

F/YR14/0828/F
16 October 2014

Applicant: Mr M O'Brien

Agent : Mr Mark Bennis
Paul Bancroft Architects

Black Hart Public House, Wisbech Road, Thorney Toll, Wisbech

Erection of 6no 2-storey dwellings comprising of 3 x 3-bed and 3 x 2-bed involving demolition of existing Public House

Reason for Committee: This application is before committee due to the views of the Parish Council being in conflict with officers.

1 EXECUTIVE SUMMARY

This application seeks full planning permission for 6 dwellings on land at the Black Hart Public House, Wisbech Road in Thorney Toll. The dwellings are proposed to be semi-detached dwellings fronting onto Wisbech Road which is the main A47 Trunk Road. The site is outside of any main settlement area and does not adjoin the main settlement boundary.

The key issues to consider are:

- Loss of the Public House
- New dwellings in the open countryside
- Flood Risk
- S106 contributions
- Other matters

The proposal relates to the introduction of a 6 large dwellings, with associated garden land and access and involves the demolition of the Public House. The key issues have been considered along with current Local and National Planning Policies and the proposal is considered to be contrary to policy. Therefore the application is recommended for refusal.

2 SITE DESCRIPTION

The site is located on the north side of the A47 Peterborough to Wisbech road and is located within an area known as Thorney Toll. The site occupies a vacant Public House with associated garden and car parking areas. The site is bounded by open fields to the north and north-west, residential development to the east and a petrol filling station to the south. The site is located within Flood Zone 3.

3 PROPOSAL

The proposed development seeks full planning permission for the erection of 6 x 2-storey dwellings comprising 3 x 3-bed and 3 x 2-bed and involves the demolition of the existing Public House, known as The Black Hart.

4 SITE PLANNING HISTORY

F/YR12/0777/F	Change of use from Public House to 4-bed dwelling	Refused on 30/11/2012
F/96/1010/A	Erection of free standing swing sign on timber post	Granted on 15/05/1997
F/92/0085/A	Display of 2 No. externally illuminated free-standing advertisement structures, 1 No. externally illuminated wall sign and the provision of lighting units to existing signage	Granted on 06/07/1992
F/91/0846/F	Erection of a front porch and the installation of a rear fire escape to existing public house	Granted on 30/03/1992
F/0610/79/F	Demolition of cottage and extension of car park (retrospective)	Granted on 14/09/1979
F/0112/76/O	Erection of a house and garage	Granted on 27/04/1976

5 CONSULTATIONS

Wisbech St Mary Parish Council: Support.

Environment Agency: Originally object to the proposed development on the basis that the Flood Risk Assessment is not acceptable. Comment on a revised FRA and state that the proposed development would only meet the requirements of the NPPF if the finished floor levels are set no lower than 1.5m about AOD which can be secured by way of a planning condition. Also comment on the sequential and exception tests which need to be carried out and further advice given in respect of signing up for free flood warning service and details in respect of flood proofing measures.

North Level: No objections

Highways England: Recommend that a condition should be attached to any planning permission that may be granted. Condition to cover the access construction detail as shown on the submitted layout plan and space for turning on site to be maintained at all times.

Highway Authority: No highway objections. The Highways Agency (now Highways England) should be consulted.

FDC Housing Strategy: 1 affordable dwelling should be provided on site plus a financial contribution of broadly equivalent value to the provision of 0.2 of a further affordable home (£10,298.40) which is payable to enable some housing need to be met elsewhere, subject to viability. Suggest tenure is affordable rented.

FDC Environmental Health: No objections to the proposed development. Given that the development involves the demolition of an existing building and outbuildings an unsuspected contamination condition should be imposed if planning permission is granted.

County Archaeology: Records indicate that the site lies in an area of high archaeological potential. Do not object to development from proceeding in this location but consider that the site should be subject to a programme of archaeology investigation secured through a planning condition.

Peterborough City Council Ecologist: No objections, subject to the recommendations/conditions made being incorporated into the scheme. This would result in no net loss to biodiversity.

Peterborough City Council: No comments or observations to make.

Local Residents/Interested Parties: 1 email received querying width of the access to the field behind as there is a right of access.

6 POLICY FRAMEWORK

National Planning Policy Framework (NPPF)

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

Paragraph 14: Presumption in favour of sustainable development.

Paragraph 17: Core Planning Principles – seek to secure high quality design and a good standard of amenity for all existing and future occupants of land and buildings.

Paragraph 28: To promote the retention and development of local services and community facilities in villages, such as public houses.

Paragraph 55: To promote sustainable development in rural areas housing should be located where it will enhance or maintain the vitality of rural communities. LPAs should avoid new homes in the countryside unless there are special circumstances.

Paragraph 56. Good design is a key aspect of sustainable development, is indivisible from good planning and should contribute positively to making places better for people.

Paragraph 63: In determining applications, great weight should be given to outstanding or innovative designs which help raise the standard of design more generally in the area.

Paragraph 64: Permission should be refused for development of poor design that fails to take the opportunities available for improving the character and quality of an area and the way it functions.

Paragraph 70: 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.

Paragraphs 100-104: Development and flood risk.

Paragraph 118: When determining planning applications, LPAs should aim to conserve and enhance biodiversity.

Paragraphs 203 – 206: Planning conditions and obligations.

National Planning Policy Guidance (NPPG)

Fenland Local Plan 2014

LP1 – A Presumption in Favour of Sustainable Development

LP2 – Facilitating Health and Wellbeing of Fenland Residents

LP3 – Spatial Strategy, the Settlement Hierarchy and the Countryside

LP5 – Meeting Housing Need

LP6 – Employment, Tourism, Community Facilities and Retail

LP12 – Rural Area Development Policy

LP14 – Responding to Climate Change and Managing the risk of Flooding in Fenland

LP15 – Facilitating the creation of a More Sustainable Transport Network in Fenland

LP16 – Delivering and Protecting High Quality Environments across the District

LP17 – Community Safety

LP18 – The Historic Environment

LP19 – The Natural Environment

7 KEY ISSUES

The key issues in respect of the proposed development are considered to be:

- Loss of the Public House
- New dwellings in the open countryside
- Flood Risk
- S106 contributions
- Other matters

8 ASSESSMENT

Loss of the Public House: Policy LP6 of the Local Plan stipulates that proposals that would lead to the loss of community facilities (e.g. Public Houses) will only be permitted if it can be demonstrated that the retention of the facility is no longer financially viable and an appropriate marketing exercise has been carried out, and it can be demonstrated that there is a lack of community need for the facility, or an alternative facility is provided. This is considered consistent with paragraphs 28 and 70 of the NPPF.

The viability report submitted contends that the Black Hart was marketed for sale for a year prior to its closure in 2012 but attracted no serious interest and moved towards a position of being unviable. There is no indication of what other options have been considered and there are no audited figures or marketing details to support these contentions. Without this evidence to show that the Public House has been unviable and marketed appropriately the proposal does not accord with Policy LP6 of the Local Plan. Indeed this was a similar case in 2012 when permission was refused to convert the Public House into a 4-bed dwelling (LPA reference: F/YR12/0777/F) for those same reasons.

The viability report also contends that the number of residents living in Thorney Toll is not enough to sustain the Public House and there are no tourist attractions nearby or social groups which would be encouraged to use the Public House.

It is also acknowledged that there have been no local resident representations in respect of the retention of the Public House and the Parish Council supports the proposal, accordingly it is considered that there is a perceived lack of community need for the Public House.

New dwellings in the open countryside: The site is located within an area known as Thorney Toll, which for planning policy purposes is designated as open countryside i.e. is not listed in the settlement hierarchy. Policy LP3 of the Local Plan establishes a settlement hierarchy for the Council's area, defining market towns and various categories of villages. The site falls within none of these, and the Policy states that development elsewhere will be restricted to specified categories of development i.e. agriculture. The proposal would not amount to any of these and it therefore follows that the proposal would be in obvious and significant conflict with Policy LP3. It would also conflict with the NPPF, which at paragraph 55 states that housing should be located where it will enhance or maintain the vitality of rural communities, and that new isolated homes in the countryside should be avoided.

Flood Risk: The site is located in Flood Zone 3. Following a revised Flood Risk Assessment being submitted the Environment Agency now raises no objection to the proposal subject to a planning condition being secured relating to finished floor levels. This mitigation measure which would ensure finished floor levels are set no lower than 1.5 metres above Ordnance Datum which would have minimal impact on the character of the area and would not significantly impact on the neighbouring dwellings to the east. Nonetheless, Policy LP14 includes provisions relating to flood risk and makes it clear that all development proposals should adopt a sequential approach, and that development in areas known to be at risk of flooding will only be permitted subject to, amongst other criteria, the successful completion of a sequential test, an exception test, and suitable demonstration of the development meeting an identified need.

The submitted Flood Risk Sequential and Exception Test report identifies other sites within Thorney Toll and further sites up to 5km from the site, all of which are located within Flood Zone 3. The search does not extend further into the market towns or villages where residential development is considered acceptable in principle where land may be available in Zones 1 and 2. Accordingly there is insufficient evidence to be able to assess whether there are any suitable alternative sites for the proposed development. Nevertheless the report contends that the scheme does not meet the sequential test, but does meet the exception test. There are two limbs to the exception test and whilst the latter may be satisfied i.e. that the site specific Flood Risk Assessment demonstrates that the development will be safe without increasing flood risk elsewhere, both elements of the test would have to be passed for development to be permitted.

In respect of the first limb, the report contends that the proposal would be located on previously developed land, contributes to the sustainability of Thorney Toll, one dwelling would be an affordable home and the re-development of the site would vastly improve the area. Whilst it is accepted that land has been previously developed, the proposal conflicts with a number of planning policies, one of which deals with the principle of development in this location which is not supported by Policy LP3.

S106 Contributions: In accordance with Policy LP5 of the Local Plan the proposal will require 1 dwelling on site to be affordable, plus the payment of a financial contribution to the Council, of broadly equivalent value to the provision of 0.2 of a further affordable home on that site, to enable some housing need to be met elsewhere. The agent has confirmed that the applicant will be willing to enter into a S106 Planning Obligation in this respect.

Other matters: The application is accompanied by a protected species survey report. The report is considered to satisfy any potential impact on protected species, subject to the recommendations being incorporated within the proposed development which could be secured by way of planning conditions.

The design and layout of the proposed development follows the general pattern of existing residential development to the east and there would be no undue impact on neighbouring dwelling.

The access to serve the development proposed will be off the A47 trunk road with one single access point serving the 6 dwellings. Highways England have no objections to the proposal subject to a condition which stipulates on site turning provision to be maintained at all times and that the access is constructed to that shown on the submitted layout plan prior to occupation of the proposed dwellings.

9 CONCLUSION

The proposal does not promote a sustainable pattern of development, in terms of the loss of the public house, principle of residential development in the open countryside and sequentially in terms of flood risk. Although the land can be considered as previously developed which is a consideration that weighs in favour of the proposal, this does not outweigh or override the considerable policy conflict. Accordingly the proposal is contrary to the development plan and to the key aim and policies within the National Planning Policy Framework. For the reasons given above the proposal is recommended for refusal for the reasons listed below.

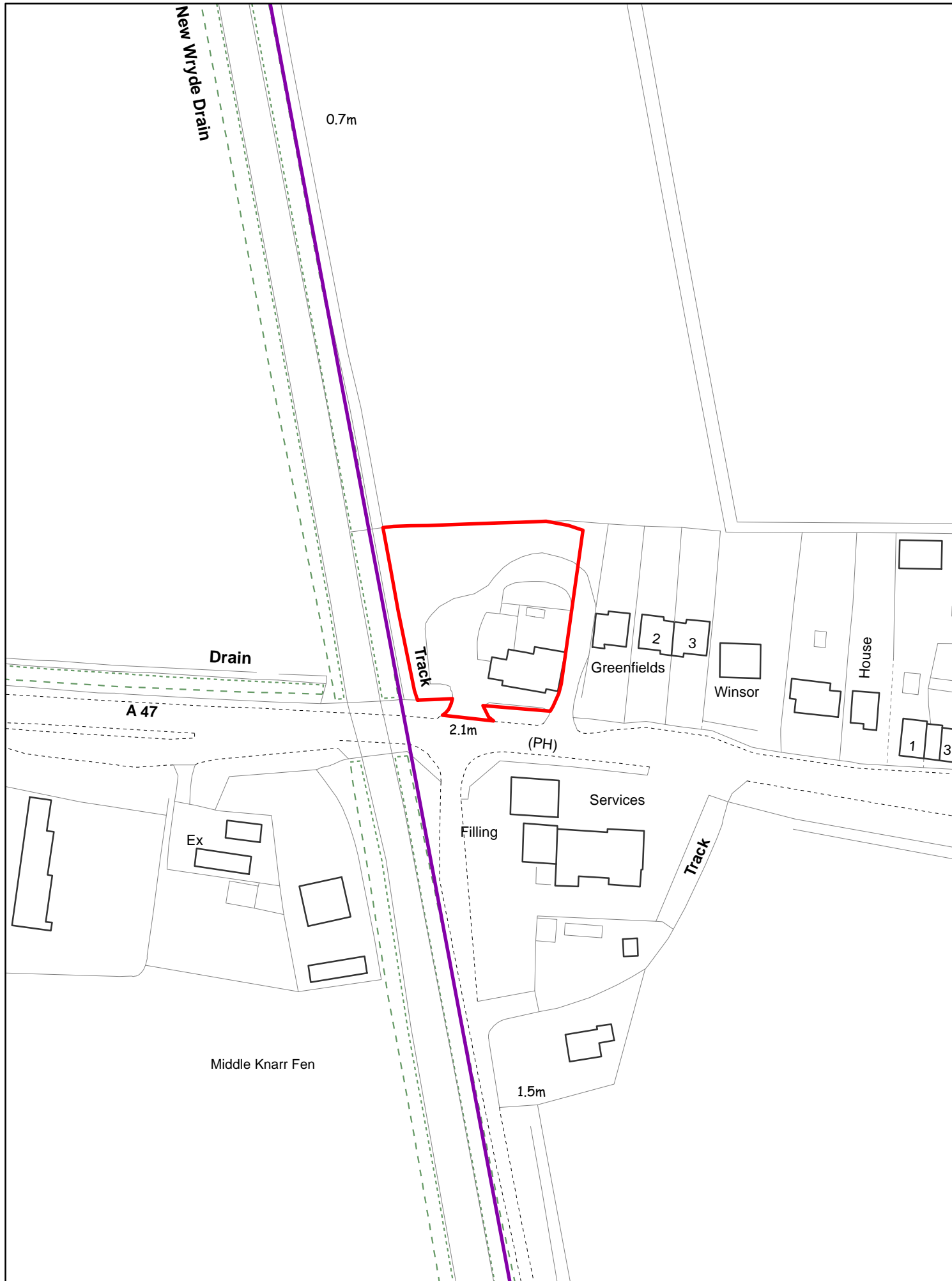
10 RECOMMENDATION

REFUSE

- 1. Policy LP6 of the Fenland Local Plan 2014 requires proposals that would lead to the loss of community facilities to demonstrate that the retention of the facility is no longer financially viable and an appropriate marketing exercise has been carried out, and it can be demonstrated that there is a lack of community need for the facility or an alternative facility is provided. The proposal fails to adequately demonstrate that the existing facility is no longer viable nor that a comprehensive marketing exercise has been undertaken, accordingly the proposal is contrary to Policy LP6 of the Local Plan and to paragraphs 28 and 70 of the National Planning Policy Framework (2012).**
- 2. Policy LP3 of the Fenland Local Plan 2014 requires new development to be located within existing settlements unless it is demonstrably essential to the effective operation of local agriculture, horticulture etc. The proposal would therefore result in an unjustified residential development located outside of any main settlement within the open countryside**

which would harm the future delivery of the Fenland Local Plan by reasons of it constituting an unsustainable form of development. As a result the proposal is contrary to Policy LP3 of the Fenland Local Plan and to the provisions of the National Planning Policy Framework (2012), with particularly reference to paragraph 55.

- 3. The application site lies within Flood Zone 3, and is therefore susceptible to a high probability of flooding. The development type being proposed (i.e. dwellings) is classified as 'more vulnerable' in accordance with the Planning Practice Guidance (online) (2014) which makes it clear that this type of development is not compatible with Flood Zone 3 and should not be permitted. The proposal is not supported by sufficient evidence to demonstrate compliance with the sequential or exception test as required by the National Planning Policy Framework (2012) and Planning Practice Guidance (online) (2014). As such the proposal is contrary Policy LP14 of the Fenland Local Plan (2014) and to the guidance contained in the National Planning Policy Framework (2012), and the Planning Practice Guidance (online) (2014).**



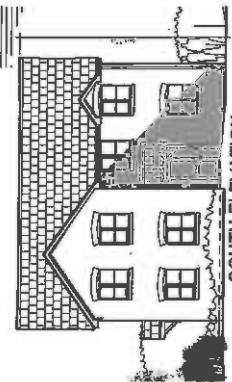
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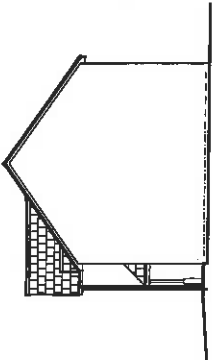
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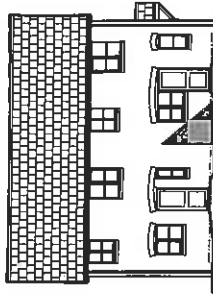




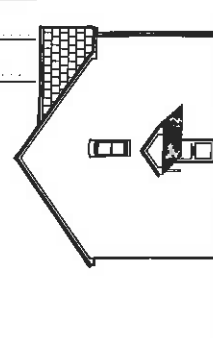
SOUTH ELEVATION



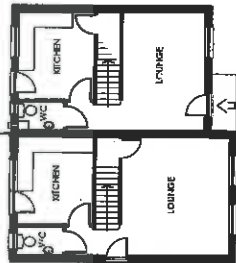
EAST ELEVATION



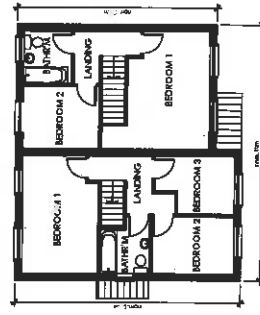
NORTH ELEVATION



WEST ELEVATION



**GROUND FLOOR PLANS
TYPICAL DWELLING DETAILS**

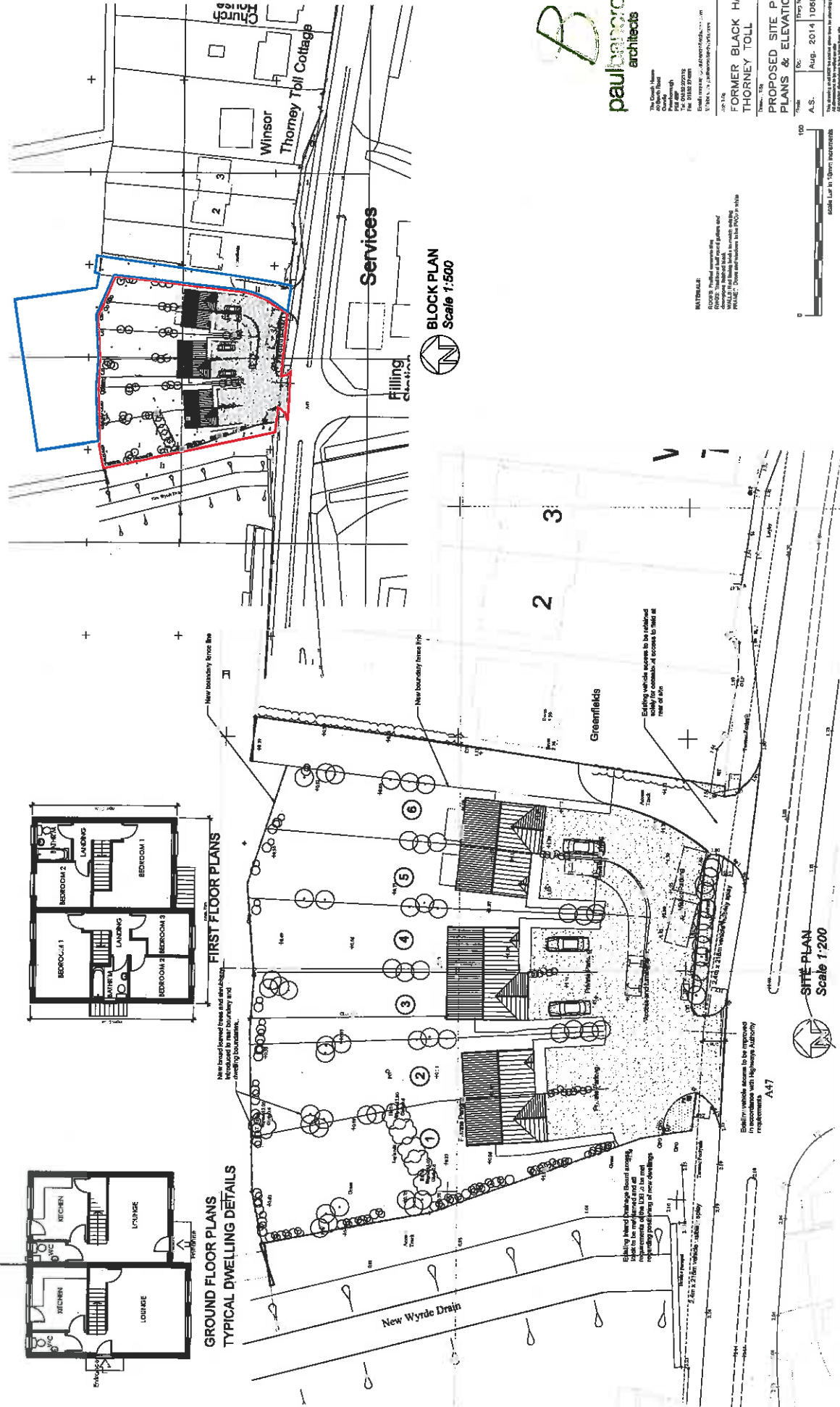


FIRST FLOOR PLANS

All trees listed below to be retained and replanted to new boundary and existing boundaries.

New boundary fence line

New boundary fence line



**BLOCK PLAN
Scale 1:500**

**SITE PLAN
Scale 1:200**



The Paul Hanson Architects Pty Ltd
 10/100 Sturt Street
 Adelaide
 SA 5000
 Tel: 08 823 0273
 Fax: 08 823 0275
 Email: paul.hanson@paulhansonarchitects.com.au
 Web: www.paulhansonarchitects.com.au

FORMER BLACK HART PH
 THORNEY TOLL

PROPOSED SITE PLAN
 PLANS & ELEVATIONS

Drawn	AS	Project No.	1068-04 B
Scale	1:500	Date	Aug. 2014



Scale bar in 10m increments

NOTES:
 1. All works to be completed in accordance with the approved plans and specifications.
 2. All works to be completed in accordance with the approved plans and specifications.
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 4. All works to be completed in accordance with the approved plans and specifications.
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