

Western Area Planning Committee

17 June 2020

Committee Members:

Cllr Christopher Newbury (Chairman)
Cllr Jonathon Seed (Vice-Chairman)
Cllr Andrew Davis
Cllr Pip Ridout
Cllr Ernie Clark
Cllr Peter Fuller
Cllr Stewart Palmen
Cllr Sarah Gibson
Cllr Trevor Carbin
Cllr Edward Kirk
Cllr Suzanne Wickham

Committee Substitutes:

Cllr David Halik
Cllr Russell Hawker
Cllr George Jeans
Cllr Nick Holder
Cllr Gordon King
Cllr Jim Lynch
Cllr Steve Oldrieve
Cllr Toby Sturgis
Cllr Ian Thorn
Cllr Philip Whitehead
Cllr Graham Wright

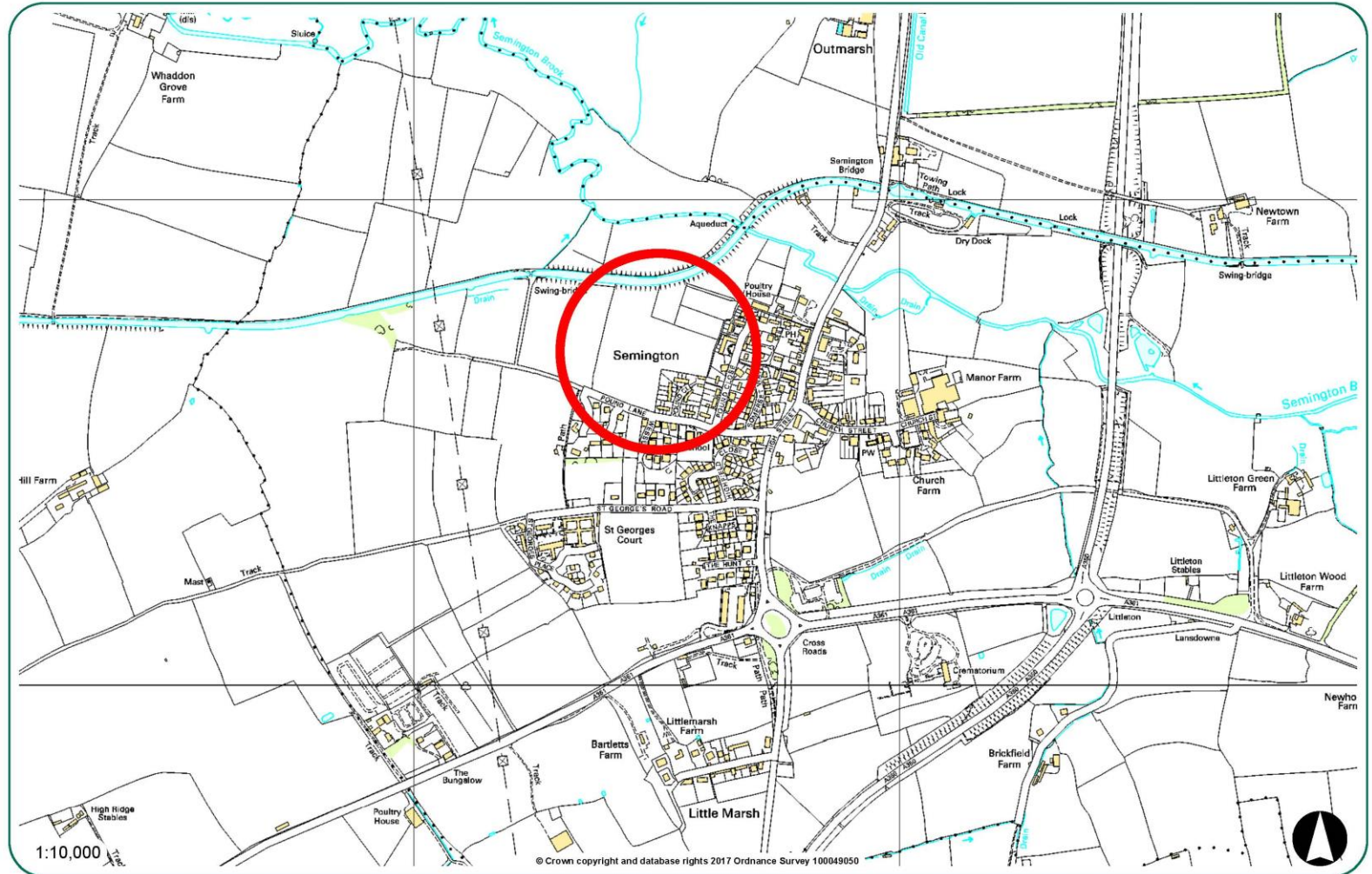
**COMMONS ACT 2006 – SECTIONS 15(1) & (3)
– APPLICATION TO REGISTER LAND AS A
TOWN OR VILLAGE GREEN – GREAT LEES
FIELD, SEMINGTON**

**AGENDA ITEM NO. 7a
WESTERN AREA PLANNING COMMITTEE:
17 JUNE 2020**

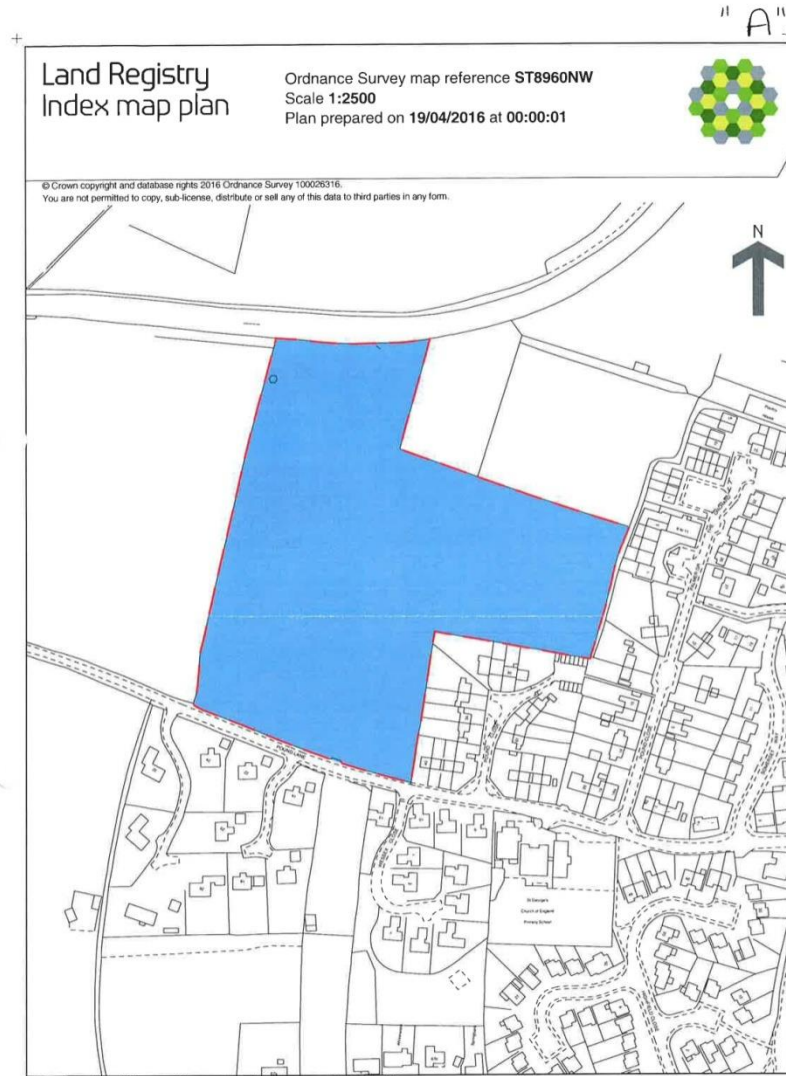
JANICE GREEN – SENIOR DEFINITIVE MAP OFFICER

Location Plan

Commons Act 2006 - Sections 15(1) and (3) Great Lees Field, Pound Lane, Semington Location Plan



Application Plan – Great Lees Field, Semington

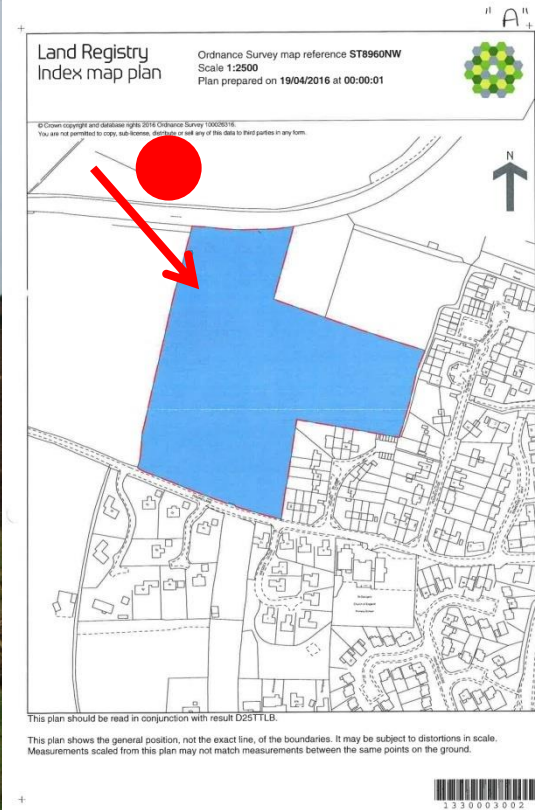


This plan should be read in conjunction with result D25TTLB.

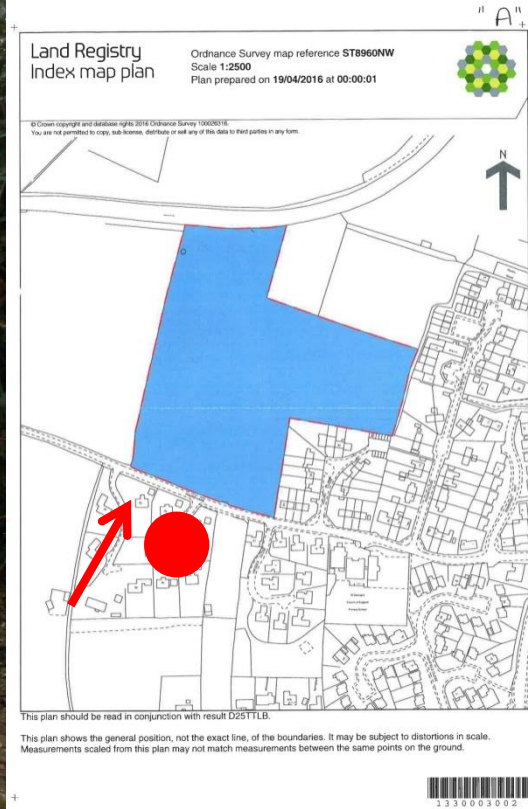
This plan shows the general position, not the exact line, of the boundaries. It may be subject to distortions in scale. Measurements scaled from this plan may not match measurements between the same points on the ground.



5 The application land viewed from Footpath no.1 at the north-west corner of the field, showing the land ploughed (October 2016)



Pound Lane gate (October 2016)

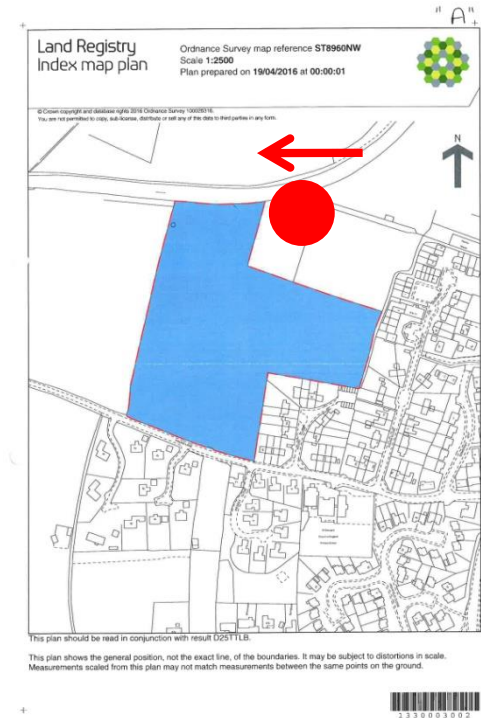


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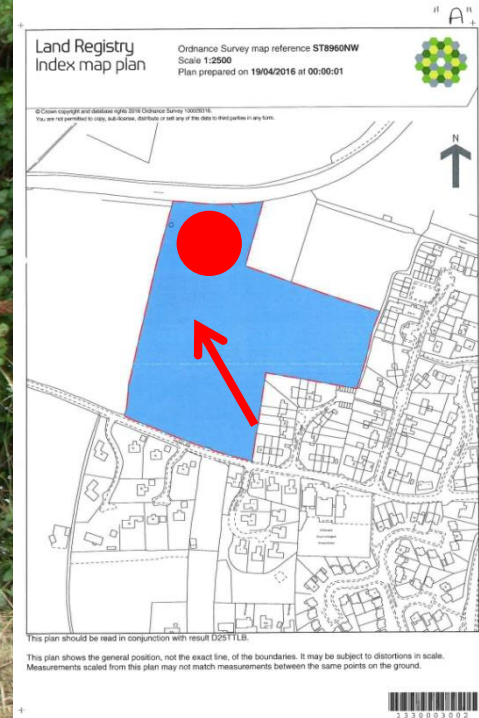
The Wiltshire gate / gap in the western field boundary (August 2017)



8 Stone stile on Footpath no.1 Semington at the north-east corner of Great Lees Field (August 2017)

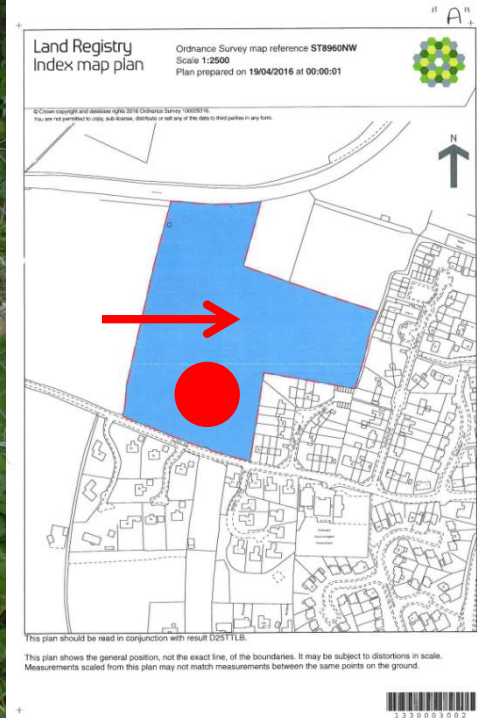


Stile on Footpath no.1 at the north-west corner of Great Lees Field (August 2017)



10

Typical access gate from gardens of properties in Pound Close, to the east of Great Lees Field (August 2017)



The Legislation

Sub-section 15(1) of the Commons Act 2006 states:

“15 Registration of greens

(1) Any person may apply to the commons registration authority to register land to which this Part applies as a town or village green in a case where subsection (2), (3) or (4) applies.”

12 **Sub-section 15(3) of the Commons Act 2006 states:**

“(3) This subsection applies where –

- (a) a significant number of inhabitants of any locality, or of any neighbourhood within a locality, indulged as of right in lawful sports and pastimes on the land for a period of at least 20 years;**
- (b) they ceased to do so before the time of the application but after the commencement of this section; and**
- (c) the application is made within the relevant period.**

(3A) In subsection (3), “the relevant period” means –

- (a) in the case of an application relating to land in England, the period of one year beginning with the cessation mentioned in subsection (3)(b)...”**

The Application

- **Application made under Sections 15(1) and (3) of the Commons Act where it is claimed that user has ceased.**
- **Application dated 24 June 2016 and date stamped by the Registration Authority as received on the same day.**
- **Application made by Mr S Hall, Mr J Jonik and Dr W Scott as ‘Friends of Great Lees Field’.**
- **Application land, known as Great Lees Field, owned by Mr W Stuart-Bruges and Mr A Haythornthwaite.**
- **Application supported by 66 completed user evidence forms.**
- **Application supported by Semington Parish Council.**

Burden of Proof

- **Successful application - each element of the legal test (Section 15(3) of the Commons Act 2006), must be satisfied.**
- **Burden of proof lies with the applicant.**
- **Registration Authority has no investigative powers.**
- **Standard of proof is the balance of probabilities.**

The Evidence

On examination of the evidence, the following points were found to be in dispute:

- 1) Was there sufficient evidence of the exercise of lawful sports and pastimes over the whole of the application land, where the majority of user had been walking and dog walking?**

- 2) The alleged ploughing of the land in 2000, which would lead to a significant interruption to the qualifying 20 year user period.**

Non-Statutory Public Inquiry

- **It is the duty of the Registration Authority to determine the application in a fair and reasonable manner. It is open to them to hold a non-statutory public inquiry where there is a substantial dispute of fact, which is likely to be resolved by hearing from the witnesses.**
- **At its meeting dated 13 December 2017 the Western Area Planning Committee resolved to appoint an independent Inspector to preside over a non-statutory public inquiry, to make a recommendation to Wiltshire Council to assist in its determination of the application.**
- **The Registration Authority appointed William Webster of 3 Paper Buildings to preside over an inquiry, held at Semington Village Hall on 15-17 October and 4-5 December 2019.**
- **Oral evidence provided at a public inquiry may be given weight where it is subject to cross examination.**

Non-Statutory Public Inquiry

- The Inspector provided the Registration Authority with a detailed report regarding the evidence and recommendation, dated 7 February 2020, including findings that:
 - A significant number of Semington inhabitants used the land, but not the whole of the land for LSP throughout the qualifying period.
 - The land was mainly used as a place of transit for walking to destinations outside the land rather than as a destination in its own right for LSP over the whole of the land.
 - The land would have been mainly used for the exercise of supposed rights of way along a defined route/routes. Such use does not justify registration as a Town/Village Green and use outside this category to justify legislation was too limited and infrequent.
 - The applicants are precluded from relying on use through the Pound Lane gate as this involved use which was forcible and not 'as of right' and would not justify registration.
- The Inspector recommends that the application should be rejected on the grounds that the applicable statutory criteria laid down in section 15(3) of the Commons Act 2006 have not been satisfied.

Officers Recommendation

That Wiltshire Council, as the Commons Registration Authority, accepts the Inspector's recommendation and that the application by 'The Friends of Great Lees Field', under Sections 15(1) and (3) of the Commons Act 2006, to register land off Pound Lane, Semington, known as 'Great Lees Field' be rejected for the reasons set out in the Inspector's report dated 7 February 2020.

Decision

- **The Committee is making a decision in its Regulatory function which requires the Committee to act in a quasi-judicial capacity.**
- **When a Committee acts in its quasi-judicial capacity, it must follow a proper procedure which accords with the requirements of natural justice and the right to a fair hearing.**
- **Pre-determination - Members of the committee should consider the Inspector's report and all of the evidence, including that presented to the Committee today, before making a decision on the application.**
- **If the Committee uses its power to determine the application against the Officers recommendation, the Committee must give legally valid reasons for this determination, which must be supported by the evidence.**

Western Area Planning Committee

17th June 2020

7a) 19/09800/FUL - 12 A Frome Road, Bradford On Avon, Wiltshire, BA15 1LE

Demolition of the existing dwelling and outbuilding and replacement with 5 residential dwellings as well as alterations to the existing boundary wall to accommodate a widened vehicular access.

Recommendation: Approve with Conditions

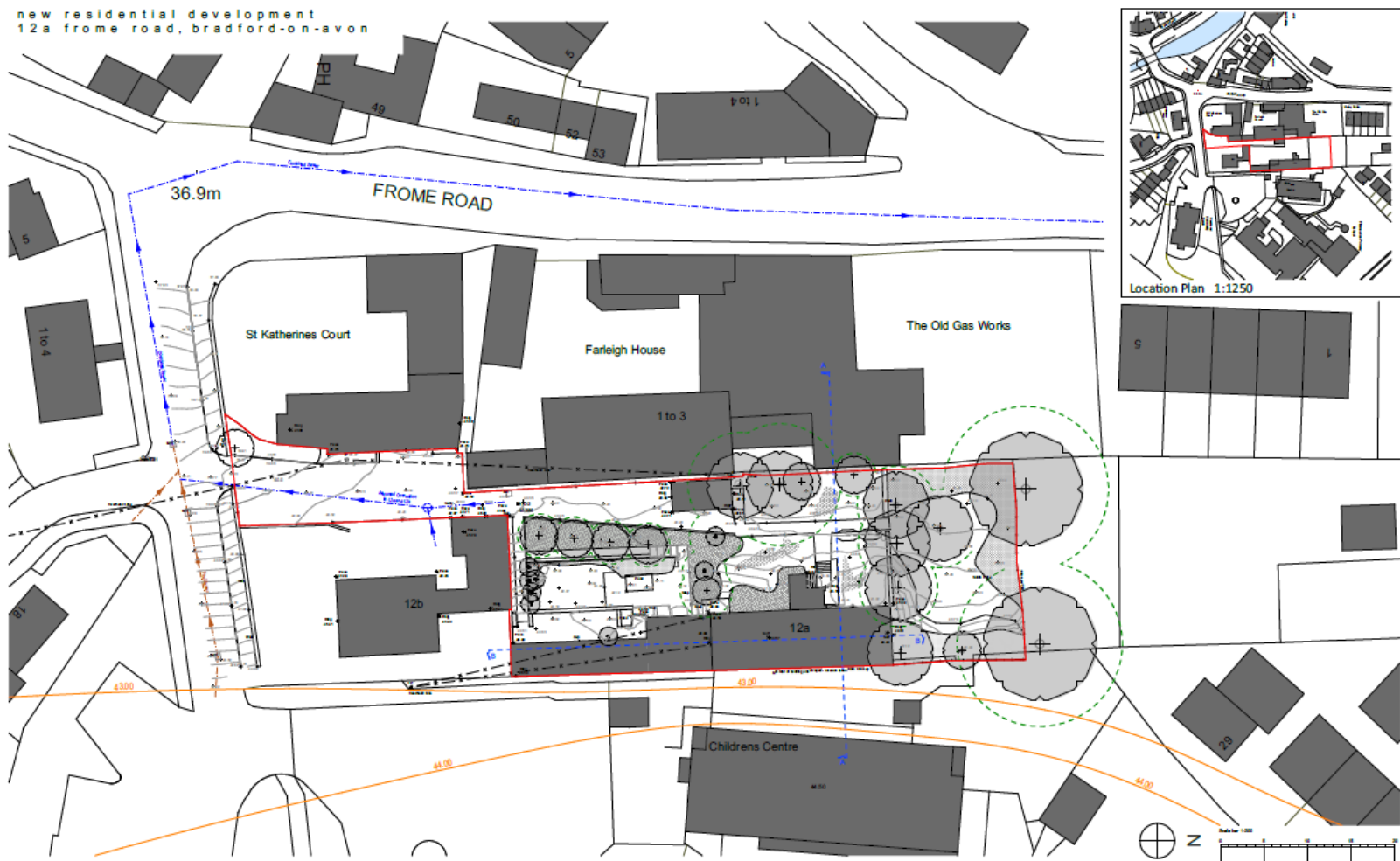


Site Location Plan



Aerial Photography

Existing Site Plan



coombes : evertt architects limited
 105-107 Bath Road
 Cheltenham
 Gloucestershire
 GL53 7LE
 T: 01242 807727 F: 0945 5575 833
 e: info@ce-architects.co.uk
 www.ce-architects.co.uk

- Preliminary
- Feasibility
- Planning
- Building Regulations
- Tender
- Construction Issue
- As Built

1. The drawing is not to be regarded as a contract until it is signed and sealed by the architect and client.
 2. Do not scale drawing. All dimensions to be checked on site prior to construction and any discrepancies to be reported to architect immediately.
 3. The drawing is for the use of the architect and client only and is not to be used for any other purpose without the written consent of the architect.

RIBA
 REGISTERED ARCHITECT

Drawing No: Existing Block and Site Location Plans	Project: 12a Frome Road, Bradford-on-Avon
Client: Avonvale Developments	Scale: 1:1250 & 1:300 @ A1
Drawn by: JS Checked: TC	Date: August 2019
Project No: 19.20.006	Project / Drawing No: PL001

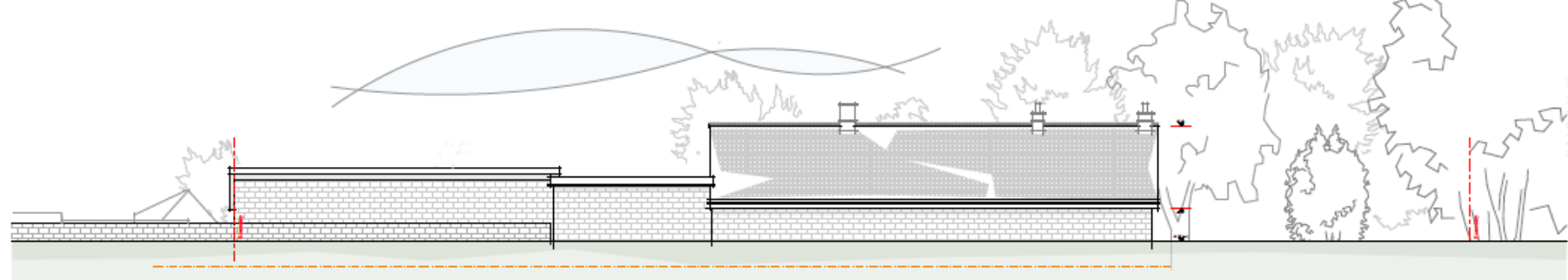
coombes : evertt architects

Existing elevations

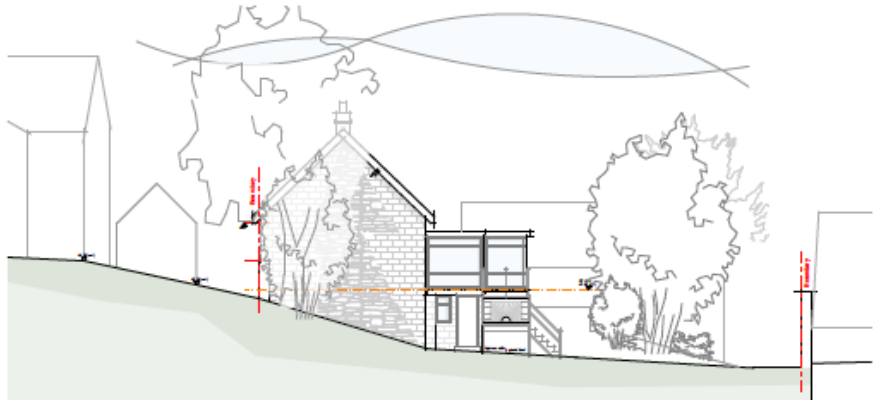
new residential development
12a frome road, bradford-on-avon



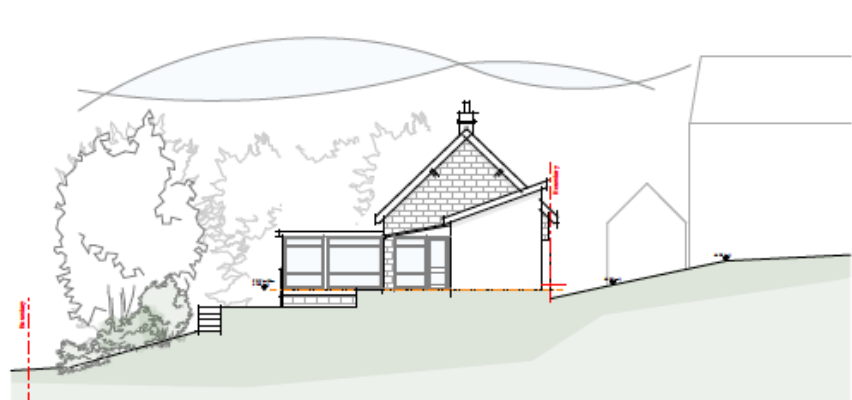
Existing West Elevation



Existing East Elevation



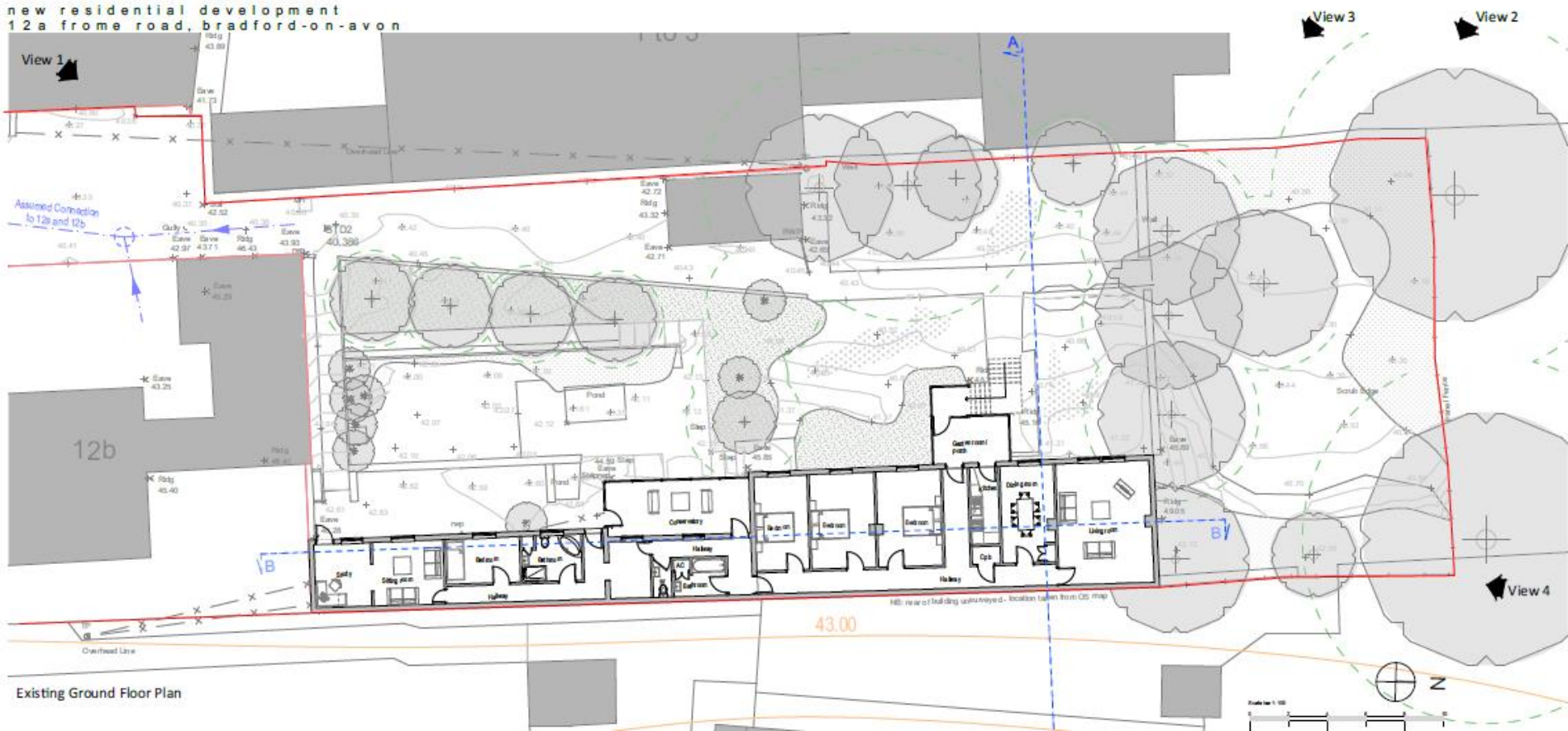
Existing North Elevation



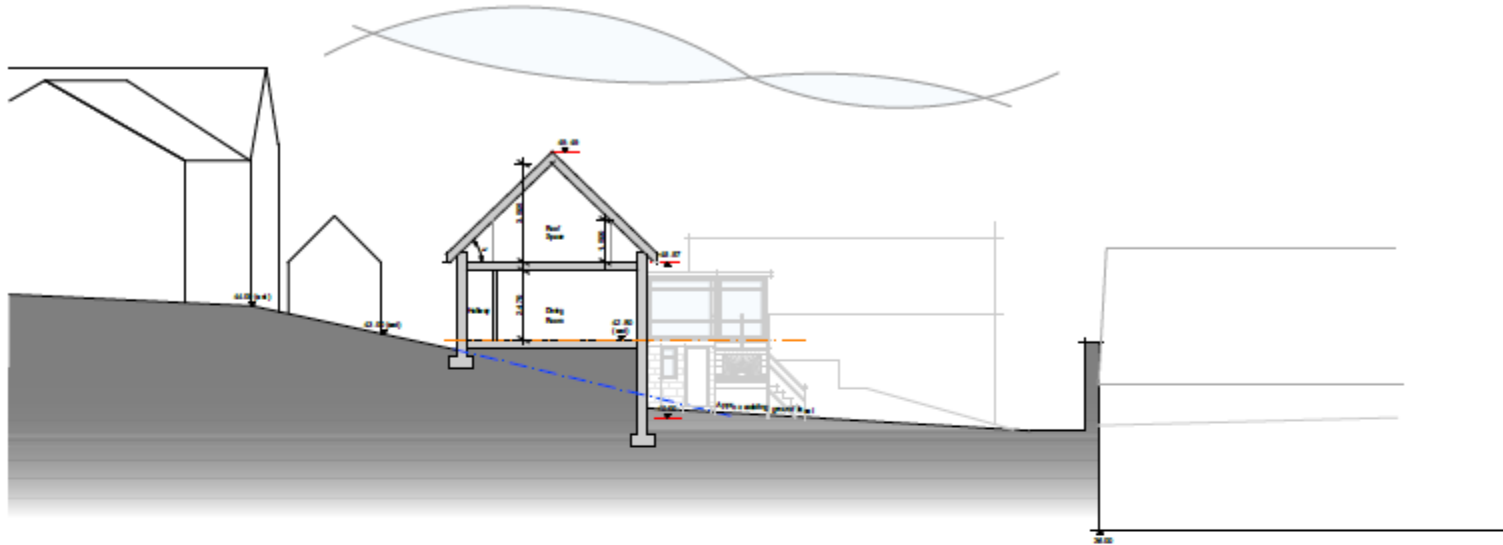
Existing South Elevation

Existing floor plans

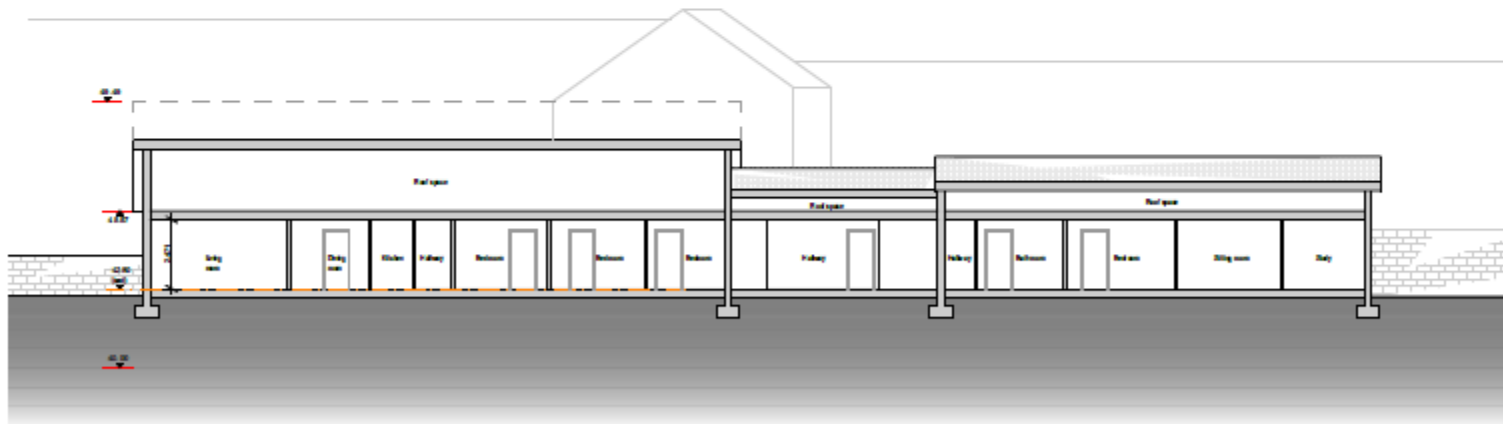
new residential development
12a frome road, bradford-on-avon



Existing site section



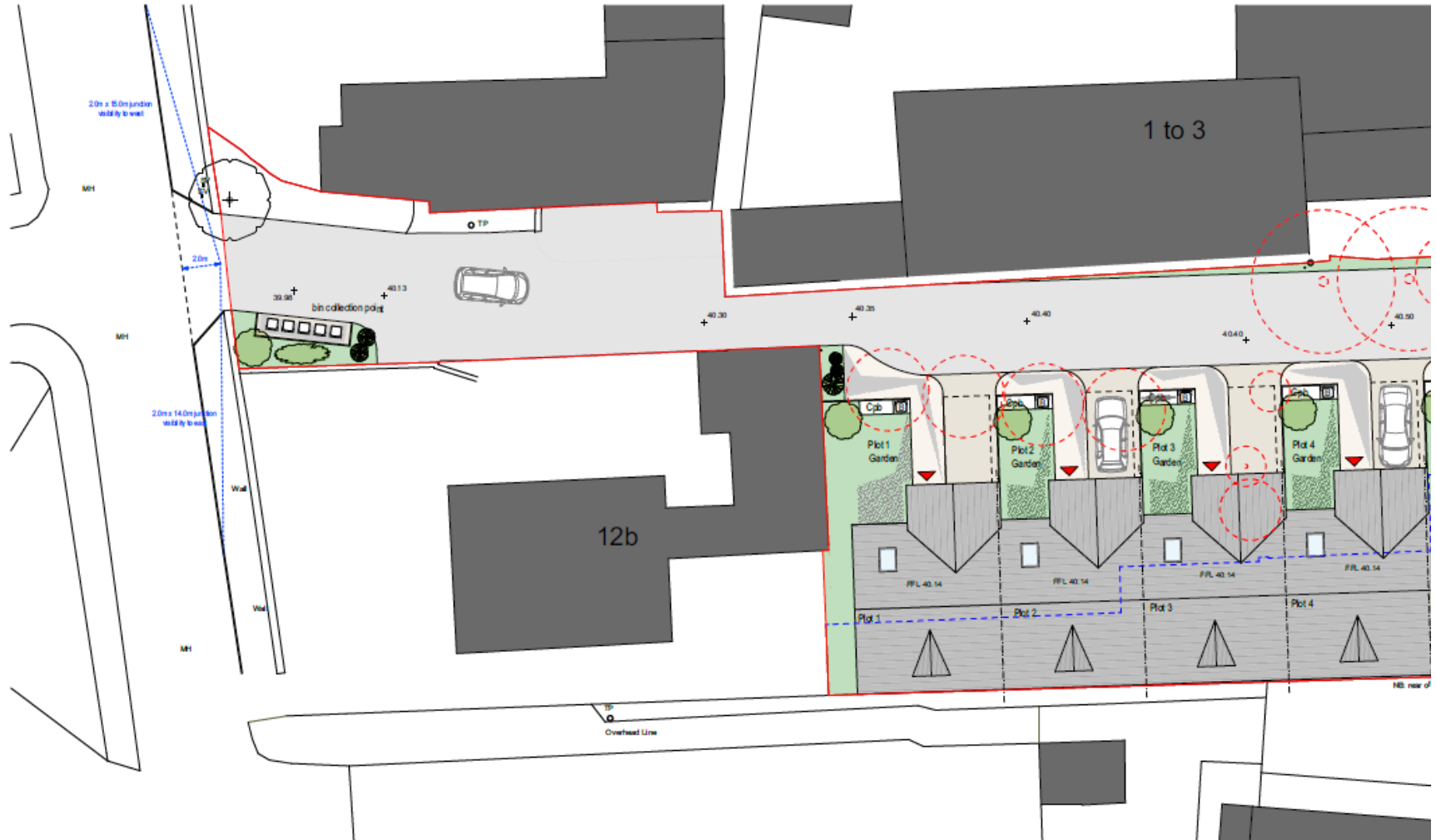
Existing Section A-A



Existing Section B-B

Proposed site plan showing access

new residential development
12a frome road, bradford-on-avon



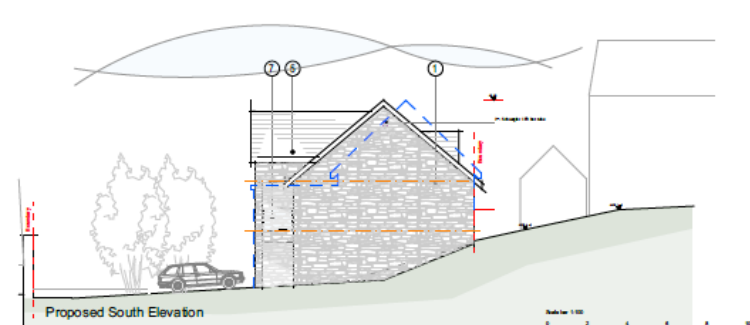
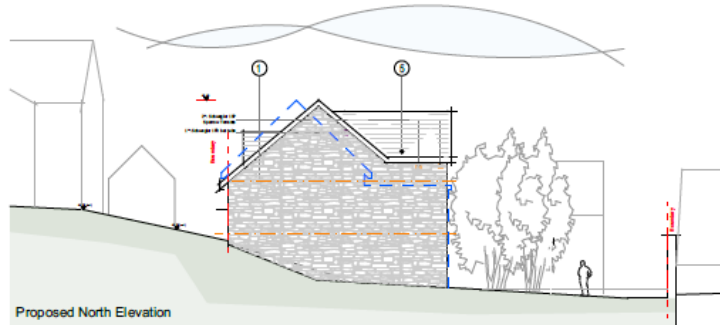
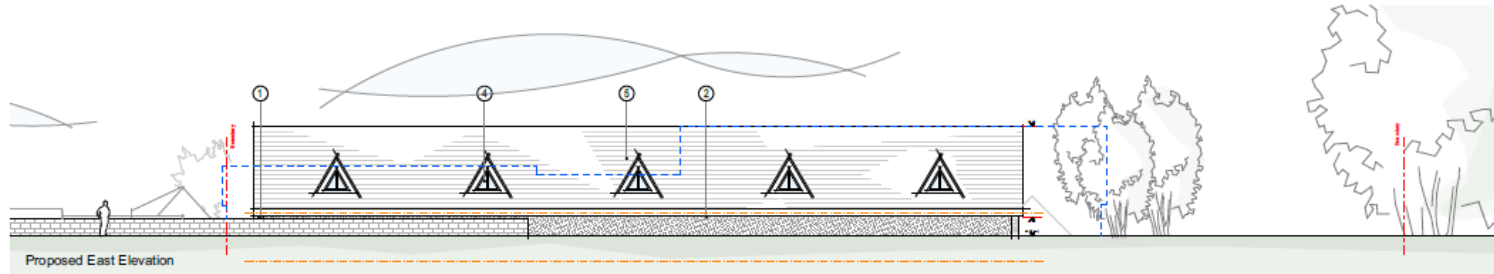
Proposed site plan showing dwellings and shared open space

new residential development
12a frome road, bradford-on-avon



Proposed elevations

new residential development
12a frome road, bradford-on-avon



coombes : everitt architects limited 105-107 Bath Road Chalfont St Giles Bucks HP8 4NL t: 01294 807727 f: 0845 5075833 e: info@coombes-architects.co.uk www.coombes-architects.co.uk	<input type="checkbox"/> Preliminary <input type="checkbox"/> Feasibility <input checked="" type="checkbox"/> Planning <input type="checkbox"/> Building Regulations <input type="checkbox"/> Tender <input type="checkbox"/> Construction Issue <input type="checkbox"/> As Built	1. The drawing and contents copyright © of the author. No part of this book or its content may be reproduced, stored in a retrieval system, or transmitted in any form or by any means, electronic, mechanical, photocopying, recording, or otherwise, without the prior written permission of the author. 2. Drawing for the building is a registered trademark of the author and is used here by permission of the author. 3. Planning for the building is a registered trademark of the author and is used here by permission of the author.	REV A - 10.09.2019 window inserted, hatch to flooring REV B - 16.09.2019 bar and bird boxes added	Drawing Title: Proposed Elevations Client: Avonvale Developments Drawn by: JS Checked: TC Project No: 19.20.006	Project: 12a Frome Road, Bradford-on-Avon Scale: 1:100 @A1 Date: August 2019 Project / Drawing No: PLO12 B
	RIBA Registered Architect	coombes : everitt architects			

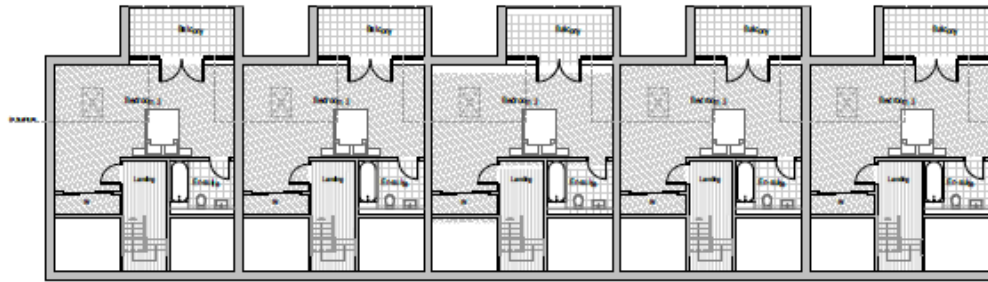
Blue dotted line shows the height and location of the existing building on site

Proposed ground floor plan



Proposed first and second floor plans

new residential development
12a frome road, bradford-on-avon

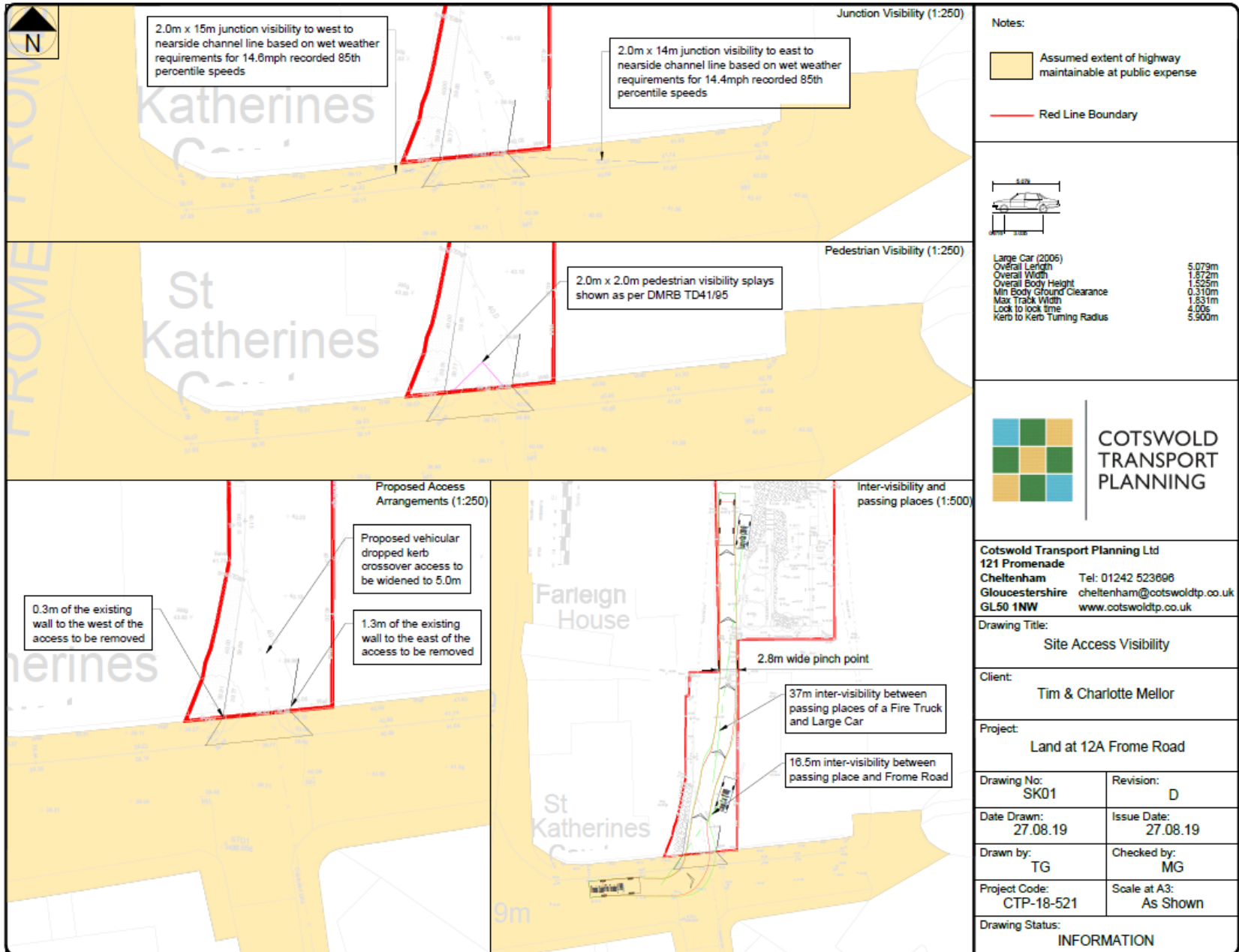


Proposed Second Floor Plan



Proposed First Floor Plan

Proposed access





Left: the B3109 with the junction of Kennet Gardens



Right: Kennet Gardens when viewed from B3109

33 Existing entrance towards the site. Photo shows neighbouring dwelling (12B)



34



Access to the site adjacent to neighbouring dwelling 12B

35

Existing dwelling



Existing dwelling with school building to the rear



37



End elevation of existing dwelling with school building to the rear



Existing garden pictures where area of shared garden will be located



Right: View from the corner of the site to the existing modern buildings that front the B3109



Pedestrian traffic using Kennet Gardens

children leaving school towards Trowbridge Road.

NB: All photos taken on a Thursday (15:20) prior to the COVID19 lockdown

View from B3109 – you can just see the existing school building with the solar panels to the rear of the picture and the roof line of the existing dwelling



Existing modern dwellings that face onto B3109





View of the existing dwelling
from the school premises



3D illustrations



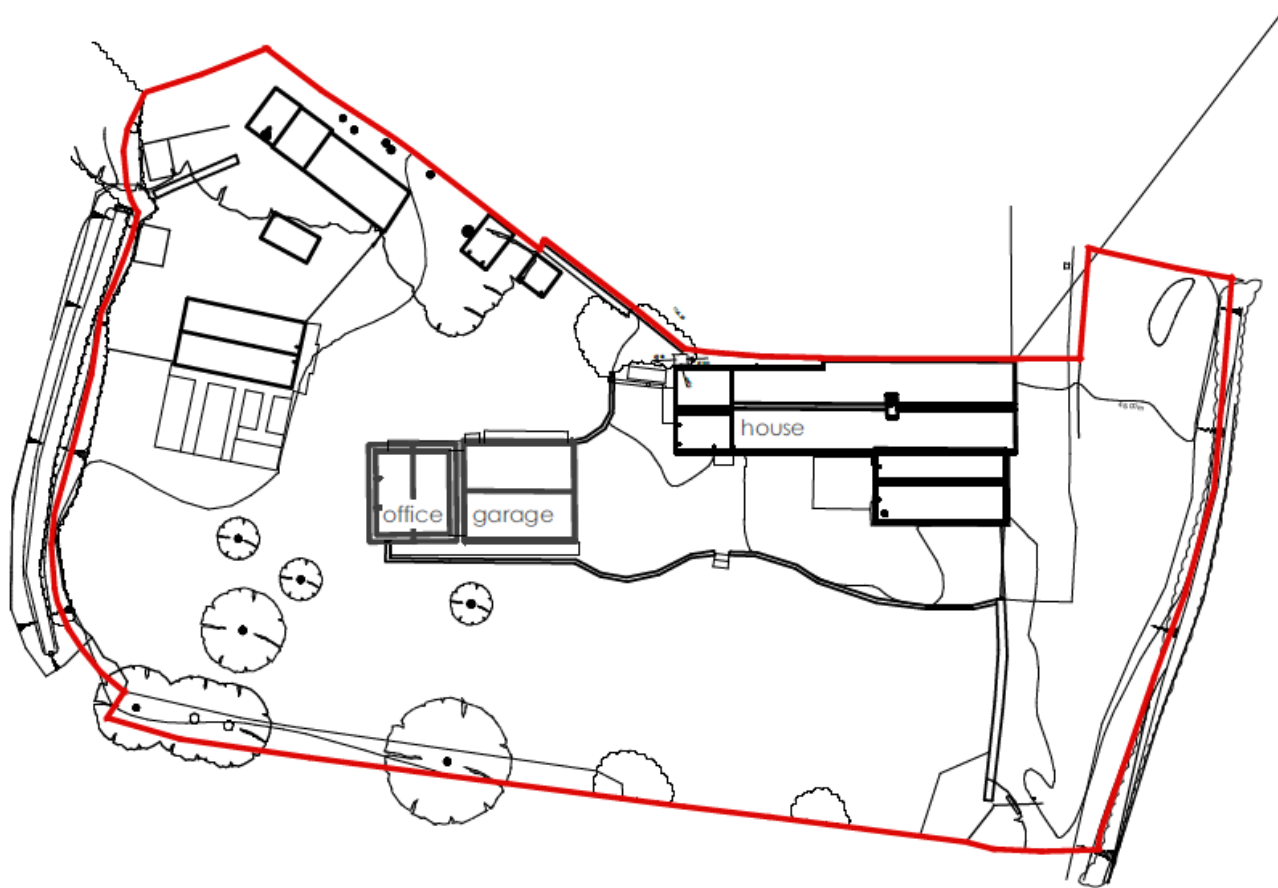
7b) 20/00059/FUL - Bishop's Folly, 2 Ireland, North Bradley, BA14 9RW

Erection of two storey extension, double garage, alterations and associated access works.

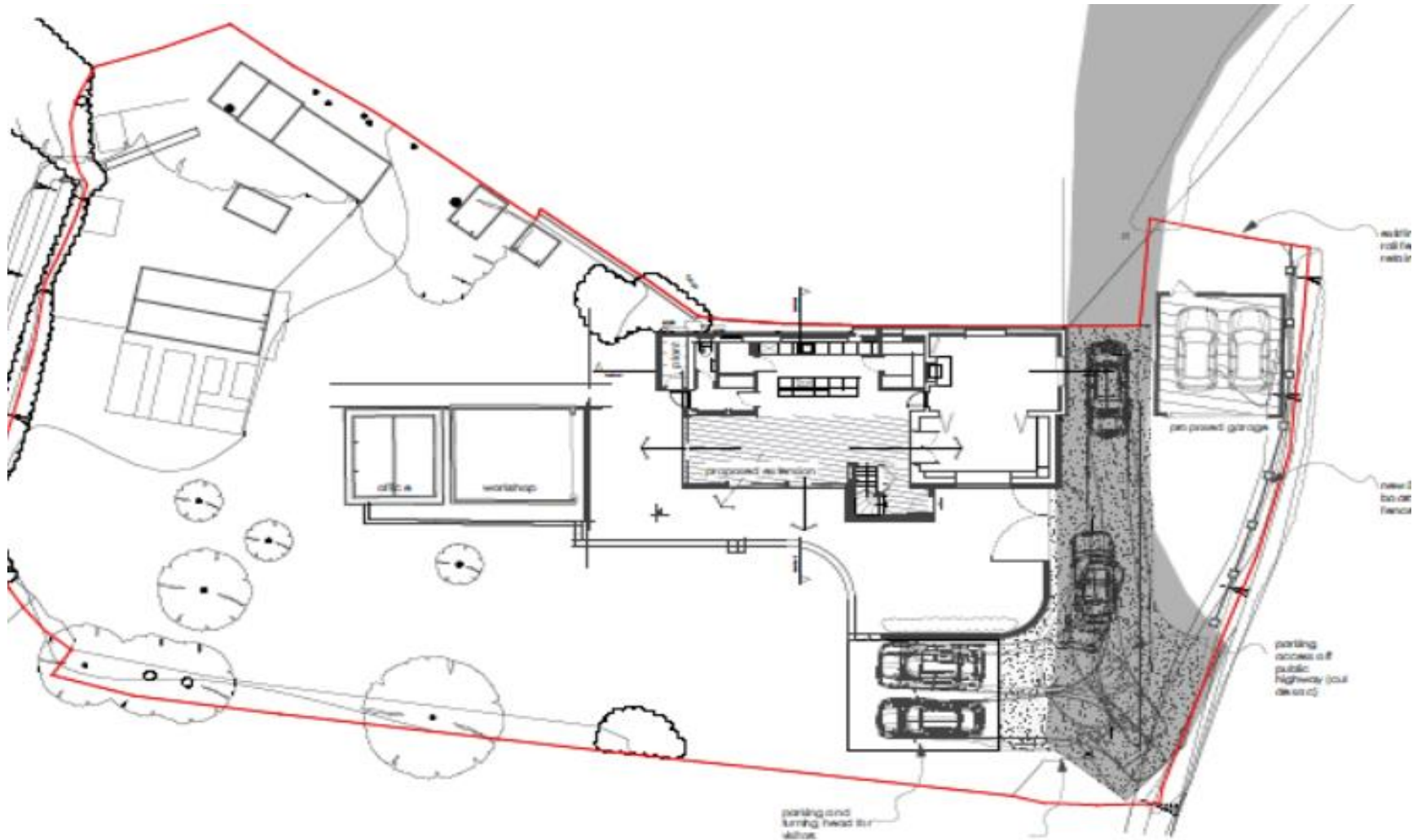
Recommendation: Approve with Conditions



Existing Site Plan



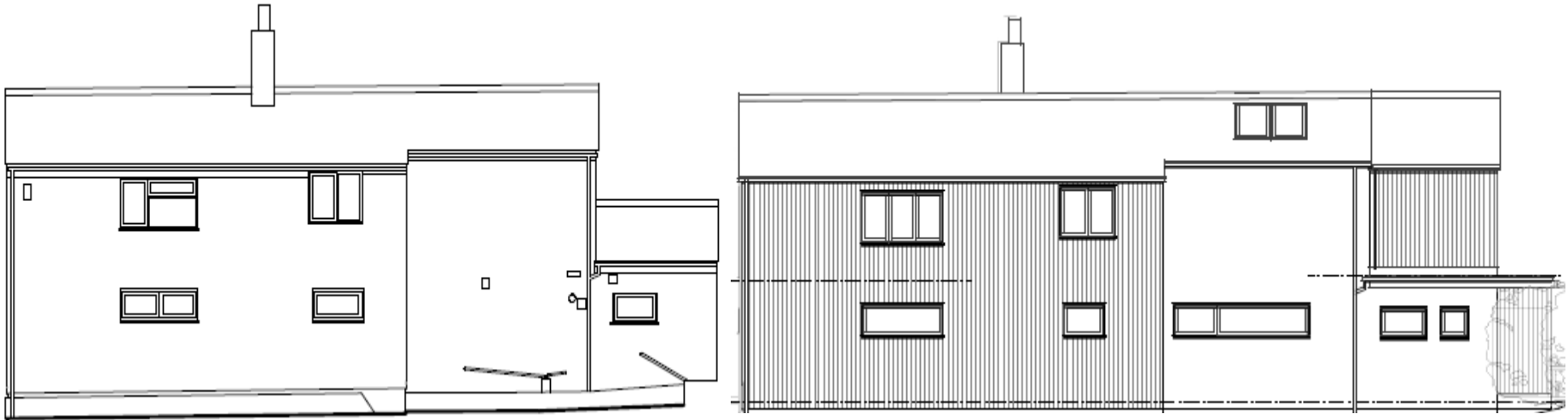
Proposed Site Plan

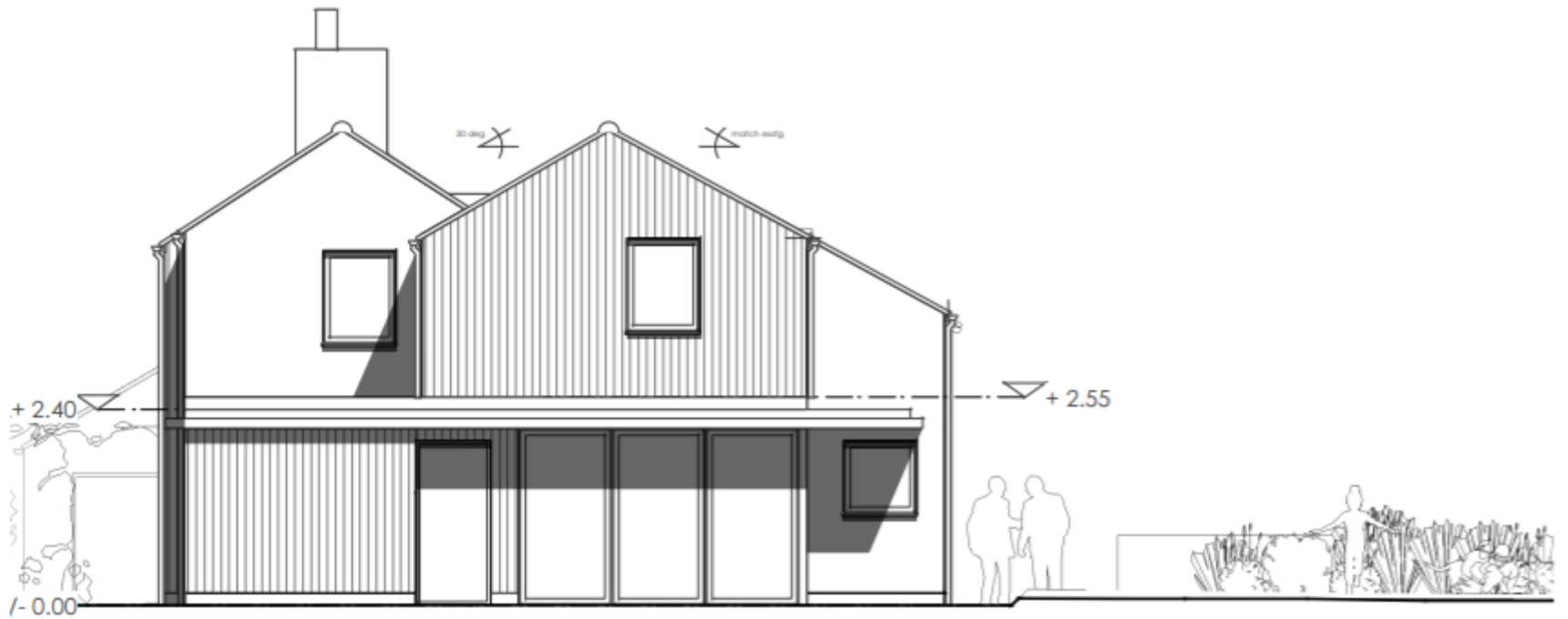


Existing and proposed front (south east) elevations

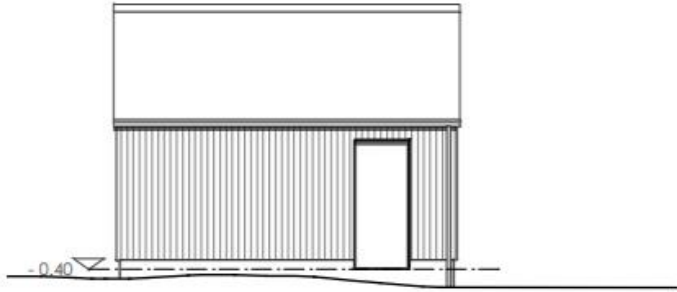


Existing and proposed rear (north west) elevations

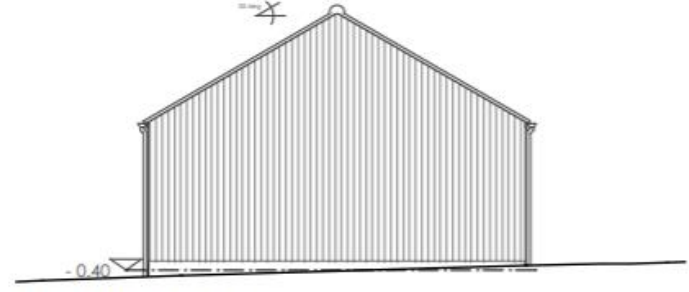




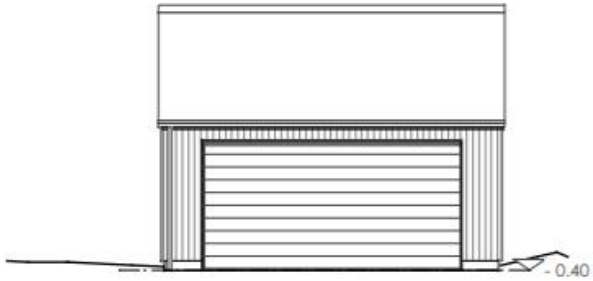
South West ELEVATION Proposed _____



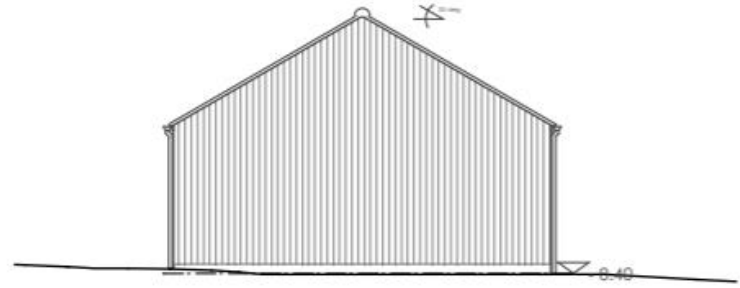
North West ELEVATION



South West ELEVATION



South East ELEVATION



North East ELEVATION

51 Existing front (south east)elevation



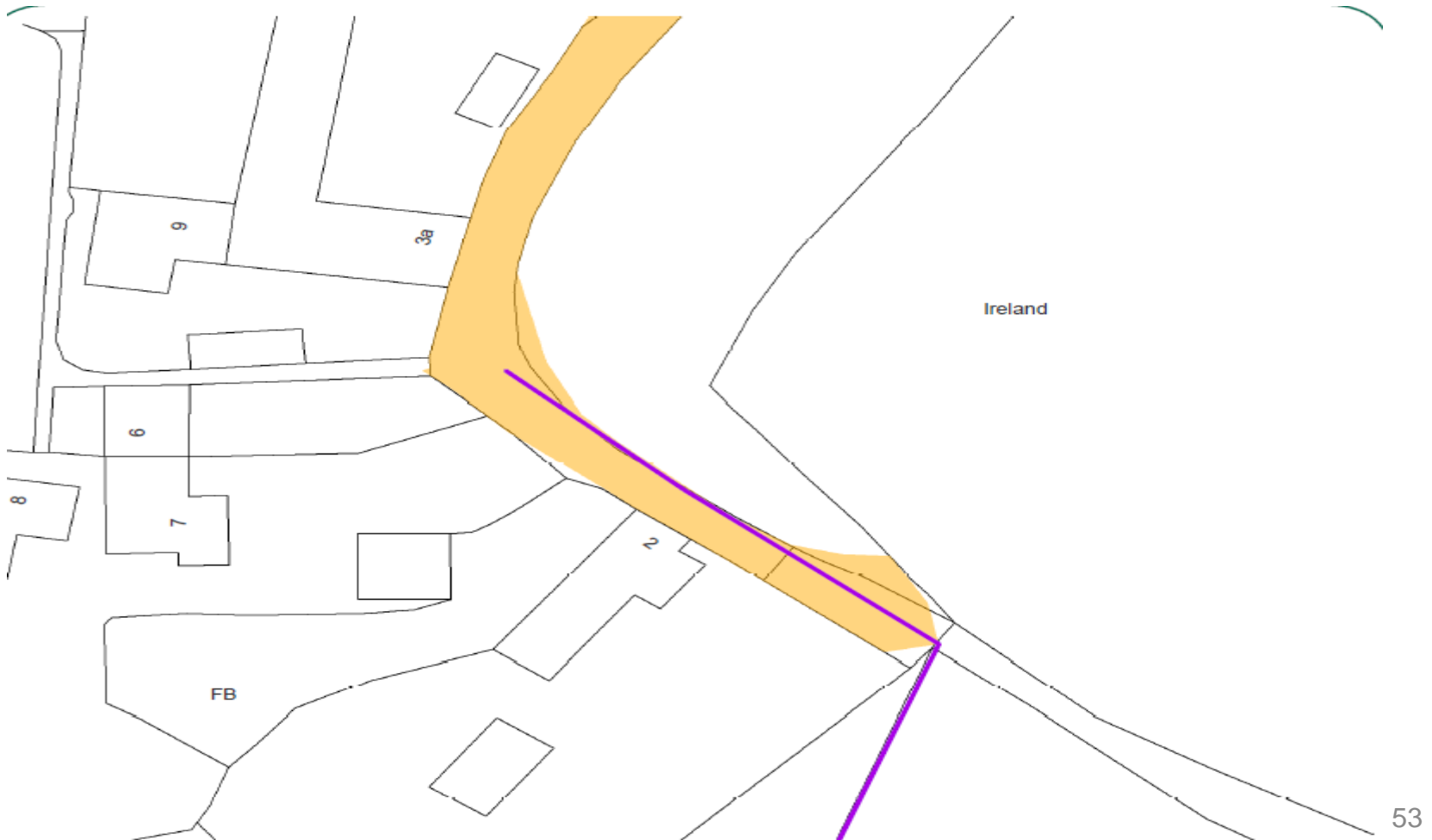
52



Illustration of parking arrangement and historic turning area

53

A highway search shows the single-track lane is adopted highway up to and beyond the site access. The highway land is shown to widen at the end of the adopted section, which suggests it was intended to serve as a turning area.



54



55

Separation distances to closest neighbours (6 & 7 Ireland)



7c) 19/12153/VAR – McDonalds Restaurant – 235 Bradley Road, Trowbridge BA14 0AZ

Variation of Condition 3 of W/96/00587/FUL to modify the opening hours to 06:00 – 23:00 Monday - Saturday

Recommendation: Approve with Conditions











7d) 19/10471/FUL – 3A Church Lane, Limpley Stoke BA2 7GH

Erection of 2 No. dwellings and associated landscaping and access work (amended design)

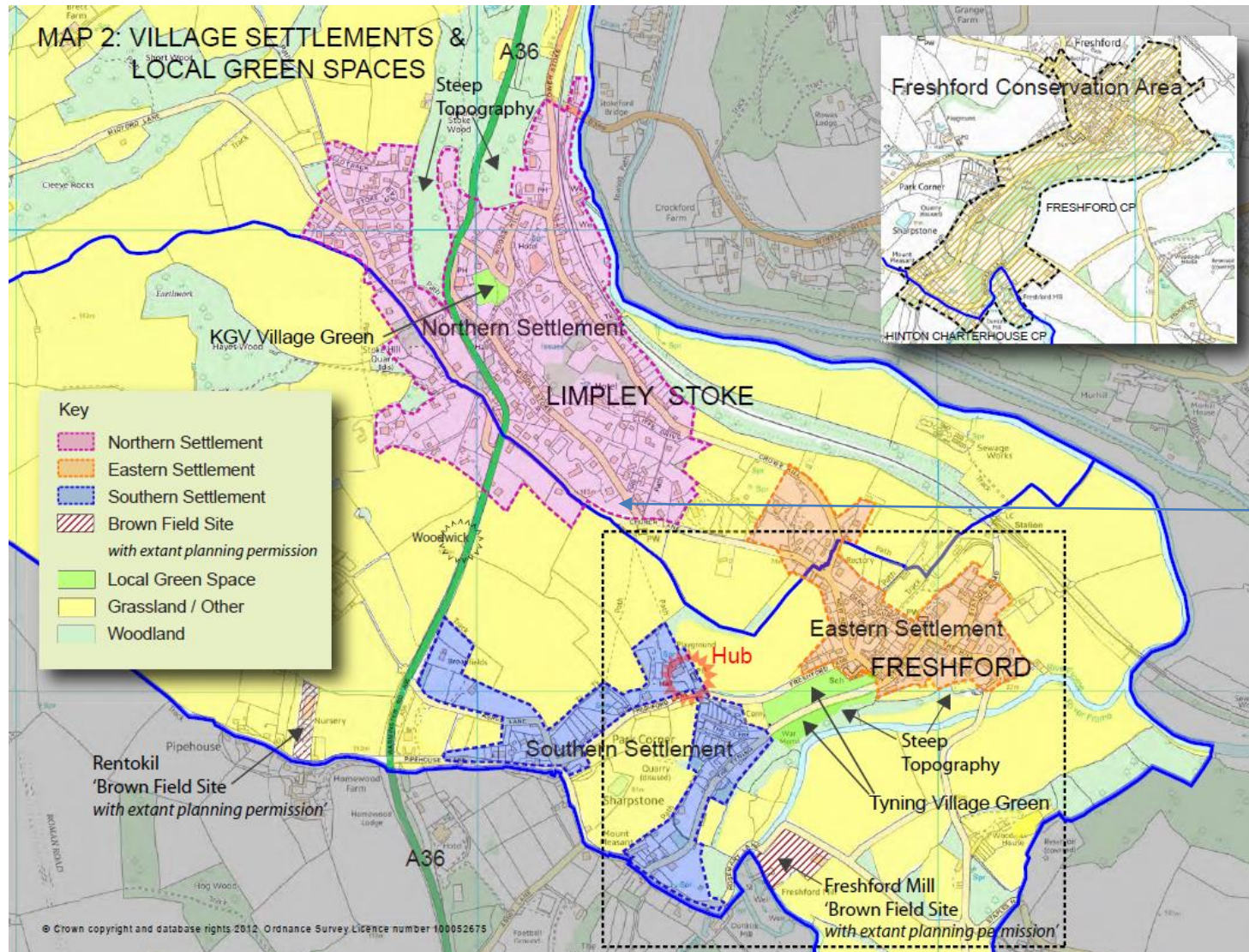
Recommendation: Approve with Conditions

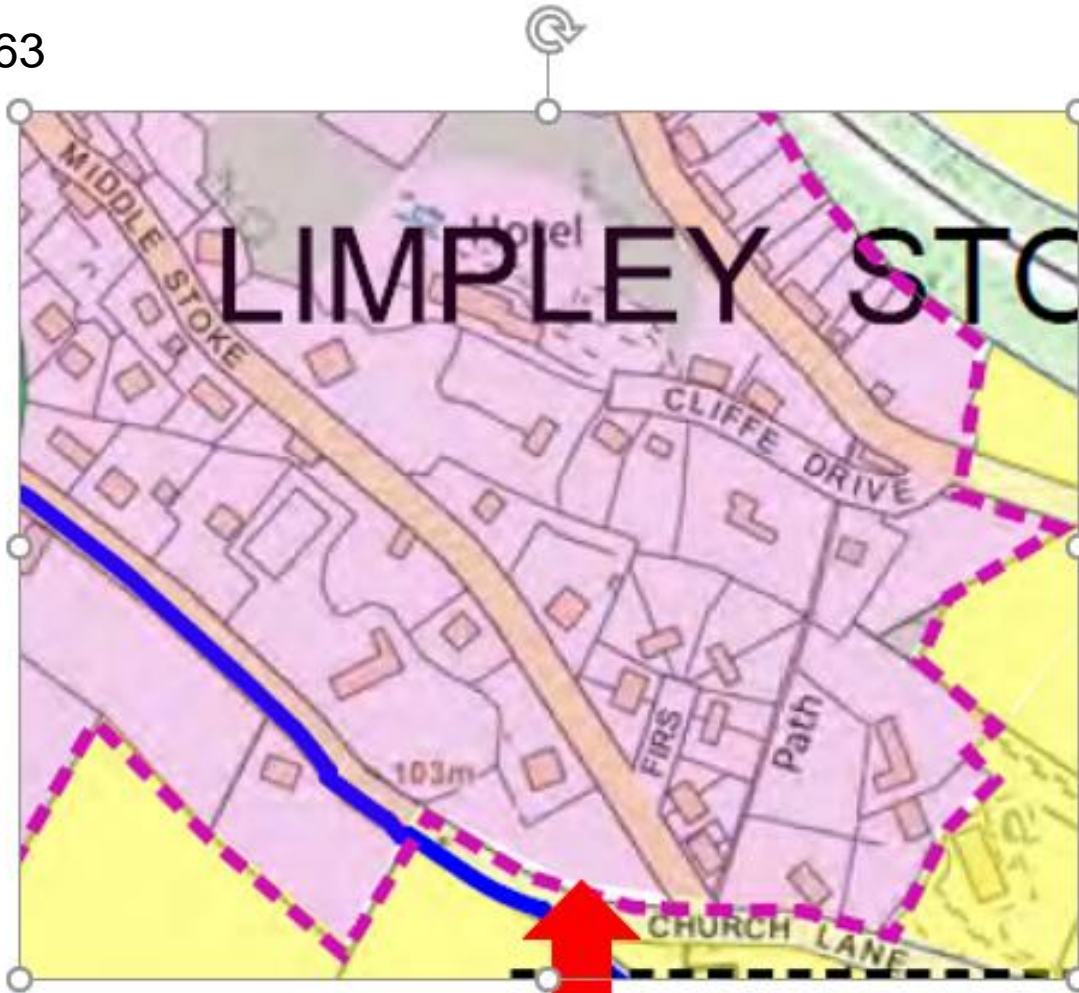


Site Location Plan

Aerial Photography

62 The Freshford and Limpley Stoke 'made' Neighbourhood Plan - Village Settlement Plan





Snippet from Freshford and Limpley Stoke NP showing the site is within the northern settlement (shown in pink)

The site subject of this application

Proposed Site Plan



Proposed Front and Rear Elevations



Unit A

Unit B

East, Street Elevation

- Materials**
- Rubble stone to front and sides.
 - Through colour render to rear elevation
 - Metal rainwater goods
 - Natural slate roof
 - Painted timber windows
 - Timber front door
 - Timber single storey 'extensions' with shallow metal roofs



Unit B

Unit A

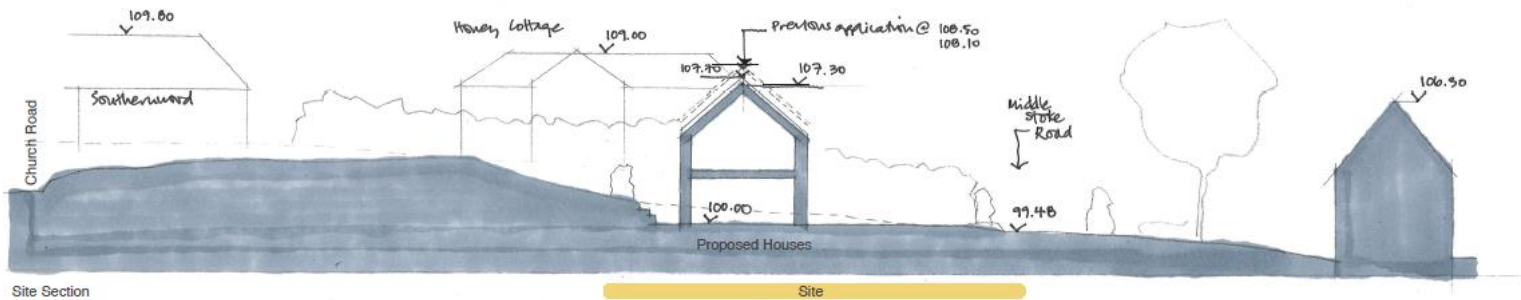
West, Rear Elevation



Proposed Side Elevations and Cross Section

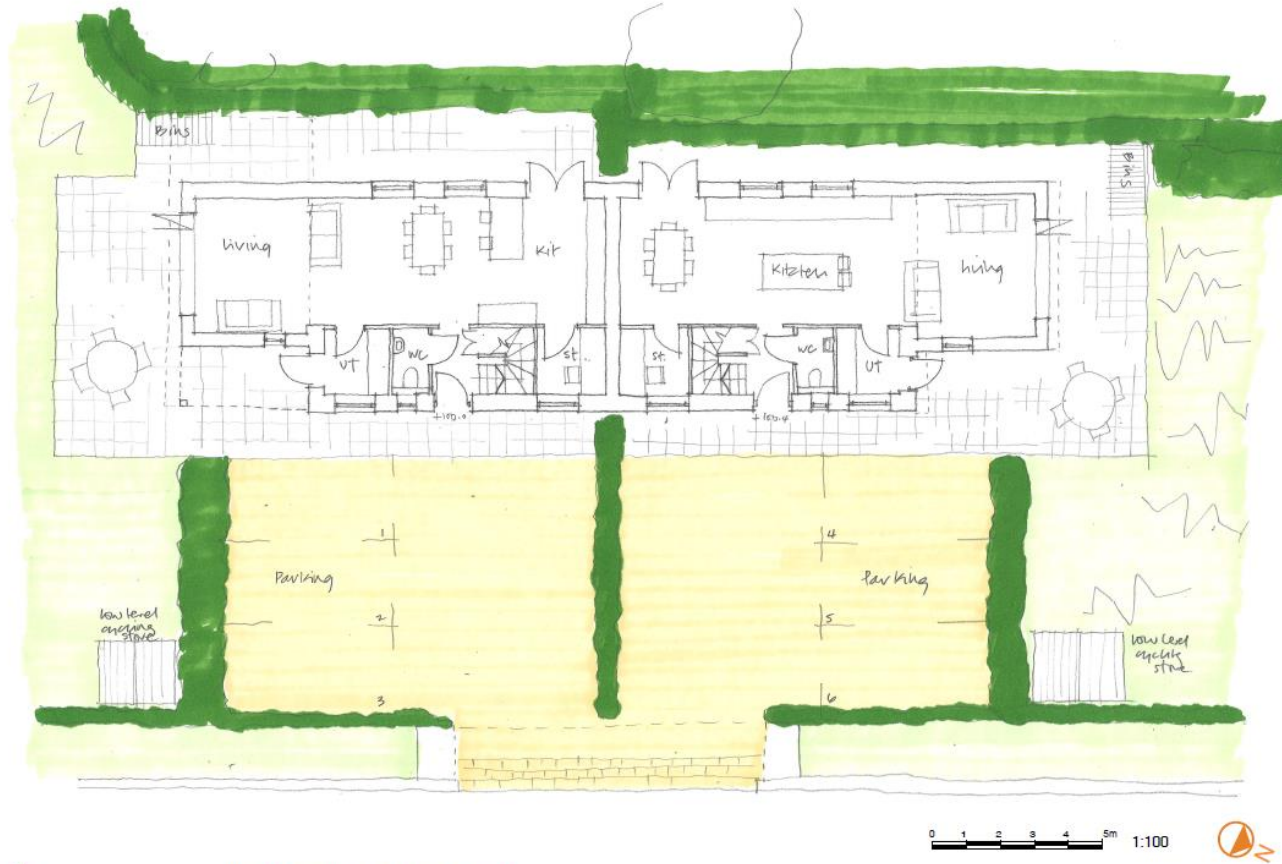


0 1 2 3 4 5m 1:100



0 2 4 6 8 10m 1:200

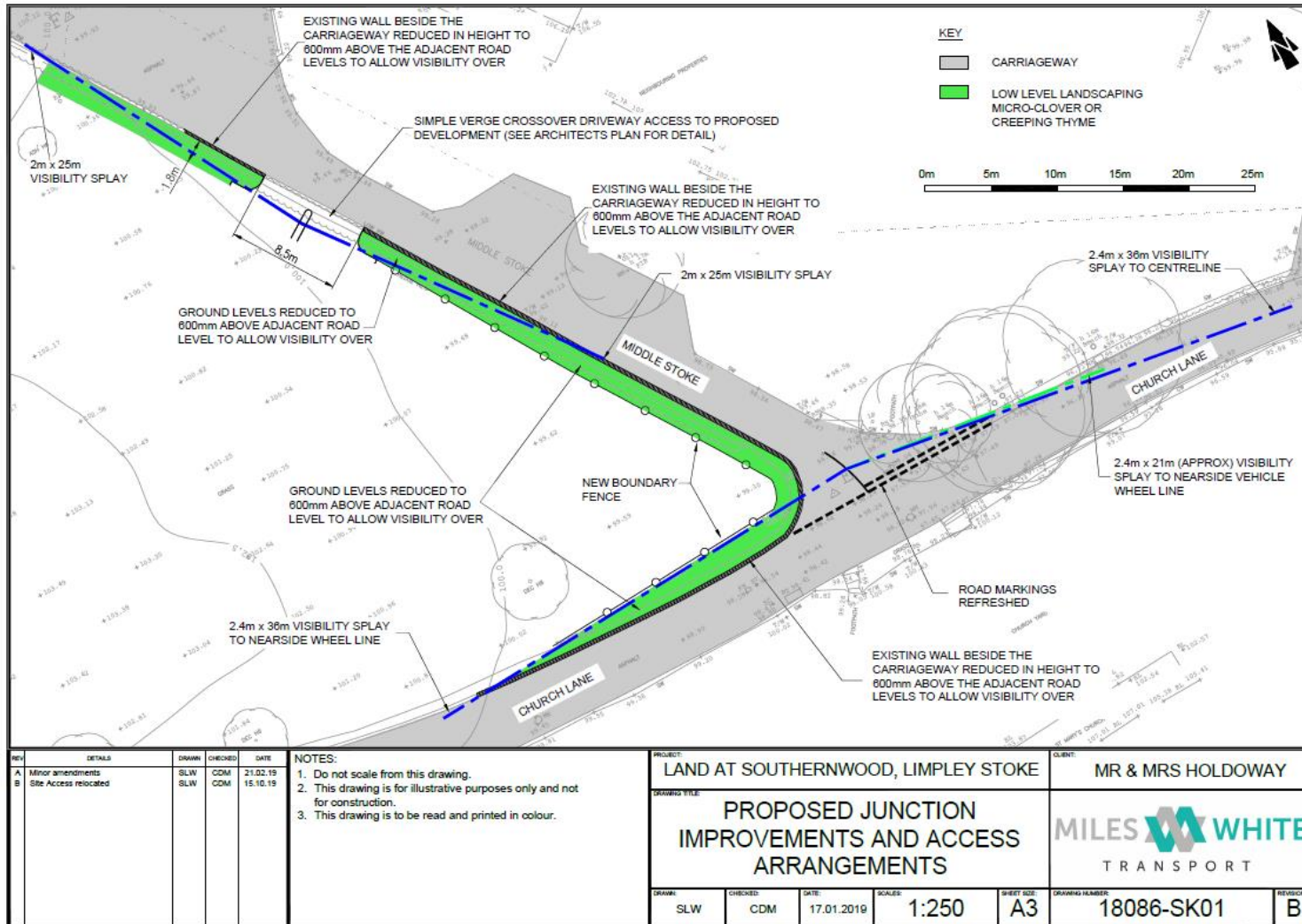
Proposed Ground Floor Plan



Proposed First Floor and Roof Plans



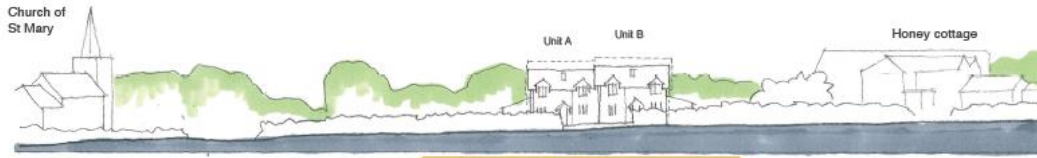
Proposed Junction Improvements Plan



Proposed Site Sections



Section AA through proposed upper house



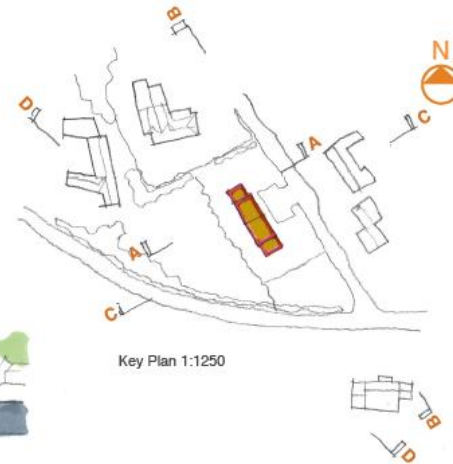
Section BB through Middle Stoke road



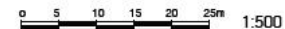
Section CC through lower house



Section DD from the west



Key Plan 1:1250



72

View of site with The Firs in the background and Honey Cottage to the far left



View towards the church from within the site



74

View towards church along Middle Stoke Rd – the site is on right



Existing junction of the Firs and Middle Stoke Road



76 Photo taken over the existing hedge showing the distance between Honeywell Cottage and their boundary to the site



77

The application site as viewed from Church Lane. Honeywell Cottage is to the left and the existing dwellings located along The Firs and Middle Stoke are to the right.



78

Middle Stoke Road with existing dwellings set back from the road – application site is beyond the hedge on the left side of the road.



Existing junction of Middle Stoke and Church Lane



Western Area Planning Committee

17th June 2020