

Report to Planning Committee

7th April 2021

Application Reference	DC/18/62510
Application Received	16 th October 2017
Application Description	Proposed change of use of ground floor from public house to tuition centre (Class D1) (revised application DC/18/61939)
Application Address	Mr Ashraf The Forge 144 Franchise Street Wednesbury WS10 9RG
Applicant	Mr Ashraf
Ward	Wednesbury North
Contact Officer	Alison Bishop alison_bishop@sandwell.gov.uk

1 Recommendations

1.1 That planning permission is refused on the grounds that:-

- (i) The proposal does not meet an identified shortfall of education facilities in this location and it does not fall within a sustainable location hence this does not meet the aspirations of Policy HOU5





(Education and Health Care Facilities) and TRAN2 (Managing Transport Impacts of New Development).

- (ii) The proposal has provided insufficient information to determine whether the traffic generation associated with the use would have a detrimental effect on highway safety.

2 Reasons for Recommendations

2.1 The proposal would provide an education facility that falls outside the town centre within a location that is served by poor public transport. Whilst such proposals can be supported outside town centres, this should be based on an identified new catchment. The applicant has not demonstrated that there would be a demand for this centre to warrant a further education facility in this area given that other such facilities already exist within the area. Furthermore, given the limited public transport options, insufficient evidence has been provided to demonstrate that an increase in car borne journeys would not cause a severe problem to users of the highway in this location or that sufficient parking is provided within the application site.

3 How does this deliver objectives of the Corporate Plan?

	Strong resilient communities – the proposal would not assist with delivering this objective given that the proposal is poorly located and raises concerns regarding parking and highway safety
	A connected and accessible Sandwell – the proposal would not meet this objective given that it is poorly located to public transport

4. Context

4.1 This application is being reported to your Planning Committee because Councillor Peter Hughes had requested that the application be determined



at Planning Committee due to the extent of concerns that had been expressed by local residents.

- 4.2 The application was reported to your Committee in March 2019 and a site visit took place on 10th April 2019. During this visit, both the applicant, Councillor Peter Hughes and Councillor Costigan and several local residents were present. The application itself however, was not considered at the meeting that followed this visit. Instead the application was deferred to allow the applicants more time to respond to additional information that had been requested by highway and planning policy officers.
- 4.3 The applicant has provided additional information which is provided within this report, however further clarification was sought which has not been provided.
- 4.4 Several correspondence continued last year regarding concerns about anti-social behaviour, the condition of the site and to consider options regarding the future use of the site. As part of these discussions, the planning officer indicated that the current proposal would be recommended for refusal and the applicant indicated that they would consider withdrawing the application and bring forward a new scheme for residential purposes. Unfortunately, the applicant has not confirmed this and hence it is considered that due to the lapse of time from the original submission of this application, a decision should be reached on this current proposal.
- 4.5 To assist members with site context, a link to Google Maps is provided below:

[The Forge, 144 Franchise Street, Wednesbury](#)

5 Key Considerations

- 5.1 The site is not allocated within the Development Plan.



5.2 The material planning considerations which are relevant to this application are:-

Government policy (NPPF);
Proposals in the Development Plan;
Access, highway safety, parking and servicing;
Traffic generation; and
Noise and disturbance from the scheme.

6. The Application Site

6.1 The application relates to premises on the south-eastern side of Franchise Street, Wednesbury which was formerly a public house. The surrounding area is predominantly residential in character.

7. Planning History

7.1 The site was granted planning permission in December 2017 for the first floor of the public house to be converted to an eight bed house in multiple occupation (HMO) but this permission has not been implemented and the permission has now expired. In addition, following complaints regarding the untidy nature of the site, an enforcement case was opened in June 2020 (GS/20/11277), the site has subsequently been cleared and this case was closed on October 2020.

7.2 Relevant planning applications are as follows:

DC/18/61939	Proposed change of use of ground floor to a tuition centre.	Withdrawn 21.08.2018
DC/17/61152	Proposed conversion of roof space and change of use of first floor only from drinking establishment (Use Class A4) to 8 Bed HMO.	Grant Permission Subject to Conditions 20.12.2017



DC/2042A	Three timber panels, externally illuminated by pelmets.	Grant Advertisement Consent 10.10.1983
DC/15542	New car park to fully licensed premises.	Grant Permission Subject to Conditions 12.01.1983

8. Application Details

8.1 The proposal is for a change of use of ground floor from public house to tuition centre (Class D1). The applicant has stated within their Management Plan and Transport Statement that the application is for an independent and exclusive tuition centre for children under the age of 16 and for adults in the local community and it is not for a public place of worship i.e. Masjid (Mosque).

Additional information was provided regarding the operation of the tuition centre as follows:-

- i) Classes for children would be held Saturday and Sunday 10am to 5pm over three slots 30 minutes apart;
- ii) Adults classes would be held Monday to Friday 10am to 3pm and would over two slots 30 minutes apart;
- iii) Students would be capped at a total of 45;
- iv) The centre would be closed to the public (only official visitors);
- v) CCTV would be installed;
- vi) The facility would cater for the local community for residents in walking distance and would be encouraged to arrive on foot. Those arriving by car likely to be less than 30%;
- vii) Cycle storage would be provided;
- viii) Registration of pupils would be within 0.75 miles radius of the premises;
- ix) The existing car park would be used for drop off and pick up of students (refer to drawings P004 and 5).



- x) Members of staff would manage vehicles entering and exiting the site; and
- xi) Premises would be closed for Friday prayer and they would not conduct Friday prayer from the premises.

9. Publicity

9.1 The application was publicised by neighbour notification on two occasions. Firstly, on receipt of the original planning application and then following receipt of additional supporting information from the agent. 37 objections have been received and four responses in support of the proposal.

9.2 Objections

Objections have been received on the following grounds:

- i) Parking concerns resulting from this proposal;
- ii) Insufficient parking;
- iii) Parking is already a problem due to existing facilities this will only exacerbate the situation;
- iv) Loss of community cohesion due to other facilities in the area and therefore this tuition centre is not required;
- v) Existing tuition centres are available within the area (two tuition centres 100m and 600m from the site and a mosque 400m from the site which also provides tuition);
- vi) Public safety;
- vii) Harm to residential amenity given that the tuition centre will operate 7 days a week; and
- viii) Public transport links within this area are poor so reliance will be on using cars.

9.3 Responses to objections

I respond to the objector's comments in turn:



- (i) The site is surrounded by residential properties, those on Franchise Street do no benefit from off-street parking (refer to Google image below). The displacement of cars resulting from this proposal will therefore likely have an impact on parking for nearby residents:



- (ii) As referred to above parking is limited on some streets and I have no reason to dispute resident's comments that parking is already limited due to other facilities in the area.
- (iii) The National Planning Policy Framework refers to promoting healthy and safe communities, this places an emphasis on community cohesion through designing places to meet the aspirations of the community that are well connected. Furthermore, the council's own vision aims to create strong resilient communities where people want to live and work with an emphasis on promoting development within our town centres. The proposal would appear to be at odds with these aspirations given that a diverse community within this area has expressed concerns about the need for this facility within this location, and that these facilities are better suited to town centres.



- (iv) This is noted, and whilst not in itself a reason for refusal clearly demonstrates that residents do not consider that there is a need for another facility within this location.
- (v) Refer to (ii) above regarding public safety.
- (vi) The applicant has indicated that the hours of operation would be reduced in line with Public Health's recommendation (see 10.5 below). I therefore consider that noise and disturbance would be limited with these operational hours.
- (vii) The site is not well located to existing public transport links and hence an over-reliance on the car may occur, the applicant has indicated the users of the centre will be limited to a 0.75m radius and 70% would walk to the centre. As indicated in (ii) above, no evidence has been provided to corroborate this and hence there remains a concern that more vehicles could be associated with the proposal.

9.4 Support

Four comments have been received in support of the proposal:

- i) The proposal would be an asset to the community;
- ii) The centre would support the community; and
- iii) The proposal would be better than a closed public house.

9.5 Whilst these four comments support the use of the facility, these are contrary to responses from 37 objections received which did not consider that the proposal would be a benefit to the community. In addition, when considering whether the proposal is acceptable, greater weight must be attached to compliance with policy and material considerations such as parking and highway safety.



10. Consultee responses

10.1 Planning and Transportation Policy

Policy HOU5 refers to provision of new education facilities, the policy expects these to:-

- a) be well designed and relate well to existing neighbourhood services and amenities;
- b) well related to public transport infrastructure and be directed to town centres or where a new catchment area is identified; and
- c) incorporate a mix of compatible community service uses on a single site.

The scheme does not comply with these principles and the evidence provided does not justify the need for the facility to be located outside the town centre.

10.2 Highways

Following a review of additional supporting information relating to the parking and management of the car park, concerns remain about the parking provision and the supporting evidence provided. Highways have assessed the additional information provided and consider that it has not been evidenced (i.e. trips rates from similar sites, postcode mapping etc) and that instead these are simply statements that confirm how they intend to operate the site.

In principle the management plan and parking layout appear to be acceptable, however, without any evidence of the volume of users of the car park, a temporary (two-year max) permission can only be recommended to allow highways to monitor the site once it is operational to assess if any highway problems occur.

If approval is granted additional conditions should include that the car park layout is implemented, and the management plan is operational at



all times. However, I am of the opinion that a temporary consent would effectively absolve the applicant from providing evidence as part of this application, and it is concerning that sufficient information cannot be provided as part of this submission to allay the concerns of the highway authority.

10.3 Public Health (Air Pollution and Noise)

Public Health had originally expressed concerns about the original opening times of 10am and 10pm Monday to Sunday due to concerns that there may be noise from the students/activities which would cause harm to residential amenity. They recommended the following opening hours:

10am to 8pm Monday to Friday; and
10am to 5pm Saturdays and Sundays.

10.4 West Midlands Police

The police consider that impact from traffic/parking upon residents cannot be truly assessed until it is operational and therefore recommend a temporary consent.

10.5 Walsall MBC

They consider that the proposal would be better suited to a town centre location with established public transport links. Other comments related to the proposed access state that an access from the street frontage would be preferable rather than to the rear. A front access has now been provided.

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.



11.2 The NPPF, refers to sustainable communities and, promoting health and safe communities through well design schemes in the right location. The right location for facilities is deemed to be within town centres to assist in creating vibrant communities and in places where public transport is well served. The scheme as proposed is located outside the town centre and would seem to fail to create a healthy and safe community due to poor accessibility, other facilities being available within the area, leading residents to question whether there is a need for a further facility of this type outside a town centre location.

12. Local Planning Policy

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

HOU5: Education and Health Care Facilities

TRAN2: Managing Transport Impacts of New Development

12.2 The key policy relates to the location of the education facility (HOU5). This policy indicates proposals should:

- a) be well designed and relate well to existing neighbourhood services and amenities;
- b) have good access to public transport infrastructure and
- c) be directed to town centres or where a new catchment area is identified and be incorporated to a mix of compatible community services on a single site.

The applicant has indicated that there is a demand for this facility within the local area and that users would therefore travel to the site on foot. They consider that they have demonstrated this with letters of support. It is accepted that the policy does indicate that education facilities should accommodate new catchment areas beyond town centres, however this is not a new catchment but an existing community. No justification has been provided as to why the existing facilities cannot be used by this community particularly given that sharing facilities is also embedded into



this policy in the interests of sustainability. Taking the above into account, it is considered that the proposal is contrary to this policy.

12.3 Policy TRAN2 refers to reducing impacts of traffic on new developments. The proposal as currently presented has not satisfied the highway authority that the assumptions which have been made regarding trips to the site are accurate. Furthermore, given the limited accessibility of the site for public transport, it is considered that the proposal fails in providing all modes of transport to site.

13. Material Considerations

13.1 The material considerations relating to government policy (NPPF) and proposals within the Development Plan have been referred to above in Sections 11 and 12. With regards to the other considerations these are highlighted below:

13.2 Access, highway safety, parking and servicing

The proposal as presented, has not provided evidence to substantiate that adequate parking provision would be provided within the development.

13.3 Traffic generation

The proposal has made assumptions that 70% of users of the site would walk to the site. As indicated above this has not been evidenced and hence concerns remain that increased traffic would cause nuisance and highway safety issues.

13.4 Noise and disturbance from the scheme

It is acknowledged that the applicant has reduced the hours of use of the tuition centre to those recommended by Public Health, hence it is considered that noise arising from the proposal would not be significant enough to warrant refusal.



14 Alternative Options

14.1 A temporary approval of the application is an option if there are material planning reasons for doing so, however in my opinion the proposal is contrary to policy and relevant material considerations such as highway safety remain of concern.

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:	As indicated, residents have indicated that the proposal would cause harm to community cohesion
Social Value	None.

16. Appendices

Site Plan

P001A

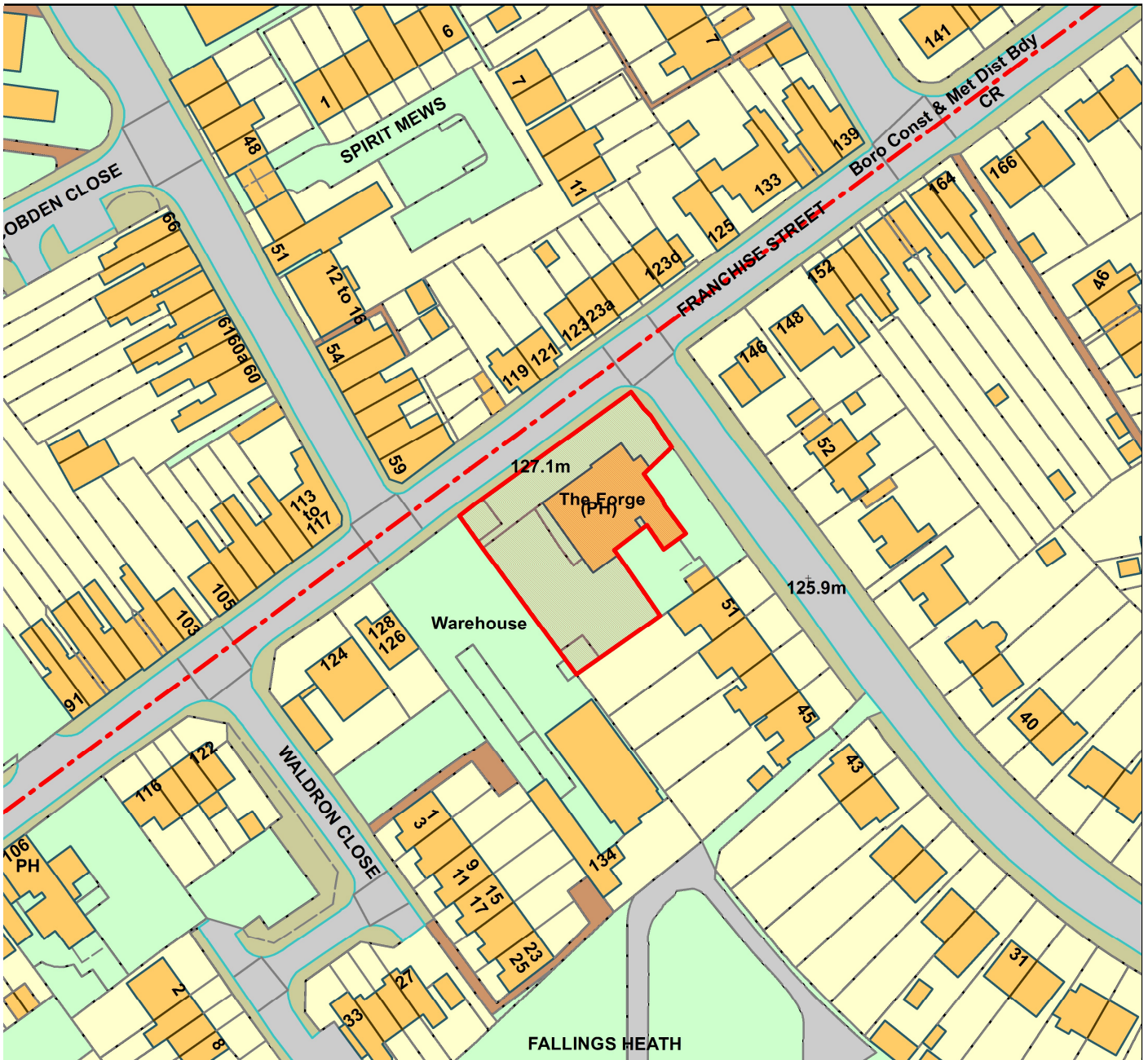
P002A

P004

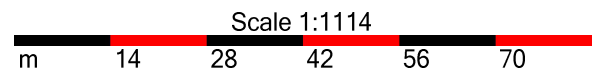
P005



DC/18/62510
The Forge, 144 Franchise Street

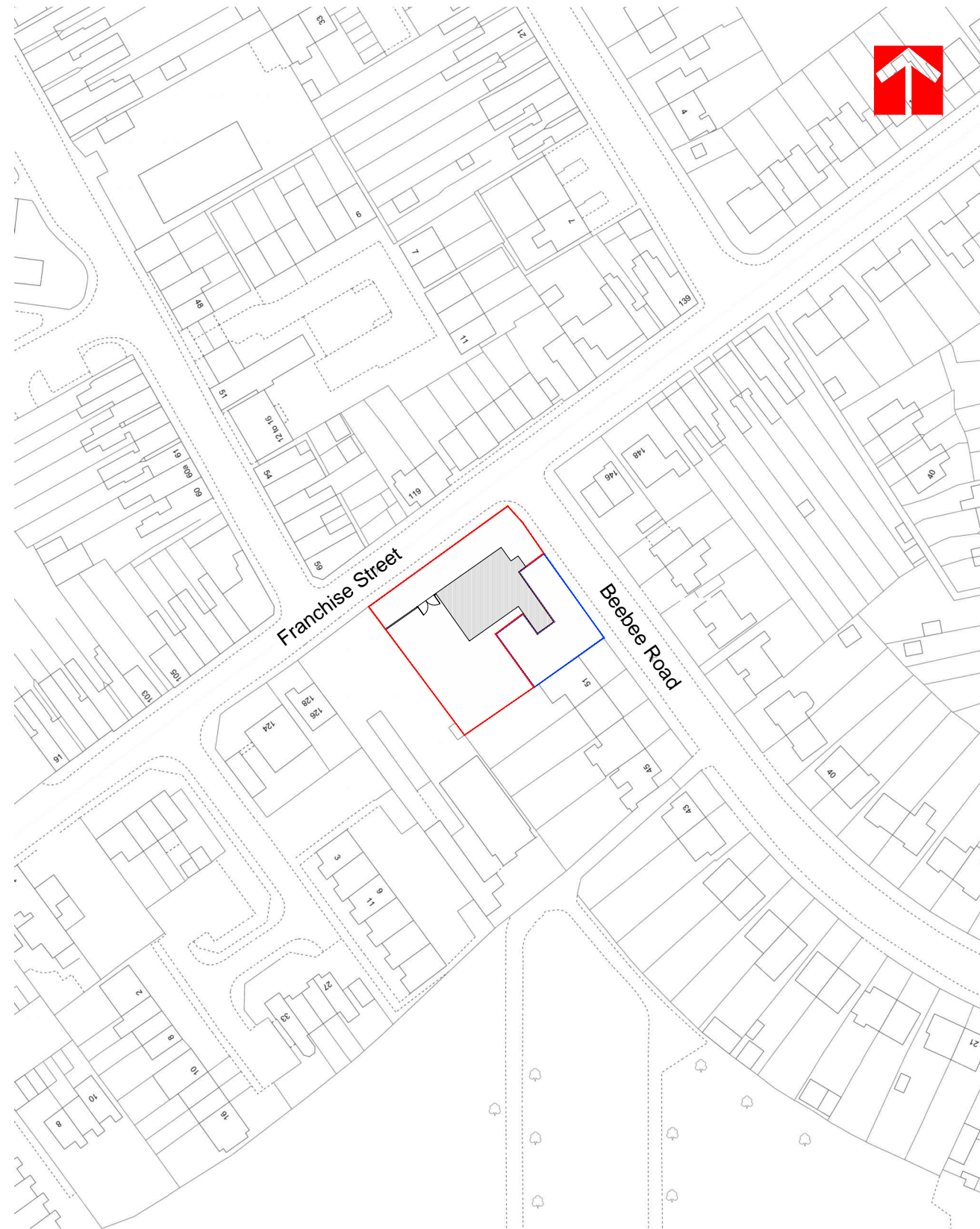


Legend

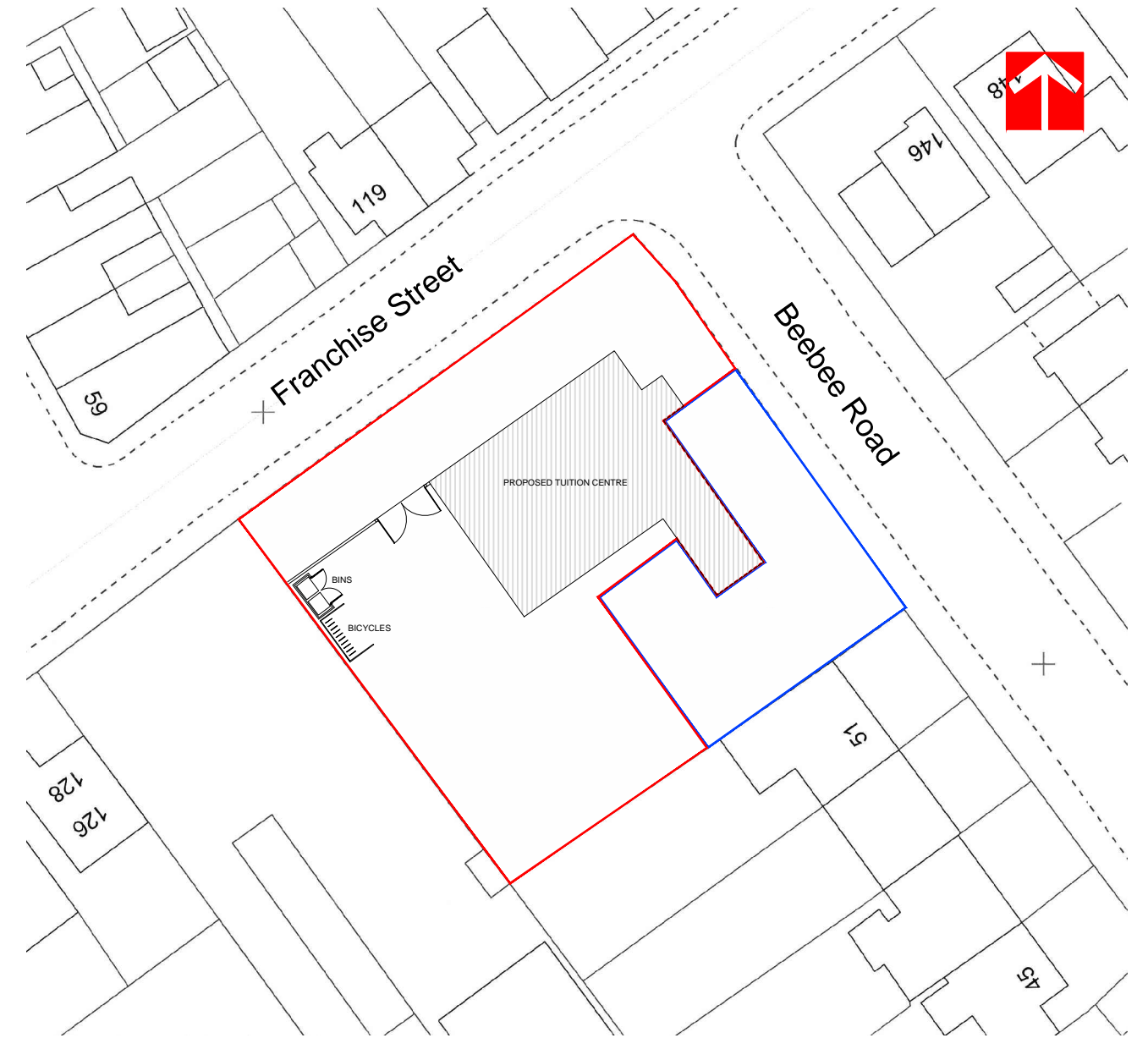
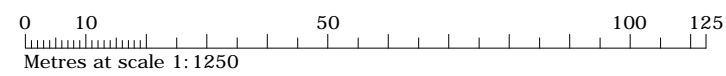


© Crown copyright and database rights 2019
Ordnance Survey Licence No 100023119

Organisation	Not Set
Department	Not Set
Comments	Not Set
Date	23 March 2021
OS Licence No	



LOCATION PLAN



SITE PLAN



**Proposed change of use of ground floor
from public house to tuition centre (Class D1)**

Mr. Ashraf
144 Franchise Street
Wednesbury WS10 9RG

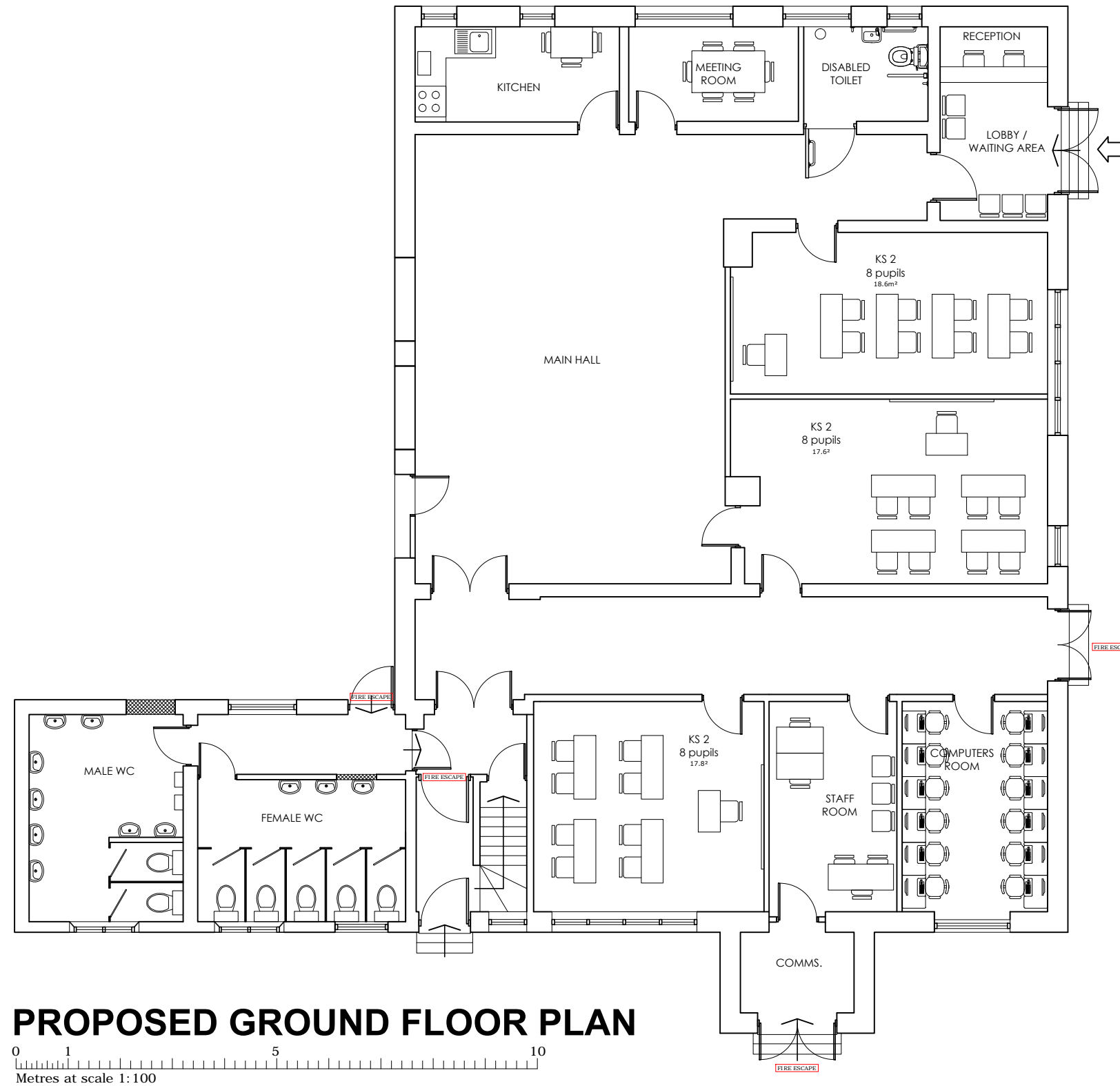
For Approval

GC_{Own} RN_{Chkd}
17.05.2018
Planning



Site & Location Plans

Scale 1:As shown@A3Rev.A Project No.180302 **Dwg No.P002A**



PROPOSED GROUND FLOOR PLAN

0 1 5 10
Metres at scale 1:100

**Proposed change of use of ground floor
from public house to tuition centre (Class D1)**

Mr. Ashraf
144 Franchise Street
Wednesbury WS10 9RG

For Approval

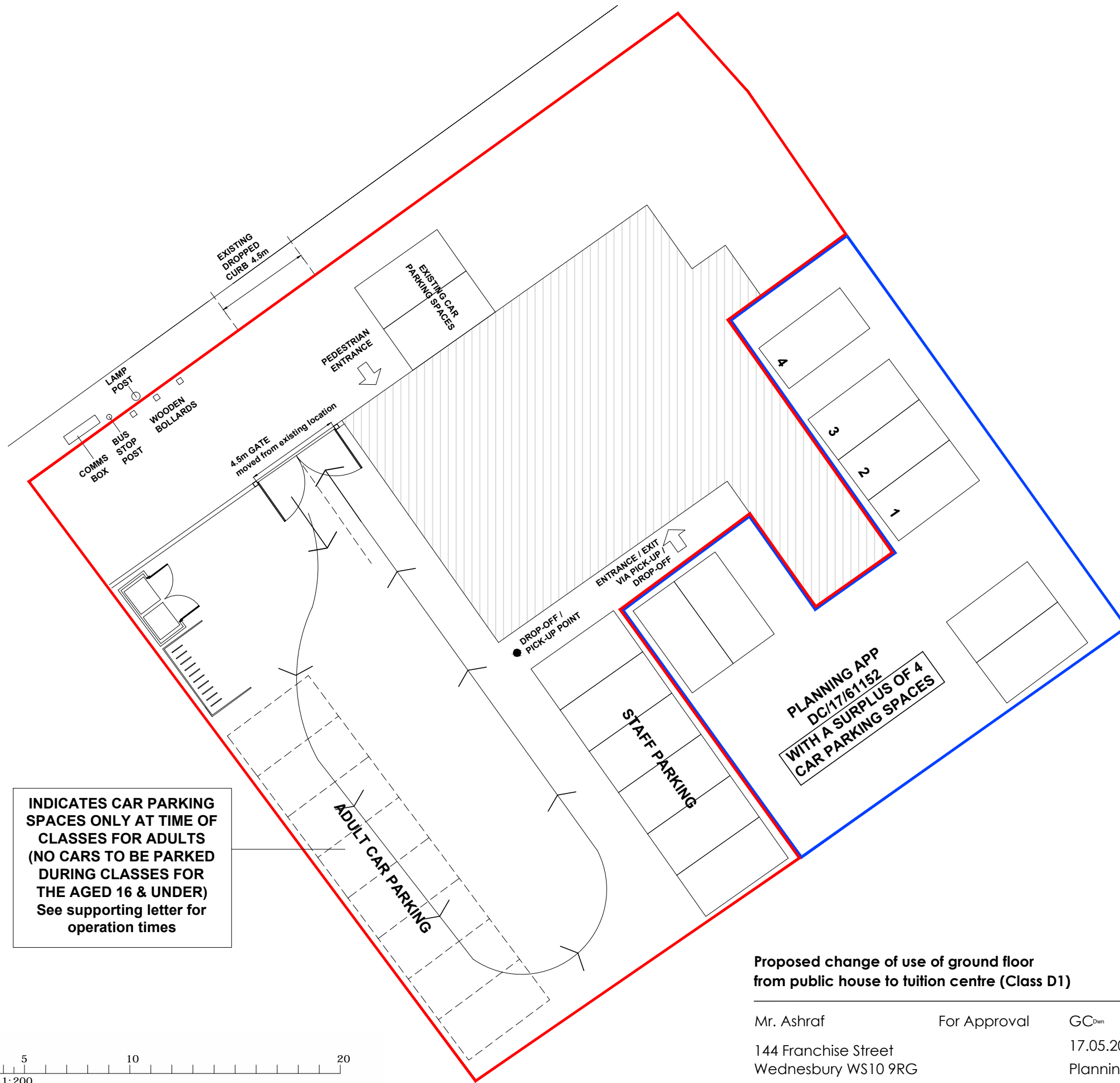
GC_{Own} RN_{Chkd}
17.05.2018
Planning

Proposed Ground Floor

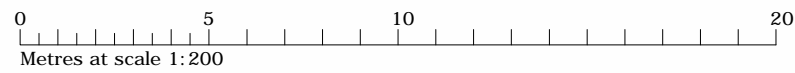
Scale 1:100@A3



Rev.A Project No.180302 **Dwg No.P001A**



INDICATES CAR PARKING SPACES ONLY AT TIME OF CLASSES FOR ADULTS (NO CARS TO BE PARKED DURING CLASSES FOR THE AGED 16 & UNDER) See supporting letter for operation times



Proposed change of use of ground floor from public house to tuition centre (Class D1)

Mr. Ashraf
144 Franchise Street
Wednesbury WS10 9RG

For Approval

GC^{Own} RN^{Chkd}

17.05.2018

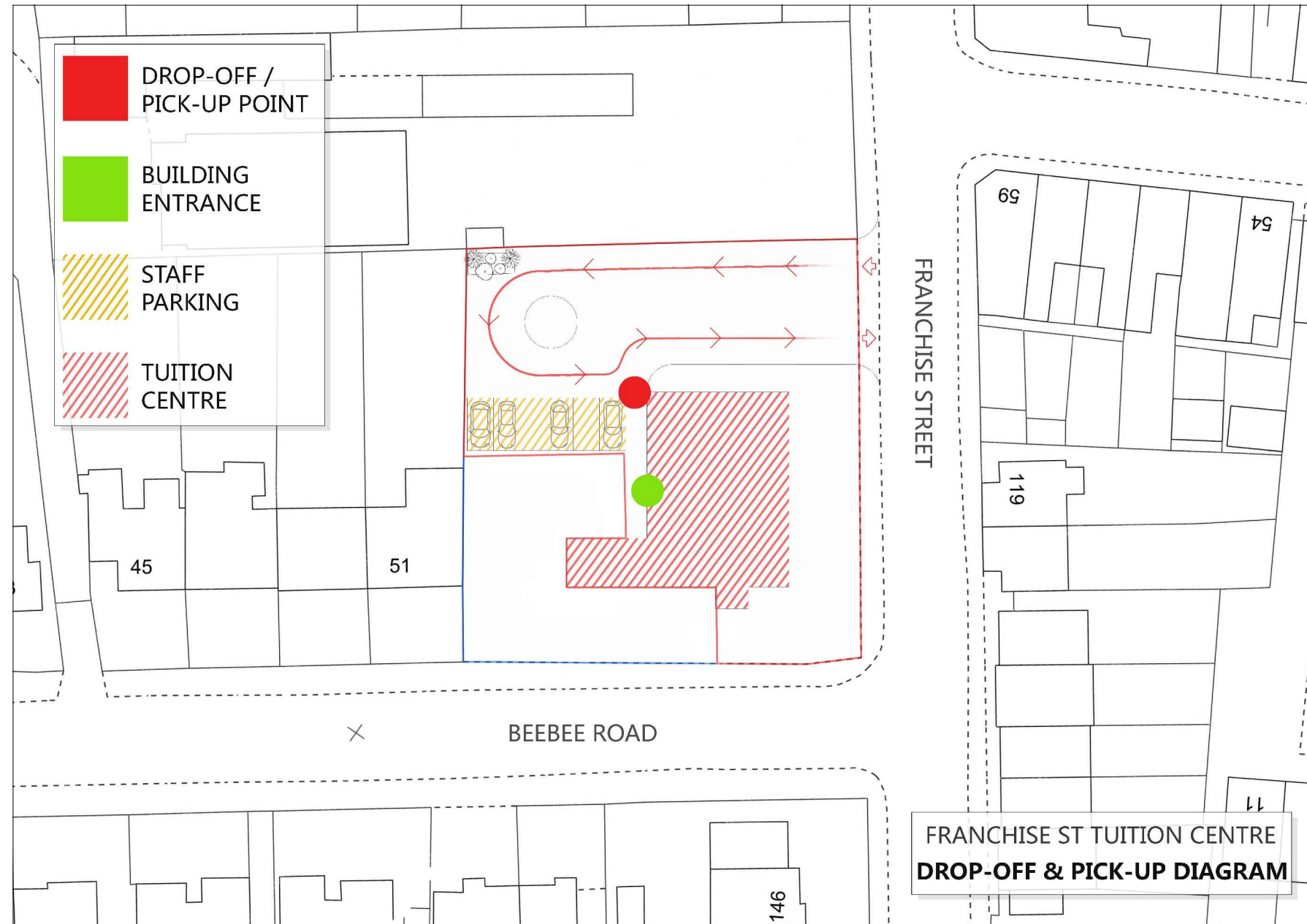
Planning

Block plan with details (drop-off / pick-up arrangement)

Scale 1:200@A3



Rev. Project No.180302 Dwg No. P005



0 5 10 20 30 40 50
Metres at scale 1:500

Proposed Tuition Centre

Mr. Ashraf
144 Franchise Street
Wednesbury WS10 9RG

For Approval

GC_{Own} RN_{Chkd}
17.05.2018
Planning

Drop-off & Pick-up Diagram

Scale 1:500 @A3



www.designspace2.com
T-01216380555 M-07590604387
r.nilar@designspace2.com
DS2 408F The Big Peg, 120 Vyse St Birmingham, B18 6NF

Rev. Project No.180302 Dwg No. P004