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**F/YR22/0217/LB**

**Applicant: Mr Ernie Head**

**Agent : Tony Godwin**  
**FCD Architecture**

**130 High Street, Chatteris, Cambridgeshire, PE16 6NN**

**Works to a Listed Building involving the conversion of shop/dwelling to 1 x dwelling (2-storey, 2-bed) involving the partial demolition of existing dwelling**

**Officer recommendation: Refuse**

**Reason for Committee: Number of representations contrary to Officer recommendation**

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**F/YR22/0218/F**

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**130 High Street, Chatteris, Cambridgeshire, PE16 6NN**

**Change of use of shop/dwelling to 1 x dwelling (2-storey, 2-bed) involving the partial demolition of existing dwelling**

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## **1 EXECUTIVE SUMMARY**

- 1.1. These applications seek to carry out works to the Listed Building and a change of use to convert the existing shop/dwelling to 1 x dwelling (2-storey, 2-bed) involving the partial demolition of the existing dwelling.
- 1.2. The proposal seeks to create a 2-bedroom dwelling within the envelope of the single-storey listed building. The 2-storey cottage to the rear is to be demolished.
- 1.3. The principle of conservation led regeneration by conserving and returning the building to residential use is wholly supported, however the development is considered to cause substantial harm to the heritage asset. However, the proposal submitted is not a conservation led approach and the development is considered to cause substantial harm to the heritage asset and damage to the fabric of the building.
- 1.4. The public benefits of securing the reinstatement of the historic plan form, and a

more sensitive regeneration of this listed building (thereby securing its optimum viable use as a residential property under paragraph 202 of the NPPF), could be achieved without causing significant harm to the heritage asset, unless clear and convincing justification is provided to the contrary. To approve the application in its current form would be in contravention of the NPPF and Policy LP16 and LP18 of the Fenland Local Plan 2014.

1.5. Given the clear conflict with the relevant policies, it is considered that to grant the applications would be indicative of a failure by the Council to fulfil its duties under Sections 16, 66 and 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990.

1.6. Consequently, the recommendation is to refuse both applications.

## 2 SITE DESCRIPTION

2.1. The application site is situated on the western side of High Street, within the market town of Chatteris. The site is located within Chatteris Conservation Area and a Grade II Listed Building is located on the site.

2.2. 130 High Street is a late 18<sup>th</sup> century row of houses, with small shop to the east gable end. The houses to the rear of the row are formerly known as 1 & 2 Whalley's Yard.

2.3. The row of houses runs perpendicular to the road. The row faces gable end on to High Street, with the former shop fronting the road. The middle section of the building was last used as a dwelling, with the rear section of the row being utilised as a store.

2.4. The cottages to the front of the site are single-storey with dormer attics and are Grade II listed, with a 2-storey cottage to the west end of the row. This is not included within the listing description, however is listed by virtue of its curtilage relationship to the listed building. The whole represents a vernacular Fenland traditional building built with local materials, including reed and plaster ceilings, 'box-stairs' and triple roll pantiles.

2.5. To the west of the application site is a mid-19<sup>th</sup> century cottage, which faces the High Street. The application site and this property are separated by a close-boarded fence and gate. The application site is accessed via a dropped kerb and shared driveway with the cottage to the west.

2.6. The cottages which are subject of this application are on Fenland District Councils Building at Risk Register.

## 3 PROPOSAL

3.1. These applications seek to carry out works to the Listed Building and a change of use to convert the existing shop/dwelling to 1 x dwelling (2-storey, 2-bed) involving the partial demolition of the existing dwelling. The partial demolition refers to the 2-storey cottage to the west of the row.

3.2. The proposal includes:

- Alteration to internal walls, which will remove the partition between the living room and historic shop front

- Raising of ceilings within the existing kitchen and bedroom 2 area by 225mm
- Removal of ceilings above the existing living room/shop and dining area which will be replaced with vaulted ceilings
- Insertion of a mezzanine with an introduced paddle stair
- Existing staircase raised by 1 step
- Existing external brickwork walls to be repaired by taking down and rebuilding damaged or bowing portions
- Construct a ring-beam tied across the width of the building within the cross wall partitions to Bedroom 1 and the living room.
- Install a limecrete floor
- Introduce DPC and modern vapour barriers
- Ventilation systems
- Plasterboard

3.3. Full plans and associated documents for this application can be found at:

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## 4 SITE PLANNING HISTORY

No previous planning history on site.

## 5 CONSULTATIONS

### 5.1 Chatteris Town Council

*Support.*

### 5.2 FDC Conservation Officer (05/04/2022)

1. *A planning permission and listed building consent application have been submitted concurrently with regards to 130 High Street, Chatteris, a grade II listed building (LEN: 1249620) listed on 28th January 1994. The applications are for works to enable the conversion of a shop/dwelling to a single residential unit providing 2 bedrooms on the ground floor, with storage in the attic space above, and involving the demolition of the 2-bedroom cottage at the west end; the planning permission covers the change of use, from shop to residential.*
2. *In considering whether to grant listed building consent, special regard shall be paid to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses according to the duty in law under S16 of the Planning (Listed Buildings and Conservation Areas) Act 1990.*

3. *In considering whether to grant planning permission for development which affects a listed building or its setting, special regard shall be paid to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses according to the duty in law under S66 Planning (Listed Buildings and Conservation Areas) Act 1990.*
4. *Consideration is given to the impact of this proposal on the character and appearance of the Conservation Area with special attention paid to the desirability of preserving or enhancing the character or appearance of that area according to the duty in law under S72 Planning (Listed Buildings and Conservation Areas) Act 1990.*
5. *Comments are made with due regard to Section 16 of the National Planning Policy Framework, 2021, specifically, paragraphs 8 195, 196, 197, 199, 200, 201 and 202. The following comments are made:*
6. *A heritage statement has been submitted with the application. The information is insufficient to comply with paragraph 194 of the NPPF and policy LP18 of the 2014 local plan in that it does not correctly assess the significance of the asset or adequately describe the level of impact of some elements of the proposal (e.g., permanent loss of stacks, lack of assessment of interest of cottage proposed for demolition, methodology for rebuilding, and impact of the scheme on the setting of the listed building (for the partial demolition) and on the conservation area).*
7. *There is no objection to the principle of this application. However, the following comments are made:*
  - i. *No. s 130 High Street and 1 & 2 Whalley's Yard are a late 18th century row of houses with small shop to the east gable end. The row faces gable end on to the high street and as such reflects a disappearing tradition of medieval burgage plots and linear buildings and yards within the conservation area. The cottages are single storey with dormer attics and a later two storey cottage to the west end. The whole represents a vernacular Fenland traditional building built with local materials including reed and plaster ceilings, 'box-stairs' and triple roll pantiles. The materials, together with its surviving plan form and plot survival represent a rare survival in Fenland generally, and in Chatteris specifically. It is therefore significant both locally and nationally and is grade II listed.*
  - ii. *The whole range was included on an early list of Buildings of Local Interest in Chatteris, and the two-storey cottage is attached to the listed building and was in existence and in the same ownership at the time of listing. It is therefore considered to be within the curtilage of the listed building and is afforded the same legal protection, unless and until a revised listing through Historic England's Enhanced Advisory Service is provided by the applicant, which was referred to in the heritage statement but has not been submitted. The two-storey element contained an early vernacular boxed in staircase with cupboard under and leading to a first floor. These elements were removed without consent and the stair is in pieces and in an unknown condition somewhere on site. The entire range represents a rare, if not unique survival of this type in Chatteris.*
  - iii. *To the west end of the site sits a mid-19th century cottage which faces the High Street and occupies the rest of the plot with garden amenity. These cottages are*

now separated by an unsightly close boarded fence and gate and the listed building, and its curtilage building are left without amenity space, as the access is shared. It is currently understood that the whole site still remains under one ownership.

- iv. The cottages which are the subject of this application have been on FDCs Building at Risk Register for some considerable time, having been inhabited by an elderly lady (who ran the sweetshop which is remembered by many and held in local affection), who was unable to undertake any works of necessary maintenance. The east end bay was struck by a lorry in 2003 and rebuilt on a like for like basis, using materials salvaged from the site, through the insurance process. There is no planning history relating to this episode. The property became vacant in 2007 on her death (around 100 years old) but was inherited by her elderly and vulnerable son who lived in the cottage to the west of the site. The whole site therefore remained under one ownership. The Council sought to work proactively with the new owner, with advice and support, including liaising with a Building Preservation Trust to take on the site, but though progress was made (including propping the building internally and commissioning independent valuations), no resolution was reached. The property was placed on the open market and the current owners then purchased the whole site (separate cottage and listed building) in early 2019, having had the opportunity to make themselves fully aware of its condition, and having been informed of its listed building status and the processes which would need to be followed.
- v. A S.77 Building Act (1984) Notice was served on the building on 22nd March 2019, stating that the central and side chimney stacks were to be removed below the roof line; that loose roof tiles were to be removed; internal props were to be checked; with restraints added to the walls. The current owners proceeded to carry out some of these works without initial discussion with the planning or conservation teams. The chimneys were removed below the roof line, but all building rubble left in the roof space adding weight to the building; the roof was stripped in its entirety (beyond the minimum necessary) and ceilings removed along with the staircase from the end cottage. It was considered that these works were unauthorised, and work ceased on site. The Council sought to work proactively with the owners and encourage a suitable scheme for repair and conservation, rather than take a negative stance.
- vi. However, the roof remained without covering and all internal walls and finishes were exposed to considerable rainfall and weathering for a number of years. Engagement with the Enforcement Team was required in order to secure a covering for the roof, and sheets and battens were applied, but this has not been maintained, leading to further weathering and total saturation of the building. The result is that the whole of the roof structure is beyond salvage, with ongoing saturation to walls and internal ceilings and finishes. The building has therefore been subject to neglect and damage, and as such paragraph 196 of the NPPF will be relevant and the condition of the building will not be taken into account in these comments and should not be taken into account in any decision.
- vii. The applicants were repeatedly encouraged and requested to submit a valid listed building consent application for the proper conservation and repair of the building and advice and support were offered on numerous occasions, including sharing FDC funded reports by Conservation Accredited Structural Engineers for a Specification and Schedule of Works in 2016 and updated in 2021 and a summary of advice following a meeting dated 12.02.2020. Despite this advice, a

pre-application enquiry was submitted for the total demolition and rebuild of the site, and this was not supported. The current proposal has now been submitted.

8. The Proposal seeks to create a two-bedroom dwelling with the envelope of the single storey-listed building with alteration of internal walls (resulting in the loss of the partition between living room and historic shop area), raising of some ceilings and total loss of others, the insertion of a mezzanine with an introduced paddle stair. The existing staircase is proposed to be raised by one step in order to access the attic space, the level of which has changed due to the raising of the ceiling. It is proposed to take down sections of the wall and rebuild them, construct a ring-beam, dig out the floors and install a limecrete floor, introduce a DPC and modern vapour barriers, ventilation systems and plasterboard. The condition of the ceilings is put forward as a justification for their loss contrary to policy 196 of the NPPF, and the total demolition of the two-storey cottage is a means to the end of 'leaving the original building as it began', without any assessment of its intrinsic significance, or significance in relation to the listed building, or the conservation area.
9. There is insufficient detail to accurately assess the impact of the proposal, and whilst some is supported in principle (such as necessary stabilisation of the walls and reinstatement of the roof) more detailed information is needed to fully understand the methodology behind these proposals and therefore their impact on the special interests of the building. Other elements of the proposal also require more information in order to assess whether the principle is supported, such as raising ceiling heights, installing a ring beam and thermal improvements. There are also some elements that are not supported in principle, or require further and clear justification, such as loss of ceilings, installing a DPC and ventilation systems, use of plasterboard, alteration to plan form, and total demolition of the two-storey cottage. Still more elements are missing from the application entirely, including the total loss of stacks (i.e. no indication of their reinstatement) and chimney breasts from the kitchen and a schedule of works to any joinery.
10. The justification of the loss of the two-storey cottage is put forward as the benefit of the provision of two-parking spaces. There is no requirement for the additional provision of parking for an existing residence. The justification for the proposed requirements for thermal improvement and ceiling height are to meet with current building regulations, and yet as a listed building, though it may be desirable, there is no requirement to meet with these stipulations. Some modern interventions such as the introduction of vapour barriers can cause damage to historic fabric, whereas the use of historic material such as lime, would negate the need for ventilation systems. The justification of the provision of a 2-bedroom home, cannot be seen as public benefit when the property already provides (were it in sound condition) residential accommodation. The public benefit, and therefore, the justification, must be the conservation, stabilisation, repair and reinstatement of a listed building. The balance between intervention or alteration, and conservation must therefore be carefully struck in order to ensure that the harm arising from loss of original fabric does not outweigh the overall aim of the reinstatement of significance. For instance, without a precise methodology to ensure otherwise, the rebuilding of the cottages (due to the saturated condition of the brickwork) may well result in substantial harm despite the intention to conserve and rebuild.
11. The principle of conserving and saving this building and returning to residential use is wholly supported. However, in order to protect the special interests of the

building, amendments to the scheme are needed. These amendments will achieve the same overall outcome but with a minimum intervention approach to the historic fabric and special interests of the building in accordance with para 195 of the NPPF. The necessary structural works can be covered by condition if additional information is not forth coming, and these will be outlined below.

12. Required amendments include:

- i. *Retention of ground floor layout and floorplan. From east to west, the shop area should be retained, though the infilling of the doorway (internally only, with door kept to the exterior) would be supported. This area could become a study. A paddle stair would not be supported as it is not considered necessary or desirable.*
- ii. *The living room can remain as such.*
- iii. *The stairs opposite the south entrance (door to No. 1 Whalley's Yard) should remain with no requirement for an extra step). The kitchen could become a bathroom with the chimney breast retained and the stack reinstated.*
- iv. *Bedroom 4 could then become a larger more useable kitchen.*
- v. *The final bay to the west could be enlarged with the removal of the modern partitions currently in place for a wc and a shower room and could therefore become a spacious dining room.*
- vi. *It is stated in the above referenced reports that with a renewed roof structure and internal partitions to provide lateral restraint to the walls, then the existing form of the roof and open first floor accommodation could be utilised. It follows therefore that there should be no requirement for alteration in the floor plan or for any loss of or raising of ceilings.*
- vii. *If the current arrangement is maintained it therefore follows that the existing stairs would lead to a landing, with a bedroom to the east with walk-in-wardrobe space above the shop, and a further walk-in-wardrobe space to the west, leading through to the second bedroom above the current and proposed dining room. This space would require the addition of a catslide dormer window but given that this would not result in the loss of any historic fabric (given the need to entirely replace the roof) and the alteration would enable the retention of current layout and a result in a more useable space, this would be supported.*
- viii. *The above points set out a minimal intervention approach which achieves the desired outcomes of a 2-bed home, whilst retaining maximum historic fabric and significance (subject to conservation methodologies).*
- ix. *The two-storey cottage can also feasibly be retained as a separate one-bedroom residence consisting of a kitchen and living/dining room on the ground floor, with reinstated stairs leading to a single bedroom and bathroom above. Alternatively, access could be joined from the ground floor of No. 2 Whalley's yard to the south of the fireplace in the dining room to provide additional accommodation for a single-family residence, such as the required/proposed 2no. bedrooms if it is considered that the existing attic space in the main range is insufficient for head height, or an additional bedroom(s), bathroom, snug, study, storage, etc.*

13. *With regards to the desired thermal improvements requires an informed and sensitive approach. The goal should be to achieve a building that is wind- and watertight, thermally efficient and comfortable, without compromising the breathability or the integrity of its historic fabric. Listed Buildings are exempt from Part L of Building Regulations where the requirements would unacceptably alter their character or appearance internally or externally. The details of the breathability of any proposed material should be verified. There will be a risk of creating problems if inappropriate materials are selected, detailing is poor, or installation is badly executed. The Old House Eco Handbook provides excellent detailed advice on all elements of thermal improvements as does the Practical Building Conservation series volume on Building Environment and Historic England Technical Advice pages on their website.*

### **5.3 FDC Conservation Officer (14/07/2022)**

*The NPPF defines substantial harm as total loss of significance and therefore sets the bar extremely high.*

*I therefore consider that, based on the information submitted, the demolition of the two storey end cottage only (as a curtilage element to the principal listed building) would result in less than substantial harm to the significance of the principal listed building. However, in accordance with paragraph 202 of the NPPF, it is not considered that the proposal to demolish the two-storey element is sufficiently outweighed by public benefit to justify that harm. However, I also consider the type and extent of works and alteration proposed to the principal cottage (without the suggested amendments) to amount to substantial harm. The demolition of the two-storey cottage in conjunction with the proposed works, would demonstrably contribute to that level of harm.*

*The following policies therefore apply:*

*Paragraph 196 of the NPPF states that where there is evidence of deliberate neglect of, or damage to a heritage asset, the deteriorated state of the asset should not be taken into account in any decision. Evidence of that damage and neglect, amounting to unauthorised works, has been articulated in previous comments.*

*Paragraph 199 of the NPPF states that great weight should be given to the asset's conservation.*

*Paragraph 200 of the NPPF states that substantial harm should be wholly exceptional.*

*Paragraph 201 of the NPPF states that where a proposed development will lead to substantial harm....local planning authorities should refuse consent unless it can be demonstrated that the substantial harm is necessary is to achieve substantial public benefits that outweigh that harm, or all of the following apply:*

- a) The nature of the asset prevents all reasonable uses of the site*
- b) No viable use of the asset can be found in the medium term, including marketing*
- c) Conservation by grant funding, non for profit, charitable or public ownership is demonstrably not possible; and*
- d) The harm or loss is outweighed by the benefit of bringing the site back into use.*

*The alternative proposals set out in my initial comments could achieve a minimal harm alternative and no information has been put forward to illustrate that this would not be viable. Therefore, it has not been demonstrated that the level of substantial harm is necessary. Point a) cannot be met, as paragraph 196 applies; point b) cannot be met as para 196 applies, and the site has not been marketed; Point c) has not been met, as no information has been submitted to illustrate this and point d) has not been met, as a minimal harm alternative scheme could be developed that would achieve the same or better outcome in terms of residential provision, and a better outcome in terms of giving great weight to the conservation of the asset.*

*I therefore consider the proposal to amount to substantial harm overall, and that the application is contrary to policy on several points.*

*I therefore strongly recommend the application either for amendment, or refusal, as an approval in its current form would be contrary to policy, would amount to condoning unauthorised works to a listed building, and will result in substantial harm to historic significance, and could result in actual harm to the fabric of the building (and therefore comfort and health of future residents) by the introduction of inappropriate modern materials and damp proofing interventions.*

*It is regrettable that no amendments or discussions are forthcoming, as a sensitive and positive scheme could be achieved for this site.*

#### **5.4 FDC Environmental Health**

*The Environmental Health Team note and accept the submitted information and have 'No Objections' to the proposed development.*

*Due to the proposal for demolition works and close proximity to noise sensitive dwellings, the following conditions should be imposed in the event that planning permission is granted;*

##### **UNSUSPECTED CONTAMINATION**

**CONDITION:** *If during development, contamination not previously identified, is found to be present at the site then no further development (unless otherwise agreed in writing with the LPA) shall be carried out until the developer has submitted, and obtained written approval from the LPA, a Method Statement detailing how this unsuspected contamination shall be dealt with.*

**REASON:** *To ensure that the development complies with approved details in the interests of the protection of human health and the environment.*

##### **NOISE CONSTRUCTION HOURS**

*No demolition or construction work shall be carried out and no plant or power operated machinery operated other than between the following hours: 0800 hours and 1800 hours on Monday to Friday, 0800 hours and 1300 hours on Saturday and at no time on Sundays, Bank or Public Holidays, , unless otherwise previously agreed in writing with the Local Planning Authority.*

**REASON:** *To protect the amenity of the adjoining properties*

#### **5.5 Historic England**

*Historic England provides advice when our engagement can add most value. In this case we do not wish to offer advice. This should not be interpreted as comment on the merits of the application.*

*We suggest that you seek the views of your specialist conservation and archaeological advisers. You may also find it helpful to refer to our published advice at <https://historicengland.org.uk/advice/find/>*

## **5.6 Georgian Group**

*We welcome the repair and reuse of this notable row of late eighteenth century red brick cottages; however, The Group has reservations regarding the proposed demolition of the two-storey probably early nineteenth century cottage which terminates the row. The cottage proposed demolition is of considerable intrinsic value and both makes a positive contribution to the setting of the grade II listed Nos. 1 & 2, and to the surrounding conservation area. Unfortunately, neither an adequate assessment of its significance or a robust justification for its removal have been provided to date.*

*The NPPF (2021), paragraph 200 makes clear that 'any harm to, or loss of, the significance of a designated heritage asset (from its alteration or destruction, or from development within its setting), should require clear and convincing justification'. Whilst applicants are required within paragraph 194 of the NPPF to provide an adequate assessment of the significance of any historic fabric which is to be removed or altered.*

*When making a decision on all listed building consent applications or any decision on a planning application for development that affects a listed building or its setting, a local planning authority must have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses. Preservation in this context means not harming the special interest of the building, as opposed to keeping it utterly unchanged. This obligation, found in sections 16 and 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990 (1), applies to all decisions concerning listed buildings. Under section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 they also have a duty to pay special attention to the desirability of preserving or enhancing the character or appearance of conservation areas.*

*The Group notes that the applicant's supporting documentation mentions that your authority has advised the applicant to obtain an assessment of the two-storey cottage via Historic England's Enhanced Advisory Service, this should be done before any decision is made on the cottage's future.*

## **5.7 Council for British Archaeology**

*This application does not meet the requirements of paragraphs 194, 195, 199 or 200 of the NPPF at present. We therefore recommend that it should be withdrawn and revised. The site requires a conservation-led approach to its regeneration based on an understanding of its significance. This should minimise interventions into the historic fabric of the buildings or alterations to its historic plan form.*

*Significance*

*The national importance of the application site is recognised by its designation at Grade II (NHLE No. 1249620). The short 18th century row of cottages with a shop contribute to the character of the Chatteris Conservation area and articulate the town's historic grain.*

*The site is in an advanced state of disrepair, meaning that its significance and contribution to the character and appearance of the conservation area could be better revealed. This will be best achieved through a conservation-led approach to the site.*

### *Comments*

*We note the detailed and authoritative comments provided by your Conservation Officer. As these tally closely with our own views on the application we do not propose to comment separately in detail. However we would like to offer our full support for the comments and recommendations provided by your Officer, in particular in relation to the insufficient information that accompanies this application at present and the need for a better understanding of the site's significance, justification for the extent of demolition and a more conservation-led approach to the Listed building. Creating parking provision and meeting building regulations do not constitute justification for the demolition of a listed building or the interventions that are currently proposed into historic building fabric. The historic plan form should be conserved in revisions to these proposals. Your Conservation Officer offers practicable alternatives to the current scheme, which the CBA support as far preferable for the conservation of the listed building's significance.*

*The CBA support the principle of redeveloping this very dilapidated site, however the current proposals do not meet the requirements of paragraphs 194, 195, 199 or 200 of the NPPF. In order to better meet these requirements the applicants may find this staged guidance on the necessary components of a Heritage Impact Assessment helpful – Heritage Impact Assessment in Wales. Despite being a Welsh planning document, it is underpinned by the same conservation philosophy towards the historic environment and listed buildings. It also relates to the same primary legislation – the Planning (Listed Buildings and Conservation Areas) Act 1990.*

### *Recommendation*

*The CBA recommend that this application should be withdrawn and revised in order to meet the requirements of national and local planning policies for the historic environment.*

*I trust these comments are useful to you; please keep the CBA informed of any developments with this case.*

## **5.8 Local Residents/Interested Parties**

7 supporting comments have been received (4 from Whaley's Yard, 1 from Church Lane within Chatteris and 2 from Eaton Estate within Wimblington) in relation to the following.

- Drawings sympathetic to original appearance
- Local landmark restored and made good
- Greatly enhance immediate surroundings and preserve for many years

- Sympathetic design
- Currently looks derelict and ready to fall down
- Should be rebuilt
- Safer to arrive/depart to neighbouring homes
- Plans appropriate for modern day living
- Historical building saved
- Parking space will allow occupants to charge their vehicles

2 letters of representation have been received (1 from Whaley's Yard and 1 from New Road, both within Chatteris) in relation to the following:

- Would like to see a way forward for this building as soon as possible
- Building subject to neglect
- Current owners presumably knew of the state of the building
- Long term harm to building
- NPPF 196 should be a prominent consideration
- Access must be granted to neighbouring properties at all time
- Any damage to neighbouring properties must be rectified at the expense of the applicant
- Glass to be obscured which faces neighbouring properties
- Perimeter of neighbouring properties must be secured at all times
- Trees must not be compromised
- Presences of bats
- Parking bay will cause overlooking
- Unacceptable for building to be left to further deteriorate
- Building is dangerous

## 6 STATUTORY DUTY

- 6.1. Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires a planning application to be determined in accordance with the Development Plan unless material planning considerations indicate otherwise. The Development Plan for the purposes of this application comprises the adopted Fenland Local Plan (2014).
- 6.2. Sections 66 and 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 require Local Planning Authorities when considering development to pay special attention to preserving a listed building or its setting and to the desirability of preserving or enhancing the character or appearance of a conservation area.
- 6.3. Section 16 of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires Local Planning Authorities in considering whether to grant listed building consent for any works to have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses.

## 7 POLICY FRAMEWORK

### National Planning Policy Framework (NPPF)

Para 8 – Achieving sustainable development

Para 47 – Planning law requires applications to be determined on accordance with the development plan unless material considerations indicate otherwise

Para 194 – Applicants are required to describe the significance of any heritage assets affected

Para 195 – LPAs should identify and assess significance of any heritage asset that may be affected

Para 196 – Deteriorated state of heritage assets should not be taken into account if due to deliberate neglect or damage.

Para 197 - LPAs should take account of desirability of sustaining the significance and positive contribution of heritage assets.

Para 199 - Removal or alteration of a historic statue, plaque, memorial or monument

Para 200 - Harm to or loss of significance of a heritage asset should require clear and convincing justification.

Para 201 - Substantial harm should result in refusal unless substantial public benefits outweigh it.

Para 202 - Less than substantial harm should be weighed against public benefits.

## **National Planning Practice Guidance (NPPG)**

Determining a Planning Application

## **National Design Guide 2019**

Context - C1,C2

Identity – I1

Built Form – B2

Movement – M3

Homes and Buildings – H2, H3

## **Fenland Local Plan 2014**

LP1 – A Presumption in Favour of Sustainable Development

LP2 – Facilitating Health and Wellbeing of Fenland Residents

LP14 – Responding to Climate Change and Managing the Risk of Flooding in Fenland

LP16 – Delivering and Protecting High Quality Environments across the District

LP18 – The Historic Environment

## **8 KEY ISSUES**

- **Principle of Development**
- **Heritage, Design and Visual Amenity**
- **Residential Amenity**
- **Highways/Parking**
- **Ecology**
- **Flood Risk**

## **9 BACKGROUND**

9.1. The cottages which are the subject of this application are on FDCs Building at Risk Register. A S.77 Building Act (1984) Notice was served on the building on 22nd March 2019, stating that the central and side chimney stacks were to be removed below the roof line; loose roof tiles to be removed; internal props were to be checked; restraints added to the walls. Unauthorised works were carried out following the serving of this notice and all works ceased on site following planning enforcement intervention.

## **10 ASSESSMENT**

## **Principle of Development**

- 10.1. These applications propose a change of use to the Listed Building at 130 High Street, Chatteris. The works will involve the conversion of the shop/dwelling to 1 x dwelling (2-storey, 2-bed) involving the partial demolition of the existing dwelling.
- 10.2. Chatteris is designated as a market town, where the majority of the district's new housing development should take place in accordance with Policy LP3. Policy LP16 supports the principle of such development subject to the significance of, and the likely impact upon, the amenity of neighbouring properties and users in its design and appearance. Policy LP18 supports the principle of such development subject to the development having no adverse impacts on the Grade II Listed Building or its setting. The broad principle of development for the change of use to residential is considered acceptable subject to policy considerations set out below.

## **Heritage, Design and Visual Amenity**

- 10.3. The application includes the demolition of the existing two-storey cottage to the rear. Significant internal works are proposed to the remaining buildings to enable 2 bedrooms, living/dining room, kitchen and shower room to be provided at ground floor level, with storage and a mezzanine floor (with ladder access) to be utilised as a study.
- 10.4. No 130 High Street and 1 & 2 Whalley's Yard are a late 18<sup>th</sup> century row of houses, with small shop to the east gable end. The whole range of buildings was included on an early list of Buildings of Local Interest in Chatteris, and the 2-storey cottage is attached to the Listed Building and was in existence and in the same ownership at the time of listing. It is therefore considered to be within the curtilage of the Listed Building and is afforded the same legal protection.
- 10.5. Under the Planning (Listed Buildings and Conservation Areas) Act 1990 the Council has a legal duty to have special regard to the desirability or preserving a Listed Building, or any of its features, when considering whether to grant Listed Building Consent. Furthermore, in deciding whether to grant planning permission which affects a Listed Building or its setting, the Council has a legal duty to have special regard to preserving a Listed Building or its setting; and in deciding whether to grant planning permission for development in a Conservation Area, the council has a legal duty to pay special attention to the desirability of preserving or enhancing the character or appearance of the Conservation Area.
- 10.6. Policies LP16 and LP18 of the Fenland Local Plan seek to protect and enhance heritage assets. Chapter 16 of the NPPF 2021, C1, C2, I1 and B2 of the NDG 2021 are also relevant.
- 10.7. Paragraph 195 of the NPPF states that Local Planning Authorities should identify and assess the particular significance of any heritage asset that may be affected by a proposal (including by development affecting the setting of a heritage asset) taking account of the available evidence and any necessary expertise. They should take this into account when considering the impact of a proposal on a heritage asset, to avoid or minimise any conflict between the heritage asset's conservation and any aspect of the proposal.
- 10.8. Paragraph 196 of the NPPF states that where there is evidence of deliberate neglect of, or damage to, a heritage asset, the deteriorated state of the heritage asset should not be taken into account in any decision.

10.9. Paragraph 197 of the NPPF states that in determining applications, local planning authorities should take account of:

- (a) the desirability of sustaining and enhancing the significance of heritage assets and putting them to viable uses consistent with their conservation;
- (b) the positive contribution that conservation of heritage assets can make to sustainable communities including their economic vitality; and
- (c) the desirability of new development making a positive contribution to local character and distinctiveness.

10.10 Paragraph 199 of the NPPF states when considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation (and the more important the asset, the greater the weight should be). This is irrespective of whether any potential harm amounts to substantial harm, total loss or less than substantial harm to its significance.

10.11 Paragraph 200 of the NPPF states that any harm to, or loss of the significance of a designated heritage asset should require clear and convincing justification.

10.12 Paragraph 201 of the NPPF states that where a proposed development will lead to substantial harm to (or total loss of significance of) a designated heritage asset, local planning authorities should refuse consent, unless it can be demonstrated that the substantial harm or total loss is necessary to achieve substantial public benefits that outweigh that harm or loss, or all of the following apply:

- (a) the nature of the heritage asset prevents all reasonable uses of the site; and
- (b) no viable use of the heritage asset itself can be found in the medium term through appropriate marketing that will enable its conservation; and
- (c) conservation by grant-funding or some form of not for profit, charitable or public ownership is demonstrably not possible; and
- (d) the harm or loss is outweighed by the benefit of bringing the site back into use

10.13 The justification provided of the loss of the 2-storey cottage is put forward as the benefit of the provision of two-parking spaces (the standard of these spaces is discussed later in the report) as well as internal alterations to meet with current building regulations. There is an existing under provision of parking space on site and therefore there would be no reasonable requirement to insist on parking provision being required and therefore a single dwelling on site could be achieved with less impact and no parking provision. With regard to the alterations to meet with current building regulations, there is no requirement for Listed Buildings to meet with current building regulations. The NPPF defines substantial harm as total loss of significance. Based on the information provided, the demolition of the 2-storey end cottage only (as a curtilage element to the principal listed building) would result in less than substantial harm to the significance of the principle listed building. Notwithstanding this, in accordance with Paragraph 202 of the NPPF, it is not considered that the proposal to demolish the 2-storey element is sufficiently outweighed by public benefit to justify that harm given that a single dwelling could be achieved on site with less impact. The type and extent of the works and alteration to the principal cottage currently proposed amount to substantial harm to the historic fabric of the Listed Building and thus its significance. The demolition of the 2-storey cottage in addition to the proposed works to the principal cottage, would demonstrably contribute to that level of harm.

10.14 Whilst the principle of conservation led regeneration by conserving and returning the building to residential use is wholly supported, there is insufficient detail

submitted within both applications to accurately assess the impact of the proposal on the special interest of the Grade II Listed Building. The necessary stabilisation of the walls and reinstatement of the roof are supported in principle, however more detailed information is required with regard to the methodology of these proposals so an assessment can be made regarding their impacts on the special interests of the building. Other elements of the proposal require more information in order to assess whether the principle of development is supported; these include raising ceiling heights, installation of a ring beam and thermal improvements to the building. The loss of ceilings, installation of a DPC and ventilation system, use of plasterboard, alteration to plan form and total demolition of the 2-storey cottage are not supported in principle or require further and clear justification. The total loss of stacks and chimney breasts from the kitchen and a schedule of works to any joinery are missing from the application entirely. Without the submission of these additional details, the application as it currently stands is contrary to Paragraph 200 of the NPPF.

10.15 A S.77 Building Act (1984) Notice was served on the building on 22<sup>nd</sup> March 2019. The notice stated that the central and side chimney stacks were to be removed below the roof line; that loose roof tiles were to be removed; internal props were to be checked; with restraints added to the walls. The chimneys were removed below the roof line, with all building rubble left in the roof space adding weight to the building. The roof was also stripped in its entirety and ceilings removed along with staircase from the end cottage. These works were considered to be unauthorised and works ceased on site. The roof remained without covering and all internal walls and finishes were exposed to considerable rainfall and weathering for a number of years. Engagement with the Enforcement Team was required in order to secure a covering for the roof, and sheets and battens applied, however this has not been maintained, leading to further weathering and total saturation of the building. This has therefore resulted in the whole of the roof structure being beyond salvage, with ongoing saturation to walls and internal ceilings and finishes. The building has therefore been subject to neglect and damage. In accordance with Paragraph 196 of the NPPF, the deteriorated state of the building cannot be taken into account in the decision of these applications.

10.16 The harm to the heritage asset is considered to be substantial and in accordance with Paragraph 201 of the NPPF, the applications should be refused unless it can be demonstrated that substantial harm is necessary to achieve substantial public benefits that outweigh that harm. Given that a minimal alternative can be achieved (as detailed in FDC Conservation comments) and no information has been provided to illustrate that this alternative would not be viable, it has not been demonstrated that the level of substantial harm is necessary. Paragraph 201(a) cannot be met as Paragraph 196 applies in this instance; 201(b) cannot be met as Paragraph 196 applies and the site has been marketed; 201(c) has not been met, as no information has been submitted to illustrate this and 201(d) has not been met as a minimal harm alternative scheme could be developed that would achieve the same or better outcome in terms of both residential provision and in terms of giving great weight to the conservation of the heritage asset.

10.17 It has been illustrated to the applicants that an alternative scheme could be developed which minimises the harm arising from the demolition and alterations proposed. To approve anything over and above this would not take into account the desirability of sustaining and enhancing the significance of heritage assets and putting them to viable uses consistent with their conservation, contrary to Paragraph 197(a) of the NPPF.

10.18 It should be noted that Paragraph 197(b) of the NPPF, (the positive contribution that conservation of heritage assets can make to sustainable communities including their economic viability) can be met with a proposal that would also meet the requirements of Paragraph 195 of the NPPF (that of avoiding or minimising conflict between conservation and a development proposal).

10.19 It is therefore considered that the current proposal results in substantial harm to the significance of the Grade II Listed Building and its setting. Without additional clear justification, it is considered that the works proposed would have a significant detrimental impact upon the special interest of the Grade II Listed Building and as such, the scheme is considered to be contrary to both the NPPF and Policies LP16 and LP18 of the Fenland Local Plan 2014.

### **Residential Amenity**

10.20 To the north of the site is a detached 2-storey dwelling, separated from the application site by a driveway. Given that there are no additions to the existing footprint proposed, nor are there no proposed increases in roof height, it is unlikely that the development proposed would adversely impact upon this neighbouring property by overbearing or overshadowing impacts. No additional fenestration is proposed on the north facing elevation and therefore there are no overlooking issues to address.

10.21 To the west of the site is a 2-storey detached dwelling, situated approximately 13 metres from the host dwelling. As aforementioned, given that there are no additions to the existing footprint of the dwelling and no increases in roof height, the development will not introduce any overbearing or overshadowing impacts. No additional fenestration is proposed facing west and therefore there are no overlooking issues to address.

10.22 There is currently no private amenity space provided on site. The demolition of the 2-storey element to the rear would result in a parking and bin area and therefore does not include the provision of private residential amenity space. Policy LP16(h) seeks to secure 1/3 of the plot for private amenity space, however given that the existing building could be reinstated for residential use, without the provision of any residential amenity space, a legacy of the historic situation, it would be unreasonable to refuse the application on this basis.

### **Highways/Parking**

10.23 The site utilises the existing shared access to the south of the site with 1 parking space provided in the area of the proposed demolition. Highways were not consulted as part of this application, as the development does not propose any intensification of the use of the site.

10.24 Appendix A of the Local Plan states that 2 parking spaces should be provided on site for dwellings with up to 3 bedrooms. There is clearly an existing under provision of car parking in relation to the site, a legacy of the historic situation, and as such there would be no reasonable requirement to insist on parking provision being required. The spaces shown are considered to be inadequate in terms of their length, width and manoeuvring space. However, given the current arrangements this is not considered to be justifiable as a reason for refusal.

### **Ecology**

10.25 The applications were submitted with a biodiversity checklist completed by an ecology professional which answered all questions regarding protected species on the site in the negative.

### **Flood Risk**

10.26 The application site falls within Flood Zone 1 (low risk) and as such the proposal is considered to be appropriate development and does not require the submission of a flood risk assessment or inclusion of mitigation details. Issues of surface water will be considered under Building Regulations; accordingly there are no issues to address with regard to Policy LP14.

## **11 CONCLUSIONS**

11.1 Whilst the principle of conservation led regeneration by conserving and returning the building to residential use is wholly supported, the proposals as they currently stand are considered to cause substantial harm to the heritage asset due to the type and extent of the works and alterations to proposed to the principal cottage in conjunction with the demolition of the 2-storey cottage. No clear and convincing justification has been submitted to evidence that there is sufficient public benefit in the current proposal that could be weighed against the identified harm, particularly when a minimum intervention option exists.

11.2 Given this clear conflict with the relevant policies, it is considered that to grant the applications would be indicative of a failure by the Council to fulfil its duties under Sections 16, 66 and 72 of the Planning (Listed Buildings and Conservation Area) Act 1990.

## **12 RECOMMENDATION**

**Refuse;** for the following reasons:

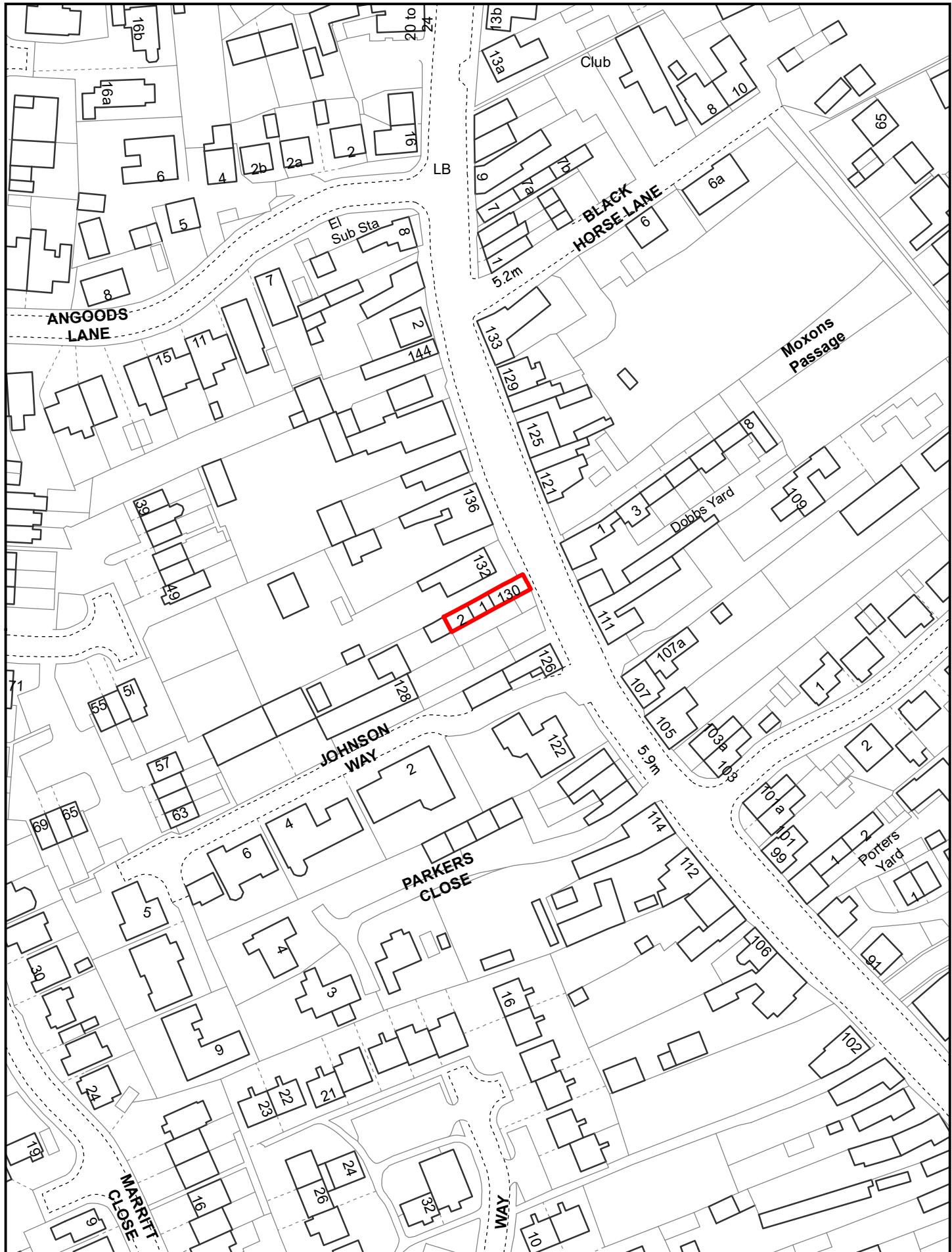
**F/YR22/0217/LB**

1.	<p>Policies LP16 and LP18 of the Fenland Local Plan, paragraphs 195, 196, 197, 199, 200, 201 and 202 of the NPPF 2021 seek to protect and enhance heritage assets, avoid or minimise conflict between conservation and development, sustain and enhance the significance of heritage assets whilst putting them to viable use consistent with their conservation, ensuring any harm to or loss of significance to a designated heritage asset is clearly and convincingly justified and that where that harm is substantial, it can be demonstrated that the substantial harm or total loss is necessary to achieve substantial public benefit that outweighs that harm or loss.</p> <p>The proposed works are considered to cause substantial harm to the heritage asset due to the demolition of the attached curtilage structure and unnecessary and unjustified internal works to the listed building when a more sensitive approach could be taken. The application has provided inadequate assessment of the significance of the heritage asset and the impact of the proposed works upon this and has provided no clear or convincing justification that there is the necessary substantial public benefit which would outweigh the substantial harm to the heritage asset</p>
----	---

should consent be approved.

**F/YR22/0218/F**

1	<p>The principle of conservation led regeneration of this site is wholly supported. However, the submitted application has inadequately assessed the significance of the heritage asset and the impact of the proposed development upon this and would, through the demolition of the attached building, (listed by virtue of its curtilage relationship/designation) and unjustified and unnecessarily excessive structural works to the principal listed building, cumulatively result in substantial harm to the heritage asset. This level of harm is not outweighed by any requisite substantial public benefit which would justify granting the application.</p> <p>The development is therefore contrary to policies LP16 and LP18 of the Fenland Local Plan 2014, and Paragraphs 195, 196, 197, 199, 200, 201 and 202 of the NPPF.</p>
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Created on: 09/03/2022

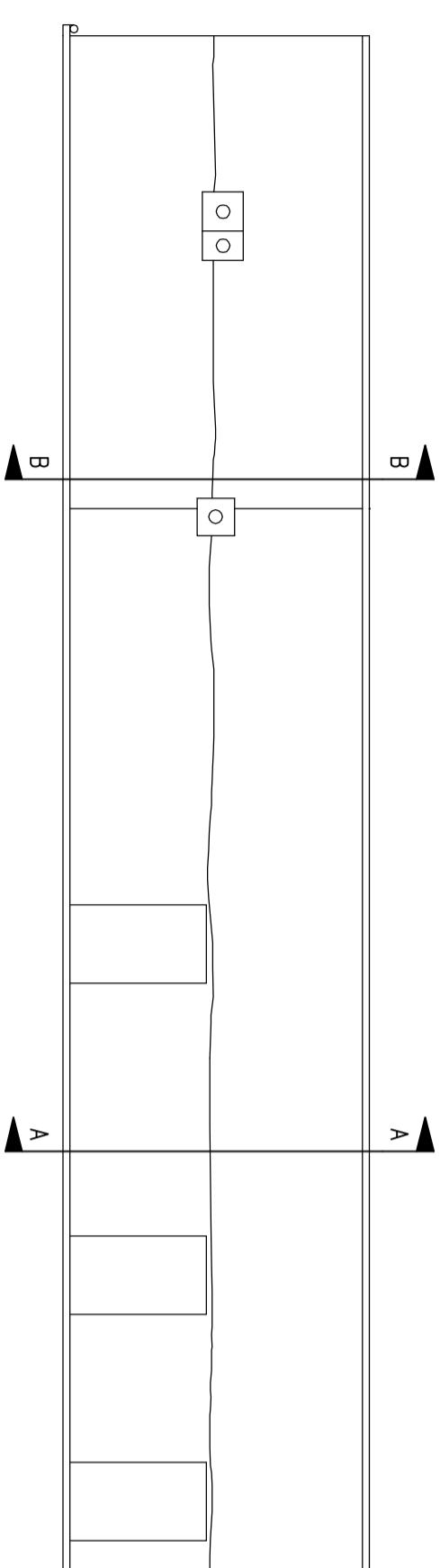
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**F/YR22/0217/LB**  
**F/YR22/0218/F**

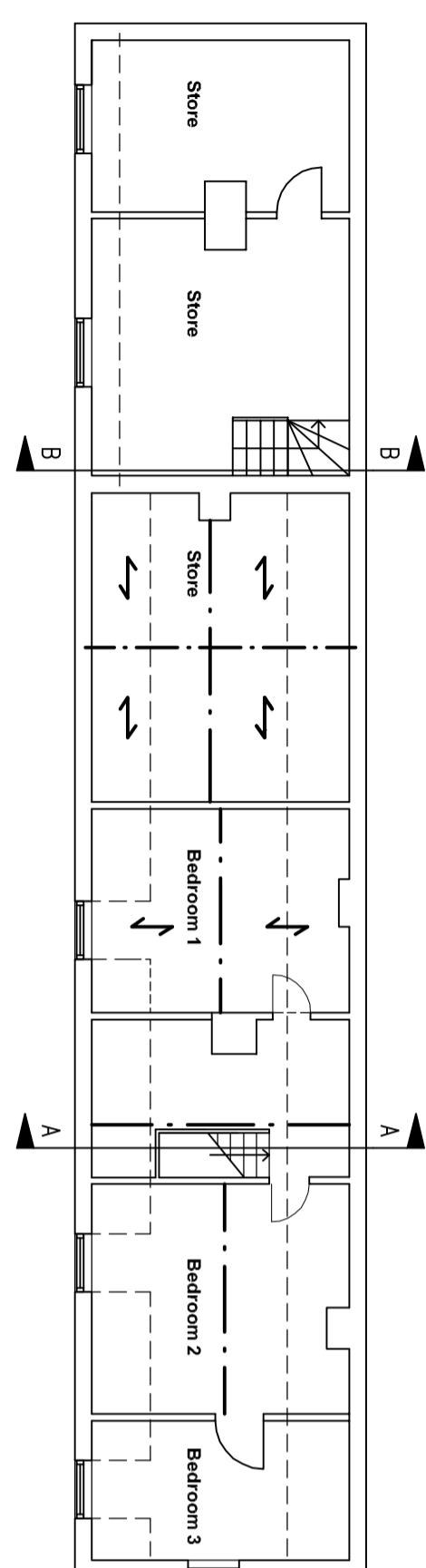
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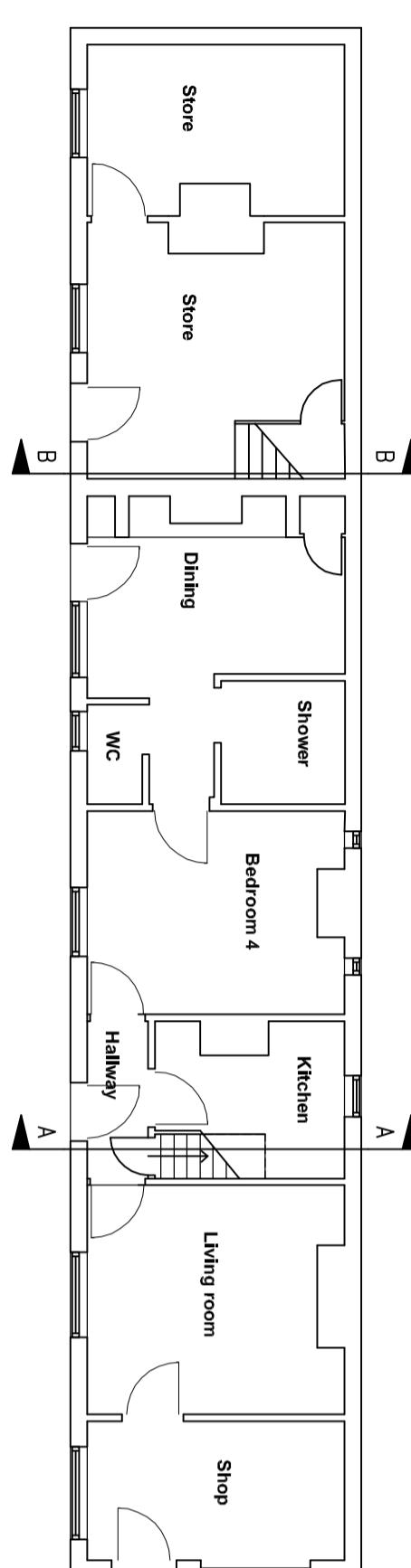
  
Fenland  
CAMBRIDGESHIRE  
Fenland District Council



ROOF PLAN



FIRST FLOOR



GROUND FLOOR  
Room functions are taken from plans dated October 2015  
in The Morton Partnership report of December 2019

Scale bar 1:100

0  
1 Metre  
4  
8



LOCATION PLAN 1:1250

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Ordnance Survey 0100031673



Scale bar 1:1250

0  
25  
50



LOCATION PLAN 1:1250

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BLOCK PLAN 1:500

Scale bar 1:500

0  
5  
10  
15  
20

Scale bar 1:500

0  
5  
10  
15  
20

JOB		DWG No		Rev				
B	080	201	B					
DWG TITLE								
Existing Location Block and								
Floor Plans			Drawn/Date					
SIZE / SCALE		TG 10.21						
A2 / 1:100		TG 10.21						

KEY

Application site

First floor structure

Main beams

Intermediate beams

Joist direction

Alterations and demolitions

Underground soil and rainwater drain

BLOCK PLAN 1:500

Scale bar 1:500

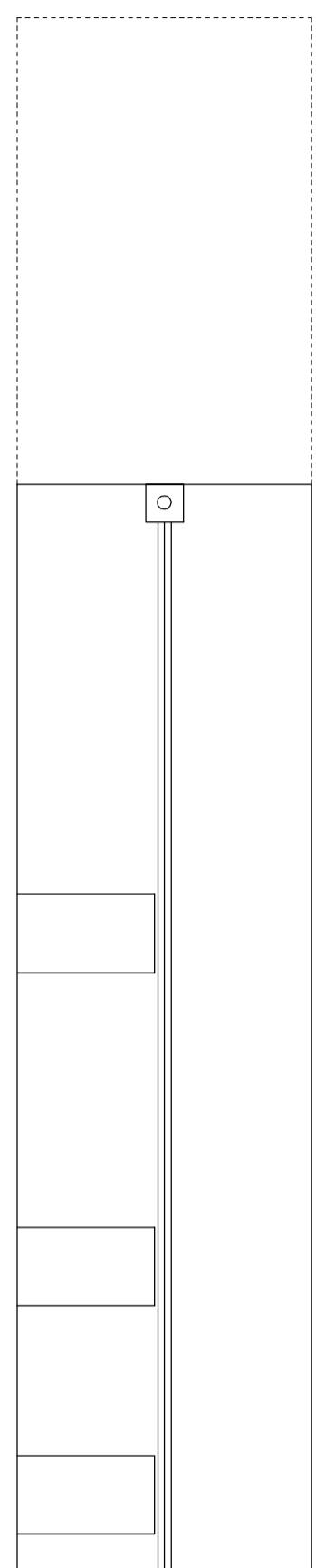
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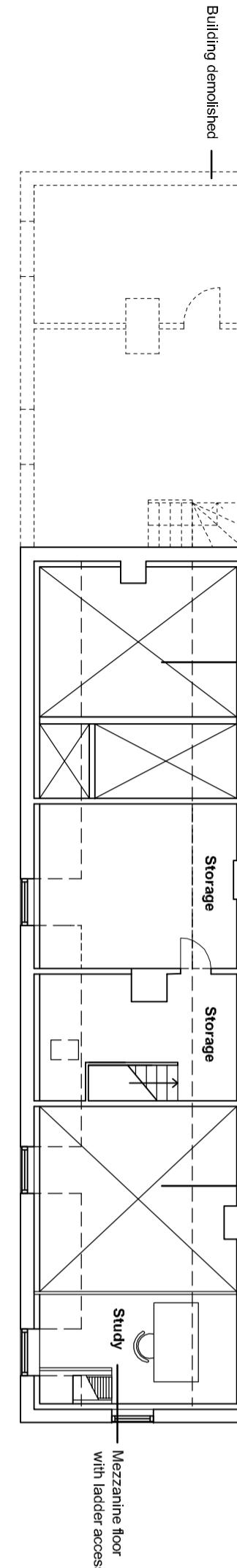
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SIZE / SCALE		TG 10.21						
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## ROOF PLAN

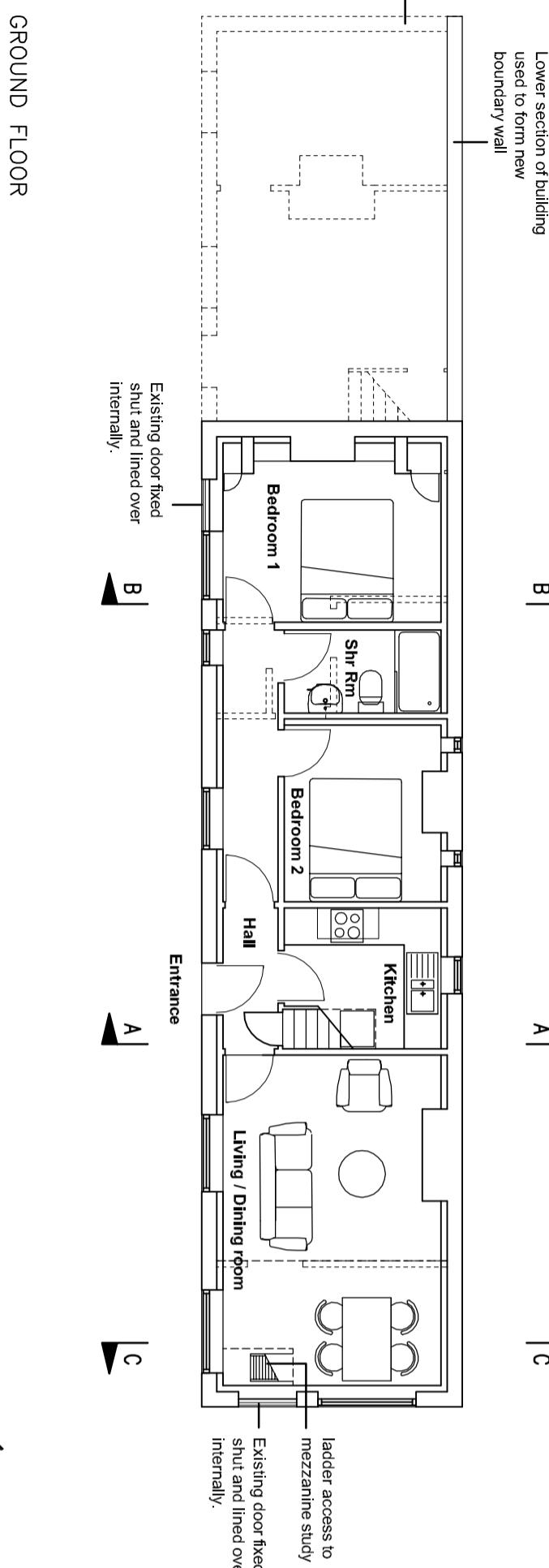


B  
Vaulted ceiling over  
Bedroom 1 and bathroom  
A  
Vaulted ceiling over  
Living room  
C  
Mezzanine floor  
with ladder access

Building demolished



## FIRST FLOOR



## GROUND FLOOR

Scale bar 1:100

0  
1 Metre

4

8



KEY see drawing 080 201

## BLOCK PLAN 1:500



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Ordnance Survey 0100031673



Scale bar 1:500  
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10  
15  
20

Scale bar 1:100  
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15  
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**JOB**  
**Whaley's Yard 130 High Street**  
**Chatteris PE16 6NN**  
**Conversion**

DWG No 080

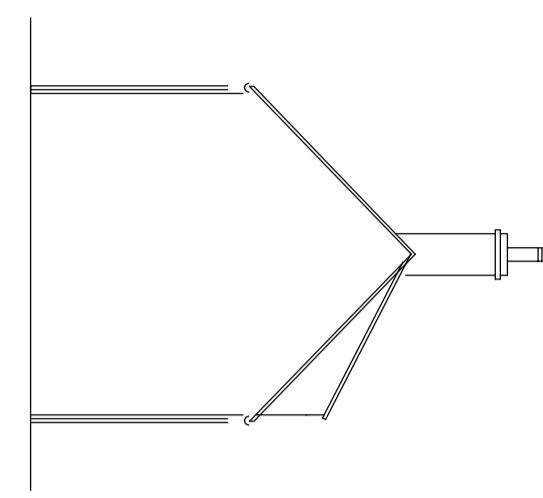
Rev B

DWG TITLE

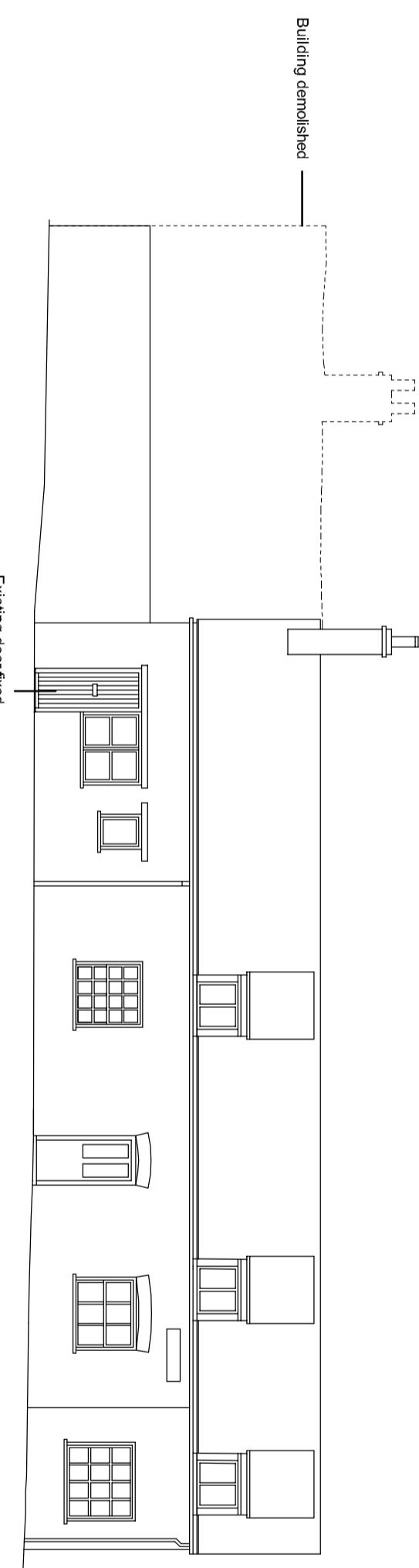
**Proposed Block and Floor**  
**Plans**

**SIZE / SCALE** Drawn/Date  
A2 / 1:500, 1:100 TG 12.21

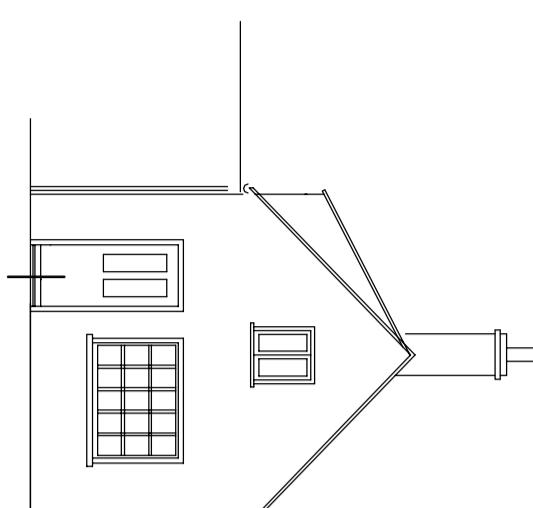
KEY see drawing 080 201



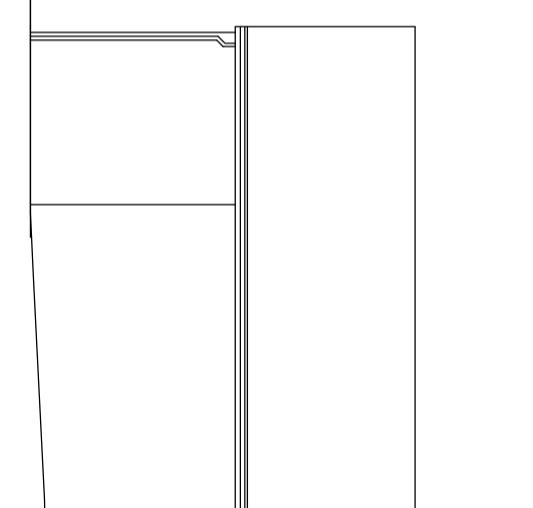
WEST ELEVATION



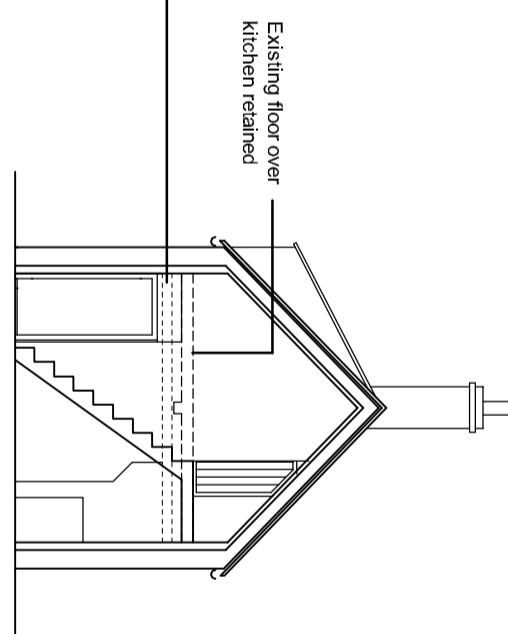
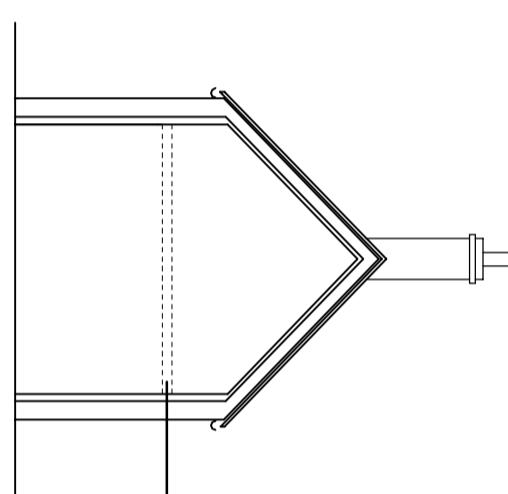
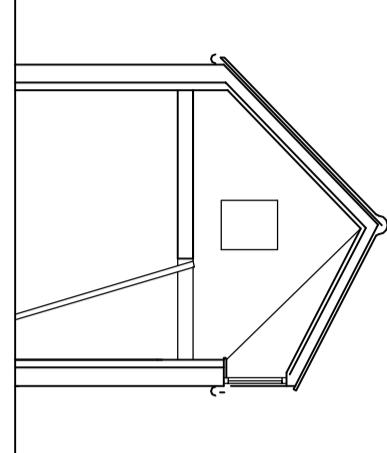
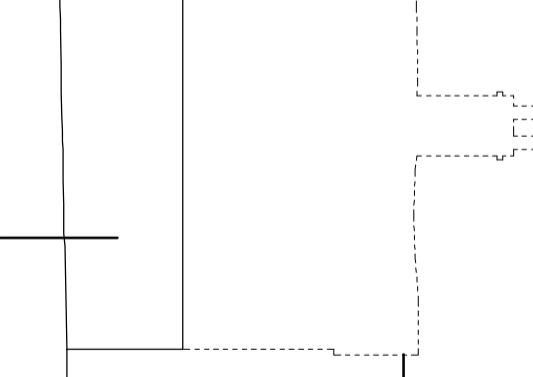
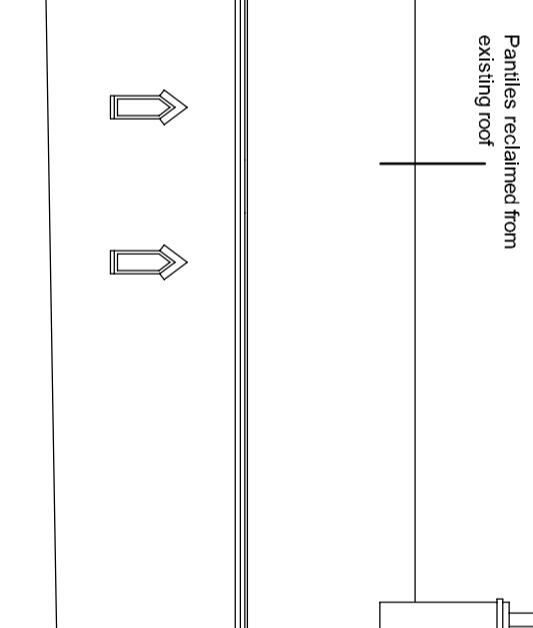
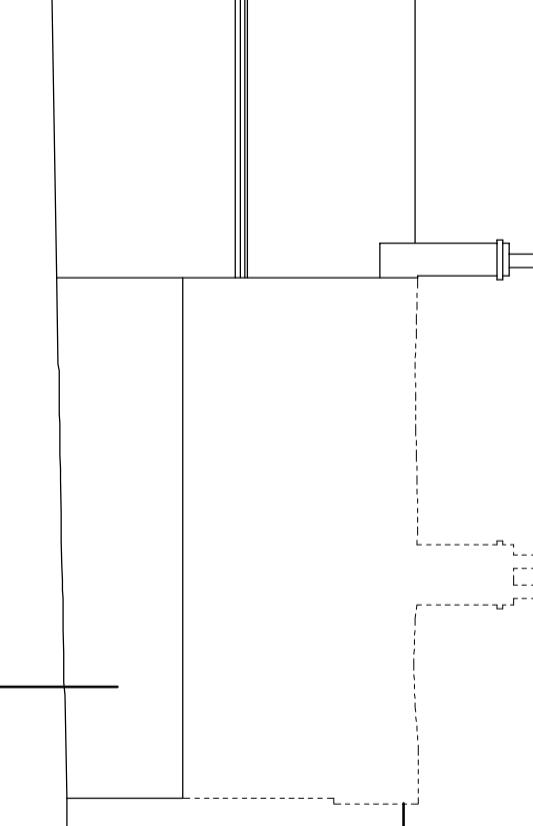
SOUTH ELEVATION



EAST ELEVATION



NORTH ELEVATION



SECTION C - C

SECTION B - B

SECTION A - A

Scale bar 1:100

0

1 Metre

4

8

**JOB**  
**Whaleys Yard 130 High Street**  
**Chatteris PE16 6NN**  
**Conversion**

**DWG No** 080 **Rev** B

**SIZE / SCALE** A2 / 1:100 **Drawn/Date** TG 12.21

**DWG TITLE**  
**Proposed Elevations and**  
**Sections**

SECTION C - C