

**Report to** Planning applications committee

**Item**

14 November 2019

**Report of** Area Development Manager

**Subject** Application no 19/01012/F - 40 Fishergate, Norwich,  
NR3 1SE

**4(d)**

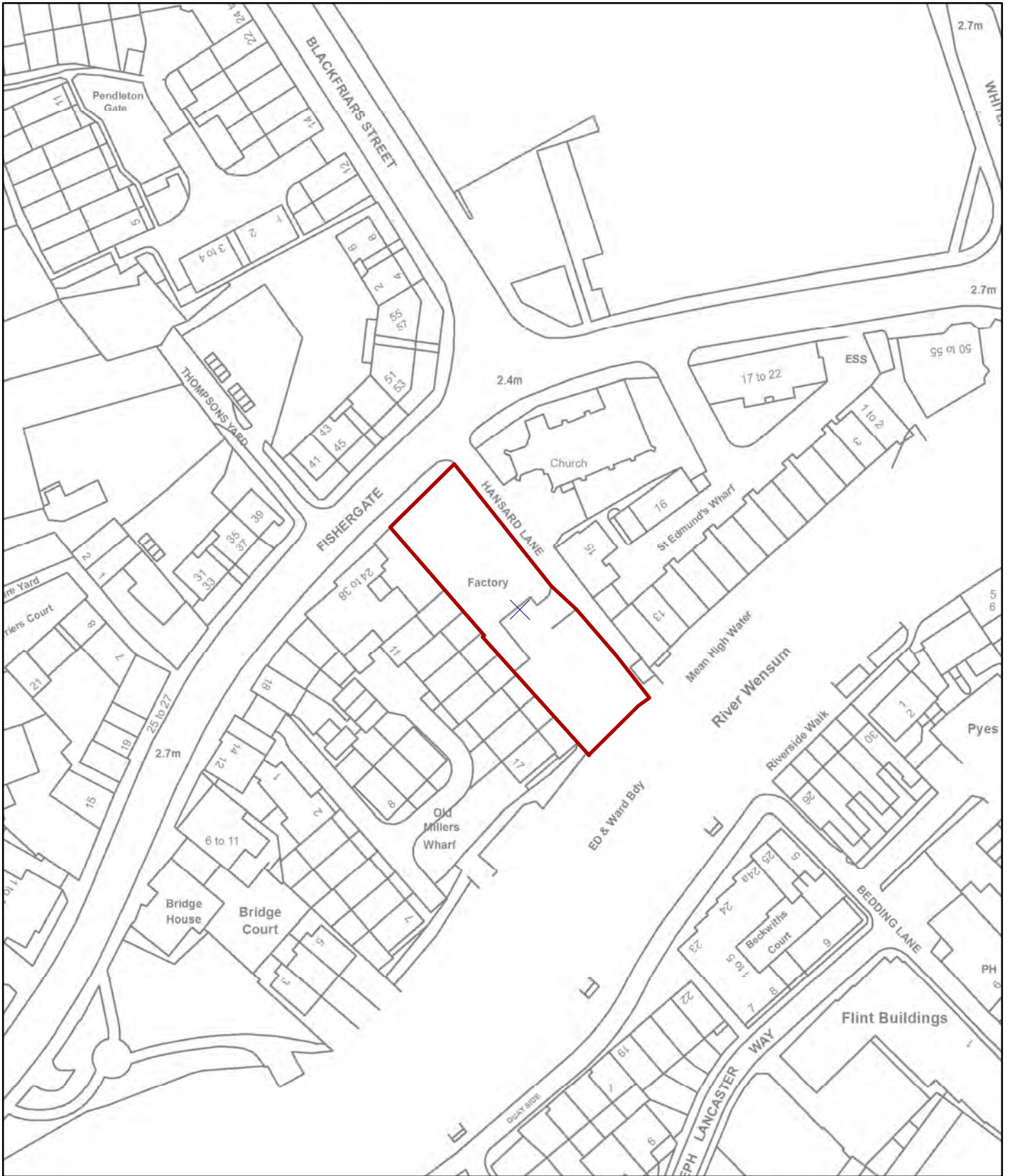
**Reason  
for referral** Objections

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<b>Ward:</b>	Mancroft
<b>Case officer</b>	Jacob Revell - <a href="mailto:jacobrevell@norwich.gov.uk">jacobrevell@norwich.gov.uk</a>

<b>Development proposal</b>		
Placement of air conditioning equipment within an acoustic enclosure. (Retrospective)		
<b>Representations</b>		
Object	Comment	Support
4	1	0

<b>Main issues</b>	<b>Key considerations</b>
1	Amenity
2	Design & Heritage
<b>Expiry date</b>	25 October 2019
<b>Recommendation</b>	Approval



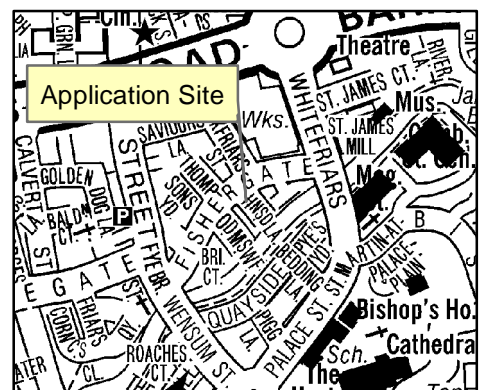
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Planning Application No 19/01012/F  
 Site Address 40 Fishergate

Scale 1:1,000



**NORWICH**  
 City Council  
 PLANNING SERVICES



## The site and surroundings

1. 40 Fishergate is a two storey former factory located on the southern elevation of Fishergate and the western elevation of Hansard Lane. The river Wensum is located immediately south east of the site. The building has had several uses since ceasing its factory use, including as an artist's studio and gallery.
2. The site was granted consent for change of use to a General Practice surgery in 2017. The surgery opened in the first half of 2019.
3. The property itself is a 20<sup>th</sup> century construction, although the conversion has necessitated that amendments have been made to the appearance of the property and to the site generally. There is a car parking area to the rear of the property which is used by staff. The plant and machinery subject to this application is located within the car park.
4. Adjacent sites either side of the property are residential. The site is positioned between residential properties at both Old Millers Wharf and St Edmunds Wharf. The Grade 1 Listed St Edmunds Church is on the corner of Hansard Lane and Fishergate to the North East. The wider surrounding area boasts a mixture of commercial, retail, residential and industrial uses.

## Constraints

5. City Centre Conservation Area
6. In the setting Grade 1 Listed St Edmunds Church
7. Environment Agency Floodzone 2 and 3.
8. Regeneration Area – DM5.
9. Area of main archaeological interest – DM9.
10. Area for reduced parking and city centre parking – DM29.

## Relevant planning history

Ref	Proposal	Decision	Date
17/00986/F	Change of use to GP Surgery (Class D1).	APPR	25/01/2018
18/00596/F	Erection of external fire escape.	APPR	01/06/2018
19/00349/D	Details of Condition 3: Travel plan, Condition 4: Flood warning and evacuation plan, Condition 6: Riverside Walk management plan and Condition 9: Method statement of previous permission 17/00986/F.	APPR	08/04/2019

## The proposal

11. A retrospective application for the installation of air conditioning equipment with an associated acoustic enclosure. The air conditioning equipment is currently installed but the acoustic barriers are not. After meeting DATE with the surgery, it was understood that the units would be switched off until a planning application had been submitted and subsequently approved. However, it should be noted that the Council received further complaints in October as the units also provide the heating for the building. It is understood that the units are currently in use throughout the opening hours of the surgery, between 8am and 6pm, Monday to Friday with one Saturday per month.
12. The permission for the change of use included a mechanical compound but showed no details of plant or machinery. The application form specifically stated that the application did not include any external air conditioning or ventilation equipment. The site does not, therefore, have permission for any external plant and machinery.
13. Subsequently, the installation of the units prior to the 4<sup>th</sup> of April 2019 without the required additional consent was raised as an enforcement case by neighbouring residents. The units were originally located on the south west boundary of the site, but following noise complaints relating to the close proximity of the units to the residential properties at Old Millers Wharf, the units have been moved to inside the 'L' shape of the building, closer to the centre of the site. It should be noted that whilst this does mitigate against noise pollution to Old Millers Wharf, the move does bring the units closer to the residential properties at St Edmunds Wharf and therefore increases the risk of noise pollution to these properties. The application seeks permission to regularise the siting of the units in this location.
14. The technical specifications for the units are as follows: one Mitsubishi PURY-P500YNW-A and two smaller Mitsubishi units, one of each of the SUZ-M25VA and the SUV-M50VA.
15. The proposed acoustic shielding for the plant will be a 3.5m high timber barrier lined with Rockwool encapsulated within a waterproof membrane to prevent slumping. The barrier will have an open top. The footprint of the proposed enclosure is approximately 1.6m x 4.1m. The acceptability of the proposed barriers is assessed in the submitted Noise Impact Assessment and supporting documents.

## Representations

16. Advertised on site and in the press. Adjacent and neighbouring properties have been notified in writing. 5 letters of representation have been received citing the issues as summarised in the table below. Redacted representations are available to view at <http://planning.norwich.gov.uk/online-applications/> by entering the application number.

Issues raised	Response
Amenity – <ul style="list-style-type: none"><li>• Noise generated by the units is intolerable, even within the neighbouring residential properties</li></ul>	See Main Issue 1.

Issues raised	Response
<p>with the windows shut.</p> <ul style="list-style-type: none"> <li>• The acoustic screening proposed does not look adequate to contain the noise.</li> <li>• A non-cantilevered design will not provide sufficient shielding – why has the council recommended a non-cantilevered wooden design rather than a cantilevered metal design when given a choice between the two?</li> <li>• The surgery have been restricting the use of the units since receiving the complaints - when the units are in use more frequently the noise will become much more affecting.</li> <li>• Details of the units were not included as part of the original application – if they had been, there would have been more opposition to the original change of use.</li> <li>• Summer weather and humidity ensured that the noise at night in the summer was unbearable. Poor design has severely impacted the integration of the building into the community. Surely a solution with less severe consequences for the neighbouring residents would be possible – for example a system of internal networked units.</li> <li>• Level of noise is impacting on the wellbeing of local residents.</li> </ul>	
<p>Other matters –</p> <ul style="list-style-type: none"> <li>• Noise generated by the roof vents on other parts of the building need to be considered alongside this application – a potential build-up of noise. Air vents are located at the same height as the bathrooms of the residential properties.</li> <li>• Reports are out of date as they were carried out prior to the units being moved towards St Edmunds Wharf.</li> </ul>	<p>See other matters.</p>

## Consultation responses

17. Consultation responses are summarised below the full responses are available to view at <http://planning.norwich.gov.uk/online-applications/> by entering the application number.

## **Design and conservation**

18. This is not an application that I intend to provide conservation and design officer comments on because it does not appear on the basis of the application description to require our specialist conservation and design expertise. This should not be interpreted as a judgement about the acceptability or otherwise of the proposal.

## **Environmental protection**

19.

**(Initial)** I note the information provided by the applicant and request clarification over which scheme to mitigate noise disturbance is to be implemented as the most recent correspondence features the details of several proposals and is therefore slightly ambiguous.

Additionally, while Rockwool (as detailed in the planning application) is a highly effective material for absorbing noise, it does have a tendency to degrade and slump when wet. Since the proposed barrier is only partly enclosed, there will be some water ingress which may reduce the effectiveness of Rockwool over time. Please could the applicant confirm:

- If the Rockwool will be fixed in place to prevent slumping
- If there will be a schedule of maintenance to ensure the Rockwool is replaced if required

**(Additional)** Myself and Richard Divey have reviewed the additional documentation provided and are satisfied with its contents and the proposal to install the timber acoustic barrier with Rockwool.

If we still have the opportunity, the Public Protection team would like to apply an “hours of use condition” and prevent use of the equipment between 23:00 and 07:00 (i.e. night time hours). Since the equipment is only to be used during normal working hours (as stated in the application), I trust this would be deemed acceptable.

## **Assessment of planning considerations**

### **Relevant development plan policies**

#### **20. Norwich Development Management Policies Local Plan adopted Dec. 2014 (DM Plan)**

- DM2 Ensuring satisfactory living and working conditions
- DM3 Delivering high quality design
- DM5 Planning effectively for flood resilience
- DM11 Protecting against environmental hazards
- DM16 Supporting the needs of business

### **Other material considerations**

#### **21. Relevant sections of the National Planning Policy Framework February 2019 (NPPF):**

- NPPF8 Promoting healthy and safe communities

- NPPF12 Achieving well designed places

## **Case Assessment**

22. Planning law requires that applications for planning permission must be determined in accordance with the development plan unless material considerations indicate otherwise. Relevant development plan policies are detailed above. Material considerations include policies in the National Planning Framework (NPPF), the Councils standing duties, other policy documents and guidance detailed above and any other matters referred to specifically in the assessment below. The following paragraphs provide an assessment of the main planning issues in this case against relevant policies and material considerations.

### **Main issue 1: Amenity**

23. Key policies and NPPF paragraphs – DM2, DM11, NPPF paragraphs 8 and 127.
24. The concerns raised by neighbours are understandable and duly noted. It should be reiterated that the case began as enforcement and that the units would not be considered acceptable as originally installed. After meetings between officers, the applicants and their consultants on Wednesday the 22<sup>nd</sup> of May 2019, it was understood that the units would not be used until planning application had been granted and acoustic barriers installed, barring using the units to provide acoustic readings. However, it is evident from further complaints and correspondence with the applicant that the units are now in regular use as they provide the heating for the building. It should also be noted that although the units have been installed, the proposed acoustic barriers have not.
25. All representations received indicate that the level of noise generated by the current situation is wholly unacceptable. It is considered that the proposed plant and machinery will only be considered acceptable in a situation in which the acoustic screening is proven as adequate to successfully mitigate these concerns. The acceptability of the plant and machinery therefore weighs entirely upon the effectiveness of the screening.
26. Initially, the applicant outlined two possible options for acoustic screening: a 3 meter tall timber fence barrier system or a 2.5m metal shield with a cantilevered top. Several of the representations received outline concerns about the acceptability of the acoustic barriers proposed. These representations suggest that a smaller metal cantilevered enclosure would be a more efficient reducer of sound than the timber enclosure proposed, and that the timber enclosure has been selected for aesthetic reasons only. In response, the applicant has submitted a supporting document supplied by Create Consulting Engineers outlining that the performance of both of the enclosures will be the same: 'either the 3m tall timber fence or the 2.5m cantilevered steel barrier would be suitable acoustically'. The applicant has further proposed to increase the height of the proposed fence to 3.5m, to provide 'additional assurance' that adequate noise mitigation will be provided. The efficacy of the proposed screen has also been assessed by the Council's own Environmental Protection officers and they have found it to be acceptable.
27. The applicants Noise Impact Assessment sets the background noise level of the area at 38 dB LA90, 1min. With the plant located in its new position, the acceptable

maximum dB target was set at 39.5. This target is set in consideration of acceptable sound levels identified by Norwich City Council (sound level NR30 1 meter from sensitive properties), in addition to British Standard 4142:2014. Modelled noise levels with the plant switched on were provided in the following positions: in the garden of 15 Old Miller's Wharf (31.7 dB), at the first floor window of 15 Old Miller's Wharf (28.2 dB), at two first floor windows at St Edmunds Wharf (43.5 dB, 31.7 dB) and at the top floor window of St Edmunds Wharf (33 dB). Whilst the new position of the plant has ensured the sound levels are acceptable at Old Miller's Wharf, significant sound mitigation is required to make the noise levels acceptable to the properties at St Edmunds Wharf. The predicted sound levels from similar positions with the acoustic barriers installed are as follows: in the garden of 15 Old Miller's Wharf (28 dB), at the first floor window of 15 Old Miller's Wharf (26 dB), at first and second floor windows at St Edmunds Wharf (29 dB, 31 dB) and at the second floor patio of St Edmunds Wharf (25 dB).

28. The indicative noise levels largely meet the requirements set by Norwich City Council and the British Standards. It should be noted that the second floor window of St Edmunds Wharf falls slightly outside of the required NR30, achieving approximately NR31. However, it should be noted that the sound levels do adhere to the low frequency levels specified by Norwich City Council: 45dB at 63Hz and 40 dB at 125Hz. Furthermore, the internal sound level is predicted to meet NR17, achieving a level below the specified NR20. With regards to British Standards, the plant is indicated as 2dB above the night time background sound levels, which suggests a low overall impact.
29. The applicant's consulting engineer has suggested that 'the plant should be limited to the opening hours for the surgery'. This recommendation is in line with the advice given by Norwich City Council's Environmental Protection officers, who have recommended that a condition should be applied to prevent the use of the plant during night time hours, between 23:00 and 7:00. Limitations on the hours of use of the equipment will therefore be secured by condition.
30. Taking into account the above, it is considered that the applicant has submitted sufficient evidence to suggest that the acoustic barriers proposed are sufficient to mitigate noise to an acceptable standard. The proposal is therefore considered acceptable from an amenity perspective.
31. A number of objections have raised concerns about the noise generated by the vents on the roof of the property, as they are level with the first floor residential properties. The roof vents were granted approval as part of the 17/00986/F planning application to change the use of the building. Any excessive noise arising from these vents should be resolved as either a civil or environmental health matter.
32. One letter of representation refers to the noise impact information submitted by the applicant as incorrect as measurements were undertaken when the units were in their original position. The readings that the applicant has offered in their noise impact assessment all relate to the new positioning of the units.

## **Main issue 2: Design & Heritage**

33. Key policies and NPPF paragraphs – JCS2, DM3, NPPF NPPF paragraphs 124-132, 184-202.



34. The site is located within the City Centre Conservation Area, within the Northern Riverside character area. The city centre character appraisal notes the area as 'significant'. Although the majority of buildings in the immediate vicinity of the subject building are relatively modern, the site sits next to the Grade I listed St Edmunds Church.
35. Paragraph 193 of the NPPF stresses that when considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be attached to the conservation of the asset. Sections 66 and 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 place a statutory duty on the local authority to have special regard to the desirability of preserving listed buildings or their setting or any features of special architectural or historic interest which they possess and to pay special attention to the desirability of preserving or enhancing the character or appearance of conservation areas.
36. The proposed enclosure is not visible from any public views from the church. The structure will be visible in views towards the church from across the river. However, as the proposed structure is relatively small in proportion to the main building at 40 Fishergate, the impact of this is considered acceptable. The use of timber acoustic shielding partially mitigates the visual impact as the material is used prominently on 40 Fishergate as well as St Edmunds and Old Miller's Wharfs.
37. For the reason above, the proposal is considered acceptable in relation to both the aforementioned heritage asset and the wider conservation area.

### **Equalities and diversity issues**

38. There are no significant equality or diversity issues.

### **Local finance considerations**

39. Under Section 70(2) of the Town and Country Planning Act 1990 the council is required when determining planning applications to have regard to any local finance considerations, so far as material to the application. Local finance considerations are defined as a government grant or the Community Infrastructure Levy.
40. Whether or not a local finance consideration is material to a particular decision will depend on whether it could help to make the development acceptable in planning terms. It would not be appropriate to make a decision on the potential for the development to raise money for a local authority.
41. In this case local finance considerations are not considered to be material to the case.

### **Conclusion**

42. The development is in accordance with the requirements of the National Planning Policy Framework and the Development Plan, and it has been concluded that there are no material considerations that indicate it should be determined otherwise.
43. The noise issues presented by the plant and machinery proposed will be adequately mitigated by the proposed sound barrier and restrictions on the

operating hours of the machinery. The proposal is therefore considered acceptable and is recommended for approval subject to condition.

44. In light of the sensitive nature of the proposals, a schedule of proceedings for the immediate future is suggested. If consent is granted, a condition should be applied requiring the acoustic fencing to be installed within ten weeks. If this condition is not met, the Council would serve a breach of conditions notice on the applicant. If this is not complied with, the Council may prosecute through the Magistrates' Court. There is no right of appeal to a breach of conditions notice. The maximum fine is £1000.

## **Recommendation**

To approve application no. 19/01012/F - 40 Fishergate Norwich NR3 1SE and grant planning permission subject to the following conditions:

1. Standard time limit;
2. In accordance with plans;
3. Restriction of hours of use;
4. Installed within certain timeframe (six weeks)
5. condition to require noise levels are attained

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 Drawing to be read in conjunction with the project specification.  
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 Information based on survey's drawings. Approximate calculations have been made to complete the drawing where data was not present.  
 Existing building defects to be corrected outside of tendered works includes but not limited to the buildings cracks and damp penetration.



SOUTH EAST ELEVATION 1:50



NORTH EAST ELEVATION 1:50

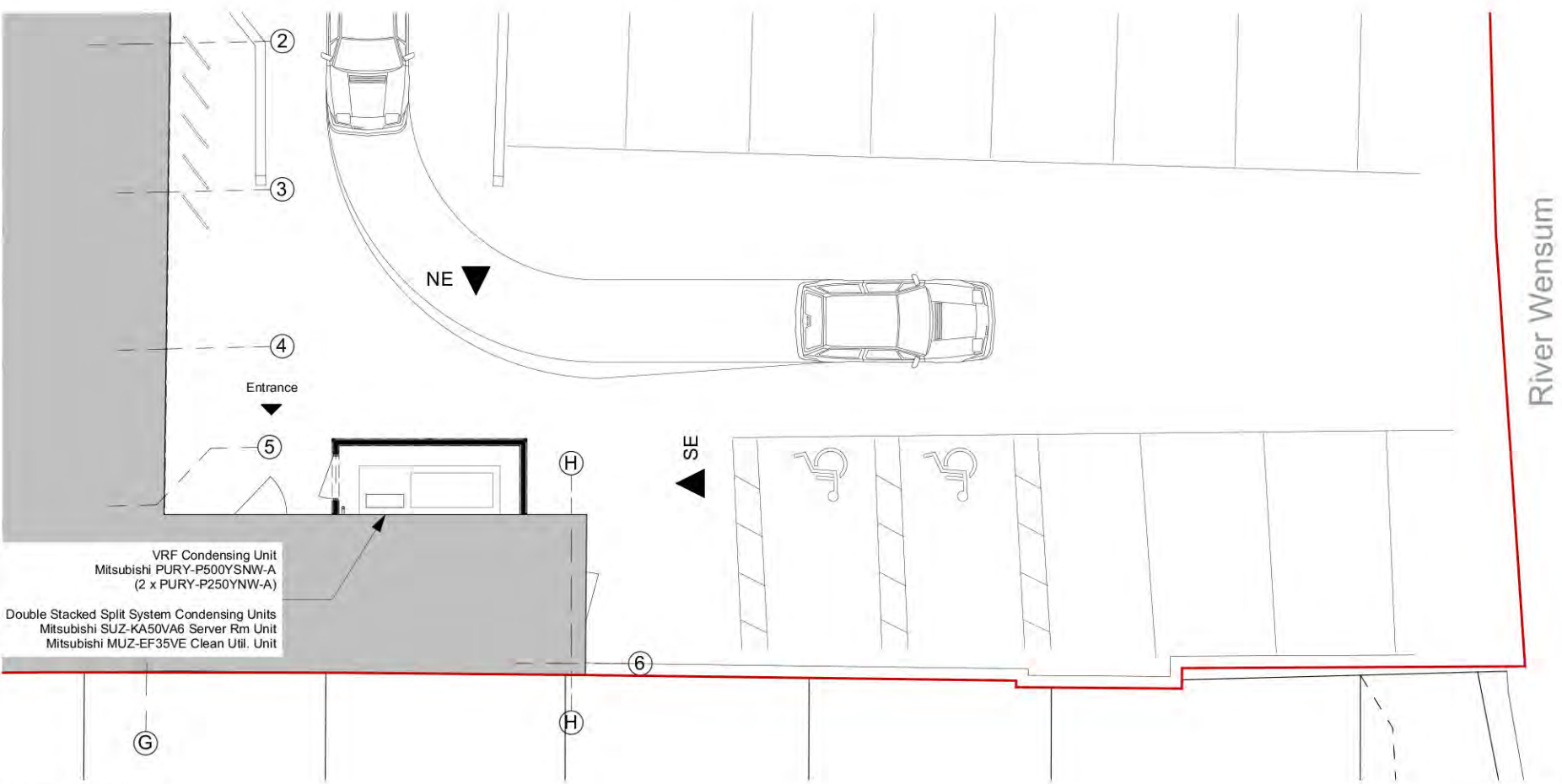


PERSPECTIVE VIEW (n.t.s)



Key: OS Site

- Boundary Line
- Site - Existing Building



PROPOSED TIMBER ENCLOSURE PLAN

1:50

PO3 BLV 20/02/2019 Acoustic timber screening height corrected to 3.5m high  
 PO2 BLV 01/02/2019 Acoustic timber screening height increased by 500mm  
**Issued For Planning: 16/07/2019**  
 PO1 BLV 16/02/2019 Issued For Planning  
 Rev No Date Revision  
 0m 1 2 3 4 5 6 7 8 9 10  
 100mm 1:50

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Client  
**The Castle Partnership**  
 Project  
**Gurney Surgery, Fishergate**  
 Title  
**1070 External AHU Relocation  
 Proposed - Acoustically Treated  
 Timber Enclosure**  
 Scale @ A1  
 Date  
 15/07/2019  
 Drawn  
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