

Application Number: F/YR13/0258/F
Minor dwellings
Parish/Ward: Benwick, Coates and Eastrea
Date Received: 17 April 2013
Expiry Date: 12 June 2013
Applicant: Mr B Sisodiya

Proposal: Erection of a retail unit and 2 x 2-bed flats above involving demolition of existing building

Location: Land west 40 Lilyholt Road fronting High Street, Benwick

Site Area: 0.063 ha

Reason before Committee: The comments of the Local Highway Authority conflicts with the recommendation of the Local Planning Authority and Cllr Butcher has requested the application be determined by planning committee due to Benwick lacking in facilities

1. EXECUTIVE SUMMARY/RECOMMENDATION

This application seeks full planning permission for the erection of a retail unit with 2 x 2-bed flats above involving the demolition of the existing single-storey building on site.

The key issues relate to:

- Policy considerations
- Highways
- Residential amenity
- Other considerations

Benwick is classified within the settlement hierarchy shown in the emerging Fenland Local Plan Core Strategy as a small village where development will be considered on its merits but will normally be of a very limited nature and normally be limited in scale to residential infilling or a small business opportunity. At present Benwick has very limited services with one public house, limited public transport and no shopping facilities and is therefore considered unsustainable in development terms.

The proposal is to erect a building to provide a shop unit with 2 flats over on a site located in the centre of Benwick. Amendments have been made to the original proposal to lessen the impact of the building on the existing highway junction to the south of the site by reducing the width of the building but increasing the depth on the northern boundary.

Concern has been expressed regarding the impact of the building on highway visibility at Lilyholt Road however following receipt of the amended plans the visibility has been increased from 26 m to 33.7 m which is still short of the normal 43 m requirement, however consideration has been given to the benefits the shop will bring to the village of Benwick.

Also the Local Highway Authority has confirmed that they cannot insist on visibility splays over third party land and therefore whilst the existing visibility will be reduced, the proposal has been amended to provide as much visibility as possible whilst providing the applicant with a shop unit of sufficient size to serve Benwick.

Two flats are included within the proposal located over the shop unit. The site is located within flood zone 3 and no sleeping accommodation will be at ground floor level. 3 parking spaces are to be provided for the 2 flats and one staff parking space will be provided on site. Deliveries will take place at the rear of the site and lorries will be able to reverse into the site. The level of parking has a shortfall of one space.

Policy CS6 of the emerging Fenland Local Plan Core Strategy seeks to encourage development that supports, and regenerate where necessary, existing local centres to ensure they continue to cater for the retail needs of communities that they serve. This development will bring a retail service into Benwick which should enhance the amenity of its residents and therefore the Local Planning Authority considers the proposal should be supported. The 2 flats proposed will add to the housing mix in Benwick.

The application is recommended for approval.

2. HISTORY

F/YR10/0665/O	Erection of a 2-bed detached chalet bungalow	Granted 19 October 2010
F/YR08/0778/F	Revised access at junction of Fields View, Lilyholt Road and High Street	Granted 20 July 2009
F/YR07/0384/F	Change of use from retail (A1) to takeaway (A5)	Granted 6 July 2007
F/YR05/0475/F	Erection of a 3-bed bungalow and garage	Granted 14 July 2005
F/YR04/4426/F	Erection of 2 bungalows	Refused 15 February 2005
F/0830/80/O	Erection of a motor vehicle workshop	Granted 21 November 1980

3. PLANNING POLICIES

3.1 National Planning Policy Framework:

Paragraph 2: Planning law requires that application for planning permission must be determined in accordance with the development plan.

Paragraph 14: Presumption in favour of sustainable development.

Section 3: Supporting a prosperous rural economy

3.2 **Draft Fenland Local Plan Core Strategy:**

CS1: A presumption in favour of sustainable development.

CS6: Employment, Tourism, Community Facilities and Retail

3.3 **Fenland District Wide Local Plan:**

S8: Establishment and extension of local shopping facilities

4. **CONSULTATIONS**

4.1 ***Parish/Town Council:***

Strongly objects to the proposal. Considers that the development would seriously prejudice highway safety in relation to the visibility splay as referred to in Policy S8. No customer parking is shown and this could impact on the High Street. Insufficient residential parking. Overdevelopment of the site. Retail development should have a caveat placed on it to ensure it remains a retail unit for a minimum of 25 years. The site is contaminated and this needs addressing. There is no private amenity space.

4.2 ***Conservation Officer (FDC):***

Although the new building is closer to the war memorial considers it will not significantly impact on the setting of the memorial. Design of the railing could be improved.

4.3 ***Environment Agency:***

The submitted FRA is acceptable – the main source of flood risk is the local IDB drainage network. Objects to proposal due to lack of information relating to contamination. Disposal of surface water could be problematic and therefore detailed proposals must be submitted.

4.4 ***Local Highway Authority:***

The proposal has been amended to 2 flats and layout provides visibility splays of 2.4m x 33.7 m at the Lilyholt Road/High Street junction.

The amended layout provides 4 parking spaces. Whilst this would seem reasonable for the 2 flats, it does result in an overall shortfall of parking as there is no on-site parking for staff of the retail unit.

There is no justification, in this rural location, for this shortfall in the level of parking provision.

Whilst not ideal I accept that delivery vehicles will have to reverse into the site from Lilyholt Road.

- 4.5 **Middle Level Commissioners:** The ground conditions in this area are not conducive to the use of soakaways or other infiltration devices for surface water/treated effluent disposal. Therefore the applicant should provide adequate evidence to prove that a viable scheme for appropriate water level/flood risk management that meets current design standards exists.
- 4.6 **Environmental Protection (FDC):** No objection to the proposed development as it is unlikely to have a detrimental effect on local air quality or the noise climate. The previous site usage is noted therefore the contaminated land condition needs to be added if permission is granted to ensure that the land is suitable for its intended end use.
- 4.7 **Environmental Health – Food and Safety (FDC):** No objections.
- 4.8 **Local Residents:** Two letters of objection re: overlooking into bungalow; loss of privacy; loss of light; litter; increased noise and disturbance; parking in front of shop; fencing around boundary is not in keeping; contamination from petrol pumps not addressed; insufficient parking; no additional need for flats in the village; hours of operation should be controlled.
- Issues relating to ownership of northern boundary and retention of trees thereon.

5. SITE DESCRIPTION

- 5.1 The site is located in the centre of the village of Benwick at the junction of Lilyholt Road and High Street. There is an existing single-storey building on the site and the Benwick War Memorial is sited close to the southern boundary of the site.

The site has historically been used for commercial purposes with permission for a petrol pump approved in 1949 and an associated garage built in 1953. The petrol pumps still remain on the site and the development will be subject to a detailed contamination report.

6. PLANNING ASSESSMENT

The key considerations are:

- Policy considerations

- Highway Issues
- Design
- Other considerations

Policy Considerations

Policy S8 of the Fenland District Wide Local Plan 1993 seeks to support the establishment and extension of local shopping facilities within defined settlement areas except where such development would seriously prejudice local amenity or highway safety.

Policy CS6 of the emerging Fenland Local Plan Core Strategy seeks to encourage development that supports, and regenerates where necessary, existing local centres to ensure they continue to cater for the retail needs of communities that they serve. The Council is committed to strengthening the role of market towns and other service centres and to provide a range of services to the local community. This development will bring a retail service into Benwick which should enhance the amenity of its residents and therefore the Local Planning Authority considers the proposal should be supported.

Section 3 of the NPPF supports economic growth in rural areas in order to create jobs and prosperity by taking a positive approach to sustainable new development. The NPPF also promotes the retention and development of local services and community facilities in villages such as local shops.

Highway Issues

The site is located close to the junction of Lilyholt Road and High Street. Access to the site will be as the existing access off Lilyholt Road and 4 parking spaces in total are to be provided for the two flats and store. Delivery vehicles will reverse into the site to the secure store area at the rear.

Concern has been expressed by the Parish Council regarding the impairment of the existing vehicular visibility across the site by the position of the proposed new building. Whilst historically there have been free views across this land, the Local Highway Authority cannot insist that the land remains undeveloped to provide good visibility out of Lilyholt Road. The only visibility that can be guaranteed is the visibility that can be achieved within the limits of the existing highway land. It is possible that an owner of this land could erect a boundary fence around its curtilage that could impede the current visibility levels.

When the road was realigned under a Section 38 agreement with the Local Highway Authority (reference F/YR08/0778/F) the actual visibility splay that is within the highway land is 2.4 m x 23 m at the junction of Lilyholt Road and High Street in a northerly direction.

Should the development be approved, the position of the building has been amended and reduced in length and a visibility splay of 2.4 m x 33.7 m at this junction can be achieved which, whilst less than the current open views across the site, is in fact greater than the visibility that can be achieved within existing highway limits.

The Local Highway Authority notes the deficiency in the number of parking spaces for the shop unit and considers that this shortfall will inevitably be met on the adjoining highways. Therefore the LHA strongly recommends that sufficient funds are secured by a S106/Unilateral Undertaking to investigate and provide parking restrictions on High Street/Lilyholt Road in the event that the operation of the site gives rise to a material parking issue.

The Traffic Regulation Order procedure will cost in the region of £3,000 and the S106/Unilateral Undertaking should require the applicant to monitor parking conditions for at least one year, desirably 2 years post trading commencement. It must be borne in mind that whilst the LHA may be willing to undertake the Traffic Regulation Order procedure, the process is subject to consultation under an entirely separate legislative procedure, the success of which cannot be guaranteed.

Parking

4 parking spaces are provided within the site, 3 for the flats and one staff space. The Fenland Local Plan requires 1.5 spaces for flats with more than 1 bedroom and therefore 3 spaces are acceptable.

The Local Plan also requires that a shop unit of this size would require 5 customer spaces however it is not possible to achieve this level of parking in the current proposal. The Parish Council has identified this shortfall of parking in their objection and in an ideal situation the Local Planning Authority would seek such parking provision. However given that the village of Benwick has been without this vital service since 2004 when the previous shop in the village closed, the LPA considers that, on balance, the lack of parking should not restrict the ability of an applicant to deliver a much needed service to Benwick.

Given the lack of customer parking on site, the Local Highway Authority has raised concerns about potential highway problems that parked vehicles could cause. However it is not clear if there will be a potential traffic problem given the nature of the shop and its location it is anticipated that it will benefit from foot traffic. However, in order to safeguard any future problems that may occur in this vicinity, the Local Highway Authority has advised that the applicant should enter into a Section 106 agreement/Unilateral Undertaking which would secure the costs associated with a Road Traffic Order should this be necessary in the future.

Cycle provision is to be provided to the side of the shop along the front boundary.

Design

The proposal is for a part 2-storey, part single-storey building to provide a shop unit with secure store to the rear and 2 x 2-bed flats over. The building has an overall width of 14.8 metres and total depth of 21.3 m. The ridge height for the 2-storey element is 8.7 m and the single storey element has a ridge height of 5 metres. Dormer windows are utilised on the front elevation.

The first-floor flats have a range of windows located mainly on the west elevation (front) serving 2 living rooms and one bedroom. The three windows on the north elevation (facing The Five Alls PH) serve 2 bedrooms and a kitchen. On the south elevation (side) there are two further windows serving a bathroom and a bedroom and there is one landing window on the east elevation (rear). It is considered that these windows will not have a significant detrimental effect on the amenity of neighbouring properties.

At ground floor level there are two large shop windows with a central door access. A neighbour has raised concerns regarding the potential for overlooking into their property from windows on the west elevation. Whilst this concern is noted, the distance between the 2 buildings is approximately 15 metres and is considered commensurate with other road frontage distances between properties. Similarly there will be no real potential for loss of light into the residential property due to the existing dwelling being on the western side of the new build and the distance away from the new building.

Other considerations

Contamination

The site is a former petrol filling station and garage and the land has been identified as a potential contaminated site. A Phase 1 and 2 Ground investigation report has been submitted and is presently out to consultation.

Flood risk

The site is located within Flood Zone 3 and a flood risk assessment has been provided. The Environment Agency has confirmed that the main risk of flooding at this site is from the local IDB drainage network, however as the residential aspect of the development is located solely on the first floor level the impact of a flood on the development has been minimised.

With regards to the disposal of surface water, the Middle Level Commissioners require detailed engineering drawings to prove how the development will ensure that satisfactory disposal from the site can be achieved. Therefore a condition will be imposed on any approval for the site relating to the method of surface water to ensure compliance with the MLC requirements and Part H of the Building Regulations.

Impact on residential amenity

An objection has been received from a nearby residential property concerning the potential for overlooking from the shop windows and the windows at first floor into existing windows resulting in loss of privacy. The distance between the windows is approximately 15 metres which is commensurate with other road frontage properties in the area. It is generally accepted that the front of residential dwellings are not considered private due to the presence of footpaths and the public realm and the distance between the buildings is acceptable.

The occupier has also raised issues relating to right to light and the potential loss of light due to the height of the building. Right to Light is protected under common law under the Prescription Act 1832. However Right to Light issues are civil matters between neighbours and is independent of the planning system. If a significant loss of light occurs due to a development being carried out, the neighbouring owner has the right to seek an injunction to have the development reduced in size. The Local Planning Authority considers that due to the new development being on the north eastern side of the residential property and the distance away that there will be no significant loss of light to the front of the property.

Highway issues including parking have already been discussed above.

The issues relating to potential contamination on the site has been partially addressed by the submission of a Contamination Report which is presently being consulted on.

Impact on War Memorial

The amended proposal has reduced the width of the building and achieves a satisfactory separation distance from the war memorial. However the proposed railings around the boundary of the site require some design amendments to ensure that they are sympathetic to the memorial and also to ensure that the height of the railings does not impede visibility.

Trees

The trees on the northern boundary are to be retained and a new fence provided within the application site.

7. CONCLUSION

- 7.1 Whilst there is a deficiency in the level of parking provided on the site, consideration has been given to the provision of a shopping facility within Benwick. The emerging Core Strategy and national planning policy supports development that will regenerate and cater for the retail needs of communities.

The application provides a driver for delivering a shop to Benwick and the provision of the flats will enable the shop to be viable and deliverable. However it is considered that it is reasonable and necessary to impose an appropriate condition to restrict the first occupation of the flats until the shop is trading.

All issues relating to residential amenity have been assessed and addressed and there does not appear to be any significant adverse harm that will occur to warrant refusal of the application. It is not considered necessary to impose an hours of use restriction which could be to the detriment to the success of this enterprise. Similarly it would be unreasonable to restrict or control construction times for the development.

8. RECOMMENDATION

Grant subject to:

- (i) completion of a S106/Unilateral Undertaking in respect of a Traffic Regulation Order**
- (ii) suitable conditions**

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

Reason - To ensure compliance with Section 51 of the Planning and Compulsory Purchase Act 2004.

- 2. Prior to the commencement of the development hereby approved a scheme and timetable to deal with contamination of land and/or groundwater shall be submitted to, and approved in writing by, the Local Planning Authority. The approved scheme shall then be implemented on site in accordance with the approved timetable.**

The scheme shall include all of the following measures unless the Local Planning Authority dispenses with any such requirement specifically and in writing:

- a) A desk-top study carried out by a competent person to identify and evaluate all potential sources and impacts of land and/or groundwater contamination relevant to the site. This should include a conceptual model, and pollutant linkage assessment for the site. Two full copies of the desk-top study and a non-technical summary shall be submitted to and approved in writing by the Local Planning Authority.**

IF during development any previously unsuspected contamination is discovered then the LPA must be informed immediately. A contingency plan for this situation must be in place and submitted with the desk study. If a desk study indicates that further information will be required to grant permission then the applicant must provide, to the LPA:

- b) A site investigation and recognised risk assessment carried out by a competent person, to fully and effectively characterise the nature and extent of any land and/or groundwater contamination, and its implications. The site investigation shall not be commenced until:**
 - (i) A desk-top study has been completed, satisfying the requirements of paragraph (a) above.**
 - (ii) The requirements of the Local Planning Authority for site investigations have been fully established, and**
 - (iii) The extent and methodology have been submitted to and approved in writing by the Local Planning Authority. Two full copies of a report on the completed site investigation shall be submitted to and approved in writing by the Local Planning Authority.**

Following written LPA approval of the Site Investigation the LPA will require:

- c) A written method statement for the remediation of land and/or groundwater contamination affecting the site. This shall be based upon the findings of the site investigation and results of the risk assessment. No deviation shall be made from this scheme without the express written agreement of the Local Planning Authority.
- d) The provision of two full copies of a full completion report confirming the objectives, methods, results and conclusions of all remediation works, together with any requirements for longer-term monitoring and pollutant linkages, maintenance and arrangements for contingency action shall be submitted and approved in writing by the Local Planning Authority.

Reason- To control pollution of land or water in the interests of the environment and public safety.

- 3. Prior to the commencement of any development, a scheme and timetable for the provision and implementation of foul and surface water drainage shall be submitted and approved in writing by the Local Authority. The works/scheme shall be constructed and completed in accordance with the approved plans/specification at such time(s) as may be specified in the approved scheme and thereafter retained in perpetuity.

Reason - To ensure a satisfactory method of foul and surface water drainage and to prevent the increased risk of flooding.

- 4. Prior to commencement of development a refuse collection strategy shall be submitted to and approved in writing by the Local Planning Authority. The refuse collection shall accord with the agreed details and thereafter be retained in perpetuity unless otherwise agreed in writing.

Reason - To ensure a satisfactory form of refuse collection.

- 5. No flats shall be occupied until the A1 Shop use hereby approved has commenced trading.

Reason – To ensure the satisfactory form of development.

- 6. The premises shall be used for Class A1 (Shop) and for no other purpose, including any other purpose in Class A of the Town and Country Planning (Use Classes) Order 1987 (as amended) or in any provision equivalent to that Class in any statutory instrument revoking and re-enacting that Order).

Reason - In granting this permission the Council has had regard to the special circumstances of this case and considers that unrestricted use within Class A would be unacceptable in view of the potential impact on residential amenity.

- 7. No illuminated adverts on the shop front is permitted.**

Reason – To ensure a satisfactory form of development and to protect residential amenity.

- 8. Prior to the first use of the shop premises, a litter bin shall be provided within the front curtilage of the development hereby approved.**

Reason – To ensure a satisfactory form of development.

- 9. Prior to the commencement of use hereby approved the permanent space shown on the plans hereby approved to be reserved on the site to enable vehicles to:**

- a) enter, turn and leave the site in forward gear;**
- b) park clear of the public highway;**
- c) load and unload;**

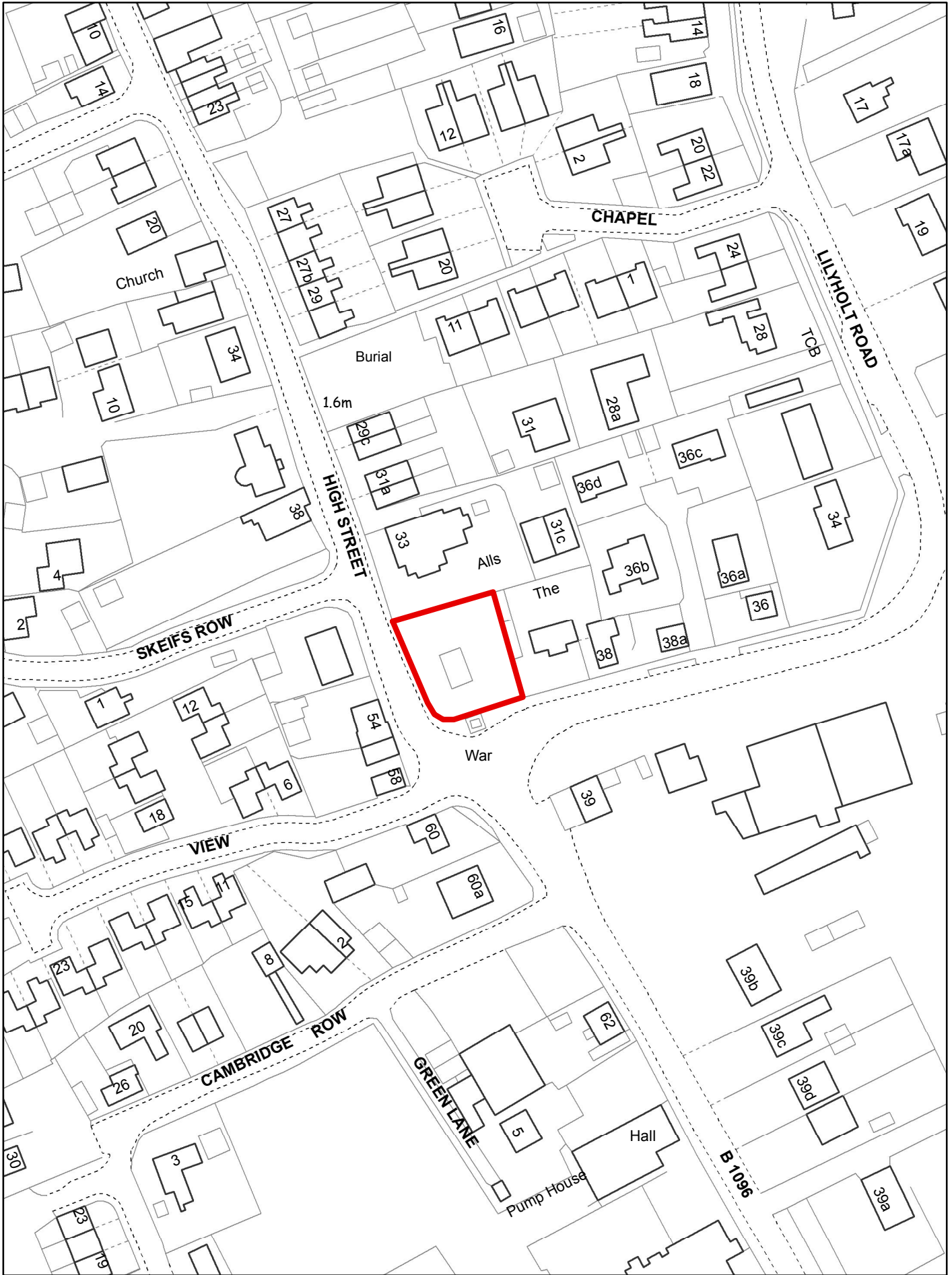
shall be levelled, surfaced and drained and thereafter retained for no other purpose in perpetuity.

Reason - In the interests of satisfactory development and highway safety.

- 10. Prior to the commencement of the development hereby approved adequate temporary facilities (details of which shall have previously been submitted to and agreed in writing with the Local Planning Authority) shall be provided clear of the public highway for the parking, turning, loading and unloading of all vehicles visiting the site during the period of construction.**

Reason - To minimise interference with the free flow and safety of traffic on the adjoining public highway.

- 11. Approved plans**



Created on: 30/04/2013

F/YR13/0258/F

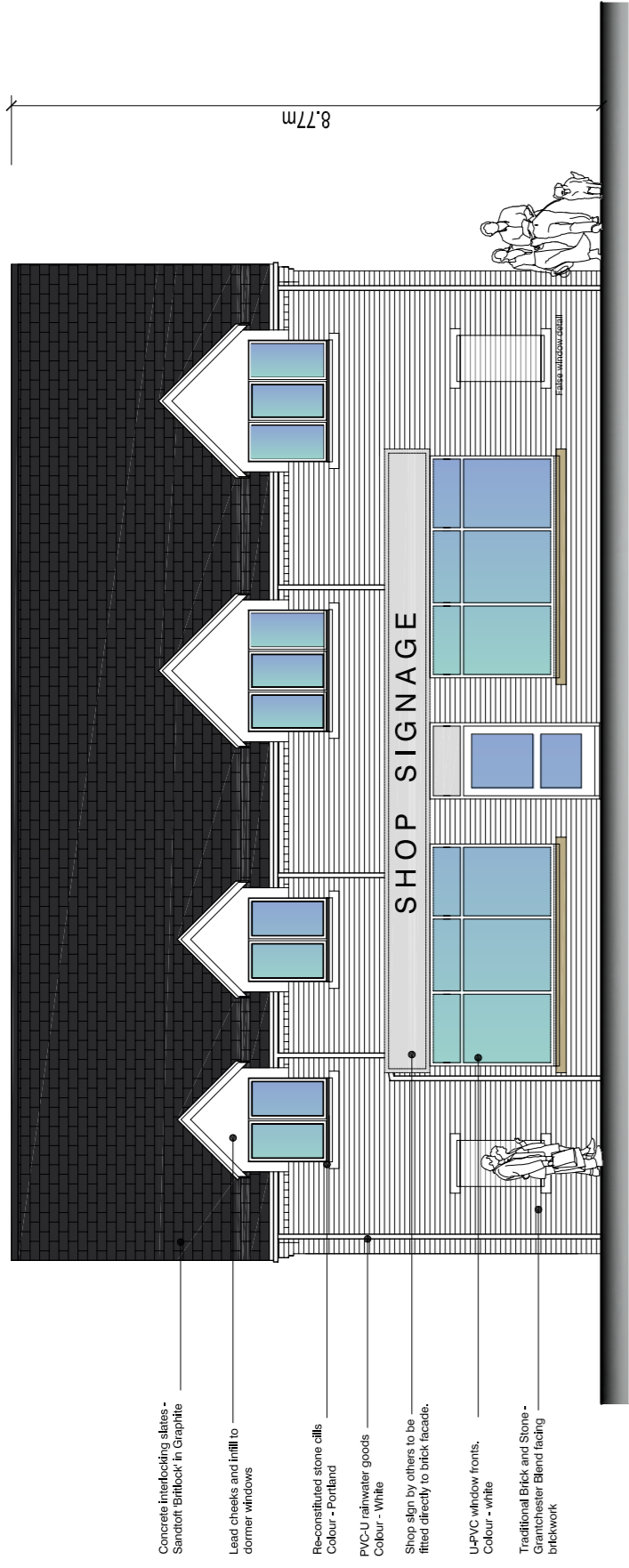
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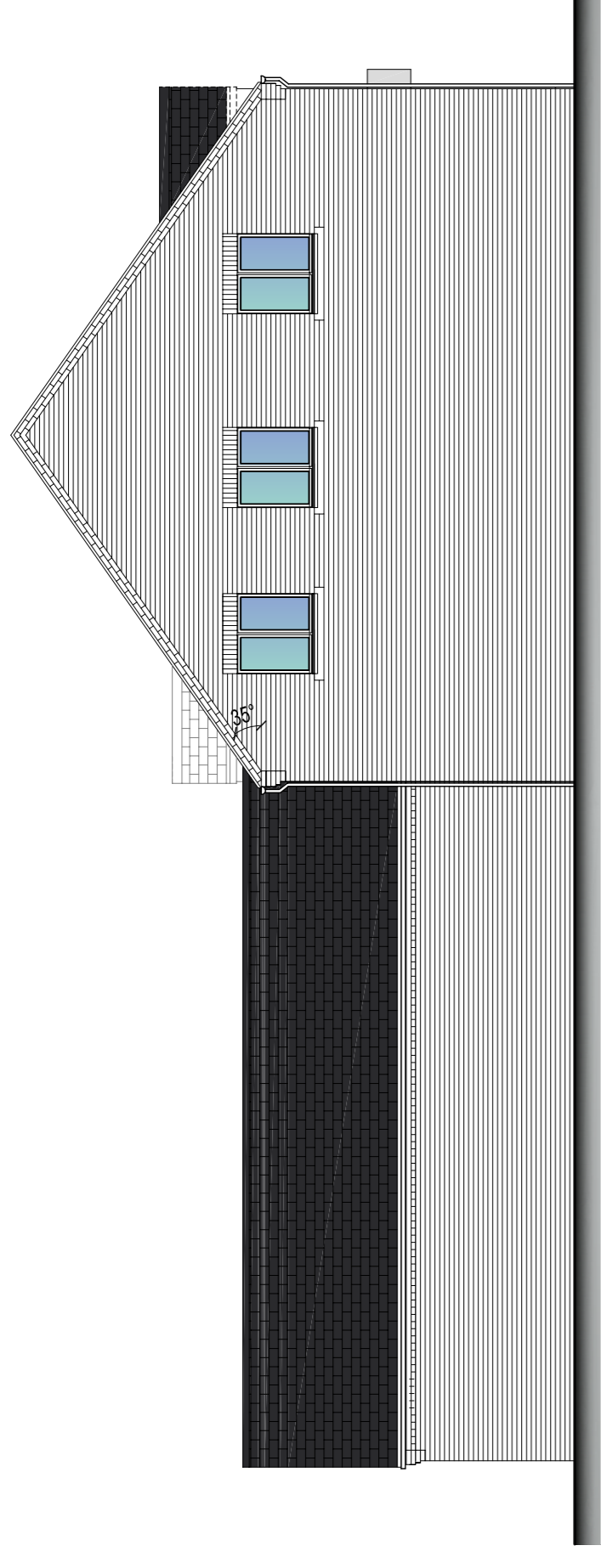




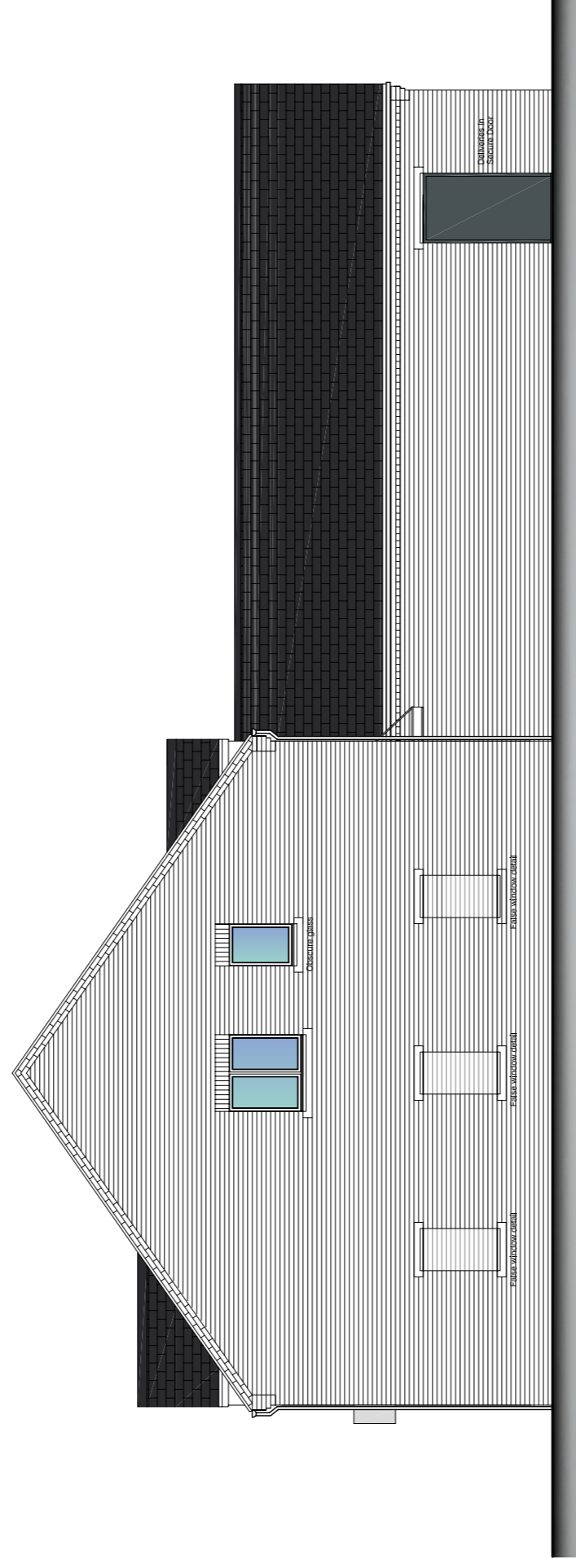
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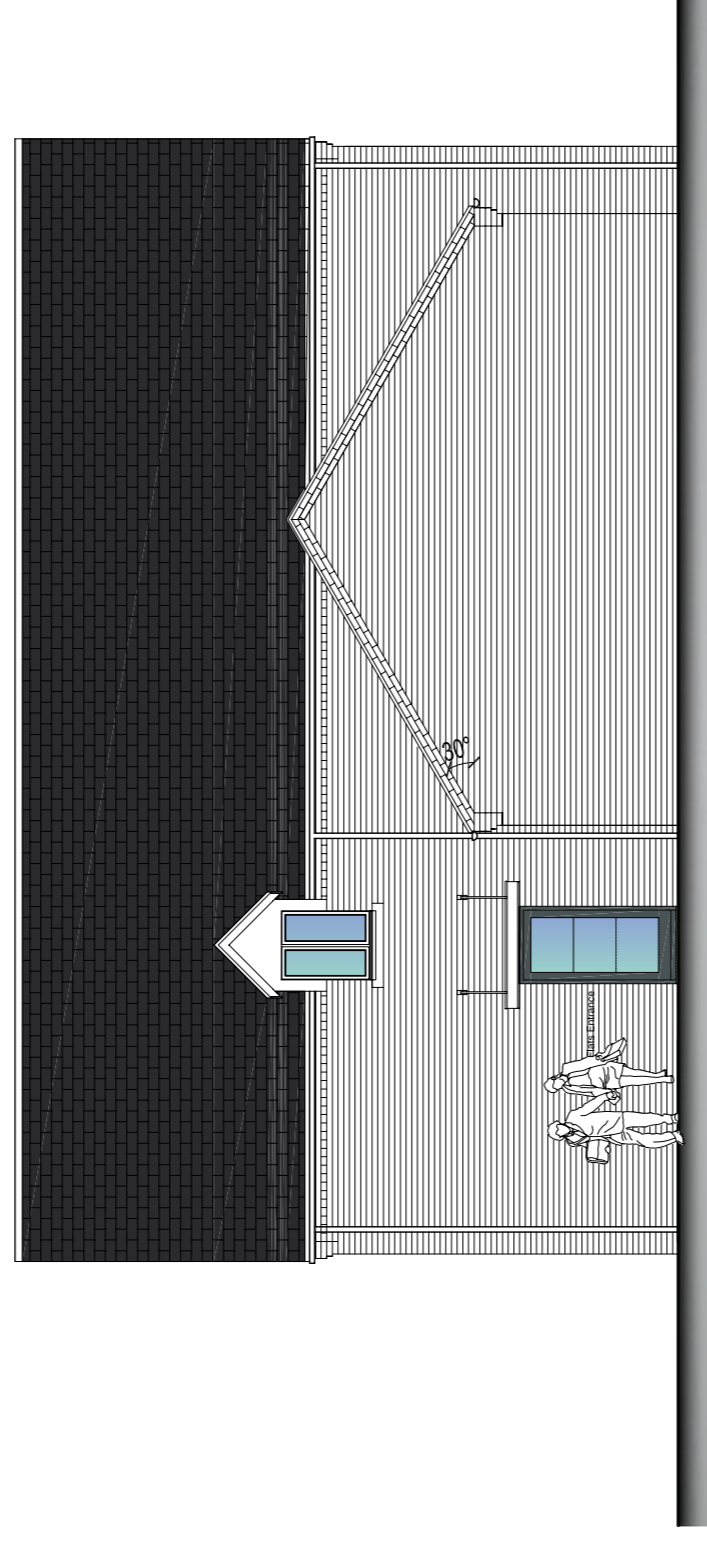
PROPOSED WEST ELEVATION



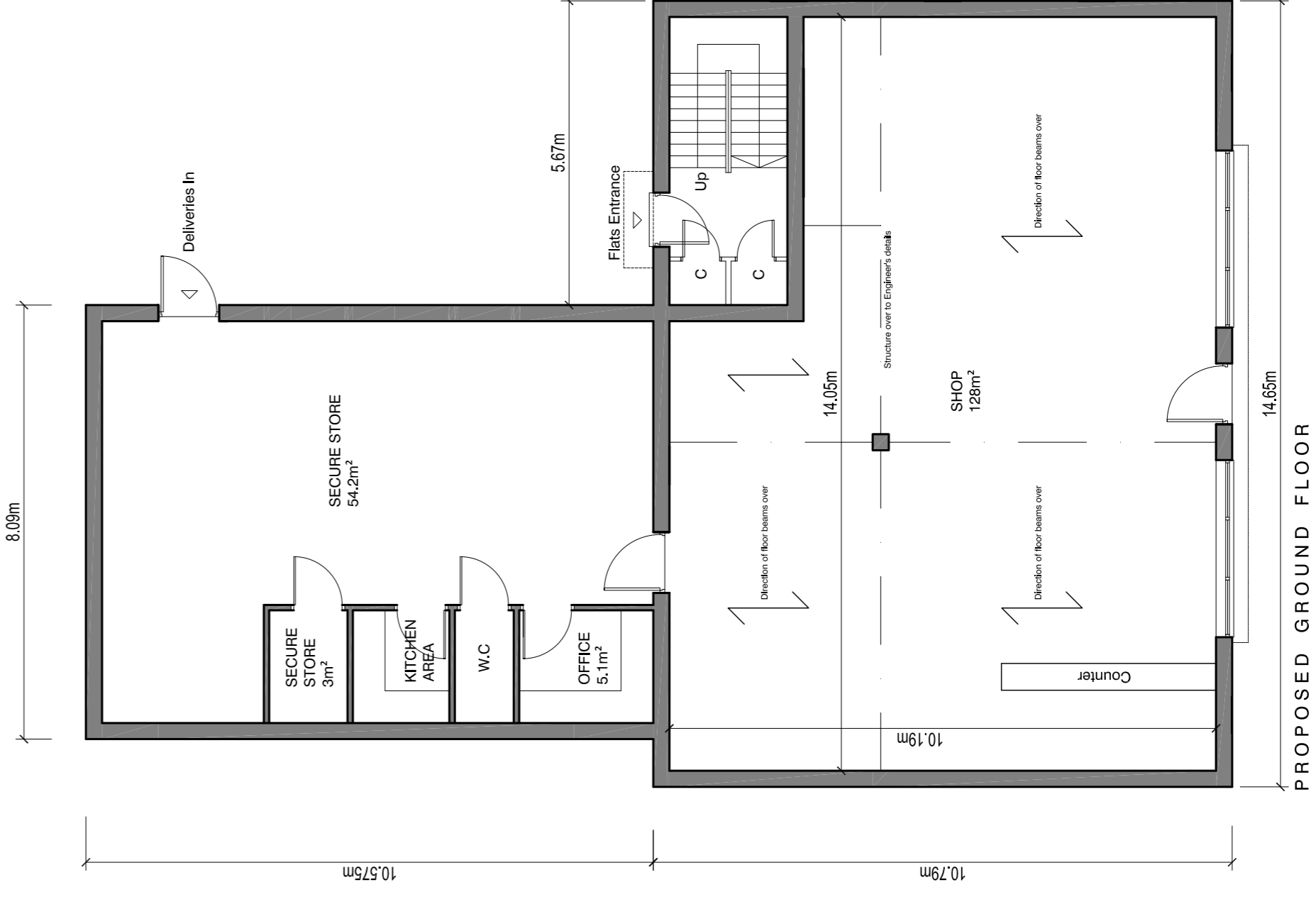
PROPOSED NORTH ELEVATION



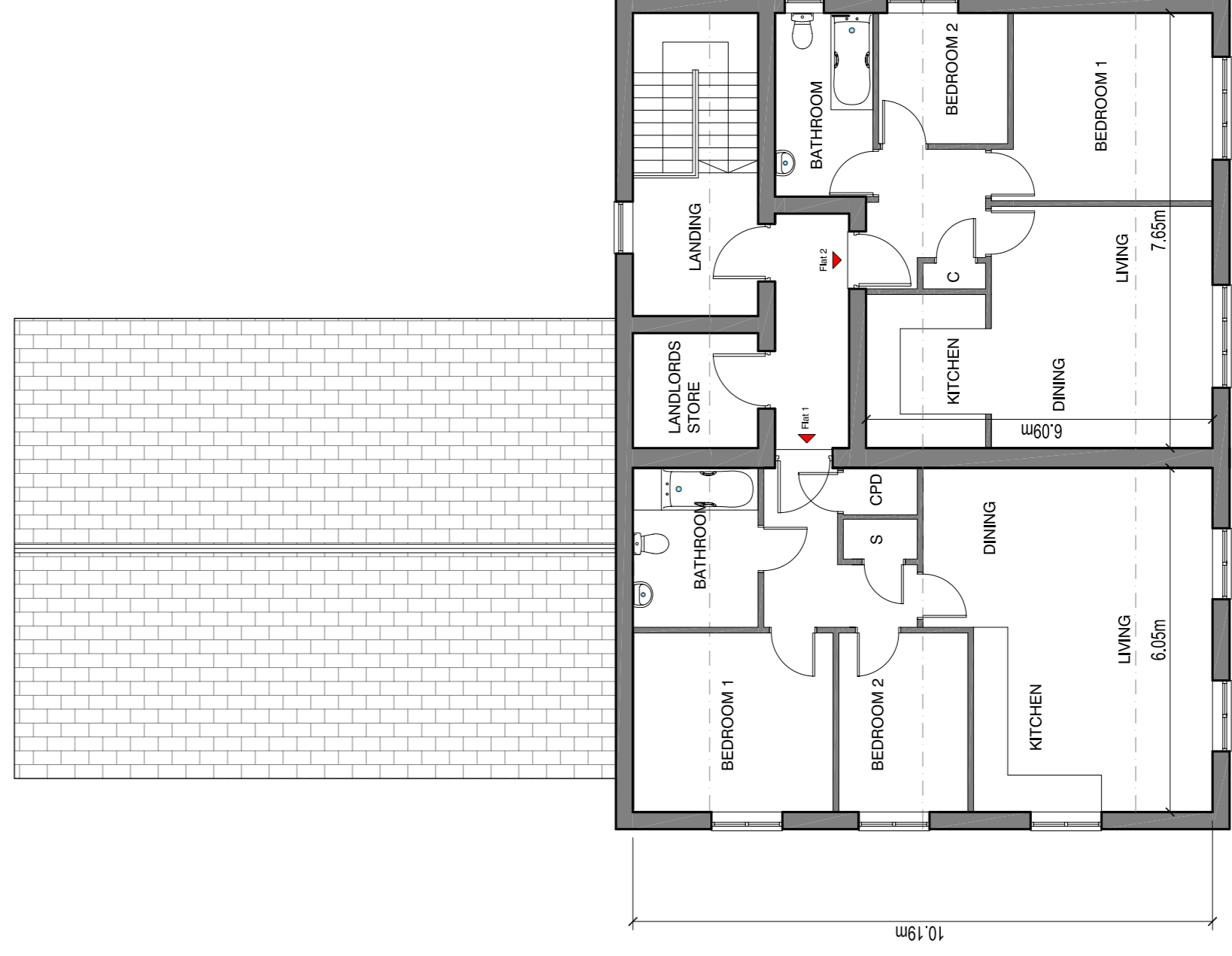
PROPOSED SOUTH ELEVATION



PROPOSED EAST ELEVATION



PROPOSED GROUND FLOOR



PROPOSED FIRST FLOOR

Revision A May 2013 Revised following discussions with planning officer and client.

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DRAWING STATUS: PRELIMINARY PLANNING FILE COPY CONSTRUCTION
 CLIENT: MR B. SISODIYA

PROJECT: LAND WEST OF THE ROWANS, LIL HOLT ROAD, BENWICK, CAMBRIDGESHIRE
 DRAWING TITLE

PROPOSED FLOOR PLANS
 PROPOSED ELEVATIONS

SCALE: 1:100 @ A1
 DATE: March 2013
 DRAWN: LB
 CHECKED: LB
 DRAWING NUMBER: CH13/LBA/280FP/01
 REVISION: A

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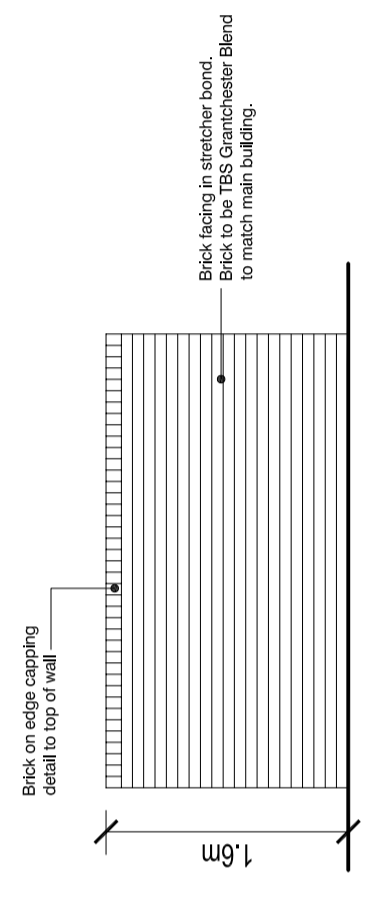
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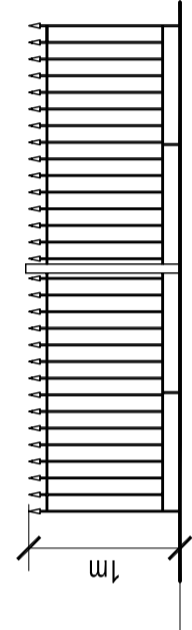
- 3 BAY TRAFFIC LINE CYCLE STAND IN GALVANISED STEEL
- EXISTING TREES TO BE RETAINED
- OUTLINE OF ADJACENT PROPERTIES
- HARD STAND AREA FOR PARKING AND DELIVERY VEHICLES CONCRETE OR SIMILAR AND APPROVED.
- PAVED BIN STORAGE AREA FOR SHOP WITH 1.6m HIGH BRICK WALL SURROUND.
- DOTTED OUTLINE OF BUILDING TO BE DEMOLISHED
- 1.2m HIGH HOOP TOP METAL RAILING TO DETAIL
- 1.8m HIGH CLOSE BOARDED FENCE WITH CONCRETE POSTS
- 1.8m HIGH METAL PALISADE FENCING



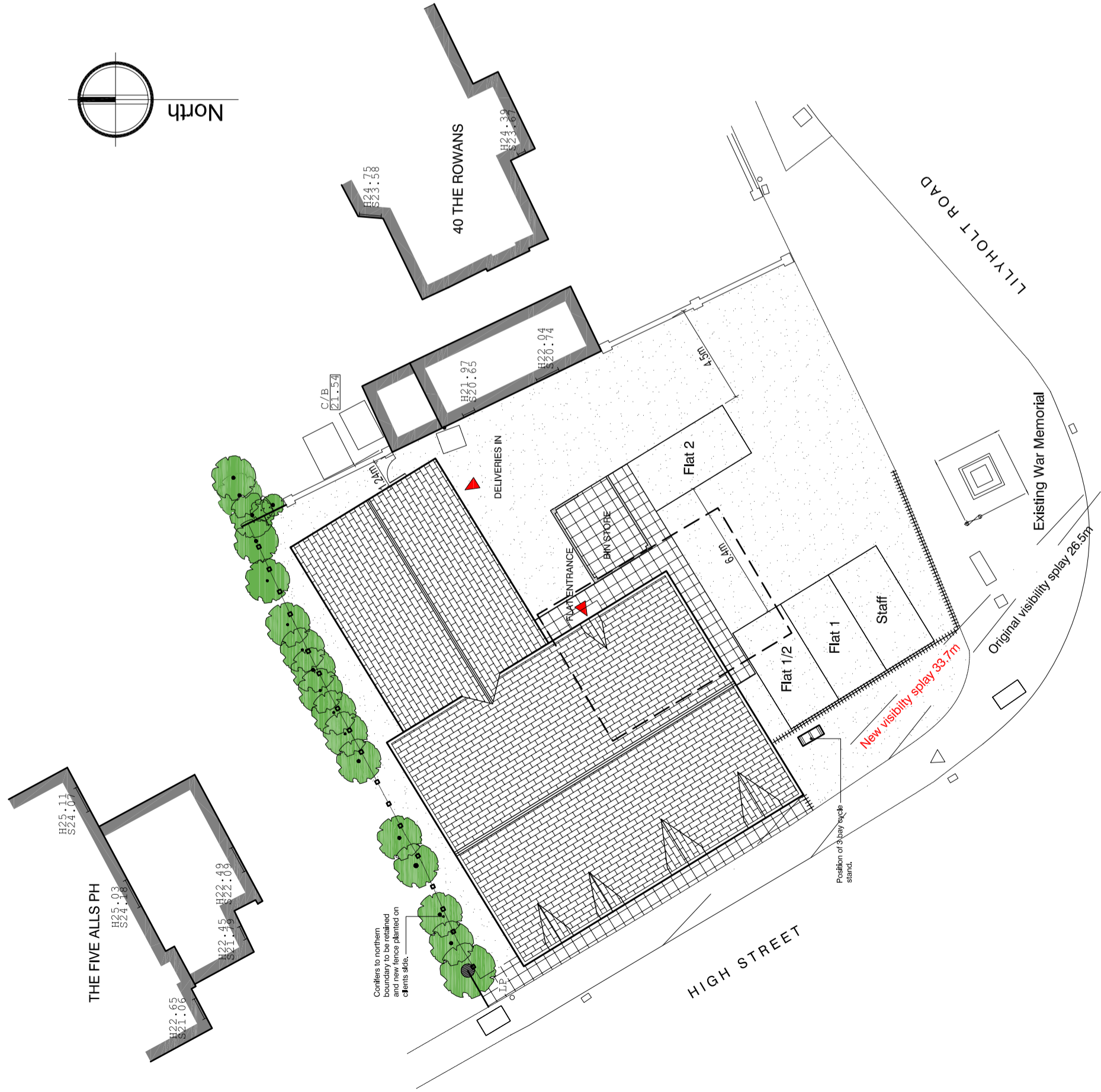
LOCATION PLAN 1:1250



BRICK WALL DETAIL TO BIN STORE 1:50

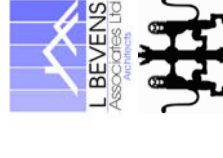


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PROPOSED SITE PLAN

- Revision C July 2013 3 No. cycle stands added. Railing design amended. Symbols key amended to show no existing trees being removed.
- Revision B June 2013 Parking provision amended following discussions with planning officer.
- Revision A May 2013 Revised following discussions with planning officer and client.



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DRAWING STATUS	PRELIMINARY	PLANNING	CONSTRUCTION	FILE COPY
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CLIENT
MR B SISODIYA

PROJECT
**LAND WEST OF THE ROWANS, LILYHOLT ROAD
 BENWICK, CAMBRIDGESHIRE**

DRAWING TITLE
**PROPOSED SITE PLAN
 LOCATION PLAN**

SCALE	DATE	DRAWN	CHECKED
1:200 @ A2	MARCH 2013	LB	
DRAWING NUMBER	REVISION		
CH13/LBA/280/FP100	C		