

SPEAKERS PANEL (PLANNING)

Day: Wednesday
Date: 26 May 2021
Time: 10.00 am
Place: Jubilee Hall, Dukinfield Town Hall

Item No.	AGENDA	Page No
1.	APOLOGIES FOR ABSENCE To receive any apologies from Members of the Panel.	
2.	DECLARATIONS OF INTEREST To receive any declarations of interest from Members of the Panel.	
3.	MINUTES The Minutes of the meeting of the Speakers Panel (Planning) held on 21 April 2021, having been circulated, to be signed by the Chair as a correct record.	1 - 2
4.	THE PROVISIONAL COACH HOUSE/CHARLOTTE HOUSE, HYDE, TREE PRESERVATION ORDER (2021) To receive a report from the Development Manager, Growth.	3 - 18
5.	PLANNING APPLICATIONS To consider the schedule of applications:	
a)	21/00272/FUL - 58 SPRING GARDENS, HYDE, SK14 4RZ	19 - 50
b)	21/00170/FUL - 118-120 MARKET STREET, DROYLSDEN, M43 7AA	51 - 72
c)	20/00329/FUL - LAND ADJACENT TO 124 MOTTRAM OLD ROAD, HYDE, SK14 3BA	73 - 92
6.	APPEAL/COST DECISION NOTICES	
a)	APP/G4240/W/20/3265445 - BRIDGE LOUVRE COMPANY, UNITS 1&2, NORTHEND ROAD, STALYBRIDGE, SK15 3AZ	93 - 94
b)	APP/G4240/Z/21/3266801 - 189 ASHTON ROAD, DENTON, M34 3LG	95 - 96
c)	APP/G4240/W/20/3266035 - 189 KINGS ROAD, ASHTON-UNDER-LYNE, OL6 8HD	97 - 100
d)	APP/G4240/X/20/3262764 - LAND AT EASTERLY SIDE OF BURY STREET, ADJACENT TO 66A BURY STREET, MOSSLEY, OL5 9HN	101 - 106
e)	APP/G4240/W/20/3265228 - GREENSIDE LANE, DROYLSDEN, M43 7UT	107 - 110

From: Democratic Services Unit – any further information may be obtained from the reporting officer or from Benjamin Hopkins, Senior Democratic Services Officer, to whom any apologies for absence should be notified.

Item No.	AGENDA	Page No
f)	APP/G4240/W/21/3267049 - LAND ADJACENT TO 325 BIRCH LANE, DUKINFIELD, SK16 5AU	111 - 114
g)	APP/G4240/W/21/3267049 - LAND ADJACENT TO 325 BIRCH LANE, DUKINFIELD, SK16 5AU	115 - 116
h)	APP/G4240/Z/21/3266916 - LAND BOUNDED BY STAMFORD STREET AND KING STREET, STALYBRIDGE SK15 1JP	117 - 120
7.	URGENT ITEMS	

To consider any other items, which the Chair is of the opinion should be considered as a matter of urgency.

From: Democratic Services Unit – any further information may be obtained from the reporting officer or from Benjamin Hopkins, Senior Democratic Services Officer, to whom any apologies for absence should be notified.

SPEAKERS PANEL (PLANNING)

21 April 2021

Present: Councillor McNally (Chair)
Councillors: Choksi, Dickinson, Glover, Gosling, Jones, Lewis, Naylor, Owen, Ricci and Wild

Apologies: Councillor Ward

52. MINUTES

The Minutes of the proceedings of the meeting held on 17 March 2021, having been circulated, were approved and signed by the Chair as a correct record.

53. DECLARATIONS OF INTEREST

There were no declarations of interest declared by Members.

54. PLANNING APPLICATIONS

The Panel gave consideration to the schedule of applications submitted and it was:-

RESOLVED

That the applications for planning permission be determined as detailed below:-

Name and Application No:	20/01223/FUL Onward Homes
Proposed Development:	Erection of 27 dwellings. Land to rear of 14-22 Porlock Avenue bounded by Godley Reservoir and Sutton Walk, Hyde
Speaker(s)/Late Representations:	David Smith, on behalf of the applicant, addressed the Panel in relation to the application.
Decision:	That planning permission be granted subject to the prior completion of a Unilateral Undertaking under Section 106 of the Town and Country Planning Act 1990 and the conditions as detailed within the submitted report.

55. APPEAL / COST DECISIONS

Application Reference/Address of Property	Description	Appeal Decision
APP/G4240/Z/21/3266626	Proposed update of existing sheet advertisement to	Appeal dismissed.

Advertising to the right of 90 Hyde Road, Denton, M34 3BA	support a digital equivalent that will display static advertisements on rotation.	
APP/G4240/W/20/3264814 121 Circular Road, Denton, M34 6JX	Proposed telecommunications installation: Proposed 15m Phase 8 Monopole C/W wraparound cabinet at base and associated ancillary works.	Appeal dismissed.
APP/G4240/Z/21/3266485 190 Manchester Road, Hyde, SK14 2BX	Proposed removal of existing billboards and replacement with 48 sheet freestanding digital advert.	Appeal allowed.
APP/G4240/Z/20/3264605 Gable wall of 153 Ashton Road, Denton, M34 3LW	Proposed upgrade of existing advertisement to support digital poster.	Appeal dismissed.



56. URGENT ITEMS

The Chair advised that there were no urgent items of business for consideration by the Panel.

57. CHAIR'S CLOSING REMARKS

The Chair announced that the Deputy Chair of the Speakers Panel (Planning), Councillor Wild, would be retiring at the forthcoming local elections in May. The Chair and the Panel thanked, Councillor Wild, for his service.

CHAIR

Report to:	SPEAKERS PANEL (PLANNING)
Date:	26 May 2021
Reporting Officer:	Martyn Leigh, Development Manager
Subject:	THE PROVISIONAL COACH HOUSE / CHARLOTTE HOUSE, HYDE TREE PRESERVATION ORDER (2021)
Report Summary:	The report outlines representations received and the circumstances in connection with the provisional Coach House / Charlotte House Tree Preservation Order, Hyde (2021).
Recommendations:	It is recommended the panel review the representations and circumstances which have transpired since service of the Provisional Order and that authority is given to not confirm the Coach House / Charlotte House Tree Preservation Order (2021).
Corporate Plan:	The proper implementation of planning decisions and the preservation of trees where appropriate support the Council in delivering all 8 priorities of the Corporate Plan.
Policy Implications:	None arising from the report.
Financial Implications: (Authorised by the statutory Section 151 Officer & Chief Finance Officer)	There are no financial implications arising from the report.
Legal Implications: (Authorised by the Borough Solicitor)	As officers are no longer able to support the Provisional Decision to create a Tree Preservation Order for the reasons set out in the report, advice has been sought from Counsel to clarify the correct legal basis on which to make the recommendation not to confirm the TPO and procedure for doing so. The report reflects the advice given.
Risk Management:	Counsel advice has been sought to minimise the risk of challenge.
Access to Information:	Appendix A - Coach House / Charlotte House, Hyde Tree Preservation Order (2021) Appendix B – Schedule Plan (showing the location of the tree and site) Appendix C – Approved Site Plan (planning application 19/00614/FUL) Appendix D – Approved Elevations (planning application 19/00614/FUL)
Background Information:	The background papers relating to this report can be inspected by contacting Martyn Leigh, Development Manager:  Telephone: 0161 342 3456  e-mail: martyn.leigh@tameside.gov.uk

1. BACKGROUND INFORMATION

- 1.1 A planning application (15/01038/FUL) was submitted for development of the site at Charlotte House Residential Home in March 2016. It proposed the demolition of the (now demolished) fire-damaged care home to facilitate the redevelopment of the site to form a new build block of 16no. 2-bed self-contained apartments. The application was considered and approved by the Speakers' Panel (Planning) on 25 May 2016 subject to conditions and a Section 106 agreement requiring a contribution of £6,400 for Green Space. The application was determined on 23 June 2016.
- 1.2 Subsequently, on 10 July 2019, a planning application (19/00614/FUL) was submitted under Section 73 of the Town and Country Planning Act 1990 proposing Minor Material Amendments to the planning permission granted under 15/01038/FUL. This sought planning permission for alterations to the approved elevations and was approved by the Speakers Panel (Planning) on 13 November 2019. The planning permission has been implemented on site and development is nearing completion.
- 1.3 On 23 March 2021, the Council was contacted by the owner/occupier of the adjoining property known as The Coach House, Chapel Street, Hyde that shares a boundary with the development site. They considered an Elm Tree, claimed to be within their boundary (although this appears to be in dispute) of high amenity value was at risk of being felled by the contractors working on the application site. The Council's Arboricultural and Countryside Estates officer carried out a Tree Evaluation Method for Preservation Orders (TEMPO) assessment and requested a Tree Preservation Order to be urgently made given the tree was under imminent threat of removal.
- 1.4 A Provisional Tree Preservation Order was made on 30 March 2021 to afford the tree temporary protection from works until such a time that the situation could be fully investigated. The TPO was served in accordance with Regulation 5 of the Town and Country Planning (Tree Preservation) (England) Regulations 2012.
- 1.5 The owner of Charlotte House objects to the provisional TPO on the basis that the tree is identified for removal on the approved plans associated with planning application 19/00614/FUL. This has since been confirmed to be the case as the tree is in a location where its removal is required to facilitate the construction of the car park serving the development and the associated boundary treatment.
- 1.6 Regulation 13 (Prohibited Activities) within the Town and Country Planning (Tree Preservation) (England) Regulation 2012 prohibits the cutting down, topping, lopping, uprooting, wilful damage, or destruction of any tree to which a TPO relates except with the written consent of the of the Authority and in accordance with any conditions attached. However, Regulation 14(1)(a)(vii) provides an exception. It sets out that the Prohibited Activities in Regulation 13 would not apply to the cutting down, topping, lopping or uprooting of a tree, so far as such work is necessary to implement a planning permission granted on an application under Part III of the Town and Country Planning Act or which is deemed to have been granted.
- 1.7 Given the removal of the tree formed part of and is necessary to implement the extant planning application for the development of the site (granted under application reference 19/00614/FUL) there is no utility in confirming the Provisional Order since it would be ineffective in preventing the tree from being felled under the Tree Preservation Regulations. On this basis, it is recommended that the provisional Tree Preservation Order is not confirmed. Furthermore, the removal of the tree is required to enable compliance with Condition 15 attached to the planning permission which requires that the car parking on the approved Proposed Site Plan (ref M4570 (PL) 01 C) shall be provided and thereafter kept unobstructed and available for its intended purpose at all times.

- 1.8 Separately, it is understood that there is a neighbour dispute regarding the boundary line and legal rights concerning the tree, but this is a private matter between the concerned parties. As such, Members should note that it cannot influence the local planning authority's decision in connection with the provisional TPO.

2. RECOMMENDATIONS

- 2.1 As set out at the front of the report.

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**The Town and Country Planning (Tree Preservation)(England)
Regulations 2012**

**Town and Country Planning Act 1990
The Coach House / Charlotte House, Hyde, Tree Preservation Order (2021)**

Tameside MBC, in exercise of the powers conferred on them by sections 198 of the Town and Country Planning Act 1990 hereby make the following Order—

Citation

1. This Order may be cited as The Coach House / Charlotte House, Hyde, Tree Preservation Order (2021).

Interpretation

2. In this Order “the authority” means Tameside Metropolitan Borough Council.

In this Order any reference to a numbered section is a reference to the section so numbered in the Town and Country Planning Act 1990 and any reference to a numbered regulation is a reference to the regulation so numbered in the Town and Country Planning (Tree Preservation)(England) Regulations 2012.

Effect

3.
 - 1) Subject to article 4, this Order takes effect provisionally on the date on which it is made.
 - (2) Without prejudice to subsection (7) of section 198 (power to make tree preservation orders) or subsection (1) of section 200 (tree preservation orders: Forestry Commissioners) and, subject to the exceptions in regulation 14, no person shall—
 - (a) cut down, top, lop, uproot, wilfully damage, or wilfully destroy; or
 - (b) cause or permit the cutting down, topping, lopping, wilful damage or wilful destruction of,

any tree specified in the Schedule to this Order except with the written consent of the authority in accordance with regulations 16 and 17, or of the Secretary of State in accordance with regulation 23, and, where such consent is given subject to conditions, in accordance with those conditions.

Dated this 30th day of March 2021

Signed on behalf of Tameside Metropolitan Borough Council



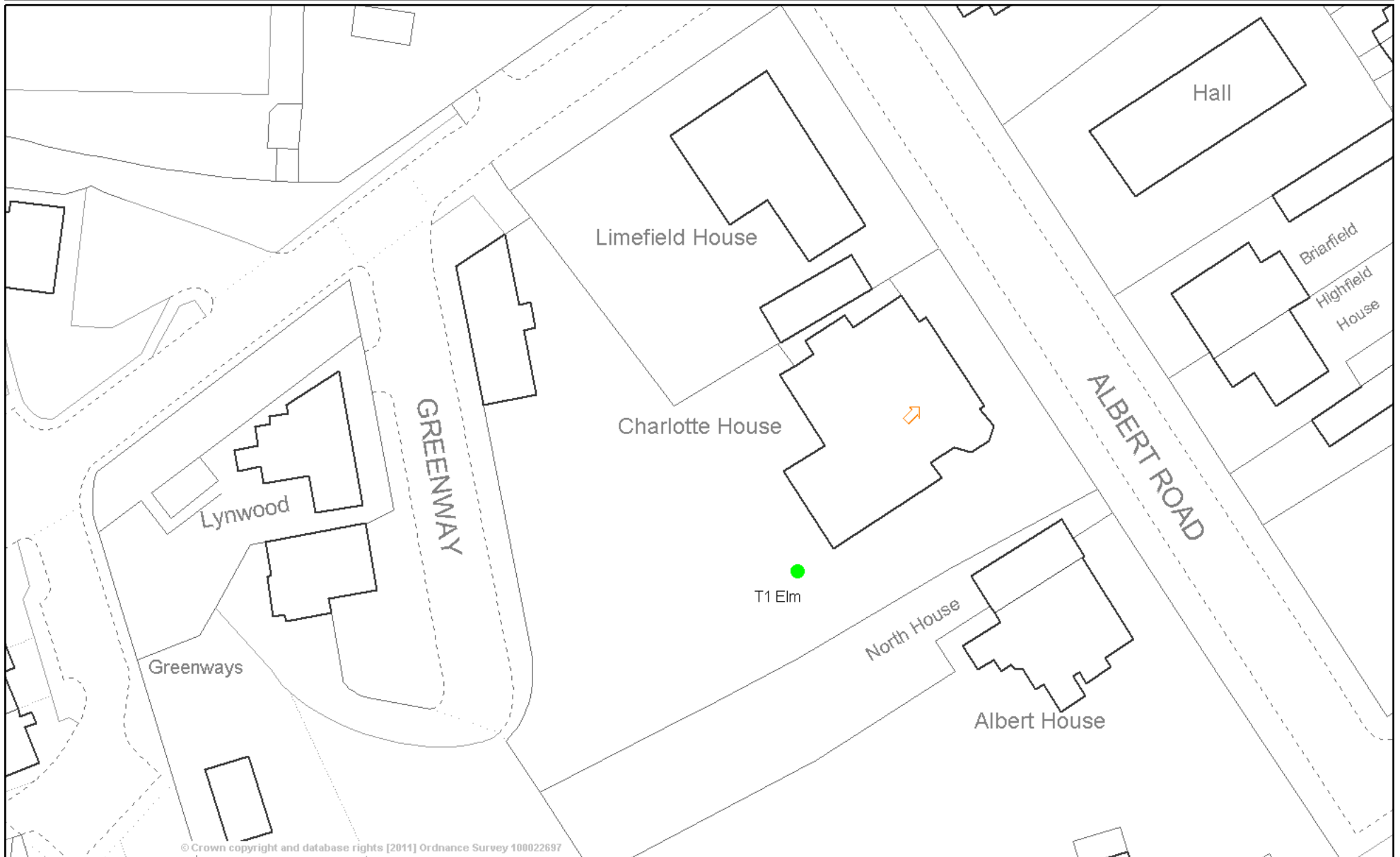
.....
Authorised by the Council to sign in that behalf

SCHEDULE 1

SPECIFICATION OF TREES

Trees specified individually
(Identified with a green mark on the map)

Reference on map	Description	Situation
T1 Elm	Elm	Located at a mid-way point near to the southern boundary of Charlotte House / Coach House with North House.



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Scale 1/577

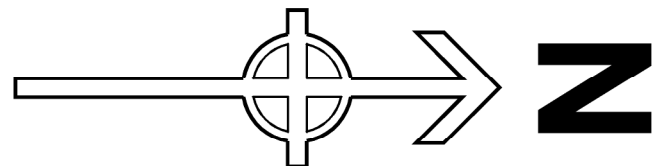
Centre = 394576 E 394468 N

Date 26/3/2021

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Site Plan

Former Charlotte House
Albert Road, Hyde



- Concrete paving flags
- Turfed lawn area
- Low level shrub planting
- Tarmac parking space
- Tarmac highway
- Proposed tree planting

- 2100mm vertical board timber fence
- New section of wall to match existing

Revision	Date	Details
A	July 19	Furniture strip added, bin store amended to incorporate cycle racks
B	July 19	Footpath added from front entrance to bin store at request of Johnnie Johnson
C	July 19	Footpath removed from front entrance to bin store at request of Johnnie Johnson

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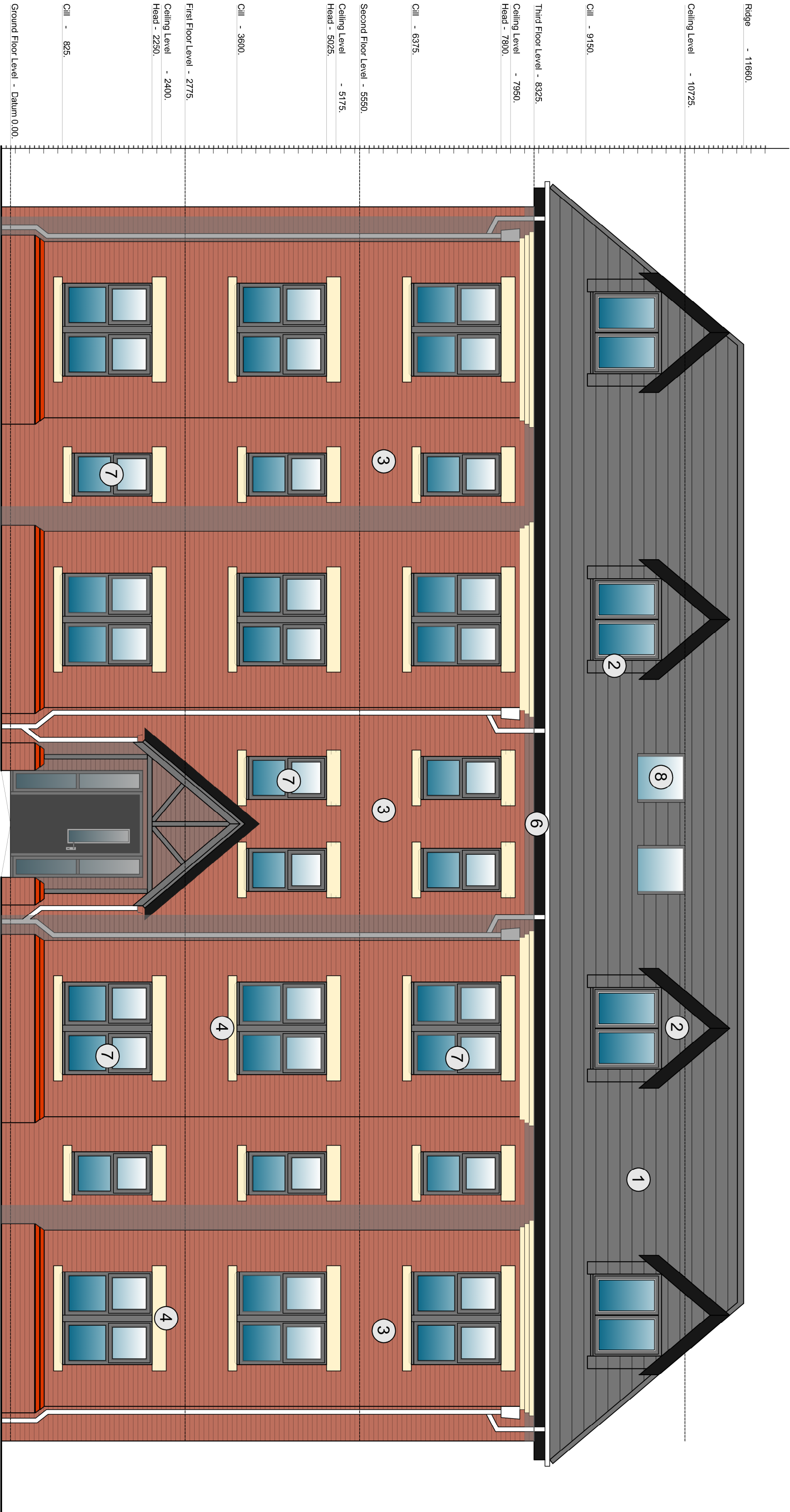
nicol thomas

Client:	Johnnie Johnson Housing Association		
Job:	Former Charlotte House, Hyde		
Drawing title:	Proposed Site Plan		
Drawing Number:	M4570	(PL)	01
Scale:	1:100 @ A1		
Date:	May 19		
Drawn by/checked by:	RV		

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Elevations

Former Charlotte House
Albert Road, Hyde



Materials Legend

- 1 Marley Birkdale fibre cement roof tile
- 2 Marley Birkdale cladding
- 3 Northcot Multi Red Rustic brick
- 4 Artstone heads and cills
- 5 Porcelain panels
- 6 UPVC fascias and soffits. Colour Grey
- 7 UPVC windows. Colour Grey
- 8 Velux roof light
- 9 Aluminium framed glazing / reflective panels

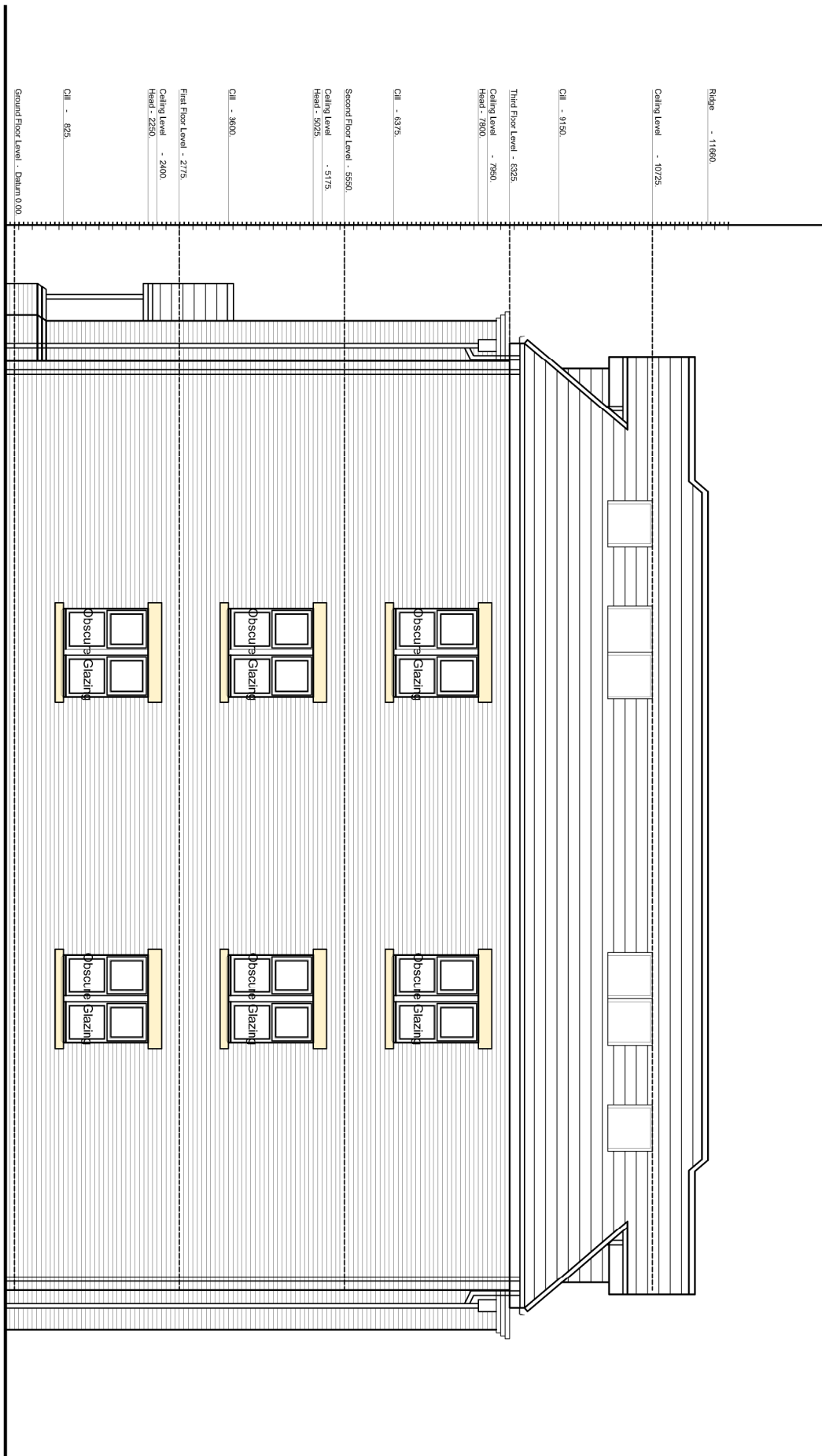
NB All materials/colours to be approved by LA

Obscure glazing as marked on the elevations

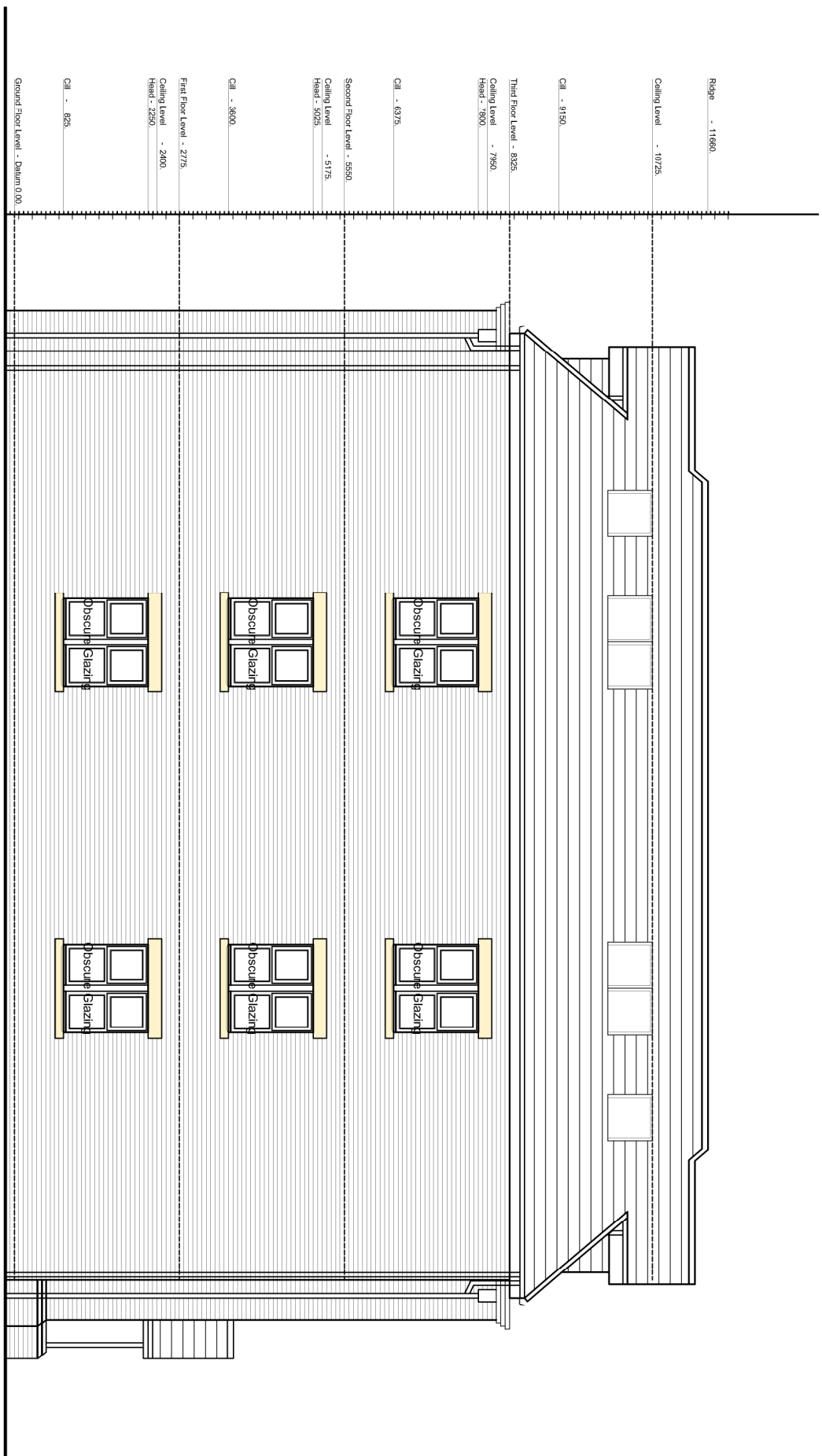
Front Elevation
Scale 1:50



Rear Elevation
Scale 1:100



Gable Elevation
Scale 1:100



Gable Elevation
Scale 1:100

Revision	Date	Details
A	June 19	Amendments to suit Johnnie Johnson requirements - front entrance increased
B	July 19	Amendments to suit Johnnie Johnson requirements - dormers increased slightly. material changed to fair stoneware area.
C	July 19	Amendments to suit Catherine comments - window details and recessed rear entrance area.
D	July 19	Amendments to suit Johnnie Johnson comments - additional roof light to top floor living areas.

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Client:	Johnnie Johnson Housing Association
Job:	Former Charlotte House, Hyde
Drawing title:	Proposed Elevations
Drawing Number:	M4570 (PL) 06
Scale:	1:50 1:100 @ A1
Date:	May 19
Drawn by/ checked by:	RV

nicol thomas

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Photograph 1 - View of the Elm Tree alongside the newly completed apartment development:



Photograph 2 - Photo of the Elm tree viewed from The Coach House:



Photograph 3 - Front elevation as viewed from Albert Road (does not show tree):



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Application Number 21/00272/FUL

Proposal	Erection of 12 no. apartment block (Use Class C3) and associated landscaping, car parking and infrastructure works following demolition of existing building.
Site	58 Spring Gardens, Hyde, SK14 4RZ
Applicant	Homes for Life Ltd
Recommendation	Members resolve to grant planning permission subject to recommended conditions and completion of a Section 106 agreement.
Reason for Report	A Speakers Panel decision is required as the application constitutes a major development.

1.0 APPLICATION DESCRIPTION

- 1.1 The application seeks full planning permission for a residential development comprising of 12 x 1 bedroom apartments and associated works. This would include the demolition of the Flowery Field Community Centre that occupies the site.
- 1.2 The accommodation would be provided within a modern 3 storey pitched roof building with the 4 apartments laid out across each floor. The apartments would measure between 42sqm and 46sqm. The accommodation would include supported living facilities to allow staff to be present on site. The form of accommodation would provide independent living accommodation for occupants with disabilities and who need only very limited support. The proposal would see the accommodation provided via a Registered Provider who specialises in the provision of accommodation for adults with disabilities. The applicant is happy for this to be secured within a Section 106 agreement.
- 1.3 The building makes provision for six parking spaces to the frontage which would be accessed via a dropped crossing onto Spring Street. A central entrance lobby would serve as access to each of the apartments via either a lift or stairwell. To the rear of the block there would be a private enclosed communal garden with secure bin and cycle storage.
- 1.4 The building would be constructed from materials very similar to those of the adjacent Newton Street apartments. This would include a red brick with recessed coursing, feature banding to windows. The roof material would be an interlocking slate effect tile.
- 1.5 At the request of officers, amendments have been submitted during the course of the application. This would see the building repositioned (5m to the north) to move it away from the rear boundary and also a reduction in height by 0.5m. This has been achieved by reconfiguring the car park.
- 1.6 The application has been supported by the following reports:
 - Full Plans Package;
 - Design and Access Statement;
 - Coal Mining Risk Assessment;
 - Phase 1 Geo Environmental Desk Study;
 - Crime Impact Statement;
 - Daytime Bat Survey;
 - Building Condition Survey;
 - Statement on behalf of the trustees of Ashton Trust; and

- Supporting Letter (prepared by Empower Housing Association).

2.0 SITE & SURROUNDINGS

- 2.1 The application relates to land occupied by the Flowery Field Centre at 58 Spring Gardens Hyde. The site is rectangular in shape and measures approximately 790sqm in area. Levels are generally flat albeit for a minor fall to the rear.
- 2.2 The Flowery Field Centre is presently unoccupied, but was previously used as a community centre. The building stands at two storeys in height and is constructed from stone with a tiled roof. It is set back from the highway and extends along the eastern boundary to the car park of Newton Street apartments. The curtilage is defined as hardstanding/parking with the boundary supporting a palisade fence to all sides.
- 2.3 The surrounding area is distinctly residential in character and there have been a significant number of modern housing developments close by. The housing stock is varied, to the immediate east are 3 storey apartments which front onto Newton Street, these properties have a communal car park to their rear which borders the sites boundary. Beyond the western boundary there is vacant land, on the other side of which are modern two storey semi-detached properties. Across the road, there are bungalows and to the rear are further semi-detached properties (which also front Newton Street). These are separated from the site across an area of open land.
- 2.4 There are a number of amenities within the local area and Newton Street is served by regular bus services. Flowery Field railway station, Hyde Park and Hyde town centre are also within a short walking distance.

3.0 PLANNING HISTORY

- 3.1 05/00175/FUL - Erection of part 2 metre high and part 3 metre high fencing – Approved.

4.0 RELEVANT PLANNING POLICIES

- 4.1 National Planning Policy Framework (NPPF)
- 4.2 Planning Practice Guidance (PPG)
- 4.3 **Tameside Unitary Development Plan (UDP) Allocation:** Unallocated immediately bordering Green Belt & Site of Biological Importance.
- 4.4 **Part 1 Policies**
- 1.3: Creating a Cleaner and Greener Environment;
 1.4: Providing More Choice and Quality Homes;
 1.5: Following the Principles of Sustainable Development;
 1.6: Securing Urban Regeneration;
 1.11: Conserving Built Heritage and Retaining Local Identity; and
 1.12: Ensuring an Accessible, Safe and Healthy Environment.
- 4.5 **Part 2 Policies**
- H2: Unallocated Sites
 H4: Type, Size and Affordability of Dwellings
 H5: Open Space Provision

H6: Education and Community Facilities
H7: Mixed Use and Density.
H10: Detailed Design of Housing Developments
OL4: Protected Green Space.
OL10: Landscape Quality and Character
T1: Highway Improvement and Traffic Management
T10: Parking
T11: Travel Plans.
C1: Townscape and Urban Form
N4: Trees and Woodland
N5: Trees within Development Sites
N7: Protected Species
MW11: Contaminated Land
U3: Water Services for Developments
U4: Flood Prevention
U5: Energy Efficiency

4.6 Other Policies

Greater Manchester Spatial Framework - Publication Draft October 2016
Residential Design Supplementary Planning Document
Trees and Landscaping on Development Sites SPD adopted in March 2007
Tameside Open Space Review 2018

4.7 National Planning Policy Framework (NPPF)

Section 2 Achieving sustainable development
Section 6 Delivering a sufficient supply of homes
Section 7 Ensuring the vitality of town centres
Section 8 Promoting healthy and safe communities
Section 9 Promoting sustainable travel
Section 11 Making effective use of land
Section 12 Achieving well-designed places
Section 14 Meeting the challenge of climate change, flooding and coastal change
Section 15 Conserving and enhancing the natural environment

4.8 Planning Practice Guidance (PPG)

This is intended to complement the NPPF and to provide a single resource for planning guidance, whilst rationalising and streamlining the material. Almost all previous planning circulars and advice notes have been cancelled. Specific reference will be made to the PPG or other national advice in the Analysis section of the report, where appropriate.

5.0 PUBLICITY CARRIED OUT

5.1 In accordance with the requirements of the Town and Country Planning (Development Management Procedure) (England) Order 2015 and the Council's adopted Statement of Community Involvement the application has been advertised as a Major Development:

- Neighbour notification letters to 59 addresses;
- Display of site notice; and
- Advertisement in the local press.

6.0 RESPONSES FROM CONSULTÉES (SUMMARISED)

- 6.1 Coal Authority – Agree with the conclusion / recommendations coal mining risk assessment which recommends further site investigations. Recommend that this is secured via a condition.
- 6.2 Contaminated Land – No objections. Confirm that the submitted ground report highlights a possibility of made ground within the site. Recommend condition for further investigation and remediation if deemed necessary.
- 6.3 Environmental Health Officer – No objections subject to conditions relating to working hours and details of refuse storage arrangements.
- 6.4 Greater Manchester Ecology Unit – No objection. Reviewed the preliminary bat survey that included an adequate survey of the building. Satisfied that the building has negligible potential to support roosting bats. Would recommend an informative be applied on any permission relevant to the legal responsibilities. Conditions are recommended relevant to tree planting within the site and biodiversity enhancement measures in line with the requirement of the NPPF.
- 6.5 Highway Authority – Recommend a conditional approval. The development would not in the LHA's opinion have an unacceptable impact on highway safety or capacity of the highway network.
- 6.6 Lead Local Flood Authority – Have reviewed the drainage strategy and raised no objections. Site is not prone to flood risk and identify that further investigation is required to identify whether surface water can be addressed via infiltration.
- 6.7 Police (Secure by Design) – Satisfied with the recommendations within the Crime Impact Statement which should be conditioned on any approval.
- 6.8 United Utilities – raised no objections. The site should be drained on a separate system with foul water draining to the public sewer and surface water draining in the most sustainable way. Recommend drainage design be addressed via conditions requesting compliance with the drainage hierarchy.

7.0 SUMMARY OF THIRD PARTY RESPONSES RECEIVED

- 7.1 In response to the consultation undertaken there have been eight letters of objection received.
- 7.2 The following concerns have been raised within the individual objection letters, these are summarised as follows:
- Loss of privacy to nearby residents;
 - Scale of the development is too large;
 - Noise disturbance;
 - Property will feel enclosed due to apartment to the front and rear;
 - Child has sensitive medical condition and the development will be really disruptive to their needs;
 - Overlooking to garden areas, won't feel comfortable with children using the space;
 - Loss of light/overshadowing from the height of the building;
 - Too many houses within the area;
 - Increased traffic pollution;
 - Appearance is unsightly;
 - Neighbours should have been informed of the proposals before they bought their properties;

- Conflict with land use policy; and
- Development is out of character with the area.

8.0 ANALYSIS

- 8.1 Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that planning applications be determined in accordance with the Development Plan unless material considerations indicate otherwise.
- 8.2 The current position is that the Development Plan consists of the policies and proposals maps of the Unitary Development Plan and the Greater Manchester Joint Waste Plan Development Document.
- 8.3 The National Planning Policy Framework (NPPF) is also an important consideration. The NPPF states that a presumption in favour of sustainable development should be at the heart of every application decision. For planning application decision making this means:-
- Approving development proposals that accord with the development plan without delay; and
 - Where the development plan is absent, silent or relevant policies are out of date, granting planning permission unless:-
 - Any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole; or
 - Specific policies in the Framework indicate development should be restricted.

9.0 PRINCIPLE OF DEVELOPMENT

- 9.1 Section 38 of the Planning and Compulsory Purchase Act 2004 states that applications should be determined in accordance with the development plan unless material considerations indicate otherwise. Consideration will also be necessary to determine the appropriate weight to be afforded to the development plan following the publication of the National Planning Policy Framework. Paragraphs 212 - 217 of the NPPF set out how its policies should be implemented and the weight that should be attributed to the UDP policies.
- 9.2 Paragraph 213 confirms that due weight should be given to relevant policies in existing plans according to their degree of consistency with the NPPF. At the heart of the NPPF is the presumption in favour of sustainable development and Section 5 of the NPPF requires Local Planning Authorities to support the delivery of a wide choice of quality homes in sustainable locations.
- 9.3 The site is not allocated on the adopted UDP proposals map and is also not subject to any designations. Policy H2 applies to unallocated sites, it gives preference to the reuse of previously developed sites. Paragraph 59 of the NPPF identifies the Government objective to significantly boost the supply of homes, it is important that a sufficient amount and variety of land can come forward where it is needed and that land with permission is developed without unnecessary delay. UDP policies 1.6, H1 and H2 promote the re-use of previously developed sites within accessible areas, the proposals would meet these policy objectives.
- 9.4 With regard to the broad principle of residential development at the site, it is noted that the residential use would be readily compatible with adjoining uses and that the applicant's contribution to investment in affordable housing stock would be welcomed. The Council's current lack of a five-year housing supply is afforded significant weight to the assessment process. The NPPF is clear that the presumption in favour of sustainable development should be applied to determine planning applications in such instances, unless the adverse impacts of granting permission would significantly and demonstrably outweigh the benefits.

- 9.5 The buildings established use as a community facility warrants consideration against the loss of the community use as advocated by paragraph 92C of the Framework. The applicant's case is framed on the overall viability of the building. A submitted Building Condition report identifies that it is in a poor condition requiring significant investment, this, along with other factors has contributed directly to a significant decline in use by community groups. It is noted that the no representations have been received relevant to the loss of the community/social function of the building and that within the wider Flowery Field / Hyde area there are other buildings, which could, or already do, fulfil these uses. On balance, the applicant's position is supported, in that there is considered to be clear regenerative benefits associated with the efficient reuse of the site to contribute towards housing need.
- 9.6 The site is located in a highly accessible area well connected to public transport, local services and employment uses across Hyde and Flowery Field. In terms of the assessment against paragraph 11, all developments must be considered in light of their sustainable credentials, which the NPPF identifies as having three dimensions (Economic, Social and Environmental). The development would contribute directly to the choice of housing. There would also be direct economic gains associated with the construction phase of the development. The social role would be fulfilled with the commitment to affordable housing. On the matter of the environmental impact and the sustainable credentials the redevelopment of Previously Developed Land carries significant weight along with the locational factors relating to access to services and transport, appropriate levels of ecological mitigation can be secured and the accommodation can be constructed to reduce energy/CO2 emissions. Therefore, to conclude, the overall sustainable credentials are not questioned, and the proposals are considered to achieve the three dimensions of sustainable development through the contribution to the supply of affordable housing within a sustainable location.

10.0 DESIGN & LAYOUT

- 10.1 UDP, NPPF polices and the guidance of the SPD are clear in their expectations of achieving high quality development that enhances a locality and contributes to place making. The framework emphasises that development should be refused where it fails to take opportunities available to improve the character and quality of an area and the way that it functions (para. 130).
- 10.2 The local area has been re-developed significantly with a mixture of housing types, which also includes 3 and 4 storey apartments, in addition to traditional 2 storey dwellings. The design, age and materials the community centre appears distinctly at odds with the now prevalent character established by the modern housing developments, which surround the site. The unconformity of the building is further enforced by its position back from the highway, external stairwells and enclosure within a palisade fence. The building is not considered to be of any local heritage (non-designated) value and its loss can be tolerated.
- 10.3 The applicant has submitted amendments to the design following a review of neighbour representations and advice from officers. These alterations have seen the building re-positioned closer to Spring Street by 5m and the building height reduced by 0.5m. These alterations are taken as positive enhancements, the revised siting creates better enclosure to the highway and is more in keeping with prevailing building lines, it creates a better separation distance to the dwellings to the rear and it also provides a better relationship to the adjacent undeveloped land to the east.
- 10.4 In responding to the local context, the scale, materials and fenestration of the apartment would be almost identical to that of the neighbouring apartment blocks on Newton Street. The height, scale, and features of the apartment would be reflective of what has become the modern local vernacular. The design and scale would frame the highway in a successful manner adding interest and variety to the streetscape in what is an improvement of the

existing building. The provision of frontage parking does see the building set back from the highway beyond the building line established by the Newton Street apartments, this can be tolerated, noting that the position would be not too dissimilar to that of the neighbouring semi-detached properties located to the east.

- 10.5 Apartments represent a very efficient use of land and this is demonstrated by the density which can be achieved, in this instances equates to 171 units per hectare. This aligns to NPPF objectives and the emerging strategy of the GMSF to promote the efficient re-use of land within established urban areas that are accessible by public transport, this is particularly important in periods of housing undersupply.
- 10.6 Frontage parking can be a weakness of design where it results in a dominance of hard surfacing and parking. The design seeks to break this up by the separation of walkways from parking areas via landscaped planting borders. Unlike the neighbouring properties the bin storage area would be accommodated to the rear of the building outside of the public domain.
- 10.7 Having full consideration to the design merits of the proposal and the layout of the scheme it is considered that the development would deliver an attractive residential environment which would complement the existing area. The scale and density of the development is reflective to that of properties within the locality and would be compatible with the street scene and relationship to neighbours. The redevelopment of the site would uplift the appearance of the locality and contribute to environmental improvements in the local area. It is therefore considered that the proposal adheres to the objectives of UDP policy H10 and the adopted SPD which stress the importance of residential development being of an appropriate design, scale, density and layout.

11.0 DESIGN AND RESIDENTIAL AMENITY

- 11.1 The policies of the adopted Residential Design Guide strive to raise design standards; they should be applied along with the criteria of Building for Life (BfL). Good design is aligned to the delivery of high residential amenity standards, this should reflect equally on the environment of existing residents as well as that of future residents. Technical standards (spacing distances policy RD5) form part of the criteria to the assessment of good design, but this should not override principles of successful place making. Good design is about how buildings relate to one another, their place within the streetscape and interaction within their surroundings. Developments should not be dictated by highway (policy RD13) they should observe established Street Patterns (policy RD3) and promote Natural Surveillance at street level (policy RD4). Building for Life states that basic principles should be observed when designing layouts, the use of strong perimeter blocks is advocated and specific reference is made to avoiding houses which back on to the street and create what is effectively a 'dead edge'.
- 11.2 The existing community centre has as influence upon levels of outlook of neighbouring (Newton Street) residents. Standing at two storeys in height and extending along the eastern boundary it forms a relatively prominent feature, which is clearly visible from surrounding properties.
- 11.3 The layout and heights of the apartment block has been amended to improve the relationship to the street and that of existing residents. The building would stand at 3 storeys with the overall proportions being directly akin to those of the adjacent apartments fronting Newton Street. The siting of the priorities would be 21.8m away from the rear elevation of the apartments at 73 Newton Street and would be positioned 28m away (on an acute angle) from the rear elevation of the two-storey semi-detached property no.69 Newton Street. In terms of the objections raised on amenity, privacy and outlook/light, the exceedance of the spacing standards required by policy RD5 is considered sufficient mitigation. In addition it is also

recommended that windows on the east and west facing elevations are also obscurely glazed.

- 11.4 Occupants of the dwellings would be served with a good level of amenity. The design of the properties is such that they have well-proportioned room sizes in line with housing technical standards. The apartments are served with large levels of glazing which will provide good levels of light and ventilation. The communal rear garden would also provide a valuable asset for future residents.
- 11.5 The site of the development is within an established urban area, which represents an accessible and sustainable location. It is located close to a bus route and is located within walking distance of Hyde town centre and its associated amenities. Within Flowery Field, there are local conveniences that can serve day-to-day requirements.
- 11.6 The layout and form of development represents a considered response to its context, and would avoid any undue impact on the amenity of neighbouring properties which overlook the site, and for future occupiers by reason of visual intrusion, overshadowing, loss of daylight, overlooking or loss of privacy and accords with the provisions of policy H10 and the adopted SPD.

12.0 HIGHWAY SAFETY

- 12.1 The community centre represents an established 'fall-back' position when considering the access and highway merits of the proposals. The applicant stresses that trip generation associated with the community use (in peak periods) is likely to be lower than that of the apartments.
- 12.2 The accommodation would be provided on an affordable (rental) basis via a Registered Provider. Typically, car ownership amongst tenants is likely to be low. The development would be accessed from Spring Street via a dropped crossing. The development proposes 6 No. off Street vehicle parking spaces for the apartments. This is below the requirement set out in the TMBC SPD however, with the proposals for secure/covered cycles storage and the sites location within close proximity to sustainable transport facilities will mitigate for the reduction of off street parking spaces. The inclusion of a vehicle charging point is also welcomed.
- 12.3 Consultation with the LHA confirms that the design and layout would be acceptable to ensure safe, and convenient, access and manoeuvring arrangements for vehicles and pedestrians alike into and out of the site. The LHA are also satisfied with the level of parking provision.
- 12.4 The location is highly sustainable with access to local amenities, bus services and Hyde town centre being within walking distance.
- 12.5 The access and parking arrangements have been designed in conjunction with advice given from Highways and they have raised no objections. Conditions will ensure that the access arrangements are designed to technical standards. It is considered that the development adheres to the provisions of policies T-1, and T-10 in addition to the standards of the Tameside Residential Design Guide.

13.0 AFFORDABLE HOUSING

- 13.1 Paragraph 64 of the NPPF identifies that all major (10 units and above) residential developments should include the provision of affordable housing. This is below the threshold identified by policy H5, which set a threshold of 25 units, the Housing Needs Assessment identifies an expectation of to the provision of 15% of units on an affordable basis. The

Glossary of the NPPF provides a definition of affordable housing, which includes affordable housing for rent provided by a Registered Provider.

- 13.2 The applicant identifies that upon completion of the development the building would be leased to a Registered Provider who would act as landlord and rent the apartments in consultation with TMBC. The proposed development and form of occupancy therefore represents 100% affordable housing in compliance with paragraph 64 of the NPPF. The applicant has offered to enter into a Section 106 agreement to ensure that this accommodation is provided and maintained on an affordable basis in perpetuity. The policy test would therefore be exceeded.

14.0 DRAINAGE

- 14.1 The site is in Flood Zone 1 and is therefore considered to be at a lower risk of flooding. A drainage strategy has been submitted with the application which has been reviewed respectfully by both the LLFA and United Utilities. They are satisfied with the level of investigation undertaken.
- 14.2 The full methodology of the sites drainage is a matter of detail to be conditioned but for the purposes of the planning application flood risk and overall water management have been appropriately investigated. The details to be secured via a condition would ensure that the drainage hierarchy is followed. Surface water would be positively drained and attenuated to ensure that greenfield run-off rates can be achieved.
- 14.3 Subject to the safeguarding of the recommended conditions requiring drainage details to be submitted no objections are raised from a drainage perspective.

15.0 TREES & ECOLOGY

- 15.1 The site is completely hard surfaced and this offers limited amenity and biodiversity habitat. The building has been appropriately inspected for the presence of bats and GMEU have confirmed acceptance to the level of investigation and accept that the building has negligible roosting potential. The demolition of the building is not restricted on grounds of protected species.
- 15.2 Section 11 of the NPPF advocates biodiversity enhancement. The biodiversity value of the site could be enhanced as part of the landscaping proposals to be approved by condition. GMEU advise that this should include planting of native species and the fixture of bat and bird boxes to the completed development.

16.0 GROUND CONDITIONS: MINING & CONTAMINATION

- 16.1 The application has been accompanied with a suitable site investigation and Coal Mining risk assessment. Consultation with the Coal Authority has confirmed support to its recommendations, which will be secured by condition, as such the development, should not be prejudiced by any mining legacy issues.
- 16.2 Consultation with the Contaminated Land Officer confirms that no objections are raised subject to the further site investigations being undertaken to identify any potential onsite remediation requirements. This would be secured through the requirements of a planning condition.

17.0 CONTRIBUTIONS

- 17.1 The scale of the development constitutes a major development, as such there would normally be a requirement for Affordable Housing (15%) and to meet Green Space and Highways contributions as per the requirements of policies H4, H5 and T13 of the Development Plan. In this instance, the affordable housing requirement would be exceeded through the applicants intention to provide all of the apartments on an affordable basis secured via a Section 106 agreement. Contribution towards Green Space would stand at £8,438.81 and the highways contribution at £3,991.04. This will fund tree planting and cycling improvements/initiatives in the local area.

18.0 OTHER ISSUES

- 18.1 Noise: - Noise to affect the development is largely transport based as there are no commercial or industrial uses within the proximity of the site. The EHO is satisfied that a suitable standard of amenity level can be achieved and there are no requirements for any noise related planning conditions.
- 18.2 Sustainability: - The redevelopment of a previously developed site within an accessible location accords with the strategic principles of sustainable development. The apartments would be constructed to reduce energy usage through a fabric first approach.
- 18.3 Heritage: - As identified, the community centre is not considered to be of a local heritage value and its demolition can be tolerated. In addition to this, there are no recorded assets within the vicinity of the site. The development will therefore not have any influence on the setting of any assets.
- 18.4 Security:- The application has been accompanied with a Crime Impact Statement. Subject to the recommendations, it is considered that the security of the future occupants and neighbouring properties would be adequately met. The layout ensures there is good levels of passive surveillance over public areas.

19.0 CONCLUSION

- 19.1 At the heart of the NPPF is a presumption in favour of sustainable development. This requires planning applications that accord with the Development Plan to be approved without delay, and where the Development Plan is absent, silent or out of date granting permission unless the adverse impacts of doing so would significantly and demonstrably outweigh the benefits when assessed against the policies in the framework as a whole or specific policies in the framework indicate that development should be restricted.
- 19.2 A balanced assessment has been undertaken of the proposals and it is recommended that the application should be approved having regard to the policies of the Development Plan, National Guidance and all material considerations raised.
- 19.3 The redevelopment of a brownfield site for residential purposes would be compatible with the Housing Strategy and would also be readily compatible with the modern housing development that is established within the locality. The development would add to and contribute to much needed, good quality affordable housing in a period of documented under supply.
- 19.4 The design creates a positive and welcoming residential environment. The apartments would read as a continuation of the Newton Street fronting apartments and make a positive contribution to the local housing stock, in accordance with core principles of the NPPF.

- 19.5 Taking into account the relevant development plan policies and other material considerations, subject to the identified mitigation measures, it is not considered that there are any significant and demonstrable adverse impacts that would outweigh the benefits associated with the granting of planning permission. The proposals represent an efficient re-use of a largely previously developed site that would meet sustainability requirements, and contribute positively to the borough's affordable housing supply.

RECOMMENDATION

That Members resolve that they would be MINDED TO GRANT planning permission for the development subject to the following:

- (i) To complete a suitable legal agreement under Section 106 of the Town and Country Planning Act 1990 (as amended) to secure:
 - Contribution of 3,991.04 towards highway (cycling) improvements
 - Contribution of 8,438.81 towards off site green space improvements
 - Restriction on the occupancy of the apartments on an affordable basis
- (ii) To have discretion to refuse the application appropriately in the circumstances where a S106 agreement has not been completed within a reasonable period of the resolution to grant planning permission;
- (iii) That Officers are afforded discretion to make minor amendments to the wording of any conditions (as necessary); and,
- (iv) That upon satisfactory completion of the above legal agreement that planning permission be GRANTED subject to the following conditions:

Planning Conditions:

- 1) The development hereby permitted shall be begun before the expiration of 3 years from the date of this permission.

Reason: In order to comply with the provision of Section 91 of the Town and Country Planning Act 1990.

- 2) The development hereby approved shall be carried out strictly in accordance with the plans and specifications as approved unless required by any other conditions in this permission.

Plans:

PL01 Location Plan
864_201 rev C Existing and Proposed Site Plan
864/200 rev B Proposed Plans & Elevations
864_203 rev C Hard and Soft landscaping
864_210 Street Elevation / Section
864_210 Proposed Materials

Reports:

Day time Bat Survey – Rachel Hacking Ecology October 2020
Design and Access Statement (prepared by Cartwright and Gross Architects)
Planning Statement – Seymour Planning
Coal Mining Risk Assessment and Appendix (prepared by Earth Environmental and Geotechnical and the Coal Authority) Ref A3801/20

Phase 1 Geo Environmental Desk Study (prepared by Earth Environmental and Geotechnical) Ref A3801/20 November 2020
Crime Impact Statement (prepared by Greater Manchester Police Design for Security) ref 2015/0855/CIS/02
Building Condition Survey (prepared by Alexander Dawn) Ref 1220123
Statement on behalf of The trustees of Ashton Trust (prepared by Aspin and Co. Surveyors)
Supporting Letter (prepared by Empower Housing Association) dated 18 February 2021

Reason: In the interests of the visual amenities of the locality and in accordance with UDP Policies and relevant national Planning Guidance

- 3) Notwithstanding any description of materials in the application and shown on drawing 864_210 'Proposed Materials' no above ground construction works shall take place until samples and/or full specification of materials to be used: externally on the buildings; in the construction of all boundary walls, fences and railings; and, in the finishes to all external hard-surfaces have been submitted to, and approved in writing by, the local planning authority (this applies equally to the refurbishment of the Ambleside Parade). Such details shall include the type, colour and texture of the materials. Development shall be carried out in accordance with the approved details.

Reason: In the interests of the visual amenities of the locality, in accordance with policies H10: Detailed Design of Housing Developments, OL10: Landscape Quality and Character and C1: Townscape and Urban Form.

- 4) The car parking spaces to serve each dwelling as part of the development hereby approved (Drw.Number 864_201 REVC) shall be laid out as shown on the approved site plan prior to the first occupation of that dwelling and shall be retained free from obstruction for their intended use thereafter. Driveways shall be constructed on a level which prevents displacement of materials or surface water onto the highway and shall be retained as such thereafter.

Reason: In the interest of highway safety, in accordance with UDP Policy T1: Highway Improvement and Traffic Management.

- 5) No development shall commence until such time as a Construction Environment Management Plan has been submitted to and approved in writing by the Local Planning Authority.

This shall include details of:

- Arrangements for the control of Noise and dust;
- Any arrangements for temporary construction access;
- Contractor and construction worker car parking;
- Turning facilities during the remediation and construction phases;
- Details of on-site storage facilities;

The development shall be carried out in accordance with the approved Construction Environmental Management Plan.

Reason: In the interest of highway safety, in accordance with UDP Policy T1: Highway Improvement and Traffic Management.

- 6) A clear view shall be provided from the site access where it meets the footway / roadway on Springs Garden. Its area shall measure 2.4 metres along the edge of the site access and 2.4 metres along the footway. It must be kept clear of anything higher than 600mm above the access, on land that you control and retained as such thereafter.

Reason: In the interest of highway safety, in accordance with UDP Policy T1: Highway Improvement and Traffic Management.

- 7) As indicated on the approved plan, prior to the first occupation of the development hereby approved provision shall be made for an electric vehicle charging facility. The specification of the charging points installed shall:
- i) Be designed and installed in accordance with the appropriate parts of BS EN 61851 (or any subsequent replacement standard in effect at the date of the installation);
 - ii) Have a minimum rated output of 7 kW, measured or calculated at a nominal supply voltage of 230VAC;
 - iii) Be fitted with a universal socket (known as an untethered electric vehicle charge point);
 - iv) Be fitted with a charging equipment status indicator using lights, LEDs or display; and
 - v) A minimum of Mode 3 or equivalent.

Reason: In the interest of sustainability to encourage electric vehicle ownership in the interests of air quality.

- 8) No part of the development hereby approved shall be occupied until details of the secured cycle storage provision to serve apartments have been submitted to and approved in writing by the Local Planning Authority. The details shall include scaled plans showing the location of storage and details of the means of enclosure. The secured cycle storage arrangements shall be implemented in accordance with the approved details prior to the occupation of the first apartment and shall be retained as such thereafter.

Reason: In the interest of promoting use of public transport and reducing environmental impact, in accordance with UDP Policies T1: Highway Improvement and Traffic Management.

- 9) During demolition/construction no work (including vehicle and plant movements, deliveries, loading and unloading) shall take place outside the hours of 07:30 and 18:00 Mondays to Fridays and 08:00 to 13:00 Saturdays. No work shall take place on Sundays and Bank Holidays.

Reason: To protect the amenities of occupants of nearby properties/dwelling houses in accordance with UDP policies 1.12 and E6.

- 10) No development, other than site clearance, demolition and site compound set up, shall commence until a remediation strategy, detailing the works and measures required to address any unacceptable risks posed by contamination at the site to human health, buildings and the environment has been submitted to, and approved in writing by, the local planning authority (LPA). The scheme shall be implemented and verified as approved and shall include all of the following components unless the LPA dispenses with any such requirement specifically in writing:
- 1. A site investigation strategy, based on the Earth Environmental and Geotechnical Geoenvironmental Desk Study dated November 2020 (Reference: A3801/20). This will need to provide full details of all investigations including sampling, analysis and monitoring that will be undertaken at the site in order to enable the nature and extent of any contamination to be determined and a detailed assessment of the risks posed to be carried out. The strategy shall be approved in writing by the LPA prior to any investigation works commencing at the site.
 - 2. The findings of the site investigation and detailed risk assessment referred to in point (1) including all relevant soil / water analysis and ground gas / groundwater monitoring data.
 - 3. Based on the site investigation and detailed risk assessment referred to in point (2) an options appraisal and remediation strategy setting out full details of the remediation works and measures required to address any unacceptable risks posed by contamination and how they are to be implemented.

4. A verification plan detailing the information that will be obtained in order to demonstrate the works and measures set out in the remediation strategy in (3) have been fully implemented including any requirements for long term monitoring and maintenance.

Reason: To ensure any unacceptable risks posed by contamination are appropriately addressed and the site is suitable for its proposed use in accordance with paragraph 178 of the National Planning Policy Framework.

- 11) Prior to use, a verification / completion report demonstrating all remedial works and measures required to address all unacceptable risks posed by contamination and ground gas have been fully implemented in accordance with the approved remediation strategy shall be submitted to, and approved in writing by the local planning authority (LPA).

If during development, contamination not previously identified is encountered, then no further development (unless otherwise agreed with the LPA), shall be undertaken until a remediation strategy detailing how this contamination will be appropriately addressed and the remedial works verified has been submitted to, and approved in writing by the LPA. The remediation strategy shall be fully implemented and verified as approved.

The discharge of this planning condition will be given in writing by the LPA on completion of the development and once all information specified within this condition and any other requested information has been provided to the satisfaction of the LPA and occupation of the development shall not commence until this time unless otherwise agreed in writing by the LPA.

Reason: To ensure any unacceptable risks posed by contamination are appropriately addressed and the site is suitable for its proposed use in accordance with paragraph 178 of the National Planning Policy Framework.

- 12) No development shall commence (excluding the demolition of existing structures) until a surface water drainage scheme, based on the hierarchy of drainage options in the National Planning Practice Guidance with evidence of an assessment of the site conditions shall be submitted to and approved in writing by the local planning authority. The surface water drainage scheme must be in accordance with the Non-Statutory Technical Standards for Sustainable Drainage Systems (March 2015) or any subsequent replacement national standards. The strategy shall demonstrate that foul water and surface water shall be drained from the site via separate mechanisms and shall detail existing and proposed surface water run-off rates. The strategy shall also include details of on-going management and maintenance arrangements. The development shall be carried out in accordance with the approved details and shall be retained as such thereafter.

Reason: To ensure proper drainage of the area, in accordance with UDP policy U3 Water Services for Developments and Section 14 NPPF.

- 13) Within three months of the commencement of development full details of both hard and soft landscaping works, including details of the species, positions and planted heights of proposed trees and shrubs; together with details of the position and condition of any existing trees and hedgerows to be retained and a schedule of implementation shall be submitted for approval in writing to the local planning authority. The approved hard landscaping details shall be implemented prior to the occupation of the building(s) and the soft landscaping details in accordance with approved schedule.

Reason: In the interests of the visual amenities of the locality, in accordance with policy H10: Detailed Design of Housing Developments, OL10: Landscape Quality and Character and C1: Townscape and Urban Form.

- 14) All planting, seeding or turfing comprised in the approved details of landscaping shall be carried out in the first planting and seeding seasons following the occupation of the buildings or the completion of the development, whichever is the sooner; and any trees or plants which die within a period of five years from the completion of the development, are removed, or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species.

Reason: In the interests of the visual amenities of the locality, in accordance with policies H10: Detailed Design of Housing Developments, OL10: Landscape Quality and Character and C1: Townscape and Urban Form.

- 15) No development shall commence (excluding the demolition of existing structures) until:

- a) A scheme of intrusive investigations has been carried out on site to establish the risks posed to the development by past coal mining activity; and
- b) Any remediation works and/or mitigation measures to address land instability arising from coal mining legacy, as may be necessary, have been implemented on site in full in order to ensure that the site is made safe and stable for the development proposed.

The intrusive site investigations and remedial works shall be carried out in accordance with authoritative UK guidance.

Reason: To ensure that mining legacy issues are adequately addressed in the interests of the future occupation of the site and paragraphs 178 and 179 of the NPPF.

- 16) Prior to the occupation of the development, or it being taken into beneficial use, a signed statement or declaration prepared by a suitably competent person confirming that the site is, or has been made, safe and stable for the approved development shall be submitted to the local planning authority for approval in writing. This document shall confirm the methods and findings of the intrusive site investigations and the completion of any remedial works and/or mitigation necessary to address the risks posed by past coal mining activity.

Reason: To ensure that mining legacy issues are adequately addressed in the interests of the future occupation of the site and paragraphs 178 and 179 of the NPPF.

- 17) Dust suppression equipment in the form of sprinklers or water bowsers shall be employed at the site at all times during demolition and construction. During periods of hot or dry weather water suppression shall be undertaken at regular intervals to prevent any migration of dust from the site. All surface water run off associated with the equipment shall be collected and disposed of within the site and shall not be allowed to discharge onto the adjacent highway at any time.

Reason: In the interests of air quality and local residential amenity.

- 18) The development hereby approved shall be carried out in accordance with the measures listed in the Security Strategy (Section 4) of the Crime Impact Statement ref version A: 13/01/21 submitted with the planning application and shall be retained as such thereafter.

Reason: In the interests of security and residential amenity.

- 19) A scheme for the Biodiversity Enhancement and Mitigation Measures including the planting of native trees and the provisions of bird and bat boxes shall be submitted to and approved in writing by the Local Planning Authority. The approved scheme shall be implemented prior to first occupation of the development (or in accordance with a phasing plan which shall first be agreed in writing with the local planning authority) and shall be retained thereafter.

Reason: In the interests of biodiversity to ensure sufficient protection is afforded to wildlife in accordance with policy N7: Protected Species.

- 20) The details of an emergency telephone contact number for the site manager shall be displayed in a publicly accessible location on the site from the commencement of development until construction works are complete.

Reason: In the interests of local residential amenity.

- 21) The window on the side (east and west) elevations of the building facing shall at all times be fitted with obscure glass and retained as such thereafter. The obscure glazing shall be to at least Level 3 on the Pilkington Levels of obscurity, or such equivalent as may be agreed in writing by the local planning authority.

Reason: To safeguard the privacy and amenities of the occupiers of adjoining residential property and in accordance with UDP policy H10: Detailed Design of Housing Developments.

Application Number 21/00272/FUL

Erection of 12 no. apartment block (Use Class C3) and associated landscaping, car parking and infrastructure works following demolition of existing building.

Photo 1: Aerial view of site and relationship to existing properties.

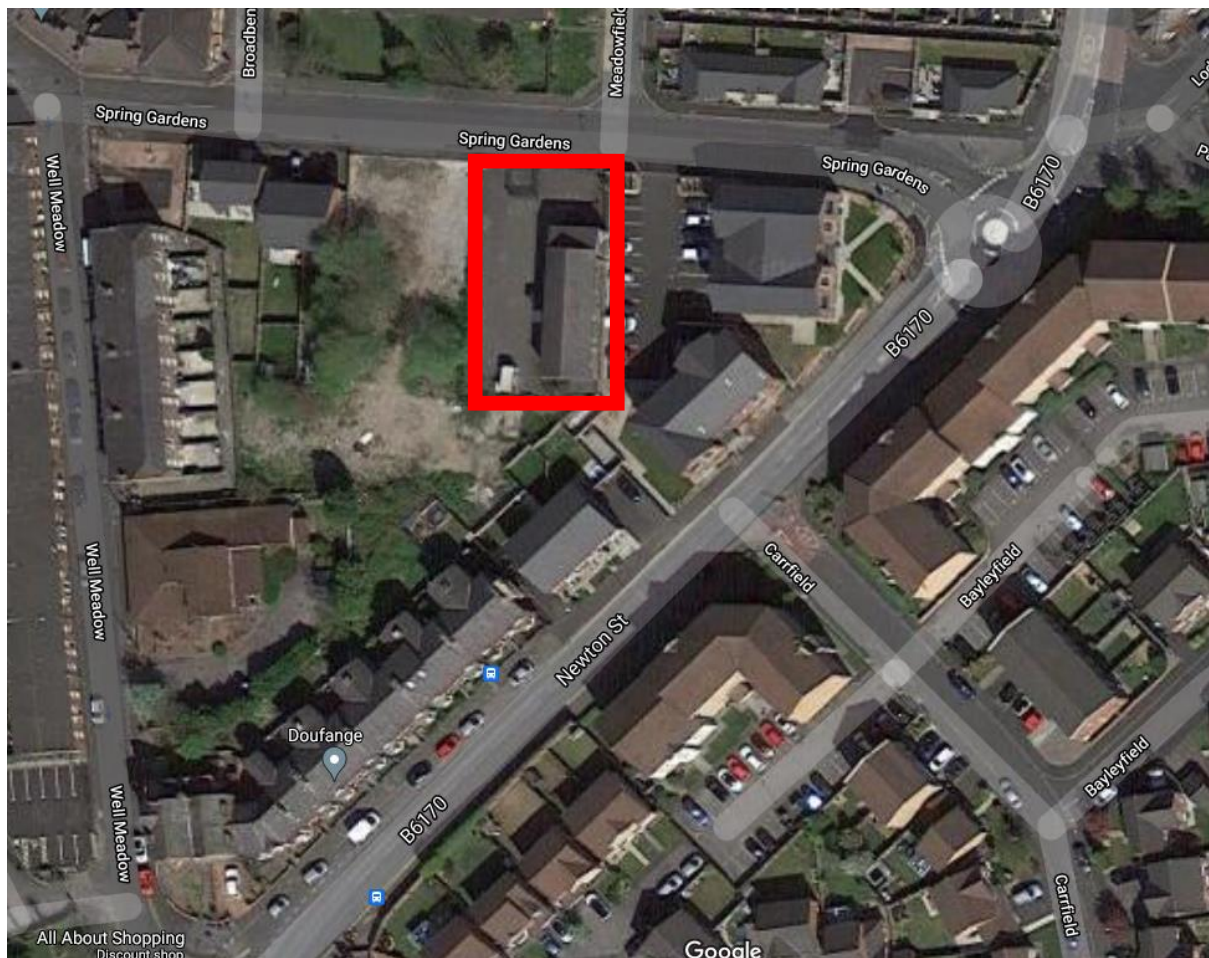


Photo 2: Google Street of Newton Street



Photo 3: Existing community centre building.



Photo 4: View looking east along Spring Gardens



Photo 5: View looking west along Spring Gardens



Photo 6: View towards Spring Gardens



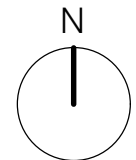
Photo 7: View looking east toward community centre building



Photo 8: Undeveloped land outside the western the boudanry.



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Revision	Date	Revision note	Notes
A	24.02.2021	Disabled parking spaces added	
B	30.04.2021	Parking arrangement amended following comments made by the planners	
C	05.05.2021		

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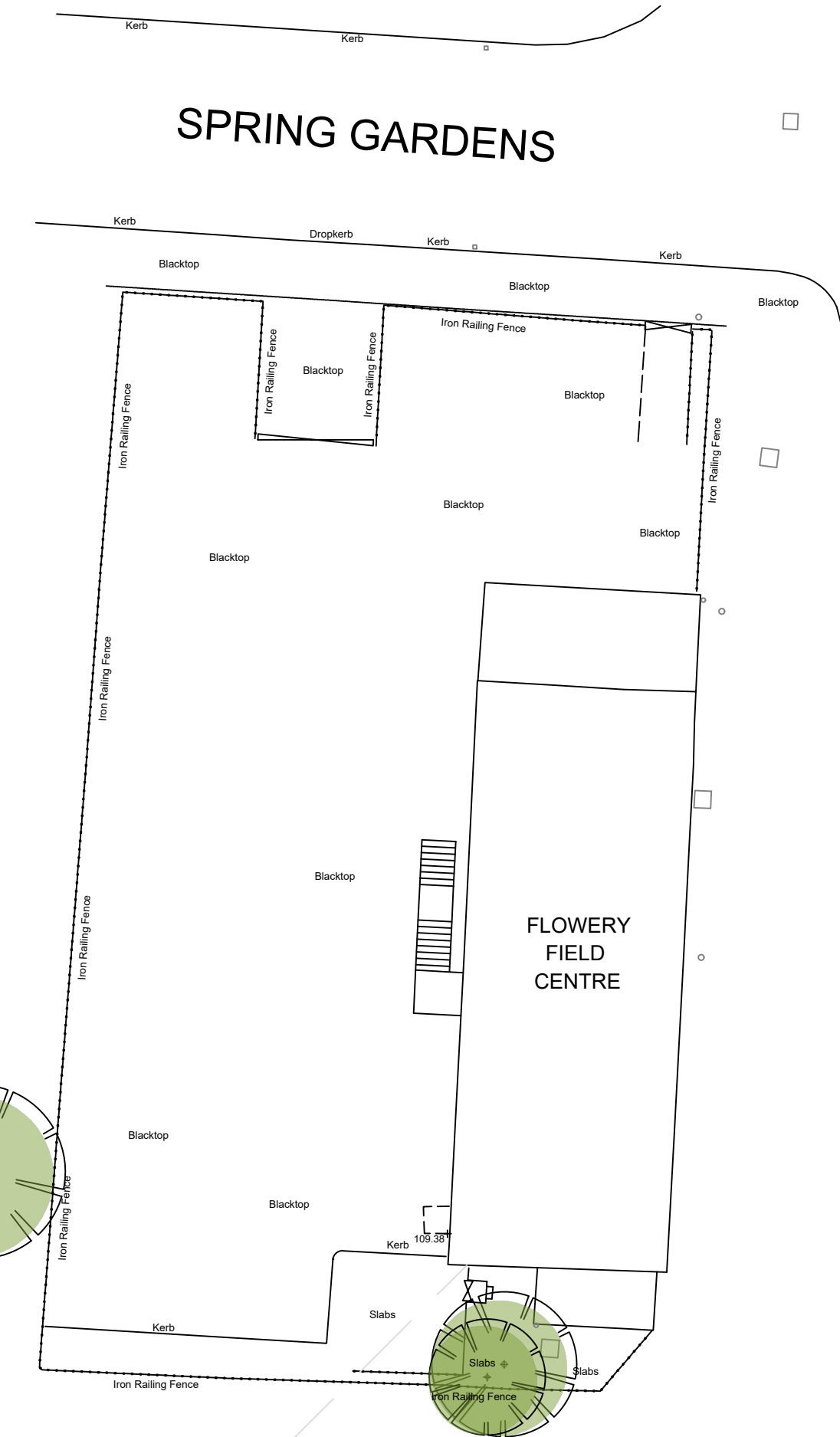
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Spring Gardens
Title :
Proposed site @ 1:500
Drawing number :
864_205
Issue :
C
Client :
Homes for Life

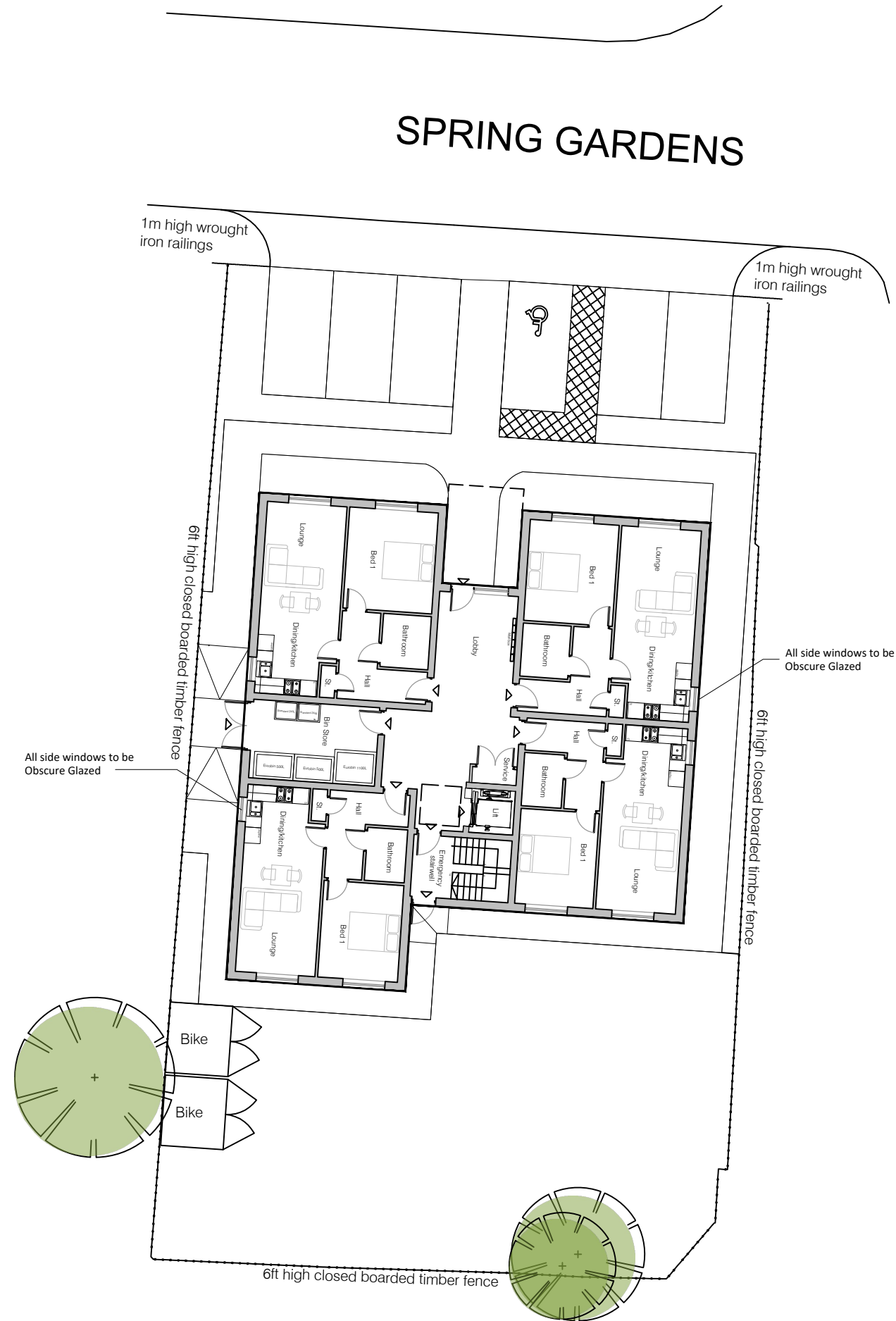
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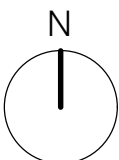
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Existing Site plan

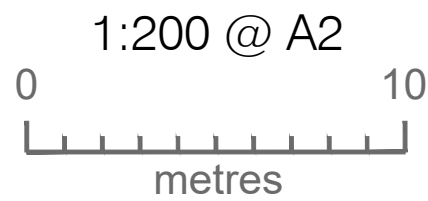


Proposed Site plan



Revision	Date	Revision note
A	21.12.2020	For Planning
B	24.02.2021	Disabled parking spaces added
C	30.04.2021	Parking arrangement amended following comments made by the planners
D	05.05.2021	

Notes



Project :
Spring Gardens
Title :
Existing & Proposed Site Plan
Drawing number :
864_201
Issue :
C
Client :
Homes for Life

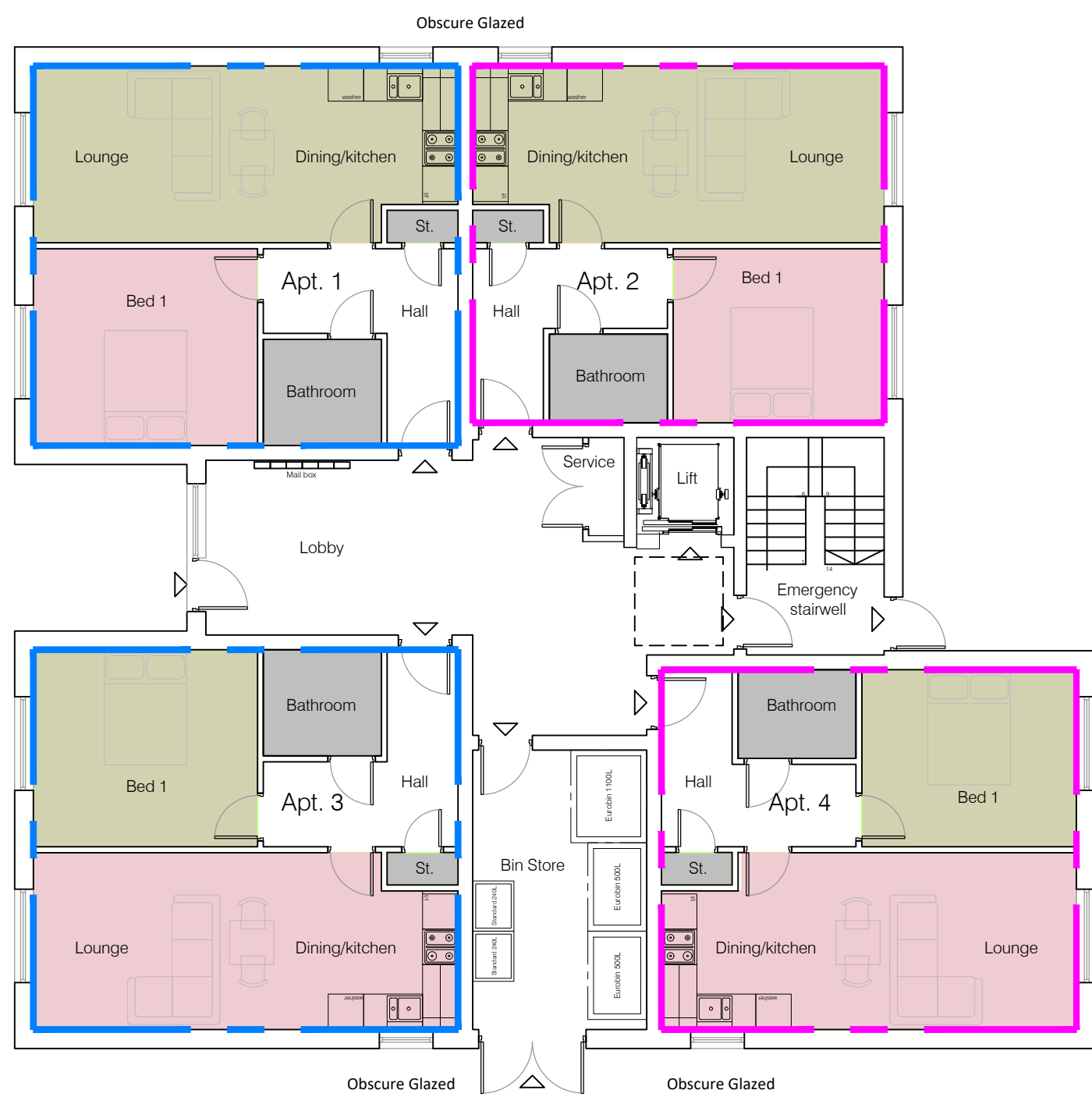
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22.10.2020
CAD Ref :
PL01
Drawn by :
TRP



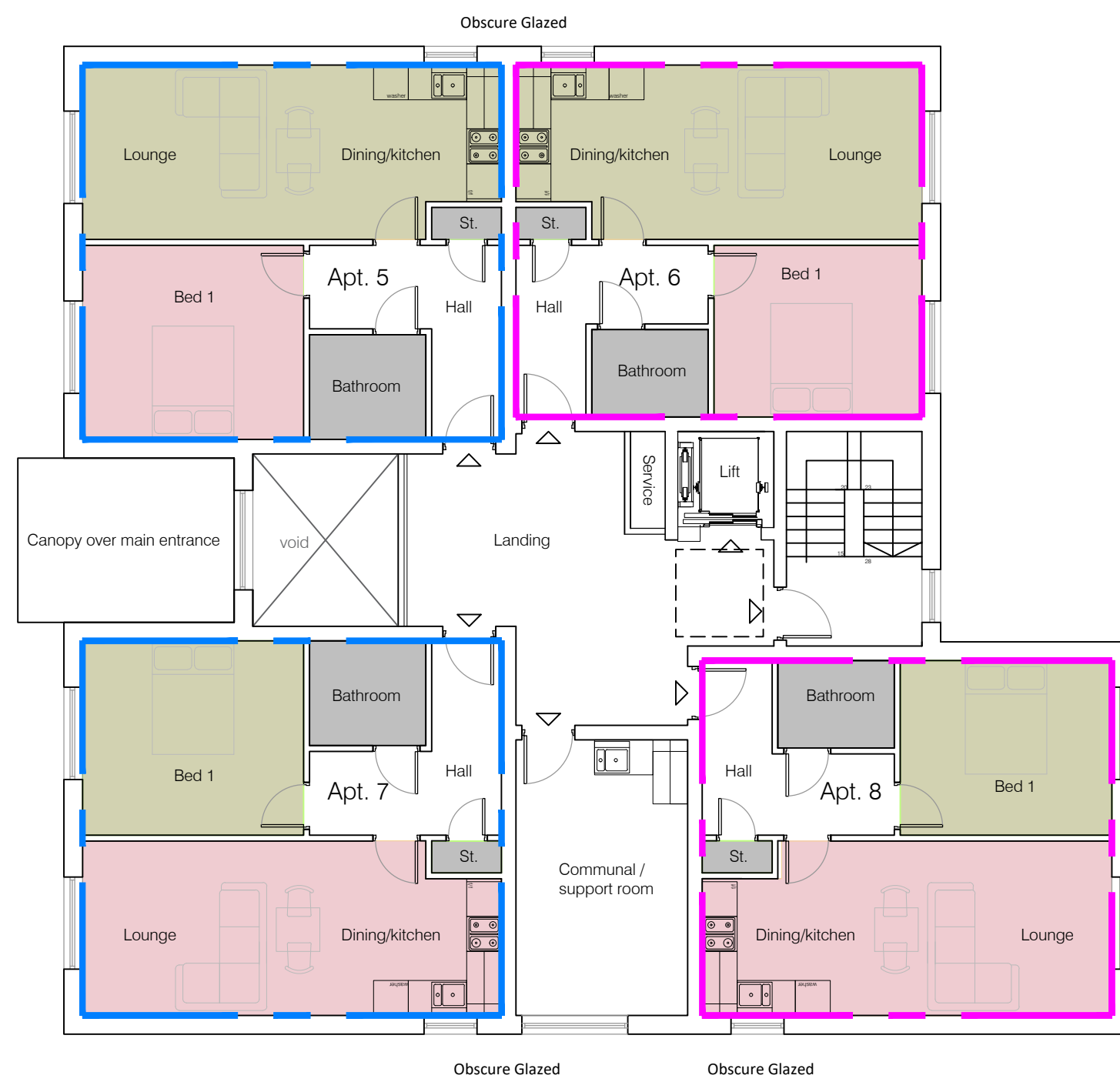
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Level 2 - Independent wheelchair adaptable (46m²)

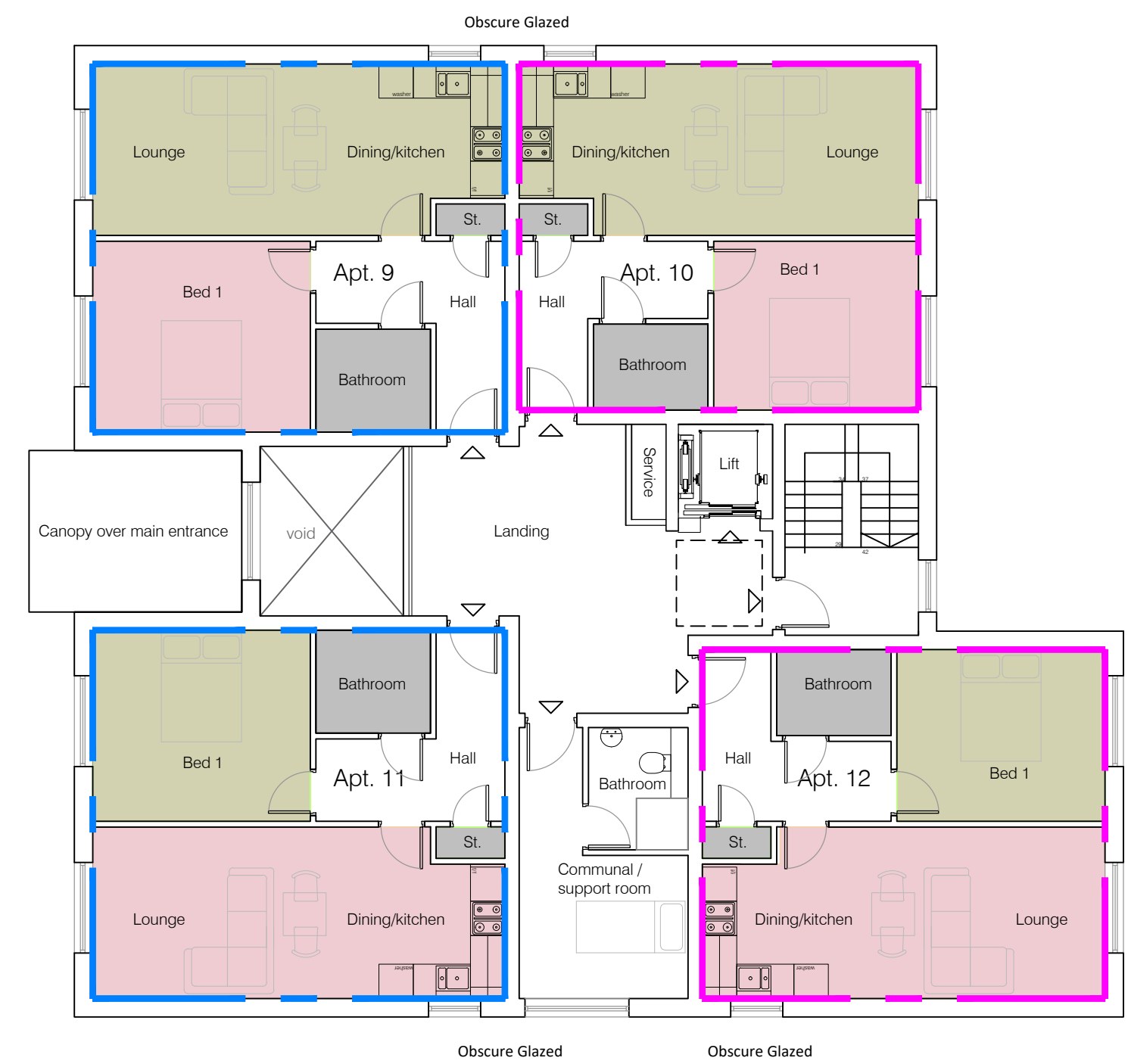
Level 1 - Ambulant user (42m²)



ground floor



first floor



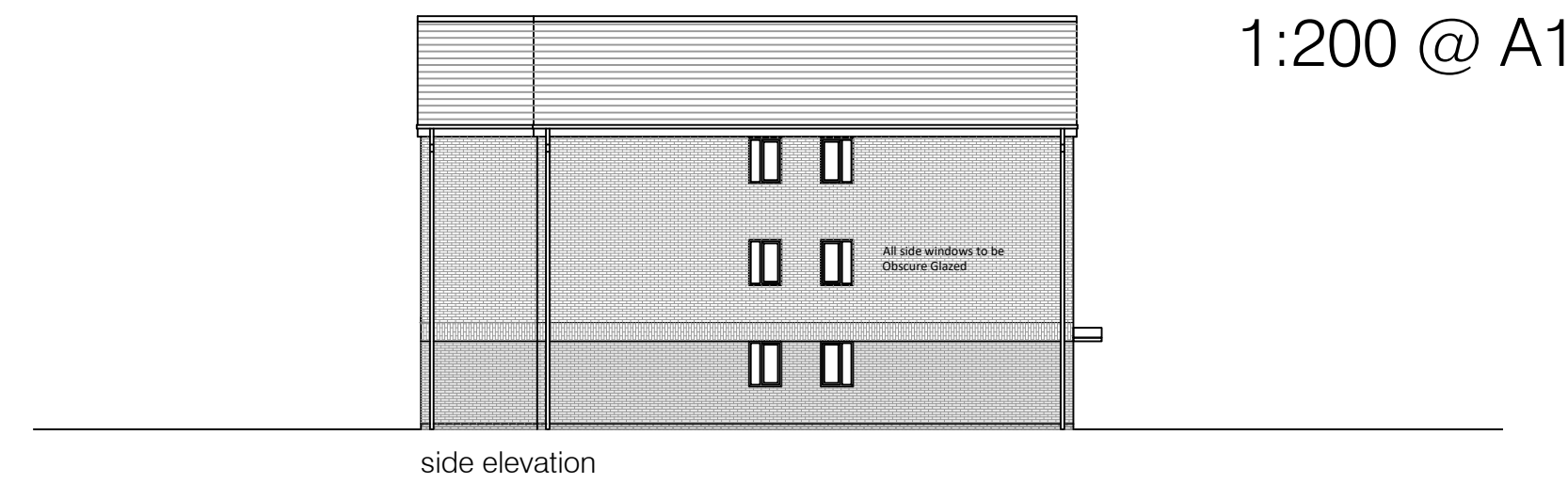
second floor



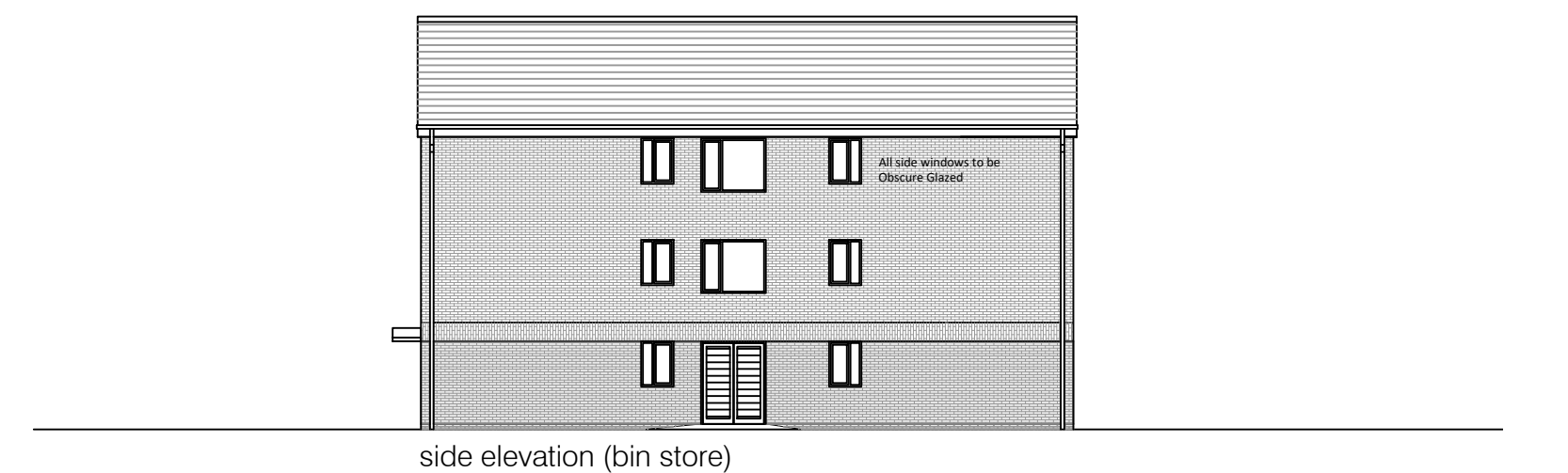
front elevation



rear elevation



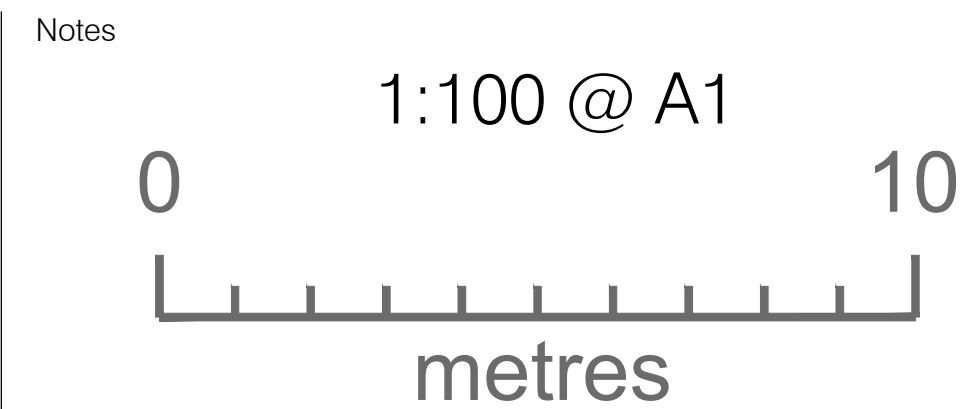
side elevation



side elevation (bin store)

1:200 @ A1

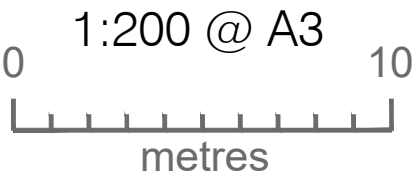
Revision	Date	Revision note
A	21.12.2020	For Planning
B	29.04.2021	Minor amendments - roof height reduced.
C	05.04.2021	



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Street elevation / section



Revision	Date	Revision note	Notes

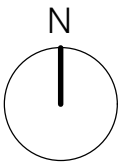


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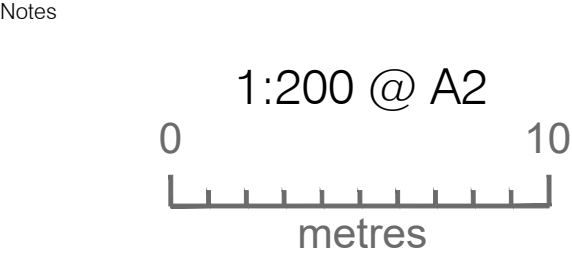


- Notes
- Lawn
 - Tarmac with concrete edging
 - Paving slab

Hard & Soft Landscaping Plan



Revision	Date	Revision note
A	24.02.2021	Disabled parking spaces added
B	29.04.2021	Parking arrangement amended following comments made by the planners
C	05.05.2021	



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Application Number 21/00170/FUL

Proposal Creation of first floor roof terrace to rear in connection with existing bar/restaurant.

Site 118 – 120 Market Street, Droylsden, M43 7AA

Applicant Mr Darren MacKinnon

Recommendation Approve subject to conditions.

Reason for Report At the request of Councillor Quinn. The Head teacher of St Marys CE Primary School, Ms Hampson, has also requested to speak.

1.0 APPLICATION DESCRIPTION

- 1.1 Planning permission is sought for the creation of a first floor roof terrace to the rear of the building in connection with the existing bar/restaurant.
- 1.2 The outdoor terrace would be situated above the existing single storey outrigger to the rear of No 118 – 120 Market Street. To extend the floor area of the terrace it is also proposed to construct a steel framed balcony structure to the rear of the outrigger above the existing passageway (total area around 38m²). The outdoor terrace would be bounded by a 2m high brick wall with blue engineering brick detailing with stone copings to the top of the wall.
- 1.3 Previously it was proposed to erect a clear glazed balustrade to the rear (east facing) elevation, however during the course of the application the design was amended and revised plans were received on 28 April 2021. The application is assessed on the basis of the revised plans which includes a 2m high brick wall to the perimeter of the raised terrace.

2.0 SITE & SURROUNDINGS

- 1.1 The application relates to the former Royal Bank of Scotland building which is located central to Droylsden town centre which is now occupied by 'The Jam Works' (a bar/restaurant). The property fronts Market Street and is located north of the junction with Ashton Road. The property is two storeys in height and has dormer windows within the roof space.
- 1.2 The property is located within an established retail parade which overlooks the Droylsden retail centre. Bus and tram services are located immediately on hand along with public car parks. The highway outside the premises has double yellow lines and there are also loading restrictions in place. To the rear (east) of the site is St Mary's CE Primary School located on Church Street.

3.0 PLANNING HISTORY

- 3.1 99/20514/FUL - Demolition of existing building and erection of 3 storey bank – Application approved.
- 3.2 00/01056/FUL - Demolition of existing building and erection of 3 storey bank – Application approved.
- 3.3 12/00284/ADV - Replacement signage scheme - Application approved.
- 3.4 16/00188/ADV - Replacement scheme of advertisement signs - Application approved.

- 3.5 19/00364/FUL - Change of use from A2 to A4 for the new use of a bar and restaurant. .Some internal alterations. .New shop front and sign – Application approved.
- 3.6 19/00365/ADV - Installation of signage to front of building – Application approved.
- 3.7 19/00119/PLCOND - We are looking to discharge conditions 4 (kitchen extraction) and 6 (roller shutter details) of approved application 19/00364/FUL – Application approved.

4.0 RELEVANT PLANNING POLICIES

4.1 Tameside Unitary Development Plan (UDP) (2004)

4.2 UDP Allocation: Droylsden Town Centre Boundary

4.3 Part 1 Policies:

- 1.3 Creating a Cleaner and Greener Environment
- 1.5 Following the Principles of Sustainable Development
- 1.7 Supporting the Role of Town Centres
- 1.12 Ensuring an Accessible, Safe and Healthy Environment

4.4 Part 2 Policies:

- S1 Town Centre Improvement
- S4 Retail Dominance and Shopping Frontages
- S7 Food and Drink Establishments and Amusement Centres
- S9 Detailed Design of Retail and Leisure Developments
- C1 Townscape and Urban Form
- T1 High Improvement and Traffic Management
- T10 Parking

4.5 Other Policies

Ministry of Housing, Communities and Local Government: National Design Guide

4.6 It is not considered there are any local finance considerations that are material to the application.

4.7 National Planning Policy Framework (NPPF)

The NPPF sets out the Government's planning policies for England and how these are expected to be applied. At the heart is a presumption in favour of sustainable development. Development proposals that accord with the development plan should be approved unless material considerations indicate otherwise. Where the development plan is absent, silent or relevant policies are out-of-date, permission should be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework as a whole; or where specific policies in the Framework indicate development should be restricted or unless material considerations indicate otherwise.

Paragraphs of particular relevance to this application include:

- Section 2 Achieving sustainable development
- Section 6 Building a strong, competitive economy
- Section 7 Ensuring the vitality of town centres
- Section 8 Promoting healthy and safe communities
- Section 9 Promoting sustainable transport
- Section 12 Achieving well-designed places

4.8 Planning Practice Guidance (PPG)

This is intended to complement the NPPF and to provide a single resource for planning guidance, whilst rationalising and streamlining the material. Almost all previous planning circulars and advice notes have been cancelled. Specific reference will be made to the PPG or other national advice in the Analysis section of the report, where appropriate.

5.0 PUBLICITY CARRIED OUT

- 5.1 Neighbour notification letters were issued in accordance with the requirements of the Town and Country Planning (Development Management Procedure) (England) Order 2015 and the Council's adopted Statement of Community Involvement.

6.0 RESPONSES FROM CONSULTEES

- 6.1 Local Highway Authority: No objection to the proposal.
- 6.2 Environmental Health: No objection subject to conditions restricting hours of construction and hours relating to the use of the roof terrace. Also no objection subject to their being no use of music on the roof terrace.
- 6.3 Network Rail: No comments.

7.0 SUMMARY OF THIRD PARTY RESPONSES RECEIVED

- 7.1 Sixteen letters of objection have been received in relation to the proposal in addition to objections from Councillor Laura Boyle, Councillor David Mills and Councillor Susan Quinn.
- 7.2 The comments received have been summarised in brief below:
- Overlook the local school's playground area;
 - Safeguarding issues;
 - Issues of inappropriate behaviour and anti-social behaviour to be heard by children due to proximity;
 - Concerns as to operational hours (conflict with school hours);
 - There should be no use of any such area during the working day including any hours of opening for the adjacent after school club;
 - If music is played it would disrupt the learning of children (noise);
 - Potential for rubbish to be thrown into the playground area;
 - Potential for glass balustrade to shatter and cascade glass on the ground below;
 - Concerns for maintenance issues of wall behind the pillars in the passageway;
 - Ability/opportunity to take photographs from an elevated position;
 - Request for application to be refused;
 - Contravenes Section (d) of S9 in Tameside's UDP

8.0 ANALYSIS

- 8.1 Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that planning applications be determined in accordance with the Development Plan unless material considerations indicate otherwise.

- 8.2 The current position is that the Development Plan consists of the policies and proposals maps of the Unitary Development Plan and the Greater Manchester Joint Waste Plan Development Document.
- 8.3 The National Planning Policy Framework (NPPF) is also an important consideration. The NPPF states that a presumption in favour of sustainable development should be at the heart of every application decision. For planning application decision taking this means:
- Approving development proposals that accord with the development plan without delay; and,
 - Where the development plan is absent, silent or relevant policies are out of date, granting planning permission unless:
 - Any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole; or
 - Specific policies in the Framework indicate development should be restricted.
- 8.4 In accordance with the revised NPPF and the Tameside UDP, the main issues raised by the application relate to the following:
- Principle of the development;
 - Impact of the development on the character and appearance of the surrounding area;
 - Impact on amenity; and,
 - Impact on highway safety.

The above matters, and other considerations, are considered in more detail below.

9.0 PRINCIPLE OF DEVELOPMENT

- 9.1 The site is situated within the Droylsden town centre boundary. The proposal is associated with the established bar and restaurant use of the premises. It is noted that the hospitality industry has a major role in supporting the local economy. The proposals would complement the existing use and add to the overall vibrancy and vitality of the town centre. Subject to other considerations the proposals are compatible with the land use allocation.

10.0 CHARACTER OF THE SURROUNDING AREA

- 10.1 Part 1 Policy 1.3 of the UDP describes that to enhance the appearance of the borough for the benefit of existing residents and to help attract new investment, all developments must achieve high quality design which is sensitive to the character of the local area, particularly in the relationship between buildings, between buildings and adjoining spaces, and in associated landscaping.
- 10.2 Policy C1 states that in considering proposals for built development, the Council will expect the distinct settlement patterns, open space features, topography, townscape and landscape character of specific areas of the borough to be understood, and the nature of the surrounding fabric to be respected. The relationship between buildings and their setting should be given particular attention in the design of any proposal for development. This is consistent with requirements of Policy S7 and Policy S9 insofar as the impact on the character of the area.
- 10.3 The upper floor level of the application property where the terrace would be accommodated is not particularly prominent and views are limited from public vistas from Henry Street and Ashton Road. The rear elevation as currently viewed is somewhat utilitarian in appearance owing to the flat roof and presence of plant equipment and security features.

- 10.4 The proposed roof terrace would be bounded by a 2m high red brick wall which would incorporate two courses of blue engineering brick running through its centre. The top of the wall would be finished with stone copings. In consideration of the fact that the predominant material used in the construction of buildings in the surrounding area is that of red brick, the local planning authority are satisfied that the development, which is of a minor nature, would integrate sympathetically with its surroundings. The enclosure would read as a neutral extension to the existing ground floor extension. The courses of blue engineering brick would add visual interest and help to break up the appearance of the elevations. Having regard to the scale and merits of design, there are no objections and the proposal is considered compliant with Policies 1.3, S1, S7 and S9 and C1 of the UDP in respect of building design, materials and overall influence on local amenity.

11.0 AMENITY

- 11.1 As part of its underlying drive to promote sustainable development, paragraph 127(f) of the revised NPPF states that a high standard of amenity should always be sought for all existing and future occupants of land and buildings. As above, Policy C1 of the UDP states that the relationship between buildings and their setting should be given particular attention in the design of any proposal for development and policies S7 and S9 allude to the need to not unduly impact upon residential or other sensitive uses.
- 11.2 The site is located within Droylsden town centre; it is characterised by the mixture of commercial uses that defines the local environment. Many of the premises are mixed use in character supporting residential uses at first floor or above. This combination of commercial, residential, civic and community uses adds to the overall vibrancy and vitality of the centre.
- 11.3 In terms of consideration to amenity insofar as potential noise and disturbance matters are concerned, consultation with Environmental Services has been supportive of the proposals. This is subject to a condition ensuring that no public address system or broadcasting equipment is installed on the terrace. The ambient noise levels would be that of users of the terrace and this would be heard against a background of transport activity. It is not considered that this would be unduly harmful on the amenity and environmental quality of the locality.
- 11.4 It is acknowledged by the local planning authority that a number of objections have been received in relation to the impact of the development on the adjacent St Mary's CE Primary School building, with particular concerns relating to safeguarding issues and anti-social behaviour.
- 11.5 The school building is located within a predominantly commercial district centre which borders a variety of buildings with different uses. Existing boundary treatment around the playground nearest to the application site comprises a mix of tall brick walls (south) and open railings (north).
- 11.6 To address the issues raised, the local planning authority have worked with the agent by amending the design of the boundary treatment to the raised terrace area. The previously proposed glass balustrade to the rear elevation has been replaced with a 2m opaque brick wall. This material will ensure the terrace is sufficiently enclosed and officers are satisfied that this reasonably addresses any perceived safeguarding issues as users of the terrace would have no views of the school.
- 11.7 In the view of the local planning authority, having regard to Policies 1.3, C1, S7 and S9 of the UDP, the raised boundary treatment provides better security leaving no opportunity for overlooking of the school grounds and is consistent with/comparable to existing boundary treatments around the school playground.

- 11.8 It cannot be assumed that the roof terrace, which is of a small scale, would provide the opportunity for unacceptable anti-social behaviour - particularly where it forms part of an enclosed and managed area of a working bar/restaurant which would be monitored by staff and security cameras. In any case, the brick wall would screen the users of the terrace from view, particularly from the playground area below and the height of the wall being sufficient to contain the associated levels of activity. In addition to this, legislation under the licensing arrangements which is separate to the planning process ensures safeguards are applied so that the premises are managed appropriately.
- 11.9 In consideration of the planning merits, the revised boundary treatment is deemed to be sufficient and is an appropriate mitigation factor to overcome the highlighted concerns and subject to conditions is considered acceptable in relation to policies 1.3, C1 and S9 of the UDP.

12.0 HIGHWAY SAFETY

- 12.1 The scheme proposed does not affect any highway issues other than an increase in the proposed floor area of the business. The Local Highway Authority (LHA) are satisfied that the lack of parking is mitigated by the business being located in a highly sustainable area with excellent transport links nearby. In the view of the LHA, the development does not have an unacceptable impact on highway safety, or consider that the residual cumulative impacts on the road network would be severe. Officers have no reason to disagree and as such the development is considered to be acceptable in relation to highway safety and compliant with the NPPF, in particular paragraph 109.

13.0 OTHER CONSIDERATIONS

- 13.1 In light of the Covid-19 pandemic, the government and local planning authorities are mindful of the impacts of Covid-19 and social distancing requirements necessary to support businesses, as outlined within the Planning Update Newsletter dated July 2020 and subsequent Government announcements following the re-opening of outdoor business on 12 April 2021.
- 13.2 The proposal provides flexibility to the use of the bar and restaurant by allowing outdoor seating - enabling the business to maximise their capacity and prosper whilst adhering to social distancing guidelines. The current government guidelines that allow flexibility is a material consideration and allows businesses in the hospitality sector to bounce back from a uniquely challenging year.

14.0 CONCLUSION

- 14.1 The proposed development is considered to be complimentary to the function of the town centre in that it will drive footfall and complement the overall vibrancy and vitality of the centre. It would provide flexibility to the existing use and allow valuable outdoor restaurant seating in a safe environment without being of detriment to the amenity of adjoining landowners.
- 14.2 The proposals comply with the aforementioned policies of the development plan and would not have a material impact upon the highway network. The proposals are considered to adhere to the NPPF's principles of sustainable development.

RECOMMENDATION

Grant planning permission, subject to the following conditions:

1. The development must be begun not later than the expiration of three years beginning with the date of this permission.

Reason: Required to be imposed by Section 91 of the Town and Country Planning Act 1990 as amended by Section 51 of the Planning and Compulsory Purchase Act 2004.

2. The development hereby approved shall be constructed in accordance with the materials detailed and shown on the approved drawings received 28 April 2021.

Reason: In order to ensure a satisfactory appearance in the interests of visual amenity in accordance with policies C1 and H10 of the adopted Tameside Unitary Development Plan and the National Planning Policy Framework.

3. The development hereby permitted shall be carried out in accordance with the submitted site location plan and the following plans received 28 April 2021:

- Drawing number 061-004 rev A (Proposed Roof Terrace Layout);
- Drawing number 061-006 rev A (Proposed South Elevation);
- Drawing number 061-008 rev A (Proposed North Elevations); and,
- Drawing number 061-010 rev A (Proposed East Elevation).

Reason: For the avoidance of doubt and to ensure compliance with policies C1 and H10 of the Tameside UDP.

4. During demolition/construction no work (including vehicle and plant movements, deliveries, loading and unloading) shall take place outside the hours of 07:30 and 18:00 Mondays to Fridays and 08:00 to 13:00 Saturdays. No work shall take place on Sundays and Bank Holidays.

Reason: To protect the amenities of occupants of nearby properties/dwelling houses in accordance with UDP policies 1.12 and E6.

5. The first floor roof terrace hereby permitted shall be closed to customers between the hours of 00:30 to 09:00 hours Monday to Sunday.

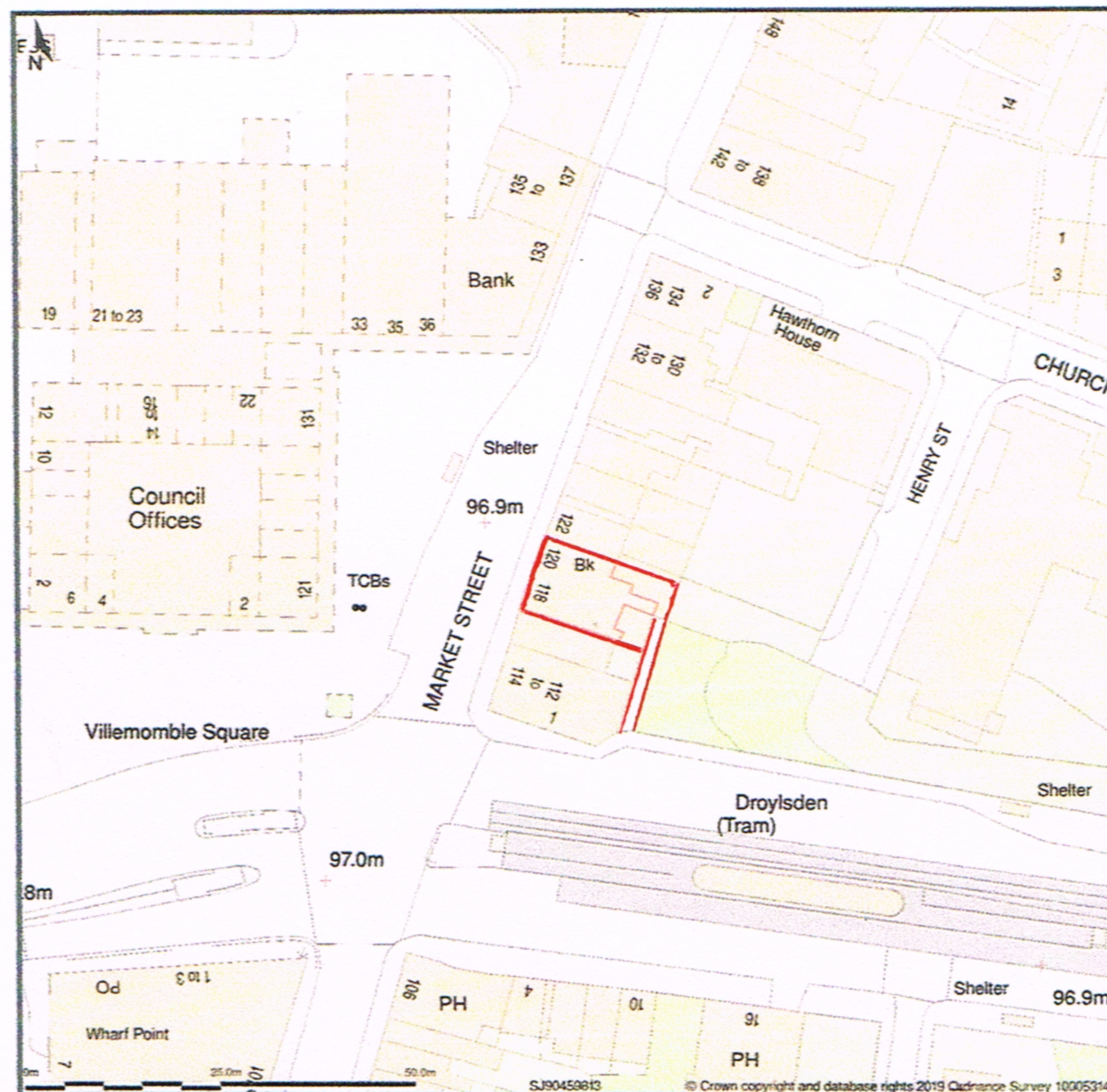
Reason: To protect the amenities of occupants of nearby properties/dwelling houses in accordance with UDP policies 1.12 and E6.

6. No public address system / television set / amplified music and / or musical instrument shall be relayed to or played on the first floor roof terrace hereby permitted.

Reason: To protect the amenities of occupants of nearby properties/dwelling houses. In accordance with UDP policy 1.12.

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120, Market Street, Droylsden, Tameside, M43 7AA



Site Plan shows area bounded by: 390386.32, 398066.19 390527.74, 398207.62 (at a scale of 1:1250), OSGridRef: SJ90459813. The representation of a road, track or path is no evidence of a right of way. The representation of features as lines is no evidence of a property boundary.

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Application Number 21/00170/FUL

118 - 120 Market Street, Droylsden, Tameside,

M43 7AA

Creation of first floor roof terrace to rear in connection with existing bar/restaurant

Photo 1: Aerial view of application site



Photo 2: Rear of the property as viewed from Henry Street 1 of 3



Photo 3: Rear of the property as viewed from Henry Street 2 of 3



Photo 4: Rear of the property as viewed from Henry Street 3 of 3

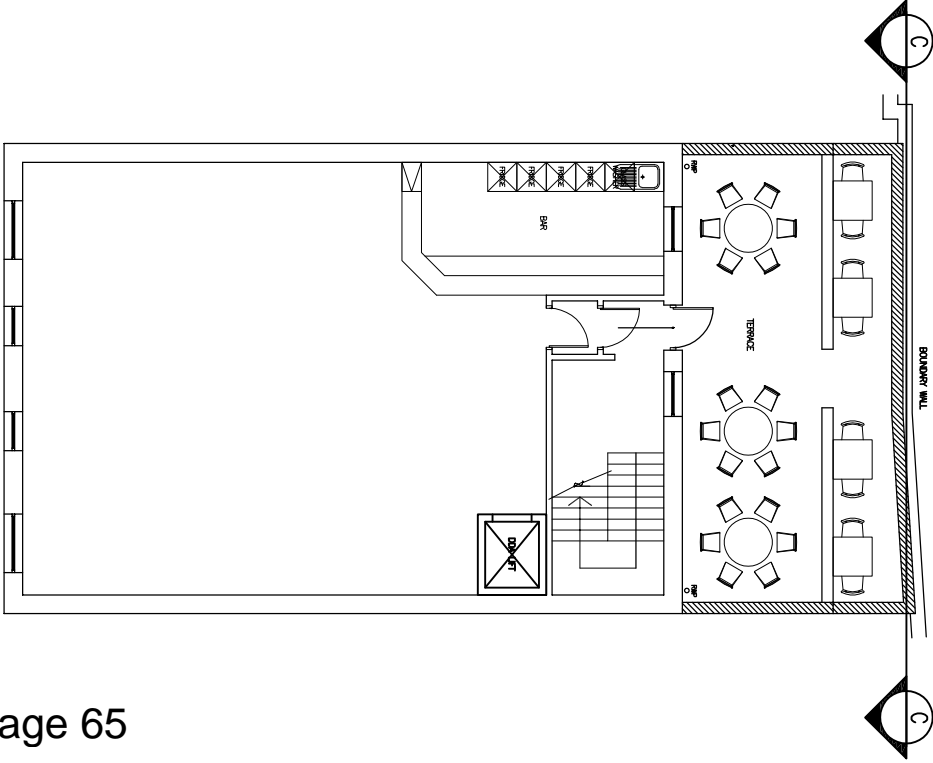
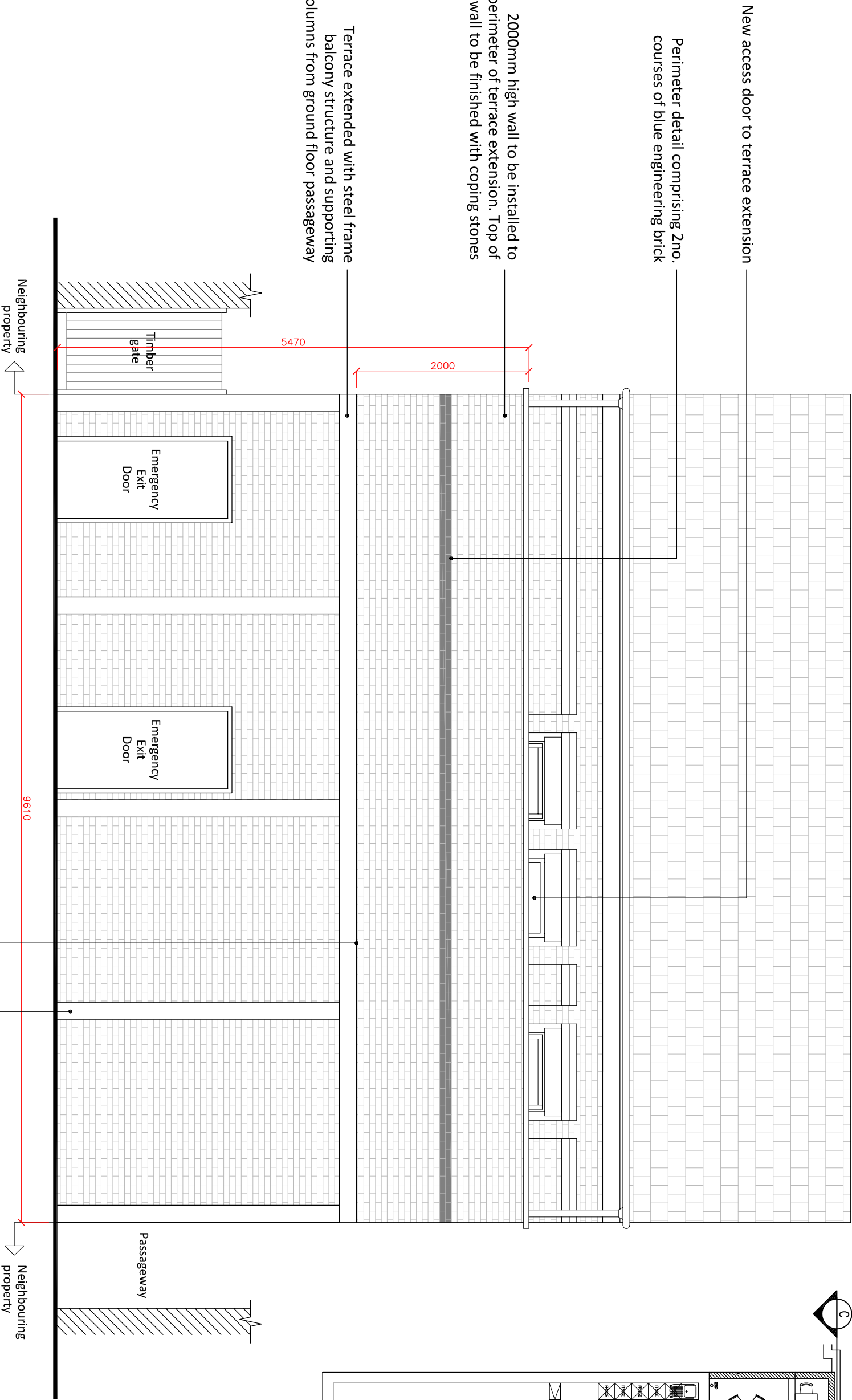


Photo 5: View looking north from Ashton Road 1 of 2



Photo 6: View looking north from Ashton Road 2 of 2



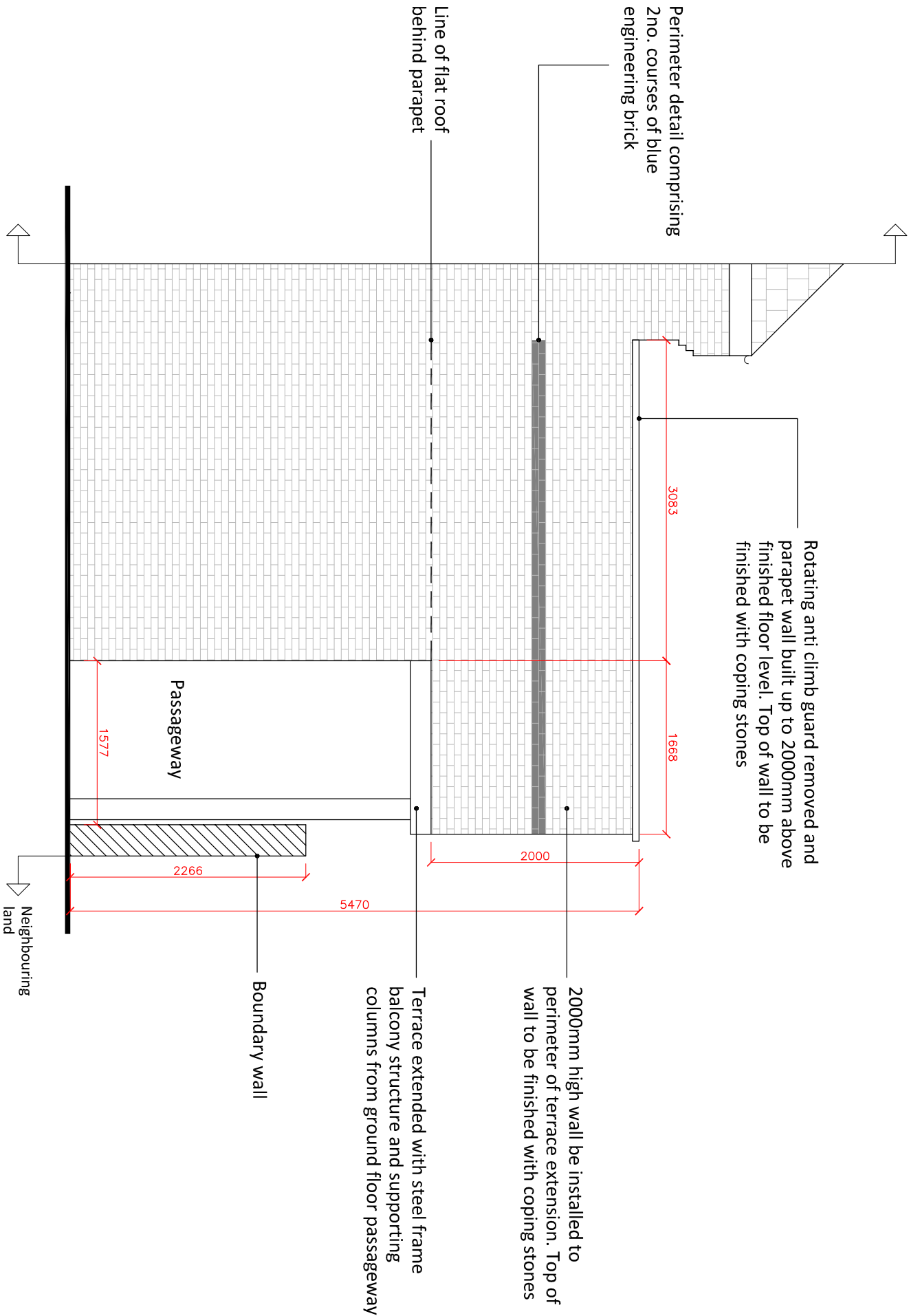


PLAN VIEW
Not to Scale

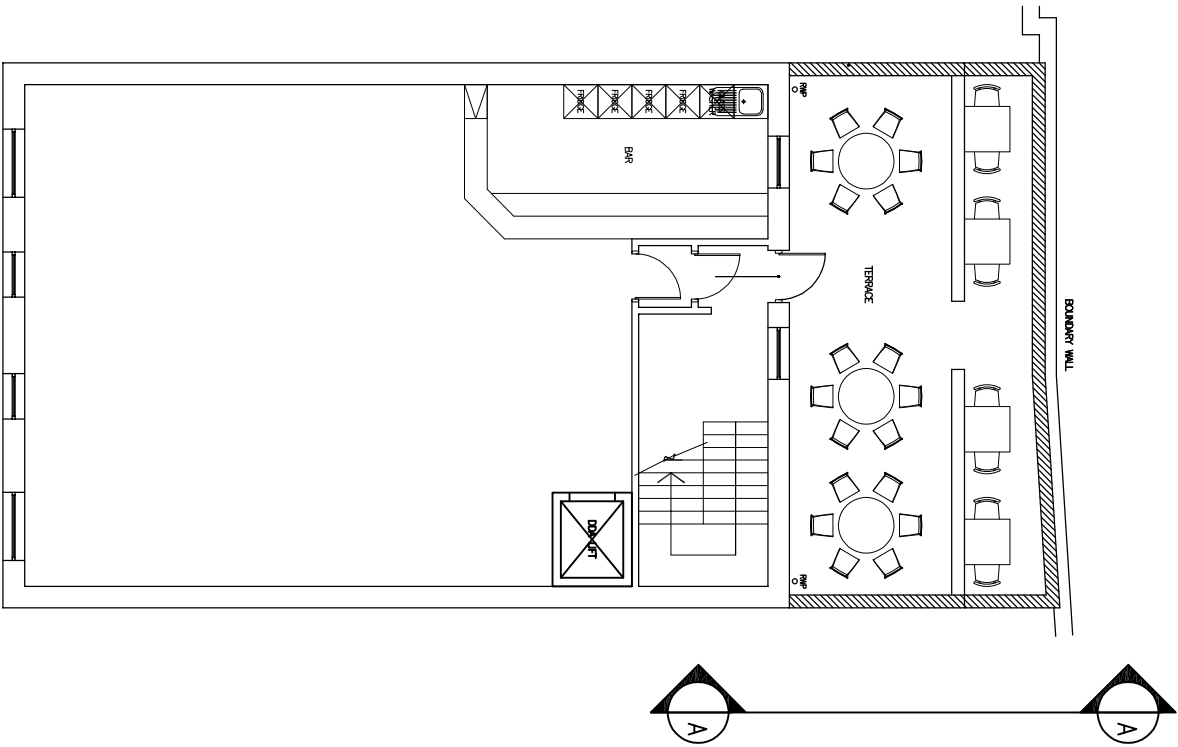
PROPOSED REAR ELEVATION: C-C
Scale 1:50

A		GLASS BALUSTRADE REPLACED WITH 2m HIGH WALL	28/04/21	AU	AU
REV	DESCRIPTION	DATE	BY	CHK	
Project: The Jam Works, Droylsden					
Drawing Title: Proposed East Elevation					
Drawing No.: 061-010					
Scale @ A3 1:50	Revision: A	Status: PROPOSAL	Drawn By: AU	Date: 25/02/21	

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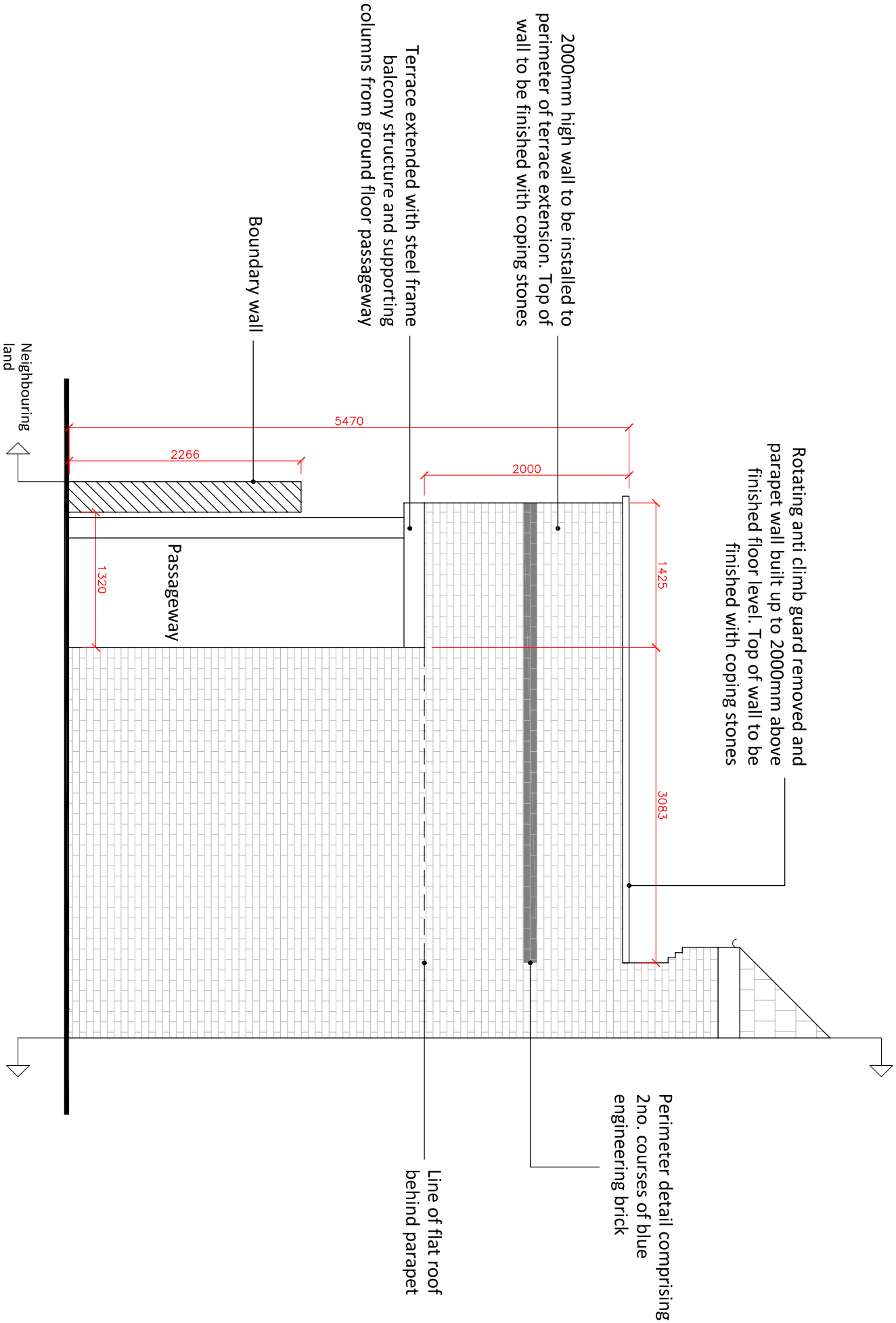
PROPOSED SIDE ELEVATION: A-A
Scale 1:50



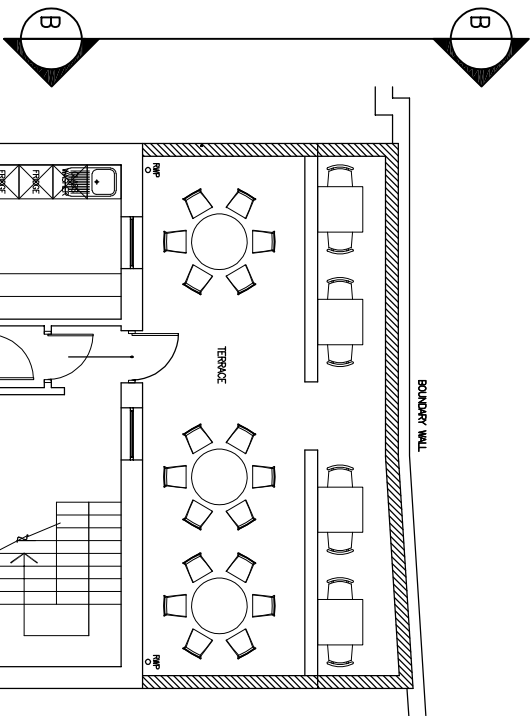
PLAN VIEW
Not to Scale

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The Jam Works, Droylsden					
Drawing Title:					
Proposed South Elevation					
Drawing No.:					
061-006					
Scale @ A3					
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					AU
					Date:
					08/02/21

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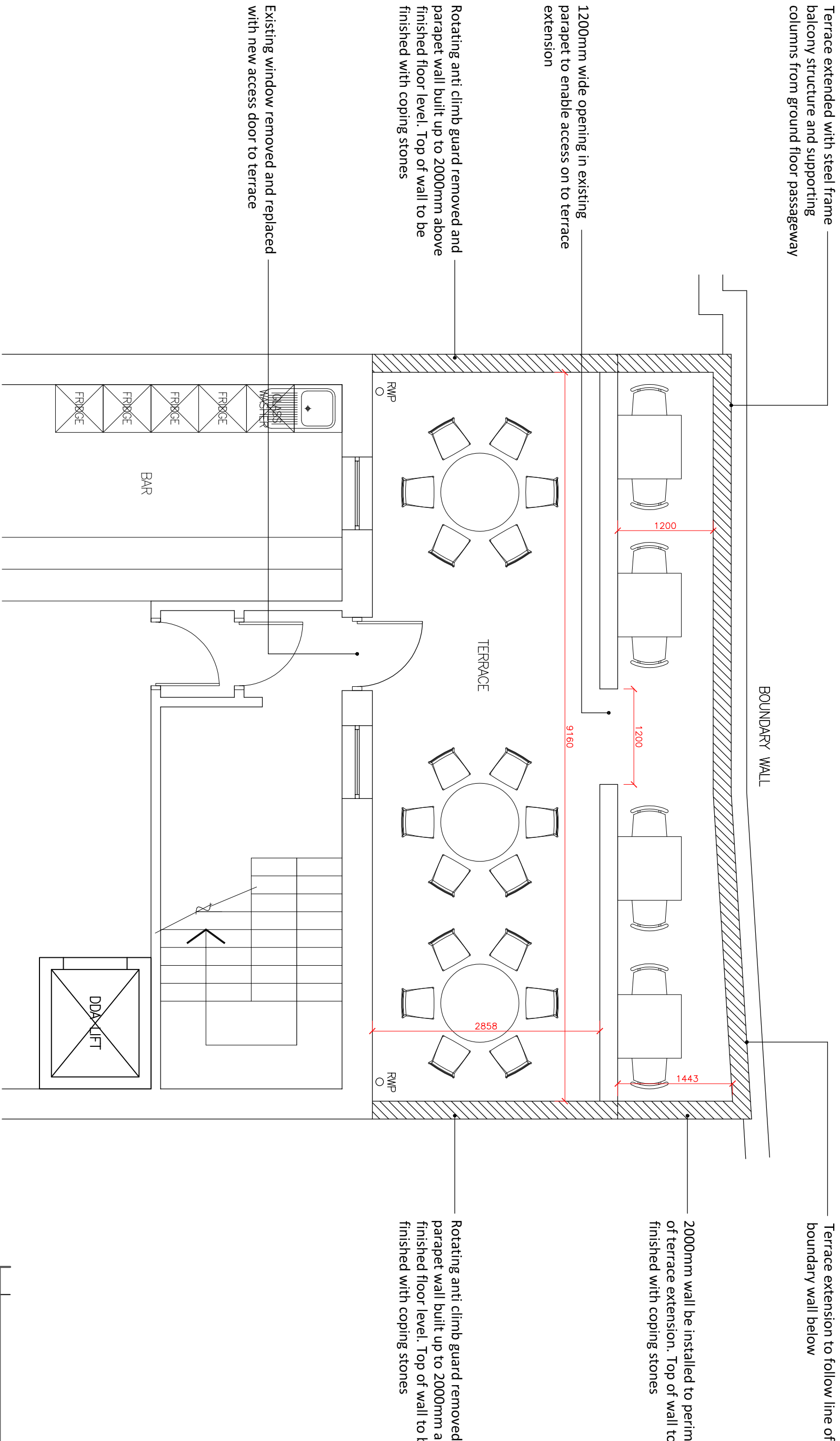
PROPOSED SIDE ELEVATION: B-B
Scale 1:50



PLAN VIEW
Not to Scale

	A	GLASS BALUSTRADE REPLACED WITH 2m HIGH WALL								
REV	DESCRIPTION					28/04/21	AU	AU	AU	
						DATE	BY	CHK		
Project:										
The Jam Works, Droylsden										
Drawing Title:										
Proposed North Elevation										
Drawing No.:										
061-008										
Scale @ A3										
1:50	Revision:		A	Status:		PROPOSAL	Drawn By:		AU	Date:
25/02/21										

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The Jam Works, Droylsden					
Drawing Title:					
Proposed Roof Terrace Layout					
Drawing No.:					
061-004					
Scale @ A3					
1:50	Revision:	Status:	Drawn By:	Date:	
A	PROPOSAL	AU	03/02/21		

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Application Number 20/00329/FUL

Proposal	Detached dwelling house - retrospective
Site	Land adjacent to 124 Mottram Old Road, Hyde, SK14 3BA
Applicant	Mr Paul Williamson
Recommendation	Members resolve to grant planning permission subject to recommended conditions.
Reason for Report	A Speakers Panel decision is required because the application has been called in by Councillor Welsh.

1.0 APPLICATION DESCRIPTION

- 1.1 The application seeks retrospective and full planning permission for a 3-bedroom, detached house that has been built on a plot of land that was previously used for parking between nos. 124 and 130 Mottram Old Road. The roof space is utilised to accommodate a bedroom and so the house is considered 3-storey. The plot is situated immediately behind the footway and is initially flat and then, above a brick retaining wall that has been constructed, the land slopes upward to adjoin the rear gardens of bungalows in Silver Springs.
- 1.2 Due to the profile of the land, the house has been cut in to the higher ground and so, due to it cutting in to the slope, when viewed from the rear the house appears single-storey. From the rear of the bungalows behind only the roof of the house is visible.
- 1.3 The front of the proposed house is on a similar level to that of the neighbouring detached house at no. 130 Mottram Old Road. The neighbouring house on the opposite side at no. 124 Mottram Old Road is a semi-detached and at a higher level. Consequently, partly due to the due to the change in the levels, the eaves and ridge of the roof of the new house are higher than those of no. 130 but lower than those at no. 124. The new house is brick-built with a tiled roof.
- 1.4 A driveway has been constructed on the eastern side of the house, next to no. 130, and the area in front is likewise hard-surfaced to provide for car parking.

2.0 SITE AND SURROUNDINGS

- 2.1 A block of seven houses on the southern side of Mottram Old Road, at the fringe of the built-up area in Hyde, look out across the valley on the opposite side of the road where the land falls away steeply towards Godley. The Alder Community High School is located in the valley and there is pedestrian access to the school from Mottram Old Road. Westward, beyond the block of houses, the land opens up in to the green belt between Hyde and Hattersley.
- 2.2 The neighbouring house to the west, at no. 124, is raised up from the road and is accessed via steps. The application site previously formed a gap in the built-up frontage in the block before the last house at no. 130 where there is a ground floor, habitable room window in the middle of the side gable.

3.0 PLANNING HISTORY

- 3.1 In September 2004, the Council refused an application (ref. 04/01175/OUT) for outline planning permission for a detached house on this plot. At that time approval of the details of

the siting of the house were sought and all other matters of detail were held in reserve. An appeal against the Council's decision was dismissed in June 2005.

- 3.2 Application (ref. 14/01156/FUL) for full permission for a pair of semi-detached houses was refused in February 2015. Appeal dismissed.
- 3.3 Application (ref. 15/00300/FUL) for full permission to develop a detached house on the site was refused in June 2015. Appeal dismissed.
- 3.4 Most recently, full permission (ref. 16/00610/FUL) was granted in October 2016 for a 2-bedroom, detached house.

4.0 RELEVANT PLANNING POLICIES

4.1 Tameside Unitary Development Plan (UDP) Allocation Unallocated.

4.2 Part 1 Policies

- 1.3 Creating a Cleaner and Greener Environment
- 1.5: Following the Principles of Sustainable Development
- 1.12: Ensuring an Accessible, Safe and Healthy Environment.
- 1.13: Meeting Obligations on Minerals, Waste and Energy.

4.3 Part 2 Policy

- H2: Unallocated Sites.
- H9: Backland and Garden Development.
- H10: Detailed Design of Housing Developments
- T1: Highway Improvement and Traffic Management
- C1: Townscape and Urban Form.
- MW11: Contaminated Land.

4.4 National Planning Policy Framework (NPPF)

- Section 2. Achieving sustainable development
- Section 5. Delivering a sufficient supply of homes
- Section 9. Promoting sustainable transport
- Section 11. Making effective use of land
- Section 12. Achieving well-designed places
- Section 15. Conserving and enhancing the natural environment

4.5 Other Policies

Residential Design Supplementary Planning Document

It is not considered there are any local finance considerations that are material to the application.

4.6 Planning Practice Guidance (PPG)

This is intended to complement the NPPF and to provide a single resource for planning guidance, whilst rationalising and streamlining the material. Almost all previous planning circulars and advice notes have been cancelled. Specific reference will be made to the PPG or other national advice in the Analysis section of the report, where appropriate.

5.0 PUBLICITY CARRIED OUT

- 5.1 As part of the planning application process, 11 notification letters were sent out to neighbouring properties on March 21 2020.

6.0 RESPONSES FROM CONSULTÉES

- 6.1 The Head of Environmental Services (Highways) has raised no objections to the proposal and has suggested that conditions regarding the provision of visibility splays where the driveway meets the footway and cycle storage, and details of the retaining wall, as well as informative notes regarding a postal address and working near to a highway be attached to any permission.

7.0 SUMMARY OF THIRD PARTY RESPONSES RECEIVED

- 7.1 As a result of the application being publicised objections have been received from Councillor Welsh and from a neighbour. Councillor Welsh objects on the grounds that the house that has been built is larger, including being taller, than the house that was approved (see paragraph 3.4) and consequently has a greater impact on the amenities of the neighbour behind.
- 7.2 The neighbour objects also on the grounds that the house is taller than that approved, and so has a greater impact on the outlook from windows in the bungalow behind, and also the failure to adhere to the terms of the planning permission.

8.0 ANALYSIS

- 8.1 The site is located within an established residential area and, there having been no material changes in circumstances in the meantime, the principle that residential development is acceptable is established by the previous grant of planning permission (see paragraph 3.4). The principle that residential development is acceptable being established, the issues to be considered in the determination of the application are then the effect of the proposal on:
- The character and appearance of the site and the surrounding area;
 - The impact on existing residential amenities;
 - The residential environment created; and
 - The impact on highway safety.

9.0 CHARACTER AND APPEARANCE

- 9.1 The existing houses in the block consist of the detached house at no. 130, which is stone-built, a pair of semi-detached houses, both of which are pebble-dashed, and a row of four terraced houses, two of which are brick-built and two are stone-built. There being a variety of external finishes to nearby houses that the new house is brick-built is considered acceptable.
- 9.2 The eaves and roof ridge of the new house are both lower than those of the neighbouring semi-detached house. The eaves of the new house are at approximately the same height as those of the neighbouring detached house, but the ridge is higher. In terms of scale, the new house is considered in-keeping with the neighbours and results in a stepping-down in terms of height along the row.
- 9.3 The windows in the house that was approved previously each had a vertical emphasis, they were taller than they were wide, as do the windows in each of the other houses in the row. As built, the main windows in the front of the new house are square. The windows in the

house that was approved were each to be built with stone sills and headers; these are omitted from the house as built, but it is proposed that stone sills be introduced. It is considered that the introduction of sills, together with an existing profiled band in the brickwork above the front, ground floor window and door, provide adequate architectural features so that the design and appearance of the proposed house are considered acceptable and compliant with: policies 1.3, 1.11, H10 (a) and C1 of the UDP; policy RD1 of the SPD; and, Sections 11 and 12 of the NPPF, and that the house appears in-keeping with the setting.

10.0 IMPACT ON EXISTING RESIDENTIAL AMENITIES

- 10.1 The Council's reason for refusing the first of the previous applications (see para. 3.2) was because the proposed development fails to achieve an adequate privacy and spacing distance to a habitable window in the gable end of 130 Mottram Old Road. In dismissing the appeal against the refusal of the first of these applications the Inspector agreed with the Council that the proposal would position a gable wall extremely close to a ground floor window in the side of no. 130. The Inspector recognised that whilst (the gable window) might be described as the secondary window to the room, it is very important to the enjoyment of the property.
- 10.2 In relation to the impact on amenity at the neighbouring bungalow in Silver Springs, the Inspector acknowledged that there would be a loss of view from the rear windows that were clearly intended to take advantage of this opportunity but that the objection for this reason was 'less compelling'. The impact on the view was found not to be a tenable reason in itself for refusal but a supporting reason. The Inspector's summary of the reason for dismissing the appeal referred solely to the impact on the window in no. 130 Mottram Old Road.
- 10.3 The reason given for the Council refusing the latter of the previous applications (see para. 3.3) was because:
- The proposed development fails to achieve an adequate privacy and spacing distance, and so results in undue over-shadowing, to a habitable window in the gable of no.130 Mottram Old Road and would be detrimental to the amenity, in this case outlook, currently enjoyed by the occupier of no. 1 Silver Springs.
- 10.4 In the latter of the previous applications the proposed house included an attached garage on the side. The distance between the garage wall and the window in the gable of the neighbouring house at no. 130 would have been akin, approximately 2 metres, to that of the sidewall of the house that was refused originally in 2004 (see para. 3.2).
- 10.5 As was the case in the previous permission (see para. 3.4), as built there is a distance of more than 5 metres between the side of the new house and the window in the gable of the neighbouring house at no. 130. Moreover, an existing 1.8 metre high close-boarded, timber fence along the boundary would be retained. Albeit important to the enjoyment of the property, the window in the gable of the neighbouring house is secondary and given the spacing that is now achieved, the impact in terms of over-shadowing of this window by the proposed house would not be excessively greater than that caused by the existing fence. In this respect the proposal can therefore be considered acceptable.
- 10.6 Whilst there would undoubtedly be a loss of view from the rear windows of the bungalow behind in Silver Springs, as has been acknowledged previously, this in itself is not a tenable reason for refusal.
- 10.7 In terms of the impact on the amenity of neighbouring residential properties, the proposal can be considered to be acceptable and compliant with: policies 1.5, H9(c), H10(d) of the UDP; policy RD5 of the SPD; and Sections 11 and 12 of the NPPF.

11.0 RESIDENTIAL ENVIRONMENT CREATED

- 11.1 UDP policy H10(a) requires that the design of proposed housing developments, which are acceptable in relation to other relevant policies in the plan, meet the needs of the potential occupiers. To this end, SPD policy RD18 recommends minimum floor areas that residential developments should achieve. Internal space being interpreted by reference to the nearest equivalent new national technical standard as given by the Government's Technical housing standards – nationally described space standard document (THS) – which require that a 3-bedroom, 3-storey dwelling provides a minimum internal floor area of at least 90sqm, and in order to provide one bed space, a single bedroom has a floor area of at least 7.5sqm and is at least 2.15m wide. Any area with a headroom of less than 1.5m is not counted within the gross internal area unless used solely for storage.
- 11.2 Excluding the area of the bedroom in the roof space that has a headroom of less than 1.5m, the gross internal area of the house as built, and indicated on the submitted drawings, is approximately 90sqm and achieves the requirements of the THS for a 3-storey, 3-bedroom dwelling. The house is provided with commensurate private amenity space. In terms of the residential environment that would be created the proposal is therefore considered compliant with policies 1.5 and H10(a) of the UDP; policy RD11 of the SPD; and, Section 12 of the NPPF.

12.0 HIGHWAY SAFETY

- 12.1 Whilst the development has removed the car parking space currently used by the occupants of no. 124 Mottram Old Road there is no compunction that this be maintained. The occupants may choose to refrain from using the land for parking and instead incorporate it into the wider garden. The layout of the house as built includes provision to park two cars off-street.
- 12.2 The Head of Environmental Services (Highways) offering no objection, the provision of two car parking spaces, despite the absence of any discrete cycle storage, is considered adequate and in compliance with both the policy H10(b) of the UDP and policies RD7, RD8 and RD9 of the SPD, and, the impact on the road network not being severe, Section 9 of the NPPF.

13.0 OTHER ISSUES

- 13.1 Whereas in the development approved previously the house was to be cut in to the hillside so that sloping land would remain at the side, as built the land at the side has been levelled and a retaining wall has been constructed level with the back wall of the house. According to paragraph 170 of the NPPF, planning decisions should prevent new and existing development from contributing to, being put at unacceptable risk from, or being adversely affected by land instability. Details of the construction or load bearing capacity of the retaining wall that has been constructed have been provided and are being considered by the Council's structural engineers. Whether the details that have been provided are sufficient so that it can be accepted that the development has not contributed to, or is put at unacceptable risk from, or is adversely affected by, land instability will be reported orally to the Panel.

14.0 CONCLUSION

- 14.1 The Council cannot demonstrate a five-year supply of deliverable housing sites in a recently adopted plan or in any annual position statement, as is required by paragraph 74 of the NPPF. For decision taking this means that permission should be granted unless any adverse

impacts would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole.

- 14.2 The principle of the development is established, and without impinging unduly on any existing amenities, it is considered that the house as built provides a new dwelling that conforms to the relevant requirements of the Residential Design SPD, the UDP and the NPPF. The recommendation is therefore for approval.

RECOMMENDATION

Grant planning permission, subject to the following conditions:

- 1) The development hereby approved shall be completed in accordance with the following approved plans:

Site Location Plan, ref. (00).004 A
Proposed Site Plan, ref. 101 B
Proposed Section 1-1, ref. 102 B
Proposed Section 2-2, ref. 103 B
Proposed Plans, ref 104 B
Proposed Elevations, ref. 105 B

Reason: For the avoidance of doubt.

- 2) Prior to the first occupation of the development hereby approved, the soils at the site (particularly, in garden/soft landscaped areas) and any imported soils shall be sampled and analysed in line with current best practice contaminated land guidance and the Councils 'Guidance Document for Applicants, Developers, Land Owners and their Agents'. The soil analysis data and a detailed soils risk assessment(s) shall be submitted to, and approved in writing by the local planning authority (LPA).

Where necessary, a remediation strategy detailing the works and measures required to address any unacceptable risks posed by contamination shall be submitted to, and approved in writing by, the LPA. The strategy shall include full details of the information that will be obtained in order to demonstrate the scheme has been fully implemented. The approved remediation scheme shall be fully implemented and a verification/completion report demonstrating this and that the site is suitable for its intended end use shall be submitted to, and approved by, the LPA.

The discharge of this planning condition will be given in writing by the LPA once all information specified within this condition and any other requested information has been provided to the satisfaction of the LPA and occupation shall not begin until this time unless otherwise agreed in writing by the LPA.

Reason: To ensure any unacceptable risks posed by contamination are appropriately addressed and the site is suitable for its proposed use in accordance with policy MW11: Contaminated Land of the UDP, and with paragraph 178 of the National Planning Policy Framework.

- 3) Prior to the first occupation of the development hereby approved stone sills, as indicated on the approved plans ref. 102 B and ref. 105 B, shall be installed.

Reason: In the interests of the visual amenities of the locality, in accordance with policies 1.3: Creating a Cleaner and Greener Environment, H10: Detailed Design of Housing Developments, and C1: Townscape and Urban Form of the UDP, and within Section 12 of the NPPF.

- 4) Prior to the first occupation of the development hereby approved the car parking facilities indicated on the approved plan, ref. 101 B, shall be provided and thereafter be kept available for the intended purpose at all times.

Reason: In the interest of highway safety, in accordance with Policy T1: Highway Improvement and Traffic Management of the UDP, and with Section 9 of the NPPF.

- 5) As indicated on the approved plan, ref. 101 B, a clear view shall be provided on each side of site access where it meets the footway in Mottram Old Road. Its area shall measure 2.4 metres along the edge of the site access and 2.4 metres along the footway. It must be kept clear of anything higher than 600mm above the access, except for vertical iron railings to a design that includes rails of not greater than 15mm diameter, spaced at not less than 100mm intervals.

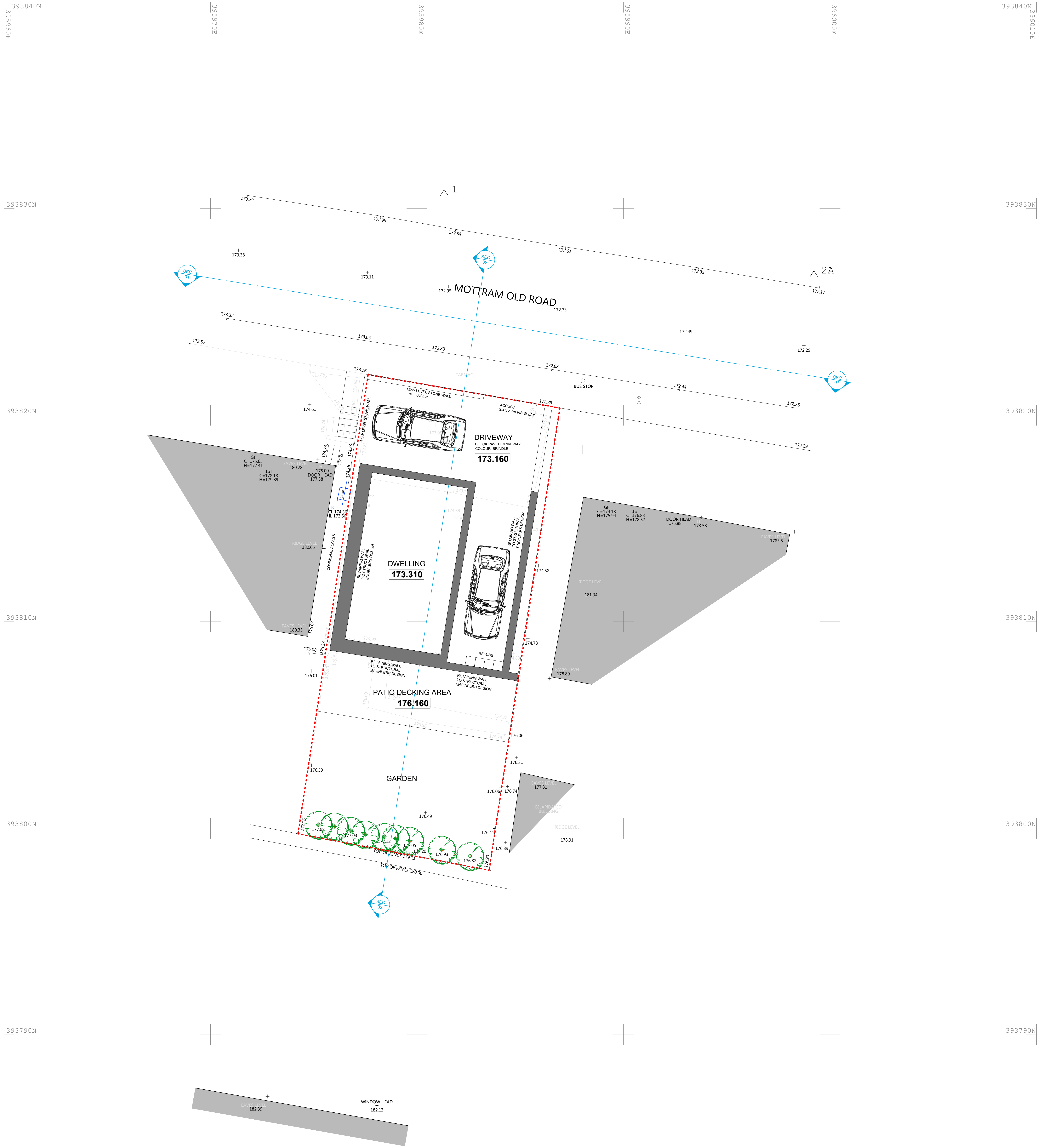
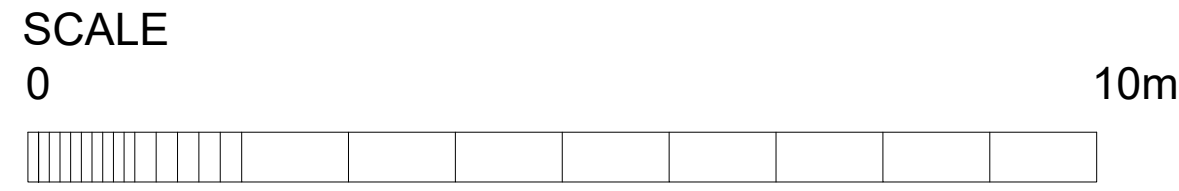
Reason: In the interest of highway safety, in accordance with Policy T1: Highway Improvement of the UDP, and Traffic Management., and within Section 9 of the NPPF

- 6) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 2015, or any order revoking and re-enacting that Order, with or without modification, express planning consent shall be required for any development referred to in Class A, Class AA, Class B, Class C, Class D, and Class E of Part 1 of Schedule 2 of that Order.

Reason: To prevent undue overlooking and overshadowing of neighbouring properties in accordance with policy H10 of the UDP, and within Section 12 of the NPPF.

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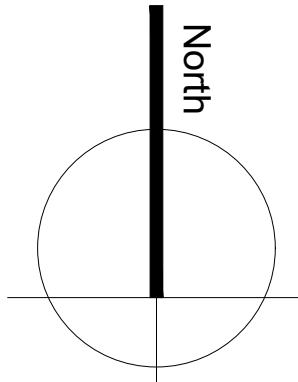
PROPOSED SITE PLAN



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KEY / LEGEND:

- APPLICATION BOUNDARY
- EXISTING BUILDINGS / STRUCTURES
- EXISTING LEVELS
- EXISTING VEGETATION
- SECTION REFERENCES
- PROPOSED BUILDINGS / STRUCTURES
- PROPOSED LEVELS



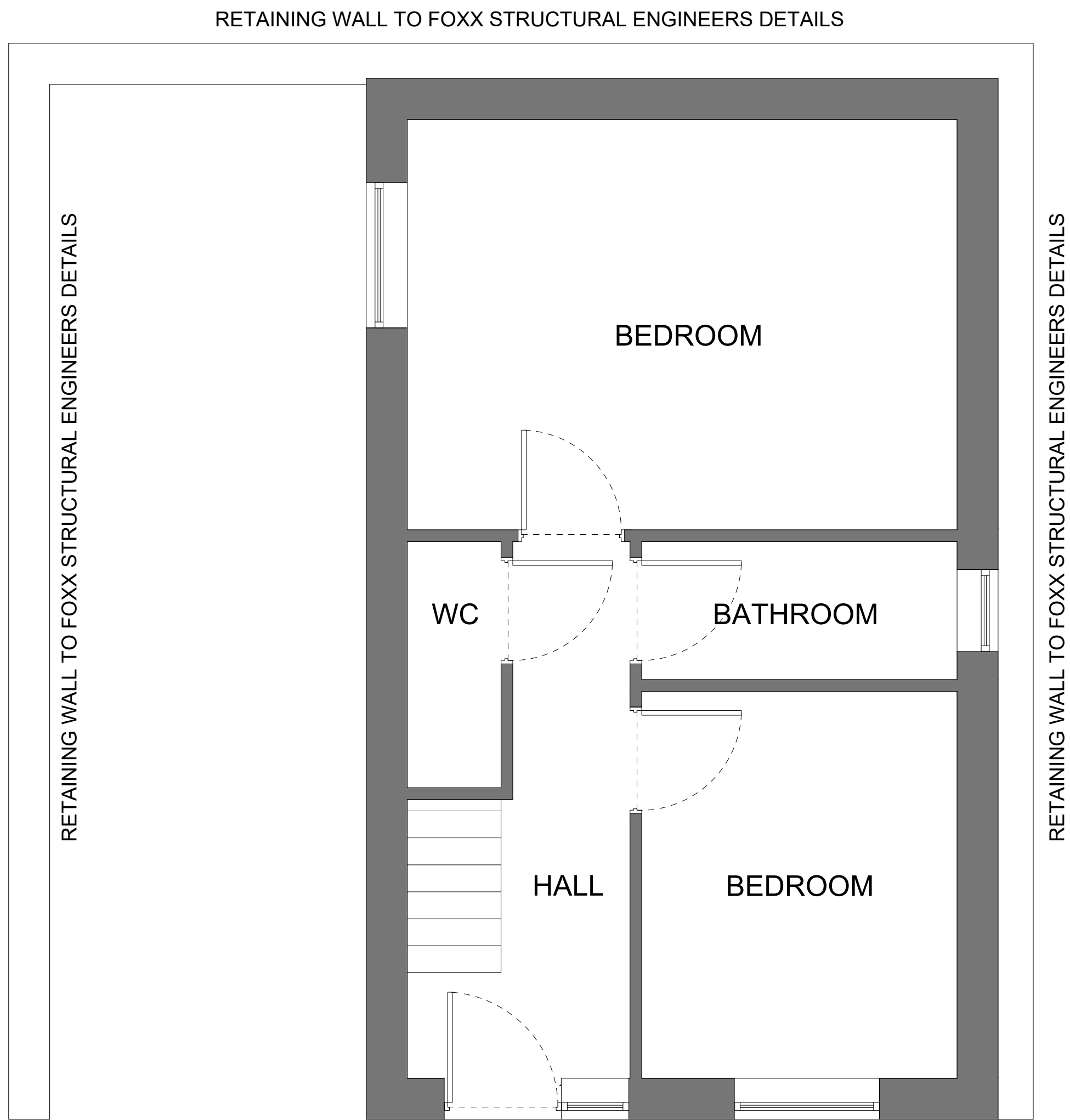
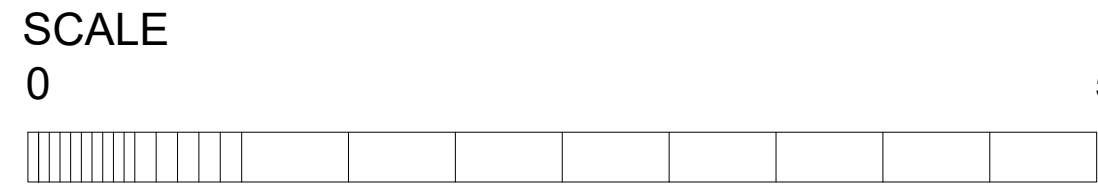
Rev	Date	In/	Description
B	28.03.2021	DB	UPDATES FOLLOWING COMMUNICATION WITH PLANNING OFFICER IAN BERRY



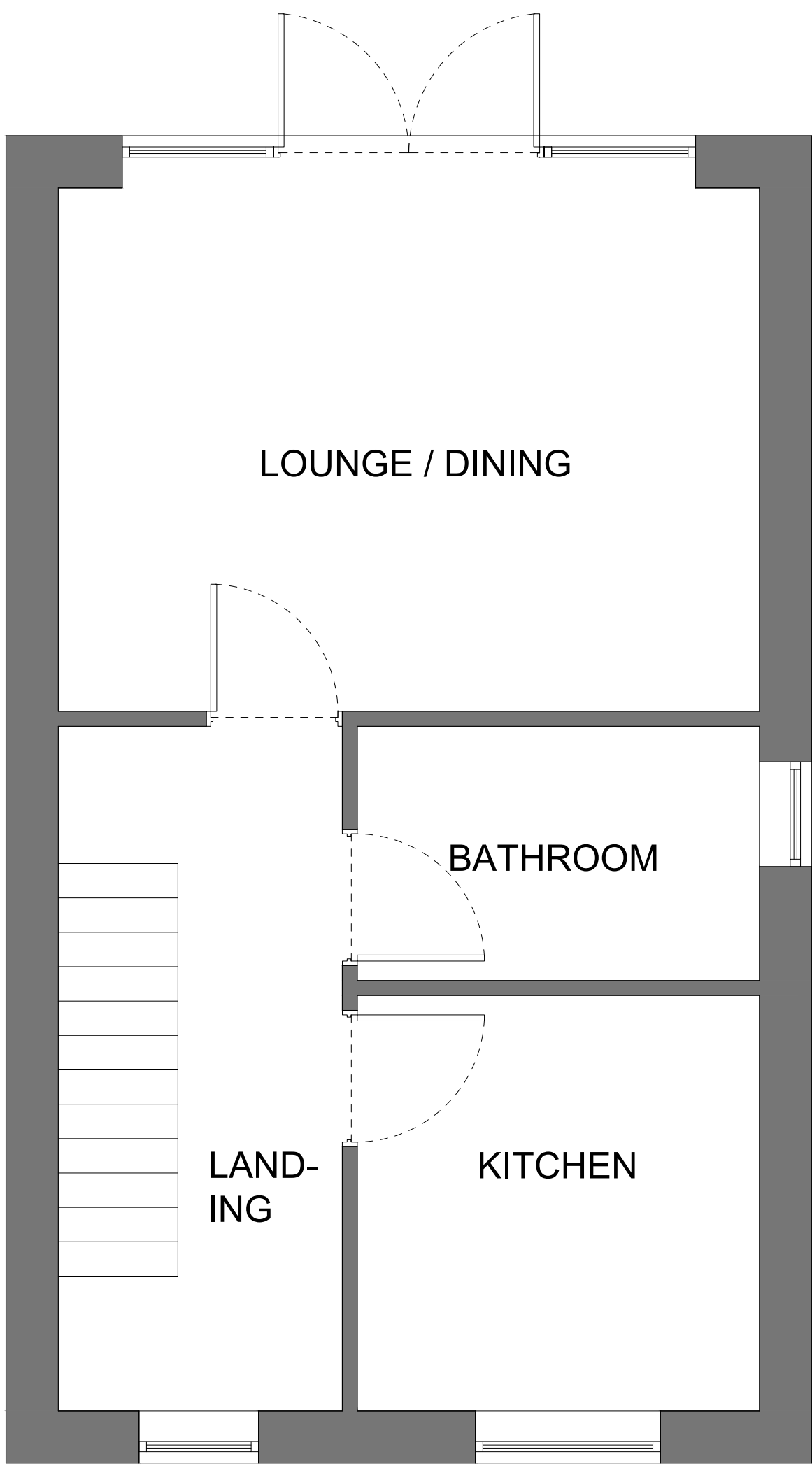
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PROJECT			
LAND ADJACENT TO No124 MOTTRAM OLD ROAD, GEE CROSS, HYDE, SK14 3BA			
TITLE			
PROPOSED SITE PLAN			
DRAWING STATUS			
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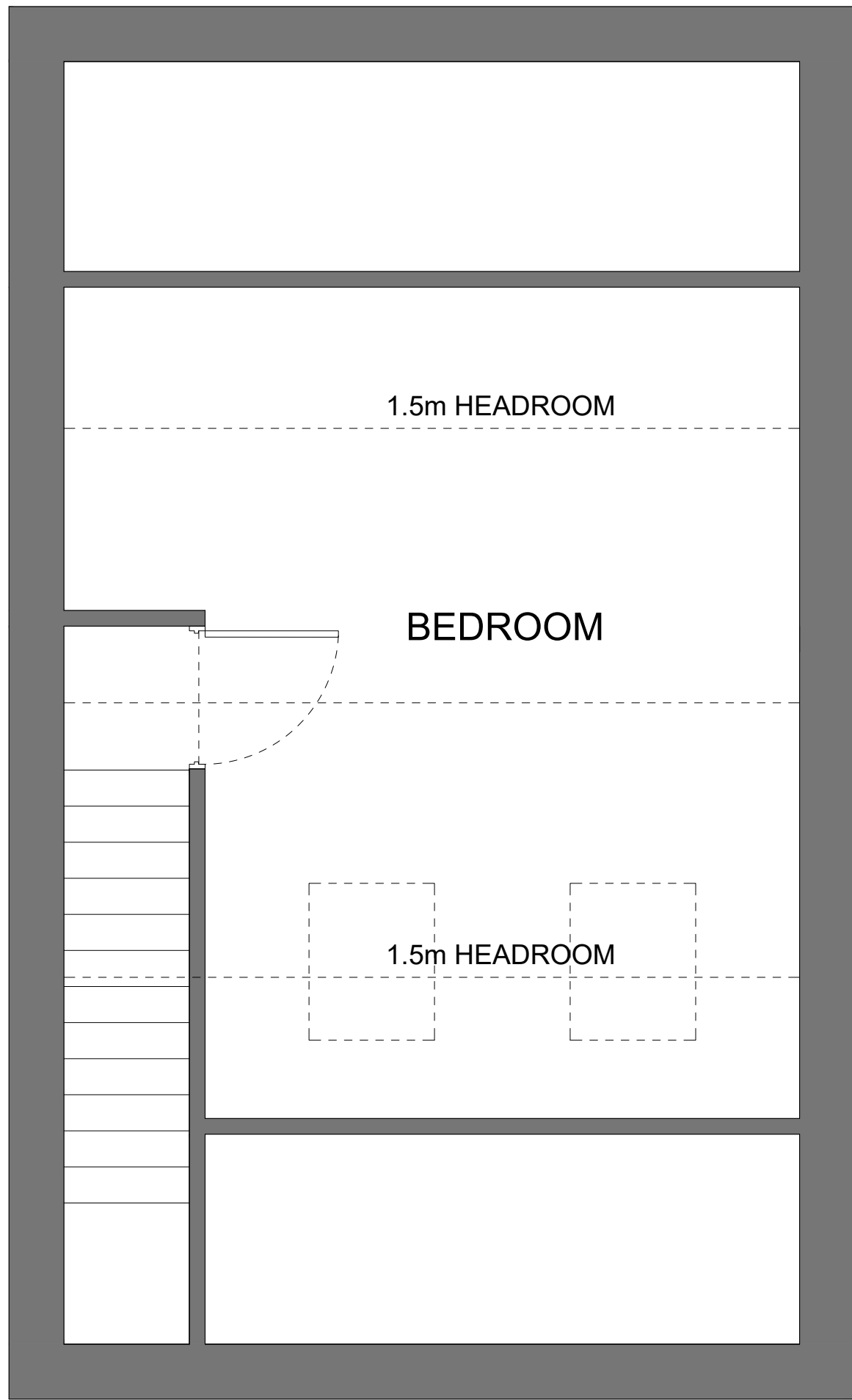
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GROUND FLOOR PLAN
38m2



FIRST FLOOR PLAN
38m2



SECOND FLOOR PLAN
16m2 (ABOVE 1.5m)

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PROJECT			
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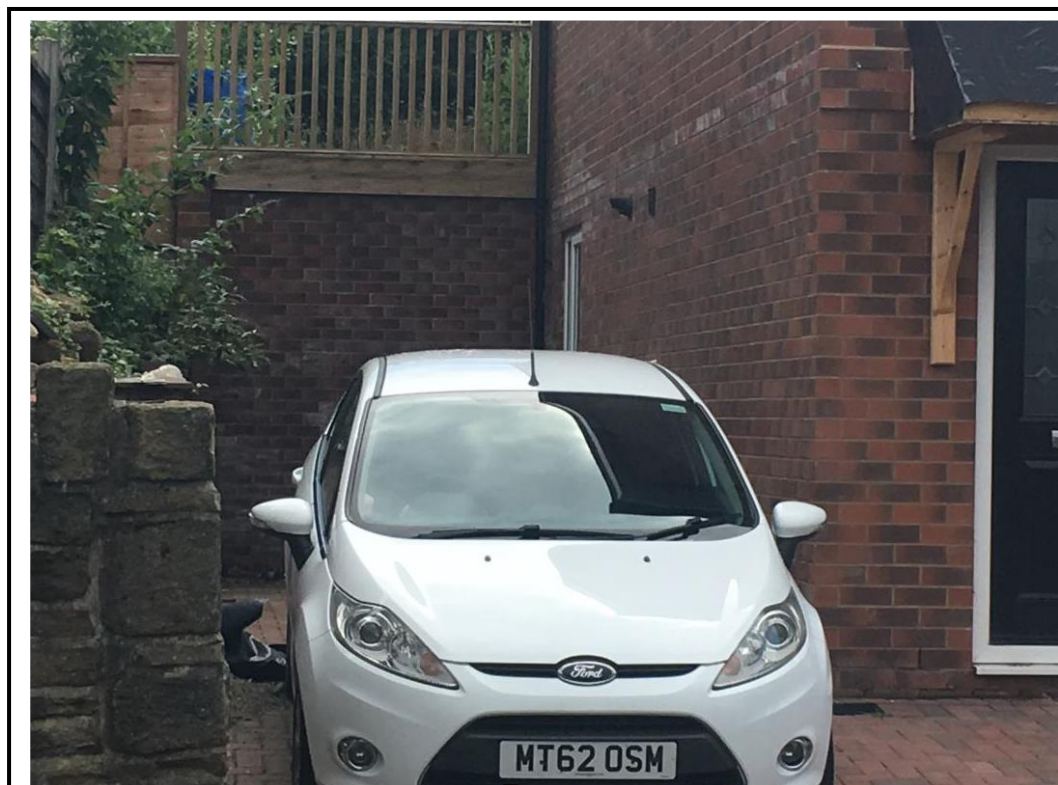
Application No. 20/00329/FUL

Detached Dwellinghouse – Retrospective

Front elevation, from Mottram Old Road



Side, showing retaining wall

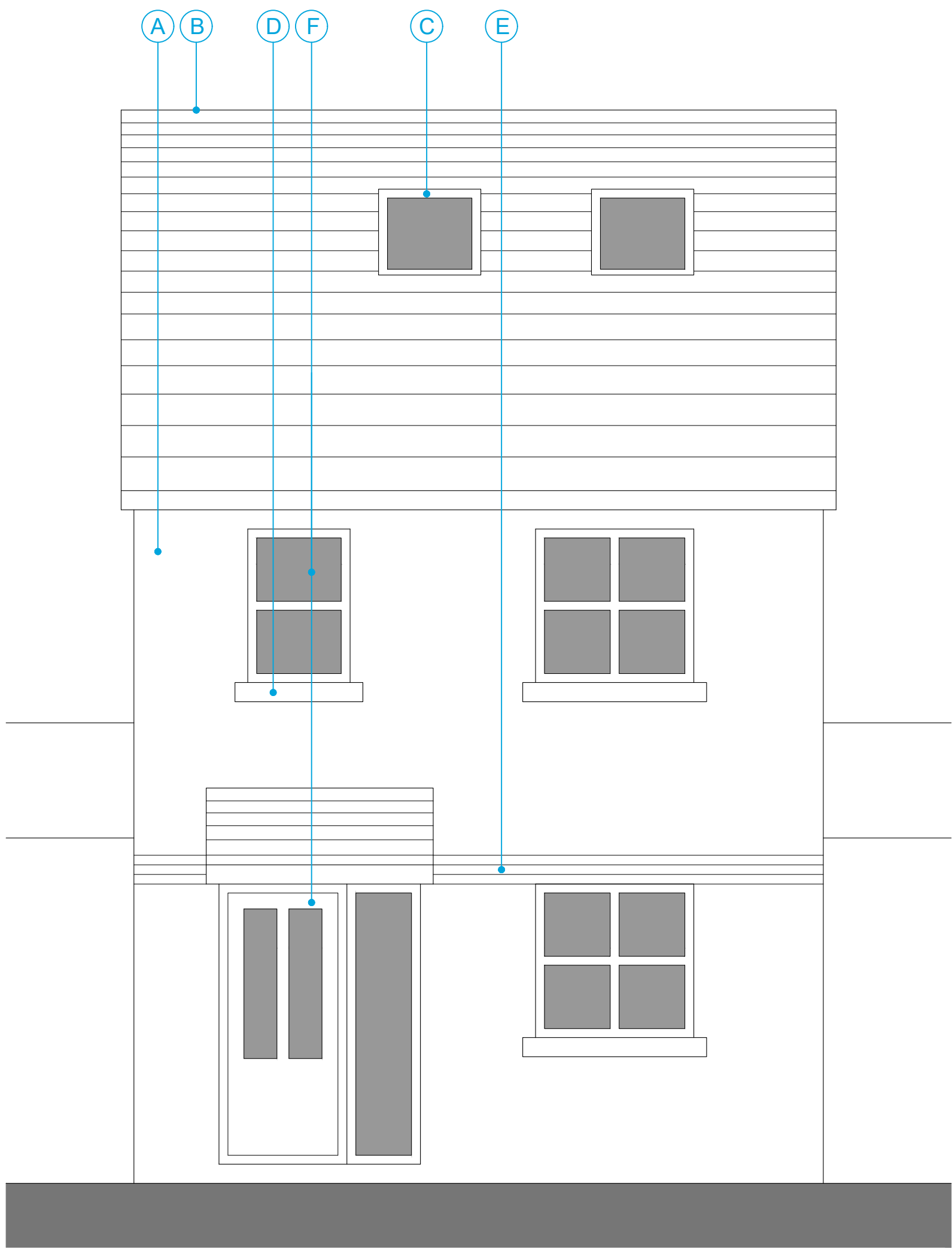


Roof, as seen from garden of neighbouring bungalow behind in Silver Springs

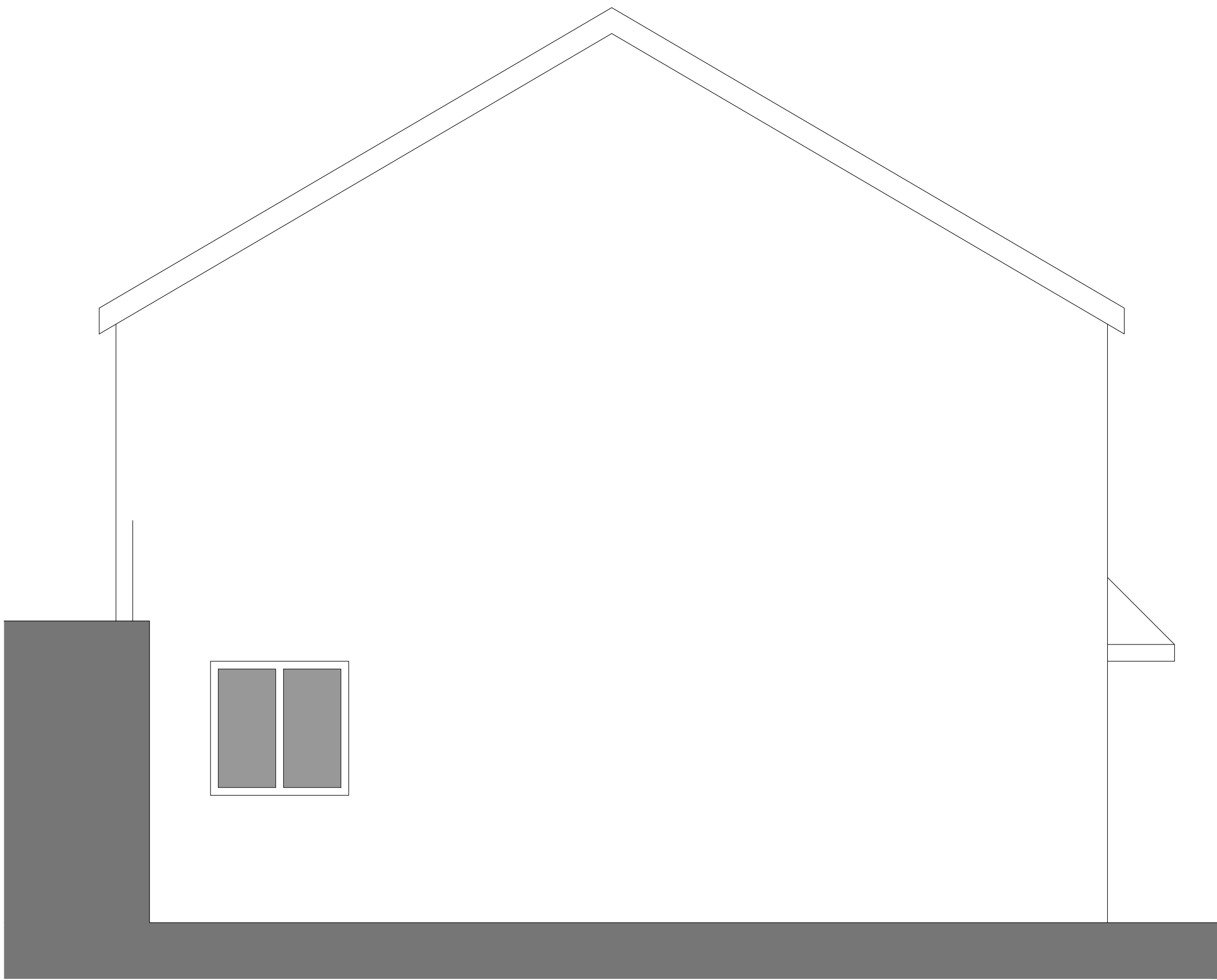


Rear elevation, facing towards garden of neighbouring bungalow behind in Silver Springs

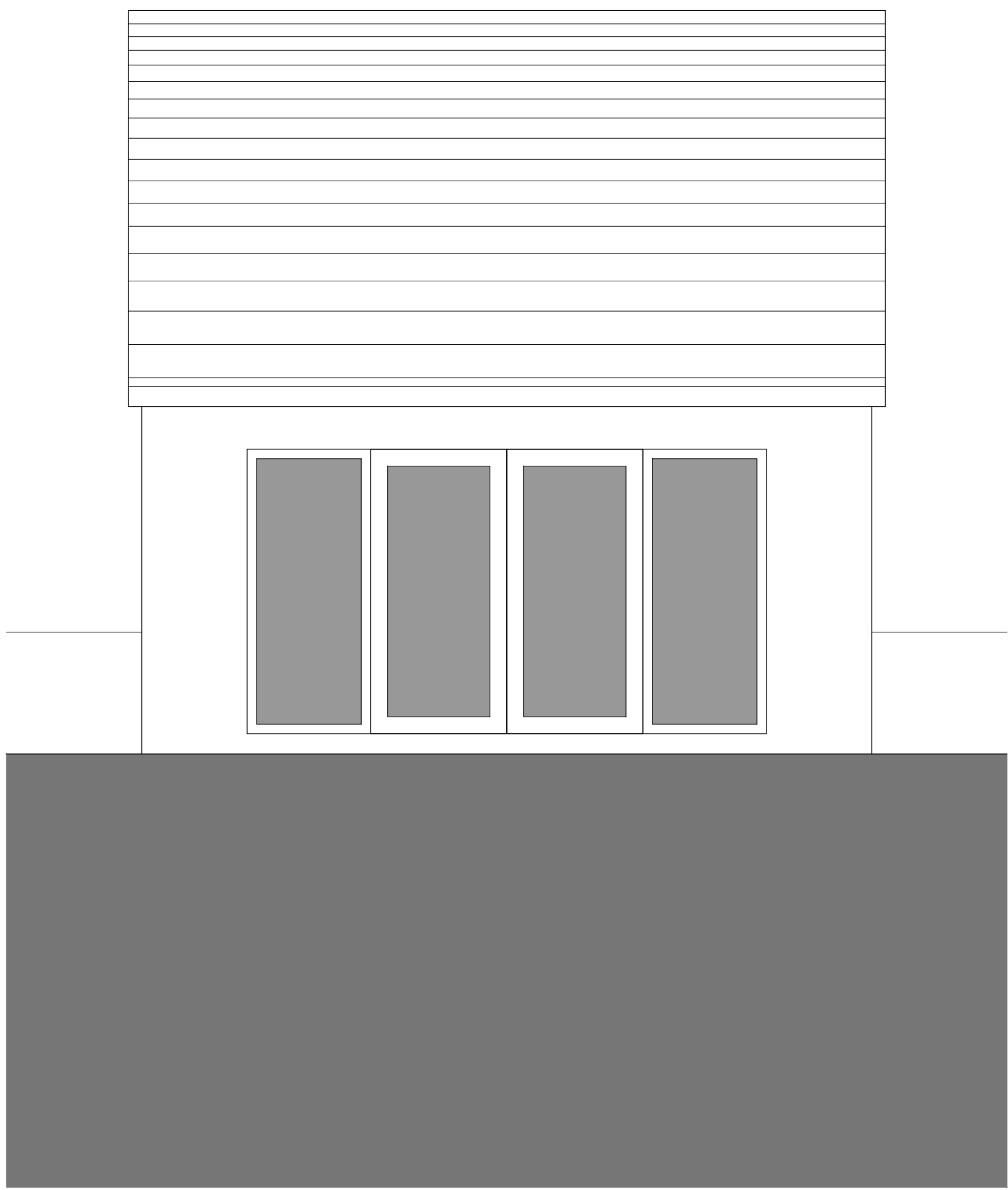




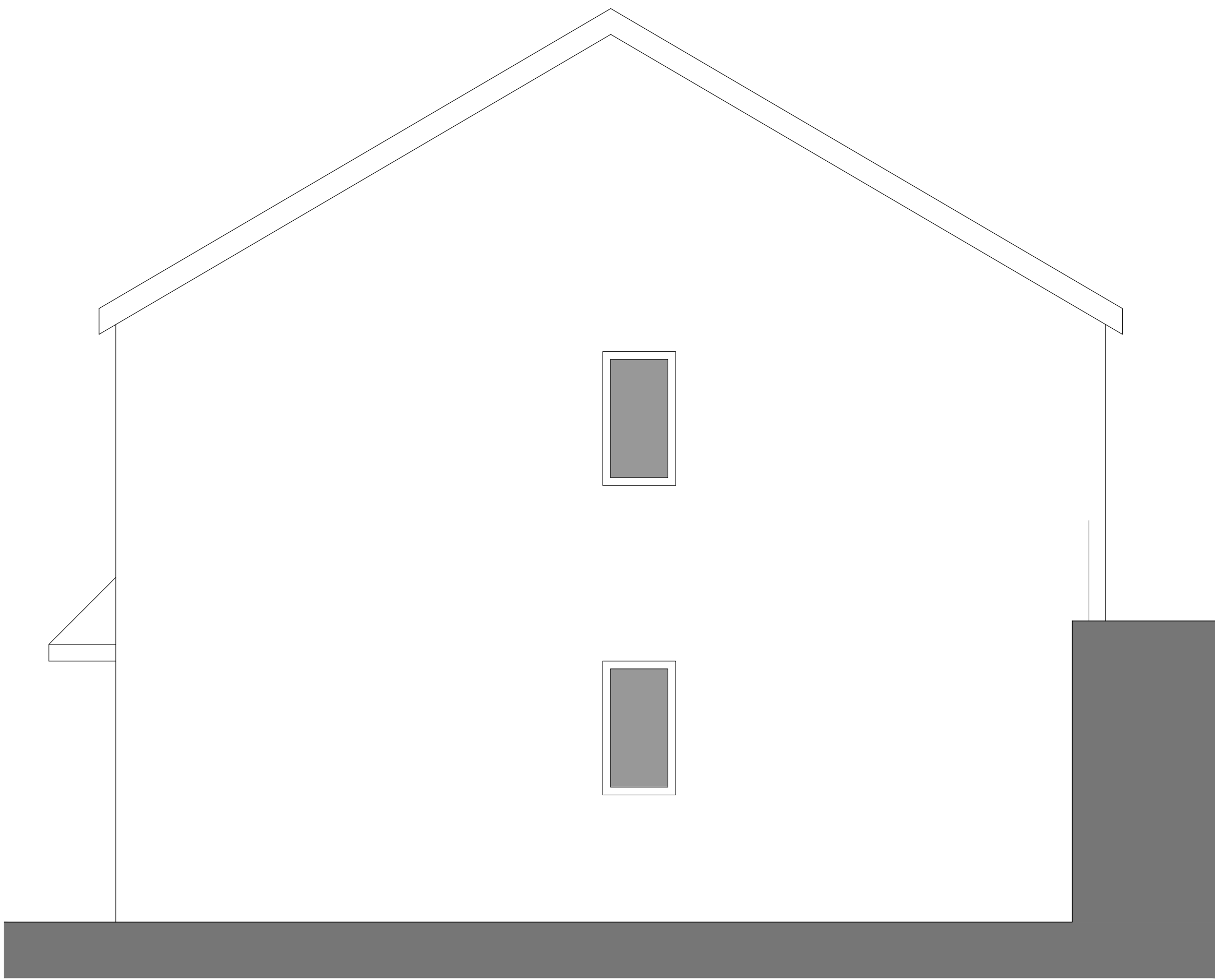
ELEVATION 01



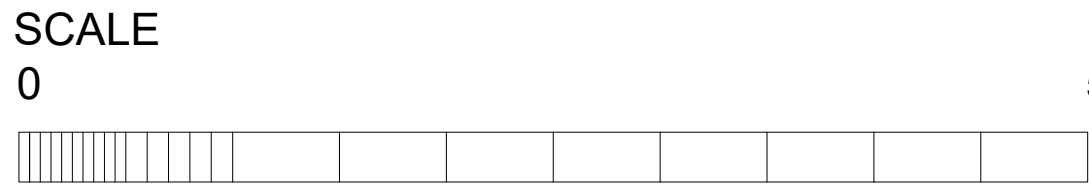
ELEVATION 03



ELEVATION 02



ELEVATION 04



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- KEY:
- A. 'CALLERTON WEATHERED RED' FACING BRICKWORK.
 - B. SLATE ROOF.
 - C. VELUX ROOF WINDOWS.
 - D. BUFF THROUGH COLOURED ARTSTONE CILLS.
 - E. BRICK PROFILE DETAIL.
 - F. UPVC WINDOWS AND DOORS.

Rev	Date	In1	Description
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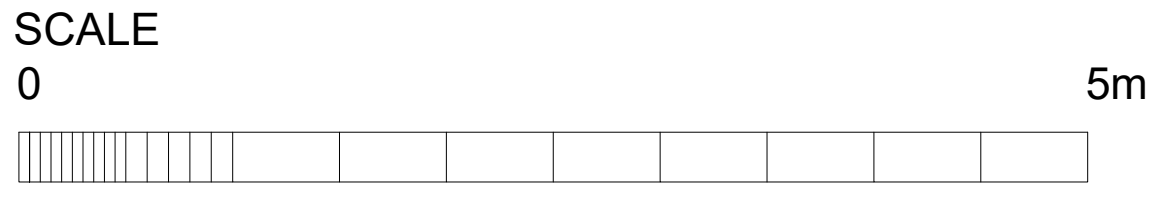
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PROJECT			
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TITLE			
PROPOSED ELEVATIONS			
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PROPOSED SECTION 1-1



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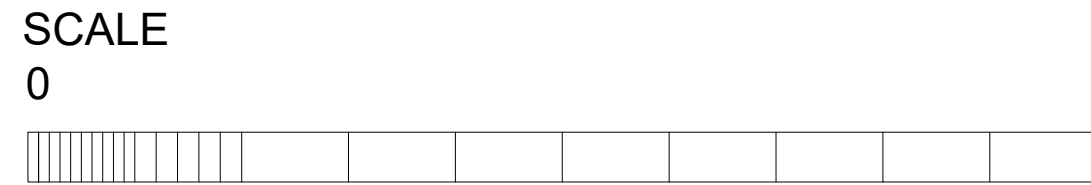
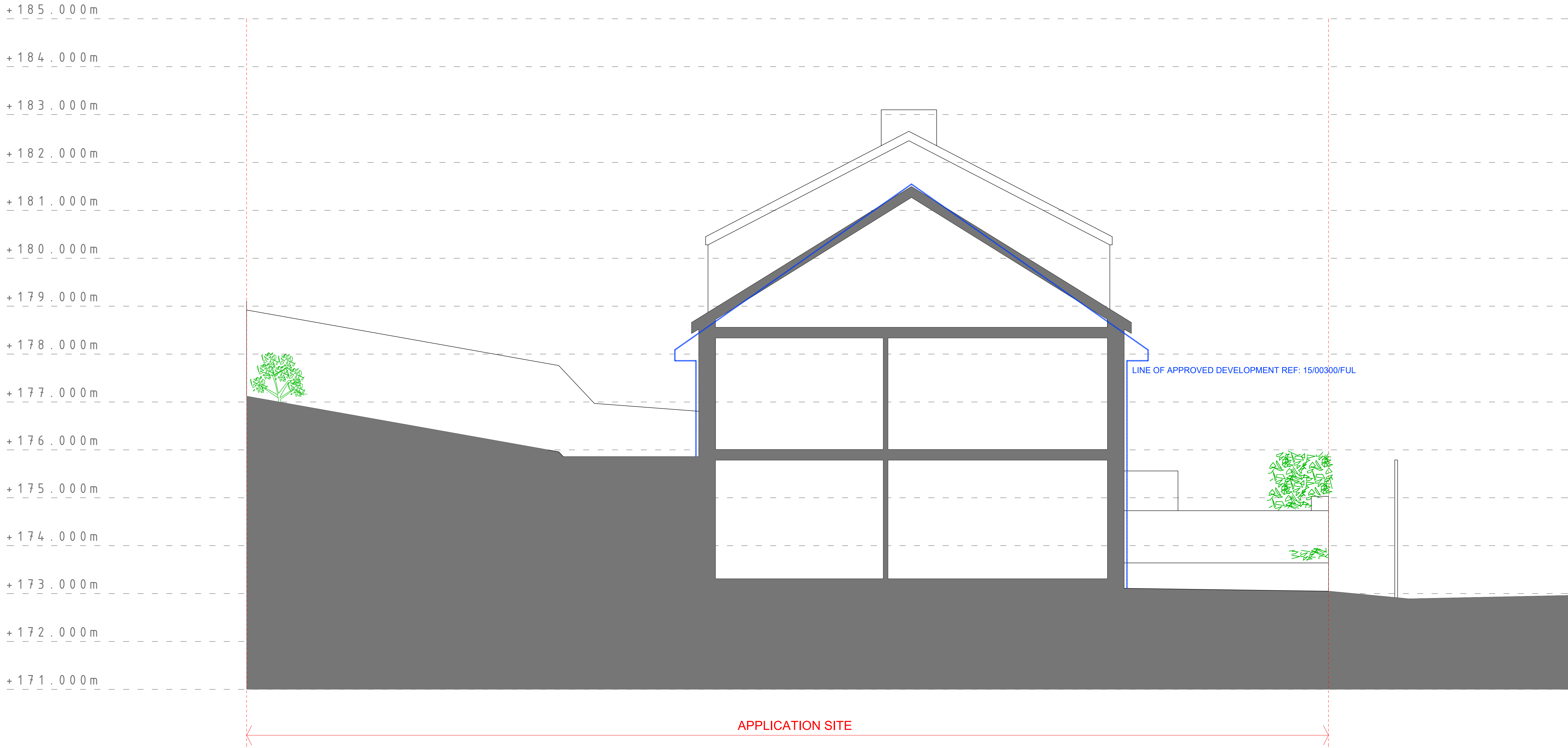


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PROJECT			
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TITLE			
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PROPOSED SECTION 2-2



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Appeal Decision

Site Visit made on 17 March 2021

by Chris Baxter BA (Hons), DipTP, MRTPI

an Inspector appointed by the Secretary of State

Decision date: 21 April 2021

Appeal Ref: APP/G4240/W/20/3265445

Bridge Louvre Company, Units 1 & 2, Northend Road, Stalybridge SK15 3AZ

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a grant of planning permission subject to conditions.
- The appeal is made by Bridge Louvre Company Ltd against the decision of Tameside Metropolitan Borough Council.
- The application Ref 20/00253/FUL, dated 2 March 2020, was approved on 4 December 2020 and planning permission was granted subject to conditions.
- The development permitted is extension to existing property at both ends and rear elevation.
- The conditions in dispute is No 3 which states that:
Notwithstanding the plans hereby approved, no above ground construction work shall commence unless and until a scheme for providing flood barriers to external access points to the building, and details of finished floor levels, has first been submitted to and approved in writing by the Local Planning Authority. The development proceed in full accordance with the approved scheme and the measures within it shall be retained at all times thereafter.
- The reason given for the condition is:
To ensure that appropriate flood mitigation measure are in place.

Decision

1. The appeal is allowed and the planning permission Ref 20/00253/FUL for extension to existing property at both ends and rear elevation at Bridge Louvre Company, Units 1 & 2, Northend Road, Stalybridge SK15 3AZ granted on 4 December 2020 by Tameside Metropolitan Borough Council, is varied by deleting condition No 3 and substituting for it the following condition:
 - 3) Notwithstanding the plans hereby approved, no above ground construction work shall commence until details of finished floor levels have been submitted to and approved in writing by the Local Planning Authority. The development shall be constructed in accordance with the approved details.

Background and Main Issue

2. The proposal seeks to remove condition 3 which would not require details of flood barriers to external access points and finished floor levels to be submitted or subsequently for these measures to be implemented. The main issue is therefore whether this condition provides appropriate flood mitigation measures.

Reasons

3. The proposed extension would wrap around the existing building on the north, south and east elevations. There would be no development to the existing west

elevation which has numerous openings including both vehicle and pedestrian doors.

4. The appeal site lies within a Flood Zone 2 and the Environment Agency have indicated that flood proofing measures, including flood barriers to external openings, should be incorporated into developments. The proposed extension would not be separate from the existing building, as floor plans show that the extension would be directly connected internally by new openings.
5. The site is considered to be in an area of risk of flooding however, I note that the Council have indicated that the existing doors of the building do not have the benefit of flood prevention measures. This would mean that, in the event of flooding at the site, the existing building would not have flood barriers to prevent water penetrating the building. As the existing building would be internally linked to the proposed extension, if flooding does occur in the existing building then it would be likely that the extension would also be flooded. Therefore, flood barriers on the external doors of the extension would not be useful in preventing possible flooding. Condition 3, as detailed on the Council's decision notice, is therefore not necessary or reasonable.
6. Accordingly, I find that condition 3 would not provide appropriate flood mitigation measures. Condition 3 is not necessary or reasonable and fails to comply with paragraph 55 of the National Planning Policy Framework and paragraph 003 of the Planning Practice Guidance.

Other Matters

7. The wording of condition 3 is precise as it refers to the development applied. I also note that the Council have advised that all openings to the building should have flood barriers and that the appellants agent had agreed to the condition prior to a decision being made. These matters however do not alter my findings above.

Conditions

8. It is necessary and reasonable to safeguard the extension from undue flooding and the finished floor level could provide some flooding mitigation. Therefore, I have attached a condition in relation to finished floor levels.

Conclusion

9. I therefore conclude, for the reasons given above, that the planning permission should be varied.

Chris Baxter

INSPECTOR



Appeal Decision

Site Visit made on 13 April 2021

by R Walmsley BSc, MSc, MA, MRTPI

an Inspector appointed by the Secretary of State

Decision date: 21 April 2021

Appeal Ref: APP/G4240/Z/21/3266801
189, Ashton Road, Manchester M34 3LG

- The appeal is made under Regulation 17 of the Town and Country Planning (Control of Advertisements) (England) Regulations 2007 against a refusal to grant express consent.
- The appeal is made by Wildstone Group Limited against the decision of Tameside Metropolitan Borough Council.
- The application Ref 20/00927/ADV, dated 21 July 2020, was refused by notice dated 19 November 2020.
- The advertisement proposed is upgrade of existing 48-sheet advert to support digital poster.

Decision

1. The appeal is dismissed.

Procedural matters

2. In accordance with the National Planning Policy Framework (the Framework) and the Regulations, my consideration of this appeal is confined to the main issue identified, taking into account the provisions of the development plan, so far as they are material and any other relevant factors.
3. The grounds of appeal suggest that the advert benefits from deemed consent. However, an application for express consent was submitted to the Council and the appeal has been made on that basis. I have determined this appeal on that basis.

Main Issue

4. It is not disputed that the sign would not have a material adverse effect on public safety. Therefore, the main issue in this appeal is the effect of the advertisement on the visual amenity of the area.

Reasons

5. Notwithstanding the mix of uses within the area and the appeal site being on a busy through-route, the predominant character is residential. Houses are similarly scaled which, together with a shared palette of building materials, creates a coherent residential street. Large advertisements, at the appeal site and opposite and on both sides of the road are prominent and create visual clutter. The proposal to upgrade the existing advert at the appeal site to a digital poster would increase the sign's prominence, making it an intrusive and overbearing feature in the street and exacerbating the visual clutter.

6. The advert may not include moving images but there would be a sequential transition of one image to another which would emphasise the presence of the structure and its incompatibility with the street scene. The appellant is willing to condition any consent to minimise the sign's visual effects, including at night. However, the very fact that the sign would be internally lit would emphasise the sign's presence and exacerbate the harm identified.
7. The images before me show little visual difference between a digital and a paper advertisement during the day. However, a digital advert would have a screen which, in itself, would be reflective which would add to the sign's prominence. When also accounting for moving images, the proposed advert would not appear the same as its paper counterpart.
8. The lower levels of illuminance proposed, together with restricted hours of operation and the oblique angle of views from the living areas nearby would ensure that light emitted from the sign would not have a discernible effect on the levels of light into neighbouring properties. As such the proposal would not be harmful to the living conditions of neighbouring occupiers. Nonetheless, this does not compensate for the harm that I have found to visual amenity, by virtue of the sign's prominence and exacerbation of visual clutter.
9. The Council has referred to policy C1 of the Local Plan (2004) which requires development to respect local townscape character. Whilst decisions in respect of advertisements may only be considered in relation to amenity and public safety, as the policy relates to visual amenity and it accords with the Planning Practice Guidance (PPG), I have taken it into account as it is material in this case. Given that I have concluded that the proposal would be harmful to visual amenity, the proposal would conflict with this policy.
10. There is no indication in the Regulations, Framework or PPG that other factors beyond the interests of amenity and public safety can be taken into account either for, or against, a proposal. Matters relating to the social and economic benefits of the proposal, therefore, do not carry favourable weight.

Conclusion

11. For the reasons given above I conclude that the proposed advertisement would be detrimental to the interests of visual amenity and therefore the appeal is dismissed.

R Walmsley

INSPECTOR

Appeal Decision

Site visit made on 31 March 2021

by Jillian Rann BA (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 23 April 2021

Appeal Ref: APP/G4240/W/20/3266035

189 Kings Road, Ashton-Under-Lyne OL6 8HD

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission under section 73 of the Town and Country Planning Act 1990 for the development of land without complying with conditions subject to which a previous planning permission was granted.
- The appeal is made by Mr Karim Amin against the decision of Tameside Metropolitan Borough Council.
- The application Ref 20/00841/FUL, dated 27 August 2020, was refused by notice dated 28 October 2020.
- The application sought planning permission for change of use from rear yard into hand car wash & valeting service without complying with a condition attached to planning permission Ref 19/00879/FUL, dated 13 March 2020.
- The condition in dispute is No 5 which states that: *The use hereby approved shall not operate outside of the hours of between 1000 to 1600 Monday to Friday and shall not operate at all on Saturdays, Sundays or Bank/Public Holidays.*
- The reason given for the condition is: *To protect the amenities of occupants of nearby properties/dwelling houses in accordance with UDP policies 1.12 and E6.*

Decision

1. The appeal is dismissed.

Background and Main Issues

2. The appeal relates to an area of land to the rear of commercial premises at 187-193 Kings Road. Permission was granted in March 2020 for the use of the site as a hand car wash and valeting service. Condition 5 restricts its hours of operation to between 1000 and 1600 hours Monday to Friday. The reason given for the condition, on the decision notice granting permission for the use, was 'to protect the amenities of occupants of nearby properties/dwelling houses'.
3. The appellant now seeks to vary the wording of Condition 5 to extend the permitted operating hours to 0900 to 1800 hours Monday to Sunday inclusive. The Council's reason for refusing to permit the extended operating hours refers to concerns relating to highway safety.
4. Notwithstanding the differences in the Council's reasons for imposing Condition 5 and those given for refusing to vary it, I must have regard to all relevant material planning considerations. Accordingly, I consider the main issues to be the effects of the proposed change in operating hours on:
 - the safety and convenience of vehicles and pedestrians within the site and its vicinity; and

- the living conditions of the occupants of nearby residential properties with regard to noise and disturbance.

Reasons

Safety and convenience of vehicles and pedestrians within the site and its vicinity

5. Permission was granted in January 2018 for works to 187-193 Kings Road, including a first floor extension to create four flats above the ground floor retail unit¹. The approved layout drawing² shows the provision of 4 parking spaces for those residential units in the north eastern corner of the building's rear yard, close to the junction of Andrew Street and Surrey Street. Those spaces are within the red line site boundary for the subsequently permitted car wash and valeting use which forms the subject of this appeal.
6. The approved site plan for the car wash and valeting use³ shows the provision of two 'car in wash' bays and four 'valeting car park' bays in the western part of the site. The permission for the car wash and valeting use is subject to a condition requiring those car parking spaces to be laid out and retained.
7. The approved car wash and valet parking bays shown on that approved site plan are in a different part of the site to the parking spaces for the flats permitted in January 2018. However, the site is relatively constrained in its size and layout and, based on the drawings before me and my own observations of the site, I cannot be certain that there would be adequate space between the two sets of parking bays for residents of the flats to easily manoeuvre into or out of their parking spaces if the car wash and/or valeting bays were in use.
8. Consequently, based on the evidence before me and my own observations, I consider it likely that residents of the flats may need to carry out complex and potentially hazardous turning manoeuvres to get into or out of their parking spaces if the car wash and/or valeting bays were occupied. Alternatively, it is possible that residents may be unable to gain access to their parking spaces because of vehicles parked in, or manoeuvring into or out of, the car wash and valet bays. In such circumstances, residents may have to wait in their vehicles at the site entrance or on Andrew Street for vehicles to leave the car wash or valet bays before they could access their parking spaces, potentially causing an obstruction at the site entrance and leading to queues on Andrew Street.
9. Whilst I note the size of the flats and the site's proximity to public transport routes, the possibility of their residents having vehicles cannot be ruled out. Although only a few additional opening hours are proposed on weekdays, those extended periods would include the times of day when residents of the flats would be most likely to be entering or leaving the parking spaces within the site, particularly during the late afternoon when they would be likely to be returning from work. The extended opening hours would also include weekends when residents would be likely to be coming and going.
10. The extended opening times would also include the periods when the car wash and valeting uses would be likely to be at their busiest, including after working hours on a weekday and during weekends. I have had regard to customer

¹ Planning permission reference: 17/00625/FUL

² Drawing number: 499.02A

³ Proposed Layout drawing number: 1565 Page 2/3, listed on the decision notice for application 19/00879/FUL as 'Proposed site plan, mobile acoustic screens detail and staff room and machinery details plan (drawing no. 1565 Page 2/3 (received 12 March 2020))'.

counts recorded on two days when the car wash was open in the summer of 2020. However, as those counts did not include those peak weekday hours or weekend times I cannot be certain that they accurately reflect likely customer numbers during the extended operating periods proposed, thus limiting the weight I afford to those figures.

11. Given the above, I consider that extending the operating hours of the car wash and valet service to include those peak weekday times and weekends would lead to an increased risk of conflict between the use of the commercial and residential parking areas within the site. Given its constrained size, there would thus be an unacceptable likelihood of hazardous vehicle movements occurring within the site, to the detriment of the safety of drivers and pedestrians using the site including staff and customers of the car wash and valet business and residents of the flats.
12. As the extended operating hours would be likely to encompass some of the car wash and valet business's busiest periods, there is also a greater chance that residents returning home during those times would have to wait at the site entrance or on Andrew Street for customers to leave before they could access their parking spaces. Extending the operating hours to include those periods would therefore also increase the likelihood of vehicles queuing on Andrew Street to access the site. Such instances may be of limited duration. However, as well as providing access to and from nearby Kings Road, Andrew Street also provides access to a number of parking bays opposite the site, close to the nearby children's nursery and commercial units. Even a relatively small number of vehicles queuing on Andrew Street during those peak periods could potentially lead to hazard or inconvenience to other road users on that adjacent street, including pedestrians.
13. The site entrance on Andrew Street is quite near the junction of Andrew Street and Kings Road, which itself is very close to the signalised junction of Kings Road and Queens Road (the B6194). I have no details before me regarding the operation of those junctions or existing traffic flows through them. However, in the absence of compelling evidence to indicate otherwise, I cannot rule out the possibility that even a small number of additional vehicles waiting on Andrew Street to access the site at peak times could also have implications for the free and safe movement of vehicles through and around those nearby junctions.
14. Surrounding streets could also experience relatively high levels of traffic when matches or other events were taking place at Ashton United football ground to the rear of the site. Queuing traffic on Andrew Street could therefore also present a hazard or obstacle to the free and safe movement of vehicles or pedestrians at such times, including on a weekend.
15. Therefore, even if sufficient parking was provided within the site for both the residential and commercial uses, from the evidence before me and having regard to the size and layout of the site and the practicalities of accessing those spaces, I find that the extended opening hours would unacceptably increase the risk of harm to vehicle and pedestrian safety or obstruction to the free and safe flow of traffic.
16. I therefore conclude that the proposed change in operating hours would have an adverse effect on the safety and convenience of vehicles and pedestrians within the site and its vicinity. It would conflict with Policy E6 of the Tameside

Unitary Development Plan Written Statement (the UDP) which requires employment development to have suitable arrangements for parking and access to and from the highway with no unacceptable impact on the surrounding highway network. It would also conflict with the National Planning Policy Framework, which states that development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety. Condition 5 is therefore reasonable and necessary having regard to the safety and convenience of vehicles and pedestrians within the site and its vicinity.

Living conditions

17. The extended operating hours would not include periods very early in the morning or late in the evening. The site is near a busy main road and other commercial properties. Levels of vehicle and pedestrian activity in the vicinity are therefore likely to be relatively high during the day, including during those periods when the extended operating hours are proposed. In that context, the extended operating hours would not lead to a significant or adverse increase in the levels of noise or disturbance experienced by nearby residents.
18. Consequently, the proposed change in opening hours would not have an adverse effect on the living conditions of the occupants of nearby residential properties with regard to noise or disturbance. It would therefore not conflict with Policies 1.12 or E6 of the UDP insofar as they seek to ensure that employment developments have no unacceptable impact on residential amenity.

Other Matters

19. The extended operating hours proposed may not be unusual for a car wash and valet business. However, the specific circumstances in this case are such that the extended hours would present an unacceptable risk to highway safety for the reasons given.
20. The car wash and valet business would provide a source of employment and a service for local residents. I have been advised that the permitted opening hours present a constraint to the appellant's business, and recognise the effects that the Covid-19 pandemic is likely to have had on its establishment and operation. However, those matters do not alter or outweigh my conclusions regarding the harm that I have identified, based on the evidence before me.

Conclusion

21. The extended operating hours proposed would not have adverse implications for the living conditions of nearby residents. However, for the reasons given I conclude that the extended hours would have an unacceptable impact on highway safety. Condition 5 is therefore necessary and reasonable and I conclude that the appeal should be dismissed.

Jillian Rann
INSPECTOR



Appeal Decision

Site visit made on 23 March 2021

by Roy Merrett Bsc(Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 28 April 2021

Appeal Ref: APP/G4240/X/20/3262764

Land at Easterly side of Bury Street, adjacent to 66a

- The appeal is made under section 195 of the Town and Country Planning Act 1990 as amended by the Planning and Compensation Act 1991 against a failure to give notice within the prescribed period of a decision on an application for a certificate of lawful use or development (LDC).
- The appeal is made by Mrs Denise Bainbridge against Tameside Metropolitan Borough Council.
- The application Ref 16/00896/CLUD is dated 29 September 2016.
- The application was made under section 191(1)(a) of the Town and Country Planning Act 1990 as amended.
- The use for which a certificate of lawful use or development is sought is "Residential curtilage".

Decision

1. The appeal is dismissed.

Preliminary Matters

2. S191(1) provides that if any person wishes to ascertain whether any existing use of buildings or other land is lawful, they may make an application for the purpose to the local planning authority, specifying the land and describing the use.
3. From the appellant's statement and application documents it is clear that she is seeking an LDC for the continued use of the land as part of the domestic curtilage of 66a Bury Street. However "curtilage" is not actually a use of land and, notwithstanding that the Council has made reference to curtilage in documents relating to previous action that it has taken against the appellant¹, it would not be appropriate to make my decision on this basis.
4. Having regard to the appellant's application, I consider that the description of the proposal can be changed to "the use of the land for purposes incidental to use as a dwelling and whether that land forms part of the curtilage of the dwelling" without resulting in injustice to the parties.
5. It is evident from the documents before me that there is an ongoing dispute between residents as to the ownership of and rights of access over land making up the appeal site. However this issue does not have a bearing on my

¹ See Temporary Stop Notice dated 29 January 2009 and Planning Contravention Notice dated 27 May 2016

consideration of the use of the land and is not critical in this case to my findings with regard to curtilage.

6. I am also aware that the appellant has raised concerns regarding the Council's handling of this case. However, again this does not influence the outcome of my decision.

Reasons

7. Uses and operations are lawful at any time if no enforcement action may be taken in respect of them, whether because they did not involve development or require planning permission or because the time for enforcement action has expired (s191(2)). In this case, the appellant seeks to rely on the period of time over which the use has continued. There appears to be no dispute that the use of the land for purposes incidental to the use as a dwelling would have required planning permission.
8. It is important to have regard to the concept of the planning unit, as it is the planning unit against which the question of a material change of use would need to be judged. The planning unit is usually the unit of occupation, unless a smaller area can be identified which, as a matter of fact and degree, is physically separate and distinct, and/or occupied for different and unrelated purposes; the concept of physical and functional separation is key.
9. No 66a Bury Street consists of a detached dwelling with an extensive adjoining rear garden, to the south and east, which slopes down towards the adjacent River Tame. This garden is set out as a series of terraces, with tended lawns and plants, supported by retaining walls. The appeal site comprises a further extensive trapezium-shaped area, which adjoins the southern boundary of the garden, the two areas being separated by a substantial wall and tall mature tree planting. This land is also steeply sloping, before levelling out somewhat, towards its eastern boundary with the river. There is access between the garden and a majority of land within the appeal site via a pedestrian gate. It was also apparent from my visit that there is a relatively small compound in the north-west part of the site, accessed via a separate gate.
10. Aside from being physically separated from the formal rear garden of the dwelling, the present appearance and use of the appeal site is also distinct. Essentially it consists of rough grass and uncultivated soil, enclosed by a variety of walls and fencing. Situated on the land are a number of randomly sited small outbuildings and other features, including an ornamental stone wall and well head and some loosely stored rubble. Chickens and geese roam freely across the site and there is also a large bonfire under construction. The aforementioned compound is used to store a variety of building materials and equipment.
11. In terms of the unit of occupation it would appear that the dwelling and appeal site are 'occupied' by the appellant, notwithstanding that ownership of and access rights over the appeal site are contested. However, aside from the fact that it is possible to gain access to a majority of the appeal site directly from the appellant's garden, the respective parcels of land form physically distinct character areas and the sense of the appeal site being physically separated from the appellant's dwelling and its immediate surroundings is very strong.

12. In terms of the use of the land, it is apparent that the appellant's husband has previously confirmed in correspondence that he has not used nor has any intention of using the land for garden purposes and does not consider the land to be garden area². It would appear that the land is being used for miscellaneous and not necessarily connected purposes, which include the storage of building materials and equipment, the management of waste through burning and the keeping of birds.
13. An incidental use is one that is functionally related to and owes its existence to a primary use. In other words it is only there because of the primary use. The question is the extent to which the use of the appeal site can be taken to be incidental to the primary residential use of the dwelling. It seems that there are various informal activities taking place on the appeal site which, although low-key in nature, are akin to a mixture of smallholding, hobby, and business-related uses.
14. I consider that these uses could operate independently of the dwelling itself, such that theoretically they might continue even if the house itself was not there. The current use of the land, forming the appeal site, does not necessarily depend on residents being in close proximity to it. This is in contrast to, for example, garden land which would no longer be expected to be maintained for use and enjoyment, in the absence of any residents on the site. It therefore seems to me, from the information provided and my visit, that there is only at best a very tenuous, and not a dependent, functional relationship between the appeal site and the dwelling in this case.
15. Therefore, even if within the same area of occupation I consider, on balance and as a matter of fact and degree, that the appeal site forms a physically and functionally separate parcel of land to the dwelling and its immediate surroundings. I am not persuaded that the two areas fall within the same planning unit. It follows that the uses of the appeal site cannot be regarded as being lawful uses of the land for residential purposes, irrespective of the length of time the land has been put to its present uses.
16. Rather than being uses incidental or ancillary to residential use, the uses should therefore be regarded as primary uses of the land in question. I have had regard to the appellant's points regarding the removal of significant quantities of unsightly waste from the site and communication from the Council about this; the felling of some trees and the planting of new ones and rebuilding part of the river wall. This however does not alter the above findings. I have also had regard to comments, including the 'statement of truth' provided by a local resident, in support of the LDC application. This statement is however vague as to the actual use of the land over time. It also refers to the creation of an ordered well-kept garden area, the provision of which is contradicted by the appellant's own statement.
17. I have found, on the balance of probability, that the appeal site and the dwelling associated with 66a Bury Street are situated within separate planning units. In terms of determining the curtilage of the dwelling, the Council has referred to the legal principles set out in a relevant High Court case³. The judgement in that case referred to three relevant factors, namely i) the physical layout; ii) ownership past and present and iii) use or function past and

² See letters dated 1 February 2009 and 21 April 2019

³ *Burford v Secretary of State for Communities and Local Government* [2017] EWHC 1493 (Admin)

present. The judgement noted that whether something falls within the curtilage is a question of fact and degree.

18. Even if the subject land was in the appellant's ownership, which does not appear to be proven, when considering the physical and functional separation between the appeal site and the dwelling, as set out above, and the absence of any persuasive information to the contrary, I also find that the appeal site cannot form part of the curtilage of that dwelling.
19. The appellant has referred to the Council having accepted the appeal site as residential curtilage within the context of previous formal notices issued in relation to the land. However I am not persuaded that this, or any lack of subsequent action from the Council pursuant to this, weighs in favour of the current application because the Council, when considering these various matters, was not formally determining the lawfulness of the land use subject to this appeal.
20. Had I concluded that the land was being used for purposes incidental to the use as a dwelling it would then have been necessary to consider whether, on the balance of probability, the use of the land for such purposes had continued for a period of ten years or more prior to the date of the application, that is from at least 29 September 2006, so as to be immune from enforcement. The onus is on the appellant to demonstrate that, on the balance of probability, the use has continued for the aforementioned ten-year period.
21. Notwithstanding that I have found that the use of the land should not be regarded as incidental to the use of the dwelling, had I found otherwise I would nevertheless still not have been persuaded that sufficient information and evidence had been provided by the appellant to satisfactorily demonstrate, on the balance of probability, that the appeal site has been in continuous use incidental to that of the dwelling for the entire ten-year immunity period. The date of the aforementioned formal documentation received by the appellant from the Council does not serve to bolster the appellant's case in this regard. The fact that the appellant has disputed the payment of the application fee and requested that the Council regard the application as having been re-submitted at a later date are matters between the parties and are not relevant to my consideration of this specific case.
22. I am mindful that planning practice guidance states "*In the case of applications for existing use, if a local planning authority has no evidence itself, nor any from others, to contradict or otherwise make the applicant's version of events less than probable, there is no good reason to refuse the application, provided the applicant's evidence alone is sufficiently precise and unambiguous to justify the grant of a certificate on the balance of probability.*" I am not persuaded that the appellant's evidence is sufficiently precise and unambiguous when considering the area of land in question.

23. For the reasons given above I conclude that the Council's deemed refusal to grant a certificate of lawful use or development in respect of "the use of the land for purposes incidental to use as a dwelling and whether that land forms part of the curtilage of the dwelling" at Land at Easterly side of Bury Street, adjacent to 66a would have been well-founded and that the appeal should fail. I will exercise accordingly the powers transferred to me in section 195(3) of the 1990 Act as amended.

Roy Merrett

INSPECTOR

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Appeal Decision

Site visit made on 20 April 2021

by C Dillon BA (Hons) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 05 May 2021

Appeal Ref: APP/G4240/W/20/3265228

Greenside Lane, Droylsden, Manchester M43 7UT

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant approval required under Article 3(1) and Schedule 2, Part 16, Class A of the Town and Country Planning (General Permitted Development Order) (England) Order 2015 (as amended).
- The appeal is made by MBNL against the decision of Tameside Metropolitan Borough Council.
- The application Ref 20/00874/NCD, dated 4 September 2020, was refused by notice dated 5 November 2020.
- The development proposed is described as a telecommunications upgrade. Proposed 20m AGL Phase 8 monopole c/w wrap-around cabinet at base and associated ancillary works.

Decision

1. The appeal is allowed, and approval is granted under the provisions of Schedule 2, Part 16, Class A of the Town and Country Planning (General Permitted Development Order) (England) Order 2015 (as amended), for the siting and appearance of a telecommunications upgrade. Proposed 20m AGL Phase 8 monopole c/w wrap-around cabinet at base and associated ancillary works, at Greenside Lane, Droylsden, Manchester M43 7UT in accordance with the terms of the application Ref 20/00874/NCD, dated 4 September 2020, and pursuant to the above Order.

Procedural Matter

2. The provisions of the Town and Country Planning (General Permitted Development (England) Order 2015 (as amended), under Article 3(1) and Schedule 2, Part 16, Class A require the local planning authority to assess the proposed development solely on the basis of its siting and appearance, taking into account any representations received. My determination of this appeal has been made on the same basis.

Planning Policy

3. The principle of development is established by the GPDO and the provisions of Article 3(1) and Schedule 2, Part 16, Class A of the GPDO do not require regard be had to the development plan. I have had regard to the policies of the development plan and the National Planning Policy Framework (Framework) only in so far as they are a material consideration relevant to matters of siting and appearance.

Main Issue

4. The main issue is the effect of the appeal proposal on the character and appearance of the area, with particular regard to its siting and appearance.

Reasons

5. The appeal site is located within the public footway, on a main route through Droylsden. The neighbouring cemetery and green space provide some visual relief within what is an otherwise built up residential street scene. The overall scale of development here tends to be of 2 storeys.
6. Other street furniture exists within this urban street scene, including existing telecommunications equipment, lamp columns, road signs and decorative planters. These have a vertical emphasis, albeit they are lower in height to the appeal proposal. Nonetheless, mature trees located along the edge of this route extend above the existing surrounding built form and provide a greater sense of height against the skyline.
7. The proposed equipment cabinets would not be dissimilar in appearance, size and position within the footway than others in the surrounding area. They would not extend above the height of the adjacent boundary enclosure to the cemetery and would be read with it. Consequently, whilst evident, they would not be unduly intrusive within this street scene.
8. The proposed monopole would be a simple linear design. The antennas and other apparatus attached to the column would be packaged in a compact arrangement. Nonetheless, it would be taller than the surrounding physical features within this street scene.
9. The appeal proposal would be situated within a break in the existing tree cover along this street. Beyond the cemetery, other mature trees and buildings form an urban backdrop to the appeal site. When viewed from Greenside Lane, the proposed monopole would be read with these, alongside the spired cemetery building which already breaks into the skyline.
10. Furthermore, the overall height of the existing tree canopy would provide a transition between the height of the existing built form and that of the appeal proposal.
11. Collectively, the design and siting proposed would sufficiently mitigate the visual impact of the appeal proposal when viewed in any direction. The submitted evidence does not indicate that the appeal proposal would affect any designations which would render the appeal site overly visually sensitive to change. Although the appeal proposal would change the aspect of the area, this would not be of a nature or to a degree which would cause unacceptable visual consequences.
12. Paragraph 112 of the Framework states that advanced, high quality and reliable communications infrastructure is essential for economic growth and social well-being and that decisions should support the expansion of electronic communications networks, including mobile technology such as 5G.
13. Insofar as it is associated with the roll out of 5G coverage, the social and economic public benefits of the appeal proposal are clearly conveyed. The submitted evidence does not demonstrate a basis to dispute these.

14. Moreover, the submitted evidence clearly demonstrates that there are technical constraints which determine the siting and appearance of the appeal proposal. Paragraph 116 of the Framework states that the need for electronic communication systems should not be questioned. From the evidence before me, I have no reason to doubt that the proposed monopole would be the minimum height required for adequate network coverage.
15. For all of these reasons, the appeal proposal would not impose harm on the character and appearance of the area, with particular regard to its siting and appearance.
16. In the absence of harm, the appeal proposal does not conflict with Policy 1.3, Policy 1.11, Policy C1 or Policy U2 of the Tameside Unitary Development Plan.

Conditions

17. Approval under Article 3(1) and Schedule 2, Part 16, Class A is subject to conditions set out in Paragraphs A.3(9), A.3(11) and A.2(2). These specify that the development must, except to the extent that the local planning authority otherwise agree in writing, be carried out in accordance with the details submitted with the application, must begin not later than the expiration of 5 years beginning with the date on which the local planning authority received the application, and must be removed as soon as reasonably practicable after it is no longer required for electronic communications purposes and the land restored to its condition before the development took place.
18. The GPDO does not provide any specific authority for imposing additional conditions beyond those set out by Class A. Therefore, I cannot impose a condition to require the removal of an existing nearby installation. Cumulatively, due to its visual relationship with the appeal proposal, its continued existence would not in itself alter my assessment.

Conclusion

19. For the reasons given, the appeal should be allowed, and prior approval granted subject to the relevant conditions specified.

C Dillon

INSPECTOR

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Appeal Decision

Site Visit made on 13 April 2021

by R Walmsley BSc, MSc, MA, MRTPI

an Inspector appointed by the Secretary of State

Decision date: 07 May 2021

Appeal Ref: APP/G4240/W/21/3267049

Land adjacent to 325 Birch Lane, Dukinfield, SK16 5AU

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant outline planning permission.
- The appeal is made by Mr David Godfrey against the decision of Tameside Metropolitan Borough Council.
- The application Ref 20/00749/OUT dated 5 August 2020, was refused by notice dated 5 November 2020.
- The development proposed is proposed a two-storey detached dwellinghouse.

Decision

1. The appeal is dismissed.

Application for costs

2. An application for costs was made by Mr David Godfrey against Tameside Metropolitan Borough Council. This application is the subject of a separate Decision.

Preliminary Matters

3. The application from which this appeal resulted was made in outline including details of means of access, landscaping and layout, all other matters are reserved for future consideration.
4. I have amended the description of development from that detailed on the application and appeal forms, removing reference to the address of the site and the location of the access in the interests of clarity.
5. I have amended the site address based on the details on the planning decision notice to more accurately describe the location of the site.

Main Issue

6. The matter of dispute between parties relates to the landscaping proposed. There is nothing within the evidence before me to suggest that I should take a different view. The main issue, therefore, is the effect of the proposal on the character and appearance of the area, with particular regard to landscaping.

Reasons

7. The development would be accessed from Bylands Fold and therefore it is from here where the development would be mostly seen. The frontages to the

- properties in Bylands Fold are characterised by hard and soft landscaping. Low lying shrubs, small trees and areas of lawn help to soften and create a pleasing character to the residential area.
8. The appeal property would also be fronted by hard and soft landscaping although the frontage layout would differ from existing houses; the property's frontage would be dominated by hardstanding which would form a car parking and turning area. Although the size of this area has been reduced from an earlier proposal, it would continue to dominate the front of the site; parked cars would still dominate views from Bylands Fold. The low-lying shrubbery proposed is welcome but given its limited height, it would do little to mitigate the visual harm that the hardstanding and parked vehicles would have on the character and appearance of the area. Similarly, whilst the trees proposed are a welcome addition to the site, they would do little to soften the visual impact of hardstanding.
 9. It is also the case that the shrubbery proposed would have little effect on the character of Bylands Fold given its set back from the highway. Bearing in mind the prevalence of hardstanding currently, to the front of No 8 and No 9 Bylands Fold, the access proposed, together with the shrubbery described, would create a large area of hardstanding that would appear visually awkward in the cul-de-sac.
 10. The examples of "lollipop head cul-de-sacs and side driveways" before me do, in some cases, illustrate similar access arrangements. However, there is nothing in these examples to persuade me that an area dominated by hardstanding would be visually acceptable.
 11. The site as it currently stands is somewhat unattractive although the untidiness of the site itself is obscured from Bylands Fold by a fence which is set back from the highway. The visual harm of the appeal site is therefore limited. That said, developing the site would tidy up an area which could only have a positive effect on the character and appearance of the area overall. This is a material consideration that weighs in favour of the appeal and I give it significant weight.
 12. The National Planning Policy Framework (the Framework) at paragraph 130 and saved policies H9, H10 and C1 of the Tameside Unitary Development Plan (2004) seek development that, amongst other things, improves the quality and character of the area. The Framework clearly sets out that if development does not achieve this, it should be refused. For the reasons given, the dominance of hardstanding and car parking to the front of the site would be harmful to the character and appearance of the area. The benefit of redeveloping the site would not outweigh this harm. And so, I find that the development would be contrary to the development plan policies identified and the Framework.

Other Matters

13. The appellant draws my attention to a fallback position, one of the occupiers of No 8 and No 9 Bylands Fold constructing garages and off-street parking which would involve widening the existing driveway to provide vehicular access to the rear of their properties. Given the limited space to the side of these properties I am not convinced that this would be possible. Furthermore, I see both properties have garages which leads me to question the need for these works.

With little evidence before me to demonstrate that the occupiers of these two properties would undertake these works should the appeal be dismissed, I afford limited weight to this material consideration. As such, it does not outweigh the harm that I have identified.

14. It is not disputed between parties that the Council cannot demonstrate a 5-year housing land supply. Paragraph 11 of the Framework states at (d) that where there are no relevant development plan policies, or the policies most important for determining the application are out-of-date (including housing, where the Local Planning Authority cannot demonstrate a five-year supply of deliverable housing sites), permission should be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits when assessed against the policies in the Framework taken as a whole. Parties have not argued that there are no relevant development plan policies, or the policies most important for determining the application are out-of-date (including housing). Being a development for one house, the appeal scheme would make a limited contribution towards the provision of housing. The development would also realise social and economic benefits, including employment during construction. This is a material consideration that weighs in favour of the appeal.

Planning Balance and Conclusion

15. The benefits identified above, to the site and the wider area would be insufficient to outweigh the harm to the character and appearance of the area and the conflict with the development plan. The appeal is therefore dismissed.

R Walmsley

INSPECTOR



Costs Decision

Site visit made on 13 April 2021

by R Walmsley BSc, MSc, MA, MRTPI

Decision date: 07 May 2021

Costs application in relation to Appeal Ref: APP/G4240/W/21/3267049 Land adjacent to 325 Birch Lane, Dukinfield, SK16 5AU

- The application is made under the Town and Country Planning Act 1990, sections 78, 322 and Schedule 6, and the Local Government Act 1972, section 250(5).
- The application for costs is made by Mr David Godfrey for a full award of costs against Tameside Metropolitan Borough Council.
- The appeal was against the refusal of planning permission for a two-storey detached dwellinghouse.

Decision

1. The application for a full award of costs is refused.

Reasons

2. Paragraph 30 of the National Planning Policy Guidance (the Guidance) advises that, irrespective of the outcome of the appeal, costs may only be awarded against a party who has behaved unreasonably and thereby caused the party applying for costs to incur unnecessary or wasted expense in the appeal process.
3. In the Officer's delegated report, reference is made to an earlier planning application which was dismissed at appeal. The Officer cites the reasons for the appeal being dismissed and identifies the key question to consider in the assessment of the application in light of this appeal. The Council, therefore, did not disregard the earlier appeal decision when deciding the planning application. Instead, the Officer considered the differences between the two schemes and concluded that, despite the changes made, the proposal remained unsatisfactory.
4. Similarly, the Officer had regard to the landscaping plan submitted; the delegated report refers to the landscaping proposed and the relevant drawing. The Officer explains the differences in landscaping between the original scheme and the proposed and sets out clearly why the landscaping proposed was considered inadequate. I do not find, therefore, that the Council made vague, generalised or inaccurate assertions about the proposed development.

Conclusion

5. As a result of my findings above, I find that the Council substantiated its judgements. As such there has been no unreasonable behaviour that has resulted in unnecessary or wasted expense in the appeal process. I therefore conclude that a full award of costs, towards the expense of the appeal, is not justified.

R Walmsley

Inspector



Appeal Decision

Site Visit made on 28 April 2021

by Sarah Manchester BSc MSc PhD MEnvSc

an Inspector appointed by the Secretary of State

Decision date: 13th May 2021

Appeal Ref: APP/G4240/Z/21/3266916

Land bounded by Stamford Street and King Street, Stalybridge SK15 1JP

- The appeal is made under Regulation 17 of the Town and Country Planning (Control of Advertisements) (England) Regulations 2007 against a refusal to grant express consent.
- The appeal is made by Wildstone Group Limited against the decision of Tameside Metropolitan Borough Council.
- The application Ref 20/00928/ADV, dated 4 September 2020, was refused by notice dated 19 November 2020.
- The advertisement proposed is Upgrade of existing advertisement to support digital poster.

Decision

1. The appeal is dismissed.

Preliminary Matters

2. The Regulations require that decisions are made only in the interests of amenity and public safety, taking account of any material factors. The National Planning Policy Framework and the Planning Practice Guidance (the PPG) reiterate this approach. Therefore, while I have taken account of the policies and guidance that the Council considers to be relevant to this appeal, these have not been decisive in my determination of this appeal.
3. The appeal site is located within the Stalybridge Town Centre Conservation Area (the CA). I am therefore mindful of section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 which sets out that special attention should be paid to the desirability of preserving or enhancing the character or appearance of conservation areas.

Main Issue

4. The main issue is the effect of the proposed advertisement on visual amenity.

Reasons

5. The appeal site is prominently located immediately to the south of Stamford Street, on a sparsely developed part of the road that runs across the valley side above the centre of Stalybridge. The area is characterised by irregularly spaced traditional buildings in a mix of residential and commercial uses. The hard built environment is integrated and softened by abundant planting and tree cover and the views to the moors and hills beyond the settlement. The appeal site sits at the top of a steep slope separated from the footway by a low stone wall with metal railings. Gaps in the wall provide access to steep stone steps leading down to Waterloo Road.

6. The Stalybridge Town Centre CA includes the historic core of the town along the River Tame. The significance of the part of the CA that includes the appeal site derives in part from the mid to late 19th century villa-type properties. Furthermore, the steeply sloping undeveloped land particularly to the south side of Stamford Street allows for panoramic views into and over the CA townscape. In this context, the existing advertisement detracts from and it does not make a positive contribution to the significance of the CA.
7. The proposal would be the same size and in the same location as the existing freestanding externally illuminated 48 sheet advertisement. The proposal would display sequential static digital advertisements, capable of instantaneous changeover every 10 seconds.
8. Amenity is not defined exhaustively within the Regulations, but relevant factors include the characteristics of the locality including any features of historic, architectural or cultural interest. The PPG advises that in assessing amenity, the local planning authority should consider whether the advertisement is in scale and in keeping with locally important scenic, historic, architectural or cultural features.
9. As is the existing advertisement, the proposal would be set at an oblique angle to the road. It would not be readily visible travelling along Stamford Street towards the A635, but it would be dominant in views travelling in the opposite direction and from locations around the Blandford Street junction.
10. By virtue of the steep hill below the appeal site, the proposal would be elevated above the townscape below including the neighbouring Thorn House and the former school, now a police station. These are imposing Edwardian civic buildings in red brick with stone banding and their upper storeys and slate roofs contribute to the Stamford Road street scene. The overtly modern digital display would be incongruous and discordant in juxtaposition with the traditional wall, verdant planting and the historic buildings and townscape.
11. The proposal would not be seen in conjunction with the considerably more modest signage on commercial buildings elsewhere in the area. By virtue of its elevation above the townscape, the internally illuminated digital display would detract from views into the CA and of the historic buildings. Moreover, it would be seen above the distant horizon, interrupting views and the connection to the panoramic countryside beyond the urban area. It would be dominant, visually obtrusive and out of keeping with the historic and leafy street scene and townscape.
12. The existing advertisement benefits from deemed consent and it is the fallback position at this site. The proposal would be the same size and height as the fallback, but the internally illuminated and changing digital imagery would be more conspicuous than the existing externally illuminated static hoarding, including during periods of low natural light. The digital display would be a more contemporary form of development, even further removed from its traditional surroundings than the existing hoarding. The proposal would have a greater visual impact than the existing advertisement. Therefore, the existing advertisement, which itself detracts from the significance of the CA, does not provide a justification for the proposal.
13. Features of the advertisement including the level of illuminance, the frequency of sequences and instantaneous changeover could be controlled by planning

condition. Nevertheless, given the harm that I have found, the ability to control the display would not mitigate the significant adverse visual impact.

14. Therefore, the proposed advertisement would harm visual amenity. It would fail to preserve or enhance the character or appearance of the Stalybridge Town Centre CA. Consequently, and while not determinative in the appeal, it would conflict with the aims of Policies C1 and C4 of the Tameside Unitary Development Plan Written Statement Adopted November 2004. These require, among other things, that proposals respect the distinctive townscape character and that they preserve or enhance the character or appearance of conservation areas. It would also conflict with the visual amenity aims of the Framework.

Other Matters

15. The proposed digital advertisement would meet the modern requirements of advertisers and it would upgrade a site that is currently lacking in investment. The ability to generate advertising content remotely would result in a reduction in vehicular movements and it would remove the need for printed posters. The proposal could be used by local businesses and for non-commercial purposes including broadcast of emergency messages, although there is little substantive evidence in this regard. These matters do not outweigh the visual harm.

Conclusion

16. For the reasons set out above, the proposed advertisement would harm amenity. Therefore, the appeal should be dismissed.

Sarah Manchester BSc MSc PhD MEnvSc

INSPECTOR

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