



Town and Country Planning Act 1990, Section 78 Appeal

For and On Behalf of LW Developments Ltd

Cheshunt Football Club, Theobold's Lane, Cheshunt

Planning Application Reference 07/18/0514/F
Planning Inspectorate Reference APP/W1905/W/21/3271027

Tim Waller Rebuttal Proof of Evidence
In response to Evidence by Jenny Thompson

July 2021

Waller Planning Ltd
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AL9 5BT

Contents

1.	Introduction	1
2.	Reason for Refusal 3	2
A1.	Drawings from Appeal APP/W1950/W/20/3265422	4
A2.	Drawing 194/A/005	8

1. Introduction

- 1.1 My name is Tim Waller. Details of my qualifications and experience are included in my main proof of evidence. This rebuttal proof of evidence has been prepared in response to the evidence on planning matters provided by Ms Jennifer Thompson, on behalf of Broxbourne Borough Council (hereafter referred to as "*the Council*").
- 1.2 This is not intended to be an exhaustive rebuttal and this document only deals with certain points where it is considered appropriate or helpful to respond in writing at this stage. Where a specific point has not been dealt with, this does not mean that these points are accepted and they may be addressed further at the Inquiry.

2. Reason for Refusal 3

Supplementary Planning Guidance

- 2.1 Both Ms Thompson and I have considered the third reason for refusal against the guidance in the Council's Supplementary Planning Guidance (SPG – CD5.3). This provides specific, measurable criteria against which the general requirements of Policy EQ1 can be judged. That Policy requires new development to avoid detrimental impacts on the amenities enjoyed by neighbouring properties in terms of daylight, sunlight, outlook and overlooking. The Council's reason for refusal relates to overlooking.
- 2.2 In writing my own Proof of Evidence, I summarised the SPG's distance requirements, and noted that it required a window-to-window separation distance of 25 metres for 2-storey buildings, and 30 metres for 3 or more storey buildings¹. In reading Ms Thompson's evidence I must admit that I have realised that I misread the SPG when preparing my own evidence. The above is true with regard to back-to-back relationships, where it must be expected that each house would have windows looking out towards one another. However, the minimum separation distance set by the SPG for rear-to-side relationships is far lower, at 12m. The clear reason for this is that side elevations do not generally need to contain windows which would overlook the rear of the adjacent property. It is the 12m standard which is relevant in this case, as the appeal proposals would present a flank elevation. Ms Thompson ignores this point in her evidence.
- 2.3 When discussing privacy and overlooking, the SPG specifically refers to *"the prevention of unnecessary overlooking **between windows** of habitable rooms of neighbouring properties"* (SPG, paragraph 3.2.1 - my emphasis). There would be no intervisibility between windows in this case. Ms Thompson has agreed with my view, that obscured glazing, and balcony screens, can be provided (her paragraph 8.23), and controlled by a planning condition, and that this would prevent the new properties overlooking the existing ones.
- 2.4 In this context, the separation distance, which ranges from 31 metres to 51 metres (according to drawing 15_238_PL31), is far in excess of the minimum 12 metre distance that would ordinarily be required by the SPG.
- 2.5 The SPG also clarifies (at paragraph 3.2.2) that its standard distances in points 1 and 2 can be reduced where mitigation measures are proposed. These measures include *"innovative design, suitable methods of intervening screening or where fenestration has been planned sufficiently to prevent direct overlooking"*. Again, this is the case with the appeal proposals, due both to the potential for obscured glazing and balcony screens, and also the provision of landscape planting. So, even if the 30m standard were the relevant one, it could be reduced in this case.
- 2.6 Ms Thompson makes much of the next paragraph in the SPG, 3.2.3. This requires a greater separation distance than the SPG's normal requirement where buildings of more than 2 storeys are proposed. It is true that the appeal proposals would be on higher land than the existing dwellings on Montayne Road, but it is also the case that the separation distance would substantially exceed that required by the SPG. I consider that it is clear the proposed

¹ My proof of evidence, paragraphs 3.39 and 3.42.

development would comply with the SPG, and I note that this was the view set out by the Council's officers, in their committee report (CD35, paragraphs 8.17-8.19).

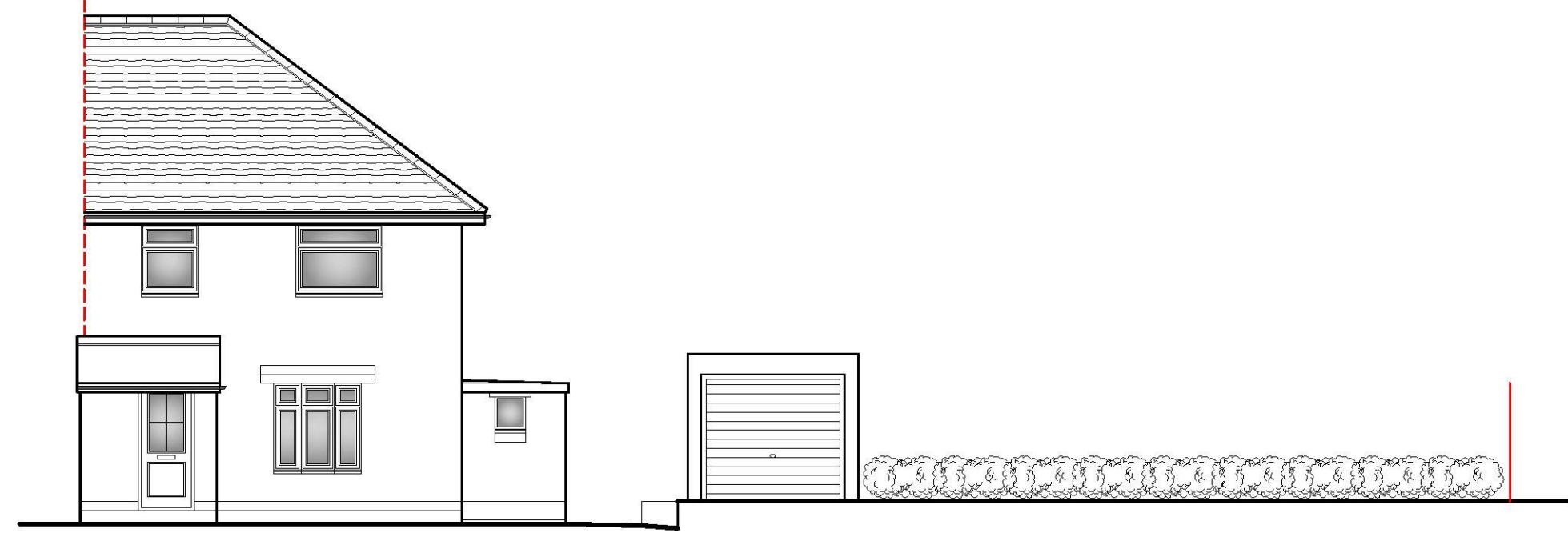
Appeal Decision APP/W1905/W/20/3265422, 91 Bury Green Road, Cheshunt

- 2.7 Ms Thompson refers to the above appeal decision as a relevant precedent, on the basis that the Inspector considered obscured glazing would not prevent the perception of movement behind them, and opened windows would allow disturbance by noise. I have reviewed this appeal decision, and also the drawings which relate to it, which are available on the Council's website. These are included at Appendix 1 below.
- 2.8 Ms Thompson does not comment on the respective distances between the windows being considered by the appeal she mentions, and those in the case of the current appeal. The drawings submitted with that appeal are also not entirely clear, and so I have produced a composite of the site plan and proposed layout drawings submitted with that appeal – this is shown on my Drawing 194/A/005, at Appendix 2. On this drawing, I have included an orange arrow showing the separation distance between the walls of proposed house and the existing apartments on the neighbouring site, and I note this distance is less than 4 metres.
- 2.9 In this context, the comments from the appeal Inspector are entirely understandable. This would have been a very close relationship, which would clearly have failed to comply with the distances set out within the Council's SPG. This is in no way comparable with the current appeal proposals.

Appendix 1

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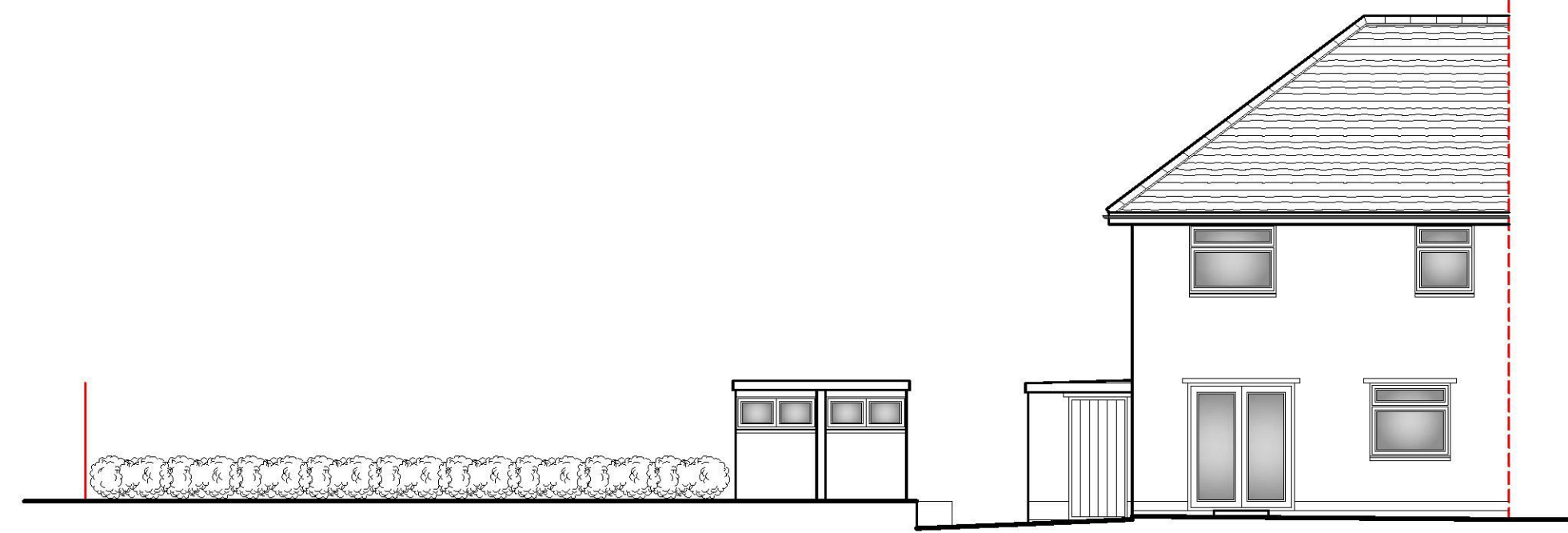
REVISIONS



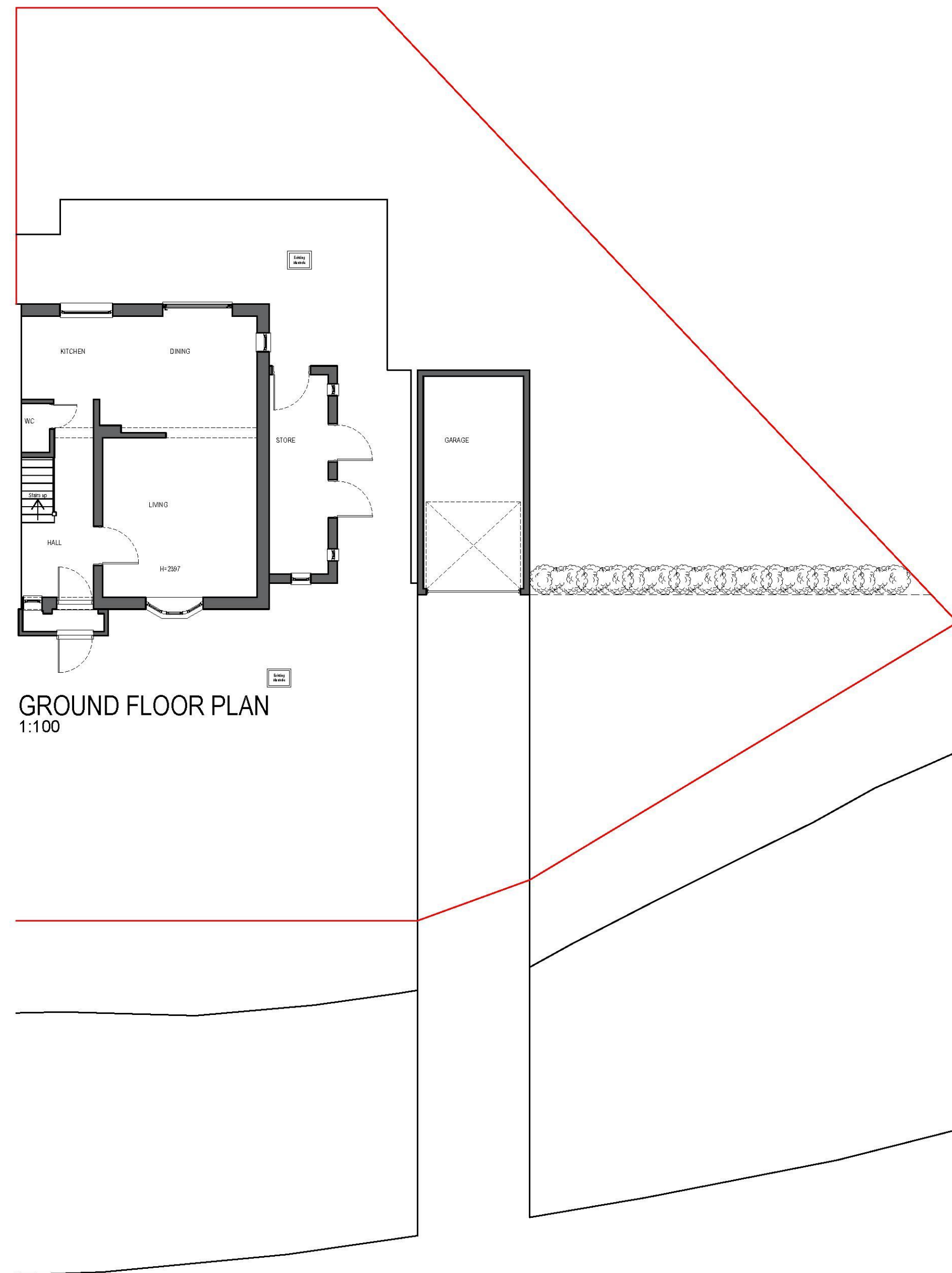
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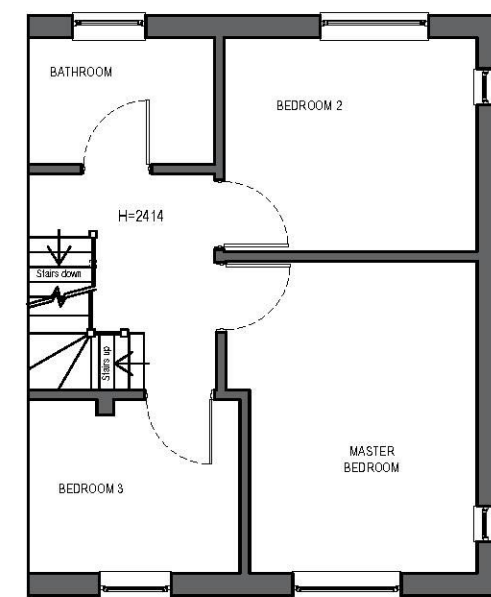
SIDE ELEVATION
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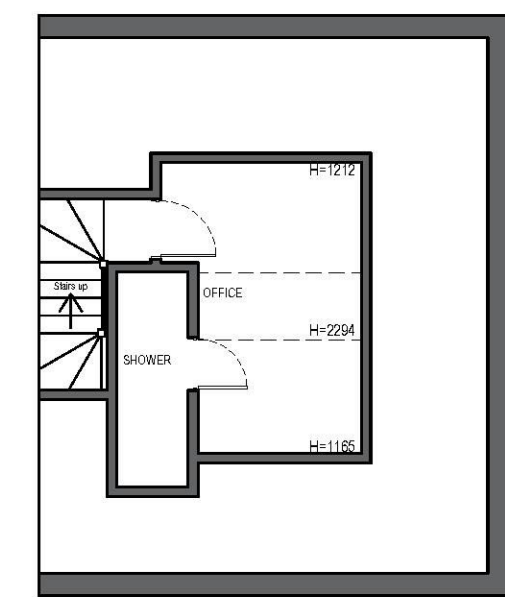
REAR ELEVATION
1:100



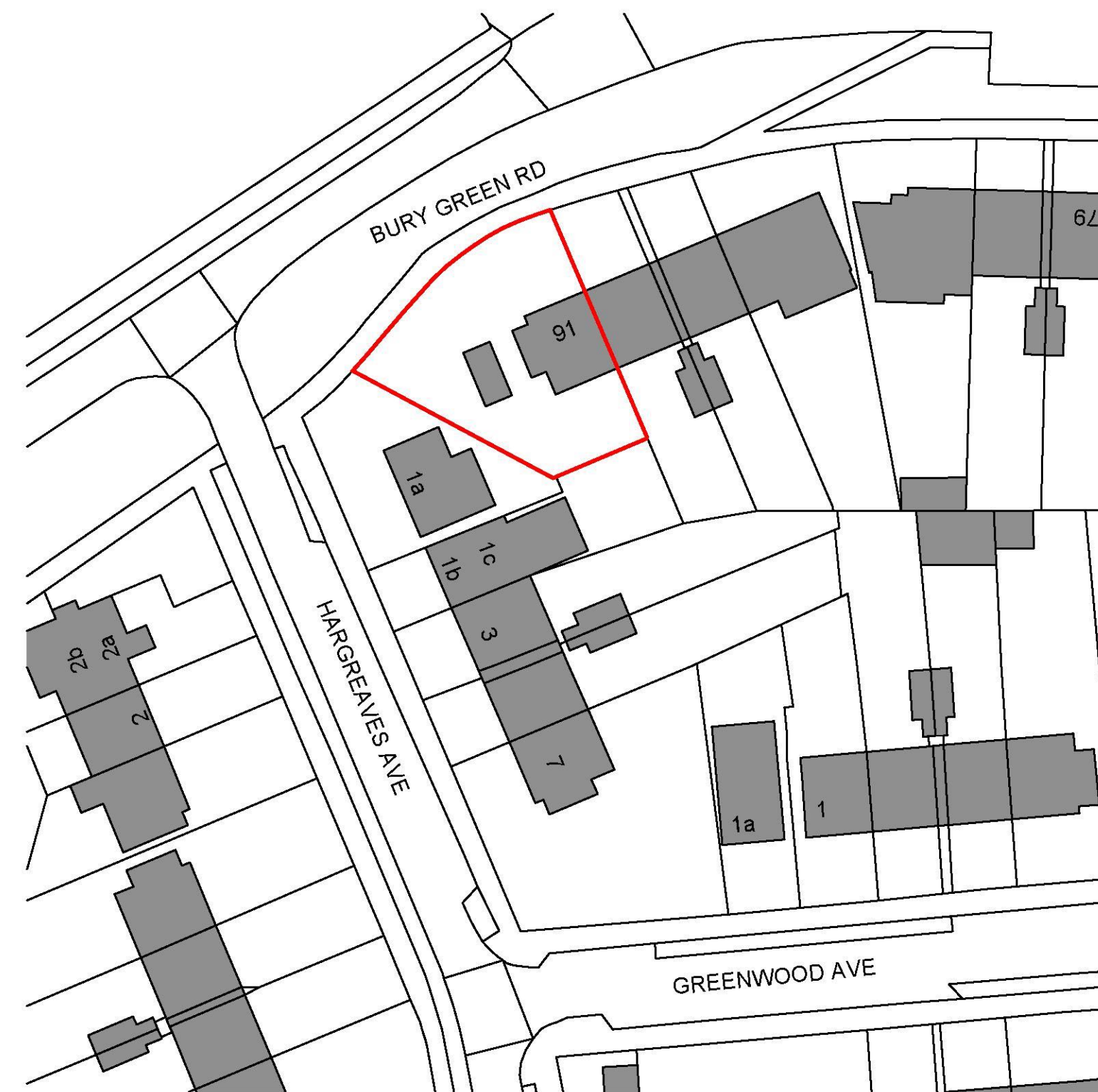
GROUND FLOOR PLAN
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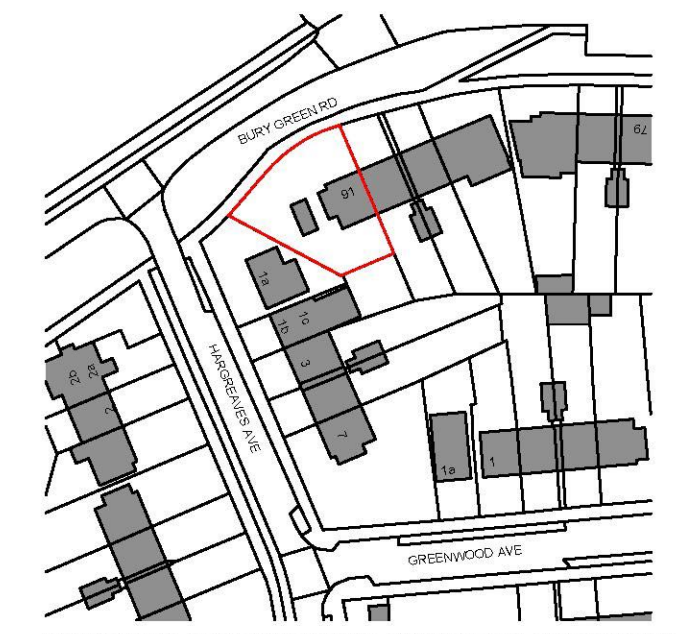
FIRST FLOOR PLAN
1:100



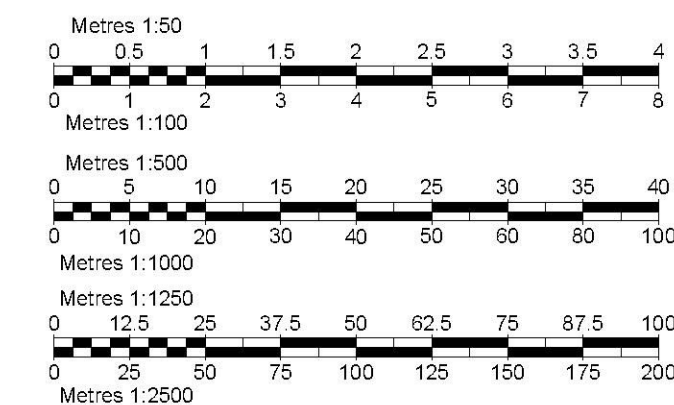
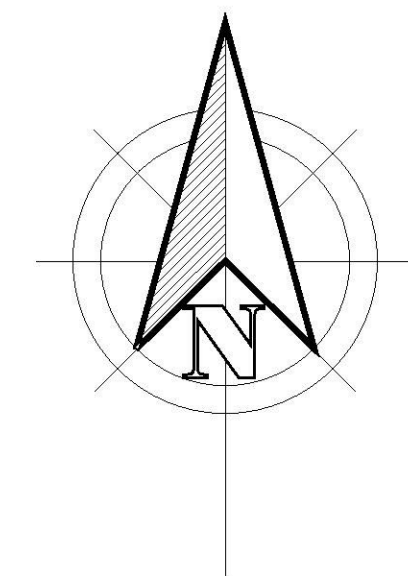
SECOND FLOOR PLAN
1:100



Block Plan
1:500
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LOCATION PLAN
1:1250



1A Church Street
Sawbridgeworth
Hertfordshire
CM21 9AB

brd TECH
SUSTAINABLE ARCHITECTURE

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Project
**PROPOSED NEW DWELLING
SITE ADJ91 BURY GREEN
ROAD
ENFIELD
EN7 5AG**

Title
**EXISTING PLANS AND
ELEVATIONS**

Scale @ A1
AS STATED Date **FEB 2020** Drawn **RS**

Status
PLANNING

Ref
BRD/20/012/001

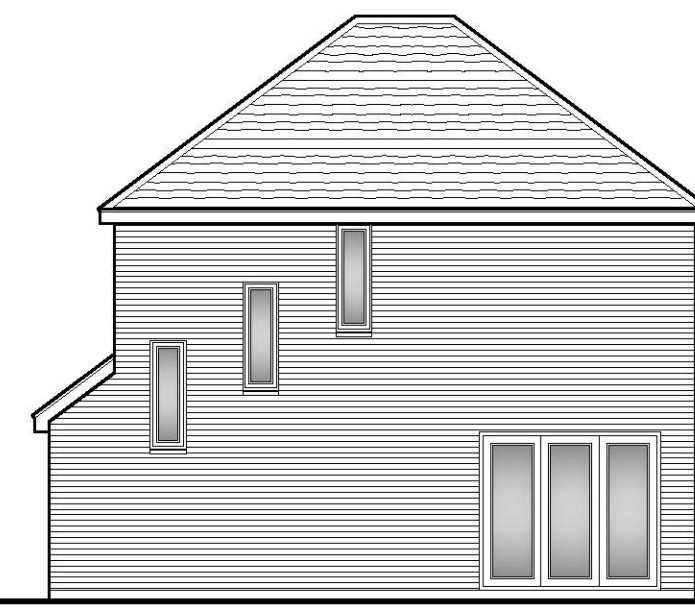
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CORPORATE
MEMBER
CIAT
GROUP MEMBERSHIP
SCHEME MEMBER



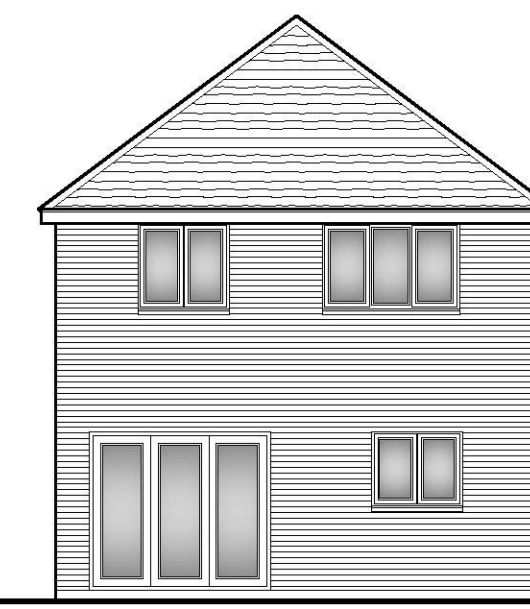
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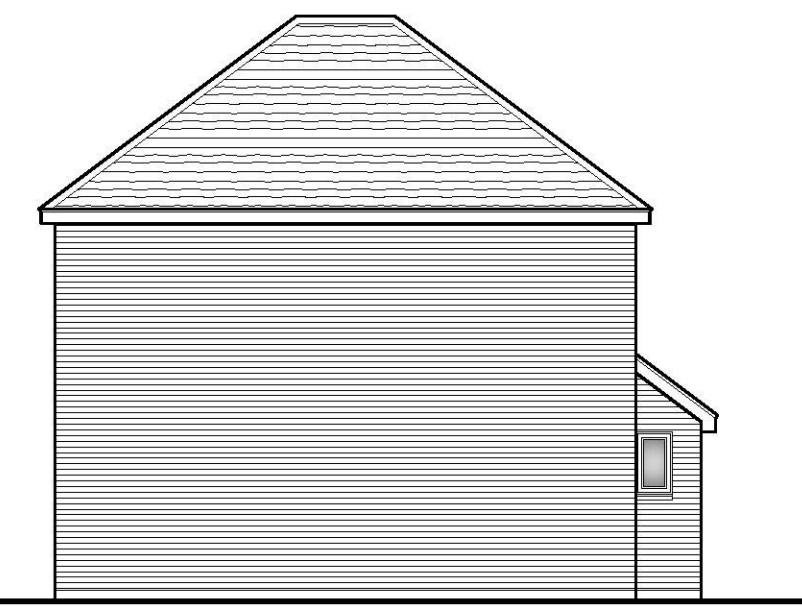
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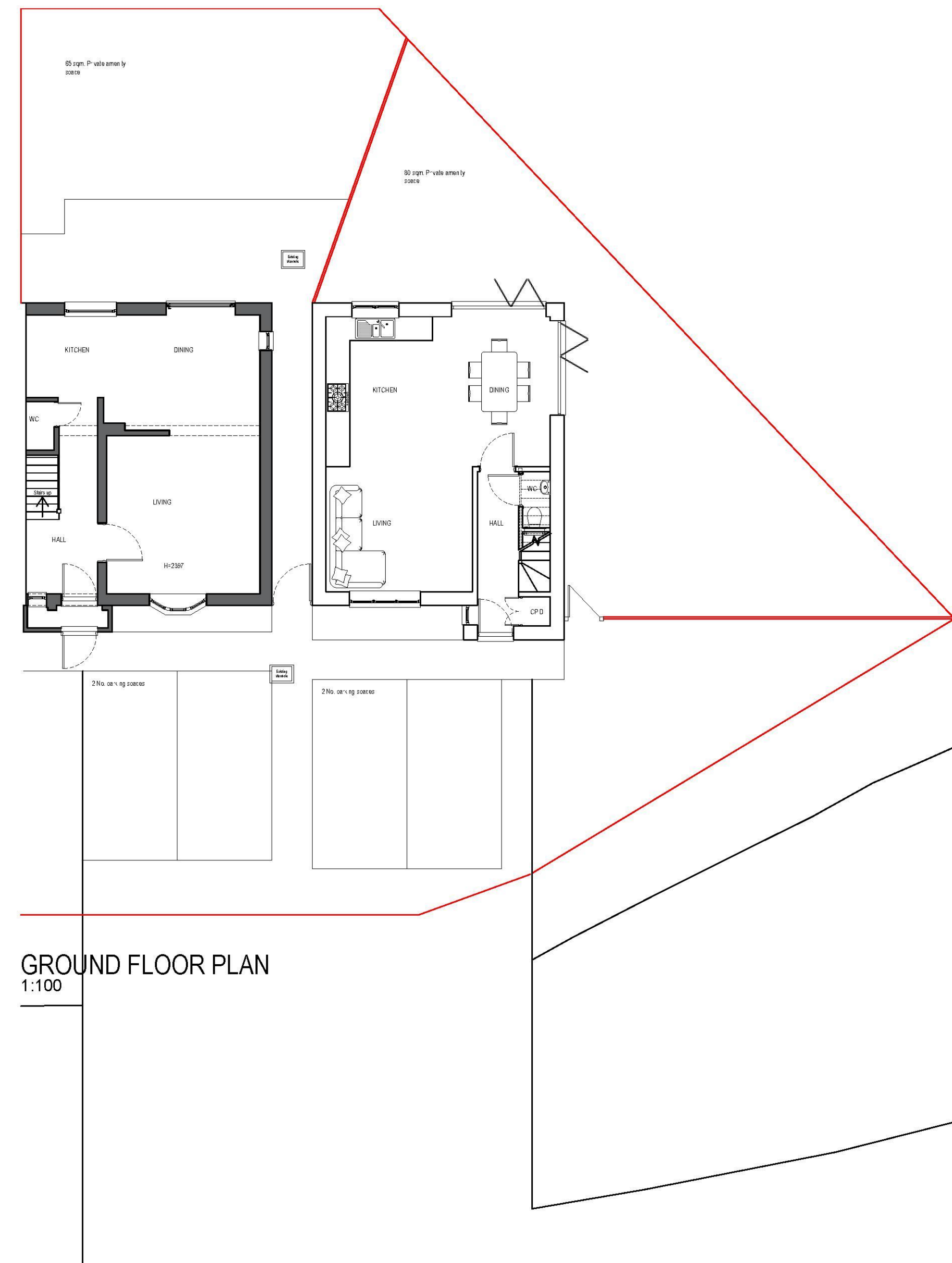
SIDE ELEVATION
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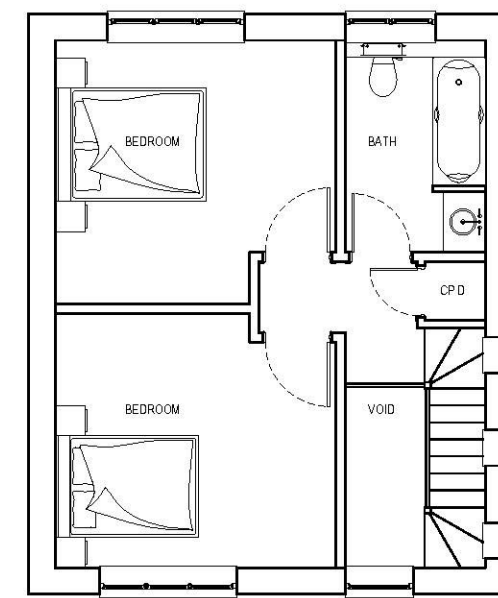
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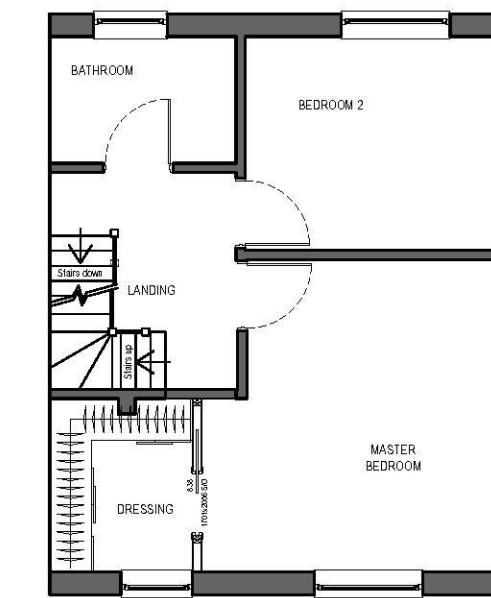
SIDE ELVATION
1:100



GROUND FLOOR PLAN
1:100



FIRST FLOOR PLAN - PROPOSED DWELLING
1:100



FIRST FLOOR PLAN - EXISTING DWELLING
1:100

CIAT
 GROUP MEMBERSHIP
 SCHEME MEMBER
 Metres 1:50

 Metres 1:100

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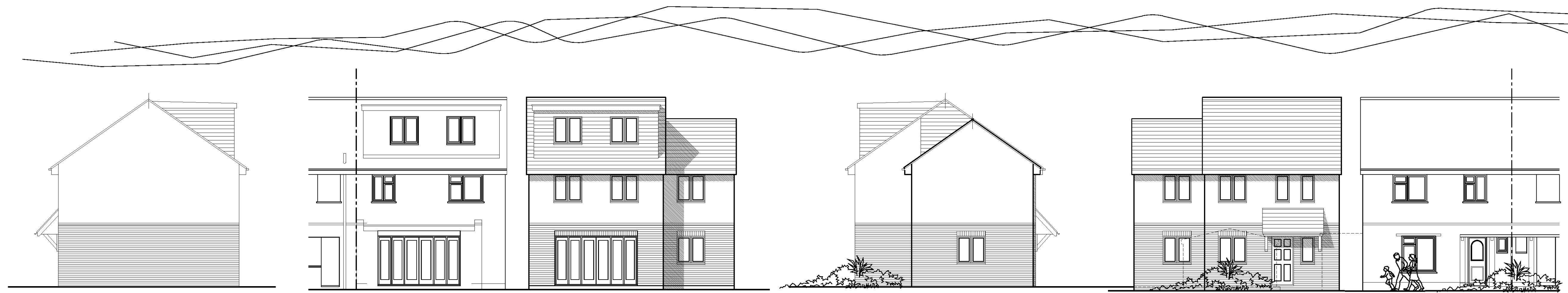
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 SITE ADJ 91 BURY GREEN ROAD, ENFIELD,
 EN7 5AG**

Status: **PLANNING**
 Title: **PROPOSED PLANS AND
 ELEVATIONS**

Drawn by: **RS**
 Check by: **AS STATED**
 Date: **FEB 2020**
 Ref: **BRD/20/012/002**

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SUSTAINABLE ARCHITECTURE

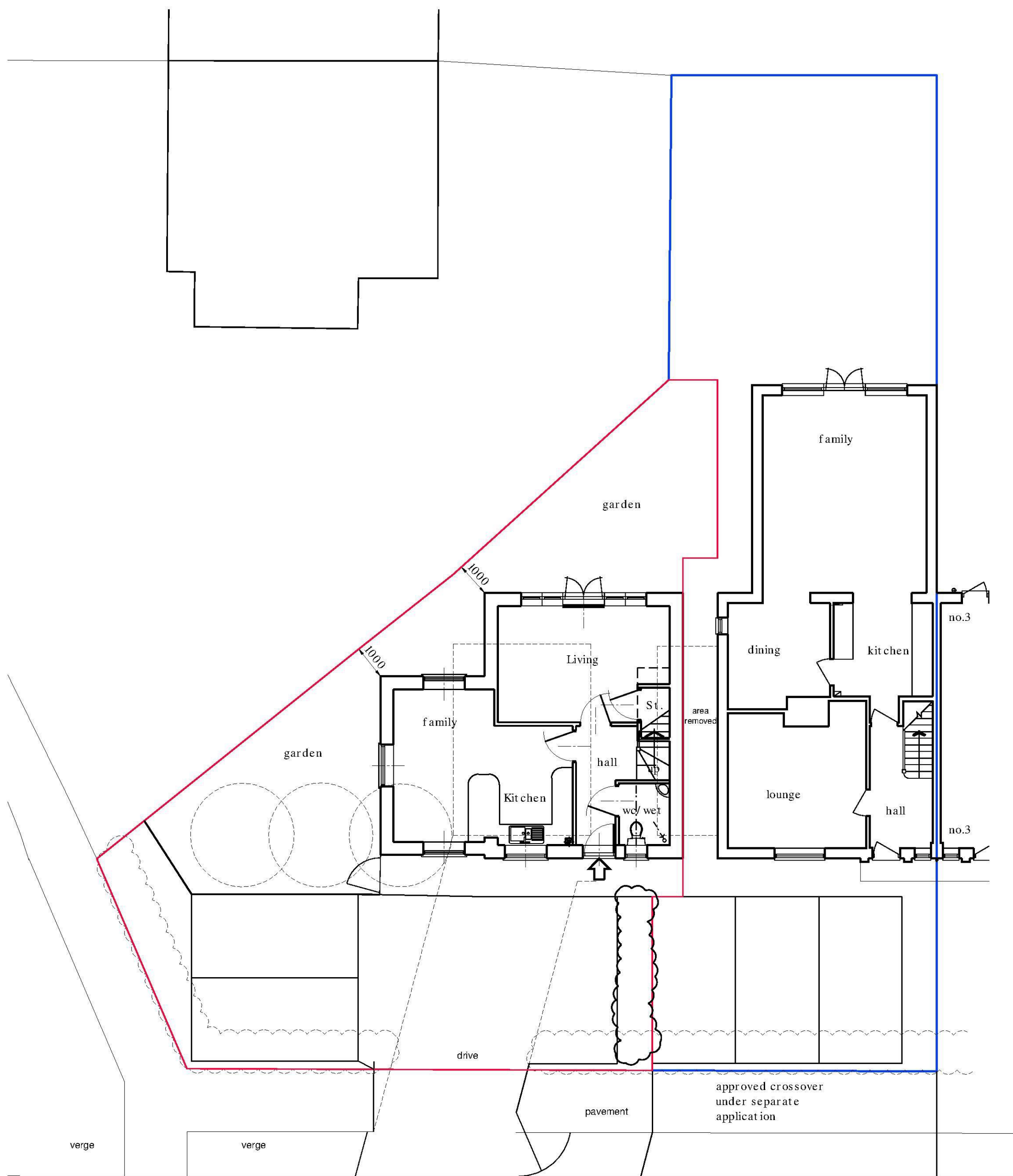


Flank Elevation

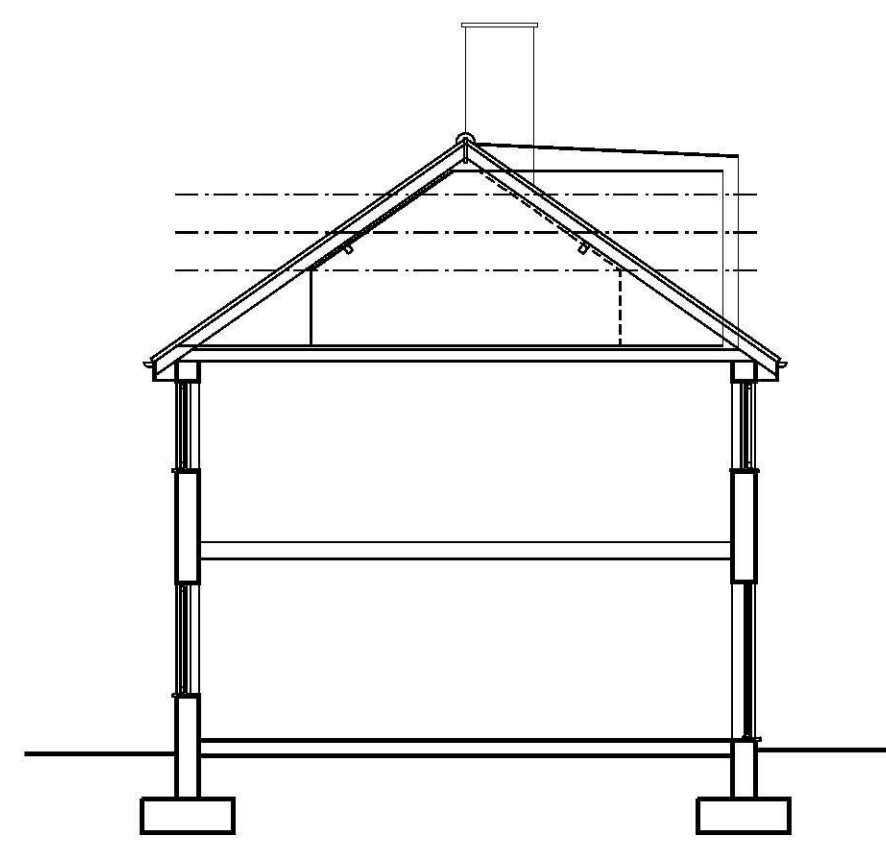
East Elevation
1:100 Scale

North Elevation

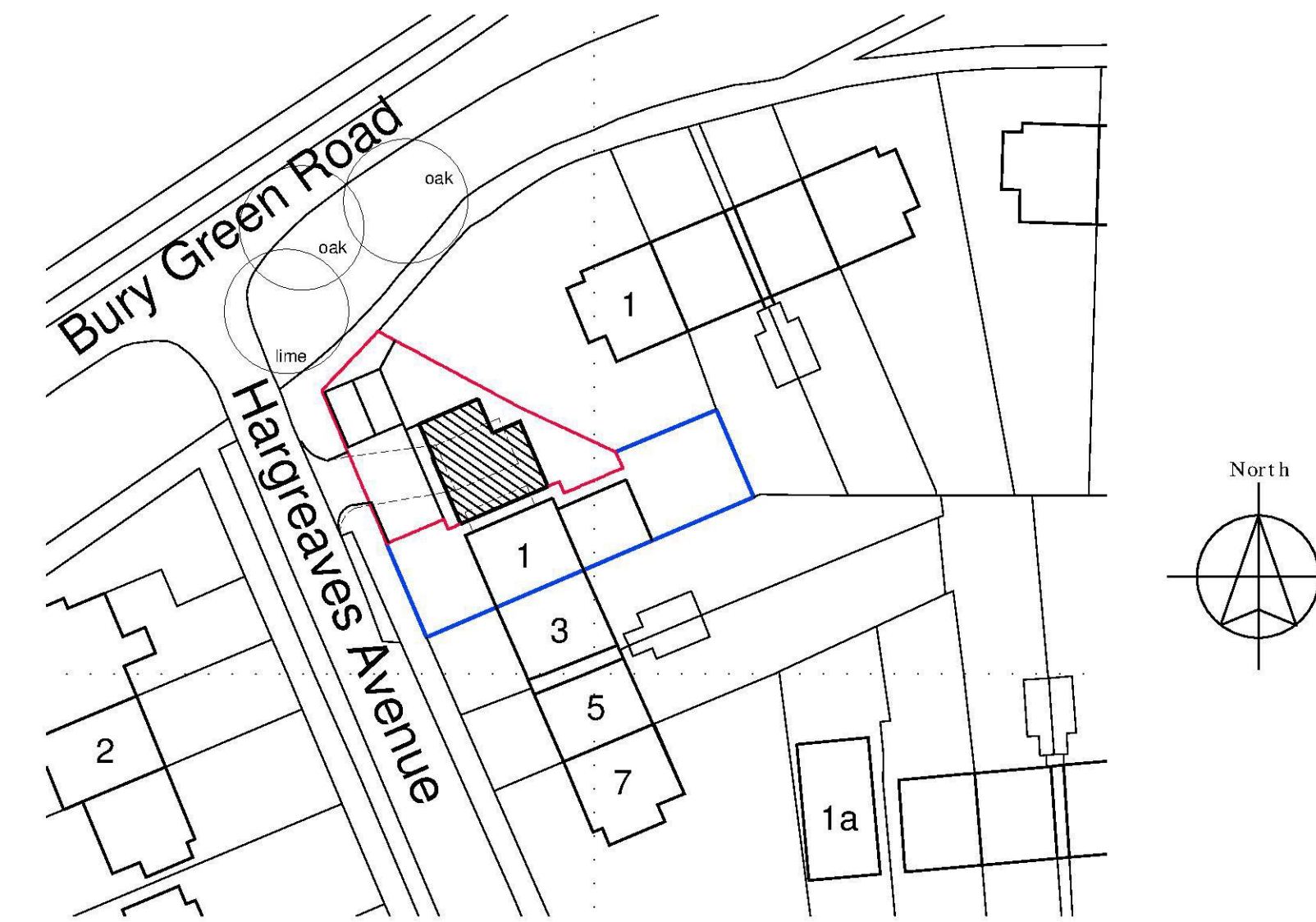
West Elevation



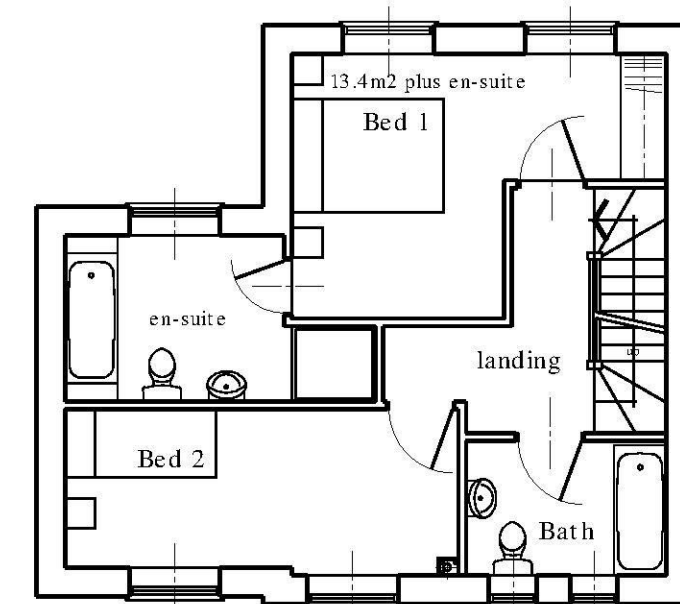
Ground Floor Plan
1:100 Scale



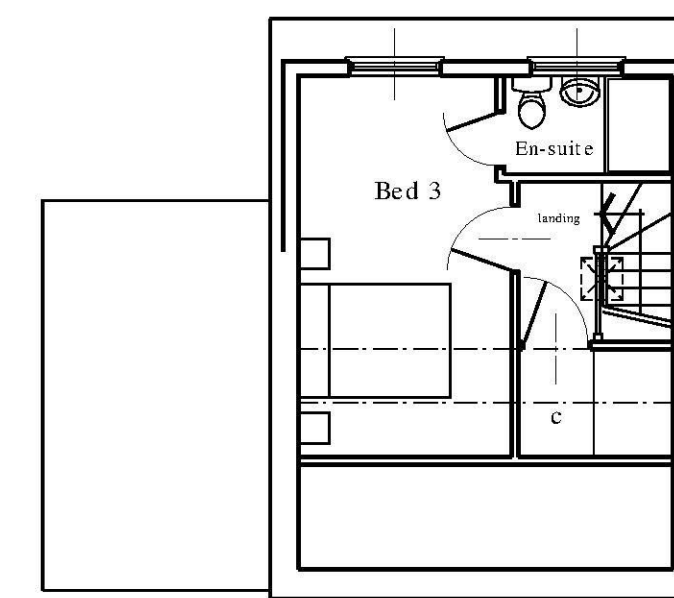
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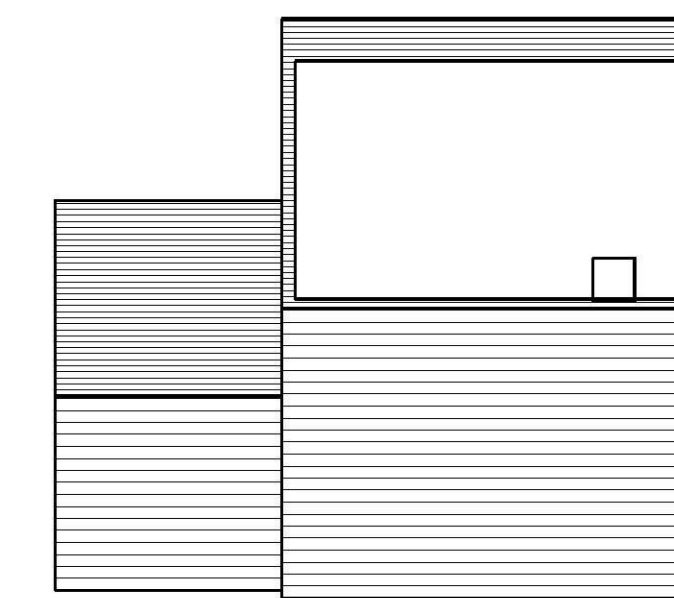
Site Plan 1:500 Scale



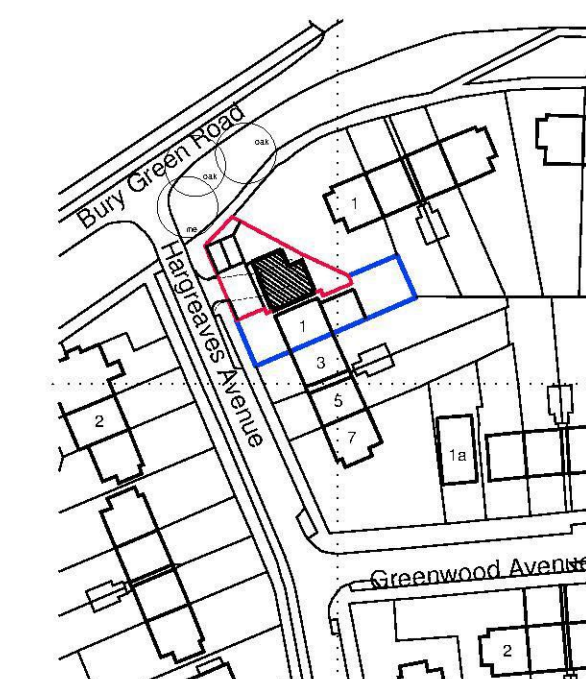
First Floor Plan
1:100 Scale



Second Floor Plan



Roof Plan



Location Plan
1:1250 Scale

1:2500	0	1	50m	100m	200m
1:1250	0	5m	25m	50m	100m
1:500	0	1m	10m	20m	40m
1:250	0	0.5m	4m	8m	16m
1:125	0	0.1m	2m	4m	8m
1:62.5	0	0.05m	1m	2m	4m

notes:
 any discrepancies should be reported immediately
 all dimensions should be checked on site prior to commencement of work
 site/survey based on ordnance survey information provided by prodart systems plc. (www.promap.co.uk) prodart does not guarantee that all past or current uses or features will be identified in the product
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 drawings to be read in accordance with the dwelling emission rate (der/ter) calculation. the building must be built 'as designed' meeting the criteria set for air permeability.
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 note when printing off pdf's. it is the responsibility of the user to verify that the resulting prints are to scale on the appropriate sized sheet. also that the scale bars on the plan measure correctly.

Oct 16	drawn reinstated	C
Sept 16	reduced proposals	A&B
0/16	Description	Rev



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 Hertford, Herts SG14 1HH
 Tel: 01992 552173 Fax: 01992 587643
 Email: contact@hertfordplanning.co.uk
 www.hertfordplanning.co.uk

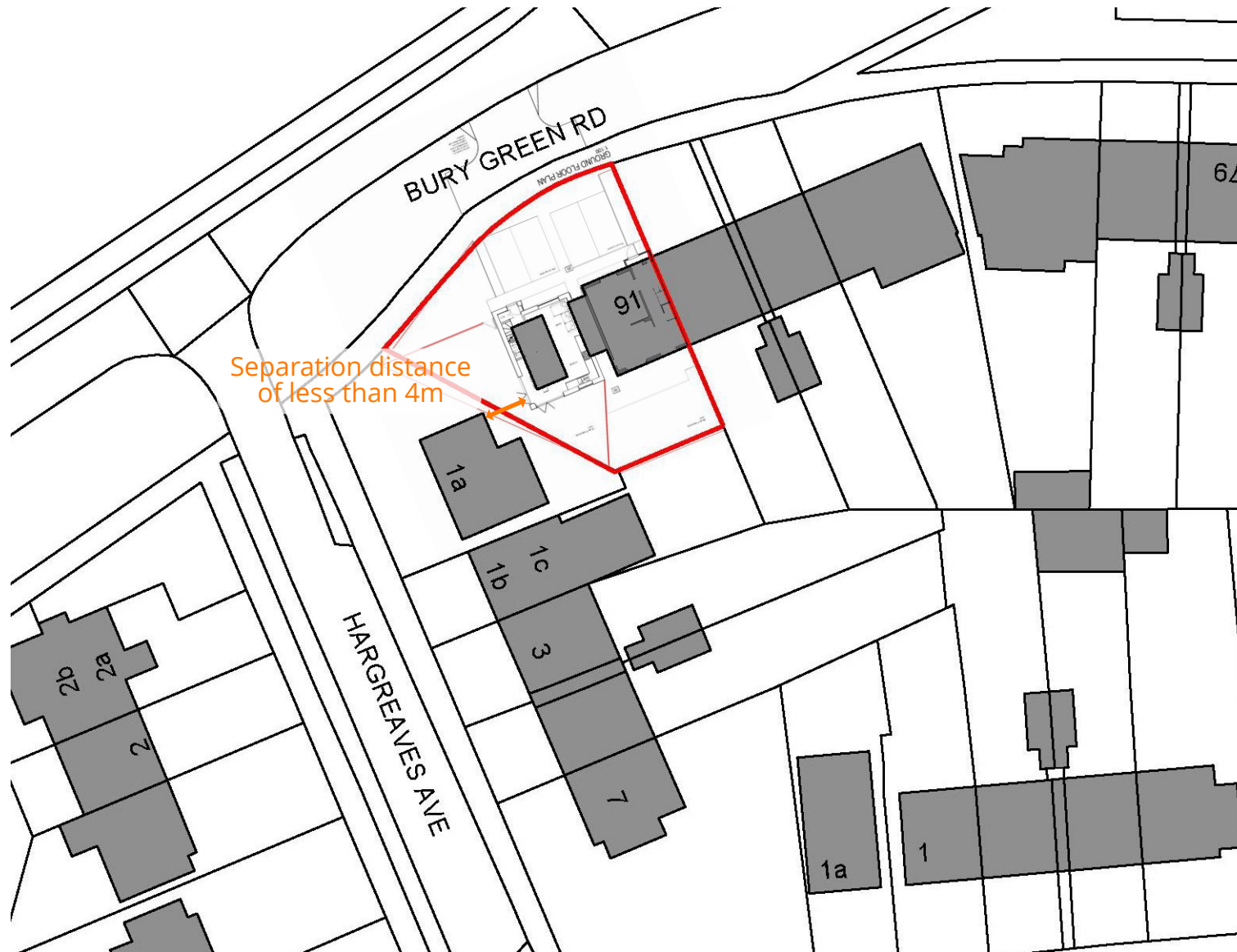


Client Mr B Musk
 Project 1 Hargreaves Avenue
 Cheshunt
 EN7 5BD
 Drawing Proposed New Dwelling

Date 27/09/16
 Scale 1:100
 Sheet size A1
 Drawn mRn

12467-P002-C

Appendix 2



Composite of Appeal Plans

From Planning Appeal APP/W/20/3265422 - 91 Bury Green Road, Cheshunt



Drg: 194/A/005
Scale: 1:500
Date: July 2021



waller
planning

