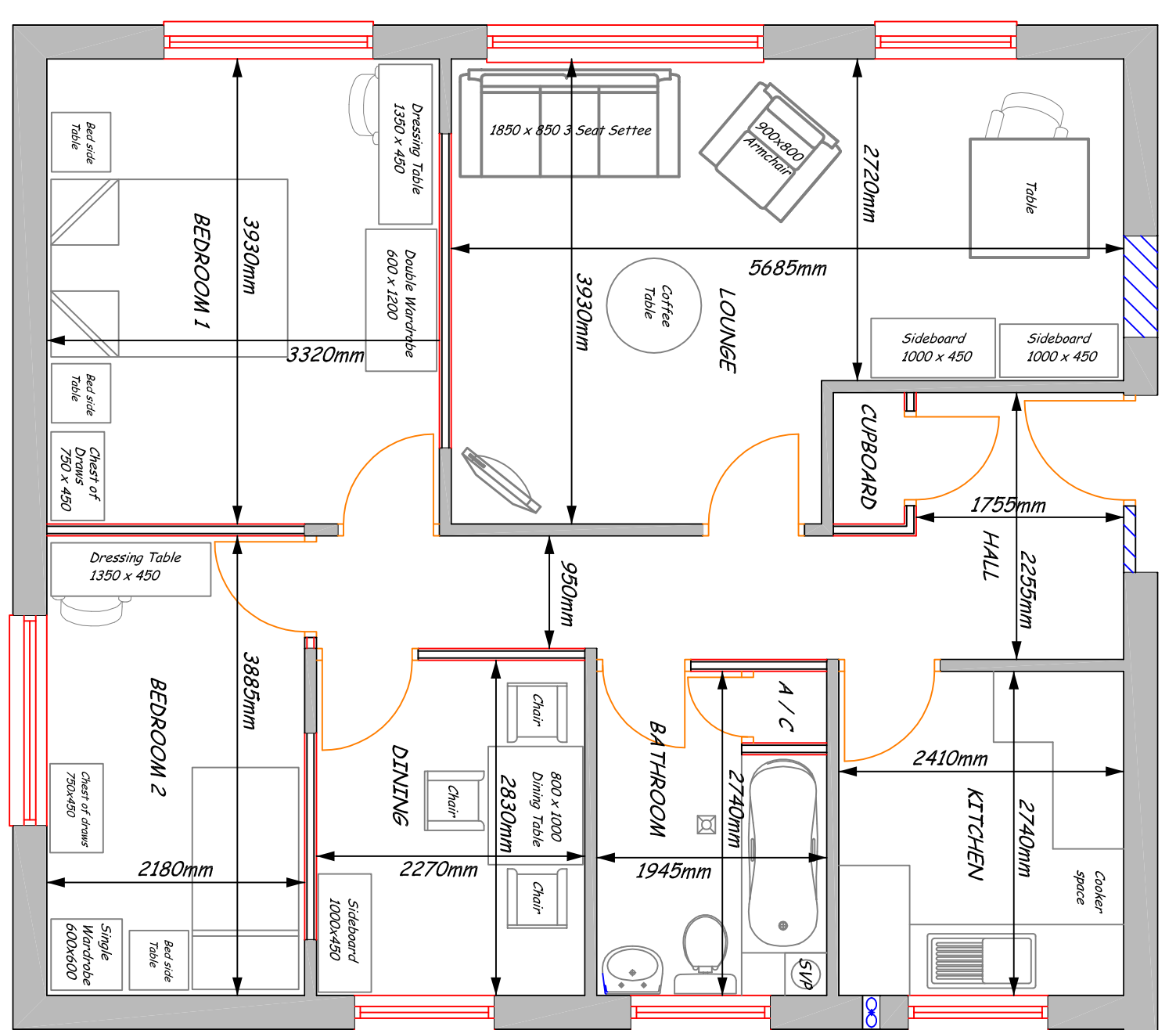
APARTMENT BLOCK TYPE 4 (Scale: 1/50)



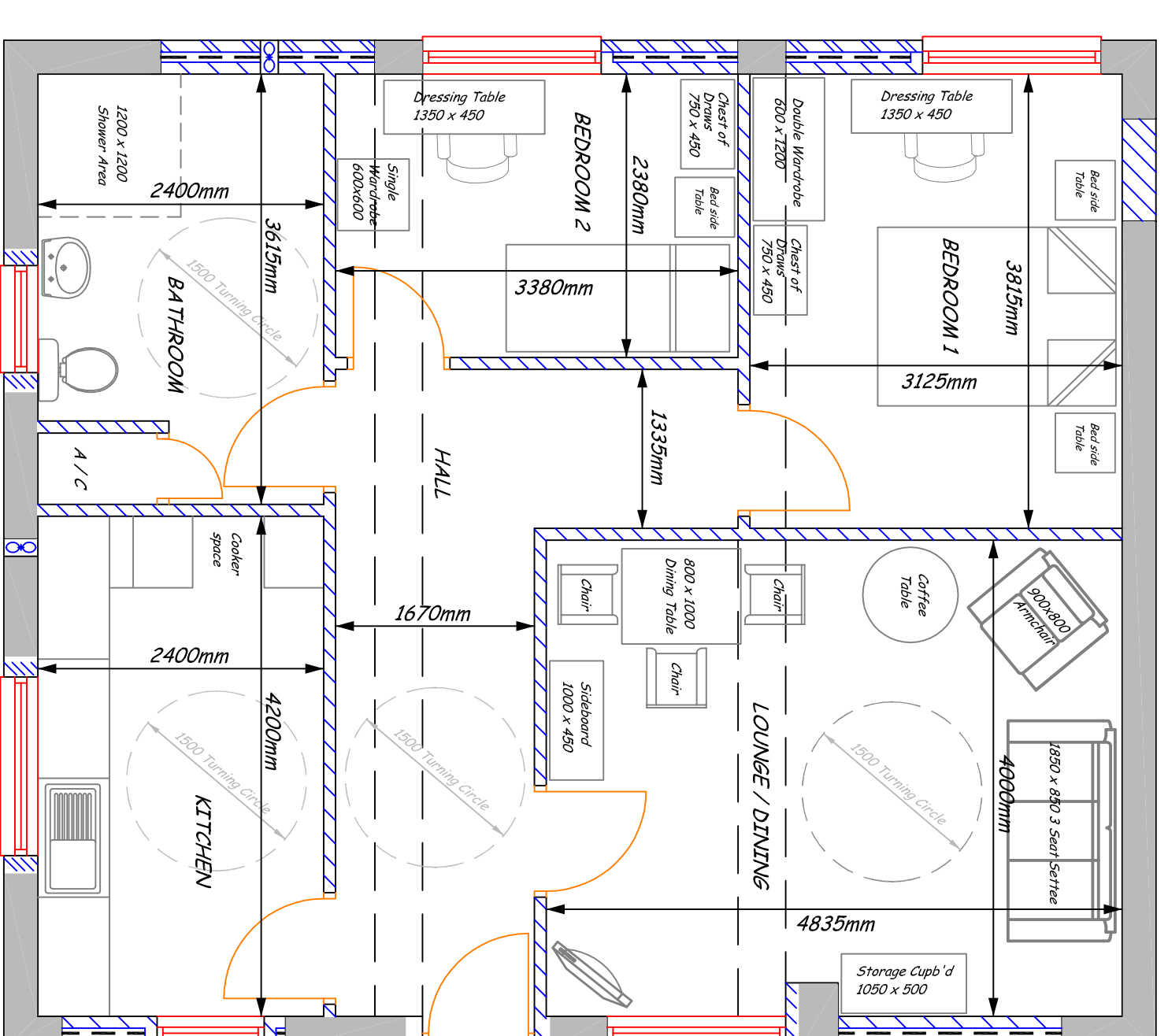
APARTMENT BLOCK TYPE 2 (Scale: 1/50)



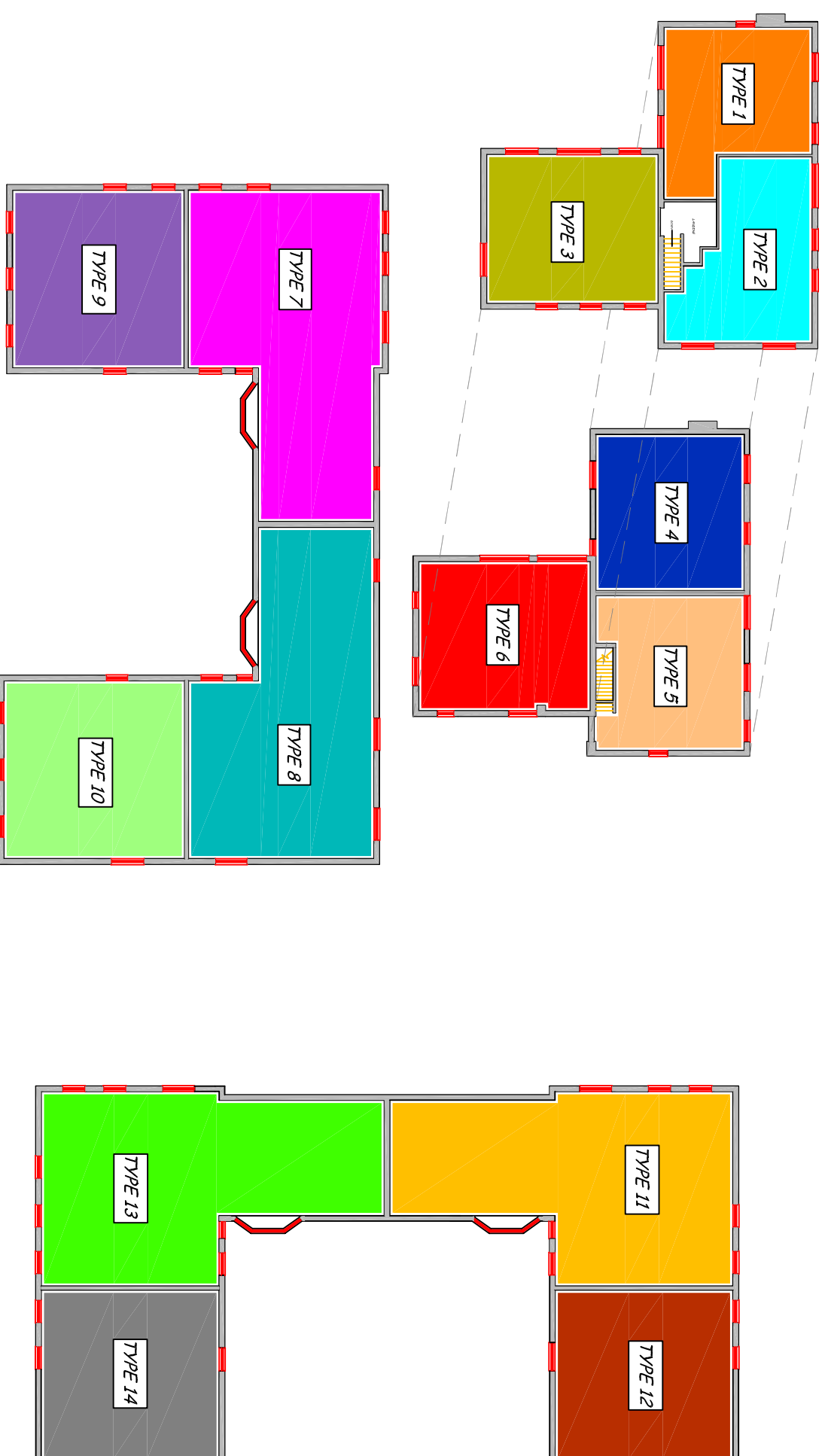
APARTMENT BLOCK TYPE 5 (Scale: 1/50)



APARTMENT BLOCK TYPE 3 (Scale: 1/50)



APARTMENT BLOCK TYPE 6 (Scale: 1/50)



PLAN INDICATING BUNGALOW TYPES (N.T.S.)

**Dudley**  
Metropolitan Borough Council

Minor Contracts Team  
Building Services: Adult & Community Housing  
Forge House  
Shoeburidge Road  
Brierley Hill

The CONVERSION OF ARCAL LODGE  
CARE HOME INTO 14 NO INDIVIDUAL  
DWELLINGS, ARCAL ST., SEDGLEY  
DY3 1TG  
TYPES 1, 2, 3, 4, 5 & 6

Date: NOV 14 Scale: 1/50 (A1)  
By: R.H. Dwg No: NB/AL/P/07

## **PLANNING APPLICATION NUMBER: P14/1786**

Type of approval sought	Tree Preservation Order
Ward	Sedgley
Applicant	Mr Andy Allison
Location:	<b>17, GREENWAY, SEDGLEY, DUDLEY, DY3 1PQ</b>
Proposal	<b>THIN AND LIFT 1 NO. PLANE TREE</b>
Recommendation Summary:	<b>APPROVE SUBJECT TO CONDITIONS</b>

### **SITE AND SURROUNDINGS**

1. The tree subject to this application is a mature, previously topped, Plane tree that is located in the rear garden of 17 Greenway, close to the boundary with 35 Cross Lane. Due to the arrangement of the properties the tree is also located adjacent to the public highway. The tree is prominently visible and is considered to provide a moderate amount of amenity to the surrounding area.
2. The tree is protected as Tree 58 of TPO 729 that was served in 2001. The TPO protects a substantial number of other trees in the locality.

### **PROPOSAL**

3. Summary of proposals for the works as written on application form is as follows:
  - Crown thin and lift 1 plane tree.
4. The tree has been marked on the attached plan.



## HISTORY

5. There has been one previous Tree Preservation Order application on this site.

Application No	Proposal	Decision	Date
P07/0099	Pollard 2 Lime Trees	Approved with conditions	13/03/2007

## PUBLIC CONSULTATION

6. No public representations have been received.

## ASSESSMENT

### Tree(s) Appraisal

<i>Tree Structure</i>	<b>Tree 1</b>
TPO No	T58
Species	Plane
Height (m)	7m
Spread (m)	5m
DBH (mm)	450
Canopy Architecture	Poor - previously topped
Overall Form	Moderate
Age Class <i>Yng / EM / M / OM / V</i>	Mature

### *Structural Assessment*

Trunk / Root Collar	Good
Scaffold Limbs	Moderate / poor - decay present at previous topping points.
Secondary Branches	Good
% Deadwood	3%
Root Defects	None Evident
Root Disturbance	None Evident
Other	

Failure Foreseeable Imm / Likely / Possible / No	Whole No	Whole Possible
--	-------------	-------------------

*Vigour Assessment*

Vascular Defects	None Evident
Foliage Defects	None Evident
Leaf Size	Not In Leaf
Foliage Density	Not In Leaf
Other	

*Overall*

*Assessment*

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

**Other Issues**

Light Obstruction	yes
Physical Damage	None Evident
Surface Disruption	None Evident
Debris	Yes

**Amenity**

**Assessment**

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

Further Assessment

7. The applicant, the Council's Greencare Department, has proposed to crown thin and crown lift the tree following the results of a condition assessment.
  
8. On inspection the tree was found to have good vigour but its structural condition has been impaired as the result of historical pruning practices. The tree has been topped at approx 3 metres above ground at some point in the last 20 years. This has resulted in numerous re-growth stems from the previous topping point. The topping points have now started to decay, and it is likely that if left as is, the failure of one or more of the re-growth stems will occur.

9. It is considered that that the proposed crown thinning will reduce the number of stems within the crown, and will reduce the forces exerted on the topping points during unsettles weather. The proposed crown lifting will provide an appropriate clearance above the adjacent public highway.
10. It is considered that the proposed works will serve to reduce the risk of limb failure in the future, whilst having no detrimental impact on the amenity value of the tree.
11. Overall it is considered that the proposed pruning of the tree is justified on the grounds of its condition and location adjacent to the highway. As such it is recommended that the application be approved.

## CONCLUSION

12. The tree subject to this application is a Plane tree that has been previously topped. It is proposed to crown thin the re-growth and to crown lift the tree in order to reduce the chances of future failure of limbs.
13. Overall it is considered that the proposed works are acceptable as there will no impact on the health of amenity value of the tree.

## RECOMMENDATION

14. It is recommended that the application is APPROVED subject to the stated conditions.

### Reason for Approval

Overall, it is considered that the proposed pruning of the Plane tree is acceptable as it is considered to be at an increased risk of failure onto either the public highway or adjacent residential property. The increased risk of failure should be suitably minimised by the proposed works without having any undue impact on the amenity value of the tree.

### 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 Treework'.



## PLANNING APPLICATION NUMBER: P14/1788

Type of approval sought	Full Planning Permission
Ward	Quarry Bank & Dudley Wood
Applicant	Mr J. Dunn
Location:	<b>61, BIRCH COPPICE, QUARRY BANK, BRIERLEY HILL, DY5 1AR</b>
Proposal	<b>REPLACE FLAT ROOF WITH PITCHED ROOF (RETROSPECTIVE)</b>
Recommendation Summary:	<b>APPROVE</b>

### SITE AND SURROUNDINGS

1. The site comprises a modern detached dwelling built in the 1960s alongside a semi-detached pair of properties. The dwelling has been extended with the addition of a single storey side extension to the original kitchen and a front porch. The single storey side extension was originally built with a flat roof. The property has an attached single garage built to the side of the dwelling with the kitchen extension positioned to the rear of the garage. The side kitchen extension extends up to the side boundary of the site projecting three metres beyond the side elevation of the garage when viewed from the street.
2. The house is slightly elevated above the highway being set back 9m from the road. The dwelling is built in red facing brick with a pitched roof over and side facing gables. The front elevation has stone cladding to its ground floor and render to its first floor.
3. The immediate neighbouring property located to the north-west of the application site is set back significantly further from the road by approximately twenty-one metres and is further elevated than the application site. The nearest ground floor habitable room window to the application site serves a dining room. The dwelling is positioned within 4m of the existing single storey side extension that has been

added to the application site. There is a 2m high close boarded fence between the application site and the neighbouring property.

## PROPOSAL

4. The proposal seeks retrospective planning permission to place a pitched roof over the existing single storey side kitchen extension. The pitched roof measures 1.2m high to its ridge from the eaves. The original extension measured 2.8m high. The altered extension measures 2.8m high to its eaves and 4m high to its ridge. The roof comprises grey concrete roof tiles to match those on the existing garage with brown soffits and a white upvc clad gable.

## HISTORY

<b>APPLICATION No.</b>	<b>PROPOSAL</b>	<b>DECISION</b>	<b>DATE</b>
BH/62/4524	Erection of one detached and one pair of semi-detached houses with garages.	Approved with Conditions	17/12/62
DB/72/10265	Extensions and alterations to existing dwelling.	Refused	04/09/72
CC/78/2713	Extension to form kitchen and storm porch.	Approved with Conditions	30/11/78
P04/1243	Single storey rear extension to create breakfast room.	Approved with Conditions	02/08/2004

5. Planning permission P04/1243 was never implemented.

## PUBLIC CONSULTATION

6. The application was advertised by way of neighbour notification letters being sent to the occupiers of five properties within close proximity to the site. The latest date for comments was the 23<sup>rd</sup> January 2015. At the time of writing the report no objection letters have been received but a Ward Member has requested that the application is considered by Development Control Committee.

## OTHER CONSULTATION

7. Not applicable.

## RELEVANT PLANNING POLICY

### National Planning Guidance (2012)

8. The National Planning Policy Framework (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.
9. The NPPF advises that the purpose of the planning system is to contribute to the achievement of sustainable development.

### Planning Practice Guidance

- Design
- Use of Planning Conditions

### Black Country Core Strategy (2011)

- ENV 3 Design Quality

### Unitary Development Plan (2005)

- DD4 Development in Residential Areas



### Supplementary Planning Guidance/Documents

- PGN 12. The 45 degree code
- PGN 17. House extension design guide

## ASSESSMENT

10. The main issues are
- Design
  - Neighbour Amenity

### Design

11. The addition of the pitched roof over the previously flat roofed single storey side extension improves the overall visual appearance of the dwelling. The roof is of a similar pitch to the roof over the garage and front porch thereby improving the way in which the extensions tie in with the original house. The addition of the pitched roof improves the appearance of the dwelling from the street and does not detract from the character of the area thereby being in accordance with Policy ENV3 of the BCCS, saved Policy DD4 of the Adopted Dudley Unitary Development Plan and PGN17.

### Neighbour Amenity

12. The significant set-back of the neighbouring property from the road with the application site means that the outlook from this dwelling is of the two storey side gable of the application site. The original flat roof extension would have been screened from this neighbouring property by existing boundary fencing. The addition of the pitched roof over the existing single storey side extension has resulted in the roof now projecting above the fence by 1.2m high to its ridge falling in height towards the eaves. The side gable is positioned at its closest point within 4m from the front elevation of the neighbouring property.

13. The occupiers of the neighbouring dwelling have always looked towards the side gable of the application site due to the historic street layout. The addition of the roof over the original flat roof side extension do have some impact in terms of the occupiers of the neighbouring in terms of outlook and a potential minor loss of light to the dining room during the winter months. In view of the single storey nature of the extension and its associated roof and the harm already caused by the juxtaposition of the two properties, the impacts of the development are not considered sufficiently harmful to warrant the refusal of planning permission. The proposed development would, on balance, ensure compliance with saved Policy DD4 of the Adopted Dudley Unitary Development Plan, PGN12 and PGN17.

## CONCLUSION

14. The design and appearance of the pitched roof over the original flat roof side extension complements the design and pitch of the existing pitched roof over the garage and front porch and would improve the overall integration of previous extensions to the original dwelling. The pitched roof over the side extension would not detract from the character of the area.
15. Whilst the pitched roof projects 1.2m over the side boundary fencing between the application site and neighbouring property at its highest point and is sited within 4m from the front elevation of this property, the original siting of the dwellings would already have an adverse impact upon outlook from this property. The addition of the roof would not be sufficiently detrimental in terms of either a loss of outlook or a loss of daylight to the dining room to warrant the refusal of planning permission.

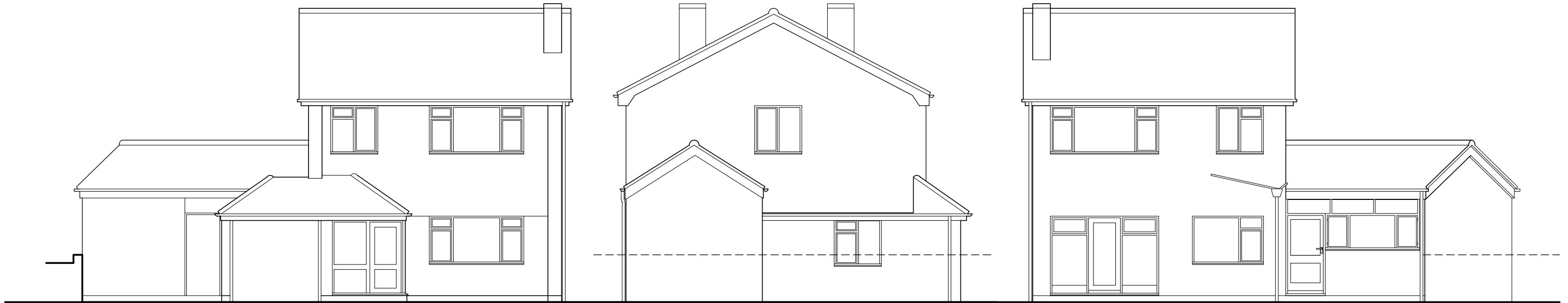
## RECOMMENDATION

16. It is recommended that the application be APPROVED.

## 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.

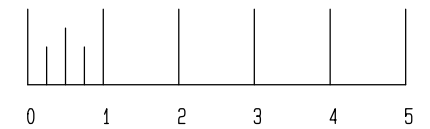
Do not scale. Figured dimensions only to be taken from drawing.  
The contractor is to visit the site and be responsible for taking & checking dimensions relative to this work.



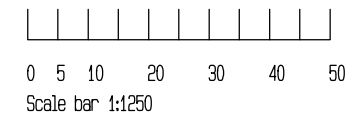
Front elevation

Side elevation

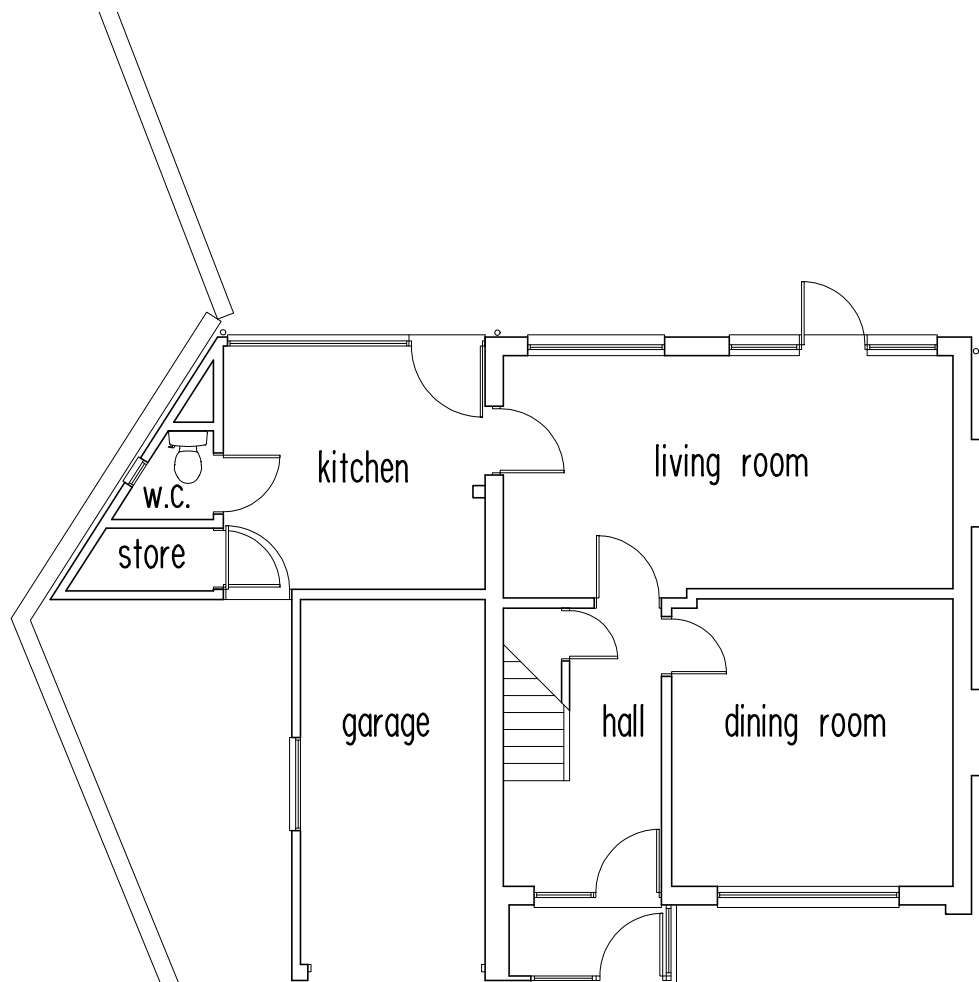
Rear elevation



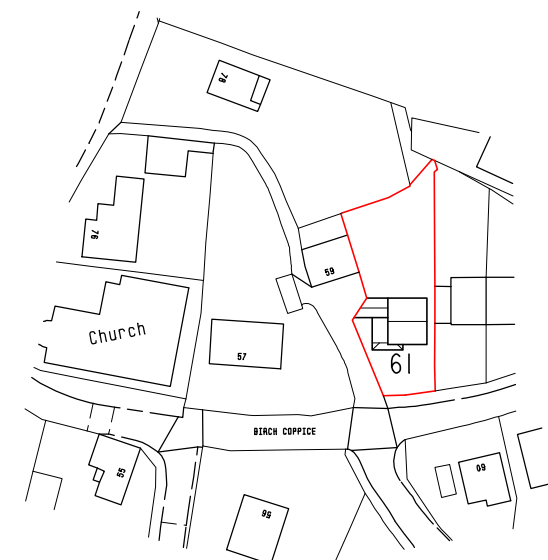
Scale bar 1:100



Scale bar 1:1250



Ground floor plan



Ordnance Survey (c) Crown Copyright 2014. All rights reserved.  
Licence number 100022432

Location plan



Mr. J. DUNN

PROPOSED PITCHED ROOF

61 BIRCH COPPICE

QUARRY BANK

AS BUILT

14:86:02

Scale 1:100

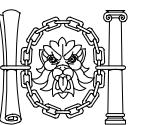
Date December 2014

**MFL Design**

Architectural Design Service

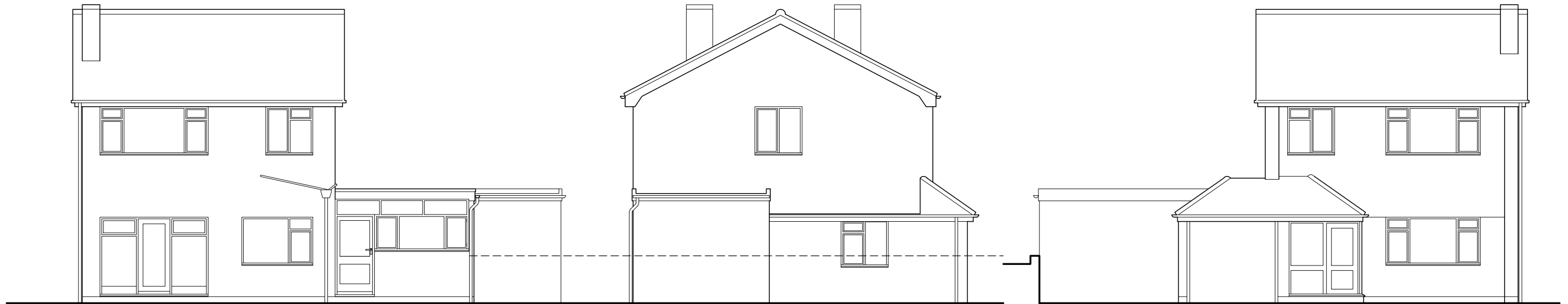
5 Glynn Crescent,  
Halesowen,  
West Midlands,  
B63 2PZ

Tel. 01384 561334



Chartered Institute of  
Architectural Technologists

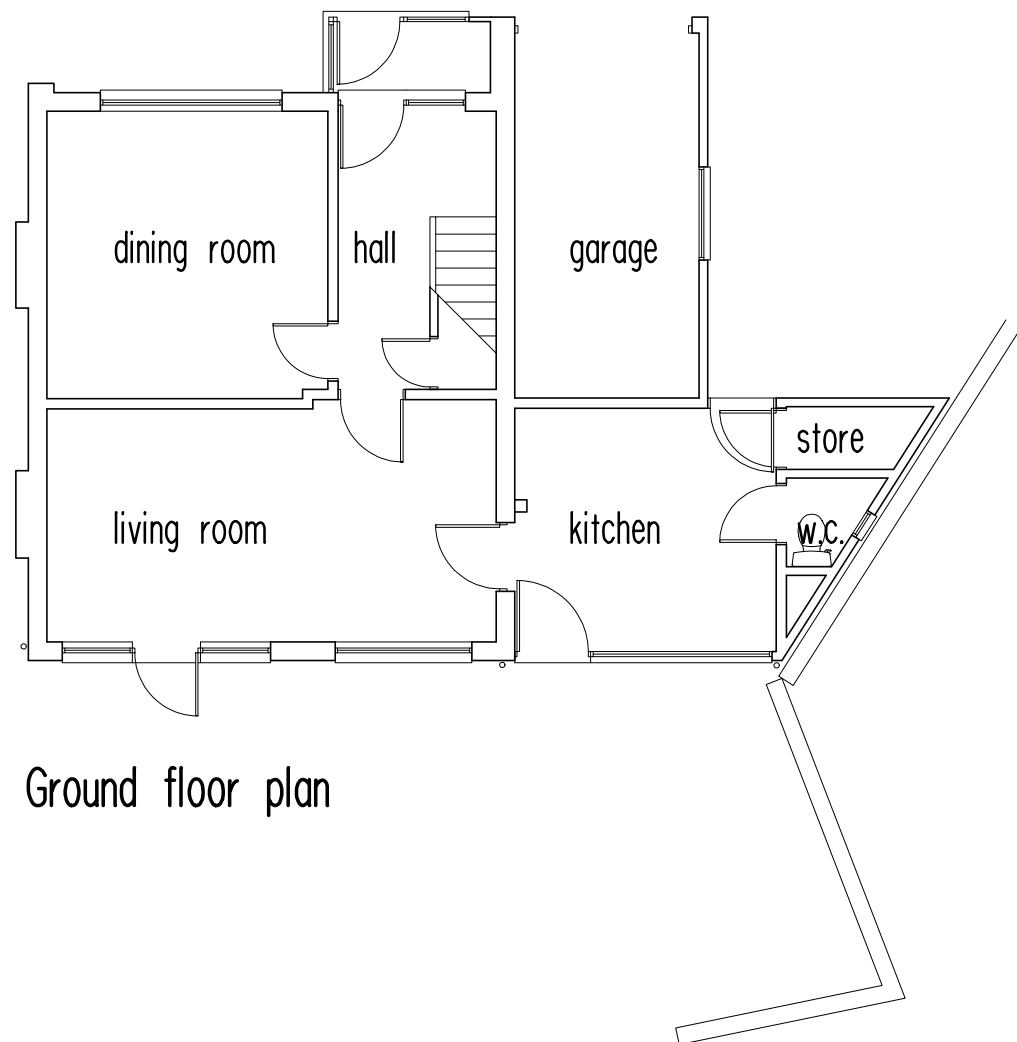
Do not scale. Figured dimensions only to be taken from drawing.  
The contractor is to visit the site and be responsible  
for taking & checking dimensions relative to this work.



Rear elevation

Side elevation

Front elevation



Ground floor plan

Mr. J. DUNN  
PROPOSED PITCHED ROOF  
61 BIRCH COPPICE  
QUARRY BANK  
AS PREVIOUS  
14:86:01

Scale 1:100  
Date December 2014

**MFL Design**

Architectural Design Service  
5 Glynn Crescent,  
Halesowen,  
West Midlands,  
B63 2PZ  
Tel. 01384 561334



## **PLANNING APPLICATION NUMBER: P14/1807**

Type of approval sought	Full Planning Permission
Ward	St. James's
Applicant	Mrs Liz Dickinson, Dudley Metropolitan Borough Council
Location:	<b>CORONATION GARDENS, PRIORY ROAD, DUDLEY, DY1</b>
Proposal	<b>DEMOLITION OF EXISTING WALL AND REPLACEMENT WITH NEW BRICK BOUNDARY WALL</b>
Recommendation Summary:	<b>APPROVE SUBJECT TO CONDITIONS</b>

### **SITE AND SURROUNDINGS**

1. The application site comprises the section of concrete boundary fence which divides the north eastern boundary of the former bowling green at 2 Priory Road from Coronation Gardens. Coronation Gardens is a locally listed open area of landscaped amenity space containing the Apollo Fountain and a war memorial. 2 Priory Road is an early 19<sup>th</sup> Century Grade II Listed, mixed use building which is also recorded on Dudley's Historic Buildings, Sites and Monuments Record (HBSMR 1000). The building has been identified in the Townscape Heritage Initiative (THI) Action Plan as a 'Priority Project'. The site falls within Dudley Town Centre Conservation Area. The existing boundary fence comprises stacked prefabricated concrete panels up to 2.3m in height due to the ground falling in a north westerly direction.
2. The nearest residential properties are those on The Broadway and Ednam Road to the north of the site. Dudley College Evolve Campus is adjacent the site to the south east.

## PROPOSAL

3. Planning consent is sought to demolish the existing concrete panel wall and erect a replacement brick boundary wall. The wall would be 24.8m in length and 2.8m in height (at its highest point). The materials would comprise red brickwork with York Stone coping to top.
4. Certificate B of the ownership certificate has been signed indicating that notice has been served on the owners of 2 Priory Road.

## HISTORY

5. Planning History 2 Priory Road

APPLICATION No.	PROPOSAL	DECISION	DATE
DY/61/241	Lease Of Basement Rooms For Storage.	Granted	26/04/1961
DY/63/506	Internal Alterations To Ground Floor.	Granted	05/11/1963
DB/72/10539	Erection Of Kitchen On First Floor	Granted	26/10/1972
83/51934	Aquaseal And Paint Principal Slate Roof	Refused	08/12/1983
92/50041	Installation Of Floodlights	Granted	27/02/1992
P06/2070	Down size Dudley Conservation Club to the rear of the building and convert the White House at the front of premises to Dudley West Conservative Associates	Granted	28/02/2007
P06/2071	Listed building consent for alterations to downsize Dudley Conservative Club to the rear of the building and convert the Dudley West Conservative Associates	Granted	14/03/2007

P08/0278	Installation of new retaining wall and ramped walkway between car park (part retrospective and part proposed).	Granted	11/08/2008
P10/0142	Listed Building Consent for demolition and rebuild (like for like) of boundary wall fronting coronation gardens, enlargement of existing entrance to a double entrance at ground floor and internal alterations in order to provide disabled wc at ground floor level.	Approved with Conditions	30/10/12
P10/0143	Change of use of part of building from private members club to conference and function room (OSG) with new entrance door	Granted	31/03/2010
P10/1378	Demolition of existing club house and store removal of existing fire escape and erection of new rear fire escape and fire escape doors, replace existing wall with new brick wall, elevational changes and landscaping scheme	Approved with Conditions	03/12/2010
P10/1380	Listed building consent for demolition of existing club house and store removal of existing fire escape and erection of....	Approved with Conditions	15/01/2011
P13/1794	Demolition of existing timber club house and store, extend the existing car park by converting former bowling green area	Approved with Conditions	21/01/14



6. Planning permission was granted under P10/1378 for replacement of the concrete panel fence with a brick wall subject to a condition requiring a sample panel of brickwork to be erected on site and agreed in writing by the Local Planning Authority.

## **PUBLIC CONSULTATION**

7. Direct notification was carried out to ten neighbouring premises, a site notice was displayed and a notice also placed in the local press. The final date for receipt of representations is 7<sup>th</sup> February 2014 and no representations have been received. Any representations received prior to the committee meeting will be reported as a pre-committee note.

## **OTHER CONSULTATION**

8. Group Engineer (Highways); No objection

## **RELEVANT PLANNING POLICY**

### National Planning Policy

- National Planning Policy Framework (2012) (NPPF) - Specifically Chapter 12, Conserving and enhancing the historic environment.
- PPS5 – Planning for Historic Environment Practice Guide
- Planning (Listed Buildings and Conservation Areas) Act 1990

### Black Country Core Strategy (2011) (BCCS)

- CSP1 The Growth Network
- CSP4 Place Making
- CEN4 Regeneration of Town Centres
- ENV2 Historic Character and Local Distinctiveness
- ENV3 Design Quality

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

- DD1 Urban Design
- DD4 Development in Residential Areas

- DTC1 Thoroughfares and Public Spaces
- DTC2 Street Blocks
- HE4 Conservation Areas
- HE5 Buildings of Local Historic Importance
- HE6 Listed Buildings
- HE11 Archaeology and Preservation

#### Supplementary Planning Guidance/Documents

- Historic Environment Supplementary Planning Document (2006)
- Dudley Town Centre ADF
- Open Space, Sport and Recreation SPD (2007)
- Parks and Green Space Strategy (2009)

## ASSESSMENT

9. Key issues;
- Design & Historic Environment
  - Neighbouring Amenity
  - Highway Safety

#### Design & Historic Environment

10. The existing boundary fence is of modern prefabricated materials and detracts from the character and appearance of the Conservation Area and the adjacent designated and non designated heritage assets. Removal of the existing panel fence is welcomed and planning permission has previously been granted for its replacement. The proposed wall would match the north western boundary wall which is due to be re-built. The development would therefore make a positive contribution to the character and appearance of the Conservation Area and would not impact upon the fabric or setting of the adjacent Grade II Listed Building. The proposal therefore complies with the NPPF, saved Policy DD1, HE4 and HE6 of the Dudley UDP, Policy ENV2, CEN4 and CSP4 of the Black Country Core Strategy and The Dudley ADF (2005).

### Neighbour Amenity

11. The proposed wall would replace the existing fence in the same position and there would be no demonstrable harm to neighbour amenity given the proximity of the nearest residential properties within Ednam Road and The Broadway. In this respect the proposal therefore complies with saved UDP policy DD4 and EP7 of the UDP (2005).

### Highway Safety

12. There are no highway safety issues arising as a consequence of the development and no objections are raised by the Group Engineer (Development).

## **CONCLUSION**

13. The existing boundary fence is of a modern prefabricated design and detracts from the character and appearance of the Conservation Area and the nearby heritage assets. Removal of the existing wall is welcomed and the replacement would match the north western boundary wall which is due to be re-built. The development would therefore make a positive contribution to the character and appearance of the Conservation Area and would not impact upon the fabric or setting of the adjacent Grade II Listed Building. There would be no harm to neighbouring amenity and there are no consequential highway safety issues arising. The proposal therefore complies with the NPPF, saved Policy DD1, HE4 and HE6 of the Dudley UDP, Policy ENV2, CEN4 and CSP4 of the Black Country Core Strategy and The Dudley ADF (2005).

## **RECOMMENDATION**

14. It is recommended that the application is APPROVED subject to no objections being received and 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 sustain and enhance the significance of the heritage asset and puts it into a viable use consistent with its conservation and is thereby in accordance with paragraph 131 of the National Planning Policy Framework.

### **Note to Applicant**

The proposed development lies within an 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.

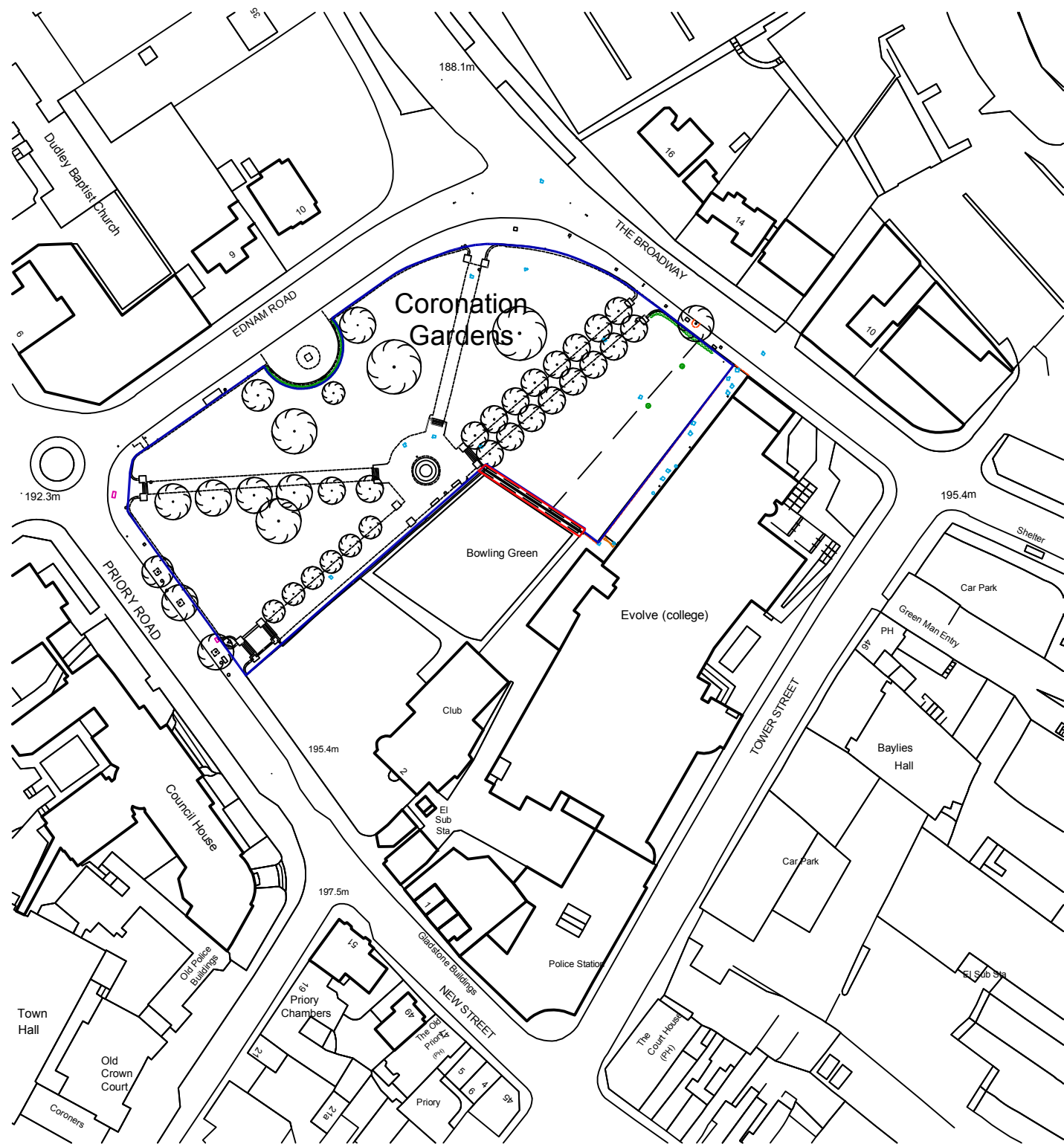
Any intrusive activities which disturb or enter any coal seams, coal mine workings or coal mine entries (shafts and adits) requires the prior written permission of The Coal Authority.

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)

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).

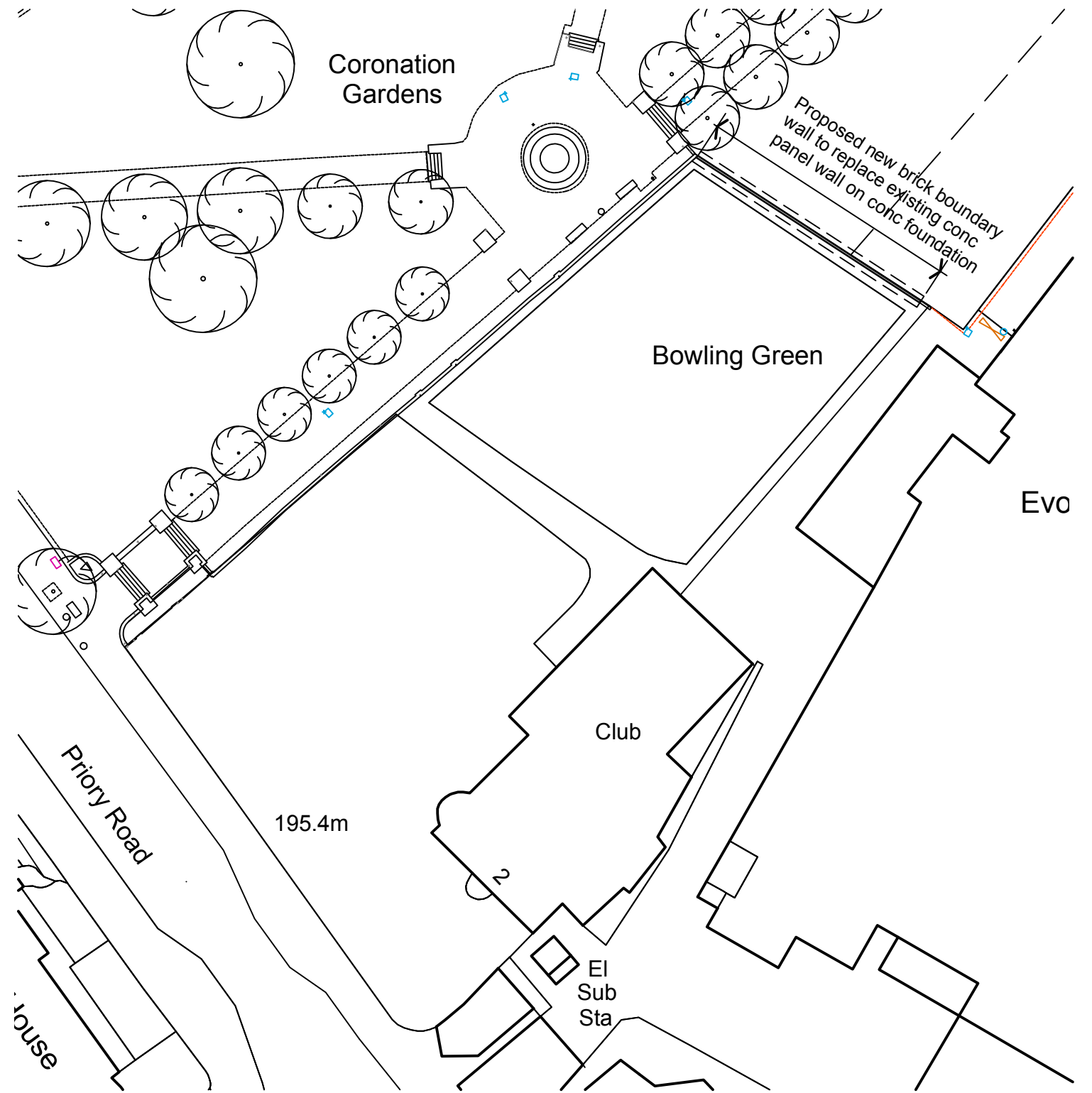
Conditions and/or reasons:

1. The 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: M14.109.D.013 Revision A, M014.109.D.012, 216 Issue T1 and 215 Issue T1.
3. No materials other than those indicated on the approved plans shall be used without the approval in writing of the Local Planning Authority.



**location plan** scale 1:1250

- Planning Application boundary
- Adjoining land in Applicant's ownership



**Block plan** scale 1:500

Based upon Ordnance Survey Digital Data with the permission of the controller of Her Majesty's Stationary Office.  
Crown Copyright PleydellSmithyman Limited.



status  
**Planning application**

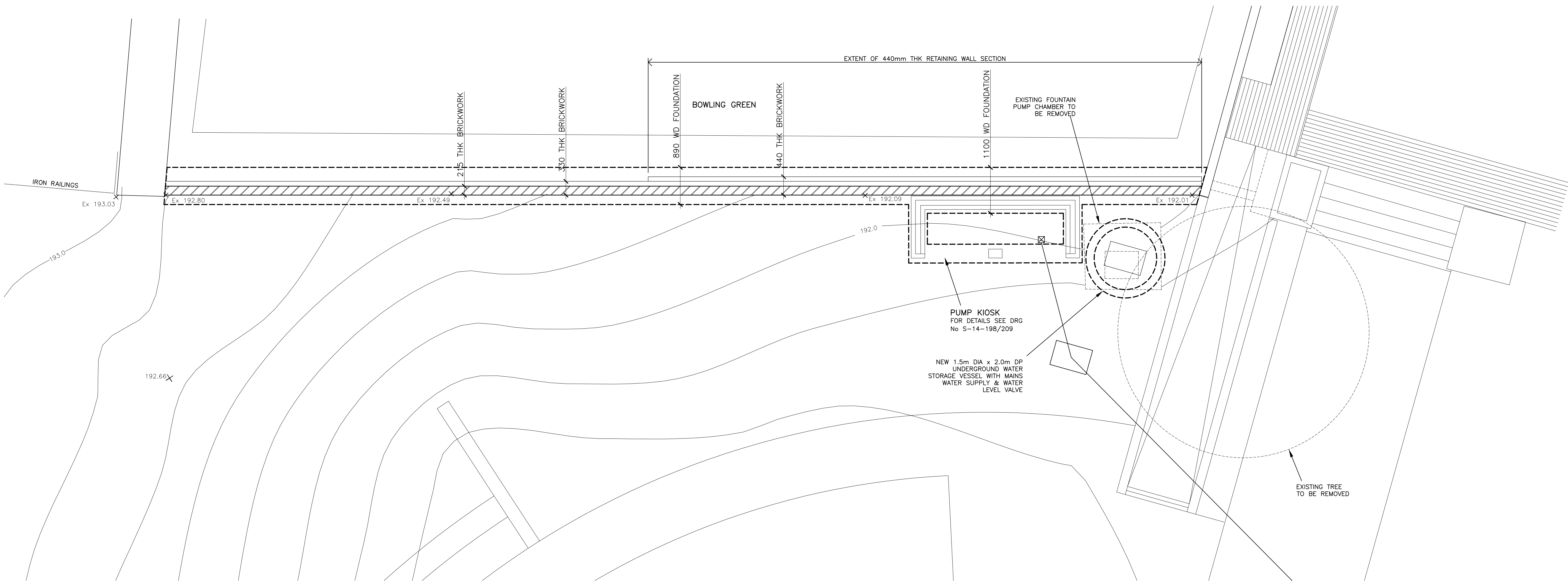
drawing number  
**M014.109.D.012**  
revision -



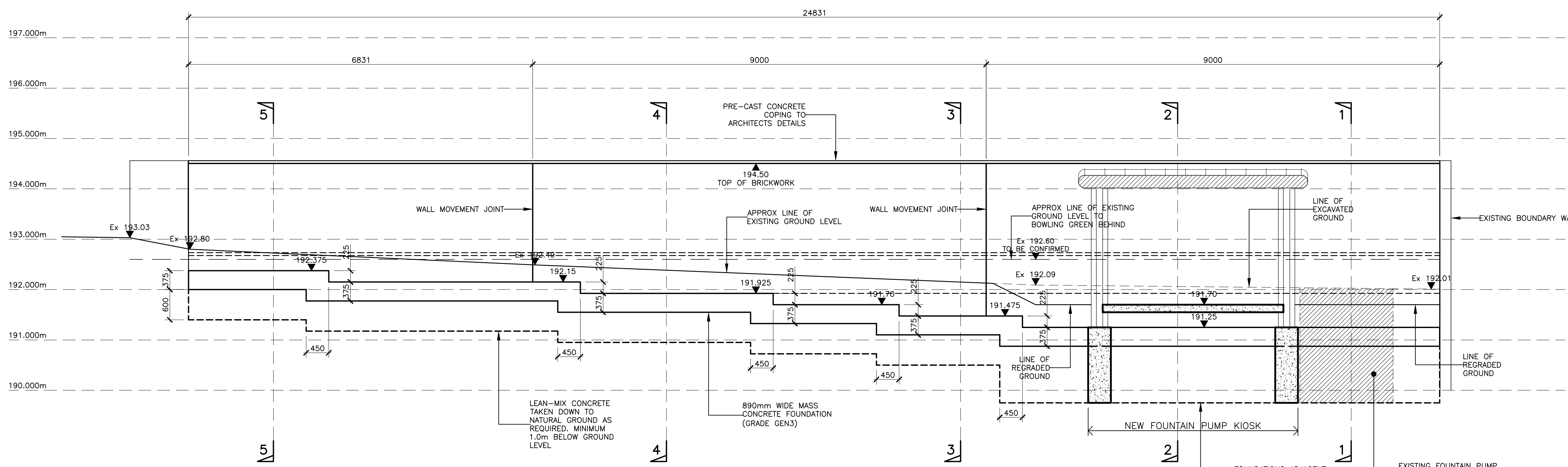
THIS DRAWING MAY NOT BE USED WITHOUT CONSENT OF:  
PleydellSmithyman LIMITED, 20a THE WHARFAGE, IRONBRIDGE,  
SHROPSHIRE, TF8 7NH  
T. 01952433211 F. 01952433323  
E. [psl@pleydellsmithyman.co.uk](mailto:psl@pleydellsmithyman.co.uk)  
[www.pleydellsmithyman.co.uk](http://www.pleydellsmithyman.co.uk)

project **Coronation Gardens Dudley**  
drawing **Location plan and Block plan**

scale  
**1:1250 & 1:500**  
date  
**Dec 2014**



PLAN ON NEW RETAINING WALL  
(SCALE 1:50)



WALL ELEVATION – FACING CORONATION GARDENS  
(SCALE 1:50)  
FOR SECTIONS RELATING TO THIS DRAWING REFER TO SHIRE DRG No S-14-198/216

T1	(ISSUED FOR TENDER MEASUREMENT)	05-12-14	G.S.N.	
Issue	Details	Date	By	Clk
ORIGINAL DRAWING SIZE A1		DO NOT SCALE		

THIS DRAWING IS COPYRIGHT AND MUST NOT BE REPRODUCED WITHOUT CONSENT.  
SHIRE CONSULTING IS AN ISO 9001 AND ISO 14001 ACCREDITED COMPANY

ORIGINAL COPIES OF THIS DRAWING ARE PRINTED ON RECYCLED PAPER

Project  
**CORONATION GARDENS, DUDLEY**

Title  
**DETAILS OF REPLACEMENT WALL TO EXISTING PLANK WALL (SHEET 1)**

Date  
DEC 14

Scale  
1:50

Drawn  
G.S.N.

Checked

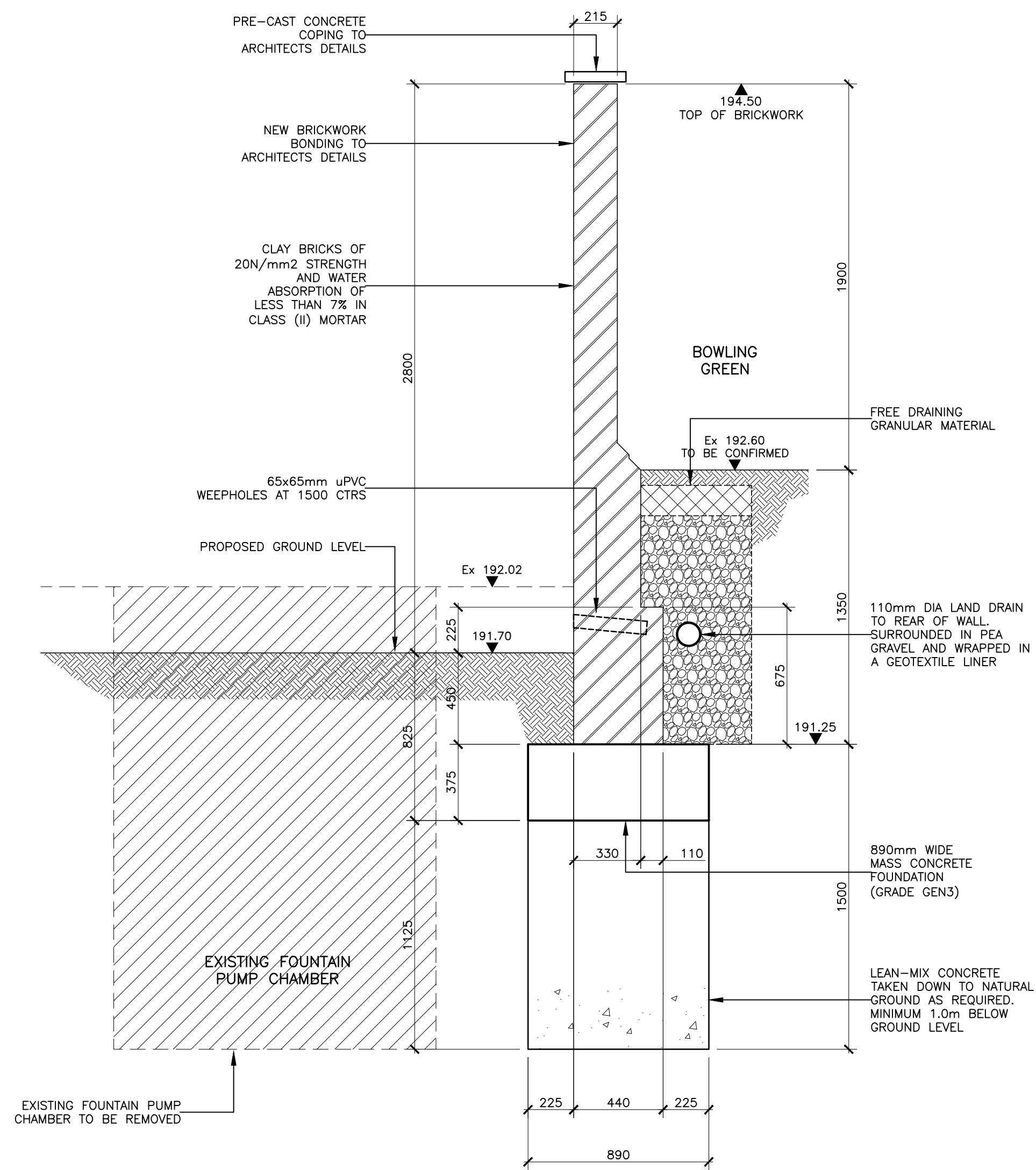
Job No  
**S-14-198**

Drawing No  
**215**

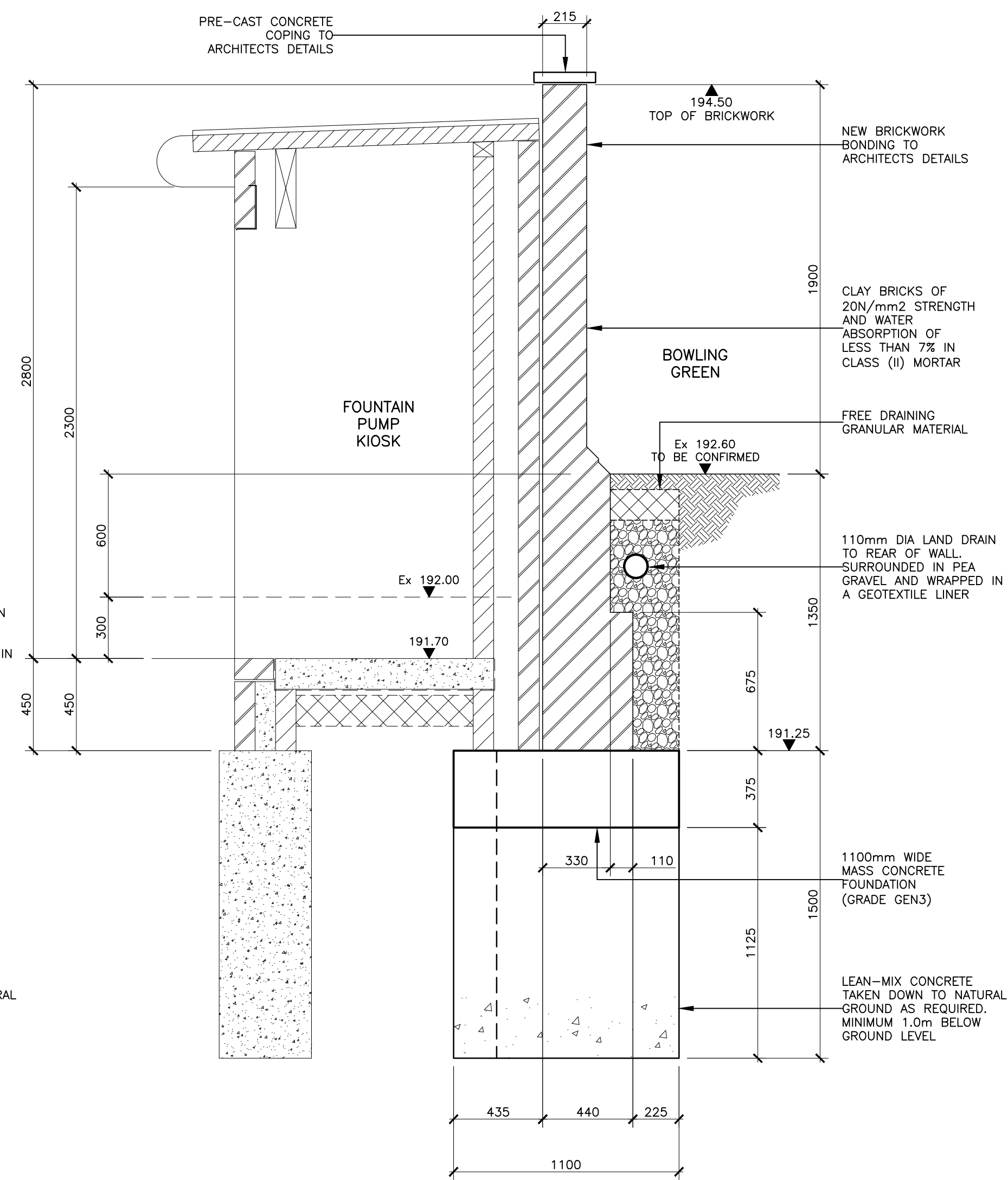
Issue  
**T1**

Shireconsulting  
The Chapel, Barnsley Hall Road, BROMSGROVE, Worcestershire, B61 0S2  
t : 01527 579933  
f : 01527 579537  
e : info@shire-uk.com  
w : www.shire-uk.com

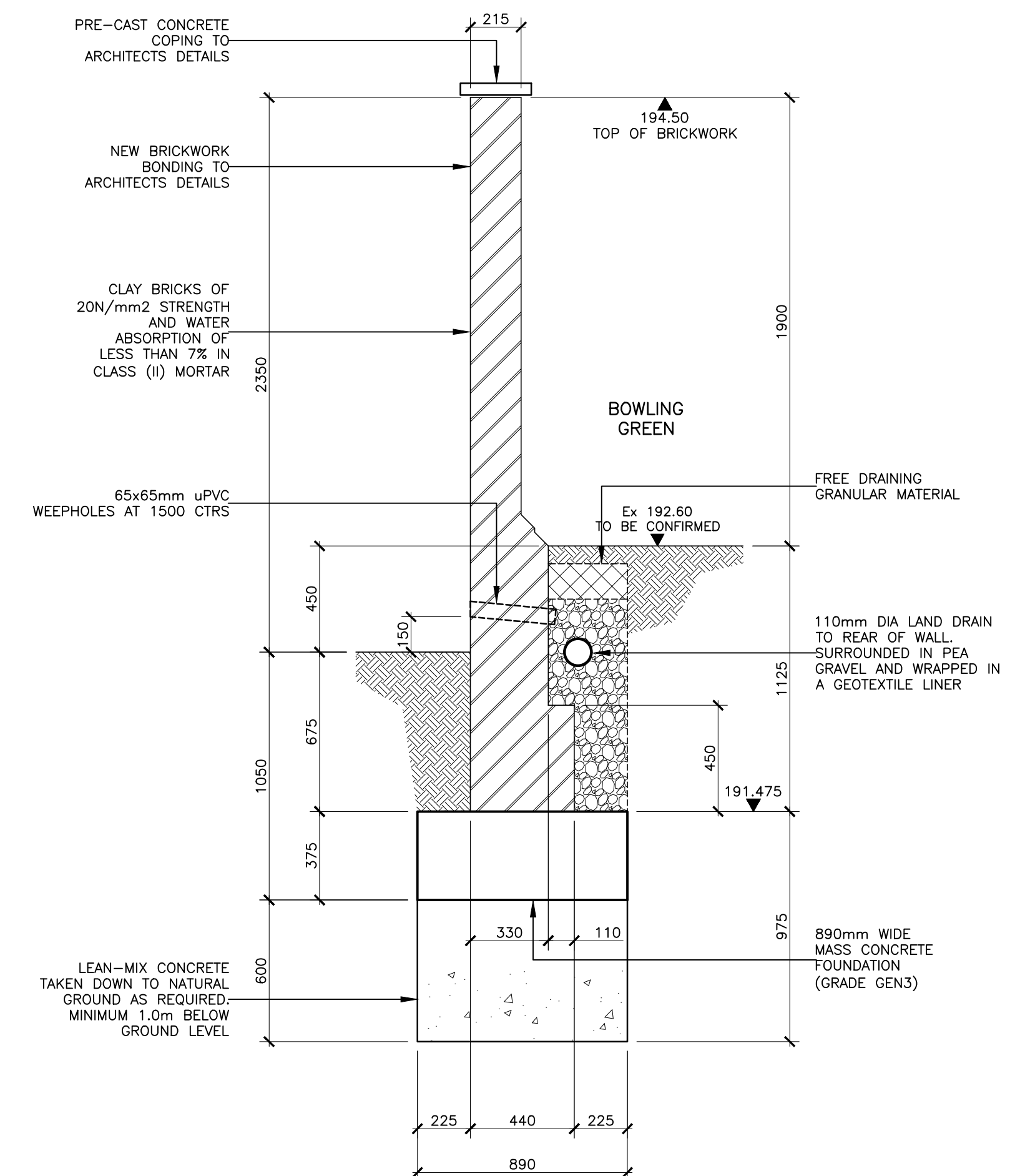




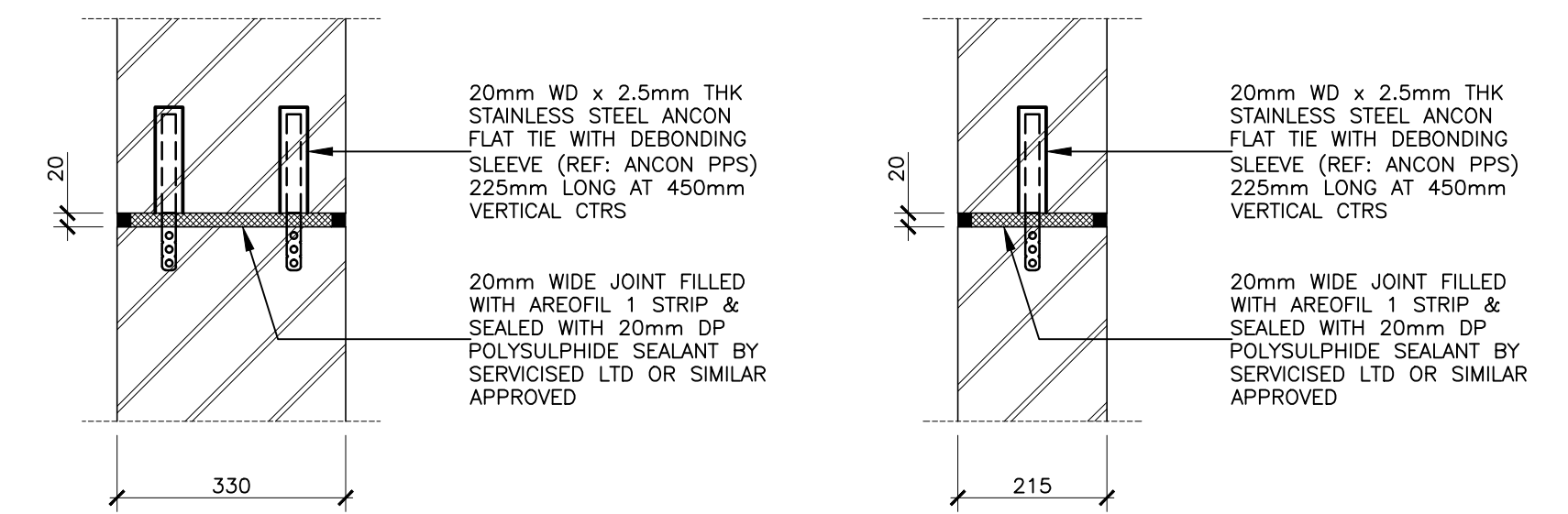
SECTION 1-1  
(SCALE 1:20)



SECTION 2-2  
(SCALE 1:20)



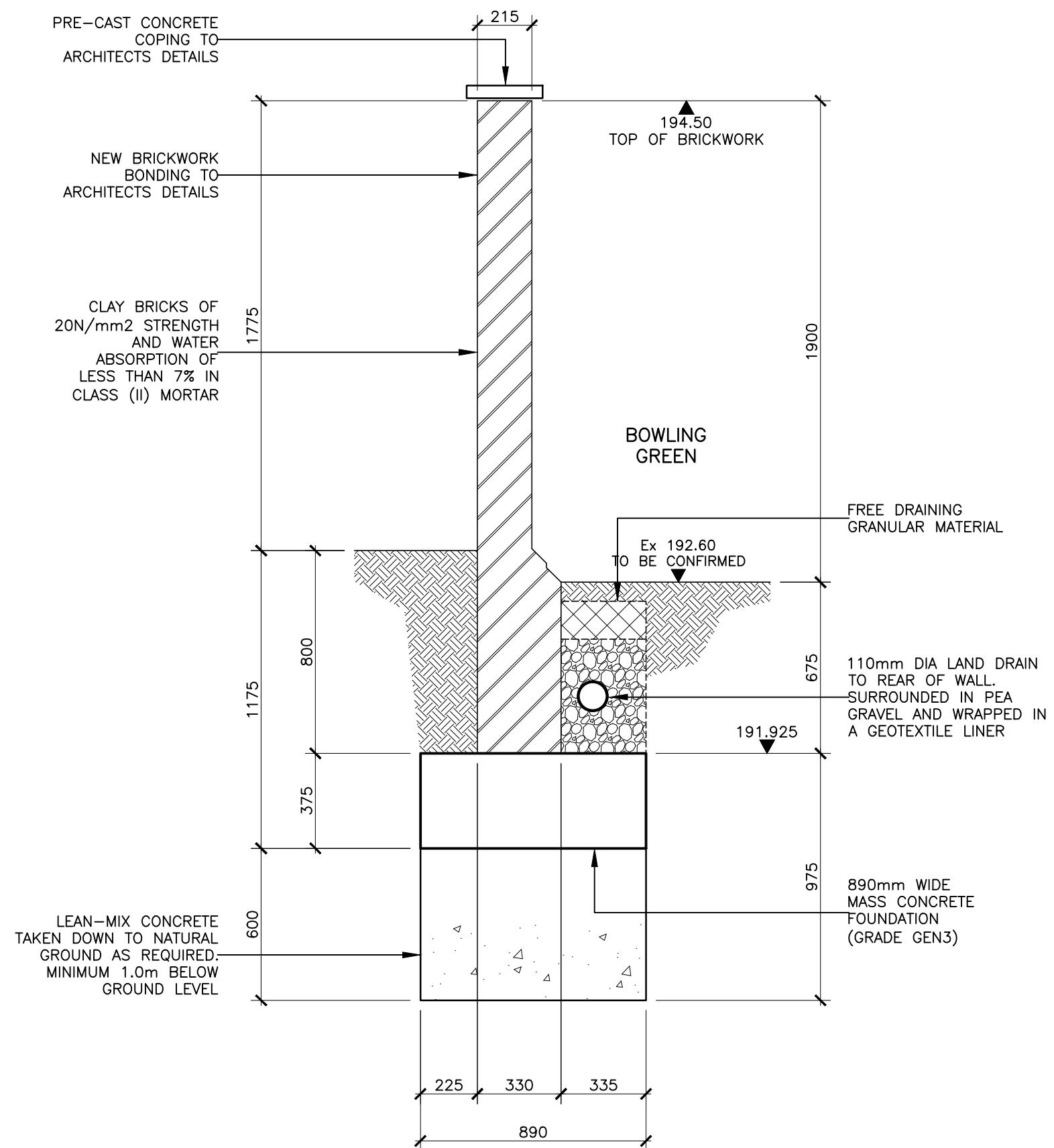
SECTION 3-3  
(SCALE 1:20)



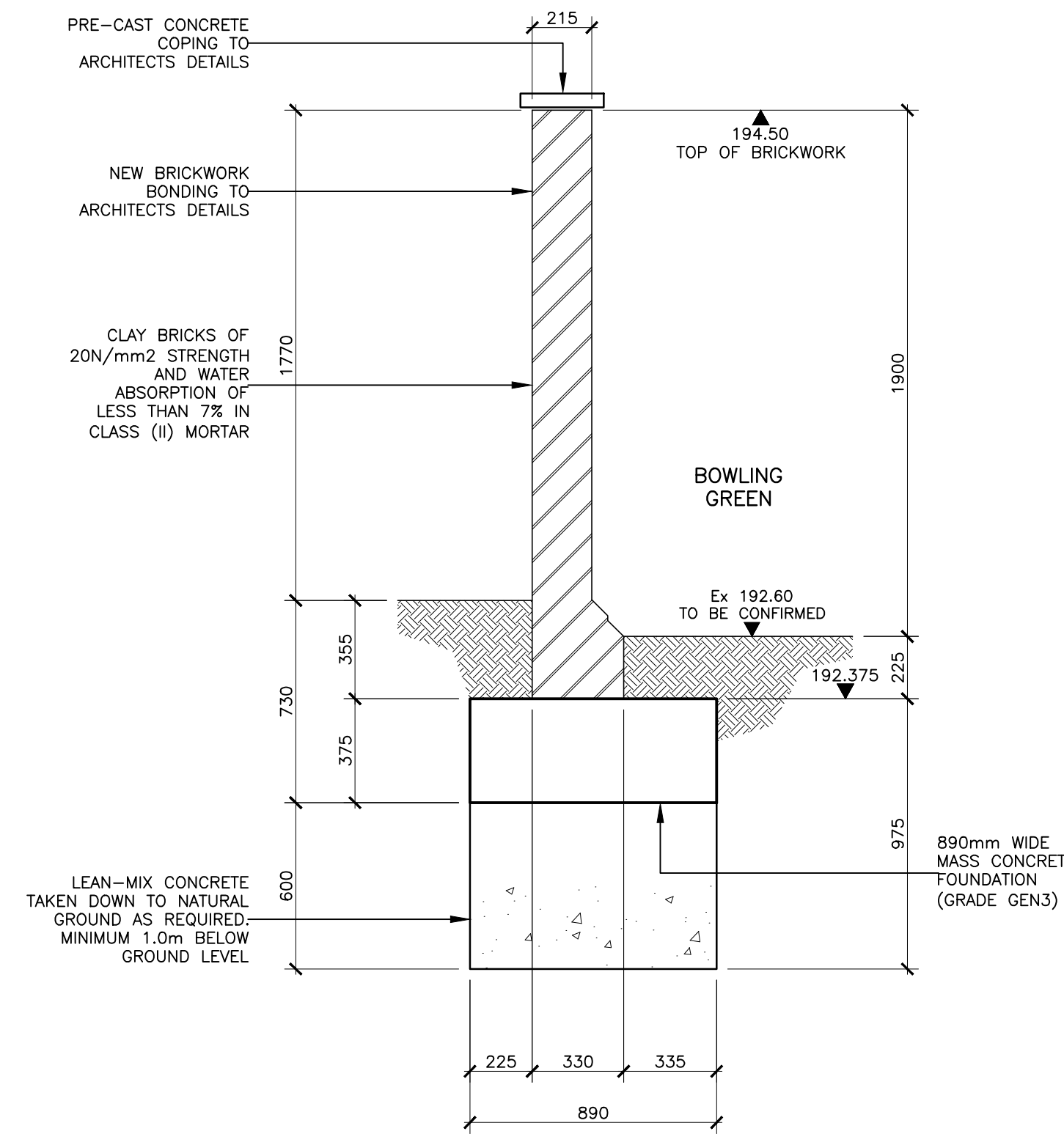
330 THK WALL

215 THK WALL

MOVEMENT JOINT DETAILS  
(SCALE 1:10)



SECTION 4-4  
(SCALE 1:20)



SECTION 5-5  
(SCALE 1:20)

T1	(ISSUED FOR TENDER MEASUREMENT)	05-12-14	G.S.N.	
Issue	Details	Date	By	Clk

ORIGINAL DRAWING SIZE A1 DO NOT SCALE

THIS DRAWING IS COPYRIGHT AND MUST NOT BE REPRODUCED WITHOUT CONSENT.

SHIRE CONSULTING IS AN ISO 9001 AND ISO 14001 ACCREDITED COMPANY

ORIGINAL COPIES OF THIS DRAWING ARE PRINTED ON RECYCLED PAPER

Project  
**CORONATION GARDENS,  
DUDLEY**  
Title  
**DETAILS OF REPLACEMENT WALL  
TO EXISTING PLANK WALL  
(SHEET 2)**

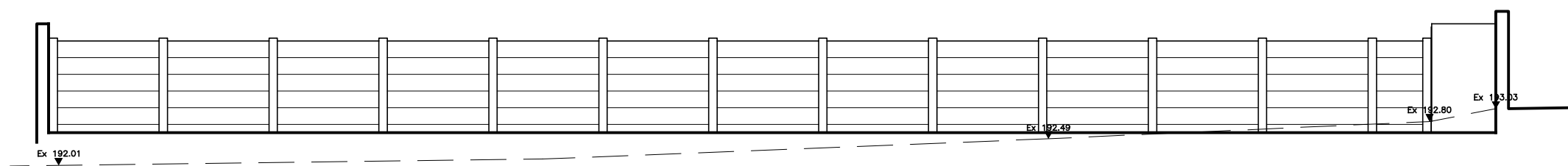
**Shireconsulting**  
The Chapel Barnsley Hall Road  
BRONGROVE Worcestershire B61 0SZ  
t : 01527 579933  
f : 01527 579537  
e : info@shire-uk.com  
w : www.shire-uk.com

Date  
DEC 14  
1:20,10  
Drawn  
G.S.N.  
Checked  
G.S.N.  
Job No  
**S-14-198**  
Drawing No  
**216**  
Issue  
**T1**

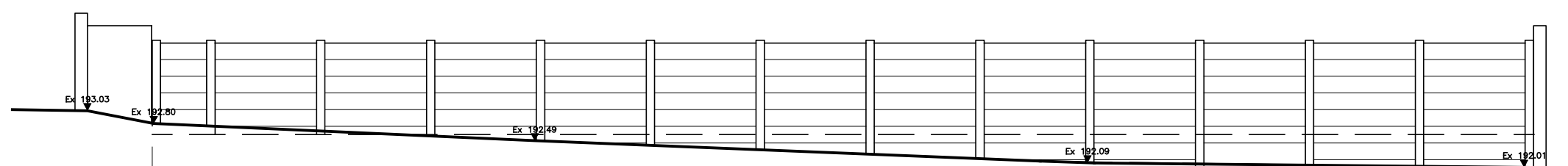


# Coronation Gardens

Based upon Ordnance Survey Digital Data with the permission of the controller of Her Majesty's Stationary Office.  
Crown Copyright PleydellSmithyman Limited.

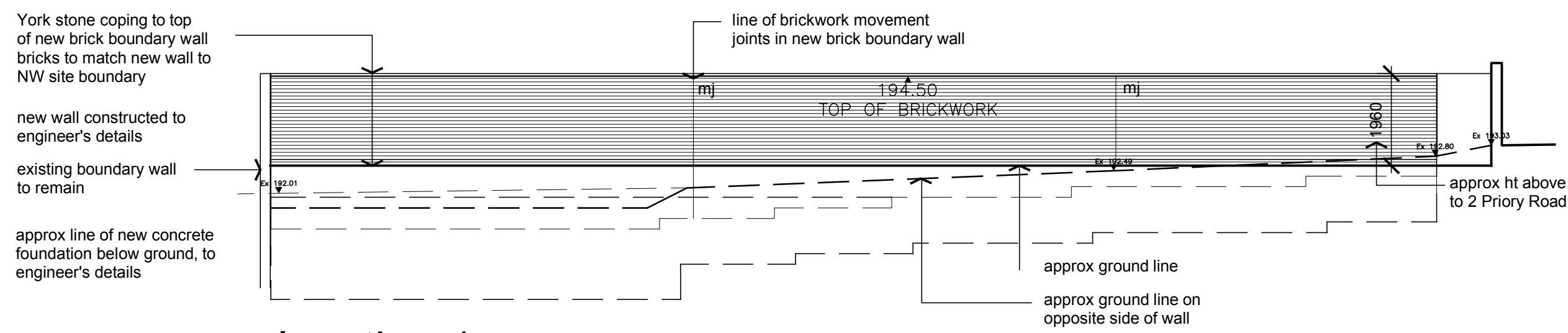


elevation 1 (from 2 Priory Road)

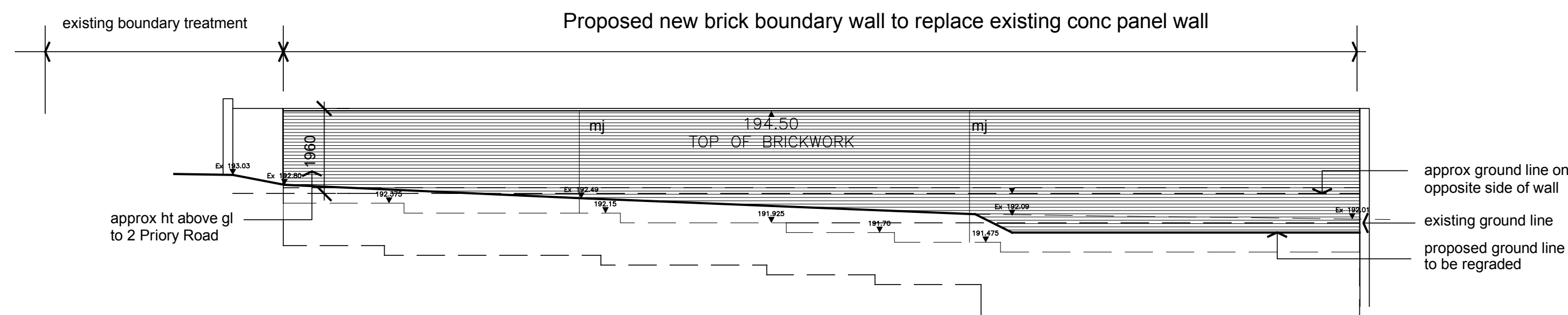


elevation 2 (from Coronation Gardens)

elevations of existing conc panel boundary wall to be removed

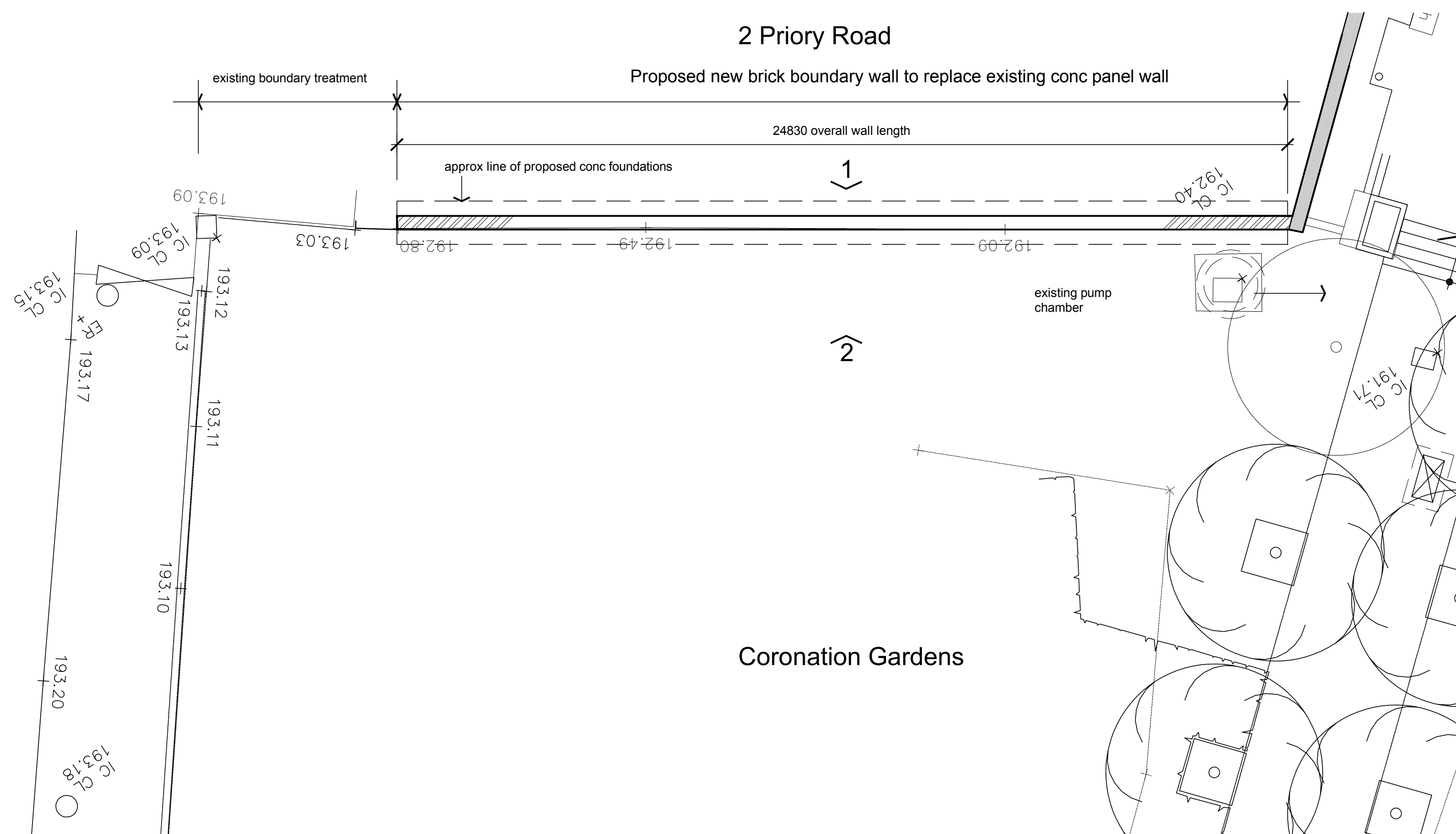


elevation 1 (from 2 Priory Road)



elevation 2 (from Coronation Gardens)

elevations of proposed brick boundary wall



boundary wall - proposed plan

Proposed boundary wall plan & elevation

110 CLAY FACING BRICKWORK TO NEW BOUNDARY WALLS

- Bricks: To BS EN 771-1.
- Manufacturer: Furness Brick and Tile Co. Ltd. (Tel. No. 01229 462411).
- Product reference: Old Chapel Blend
- Special shapes:
- Mortar: As section Z21.
- Standard: Not applicable
- Mix: 1 : 1 : 6 - cement : lime : sand
- Bond: To match existing on site, which appears to be a hybrid; Flemish/Garden Wall
- Joints: Flush

A	RH	Brick specification added for Planning	14/1/15
Rev. A	md	Notes	Date

DRAWING STATUS: <b>Planning</b>	
PROJECT: Coronation Gardens Dudley	
CLIENT: DMBC	
TITLE: proposed boundary wall plan and elevations	
DATE: Dec 2014	SCALE: 1:100 @ A1
DRAWN: RH	CHECKED:
DRAWING N°: M14.109.D.013	REVISION: A



THIS DRAWING MAY NOT BE USED WITHOUT THE CONSENT OF:

PLEYDELL SMITHYMAN LIMITED  
20a, THE WHARFAGE, IRONBRIDGE,  
SHROPSHIRE, TF8 7NH.

TEL: 01952 433211 FAX: 01952 433323

EMAIL: [psl@pleydellsmithyman.co.uk](mailto:psl@pleydellsmithyman.co.uk)  
WEBSITE: [www.pleydellsmithyman.co.uk](http://www.pleydellsmithyman.co.uk)

---

**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/0111/SED – Confirmation Report;
- Appendix 1.2 – TPO Plan and Schedule as served;
- Appendix 1.3 – Plan identifying objectors.
- Appendix 1.4 – TPO plan and Schedule as proposed for confirmation.

**APPENDIX 1.1**

***Confirmation Report for***

***The Borough of Dudley (High Park Crescent No.1 Sedgley (TPO/0111/SED))  
Tree Preservation Order 2014***

Tree Preservation Order	TPO/01111/SED
Order Title	High Park Crescent No.1
Case officer	James Dunn
Date Served	19/08/14
Recommendation	Confirm with modifications

## SITE AND SURROUNDINGS

1. The Tree Preservation Order comprises of 18 mature and early mature trees that are located in front of the properties on the western side of High Park Crescent. These properties are comprised of long front gardens and drives.
2. Many of the trees are contemporary with the construction of the properties, but a number also predate the properties. There are a smaller number of trees that appear to have been planted since the properties have been built.
3. The trees are very much a characteristic of the immediate locality and were all considered to provide sufficient amenity to the surrounding area to justify their protection.
4. The preservation order, along with a second order comprising similar trees to the south, has been served as part of the ongoing review of the existing preservation orders in the area. The majority of the trees included within the new orders would have been protected by the previous Tree Preservation Orders in the area.

## PUBLIC REPRESENTATIONS

5. Following the service of the order, objections were received from two local residents. One of the objectors does not object to any specific tree, but raises general objections to the order; the other objects to the inclusion of a specific tree within the order. The objections are based on the following grounds:
  - The order was made without any prior consultation with the property owners;
  - The council should assume responsibility for the maintenance of the trees including the collection of leaves in the autumn
  - The trees block light from the properties;
  - The cedar tree listed as T18 was implicated as a cause of a subsidence event at an adjacent property;
  - The cedar tree (T18) is overhanging the driveway of the adjacent property and is “out of control”;
  - The roots of the cedar tree (T18) are damaging the driveway of the adjacent property.

## RESPONSE TO OBJECTIONS

6. It is considered that the trees subject to this TPO do all provide a sufficient amount of amenity to the area, and their inclusion within the TPO is justified.
7. It is not normal practice to consult on, or advertise a proposed TPO to the owners of the trees or local residents prior to a TPO being served. Essentially this is in order to prevent the removal of any trees not previously protected before the proposed order comes into force.
8. Any party affected by an order is given an opportunity to submit comments and objections following the service of the order. Any objections received need to be considered prior to the order being made permanent.
9. Regardless of the protected status of the tree, it is always the owner of the tree who is legally responsible for the tree and any required upkeep. The Council will happily provide advice on appropriate management of protected trees, but does not assume responsibility for the maintenance of the trees. Similarly the Council does not become liable for the clearance of leaves during the autumn.
10. Having viewed the trees, it is not considered that that any of the trees obstruct significant light from the adjacent properties, and therefore it is not considered that any of the trees should be removed from the order due to light obstruction reasons.
11. The cedar tree (T18) is an early mature cedar tree that is located on the boundary between 45 and 43 High Park Crescent. The objector states that it has previously been implicated in a subsidence event at number 43.
12. Given that the tree has been implicated in a subsidence event that has been assessed by specialist engineers and arboriculturalists, it is considered that it would be reasonable to remove the tree from the order, so as not to present any obstacle to the appropriate management of this tree in the future, that could increase the risk of further damage to the affected property. Whilst the loss of the tree would have a detrimental impact on the amenity of the area, should it be removed, it is considered that this would be wholly justified if its removal were to prevent any further structural damage to the adjacent property.
13. It is accepted that the Cedar tree (T18) does considerably overhang the adjacent driveway. However it is not considered that the amount of overhang is such that it prevents the reasonable use of the driveway, or is sufficiently bad that it could not be remedied by appropriate pruning. As such, it is not considered that the tree should be removed from the order due to the overhang over the driveway.
14. Inspection of the driveway revealed a number of root traces within the tarmac surface, which had caused some humping of the surface. No stepped edges that

could cause trip hazards were observed. There was also a lifting of the tarmac immediately adjacent to the tree.

15. Whilst the lifting of the driveway is obviously caused by roots of the tree; it is difficult to diagnose the exact nature of the roots that are causing the damage with the surface in place. Often what appears to be substantial lifting can be caused by a relatively small and insignificant root just underneath the surface, or it could be a large root beneath seated at the a greater depth, that has pushed up the sub base.
16. Both of the above described situations can often be remedied without need for the felling of the tree, and as such it is considered that given the high amenity of the tree, it is not considered that the tree should be removed from the order on the basis of driveway damage.
17. Overall it is considered that given the implication of the Cedar tree (T18) as a cause of structural damage to the adjacent property it is reasonable to remove the tree from the order to remove any restrictions on its future maintenance.

## **CONCLUSION**

18. The trees subject to this order provide a sufficient amount of amenity to the surrounding area. Having considered the submitted objections it is recommended that the Cedar tree (T18) is removed from the order.

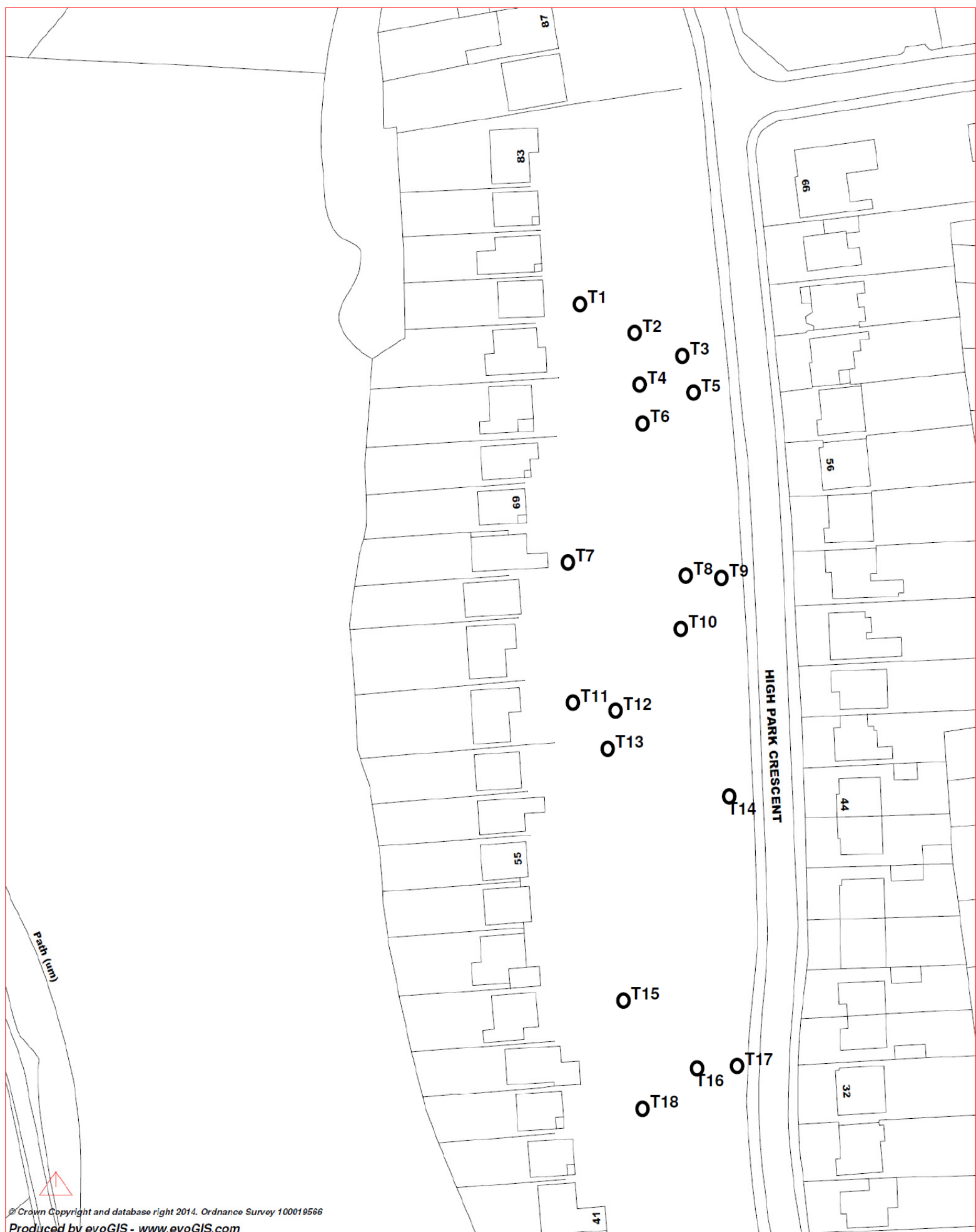
## **RECOMMENDATION**

19. It is recommended that the Tree Preservation Order be confirmed subject to modifications.



**APPENDIX 1.2**

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



© Crown Copyright and database right 2014. Ordnance Survey 100019566  
 Produced by evoGIS - www.evoGIS.com



Map referred to in the Borough Council of Dudley

**High Park Crescent, No.1, Sedgley (TPO/0111/SED)**

**100**

Tree Preservation Order 2014

Scale: 1 : 900

# 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	Red Maple	77 High Park Crescent
T2	Oak	75 High Park Crescent
T3	Maple	75 High Park Crescent
T4	Maple	73 High Park Crescent
T5	Rowan	73 High Park Crescent
T6	Silver Birch	73 High Park Crescent
T7	Laburnum	67 High Park Crescent
T8	Rowan	65 High Park Crescent
T9	Rowan	65 High Park Crescent
T10	Rowan	63 High Park Crescent
T11	Weeping Willow	61 High Park Crescent
T12	Rowan	61 High Park Crescent
T13	Weeping Willow	59 High Park Crescent
T14	Weeping Willow	57 High Park Crescent
T15	Cedar	49 High Park Crescent
T16	Sycamore	47 High Park Crescent
T17	Sycamore	47 High Park Crescent

T18

Cedar

45 High Park Crescent

**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>
-------------------------	--------------------	------------------

---

**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>
-------------------------	--------------------	------------------

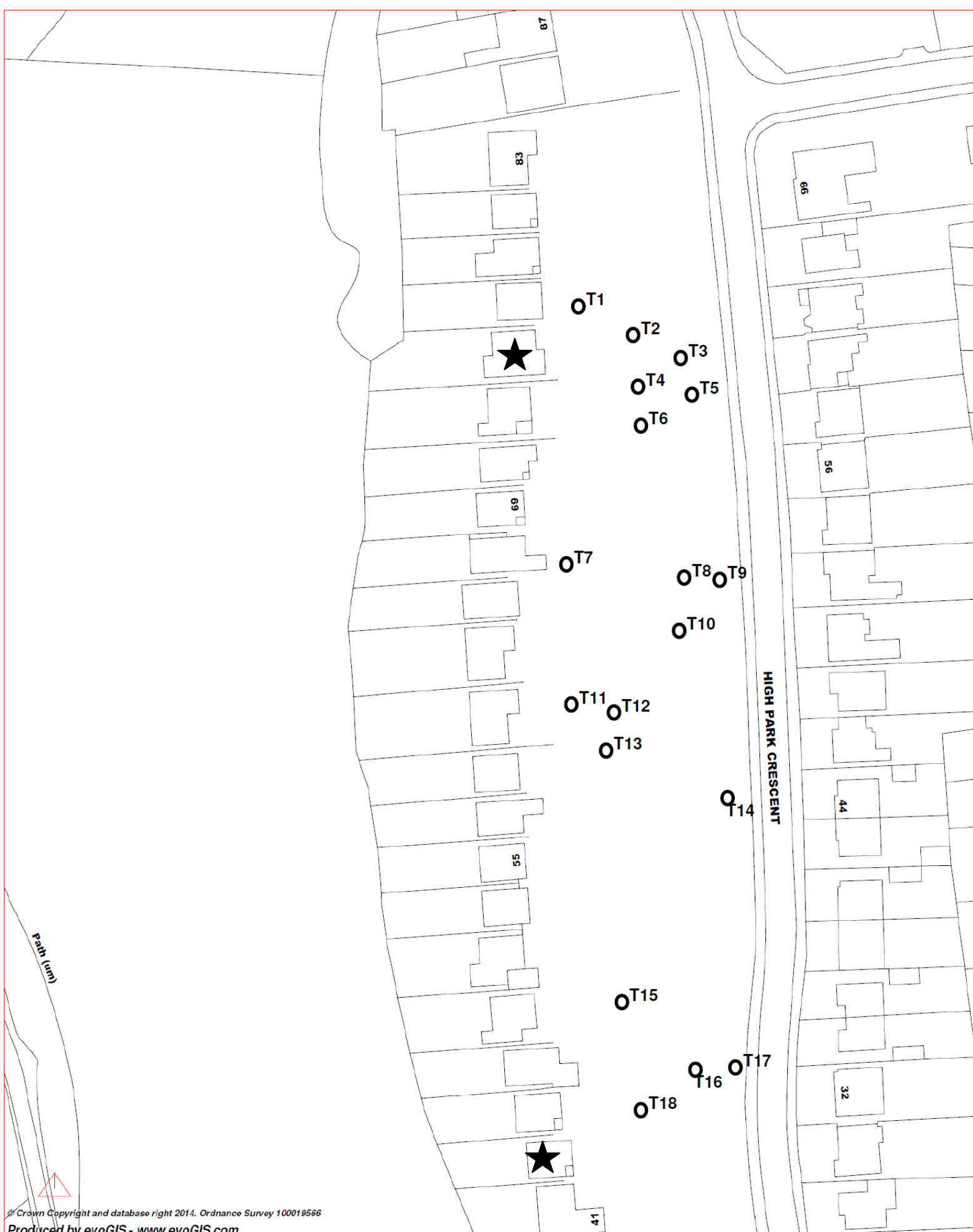
---

**NONE**

***APPENDIX 1.3***

***Plan Identifying Objectors Properties***

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



© Crown Copyright and database right 2014. Ordnance Survey 100019566  
 Produced by evoGIS - www.evoGIS.com



Map referred to in the Borough Council of Dudley

**High Park Crescent, No.1, Sedgley (TPO/0111/SED)**

**104**

Tree Preservation Order 2014

Scale: 1 : 900

**APPENDIX 1.4**

***Tree Preservation Order Plan and Schedule As Recommended for Confirmation***

# 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	Red Maple	77 High Park Crescent
T2	Oak	75 High Park Crescent
T3	Maple	75 High Park Crescent
T4	Maple	73 High Park Crescent
T5	Rowan	73 High Park Crescent
T6	Silver Birch	73 High Park Crescent
T7	Laburnum	67 High Park Crescent
T8	Rowan	65 High Park Crescent
T9	Rowan	65 High Park Crescent
T10	Rowan	63 High Park Crescent
T11	Weeping Willow	61 High Park Crescent
T12	Rowan	61 High Park Crescent
T13	Weeping Willow	59 High Park Crescent
T14	Weeping Willow	57 High Park Crescent
T15	Cedar	49 High Park Crescent
T16	Sycamore	47 High Park Crescent
T17	Sycamore	47 High Park Crescent



**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>
-------------------------	--------------------	------------------

**NONE**

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

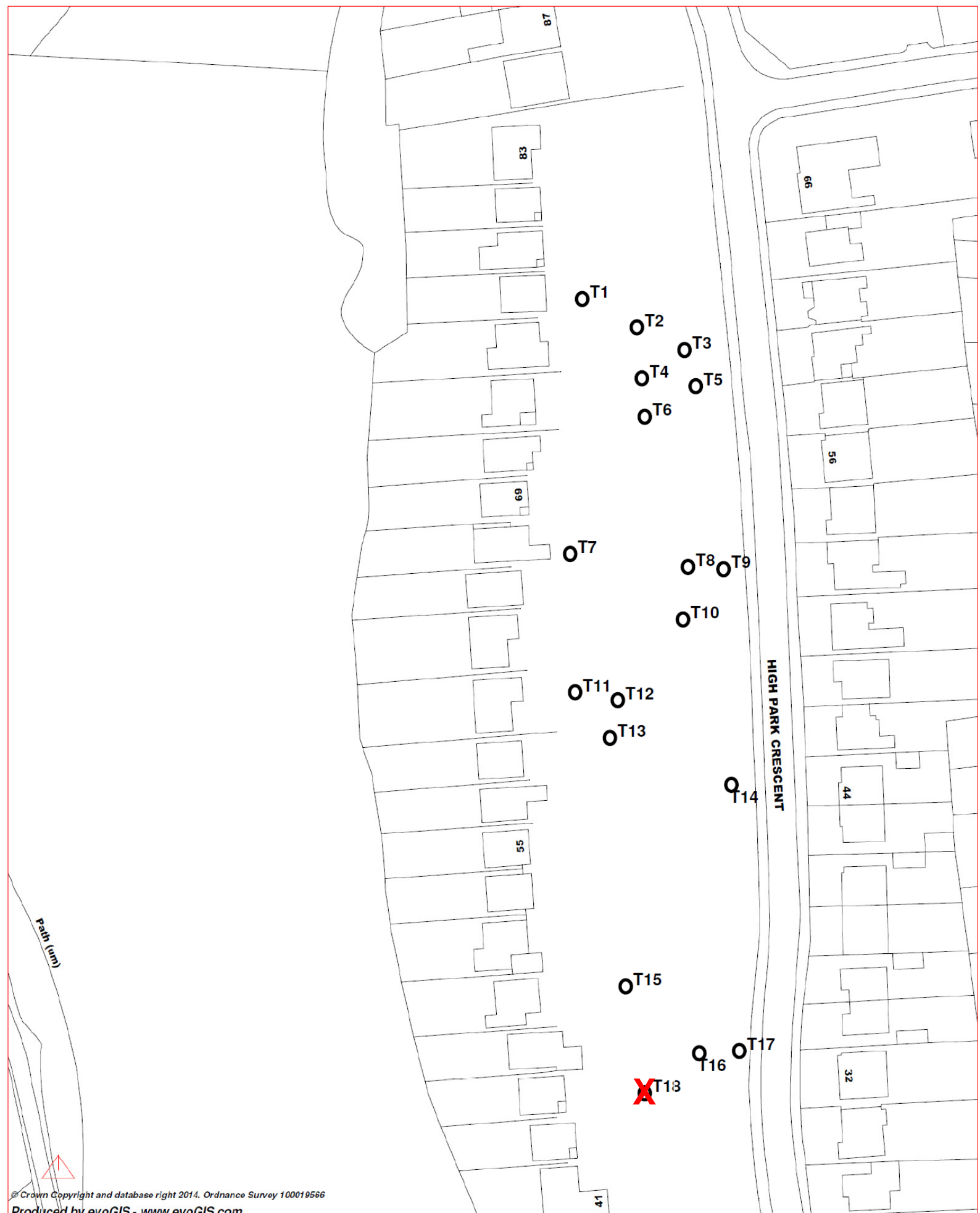
<i>Reference on map</i>	<i>Description</i>	<i>Situation</i>
-------------------------	--------------------	------------------

**NONE**

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

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

**NONE**



© Crown Copyright and database right 2014. Ordnance Survey 100019566  
 Produced by evoGIS - www.evoGIS.com



Map referred to in the Borough Council of Dudley

**High Park Crescent, No.1, Sedgley (TPO/0111/SED)**

108

Tree Preservation Order 2014

Scale: 1 : 900

---

**Development Control Committee – 2<sup>nd</sup> February 2015**

**Report of the Strategic Director (Environment, Economy and Housing)**

**Local Development Scheme 2015 - 2018**

**Purpose of Report**

- 1 To inform Members of the Council's Local Development Scheme (LDS) (2015-2018).

**Background**

- 2 The Local Development Scheme (LDS) is the Council's three-year project plan that identifies which local plan documents will be produced, in what order and by when.
- 3 The Council has had an adopted LDS since 2005 and the updated version took effect on the 14<sup>th</sup> January 2015. The LDS covers the period 2015 – 2018 and provides a summary of planning policy documents included within it, as well as timescales for their progression, what stage they are currently at and the anticipated date of adoption. These policy documents are referred to collectively as the Dudley Local Plan and are used as a basis for considering planning applications.
- 4 Dudley Council has a duty to maintain an up-to-date LDS and make it publically available: it is important that local communities and interested parties are aware of the key milestones so that they have the opportunity to get involved in the plan –making process and are aware of the likely dates for involvement.
- 5 The Council needs to review its portfolio of planning documents at regular intervals to assess whether some or all of them need updating. This LDS therefore also provides information of the timetabling of a number of existing approved planning documents which need to be reviewed. The LDS also lists those planning policy documents which have already been adopted and are used as working documents.
- 6 It is intended to review the LDS annually; however the tables within it, which set out the timetable for the progression of the relevant planning policy documents, will be updated on a monthly basis and displayed on the website.
- 7 The main Local Plan documents which are currently proposed to be delivered within the 2015-2018 timeframe are –
  - a) Dudley Borough Development Strategy (anticipated adoption date March 2016);
  - b) Dudley Area Action Plan (anticipated adoption date November 2016);

- c) Community Infrastructure Levy Charging Schedule (anticipated adoption date May 2016)
- d) Review of the Black Country Core Strategy (anticipated to commence in April 2016).

### **Finance**

- 8 The production of the planning policy documents contained in the LDS is funded from relevant, existing budgets and resources.

### **Law**

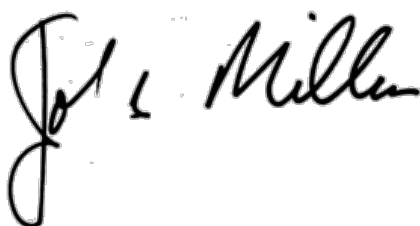
- 9 The Planning and Compulsory Purchase Act 2004 introduced the requirement for councils to prepare and maintain a Local Development Scheme (LDS).
- 10 The Localism Act 2011 allows the council to adopt its own LDS without approval from the Secretary of State (which was previously the case). It also maintains the requirements to produce an LDS and keep it up-to-date.

### **Equality Impact**

- 11 The planning policy documents which form the Dudley Local Plan aim to ensure that sufficient homes, shops and industries, social, educational and recreational facilities are planned and provided for to meet the needs of all the communities in the borough. This includes meeting the needs of disabled persons as well as children and young people by seeking to provide sufficient facilities for them, as well as having a positive effect for future generations.

### **Recommendation**

- 12 That the updated Local Development Scheme (LDS) (2015 - 2018) be noted.



.....  
**J. B. Millar**  
**Strategic Director (Environment, Economy and Housing)**

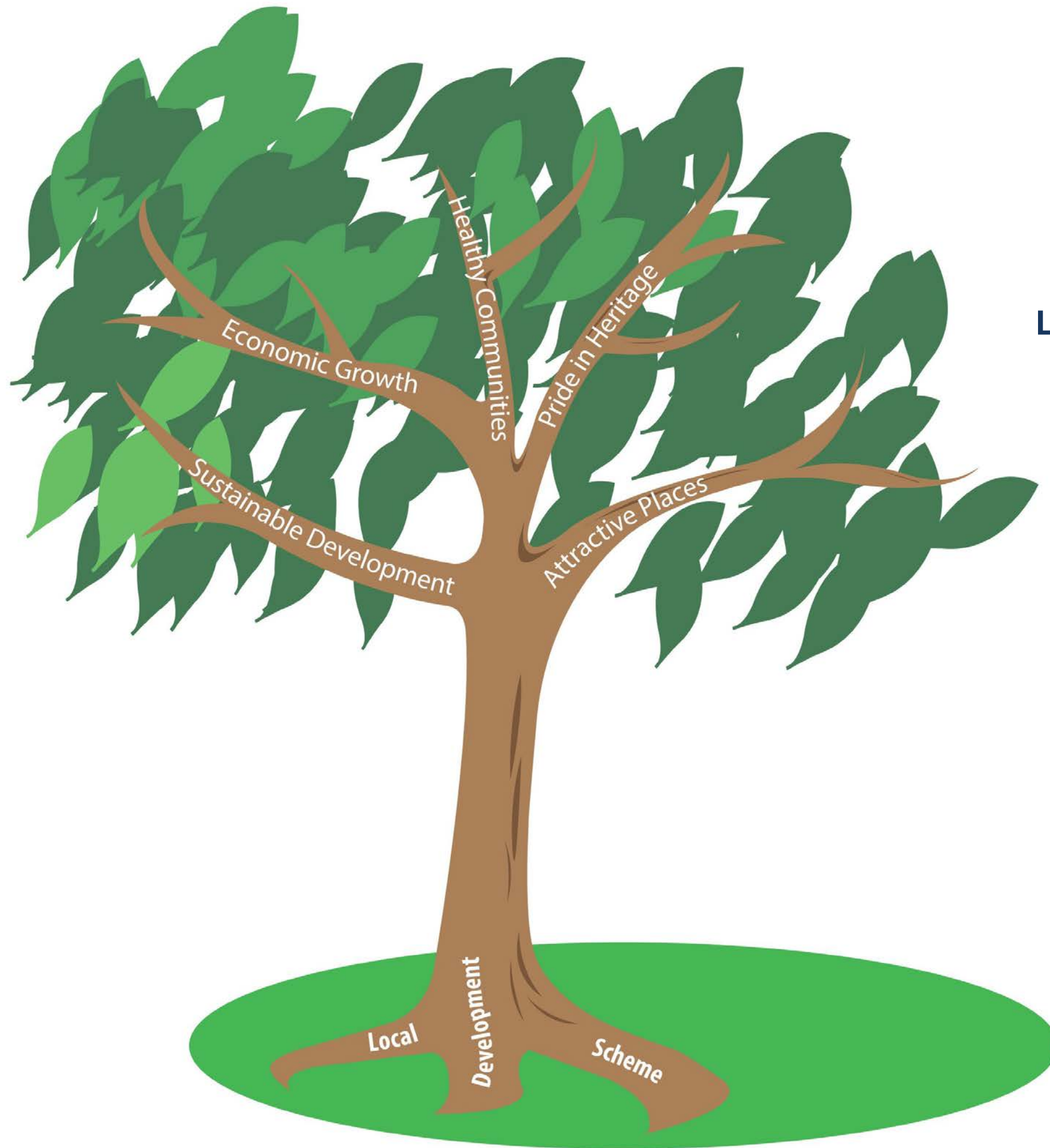
Contact Officers: Helen Martin (Head of Planning)  
Email: [helen.martin@dudley.gov.uk](mailto:helen.martin@dudley.gov.uk)  
Telephone: 01384 814186

Martin Dando (Principal Planning Officer)  
Email: [martin.dando@dudley.gov.uk](mailto:martin.dando@dudley.gov.uk)  
Telephone: 01384 817214

### **List of Background Papers**

- A. The Local Development Scheme (2015 – 2018)

**Local Development Scheme 2015 - 2018**





## 1. INTRODUCTION - WHAT IS A LOCAL DEVELOPMENT SCHEME (LDS)?

- 1.1 The LDS is a three year project plan of the planning policy documents which Dudley Council are currently preparing. This LDS was published on the Council's Website in January 2015 and covers the period 2015 – 2018. It provides a summary of the aims of these planning policy documents as well as timescales for their progression and anticipated adoption within this timeframe. These policy documents are referred to collectively as the Dudley Local Plan.
- 1.2 Local Planning Authorities have a duty to maintain an up-to-date LDS<sup>1</sup> and must specify the documents which, when prepared, will comprise the Local Plan for their areas. The LDS must also be publically available and kept up-to date and it is important that local communities and interested parties can keep track of progress of the relevant documents and that the LDS be published on the website.
- 1.3 The National Planning Policy Framework (NPPF) requires plans to be kept up to date in order for them to be considered effective and relevant. Dudley Council therefore needs to review its portfolio of planning documents at regular intervals to assess whether some or all of them need updating. Indeed, national guidance states that most Local Plans are likely to require updating in whole or in part at least every 5 years<sup>2</sup>. This LDS therefore also provides information of the timetabling of a number of existing approved planning documents which it is deemed necessary to be reviewed. In addition, this LDS also lists those planning policy documents which have already been adopted and are used as working documents.
- 1.4 The LDS programme is set out in detail at Appendix 1 to this document and comprises 3 tables:-  
Table 1 – Timetable for Strategic and Development Plan Documents currently being prepared (but not yet adopted);  
Table 2 – Timetable for other planning policy documents currently being prepared (but not yet adopted);  
Table 3 – Timetable for adopted planning policy documents currently in use, as well as main supporting planning policy documents (evidence base and Supplementary Planning Guidance - SPG)<sup>3</sup>.
- 1.5 However, the information contained within Appendix 1 provides only a snapshot of the position at the time that this LDS was published (January 2015). As the LDS needs to be reviewed<sup>4</sup> as the documents progress, a more up-to-date version is set out in (Revised) Tables 1, 2 and 3 which can be found alongside this LDS on Dudley Council's webpage: <http://www.dudley.gov.uk/resident/planning/planning-policy/local-development-framework/local-development-scheme/>
- 1.6 Once adopted, these planning policy documents will be used to inform and assess development proposals, enabling speedy, effective and legally sound planning decisions to be made.
- 1.7 Planning policy is also pivotal to the shaping and implementation of Dudley Council's Growth and Regeneration Strategy: by providing a framework in which to deliver the maximum appropriate sustainable economic growth and investment that is responsive to the Borough's environmental assets, Dudley's proud heritage and the aspirations of Dudley's local communities.
- 1.8 Planning policy is therefore a significant component in the delivery of the Council Plan. This is particularly in terms of the aims of shaping an environment that –
- a) supports businesses and attracts new industries*
  - b) strengthens the role and impact of ill health prevention*
  - c) helps deliver healthy sustainable places and communities in a borough where people care for a natural built environment that is attractive, healthy and safe, and live in homes suitable for their needs and wishes<sup>5</sup>*
- 1.9 **For further information on Dudley Council's LDS, including information on how to view policy documents and/or obtain copies, please contact the Strategic Planning and Historic Environment Team on 01384 814136 or e-mail [ldf@dudley.gov.uk](mailto:ldf@dudley.gov.uk)**

<sup>1</sup> Section 15 of the Planning and Compulsory Purchase Act 2004 as amended by the Localism Act 2011.

<sup>2</sup> NPPF Planning Practice Guidance on Local Plans – paragraph 008

<sup>3</sup> This includes documents that are required to be reviewed periodically such as the AMR and SHLAA, and strategic reviews, but excludes document- specific evidence base such as Sustainability Appraisals (SAs)

<sup>4</sup> It is currently anticipated that the LDS timetables will be reviewed on a monthly basis and that the LDS overall will be reviewed annually.

<sup>5</sup> The Dudley Council Plan 2013-2016

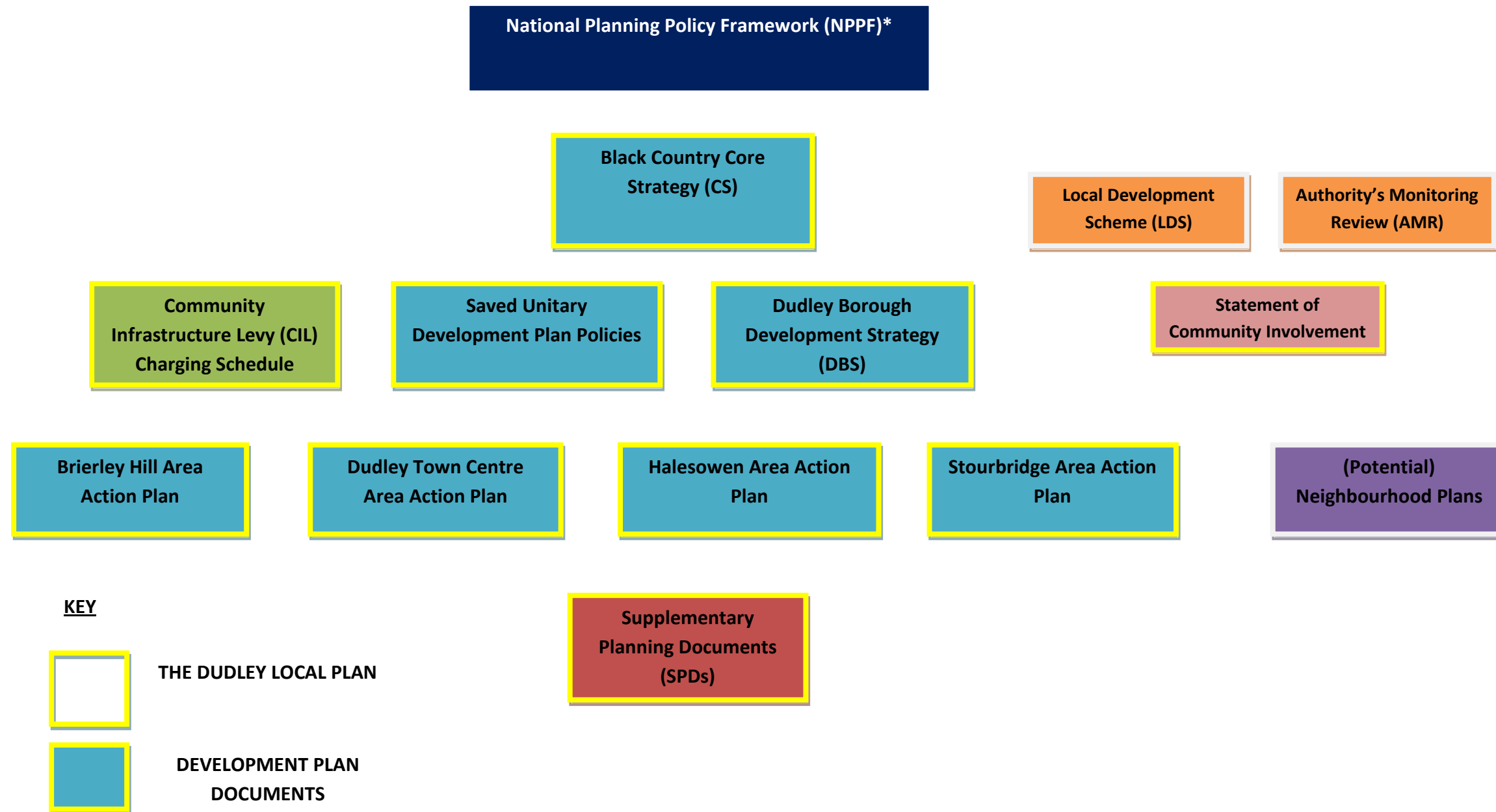
## 2. THE TYPES OF PLANNING DOCUMENT WHICH ARE INCLUDED IN THE LDS

- 1.10 The Localism Act (2011) made significant changes to the planning system including the abolition of regional spatial strategies, as well as enabling local communities, through neighbourhood forums, to create Neighbourhood Plans for their area with the guidance of local planning authorities. To-date no Neighbourhood Plans have been received by Dudley Council, however the LDS is accommodating and responsive to the fact that such plans could be received and potentially processed through to adoption within the 2015-2018 period.
- 1.11 The National Planning Policy Framework (2012) (NPPF) refers to the collection of documents that make up the statutory plan for the local planning authority as the Local Plan (previously known as the Local Development Framework – LDF).
- 1.12 In turn, the Local Plan forms part of the Development Plan: planning legislation states that planning applications must be determined in accordance with the Development Plan unless material considerations dictate otherwise<sup>6</sup>. The Development Plan also includes Neighbourhood Plans, this LDS and the Authority Monitoring Report (AMR).
- 1.13 This LDS is essentially a timetable for the documents which form Dudley's Local Plan.
- 1.14 Dudley's Local Plan comprises:-
- Development Plan Documents (DPDs) – these documents are subject to statutory preparation and adoption procedure, including an independent examination (usually in the form of an Examination in Public [EIP]) – they comprise –
    - The Black Country Core Strategy (BCCS) (2011) – *this is proposed to be reviewed during the LDS timetable (commencing April 2016).*
    - The Dudley Borough Development Strategy
    - Area Action Plans (AAPs)
  - Saved Unitary Development Plan (UDP) Policies
  - The Community Infrastructure Levy (CIL) Charging Schedule
  - The Statement of Community Involvement (SCI)
  - Supplementary Planning Documents (SPDs)
- 1.15 SPDs build upon and provide more detailed advice or guidance on the policies in the Local Plan. They are used to help applicants make successful applications or aid infrastructure delivery and are not to be used to add unnecessarily to the financial burdens on development<sup>7</sup>.
- 1.16 While SPDs are subject to public consultation and are capable of being a material consideration in planning decisions and form part of the Local Plan, they are not required to be subject to an independent examination and cannot be considered as part of the Development Plan.
- 1.17 There are 3 SPDs currently being progressed by Dudley Council and 2\* which Dudley Council are proposing to review during this LDS period. These are:
- Shopfronts SPD
  - Renewable Energy SPD
  - Air Quality SPD; Historic Environment SPD\*
  - Nature Conservation SPD\*

<sup>6</sup> Section 38(6) of the Planning and Compulsory Purchase Act 2004, and Section 70(2) of the Town and Country Planning Act 1990 and referenced at paras 2 and 11 of the NPPF in particular.

<sup>7</sup> NPPF paragraph 153

1.18 The Development Plan structure is shown in [Figure 1](#).



**Figure 1 Dudley's Development Plan Structure**

*\*The Development Plan and all Local Plan documents must reflect the provisions of the National Planning Policy Framework (NPPF) along with relevant EU obligations and requirements, and other appropriate national and local plans, strategies and programmes.*



### 3. SUMMARY OF THE PLANNING DOCUMENTS CURRENTLY BEING PREPARED BY DUDLEY COUNCIL

#### THE DUDLEY BOROUGH DEVELOPMENT STRATEGY (DPD) – DBS – ANTICIPATED ADOPTION DATE: FEBRUARY 2016 [Dudley Borough DS](#)

- 1.19 The DBS will guide development within Dudley Borough up until 2026 in accordance with the spatial strategy which has been set out in the Black Country Core Strategy (BCCS). The spatial strategy of the BCCS is primarily to focus growth within a network of regeneration corridors and centres. The DBS will provide the detailed land use allocations, in particular within these growth areas and especially to meet the Borough’s housing and employment land requirements.
- 1.20 The DBS will also provide a series of local policies to enable this strategy to be effectively delivered through the planning process and also to provide planning policy where there is currently a lack of local focus within the BCCS, especially by taking forward, and thus superseding, the Saved UDP Policies. The DBS will also identify the infrastructure requirements to achieve sustainable development and communities.

#### THE DUDLEY AREA ACTION PLAN (DPD) – ANTICIPATED ADOPTION DATE: NOVEMBER 2016 [Dudley AAP](#)

1.21 Dudley Council’s Area Action Plans (AAPs) set out a vision and framework for the future development and shape of Dudley’s main centres which are identified within the BCCS as part of the region’s growth network. The AAPs are intended to guide development appropriately, ensuring that it is sensitive and responsive to the local environment, as well as helping to focus investment so that it responds to strategic aims and a place’s attributes and qualities, and also to meet the aspirations of local communities.

1.22 AAPs have already been adopted for Brierley Hill (August 2011) and Stourbridge and Halesowen (October 2013). An AAP is currently being progressed for Dudley Town Centre and its environs. Refer to [Figure 2](#) which shows the boundaries of the AAPs located within Dudley Borough.

#### THE COMMUNITY INFRASTRUCTURE LEVY (CIL) CHARGING SCHEDULE – ANTICIPATED ADOPTION DATE: MAY 2015 [CIL Charging](#)

1.23 The Community Infrastructure Levy (CIL) came into force nationally in April 2010. It allows local authorities to raise funds from developers undertaking new building projects in their area. The money is intended to be used to fund a wide range of infrastructure that is needed as a result of development.

1.24 Dudley Council are progressing a CIL Charging Schedule which will set the rates for different types of development depending on where they are located within the borough: the borough has been divided up into a series of zones, each with a different charging rate for the type of development proposed.

#### STATEMENT OF COMMUNITY INVOLVEMENT (SCI) – ANTICIPATED ADOPTION DATE: JANUARY 2016 [Statement Ci](#)

1.25 This document details as to how Dudley Council will engage with its local community and all relevant parties in the delivery of all aspects of its planning service, including participation in place shaping and consultation on planning applications. This helps strengthen local democracy and the decision making process and influences policy making, with the aim of enabling communities to take ownership of the plans for their local environment.

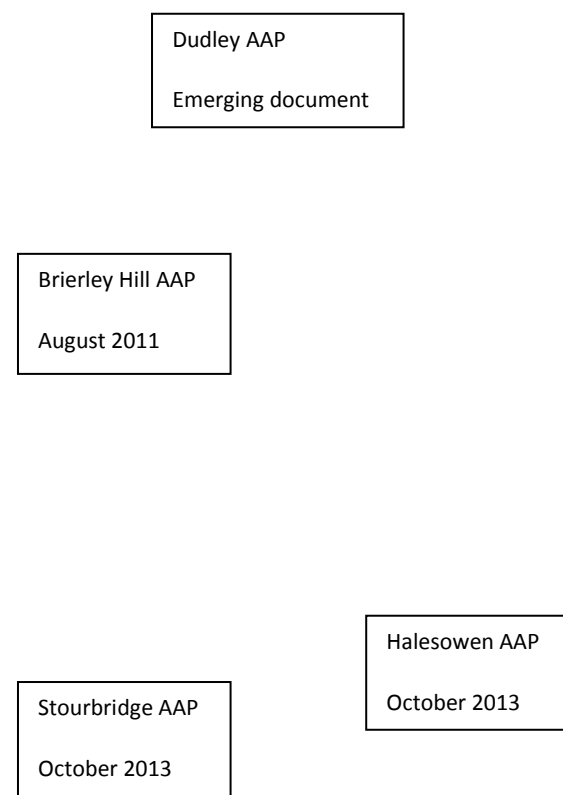


Figure 2: Dudley Council's Area Action Plans

**SHOPFRONTS SPD – ANTICIPATED ADOPTION DATE: OCTOBER 2015**

- 1.26 This SPD will provide advice on the design of new or replacement shopfronts and advertisements on shops, or the alteration of existing ones, with the aim of enabling formal submissions for such development to be viewed favourably. The overarching aim of the SPD is to help influence development such that it responds fully to local distinctiveness and character, particularly historic character. This SPD is associated with the proposals for, and operation of, the Dudley Townscape Heritage Initiative (THI).

**RENEWABLE ENERGY SPD – ANTICIPATED ADOPTION DATE: OCTOBER 2015** [Renewable Energy SPD](#)

- 1.27 This SPD is intended to provide guidance on the provision of renewable or low carbon energy measures as part of development schemes, with the aim of enabling formal submissions for such development to be viewed favourably. In particular, it provides guidance as to how the provisions of BCCS Policy ENV7 (Renewable Energy) can effectively be applied and relevant schemes assessed as part of the planning application determination process.

**AIR QUALITY SPD – ANTICIPATED ADOPTION DATE: FEBRUARY 2016**

- 1.28 This SPD sets out detailed guidance on addressing air quality not only within Dudley Borough but across the whole of the Black Country. As such it is an SPD which has involved joint working between Dudley and the other Black Country Authorities. It is aimed at informing all those involved in the submission and determination of relevant planning applications where air quality is an issue which needs to be addressed.

**PLANNING OBLIGATIONS SPD – ANTICIPATED ADOPTION DATE: OCTOBER 2015** [Planning Obs SPD](#)

- 1.29 This SPD is proposed to update and replace the existing Planning Obligations SPD which was adopted in September 2011. The revised SPD will provide greater clarity and certainty to developers, landowners, the community and Dudley Council regarding the basis for identifying and calculating Planning Obligations. Such Planning Obligations will potentially have a reduced focus, essentially on affordable housing and site specific measures, following the proposed adoption of the CIL Charging Schedule.

**HISTORIC ENVIRONMENT SPD – ANTICIPATED ADOPTION DATE: MAY 2016** [Historic Emt SPD](#)

- 1.30 This SPD is proposed to replace the existing Historic Environment SPD, which was adopted in September 2006. It will provide guidance to assist applicants in complying with the requirements of the historic environment policies set out in the NPPF and The Dudley Local Plan.

**NATURE CONSERVATION SPD – ANTICIPATED ADOPTION DATE: SEPTEMBER 2016** [Nature Conservation SPD](#)

- 1.31 This SPD is proposed to replace the existing Nature Conservation SPD, which was adopted in September 2006. It will provide guidance to assist applicants in complying with the requirements of the nature conservation and biodiversity policies set out in the NPPF and The Dudley Local Plan. It will also provide guidance on the need for development and investment to respond positively and sensitively to Dudley's unique and internationally renowned geological resource.

**APPENDIX 1 - LOCAL DEVELOPMENT SCHEME (LDS) 2015 – 2018 - (AS AT JANUARY 2015)**

**TABLE 1 – TIMETABLE FOR STRATEGIC AND DEVELOPMENT PLAN DOCUMENTS CURRENTLY BEING PREPARED**

<b>PLANNING DOCUMENT</b>	<b>EVIDENCE GATHERING</b>	<b>ISSUES &amp; OPTIONS CONSULTATION</b>	<b>PREFERRED OPTIONS CONSULTATION</b>	<b>PUBLICATION CONSULTATION</b>	<b>SUBMISSION</b>	<b>EXAMINATION IN PUBLIC / WR PROCEDURE</b>	<b>RECEIPT OF INSPECTOR'S REPORT</b>	<b>ADOPTION</b>
<b>DUDLEY BOROUGH DEVELOPMENT STRATEGY</b> WEBPAGE LINK – <a href="#">Dudley Borough DS</a>	April 2009	June 2010	July to September 2014	June 2015	September 2015	December 2015	February 2016	March 2016
<b>DUDLEY AREA ACTION PLAN</b> WEBPAGE LINK - <a href="#">Dudley AAP</a>	December 2012	March 2014	January/ February 2015	October 2015	January 2016	July 2016	September 2016	November 2016
<b>CIL CHARGING SCHEDULE</b> WEBPAGE LINK - <a href="#">CIL Charging</a>	February 2012	n/a	March to April 2014	July to August 2014	September 2014	December 2014	March 2015	May 2015
<b>BLACK COUNTRY CORE STRATEGY REVIEW</b> WEBPAGE LINK – <a href="#">Black Country CS</a>	April 2016	June 2017	2018	2019	2019	2019	Early 2020	March 2020
<b>NEIGHBOURHOOD PLANS</b> WEBPAGE LINK – <a href="#">N'hood Planning</a>								

**KEY**

	Current point of progress of planning policy document (as of January 2015)
--	--

▣ - document being progressed towards next stage  
n/a – not applicable

TABLE 2 – TIMETABLE FOR OTHER PLANNING POLICY DOCUMENTS CURRENTLY BEING PREPARED

PLANNING DOCUMENT	EVIDENCE GATHERING	DRAFT POLICIES CONSULTATION	ADOPTION
SHOPFRONTS SPD WEBPAGE LINK –	January 2012	March 2015	October 2015
RENEWABLE ENERGY SPD WEBPAGE LINK – <a href="#">Renewable Energy SPD</a>	January 2012	April 2015	October 2015
AIR QUALITY SPD WEBPAGE LINK –	January 2013	June 2015	February 2016
STATEMENT OF COMMUNITY INVOLVEMENT WEBPAGE LINK – <a href="#">Statement CI</a>	January 2015	July 2015	January 2016
PLANNING OBLIGATIONS SPD WEBPAGE LINK - <a href="#">Planning Obs SPD</a>	January 2015	March 2015	June 2015
HISTORIC ENVIRONMENT SPD WEBPAGE LINK – <a href="#">Historic Envt SPD</a>	May 2015	October 2015	May 2016
NATURE CONSERVATION SPD WEBPAGE LINK – <a href="#">Nature Conservation SPD</a>	August 2015	January 2016	September 2016

**KEY**

	Current point of progress of planning policy document (as of January 2015)
--	--

▣ - document being progressed towards next stage

TABLE 3 – TIMETABLE OF PLANNING POLICY DOCUMENTS CURRENTLY IN USE AND MAIN EVIDENCE BASE

PLANNING DOCUMENT	WHEN ADOPTED OR PUBLISHED	POTENTIAL REVIEW? √- yes X – not currently programmed	PROPOSED START DATE OF REVIEW	COMMENTS
<b>STRATEGIC DEVELOPMENT PLAN DOCUMENTS</b>				
<b>BLACK COUNTRY CORE STRATEGY</b> WEBPAGE LINK - <a href="#">Black Country CS</a>	February 2011	√	April 2016	Refer to Table 1
<b>STATEMENT OF COMMUNITY INVOLVEMENT</b> WEBPAGE LINK – <a href="#">Statement Ci</a>	November 2006	√	January 2015	Refer to Table 2
<b>DUDLEY UNITARY DEVELOPMENT PLAN (UDP)</b> WEBPAGE LINK - <a href="#">Dudley AAP</a>	October 2005	x	-	The UDP has largely been superseded by the Black Country CS. This is except for a number of Saved Policies. However it is anticipated that those policies will in turn be superseded by the DBS.
<b>AREA ACTION PLANS (AAPS)</b>				
<b>HALESOWEN AAP</b> WEBPAGE LINK <a href="#">Halesowen AAP</a>	October 2013	X	-	-
<b>STOURBRIDGE AAP</b> WEBPAGE LINK – <a href="#">Stourbridge AAP</a>	October 2013	X	-	-
<b>BRIERLEY HILL AREA ACTION PLAN (AAP)</b> WEBPAGE LINK – <a href="#">Brierley Hill AAP</a>	August 2011	X	-	-

PLANNING DOCUMENT	WHEN ADOPTED OR PUBLISHED	POTENTIAL REVIEW? √- yes X – not currently programmed	PROPOSED START DATE OF REVIEW	COMMENTS
<b>SUPPLEMENTARY PLANNING DOCUMENTS (SPDS)</b>				
PLANNING FOR HEALTH SPD WEBPAGE LINK – <a href="#">Health SPD</a>	September 2013	X	-	-
NEW HOUSING DEVELOPMENT SPD WEBPAGE LINK – <a href="#">Housing SPD</a>	February 2013	X	-	-
DESIGN IN BRIERLEY HILL TOWN CENTRE SPD WEBPAGE LINK – <a href="#">Design BHTC</a>	December 2012	X	-	-
PARKING STANDARDS SPD WEBPAGE LINK – <a href="#">Parking SPD</a>	June 2012	X	-	-
ACCESS FOR ALL SPD WEBPAGE LINK – <a href="#">Access for All SPD</a>	September 2011	X	-	-
PLANNING OBLIGATIONS SPD WEBPAGE LINK – <a href="#">Planning Obs SPD</a>	September 2011	√	-	An updated SPD is required to reflect changes to the planning gain regime as a result of the proposed CIL Charging Schedule Refer to Table 1
GLASS QUARTER SPD WEBPAGE LINK – <a href="#">Glass Qtr SPD</a>	December 2009	X	-	-
OPEN SPACE, SPORT AND RECREATION SPD WEBPAGE LINK – <a href="#">Recreation SPD</a>	June 2007	X	-	-
HISTORIC ENVIRONMENT SPD WEBPAGE LINK – <a href="#">Historic Env't SPD</a>	September 2006	√	May 2015	Refer to Table 2
NATURE CONSERVATION SPD WEBPAGE LINK – <a href="#">Nature Conservation SPD</a>	September 2006	√	August 2015	Refer to Table 2
AFFORDABLE HOUSING SPD WEBPAGE LINK - <a href="#">Affordable Housing SPD</a>	June 2006	x	-	-

PLANNING DOCUMENT	WHEN ADOPTED OR PUBLISHED	POTENTIAL REVIEW? √- yes X – not currently programmed	PROPOSED START DATE OF REVIEW	COMMENTS
<b>MAIN EVIDENCE BASE AND SUPPLEMENTARY PLANNING GUIDANCE (SPG)</b>				
<b>AUTHORITY MONITORING REVIEW (AMR)</b> WEBPAGE LINK <a href="#">Authority MR</a>	December 2014	√	December 2015	An updated AMR is produced annually. The next AMR will be for the 2014/15 monitoring year
<b>STRATEGIC EMPLOYMENT LAND REVIEW (SELR)</b> WEBPAGE LINK <a href="#">DevstratEvidenceBase</a>	July 2014	√	January 2015	The SELR will be updated to coincide with the publication of the Revised SHLAA and to tie in with the timetable of the DBS
<b>CENTRES' REVIEW</b> WEBPAGE LINK -	August 2014	√	April 2015	This is an annual health check of the Borough's shopping centres – e.g. identifying % of vacant units. It particularly informs the AMR
<b>STRATEGIC HOUSING LAND AVAILABILITY ASSESSMENT (SHLAA)</b> WEBPAGE LINK – <a href="#">SHLAA</a>	January 2013	√	January 2015	The next SHLAA will be an update for the year 2013/14
<b>PARKS AND GREEN SPACE STRATEGY</b> WEBPAGE LINK – <a href="#">Parks and Green Space</a>	June 2009	X	-	-
<b>DUDLEY TOWN CENTRE AREA DEVELOPMENT FRAMEWORK (ADF) (SPG)</b> WEBPAGE LINK - <a href="#">DudleyADF</a>	December 2005	X	-	This will be updated as a result of the policies of the Dudley AAP
<b>LYE DISTRICT CENTRE ACTION PLAN (SPG)</b> WEBPAGE LINK - <a href="#">LyeDCAP</a>	July 2004	X	-	This will be superseded by the policies of the DBS.
<b>DESIGN FOR COMMUNITY SAFETY (SPG)</b> WEBPAGE LINK - <a href="#">DesignCS</a>	March 2002	X	-	-
<b>A STRATEGY FOR DUDLEY'S CANALS</b> WEBPAGE LINK –	July 1999	X	-	-
<b>LOCAL LIST BUILDINGS' REVIEW</b> WEBPAGE LINK –	December 1996	√	January 2015	-
<b>CONSERVATION AREAS' REVIEW</b> WEBPAGE LINK –	1970 - 2011	√	January 2015	Work on the first tranche of Conservation Areas is due to commence in January 2015

---

**Development Control Committee – 2<sup>nd</sup> February 2015**

**Report of the Strategic Director (Environment, Economy and Housing)**

**Review of the relevant national and local policies, planning legislation and national guidance concerning the change of use or redevelopment of Public Houses.**

**Purpose of Report**

1. To inform Development Control Committee of the outcome of the review of the relevant National and local planning policies, planning legislation and guidance concerning the change of use or redevelopment of Public Houses with a view to addressing the elements within the motion considered at Full Council on 1<sup>st</sup> December 2014.

**Policy Background**

2. The National Planning Policy Framework (NPPF) issued March 2012 seeks to promote healthy communities and identifies that planning has an important role in facilitating social interaction and creating healthy and inclusive communities.
3. Local Planning Authorities interpret national policy and have to be consistent with it at a local level which in Dudley Borough is via the Black Country Core Strategy adopted 2011 and other local plans such as the remaining parts of the Unitary Development Plan 2005, Area Action plans and the emerging Borough Development Strategy Development Plan Document (DPD). Currently there are no specific policies within the existing Unitary Development Plan which relate to the protection of community facilities. The opportunity now arises where the draft Borough Development Strategy can address the matter of community facilities.
4. The attached report to the Cabinet Member Regeneration, Appendix I, sets out the context, the permitted development rights and the background to Community Rights to Bid.
5. The Cabinet Member Regeneration considered the report on 9<sup>th</sup> January and endorsed the recommendation.



## **Conclusion**

6. The Local Planning Authority has to have regard to National planning policy and legislation, including existing Permitted Development Rights. Local Planning policies have to be consistent with National policy; however a local dimension is included in adopted planning policies following their successful Examination by the Secretary of State. The current work on the new draft Borough Development Strategy Document provides the opportunity to clarify the policy on community facilities in relation to their part in sustainable communities.

## **Finance**

7. The production of the Borough Development Strategy is funded from existing budgets and resources dedicated to the production of Development Plan Documents and other statutory planning documents.

## **Law**

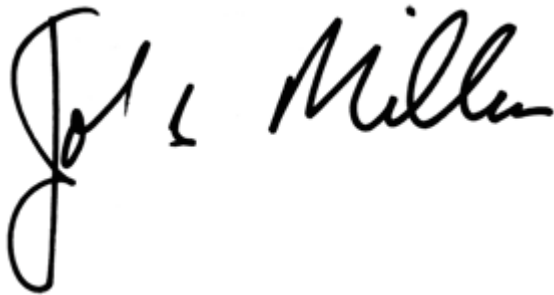
8. Pursuant to Section 1 of the Localism Act 2011, the Council has the general power of competence to do anything that individuals generally may do.
9. The Local Plan documents are produced in accordance with the relevant provisions of the Planning and Compulsory Purchase Order Act 2004 and the Town and Country Planning (Local Planning) (England) Regulations 2012 and the National Planning Policy Framework (NPPF) 2012.
10. Permitted development is regulated by The Town & Country Planning (General Permitted Development Order) 1995 as amended by (Amendment) (England) Order 2010.
11. Section 2 of the Local Government Act 2000 allows the council to do anything that it considers likely to promote or improve the economic, social or environmental well being of an area.

## **Equality Impact**

12. This work has been conducted in full accordance with the Council's equality and diversity policies and should in no way have any prejudicial impact on, any individual or group in respect of age, race, gender, disability, sexual orientation and/or other relevant groups as defined by protected characteristics.

## **Recommendation**

13. It is recommended that Development Control Committee note the contents of the report.



.....  
**John B Millar**  
**Strategic Director (Environment, Economy and Housing)**

Contact Officer: Helen Martin  
Telephone: 01384 814186  
Email: helen.martin@dudley.gov.uk

## **List of Background Papers**

- Planning and Compulsory Purchase Order Act 2004
- Town and Country Planning (Local Planning) (England) Regulations 2012
- The Town & Country Planning (General Permitted Development) Order 1995 (SI 418/1995);
- The Town & Country Planning (General Permitted Development) (Amendment) (England) Order 2010 (SI 654/2010)
- Government Circular 9/95: General Development Order
- National Planning Policy Framework;
- Black Country Core Strategy 2011;
- Dudley Unitary Development Plan 2005;



---

## **Report to Cabinet Member – Regeneration**

### **Review of the relevant national and local policies, planning legislation and national guidance concerning the change of use or redevelopment of Public Houses**

#### **Purpose of Report**

1. To inform the Cabinet Member (prior to reporting to Development Control Committee) of the outcome of the review of the relevant National and local planning policies, planning legislation and guidance concerning the change of use or redevelopment of Public Houses with a view to addressing the elements within the motion of considered at Full Council on 1<sup>st</sup> December 2014; which were as follows.
  - a) A Viability report that demonstrates to the Council's satisfaction that the public house is no longer economically viable, including the length of time the public house has been vacant, evidenced by the applicant of active and appropriate marketing for a constant period of at least 36 months at the existing use value.
  - b) The role the public house plays in the provision of space for community groups to meet and whether the loss of such space would contribute to a shortfall in local provision, including evidence that the premises have been offered to use or to hire at a reasonable charge to community or voluntary organisations over a 12 month period and there is no longer a demand for such use.
  - c) The design, character and heritage value of the public house and the significance of the contribution that it makes to the streetscape and local distinctiveness, and where appropriate historic environment, and the impact the proposal will have on its significance.
  - d) The ability and appropriateness of the building and site to accommodate an alternative use or uses without the need for demolition or alterations that may detract from the character and appearance of the building.

## **Policy Background**

2. National Policy: The National Planning Policy Framework (NPPF) issued March 2012 seeks to promote healthy communities and identifies that planning has an important role in facilitating social interaction and creating healthy and inclusive communities. In particular it recommends that planning policies and decisions should: -
  - Plan positively for the provision and use of shared space, community facilities (such as local shops, meeting places, sports venues, public houses and places of worship) and other local services to enhance the sustainability of communities and residential environments.
  - Guard against the unnecessary loss of valued facilities and services particularly where this would reduce the communities ability to meet day to day needs.
3. Local Policy: Local Planning Authorities interpret national policy and have to be consistent with it at a local level which in Dudley Borough is via the Black Country Core Strategy adopted 2011 and other local plans such as the remaining parts of the Unitary Development Plan 2005, Area Action plans and the emerging Borough Development Strategy Development Plan Document (DPD). The DPD seeks to allocate land uses to sites and also covers general policies against which planning applications will be considered. Currently there are no specific policies within the existing Unitary Development Plan which relate to the protection of community facilities .The opportunity now arises where the draft Borough Development Strategy can address the matter of community facilities.

The approval of this emerging DPD would be through the usual Cabinet/Full Council route. The document is subject to statutory consultation on the publication submission in summer 2015 when there will be an opportunity to comment on the policies and allocations proposed; with a view to adoption in March 2016.

To address point (a) and point (b) of the motion it is proposed to draft a policy covering applications relating to community facilities and the criteria against which proposals which would result in their loss would be assessed. Where the loss of a community facility is proposed which would reduce a communities ability to meet its day to day needs applicants would be required to demonstrate that the community facility in question does not serve the local community (the definition being location dependant) or that it is clearly not viable to continue to operate as a community facility under either an alternative business model or in other ownership.

However, it should be noted that such a policy may have unintended consequences. Application of this policy will for a number of applications result in further cost to applicants and may add delay to the application

process. There is also the cost of assessing this information. Nor would the Local Planning Authority wish to create a situation where some community facilities were left vacant and boarded up due to onerous policy requirements putting off or preventing investors or developers taking action. There may also be third party objection to the policy during consultations and Inspector at the Examination could propose amendments to (or strike out the policy) if he/she felt that it was not justified or overly onerous.

In terms of point (a), demonstration of viability will necessarily include a raft of information such as the provision of marketing information to show that there is no market demand for the existing or an appropriate alternative community use at a reasonable market price (sale and rent). This market information is independently assessed. It may also include a business case demonstrating that continued community use is economically unviable and that the costs of continuing to operate the community use, or the works required to retain the building in meaningful community use are not sustainable/economically viable.

In terms of point (c), this element is already a part of the routine consideration of a planning application an assessment of the design, character and heritage value of the community facility is undertaken and a judgement made as to the contribution that it makes to the streetscape and local distinctiveness, and where appropriate historic environment, and the impact the proposal will have on this.

Similarly with regard to point (d), the ability and appropriateness of the building and site to accommodate an alternative use or uses is also currently a material consideration when determining a planning application. Demolition or alterations that may detract from the character and appearance of the building (or its surroundings) are resisted.

#### **Permitted development rights**

4. Irrespective of the above points, not all changes of use are within the control of the Local Planning Authority.

The Town and Country Planning (Use Classes) Order 1987 (as amended) puts uses of land and buildings into various categories known as 'Use Classes'. Public Houses, wine bars and other drinking establishments fall under Class A4.

Under this legislation buildings currently used as “drinking establishments” can change to a restaurant/ cafe use (A3), a professional and financial service use(A2) or a retail use (A1); without the need for planning permission.

This is deemed to be “permitted development” and unless other works (such as an extension or significant alterations to the external appearance of the building), are also taking place the Local Planning

Authority currently has no control and cannot explore therefore issues such as viability or the ability of the building to accommodate other uses.

### **Community Right to Bid**

5. The Community Right to Bid which came into effect on 21<sup>st</sup> September 2012 is outside and separate to the planning process and gives local groups the right to nominate a building (or other land) for listing by the Local Authority as an asset of community value. The right covers private as well as public assets.

The building (or land) can be listed if the principal use of the asset furthers their (or recently furthered) their community's social well being or social interest and is likely to do so in the future.

It is intended to give community groups a fairer chance to save assets that are important to them. Such assets can include village shops, public houses, community centres, children's centres, allotments libraries, cinemas and recreation grounds.

If an asset on the formal list of Assets of Community Value comes up for sale the local organisations will have up to 6 months to raise capital and bid to buy the asset from the owners before it goes on the open market. This new right is the "Community Right to Bid". However, there is no requirement on the owner to sell the asset to the relevant nominating body or indeed any other bidding local organisation.

It must be noted that this process has no legal bearing on the planning process. The Local Planning Authority will have regard to assets on the formal list, however not owning an asset does not prevent any organisation or person applying for planning permission for a particular site or indeed the consent being granted. All planning decisions have to be considered with regard to material planning considerations and must be determined according to the legal planning process.

### **Conclusion**

6. The Local Planning Authority has to have regard to National planning policy and legislation, including existing Permitted Development Rights. Local Planning policies have to be consistent with National policy; however a local dimension is included in adopted planning policies following their successful Examination by the Secretary of State. The current work on the new draft Borough Development Strategy Document provides the opportunity to clarify the policy on community facilities in relation to their part in sustainable communities.

## **Finance**

7. The production of the Borough Development Strategy is funded from existing budgets and resources dedicated to the production of Development Plan Documents and other statutory planning documents.

## **Law**

8. Pursuant to Section 1 of the Localism Act 2011, the Council has the general power of competence to do anything that individuals generally may do.

The Local Plan documents are produced in accordance with the relevant provisions of the Planning and Compulsory Purchase Order Act 2004 and the Town and Country Planning (Local Planning) (England) Regulations 2012 and the National Planning Policy Framework (NPPF) 2012.

Permitted development is regulated by The Town & Country Planning (General Permitted Development) (Amendment) (England) Order 2010.

Section 2 of the Local Government Act 2000 allows the council to do anything that it considers likely to promote or improve the economic, social or environmental well being of an area.

## **Equality Impact**

9. This work has been conducted in full accordance with the Council's equality and diversity policies and should in no way have any prejudicial impact on, any individual or group in respect of age, race, gender, disability, sexual orientation and/or other relevant groups as defined by protected characteristics.

## **Recommendation**

10. It is recommended that Cabinet Member note the contents of the report and agrees to further work being undertaken to explore the feasibility of a Community Facility policy being incorporated into the emerging Borough Development Strategy. The approval of this document would be through the usual Cabinet/Full Council route and subject to full public consultation prior to independent examination and adoption Spring 2016.



.....  
Agreed on 9<sup>th</sup> January 2015

**Cllr. Judy Foster**

**Cabinet Member, Regeneration**

Contact Officer: Helen Martin

Telephone: 01384 814186

Email: helen.martin@dudley.gov.uk

### **List of Background Papers**

- Planning and Compulsory Purchase Order Act 2004
- Town and Country Planning (Local Planning) (England) Regulations 2012
- The Town & Country Planning (General Permitted Development) Order 1995 (SI 418/1995);
- The Town & Country Planning (General Permitted Development) (Amendment) (England) Order 2010 (SI 654/2010)
- Government Circular 9/95: General Development Order
- National Planning Policy Framework;
- Black Country Core Strategy 2011;
- Dudley Unitary Development Plan 2005;