

Mr S Ullah 32 Grange Road, West Bromwich.	Change of use including engineering works to form extended garden area. Land to Rear of 10 Mottram Close, West Bromwich. B70 8QT
---	--

Date Valid Application Received 26th February 2019

1. Recommendations

Approval is recommended subject to the following conditions: -

- i) Finished levels details in relation to 15 Mottram Close;
- ii) Boundary treatment;
- iii) Landscaping; and
- iv) Use restricted to garden land only;

2. Observations

This application is being brought to the attention of your Committee as more than three objections have been received and the proposal is recommended for approval.

Site Surrounding

The application refers to a small plot of land adjacent to 10 Mottram Close, a bungalow sited at the southern end of a small cul-de-sac in a residential area. The land (17m x 9m approx.) abuts the existing drive/side garden area of no. 10 and is owned by the applicant. It formerly contained domestic garages, but these were demolished by the applicant following his purchase of the site.

The land is adjoined on two sides by a narrow vehicular right of way shared by residents in Gads Lane and Oak Road. The right of way leads between no. 70 Gads Lane and the rear of 197 Oak Road. It serves rear garages within the gardens of some

adjoining houses and provides access to an electricity sub-station.

Planning History

In 2018 the tenant of 10 Mottram Close began an unauthorised car sales/repair business from the house and application land. Also, the owner (applicant) arranged for surplus soil to be deposited on the application land to increase the land levels by 0.9m so that the site would be level with the drive of 10 Mottram Close to enable easier vehicular access from the drive. Surplus soil was moved from the Greets Green Resource Centre, Harwood Street, West Bromwich, where building works were being undertaken to create a new nursery and associated car park and where the applicant is the Manager. The tenant of no. 10 regularly stores a vehicle transporter on the side drive of no. 10. It is understood that the tenant's car sales/repair business known as "Claypit Motor Solutions" was operating from Claypit Lane but that the business no longer exists at that address.

Car sales and repairs as well as the engineering operation to increase the land levels constituted a breach of planning control. The unauthorised car sales and repairs ceased. The owner (applicant) and tenant of 10 Mottram Close, was subsequently served with a Stop Notice (ENF/18/10588) in February 2019, specifically relating to the increased in land levels. All work on site has stopped pending the outcome of this planning application, although there has been a further complaint about car repairs/sales at the property since this planning application has been submitted and the applicant was asked to ensure that this was stopped. At present there is a mound of earth on the site awaiting levelling and concrete gravel boards have been erected to ultimately support the new ground level.

Current Application

This application is for the change of use of the land to additional garden land for no. 10 Mottram Close and to complete the engineering works to increase the level of the land by 0.9m so that it conforms with the existing land level of no 10. Once levelled, sections of the fence between no. 10 and the land would be removed for access purposes. The re-levelled land would be retained by concrete gravel boards. A new 1.8m high close boarded timber fence would be erected on top of the gravel boards to separate the land from the right of way and to ensure

privacy/security. The submitted plan shows that a right of way would be maintained for nearby residents to access their garages.

Publicity

The application has been publicised by neighbour notification. I have received six objection letters together with a 26 signature petition of objection, the grounds for which are summarised as: -

- (i) The use of the land for a commercial business causes problem of noise and parking;
- (ii) Mottram Close is a quiet residential street. If the land was for a garden only then it would be acceptable, but the tenant has already been using it for commercial purposes and this may continue;
- (iii) Strong objection to the suggestion by the applicant in the application forms that nearby residents fly-tipped on the site when in fact it was the applicant who, following the demolition of some garages on the site, left the area with waste and refuse, blocking access. The applicant was subsequently ordered to clear the site;
- (iv) The assertion by the applicant that resident's garages are not used often is incorrect. Objectors point out that the garages are in regular use;
- (v) One objector presents evidence to confirm the right of way over the land and indicates that the proposed fence unfairly blocks access to the garages as there is insufficient room for vehicles to manoeuvre into garages. The resident suggests that the proposed fence should be repositioned to allow access;
- (vi) Concern that the gravel boards would not provide adequate support to retain the increase in land levels;
- (vii) Existing fence posts adjacent to 15 Mottram Close would be buried under the higher soil causing them to rot; and
- (viii) Reduction in property values.

Statutory Consultee Responses

Cadent – No response.

Responses to objections

In response to objections raised I comment as follows: -

- (i) The use of the land for car repairs/sales is wholly inappropriate and would not be supported within this residential area. Neighbouring residents have already suffered a loss of amenity from the existing unauthorised business activities from the property. The applicant and tenant have been advised to find alternative business premises.
- (ii) I agree with residents that an extension to the garden land would be unacceptable if a business should operate from it. I can understand the fears of residents that the applicant/tenant may still intend to use the land for business purposes if this application is approved. However, this application does not seek any approval from your Committee for a business use.
- (iii) Upon my site visit the site was clear of any rubbish.
- (iv) Any residents who have a legal right of way over land are entitled to use it as they choose and as set out in their respective deeds. This should have no bearing on the determination of the application.
- (v) The applicant has confirmed that he owns all the land to which the application relates. The proposed position of the fence is shown on the boundary to the application land. The local planning authority has no power to intervene in private property interests regarding whether the fence would block private access arrangements. Affected residents should take this matter up with the owner separately and if necessary appoint a legal adviser. The drive is a privately owned un-adopted access way and therefore not a matter that the Highway Authority or Local Planning Authority have any powers to intercede.
- (vi) The adequacy or other wise of gravel boards to retain the land has been put to the applicant/agent for a response.
- (vii) If your Committee resolve to approve the application conditions could be imposed regarding finished levels and boundary treatment alongside no. 15 Mottram Close.
- (viii) Devaluation of house prices is not a material planning consideration.

Planning Policy and Other Material Considerations

There are no adopted planning policies that are relevant to the determination of this application. In my view the material considerations are whether the use of the land as an extension to the existing garden at no. 10 would be appropriate and whether the increase in land levels by 0.9m would cause loss of privacy.

Turning to the first point, given that the land is surrounded by housing then there would be no objection to this land being used to enlarge the existing private garden of no. 10. However, I can fully understand the fears of nearby residents regarding the previous unauthorised use and fears that it may be used in the future for the same purpose. This can however, be safeguarded by restricting the end use.

In terms of privacy, it is not considered that the increase in land levels would present an overlooking issue because the new fence surrounding the higher land level would be 1.8m and thus provide an adequate privacy screen between gardens.

Finally, it is accepted that neighbouring residents have raised concerns over access rights to existing garages, but it must be noted that the local planning authority does not have any power to resolve such an issue and can only deal with the proposal as presented.

Conclusion

The incorporation of the application land into garden land is an appropriate reuse of the site and the engineering operation to increase the height of the land would not appreciably harm neighbouring residential amenity.

3. Relevant History

None relevant

4. Central Government Guidance

NPPF – Promotes sustainable development

5. Development Plan Policy

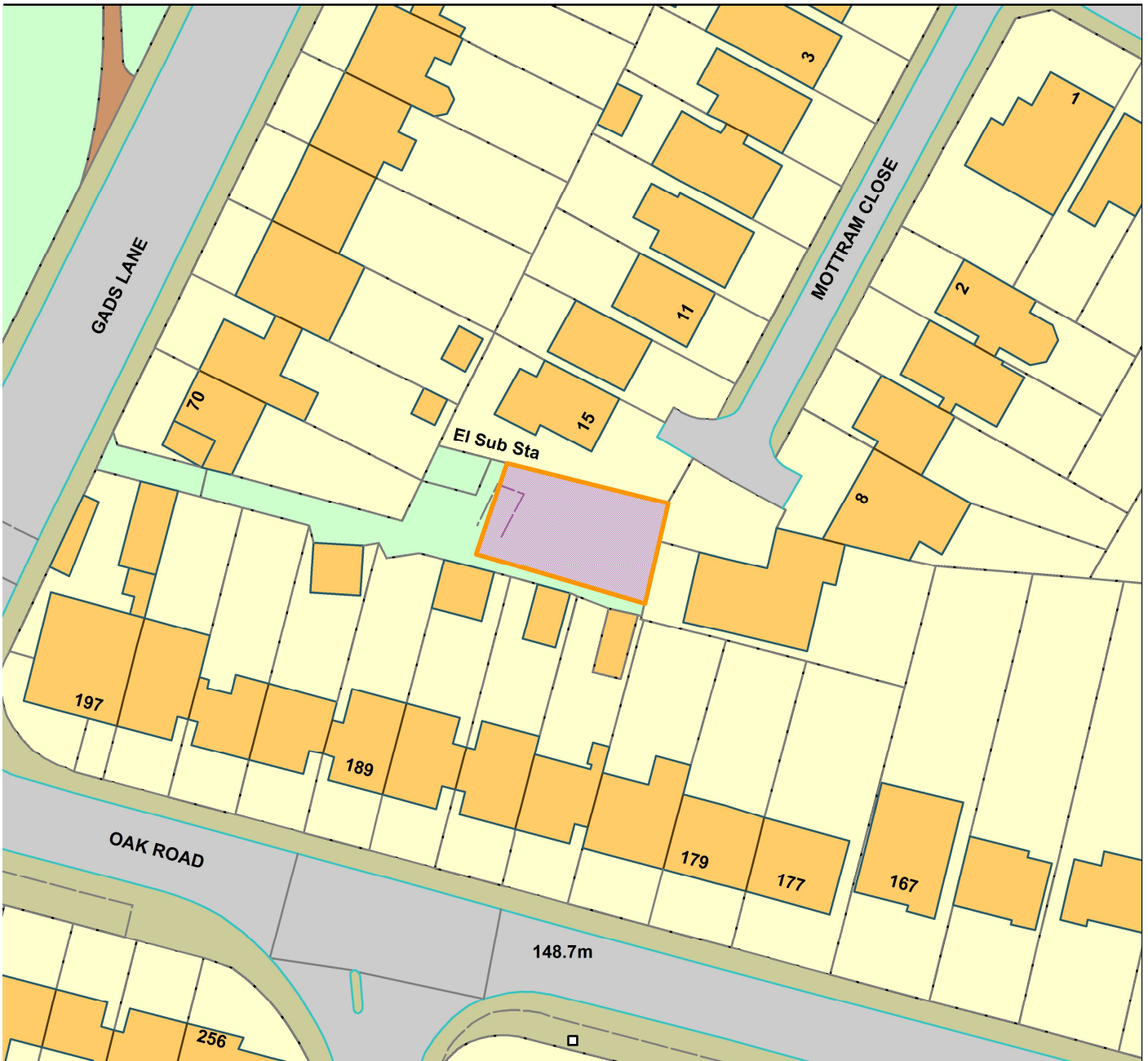
None relevant

6. Contact Officer

Mrs Christine Phillips
0121 569 4040
christine_phillips@sandwell.gov.uk

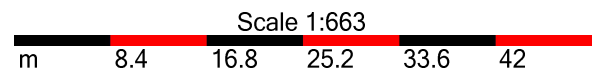
DC/19/62810

Land to the rear of 10 Mottram Close



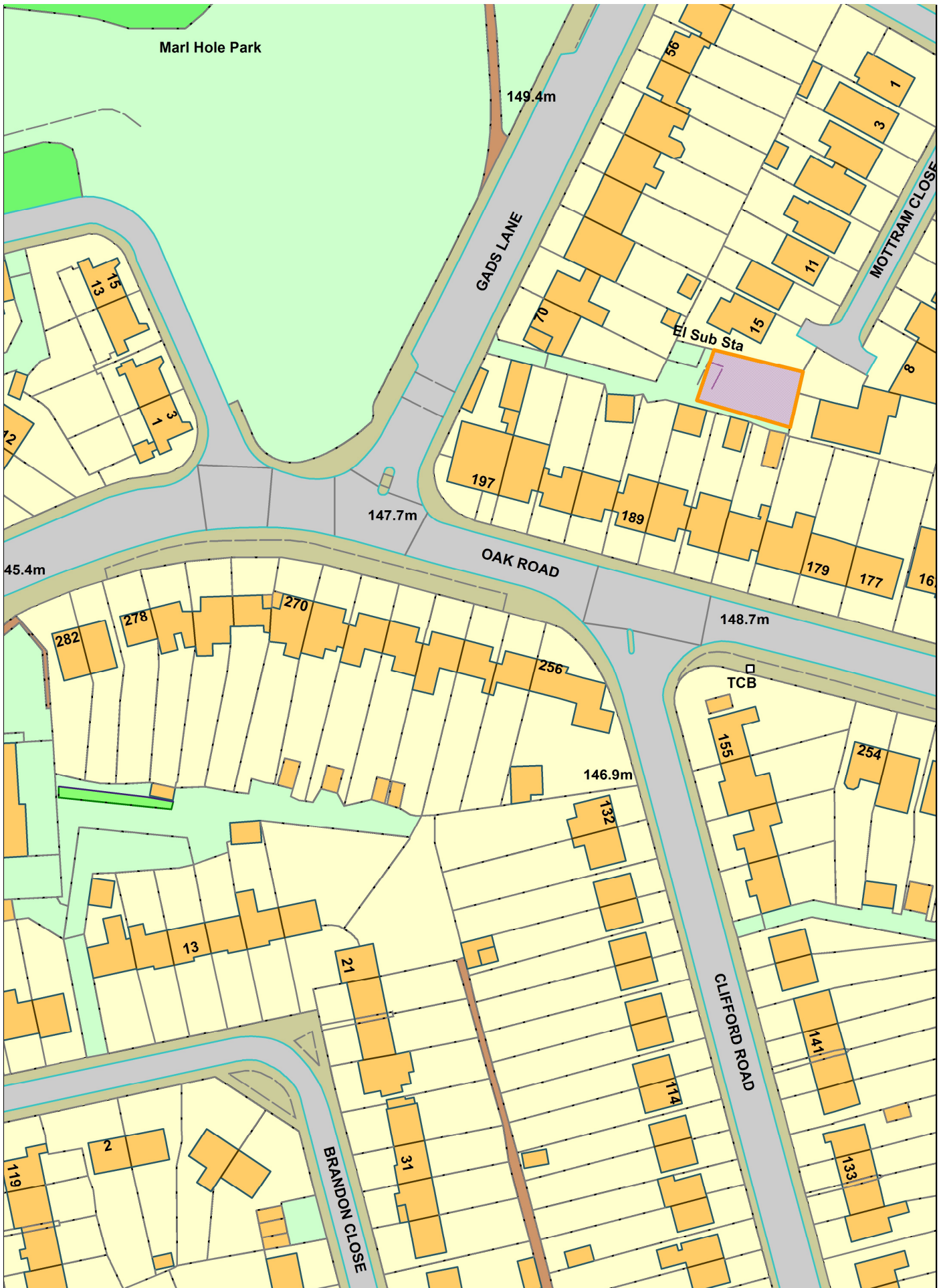
Legend

Sc 1:662



© Crown copyright and database rights 2019
Ordnance Survey Licence No 100023119

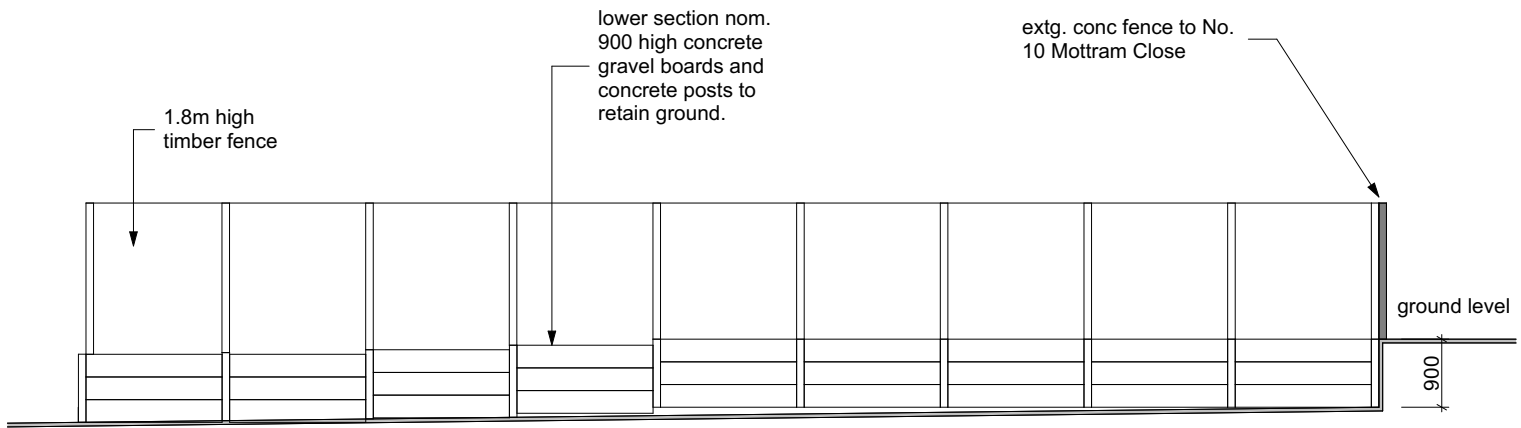
Organisation	Not Set
Department	Not Set
Comments	Not Set
Date	28 March 2019
OS Licence No	



This map is based upon Ordnance Survey material with the permission of Ordnance Survey on behalf of the Controller of Her Majesty's Stationery Office © Crown copyright.

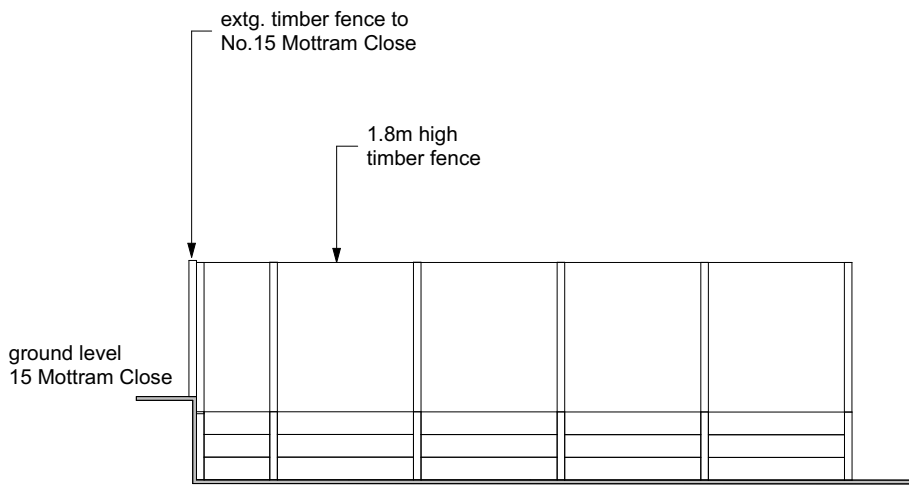
Unauthorised reproduction infringes Crown Copyright and may lead to prosecution or civil proceedings.
 Sandwell MBC Licence No LA 076309 2013 2016





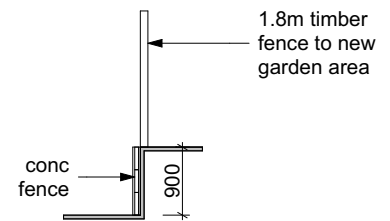
Front Elevation

1:100



Side Elevation

1:100



Typical Section 1:100

CLIENT

Mr S Ullah

PROJECT

Land off Gads Lane West
Bromwich

DRAWING

Proposed
Elevations and
Section

SCALE @ A4 DATE

1:100 23.2.19

NUMBER REVISION

450-3

Chartered Architects



JKF Limited

40, Woodhall Road
Penn
Wolverhampton
West Midlands. WV4 4DJ

Tel: 01902 688840