


## REPORT TO PLANNING COMMITTEE

12<sup>th</sup> February 2020

<b>Application Reference</b>	DC/19/63522
<b>Application Received</b>	3 <sup>rd</sup> October 2020
<b>Application Description</b>	Proposed 4 No. retail units at ground floor and 8 No. apartments above with associated parking.
<b>Application Address</b>	Land Adjacent to 63 Leabrook Road Wednesbury WS10 7NW
<b>Applicant</b>	Mr Jagpal Singh
<b>Ward</b>	Wednesbury South
<b>Contribution towards Vision 2030:</b>	
<b>Contact Officer(s)</b>	Mrs Christine Phillips 0121 569 4040 christine_phillips@sandwell.gov.uk

### RECOMMENDATION

That planning permission be refused on grounds that: -

- (i) The retail element is contrary to BCCS Policies CEN6 and CEN7 and would therefore undermine the vitality and viability of Wednesbury Town Centre in that no justification has been submitted to demonstrate that the retail units cannot be located within the Town Centre and the local need for convenience shopping is already met.
- (ii) The retail element is contrary to BCCS Policy HOU1 and SAD Policy H1 in that it presents a non-conforming use with no consideration given to the separation of, and relationship between the retail and residential uses. The proposal would therefore be detrimental to the amenity of the occupants of the flats as well as nearby residential property.
- (iii) Inadequate provision has been made for the parking of vehicles in connection with both the retail and residential elements, or for the servicing of the retail units, to the detriment of highway safety and contrary to the provisions Sandwell's Adopted Supplementary Residential Design Guide.

- (iv) The development would be contrary to the provisions of Sandwell's Adopted Supplementary Residential design guide in that no provision for private external amenity space has been provide in relation to the proposed flats and would therefore be detrimental to the residential amenity of the flat occupants.

## **1. BACKGROUND**

- 1.1 This application is being reported to your Planning Committee because it has generated several objections along with a petition in support of the proposal.

## **2. SUMMARY OF KEY CONSIDERATIONS**

- 2.1 The Site is allocated for Housing development in the Black Country Core Strategy and the Site Allocations and Delivery Document.
- 2.2 The material planning considerations which are relevant to this application are: -
- Government policy (NPPF)
  - Proposals in the Local Plan
  - Planning history
  - Overlooking/loss of privacy
  - Loss of light and/or outlook/overshadowing
  - Layout and density of building
  - Design, appearance and materials
  - Access, highway safety, parking and servicing
  - Noise and disturbance from the scheme

## **3. THE APPLICATION SITE**

- 3.1 The application refers to vacant land on the corner of Leabrook Road and Willingsworth Road. The site is flat, bounded by open fencing and has been vacant for about 20 years. It is adjoined by a convenience store immediately to the south-west. To the north and on the opposite side of Willingsworth Road it is bounded by residential property. On the opposite side of Leabrook Road are industrial premises.

## **4. PLANNING HISTORY**

- 4.1 Planning consent for a car park was approved in 1998 but not implemented. There have been two enforcement cases in 2009 and 2017 relating to the untidiness of the site, dealt with under the planning enforcement process. The site was not untidy upon my site visit in connection with this current application.

4.2 Relevant planning applications are as follows: -

DC/98/34085	Proposed Car park together with boundary fencing.	Approved 30/4/1998
-------------	---------------------------------------------------	-----------------------

## 5. APPLICATION DETAILS

5.1 This is a full planning application for the construction of a three-storey development of 4 retail units on the ground floor with 8 apartments above.

5.2 The proposed 'L'-shaped block on the eastern corner of the site, would be set 1.4m back from the footpath with Leabrook Road and, at its closest point, be positioned 0.2m from the back edge of footpath with Willingsworth Road. It would be of a traditional brick design to complement the general area. Three of the proposed retail units would front Leabrook Road (floorspace 2 x 70sq.m and 1 x 80.5sq.m). The fourth unit (94.5sq.m) would face Willingsworth Road. There are no details of proposed occupancy of the retail units, so it is assumed this is a speculative development. However, the application specifies that the retail units would be open from 07.00-23.00 hours every day and that there would be 8 employees. There are no details of how the shops would be serviced or any information relating to refuse collections. A total of 8 parking spaces are proposed at the rear of the building accessed off Willingsworth Road, adjacent to no. 2 and utilising a shared private access drive. Cycle storage would be provided at the rear but there is no provision for private amenity space for the flats.

5.3 The two upper floors would each contain 3 1-bed flats and 1, 2-bed flat (making 8 flats in total). The 1, bed flats would be 68sq.m and the 2-bed 85sq.m.

5.4 A Design & Access statement has been submitted with the application. The applicant points out that the site has been vacant for over 20 years and that the proposals would provide a sustainable solution, bring employment and amenity to the area with affordable accommodation.

## 6. PUBLICITY

6.1 The application has been publicised by neighbour notification resulting in 7 individual objection letters being received. A 51-signature petition in support has also been submitted.

### 6.2 Objections

Objections are summarised as follows: -

- (i) Concern that the proposed shops would be hot food take-aways with associated problems of litter and anti-social behaviour.
- (ii) There are already parking problems along Willingsworth Road with drivers ignoring double-yellow line restrictions, particularly local fishermen parking. Parking problems would be worsened along Willingsworth Road, a residential street.
- (iii) The site is more suitable for bungalows.
- (iv) Wednesbury Town Centre is close where there are plenty of retail units. Great Bridge Centre is also close.
- (v) Loss of privacy from occupants of the flats overlooking houses.
- (vi) A neighbouring resident has queried the site location plan, indicating the access to the site would be over a shared access drive. There is concern about access arrangements.
- (vii) Increased general noise from deliveries and noise during construction.
- (viii) Concern about air quality levels from HGV fumes visiting the site.
- (ix) Loss of light to houses in Willingsworth due to the height of the development.
- (x) The site is constantly littered with rubbish.

Immaterial issues have been raised regarding devaluation of house prices.

### 6.3 Responses to objections

I respond to the objector's comments in turn;

- (i) There is no indication in the application as to the specific use of the retail units. It is believed they would be speculative units. If retail were to be considered appropriate they would be restricted to A1 general retail and any subsequently proposals for hot food take-aways would be subject to separate planning applications. However, the retail element under consideration now is considered inappropriate and contrary to policy as will be demonstrated further in this report. I share the objectors concerns regarding possible detriment to residential amenity from the commercial element and its proximity to homes.
- (ii) Highways object to the proposal (see paragraph 7, 7.2 below).
- (iii) The site is allocated for residential redevelopment and the Council would consider all types of dwellings. The site is bounded by a mixture of houses and flats and this proposal is for flats (with retail). A bungalow development may be appropriate but does not form the basis of this current application by this applicant.
- (iv) The concerns are shared and addressed in the policy comments (paragraph 9, 9.1 below).
- (v) The proposed position of windows, relationship between primary/secondary elevations of the proposed development and



- existing development would ensure that there is no appreciable overlooking from the new development.
- (vi) The shared access issue is a private matter to be addressed by both parties separately from this planning application. However, the issues would have implications for the layout of the site and joint access arrangements. Therefore, the matter has been raised with the applicant.
  - (vii) Additional noise and comings and goings associated with the commercial element of the proposal could have a serious impact on both the occupants of the proposed flats as well as neighbouring residents, particularly given that insufficient parking is proposed and there would be displacement of vehicles, including delivery vehicles, on nearby streets. I share the concerns of the residents in this regard.
  - (viii) Environmental Health (Air Quality Team) has no objections subject to the installation of electric vehicle charging points.
  - (ix) The narrowest part of the development would be 12m away from the side elevation of no. 2 Willingsworth Road. The widest section of the development would be 26m away from the side elevation of no. 2. The side elevation of new no. is a secondary elevation where the minimum recommended distance would be 14m under the Residential Guidance. Therefore, in this regard it is not considered that there would be a material loss of light.
  - (x) Development of the site would bring a vacant and untidy piece of land back into use and should overcome issues with littering if developed appropriately.

## **6.4 Support**

6.4.1 The petition in support is based on grounds that it will bring employment to the area, bring low affordable accommodation and will transform this eyesore vacant land into use. Residents of Willingsworth Road, Callear Road, Charlotte Road, Maple Leaf Road, Bagnalls Wharf, Bannister Road, Leabrook Road and Seymour Road have signed the petition.

## **7. STATUTORY CONSULTATION**

### **7.1 Planning Policy**

Objection. While there are no policy concerns with the residential element of the scheme, the retail element is contrary to Policies CEN6 and CEN7 of the BCCS. No justification has been provided as to why the retail units cannot be in Wednesbury Town Centre, less than 1 kilometre away and with several vacant units. In addition, there are already local convenience stores in proximity to the application site that meet day to day local needs. Further information on policy factors are set out at paragraph 9 below.

## 7.2 Highways

Objection. The retail element requires a minimum of 36 and a maximum of 51 off-street parking spaces depending on the nature of the retail element, which is unspecified in the application. Taking the minimum requirement into consideration, the proposals are wholly inadequate. Furthermore, there are no clear details as to the location of bin storage/refuse collection arrangements or servicing of the retail elements. In addition, there should be a total of 10 parking spaces for the residential element (including 2 visitor spaces). The parking spaces shown on the submitted plan are both wholly inadequate in terms of overall numbers and do not meet space requirements (2.8m x 5 with 6m manoeuvring) as set out in Sandwell's Adopted Residential Design Guide.

Furthermore, Highways point out that the existing bus shelter along Leabrook Road would need to be repositioned with the agreement of Transport for West Midlands.

## 7.3 Environmental Health (Air Quality)

No objections subject to the installation of electric vehicle charging points.

## 7.4 Environmental Health (Contaminated Land)

No objections subject to conditions related to a desk top site investigation to assess the risk of potential on-site contamination from historic land uses together with remediation where appropriate.

## 7.5 Environmental Health (Air Pollution and Noise) - No comments received.

## 7.6 West Midlands Police

No objections subject to adopting the principles of Secured by Design.

## 7.7 Canal and River Trust

No objections subject to secure cycle storage to encourage connectivity and sustainable travel close to the canal network. Also, subject to appropriate landscape planting to encourage biodiversity close to the canal network.

## **8. GOVERNMENT GUIDANCE/NATIONAL PLANNING POLICY**

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

## **9. LOCAL PLANNING POLICY**

- 9.1 The following policies of the Council's Local Plan are relevant:-

HOU1 – Delivering Sustainable Housing Growth

CEN6 – Meeting Local needs for Shopping and Services

CEN7 – Controlling Out-of-Centre Development

ENV3 - Design Quality

DEL1 - Infrastructure Provision

ENV5 - Flood Risk, Sustainable Drainage System and Urban Heat Island Effect

ENV7 – Renewable Energy

ENV8 - Air Quality

H1 – Housing Allocations

SAD EOS9: Urban Design Principles

- 9.2 Detailed local policy considerations

The site is allocated for residential redevelopment in both the BCCS and SAD documents (HOU1 and H1 respectively). The residential element would therefore be supported by these policies were it not combined with retail. Both policies do not support the introduction of a non-conforming use such as retail.

Policy CEN7 adopts a town centre first approach, whereby there is a clear presumption in favour of focussing retail development in the centre. In this case there are vacancies in Wednesbury Town Centre where the proposed retail units should be located. Also, in terms of Policy CEN6 the convenience day-to-day needs are already met in this locality and therefore the proposal for 4 additional retail units is contrary to policy.

In terms of design policies ENV3 and SADEOS9 the design of the building is considered appropriate and complementary to the surrounding buildings.

Policy DEL1 advises that all new development should be supported by on and off-site infrastructure to ensure the development is sustainable and contributes to the proper planning of the wider area. In this case the development would be liable for the Community Infrastructure Levy (CIL).

As regards drainage (Policy ENV3, Policy ENV7 Renewable Energy and Policy ENV8 Air Quality), these items can be controlled by planning conditions.

## **10. MATERIAL CONSIDERATIONS**

10.1 The material considerations relating to Government policy (NPPF) and proposals with the local plan have been referred to above in Sections 8 and 9. With regard to the other considerations these are highlighted below:

### **10.2 Planning history**

The site has been vacant for many years and suffered fly tipping that has been subject to previous enforcement action. Appropriate redevelopment of the site is welcomed.

### **10.3 Overlooking/loss of privacy**

It is not considered that there would be an appreciable loss of privacy due to the distances and orientation of the development. Refer to paragraph 6.3 (vi).

### **10.4 Loss of light and/or outlook/overshadowing**

There would be no material impact to warrant refusal. Refer to paragraph 6.3 (x).

### **10.5 Layout and density of building**

The development is considered too intensive and does not provide sufficient parking, amenity space, servicing arrangements.

### **10.6 Design, appearance and materials**

The traditional design and external appearance is considered appropriate in the locality.

### **10.7 Access, highway safety, parking and servicing**

Inadequate provision has been made.

### **10.8 Noise and disturbance from the scheme**

The retail element would have an adverse impact on the residential occupants along with existing nearby residential occupiers particularly late into the evening.

## **11. IMPLICATIONS FOR SANDWELL'S VISION**

- 11.1 The proposal supports Ambitions 3, 7, 8 and 10 of the Sandwell Vision 2030: -
- 11.2 Ambition 3 – Our workforce and young people are skilled and talented, geared up to respond to changing business needs and to win rewarding jobs in a growing economy.
- 11.3 Ambition 7 – We now have many new homes to meet a full range of housing needs in attractive neighbourhoods and close to key transport routes.
- 11.4 Ambition 8 – Our distinctive towns and neighbourhoods are successful centres of community life, leisure and entertainment where people increasingly choose to bring up their families.
- 11.5 Ambition 10 – Sandwell has a national reputation for getting things done, where all local partners are focussed on what really matters in people's lives and communities.

## **12. CONCLUSIONS AND SUMMARY OF REASONS FOR THE RECOMMENDATIONS**

- 12.1 Bringing this site back into use is welcomed as it has been troubled by fly-tipping in the past. However, the proposal for retail and residential combined are un-complimentary, would be contrary to adopted policy given that the site is allocated for residential use, would have an adverse impact on highway safety, residential amenity and would not accord to the standards set out in the Council's Adopted Residential Design Guide. The proposal should therefore be resisted.
- 12.2 The applicant has been given the opportunity to amend the scheme by deleting the retail element but has declined to do so.

## **13. STRATEGIC RESOURCE IMPLICATIONS**

- 13.1 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.

## **14. LEGAL AND GOVERNANCE CONSIDERATIONS**

- 14.1 This application is submitted under the Town and Country Planning Act 1990.

## **15. EQUALITY IMPACT ASSESSMENT**

15.1 There are no equalities issues arising from this proposal and therefore an equality impact assessment has not been carried out.

## **16. DATA PROTECTION IMPACT ASSESSMENT**

16.1 The planning application and accompanying documentation is a public document.

## **17. CRIME AND DISORDER AND RISK ASSESSMENT**

17.1 Objections have been received regarding anti-social behaviour.

## **18. SUSTAINABILITY OF PROPOSALS**

18.1 Refer to the national planning framework (8) and local plan policies (9) and material considerations (10).

## **19. HEALTH AND WELLBEING IMPLICATIONS (INCLUDING SOCIAL VALUE)**

19.1 Refer to the summary of the report (12).

## **20. IMPACT ON ANY COUNCIL MANAGED PROPERTY OR LAND**

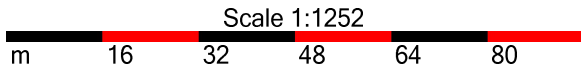
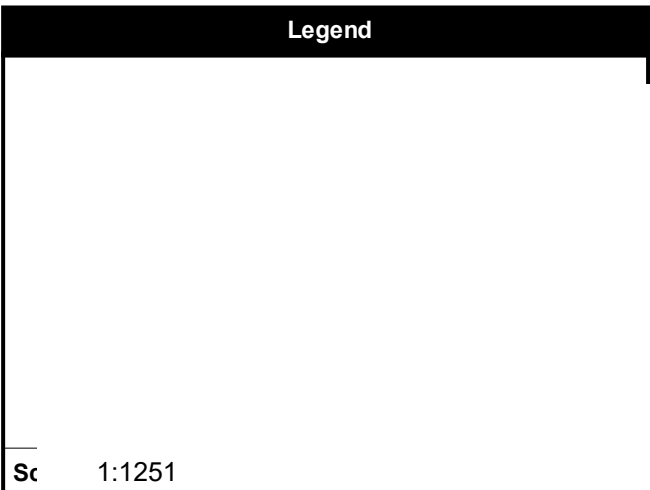
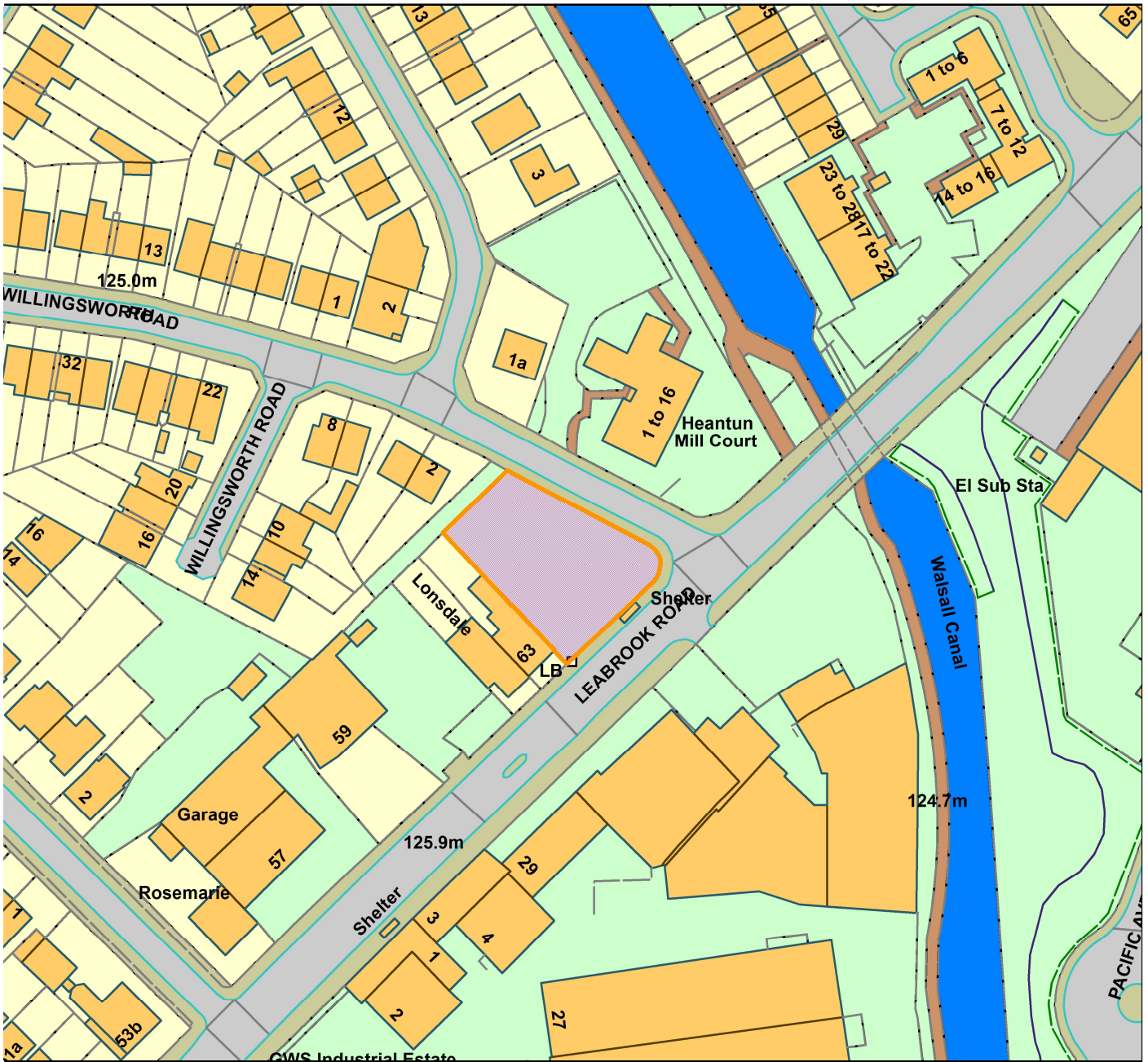
20.1 There will be no impact.

## **21. APPENDICES:**

Site Plan  
Context Plan  
Plan No. 3500\_004 & 005

DC/19/63522

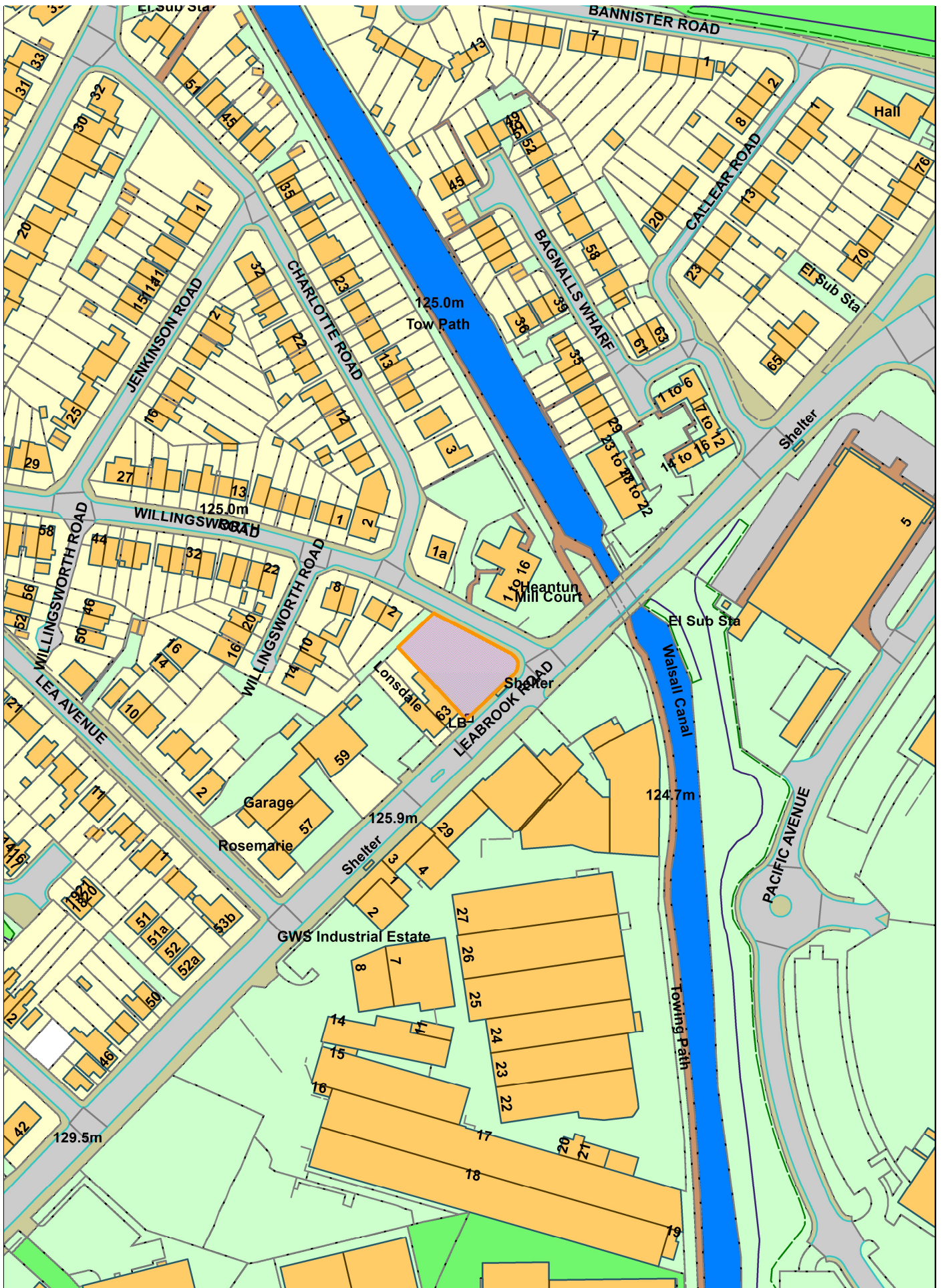
Land Adj 63 leabrook Road, Wednesbury



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

<b>Organisation</b>	Not Set
<b>Department</b>	Not Set
<b>Comments</b>	
<b>Date</b>	29 January 2020
<b>OS Licence No</b>	





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

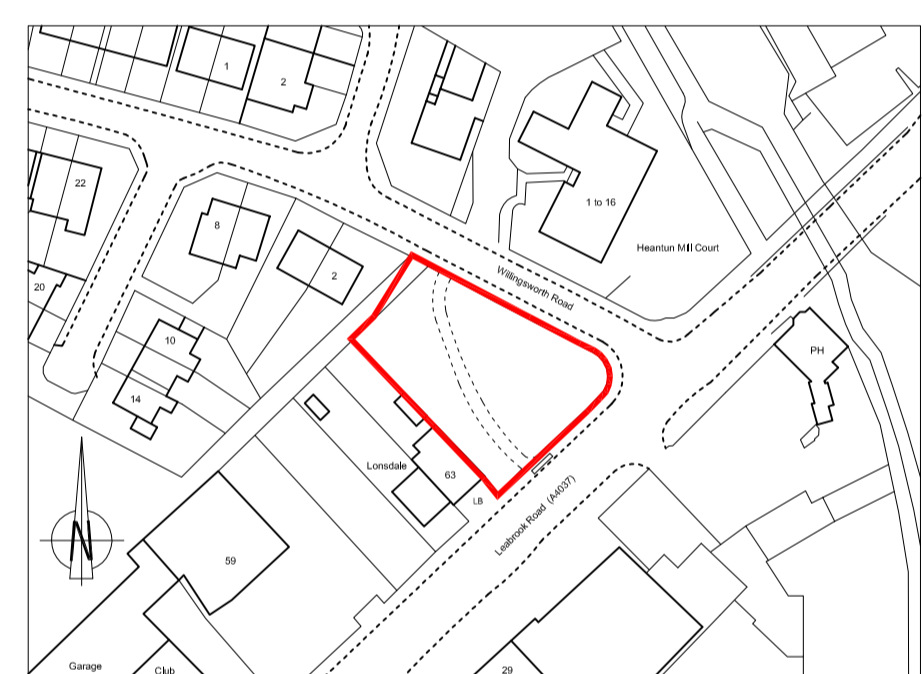
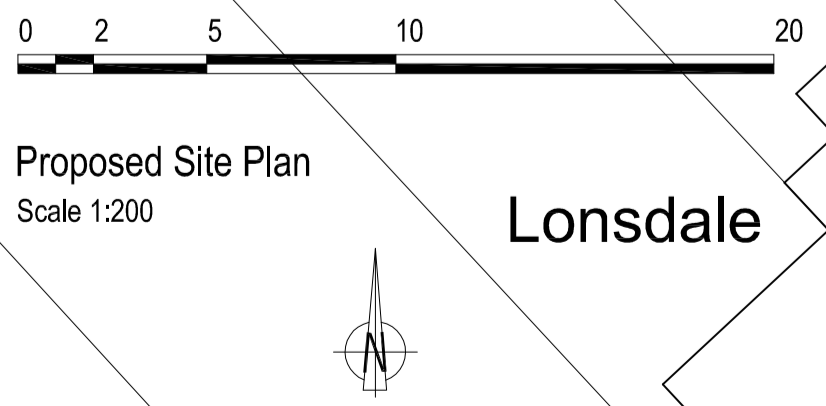
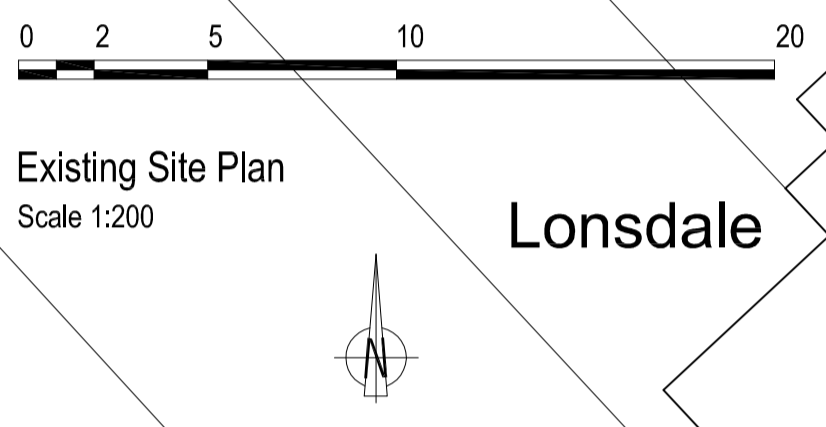




ALL DIMENSIONS ARE TO BE CHECKED ON SITE PRIOR TO CONSTRUCTION.  
THE CONTRACTOR IS TO NOTIFY THE ARCHITECT OF ANY DISCREPANCY BETWEEN  
DRAWINGS, SPECIFICATION AND SITE DIMENSIONS.

THE CLIENT IS ADVISED OF THEIR DUTY UNDER THE PARTY WALL E.T.C ACT 1996  
TO SERVE THE REQUIRED NOTICE UPON THEIR NEIGHBOUR(S) WITHIN THE  
MINIMUM PRESCRIBED TIME PERIOD

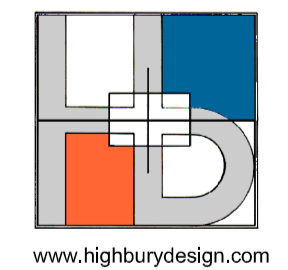
THE CONTRACTOR IS REQUIRED TO HAVE READ AND UNDERSTOOD ALL CONDITIONS  
AND NOTES ATTACHED TO THE PLANNING "NOTICE OF DECISION" AND SERVE ANY  
NOTICES REQUIRED THEREIN, BEFORE COMMENCING THE WORKS



Location Plan  
Scale 1:1250

REVISION	DESCRIPTION	DATE	BY	CHECK
----------	-------------	------	----	-------

**HIGHBURY DESIGN**  
Chartered Architects Project Managers CDM Co-ordinators  
11 HOLT ROAD STUDLEY  
WARWICKSHIRE B80 7NX  
Tel: (01527) 857092  
Email: info@highburydesign.com



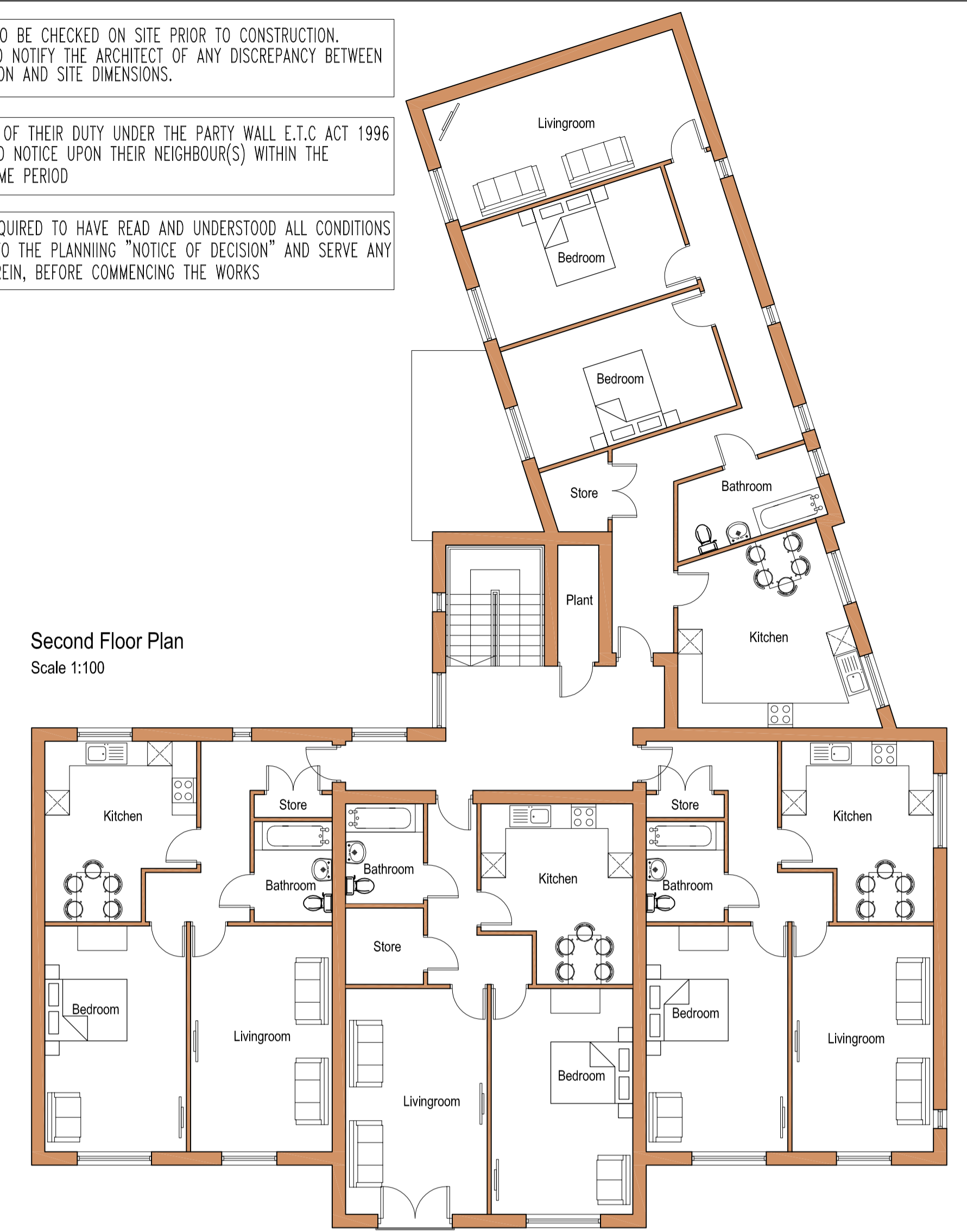
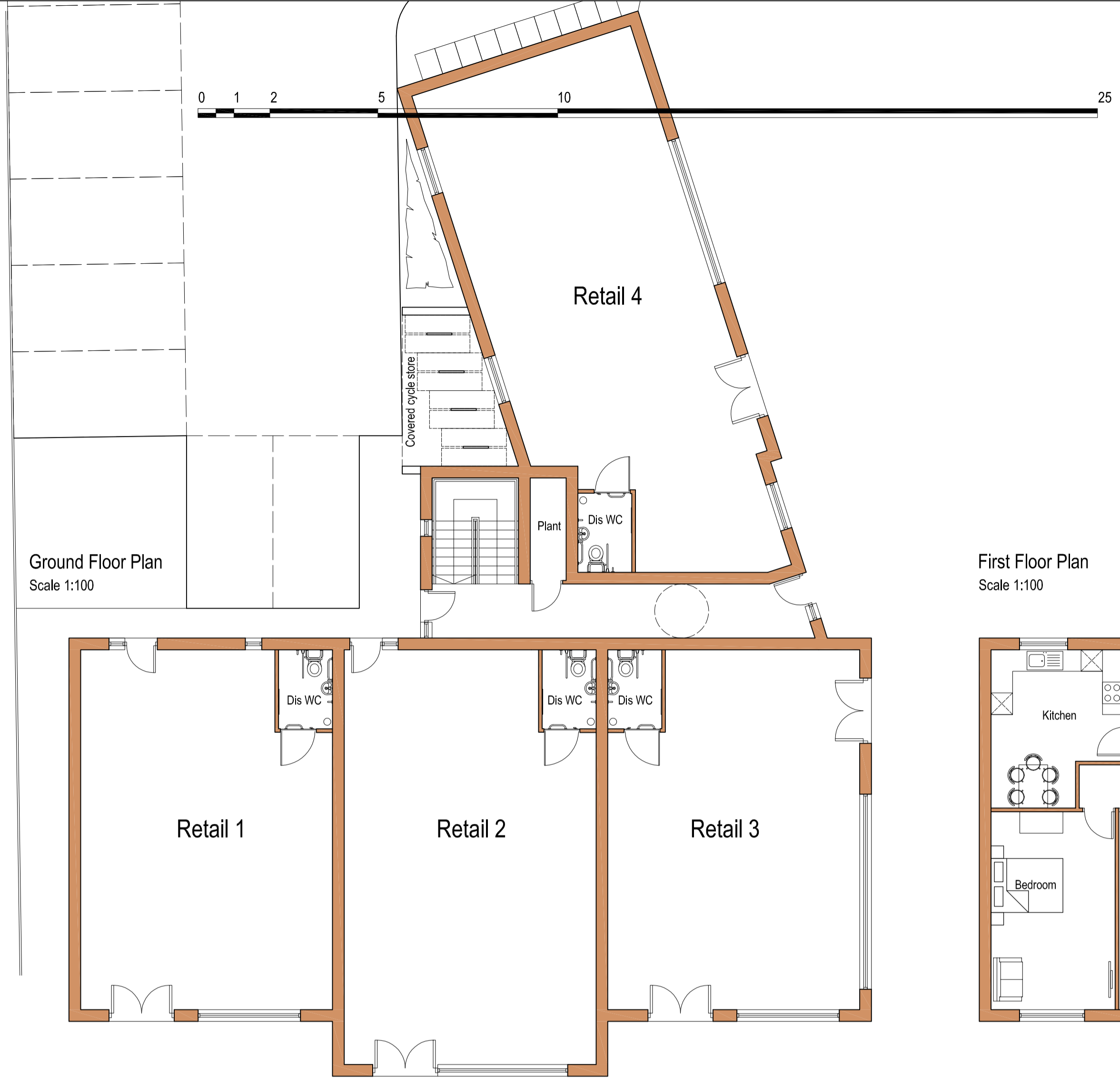
**CLIENT**  
Leabrook Developments

**PROJECT**  
New Flats & Retail Units,  
Adjacent to 63 Leabrook Road,  
Wednesbury, WS10 7NW

**TITLE**  
Proposed And Existing Site Plans

Date	Scale	Drawn	Drawing No	Rev
19.06.19	1:100	LCF	3500_004	
			Verified by	GP

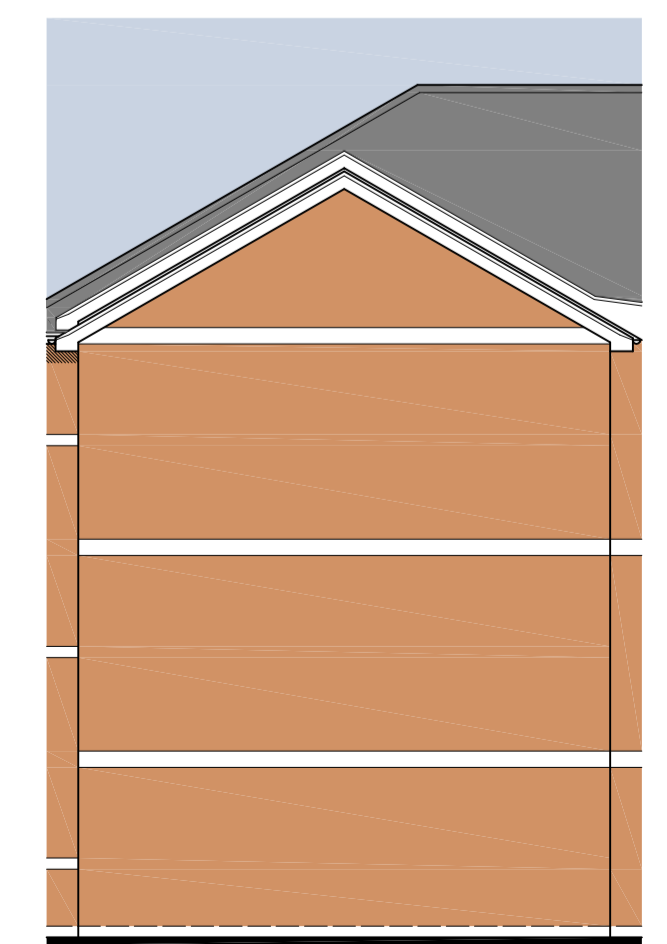




ALL DIMENSIONS ARE TO BE CHECKED ON SITE PRIOR TO CONSTRUCTION. THE CONTRACTOR IS TO NOTIFY THE ARCHITECT OF ANY DISCREPANCY BETWEEN DRAWINGS, SPECIFICATION AND SITE DIMENSIONS.

THE CLIENT IS ADVISED OF THEIR DUTY UNDER THE PARTY WALL E.T.C ACT 1996 TO SERVE THE REQUIRED NOTICE UPON THEIR NEIGHBOUR(S) WITHIN THE MINIMUM PRESCRIBED TIME PERIOD

THE CONTRACTOR IS REQUIRED TO HAVE READ AND UNDERSTOOD ALL CONDITIONS AND NOTES ATTACHED TO THE PLANNING "NOTICE OF DECISION" AND SERVE ANY NOTICES REQUIRED THEREIN, BEFORE COMMENCING THE WORKS



REVISION	DESCRIPTION	DATE	BY	CHECK
A	Balcony doors amended	07.10.19	LCF	GP

**HIGHBURY DESIGN**  
Chartered Architects Project Managers CDM Co-ordinators  
HIGHBURY HOUSE  
11 HOLT ROAD STUDLEY  
WARWICKSHIRE B80 7NX  
Tel: (01527) 857092  
Email: info@highburydesign.com  
www.highburydesign.com

**CLIENT**  
Leabrook Developments

**PROJECT**  
New Flats & Retail Units,  
Adjacent to 63 Leabrook Road,  
Wednesbury, WS10 7NW

TITLE				
Proposed Plans And Elevations				
Date	Scale	Drawn	Drawing No	Rev
19.06.19	1:100	LCF	3500_005	A
			Verified by	GP