

Report to Planning Committee

08 December 2021

Application Reference	DC/21/66097
Application Received	8 September 2021
Application Description	Proposed change of use of residential accommodation at ground floor to self-contained flat, and a 7-bed HMO on first and second floors, with associated car parking (amendment to refused application DC/19/63440).
Application Address	10 - 12 Park Hill Wednesbury WS10 0PL
Applicant	Mr Balachandran Thiyagarajah
Ward	Friar Park
Contact Officer	Douglas Eardley douglas_eardley@sandwell.gov.uk

1 Recommendations

1.1 That planning permission is granted subject to:

- (i) Provision and retention of parking
- (ii) Provision and retention of an electric vehicle charging point
- (iii) Refuse storage enclosure details, implementation and retention of approved details
- (iv) Details of security measures
- (v) Construction hours



- (vi) Construction method statement
- (vii) Details of bin storage and service plan (commercial and residential), and
- (viii) Provision of secure cycle storage

2 Reasons for Recommendations

2.1 This revised proposal has now demonstrated that the proposal would not have severe impact on the highway network and in all other respects the proposal is policy compliant and causes no harm to residential amenity. would not cause significant harm to the amenities of the occupiers of adjacent properties.

3 How does this deliver objectives of the Corporate Plan?

	Quality homes in thriving neighbourhoods.
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4 Context

- 4.1 This application is being reported to your Planning Committee because it has generated objections and a petition and it has also been requested to be determined at Planning Committee by Councillor Scott Chapman.
- 4.2 To assist members with site context, a link to Google Maps is provided below:

[10 – 12 Park Hill, Wednesbury](#)

5 Key Considerations

- 5.1 The site is unallocated in the adopted development plans.
- 5.2 The material planning considerations which are relevant to this application are: -

Government policy (NPPF)



Policies in the adopted development plans BCCS and SAD
Planning history (including appeal decisions)
Living space standards
Overlooking/loss of privacy
Parking, highway safety and traffic generation.
Noise and disturbance

5.3 Other considerations – Means of Escape (fire safety).

6. The Application Site

6.1 The application relates to an existing retail convenience store with living accommodation on the south side of Park Hill, close to the junction with Woden Road East, in a residential area.

6.2 The application building comprises of a two and a half storey property combining retail and residential use. The residential element is currently one dwelling (9 bedrooms). The existing ground floor has a shop and storage areas together with a lounge, dining room and kitchen for the dwelling. The first floor has 6 bedrooms (4 bedrooms with en-suites) and a family bathroom. The loft contains 3 bedrooms, bathroom and a kitchen. There is a hard-surfaced yard/amenity space (88 sq. m) at the rear with a detached outbuilding used for storage. At the front of the property there is a forecourt parking area.

7. Planning History

7.1 The property has been substantially extended in the past to maximise the floor space of what was originally two semi-detached properties. The most recent refusal was for the same application before you, namely a 7 bedroom HMO to first and second floor with the existing shop retained at ground but with the addition of a 1 bed flat to the rear. The application was refused by your Planning Committee in June 2020, following a site visit to the site, on the grounds that:-



- (i) The proposal is contrary to the National Planning Policy Framework in that the development would be over intensification of the premises (as result of the combined existing retail, ground floor flat and the proposed HMO) which would result in insufficient off street and on street parking serving the both uses, compromising highway safety.

7.2 Relevant planning applications are as follows:

DC/19/63440	Proposed change of use to part of ground floor and single storey rear extension to create a self-contained flat on the ground floor with HMO on first floor and second floors, together with associated parking.	Refused - 11.06.2020.
DC/15/58184	Proposed door and window to existing shop front elevation and veranda to the rear for storage.	Approved - 26.06.2015.
DC/13/56272	Proposed revision to DC/12/54776 to increase size of rear dormer.	Refused – 24.10.2013 – Appeal Dismissed.
DC/12/55146	Proposed conservatory, and new shed.	Approved – 07.11.2012.
DC/12/54776	Retention of rear dormer window (revisions to planning approval DC/09/51689).	Refused – 07.06.2012 – Appeal Allowed – 18.12.2012.
DC/12/54714	Variation of Condition 1 of DC/09/51689 – Proposed flat roofed garage/store and a higher eaves height	Approved – 27.07.2012.



	to allow appropriate internal access.	
DC/12/54689	Proposed two storey side/rear extension.	Withdrawn – 13.07.2012.
DC/09/51689	Proposed ground floor extension, first floor extension with loft conversion.	Approved – 05.07.2010.
DC/09/51111	Proposed first floor rear extension and change of use and extension of garage to hot food takeaway (A5).	Refused – 25.08.2009
DC/00/36225	Extension to store and living room.	Refused – 13.04.2000
DC/24092	Lounge extension.	Approved – 20.03.1989.

8. Application Details

- 8.1 The existing ground floor dining, kitchen and lounge would be converted into a self-contained 1-bed flat (99.80 sq. m), which would consist of lounge, dining room, kitchen and bedroom.
- 8.2 The first and second floors would be converted into a 7 bedroomed HMO, accessed off a separate entrance at the front of the building. . The HMO accommodation over the first and second floors includes bedrooms 2, 3 and 4 with en-suite facilities and bedrooms 1, 5. 6 and 7 sharing two bathrooms, one on each floor. A kitchen is provided on each floor and a shared lounge and laundry room is situated on the first floor. See extract of the full details of room sizes below.



Accommodation Schedule		
GROUND FLOOR	SHOP 1	88.10 sq.m
	FLAT 1 BED	99.80 sq.m
FIRST FLOOR HMO	Bedroom 1	11.00 sq.m
	Bedroom 2	17.44 sq.m
	Bedroom 3	12.23 sq.m
	Bedroom 4	18.31 sq.m
	Kitchen	11.90 sq.m
	Lounge	12.30 sq.m
	Utility	7.30 sq.m
SECOND FLOOR HMO	Bedroom 5	13.40 sq.m
	Bedroom 6	11.30 sq.m
	Bedroom 7	9.53 sq.m
	Kitchen	4.14 sq.m

No external alteration/extension of the existing building is proposed; and the ground floor retail unit would be retained.

8.3 Parking for 4 cars would be provided on the forecourt along with enclosed refuse storage areas. Following the refusal of the previous planning application (DC/19/63440), The agent has submitted a Transport and Highways Technical Note to address the previous reason for refusal. The document sets out public transport availability in proximity of the site and provides detailed surveys of parking activity to the surrounding street. They have therefore stated that that the impact of the proposed development is not severe and there is no reason why the proposals should be resisted on transport and highway grounds.

8.4 **Outbuilding**

8.5 Concerns were previously raised with DC/19/63440 regarding the existing outbuilding possibly being used for sleeping accommodation. However, it should be noted that the occupation of this building is not



part of this application (DC/21/66097), and any reports of these activities would require planning permission and would be investigated accordingly. However, for the avoidance of doubt, the existing outbuilding is currently used for storage, as stated on the submitted plans; and the three photos below taken on my site visit reaffirm this:



9. Publicity

9.1 The application has been publicised by two site notices and 88 neighbour notification letters. 33 objections have been received. Furthermore, an objection report and petition (hand written objections – 162 signatures; on-line petition 316 signatures) have also been received. Additionally, correspondence has been received from Councillor Simon Hackett and Councillor Elaine Costigan confirming their opposition to the proposal, and from Councillor Scott Chapman requesting that the application be determined at Planning Committee.

9.2 Objections

Objections have been received on the following grounds:

- (i) Parking/highway issues;
- (ii) There are too many HMO's already in the area;
- (iii) Concern about the type of clientele living in the HMO;
- (iv) No electric vehicle charging facilities;
- (v) No cycle storage;
- (vi) No bin storage;
- (vii) Loss of privacy from additional residents overlooking nearby gardens and houses;
- (viii) Loss of light from extension;
- (ix) Increased noise;
- (x) Out of character;
- (xi) Anti-social behaviour and safety of the community.

Immaterial objections have been raised regarding loss of value to properties (affecting the saleability of adjoining properties).

9.3 Responses to objections

I respond to the objector's comments in turn:



- (i) The Council's Highways Team have raised no objections (see 10.2). Therefore, it is considered that no significant parking/highway issues would occur to warrant refusal of this application in this instance.
- (ii) It is considered that Homes in Multiple Occupation contribute to the range of housing needs that are required within our community; and with the right design and layout and appropriate management through private sector housing licensing they can make a positive contribution to an area.
- (iii) The local planning authority has no control over the prospective occupants of the HMO. West Midlands Police has raised no objections (see 10.4). In addition, in terms of future occupiers, they would be expected to abide by the rules and regulations set out in the conditions of their tenancy and these will be managed by the landlord. The local authority can impose fines of up to £5,000 on landlords, if these regulations are not complied with.
- (iv) Conditions can be imposed upon this application to ensure that this matter is addressed.
- (v) Conditions can be imposed upon this application to ensure that this matter is addressed.
- (vi) Refuse storage is proposed as part of the planning submission and can be controlled by planning conditions.
- (vii) It could be said that the property would be more intensively used than currently, because individuals would reside in the property rather than a single family; however, it is considered that no significant loss of privacy would occur to warrant refusal of this application in this instance.
- (viii) There is no extension works proposed for this planning application.
- (ix) Given that the proposal would be a residential use, I do not consider that there would be an appreciable noise impact. Furthermore, Pollution Control (Noise) has no significant concerns with the proposal (see 10.3).
- (x) Given that the proposal would be a residential use in a residential area, I do not consider that the proposal would be out of character with the surrounding area.
- (xi) West Midlands Police has no objections (see 10.4).



10. Consultee responses

10.1 Private Sector Housing

No objections, the scheme complies with regulations in terms of room sizes and facilities serving the HMO. Other matters such as means of escape, ventilation, emergency lighting would be dealt within under a HMO licence and the building regulations.

10.2 Highways

Following the reason for refusal and despite the applicant's submitted transport statement, the Council's Highways Team have undertaken two independent parking surveys, namely 4th November (week day) and 6th November 2021 (Saturday).

The surveys were undertaken at the site for 24 hours, registering available spaces for on street parking in and around the application site.

The survey looked at the following areas.



The areas immediately adjacent to the application site PAR1, 2, 3 and 4 indicated the following:-



- Thursday 4th November there were on average 11 on street parking spaces available throughout the 24 hour period whilst even at the busiest ½ hour (between 17:00 and 17:30pm) there were still 6 free on street spaces.
- Saturday 6th November there were on average 11 on street parking spaces available throughout the 24 hour period whilst even at the busiest ½ hour (between 12:30 and 13:pm) there were still 8 free on street spaces.

The current accommodation is for 8 bedrooms which relates to 4 spaces (which are currently available off street) and the new application would as a maximum require only 1 extra parking space. Therefore, on the basis of the evidence gathered from the surveys, Highways do not consider that there would be a severe impact on the highway network given that additional parking spaces are always available of street.

10.3 Pollution Control (Noise)

There is likely to be external plant and equipment at the existing retail premises that could affect internal noise levels in the new accommodation. The internal noise levels for the living accommodation should comply with the good standard in BS8233:2014. The applicant needs to take account of the above when deciding on a glazing scheme for the living accommodation; these comments have been forwarded to the Agent. Furthermore, they have requested a construction hours condition be imposed for the refurbishment works to the development.

10.4 West Midlands Police

No objections subject to secured by design measures being employed. The advice has been forwarded to the Agent and a condition is recommended for details of the proposed security measures



10.5 Planning Policy

No significant concerns.

10.6 West Midlands Fire Service

No significant concerns; comments have been forwarded to the Agent as this would be dealt with under separate legislation.

10.7 Urban Design

No significant concerns.

10.8 Pollution Control (Air Quality)

No significant concerns; they have just requested the imposition of condition for the submission of a construction method statement.

11. National Planning Policy

11.1 National Planning Policy Framework promotes sustainable development but states that local circumstances should be taken into account to reflect the character, needs and opportunities for each area.

The policy also refers to highways and states 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’.*

The previous consent was refused on these grounds due to the concerns that insufficient parking could be accommodated to serve the development. As indicated in 10.2 above, the Highways Service have undertaken their own surveys which coupled with the applicant’s Transport Statement this demonstrates that there would not be a severe impact upon the highway network.



12. Local Planning Policy

12.1 The following policies of the council's Development Plan are relevant:

DEL1: Infrastructure provision

HOU2: Housing Density, Type and Accessibility

ENV3: Design Quality

ENV8: Air Quality

TRAN4: Creating Coherent Networks for Cycling and Walking

SAD H2: Housing Windfalls

SAD EOS9: Urban Design Principles

12.2 DEL1 refers to providing suitable on-site infrastructure provision. In this instance the scheme provides electric vehicle charge points, a parking area, bins and cycle stores which support other policies within the core strategy.

12.3 HOU1 requires the local planning authority to deliver 63,000 homes upto 2026, at present there is a housing shortfall and hence the introduction of this HMO will create additional homes for residents.

12.3 HOU2 refers to providing a range of types of accommodation. In the instance of this locality, the area is predominantly residential with family housing and apartments, it is considered that a HMO would contribute to the existing range of accommodation in the area.

12.4 ENV3 and SAD EOS9 refers to well-designed schemes that provide quality living environments. From a design perspective, the minimum internal living space standards and amenity space have been met, therefore, the proposed development is considered to have meet the policy guidance set out in BCCS Policy ENV3 and SAD Policy EOS9.

In addition, the layout accords with the standards set out in HMO regulations in terms of bedroom sizes and bathroom and dining/kitchen accommodation.



- 12.5 ENV8 and the Black Country Air Quality SPD considers the need to minimise the impacts of air quality and recommends mitigation measures for minor development. In this instance these are electric charge points, and a construction management plan. These are conditioned as part of the recommendation.
- 12.7 TRAN4 encourages development to introduce sustainable travel. In this instance a secure bike storage area has been provided and the development is well located to public transport routes to both Wednesbury and Darlaston.
- 12.6 SAD H2, refers to new development being on brownfield land and compatible with other policies, of which the proposal is compliant.

13. Material Considerations

13.1 National and local planning policy considerations have been referred to above in sections 11 and 12. With regards to the other material considerations, these are highlighted below:

13.2 Planning history (including appeal decisions)

There is extensive planning history relating to the site and the property has been extended significantly. As referred to in 7.1 above, the previous application was for the same proposal and was refused on highway safety grounds and insufficient parking to serve the development.

It is well established case law that previous planning decisions are capable of being material considerations, meaning that they may need to be taken into account by those determining subsequent applications for permission.

The reasoning behind this was explained by Mann LJ in North Wiltshire District Council v Secretary of State for the Environment (1993) 65 P & CR 137: “One important reason why previous decisions are capable of



being material is that like cases should be decided in a like manner so that there is consistency [...]. Consistency is self-evidently important to both developers and development control authorities. But it is also important for the purpose of securing public confidence in the operation of the development control system.”

Two recent decisions in the High Court have now emphasised the importance of consistency in planning decisions and the need for clear reasons to be given where inconsistencies arise.

Therefore, as the previous decision was based on highway grounds and there were no other reasons for refusal, this decision should be based on the same grounds of refusal for consistency.

13.3 Living space standards

Minimum internal living space standards have been met (see 12.4). Concerns have been raised over the lack of fire escape details; these are covered by other legislation such as Building Control and the Licencing Team.

13.4 Overlooking/loss of privacy

Refer to paragraph 9.3 (vii) above. No issues arising.

13.5 Parking, highway safety and traffic generation.

As has been stated in paragraphs 10.2 (Highways comments) the surveys undertaken by both the applicant and highways have found there to be sufficient on street parking within this location even at peak times.

13.6 Noise and disturbance

Refer to paragraph 9.3 (ix) above. No issues arising.



13.7 Other considerations – Means of Escape (fire safety).

Material planning considerations are determined through case law, however matters that can be dealt with through the control of other legislation are not considered to be material considerations.

Furthermore paragraph 55 of the National Planning Policy Framework states that conditions should not be used, which require compliance with other regulatory bodies, namely Building Regulations and Private Sector Housing (see 9.3 (iii) and 10.1).

14 Alternative Options

14.1 Refusal of the application is an option if there are material planning reasons for doing so. In my opinion this revised proposal has now demonstrated that the proposal would not have severe impact on the highway network and all other respects the proposal is policy compliant and causes no harm to residential amenity. Hence there are no other compelling reasons to refuse the application.

15 Implications

Resources:	When a planning application is refused the applicant has a right of appeal to the Planning Inspectorate, and they can make a claim for costs against the Council.
Legal and Governance:	This application is submitted under the Town and Country Planning Act 1990.
Risk:	None.
Equality:	There are no equality issues arising from this proposal and therefore an equality impact assessment has not been carried out.
Health and Wellbeing:	None.
Social Value	None.



16. Appendices

Site Plan

Context Plan

PL001

PL002

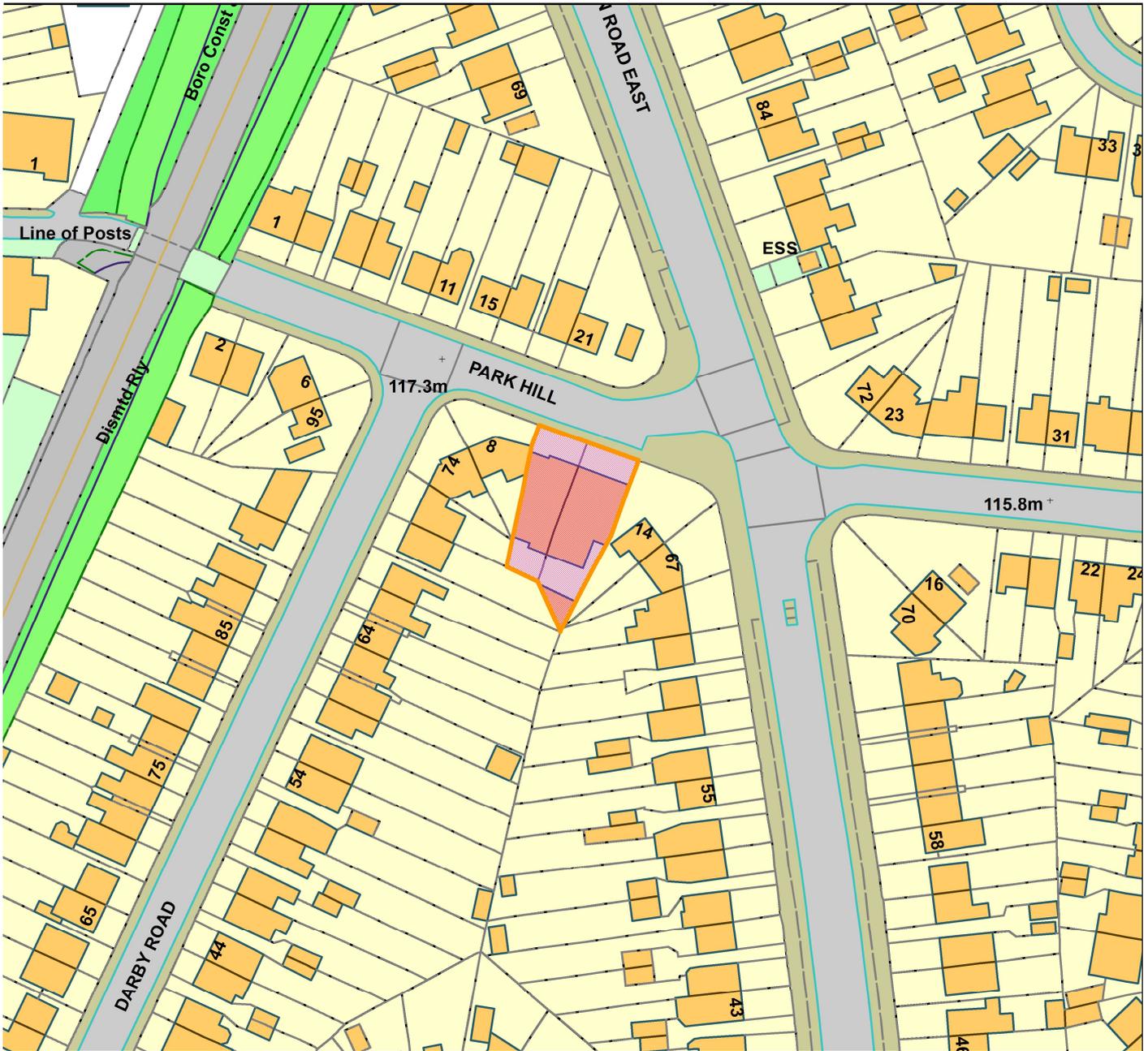
PL003

PL004

PL005 REV A



DC/21/66097
10 - 12 Park Hill, Wednesbury, WS10 0PL



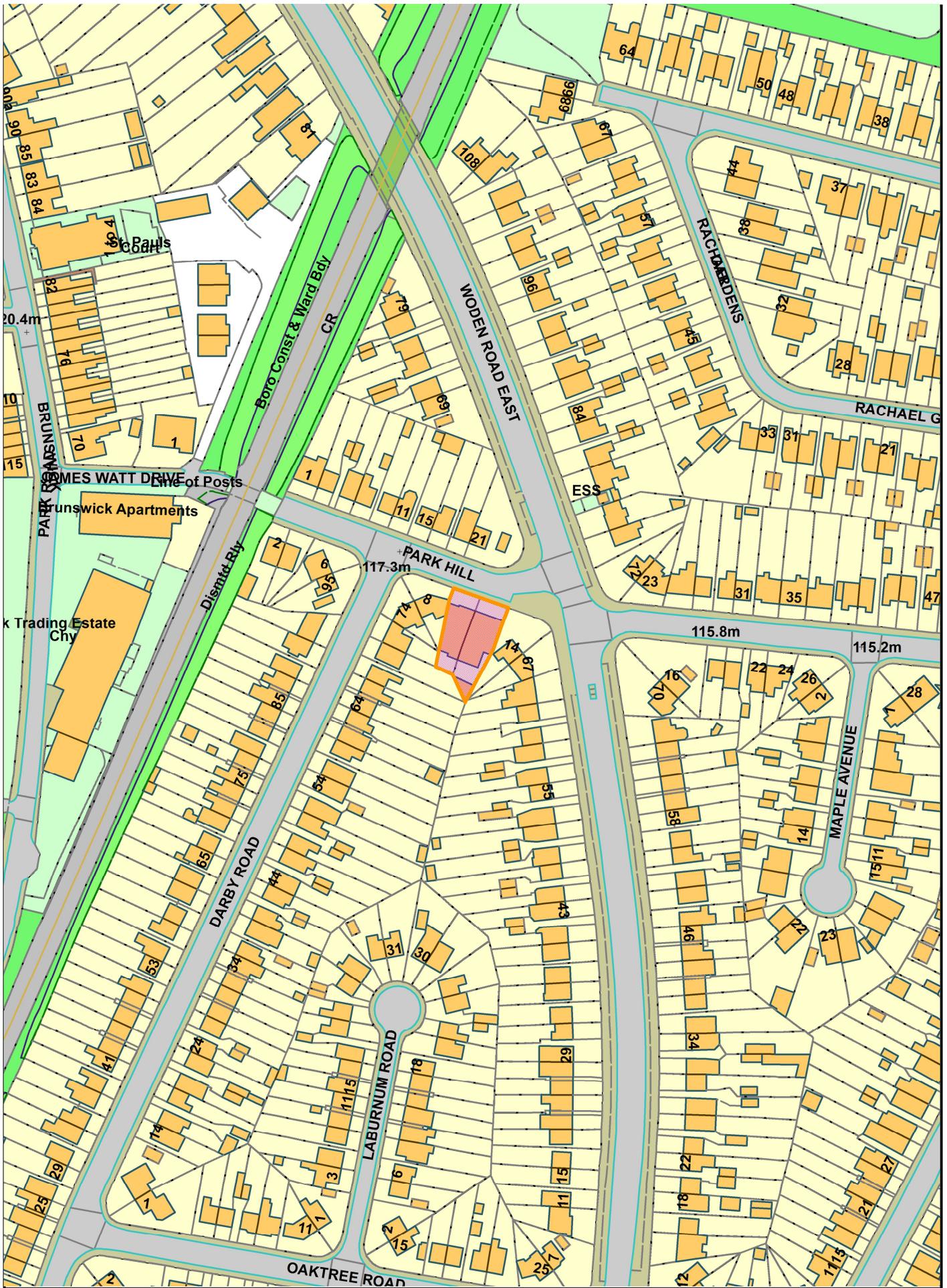
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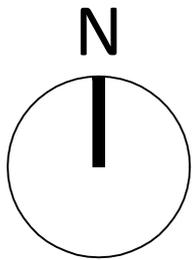
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Organisation	Not Set
Department	Not Set
Comments	Not Set
Date	23 November 2021
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GENERAL NOTES

Rev	Date	Description	By
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Client
 Mr Balachandran Thiyagarajah

Drawing
 Block Plan

Project
 Proposed HMO over Convenience
 Store, 10-12 Park Hill Wednesbury
 Sandwell WS10 0PL

Drawn MH	Date Jul 2021	Scale@A4 1/500
Job No 2021.10	Drg.no PL002	Rev



48 Charlotte Street
 London W1T 2NS

Planning

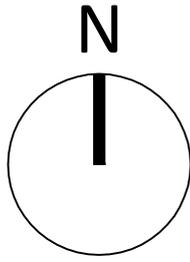
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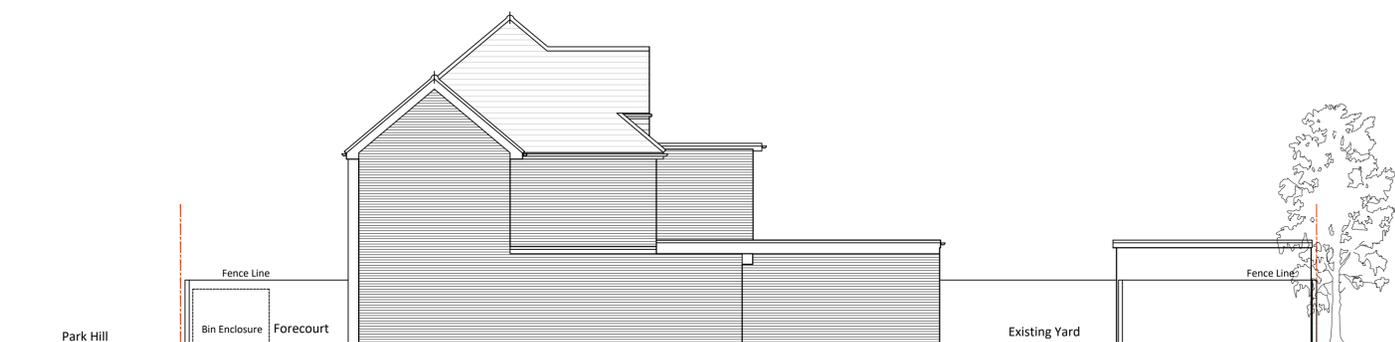
Front Elevations



Rear Elevations



Left Side Elevation



Right Side Elevation

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Client

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Project

Proposed HMO over Convenience Store
10-12 Park Hill Wednesbury, WS10 0PL

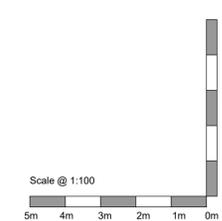
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Existing and proposed Elevations

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Job No	Drawing No	Revision
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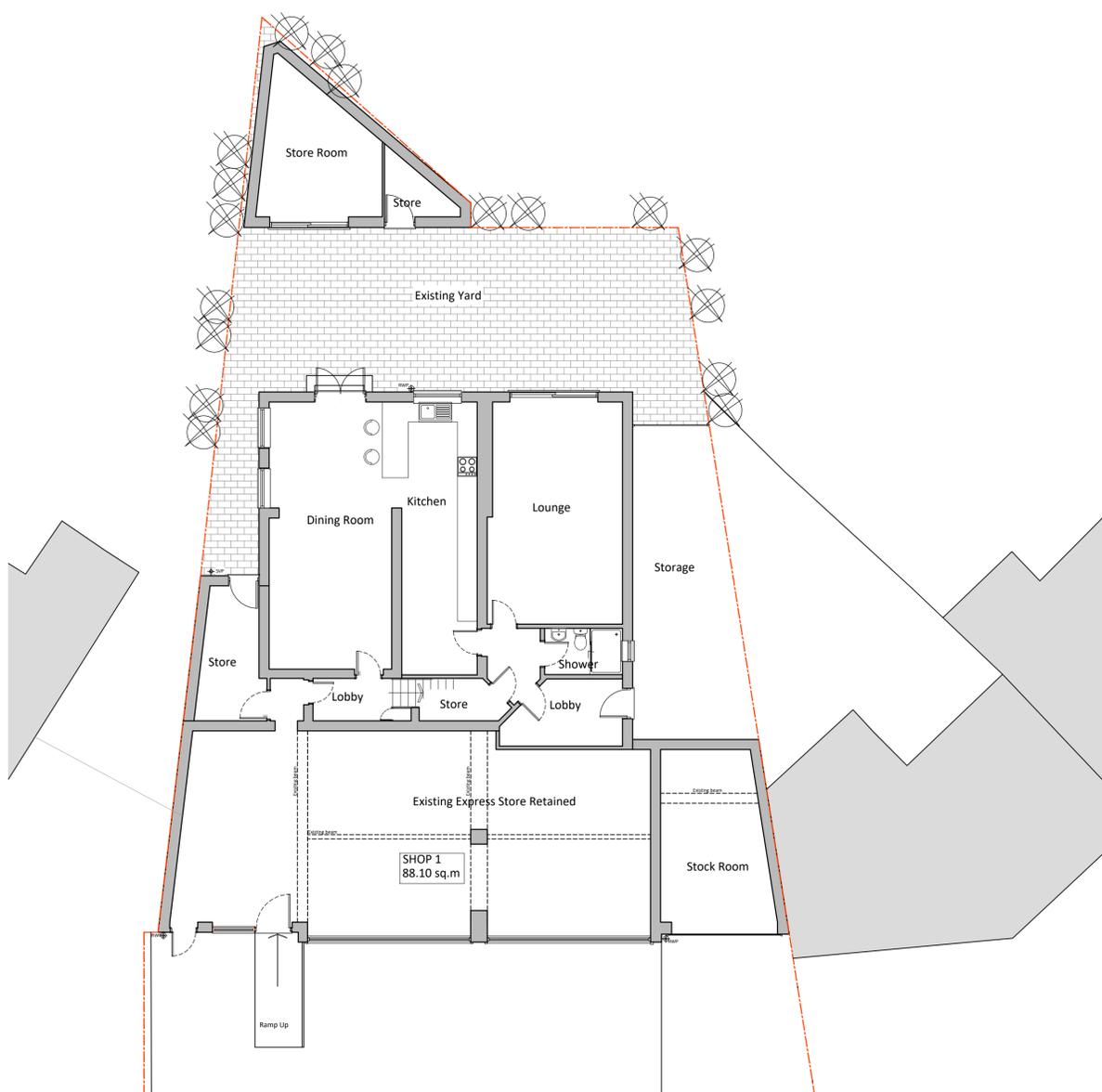
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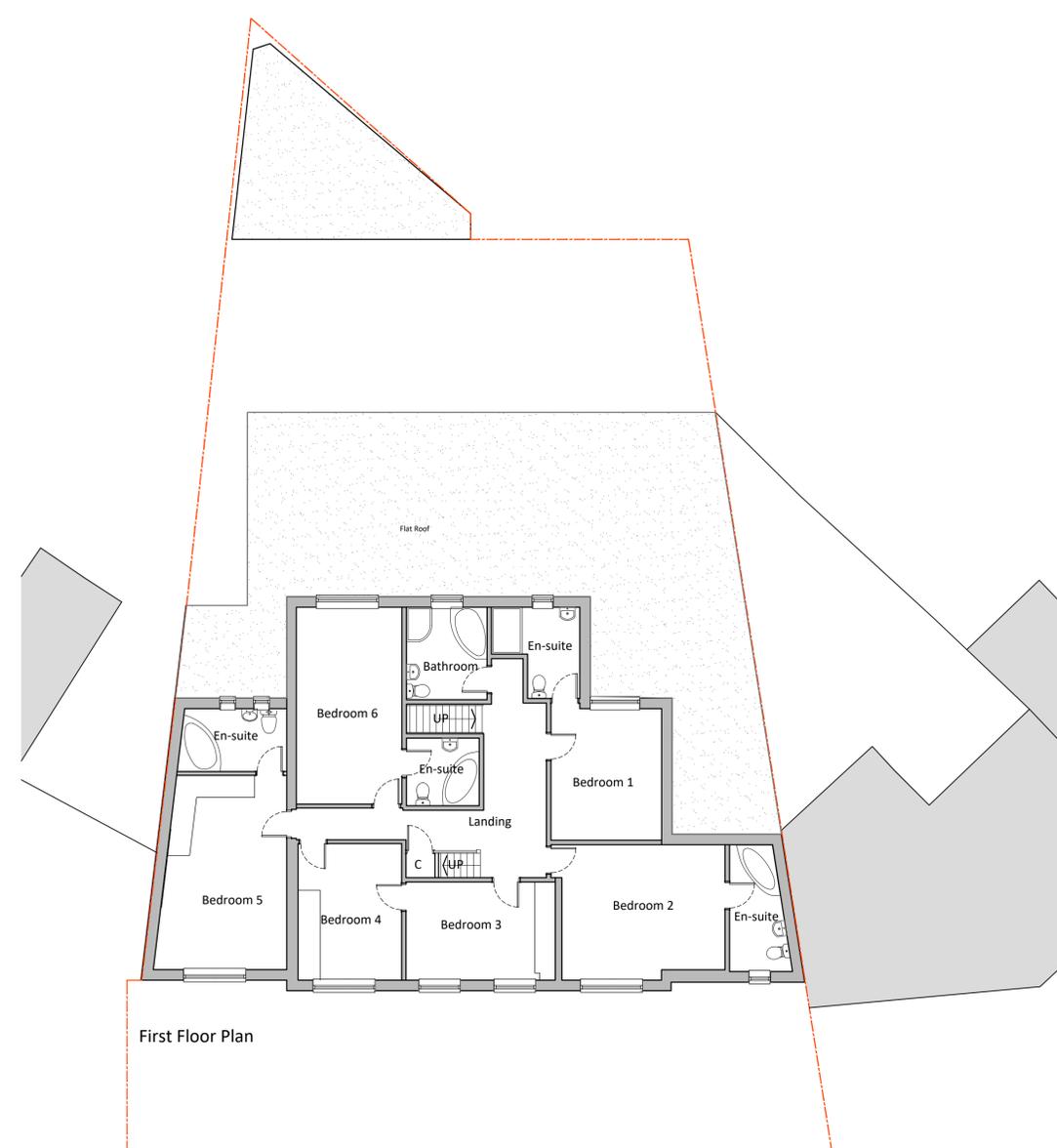


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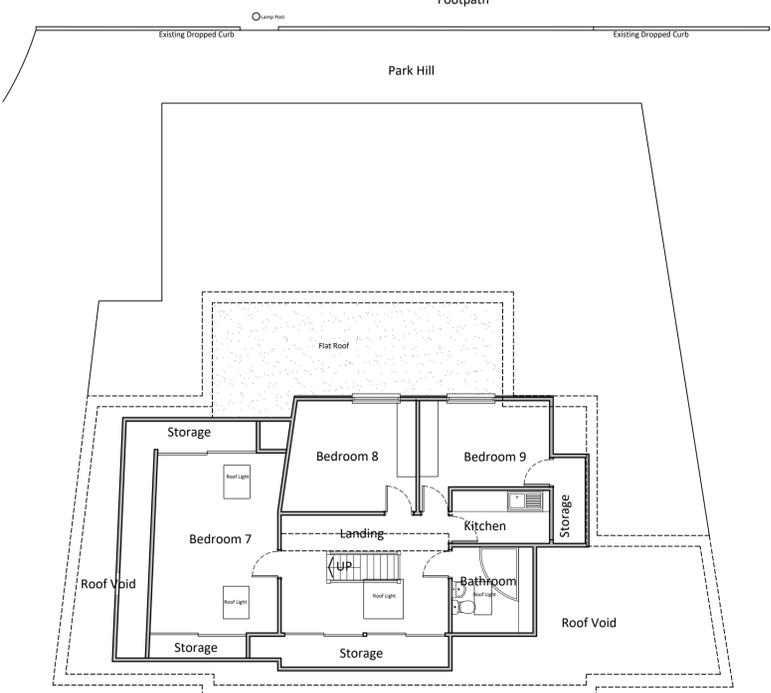
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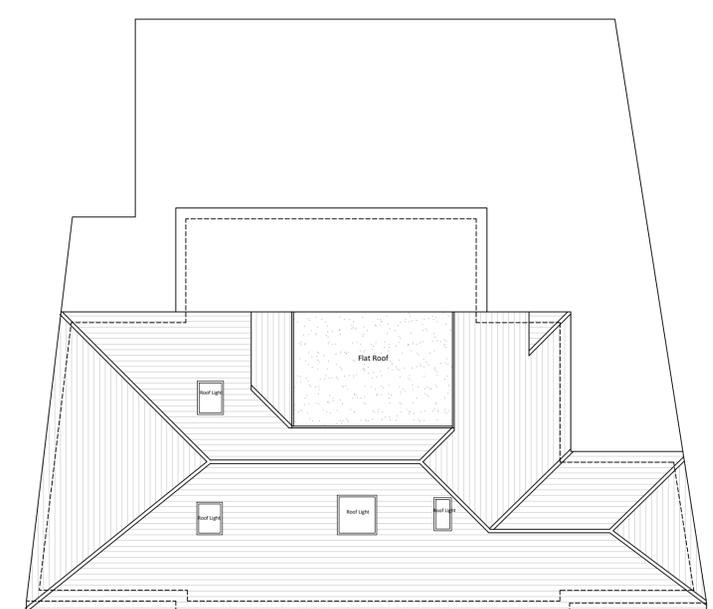
Ground Floor Plan



First Floor Plan



Second Floor Plan



Roof Plan

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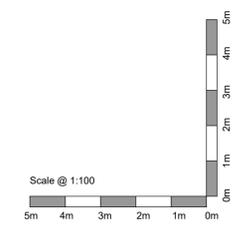
Project
Proposed HMO over Convenience Store
10-12 Park Hill Wednesbury, WS10 0PL

Drawing Title
Existing Plans

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Job No 2021.010	Drawing No PL003	Revision

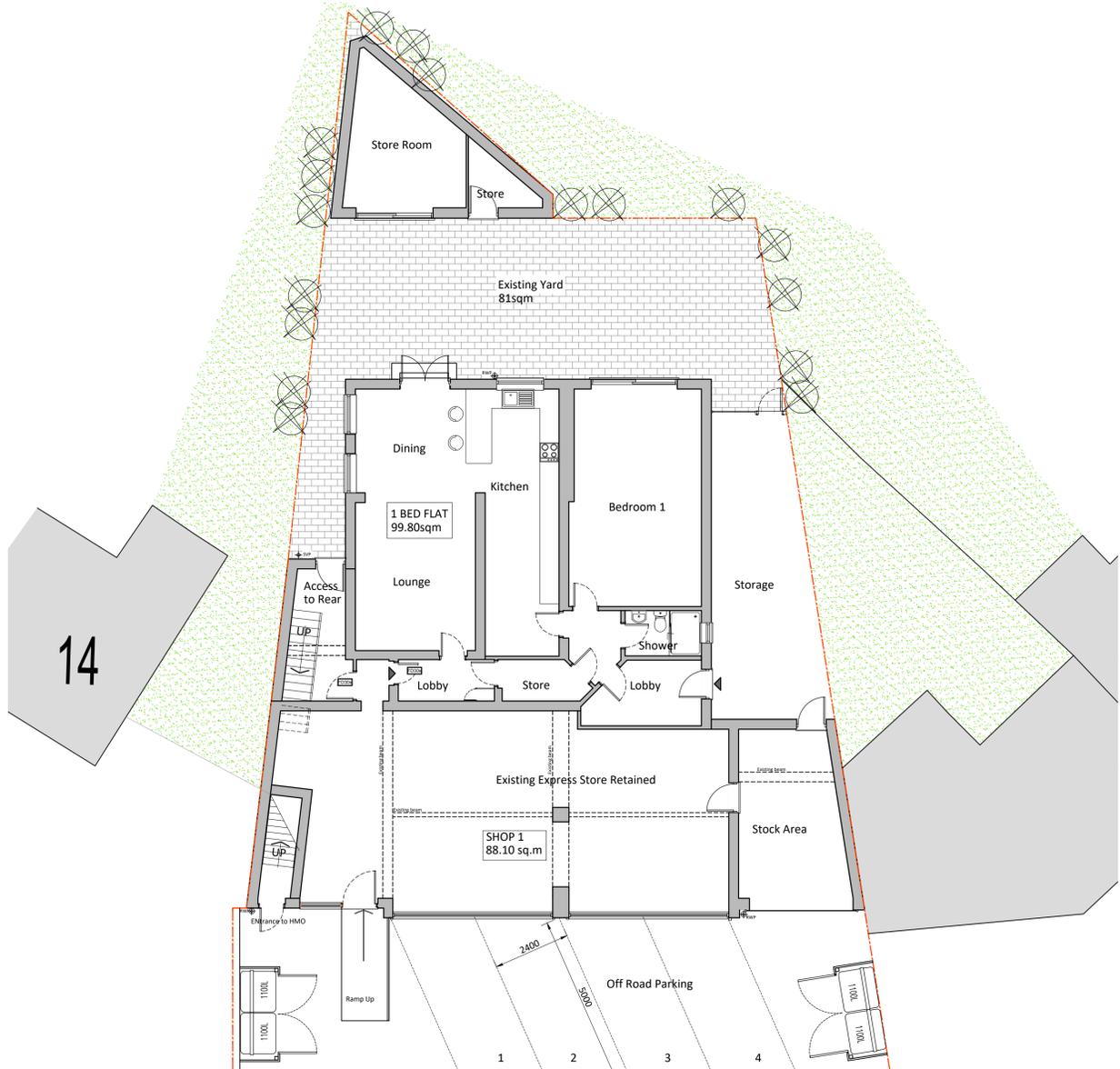
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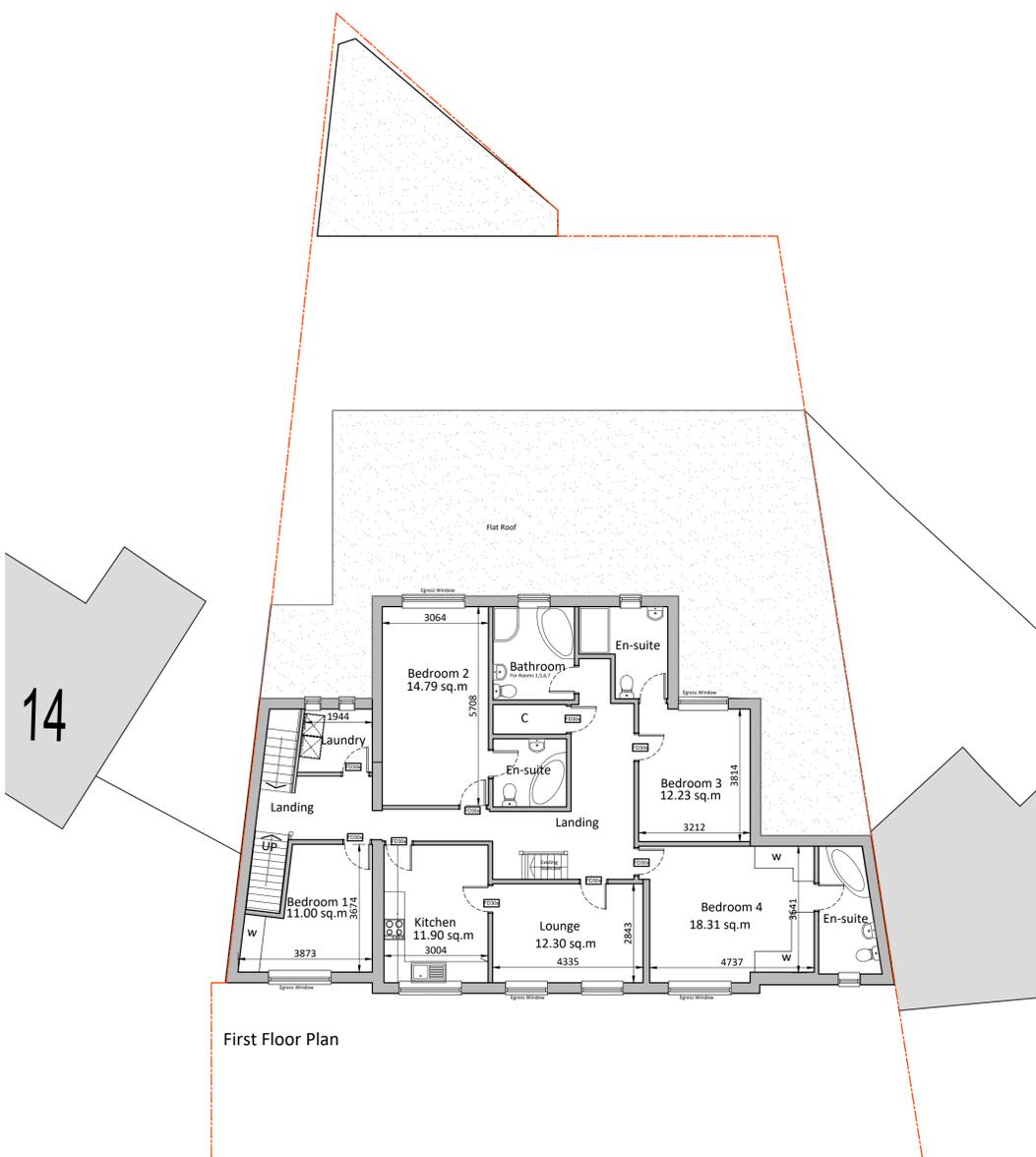


GENERAL NOTES

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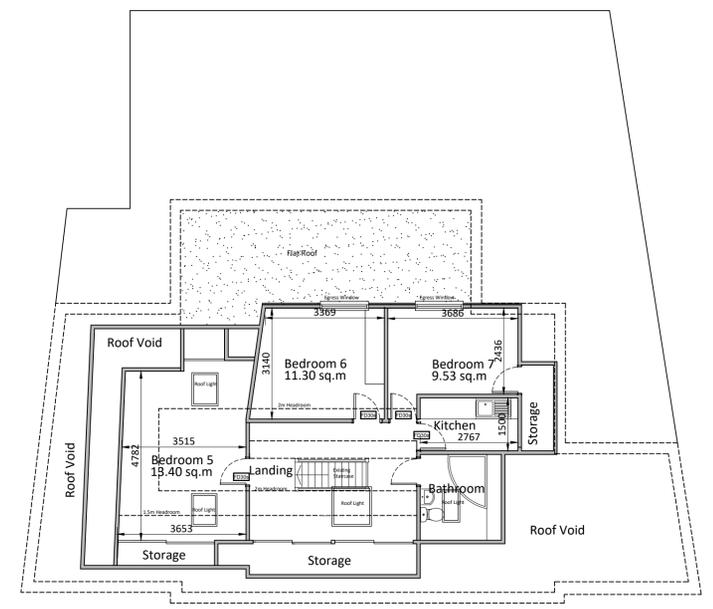


Ground Floor Plan

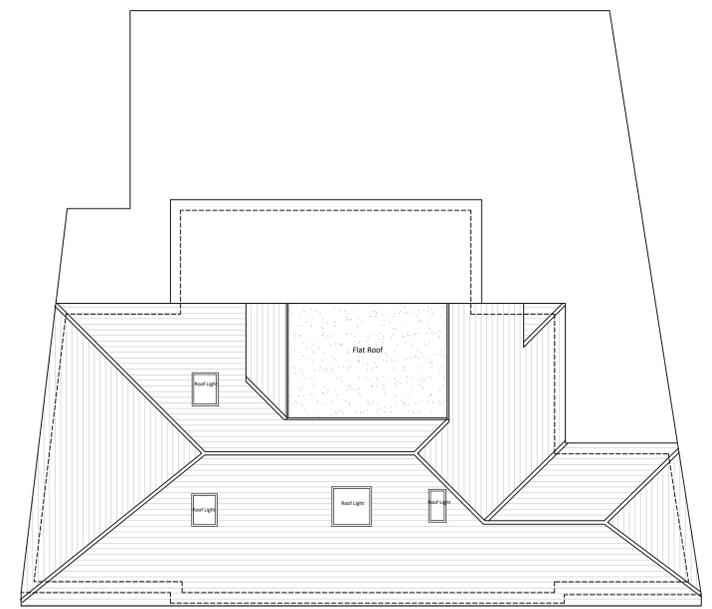


First Floor Plan

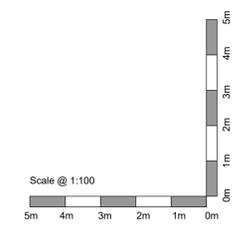
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HMO	Bedroom 6	11.30 sq.m
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	Kitchen	4.14 sq.m



Second Floor Plan



Roof Plan



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Drawing Title
Proposed Plans

Drawn	Date	Scale @ A1
MH	Jul2021	1/100
Job No	Drawing No	Revision
2021.010	PL005	A

Planning

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