
F/YR19/0556/VOC

**Applicant: Mr J Myles
Colville Construction**

**Agent : Mr Nigel Lowe
Peter Humphrey Associates Ltd**

Land North Of, Henry Warby Avenue, Elm,

Variation of condition 2 (imposition of a condition listing approved plans) of appeal decision APP/D0515/W/16/3148821 relating to planning application F/YR15/0614/F (Erection of 30 x 2-storey dwellings comprising; 21 x 2-bed and 9 x 3-bed) to enable the erection of 30 x dwellings comprising; 12 x 3 bed dwellings and 18 x 2-bedroom dwellings.

Reason for Committee: Level of objections received contrary to the Officer recommendation

1 EXECUTIVE SUMMARY

- 1.1 This application seeks to regularise the plan schedule in order to reflect the original 30-dwelling scheme originally proposed, as opposed to the plans listed in the appeal decision letter issued by the Planning Inspectorate.
- 1.2 There are no impacts associated with the re-issue of a decision which is largely seen as a procedural remedy. All material considerations pertinent to national and local planning policy, including viability, highway safety, visual and residential amenity have been previously considered and as such there would be no justifiable reason to withhold consent; whilst it is appreciated that this application has prompted a number of objections from the local community no matters are raised which would warrant refusal of the scheme against the backdrop of the earlier appeal decision.
- 1.3 As part of the submission the applicant has sought to provide details to satisfy the submission element of the pre-commencement conditions imposed by the Planning Inspector to negate the need for such conditions to be re-imposed.
- 1.4 To address the infrastructure requirements of the scheme it is intended that the applicant will enter into a legal agreement in respect of affordable housing and waste contributions.

2 SITE DESCRIPTION

- 2.1 Greenfield site with extant consent for residential development, located to the north of Henry Warby Avenue (HWA) and south of Abington Grove, to the eastern boundary is the village cemetery and residential development which forms part of HWA; to the west is Atkinson's lane which is a byway.

3 PROPOSAL

- 3.1 It is noted that the original submission under F/YR15/0614/F proposed a total of 30 dwellings, albeit the breakdown specified, i.e. 21 x 2-bed and 9 x 3-bed was incorrect in that amended plans were provided during the consideration of the scheme proposals to secure an enhanced layout. This resulted in a scheme of 30 dwellings comprising 12 x 3-bed dwellings and 18 x 2-bed dwellings and it was that scheme that was considered by the Local Planning Authority when arriving at their decision.
- 3.2 Subsequent to this an incorrect plan was submitted along with the appeal documentation, this detailed a scheme of 20 dwellings comprising 2 x 4-bed, 8 x 3-bed and 18 x 2-bed dwellings.
- 3.3 The current scheme proposals returns back to the 30 dwellings originally proposed, i.e. 12 x 3 bed dwellings and 18 x 2-bedroom dwellings. These dwellings entirely accord with the layout considered by the Planning Inspectorate in terms of Plots 1 - 26; however the 2 detached dwellings shown as plots 27 and 28 are supplemented for 4 x 3 bed units with a similar position and footprint within the layout.

Full plans and associated documents for this application can be found at:
<https://www.fenland.gov.uk/publicaccess/simpleSearchResults.do?action=firstPage>

4 SITE PLANNING HISTORY

F/YR19/3070/COND	Details reserved by conditions 3, 4, 5, 7, 8 and 11 of appeal decision APP/D0515/W/16/3148821 relating to planning application F/YR15/0614/F	Pending
F/YR15/0614/F	Erection of 30 x 2-storey dwellings comprising; 21 x 2-bed and 9 x 3-bed	Refused 11/02/2016
Appeal 16/00019/REF	Erection of 28 / 30 dwellings (see Appeal decision)	Allowed 19/09/2016
F/93/0350/F	Erection of 26 houses with garages (comprising 14 x 2-bed semi-detached; 10 x 3-bed semi-detached and 2 x 3-bed detached)	Refused 22/09/1993

5 CONSULTATIONS

Local Residents/Interested Parties: 12 letters of objection have been received from 10 households

Design, Character and Amount

- Density/Overdevelopment/Design and Appearance
- This is such a tiny plot of land and to try and squeeze 2 more houses from 28 to 30 is ridiculous
- Consider development should not take place at all, however if it is given it should

be on a smaller scale with a range of property sizes so it is in keeping with the estate and doesn't harm the character of the area.

- Out of character/not in keeping with area
- Since the original planning, there has been so much building in Elm and towards Friday Bridge that now the two villages have merged into one.
- The current residential area of Henry Warby Avenue and Pear Tree Way and Orchard Close is situated over a much larger area and is a mixture of semi-detached houses, detached houses and bungalows and are all spread out over different angles and give the feeling of openness and the properties do not feel on top of one another.
- Current estate is a mix of 2, 3 and 4 bed and already quite densely built the proposed add on it far more dense
- Surely it is better to allow smaller development over a period of time which then allows the village time to absorb the impact of additional families and vehicles into village life, rather than one great big hit of 30 properties; considerable number of homes built in the village and smaller developments in the pipe line.
- Visual impact/Loss of view/Outlook
- Let's not spoil [Elm] by over-development
- Residential amenity
- Proximity to property

Access, Traffic and highways

- *Consider entrance to estate will be dangerous as the turning into that part of the road isn't very wide*
- Parking arrangements
- *Additional traffic find an alternate entry point from a road such as Wells Bank where you would actually improve a road or don't build.*
- Will just make [road condition] much worse' issues with on-street parking on the estate road.
- *It's only a matter of time until someone has an accident*
- Access via Henry Warby Avenue is a totally shambolic concept causing disruption to current residence and havoc on the roads during construction and beyond
- no point was I ever informed that there was potential to increase traffic on the estate due to expansion
- *It is inconceivable that more houses resulting in even more traffic (approx 60 cars at 2 cars per house) will be shoe-horned onto this road as there is only one access road to this proposed development, which is already heavily congested by on-street parking making it single file*
- access to these houses would increase traffic through an already busy estate an accident waiting to happen

- Doesn't comply with policy
- Outside DAB
- Would set a precedent
- *With planning consent given for Gosmoor and land behind the sportsman do we really need more houses*
- Light pollution, waste and litter
- Flooding
- Anti-social behaviour, Noise
- *Elm is already overpopulated for the few amenities available*
- Local services schools unable to cope
- Devaluation; *access route would also decrease the value of the homes, especially in Henry Warby Avenue*
- *Totally object, did before and will continue to do so. Laughable totally laughable.*

- *This has already been rejected on more than one occasion*
- *Object to this application vehemently. Elm is in contrast to nearby Wisbech a quiet, relatively traffic free, underpopulated area.*
- *As you drive from Wisbech into Elm the change is dramatic and it's residents do not need such a substantial and significant influx of housing with its accompanied increasing of its population*
- The original application was denied in 2016 and I hope that it is once again denied.
- *'This is not a because [it] will benefit local residents in any way shape or form but an opportunity for someone to make money at the expense of current residence. therefore suggest as council you listen to what the residents say for change or find jobs you are more suited to allowing us to get the right people for the job.'*
- Have recently moved a few months ago into house no 14 Henry Warby Avenue and thus was not able to voice my objections to the initial application

Trees, Environmental and Wildlife concerns

- there is a range of wildlife in the trees to be felled (numerous species of birds, bats and hedgehogs)
- Why are we destroying even more of their habitat

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).

7 POLICY FRAMEWORK

7.1 National Planning Policy Framework (NPPF)

Para. 2 - Applications should be determined in accordance with the development plan, unless material considerations indicate otherwise

Para. 10 - Presumption in favour of sustainable development

Para. 12 - Presumption in favour of sustainable development does not change the statutory status of the development plan as the starting point for decision making

Para. 47 – All applications for development shall be determined in accordance with the development plan, unless material considerations indicate otherwise

Chapter 14 - Meeting the challenge of climate change, flooding and coastal change

7.2 National Planning Practice Guidance (NPPG)

7.3 Fenland Local Plan 2014

LP1 - A Presumption in Favour of Residential Development

LP3 - Spatial Strategy, the Settlement Hierarchy and the Countryside

LP12 - Rural Areas Development Policy

LP14 - Responding to climate change and managing the risk of flooding in Fenland

LP15 - Facilitating the creation of a more sustainable transport network in Fenland

LP16 - Delivering and Protecting High Quality Environments across the District

LP19 - The Natural Environment

8 KEY ISSUES

- **Principle of Development**
- **Scheme differences**

- **S106/Unilateral Undertaking**

9 BACKGROUND

9.1 The LPA originally refused planning permission for 30 dwellings on the above site under F/YR15/0614/F for the following reasons:

- (1) Policy LP3 provides that the majority of housing growth will be in and around the market towns and allows for a small amount of development at limited growth villages. Policy LP12 Part A provides that if proposals within or on the edge of a limited growth village, in combination with other development built since April 2011 and committed to be built, increase the number of dwellings in the village by 10% then the proposal should have demonstrable evidence of clear local community support for the scheme and if, despite a thorough pre-application consultation exercise, demonstrable evidence of support or objection cannot be determined, then there will be a requirement for support from the relevant Parish Council. The proposal, in combination with the number of built and consented dwellings within the village of Elm since April 2011 would exceed the 10% threshold set out in Policy LP12 Part A of the Fenland Local Plan 2014 and the application is not considered to include demonstrable evidence of clear local community support for the scheme. Consequently the proposed development is contrary to Policy LP3 and Policy LP12 Part A of the Fenland Local Plan 2014.
- (2) Policy LP16 part (e) requires all development to ensure that the amenities of neighbouring users are not adversely impacted upon in terms of noise, light pollution, loss of privacy and loss of light. The proposed access into the development is located in close proximity to existing dwellings, namely 38, 40, 42, 44 and 46 Henry Warby Avenue, and due to the large number of dwellings proposed, the development will result in a large number of traffic movements which would adversely impact on these properties in terms of noise and disturbance. As such the proposal is contrary to Policy LP16 part (e) of the Fenland Local Plan, 2014.
- (3) Policy LP5 of the Fenland Local Plan, 2014, requires all housing development sites of 5 or more dwellings to provide affordable housing. On schemes of more than 10 dwellings an affordable housing contribution of 25% of the dwellings is required. The applicant has failed to enter into a Section 106 Agreement and as such the requirements of LP5 have not been met in this instance.
- (4) Policy LP13 of the Fenland Local Plan, 2014, requires development to either provide, or make a contribution to, local and strategic infrastructure. This development is required to contribute to local education and waste facilities. The applicant has failed to enter into a Section 106 Agreement to secure these contributions and as such the requirements of LP13 have not been met in this instance.

9.2 The application was subsequently the subject of a Planning Appeal which was determined by the Planning Inspectorate in September 2016; at which time the Inspector allowed the appeal; noting that:

- (i) The increased levels of traffic would not harm the living conditions of the occupiers of neighbouring properties by reason of significant increased levels of noise and disturbance.

- (ii) *'No objections were raised [by the Local Highways Authority] with regard to traffic generation and any parking problems arising from the development on Henry Warby Avenue. Furthermore, it was commented that the access width to the development is acceptable. Although [the Inspector] note[d] the concerns on residents on these matters, there [was] no compelling evidence to point to highway safety issues and therefore [...] no reason to disagree with the District Council on the acceptability of proposal in highway safety terms.'*
- (iii) A unilateral undertaking had been submitted which secured 'a contribution of £15,000 towards the provision of off-site affordable housing, £40,000 towards the provision of education facilities and £5,000 towards waste management. Additionally, there is a monitoring contribution of £1,500.' The Inspector found that the unilateral undertaking in so far as it related to affordable housing contributions and waste contributions were fully justified and would be fairly and reasonably related in scale and kind to the development; therefore meeting the tests of Regulation 122 of the Community Infrastructure Regulations (CIL) 2010 (as amended). The inspector having considered revised birth rate predications did not accept that the education contributions specified were justified as reduced birth rates had freed up capacity at the local school, it was also found that the monitoring contributions specified did not meet the CIL tests.
- (iv) In considering the appropriateness of the site for development and the plans put forward the Inspector noted that there was a lack of clear demonstrable evidence of support, however there was also a lack of identified adverse impacts. It was considered that the proposal did not conflict with the strategy of delivering sustainable growth, and the Inspector concluded that *'looking at the development plan in the round, the proposal would comply with it as a whole.'*

9.3 In essence the application seeks to supplement the plans listed in the plan schedule on the original consent that was allowed at appeal, as whilst the description of development on the Inspectors decision letter referenced 30 houses the site plan that was approved, referred to at condition 2, was for 28 dwellings. Whilst the applicant's representatives approached the Planning Inspectorate to seek an amended decision letter, sometime later, they referred the applicants representatives back to the Local Planning Authority to resolve.

10 ASSESSMENT

Principle of Development

10.1 The original application considered by the District Council and subsequently by the Planning Inspectorate detailed a development of 30 dwellings; in the appeal statements submitted by the appellant's representatives and that submitted by the Local Planning Authority again there were clear references to a 30 dwelling scheme. Accordingly it is clear that the principle of the development shown is clearly acceptable and policy compliant as it has been accepted by the Planning Inspectorate as such; this being the overriding material planning consideration in the assessment of this submission.

Scheme differences

- 10.2 The change relates to the south-western corner of the site and the approved plan shows two detached properties with garaging at Plots 27 and 28; whilst the plan now proposed (which was originally considered as part of the 2015 application), shows 2 pairs of semi-detached dwellings (Plots 27 - 30).
- 10.3 Again it is contended that both the LPA and the Planning Inspectorate would have evaluated the impacts of a 30-dwelling scheme and whilst the comments of the local residents are noted there could be no reasonable grounds to withhold a consent against the backdrop outlined above.

S106/Unilateral Undertaking

- 10.4 A unilateral undertaking secured a contribution of £15,000 towards the provision of off-site affordable housing, £40,000 towards the provision of education facilities and £5,000 towards waste management. Additionally, there was a monitoring contribution of £1,500 outlined in the obligation. However whilst the affordable housing and waste contributions were accepted as CIL compliant by the Planning Inspector the education and monitoring contributions were deemed to fail the tests of Regulation 122 of CIL; accordingly education and monitoring contributions would have fallen away.
- 10.5 To ensure that the scheme maintains the level of contributions originally deemed appropriate and policy compliant the agent has been tasked with the preparation of an updated obligation and this is anticipated to be forthcoming shortly.

Conditions

- 10.6 Conditions were imposed in respect of the appeal decision issued and the applicant had sought to discharge these in parallel to the submission of this variation application (see history section)
- 10.7 Given the impending start date it was considered a pragmatic response to amalgamate the submission elements of these conditions; i.e. materials schedule (3), hard surfacing (4), landscaping (5), landscape management plan (7), bioboundary treatments (8), drainage (10) and construction management (11) with this submission to enable the consent to be issued without encumbrance, save for the need to deliver the scheme in accordance with these details.
- 10.8 The start date (1) will reflect that specified in the original decision letter issued by the Planning Inspectorate and the plan schedule (2) will be amended to reflect the site layout considered as part of this submission, utilising the approved plan condition as No. 10. Conditions 6 and 9 will require on-site compliance and will be re-imposed (with modification to reflect the site plan referred to above).

11 CONCLUSIONS

- 11.1 This submission purely seeks to rectify an error within the decision letter as issued by the Planning Inspectorate. It is clear that the 'amount' of development considered at appeal totalled 30 dwellings and whilst the plan schedule quoted an incorrect plan reference there could be no doubt that the Planning Inspectorate based its consideration of the scheme on a 30 unit scheme.

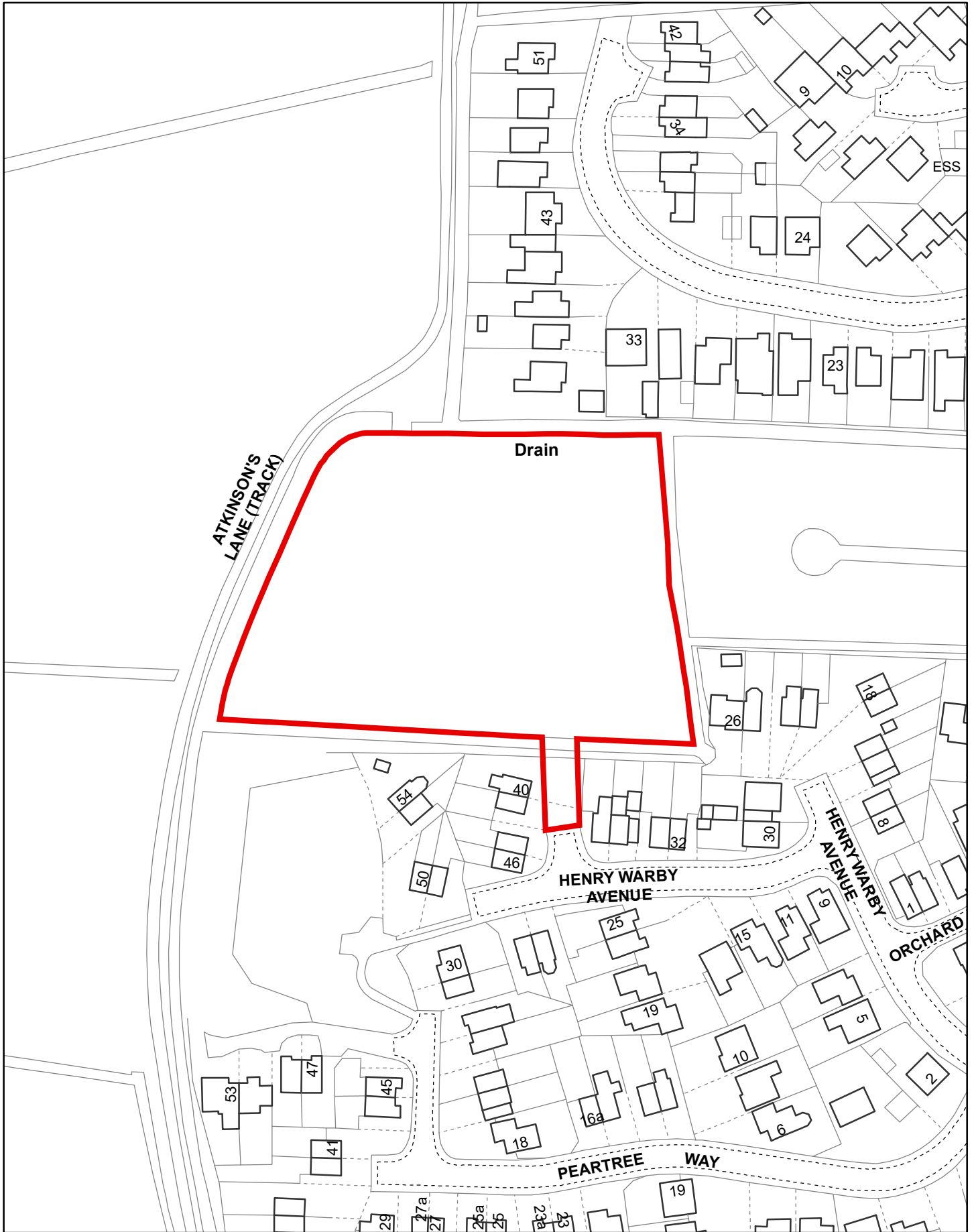
11.2 Notwithstanding the above the amended layout to the south-western corner of the site has no associated residential amenity impacts, nor would the traffic generated by 4 extra bedrooms across the entire development be so significant as to render the scheme unacceptable.

12 RECOMMENDATION

Grant subject to prior completion of Unilateral Undertaking/S106 variation and conditions

1	The development hereby permitted shall begin no later than 18 th September 2019.
2.	The development shall be constructed in materials as specified on drawing number [...]. Reason - To safeguard the visual amenities of the area and ensure compliance with Policy LP16 of the Fenland Local Plan, adopted May 2014.
3.	The development shall be finished in hard surfacing materials as specified on drawing number [...]. Reason - To ensure compliance with Section 51 of the Planning and Compulsory Purchase Act 2004.
4.	All planting, seeding or turfing comprised in the approved details of landscaping as detailed on drawing number: 5251-PL01a shall be carried out in the first planting and seeding season following the first occupation of the dwellings hereby permitted, whichever, is the sooner; and any trees or plants which within a period of 5 years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species. Reason - To ensure proper implementation of the agreed landscape details in the interest of the amenity value of the development.
5	Development shall be undertaken fully in accordance with landscape management plan reference [....]. Reason - To ensure proper implementation of the agreed landscape details in the interest of the amenity value of the development.
6.	The approved boundary treatments on each plot, as shown on drawing number 5251-PL01a, shall be implemented prior to the first occupation of the associated dwelling. Reason - To safeguard the residential amenity of neighbouring occupiers, in accordance with policy LP16 of the Fenland Local Plan, adopted May 2014.
7.	The scheme for parking and manoeuvring shown on drawing no. 5251-PL01a shall be laid out prior to the initial occupation of the development hereby permitted and these areas shall not thereafter be

	<p>used for any other purpose.</p> <p>Reason - In the interests of highway safety and to ensure compliance with Policies LP15 and LP16 of the Fenland Local Plan, adopted May 2014.</p>
8.	<p>Development shall not commence until surface drainage works for the development have been submitted to and approved in writing by the local planning authority. The approved drainage works shall be completed before the first occupation of the permitted development and retained thereafter in accordance with the approved details.</p> <p>Reason - To ensure a satisfactory method of surface water drainage and to prevent the increased risk of flooding.</p>
9.	<p>Development shall be undertaken fully in accordance with the Construction Management Statement hereby approved throughout the construction period.</p> <p>Reason - To safeguard the residential amenity of neighbouring occupiers, in accordance with policies LP2 and LP16 of the Fenland Local Plan, adopted May 2014.</p>
10.	Approved Plans



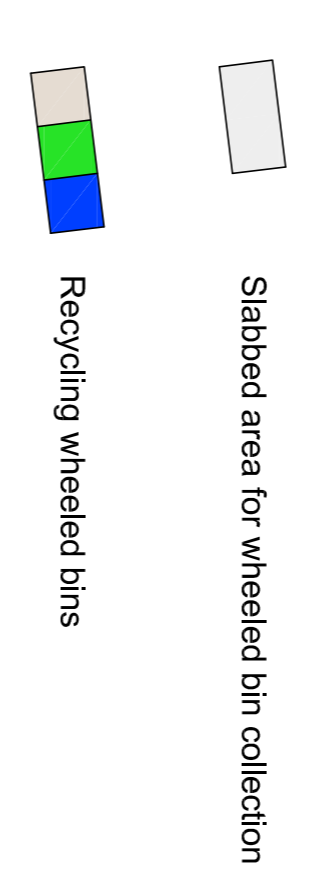
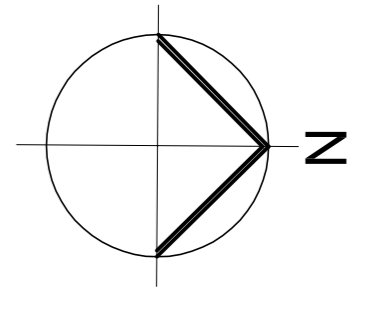
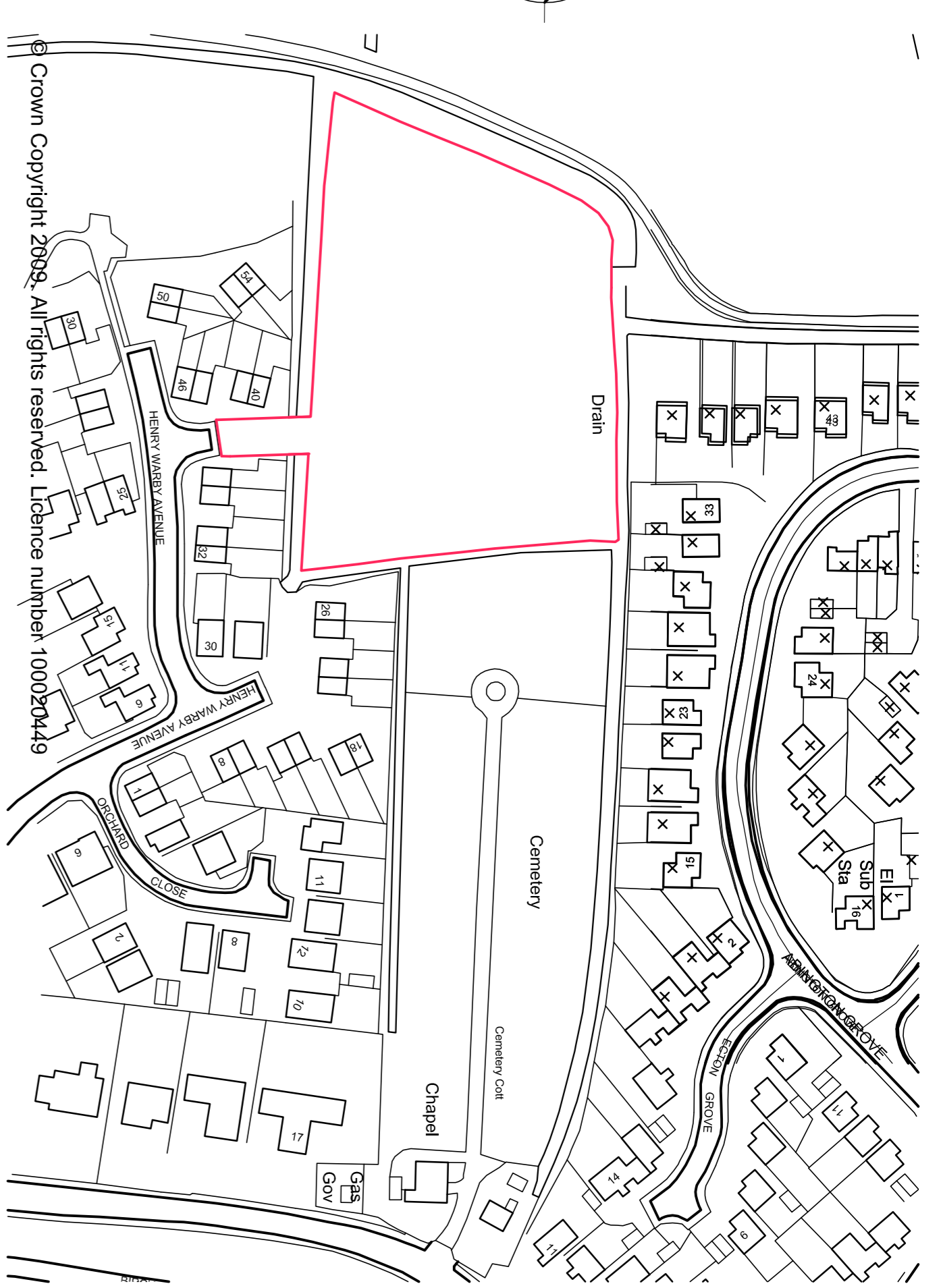
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Scale = 1:1,250





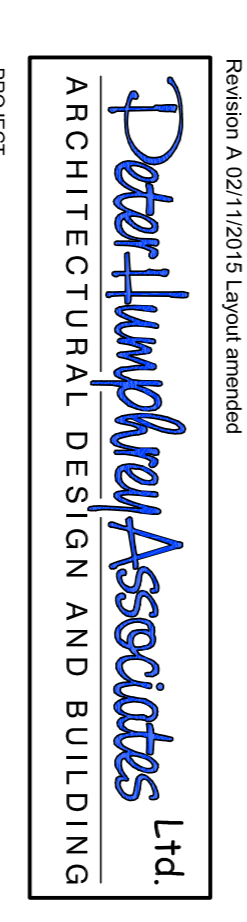
There are no existing trees within the site.

SP SHRUB PLANTING TO INCLUDE
 BARBERRY(BERBERIS) GUelder ROSE(VIBURNUM)
 BUDDLEIA DAVIDIA FORSYTHIA X INTERMEDIA LYWOOD
 MOCK ORANGE(PHILADELPHUS)SNOWY WESPLIUS(AMELANCHIER)
 C3 POT SIZE
 PLANTING SIZE 40-60cm
 PLANTED AT 750mm c/s

GC GROUND COVER PLANTS
 COTONEASTER HORIZONTALIS,
 HEDERA HELIX,LAVANDULA SPICA
 6 PLANTS PER METRE SQ.

TREE PLANTING
 A SILVER BIRCH - BETULA
 B CHERRY - PRUNUS
 C WHITEBEAM - SORBUS

TREES PLANTED TO BE 1.800m HIGH



PROJECT
 PROPOSED DEVELOPMENT

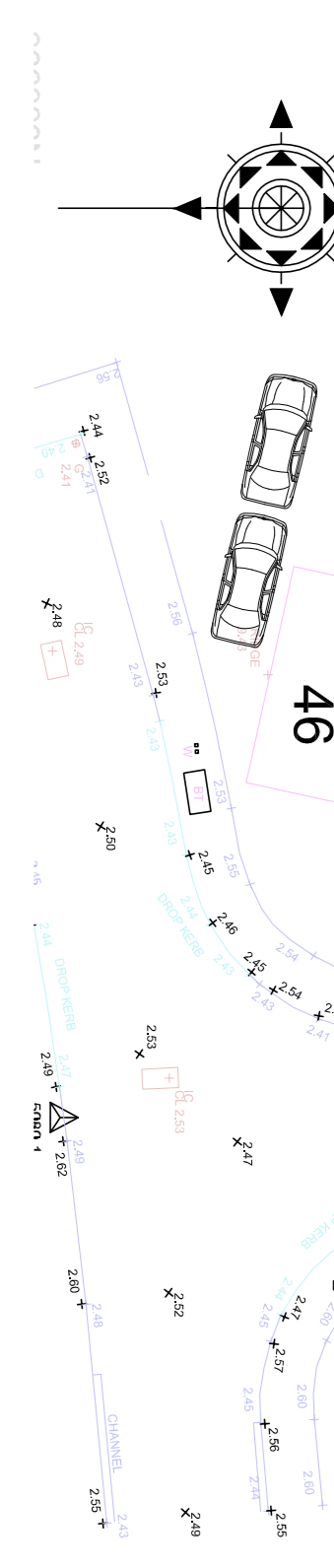
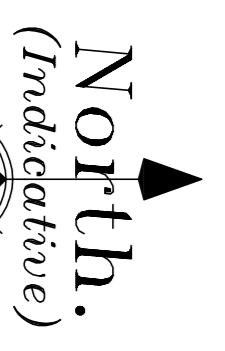
SITE
 OFF HENRY WARBY AVENUE
 ELM
 WISBECH

DRAWING
 PLANNING
 CLIENT
 GEMDOME LTD

DATE: MAY 2015 SCALE: AS SHOWN JOB NO: 5251-PL01a

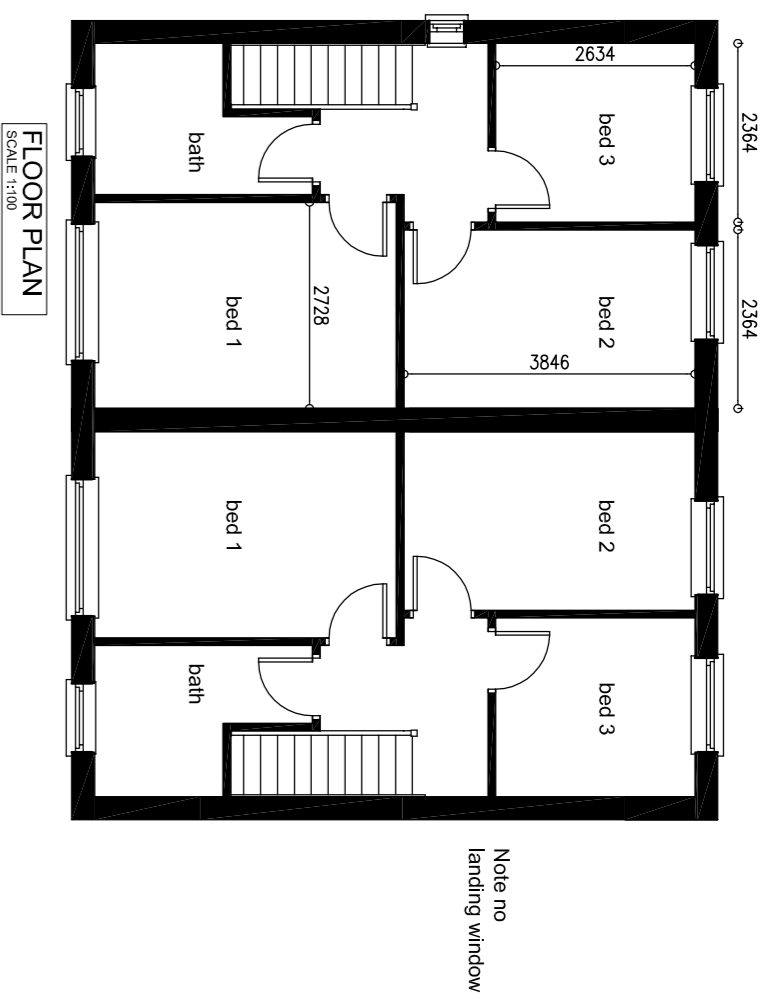
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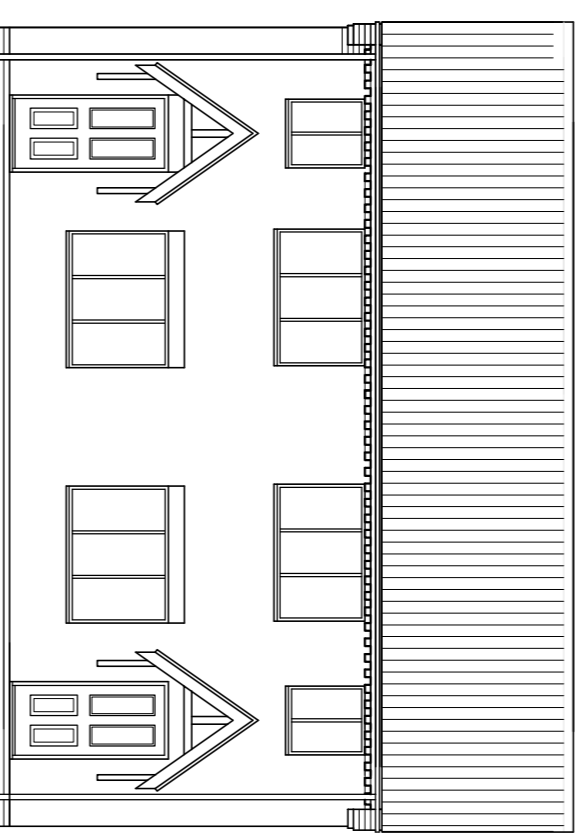


SITE PLAN 1:250

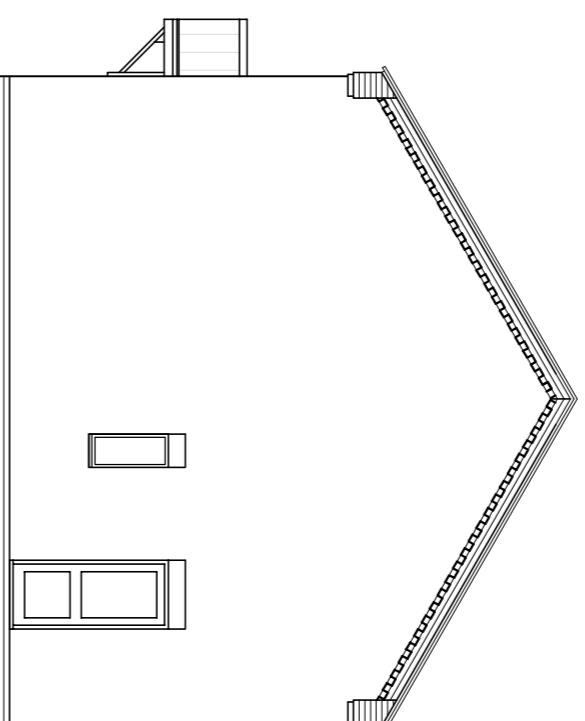




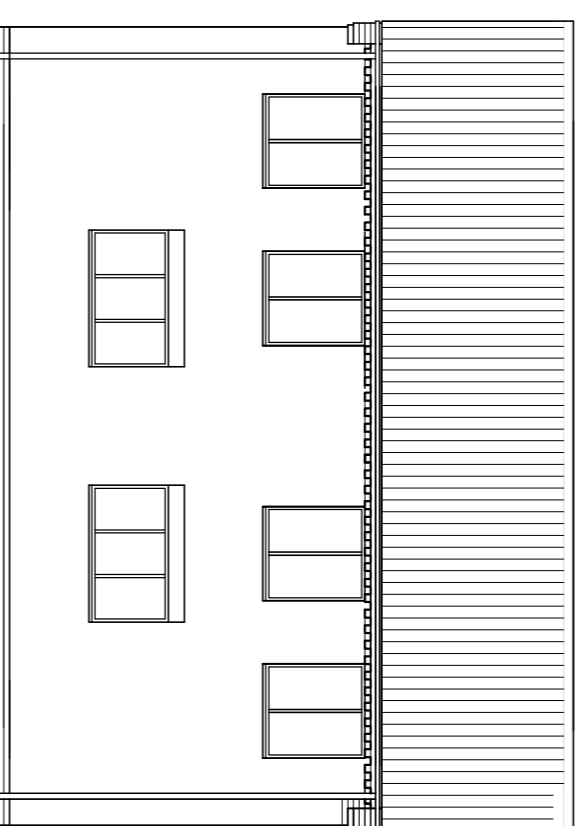
LOTS 1-2



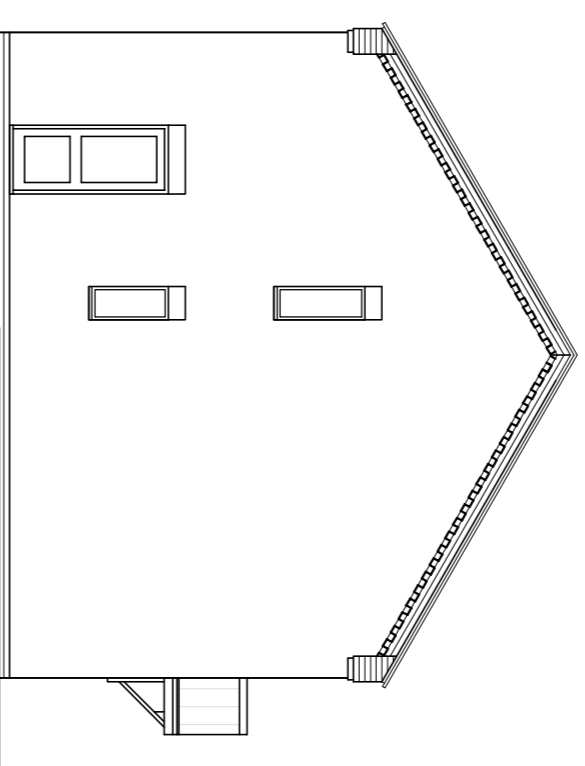
FRONT ELEVATION
SCALE 1:100



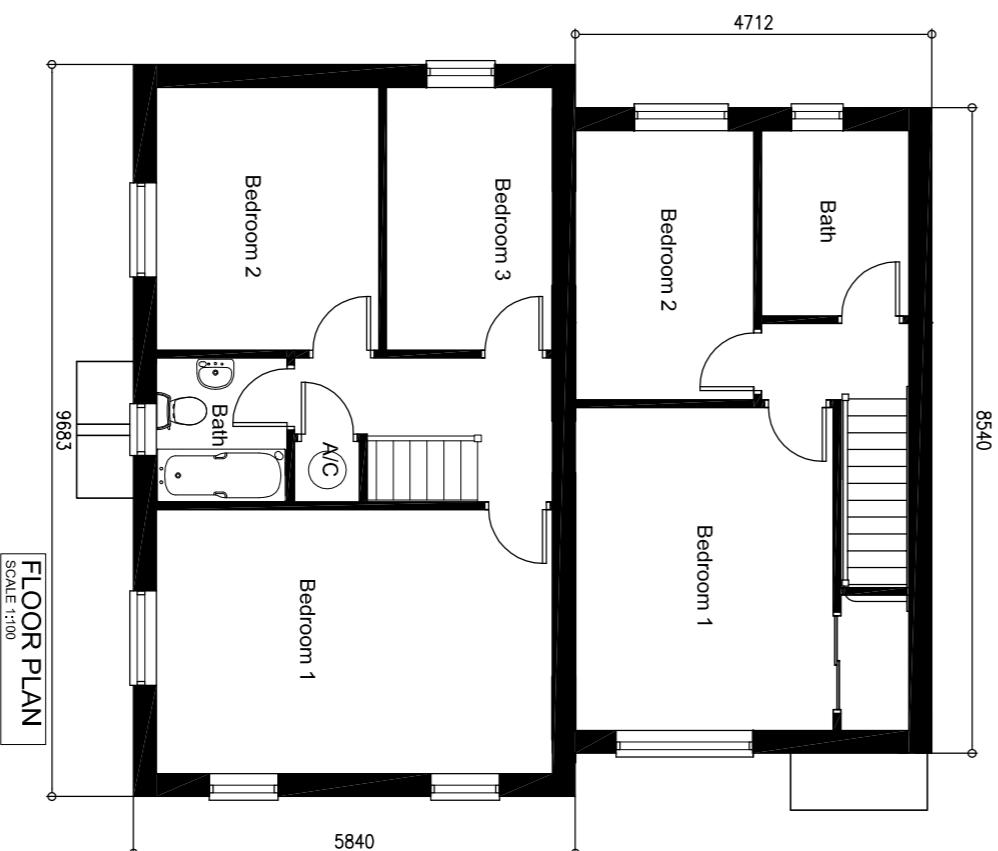
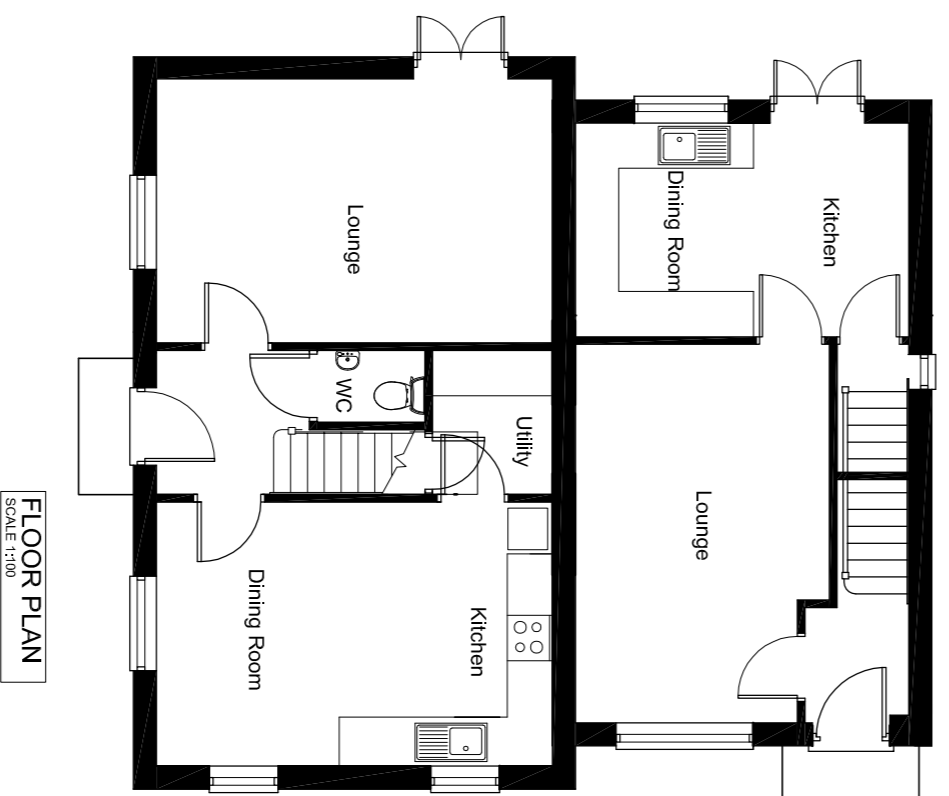
SIDE ELEVATION
SCALE 1:100



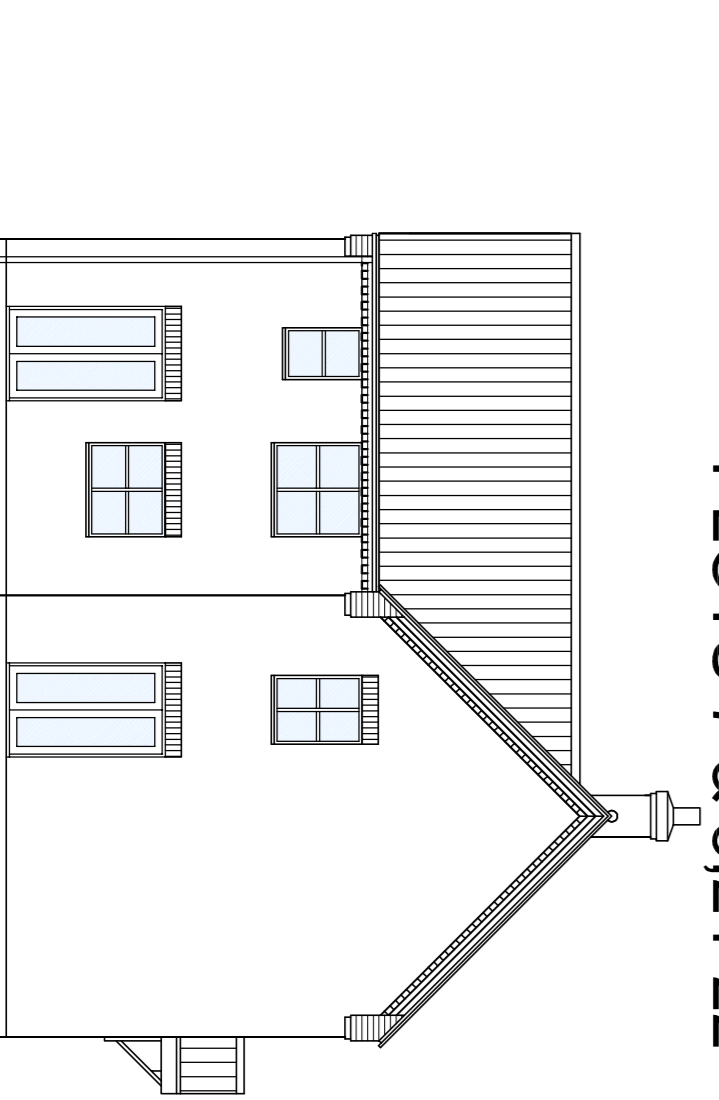
REAR ELEVATION
SCALE 1:100



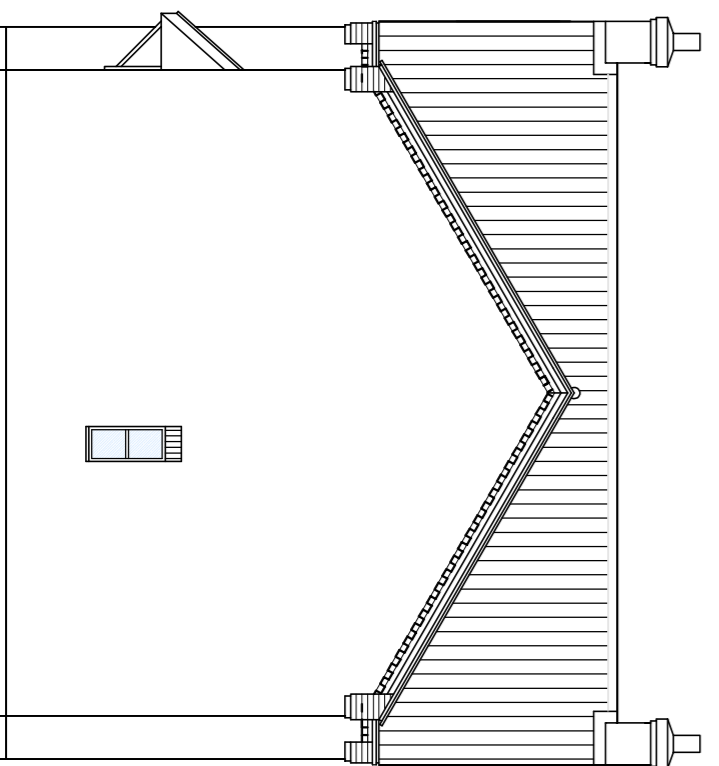
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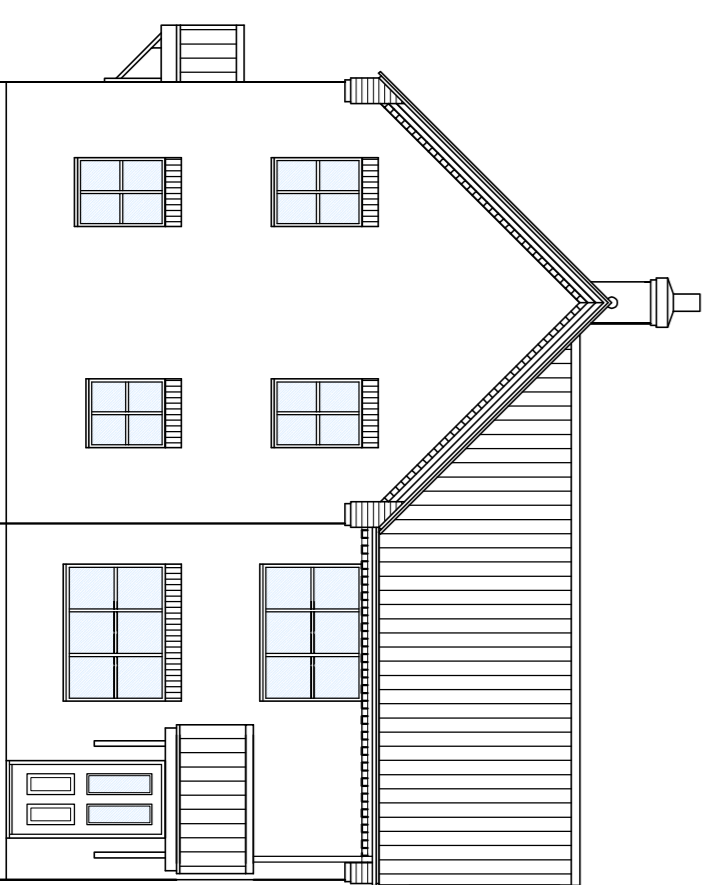
LOTS 7 & 8, 21-22



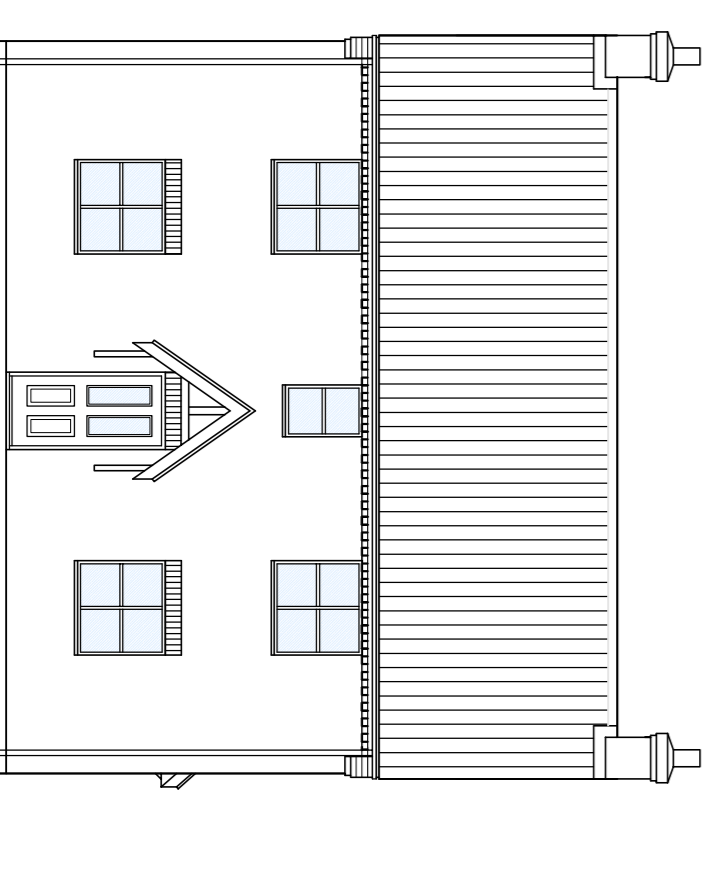
SIDE ELEVATION
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REAR ELEVATION
SCALE 1:100



SIDE ELEVATION
SCALE 1:100



FRONT ELEVATION
SCALE 1:100

Peter Humphrey Associates Ltd.
ARCHITECTURAL DESIGN AND BUILDING

PROJECT
PROPOSED DEVELOPMENT

SITE
HENRY WARBY AVENUE
ELM
WISBECH

DRAWING
PLANNING

CLIENT
GEMDOME LTD

DATE MAY 2015 SCALE AS SHOWN JOB No. 5251-PL02b

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