

# Report to Planning Committee

**25 October 2023**

<b>Application Reference</b>	DC/23/68288
<b>Application Received</b>	17 May 2023
<b>Application Description</b>	Proposed part change of use of ground floor and conversion of first/second floors with single storey rear extension to create 2 No. self-contained apartments, rear loft dormer window, new shop front, landscaping and parking to rear.
<b>Application Address</b>	38 High Street Cradley Heath B64 5HL
<b>Applicant</b>	Mr Sutti
<b>Ward</b>	Cradley Heath & Old Hill
<b>Contact Officer</b>	Mr Andrew Dean <a href="mailto:andrew_dean@sandwell.gov.uk">andrew_dean@sandwell.gov.uk</a>

## 1 Recommendations

1.1 That planning permission is granted subject to conditions relating to:

- i) External Materials;
- ii) External lighting scheme;
- iii) Privacy glazing scheme for the rear facing lounge window;
- iv) Hard and Soft landscaping;
- v) Bin storage;





- vi) Cycle Storage;
- vii) Low NOx boilers;
- viii) Construction environmental management plan;
- ix) Contamination;
- x) Hours of construction; and
- xi) Sound proofing scheme for the first floor.

## 2 Reasons for Recommendations

- 2.1 The amended proposal raises no significant concerns from an amenity or design perspective and proposes suitable living accommodation compliant with national and local planning policy. The proposal would contribute to the range and type of properties available in the borough in a sustainable location well served by public transport.

## 3 How does this deliver objectives of the Corporate Plan?

	Quality homes in thriving neighbourhoods
	A strong and inclusive economy

## 4 Context

- 4.1 The application is being reported to your committee as seven objections to the proposal have been received.
- 4.2 To assist members with site context, a link to Google Maps is provided below:

[38 High Street, Cradley Heath](#)

## 5 Key Considerations

- 5.1 The site is not allocated within the Development Plan.



5.2 Material planning considerations (MPCs) are matters that can and should be taken into account when making planning decisions. By law, planning decisions should be made in accordance with the development plan unless MPCs indicate otherwise. This means that if enough MPCs weigh in favour of a development, it should be approved even if it conflicts with a local planning policy.

5.3 The material planning considerations which are relevant to this application are:-

Government policy (NPPF)

Planning history (including appeal decisions)

Amenity concerns – Overlooking/loss of privacy, loss of light and/or outlook and overshadowing

Design concerns - appearance and materials, layout and density of

Highways considerations - Traffic generation, access, highway safety, parking and servicing

Environmental Concerns

Presumption and the ‘titled balance’

## 6. The Application Site

6.1 The application site relates to commercial premises located on the southeast side of High Street, Cradley Heath. The property falls within a town centre location. The application property is a mid-terraced two storey property which includes a large yard area to the rear also within the ownership of the applicant.

## 7. Planning History

7.1 The property has been subject to three refusals. The reason for refusal of DC/18/61561 and DC/18/62082 related to back land development and a poor living environment due to the mixed retail/residential functioning of the space to the rear. DC/21/66030 was refused due to the proposed properties failing to achieve the minimum internal space standards and the change of use of the retail unit to residential being contrary to policy



CEN1 in that the site is within a defined retail core and the application would prejudice the retail function of the core area.

7.2 Relevant planning applications are as follows:

DC/21/66030	Demolition of existing single storey rear, proposed new two storey rear extension and conversion from shops/offices to provide 4 No. studio flats.	Refusal 21.12.2021
DC/18/62082	Proposed change of use at ground floor (rear), and first floor extension to rear to create 2no. studio apartments, with associated parking (amendment to planning application DC/18/61561).	Refusal 18.10.2018
DC/18/61561	Proposed two storey rear extension and change of use from vacant office above a retail unit to 3 No. self contained apartments with associated parking.	Refusal 22.05.2018

**8. Application Details**

8.1 The application is proposing a part change of use of ground floor at the rear and conversion of first/second floors with single storey rear extension to create 2 No. self-contained apartments, rear loft dormer window, new shop front, landscaping and parking to rear. A 26m<sup>2</sup> retail unit would remain at the front of the property accessed from High Street. This unit would consist of a retail area, backroom area, toilet and kitchen.



- 8.2 The single storey rear extension would measure 4.8 metres (W) by 5.4 metres (L) and have an overall height of 4 metres (2.9 metres to the eaves).
- 8.3 The rear dormer window would measure 4.3 metres (L) by 3.8 metres (D) with an overall height of 1.8 metres. The dormer would have a volume of 14.71 m<sup>3</sup>.
- 8.4 Apartment 1 would be a 1-bedroom dwelling with an internal floor area of 52.1 m<sup>2</sup>. This flat would be accessed from the rear via the existing gated rear access. This unit would contain a kitchen/living room, hall, bathroom and bedroom.
- 8.5 Apartment 2 would be a 1-bedroom dwelling split across two floors and would have an internal floor area of 60.1 m<sup>2</sup> (when including the front access stairs which are for the sole use of this apartment). This flat would be accessed from the front of the property off High Street. This property would contain a kitchen/living room on the first floor and bathroom and bedroom in the roof space. Both apartments would be served by 38 m<sup>2</sup> of external amenity area.
- 8.6 The applicant is also proposing to change the shop front of the property to accommodate the additional door access to serve the apartment on the first and second floor. The existing fascia sign would also be reduced in scale to that of adjacent properties and the first-floor window enlarged.

## 9. Publicity

- 9.1 The application has been publicised by neighbour notification letter, with seven objections being received. Neighbours were re-consulted on the amended plans with a further four objections being received raising the same issues.



## 9.2 Objections

Objections have been received on the following grounds:

- i) Concerns regarding land ownership issues and the loss of car parking spaces at the rear of the property to adjacent neighbours. Reference to a demolished toilet block on the land for the use of properties 39 and 40. Objectors state they have a right to access this land.
- ii) A small section of the site is outside the ownership of the applicant and would become built on or land locked if the applicant gets permission and builds the development. This area is within the ownership of No.40 and appears to be the location of the former outside toilet.
- iii) Concerns residents would experience noise and disturbance due to a hot food takeaway and other commercial uses being located adjacent to the property.
- iv) Concerns emergency vehicles will not be able to access the property at the rear of the site due to the narrow tunnel entrance and locked gates.
- v) Access to the property at the rear is restricted by a locked gate.
- vi) Concerns with regards to the fact residents may cause anti-social behaviour and potentially be criminals/drug users.
- vii) The proposal would cause a loss of light, outlook and privacy to adjacent buildings as well as the buildings ventilation.
- viii) Concerns the applicant has undertaken work previously on this site and all waste/rubbish was left at the rear.
- ix) Concerns with regards of access to neighbours land to undertake the works proposed.
- x) The amended plans show the rear living room of the first-floor apartment would be adjacent to a neighbour's bedroom. No key has been provided to state what the hatched boxes in the kitchen/living room means.
- xi) A question was raised as to why the front facing window needs to be moved.



Non-material objections have been raised regarding loss of property value, loss of view and problems arising from the construction period.

These objections will be addressed in section 13 (Material considerations).

## 10. Consultee responses

### 10.1 Highways

No objection subject to the removal of the off-street car parking spaces proposed. The proposal is within a town centre location with a good source/availability of sustainable transport links and public car parks to the proposed and the spaces show on the proposed plan would not be useable.

### 10.2 Pollution Control (Air Quality)

No objection subject to conditions for low NOx boilers and a construction environmental management plan.

### 10.3 Pollution Control (Contaminated Land)

No objection subject to the standard contaminated land condition.

### 10.4 Pollution Control (Air Pollution and Noise)

No objection subject to a condition for hours of working to be restricted to the following times; -

0730 to 1800 hours on Monday to Friday, 0730 to 1400 hours on Saturday, with no work at any other time including Sundays and public holidays.



## 11. National Planning Policy

- 11.1 National Planning Policy Framework promotes sustainable development but states that local circumstances should be taken into account to reflect the character, needs and opportunities for each area. The Framework refers to development adding to the overall quality of the area by achieving high quality design, achieving good architecture and layouts.
- 11.2 The Framework promotes sustainable transport options for development proposal and paragraph 111 states that developments should be prevented or refused on highway grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe.
- 11.3 Taking into account the views of the Council's Urban Design officer, I am of the opinion that the scheme is of a good design, in accordance with paragraph 126 of the NPPF.
- 11.4 In respect of paragraphs 128-130 of the NPPF, the Urban Design officer raises no objections to the scheme. The development would assimilate with the overall form and layout of the sites surroundings.

## 12. Local Planning Policy

- 12.1 The following polices of the council's Development Plan are relevant:

HOU2: Housing Density type and Accessibility

TRAN4: Creating Coherent Networks for Cycling and Walking

ENV3: Design Quality

ENV8: Air Quality

SAD EOS9: Urban Design Principles

SAD DM10: Shop Front Design

- 12.2 ENV3 and SAD EOS9 refers to well-designed schemes that provide quality living environments. The proposed layout and design are





considered to be acceptable with the unit providing the minimum internal floor area for a one bed, one-person unit as required by the nationally described space standards.

- 12.3 HOU2 identifies the need for a range of types and sizes of accommodation within the borough and accessibility in terms of sustainable transport for residential services. The proposal would provide an additional residential unit in the borough and is within close proximity to a parade of shops and bus stops on Hagley Road West.
- 12.4 ENV8 refers to mitigation measures to offset air quality issues. In this instance, conditions for low NOx boilers to be provided has been recommended.
- 12.5 TRAN4 requires schemes to be well connected to aid cycling and walking. The proposal includes a condition for cycle parking to be provided as part of the development.
- 12.6 SAD DM10 lists criteria that shop front designs are to be assess against. In my opinion the proposed shop front is acceptable in design and appearance with amendments to the existing fascia sign improving the appearance of the unit.

### 13. Material Considerations

13.1 National and local planning policy considerations have been referred to above in Sections 11 and 12. With regards to the other material considerations, these are highlighted below:

#### 13.2 Planning history (including appeal decisions)

This application site has been subject to three recent refused applications. DC/18/61561 and DC/18/62082 were applications for a two-storey rear extension to create 2 studio apartments. The reasons for refusal related to the development being an undesirable back land development and being a poor living environment due to the mixed



retail/residential functioning of the shared space. The current proposal has been reduced in scale since these applications were refused with only one property and a small extension being accommodated to the rear. The existing retail store would also now be accessed from the front only. However, the principle of this type of development to the rear of the properties on High Street has been set by approvals for a residential development on the adjacent site (James Court) which is accessed via a gated archway from High Street and to the rear of No. 41 High Street (DC/17/60588 – Proposed change of use to rear of ground floor and single storey rear extension to create 1 No. flat) which is accessed via the same gated archway from High Street as the proposed development would be. In terms of the most recent refusal, DC/21/66030 was refused due to the proposed properties failing to achieve the minimum internal space standards and the change of use of the retail unit to residential being contrary to policy CEN1 in that the site is within a defined retail core and the application would prejudice the retail function of the core area. As a retail shop would be retained to the frontage and the development complies with the nationally described space standards, I am satisfied the reasons for refusal of DC/21/66030 have been addressed.

### 13.3 Amenity concerns

I am satisfied the amended plans have addressed concerns regarding residential amenity. The adjacent property has been subject to a substantial two storey rear extension to create 6 terraced properties (James Court). These are accessed in a similar arrangement to the application site through a gated archway between the terraced properties on High Street. The rear wall of this development backs onto the application site and contains a number of boiler flue pipes/vents which vent over the applicants land. This property also has a rear dormer window with flats being accommodated over the ground floor commercial premises. One of these flats has two windows on the boundary with the applicants property which serves a living room at first floor level. The adjacent property on the opposite side has no rear facing windows. However, the first-floor window which is currently blocked up



could be reinstated at any time. As the rear extension has now been reduced to be single storey only, I am satisfied the proposed development would cause no significant harm to residential amenity in terms of loss of light, outlook or privacy. To protect privacy, a glazing scheme for the rear facing lounge window has been conditioned in order to prevent any overlooking into the lounge windows of the property which faces onto the application site. In terms of the ventilation issue raised by an objector, the proposed extension is set off the boundary with the properties on James Court by 0.4 m. I am therefore satisfied no harm to ventilation would occur.

### 13.4 Design concerns

The amended proposed extension would be single storey in height and would be located to the rear of the existing property with the proposed dormer window also being located at the rear. The dwellings have been designed to exceed with the national described space standards for a one bed, two-person unit of 50 m<sup>2</sup> (1 storey) and 58 m<sup>2</sup> (2 storey) as well as providing external amenity space. Taking this into consideration, I am satisfied the proposed extension and rear dormer window are acceptable in design and appearance and would cause no harm to the street scene or wider area. Additional amended plans have been received to provide additional windows to the ground floor property to ensure adequate access to natural light is achieved and to provide a suitable living environment. Taking this into consideration coupled by the fact the units exceed the national described space standards, I am satisfied they would provide suitable living accommodation for occupiers. An external lighting scheme has also been conditioned to ensure the property at the rear would be suitably lit at night.

In terms of the land ownership issues raised by objectors, the land registry title plan does confirm number 38 and the rear yard area where the proposal would be located are within the same title. The small section of land highlighted by the objector is not within this title and has been omitted from the location plan. It has been confirmed this section of land is within the ownership of No. 40 High Street. The proposal has also



been amended so no part of the development would take place on this section of land and access to this land would not be blocked by the development. The applicant was asked for comment about this matter and replied as follows; -

*“The land is ours as per land registry there is no right of way or right to neighbours for parking as is evident from land registry also as nothing is written on that. We have never given permission to anyone to park on our land and wouldn’t do this as it was our intention to develop the site and improve the area. If they have been parking there it would be deemed as trespassing”.*

Conflicts over land ownership are beyond the control of the Local Planning Authority. However, the granting of planning approval would not override or supersede any legal rights of way or access to the land for the objectors should they have any rights within their legal deeds. This, however, would be a civil matter between the applicant and objectors.

In terms of the other points raised by the objectors relating to design. Objectors state the access gate serving the rear is locked preventing access. However, as the applicant has access to the land at the rear, they would also have a key to this gate which can be provided to potential residents for access. This is a similar circumstance for the existing residential properties already using this gate for access to their properties. The location of the living room adjacent to a bedroom is noted. A condition for a sound proofing scheme to be installed to the first floor has been included in the recommendation to limit any impact. The hatched areas on the first-floor plan show walls and chimney breasts to be removed. This element does not require planning approval and is covered under building regulations approval. The front first floor window has been moved in order for it to be accommodated within the kitchen area of the property.



### 13.4 Highways concerns

The Head of Highways has reviewed the application and raised no objections to the proposal. The proposal is within a town centre location with a good source/availability of sustainable transport links and public car parks to the proposed.

### 13.6 Environmental Concerns

Public Health have reviewed the application and raised no objections to the application in terms residential dwellings being in proximity to commercial units with late openings. As the application property/site is within a town centre location, it is not unreasonable to expect late evening commercial units would be in proximity and any potential residents would be aware of this prior to occupation. Public Health would not investigate an existing/historic use in terms of a statutory nuisance. To address concerns raised by objectors relating to noise and disturbance from construction works, a condition for a construction method statement has been included within the recommendation as well as a restriction to the hours of construction. This would require the applicant to provide details of the parking of vehicles of site operatives and visitors; loading and unloading of plant and materials; measures to control the emission of dust and dirt during demolition construction and construction working hours (to the hours advised by public health).

13.7 Works on/near to the boundary would require the applicant to serve notice under the Part Wall Act 1996. However, this is a civil matter between the private land owners and not something the Local Planning Authority can become involved with. Finally, objectors have raised concerns that the applicant started refurbishment works on the property and left building waste to rear. Unfortunately, this is not a reason to refuse this planning application. However, the construction management plan would require the submission of details of recycling/disposing of waste resulting from demolition and construction works.



## 13.8 Presumption and the ‘tilted balance’

The ‘tilted balance’ is similar to the normal planning balance but it is only engaged in exceptional circumstances. As the council has less than a five-year housing land supply, relevant local policies are out-of-date. In the most basic sense, the tilted balance is a version of the planning balance that is already tilted in an applicant’s favour. If the tilted balance applies, planning permission should normally be granted unless the negative impacts ‘significantly and demonstrably’ outweigh the positive impacts.

## 14. Conclusion and planning balance

14.1 All decisions on planning applications should be based on an objective balancing exercise. This is known as applying the “planning balance”. It is established by law that planning applications should be refused if they conflict with the development plan unless material considerations indicate otherwise. This essentially means that the positive impacts of a development should be balanced against its negative impacts. Conflict with development plan policies will always be a negative impact. If the policies are up-to-date, that negative impact will be given greater weight. However, if they’re out-of-date, the weight given to the negative impact will be seriously reduced. No matter what the negative impacts are, if a proposal manages to secure sufficient positive impacts (of sufficient weight) to tilt the planning balance in its favour, planning permission should be granted.

14.2 On balance the proposal accords with the provisions of relevant development plan policies and there are no significant material considerations which warrant refusal that could not be controlled by conditions.

## 15 Alternative Options

15.1 Refusal of the application is an option if there are material planning reasons for doing so. In my opinion the proposal is compliant with



relevant polices and there are no material considerations that would justify refusal.

## 16 Implications

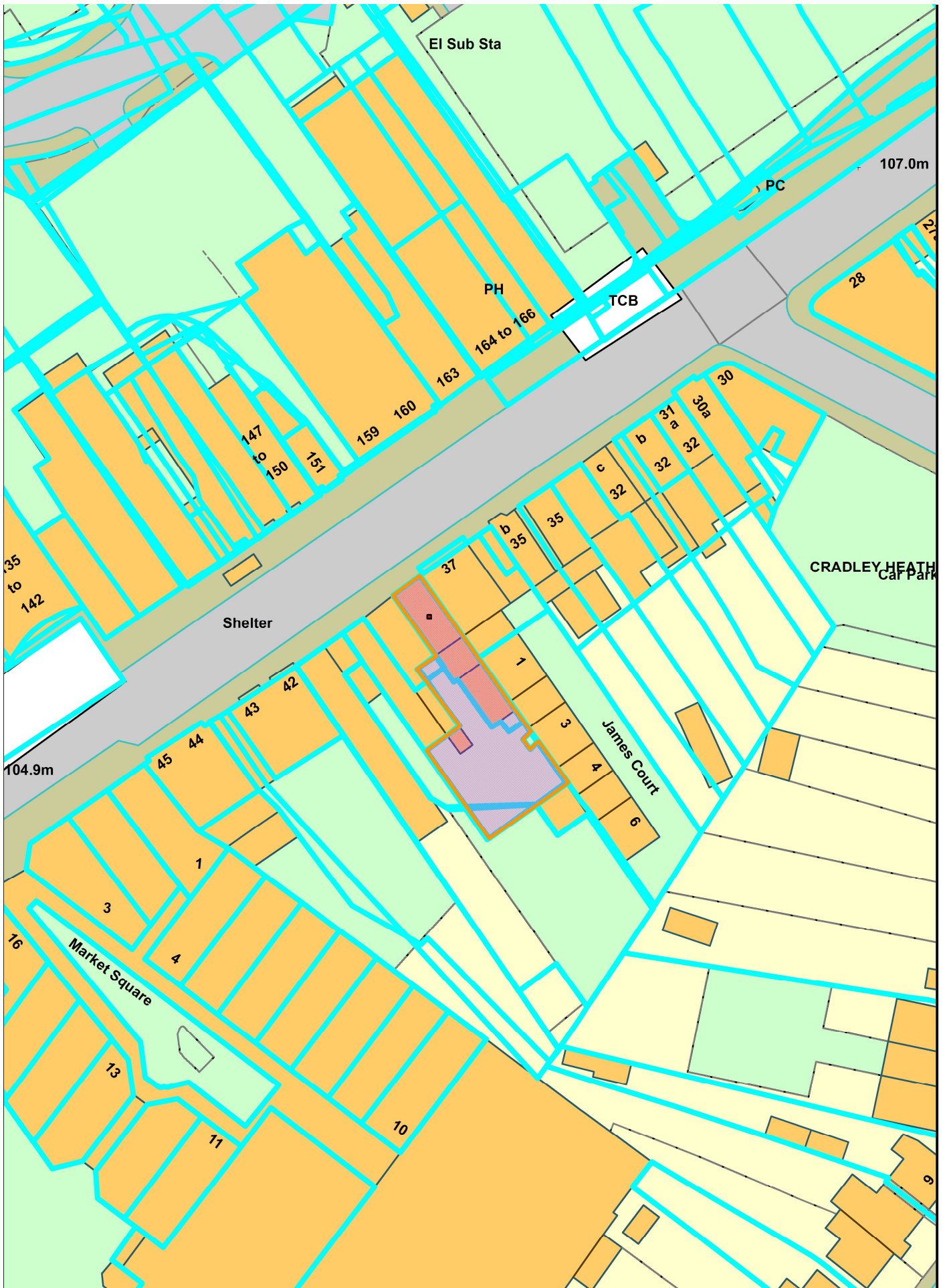
<b>Resources:</b>	When a planning application is refused the applicant has a right of appeal to the Planning Inspectorate, and they can make a claim for costs against the Council.
<b>Legal and Governance:</b>	This application is submitted under the Town and Country Planning Act 1990.
<b>Risk:</b>	None.
<b>Equality:</b>	There are no equality issues arising from this proposal and therefore an equality impact assessment has not been carried out.
<b>Health and Wellbeing:</b>	None.
<b>Social Value</b>	None.
<b>Climate Change</b>	Sandwell Council supports the transition to a low carbon future, in a way that takes full account of the need to adapt to and mitigate climate change. Proposals that help to shape places in ways that contribute to radical reductions in greenhouse gas emissions, minimise vulnerability and improve resilience; encourage the reuse of existing resources, including the conversion of existing buildings; and support renewable and low carbon energy and associated infrastructure, will be welcomed.

## 17. Appendices

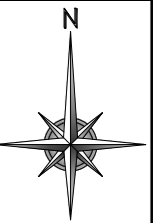
Context plan

34/02 REV E (A2) - AMENDED PROPOSED FLOOR PLANS/ELEVATIONS, LOCATION PLAN & BLOCK PLAN

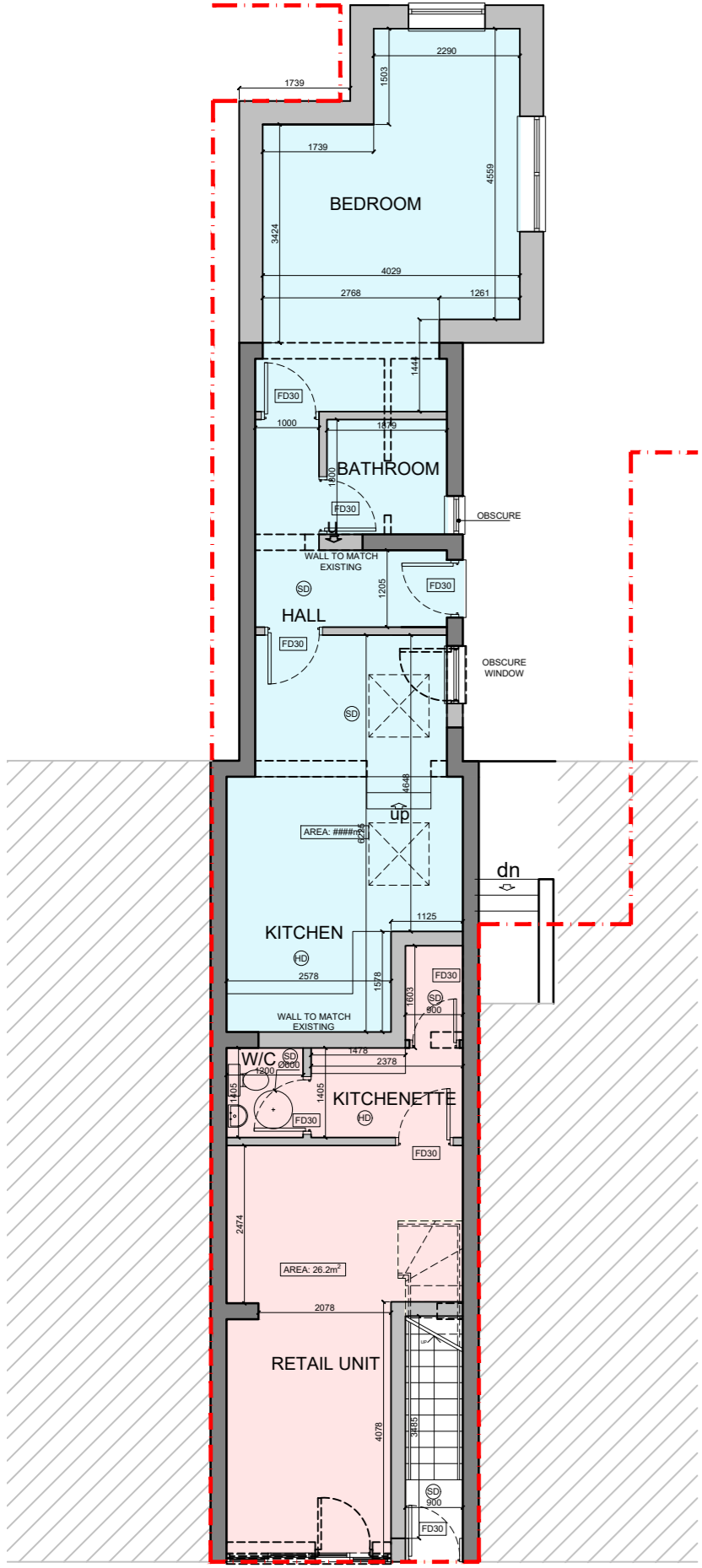




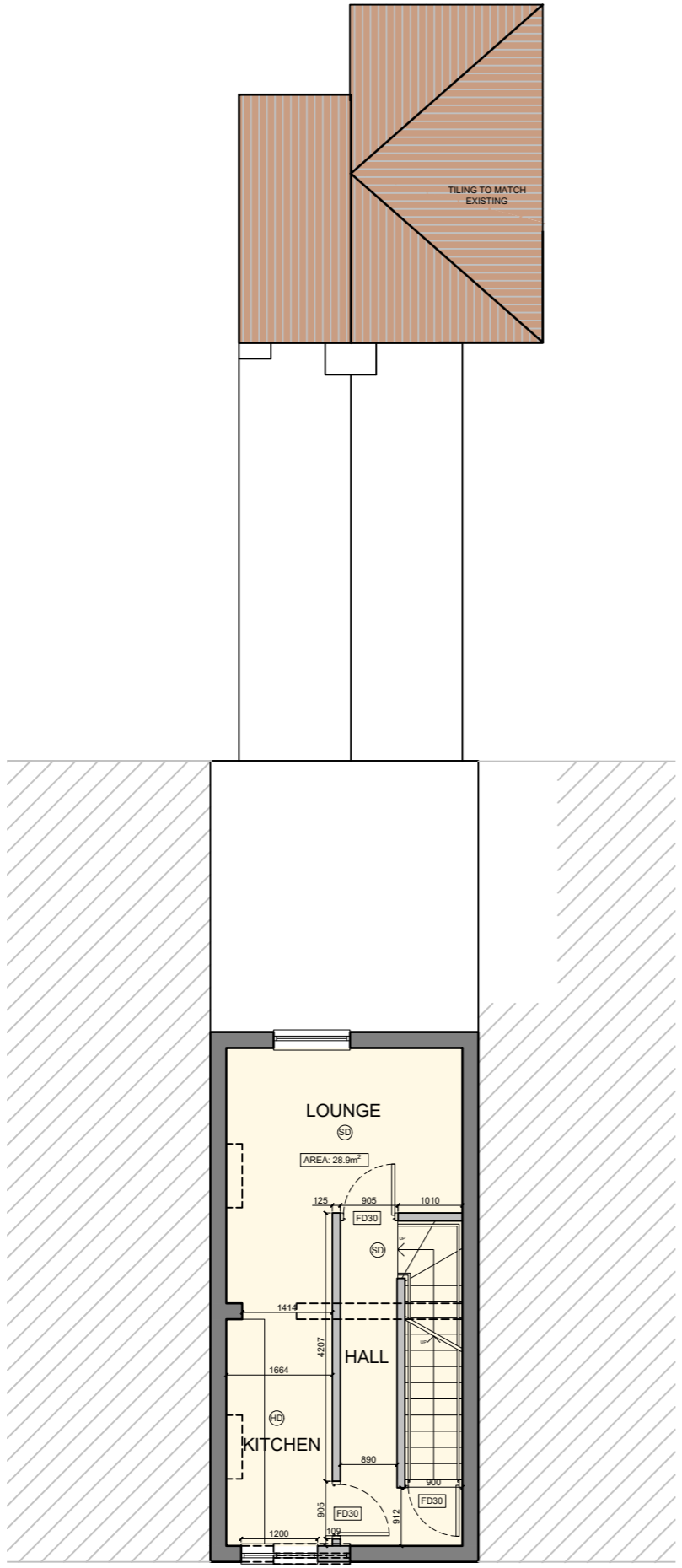




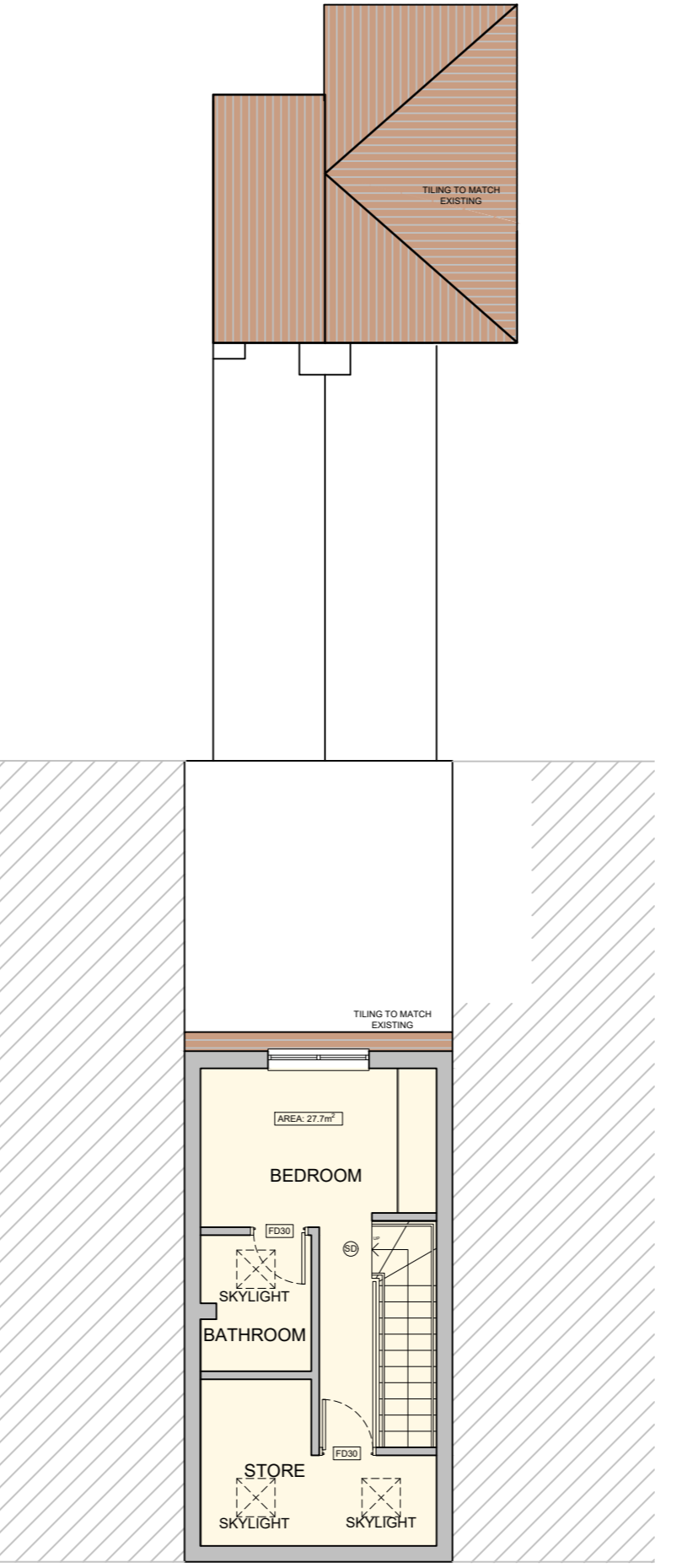
38 HIGH STREET CRADLEY HEATH WEST MIDLANDS B64 4AA



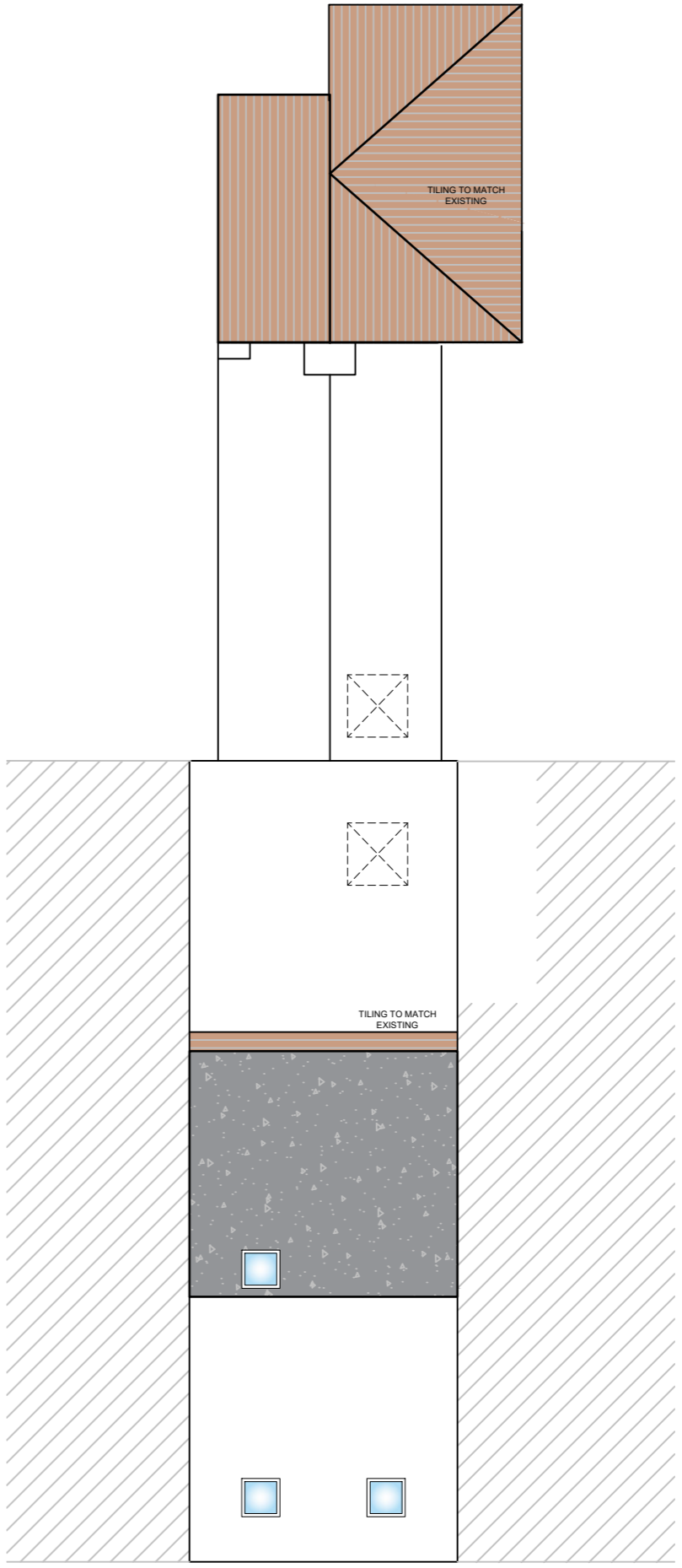
PROPOSED GROUND FLOOR PLAN SCALE 1:100



PROPOSED FIRST FLOOR PLAN SCALE 1:100



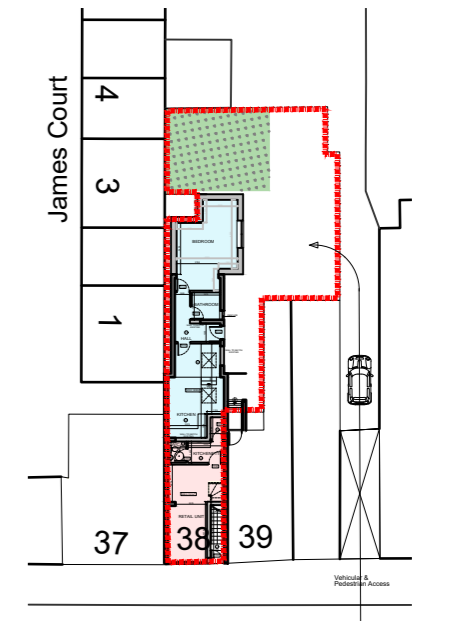
PROPOSED SECOND FLOOR PLAN SCALE 1:100



PROPOSED ROOF PLAN SCALE 1:100



PROPOSED LOCATION PLAN SCALE 1:1250



PROPOSED SITE PLAN SCALE 1:500

DRAWINGS AND LAYOUT IS INDICATIVE ONLY ALL DIMENSIONS AND DRAINAGE TO BE CHECKED ON SITE BY CLIENTS APPOINTED CONTRACTORS BUILDING INSPECTOR MUST CALLED OUT TO INSPECT THE BUILDING WORK IN STAGES. ALL STRUCTURAL DESIGN TO BE DESIGN BY STRUCTURAL ENGINEER. ALL WORKS ARE DONE AT YOUR OWN RISK RELEVANT PERMISSIONS I IN PLACE. ALL WORKS ON OR WITHIN A 3 MTR ZONE OF A NEIGHBORING BOUNDARY ARE TO BE NOTIFIED 14 DAYS BEFORE COMMENCEMENT ON SITE IN ACCORDANCE WITH THE PARTY WALL ACT 1996.

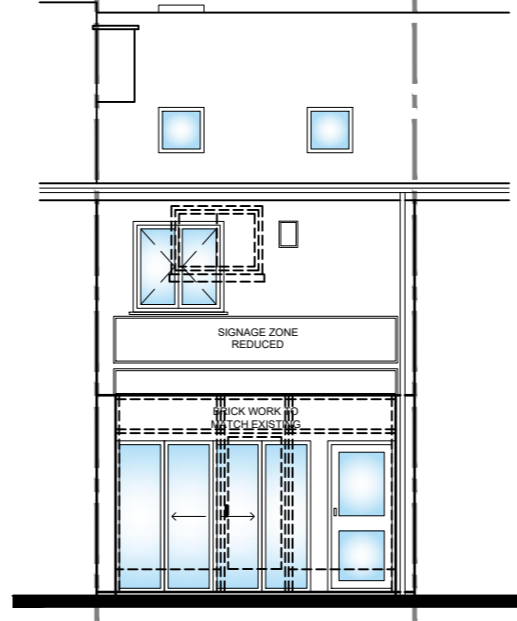
**Proposed schedule of accommodation:**

38 High Street, Cradley Heath, West Midlands, B64 5HL

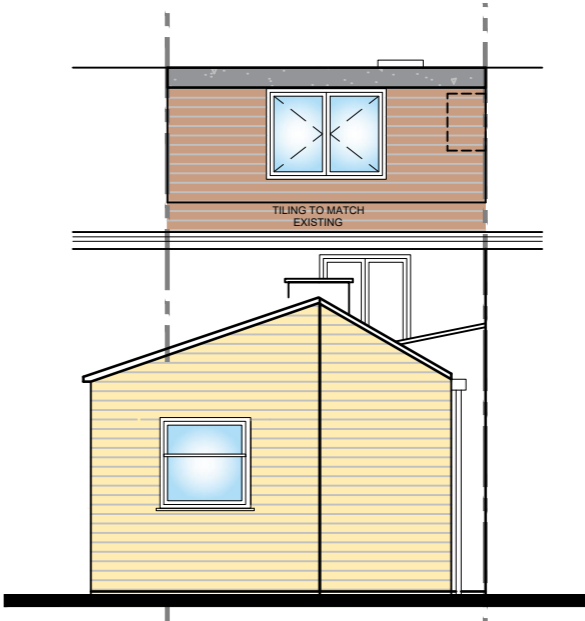
<b>Ground Floor</b>
Apartment No. 01 - 1 bedroom Apartment - 50.4 m <sup>2</sup>
Retail unit - 26.2 m <sup>2</sup>
<b>Total Internal Ground floor area - 78.3m<sup>2</sup></b>
<b>First Floor</b>
Apartment No. 02 - 1 bedroom Apartment - 28.9 m <sup>2</sup>
<b>Total Internal First Floor Area - 28.9m<sup>2</sup></b>
<b>Second Floor</b>
Apartment No. 02 - 1 bedroom Apartment - 27.7 m <sup>2</sup>
<b>Total Internal Second Floor Area - 27.7 m<sup>2</sup></b>
<b>Apartment 1 Total - 52.1 m<sup>2</sup></b>
<b>Apartment 2 Total - 56.6 m<sup>2</sup></b>
<b>Total Internal floor area - 134.9 m<sup>2</sup></b>
<b>Garden area - 38.3 m<sup>2</sup></b>
<b>Total: 2 No Apartments.</b>
<b>02 - 1 bedroom apartments</b>
<b>Total car parking spaces - 2</b>



PROPOSED SIDE ELEVATION SCALE 1:100



PROPOSED FRONT ELEVATION SCALE 1:100



PROPOSED REAR ELEVATION SCALE 1:100

ALL CONTRACTORS MUST CHECK ALL DIMENSIONS ON SITE BEFORE PREPARING PRODUCTION DRAWINGS OR COMMENCING ANY WORK. THIS DRAWING AND ITS DESIGN IS THE COPYRIGHT OF BHARYA DBC LTD ONLY. AND MAY NOT BE REPRODUCED IN ANY FORM WHATSOEVER WITHOUT THEIR PRIOR EXPRESS WRITTEN CONSENT.

**PLANNING / BUILDING REGS**

DRAWINGS AND LAYOUT IS INDICATIVE ONLY ALL DIMENSIONS AND DRAINAGE TO BE CHECKED ON SITE BY CLIENTS APPOINTED CONTRACTORS BUILDING INSPECTOR MUST CALLED OUT TO INSPECT THE BUILDING WORK IN STAGES. ALL STRUCTURAL DESIGN TO BE DESIGN BY STRUCTURAL ENGINEER. ALL WORKS ARE DONE AT YOUR OWN RISK RELEVANT PERMISSIONS I IN PLACE. ALL WORKS ON OR WITHIN A 3 MTR ZONE OF A NEIGHBORING BOUNDARY ARE TO BE NOTIFIED 14 DAYS BEFORE COMMENCEMENT ON SITE IN ACCORDANCE WITH THE PARTY WALL ACT 1996.

Revisions Site boundary amended
<b>ALL DIMENSIONS TO BE CHECKED ON SITE</b>

Date Aug. 2023	Drawn WB	Scale 1:100 @ A2
Preliminary ●	Construction ○	

Client	Drawing title
Job title Proposed Extension and Conversion	Proposed Floor Plans & Elevations
	Drawing No. 34/02E

**BHARYA DESIGN & BUILD**  
CONSULTANCY LTD

ARCHITECTURAL, BUILDING & CIVIL ENGINEERING CONSULTANTS  
Tel. / Fax : 0121 725 1983 Mob. 0796 8064 413  
Web : www.bharya.co.uk - e-mail : info@bharya.co.uk

**BHARYA DBC LTD.**  
179 SANDON ROAD  
BEARWOOD  
BIRMINGHAM  
B66 4AA