

Report to date: Planning applications committee
13 September 2018

Item

Report of: Head of planning services

4(h)

Subject: Enforcement Case 17/00151/ENF – 137
Unthank Road, Norwich

Summary	
Description:	Construction of building not in accordance with approved plans and pre-commencement conditions that have not been discharged.
Reason for consideration at committee:	Being reported at officer's discretion.
Recommendation:	Authorise enforcement action up to and including prosecution in order to secure compliance with condition 2, 3, 4 and 5 of permission 16/00759/F through: (1) Undertaking alterations to the existing development to bring it in line with the approved scheme; (2) The submission of an appropriate landscaping scheme.
Ward:	Nelson
Contact officer:	Charlotte Hounsell charlottehounsell@norwich.gov.uk

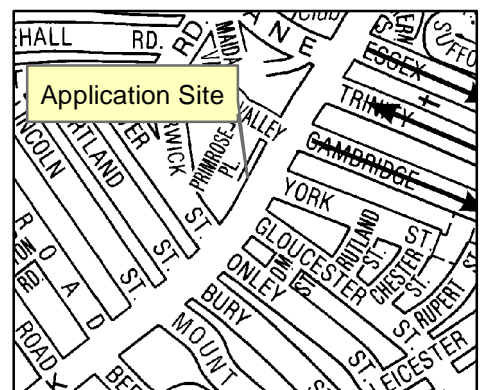


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Planning Application No 17/00151/ENF
 Site Address 137 Unthank Road
 Scale 1:500



NORWICH
City Council
 PLANNING SERVICES



The site

1. The site is located on the West side of Unthank Road to the South West of the City. The former Burrells hardware store used to be located on this site and was demolished as part of application 16/00759/F. A new building has been constructed on site of roughly the same footprint as the previous building, although not in accordance with plans. There is a forecourt area to the front of the site which was previously used for parking but has remained fenced off during construction. There is a raised garden space to the rear of the site with a timber workshop outbuilding which was retained as part of the previous planning application. The site is located within a local retail centre and in a critical drainage area.
2. Following officer visits to the site, the building is considered to have been largely built to the correct external dimensions and in the correct location as approved under application 16/00759/F. Therefore officers consider that the 2016 permission has been implemented, however, not all conditions have been complied with. Permission 16/00759/F was subject to the following conditions (which have been summarised below):
 - (a) Three year time limit;
 - (b) Development in accordance with plans;
 - (c) Details of the shopfront including details of materials, first floor windows to be timber sliding sash;
 - (d) External materials to be agreed;
 - (e) Landscaping details to be agreed;
 - (f) Details of any extract ventilation systems to be agreed prior to any A3 or A5 occupation of the ground floor units;
 - (g) Hours restrictions of 08:00 to 23:00 for any A3/A5 use of the ground floor;
 - (h) Trade deliveries and collections limited to 07:00 to 19:00 Monday to Saturday;
 - (i) Water efficiency to meet the higher building regulations requirement of 110 litres/person/day;
 - (j) First floor windows on the side elevation to be obscure glazed;
 - (k) Removal of permitted development rights for new boundary treatments to the front of the site.
3. None of the pre/early commencement conditions (2, 3 and 4 above) were discharged.
4. Currently works have ceased on site and the commercial units on the ground floor are incomplete internally and remain unoccupied. The residential unit at first floor appeared to be completed at the time of the last visit to site and was occupied.

Relevant policies

National Planning Policy Framework July 2018:

- NPPF8 Promoting healthy and safe communities
- NPPF12 Achieving well designed places

Joint Core Strategy for Broadland, Norwich and South Norfolk adopted March 2011 amendments adopted Jan. 2014 (JCS):

- JCS2 Promoting good design

Norwich Development Management Policies Local Plan adopted Dec. 2014 (DM Plan):

- DM2 Ensuring satisfactory living and working conditions
- DM3 Delivering high quality design

The breach

5. Application 16/00759/F required that the development be undertaken in accordance with the approved plans and required the submission of details for approval prior to the commencement of development. The current as-built development is in breach of conditions 2, 3, 4, 5 and 10 of permission 16/00759/F. The details of each breach is outlined in the following sections:
- (a) Use of windows of incorrect size, proportion, style and materials within the front elevation at first floor. The windows as installed are currently PVC casement windows of inappropriate size and opening mechanism. In breach of conditions 2 and 3.
 - (b) Installation of inappropriate shop front. The existing building utilises a PVC shop front of smaller dimensions and different framing style without decorative surrounding. In breach of conditions 2, 3 and 4.
 - (c) Use of low quality red brick for the construction of the building without first being approved. In breach of condition 4.
 - (d) Use of non-obscured glazing within first floor side windows as shown on approved plans in 16/00759/F. In breach of condition 10.
 - (e) Use of roof tiles without first being approved. In breach of condition 4.
 - (f) Internal layout changes. The scheme as built is largely the same in its principle layout in that it comprises two ground floor commercial units and one first floor residential unit. The changes include removal of partition walls in the residential unit to create an open plan living/kitchen/dining space, relocation of W/Cs on the ground floor and inclusion of a separated (rather than integrated) kitchen area to one commercial unit. In breach of condition 2.
 - (g) Installation of PVC windows and doors to the side and rear elevations without first being approved. In breach of condition 4.
 - (h) Construction of metal exterior staircase at the rear of the site without material first being approved. In breach of condition 4.

- (i) Use of PVC gutters, fascias and bargeboards without materials first being approved. In breach of condition 4.
 - (j) Commencement of development without first submitting and gaining approval of a suitable landscaping scheme. In breach of condition 5.
6. The breaches as outlined above have occurred within the last ten years, therefore enforcement action can be taken in accordance with Section 171B of the Town and Country Planning Act 1990.

Justification for enforcement

7. Each of the breaches have been addressed in turn below, assessing what harm is caused by each breach and whether it is considered expedient to take enforcement action on each issue:

- A. The previously approved scheme included a carefully designed front elevation to ensure that the replacement building would sit comfortably within the existing parade of shops. The use of windows of a traditional style and opening mechanism to match those seen on the surrounding buildings and constructed of timber was considered important to ensure that the building responded appropriately to its surroundings.

In this instance, the currently installed windows within the first floor of the front elevation of the building are considered to be harmful to appearance of the building and the surrounding area. Due to their incorrect size and proportions, the windows appear squat on the front elevation with large areas of exposed brick. Approval of the proposed window material was also required prior to commencement of development; however PVC windows have been installed without approval. It should be noted that there are a number of other shops along the parade which utilise inappropriate PVC windows at first floor. However, the installation of such windows would likely be considered permitted development and in the majority of those cases the historic shopfronts are retained. In this instance, the historic building was to be demolished including the loss of the timber shop front. Therefore timber windows were required in order that they were of a high quality construction that contributed towards mitigation for the loss of the former building. The windows currently installed are considered to result in harm to the character and appearance of the building and the wider surrounding area and are therefore contrary to policy DM3 of the Local Plan.

- B. The approved scheme included a condition requiring the detailed design of a replacement shop front to be approved prior to commencement of development. As above, the approved proposal resulted in the demolition of the historic building and shop front. Therefore, officers considered it necessary to ensure that the replacement shop front would be of high quality to mitigate for this loss. It was also noted that the majority of the shops along the parade retain their timber shop fronts and these are largely attractive features that contribute positively to the area. The approved plans showed that the shop front would largely replicate what was seen on the former

building, referencing the size and proportion of framing and glazing, door position and the decorative surround.

The shop front as installed does not relate to the previously approved plans. The shop fronts are of a design and proportions incongruous to the original and out of keeping with those seen in the area, and utilise low quality PVC materials. The smaller size of the shop fronts contributes towards the squat appearance of the building and also accentuates the large area of brick on the front elevation. Therefore the as-installed shop fronts are considered to be harmful to the character and appearance of the building and the wider surrounding area and are therefore contrary to policy DM3 of the Local Plan.

- C. The shops in the surrounding area are constructed of a mixture of white/grey and red bricks with a large proportion having painted their front elevations. A number of the units have constructed extensions to the rear of the original buildings from red brick. The use of an appropriate brick for the scheme approved under 16/00759/F was required to ensure that the building respected and responded to the character of the surroundings.

As above, the proposal involved the loss of the former historic building and details of materials were required by condition to ensure that its replacement was of a sufficiently high quality such that the building would fit in with the surrounding context. The as-built building utilises a low quality brick. This is of a vibrant red colour which is very prominent within the street scene and is not representative of other brick types used on the front elevations of the surrounding buildings. Therefore this element is considered to result in harm to the character and appearance of the surrounding area and is contrary to policy DM3 of the Local Plan.

- D. On the approved plans from 16/00759/F, a number of windows at first floor within the residential unit were shown to be obscure glazed to reduce overlooking to neighbouring buildings.

At present, the residential unit has not employed the use of obscure glazing within two side elevation windows at first floor which serve a bedroom and the kitchen. Obscure glazing has been utilised in the first floor bathrooms. The locations of the bedroom and kitchen windows within the side elevation do not correspond with windows in the adjacent property and therefore they do not result in any direct overlooking into habitable rooms. Given the proximity between the building and those on neighbouring sites, there is little opportunity for overlooking into rear garden/outdoor spaces. Therefore this breach is not considered to result in an unacceptable standard of amenity for current or neighbouring occupiers in accordance with policy DM2 of the Local Plan.

- E. The proposed materials indicated on the approved application 16/00759/F showed the use of slate roof tiles. Although details were required by condition, the principal of using slate was considered acceptable as it would be in keeping with roof materials used on many of the surrounding buildings.

In this instance, the as-built building utilises dark grey plain tiles on the roof. These tiles are of a similar colour and texture to the surrounding slate roofs. In addition, it is expected that these tiles will dull down with time and weathering. The existing tiles, although of a lower quality material than slate, are considered to be of a similar appearance to the roofs in the surrounding area. As such the tiles do not appear incongruous or overly prominent within the street scene and are, on balance, considered to respond appropriately to the materials used in the surrounding area in accordance with policy DM3 of the Local Plan.

- F. The as-built scheme includes internal layout changes as indicated in section 2(f) above. However, the overall character of development has been implemented largely as approved and still comprises two ground floor commercial units of the approved sizes, and a first floor residential unit. The internal layout changes have not resulted in the insertion of any new doors/windows that would result in additional overlooking, nor have they resulted in a material change to the amount of commercial or residential space compared with the previously approved scheme. Therefore the as built layout is still considered to accord with the relevant Local Plan policies.
- G. As above, details of materials, including for windows and doors, to be used within the side and rear elevations of the building were required to ensure that the proposal would relate well to the buildings and character of the surrounding area. It should be noted that whilst the majority of the units in the parade retain their historic frontages, some have utilised PVC windows and doors to the side and rear elevations. Along this parade, it is the historic frontages that are the main attractive features within the street scene and the side and rear elevations of the buildings are less visible and therefore less sensitive.

PVC windows and doors have been included within the side and rear elevations of the as-built building. Given that these elevations are less sensitive than the front elevation and that a number of other units in the area also use PVC fittings to the side and rear, the use of PVC windows and doors in these locations is not considered to result in significant harm to the character and appearance of the surrounding area in accordance with policy DM3 of the Local Plan.

- H. Details of the materials of the exterior staircase to the rear were required as this was not indicated as part of the approved application. The scheme as built utilises a metal staircase. Although this material was not submitted for approval, it is not considered inappropriate, would be located to the less sensitive rear of the site and is not visible from the road. Therefore the installation of the metal staircase is not considered to result in material harm to the character and appearance of the surrounding area in accordance with policy DM3 of the Local Plan.
- I. Details of materials to be used for the gutters, fascias and bargeboards were requested by condition as these were not detailed as part of the approved application. Black PVC gutters and downpipes have been utilised along with

white PVC fascias. It should be noted that PVC fittings are seen in the surrounding area and can be installed and replaced on buildings under permitted development rights. Therefore the use of PVC fittings is not considered to be significantly harmful to or out of keeping with the character and appearance of the building or surrounding area in accordance with policy DM3 of the Local Plan.

- J. During the consideration of application 16/00759/F, it was acknowledged that the large parking forecourt was not desirable from a highway safety or aesthetic point of view. The approved plans identify an outdoor seating area with bollards to prevent vehicle access and an area for cycle parking. The landscaping condition from 16/00759/F required the submission of details of hard surfacing, location of functional services, details of boundary treatments, and cycle parking and bin storage facilities. These details were to be approved prior to commencement of development; however these details have not yet been submitted. It is considered necessary for these details to be submitted to ensure the satisfactory appearance of the site in accordance with policies DM2 and DM3 of the Local Plan.

Options for enforcement

8. As per section 7, it is considered expedient to take enforcement action against items A, B, C and J.
9. As per section 7, it is not considered expedient to take enforcement action against items D, E, F, G, H, and I.
10. Officers have been investigating the breach and working with the applicants for some time to find a solution to the matters detailed in section 5. Several visits to the site have confirmed that the building is largely built to the correct overall dimensions and in the correct location as per the approved plans. Therefore permission 16/00759/F is considered to have been implemented.
11. The applicants have submitted a revised set of plans outlining a number of alterations that could be undertaken to the existing building to resolve the breaches and to ensure that the development complies with the conditions imposed upon 16/00759/F. The revised plans detail the following changes:
 - (a) Painting of the external brick to the front and side elevations in an off-white colour. This would reduce the prominence of the building by removing the vibrant red appearance from the street scene. In addition, a large number of shops within the parade have painted front elevations and therefore this change would ensure the building sits more appropriately in the context of its surroundings.
 - (b) Replacement of first floor front elevation windows with timber sliding sash windows of appropriate proportions and inclusion of stone cills. This would ensure that high quality windows are inserted that would more closely resemble those lost through the demolition of the former building, with the

inclusion of cills that are a common feature on the other buildings along the parade.

(c) Replacement of the existing shop front with a new shop front constructed of timber and glazing. The shop front would be of a design to mirror that of the former building with a painted decorative surround and would have more appropriate proportions and designated signage areas.

12. Officers have reviewed the plans detailing the above changes and consider that the alterations would bring the as-built development in line with the approved plans of 16/00759/F.

13. Authorisation is therefore sought to serve a breach of condition notice to secure compliance with the revised plans and to secure the submission of an appropriate landscaping scheme.

14. Officers have also considered the expediency of requiring the existing building to be demolished in its entirety and rebuilt in accordance with the approved plans. As outlined above, permission 16/00759/F is considered to have been implemented. In this instance, officers consider that it would be neither expedient nor proportionate to require the existing building to be demolished given that the development can be brought in line with the approved plans using less onerous measures (outlined in section 11).

Equality and diversity Issues

15. The Human Rights Act 1998 came into effect on 2nd October 2000. In so far as its provisions are relevant:

(a) Article 1 of the First Protocol (the peaceful enjoyment of ones possessions), is relevant in this case. Parliament has delegated to the Council the responsibility to take enforcement action when it is seen to be expedient and in the public interest. The requirement to secure alterations to the existing building to bring the development in line with the approved plan and to secure the submission of appropriate landscaping details in the interests of visual amenity of the area is proportionate to the breach in question.

(b) Article 6: the right to a fair hearing is relevant to the extent that the recipient of the breach of condition notice and any other interested party ought to be allowed to address the Committee as necessary. This could be in person, through a representative or in writing.

Conclusion

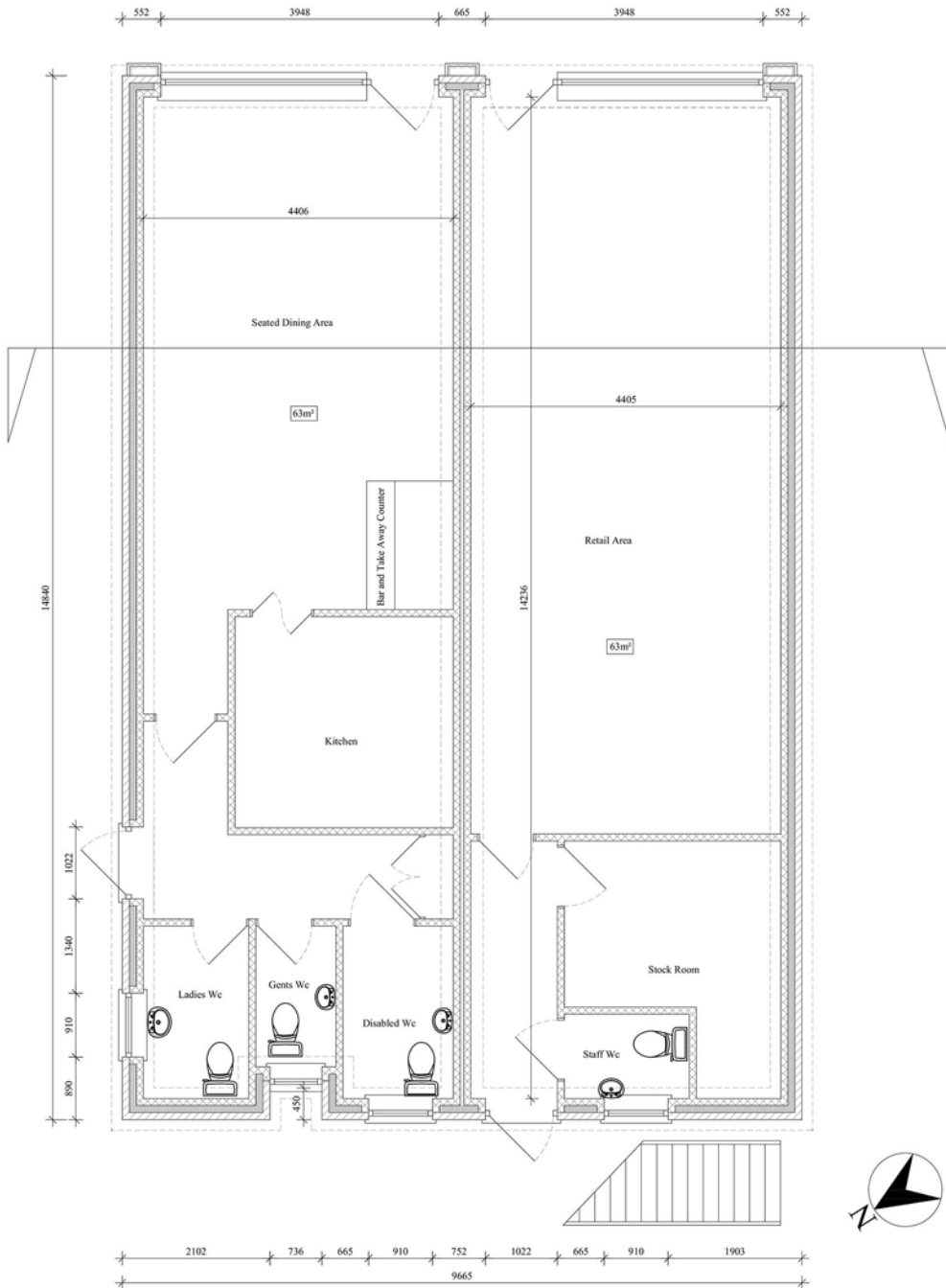
16. For the reasons outlined above the works that have been undertaken to date are considered to be harmful to the character and appearance of the surrounding area. The applicants have proposed alterations to the scheme to bring the development in line with the approved scheme under application 16/00759/F. Therefore it is recommended that authorisation is given to serve a breach of

condition notice seeking compliance with the revised plans and the submission of an appropriate landscaping scheme.

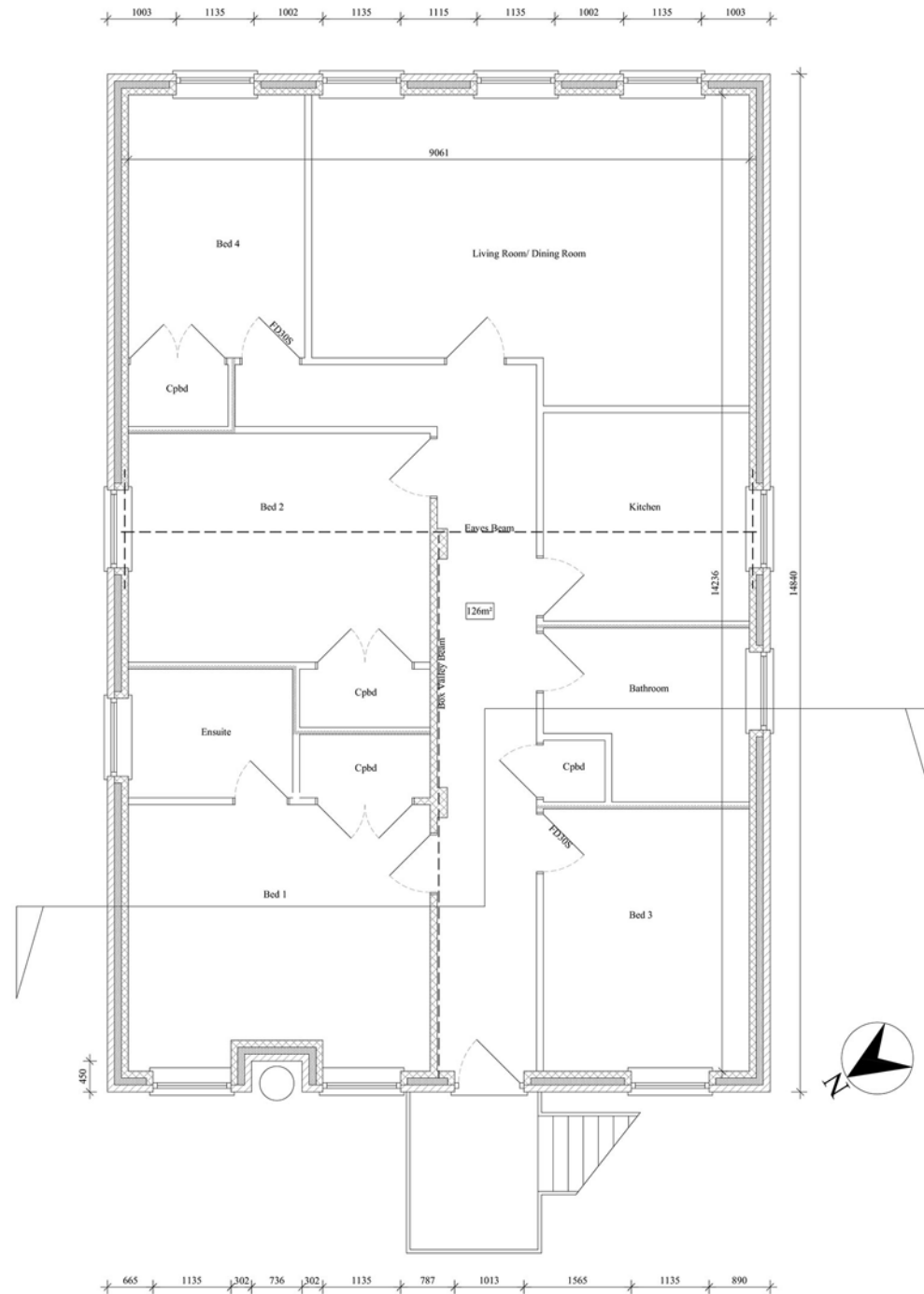
Recommendation

Authorise enforcement action up to and including prosecution in order to secure compliance with conditions 2, 3, 4 and 5 of permission 16/00759/F through:

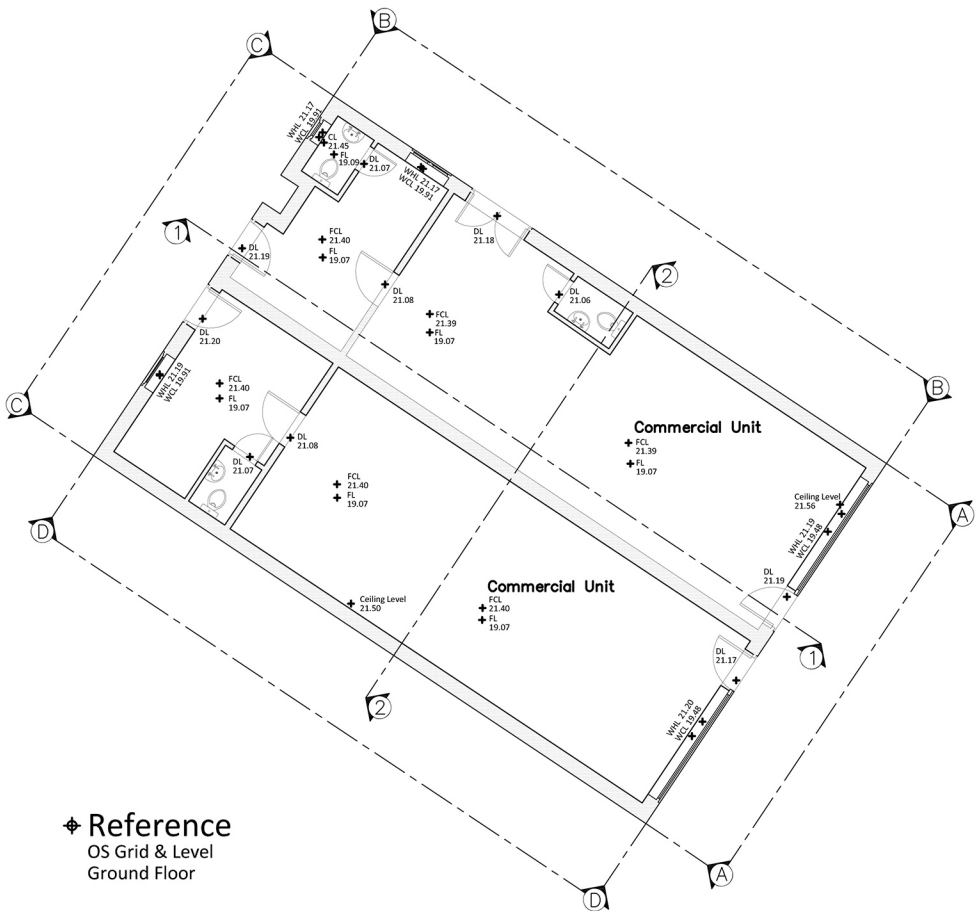
- (a) The carrying out of works on site to ensure the building is constructed in accordance with the submitted revised plans to bring the development in line with the approved scheme under 16/00759/F; and,
- (b) The submission of an appropriate landscaping scheme which was required under condition 5 of permission 16/00759/F.



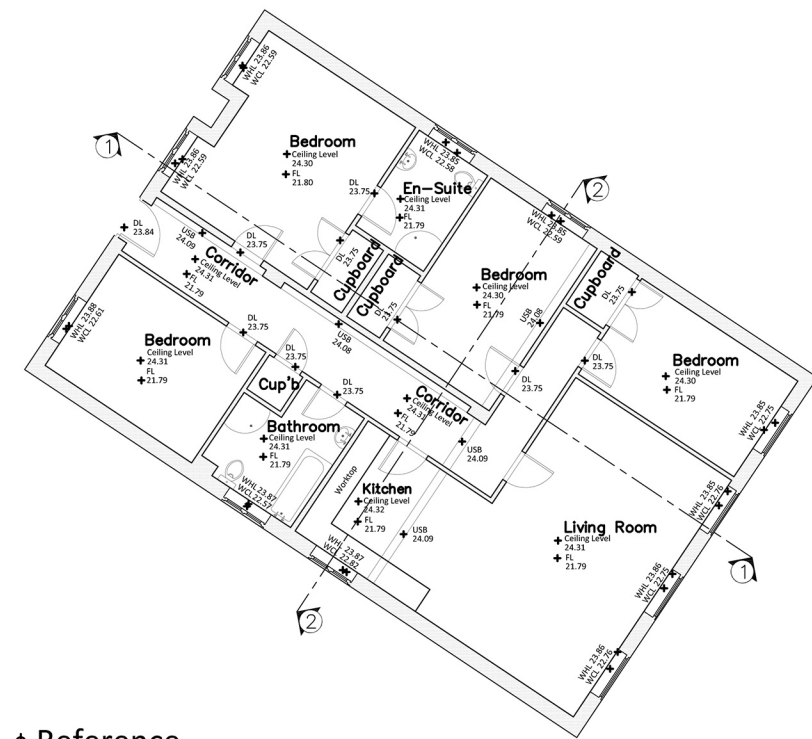
PROPOSED GROUND FLOOR PLAN



PROPOSED FIRST FLOOR PLAN



◆ Reference
OS Grid & Level
Ground Floor



◆ Reference
First Floor

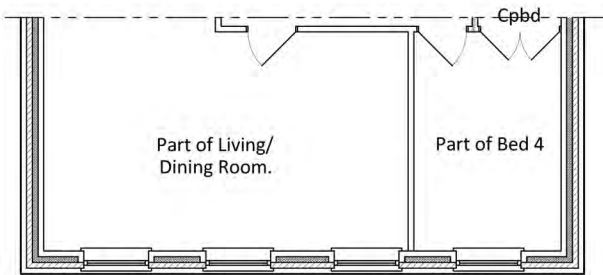


PROPOSED SOUTH EAST ELEVATION

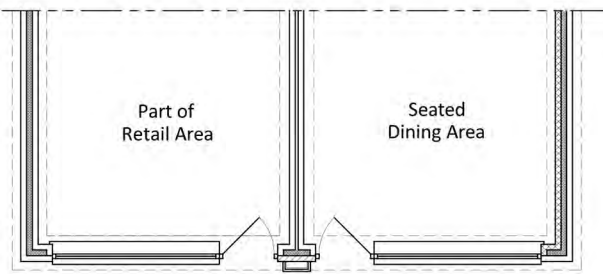


DATUM: 18.00M AOD

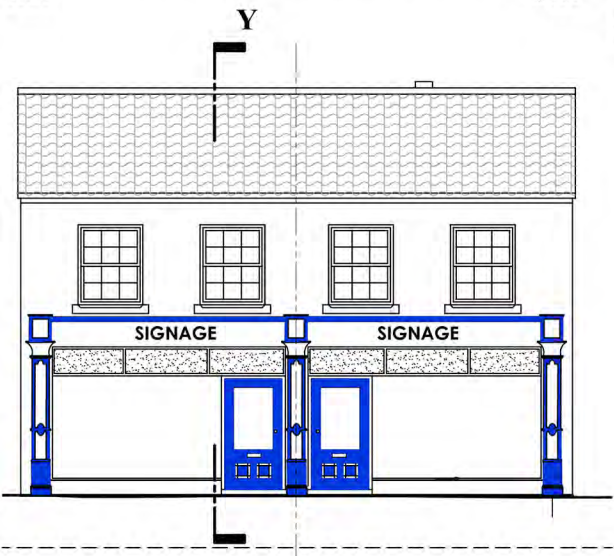
Elevation A



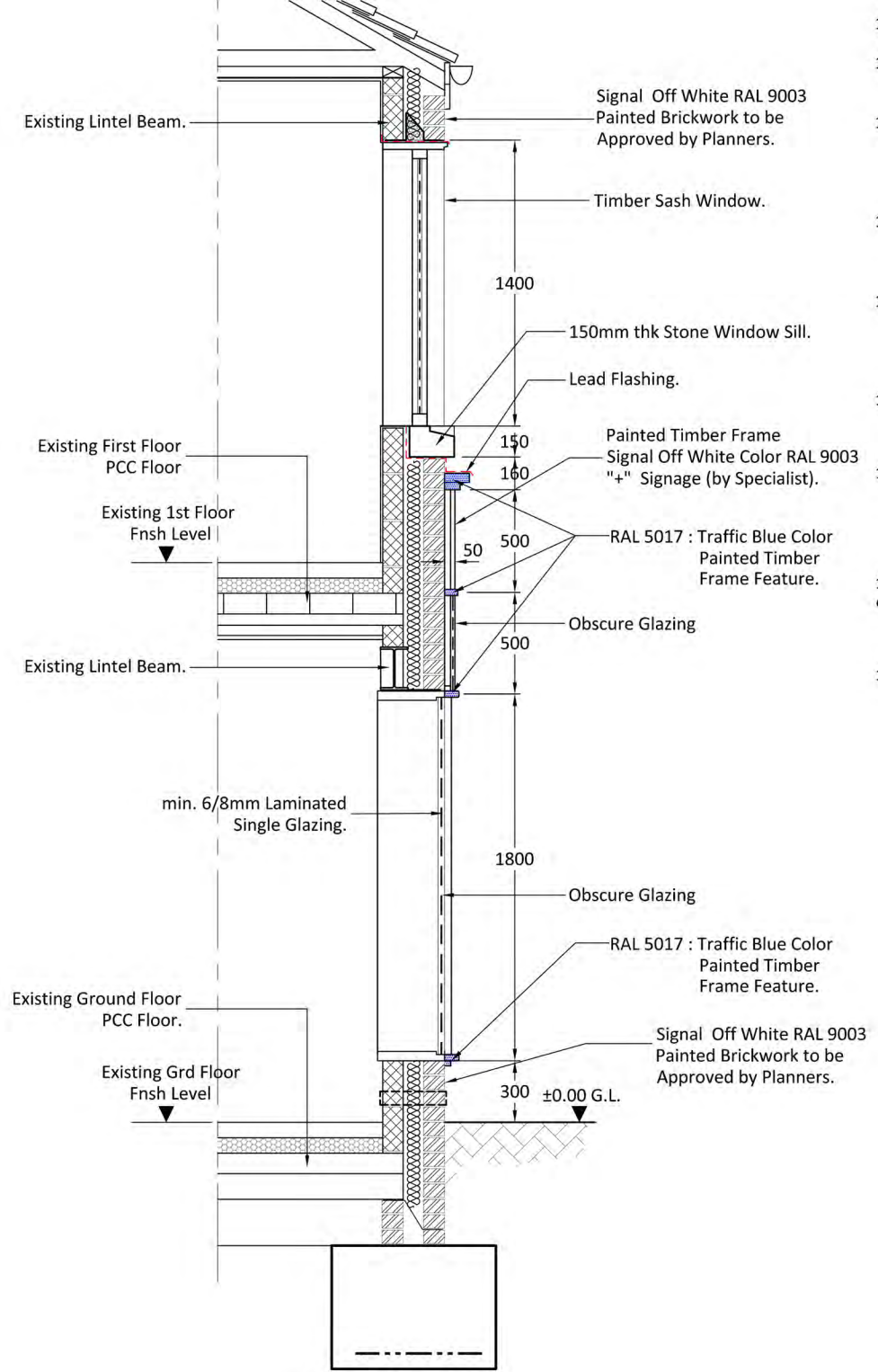
Proposed First Floor Part Plan
Scale 1/100



Proposed Ground Floor Part Plan
Scale 1/100



Proposed (with Signage) Elevation
Scale 1/100



Section - "Y"
Scale 1/25

- 1.0 GENERAL NOTES
- 1.1 This drawing must not be scaled and if in doubt ask.
- 1.2 Any construction or fabrication carried out prior to obtaining all necessary statutory and other approvals is done so at the risk of the Contractor.
- 1.3 All Contractors are to check all dimensions and levels on site prior to commencing any construction or fabrication.
- 1.4 This drawing is to be checked and read in conjunction with all relevant Engineers and any specialists drawings, together with any relevant additional Engineers specification.
- 1.5 The Contractor is to ensure the stability of each element and the stability of the overall construction until the construction is complete.
- 1.6 All designs, connections, workmanship and materials are to comply with the latest relevant British Standard Specification and Codes of Practice or otherwise be to the specific written approval of the Engineer.
- 1.7 Where proprietary structural elements, fixings etc. are used they are to be used strictly in accordance with the manufacturers recommendations and Engineers approval.
- 1.8 No permanent structural members are to be cut, notched or jointed unless shown on the Engineers details.

Rev.	Date	Description
A	04.07.18	Updated Drawings



5 Recorder Road
Norwich Norfolk NR1 1SZ
Telephone: 01603 664499
Email: mail@haengineers.co.uk
Web: www.haengineers.co.uk

Project
137 Unthank Road, Norwich.

Part of Structure
Proposed South Elevation & Section.

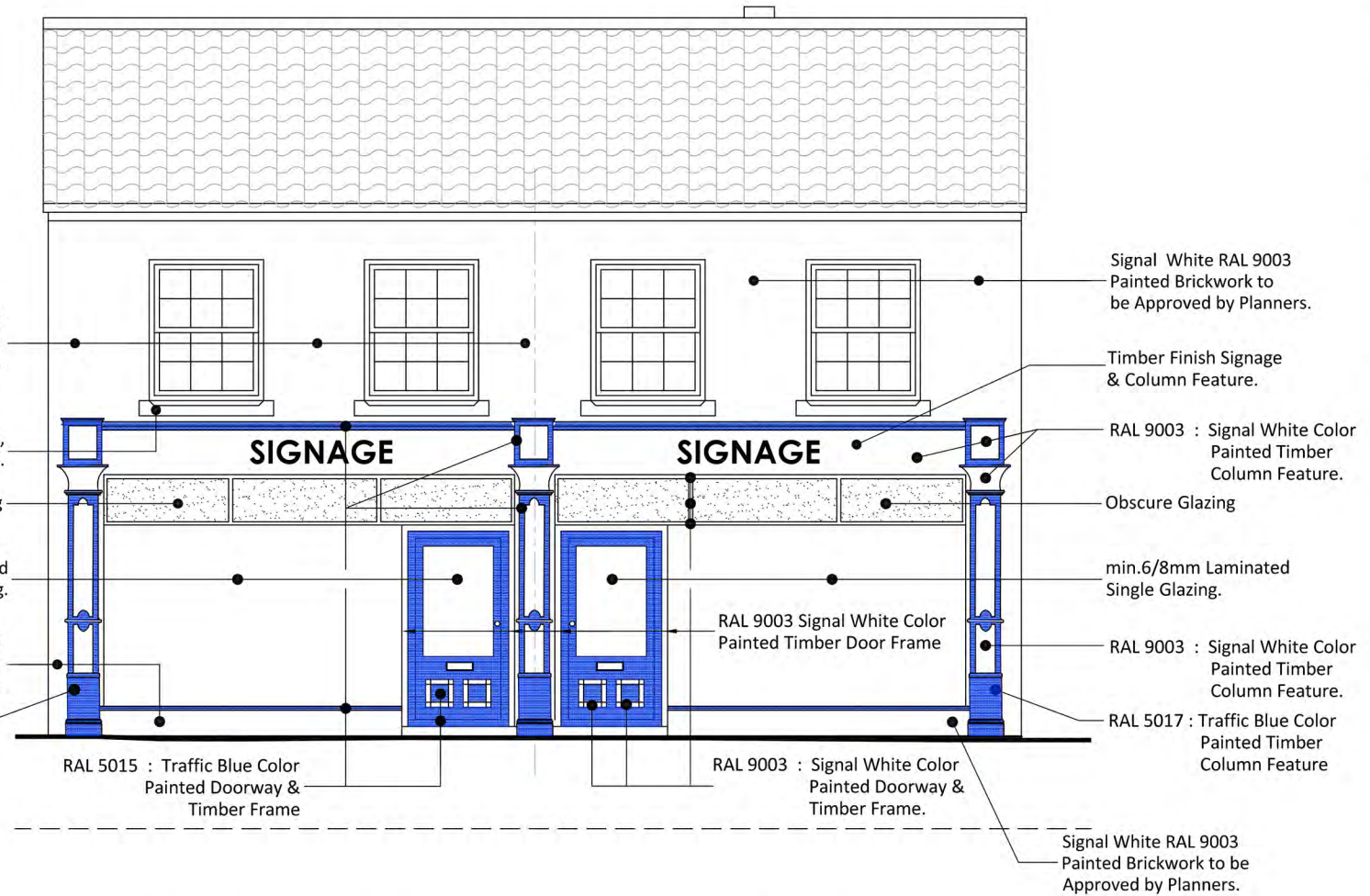
Job Ref. HA169	Sheet No. SK4
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Scale @ A3 AS	Date. 16.04.18
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Drawn by MMC	Chck'd by JDS
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Note :
Shop Front Window/Door surrounds are in **Timber**.

- 1.1 This drawing must not be scaled and if in doubt ask.
- 1.2 Any construction or fabrication carried out prior to obtaining all necessary statutory and other approvals is done so at the risk of the Contractor.
- 1.3 All Contractors are to check all dimensions and levels on site prior to commencing any construction or fabrication.
- 1.4 This drawing is to be checked and read in conjunction with all relevant Engineers and any specialists drawings, together with any relevant additional Engineers specification.
- 1.5 The Contractor is to ensure the stability of each element and the stability of the overall construction until the construction is complete.
- 1.6 All designs, connections, workmanship and materials are to comply with the latest relevant British Standard Specification and Codes of Practice or otherwise be to the specific written approval of the Engineer.
- 1.7 Where proprietary structural elements, fixings etc. are used they are to be used strictly in accordance with the manufacturers recommendations and Engineers approval.
- 1.8 No permanent structural members are to be cut, notched or jointed unless shown on the Engineers details.



Proposed (with Signage) Front of Shop Elevation
Scale _____ 1/50

A	04.07.18	Updated Drawings.
Rev.	Date	Description



5 Recorder Road
Norwich Norfolk NR1 1SZ
Telephone: 01603 664499
Email: mail@haengineers.co.uk
Web: www.haengineers.co.uk

Project
137 Unthank Road, Norwich.

Part of Structure
Proposed Front of Shop - South Elevation.

Job Ref.	Sheet No.
HA169	SK5

Scale @ A3 AS	Date. 16.04.18
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Drawn by MMC	Chck'd by JDS
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