

Public Document Pack  
SOUTHEND-ON-SEA BOROUGH COUNCIL

**Development Control Committee**

Date: Wednesday, 7th July, 2021

Time: 2.00 pm

Place: Council Chamber, Civic Suite

Contact: Tim Row - Principal Democratic Services Officer

Email: [committeesection@southend.gov.uk](mailto:committeesection@southend.gov.uk)

**A G E N D A**

1 Apologies for Absence

2 Declarations of Interest

3 Supplementary Report

\*\*\*\* **Contents List & Introduction**

\*\*\*\* **Reports on Planning Applications**

4 **21/00312/FUL - Wimpy, 40B - 42 Marine Parade, Southend on Sea (Kursaal Ward) (Pages 7 - 48)**

5 **21/00600/FULH - 15 Bohemia Chase, Leigh-on-Sea (Belfairs Ward) (Pages 49 - 66)**

6 **21/00641/FUL - Land at Marks Court, Southend on Sea (Kursaal Ward) (Pages 67 - 168)**

7 **21/00781/FUL - Meyrin House, 35 Hogleythick Lane, Westcliff on Sea (Prittlewell Ward) (Pages 169 - 200)**

\*\*\*\* **Enforcement of Planning Control**

8 **17/00195/UNAU\_B & 21/00141/UNAU\_B - 78 Beach Avenue, Leigh-on-Sea (Chalkwell Ward) (Pages 201 - 212)**

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

Councillor N Ward (Chair),

Councillors A Dear (Vice-Chair), J Beck, K Buck, D Cowan, M Dent, F Evans, D Garne,

D Garston, S Habermel, D Jarvis, A Jones, K Mitchell, C Mulroney, A Thompson,

S Wakefield and C Walker

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**DEVELOPMENT CONTROL COMMITTEE**

**AGENDA: 07<sup>th</sup> July 2021**

<b>WARD</b>	<b>APP/REF NO.</b>	<b>ADDRESS</b>
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<b>Main Plans Report</b>		
<b>Kursaal</b>	21/00312/FUL	Wimpy 40B - 42 Marine Parade
<b>Belfairs</b>	21/00600/FULH	15 Bohemia Chase Leigh-On-Sea
<b>Kursaal</b>	21/00641/FUL	Land At Marks Court
<b>Prittlewell</b>	21/00781/FUL	Meyrin House 35 Hogleythick Lane

<b>Enforcement Report</b>		
<b>Chalkwell</b>	17/00195/UNAU_B & 21/00141/UNAU_B	78 Beach Avenue Leigh-On-Sea

# DEVELOPMENT CONTROL COMMITTEE

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## INTRODUCTION

- (i) **Recommendations in capitals at the end of each report are those of the Deputy Chief Executive and Executive Director (Growth & Housing), 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: -

CIL	-	Community Infrastructure Levy
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
JAAP	-	Southend Airport and Environs Joint Area Action Plan
MHCLG	-	Ministry of Housing, Communities and Local Government
NDG	-	National Design Guide
NDSS	-	Nationally Described Space Standards
NPPF	-	National Planning Policy Framework
PPG	-	National Planning Practice Guidance
RAMS	-	Recreation disturbance Avoidance and Mitigation Strategy
SCAAP	-	Southend Central Area Action Plan
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 PPG including the NDG
- (vi) NDSS
- (vii) Core Strategy SPD
- (viii) Development Management DPD
- (ix) JAAP

## DEVELOPMENT CONTROL COMMITTEE

- (x) SCAAP
- (xi) Design and Townscape Guide
- (xii) Technical Housing Standards Policy Transition Statement
- (xiii) Waste Storage, Collection and Management Guide for New Developments
- (xiv) Essex Coast RAMS SPD
- (xv) CIL Charging Schedule

**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

**(Generally, in force from 1st September 2020)**

Class B1	Business
Class B2	General industrial
Class B8	Storage or distribution
Class C1	Hotels
Class C2	Residential institutions
Class C2A	Secure residential institutions
Class C3	Dwellinghouses
Class C4	Houses in multiple occupation
Class E	Commercial, Business and Service
Class F.1	Learning and non-residential institutions
Class F.2	Local community
Sui Generis	A use on its own, for which any change of use will require planning permission.

### Deleted Use Classes

**(Limited effect on applications for prior approval and other permitted development rights until 31st July 2021)**

Class A1	Shops
Class A2	Financial and professional services
Class A3	Restaurants and cafes
Class A4	Drinking establishments
Class A5	Hot food takeaways
Class D1	Non-residential institutions
Class D2	Assembly and leisure

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<b>Reference:</b>	21/00312/FUL	<h1>4</h1>
<b>Application Type:</b>	Full Application	
<b>Ward:</b>	Kursaal	
<b>Proposal:</b>	Demolish upper floors, erect three storey building over existing ground floor restaurant to form 9no. self-contained flats with balconies to rear and associated bin and cycle storage	
<b>Address:</b>	Wimpy, 40B - 42 Marine Parade, Southend-On-Sea	
<b>Applicant:</b>	Mr G Gill	
<b>Agent:</b>	Mr Andrew Cooke of Dovetail Architects Ltd	
<b>Consultation Expiry:</b>	1st April 2021	
<b>Expiry Date:</b>	4th June 2021	
<b>Case Officer:</b>	Spyros Mouratidis	
<b>Plan Nos:</b>	4083_L01, 4083_PL01, 4083_PL02, 4083_PL03, 4083_PL04, 4083_PL05, 4083_PL06, 4083_PL07, 4083_PL08, 4083_PL09, 4083_PL10	
<b>Supporting Documents:</b>	Design & Access Statement, Flood Risk Sequential Test Assessment, Flood Risk Assessment 2614/RE/12-20/01, Transport Statement 2007980-01, Environmental Noise and Noise Impact Assessment LA/1729/02R/ML	
<b>Recommendation:</b>	<b>GRANT PLANNING PERMISSION</b> subject to conditions	



## **1 Site and Surroundings**

- 1.1 The site is located on the northern side of Marine Parade, at its junction with a private road, locally known as Strutt Way, within the central seafront of Southend and it is occupied by a part single, part two and part four-storey building. At ground floor there is currently a restaurant (Wimpy) and the upper floors are partially used by the restaurant and partially as an existing residential unit. The entirety of the site is hardsurfaced or developed and there is no car parking provision. Access to the site is available from its frontage, from Hartington Road to the west via an alleyway and the private unnamed road to the east.
- 1.2 To the north, there are residential properties, with Jubilee Cottages being nearer to the site. To the east and west there are commercial properties with offices or residential units above. Marine Parade in this area has a town centre character with many leisure and commercial uses at ground floor level. On the opposite side of Marine Parade there is public open space and the beach.
- 1.3 The area is within the designated Central Seafront Policy Area according to the Southend Central Area Action Plan. The site and its vicinity are within Flood Zone 3. The building at the western end of the parade, the Cornucopia Public House, is a locally listed building. In the vicinity of the site there is also another locally listed building, the Falcon Public House, and a Grade II statutory Listed Building, the Hope Hotel.

## **2 The Proposal**

- 2.1 Planning permission is sought for the enlargement of the upper floors of the building to accommodate nine (9no.) self-contained flats over three-storeys, including the loft space. The existing upper floors would be demolished to make way for the proposal. The built form above the ground floor on site would be extended to measure up to 16.8m deep at first floor and up to 15.3m deep above by up to 14.1m wide. The proposed roof would have a maximum height of 13m, the same maximum height of attached neighbouring buildings. The rear part of the proposed upper floors would accommodate terraces and balconies. The materials to be used on the proposed development would match the external appearance of those already in use on site.
- 2.2 The proposal would result in the loss of the commercial use at first floor level and part of the rear of the ground floor, creating a smaller commercial unit. The existing apparatus on the roof of the ground floor would be removed to accommodate the residential part of the development. The proposed housing mix would include three studio units, five flats with one bedroom and one flat with two bedrooms. The three flats facing towards the north would benefit from terraces and a balcony. Access to the upper floors would be taken from the rear part of the site. Bin storage and nine cycle parking spaces would be provided to the rear.

## **3 Relevant Planning History**

- 3.1 Although the site was the subject of previous planning applications, these relate to ground floor extensions, shopfront replacements and signage, and are not considered to be relevant to the determination of the current proposal. The relevant planning history of the site is shown on Table 1 below:

**Table 1: Relevant Planning History of the Application Site**

Reference	Description	Outcome [Date]
20/01549/PREAPF	Redevelopment of upper floors to form eight additional self-contained flats.	Response provided [01.10.2020]

## 4 Representation Summary

### Call in

- 4.1 This application was called-in for determination by the Council's Development Control Committee by Councillor Dent.

### Public Consultation

- 4.2 Fifteen (15) neighbouring properties were consulted and a site notice was displayed. Representations from six interested parties have been received. Their objections and comments are summarised as follows:

#### *Design and impact on the character of the area*

- The proposed height of the building would be out of character with the surrounding development.
- Overdevelopment.

#### *Impact on residential amenity*

- Claimed rights of light for the cottages will be affected.
- The location of the bins would be a health hazard to nearby residents.
- The proposed balconies would be too close to neighbouring properties.
- Loss of privacy.
- Loss of sunlight.
- Noise, disturbance and pollution during construction.

#### *Living conditions of future occupiers*

- Fire hazard.
- Unsatisfactory exit routes in case of an emergency.

#### *Parking, Access and Highways*

- Access for parking via the Strutts passage and claimed easement rights will be blocked.
- The building works will affect access.
- Lack of parking would be harmful.

#### *Other matters*

- Significantly larger demand on the sewage system.
- The developer did not consult neighbours.
- Financial loss.
- Loss of view from neighbouring dwellings.
- Concerns over antisocial behaviour.

- 4.3 The comments have been taken into consideration and the relevant planning matters raised are discussed in subsequent sections of the report. The objecting points raised by the representations have been taken into account in the assessment of the proposal but are not found to represent justifiable reasons for recommending refusal of the planning application in the circumstances of this case.

### **Parks**

- 4.4 No comments.

### **Highways**

- 4.5 No objections.

### **Environmental Health**

- 4.6 No objections subject to conditions regarding hours of construction, waste management and noise mitigation.

### **Fire Safety Officer**

- 4.7 No objections.

### **Essex Police**

- 4.8 No objections – The applicant should consider gaining a ‘Secure by Design’ accreditation.

### **London Southend Airport**

- 4.9 No objections – subject to height being no greater than adjacent buildings.

## **5 Planning Policy Summary**

- 5.1 The National Planning Policy Framework (NPPF) (2019)
- 5.2 Planning Practice Guidance (PPG) – National Design Guide (NDG) (2019)
- 5.3 National Housing Standards (2015)
- 5.4 Core Strategy (2007): Policies KP1 (Spatial Strategy), KP2 (Development Principles), CP1 (Employment Generation), CP3 (Transport and Accessibility), CP4 (Environment and Urban Renaissance), CP8 (Dwelling Provision).
- 5.5 Development Management Document (2015): Policies DM1 (Design Quality), DM2 (Low Carbon Development and Efficient Use of Resources), DM3 (Efficient and Effective Use of Land), DM7 (Dwelling Mix, Size and Type), DM8 (Residential Standards), DM10 (Employment Sectors), DM11 (Employment Areas), DM15 (Sustainable Transport Management).
- 5.6 Southend Central Area Action Plan (2018): Policies DS4 (Flood Risk Management and Sustainable Drainage), DS5 (Transport, Access and Public Realm), CS1 (Central Seafront Policy Area Development Principles)
- 5.7 Design & Townscape Guide (2009)
- 5.8 Technical Housing Standards Policy Transition Statement (2015)
- 5.9 Waste Storage, Collection and Management Guide for New Developments (2019)
- 5.10 Essex Coast Recreational Avoidance Mitigation Strategy (RAMS) Supplementary Planning Document (SPD) (2020)

## 5.11 Community Infrastructure Levy (CIL) Charging Schedule (2015)

## 6 Planning Considerations

- 6.1 The main considerations in relation to this application include the principle of the development, the design and impact on the character and appearance of the area, the residential amenity for future and neighbouring occupiers, traffic and parking implications, energy and water use sustainability, refuse and recycling storage, flooding and drainage, ecology and mitigation for impact on designated sites and CIL.

## 7 Appraisal

### Principle of Development

#### Loss of employment use/community

- 7.1 Local policies, including policy CP1 of the Core Strategy and DM11 of the Development Management Document, do not support the loss of floorspace in commercial use. However, as the restaurant at ground floor would be retained, the loss of some associated floorspace at first floor level, would not be detrimental to the retention of a commercial use on site. A new unit which would be created as a result of this proposal would be large enough to be viable and it would strike an appropriate balance between various policy objectives which include increasing housing delivery.

#### Housing provision

- 7.2 Paragraph 117 of the NPPF states: "Planning policies and decisions should promote an effective use of land in meeting the need for homes and other users, while safeguarding and improving the environment and ensuring safe and healthy living conditions." Furthermore, the NPPF requires development to boost the supply of housing by delivering a wide choice of high-quality homes.
- 7.3 Paragraph 121 of the NPPF states: "Local planning authorities should also take a positive approach to applications for alternative uses of land which is currently developed but not allocated for a specific purpose in plans, where this would help to meet identified development needs. In particular, they should support proposals to use retail and employment land for homes in areas of high housing demand, provided this would not undermine key economic sectors or sites or the vitality and viability of town centres, and would be compatible with other policies in this Framework."
- 7.4 The site is previously developed land, and it is therefore relevant to Core Strategy policy CP8, which supports the provision of dwellings on such land, subject to detailed considerations, where it is expected that the intensification of development will play a role in meeting the housing needs of the Borough. Policy DM3 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." Policy CS1 of the SCAAP seeks to secure high quality and sustainable redevelopment of poor quality, vacant or underused sites and buildings.

- 7.5 The results of the Housing Delivery Test (HDT) published by the Government show that there is underperformance of housing delivery in the Borough. Similarly, the Council's Five-Year Housing Land Supply (5YHLS) figure shows that there is a deficit in housing land supply in the Borough. The South Essex Strategic Housing Market Assessment (SESHMA) identifies that Southend has a higher proportion of flats/maisonettes and a housing stock comprised of a greater proportion of one-bed units and smaller properties a consequence of which is that there is a lower percentage of accommodation of a suitable size for families.
- 7.6 For the proposed provision of housing the HDT and 5YHLS weigh in favour of the principle of this type of development. In these circumstances, the provision of additional housing is a consideration which should be given increased weight in a balancing exercise, although, it should also be noted that a scheme for this quantum of housing would have limited effect on the overall supply of housing. The proposal would create additional housing which would not be considered as family dwellings as per the definition of policy DM7. It is noted that whilst the existing residential unit on site appears to be a three-bed property and therefore a family dwelling according to policy, the overall size of the property and the size of the bedrooms would not be of an acceptable modern standard for family accommodation.

#### Housing within a Flood Risk Zone

- 7.7 National and local planning policy, including policy DS4 of the SCAAP, directs housing development towards areas with lower probability of flooding. According to the Flood Risk Vulnerability Classification of the PPG, residential uses are more vulnerable and should be allowed within the lower probability zones.
- 7.8 Paragraph 163 of the NPPF states that development should only be allowed in areas at risk of flooding where, in the light of a site specific Flood Risk Assessment (FRA) and the sequential and exception tests, as applicable, it can be demonstrated that:
- a. within the site, the most vulnerable development is located in areas of lowest flood risk, unless there are overriding reasons to prefer a different location;
  - b. the development is appropriately flood resistant and resilient;
  - c. it incorporates sustainable drainage systems, unless there is clear evidence that this would be inappropriate;
  - d. any residual risk can be safely managed; and
  - e. safe access and escape routes are included where appropriate, as part of an agreed emergency plan.
- 7.9 The application is supported by a site specific FRA and a Sequential Test assessment. The sequential test follows the standing advice provided by the Environment Agency and considers whether alternative and more preferable sites are available within the appropriate plan area, which is the area covered by the SCAAP. Applying a sequential approach, it is considered that there are no other sites within areas of lower flood risk which could provide for similar housing development. Furthermore, as the proposed housing would be located above ground level, the most vulnerable development is located in an area of lower risk from flooding and habitable rooms will be above the design flood level, with an allowance for climate change as required by policy DS4 of the SCAAP. The recommendations of the FRA would ensure that the other criteria stated above are satisfied.

- 7.10 For the exception test to be passed it should be demonstrated that:
- a. the development would provide wider sustainability benefits to the community that outweigh the flood risk; and
  - b. the development will be safe for its lifetime taking account of the vulnerability of its users, without increasing flood risk elsewhere, and, where possible, will reduce flood risk overall.
- 7.11 In this instance, considering the supply of housing in the Borough against HDT targets, the benefits of the proposal would outweigh the risk of flooding subject to the mitigation measures suggested with the submitted FRA. It is not considered that the development would increase flood risk elsewhere.
- 7.12 Overall, it is considered that the principle of the development is acceptable. Other material planning considerations are discussed in the following sections of the report.

### **Design, Impact on the Character of the Area and Impact on Heritage Assets**

- 7.13 Good design is a fundamental requirement of new development 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 also states that: “the Borough Council is committed to good design and will seek to create attractive, high-quality living environments.”
- 7.14 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.” 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.”
- 7.15 Special attention should be paid to the desirability of preserving or enhancing the character or appearance of heritage assets. Policy DM5 of the Development Management Document states:
- “Development proposals that are demonstrated to result in less than substantial harm to a designated heritage asset will be weighed against the impact on the significance of the asset and the public benefits of the proposal, and will be resisted where there is no clear and convincing justification for this.”
- 7.16 The local character is varied and mixed, comprising three storey Georgian buildings, three-storey Victorian buildings, mid-century additions of rudimentary design and early-20th century development. The proposal would not alter the layout of the development at ground floor level. At upper floors, the built form would not be extended further than the ground floor. In terms of layout the proposal would not alter the existing layout of the building and its impact on the urban grain would not be significant or harmful.

- 7.17 In terms of scale, the proposal would not result in the maximum height of the building being increased. The enlargement of the built form on the upper floors would result in the western part of the building being in line with the maximum depth of the neighbouring building to the west and the eastern part projecting some 2.8m further to the rear. The scale of the resulting building would not be regarded as subservient to the existing building or the surrounding development. This is a negative aspect of the proposal.
- 7.18 The proposed form would reference the form of the neighbouring development and would be acceptable. In terms of appearance, the proposal has taken visual cues from its western neighbour including fenestration. All elevations are resolved satisfactorily with reasonable horizontal and vertical alignment and proportionate levels of glazing. The appearance of the proposal would benefit the streetscene.
- 7.19 In terms of materials, it is proposed that the fenestration, walls and roof would be of materials that would match in external appearance the materials used on the existing building. There are limited opportunities for hard and soft landscaping to complement the development.
- 7.20 The proposal would not have a negative impact on the setting of nearby heritage assets. The proposed development would preserve the significance of the two locally listed buildings, the Cornucopia Public House and the Falcon Public House, and the Grade II Listed Building, the Hope Hotel. In the round, the proposal is considered acceptable and policy compliant on heritage, design and character grounds.

### Standard of Accommodation and Living Conditions for Future Occupiers

- 7.21 Delivering high quality homes is a key objective of the NPPF and it is reflected in policy DM8 of the Development Management Document. Policy DM3 of the Development Management Document states that proposals should be resisted where they create a detrimental impact upon the living conditions and amenity of existing and future residents or neighbouring residents. Policy DM1 requires developments to provide an internal and external layout that takes account of all potential users. Policy DM8 requires new dwellings to comply with the residential space standards, to be flexible to meet the changing needs of residents and ensure the provision of outdoor amenity space.

#### Space Standards

- 7.22 All new homes are required to meet the Nationally Described Space Standards (NDSS) in terms of floorspace, bedroom size and storage sizes. The required overall sizes for residential units and the minimum standards for bedrooms are shown on the following table. The relevant dimensions of the proposed scheme are also shown on the table below:

**Table 2: Housing Standards**

Type	Area (m <sup>2</sup> )	Bedroom 1	Bedroom 2	Storage area (m <sup>2</sup> )	Amenity (m <sup>2</sup> )
Standard for 1 bed 1 person (one storey)	39 (37)	7.5m <sup>2</sup> Wmin=2.15m	N/A	1	N/A
Standard for	50	11.5m <sup>2</sup>	N/A	1.5	N/A



1 bed 2 person (one storey)		Wmin=2.75m			
Standard for 2 bed 3 person (one storey)	61	11.5m <sup>2</sup> Wmin=2.75m	7.5m <sup>2</sup> Wmin=2.15m	2.0	N/A
Proposed Flats 1, 4 & 7 (1 bed 1 person)	37	Studio	N/A	1	N/A
Proposed Flats 2, 5 & 8 (1 bed 2 person)	50	13m <sup>2</sup> W = 2.75m	N/A	1.8	N/A
Proposed Flats 6 & 9 (1 bed 2 person)	52	13.1m <sup>2</sup> W = 2.9m	N/A	1	Terrace 11.7 Balcony 7
Proposed Flat 3 (2 bed 3 person)	61	15.6m <sup>2</sup> W = 2.75m	9.9m <sup>2</sup> W = 2.4m	2.2	Terrace 17.6

7.23 The table shows that the proposed flats would meet the overall space, the bedroom area and dimensions requirements of the NDSS. All flats, with the exception of flats 6 and 9 would also meet the minimum internal storage space required by the NDSS. The shortfall of internal storage space on those units is marginal and while this is a negative of the proposed scheme, it is not considered that it would result to significant harm to the living conditions of future occupiers.

#### Daylight, Sunlight and Outlook from Habitable Rooms

7.24 All habitable rooms would have acceptable outlook and benefit from suitable levels of daylight and sunlight.

#### Amenity Provision

7.25 In relation to the provision of amenity space Policy DM8 states that all new dwellings should: "Make provision for usable private outdoor amenity space for the enjoyment of intended occupiers; for flatted schemes this could take the form of a balcony or easily accessible semi-private communal amenity space. Residential schemes with no amenity space will only be considered acceptable in exceptional circumstances, the reasons for which will need to be fully justified and clearly demonstrated."

7.26 Only three of the proposed units would be provided with private amenity space. The absence of communal or private amenity space for the other six flats is a negative element of the scheme. However, given the town centre location of the site and its proximity to public open spaces at the seafront, along with the proposed type of accommodation, for smaller sized households the proposed level of amenity provision is considered, on balance, to be acceptable in this instance.

#### M4 (2)/ M4 (3) – Accessibility

7.27 Accessibility requirements are not a strict policy requirement for extensions to existing buildings. Whilst no proposed unit would benefit from step-free access, there is no conflict with policy in this regard.

#### Pollution, noise and disturbance

- 7.28 It is noted that the existing use of the site is as restaurant/ hot food takeaway. The proposal seeks to retain the ground floor in the same use, creating a smaller commercial unit. This would require some form of extraction. There is also potential for noise and fumes resulting from this use. The existing apparatus will be removed to accommodate the residential aspect of the development. Given the proximity of the proposed flats to commercial development on site and in the immediate vicinity, there is potential for the future occupiers to be impacted by noise and disturbance resulting from the behaviour of customers or apparatus associated with these uses. A condition is recommended to ensure that appropriate noise mitigation measures would be incorporated in the proposal. It is also noted that an area at the north-western part of the building is proposed to be retained for services. This could be used to accommodate the necessary extraction. The Council's Environmental Health service raised no objection subject to such condition.
- 7.29 Overall, it is considered that the proposal would not result in substandard accommodation for future occupiers and would not be detrimental to their living conditions. The proposal is acceptable and policy compliant in the above regards.

### **Impact on Residential Amenity**

- 7.30 Policy DM1 of the Development Management Document requires all development to be appropriate in its setting by respecting neighbouring development and existing residential amenities and also: "having regard to privacy, overlooking, outlook, noise and disturbance, sense of enclosure/overbearing relationship, pollution, daylight and sunlight."
- 7.31 The nearest residential properties to the application site are to the north-west, the flat above 4 Hartington Road and the dwelling at 6 Hartington Road, and the Jubilee Cottages, a row of three dwellings to the north of the site. The existing upper floors of the building on site are located some 16m from the front elevation of Jubilee Cottages. The proposed development would reduce this distance to approximately 12m. The proposal would also be located some 7m away from the flat above 4 Hartington Road and 7.5m away from the dwelling at 6 Hartington Road.
- 7.32 In terms of overlooking and privacy, the most affected properties would be Jubilee Cottages. The proposal would create amenity spaces and result in more windows facing towards those properties so there will be an impact. However, weighed against this is the fact that they are already overlooked by the existing residential property on site and the upper floors of neighbouring buildings to the west. It is considered, on balance, that the additional impacts would not be harmful to a degree that would warrant the refusal of the application on this ground. Whilst the proposal is likely to affect some views of the seafront and estuary available from dwellings to the north of the site there is no entitlement to protection of a private view within the planning regime. No public views would be affected.
- 7.33 Given the angle to and distance from other properties, overlooking and loss of privacy would not detrimentally affect those neighbours. The proposal would have an acceptable relationship with neighbouring dwellings in terms of overbearing effect, sense of visual enclosure or loss of outlook. Whilst some loss of sunlight would occur given the location of the proposed development to the south of neighbouring dwellings, the separation distance is sufficient to ensure that such loss would not be significantly harmful to residential amenity in this regard.

- 7.34 The construction of the development may give rise to some pollution, noise and disturbance. Conditions to control the hours of construction and to require a construction method statement are suggested and would be sufficient to limit any harm arising from the construction activity. No concerns are raised in relation to pollution, noise and disturbance as a result of the proposed residential use. The relocation of the apparatus associated with the commercial use of the site would require appropriate noise assessment and potentially mitigation and a condition is suggested to this effect. The Council's Environmental Health service raised no objection. Overall, the proposal is acceptable and policy compliant in these regards.

### **Traffic and Transportation Issues**

- 7.35 Policy DM15 of the Development Management Document states: "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". The policy also requires that adequate parking should be provided for all development in accordance with the adopted vehicle parking standards. Policy DS5 of the SCAAP requires that development proposals in the central area of the Borough to have regard to the above-mentioned policy. Residential vehicle parking standards may be applied flexibly where the development is proposed in a sustainable location with frequent and extensive links to public transport.
- 7.36 Assessed against parking standards, the minimum car parking standard required for flats is one space per unit. As per the policy requirement, the minimum standard should be applied flexibly in this instance due to the sustainable location of the application site. The application was submitted with a supporting Transport Statement which justifies the absence of car parking provision. Given the proposed type of accommodation, the sustainable location of the site which is in close proximity to public transport routes and hubs as well as a range of amenities and services and the proximity of the site to public car parks, the proposal is considered to be acceptable without any car parking provision. The Council's Highways service raised no objection in this regard.
- 7.37 The parking standards require the provision of one cycle parking space per dwelling. It is proposed to provide nine cycle parking spaces to the rear part of the ground floor of the building in line with the required standard. The access arrangements to the site would not be altered as a result of the proposal. Concerns have been raised by residents about the need for scaffolding within the private way to the east of the site and the impact it would have on the access arrangements to other properties. Given that no changes are proposed to the private way, such issues would be outside the planning regime and would be private matters to be resolved between interested parties under separate legislation. The proposal is acceptable and policy compliant in the above regards.

### **Refuse and Recycling Storage**

- 7.38 The submitted plans show an area for waste storage to the rear part of the site. That area appears capable of accommodating four 1100ltr Eurobins for waste and recycling and one 140ltr bin for food waste which would exceed the Council's requirements for up to ten dwellings as described in the waste management document. In terms of convenience, the location is considered to be acceptable as it would be accessible both for the future occupiers of the proposed units and the waste collection services. The proposal is acceptable and policy compliant in this regard.

## **Flooding and surface water drainage**

- 7.39 National policy requires that any development is safe from flooding and does not increase the risk of flooding elsewhere. The proposal would be erected on top of existing impermeable areas and would not significantly increase the runoff of surface water. The implications of the provision of housing within a flood risk zone are discussed in the principle section of this report. The development would be acceptable and policy compliant in these regards.

## **Energy and Water Sustainability**

- 7.40 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.
- 7.41 No information has been provided to demonstrate whether any renewable energy resources would be installed in order to meet at least 10% of the anticipated energy consumption in line with policy requirement or how the water consumption would be limited. It is considered that the requirement for renewable energy and restrictions on water usage can be controlled with conditions. This aspect of the proposal is, therefore, considered to be acceptable and policy compliant in these regards, subject to conditions.

## **Ecology - Essex Coast RAMS**

- 7.42 The site falls within the Zone of Influence for one or more European designated sites scoped into the Essex Coast 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. Any new residential development 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. The Essex Coast RAMS SPD, which was adopted by the Council on 29 October 2020, requires that a tariff of £127.30 (index linked) is paid per dwelling unit. This will be transferred to the RAMS accountable body in accordance with the RAMS Partnership Agreement.
- 7.43 The applicant has already paid the relevant tariff. The development would offer suitable mitigation of the in-combination effect of the net increase of eight dwellings on habitats and species. The development is acceptable and in line with policies in this regard.

## **Community Infrastructure Levy (CIL)**

7.44 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. The proposed development includes a gross internal area of some 917.5m<sup>2</sup>, which may equate to a CIL charge of approximately £23,572.69 (subject to confirmation). 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**

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 local and national policies and guidance. The proposal is acceptable in principle and subject to conditions, it would have an acceptable impact on the character and appearance of the area, the significance of nearby heritage assets, the living conditions of future occupiers and the residential amenity of neighbouring occupiers. Subject to conditions the proposal would also be acceptable in relation to highway and parking conditions in the area, waste management, energy and water sustainability and it would provide acceptable drainage strategy on site. The development offers suitable mitigation for its in-combination effects to protected ecology sites.

8.2 This proposal creates new housing. Therefore where and if any harm were identified, including those identified within this report's analysis of the proposal it would be necessary to demonstrate that in reaching the decision an appropriate balancing exercise has been undertaken considering the benefits of the proposal and any such harm. The Council has a deficit in housing land supply so the tilted balance in favour of sustainable development should be applied when determining the application as relevant. The test set out by the NPPF is whether any adverse impacts of granting permission would significantly and demonstrably outweigh the benefits when considered against the policies of the NPPF taken as a whole. The proposal would make a contribution to the housing needs of the borough which must be given increased weight in the planning balance, albeit the weight to be attached to this would not be significant in this instance in view of the number of units involved. This application is recommended for approval subject to conditions.

## **9 Recommendation**

**9.1 GRANT PLANNING PERMISSION subject to the following conditions:**

### *General 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 approved shall be carried out in accordance with the approved plans: 4083\_L01, 4083\_PL01, 4083\_PL02, 4083\_PL03, 4083\_PL04, 4083\_PL05, 4083\_PL06, 4083\_PL07, 4083\_PL08, 4083\_PL09, 4083\_PL10.

**Reason:** To ensure the development is carried out in accordance with the development plan.

*Design and related conditions*

- 03** Notwithstanding the details shown on the plans submitted and otherwise hereby approved the development hereby permitted shall not commence, other than for site preparation works, unless and until full details and specifications of the materials to be used for all the external surfaces of the proposed building at the site including facing materials, roof detail, windows (including sections, profiles and reveals), doors, balustrading, fascia and balconies have been submitted to and approved in writing by the local planning authority. The works must then be carried out in full accordance with the approved details before the dwellings hereby approved are first occupied.

**Reason:** In the interest of visual amenity in accordance with 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 National Design Guide (2019) and the Design and Townscape Guide (2009).

*Living Conditions*

- 04** The use of the ground floor unit shall be solely within Use Class E as defined within the Town and Country Planning (Use Classes) Order 1987 as amended.

**Reason:** To determine the scope of the permission in the interest of the character and functionality of the area in accordance with the National Planning Policy Framework (2019), Core Strategy (2007) Policies KP2 and CP1, Development Management Document (2015) Policies DM10, DM11 and DM12 and Southend Central Area Action Plan (2015) Policies DS1 and PA1.

- 05** The hours of operation of the ground floor commercial unit shall be 7 am to 11 pm.

**Reason:** In the interest of the living conditions of future occupiers in accordance with 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).

- 06** Prior to the first use of the commercial unit hereby approved, a detailed vibration and noise assessment shall be submitted to and approved in writing by the Local Planning Authority. The assessment shall include vibration and noise mitigation measures where needed along with a verification of their effectiveness on site after they have been carried out. The rating level of noise for all plant (including but not exclusively the ventilation, refrigeration and air conditioning equipment) installed at the site determined by the procedures in British Standards

**BS 4142:2014, shall be at least 10dB(A) below the background noise level with no tonal elements at all times. The LA90 to be determined according to the guidance in British Standard BS 4142:2014 at 3.5m from ground floor facades and 1m from all facades above ground floor level to residential premises. The assessment shall be carried out by a suitably qualified and experienced acoustic consultant who would normally be a member of the Institute of Acoustics. The equipment shall be maintained in good working order thereafter. The plant must not have distinctive tonal or impulsive characteristics.**

**Reason: To ensure the resulting noise from the commercial unit would not be detrimental to living conditions of future occupiers in accordance with 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).**

- 07 Prior to commencement of development on site, other than demolition and site preparation works, details of vibration mitigation and noise mitigation measures to ensure that all habitable rooms achieve the requirements of British Standard BS 8233:2014, shall have been submitted to and approved in writing by the Local Planning Authority. The measures shall be fully implemented as approved prior to the first residential occupation of any part of the development hereby approved.**

**Reason: To mitigate the noise from the uses in the area in the interest of the living conditions of future occupiers in accordance with 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).**

*Impact on residential amenity of neighbours*

- 08 No development shall take place, including any works of demolition, unless and until a Demolition and Construction Management Plan and Strategy (to include Noise and Dust Mitigation Strategies) has been submitted to and approved by the Local Planning Authority pursuant to this condition. The approved Demolition and Construction Management Plan and Strategy shall be adhered to in full throughout the construction period. The Strategy shall provide, amongst other things, for:**

- i) the parking of vehicles of site operatives and visitors**
- ii) loading and unloading of plant and materials**
- iii) storage of plant and materials used in constructing the development**
- iv) the erection and maintenance of security hoarding**
- v) measures to control the emission of dust, dirt and noise during construction**
- vi) a scheme for recycling/disposing of waste resulting from construction works that does not allow for the burning of waste on site.**
- vii) a dust management plan to include mitigation and boundary particulate monitoring during demolition and construction.**
- viii) details of the duration and location of any noisy activities.**

**Reason: A pre-commencement condition is justified in the interest of the residential amenity of nearby occupiers in accordance with 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).**

- 09 Construction works for the approved development on site shall only be undertaken between 8 am to 6 pm on weekdays, between 8 am and 1 pm on Saturdays and not at any time on Sundays and Public Holidays.**

**Reason:** In the interest of the residential amenity of nearby occupiers in accordance with 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).

- 10 Notwithstanding the details shown in the plans submitted and otherwise hereby approved the development hereby granted planning permission shall not be occupied unless and until plans and other appropriate details are submitted to the Local Planning Authority and approved in writing which specify the size, design, obscenity, materials and location of all privacy screens to be fixed to the building, including on proposed balconies and terraces where needed. Before the development hereby approved is occupied, the privacy screens shall be installed in full accordance with the details and specifications approved under this condition and shall be permanently retained as such thereafter.**

**Reason:** In the interests of the residential amenity of future occupiers and adjoining residents and the character and appearance of the area and to ensure that the development complies with the National Planning Policy Framework (2019), Core Strategy (2007) Policies KP2 and CP4, Development Management Document (2015) Policies DM1 and DM3 and the Design and Townscape Guide (2009).

*Highways*

- 11 Prior to the first occupation of the residential units hereby approved the nine (9) cycle parking spaces as shown on approved plan 4083\_PL06 shall be provided and made available for use on site. The cycle parking spaces shall be retained for the benefit of the future occupiers of the approved development in perpetuity.**

**Reason:** To ensure the provision of adequate cycle parking in accordance with the National Planning Policy Framework (2019), Core Strategy (2007) Policy CP3 and Development Management Document (2015) Policies DM3, DM8 and DM15.

*Waste management*

- 12 No part of the development hereby approved shall be brought into residential use unless and until the bin store area shown on approved plan 4083\_PL06 have been created solely in accordance with design details which have previously been submitted to and approved in writing by the Local Planning Authority, equipped with at least two 1100 litre waste and recycling containers and one 150 litre food waste container and are available for use and operation in accordance with a waste management plan which has previously been submitted to and approved in writing by the Local Planning Authority. The bin storage areas shall thereafter be maintained for the lifetime of the development.**



**Reason: To ensure the provision of adequate waste, recycling and food waste storage and in the interest of visual amenity in accordance with the National Planning Policy Framework (2019), Core Strategy (2007) Policies KP2, CP3 and CP4, Development Management Document (2015) Policies DM1, DM3, DM8 and DM15, and the advice contained within the National Design Guide (2019), the Design and Townscape Guide (2009), and the Waste Storage, Collection and Management Guide for New Developments (2019).**

- 13 No part of the development hereby approved shall be brought into commercial use unless and until details of commercial waste storage and management have been submitted to and approved in writing by the Local Planning Authority. The approved waste storage facilities shall be provided and made available for use prior to the first use of the commercial use here by approved and shall thereafter be maintained for the lifetime of the development and managed in accordance with the approved details.**

**Reason: To ensure the provision of adequate waste, recycling and food waste storage and in the interest of visual amenity in accordance with the National Planning Policy Framework (2019), Core Strategy (2007) Policies KP2, CP3 and CP4, Development Management Document (2015) Policies DM1, DM3, DM8 and DM15, and the advice contained within the National Design Guide (2019), the Design and Townscape Guide (2009), and the Waste Storage, Collection and Management Guide for New Developments (2019).**

*Flood Risk*

- 14 The development hereby approved shall be implemented and undertaken in strict accordance with the findings, recommendations, mitigation and resilience measures contained within the submitted Flood Risk Assessment by Evans report reference 2614/RE/12-20/01 dated December 2020.**

**Reason: To ensure the approved development is safe and does not increase flood risk elsewhere in accordance with National Planning Policy Framework (2019), Core Strategy (2007) Policies KP1, KP2 and KP3.**

*Energy and water sustainability*

- 15 Prior to occupation of the development hereby approved details of energy efficiency and other sustainability measures to be included in the scheme, including the provision of at least 10% of the energy needs of the development hereby approved being provided from onsite renewable sources, shall be submitted to, agreed in writing by the Local Planning Authority and implemented on site in accordance with the agreed details.**

**Reason: To minimise the environmental impact of the development through efficient use of resources and better use of sustainable and renewable resources in accordance with the National Planning Policy Framework (2019), Core Strategy (2007) Policies KP2 and CP4, Development Management Document (2015) Policy DM2, and the advice contained within the National Design Guide (2019) and the Design and Townscape Guide (2009).**

- 16 The dwellings hereby approved shall incorporate water efficient design measures set out in Policy DM2 (iv) of the Development Management Document to limit internal water consumption to 105 litres per person per day (lppd) (110 lppd when including external water consumption), including measures of water efficient fittings, appliances and water recycling systems such as grey water and rainwater harvesting before they are occupied.**

**Reason:** To minimise the environmental impact of the development through efficient use of resources and better use of sustainable and renewable resources in accordance with the National Planning Policy Framework (2019), Core Strategy (2007) Policies KP2 and CP4, Development Management Document (2015) Policy DM2, and the advice contained within the National Design Guide (2019) and the Design and Townscape Guide (2009).

#### **Positive and proactive statement**

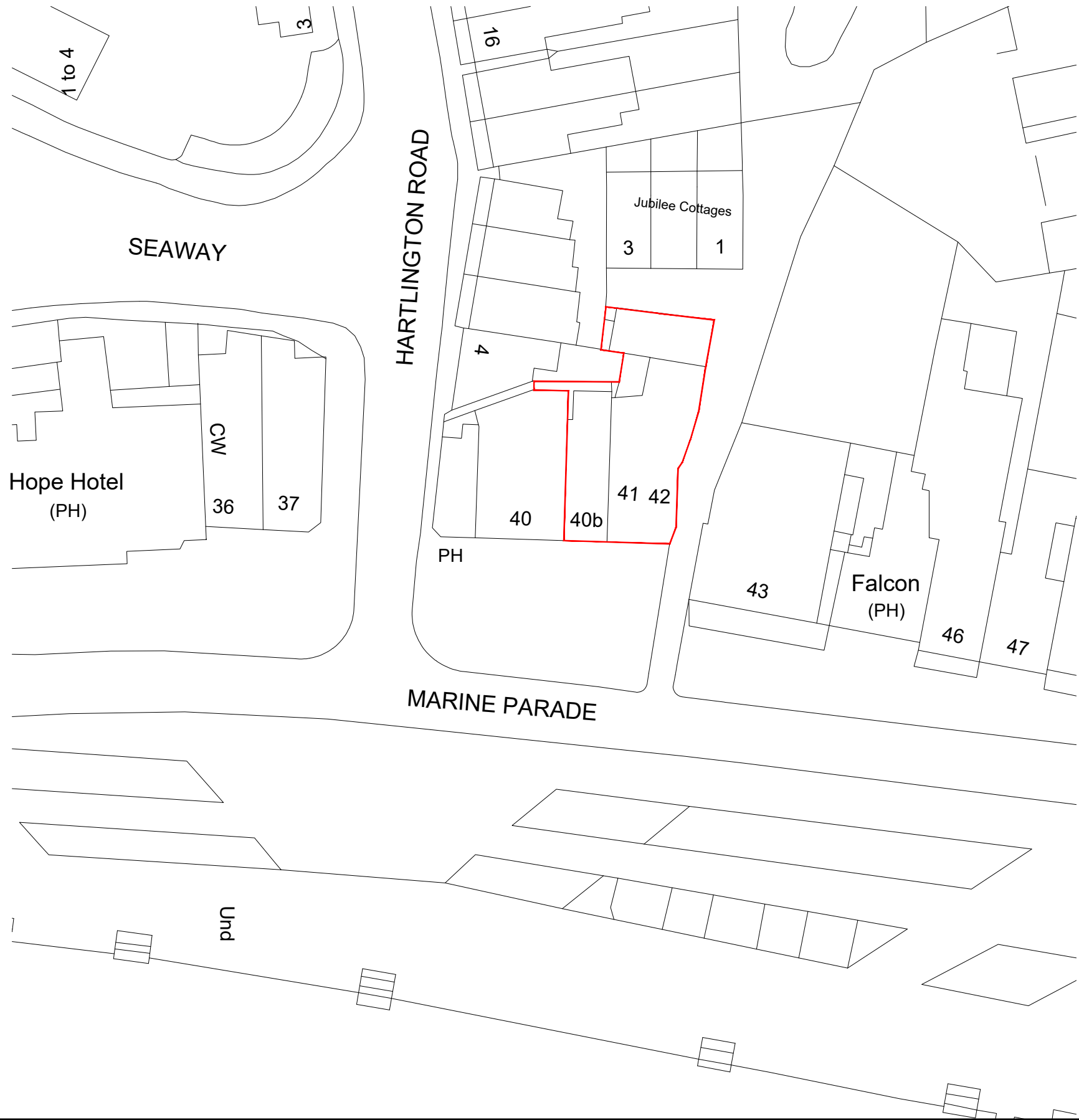
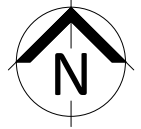
The Local Planning Authority has acted positively and proactively in determining this application by assessing the proposal against all material considerations, including planning policies and any representations that may have been received and subsequently determining to grant planning permission in 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:**

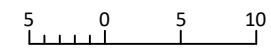
- 1 Please note that the development which is the subject of this application is liable for a charge under the Community Infrastructure Levy (CIL) Regulations 2010 (as amended) and it is the responsibility of the landowner(s) to ensure they have fully complied with the requirements of these regulations. A failure to comply with the CIL regulations in full can result in a range of penalties. For full planning permissions, a CIL Liability Notice will be issued by the Council as soon as practicable following this decision notice. For general consents, you are required to submit a Notice of Chargeable Development (Form 5) before commencement; and upon receipt of this, the Council will issue a CIL Liability Notice including details of the chargeable amount and when this is payable. If you have not received a CIL Liability Notice by the time you intend to commence development, it is imperative that you contact [S106andCILAdministration@southend.gov.uk](mailto:S106andCILAdministration@southend.gov.uk) to avoid financial penalties for potential failure to comply with the CIL Regulations 2010 (as amended). If the chargeable development has already commenced, no exemption or relief can be sought in relation to the charge and a CIL Demand Notice will be issued requiring immediate payment. Further details on CIL matters can be found on the Planning Portal ([www.planningportal.co.uk/info/200136/policy\\_and\\_legislation/70/community\\_infrastructure\\_levy](http://www.planningportal.co.uk/info/200136/policy_and_legislation/70/community_infrastructure_levy)) or the Council's website ([www.southend.gov.uk/cil](http://www.southend.gov.uk/cil)).**
- 2 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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27



LOCATION PLAN

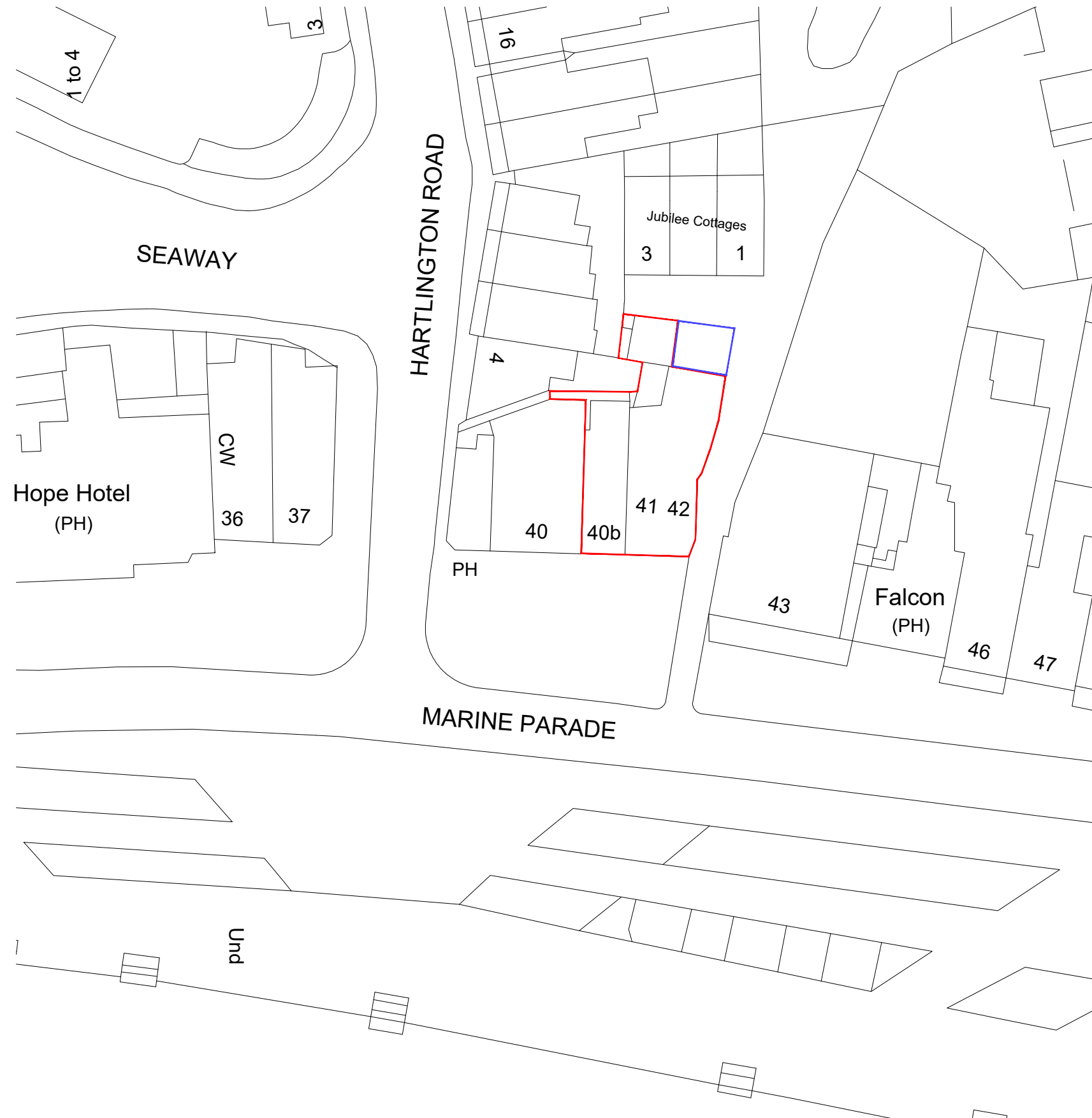
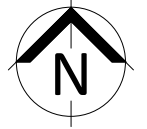
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EXISTING SITE PLAN

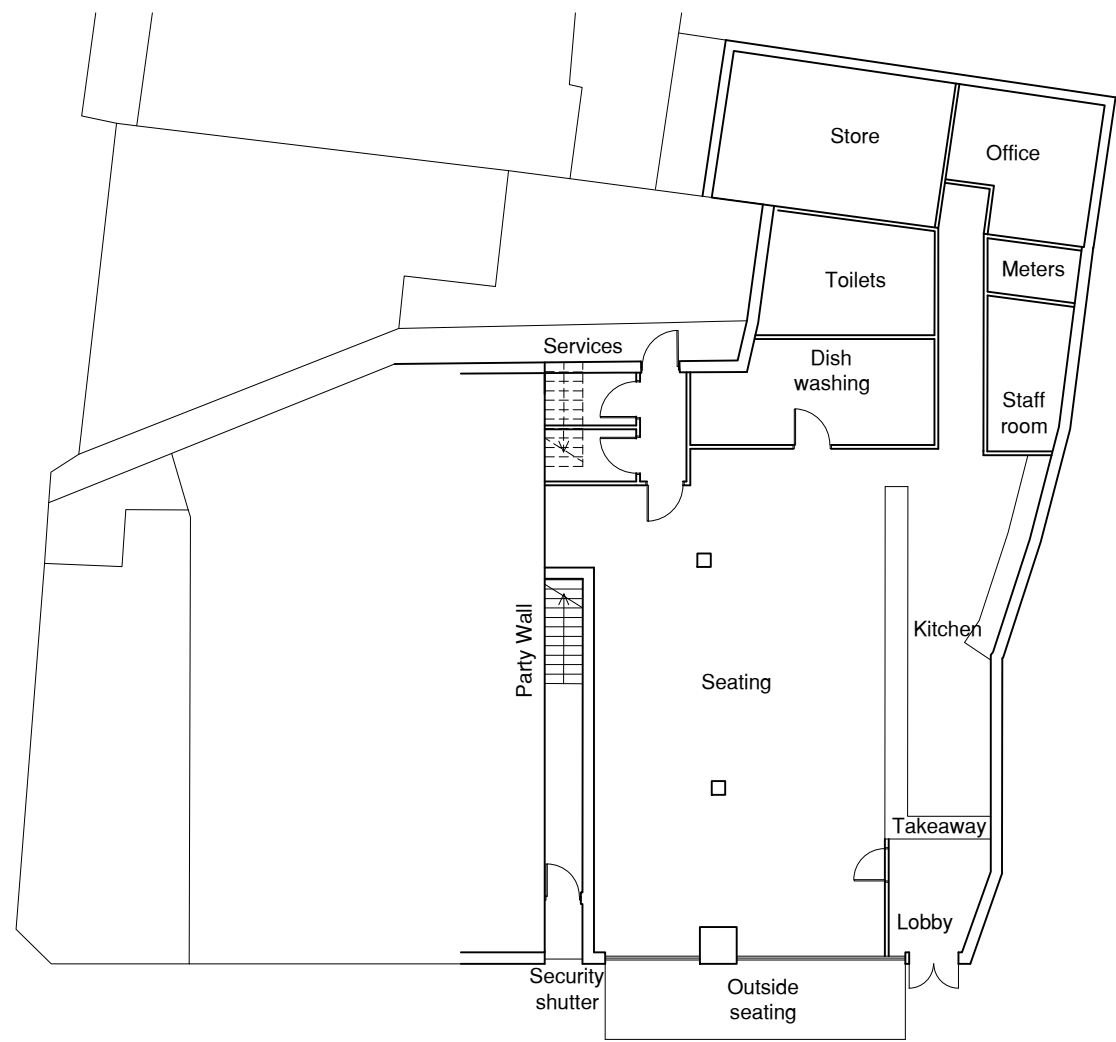
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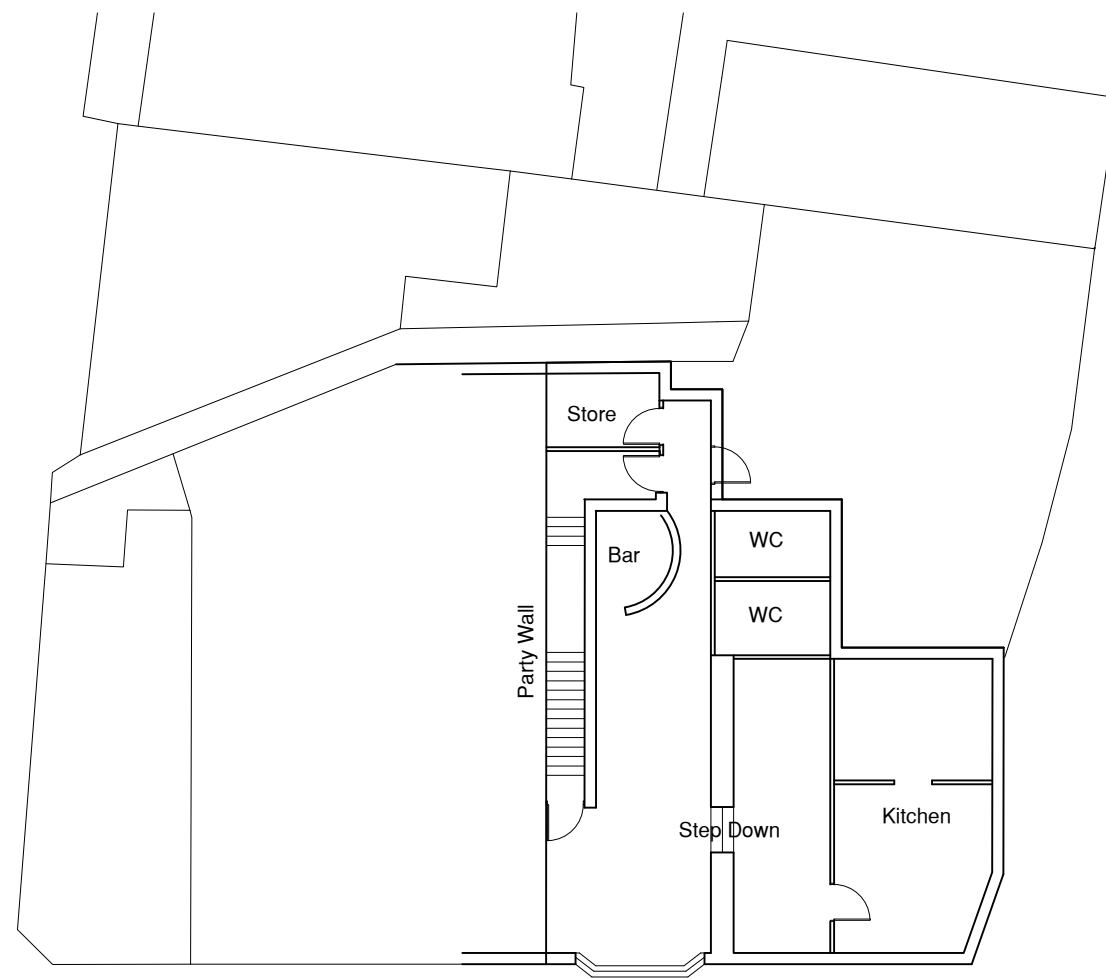
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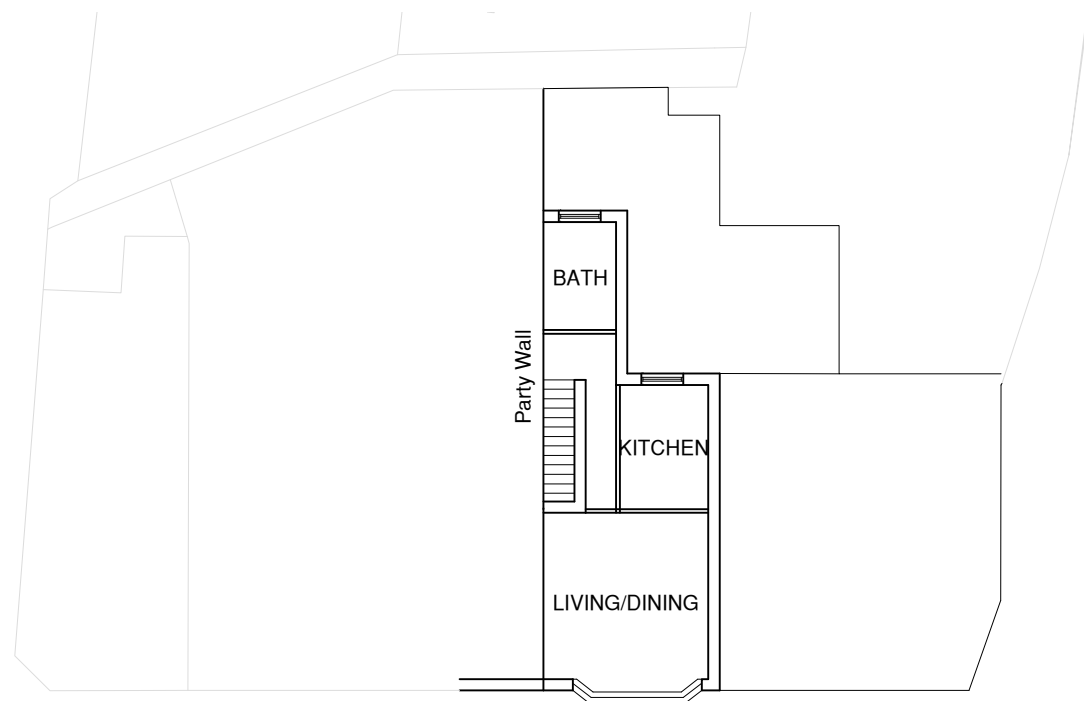




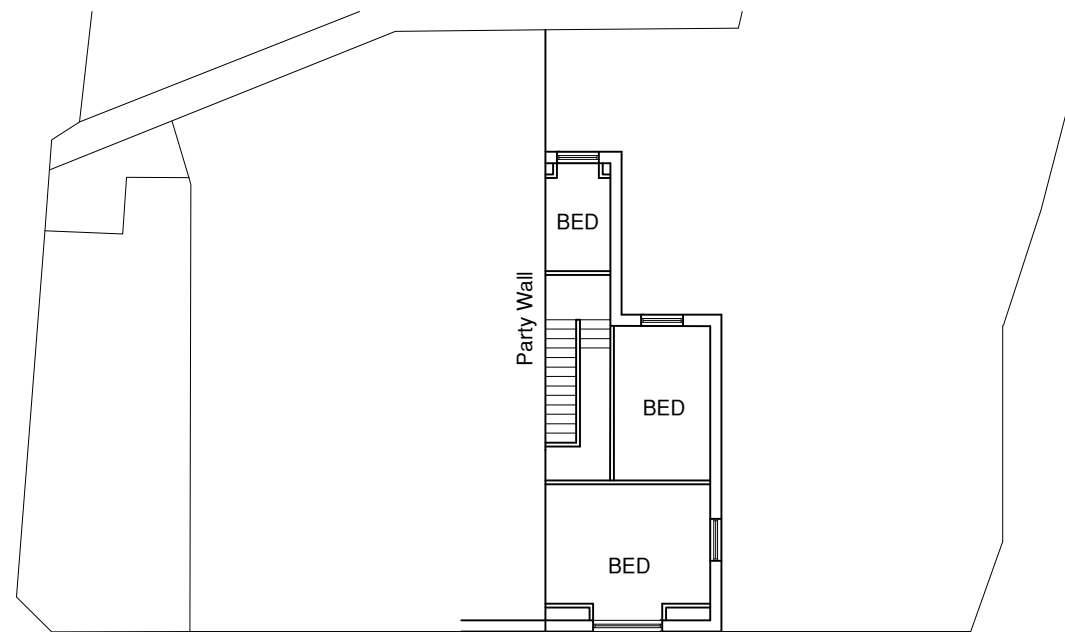
Ground Floor Plan



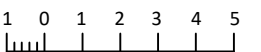
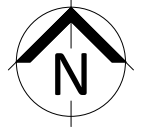
First Floor Plan



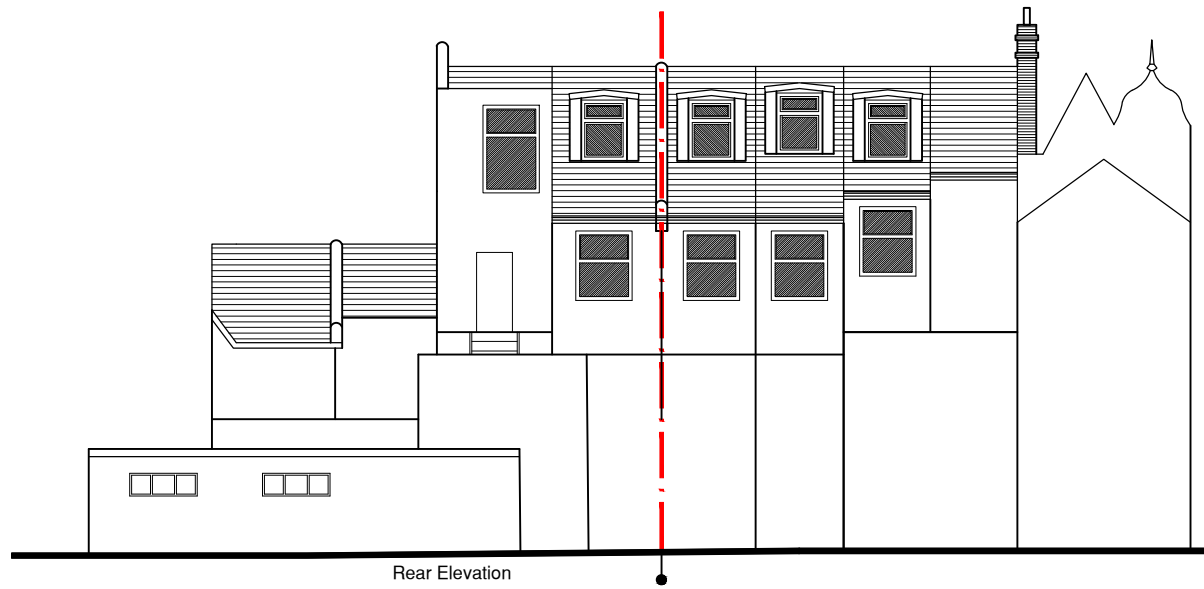
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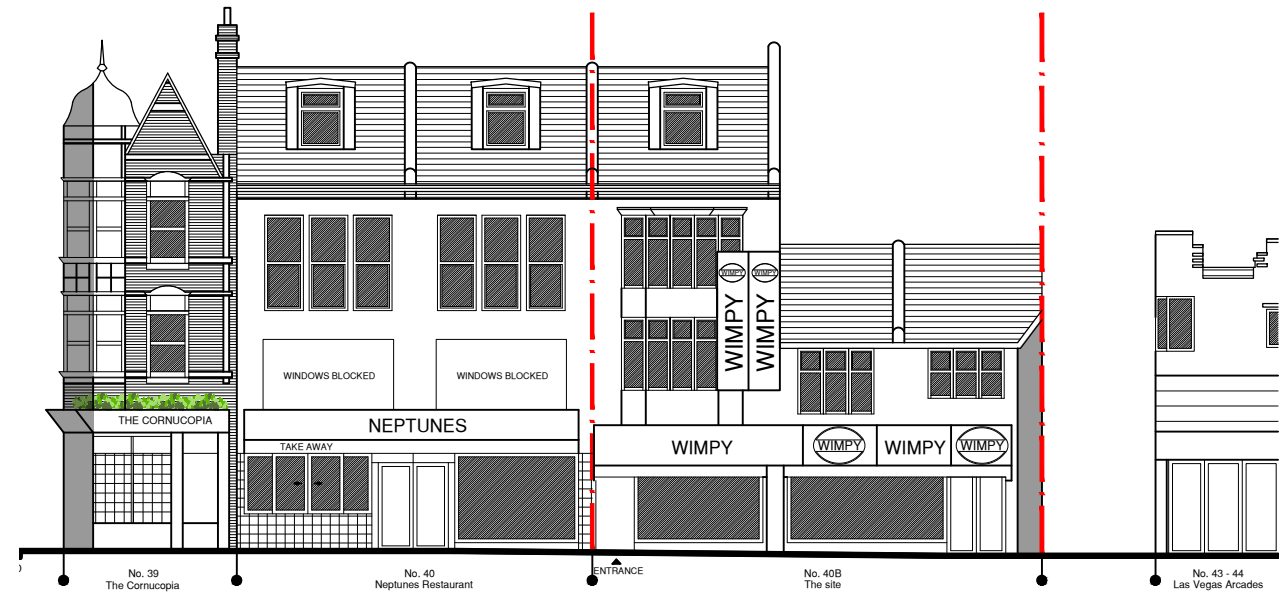
Third Floor Plan



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Rear Elevation

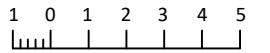


No. 39 The Cornucopia No. 40 Neptunes Restaurant No. 40B The site No. 43 - 44 Las Vegas Arcades

33



Side Elevation



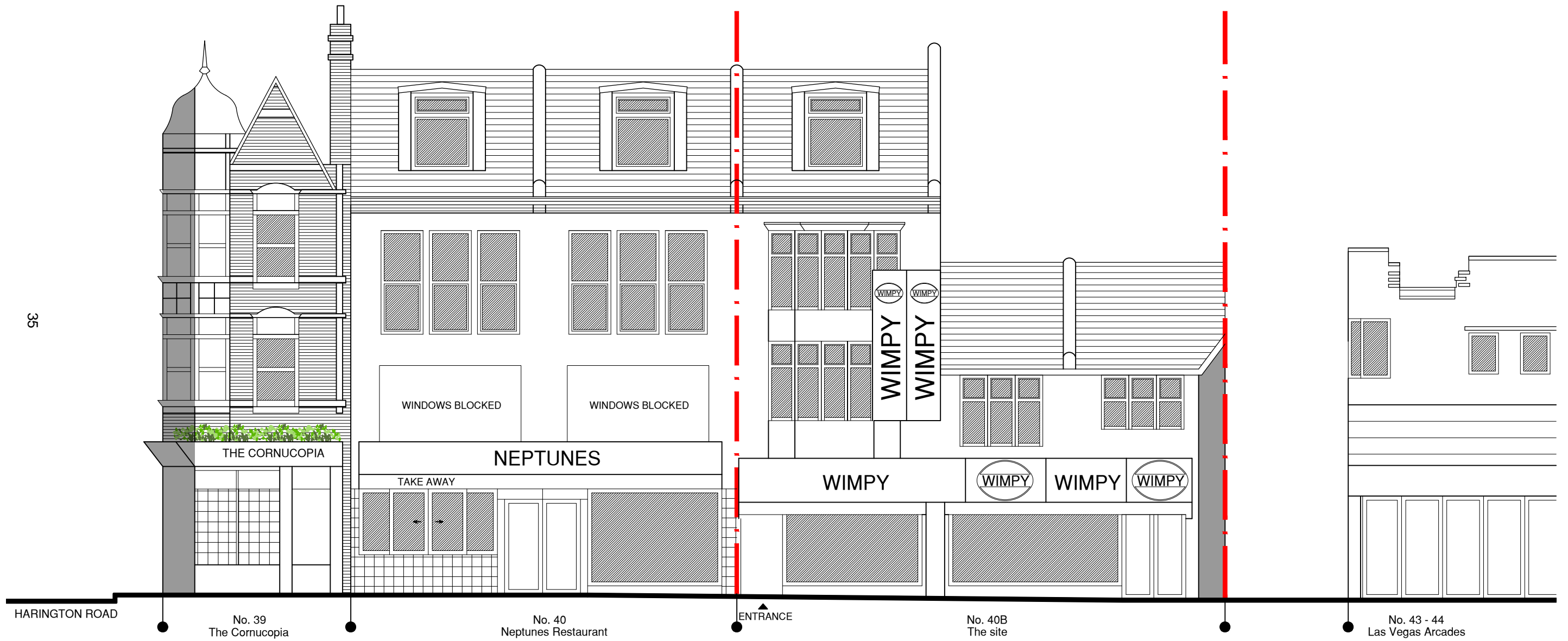
EXISTING ELEVATIONS

40B MARINE PARADE, SOUTHEND-ON-SEA, SS1 2EN

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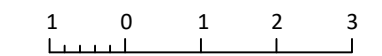
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EXISTING STREET SCENE

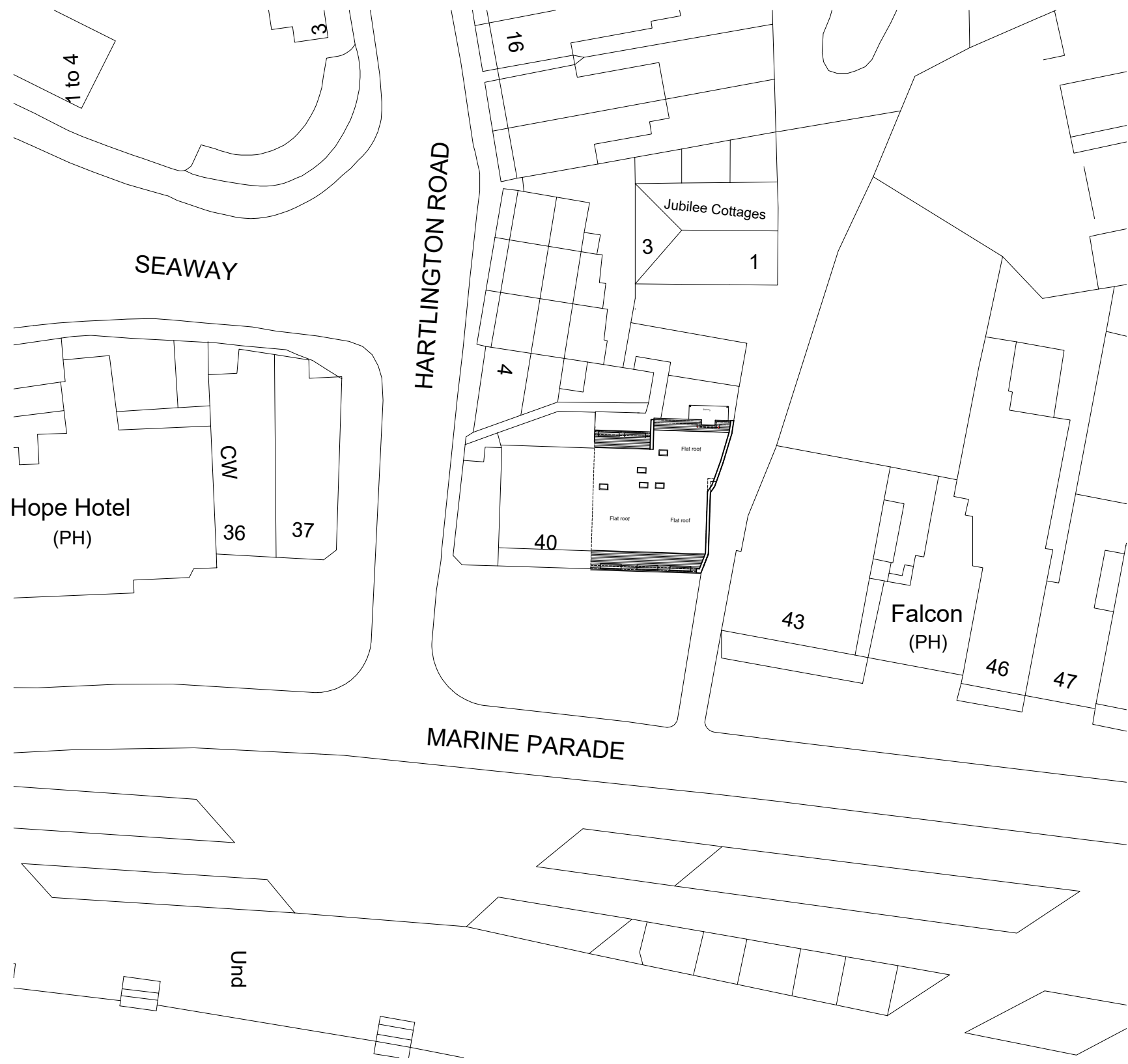
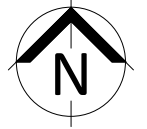
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PROPOSED SITE PLAN

40B MARINE PARADE, SOUTHEND-ON-SEA, SS1 2EN

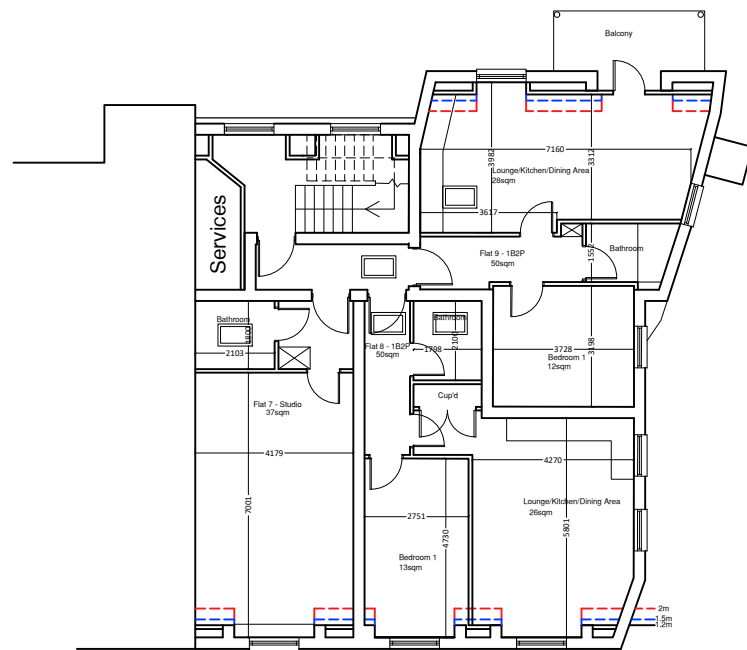
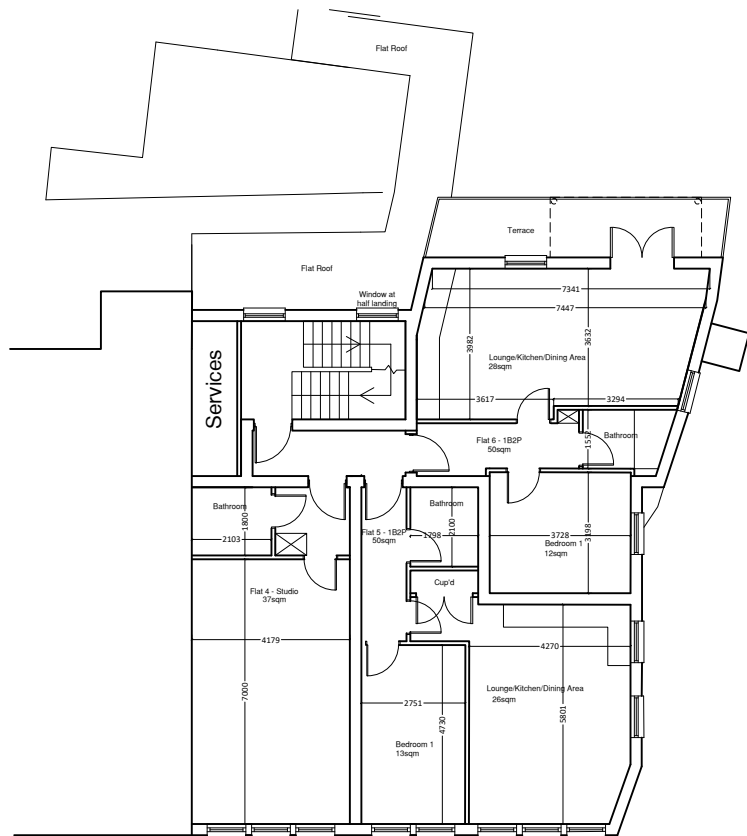
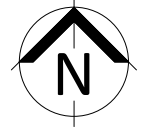
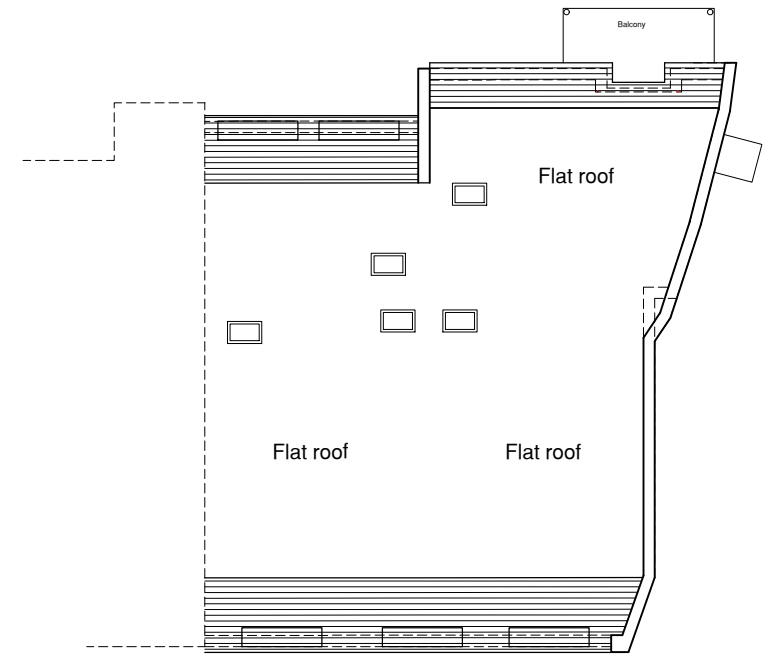
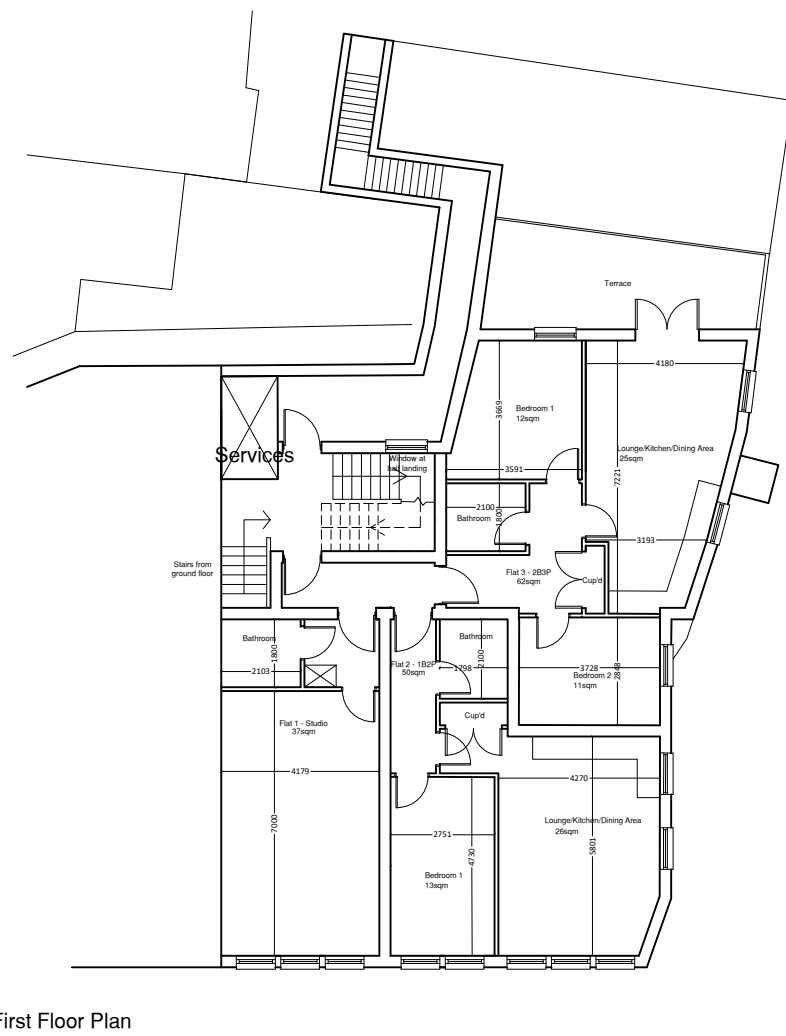
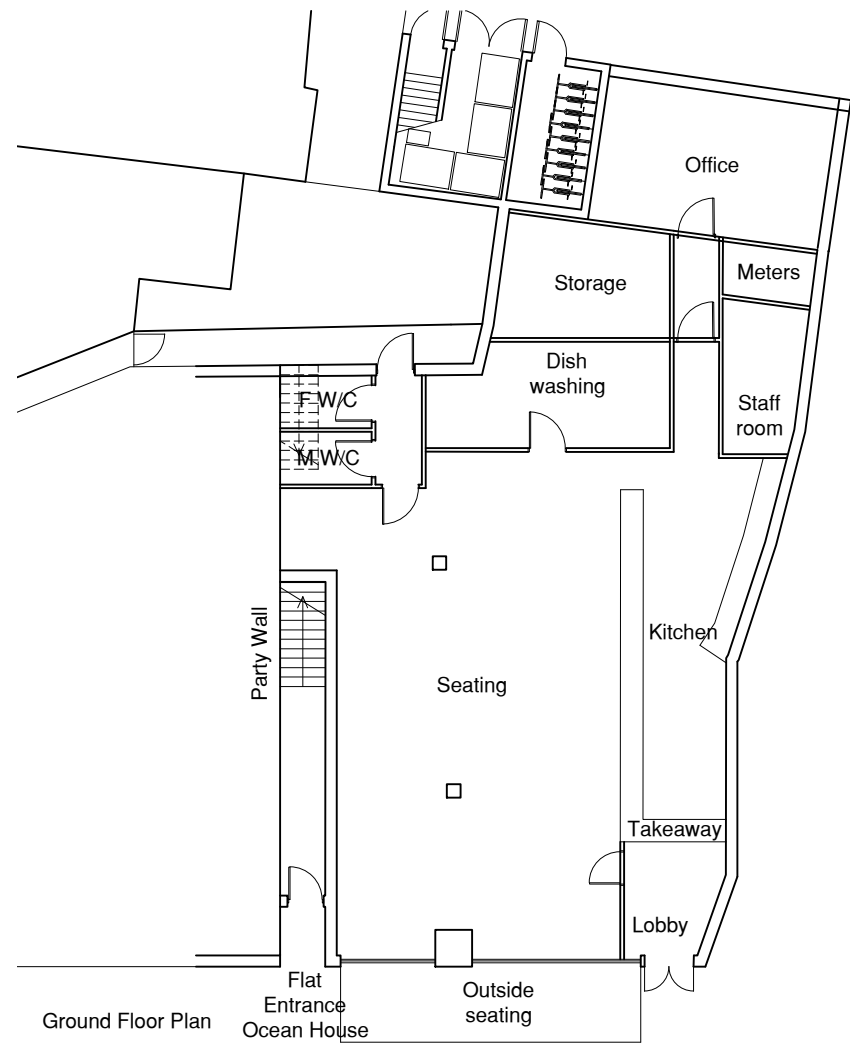
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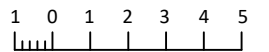


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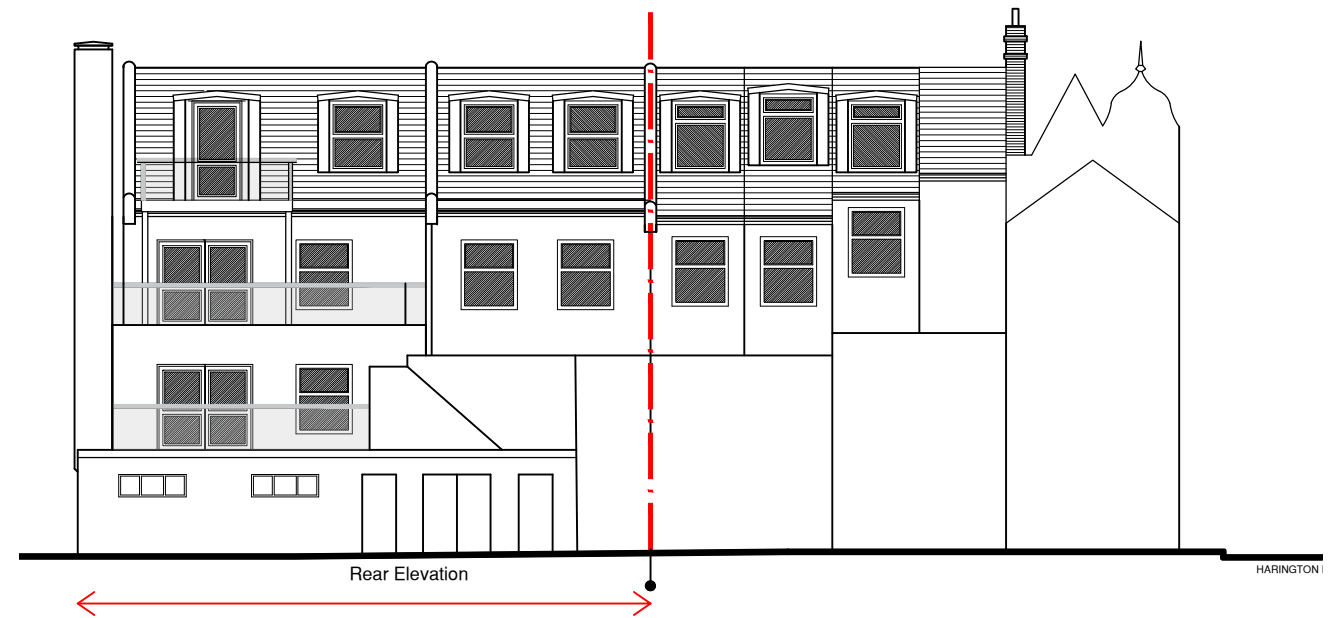
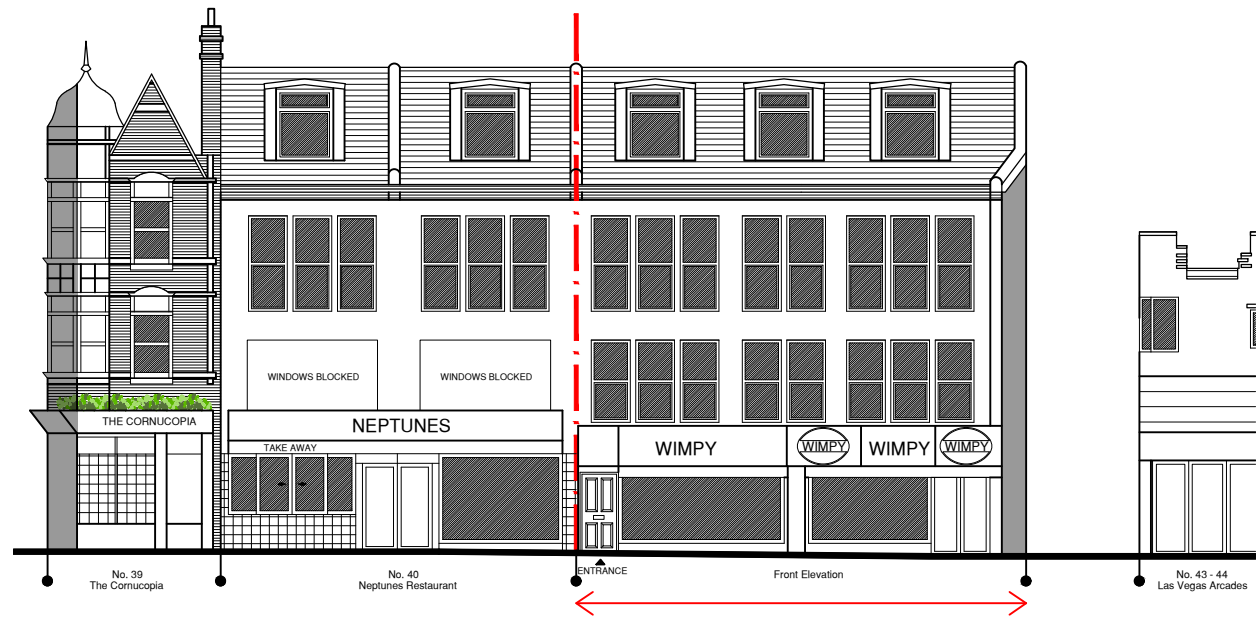




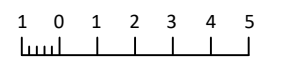
Accommodation Schedule		
Flat	Bedrooms	GIA (sqm)
1	1	37
2	1	50
3	2	62
4	1	37
5	1	50
6	1	50
7	1	37
8	1	50
9	1	50



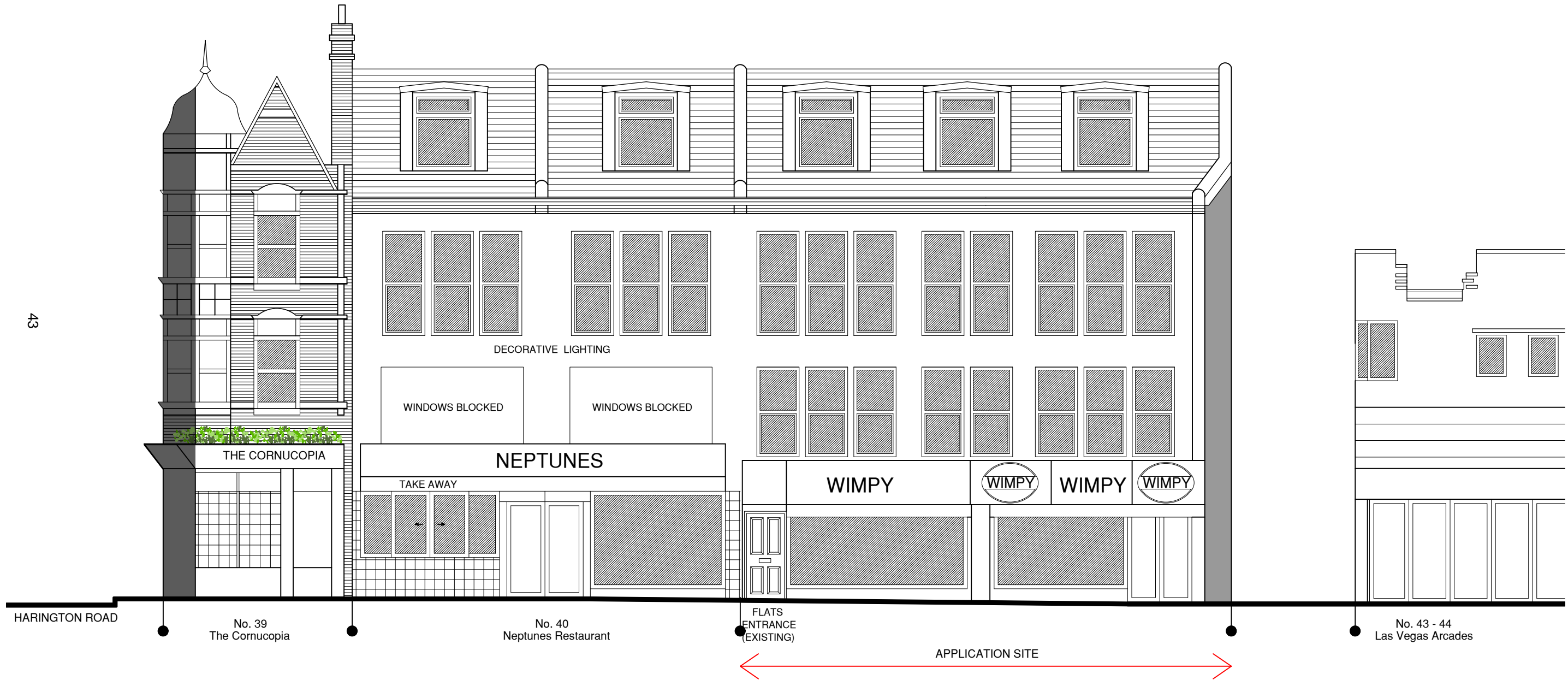
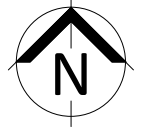
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HARINGTON ROAD

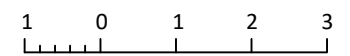
No. 39  
The Cornucopia

No. 40  
Neptunes Restaurant

FLATS  
ENTRANCE  
(EXISTING)

APPLICATION SITE

No. 43 - 44  
Las Vegas Arcades



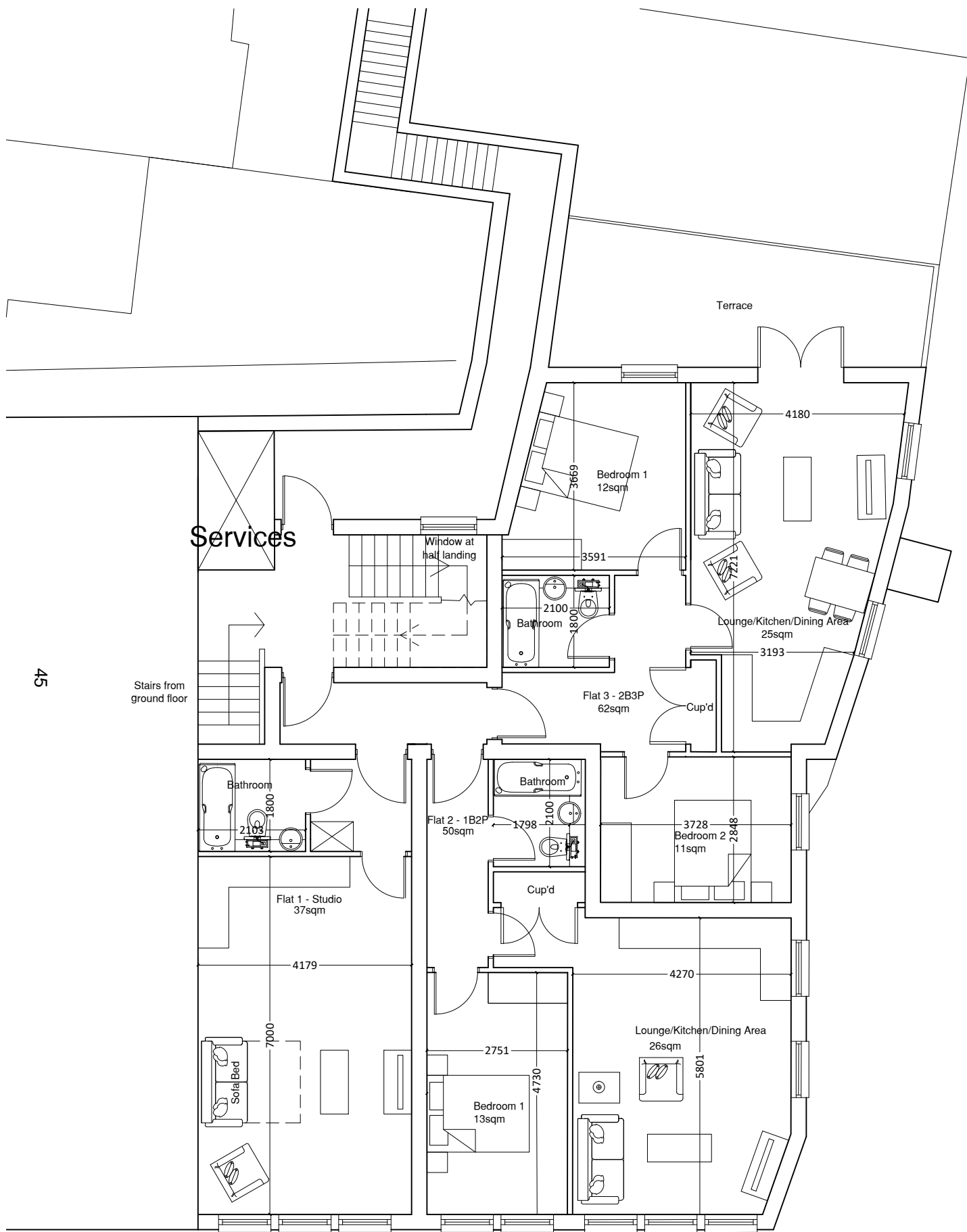
PROPOSED STREET SCENE

40B MARINE PARADE, SOUTHEND-ON-SEA, SS1 2EN

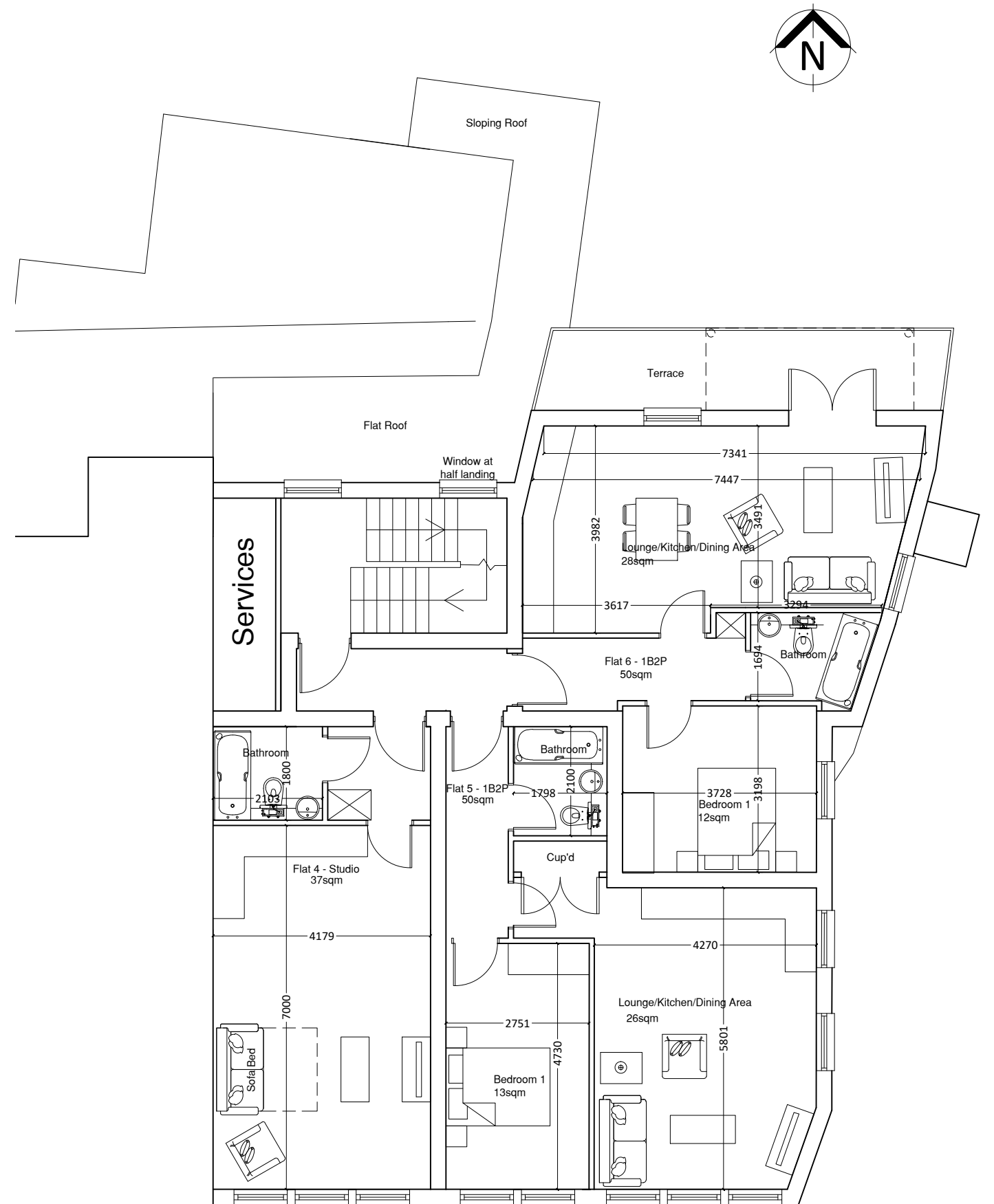
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ARCHITECTS

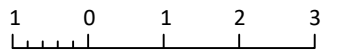
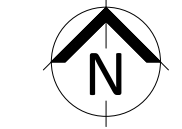
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First Floor Plan

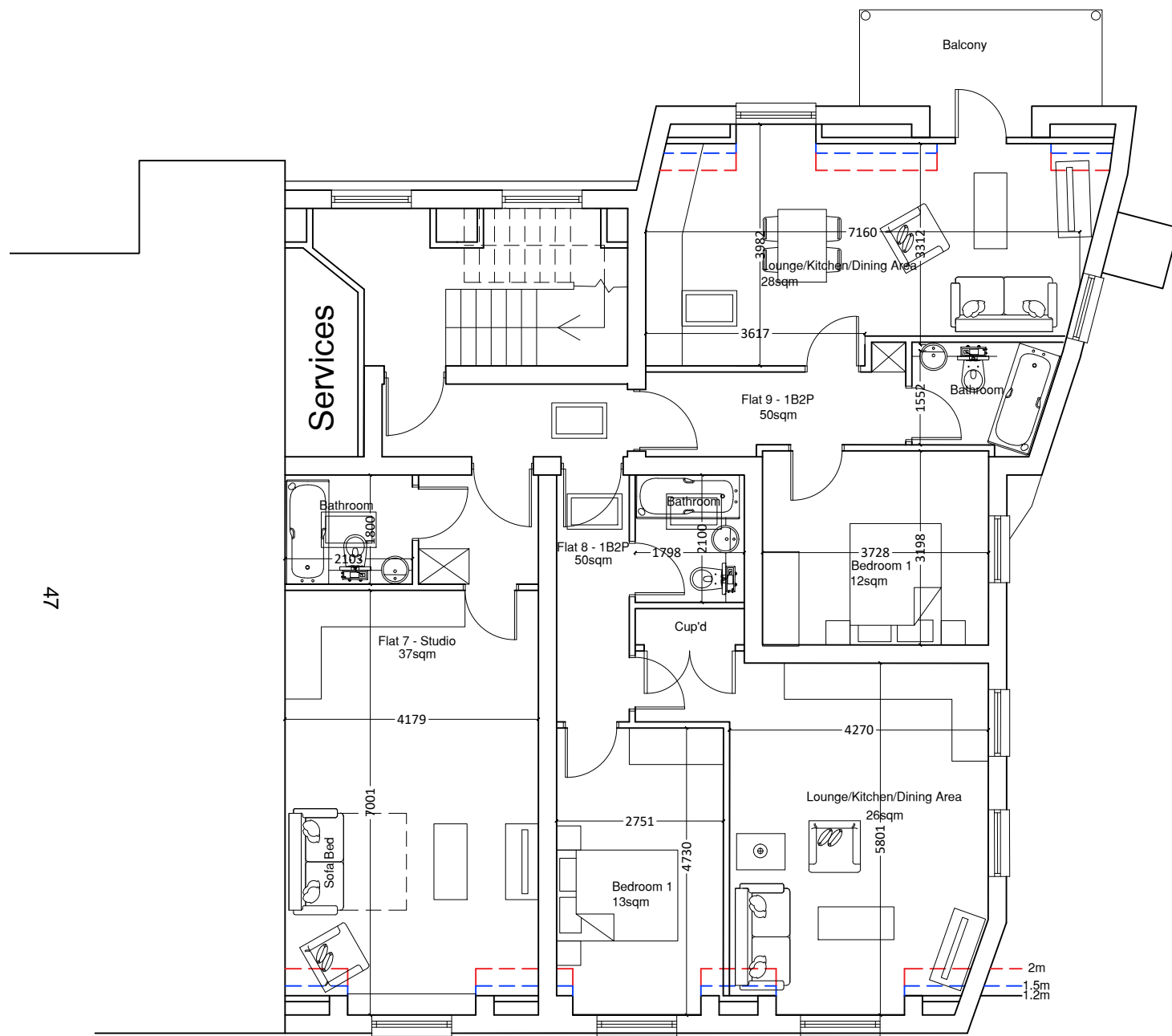
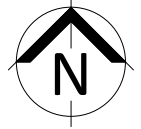


Second Floor Plan

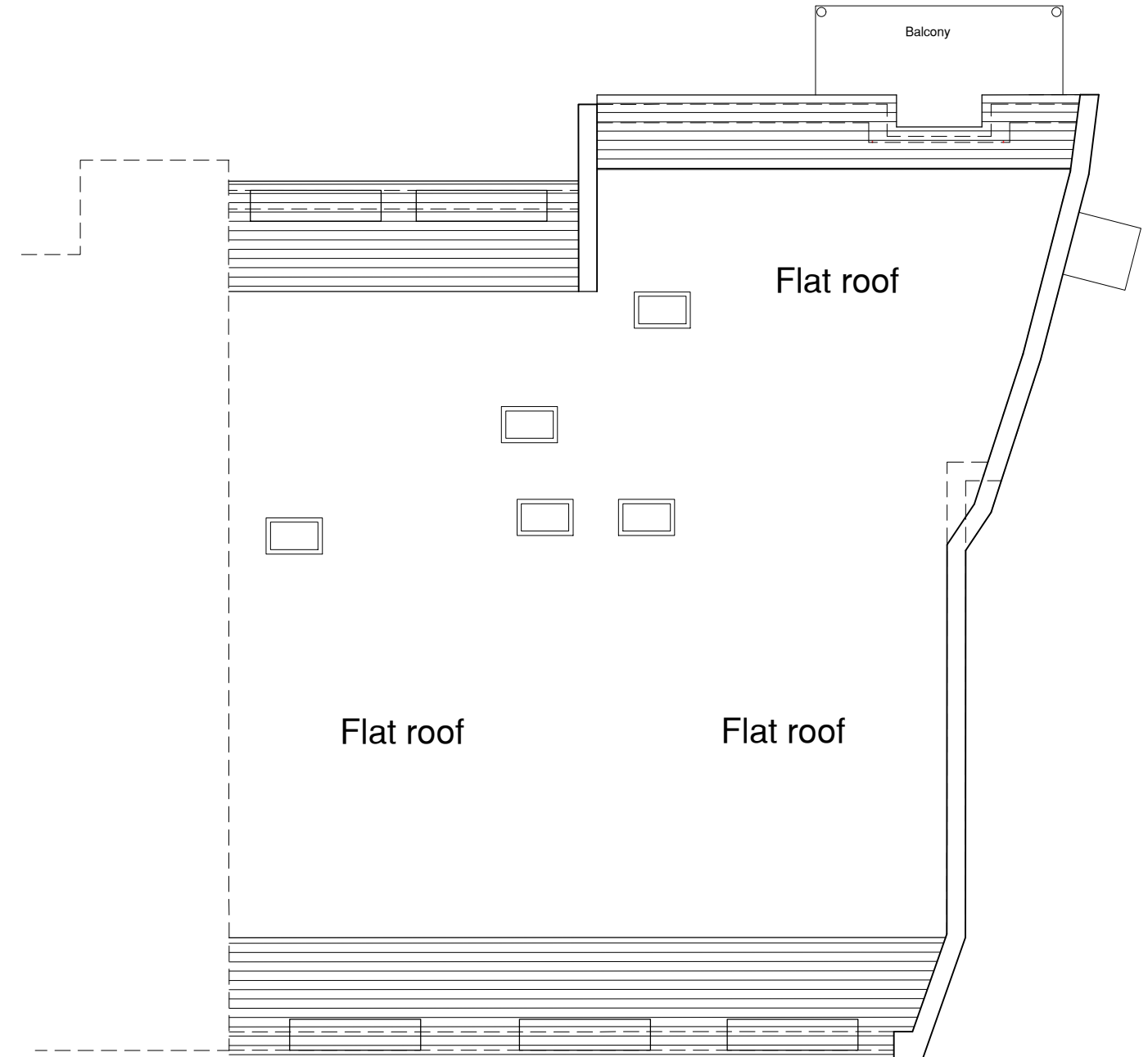


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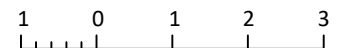


Third Floor Plan



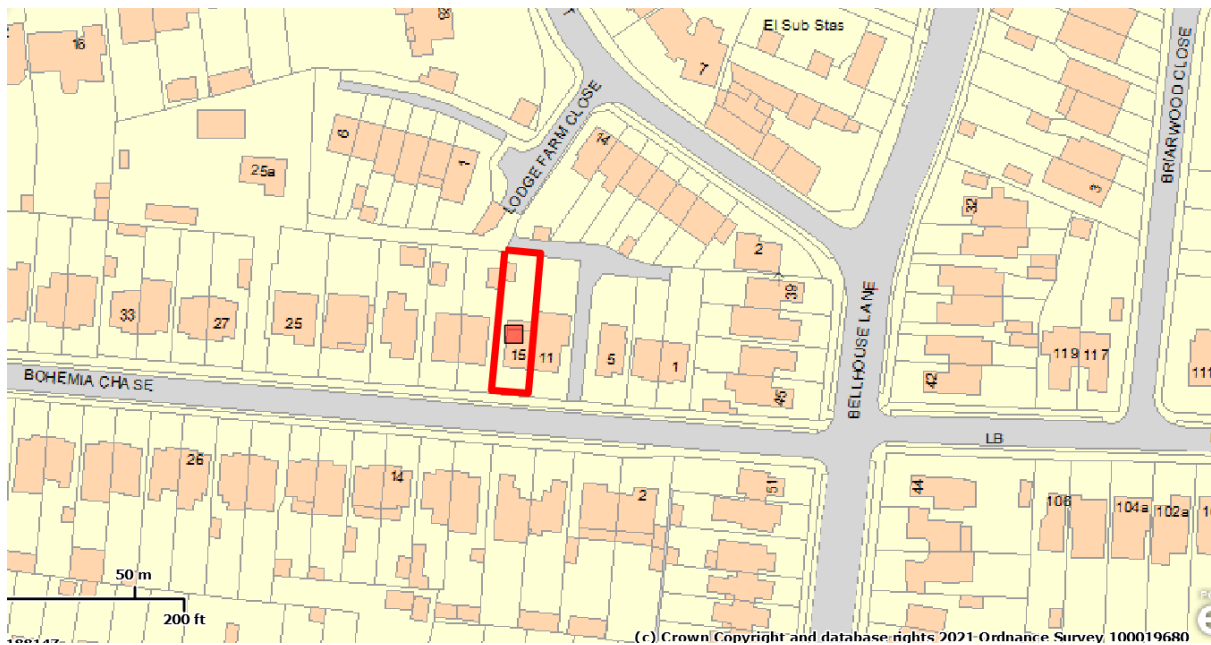
Roof Plan

47



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<b>Reference:</b>	21/00600/FULH	<h1>5</h1>
<b>Application Type:</b>	Full Application - Householder	
<b>Ward:</b>	Belfairs	
<b>Proposal:</b>	Erect dormer to front to form habitable accommodation in the loftspace (amended proposal)	
<b>Address:</b>	15 Bohemia Chase, Leigh-On-Sea, Essex	
<b>Applicant:</b>	Steven Dore	
<b>Agent:</b>	N/A	
<b>Consultation Expiry:</b>	13th May 2021	
<b>Expiry Date:</b>	9th July 2021	
<b>Case Officer:</b>	Kara Elliott	
<b>Plan Nos:</b>	<b>P01C, P02A</b>	
<b>Recommendation:</b>	<b>GRANT PLANNING PERMISSION</b>	



## 1 Site and Surroundings

- 1.1 The site is on the north side of Bohemia Chase and contains a single storey, semi-detached bungalow.
- 1.2 The surrounding area is residential in character, comprising mainly semi-detached bungalows, some of which have had roof additions of varying designs.
- 1.3 The site is not located within a conservation area or subject to any site specific planning policies.

## 2 The Proposal

### *Planning History*

- 2.1 This application follows a previous refusal of planning permission ref 20/00767/FULH dated 14.07.2020 for similar development but with a larger proposed front dormer 4.8 metres wide x 1.85 metres high x 3 metres deep. The previous application also proposed a hip to gable roof extension and a single storey rear extension. These elements do not form part of the current application and the hip to gable extension and rear dormer have since been built under permitted development.
- 2.2 The 2 reasons for refusal were as follows:
  1. *The proposed hip to gable extension and front and rear dormers given their size, scale, bulk, position within the roof and design would excessively dominate the roofscape and would result in an incongruous development which results in material harm to the character and appearance of the dwelling the streetscene and wider surrounding area.*
  2. *The applicant has not provided information that the proposed development would meet the criteria of building regulation M4(2) and therefore would fail to be sufficient for its lifetime for occupancy of all persons. This is contrary to the National Planning Policy Framework and DM3 of the Development Management Document (2015).*
- 2.3 An appeal against the refusal of the above application was subsequently dismissed. In relation to the first reason for refusal, the Inspector found that in the context of previous development in the street and, in this case, the hip to gable conversion alone would not cause significant harm to the character and appearance of the property or the visual amenity of the wider area. They also found that large flat roofed dormers to both the front and rear roof slopes are typical features of other roof space conversions in the street. However, it was found that both dormers proposed, due to their height, overall mass and bulk and due to the lack of retained area of roof slope, would appear as incongruent and overly dominant features, materially harmful to the character and appearance of the dwelling, the street scene and the wider surrounding area.
- 2.4 The Inspector found that the second reason for refusal (regarding compliance with M4(2) building regulations to ensure the property is suitable for all persons for its lifetime) could be dealt with by way of condition. This reason for refusal has now fallen away due to the conversion of a bungalow to a dwelling under permitted development by way of the hip to gable and rear dormer extensions since undertaken.

## *The Proposed Scheme*

2.5 Planning permission is sought to extend habitable accommodation in the roof by way of a front dormer 4.2 metres wide by 1.85 metres high and 3 metres deep. This is a reduction of 0.6m width from that originally refused and dismissed at appeal. A rooflight is also proposed to the front roof slope.

2.6 The addition would be finished in render to match the existing.

### **3 Relevant Planning History**

3.1 20/00767/FULH - Hip to gable roof extension with front and rear dormers to form habitable accommodation in the loftspace, erect single storey rear extension – Refused, Dismissed at Appeal.

### **4 Representation Summary**

4.1 The application has been called in to be decided by the Development Control Committee at the request of Cllr A Dear.

#### **Public Consultation**

4.2 8 neighbours were notified and a site notice displayed. No letters of representation were received.

### **5 Planning Policy Summary**

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

5.2 Core Strategy (2007) Policies CP4 (Environment and Urban Renaissance) and KP2 (Development Principles)

5.3 Development Management Document (2015): Policy DM1 (Design Quality), DM3 (Efficient and Effective Use of Land) and DM15 (Sustainable Transport Management)

5.4 The Design & Townscape Guide (2009)

5.5 Community Infrastructure Levy (CIL) Charging Schedule (2015)

### **6 Planning Considerations**

6.1 The key considerations in relation to this application are the principle of the development, the planning history of the site, design and impact on the character of the area, impacts on residential amenity and CIL contributions. Due to the nature of the development which does not affect the requirements for on-site provision of parking or the existing parking arrangements, no material highway or parking issues are raised. The basis of the appeal decision on the previous application, together with the change in site circumstances since that original refusal, form material considerations of significant weight in the assessment of the amended proposal

## 7 Appraisal

### Principle of Development

- 7.1 The principle of extending the dwelling to provide facilities in association with residential accommodation is considered acceptable and was not a reason for refusal of the previous proposal. Other material planning considerations are discussed below.

### Design and Impact on the Character of the Area

- 7.2 Good design is a fundamental requirement of new development 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 also states that; *“the Borough Council is committed to good design and will seek to create attractive, high-quality living environments.”*
- 7.3 Paragraph 124 of the National Planning Policy Framework (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.”
- 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 Policy DM3 (5) also advises 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 through:*
- (i) The use of materials and detailing that draws reference from, and where appropriate enhances, the original building, and ensures successful integration with it; and*
  - (ii) Adopting a scale that is respectful and subservient to that of the original building and surrounding area; and*
  - (iii) Where alternative materials and detailing to those of the prevailing character of the area are proposed, the Council will look favourably upon proposals that demonstrate high levels of innovative and sustainable design that positively enhances the character of the original building or surrounding area.’*
- 7.6 According to Policy KP2 of Core Strategy 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”*.
- 7.7 The Design and Townscape Guide, Paragraphs 366 - 372 state that *‘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)’*

- 7.8 The application site is set within a residential area which is host to a distinctive character of small, traditional, mainly hipped roof bungalows. There are examples of roof additions and extensions in the streetscene, of varying types and scale, including hip to gable extensions and front and rear dormers which contribute to some extent to the overall generally mixed character of the streetscene and wider area.
- 7.9 The decision on the previously refused application found that the proposed roof additions proposed at the time, consisting of a hip to gable extension and rear and front dormers would result in material harm to the character and appearance of the dwelling and the streetscene due to the combined impact of the loss of the hipped roof to a gable-end roof and the introduction of a large, contrived, flat roof 'box' style dormer to the front and rear of little architectural merit.
- 7.10 Since the previous application the applicant has built a hip to gable extension and rear dormer under their permitted development rights so the only consideration for this current application is the impact of the proposed front dormer. It has been reduced in width by 0.6m to 4.2m from its previously proposed 4.8m width so retaining gaps of some 1.3m and 850mm to the flanks of the dwelling. The dormer would sit some 950mm above the eaves of the main roof.
- 7.11 It is considered that the form and scale of the proposed front dormer, noting the hip to gable and rear dormer, would, on balance, integrate satisfactorily in the extended front roof scape such that it would not harm the character or appearance of the dwelling, the streetscene or the wider area. Weight is also attached to how the design achieves a good relationship between ground floor fenestration and the vertical alignment and proportions of the dormer.
- 7.12 The use of external render to match the existing dwelling ensures that the development would integrate satisfactorily with the main dwelling and be visually acceptable. No objection is raised to the proposed front rooflight due to the minor nature of this part of the development and its position, facing into the public domain.
- 7.13 It is therefore considered that the proposal, on balance, would not significantly harm the character and appearance of the dwelling, the streetscene or the wider area. It is therefore acceptable and policy compliant and overcomes the previous reason for refusal in the above regards.

### **Impact on Residential Amenity**

- 7.14 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.*"
- 7.15 Given the scale and position of the proposal it would not result in any harmful dominance, overbearing impact, sense of enclosure or loss of light and outlook to the adjoining residents. The proposal would not extend past the extremities of the existing building lines so would not significantly harm the amenity of any other neighbouring occupiers through dominance, a sense of enclosure or loss of light or privacy. It is therefore considered that the development would not result in material harm to the residential amenity of any adjoining or nearby residents and is therefore acceptable and policy compliant in this respect. This is consistent with the previous decision.

## **CIL Charging Schedule**

- 7.16 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 regard to all material considerations assessed above, it is considered that subject to compliance with the attached conditions, the proposal 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. The proposal development would have an acceptable impact on the amenities of neighbouring occupiers and, on balance, on the character and appearance of the dwelling, the streetscene and the locality more widely. The proposal would not harm parking provision or highway safety. This application, which responds to the change in site circumstances following construction of development separately under permitted development, overcomes the sole relevant reason for refusal of the previous application and appeal. It is recommended for approval, subject to conditions.

## **9 Recommendation**

**GRANT PLANNING PERMISSION subject to the following conditions:**

- 1. 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.**

- 2. The development hereby permitted shall be carried out in accordance with the following approved plans: P01C, P02A.**

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

- 3. 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: In the interests of visual amenity and to ensure that the appearance of the building makes a positive contribution to the character and appearance of the area. This is as set out in the National Planning Policy Framework (2019), Core Strategy (2007) Policies KP2 and CP4, Development Management Document (2015) Policy DM1, and advice in the Southend-on-Sea Design and Townscape Guide (2009).**

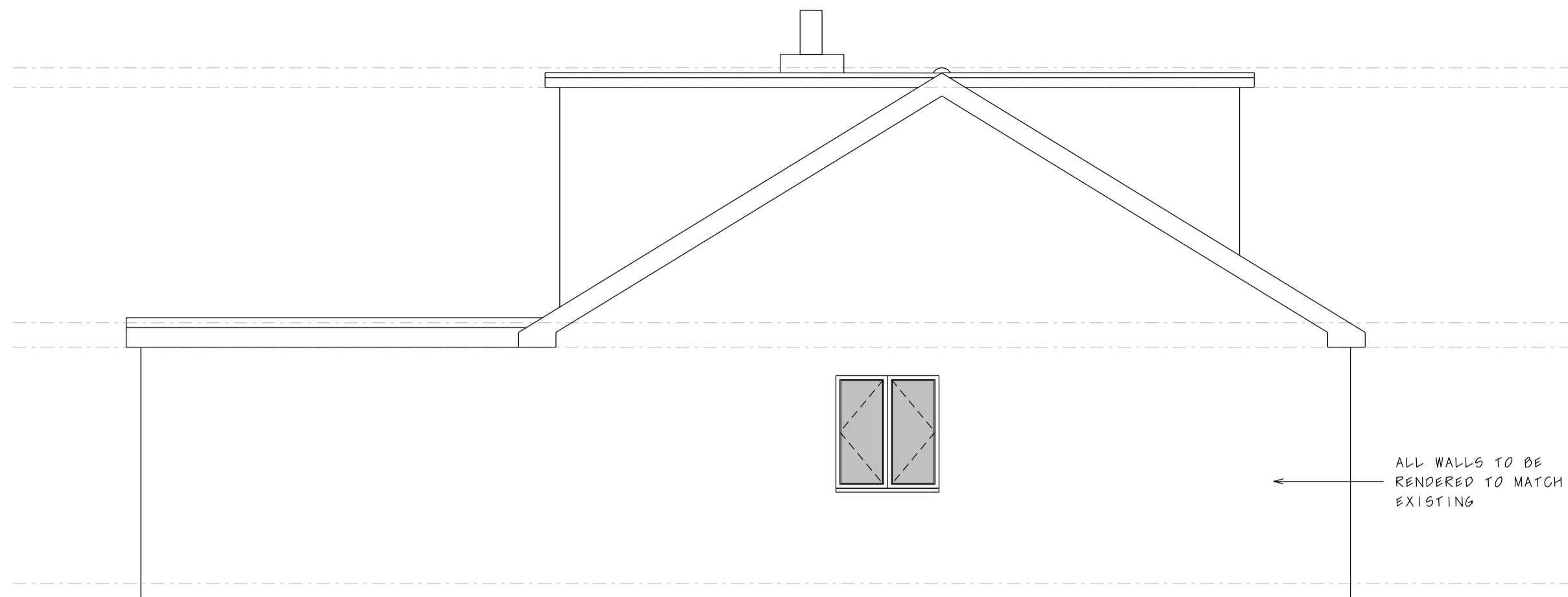


**The Local Planning Authority has acted positively and proactively in determining this application by assessing the proposal against all material considerations, including planning policies and any representations that may have been received and subsequently determining to grant planning permission 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.**

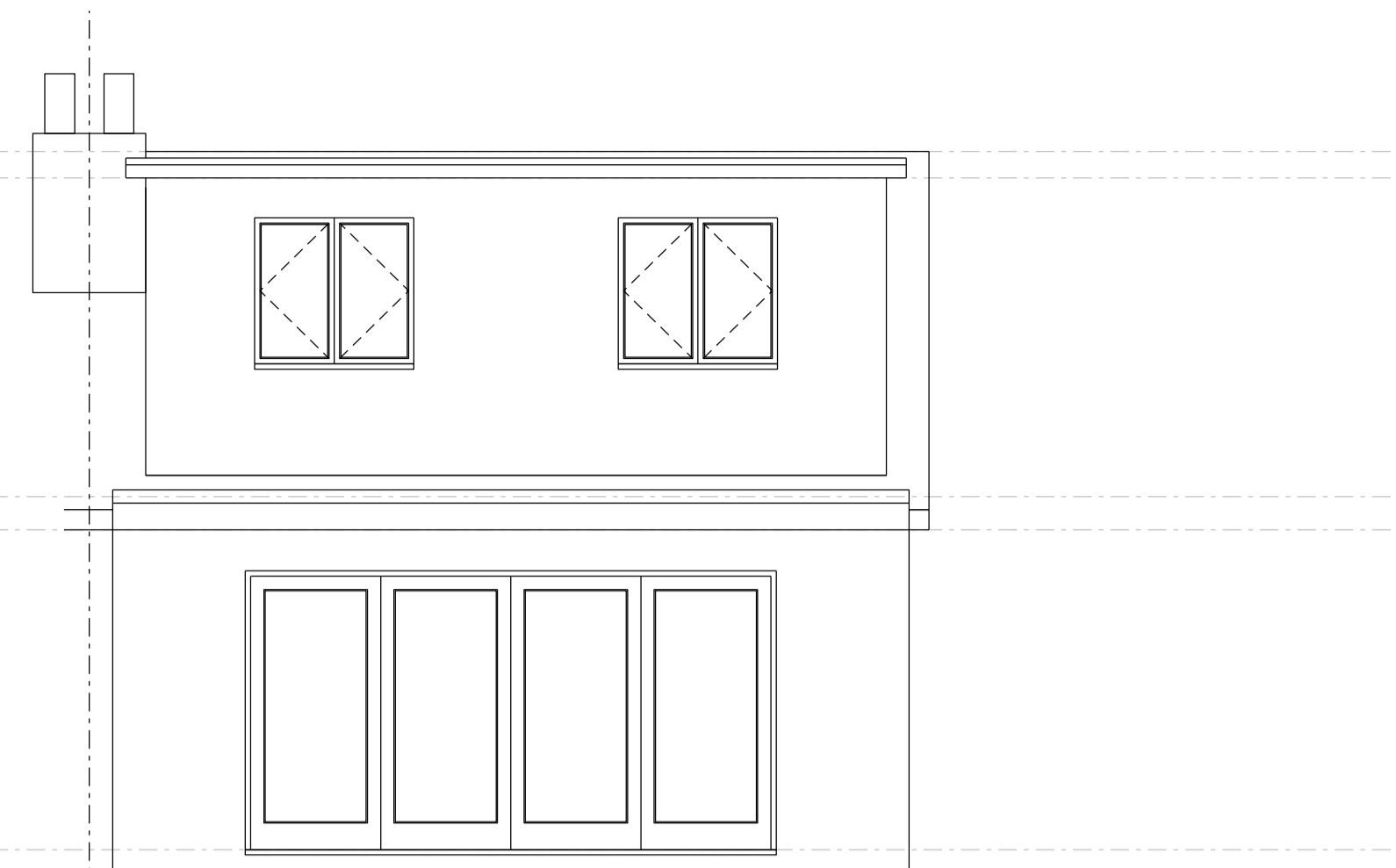
### **Informative**

- 1. 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](http://www.southend.gov.uk/cil) for further details about CIL.**
- 2. 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.**

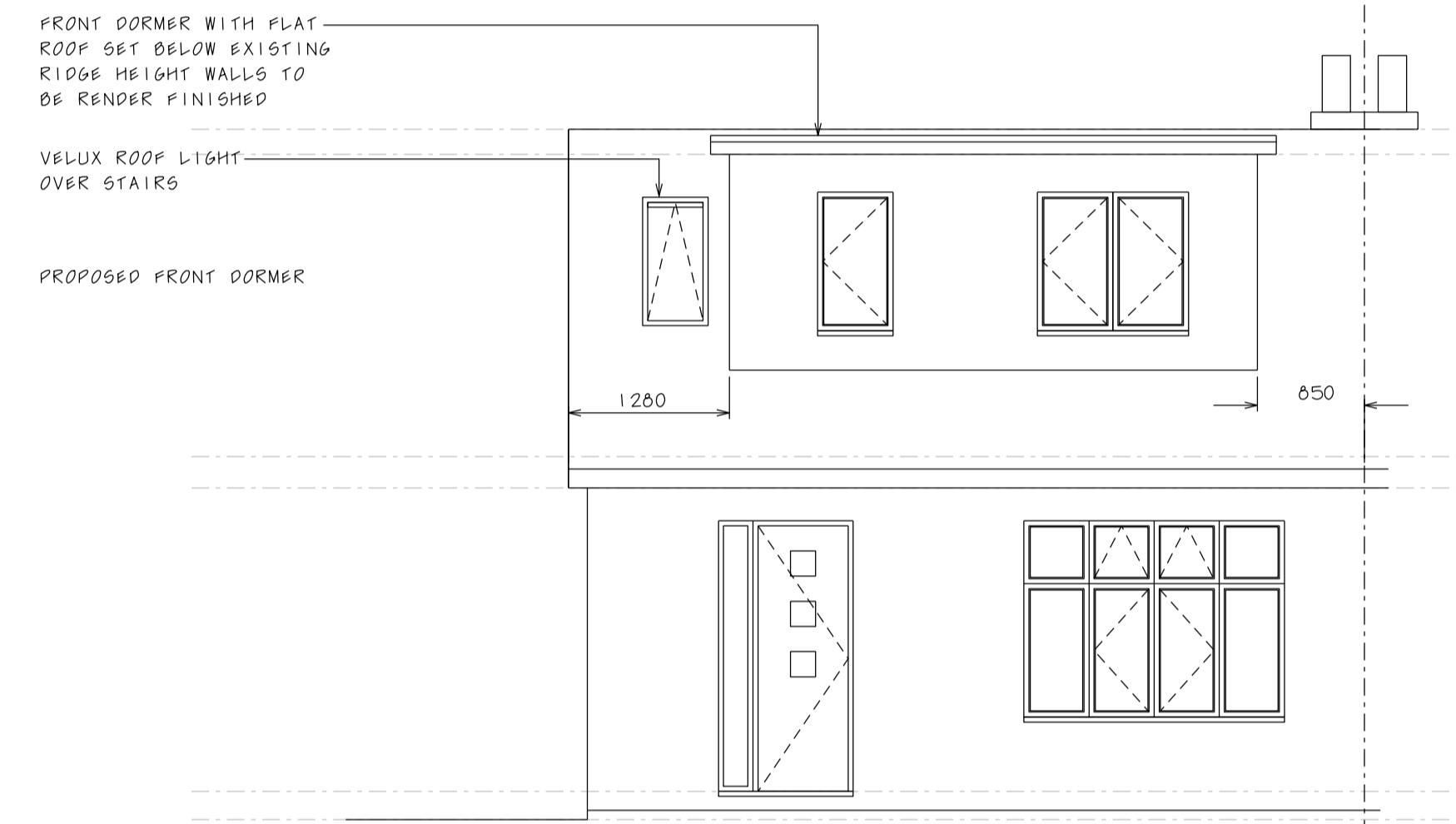
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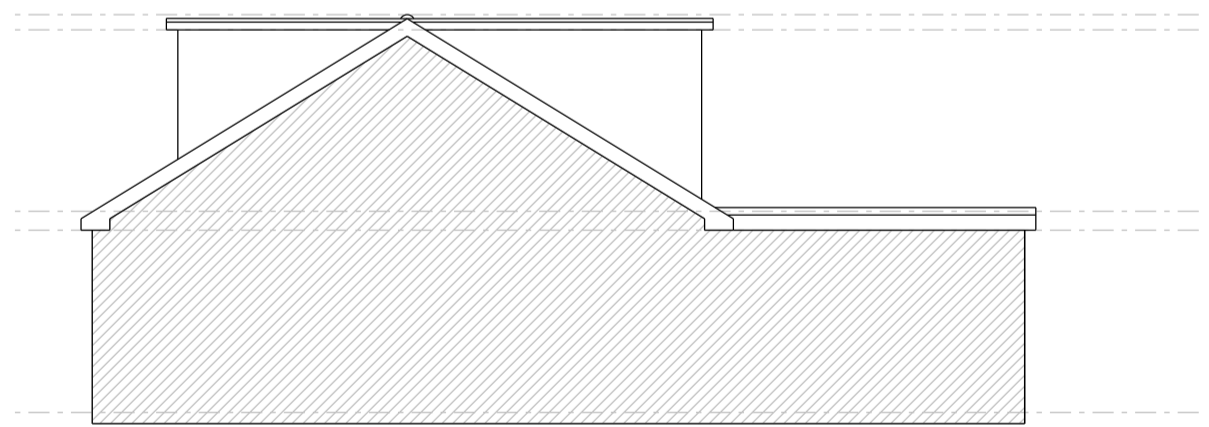
Proposed Side Elevation



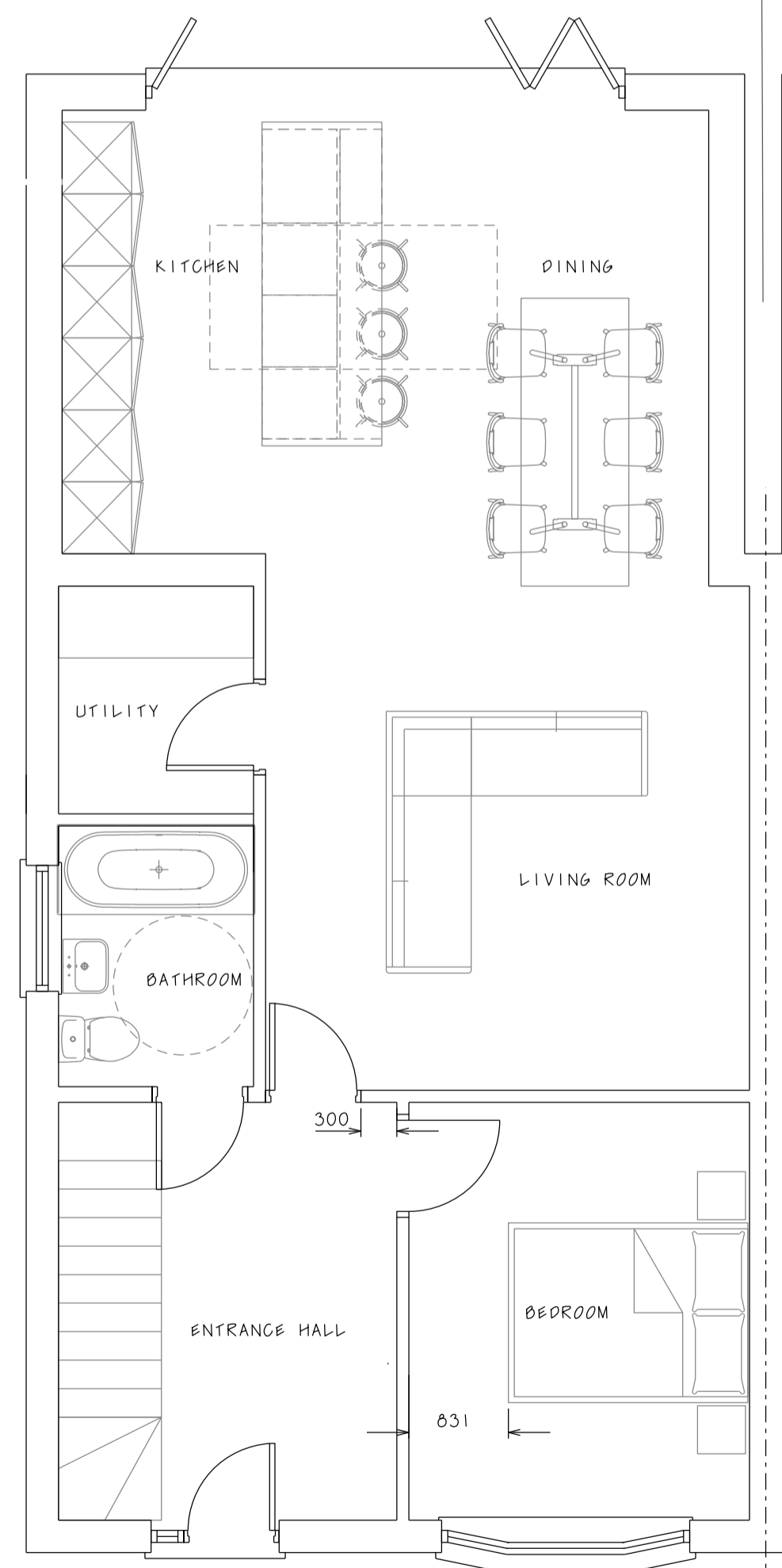
Proposed Rear Elevation



Proposed Front Elevation



Proposed Side Elevation



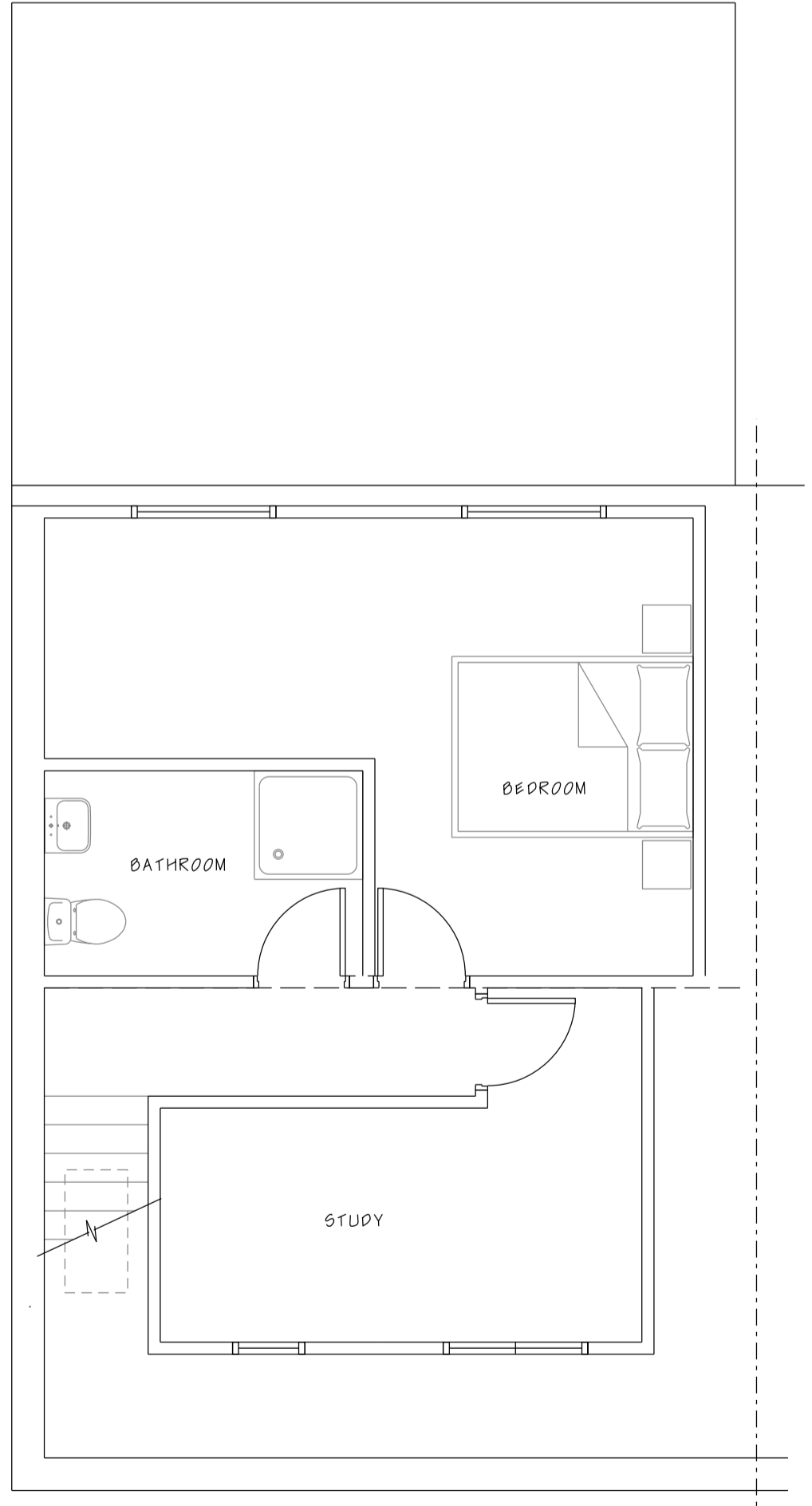
Proposed Ground Floor Plan

ALL WALL MOUNTED SWITCHES, SOCKETS AND CONTROLS TO BE LOCATED AT HEIGHTS TO ALLOW REASONABLY ACCESS

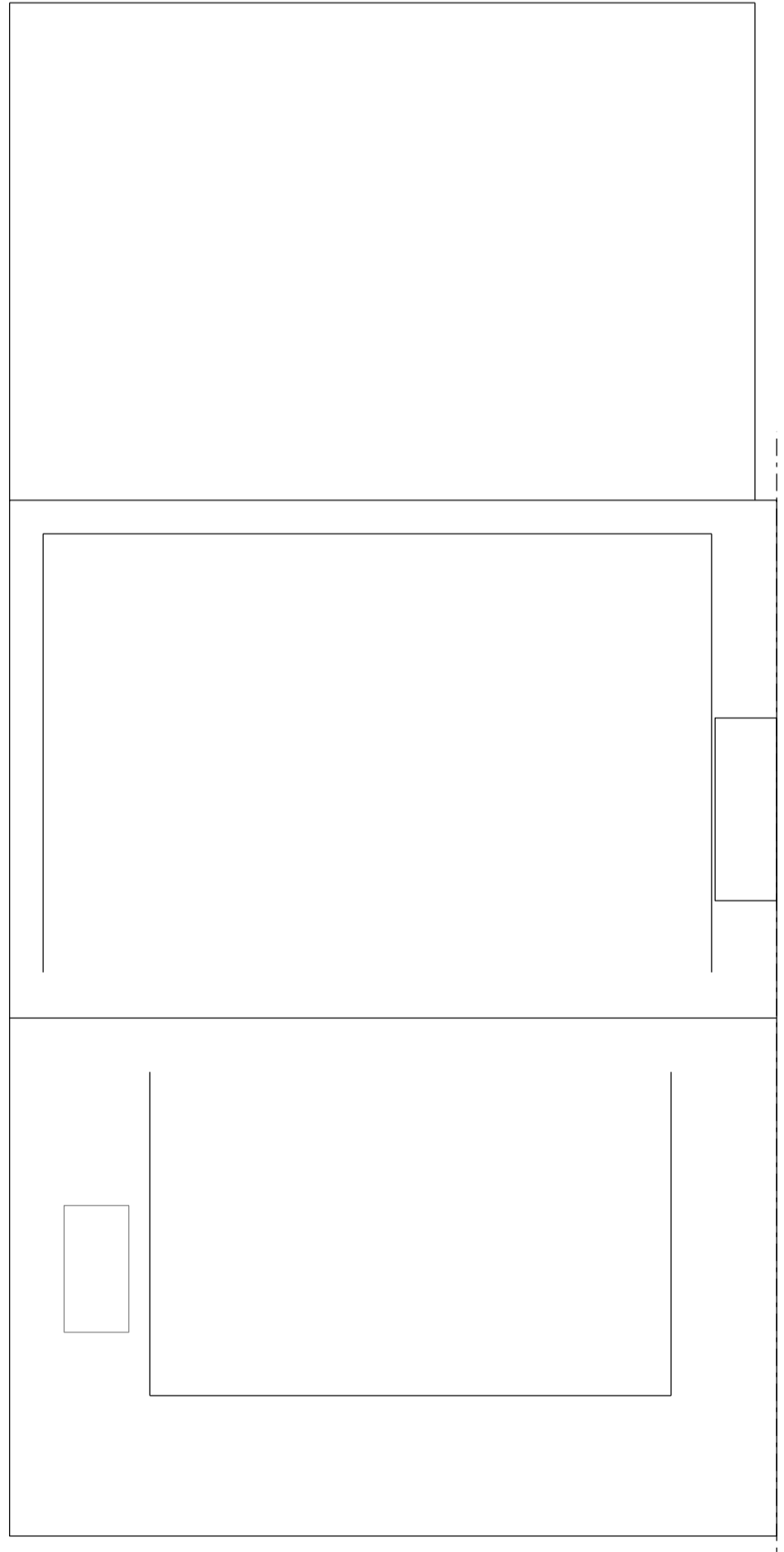
PROPOSED LAYOUT TO ALLOW FOR ADAPTATION TO MEET THE CHANGING NEEDS OF THE OCCUPANT OVER TIME AS AND WHEN REQUIRED

BEDROOM AND BATHROOM AT ENTRANCE STOREY STAIR TO ALLOW FOR STAIR LIFT AS AND WHEN REQUIRED

ENTRANCE MOVE TO FRONT TO ALLOW STEP FREE ACCESS WITH ASSOCIATED OFF STREET PARKING ON HARDSTANDING



Proposed First Floor Plan



Proposed Roof Plan

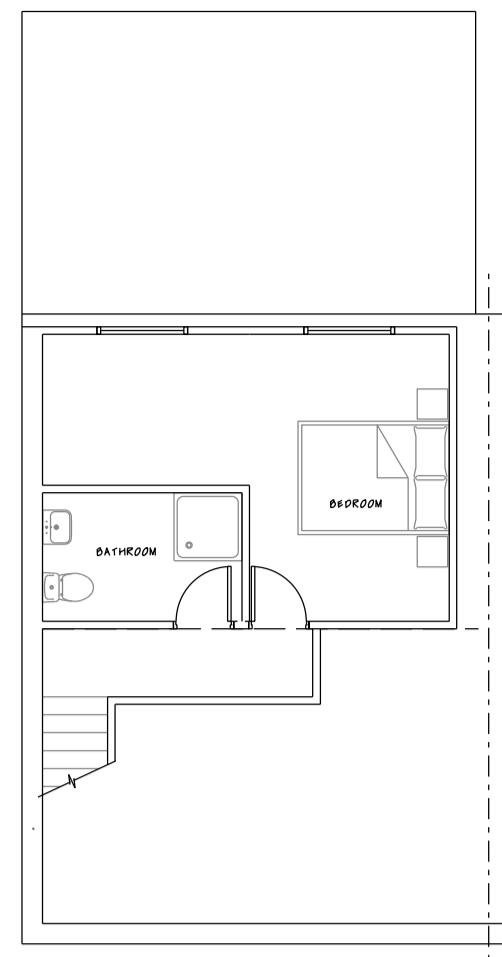
**pa d**  
 independent architectural services  
 52 Bailey Road Leigh on Sea Essex SS9 3PJ M:07790 069188

Project: 15 Bohemia Chase Leigh on Sea SS9 4PW  
 Client: Mr & Mrs Dore  
 Drawing title: Proposed Plans & Elevations

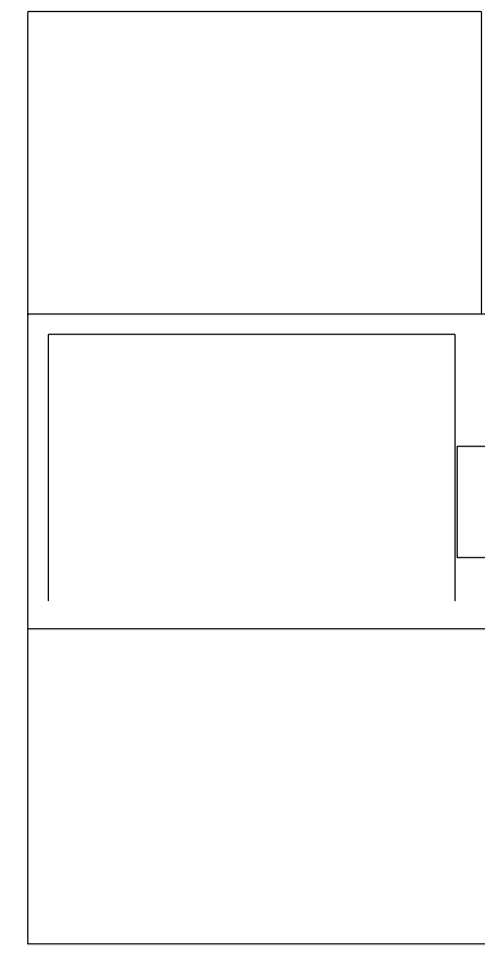
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 Project number 20 399 Drawing number P02 A  
 Status: Planning Approval

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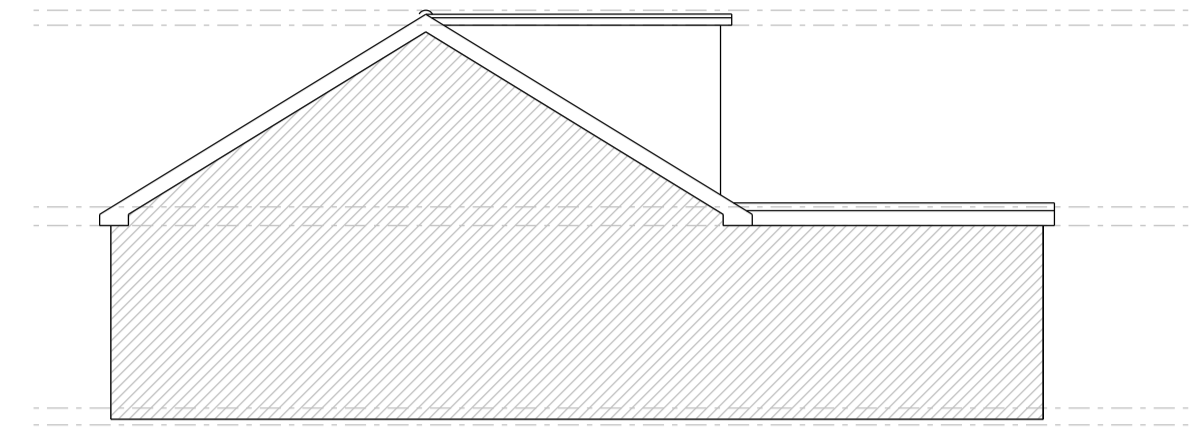
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Proposed First Floor Plan



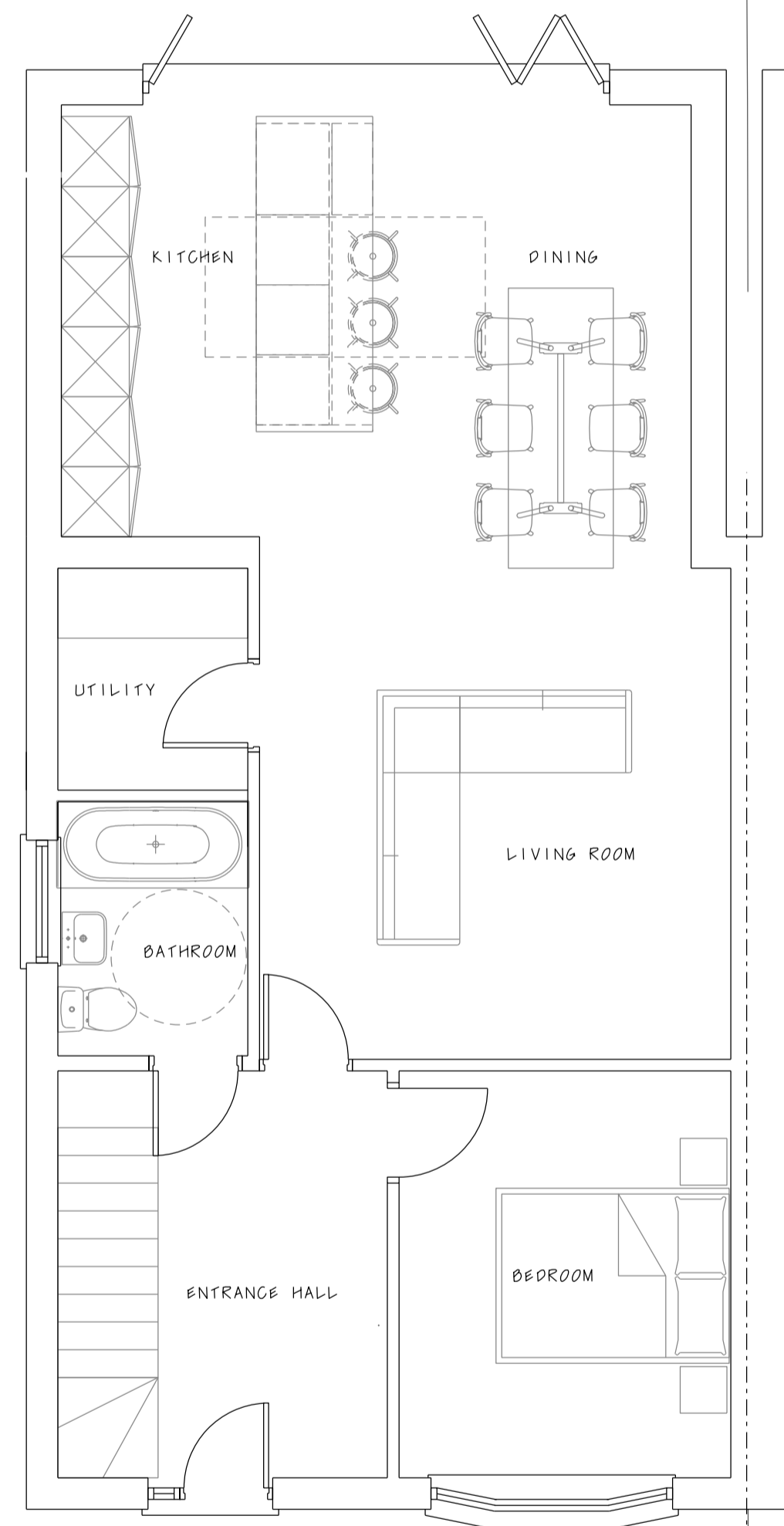
Existing Roof Plan



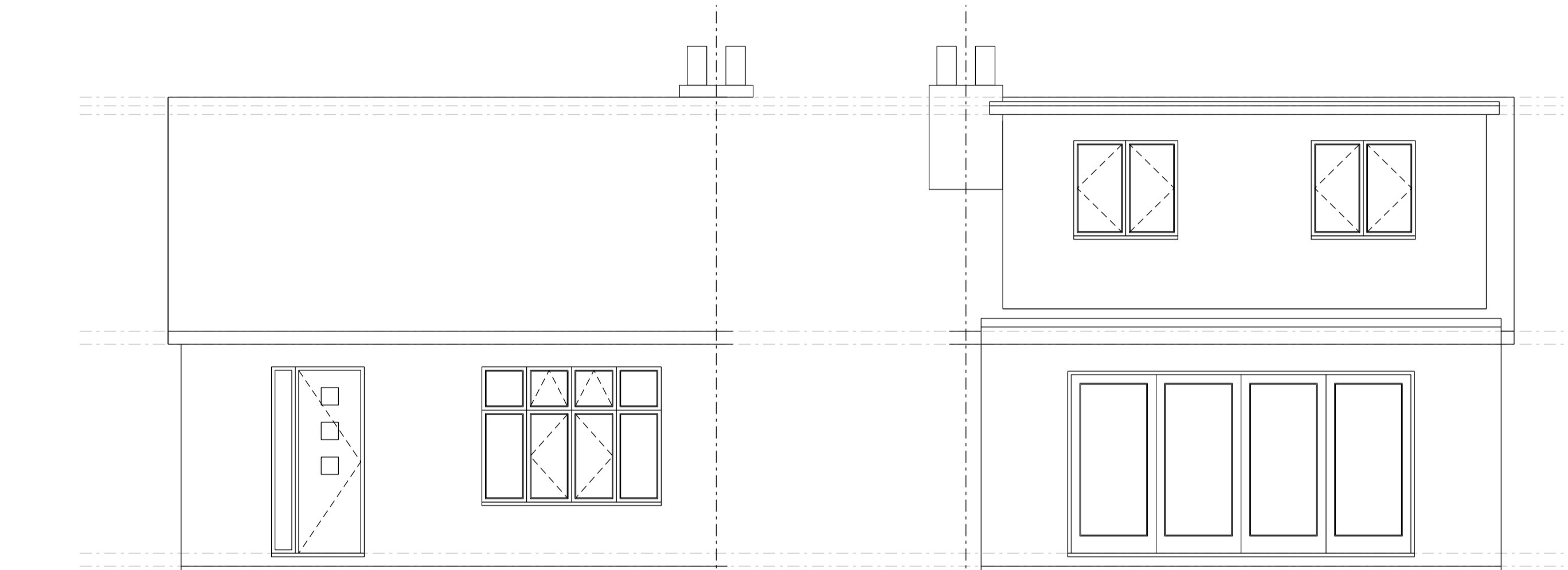
Existing Side Elevation



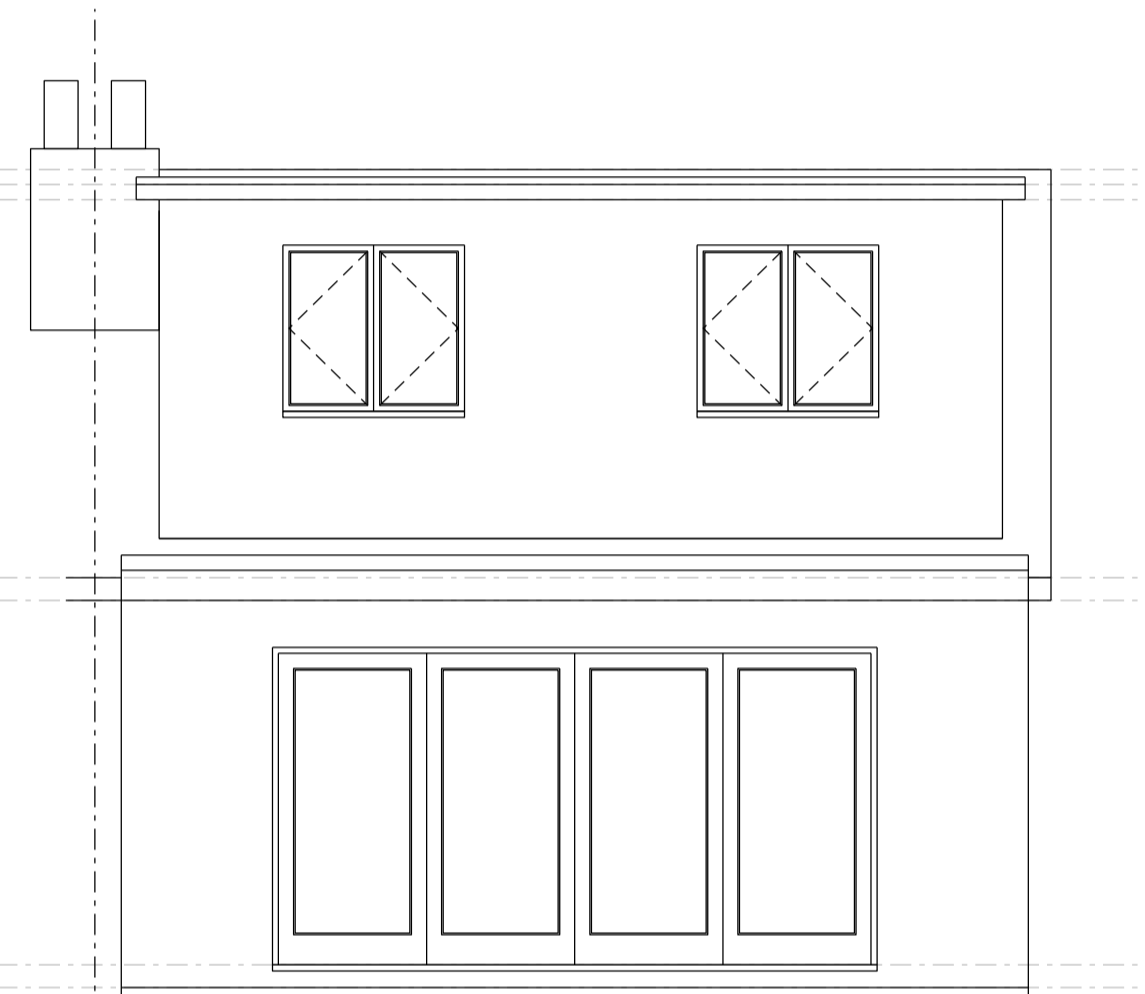
1:1250 Location Plan



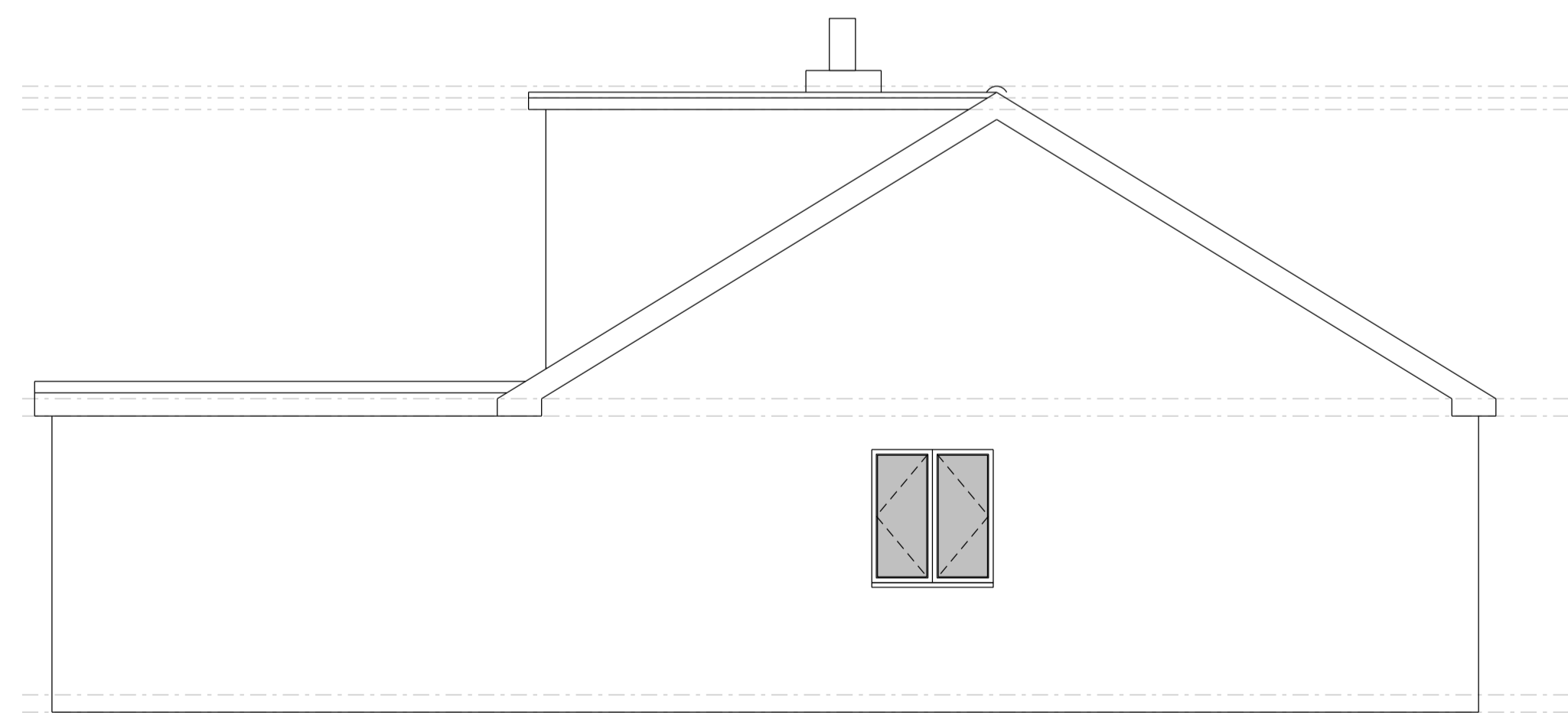
Existing Ground Floor Plan



Existing Front Elevation



Existing Rear Elevation



Existing Side Elevation



OFF STREET PARKING  
HARDSTANDING  
EXISTING CROSS OVER

1:200 Site Plan



EXISTING MATERIALS  
WALLS: KENSER  
ROOF: CLAY TILES  
WINDOWS: UPVC

**pa d**

Independent architectural services  
52 Bailey Road Leigh on Sea Essex SS9 3PJ M:07790 069188

Project: 15 Bohemia Chase Leigh on Sea SS9 4PW

Client: Mr & Mrs Dore

Drawing title: Existing Plans Elevations Site & Location Plans

Scale 1: 50@A1

Drawn by PSA

Project number 20 399 Drawing number P01C

Status: Planning Approval

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20/00767/FULH













<b>Reference:</b>	21/00641/FUL	<b>6</b>
<b>Application Type:</b>	Full Application	
<b>Ward:</b>	Kursaal	
<b>Proposal:</b>	Erect three storey building comprising of four self-contained flats with terraces to first floor east elevation, associated amenity space, parking, cycle spaces and refuse store	
<b>Address:</b>	Land At Marks Court Southend-On-Sea Essex	
<b>Applicant:</b>	RG Airspace Developments Limited	
<b>Agent:</b>	Davies Murch	
<b>Consultation Expiry:</b>	08.06.2021	
<b>Expiry Date:</b>	08.07.2021	
<b>Case Officer:</b>	Janine Rowley	
<b>Plan Nos:</b>	<b>WP-0758-A-0001 Revision A; WP-0758-A-0002 Revision A; WP-0758-A-0030 Revision A, WP-0758-A-0100 Revision B; WP-0758-A-0110 Revision B; WP-0758-A-0111 Revision B; WP-0758-A-0200 Revision B; WP-0758-A-0201 Revision B; WP-0758-A-0202 Revision B; WP-0758-A-0203 Revision B; WP-0758-A-0204 Revision B; WP-0758-A-0300 Revision B; Design and Access Statement Ref: WP-0758-A-DAS, Daylight and Sunlight Review by EB7 dates 24<sup>th</sup> March 2021, Covering Letter</b>	
<b>Recommendation:</b>	<b>Members are recommended to GRANT PLANNING PERMISSION, subject to conditions</b>	



## 1 Site and Surroundings

- 1.1 The site is located on the east side of Southchurch Avenue in Marks Court. The wider Marks Court site is a private cul-de-sac development comprising of 22 residential blocks and was constructed in circa 1990's. The majority of the blocks are 3 storeys with some ranging up to 4 storeys. The application site itself currently comprises of soft landscaping and 5 parking spaces. There are also cycle hoops on the site. These cycle hoops are not secure nor covered.
- 1.2 To the north east of the site are four storey blocks of flats forming the Kursaal estate. Communal grounds and soft landscaping surround the residential development with parking to the centre.
- 1.3 The site is not the subject of any site-specific policy designations however, the site is located close to the Kursaal Conservation Area and the grade II listed building – The Kursaal, which is some 80m from the proposed development. The site is located within the Central Seafront Policy Area of the SCAAP (Southend Central Area Action Plan).

## 2 The Proposal

- 2.1 Planning permission is sought to erect a three storey building comprising of four self-contained flats with terraces to first floor rear (east) elevation, associated amenity space, parking, cycle spaces and refuse store.
- 2.2 The proposed building would be some 11.5m high, some 9.9m wide and 15.7m deep. The building would be finished in red facing brickwork and would include balconies to the rear at first floor level only with privacy screens.

- 2.3 Access to the flats is proposed via a communal entrance to the front. There would be an internal lift serving all floors. Eight parking spaces are to be formed to the north reconfiguring the existing parking layout which currently has 5 parking spaces. Cycle and refuse stores are proposed to the rear of the site.
- 2.4 The internal floorspace for the proposed two-bedroom flats is as follows:
- Flat 1-61.1sqm 1 bedroom 2 persons  
 Flat 2-61.1sqm 2 bedrooms 3 persons  
 Flat 3-79.1sqm 2 bedrooms 4 persons (duplex unit over first and second floor)  
 Flat 3-79.1sqm 2 bedrooms 4 persons (duplex unit over first and second floor)
- 2.5 The two ground floor flats would each have access to a private garden area to the rear of the block measuring some 32.2sqm for the 1bedroom unit and some 40.4sqm for the 2 bedroom unit. Flats 3 and 4 would each benefit from private roof terraces each of some 17sqm.
- 2.6 The applicant has submitted details of the materials proposed. There are 4 tones of brick that are used within the wider Marks Court site and the proposed building will include brick colour in a brown tone relating to other standalone blocks on the site. A slate roof is proposed. It is not clear from the information submitted whether metal or timber windows are proposed.

### **3 Relevant Planning History**

- 3.1 The most relevant history to the site is as follows:
- 3.2 20/01501/TPO- Reduce crown by 4m and crown lift to 4m to T6 (G1) Sycamore tree, reduce crown by maximum 2.5m and crown lift to 4m to T7, T8 and T9 (G1) Sycamore trees, reduce crown by up to 2.5m to previous points of reduction and crown lift to 4m to T4 (T2) and T2 (T3) Horse Chestnut trees, reduce crown by up to 4m to previous points of reduction and crown lift to 4m to T1 (T5) Horse Chestnut tree (Application for works to trees covered by a Tree Preservation Order)- Consent granted
- 3.3 13/01127/TPO Prune one horse chestnut at land rear of 55 - 60 Marks Court (Application for works to trees covered by a Tree Preservation Order) Consent Granted
- 3.4 14/01940/TPO Reduce and lift crown to one horsechestnut and four sycamore trees (Application for works to trees covered by a tree preservation order) Consent Granted

## 4 Representation Summary Public Consultation

4.1 90 neighbouring properties were consulted, and a site notice displayed. 30 letters of objection have been received objecting on the following summarised grounds:

- Parking concerns.
- Residential amenity concerns.
- Design concerns – unacceptable and out of keeping.
- Loss of valuable green, recreational space and amenity space. Its loss will impact wildlife and children. Other areas of green space are not as private and close to busy roads and its loss could impact social distancing.
- Concerned that the proposed flats will be given private garden areas when no other flats within Marks Court have them.
- Impact on sewage infrastructure.
- Increased subsidence.
- Environmental impacts during construction - No parking for site workers and no site storage for any potential construction and the existing road not suitable for large construction vehicles.
- The impact on residents during construction has not been accounted for.
- Loss of privacy and overlooking.
- Impact daylight and outlook and would be overbearing.
- The new development has not taken into account deeds and leases on the existing Marks Court.
- Lack of parking and loss of parking with only three spaces provided for new residents. Concern that one of the spaces proposed would conflict with access to a substation. Concerns about amount of existing overall parking with one resident claiming that site has 132 flats and 134 parking spaces and another 132 flats and 130 parking spaces and that each flat is entitled to park 2 cars each.
- Increase congestion and traffic in the area.
- The daylight and sunlight report is insufficient to assess impact.
- Leaseholders have not been consulted on the proposals.
- Not enough separation distance between the new development and existing flats.
- Increased noise and disturbance.
- Loss of health and wellbeing and impact social cohesion.
- Loss of communal cycle storage. Existing cycle parking is unsecure and theft issues.
- Overdevelopment of site and density concerns.
- Local infrastructure would not be able to cope.
- Loss of turning area which would also impact delivery vehicles and the refuse lorry.
- Flats not needed in this location and concerns relating to dwelling mix, lack of family units and doesn't address need for affordable housing.
- Lack of disabled access.
- Contrary to planning policy.
- Developer profits.
- Lack of neighbour consultation.
- Inaccuracies within application.



Officer Comments: The concerns in the above representations are noted and where they refer to material planning considerations they have been taken into account in the assessment of the application. However, they have not been found to represent reasonable grounds which would justify a refusal of planning permission.

4.2 Councillor Dent has requested the application be dealt with by Development Control Committee.

4.3 **Environmental Health**

No objections subject to construction hours condition and waste management.

4.4 **Parks**

No objections subject to further detailing on any tree removal or vegetation removal to take place and any replacement planting.

4.5 **Essex County Fire Service**

No objections.

4.6 **Highways**

There are no highway objections to this proposal the site is located in a very sustainable location with regard to public transport with good links in close proximity. It is not considered that the proposal will have a detrimental impact on the local highway network.

**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 (Efficient and Effective Use of Land), DM5 (Southend-on-Sea's Historic Environment), DM8 (Residential Standards), and DM15 (Sustainable Transport Management)

5.4 Southend Central Area Action Plan (SCAAP) (2018) Policy CS1 (Central Seafront Policy Area),

5.5 Design & Townscape Guide (2009)

5.6 Vehicle Crossing Policy & Application Guidance (2014)

5.7 Community Infrastructure Levy (CIL) Charging Schedule (2015)

5.8 Waste Storage, Collection and Management Guide for New Developments (2019)

5.9 National Described Space Standards (2015)

5.10 Essex Coast Recreation disturbance Avoidance Strategy (RAMS) Supplementary Planning Document (2020)

## 6 Planning Considerations

- 6.1 The main considerations in relation to this application are the principle of the development, design, impact on character, the street scene and nearby heritage assets, residential amenity for future and neighbouring occupiers, traffic and parking implications, sustainability, Community Infrastructure Levy (CIL) and RAMS considerations.

## 7 Appraisal

### Principle of Development

- 7.1 Paragraph 117 of the NPPF 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.’*
- 7.2 Policy KP2 of the Core Strategy requires that *“all new development contributes to economic, social, physical and environmental regeneration in a sustainable way”* and seeks to *“make the best use of previously developed land, ensuring that sites and buildings are put to best use”*. Policy CP8 of the Core Strategy identifies the need for 6,500 homes to be delivered within the whole Borough between 2001 and 2021 and of these 550 should be provided in the sea front area. Policy CP8 also requires the provision of not less than 80% of residential on previously developed land.
- 7.3 Policy DM3 of the Development Management Document promotes *“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.”*
- 7.4 The provision of additional housing in this area is supported by Policy CP8 of the Core Strategy and Policy DM7 of the Development Management Document.
- 7.5 Policy DM3 (2) quotes 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”*.
- 7.6 Policy DM8 says that the Council seeks appropriate flexibility and dimensions within the internal accommodation to meet the changing needs of residents. Policy DM15 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. The Design and Townscape Guide seeks to promote a high quality of design in new developments.

- 7.7 Section 5.3 of the Design and Townscape Guide deals with infill development and it states:  
*“The size of the site together with an analysis of local character and grain will determine whether these sites are suitable for development. In some cases the site may be too small or narrow to accommodate a completely new dwelling (including useable amenity space and parking) and trying to squeeze a house onto the site would significantly compromise its design quality and be detrimental to neighbouring properties and local character. Unless an exceptional design solution can be found, infill development will be considered acceptable”. Where such development is acceptable in principle the Design and Townscape Guide states that it is important to draw strong references from surrounding buildings in terms of scale, frontage, materials and rhythm”.*
- 7.8 The existing site is an area of soft landscaping with a central planted area and grass together with parking spaces to be reconfigured to the north. The existing site is not designated as protected open space or a playing field. The surrounding area is characterised by residential development, specifically flat developments and as such a flat development is considered acceptable in this location in principle. It is not considered the proposed development will in principle harm the character and appearance of the area in terms of the grain of the area, location, size of the site, or impact on general character of the locality taking into account the existing number of flats within the wider site. The development will also provide additional dwellings, which is positive in the context of the boroughs housing needs.

### **Design and Impact on the Character of the Area and Heritage Assets**

- 7.9 In determining this application the Council has a statutory duty under section 16(2) of the Planning (Listed Buildings and Conservation Areas) Act 1990 to have special regard to the desirability of preserving listed buildings or their setting or any features of special architectural or historic interest which they possess and Section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 states that special attention should be paid to the desirability of preserving or enhancing the character and appearance of Conservation Areas.
- 7.10 Paragraph 195 of the NPPF states where a proposed development will lead to ‘substantial harm to (or total loss of significance of) a designated heritage asset, local planning authorities should refuse consent, unless it can be demonstrated that the substantial harm or total loss is necessary to achieve substantial public benefits that outweigh that harm or total loss...’
- 7.11 Paragraph 196 of the NPPF states ‘Where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal including, where appropriate, securing its optimum viable use.’
- 7.12 Policy DM5 seeks to protect the character and significance of the Borough’s heritage assets including listed buildings.

- 7.13 Good design is a fundamental requirement of new development 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 also states that *“the Borough Council is committed to good design and will seek to create attractive, high-quality living environments.”*
- 7.14 Paragraph 124 of the National Planning Policy Framework 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.’*
- 7.15 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”*.
- 7.16 Policy DM1 of the Development Management Document states that 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.”*
- 7.17 The Design and Townscape Guide states that *“The successful integration of any new development is dependent upon the appropriate scale, height and massing in relation to the existing built fabric. Buildings that are over scaled will appear dominant... the easiest option is to draw reference from the surrounding buildings.”*
- 7.18 Marks Court is a residential cul-de-sac development comprising of 22 residential blocks of flats located and accessed directly off Southchurch Avenue to the west of the site. Kursaal Way is located to the east. To the south of the site is this the Kursaal and the Kursaal Conservation Area and beyond is Eastern Esplanade and the Thames Estuary.
- 7.19 The proposed three storey development in this location would not appear out of keeping with the scale of the surrounding area which includes a majority of 3 storey ranging up to 4 storey blocks of flats. The overall height of 11.5m would not appear at odds with the surrounding development.
- 7.20 The building is set 4.5m away from the nearest building to the south and whilst set forward of the existing building it would not appear unduly prominent or at odds with the surrounding development given the staggered nature of the other residential blocks of flats in Marks Court. The siting of the development would not be prominent from the wider streetscenes given its design and location with the cul-de-sac of Marks Court. The overall appearance of the development is simple and matches the design of the windows, pitched roof design and materials of the existing blocks of flats in Marks Court and would therefore be in keeping with the surrounding development.

Whilst not identical to the other blocks of flats in the Marks Courts, there are existing variations within the blocks in Marks Court and the development would add to this variation and would not be out of keeping or incongruous. No objections are raised to the balcony features to the rear of the site in design terms given their location and nature.

- 7.21 The materials include a mix of slate and facing brickwork. These materials are considered to satisfactorily relate to the existing development adjacent to the site and full details of the materials can be secured via condition.
- 7.22 Whilst the development would result in the loss of a grassed area and a central area of soft landscaping, given that it is not designated as protected green space or a playing field, given the character of the area, and subject to a conditions requiring full details of new hard and soft landscaping, no objection is raised on this basis. It is also noted that there are a number of TPOs within and to the front of the existing Marks Court flats, however, given the location of the proposed development relative to the TPOs, it is considered that the development would not have an adverse impact on any of the preserved trees. It is also noted that the Council's parks team have raised no objection to the proposal in terms of impacts on trees or landscaping.
- 7.23 Given the separation of the site from the Conservation Area and the Kursaal grade II listed building to the south and the intervening development, it is considered that the proposal would not harm the character, appearance or setting of the Conservation Area or the character and appearance or setting of the Listed Building.
- 7.24 The proposed development is acceptable in terms of its design and policy compliant in the above regards.

### **Impact on Residential Amenity**

- 7.25 Policies DM1 and DM3 of the Development Management Document and CP4 of the Core Strategy refer to the impact of development on surrounding occupiers. High quality development, by definition, should provide a positive living environment for its occupiers whilst not having an adverse impact on the amenity of neighbours. Protection and enhancement of amenity is essential to maintaining people's quality of life and ensuring the successful integration of proposed development into existing neighbourhoods.
- 7.26 Policy DM1 of the Development Management requires that all development should (inter alia): *“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;”*

#### *Daylight/Sunlight*

- 7.27 There are guidelines (BRE) for assessing daylight and sunlight impacts of new development. The application is accompanied by a Daylight and Sunlight Review carried out by EB7 dated 21<sup>st</sup> March 2021. The report states that the primary habitable spaces of the existing properties are east and west facing with the flank windows serving a kitchenette to the rear of the main living space as well as a bathroom.

The block closest to the application site is 79-84 Marks Court which is located to the south of the application site. This block has a number of flank windows facing the application site, however, these windows are secondary windows or serve non-habitable rooms.

7.28 The submitted report sets out that the BRE criteria focus on the effects to the main habitable spaces which, given the outlook of the primary living room and bedrooms of 79-84 Marks Court will be wholly unaffected by the proposals. The report goes on to state as the proposal is situated to the north of the neighbouring blocks there will be no effect on direct sunlight levels. In respect of the central kitchenette this space also benefits from light from the primary western elevation through internal glazing into the main living area. The bay window elements serving the main living area are also oriented within 90 degrees of due south and so will enjoy direct sunlight in the afternoon hours which would be wholly unaffected by the proposals to the north. The report therefore concludes that this is an appropriate relationship with the neighbouring units given the unobstructed amenity levels to the main living space and the precedent set by the existing relationships between the other Marks Court units which have windows to the flank elevations.

7.29 Given the findings of this report and the nature of the layout of the existing blocks on the site, including that the flank windows within the closest block (79-84 Marks Court) are secondary windows or serve non-habitable rooms, it is considered that the development would maintain acceptable levels of daylight and sunlight to adjoining residents.

*Overlooking and loss of privacy*

7.30 The nearest properties to the north-east of the development are sited some 18m to 23.5m away in the Kursaal Way estate, the proposed development is located some 18m from the existing flats in Marks Court to the west and some 4.5m from No's 79-84 Marks Court to the south. All windows to the southern flank wall are proposed to be obscure glazed up to a height of 1.7m which can be controlled by condition to mitigate against any potential overlooking. In light of the above it is not considered the proposed development would have an adverse impact in terms of overlooking or loss of privacy on the residential amenities of nearby occupiers taking into account the separation distances and mitigation measures.

7.31 The proposed balconies to the rear elevation would be some 5.4m to 7m from the eastern boundary. To the immediate rear of the proposed flats are grassed areas that are already open to public gaze and a parking area. The applicant is proposing privacy screens to the north and south to mitigate against any potential overlooking which can be controlled by condition. Taking into account the separation distances to the nearest property to the east of the site, it is considered that the terraces proposed would not result in any significant overlooking or loss of privacy.

*Dominance, outlook and sense of enclosure*

7.32 The proposed block of flats extends the existing staggered building to the south. As such, the proposal would extend beyond the front elevation of the adjoining block to the south (79-84 Marks Court) by approximately 4m. However, the proposed block is set some 4.3m from the flank wall of No's 79-84 and it is also noted that the existing blocks to the south typically project some 6m forward of each other, some with no separation gaps.

Given the separations proposed, it is considered that the development would not result in any significant harm to any of the adjoining residents in terms of dominance, an overbearing impact, loss of outlook or material sense of enclosure.

*Noise and increased activity at the site.*

- 7.33 It is considered that the proposed residential use would not result in any significant harm to the neighbouring residents in terms of noise and disturbance. There would be an increase in vehicle movements along the private access way within Marks Court, however, given the scale of the development, the additional movements are not considered to result in significant harm in this respect. Furthermore, a condition can be attached to any grant of consent to requiring a construction management statement to be submitted and a condition can restrict the construction hours to protect the amenities of nearby residential occupiers during construction.

*Amenity space*

- 7.34 The existing blocks of flats in Marks Court benefit from communal garden areas with no private garden or terrace areas. The neighbour comments received raise a number of concerns relating to the loss of the grassed part of the application site as an amenity area and also identify concerns that the new dwellings will have private amenity areas, whereas the existing residents would not. Whilst these concerns are noted, taking account of the nature of the application site, which although grassed also includes a fairly large area of planting centrally reducing the space available for recreation significantly, they are not found to represent a reasonable basis to refuse planning permission. As identified above the existing space does not have any designations which provide it with specific protection. It is also noted that there are other areas of communal amenity space within the wider Marks Court development, including to the rear of the blocks to the south, with a large area to the rear of blocks 120-132 and a large area to the north of block 73-78. There are also areas to the west of the blocks to the west of the application site, although these areas are less private as they front onto Southchurch Avenue. It is considered that the loss of this space would not result in significant harm to the residential amenity of the occupiers of the existing units or that a reason for refusal on this basis could be justified at appeal.

*Summary*

- 7.35 It is considered that the design, size, siting and scale of the development proposed are such that it would not result in any significant harm to the amenities of the site, neighbouring occupiers or wider area in any regard subject to relevant conditions as discussed above. The proposal is therefore considered to be acceptable and policy compliant in terms of its amenity impacts.
- 7.36 Subject to conditions, the development would be acceptable and policy compliant in the above regards.

## Living Conditions

- 7.37 Delivering high quality homes is a key objective of the NPPF. Policy DM3 of the Development Management Document states that proposals should be resisted where they create a detrimental impact upon the living conditions and amenity of existing and future residents or neighbouring residents. It is considered that most weight should be given to the Nationally Described Space Standards (NDSS) that have been published by the government.
- 7.38 Minimum property size for single storey residential units are as follows; 50sqm (1 bedroom 2 persons), 61sqm (2 bedroom 3 persons), 79sqm (2 bedrooms 4 persons over 2 storeys).
- Bedroom Sizes: The minimum floor area for bedrooms to be no less than 7.5sqm for a single bedroom with a minimum width of 2.15m; and 11.5sqm for a double/twin bedroom with a minimum width of 2.75m or 2.55m in the case of a second double/twin bedroom.
  - Floorspace with a head height of less than 1.5 metres should not be counted in the above calculations unless it is solely used for storage in which case 50% of that floorspace shall be counted.
  - A minimum ceiling height of 2.3 metres shall be provided for at least 75% of the Gross Internal Area.
- 7.39 Weight should also be given to the content of policy DM8. These include standards relating to private outdoor amenity space, cycle storage and refuse facilities.
- 7.40 The proposed flats each exceed the minimum sizes required by the NDSS standards. All habitable rooms will be provided with suitable fenestration to provide adequate levels of light and outlook for future occupiers. The Daylight and Sunlight report submitted also considers the internal living environment of the future occupiers and concludes that the internal daylight and sunlight provision are acceptable. The proposal is therefore acceptable and policy compliant in this respect.
- 7.41 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. An internal lift has been incorporated into the development and the applicant has confirmed that the design is compliant with Part M4 (2) of the Building Regulations. Subject to a condition in this respect the development is considered to provide acceptable living conditions in this regard.
- 7.42 Policy DM8 of the Development Management Document states that all new dwellings must make provision for useable private outdoor amenity space for the enjoyment of intended occupiers; for flatted schemes this can take the form of a balcony or semi-private communal amenity space. The Design and Townscape Guide states: "*Outdoor space significantly enhances the quality of life for residents and an attractive useable garden area is an essential element of any new residential development*".



- 7.43 The ground floor flats would have dedicated, private rear garden areas and the upper storey duplex units would have private rear terraces. This would provide adequate living conditions for the future occupiers of the proposed units.
- 7.44 The proposal is considered acceptable and policy compliant in the above regards.

### **Traffic and Transportation Issues**

- 7.45 Policy DM15 states that each flat should be served by one parking space. It also states: *“All development should meet the parking standards (including cycle parking) set out in Appendix 6. Residential vehicle parking standards may be applied flexibly where it can be demonstrated that the development is proposed in a sustainable location with frequent and extensive links to public transport and/ or where the rigid application of these standards would have a clear detrimental impact on local character and context. Reliance upon on-street parking will only be considered appropriate where it can be demonstrated by the applicant that there is on-street parking capacity”*.
- 7.46 The proposal would include the reconfiguration of the parking layout to retain the 5 existing spaces and to provide three additional parking spaces for the 4 flats. Taking into account that 1 unit is a 1-bedroom unit and the central location of the site with access to public transport, shops and services within the Town Centre, no objection is raised in accordance with policy DM15 of the Development Management Document. No objection has been raised by the Highways officer who comments that the site is located in a very sustainable location with regard to public transport with good links in close proximity.
- 7.47 It is noted that neighbours have raised concerns that 1 of the existing spaces to the north of the application site is not a parking space but an access to the substation. However, the existing 5 spaces (which includes the area in front of the substation) will be replaced, with an additional 3 spaces for the proposed new flats.
- 7.48 Overall, it is not considered that the proposal will have a detrimental impact on the local highway network and there is sufficient space to manoeuvre and enable vehicles to enter and exit in forward gear from parking areas. The proposal would not harm highway safety and be in accordance with planning policy in this regard.
- 7.49 The location of cycle parking and refuse storage facilities are shown on the submitted drawings. It is proposed to provide a refuse store for the proposed flats to the north of the proposed building, behind the car park. A cycle store for the upper storey units is also proposed in this location. The ground floor units would have cycle storage within their rear garden areas. This is considered acceptable and can be secure via condition.
- 7.50 There is an existing communal cycle parking rack within the application site. This cycle rack does not appear to be heavily used and it is noted that it is not secure or covered which is unfortunate. It is considered that there is space within the site to re-provide this facility and there is an opportunity to improve the facility by making it covered and secured which would be a positive aspect of the development. Subject to a condition requiring the re-provision of the cycle parking for the wider Marks Court development, no objection is raised on this basis.

7.51 Subject to conditions to secure these facilities, the proposal is acceptable and policy compliant in the above regards.

### **Sustainability**

7.52 Policy KP2 of the Core Strategy states: *“All development proposals should demonstrate how they will maximise the use of renewable and recycled energy, water and other resources. This applies during both construction and the subsequent operation of the development. 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), such as those set out in Design and Townscape Guide”.*

7.53 No information has been provided regarding proposed renewable energy to demonstrate how the proposal meets the 10% policy requirement. However, these details can be secured by condition.

7.54 Policy DM2 (iv) of the Development Management Document requires all new development to provide *“water efficient design measures that limit internal water consumption to 105 litres per person per day (lpd) (110 lpd when including external water consumption). Such measures will include the use of water efficient fittings, appliances and water recycling systems such as grey water and rainwater harvesting.”* Details have not been submitted for consideration with the application however this can be dealt with by condition.

7.55 Subject to conditions, the proposal is acceptable and policy compliant in the above regards.

### **Flooding and Surface Water Drainage**

7.56 National policy requires that any development is safe from flooding and does not increase the risk of flooding elsewhere. Adequate drainage needs to be installed to ensure that there is no increased risk of flooding on site or elsewhere. Details of drainage arrangements incorporating principles of Sustainable Drainage Systems can be required by condition. Subject to such a condition, which is included in those recommended, the development is found to be acceptable and policy compliant in these regards.

### **Essex Coast Recreational disturbance Avoidance Mitigation Strategy (RAMS) and Ecology**

7.57 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. Any new residential development 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. The RAMS Supplementary Planning Document (SPD) which was adopted by Full Council in October 2020 requires that a tariff of £127.30 (index linked) is paid per dwelling unit.

This will be transferred to the RAMS accountable body in accordance with the RAMS Partnership Agreement. The applicant has made the relevant payment and the proposed development is therefore acceptable and compliant with the adopted RAMS Supplementary Planning Document SPD.

- 7.58 It is considered that the proposal would not result in any significant adverse impact on ecology with this payment and the conditions recommended.

### **Community Infrastructure Levy (CIL)**

- 7.59 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. The application site is located within Zone 1 therefore a CIL rate of £25.62per sqm is required for the proposed development. The proposed development equates to approximately 275.2sqm of new residential floorspace which may equate to a CIL charge of approximately £7,049.35 (subject to confirmation). Any existing floor area that is being retained/demolished that satisfies the "in-use building" test, as set out in CIL Regulation 40, may be deducted from the chargeable area thus resulting in a reduction in the chargeable amount.

## **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 principle of the development is found to be acceptable, and it is positive that the scheme provides additional housing of a suitable quality for the Borough. The proposal would have an acceptable impact on the amenities of neighbouring occupiers and the character and appearance of the application site, the street scene and the locality more widely. Taking into account the location of the site, with access to public transport and local amenities, the highways and parking impacts of the proposal are acceptable. The proposal makes a contribution to the housing needs of the borough which must be weighed in the planning balance, albeit the weight to be attached to this would be limited in this instance in view of the number of units involved. This application is therefore recommended for approval subject to conditions.

## **9 Recommendation**

- 9.1 **MEMBERS ARE RECOMMENDED TO 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: WP-0758-A-0001 Revision A; WP-0758-A-0002 Revision A; WP-0758-A-0003 Revision A; WP-0758-A-0100 Revision B; WP-0758-A-0110 Revision B; WP-0758-A-0111 Revision B; WP-0758-A-0200 Revision B; WP-0758-A-0201 Revision B; WP-0758-A-202 Revision B; WP-0758-A-0203 Revision B; WP-0758-A-0204 Revision B; WP-0758-A-0300 Revision B; WP-0758-A-DAS.

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

**03** Notwithstanding the details shown on the plans submitted and otherwise hereby approved the development hereby permitted shall not commence other than for groundworks and site preparation works unless and until details and appropriately sized samples of the materials to be used for all the external surfaces of the proposed building at the site including for elevations, brickwork, glazing, doors, windows and roofing materials have been submitted to and approved in writing by the Local Planning Authority. The development hereby permitted shall be implemented in full accordance with the details and samples approved under this condition before it is occupied.

**Reason:** In the interests of visual amenity and to ensure that the appearance of the building makes a positive contribution to the character and appearance of the area. This is as set out in the National Planning Policy Framework (2019), Core Strategy (2007) Policies KP2 and CP4, Development Management Document (2015) Policies DM1 and DM3, and the guidance contained within the Design and Townscape Guide (2009).

**04** Prior to the first occupation of the dwellings hereby approved, full details of both hard and soft landscaping works to be carried out at the site must be submitted to and approved in writing by the Local Planning Authority. The approved hard landscaping works shall be carried out in accordance with the approved details prior to first occupation of the development and the soft landscaping works within the first planting season following first occupation of the development. The details submitted shall include, but not limited to:-

- i.** means of enclosure, of the site including any gates or boundary fencing;
- ii.** car parking layouts;
- iii.** other vehicle and pedestrian access and circulation areas;
- iv.** hard surfacing materials;
- v.** details of the number, size and location of the trees, shrubs and plants to be retained and planted together with a planting specification.
- vi.** details of measures to enhance biodiversity within the site;

Any trees or shrubs dying, removed, being severely damaged or becoming seriously diseased within five years of planting shall be replaced with trees or shrubs of such size and species as may be agreed with the Local Planning Authority

**Reason: In the interests of visual amenity and the amenities of occupiers and to ensure a satisfactory standard of landscaping pursuant to Policy CP4 of the Core Strategy (2007) and Policy DM1 of the Development Management Document (2015).**

- 05 Notwithstanding the details shown on the plans submitted and otherwise hereby approved, the development hereby permitted shall not be first occupied unless and until a car park management plan has been submitted to and approved in writing by the local planning authority. The car park management plan must be implemented in full accordance with the details approved under this condition prior to first occupation of any part of the development hereby approved and shall be maintained as such in perpetuity.**

**Reason: To ensure that adequate car parking arrangements are provided to serve the development in accordance with Policy DM15 of the Council's Development Management Document (2015) and Policy CP3 of the Core Strategy (2007).**

- 06 A scheme detailing how at least 10% of the total energy needs of the development will be supplied using on site renewable sources must be submitted to and agreed in writing by the Local Planning Authority prior to occupation of the development hereby approved and implemented in full prior to the first occupation of the development. This provision shall be made for the lifetime of the development.**

**Reason: In the interests of providing sustainable development in accordance with Policy KP2 of the Core Strategy (2007) and Development Management Document (2015) Policy DM2.**

- 07 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 (2019), Core Strategy (2007) policy KP2, Development Management Document (2015) policy DM2 and the guidance within the Design and Townscape Guide (2009).**

- 08 Demolition or construction works associated with this permission shall not take place outside 08:00 hours to 18:00 hours Mondays to Fridays and 08:00 hours to 13:00 hours on Saturdays and at no time Sundays or Bank or Public Holidays.**

**Reason: In order to protect the amenities of surrounding occupiers and to protect the character of the area in accordance with Policies KP2 and CP4 of the Core Strategy (2007) and Policies DM1 and DM3 of the Development Management Document (2015).**

**09** The existing cycle parking facilities on the site which serves the existing Marks Court dwellings shall not be removed unless and until details of the re-provision of the cycle parking has been submitted to and approved in writing by the local planning authority. Prior to the removal of the existing cycle parking facilities, the approved cycle parking facilities to serve the existing Marks Court dwellings shall have been provided in accordance with the approved details and retained as such in perpetuity thereafter.

**Reason:** In the interests of residential amenity for the existing occupants and 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).

**10** Prior to the first occupation of the development hereby approved, full details of refuse, recycling and secure covered bicycle storage facilities for the flats hereby approved and shall be submitted to and approved in writing by the Local Planning Authority. Prior to first occupation of the development, the refuse, recycling 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 refuse and recycling stores 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).

**11** Notwithstanding the details shown in the plans submitted and otherwise hereby approved, the flats hereby granted consent shall not be occupied unless and until plans and other appropriate details are submitted to the Local Planning Authority and approved in writing which specify all windows in the proposed flats to be permanently glazed with obscured glass (to at least Level 4 on the Pilkington Levels of Privacy, or such equivalent) and fixed shut or provided with only a fanlight opening and the manner and design in which these windows are to be implemented. Before the dwellings hereby approved are occupied the development shall be implemented in full accordance with the details and specifications approved under this condition and shall be permanently retained as such thereafter.

**Reason:** To safeguard the privacy and amenities of occupiers of neighbouring residential properties and the future occupiers of the proposed residential dwellings, in accordance with the National Planning Policy Framework (2019), Core Strategy (2007) policy CP4, Development Management Document (2015) policy DM1 and advice contained in The Design and Townscape Guide (2009).

**12** Notwithstanding the details shown in the plans submitted and otherwise hereby approved the development hereby granted consent shall not be occupied or brought into use unless and until plans and other appropriate details are submitted to the Local Planning Authority and approved in writing which specify the size, design, materials, specification and location of all privacy screens and panels to be implemented as part of the development. The development hereby permitted shall be implemented and completed in full accordance with the details approved under this condition before it is first occupied or brought into use and shall be permanently retained as such thereafter.

**Reason:** To safeguard the privacy and amenities of occupiers of neighbouring residential properties and the future occupiers of the proposed residential dwelling in accordance with 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).

**13** Notwithstanding the details submitted and otherwise hereby approved, the development hereby approved shall be constructed to ensure that all the dwellings comply with building regulation M4 (2) “accessible and adoptable dwellings” prior to their first occupation.

**Reason:** To ensure the dwelling houses hereby approved provide high quality and flexible internal layouts to meet the changing needs of residents in accordance with the National Planning Policy Framework (2019), Core Strategy (2007) Policy KP2, Development Management Document (2015) Policy DM2 and Design and Townscape Guide (2009).

**14** No development shall take place, including any works of demolition, until a Construction Method Statement has been submitted to, and approved in writing by, the local planning authority. The approved Statement shall be adhered to throughout the construction period. The Statement shall provide for:

- i. the parking of vehicles of site operatives and visitors**
- ii. loading and unloading of plant and materials**
- iii. storage of plant and materials used in constructing the development**
- iv. the erection and maintenance of security hoarding including decorative displays and facilities for public viewing, where appropriate**
- v. wheel washing facilities**
- vi. measures to control the emission of noise, dust and dirt during construction**
- vii. a scheme for recycling/disposing of waste resulting from demolition and construction works**

**Reason:** This pre-commencement condition is needed to minimise the environmental impact and disturbance to existing residents, during construction of the development in accordance with National Planning Policy Framework (2019), Core Strategy (2007) policies KP2 and CP4; and Development Management Document (2015) policies DM1 & DM3.

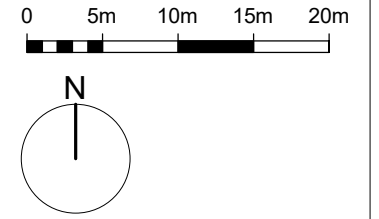
- 15** Notwithstanding the information submitted and details shown on the plans submitted and otherwise hereby approved, no construction works other than demolition and excavation works, shall take place unless and until a drainage and surface water management strategy incorporating principles for Sustainable Drainage Systems (SuDS) has been submitted to and approved in writing by the Local Planning Authority. The drainage and surface water management strategy shall be implemented in full accordance with the details approved under this condition before the development hereby approved is first occupied or brought into first use.

**Reason:** To ensure the approved development does not increase flood risk elsewhere in accordance with National Planning Policy Framework (2019), Core Strategy (2007) Policies KP1, KP2 and KP3.

**Informatives:**

- 01** Please note that the development the subject of this application is liable for a charge under the Community Infrastructure Levy Regulations 2010 (as amended). A Community Infrastructure Levy (CIL) Liability Notice will be issued as soon as practicable following this decision notices. This contains details including the chargeable amount when this is payable and when and how exemption or relief on the charge can be sought. You are advised that a CIL Commencement Notice (CIL Form 6) must be received by the Council at least one day before commencement of development. Receipt of this notice will be acknowledged by the Council. Please ensure that you have received both a CIL Liability Notice and acknowledgement of your CIL Commencement Notice before development is commenced. Most claims for CIL relief or exemption must be sought from and approved by the Council prior to commencement of the development. Charges and surcharges may apply, and exemption or relief could be withdrawn if you fail to meet statutory requirements relating to CIL. Further details on CIL matters can be found on the Council's website at [www.southend.gov.uk/cil](http://www.southend.gov.uk/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.
- 03** The applicant is encouraged to provide electric vehicle charging points at the site in accordance with Policy DM15 which encourages their provision wherever practical and feasible.
- 04** The applicant's attention is drawn to condition 09 which requires the replacement of the existing cycle parking which serves the wider Marks Court development as part of this proposal. The applicant is encouraged to consider replacing the existing hoops with covered and secure cycle parking which would make this cycle storage more usable.





OUTING CLOSE

SOUTHCHURCH AV

MARKS COURT

B	17/05/21	Planning Update
A	23/03/21	Planning Issue

Revision	Date	Description
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project  
**Marks Court**

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drawing title  
**Proposed Site Plan**

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drawing number <b>WP-0758-A-0100</b>	revision <b>B</b>
scale @ A3 <b>1 : 500</b>	first issue date <b>23/03/2021</b>

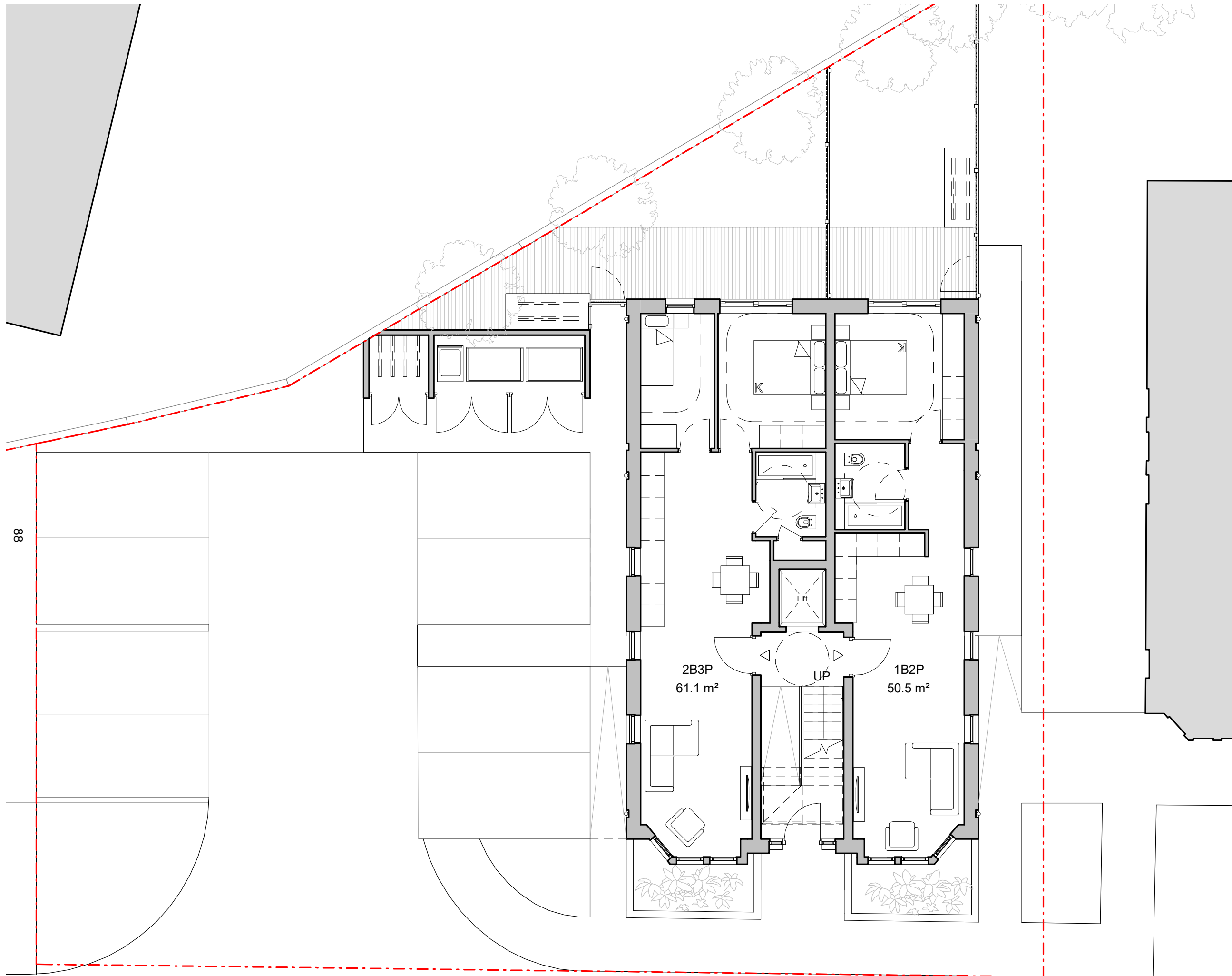
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drawing purpose  
**PLANNING**

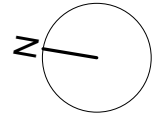
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0 1m 2m 3m



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A	23/03/21	Planning Issue

Revision Date Description

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project  
Marks Court

drawing title  
Proposed Plans - Sheet 1 of 2

drawing number  
WP-0758-A-0110

revision  
B

scale @ A3  
1 : 100

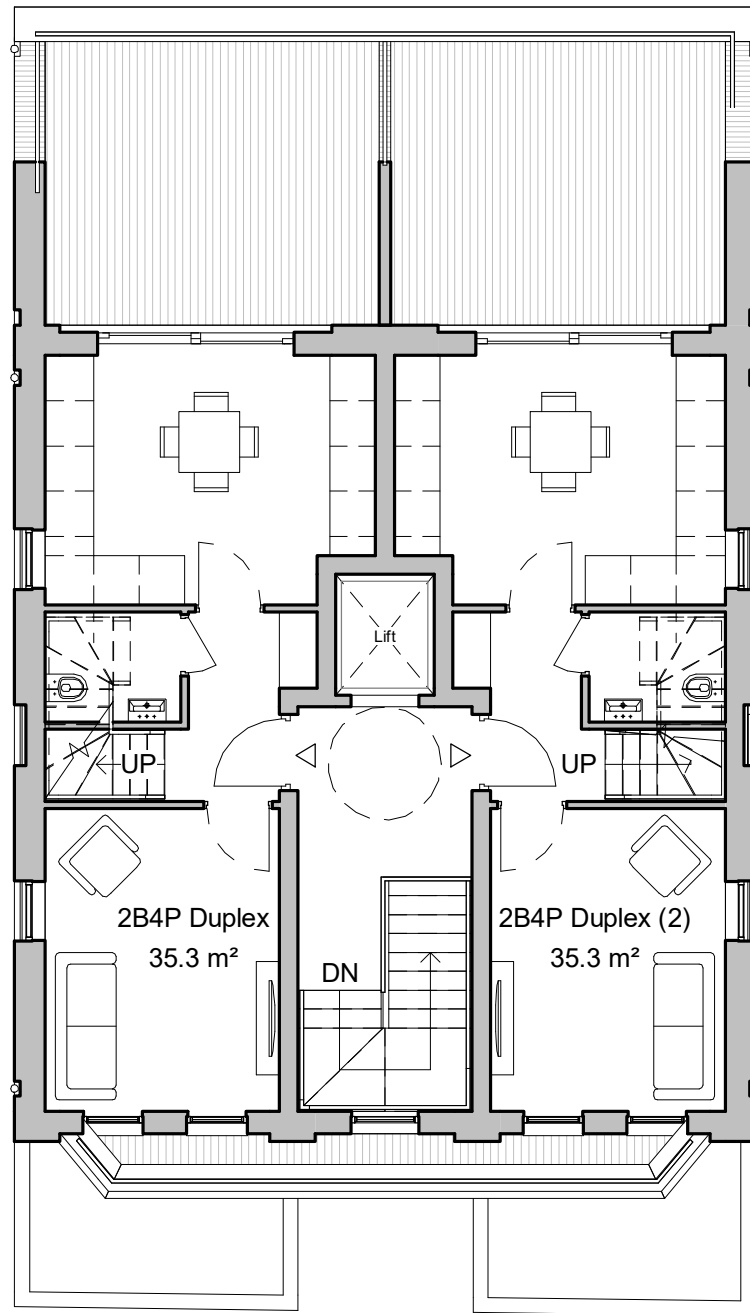
first issue date  
23/03/2021

drawing purpose  
PLANNING

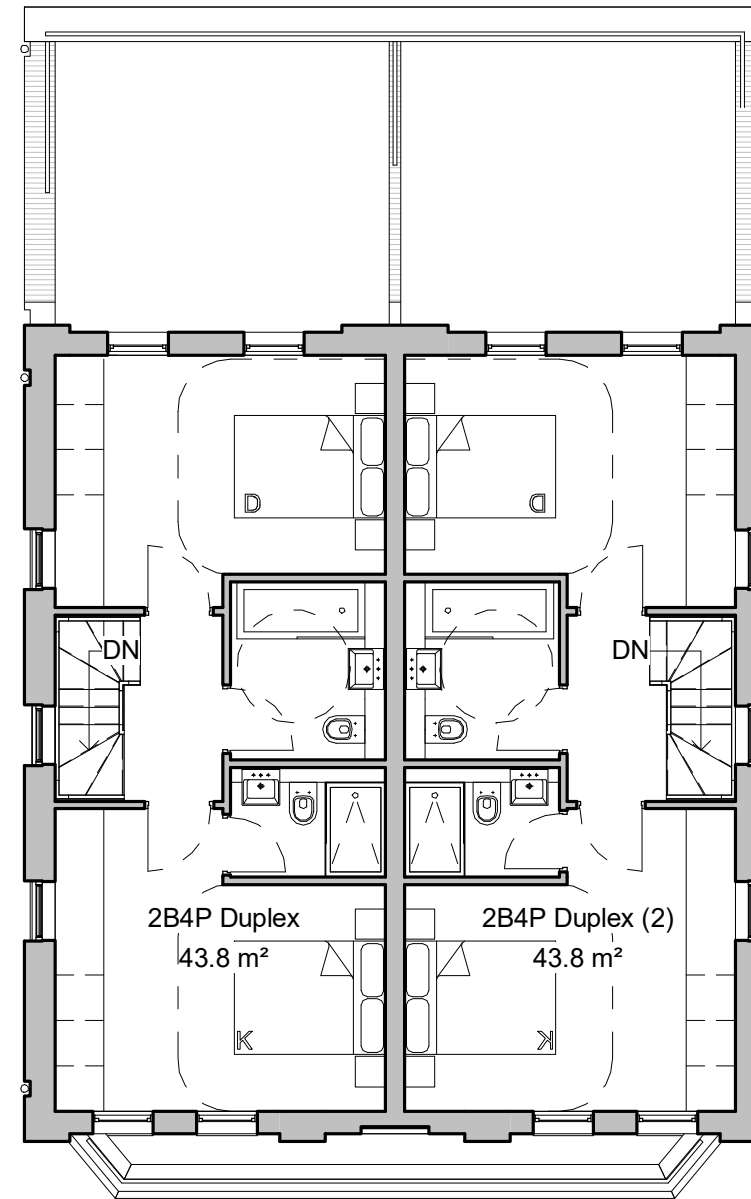
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**1** Proposed Level 0  
1 : 100

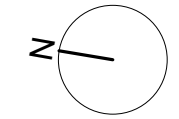


**1 Proposed Level 1**  
1 : 100



**2 Proposed Level 2**  
1 : 100

0 1m 2m 3m



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A	23/03/21	Planning Issue

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project  
**Marks Court**

drawing title  
**Proposed Plans - Sheet 2 of 2**

drawing number  
**WP-0758-A-0111**

revision  
**B**

scale @ A3  
**1 : 100**

first issue date  
**23/03/2021**

drawing purpose  
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0 1m 2m 3m



B 17/05/21 Planning Update  
 A 23/03/21 Planning Issue

Revision	Date	Description
B	17/05/21	Planning Update
A	23/03/21	Planning Issue

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project  
 Marks Court

drawing title  
 Proposed West Elevation

drawing number  
 WP-0758-A-0200

revision  
 B

scale @ A3  
 1 : 100

first issue date  
 19/03/2021

drawing purpose  
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**1 Proposed West Elevation**

1 : 100

0 1m 2m 3m



B 17/05/21 Planning Update  
 A 23/03/21 Planning Issue

Revision	Date	Description
B	17/05/21	Planning Update
A	23/03/21	Planning Issue

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project  
**Marks Court**

drawing title  
**Proposed South Elevation**

drawing number	revision
WP-0758-A-0201	B

scale @ A3	first issue date
1 : 100	19/03/2021

drawing purpose  
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**1 Proposed South Elevation**  
 1 : 100

0 1m 2m 3m



B 17/05/21 Planning Update  
 A 23/03/21 Planning Issue

Revision	Date	Description
B	17/05/21	Planning Update
A	23/03/21	Planning Issue

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project  
 Marks Court

drawing title  
 Proposed East Elevation

drawing number	revision
WP-0758-A-0202	B

scale @ A3	first issue date
1 : 100	19/03/2021

drawing purpose  
 PLANNING

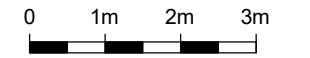
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1

# Proposed East Elevation

1 : 100



**1 Proposed North Elevation**  
1 : 100

Revision	Date	Description
B	17/05/21	Planning Update
A	23/03/21	Planning Issue

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project  
Marks Court

drawing title  
Proposed North Elevation

drawing number	revision
WP-0758-A-0203	B

scale @ A3	first issue date
1 : 100	19/03/2021

drawing purpose  
PLANNING

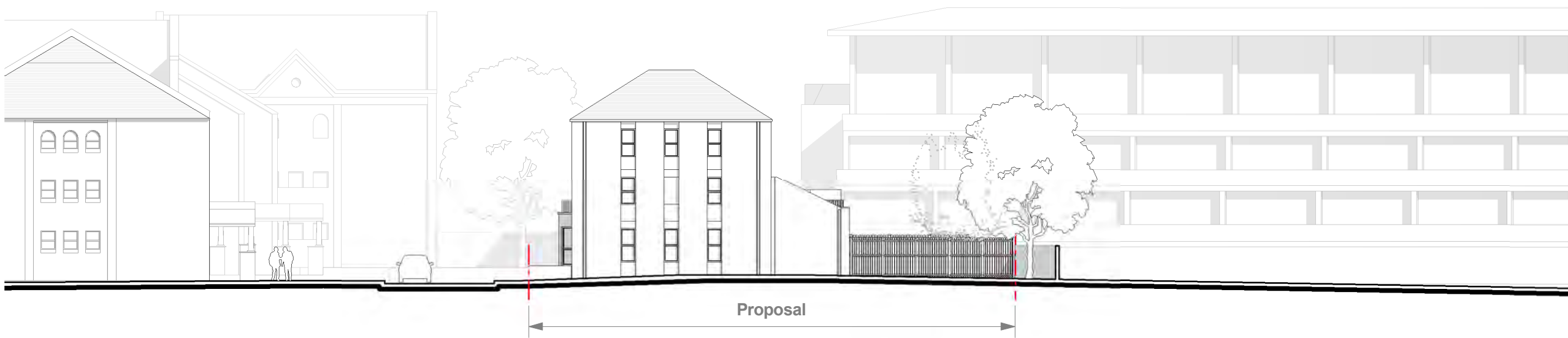
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**1 Proposed Street Elevation West**  
1 : 250

94



**2 Proposed Street Elevation South**  
1 : 250

B	17/05/21	Planning Update
A	23/03/21	Planning Issue

Revision Date Description

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project  
**Marks Court**

drawing title  
**Proposed Street Elevations**

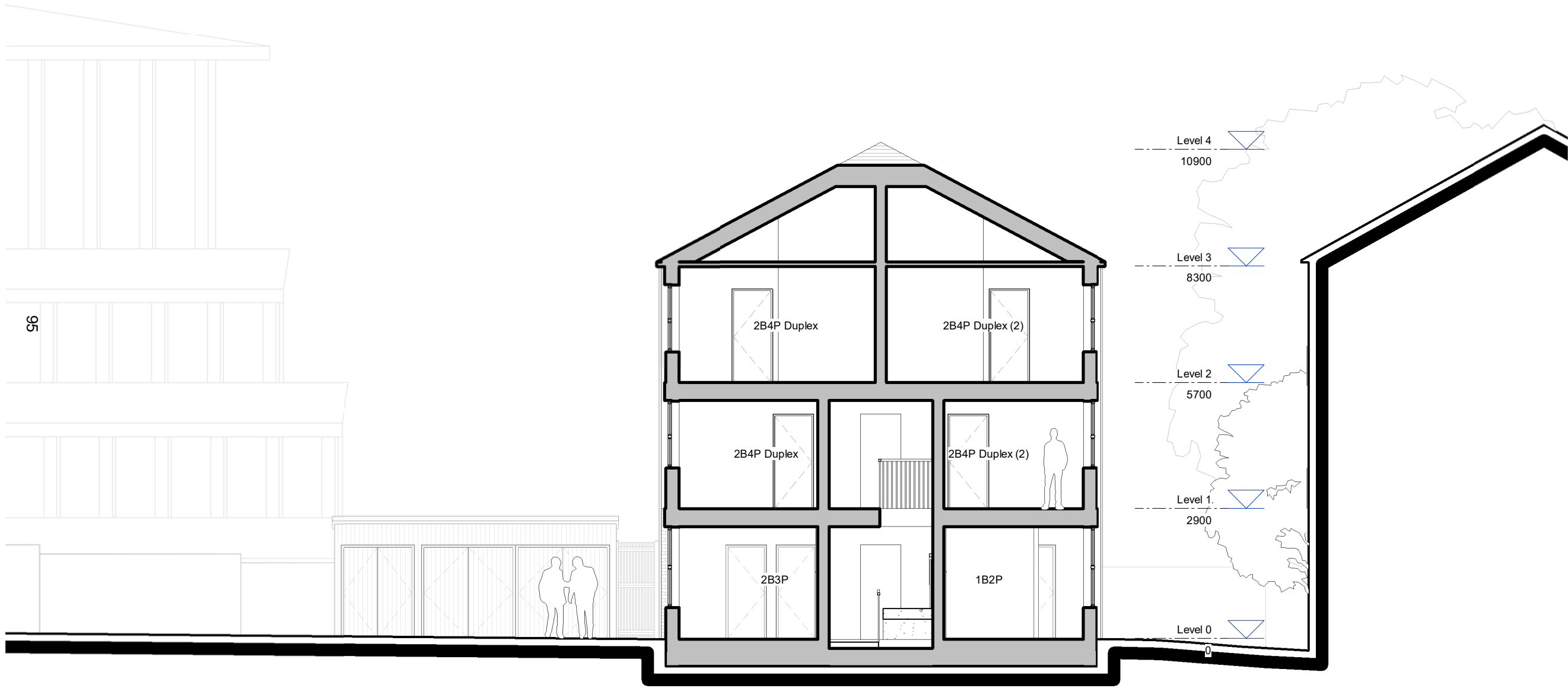
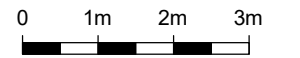
drawing number <b>WP-0758-A-0204</b>	revision <b>B</b>
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scale @ A3 <b>1 : 250</b>	first issue date <b>19/03/2021</b>
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drawing purpose  
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**1 Section A-A**  
1 : 100

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B	17/05/21	Planning Update
A	23/03/21	Planning Issue

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project  
**Marks Court**

drawing title  
**Proposed Section AA**

drawing number	revision
WP-0758-A-0300	B

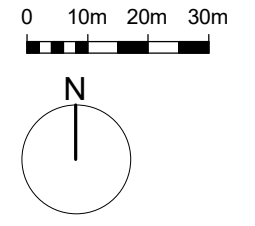
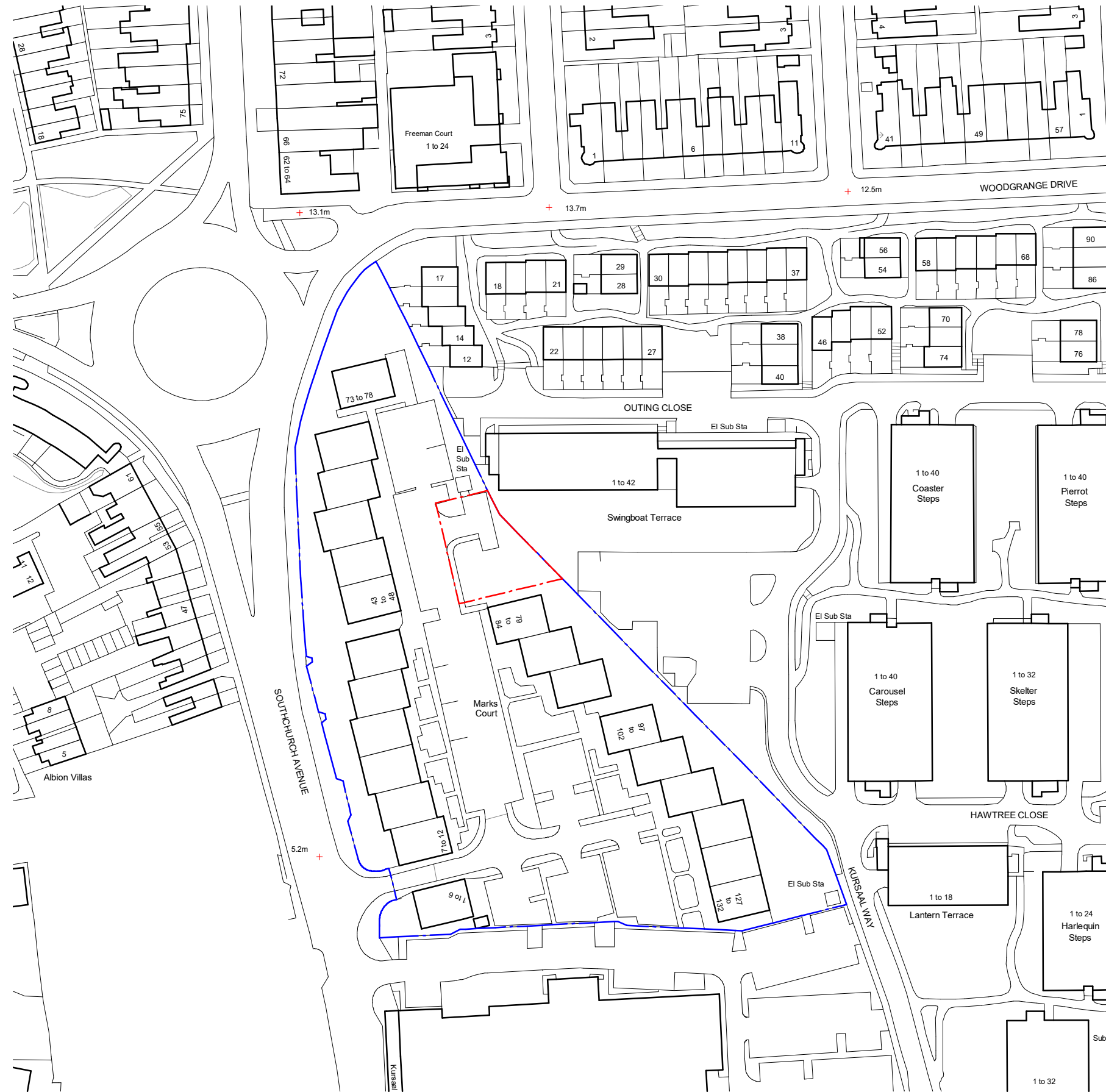
scale @ A3	first issue date
1 : 100	19/03/2021

drawing purpose  
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project  
Marks Court

drawing title  
Site Location Plan

drawing number	revision
WP-0758-A-0001	A

scale @ A3	first issue date
1 : 1250	09/04/2017

drawing purpose  
PLANNING

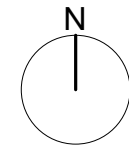
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**1** Site Location Plan  
1 : 1250



0 5m 10m 15m 20m



OUTING CLOSE

SOUTHCHURCH AV

MARKS COURT

A 23/03/21 Planning Issue

Revision	Date	Description
A	23/03/21	Planning Issue

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project  
Marks Court

drawing title  
Existing Site Plan

drawing number	revision
WP-0758-A-0002	A

scale @ A3	first issue date
1 : 500	03/17/21

drawing purpose  
PLANNING

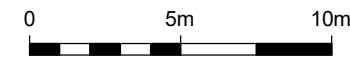
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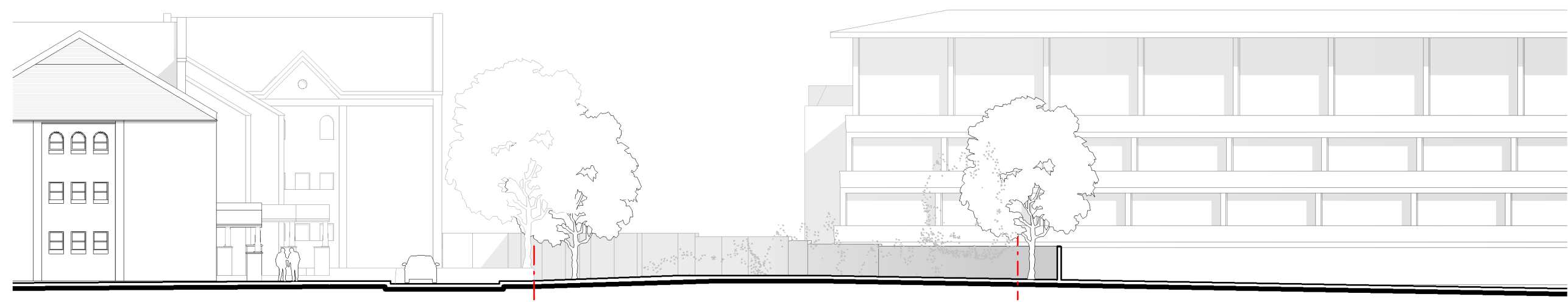
Existing Site Plan

1 : 500



**1 Existing Street Elevation West**  
1 : 250

68



**2 Existing Street Elevation South**  
1 : 250

A 23/03/21 Planning Issue

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A	23/03/21	Planning Issue

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project  
**Marks Court**

drawing title  
**Existing Street Elevations**

drawing number  
**WP-0758-A-0030**

revision  
**A**

scale @ A3  
**1 : 250**

first issue date  
**09/04/17**

drawing purpose  
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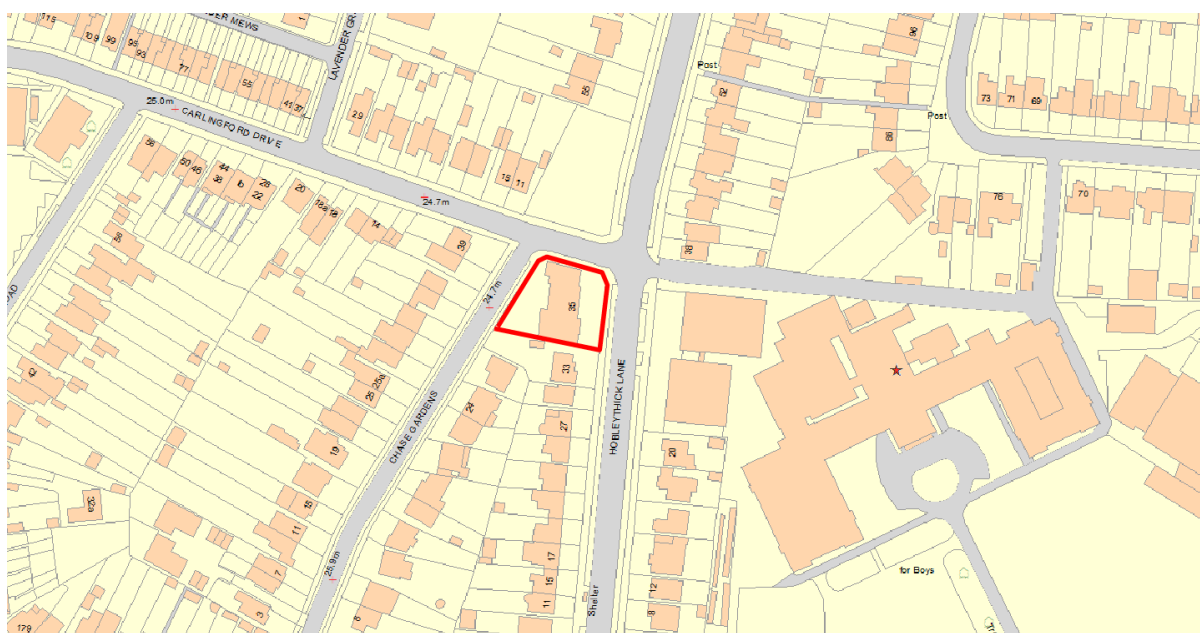






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<b>Reference:</b>	21/00781/FUL	<b>7</b>
<b>Application Type:</b>	Full Application	
<b>Ward:</b>	Prittlewell	
<b>Proposal:</b>	Change of use from care home (Class C2) to 15 bed HMO (Sui Generis) with associated amenity space, parking, cycle and bin store	
<b>Address:</b>	Meyrin House, 35 Hobblythick Lane, Westcliff-On-Sea	
<b>Applicant:</b>	Vivienne Goddard	
<b>Agent:</b>	Union 4 Planning	
<b>Consultation Expiry:</b>	27th May 2021	
<b>Expiry Date:</b>	12th July 2021	
<b>Case Officer:</b>	Robert Lilburn	
<b>Plan Nos:</b>	<b>Sht-1, Sht-2 Existing Plans, Sht-2 Proposed Plans, Sht-4, Sht-5</b>	
<b>Recommendation:</b>	<b>GRANT PLANNING PERMISSION</b>	



## 1 Site and Surroundings

- 1.1 The application relates to a two-storey, and part single-storey, detached building at the junction of Hobleythick Lane, Carlingford Drive and Chase Gardens. The building is a former residential care home for the elderly (use class C2), which the applicant states closed some three years ago.
- 1.2 The building is finished externally in white-painted render with some half timbering to the front elevation together with facing brick and red roof tiles. Pedestrian access leads through a front garden from Hobleythick Lane, and a vehicular access opens onto Chase Gardens. There is a rear car parking area surfaced in asphalt which includes a bin storage point. The submitted plans indicate that 6 parking spaces are available.
- 1.3 The site is located within a predominantly residential area characterised principally by detached and semi-detached houses and flats and with a school site opposite. The site is not specifically identified on the policies map of the Development Management Document. It is located within flood zone 1.

## 2 The Proposal

- 2.1 The application proposes the change of use and conversion of the building through internal works only to a 15 bedroom house in multiple occupation (HMO). The submitted plans show that the development would provide six rooms of 'single occupancy' size and nine 'twin/double occupancy' rooms further to the adopted Essex HMO Amenity Standards. The applicant has described the accommodation as 7 double rooms and 8 single rooms- and confirmed that the intention is for accommodation for up to 22 persons.
- 2.2 The accommodation would be laid out as follows:

### Ground floor:

Staff cupboard and WC;  
Self-contained office and laundry spaces;  
2no. self-contained WC/ wash basin spaces;  
Ancillary storage;  
Lounge dining space of 98.8sqm floor area;  
Kitchen 25.9 sqm  
5no. bedrooms measuring from some 13.2sqm-17.5sqm, each en-suite.

### First floor:

Ancillary storage;  
1no. communal WC/bathroom;  
6no. en-suite bedrooms measuring some 9.9sqm-16.5sqm;  
4no. bedrooms measuring some 8.8sqm-10.5sqm sharing the communal WC/bathroom.

- 2.3 Access would remain as existing and a lift would remain in situ. No external alterations are proposed to the physical fabric of the building.
- 2.4 The existing 6 car parking spaces would be retained. The submitted plans show that 15 bike stands would be provided at the rear of the building, together with a bin storage area. No other alterations are proposed to the layout of the external curtilage.

- 2.5 The application is supported by a Planning Statement.
- 2.6 The application has been called into Development Control Committee by Councillor D Garston.

### **3 Relevant Planning History**

- 3.1 21/00249/FUL: Change of use from Care Home (Class C2) to five self-contained flats (Class C3), alter rear elevation, layout car parking, and amenity space. Approved.
- 3.2 20/01854/FUL: Change of use from Care Home (Class C2) to five self-contained flats (Class C3), alter rear elevation, layout car parking, and amenity space. Refused.
- 3.3 10/01280/FUL: Erect single storey extensions to front and rear. Approved.
- 3.4 04/01395/FUL: Erect single storey extensions to front and rear (Amended proposal). Approved.
- 3.5 Numerous earlier applications have been determined in relation to the site; these are considered not to have a significant bearing on the determination of the current application.

### **4 Representation Summary**

#### **4.1 Public Consultation**

7 neighbouring properties were notified and a site notice was posted. 39 letters of representation have been received from 37 addresses objecting to the application and the concerns raised are summarised as follows:

#### *Need for and principle of development*

Site should be maintained as a care home.  
Development does not address demand or need for family housing in the area.  
No need proven for this type of accommodation locally.  
Proposal does not provide specifically for use by hospital staff.  
Vulnerable and troubled people should not be housed near schools.  
Impacts on pupils from nearby nursery and schools.

#### *Impacts on character and appearance of the area*

Transient nature of occupiers and smaller units out of character with quiet residential surroundings of larger family dwellings.  
The room sizes shown could allow for accommodation for up to 24 people.  
Potential poor maintenance of building and grounds.  
Effects of antisocial parking on verges.

#### *Impacts on amenities of surrounding residents and amenities of area*

Likely to be occupied by undesirable people being smaller units.  
Anti-social behaviour.  
Crime and fear of crime.  
Impact on amenities of noise including occupiers and comings and goings of staff and occupiers.  
Overshadowing and loss of light to nearby properties.  
Harm to neighbours amenity

*Living conditions of future occupiers*

Overcrowding and poor standards of accommodation.

*Impacts on highway safety*

Lack of car and cycle parking for occupiers and visitors and associated parking problems, bearing in mind demand for parking due to proximity of schools and health services and existing parking problems.

Traffic congestion on Chase Gardens and Hobbeythick Lane with associated risks to emergency services and position on major bus route.

Impact on highway safety including users travelling the wrong way down Chase Gardens and dangers to school children.

*Other matters*

Effect on reputation of adjacent school.

Capacity of infrastructure such as water and sewage.

Concern at notification and consultation process.

Mistakes within application.

This application should not be even considered.

Alternative uses for community purposes should be considered.

Impacts on property values.

Negative aspects of proposal are outweighed by any benefits.

- 4.2 In addition, a petition has been received objecting to the application with some 60 names, raising the following concerns:

Impact on character and quality of the area including concerns around anti-social behaviour, noise and pollution, potential illegal activities, overcrowding, parking problems and alcoholism.

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

4.4 **Environmental Health**

No objection.

4.5 **Highways**

There are no highway objections to this proposal. The site benefits from being in a sustainable location with regard to public transport with good links in close proximity. The site is also close to the Prittlebrook Cycleway.

There are no formal parking standards for HMOs. The applicant is proposing 6 off street parking spaces and 10 cycle parking spaces. The applicant should ensure that 15 secure cycle parking spaces are provided.

Consideration has been given to the previous use of the site which had the capacity to generate a comparable number of vehicular movements. Future occupiers will not be eligible for a residential parking permit within the surrounding area. It is not considered the application will have a detrimental impact on the local highway network.

#### **4.6 Fire Service**

No objections, subject to informatives relating to water supplies for firefighting and sprinkler systems.

#### **4.7 Private Sector Housing**

4 of the 15 bedrooms do not have en suite facilities. This may be an issue regards the number and position of shared toilet and washing facilities as unless those 4 bedrooms have exclusive use of the first-floor bathroom and exclusive use of the ground floor toilet all 15 rooms will have access and then the plans would not be compliant with the licencing requirements.

Room sizes are suitable either for double or single occupancy. Kitchen facilities cannot be commented on due to lack of detail, but space and amenities should be sufficient to meet Essex Standards. All room doors to be FD30 standard. An HMO Licence will be required.

### **5 Planning Policy Summary**

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

5.2 Planning Practice Guidance and National Design Guide (2019)

5.3 Core Strategy (2007): Policies KP1 (Spatial Strategy) KP2 (Development Principles) CP2 (Employment Generating Development) CP3 (Transport and Accessibility) CP4 (Environment & Urban Renaissance) CP6 (Community Infrastructure) and CP8 (Dwelling Provision)

5.4 Development Management Document (2015): Policies DM1 (Design Quality) DM3 (The Efficient and Effective Use of Land) DM6 (The Seafront) DM7 (Dwelling mix, size and type) DM8 (Residential Standards) DM9 (Specialist Residential Accommodation) and DM15 (Sustainable Transport Management)

5.5 Design & Townscape Guide (2009)

5.6 Essex HMO Standards (2018)

5.7 The Essex Coast Recreational Disturbance Avoidance and Mitigation Strategy (RAMS) SPD (2020)

5.8 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 character of the area, impacts on neighbour amenities, living conditions for future occupiers, parking and highways implications, sustainability including RAMS and CIL.

## 7 Appraisal

### Principle of Development

- 7.1 Government guidance contained within the National Planning Policy Framework (NPPF) encourages effective use of land by re-using land that has been previously developed. Paragraph 61 of the NPPF notes that housing for different groups should be assessed and reflected in local policies.
- 7.2 Paragraph 11 of the NPPF states that the presumption in favour of sustainable development means 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 permission unless... any adverse impacts of doing so with significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole”*.
- 7.3 Paragraph 117 of the NPPF 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.”* Furthermore, the NPPF requires development to boost the supply of housing by delivering a wide choice of high-quality homes.
- 7.4 Core Strategy (2007) Policies KP1, KP2 and CP4 seek to promote sustainable development which is consistent with the Council’s strategic objectives and to direct the siting of development through a sequential approach, minimising the use of ‘greenfield’ land.
- 7.5 Policy DM3 seeks 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.
- 7.6 Policy DM8 states that non-self-contained accommodation should be directed toward the central area of Southend or where such type of accommodation is needed by certain institutions, such as Southend Hospital or the University of Essex. The policy notes that campus-style living arrangements can reduce pressure on other elements of the housing stock. Southend-on-Sea Borough Council’s development framework does not currently contain any policies that specifically relate to HMOs.
- 7.7 Policy CP8 of the Core Strategy identifies that the intensification of the use of land should play a significant role in meeting the housing needs of the Southend Borough, providing approximately 40% of the additional housing that is required to meet the needs of the Borough. Policy CP8 also expects 80% of residential development to be provided on previously developed land.
- 7.8 The results of the Housing Delivery Test (HDT) published by the Government show that there is underperformance of housing delivery in the Borough. Similarly, the Council’s Five-Year Housing Land Supply (5YHLS) figure shows that there is a deficit in housing land supply in the Borough.



- 7.9 The South Essex Strategic Housing Market Assessment (SESHMA) identifies that Southend has a higher proportion of flats/maisonettes and a housing stock comprised of a greater proportion of one-bed units and smaller properties a consequence of which is that there is a lower percentage of accommodation of a suitable size for families.
- 7.10 Policy CP6 is relevant to the established use of the site and seeks to ensure the needs of all residents and visitors, including the disabled and other vulnerable groups, are met. It seeks to provide for health and social care facilities and to support improvements to existing, and the provision of new, facilities to support the needs of education, skills and lifelong learning strategies. Policy DM9 states that the Council supports independent living and avoid an over-provision of residential care, together with improvement of existing provision.
- 7.11 It has been identified in application 20/01854/FUL that there is a surplus of care homes and placements for older people in the borough. The home had closed following an 'inadequate' (Care Quality Commission) CQC rating. There was therefore no objection to its conversion away from a residential care use and no material changes in the wider circumstances have been identified to support a new objection on this basis.
- 7.12 The surroundings are low-density residential. As a residential use the proposal conforms generally to the character of the surroundings. An HMO is a higher-density residential use, but this is not materially at odds with the predominantly residential character of the surroundings or the established use of the building. The submission identifies the care home as formerly providing for up to 16 residents. The proposal would provide for up to 22 occupiers. This is not considered to be an uncharacteristic increase in density in principle and detailed impacts are considered in subsequent sections of this report.
- 7.13 The proposal would re-use existing land and buildings to provide additional dwellings.
- 7.14 The dwellings would be non self-contained accommodation. The proposal due to its nature and size of accommodation would be of a type which would not be suitable for families. The greater need for housing as identified by the SESHMA is for family dwellings.
- 7.15 The proposal would nonetheless provide a level of accommodation suitable for individuals or couples. The introduction to the Essex HMO Amenity Standards notes that *"Increasingly HMOs are becoming more diverse as housing pressures and costs rise and a wider range of residents seek some form of shared accommodation"*. In these circumstances, the provision of additional housing is a consideration which should be given increased but modest weight in a balancing exercise.
- 7.16 The proposed accommodation would not be specifically tied to any occupation of occupier or any particular institution. This would not preclude the occupation of individual units by, for example students or temporary employees of such institutions. Not tying the proposed use to any nearby employers or institutions would not justify a refusal of planning permission in its own right and most HMOs are not linked to a specific employee or institution.

- 7.17 There is no objection to the loss of the established use at the site and as a residential use the proposal would accord with the predominantly residential character of the surroundings. The proposal would not provide family accommodation but would provide additional non self-contained dwellings. The site is located within reasonable proximity of and public transport accessibility to Southend Hospital, the University of Essex campus and the airport, for example.
- 7.18 There is no objection to the principle of the creation of an HMO in this location, as it would be an effective use of previously developed land. This is subject to other material planning considerations being suitably addressed, and these are discussed in the following sections of the report.

### **Design and Impact on the Character of the Area**

- 7.19 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.
- 7.20 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*” and that “*proposed development [should] make a positive contribution to the local area*”.
- 7.21 The building is already in a higher density type of use and weight should be attached in the decision-making balance to the fact that it has an established use for institutional purposes with the attendant types of external activity which may be associated with that. For example, any resumption of a care home use here would reasonably be expected to have deliveries of provisions, waste collection etc. The provision of 15 bedrooms is not inconsistent with this density of occupation. No external alterations are proposed to the building. No increase in the extent of on-site parking is proposed which could otherwise materially affect the site’s appearance and the contribution which its soft landscaped currently grounds make to the street scene and local character. The provision of appropriately sized and secured covered cycle storage and refuse and recycling storage can be reasonably accommodated within the site subject to conditions.
- 7.22 The development would not materially affect the external appearance of the building and the necessary alterations within the site curtilage would not be significantly harmful. The proposal would maintain to a reasonable degree the character and appearance of the surroundings and is judged to be acceptable and policy-complaint on these grounds.

### **Impact on Residential Amenity**

- 7.23 Policy DM1 of the Development Management Document requires all development to be appropriate in its setting by respecting neighbouring development and existing residential amenities and also: “*having regard to privacy, overlooking, outlook, noise and disturbance, sense of enclosure/overbearing relationship, pollution, daylight and sunlight.*”

- 7.24 Given that no physical alterations are proposed and attaching weight to the prevailing lawful use of the site the development would not materially alter the relationship of the building with neighbours in terms of privacy, overlooking, outlook, sense of enclosure/overbearing relationship, daylight and sunlight. Given the size of the site curtilage, proposed refuse storage and cycle storage can be reasonably addressed through conditions in the interests of visual amenities and neighbour amenities as well as suitability for the use of occupiers.
- 7.25 The level of occupancy proposed, up to 22 persons, would result in an increased level of activity on site compared to the established C2 use. However, on balance it is not considered that any substantially harmful noise and disturbance or pollution to the extent that it would cause material detriment to the amenity of neighbouring occupiers would arise from the proposed use as HMOs are generally compatible with a residential setting. The Council's Environmental Health team raised no objections to the scheme.
- 7.26 The development is acceptable and policy compliant in regard to its impact upon the amenities of neighbours and the wider area. As explained below the occupation levels however would require a controlled reduction from 22 to be able to satisfy other detailed considerations.

### **Living Conditions**

- 7.27 Delivering high quality homes is a key objective of the NPPF. Policy DM3 of the Development Management Document states that proposals should be resisted where they create a detrimental impact upon the living conditions and amenity of existing and future residents or neighbouring residents.
- 7.28 In relation to residential standards for non-self-contained accommodation, policy DM8 of the Development Management Document, states that all proposals of this nature will be required to meet the internal space standards set out in Policy Table 6 which states that a minimum bedroom size should be 6.5m<sup>2</sup> for single and 10.2m<sup>2</sup> for double bedrooms and that the accommodation shall have some communal areas, such as a living room, kitchen, diner.
- 7.29 The Council has adopted the Essex Approved Code of Practice with respect to HMOs and this document represents a material planning consideration when read along with the above policy table, although it is noted that the Code of Practice is not a planning policy document. This document sets out the following standards for HMOs:

**Table 1: Minimum room size requirements**

Room size requirements are given in sq.m. For clarity, a room size of 12sqm is equivalent to a room measuring 4m by 3m and also a room measuring 6m by 2m.

Room use	Number of occupants	HMO with shared facilities (kitchen/ dining/living)	HMO with shared kitchen facilities (no shared living room)	HMO without shared facilities (i.e. bedsits or studios)
Bedroom or Letting	1	6.51sqm	8.5sqm	11sqm
	2	10.22sqm	12sqm	15sqm
Shared Kitchen	Up to 5	7sqm	7sqm	
	6	8.5sqm	8.5sqm	
	7	10sqm	10sqm	
	8 -10	14sqm (or 2 rooms each 7sqm)	14sqm (or 2 rooms each 7sqm)	
Shared Living/Dining Room	up to 5	11sqm	*5sqm	
	6	12sqm	*6.5sqm	
	7	13sqm	*8sqm	
	8	14sqm	*10sqm (or 2 rooms each 5sqm)	
	9	15sqm	*10sqm (or 2 rooms each 5sqm)	
	10	16.5sqm	*10sqm (or 2 rooms each 5sqm)	

**Table 2: Minimum requirements for kitchen facilities**

Occupants	Kitchen area (sqm)	Work surface (m) (600mm standard depth)	Power sockets above worktop	Hob rings	Ovens	Grills	Sinks/ drainers with hot and cold water	Dry food storage cupboard	Fresh and Frozen food storage	Fire Blanket
<b>All Shared Kitchens</b>										
Up to and including 5	7	2	3 double	4	1	1	1	1 x 500mm base unit or 1 x 1000 wall unit per occupant	1 good sized refrigerator shelf per occupant  1 good sized freezer shelf per occupant	One suitably located fire blanket in accordance with the current BS EN or equivalent standard at the time of application or renewal
6	8.5	2.4	4 double	4	2*	2*	2#			
7	10	2.8	4 double	6	2*	2*	2#			
8	14 (7 x 2)	4	5 double	8	2	2	2			
9	14 (7 x 2)	4	5 double	8	2	2	2			
10	14 (7 x 2)	4	5 double	8	2	2	2			
<b>Kitchens in individual lettings (Bedsits and Studios)</b>										
1 or 2	4.5	1	2 double	2	1	1	1	1 x 500mm base unit or 1 x 1000 wall unit per occupant	1 good sized refrigerator shelf per occupant 1 good sized freezer shelf per occupant	One suitably located fire blanket in accordance with BS 6575
					or a safely located combination microwave/oven/ grill					

**Table 3: Minimum requirements for bathrooms/shower rooms and WC compartments**

Occupants sharing	Bathrooms Comprising 1 Bath/Shower Unit (With Hot and Cold Water) and may contain a WC (but see * below)	Separate WC compartment with wash hand basin with H & C	Ventilation (suitable and adequate)	Adequate size and layout: Minimum floor area for safe use of bathroom
Less than 5	1	0	Mechanical ventilation is required in all bathrooms and WC compartments which lack natural ventilation via an openable window. It will also be required, in addition to any natural ventilation, where necessary, to mitigate problems of damp and mould. It is always recommended that where possible, in addition to any natural ventilation, mechanical ventilation is provided in all bathrooms and WC compartments.	Bath only 2.3sqm Bath & WHB 2.5sqm Bath,WC&WHB 2.8sqm Shower only 1.7sqm Shower&WHB 2.0sqm Shower,WC&WHB 2.2sqm WC & WHB 1.2sqm
	1	1		
6	2*	1		
7	2*	1		
8	2*	1		
9	2*	1		
10	2	2		
Ensuite for 1 or 2	1	0	Comments as above	

7.30 As already discussed, nine of the proposed bedrooms would meet the standard to accommodate two bed spaces and six would meet the standards to accommodate one bed space. The proposed internal layout would result in the premises providing some 25.9sqm of shared floorspace for kitchen and some 98sqm for lounge/dining facilities. Only 11 bedrooms would benefit from private (en-suite) bathrooms.

It is proposed to provide three shared WCs at ground floor level and one shared bathroom/WC at first floor.

- 7.31 On the basis of the communal facilities that would be offered, it is considered that all bedrooms should be limited to be used as single bedrooms and the maximum number of occupants should therefore be limited to 15. In line with the approach taken by the Inspector when determining an appeal at 73 Salisbury Avenue (APP/D1590/W/19/3236129), the number of bedrooms and occupants can be limited with a planning condition.
- 7.32 All rooms would benefit from acceptable outlook and natural light. The proposed external space would be adequate for 15 occupants as communal amenity. Subject to limiting the number of occupants, the proposal would not result in substandard quality of accommodation or be significantly harmful to the living conditions of future occupiers. Subject to conditions, the development is acceptable and compliant with policy in the above regards.

### **Traffic and Transportation Issues**

- 7.33 Policy DM15 of the Development Management Document states: “*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*”. The policy also requires that adequate parking should be provided for all development in accordance with the adopted vehicle parking standards.
- 7.34 The adopted parking standards do not include any specific requirements for HMOs. The proposal would not provide any additional vehicle parking beyond the existing six car parking spaces. The established use of the site as a residential care home attracts a maximum standard of 1 space per resident staff and 1 space per 3 bed spaces/dwelling units.
- 7.35 The site is in a reasonably accessible location, in close proximity to bus routes and employment hubs. It should be noted that Inspectors at appeals have accepted that HMOs in the Borough do not generate significant traffic movements or parking need. Highway officers have confirmed that they have no objection to the scheme on parking or highways grounds.
- 7.36 The application proposes 15 cycle spaces in exterior racks. This would not be an acceptable standard of provision. There is scope within the site to provide secure covered cycle storage at a rate of 1 cycle space per dwelling unit at the site and this can be reasonably secured through a condition.. The development would not materially harm highway safety or the free flow of traffic. The development is acceptable and policy compliant in the above regards.

### **Refuse and Recycling Storage**

- 7.37 The proposed provision of 15 bedrooms attracts a policy requirement for a designated area for waste and recyclable storage. This area should include two recycling (1100 litre) containers, two waste (1100 litre) containers, a paper and card container and one food waste (140 litre) container. The location of the bin area should not be more than 25m from the edge of the highway.

- 7.38 The provision shown on the submitted plans would not meet the quantum of the required standard. The proposed location would be accessible by residents and collection crews. Subject to a condition requiring further details and the provision of a bin storage facility, the proposal is acceptable and policy compliant in this regard.

### **Energy and Water Sustainability**

- 7.39 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”*. The same policy requires all new development to provide *“water efficient design measures that limit internal water consumption to 105 litres per person per day (lpd) (110 lpd when including external water consumption). Such measures will include the use of water efficient fittings, appliance and water recycling systems such as grey water and rainwater harvesting”*.
- 7.40 No details have been submitted with the application to demonstrate whether the proposed development would meet the target of renewable energy sources covering at least 10% of the anticipated energy consumption in line with policy requirement or how the water consumption would be limited. It is considered that the requirements for renewable energy and restrictions on water usage could be controlled with conditions. Care would be needed to ensure that any renewable technologies submitted for approval under such a condition would not harm the character and appearance of the area. This aspect of the proposal is, therefore, considered to be acceptable and policy compliant in these regards.

### **Ecology and Essex Coast RAMS**

- 7.41 The site falls within the Zone of Influence for one or more European designated sites scoped into the 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.
- 7.42 Any new residential development 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. The RAMS Supplementary Planning Document (SPD) which was adopted by Full Council in October 2020 requires that a tariff of £127.30 (index linked) is paid per dwelling unit. This will be transferred to the RAMS accountable body in accordance with the RAMS Partnership Agreement.
- 7.43 The applicant has made the relevant payment and the proposed development is therefore acceptable and compliant with the adopted RAMS Supplementary Planning Document SPD.

## **Community Infrastructure Levy (CIL)**

- 7.44 The proposed development is a large HMO which falls outside of Use Classes C3 and C4 and is a sui generis use. No new floor space is created and as such for a non-residential use (in terms of its use class) it is considered that the development is not CIL liable.

## **8 Conclusion**

Having taken all material planning considerations into account and attaching significant weight to the existing lawful use of the site, it is found that the proposed development would be acceptable and compliant with the objectives of the relevant development plan policies and guidance. The principle of the development is found to be acceptable. The development consists principally of a conversion with no external changes to the building and only limited changes to the site's external setting and appearance. The proposal would provide additional housing in the Borough. The proposal would have an acceptable impact on the amenities of neighbouring occupiers, highway safety and parking, the character and appearance of the application site, and the street scene and locality more widely. It would also provide satisfactory living conditions for its proposed occupiers with the conditions proposed. Appropriate mitigation for habitats impacts has been provided.

## **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: Sht-1, Sht-2 Existing Plans, Sht-2 Proposed Plans, Sht-4, Sht-5.**

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

- 03. Notwithstanding the provisions of the Town and Country Planning Act 1990 (as amended) the building hereby approved shall not at any time be adapted to enable formation of more than 15 bedrooms and the property shall not have more than 15 persons residing in it at any one time.**

**Reason: To ensure the use hereby approved would offer acceptable living conditions for its occupiers in accordance with the National Planning Policy Framework (2019), Core Strategy (2007) Policies KP2 and CP4, Development Management Document (2015) Policies DM1, DM3 and DM8.**

- 04. Notwithstanding the submitted plans otherwise hereby approved, the development shall not be brought into first use unless and until full details of appropriately sized, covered and ventilated refuse storage facilities for the development have been submitted to and approved in writing by the Local Planning Authority. The approved facilities shall be provided and made available for use prior to first occupation of the HMO and shall be thereafter retained thereafter for the lifetime of the development.**

**Reason: In the interests of the living conditions of future occupiers, and the amenities of the area, further to the National Planning Policy Framework (2019), Core Strategy (2007) Policies KP2 and CP4, Development Management Document (2015) Policies DM1 and DM3 and the Design and Townscape Guide (2009).**

- 05. Notwithstanding the submitted plans otherwise hereby approved, the development shall not be brought into first use unless and until full details of appropriately secure, covered cycle storage facilities for the development comprising provision for no fewer than 15 cycles, have been submitted to and approved in writing by the Local Planning Authority. The approved facilities shall be provided and made available for use prior to first occupation of the HMO and shall be thereafter retained thereafter for the lifetime of the development.**

**Reason: In the interests of the living conditions of future occupiers, further to the National Planning Policy Framework (2019), Core Strategy (2007) Policies KP2, CP3 and CP4.**

- 06. The six existing car parking spaces in the areas shown on approved plan Sht-1 shall be available prior to the first use of the HMO hereby approved and retained for the lifetime of the development for the purposes of car parking solely for residents of the approved use on site and their visitors.**

**Reason: To ensure the provision of adequate parking in accordance with National Planning Policy Framework (2019), Policy CP3 of the Core Strategy (2007) and Policies DM3, DM8 and DM15 of the Development Management Document (2015).**

- 07. Prior to occupation of the development hereby approved details of energy efficiency and other sustainability measures to be included in the scheme, including the provision of at least 10% of the energy needs of the development hereby approved being provided from onsite renewable sources, shall be submitted to, agreed in writing by the Local Planning Authority and implemented on site in accordance with the agreed details.**

**Reason: To minimise the environmental impact of the development through efficient use of resources and better use of sustainable and renewable resources in accordance with the National Planning Policy Framework (2019), Core Strategy (2007) Policies KP2 and CP4, Development Management Document (2015) Policy DM2, and the advice contained within the National Design Guide (2019) and the Design and Townscape Guide (2009).**



**08. The development hereby approved shall incorporate water efficient design measures set out in Policy DM2 (iv) of the Development Management Document to limit internal water consumption to 105 litres per person per day (lppd) (110 lppd when including external water consumption), including measures of water efficient fittings, appliances and water recycling systems such as grey water and rainwater harvesting before they are occupied.**

**Reason: To minimise the environmental impact of the development through efficient use of resources and better use of sustainable and renewable resources in accordance with the National Planning Policy Framework (2019), Core Strategy (2007) Policies KP2 and CP4, Development Management Document (2015) Policy DM2, and the advice contained within the National Design Guide (2019) and the Design and Townscape Guide (2009).**

**09. The development shall not be occupied until details of the measures to be put in place to ensure that the occupiers of the 4 bedrooms without en-suite facilities have been provided with adequate toilet and washing facilities. The development shall thereafter be occupied only in full accordance with the approved details and maintained as such in perpetuity.**

**Reason: In the interests of the living conditions of future occupiers, further to the National Planning Policy Framework (2019), Core Strategy (2007) Policies KP2, CP3 and CP4.**

**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:**

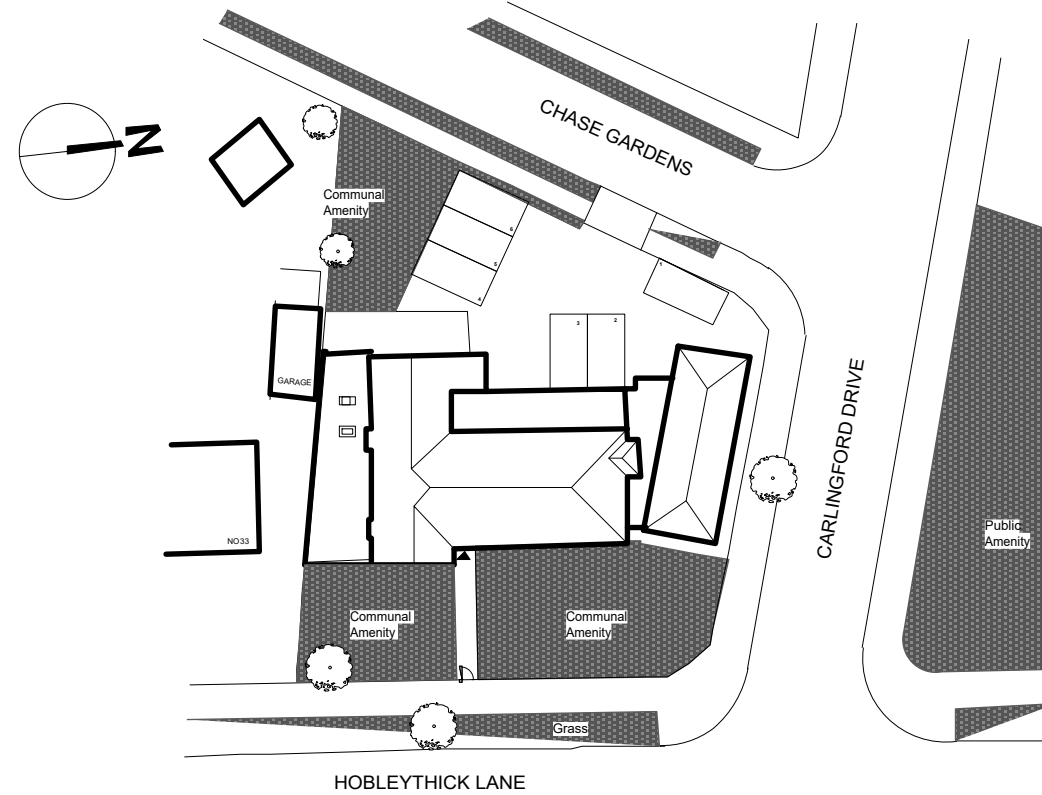
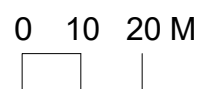
**01. You are advised that as the proposed extension(s) or change of use to your property equates to less than 100sqm of new floorspace, and does not involve the creation of a new dwelling (Class C3), the development benefits from a Minor Development Exemption under the Community Infrastructure Levy Regulations 2010 (as amended) and as such no charge is payable. See the Planning Portal: ([www.planningportal.co.uk/info/200136/policy\\_and\\_legislation/70/community\\_infrastructure\\_levy](http://www.planningportal.co.uk/info/200136/policy_and_legislation/70/community_infrastructure_levy)) or the Council's website ([www.southend.gov.uk/cil](http://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.**

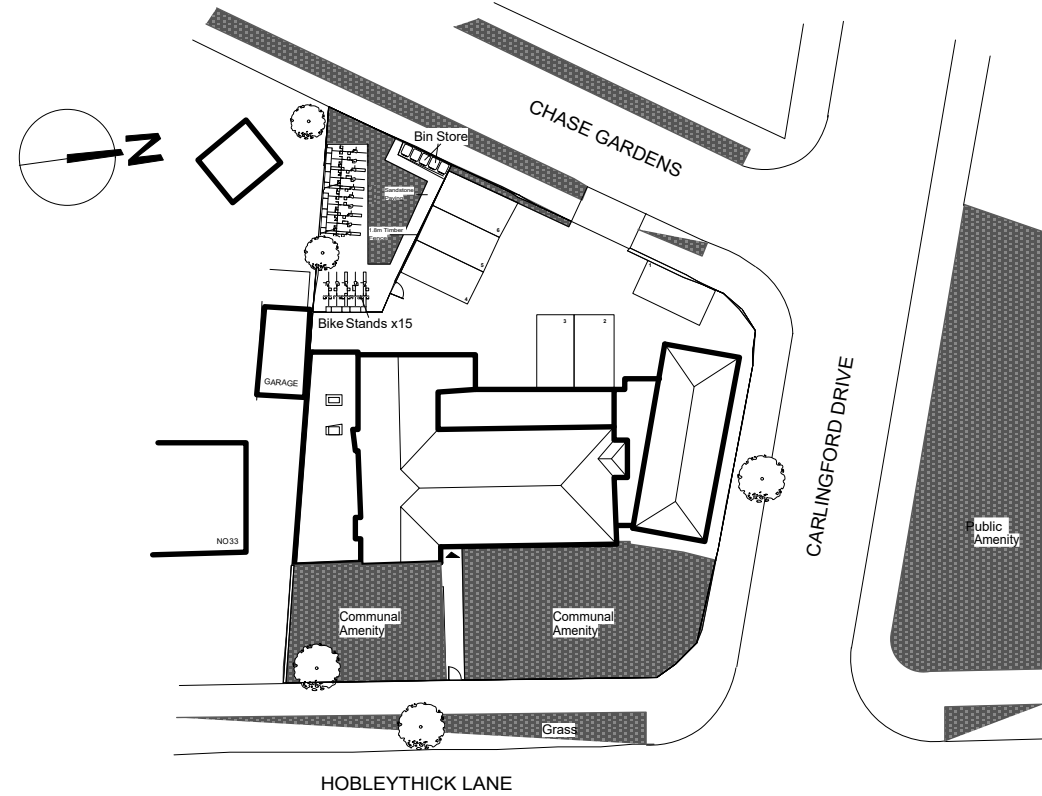
**03. The applicant is encouraged to provide electric vehicle charging points at the site in accordance with Policy DM15 which encourages their provision wherever practical and feasible.**



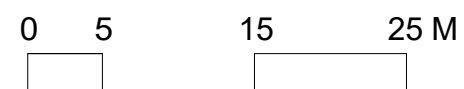
**Location Plan**  
1:1250 (A3)



**Existing Block Plan**  
1:500 (A3)



**Proposed Block Plan**  
1:500 (A3)



Rev.	Description	Date
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**Note:**  
Front entrance doors to have level access with clear door opening width of 775mm. All internal doors on the ground floor to achieve clear opening width of 750mm. All light switches to be positioned max 1200mm above finished floor level. All socket outlets, TV points & BT points to be positioned 450mm above finished floor level. All above to be provided to accord with part 'M' of Building Regulations.

Project Name	Meyrin Flats
Client Name and Address	D.V.K. / ECCL
Sheet Number	Sht-1
Sheet Title	Location/Block Plans

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Rev.	Description	Date
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**Existing East Elevation**  
1:100 (A2)

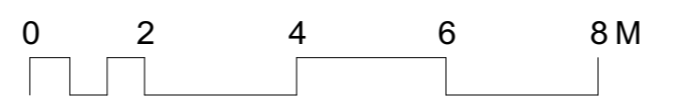
**Existing North Elevation**  
1:100 (A2)



**Existing West Elevation**  
1:100 (A2)

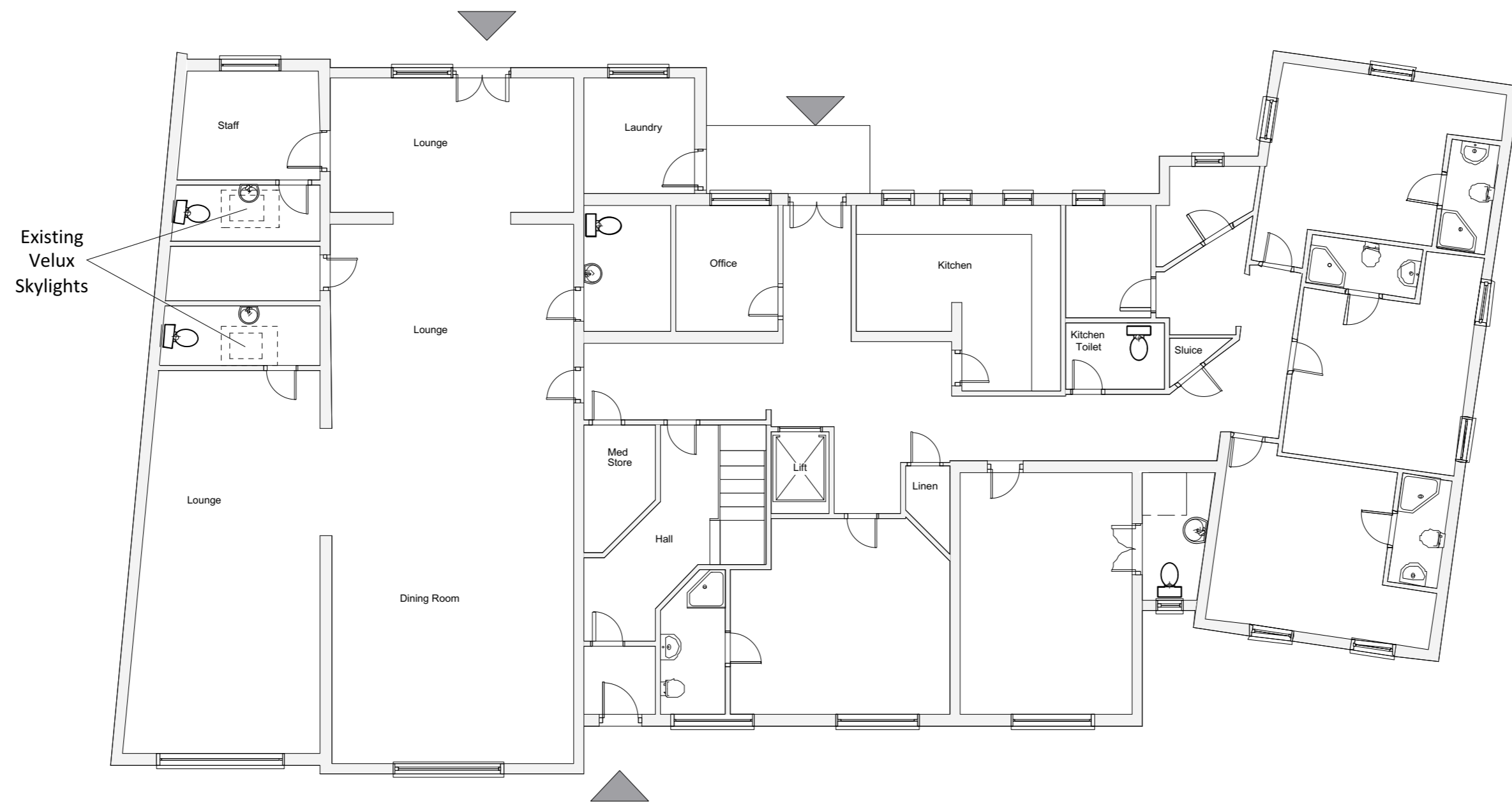
**Note:**  
Front entrance doors to have level access with clear door opening width of 775mm. All internal doors on the ground floor to achieve clear opening width of 750mm. All light switches to be positioned max 1200mm above finished floor level. All socket outlets, TV points & BT points to be positioned 450mm above finished floor level. All above to be provided to accord with part 'M' of Building Regulations.

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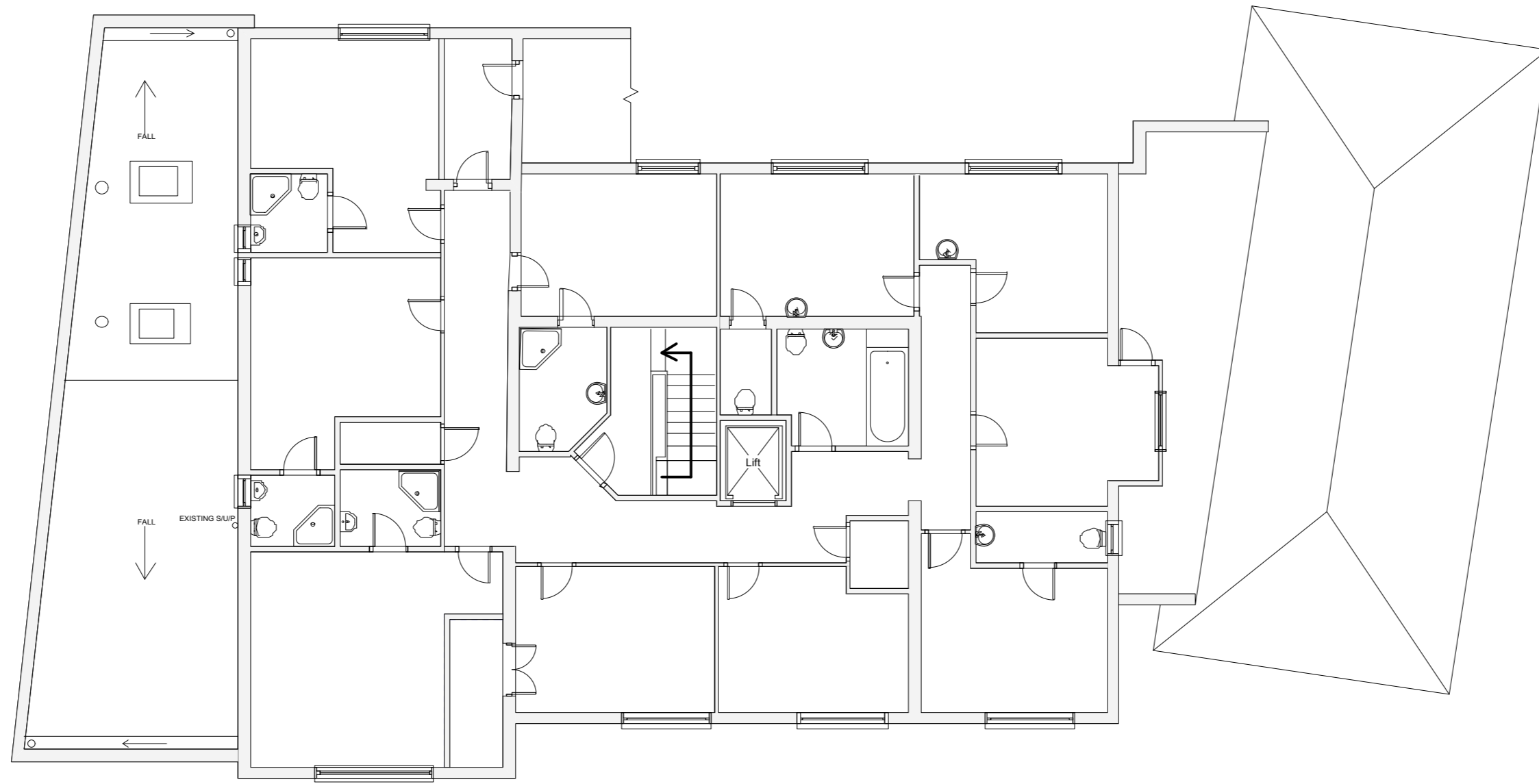


Project Name	Meyrin Flats
Client Name and Address	D.V.K. / ECCL
Sheet Number	Sht-4
Sheet Title	Exist Elevations

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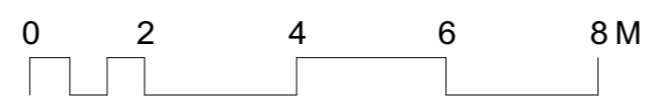


**Existing Ground Floor Plan**  
1:100 (A2)



**Existing First Floor Plan**  
1:100 (A2)

**Note:**  
Front entrance doors to have level access with clear door opening width of 775mm. All internal doors on the ground floor to achieve clear opening width of 750mm. All light switches to be positioned max 1200mm above finished floor level. All socket outlets, TV points & BT points to be positioned 450mm above finished floor level. All above to be provided to accord with part 'M' of Building Regulations.



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Rev.	Description	Date
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**Proposed East Elevation  
(Same as Existing)**  
1:100 (A2)



**Proposed North Elevation  
(Same as Existing)**  
1:100 (A2)

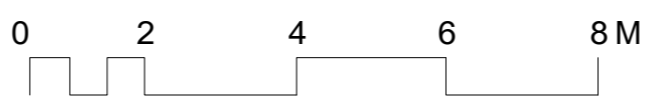


**Proposed West Elevation  
(Same as Existing)**  
1:100 (A2)



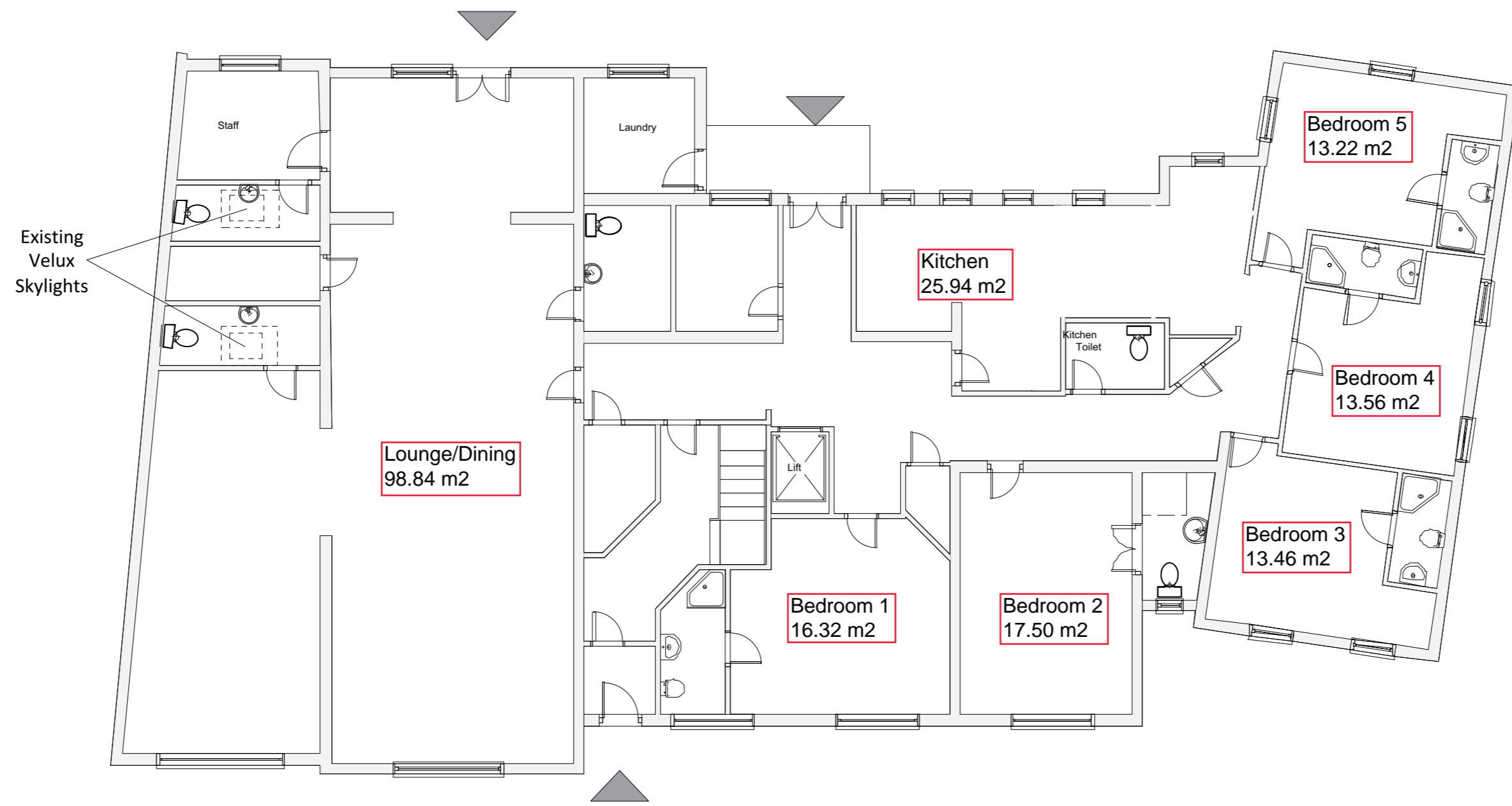
**Proposed South Elevation  
(Same as Existing)**  
1:100 (A2)

**Note:**  
Front entrance doors to have level access with clear door opening width of 775mm. All internal doors on the ground floor to achieve clear opening width of 750mm. All light switches to be positioned max 1200mm above finished floor level. All socket outlets, TV points & BT points to be positioned 450mm above finished floor level. All above to be provided to accord with part 'M' of Building Regulations.

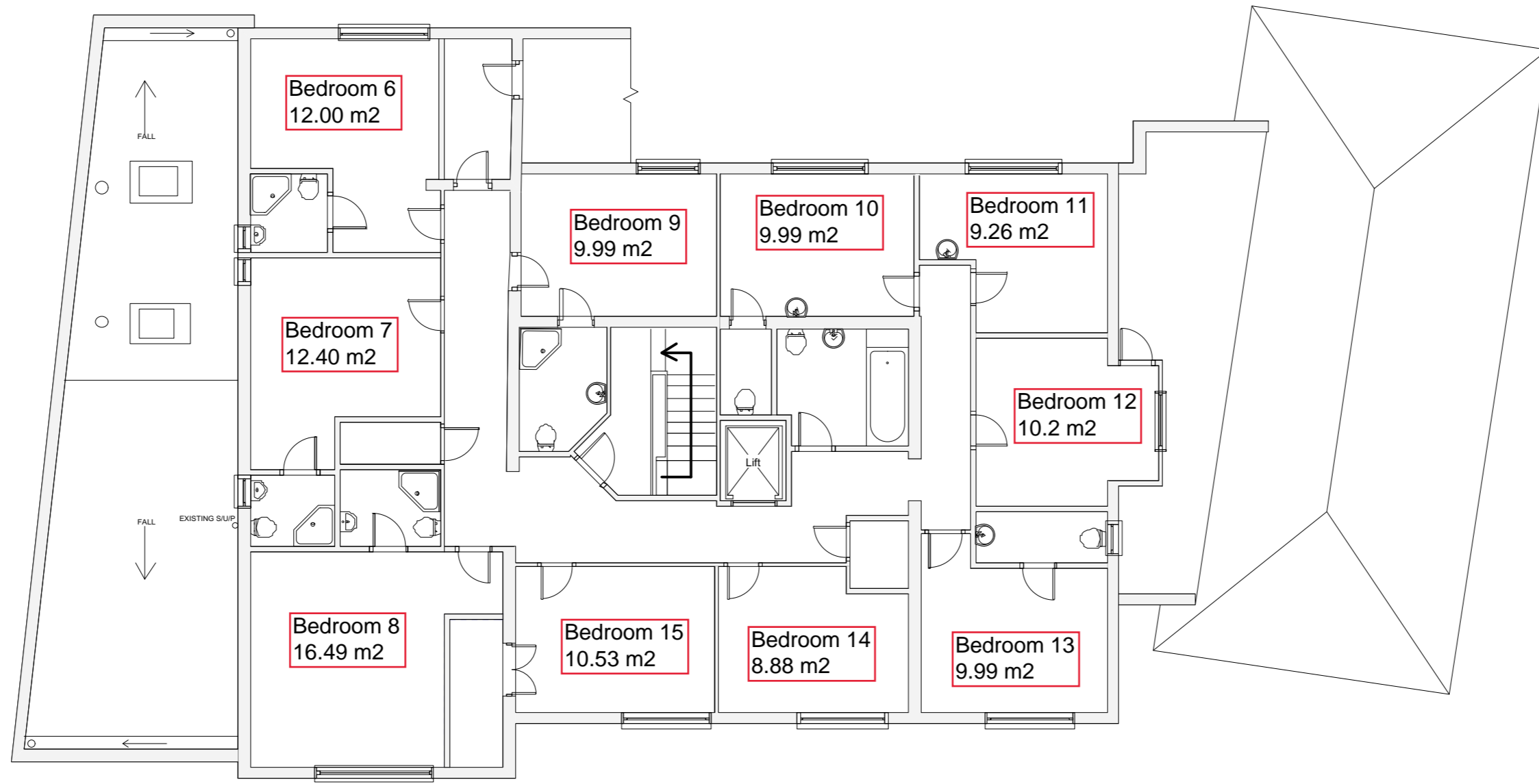


Project Name	Meyrin Flats
Client Name and Address	D.V.K. / ECCL
Sheet Number	Sht-5
Sheet Title	Pro Elevations

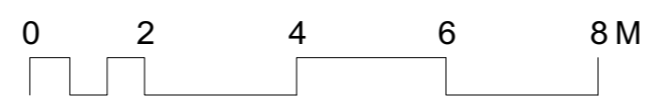
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**Proposed Ground Floor Plan**  
1:100 (A2)



**Proposed First Floor Plan**  
1:100 (A2)



**Note:**  
Front entrance doors to have level access with clear door opening width of 775mm. All internal doors on the ground floor to achieve clear opening width of 750mm. All light switches to be positioned max 1200mm above finished floor level. All socket outlets, TV points & BT points to be positioned 450mm above finished floor level. All above to be provided to accord with part 'M' of Building Regulations.

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195

Ayers & Cruik  
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ON A PLOT OF 6,381 SQ FT  
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Mon-Fri  
8.30am - 4.30pm



196

PROPERTY  
FOR SALE

E070 NDN

EF57 UY

EP19 AUH

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<b>Reference:</b>	17/00195/UNAU_B and 21/00141/UNAU_B	<b>8</b>
<b>Ward:</b>	Chalkwell	
<b>Breach of Control:</b>	Raised roof parapet and balustrade forming a roof terrace	
<b>Address:</b>	78 Beach Avenue, Leigh-On-Sea, Essex, SS9 1HW	
<b>Case opened :</b>	20.07.2017 and 16.05.2021	
<b>Case Officer:</b>	Hayley Thompson	
<b>Recommendation:</b>	<b>AUTHORISE ENFORCEMENT ACTION</b>	

78 Beach Avenue, Leigh-On-Sea, Essex, SS9 1HW



## **1 Site location and description**

- 1.1 This report relates to a two-storey detached building on the north-eastern side of Beach Avenue. The surroundings steeply slope from north to south-east. The site is not located within a conservation area or subject to any site-specific planning policies.

## **2 Lawful Planning Use**

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

## **3 Relevant Planning History**

- 3.1 18/00442/FULH - Retain remodelled roof parapet and minor increase of balustrade height (Retrospective) – Application refused.

## **4 The alleged planning breach and the harm caused**

- 4.1 Without planning permission alterations to a roof parapet were carried out to increase the height to 1.2 metres above roof level and the installation of a part glazed infill balustrade in association with the use of the flat roof as a terrace.
- 4.2 It was found through determination of a planning application that the development would allow direct views into rear private amenity spaces of surrounding dwellings to the north and east resulting in a harmful loss of privacy.
- 4.3 Some supporting evidence was submitted during the planning application process that on the balance of probability access to the flat roof has been long-established and the access arrangements to the flat roof indicate that it has been easily accessible to occupiers of the dwelling via a substantial internal stair and a small doorway for a considerable period of time.
- 4.4 As a result of the alterations to the roof including the balustrade rail and raised parapet height, a formalisation of the existing roof as an amenity space has taken place encouraging an intensification of the use of the roof for general social use and living space and allowing longer dwell times by individuals at the edge of the roof, in relative safety, and facilitating the ability to look directly over the edge of the roof. This has caused an increase in direct overlooking over neighbouring private amenity spaces.
- 4.5 It appears that historic use of the roof has been informal and intermittent but it is considered that the existence of the access for maintenance purposes and not as an intended useable liveable space, does not necessarily imply the formalisation of the use of the entire flat roof as a roof terrace. It is understood therefore that the harm caused directly relates to the unauthorised installation of the balustrade and raised parapet which formalises use of the roof as a roof terrace and causes a harmful loss of privacy to neighbouring private amenity space.

## **5 Background and efforts to resolve breach to date**

- 5.1 In July 2017 an enforcement case was raised regarding an alleged unauthorised roof terrace which was in the process of being constructed.
- 5.2 In June 2018 planning application 18/00442/FULH seeking to retain the unauthorised works to the roof was refused. A copy of the officer report is attached as Appendix 1 Permission was refused on the following ground:

*The development leads to a change in the character of the use of the roof, facilitating its social use as an extension to the dwelling's living space. It would allow direct views from the edges into rear private amenity spaces at surrounding dwellings to the north and east, leading to a material loss of privacy to occupiers therein to the detriment of amenities. This is unacceptable and contrary to the National Planning Policy Framework, 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 Southend-on-Sea Design and Townscape Guide (2009).*

- 5.3 In May 2021 a complaint was received indicating that the roof terrace was still in situation thereby resurrecting the 2017 case with fresh reference 21/00141/UNAU\_B.
- 5.4 An enforcement site visit undertaken in May 2021 confirmed that the roof terrace is still in situation.
- 5.5 To date, no further planning application has been submitted to seek to overcome the reason for refusal of the retrospective planning application or otherwise to seek to regularise the position and no appeal was submitted against the refusal of planning permission.

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

- 6.1 The appended officer's report for planning application 18/00442/FULH sets out fully the basis for refusal of planning permission due to the identified harm. The policy context has not changed materially in the interim in any relevant regards.
- 6.2 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 parapet and balustrade 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 3 months is considered reasonable for the above works.

#### Appendix 1 – Officer’s report 18/00442/FULH

<b>Reference:</b>	18/00442/FULH
<b>Ward:</b>	Chalkwell
<b>Proposal:</b>	Retain remodelled roof parapet and minor increase of balustrade height (Retrospective)
<b>Address:</b>	78 Beach Avenue Leigh-On-Sea
<b>Applicant:</b>	Mr Lee Cooper
<b>Agent:</b>	Mr Steven Kearney
<b>Consultation Expiry:</b>	26.04.2018
<b>Expiry Date:</b>	07.05.2018
<b>EoT Date:</b>	11.06.2018
<b>Case Officer:</b>	Robert Lilburn
<b>Plan Nos:</b>	494 P01 revision B
<b>Recommendation:</b>	<b>REFUSE PLANNING PERMISSION</b>

## **1 The Proposal**

- 1.1 Planning permission is sought for alterations to a roof parapet, including raising its height to 1200mm above roof level and installation of a part-glazed infill balustrade.
- 1.2 The parapet is finished externally at the north, east and south elevations in white painted render, while the west-facing portion is finished externally in red tiles to match the existing adjacent roof.
- 1.3 The alterations are in association with the use of the flat roof as a terrace by occupiers of the property.
- 1.4 The application has been submitted following planning enforcement enquiries. The applicant has agreed an extension to the determination date of the application in order to provide further evidence of the former condition of the roof and parapet prior to the works being commenced.

## **2 Site and Surroundings**

- 2.1 The subject building is a two-storey detached dwelling house with a part-flat roof and part-ridged roof. It is finished externally in white painted render with red roof tiles.
- 2.2 The surrounding area is characterised by larger dwellings situated in close proximity to one another. Rear gardens are generously proportioned at approximately 13m in depth.  
  
The surroundings are steeply sloping from north to south-east.
- 2.3
- 2.4 The site is not located within a conservation area or subject to any site specific planning policies.

## **3 Planning Considerations**

- 3.1 The key considerations in relation to this application are the principle of the development, design and impact on the character of the area, and impact on residential amenity.

## **4 Appraisal**

### **Principle of Development**

**National Planning Policy Framework, 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)**

- 4.1 The dwelling is located within a residential area. Extensions and alterations to the property are considered acceptable as a matter of principle.
- 4.2 Other material planning considerations are discussed below.

### **Design and Impact on the Character of the Area**

#### **National Planning Policy Framework, 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 the advice contained within the Southend-on-Sea Design and Townscape Guide (2009)**

- 4.3 Paragraph 56 of the NPPF states that “good design is a key aspect of sustainable development, is indivisible from good planning, and should contribute positively to making places better for people”.
- 4.4 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.
- 4.5 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.
- 4.6 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.
- 4.7 The raising of the roof parapet height and installation of the glazed balustrade with metal rail cause no material harm to the appearance of the building or wider area.
- 4.8 The proposed external materials match the parent building and are considered acceptable.
- 4.9 This proposal is acceptable and policy compliant in this regard.

### **Impact on Residential Amenity**

#### **National Planning Policy Framework, 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 the advice contained within the Southend-on-Sea Design and Townscape Guide (2009)**

- 4.10 Paragraph 17 of the National Planning Policy Framework seeks to secure high quality design and a good standard of amenity for all existing and future occupants of land and buildings.
- 4.11 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.
- 4.12 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”.



- 4.13 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”*.
- 4.14 The proposal supports the use of the flat roof as a terrace. The use of the flat roof as a terrace has not formed part of the application. However, it is a relevant consideration.
- 4.15 The access arrangements to the flat roof indicate that it has been easily accessible to occupiers of the dwelling via a substantial internal stair and a small doorway for a considerable period of time. This has been confirmed in statements by the applicant and a neighbour.
- 4.16 On the balance of probability it is considered that access to the flat roof has been long-established. Therefore it would be unreasonable to seek to restrict access to the roof.
- 4.17 However, the balustrade rail and raised parapet height would allow longer dwell times by individuals at the edge of the roof, and facilitate the ability to look directly over the edge in relative safety, especially at the north and east edges. In turn it encourages the use of the roof for gatherings and general social use and living space in fine weather. This would allow an increase in direct overlooking of neighbouring rear private amenity spaces, particularly no.23 Cliff Road and no.76 Beach Avenue, and a perception of reduced privacy for surrounding occupiers.
- 4.18 It appears that use of the roof has in the past been informal and ad hoc, and its surfacing and parapet characteristics, shown in evidence supplied by the applicant, indicate that it was not intended as a useable living space. It is considered that the existence of the access which would allow maintenance, for example, does not necessarily imply that the formalisation of the use of the entire roof as a terrace, where it may support gatherings and act as an extension to the property, should automatically follow.
- 4.19 Taking account all material considerations, it is considered that the development is materially harmful to the amenities of neighbouring occupiers, by leading to an increase in direct overlooking and an actual and perceived loss of privacy. The development is therefore unacceptable and in conflict with the above policies.

## **Community Infrastructure Levy**

### **CIL Charging Schedule 2015**

- 4.20 The new floor space created by the proposal would be less than 100m<sup>2</sup>. Therefore, the proposed development is not CIL liable.

## **5 Conclusion**

- 5.1 Having taking all material planning considerations into account, it is found that the principle of altering the property is acceptable. The design of the proposal is consistent with the aims of maintaining and enhancing the quality of the residential environment. The proposal would have a detrimental impact on the amenity of the neighbours having regard to overlooking. The applicant has indicated safety considerations in relation to the formation of the parapet, however it is considered that as control of access to the roof is within the applicant's control, this remains a private matter and would not warrant the harm resulting to neighbour amenities from the formation of the parapet, rail and the de facto creation of a roof terrace extension.

## **6 Planning Policy Summary**

### 6.1 The National Planning Policy Framework (2012)

Core Strategy (2007): Policies KP1 (Spatial Strategy) KP2 (Development Principles) and CP4 (Environment & Urban Renaissance)

Development Management Document (2015): DM1 (Design Quality), DM3 (Efficient and Effective Use of Land) and DM15 (Sustainable Transport Management)

Supplementary Planning Document 1: Design & Townscape Guide (2009)

CIL Charging Schedule 2015

## **7 Representation Summary**

### **Consultee comments**

### **Public Consultation**

- 7.1 13 neighbours were notified and one letter of representation has been received. A neighbouring occupier has expressed concern relating to overlooking. It is stated that the development allows the roof to be used more formally as a terrace, with consequent effects of overlooking to nearby back gardens and sitting rooms.

## **8 Relevant Planning History**

- 8.1 None identified.

## **9 REFUSE PLANNING PERMISSION for the following reasons:**

- 1. The development leads to a change in the character of the use of the roof, facilitating its social use as an extension to the dwelling's living space. It would allow direct views from the edges into rear private amenity spaces at surrounding dwellings to the north and east, leading to a material loss of privacy to occupiers therein to the detriment of amenities. This is unacceptable and contrary to the National Planning Policy Framework, 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 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 discussing those with the Applicant. However, the proposal does not represent sustainable development because the issues are so fundamental to the proposal that it has not been possible to negotiate a satisfactory way forward and due to the harm which has been clearly identified within the reason(s) for the refusal and set out in a report prepared by officers, approval has not been possible.**

Appendix 2 – Site photographs 2017/2018







Appendix 3 – Site photograph May 2021



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