

Public Document Pack
SOUTHEND-ON-SEA BOROUGH COUNCIL

Development Control Committee

Date: Wednesday, 11th December, 2019

Time: 2.00 pm

Place: Committee Room 1 (Jubilee Room) - Civic Suite

Contact: Tim Row - Principal Democratic Services Officer

Email: committeesection@southend.gov.uk

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- 2 Declarations of Interest
- 3 Supplementary Report
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(West Leigh Ward)** (Pages 131 - 162)

TO: The Chair & Members of the Development Control Committee:

Councillor N Ward (Chair)

Councillors M Borton (Vice-Chair), B Ayling, J Beck, A Chalk, D Cowan, A Dear, F Evans, D Garston, S Habermel, D Jarvis, A Jones, H McDonald, C Mulroney, A Thompson, S Wakefield and C Walker

PLEASE NOTE: The minibus for the site visits will depart from the bus stop at the front of the Civic Centre at 10.00 a.m.

DEVELOPMENT CONTROL COMMITTEE

AGENDA: 11th December 2019

WARD	APP/REF NO.	ADDRESS
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Pre Site Plans Report		
Leigh	19/01103/OUTM	986 - 1000 London Road Leigh-On-Sea
Kursaal	19/01593/FUL	10 Cromer Road Southend-On-Sea
Belfairs	19/01851/BC3	Park Café, Belfairs Park Eastwood Road North
Shoeburyness	19/00254/BRCN_B	39 Vanguard Way Shoeburyness
Chalkwell	18/00386/UNAU_B	29 The Drive Westcliff-On-Sea
Milton	19/00158/UNAU_B	21 Holland Road Westcliff-On-Sea

Main Plans Report		
West Leigh	19/01749/FUL	Haydon House 10 Underwood Square

DEVELOPMENT CONTROL COMMITTEE

DEVELOPMENT CONTROL COMMITTEE

INTRODUCTION

- (i) **Recommendations in capitals at the end of each report are those of the Corporate Director of Place, are not the decision of the Committee and are subject to Member consideration.**
- (ii) All plans have been considered in the context of the Borough Council's Environmental Charter. An assessment of the environmental implications of development proposals is inherent in the development control process and implicit in the reports.
- (iii) Reports will not necessarily be dealt with in the order in which they are printed.
- (iv) The following abbreviations are used in the reports:-

BLP	-	Borough Local Plan
DAS	-	Design & Access Statement
DEFRA	-	Department of Environment, Food and Rural Affairs
DPD	-	Development Plan Document
EA	-	Environmental Agency
EPOA	-	Essex Planning Officer's Association
DCLG	-	Department of Communities and Local Government
NPPF	-	National Planning Policy Framework
NPPG	-	National Planning Practice Guidance
SPD	-	Supplementary Planning Document
SSSI	-	Sites of Special Scientific Interest. A national designation. SSSIs are the country's very best wildlife and geological sites.
SPA	-	Special Protection Area. An area designated for special protection under the terms of the European Community Directive on the Conservation of Wild Birds.
Ramsar Site	-	Describes sites that meet the criteria for inclusion in the list of Wetlands of International Importance under the Ramsar Convention. (Named after a town in Iran, the Ramsar Convention is concerned with the protection of wetlands, especially those important for migratory birds)

Background Papers

- (i) Planning applications and supporting documents and plans
- (ii) Application worksheets and supporting papers
- (iii) Non-exempt contents of property files
- (iv) Consultation and publicity responses
- (v) NPPF and NPPG
- (vi) Core Strategy
- (vii) Borough Local Plan

NB Other letters and papers not taken into account in preparing this report but received subsequently will be reported to the Committee either orally or in a supplementary report.

DEVELOPMENT CONTROL COMMITTEE

Use Classes

- Class A1 - Shops
- Class A2 - Financial & Professional Services
- Class A3 - Restaurants & Cafes
- Class A4 - Drinking Establishments
- Class A5 - Hot Food Take-away

- Class B1 - Business
- Class B2 - General Industrial
- Class B8 - Storage or Distribution

- Class C1 - Hotels
- Class C2 - Residential Institutions
- Class C3 - Dwellinghouses
- Class C4 - Small House in Multiple Occupation

- Class D1 - Non-Residential Institutions
- Class D2 - Assembly and Leisure
- Sui Generis - A use on its own, for which any change of use will require planning permission

DEVELOPMENT CONTROL COMMITTEE

SITE VISIT PROTOCOL

1. Necessity

A site visit is only likely to be necessary if either:

- (i) The proposed development is difficult to visualise from the plans, photographs and supporting material; or
- (ii) There is good reason why the comments of the applicant and / or objector(s) cannot be expressed adequately in writing; or
- (iii) The proposal is particularly contentious; or
- (iv) A particular Member requests it and the request is agreed by the Chairman of DCC.

2. Selecting Site Visits

- (i) Members can request a site visit by contacting the Head of Planning and Transport or the Group Manager for Planning; providing the reason for the request. The officers will consult with the Chairman.
- (ii) If the agenda has not yet been printed, notification of the site visit will be included on the agenda. If the agenda has already been printed, officers will notify Members separately of the additional site visit.
- (iii) Arrangements for visits will not normally be publicised or made known to applicants or agents unless access is required to be able to go on land.

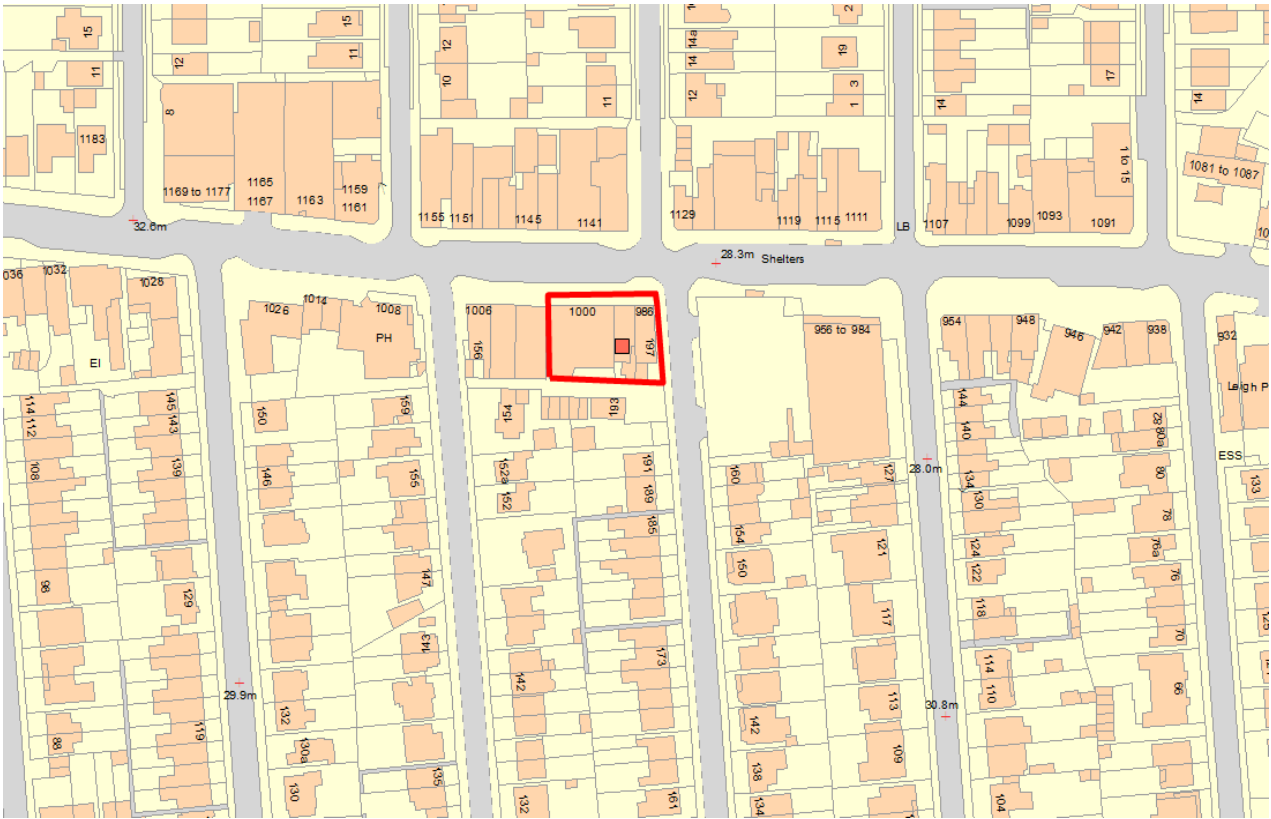
3. Procedures on Site Visits

- (i) Visits will normally take place during the morning of DCC.
- (ii) A planning officer will always attend and conduct the site visit, and will bring relevant issues to the attention of Members. The officer will keep a record of the attendance, and a brief note of the visit.
- (iii) The site will normally be viewed from a public place, such as a road or footpath.
- (iv) Representations will not be heard, and material will not be accepted. No debate with any party will take place. Where applicant(s) and/or other interested person(s) are present, the Chairman may invite them to point out matters or features which are relevant to the matter being considered having first explained to them that it is not the function of the visit to accept representations or to debate.

Version: April 2016

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Reference:	19/01103/OUTM	4
Application Type:	Outline Application	
Ward:	Leigh	
Proposal:	Demolish existing building, erect part 3/ part 4 storey building comprising of 14 self-contained flats, 2 commercial units at ground floor, layout parking, refuse and cycle stores, install vehicular access onto Leighton Avenue (Outline Application)	
Address:	986-1000 London Road, Leigh-on-Sea, Essex SS9 3NE	
Applicant:	Ms Larman	
Agent:	SKArchitects	
Consultation Expiry:	23 rd September 2019	
Expiry Date:	13 th December 2019	
Case Officer:	Abbie Greenwood	
Plan Nos:	448-PO1, 448-P02, 448-PO3, 448-P04, 448-PO5, 448-PO6, Design and Access Statement by SKArchitects, Contamination Report by Endeavour Drilling Reference J3868, Phase 1 Desk Study Report by Endeavour Drilling reference END19-007, Letter from SKArchitects stating commitment to 3 affordable housing units to be secured by S106, SUDs Statement by H J Structural Engineers reference MAS157	
Recommendation:	REFUSE PLANNING PERMISSION	



1 Site and Surroundings

- 1.1 The site is located at the junction of London Road and Leighton Avenue and is currently occupied by a 2 storey building which operates as a car sales business. The building is predominately open to the elements at ground floor running through to the external forecourt areas to provide maximum space for car sales. A small repairs / MOT garage also operates from within the building. The building itself is poor quality and the site does not make a positive contribution to the streetscene.
- 1.2 To the west the remainder of the street block is occupied by a single storey tyre fitting business and another smaller car showroom within a two storey building. To the rear is a small 1.5 storey industrial unit which is currently used by a removal company. This unit also has cars for sale on its forecourt which may be connected to the businesses on London Road.
- 1.3 Leighton Road to the south is a residential street comprising semi-detached and terraces dwellings of mixed but traditional designs. The properties are generally 2 storeys but there are a few bungalows also.
- 1.4 On the opposite corner to the east is the Iceland supermarket. The area closest to the application site is occupied by the car park serving this unit. The openness of the site from the east and the south means that it is very exposed in the streetscene.
- 1.5 Opposite the site on London Road are a mix of 2 and 3 storey buildings with commercial uses at ground floor. Many have residential uses on the upper floors. Further afield along London Road are some taller buildings of 4-6 storeys. Designs are mixed including both traditional and modern buildings.

1.6 London Road is a principle route through the Borough to the town centre and is the main bus corridor. It has a very mixed character along its length. Some sections are designated as retail frontages but there are no policy designations affecting the application site.

2 The Proposal

2.1 The proposal seeks outline planning permission to demolish the existing buildings and erect a mixed use development comprising 2 A1 retail units of 66sqm and 61sqm and 14 self-contained flats comprising 1 x 1 bed, 4 x 2 bed and 6 x 3 bed market units and 1 x 1 bed, 1 x 2 bed and 1 x 3 bed affordable units. 15 parking spaces are proposed under the building along with areas for cycle and refuse storage.

2.2 The proposal is for outline planning permission only but with only landscaping reserved.

2.3 The proposed building is L shaped. It is 30.1m wide and 20m deep reducing to 15.1m on its internal elevation. The top (3rd) is set in from the main bulk of the building and measures 24.8m wide and 10.6m deep. The main bulk of the building has a consistent scale but the height varies slightly with the change in land levels ranging from 9.5m in the north west corner at the highest part of the site to 10.3m in the south east corner at the lowest part of the site. The reduced 3rd floor has a part pitched and part flat roof with a maximum height of 14.2m.

2.4 The building is proposed to be constructed of brick up to 2nd floor level. The top floor will be cladding. The roof is proposed as GRP. The scheme will have powder coated aluminium windows and doors.

2.5 Each unit has a balcony or roof terrace which vary between 1.2sqm and 10.8sqm. The top floor flats have terraces of 32.2sqm and 30.1sqm. There is one additional terrace on the roof which measures 50.6 sqm and is accessed from the communal area.

2.6 15 car parking spaces are proposed in an under croft to the rear of the building. This area also houses 2 cycle stores and a bin store.

2.7 The submitted information states that the opening hours of the proposed A1 retail units will be 9am to 6pm.

2.8 The application is supported by the following documents:

- Design and Access Statement by SKArchitects,
- Contamination Report by Endeavour Drilling Reference J3868,
- Phase 1 Desk Study Report by Endeavour Drilling reference END19-007,
- Letter from SKArchitects stating commitment to 3 affordable housing units to be secured by S106,
- SUDs Statement by H J Structural Engineers reference MAS157

2.9 No viability report has been submitted with the application.

3 Relevant Planning History

3.1 No planning history.

4 Representation Summary

Public Consultation

- 4.1 19 neighbouring properties were consulted, a press notice published and a site notice displayed. 1 letters of representation have been received raising the following issues:
- .This area of Leigh is already over developed and the infrastructure cannot cope
 - New flatted developments on London Road are threatening the businesses
 - Concern over dust and access during construction and impact on local businesses

Officer Comment 'These concerns are noted and they have been taken into account in the assessment of the application. However, other than those issues relating to the reason for refusal, they are not found to represent a reasonable basis to refuse planning permission in the circumstances of this case.'

Highways Team

- 4.2 No objections

Environmental Health

- 4.3 No objections subject to conditions relating to construction hours, glazing specification, waste management and contamination.

Housing Team

- 4.4 No objections subject to agreement of the affordable housing tenures.

Education

- 4.5 All secondary schools within acceptable travel distance are oversubscribed. Contribution of £35,792.92 is therefore requested towards the cost of works at Chase High School (Phase 2) or any other similar project that seeks to address the increased demand for secondary places created as a consequence of this development.

SUDS Engineer

- 4.6 An objection is raised on the grounds of insufficient information.

Anglian Water

- 4.7 No objections.

London Southend Airport

- 4.8 No objections.

Fire Service

- 4.9 No objections

Leigh Town Council

4.10 No objections.

5 Planning Policy Summary

5.1 The National Planning Policy Framework (NPPF) (2019)

5.2 Core Strategy (2007) Policies KP1 (Spatial Strategy), KP2 (Development Principles), CP3 (Transport and Accessibility), CP4 (The Environment and Urban Renaissance), CP6 (Community Infrastructure), CP8 (Dwelling Provision)

5.3 Development Management Document (2015) Policies DM1 (Design Quality), DM2 (Low carbon development and efficient use of resources), DM3 (The Efficient and effective use of land), DM7 (Dwelling Mix), DM8 (Residential Standards), DM15 (Sustainable Transport Management)

5.4 Southend Design & Townscape Guide (2009)

5.5 Planning Obligations: A Guide to Section 106 and Developer Contributions (2015)

5.6 CIL Charging Schedule (2015)

6 Planning Considerations

6.1 The main considerations in relation to this application are the principle of the development, design and impact on the streetscene, quality of accommodation for future occupiers, impact on residential amenity, traffic and transportation, sustainable construction and CIL.

7 Appraisal

Principle of Development

7.1 Amongst other policies to support sustainable development, the NPPF seeks to boost the supply of housing by delivering a wide choice of high quality homes. In relation to the efficient use of land Paragraph 122 states:

122. Planning policies and decisions should support development that makes efficient use of land, taking into account:

a) the identified need for different types of housing and other forms of development, and the availability of land suitable for accommodating it;

b) local market conditions and viability;

c) the availability and capacity of infrastructure and services – both existing and proposed – as well as their potential for further improvement and the scope to promote sustainable travel modes that limit future car use;

d) the desirability of maintaining an area's prevailing character and setting (including residential gardens), or of promoting regeneration and change; and

e) the importance of securing well-designed, attractive and healthy places.

- 7.2 Policy KP2 of the Core Strategy states development must be achieved in ways which *“make the best use of previously developed land, ensuring that sites and buildings are put to best use”*. Policy CP4 requires that new development *“maximise the use of previously developed land, whilst recognising potential biodiversity value and promoting good, well-designed, quality mixed use developments”* and that this should be achieved by *“maintaining and enhancing the amenities, appeal and character of residential areas, securing good relationships with existing development, and respecting the scale and nature of that development”*.
- 7.3 Policy KP3 requires the Council to *‘enter into planning obligations with developers to ensure the provision of infrastructure and transportation measures required as a consequence of the development proposed. This includes provisions such as:*
- a. roads , sewers, servicing facilities and car parking;*
 - b. improvements to cycling, walking and passenger transport facilities and services;*
 - c. off-site flood protection or mitigation measures, including sustainable drainage systems (SUDS);*
 - d. affordable housing;*
 - e. educational facilities;*
 - f. open space, ‘green grid’, recreational, sport or other community development and environmental enhancements, including the provision of public art where appropriate;*
 - g. any other works, measures or actions required as a consequence of the proposed development; and*
 - h. appropriate on-going maintenance requirements.’*
- 7.4 Policy CP8 states that *‘Residential development proposals will be expected to contribute to local housing needs, including affordable and special needs provision, and the sustainable use of land and resources.’*
- 7.5 Policy CP8 of the Core Strategy recognises that a significant amount of additional housing will be achieved by intensification (making more effective use of land) and requires that development proposals contribute to local housing needs. It identifies that 80% of residential development shall be provided on previously developed land. For all scheme between 10 and 49 units CP8 requires that 20% be secured as affordable housing.
- 7.6 Policy DM3 of the Development Management Document states that *“the Council will seek to support development that is well designed and that seeks to optimise the use of land in a sustainable manner that responds positively to local context and does not lead to over-intensification, which would result in undue stress on local services, and infrastructure, including transport capacity”*
- 7.7 Policy DM7 of the Development Management Document requires new housing development to meet the needs of the Borough in terms of the type and size of development proposed

Use

- 7.8 The proposal is seeking a mixed use development comprising 2 small A1 retail units at ground floor and residential development above. The existing car sales use on the site will cease. The extent of commercial space at the site will change from 460 sqm to 127 sqm. This is a significant reduction in commercial space and the configuration of the units raises a question as to whether such small and narrow units would be viable, however, despite being located in a mixed use area, the site has no policy designations controlling use either in terms of employment or retail. It is therefore considered that the proposed change from car sales to a mix of retail (A1) and residential floorspace is compatible with the local policy context and the character of the area. The change of use of the site is therefore considered to be acceptable and the proposal is policy compliant in this regard.

Housing Mix and Affordable Housing Provision

- 7.9 To create balanced and sustainable communities in the long term, it is important that future housing delivery meets the needs of households that demand private market housing and also those who require access to affordable housing. Providing dwellings of different types, including tenure and sizes, helps to promote social inclusion by meeting the needs of people with a variety of different lifestyles and incomes. A range of dwelling types provides greater choice for people seeking to live and work in Southend and will therefore also support economic growth. So the Council seeks to ensure that all residential development provides a dwelling mix that incorporates a range of dwelling types and bedroom sizes, including family housing, to reflect the Borough's housing need and housing demand. Policy DM7 of the Development Management Document requires all residential development to provide a mix of dwelling size and type.
- 7.10 The Southend-on-Sea Housing Strategy 2011, the Strategic Housing Market Assessment (SHMA) 2017 and the Council's Community Plan 2011-2021 seek to provide sustainable balanced communities and advise that housing developments will need a range of tenures and size of dwelling. The SHMA has identified a shortage of family accommodation in Southend, despite an acute demand for this type of dwelling. Consequently, to address this shortfall and meet demand, residential development proposals will normally be expected to incorporate suitable family accommodation. The provision of high quality, affordable family homes is an important strategic housing priority in Southend. The Core Strategy also highlights a need to retain a stock of larger family housing.
- 7.11 Policy CP8 seeks an affordable housing provision of 20% for residential proposals of between 10-49 dwellings.

7.12 Policy DM7 sets out the desired mix of dwellings types and sizes in all new major residential development proposals. This includes providing a dwelling mix that incorporates a range of dwelling types and bedroom sizes, including family housing. The desired mix for major schemes is as follows:

	No of bedrooms	1-bed	2-bed	3-bed
Affordable Housing	16%	43%	37%	4%
Market Housing	9%	22%	49%	20%

7.13 Where a proposal significantly deviates from this mix the reasons must be justified and demonstrated to the Council. Policy DM7 also states that where affordable housing is proposed an indicative tenure mix of 60:40 between social and/ or affordable rented accommodation and intermediate housing is sought respectively.

7.14 The application form and letter from SKArbitects dated 6th August states that there will be 11 market housing apartments and 3 affordable housing apartments. The proposed mix is as follows:

Market Housing

11/14 units = 79%

1 x 1 bed unit (8%)

4 x 2 bed units (36%)

6 x 3 bed units (54%)

Affordable Housing

3/14 units = 21%

1 x 1 bed unit (33.3%)

1 x 2 bed unit (33.3%)

1 x 3 bed unit (33.3%)

7.15 The proposed affordable housing provision at 21% meets the requirements set out in Policy CP8. In relation to mix, whilst the proposal is not an exact match to the recommended mix as set out in policy DM7, the figures above show there to be a variety of sizes including a significant number of family units. This is considered to be a reasonable mix in this location.

7.16 All major schemes are required to submit a full viability assessment to demonstrate that the proposed development, including the provision and mix of market and affordable housing units and commercial units are viable. This provides assurance that the scheme is deliverable in the current market and that amendments to a Section 106 Agreement will not be sought in the future on the grounds of viability which could significantly impact on the overall merits of the proposal and the planning balance. No viability proposal has been submitted with this proposal. Therefore, whilst the stated contribution to affordable housing and the proposed mix would be policy compliant, the development has not demonstrated that the scheme would be viable.

- 7.17 Overall therefore, whilst the proposed use and mix of market and affordable housing provision are considered to be acceptable for this site, the proposal has failed to demonstrate that it would be viable and that the development, including the proposed mix and contribution to affordable housing and therefore no unilateral undertaking has been agreed. The proposal is therefore unacceptable and contrary to policy in this regard.

Design and Impact on the Character of the Area

- 7.18 *Paragraph 124 of the NPPF states ‘ The creation of high quality buildings and places is fundamental to what the planning and development process should achieve. Good design is a key aspect of sustainable development, creates better places in which to live and work and helps make development acceptable to communities.’*
- 7.19 Policy DM1 of the Development Management Document states that “*all development should add to the overall quality of the area and respect the character of the site, its local context and surroundings in terms of its architectural approach, height, size, scale, form, massing, density, layout, proportions, materials, townscape and/or landscape setting, use, and detailed design features.*”
- 7.20 Policy DM3 part 2 of the Development Management Document states that “*all development on land that constitutes backland and infill development will be considered on a site-by-site basis. Development within these locations will be resisted where the proposals:*
- (i) Create a detrimental impact upon the living conditions and amenity of existing and future residents or neighbouring residents; or*
 - (ii) Conflict with the character and grain of the local area; or*
 - (iii) Result in unusable garden space for the existing and proposed dwellings in line with Policy DM8; or*
 - (iv) Result in the loss of local ecological assets including wildlife habitats and significant or protected trees.”*

Scale and Form

- 7.21 The proposal seeks to demolish the existing building and erect a part 3 storey part 4 storey mix used development. There is no objection in principle to the demolition of the existing building as it does not make a positive contribution to the streetscene. There is also no objection in principle to a larger building on this site but the scale of the proposed development needs to sit comfortably in the context of the site.
- 7.22 London Road is one of the longest roads in the Borough and its character varies significantly along its length. Whilst there are some larger developments further afield in this particular location the grain is finer and the scale is lower than other sections.
- 7.23 The site is located on a junction and surrounded by low scale development including 2 smaller single storey buildings and an open car park. The rest of the buildings in the immediate context of the site are generally 2 storey traditional style buildings. There is one 3 storey narrow fronted building opposite. This means that, at this time, the site is very exposed in the streetscene from many angles. Whilst this may change in the future as other buildings come forward for redevelopment, the current situation is a material consideration for this proposal.

It is important therefore that any scheme on this site achieves an appropriate transition between the proposal and the finer grain and scale of the surrounding buildings. This does not mean that a significantly larger development cannot be achieved, but that it needs to provide a positive response to context so that it sits comfortably in the existing streetscene.

- 7.24 The proposed development is comprised of two elements. The main brick base and the penthouse addition. The base section has a very simple form with a regular footprint and flat frontages. These are articulated with regular spacing of windows and balconies which add some interest but overall the form of this element of the building is that of a large 3 storey box. Whilst in isolation this form provides clean lines for the development and a simple well resolved shape, there is a concern that in this location the overall mass and bulk of the development would be at odds with the finer grain and scale of the surrounding development and the proposal would appear very dominant in the streetscene. The addition of a sizable penthouse floor further accentuates the scale of the development. This impact will be apparent from all sides given the significant exposure of the site. As such it is considered that the development, in its current form, would appear as an over scaled, dominant and incongruous addition in the streetscene.
- 7.25 It is noted that there are some other larger flatted blocks along London Road outside the immediate context of the site. Where these occur the newer flatted blocks are within clusters of larger development and generally articulated in such a way as to introduce a vertical rhythm to the frontage to break up the scale of the frontage and better reference the grain of the surrounding more traditional development and this helps to offset the overall bulk of the developments in the streetscene. The application proposal has sought to maintain a simple boxy form which is enlivened with fenestration.

Whilst this provides a structure to the elevation which adds interest it does little to break up the overall mass of the development. Overall, therefore, it is considered that the scale and bulk of the proposal would appear over dominant in this context and the proposal is therefore unacceptable and contrary to policy in this regard.

Design Detail

- 7.26 As with the overall form of the development the main body of the development is very simple in its detailing. The variation of balcony width adds some interest to the elevations but overall impression is one of order. This complements the simple form of the development. It is however, considered that the design detail breaks down at the corner where the lack of glazing does not sit comfortably with the feature corner balconies. As a result the most prominent corner of the development is somewhat weak in townscape terms. There is also a concern in regards to the extent of inactive frontage to the secondary elevations at ground floor which will be very visible in the streetscene.
- 7.27 The penthouse floor has a contrasting style and will be very prominent especially in longer views of the site. Its shape and materiality and significant areas of unbroken cladding appear to reference industrial architecture and there is a concern that this could look rather out of place in this context.

7.28 Landscaping is a reserved matter for later consideration but it is noted that the proposal shows 3 trees on the forecourt. Trees here would be welcome in principle however, no information has been provided as to whether these would be viable in this location and this close to the building. No other landscaping has been shown on the plans. Landscaping can often be used to good effect to soften the impact of new buildings and should be further considered in any revised proposal.

7.29 Overall therefore it is considered that the design of the proposal would be an over scaled and incongruous addition to the streetscene. This is unacceptable and the development is contrary to policy in this regard.

Standard of Accommodation for Future Occupiers

7.30 Delivering high quality homes is a key objective of the NPPF.

7.31 Policy DM3 of the Development Management Document (i) states: proposals should be resisted where they “*Create a detrimental impact upon the living conditions and amenity of existing and future residents or neighbouring residents*”.

Space Standards and Quality of Habitable Rooms.

7.32 All new homes are required to meet the National Technical Housing Standards in terms of floorspace and bedroom sizes. The required size for a new flats are as follows:

- 1 bed 2 person = 50 sqm
- 2 bed 3 person = 61 sqm
- 3 bed 4 person = 74 sqm
- 3 bed 6 person = 95 sqm

And the minimum bedroom standards are:

- Master - minimum area 11.5 sqm, minimum width 2.75m
- Other doubles – minimum area 11.5 sqm, minimum width 2.55m
- Singles - minimum area 7.5 sqm and minimum width 2.15m

7.33 The flat and room sizes for the scheme are as follows:

Flat Number	Internal Area	Bed 1	Bed 2	Bed 3	Amenity
1 – 2b3p	65.8sqm	11.7sqm W=2.75m	8.9sqm W=2.15m		Balcony of 5.6 sqm
2 – 1b2p	50.3sqm	12.2sqm W=3.3m			2 balconies of 2.1sqm and 3.1sqm
3 – 3b4p	75.3sqm	14.8sqm W=3.1m	9.9sqm W=2.15m	7.6 sqm W=2.15m	3 balconies of 14.8sqm, 1.2sqm and 1.2sqm
4 – 2b3p	61.1 sqm	11.5 sqm W=3.1m	8.3 sqm W=2.15m		3 balconies of 2.1 sqm, 1.2sqm and 1.2 sqm
5 – 3b 4p	76.5sqm	12.8 sqm	7.6sqm	7.5sqm	2 balconies

		W=2.75m	W=2.15m	W=2.15m	of 3sm and 1.2sqm
6 – 3b4p	76.3sqm	11.8 sqm W=2.75m	9.7sqm W=2.15m	7.9sqm W=2.4m	3 balconies of 2.1 sqm, 1.2sqm and 1.2sqm
7– 2b3p	65.8sqm	11.7sqm W=2.75m	8.9sqm W=2.15m		Balcony of 5.6 sqm
8– 1b2p	50.3sqm	12.2sqm W=3.3m			2 balconies of 2.1sqm and 3.1sqm
9– 3b4p	75.3sqm	14.8sqm W=3.1m	9.9sqm W=2.15m	7.6 sqm W=2.15m	3 balconies of 14.8sqm, 1.2sqm and 1.2sqm
10– 2b3p	61.1 sqm	11.5 sqm W=3.1m	8.3 sqm W=2.15m		3 balconies of 2.1 sqm, 1.2sqm and 1.2 sqm
11– 3b 4p	76.5sqm	12.8 sqm W=2.75m	7.6sqm W=2.15m	7.5sqm W=2.15m	2 balconies of 3sm and 1.2sqm
12– 3b4p	76.3sqm	11.8 sqm W=2.75m	9.7sqm W=2.15m	7.9sqm W=2.4m	3 balconies of 2.1 sqm, 1.2sqm and 1.2sqm
13 – 3b6p	114.3sqm	17.2sqm W=4.2sqm	11.6sqm W=2.75sqm	11.6sqm W=2.75sqm	Terrace of 32.2sqm
14 – 2b3p	65sqm	11.5sqm W=3.3sqm	7.5sqm W=2.4m		Terrace of 31sqm

- 7.34 The table above demonstrates that all flats meet the required standards but are not generous as it is noted that in many cases the room and flat sizes are the minimum required. However, the standard is met and the proposal is acceptable and policy compliant in this regard.
- 7.35 It is also noted that all habitable rooms would benefit from good outlook and daylight. The proposal is therefore acceptable in these regards.

M4(2) and M4(3) – Accessible Dwellings

- 7.36 Policy DM8 and associated Policy Transition Statement require that all new dwelling meet building regulations M4 (2) – ‘accessible and adaptable dwellings’ and that 10% of new dwellings on major development sites to meet building regulation M4 (3) ‘wheelchair user dwellings’. This ensures that all new homes are flexible enough meet the changing needs of all generations. In this case this would require that 2 units were suitable for wheelchair users.

- 7.37 In relation to this the Design and Access Statement states '*Each proposed residential unit can provide adequately for people with disabilities and are fully accessible*' however there is no evidence to back this up. As noted above many of the flats are the minimum sizes to meet the technical housing standards so their suitability for all users and in particular wheelchair users remains to be demonstrated. It is also noted that although the building has lift access, there is no provision of disabled parking. It is therefore likely that the proposal will not be able to meet these standards.
- 7.38 The proposal has therefore failed to demonstrate that it can meet the accessibility requirements of Policy DM8 and is unacceptable and contrary to policy in this regard.

Amenity Provision

- 7.39 Development Management Policy DM8 Policy Table 5 states that '*Suitable space should be provided for private outdoor amenity, where feasible and appropriate to the scheme.*' The preamble to the policy comments that '*Private outdoor space is an important amenity asset and provides adults and children with external, secure recreational areas. It is considered that this space must be useable and functional to cater for the needs of the intended occupants. All new residential units will be expected to have direct access to an area of private amenity space. The type of amenity space will be dependent on the form of housing.....In the case of flats, balconies may take the place of a garden, although easily accessible semi-private communal areas will also be beneficial.*'
- 7.40 As noted above the mix of the development includes 5 x 2 bed and 7 x 3 bed units and there is therefore the potential for many children to live in the block. All of the apartments have access to balcony provision and there is a communal roof terrace of approximately 50sqm, however, it is noted that in many cases the balconies are very small. 8 of the balconies measure 1.2 sqm only and even though the unit may have access to 2 or 3 of these, it is questioned how useable these will be especially for family sized accommodation. It is noted that there is a communal roof terrace which is the size of a small family garden, but this is not directly accessible from the units except for 1. Therefore, whilst the proposal provides some form of amenity for each flat, many of the proposed balconies are not conducive to family amenity.

Where flats are generous in size the lack of easily accessible amenity provision can be balanced against the provision of spacious internal layouts, however in this case both the internal and external space is minimal. Whilst this may technically meet the policy requirements noted above, it is considered to be a negative aspect of the proposal and indicative of over development of the site.

- 7.41 Overall therefore, it is considered that the proposal has failed to demonstrate that it could meet the requirements for accessible and adaptable dwellings and in particular the requirement for wheelchair access and the proposal is unacceptable and contrary to policy in this regard. In all other regards the living accommodation is considered to be the minimum required to meet the policy requirements and this therefore does not contribute to the quality of the scheme generally.

Impact on Residential Amenity

- 7.42 Policy DM1 of the Development Management Document states that development should, *“protect the amenity of the site, immediate neighbours and surrounding area, having regard for privacy, overlooking, outlook, noise and disturbance, visual enclosure, pollution and daylight and sunlight.”*

Impact on 1002-1006 London Road to the west

- 7.43 Adjacent to the site to the west is a single storey tyre workshop and a two storey car sales showroom. The proposed development is built on the boundary on this side but there is a gap of 0.9m between the boundary and the neighbouring property. The development extends up to 9.7m high on this boundary for a depth of 15.1m. The neighbouring property extends the full depth of the site in this location some 20m. The development has no windows on the west elevation at the lower levels but the penthouse flat has significant outlook to the main living space and a sizeable balcony also to the west side. The window is set 3.8m and the terrace is 1.3m from the west boundary.
- 7.44 Although the proposal will dominate this neighbour in the streetscene it is considered that it will not have a detrimental impact on the amenities of the existing neighbour to the west in terms of light or outlook as the neighbour has no outlook to the east side. It is noted that the penthouse and terrace located in close proximity to the boundary may have an impact on the future development of the neighbouring site. Whilst this is unneighbourly, as it stands this relationship is not harmful. On balance it is considered that the impact on the amenities of this neighbour is considered to be acceptable and the proposal is policy compliant in this regard.

Impact 193 and 191 Leighton Avenue to the south

- 7.45 The proposed development is set close to the south site boundary (0.5m-0.8m) for 12.8m after which it steps in 4.95m from this boundary for the remaining 17.2m of the building. The proposal is 10.3m high on this side close to the boundary. There are habitable room windows on both sections of the rear elevation at first and second floor level. There are also balconies on the rear elevation where it steps away from this boundary. At third floor is a communal roof terrace and the rear elevations and outlook for the penthouse units. The proposed roof terrace is set 2.4m in from the edge of the building on the south east side. The closest window to the boundary at this top level is 7.85m from the south boundary.
- 7.46 Directly to the south of the site is a small gabled building of 1.5 storeys and associated yard area which is currently used by a removal firm for storage purposes. This building has its main outlook and access to the east. There is a shared single track right of access for vehicles between this building and the application site. The separation distance between the proposal and this building is 5m.
- 7.47 Given that this neighbour has a commercial storage use and faces to the street to the east it is considered that the proposed increase in scale and outlook at the application site would not have a material impact on the amenities of this neighbour. The proposal is acceptable and policy compliant in this regard.

7.48 191 Leighton Avenue is the first residential property in Leighton Avenue. The rear garden boundary of this dwelling is located 12.6m from the closest section of the rear elevation, 15.1m from the rear edge of the proposed 3rd floor amenity roof terrace and 18.2m from the section of the rear elevation which is set away from the boundary. The property itself is set a further metre away from this boundary. 191 Leighton Avenue has 3 windows in its flank elevation facing the site, one at ground floor behind the boundary fence, a staircase window at first floor and a very small window in the gable. The commercial unit at 193 is situated between the proposal and 191.

7.49 Given the separation distances it is considered that the scale of the proposal will not result in a material loss of light or outlook for this property. In terms of privacy it is noted that there is no habitable rooms windows facing the application site which will be overlooked, however, it will be possible for the residents on the upper floors to look over the top of the adjacent storage building towards the private amenity area of 191. The separation distances to this garden area is 12.6m from the 2nd floor bedroom of the closest flat and 15.1m from the roof terrace. This is, on balance, considered to be just sufficient for this overlooking not to be considered as materially harmful although it is likely that these residents will be have the perception of being overlooked from the proposed development especially given the number of windows, balconies and terraces on its rear elevation. On balance it is considered that this relationship is acceptable and the proposal is policy compliant in this regard.

7.50 *Impact on 154 Oakleigh Park Drive to the south west*

There is also another residential property to the south west of the site 154 Oakleigh Park Drive. The closest window to the amenity area of this dwelling would be 12.1m from the boundary however, it is noted that in this case this would be to the very end of the garden area of number 154. On balance, this relationship is also considered to be acceptable and the impact on the amenities of this neighbour is considered acceptable.

7.51 In relation to the proposed retail use, given the reasonable opening hours, the mixed character of the area and their location facing London Road there are no concerns that this use would give rise to unacceptable levels of noise and disturbance.

7.52 No other properties are materially affected by this proposal. To the front the relationship to the properties opposite is typical of other properties in this location and to the east is the open car park for Iceland.

7.53 Overall therefore it is considered that on balance, the proposal will have an acceptable impact on the amenities of neighbours and is policy compliant in this regard.

Traffic and Transportation Issues

7.54 Policy DM15 states that each dwelling should be served by one off street parking space. 15 under croft parking spaces are proposed at ground floor to the rear of the building which will be accessed off a new vehicular crossover from Leighton Avenue. This meets the policy requirement in terms of parking for the residential units with 1 space spare. There is no requirement to provide parking for the retail units in this location given the sustainability of the site.

- 7.55 In terms of traffic generation the Design and Access Statement comments that the existing use on site generates more traffic movements than the proposed development. The Councils Highways Officer agrees with this and has not raised any objections in terms of impact on the surrounding road network. No information has been provided in relation to the servicing of the retail units, however, given their modest size and A1 use this is not considered to be significant issue.

Refuse and Cycle Storage

- 7.56 All new development is required to provide secure a convenient refuse/recycling storage and a secure and convenient cycle storage to serve the development. Where a mix of residential and commercial uses is proposed, separate refuse and cycle stores are required.
- 7.57 The plans for the undercroft parking area also show a bin store and 2 bike stores which are of a suitable size for the proposed residential dwellings. The proposal is therefore acceptable and policy compliant in this regard in relation to the residential units but it is noted that no provision for refuse or cycle parking has been made in relation to the commercial units. It is unclear how this could be achieved given the tight layout of the undercroft area and limited size of the retail units. The proposal is therefore acceptable and policy compliant in this regard in terms of the residential units but not acceptable and contrary to policy in terms of the commercial units.

Construction Management Plan

- 7.58 Given the location of the site on a main distributor route through the Borough it is considered that it would be prudent to require a construction management plan to be submitted for any redevelopment of this site so that the logistics and management of the construction process is fully considered to minimise the impact on the road network and neighbours. This can be controlled by a condition requiring the developer to submit a Construction Management Plan. A condition relating to hours of construction can also be imposed. Subject to these conditions, the proposal is considered to be acceptable and policy compliant in this regard.
- 7.59 Overall therefore, whilst the parking provision and access meets the requirements of DM15 and it is considered that the proposal would not give rise to unacceptable levels of traffic generation and has met the needs of the proposed residents in terms of refuse and cycle storage, the proposal has failed to provide for refuse and cycle storage for the retail units. The proposal is therefore unacceptable and contrary to policy in this regard.

.....

Sustainability

- 7.60 Policy KP2 of the Core Strategy requires that *“at least 10% of the energy needs of new development should come from on-site renewable options (and/or decentralised renewable or low carbon energy sources)*. Policy DM2 of the Development Management Document states that *“to ensure the delivery of sustainable development, all development proposals should contribute to minimising energy demand and carbon dioxide emissions”*. This includes energy efficient design and the use of water efficient fittings, appliances and water recycling systems such as grey water and rainwater harvesting.
- 7.61 The Design and Access Statement comments that roof mounted photo-voltaic panels are proposed and these are shown on the roof plan however, no calculations have been provided to demonstrate that this meets the 10% requirement and no information has been given regarding water usage.
- 7.62 It is considered that, for a scheme of this magnitude, the requirement for renewable energy and restrictions on water usage could be controlled with conditions. The proposal is therefore considered to be acceptable and policy compliant in this regard subject to conditions.

Drainage

- 7.63 Policy KP2 of the Core Strategy states all development proposals should demonstrate how they incorporate sustainable drainage systems (SUDS) to mitigate the increase in surface water runoff, and, where relevant, how they will avoid or mitigate tidal or fluvial flood risk.
- 7.64 The site is located in flood risk zone 1 (low risk). The SuDS Statement (Document Ref: MAS157, dated 30 January 2018), produced by HJ Structural Engineers and the Phase 1 Desk Study Report, produced by Endeavour Drilling (Document Ref: END19-007, January 2019) have been submitted in support of the outline planning application. In regards to these documents the Council’s SUDs consultant comments that the submission does not include a drainage layout identifying the proposed location SUDs features, indicative pipework, discharge rates and flows and final discharge locations nor does it provide any evidence demonstrating that surface water runoff retention on site has been maximised for the 1 in 100 year plus 40% climate change storm event to achieve an overall discharge from the site as close as possible to greenfield runoff rate. Without this information it is not possible to assess whether the drainage proposals could meet the policy requirements and whether a suitable condition could be worded to require the more detailed information required for implementation.
- 7.65 The proposal has therefore failed to demonstrate that the surface water drainage scheme for the site would meet the policy requirements. The proposal is therefore unacceptable in this regard.

Contamination

- 7.66 Phase 1 Desk Study Report, produced by Endeavour Drilling (Document Ref: END19-007, January 2019). This notes that the site has a history of motor repairs and sales and this gives rise to a moderate to low risk of contaminants associated with this type of use. It recommends that detailed ground investigations and chemical analysis should be undertaken to confirm or otherwise the findings of the desk study and identify any remedial works required are undertaken prior to construction of a new development on the site. If the proposal was otherwise found to be acceptable this Phase II survey and any associated remedial works can be required by condition. The proposal is therefore considered to be acceptable and policy compliant in this regard.

Planning Obligations

- 7.67 Paragraph 56 of the NPPF states that ‘Planning obligations must only be sought where they meet all of the following tests:

- Necessary to make the development acceptable in planning terms;
- Directly related to the development; and
- Fairly and reasonably related in scale and kind to the development.

- 7.68 Paragraph 57 of the NPPF states *‘Where up-to-date policies have set out the contributions expected from development, planning applications that comply with them should be assumed to be viable. It is up to the applicant to demonstrate whether particular circumstances justify the need for a viability assessment at the application stage. The weight to be given to a viability assessment is a matter for the decision maker, having regard to all the circumstances in the case, including whether the plan and the viability evidence underpinning it is up to date, and any change in site circumstances since the plan was brought into force. All viability assessments, including any undertaken at the plan-making stage, should reflect the recommended approach in national planning guidance, including standardised inputs, and should be made publicly available’.*

- 7.69 The National Planning Practice Guide makes it clear that *‘Where local planning authorities are requiring affordable housing obligations or traffic style contributions to infrastructure, they should be flexible in their requirements...On individual schemes applicants should submit evidence on scheme viability where obligations are under consideration.’*

- 7.70 Core Strategy Policy KP3 requires that:

“In order to help the delivery of the Plan’s provisions the Borough Council will:

2. Enter into planning obligations with developers to ensure the provision of infrastructure and transportation measures required as a consequence of the development proposed. This includes provisions such as:

- a. roads , sewers, servicing facilities and car parking;*
- b. improvements to cycling, walking and passenger transport facilities and services;*
- c. off-site flood protection or mitigation measures, including sustainable drainage systems (SUDS);*
- d. affordable housing;*
- e. educational facilities;*
- f. open space, ‘green grid’, recreational, sport or other community development and environmental enhancements, including the provision of public art where appropriate;*

g. any other works, measures or actions required as a consequence of the proposed development; and h. appropriate on-going maintenance requirements.”

- 7.71 The need for negotiation with developers, and a degree of flexibility in applying affordable housing policy, is echoed in Core Strategy policy CP8 that states the following:

The Borough Council will...enter into negotiations with developers to ensure that:

.... all residential proposals of 10-49 dwellings or 0.3 hectares up to 1.99 hectares make an affordable housing or key worker provision of not less than 20% of the total number of units on site...

For sites providing less than 10 dwellings (or below 0.3 ha) or larger sites where, exceptionally, the Borough Council is satisfied that on-site provision is not practical, they will negotiate with developers to obtain a financial contribution to fund off-site provision. The Council will ensure that any such sums are used to help address any shortfall in affordable housing.

- 7.72 Furthermore, the responsibility for the Council to adopt a reasonable and balanced approach to affordable housing provision, which takes into account financial viability and how planning obligations affect the delivery of a development, is reiterated in the supporting text at paragraph 10.17 of the Core Strategy and paragraph 2.7 of “Supplementary Planning Document: Planning Obligations”
- 7.73 A development of this scale would require the provision of 20% affordable housing which equates to 3 units. A covering letter submitted with the application states that the developer is willing to provide 3 units of affordable housing. These will be comprised of 1 x 1 bed unit, 1 x 2 bed unit and 1 x 3 bed unit. Subject to the agreement of tenures, this would be policy compliant in terms of affordable housing provision, however, no viability information has been provided to demonstrate that this would be deliverable for the proposed scheme despite this information being requested a number of times. The Council’s Local List requirements make it clear that for all residential development which exceeds 10 units, a financial viability assessment is required.
- 7.74 The proposal is also required to make a financial contribution to secondary education in the Borough as the local secondary schools are at capacity. This has been calculated as £35,792.92 based on the proposed number and size of units. This contribution would usually be factored into the viability of the proposal and the subsequent S106 agreement.
- 7.75 The application has not been submitted with a viability assessment or any Heads of Terms and consequently no unilateral undertaking to provide affordable housing or an education contribution as required by policy KP3 has been agreed. The proposal is therefore unacceptable and the proposal is contrary to policy in this regard.

Community Infrastructure Levy (CIL)

7.76 This application is CIL liable and there will be a CIL charge payable. In accordance with Section 70 of the Town and Country Planning Act 1990 (as amended by Section 143 of the Localism Act 2011) and Section 155 of the Housing and Planning Act 2016, CIL is being reported as a material 'local finance consideration' for the purpose of planning decisions. As this is an outline application, the CIL amount payable will be calculated on submission of a reserved matters application when the floorspace figures will be confirmed. Indicative CIL calculations for the submitted plans based on an internal area of 1386.7 sqm of Housing and 127sqm of commercial space (subject to confirmation) equate to a CIL charge of approximately £103315.76. Any existing floor area that is being retained/demolished that satisfies the 'in-use building' test, as set out in the CIL Regulations 2010 (as amended), may be deducted from the chargeable area thus resulting in a reduction in the chargeable amount.

8 Conclusion

The Planning Balance

8.1 In all decisions the Council is required to weigh the harm against the public benefits of the proposal, the planning balance. In this case the public benefit of the proposal is the provision of 14 dwellings in a time of housing need.

5 Year Land Supply and Housing Delivery Test

8.2 The Government standard methodology for assessing housing needs for Southend indicates a provision of 909 – 1,176 dwellings per annum, a considerable uplift on previous housing targets as contained in the adopted Southend Core Strategy (2007).

8.3 The Government published a Housing Delivery Test (HDT) 2018 Measurement in February 2019 to ensure delivery of the new standard methodology. This requires the local planning authority to have delivered a certain percentage of their adopted housing target based on the last three years housing delivery. However, if housing policies are more than 5 years old the standard methodology applies. For Southend this indicates that it delivered 49% of the number of new homes required by the standard method between the financial years of 2015 - 2018.

8.4 The Housing Delivery Test requires that if the rate of delivery is:

- below 95% of the standard methodology housing requirement it must prepare an Action Plan;
- below 85% of the standard methodology housing requirement it must ensure a 20% Buffer on its 5 year housing supply;
- below 75% of the standard methodology housing requirement there is
- a presumption in favour of sustainable development, subject to the transitional arrangements set out in paragraph 215 of the NPPF (PPG ID: 042 68-042-20190722).
- Paragraph 215 of the NPPF states that the Housing Delivery Test will apply from the day following the publication of its results in November 2018. For the November 2018 results, this means where delivery was below 25% of housing required over the previous 3 years.

8.5 As Southend has delivered 49% of the total number of new homes required between the

financial years of 2015 – 2018, the presumption in favour of sustainable development does not currently apply, although it is required to publish an action plan and ensure a 20% buffer on the local planning authority's 5 year land supply.

- 8.6 Even if the development plan policies were found to be inconsistent with the framework the adverse impact from the development, given the limited number of new dwellings proposed it is considered that the degree of harm caused would not be significantly and demonstrably outweighed the benefits arising from the development.
- 8.7 Having taken all material planning considerations into account, it is found that the development is unacceptable and contrary to policy for a number of reasons:
- The size, mass, form and detailed design, would result in a bulky and intrusive addition to the streetscene which harms the character and appearance of the surroundings area,
 - the proposal has failed to demonstrate that the development is capable of complying with Building Regulations Part M4(2) and M4(3) and therefore that the dwellings would be accessible and adaptable for all,
 - the proposal has failed to include any provision for refuse and cycle storage in relation to the retail units,
 - the proposed sustainable drainage statement does not meet the minimum requirements for assessment and
 - the proposal does not include a formal undertaking to secure a suitable contribution towards affordable housing provision and education facilities in the Borough.
- 8.8 As noted above the harm caused is not outweighed by the public benefits of the scheme including the provision of housing. The proposal is therefore unacceptable and contrary to policy in the above regards.

9 Recommendation

9.1 REFUSE PLANNING PERMISSION for the following reasons:

- 01 **The proposal, by reason its size, mass, form and detailed design, would result in a bulky and intrusive addition to the streetscene which harms the character and appearance of the site and wider surroundings area. This harm is not outweighed by any public benefits including the provision of housing. This is unacceptable and contrary to the National Planning Policy Framework (2019), policies KP2 and CP4 of the Core Strategy (2007) and polices DM1 and DM3 of the Development Management Document (2015) and advice contained within the Southend Design and Townscape Guide (2009).**
- 02 **As a major development 10% of the residential units are required to meet Building regulation standards M4(3) 'wheelchair user dwellings' with all other residential units required to meet the requirements of M4(2) 'accessible and adaptable dwellings'. The proposal has failed to demonstrate that it can be constructed to meet these requirements thus the development fails to prove that it will result in an accessible and adaptable dwellings suitable for all people and wheelchair users specifically.**
This is unacceptable and contrary to the National Planning Policy Framework (2019), Core Strategy (2007) policy KP2, Development Management Document

(2015) policy DM8 and the advice contained in the Southend Design and Townscape Guide (2009).

- 03** The information submitted fails to demonstrate that the proposal would provide acceptable refuse, recycling and cycle storage facilities for the proposed A1 use within the development. It therefore cannot be concluded that the proposal would not be detrimental to the character and appearance of the site and the wider area. This is unacceptable and contrary to Core Strategy (2007) policies KP2 and CP4, Development Management Document (2015) Policies DM1, DM3, DM7 and DM15 and advice contained within the Southend Design and Townscape Guide (2009).
- 04** The Sustainable Urban Drainage Statement by HJ Structural Engineers reference MAS157 submitted with the application fails to meet the minimum requirements to allow the proper assessment of sustainable drainage proposed for the development. It has therefore not been demonstrated that the scheme can provide adequate drainage infrastructure. This is unacceptable and contrary to the National Planning Policy Framework (2019) and Policies KP2 and CP4 of the Core Strategy (2007) and Policy DM2 of the Development Management Document (2015).
- 05** The application does not include a formal undertaking to secure a suitable contribution towards affordable housing provisions to meet demand for such housing in the area and no report to demonstrate that such contributions is viable has been submitted. A formal undertaking to secure a contribution to the delivery of educational facilities is also absent. In the absence of these undertakings the application is unacceptable and contrary to the National Planning Policy Framework (2019), Policies KP2, KP3, CP4, CP6 and CP8 of the Core Strategy (2007) and Policy DM7 of the Development Management Document (2015).

The Local Planning Authority has acted positively and proactively in determining this application by identifying matters of concern with the proposal and determining the application within a timely manner, clearly setting out the reason(s) for refusal, allowing the Applicant the opportunity to consider the harm caused and whether or not it can be remedied by a revision to the proposal. The detailed analysis is set out in a report prepared by officers. In the circumstances the proposal is not considered to be sustainable development. The Local Planning Authority is willing to discuss the best course of action.

Informatives

01 Please note that the proposed development subject of this application is liable for a charge under the Community Infrastructure Levy (CIL) Regulations 2010 (as amended). The amount of levy due will be calculated at the time a reserved matters application is submitted. Further information about CIL can be found on the Planning Portal

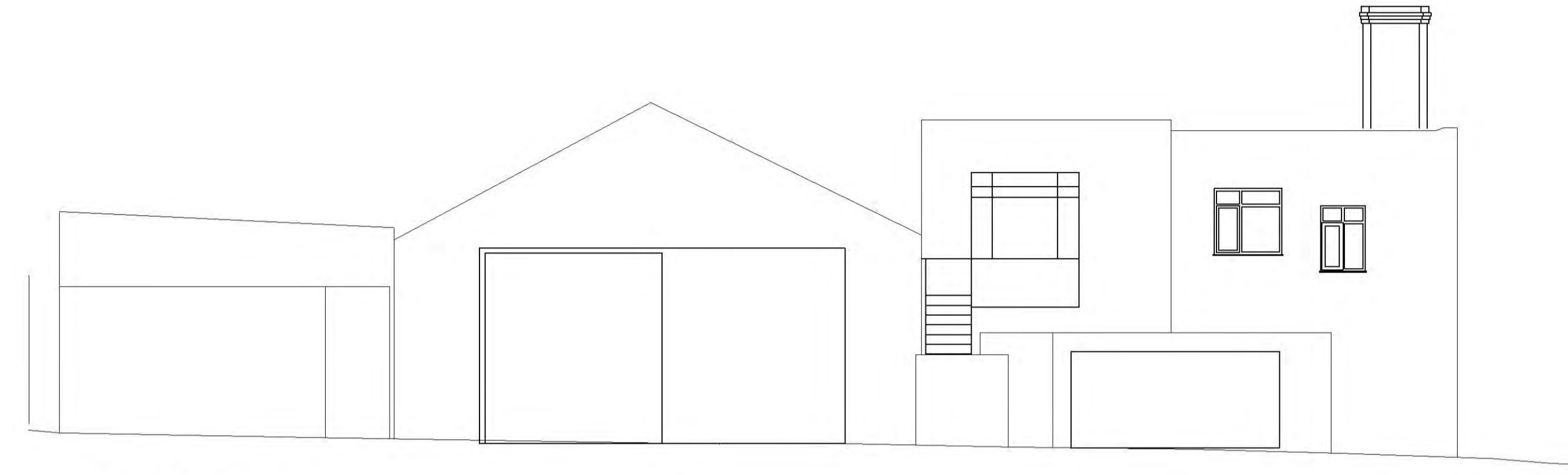
(www.planningportal.co.uk/info/200136/policy_and_legislation/70/community_infrastructure_levy) or the Council's website (www.southend.gov.uk/cil).



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Existing East Facing Elevation 1:100
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Existing South Facing Elevation 1:100
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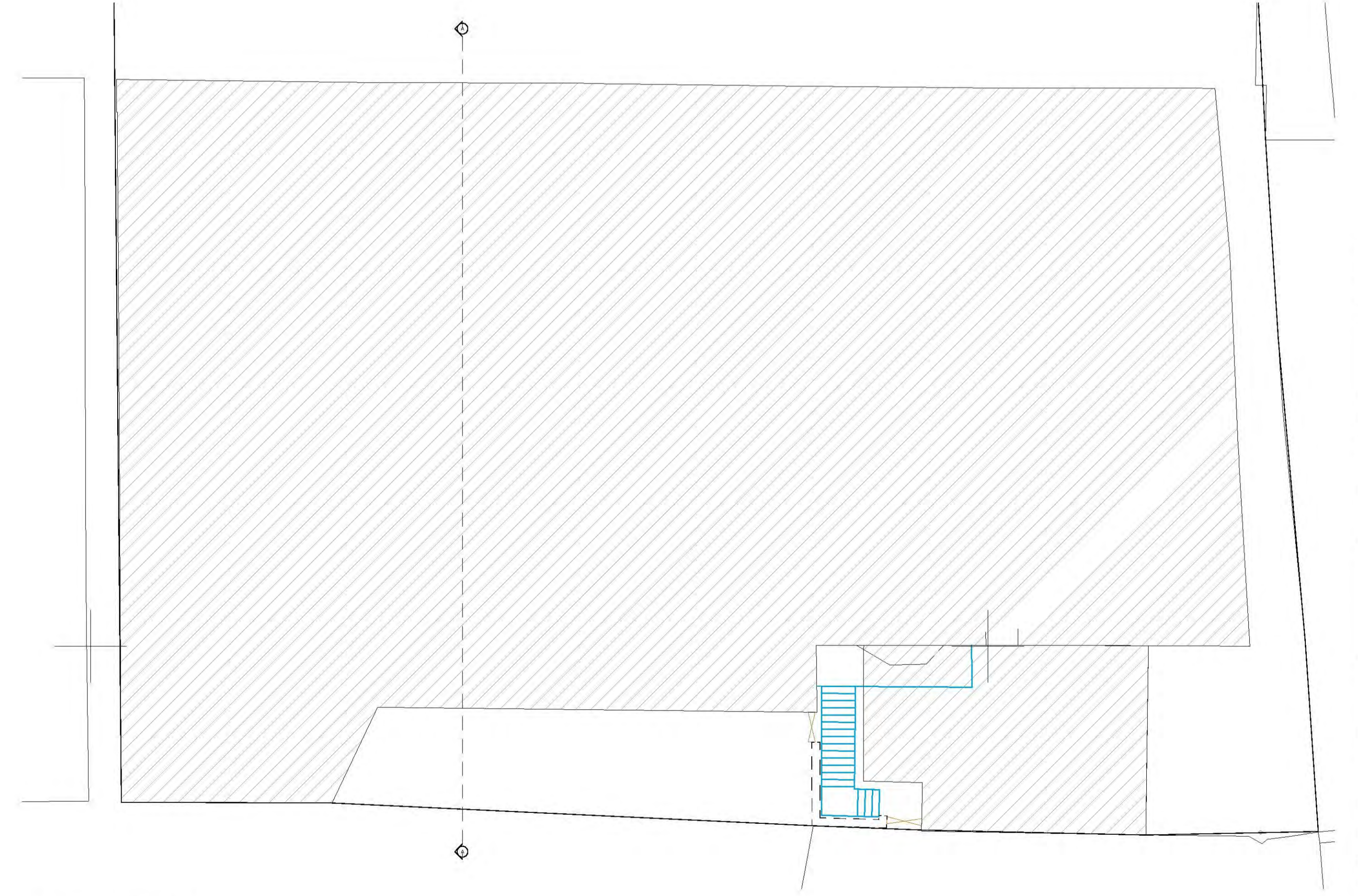


Existing Section A-A 1:100
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28



Existing West Facing Elevation 1:100
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Existing Ground Floor Plan 1:100
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Existing Block Plan 1:500
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Existing Location Plan 1:1250
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Notes	
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Rev	Comment	By	Date
-	Production of drawings	-	-/-/20-

Stage:
3 - Developed Design

Client:
Larman

Project:
S83
London Road
Leigh-on-Sea
Essex
SS9 3NE

Drawing Title:
Existing

Drawing no:
448-P01

Revision: ... Drawn by: WRS

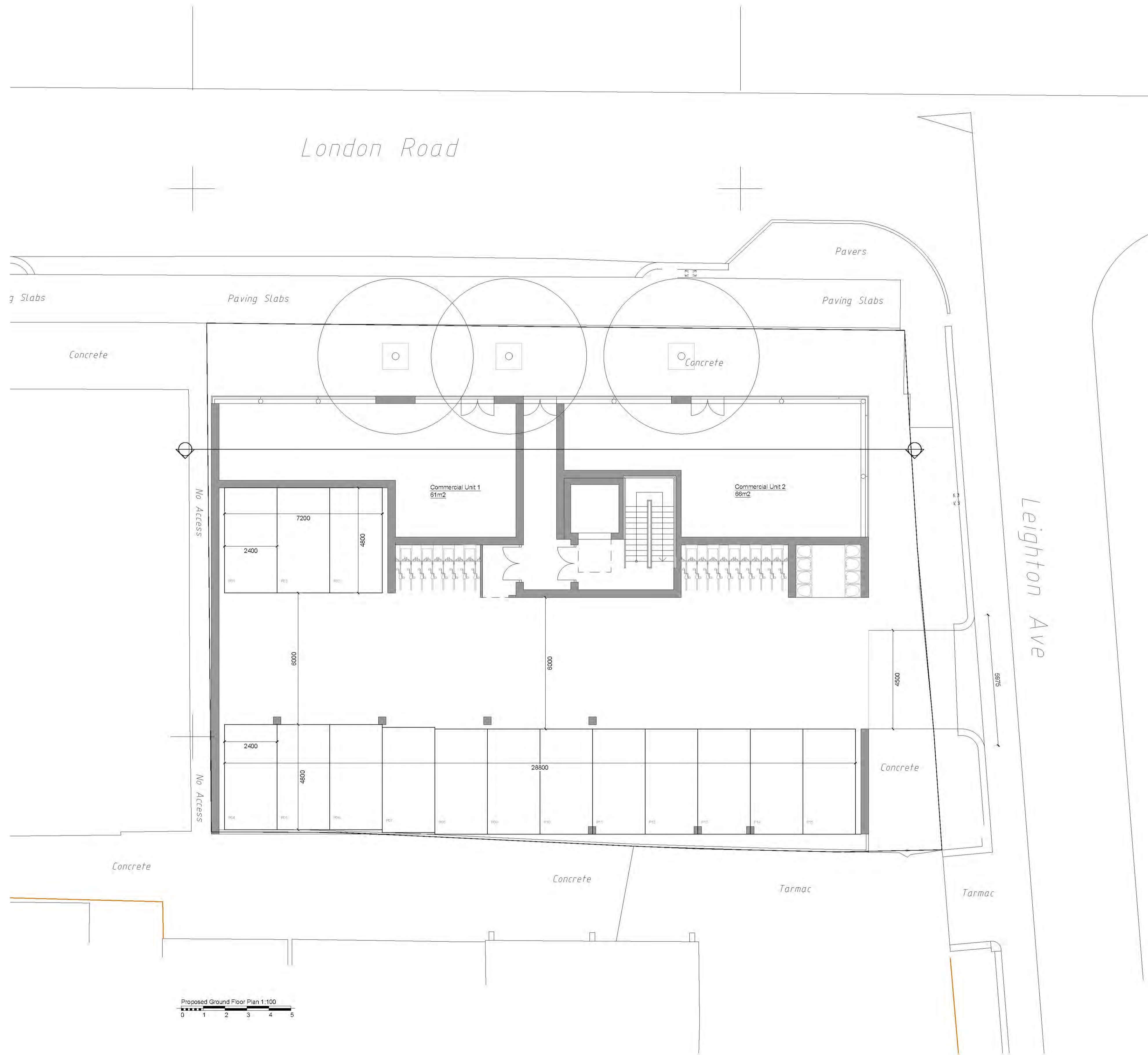
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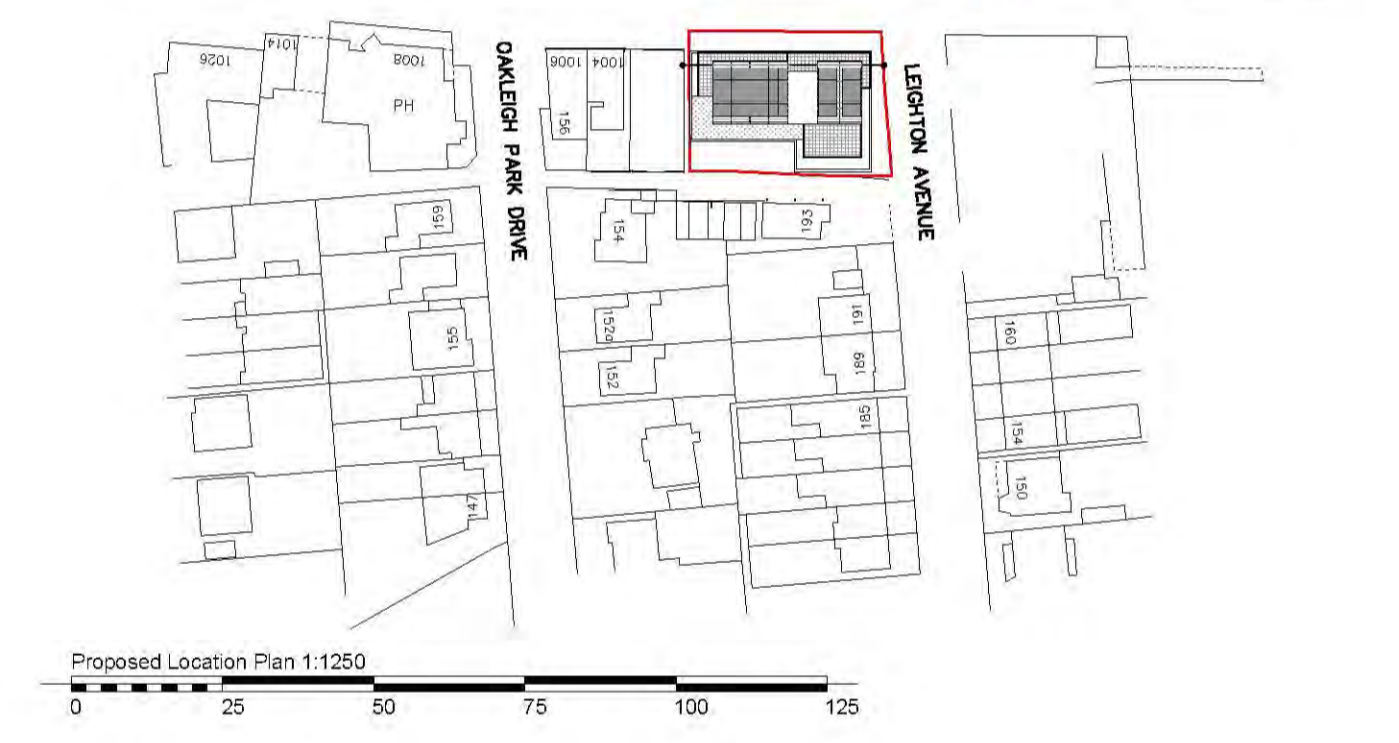
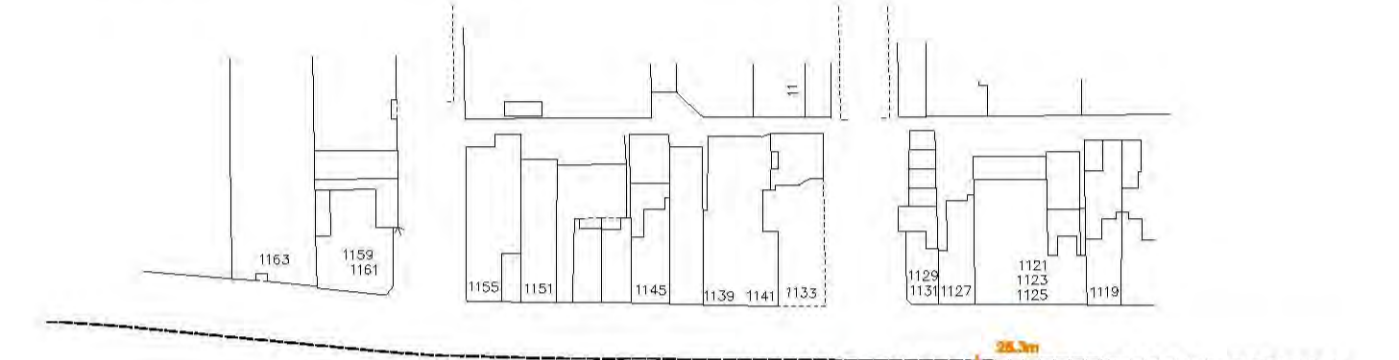
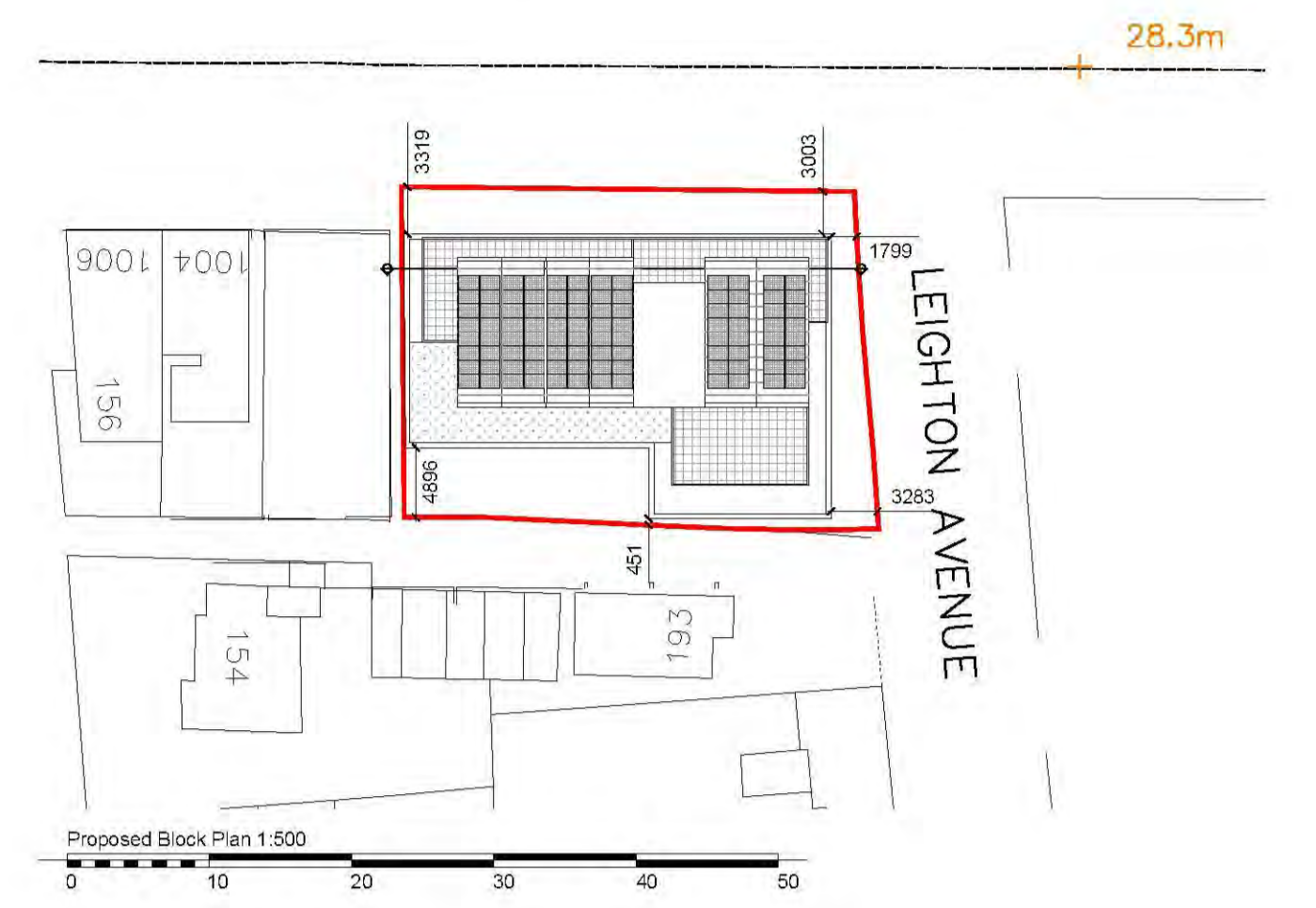
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151	1145	1139	1141	1133	1129	1123
					1131	1125



28.3m

Notes:

Rev	Comment	By	Date
-	Production of drawings	-	-/-/20-

Stage: 3 - Developed Design

Client: Larman

Project:
 888
 London Road
 Leigh-on-Sea
 Essex
 SS9 3NE

Drawing Title: Proposed Ground Floor, Block & Location Plans

Drawing no:
448-P02

Revision: _____ Drawn by: WRS

Project no: 448 Drawn by: ABC

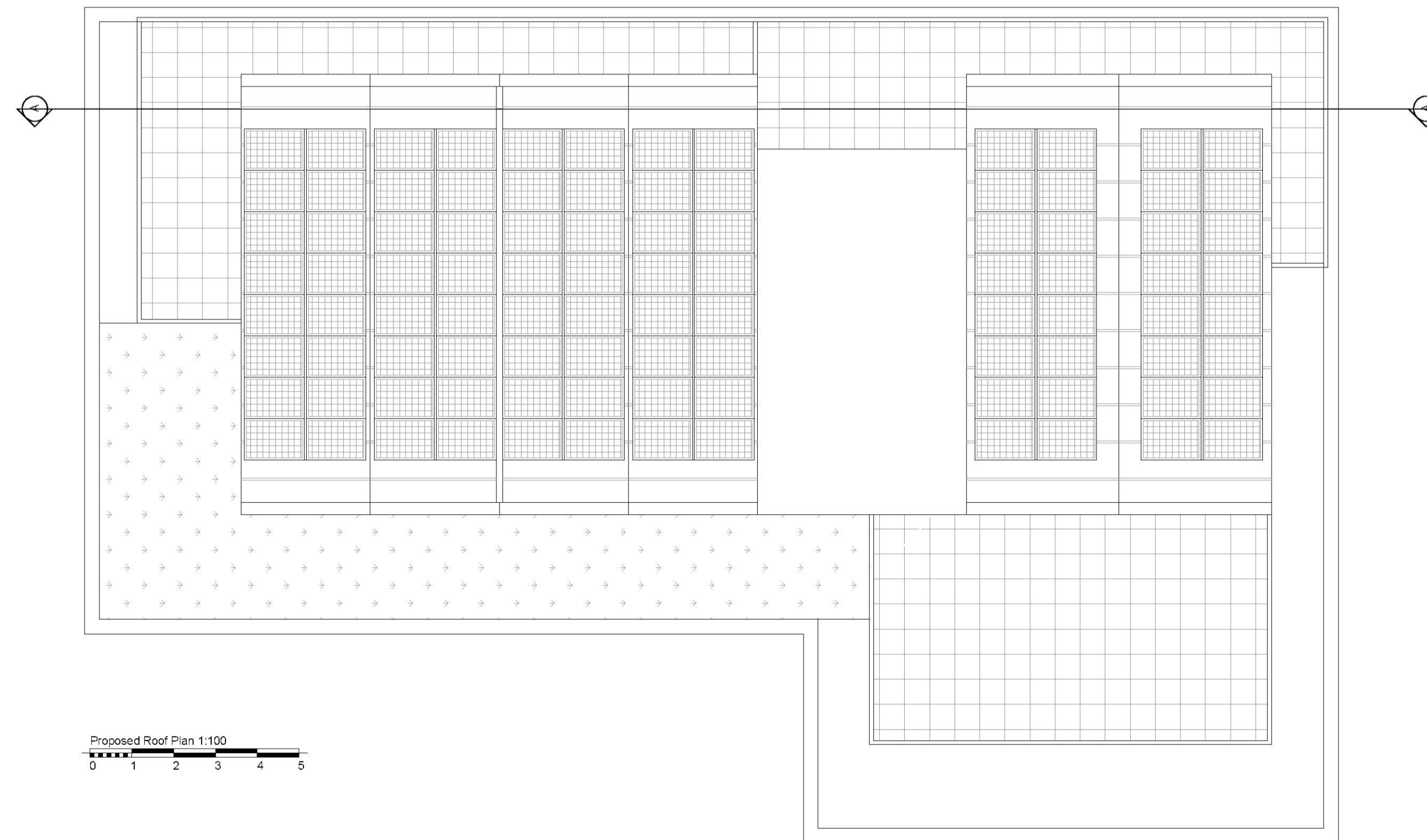
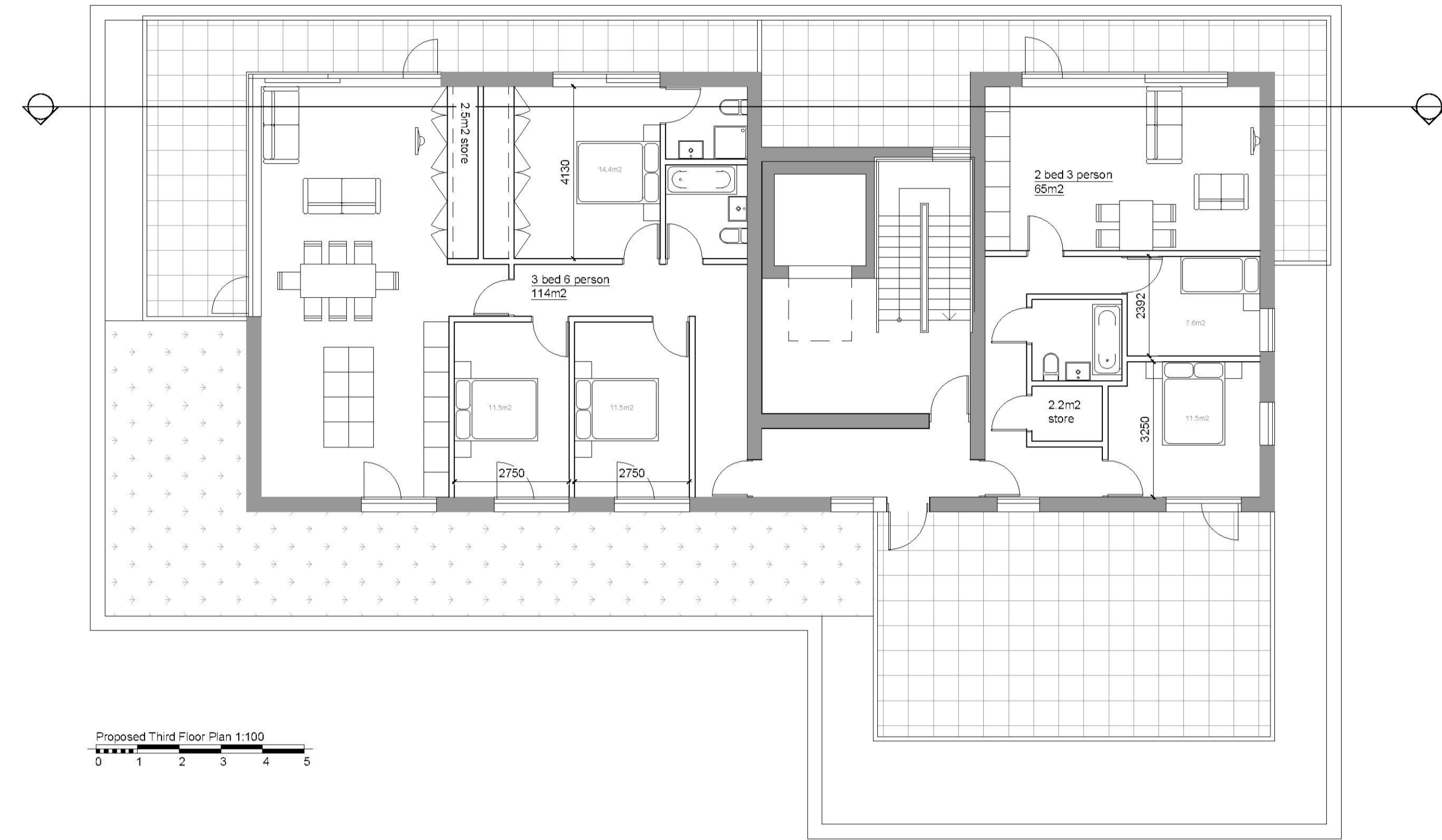
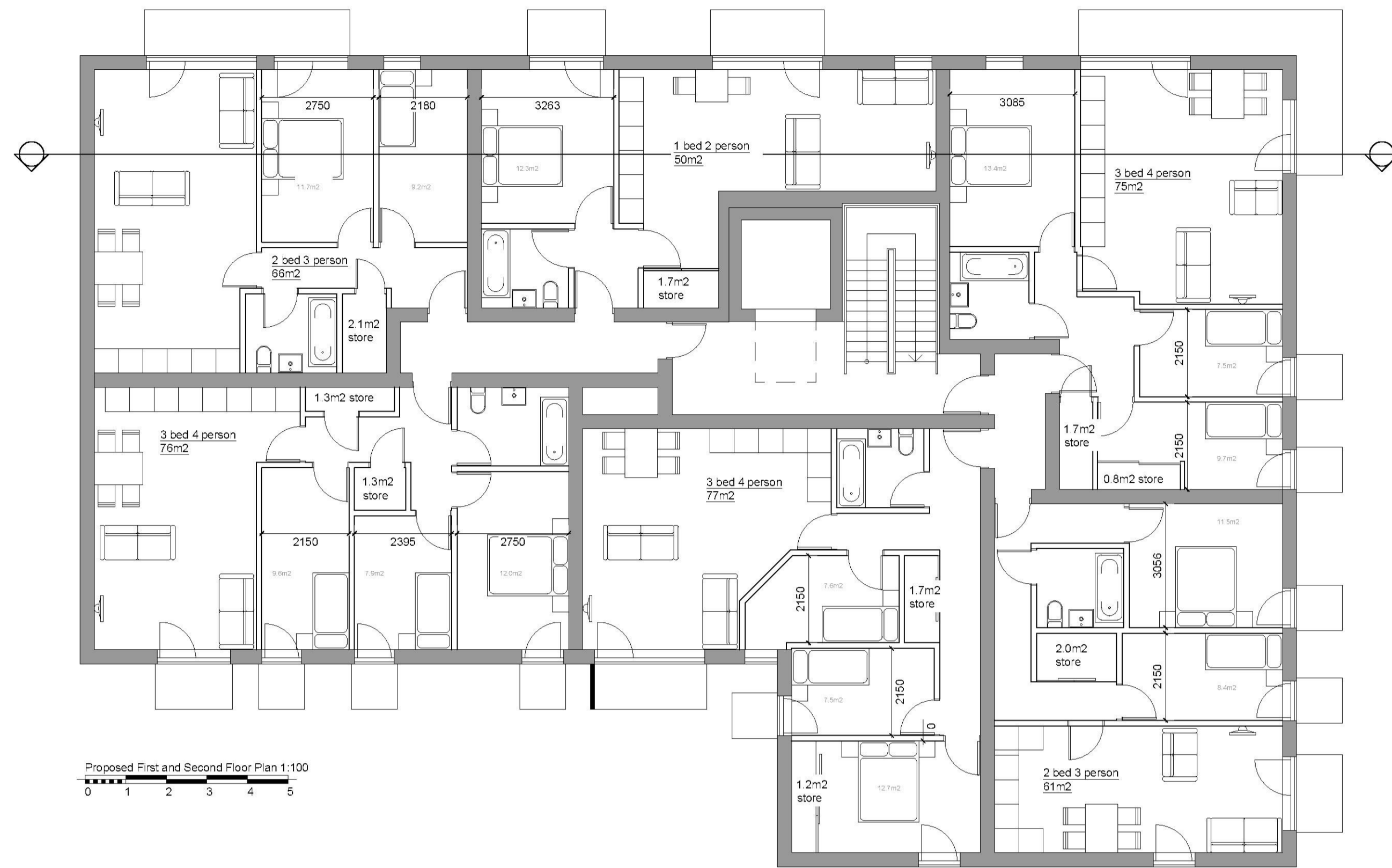
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Notes			

Rev	Comment	By	Date
..	Production of drawings	..	--/--/20--

Stage:
3 - Developed Design

Client:
Larman

Project:
S88
London Road
Leigh-on-Sea
Essex
SS9 3NE

Drawing Title:
Proposed First, Second, Third Floor & Roof Plans

Drawing no:
448-P03

Revision: ... Drawn by: WRS

Project no: 448 Checked by: ABC

Scale: 1:100 @ A1

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Proposed South Facing Elevation 1:100
0 1 2 3 4 5



Proposed East Facing Elevation 1:100
0 1 2 3 4 5

Notes	

Rev	Comment	By	Date
-	Production of drawings	-	-/-/20-

Stage:
3 - Developed Design

Client:
Larman

Project:
888
London Road
Lough-on-Sea
Essex
SS9 3NE

Drawing Title:
Proposed Elevations

Drawing no:
448-P05

Revision: ... Drawn by: WRS

Project no: 448 Chkd by: ABC

Scale: 1:100 @ A1

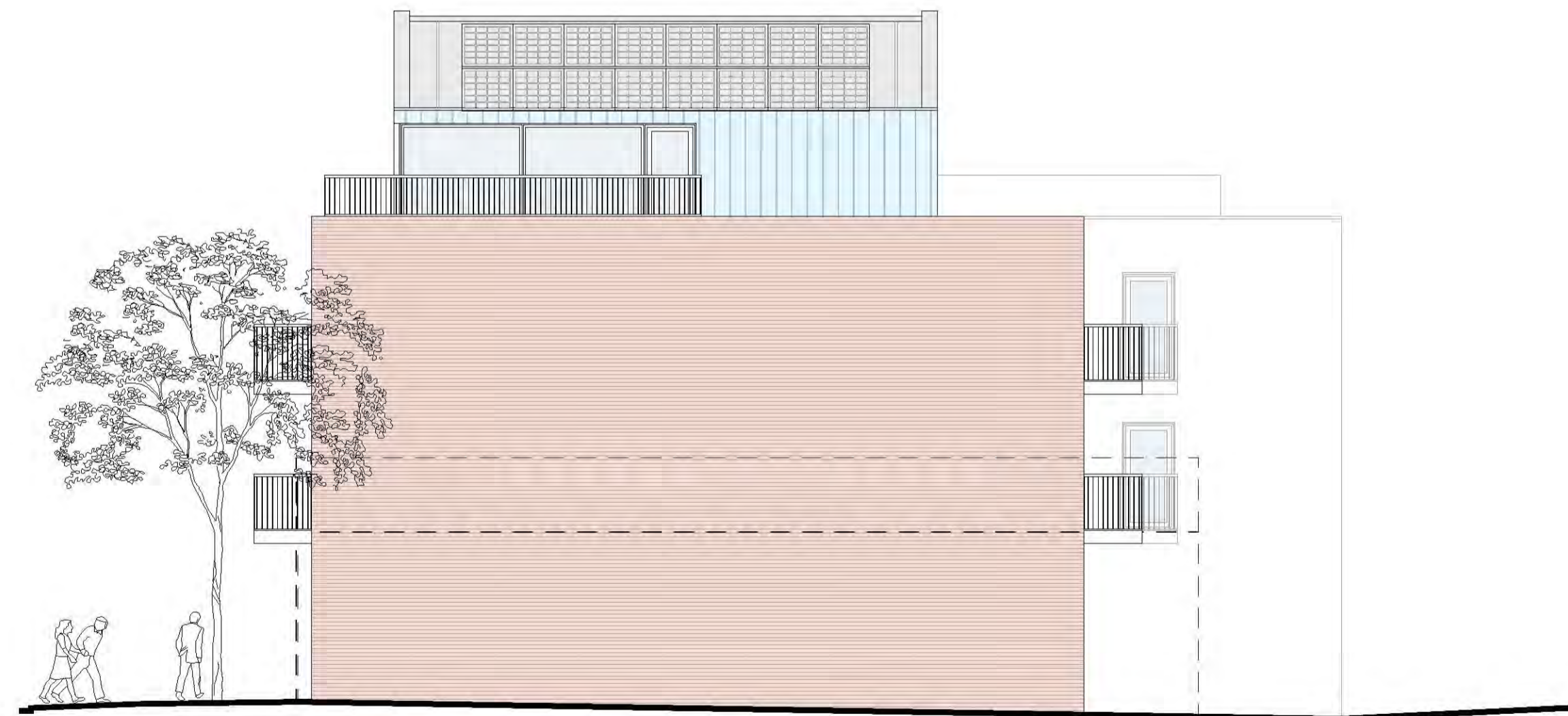
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Proposed North Facing Elevation 1:100
 0 1 2 3 4 5



Proposed West Facing Elevation 1:100
 0 1 2 3 4 5

Notes:	
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Rev	Comment	By	Date
1	Production of drawings	WRS	11/10/20

Stage:
3 - Developed Design

Client:
Larman

Project:
S88
London Road
Lough-on-Sea
Essex
SS9 3NE

Drawing Title:
Proposed Elevations

Drawing no:
448-P04

Revision: _____ Drawn by: WRS

Project no: 448 Drawn by: ABC

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Reference:	19/01593/FUL	<h1>5</h1>
Application Type:	Full Application	
Ward:	Kursaal	
Proposal:	Change of use from 6 bedroom House in Multiple Occupation (HMO) (Class C4) to 7 bedroom House in Multiple Occupation (HMO) (Sui Generis) (Part Retrospective)	
Address:	10 Cromer Road, Southend-On-Sea, Essex, SS1 2DU	
Applicant:	Mr Martin Saunders	
Agent:	Mr Wilton Nodoro of Krystal Architecture Ltd.	
Consultation Expiry:	23.09.2019	
Expiry Date:	20.11.2019	
Case Officer:	Scott Davison	
Plan Nos:	562-200- Rev 02, 562-201 Rev 02 & 562 202 Rev 01	
Recommendation:	GRANT PLANNING PERMISSION	



1 Site and Surroundings

- 1.1 The application site is a two storey, end of terrace dwelling house located on the eastern side of Cromer Road between its junctions with York Road and Kilworth Avenue. It has a hard surfaced area to the front of the house and a private rear garden. There is a narrow gated undercroft that allows access for persons to the rear garden.
- 1.2 The surrounding area is made up of predominately residential dwellings. However, a garage block is located immediately to the east (rear) of the application site.
- 1.3 The site has no specific allocation within the Development Management Document's Proposal's Map.

2 The Proposal

- 2.1 The application seeks planning permission for a change of use of the site from a 6 person 6 bedroom house in multiple occupation (HMO) (Class C4) to a 7 person, 7 bed house in multiple occupation (Sui Generis). The dwelling was previously in use as a two storey, four bedroom dwelling house. A site visit revealed that works to convert the building into a 7 room HMO had commenced and the application form stated that these works had commenced in June 2019. The applicant has submitted photographs that show the works have been completed and confirmed that the first tenant moved in on the 28th October 2019.
- 2.2 The design and access statement submitted with the application states that an existing maintenance store and WC would be converted to a 7th bedroom with an en-suite. The design and access statement notes that the property has been converted to a class C4 HMO for 6 people under the General Permitted Development Order. A communal kitchen, dining and living area is provided on the ground floor and a private amenity area is located to the rear of the building. The submitted information indicates that all of the rooms will be single occupancy and the rooms are shown with single beds. Photographs of the bedrooms show double beds and given their size and depending on which standards are applied, 1 of the 6 rooms is capable of double occupancy and as such the development must be considered based on providing accommodation for up to 8 people. This is discussed in detail below.
- 2.3 Two off-street parking spaces are proposed to the front of the site. A cycle parking store is shown in the rear garden and a bin store is proposed in the rear garden. No external changes are proposed as a result of this development.
- 2.4 This application follows the refusal of planning application Ref: 18/02320/FUL, "Change of use from Dwellinghouse (Class C3) to House In Multiple Occupation (Sui Generis) and erect dormer to rear." The application was refused for the following reasons.

01. The proposed development would result in the loss of a family sized dwelling, for which there is need within the Borough. The development is therefore unacceptable and contrary to National Planning Policy Framework (2018), Policy CP8 of the Core Strategy (2007) and DM7 of the Development Management Document (2015).

02. By virtue of the scale and potential intensity of use with up to 11 residents living at the dwelling, the development would result in material adverse harm to the residential amenity of the adjoining residents in terms of noise and disturbance. The development is therefore unacceptable and contrary to The National Planning Policy Framework (2018), Policies KP2 and CP4 of the Core Strategy (2007), Policies DM1 and DM3 of the Development Management Document (2015) and the advice contained within the Design and Townscape Guide (2009).

03. The proposed development fails to provide sufficient parking to meet the needs of occupiers and would result in a material increase in on-street parking to the detriment of parking conditions, highway safety and free flow of traffic on the local highway network. This is unacceptable and contrary to the National Planning Policy Framework (2018), Policy CP3 of the Core Strategy (2007) and Policies DM3 and DM15 of the Development Management Document (2015).

04. The rear escape staircase would by reason of its size, design and height, represent a discordant feature which is detrimental to the character and appearance of the host property and the area more widely. The proposal is therefore unacceptable and contrary to the National Planning Policy Framework (2018) Policies KP2 and CP4 of the Southend-on-Sea Core Strategy (2007); Policies DM1 and DM3 of the Southend-on-Sea Development Management Document (2015); and advice contained within the Southend-on-Sea Design and Townscape Guide (2009).

2.5 The differences between the previously refused scheme and the proposed development are as follows:

- No external alterations are proposed i.e. no rear dormer and no external staircase.
- The applicant states that the property has been converted to a 6 room HMO (use class C4) and is no longer a single family dwelling.
- The proposed internal layout is altered.
- Maximum occupancy reduced from 11 people to 8 persons.

3 Relevant Planning History

3.1 18/02320/FUL Change of use from Dwellinghouse (Class C3) to House In Multiple Occupation (Sui Generis) and erect dormer to rear. Refused.

3.2 18/02313/CLP Use as House In Multiple Occupation and dormer to rear (Lawful Development Certificate - Proposed). Refused due to the inclusion of work, (veranda), outside the scope of permitted development.

Enforcement History

3.3 19/00144/UCOU_B Unauthorised HMO. Initial complaint received 22nd May 2019. Applicant stated that the property is being converted to a 6 bed (6 person) C4 HMO through reconfiguration of the existing footprint. Case Closed 31st May 2019.

4 Representation Summary

Public Consultation

4.1 'Councillor Dent has called the application in for consideration by the Development Control Committee and made the following comments on the application:

- The application fails to mitigate the previous reasons for refusal.
- The harm to local amenity will be considerable in terms of noise and disturbance.
- The increase number of residents will have a negative impact on street parking as insufficient parking is provided.
- The area suffers from parking challenges and is subject to a resident permit scheme.

4.2 15 neighbouring properties were consulted and a site notice was displayed. 6 letters of representation have been received which raise the following points;

- A 7 or 8 bedroom HMO will have a detrimental impact on the immediate and surrounding area.
- Cromer Road which is a quiet residential road
- Limited parking already and insufficient parking is provided.
- Proposed development will impact on quality of life for local residents
- Fear of crime and anti-social behaviour.
- Proposed development would result in disturbance to the local residents
- 12 adults in one house if tenants are in a relationship.
- Provision of cycle storage in rear would result in increased use of alleyway and will disturb neighbouring residents if used on an everyday basis
- Increase in number of visitors and associated movements
- Proposal would result in an increase in household waste with potential impact on health and the environment.
- Proposal would add to problems associated with hostels and rehab centres in York Road.
- Concerns over future occupants of HMO.

The concerns raised are noted and they have been taken into account in the assessment of the proposal.

Environmental Health

4.3 No objection.

5 Planning Policy Summary

5.1 The National Planning Policy Framework (NPPF) (2019)

5.2 Core Strategy (2007) Policies KP1 (Spatial Strategy) KP2 (Development Principles), KP3 (Implementation and Resources), CP3 (Transport and Accessibility), CP4 (Environment & Urban Renaissance), and CP8 (Dwelling Provision).

- 5.3 Development Management Document (2015): Policies DM1 (Design Quality), DM3 (Efficient and Effective Use of Land), DM8 (Residential Standards) and DM15 (Sustainable Transport Management).
- 5.4 Design & Townscape Guide (2009)
- 5.5 The Essex HMO Amenity Standards (2018)
- 5.6 CIL Charging Schedule (2015)

6 Planning Considerations

- 6.1 The main planning considerations in this case are: the principle of development (including the loss of a family dwelling), living conditions for future occupiers, car parking arrangements/transport considerations, design quality and impact on surrounding area, amenities of neighbouring occupiers, CIL (Community Infrastructure Levy) and whether the proposal overcomes the previous reasons for refusal.

7 Appraisal

Principle of Development

- 7.1 Southend Borough Council's development plan does not currently contain policies that specifically relate to Houses in Multiple Occupation. Paragraph 11 of the National Planning Policy Framework states that *'where there are no relevant development plan policies, or the policies which are most important for determining the application are out-of-date, granting planning permission unless the application of policies in this Framework that protect areas or assets of particular importance provides a clear reason for refusing the development proposed, or any adverse impacts of doing so would significantly and demonstrably outweigh the benefits when assessed against the policies in this Framework taken as a whole.'*
- 7.2 Paragraph 117 of the National Planning Policy Framework states 'Planning policies and decisions should promote an effective use of land in meeting the need for homes and other uses, while safeguarding and improving the environment and ensuring safe and healthy living conditions.'
- 7.3 Core Strategy Policies KP2 and CP4 seek to promote sustainable development, and Policy KP2 seeks to direct the siting of development through a sequential approach, minimising the use of 'greenfield' land. Policy CP4 seeks the creation of a high quality, sustainable urban environment which enhances and complements the natural and built assets of Southend.
- 7.4 Policy DM3 of the Development Management Document seeks the efficient and effective use of land, provided it responds positively to local context and does not lead to over-intensification. Policy DM8 of the Development Management Document provides for additional dwellings in the Borough but seeks to resist the loss of existing valuable residential resources.

- 7.6 Land Registry records indicate that the property was sold on 14th May 2019. The Council's planning enforcement team investigated an alleged breach of control at the application site in May 2019. The owner of the property indicated the process of converting the dwelling to a 6 bedroom HMO had commenced in May 2019. The application form states that work commenced to convert the property to a 7 bedroom HMO on 28th June 2019.
- 7.7 National and Local planning policy encourages the efficient use of land. Whilst no certificate of lawfulness has been granted, the Design and Access Statement indicates that the building has been converted to a 6 person HMO (Class C4) as permitted development. This proposal would increase the size of the HMO from 6 bedrooms to 7 bedrooms. No objection is therefore raised to the principle of the development, subject to other material considerations including design, impact on neighbours and living conditions. The principle of a HMO use is established at the site through the change under permitted development.

Design and Impact on the Character of the Area

- 7.8 Good design is a fundamental requirement of new development to achieve high quality living environments. Its importance is reflected in the NPPF, in the Policies KP2 and CP4 of the Core Strategy and also in Policy DM1 of the Development Management Document. The Design and Townscape Guide also states that *"the Borough Council is committed to good design and will seek to create attractive, high-quality living environments."*
- 7.9 Paragraph 124 of the NPPF states *'The creation of high quality buildings and places is fundamental to what the planning and development process should achieve. Good design is a key aspect of sustainable development, creates better places in which to live and work and helps make development acceptable to communities. Being clear about design expectations, and how these will be tested, is essential for achieving this.'*
- 7.10 Policy DM1 of the Development Management Document states that all development should *"add to the overall quality of the area and respect the character of the site, its local context and surroundings in terms of its architectural approach, height, size, scale, form, massing, density, layout, proportions, materials, townscape and/or landscape setting, use, and detailed design features"*.
- 7.11 Policy KP2 of the Core Strategy states that new development should *"respect the character and scale of the existing neighbourhood where appropriate"*. Policy CP4 of the Core Strategy requires that development proposals should *"maintain and enhance the amenities, appeal and character of residential areas, securing good relationships with existing development, and respecting the scale and nature of that development"*.
- 7.12 The proposed development would not result in any alterations to the external elevations of the building. As such it is not considered that the proposal would result in any material harm to the character and appearance of the site or the wider surrounding area. The proposal therefore overcomes the previous reason for refusal in this regard.

- 7.13 The submitted plans show a bin store provided to the rear of the site abutting the shared boundary with No.12 Cromer Road. A covered cycle store is also proposed abutting the same boundary. Concern is raised that a refuse store and cycle store in such a location could be materially harmful to the amenities of neighbouring residential occupiers in terms of noise and disturbance, however, a condition can be imposed on any grant of consent requiring the repositioning and full details of these facilities to be approved. Subject to a condition in this respect no objection is raised on this basis.
- 7.14 The development is acceptable and policy compliant in the above regards.

Impact on Residential Amenity

- 7.15 Policy DM1 of the Development Management Document requires all development to be appropriate in its setting by respecting neighbouring development and existing residential amenities “having regard to privacy, overlooking, outlook, noise and disturbance, sense of enclosure/overbearing relationship, pollution, daylight and sunlight.”
- 7.16 Further to the above policies and guidance development proposals must protect the amenity of neighbours having regard to matters such as privacy, overlooking, outlook, noise and disturbance, visual enclosure, pollution, and daylight and sunlight.
- 7.17 The proposed development would not result in any changes to the external elevations of the building. It is not proposed to increase the size of the existing building or insert any additional windows. As such, it is considered that the proposal would not result in any material harm to the residential amenity of nearby and adjoining residents in terms of dominance, an overbearing impact, loss of light and outlook, overshadowing, a material sense of enclosure or loss of privacy and overlooking. It is not considered that the proposed change of use would result in relationships that are materially different than the prevailing views available from the existing ground and first floor windows.
- 7.18 This applicant states that proposal seeks to change the use of the site from a Class C4 HMO of up to 6 persons to a Sui Generis HMO comprising 7 bedrooms. Under permitted development and expressly restricted within that Legislation, a C4 HMO could only accommodate a maximum of 6 persons. The information submitted with this application indicates that all rooms would be single occupancy only and it is stated that the additional room sought would be single occupancy. Using the Essex HMO Amenity Standards for a HMO with shared kitchen facilities (no shared living room), bedroom one would be capable of double occupancy. The application is an end of terrace property however ground floor bedrooms 1 and 2 would not abut the attached neighbour due to the undercroft/alleyway between the dwellings. Bedrooms 3 and 5 would abut the first floor of the attached dwelling. The overall development would be capable of accommodating up to 8 persons. The existing and proposed plans are annotated with single beds. It is considered that the proposal with up to 8 persons would have the potential to result in additional noise and disturbance to adjoining residents and this represents a material change in the potential impact of the use compared with its fallback position as a 6 person use class C4 HMO.

- 7.19 The Design and Access statement submitted statement comments that the rooms will be single occupancy only. Given that the application site is an end of terrace property and that the ground floor which contains the room capable of double occupancy is separated from the neighbouring dwelling by the alleyway, and, given the fallback position of 6 person HMO under class C4, it is considered that an increase to a maximum number of 8 people would on balance not result in additional noise and disturbance to a degree that would warrant refusal of the application on these grounds.
- 7.20 The proposal therefore overcomes the previous reason for refusal in this regard and such, the proposed scheme is acceptable and policy compliant.

Living Conditions for Future Occupiers

- 7.21 Paragraph 127 of the NPPF states ‘Planning policies and decisions should ensure that developments...create places that are safe, inclusive and accessible and which promote health and well-being, with a high standard of amenity for existing and future users, and where crime and disorder, and the fear of crime, do not undermine the quality of life or community cohesion and resilience.’
- 7.22 In relation to residential standards for non-self-contained accommodation Policy DM8 states that all proposals for non-self-contained accommodation (such as student and hospital staff accommodation) will be required to meet the internal space standards. This requires accommodation to have a minimum bedroom size of 6.5sqm for single bedrooms and 10.2sqm for double bedrooms. Paragraph 4.46 of the Development Management Documents states, *“The licensing and management of Houses in Multiple Occupation, including space standards, is set out in relevant housing legislation.”*
- 7.23 The Council has adopted the Essex Approved Code of Practice with respect to Houses in Multiple Occupation and this document represents a material planning consideration, although it is noted that this is not a planning policy document.
- 7.24 The proposed rooms include small ‘kitchen’ areas comprising a fridge and breakfast bar but do not include cooking facilities. The Essex HMO Code of practice provides minimum sizes for rooms with no independent kitchen facilities as follows:
- One Occupier: 8.5sqm minimum size requirement
 - Two Occupiers: 12sqm minimum size requirement.
- 7.25 The proposal would provide the following sized rooms:
- Unit 1: 14 sqm
 - Unit 2: 11.9 sqm
 - Unit 3: 10.5sqm
 - Unit 4: 10.5sqm
 - Unit 5: 10.5 sqm
 - Unit 6: 8.5 sqm
 - Unit 7: 11.4sqm
- Each room would have an en-suite.

- 7.26 Taking account of the Essex Approved Code of Practice Standards, all of the rooms meet the minimum size requirement for single occupancy rooms. It is noted that all rooms are shown to have single beds. The information submitted with the application states that this application is for single occupancy rooms only. One room (bedroom 1) would exceed the minimum size requirement for a double occupancy room and as such the development would be capable of providing accommodation for up to 8 people in this respect. The standards within Policy DM8 for non-self-contained accommodation indicates that 6 of the 7 rooms would exceed the standard required for double occupancy rooms. Policy DM8 states that the licensing and management of Houses in Multiple Occupation, including space standards is governed under separate legislation. In this instance the Housing Act 2004 introduced mandatory licensing for buildings that are occupied by five or more persons. The proposed development is a two storey HMO which would be occupied by 5 or more people and given the sizes of the rooms and shared facilities provided, the proposed development would be licensed for a maximum of 8 persons under the relevant legislation. It is therefore considered that the proposed development would be capable of accommodating a maximum of 8 persons and that this is a reasonable basis for the assessment of the application.
- 7.27 In terms of shared kitchen facilities, the Code of Practice states that a shared kitchen should normally provide for a maximum of 5 persons. In this respect the development would be for a maximum of 8 persons. One kitchen / dining area is provided on the ground floor measuring some 22.6 sqm. The Code of Practice states *'kitchen facilities should be no more than one floor away from the letting. Where this is not practicable, a dining area of a size suitable for the number of occupiers should be provided on the same floor, as, and close to, the kitchen. It would be expected that other food preparation and storage facilities are provided within the room for minor food preparation not involving cooking. This is to comprise a kettle as a minimum.'* The Code of Practice requires kitchens to be up to 18 sqm or requires 2 kitchens to be provided for premises of 6-10 people. In this respect, whilst only 1 kitchen/dining area is proposed on the ground floor, it has two sinks, two ovens and two hobs and includes a dining area and measures some 22.6 sqm. Each room would be provided with small ancillary kitchen facilities and, on balance, it is considered that the development would satisfy this requirement.
- 7.28 Each unit will be provided with an en-suite which would include a wash hand basin. This proposal therefore satisfies this requirement.
- 7.29 In terms of amenity provision the development includes a communal kitchen/dining space which is considered to be of an appropriate size and usable shape to meet the requirements of any future occupiers. A rectangular shaped rear amenity area of some 140 sqm would be adequate to meet the needs of future occupiers.
- 7.30 Each room would be provided with windows to provide sufficient light, outlook and ventilation. Storage areas are located in every room.
- 7.31 The submitted plans show a covered cycle store and a bin store provided to the rear of the site cycles and bins could be brought to the highway as per the existing situation via the gated undercroft. Concerns are raised in respect of the location of the facilities abutting the shared boundary with No.12 however there is adequate space within the rear of the site to relocate the refuse & recycling store and cycle store.

Subject to a condition requiring full details of these facilities, a waste management plan and full details of the cycle store no objection is raised on this basis.

- 7.32 It is considered that the development would, provide adequate living conditions for any future occupiers of the site. The development is acceptable and policy compliant in this respect.
- 7.33 Policy DM8 states that developments should meet the Lifetime Homes Standards unless it can be clearly demonstrated that it is not viable and feasible to do so. Lifetime Homes Standards have been dissolved, but their content has been incorporated into Part M of the Building Regulations and it is considered that these standards should now provide the basis for the determination of this application.
- 7.34 By reason of being a conversion it is considered that it would be unrealistic to require the development to accord with the abovementioned standards. On this basis it is considered that the application should not be refused on the grounds that it has not been demonstrated that the development would accord with Part M of the Building Regulations. This would in any event be addressed by the Building Regulations requirements.
- 7.35 In summary, it is considered that the development would, provide adequate living conditions for any future occupiers of the site. The development is acceptable and policy compliant in this respect.

Traffic and Transportation Issues

- 7.36 Policy DM15 of the Development Management Document states that development will be allowed where there is, or it can be demonstrated that there will be physical and environmental capacity to accommodate the type and amount of traffic generated in a safe and sustainable manner. Further to Policy DM15, proposed development is expected to contribute to sustainable transport objectives and promote walking, cycling and public transport as the preferable form of transport.
- 7.37 The development provides two off-street parking spaces within the front hardstanding and this provision would be retained. The site is in a sustainable location, within walking distance of Southend Central Station and close to bus services and cycle parking is proposed. The Council does not have any Vehicle Parking Standards in respect of HMOs (sui-generis use) and the parking implications therefore need to be assessed as a balanced judgement in the individual circumstances of the case.
- 7.38 The proposal is for a HMO with 7 bedrooms and whilst the information submitted indicates that the rooms are to be restricted to single occupancy units, given the size of bedroom 1 which constitutes a double occupancy room, a maximum of 8 people could occupy the site. The previously refused development (ref: 18/02320/FUL) was assessed as an 8 bedroom HMO with up to 11 occupants and the on street parking demand was considered likely to be significantly greater than that of a four bedroom dwelling.

7.39 Taking into account the permitted development fallback position that would enable the site to be occupied by up to 6 people as a HMO under Class C4 of the General Permitted Development Order 2015 (as amended), a use which has now commenced, on balance, it is considered that the additional occupation as a result of this application would not result in increased parking demand such that it would result in material harm to highway safety or the free flow of traffic. Subject to a condition requiring the provision of a minimum of 8 secure and covered cycle parking spaces no objection is raised on this basis. In coming to this conclusion, consideration has been given to a recent appeal decision at 117-119 Hamstel Road (reference APP/D1590/W/18/3214190) in which the Inspector concluded that 5 off-street parking spaces were sufficient for a HMO to serve up to 18 people.

7.40 The development is acceptable and policy compliant in this respect.

Community Infrastructure Levy (CIL)

7.41 As the proposed extension(s) or change of use to the property equates to less than 100sqm of new floorspace, and does not involve the creation of a new dwelling (Class C3), the development benefits from a Minor Development Exemption under the Community Infrastructure Levy Regulations 2010 (as amended) and as such no charge is payable.

8 Conclusion

8.1 Having taken all material planning considerations into account, it is found that subject to compliance with the attached conditions, on balance, the proposed development would be acceptable and compliant with the objectives of the relevant development plan policies and guidance. Given the existing use of the property, the principle of the development is found to be acceptable and the proposed development would provide satisfactory internal living conditions for future occupiers and would have an acceptably sized external amenity space. The proposal would have an acceptable impact on the amenities of neighbouring occupiers, highway safety and parking, and the character and appearance of the application site, and the streetscene more widely. It is considered that the proposed development has overcome the reasons for refusal of the previously refused application and the fall-back position of a 6 person HMO has been weighed in the balance of material factors. The application is therefore recommended for approval subject to conditions.

9 Recommendation

9.1 GRANT PLANNING PERMISSION subject to the following condition(s):

01 The development hereby permitted shall begin no later than 3 (three) years from the date of this decision.

Reason: Required to be imposed pursuant to Section 91 of the Town and Country Planning Act 1990.

02 The development hereby permitted shall be carried out in accordance with the approved plans: 562-200- Rev 02, 562-201 Rev 02 & 562 202 Rev 01.

Reason: To ensure that the development is carried out in accordance with provisions of the Development Plan.

03 Water efficient design measures as set out in Policy DM2 (iv) of the Development Management Document to limit internal water consumption to 105 litres per person per day (lpd) (110 lpd when including external water consumption), including measures of water efficient fittings, appliances and water recycling systems shall be installed and made available for use prior to the first occupation of the development hereby approved and retained in perpetuity.

Reason: To minimise the environmental impact of the development through efficient use of water in accordance with the National Planning Policy Framework, Core Strategy (2007) policy KP2, Development Management Document (2015) policy DM2 and the guidance within the Design and Townscape Guide (2009).

04 Notwithstanding the details shown on the drawings submitted and otherwise hereby approved, prior to the first occupation of the development hereby approved, full details of refuse and bicycle storage facilities for the development hereby approved shall be submitted to and approved in writing by the Local Planning Authority. Prior to first occupation of the development, refuse and bicycle storage facilities shall be provided at the site in accordance with the approved details and retained in perpetuity thereafter.

Reason: In the interests of residential amenity for future occupants, to ensure the provision of adequate cycle parking and in the interests of visual amenity as set out in the National Planning Policy Framework (2019), Core Strategy (2007) policies KP2 and CP4 and Policies DM1, DM8 and DM15 of the Development Management Document (2015) and the guidance within the Design and Townscape Guide (2009).

05 Prior to the occupation of the development hereby approved, 2 car parking spaces for No.10 Cromer Road shall be provided and made available for use in accordance with details shown on approved plan 562-200- Rev 02. The car parking spaces shall be kept available only for the parking of motor vehicles of occupiers of No.10 Cromer Road and their visitors and shall be permanently retained as such thereafter.

Reason: To ensure that adequate car parking is provided and retained to serve the development in accordance with Policy CP3 of the Core Strategy (2007) and Policy DM15 of the Development Management Document (2015).

06 The building shall not be adapted or altered to form more than 7 bedrooms at any time without the receipt of express planning permission from the Local Planning Authority.

Reason: To clarify the terms of the permission and enable the suitable consideration of any intensification of the use of the site.

The Local Planning Authority has acted positively and proactively in determining this application by assessing the proposal against all material considerations, including planning policies and any representations that may have been received and subsequently determining to grant planning permission in accordance with the presumption in favour of sustainable development, as set out within the National Planning Policy Framework. The detailed analysis is set out in a report on the application prepared by officers.

Informatives:

01 You are advised that as the proposed extension(s) or change of use to your property equates to less than 100sqm of new floorspace, and does not involve the creation of a new dwelling (Class C3), the development benefits from a Minor Development Exemption under the Community Infrastructure Levy Regulations 2010 (as amended) and as such no charge is payable. See www.southend.gov.uk/cil for further details about CIL.

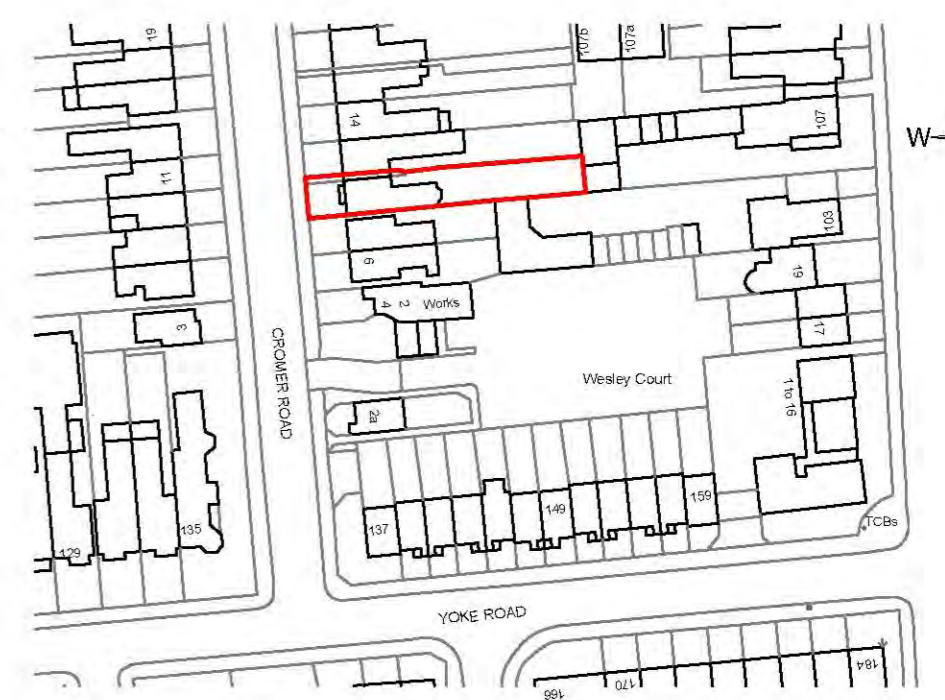
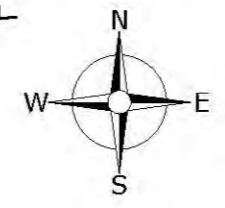
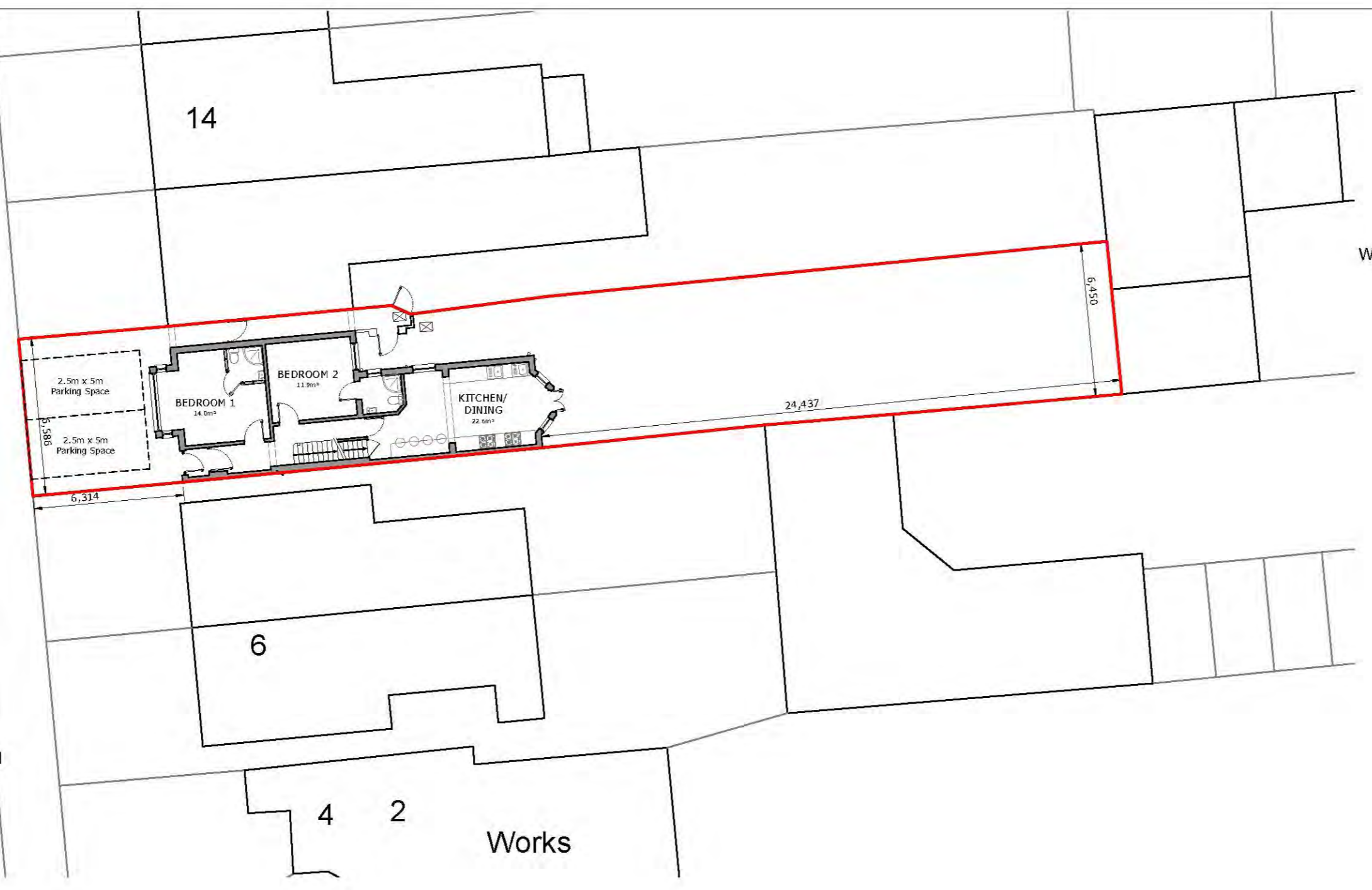
02. You should be aware that in cases where damage occurs during construction works to the highway in implementing this permission that Council may seek to recover the cost of repairing public highways and footpaths from any party responsible for damaging them. This includes damage carried out when implementing a planning permission or other works to buildings or land. Please take care when carrying out works on or near the public highways and footpaths in the borough.

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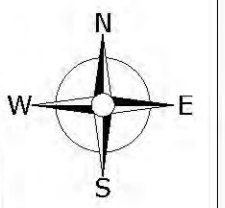
NOTES:
Do not scale this drawing. Work to figured dimensions only. Check all dimensions on site. Confirm any discrepancies prior to commencement of work.

CROMER ROAD

PROPOSED SITE PLAN
SCALE 1:200
0 1 2 3 4 5m

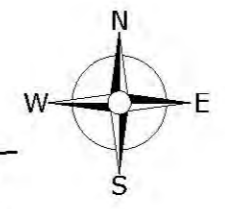
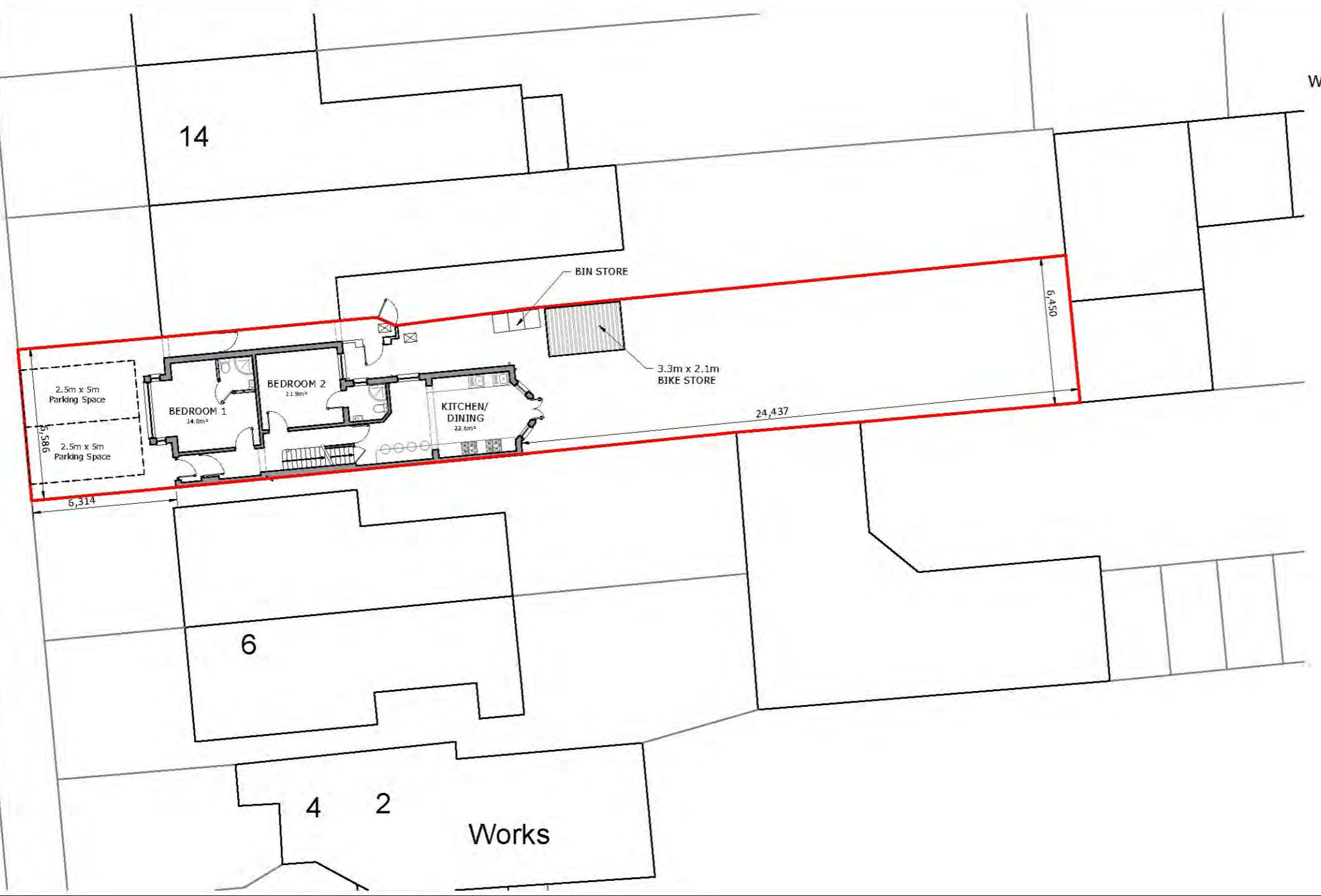


LOCATION PLAN
SCALE 1:1250
0 10 20 30 40m



CROMER ROAD

EXISTING SITE PLAN
SCALE 1:200
0 1 2 3 4 5m



Rev:02	08/19	Revised Site Boundaries
Rev:01	07/19	Revised Site Boundaries
Rev:00	06/19	First Issue

Krystal Architecture Ltd
A : 33 Brackley Crescent, Basildon, Essex
T : 01268 454581 / 07999061557
E : info@krystal-architecture.com
W : www.krystal-architecture.com

Project Address
10 Cromer Road, Southend-on-Sea,
SS1 2DU

Drawing Title
Location & Site Plans

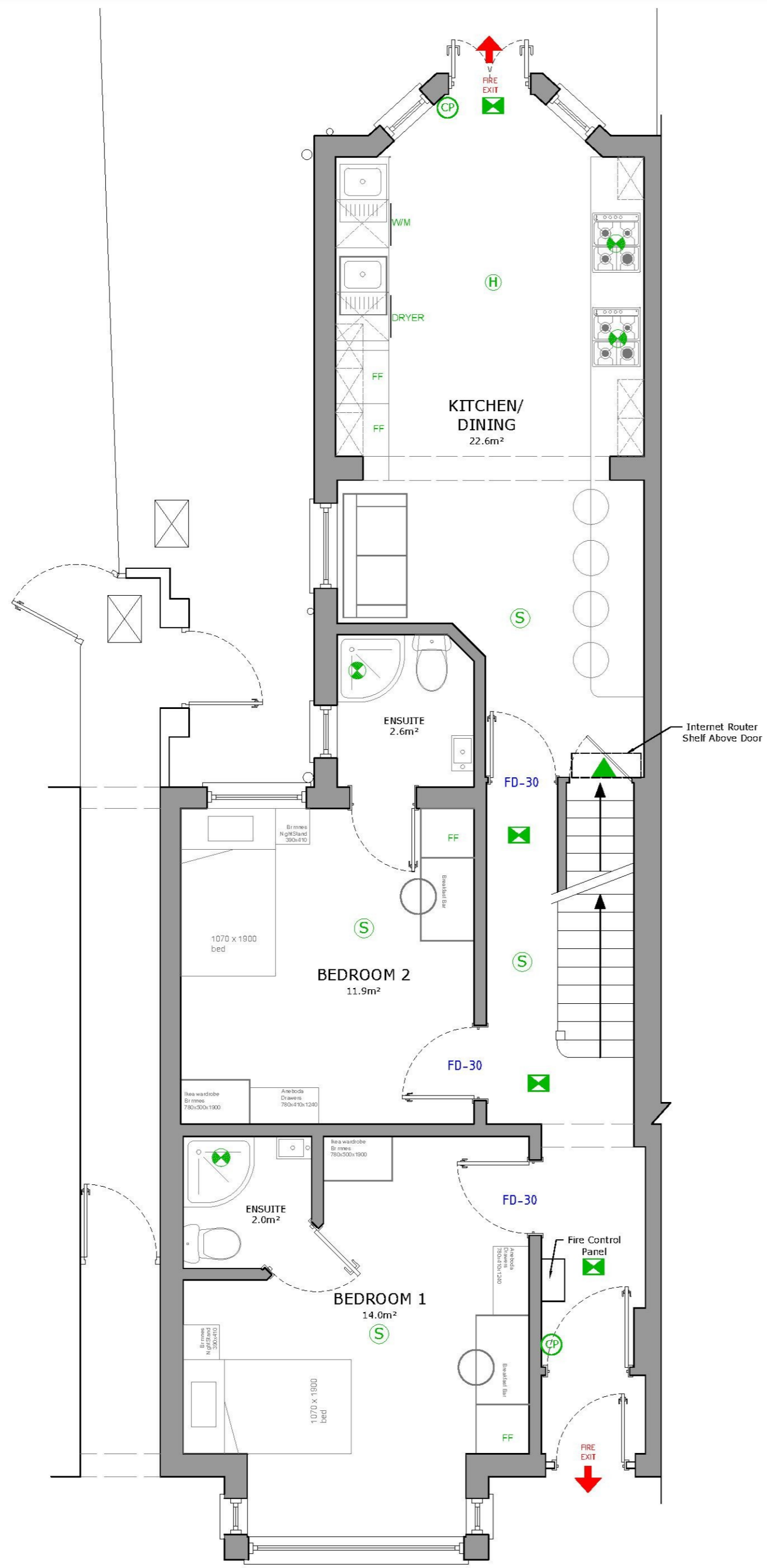
Status
Planning Drawings

Drawing Number
562-200 **Rev: - 02**

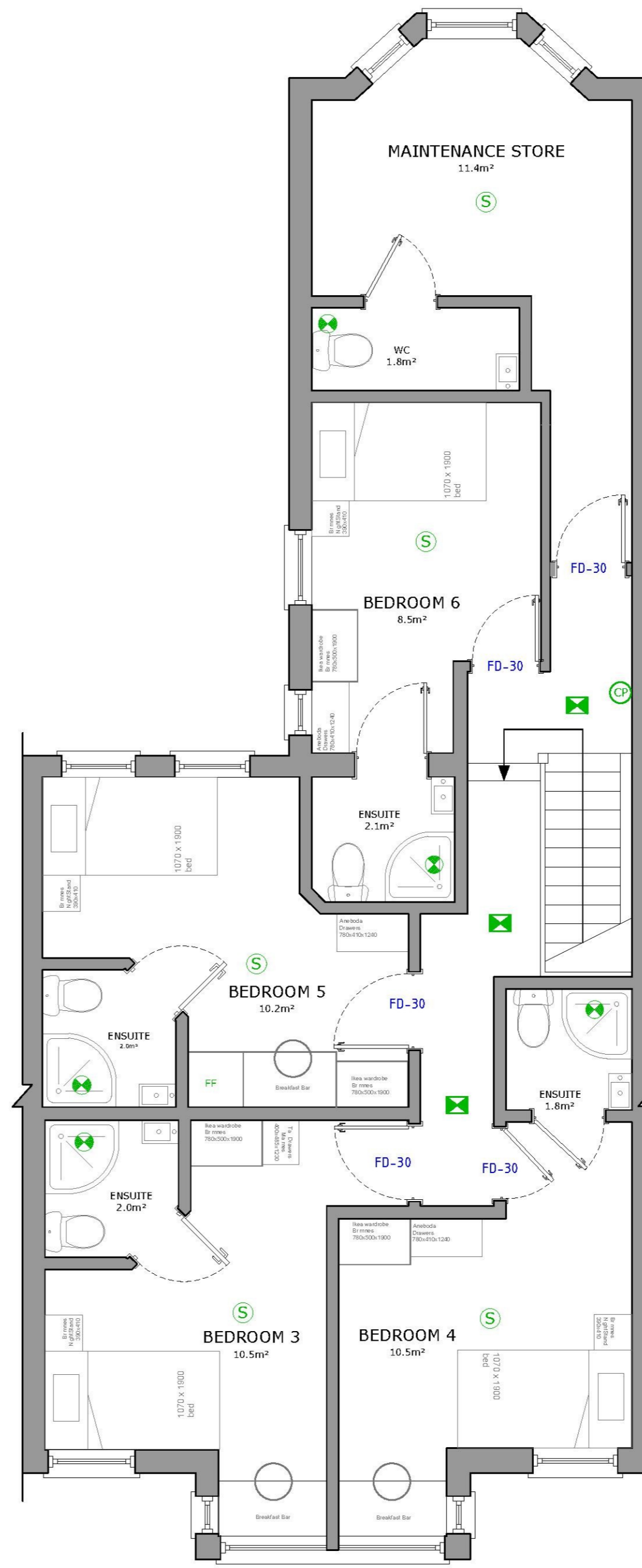
Client Name
Property Point Investments

Date	Scale	Drawn By
28.08.19	1:200/1250 @ A2	WN

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EXISTING GROUND FLOOR PLAN
SCALE 1:50
0 1 2 3m



EXISTING FIRST FLOOR PLAN
SCALE 1:50
0 1 2 3m

NOTES:
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KEY

	CALL POINT
	EMERGENCY LIGHTS
	EXTRACTOR FANS
	HEAT DETECTOR
	SMOKE DETECTOR
	FRIDGE
	FRIDGE/FREEZER
	FIRE DOOR -30 MINUTES

Rev:02	08/19	Revised Layouts
Rev:01	06/19	Revised Notes
Rev:00	06/19	First Issue

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10 Cromer Road, Southend-on-Sea,
SS1 2DU

Drawing Title
Existing Plans

Status
Planning Drawings

Drawing Number
562-201 **Rev: - 02**

Client Name
Property Point Investments

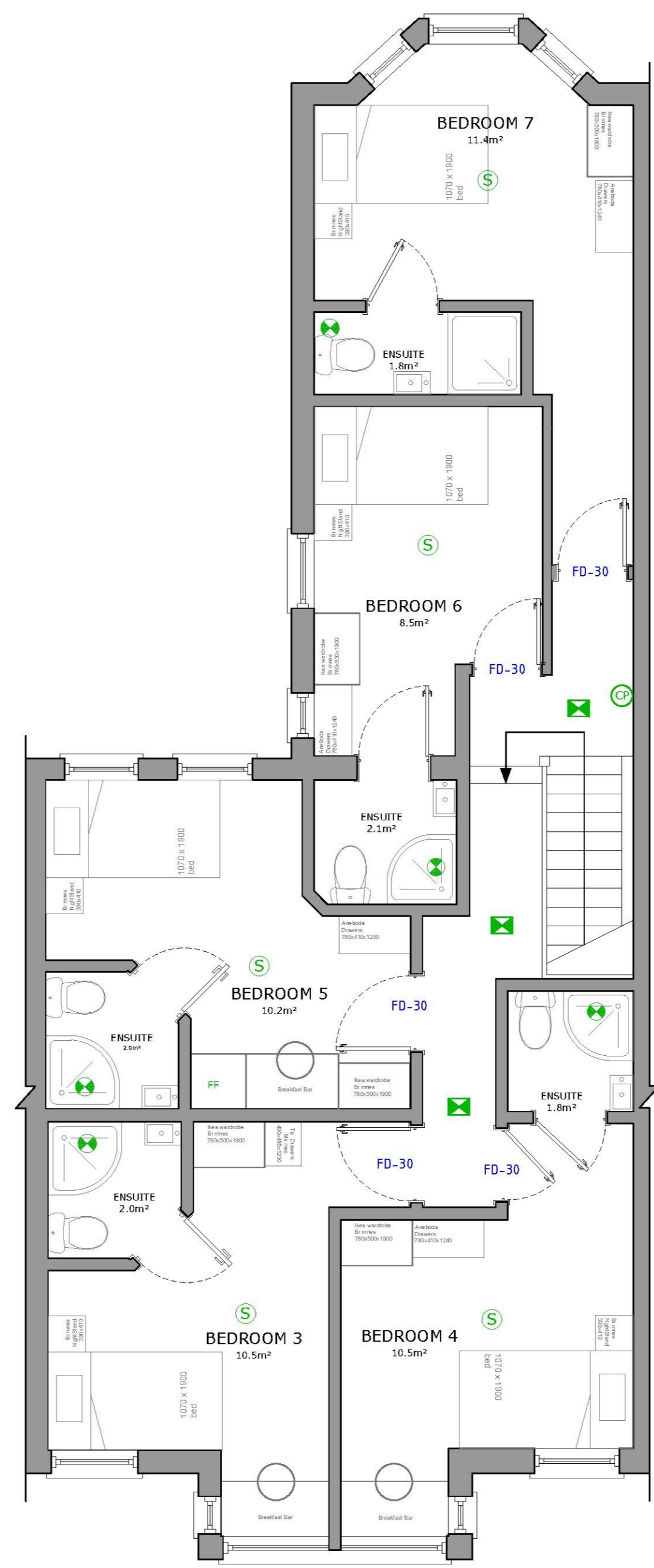
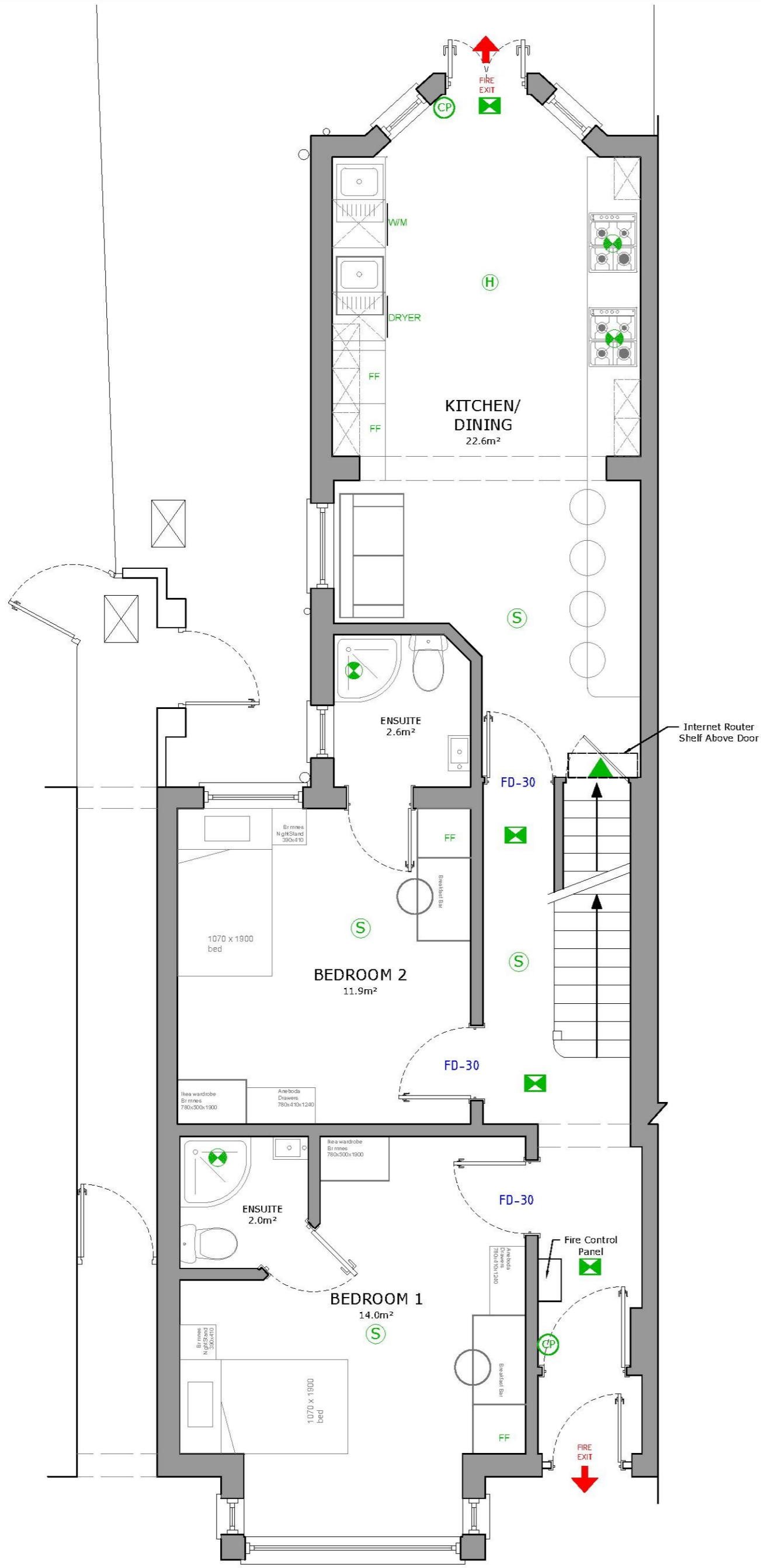
Date 28.08.19	Scale 1:50 @ A2	Drawn By WN
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NOTES:
Do not scale this drawing. Work to figured dimensions only. Check all dimensions on site. Confirm any discrepancies prior to commencement of work.

KEY

	CALL POINT
	EMERGENCY LIGHTS
	EXTRACTOR FANS
	HEAT DETECTOR
	SMOKE DETECTOR
	FRIDGE
	FRIDGE/FREEZER
	FIRE DOOR -30 MINUTES



Rev:01	08/19	Revised Layout
Rev:00	06/19	First Issue

Krystal Architecture Ltd
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Project Address
10 Cromer Road, Southend-on-Sea,
SS1 2DU

Drawing Title
Proposed Plans

Status
Planning Drawings

Drawing Number
562-202 **Rev: - 01**

Client Name
Property Point Investments

Date 28.08.19	Scale 1:50 @ A2	Drawn By WN
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Reference:	19/01851/BC3	<h1>6</h1>
Application Type:	Borough Council Regulation 3	
Ward:	Belfairs	
Proposal:	Install replacement windows and doors to golf club and restaurant building	
Address:	Park Cafe, Belfairs Park, Eastwood Road North	
Applicant:	Mr Anthony Daniels	
Agent:	Southend Borough Council	
Consultation Expiry:	14th November 2019	
Expiry Date:	12th December 2019	
Case Officer:	Robert Lilburn	
Plan Nos:	Grabex Windows Specification Quote Q-WD26260 16/07/2019, 001 0 Location Plans, A 101 X Existing and Proposed Elevations, A 102 X Existing and Proposed Elevations, A 103 0 Window and Door Detail Plans	
Recommendation:	GRANT PLANNING PERMISSION	



1 Site and Surroundings

- 1.1 The subject building is a detached, imposing two storey building within a wider setting of landscaped grounds in the green belt. It houses the golf club at upper floors while the ground floor is occupied by a restaurant with external seating.
- 1.2 The building is finished externally in white render and red roof tiles. Windows are single glazed aluminium, including 'Crittall' type windows, and timber framed, white painted windows.
- 1.3 The building is not a designated heritage asset and is not within a conservation area. It is located within the green belt and protected green space, and lies adjacent to a local wildlife site. It has been subject of unsympathetic alterations including windows in the past.

2 The Proposal

- 2.1 The proposal comprises the replacement of windows to the Belfairs golf club house building. No replacement windows are proposed to the modern single storey extension.
- 2.2 Aluminium frames are proposed, which would be powder-coated white. Double glazed panes are proposed.
- 2.3 The applicant has supplied detailed specification drawings and annotated elevations to show the proposed arrangement of windows across the building. In addition a typical section has been supplied to show that the position of the new windows within the wider reveals would be similar to the most commonly prevailing arrangement across the building.

3 Relevant Planning History

07/01747/FUL: Install decking to side and incorporate disabled access. Approved.

07/01091/FUL: Alter front elevation, install decking to front for use as external seating area and install retractable awnings to front elevation (Part Retrospective). Approved.

4 Representation Summary

4.1 Public Consultation

Nine neighbouring properties were notified and a site notice was posted. One letter of representation has been received:

- Councillor Ayles has commented that the address is incorrectly described, the submitted photographs are misleading due to being out of date, and there is a lack of information about the proposal in regard to the stained glass at the front entrance.

- 4.2 [**Officer comment:** The building also houses Belfairs golf club. The submitted photographs show the building prior to removal of ivy, repainting of the exterior and installation of extract grilles adjacent the western entrance. The applicant has confirmed that the stained glass above the western entrance door would be retained].

4.3

The application has been called in to Development Control Committee by Councillor Walker and Councillor Ayles.

4.4 Highways Team

No objection.

5 Planning Policy Summary

5.1 The National Planning Policy Framework (NPPF) (2019)

5.2 Core Strategy (2007): Policies KP1 (Spatial Strategy) KP2 (Development Principles) CP4 (Environment & Urban Renaissance) CP6 (Community Infrastructure) and CP7 (Sport, Recreation and Green Space)

5.3 Development Management Document (2015): Policies DM1 (Design Quality) DM3 (Efficient and Effective Use of Land)

5.4 Design & Townscape Guide (2009)

6 Planning Considerations

6.1 The main considerations in relation to this application are the principle of the development, including impact on the green belt including its openness, impact on protected green space, and its design and impact on the character and appearance of the building and the wider surroundings.

6.2 There are no material highway implications or material effects on the amenities of nearby occupiers, given the nature of the proposed alterations. Impacts arising from any work to implement the proposals (eg construction noise, parking of vans) would not be material planning considerations given the modest scale of the development and are in any case covered by other legal frameworks.

7 Appraisal

Principle of Development

7.1 Policies KP1 and CP4 seek to improve the urban environment through sustainable development, and to maintain the openness of the green belt.

7.2 An objective of Policy CP6 is to safeguard recreational facilities including the improvement of existing. Policy CP7 seeks to support the improvement of green spaces including sports facilities.

7.3 The proposal would not materially affect the openness of the green belt. It is in association with an existing building which is in established uses.

7.4 The use of the site would not be changed or intensified materially by the proposal. Access to community facilities would not be materially harmed by the proposal.

7.5 The existing windows appear somewhat dilapidated. The proposal would support the ongoing provision of community facilities through upgrading of the built fabric, which is a significant positive aspect of the scheme.

- 7.6 No heritage assets would be affected by the proposal. Alterations to the building are acceptable in general principle.
- 7.7 The development would support the continued use of the outdoor facilities, and as such accords to Policies CP6 and CP7. The principle of the proposal is compliant with policy objectives.

Design and Impact on the Character of the Area

- 7.8 Paragraph 130 states that “permission should be refused for development of poor design that fails to take the opportunities available for improving the character and quality of an area and the way it functions.”
- 7.9 Policies KP2 and CP4 of the Core Strategy, Policies DM1 and DM3 and the Design and Townscape Guide advocate the need for any new development to respect the character of the area and complement local character.
- 7.10 As found above, the proposal would not materially harm the openness of the green belt. Although by virtue of its size and function the building is prominent in the area, it is not visually prominent within its surroundings, as it is set back considerably from the road and screened by mature trees. Views from Eastwood Road North tend to be glimpsed and long views.
- 7.11 The existing window frames are slim and not overly bulky, with projecting detail to some. They do not all demonstrate the same profile and visual qualities. They include fixed panes, and windows of mixed opening methods. Some panes incorporate glazing bars. Some openings, notably the dormer windows and first floor front (south-east) elevation are reasonably consistent in appearance to the benefit of the building.
- 7.12 Elsewhere the existing windows are a mixture of timber-framed fixed lights and side-opening, with some top-hung. The glass panes vary within openings from single panes to multi-paned with glazing bars. Some incorporate window-mounted fans.
- 7.13 A positive feature is the subdivision of the wider openings into several or more frames with a vertical emphasis of the same proportions. The lack of regularity and consistency of windows and window frames across the building detracts from its overall appearance, however.
- 7.14 The proposed window specifications seek to replicate the existing subdivision of frames within openings, and would also be white in colour. There would be a combination of side-opening and vertical-opening lights.
- 7.15 Vertical openings (eg top-hung or bottom-hung) are a modern feature and this is a minor negative aspect in the context of the character of the older building. However the building is not a heritage asset. The vertical openings would not be readily discernible from the wider public realm.
- 7.16 The applicant has submitted a typical section-through of the proposed windows. This appears to indicate that the windows would sit close to the masonry openings. Although the site is not a heritage asset, it is considered that this type of arrangement would be inconsistent with the building’s character and appearance.

7.17 In order to overcome this matter, a condition could be attached to any planning permission requiring further sectional details of the proposed windows to be submitted and agreed prior to their installation. Such details would be expected to show a more appropriate positioning to reflect the existing depth of reveals. The applicant has confirmed agreement to this approach and it is considered this could reasonably overcome this concern.

7.18 The submitted plans do not show the profile of the proposed windows and frames and whether there would be any relief across the frames within the openings. The existing windows have a relief provided by the vertical dividing bars. Details of window and frame profiles can however be secured through a condition on planning permission. Although it is noted that the building is not a heritage asset, a suitable form of profile within the window frames, as opposed to a flat surface, would be desirable.

7.19 Within the wider site surroundings of the park, windows tend to be traditional in appearance. However as noted the site is not in a conservation area. Subject to suitable sectional details, and frame profile details, it is considered that the general impression resulting from the development would be an overall rationalisation of window forms and an improvement to the built fabric, and that this would be an improvement.

7.20 The submitted plans indicate but do not show explicitly that existing stained glass feature above the west entrance door would be retained. They also do not show that it would be altered or replaced. The applicant has however confirmed that it would be retained.

7.21 It is considered that the alterations would cause no material harm to the character and appearance of the building and its surroundings. Subject to details which can be secured by condition, the development is considered acceptable and policy compliant in relation to its character and appearance and that of the surroundings.

Community Infrastructure Levy (CIL)

7.22 No new floor space would be created by the proposal. Therefore, the proposed development would not be CIL liable.

8 Conclusion

8.1 Having taken all material planning considerations into account, it is found that subject to compliance with the attached conditions, the proposed development would be acceptable and compliant with the objectives of the relevant development plan policies and guidance. The proposal would maintain the openness of the green belt and have an acceptable impact on the character and appearance of the application site, street scene and the locality more widely. The protected green space would not be materially affected in terms of use and availability. There would be no materially adverse traffic, parking or highways impacts or effects on neighbouring occupiers caused by the proposed development. This application is therefore recommended for approval subject to conditions.

9 Recommendation

GRANT PLANNING PERMISSION subject to the following conditions:

01. The development hereby permitted shall begin not later than three years from the date of this decision.

Reason: Required to be imposed pursuant to Section 91 of the Town and Country Planning Act 1990.

02. The development hereby permitted shall be carried out in accordance with the following approved plans: Grabex Windows Specification Quote Q-WD26260 16/07/2019, 001 0 Location Plans, A 101 X Existing and Proposed Elevations, A 102 X Existing and Proposed Elevations, A 103 0 Window and Door Detail Plans.

Reason: To ensure that the development is carried out in accordance with the provisions of the Development Plan.

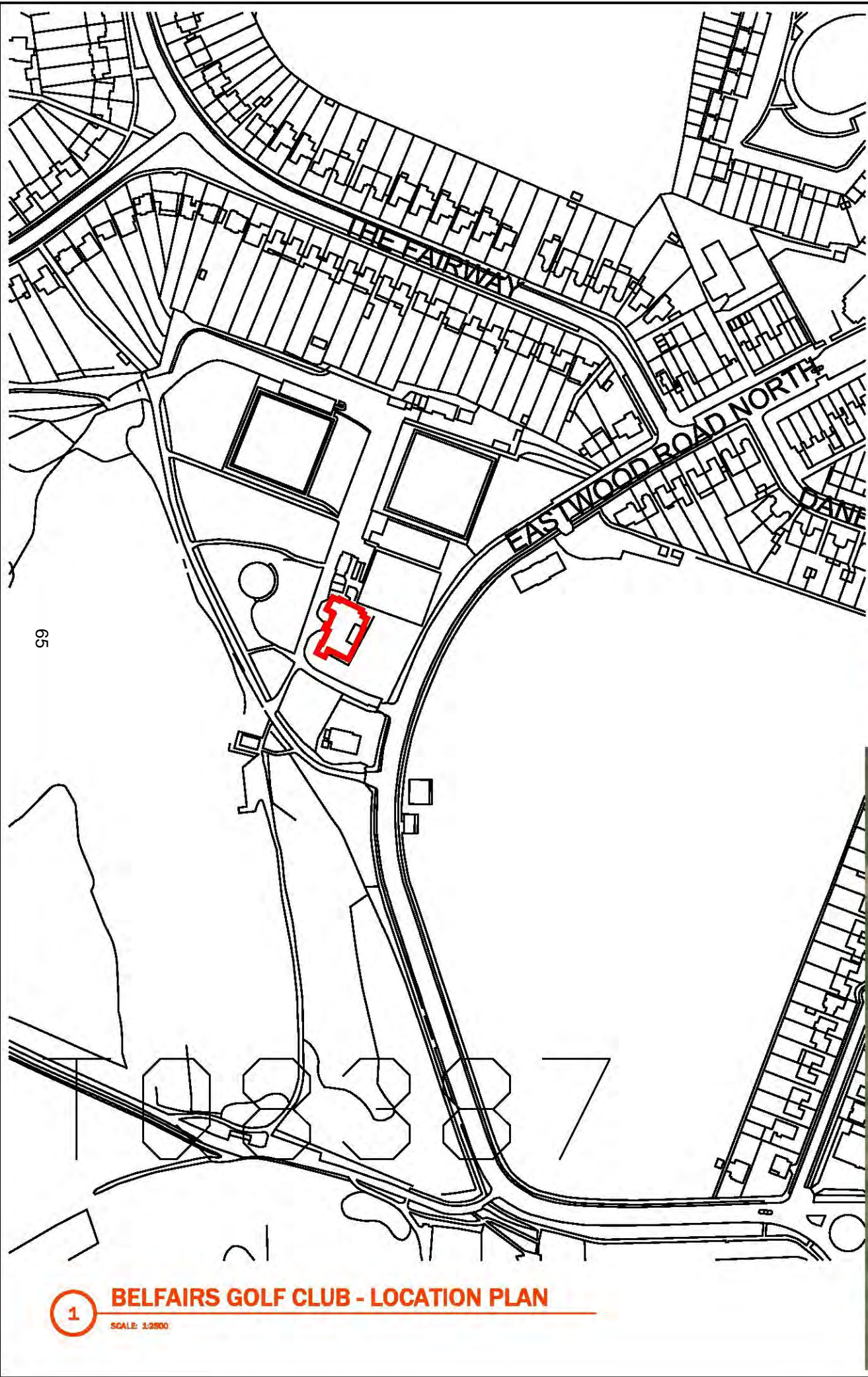
03. Prior to installation of the windows hereby approved, sectional details of the proposed windows and frame profiles shall be submitted to and approved by the Local Planning Authority. The new windows shall be installed only in accordance with the approved details.

Reason: To maintain the character and appearance of the building in the interests of visual amenity, pursuant to the National Planning Policy Framework (2019), Core Strategy (2007) Policies KP2 and CP4, Development Management Document (2015) Policies DM1 and DM3, and the advice contained within the Design and Townscape Guide (2009).

The Local Planning Authority has acted positively and proactively in determining this application by assessing the proposal against all material considerations, including planning policies and any representations that may have been received and subsequently determining to grant planning permission in accordance with the presumption in favour of sustainable development, as set out within the National Planning Policy Framework. The detailed analysis is set out in a report on the application prepared by officers.

10 Informatives

01. The proposed development is not CIL liable.



Notes:

NOT FOR CONSTRUCTION

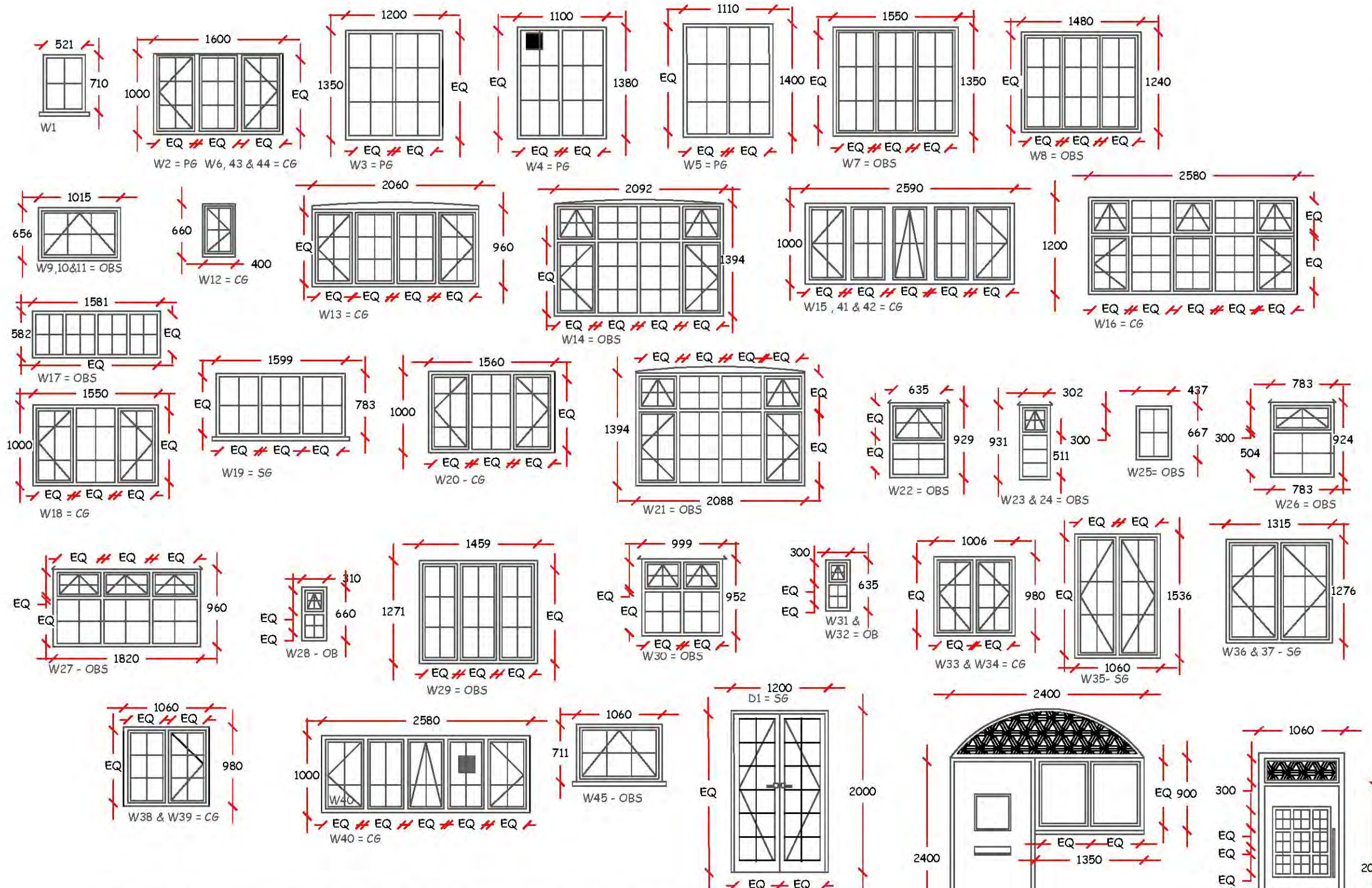
REV:	DESCRIPTION:	BY:	DATE:
STATUS:		SURVEY	



SITE:			
BELFAIRS GOLF CLUB EASTWOOD ROAD NORTH			
TITLE:			
LOCATION PLAN			
SCALE AT AS:	DATE:	DRAWN:	CHECKED:
VARIOUS	06/12/18	N.P.	X
PROJECT NO:	DRAWING NO:	REVISIONS:	
LOC-01	001	0	

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Note - W12, D1 Limited access to measure, dims may vary slightly, Glazing to include ledlite bars as indicated in drawings

New Windows, Doors and Frames (secure by design) to be self finished powder coated Double Glazed Aluminium in RAL 9010 Pure White
 Windows to be fitted Supplied and fitted by FENSA approved installer
 Existing Concrete Sills to be retained, decorations making good to match existing exterior white finish

OB - Obscured Glass Level 4, i.e Pilkington or similar approved
 OBS - Obscured Security Glass Level 4, i.e Pilkington or similar approved
 PG - Pyro Glass (with frosted film), i.e Pilkington Pyroshield/PyroGuard or similar approved
 S6 - Safety Security Glazing - i.e Pilkington Optilam range or similar approved
 CG - Clear Low-E Glass, i.e Pilkington K glass or similar or approved
 SD - Level 4 Security Door, with security glazing including stained glazing to Borrowed Light above door

67

REV	REVISION DESCRIPTION	BY	DATE

southend on sea
 BOROUGH COUNCIL

SOUTHEND-ON-SEA BOROUGH COUNCIL
 DEPARTMENT OF PLACE, PROPERTY & ESTATE MANAGEMENT
 CIVIC CENTRE, VICTORIA AVENUE,
 SOUTHEND-ON-SEA, ESSEX, SS2 6JH

PROJECT DETAILS

Window and Door Replacement
 Belfairs Golf Club and Restaurant
 Leigh On Sea, Essex
 ESSEX
 SS9 4LR

SIC PROJECT REFERENCE

DRAWING STATUS

PLANNING

DRAWING TITLE

Window & Door Styles

DRAWING NUMBER	DRAWING REVISION
A103	0

DRAWN BY	CHECKED BY	ISSUED
LB	XX	05/02/19

SCALE & ORIENTATION, DRAWING SIZE

1:50 @ A3

FILENAME

Belfairs Golf Club & Restaurant

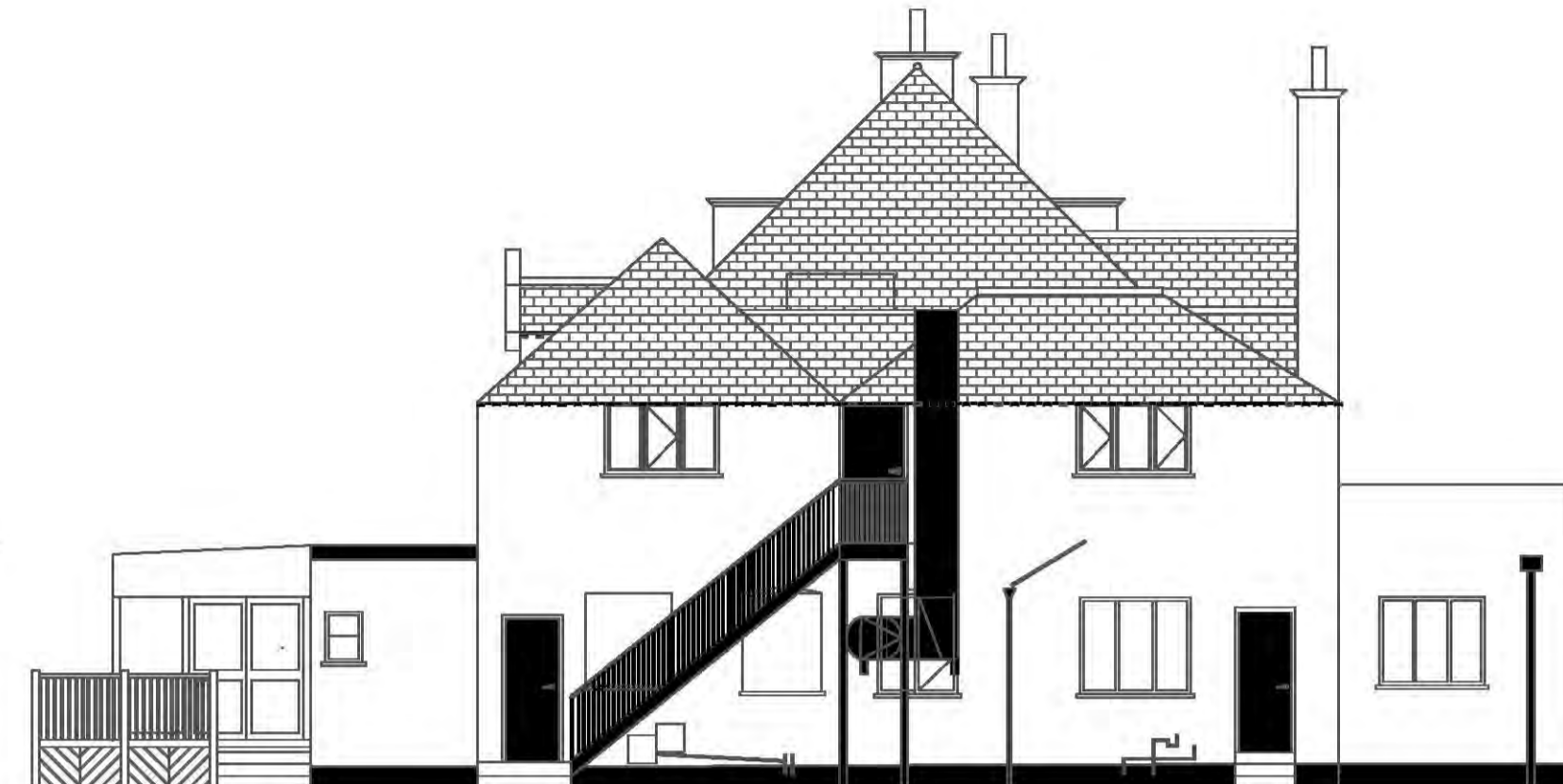
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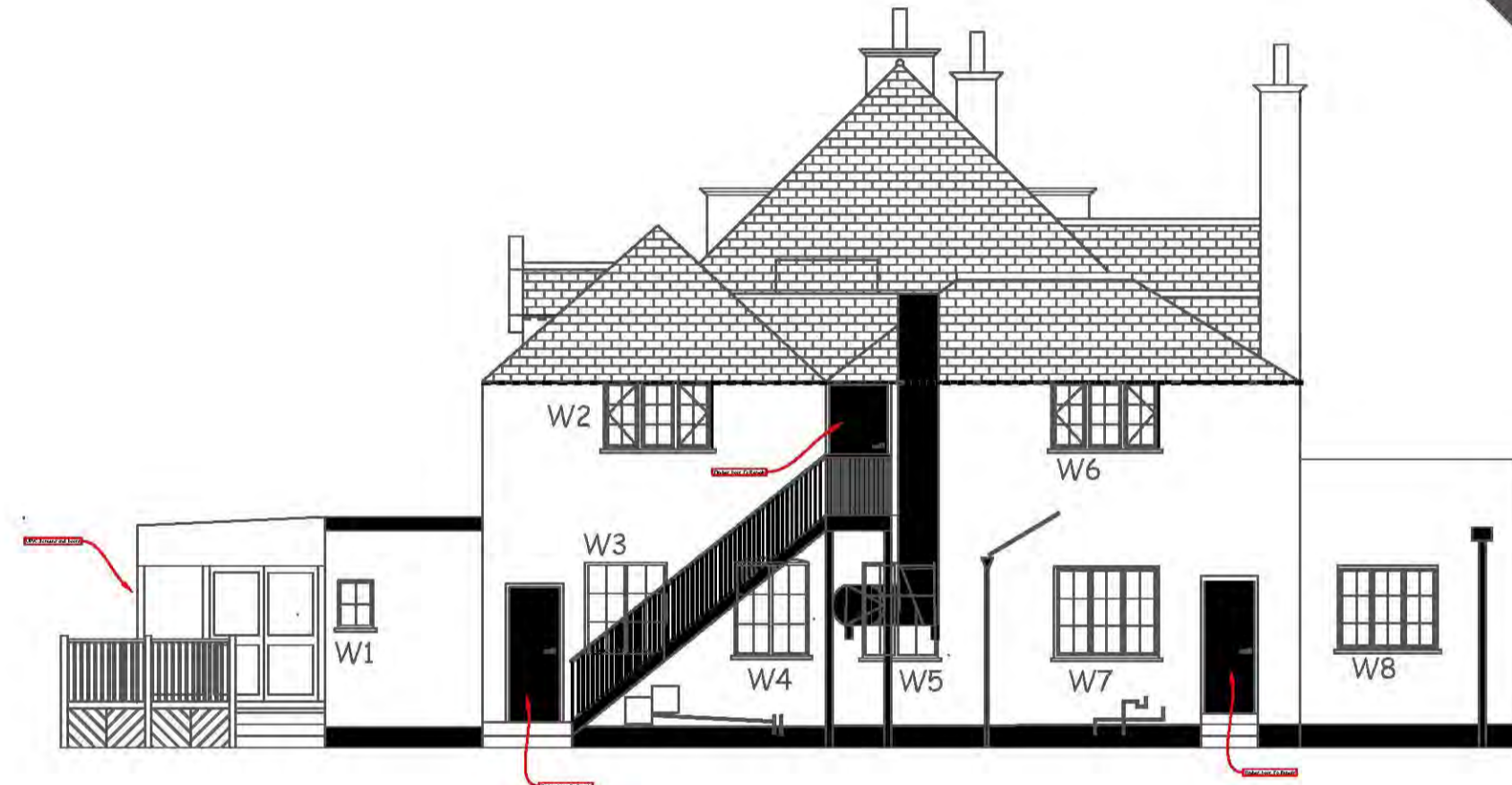
Existing North-West Elevation



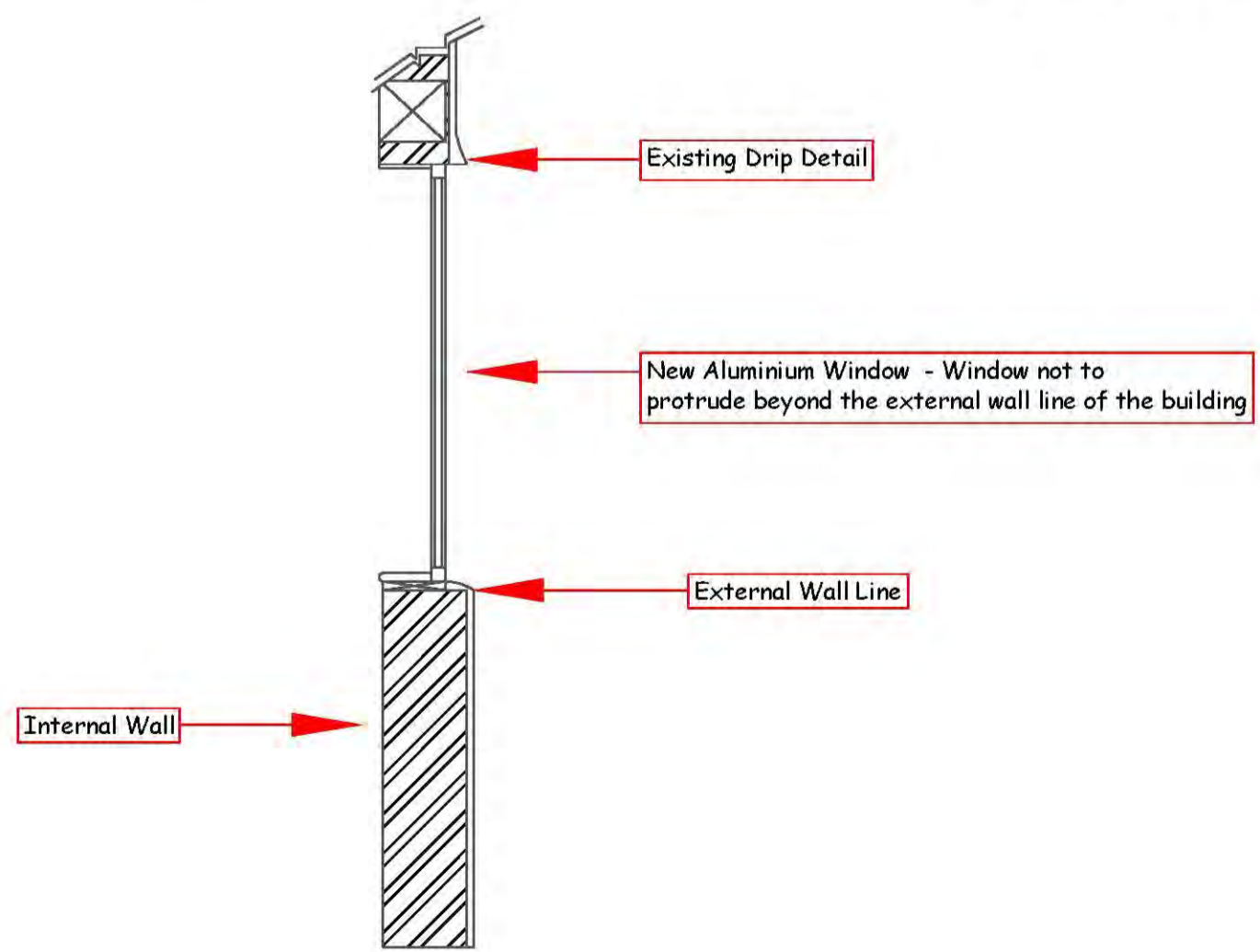
Existing North-East Elevation



Proposed North-West Elevation



Proposed North-East Elevation



Typical Section View Of New Window NTS

REV	REVISION DESCRIPTION	BY	DATE

southend on sea
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 SOUTHEND-ON-SEA, ESSEX, SS2 6Z+H

PROJECT DETAILS
Window and Door Replacement
 Belfairs Golf Club and Restaurant
 Eastwood Road North
 Leigh On Sea, Essex
 SS9 4LR

SBC PROJECT REFERENCE
 TBA

DRAWING STATUS
PLANNING

DRAWING TITLE
North Elevations

DRAWING NUMBER A101	DRAWING REVISION X
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DRAWN BY LB	CHECKED BY X.X.	ISSUED 05/02/19
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SCALE & ORIGINAL DRAWING SIZE
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FILE NAME
Belfairs Golf Club and Restaurant

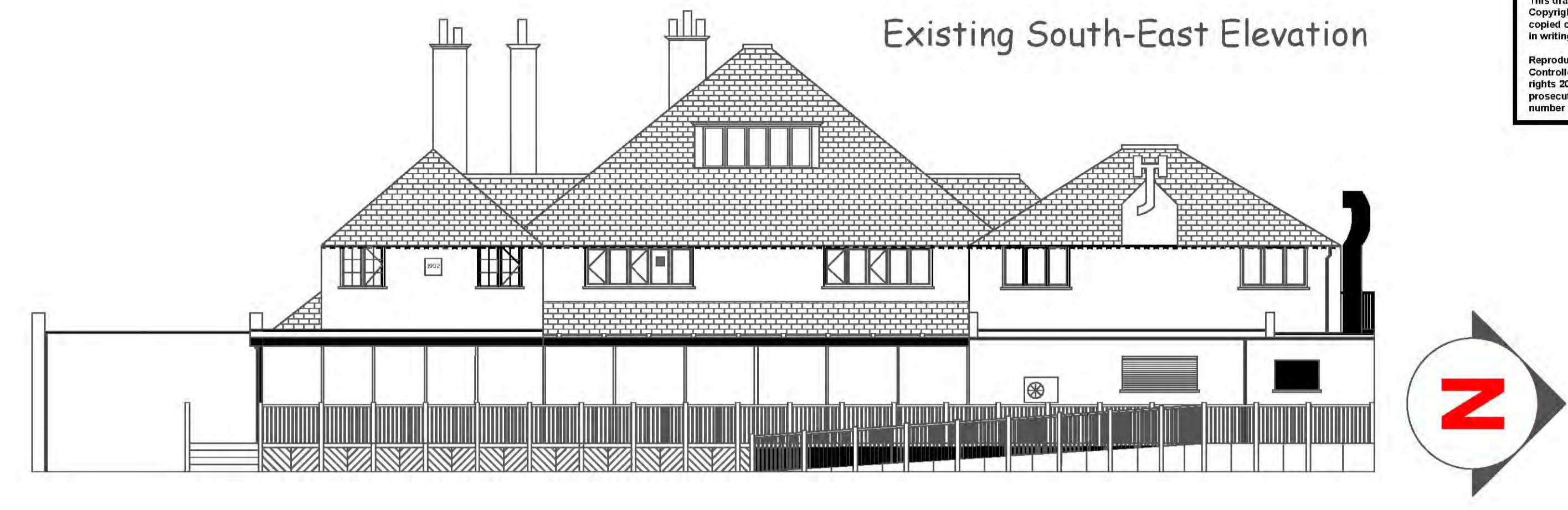
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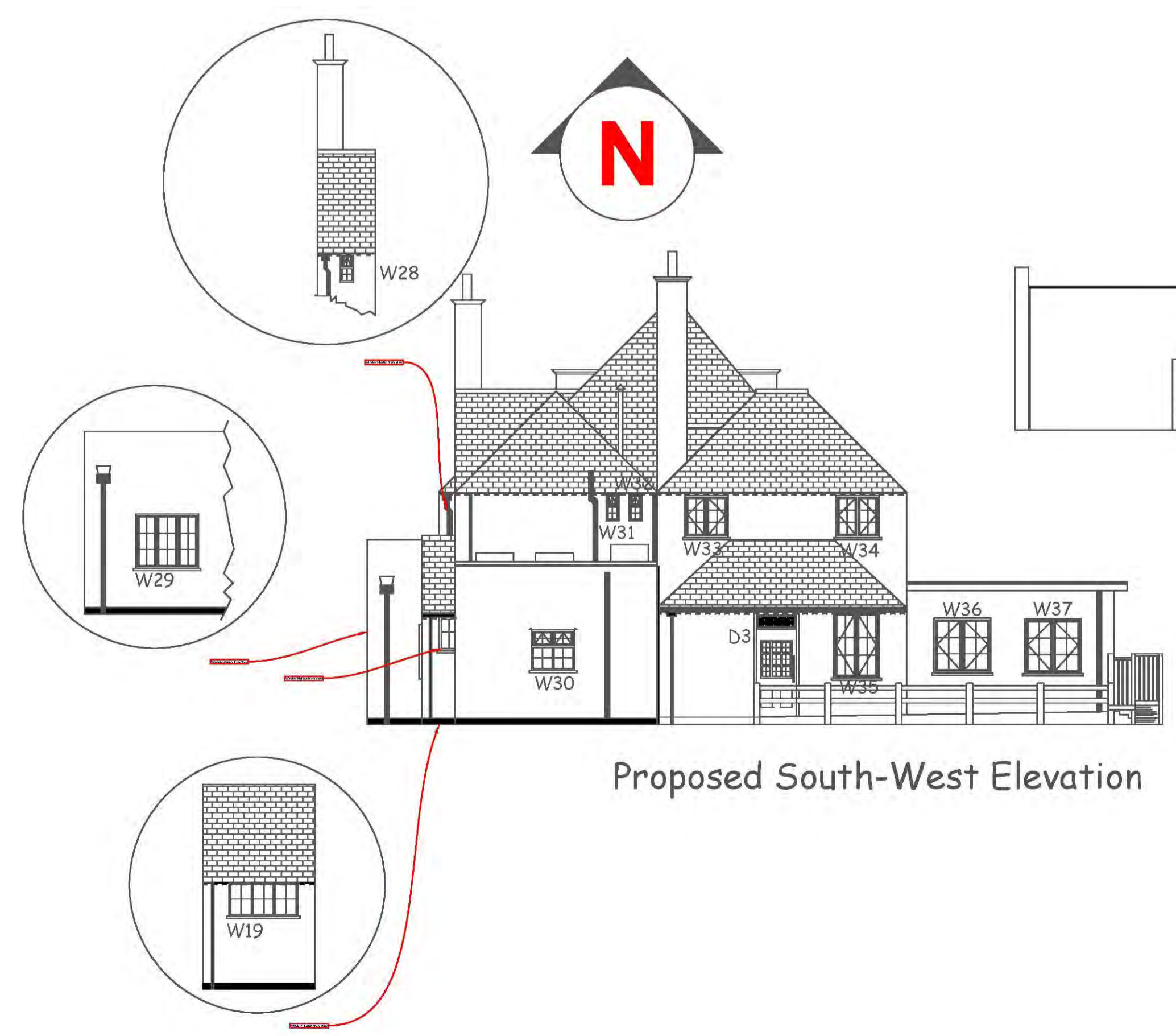
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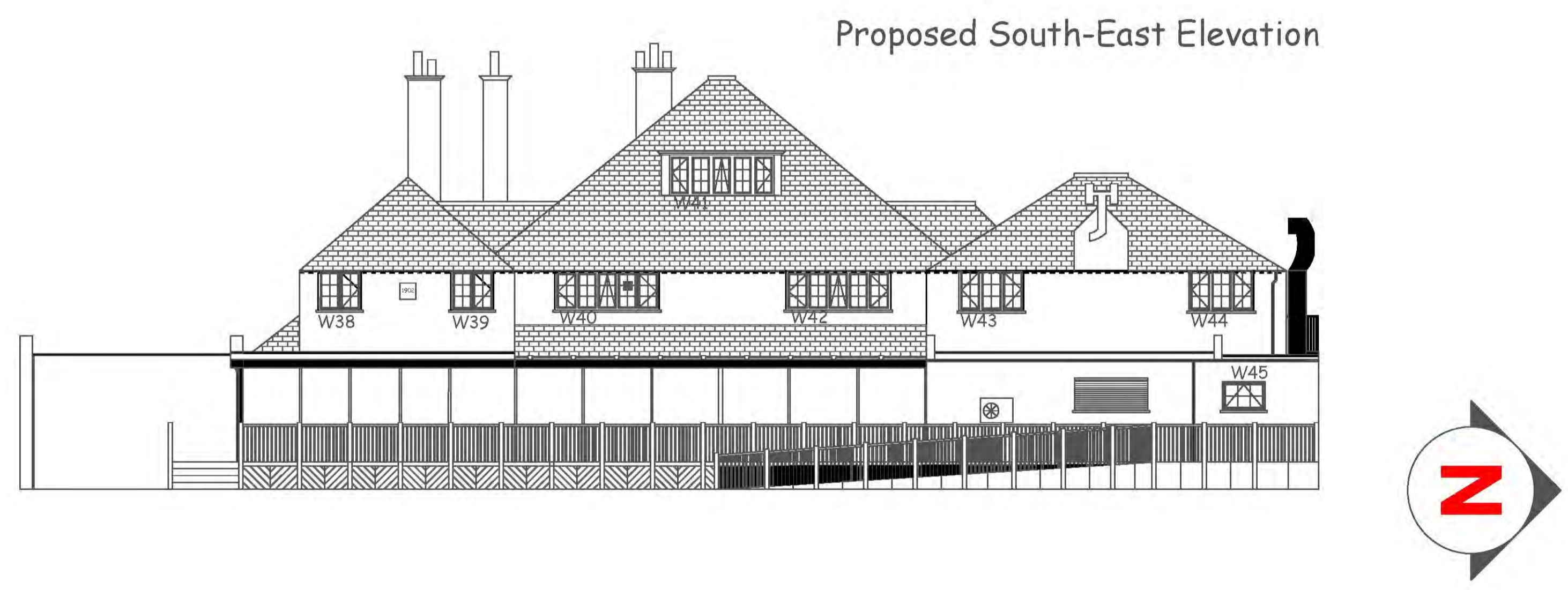
Existing South-West Elevation



Existing South-East Elevation



Proposed South-West Elevation



Proposed South-East Elevation

REV	REVISION DESCRIPTION	BY	DATE

southend on sea
 BOROUGH COUNCIL
 SOUTHEND-ON-SEA BOROUGH COUNCIL
 DEPARTMENT OF PLACE - PROPERTY & ESTATE MANAGEMENT
 CIVIC CENTRE, VICTORIA AVENUE,
 SOUTHEND-ON-SEA, ESSEX, SS2 6Z4

PROJECT DETAILS
Window and Door Replacement
 Belfairs Golf Club and Restaurant
 Eastwood Road North
 Leigh On Sea, Essex
 SS9 4LR

SBC PROJECT REFERENCE
 TBA

DRAWING STATUS
PLANNING

DRAWING TITLE
South Elevations

DRAWING NUMBER
A102

DRAWING REVISION
X

DRAWN BY
LB

CHECKED BY
X.X.

ISSUED
05/02/19

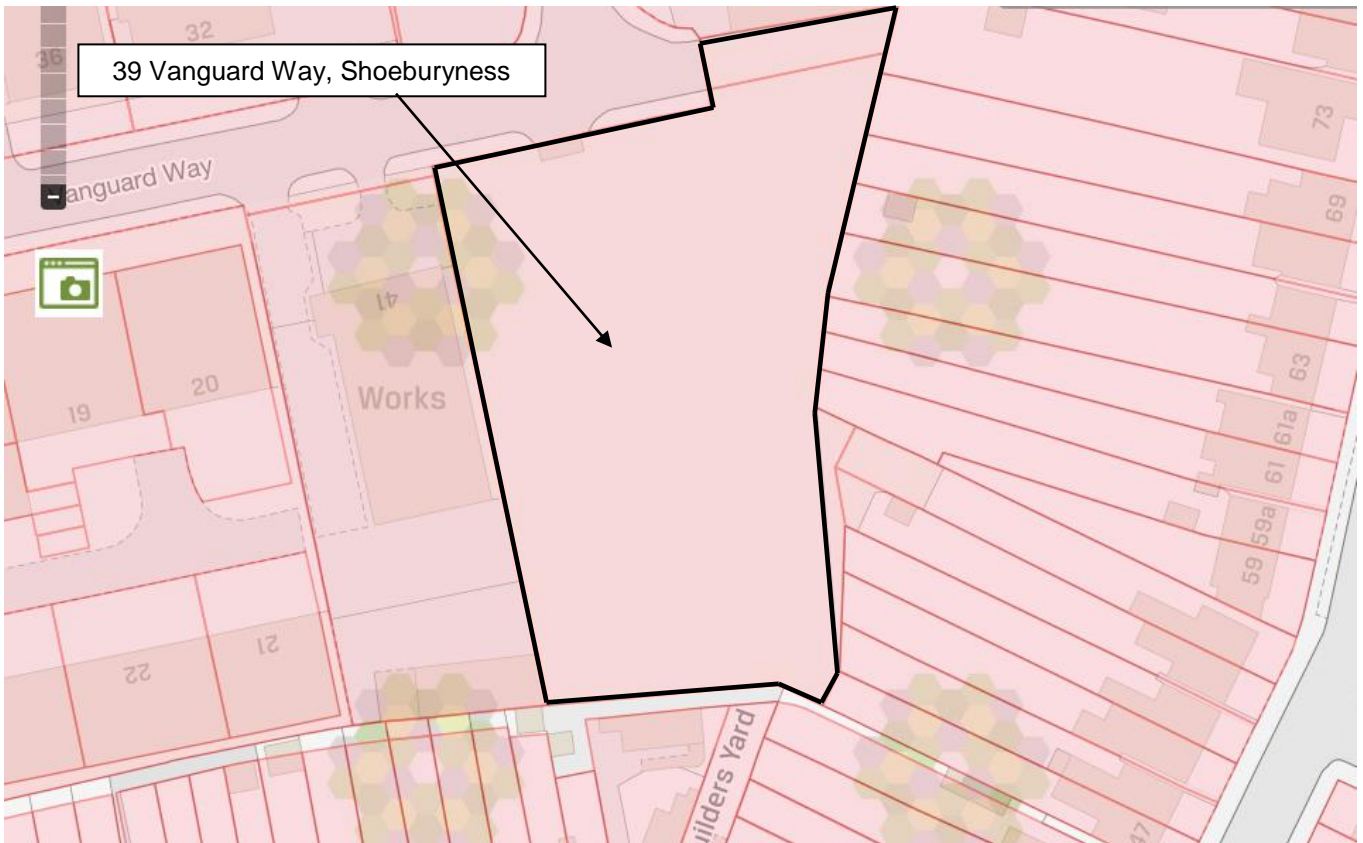
SCALE & ORIGINAL DRAWING SIZE
1:100 @ A1

FILE NAME
Belfairs Golf Club and Restaurant

1:1 check:

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Reference:	19/00254/BRCN_B	7
Ward:	Shoeburyness	
Breach of Control	Breach of planning conditions relating to planning permission 18/02157/FUL and unauthorised operational development	
Address:	39 Vanguard Way, Shoeburyness, Essex. SS3 9QY	
Case Opened:	15 th February 2019	
Case Officer:	Steve Jones	
Recommendation:	AUTHORISE ENFORCEMENT ACTION	



1 Site Location and description

- 1.1 The site formerly contained a social club which has since been demolished. In the interim period, aerial photography and publicly available photographs show the site has been overgrown and used for trailer storage with some dilapidated fencing and equipment.
- 1.2 The site is bounded to the east by the rear gardens of dwellings at 45-79 Wakering Avenue. To the south are a commercial property and dwellings at 2-4 Friars Street.
- 1.3 The site is located within an industrial estate and is in an area identified in the Development Management Document (2015) as employment land.

2 Lawful Planning Use

- 2.1 The authorised use of the site gained under planning permission 18/02157/FUL is for the storage of plant and equipment only, within Use Class B8 of the Town and Country Planning (Use Classes Order) 1987 (as amended).

3 Relevant Planning History

- 3.1 19/01188/AMDT Application to vary condition 06 (height of storage) alterations to storage height and remove condition 10 (details of acoustic fence) deemed unnecessary in this location (Minor Material Amendment of planning permission 18/02157/FUL dated 13/06/2019) - Refused
- 3.2 18/02157/FUL Use of land as Commercial Storage Yard (B8) incorporating 12 bays with storage outbuildings, erect lighting columns, erect fencing/gates within and around the site boundary and lay out hardstanding area together with the formation of an additional vehicular access from Vanguard Way (Retrospective) - Approved
- 3.3 18/00807/FUL Erect security metal fencing and gates around site boundary of existing Commercial Storage Yard (Retrospective) – Not proceeded with as never validated
- 3.4 03/01430/FUL Erect building for the storage of non-ferrous and precious metals and overnight lorry parking (2281m²) and lay out 4 parking spaces. (Amended proposal) – Refused, appeal allowed.
- 3.5 02/00919/FUL Erect building for the storage of non-ferrous and precious metals and overnight lorry parking (2281m²) and lay out 4 parking spaces. – Refused.
- 3.6 89/1088 Erect single storey side extension at Maplin Social Club, 39 Vanguard Way. – Approved.

4.0 Background and efforts to resolve identified breaches to date

- 4.1 In August 2017 a complaint was received that a metal palisade type fence about 2.5m high was being installed to the boundaries of this site.

- 4.2 Planning Enforcement staff visited the site and noted that a large area of it had been covered in hardstanding, that palisade type fencing had been erected around the entire site and also erected internally to create several smaller yards with gates which were accessed from a central roadway within the site via wide gates off Vanguard Way. Several small brick buildings were also present on site.
- 4.3 In January 2018 Planning wrote to the land owner but this letter was returned undelivered.
- 4.4 In May 2018 a retrospective planning application was received under reference 18/00807/FUL to 'Erect security metal fencing and gates around site boundary of existing Commercial Storage Yard'. That application was never validated but was effectively superseded by application 18/02157/FUL.
- 4.5 In October 2018 Enforcement Staff conducted further investigations into the historic use of the site and it was established that the lawful use was as a 'social club' deemed 'sui generis' for the purposes of the use classes (ie express planning permission would be needed to change either to or from that use). The site owner was e-mailed and the identified planning breaches were conveyed to them. These consisted of an unauthorised material change of use from sui generis to Commercial storage yard (B8), operational development due to erection of several small buildings approx. 2.8m high, formation of the hardstanding area and erection of the boundary treatment and fence divisions creating several smaller yards. A retrospective planning application was invited in an attempt to remedy the identified planning breaches.
- 4.6 In November 2018 retrospective planning application 18/02157/FUL seeking retrospective planning permission for use of the land as a Commercial Storage Yard (B8) incorporating 12 bays with storage outbuildings, erect lighting columns, erect fencing/gates within and around the site boundary and lay out hardstanding area together with the formation of an additional vehicular access from Vanguard Way was received. This sought to address the identified breaches. It included the provision of two containers. One shipping type container to the east side of the site close to Vanguard Way and a second metal construction to the east side of the site adjacent to the wall of the unit at 41 Vanguard Way.
- 4.7 On 15th February 2019 planning application 18/02157/FUL was approved subject to conditions. A copy of the officer report is at Appendix 'A'. Among the conditions imposed, those directly relevant to the breaches outlined in this report are:
- 4.8 Condition 07 – No part of the site shall be occupied for overnight residential accommodation, including within vehicles and caravans.
- 4.9 Condition 08 – No vehicles shall enter or leave the site and no work or other activity shall take place on the site on Sundays or Bank Holidays and all work and other activity and vehicle movements on other days shall be confined to the following hours: 0700 to 1900 Mondays to Fridays; 0800 to 1300 Saturdays.
- 4.10 Condition 10 – Within twelve weeks of the date of this planning permission, details of an acoustic fence, together with a timetable for its construction, to be erected along the east and south boundaries of the site, shall have been submitted for approval to the local planning authority. The fence shall thereafter be constructed in accordance with the agreed details and timescale and permanently retained thereafter.

- 4.11 Condition 12 – No burning of materials shall take place within the site at any time.
- 4.12 These conditions were imposed for amenity reasons.
- 4.13 From February 2019 regular complaints were received that the site occupiers were breaching the conditional approval mainly in respect of access to the site on Sundays and after 7pm weekdays in breach of condition 08, a person(s) living in a caravan in breach of condition 07 and the burning of materials in breach of condition 12.
- 4.14 On 20th February 2019 the site owner was contacted about the breaches and advised to make contact with all of the yard operators to remind them of the planning conditions. The site owner agreed to take such action.
- 4.15 Complaints relating to breaches of the planning conditions continued and on 1st April 2019 the site owner was again contacted about those plus the installation of spotlights in breach of condition 09 and access to the site outside of the approved hours. The owner was warned about the potential for formal action by the Council. The site owner stated action would be taken and it would appear the unauthorised spotlights were removed.
- 4.16 Complaints continued and on 29th May 2019 the site owner was emailed highlighting continuing complaints about bonfires / access to the site out of hours / people living on site in a caravan.
- 4.17 On 3rd June 2019 the site owner responded to the above email stating he would install CCTV cameras and speak to everyone responsible for the various yards.
- 4.18 On 20th June 2019 Enforcement Staff visited the scaffold yard within the site. In that particular yard was a caravan and the lessee of the site confirmed that someone did sleep in it overnight on occasions for the purpose of site security. They also stated they accessed the yard on some Sundays to load up equipment for jobs the following day. They were reminded this was a breach of the planning permission. It was also noted that some units had introduced shipping type containers as storage sheds and that a number of unauthorised outbuildings had been erected.
- 4.19 On 21st June 2019 the site owner was again emailed about the recent breaches. A response was received from the owner's planning agent stating that an application has been submitted to seek to vary/remove some of the conditions on the planning permission.
- 4.20 In June 2019 planning application 19/01188/AMDT was received which sought to vary condition 06 (height of storage) alterations to storage height and remove condition 10 (details of acoustic fence) deemed unnecessary in this location (Minor Material Amendment of planning permission 18/02157/FUL dated 13/06/2019).'
- 4.21 In August 2019 the above application was refused.
- 4.22 Since the February 2019 grant of planning permission Planning and Environmental Health have each received various third party logs relating to breaches of various conditions, mainly in respect of access to the site out of approved hours, the burning of bonfires and the caravan being occupied overnight.

5.0 The alleged planning breaches and the harm caused

5.1 *Overnight residential occupation of a caravan (Breach of Condition 07)*

5.2 Several reports have been received from complainants that a caravan situated within the scaffolding company site is occupied overnight. This was confirmed by the lessee of that yard to be the case. As controlled by condition 07 the permitted use of the site is for the storage of machinery and materials not for residential purposes. Providing residential accommodation in the form of an on-site caravan would be harmful to the living conditions of people occupying the caravan. In the circumstances of this case this is unacceptable and does not comply with policy.

5.3 *Access to the site and work activity outside of the permitted hours (Breach of Condition 08)*

5.4 The above condition prohibits access to the site by vehicles and no work related activity on site on Sundays or Bank Holidays or outside the hours of 7am to 7pm Monday to Friday and 8am to 1pm on Saturdays.

5.5 Breaches of this condition have allegedly taken place on many occasions. The third party logs indicate a breach occurs several times a week whether caused by vehicle access or work such as angle grinding. These breaches impact harmfully on the amenities of the occupiers of neighbouring properties particularly with regard to noise and disturbance.

5.6 *No details of required acoustic fence submitted (or constructed) (Breach of Condition 10)*

5.7 Condition 10 required that 'within twelve weeks of the date of the planning permission, details of an acoustic fence, together with a timetable for its construction, to be erected along the east and south boundaries of the site, shall have been submitted for approval to the Local Planning Authority. The fence shall be constructed in accordance with the agreed details and timescales and permanently retained thereafter.'

5.8 The subsequent application to remove this condition 19/01188/AMDT was refused and no information has been received to indicate this decision has been appealed. Consequently there is a breach of condition 10 as no approval of details application has been received or approved.

5.9 The presence of an acoustic fence was fundamental to the decision to grant planning permission for the change of use. The absence of the acoustic fence significantly exacerbates the harm to residential amenity by the nature and appearance of activity and structures on this site. It is therefore recommended that the use should be required to cease until and unless the acoustic fencing has been installed.

5.10 *Bonfires on site (Breach of Condition 12)*

5.11 Several reports of bonfires have been reported to both Planning and Environmental Health Departments. Although separate controls are available under the provisions of Environmental Health (Control of Pollution) legislation, Condition 12 specifically stated that the burning of materials should not take place on site at any time.

This is to protect the amenity of the neighbouring residential properties particularly in respect of noise and smells. This is a lawful planning condition that meets the six tests for planning conditions in the circumstances of this case which is related to commercial type activity. Non-compliance with that condition is unacceptable and represents a harmful breach of planning control.

5.12 *The installation of metal storage sheds*

5.13 Due to their degree of permanence and intended nature of use, the provision on site of 3 metal containers amounts to operational development requiring planning permission. 1 of the containers appears to be a shipping type container measuring about 6m long by 2.5m wide and 2.5m high. The remaining 2 vary in size from approx. 4m in length to approx. 7.3m in length and about 2.7m in height. Limited and sensitively sited containers may be acceptable in planning terms and two containers were approved under the 2018 permission, but the unauthorised placement of additional containers and metal sheds intensifies the activity on the site which, as explained at 5.6 above, is already operating in breach of the condition (no 10) requiring acoustic boundary fencing.

5.14 *The installation of scaffold storage areas*

5.15 Two of the yards have constructed 3 structures from scaffolding and corrugated metal sheeting and plastic sheeting in order to create a dry storage area beneath. The structure in one yard measures approx. 10m in length by 4m wide and 3.5m high. One of the structures in the yard containing two structures, measures about 4m in each direction and the second structure which is a scaffold racking system, is approx. 8m in length and 3+m high and is directly backing onto gardens in Wakering Avenue. These structures amount to operational development for which there is no planning permission. The makeshift nature of these structures detracts harmfully from the character and appearance of the site. They again intensify the activity on the site which is operating in breach of the condition (no 10) requiring acoustic boundary fencing.

6.0 Harm caused by the above breaches as assessed against relevant planning policies and justification for enforcement action

6.1 The various breaches of the planning control and implications of the issues arising have been assessed against the following policy background :

6.2 The National Planning Policy Framework (NPPF) (2019)

6.3 Core Strategy (2007) Policies KP1, KP2 (Development principles) CP1 (Employment Generating Development), CP3 (Transport and Accessibility) and CP4 (Environment & Urban Renaissance)

6.4 Development Management Document (2015): Policies DM1 (Design Quality) and DM3 (The Efficient and Effective Use of Land), DM 10 (Employment Sectors) , DM11 (Employment Areas) and DM15 (Sustainable Transport Management)

- 6.5 Whilst local and national planning policies give general support to employment generating development, particular to the issues raised in this report paragraph 124 and 127 of the National Planning Policy Framework seek to secure high quality design and a good standard of amenity for all existing and future occupants of land and buildings.
- 6.6 Policy KP2 of the Core Strategy seeks to secure improvements to the urban environment through quality design. Policy CP4 seeks to maintain and enhance the amenities, appeal and character of residential areas.
- 6.7 Policies DM1 and DM3 of the Development Management Document seek to support sustainable development which is appropriate in its setting, and that “protects the amenity of the site, immediate neighbours, and surrounding area, having regard to matters including privacy, overlooking, outlook, noise and disturbance, sense of enclosure/overbearing relationship, pollution, daylight and sunlight”.
- 6.8 Policy DM8 covers residential standards and issues related to living conditions.
- 6.9 It is apparent from the nature, range and persistent pattern of breaches identified that the site is currently being poorly managed and that, despite the site owner stating that they would address the breaches through appropriate communication with the individual lessees of the yards within the overall site, they have shown little or no regard for the amenity of the local residents and future occupiers of the unauthorised caravan. Efforts to bring these ongoing breaches under control by regular contact with the site owner have not resulted in any improvement in the situation. Rather the original breaches of conditions have continued and new breaches, including further unauthorised operational development, have been identified. These are exacerbating the harm to the amenity of nearby residents. Overall the breaches are causing material harm to the living conditions and amenities of nearby residents contrary to the terms of the planning permission in place. This harm to amenity is unacceptable and contrary to policy.
- 6.10 Efforts to remedy the planning breach in respect of the owner’s failure to provide details of (and erect) an acoustic fence have come to no avail.
- 6.11 In view of the lack of response and action on the part the site owner it is considered necessary and justified to take enforcement action to seek to resolve the harm caused by the identified breaches.
- 6.12 In view of the protracted period for which these unresolved breaches have continued and the nature and impact of continuing harm which it is causing, it is considered necessary and justified to take enforcement action to seek to address the environmental harm and negative effect on amenity caused by the unauthorised developments. Particular to Condition 10, which required acoustic fencing to be erected to mitigate the environmental and amenity impacts resulting from the use retrospectively granted planning permission that would involve taking action to require cessation of the use of the site to the extent that the insufficiently controlled / mitigated operation is harming environmental conditions and amenity.

6.13 Taking enforcement action in this case may amount to an interference with the owner/occupiers' human rights. However, it is necessary for the Council to balance the rights of the owner/occupiers against the legitimate aims of the Council to regulate and control land within its area. In this particular case it is considered reasonable, expedient, proportionate and in the public interest to pursue enforcement action to control activity and address unauthorised breaches of conditions and operational development on this site.

7 Recommendation

7.1 Members are recommended to AUTHORISE ENFORCEMENT ACTION to;

- a) Remove the unauthorised containers from site as identified A, B & C shown at appendix 'C'
- b) Remove the unauthorised shelters constructed from scaffold as identified by D, E & F shown at Appendix 'C'.
- c) To cease the overnight residential use on site in breach of Condition 07 of planning approval 18/02157/FUL.
- d) To cease the use of the site outside of permitted hours as stated in Condition 08 of planning approval 18/02157/FUL. No access on Sundays or Bank Holidays and all work and other activity and vehicle movements on other days shall be confined to the following hours: 0700 to 1900 Mondays to Fridays; 0800 to 1300 Saturdays.
- e) Cease the use of the site as a Commercial Storage Yard (B8) until such time as an acoustic fence has been erected on the east and south boundaries as required under the original terms of Condition 10 of planning permission 18/02157/FUL in accordance with details which have previously been submitted to and approved in writing by the Local Planning Authority.
- f) To cease the burning of materials on site in accordance with Condition 12 of planning approval 18/02157/FUL.

7.2 The authorised enforcement action to include (if/as necessary) the service of an Enforcement Notice under Section 172 of the Act and/or the service of a breach of condition notice and the pursuance of proceedings whether by prosecution or injunction to secure compliance with the requirements of the Enforcement Notice.

7.3 When serving an Enforcement Notice the local planning authority must ensure a reasonable time for compliance. In this case a compliance period of 3 months is considered reasonable.

APPENDIX 'A'

Reference:	18/02157/FUL
Ward:	Shoeburyness
Proposal:	Use of land as Commercial Storage Yard (B8) incorporating 12 bays with storage outbuildings, erect lighting columns, erect fencing/gates within and around the site boundary and lay out hardstanding area together with the formation of an additional vehicular access from Vanguard Way (Retrospective)
Address:	39 Vanguard Way Shoeburyness Southend-On-Sea
Applicant:	Mr Peter Hills
Agent:	BDA
Consultation Expiry:	24.01.2019
Expiry Date:	15.02.2019
Case Officer:	Robert Lilburn
Plan Nos:	18.132.01B, 18.132.02B, 18.132.03 and 18.132.04.
Recommendation:	GRANT PLANNING PERMISSION

1 The Proposal

- 1.1 The application seeks planning permission retrospectively for the use of the site as storage (use class B8) with associated additional vehicular access, hard standing, outbuildings and fencing. The storage use is subdivided into twelve individual open-air bays, each incorporating a small 'store' building and enclosed by 2.4m high palisade fencing. The site measures some 3142sqm, with the compounds predominantly some 150sqm with two larger compounds of some 230sqm and 300sqm in area respectively.
- 1.2 The submitted plans show that eleven of the store buildings measure some 1.6m deep, 2.6m wide and 2.8m height. There is a larger store building to Bay 1 which would measure some 2.45m deep, 4.8m wide and 2.8m height. Two additional buildings situated within Bay 9 measure 2.4m by 2.4m and 6m by 2.4m respectively, and each 2.4m in height. There is also a shipping container adjacent the site entrance which measures some 2m by 5m and 2.4m in height and houses ancillary storage and services for the site.
- 1.3 The fencing and gates measure some 2.4m in height and are a galvanised steel 'palisade' specification. The site is accessed via an established vehicular access from Vanguard Way, leading on to a gravelled spine road from which bays 2-12 are accessed. 10 lighting columns of some 4.8m in height are situated along each side of the spine road.
- 1.4 Bay 1 is accessed separately from Vanguard Way with its own vehicular access which appears to have been formed as part of the development. The applicant has stated that there are no on-site employees associated with the development.

2 Site and Surroundings

- 2.1 The application site was formerly host to a social club which has since been demolished. In the interim period aerial photography and publicly available photographs show the site has been overgrown and used for trailer storage with some dilapidated fencing and equipment.
- 2.2 The site is located within a purpose-built industrial estate. The site is within an area identified in the Development Management Document (2015) as employment land.
- 2.3 The site is bounded to the east by the rear gardens of dwellings at 45-79 Wakering Avenue; to the south is a commercial property and dwellings at 2-4 Friars Street.

3 Planning Considerations

- 3.1 The key considerations in relation to the application are the principle of the development, design and character, impact on residential amenity, any traffic and parking implications and CIL.

4 Appraisal

Principle of Development

National Planning Policy Framework (2018), Policies KP1, KP2, CP1, CP3 and CP4 of the Southend-on-Sea Core Strategy (2007), Policies DM1, DM3, DM10, DM11 and DM15 of the Southend-on-Sea Development Management Document (2015) and advice contained within the Southend-on-Sea Design and Townscape Guide (2009)

- 4.1 Government guidance with regard to planning matters is set out in the National Planning Policy Framework (NPPF). The NPPF encourages the effective use of land by re-using land that has been previously developed (para.117) and promote the development of under-utilised land and buildings.
- 4.2 Policies KP1 and KP2 seek to promote sustainable development, including appropriate regeneration and growth within the priority Urban Areas (including identified industrial areas), and Policy KP2 seeks to put land and buildings to their best use. Policy CP4 seeks the creation of a high quality, sustainable urban environment which enhances and complements the natural and built assets of Southend, including maintaining and enhancing the amenities, appeal and character of residential areas.
- 4.3 Policy DM3 of the Development Management Document (2015) seeks the efficient and effective use of land, provided it responds positively to local context and does not lead to over-intensification.
- 4.4 Policy CP1 of the Core Strategy states that “Employment generating development should be located using a sequential approach in accordance with the spatial priorities and roles set out in Policies KP1. Industrial and distribution uses will be supported on existing and identified industrial/employment sites, where this would increase employment densities and/or reinforce their role in regeneration”. Policies DM10 and DM11 seek to support appropriate sites for employment opportunity in accordance with the spatial strategy.
- 4.5 The Southend-on-Sea Employment Land Review 2010 is a material consideration. It identifies the site location at Vanguard Way as suitable for retention for future employment purposes.
- 4.6 The development provides lock-up storage for commercial users. At the time of site visit this included portaloos, scaffolding, a mobile crane, a shipping container, a caravan, vans and small trailers. The use appears to support local small businesses. Although the storage use is relatively passive, as there is no staff in permanent attendance at the site, it accords with the policy objective of maintaining employment land in a ‘B’ class employment-related use.
- 4.7 The character of the use is consistent with the industrial estate context. As a matter of principle, the use of the site for commercial storage is acceptable and consistent with the objectives of the relevant development plan policies noted above.

Design and Impact on the character of the area

National Planning Policy Framework (2018), Policies KP1, KP2 and CP4 of the Core Strategy (2007), Policies DM1 and DM3 of the Development Management Document (2015) and guidance contained within the Design and Townscape Guide (2009)

- 4.8 Paragraph 124 of the NPPF states that *“The creation of high quality buildings and places is fundamental to what the planning and development process should achieve. Good design is a key aspect of sustainable development, creates better places in which to live and work and helps make development acceptable to communities”*.
- 4.9 The importance of good design is reflected in Policies KP2 and CP4 of the Core Strategy and also in Policies DM1 and DM3 of the Development Management Document. These policies seek to maintain and enhance the amenities, appeal and character of residential areas.
- 4.10 Policy DM1 seeks development that adds to the overall quality of the area and respects the character of the site, its local context and surroundings in terms of its architectural approach.
- 4.11 Policy DM3 seeks development that responds positively to local context. It also states that alterations and additions to a building will be expected to make a positive contribution to the character of the original building and the surrounding area.
- 4.12 The Design and Townscape Guide also states that *“the Borough Council is committed to good design and will seek to create attractive, high-quality living environments”*.
- 4.13 The development is relatively small-scale and consistent with the character and scale of the industrial estate of which it is a part. The fencing, buildings, and lighting columns are functional in appearance. The development is situated within the envelope of the industrial estate. Although the site borders a residential area, the operational development is well-integrated to the industrial estate backdrop.
- 4.14 The applicant has not provided details of the management of the storage uses. As open storage, there is potential for unsightly and unneighbourly forms of storage which would harm visual amenities. However, these matters can be controlled through the use of appropriately worded conditions and therefore would not be a bar to a grant of planning permission.
- 4.15 It is considered that the development is consistent with the above-noted policies with reference to design and character. The proposals are considered acceptable and policy-compliant in this regard.

Impact on Neighbour Amenities

National Planning Policy Framework (2018), Policies KP1, KP2 and CP4 of the Southend-on-Sea Core Strategy (2007), Policies DM1 and DM3 of the Southend-on-Sea Development Management Document (2015) and the advice contained within the Southend-on-Sea Design and Townscape Guide (2009)

- 4.16 Paragraphs 124 and 127 of the National Planning Policy Framework seek to secure high quality design and a good standard of amenity for all existing and future occupants of land and buildings.
- 4.17 Policy KP2 of the Core Strategy seeks to secure improvements to the urban environment through quality design. Policy CP4 seeks to maintain and enhance the amenities, appeal and character of residential areas.
- 4.18 Policies DM1 and DM3 of the Development Management Document seek to support *“sustainable development which is appropriate in its setting, and that protects the amenity of the site, immediate neighbours, and surrounding area, having regard to matters including privacy, overlooking, outlook, noise and disturbance, sense of enclosure/overbearing relationship, pollution, daylight and sunlight”*.
- 4.19 The Design and Townscape Guide also states that *“the Borough Council is committed to good design and will seek to create attractive, high-quality living environments”*.
- 4.20 The neighbouring dwellings at Wakering Avenue have rear gardens a minimum length of some 28m. These adjoin the application site and are situated at a lower ground level. No.4 Friars Street is separated from the site by some 17m and an intervening yard.
- 4.21 There is a potential for harmful impacts to neighbouring and surrounding occupiers as a result of storage activities at the site. These could include, but may not be limited to, the following:
- Visual impact of storage at height;
 - Noise from loading and unloading of vehicles;
 - Noise from associated plant and equipment;
 - Use of lighting;
 - Dust, smells and other impacts arising from open storage of volume substances such as waste or minerals;
 - Potential for hazardous substances being stored;
 - Burning of waste.
- 4.22 The applicant has not set out the envisaged forms of storage at the site or methods of controlling possible impacts. However, a site visit indicated storage of plant, equipment and vehicles only.
- 4.23 The intensity of use of the site is limited to a degree by the subdivision into small compounds. There is a potential for vehicle movements arising which may affect the nearest dwellings at unsocial hours. It is considered appropriate that a condition relating to hours of operation would mitigate any material harm from associated noise.
- 4.24 It is considered that matters which may lead to potential disamenity from the types of storage could be controlled through suitably-worded conditions on planning permission. The proposal is a conforming use with its surroundings given its location within the identified envelope of the industrial estate.

- 4.25 There are existing noise-generating uses at the estate and a degree of associated noise is to be expected. It is considered that impacts such as noise can be maintained within acceptable parameters given the potential for suitably-worded conditions, the distance to the rear of the neighbouring dwellings and the existing industrial estate context.
- 4.26 Given the ability to control impacts of an open storage use through conditions, it is considered that any future amalgamation of the small compounds would not lead to material harm to nearby occupiers, subject to ongoing compliance with conditions. Permitted development rights are available in the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) for the erection of buildings associated with a storage use.
- 4.27 Given the proximity and potential for impacts on nearby residential occupiers, it is considered that a condition removing permitted development rights would be appropriate in order to allow consideration of these impacts and protection of amenities. Subject to conditions, the proposals are considered acceptable and policy-compliant in regard to amenities of residential areas.

Traffic and Transport

National Planning Policy Framework, Policies KP2 and CP3 of the Southend-on-Sea Core Strategy (2007), Policy DM15 of the Southend-on-Sea Development Management Document (2015) and the advice contained within the Southend-on-Sea Design and Townscape Guide (2009)

- 4.28 Policy DM15 of the Development Management Document states that development will be allowed where there is, or it can be demonstrated that there will be, physical and environmental capacity to accommodate the type and amount of traffic generated in a safe and sustainable manner. Policy CP3 of the Core Strategy seeks to improve road safety, quality of life and access for all.
- 4.29 Policy DM15 sets a maximum standard of one parking space per 150sqm site area. The standards would therefore require a maximum of 20 parking spaces for the development.
- 4.30 The submitted application form states that no staff are employed at the site. Each compound allows for vehicular access and a degree of undemarcated parking for those using them. The site is located within a purpose-built industrial estate.
- 4.31 No objections have been raised to the use or the new vehicular access. It is considered that the development is acceptable and compliant with policy objectives in regards to traffic and transport.

Community Infrastructure Levy

CIL Charging Schedule 2015

- 4.32 The total new floor space created by the proposal is shown on the submitted plans as some 97.8sqm. As a commercial change of use, the development is not CIL liable under the Community Infrastructure Levy Regulations 2010 (as amended) and as such no charge is payable. See www.southend.gov.uk/cil for further details about CIL.

5 Conclusion

- 5.1 Having taken all material planning considerations into account, it is found that the proposed development is acceptable and compliant with the objectives of the relevant development plan policies and guidance. It would be integrated and compatible with the industrial estate setting. Subject to suitable conditions, it would be capable of maintaining visual amenities and the amenities of residents. It supports a degree of economic activity in an identified employment area. Therefore, it is recommended that planning permission is granted, subject to conditions.

6 Planning Policy Summary

- 6.1 The National Planning Policy Framework (2018)
- 6.2 Core Strategy Policies KP1 (Spatial Strategy) KP2 (Development Principles) CP1 (Employment Generating Development) CP3 (Transport and Accessibility) CP4 (Environment & Urban Renaissance)
- 6.3 The Southend-on-Sea Development Management Document (2015): Policies DM1 (Design Quality) DM3 (The Efficient and Effective Use of Land) DM10 (Employment Areas) DM11 (Employment Areas) DM15 (Sustainable Transport Management)
- 6.4 Design & Townscape Guide (2009)
- 6.5 CIL Charging Schedule 2015

7 Representation Summary

Public Consultation

- 7.1 27 neighbouring properties were notified and a site notice was posted. Nine representations have been received from eight parties, and are summarised as follows:
- Noise from machinery, vehicles, music and voices;
 - Burning of fires;
 - Additional noise to existing industrial estate;
 - Noise at all hours;
 - Impact on neighbour amenities and amenity of residential area;
 - Removal of fences and trees;
 - Use of large cranes close to dwellings;
 - Harm to health;
 - Damage to neighbouring properties.
- 7.2 These concerns are noted and where relevant to material planning considerations they have been taken into account in the assessment of the application. Those remaining are found not to represent a reasonable basis to refuse planning permission in the circumstances of this case.

Highways

- 7.3 There are no highway objections to this proposal.

Environmental Health

- 7.4 Construction Hours Shall Be Restricted to 8am - 6pm Monday to Friday, 8am – 1pm Saturday and not at all on Sundays or Bank Holidays.
- 7.5 During Construction and Demolition, there shall Be No Burning Of Waste On Site.

8 Relevant Planning History

03/01430/FUL: Erect building for the storage of non ferrous and precious metals and overnight lorry parking (2281m sq) and lay out 4 parking spaces (Amended Proposal). Refused; appeal allowed.

02/00919/FUL: Erect building for the storage of non-ferrous and precious metals and overnight lorry parking (2281m sq) and lay out 4 car parking spaces. Refused.

89/1088: Erect single storey side extension at Maplin Social Club, 39 Vanguard Way. Approved.

9 Recommendation

GRANT PLANNING PERMISSION subject to the following conditions:

01.The development hereby permitted shall be retained in accordance with the following approved plans: 18.132.01B, 18.132.02B, 18.132.03 and 18.132.04.

Reason: To ensure that the development is carried out in accordance with provisions of the Development Plan.

02.With the exception of operations associated with loading, unloading and parking, no machinery shall be operated on site.

Reason: To protect the environment of people in neighbouring residential properties, in accordance with the National Planning Policy Framework (2018), Core Strategy (2007) Policies KP2 and CP4, and Development Management Document (2015) Policies DM1 and DM3.

03.No assembly, dismantling or other industrial process shall take place on the site and the site shall not be used for any purposes falling within use class B2 of the Schedule 2 to the Town and Country Planning (Use Classes) Order 1987 (as amended) (or any statutory amendment, modification or re-enactment or replacement thereof (as the case may be) for the time being in force).

Reason: To protect the environment of people in neighbouring residential properties, in accordance with the National Planning Policy Framework (2018), Core Strategy (2007) Policies KP2 and CP4, and Development Management Document (2015) Policies DM1 and DM3.

04.Notwithstanding the provisions of the Town and Country Planning (Use Classes) Order 1987 (as amended), the site shall be used for the

storage of plant and equipment only, within use class B8; no open storage of soils, minerals, waste or other loose materials shall take place at the site at any time.

Reason: To protect the environment of people in neighbouring residential properties, in accordance with the National Planning Policy Framework (2018), Core Strategy (2007) Policies KP2 and CP4, and Development Management Document (2015) Policies DM1 and DM3.

05.No hazardous substances as defined in the Planning (Hazardous Substances) Regulations (2015) or any Order which amends or replaces that Order, shall be stored on the site.

Reason: To protect the environment of people in neighbouring residential properties, in accordance with the National Planning Policy Framework (2018), Core Strategy (2007) Policies KP2 and CP4, and Development Management Document (2015) Policies DM1 and DM3.

06.All material stored on site shall be situated below a height of 3m above existing ground level.

Reason: To protect the environment of people in neighbouring residential properties, in accordance with the National Planning Policy Framework (2018), Core Strategy (2007) Policies KP2 and CP4, and Development Management Document (2015) Policies DM1 and DM3.

07.No part of the site shall be occupied for overnight residential accommodation, including within vehicles and caravans.

Reason: To protect the environment of people in neighbouring residential properties, in accordance with the National Planning Policy Framework (2018), Core Strategy (2007) Policies KP2 and CP4, and Development Management Document (2015) Policies DM1 and DM3.

08.No vehicles shall enter or leave the site and no work or other activity shall take place on the site on Sundays or Bank Holidays and all work and other activity and vehicle movements on other days shall be confined to the following hours: 0700 to 1900 Monday to Fridays; 0800-1300 Saturdays.

Reason: To protect the environment of people in neighbouring residential properties, in accordance with the National Planning Policy Framework (2018), Core Strategy (2007) Policies KP2 and CP4, and Development Management Document (2015) Policies DM1 and DM3.

09.No external lighting shall be installed at the site, other than that shown on the approved plans, without the prior written agreement of the local planning authority. Full written details of any lighting to be installed, including position, height, specification and angle of orientation, shall be submitted for consideration prior to installation and shall be implemented thereafter solely in accordance with the approved details.

Reason: To protect the environment of people in neighbouring residential properties, in accordance with the National Planning Policy Framework (2018), Core Strategy (2007) Policies KP2 and CP4, and Development Management Document (2015) Policies DM1 and DM3.

- 10. Within twelve weeks of the date of this planning permission, details of an acoustic fence, together with a timetable for its construction, to be erected along the east and south boundaries of the site, shall have been submitted for approval to the local planning authority. The fence shall thereafter be constructed in accordance with the agreed details and timescale and permanently retained thereafter.**

Reason: To protect the environment of people in neighbouring residential properties, in accordance with the National Planning Policy Framework (2018), Core Strategy (2007) Policies KP2 and CP4, and Development Management Document (2015) Policies DM1 and DM3.

- 11. Notwithstanding the provisions of Class H of Part 7 of Schedule 2 to the Town and Country Planning General Permitted Development Order 2015 (or any statutory amendment, modification or re-enactment or replacement thereof (as the case may be) for the time being in force), no extensions or buildings shall be erected at the site without the receipt of express planning permission.**

Reason: To control development in close proximity to nearby dwellings, to protect the environment of people in neighbouring residential properties, in accordance with the National Planning Policy Framework (2018), Core Strategy (2007) Policies KP2 and CP4, and Development Management Document (2015) Policies DM1 and DM3.

- 12. No burning of materials shall take place within the site at any time.**

Reason: To protect the environment of people in neighbouring residential properties, in accordance with the National Planning Policy Framework (2018), Core Strategy (2007) Policies KP2 and CP4, and Development Management Document (2015) Policies DM1 and DM3.

The Local Planning Authority has acted positively and proactively in determining this application by assessing the proposal against all material considerations, including planning policies and any representations that may have been received and subsequently determining to grant planning permission in accordance with the presumption in favour of sustainable development, as set out within the National Planning Policy Framework. The detailed analysis is set out in a report on the application prepared by officers.

Informatives

- 1. You should be aware that in cases where damage occurs during construction works to the highway in implementing this permission that Council may seek to recover the cost of repairing public highways and footpaths from any party responsible for damaging them. This includes damage carried out when implementing a planning permission or other works to buildings or land. Please take care when carrying out works on or near the public highways and footpaths in the borough.**
- 2. You are advised that as the proposed development creates less than 100sqm new floorspace, and is a commercial change of use the development is not CIL liable under the Community Infrastructure Levy Regulations 2010 (as amended) and as such no charge would be payable. See www.southend.gov.uk/cil for further details about CIL.**

APPENDIX 'B'

Reference:	19/01188/AMDT
Application Type:	Minor Amendment
Ward:	Shoeburyness
Proposal:	Application to vary condition 06 (height of storage) alterations to storage height and remove condition 10 (details of acoustic fence) deemed unnecessary in this location (Minor Material Amendment of planning permission 18/02157/FUL dated 13/06/2019)
Address:	39 Vanguard Way, Shoeburyness, Southend-On-Sea
Applicant:	Mr Peter Hills
Agent:	Mr Iain Stobbs of BDA
Consultation Expiry:	25th July 2019
Expiry Date:	20th August 2019
Case Officer:	Robert Lilburn
Plan Nos:	18.132.01B, 18.132.02B, 18.132.03 and 18.132.04 submitted with application 18/02157/FUL
Recommendation:	REFUSE PLANNING PERMISSION

1 Site and Surroundings

- 1.1 The application site is an open-air self-storage facility divided into twelve fenced-off compounds within a gated access route. It was granted planning permission retrospectively in application 18/02157/FUL.
- 1.2 The site had prior to the recent development been overgrown and used for trailer storage with some dilapidated fencing and equipment. It was formerly the site of a social club which was demolished.
- 1.3 The site is located within a purpose-built industrial estate. The site is within an area identified in the Development Management Document (2015) as employment land.
- 1.4 The site is bounded to the east by the rear gardens of dwellings at 45-79 Wakering Avenue; to the south is a commercial property and dwellings at 2-4 Friars Street.

2 The Proposal

- 2.1 The applicant seeks to amend Condition 6 of planning permission 18/02157/FUL. The condition reads:

“All material stored on site shall be situated below a height of 3m above existing ground level. Reason: To protect the environment of people in neighbouring residential properties, in accordance with the National Planning Policy Framework (2018), Core Strategy (2007) Policies KP2 and CP4, and Development Management Document (2015) Policies DM1 and DM3”.

2.2 The applicant is proposing that the 3m height limit should be modified to allow a 2.5m limit within 2m of the boundary fence and then a 3.5m-4m limit beyond that distance within the compound. The applicant states that the condition is unduly harsh when compared with householder permitted development rights for outbuildings.

2.3 The applicant seeks to remove Condition 10 of planning permission 18/02157/FUL. The condition reads:

“Within twelve weeks of the date of this planning permission, details of an acoustic fence, together with a timetable for its construction, to be erected along the east and south boundaries of the site, shall have been submitted for approval to the local planning authority. The fence shall thereafter be constructed in accordance with the agreed details and timescale and permanently retained thereafter. Reason: To protect the environment of people in neighbouring residential properties, in accordance with the National Planning Policy Framework (2018), Core Strategy (2007) Policies KP2 and CP4, and Development Management Document (2015) Policies DM1 and DM3”.

2.4 The basis given is that an acoustic fence is unnecessary at this location and is an unreasonable burden of expense on the applicant. The applicant states that the storage yard is a very quiet site, and as it is used for storage with no noisy materials or vehicles, and a well-constructed fence around it, that the condition is unnecessary.

2.5 No plans or supporting statements have been submitted with the application except for those statements within the application form. The application has been submitted following planning enforcement enquiries.

3 Relevant Planning History

18/02157/FUL: Use of land as Commercial Storage Yard (B8) incorporating 12 bays with storage outbuildings, erect lighting columns, erect fencing/gates within and around the site boundary and lay out hardstanding area together with the formation of an additional vehicular access from Vanguard Way (Retrospective). Approved.

03/01430/FUL: Erect building for the storage of non ferrous and precious metals and overnight lorry parking (2281m sq) and lay out 4 parking spaces (Amended Proposal). Refused; appeal allowed.

02/00919/FUL: Erect building for the storage of non-ferrous and precious metals and overnight lorry parking (2281m sq) and lay out 4 car parking spaces. Refused.

89/1088: Erect single storey side extension at Maplin Social Club, 39 Vanguard Way. Approved.

4 Representation Summary

4.1 Public Consultation

36 neighbouring properties were notified and a site notice posted. 3 letters of representation have been received as follows:

- Impacts on neighbour amenities of shadowing, privacy, noise;
- Noise sources include the numerous site gates opening and closing, scaffolding pole movements, crane movements, breaking of pallets and testing petrol mowers, as well as an unauthorised residential use of a caravan;
- Existing fence is inadequate to mitigate impacts of the development on residential neighbours and former wooden fence protected neighbours from general noise of the wider industrial estate;
- Breaches of planning conditions.

4.2 These concerns are noted and where relevant to material planning considerations they have been taken into account in the assessment of the application. Those remaining are found not to represent a reasonable basis to refuse planning permission in the circumstances of this case.

4.3 Environmental Health

The condition relating to an acoustic fence should be retained.

5 Planning Policy Summary

5.1 The National Planning Policy Framework (NPPF) (2019)

5.2 Core Strategy Policies KP1 (Spatial Strategy) KP2 (Development Principles) CP1 (Employment Generating Development) CP3 (Transport and Accessibility) CP4 (Environment & Urban Renaissance)

5.3 The Southend-on-Sea Development Management Document (2015): Policies DM1 (Design Quality) DM3 (The Efficient and Effective Use of Land) DM10 (Employment Areas) DM11 (Employment Areas) DM15 (Sustainable Transport Management)

5.4 Planning Practice Guidance

6 Planning Considerations

6.1 Paragraph 55 of the NPPF states that planning conditions should only be imposed where they are:

1. necessary;
2. relevant to planning and;
3. to the development to be permitted;
4. enforceable;
5. precise and;
6. reasonable in all other respects.

6.2 These are described as the six tests. Planning Practice Guidance (PPG) states that any proposed condition that fails to meet any of the six tests should not be used. This applies even if the applicant suggests it, for example. (Paragraph: 005 Reference ID: 21a-005-20140306; Revision date: 06 03 2014).

- 6.3 The reasons given for the conditions were to protect the environment of people in neighbouring residential properties, in accordance with the National Planning Policy Framework, Core Strategy (2007) Policies KP2 and CP4, and Development Management Document (2015) Policies DM1 and DM3.
- 6.4 The main considerations in relation to this application are the appropriateness of the conditions in seeking to meet the objectives of the relevant development plan policies.
- 6.5 Since the application 18/02157/FUL was determined, the revised National Planning Policy Framework (2019) (NPPF) came into force, replacing a previous version of the NPPF. It is considered that the contents of the revised NPPF do not materially alter the assessment of the impacts of the proposal.

7 Appraisal

- 7.1 With respect to the proposed amendment to Condition 6, the rationale given is that this would be similar to permitted development rights for residential outbuildings and that the limitation specified is therefore unduly harsh.
- 7.2 The residential permitted development rights under Class E of Part 1, Schedule 2 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) state that “the height of the building, enclosure or container [should not] exceed (i) 4 metres in the case of a building with a dual-pitched roof, (ii) 2.5 metres in the case of a building, enclosure or container within 2 metres of the boundary of the curtilage of the dwellinghouse, or 3 metres in any other case”.
- 7.3 It is considered that the principle does not apply equally to the character and use of the application site, in its relationship to the neighbouring residential area. The permitted development rights referenced by the applicant relate to dwelling houses and the typical development that would take place in that setting, rather than in an industrial setting which in this case is situated adjacent other dwellings.
- 7.4 The 4 metre height limit relates to a dual-pitch roof on a domestic outbuilding, and the condition in question relates to commercial storage, which is of an entirely different character. This is evidenced by the type of storage on site at present which includes scaffolding poles and portable toilets, for example.
- 7.5 It is considered that these have a materially different visual impact on neighbouring occupiers, compared to typical residential outbuildings. It is therefore not accepted that there is a logical case on the basis given.
- 7.6 Notwithstanding this it is considered that the proposed increase in height limit would unreasonably impact on neighbouring residential occupiers by introducing storage at height. This may include stacking of containers, for example.
- 7.7 It is considered that the visual impact above the boundary fence line would have the potential to be materially harmful to the outlook and amenities of neighbouring residential occupiers, the gardens of whom back on to the application site. It is considered that the condition is necessary, reasonable and in accordance with the six tests described in the NPPF.

- 7.8 With respect to the proposed removal of Condition 10, the development plan policies seek to maintain the character and quality of residential areas.
- 7.9 It is not possible to define at every level the character of materials stored at the site. The site is situated adjacent residential dwellings and gardens. It is noted that the gardens are relatively long between some 30m and 50m in length at Waking Avenue.
- 7.10 While the site is situated within an identified Industrial Estate it has historically been disused in more recent times and was previously used as a social club. Its recent change of use has introduced the potential for new impacts on neighbouring occupiers, and as identified in the delegated report to application 18/02157/FUL these included noise impacts.
- 7.11 The site has been subject to planning enforcement enquiries. A neighbouring occupier has submitted an audio recording of activity at the site which demonstrates to an extent the potential for intrusive noise impacts. While these could be mitigated to a degree by the existing conditions on the planning permission relating to hours of use, given the material change of use that has taken place and the character of the use, that this alone would not be sufficient to protect neighbour amenities.
- 7.12 The site is used in part for the storage of scaffolding poles and of large vehicles. It is considered reasonable that the impacts of the use of the site are mitigated in order to protect neighbour amenities. The applicant has not submitted an acoustic assessment or noise survey and no evidence has been provided to support the claim that the site is virtually silent. It is considered that the condition is necessary and reasonable, and meets the tests described in the NPPF.

Community Infrastructure Levy (CIL)

- 7.13 As a commercial change of use, the development would not be CIL liable under the Community Infrastructure Levy Regulations 2010 (as amended) and as such no charge would be payable. See www.southend.gov.uk/cil for further details about CIL.

8 Conclusion

- 8.1 Having regard to all material planning considerations assessed above, it is considered that, by reason of the material impacts arising from the development on neighbouring occupiers in the adjoining residential area, the conditions are necessary in making the proposed development acceptable in light of the relevant development plan policies. The conditions are considered to meet the six tests for planning conditions. The application is therefore recommended for refusal on the basis that the variation and removal of conditions proposed would not maintain the quality of the adjoining residential area and lead to material harm on the amenities of neighbouring occupiers.

9 Recommendation

REFUSE PLANNING PERMISSION for the following reason(s):

- 01. The proposed variation of Condition 6 of planning permission granted under 18/02157/FUL would lead to materially harmful visual impacts, having regard to the outlook of neighbouring residential occupiers at Wakering Avenue. This would be unacceptable and contrary to the National Planning Policy Framework (2019), Policies KP2 and CP4 of the Core Strategy (2007), Policy DM1 of the Development Management Document (2015) and the advice contained within the Southend-on-Sea Design and Townscape Guide (2009).**
- 02. The proposed variation of Condition 10 of planning permission granted under 18/02157/FUL would lead to materially harmful noise impacts on neighbouring residential occupiers at Wakering Avenue. This would be unacceptable and contrary to the National Planning Policy Framework (2019), Policies KP2 and CP4 of the Core Strategy (2007), Policy DM1 of the Development Management Document (2015) and the advice contained within the Southend-on-Sea Design and Townscape Guide (2009).**

The Local Planning Authority has acted positively and proactively in determining this application by identifying matters of concern with the proposal and determining the application within a timely manner, clearly setting out the reason(s) for refusal, allowing the Applicant the opportunity to consider the harm caused and whether or not it can be remedied by a revision to the proposal. The detailed analysis is set out in a report prepared by officers. In the circumstances the proposal is not considered to be sustainable development. The Local Planning Authority is willing to discuss the best course of action.

10 Informative

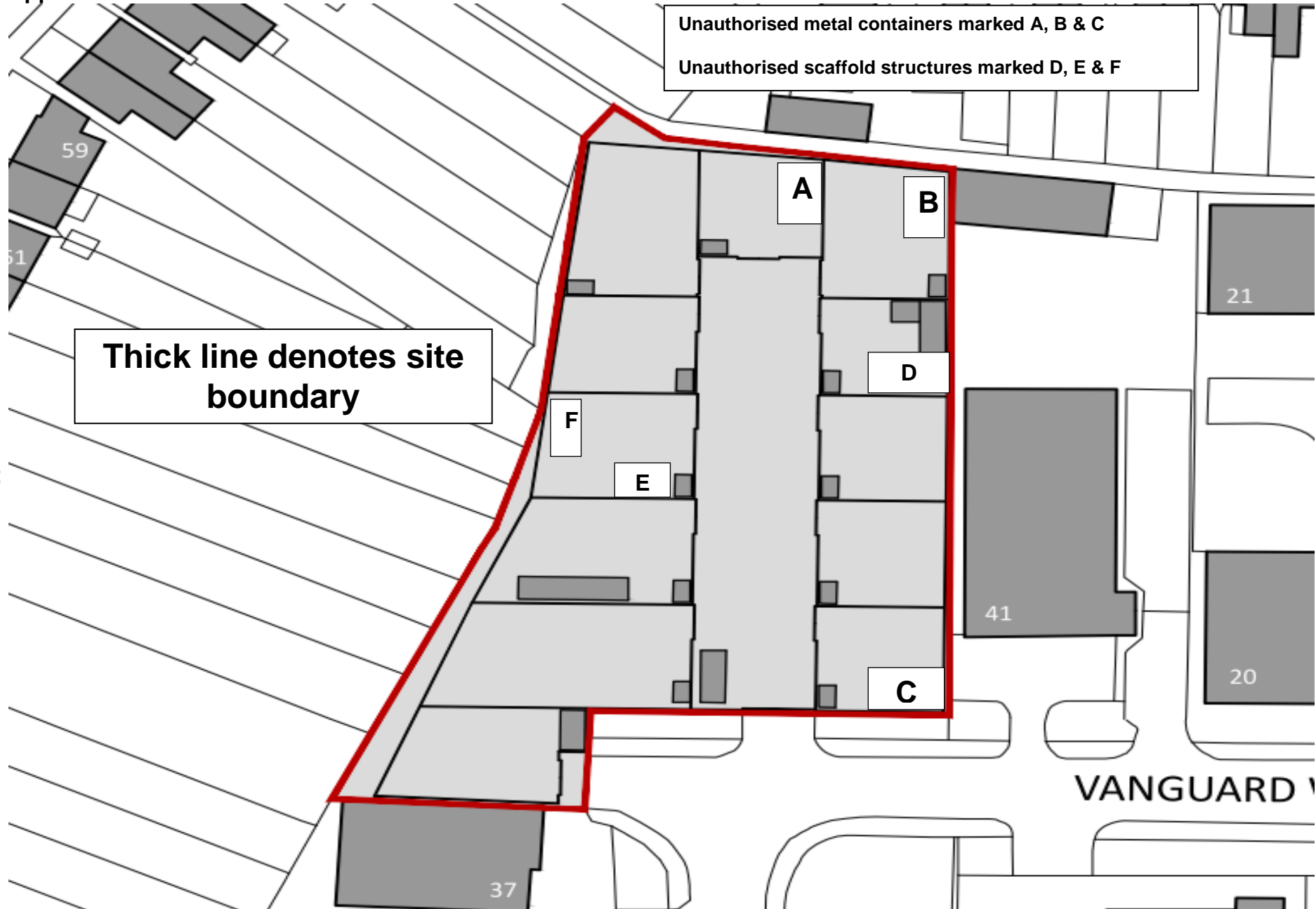
- 1. As a commercial change of use, the development would not be CIL liable under the Community Infrastructure Levy Regulations 2010 (as amended) and as such no charge would be payable. See www.southend.gov.uk/cil for further details about CIL.**

Appendix 'C'

Unauthorised metal containers marked A, B & C
Unauthorised scaffold structures marked D, E & F

Thick line denotes site boundary

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Reference:	18/00386/UNAU_B	8
Ward:	Chalkwell	
Breach of Control:	Enlargement of roof without planning permission	
Address:	29 The Drive, Westcliff-On-Sea, Essex, SS0 8PL	
Case opened :	4 th December 2018	
Case Officer:	Hayley Thompson	
Recommendation:	AUTHORISE ENFORCEMENT ACTION	

29 The Drive, Westcliff-On-Sea, Essex, SS0 8PL



1 Site location and description

- 1.1 The site is occupied by a large detached two storey dwellinghouse on the west side of The Drive. The site is situated within a residential setting, consisting mainly of large two storey dwellings of traditional appearance with hipped roofs the principal roof form along The Drive.
- 1.2 The Drive is a long sweeping road which slopes downwards from north-south, with gabled roof dwellings found to the north of the application site and side dormers sporadically located along The Drive. No.29 occupies a prominent position, sited forward of neighbouring dwellings to the north with its flank elevation readily visible in the streetscene when travelling north-south down The Drive.
- 1.3 The application dwelling has been significantly extended in the past including two storey front and rear extensions and a two storey side extension completed in the 1980's.

2 Lawful Planning Use

- 2.1 The lawful planning use is as a dwellinghouse within Class C3 of the Town and Country Planning Use Classes Order 1987 (as amended).

3 Relevant Planning History

- 3.1 84/1304 - First floor and two storey extension at rear and two storey front extension – Permission granted.
- 3.2 87/0789 - Extend roof with windows at rear – Permission granted.
- 3.3 19/00047/CLP - Hip to gable roof extensions, extend existing dormer to rear, rooflights to front – Application refused.
- 3.4 19/00551/FULH - Hip to gable roof extensions, extend existing dormer to rear and alter elevations – Application refused and appeal dismissed 30th October 2019

4 The alleged planning breach and the harm caused

- 4.1 Without planning permission, a hip to gable roof extension has been erected together with the installation of a 'box' style rear dormer to provide habitable accommodation in the roof.
- 4.2 It has been found through determination of a planning application and dismissal of the subsequent appeal that the rear dormer, by reason of its size, scale, design and siting, represents a discordant, incongruous and overly dominant feature which is detrimental to the character and appearance of the host dwelling, the rear garden scene and the area more widely. In itself the hip to gable roof extension was found to be acceptable and policy compliant.

5 Background and efforts to resolve breach to date

- 5.1 In October 2018 an enforcement case was raised regarding an alleged unauthorised balcony/roof terrace. A site visit was carried out and found that no balcony or roof terrace was being constructed at the site. On site it was clarified by the builders that the works to enlarge the roof, which were in the early stages of construction, were permitted development. An advisory letter was sent noting that a rear dormer was being constructed without planning permission and it was strongly recommended to the owner that they apply for a lawful development certificate.
- 5.2 In December 2018 it was reported to the Local Planning Authority that the size and scale of the roof extensions may be exceeding permitted development size limits and photographic evidence was provided. During the initial site visit in October the dormer was at an early stage of construction and did not reflect the size and scale of the dormer constructed at the site. The enforcement case was refreshed.
- 5.3 In January 2019 a lawful development certificate, reference 19/00047/CLP was applied for to seek to demonstrate that the works being carried out were permitted development.
- 5.4 In March 2019 the lawful development certificate was found not to be lawful as the cubic content of the resulting roof space would exceed that of the original building by more than 50 cubic metres. The submitted plans demonstrated that the dormer would comprise a cubic content of 50 cubic metres. This measurement did not include all of the hip to gable enlargements forward of the main roof ridge. The measurement also did not include the earlier roof extensions which have been carried out pursuant to earlier planning permission and which count towards the overall roof enlargement allowance.
- 5.5 In March 2019 a planning application, reference 19/00551/FULH, was applied for to seek to retain the works in situation on the site.
- 5.6 The hip to gable roof extension was found to be acceptable and policy compliant on its own merits but the dormer was not. So in May 2019 the planning application was refused on the ground:
- The proposed rear dormer would, by reason of its size, scale, design and siting, represent a discordant, incongruous and overly dominant feature which would be detrimental to the character and appearance of the host dwelling, the rear garden scene and the area more widely. This is contrary to the National Planning Policy Framework (2019); Core Strategy (2007) Policies KP2 and CP4; Development Management Document Policies DM1 and DM3; Design & Townscape Guide (2009).*
- 5.7 In May 2019 an application for retrospective planning advice was applied for following the application refusal and a meeting to discuss the reason for refusal was held in June 2019.

5.8 In October 2019 an appeal was received, reference 19/00049/REFH, and was dismissed on 30th October 2019. The inspectorate concluded that:

...the development has a significant adverse effect on the character and appearance of the site and the wider area. The development therefore fails to comply with the requirements of Policies CP4 and KP2 of the Southend-on-Sea Core Strategy (2007); Policies DM1 and DM3 of the Southend-on-Sea Development Management Document (2015); and the Design and Townscape Guide Supplementary Planning Document (2009).

5.9 Extensive correspondence was exchanged between the Local Planning Authority and the home owner and their agent following the refusal of planning permission to retain the dormer in situation. The owner has confirmed their intention to submit an amended scheme to reduce the size of the dormer and has advised that an architect has been instructed for this. However to date, no further planning application has been submitted to date in order to seek to overcome the reason for refusal of the retrospective planning application.

6 Harm caused by the breach as assessed against relevant planning policies and justification for enforcement action

6.1 The officer's report for planning application 19/00551/FULH setting out the reason for refusal is attached at Appendix 1.

6.2 The appeal decision following refusal of the dormer (APP/D1590/D/19/3233213 29) concurring with the Council's reason for refusal is attached at Appendix 2.

6.3 It is apparent from the owner's desire to make use of the Council's pre-application service process (albeit after the unauthorised roof enlargement was formed) that they wish to engage with the Council towards finding a solution. In the meantime, the unauthorised rear dormer is causing material harm to the character and appearance of the area in conflict with planning policies. Staff consider that it is proportionate and justified in the circumstances of the case that an enforcement notice should be served as this will bring further focus to the need for the breach to be regularised. Service of an enforcement notice carries its own right of appeal and also does not fetter the owner in seeking to gain planning permission for a different roof enlargement proposal which remedies the identified harm.

6.4 Taking enforcement action in this case may amount to an interference with the owner/occupier's human rights. However, it is necessary for the Council to balance the rights of the owner/occupiers against the legitimate aims of the Council to regulate and control land within its area.

7 Recommendation

7.1 Members are recommended to AUTHORISE ENFORCEMENT ACTION to

- a) require the unauthorised roof enlargement to be removed
- b) remove from site all materials resulting from compliance with (a) above.

- 7.2 The authorised enforcement action to include (if/as necessary) the service of an Enforcement Notice under Section 172 of the Act and the pursuance of proceedings whether by prosecution or injunction to secure compliance with the requirements of the Enforcement Notice.
- 7.3 When serving an Enforcement Notice the local planning authority must ensure a reasonable time for compliance. In this case a compliance period of 4 months is considered reasonable for the above works.

Appendix 1 – Officer Report application reference 18/02326/FUL

Reference:	19/00551/FULH
Ward:	Chalkwell
Proposal:	Hip to gable roof extensions, extend existing dormer to rear and alter elevations (Retrospective)
Address:	29 The Drive Westcliff-on-Sea Essex
Applicant:	Mr & Mrs Diver
Agent:	N/A
Consultation Expiry:	23.04.2019
Expiry Date:	17.05.2019
Case Officer:	Oliver Hart
Plan Nos:	1192A
Recommendation:	REFUSE PLANNING PERMISSION

1 Site and Surroundings

- 1.1 The application site is occupied by a large detached two storey dwellinghouse on the west side of The Drive. The application dwelling has been significantly extended in the past including two storey front and rear extensions and a two storey side extension completed in the 1980's.
- 1.2 The application site more recently has been the subject of a Lawful Development Certificate Ref. 19/00047/CLP to erect '*hip to gable roof extensions and to extend an existing dormer to rear.*' However this was refused as the sum of the roof extensions together, considering those proposed and historic would exceed permitted development guidelines of 50m³ for a detached dwelling and therefore, there is no PD fall-back position in this instance.
- 1.3 The application site is situated within a residential setting, consisting mainly of large two storey dwellings of traditional appearance with hipped roofs the principle roof form along The Drive. However it is noted that roof alterations and additions are evidenced in the streetscene.
- 1.4 The Drive is a long sweeping road which slopes downwards from north-south, with gabled roof dwellings found to the north of the application site and side dormers sporadically located along The Drive.
- 1.5 No.29 occupies a prominent position, sited forward of neighbouring dwellings to the north with its flank elevation readily visible in the streetscene when travelling north-south down The Drive.
- 1.6 The site does not contain a listed building and is not located within a conservation area or a flood zone.

2 Proposal

- 2.1 The application proposes the erection of a hip to gable roof extension together with the installation of a 'box' style rear dormer to provide habitable accommodation in the roof. It is noted that similar development has been undertaken at the site but this does not correspond exactly with the plans under consideration. The north flank elevation (as built) has a greater rendered expanse than shown in the submitted plans and the roof of the dormer is not set below the ridge.
- 2.2 The proposed gabled roof would be built to the same eaves and ridge height as the existing; some 8.45m in maximum height and 5.5m at eaves level. The new gable is proposed to be finished in roof tiles and render to match the existing dwelling.
- 2.3 The flat roofed 'box' dormer would measure some 10.4m wide, 2.45m high and 2.7m deep and would replace a more modestly scaled rear dormer. The dormer would be sited 0.3m below the ridge, 0.33m above the eaves, 0.23m from the southern flank elevation and flush with northern flank elevation. The dormer cheeks are proposed to be finished in render to match the existing, with a series of Juliet balconies and fenestration to its rear elevation also shown.

3 Relevant Planning History

- 3.1 87/0789: Extend roof with windows at rear. Approved.
- 3.2 84/1304: First floor and two storey extension at rear and two storey front extension. Approved.
- 3.3 1016/82: Two storey side and single storey rear extension. Approved.

4 Representation Summary

4.1 9no. neighbouring properties were notified and 3no. letters of representation have been received. Summary of representations:

- Poor design which fails to integrate with the original design
- Proportionally out of balance, top heavy and taken on appearance of a three storey block of flats
- Change to the local character
- Loss of privacy following rear dormer with 7no. openings
- Detriment to visual amenity- bulky, unsightly, at odds with existing character of properties along The Drive
- Exceeds permitted development guidelines
- Hipped roofs predominant roof form

[Officer Comment] All relevant planning considerations are assessed within the appraisal section of the report. These concerns are noted and they have been taken into account in the assessment of the application except for those reflected in the reason for refusal reason 01 at the end of this report, the remaining concerns raised in the representations are not found to represent justifiable reasons for refusal.

5 Planning Policy Summary

- 5.1 The National Planning Policy Framework (2019)
- 5.2 Core Strategy (2007) Policies KP1 (Spatial Strategy), KP2 (Development Principles and CP4 (Environment and Urban Renaissance),
- 5.3 Development Management Document (2015): Policies DM1 (Design Quality) and DM3 (Efficient and Effective Use of Land)
- 5.4 The Design and Townscape Guide (2009)
- 5.5 CIL Charging Schedule (2015)

6 Planning Considerations

- 6.1 The proposal would not increase the need for parking nor reduce the current off-site parking provision. The key considerations in relation to this application are therefore the principle of the development, design and impact on the character of the streetscene, impact on residential amenity and any CIL (Community Infrastructure Levy) contributions.

7 Appraisal

Principle of Development

National Planning Policy Framework (2019), Policies KP2 and CP4 of the Core Strategy (2007), Policies DM1 and DM3 of the Development Management Document (2015) and advice contained within the Design and Townscape Guide (2009)

- 7.1 The dwelling is located within a residential area and an extension to the property is considered acceptable in principle. Other material planning considerations are discussed below.

Design and Impact on the Character of the Area

National Planning Policy Framework (2019), Policies KP2 and CP4 of the Core Strategy (2007), Policies DM1 and DM3 of the Development Management Document (2015) and advice contained within the Design and Townscape Guide (2009)

- 7.2 The key element within all relevant policies is that good design should be a fundamental requirement of new development in order to achieve high quality living environments. Its importance is reflected in the NPPF, in Policies KP2 and CP4 of the Core Strategy and also in Policy DM1 of the Development Management Document. The Design and Townscape Guide (2009) also states that *“the Borough Council is committed to good design and will seek to create attractive, high-quality living environments.”*
- 7.3 According to Policy KP2 of the Core Strategy (2007), new development should *“respect the character and scale of the existing neighbourhood where appropriate”*. Policy CP4 of the Core Strategy requires that development proposals should *“maintain and enhance the amenities, appeal and character of residential areas, securing good relationships with existing development, and respecting the scale and nature of that development”*.
- 7.4 Policy DM1 of the Development Management Document states that all development should *“add to the overall quality of the area and respect the character of the site, its local context and surroundings in terms of its architectural approach, height, size, scale, form, massing, density, layout, proportions, materials, townscape and/or landscape setting, use, and detailed design features”*.

- 7.5 Southend's Design and Townscape Guide states that *"in some cases, it may be possible to increase the roofspace and remove the need for a side dormer by changing a hipped roof to a gable end. This type of development can be more acceptable than a side dormer provided it is not out of character with the streetscene or leads to an unbalanced street block or pair of semis i.e. It is more appropriate for a detached or end of terrace property than only one of a matching pair of semis which would be considered unacceptable"*.
- 7.6 There is a strong prevailing character in The Drive of hipped roofed dwellings, however, it is noted the application dwelling is detached and, given instances of gabled roofs and side dormers interspersed between dwellings along The Drive it is not considered that a hip to gable roof extension in this location would appear materially at odds with the streetscene in this instance. Furthermore, in common with neighbouring properties, the application dwelling has a projecting hipped roof to the front such that alterations to the main roof have less prominence in the streetscene when viewed from the front elevation and therefore, on balance, it is considered that the hip to gable roof extension would not result in demonstrable material harm to the character and appearance of the dwelling, the streetscene or the locality more widely. On this basis, it is considered the hip to gable roof extension would, on balance, be acceptable and policy compliant in the above regards.
- 7.7 Paragraph 366 of the Design and Townscape Guide (2009) states that *"Proposals for additional roof accommodation within existing properties must respect the style, scale and form of the existing roof design and the character of the wider townscape. Dormer windows, where appropriate, should appear incidental in the roof slope (i.e. set in from both side walls, set well below the ridgeline and well above the eaves). The position of the new opening should correspond with the rhythm and align with existing fenestration on lower floors."*
- 7.8 Rear dormers are not prevalent features within the immediate rear garden scene. Section 10 of Southend's Design and Townscape Guide states that dormer windows should appear incidental in the roof slope (i.e. set in from both side walls, set well below the ridgeline and well above the eaves) and in particular, large box style dormers should be avoided as they result in a bulky and unsightly appearance. The flat roof box dormer proposed in this instance, extending in excess of 10m in width, sited flush with the northern flank wall and only marginally set in from the eaves, ridge is considered to represent an example of harmful development. The dormer would fail to appear incidental and dominates the rear roofslope, giving it an appearance of a third storey. The dormer would dominate views in the rear garden scene and, in addition, the forward siting of the property and the lack of set back of the dormers from the northern flank wall means that the dormer and gable together would be readily visible and unduly prominent in the wider streetscene. The failure of the Juliet balconies and rear window openings to align with those at ground and first floors further emphasises the incongruous appearance of the dormer and therefore, the proposal is considered to result in material harm to the character and appearance of the host dwelling, the rear garden scene and the wider streetscene. This is unacceptable.

Impact on Residential Amenity

National Planning Policy Framework (2019), Policies KP2 and CP4 of the Core Strategy (2007), Policies DM1 and DM3 of the Development Management Document (2015) and advice contained within the Design and Townscape Guide (2009)

- 7.9 Paragraph 343 of the Design and Townscape Guide under the heading of 'Alterations and Additions to Existing Residential Buildings' states that *"extensions must respect the amenity of neighbouring buildings and ensure not to adversely affect light, outlook or privacy of the habitable rooms in adjacent properties."* Policy DM1 of the Development Management Document requires all development to be appropriate in its setting by respecting neighbouring development and existing residential amenities *"having regard to privacy, overlooking, outlook, noise and disturbance, sense of enclosure/overbearing relationship, pollution, daylight and sunlight."*
- 7.10 The application dwelling is neighbored by No's.27 (to the north) and 31 The Drive (to the south). The gabling of the hip to either side will increase the mass of the roof however, given that this will be confined to the footprint of the existing dwelling and noting the degree of separation from the nearest primary windows within No's. 27 and 31 either side, it is not considered that any material harm would be caused to the light or outlook of those neighbouring dwellings nor would it result in an undue increased sense of enclosure. Furthermore, the absence of windows on either gable end is such that the proposal is not considered to result in additional overlooking or loss of privacy to the neighbouring occupants at this address.
- 7.11 The proposed dormer would be situated within the existing roof plane to the rear of the application dwelling and given a degree of intra-looking to neighbouring rear gardens exists at present, on account of large first floor rear windows together with the separation distance to dwellings along the Hillway, it is not considered the rear dormer would result in harm to the amenities of these neighbouring dwellings materially above and beyond the existing situation. The proposal is therefore acceptable and policy compliant in these regards.
- 7.12 On this basis the proposal is considered to be acceptable and policy compliant in this regard.

Community Infrastructure Levy

CIL Charging Schedule 2015

- 7.13 The proposed development equates to less than 100sqm of new floorspace. As such, the development benefits from a Minor Development Exemption under the Community Infrastructure Levy Regulations 2010 (as amended) and no charge is payable.

8 Conclusion

- 8.1 Having taken all material planning considerations into account, it is found the proposed development would be unacceptable and contrary to the objectives of the relevant development plan policies and guidance. The proposal would have an unacceptable impact on the character and appearance of the application site, rear garden scene and the surrounding street scene. This application is therefore recommended for refusal.

9 Recommendation

REFUSE PLANNING PERMISSION

- 1 **The proposed rear dormer would, by reason of its size, scale, design and siting, represent a discordant, incongruous and overly dominant feature which would be detrimental to the character and appearance of the host dwelling, the rear garden scene and the area more widely. This is contrary to the National Planning Policy Framework (2019); Core Strategy (2007) Policies KP2 and CP4; Development Management Document Policies DM1 and DM3; Design & Townscape Guide (2009).**

The Local Planning Authority has acted positively and proactively in determining this application by identifying matters of concern with the proposal and determining the application within a timely manner, clearly setting out the reason(s) for refusal, allowing the Applicant the opportunity to consider the harm caused and whether or not it can be remedied by a revision to the proposal. The detailed analysis is set out in a report prepared by officers. In the circumstances the proposal is not considered to be sustainable development. The Local Planning Authority is willing to discuss the best course of action.

10 Informative

- 1 **You are advised that as the proposed extension(s) to your property equates to less than 100sqm of new floorspace the development would benefit from a Minor Development Exemption under the Community Infrastructure Levy Regulations 2010 (as amended) and as such no charge would be payable. See www.southend.gov.uk/cil for further details about CIL.**

Appeal Decision

Site visit made on 22 October 2019

by **Benjamin Clarke BA (Hons.) MSc MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 30 October 2019

Appeal Ref: APP/D1590/D/19/3233213 29

The Drive, Westcliff-on-Sea SS0 8PL

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Mrs and Mrs Diver against the decision of Southend-on-Sea Borough Council.
 - The application Ref: 19/00551/FULH, dated 21 March 2019, was refused by notice dated 14 May 2019.
 - The development is a hip to gable roof extensions, extend existing dormer to rear, rooflights to front – retrospective application.
-

Decision

1. The appeal is dismissed.

Procedural Matter

2. At the time of my site visit, I noted that the works had been carried out in accordance with the submitted plans. I have therefore determined the appeal on this basis.

Main Issue

3. The main issue is the effect of the rear dormer window upon the character and appearance of the site, and surrounding area.

Reasons

4. The appeal site includes a detached dwelling constructed in a traditional design. Whilst the neighbouring two-storey houses have varying appearances, they share the same traditional design approach. To the rear of the site is Hillway, which contains similar detached dwellings. Furthermore, there is significant variation in the levels of properties within the surrounding area.
5. There is some variation in the set back of dwellings from the highway edge in The Drive. However, the degree of this is relatively limited, which reduces the screening effect of other dwellings. Furthermore, owing to the topography of the area and the relatively open character of The Drive arising from the number of detached dwellings, views of the side elevation of 29 The Drive are possible. As such, the side walls of the dormer can be clearly seen, most notably from the higher land within The Drive.
6. Consequently, the character of the site and surrounding area is eroded owing to the dormer having a significant bulk and massing that has resulted in the loss of a significant proportion of the rear roof slope. This means that the

dormer window cannot be considered to be incidental to the main body of the house and conflicts with the traditional forms of architecture prevalent elsewhere within the vicinity. Furthermore, the increasing in massing results in a loss of the characteristic openness of the property and the wider environs.

7. The design of the dormer window has the effect of giving the dwelling an appearance akin to a three-storey dwelling. This is of concern owing to the presence of a significant number of dwellings to the rear of the site, which gives the development a greater degree of prominence.
8. This is exacerbated by the fenestration pattern within the dormer, which differs from the lower storeys of the house. The result of this is that a discordant form of development has been created. Whilst there are trees adjacent to the rear boundary, the height of the development is such that these do not offer a significant screening effect.
9. In addition, views of the dormer window are possible from Hillway. Whilst these views occur relatively infrequently, the significant contrast in design between the appeal property and other dwellings in the vicinity is injurious to the character of the site and surrounding area.
10. I acknowledge that the dormer does not project towards neighbouring properties and is set back from the roof ridge, the eaves and the side walls of the dwelling. However, these set backs are relatively small and therefore do not serve to adequately mitigate the inappropriate massing of the dormer.
11. Whilst it is evident that some dwellings within the wider area have been the subject of extensions, I do not have the full information regarding the circumstances of these. This lessens the weight that can be attributed to them as part of my assessment. Furthermore, extensions comparable to the scheme before me, and particularly dormers, do not occur particularly frequently within the surrounding area and tend to be smaller than constructed at the appeal site. As a result, I do not find that the presence of other extensions elsewhere outweighs the harm as previously identified.
12. I note that the site is not within a conservation area and does not contain a listed building. However, the site and its surroundings are of a distinctive character, which has been eroded by the development. I have therefore given weight to this.
13. In consequence, conclude that the development has a significant adverse effect on the character and appearance of the site and the wider area. The development therefore fails to comply with the requirements of Policies CP4 and KP2 of the Southend-on-Sea Core Strategy (2007); Policies DM1 and DM3 of the Southend-on-Sea Development Management Document (2015); and the Design and Townscape Guide Supplementary Planning Document (2009).
14. These policies, amongst other matters, seek to ensure that developments be of appropriate massing; respect the character and scale of neighbourhoods; maintain the character of residential areas, securing good relationships with existing developments; be subservient to the original dwelling; and, in the case of roof extensions, respect the style, scale and form of the existing roof design and the character of the wider townscape

Other Matter

15. I have given the personal circumstances of the appellant careful consideration. However, I am mindful that, in general, planning decisions regarding land use need to be made in the public interest. Therefore, I find that these do not outweigh the unacceptable nature of the development.

Conclusion

16. For the preceding reasons, I conclude that the appeal should be dismissed.

Benjamin Clarke

INSPECTOR

Appendix 3 – Site photographs





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Reference:	19/00158/UNAU_B	<h1>9</h1>
Ward:	Milton	
Breach of Control:	Unauthorised roof enlargement	
Address:	21 Holland Road, Westcliff-On-Sea, Essex, SS0 7SG	
Case opened :	5 th June 2019	
Case Officer:	Hayley Thompson	
Recommendation:	AUTHORISE ENFORCEMENT ACTION	

21 Holland Road, Westcliff-On-Sea, Essex, SS0 7SG



1 Site location and description

- 1.1 No 21 is located on the eastern side of Holland Road, south of Hamlet Court Road and is a first floor flat within a large, end of terrace property.
- 1.2 The surrounding area is residential in character and the streetscene consists predominantly of semi-detached and terraced properties of a similar mass, form and design characterised by large, two storey front gabled projections. A small backland dwelling, 23 Holland Road, is immediately to the rear of No 21 and beyond that is a flatted development known as Homecove House.

2 Lawful Planning Use

- 2.1 The lawful planning use is as a flat within Class C3 of the Town and Country Planning Use Classes Order 1987 (as amended).

3 Relevant Planning History

- 3.1 18/01188/FUL - Erect dormer to rear and install rooflights to front to first floor flat and convert loft into habitable accommodation – Permission granted.
- 3.2 19/02093/FUL - Extend existing eaves line to promote existing dormer – Pending consideration

4 The alleged planning breach and the harm caused

- 4.1 In August 2018 planning permission 18/01188/FUL was granted for the erection of a dormer to the rear roofslope, rooflights to the front and to convert the first floor flat's extended loft into habitable accommodation.
- 4.2 In May 2019 the Local Planning Authority were notified that the dormer had been constructed larger in height and depth than the approved plans. Flats do not benefit from permitted development rights so any unauthorised structure materially at variance with the approved plans would, in any circumstances, represent a breach of planning control.
- 4.3 The roof enlargement that has been constructed differs materially from the approved dormer in its form, scale and appearance. The officer's report for the dormer approved under application 18/01188/FUL, a copy of which is at Appendix 1, specifically noted that the Council's Design and Townscape Guide (2009) states that *"dormer windows should appear incidental in the roof slope, (i.e. set in from both side walls, set well below the ridgeline and well above the eaves) and the materials should be sympathetic to the existing property."* Also of relevance is Paragraph 348 of The Design and Townscape guide (2009) which stipulates that *'Whether or not there are any public views, the design of rear extensions is still important and every effort should be made to integrate them with the character of the parent building, particularly in terms of scale, materials and the relationship with existing fenestration and roof form'.*

- 4.4 Paragraph 4.6 of the appended officer report found that the proposed rear dormer was of flat roofed box design and of limited architectural merit. However, its limited scale and bulk, its positioning within the roof plane set away sufficiently from the eaves, ridge and flanks meant that it would be of acceptable design. Additionally, the dormer would not be visible from the front elevation and the use of tile hanging and fenestration to match the existing dwelling would ensure the visual impact would be acceptable. No objections were therefore raised to the design of the roof extension and its impact on the visual amenity of the streetscene.
- 4.5 Subject to a condition requiring obscure glazing of its east facing windows it was also found that the dormer's impact on the amenity of neighbouring occupiers, notably No 23 to the immediate rear, would be acceptable.
- 4.6 As the roof enlargement has been constructed larger and in a different form than that of the approved dormer, this has had a material impact on the scale, bulk and positioning of the structure within the roof plane and thereby its visual impact. The structure is not set back from the eaves of the roof and instead springs straight from the main rear wall. Also it has been constructed in line with the roof ridge such that it has a very simple box like form akin to a full additional storey when viewed from the west, as opposed to achieving an incidental relationship with the main dwelling which underpinned the basis of the dormer's approval. Due to its bulky form and appearance the unauthorised roof structure harms the appearance of the building and the character and appearance of the wider surrounding area. Also its bulky form and position creates an unreasonably dominant presence in the setting and outlook from the neighbouring dwelling 23 Holland Road, harmful to those occupiers' amenity.

5 Background and efforts to resolve breach to date

- 5.1 In February 2019 an enforcement case was raised regarding variance from the approved plans concerning changes to the roof form including lack of roof tiles, lack of obscured glazing in rear windows and alleged internal alterations to allow additional room and concerns about the property being used as a HMO.
- 5.2 Site visits were carried out in March 2019 and it was found that there had been no changes to the roof form, the windows were obscured glazed in accordance to the approved plans and the property was not occupied. Alleged internal alterations would have been works that did not represent development requiring planning permission.
- 5.3 In May 2019 further allegations were received that the dormer had been constructed larger than the approved plans. During the March site visits, scaffolding was in situation which significantly obscured the view of the roof towards the lower half of the dormer. The roof enlargement has been constructed larger in depth and height and is not set back from the eaves of the roof and has been constructed so that it sits flush with the rear wall of the dwelling. The approved plans demonstrated the dormer would have been set back from the eaves by some 0.78 metres. An enforcement case was created on receiving the further complaint.

- 5.4 In May 2019 a letter was sent to the owner of the property highlighting that the development had not been constructed in accordance with any approved plans. Advice was given that any planning application submitted to seek to retain the unauthorised structure as built was unlikely to be granted planning permission. Staff advised that the owner should build in accordance with the approved dormer plans or seek permission for an amended scheme to reduce the bulk and impact, thereby seeking to regularise the breach.
- 5.5 In August 2019 a site meeting was held, attended by enforcement staff, the owner of the property, builders and a planning agent to discuss the development on site. An amended planning application seeking to overcome the reason for refusal was to be submitted.
- 5.6 In November 2019 a planning application was submitted, seeking to extend the existing eaves line to promote the roof enlargement as appearing more like a conventional dormer. That application will be fully assessed including taking account all material considerations raised in third party representations. Initial signs however, indicate that the proposal to retain the unauthorised structure and build below it an extended eaves is a contrived arrangement which may be unlikely to address the identified harm.

6 Harm caused by the breach as assessed against relevant planning policies and justification for enforcement action

- 6.1 The impact of the unauthorised development has been assessed against the same national and local policy context as described in Sections 4 and 6 of the appended officer report. The revised 2019 version of the NPPF does not material change the factors relevant to the proposal.
- 6.2 The unauthorised development by reason of its design, size, bulk, form and appearance causes material harm to the character and appearance of the building and the wider surrounding area. In these respects the development is unacceptable and contrary to the National Planning Policy Framework (2019), Core Strategy (2007) Policies KP2 (Development Principles) and CP4 (Environment & Urban Renaissance), Development Management Document (2015) Policies DM1 (Design Quality) and DM3 (Efficient and Effective Use of Land), and advice contained in the Design and Townscape Guide (2009). In view of the protracted nature of this case it is considered necessary to resort to formal enforcement action to seek to remedy the breach.
- 6.3 Taking enforcement action in this case may amount to an interference with the owner/occupier's human rights. However, it is necessary for the Council to balance the rights of the owner/occupiers against the legitimate aims of the Council to regulate and control land within its area. In this particular case it is considered reasonable, expedient, and proportionate and in the public interest to pursue enforcement action to require that the unauthorised roof extension be removed. The owner would still benefit from the fall-back position of implementing the dormer approved under application 18/01188/FUL.

7 Recommendation

- 7.1 Members are recommended to AUTHORISE ENFORCEMENT ACTION to:
- a) require the unauthorised roof enlargement to be removed or reduced to that approved under application reference 18/01188/FUL.
 - b) remove from site all materials resulting from compliance with (a) above.
- 7.2 The authorised enforcement action to include (if/as necessary) the service of an Enforcement Notice under Section 172 of the Act and the pursuance of proceedings whether by prosecution or injunction to secure compliance with the requirements of the Enforcement Notice.
- 7.3 When serving an Enforcement Notice the local planning authority must ensure a reasonable time for compliance. In this case a compliance period of 3 months is considered reasonable for the above works.

Appendix 1 – Officer Report application reference 18/01188/FUL

Reference:	18/01188/FUL
Ward:	Milton
Proposal:	Erect dormer to rear and install rooflights to front to first floor flat and convert loft into habitable accommodation
Address:	21 Holland Road, Westcliff-on-Sea, Essex, SS0 7SG
Applicant:	Mr D Nyman
Agent:	Mr Dale Perry
Consultation Expiry:	24.07.2018
Expiry Date:	16.08.2018
Case Officer:	Oliver Hart
Plan No's:	1763-01, 1763-04A, 1763-05
Recommendation:	GRANT PLANNING PERMISSION subject to conditions

1 The Proposal

- 1.1 The application seeks permission to erect a dormer to rear and install rooflights to the front of a first floor flat and convert loft into habitable accommodation.
- 1.2 During the course of the application, revised plans were submitted at the request of officers reducing the size of the dormer to approximately 5.8m in width, 3.25m in depth and 2.25m in height.
- 1.3 The proposed materials for use on the development are tile hanging and fenestration to match the existing dwelling.

2 Site and Surroundings

- 2.1 The application site is located on the eastern side of Holland Road, south of Hamlet Court Road and relates to a first floor flat within a large, end of terrace property.
- 2.2 The surrounding area is residential in character and the streetscene consists predominantly of semi-detached and terraced properties of similar mass, form and design characterised by large, two storey front gabled projections.
- 2.3 A small backland development known as 23 Holland Road is found immediately to the rear of the application property and beyond that, a large flatted development known as Homecove House.
- 2.4 It is noted the roofscape of the surrounding properties remains largely unaltered.

3 Planning Considerations

- 3.1 The main considerations in relation to this application are the principle of the development, design and the impact on the street-scene and any impact on neighbouring properties.

4 Appraisal

Principle of Development

National Planning Policy Framework (NPPF) 2018, Core Strategy (2007) Policies KP1, KP2 and CP4; Development Management Document Policy DM1 and DM3 and guidance contained within the Design and Townscape Guide (2009)

- 4.1 The proposal is considered in the context of the NPPF, Core Strategy (2007) Policies KP2 and CP4 and Policy DM1 of the Development Management Document. These policies and guidance support extensions to properties in most cases but require that such alterations and extensions respect the existing character and appearance of the building. The dwelling is located within a residential area where extensions and alterations to this property are considered acceptable in principle. Therefore, the principle of extending the dwelling is acceptable subject to the detailed design considerations below.

Design and Impact on the Character of the Area:

National Planning Policy Framework (NPPF) 2018, Core Strategy Policies KP2, CP2 and CP4, Development Management Document Policies DM1, DM3 and DM15. And guidance contained within the Design & Townscape Guide (2009)

- 4.2 The key element within all relevant policies is that good design should be a fundamental requirement of new development in order to achieve high quality living environments. Its importance is reflected in the NPPF, in the Policies KP2 and CP4 of the Core Strategy and also in Policy DM1 of the Development Management Document. The Design and Townscape Guide (2009) also states that *“the Borough Council is committed to good design and will seek to create attractive, high-quality living environments.”*
- 4.3 According to Policy KP2 of the Core Strategy (2007), new development should *“respect the character and scale of the existing neighbourhood where appropriate”*. Policy CP4 of the Core Strategy requires that development proposals should *“maintain and enhance the amenities, appeal and character of residential areas, securing good relationships with existing development, and respecting the scale and nature of that development”*.
- 4.4 Policy DM1 of the Development Management Document states that all development should *“add to the overall quality of the area and respect the character of the site, its local context and surroundings in terms of its architectural approach, height, size, scale, form, massing, density, layout, proportions, materials, townscape and/or landscape setting, use, and detailed design features”*.
- 4.5 Paragraph 366 of the Design and Townscape Guide (2009) under the heading of ‘Roof Extensions and Dormer Windows’ states that *“dormer windows should appear incidental in the roof slope, (i.e. set in from both side walls, set well below the ridgeline and well above the eaves) and the materials should be sympathetic to the existing property.”* Also of relevance is Paragraph 348 of The Design and Townscape guide (2009) which stipulates that *‘Whether or not there are any public views, the design of rear extensions is still important and every effort should be made to integrate them with the character of the parent building, particularly in terms of scale, materials and the relationship with existing fenestration and roof form’*
- 4.6 While the rear dormer is of flat roofed box design and of limited architectural merit, given its limited scale and bulk and positioning within the roof plane; set away sufficiently from the eaves, ridge and flanks so that it sits comfortably in the space available, the proposed dormer is considered to be of acceptable design. Additionally, the dormer would not be visible from the front elevation and the use of tile hanging and fenestration to match the existing dwelling ensures the visual impact will be acceptable. No objections are therefore raised to the design of the roof extension and the impact on the visual amenity of the streetscene.

Traffic and Transport

National Planning Policy Framework (2018); Core Strategy (2007) policies KP2, CP4, CP3; Policy DM15 of the Development Management Document (2015) and the Design and Townscape Guide (2009).

- 4.7 The proposed development would not result in a net increase of bedrooms or a subsequent increase in parking demand. The current situation would be retained and therefore no objection is raised.

Impact on Neighbouring Properties

National Planning Policy Framework (NPPF) 2018, Core Strategy (2007) Policies KP1, KP2 and CP4; Development Management Document Policy DM1 and DM3 and Design and Townscape Guide (2009)

- 4.8 The Design and Townscape Guide (2009) Paragraph 343; under the heading of Alterations and Additions to Existing Residential Buildings) states that amongst other criteria, that *'extensions must respect the amenity of neighbouring buildings and ensure not to adversely affect light, outlook or privacy of the habitable rooms in adjacent properties'*. In addition to this Policy DM1 of the Development Management Document (2015) also states that development should *"Protect the amenity of the site, immediate neighbours, and surrounding area, having regard to privacy, overlooking, outlook, noise and disturbance, visual enclosure, pollution, and daylight and sunlight."*
- 4.9 The application property is neighboured by No.'s 19 (to the north), 23 (to the rear) and 25 (to the south) Holland Road. It is noted concerns have been raised in relation to potential loss of light to No.23, a bungalow immediately to the rear of the application site separated by a narrow courtyard approximately 4m deep. However, given the existing constricted relationship between the two properties, the proposed dormers modest scale and bulk and positioning within the existing roofslope, it is not considered that the proposed development would give rise to a material increase in overshadowing or loss of light to the neighbouring occupants at this address.
- 4.10 While it is also considered that the proposed rear dormer would give rise to some potential overlooking, the presence of existing first floor rear windows (one clear window serving a bedroom and two obscure windows serving a bathroom and kitchen respectively), suggests a degree of overlooking exists at present. Therefore, the addition of a rear dormer with rear facing windows is not considered to give rise to a material increase in overlooking or loss of privacy to these neighbouring properties. The proposal is therefore acceptable and policy compliant in these regards. It is however considered necessary to continue the existing arrangement of obscuring unhabitable room windows above ground floor level and therefore, a condition will be attached to any successful planning application for the proposed bathroom (En-suite) window to be finished in obscure glazing and retained as such thereafter.

- 4.11 Due to the separations involved, it is not considered that the proposal would harm the light, outlook, privacy or rear garden scene of any other neighbouring properties, in accordance with the National Planning Policy Framework (NPPF), Core Strategy Policies KP2 and CP4, Development Management Policies DM1 and DM3 and The Design and Townscape Guide.

Community Infrastructure Levy

- 4.12 The proposal for the existing property equates to less than 100sqm of new floor space, the development benefits from a Minor Development Exemption under the Community Infrastructure Levy Regulations 2010 (as amended) and as such no charge is payable.

5 Conclusion

- 5.1 Having regard to all material considerations assessed above, it is considered that subject to compliance with the attached conditions, the proposed development would be acceptable and compliant with the objectives of the relevant local development plan policies and guidance as well as those contained within the National Planning Policy Framework (NPPF). Furthermore, the proposed development would have an acceptable impact on the amenities of neighbouring occupiers and the character and appearance of the application site and the locality more widely. This application is therefore recommended for approval, subject to conditions.

6 Planning Policy Summary

- 6.1 National Planning Policy Framework 2018.
- 6.2 Development Plan Document 1: Core Strategy Policies KP2 (Development Principles) and CP4 (Environment & Urban Renaissance).
- 6.3 Development Plan Document 2: Development Management Policies DM1 (Design Quality) DM3 (Efficient and Effective Use of Land), and DM15 (Sustainable Transport Management)
- 6.4 Community Infrastructure Levy Charging Schedule.
- 6.5 Supplementary Planning Document 1: Design & Townscape Guide, 2009.

7 Representation Summary

Public Consultation

- 7.1 17 neighbouring properties were notified and one letter of objection was received. Summary of objections:
- Severe loss of natural light and outlook.
 - Dormers are unsightly and not in character with the property and properties in Holland Road.
 - Will increase overlooking to my property and result in significant loss of privacy.
 - An increase in parking in an area of high stress

[Officer Comment] All relevant planning considerations are assessed within the appraisal section of the report. (Section 4) These concerns are noted and they have been taken into account in the assessment of the application.

8 Relevant Planning History

8.1 None

9 Recommendation

GRANT PLANNING PERMISSION subject to the following conditions:

01 The development hereby permitted shall begin no later than three years from the date of this decision.

Reason: Required to be imposed pursuant to Section 91 of the Town and Country Planning Act 1990.

02 The development hereby permitted shall be carried out in accordance with the following approved plans: 1763-04A

Reason: To ensure that the development is carried out in accordance with the provisions of the Development Plan.

03 All new work to the outside of the building must match existing original work in terms of the choice of materials, method of construction and finished appearance. This applies unless differences are shown on the drawings hereby approved or are required by conditions to this permission.

Reason: To safeguard the visual amenities of the area, in accordance with policies This is as set out in DPD1 (Core Strategy) 2007 policy KP2 and CP4, DM DPD Policy DM1 and SPD1 (Design and Townscape Guide).

04 The bathroom window of the proposed rear dormer facing No.23 Holland Road hereby permitted shall only be glazed in obscure glass (the glass to be obscure to at least Level 4 on the Pilkington Levels of Privacy, or such equivalent as may be agreed in writing with the local planning authority) and fixed shut, except for any top hung fan light which shall be a minimum of 1.7 metres above internal floor level unless otherwise agreed in writing by the local planning authority. In the case of multiple or double glazed units at least one layer of glass in the relevant units shall be glazed in obscure glass to at least Level 4.

Reason: To protect the privacy and environment of people in neighbouring residential properties, in accordance with the National Planning Policy Framework (NPPF), DPD1 (Core Strategy) 2007 policy CP4, Development Management DPD policy DM1 and SPD1 (Design and Townscape Guide).

The Local Planning Authority has acted positively and proactively in determining this application by identifying matters of concern within the application (as originally submitted) and negotiating, with the Applicant, acceptable amendments to the proposal to address those concerns. As a result, the Local Planning Authority has been able to grant planning permission for an acceptable proposal, in accordance with the presumption in favour of sustainable development, as set out within the National Planning Policy Framework. The detailed analysis is set out in a report on the application prepared by officers.

Informative

- 01** You are advised that as the proposed extension(s) to your property equates to less than 100sqm of new floorspace the development benefits from a Minor Development Exemption under the Community Infrastructure Levy Regulations 2010 (as amended) and as such no charge is payable. See www.southend.gov.uk/cil for further details about CIL
- 02** You should be aware that in cases where damage occurs during construction works to the highway in implementing this permission that the Council may seek to recover the cost of repairing public highways and footpaths from any party responsible for damaging them. This includes damage carried out when implementing a planning permission or other works to buildings or land. Please take care when carrying out works on or near the public highways and footpaths in the borough.

Appendix 2 – Site photographs





Reference:	19/01749/FUL	10
Application Type:	Full Application	
Ward:	West Leigh	
Proposal:	Erect 4no two storey semi-detached dwelling houses, layout parking to front and form vehicular accesses on to Underwood Square	
Address:	Haydon House 10 Underwood Square Leigh-On-Sea Essex SS9 3PB	
Applicant:	Mr G Newton	
Agent:	Steven Kearney of SKArchitects	
Consultation Expiry:	18 th November 2019	
Expiry Date:	16 th December 2019	
Case Officer:	Abbie Greenwood	
Plan Nos:	385-P500 REVB, 385-P501 REVB, 385-P502, 385-P503, Design and Access Statement, Bat and Badger Survey by Essex Mammals Survey dated November 2019, Arboricultural Impact Assessment by Owen Allpress reference 1874 dated 24th October 2019, 1874-02-P1 (Tree Retention and Protection Plan)	
Recommendation:	REFUSE PLANNING PERMISSION	



1 Site and Surroundings

- 1.1 Underwood Square is a purpose built urban square consisting of an informal green space surrounded and enclosed by detached and semi-detached houses. The houses are of different ages and designs and do not form a cohesive streetscene. The character of the square is derived primarily from the arrangement of the houses enclosing the open space and the presence of many mature trees, including a significant number of street trees and a number of mature oak trees on the rear (west) boundary of the application site and in neighbouring gardens.
- 1.2 The site was formerly occupied by a single detached house which was demolished in 2017. The plot is of a significant size taking up almost the entire west side of the square. There is only one other property on the west side of the square to the north of the application site (number 11). This is a modest detached house of traditional design. For the purposes of this application the plot of the former Haydon House has been split into two. The current application for 2 x semi-detached pairs relates to the northern 3/4 of the site only. The rest of the site to the south was subject to a separate application for one detached house which was recently refused planning permission reference 19/01446/FUL.
- 1.3 The opposite side of the square contains 5 houses which are arranged as 2 pairs of semi-detached houses and one detached property. The houses to the north side are more varied in their design and form. The south side contains the junction and is enclosed by the flank elevations of properties in Lime Avenue.
- 1.4 There are slight changes in levels north to south across the wider site as the land slopes down to Prittlebrook a short distance to the north. The surrounding area is residential in character mainly consisting of two storey houses, most of which are semi-detached. To the rear of the site is Belfairs School playing fields and Belfairs Woods beyond.
- 1.5 The central square is designated as protected green space. The large oak trees on the western boundary of the site are protected by Tree Preservation Order 4/72. There are no other policy or heritage designations in the vicinity of the site.

2 The Proposal

- 2.1 The proposal seeks to build 4 x 2 storey semi-detached houses two of which have accommodation in the roof space. The two sets of semis are different but of complementary designs. The southern pair are the larger houses. These are 4 bed 7 person units which include accommodation within the roofspace. Each property measures 5.4m wide by 13.7m deep with an eaves height of 6m and a ridge height of 9.7m. The smaller pair are 3 bed 5 person units which have a width of 5.4m, a depth of 13.3m, an eaves height of 5.6m and a ridge height of 9m.
- 2.2 The proposal will be constructed of brick and render with either feature waney edged burnt larch or straight cut black painted timber cladding, clay peg tiles and powder coated aluminium windows.
- 2.3 Two off street parking spaces are proposed on the frontage for each dwelling accessed by 3 crossovers onto Underwood Square. Amenity areas are proposed to the rear of each property.
- 2.4 The application is supported by a Design and Access Statement, an Arboricultural assessment and a bat and badger survey.
- 2.5 The application includes a streetscene drawing showing the intention for the rest of the site which includes 1 additional detached house to the southern side of the current application site which is of a similar style but a slightly larger scale and form than the houses subject of the current proposal. A separate application for that single unit was refused planning permission in November 2019 for the following reasons

01 The proposal by reason of its scale, design, position and closeness to the site's southern boundary would create a cramped relationship with the setting of the dwelling at 51 Lime Avenue which would be materially harmful to the character and appearance of the streetscene and wider surroundings. This would be unacceptable and contrary to the National Planning Policy Framework (2019), policies KP2 and CP4 of the Core Strategy (2007) and policies DM1 and DM3 of the Development Management Document (2015) and advice contained within the Southend Design and Townscape Guide (2009).

02 The proposal would by reason of its scale, design, position and closeness to the site's southern boundary create an undue sense of enclosure for the rear garden setting of the adjoining dwelling 51 lime Avenue thereby harming the amenity of its occupiers . This would be unacceptable and contrary to the National Planning Policy Framework (2019), policies KP2 and CP4 of the Core Strategy (2007) and policies DM1 and DM3 of the Development Management Document (2015) and advice contained within the Southend Design and Townscape Guide (2009).

03 The proposal by reason of the out of date nature of the ecology survey has failed to demonstrate that the proposal would not harm on ecology at the site. This is unacceptable and contrary to the National Planning Policy Framework (2019) policy KP2 of the Core Strategy (2007) and policy DM2 of the Development Management Document (2015).

- 2.6 It is noted that the first two reasons above specifically relate to the relationship of the proposed house to the southern boundary with number 51 Lime Avenue and the impact that this would have on the streetscene in terms of creating a cramped appearance and creating a undue sense of enclosure for the neighbour number 51 Lime Avenue. As the current site does not have a boundary with number 51 nor are the proposed houses otherwise in close proximity to number 51's boundary. These reasons for refusal are not directly related to the current proposal. The 3rd reason for refusal relates to the site as a whole and is relevant. In relation to this issue the applicant has submitted and updated Bat and Badger Survey.
- 2.7 In light of this recent refusal the current proposal must be judged in isolation and on its individual merits.

3 Relevant Planning History

- 3.1 19/01446/FUL - Erect two storey detached dwelling house, layout parking to front and form vehicular access on to Underwood Square – refused.
- 3.2 18/02308/FUL – Erect chalet at northern end of the site, layout parking to front and form vehicular access onto Underwood Square – refused
- 3.3 18/01674/TPO – Prune 4 oak trees at site (works to trees covered by a tree preservation order) – granted.
- 3.4 18/01063/FUL- Erect three dwellinghouses, layout parking to front and form vehicular accesses on to Underwood Square (Amended Proposal) – granted
- 3.5 17/01361/TPO - Crown lift, prune and removal of deadwood to various oak trees (works to trees covered by a tree preservation order) – granted
- 3.6 17/00396/DEM – Demolish existing dwellinghouse (Application for Prior Approval for Demolition) – Prior Approval Granted
- 3.7 17/00234/FUL - Demolish existing dwelling house and erect 4no two storey dwelling houses, form vehicular accesses on to Underwood Square – refused and dismissed at appeal. A copy of the appeal decision can be found at Appendix 1.
- 3.8 16/01866/TPO - Crown reduction by 4-5m to five Oak Trees (Works covered by a Tree Preservation Order) - refused.

4 Representation Summary

Public Consultation

- 4.1 15 neighbouring properties were consulted and a site notice displayed. Neighbours were consulted twice during the process of the application due to a revised site boundary to include the vehicular crossovers. 16 letters of representation and a petition of 80 signatures have been received from 13 households and the friends of Underwood Square raising the following issues:
- Over development of the land
 - Over bearing and dominant

- Over intensification
- The development will have a cramped appearance
- Impact on grain, character, appearance and streetscene
- The development is at odds with local character
- Too tall and too large
- The design accentuates the verticality which combined with their mass would be an over development compared to local character
- The increase in density of the site overall is too great
- The design is not very different from that dismissed at appeal
- The issues raised at appeal have not been addressed
- Inappropriate materials
- Previously approved design is not as suitable as the previously approved scheme
- The proposal must be considered with a 5th house
- The granted scheme had 14 bedrooms the current proposal including 5th house has 19
- Lack of parking
- Congestion
- Impact on residential amenity
- Contrived car parking layout which has parking spaces for one property outside another property
- Impact on street parking - is likely to result in parking on the grassed area
- Increase in noise and disturbance and air pollution
- Visual impact on parking
- There will be additional demand for on street parking in an area of stress
- Impact on biodiversity
- Strain on local amenities
- Impact on sewers and drains
- Restricted access for refuse and emergency vehicles
- Impact on wildlife and environment
- Constrained frontages - no space for planting or bins
- Landscaped frontages are a characteristic of the square
- Loss of on street parking
- The parking layout is unworkable
- Impact on trees – works have been undertaken recently with no tree protection
- Outlook onto parking areas is poor
- The existing consent would be more acceptable
- The drawings are inaccurate
- Lack of arboricultural impact assessment
- Concerns relating to surface water flooding
- The developer has not sought to engage with residents
- The previously approved scheme is more acceptable
- Impact on tranquil nature of square
- Construction management will be an issue
- The proposal is unsustainable
- 5 houses is just for additional financial gain and has no regard for existing character or amenities
- The refusal of the 5th house needs to be considered in relation to potential over development of this site
- The current proposal is similar but larger and bulkier than the previous proposals

- The extent of hard surfacing will have a detrimental impact on the streetscene but also on surface water drainage and landscaping potential.
- The extent of parking will impact on the character of the streetscene which is characterised by much greenery and enclosed boundaries
- The parking arrangement for 3 houses was much more acceptable and compatible with local character.

Officer Comment ‘These concerns are noted and they have been taken into account in the assessment of the application. However, other than those issues relating to the reason for refusal, they are not found to represent a reasonable basis to refuse planning permission in the circumstances of this case.’

Leigh Town Council

4.2 Leigh Town Council object to the proposal on the following grounds:

- Design, bulk, mass size out of keeping with the area
- Visual impact of parking on the frontage
- Failure to provide information in relation to sewerage

Highways Team

4.3 No objections

Environmental Health

4.4 No objections subject to conditions

Parks

4.5 No objections subject to conditions relating to tree protection measures and construction mitigation.

Natural England

4.6 The site falls within the Zone of Influence for one or more European designated sites scoped into the emerging Essex Coast Recreational disturbance Avoidance Mitigation Strategy (RAMS). It is the Councils duty as a competent authority to undertake a Habitats Regulations Assessment (HRA) to secure any necessary mitigation and record this decision within the planning documentation.

Essex Badger Protection Group

4.7 The Essex Badger Protection Group object to the proposal because their records indicate that the badger sett in this area may be more active than the submitted Bat and Badger Survey suggests. On this basis they recommend that camera traps are installed to confirm whether the holes are in use or are dormant as claimed by the submitted Badger report. It is acknowledged that the proposed tree protection measures will provide a safe area for badgers to the western side of the site during construction.

4.8 The proposal was called to committee by Councillors Walker, Evans and Hooper

5 Planning Policy Summary

- 5.1 The National Planning Policy Framework (NPPF) (2019)
- 5.2 Core Strategy (2007) Policies KP1 (Spatial Strategy), KP2 (Development Principles), CP3 (Transport and Accessibility), CP4 (The Environment and Urban Renaissance), CP6 (Community Infrastructure), CP8 (Dwelling Provision)
- 5.3 Development Management Document (2015) Policies DM1 (Design Quality), DM2 (Low carbon development and efficient use of resources), DM3 (The Efficient and effective use of land), DM7 (Dwelling Mix), DM8 (Residential Standards), DM15 (Sustainable Transport Management)
- 5.4 Design & Townscape Guide (2009)
- 5.5 National Design Guide (2019)
- 5.6 Vehicle Crossing Policy & Application Guidance (2014)
- 5.7 CIL Charging Schedule (2015)

6 Planning Considerations

- 6.1 The main considerations in relation to this application are the principle of the development, design and impact on the streetscene, traffic and transportation, impact on residential amenity, sustainable construction, quality of accommodation for future occupiers, ecology, impact on trees and CIL.
- 6.2 It is noted that there is extensive history for this site including a refused application and subsequent dismissed appeal in 2017 (reference 17/00234/FUL) for 4 houses which were of the same individual design. The appraisal of this scheme will therefore need to give significant weight to this appeal decision in particular the basis of the Inspectorate's finding on the individual considerations raised by that proposal notwithstanding that the appeal was, overall, dismissed. A later application for 3 detached houses in 2018 (reference 18/01063/FUL) which was granted planning permission is also a relevant consideration of significant weight. The latest refusal in 2018 (reference 19/01446/FUL) was for a single detached house at the southern end has some but limited relevance to the current application for the reasons noted in section 2 above.

7 Appraisal

Principle of Development

- 7.1 Amongst other policies to support sustainable development, the NPPF seeks to boost the supply of housing by delivering a wide choice of high quality homes. In relation to the efficient use of land Paragraph 122 states:

122. Planning policies and decisions should support development that makes efficient use of land, taking into account:

a) the identified need for different types of housing and other forms of development, and the availability of land suitable for accommodating it;

- b) *local market conditions and viability;*
- c) *the availability and capacity of infrastructure and services – both existing and proposed – as well as their potential for further improvement and the scope to promote sustainable travel modes that limit future car use;*
- d) *the desirability of maintaining an area’s prevailing character and setting (including residential gardens), or of promoting regeneration and change; and*
- e) *the importance of securing well-designed, attractive and healthy places.*

- 7.2 Policy KP2 of the Core Strategy states development must be achieved in ways which “*make the best use of previously developed land, ensuring that sites and buildings are put to best use*”. Policy CP4 requires that new development “*maximise the use of previously developed land, whilst recognising potential biodiversity value and promoting good, well-designed, quality mixed use developments*” and that this should be achieved by “*maintaining and enhancing the amenities, appeal and character of residential areas, securing good relationships with existing development, and respecting the scale and nature of that development*”.
- 7.3 Policy CP8 of the Core Strategy recognises that a significant amount of additional housing will be achieved by intensification (making more effective use of land) and requires that development proposals contribute to local housing needs. It identifies that 80% of residential development shall be provided on previously developed land.
- 7.4 Policy DM3 of the Development Management Document states that “*the Council will seek to support development that is well designed and that seeks to optimise the use of land in a sustainable manner that responds positively to local context and does not lead to over-intensification, which would result in undue stress on local services, and infrastructure, including transport capacity*”
- 7.5 Policy DM7 of the Development Management Document requires new housing development to meet the needs of the Borough in terms of the type and size of development proposed
- 7.6 The site is in a residential area which comprises mainly family housing. There is therefore no objection in principle to family sized houses in this location for which there is an identified need in the Borough. The principle of residential development did not form a reason for refusal of the previous application or dismissal of the subsequent appeal and was accepted in the appraisal in the approval given for 18/01063/FUL.
- 7.7 The wider site previously accommodated a single 4 bedroom detached dwellinghouse. This application proposes 4 semi-detached houses on a site which comprises some $\frac{3}{4}$ of the site. The principle of providing a more intensive use of the wider site needs to be weighed against the NPPF paragraph 122 above which requires Council’s to make efficient use of land. The density and scale of development is discussed in more detail below. The principle of residential development on this site is therefore considered to be acceptable.

Design and Impact on the Character of the Area

7.8 *Paragraph 124 of the NPPF states ‘ The creation of high quality buildings and places is fundamental to what the planning and development process should achieve. Good design is a key aspect of sustainable development, creates better places in which to live and work and helps make development acceptable to communities.’*

7.9 Policy DM1 of the Development Management Document states that “*all development should add to the overall quality of the area and respect the character of the site, its local context and surroundings in terms of its architectural approach, height, size, scale, form, massing, density, layout, proportions, materials, townscape and/or landscape setting, use, and detailed design features.*”

7.10 Policy DM3 part 2 of the Development Management Document states that “*all development on land that constitutes backland and infill development will be considered on a site-by-site basis. Development within these locations will be resisted where the proposals:*

- (i) Create a detrimental impact upon the living conditions and amenity of existing and future residents or neighbouring residents; or*
- (ii) Conflict with the character and grain of the local area; or*
- (iii) Result in unusable garden space for the existing and proposed dwellings in line with Policy DM8; or*
- (iv) Result in the loss of local ecological assets including wildlife habitats and significant or protected trees.”*

7.11 The proposal seeks to erect 2 pairs of semi-detached houses on some $\frac{3}{4}$ of the site. The remaining land at the southern end of the site does not form part of this application. As noted above an application for a single detached 4 bed house was recently refused on this site.

7.12 The appeal at this site in 2017 for 4 large detached houses each of an identical design is a material consideration in relation to the design considerations of the current scheme. A copy of the appeal decision is attached as Appendix 1. In regards to the scale and form of the proposed development the inspector raised the following concerns:

9. The new dwellings’ front building line would be constant and would roughly align with that of No 11. However, despite the height difference, the distance between the facing flank walls of No 11 and House 4 would be only slightly greater than that between Houses 1 and 2 and also Houses 3 and 4. This would make for an awkward relationship with the existing dwelling. However, considering that No 51 Lime Avenue is substantially forward of the intended building line, despite its relatively lower ridgeline, I do not find any significant visual conflict would result from this particular relationship.

10. Taking the development as a whole, although the four dwellings would be detached, it would span significantly across this wide frontage and the dwellings would be positioned close to one another, particularly Houses 2 and 3. Moreover, due to the steeply pitched centrally ridged roofs, the height of these four dwellings as a close-knit row, would emphasise and accentuate the development’s verticality.

This, combined with their massing from the substantial depth, which would be glimpsed

from certain points at Underwood Square, would give the impression of a substantial development at odds with local character. Although the dwellings on the north side of Underwood Square are positioned close to one another this is tempered by the variety of styles and designs evident, along with a generally lower ridge height evident.

- 7.13 It is clear from these comments that the Inspector had concerns in relation to the overall impact of the scale and massing of the 4 houses in the wider streetscene as a group as well as their relationship with number 11 which has a significantly lower ridge height than those proposed houses and which would have been seen in combination with the proposed development in the streetscene. In order to address these issues the amended proposal has sought to provide a variety of designs and scales across the site to break up the proposal into 2 distinct plots. This contrasts with the appeal scheme where the identical designs of the houses meant that they read as a single group with a combined massing in the streetscene. This variety has also enriched the design of the development and positively references the variety of house styles in this area.
- 7.14 The current proposal has also stepped the height of the semis down to the northern end to provide a positive transition in the streetscene to the lesser height of number 11. This approach was successfully employed in the approval in 2018 which was for 3 larger houses that decreased in height at the northern end of the site. That approval is also a material consideration in this assessment. The key difference between that approval and the proposed scheme is the change from 2 large detached houses to 2 pairs of smaller semi-detached properties.

This will increase the density of the site but its ultimate acceptability will depend on other aspects of the development such as the overall impact of the scale, mass, form and layout of the development on the streetscene. The Council does not apply any policy based or other criteria that would stipulate the threshold at which a particular density is or is not acceptable.

- 7.15 In addition to the overall height of the proposed houses, the close spacing between the houses was noted by the Inspector as contributing to the impact of the development in the wider streetscene. It is also noted that the most recent application was refused because of concerns that the development would appear cramped in relation to the neighbouring property. The submitted streetscene shows a comparison between the current proposal and the previously approved houses. This drawing shows that the spacing between the dwellings and the ridge heights are in many respects comparable - the distance to the northern boundary has actually increased by 0.6m at ground level and by 0.3m at first floor level, the spacing between the two new built forms is now proposed as 2.4m which is only 0.1m less than the 2018 approval at ground level and 0.8m less at first floor.
- 7.16 It is noted that the recent application for a single house at the southern end of the site was refused by members because of concerns that the house was sited too close to the southern boundary of the site and that this would result in a cramped appearance on the site when viewed in conjunction with number 51 Lime Avenue. The distance to the boundary in this case was 2m and 3.6m to the neighbouring property. The current proposal has no boundary with number 51 Lime Avenue but does have a boundary with number 11 Underwood Square on the northern side. The proposed separation here is 2.8m to the boundary and 4.9m to the neighbouring property on this side.

These distances are therefore significantly greater in comparison, than the recently

refused proposal and should not give rise to a cramped relationship on this side.

- 7.17 Looking at the surrounding area it is also noted that there are a variety of building spacings around the square including one as narrow as 1.2m and several of between 2 and 3m as well as some wider separations which include garages and parking spaces in between the properties. This variety is part of the character of this area. It is therefore considered that the proposed spacing of the buildings across the site would not therefore be out of character.
- 7.18 The submitted streetscene shows that there has been a small increase in the area of the front elevations between the 2018 approval and the current proposal but this equates to only an 11% increase over that previously approved in relation to the two northern most houses only. When taking into account the southern property for the 2018 approval and the recently refused house also shown on this streetscene the overall building frontage area drops by 4%. Although referred to for guidance purpose only this demonstrates that the overall streetscene coverage is comparable to the previously approved scheme.
- 7.19 In relation to depth, the proposed houses are 13.3m deep which is greater than the 2018 approval (10.4m) but less than the appeal scheme which had a depth of 14.2m. Looking at the Inspector's comments noted above it is the depth in combination with the height and form of that proposal which was previously an issue. The current proposal has significantly reduced the height and design of the proposed buildings to provide an improved relationship to context.

It is also noted that there are other properties in the area, area including the previously demolished property on the site which are of a comparable depth to that currently proposed.

- 7.20 Overall it is considered that the reduction and stepping in building height combined with the variety in design and form, the reduced scale and mass overall and the proposed spacing of the proposal including a greater separation to the northern boundary has satisfactorily addressed the Inspectors concerns in regard to the impact of the development as a whole on the streetscene and the proposal would, on balance, satisfactorily integrate into the wider streetscene in this regard.
- 7.21 The other houses in this area are very mixed in their designs and there is no cohesive character. Most properties have a pitched roof and gables are a common feature either as the form of the main roof or as a feature projection. Materials are also mixed with white render and red tile being the most prevalent. The area is defined by its variety and its leafy character and by the arrangement and enclosure of the houses around the public space.
- 7.22 The proposed houses are an interpretation of an Arts and Crafts style with strong gabled frontages, feature black timber cladding, canopy detailing at first floor, tall feature chimneys and large glazed bay window adding interest at street level. The designs reference the Arts and Crafts style of the previously demolished dwelling on this site. The design of each pair is distinct but there are similar features and materials which will ensure that the development as a whole has a cohesive character. As noted above this approach has benefits in terms of breaking up the massing of the group but it also references the variety in the area.
- Overall it is considered that the designs are well articulated in terms of their proportions and detailing, have a good balance of variety and cohesion and this aspect of the proposal

is considered to be acceptable.

7.23 There is however a significant concern in relation to the design and layout of the frontage. Each property has the required two off street parking spaces but for 3 of the 4 houses these are accessed by shared crossovers between neighbouring properties. This has resulted in almost all the frontages being taken up with hard surfacing and a parking layout which has the allocated parking for house 2 in front of house 1. This is unusual and very contrived and there is a concern that the development will be dominated by hardsurfacing which will be to the detriment of the streetscene. It is noted that most of the surrounding properties have off street parking on their frontages but this is balanced with significant areas of planting which contributes to the overall leafy character of the square, its defining characteristic. The proposal shows small areas of planting of up to 0.6m wide along the front of the site boundary and between two of the parking areas but this is minimal in relation to the extent of hardstanding proposed. The design of the parking is therefore considered to be detrimental to the character of the site and wider area and is indicative that too much development is proposed on the site, creating this cramped setting to the frontage.

7.24 It is therefore considered that whilst on balance the scale, form, massing, spacing and detailed design of the proposed houses are, on balance, acceptable and policy compliant, the layout and design of the forecourt parking areas would cause material harm to the unique and distinctive character of this area and the proposal is unacceptable and contrary to policy in this regard.

Standard of Accommodation for Future Occupiers

Delivering high quality homes is a key objective of the NPPF.

7.25 Policy DM3 of the Development Management Document (i) states: proposals should be resisted where they “*Create a detrimental impact upon the living conditions and amenity of existing and future residents or neighbouring residents*”.

Space Standards and Quality of Habitable Rooms.

7.26 All new homes are required to meet the National Technical Housing Standards in terms of floorspace and bedroom sizes. The required size for a 3 storey, 4 bed 7 person household is 121 sqm. The required size for a 2 storey, 3 bed 5 person household is 93 sqm. The minimum standards for bedrooms are:

- Master - minimum area 11.5 sqm, minimum width 2.75m
- Other doubles – minimum area 11.5 sqm, minimum width 2.55m
- Singles - minimum area 7.5 sqm and minimum width 2.15m

Plot	Internal area	Bed 1	Bed 2	Bed 3	Bed 4	Amenity
Northern 3b5p	118.2 sqm	18.7 sqm W=3.5m	13.4 sqm W=2.6m	10 sqm W=2.16m		156.9 sqm
Southern 4b7p	163.85 sqm	20.1 sqm W=2.8m	16.8sqm W=3.45m	14.8sqm W=2.6m	8.2sqm W=2.15m	145.3 sqm

7.27 The proposal therefore comfortably meets the standards required. All habitable rooms would benefit from good outlook and daylight. The proposal is therefore acceptable in

these regards.

Privacy and outlook

- 7.28 As noted above the proposed parking layout is unusual and contrived with the parking for plot 2 directly in front of the main window to the kitchen/dining room of plot 1. This is likely to give rise to a loss of privacy for the new occupant of plot 1 when the neighbour is accessing their vehicle. This will be apparent to the new occupier of plot 1 when purchasing the site so is a consideration which they will need to consider and therefore would not constitute a reason for refusal however it is considered to be a negative aspect of the proposal.

M4(2) – Accessibility

- 7.29 Development Management Policy DM8 requires all new homes to be accessible for all and meet the standards set out in Building Regulations M4(2) - Accessible and Adaptable Dwellings. This ensures that all new homes are flexible enough meet the changing needs of all generations. The Design and Access Statement makes a commitment to providing accessible and adaptable homes. This requirement could also be secured by a condition requiring full compliance with M4(2).

Amenity Provision

- 7.30 Each proposed property has a garden area of at least 145 sqm to its rear. This is considered to comfortably meet the needs of a family dwelling.
- 7.31 Overall it is considered that the proposal will provide a good standard of accommodation for future occupiers and is acceptable and policy compliant in this regard.

Impact on Residential Amenity

- 7.32 Policy DM1 of the Development Management Document states that development should, *“protect the amenity of the site, immediate neighbours and surrounding area, having regard for privacy, overlooking, outlook, noise and disturbance, visual enclosure, pollution and daylight and sunlight.”*
- 7.33 The proposal only has one existing neighbour number 11 Underwood Square to the north. The northern most property has a depth of 13.1m at two storeys on this side. It has an eaves height of 5.6m and a ridge height of 9m. It is set 2.8m from the boundary with this property and 4.9m from the flank elevation of this neighbour. The proposed house would extend 2m past the rear elevation of this neighbour.
- 7.34 The previously approved 2018 proposal was set 4.3m south of this neighbour at a height of 8.5m. It projected 2.2m past this neighbour at 2 storeys with a further projection of 1.5m at single storeys. This relationship was previously considered acceptable in terms of impact on light and outlook to number 11. The current proposal has a similar relationship with this neighbour except that it does not include a single storey projection.

It is also noted that the separation distance between the current proposal and number 11 has increased from 1.75m to 2.8m because of the proposed tandem parking at this end of the site. This relationship is therefore considered to be acceptable. It is noted that since the 2018 proposal number 11 has been extended at ground and first floor (reference

19/00011/FULH). The extensions to number 11 relate to the northern section of the property only and do not have significant bearing on the relationship with the current proposal.

- 7.35 In terms of impact on privacy number 11 has a number of windows to the side elevation that serve habitable rooms, however all these windows are secondary only – the primary windows face to the east and west. The proposal has two small windows on its northern flank facing the neighbouring property. One serves a bathroom and the other is a secondary window to a bedroom. It is considered therefore that, if the proposal was otherwise found to be acceptable a condition could be imposed to require these to be obscure glazing. Subject to this condition the impact on the privacy of this neighbour is considered to be acceptable and the proposal is policy compliant in this regard.
- 7.36 To the south the site faces onto the remainder of the development site which is currently vacant. The proposed property would be set 1.2m from this boundary and has one small bathroom window at first floor facing this site. A separation of 1.2m is considered reasonable in this context. The side window could be obscure glazed via condition.
- 7.37 This arrangement is repeated in the centre of the site between the plots where all side windows would also need to be obscure glazed to prevent inter looking between the new properties. An obscure glazing condition could be applied to all first floor windows on all flank elevations of the proposal.
- 7.38 To the west, the existing site backs onto playing fields associated with Belfairs High School and to the east is the public space of Underwood Square. It is therefore considered that the proposal would have no material impact on the amenities of other properties in the square in terms of outlook, overlooking, sense of enclosure and daylight/sunlight.
- 7.39 In relation to noise and disturbance, it is not considered the increased activity associated with the proposed development and subsequent development on the remainder of the site, will have an adverse impact on residential amenity taking into account the residential nature of the proposal. To ensure the amenities of residential occupiers surrounding the site are safeguarded during construction a condition will be imposed in relation to construction hours.
- 7.40 Overall therefore it is considered subject to a condition requiring obscure glazing to the upper windows in all the flank elevations to protect the privacy of neighbours, the proposal will, on balance, have an acceptable impact on the amenities of neighbours and is policy compliant in this regard

Traffic and Transportation Issues

- 7.41 Policy DM15 states that dwellings of this size should be served by at least two off street parking spaces. The proposed parking arrangement will include the formation of 3 new vehicle crossovers and 8 parking spaces on the front of the site. This meets the policy requirements and the Council's Highways Officer has not raised any objections in this regard, however, as noted above there are concerns in relation to the design of this layout.
- 7.42 The formation of additional crossovers will inevitably result in the loss of some on street parking to the front of the site but this will be the case for any development on this site and no objections have been raised by the Council's Highway Officer in relation to this issue. Most other properties on the square have their own crossover. Taking into account the benefits of new housing in this location, no objection is raised to the proposed parking arrangements and the proposal is policy compliant in this regard.
- 7.43 The submitted plans do not show details of refuse or cycle storage however, as a large dwelling house with a large garden it is considered that there is sufficient scope for these to be provided to the rear of the property. The proposal is therefore acceptable and policy compliant in these regards.

Construction Management Plan

- 7.44 A number of concerns have been raised by objectors in regard to construction management including the burning of waste, access for construction vehicles and impact on access to neighbouring properties. Whilst a construction management plan would not normally be sought for this scale of development, in these particular circumstances, given the proximity of the large street trees to the pavement edge and the potential for damage by construction traffic without a clear access plan, it is considered that it would be prudent to require a construction management plan to be submitted so that routes and access and other issues can be fully considered. This could be controlled by a condition requiring the developer to submit a Construction Management Plan. A condition relating to hours of construction could also be imposed were the proposal otherwise acceptable. Subject to these conditions, the proposal is considered to be acceptable and policy compliant in this regard.

Impact on Trees

- 7.45 The mature oak trees along the western boundary of the site are protected by a tree preservation order ref TPO 4/72. There is also a significant street tree close to the south east corner of the site. The large trees in this area are a key feature and important to local character.
- 7.46 An Arboricultural Statement has been submitted with the application. The report confirms that the southernmost crossover will be within the root protection area of the large street tree T10.

- 7.47 The tree report has assessed the impact of the proposal on the street tree to the south east of the site the report confirms that the proposed driveway, which will be shared by the southernmost plot of the current application and the vacant plot to the south (outside the scope of this application) will encroach onto the root protection area but that this encroachment will be below the recommended maximum 20% coverage for new surfaces. To mitigate the impact of this encroachment it is proposed that the parking surface be constructed above the existing ground levels using no-dig methodology which involves laying a permeable cellular surface on top of the existing ground levels. The new crossover and driveway will be ramped up to this level. It is also recommended that the installation of this surface is supervised by a suitably qualified arboriculturalist and a structural engineer. Full design details for this element of the proposal and levels for the proposed surfacing and the wider site could be controlled by condition.
- 7.48 The report confirms that the proposal will not impact on the preserved oak trees to the rear boundary.
- 7.49 In relation to tree protection during construction the report includes a plan of protective fencing to delineate the construction exclusion zone. Given the nature of the site proposed layout it is not possible for root protection areas for the street tree to be contained within the fenced exclusion zone it is proposed to install temporary ground protection in the form of steel sheets or scaffold boards laid across the affected area.
- 7.50 The report includes a Method Statement for all these mitigation and protection measures. The Arboricultural Statement submitted with the application concludes that, subject to the specified mitigation measures, the development will not cause material harm to this tree. The Council's Arboricultural Officer has reviewed the tree report and recommended mitigation and protection measures and has provided the following comments:
- 'With regard to T10, Liquidambar. In my opinion it is likely a large proportion of the root system could be located within the development site, due to the hard surface of the road and public footpath. These areas being less hospitable to root growth than the development site, which if I recall correctly was largely laid to lawn. The proposal for the cellular confinement system for parking spaces is acceptable as long as it is achievable with the existing undisturbed soil levels. At present the parking bays cover 9.9% of the RPA which is within the 20% maximum recommended within BS5837. It would appear the proposed cross over from the road is just inside the RPA of T10 so the impact of this would be minimal.*
- The location of all services will need to be provided as would a detailed method statement for the installation of the cellular confinement system. All works, site supervision and tree protection should be carried out as detailed in the Arboricultural Report by Owen Allpress ref 1874 dated 24th October 2019. Also subsequent site monitoring reports should be made available.'*
- 7.51 In considering the acceptability of this crossover it is noted that the same arrangement was proposed in the recently refused proposal which would have shared the crossover and drive access with the southernmost property of the current application. This scheme was refused but not because of the impact on this tree which was found to be acceptable subject to tree protection conditions. This remains the case for the current proposal and carried material weight in the determination of the current proposal. The proposal is therefore considered to be acceptable and policy compliant in this regard subject to tree protection conditions.

Ecology

- 7.52 Core Strategy policy KP2 and Development Management Policy DM2 require development to respect, conserve and enhance biodiversity. The site itself has no ecological designation however it is known to be a habitat for wildlife including badgers and foxes and falls within the zone of influence of for one or more of the European designated sites scoped into the emerging Essex Coast Recreational disturbance Avoidance and Mitigation Strategy (RAMS) .
- 7.53 The applicant has provided a Bat and Badger Survey carried out by Intext Properties Limited dated November 2019. This comments that no evidence of bats were found in the recent survey, however, the trees could provide a sheltered foraging area. The survey also comments that a badger path, a snuffle hole and gaps under the fence were observed but that there was no new evidence of badgers using the existing holes on site since the previous surveys in 2018 and 2017. To allow badgers to continue to move through the site the report recommends that the existing gaps under the fences be retained.
- 7.54 The Essex Badger Protection Group has indicated that their records suggest that the badger sett in this area may be more active than the submitted Bat and Badger Survey suggests. On this basis they recommend that a further more detailed wildlife study is carried out however it is noted that the proposed tree protection fencing will effectively cordon off nearly half the site to the depth of the largest tree canopy and this will also serve to protect badgers on the site during construction. There would still be a requirement to provide full details of mitigation measures to protect badgers on and crossing the site following completion of the development but this could be required via condition. The applicant will also require a licence prior to commencement of any works.
- 7.55 Natural England have highlighted that the site falls within the Zone of Influence for one or more European designated sites scoped into the emerging Essex Coast Recreational disturbance Avoidance Mitigation Strategy (RAMS). It is the Council's duty as a competent authority to undertake a Habitats Regulations Assessment (HRA) to secure any necessary mitigation and record this decision within the planning documentation.
- 7.56 Any new residential development at this site has the potential to cause disturbance to European designated sites and therefore the development must provide appropriate mitigation. This is necessary to meet the requirements of the Conservation of Habitats and Species Regulations 2017. Any CIL contribution for this site, were the proposal approved, would include a contribution towards mitigation measures at a local wildlife site. Subject to this mitigation it is considered that the requirements of the habitat regulations are fully met by the proposal.
- 7.57 Overall therefore the ecological implications of the site can be considered acceptable and policy compliant subject to the appropriate conditions and CIL contributions.

Sustainability

- 7.58 Policy KP2 of the Core Strategy requires that *“at least 10% of the energy needs of new development should come from on-site renewable options (and/or decentralised renewable or low carbon energy sources).* Policy DM2 of the Development Management Document states that *“to ensure the delivery of sustainable development, all development proposals should contribute to minimising energy demand and carbon dioxide emissions”.* This includes energy efficient design and the use of water efficient fittings, appliances and water recycling systems such as grey water and rainwater harvesting.
- 7.59 The Design and Access Statement comments that roof mounted photo-voltaic panels are proposed but these are not shown on the plans and no calculations have been provided to demonstrate that this meets the 10% requirement. No information has been given regarding water usage.
- 7.60 It is considered that, for a scheme of this magnitude, the requirement for renewable energy and restrictions on water usage could be controlled with conditions. The proposal will need to take account of shading from the surrounding trees. The proposal is therefore considered to be acceptable and policy compliant in this regard subject to conditions.

Drainage

- 7.61 Policy KP2 of the Core Strategy states all development proposals should demonstrate how they incorporate sustainable drainage systems (SUDS) to mitigate the increase in surface water runoff, and, where relevant, how they will avoid or mitigate tidal or fluvial flood risk.
- 7.62 The site is located in flood risk zone 1 (low risk). No information has been provided regarding drainage. A condition can be imposed to ensure the proposed development mitigates against surface water runoff. The proposal is therefore considered to be acceptable and policy compliant in this regard, subject to that condition.

Permitted Development

- 7.63 Given the proximity of the development to large trees and tree roots, some of which are for preserved trees and the potential impact on neighbouring properties, it is considered appropriate in this case that if the proposal were otherwise acceptable, permitted development rights should be controlled by condition so that the implications of any extension on the trees and neighbours can be fully assessed if extensions are proposed in the future.

Community Infrastructure Levy (CIL)

- 7.64 This application is CIL liable. If the application had been recommended for approval, a CIL charge would have been payable. If an appeal is lodged and subsequently allowed, the CIL liability will be applied. Any revised application may also be CIL liable.

8 Conclusion

- 8.1 The proposed development, by reason of its poorly designed and contrived forecourt parking layout, and in particular the extent of hardsurfacing and the lack of space for soft landscaping, is considered to have a significant and detrimental impact on the character and appearance of the site and the wider streetscene. It is considered that the harm caused by the proposed frontage arrangements is not outweighed by the public benefits of the development more widely. The proposal as a whole is therefore unacceptable and contrary to the National Planning Policy Framework (2019), Policies KP2 and CP4 of the Core Strategy (2007), Policies DM1 and DM3 of the Development Management Document (2015) and the advice contained within the Design and Townscape Guide (2009).

9 Recommendation

- 9.1 **REFUSE PLANNING PERMISSION for the following reasons:**

- 01 **The proposed development, by reason of its poorly designed and contrived forecourt parking layout, and in particular the extent of hardstanding proposed and lack of space for soft landscaping, would have a detrimental impact on the character and appearance of the site and the wider streetscene. This is unacceptable and contrary to the National Planning Policy Framework (2019), Policies KP2 and CP4 of the Core Strategy (2007), Policies DM1 and DM3 of the Development Management Document (2015) and the advice contained within the Design and Townscape Guide (2009).**

Informatives:

- 01 **Please note that this application would have been liable for a payment under the Community Infrastructure Levy Regulations 2010 (as amended) if planning permission had been granted. Therefore, if an appeal is lodged and subsequently allowed the CIL liability will be applied. Any revised application may also be CIL liable.**

The Local Planning Authority has acted positively and proactively in determining this application by identifying matters of concern with the proposal and determining the application within a timely manner, clearly setting out the reason(s) for refusal, allowing the Applicant the opportunity to consider the harm caused and whether or not it can be remedied by a revision to the proposal. The detailed analysis is set out in a report prepared by officers. In the circumstances the proposal is not considered to be sustainable development. The Local Planning Authority is willing to discuss the best course of action.

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Appeal Decision

Site visit made on 31 January 2018

by **Timothy C King BA(Hons) MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 14 March 2018

Appeal Ref: APP/D1590/W/17/3182743

10 Underwood Square, Leigh-on-Sea, Essex SS9 3PB

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Intex Properties Ltd against the decision of Southend-on-Sea Borough Council.
 - The application Ref 17/00234/FUL, dated 6 February 2017, was refused by notice dated 14 June 2017.
 - The development proposed is described as '*Demolition of existing house and garage. Erect 4 No detached link five bedroom houses.*'
-

Decision

1. The appeal is dismissed.

Preliminary Matter

2. I note that upon registration the Council made a minor change to the description of the development and the appellant was agreeable to this. The change has not materially affected the essence of the proposal.

Application for costs

3. An application for costs was made by Intex Properties Ltd against Southend-on-Sea Borough Council. This application is the subject of a separate Decision.

Main Issues

4. The main issues are:
 - 1) The effect of the proposal on the character and appearance of the area; and
 - 2) The effect of the proposal on the living conditions at No 11 Underwood Square, and No 51 Lime Avenue, with particular regard to natural light entry and outlook.

Reasons

Character and appearance

5. Underwood Square comprises a centrally placed area of tree-lined open space surrounded by a roadway serving a series of dwellings of differing styles and ages on both its north and east sides. Accessed via Lime Avenue to its south, on its west side, is an expanse of cleared land following the demolition of No 10 or Haydon House. This former dwelling was set in a substantial curtilage. In

- its place it is proposed that the site accommodates a row of four detached dwellings.
6. The dwellings, identical in form and design, would all be to a height of some 2.5 storeys and have steeply pitched gables which the Council acknowledges to be integral to the overall design. Indeed, as an entity in itself, the proposed development with its intended features and cladding would have visual attraction. The good standard of accommodation is acknowledged and I also note the measures to be employed in its construction. Nonetheless, when taking into account the appeal site's contextual setting and the scale of the proposed development I have certain concerns.
 7. At my site visit I noted that land levels drop to the north along Lime Avenue and continue to fall, although less so, northwards across Underwood Square. As a result, the existing two-storey dwelling, No 11, which lies to the north of the development, sits on slightly lower ground. This relationship is not identified or reflected in the submitted plans.
 8. Whilst noting the comments from the Council's Design Officer as to the scheme I also note that the Council's pre-application advice letter referred to the development's physical relationship with No 11. The letter on such comments that there is concern that the resultant height could be significantly above this existing dwelling, and recommends that an acceptable relationship with regard to scale would need to be demonstrated. However, there is little illustrative material before me to address this concern. Indeed, the submitted elevational drawing shows a marked difference in height between No 11 and the nearest new dwelling (House 4).
 9. The new dwellings' front building line would be constant and would roughly align with that of No 11. However, despite the height difference, the distance between the facing flank walls of No 11 and House 4 would be only slightly greater than that between Houses 1 and 2 and also Houses 3 and 4. This would make for an awkward relationship with the existing dwelling. However, considering that No 51 Lime Avenue is substantially forward of the intended building line, despite its relatively lower ridgeline, I do not find any significant visual conflict would result from this particular relationship.
 10. Taking the development as a whole, although the four dwellings would be detached, it would span significantly across this wide frontage and the dwellings would be positioned close to one another, particularly Houses 2 and 3. Moreover, due to the steeply pitched centrally ridged roofs, the height of these four dwellings as a close-knit row, would emphasise and accentuate the development's verticality. This, combined with their massing from the substantial depth, which would be glimpsed from certain points at Underwood Square, would give the impression of a substantial development at odds with local character. Although the dwellings on the north side of Underwood Square are positioned close to one another this is tempered by the variety of styles and designs evident, along with a generally lower ridge height evident.
 11. Policies KP2 and CP4 of the Southend-on-Sea Core Strategy (CS) both refer to making the best use of previously developed land, of which this site is a case in point. This aim is reflected in policy DM3 of the Southend-on-Sea Development Management Document (DMD). However, the policies also stress that new development should respond to local character and appearance in order to ensure an acceptable integration.

12. Supplementary Planning guidance on matters of design is provided by the Southend-on-Sea Design and Townscape Guide (SPD1) which, more specifically, indicates that the successful integration of any new development is dependent upon an appropriate scale, height and massing in relation to the existing built fabric.
13. In this instance the extent and scale of the development as a whole would be dominant in the streetscene and harmful to the character and appearance of the area. Accordingly, I conclude that the proposal would be in material conflict with the design objectives of CS policies KP2 and CP4, DMD policies DM1 and DM3 and also relevant advice within the Council's SPD1.

Living conditions

14. The Council has raised objections in respect of the proposal's effects on two particular dwellings; No 51 Lime Avenue and No 11 Underwood Square. In this regard I have had regard to the daylight study commissioned by the appellant which concludes that the proposed development would have a low impact on the light received by its neighbouring properties and satisfies the requirements of the BRE publication 'Site layout planning for daylight and sunlight: a guide to good practice'(BR 209). I have also noted the series of shadow diagrams provided with the planning application.
15. Again, considering the relative footprints and orientations, with No 51 sitting to the south of House 1, I am satisfied that the dwelling itself would not be unduly affected by the development. Its rear garden would be overshadowed to some extent by House 1 but the facing flank wall would be positioned adequately from the properties' common boundary. Indeed, degrees of overshadowing would be an inevitable consequence of any new dwelling situated towards this end of the site given the acceptability of the site for residential development, and the probability of No 11's front building line being followed to this end.
16. In contrast, No 11, beyond the opposite end of the site, would sit to the north of the development. Given this orientation, unfavourable to No 11, the proximity of its flank wall to that of House 4, the latter's depth and the drop in land levels, I consider that, when seen from No 11's various side facing windows, the development would appear as somewhat overbearing with a reduced outlook and a resultant visual sense of enclosure. I therefore find that this physical relationship, as proposed, would compromise the living conditions of the occupiers of No 11. This would be particularly contrary to the aims of DMD policy DM1 which comments that protection and enhancement of amenity is essential to maintaining people's quality of life and ensuring the successful integration of new development into its surroundings.
17. On this main issue I conclude that the proposal would be harmful to the living conditions at No 11 Underwood Square. It would also be in material conflict with the requirements of CS policies KP2 and CP4, DMD policies DM1 and DM3 and also relevant advice within the Council's SPD1.

Other considerations

18. The appellant makes the point of the importance of small sites in the need for new housing. New housing provision is one of the main objectives of the National Planning Policy Framework (the Framework) which, as a strong material consideration, states that applications for housing should be

considered in the context of the presumption in favour of sustainable development. Reference is also made to ministerial statements on the issue of national housing need. I also note that CS Policy CP8 identifies that 80% of residential development shall be provided on previously developed land. Accordingly, I have afforded these matters significant weight.

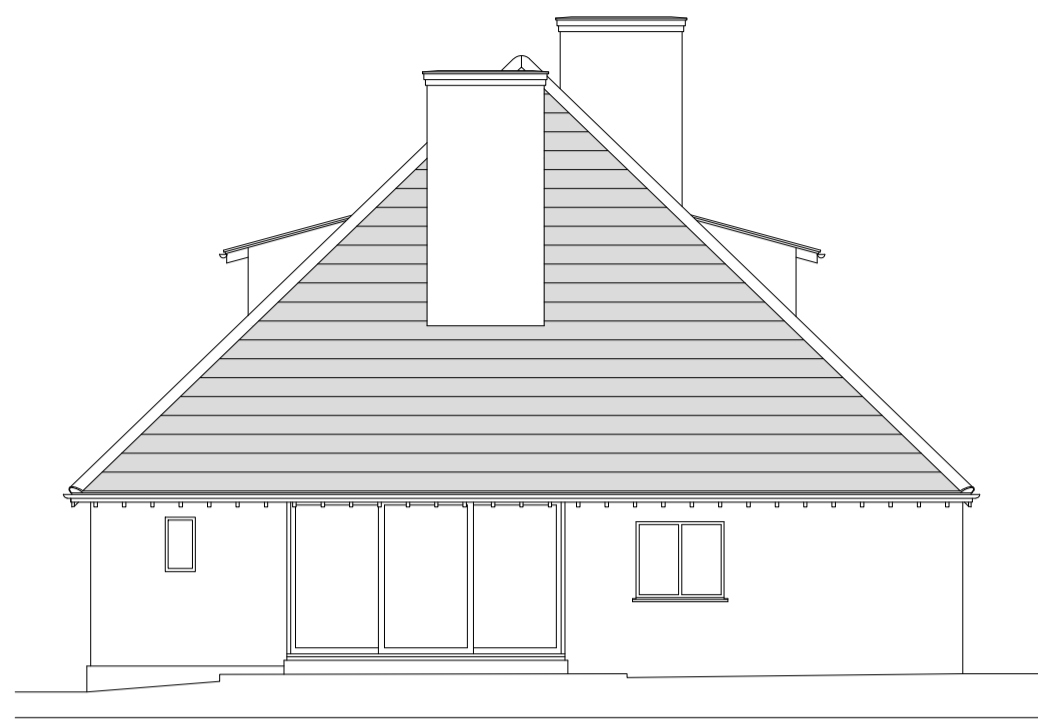
19. In this particular instance the Council indicates its Strategic Housing Land Availability Assessment (SHLAA) demonstrates that the Council has a six year supply of housing, which accords with the Framework's requirement. This is not a matter of dispute between the main parties. As such, for this purpose, the development plan is not considered out-of-date.
20. The development would bring about benefits, particularly in economic terms, one of the strands of sustainable development. However, Section 38(6) of the Planning and Compulsory Purchase Act 2004 says that to the extent that development plan policies are material to an application for planning permission the decision must be taken in accordance with the development plan unless there are material considerations that indicate otherwise. In this instance I have found that in environmental terms, another strand of sustainable development, undue impacts resulting from the proposal would be harmful and not in accordance with relevant policies in the development plan.
21. I have had regard to the various representations received from interested parties. I have already addressed many of the concerns raised, whilst the appellant has produced evidence to indicate that others highlighted, such as those traffic and ecologically related, are not matters which weigh against the development.

Conclusion

22. I have found harm on both main issues and that there are material policy objections to the proposal. I have taken into account and given appropriate weight to the relevant material considerations but these do not outweigh my findings as to the adverse impacts arising from the proposal.
23. For the above reasons, and having had regard to all matters raised, the appeal does not succeed.

Timothy C King

INSPECTOR



PRE-EXISTING WEST (REAR) ELEVATION 1:100



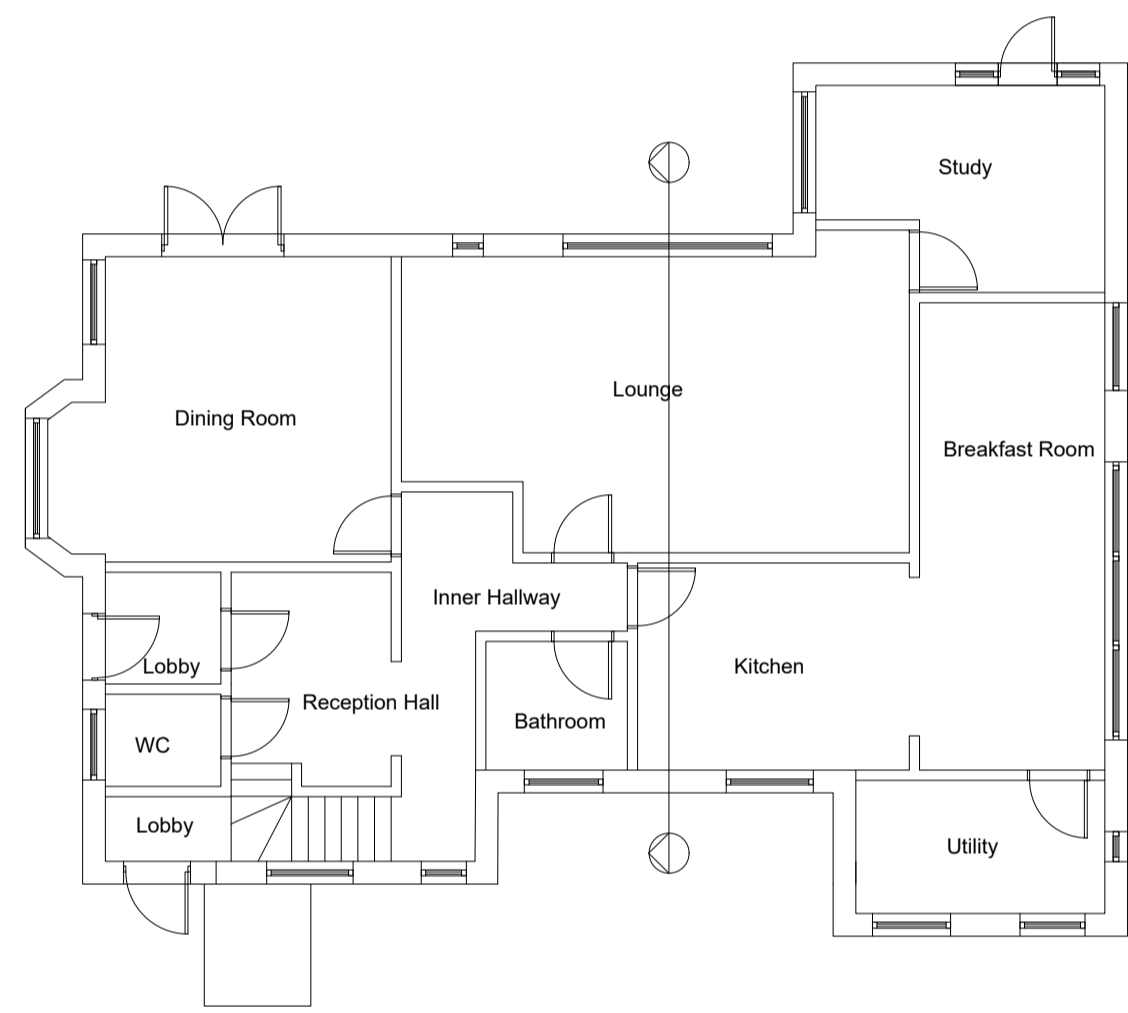
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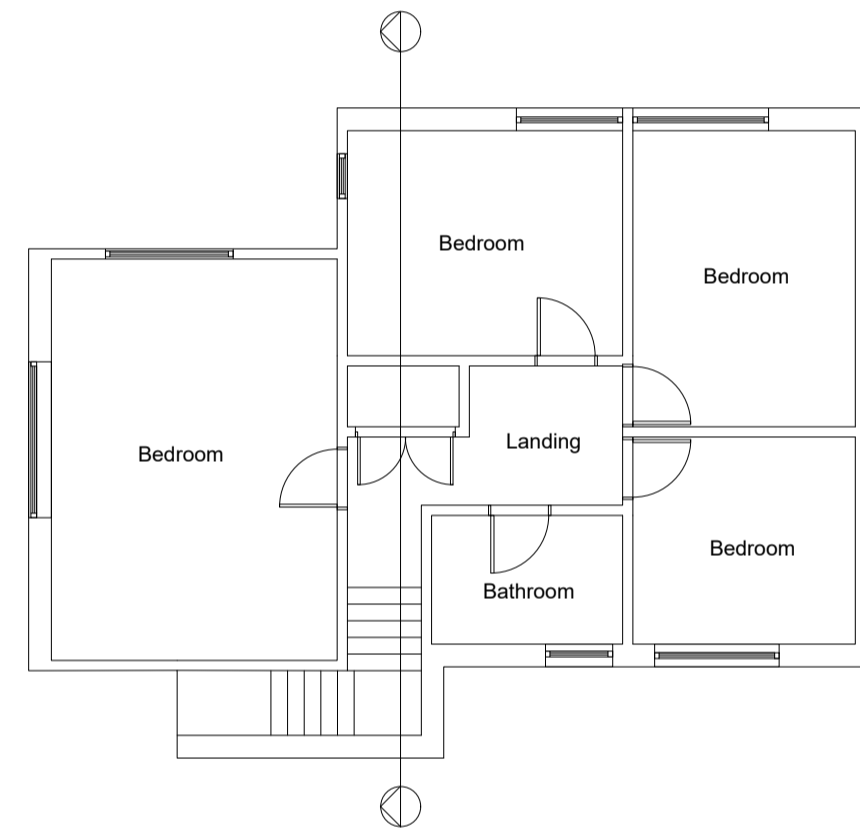
PRE-EXISTING EAST (FRONT) ELEVATION



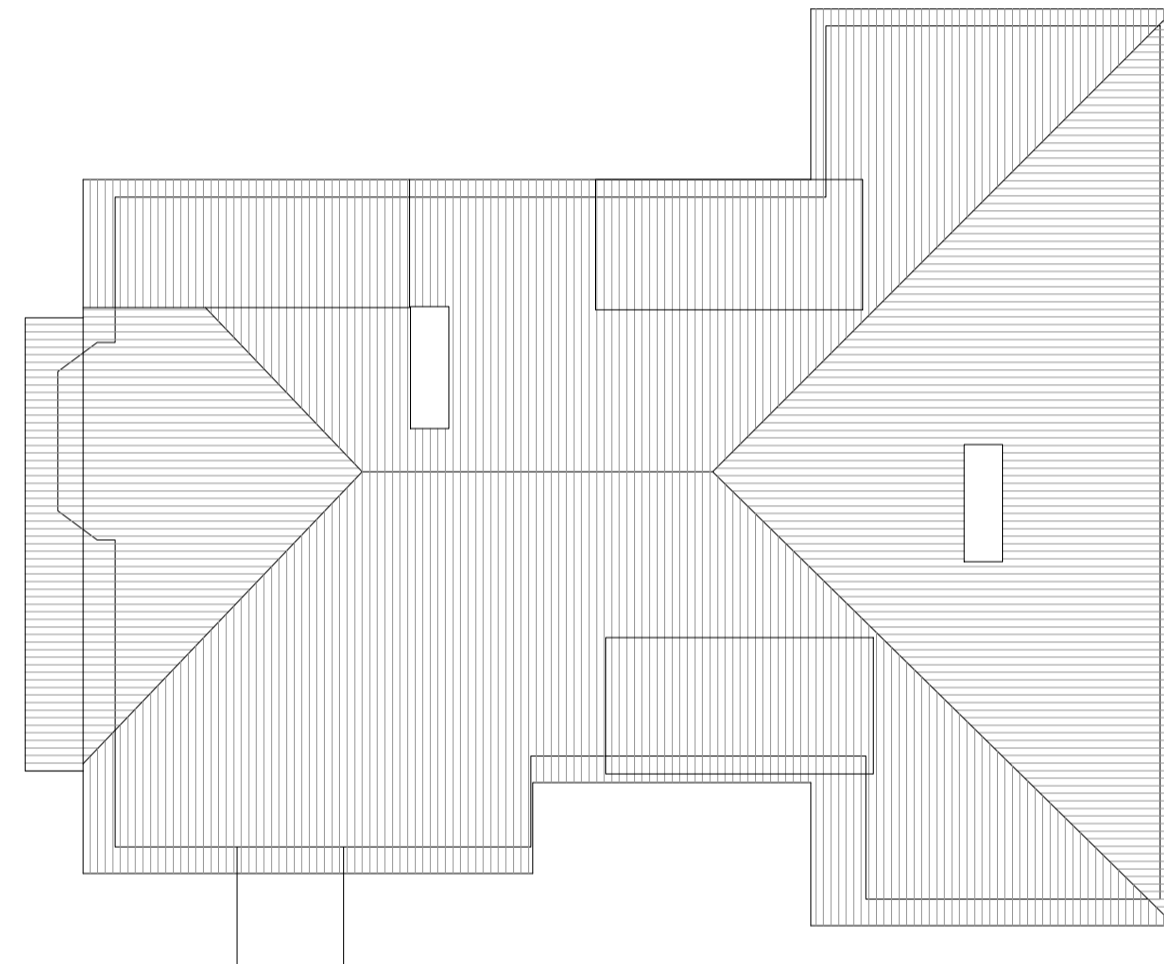
PRE-EXISTING NORTH (SIDE) ELEVATION



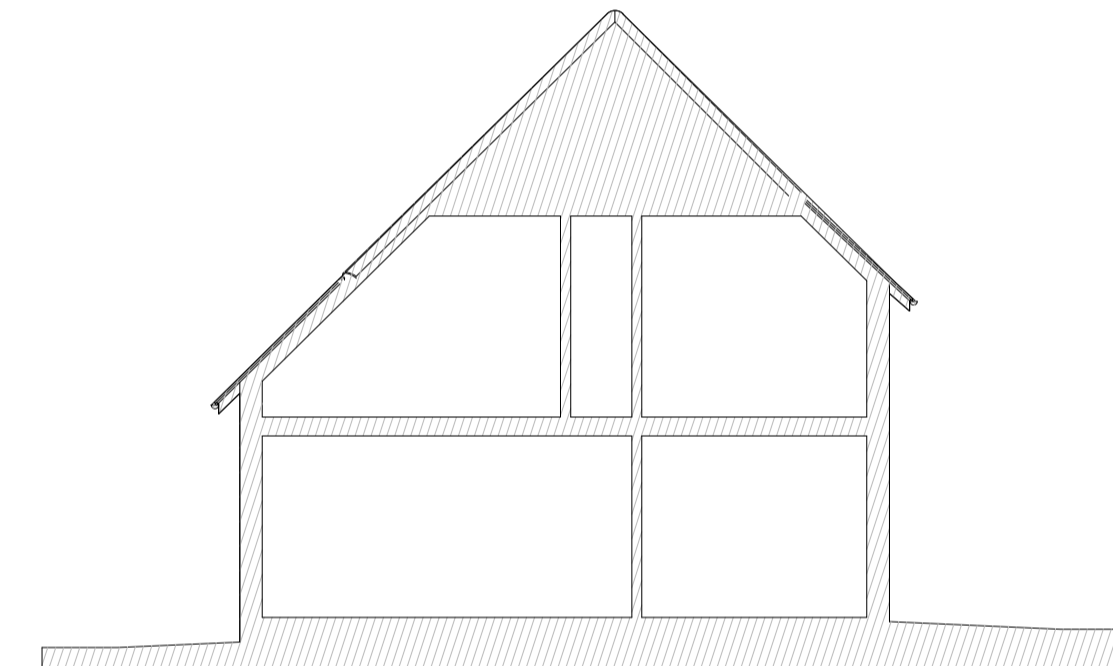
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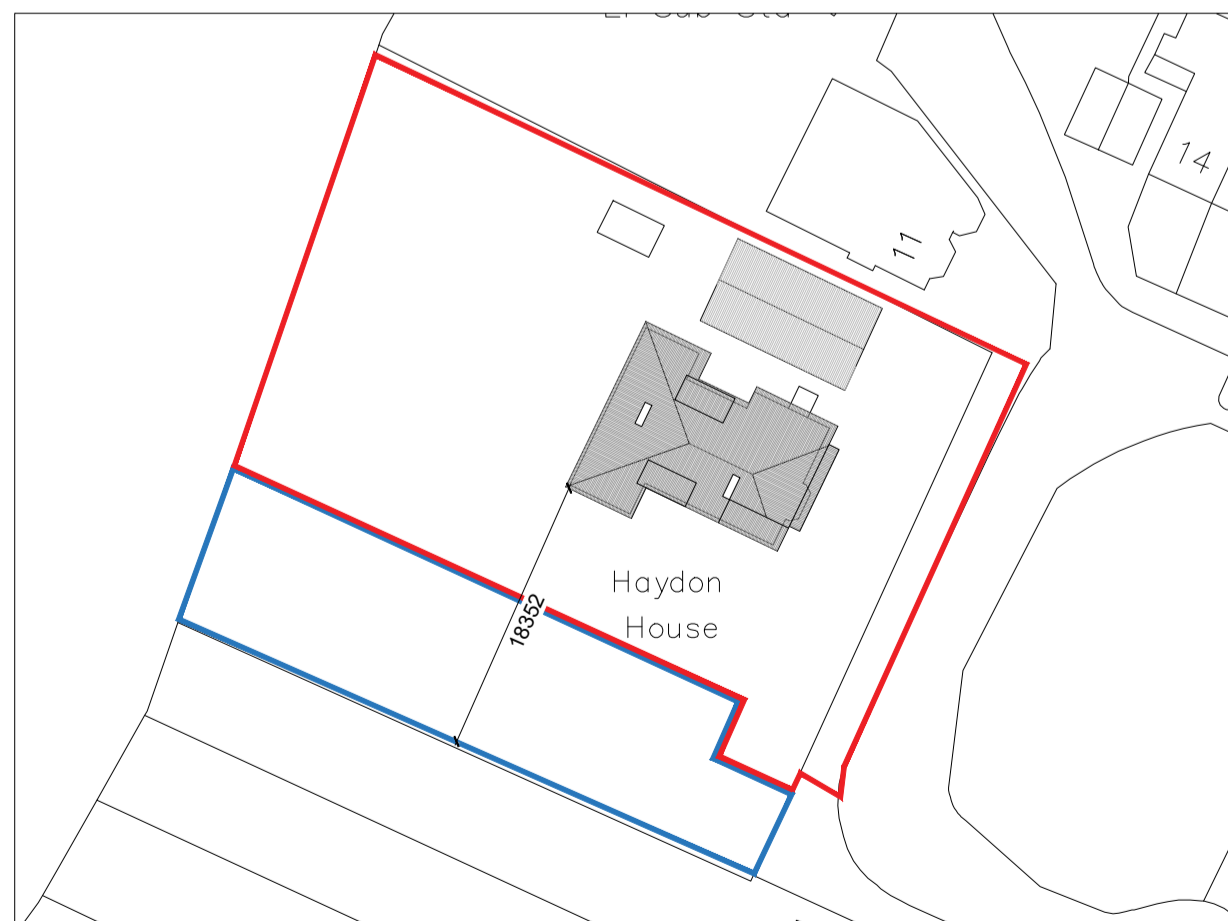
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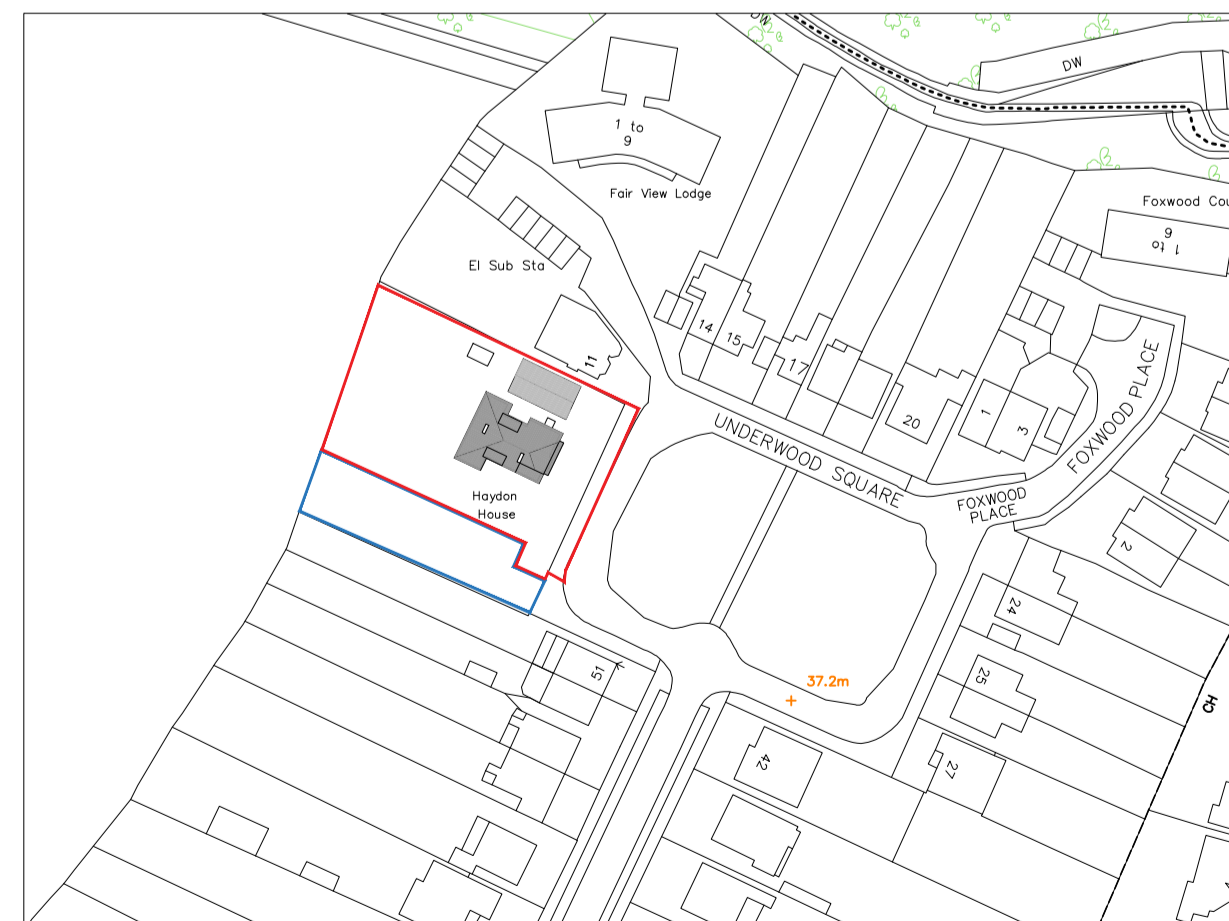
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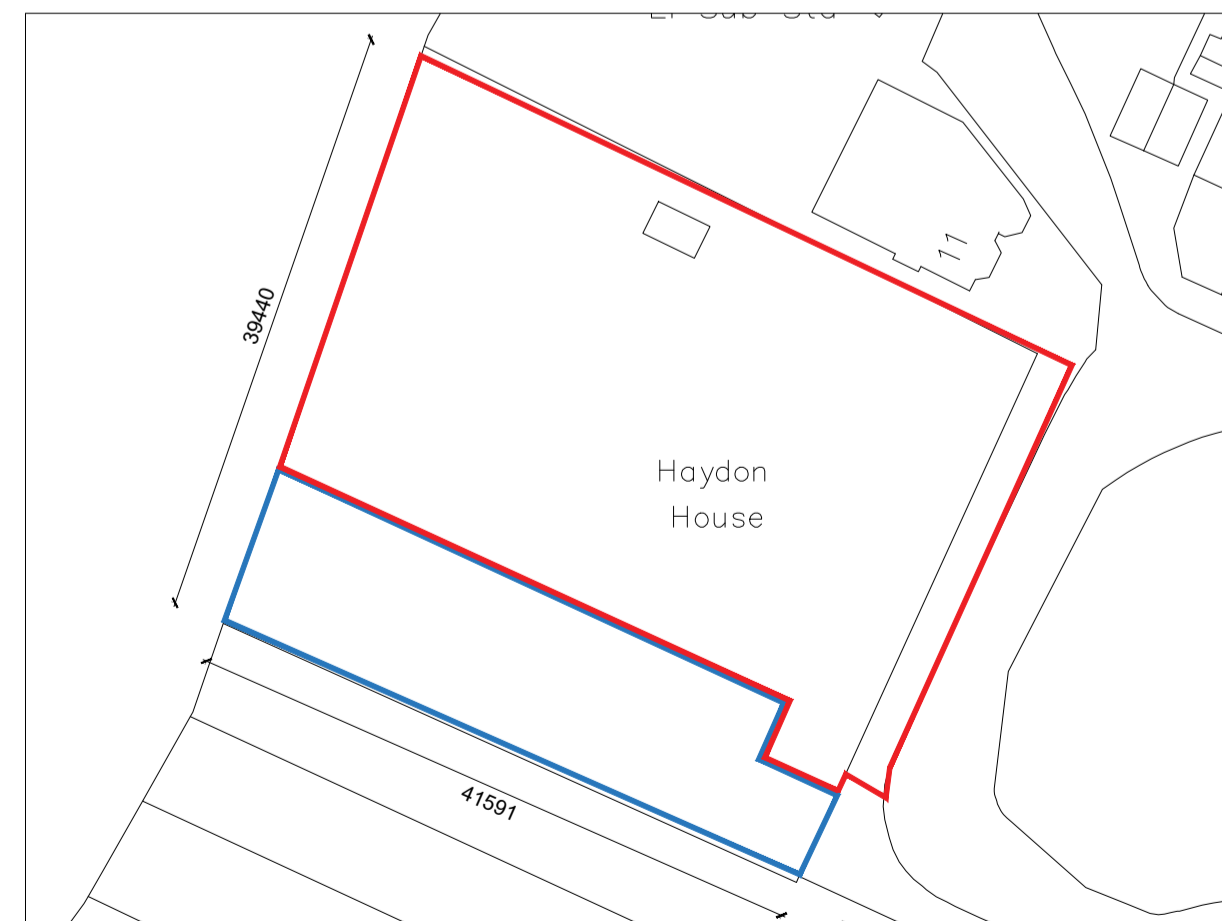
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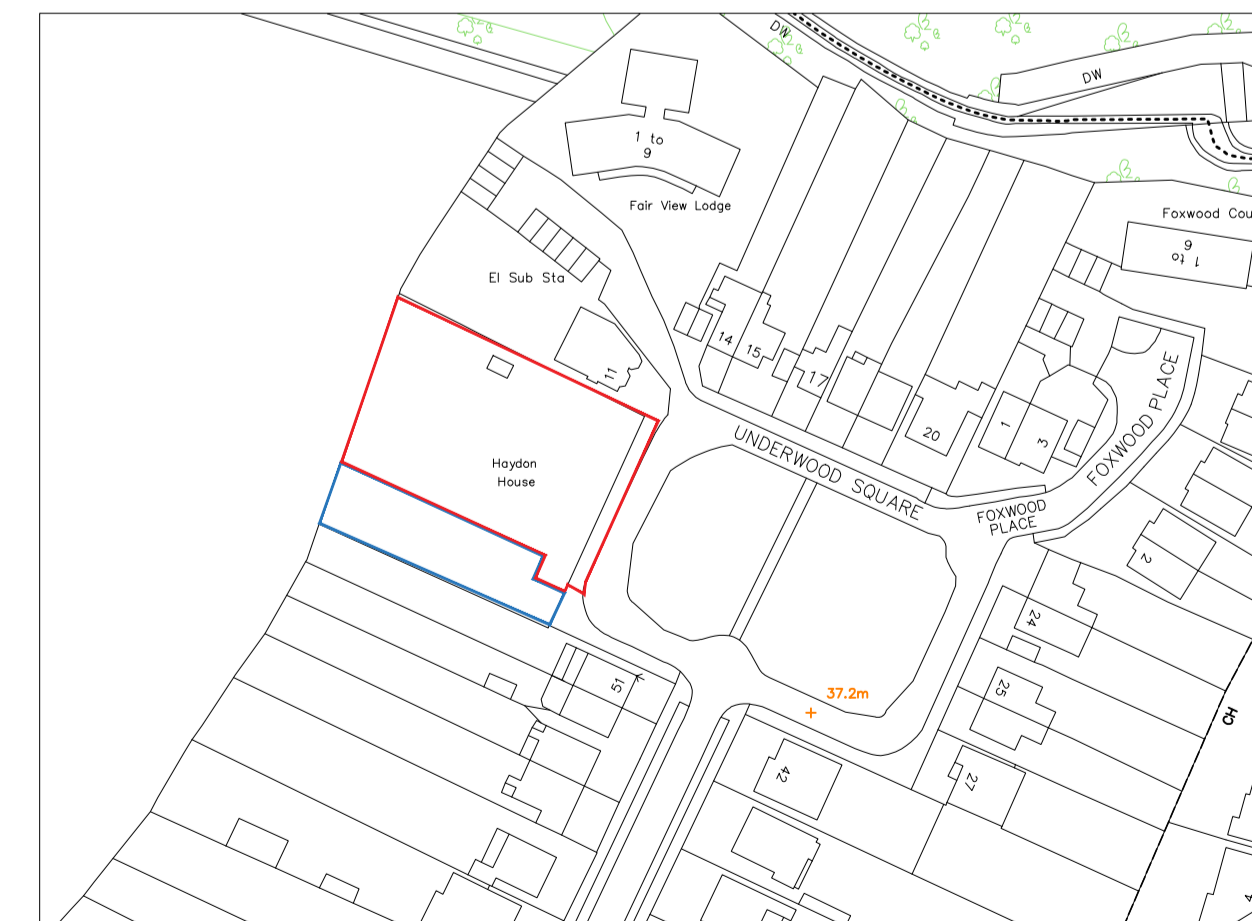
PRE-EXISTING BLOCK PLAN - 1:500



PRE-EXISTING LOCATION PLAN - 1:1250



EXISTING BLOCK PLAN - 1:500



EXISTING LOCATION PLAN - 1:1250

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Notes:			

Rev	Comment	By	Date
B	OUTLINE RED INCL. CROSSOVERS	DS	23/10/2019
A	NEIGHBOUR EXTENSION	DS	20/09/2019
-	-	DS	03/09/2019

Stage:	3 - Developed Design
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Client:	Mr G Newton
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Project:	Haydon House 10 Underwood Square Leigh - on - sea SS9 3PB
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Drawing Title:	Pre-Existing and Existing
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Project no:	385	Drawn by:	RJS, WRS
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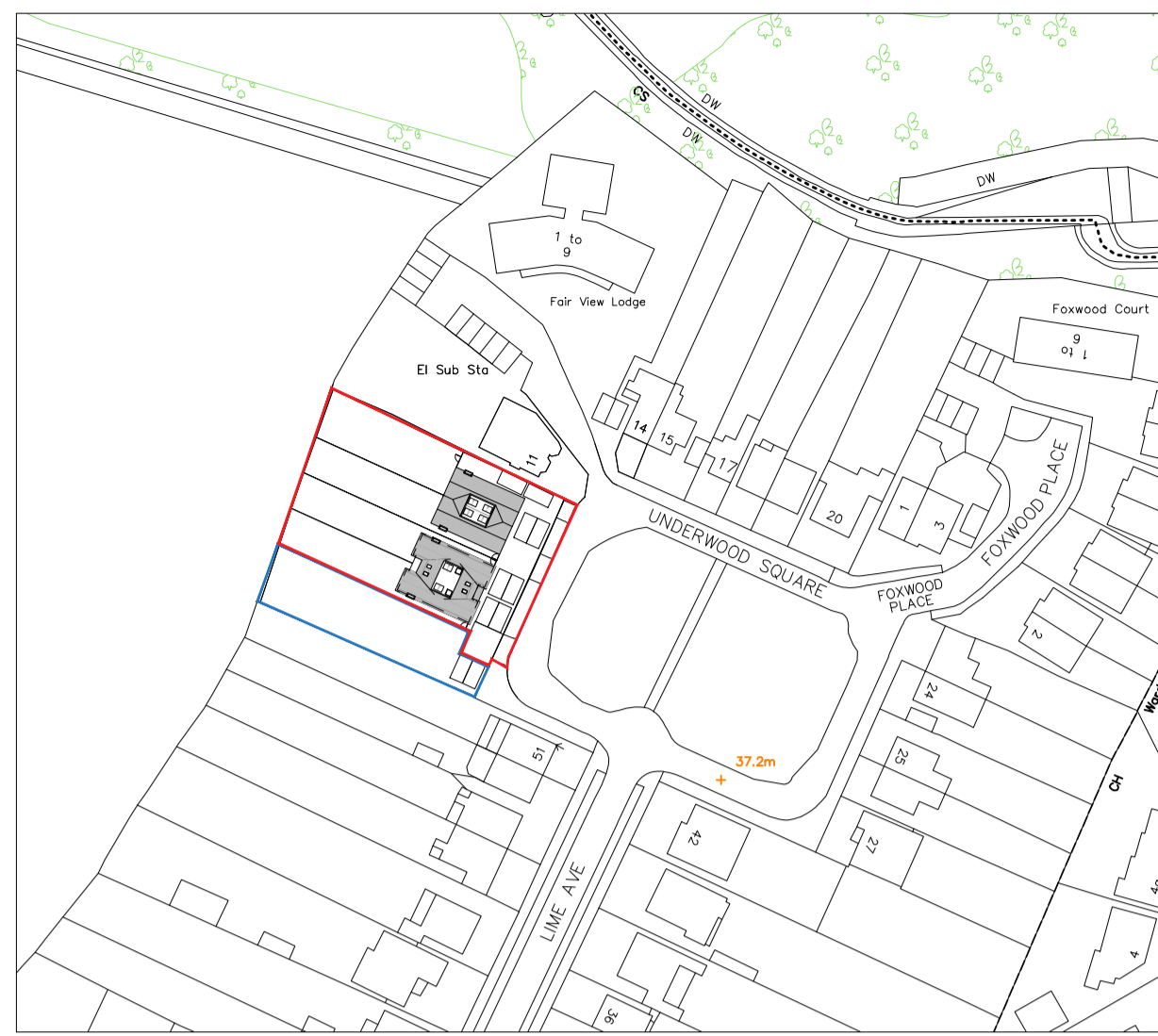
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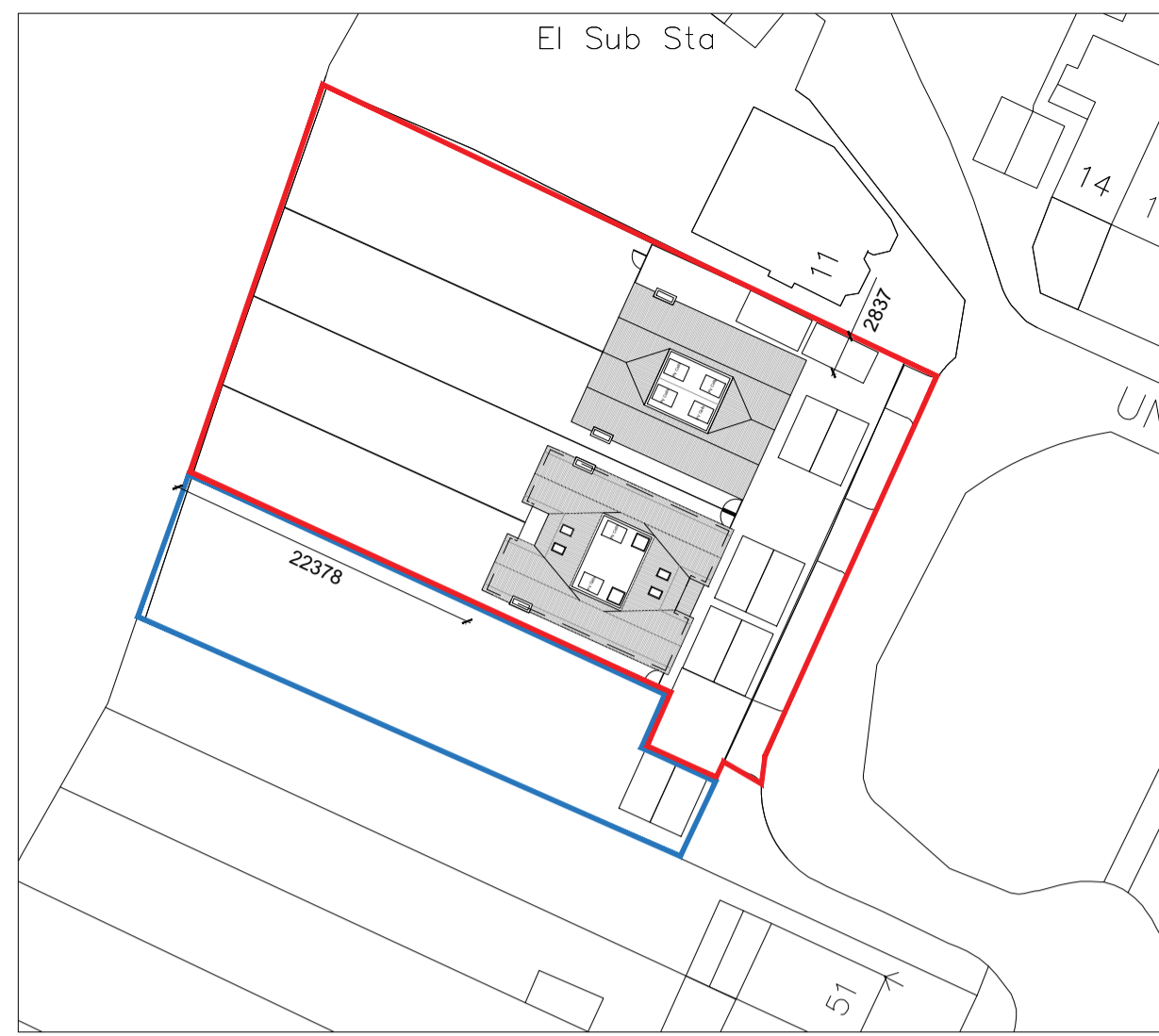
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PROPOSED LOCATION PLAN - 1:1250



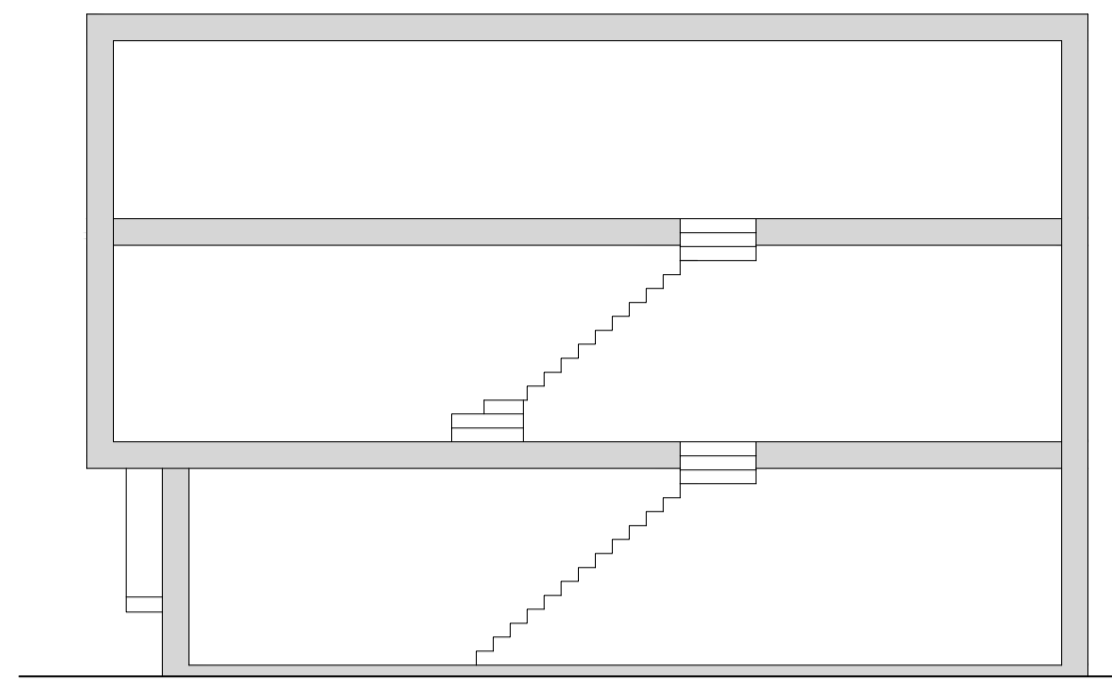
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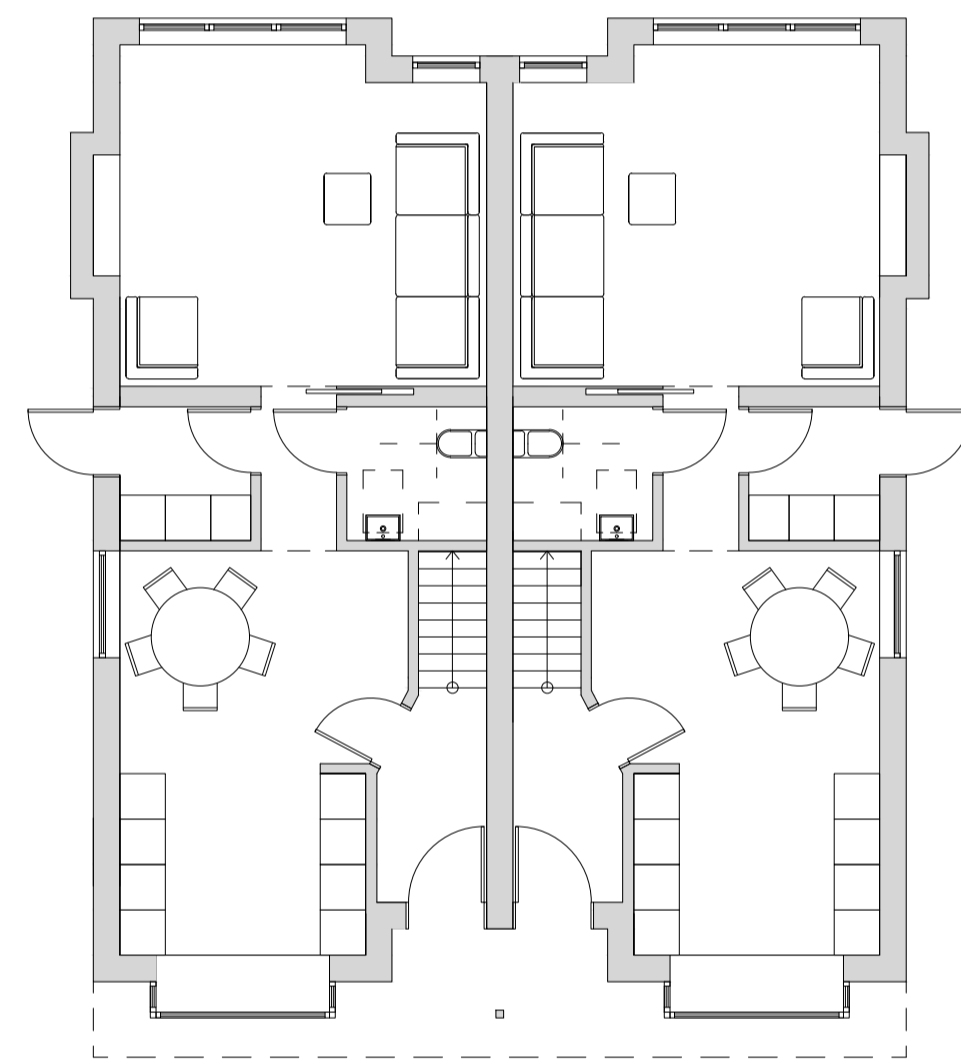
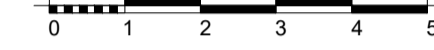
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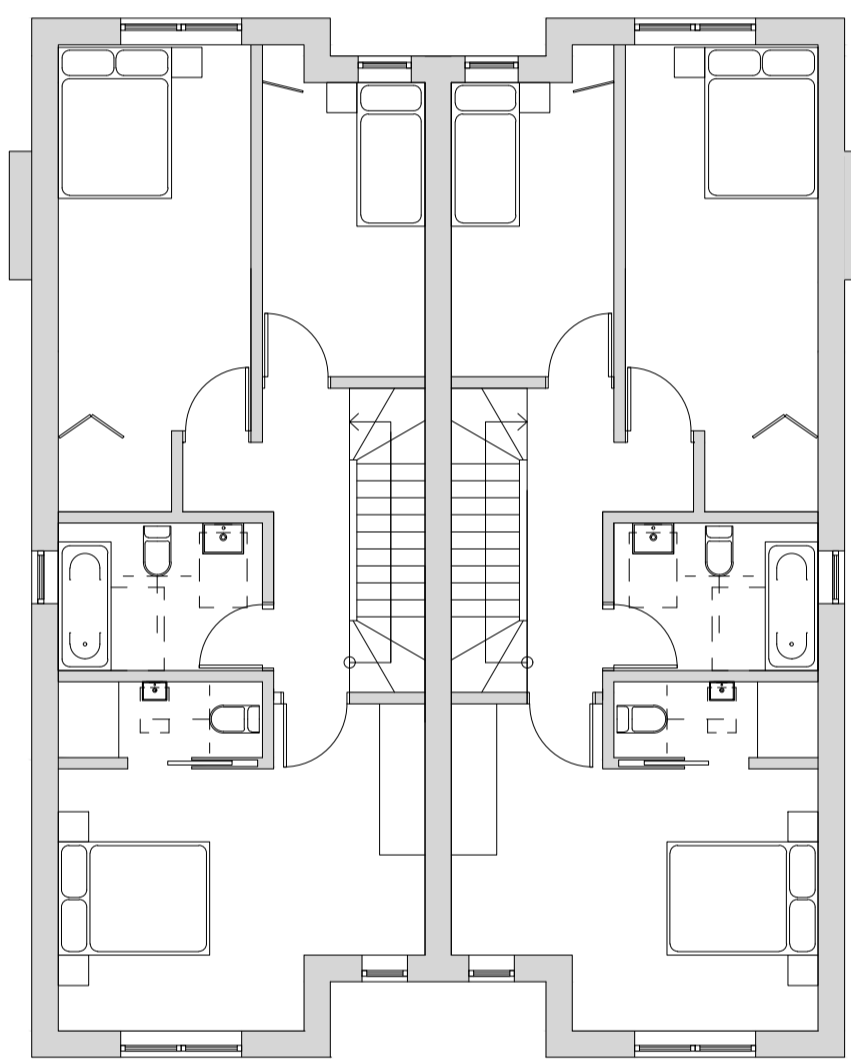
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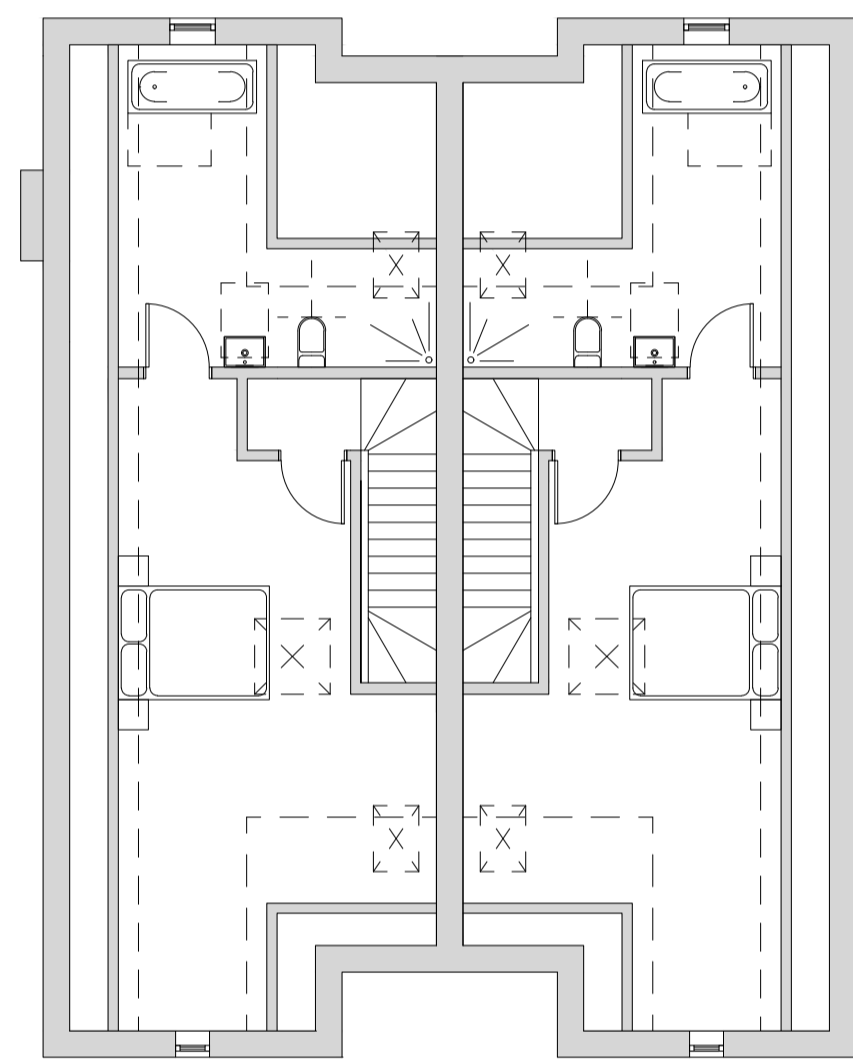
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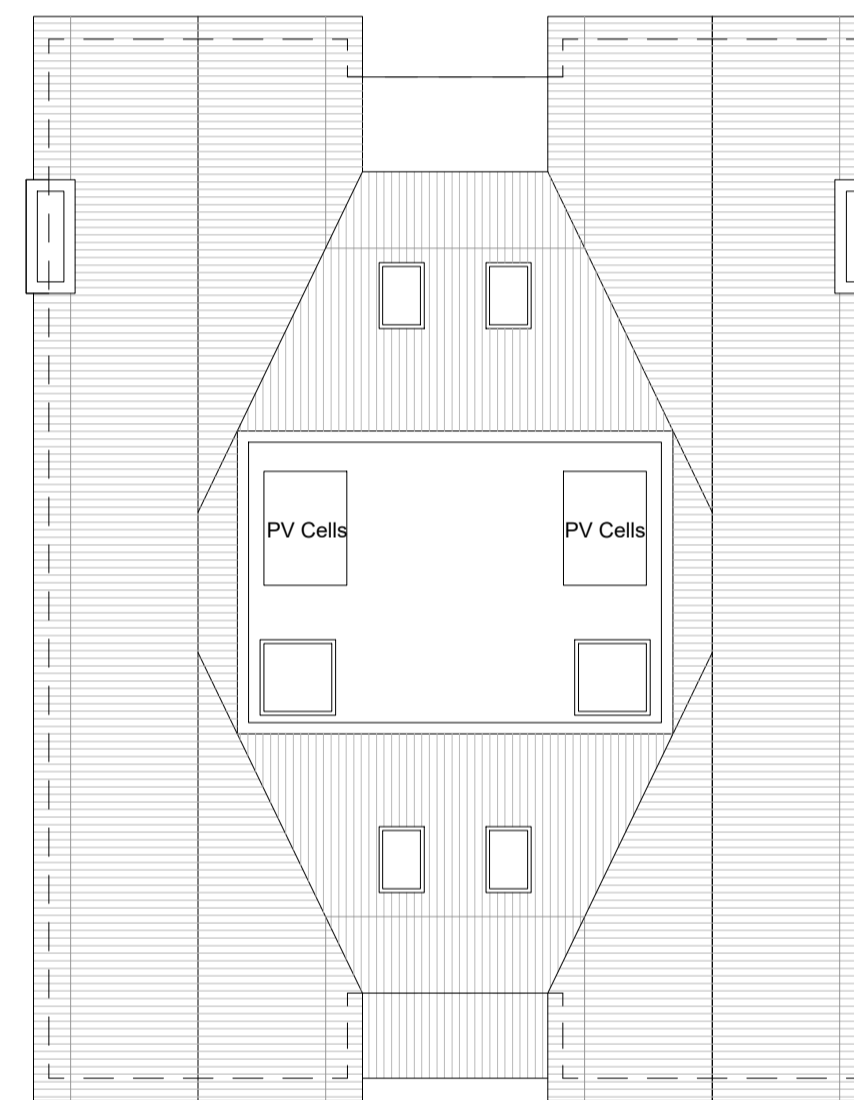
PROPOSED GROUND FLOOR PLAN



PROPOSED FIRST FLOOR PLAN



PROPOSED LOFT PLAN

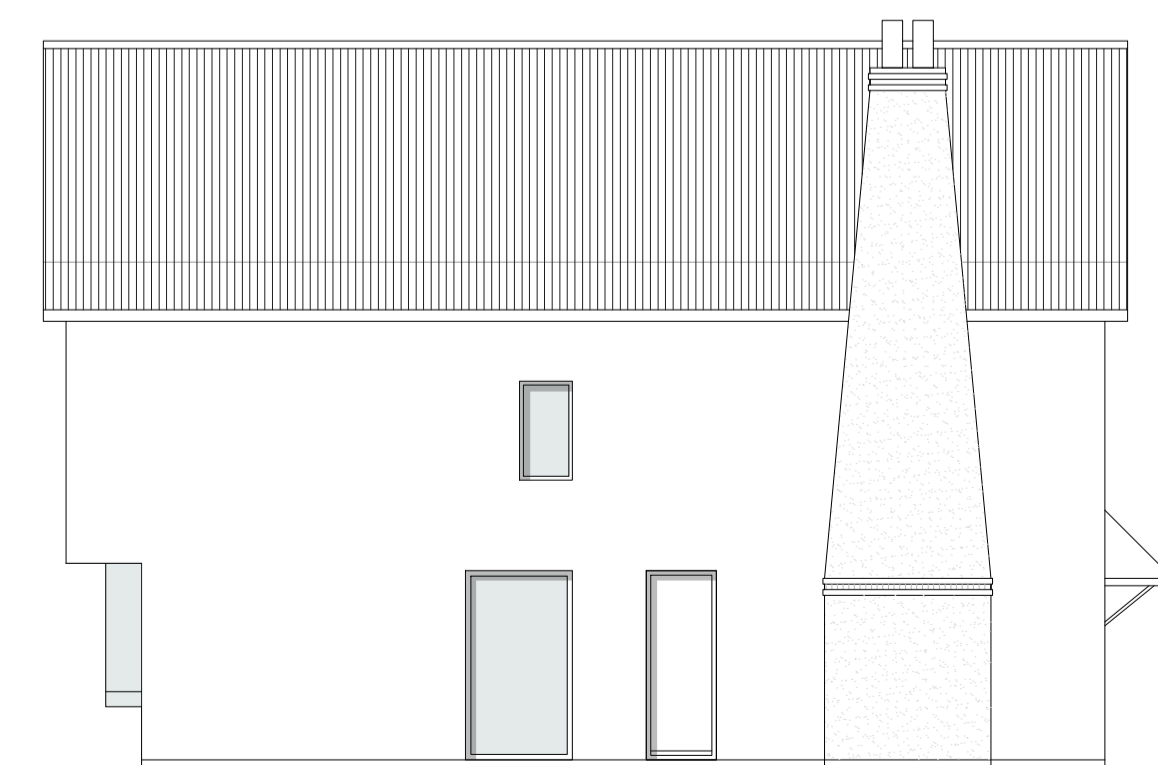


PROPOSED ROOF PLAN

PROPOSED PLANS - 1:100



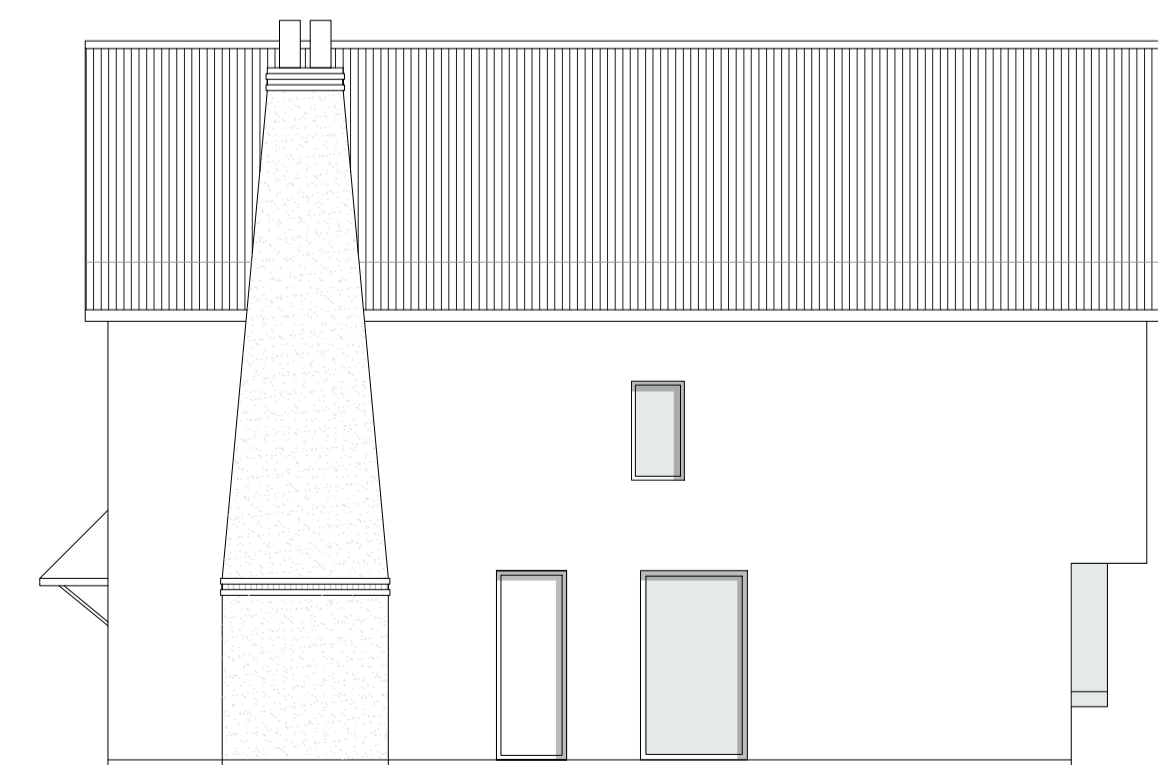
PROPOSED FRONT ELEVATION



PROPOSED SIDE ELEVATION
ALL SIDE GLAZING TO BE OBSCURE GLASS

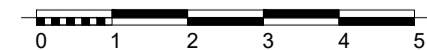


PROPOSED REAR ELEVATION



PROPOSED SIDE ELEVATION
ALL SIDE GLAZING TO BE OBSCURE GLASS

PROPOSED ELEVATIONS - 1:100



Notes:			

Rev	Comment	By	Date
B	OUTLINE RED INCL CROSSOVERS	DS	23/10/2019
A	NEIGHBOUR EXTENSION	DS	20/09/2019
-	-	DS	03/09/2019

Stage:
3 - Developed Design

Client:
Mr G Newton

Project:
Hayden House
10 Underwood Square
Leigh - on - sea
SS9 3PB

Drawing Title:
Proposed - Central Plot

Drawing no: 385-P501 Revision: B

Project no: 385 Drawn by: DS, MRB

Scale: 1:100, 1:500, 1:1250 @ A1 Chkd by: SK

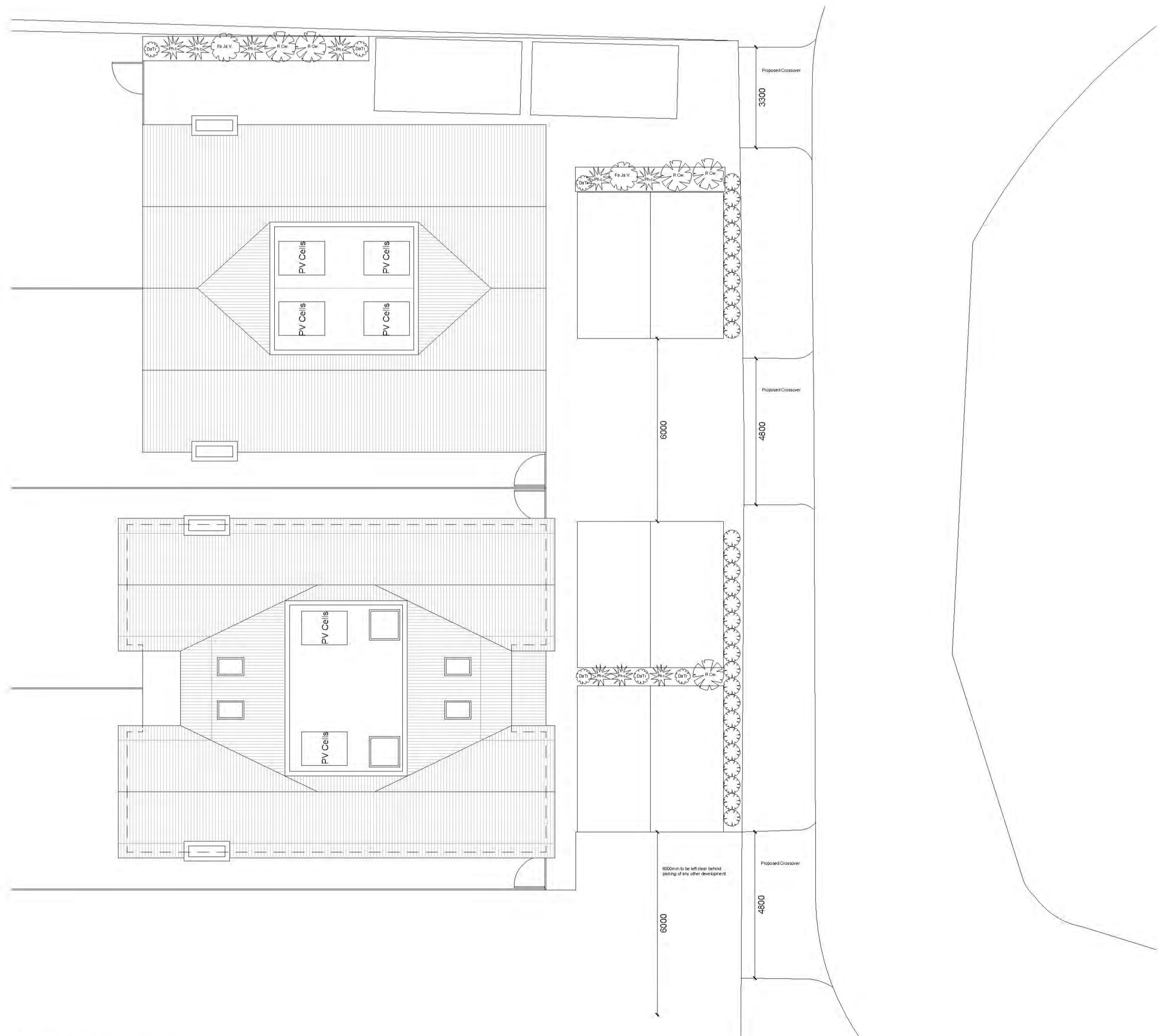
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INDICATIVE STREETSCENE FOR FUTURE DEVELOPMENT - 1:100



PROPOSED LANDSCAPING - 1:100

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Notes			
Rev	Comment	By	Date
DS	03/09/2019		
Stage: 3 - Developed Design			
Client: Mr G Newton			
Project: Hayden House 11 Underwood Square Leigh - on - sea SS9 8PB			
Drawing Title: Proposed Landscaping			
Drawing no:	385-P1003	Revision:	
Project no:	385	Drawn by:	DS, MRS
Scale:	1:100 @ A1	Checked by:	SK
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