

Public Document Pack  
SOUTHEND-ON-SEA CITY COUNCIL

**Development Control Committee**

**Date: Wednesday, 13th December, 2023**

**Time: 2.00 pm**

**Place: Committee Room 1 - 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**

The supplementary report by the Executive Director (Environment and Place) will provide additional information (if any) on the items referred to on the Agenda and will be available on the morning of the meeting.

**\*\*\*\* Contents List and Introduction**

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

**4 23/00976/FUL - Land Rear Of 2 Smallholdings Eastwoodbury Lane, Southend-on-Sea (St Laurence Ward) (Pages 7 - 56)**

**5 23/00265/OUTM - Empire Theatre, Alexandra Street, Southend-on-Sea (Milton Ward) (Pages 57 - 114)**

**6 23/01153/FUL - Land At Garon Park, Eastern Avenue, Southend-on-Sea (St Luke's Ward) (Pages 115 - 144)**

**\*\*\*\* Reports on Enforcement of Planning Control**

**7 22/00341/UNAU\_B - 15 Leslie Close, Eastwood, Leigh on Sea (Eastwood Park Ward) (Pages 145 - 166)**

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

Councillor N Ward (Chair),

Councillors F Evans (Vice-Chair), B Beggs, M Berry, M Borton, S Buckley, A Dear, M Dent, N Folkard, J Harland, A Jones, R Longstaff, C Mulroney, M Sadza, C Walker and R Woodley

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## DEVELOPMENT CONTROL COMMITTEE

13<sup>th</sup> December 2023

WARD	APP/REF NO.	ADDRESS
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<b>Main Plans Report</b>		
St Laurence	23/00976/FUL	Land Rear Of 2 Smallholdings Eastwoodbury Lane Southend-on-Sea
Milton	23/00265/OUTM	Empire Theatre Alexandra Street Southend-on-Sea
St Lukes	23/01153/FUL	Land At Garon Park Eastern Avenue Southend-on-Sea

<b>Enforcement Report</b>			
Eastwood Park	22/00341/UNAU_B	15 Leslie Close Eastwood	

## DEVELOPMENT CONTROL COMMITTEE

### INTRODUCTION

- (i) **Recommendations in capitals at the end of each report are those of the Executive Director (Environment & Place), are not the decision of the Committee and are subject to Member consideration.**
- (ii) All plans have been considered in the context of the City 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)

## DEVELOPMENT CONTROL COMMITTEE

### **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
- (viii) Development Management Document
- (ix) London Southend Airport & Environs JAAP
- (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
- (xvi) Southend Electric Vehicles Charging Infrastructure SPD

**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

<b>Reference:</b>	23/00976/FUL	<b>4</b>
<b>Application Type:</b>	Full Application	
<b>Ward:</b>	St Laurence	
<b>Proposal:</b>	Erect eight dwellinghouses with associated amenity space, parking, cycle and bin stores	
<b>Address:</b>	Land Rear Of 2 Smallholdings, Eastwoodbury Lane, Southend-on-Sea, Essex	
<b>Applicant:</b>	Mr Oliver Hall of Eastway Homes	
<b>Agent:</b>	Mr Dwight Breley of Breley Design Ltd.	
<b>Consultation Expiry:</b>	06.12.2023	
<b>Expiry Date:</b>	15.12.2023	
<b>Case Officer:</b>	Oliver Hart	
<b>Plan Nos:</b>	<b>1542-01 Rev B; 1540-02 Rev J; 1540-07 Rev C; 1540-07 Rev D; 1540-07 Rev E; 1540-05 Rev D; 1540-06 Rev D; 1540-10; 1540-12; 1540-13; Construction Management Plan; Tree Protection Plan Rev 1</b>	
<b>Supporting information:</b>	<b>Design and Access Statement; Preliminary Ecological Appraisal Version 2.0 by MKA Ecology Ltd. (Dated 16/11/2023); Reptile Report Version 2.0 by MKA Ecology Ltd. (Dated 16/11/2023); Arboricultural Report Rev 1 by Andrew Day Arboricultural Consultancy (Dated 06/11/2023); Details of Materials Document; Construction Method Statement Rev A by Breley Design Ltd;</b>	
<b>Recommendation:</b>	<b>GRANT PLANNING PERMISSION subject to conditions</b>	





## **1 Site and Surroundings**

- 1.1 The application site consists of a rectangular parcel of land to the south of Eastwoodbury Lane some 0.19ha in area which is currently undeveloped. Access to the site would be via an existing access point and private roadway running south from Eastwoodbury Lane which presently serves 9No dwellinghouses approved and presently under construction at land rear of 1 Smallholdings (ref. 21/02034/OUT & 22/01088/RES).
- 1.2 The land immediately to the south of the site is in use as a community allotment. To the north and north-east of the site are residential dwellings positioned along Eastwoodbury Lane, inclusive of the 9No dwellinghouses presently under construction at the adjacent development site. To the west is undeveloped land comprising a small area of woodland to its fringe.
- 1.3 The site is designated as Best and Most Versatile Agricultural Land (BMVAL) within the Core Strategy and Development Management Document. It also lies within the area covered by the London Southend Airport Joint Area Action Plan (JAAP) however, it holds no specific designation. The application site is not the subject of any other site-specific policy designations.

## **2 The Proposal**

- 2.1 Planning permission is sought to erect 8No two storey dwellinghouses laid out as a single pair of semi-detached dwellinghouses and two short terraces in a linear arrangement around a central turning area.
- 2.2 The proposed dwellings would be crown roofed and finished externally in render and clay plain roof tiles (red), with a red brick plinth and soldier course shown above the windows. A flat roof canopy over the front door is also detailed. External materials details have been provided with the application and are detailed as follows:
  - K Rend Waterproof render in Limestone White to exterior walls;
  - Sahtas Dark Farmhouse brick plinth;
  - Red clay roof tiles [Ste Foy Rouge Nuance] by Edillians;
  - White UPVC windows and patio doors;
  - Black front doors;
  - White fascias and soffits; and
  - Black guttering
- 2.3 These material details are noted as matching the approved details for the adjacent development site at the land rear of 1 Smallholdings.
- 2.4 The single pair of semi-detached properties and one of the short terraces would comprise 3-bed units with accommodation in the roof, provided by way of flat roofed dormers to the front roof slope some 1.6m wide, 1.8m wide and 2.2m deep.
- 2.5 The proposed dwellings each measure a maximum of 5m in width, 8.6m in depth and a maximum height of 8.2m. The short-terraced properties without roof accommodation would constitute two-bed, three-person units measuring some 72sqm. The single semi-detached pair and short-terraced properties with roof accommodation would constitute three-bedroom, four-person units measuring some 94sqm.
- 2.6 The submitted plans indicate that each dwelling would be provided with 2 parking spaces in a tandem arrangement. Electric vehicle charging points are shown.

- 2.7 An indicative landscaping plan has also been provided showing the planting of 21No trees and additional shrub planting on the boundaries of the site and within the proposed front gardens.
- 2.8 Submitted Tree survey plans show the following tree removals;
- T6 [an Apple Tree]
  - G2, G3 and G4 [Leyland cypress, Common Oak, Hawthorn, Prunus, Elder]
  - G1 [Leyland cypress - partial removal where it extends onto the application site]

### **3 Relevant Planning History**

- 3.1 There is no relevant planning history at the application site for the determination of this application.

### **4 Representation Summary**

#### **Public Consultation**

- 4.1 Twenty-Seven (27No) neighbouring properties were consulted and a site notice was displayed. 5No letters of objection from 2No addresses have been received. Summary of comments:

- Overlooking concerns from neighbouring 1 Smallholdings site  
*[Officer Comment: The 1 Smallholdings site is unaffected by this application, has been granted permission which remains extant and is under construction]*
- Wildlife concerns with regards 1 Smallholdings site  
*[Officer Comment: Wildlife concerns continue to be investigated in association with the 1 Smallholdings site which sits separately from this application]*
- Traffic, congestion and parking concerns from additional housing.

**[Officer Comment:]** 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.

#### **Environmental Health**

- 4.2 No objections subject to conditions regarding construction management, refuse and recycling and unknown land contamination.

#### **Highways**

- 4.3 No objections. Policy compliant off street parking has been provided for each dwelling. The dwellings are accessed via a private road. It is not considered that the proposal will have a detrimental impact on the local highway network. The Construction Method Statement is acceptable. Tracking data for waste vehicles is required.

#### **Parks**

- 4.4 No objections subject to carrying out of the five recommendations contained within the Ecology Survey.

#### **Tree Officer**

- 4.5 No objections to the tree removal or tree protection measures proposed.

### **5 Procedural matters**

5.1 The application has been called in to Development Control Committee by Councillor Lydia Hyde.

## **6 Planning Policy Summary**

6.1 The National Planning Policy Framework (NPPF) (2023)

6.2 Planning Practice Guidance (PPG) (2023)

6.3 National Design Guide (NDG) (2023)

6.4 Technical Housing Standards – Nationally Described Space Standards (2015)

6.5 Core Strategy (2007): Policies KP1 (Spatial Strategy), KP2 (Development Principles), KP3 (Implementation and Resources), CP3 (Transport and Accessibility), CP4 (The Environment and Urban Renaissance), CP5 (Minerals and Soils Resources) and CP8 (Dwelling Provision).

6.6 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) and DM15 (Sustainable Transport Management).

6.7 London Southend Airport Joint Area Action Plan (2014)

6.8 Southend-on-Sea Design and Townscape Guide (2009)

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

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

6.11 Electric Vehicle Charging Infrastructure (EVCI) for New Development Supplementary Planning Document (SPD) (2021)

6.12 Essex Coast Recreational Disturbance Avoidance and Mitigation Strategy (RAMS) Supplementary Planning Document (SPD) (2020)

6.13 Technical Housing Standards Policy Transition Statement (2015)

## **7 Planning Considerations**

7.1 The main considerations in relation to this application are the principle of the development, the design and impact on the character of the streetscene and wider area, the standard of accommodation for future occupiers, the impact on residential amenity of neighbouring occupiers, any traffic and transportation issues, refuse and recycling storage, energy and water sustainability, water drainage, ecology and biodiversity implications and compliance with the Essex Coast RAMS SPD and CIL liability.

## **8 Appraisal**

### **Principle of Development**

#### Provision of housing and loss of Best and Most Versatile Agricultural Land (BMVAL)

8.1 Paragraph 119 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.'*

- 8.2 Paragraph 121 of the NPPF states '*Local planning authorities, and other plan-making bodies, should take a proactive role in identifying and helping to bring forward land that may be suitable for meeting development needs, including suitable sites on brownfield registers or held in public ownership, using the full range of powers available to them.'*
- 8.3 Policy KP2 of the Core Strategy states that all new developments should '*...make the best use of previously developed land, ensuring that sites and buildings are put to best use...respect, conserve and enhance and where necessary adequately mitigate effects on the nature and historic environment...do not place a damaging burden on existing infrastructure...promote improved and sustainable modes of travel...secure improvements to the urban environment through quality design...respect the character and scale of the existing neighbourhood where appropriate...'*
- 8.4 Policy CP8 of the Core Strategy states: '*Provision is made for 3,350 net additional dwellings between 2001 and 2011 and for 3,150 net additional dwellings between 2011 and 2021.'* However, this document is more than 15 years old, pre-dating the NPPF, and as such the LPA's policy related to the number of homes required to be delivered in the City is out-of-date. Accordingly, the Standard Method (December 2020) applies. This increases the annual housing need of Southend-on-Sea from 325 dwellings per annum to 1,181 dwellings per annum, representing a 263% increase and highlighting the pressing need for housing within the City. The Addendum to the South Essex Strategic Housing Market Assessment ("SESHMA") (May 2017) identified a similar level of housing need.
- 8.5 Policy DM3 of the Development Management Document states '*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.'*
- 8.6 The Government's latest Housing Delivery Test ("HDT") Results (January 2022) show that Southend-on-Sea delivered 31% of its total housing requirement between 2018-2021, thereby triggering the presumption in favour of sustainable development under paragraph 11 of the NPPF. Southend-on-Sea's Five-Year Housing Land Supply ("5YHLS") figure shows that there is a deficit in housing land supply in Southend-on-Sea. The latest figure demonstrates 4.18 years' worth of housing land supply. The SESHMA identifies that Southend-on-Sea 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 and so there is a relatively greater need for such housing. Together, these documents demonstrate a pressing need for all types of housing delivery within the City.
- 8.7 The proposed development would provide additional housing within the City, including dwellings which could be utilised by small family groups which is a positive of the scheme and for which there is a significant identified need in the City. This is considered to carry significant weight in the assessment of the scheme.
- 8.8 In terms of the BMVAL designation, the key policy is CP5 of the Core Strategy which '*seeks to protect the best and most versatile agricultural land (defined as land in grades 1, 2 and 3a of the Agricultural Land Classification) from irreversible damage where this is consistent with the full range of sustainability considerations, including biodiversity; quality and character of the landscape; amenity value or heritage interest; accessibility to infrastructure, workforce and markets; maintaining viable communities; and the protection of natural resources, including soil quality.'*

- 8.9 Annex 2 of the NPPF defines BMVAL as Land in grades 1, 2 and 3a of the Agricultural Land Classification. Paragraph 174 of the NPPF states that planning decisions should contribute to and enhance the natural and local environment by recognising the wider benefits from natural capital and ecosystem services, including the economic and other benefits of the BMVAL. Paragraph 175 and footnote 58 of the NPPF state that where significant development of agricultural land is demonstrated to be necessary, areas of poorer quality land should be preferred to those of a higher quality.
- 8.10 The proposal would result in new development on land that is designated as BMVAL and sequentially is less preferable than lower grades of agricultural land. Despite the conflict with policy, this issue is not capable of disengaging the presumption in favour of sustainable development.
- 8.11 The Design and Access statement submitted details that the neighbouring parcels of undeveloped land are all of modest size and under private ownership, representing a significant obstacle in mobilising the site for any future commercial agricultural activity. In addition, the modest size of the site itself, its position in a semi-urban locale and proximity to residential development to the immediate north and east are such that it is unlikely to hold any value in terms of agricultural potential.
- 8.12 This case is supported by the applicant with the submission of an appeal decision<sup>1</sup> (contained within the Design and Access Statement) for a site in Winterley, Cheshire where the Planning Inspector reasoned that due to the size of the land and its isolation from any non-residential surrounding land, the introduction of residential development would not materially impact on agriculture production. The size of the site in question was some 2.1ha, which is significantly larger in comparison to the application site's 0.19ha. The Planning Inspector afforded modest weight to the loss of BMVAL. This part of the submitted Winterley Decision is relevant to the determination of this application and should be given significant weight. Other matters weighed in the Winterley Decision, such as the provision of housing and affordable housing, the HDT and 5YHLS of Cheshire East Council, and the application of local policies of that Local Planning Authority are not directly relevant for the consideration of this application.
- 8.13 The relevant part of the Winterley Decision would suggest that, in the circumstances of this application site, due to the size of the application site and isolation from any non-residential use of land, the loss of BMVAL in this instance would not compromise agricultural activities in Southend-on-Sea. This is further highlighted by the fact that the site only makes up a small percentage of such land within the City limits, and that the majority of such land is already protected by a Green Belt designation (to the north-east of the City bordering Rochford District Council). In line with the Winterley Decision, modest or even limited weight should be given to this less positive aspect of the proposal.
- 8.14 It is considered that the proposal for 8No dwellings at the density proposed would constitute effective and efficient use of the land. The results of the HDT and 5YHLS position weigh significantly in favour of the proposed housing scheme which in this instance, given its scale, is considered to make a useful contribution towards the provision of housing for the area. The development is considered to satisfy national and local planning policy in these regards. The tilted balance in favour of sustainable development should be applied.

#### Backland development

- 8.15 The location of the proposed dwellings would render the proposal backland development. Policy DM3 is applicable which states: "All development on land that constitutes backland and

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<sup>1</sup> PINS reference APP/R0660/W/20/3251104, date 1 March 2021

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.”

8.16 The surrounding area is mixed in character, comprising residential development to the north-west and east and undeveloped land to the west. Regard is had to the position of the application site in a broadly sustainable location for development and which would duly conform to the prevailing land use around it. As discussed in more detail in the relevant sections of the report, the proposal would comply with all the relevant criteria of Policy DM3.

8.17 On the basis of the information outlined above, it is considered in this instance and weighing the planning balance carefully, that the resultant harm caused by the loss of BMVAL is outweighed by the case for new residential development and the application of the presumption in favour of sustainable development. Subject to other detailed considerations outlined below, the principle of development is acceptable.

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

8.18 Local and national planning policies and guidance seek to ensure that new development is well designed. 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.

8.19 Local development plan policies seek to ensure that new development is designed so that it adds to the overall quality of the area and respects the character of the site, its local context and surroundings, provides appropriate detailing that contributes to and enhances the distinctiveness of place; and contributes positively to the space between buildings and their relationship to the public realm. Policy DM1 and the Council’s Design and Townscape Guide provide further details on how this can be achieved.

8.20 The application site is positioned on the fringe of the suburban area and would in effect form a small urban extension connected with the previously approved development under construction at 1 Smallholdings. The development will consequently introduce built form on presently undeveloped land and the impact on the open and spacious character of the area is a less positive aspect of the proposal.

8.21 Regard is had to the layout of the dwellings as a single pair of semi-detached dwellinghouses and two short terraces laid out in a linear arrangement around a central turning area. There is significant separation between the dwellings themselves and deep rear gardens are also part of the layout such that it is considered that spaciousness has been suitably incorporated into the scheme.

8.22 There is no overall order to the siting and/or arrangement of neighbouring properties in the adjoining roads, with properties along Eastwoodbury Lane and Eastwoodbury Crescent following a more traditional rectilinear pattern whilst those dwellings along Eastwoodbury Close resemble ‘backland’ development, owing to their position beyond the rears of dwellings fronting Eastwoodbury Crescent and siting around a central turning area. On this basis, it is

not considered that the proposal as a residential 'backland' development would appear significantly at odds with the grain of the area.

- 8.23 The position of the proposed dwellings to the rear of neighbouring development is such that there would be no clear public views. It is considered reasonable to argue that the prevailing character has been set by the approved development under construction at 1 Smallholdings; a mix of semi-detached and short terraced dwellinghouses between 2 to 2.5 storeys with a crown roof and finished externally in white render with a brick plinth and window header detail, with some comprising rooms in the roof using flat roofed front dormers.
- 8.24 The proposed development would replicate their form, design and exterior finish, with the material details submitted with this application and outlined within section 2 of the report aligning with those submitted and approved for the 1 Smallholdings site. Together, the two development sites would establish their own character and no objections are raised on this basis.
- 8.25 The application has been submitted with an Arboricultural Report and Tree Protection Plan. The proposal seeks to remove 1 No Apple Tree (T6) and three groups of trees to the edges of the site (G2, G3 and G4) comprising Leyland Cypress, Common Oak, Hawthorn, Prunus, Elder. It is also proposed to partially cut back to the boundary a group of trees (G1) comprising Leyland Cypress and other shrubs. These trees are not the subject of a TPO and have been categorised in the report as category C trees, which are 'low' category trees with low amenity value. The Arboricultural Report concludes that the loss of the trees will have limited impact on the public visual amenity of the area. The Council's Tree Officer raises no objection to the tree removal proposed for the reasoning provided.
- 8.26 All retained trees will require suitable tree protection and specialist methods of design and construction will need to be employed to minimise any impact on trees to be retained. Tree protection measures have been set out in the Arboricultural Report and are illustrated within the accompanying Tree Protection Plan. The Council's Tree Officer raises no objection to the tree protection measures proposed.
- 8.27 Subject to a condition requiring the development to be undertaken in accordance with the tree protection recommendations of the Arboricultural Report and Tree Protection Plan, the development is considered to have an acceptable impact on the trees within and next to the site and would not significantly harm the character and appearance of the site or surrounding area in this regard.
- 8.28 Specific landscaping details have not been provided with this application. However, the submitted block plan indicates the planting of 21 No additional trees as well as ornamental planting to the front gardens of the proposed dwellings. Whilst the number and type of trees that will be removed as part of the proposal is a less positive aspect of the development, the site layout plan shows the development is to be set within a landscaped setting following the extent of replacement tree planting proposed. As a result, it is not considered the proposal would significantly harm the character and appearance of the site or surrounding area in this regard. The exact number of trees on site, including those currently within the identified groups would be required to be submitted as part of the condition details.
- 8.29 Overall, and subject to conditions, the proposal is considered , acceptable and policy compliant in terms of its impact on character and appearance of the site, streetscene and wider surrounding area.

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

- 8.30 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 on the living conditions and amenity of existing and future residents or neighbouring residents.

*Space Standards and Quality of Habitable Rooms.*

8.31 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.

**Table 1: Minimum Space Standards**

Number of bedrooms(b)	Number of bed spaces (persons)	1 storey dwellings	2 storey dwellings	3 storey dwellings	Built-in storage
1b	1p	39 (37) *			1.0
	2p	50	58		1.5
2b	3p	61	70		2.0
	4p	70	79		
3b	4p	74	84	90	2.5
	5p	86	93	99	
	6p	95	102	108	

- Bedroom Sizes: The minimum floor area for bedrooms to be no less than 7.5m<sup>2</sup> for a single bedroom with a minimum width of 2.15m; and 11.5m<sup>2</sup> 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 1.5m 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 2.3m shall be provided for at least 75% of the Gross Internal Area.

**Table 2: Proposed overall, bedroom and storage sizes.**

Unit	Occupancy profile	Overall (sqm)	Bedroom 1 (sqm)	Bedroom 2 (sqm)	Bedroom 3 (sqm)	Storage (sqm)	Standards met Y/N
A1	3-bed, 4-person	94	15	10.6	10.3	2.8	Y
A2	3-bed, 4-person	94	15	10.6	10.3	2.8	Y
B1	3-bed, 4-person	94	15	10.6	10.3	2.8	Y
B2	3-bed, 4-person	94	15	10.6	10.3	2.8	Y
B3	3-bed, 4-person	94	15	10.6	10.3	2.8	Y
C1	2-bed, 3-person	72	13.6	10.6	N/A	2	Y
C2	2-bed, 3-person	72	13.6	10.6	N/A	2	Y
C3	2-bed, 3-person	72	13.6	10.6	N/A	2	Y

8.32 The proposal provides 3No x 2-bed, 3-person and 5No x 3-bed 4-person dwellinghouses. As demonstrated by Table 2 above, all dwellinghouses will exceed the national technical housing



standards which is a positive aspect of the design. All habitable rooms will be provided with windows to provide adequate light, ventilation and outlook. The development is acceptable and policy compliant in this respect.

- 8.33 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.”
- 8.34 The proposed dwellings would each be provided with a private garden area between 45 and 114sqm. The garden areas are of a usable size and shape and would provide adequate living conditions for any future occupiers in this respect.
- 8.35 Policy DM8 of the Development Management Document as amended by the Technical Housing Standards Policy Transition Statement states that developments should meet building regulation M4 (2) – ‘accessible and adaptable dwellings’ unless it can be clearly demonstrated that it is not viable and feasible to do so.
- 8.36 Limited details have been submitted in this respect. However, the applicant’s agent has confirmed that all of the dwellings are designed to be Building Regulation M4(2) compliant. Subject to a condition in this respect, the development is acceptable and policy compliant in this regard. A condition can be imposed to secure compliance with this requirement.
- 8.37 The plans do not include specific details of covered and secure cycle stores and enclosed bin stores within the rear gardens. Details and provision of cycle and waste storage can be secured by conditions.
- 8.38 There is no known source of contamination at the site. Environmental Health consider it is unlikely that the land is contaminated but recommend a condition to deal with a scenario that contamination were discovered during the construction phase. Such a condition is included.
- 8.39 Overall, and taken in the round, it is considered that the proposal would not result in substandard accommodation for future occupiers and would not be detrimental to their living conditions. Subject to the described conditions the proposal is considered acceptable and policy compliant in the above regards.

### **Impact on Residential Amenity**

- 8.40 Local and national planning policies and guidance seek to secure high quality development which protects amenity. Policy DM1 of the Development Management Document specifically identifies that development should protect the amenity of the site, immediate neighbours, and surrounding area, having regard to privacy, overlooking, outlook, noise and disturbance, visual enclosure, pollution, and daylight and sunlight. Further advice on how to achieve this is set out in the Council’s Design and Townscape Guide.
- 8.41 The nearest residential uses to the application site are those dwellings under construction at the adjacent development site to the rear of 1 Smallholdings. The other closest neighbouring properties are No’s 2 and 3 Smallholdings to the north in excess of 50m away such that it is not considered the proposal would have any detrimental impacts on those neighbours’ amenity in any relevant regards.
- 8.42 With regards the dwellings presently under construction, the layout of the development is such that no direct views of the proposed dwellinghouses would be possible from any

neighbouring habitable room windows such that there would be no impact upon overlooking or loss of privacy. Moreover, when considered in the context of the relationship between the two sites, having due regard to the layout and the resulting separations between the properties, it is not considered the proposal would give rise to an undue overbearing impact nor a harmful sense of enclosure or dominant impacts.

- 8.43 In terms of overlooking affecting private amenity areas, the arrangement of the proposed dwellings is such that there would remain a degree of overlooking of neighbouring rear gardens. Generally, when considering the site as a whole, this is not considered to be against the grain of what can reasonably be expected in a residential setting. The arrangement of neighbouring properties as two-storey terraces and semi-detached pairs is such that a degree of over-looking of rear gardens exists at present and is considered to form part of the reasonable character of the rear garden scene. In this instance, there would be a minimum distance to the nearest neighbouring rear garden within the 1 Smallholdings site of some 11m. On this basis, there is no objection to a similar arrangement at the proposed development.
- 8.44 A Construction Method Statement has been submitted with the application, confirming the working hours, the provision of site hoarding, designated areas for materials storage, measures to limit waste and maximise recycling along with mitigation measures to reduce noise and dust emissions and to limit traffic disturbance by avoiding deliveries in busy or congested hours. Details of monitoring have also been included. The statement is considered an acceptable basis for a condition which can effectively manage the impacts of the construction process on neighbours' amenity. The statement has been reviewed by the Council's Highways and Environmental Health and no objections have been raised. On this basis, a condition to require development is carried out in accordance with the Statement can be imposed.
- 8.45 Conditions for details of external lighting and to control the hours of construction are recommended in order to avoid significant harm to the residential amenity of neighbours during the construction period. Environmental Health raise no objections on this basis.
- 8.46 Given the relationship of the plots with neighbouring properties, alterations/extensions to the proposed dwellings may result in unacceptable living conditions of the future occupiers or impact on the neighbouring amenity. A condition to remove permitted development rights for classes A, AA, B, D, E and F would therefore be reasonable and necessary.
- 8.47 Overall and subject to the described conditions, the proposal is considered acceptable and policy compliant in the above regards.

### **Traffic and Transportation Issues**

- 8.48 The NPPF states (para 111) that "Development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety or, the residual cumulative impacts on the road network would be severe."
- 8.49 The proposed dwellings be accessed via an extension of the access road serving the development at 1 Smallholdings. The access road would be some 5.1m wide. Details of surfacing materials have not been provided at this stage so the requirement for such details is conditioned. Highways confirm that the design of the access is acceptable and have raised no objection.
- 8.50 Policy DM15 of the Development Management Document seeks a minimum of 2 car parking space per 2+ bedroom dwelling. It is also a requirement to provide a minimum of 1 cycle parking space per dwelling. The Electric Vehicle Charging Infrastructure SPD requires at least

one car parking space per dwelling to be fitted with active provision of charging infrastructure with any remaining spaces being provided with passive provision.

- 8.51 The proposal provides 2 parking spaces per dwelling in accordance with the minimum parking standards. The parking spaces will all be accessed via proposed crossovers off the new access road. A condition to secure the necessary charging infrastructure is recommended. Highways raise no objection to the proposal, commenting that the parking proposed is acceptable and concluding that the development would not harm the public highway network.
- 8.52 Specific cycle storage details have not been provided although a location within the rear gardens of the proposed dwellings is shown on the submitted plans. Whilst the location is acceptable, a condition will be imposed to require specific details to be submitted and approved. Highways have not objected to the scheme.
- 8.53 Overall, the proposed development is considered acceptable and policy compliant in the above regards subject to the described conditions.

### **Energy and Water Sustainability**

- 8.54 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”.
- 8.55 Submitted plans detail the installation of solar panels as the means of renewable energy generation, which is acceptable in principle however, no information has been provided to demonstrate that the proposal would meet the 10% policy requirement. The requirement for renewable energy and restrictions on water usage can reasonably be controlled with conditions provided any such externally mounted technologies respect the character and appearance of the buildings and wider area.
- 8.56 This aspect of the proposal is therefore considered to be acceptable and policy compliant in these regards, subject to conditions.

### **Waste Collection**

- 8.57 It is expected that the proposed dwellinghouses would be served by the Council’s kerbside sack collection scheme. Access for waste and servicing vehicles has not been demonstrated however, it is considered this can be dealt with satisfactorily with a suitably worded condition to require a waste management plan. Maximum distances to carry the sacks appears to be capable of being in line with the relevant guidance. Subject to a condition, the proposal would be acceptable and policy compliant in the above regards.

### **Drainage**

- 8.58 National policy requires that any development is safe from flooding and does not increase the risk of flooding elsewhere. Adequate drainage should be installed to ensure that there is no increased risk of flooding on site or elsewhere, including any undue discharge of surface water on the highway.

8.59 Details of drainage arrangements incorporating principles of Sustainable Drainage Systems can be secured by condition. Subject to this, the development is acceptable and policy compliant in these regards.

### **Ecology And Essex Coast RAMS**

8.60 Paragraph 170 of the NPPF states that '*Planning policies and decisions should contribute to and enhance the natural and local environment by ... protecting and enhancing valued landscapes, sites of biodiversity or geological value and soils...recognising the intrinsic character and beauty of the countryside...minimising impacts on and providing net gains for biodiversity...*'

8.61 A Preliminary Ecological Appraisal (PEA) was carried out for the applicant in August 2023 by MKA Ecology Ltd. In addition to this, reptile surveys had been completed by MKA Ecology Ltd and Hybrid Ecology Ltd.

8.62 It is concluded in the PEA that the development of the site will impact habitats of limited ecological value although a diverse hedgerow exists that has a range of native species (although Sycamore dominates), classified as a Habitat of Principal Importance and therefore should be retained throughout the process.

8.63 Slow worms have been present across the wider development site as confirmed through current and historical surveys. However, the population count as confirmed within the latest Reptile Survey was low. A badger sett is present but within an area of land that is to be retained post development. Recommendations for working at construction sites with nocturnal animals are made but the sustainability of the sett is not in question. Any vegetation clearance should be conducted outside of the bird breeding season.

8.64 The PEA recommends ecological enhancements which should include the provision of bee lawns (i.e. grass, plants and flowers specifically cultivated to encourage bees and other pollinators such as birds to visit) and bird boxes, including the provision of swift and bat boxes within each new building. Meadow creation and bird box location should be outlined by the development of a Landscape and Ecological management plan (LEMP) post planning permission. This can be secured by condition.

8.65 Following communication with the Council's Parks Team, the following recommendations were agreed :

1. *That no further assessment is made of Great Crested Newts as Amphibians were not recorded during reptile surveys and no ponds (Breeding habitat) were observed on maps within 500 metres of the site.*
2. *Given that Bats are likely to forage over the site but no suitable habitats for roosting are present that a recommendation is added to have bat boxes within each new build.*
3. *The population of reptiles (slow worms) is by definition and in accordance with the survey guidance a low population. However, given the history of the adjoining 1 Smallholdings site, a further reptile Mitigation Strategy is required including details of a translocation strategy.*
4. *A Landscape Ecological Management Plan (LEMP) is conditioned requiring soil samples to try and maximise the botanical value of any grassland areas.*

8.66 The reports and the consultant's recommendations have been reviewed by the Council's Parks Team and no objections have been raised subject to inclusion of a suitably worded condition requiring the above.

8.67 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 £156.76 (index linked) is paid per dwelling unit. This will be transferred to the RAMS accountable body in accordance with the RAMS Partnership Agreement.

- 8.68 The applicant has 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)**

- 8.69 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 amended development includes a net gain internal floor area of 686.7sqm, which may equate to a CIL charge of approximately £18,752.19. 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.

### **Equality and Diversity**

- 8.70 The Equality Act 2010 (as amended) imposes important duties on public authorities in the exercise of their functions and specifically introduced a Public Sector Equality Duty. Under this duty, public organisations are required to have due regard for the need to eliminate unlawful discrimination, harassment and victimisation, and must advance equality of opportunity and foster good relations between those who share a protected characteristic and those who do not. Officers have in considering this application and preparing this report had careful regard to the requirements of the Equalities Act 2010 (as amended). They have concluded that the decision recommended will not conflict with the Council's statutory duties under this legislation.

### **Conclusion**

- 8.71 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 proposed development is acceptable in principle and subject to conditions, is acceptable in terms of ecology, sustainability, highways and living conditions of future occupiers. The proposal would also be acceptable in terms of design and impact on the character and appearance of the site and wider surrounding area, and it would not result in any significant harm to residential amenity.
- 8.72 The development constitutes sustainable development, providing economic, social and environmental benefits. Any limited harm identified as a result of the proposal is considered to be clearly outweighed by the benefits of the proposal, including the provision of 8 additional dwellings. If any harm is identified, including in those areas for judgement identified within this report's analysis of the proposal, it is necessary to demonstrate that in reaching a decision, an appropriate balancing exercise has been undertaken considering the benefits of the

proposal and any such harm. The report summarises that the site forms Best and Most Versatile Agricultural Land but also that this Council has a significant 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 useful contribution to the housing needs of this City which must be given increased weight in the planning balance. Subject to conditions, the application is therefore recommended for approval.

## **9 Recommendation**

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

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

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

- 02 The development hereby approved shall be carried out in accordance with the approved plans: 1542-01 Rev B; 1540-02 Rev J; 1540-07 Rev C; 1540-07 Rev D; 1540-07 Rev E; 1540-05 Rev D; 1540-06 Rev D; 1540-10; 1540-12; 1540-13; Tree Protection Plan Rev 1; Construction Management Plan**

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

- 03 The development hereby permitted shall be finished solely in accordance with the material details contained within the Planning Materials Document, namely; K Rend Waterproof render in Limestone White to exterior walls; Sahtas Dark Farmhouse brick plinth; Red clay roof tiles [Ste Foy Rouge Nuance] by Edillians; White UPVC windows and patio doors; Black front doors White fascias and soffits and Black guttering, or in accordance with any other alternative details of materials that have first been submitted to and approved in writing by the Local Planning Authority pursuant to this condition.**

**Reason: In the interest of visual amenity in accordance with the National Planning Policy Framework (2023), Core Strategy (2007) Policies KP2 and CP4, Development Management Document (2015) Policies DM1 and DM3, and the advice contained within the National Design Guide (2021) and the Southend-on-Sea Design and Townscape Guide (2009).**

- 04 Notwithstanding the information submitted with this application, prior to the first occupation of the development hereby approved, full details (including elevations) shall be submitted to and approved in writing by the Local Planning Authority identifying the provision of secure and enclosed refuse and recycling bin and cycle storage for the approved development at the site. The approved cycle storage and refuse and recycling bin storage shall be provided in full and made available for use by the occupants of the approved dwellings prior to the first occupation of the dwellings hereby approved and shall be retained as such for the lifetime of the development.**

**Reason: In the interest of visual amenity in accordance with the National Planning Policy Framework (2023), 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 (2021), the Southend-on-Sea Design and Townscape Guide (2009), and the Waste Storage, Collection and Management Guide for New Developments (2019).

- 05 Construction shall take place solely in accordance with the details contained within the Construction Method Statement Rev A by Breley Design Ltd. or, in accordance with any other alternative details that have previously been submitted to and approved in writing by the Local Planning Authority pursuant to this condition.

Reason: This condition is required in the interests of the amenities of nearby and surrounding occupiers pursuant to Policies KP2 and CP4 of the Core Strategy (2007) and Policies DM1 and DM3 of the Development Management Document (2015).

- 06 Demolition or construction works associated with this permission shall not take place outside the hours: 8am to 6pm Mondays to Fridays and 8am to 1pm on Saturdays and at no time on Sundays or Bank and Public Holidays.

Reason: In order to protect the amenities of surrounding occupiers and to protect the character 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).

- 07 No development above ground level shall be undertaken unless and until details of existing and proposed site levels at and surrounding the site have been submitted to and approved in writing by the Local Planning Authority. The development shall be undertaken and completed at the levels shown on the approved drawing(s) and shall not exceed the highest level of land or structure adjacent to the application site.

Reason: In the interests of the safety of aviation, the residential amenity of adjoining residents and the character and appearance of the area and to ensure that the development complies with the National Planning Policy Framework (2023), Core Strategy (2007) Policies KP2 and CP4, Development Management Document (2015) Policies DM1 and DM3 and the advice in the Southend-on-Sea Design and Townscape Guide (2009).

- 08 Notwithstanding the details shown on the plans hereby approved, no development shall take place, other than ground and site preparation works, unless and until a scheme of hard and soft landscaping for the site has been submitted to and approved in writing by the Local Planning Authority.

The submitted hard and soft landscaping schemes shall include full details of the number, size and location of the trees and shrubs to be planted together with a planting specification, details of the treatment of all hard and soft surfaces, including any earthworks to be carried and all means of enclosing the site, including boundaries within the site. The scheme shall include the number of existing trees which are proposed to be removed and are over the relevant stem diameter as set out in the relevant British Standard to be considered as trees and demonstrate that the proposed planting scheme would achieve a ratio of 2 new trees for every 1 tree removed.

Prior to first occupation of the dwellings hereby approved, the approved hard landscaping scheme shall be implemented and completed in full accordance with the details approved pursuant to this condition. Within the first available planting season (October to March inclusive) following the first occupation of the development hereby approved, the approved soft landscaping scheme shall be implemented and completed in full accordance with the details approved under the provisions of this condition.

Within a period of five years from the completion of the development hereby approved, or from the date of the planting of any tree or any tree planted in its replacement, if any tree existing or planted as part of the approved landscaping scheme is removed, uprooted, destroyed, dies, or becomes, in the opinion of the Local Planning Authority, seriously damaged or defective, another tree of the same species and size as that of the original tree shall be planted in the same place or in accordance with alternative tree replacement details approved under the scope of this planning condition.

Reason: In the interests of visual amenity, biodiversity and the amenities of occupiers and to ensure a satisfactory standard of landscaping pursuant to Policies KP2 and CP4 of the Core Strategy, Policies DM1 and DM3 of the Development Management Document (2015) and the advice in the National Design Guide (2021) and Southend-on-Sea Design and Townscape Guide (2009).

09 Notwithstanding the details shown on the plans submitted and otherwise hereby approved, no development shall commence at the site unless it complies with the recommendations in the Preliminary Ecological Appraisal Version 2.0 by MKA Ecology Ltd. (Dated 16/11/2023), the Reptile Report Version 2.0 by MKA Ecology Ltd. (Dated 16/11/2023) and the additional points agreed between MKA Ecology Ltd. and the Council's Parks Team which are as follows:

1. Each new building shall be fitted with bat boxes;
2. No development shall commence unless and until a further reptile Mitigation Strategy which shall include details of a translocation strategy has been submitted to and approved in writing by the Local Planning Authority pursuant to this condition and any development shall be carried out solely in accordance with the recommendations in the agreed strategy; and
3. The development shall not be first occupied unless and until a Landscape Ecological Management Plan (LEMP) requiring details of soil samples to aim to maximise the botanical value of any grassland areas have been submitted to and approved in writing by the Local Planning Authority pursuant to this condition and any recommendations in the agreed LEMP shall be carried out within the first available planting season (October to March inclusive) following the first occupation of the development. The development shall then be maintained in accordance with the approved LEMP.

Reason: This pre-commencement condition is required in the interest of biodiversity in accordance with National Planning Policy Framework (2023) and Policies KP2 and CP4 of the Core Strategy (2007) and Policies DM1 and DM3 of the Development Management Document (2015).

10 Agreed tree removal works for the development hereby approved (including which trees will be removed) shall not take place between March and August and shall only be carried out in accordance with the recommendations contained in the Arboricultural Report Rev 1 by Andrew Day Arboricultural Consultancy (Dated 16/11/2023).

Reason: In the interest of biodiversity in accordance with the National Planning Policy Framework (2023), Policies KP2 and CP4 of the Core Strategy (2007) and Policies DM1 and DM3 of the Development Management Document (2015).

11 No development shall take place unless and until the tree protection measures outlined in the Arboricultural Report Rev 1 and Tree Protection Plan Rev 1 by Andrew Day Arboricultural Consultancy (Dated 16/11/2023) have been implemented in full at the site. The tree protection measures shall be retained as installed throughout the



construction phase of the development and the development shall be carried out in accordance with the recommendations included in the approved Arboricultural Report.

**Reason:** To safeguard the character and appearance of the surrounding area in accordance with Policies KP2 and CP4 of the Core Strategy (2007) and Policies DM1 and DM3 of the Development Management Document (2015).

- 12** The development hereby approved shall not be first occupied unless and until 16 on site car parking spaces (2no. for each dwelling) have been provided and made available for use at the site in full accordance with the details shown on approved drawing 1540-02 Rev J, together with properly constructed vehicular access to the adjoining highway, all in accordance with the approved plans. At least one of the parking spaces for each approved residential unit, shall be fitted with an active electric vehicle charging point. The parking spaces shall be permanently maintained thereafter solely for the parking of occupiers of and visitors to the development.

**Reason:** To ensure that satisfactory off-street car parking is provided in the interests of residential amenity and highways efficiency and safety, in accordance with the National Planning Policy Framework (2023), Core Strategy (2007) Policy KP2, Development Management Document (2015) Policy DM15 and the guidance in the Southend-on-Sea Design and Townscape Guide (2009) and the Electric Vehicle Charging Infrastructure (EVCI) for New Development Supplementary Planning Document (SPD) (2021).

- 13** No drainage infrastructure associated with this approved development shall be undertaken at this site unless and until full details of the drainage infrastructure and a drainage strategy have been submitted to and approved in writing by the Local Planning Authority. The strategy submitted shall apply the sustainable drainage principles and the sustainable drainage hierarchy. Where more sustainable methods of drainage are discounted clear evidence and reasoning for this shall be included within the strategy submitted. The approved drainage infrastructure and strategy shall be implemented in full accordance with the approved scheme prior to the first occupation of the development hereby approved and be maintained as such for the lifetime of the development.

**Reason:** To ensure satisfactory drainage of the site in accordance with Policy KP2 of the Core Strategy (2007) and Development Management Document (2015) Policy DM14.

- 14** Prior to construction of the development hereby approved above ground floor slab level 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. No dwelling in the development shall be occupied until and unless it has been implemented in accordance with the details approved under this condition. This provision shall be made for the lifetime of the development.

**Reason:** In the interests of providing sustainable development and ensuring a high quality of design in accordance with Policy KP2 of the Core Strategy (2007) and the advice contained within the Southend-on-Sea Design and Townscape Guide (2009).

- 15** Prior to occupation of the development hereby approved water efficiency 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

shall be installed in the development hereby approved and be retained for the lifetime of the development.

**Reason:** To minimise the environmental impact of the development through efficient use of water in accordance with the National Planning Policy Framework (2023), Core Strategy (2007) Policy KP2, Development Management Document (2015) Policy DM2 and the advice contained within the Southend-on-Sea Design and Townscape Guide (2009).

- 16** The development hereby approved shall be carried out in a manner to ensure that the dwellings fully comply with the Technical Housing Standards – Nationally Described Space Standards (2015) and with Building Regulation M4(2) ‘accessible and adaptable dwellings’ before they are brought into use and first occupied.

**Reason:** To ensure provision of high quality and flexible internal layouts to meet the changing needs of residents in accordance with the National Planning Policy Framework (2023), Core Strategy (2007) Policy KP2, Development Management Document (2015) Policy DM8 and the advice contained within the Southend-on-Sea Design and Townscape Guide (2009).

- 17** No external lighting shall be installed on the site subject of this permission unless it is in accordance with the details and specifications of a Lighting Strategy which has previously been submitted to and approved in writing by the Local Planning Authority under the provisions of this condition. All lighting shall be retained on site in accordance with the approved scheme for the lifetime of the development.

**Reason:** In the interest of the residential amenity of future occupiers in accordance with the National Planning Policy Framework (2023), 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 National Design Guide (2021) and the Southend-on-Sea Design and Townscape Guide (2009).

- 18** Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (Amendment) Order 2015, or any order revising or re-enacting that Order with or without modification, no development shall be carried out on the new dwellinghouses within Schedule 2, Part 1, Classes A, AA, B, D, E or F of that Order without the receipt of express planning permission.

**Reason:** To safeguard the character and appearance of the area and in the interest of the residential amenity of the adjoining residents in accordance with the National Planning Policy Framework (2023), Core Strategy (2007) Policies KP2 and CP4, Development Management Document (2015) Policies DM1 and DM3 and the advice contained within the Southend-on-Sea Design and Townscape Guide (2009).

- 19** Notwithstanding the details shown on the plans submitted and otherwise hereby approved, no part of the development shall be occupied or brought into use until details a waste management and service plan including waste vehicle tracking data have been submitted to and agreed in writing by the Local Planning Authority. Waste management and servicing of the development shall only take place in accordance with the approved details.

**Reason:** To ensure that the development is satisfactorily serviced and that satisfactory waste management is undertaken in the interests of highway safety and visual amenity and to protect the character of the surrounding area, in accordance with Policies KP2

and CP3 of the Core Strategy (2007) and Policy DM15 of the Development Management Document (2015).

- 20 In the event that contamination is found at any time when carrying out the approved development that was not previously identified development must stop and it must be reported in writing immediately to the Local Planning Authority under the terms of this condition. An investigation and risk assessment must be undertaken, and where remediation is necessary a remediation scheme must be prepared and shall be submitted to and approved in writing by the Local Planning Authority under the terms of this condition. The approved remediation scheme shall then be fully implemented at the site before any other works continue. Following completion of the measures identified in the approved remediation scheme a verification report must be prepared, and submitted in writing to the Local Planning Authority for its approval under the terms of this condition before the development is brought into first use.

Investigation, remediation and verification must be undertaken by competent persons and in accordance with the Essex Contaminated Land Consortium's 'Land Affected by Contamination: Technical Guidance for Applicants and Developers' and DEFRA and the Environment Agency's 'Model Procedures for the Management of Land Contamination, CLR 11' and other current guidance deemed authoritative for the purposes.

Reason: To ensure that if any contamination is found on the site, it is treated so that it does not harm anyone who uses the site in the future, and to ensure that the development does not cause pollution to Controlled Waters in accordance with Core Strategy (2007) Policies KP2 and CP4 and Policies DM1 and DM14 of the Development Management Document (2015).

Positive and proactive statement:

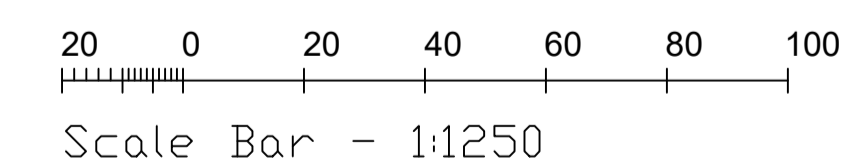
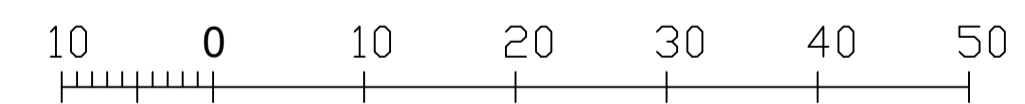
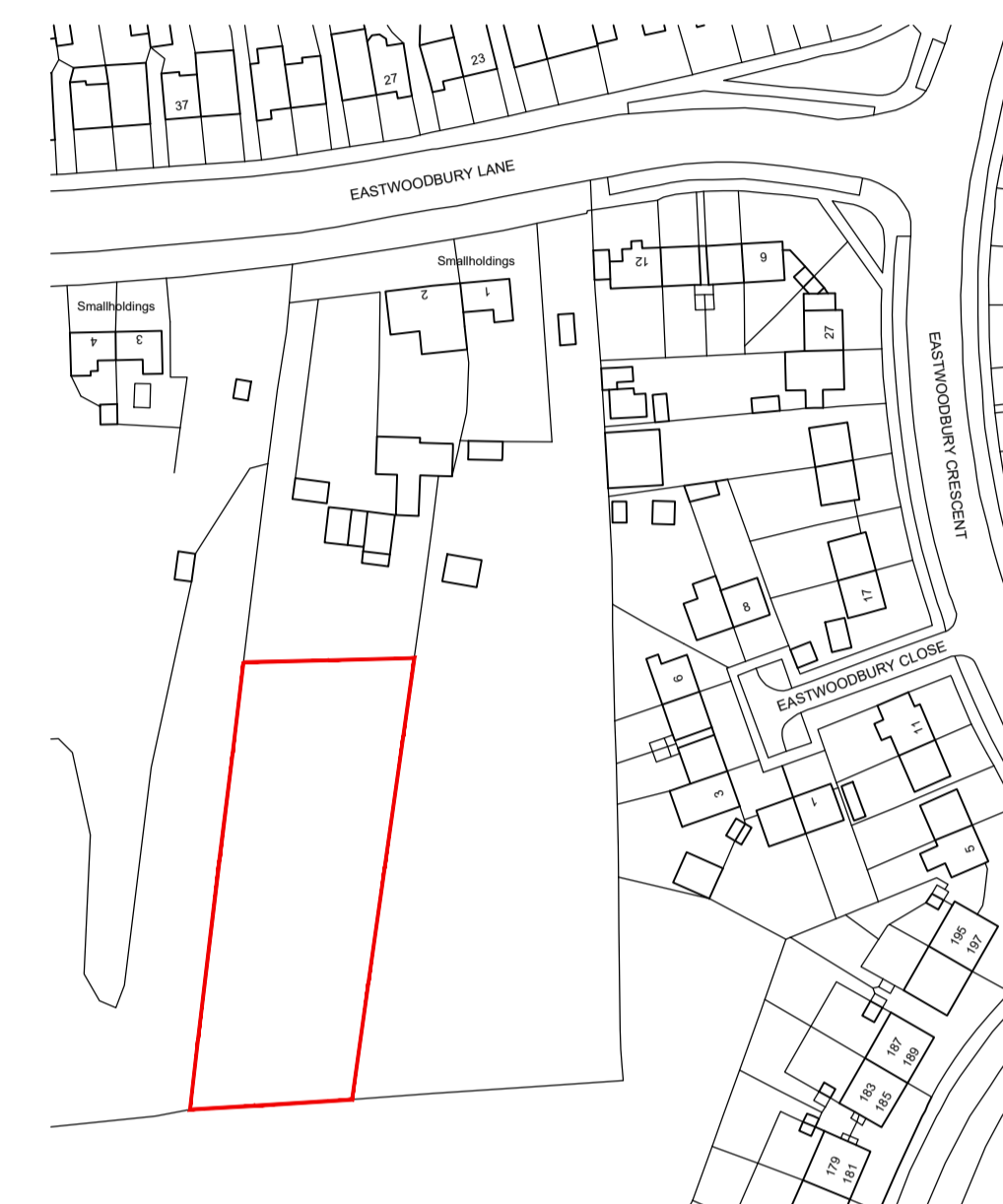
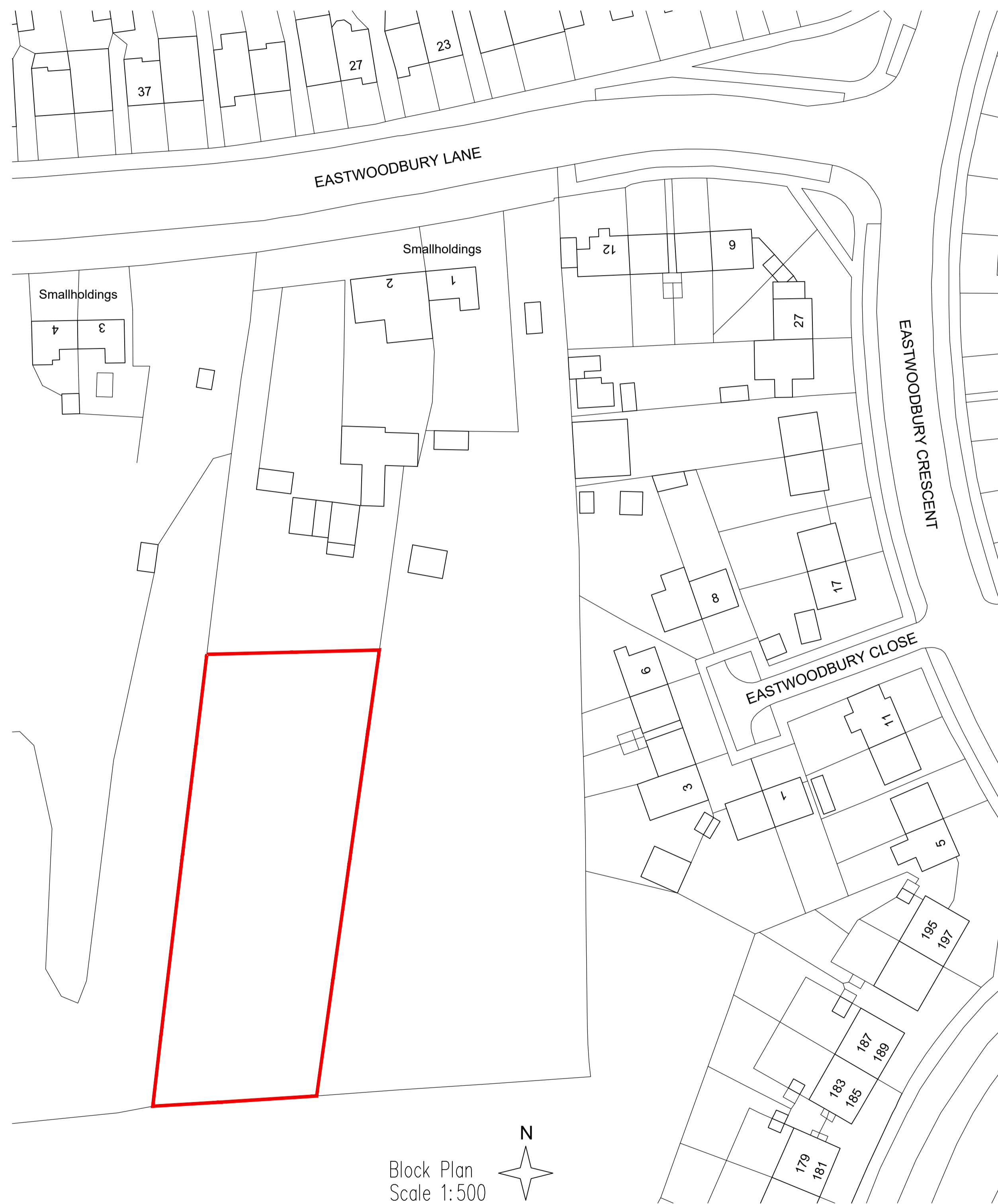
The Local Planning Authority has acted positively and proactively in determining this application by identifying matters of concern within the application (as originally submitted) and negotiating, with the Applicant, acceptable amendments to the proposal to address those concerns. As a result, the Local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

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 the Council will 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 city.
- 3 No waste as part of the development shall be burnt on site.
- 4 Please note that if you require a crane or piling rig to construct the proposed development, this will need to be safeguarded separately and dependant on location may be restricted in height and may also require full coordination with the Airport Authority. Any crane applications should be directed to [sam.petrie@southendairport.com](mailto:sam.petrie@southendairport.com) / 01702 538521.
- 5 The applicant is advised to consider installation of Automatic Water Suppression Systems (AWSS) within the new dwellings.

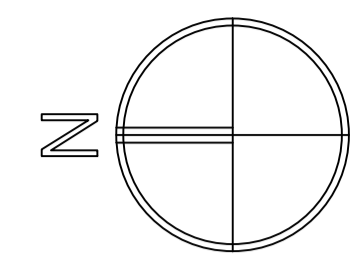


PROJECT: 2 Smallholdings, Eastwoodbury Lane Southend-on-Sea, Essex, SS2 6UZ	
TITLE: Existing Block and Location Plan	
SCALE: As Shown	DATE: April 2023
Drawing No. 1542-01	REV. B

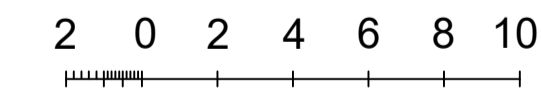


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31



Scale Bar - 1:200 @ A1

-  Tree To Be Removed
-  Existing Tree
-  Approved New Tree in Site Under Construction
-  New Tree
-  New Shrubs

Schedule of Areas	
Building A	
Semi House 1 (3Bed)	94.14m <sup>2</sup>
Semi House 2 (3Bed)	94.14m <sup>2</sup>
Building B	
Semi House 3 (3Bed)	94.14m <sup>2</sup>
Semi House 4 (3Bed)	94.14m <sup>2</sup>
Semi House 5 (3Bed)	94.14m <sup>2</sup>
Building C	
Semi House 6 (2Bed)	72.00m <sup>2</sup>
Semi House 7 (2Bed)	72.00m <sup>2</sup>
Semi House 8 (2Bed)	72.00m <sup>2</sup>

PROJECT: 2 Smallholdings, Eastwoodbury Lane Southend-on-Sea, Essex, SS2 6UZ	
TITLE: Proposed Block Plan	
SCALE: 1:200	DATE: APR 2023
Drawing No. 1540-02	REV. G

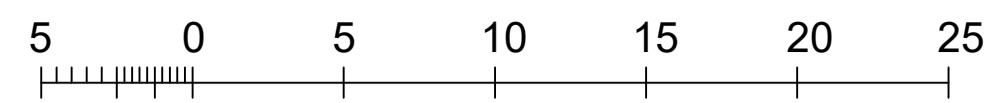


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Essex, SS2 6JN, England  
Telephone: +44 (0)1702 541300  
Facsimile: +44 (0)1702 543123  
Email: info@breleydesign.com

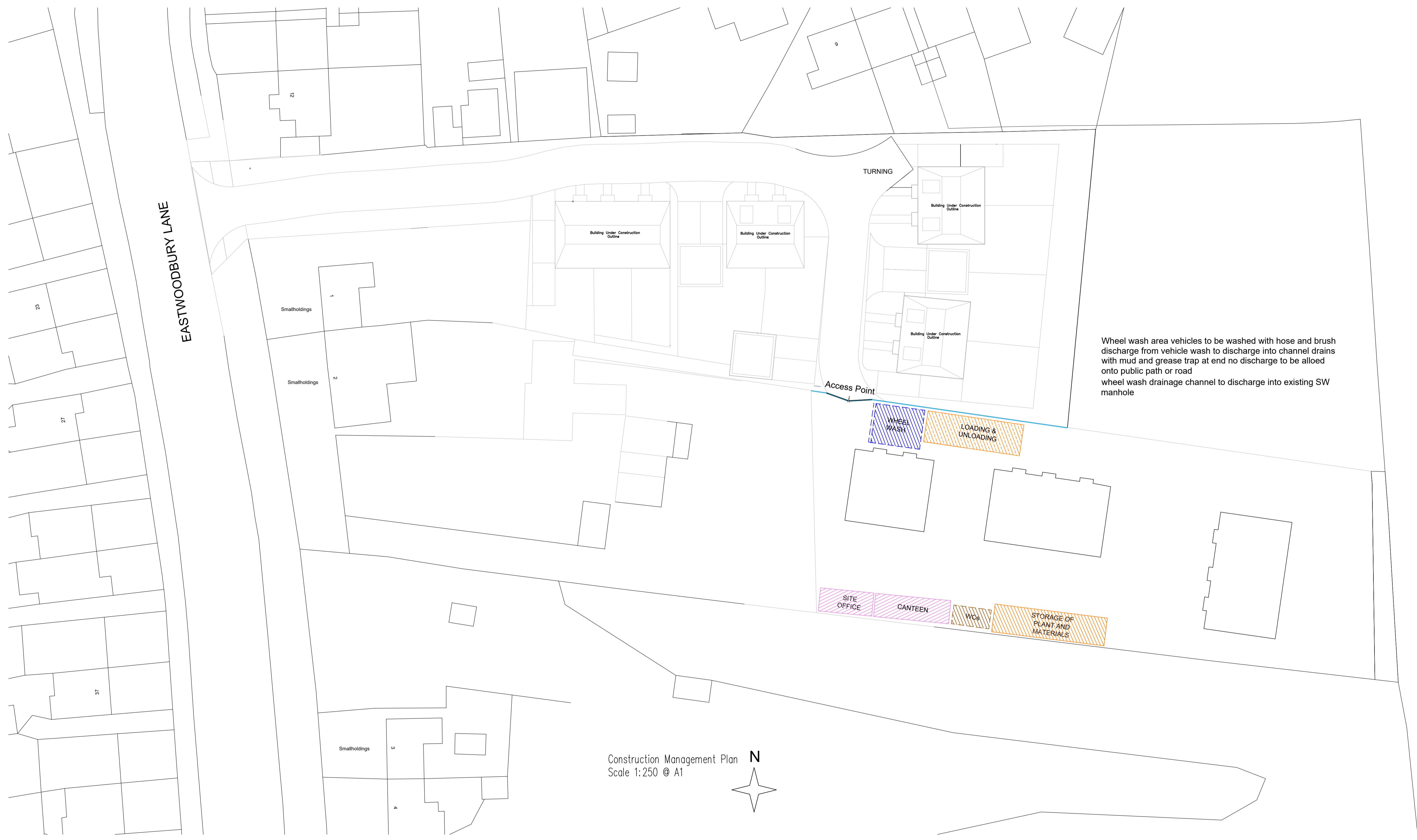
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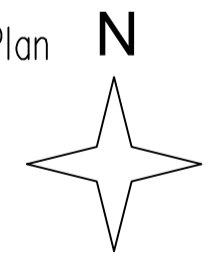


Scale Bar - 1:250 @ A1



Wheel wash area vehicles to be washed with hose and brush discharge from vehicle wash to discharge into channel drains with mud and grease trap at end no discharge to be allowed onto public path or road  
wheel wash drainage channel to discharge into existing SW manhole

Construction Management Plan  
Scale 1:250 @ A1



PROJECT: 2 Smallholdings, Eastwoodbury Lane Southend-on-Sea, Essex, SS2 6UZ	
TITLE: Construction Management Plan	
SCALE: 1:250	DATE: APR 2023
Drawing No. 1540-10	REV.



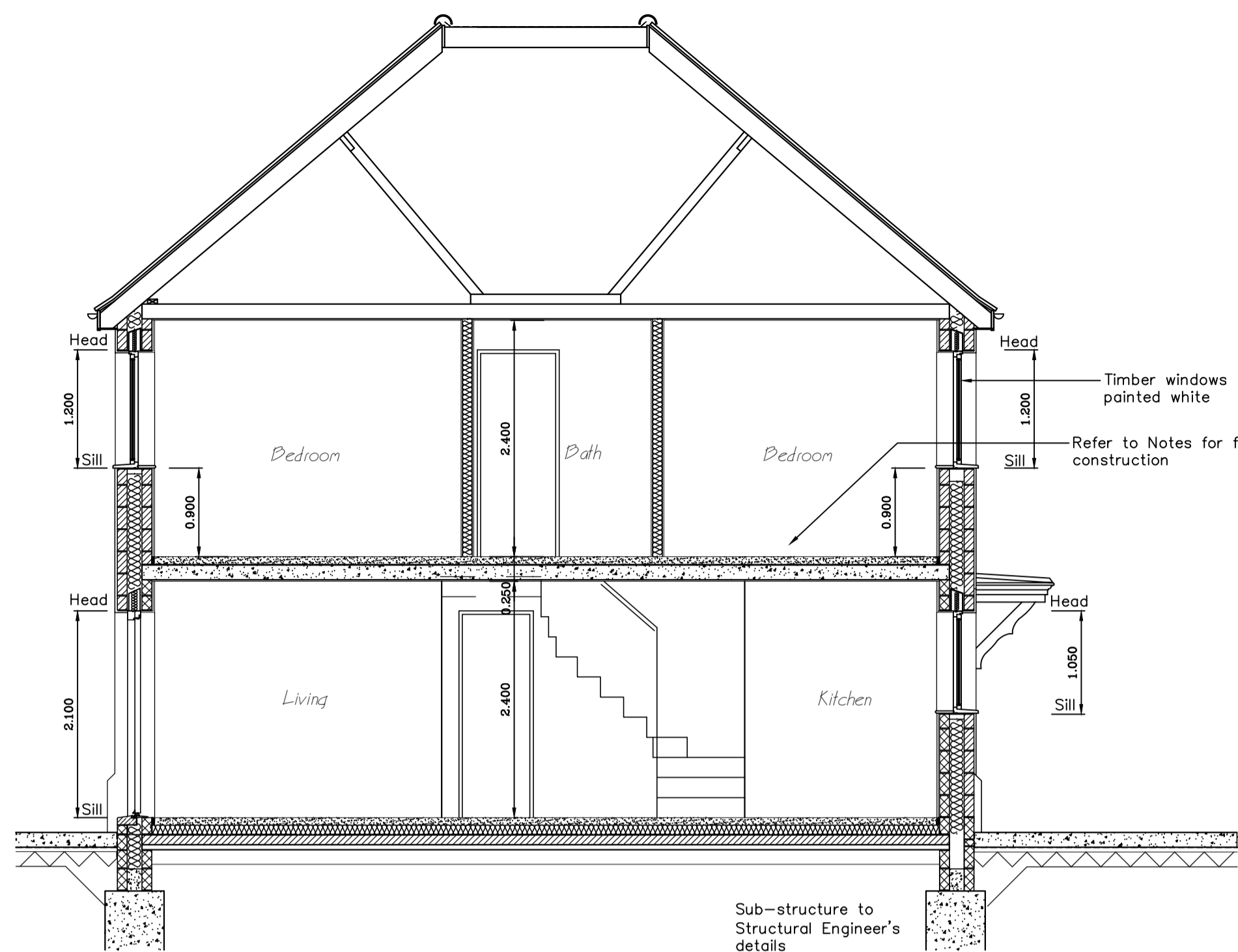
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Email: info@breleydesign.com

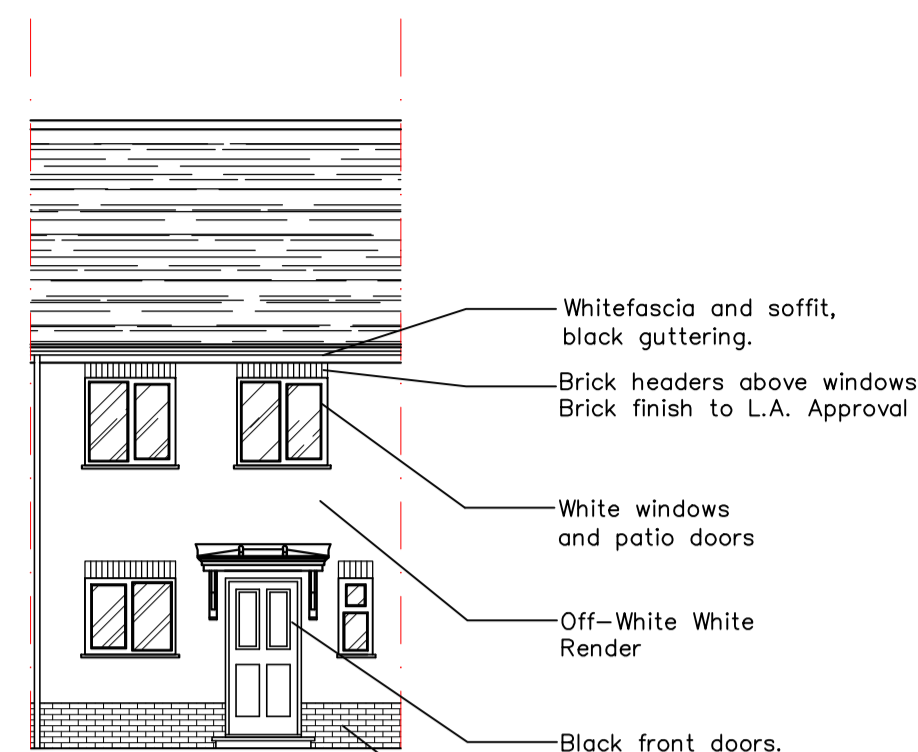
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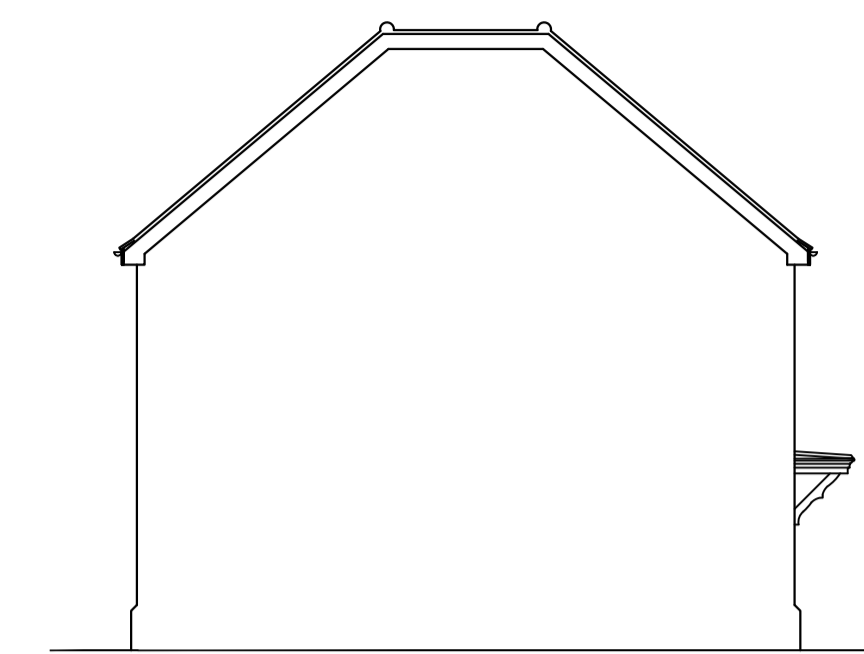
Proposed Section  
Scale 1:50 @ A1



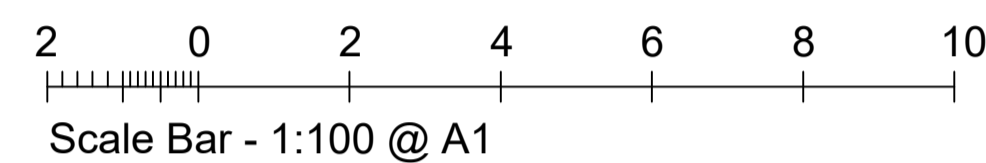
Proposed Front Elevation  
Scale 1:100 @ A1



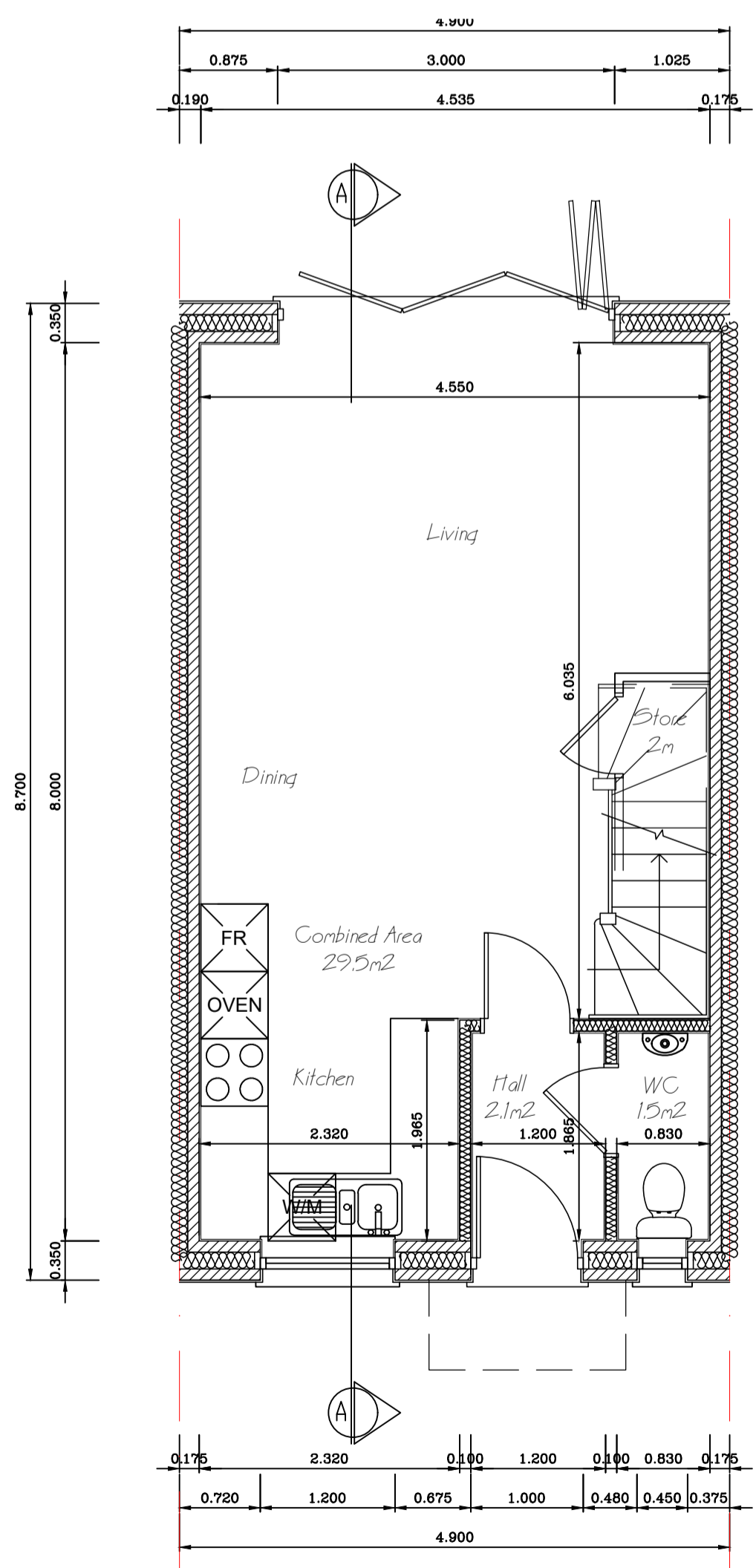
Proposed Rear Elevation  
Scale 1:100 @ A1



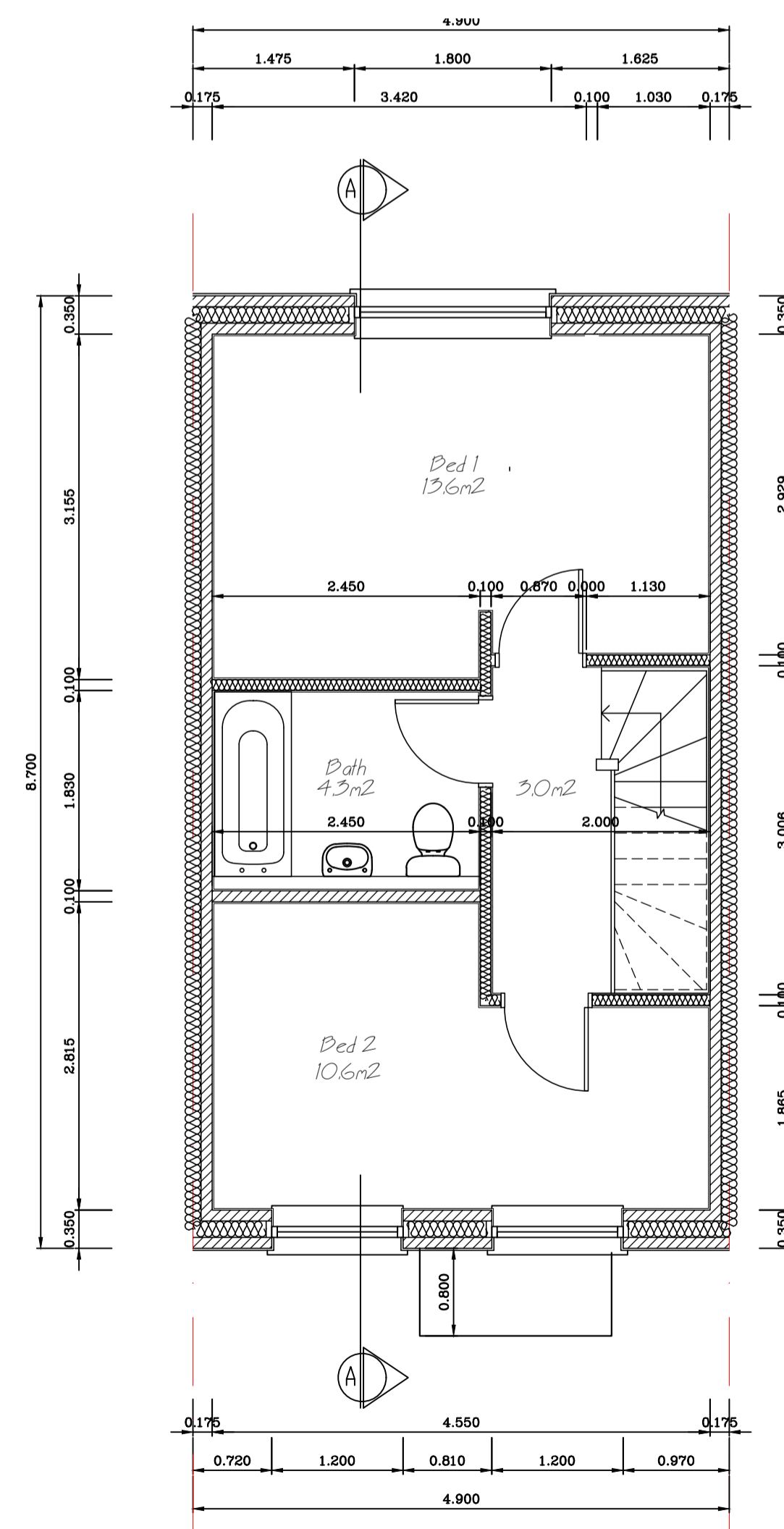
Proposed Side Elevation  
Scale 1:100 @ A1



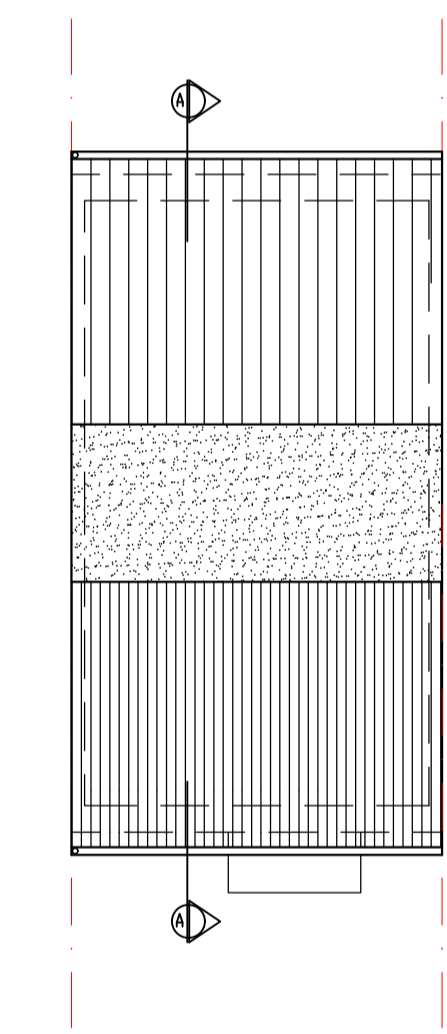
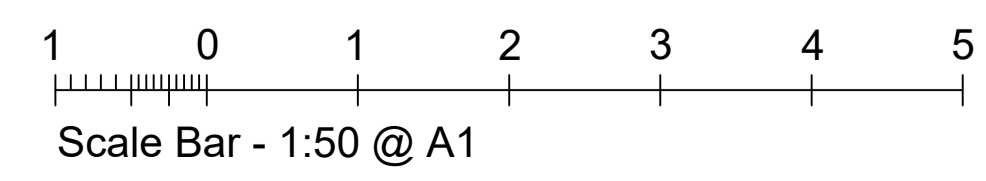
Total Area  
72 sqm



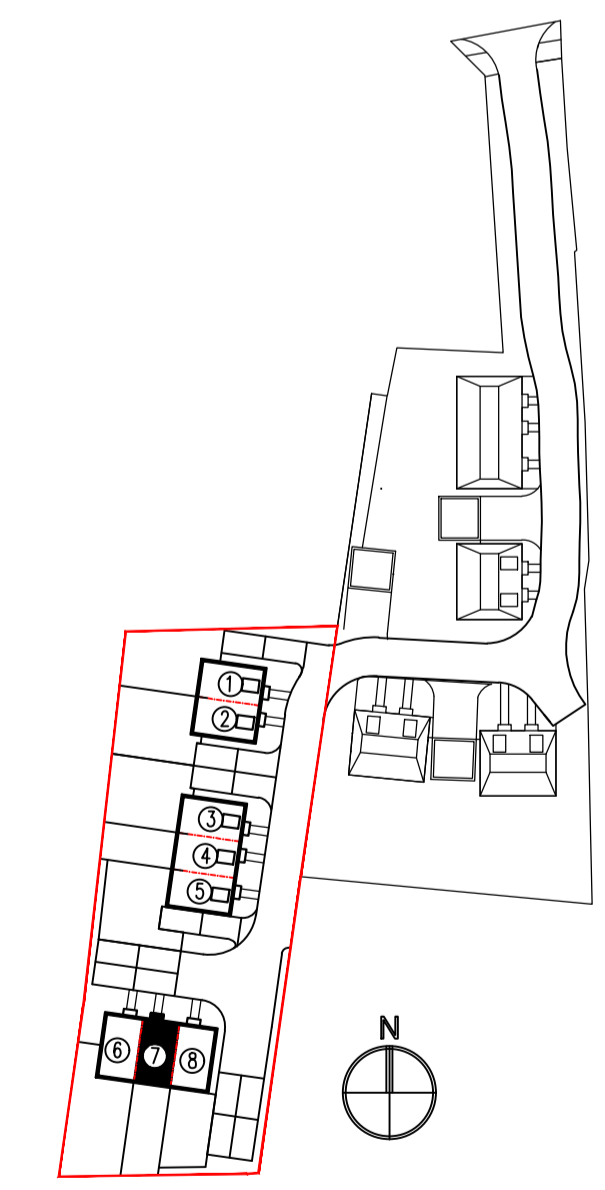
Proposed Ground Floor  
Scale 1:50 @ A1



Proposed First Floor  
Scale 1:50 @ A1



Proposed Roof  
Scale 1:100 @ A1

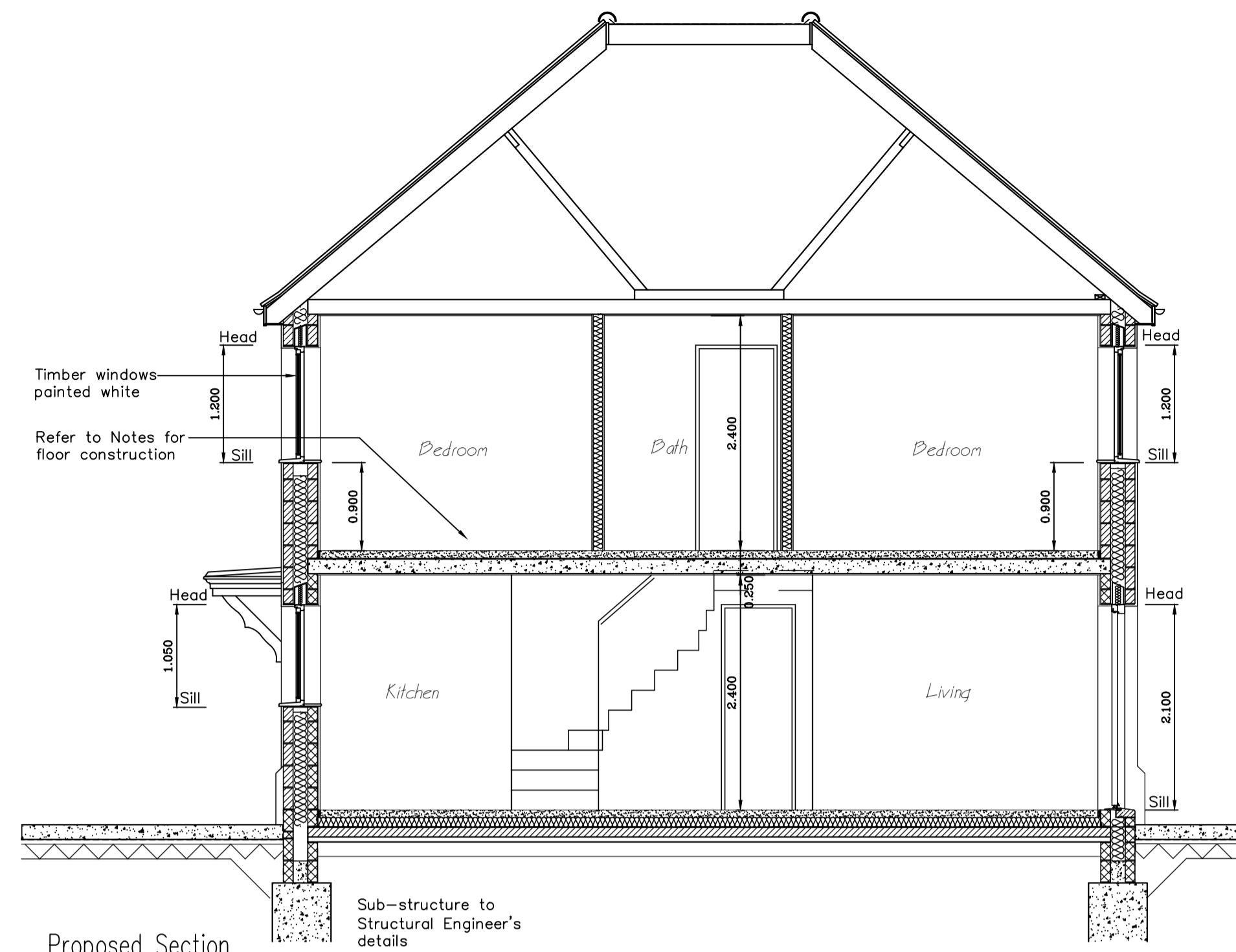


PROJECT: 2 Smallholdings, Eastwoodbury Lane Southend-on-Sea, Essex, SS2 6UZ	
TITLE: 2-Bedroom Semi House II Proposed Layouts, Section & Elevations	
SCALE: As shown	DATE: MAY 2023
Drawing No. 1540-06	REV. D

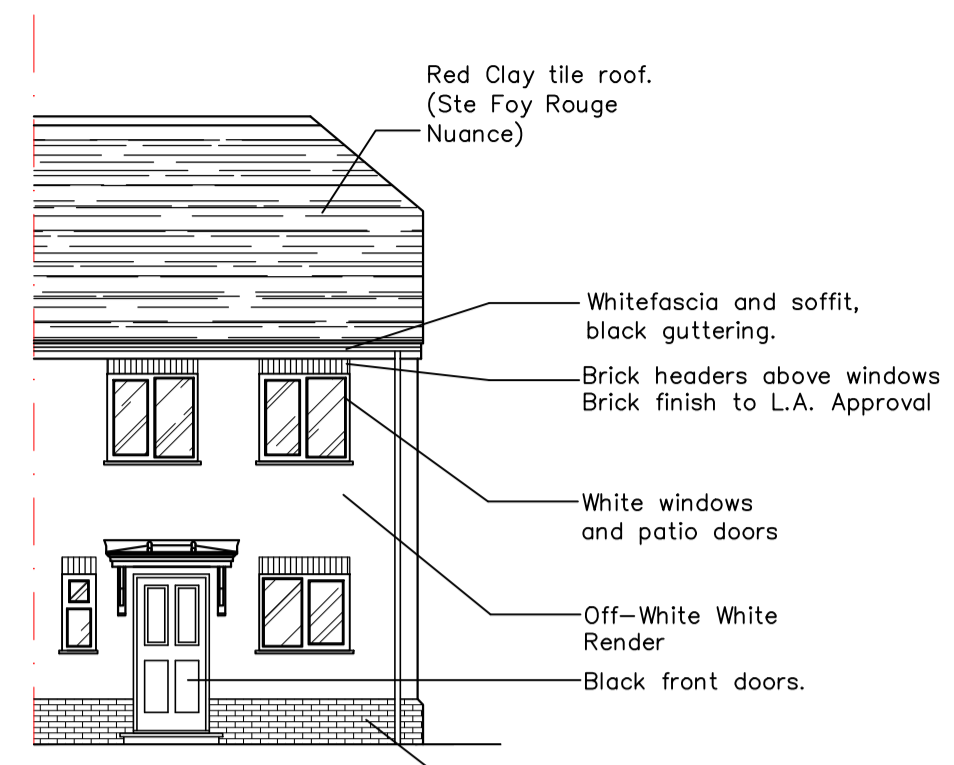
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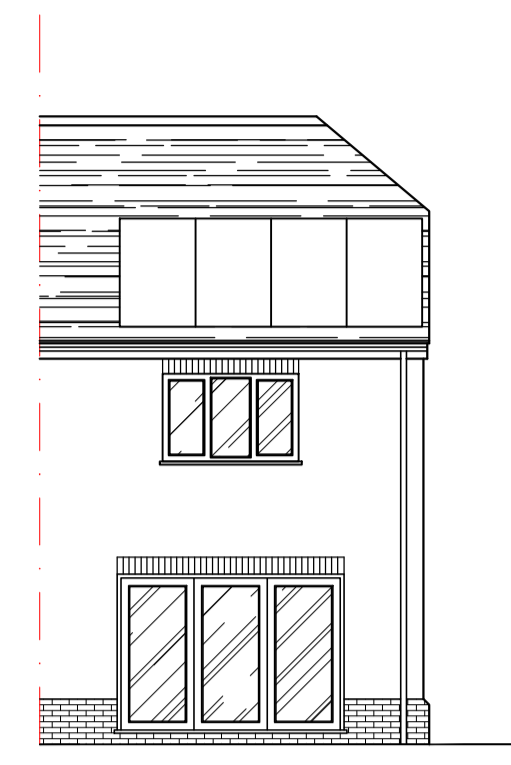
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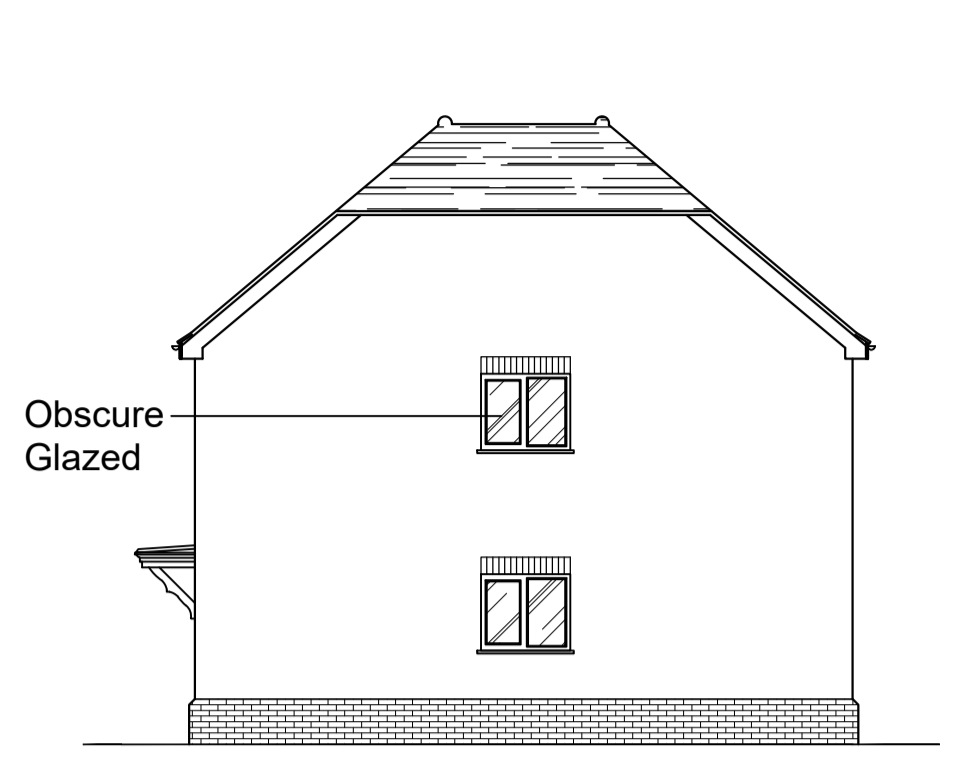
Proposed Section  
Scale 1:50 @ A1



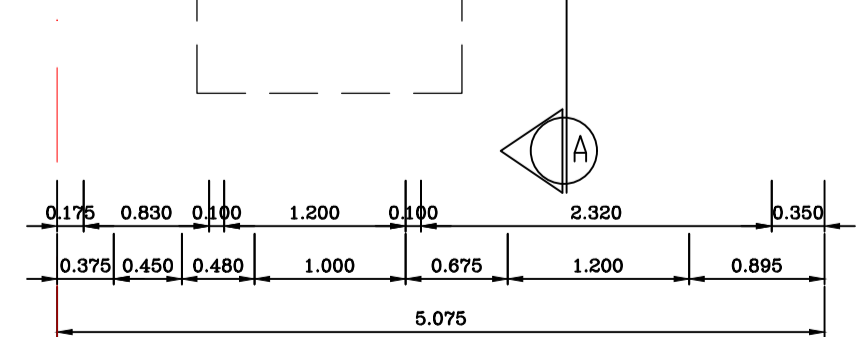
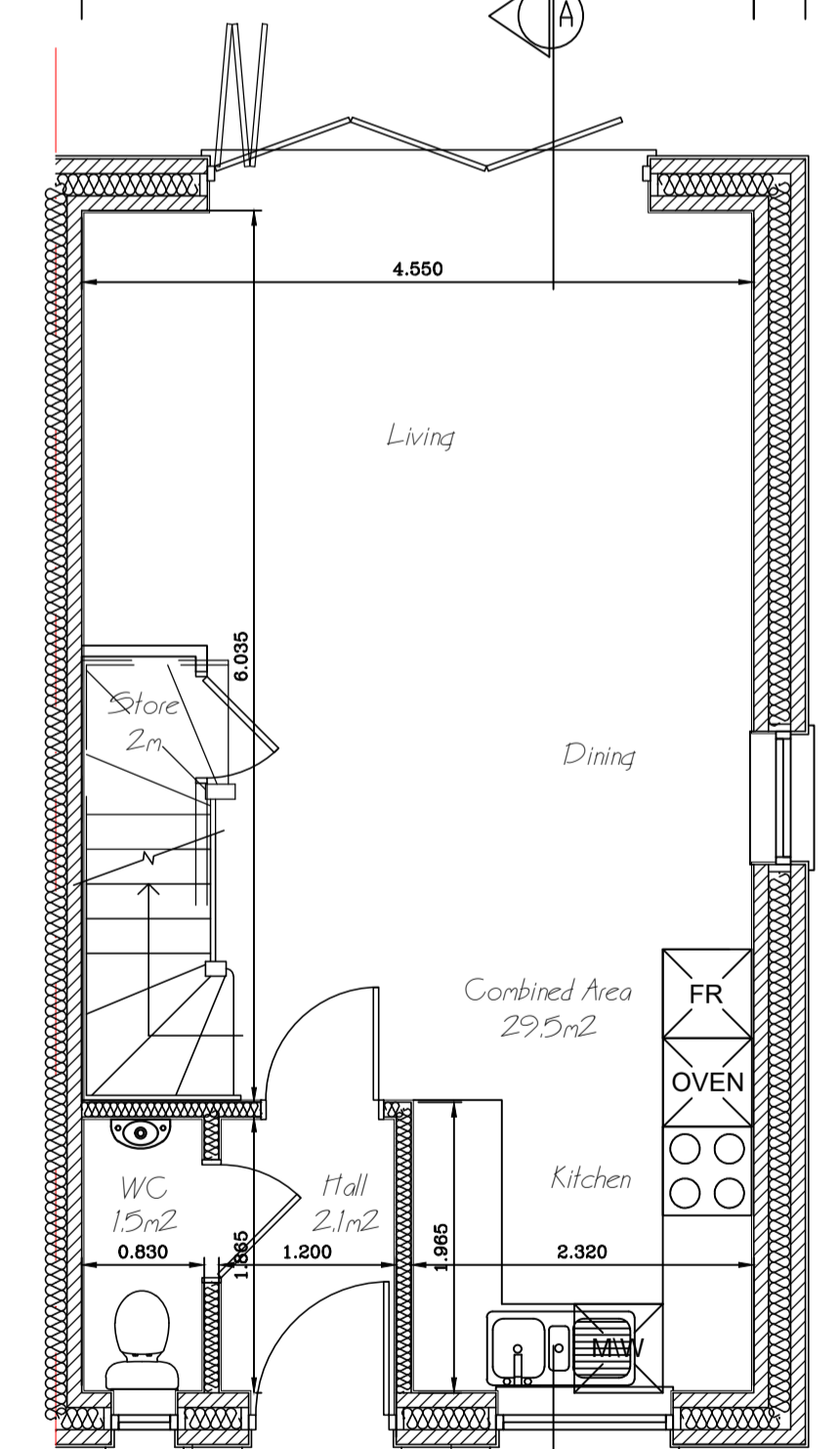
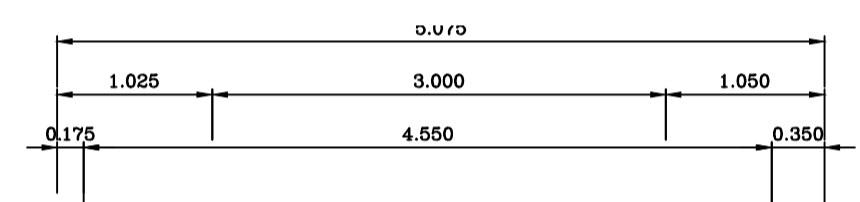
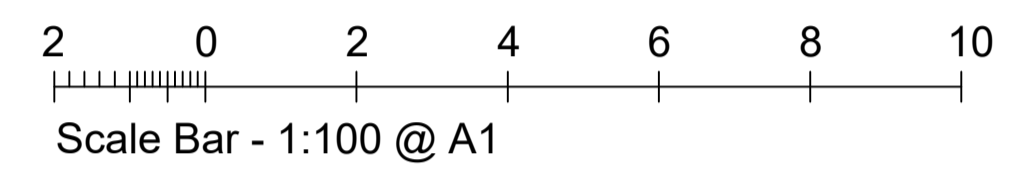
Proposed Front Elevation  
Scale 1:100 @ A1



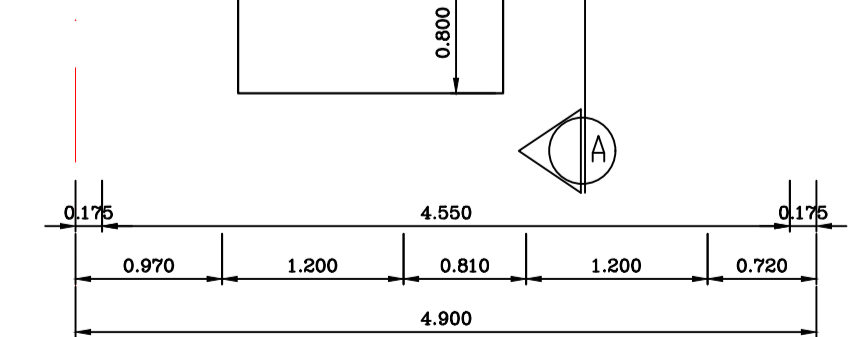
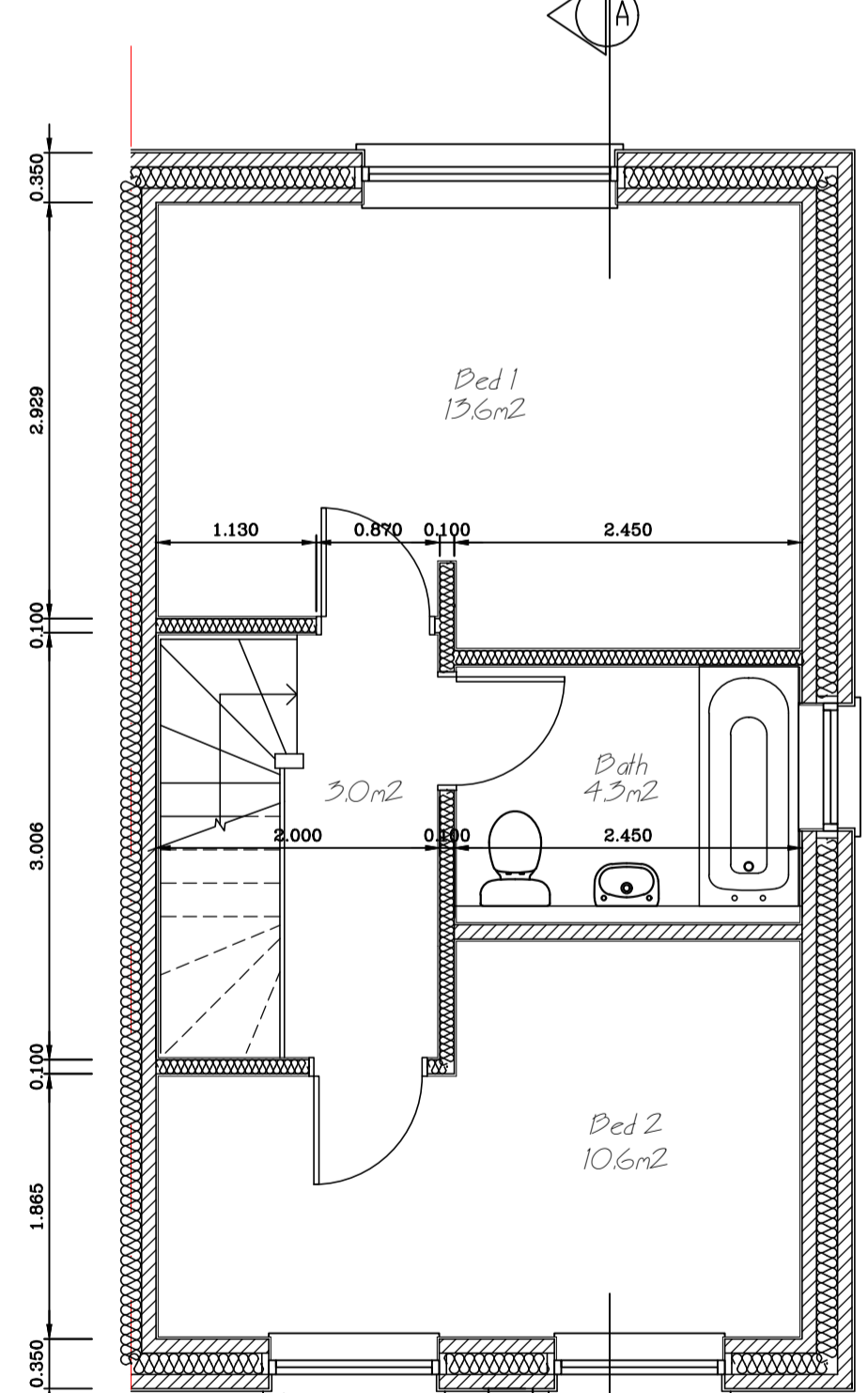
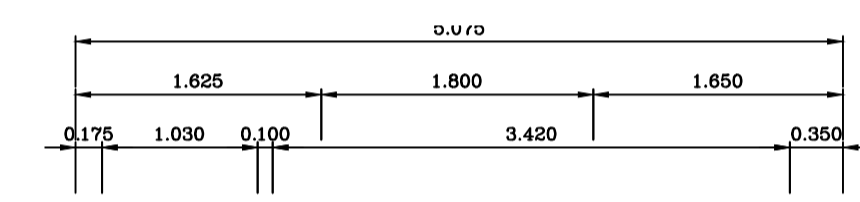
Proposed Rear Elevation  
Scale 1:100 @ A1



Proposed Side Elevation  
Scale 1:100 @ A1

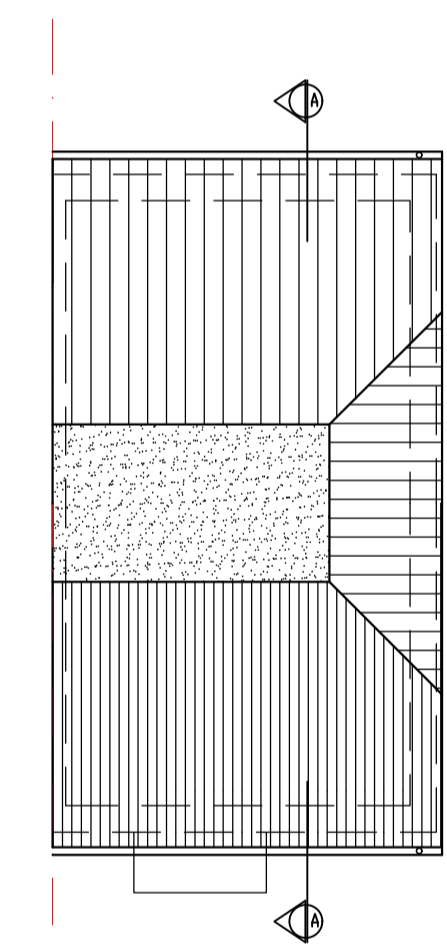


Proposed Ground Floor  
Scale 1:50 @ A1

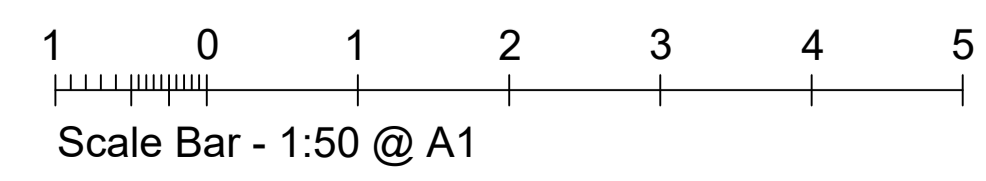
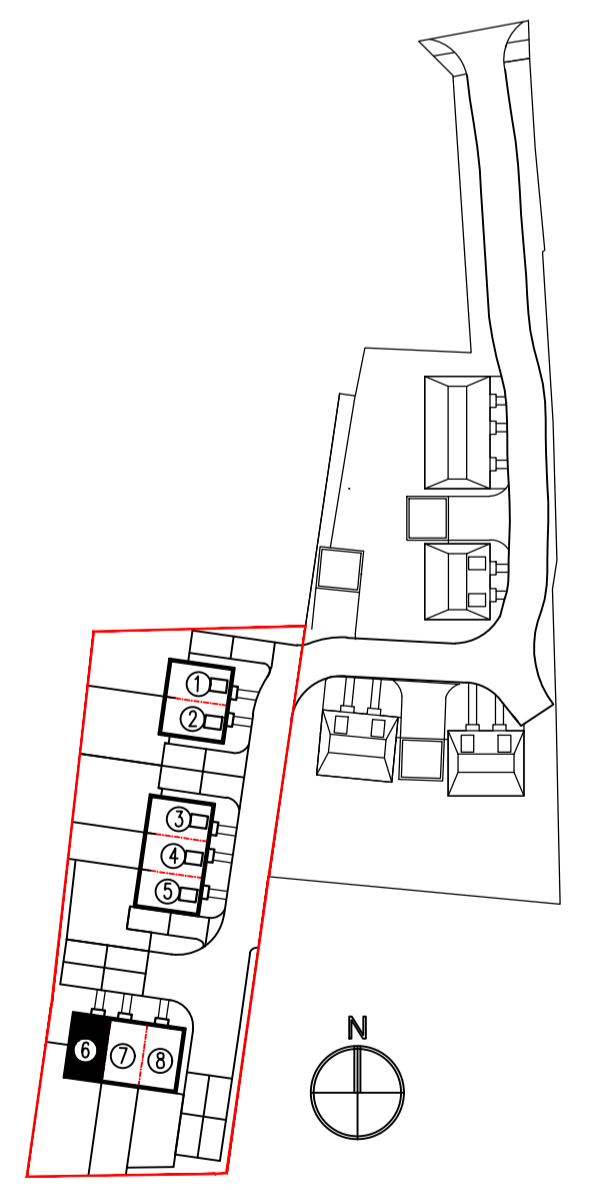


Proposed First Floor  
Scale 1:50 @ A1

Total Area  
72 sqm



Proposed Roof  
Scale 1:100 @ A1

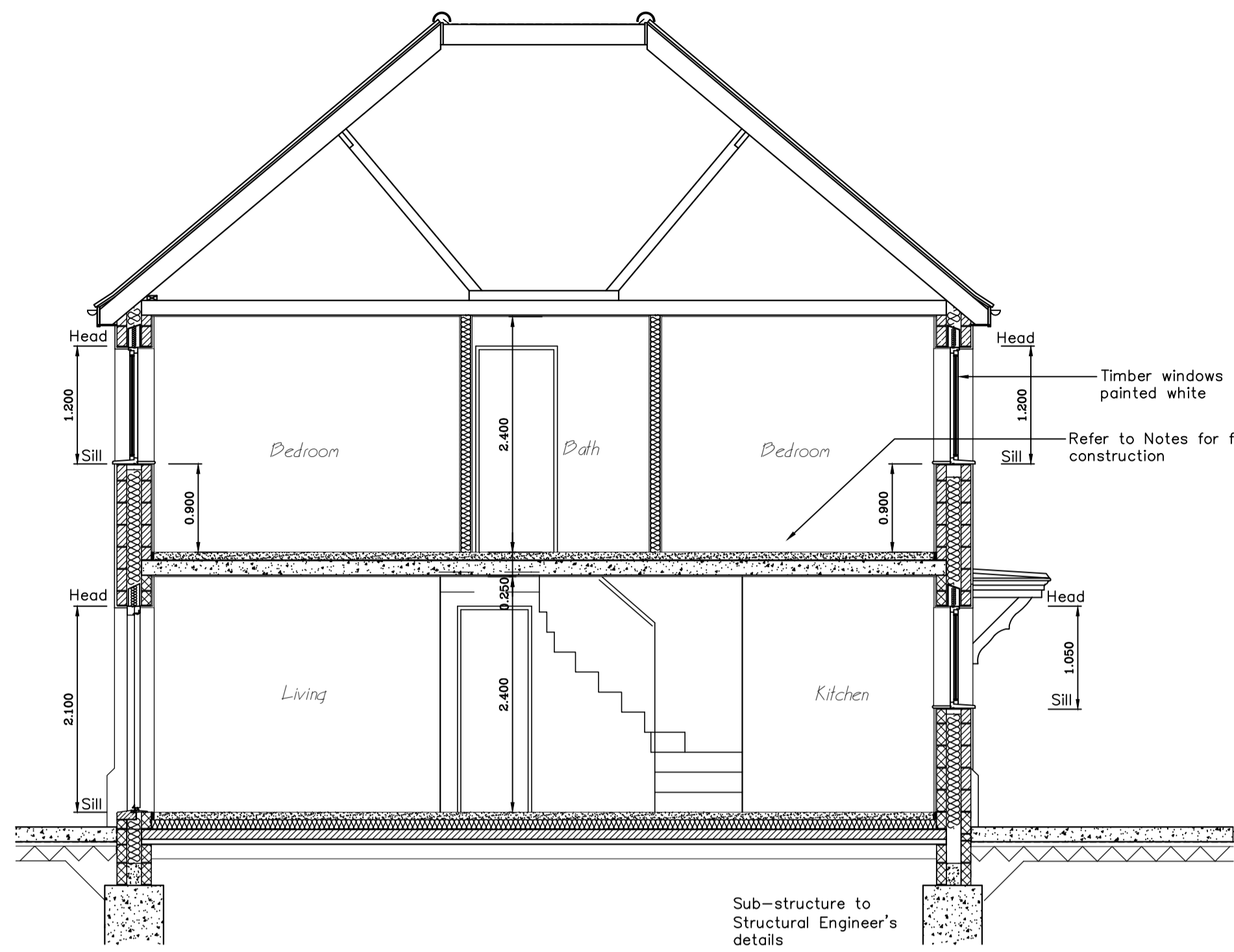


PROJECT: 2 Smallholdings, Eastwoodbury Lane Southend-on-Sea, Essex, SS2 6UZ	
TITLE: 2-Bedroom Semi House Proposed Layouts, Section & Elevations	
SCALE: As shown	DATE: NOV 2023
Drawing No. 1540-13	REV.

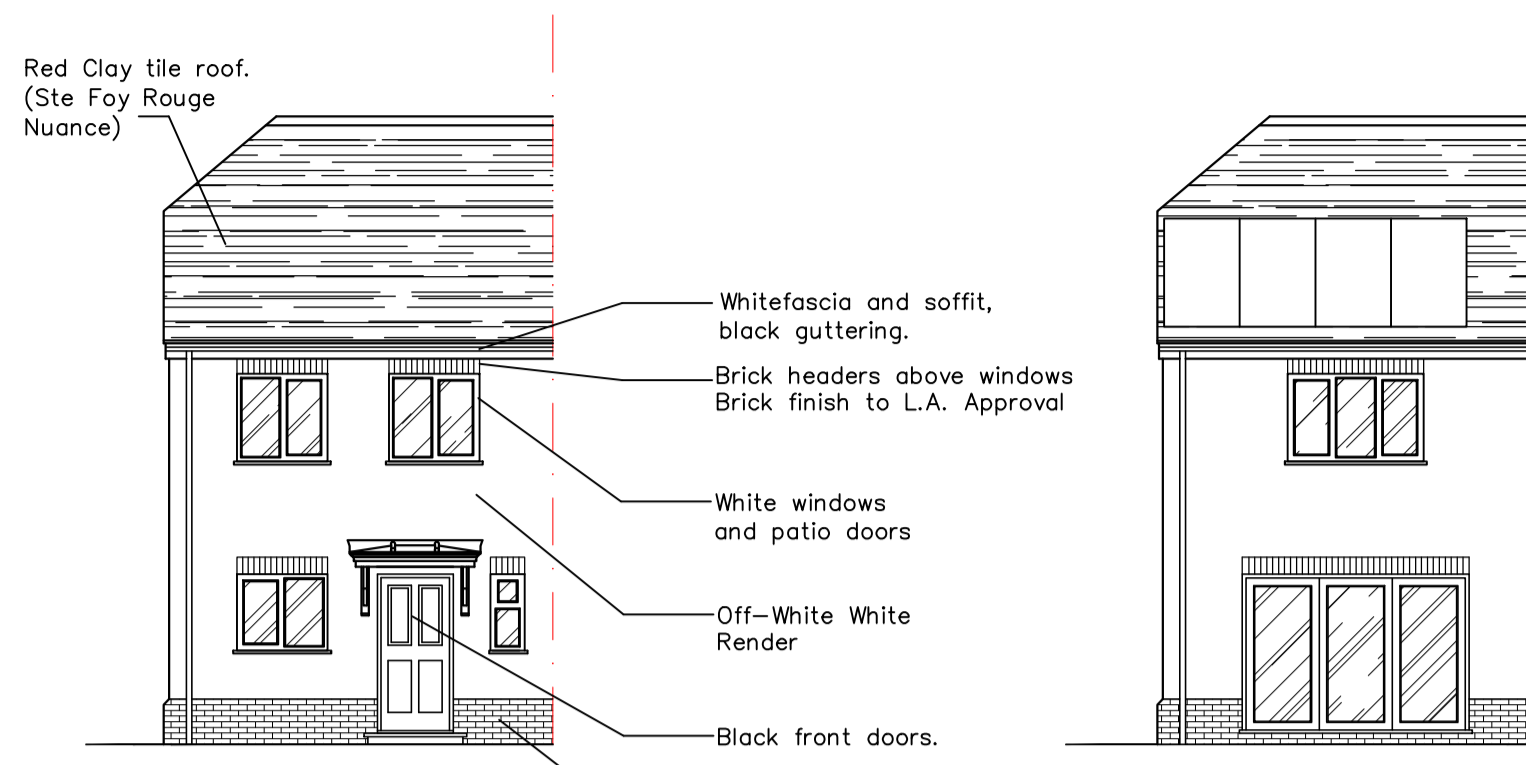
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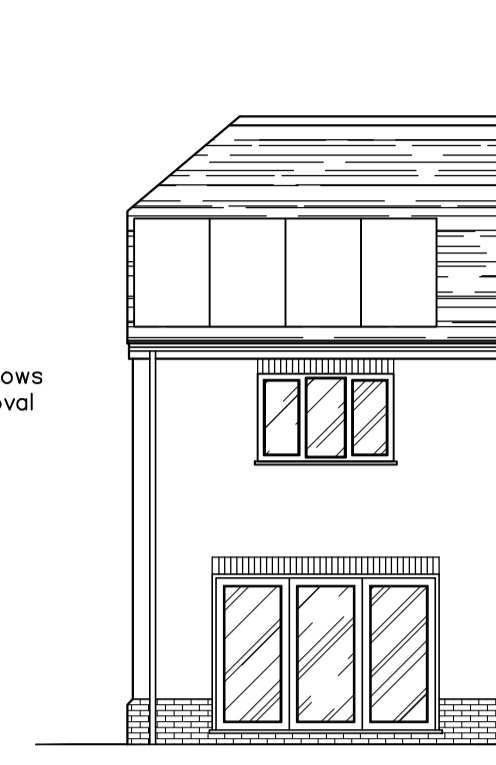
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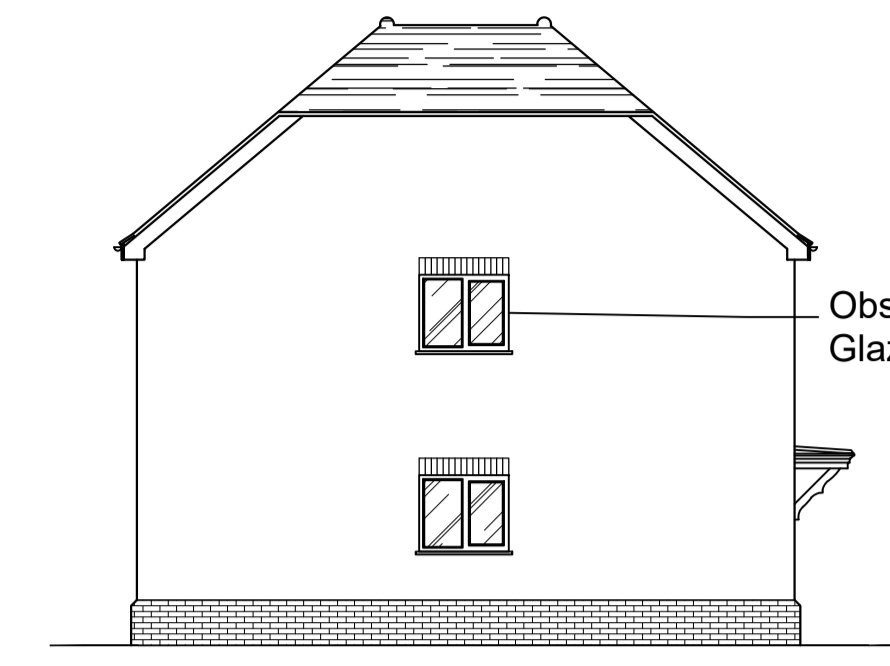
Proposed Section  
Scale 1:50 @ A1



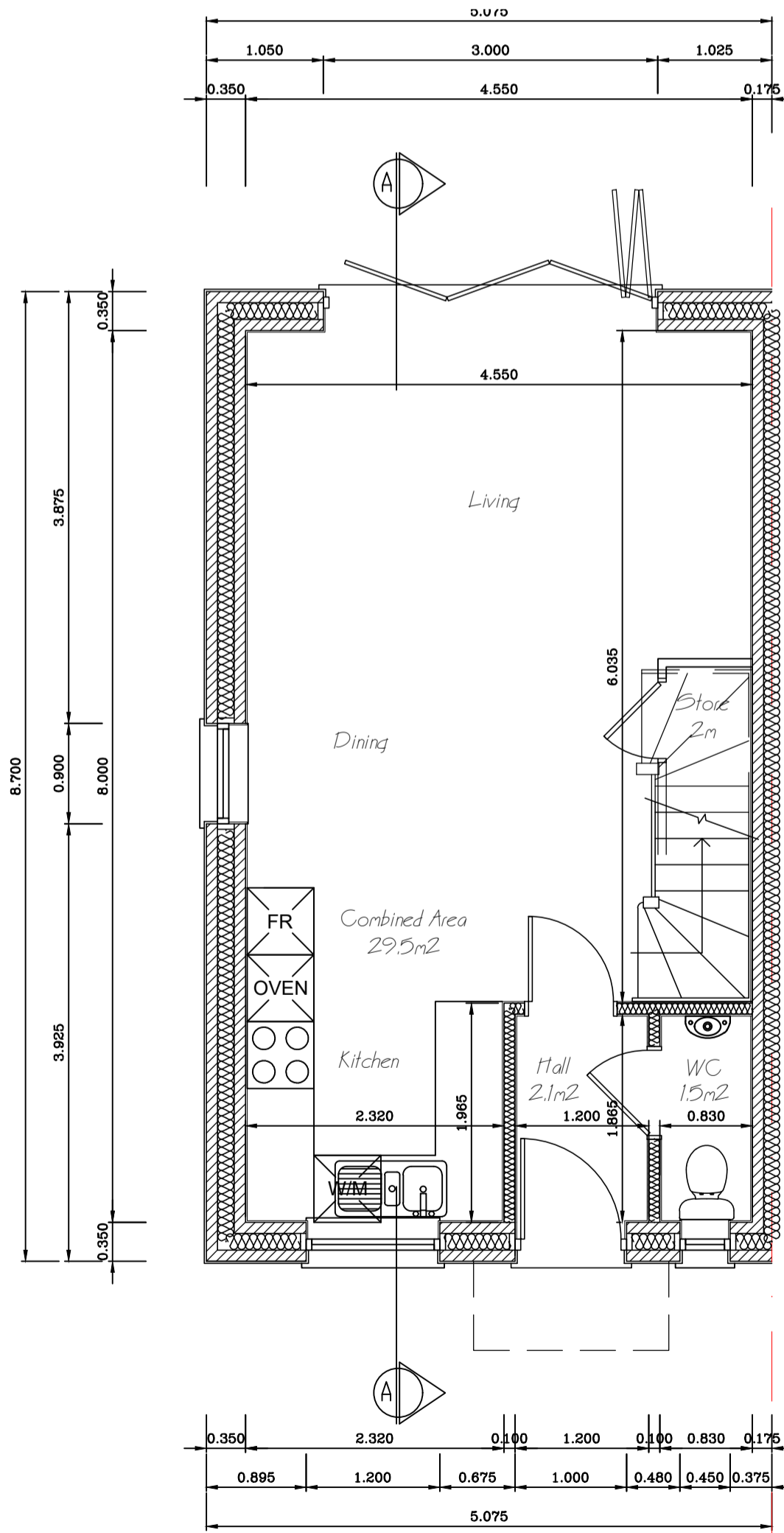
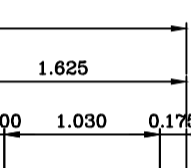
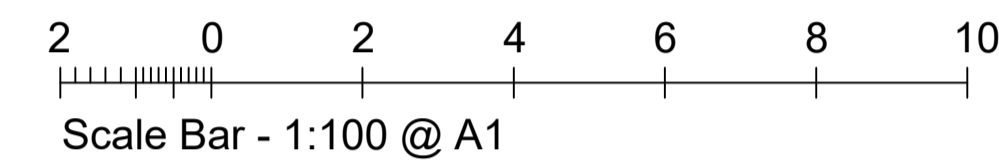
Proposed Front Elevation  
Scale 1:100 @ A1



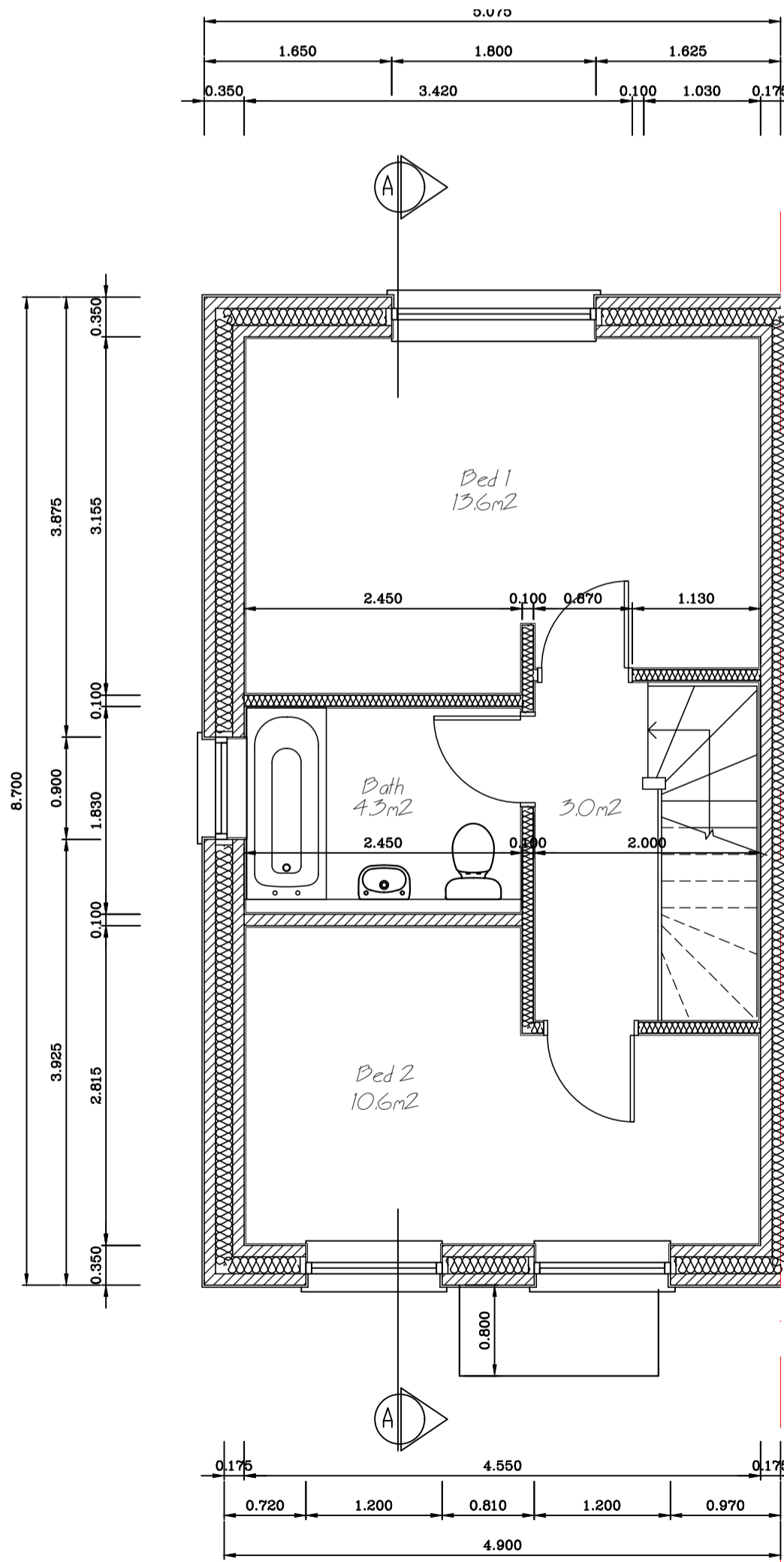
Proposed Rear Elevation  
Scale 1:100 @ A1



Proposed Side Elevation  
Scale 1:100 @ A1

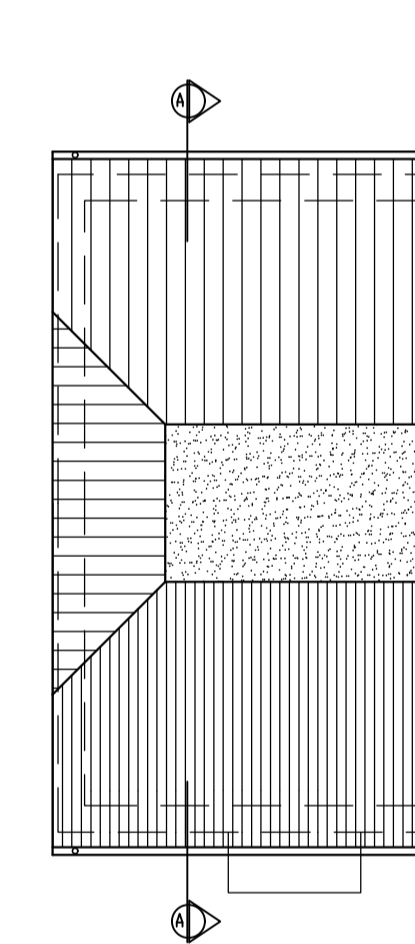


Proposed Ground Floor  
Scale 1:50 @ A1

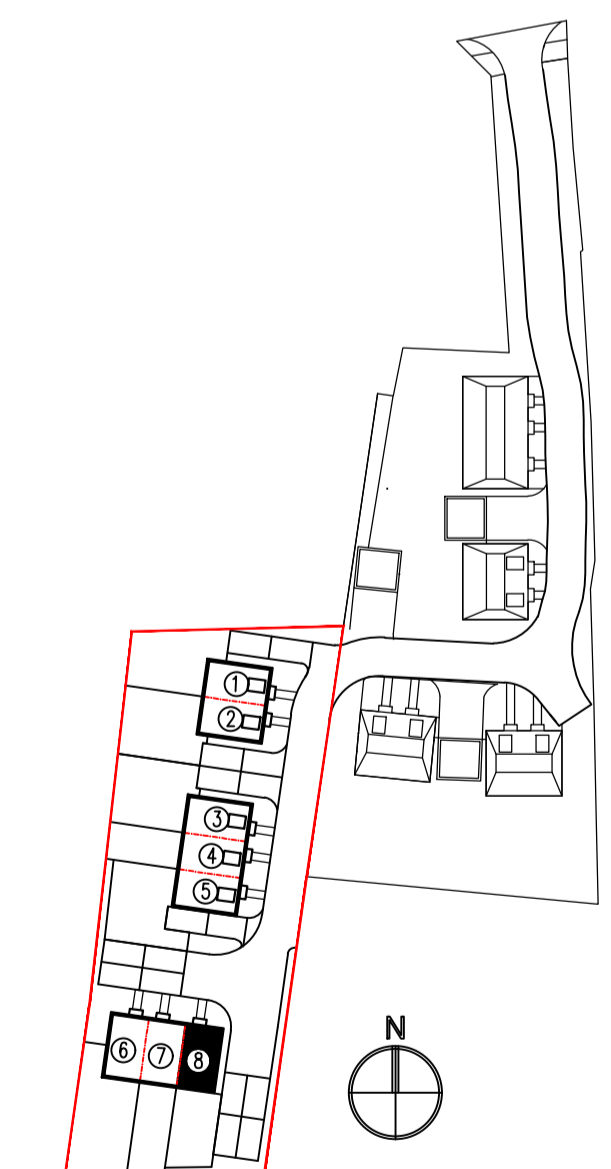


Proposed First Floor  
Scale 1:50 @ A1

Total Area  
72 sqm



Proposed Roof  
Scale 1:100 @ A1



PROJECT: 2 Smallholdings, Eastwoodbury Lane Southend-on-Sea, Essex, SS2 6UZ	
TITLE: 2-Bedroom Semi House Proposed Layouts, Section & Elevations	
SCALE: As shown	DATE: MAY 2023
Drawing No. 1540-05	REV. D

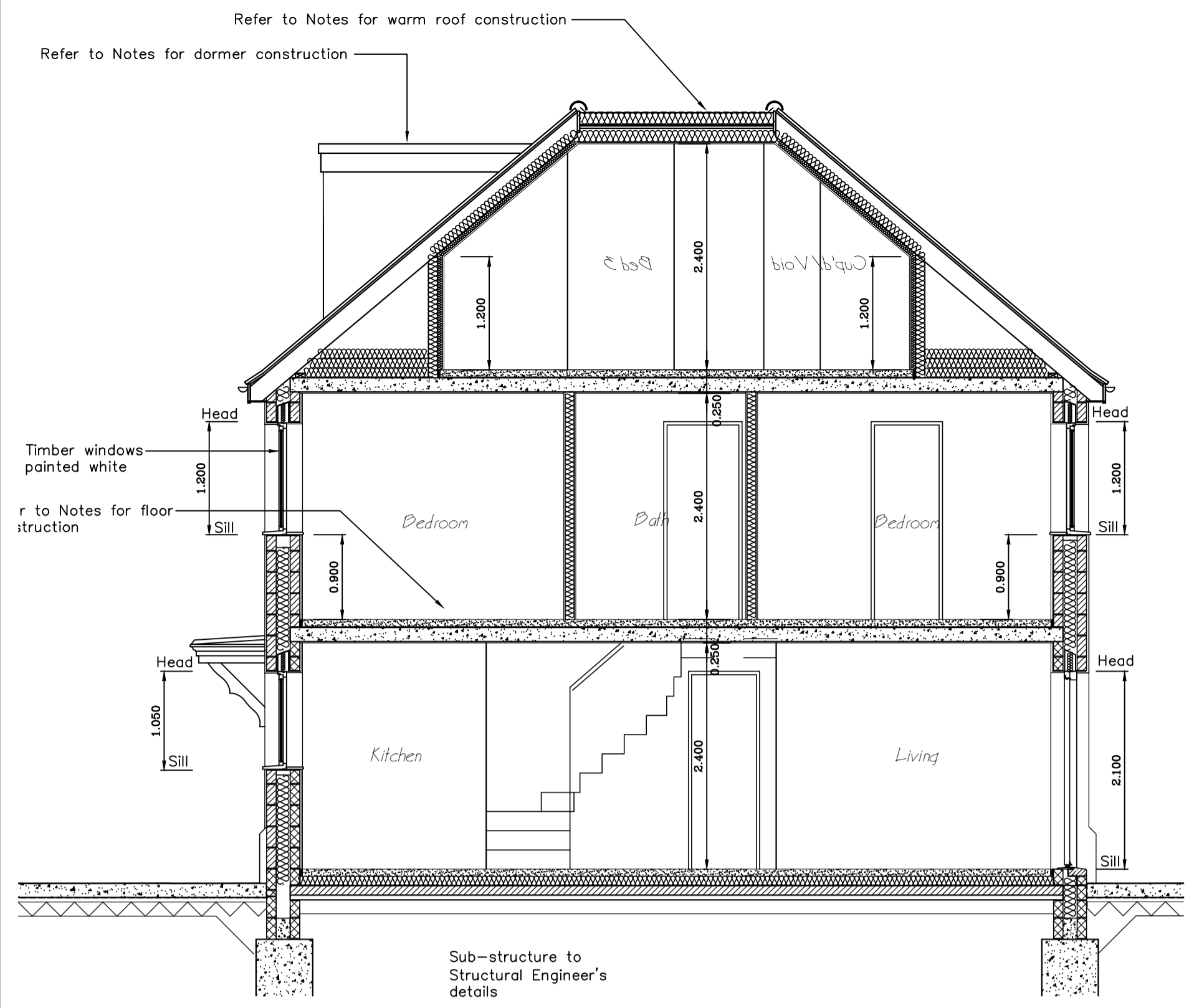
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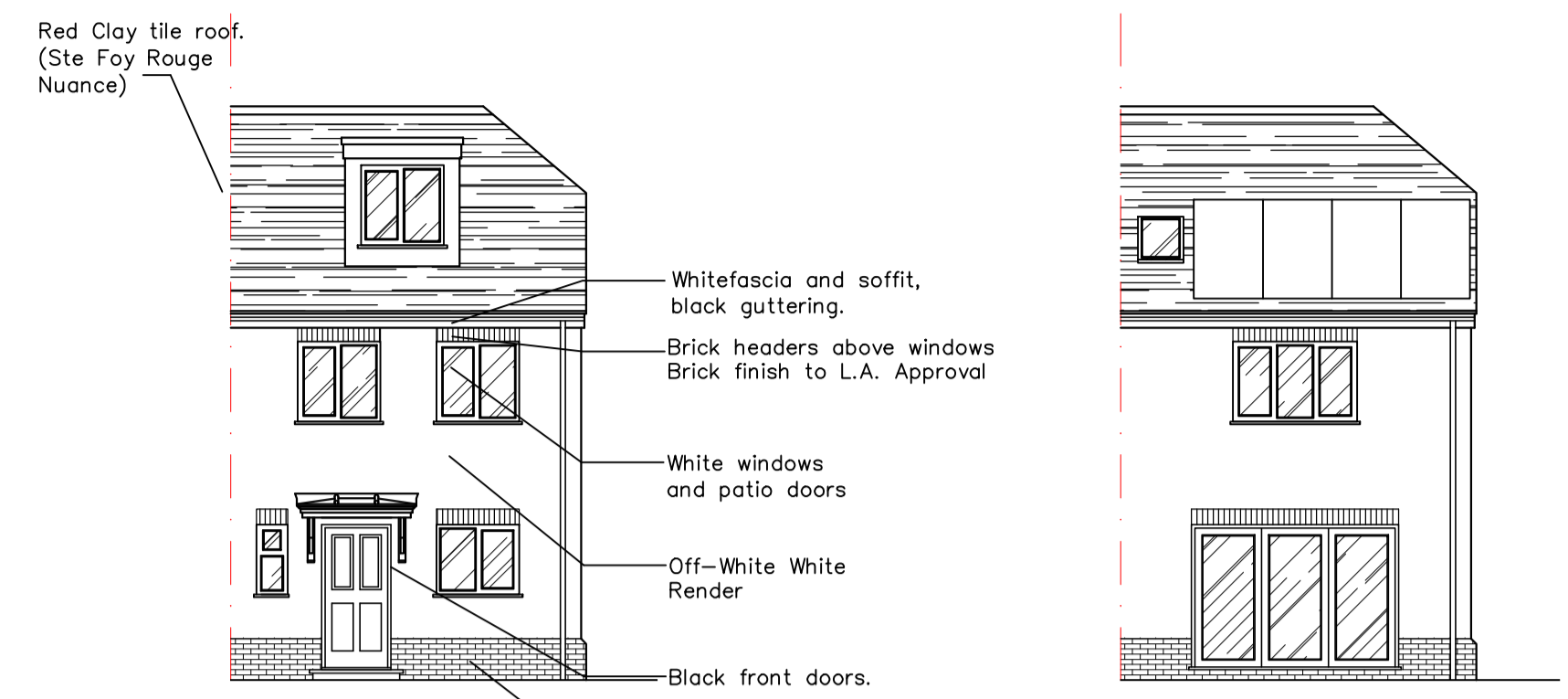
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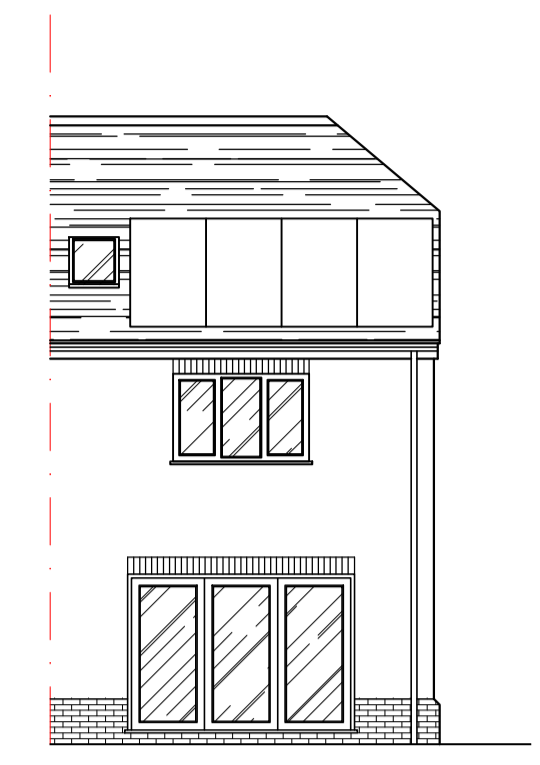




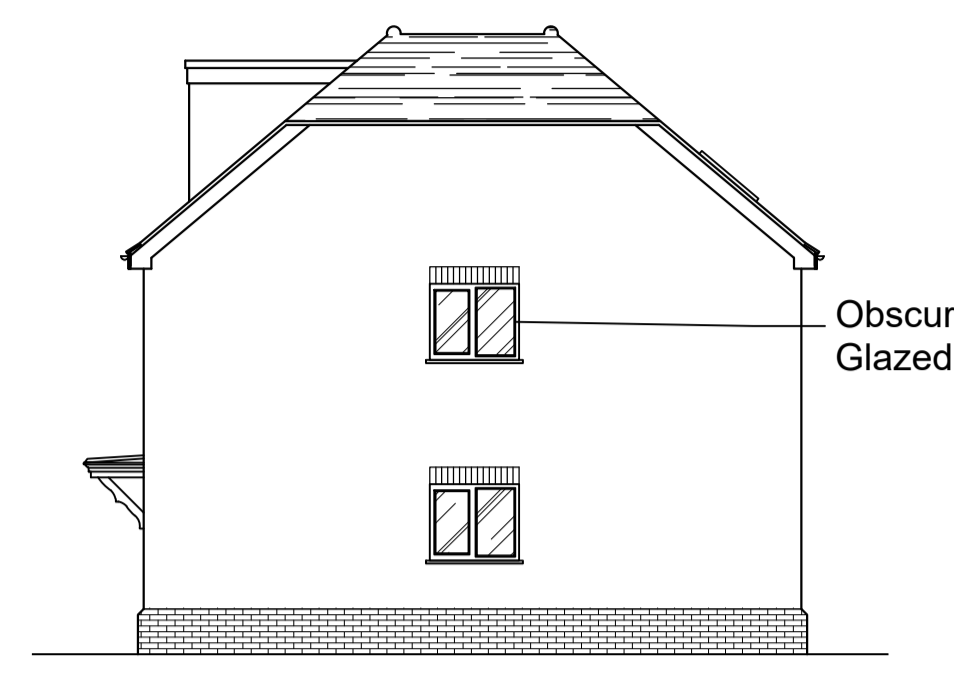
Proposed Section  
Scale 1:50 @ A1



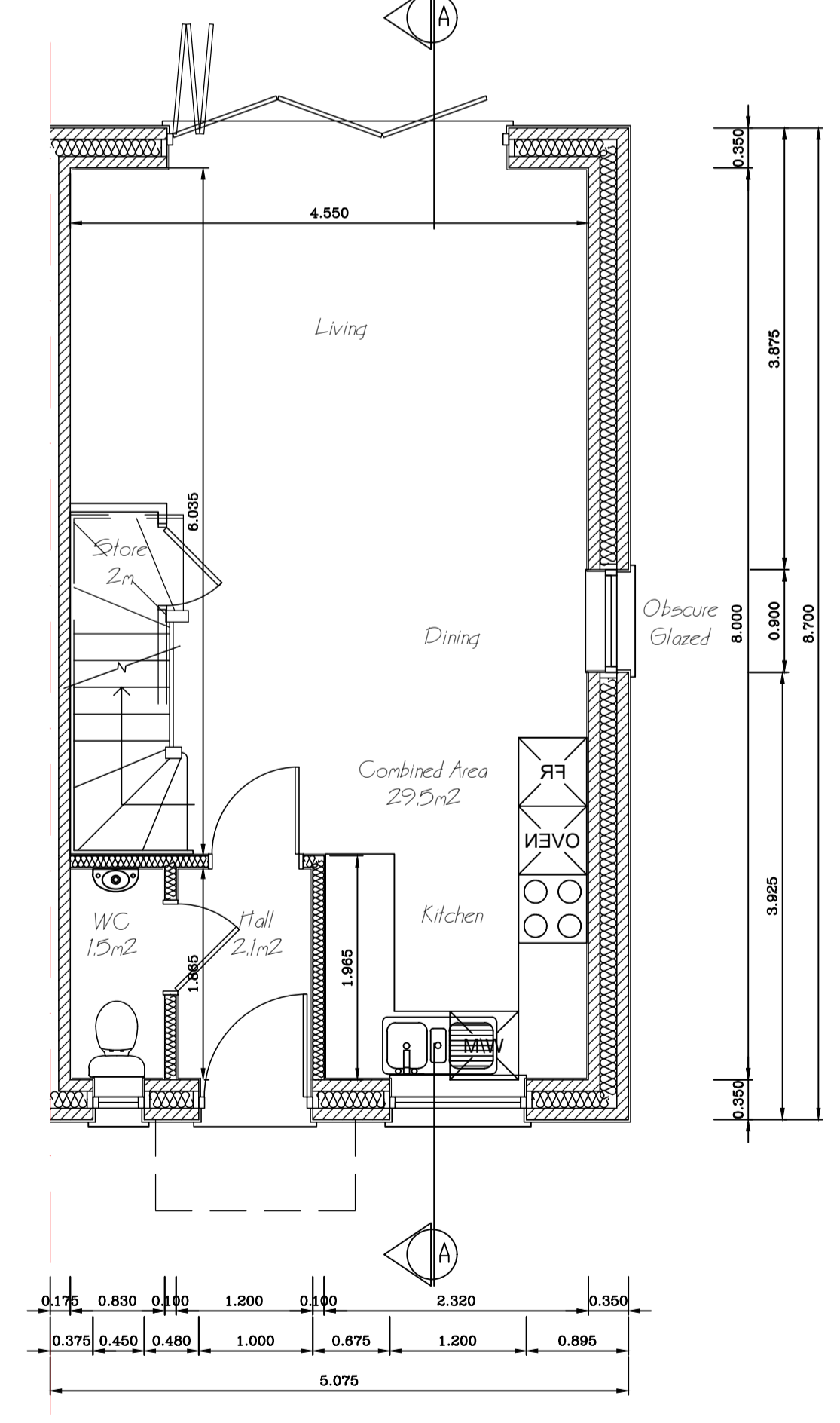
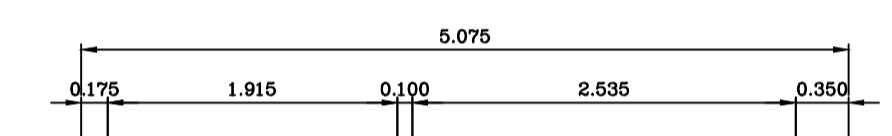
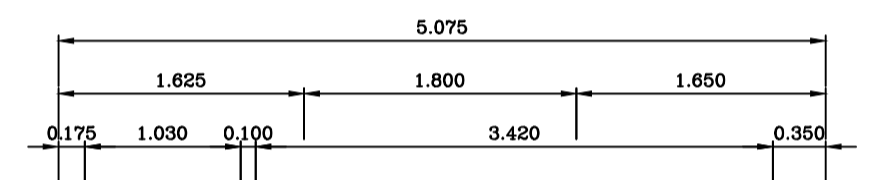
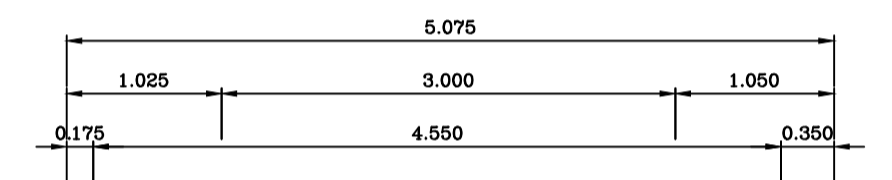
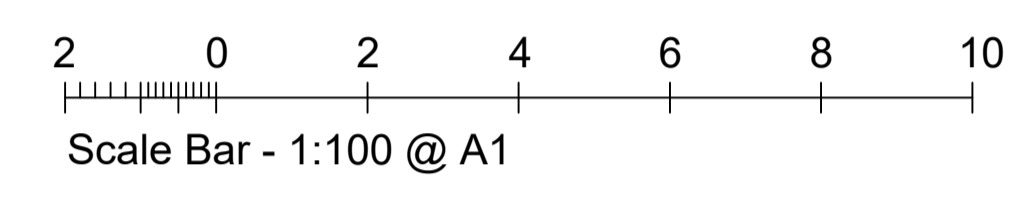
Proposed Front Elevation  
Scale 1:100 @ A1



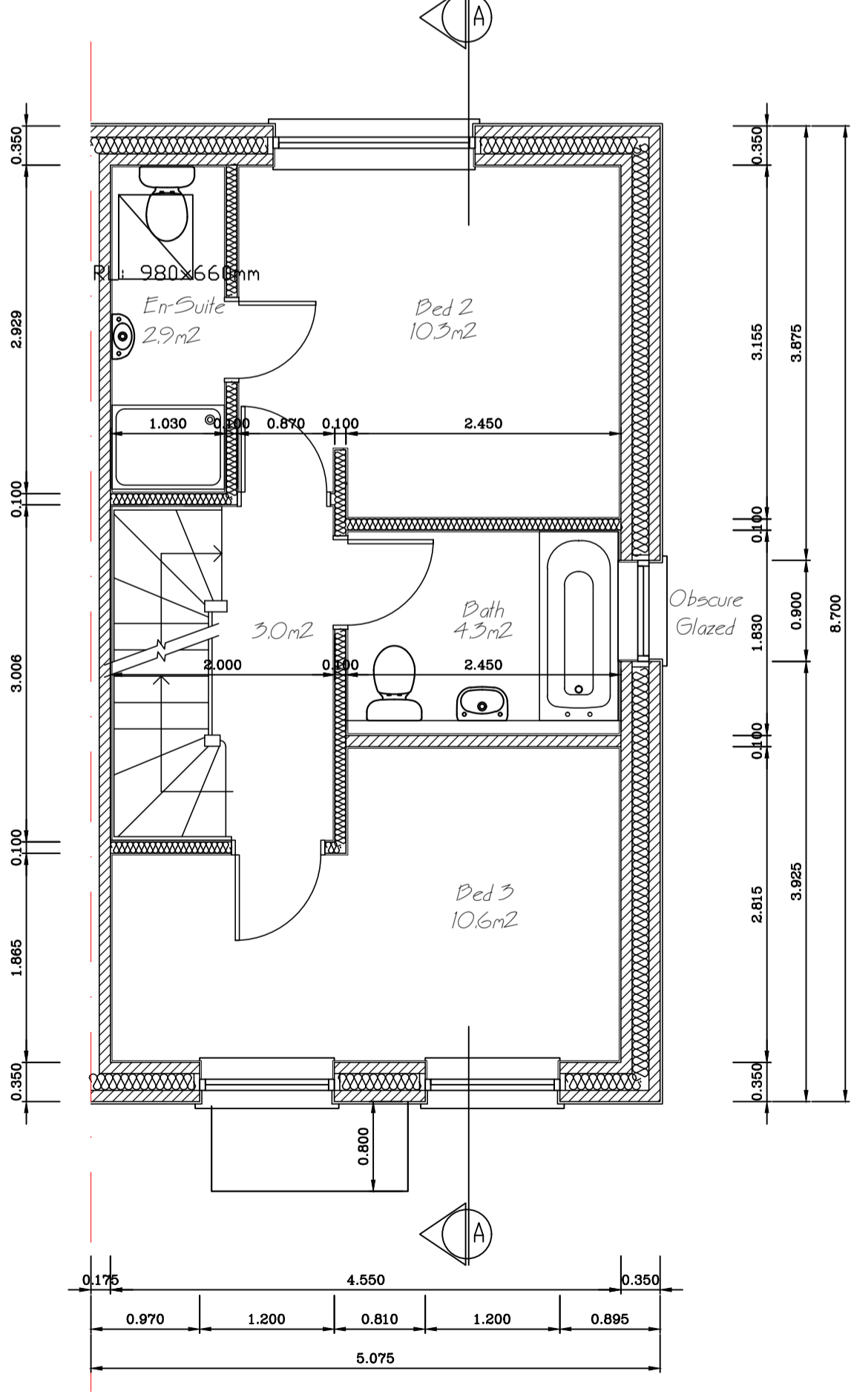
Proposed Rear Elevation  
Scale 1:100 @ A1



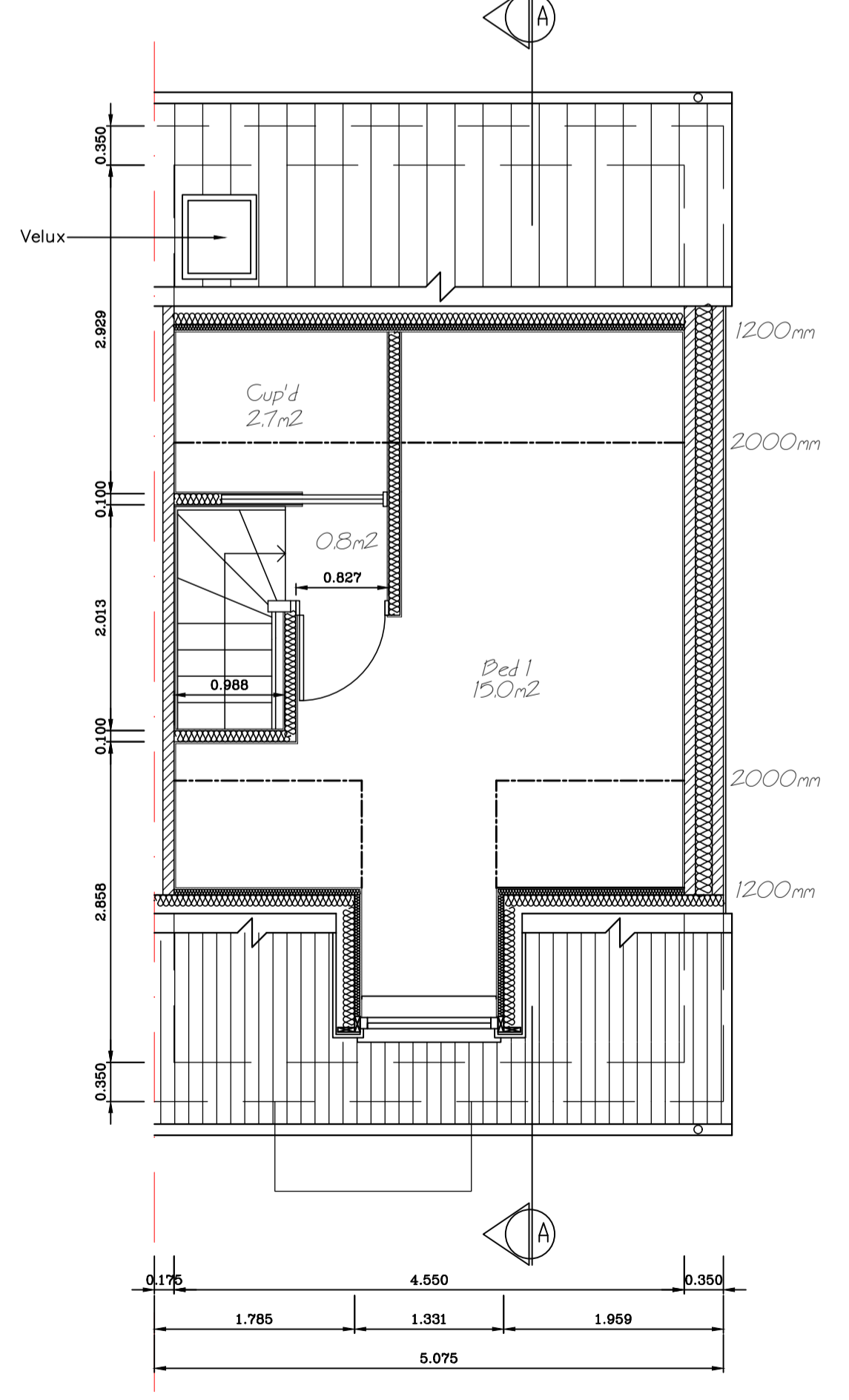
Proposed Side Elevation  
Scale 1:100 @ A1



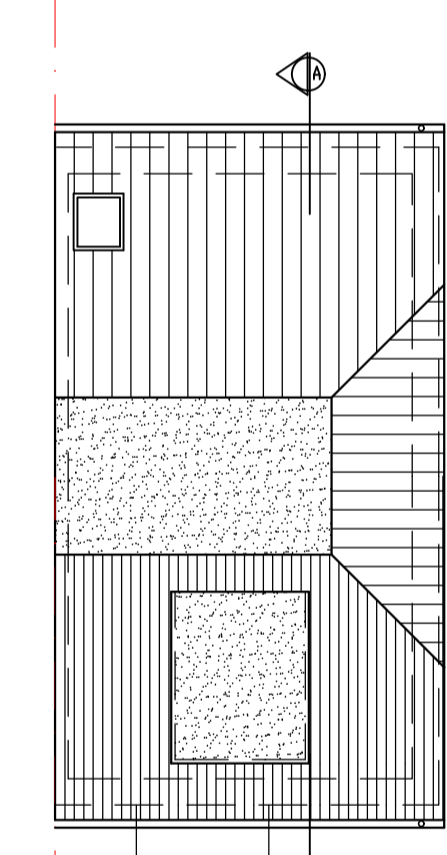
Proposed Ground Floor  
Scale 1:50 @ A1



Proposed First Floor  
Scale 1:50 @ A1

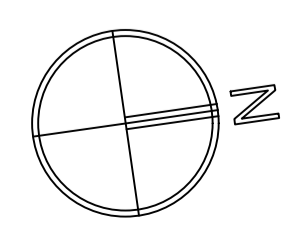
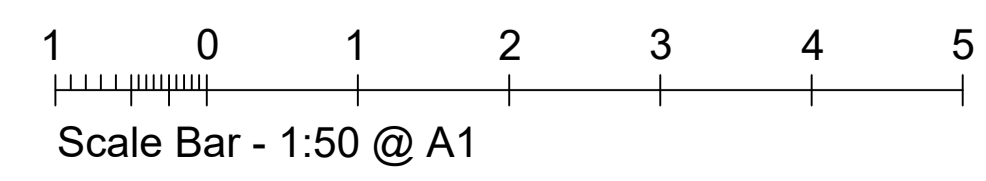
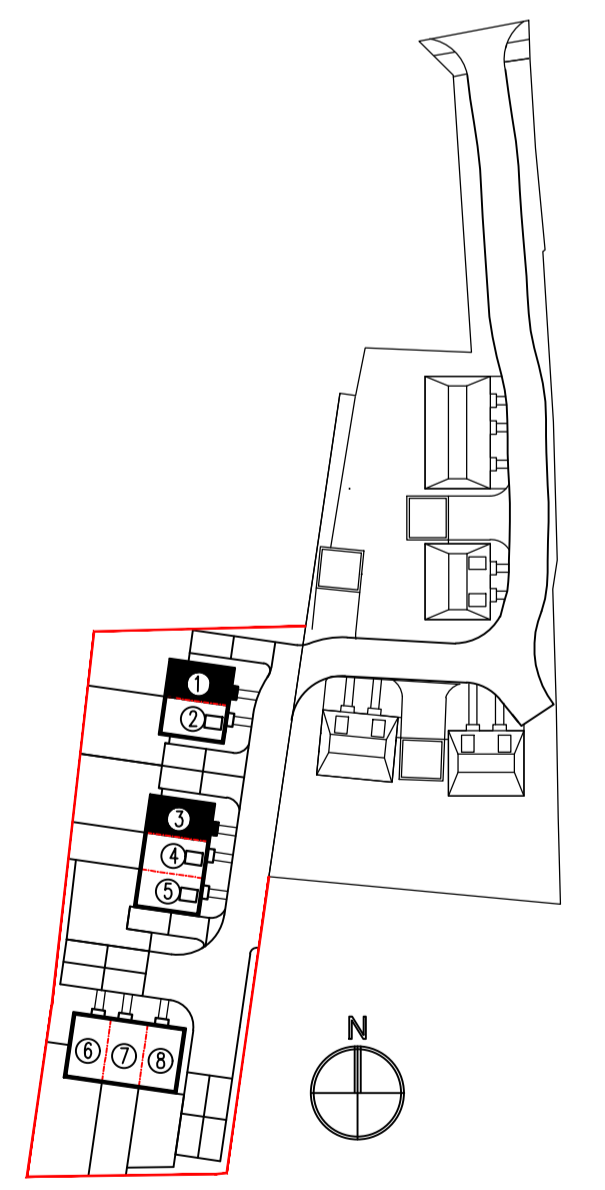



Proposed Second Floor  
Scale 1:50 @ A1



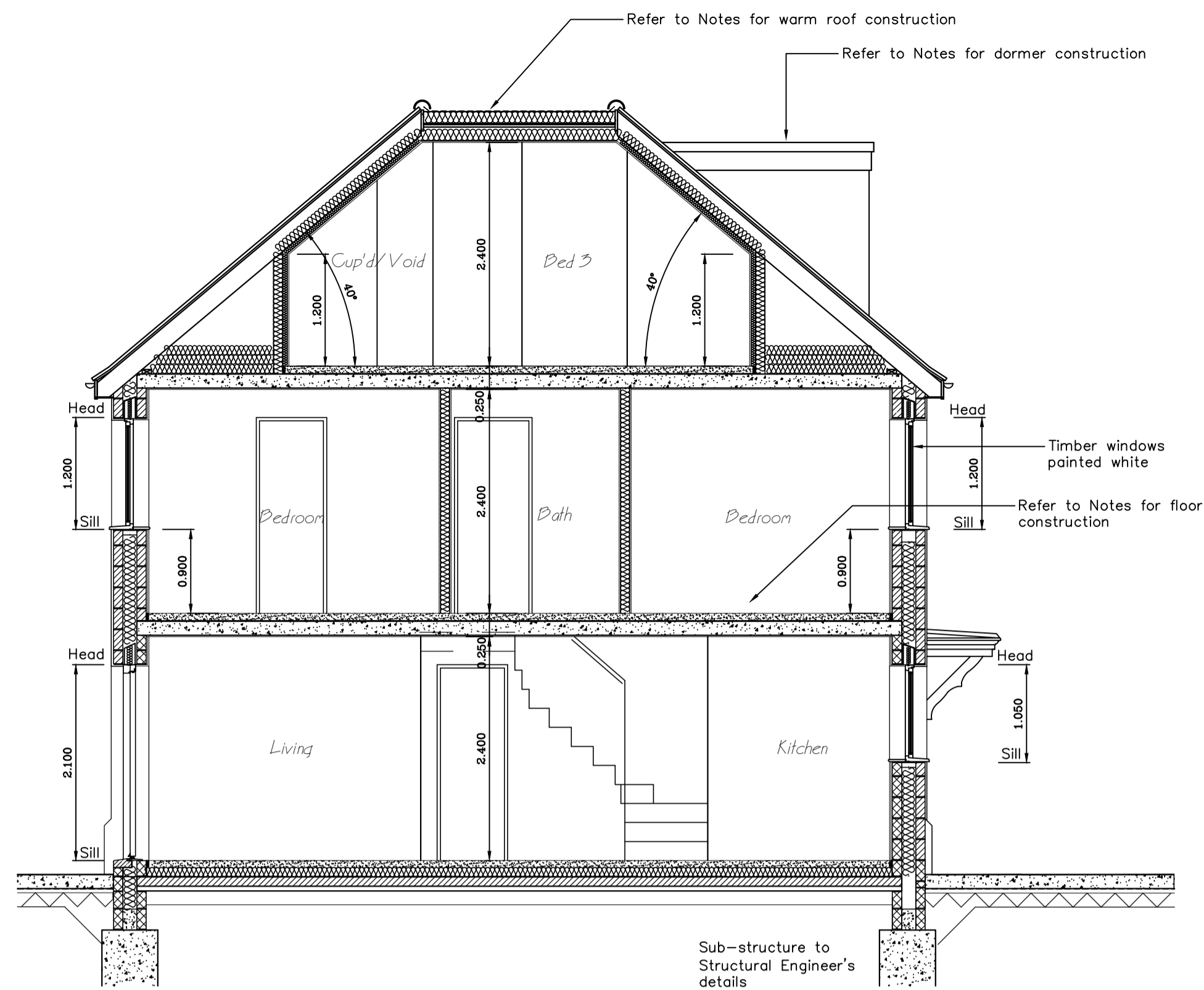
Proposed Roof  
Scale 1:100 @ A1

Total Area  
94.14 sqm

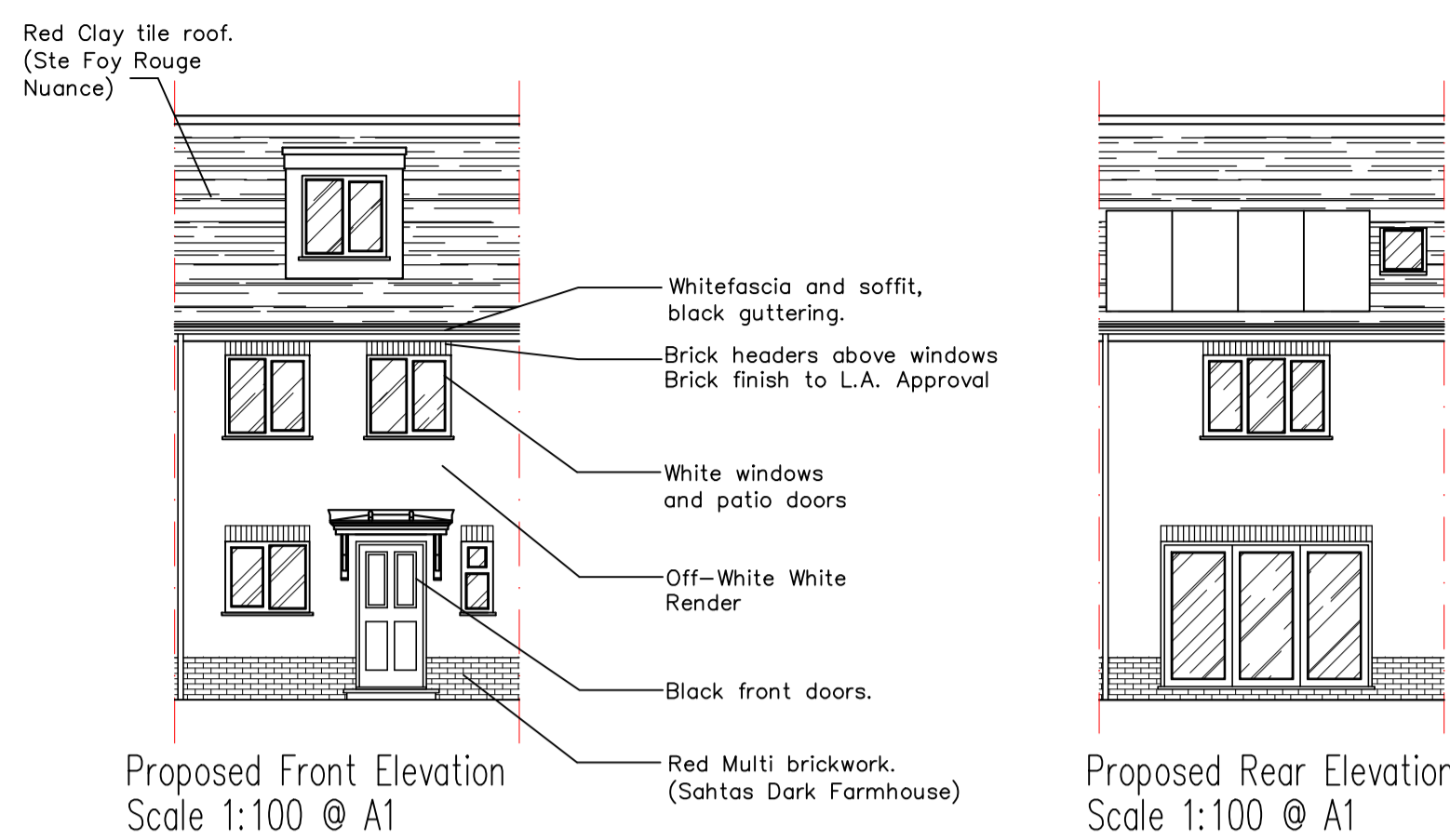


PROJECT: 2 Smallholdings, Eastwoodbury Lane Southend-on-Sea, Essex, SS2 6UZ		 <b>BRELEY</b> DESIGN LTD Breley Design Ltd, Harrier House Aviation Way, Southend on Sea Essex SS2 6UN, England Telephone: +44 (0)1702 541300 Facsimile: +44 (0)1702 543123 Email: info@breleydesign.com
TITLE: 3-Bedroom Semi House II Proposed Layouts, Section & Elevations		
SCALE: As shown	DATE: MAY 2023	
Drawing No. 1540-07	REV. D	
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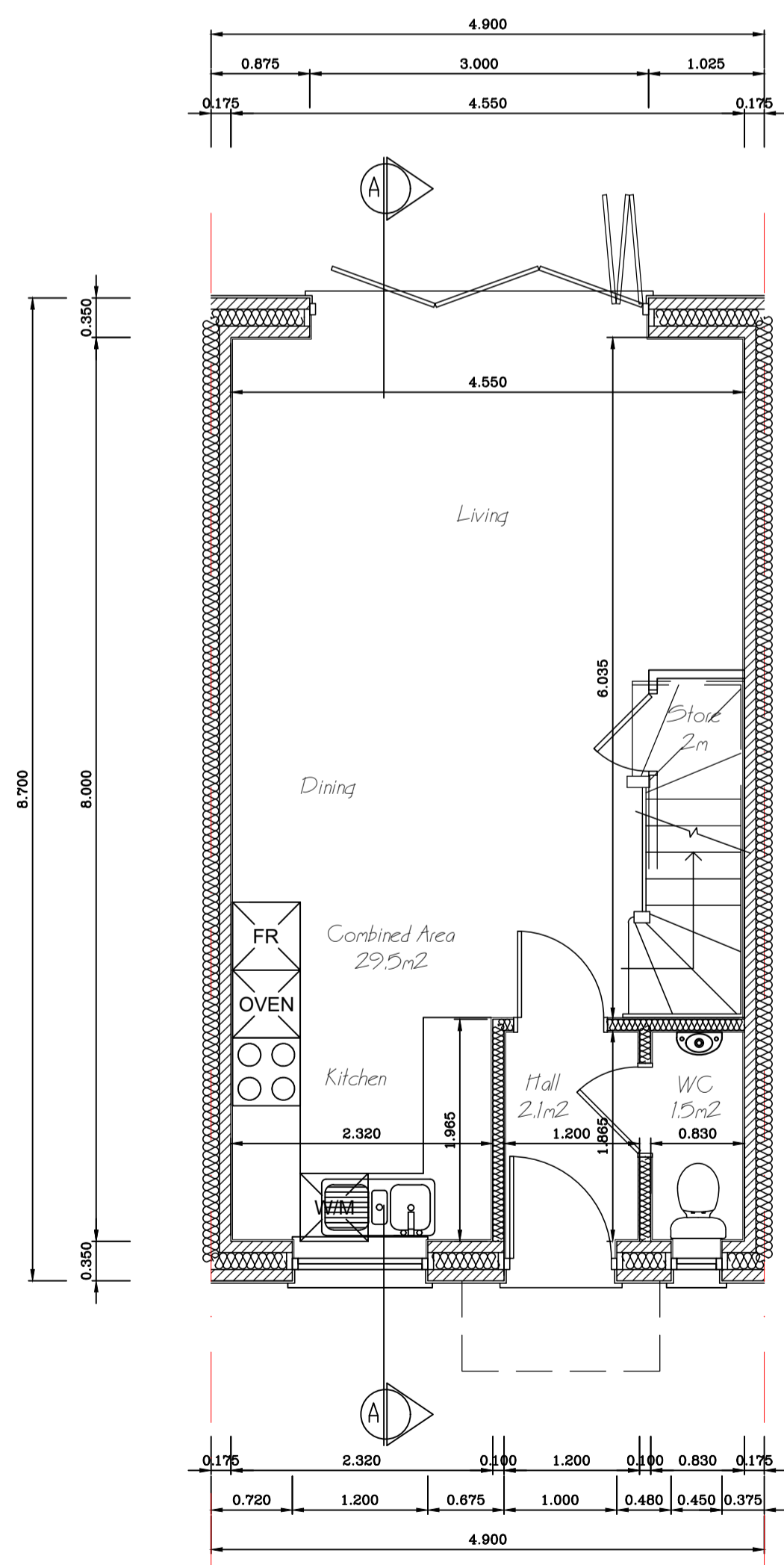
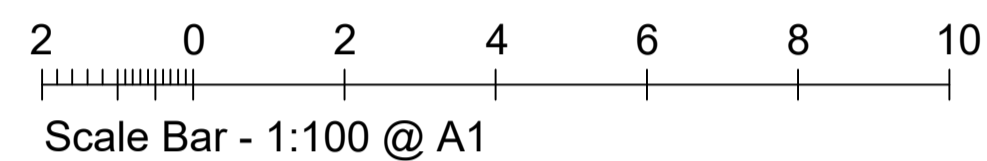


Proposed Section  
Scale 1:50 @ A1

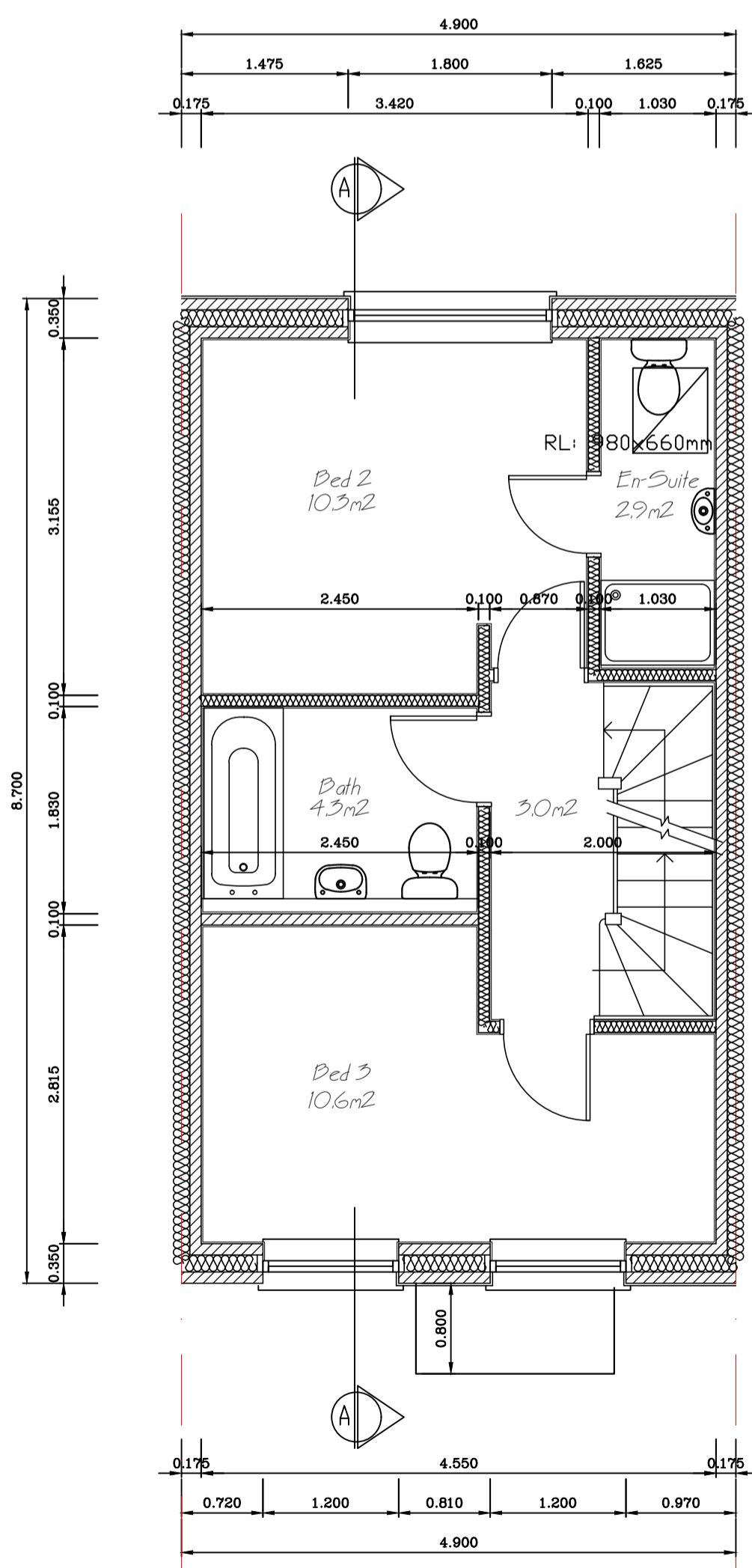


Proposed Front Elevation  
Scale 1:100 @ A1

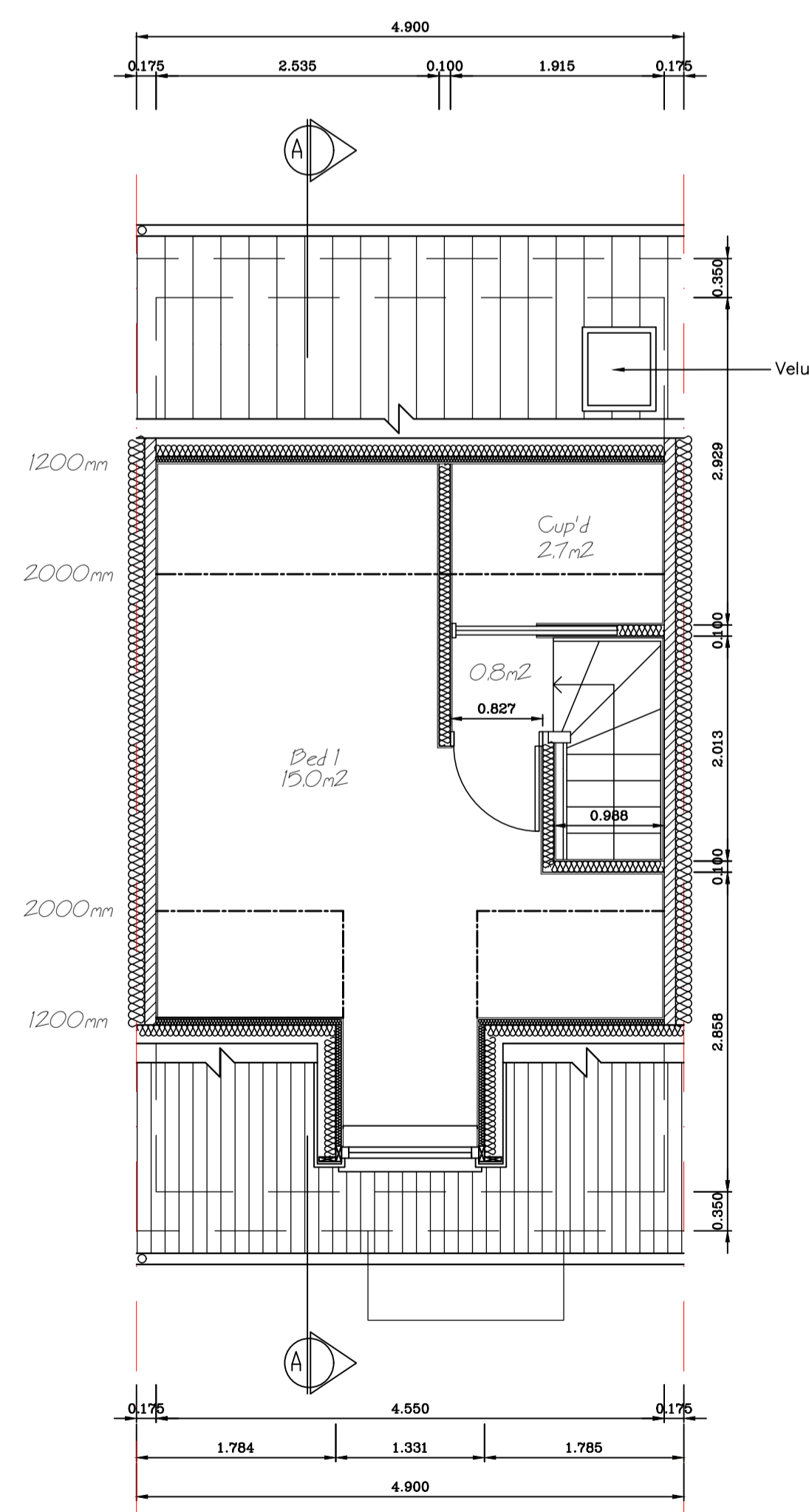
Proposed Rear Elevation  
Scale 1:100 @ A1



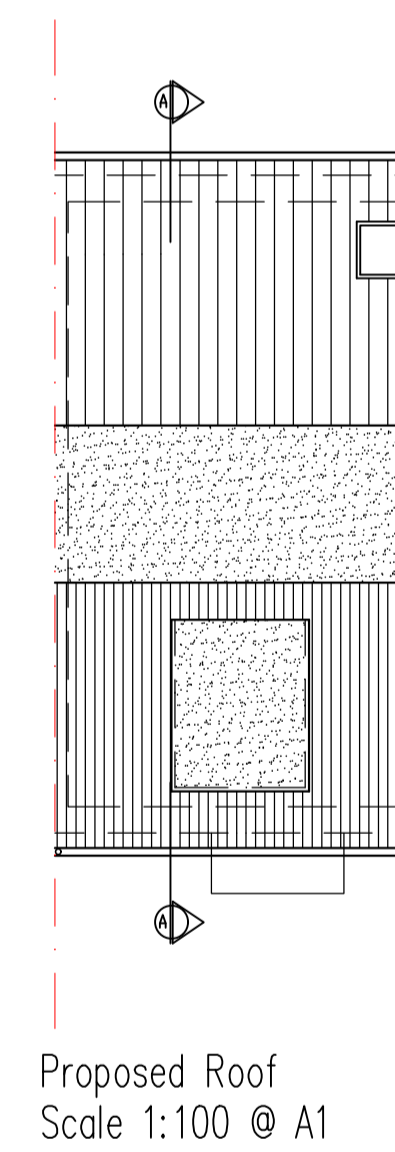
Proposed Ground Floor  
Scale 1:50 @ A1



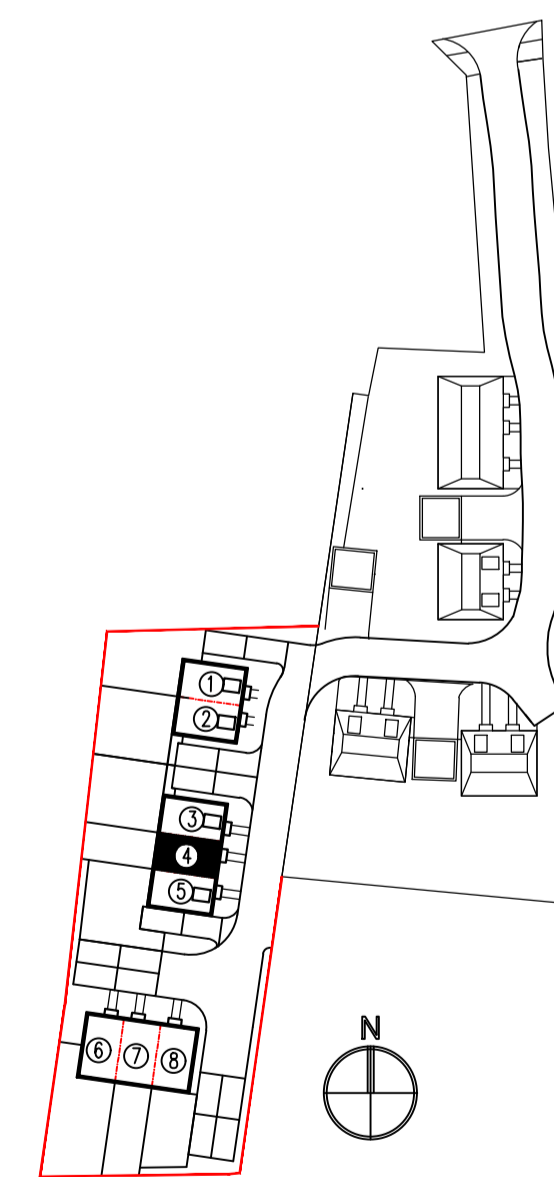
Proposed First Floor  
Scale 1:50 @ A1



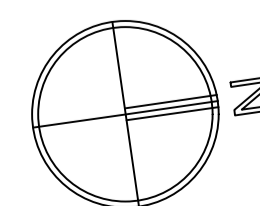
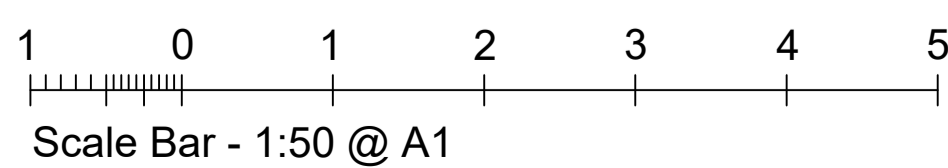
Proposed Second Floor  
Scale 1:50 @ A1



Proposed Roof  
Scale 1:100 @ A1



Total Area  
94.14 sqm



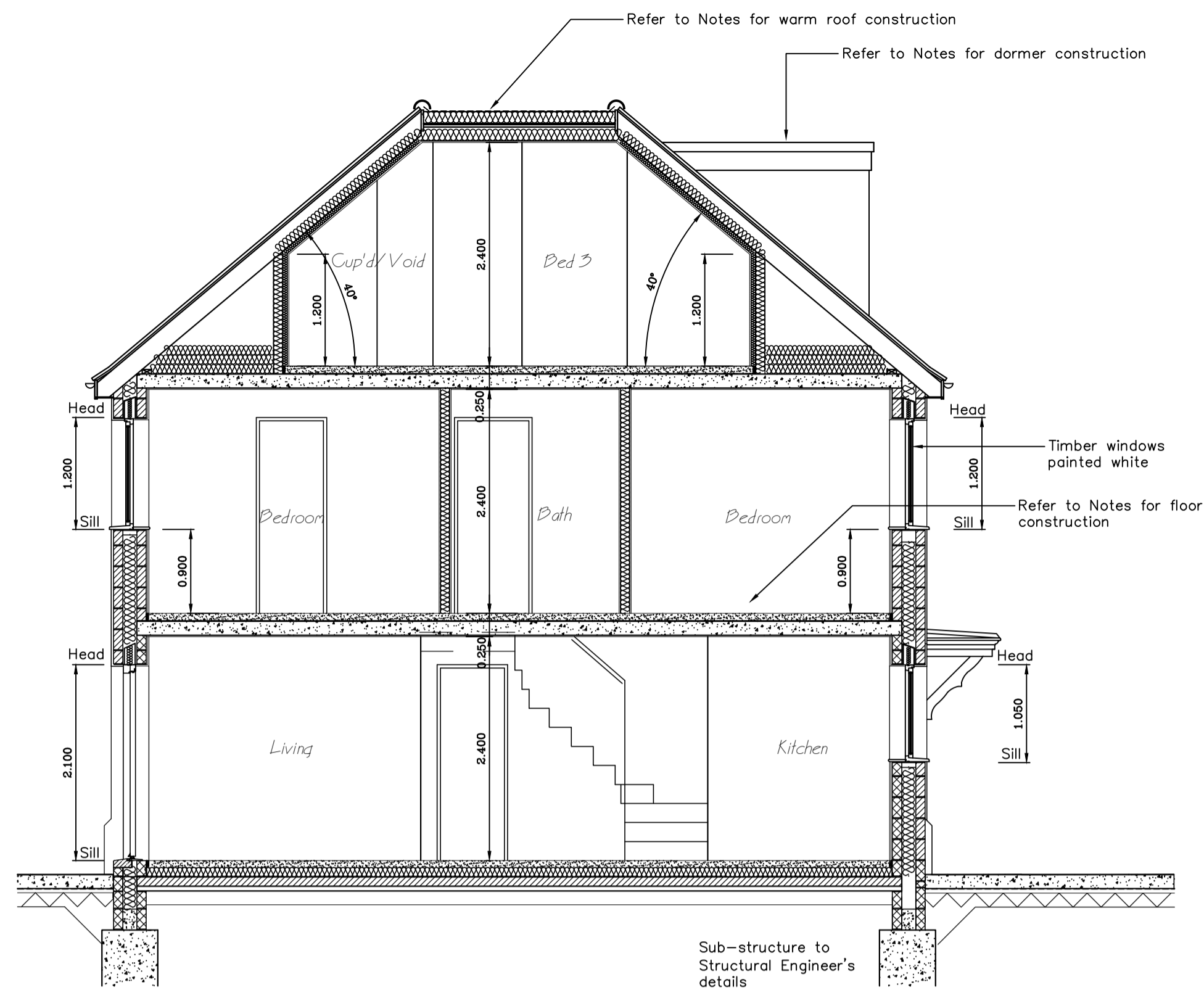
PROJECT: 2 Smallholdings, Eastwoodbury Lane Southend-on-Sea, Essex, SS2 6UZ	
TITLE: 3-Bedroom Mid-Terrace Proposed Layouts, Section & Elevations	
SCALE: As shown	DATE: Nov 2023
Drawing No. 1540-12	REV.

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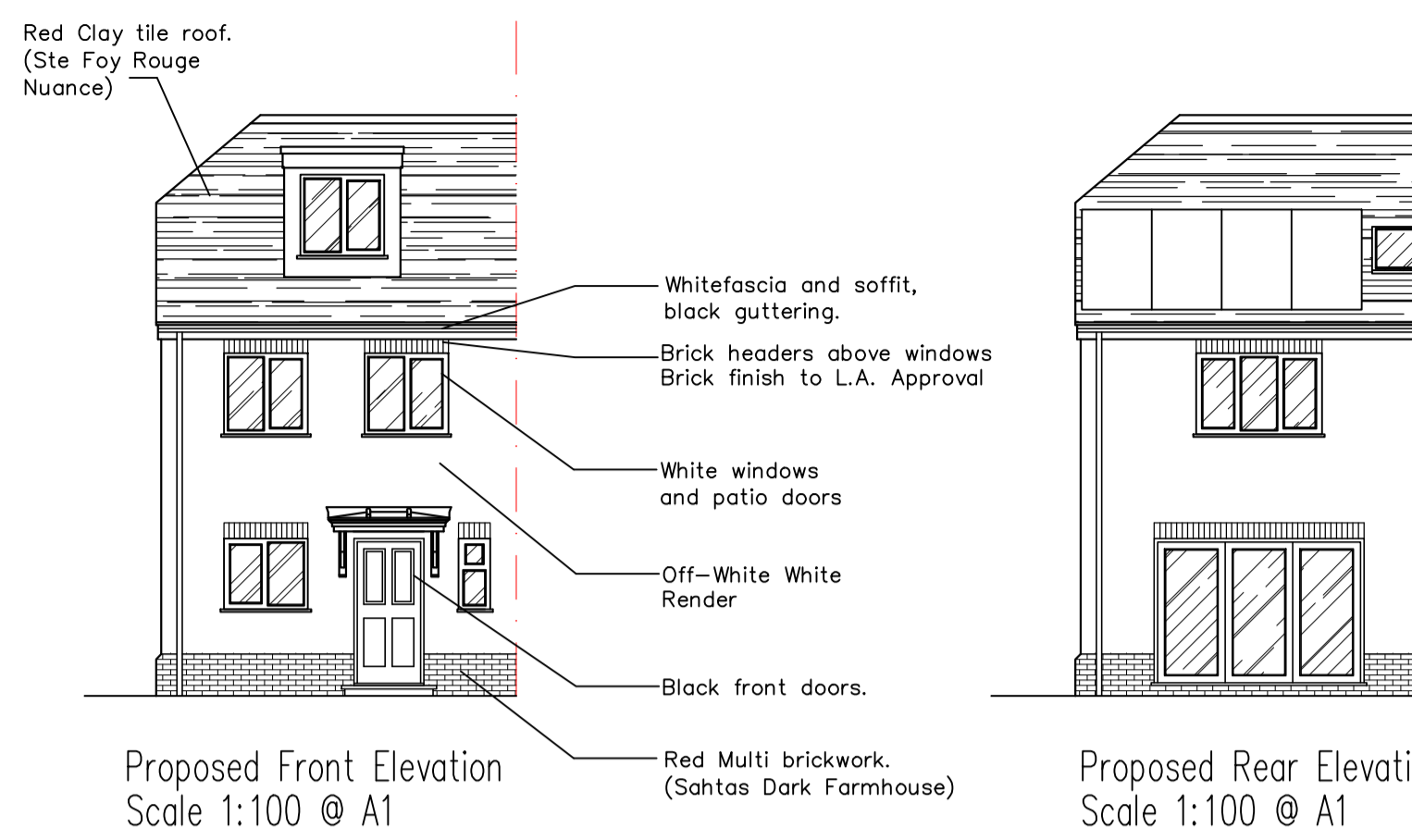
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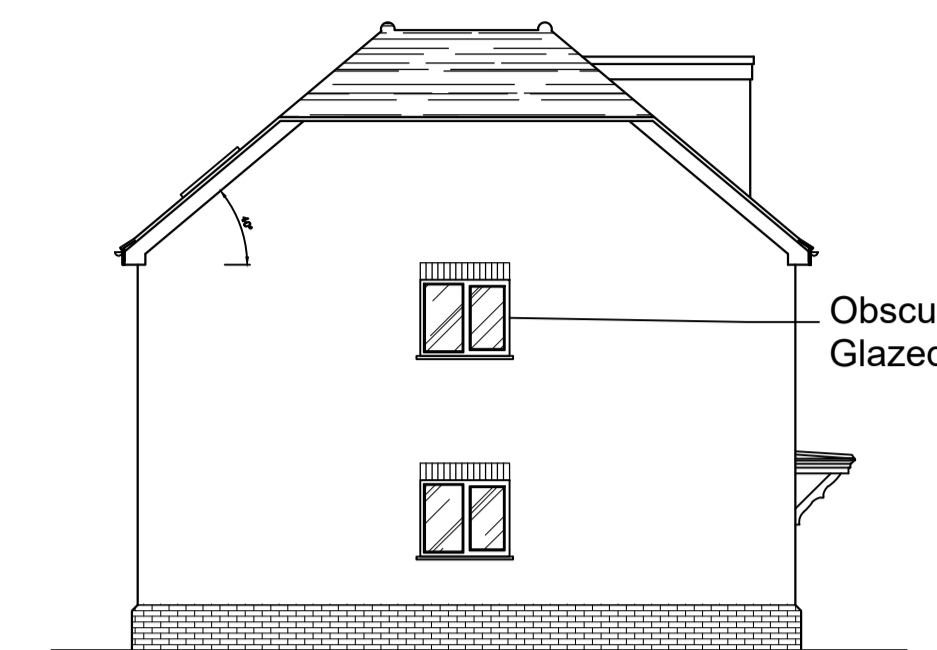
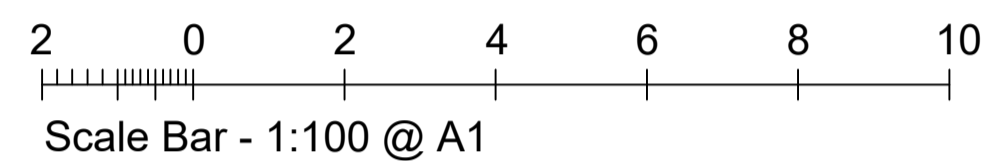


Proposed Section  
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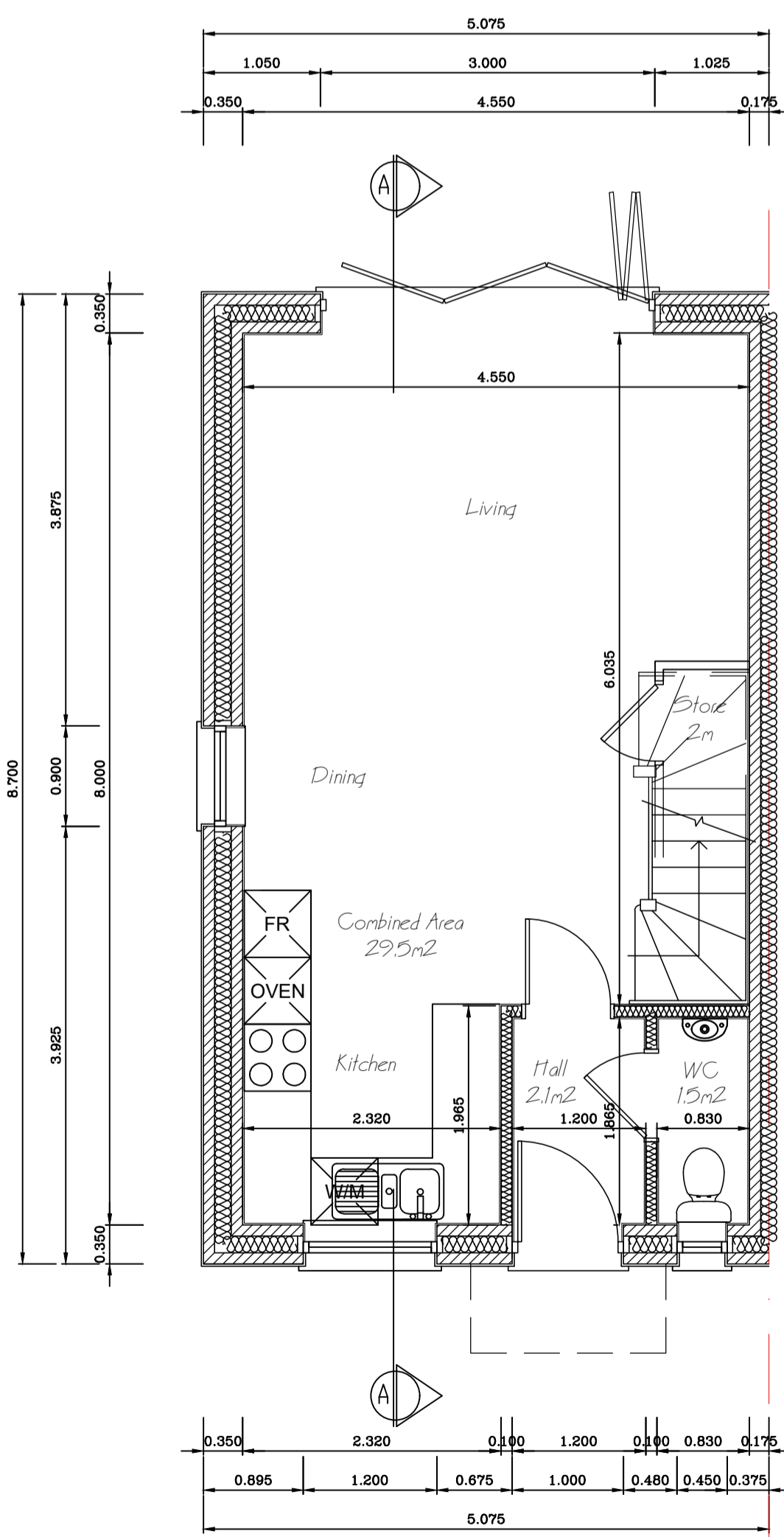


Proposed Front Elevation  
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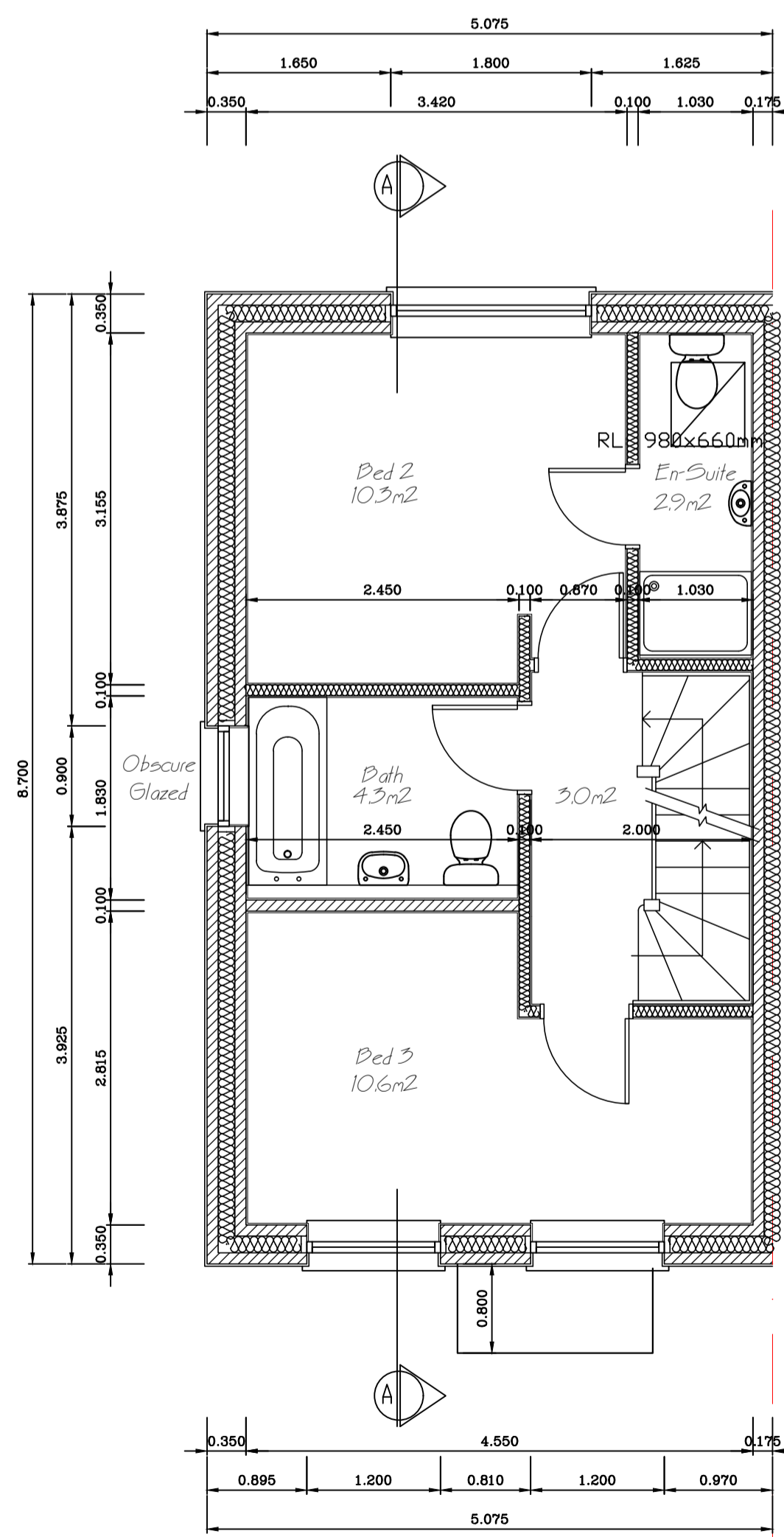
Proposed Rear Elevation  
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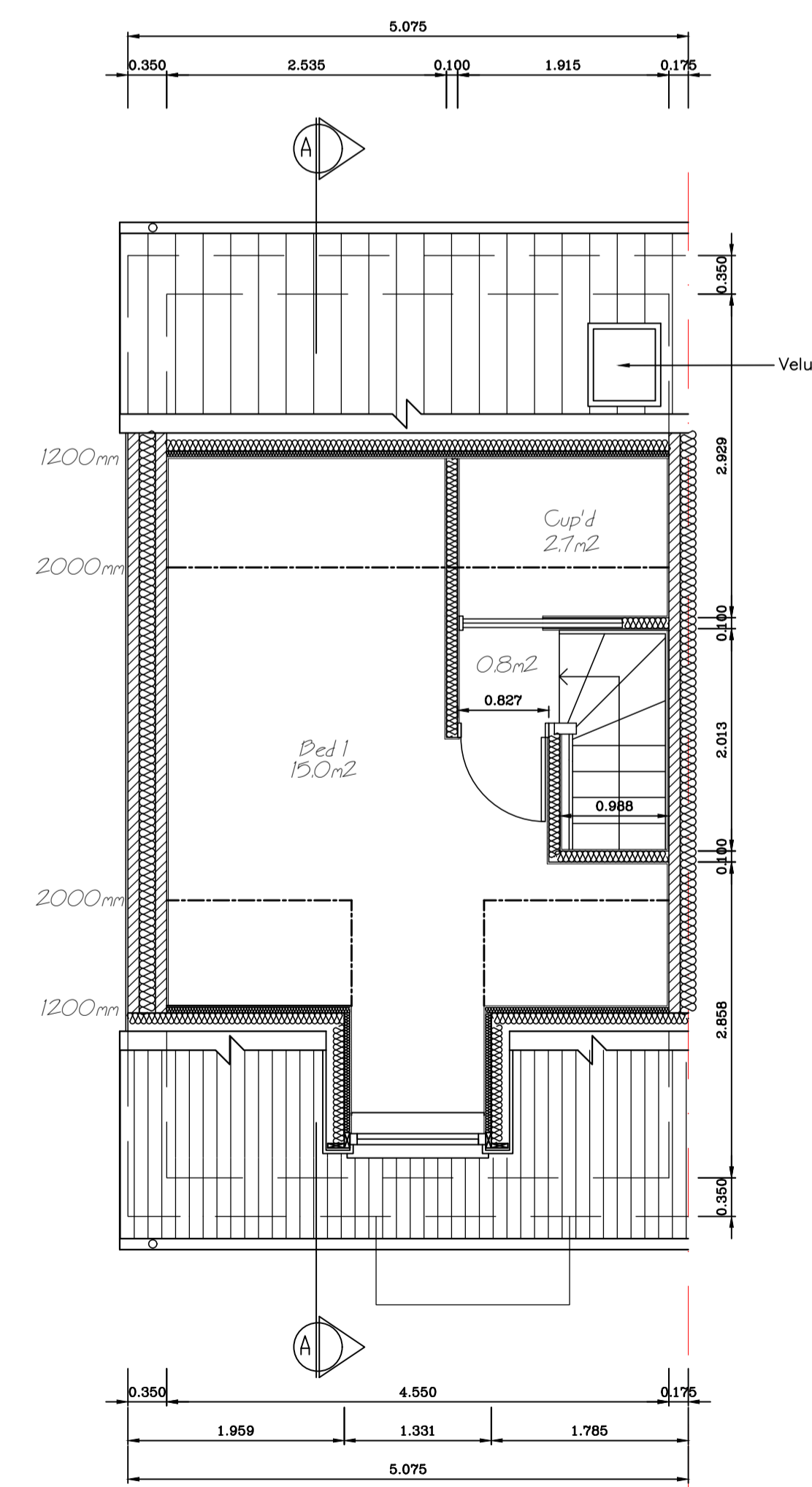
Proposed Side Elevation  
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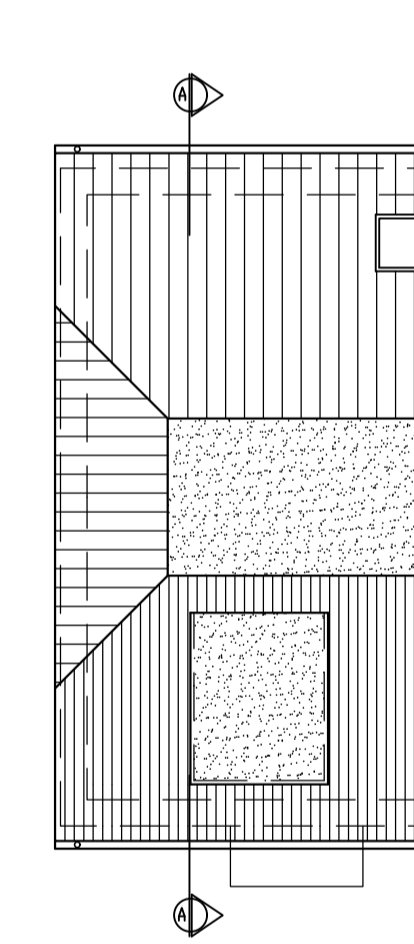
Proposed Ground Floor  
Scale 1:50 @ A1



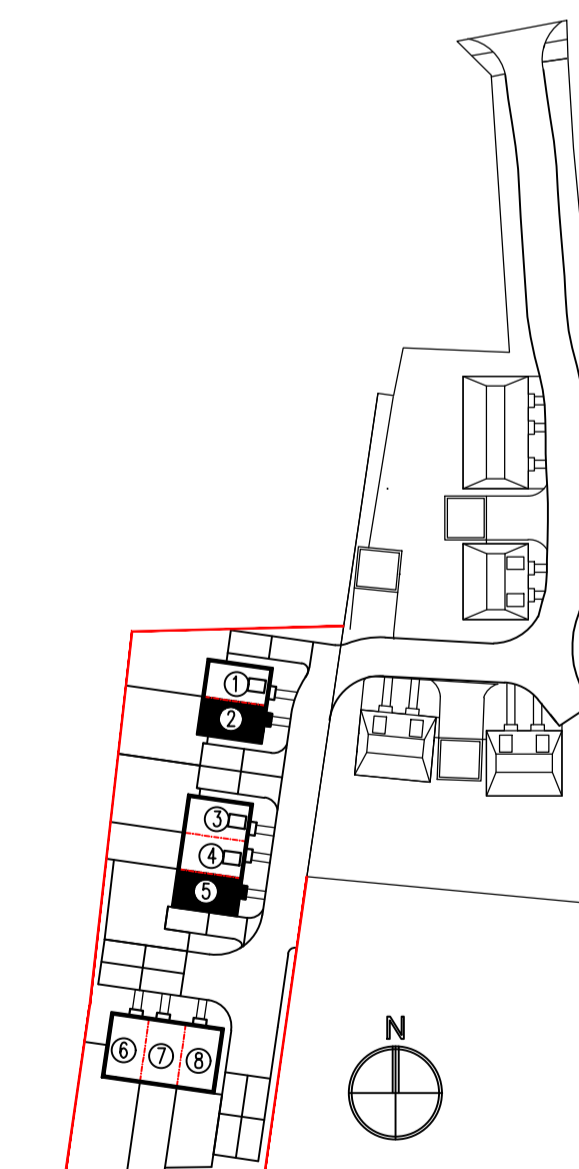
Proposed First Floor  
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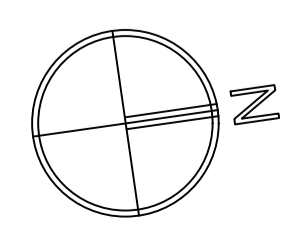
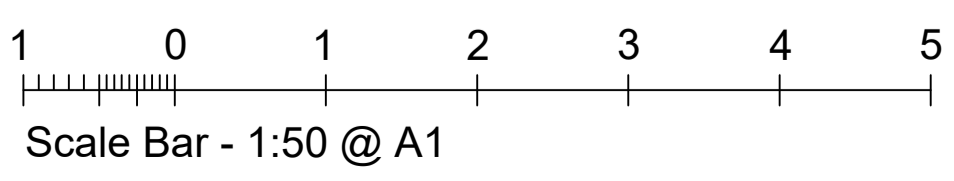
Proposed Second Floor  
Scale 1:50 @ A1

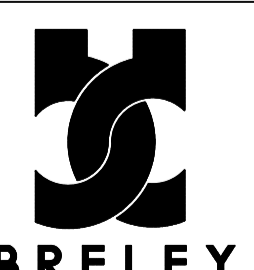


Proposed Roof  
Scale 1:100 @ A1



Total Area  
94.14 sqm



PROJECT: 2 Smallholdings, Eastwoodbury Lane Southend-on-Sea, Essex, SS2 6UZ		 <b>BRELEY</b> DESIGN LTD <small>Breley Design Ltd, Harrier House          Aviation Way, Southend on Sea          Essex SS2 6UN, England          Telephone: +44 (0)1702 541300          Facsimile: +44 (0)1702 543123          Email: info@breleydesign.com</small>
TITLE: 3-Bedroom Semi House Proposed Layouts, Section & Elevations		
SCALE: As shown	DATE: APR 2023	<small>Copyright of this drawing shall remain the property of Breley Design Limited. It may not be used in whole or part by any other parties for any other purpose without prior consent. All dimensions to be checked on site and any discrepancies reported to Breley Design Limited before work commences.</small>
Drawing No: 1540-07	REV: E	

45

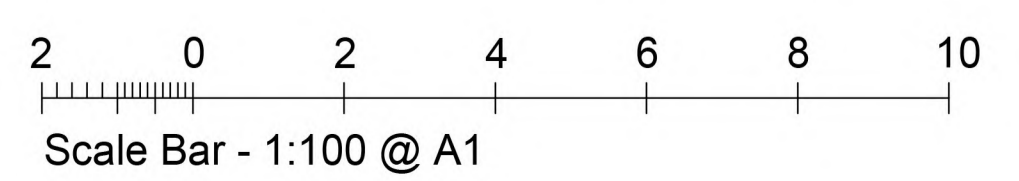
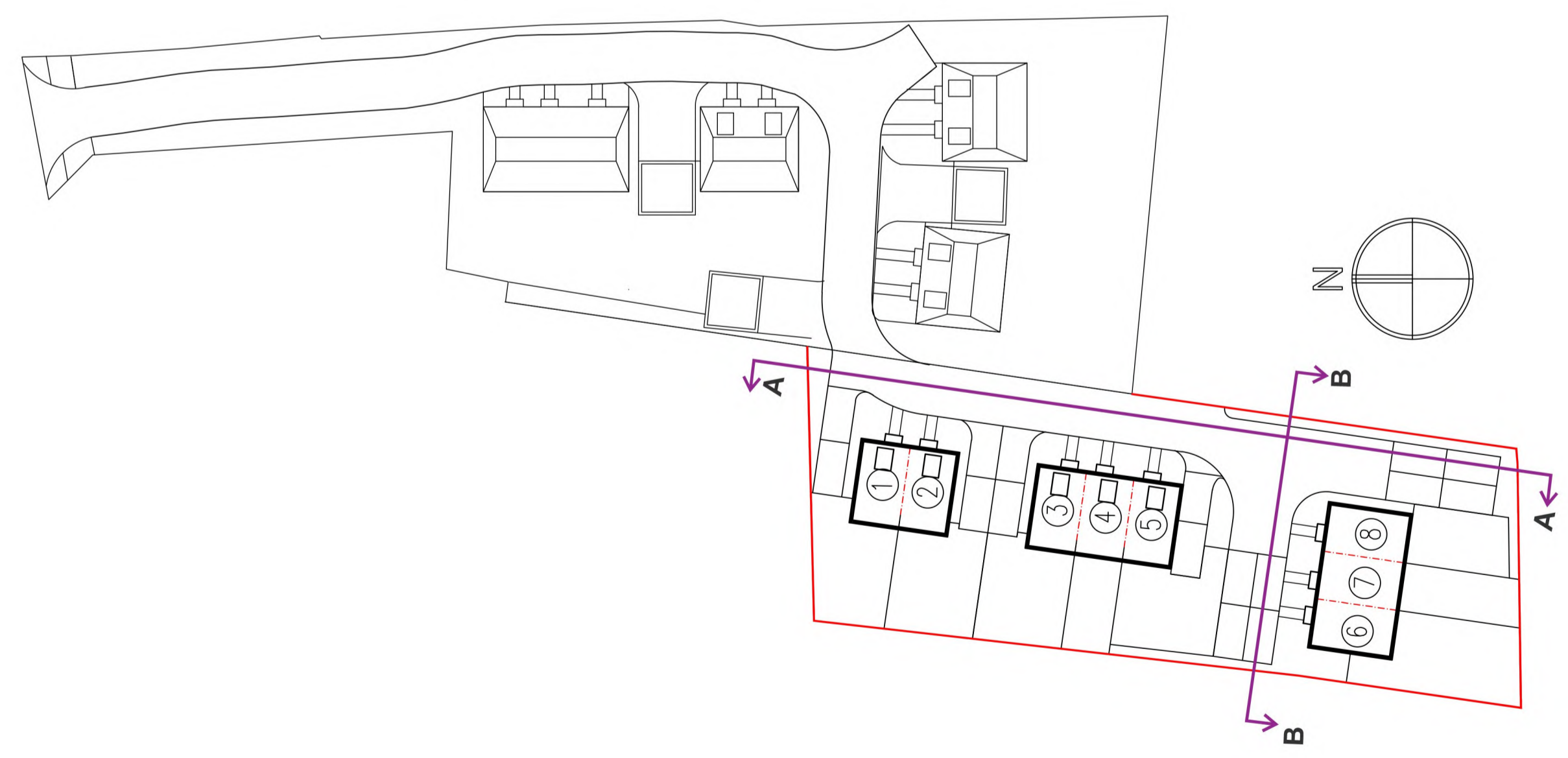
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Proposed Street Scene A-A  
Scale 1:100 @ A1



Proposed Street Scene B-B  
Scale 1:100 @ A1



PROJECT: 2 Smallholdings, Eastwoodbury Lane Southend-on-Sea, Essex, SS2 6UZ	
TITLE: Proposed Street Scenes	
SCALE: 1:100 @ A1	DATE: MAY 2023
Drawing No. 1540-07	REV. C

**BRELEY**  
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Application Site relative to surroundings



View looking west from 1 Smallholdings development site to the application site

Proposed extension of the road to serve the application site



View looking south-west across the application site



Position and direction of photo

View looking south-east across the application site



Position and direction of photo

View looking north-west across the application site



Position and direction of photo

View looking east to rears/flanks of dwellinghouses at 1 Smallholdings



Position and direction of photo

View looking north-east to rears of dwellinghouses at 1 Smallholdings



Position and direction of photo

View looking north to rears of dwellings at 1 Smallholdings and application site



Position and direction of photo



<b>Reference:</b>	23/00265/OUTM	<b>5</b>
<b>Application Type:</b>	Outline Application Major	
<b>Ward:</b>	Milton	
<b>Proposal:</b>	Erect 5 storey building comprising of 22 self-contained flats (Class C3) commercial units at ground floor level (class E), community/residential space with first floor amenity deck, ancillary bike and bin stores and landscaping (Outline Application)	
<b>Address:</b>	Empire Theatre, Alexandra Street, Southend-on-Sea, Essex, SS1 1BU	
<b>Applicant:</b>	Mr Kotecha	
<b>Agent:</b>	Mr Steven Kearney of SKArchitects	
<b>Consultation Expiry:</b>	19.10.2023	
<b>Expiry Date:</b>	19.12.2023	
<b>Case Officer:</b>	Oliver Hart	
<b>Plan Nos:</b>	262-P101 Rev A; 262-P102 Rev E; 262-P103 Rev C; 262-P104 Rev C; 262-P105 Rev B; 262-P106 Rev B; 262-P108 Rev A	
<b>Supporting Documents:</b>	<p><b>Design &amp; Access Statement Rev A (dated January 2023); Computer Generated Images 1-4; SUDs Statement (by HJ Structural Engineers Ltd. dated April 2023); Residential Market Report (by redloft, dated June 2023); Daylight and Sunlight Report (within development) by Right of Light Consulting Ltd. (dated 27 September 2023); Daylight and Sunlight Report (neighbouring properties) by Right of Light Consulting Ltd. (dated 17 October 2023); Waste Management Statement by SK Architects Ltd. (dated February 2023); Transport Assessment by ttp consulting (dated February 2023); Biodiversity and Sustainability Statement by SK Architects Ltd. (dated February 2023); Environmental Noise Impact Assessment Report Rev A (by es acoustics, ref 20294.ENIA.RPT.01, dated 15 February 2023); Preliminary Ecological Appraisal by Arbtech Issue 2 (dated 11/10/2023); Sitecheck Assess by Landmark (ref 307165997, dated 14 February 2023)</b></p>	
<b>Recommendation:</b>	<p><b>DELEGATE to the Executive Director (Environment and Place), Director of Growth and Planning or Service Manager - Development Control to GRANT PLANNING PERMISSION subject to CONDITIONS following the completion of a LEGAL AGREEMENT under section 106 of the Town and Country Planning Act 1990 (as amended)</b></p>	



## 1 Site and Surroundings

- 1.1 The application site is mainly empty with the south-east corner currently occupied by the remnants of a largely demolished former theatre/cinema building. The previous building was demolished at some point in 2017 or 2018. Historically, the site was occupied by the Rivoli café and cinema. The site has two frontages, to the south on Alexandra Street and to the north on Clarence Street. The eastern part of the site has a Public Right of Way (PRoW) linking Alexandra Street and Clarence Street.
- 1.2 The surrounding area contains mainly three-storey buildings, some with a fourth storey in their roof, and are of traditional design. Their use is mixed, typically with commercial uses at ground floor and some residential uses above, which is characteristic of the town centre location.
- 1.3 The site is within the Clifftown Policy Area and the Town Centre Primary Shopping Area as defined in the Southend Central Area Action Plan (SCAAP). The south frontage of the site is designated as Secondary Shopping Frontage. The buildings to the west are designated as Frontages of Townscape Merit. Alexandra Street is identified as an area for key public realm improvements. The nearest boundary of Clifftown Conservation Area is some 80m to the west of this site.

## 2 The Proposal

- 2.1 Outline planning permission is sought for access, appearance, layout and scale for a mixed-use development comprising two blocks, measuring up to 44.2m in depth, 18.8m in width and up to 16m in height. The taller block (at 5-storey scale) would be to the south along Alexandra Street and the smaller block (at 4-storey scale) would have its frontage to the north, along Clarence Street. In the middle there would be a platform/podium rising at 4.9m high, creating a separation distance of some 12.75m between the two blocks. The proposed development would be finished externally in red face brick.
- 2.2 The design of the proposal has been amended during the course of the application, removing an additional storey initially proposed to either block, and providing additional detailing to the flanks of the blocks. Consequently, the building would now accommodate 22 flats, 6 commercial units, 2 community spaces (one at ground and first floor) and 3 communal areas for the proposed flats with associated cycle parking and bin storage. The proposal would comprise the dwelling mix and uses shown on Table 1 and Table 2 below.

**Table 1: Housing mix**

Number of Bedrooms	Number of units	Units – Percentage of total (%)
1	8	36.3
2	10	45.5
3	4	18.2
Total	22	100

**Table 2: Other floorspace mix**

AREA SCHEDULE		
SPACE	TYPE	AREA
UNIT 1	COMMERCIAL	40m <sup>2</sup>
UNIT 2	COMMERCIAL	68m <sup>2</sup>
UNIT 3	COMMERCIAL	40m <sup>2</sup>
UNIT 4	COMMERCIAL	65m <sup>2</sup>
UNIT 5	COMMUNITY	42m <sup>2</sup>
UNIT 6	COMMERCIAL	80m <sup>2</sup>
UNIT 7	COMMERCIAL	59m <sup>2</sup>
GYM	RESIDENTIAL	50m <sup>2</sup>
YOGA	RESIDENTIAL	43m <sup>2</sup>
HOT DESKING	RESIDENTIAL	58m <sup>2</sup>
COMMUNITY SPACE	RESIDENTIAL	37m <sup>2</sup>

- 2.3 Level access between all floors would be provided by lifts shown at ground floor close to the proposed main street access. The submitted plans specify 3 units would comply with building

regulation M4(3). Outdoor amenity space would be provided predominantly in the form of private balconies and a communal garden area positioned on the central platform/podium area between the blocks.

- 2.4 Whilst landscaping is a reserved matter for later consideration, information has been provided showing indicative tree planting to the south of the site, to the north-east of the site and within the central communal amenity area.
- 2.5 No car parking would be provided at the site. Within dedicated areas with electric charging provision at ground floor level there would be 28 cycle parking spaces for residents and 4 cycle parking spaces for the proposed commercial units. Separate residential and commercial bin storage areas would also be provided at ground floor level. Ancillary residents' facilities inclusive of a residents' gym, hot desking space and a meeting room are also part of the proposal.

### 3 Relevant Planning History

3.1 The most relevant planning history for this application is shown on Table 3 below:

**Table 3: Relevant planning history of the Site**

Refence	Description	Outcome [Date]
16/01495/DEM	Demolish existing building (Application for Prior Approval for Demolition)	Prior Approval Granted [07.09.2016]
17/01319/FULM	Erect four storey building comprising 24 self-contained flats with balconies and terraces, associated amenity space, form parking, form commercial units (Use Classes A1, A2 and A3) and a non-residential institution unit (Class D1) fronting Clarence Street at ground floor level	Permission Granted [25.07.2017]

### 4 Representation Summary

#### Public Consultation

4.1 110No neighbouring properties were consulted, a site notice was displayed and a press notice was published for the original and the amended proposal. 2No representations have been received objecting to the proposal and are summarised as follows:

- Overbearing form of development;
- Scale, mass and detailed design out of keeping with character of the area;
- Overlooking and loss of privacy concerns;
- Loss of light and outlook concerns;
- Parking concerns;
- Noise and disturbance concerns from bike store location;
- Noise, disturbance and odour concerns from refuse store location.

#### Milton Conservation Area Society

4.2 Objection raised on the following basis.

- The mass and scale of the building would be incongruous in the two roads and would break the existing urban grain.
- This proposal is located in a distinctly low-rise part of our city and would create great

harm to the local grain.

- Detailed design and form of the development is inappropriate and extremely dominant and harmful to the 'Frontages of Townscape Merit'.
- The proposal conflicts with the local plan, the SCAAP and the Design and Townscape guide, most particularly in terms of context and character.
- There is no parking provision which is contrary to the local plan.

**[Officer comment]:** The comments in the representations following public consultation and from the Milton Conservation Area Society have been taken into consideration in the assessment of the application where they raise relevant planning matters but are not found to be justifiable reasons for refusing planning permission in the circumstances of this case.

#### **Lead Local Flood Authority (LLFA)**

- 4.3 No objections subject to conditions requiring submission of additional information regarding drainage.

#### **Environmental Health**

- 4.4 No objections subject to conditions relating to Land Contamination, Noise Mitigation and Noise from Plant and Equipment, a Construction Management Plan, Refuse and Recycling Details, Restriction of Delivery Hours for the Commercial Units, Restriction of Plant and Ventilation Equipment.

#### **London Southend Airport (LSA)**

- 4.5 No objection subject to maximum height of development not exceeding the height of the previous building before demolition or the height of 56.46m (AOD) and a condition requiring third party instrument flight procedure assessment (ILS).

#### **Highways**

- 4.6 No objections. The applicant has provided a robust transport statement to support the application. This includes sustainable travel options, TRICS analysis, census data and a proposed travel plan. The site benefits from being in a town centre location with good links to sustainable travel links, local services and public car parks. Secure cycle parking is provided. It is not considered that the proposal will have a detrimental impact on the local highway network. Future occupiers will not be eligible for a town centre or parking permit. A Travel Plan including travel packs will be required.

- 4.7 There is a public right of way (PROW) that will be affected as part of the development. Currently access is restricted along the length of the PROW. Any works that are undertaken will require the PROW to be stopped up to allow construction to take place on the understanding that improvements to the surface shall be made in consultation with the highway authority. There would be no objection to the above should this come forward.

#### **Strategic Housing**

- 4.8 The proposed development will deliver 22 dwellings, which will require a 20% affordable housing provision, equating to 5 homes. The most recent Housing Register data indicates the following dwelling mix is required: 3 x 1 bedroom; 2 x 2 bedroom. The required tenure split is as follows: 3 units in affordable rent and two units in shared ownership tenure.

#### **Education**

- 4.9 A financial contribution of £31,083.33 is required towards secondary education at Cecil Jones Academy.

**[Officer comment:** A planning obligation for a financial contribution towards secondary education is included in the recommended Heads of Terms from paragraph 8.78 onwards of this report.]

## **Health Care (NHS)**

- 4.10 A financial contribution of £12,700 is requested for the benefit of patients of the Primary Care Network operating in the immediate area.

[**Officer comment:** Funding for primary health care provision is achieved through CIL and as such a separate contribution has not been sought. See paragraphs 8.84 to 8.85 of this report.]

## **Design and Conservation Officer**

- 4.11 No objections raised following amendments.

## **5 Procedural matters**

- 5.1 This application is presented to the Development Control Committee because it is a major development and officers do not consider prudent to deal with this under delegated powers.

## **6 Planning Policy Summary**

- 6.1 The National Planning Policy Framework (NPPF) (2023)
- 6.2 Planning Practice Guidance (PPG) (2023)
- 6.3 National Design Guide (NDG) (2021)
- 6.4 Technical Housing Standards – Nationally Described Space Standards (2015)
- 6.5 Core Strategy (2007) policies: KP1 (Spatial Strategy), KP2 (Development Principles), KP3 (implementation and Resources), CP1 (Employment Generating Development), CP3 (Transport and Accessibility), CP4 (Environment and Urban Renaissance), CP6 (Community Infrastructure), CP7 (Sport, Recreation and Green Space), CP8 (Dwelling Provision).
- 6.6 Development Management Document (2015) policies: DM1 (Design Quality), DM2 (Low Carbon Development and Efficient Use of Resources), DM3 (Efficient and Effective Use of Land), DM4 (Tall and Large Buildings), DM5 (Southend's Historic Environment), DM6 (The Seafront), DM7 (Dwelling Mix), DM8 (Residential Standards), DM9 (Specialist Residential Accommodation), DM10 (Employment Sectors), DM11 (Employment Areas), DM13 (Shopping Frontage Management outside the Town Centre), DM14 (Environmental Protection), DM15 (Sustainable Transport Management).
- 6.7 Southend Central Area Action Plan (2015) Policy PA6 (Clifftown Policy Area Development Principles)
- 6.8 Southend-on-Sea Design and Townscape Guide (2009)
- 6.9 Technical Housing Standards Policy Transition Statement (2015)
- 6.10 Waste Storage, Collection and Management Guide for New Developments (2019)
- 6.11 Essex Coast Recreational Disturbance Avoidance and Mitigation Strategy (RAMS) Supplementary Planning Document (SPD) (2020)
- 6.12 Community Infrastructure Levy (CIL) Charging Schedule (2015)
- 6.13 Clifftown Conservation Area Appraisal (2022)

- 6.14 Guide to Section 106 & Developer Contributions (2015)
- 6.15 Interim Affordable Housing Policy (2016)
- 6.16 Electric Vehicle Charging Infrastructure for new development Supplementary Planning Document (2021)

## **7 Planning Considerations**

- 7.1 The main considerations in relation to and within the scope of this outline application are the principle of the development, design and impact on the character and appearance of the area including heritage assets, impacts on neighbours' residential amenity, living conditions of future occupiers, traffic and transportation matters, flood risk and drainage, sustainability, RAMS, equality and diversity considerations, CIL and developer contributions.

## **8 Appraisal**

### **Principle of Development**

#### *Provision of Housing*

- 8.1 National and local planning policy promote the effective use of land subject to safeguarding and improving the environment and local amenity. The NPPF states that planning decisions should give substantial weight to the value of using suitable brownfield land within settlements for homes and promote and support the development of underutilised land and buildings, especially if this would help to meet identified needs for housing where land supply is constrained, and available sites could be used more effectively.
- 8.2 The figures of the Housing Delivery Test (HDT) and the Five-Year Housing Land Supply (5YHLS) show that there is a significant need for housing in the City. The South Essex Strategic Housing Market Assessment (SESHMA) shows that the City needs a higher proportion of family units.
- 8.3 The proposal would create additional housing including additional family units. The results of the HDT and the position on the 5YHLS weigh in favour of the proposal and the amount of housing would make a useful contribution to the housing stock of the City. The findings of the SESHMA significantly support the proposal.

#### *Provision of employment and active frontage*

- 8.4 Policy PA6 of the adopted Southend Central Area Action Plan (SCAAP) relating to the Clifftown Policy area, states that the Council will *"promote independent small-scale retail, boutiques, cafés, restaurants, bars and small studio style workshops to create an area with a strong cultural identity together with residential uses above ground floor level to reinforce the fine grain historic street pattern and character."* With respect to this site, it is noted that part 2C of Policy PA6 states that the Council will seek to *"regenerate the site of the Empire Theatre with uses that contribute to the Policy Area's aim, including cultural uses such as galleries and performance space, particularly at ground floor to create an active frontage"*.
- 8.5 The southern part of the site fronting Alexandra Street is located within a secondary shopping frontage and Policy DM13 of the Development Management Document states that *'All developments in the secondary shopping frontage, as defined on the Policies Map, must maintain or provide an active frontage with a display function for goods and services rendered and the proposed use will provide a direct service to visiting members of the general public.'*

- 8.6 The proposal includes 108sqm of commercial floorspace fronting Alexandra Street and 140sqm of commercial floorspace fronting Clarence Street. These would provide an active frontage and a continuation of the link between Alexandra Street and the High Street to the east. These arrangements are considered to be policy compliant in regard to the nature and mix of uses thereby meeting the Council’s development plan policies with particular reference to the Clifftown Policy Area.
- 8.7 A historic Public Right of Way (PROW) runs along the east of the site (north-south). Gates are presently in place to act as a temporary measure understood to tackle anti-social behaviour. It is understood the applicant seeks to re-open the PROW to enable pedestrian permeation through the site which, together with the general upgrading of this pedestrian route, is considered a positive aspect of the design. Separate highway legislation in this respect would apply.

*Community use*

- 8.8 The former use of the building on this site had been for leisure purposes and as such, it is considered that the use of the site represented a recreational facility. Demolition of the building took place under prior approval secured in 2016 such that there is now no community use present on the land. This materially reduces the weight to be attached to the requirement for incorporation of such ‘recreational’ floorspace. Notwithstanding, two units, one at ground and one at first floor (approximately 79sqm of floorspace) are identified within this proposal as for ‘community’ uses.
- 8.9 Compared with the nature of the previous use solely as a cinema, this proposal will enable the development to potentially accommodate a number of different community uses or groups within either a Class F1 or F2 Use, which relate to Learning and non-residential institutions and Local Community uses, thereby fulfilling the Council’s aspirations of delivering cultural uses in accordance with the objectives of Policy PA6 of the Southend Central Area Action Plan. This element of the proposal is therefore found to be acceptable and policy compliant on this basis.

*Dwelling mix*

- 8.10 Policy DM7 of the Development Management Document seeks that residential development provides a dwelling mix that incorporates a range of dwelling types and bedroom sizes, including family housing on appropriate sites, to reflect the City’s housing need and housing demand. The Council seeks to promote a mix of dwelling types and sizes as detailed below. The dwelling mix preferred by Policy DM7 as amended by the latest SESHMA compared to the proposal is shown in Table 4 below. Whilst Policy DM7’s preferred mix needs to be considered, it is also the case that, since the adoption of Policy DM7, there has become an evidenced need for all types and sizes of dwelling within the City, a factor that must be given due weight in the assessment.

**Table 4: Proposed and preferred policy dwelling mix by size**

Type of unit	Number	Percentage	Policy (%)
One-bedroom flat	8	36.3%	18%
Two-bedroom flat	10	45.5%	30%
Three-bedroom flat	4	18.2%	35%
Four-bedroom flat	0	0%	17%
Total	22	100%	100%

- 8.11 The units proposed incorporate a mix of dwelling sizes, including three bed units capable of family occupation. It is considered that the dwelling mix would accord reasonably with the



higher density context of the site surroundings and the compact nature of the site. It would not unreasonably affect the character of the area in terms of flat sizes. The proposal would make a useful contribution to meeting the housing needs of the city and is considered to be acceptable and policy compliant in the above regards.

### *Affordable Housing*

- 8.12 Policy CP8 seeks an affordable housing provision of 20% for major residential proposals of 10 - 49 dwellings which should be split 60:40 between affordable rented and shared ownership units. Were it to apply here, a policy compliant provision would be 5 dwellings, comprising 3 affordable rented units and 2 shared ownership units.
- 8.13 The financial viability assessment (VA) submitted with the application concludes that a contribution to affordable housing is unviable in this case. The Council has had this document independently reviewed by BNP Paribas which verifies that the scheme cannot support any affordable housing contribution. Assuming a blended developer profit of 16.65% the independent viability review concluded that this scheme would have a projected deficit of £2.71m. Even considering the notional costs involved in providing spaces within the development intended for a residents' gym, meeting room and hot desk area (the specific fitting out costs of which are not part of the viability assessment) there would remain a significant viability deficit. The absence of any affordable housing contribution in this case is therefore justified. However, the applicant has agreed to include a late-stage viability review mechanism in the S106 legal agreement on the basis of the London Plan formula. This will ensure that the actual construction costs and achieved sale values will be considered to determine whether the viability position of the development has changed and therefore whether a contribution can then be made towards affordable housing. That would also provide control for the Council over any future material change in the nature of the intended residents' internal communal facilities. If found to be viable at that later stage, 60% of any surplus would be paid to the Council as the affordable housing contribution for the scheme up to a cap figure calculated in accordance with the Council's interim affordable housing policy.

### *Conclusion on principle of development*

- 8.14 In the round, the principle of providing additional housing with some ground floor commercial and community uses on this site is considered acceptable.

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

- 8.15 Local and national planning policies and guidance seek to ensure that new development is well designed. 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.
- 8.16 Local development plan policies seek to ensure that new development is designed so that it adds to the overall quality of the area and respects the character of the site, its local context and surroundings, provides appropriate detailing that contributes to and enhances the distinctiveness of place; and contributes positively to the space between buildings and their relationship to the public realm. Policy DM1 and the Council's Design and Townscape Guide provide further details on how this can be achieved.
- 8.17 The site is at a point of transition from the High Street to the Clifftown Conservation Area further to the west. The site itself is within the SCAAP Clifftown Policy Area which is characterised by its fine grain and well-articulated buildings, many of which have heritage designations. Alexandra Street and Clarence Street are two of the most attractive and historic streets within the town centre, of which there are few. The buildings in the vicinity of the site are generally 2- to 3- storey terraces of a traditional design, with quality detailing and decoration and pitched

roofs.

- 8.18 The proposal has been reduced in scale during the course of the application, from 6 storeys to 5 fronting Alexandra Street and from 5 storeys to 4 fronting Clarence Street, linked by a raised and continuous ground floor. Both blocks are a simple box shape with tall windows, feature shopfronts and small inset balconies articulating the frontage.
- 8.19 The development is taller than the neighbours on both frontages (between 3.5m and 5.5m along the Alexandra Street frontage and some 4m along the Clarence Street frontage) but due to the variation in scale along Alexandra Street and the retention of separation to either flank, it is not considered to be to such a degree that it would harmfully dominate the streetscene. Windows to the side flanks enliven the frontages and will provide interest and articulation for the building where it is seen to project above the neighbours in views from the east and west on both streets.
- 8.20 The proposed layout of development is considered acceptable as it makes the best use of the site while maintaining and improving the built form's relationship to the public right of way and making a feature of it. The proposal for a range of small-scale commercial units is acceptable in this location which is characterised by small independent businesses and is therefore compatible with the broader setting. The proposed yard at the north-eastern part of the site would offer relief from the built form and allow for public or quasi-public realm enhancements and so would the proposed arches. The proposed pattern of development, which amongst other things responds positively to the presence of the PRoW, would follow the dense urban grain in this town centre location whilst respecting established building lines.
- 8.21 The successful integration of the development into the streetscene will rely on achieving high quality articulation and detailing and the use of good materials which complement the surrounding heritage, and this can be secured via an appropriately worded condition. Advertisement signage associated with the development and the commercial units is dealt with under separate legislation for which an informative is attached.
- 8.22 For the reasons noted above, it is considered that the proposed development would preserve the setting of the designated and non-designated assets, inclusive of the Clifftown Conservation Area (to the west and south) and the adjacent Frontages of Townscape Merit along both Alexandra Street and Clarence Street. The acceptable design along with the distance from the Clifftown Conservation Area boundary result in a development that would be acceptable when viewed from the conservation area, particularly considering that before the latest demolition a building which was taller than its surroundings had occupied the site since the early 20th century.
- 8.23 Landscaping is a reserved matter. However, plans show for information that the wider landscaped section fronting Clarence Street will include some trees to soften the development and enhance the outside space and setting of the building on this frontage and this is acceptable. Indicative tree planting is also shown to the front of the site on Alexandra Street which is a further positive aspect of the scheme and will soften the impact of the building into the streetscene in this location, including providing a more human scale reference at street level.
- 8.24 The removal of the gates (as discussed above at paragraph 8.7) to the pedestrian side access in association with the site's development is positive as it will allow continuous public access to this area so that it can fully contribute to the setting of the new development and amenities of the town centre. Details of hard and soft landscaping will be provided at reserved matter stage. Whilst gates are also shown in the current submission, the applicant has advised that they are decorative only, to provide definition from the street. Should the applicant wish to be able to control the access to the PRoW, they can apply through the relevant highway and legal

processes which sit separately outside the planning regime.

- 8.25 Overall, this proposal is considered to be appropriately scaled for this location and adequately designed and detailed from an aesthetic perspective. It is therefore considered to be acceptable and policy compliant in these regards.

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

- 8.26 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.

#### *Space Standards and Quality of Habitable Rooms*

- 8.27 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.

**Table 5: Minimum space standards**

Number of bedrooms(b)	Number of bed spaces (persons)	1 storey dwellings	2 storey dwellings	3 storey dwellings	Built-in storage
1b	1p	39 (37) *			1.0
	2p	50	58		1.5
2b	3p	61	70		2.0
	4p	70	79		
3b	4p	74	84	90	2.5
	5p	86	93	99	
	6p	95	102	108	

- Bedroom Sizes: The minimum floor area for bedrooms to be no less than 7.5m<sup>2</sup> for a single bedroom with a minimum width of 2.15m; and 11.5m<sup>2</sup> 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 1.5m 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 2.3m shall be provided for at least 75% of the Gross Internal Area.

**Table 6: Proposed overall, bedroom and storage sizes.**

Unit	Occupancy profile	Overall (sqm)	Bedroom 1 (sqm)	Bedroom 2 (sqm)	Bedroom 3 (sqm)	Storage (sqm)	Standards met Y/N
1	1-bed, 2-person	52	13.8	N/A	N/A	1.6	Y
2*	1-bed, 2-person	57	13.5	N/A	N/A	1.5	Y
3	2-bed, 3-person	51	12.9	8.3	N/A	2.2	Y
4	1-bed, 2-person	50	12.8	N/A	N/A	1.5	Y
5	2-bed, 3-person	61	11.8	8.2	N/A	2	Y

<b>Unit</b>	<b>Occupancy profile</b>	<b>Overall (sqm)</b>	<b>Bedroom 1 (sqm)</b>	<b>Bedroom 2 (sqm)</b>	<b>Bedroom 3 (sqm)</b>	<b>Storage (sqm)</b>	<b>Standards met Y/N</b>
6*	3-bed, 4-person	92	13.3	8.6	8.6	2.7	Y
7	3-bed, 4-person	76	13.2	7.6	7.5	2.5	Y
8	2-bed, 3-person	61	12.3	7.7	N/A	2.2	Y
9	1-bed, 2-person	50	11.8	N/A	N/A	1.5	Y
10	2-bed, 3-person	61	13.2	8.1	N/A	2	Y
11	1-bed, 1-person	40	7.7	N/A	N/A	1	Y
12	2-bed, 3-person	61	11.8	8.2	N/A	2	Y
13*	3-bed, 4-person	92	13.3	8.6	8.6	2.7	Y
14	3-bed, 4-person	76	13.2	7.6	7.5	2.5	Y
15	2-bed, 3-person	61	12.3	7.7	N/A	2.2	Y
16	1-bed, 2-person	50	11.8	N/A	N/A	1.5	Y
17	2-bed, 3-person	61	13.2	8.1	N/A	2	Y
18	1-bed, 1-person	40	7.7	N/A	N/A	1	Y
19	2-bed, 3-person	61	11.8	8.2	N/A	2	Y
20	2-bed, 3-person	63	13.6	8.7	N/A	2	Y
21	2-bed, 3-person	61	13.1	7.7	N/A	2	Y
22	1-bed, 1-person	43	8.2	N/A	N/A	1	Y

\* Flats marked with this are M4(3) compliant.

8.28 All dwellings within the proposal would meet the required standards, including the bedroom and internal storage standards. The proposed units are acceptable and policy compliant for flat and bedroom sizes. The provision for ancillary services for future residents, noting the provision of a gym, hot desking and meeting spaces contribute to the overall residential offer. All residents will have access to these facilities.

8.29 The plans show that all habitable rooms will be provided with sufficient windows and openings to provide adequate ventilation and outlook. A Daylight and Sunlight Assessment has been submitted following the methodology within BRE guidance to assess the standards of light within the proposed dwellings. This document concludes that a high percentage of rooms (84%) would meet or exceed the recommendations of the BRE guidelines. The consultant considers this to be a good result for a large development in an urban environment. The 10 rooms which would not meet the guidelines, include the living/dining/kitchen areas of flats 1, 2, 5, 6, 12, 13, 19, 20 and the bedroom of flat 9. With the exception of flat 6, the other flats would be south-facing and have been designed so as to combat solar gain by being set back from the façade of the building. This is likely to result in a more ambient living environment for future occupants who will also benefit from sunlit external amenity spaces.

#### *Amenity Space provision*

- 8.30 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.”
- 8.31 All proposed units would be provided with private external amenity space in the form of balconies or terraces. Whilst the balconies are limited in scale (between 1sqm and 1.5sqm), regard is also had to the presence of the communal amenity area centrally located between the blocks (in excess of 200sqm). In the round, this is considered sufficient on account of the occupancy profile of the units and the context of the scheme as a high-density development in an urban environment.
- 8.32 The arrangement of the communal amenity space as proposed would be acceptable and would not result in any significantly harmful impact on the living conditions of future occupiers. The internal layout of the proposal is such that the communal amenity space is overlooked and sits adjacent to the communal facilities or community units.
- 8.33 The balconies to the rear of either block would maintain a separation distance of 11m. Balconies have been positioned in such a way that they are not sited directly opposite one another. This arrangement and separation is considered sufficient in the context of the scheme as a high density development in an urban environment where a degree of inter-looking can reasonably be expected.

#### *Noise and Disturbance*

- 8.34 The development’s town centre location could potentially result in a harmful acoustic environment for future residents, particularly at lower floors. A noise survey report has been submitted with the application.
- 8.35 A mixed residential and commercial use is considered appropriate in this location provided that adequate measures and conditions are in place to ensure that internal noise levels (particularly the residential elements) are in accordance with the required standards. The noise report submitted with the application highlights that noise from traffic and other external sources including plant/equipment and also noise associated with the town centre night-time economy will result in elevated levels (above the standards) internally in the flats. Mitigation measures therefore will be required and appropriate measures (mechanical ventilation as an alternative to opening windows and enhanced glazing) have been proposed.
- 8.36 Where mechanical ventilation is to be installed, it will be important to ensure that this does not give rise to an additional increase in internal noise levels. The same applies with any air conditioning etc. to be installed in connection with the proposed commercial uses. Noise limits for external plant installations have been proposed by Environmental Health and can be secured by appropriately worded conditions.
- 8.37 Subject to conditions requiring compliance with the noise mitigation measures as detailed in the submitted report by ES Acoustics and compliance with the noise limits for external plant equipment, Environmental Health have not objected to the scheme on this basis.
- 8.38 As the uses of the commercial units are not known at this time, it is also considered relevant to impose a condition requiring any extraction/ventilation equipment needed for the preparation of food on the premises to be submitted to and approved by the Local Planning Authority. Moreover, it is also considered necessary and reasonable to impose a condition limiting the

operating hours of any outdoor seating areas for non-residential uses to avoid any potential noise and disturbance issues.

### *Land Contamination*

- 8.39 No contaminated report has been submitted with this application. Environmental Health comment that although it is unlikely, the site is in close proximity to potentially contaminated land and, as such, needs such consideration and assessment. Therefore, a condition for a land contamination risk assessment is recommended.

### *M4(2) and M4(3) – Accessibility*

- 8.40 Policy DM8 as amended by the Council's Technical Housing Standards Policy Transition Statement (2015) requires all new dwellings to be accessible and adaptable to meet the Building Regulations M4(2) standards and requires 10% of the units (3 units) to meet the Building Regulations M4(3) wheelchair compatible requirements. Lifts are proposed. The plans show that 3 units (marked with an asterisk on **Table 6** further above) would be Building Regulations M4(3) compliant. The remainder of the units would be Building Regulations M4(2) compliant. These arrangements can be secured by condition. The proposal is therefore acceptable and policy compliant in this regard.
- 8.41 Overall, subject to the described conditions the proposal would provide an acceptable standard of accommodation and is acceptable and policy compliant in the above regards.

### **Impact on Residential Amenity**

- 8.42 Local and national planning policies and guidance seek to secure high quality development which protects amenity. Policy DM1 of the Development Management Document specifically identifies that development should protect the amenity of the site, immediate neighbours, and surrounding area, having regard to privacy, overlooking, outlook, noise and disturbance, visual enclosure, pollution, and daylight and sunlight. Further advice on how to achieve this is set out in the Council's Design and Townscape Guide.
- 8.43 The site is next to existing residential units on the upper floors of the buildings to the immediate east and west of the site, Nos 18-20 and 26-28 Alexandra Street and Nos 23-29 and 31-33 Clarence Street.
- 8.44 The application is supported by a Daylight and Sunlight assessment for third party impacts following the methodology within BRE guidance. The results show that all windows pass the Vertical Sky Component test, 125 of which will achieve a better level of daylight than they did when the Empire Theatre was in situ. All windows that face within 90 degrees of due south have been tested for direct sunlight. All windows pass both the total annual sunlight hours test and the winter sunlight hours test. The proposed development therefore satisfies the BRE direct sunlight to windows requirements. Moreover, all gardens and open spaces tested meet the BRE recommendations. On this basis, the impact in relation to light and outlook on neighbouring properties is found to be acceptable.
- 8.45 The proposed development retains a separation to either neighbouring flank boundaries (between 2.1m to No 26 Alexandra Street and 9.2m to the boundary with Nos 23-29 Clarence Road). Given the absence of neighbouring habitable room flank windows facing into the application site and the limited projection of built form beyond the rear elevations of adjoining neighbours, the proposed development is not considered to appear as an unduly overbearing feature, nor would it create an unacceptable sense of enclosure.
- 8.46 In weighing up the impact from overlooking, regard is had to the high-density nature of

surrounding development which comprises predominantly flatted units and modest rear gardens and service storage yards which would experience a mutual degree of overlooking at present, not untypical for such an urban town centre location. The rear facing balconies are proposed to be set away from either flank boundary. Moreover, the separations from the rear of the balconies to the rears of neighbouring properties along Clarence Street and Alexandra Street would be a minimum of 15.5m. Together with the modest depths of the balconies which would limit their potential occupancy, it is not considered the balconies would introduce a significantly harmful degree of overlooking that would be unacceptable in the context of this high-density urban environment. The presence of flank windows proposed deep within the site to the sides of both blocks is considered to introduce a more extensive degree of overlooking and loss of privacy. To mitigate this impact, as these openings are secondary windows, a condition can be imposed to obscure glaze and fix shut these openings. On this basis the overlooking impact is considered acceptable.

- 8.47 A planning condition is also needed to require the submission of a construction management plan and to enable the Council to control the impact on neighbours' amenity arising from construction noise and other associated environmental considerations.
- 8.48 There is no amenity-based objection in principle to the introduction of a mix of commercial units in Class E uses in this town centre location as it is not considered that such uses would have an adverse impact on the amenities of neighbouring occupiers and suitable conditions can reasonably control potential noise and disturbance.
- 8.49 On the above basis it is considered that the proposed development is acceptable and would comply with national and local planning policies in relation to neighbour amenity.

### **Traffic and Transportation Issues**

- 8.50 The NPPF states (paragraph 111) that "Development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety or, the residual cumulative impacts on the road network would be severe."
- 8.51 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. 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.
- 8.52 Assessed against the parking standards, the minimum car parking requirement for flats under Policy DM15 is one space per unit and the minimum cycle parking requirement is one cycle parking space per unit. For the commercial units, maximum standards of one car parking space per 15sqm are required. Policy DM15 also sets a standard of 2 cycle spaces for the commercial units.
- 8.53 Plans show 28 residential cycle parking spaces will be provided within a single store at ground floor. 4 cycle parking spaces for the commercial units are also shown within a single store at ground floor. An external bike stand for visitors to the development is also shown to the eastern boundary of the site. The Council's Highways Officer has raised no objections to this provision.
- 8.54 Policy DM15 also states 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.

8.55 No off-street car parking would be provided as part of the development. To support this position, the application includes a Transport Assessment (TA) by ttp consulting. The TA is based on the initial submission for 27 units however, whilst the scheme has been reduced down to 22 units during the course of the application, it is considered to remain relevant as the impact of the current proposal on the local highway network would be lower. As demonstrated in the TA's reproduced tables below, the site is in a highly sustainable location, close to the High Street, within walking distance of Southend Central Station and local bus stops (outlined below).

**Table 7: Extract from TA – Tables 3.1 and 3.2 of the TA.**

**Table 3.1** sets out details of distances between the site and public transport opportunities and local amenities based on an average walking speed assumed to be 80m per minute.

<b>Table 3.1 – Approximate Distances to Local Public Transport Opportunities</b>			
<b>Stop / Station</b>	<b>Location</b>	<b>Distance</b>	<b>Approximate Walking Time*</b>
Alexandra Street	Alexandra Street	100m	1-2 minutes
Travel centre bus stops	Chichester Road	180m	2-4 minutes
Southend Central Station	Clifftown Road	270m	4-5 minutes
Southend Victoria Station	Victoria Avenue	910m	12-13 minutes

Local facilities and amenities including a school, banks, a post office, convenience stores and cafes are located a short walking distance from the site, a summary of which is shown in **Table 3.2**.

<b>Table 3.2 – Approximate Distances to Local Facilities</b>			
<b>Amenity</b>	<b>Location</b>	<b>Distance</b>	<b>Approximate Walking Time*</b>
Pulp Kitchen	Alexandra Street	50m	>1 minutes
Royal Fish & Chips	Alexandra Street	100m	1-2 minutes
Costa Coffee	High Street	100m	1-2 minutes
Royals Shopping Centre	Highstreet	150m	1-2 minutes
Tesco Express including ATM	The Royals Shopping Centre	150m	1-2 minutes
Iceland	York Road	210m	2-3 minutes
DPD Pickup Parcelshop	York Road	210m	2-3 minutes
Victoria Shopping Centre	High Street	800m	9-10 minutes
Ocean Lodge Independent School	Trinity Avenue	1km	12-13 minutes
*Based on 80m per minute			

8.56 The TA also highlights the presence of off-site parking. There are on-street parking spaces along Alexandra Street and Clarence Street with pay and display bays inclusive of disabled parking. In addition, there are public car parks, including the Alexandra Street car park opposite the site, Clarence Road car park (90m north-west of the site) and The Royals Shopping Centre car park approx.300m to the south-east.

8.57 The TA confirms that the residential trip generation assessment demonstrates there will be a change in the pattern of movements at the site. However, it is expected that the commercial element of the development will not generate new trips but those visiting will do so as part of a linked or pass-by trip. The assessment suggests that the proposed development will not lead to a detrimental impact on the public transport system or local highway network.

8.58 Highways staff have reviewed the transport assessment and raise no objections subject to the imposition of a condition requiring submission of a Travel Plan. It is reasoned that the applicant



has provided a robust transport statement to support the application, including sustainable travel options, TRICS analysis and census data. A Travel Plan and a monitoring arrangement will be agreed as part of the S106 agreement. The proposal's parking, traffic network and highway safety impacts are found acceptable on this basis.

### *Cycle Storage*

- 8.59 The submitted plans show 28 residential cycle parking spaces will be provided within a single store at ground floor. 4 cycle parking spaces for the commercial units are also shown within a single store at ground floor. An external bike stand for visitors to the development is also shown to the eastern boundary of the site. The Council's Highways Officer has raised no objections to this provision which is compliant with the policy requirements.

### *Relationship with London Southend Airport (LSA)*

- 8.60 The proposal would be the tallest structure in the immediate vicinity. LSA have been notified and raise no objections subject to an informative for the applicants to notify LSA of crane use prior to commencement of construction works.

### *Waste and Servicing*

- 8.61 There are two separate bin stores proposed for the development, one for residential and one for commercial. There are 10No x 1100L Eurobins for the residential units which will be split between general waste, recycling and paper/card. 4No x 140L Food Waste Bins are also proposed. This is in general accordance with the recommended waste guidelines.
- 8.62 The Transport Assessment states that residential waste and recycling will be collected by the Council as part of their existing weekly collection regime, with refuse vehicles stopping on Chichester Road. Collection staff will have keypad access to the residential waste store.
- 8.63 The commercial waste store will provide 4No x 1100L Eurobins, 2No for general waste and 2No for recycling. Commercial waste will be collected via a private contractor, with vehicles expected to stop along Clarence Street.
- 8.64 No objections are raised to the proposed waste collection and servicing arrangements however, final details of waste and servicing will be required via condition.
- 8.65 Overall, there would be no significant harm caused to the parking conditions, traffic or highway safety of the area. The proposal is acceptable and policy compliant in the above regards.

### **Energy and Water Sustainability**

- 8.66 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.
- 8.67 Details of renewable energy have not been provided. The roof plan details the provision of solar panels as the proposed means of renewable energy generation. This is acceptable in principle and a condition will be imposed for details to be submitted that demonstrate compliance with the 10% requirement. This meets the requirements of Policy KP2. Water efficient fittings can also be secured by condition. The proposal is acceptable and policy

compliant in this regard.

### **Flood Risk and Drainage**

- 8.68 Policy KP2 of the Core Strategy states all development proposals should demonstrate how they incorporate sustainable drainage systems (SUDS) to mitigate the increase in surface water runoff, and, where relevant, how they will avoid or mitigate tidal or fluvial flood risk.
- 8.69 The site is within Flood Zone 1, the lowest risk zone, so is sequentially preferable for residential development. A drainage strategy has been submitted with the application which has been deemed sufficient by the LLFA for this stage of development. Additional detailed information is required and can be dealt with through a planning condition.

### **Ecology and Biodiversity**

- 8.70 Policy KP2 of the Core Strategy states that all new development must 'respect, conserve and enhance and where necessary adequately mitigate effects on the natural and historic environment, including the city's biodiversity and green space resources; ensure that European and international sites for nature conservation are not adversely affected and contribute positively towards the 'Green Grid' in Southend.'
- 8.71 Policy CP4 of the Core Strategy seeks to contribute to the creation of high quality, sustainable urban environments by 'safeguarding, protecting and enhancing nature and conservation sites of international, national and local importance.'
- 8.72 Landscaping is a reserved matter for later consideration. Nonetheless, the submitted Biodiversity and Sustainability statement refers to planting of green roofs with wildflower mix to the areas of flat roof across the development as well as planting of new trees to the public square to the front. Whilst specific details have not been provided, they can be controlled by condition and would represent a net benefit when considered against the site circumstances at present.
- 8.73 A Preliminary Ecological Assessment has been carried out at the site. This has concluded that the site has little ecological value and that the proposed landscaping on the site is likely to result in a net gain in biodiversity.
- 8.74 Although there is no evidence of bats or birds, the report makes a number of recommendations to enhance biodiversity on the site through the incorporation of bat and bird boxes. These can be the built-in type which are subtle and can be accommodated away from the main street facing elevations so will not have any impact on the overall appearance of the proposal. The design and location of the bat and bird boxes can be secured via condition. The Council's Parks team have raised no objection to the findings of the assessment.
- 8.75 Overall therefore and subject to conditions, the proposal is considered to be acceptable and policy compliant in terms of its impact on biodiversity in all relevant regards.

### **Essex Coast Recreational Disturbance Avoidance Mitigation Strategy (RAMS)**

- 8.76 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), was adopted by Full Council on 29th October 2020, requires that a tariff of £156.76 (index linked) is paid per dwelling unit. This will be transferred to the RAMS accountable body in accordance with the RAMS Partnership Agreement. This payment will be secured via the S106. The proposal is therefore considered to be acceptable and policy compliant in this regard.

- 8.77 Overall it is considered that, subject to securing the implementation of ecology mitigation and enhancement measures as proposed, and the securing of the RAMS payment via the S106 agreement, the proposal is acceptable in terms of biodiversity and ecological impacts and is policy compliant in this regard.

### **Planning Obligations**

- 8.78 Paragraph 57 of the NPPF states that: *“Planning obligations must only be sought where they meet all of the following tests:*

- a) necessary to make the development acceptable in planning terms*
- b) directly related to the development; and*
- c) fairly and reasonably related in scale and kind to the development.”*

- 8.79 Paragraph 58 of the NPPF states *‘Where up-to-date policies have set out the contributions expected from development, planning applications that comply with them should be assumed to be viable. It is up to the applicant to demonstrate whether particular circumstances justify the need for a viability assessment at the application stage.’*

- 8.80 The Planning Practice Guide makes it clear that *‘Planning obligations can provide flexibility in ensuring planning permission responds to site and scheme specific circumstances. Where planning obligations are negotiated on the grounds of viability it is up to the applicant to demonstrate whether particular circumstances justify the need for viability assessment at the application stage. The weight to be given to a viability assessment is a matter for the decision maker.’*

- 8.81 Core Strategy Policy KP3 requires that: *“In order to help the delivery of the Plan’s provisions the Council will:*

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

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

- 8.82 The following planning obligations have been agreed with the applicant:

**Table 8: Planning obligations agreed with the applicant.**

	<b>Proposed Head of Term</b>	<b>Details</b>
<b>1</b>	<b>Education</b>	<b>Secondary education contribution of £31,083.33</b>
<b>2</b>	<b>RAMS Ecology mitigation</b>	<b>£156.76 per unit (22) = £3448.72</b>
<b>3</b>	<b>Highways</b>	<b>Travel Plan and travel plan monitoring fee up to £5,000. Provision of Travel Information Packs to all residents.</b>
<b>4</b>	<b>Late-Stage Viability Review Mechanism for a financial contribution in lieu of on-site Affordable Housing Provision</b>	<b>60% of any surplus up to a cap of £347,449.78</b>
<b>5</b>	<b>Monitoring Fee</b>	<b>Up to £10,000</b>

8.83 The Section 106 contributions required above are considered to meet the tests set out in the CIL Regulations 2010 (as amended). Without the contributions that are set out above the development could not be considered acceptable. Unless the S106 agreement has been completed within an agreed timescale the application should be refused on this ground and the recommendation below includes wording to this effect.

*NHS Contribution*

8.84 The NHS requested a financial contribution of £12,700 to increase capacity for the benefit of patients in the Primary Care Network operating in the vicinity of the application.

8.85 The Council’s Supplementary Planning Document 2: Planning Obligations, confirms that funding for potential primary healthcare care is addressed through the Council’s Community Infrastructure Levy (CIL), so such funding for the NHS will be secured via CIL rather than planning obligations. The NHS has not made any case for exceptional circumstances which would justify any additional contribution to the NHS via the S106 process and beyond the provisions of CIL.

Summary

8.86 The contributions noted in Table 8 above are considered to meet the tests set out in the CIL Regulations 2010. Without these contributions the development could not be considered acceptable. A draft S106 agreement is currently being prepared but at the time of report preparation has not been formally agreed or completed. The recommendation of this report seeks this committee’s approval subject to entering into and then the completion of this agreement.

**Community Infrastructure Levy (CIL)**

8.87 This application is CIL liable and there will be a CIL charge payable. In accordance with Section 70 of the Town and Country Planning Act 1990 (as amended by Section 143 of the Localism Act 2011) and Section 155 of the Housing and Planning Act 2016, CIL is being reported as a material ‘local finance consideration’ for the purpose of planning decisions. As this is an outline application, the CIL amount payable will be calculated on submission of a reserved matters application.

8.88 From the submitted plans, the proposed development includes a gross internal area of some 1949sqm of residential and 431sqm of commercial floorspace which may equate to a CIL charge of approximately £59107.50 (subject to confirmation).

## **Equality and Diversity**

- 8.89 The Equality Act 2010 (as amended) imposes important duties on public authorities in the exercise of their functions and specifically introduced a Public Sector Equality Duty. Under this duty, public organisations are required to have due regard for the need to eliminate unlawful discrimination, harassment and victimisation, and must advance equality of opportunity and foster good relations between those who share a protected characteristic and those who do not. Officers have in considering this application and preparing this report which notes the inclusion of three Building Regulations M4(3) compliant wheelchair accessible units had careful regard to the requirements of the Equalities Act 2010 (as amended). They have concluded that the decision recommended will not conflict with the Council's statutory duties under this legislation. The provision of an accessible and adaptable dwelling is a positive aspect of the proposal in this regard.

## **Planning Balance and Housing Supply**

- 8.90 The results of the Housing Delivery Test (HDT) published by the Government show that there is underperformance of housing delivery in the City. Similarly, the Council's Five-Year Housing Land Supply (5YHLS) figure shows that there is a deficit in housing land supply in the City. 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. For the proposed provision of housing the HDT and 5YHLS weigh in favour of the principle of this type of development. This proposal would provide 22 new dwellings for which there is an identified need including family sized, 3-bed units and wheelchair accessible, building regulations M4(3) units. In these circumstances, the provision of additional housing is a consideration which should be given increased weight in a balancing exercise, applying the tilted balance as required by the NPPF.

## **Conclusion**

- 8.91 Having taken all material planning considerations into account, it is found that subject to compliance with the attached conditions and the completion of a S106 legal agreement, the proposed development would be acceptable and compliant with the objectives of the relevant development plan policies and guidance. The principle of the development, including use of this land for a residential-led mixed use development, comprising town centre (Use Class E) and community-type uses (Use Classes F1 and F2), the re-establishment of the PRow, the housing mix and flood risk position are all acceptable. The proposed design and scale of the development would have an acceptable impact on the character and appearance of the site, the streetscene and the wider surrounding area including by preserving the significance of heritage assets. Subject to conditions the proposal would have an acceptable impact on the amenities of neighbours. The proposal would provide an acceptable standard of accommodation for new occupiers. There would be no significant harmful traffic, parking or highways impacts caused by the proposed development. The proposal would also have an acceptable impact on sustainability and ecology.
- 8.92 The outline proposal constitutes sustainable development, providing economic, social and environmental benefits. Officers consider that any limited harm identified as a result of the proposal is clearly outweighed by its benefits, including the provision of additional dwellings. Should Members identify any areas of harm, including in those areas for judgement identified within this report's analysis of the proposal, it is necessary to demonstrate that in reaching a decision, an appropriate balancing exercise has been undertaken considering the benefits of the proposal and any such harm.
- 8.93 This proposal creates new housing and the Council has a deficit in housing land supply,

therefore, 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 significant contribution to the housing needs of this City which must be given increased weight in the planning balance. Subject to conditions and the completion of the S106 legal agreement, the application is recommended for approval.

## **9 Recommendation**

### **9.1 It is recommended:**

- a) **That the Council enter into a Planning Obligation by Deed of Agreement under Section 106 of the Town and Country Planning Act 1990 (as amended) to secure the following:**
- **Secondary education contribution of £31,083.33**
  - **RAMS contribution – 22 x £156.76 = £3,448.72**
  - **Travel Plan and travel plan monitoring fee up to £5,000; Provision of Travel Information Packs to all residents.**
  - **Late-Stage Viability Review Mechanism for a financial contribution in lieu of on-site Affordable Housing provision to retrieve 60% of any surplus up to cap of £347,449.78**
  - **Monitoring fee of up to £10,000.**
- b) **That the Executive Director (Environment and Place), Director of Growth and Planning or Service Manager - Development Control be DELEGATED to GRANT PLANNING PERMISSION subject to the completion of the section 106 agreement referred to above and subject to the conditions set out below:**

**01 Details of the landscaping, (hereinafter called the "reserved matters") shall be submitted to and approved in writing by the Local Planning Authority before any development begins and the development shall be carried out as approved under the reserved matters. Application for approval of the reserved matters shall be made to the Local Planning Authority not later than 3 (three) years from the date of this permission. The development hereby permitted shall begin no later than 2 (two) years from the date of approval of the last of the reserved matters to be approved.**

**Reason: Required to be imposed pursuant to Section 92 of the Town and Country Planning Act 1990 (as amended) and because the application is for outline planning permission only and the particulars submitted are insufficient for consideration of details mentioned.**

**02 The development hereby approved (except for landscaping which is indicative only) shall be carried out in accordance with the approved plans: 262-P101 Rev A; 262-P102 Rev E; 262-P103 Rev C; 262-P104 Rev C; 262-P105 Rev B; 262-P106 Rev B; 262-P108 Rev A**

**Reason: To ensure the development is carried out in accordance with 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 demolition or site preparation works, unless and until full details and specifications of the materials to be used for all the external surfaces of the**

development at the site including facing materials, roof detail, windows, doors, fascia and soffits 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 development hereby approved is first occupied.

Reason: In the interest of visual amenity and the setting of nearby heritage assets in accordance with the National Planning Policy Framework (2023), Core Strategy (2007) Policies KP2 and CP4, Development Management Document (2015) Policies DM1, DM3 and DM5 and the advice contained within the National Design Guide (2021) and the Southend-on-Sea Design and Townscape Guide (2009).

- 04** Notwithstanding the details shown on the plans submitted and otherwise hereby approved, the development hereby permitted shall not commence, other than demolition or site preparation works, unless and until large scale sections and details of the colonnade to Alexandra Street including underside, balcony and window surround detail and inset balustrade, blind windows, internal balcony arrangements, parapet detail at roof level and podium edge, shopfronts including framing detail (south, east and north) and all brickwork decoration 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 development hereby approved is first occupied.

Reason: In the interest of visual amenity and the setting of nearby heritage assets in accordance with the National Planning Policy Framework (2023), Core Strategy (2007) Policies KP2 and CP4, Development Management Document (2015) Policies DM1, DM3 and DM5 and the advice contained within the National Design Guide (2021) and the Southend-on-Sea Design and Townscape Guide (2009).

- 05** Notwithstanding the details shown on the plans submitted and otherwise hereby approved, the development hereby permitted shall not commence, other than demolition or site preparation works unless and until full details of both hard and soft landscape works to be carried out at the site have been submitted to and approved in writing by the Local Planning Authority. The approved hard landscaping works shall be carried out 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. pedestrian access and circulation areas;
- iii. hard surfacing materials;
- iv. details of the number, size and location of the shrubs and plants to be planted together with a planting specification;
- v. Biodiversity enhancement measures.

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, the setting of nearby heritage assets and the amenities of occupiers and to ensure a satisfactory standard of landscaping and tree protection measures are implemented pursuant to Policy DM1 and DM5 of the Development Management Document (2015) and Policy CP4 of the Core Strategy (2007)

- 06** Prior to the first occupation of the development hereby approved, the residential cycling and bin storage areas shown on the approved plan 262-P102 Rev E shall be provided and made available for use by the occupiers of the development. These areas shall be retained for the lifetime of the development.

**Reason:** To ensure that satisfactory cycle and bin storage is provided in accordance with the National Planning Policy Framework (2023), Core Strategy (2007) Policy CP3, Development Management Document (2015) Policy DM15 and the guidance in the Waste Storage, Collection and Management Guide for New Developments (2019).

- 07** Prior to the first occupation of the development hereby approved, the commercial cycling and bin storage areas and the external visitor cycle parking shown on the approved plan 262-P102 Rev E shall be provided and made available for use by the occupiers of the development. These areas shall be retained for the lifetime of the development.

**Reason:** To ensure that satisfactory cycle and bin storage is provided in accordance with the National Planning Policy Framework (2023), Core Strategy (2007) Policy CP3, Development Management Document (2015) Policy DM15 and the guidance in the Waste Storage, Collection and Management Guide for New Developments (2019).

- 08** Construction and demolition 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 Bank and Public Holidays.

**Reason:** In the interest of the residential amenity of nearby occupiers in accordance with the National Planning Policy Framework (2023), Policies KP2 and CP4 of the Core Strategy (2007) and Policies DM1 and DM3 of the Development Management Document (2015).

- 09** 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 in writing 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, mud being carried onto the road 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, and
- (ix) Details of access management arrangements for the Public Right of Way during the construction period.

**Reason:** A pre-commencement condition is justified in the interest of the



residential amenity of nearby occupiers and the safety and convenience of the public in accordance with the National Planning Policy Framework (2023), Policies KP2 and CP4 of the Core Strategy (2007) and Policies DM1 and DM3 of the Development Management Document (2015).

- 10 Prior to first 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 under the terms of this condition and implemented on site in accordance with the agreed details. The agreed measures shall be maintained on site as approved thereafter.

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 (2023), Core Strategy (2007) Policies KP2 and CP4, Development Management Document (2015) Policy DM2, and the advice contained within the National Design Guide (2021) and the Southend-on-Sea Design and Townscape Guide (2009).

- 11 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 (2023), Core Strategy (2007) Policies KP2 and CP4, Development Management Document (2015) Policy DM2, and the advice contained within the National Design Guide (2021) and the Southend-on-Sea Design and Townscape Guide (2009).

12 A. Site Characterisation

Notwithstanding the details submitted with this application, no development shall be undertaken, other than that required to carry out additional necessary investigation which in this case may include demolition, site clearance, removal of underground tanks and old structures, unless and until an investigation and risk assessment has been submitted to and approved in writing by the Local Planning Authority pursuant to this condition. The risk assessment shall assess the nature and extent of any contamination on the site, whether or not it originates on the site. The investigation and risk assessment must be undertaken by competent persons and a written report of the findings must be produced. The report of the findings must include:

- (i) a survey of the extent, scale and nature of the contamination;
- (ii) an assessment of the potential risks to:
  - Human health,
  - Property (existing or proposed) including buildings, crops, livestock, pets, woodland and service lines and pipes,
  - Adjoining land,
  - Groundwaters and surface waters,
  - Ecological systems,

- Archaeological sites and ancient monuments;
- (iii) an appraisal of remedial options, and proposal of the preferred option(s)

#### **B. Site Remediation Scheme**

No development shall take place until a detailed remediation scheme to bring the site to a condition suitable for the intended use by removing unacceptable risks to human health, buildings and other property and the natural and historical environment has been submitted to and approved in writing by the Local Planning Authority pursuant to this condition. The scheme must include all works to be undertaken, proposed remediation objectives and remediation criteria, timetable of works and site management procedures. The scheme must ensure that the site will not qualify as contaminated land under Part 2A of the Environmental Protection Act 1990 in relation to the intended use of the land after the remediation.

#### **C. Remediation Implementation and Verification**

No development shall take place other than that required to carry out the agreed remediation unless and until the measures set out in the approved Remediation scheme have been implemented in full. The Local Planning Authority must be given a minimum of two weeks written notification of commencement of the remediation scheme works.

Following completion of measures identified in the approved remediation scheme, a verification report that demonstrates the effectiveness of the remediation carried out must be produced and shall be submitted for approval in writing to the Local Planning Authority pursuant to this condition.

#### **D. Reporting of Unexpected Contamination**

In the event that contamination is found at any time when carrying out the approved development that was not previously identified it must be reported in writing immediately to the Local Planning Authority under the terms of this condition. The development works must cease until an assessment has been undertaken in accordance with the requirements of part A of this condition, and where remediation is necessary a remediation scheme, together with a timetable for its implementation, has been submitted to and approved in writing by the Local Planning Authority in accordance with the requirements of part B of this condition. The measures in the approved remediation scheme must then be implemented in accordance with the approved timetable. Following completion of measures identified in the approved remediation scheme a validation report must be submitted to and approved in writing by the Local Planning Authority under the terms of this condition before the development is brought into first use.

Reason: This pre-commencement condition is required to ensure that any contamination on the site is identified and treated so that it does not harm anyone who uses the site in the future, and to ensure that the development does not cause pollution to Controlled Waters in accordance with Core Strategy (2007) Policies KP2 and CP4 and Policies DM1 and DM14 of the Development Management Document (2015).

- 13 The noise mitigation measures as detailed in the report by ES Acoustics (ref. number 20294.RPT.01 dated 15/02/2023) shall be implemented by competent persons.

**No dwelling shall be occupied until a post completion noise survey has been undertaken by a suitably qualified acoustic consultant, and a report submitted to and approved in writing by the Local Planning Authority. The post completion testing shall assess performance of the noise mitigation measures against the noise levels as set in the Report. If the mitigation measures tested in the post-completion report prove to be insufficient, additional noise mitigation measures (where necessary to ensure the appropriate noise levels can be met), shall be submitted and approved in writing by the Local Authority and installed and tested prior to operation. The mitigation measures must be retained in perpetuity thereafter.**

**Reason: To protect the environment of people in the development and general environmental quality in accordance with Core Strategy (2007) Policies KP2 and CP4, Development Management Document (2015) Policies DM1 and DM3 and the advice in the Southend-on-Sea Design and Townscape Guide (2009).**

- 14 No dust or fume extraction or filtration equipment or air conditioning, ventilation, or refrigeration equipment shall be installed on the buildings (/ development) hereby approved unless and until details of its design, siting, discharge points, predicted acoustic performance and details of any necessary noise and odour mitigation measures to be used have been submitted to and approved in writing by the Local Planning Authority under the provisions of this condition. The equipment shall be installed only in accordance with the approved details and shall be maintained in good working order thereafter for the lifetime of the development.**

**Reason: To protect the environment of people in the development and general environmental quality in accordance with Core Strategy (2007) Policies KP2 and CP4, Development Management Document (2015) Policies DM1 and DM3 and the advice in the Southend-on-Sea Design and Townscape Guide (2009).**

- 15 Notwithstanding the provisions of Part 3 of Schedule 2 of the Town and Country Planning (General Permitted Development) Order 2015 (as amended) or any revocation, amendment or adaptation of this legislation of for the time being may be in force, the commercial floorspace hereby approved shall be used only for purposes falling within Class E of the Town and Country Planning (Use Classes) Order 1987 as amended (or any statutory modification or re-enactment or replacement thereof (as the case may be) for the time being in force).**

**Reason: To reflect the nature of the application and in order to protect the amenities of occupiers of the development and surrounding occupiers and to protect the character and amenities of the area all in accordance with Policies CP1, KP2 and CP4 of the Core Strategy (2007) and Policies DM1, DM11 and DM3 of the Development Management Document (2015).**

- 16 Deliveries and collections to and from the commercial units within the development hereby approved shall only be undertaken between:**

- Monday to Fridays between 7am and 7pm**
- Saturdays between 8am and 1pm**
- Not at any time on Sundays and Bank Holidays**

**Reason: To protect the environment of people in the development and general environmental quality including neighbours' amenity in accordance with Core**

Strategy (2007) Policies KP2 and CP4, Development Management Document (2015) Policies DM1 and DM3 and the advice in the Southend-on-Sea Design and Townscape Guide (2009).

- 17 No external lighting shall be installed on the development including within the parking, access or landscaped areas of the development hereby approved other than in accordance with details that have previously been submitted to and approved in writing by the Local Planning Authority under the provisions of this condition. All illumination shall be designed in accordance with the Institute of Lighting Professionals "Guidance Note 01/20: Guidance notes for the reduction of obtrusive light" and "PLG05 The brightness of illuminated advertisements." All illumination within the site shall be retained in accordance with the approved details.

Reason: To protect the privacy and environment of residents within the development and to safeguard the visual and residential amenities of the area in accordance with the National Planning Policy Framework (2023), Core Strategy (2007) Policy CP4, Development Management Document (2015) Policy DM1, and the advice contained within the Southend-on-Sea Design and Townscape Guide (2009)

- 18 The non-residential units hereby approved shall not be open for customers outside the following hours:

- 7am to 10pm on any day.

Reason: To protect residential amenity and general environmental quality in accordance with the National Planning Policy Framework (2023), Core Strategy (2007) Policies KP2 and CP4, and Policies DM1 and DM3 of the Development Management Document (2015).

- 19 The outdoor seating area for the non-residential uses as shown on drawing 262-P102 Rev E hereby approved shall not be open for customers outside the following hours: from 8am to 7pm on any day.

Reason: To protect residential amenity and general environmental quality in accordance with the National Planning Policy Framework (2023), Core Strategy (2007) Policies KP2 and CP4, and Policies DM1 and DM3 of the Development Management Document (2015).

- 20 Before the development hereby approved is occupied or brought into use it shall be carried out in a manner to ensure that 3 of the flats hereby approved comply with the building regulation M4 (3) 'wheelchair user dwellings' standard and the remaining 19 flats comply with building regulation part M4(2) 'accessible' and adaptable dwellings' standard.

Reason: To ensure the residential units hereby approved provides high quality and flexible internal layouts to meet the changing needs of residents in accordance with National Planning Policy Framework (2023), Core Strategy (2007) Policies KP2 and CP4, Development Management Document (2015) Policies DM1, DM8 and the advice in the Southend-on-Sea Design and Townscape Guide (2009).

- 21 The two community units hereby approved and as annotated on plan number 262-P102 Rev E shall be used only for purposes falling within Classes F1 or F2 of the Town and Country Planning (Use Classes) Order 1987 as amended (or any

statutory modification or re-enactment or replacement thereof (as the case may be) for the time being in force).

Reason: To safeguard the character and amenities of the area and in particular to protect the amenities of nearby residential properties and the provision of community uses within the City, in accordance with Policy PA6 of the Southend Central Area Action Plan (2018), Policies KP2, CP4 and CP6 of the Core Strategy (2007), Policies DM1 and DM3 of the Development Management Document (2015).

22 Notwithstanding the submitted drainage details which are otherwise agreed, no drainage infrastructure associated with the development hereby approved must be installed until details of surface water attenuation for the site, based on Sustainable Drainage Systems (SuDS) principles, have been submitted to and approved in writing by the Local Planning Authority under the provisions of this condition. Specifically, such details must have regard to the following;

- 1) The applicant must update their drainage plan to include overland flow routes and exceedance routes, ensuring critical areas are protected from flooding where possible.
- 2) The applicant must provide details on the management of health and safety risks as a part of the drainage strategy.
- 3) The applicant must confirm the groundwater conditions and assess the impact on the proposed system. The applicant must also determine whether any surface water from adjacent areas will make its way to the proposed site.
- 4) The applicant must consider the construction phase activities that may compromise the below ground surface water drainage infrastructure and take necessary precautions to prevent and/or repair damage.
- 5) The applicant must provide details of the third part management and maintenance company who will maintain the proposed drainage network.
- 6) Infiltration tests must be undertaken prior to detailed design to confirm that partial infiltration is achievable in the permeable pavement.
- 7) Rainwater harvesting must be considered further in the scheme during detailed design, including within the blue roof and underground storage.

The development must only be implemented in accordance with the details approved under this condition and the conclusions and recommendations contained in the SUDs Statement (Dated April 2023) by HJ Structural Engineers Ltd.

The approved drainage works must be provided on site prior to first occupation of the development and shall be maintained in good working condition for the lifetime of the development.

Reason: To ensure the approved development does not increase flood risk elsewhere in accordance with the National Planning Policy Framework (2023) and Core Strategy (2007) Policies KP1 and KP2.

23 The recommendations and biodiversity enhancement measures as detailed in the Preliminary Ecological Appraisal by Arbtech Issue 2 (dated 11/10/2023) shall be implemented in full by competent persons. The bird and bat boxes shall be installed solely in accordance with details inclusive of their siting and design that have previously been submitted to and agreed in writing by the Local Planning Authority.

Reason: In the interest of biodiversity in accordance with the National Planning

**Policy Framework (2023) and Policies KP2 and CP4 of the Core Strategy (2007) and Policies DM1 and DM3 of the Development Management Document (2015).**

- 24 The maximum height of development shall not exceed 56.46m (AOD). A third party instrument flight procedure assessment (ILS) must be completed before the development commences and confirmation that this has been agreed with the London Southend Airport shall be submitted to and approved in writing by the Local Planning Authority pursuant to this condition.**

**Reason: This pre-commencement condition is required in the interest of the safety of aviation in accordance with the National Planning Policy Framework (2023), Policy CP3 of the Core Strategy (2007) and Policy DM15 of the Development Management Document (2015).**

- 25 The proposed windows in the side (east and west facing) elevations of the development hereby approved shall only be glazed in obscure glass (the glass to be obscure to at least Level 4 on the Pilkington Levels of Privacy) and fixed shut, except for any top hung fan light which shall be a minimum of 1.7 metres above internal finished floor level prior to the first use or occupation of the development hereby permitted and retained as such thereafter. In the case of multiple or double-glazed units at least one layer of glass in the relevant units shall be glazed in obscure glass to at least Level 4 on the Pilkington scale.**

**Reason: To ensure the development has an acceptable design and protects the amenities of neighbouring occupiers in accordance with Policy DM1 of the Development Management Document (2015).**

- 26 Notwithstanding the details shown on the plans submitted and otherwise hereby approved, no part of the development shall be occupied or brought into use until details of a waste management and service plan have been submitted to and approved in writing by the Local Planning Authority. Waste management and servicing of the development shall only take place in accordance with the approved details.**

**Reason: To ensure that the development is satisfactorily serviced and that satisfactory waste management is undertaken in the interests of highway safety and visual amenity and to protect the character of the surrounding area, in accordance with Policies KP2 and CP3 of the Core Strategy (2007) and Policy DM15 of the Development Management Document (2015).**

- c) In the event that the planning obligation referred to in part (a) above has not been completed before 19 December 2023 or an extension of this time as may be agreed by the Director of Growth and Planning or Service Manager - Development Control, authority is delegated to the Director of Growth and Planning or Service Manager - Development Control to refuse planning permission for the application on grounds that the development will not secure the necessary contributions for secondary education, RAMs, Travel Plan, monitoring of travel plan and provision of Travel Information Packs, a Late-Stage Viability Review Mechanism for a financial contribution in lieu of on-site Affordable Housing Provision and for a Monitoring fee that, as such, the proposal would be unacceptable and contrary to the National Planning Policy Framework (2023), Policies KP2, KP3, CP3, CP6 and CP8 of the Core Strategy (2007) and Policies DM1, DM3, DM7 and DM15 of the Development Management Document (2015).**

**Positive and proactive statement:**

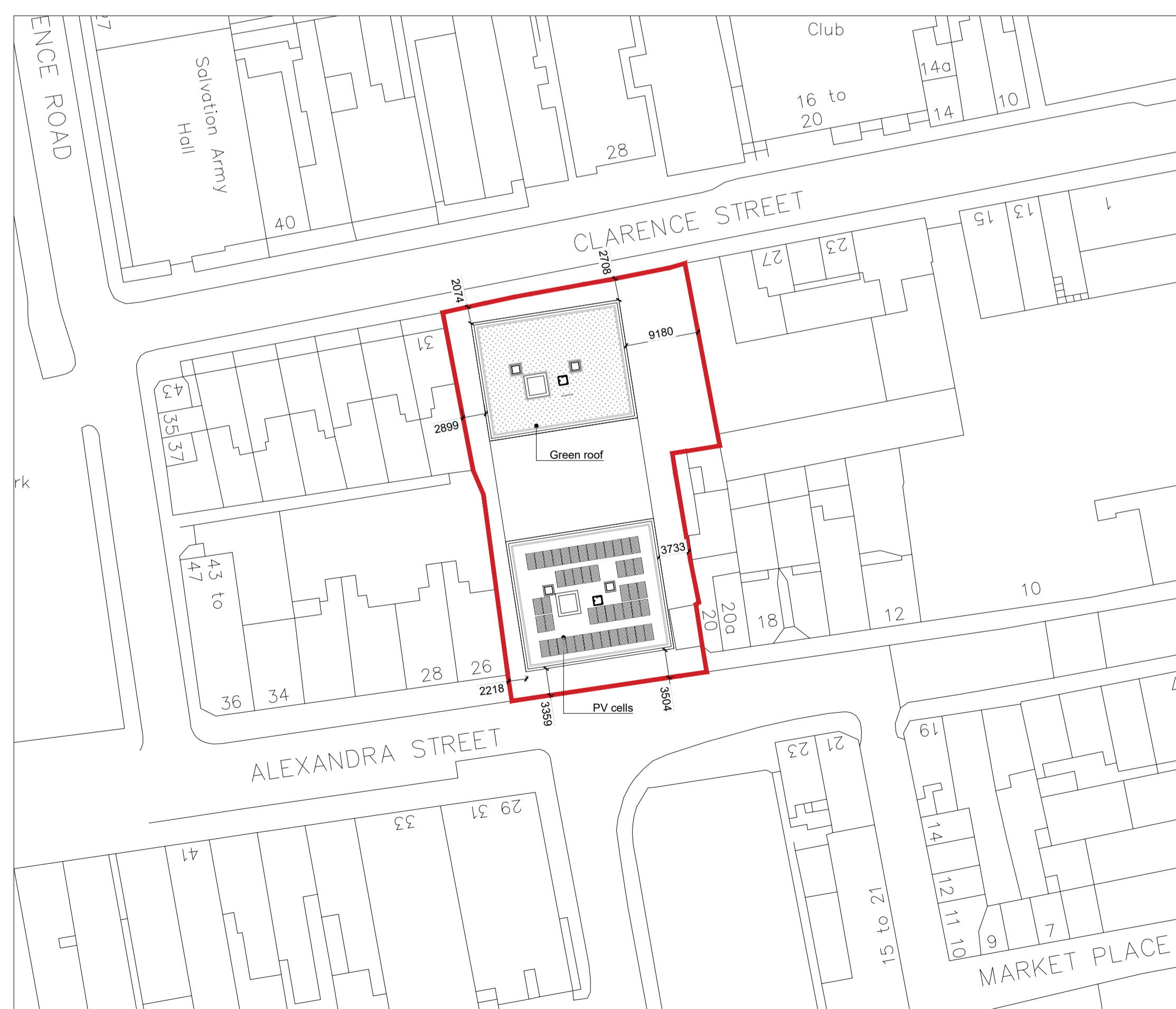
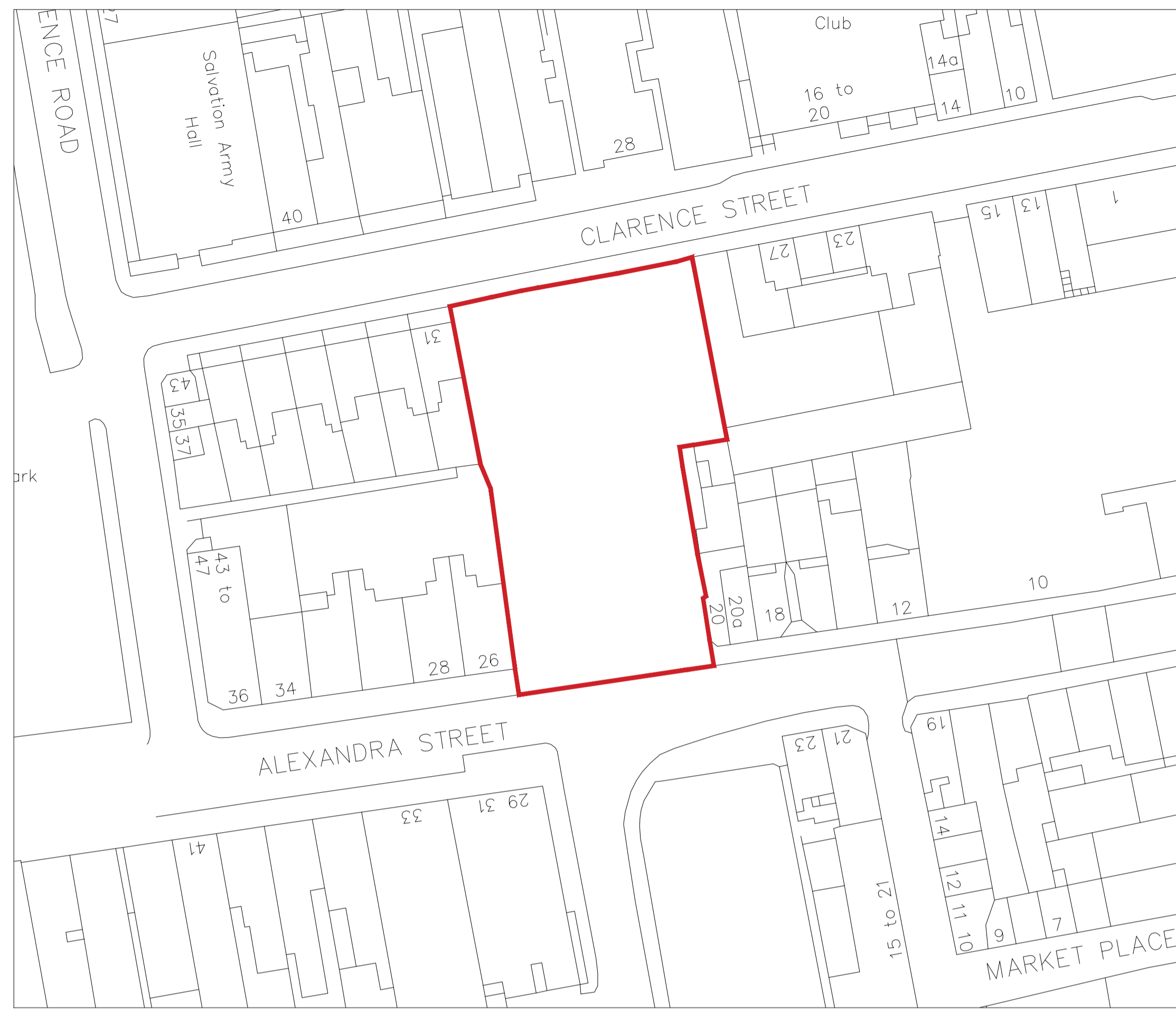
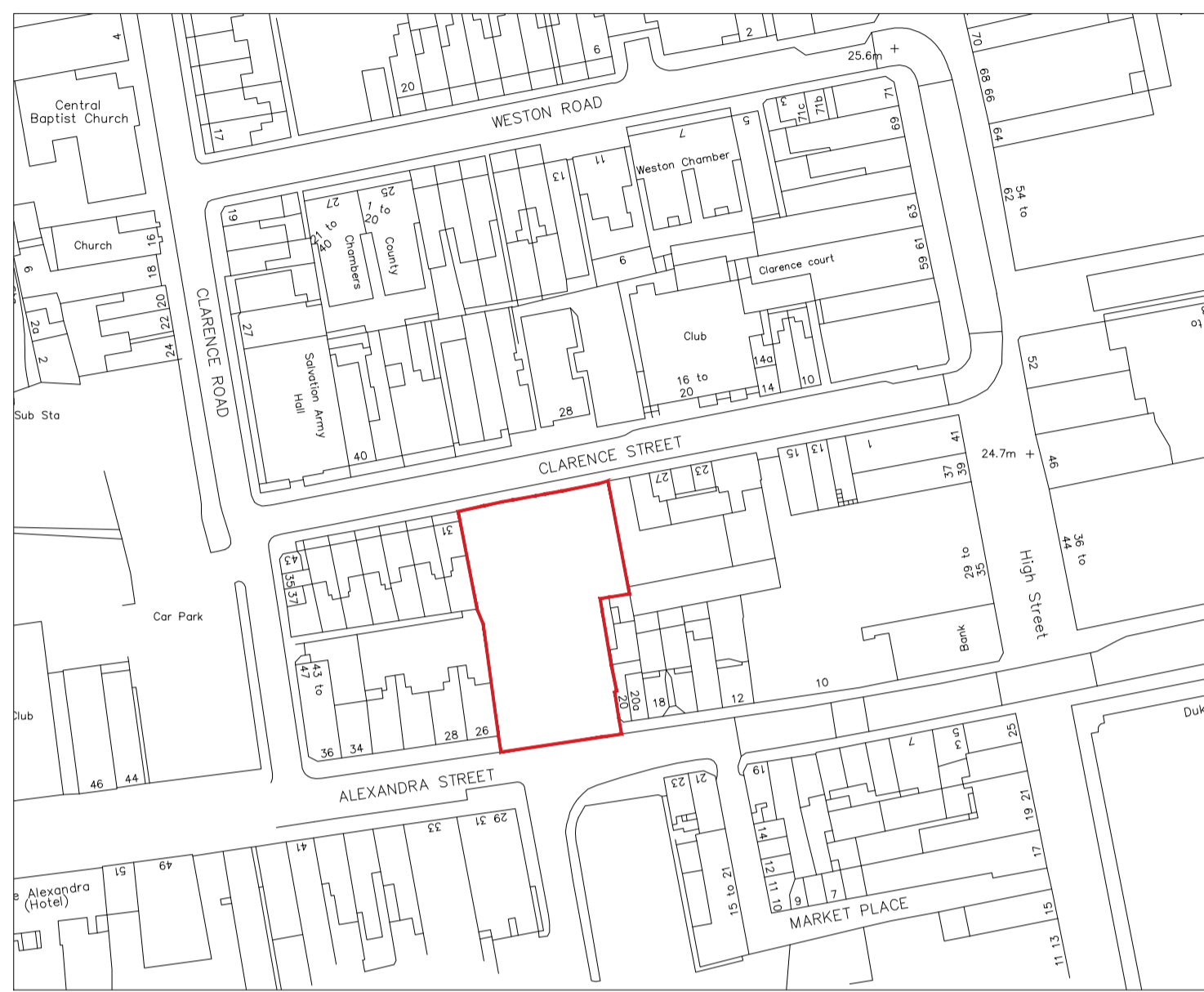
The Local Planning Authority has acted positively and proactively in determining this application by identifying matters of concern within the application (as originally submitted) and negotiating, with the Applicant, acceptable amendments to the proposal to address those concerns. As a result, the Local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

**Informatives:**

- 1** Please note that the proposed development subject of this application is liable for a charge under the Community Infrastructure Levy (CIL) Regulations 2010 (as amended). The amount of levy due will be calculated at the time a reserved matters application is submitted. Further information about CIL can be found on the Planning Portal ([www.planningportal.co.uk/info/200136/policy\\_and\\_legislation/70/community\\_infrastructure\\_levy](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 the Council will 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 city.
- 3** This permission is governed by a legal agreement between the applicant and the City Council under Section 106 of the Town and Country Planning Act 1990. The agreement relates to the provision of a financial contribution in relation to education, a financial RAMS contribution, the provision of Travel Information Packs, late stage affordable housing viability review and monitoring of the agreement.
- 4** Applicants are advised of the need to ensure the thermal comfort of dwellings under Regulation 40B of the Building Regulations 2010. The code of practice to the Regulations in Approved Document O requires an overheating mitigation strategy and assessment. This includes where noise protection measures require windows and openings to be closed.
- 5** The applicant is reminded that this permission does not bestow compliance with other regulatory frameworks. In particular, your attention is drawn to the statutory nuisance provisions within the Environmental Protection Act 1990 (as amended) and the noise provisions within the Control of Pollution Act 1974. Applicants should contact the Council's Regulatory Services for more advice on 01702 215005 or at Regulatory Services, Southend-on-Sea City Council, Civic Centre, Victoria Avenue, Southend SS2 6ER.
- 6** Please note that if you require a crane or piling rig to construct the proposed development, this will need to be safeguarded separately and dependant on location may be restricted in height and may also require full coordination with the Airport Authority. Any crane applications should be directed to [sam.petrie@southendairport.com](mailto:sam.petrie@southendairport.com) / 01702 538521.
- 7** Advertisement signage associated with the development must be submitted for under separate Advertisement legislation.

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Notes:			
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Rev	Comment	By	Date
A	Planning Updates	DS	24/08/2023
-	Production of drawings	-	-

Stage:  
PLANNING

Client:  
PRIVATE

Project:  
EMPIRE THEATRE  
22 ALEXANDRA ST  
SOUTHEND ON SEA  
SS1 1BU

Drawing Title:  
PROPOSED PLANS

Drawing no:  
262-P101

Revision: A Drawn by: DS

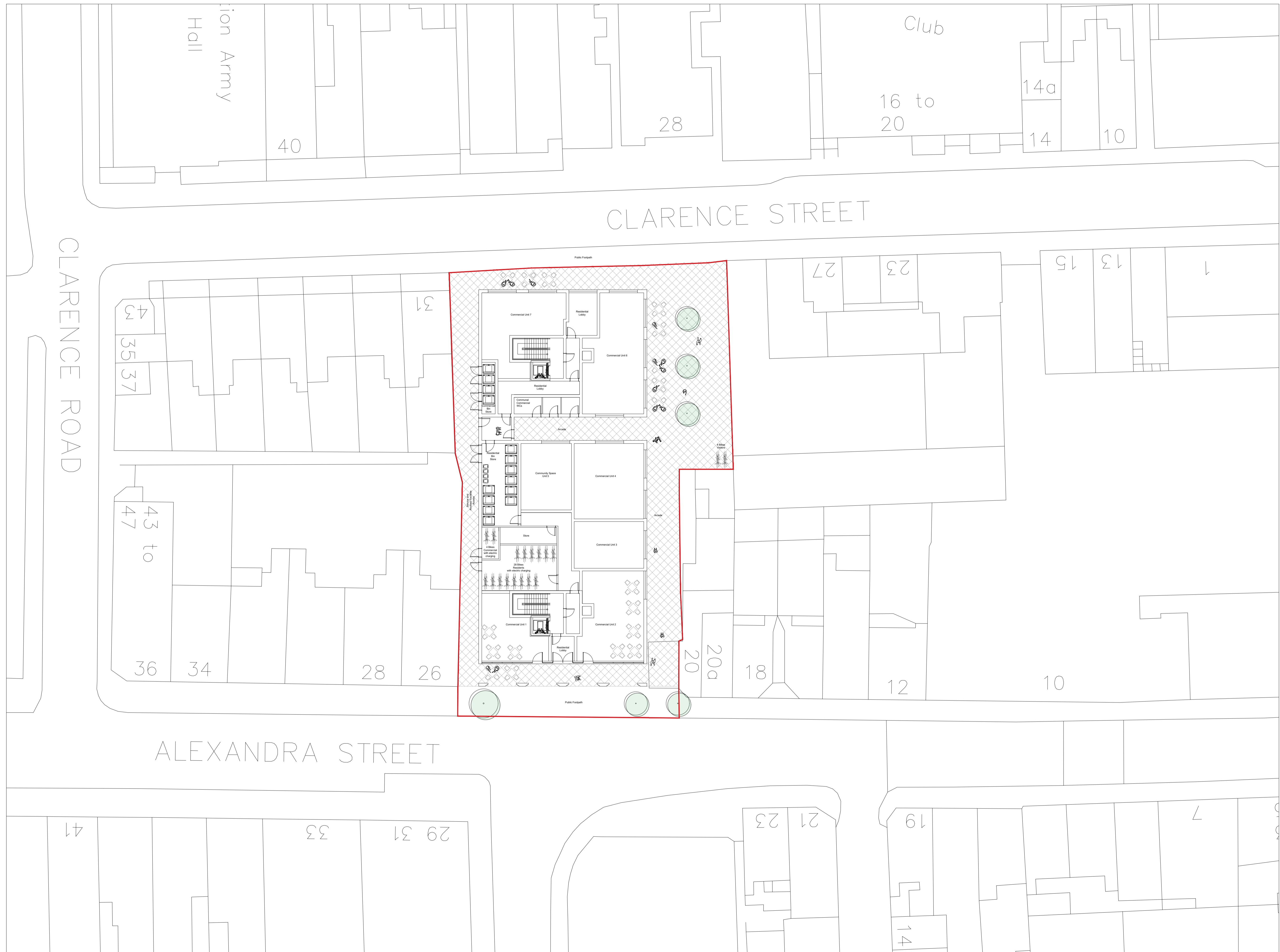
Project no: 262-10-14 Chkd by: SK

Scale: 1:500, 1:1250 @A1

**SKARCHITECTS**  
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Westoff-on-Sea  
SS0 9EZ  
Tel: 01702 590250  
Email: info@skarchitects.co.uk

Do not scale from this drawing. Drawing to be read in conjunction with all other issued drawings, documents and relevant consultants' information. All dimensions on this drawing for guidance purposes only. All dimensions must be checked onsite. This information is subject to Building Control requirements and the requirements of all relevant statutory authorities and service providers.  
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Notes:			
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Rev	Comment	By	Date
A	Planning Updates Production of drawings	DS	06/09/2023

Stage:  
PLANNING

Client:  
PRIVATE

Project:  
EMPIRE THEATRE  
22 ALEXANDRA ST  
SOUTHEND ON SEA  
SS1 1BU

Drawing Title:  
Site Plan

Drawing no:  
262-P108

Revision: A Drawn by: DS

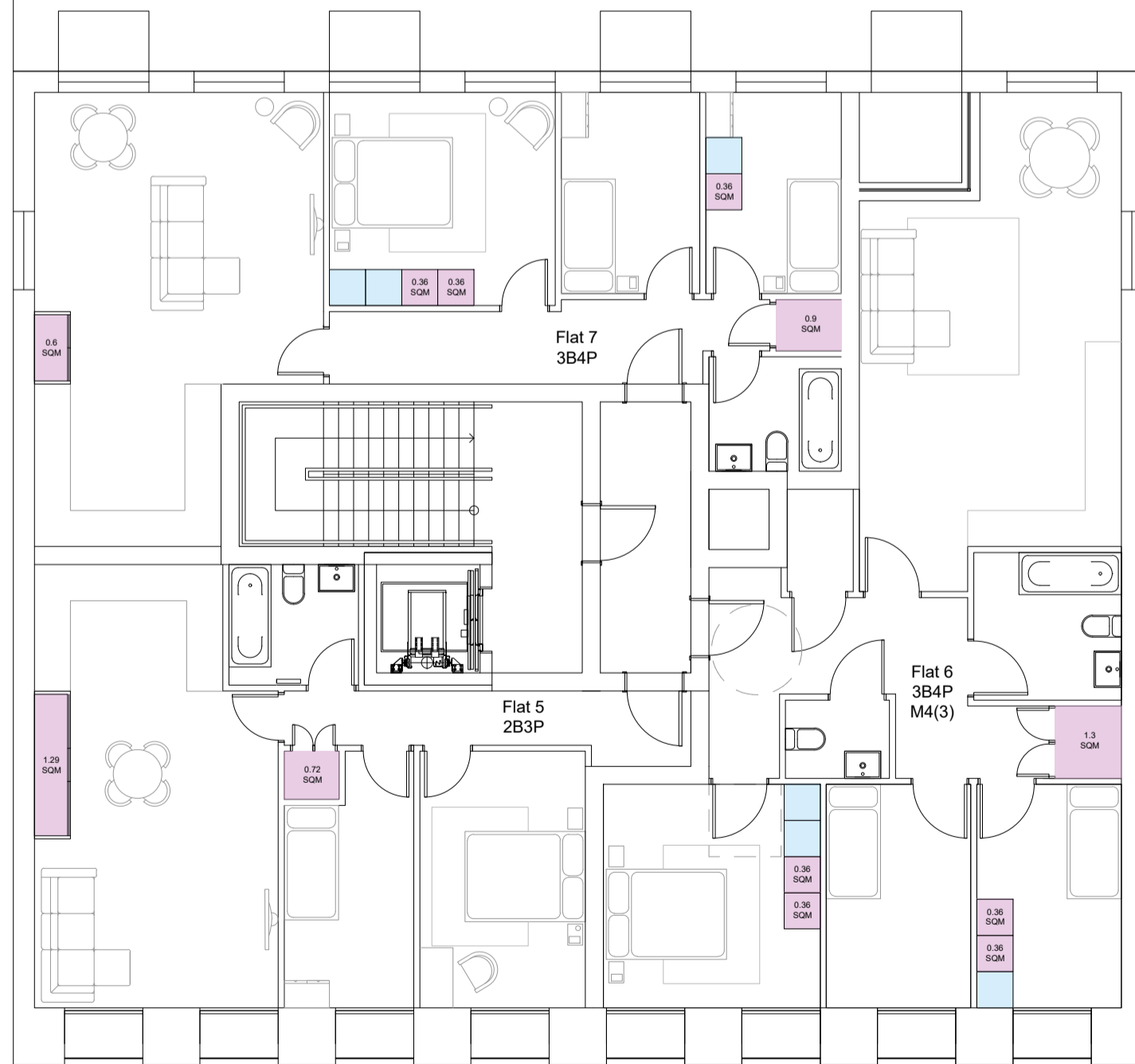
Project no: 262-10-14 Chkd by: SK

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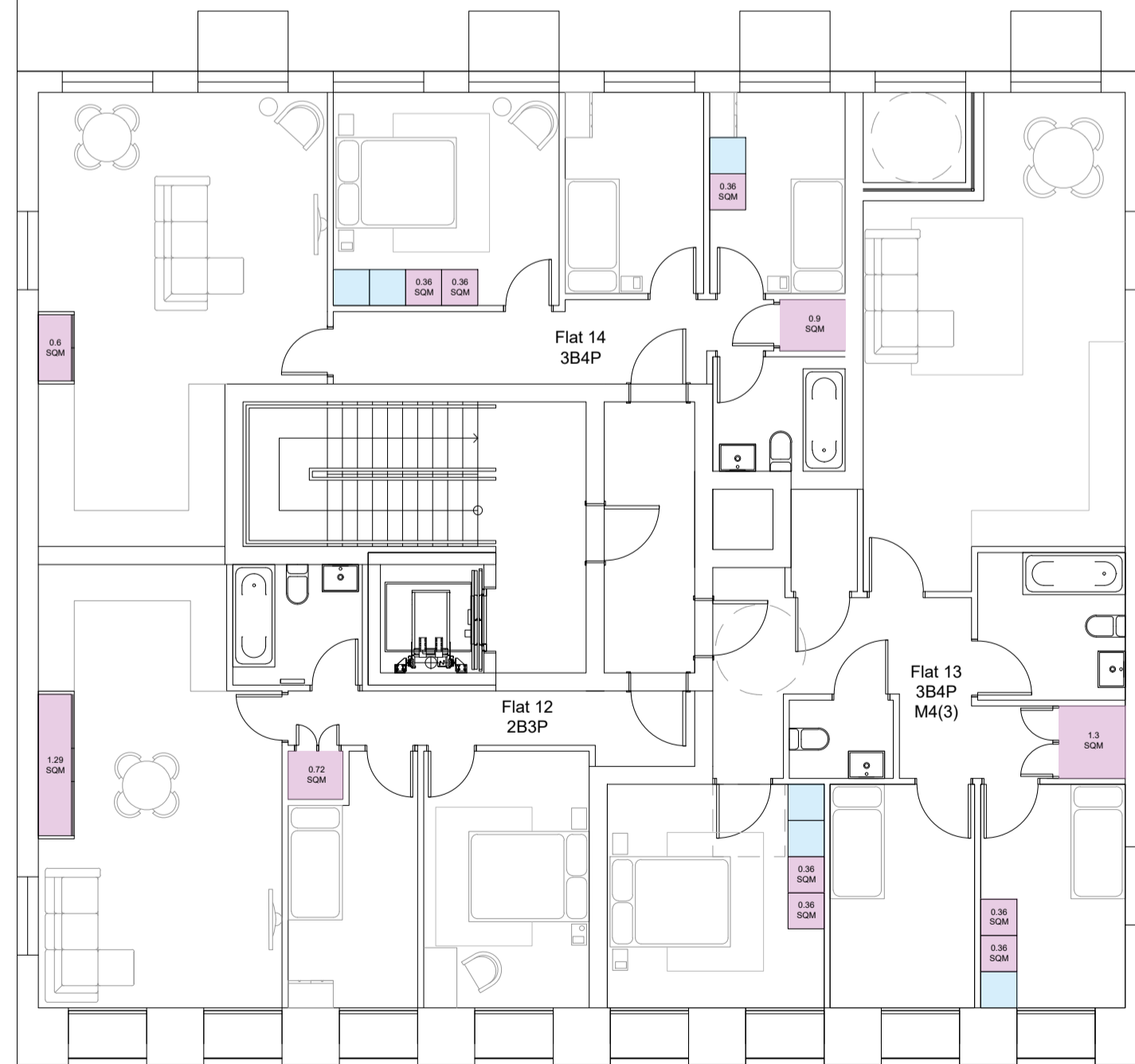
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Proposed Second Floor Plan 1:100  
0 1 2 3 4 5



Proposed Third Floor Plan 1:100  
0 1 2 3 4 5

AREA SCHEDULE

FLAT	TYPE	AREA
01	1B2P	52m <sup>2</sup>
02	1B2P	57m <sup>2</sup>
03	2B3P	61m <sup>2</sup>
04	1B2P	50m <sup>2</sup>
05	2B3P	61m <sup>2</sup>
06	3B4P	92m <sup>2</sup>
07	3B4P	76m <sup>2</sup>
08	2B3P	61m <sup>2</sup>
09	1B2P	50m <sup>2</sup>
10	2B3P	61m <sup>2</sup>
11	1B1P	40m <sup>2</sup>
12	2B3P	61m <sup>2</sup>
13	3B4P	92m <sup>2</sup>
14	3B4P	76m <sup>2</sup>
15	2B3P	61m <sup>2</sup>
16	1B2P	50m <sup>2</sup>
17	2B3P	61m <sup>2</sup>
18	1B1P	40m <sup>2</sup>
19	2B3P	61m <sup>2</sup>
20	2B3P	63m <sup>2</sup>
21	2B3P	61m <sup>2</sup>
22	1B1P	43m <sup>2</sup>

Notes:

Rev	Comment	By	Date
C	Internal Storage	DS	10/10/2023
B	Planning Updates	DS	24/05/2023
A	Amended area schedule	DS	13/12/2022
-	Production of drawings	-	-

Stage:  
PLANNING

Client:  
PRIVATE

Project:  
EMPIRE THEATRE  
22 ALEXANDRA ST  
SOUTHEND ON SEA  
SS1 1BU  
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Drawing Title:  
PROPOSED PLANS - 2-3

Drawing no:  
262-P103

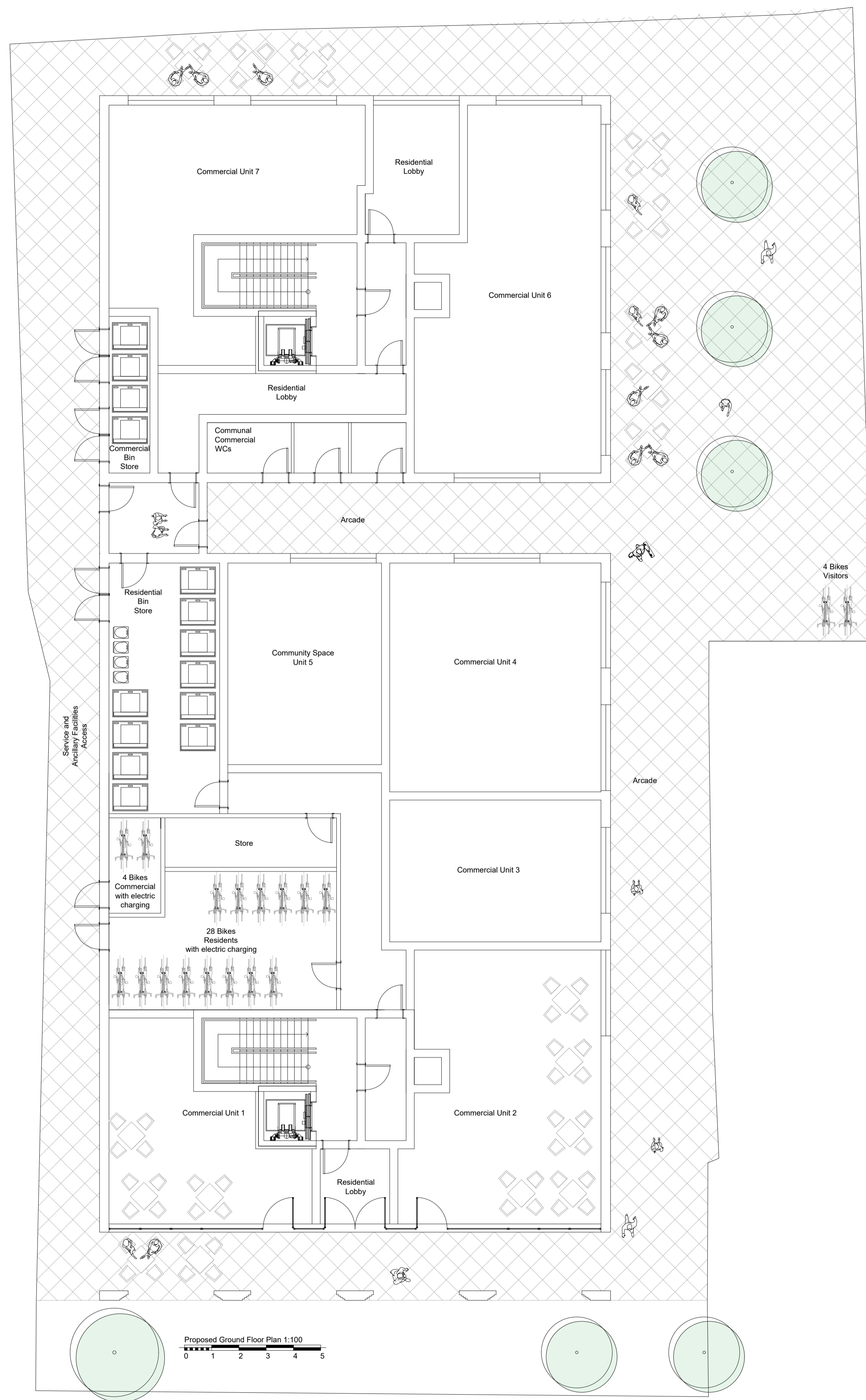
Revision: C Drawn by: DS

Project no: 262-10-14 Chk'd by: SK

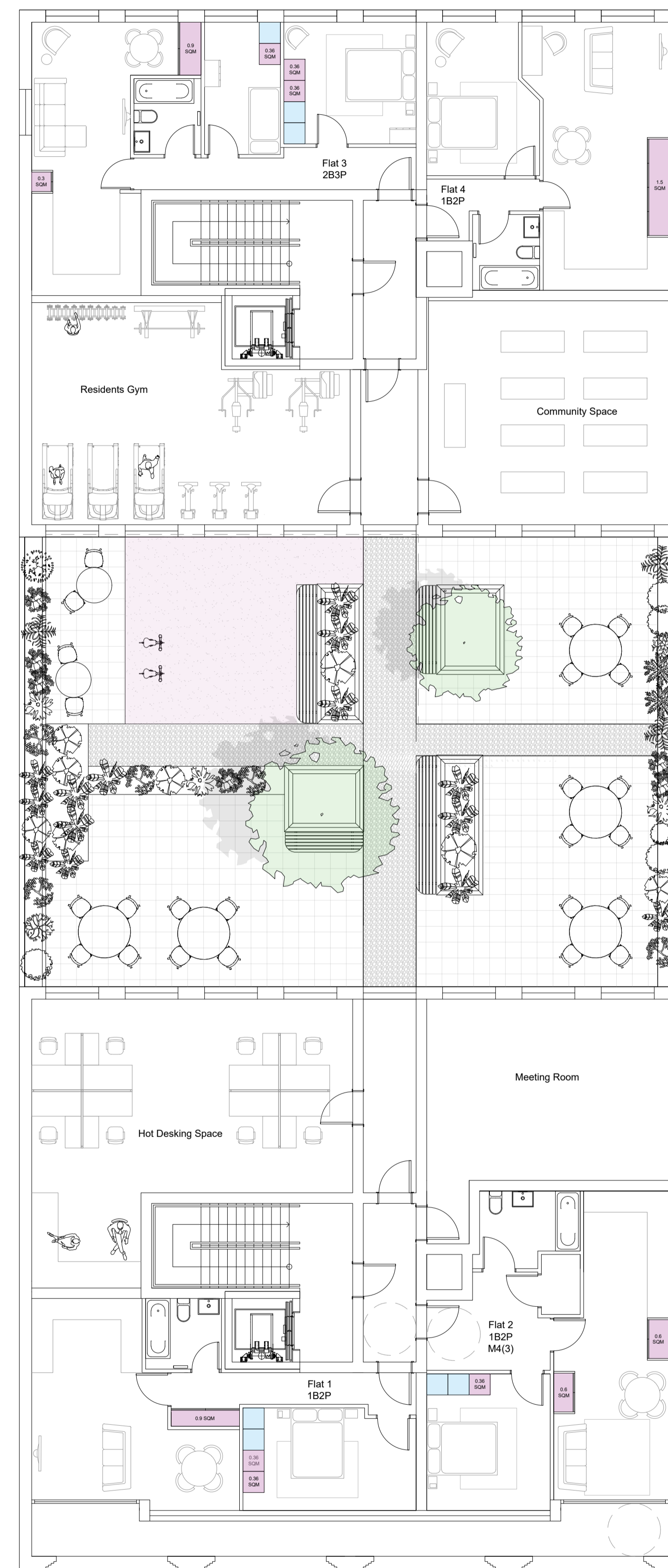
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Proposed Ground Floor Plan 1:100  
0 1 2 3 4 5



Proposed First Floor Plan 1:100  
0 1 2 3 4 5

AREA SCHEDULE

FLAT	TYPE	AREA
01	1B2P	52m <sup>2</sup>
02	1B2P	57m <sup>2</sup>
03	2B3P	61m <sup>2</sup>
04	1B2P	50m <sup>2</sup>
05	2B3P	61m <sup>2</sup>
06	3B4P	92m <sup>2</sup>
07	3B4P	76m <sup>2</sup>
08	2B3P	61m <sup>2</sup>
09	1B2P	50m <sup>2</sup>
10	2B3P	61m <sup>2</sup>
11	1B1P	40m <sup>2</sup>
12	2B3P	61m <sup>2</sup>
13	3B4P	92m <sup>2</sup>
14	3B4P	76m <sup>2</sup>
15	2B3P	61m <sup>2</sup>
16	1B2P	50m <sup>2</sup>
17	2B3P	61m <sup>2</sup>
18	1B1P	40m <sup>2</sup>
19	2B3P	61m <sup>2</sup>
20	2B3P	63m <sup>2</sup>
21	2B3P	61m <sup>2</sup>
22	1B1P	43m <sup>2</sup>

AREA SCHEDULE

SPACE	TYPE	AREA
UNIT 1	COMMERCIAL	40m <sup>2</sup>
UNIT 2	COMMERCIAL	68m <sup>2</sup>
UNIT 3	COMMERCIAL	40m <sup>2</sup>
UNIT 4	COMMERCIAL	65m <sup>2</sup>
UNIT 5	COMMUNITY	42m <sup>2</sup>
UNIT 6	COMMERCIAL	80m <sup>2</sup>
UNIT 7	COMMERCIAL	59m <sup>2</sup>
GYM	RESIDENTIAL	50m <sup>2</sup>
YOGA	RESIDENTIAL	43m <sup>2</sup>
HOT DESKING	RESIDENTIAL	58m <sup>2</sup>
COMMUNITY SPACE	RESIDENTIAL	37m <sup>2</sup>

Notes:

E	Internal Storage	DS	13/12/2023
D	Planning Updates	DS	06/09/2023
C	Planning Updates	DS	24/09/2023
B	Additional landscaping	DS	07/02/2023
A	Amended area schedule	DS	13/12/2022
-	Production of drawings	-	-

Rev	Comment	By	Date

Stage:  
PLANNING

Client:  
PRIVATE

Project:  
EMPIRE THEATRE  
22 ALEXANDRA ST  
SOUTHEND ON SEA  
SS1 1BU  
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Drawing Title:  
PROPOSED PLANS - 0-1

Drawing no:  
**262-P102**

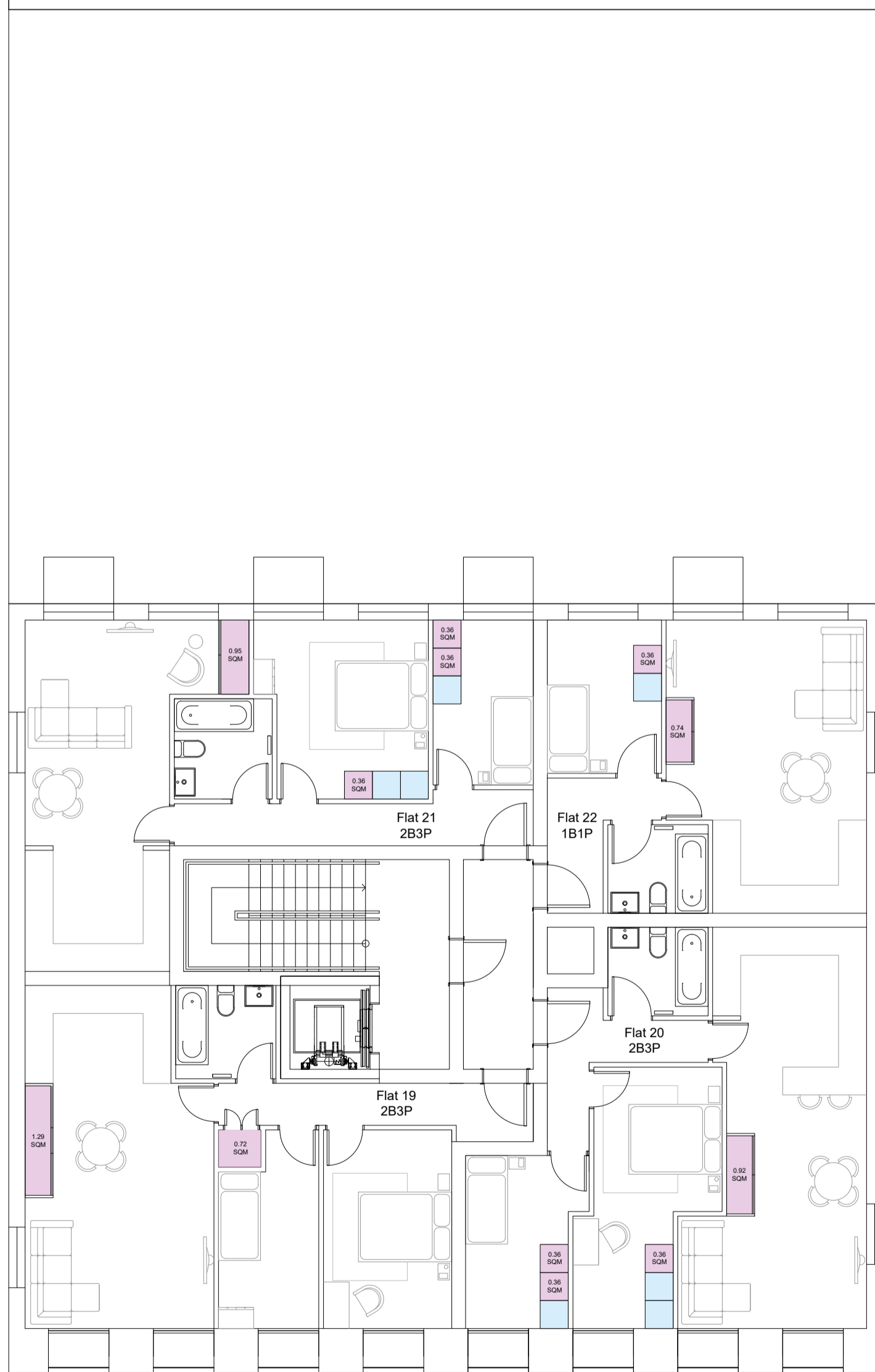
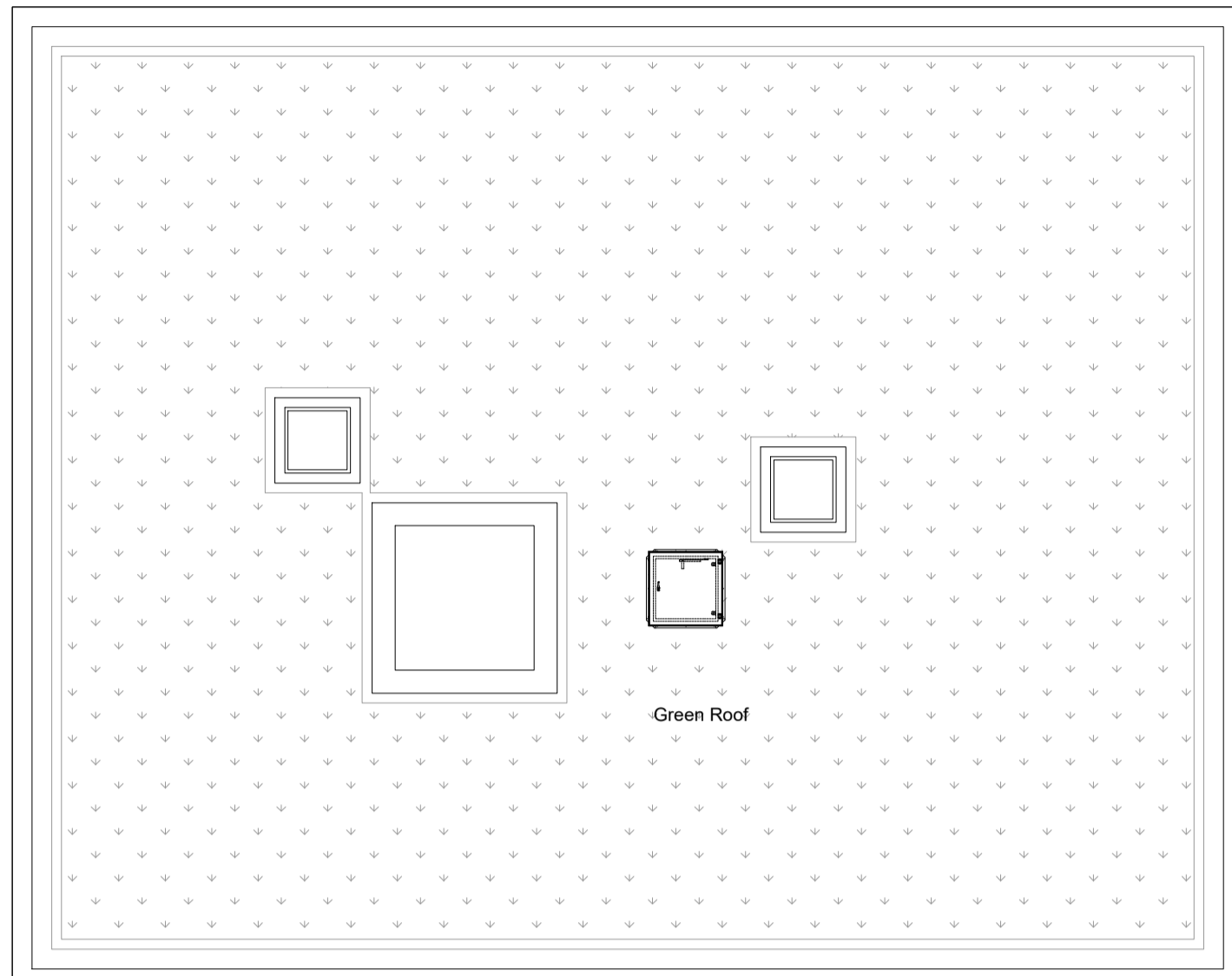
Revision: <b>E</b>	Drawn by: DS
Project no: <b>262-10-14</b>	Chkd by: SK
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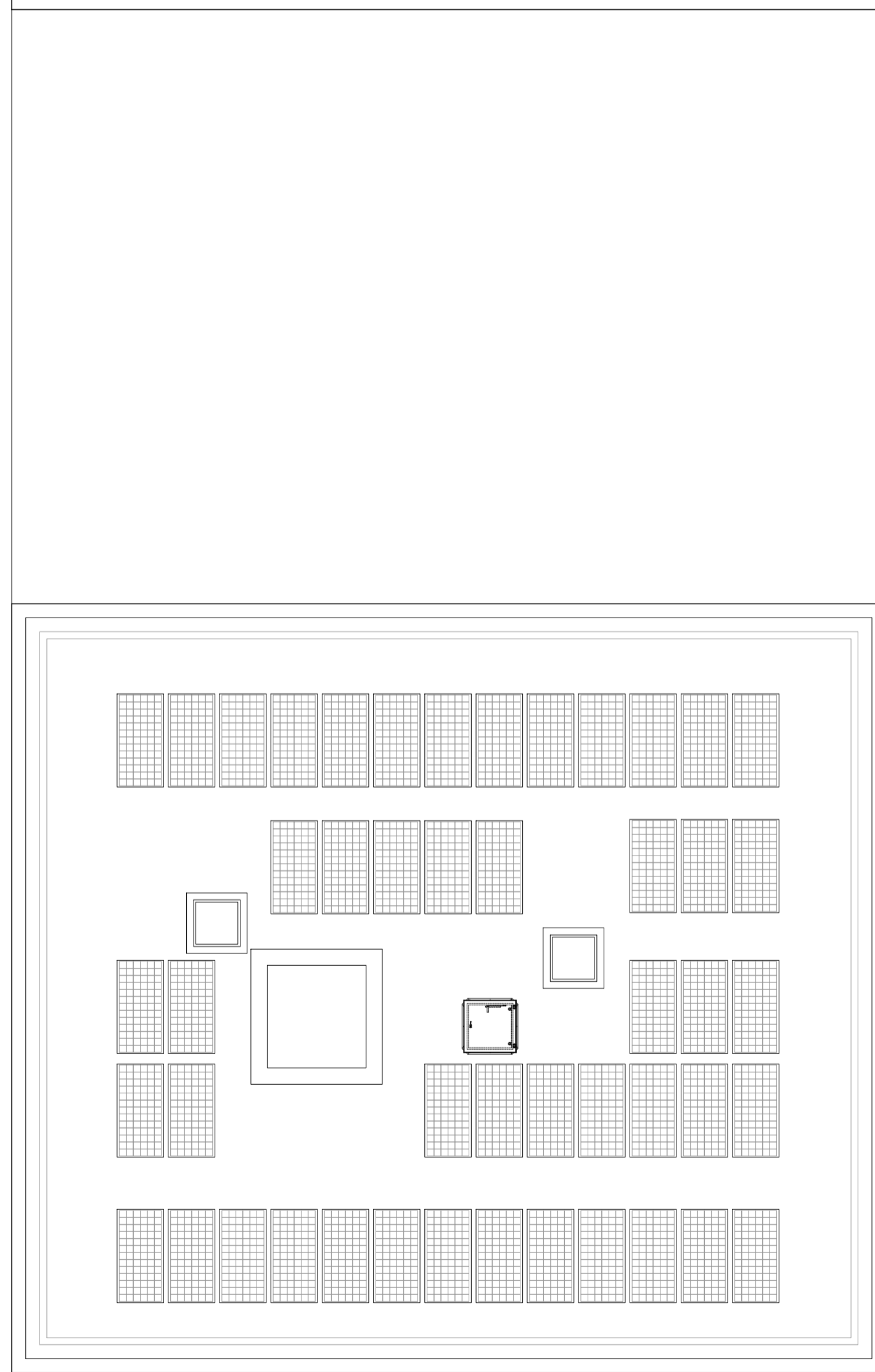
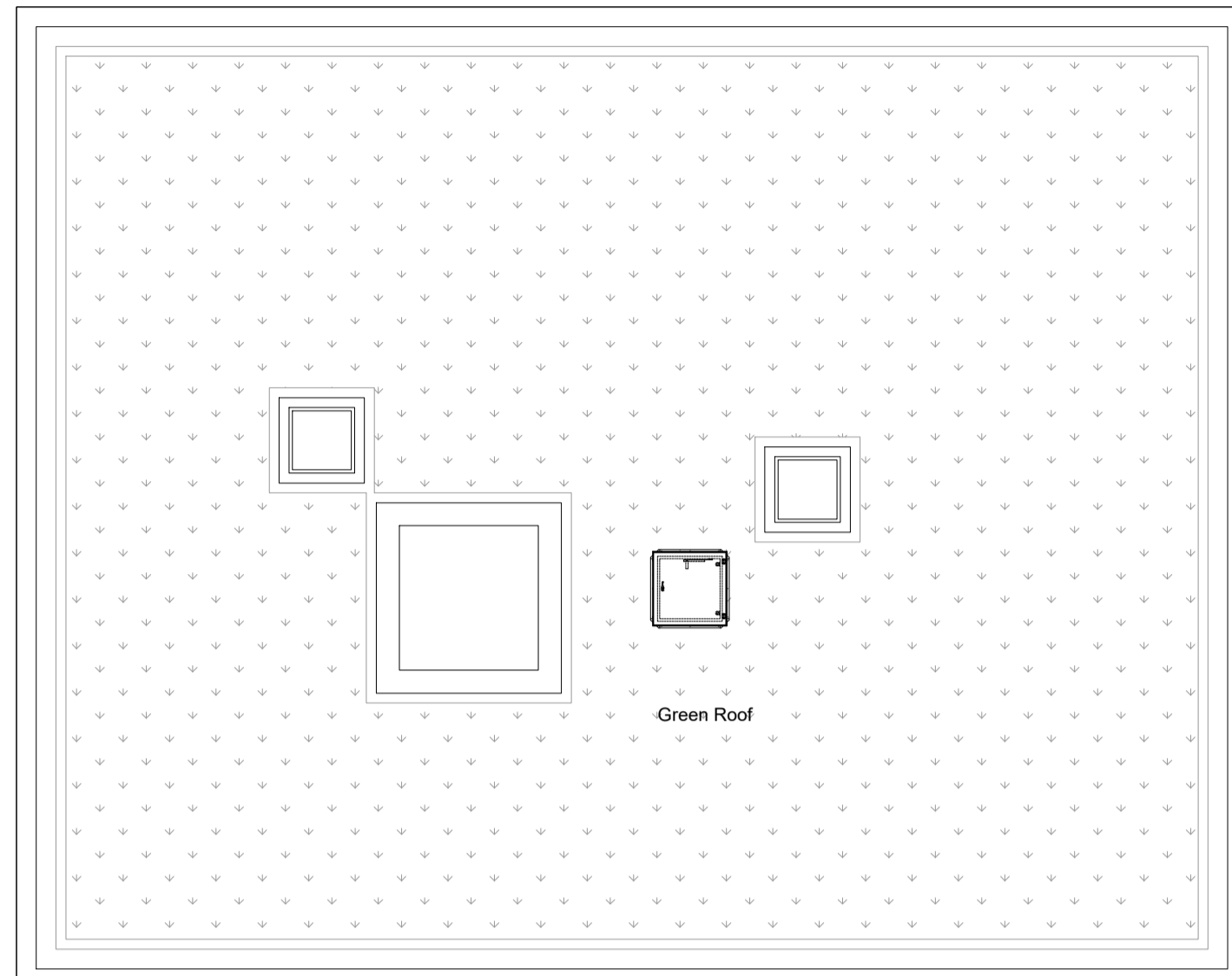
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Proposed Fourth Floor Plan 1:100  
0 1 2 3 4 5



Proposed Roof Plan 1:100  
0 1 2 3 4 5

**AREA SCHEDULE**

FLAT	TYPE	AREA
01	1B2P	52m <sup>2</sup>
02	1B2P	57m <sup>2</sup>
03	2B3P	61m <sup>2</sup>
04	1B2P	50m <sup>2</sup>
05	2B3P	61m <sup>2</sup>
06	3B4P	92m <sup>2</sup>
07	3B4P	76m <sup>2</sup>
08	2B3P	61m <sup>2</sup>
09	1B2P	50m <sup>2</sup>
10	2B3P	61m <sup>2</sup>
11	1B1P	40m <sup>2</sup>
12	2B3P	61m <sup>2</sup>
13	3B4P	92m <sup>2</sup>
14	3B4P	76m <sup>2</sup>
15	2B3P	61m <sup>2</sup>
16	1B2P	50m <sup>2</sup>
17	2B3P	61m <sup>2</sup>
18	1B1P	40m <sup>2</sup>
19	2B3P	61m <sup>2</sup>
20	2B3P	63m <sup>2</sup>
21	2B3P	61m <sup>2</sup>
22	1B1P	43m <sup>2</sup>

Notes:

Rev	Comment	By	Date
C	Internal Storage	DS	10/10/2023
B	Planning Updates	DS	24/08/2023
A	Amended area schedule	DS	13/12/2022
-	Production of drawings	-	-

Stage:  
PLANNING

Client:  
PRIVATE

Project:  
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Drawing Title:  
PROPOSED PLANS - 4-5

Drawing no:  
262-P104

Revision: C Drawn by: DS

Project no: 262-10-14 Chkd by: SK

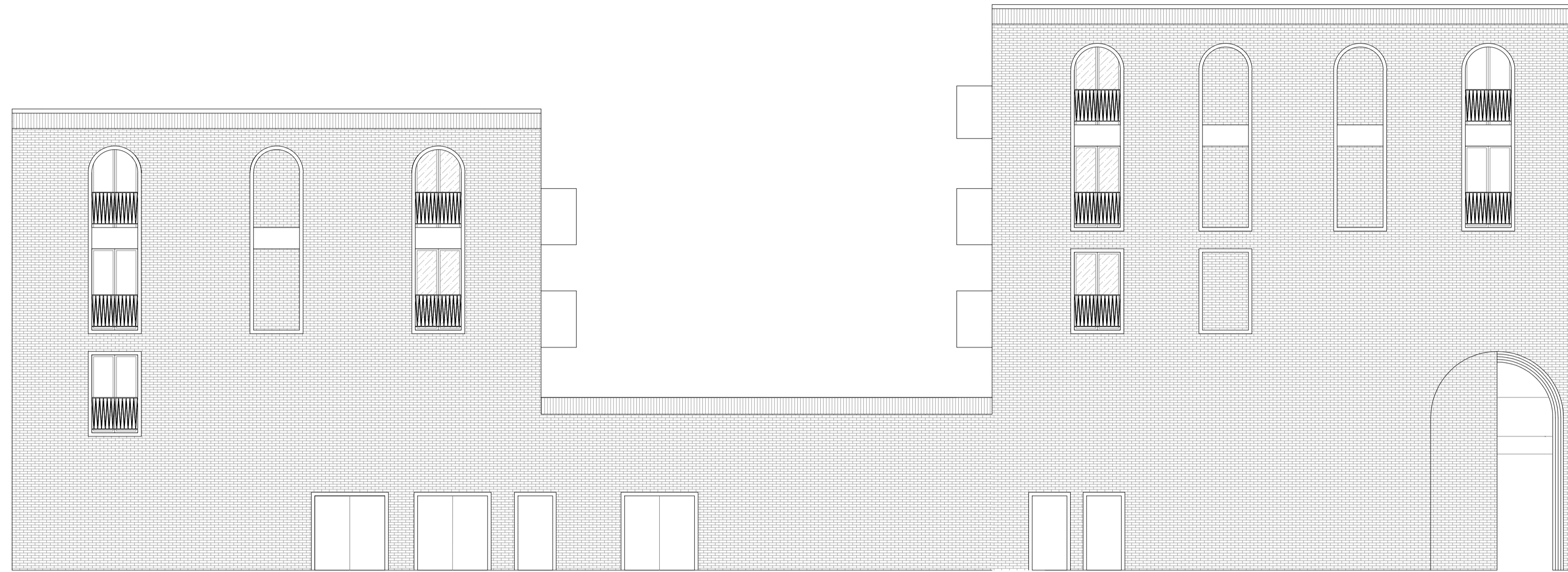
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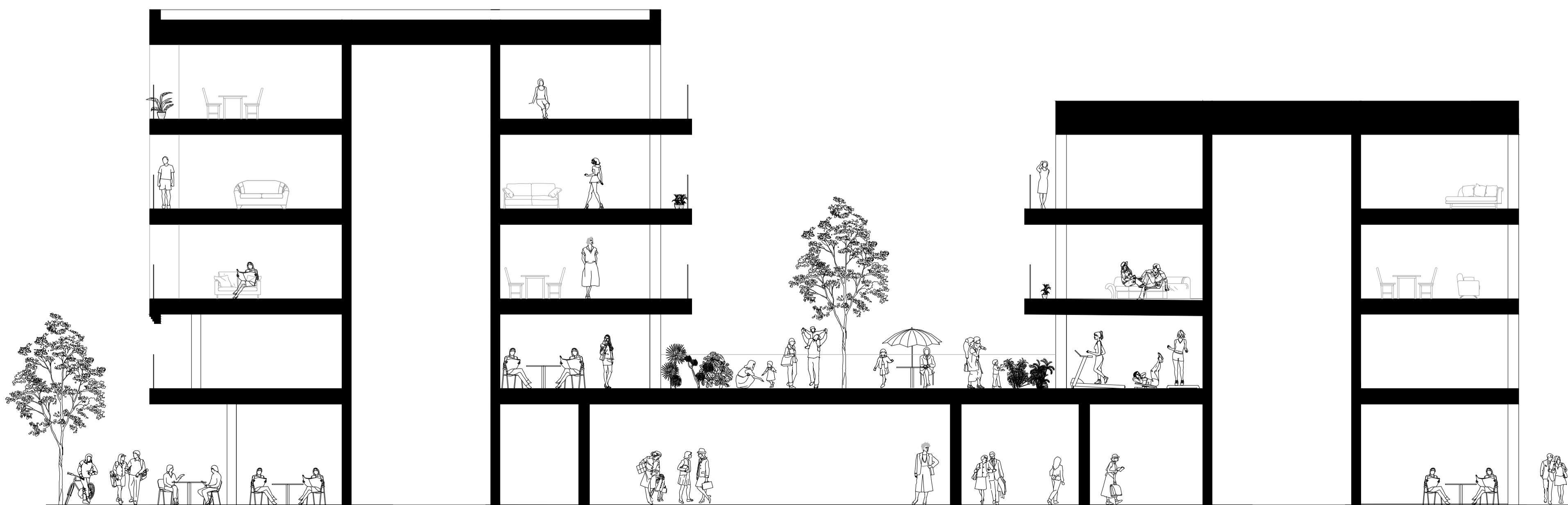
Hatch indicates windows to be frosted and fixed shut



Proposed Side Elevation 1:100  
0 1 2 3 4 5



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



Proposed Section 1:100  
0 1 2 3 4 5



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

Notes:

Rev	Comment	By	Date
B	Planning Updates	DS	06/09/2023
A	Planning updates	DS	24/08/2023
-	Production of drawings	-	-

Stage:  
PLANNING

Client:  
PRIVATE

Project:  
EMPIRE THEATRE  
22 ALEXANDRA ST  
SOUTHEND ON SEA  
SS1 1BU

Drawing Title:  
PROPOSED ELEVATIONS & SECTIONS

Drawing no:  
262-P106

Revision: B Drawn by: DS

Project no: 262-10-14 Chkd by: SK

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Hatch indicates windows to be frosted and fixed shut



101

Proposed South Elevation 1:100

Proposed East Elevation 1:100



Proposed North Elevation 1:100

Notes:

Rev	Comment	By	Date
B	Planning Updates	DS	06/09/2023
A	Planning updates	DS	24/09/2023
-	Production of drawings	-	-

Stage:  
PLANNING

Client:  
PRIVATE

Project:  
EMPIRE THEATRE  
22 ALEXANDRA ST  
SOUTHERN ON SEA  
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Drawing Title:  
PROPOSED ELEVATIONS

Drawing no:  
262-P105

Revision: **B** Drawn by: DS

Project no: 262-10-14 Chkd by: SK

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# Empire Theatre



Alexandra Street frontage of the site





Neighbouring properties to the east of the site on Alexandra Street



Neighbouring properties to the west of the site on Alexandra Street



Public car park to the south of the site



Surrounding area to the south of the site



Clarence Street frontage of the site



Neighbouring properties to the east of the site on Clarence Street



Neighbouring properties to the west of the site on Clarence Street



Surrounding area to the north of the site

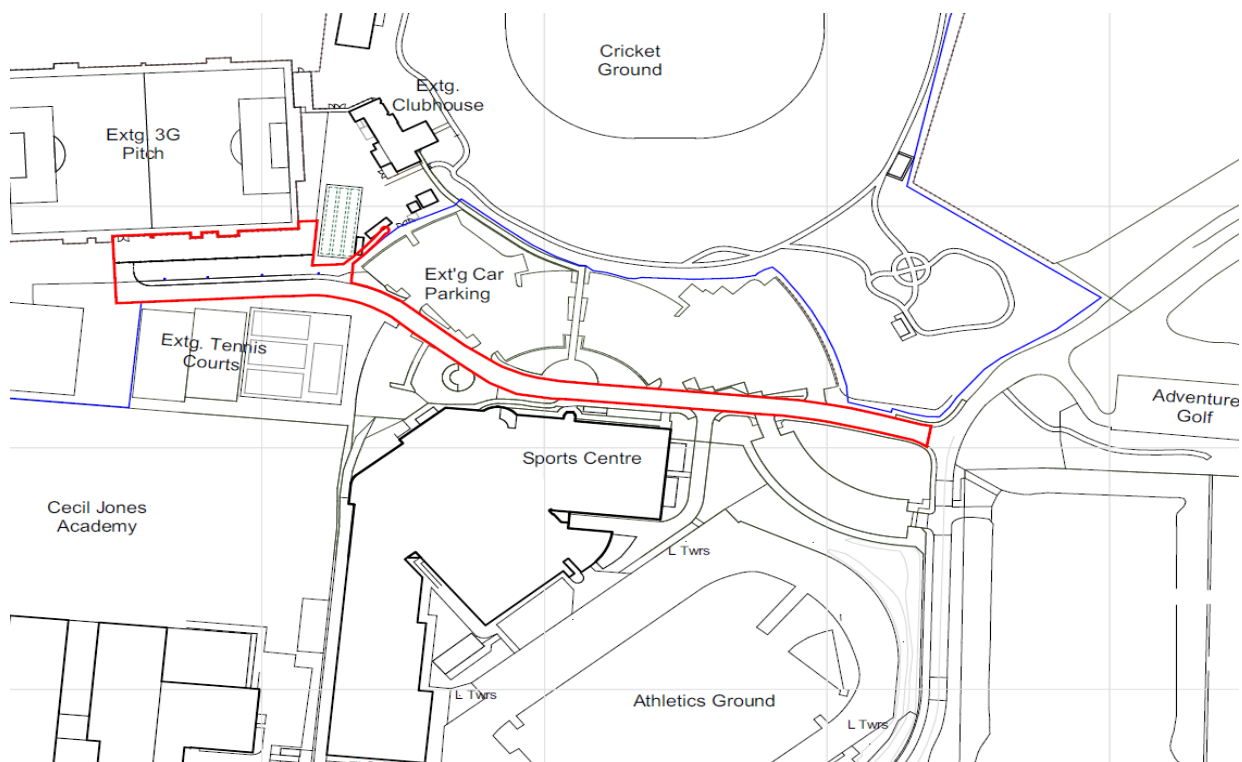




Surrounding area to the north of the site

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<b>Reference:</b>	23/01153/FUL	<h1>6</h1>
<b>Application Type:</b>	Full Application	
<b>Ward:</b>	St Lukes	
<b>Proposal:</b>	Install five two storey units for use as classrooms for sports education and two single storey units for use as WCs, layout parking with associated access and erect new boundary fencing and access gates (part-retrospective)	
<b>Address:</b>	Land At Garon Park, Eastern Avenue, Southend-on-Sea, Essex	
<b>Applicant:</b>	Garon Park Community Interest Company	
<b>Agent:</b>	Zarina Ali of Tor&Co	
<b>Consultation Expiry:</b>	21.09.2023	
<b>Expiry Date:</b>	15.12.2023	
<b>Case Officer:</b>	Oliver Hart	
<b>Plan Nos:</b>	2231/F/101/P01 Rev 01; 2231/F/102/P01 Rev 01; 2231/F/103/P01 Rev 01; 2231/F/201/P01 Rev 01	
<b>Additional information:</b>	Planning Statement Rev 2 (dated November 2023); Planning Statement Addendum Rev 1 (dated November 2023); Fencing specification sheets for Protek 1000 and Protek 656 &868	
<b>Recommendation:</b>	<b>GRANT PLANNING PERMISSION</b> subject to conditions	



## **1 Site and Surroundings**

- 1.1 The application site forms part of the wider Garon Park which comprises recreational and leisure facilities, inclusive of a swimming pool, cricket ground, 3G Astro pitch, tennis and paddle board courts as well as netball courts, athletics track and open grassland, scrub and ornamental planting areas. The wider Garon Park is served by three car parks, a bus route and a variety of associated infrastructure including cycle storage.
- 1.2 The application site itself relates to a previously undeveloped parcel of land approx. 0.3ha in area, immediately to the south of the existing 3G pitch and north of the paddle board courts. The site is accessed via an internal estate road which passes through the main car park. A public footpath, Footpath 257, is to the south of the site coming through the car part and leading west and then north, around the 3G pitches, connecting the site to footpaths 179 to the south and 178 to the north.
- 1.3 The site is within the Metropolitan Green Belt and within the Garon Park designated Protected Green Space for formal and informal recreation. No other planning related designations affect the site.

## **2 The Proposal**

- 2.1 Temporary planning permission for a period of 5 years is sought for the installation of 5no. two storey units to be used as classrooms and 2no. single storey units to be used as toilet facilities. The units comprise shipping containers which, for the two storey units, will be stacked on top of each other fitted with external stairs. Of the total of 12 containers, 6 have already been installed on the site so the permission sought is partially retrospective in nature. The temporary period is sought to start from the date of first installation in November 2022.
- 2.2 The containers used to form the two storey units are each 3m wide, 2.5m high and 9.8m long. The two storey units would reach 5m in height. The containers for these units are laid along the northern boundary of the site, adjacent to the 3G pitch. The containers to be used as toilets would be 3m wide, 2.5m high and 5m long. These would be laid out to the south-eastern corner of the site, close to the access road. The accompanying planning statement states that the containers would be finished in blue. During a staff site visit, only two of the six installed containers were finished in this colour with the rest being finished in white/cream.
- 2.3 Other elements of the development sought to be regularised with this application include the layout of 16no. parking spaces along the southern boundary of the site (inclusive of 2no. disabled bays) and the erection of new boundary fencing and access gates. The boundary fencing and access gates have been installed. The product details have been specified in the submitted planning statement as 'Perimeter Green Protek 1000' mesh fencing and access gates measuring 2.4m high. The car parking has been completed with the laying out of grasscrete. Macadam surfacing has also been laid out to provide clear pedestrian routes.
- 2.4 The planning statement states that the development relates directly to work carried out by Southend United Football Club Community Educational Trust (SUCET), a charitable trust. According to their mission statement, SUCET strives to engage with and enrich the lives of people of all ages, abilities, backgrounds and interests through sport. Historically, educational facilities similar to those included in this application were at Roots Hall stadium. SUCET state that they have been required to vacate that site after being served formal notice by the club, understood to be consequent to development considerations.
- 2.5 The planning statement confirms the development would involve a maximum of 12 staff on site at any one time with a maximum 98 children/young people based on site each day. The programmes offered are contained in Table 1 below;

**Table 1 - summary of SUCET programmes**

<b>Programme</b>	<b>Details</b>
<b>College Use</b>	
BTEC	For 16-18 year olds, the scheme is provided through League Football Education (LFE). Qualifications available include, Pearson BTEC Level 3 National Diploma in Sports Coaching and Development, and BTEC Level 2 Diploma in Sports Industry Skills (Leading Children’s Sports Activities)
<b>Sports Programmes</b>	
Development Centre	SUCET Development Centre is an invitation-only development programme for players aged under 7 to under 16 age groups, which aims to nurture and retain advanced players, whilst offering appropriate progression pathways and exit routes for players.

Soccer Schools	For 5-13 year olds, this scheme is provided every school holiday, offering plenty of fun and interactive lessons.
Premier League Kicks	For boys and girls aged 11-19, the Premier League Kicks programme is a national project delivered across the UK by professional football clubs. The programme creates opportunities for young people who are at risk of anti-social behaviour, youth violence and/or from high-need areas to regularly engage in football, sport, mentoring and personal development opportunities.
Premier League Disability Kicks	Garon Park provides a “Kicks” programme for disabled, and mobility impaired young boys and girls aged 11-19.
Walking Football	Men and women aged 55+ with all levels of fitness and ability.

### **3 Relevant Planning History**

3.1 The most relevant planning history for the determination of this application is shown on Table 2 below:

**Table 2: Relevant Planning History of the Application Site**

Reference	Description	Outcome
22/02165/BC4	Install 5no. two storey units for use as classrooms	Withdrawn

	and 2no. single storey units for use as WCs, lay out parking with associated access and erect new boundary fencing and access gates (Retrospective)	
22/00720/BC4M	Install one storage container to east elevation (retrospective)	Granted
21/01699/BC4M	Erect a resources building, layout soft landscaping to create a vehicular route to provide access to the existing clubhouse and cricket field area for vulnerable people; install a wildlife pond and sensory garden and layout a well-being path and pergola structures (retrospective)	Granted
19/01881/BC4M	Install one storage container to south elevation of Sports Centre	Granted
16/00175/BC4M	Install one storage container to east elevation	Granted
16/00079/FULM	Erect single storey rear extension to Cricket Pavilion	Granted

## 4 Representation Summary

### Public Consultation

- 4.1 A site notice was displayed, a press notice was published, and 21 neighbour properties were notified. No representations have been received.

### Highways

- 4.2 There are no highway objections to this proposal.

### Sport England

- 4.3 No objections to the development. The development meets exception 3 of paragraph 99 of the NPPF, namely:

*3 - The proposed development affects only land incapable of forming, or forming part of, a playing pitch, and does not result in the loss of, or inability to make use of any playing pitch (including the maintenance of adequate safety margins), a reduction in the size of the playing area of any playing pitch or the loss of any other sporting/ancillary facility on the site.*

### Environmental Health

- 4.4 No objections subject to a condition requiring submission of external illumination of the site and informatives.

## 5 Procedural matters

- 5.1 This application is presented to the Development Control Committee because it represents a departure from planning policy.

## 6 Planning Policy Summary

- 6.1 National Planning Policy Framework (NPPF) (2023)

- 6.2 Planning Practice Guidance (PPG) (2023)

- 6.3 National Design Guide (2021)

- 6.4 Core Strategy (2007) Policies KP1 (Spatial Strategy), KP2 (Development Principles), CP3 (Transport and Accessibility), CP4 (The Environment and Urban Renaissance), CP6

(Community Infrastructure) and CP7 (Sport, Recreation and Green Space)

- 6.5 Development Management Document (2015): Policies DM1(Design Quality), DM3 (Efficient and Effective Use of Land), DM14 (Environmental Protection) and DM15 (Sustainable Transport Management)
- 6.6 Southend-on-Sea Design and Townscape Guide (2009)
- 6.7 Waste Storage, Collection and Management Guide for New Developments (2019)
- 6.8 Electric Vehicle Charging Infrastructure for new development Supplementary Planning Document (2021)
- 6.9 Community Infrastructure Levy (CIL) Charging Schedule (2015)

## **7 Planning Considerations**

- 7.1 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 of neighbouring occupiers, traffic and parking implications and CIL liability.

## **8 Appraisal**

### **Principle of development**

#### *Appropriateness of the proposed development in the Green Belt*

- 8.1 The site is within the Green Belt. The NPPF states that the essential characteristics of green belts are their openness and permanence. Paragraph 147 states that "Inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances".
- 8.2 Paragraph 148 outlines that "when considering any planning application, local planning authorities should ensure that substantial weight is given to any harm to the Green Belt. 'Very special circumstances' will not exist unless the potential harm to the Green Belt by reason of inappropriateness, and any other harm resulting from the proposal, is clearly outweighed by other considerations."
- 8.3 Paragraph 149 states that a local planning authority should regard the construction of new buildings as "inappropriate development in the Green Belt".
- 8.4 Paragraph 149 continues by listing some exceptions, including "the provision of appropriate facilities (in connection with the existing use of land or a change of use) for outdoor sport, outdoor recreation ... as long as the facilities preserve the openness of the Green Belt and do not conflict with the purposes of including land within it".
- 8.5 Paragraph 150 states certain other forms of development are also not inappropriate in the Green Belt provided they preserve its openness and do not conflict with the purposes of including land within it. These are: a) mineral extraction; b) engineering operations; c) local transport infrastructure which can demonstrate a requirement for a Green Belt location; d) the re-use of buildings provided that the buildings are of permanent and substantial construction; e) material changes in the use of land (such as changes of use for outdoor sport or recreation, or for cemeteries and burial grounds); and f) development, including buildings, brought forward under a Community Right to Build Order or Neighbourhood Development Order.

- 8.6 Core Strategy Policies KP1 and CP4 also stipulate the importance of maintaining the “open character of the Green Belt”.
- 8.7 The application site relates to the provision of an educational facility which, whilst linked with the use of the existing 3G pitch at Garon Park, does not form one of the exceptions listed at Paragraphs 149 and 150. Therefore, the development is, by definition, inappropriate development and therein harmful to the green belt as a matter of principle.

#### *Impact on Openness of the Green Belt*

- 8.8 It is important to assess the impact of the development on the openness of the green belt. This requires a judgment based on the particular circumstances of the case.
- 8.9 The PPG identifies that openness is capable of having both spatial and visual aspects, thus volume of built development is a key matter to be considered in making such an assessment. The PPG further elaborates that duration of the development and its remediability – taking in to account any provisions to return land to its original state or to equivalent (or improved) state of openness along with degree of activity likely to be generated, such as traffic generation is also important (Paragraph: 001 Reference ID: 64-001-20190722).
- 8.10 While not within the conventional definition of a building, the development would comprise a new educational facility for the purposes of planning controls. The container units would be laid out in a linear arrangement for a distance of some 55m (with intermittent spacing) in a stacked two storey arrangement a maximum 5m high along the site boundary with the 3G Astro pitch fencing to the immediate north.
- 8.11 The continuous linear layout and two storey scale of container units proposed would have a significant degree of prominence in views east-west across the site. The condition and colour of several of the containers already in-situ currently exacerbates their prominence and incongruity in the surrounding context.
- 8.12 The development would be situated in the context of the 3G sports pitch to the north and the large canopy enclosure for the paddleball courts to the south (which has a maximum height of 9.67m (approved under app. Ref 20/02220/FUL). These existing facilities are considered to have a degree of prominence in the landscape setting. However, their juxtaposition with the development would not mitigate its effects upon the openness of the green belt.
- 8.13 The installed fencing is also considered to have caused a negative impact on openness, although the green mesh fencing material allows views through the site. The fencing is also the same type as other fencing on site which provides continuity of appearance.
- 8.14 Overall, it is considered that the development, by reason of its use and the physical harm (both in-situ), would not preserve the openness of the green belt and would be harmful to it. The impact on the openness would be a result of the scale, design and position of the container units. Although the proposal would provide for educational facilities, it would be inappropriate development in the green belt for the above reasons.
- 8.15 Further to paragraphs 147 and 148 of the NPPF, it is then necessary to consider whether there are any very special circumstances arising from other considerations that in this instance would clearly outweigh the harm identified which arises both from the inappropriateness of the use within and the physical harm to the Green Belt.

#### *The Green Belt Balance and any Very Special Circumstances*

- 8.16 At paragraphs 92 and 93 the NPPF states that planning decisions should support social



interaction, and enable and support healthy lifestyles, especially where this would address identified local health and well-being needs. Policy CP6 seeks to provide for community infrastructure for the City. This specifically includes safeguarding the existing and providing new leisure, cultural, recreation and community facilities, particularly by optimising the potential of Garon Park.

- 8.17 SUCET states that it delivers an increasingly diverse range of projects across Southend and South-East Essex, using the power of football, other sports and the name of Southend United to engage with its participants to achieve positive social outcomes, particularly amongst disadvantaged groups.
- 8.18 The SUCET educational facility previously operated from SUFC's Roots Hall premises. The Planning Statement states that they have relocated to Garon Park on the basis that there were no other suitable alternative locations within Southend that met SUCET's needs. SUCET explain that accessibility to a 3G pitch is integral to the delivery of several SUCET educational and sports programmes and services.
- 8.19 SUCET undertook a search of other potentially suitable locations for the relocated SUCET facility within Southend. Aside from the 3G pitch at Garon Park, their research identified that there are only two other potential 3G pitches within Southend-on-Sea not exclusively linked with a school, which are:
- The Len Forge Centre, Eastwoodbury Lane
  - Goals Southend, Chase High School, Prittlewell Chase
- 8.20 The Len Forge Centre is next to, and shares an access with, Eastwood Community Pre-School. Goals Southend is located within Chase High School. In the applicant's assessment, they consider that both locations are unsuitable for SUCET, which requires a safe and secure environment where oversight of vulnerable students is paramount. In addition, SUCET consider that they would be restricted to using sporting facilities outside of normal school hours such that these sites would not be suitable for use by SUCET.
- 8.21 Officers consider that "classrooms" (in effect) could be located in various other sites within Southend so, geographically there is not necessarily a requirement for the relocation to Garon Park. Indeed there are sustainability reasons for suggesting they would be better located more centrally. However, it is the officers' understanding that the key benefit for this particular education facility is the relationship with the 3G pitch and its availability of use during school hours. A review of 3G pitches within Southend was carried out which concurs with the assessment conducted by SUCET which carries weight in the assessment of this application. Moreover, a list of the programmes run by SUCET and contained at Table 1 (above) have been submitted to demonstrate the intrinsic link between the education facility and the 3G pitches. Further clarification is contained below.
- 8.22 SUCET advise that the college use is delivered through the League Football Education (LFE) and requires access to a 3G pitch. Competitive football forms part of the course and is delivered by UEFA and FA qualified coaching staff who provide individual coaching programmes incorporating technical practices, game-related practices, small-sided games and physical sessions.
- 8.23 SUCET students play in the English Football League (EFL), Community and Education Football Alliance (CEFA) League and against other professional clubs that run similar schemes. Students also play in the South-East Regional League as well as the National Cup competitions playing against Norwich City FC, Fulham FC, Charlton Athletic FC, Brentford FC along with other clubs.

- 8.24 The education courses (BTEC's) provide students with opportunities to enter employment or higher education within the sports and leisure industry and details are contained within the course prospectus within the Planning Statement Addendum Document and are included for information within an appendix at the end of this report.
- 8.25 The Planning Statement explains that relocation of the SUCET educational facility to Garon Park has enabled the continued delivery of educational and sports programmes to children and young people and mitigated disruption to their learning.
- 8.26 Paragraph 93 of the NPPF states that in providing services the community needs, decisions should take in to account and support the delivery of "local strategies to improve health, social and cultural well-being for all sections of the community and guard against the unnecessary loss of valued facilities and services, particularly where this would reduce the community's ability to meet its day-to-day needs".
- 8.27 Furthermore, Paragraph 96 sets out that to "ensure the faster delivery of other public service infrastructure such as further educational colleges...local planning authorities should work proactively and positively with promoters, delivery partners and statutory bodies to plan for required facilities".
- 8.28 Paragraph 8.12 of the Council's Core Strategy identifies that health and social wellbeing of Southend's residents and their educational attainment levels are vitally important to the regeneration of the city. Supporting Paragraph 8.10 of the Core Strategy highlights the Council's vision that Southend must be a city for people, and it is important that everyone feels they are included and can access opportunities the city has to offer, with development and new facilities being designed, built and maintained on the principle that people come first.
- 8.29 Part 3 of Policy CP6 specifically seeks to provide new community facilities through "optimising Garon Park, ensuring the needs of all residents and visitors, including the disabled and other vulnerable groups are met".
- 8.30 The development clearly meets the objectives of Policy CP6 with the primary aim of the SUCET facility seeking to improve education attainment, health and wellbeing of young people in Southend. The facility supports the needs of education, skills and lifelong learning.
- 8.31 The information provided by the applicant is considered sufficient to demonstrate that the accessibility to the 3G pitch is critical to the effective delivery of SUCET programmes (as outlined in the Addendum comprising the course prospectus and timetabling) and is solely dependent on the collective synergies between this particular education model, the site's specific location and the facilities available which taken together, are considered representative of 'very special circumstances.' That is to say, this particular education facility is only able to function because of those synergies and alternative forms of education/ training would not carry the same nature or degree of justification as inappropriate uses in the Green Belt. The security fencing in-situ is deemed necessary to provide for the safety and required duty of care to disadvantaged and vulnerable children and young people.
- 8.32 Also of significance in the planning balance and identification of special circumstances is the temporary (5-year) consent being sought (to the 1st November 2027) such that upon expiry of the 5-year period, planning controls would require the site to be restored to its previous condition. Consequently, the impact on the openness of the green belt will be temporary and reversible in nature. Moreover, the container units would not result in the loss of playing fields and staff consider that reasonable attempts have been made to minimise their visual impact by siting them within an enclosed area between the existing 3G sports pitch and paddleball courts. It is considered that the development will not give rise to unrestricted sprawl within the green belt, nor will it affect the other main purposes of the green belt.

- 8.33 Weighing all these factors together and in the individual circumstances of this property, it is found that the development would harm the green belt both in principle as an inappropriate use and also because its physical impact on openness. However very special circumstances are identified in the form of the benefits of this particular education/ training facility in this specific location next to this existing sports facility and the collective synergies between these that are fundamental to successful operation of the use and that the proposal is temporary in nature. These collective factors are considered to constitute the special considerations necessary to clearly outweigh the identified harm resulting from the proposal such that green belt policy objectives would be met.
- 8.34 To support the basis of the above conclusion, two conditions are recommended. The first is to ensure that the use operates as described within the approved planning submission and not for any alternative and/or more generic education/ training purposes. Secondly, once the 5-year temporary approval has expired, the site will be required to be returned to its previous condition.

#### *Protected Green Space*

- 8.35 Policy CP7 seeks to safeguard all sport, recreation and green space facilities from loss or displacement to other uses, except where it can clearly be demonstrated that alternative facilities of a higher standard are being provided in at least an equally convenient and accessible location to serve the same local community, and there would be no loss of amenity or environmental quality to that community.
- 8.36 The development would not result in the loss of any part of an existing playing field. Whilst an area of green space would be removed from public use, this loss is only temporary in nature and as already discussed, a condition can be imposed to ensure the site is required to be returned to its previous condition once the development's temporary period expires. Moreover, the proposal would provide education with a proven link to existing sporting facilities which is supported by Sport England. Considering the circumstances of the site and the development, including the discussion in relation to the very special circumstances of this application, it is considered that whilst there is technically a conflict with policy CP7, the clear benefits of the proposal would outweigh this.
- 8.37 Overall, the principle of the development for a temporary period is acceptable on the basis that the described special circumstances clearly outweigh the identified harm and conflict with planning policies such that the proposal is acceptable in these regards.

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

- 8.38 Local and national planning policies and guidance seek to ensure that new development is well designed. 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.
- 8.39 Local development plan policies seek to ensure that new development is designed so that it adds to the overall quality of the area and respects the character of the site, its local context and surroundings, provides appropriate detailing that contributes to and enhances the distinctiveness of place; and contribute positively to the space between buildings and their relationship to the public realm. Policy DM1 and the Council's Design and Townscape Guide provide further details on how this can be achieved.
- 8.40 The development, comprising stacked container units, permeable surfacing and fencing would be reasonably integrated into the setting which is an existing 3G sports pitch and enclosed tennis/paddle ball courts with significant canopy within a wider sporting facility. The container

units when fully installed will represent a substantial feature and are of functional design. In the setting of the larger sports centre, they would not be significantly harmful to the character and appearance of the site and surroundings.

- 8.41 Several of the containers on site are painted navy blue to accord with the colours for Southend United. Several others are currently unpainted or finished in cream/white. Those that are unpainted or finished in white/cream appear in a poor state visually and clash with the navy-blue containers which results in a current development that fails to integrate suitably. To overcome this concern, it is considered reasonable to impose a condition to require that all container units on site are finished externally in navy blue to match those on site within 3 months of the date of an approval decision. It is reasonable in the circumstances of this case to remove permitted development rights in relation to the application of colour as the choice of colour could have an amplifying effect on the impact of the development.
- 8.42 As such, given the overall, size, scale, design and location of the development, it is considered that the proposal would not harm the character and appearance of the immediate site, the streetscene or the immediate surrounding area. The development is therefore acceptable and policy compliant in these regards.

### **Impact on Residential Amenity**

- 8.43 Local and national planning policies and guidance seek to secure high quality development which protects amenity. Policy DM1 of the Development Management Document specifically identifies that development should protect the amenity of the site, immediate neighbours, and surrounding area, having regard to privacy, overlooking, outlook, noise and disturbance, visual enclosure, pollution, and daylight and sunlight. Further advice on how to achieve this is set out in the Council's Design and Townscape Guide.
- 8.44 In terms of impact on nearby residential properties, the application site is within the existing Garon Park site and its associated profiles of external activity. The nearest dwellings approximately 400m south, outside of the complex and south of the dual carriageway (A1159). Due to the significant separation distances, it is not considered that the proposed development results in any demonstrable harm for nearby residential occupiers from visual or noise impacts. The development is therefore acceptable and policy compliant in these regards.

### **Traffic and Transport Implications**

- 8.45 The NPPF states (para 111) that "Development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety or, the residual cumulative impacts on the road network would be severe."
- 8.46 An additional level of traffic and parking demand would be expected from the operation of the educational facility. However, this would likely be minor in nature and reasonably capable of accommodation within the existing car parking facilities and surrounding highways. The wider Garon Park leisure facility is served by cycle parking and bus routes. No objections have been raised by the highways department.
- 8.47 The proposal is therefore considered to be policy compliant in terms of parking, traffic and highways matters.

### **Community Infrastructure Levy**

- 8.48 As the planning permission is for a temporary permission only, the application is not CIL Liable.

### **Equality and Diversity**

8.49 The Equality Act 2010 (as amended) imposes important duties on public authorities in the exercise of their functions and specifically introduced a Public Sector Equality Duty. Under this duty, public organisations are required to have due regard for the need to eliminate unlawful discrimination, harassment and victimisation, and must advance equality of opportunity and foster good relations between those who share a protected characteristic and those who do not. Officers have in considering this application and preparing this report had careful regard to the requirements of the Equalities Act 2010 (as amended). They have concluded that the decision recommended will not conflict with the Council's statutory duties under this legislation.

## **Conclusion**

8.50 Having taken all material planning considerations into account, it is found that subject to compliance with the attached conditions, the proposed development would be, in the round, acceptable and compliant with the objectives of the relevant local and national planning policies and guidance.

8.51 The development would provide education, sporting and community benefits in association with the existing use of the land. The development as a matter of principle is inappropriate development in the Green Belt and the physical impact resulting from the containers in-situ and as proposed, would in addition cause harm to the openness of the green belt. However, the relationship of this particular operational model for education, in this particular location and accessibility to this 3G sports pitch, create the particular synergies needed and which flow into the community infrastructure benefits to which significant weight should be given.

8.52 The development has been sited in a way as to reduce its prominence as far as reasonably practicable and as such, similar benefits could not be achieved through an alternative proposal within Southend as the chosen area of operation. Moreover, the harm identified both in relation to impact on the Green Belt and in relation to the impact on the designated Protected Open Space is only temporary in nature. Therefore, in this instance, it is considered that these factors collectively represent the very special circumstances needed to clearly outweigh the harm to the Green Belt caused by the proposal and, despite the conflict with local policy which seeks to protect open spaces, it is considered acceptable.

8.53 The proposed development is found to be acceptable and compliant with planning policy in all other regards. It is therefore recommended for approval subject to conditions.

## **9 Recommendation**

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

**01 The permission hereby granted is for a temporary period only. After the 1st November 2027, 5 years from the date of first use of the site for the purposes hereby approved, the use hereby approved shall cease and all containers and other structures shall be removed from the site and the land shall be returned to its condition when the previous authorised use was taking place.**

**Reason: For the avoidance of doubt and in accordance with the National Planning Policy Framework (2023) and Policies KP1 and KP2 of the Core Strategy (2007).**

**02 The development shall be carried out in accordance with the approved plans: 2231/F/101/P01 Rev 01; 2231/F/102/P01 Rev 01; 2231/F/103/P01 Rev 01; 2231/F/201/P01 Rev 01**

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

development plan.

- 03 Notwithstanding the information submitted with the application, within 3 months of the date of this decision, all containers presently on the site shall be painted and finished in navy blue to match the colour of those already painted in this colour. No other container shall be brought on site unless it has previously been painted in the same navy-blue colour. Notwithstanding the provisions of Part 2 of Schedule 2 of the Town and Country Planning (General Permitted Development) (England) Order 2015 as amended, or any similar provision on any act or statutory instrument revoking or re-enacting this Order, any change in colour at any part of the development hereby approved, shall only be carried out in accordance with details which have previously been submitted to and approved in writing by the Local Planning Authority pursuant to this condition.**

**Reason: To safeguard the character and appearance of the surrounding area in accordance with Policy DM1 and DM3 of the Development Management Document (2015) and Policies KP2 and CP4 of the Core Strategy (2007)**

- 04 No external lighting shall be installed on the site subject of this permission unless it is undertaken in complete accordance with details which have previously been submitted to and approved in writing by the Local Planning Authority under the provisions of this condition. Any external lighting approved and installed pursuant to this condition shall be maintained as such thereafter.**

**Reason: In the interests of the amenities of the area, in accordance with Policies DM1 and DM3 of the Development Management Document (2015) and Policies KP2 and CP4 of the Core Strategy (2007).**

- 05 The development hereby approved shall not be used for any other purpose other than for education and training purposes solely in association with and delivered by Southend United Community and Educational Trust (SUCET).**

**Reason: To reflect the very special circumstances of the application and its impact on the Green Belt and Protected Open Space, in accordance with the National Planning Policy Framework (2023) and Policies KP1, CP4 and CP7 of the Core Strategy (2007).**

### **Positive and Proactive Statement**

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

### **Informatives**

- 1 You are advised that in this instance, due to the temporary nature of the permission, the application is not liable for a Community Infrastructure Levy (CIL) charge.**
- 2 You should be aware that in cases where damage occurs during construction works to the highway in implementing this permission that the Council will 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 City.**

## APPENDICES

### Appendix 1- Course prospectus outlining educational programme BTEC Level 2 and 3

## COURSE SUMMARY

### BTEC Level 3 in Sports Coaching and Development Diploma and Extended Diploma

#### Academic Qualification Content

- Opportunity for a qualification, equivalent to three A-Levels
- Up to 12 hours of education per week
- 3 training sessions per week
- Competitive matches representing Southend United in a national league (CEFA)
- Modules include Health, Wellbeing and Sport; Sports Coaching, Careers in Sport, Sports Development, Anatomy and Physiology
- Assessed through weekly assignments across the two years.
- An opportunity to continue to study for English and Maths GCSE.

#### Our Programme

**Opportunity for a qualification, equivalent to three A-Levels**The Football & Education Programme is a revolutionary course offering many benefits which include:

- Gain a national recognised qualification whilst representing Southend United
- Coached by UEFA qualified coaches
- Train and play on our state of the art 3G AstroTurf at Garon Park
- Opportunities to progress into the Southend United Academy
- Showcase games at the heart of The Roots Hall Stadium
- Opportunity to gain valuable work experience at a professional football club
- Player data; player reviews and targets; Strength and conditioning support; USA scholarships; University; Diet and nutritional support; VEO (training and matchday analysis)

#### Prerequisites To Apply

- A minimum of 4 Level 4 Grades at GCSE (Maths and English are NOT mandatory) Or a BTEC Level 2 in Sport.
- Keen interest towards playing regular football.
- Commitment to follow high standards and expectations in a professional environment.

**For further information on the course please email [a.edmunds@southendunited-cet.co.uk](mailto:a.edmunds@southendunited-cet.co.uk)**



#### Associated Costs

The only cost associated with the course is a compulsory £100 which pays for the Southend United training kit.

***'Education teaches us how to achieve success'***



## BTEC Level 2 programme – Sports Industry Skills (Leading Children's Sports Activities)

BTEC Level 2 Diplomas in Sports Industry Skills are intermediate qualifications for post-16 learners who want to specialise in a specific occupation, occupational area or technical role. They prepare learners for work or an Apprenticeship by giving them the opportunity to develop sector-specific knowledge, technical and practical skills, and to apply these skills in work-related environments.

The qualifications also provide progression to Level 3 qualifications. BTEC Level 2 Diplomas in Sports Industry Skills develop transferable workplace skills, such as good communication and the ability to work in a team, which employers have identified as essential for gaining employment in the sector and for progression once the learner is working. At the core of these qualifications is the concept of preparing young people for the working world. Through practical activities and occupationally fit-for-purpose assessments, learners will gain the skills and behaviours needed for sustainable employment.

### Academic Qualification Content

All the content of the qualification is mandatory and relates directly to the skills, knowledge and behaviours expected by employers in the sport and active leisure sector. The areas you will cover include:

- Ways in which people participate in sport and physical activity
- Jobs in the sport and activity leisure industry
- Personal skills and professional behaviours for working in the active leisure industry
- The school environment and National Curriculum
- The children's sport leader role within the organisation
- Planning and leading children's sports activity sessions
- Sports industry legislation and guidance

You will also cover broader skills in literacy and numeracy, which will help you to progress. You will develop other transferable technical and practical skills in communication (working with colleagues, customers and clients), and selfmanagement and problem-solving skills.



### Our Programme

The Football & Education Programme is a revolutionary course offering many benefits which include:

- Gain a national recognised qualification whilst representing Southend United
- Coached by UEFA qualified coaches
- Train and play on our state of the art 3G AstroTurf at Garon Park
- Opportunities to progress into the Southend United Academy
- Showcase games at the heart of The Roots Hall Stadium
- Opportunity to gain valuable work experience at a professional football club
- Player data; player reviews and targets; Strength and conditioning support; Diet & nutritional support; VEO (training and matchday analysis)

### Prerequisites To Apply

A minimum of 3 Level 4 Grades at GCSE (Maths and English are NOT mandatory) or A BTEC Level 1 in Sport / Sports related qualification.

Keen interest towards playing regular football.

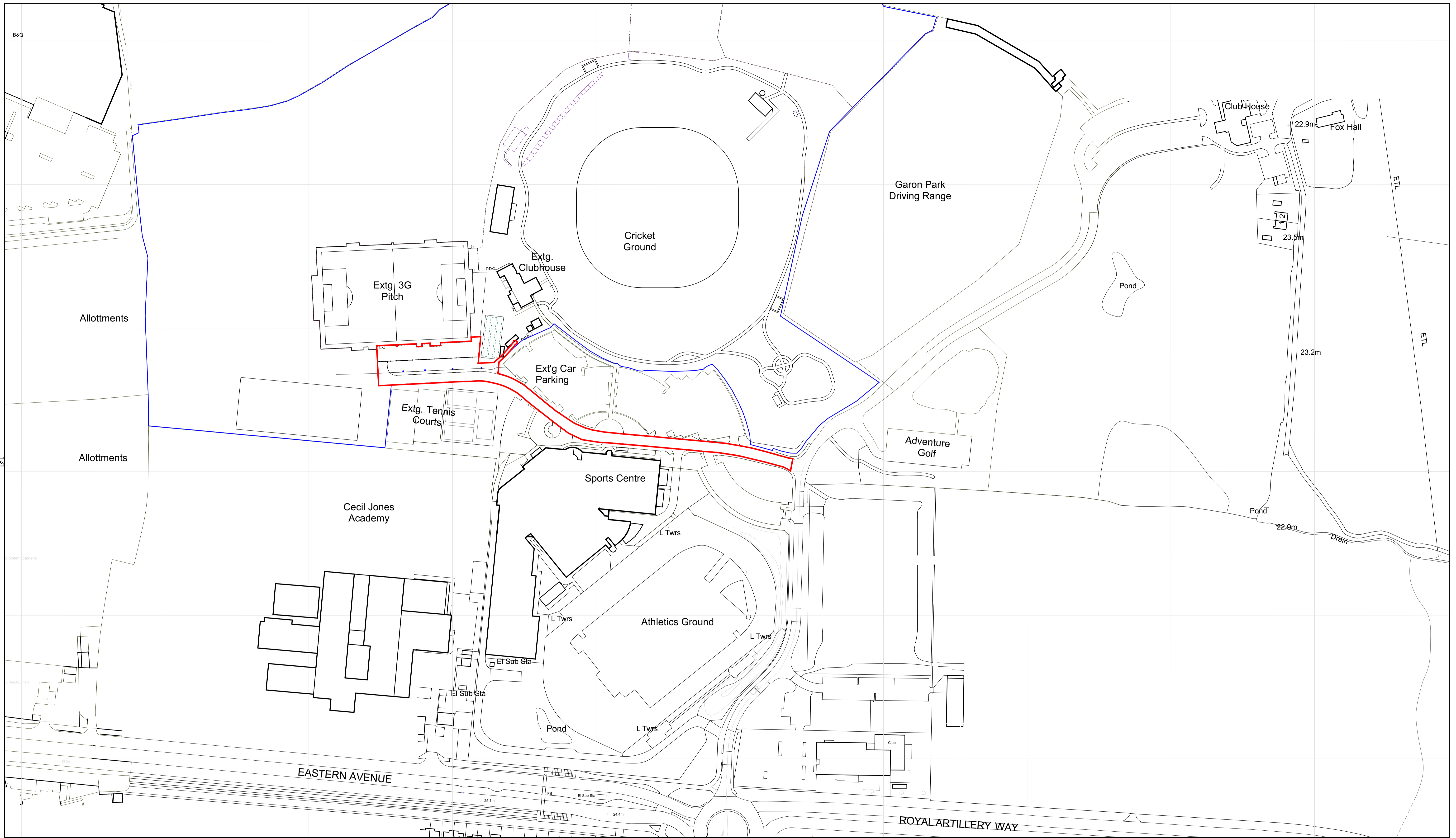
Commitment to follow high standards and expectations in a professional environment.

For further information on the course please email [a.edmunds@southendunited-cel.co.uk](mailto:a.edmunds@southendunited-cel.co.uk)

**ASSOCIATED COSTS:** The only cost associated with the course is a compulsory £100 which pays for the Southend United training kit.

# Appendix 2- Typical Timetable

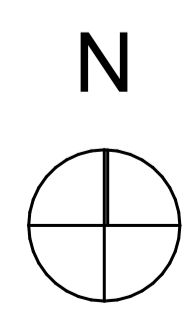
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Monday	SUCET - Year 1 Level 2 Alex	Training on 3G pitch	SUCET - Year 2 Level 3 Alfie
	SUCET - Year 1 Level 2 Alfie		SUCET - Year 2 Level 3 Zac
	SUCET - Year 1 Level 3 Zac		SUCET - Year 2 Level 3 Stuart
Charlotte	English G1 9:30 - 11:00		
Michael	Maths G1 9:15-10:40		Maths G4 2:15-3:40
Tuesday	SUCET - Year 2 Level 3 Alfie	Training on 3G pitch	SUCET - Year 1 Level 2 Alex
	SUCET - Year 2 Level 3 Zac		SUCET - Year 1 Level 2 Alfie
	SUCET - Year 2 Level 3 Stuart		SUCET - Year 1 Level 3 Zac
Charlotte	English G2 9:20 - 10:50		
Michael	Maths G5 9:15-10:40		Maths G3 2:15-3:40
Wednesday	Match Day - 3G pitch		
Thursday	SUCET - Year 2 Level 3 Alfie	Tutorials / Rehab session (1 hr)	SUCET - Year 1 Level 2 Alex
	SUCET - Year 2 Level 3 Zac		SUCET - Year 1 Level 2 Alfie
	SUCET - Year 2 Level 3 Stuart		SUCET - Year 1 Level 3 Zac
Charlotte	English G4 9:20-10:50		
Michael	Maths G7 9:15-10:40		Maths G8 10:40 - 12:10
Friday	SUCET - Year 1 Level 2 Alex	Training on 3G pitch	SUCET - Year 2 Level 3 Alfie
	SUCET - Year 1 Level 2 Alfie		SUCET - Year 2 Level 3 Zac
	SUCET - Year 1 Level 3 Zac		SUCET - Year 2 Level 3 Stuart



Site Location Plan

1:1250

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Rev	Description	Date
01	First Issue	05.07.23

Date	July'23	Scale	1:1250 @A1
Status	Planning		
Project	Garon Park Community Interest Company Garon Park Masterplan Garons Park Southend on Sea SS2 4FA		

Title	Site Location Plan 1:1250		
Dig No.	2231/F/101/P01		
Post	6 Riverside House Lower Southend Road Wickford, SS11 8BB.		
Tel	01268 562266		
Email	info@ayshford.com		

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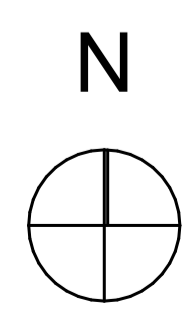
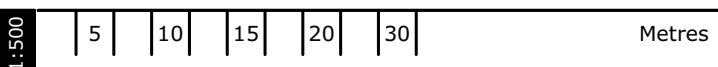


Existing Block Plan

1:500

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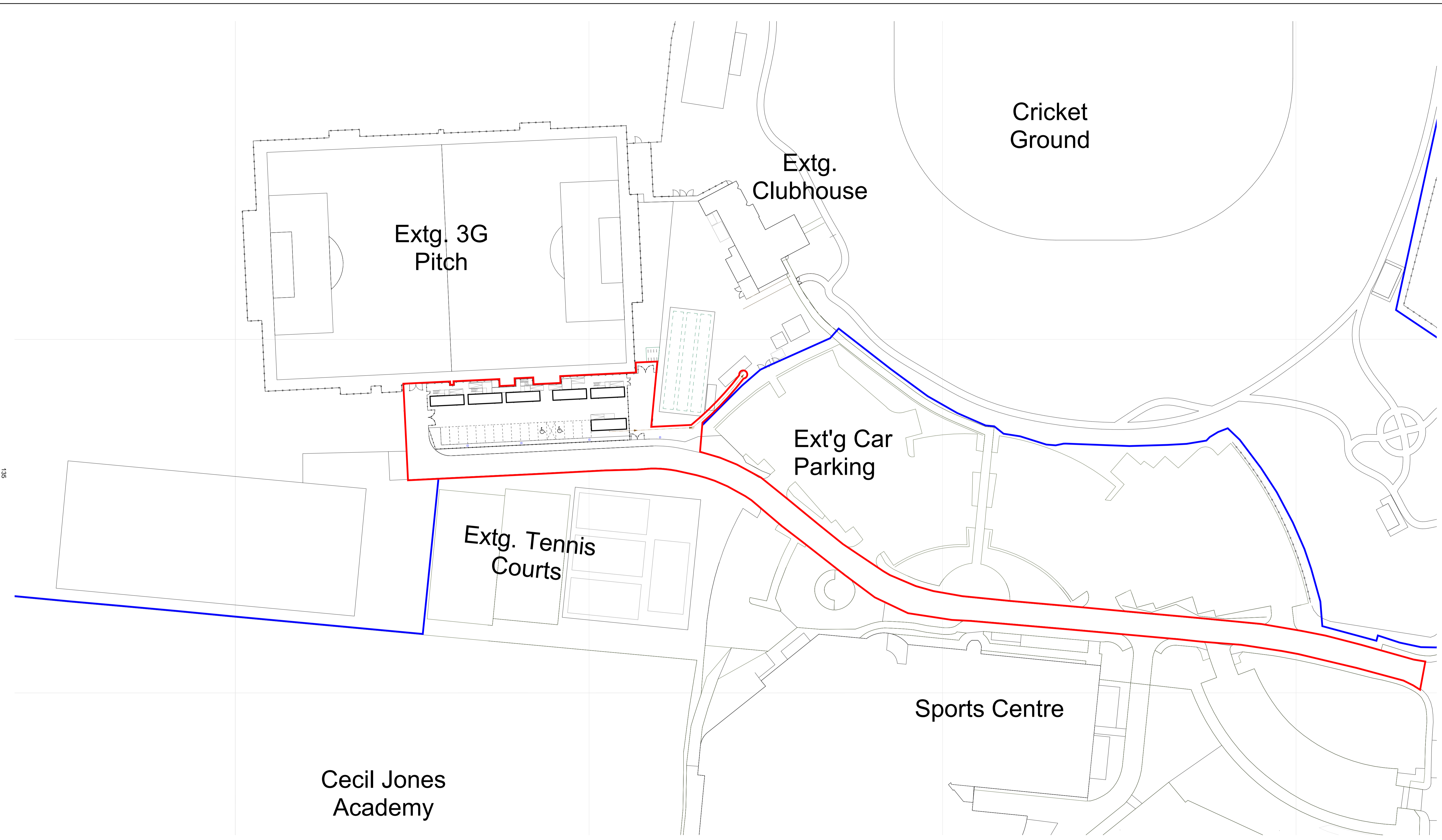
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Chartered Architects	Post	6 Riverside House Lower Southend Road Wickford, SS11 8BB.	
	Tel	01268 562266	
	Email	info@ayshford.com	

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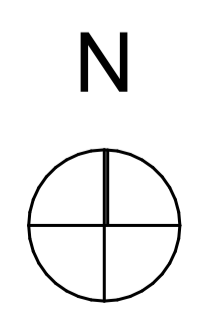
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Proposed Block Plan

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 5 10 15 20 30 Metres



Rev	Description	Date
01	First Issue	05.07.23

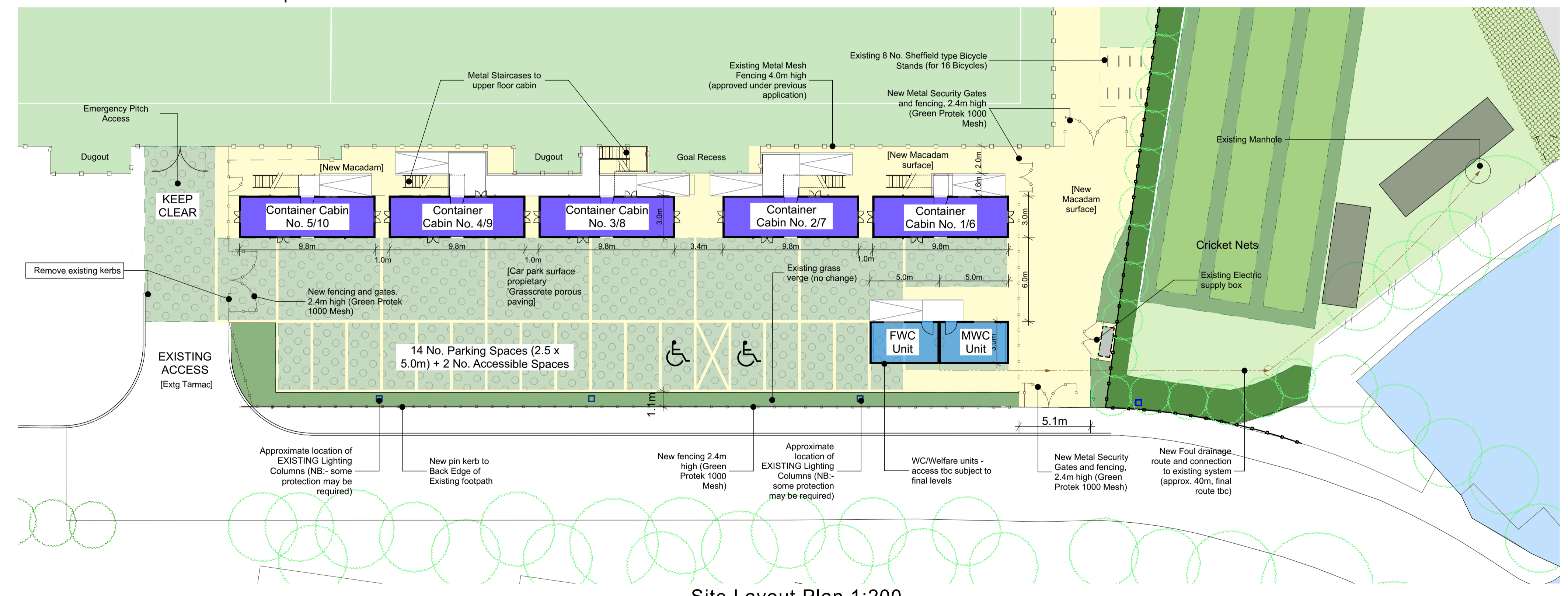
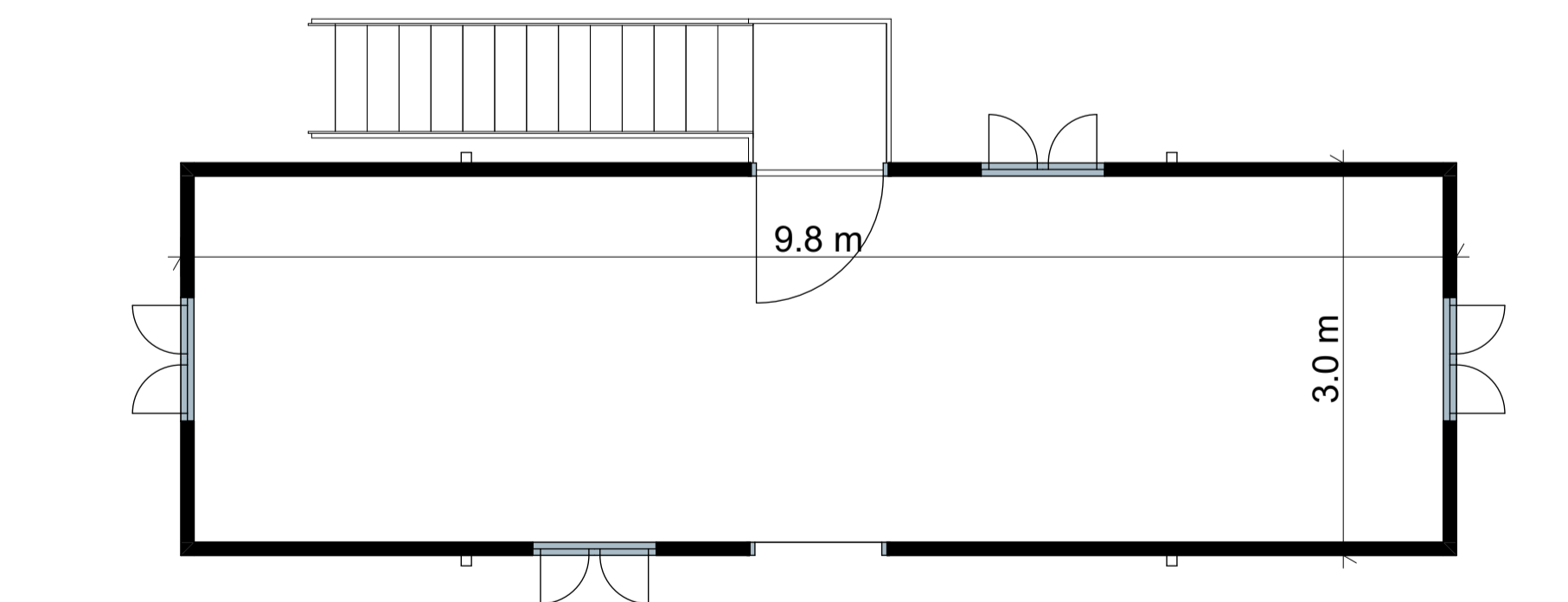
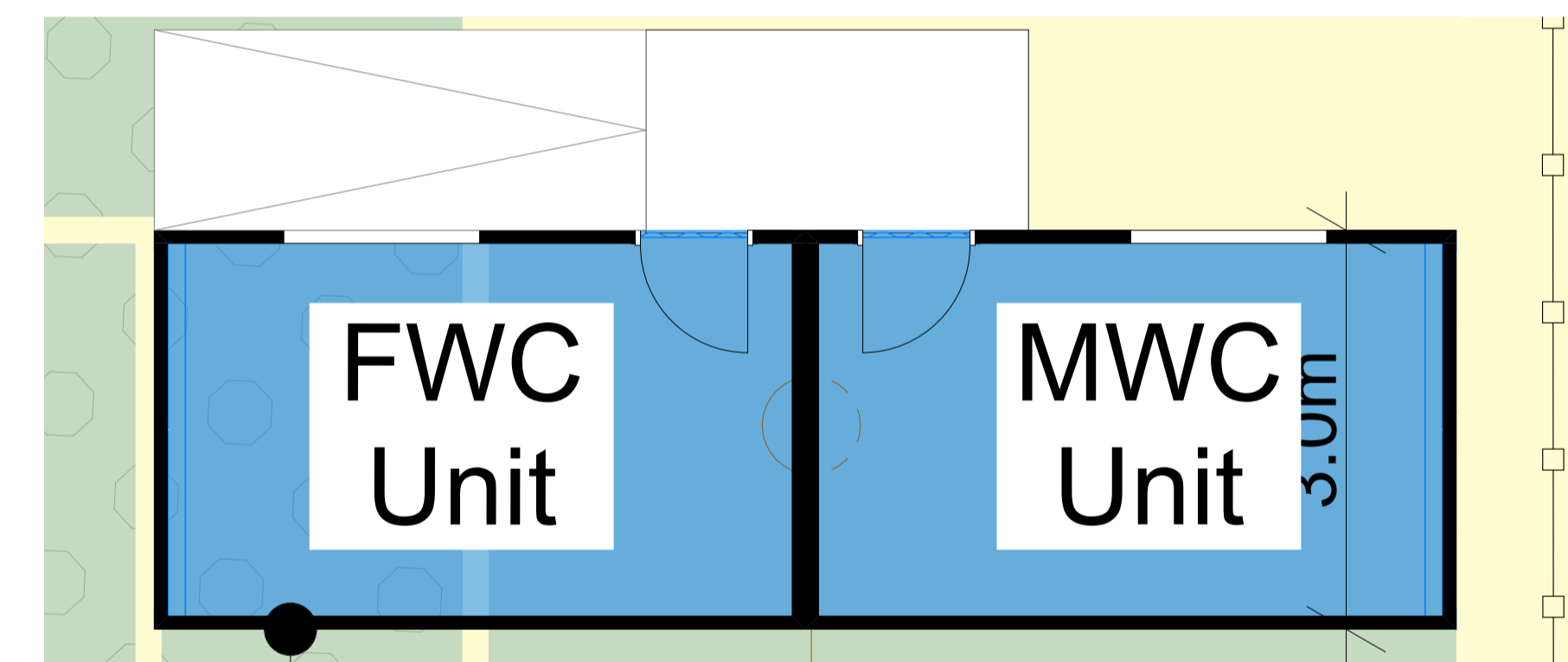
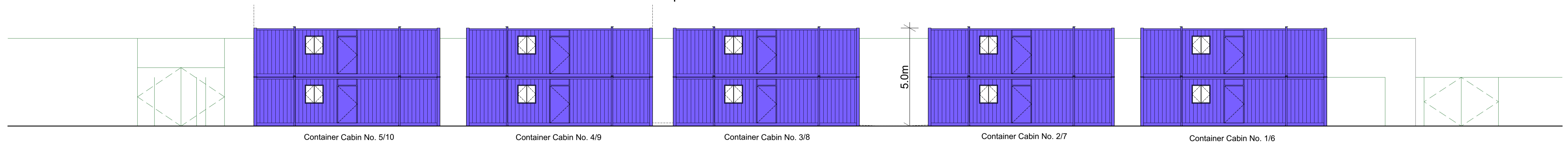
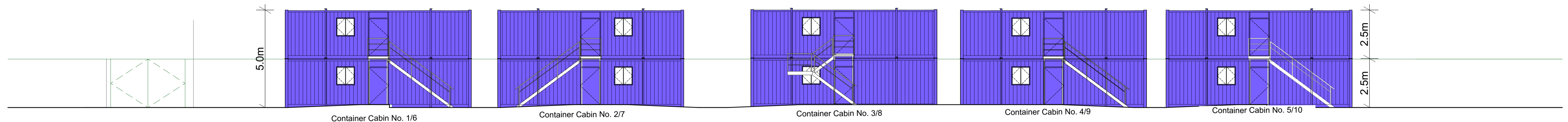
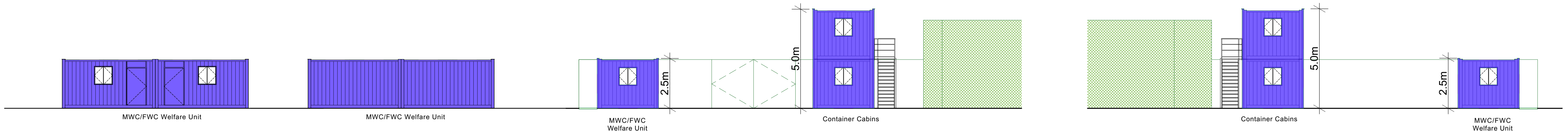
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Title	Proposed Block Plan		
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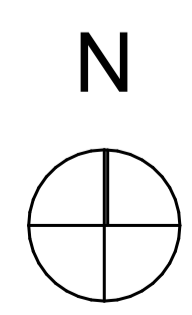
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1	5	Metres	
1	5	10	Metres

©:12322 - Garon Park CIC - New 3G Pitch and Changing Rooms/01\_ASA Drawings/1.2 ARCH/CAD/Modelink Modules/2331 - SUCET Planning June 2023v2.pjn



Rev	Description	Date
01	First Issue	05.07.23

Date	July'23	Scale	1:200, 1:100, 1:50 @A1
Status	Planning		
Project	Garon Park Community Interest Company Garon Park Masterplan Garon Park Southend on Sea SS2 4FA		

Title	Site Plan and Elevations		
Dwg No.	2231/F/201/P01		
Post	6 Riverside House Lower Southend Road Wickford, SS11 8BB.		
Tel	01268 562266		
Email	info@ayshford.com		

**AYSHFORD**  
**SANSOME**

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<b>Reference:</b>	22/00341/UNAU_B	<h1>7</h1>
<b>Report Type:</b>	Enforcement	
<b>Ward:</b>	Eastwood Park	
<b>Breach of Planning Control:</b>	Erection of dormers not in accordance with planning permission (21/02453/FULH) granted on appeal	
<b>Address:</b>	15 Leslie Close, Eastwood, Essex, SS9 5NP	
<b>Case Opened Date:</b>	15.12.2022	
<b>Case Officer:</b>	Gabriella Fairley	
<b>Recommendation:</b>	<b>AUTHORISATION TO CLOSE CASE</b>	



## 1 Site and Surroundings

- 1.1 The application site contains a detached former bungalow recently converted into a chalet style dwelling which is situated on the south side of Leslie Close, a cul-de-sac comprising pairs of (side) gabled semi-detached bungalows of similar size, scale and traditional design.
- 1.2 The position of the application dwelling on a slight bend in the road is such that the immediate neighbouring properties are set at an angle away from the application dwelling. It has a side access to its western elevation some 2m wide.
- 1.3 The wider streetscene along nearby Leslie Drive is slightly more diverse although the predominant built form comprises semi-detached bungalows. The bungalows are of varying scale and design. A number of the bungalows within Leslie Drive have been extended and converted into chalets, with habitable accommodation at first floor level.
- 1.4 The site is not within a conservation area or subject to any site-specific planning policies.

## 2 Lawful Planning Use

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

## 3 Relevant Planning History

- 3.1 The most relevant planning history of the application site is shown in Table 1 below:

Table 1: Relevant Planning History of the Application Site

Reference	Description	Outcome
21/01733/FULH	Raise ridge height and install dormers to sides to form habitable accommodation in the loftspace, erect single storey rear extension.	Refused [11.10.2021]
21/02453/FULH	Raise ridge height and form hipped to gable roof extension, install dormers to front and rear to form habitable accommodation in the loftspace, erect single storey rear extension (amended proposal)	Refused by Southend-on-Sea City Council 11.02.22 Granted on appeal [17.06.2022]
22/02471/AMDT	Application to vary conditions 02 (Approved Plans) and 03 (Materials) replace plan number CAD/PP/21499/002 Revision C with CAD/PP/21499/002 Revision E (Minor Material Amendment of Planning Permission 21/02453/FULH allowed on appeal dated 17/06/2021	Refused (03.03.23)
22/00341/UNAU_B_01	Enforcement Notice	Issued on 19.04.2023 Took effect on 16.05.2023

## 4 Planning Policy Summary

- 4.1 The National Planning Policy Framework (NPPF) (2023)
- 4.2 Planning Practice Guidance (PPG) (2023)
- 4.3 National Design Guide (NDG) (2021)
- 4.4 Core Strategy (2007): Policies KP2 (Development Principles), CP3 (Transport and Accessibility), CP4 (Environment and Urban Renaissance).
- 4.5 Development Management Document (2015): Policies DM1 (Design Quality), DM3 (Efficient and Effective Use of Land), DM15 (Sustainable Transport Management).
- 4.6 The Southend-on-Sea Design and Townscape Guide (2009)
- 4.7 Community Infrastructure Levy (CIL) Charging Schedule (2015)

## **5 Procedural Matters**

- 5.1 This case is presented to the Development Control Committee because officers consider it would not be expedient to seek further action to secure further compliance with the enforcement action previously authorised by the Committee.

## **6 The planning breach**

- 6.1 The identified breach of planning control is:
  - The erection of dormers not in accordance with planning permission (21/02453/FULH).

## **7 Efforts to resolve the breach to date**

- 7.1 In March 2023, this enforcement case was presented at Development Control Committee seeking authorisation to take enforcement action. On 16<sup>th</sup> May 2023, the Enforcement Notice took effect, giving the owner 3 calendar months to comply with the notice. The Enforcement Notice is attached as Appendix A.
- 7.2 A site visit was recently conducted, this has established that, in accordance with the notice, the black vertical cladding has been removed in its entirety and has been replaced with the approved white render, including at first-floor level rising up to the apex of the gables, and to the rear dormer. The first-floor doors in the rear face of the rear dormer have been replaced with the approved windows.
- 7.3 However, the front dormers have not been finished in render as per the approved plans ref CAD/PP/21499/002 Revision C as technically required by the notice and instead are finished in the original roof tiles. The roof tiles have also not been replaced with grey tiles as required by the notice and instead the original roof tiles have been used.

## **8 Appraisal of the harm caused**

- 8.1 Although the enforcement notice has not been fully complied with and there remains technically a variance from the details shown on the plan approved at appeal, it is considered that the front dormer finishes and use of the original roof tiles which are in keeping with the streetscene, does not result in any significantly harmful impacts to the character and appearance of the host dwelling or the streetscene more widely.

- 8.2 Were the owner to submit an application to formalise such variations staff consider that they would be highly likely to be approved. Staff are also mindful that the submission of a planning application should not be insisted upon in such technical cases of limited consequence.
- 8.3 In the absence of any identified harm, staff consider that the original breach has been adequately addressed and that it is proportionate and justified in the circumstances of the case to close this enforcement case. The enforcement notice will stay on the land, and it is not recommended to withdraw it. However, given that taking legal action for non-compliance with the requirements of an enforcement notice is discretionary and has to satisfy the public interest test, the Local Planning Authority is entitled to close the case in the circumstances of this case.

### **Equality and Diversity Issues**

- 8.4 The Equality Act 2010 (as amended) imposes important duties on public authorities in the exercise of their functions and specifically introduced a Public Sector Equality Duty. Under this duty, public organisations are required to have due regard for the need to eliminate unlawful discrimination, harassment and victimisation, and must advance equality of opportunity and foster good relations between those who share a protected characteristic and those who do not. Officers have in considering this application and preparing this report had careful regard to the requirements of the Equalities Act 2010 (as amended). They have concluded that the decision recommended will not conflict with the Council's statutory duties under this legislation.

## **9 Recommendation**

- 9.1 **AUTHORISE CLOSURE OF THE ENFORCEMENT CASE**



## Appendix A: Enforcement Notice

### **ENFORCEMENT NOTICE**

**IMPORTANT: THIS COMMUNICATION AFFECTS YOUR PROPERTY**

**TOWN AND COUNTRY PLANNING ACT 1990**  
(as amended by the Planning and Compensation Act 1991)

**ENFORCEMENT NOTICE**  
(Ref. No.: 22/00341/UNAU\_B/01)

**ISSUED BY:** SOUTHEND-ON-SEA CITY COUNCIL

**TO:** See Schedule hereto

1. **THIS IS A FORMAL NOTICE** which is issued by the Council because it appears to the Council that there has been a breach of planning control, under Section 171A(1)(a) of the above Act, at the land described below. The Council considers that it is expedient to issue this Notice, having regard to the provisions of the Development Plan and to other material planning considerations.
2. **THE LAND AFFECTED**  
  
15 Leslie Close, Leigh-on-Sea, SS9 5NP, shown edged in black on the attached location plan at Annex B.
3. **THE BREACH OF PLANNING CONTROL ALLEGED**
  - a. Erection of dormers.
4. **REASONS FOR ISSUING THIS NOTICE**
  - 4.1 It appears to the Council that the above breach of planning control has occurred within the last four years and the Council considers it is expedient to issue this Notice for the following reasons:
  - 4.2 In December 2022 an enforcement case was opened following construction of two dormers at 15 Leslie Close, which were in breach of planning conditions attached to planning permission 21/02453/FULH, which was granted on appeal on 17 June 2022.
  - 4.3 In December 2022 a planning application was submitted, reference 22/02471/AMDT, seeking to vary conditions 02 (approved plans) and 03 (materials) to regularise the unauthorised development. That application was refused at Development Control Committee in March 2023 and enforcement action was authorised.
  - 4.4 It is noted that there is no objection to the limited enlargement to the depth of the rear dormer. However, the black vertical cladding at first-floor level rising up to the apex of the gables and to the rear dormer, by reason of its material and detailed design, is significantly out of keeping and at odds with the traditional design and materials of the original application property and the existing bungalows in the immediate streetscene, appearing unduly prominent and incongruous to the significant detriment of the character and appearance of the dwelling, the streetscene, the rear garden scene and the wider surrounding area. The development is therefore unacceptable and contrary to local and national policies and guidance.

- 4.5 The unauthorised first-floor rear doors installed to the dormer on the site are also considered to cause harm to the residential amenity of neighbouring occupiers because they provide a way of access to the flat roof of the single storey rear extension which could be used for external amenity. Should the flat roof of the rear extension be used for external amenity, significant amenity harm would be caused with regard to loss of privacy and overlooking to the occupiers of the adjoining neighbouring dwellings, particularly No.14 and No.16 Leslie Close, in conflict with local and national planning policies. At paragraph 15 of the appeal decision for the application 21/02453/FULH the Appeal Inspector said: "The flat-roofed single storey extension to the rear could be used for amenity purposes and, therefore, I agree that a condition prohibiting this is necessary to protect neighbouring occupiers' privacy." This aspect of the development is also unacceptable and contrary to policies.
- 4.6 The development is therefore unacceptable and contrary to the National Planning Policy Framework (2021), Policies KP2 and CP4 of the Core Strategy (2007), Development Management Document (2015) Policies DM1 and DM3 and the guidance contained within the National Design Guide (2021) and the Southend-on-Sea Design and Townscape Guide (2009). Given the harm identified above, it is reasonable, expedient and in the public interest to pursue enforcement action in the circumstances of this case.
- 4.7 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.

5. WHAT YOU ARE REQUIRED TO DO

- (a) Build the development in full accordance with approved plan numbers CAD/PP/21499/001 and CAD/PP/21499/002 Revision C pursuant to planning permission reference 21/02453/FULH allowed on appeal 17 June 2022 and to include the external materials white render, white uPVC windows and grey roof tiles and to include the first-floor windows in the rear face of the rear dormer replacing the unauthorised doors; or
- (b) Remove the unauthorised external black vertical cladding material in its entirety and replace with the approved white render, including at first floor level rising up to the apex of the gables and to the rear dormer and remove the first-floor doors in the rear face of the rear dormer and replace with the approved windows;
- (c) Remove from site all materials resulting from compliance with a) or b).

Time for compliance: - 3 calendar months after this Notice takes effect.

6. WHEN THIS NOTICE TAKES EFFECT

This Notice takes effect on 16<sup>th</sup> May 2023 unless an appeal is made against it beforehand.

DATED this 19<sup>th</sup> day of April 2023

Signed:



**Giles Gilbert**  
**Director of Legal Services**

on behalf of: SOUTHEND-ON-SEA CITY COUNCIL, Civic Centre, Victoria Avenue, Southend-on-Sea, Essex, SS2 6ER

THE SCHEDULE

The owner(s)/occupier(s)  
15 Leslie Close  
Leigh-on-Sea  
Essex  
SS9 5NP

Brandon Joseph Wilkins  
15 Leslie Close  
Leigh-on-Sea  
SS9 5NP

Nicola Wilkins  
15 Leslie Close  
Leigh-on-Sea  
SS9 5NP



## **ANNEX A**

### **YOUR RIGHT OF APPEAL**

You can appeal, in writing, against this notice, but any appeal must be **received**, or posted in time to be **received**, by the Planning Inspectorate acting on behalf of the Secretary of State **before** the date specified in paragraph 6 of the notice.

When giving notice of appeal or within 14 days from the date on which the Secretary of State sends you a notice requiring you, you must submit a statement in writing specifying the grounds on which you are appealing against the enforcement notice and stating briefly the facts on which you propose to rely in support of each of those grounds.

### **GROUND OF THE APPEAL**

An appeal may be brought on any of the following grounds:

- a. that, in respect of any breach of planning control which may be constituted by the matters stated in the notice, planning permission ought to be granted or, as the case may be, the condition or limitation concerned ought to be discharged.
- b. that those matters have not occurred.
- c. that those matters (if they occurred) do not constitute a breach of planning control.
- d. that, at the date when the notice was issued, no enforcement action could be taken in respect of any breach of planning control which may be constituted by those matters.
- e. that copies of the enforcement notice were not served as required by section 172.
- f. that the steps required by the notice to be taken, or the activities required by the notice to cease, exceed what is necessary to remedy any breach of planning control which may be constituted by those matters or, as the case may be, to remedy any injury to amenity which has been caused by any such breach.
- g. that any period specified in the notice in accordance with section 173(9) falls short of what should reasonably be allowed.

### **FEE PAYABLE FOR THE DEEMED APPLICATION**

If your ground of appeal is, or includes ground (a) (that planning permission should be granted), for the deemed application for planning permission, under regulation 10 of the Town and Country Planning (Fees for Applications, Deemed Applications, Requests and Site Visits) (England) Regulations 2012, you must pay a fee, which is double that payable for a normal application. The fee payable is £412 (£206 x 2).

### **WHAT HAPPENS IF YOU DO NOT APPEAL**

If you do not appeal against this enforcement notice, it will take effect on the date specified in paragraph 7 of the notice and you must then ensure that the required steps for complying with it, for which you may be held responsible, are taken within the period(s) specified in paragraph 6 of the notice.

Failure to comply with an enforcement notice which has taken effect can result in prosecution and/or remedial action by the Council. It is an offence not to comply with an enforcement notice, once the period for compliance has elapsed, and there is no outstanding appeal. A person guilty of an offence is liable, on summary conviction, to a fine currently not exceeding £20,000 or on conviction on indictment to an unlimited fine.

**ANNEX B**

15 Leslie Close, Leigh-on-Sea, Essex, SS9 5NP





Customer Support Team  
Temple Quay House  
2 The Square  
Temple Quay  
Bristol  
BS1 6PN

Direct Line: 0303 444 5000

Email: [enquiries@planninginspectorate.gov.uk](mailto:enquiries@planninginspectorate.gov.uk)

## THIS IS IMPORTANT

If you want to appeal against this enforcement notice you can do it:-

- online at the [Appeals Casework Portal](https://acp.planninginspectorate.gov.uk/) (<https://acp.planninginspectorate.gov.uk/>); or
- sending us enforcement appeal forms, which can be obtained by contacting us on the details above.

**You MUST make sure that we RECEIVE your appeal BEFORE the effective date on the enforcement notice.**

Please read the appeal guidance documents at <https://www.gov.uk/appeal-enforcement-notice/how-to-appeal>.

In exceptional circumstances you may give written notice of appeal by letter or email. You should include the name and contact details of the appellant(s) and either attach a copy of the Enforcement notice that you wish to appeal or state the following:

- the name of the local planning authority;
- the site address; and
- the effective date of the enforcement notice.

We MUST receive this BEFORE the effective date on the enforcement notice. This should immediately be followed by your completed appeal forms

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All works commenced prior to planning consent and building regulations approval is at contractors/clients own risk.

Where existing structure is to be adapted, where affected all existing foundations, walls and lintels/ beams to be exposed and checked for suitability prior to commencement of works with all findings to be reported to agent and building inspector and where necessary a structural engineer to undertake additional design calculations to prove adequacy.

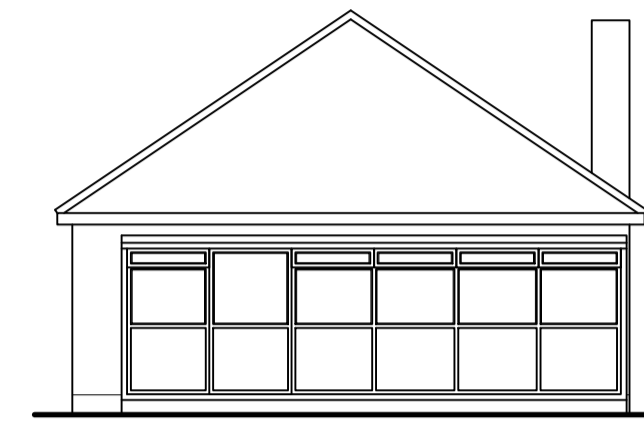
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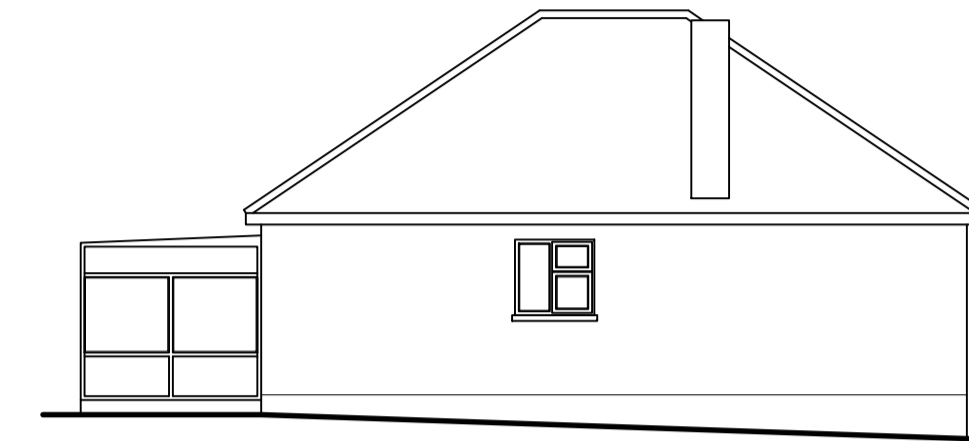
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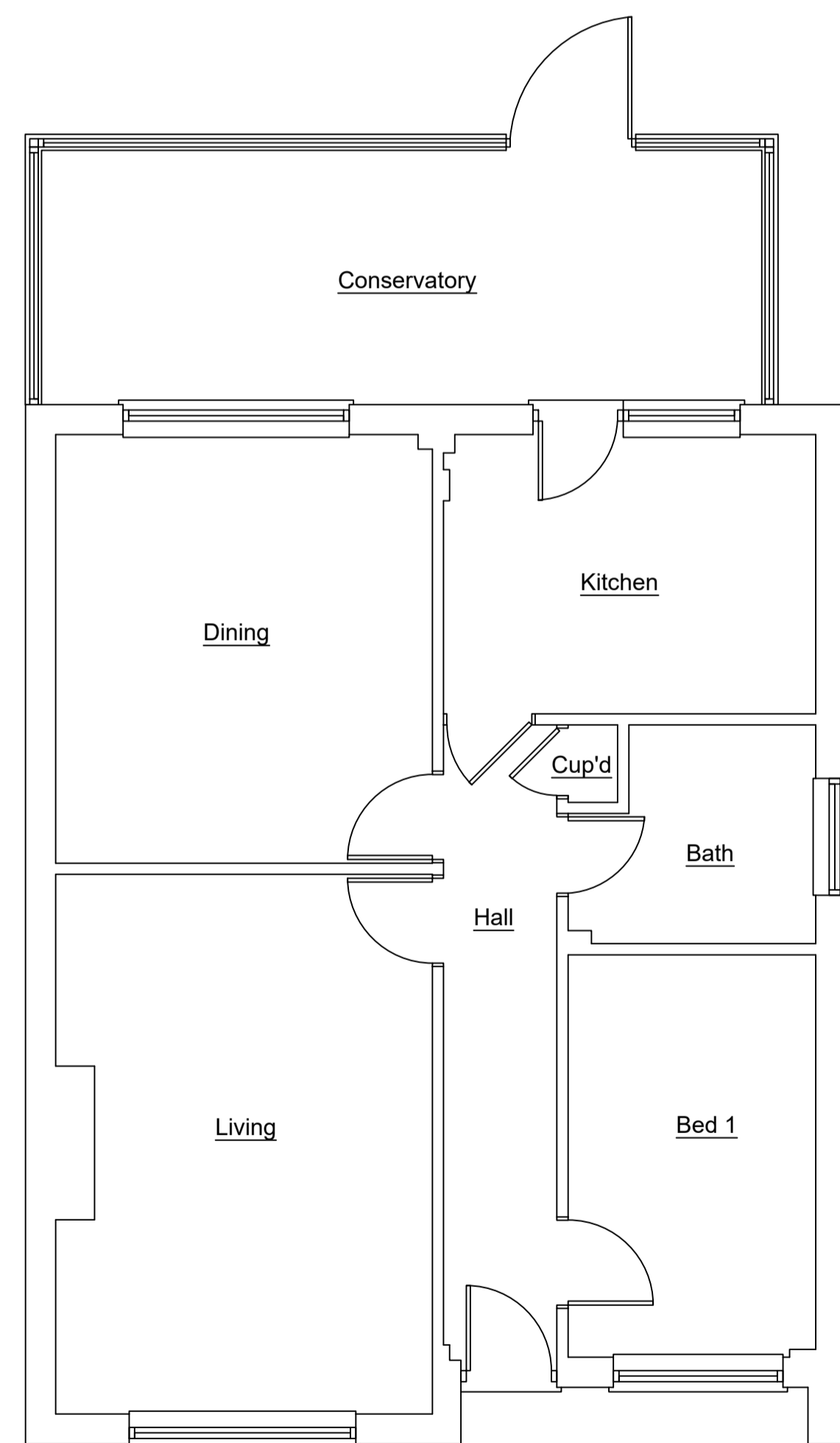
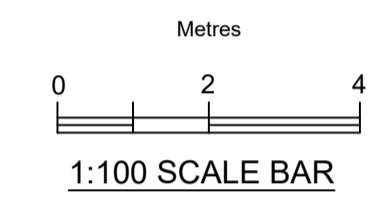
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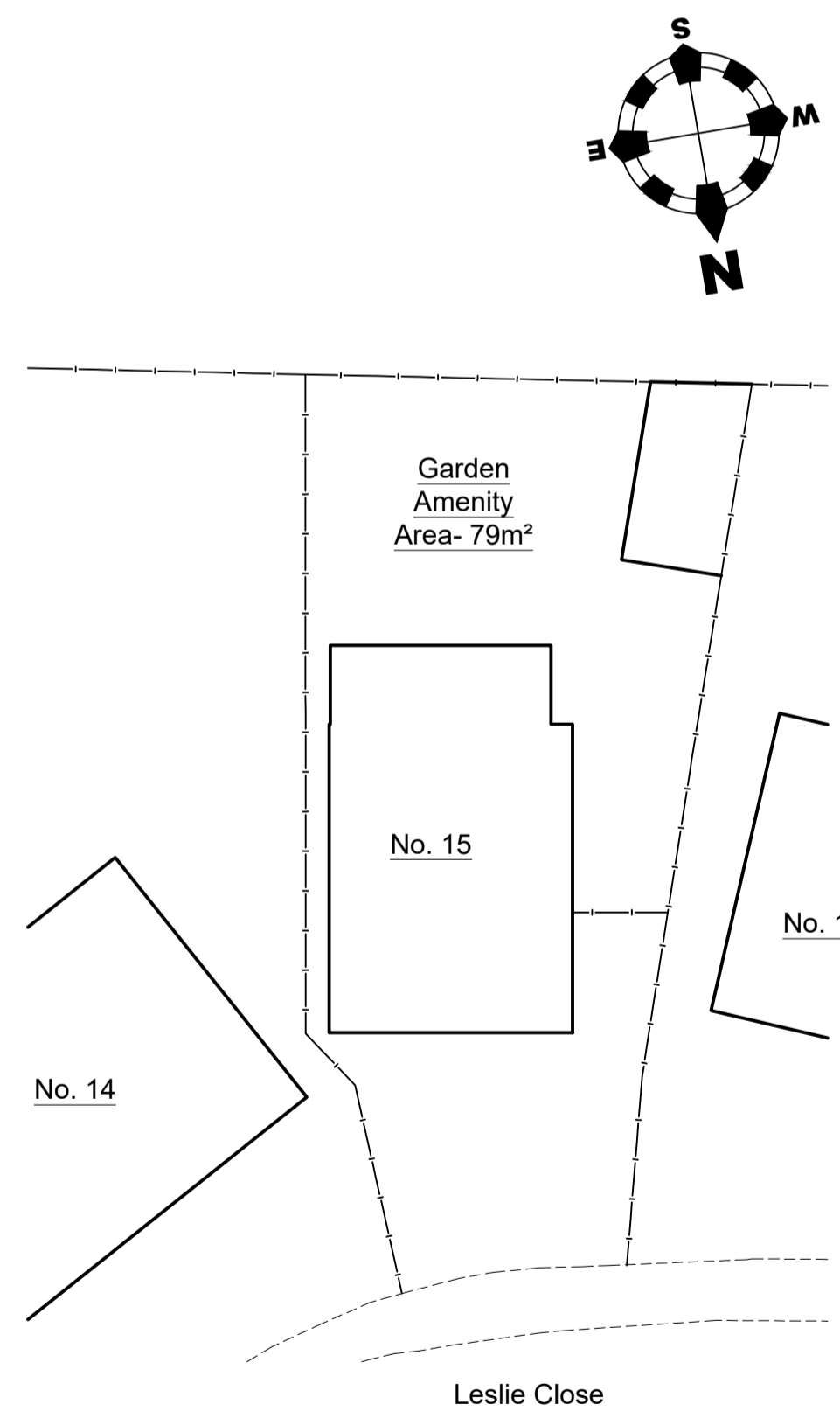
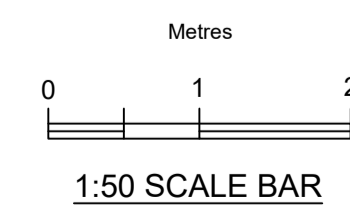
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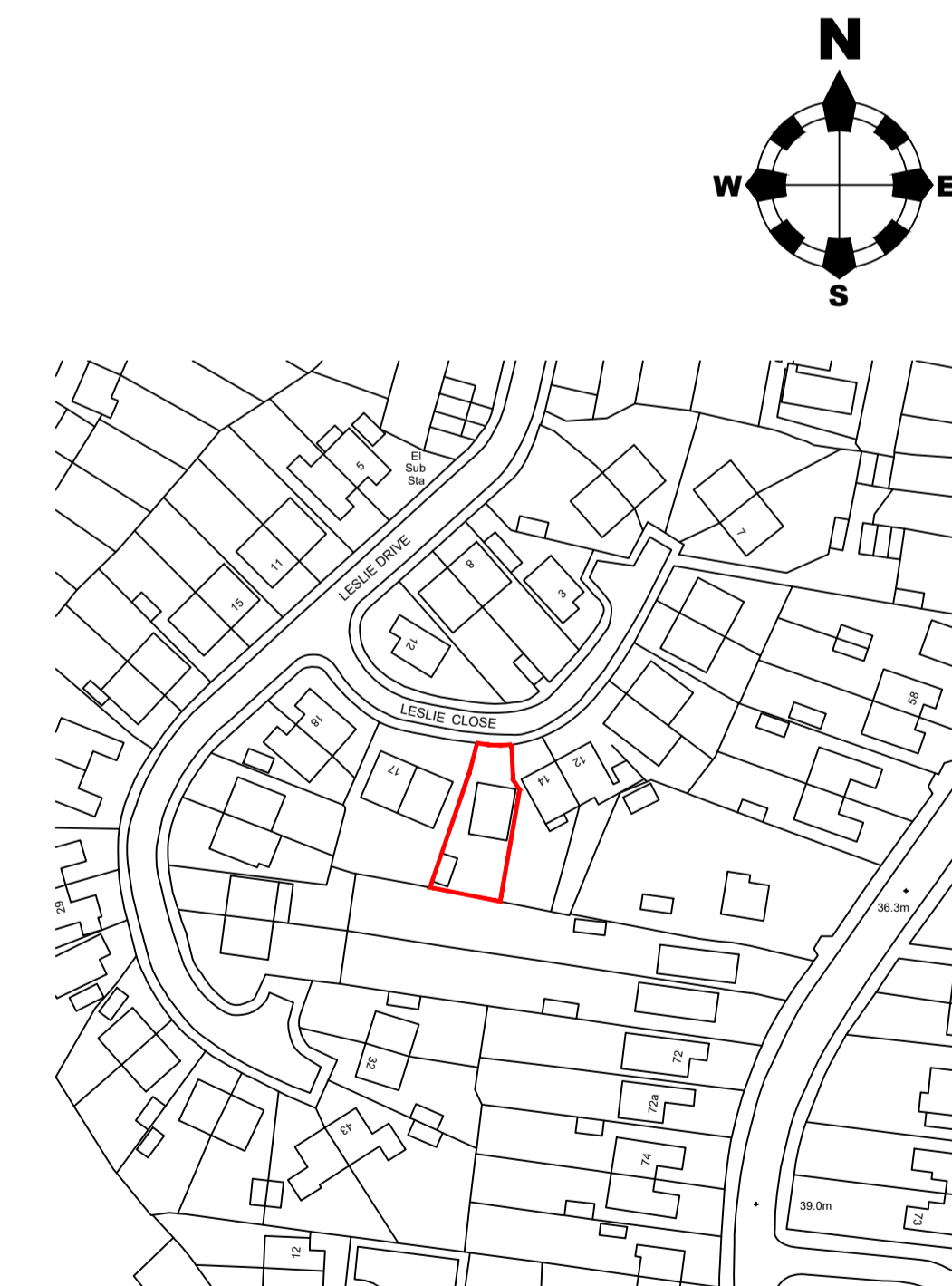
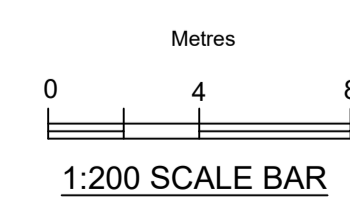
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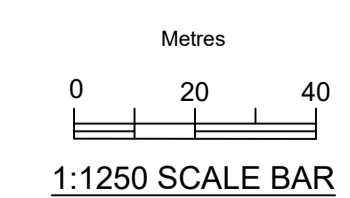
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EXISTING SITE PLAN  
SCALE 1:200



LOCATION PLAN  
SCALE 1:1250



Rev	Date	By	Description	Chk'd

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ARCHITECTURAL DESIGN & PLANNING

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www.contour-designs.co.uk | enquiries@contour-designs.co.uk

client: **Tony Wilkins**

address: **15 Leslie Close  
Leigh-on-Sea  
Essex  
SS9 5NP**

site: **As Above**

title: **Property as Existing**

scale: **1:50/1:100/1:200/1:1250 on A1** drawn by: **AR**  
date: **29/07/2021** checked:

drawing no: **CAD/PP/21499/001**

size: **A1** sheet no: **Sheet 1 of 1** revision:

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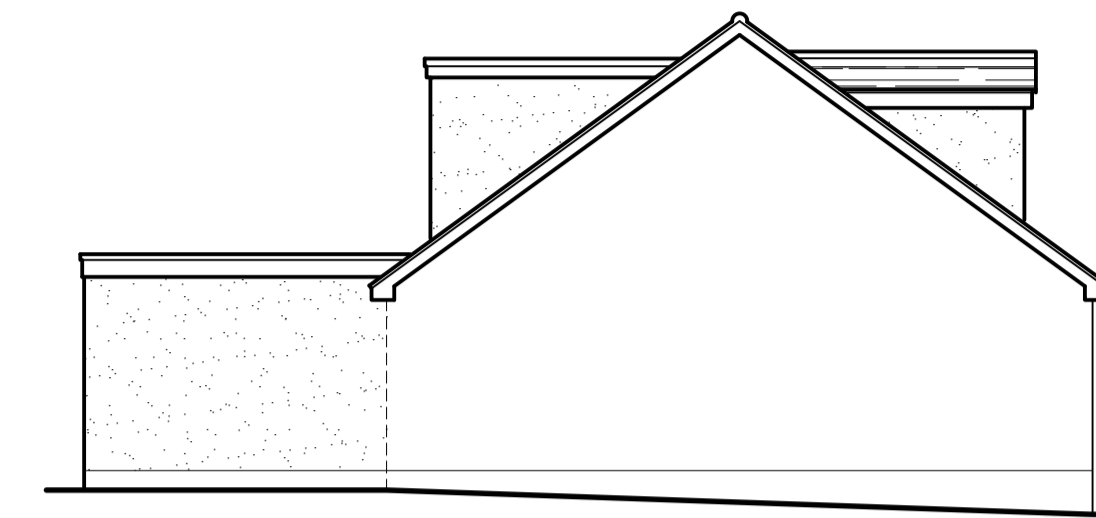
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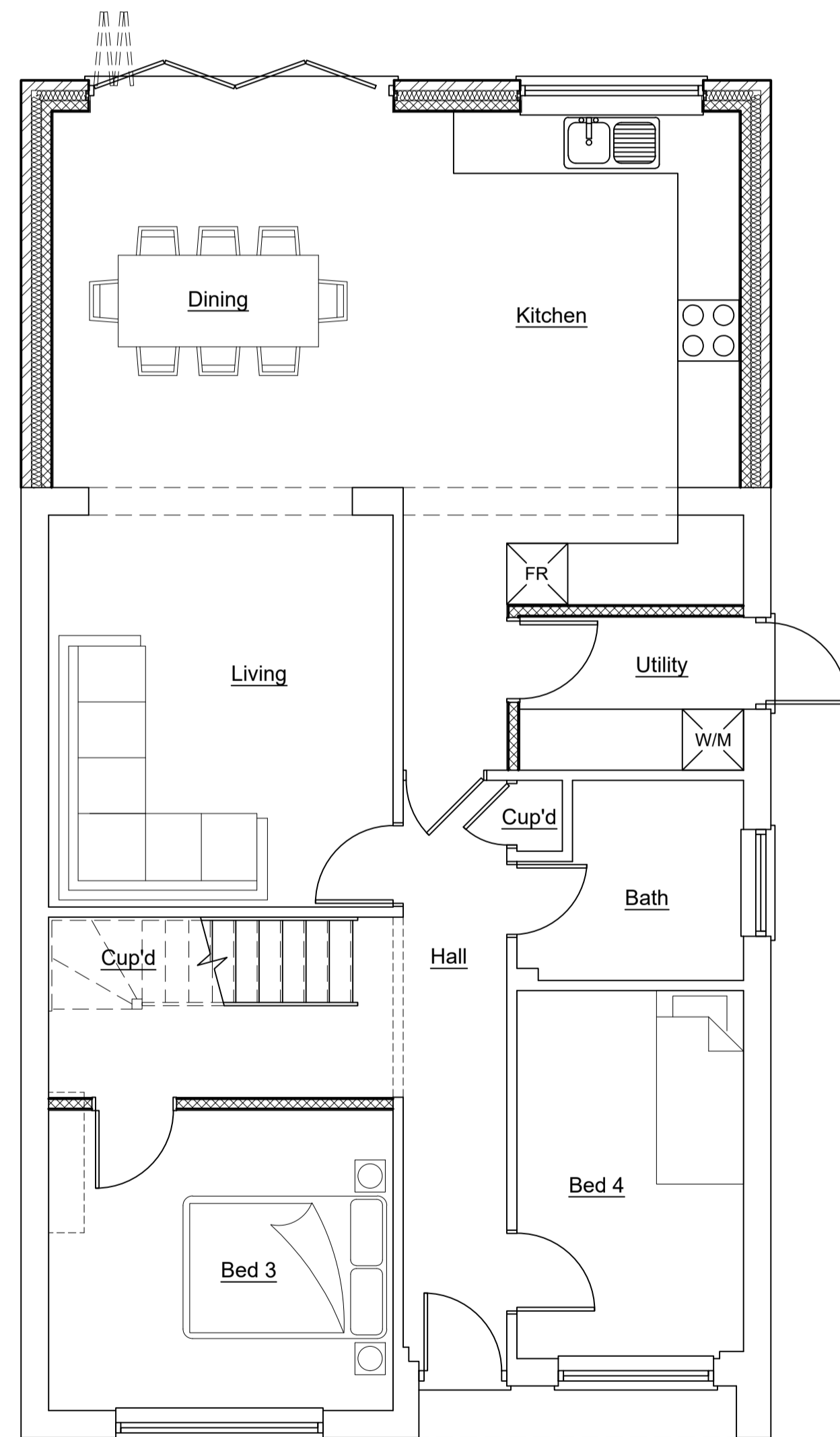
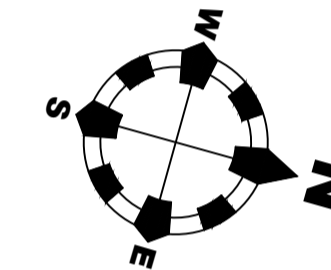
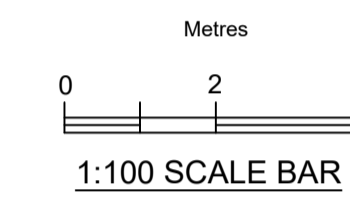
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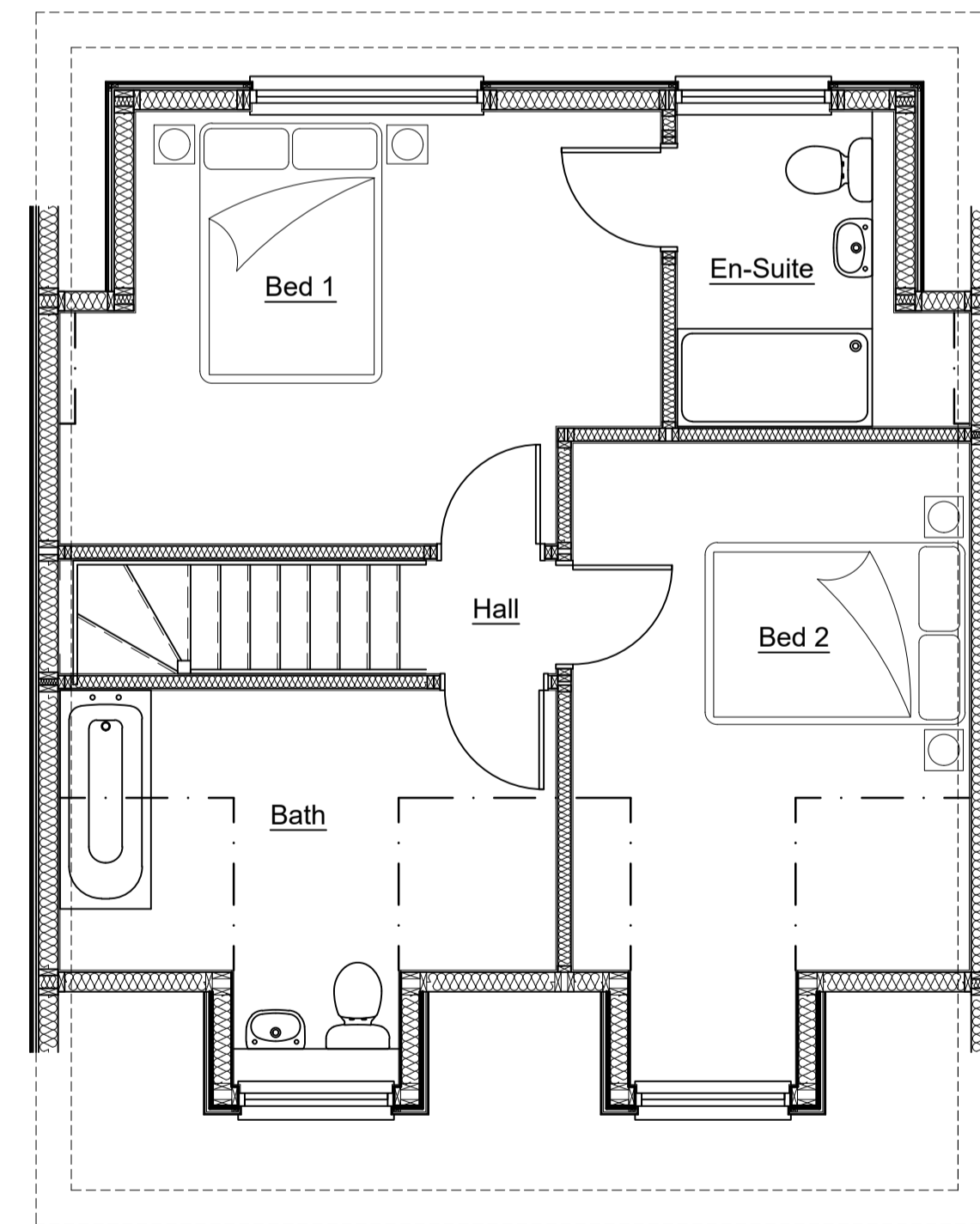
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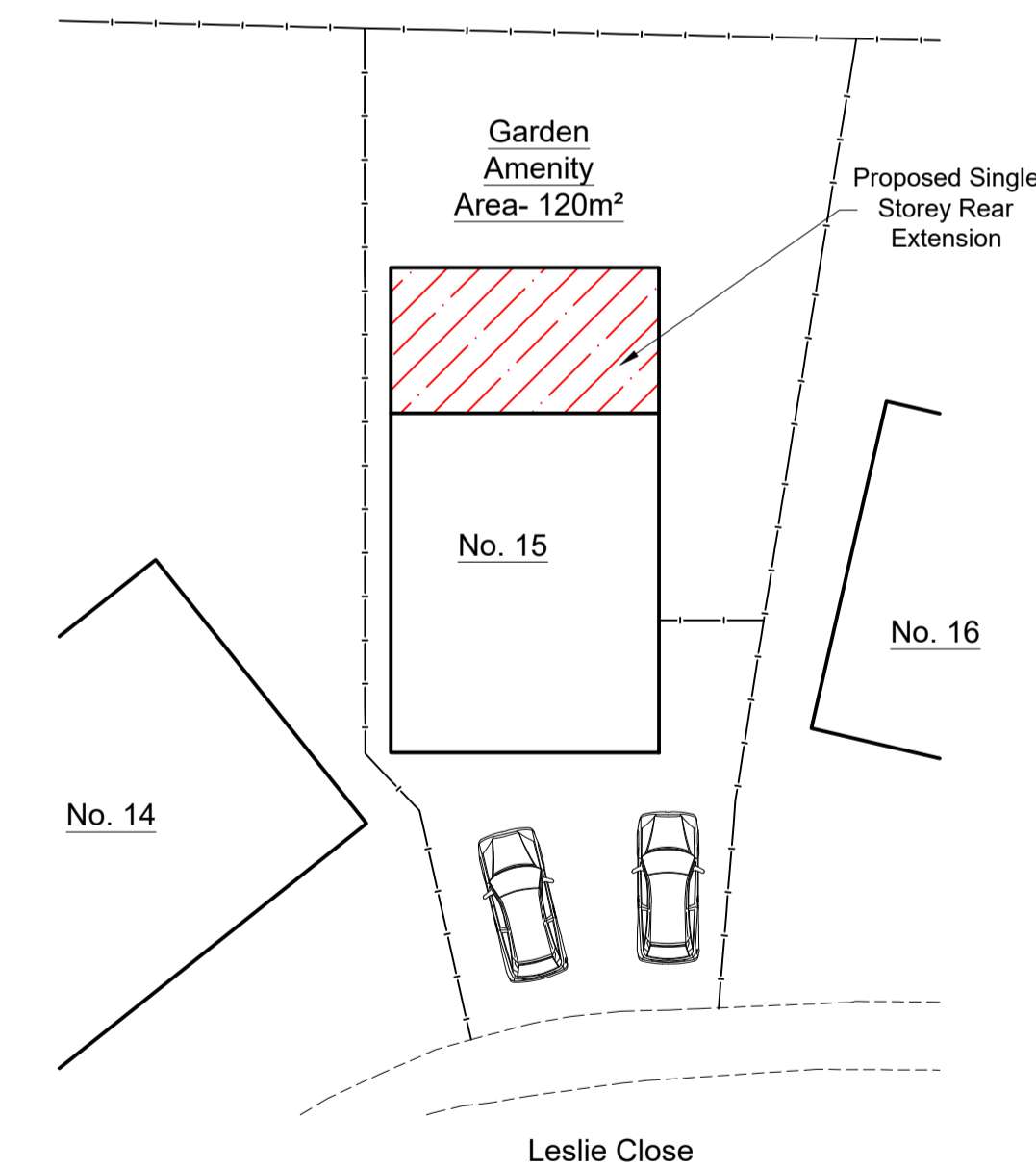
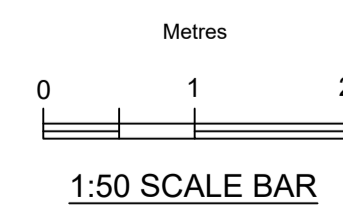
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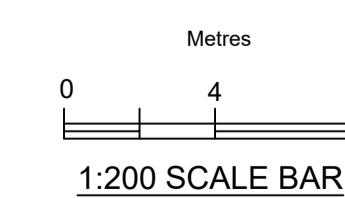
PROPOSED GROUND FLOOR PLAN  
SCALE 1:50



PROPOSED GROUND FLOOR PLAN  
SCALE 1:50



PROPOSED SITE PLAN  
SCALE 1:200



Rev	Date	By	Description	Chk'd
C	12.01.2021	AR	Minor Alterations	
B	10.01.2021	AR	Minor Alterations	
A	07.01.2022	CPB	Amendments to front dormers	

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MERSEA OFFICE | 1b Yorick Road, Mersea Island, CO5 8HT | 01206 483960  
www.contour-designs.co.uk | enquiries@contour-designs.co.uk

client: **Tony Wilkins**

address: **15 Leslie Close  
Leigh-on-Sea  
Essex  
SS9 5NP**

site: **As Above**

title: **Proposed Loft Conversion,  
Re-Pitch of Roof &  
Single Storey Rear Extension**

scale: **1:50/1:100/1:200 on A1** drawn by: **AR**  
date: **29/07/2021** checked:

drawing no: **CAD/PP/21499/002**

size: **A1** sheet no: **Sheet 1 of 1** revision: **C**

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The site prior to the enforcement notice.

