

Report to Planning Committee

10 February 2021

Application Reference	DC/20/64598
Application Received	24 th September 2020
Application Description	Proposed mixed use development, comprising of 3 No. retail units at ground floor and 6 No. residential apartments at first and second floors (previously withdrawn application DC/19/63522).
Application Address	Land Adj 63 Leabrook Road, Wednesbury, WS10 7NW
Applicant	Mr Jagpal Singh
Ward	Wednesbury South
Contact Officer	William Stevens William_stevens@sandwell.gov.uk

1 Recommendations

1.1 That planning permission is refused on grounds of: -



- (i) The proposed development is contrary to the Council's adopted Black Country Core Strategy policies CEN6 and CEN7 in that the applicant has failed to demonstrate why the retail units cannot locate within Wednesbury Town centre.
- (ii) The proposal provides poor legibility for pedestrian routes from the rear car park, therefore customers and deliveries to the retail element would cause highway safety concerns on the Leabrook Road.



2 Reasons for Recommendations

- 2.1 Whilst the residential component of the development is welcomed, the retail element is unacceptable as development plan policy has a centre's first approach, whereby there is a clear presumption in favour of focussing new retail in town centres. There are vacancies within Wednesbury town centre and as such, the proposed retail units should be in the town centre in the first instance. Despite several requests, no justification has been provided as to why the retail units cannot be located within Wednesbury town centre.
- 2.2 The proposal may lead to conflicts with other road users and deliveries to the premises given that the entrance to the retail units would face onto the frontage of Leabrook Road, whereas parking is provided at rear with poor legible pedestrian connectivity to the front entrance.

3 How does this deliver objectives of the Corporate Plan?

	Quality homes in thriving neighbourhoods – The residential component of the scheme would assist with meeting the council's housing targets and provides good quality homes.
	A strong and inclusive economy - The redevelopment is contrary to the Corporate Plan in that the proposal will remove retail opportunities within existing town centres potentially affecting the viability of these centres.

4 Context

- 4.1 This application is being reported to your Planning Committee under the request of Local Ward Councillor, Olwen Jones. She states that residents would like to see a mixed development on the application site, as residents have lost two shops in very close proximity to this location and are looking forward to the additional services it would provide.
- 4.2 To assist members with site context, a link to Google Maps is provided below:



5 Key Considerations

- 6.1 The site is allocated for housing within the development plan.
- 6.2 The material planning considerations which are relevant to this application are:-

Government policy (NPPF)

Access, highway safety, parking and servicing

Noise and disturbance from the scheme

Disturbance from smells

7. The Application Site

- 7.1 The application site is on the A4037 known locally as Leabrook Road. The A4037 is a busy link road, joining Tipton and Great Bridge with Wednesbury. The area is predominately residential.
- 7.2 The application site relates to waste ground within a residential area. Adjacent to the site is an existing shop and on the opposite side of Leabrook Road are industrial premises.

8. Planning History

- 8.1 The site has limited planning applications but has been subject to several enforcement complaints regarding untidy land.

- 8.2 Relevant planning applications are as follows: -

8.3	DC/98/34085	Proposed Car park together with boundary fencing.	Granted with Conditions 30/04/1998
	DC/19/63522	Proposed 4 No. retail units at ground floor and 8 No. apartments	Withdrawn



above with associated parking.

9. Application Details

- 9.1 The applicant proposes to erect a mix use development with three retail units on the ground floor and six one-bedroom residential apartments over two additional floors. The proposed building would be of irregular shape and measure 22.3m (W), a depth of 14.9m with a maximum height of 11.3m.
- 9.2 The agent has indicated that the retail units proposed would be covered by the new use Class E with potential uses being a kitchen/bathroom showroom, florist and hairdressers. No hours of operation have been included in the application.
- 9.3 The six one-bedroom apartments would be approximately 70sqm each.
- 9.4 Off-street parking would be available to both customers and residents, with bollards in place for residents parking spaces to protect them from retail customers using them.

10. Publicity

- 10.1 The application has been publicised by neighbour notification letters and by site notice with nine objections and one 17 signature petition in support of the proposal.

10.2 Objections

Objections have been received on the following grounds:

- (i) Residents do not need any more retail units within the residential area. The proposal would cause an increase to traffic to an already busy road, and unsafe parking,



- (ii) The retail units will increase anti-social behaviour, attract more people, litter and vermin,
- (iii) Residents would not object if the proposed development was all residential,
- (iv) The proposed retail elements would increase noise,
- (v) If food is proposed on the retail elements, residents would have concerns over the smell, litter, ASB and late opening hours,
- (vi) No details of waste storage,
- (vii) The site is not owned by the applicant,
- (viii) Possible mineshafts in the area,

10.3 Responses to objections

I respond to the objector's comments in turn;

- (i) Whilst off-street parking facilities are available, due to the poor pedestrian connecting from the rear car park to the entrance doors on Leabrook Road, it is considered that this could result in fly parking and deliveries/unloading along Leabrook Road. In so doing this could result in highway safety issues.
- (ii) Class E of the new use class order now covers a much wider range of commercial uses. If Members are minded to approve the application, it is suggested that the uses are restricted to exclude cafes and restaurants.
- (iii) These comments are noted and have been forwarded to the applicant's agent,
- (iv) It is agreed that there is a potential for residents to be disturbed by increased comings and goings by the introduction of retail units into the area,
- (v) See point ii above,
- (vi) Waste storage can be conditioned accordingly,
- (vii) The applicant's agent has provided a revised location plan showing all the site in their ownership,
- (viii) The Council is not aware of any mineshafts on site, however this is the responsibility of the applicant to check prior to commencement of the development.

10.4 Other non-material planning objections



Concerns over property values has also been raised, however property values are not a material planning consideration.

10.5 Support

A petition supports the application on the grounds it will bring employment to the area, bring in low affordable accommodation and will transform and existing eyesore and bring vacant land back into use.

11. Consultee responses

11.1 Planning and Transportation Policy

The comments from Planning Policy are broken into two elements as follows:-

Residential

The proposed site is allocated for a residential use and falls within a predominantly residential area, therefore there are no policy concerns with the residential element of the scheme.

Retail

With regards to the retail element of the scheme, Wednesbury town centre is within 1km of the site. As identified in Policy CEN7 of the Black Country Core Strategy, the Council has adopted a centre's first policy, whereby there is a clear presumption in favour of focussing development in town centres. There are vacancies within Wednesbury town centre and as such, the retail units should be in the town centre in the first instance.

Policy CEN6 of the same document, states that provision may be made for a specific day to day need, such as a convenience store, however, there is already a convenience store adjacent the site. In addition, there



are other retail/commercial uses further along the Leabrook Road. Additional retail uses in this location would only further detract from Wednesbury town centre, where there are already existing vacancies. The proposed retail units would therefore fail to meet a required need, as permitted under this policy, as the convenience day to day need has already been met in this location.

11.2 Highways

The removal of rear entrance for the retail units, removes the ability to load and unload deliveries from the rear car park and disconnects the customer parking. This could result in vehicles loading and unloading on Leabrook Road, some fly parking may also occur.

A condition could be added for the applicant to pay for a review of parking restrictions. This could include no parking, loading/unloading restrictions to prevent parking on Leabrook Road and protect the junction with Willingsworth Road, a loading bay could be considered on Willingsworth Road as there is a footpath link within the site from the retail entrance to the side of the property, however this is likely to result in neighbour objections.

Alternatively, instead of an unloading bay the applicant could produce a management plan to confirm how they will organise loading, unloading clear of the highway, a management plan could be conditioned to be approved by the Council, implemented and retained. Also, any approval should have conditions attached which demonstrate clear signage of parking has been considered, implemented and retained.

11.3 Public Health (Air Quality)

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

11.4 Public Health (Contaminated Land)



The standard ground investigation and remediation measures condition has been recommended.

11.5 Public Health (Air Pollution and Noise)

Have raised concerns about the potential noise issues to residents given the busy nature of Leabrook Road. They have recommended that an environmental noise survey and noise risk assessment be carried out and the implementation of recommendations.

With regards to the retail units, conditions limiting the hours of operation to Monday to Saturday 08:00 to 18:00 hours, and 08:0 to 13:00 on Sundays. Furthermore, no external plant should be located outside of the building.

11.6 West Midlands Police

The applicant has amended the plans based on comments made by the police and removed the rear door that fronts the proposed car park due to concerns about poor surveillance, anti-social behaviour and public safety.

11.7 Private Sector Housing and Cadent

Comments from these two departments have been received and passed onto the applicant for information. The contents of these are not material planning considerations.

12. National Planning Policy

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



12.2 The NPPF specifically refers to ensuring the viability of town centres and impresses upon local planning authority to define their town centres for retail to maintain their viability and to have sequential approach which directs new retail to town centres in the first instance and consider that edge of centre and out of centre site should be dismissed unless it can be demonstrated that no retail space is available within the town centre. As indicated above (11.1) it is considered that retail space is available within the Wednesbury town centre and hence the proposal is not compliant with national policy.

13. Local Planning Policy

13.1 The following polices of the Council's Development Plan are relevant: -

DEL1 – Infrastructure Provision

HOU1 – Delivering Sustainable Housing Growth

HOU2 – Housing Density, Type and Accessibility

CEN6 – Meeting Local Needs for Shopping and Services

CEN7 – Controlling Out-of-Centre Development

ENV3 – Design Quality

ENV5 – Flood Risk, Sustainable Drainage Systems and Urban Heat Island

ENV8 – Air Quality

EOS9 – Urban Design Principles

H1 – Housing Allocations

13.2 The proposal meets the requirements of policy HOU1, HOU2 and H1 in that it would be accessible by sustainable transport to residential services. The proposed residential scheme would also achieve high quality design with minimal amenity impact.

13.3 As discussed above, the proposal raises no significant concerns in respect of design and is therefore compliant with policy ENV3 and policy SAD EOS 9.



- 13.4 A condition can be applied to ensure appropriate drainage in accordance with policy ENV5.
- 13.5 In respect of air quality (ENV8), an electric vehicle charging point would be ensured by condition, in accordance with the Black Country Air Quality SPD.
- 13.6 The proposal however is contrary to policies CEN6 and CEN7 in that a town centres first policy is adopted, and the applicant (despite several requests) has failed to demonstrate why the above policies should be set aside.

14. Material Considerations

14.1 The material considerations relating to Government Policy (NPPF) and proposals within the Development Plan have been referred to above in Sections 12 and 13. With regards to other material considerations these are highlighted below:

14.2 Access, highway safety, parking and servicing

Whilst off-street parking spaces have been provided to the rear of the proposed retail units, the proposed main entrances face Leabrook Road, where passing trade and other users of the A4037 are likely to conflict.

14.3 Noise and disturbance from the scheme

Conditions regarding hours of operation from the retail elements can be attached to any approval.

14.4 Disturbance from smells

Conditions can be attached to any approval preventing the retail premises from being used as a café or restaurant.



15 Alternative Options

15.1 Approval of application is an option, if there are material planning reasons that outweigh national and local policy objection regarding the retail component of the proposal. If Members are minded to approve the application, there are several conditions that would need to be added to make the scheme appropriate in all respects.

16 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

17. Appendices

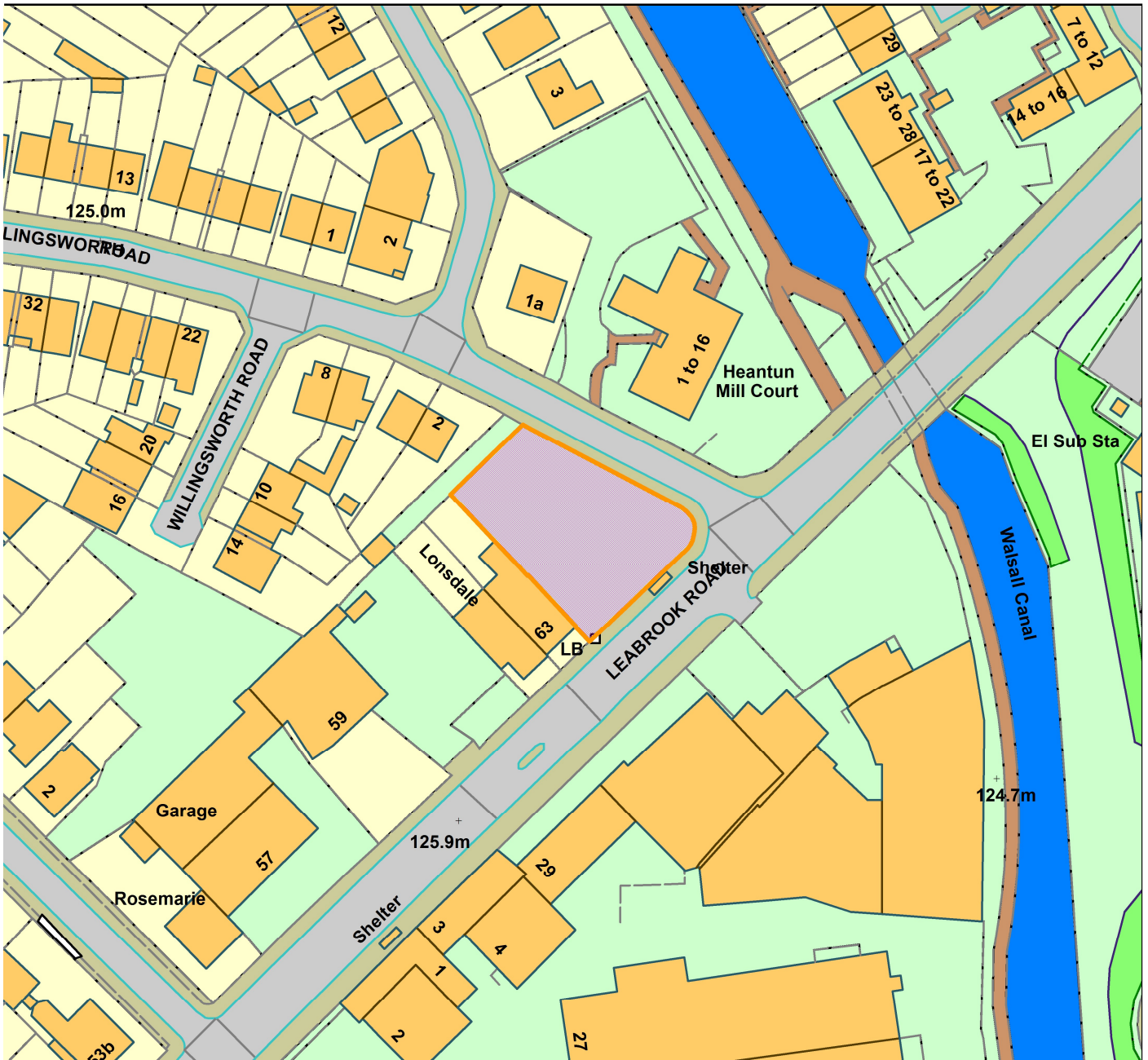
Site Plan
Context Plan
3500_10 Rev D

18. Background papers

None.

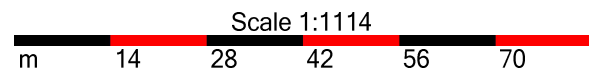


DC/20/64598
Land Adj 63 Leabrook Road



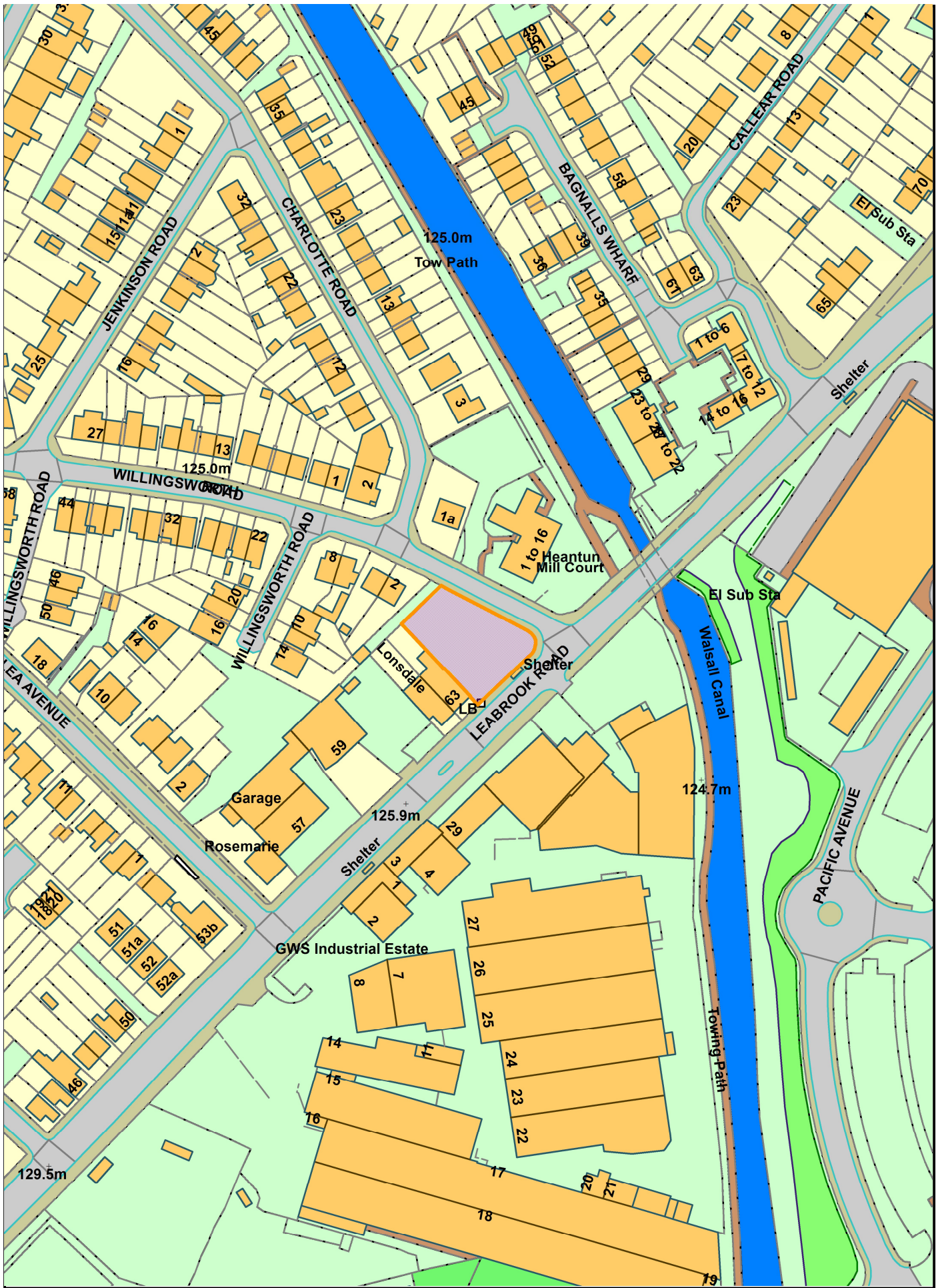
Legend

Scale 1:1114



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

Organisation	Not Set
Department	Not Set
Comments	Not Set
Date	25 January 2021
OS Licence No	



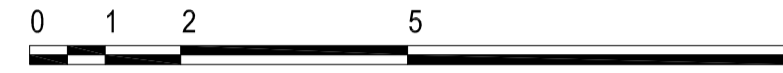
ALL DIMENSIONS ARE TO BE CHECKED ON SITE PRIOR TO CONSTRUCTION. THE CONTRACTOR IS TO NOTIFY THE ARCHITECT OF ANY DISCREPANCY BETWEEN DRAWINGS, SPECIFICATION AND SITE DIMENSIONS.

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



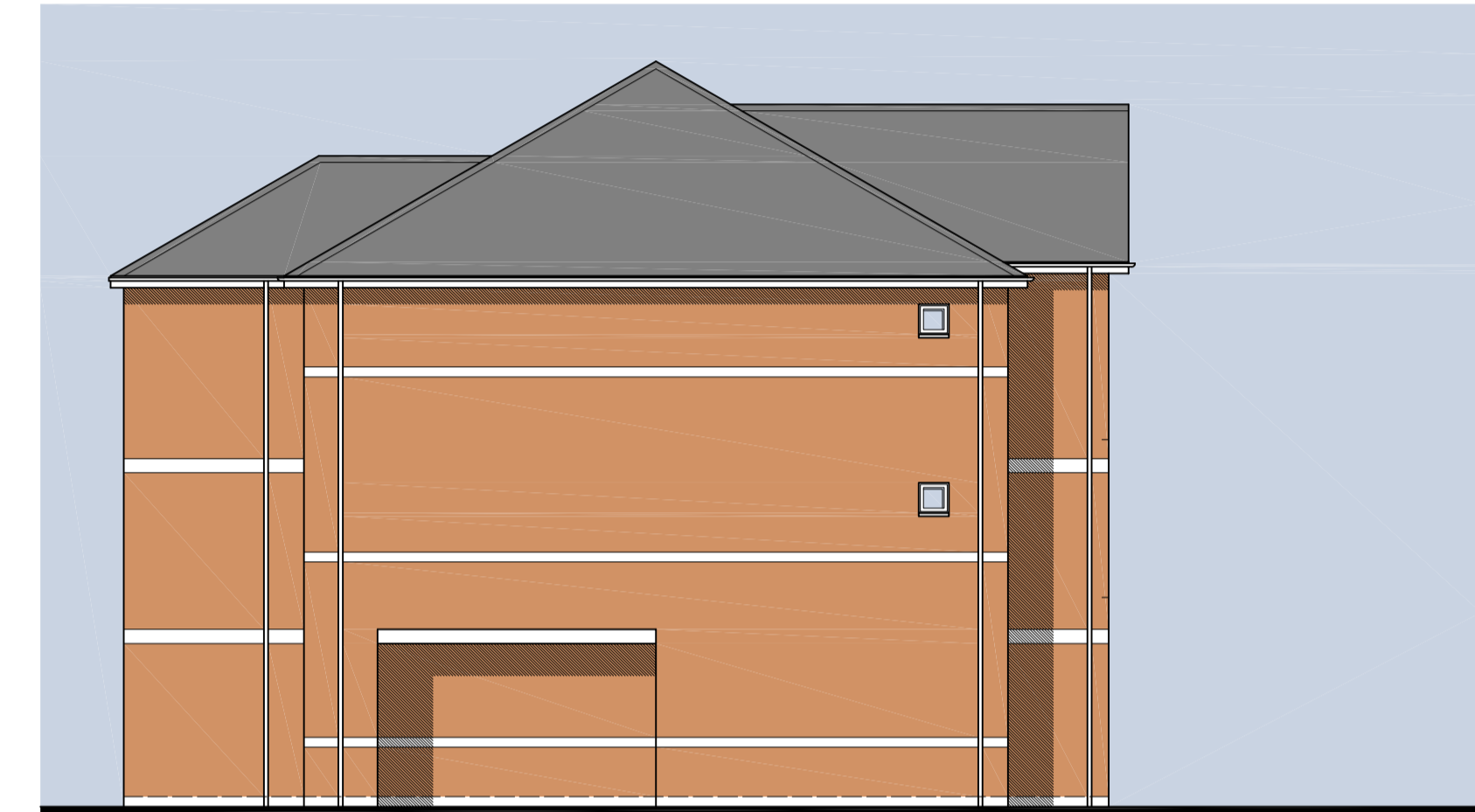
Leabrook Road Elevation (South East) Scale 1:100



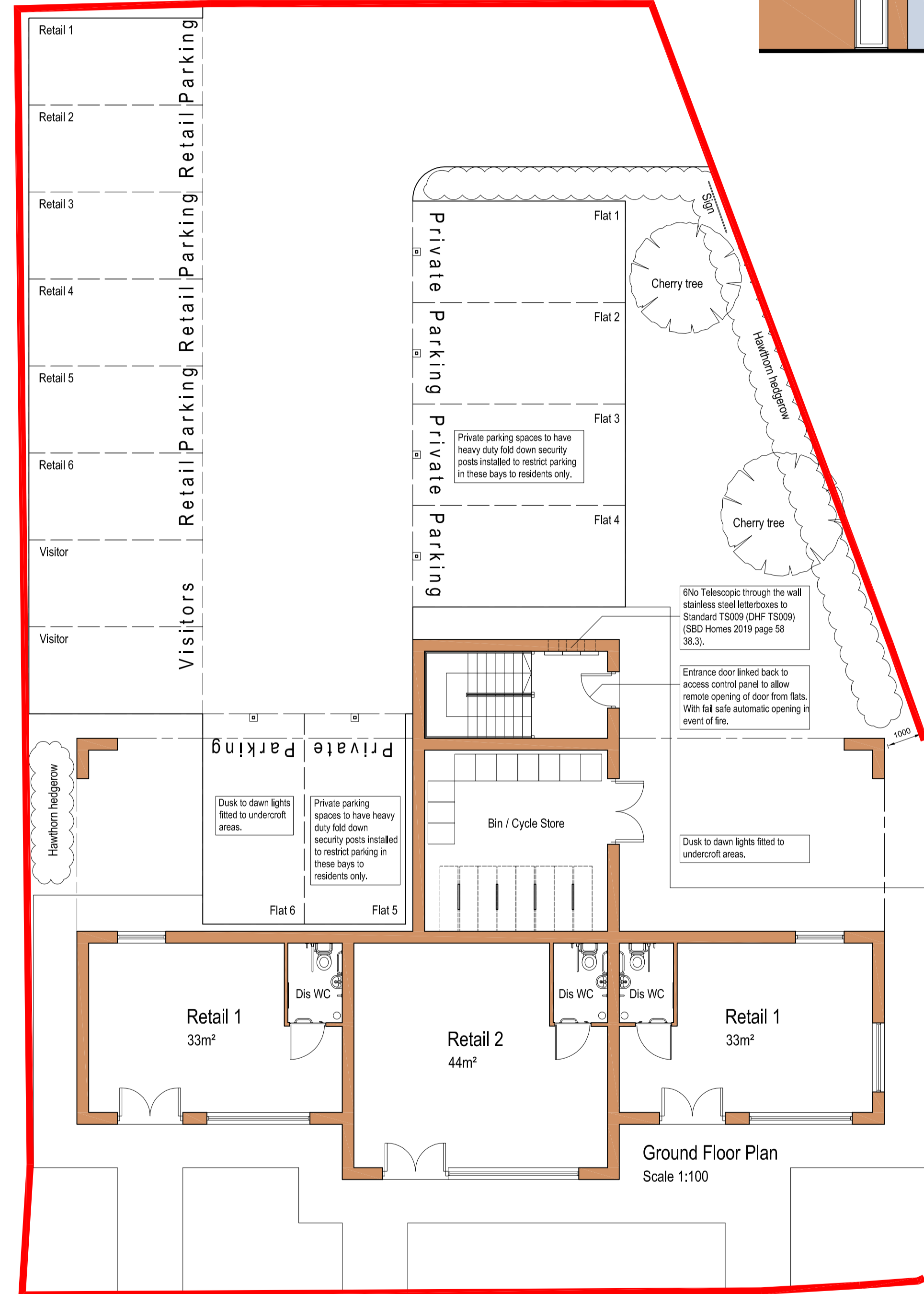
Willingsworth Road Elevation (North East) Scale 1:100



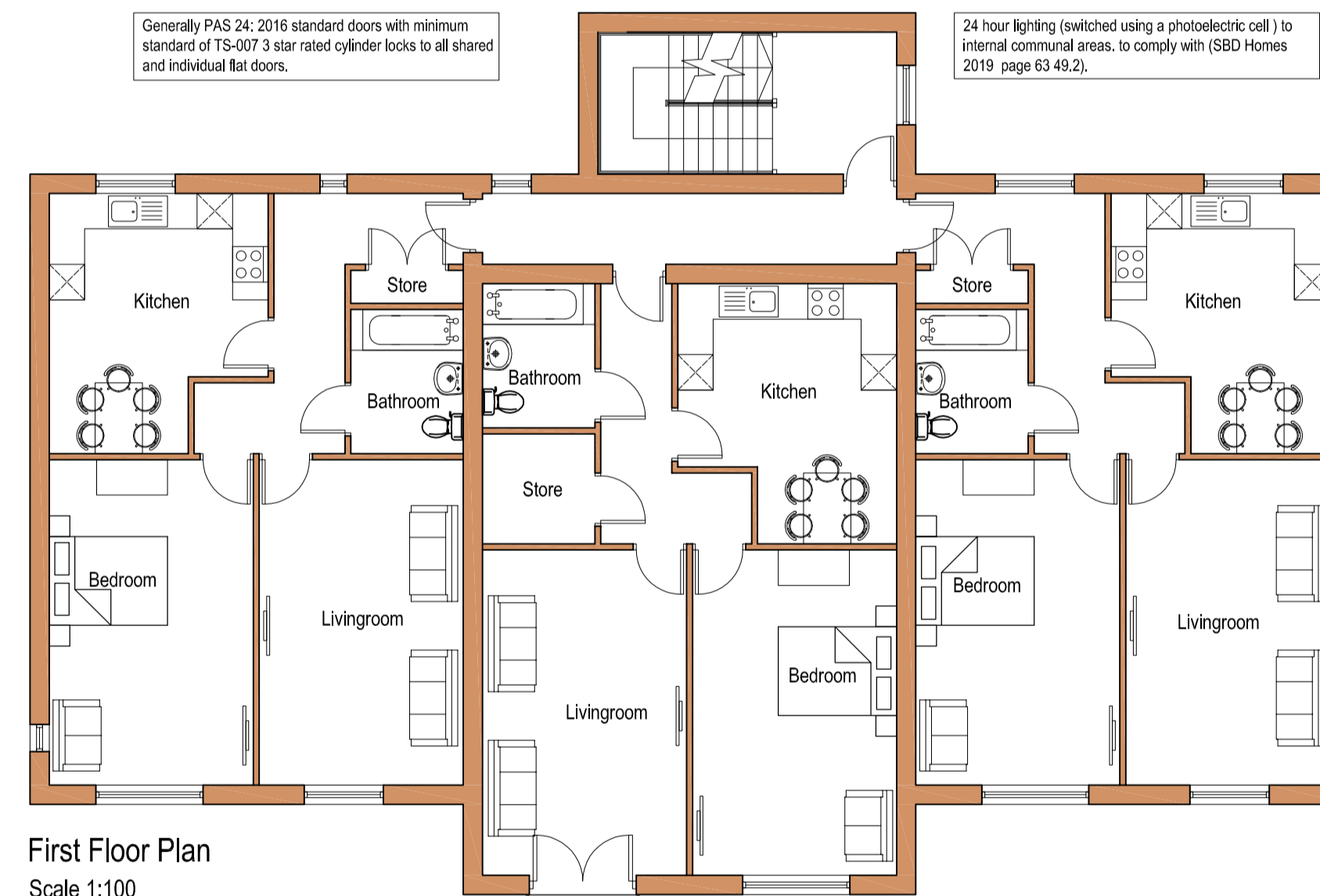
Rear Elevation (North West) Scale 1:100



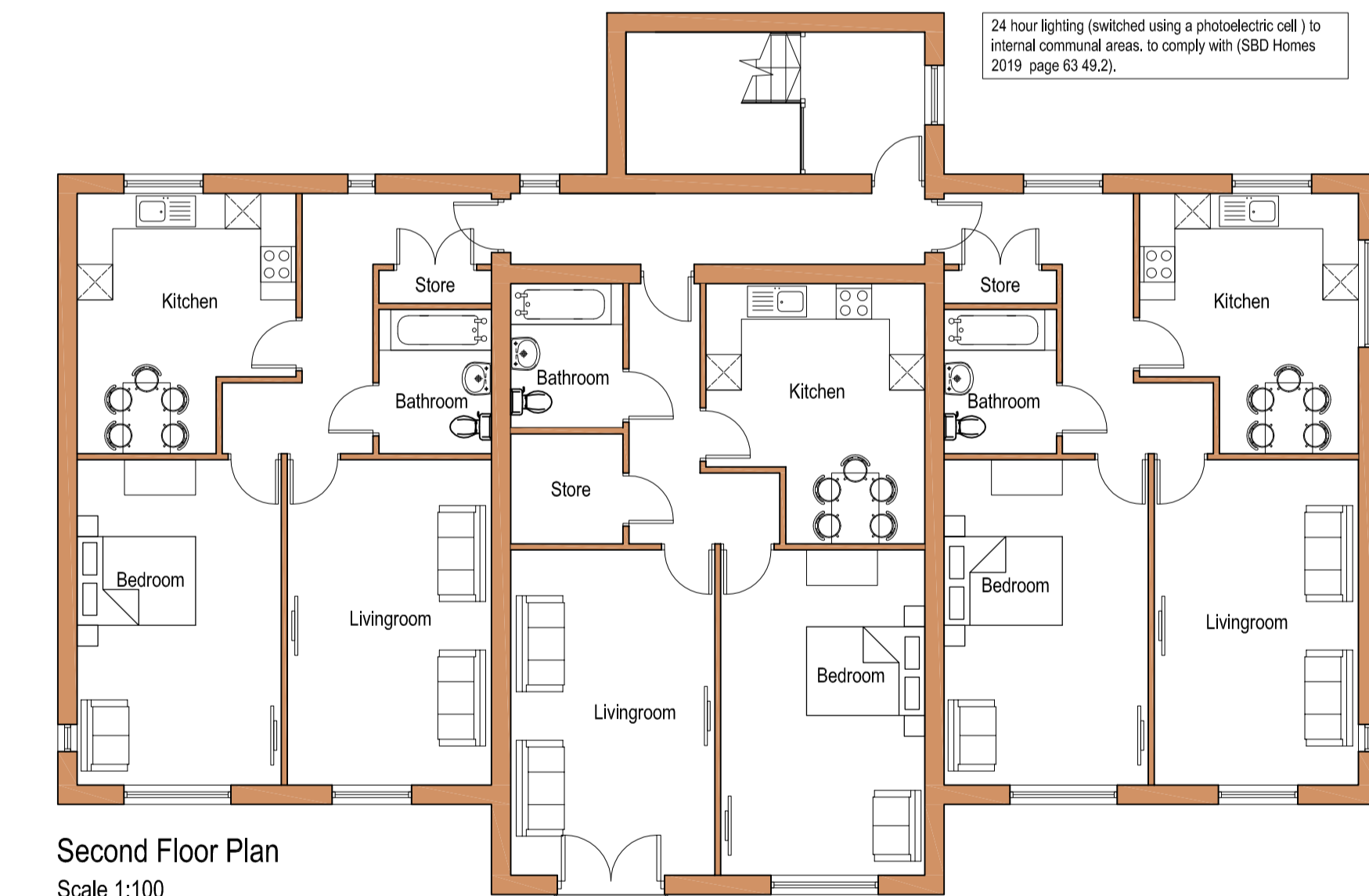
Rear Elevation (South West) Scale 1:100



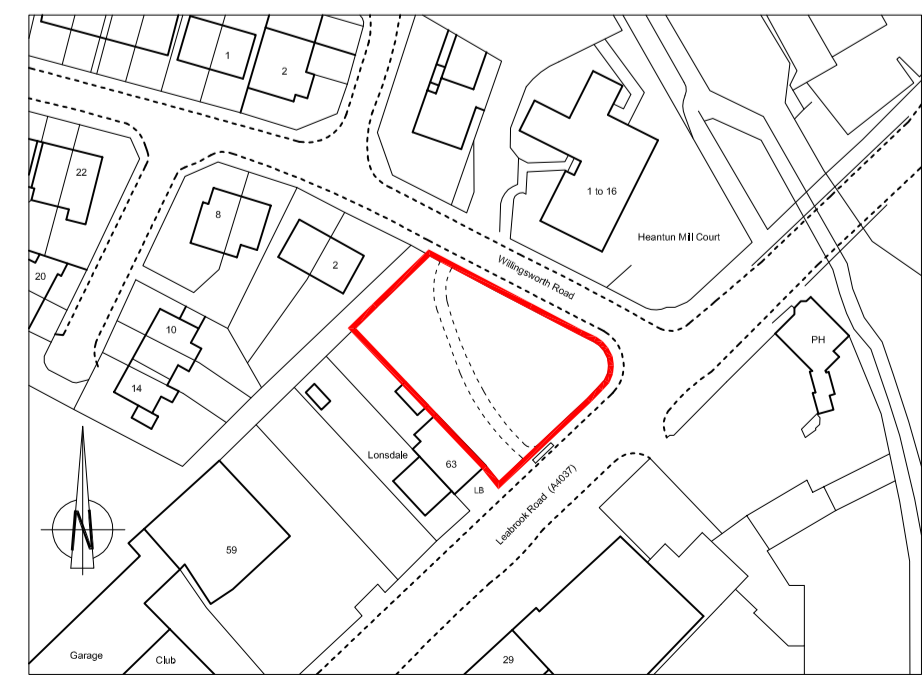
Ground Floor Plan Scale 1:100



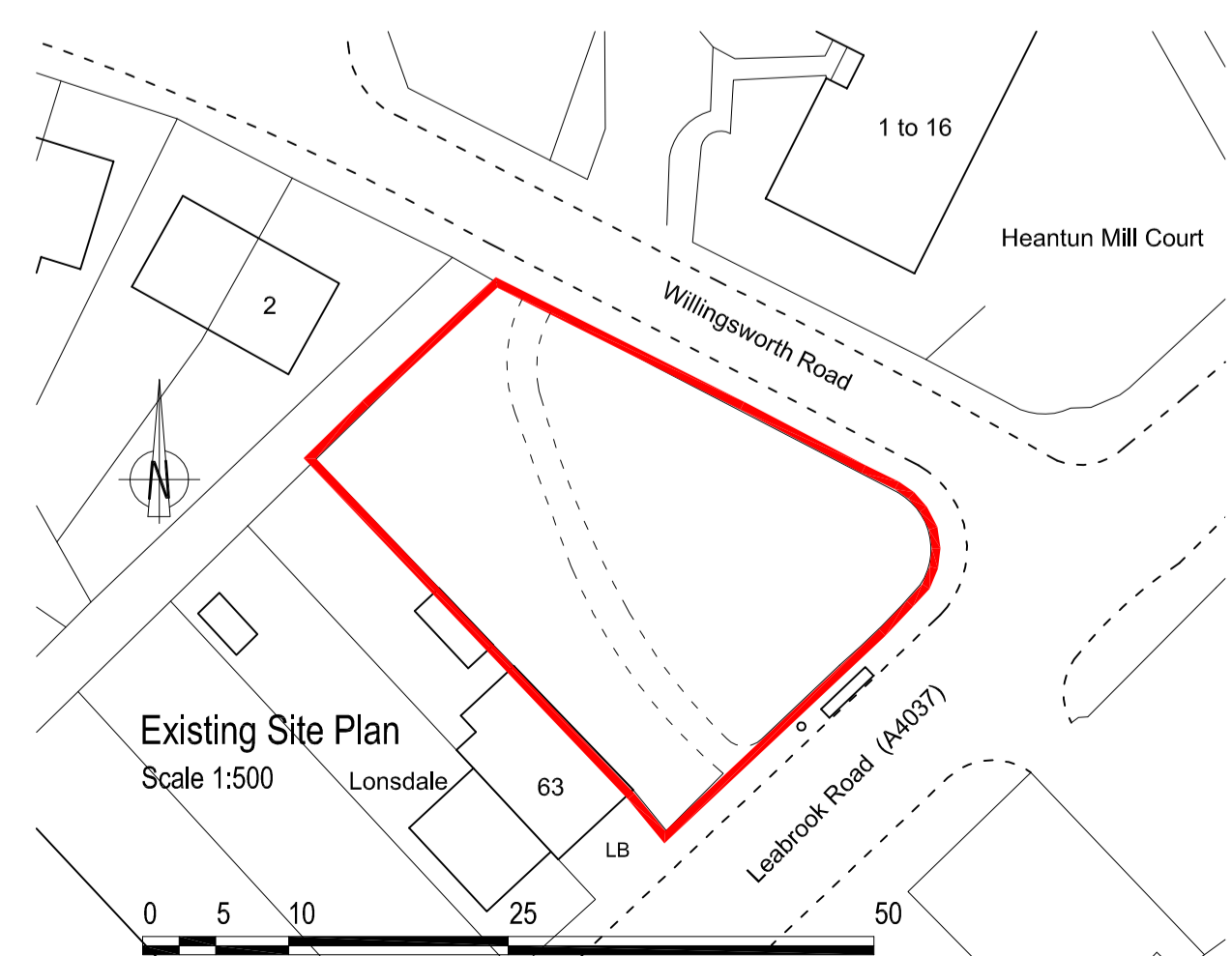
First Floor Plan Scale 1:100



Second Floor Plan Scale 1:100



Location Plan Scale 1:1250



Existing Site Plan Scale 1:500



Proposed Site Plan Scale 1:500

REVISION	DESCRIPTION	DATE	BY	CHECK
D	SBD items added	23.12.20	LCF	GP
C	Planners comments	23.11.20	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
03.03.20	1:100	LCF	3500_010	D
			Verified by	GP