



## REPORT TO PLANNING COMMITTEE

5<sup>th</sup> August 2020

<b>Application Reference</b>	DC/20/64341
<b>Application Received</b>	8 <sup>th</sup> June 2020
<b>Application Description</b>	Proposed single storey rear extension to provide café use to the rear of existing shop premises.
<b>Application Address</b>	74 - 76 Cape Hill Smethwick B66 4PB
<b>Applicant</b>	Mr Asghar Khandie
<b>Ward</b>	Soho and Victoria
<b>Contribution towards Vision 2030:</b>	 
<b>Contact Officer(s)</b>	Dave Paine 07765 156081 david_paine@sandwell.gov.uk

### **RECOMMENDATION**

That planning permission is granted subject to;

- (i) Provision of suitable refuse storage and collection.
- (ii) Rear access to café for emergencies, deliveries and collections only.
- (iii) A noise report and implementation of any recommendations.
- (iv) Installation of an extraction and ventilation system.
- (v) Restriction of opening hours.

### **1. BACKGROUND**

- 1.1 This application is being reported to your Planning Committee because the agent is an employee of Sandwell MBC.
- 1.1 To assist members with site context, a link to Google Maps is provided below:

[74-76 Cape Hill, Smethwick](#)

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

- 2.1 The Site is allocated as Cape Hill Town Centre.
- 2.2 The material planning considerations which are relevant to this application are:-

Design, appearance and materials  
Access, highway safety, parking and servicing  
Noise and disturbance from the scheme

## **3. THE APPLICATION SITE**

- 3.1 This application relates to a retail premises on the south side of Cape Hill. This is a retail centre with a mix of commercial uses. To the rear of the application site is a residential street.
- 3.2 Specifically, the development site would be at the rear of the premises, in a yard currently used for storage.

## **4. PLANNING HISTORY**

- 4.1 The single storey storage building in the rear yard was approved in 1980. In 2013, approval was granted for first and second floor flats above the shop. In 2017, two applications for a sheesha café in the rear yard were refused.
- 4.2 Relevant planning applications are as follows:-

DC/11568	Erection of a single storey building for the storage of furniture.	Approve 02.07.1980
DC/13/56266	Proposed conversion of first floor into 4 No. self-contained flats.	Approve with conditions 11.10.2013
DC/13/56589	Proposed external alterations and erection of 2nd floor to provide additional 2 No. flats – (revised application - DC/13/56266).	Approve with conditions 04.03.2014
DC/17/60274	Proposed extension and change of use of existing storage unit to sheesha/smoking shelter including new wc's, staff room and fencing.	Refused 15.06.2017

DC/17/61043	Proposed extension and change of use of existing storage unit to sheesha/smoking shelter including new wc's, staff room and fencing (Revised application DC/17/60274).	Refused 02.11.2017
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## **5. APPLICATION DETAILS**

- 5.1 The applicant proposes a change of use of the rear yard area behind the shop to a café. This would include the construction of a new building to house the café, along with males and female toilets and kitchen and serving counter. The building would measure a maximum of 26m (L) by 16m (W) by 3.2m (H).

## **6. PUBLICITY**

- 6.1 The application has been publicised by neighbour consultation letters with one response.

### **6.2 Objections**

Objections have been received on the following grounds:

- (i) The proposal would create a new frontage to the private service road to the rear.

### **6.3 Responses to objections**

I respond to the objector's comments in turn;

- (i) The application clearly shows the rear access and indicates that these will be fire exits. I recommend a condition to ensure these exits are used only in cases of emergency, or for deliveries or collections.

## **7. STATUTORY CONSULTATION**

- 7.1 **Highways** - no objections

- 7.2 **Public Health (Contaminated Land)** – no objections

- 7.3 **Public Health (Air Pollution and Noise)**

No objections subject to a condition is imposed in relation to the control of cooking odours and hours of use, however further information has been

requested regarding noise disturbance given the potential occupation of flats above the premises.

#### **7.4 West Midlands Police**

No objection given, however comments were made regarding the narrow access and that the proposal adhered Secured By Design principles.

#### **7.5 Conservation Officer – no objection**

### **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.

8.2 The NPPF also states;

“Planning policies and decisions should support the role that town centres play at the heart of local communities, by taking a positive approach to their growth, management and adaptation.”

### **9. LOCAL PLANNING POLICY**

9.1 The following policies of the Council’s Development Plan are relevant:-

ENV3: Design Quality  
SAD EOS9: Urban Design Principles  
CEN4: Regeneration of Town Centres

9.2 These design policies emphasise the need for good design and proposals should be of an acceptable scale. Policy CEN4 seeks to ensure the continued success and vibrancy of town centres. This proposal accords with these policies.

### **10. MATERIAL CONSIDERATIONS**

10.1 The material considerations relating to Government Policy (NPPF) and proposals within the Development Plan have been referred to above in Sections 8 and 9. With regards to the other considerations these are highlighted below:

10.2 **Design, appearance and materials.**

The proposal would replace an existing building with a new building of a similar size and with an improved appearance. The rear yard area is significantly enclosed and the proposed building would be largely hidden from public view.

### **10.3 Noise and Disturbance**

The Council's Environmental Health team have expressed concerns about this. The first and second floors above the shop are presumed to be in use as flats and the occupants could suffer harm from this development. Further information was requested. However, typically matters such as this can be dealt with by way of planning condition which would ensure that measures were undertaken, where necessary, to protect any residential flats above from unacceptable noise and disturbance. A condition is therefore recommended seeking noise assessments, any subsequent mitigation and retention.

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

No detail has been provided regarding the use of the rear access, how deliveries will be arranged and the storage and collection of refuse. I therefore recommend conditions relating to the use of the emergency exits and the storage and handling of refuse. In particular, the rear access should not be used by customers to access the premises.

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

11.1 The proposal supports Ambition 8 of the Sandwell Vision 2030:-

11.2 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.

11.3 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 The most recent previous application on this site was refused for two reasons;

- i. association with crime,
- ii. noise and disturbance to nearby residents.

These reasons both directly related to the proposed use of a sheesha lounge, with an open structure to comply with smoking regulations.

The current proposal is listed as a café and therefore these reasons do not apply. If approved and implemented, any use of the development for smoking sheesha would be unlawful and would be controlled by non-planning legislation.

Therefore this application is recommended for approval, subject to the conditions detailed above.

### **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 equality 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 The scheme has been asked to design the scheme in accordance with Secure by Design guidance.

### **18. SUSTAINABILITY OF PROPOSALS**

- 18.1 Refer to the National Planning Policy Framework (8), Development 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 would be no impact.

## **21. APPENDICES:**

Site Plan

Context Plan

Plan nos.

2020-01

2020-02

2020-03

2020-04

2020-05

2020-06

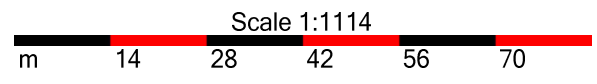
DC/20/64341

74 - 76 Cape Hill, Smethwick, B66 4PB



**Legend**

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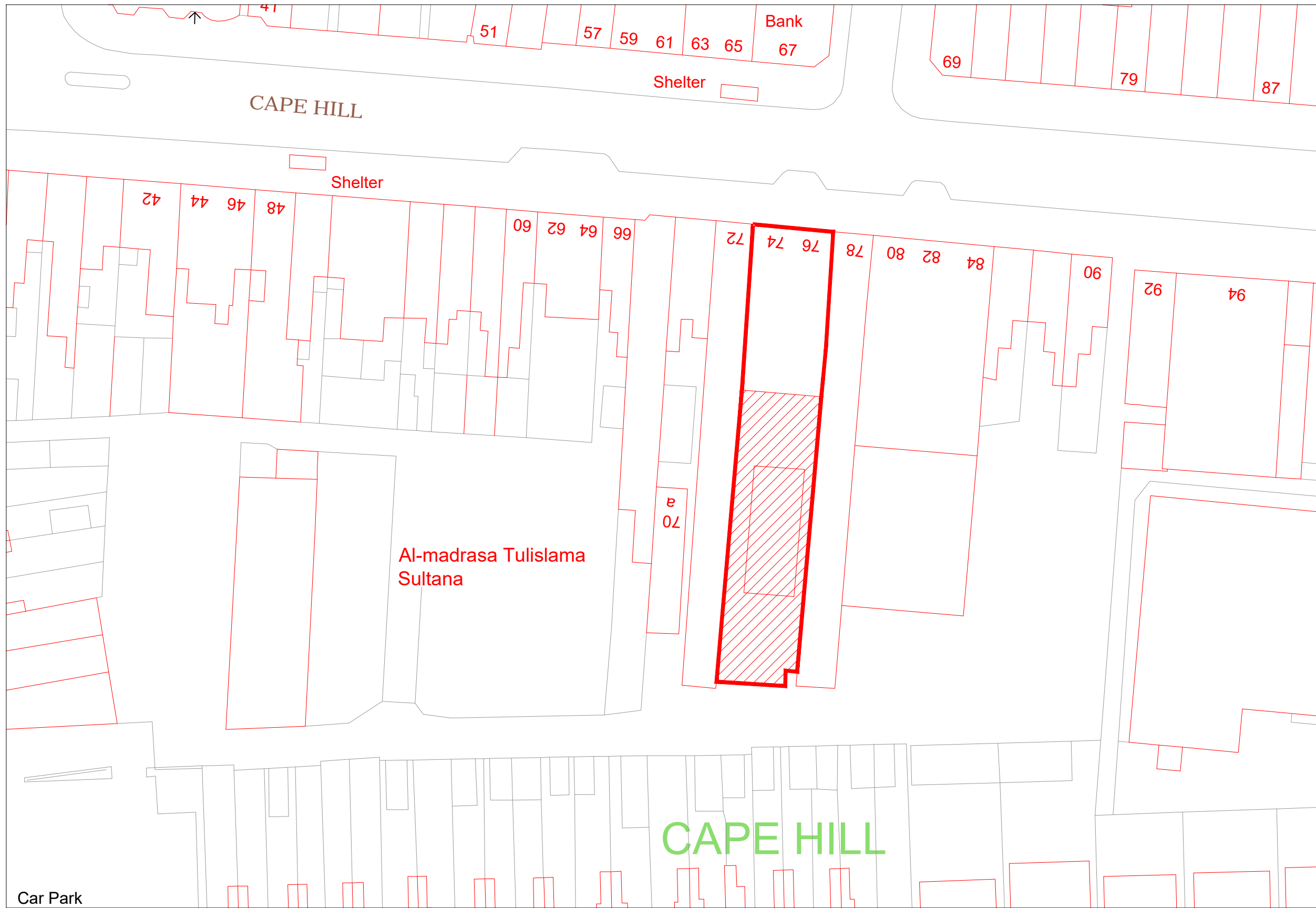
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<b>Department</b>	Not Set
<b>Comments</b>	Not Set
<b>Date</b>	23 July 2020
<b>OS Licence No</b>	







# Site Plan

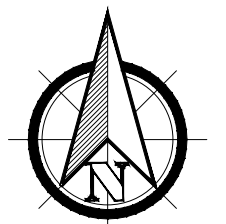


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## REVISIONS



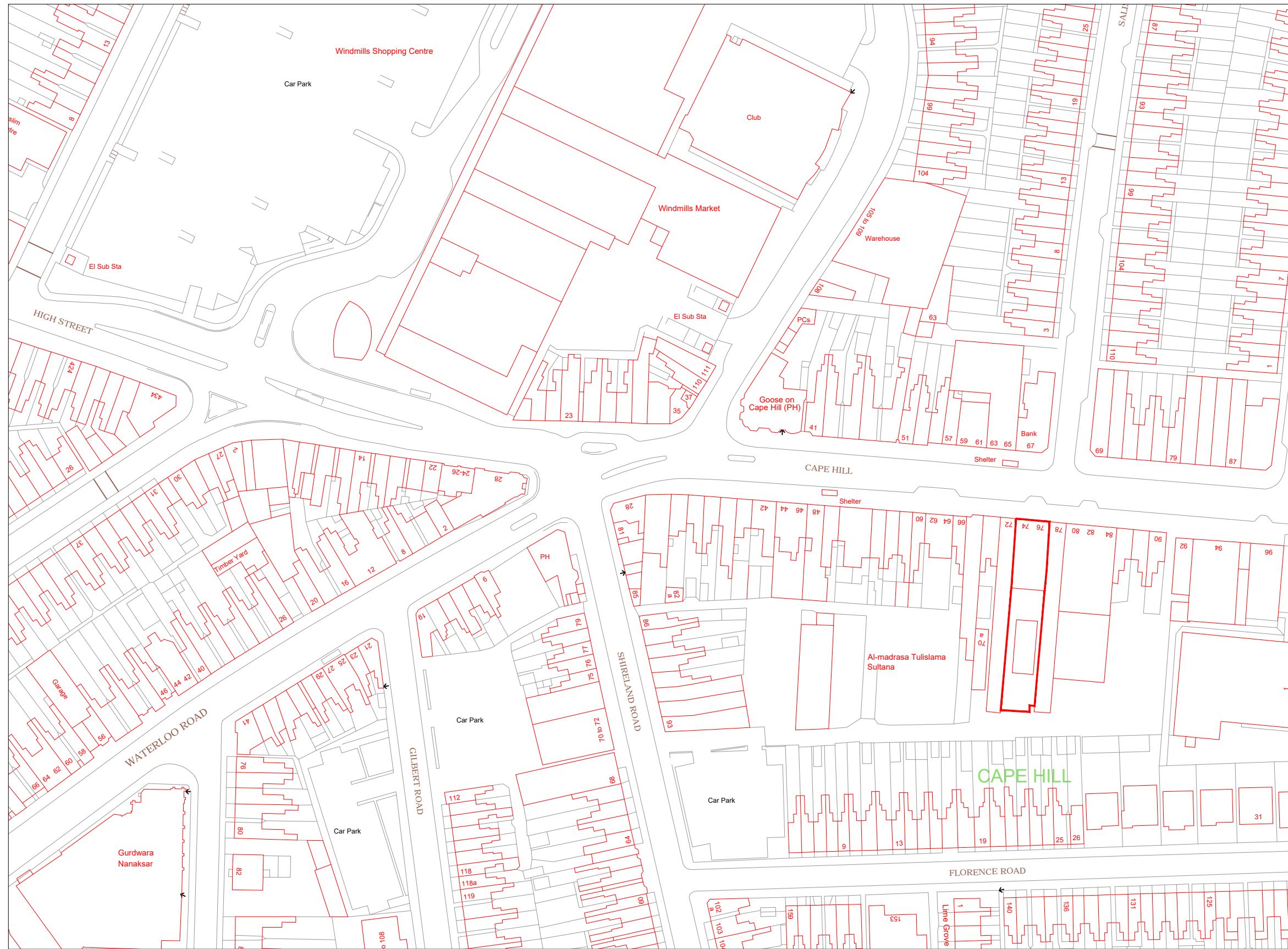
**CLIENT:**  
 Mr Asghar Khanoie

**JOB:**  
 74-76 Cape Hill, Smethwick,  
 West Midlands B66 4PB

**DRG TITLE:**  
 Site Plan

DRG NO.	REV.	Paper
2020-01/	01	A3
DATE: Jan' 2020	SCALE: 1.500	

# Location Plan

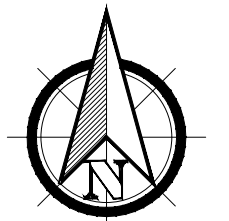


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## REVISIONS



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Mr Asghar Khanoie

## JOB:

74-76 Cape Hill, Smethwick,  
 West Midlands B66 4PB

## DRG TITLE:

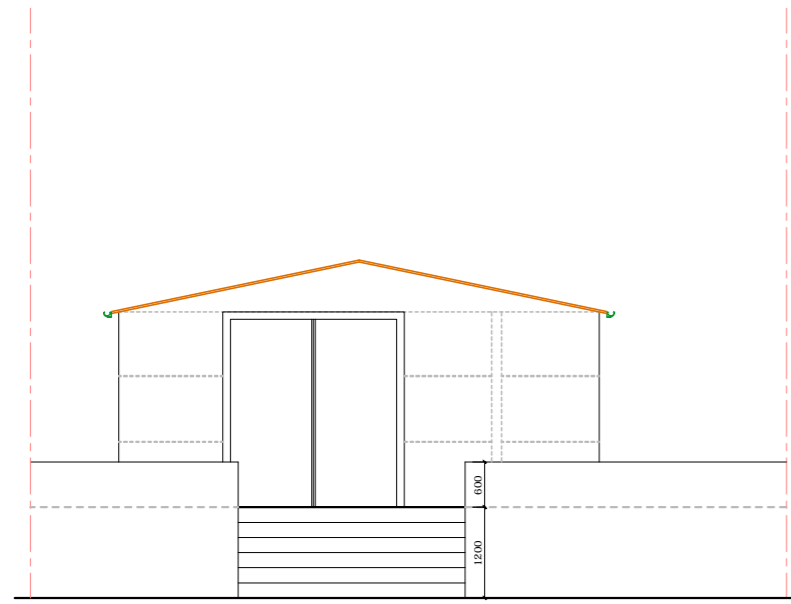
Location Plan

DRG NO.	REV.	Paper
2020-02/	01	A3
DATE: Jan' 2020	SCALE: 1:1250	

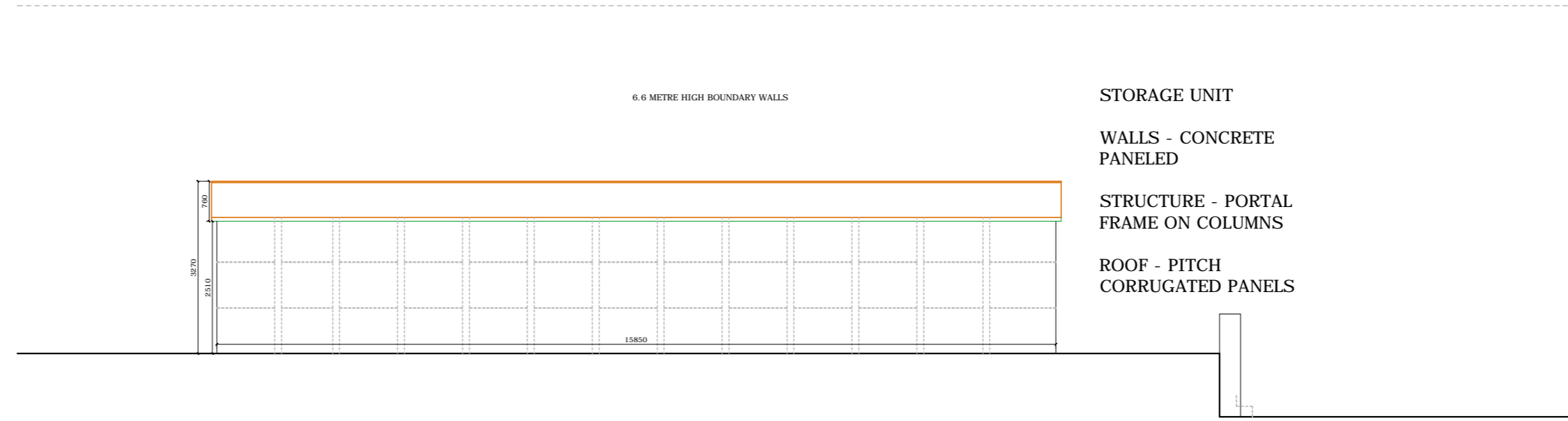
# Existing Elevations

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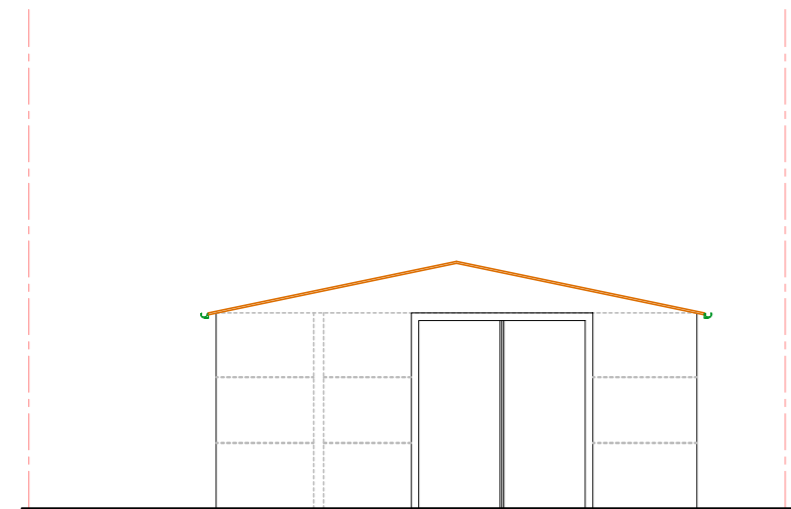
## REVISIONS



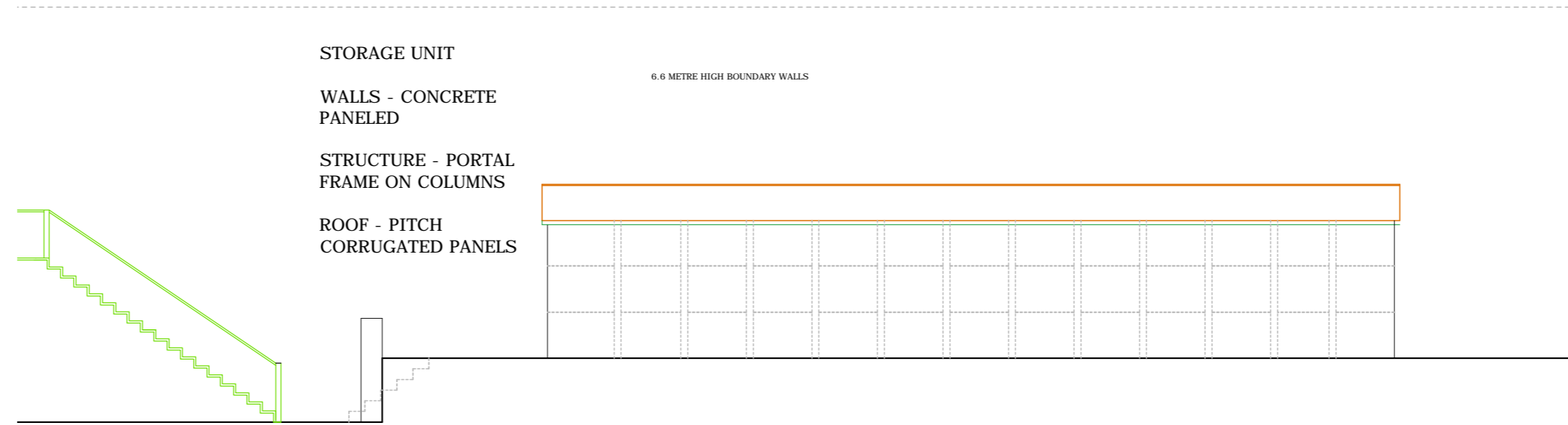
Front Elevation



Side Elevation



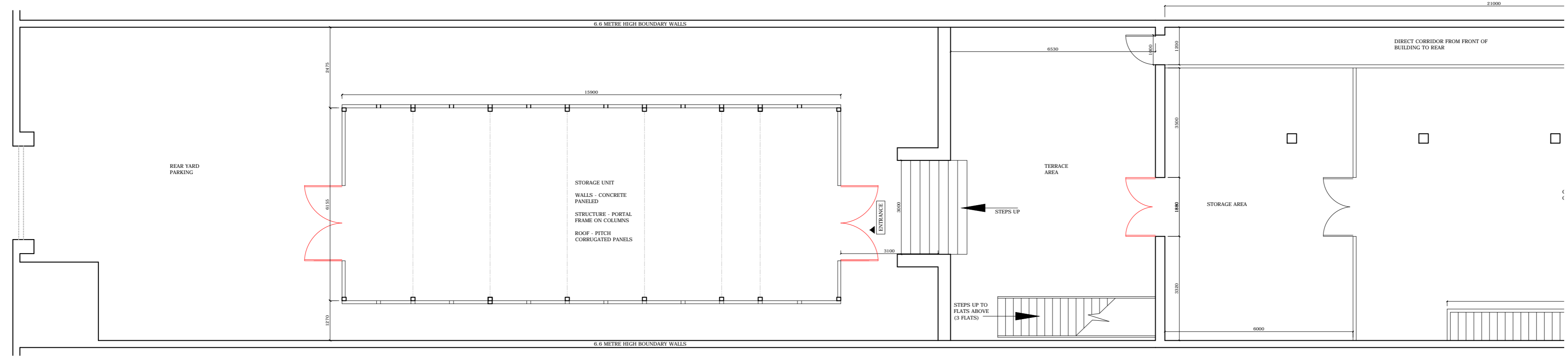
Rear Elevation



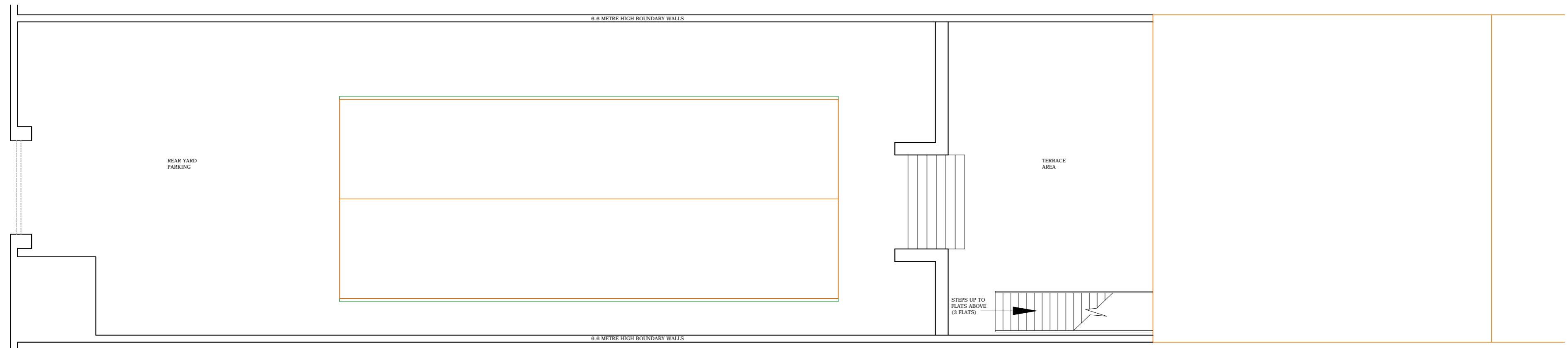
Side Elevation

<b>CLIENT:</b> Mr Asghar Khanoie		
<b>JOB:</b> 74-76 Cape Hill, Smethwick, West Midlands B66 4PB		
<b>DRG TITLE:</b> Existing Elevations Storage Shelter		
<b>DRG NO.</b> 2020-04/	<b>REV.</b> 01	<b>Paper</b> A2
<b>DATE:</b> Jan' 2020	<b>SCALE:</b> 1:100	

# Existing Plans



## Ground Floor



## Roof

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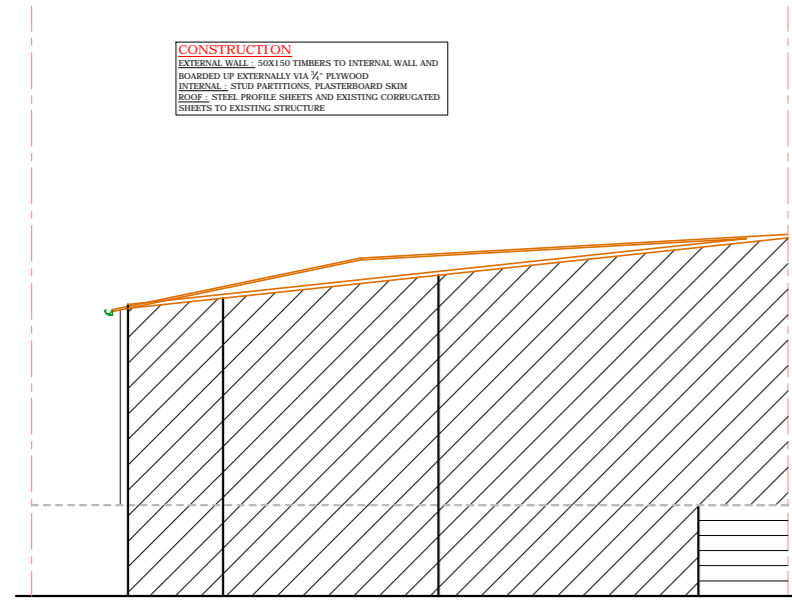
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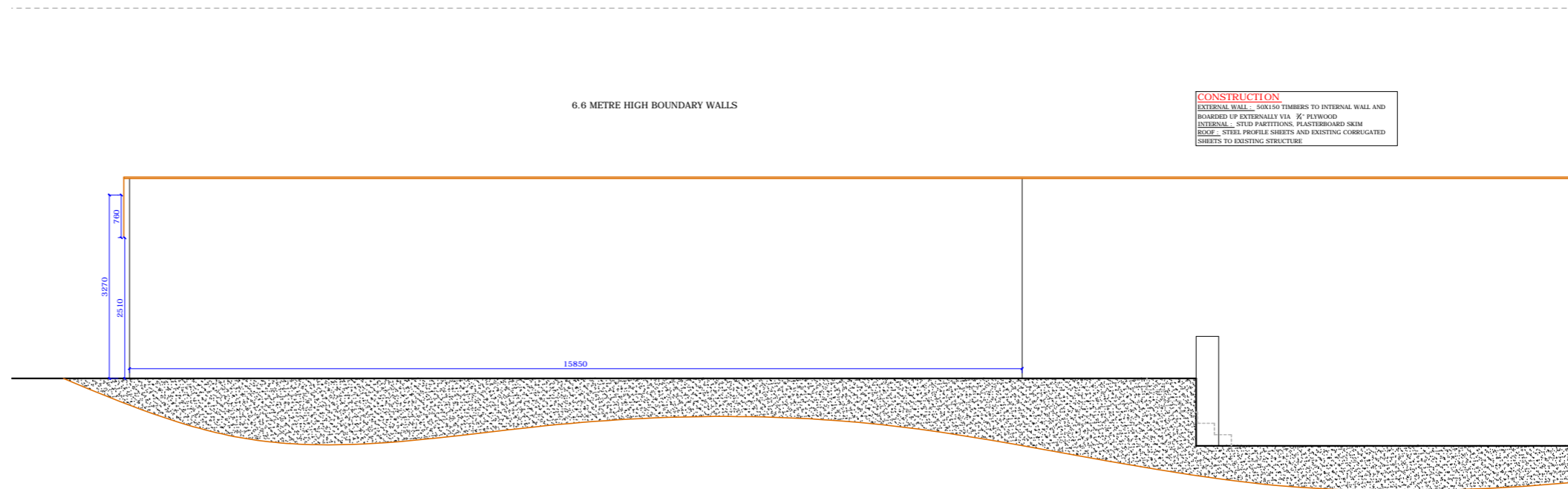
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Existing Plans  
Storage Shelter

DRG NO.	REV.	Paper
2020-03/	02	A2
DATE: Jan' 2020	SCALE: 1:100	

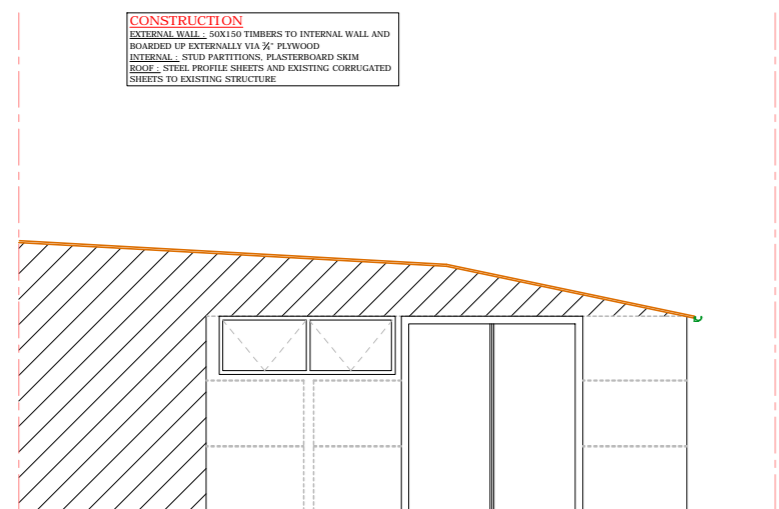
# Proposed Elevations



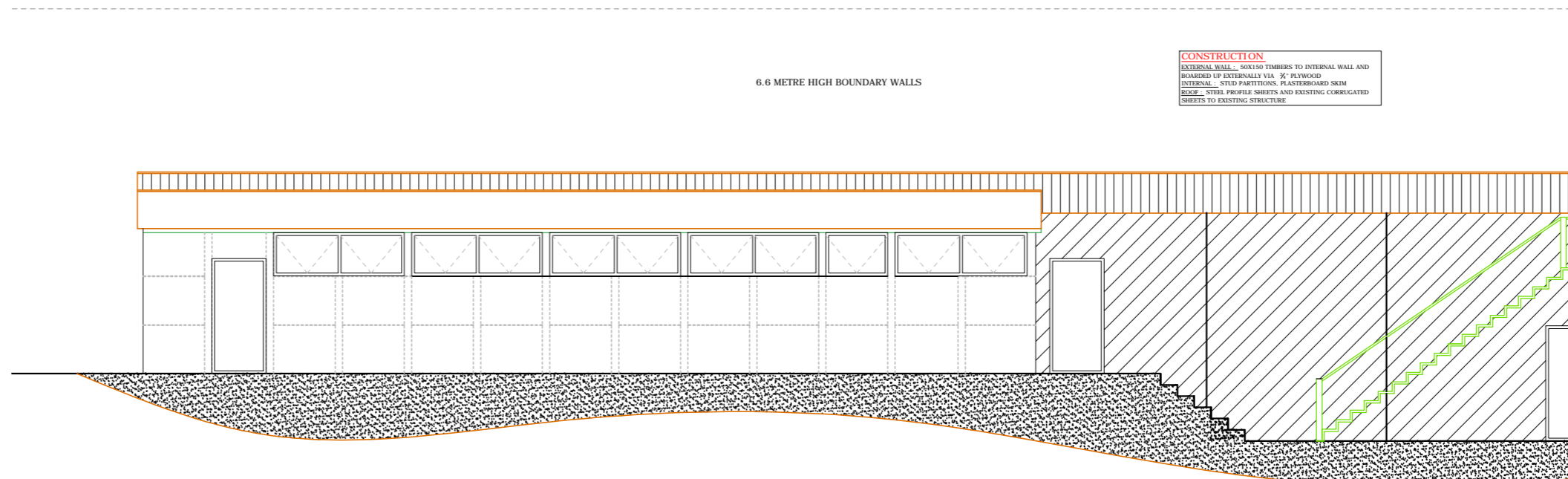
Front Elevation



Side Elevation



Rear Elevation



Side Elevation

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**REVISIONS**

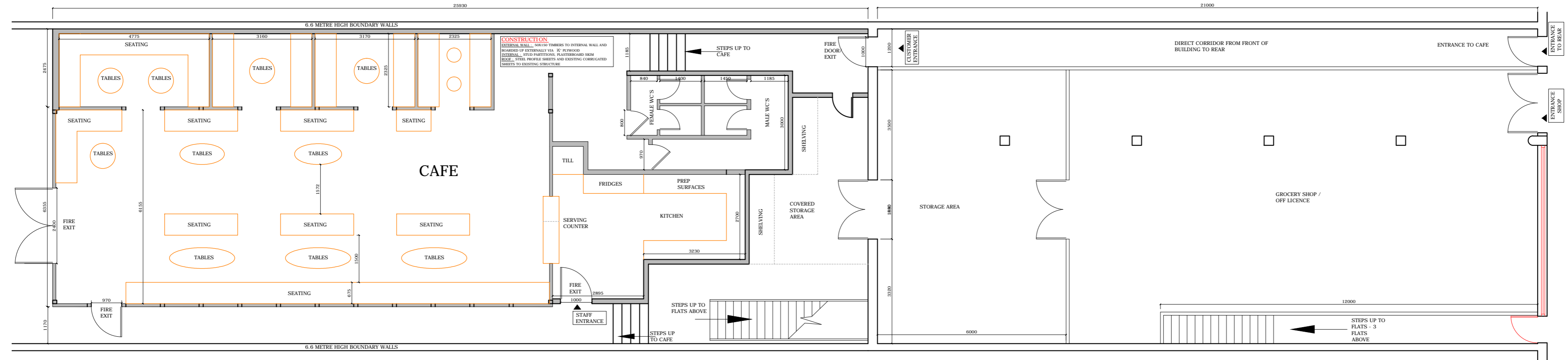
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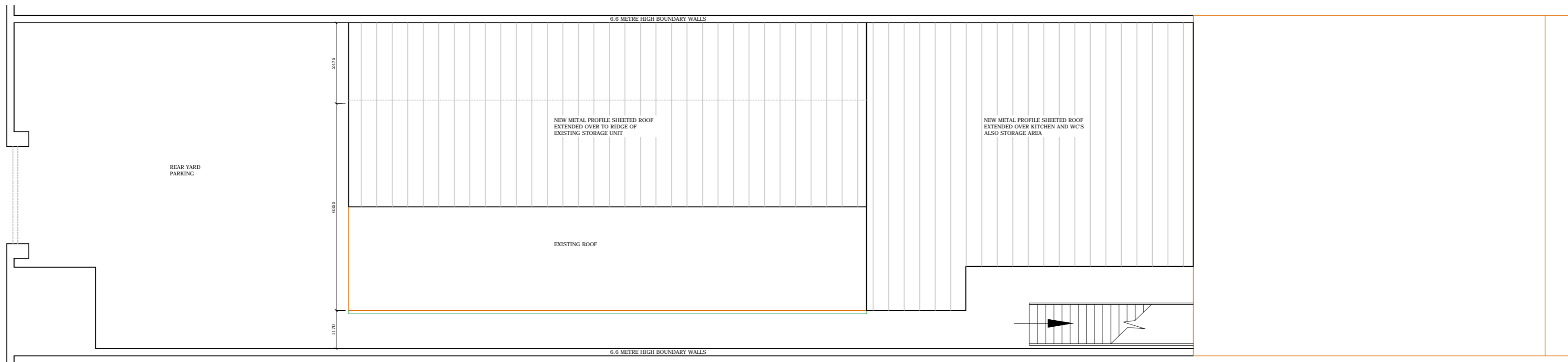
**DRG TITLE:**  
 Proposed Elevations  
 Storage shelter to CAFE

DRG NO.	REV.	Paper
2020-06/	02	A2
DATE: Jun' 2020		SCALE: 1:100

# Proposed Plans



Ground Floor



Roof

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<b>CLIENT:</b> Mr Asghar Khanoie		
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<b>DRG TITLE:</b> Proposed Plans Storage shelter to CAFE		
<b>DRG NO.</b> 2020-05/	<b>REV.</b> 02	<b>Paper</b> A2
<b>DATE:</b> Jan' 2020 <b>SCALE:</b> 1:100		