

Report to Planning Committee

4 September 2024

Application reference	DC/24/69520
Application address	42 Pool Lane, Oldbury B69 4QX
Application description	Proposed change of use to a residential home for a maximum of 3 No. young people aged 7 to 18 years old (revision to refused planning permission DC/23/67975).
Application received	21 June 2024
Ward	Langley
Contact officer	Carl Mercer carl_mercer@sandwell.gov.uk

1. Recommendations

That planning permission is granted subject to the following conditions relating to:

- i) Car parking to be retained;
- ii) Management plan;
- iii) Only three children residing at the premises at any time; and
- iv) The premises shall be used only as a residential home for three children and for no other purpose (including any other use falling within Class C2 of the Order) but may revert back to C3 (dwellinghouses) on cessation of the C2 use.

2. Reasons for Recommendations

2.1 The proposed change of use would be acceptable in this location and would not harm the living conditions of neighbouring occupiers, with regard to traffic movements, highway safety, noise and disturbance. The proposal would therefore accord with policy SAD H4 of the Site Allocations and Delivery Development Plan Document which seeks to ensure that proposals for housing for people with specific needs are compatible with adjacent uses.

3. How does this deliver objectives of the Council Plan?

Growing Up in Sandwell	Providing facilities for children and young people.
Living in Sandwell	Increasing opportunities and options for residents.

4. Context

4.1 The application is being reported to Planning Committee as seven objections and a petition carrying 31 signatures against the proposal have been received.

4.2 To assist members with site context, a link to Google Maps is provided below:

[42 Pool Lane, Oldbury](#)

5. Key Considerations

5.1 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)
- Highways considerations - traffic generation, access, highway safety, parking and servicing
- Environmental concerns – noise and general disturbance
- Anti-social behaviour

6. The Application Site

6.1 The application property is situated on the west side of a cul-de-sac section of Pool Lane, Oldbury. The character of the surrounding area is residential. The application site also includes a triangular area of land opposite the application dwelling which is shown to accommodate two cars.

7. Planning History

7.1 A similar application for the care of four children was submitted last year and was refused for the following reasons:

‘The intensity of the use would be contrary to policy SAD H4 the proposed use would have a detrimental impact on adjoining residents in terms of comings and goings and potential noise nuisance associated with the use’; and

‘The proposal would have a detrimental impact on highway safety due to having insufficient parking within the curtilage of the site.’

7.2 A lawful development certificate (LDC) for a six-bedroom house in multiple occupation (HMO) was approved last year. The certificate clarified that the dwelling could lawfully be used as a six-bedroom HMO under planning legislation without the need to apply for planning

permission. An LDC is not a planning application and simply confirms that a particular use would comply with planning law.

7.3

DC/23/68834	Proposed change of use from residential dwelling to 6 No. bedroom HMO for a maximum of 6 No. residents (Lawful Development Certificate).	Certificate issued - 06.12.2023
DC/23/67975	Proposed change of use from dwelling to residential home for 4 No. young people aged between 8-18 years old.	Refused - 15.03.2023

8. Application Details

- 8.1 The application relates to an existing six-bedroom semi-detached dwelling.
- 8.2 The applicant proposes to convert the existing dwelling (Use Class C3) to a children's home (Use Class C2) for three children aged between seven and 18 years old with emotional and/or behavioural difficulties. The physical floor layout of the dwelling would remain unchanged as a result of the proposal. The ground floor would consist of a lounge, dining room, kitchen, staff office, two bathrooms, a conservatory and store; the first floor would comprise four bedrooms, two staff sleep-in rooms and a bathroom. I acknowledge the four bedrooms and recommend a condition to restrict occupancy to three children at any time, should the application be approved.
- 8.3 The accompanying Design and Access Statement sets out how the home would operate. The applicant would register the property as a children's home for a maximum of three children from age seven until their 18th birthday. The children would be looked after by a maximum of

three carers and a manager, two of whom would sleep overnight, working on a rota basis. Six carers would operate on a shift pattern of 48 hours on, 60 hours off. A manager and deputy/ third carer would usually visit the site each weekday between 9am and 5pm. Other than changeover times, there would no more than four staff on the premises at any one time. There would be one changeover of the overnight care staff per day, usually 9.30am each morning, which would last for around ten minutes.

- 8.5 An amended car parking layout has been provided which shows a total of four car parking spaces could be attributed to the use; two to the front driveway and two on the land opposite.
- 8.6 The application was originally publicised as being a change of use from a six person HMO to a children's home. However, whilst residents have brought to my attention that individual rooms are currently being marketed for rent, the property has not yet operated as a HMO. The description of development has been amended to omit reference to an existing HMO. The council's HMO licencing department has confirmed that an application for HMO licence at the property is currently pending consideration. However, for the avoidance of doubt, from a planning perspective, the property could lawfully operate as a six-person HMO.

9. Publicity

- 9.1 The application has been publicised by 18 neighbour notification letters and a site notice. Seven objections and a petition carrying 31 signatures have been received in response.
- 9.2 Objections have been received on the following grounds:
- i) Insufficient parking and highway safety issues;
 - ii) Concerns regarding increased noise and disturbance; and
 - iii) Potential for anti-social behaviour.

Non-material objections have been raised regarding loss of property value.

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

10. Consultee responses

10.1 Highways

The car parking layout has been questioned as the parking spaces are not as large as those required by the council's residential design guidance. I have informed the highways officer that the spaces already serve an existing residential use. The officer recommends a two-year temporary consent so that highways can monitor any impact. Given that the existing use is residential and there is potential that the dwelling could be used as a six person HMO use, I do not consider it necessary to recommend a temporary consent, as the existing and proposed lawful uses of the property could arguably generate greater parking demand.

10.2 Pollution Control (Noise)

No objection.

11. National Planning Policy Framework (NPPF)

11.1 The NPPF sets out government's planning policies for England and how these are expected to be applied.

11.2 The framework promotes sustainable transport options for development proposal and states that developments should only 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.

12. Development Plan Policy

12.1 The following policy of the council's development plan is relevant:

Site Allocations and Delivery Development Plan Document – (SADD)

SAD H4 - Housing for People with Specific Needs

12.2 SAD H4 encourages the provision of housing to cater for the special needs of people. The proposal complies with this policy by being compatible with surrounding residential uses. The building is currently a residential use, would provide a suitable living environment for residents and is within proximity to public transport.

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).

Three recent refusals issued by the planning department for similar proposals in residential areas have been appealed by the applicants via the Planning Inspectorate. Of these appeals, two were allowed (both detached dwellings) and one dismissed (semi-detached). These appeals are highlighted in greater detail below.

13.3 93 Dingle Street, Oldbury. Detached residential property.

DC/23/68216 - Proposed change of use from dwelling (Class C3) to residential children's home for up to three children (Class C2). Three staff members present during the day and two at night.

Main issues related to the effect of the proposed development on the living conditions of occupiers of neighbouring properties, with particular

regard to traffic movements/ disturbance and highway safety and to adequacy of on-site parking provision.

Appeal allowed and planning permission was granted.

Regarding the main issues, the inspector stated the following:

'Whilst it has been put to me that the area is a quiet, suburban environment, passing traffic noise and the manoeuvring of vehicles would not be uncommon in this area owing to the housing density and inevitable variation in work patterns and social activities of neighbouring occupiers. Indeed, it would not be unusual for residents to hear the comings and goings of their neighbours throughout the day, including the evenings. Given the limited traffic anticipated, and the staff numbers, I find that the anticipated movements would not be disproportionately large or significantly greater than those associated with a 3-child family in a property of this size, carrying out their day-to-day activities.'

The inspector goes on to state:

'In all respects, the internal layout of the proposed care home would not be dissimilar to the existing 4-bed dwelling, and the external appearance would be unaltered. Despite the potential emotional and behavioural needs of the children, there is no compelling evidence to indicate that the use of the property or the associated outside space, including early morning outdoor play would result in disturbance which would be materially different to that which could be reasonably expected of a domestic family residence.'

'Based on the shift patterns and staff numbers, I am satisfied that the proposed parking arrangements and on-site provision would allow staff to park within the site on a day-to-day basis. Visits to the property by social workers and other professionals would be by appointment only and less frequent. Even if these visits were to generate demand for additional on-street parking, given the limited scale and likely frequency, I am satisfied there would be sufficient opportunity to park on the road without adversely impacting highway safety.'

'Accordingly, I find that the appeal development would not harm the living conditions of neighbouring occupiers, with particular regard to traffic movements and noise disturbance. It would therefore accord with Policy SAD H4 of the Sandwell Allocations and Delivery Development Plan Document 2012 where it seeks to ensure that proposals for specific needs housing is compatible with adjacent uses. It would also be consistent with paragraph 135 of the Framework which promotes a high standard of amenity for existing occupiers.'

13.4 4 Huskison Close, Oldbury. Detached residential property.

DC/23/68323 - Proposed change of use from dwelling to residential home for 3 No. young people aged between 7-18 years old.

Main issues related to the effect of the proposed development on the living conditions of occupiers of neighbouring properties, with particular regard to traffic movements/ disturbance and highway safety. Three staff members present during the day and two at night.

Appeal allowed and planning permission was granted.

Regarding the main issues, the inspector states the following:

'Given the limited change in traffic movements anticipated, I consider that the situation would not be materially different to that expected if the property was retained as a four-bedroomed family dwelling. I conclude that the proposed development would not harm the living conditions of neighbouring occupiers, with particular regard to traffic movements and disturbance. The proposal would therefore accord with Policy SAD H4 of Sandwell's Site Allocations and Delivery Development Plan Document 2012 which seeks to ensure that proposals for housing for people with specific needs are compatible with adjacent uses.'

'I conclude that the proposal would not have a detrimental impact on highway safety and that sufficient parking can be provided within the curtilage of the development. The proposal would accord with the

Framework which requires development to function well and add to the overall quality of the area.'

- 13.5 26 Barston Road, Oldbury. (semi-detached residential property). DC/23/68158 - Pursuant to the approval of planning application DC/22/67746 (first floor side extension and loft conversion with rear dormer window), proposed change of use from dwelling to residential home for up to 3 No. young people aged between 8 and 18 years old. The proposal states that care for residents would be provided by four members of staff during the day and two at night.

The main issues were the effect of the proposed development on the living conditions of neighbouring occupiers with regard to noise and disturbance.

Appeal dismissed.

Regarding the main issue, the inspector stated the following;

'While I note that the property could be used as a family home, with several vehicles, the proposal has the potential to result in six car movements during changeovers. Even if all the staff did not have access to a car, the changeover period would still be noticeable from staff entering and leaving the property. These patterns of movement would be unusual and noticeably different when compared to other residents leaving and arriving home for work, even when taking account of potential visitors albeit these would be less frequent than the twice daily changeovers.'

'I am also mindful that during staff changeover that people could be arriving and leaving at slightly different times which could result in the changeover period being extended and therefore being more noticeable, particularly as four members of staff are required during the day. This level of turnover would be unusual in the residential context of the area and therefore result in noise and disturbance to neighbouring occupiers.'

‘Notwithstanding my findings on noise and disturbance from inside the property itself, I conclude that the proposed development would harm the living conditions of neighbouring occupiers with regard to noise and disturbance from the frequent comings and goings. It would be contrary to Policy SAD H4 of the Site Allocations and Delivery Development Plan Document Adopted December 2012 which amongst other things, seeks to ensure that development is compatible with adjacent uses.’

Two further appeals for refusal are currently in progress for refused planning applications DC/23/68214 and DC/23/68570.

13.6 Highways considerations - traffic generation, access, highway safety, parking and servicing.

I note that this section of Pool Lane is cramped in respect of the highway access and no useable footpath is evident. The turning area at the head of the cul-de-sac is also tight to manoeuvre a vehicle in. The submitted Design and Access Statement confirms that a maximum of four staff would be on-site at any one time. The existing property has parking areas to the front and opposite (refer to Fig 1 and 2):

Fig 1 – Frontage parking



Fig 2 – Parking opposite the property



13.7 Whilst the parking areas may not be designed to the council parking standards, they are existing spaces serving the property and can lawfully be utilised by occupants of the property for dwellinghouse or HMO use. Whilst the space sizes are not ideal, it does not mean that the spaces are not useable and would credibly facilitate the off-street parking demand generated by the use, as they have done for the dwellinghouse use. Furthermore, considering that the property could be used as a six-person HMO, which would arguably have a greater impact on vehicle movements, I do not consider parking and highway safety to be a secure ground for refusal in this instance. With reference to the dismissed appeal above at Barston Road, I recognise some similarities in respect of parking issues; however, the fallback position of operating as a six-person HMO was not available to the applicant in that case.

13.8 Environmental concerns – noise and general disturbance.

Public Health has raised no objections to the application on noise grounds. A condition for a more detailed management scheme has been included in the recommendation. The management scheme shall identify management of the property, including staffing, waste disposal, parking, noise control and procedures for complaints. To protect amenity, a

further condition has been included to ensure the premises shall be used only as a residential home for three children and for no other purpose (including any other use falling within Class C2 of the Use Classes Order but may revert back to C3 (dwellinghouse) on cessation of the use).

13.9 **Anti-social behaviour**

The National Planning Policy Framework seeks to ensure that development is inclusive, and the fear of crime does not undermine the quality of life, community cohesion and resilience. Although the fear of crime and anti-social behaviour are material considerations, there must be some reasonable evidential basis for that fear. In this case, whilst I am mindful of the concerns raised by residents, there is no substantive evidence before me to demonstrate that the proposed use would give rise to anti-social behaviour or criminal activity. Furthermore, the premises would be subject to more stringent regulation than a typical family home.

13.10 **Other matters - character**

I have considered whether the proposed development would be an incompatible use and out of character with the residential area. However, the proposed use falls into a residential use in the Use Classes Order 1987 (as amended). It does not fall into a commercial, business or service use. As such, the proposed use would be compatible within a residential area. I do not consider that the proposal would generate activities that would be significantly different to a family home, nor would the visual appearance of the property be altered to such a degree that would harm the character of the area.

13.11 **Whether the development is a 'material change of use'**

Whilst a building used for the care of children will always constitute a C2 use, the change of use of the building may not constitute a 'material change of use'. For example, this would apply in instances where the activity associated with the C2 use would be no greater than that

associated with a C3(a) use. Committee are advised that this may apply in this case as the limited activity associated with the C2 use in this instance could be said to not constitute a material change of use from the existing C3(a) use. Therefore, it is debatable whether the proposal requires express planning permission at all.

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.

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 policies and there are no material considerations that would justify refusal.

16. Implications

Resources:	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.
Legal and Governance:	This application is submitted under the Town and Country Planning Act 1990.
Risk:	None.

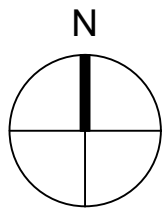
Equality:	There are no equality issues arising from this proposal and therefore an equality impact assessment has not been carried out.
Health and Wellbeing:	None.
Social Value	None.
Climate Change	Sandwell Council supports the transition to a low carbon future, in a way that takes full account of the 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

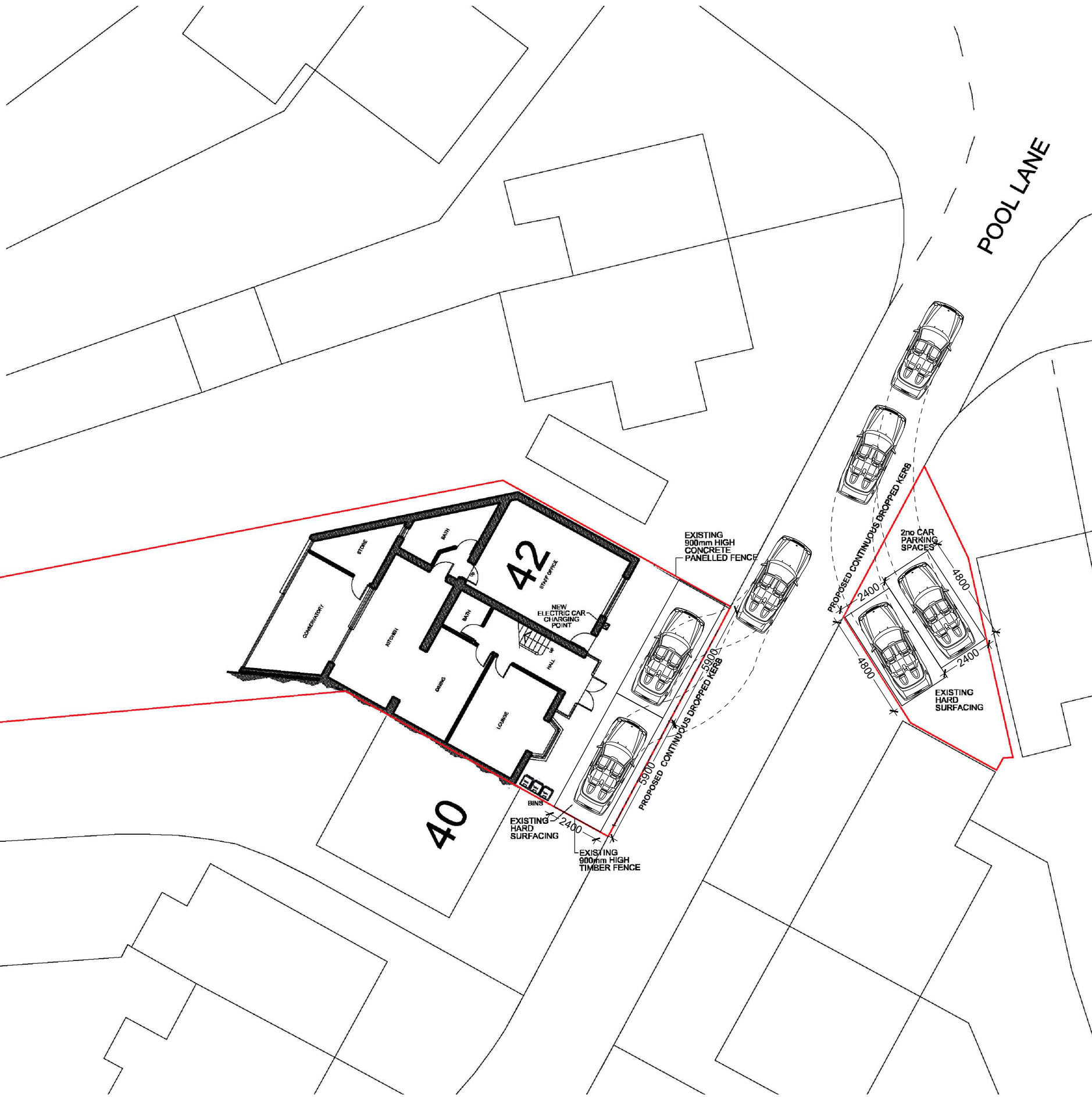
17.1 Plans for consideration

42PL-DRA-02

42PL-DRA-03 A



Location plan



Block plan



Total- 4 parking spaces

4	Amended to client comments	10/08/24	AS	AS
3	Amended to client comments	05/08/24	AS	AS
2	Amended to client comments	17/05/24	AS	AS
1	First Issue	15/06/24	AS	AS
Rev	Comment	Date	Chk	Apr
Project No: 1129		Scale @ A3: As Indicated	Drawn By: AS	



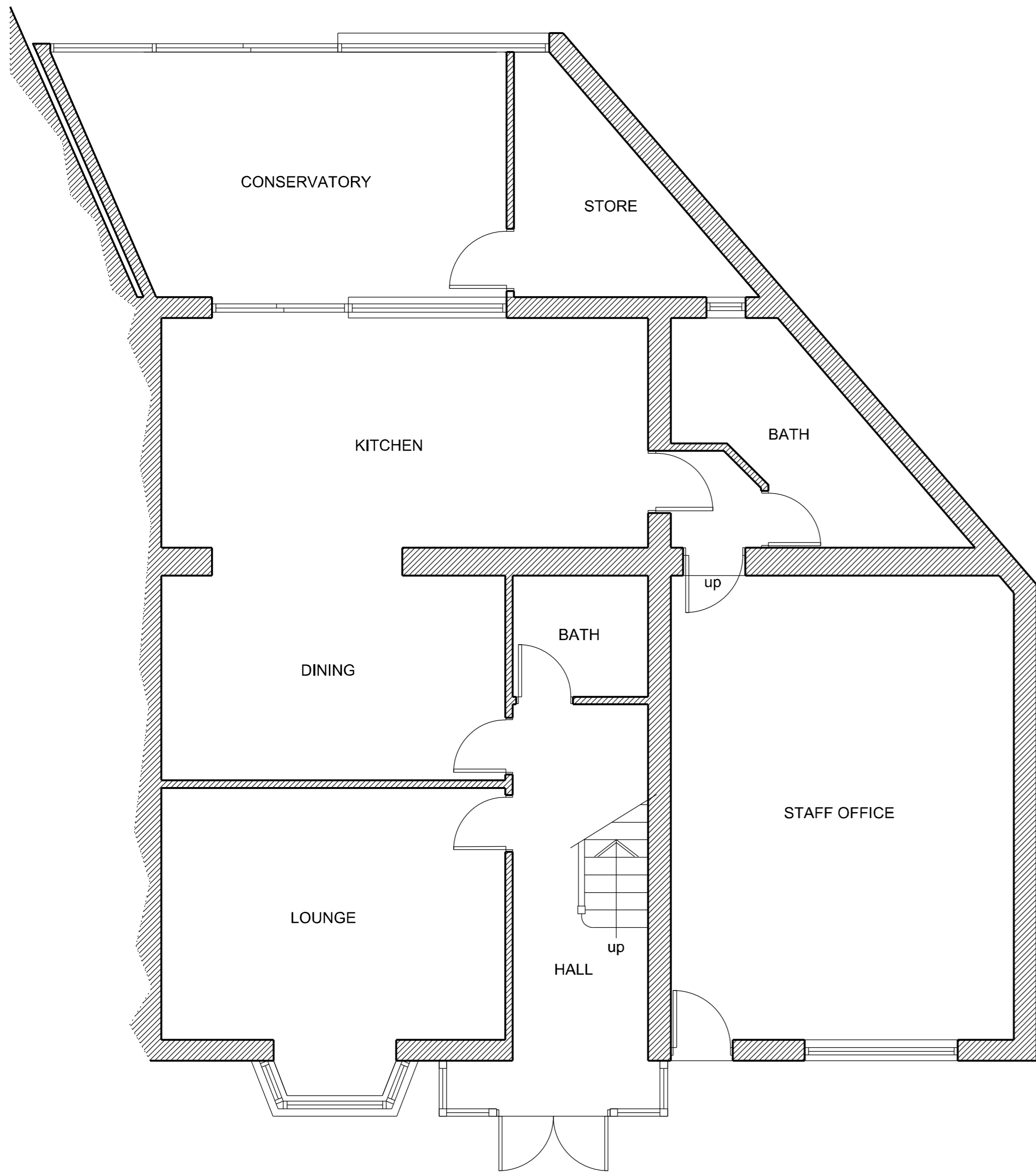
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42 Pool Lane,
Oldbury,
West Midlands,
B69 4QX

Client:
Abbey Residential Ltd.

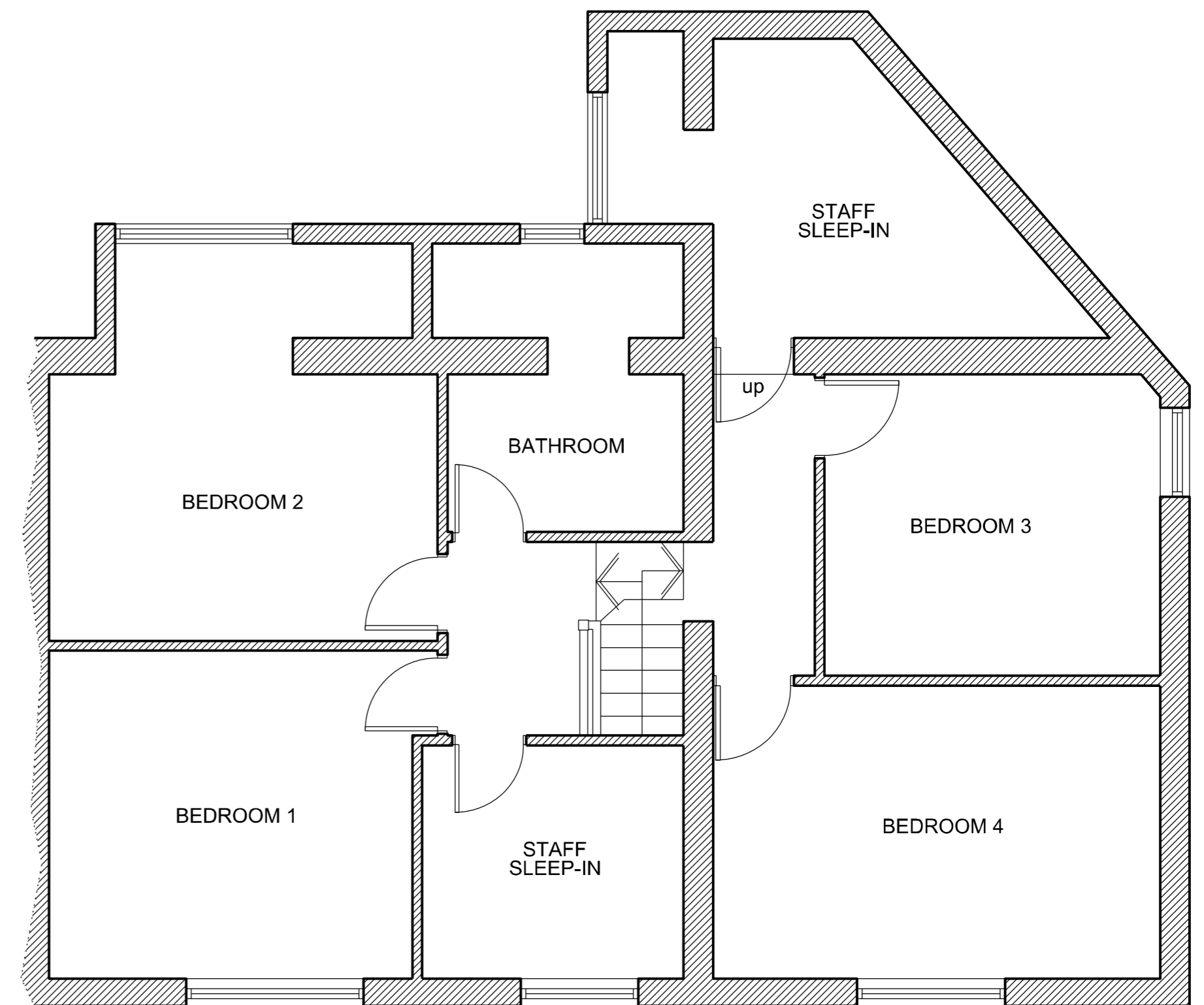
Title:
Existing Location and block Plans

Drawing Number:
POOLLN-BA-1000

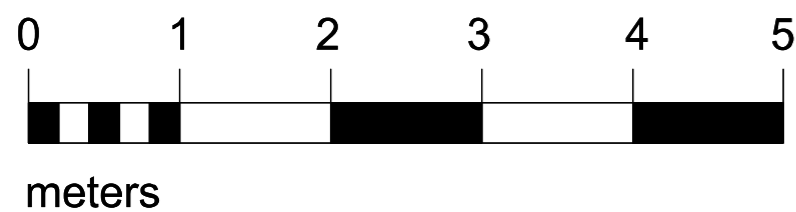
Status: D5 Purpose of Issue: Planning Revision: P4



GROUND FLOOR PLAN



FIRST FLOOR PLAN

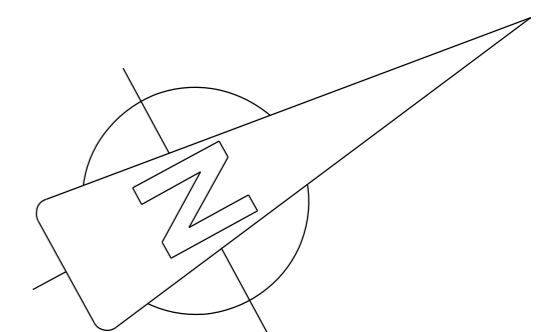


PLAN No. 42PL-DRA-02

PROPOSED LAYOUT PLANS

SCALE 1:50 @ A2 1:100@A4

42 Pool Lane, Oldbury B69 4QX



DC/24/69520

List of conditions

- i) The development must conform with the terms of and the plans accompanying the application for permission and must remain in conformity with such terms and plans, save as may be otherwise required by (any of) the following condition(s), or approved amendment(s).
- ii) The development must be begun not later than the expiration of 3 years from the date of this permission.
- iii) The development shall not be occupied or brought into use until the space shown on the submitted plan for the parking and manoeuvring of vehicles has been provided. When provided the space for the parking and manoeuvring of vehicles shall be thereafter retained.
- iv) Before the use is commenced, a management plan shall be submitted to and approved in writing by the local planning authority, identifying management of the property, including staffing, waste disposal, parking, noise control and procedures for complaints. The approved management plan shall be implemented and thereafter retained as such.
- v) Notwithstanding the provisions of the Town and Country Planning (Use Classes) Order 1987 (or any order revoking and re-enacting that order with or without modification) the premises shall be used only as a residential home for three children and up to four staff and for no other purpose (including any other use falling within Class C2 of the Order) but may revert back to C3 (dwellinghouses) on cessation of the C2 use.
- vi) Before the use is implemented, details of drainage works (including SUDs) for the disposal of surface water for the rear car parking area shall be submitted in writing to and approved by the Local Planning Authority. The approved drainage works shall be implemented before the development is brought into use and thereafter retained as such.