

APPLICATION NO	PA/2014/1401
APPLICANT	Mr Behnam Heydari-Begvand
DEVELOPMENT	Planning permission for change of use from A1 to A5 (hot food takeaway) and to extend existing premises (resubmission of PA/2014/0104)
LOCATION	Essential Interiors, High Street, Epworth
PARISH	EPWORTH
WARD	Axholme Central
CASE OFFICER	Scott Jackson
SUMMARY RECOMMENDATION	Grant permission subject to conditions
REASONS FOR REFERENCE TO COMMITTEE	Member 'call in' (Councillor Redfern)

POLICIES

National Planning Policy Framework: Paragraph 23 states that local planning authorities should recognise town centres as the heart of their communities and pursue policies to support their viability and vitality. In addition it states that local planning authorities should promote competitive town centres that provide customer choice and a diverse retail offer.

At paragraph 63 the NPPF states that permission should be refused for development of poor design that fails to take the opportunities available for improving the character and quality of an area and the way it functions.

Paragraph 137 states that proposals that preserve those elements of the setting that make a positive contribution to or better reveal the significance of the asset should be treated favourably.

North Lincolnshire Local Plan: Policies S5, S9, T1, T2, T19, DS1, DS11, HE2 and HE5 apply.

North Lincolnshire Core Strategy: Policies CS1, CS2, CS5, CS6, CS14 and CS17 apply.

CONSULTATIONS

Highways: No objections.

Environmental Health: To protect amenity for local residents and businesses recommend the inclusion of the following conditions if the application is granted:

1. The takeaway and restaurant shall only be open between 5pm and 11pm Monday to Saturday. The takeaway and restaurant shall not open on Sundays or Public Holidays.

2. The rating level of noise emitted from the extraction system shall not exceed 35 dB, measured as $L_{Aeq, 5 \text{ minutes}}$ at any residential boundary. The definition of rating level shall be as described in British Standard BS4142:2014.
3. The takeaway and restaurant shall install the following equipment: an ON 100 Odour Neutraliser, an ESP 3000 E Electrostatic Precipitator, two SLU31590050 Silencers, a Novenco Fan model CNA400 and a HV Jet Cowl. This equipment shall be installed, maintained, operated and serviced in accordance with the manufacturer's instructions.
4. The premises shall only operate if the equipment listed in proposed condition 3 has been installed and is fully operational.

This building contains asbestos materials – recommend that the following condition is included should this application be granted:

Waste transfer notes following removal and disposal of any asbestos materials shall be sent to the local planning authority to demonstrate correct disposal.

TOWN COUNCIL

Support the proposal.

PUBLICITY

Neighbouring properties have been notified and a site notice posted. Two letters of objection has been received raising the following issues:

the owner is wanting to trade seven days a week, including bank holidays

the closure at 11pm appears to be just a goodwill gesture by the applicant

existing hot food takeaway results in noise issues including loud music, slamming of car doors, shouting, revving of engines, beeping of horns and people sitting in cars

objector's house is a listed building with single glazing, which exacerbates noise issues

issues with littering

smells and noise from the extraction system

not a suitable location for a hot food takeaway

cars will back out onto the highway

existing issue with cooking smells

no extraction system will be adequate.

ASSESSMENT

The site comprises a large single-storey shop unit which is located on the corner of High Street and Chapel Street, it was formerly occupied by a furniture shop. The retail unit has a

large forecourt area to the front (facing towards High Street), and is located within the defined shopping area for Epworth town centre, within the conservation area. The external walls and roof of the building are finished in a painted brick with a slate roof tile.

This application is a resubmission of planning application PA/2014/0104. That application was referred to the Planning Committee meeting on 19 November 2014, when members decided to overturn the recommendation and refuse the application on grounds of loss of residential amenity through noise, odour and late night operations. The applicant has revised the proposed opening hours, which are now 5pm to 11pm Monday to Saturday. (Previously 5pm to midnight Monday to Saturday and 5pm to 11pm on Sundays and Bank Holidays had been requested.)

The main issues in the determination of this planning application are the principle of development, and impact on residential amenity and upon the character and appearance of heritage assets.

The application site is located on the High Street in the defined town shopping centre for Epworth. The site is retail in nature at present and there is a mix of uses in this area, including shops, public houses and hot food takeaways. It is worth noting that the applicant is seeking to relocate the existing pizza takeaway from the adjacent unit into this larger premises, and is seeking to extend the size of the unit to each side. Epworth town centre contains a mix of uses, the predominant use being A1 shops. Policy S5 (Development in Crowle, Epworth, Kirton-in-Lindsey, Frodingham Road and Ashby High Street District Shopping Centres) states that proposals for non-shopping uses will be permitted provided they do not detract from the centre's shopping function. This proposal will not detract from the primary shopping function, particularly as the predominant use within the town centre is A1. This is emphasised in the North Lincolnshire Retail Survey 2012 which demonstrated that there was an increase in the number of A1 (shop) units in Epworth town centre by five units between 2007 and 2012 – a percentage increase of 3.4%. This survey shows that there was a 0.1% decrease in the number of A5 (Hot Food Takeaways) in the same time period. Therefore the proposal complies with policy S5 of the North Lincolnshire Local Plan.

Policy S9 of the local plan (Restaurants and Hot Food Takeaway Establishments) applies and states that hot food takeaways will be permitted in town, district and local centres provided that criteria relating to loss of amenity (noise, litter, parking), cumulative impact, road safety, parking provision and fume extraction are addressed. The proposed hot food takeaway will be located adjacent to the applicant's existing business, however there are no further hot food takeaways located in immediate vicinity of the premises. The impact upon residential amenity and highway safety will be discussed in the subsequent section of this report.

Residential amenity

Hot food takeaways have the potential to result in loss of residential amenity, primarily through the issues identified in policy S9 of the local plan. It is worth reiterating the point that the proposal is located within Epworth town centre where there is a mix of uses in existence. This is an area where a mix of uses, including hot food takeaways, would typically be situated. There are residential properties opposite the site, including flats above shops. The proposed hours of operation have been revised from 5pm to 11pm Monday to Saturday and at no time on Sundays and Bank Holidays. This is considered to be a significant reduction in proposed opening hours, particularly as the applicant is not seeking

to open on Sundays and Bank Holidays. It is worth noting that these proposed hours of operation are consistent with other evening economy uses within Epworth town centre. Furthermore, no objections have been raised by Environmental Health in relation to the hours. In addition it should be expected that residential properties within a defined town centre, with a mix of uses, will already experience some noise and other disturbance from those uses, including those related to the evening economy. The applicant's existing hot food takeaway (located in the unit adjacent to the site) is open 5pm to 11.30pm Monday to Friday, 5pm to 12.30am on Saturdays and at no time on Sundays and Bank Holidays.

Given the mix of uses in this area, which includes evening economy uses, it is considered that the revised hours of operation in this location will not result in noise disturbance over and above that already experienced in this part of Epworth town centre. Furthermore, the revised hours of operation are considered sufficient to overcome the concerns of members.

It has been suggested that the proposed development will result in noise and disturbance to neighbouring properties as a result of the comings and goings of customers and their vehicles, particularly during evening hours. This is a detached building, with no provision within the site for customer seating (internally or externally) and the use will not encourage the congregation of members of the public. The nature of the business is such that it relies on fast transactions with customers arriving and leaving the site on a frequent basis and not congregating outside. Furthermore the use of the hard-standing area for customer parking to the front of the building will deter customers from congregating outside. The playing of music from the premises is something that is in control of the applicant and can be easily mitigated. It is also worth noting that the reduced hours of operation will ensure that the movement of customer vehicles will be reduced by an hour each evening between Mondays and Saturdays and at no time on Sundays and Bank Holidays.

The applicant has provided details of the proposed extraction system to be used to remove cooking odours and fumes. This extraction system has been agreed by the council's Environmental Health department with regard to both its ability to combat odour and its noise output. Therefore it is considered that the proposed extraction system will adequately protect neighbours from smells arising from cooking. The proposed extraction flue will be located on the rear roof slope, away from residential properties. Therefore it is considered that the proposed extraction system (in terms of its location) will adequately protect neighbours from odours associated with cooking. A bin storage area is proposed within an enclosed area to the side (west) of the building; this is acceptable and will not result in unacceptable loss of amenity as a result of food waste being stored there. It should also be noted that these bins will be emptied regularly and that they are located to be as unobtrusive to neighbours as possible. For these reasons it is considered that the proposed change of use will not result in unacceptable loss of amenity to neighbouring properties by virtue of odour. The provision of waste bins to the front of the building will ensure that the potential for littering is reduced.

The proposals show the provision of five parking spaces to the front of the building, four of which are proposed for customer parking. There is provision on the High Street for further parking and a public car park to the rear of the site. No objections have been raised by highways in relation to the level of parking provision, nor to the proposed change of use. The parking of vehicles in an illegal or otherwise obstructive manner is a matter for the police to deal with. There is space within the site for vehicles to turn and exit the parking area in a forward manoeuvre.

Heritage assets

The retail unit is located within the Epworth conservation area, directly opposite two grade II listed buildings. The proposals are for a single-storey extension to each side of the building, the installation of an extraction flue on the rear roof slope, the replacement of a door with a window to the principal elevation and the re-roofing of the building. It is proposed to replace the existing asbestos slate tiles with a grey double Roman concrete tile.

The replacement of this tile with a concrete tile is not considered to be an appropriate approach in the conservation area, as it will not preserve or enhance its character. Therefore it is considered prudent to recommend a condition requiring samples of the proposed replacement roofing material to be submitted for consideration, which will ensure that the tile is appropriate to its location within the conservation area and respects the setting of the listed buildings. The use of a clay pantile or slate roof tile as a replacement material will be consistent with the appearance of existing buildings along Epworth High Street, including the listed buildings opposite.

The single-storey extensions to either side of the building will be proportionate to the scale and height of the existing unit. They are proposed to be finished in blockwork with painted render, which will match the painted finish of the existing building, thereby ensuring visual assimilation into the street scene. The extension to the western elevation will replace a mono-pitch toilet block, the removal of this extension is welcomed in visual amenity terms. Given that these extensions are proportionate to the scale and height and will match the appearance of the existing building, they are considered to preserve the character and appearance of the conservation area and respect the setting of the listed buildings to the north and west.

A new window is proposed in the principal elevation of the building to replace a door. Further windows are proposed in the front and rear elevations of the extension to the west of the unit. The existing windows and doors are constructed from timber. The plans show that these new windows will be proportionate to the scale and position of the existing doors. Conditions are recommended in relation to the windows being constructed from timber and requiring details of the glazing bars and design to be submitted. This will ensure that both the material finish and design of the windows are in keeping with the appearance of the existing building.

An extraction flue is proposed to the rear roof slope of the building, which will project 1 metre above the ridge line of the building. The height of the flue is required to ensure that odours are adequately dispersed in accordance with Environmental Health regulations. It is noted that this flue will be visible above the ridge line of the building, however measures can be taken to ensure that the detailed finish of the flue is less visually prominent in the street scene; the detailed finish will be secured by way of planning condition. The key views of these listed buildings are travelling east along High Street and north along Chapel Street. The flue will not be visible in either of these views due to intervening buildings and the set-back position of this building.

In summary, the proposed change of use and extensions are considered to be acceptable in principle, and are not considered to give rise to loss of residential amenity or create highway safety issues. The proposals are considered to preserve the character and appearance of the Epworth conservation area and the setting of the listed buildings.

RECOMMENDATION Grant permission subject to the following conditions:

1.

The development must be begun before the expiration of three years from the date of this permission.

Reason

To comply with section 91 of the Town and Country Planning Act 1990.

2.

The development hereby permitted shall be carried out in accordance with the following approved plans: 869 1 of 3, 869 2 of 3 and 869 3 of 3.

Reason

For the avoidance of doubt and in the interests of proper planning.

3.

No development shall take place until a sample of the replacement roof tile to be used (which shall be a slate or natural clay pantile) has been submitted to and agreed in writing by the local planning authority and only the approved material shall be used.

Reason

To ensure that the development is in keeping with the character and appearance of the conservation area and respects the setting of listed buildings in accordance with policies HE2 and HE5 of the North Lincolnshire Local Plan and CS6 of the North Lincolnshire Core Strategy.

4.

The windows hereby permitted shall be constructed from timber and thereafter retained.

Reason

To ensure that the development is in keeping with the character and appearance of the conservation area and respects the setting of listed buildings in accordance with policies HE2 and HE5 of the North Lincolnshire Local Plan and CS6 of the North Lincolnshire Core Strategy.

5.

No development shall take place until detailed drawings at a scale of 1:20 of the proposed timber windows have been submitted to and approved in writing by the local planning authority. The window details shall show sections, opening arrangements and glazing bar patterns. Details of the proposed materials and colour finishes shall be included. All works shall be carried out in accordance with the approved details.

Reason

To ensure that the development is in keeping with the character and appearance of the conservation area and respects the setting of listed buildings in accordance with policies HE2 and HE5 of the North Lincolnshire Local Plan and CS6 of the North Lincolnshire Core Strategy.

6.

No development shall take place until details of the colour and material finish (manufacturer's specification) of the extraction flue to be installed on the rear roof slope of the building have been submitted to and approved in writing by the local planning authority. No additional or alternative materials shall be used unless otherwise agreed in writing by the local planning authority.

Reason

To ensure that the development is in keeping with the character and appearance of the conservation area and respects the setting of listed buildings in accordance with policies HE2 and HE5 of the North Lincolnshire Local Plan and CS6 of the North Lincolnshire Core Strategy.

7.

Prior to commencement of the approved use, an extraction system shall be installed and in operation at all times whilst cooking is undertaken. An ESP 3000 E Electrostatic Precipitator system and an ON 100 Odour Neutraliser with an HV Jet Cowl shall be fitted to the odour extraction system to ensure efficient control and dispersal of odours. The system shall be installed, maintained, operated and serviced in accordance with the manufacturer's instructions. Any change to or replacement of the system shall only be undertaken following written approval by the local planning authority.

Reason

To minimise the impact of the development upon adjacent properties in accordance with policy DS1 of the North Lincolnshire Local Plan.

8.

The hot food takeaway shall only operate if the equipment listed in condition 7 has been installed and is fully operational.

Reason

To minimise the impact of the development upon adjacent properties in accordance with policy DS1 of the North Lincolnshire Local Plan.

9.

The hot food takeaway hereby permitted shall not be open to the public outside the hours of 5pm to 11pm Monday to Saturday and at no times on Sundays and Bank Holidays.

Reason

To define the terms of the permission and to safeguard residential amenity in accordance with policies DS1 and S9 of the North Lincolnshire Local Plan.

10.

No development shall take place until a scheme for the protection of the beech tree, which is covered by a tree preservation order, has been submitted to and agreed in writing by the local planning authority. The tree protection measures shall be undertaken in accordance with BS5837:2012 and retained for the duration of the construction period.

Reason

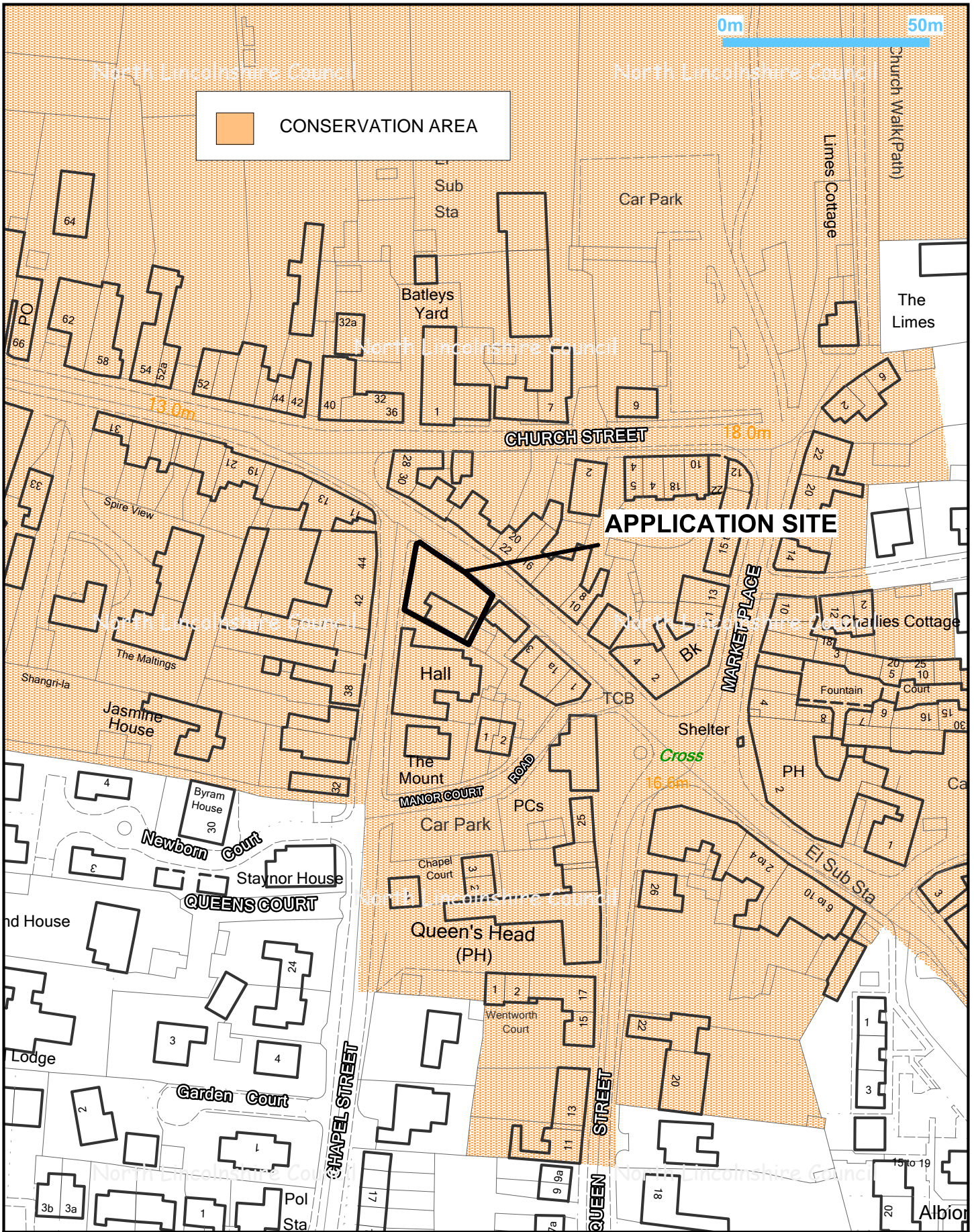
To ensure the work is carried out in a correct manner to protect the health of the trees and their contribution to the visual amenity and character of the local landscape.

Informative 1

This building contains asbestos materials. Waste transfer notes should be sent to the local planning authority to demonstrate correct disposal of any such materials.

Informative 2

In determining this application, the council, as local planning authority, has taken account of the guidance in paragraphs 186 and 187 of the National Planning Policy Framework in order to seek to secure sustainable development that improves the economic, social and environmental conditions of the area.

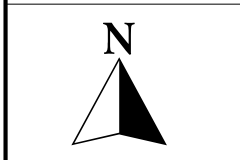


Title: PA/2014/1401

Drawn by: Sue Barden

Date: 24/03/2015

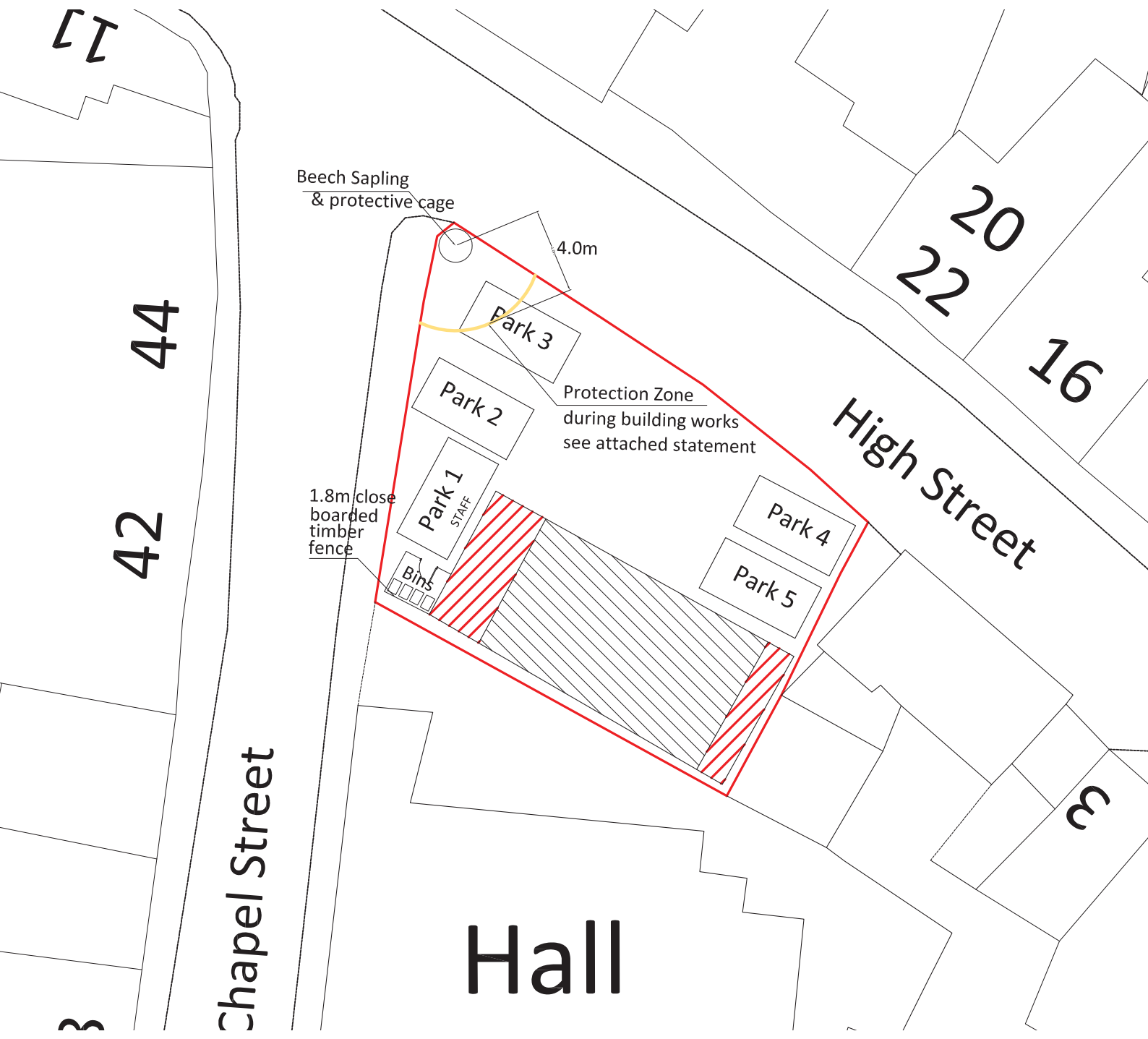
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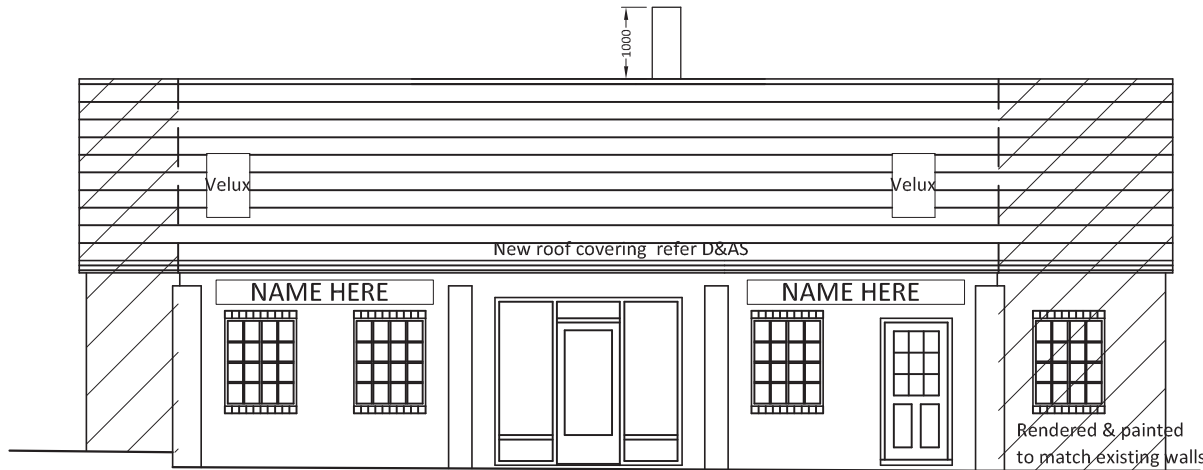
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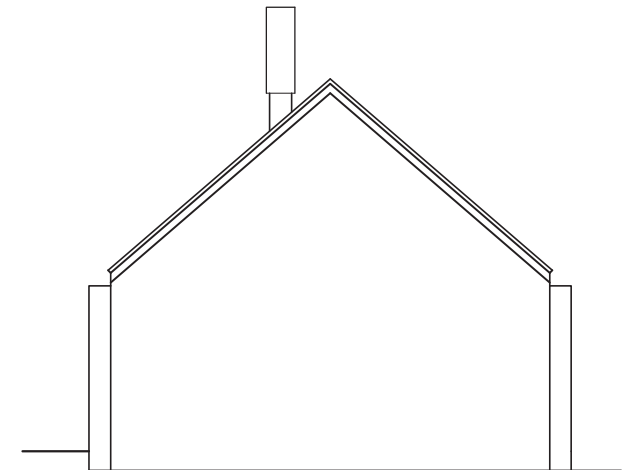
Director of Places
Peter Williams
BSc,DMS,CEng,MEI,MCMI,AMIMechE



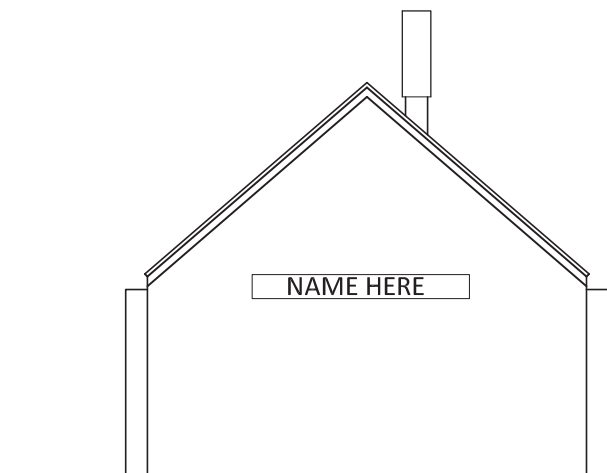
PA/2014/1401 Proposed Elevations Not to scale



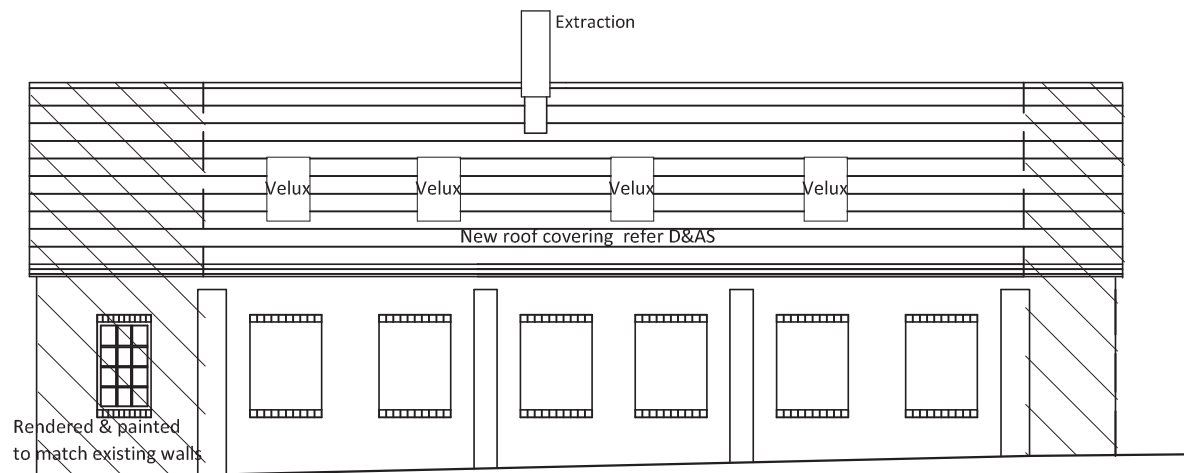
North (front) Elevation



East Elevation



West Elevation



South (rear) Elevation