

Report to Planning Committee

2 April 2025

Application reference	DC/24/69954
Application address	The Forge, 144 Franchise Street, Wednesbury, WS10 9RG.
Application description	Proposed loft conversion, and change of use of first floor from drinking establishment (Sui Generis) to 8 Bed HMO (Sui Generis) (previous planning permission DC/17/61152).
Application received	28 October 2024.
Ward	Wednesbury North
Contact officer	Anjan Dey anjan_dey@sandwell.gov.uk

1. Recommendations

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

- i) Construction environmental management plan (CEMP);
- ii) Provision and retention of parking;
- iii) Provision and retention of waste storage;
- iv) Provision and retention of cycle storage;
- v) External lighting scheme;
- vi) Security measures to the entrances and rooms;
- vii) Retention of communal areas;
- viii) To be used as an HMO only – not self-contained accommodation;

ix) Single occupancy only;

2. Reasons for Recommendations

2.1 The proposal is considered to be appropriate in this location and would bring a vacant building into a beneficial use which, would cause no significant harm to residential amenity or highway safety and is acceptable from a policy perspective.

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

Living in Sandwell	Improving the local environment with a focus on cleanliness, ensuring that the community takes pride in its surroundings. Safe and affordable homes.
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4. Context

4.1 The application is being reported to Planning Committee as four objections have been received.

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

[The Forge, 144 Franchise Street, Wednesbury.](#)

5. Key Considerations

5.1 The site is not allocated in 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 building, wider visual amenity and overdevelopment;
- Highways considerations - traffic generation, access, highway safety, parking and servicing;
- Environmental concerns – noise, air quality, pollution and general disturbance;
- Ecology concerns – loss of wildlife, habitat and trees; and
- Planning balance (and presumption – *housing proposals*).

6. The Application Site

6.1 The application site is a vacant drinking establishment known as ‘The Forge’ and is situated on the south side of Franchise Street, Wednesbury at the junction with Beebe Road. The surrounding area is mainly residential in character with some commercial units also situated on Franchise Street.

7. Planning History

7.1 There is planning history for the site which includes both approved and refused applications together with enforcement investigations. A recent refusal for a community hub and self-contained flats was refused and

dismissed at appeal which concurred with the councils reasons for refusal on highway safety grounds.

7.2 This current application reflects an approved application from 2017 (DC/17/61152) for a HMO, but this permission was not implemented and has subsequently lapsed.

7.3 Relevant planning applications are as follows:

DC/17/61152	Proposed conversion of roof space and change of use of first floor only from drinking establishment (Use Class A4) to 8 Bed HMO.	Grant subject to conditions, 20.12.2017.
DC/22/66756	Proposed change of use from Public House to Community Hub.	Refused 11.05.2022
DC/23/68077	Proposed change of use from public house to community hub at ground floor and 2 No. self-contained flats at first floor, food bank unit, covered cycle/bin store and electric charging points on car park. (Revision to refused planning permission DC/22/66756).	Refused 10.05.2023 Dismissed at appeal 20.02.2024
ENF/23/11961	Car sales	Case closed on 23.3.23

8. Application Details

- 8.1 It is proposed to change the use of the first floor of the vacant drinking establishment, as well as convert the roof space into an eight-bedroom House in Multiple Occupation (HMO). In terms of room numbers, this current application is effectively a resubmission of previously approved application DC/17/61152. However, the current proposal has a different parking arrangement with amenity space also now included.
- 8.2 The submitted floor plans show four bedrooms at first floor level with shared facilities comprising a living/dining room and kitchen. The converted roof space would have a similar arrangement with four bedrooms shown and a shared living/dining room and kitchen.
- 8.3 The proposed site plan shows ten parking spaces (2.8m by 5m) at the western side of the site with existing dropped kerb for access and egress. Amenity space for residents is shown at the rear of the site along with bin and cycle storage.
- 8.4 It should be noted that at present the ground floor remains unoccupied and reserved for 'future' commercial use. It should be noted that public houses do not have permitted development rights to change to retail without permission and so any future proposals will require a further planning application.
- 8.5 Amended floor plans have been submitted that clarify any change to the vacant ground floor will be subject to further planning approval.

9. Publicity

- 9.1 The application has been publicised by forty neighbour notification letters and by site notice. Four objections have been received.
- 9.2 Objections have been received on the following grounds:

- i) The use would exacerbate parking issues in the area and affect highway safety;
- ii) The conversion would result in crime and anti-social behaviour;
- iii) The proposal would result in the loss of a drinking establishment; and
- iv) Concerns relating to smells and odours as well as the potential for litter;

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 Planning Policy

No objections and the principle of conversion to an HMO in this location is considered acceptable. The site is unallocated and is considered a 'windfall site'. In view of this, SAD policy H2 (Windfalls) allows such sites to come forward for residential development.

10.2 Highways

No objections.

10.3 Housing Standards Team

General advice has been provided for the attention of the applicant regarding building regulations and housing acts.

10.3 Pollution Control (Noise)

No overall objections. The agent has also confirmed that this proposal is not for supported or independent living.

10.4 Pollution Control (Air)

The officer has raised no objection subject to a condition requiring a construction environmental management plan.

10.5 West Midlands Police

No objection, however, they have raised concerns about more than single occupancy for the proposal and made recommendations for lighting and security measures. These matters would be addressed through the imposition of conditions (single occupancy only, external lighting scheme and security measures) as detailed within section 1 of this report.

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 refers to development adding to the overall quality of the area by achieving high quality design, achieving good architecture and layouts. Although the proposal is for the conversion of the first-floor area and roof space, it is considered that the building has been vacant for a number of years. The agent has confirmed that before occupation of the property the boards will be removed and windows on ground floor will be reinstated. The boards are in situ as the property has been empty for so long and has been vandalised. The conversion to residential units and other aspects of the development would achieve this.
- 11.3 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. The scheme provides adequate parking and cycle storage provision, and the Councils Highways raises no objection.

12. Development Plan Policy

12.1 The following policies of the council's development plan are relevant:

Black Country Core Strategy (BCCS)

DEL1 – Infrastructure Provision

HOU1 - Delivering Sustainable Housing Growth

HOU2 – Housing Density, Type and Accessibility

TRAN2 – Managing Transport Impacts of New Developments

TRAN4 - Creating Coherent Networks for Cycling and for Walking

ENV3 – Design Quality

ENV8 – Air Quality

Site Allocations and Delivery Development Plan Document – (SADD)

SAD H2 - Housing Windfalls

SAD EOS 9 - Urban Design Principles

12.2 DEL1 refers to providing suitable on site infrastructure provision. In this instance the scheme provides a parking area, bins and cycle stores which support other policies with the core strategy.

12.3 HOU1 requires the local planning authority to deliver 63,000 homes up to 2026, at present there is a housing shortfall and hence the introduction of this HMO would create additional homes for residents.

12.4 HOU2 refers to providing a range of types of accommodation. In the instance of this locality, the immediate area has a range of house types, it is considered that an HMO would contribute to the existing range of accommodation in the area.

- 12.5 TRAN2 refers to ensuring that new developments do not have significant transport implications; the amended proposal now provides parking for the proposal, which the Councils Highways team is satisfied with.
- 12.6 TRAN4 encourages development to introduce sustainable travel. In this instance a secure cycle storage area has been provided, and the development site is well located to public transport routes.
- 12.7 ENV3 and SAD EOS9 refers to well-designed schemes that provide quality living environments. The proposed layout and design are considered to be acceptable, therefore, the proposed development is considered to have met the policy guidance set out in BCCS Policy ENV3 and SAD Policy EOS9.
- 12.8 ENV8 and the Black Country Air Quality SPD considers the need to minimise the impacts of air quality and recommends mitigation measures for minor development. In this instance this is a construction environmental management plan. This would be conditioned as part of the recommendation.
- 12.9 SAD H2 refers to new developments being on brownfield land and compatible with other policies, of which the proposal is compliant.

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:

Planning History

- 13.2 Other uses have been explored by the applicant but refused due to the impact on highways safety. The principal of converting the first floor and roof space to HMO has already been considered acceptable with the granting of DC/17/61152. It is considered that the number of rooms is

identical to that approved previously and external amenity and parking has been improved.

Highways considerations - traffic generation, highway safety and parking:

13.3 As indicated above, the proposal provides parking to the side of the premises for the eight room HMO – a total of ten spaces are shown. The Councils Highways team has no objection to the scheme and conditions are recommended to ensure that the parking to the side of the building is provided and retained. Parking for other uses at ground floor, can be considered as part of any future planning applications.

Environmental concerns – noise and general disturbance:

13.4 Turning to concerns about noise and general disturbance, it is noted that the Councils Pollution Control team have no objection subject to conditions which would control the management of the construction work. The public house has been vacant for a number of years and there are no plans currently to bring the ground floor back into use. However, the agent has confirmed that to ensure compliance with the current UK Building Regulations (Approved Document E), the separation between the commercial ground floor and the residential upper floors must meet specific sound insulation standards. These standards are designed to minimize noise transmission and provide a comfortable living environment for residents.

13.5 As stated in 13.6 below, these matters very much hinge on the responsible management of the premises. It is intended that occupiers of the HMO will be working people from the local community. A condition has also been recommended to ensure that the proposal is used only as a HMO.

13.6 Anti-social behaviour:

Whilst objectors raise concerns in respect of anti-social behaviour, this matter very much hinges on the responsible management of the premises, and some associated matters can be addressed under a licence. Also, the West Midlands Police has raised no objection subject to conditions relating to security and lighting which are included in the recommendation.

Loss of a drinking establishment

13.7 It is noted that the public house has been vacant for a number of years and Property Services has confirmed that it is not protected as an 'Asset of Community Value.' The site is privately owned, and the proposal has been considered on its individual merits and in accordance with relevant development plan policies. Having visited the site is noted that the frontage and side areas are being used to park vehicles. Bringing the vacant building back into use would, in the Council's opinion, uplift the local area.

Cooking smells/odours and litter:

13.8 There is no evidence to suggest the use as HMO would give rise to a greater level of cooking relating smells or odours than usual and in my view this matter does not warrant refusal. Submitted floor plans shows a kitchen and dining areas, and it is expected that each of these areas would be fitted with appropriate odour extraction equipment (cooker hoods etc.) appropriate to residential living. Furthermore, the site plan shows bin storage at the rear of the site. If approved, bin storage areas shall be implemented as such and retained thereafter for continued use.

Presumption and the 'titled balance'

13.9 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'. To summarise: the proposal should be approved unless any adverse impacts of granting the permission would significantly and demonstrably outweigh the benefits when assessed against development plan policies or, where those policies are out of date, the NPPF as a whole. Where national policy takes precedence over the development plan, this has been highlighted in paragraph 11 (National Planning Policy Framework).
- 14.2 With the above in mind, the council cannot currently meet its five-year housing need as it has a shortfall of deliverable housing sites. With reference to the NPPF, this means that all local policies concerned with the supply and location of new housing must be considered out-of-date and the 'tilted balance' is engaged. If the tilted balance applies, planning permission should normally be granted unless the negative impacts 'significantly and demonstrably' outweigh the positive impacts.
- 14.3 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:	There are no direct implications in terms of the Council's strategic resources. If the Planning Inspectorate overturns the Committee's decision and grants consent, the Council may be required to pay the costs of such an appeal, for which there is no designated budget.
Legal and Governance:	The Planning Committee has delegated powers to determine planning applications within current Council policy. Section 78 of the Town and Country Planning Act 1990 gives applicants a right to appeal when they disagree with the local authority's decision on their application, or where the local authority has failed to determine the application within the statutory timeframe
Risk:	There are no risks associated with this report.
Equality:	There are no equality implications associated with this report.
Health and Wellbeing:	There are no health and wellbeing implications associated with this report.
Social Value	There are no implications linked to social value with this report.
Corporate Parenting	None.

17. Appendices

17.1 Plans for consideration

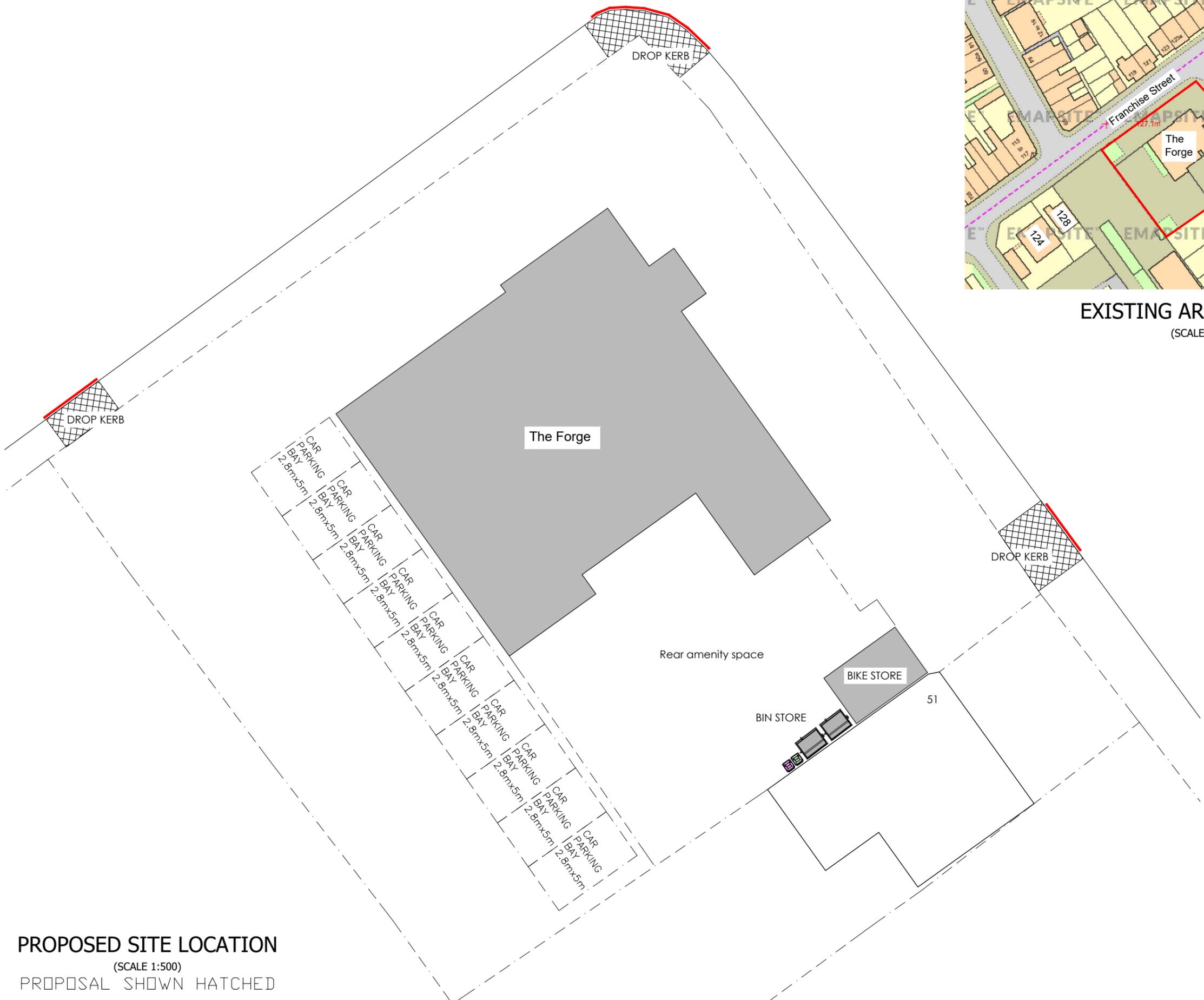
Location & site plan - 24-000-P02

Floor plan – proposed - P004 REV A

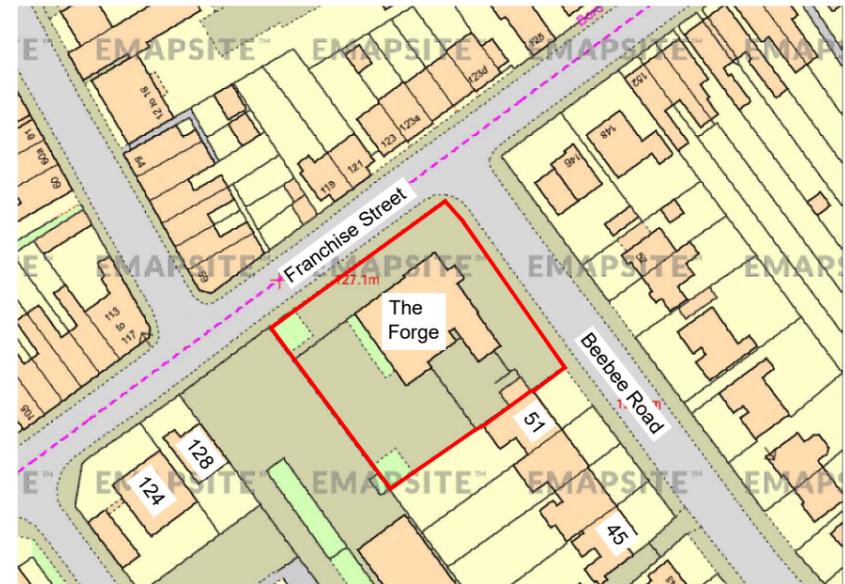
Floor plan – proposed - P005

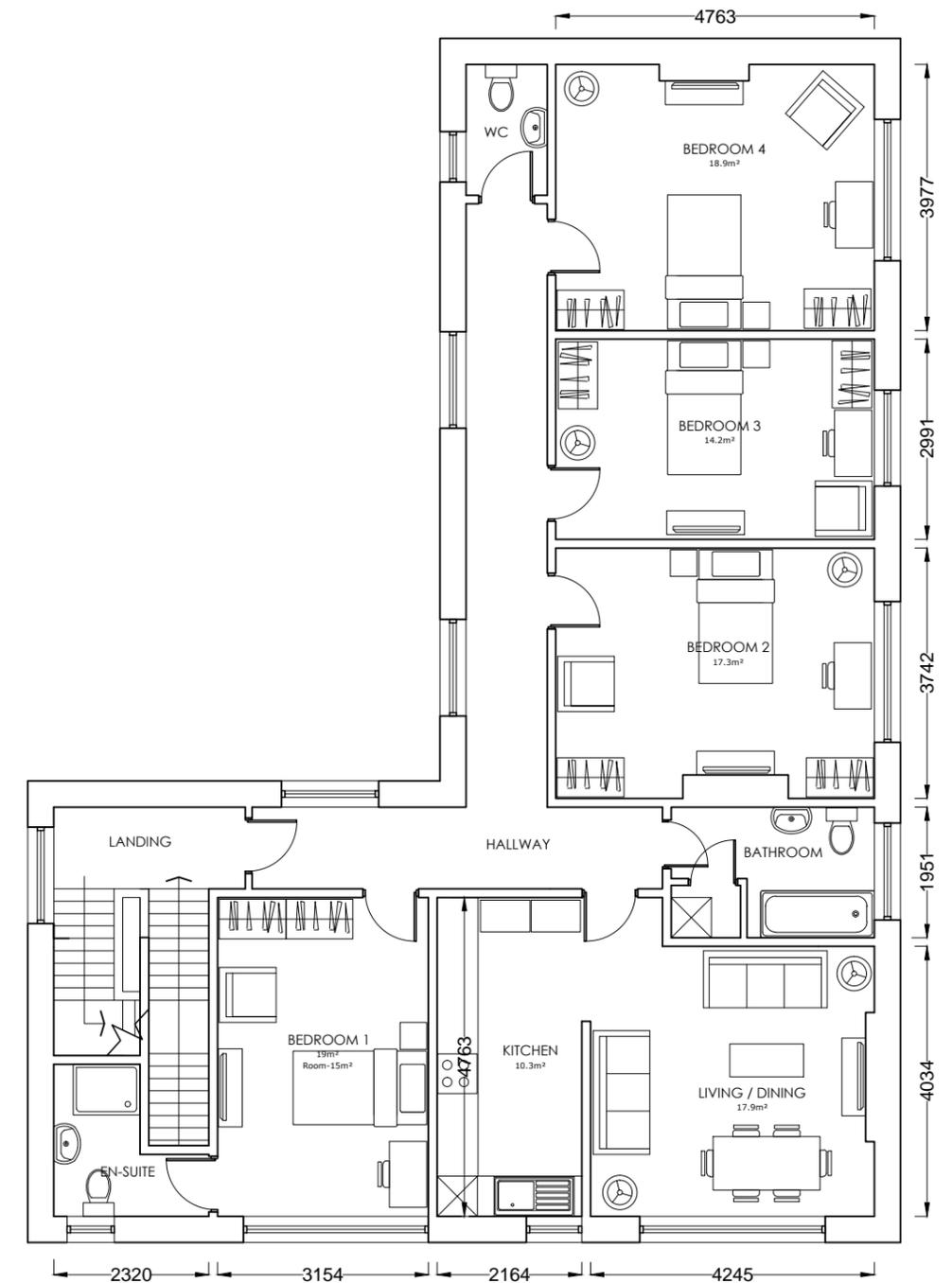
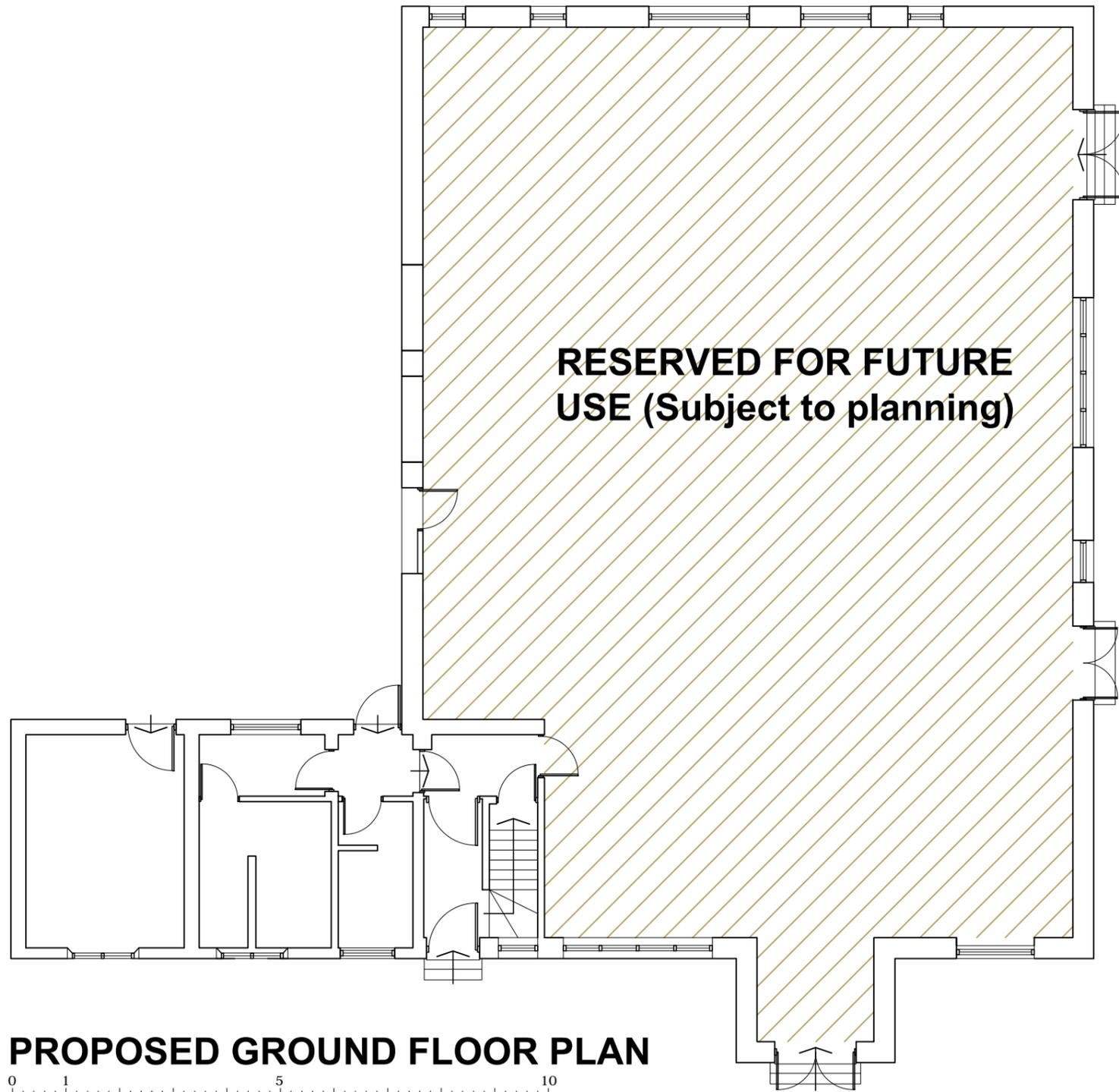
Elevation plan – proposed - P006

Elevation plan – proposed – P007



PROPOSED SITE LOCATION
(SCALE 1:500)
PROPOSAL SHOWN HATCHED





**Proposed HMO to existing first floor to 4 bed
& Conversion of existing roof space to 4 bed**

Mr. Ashraf
144 Franchise Street
Wednesbury WS10 9RG

For Approval

RN_{Dwn} RN_{Chkd}
09.08.2017
Planning



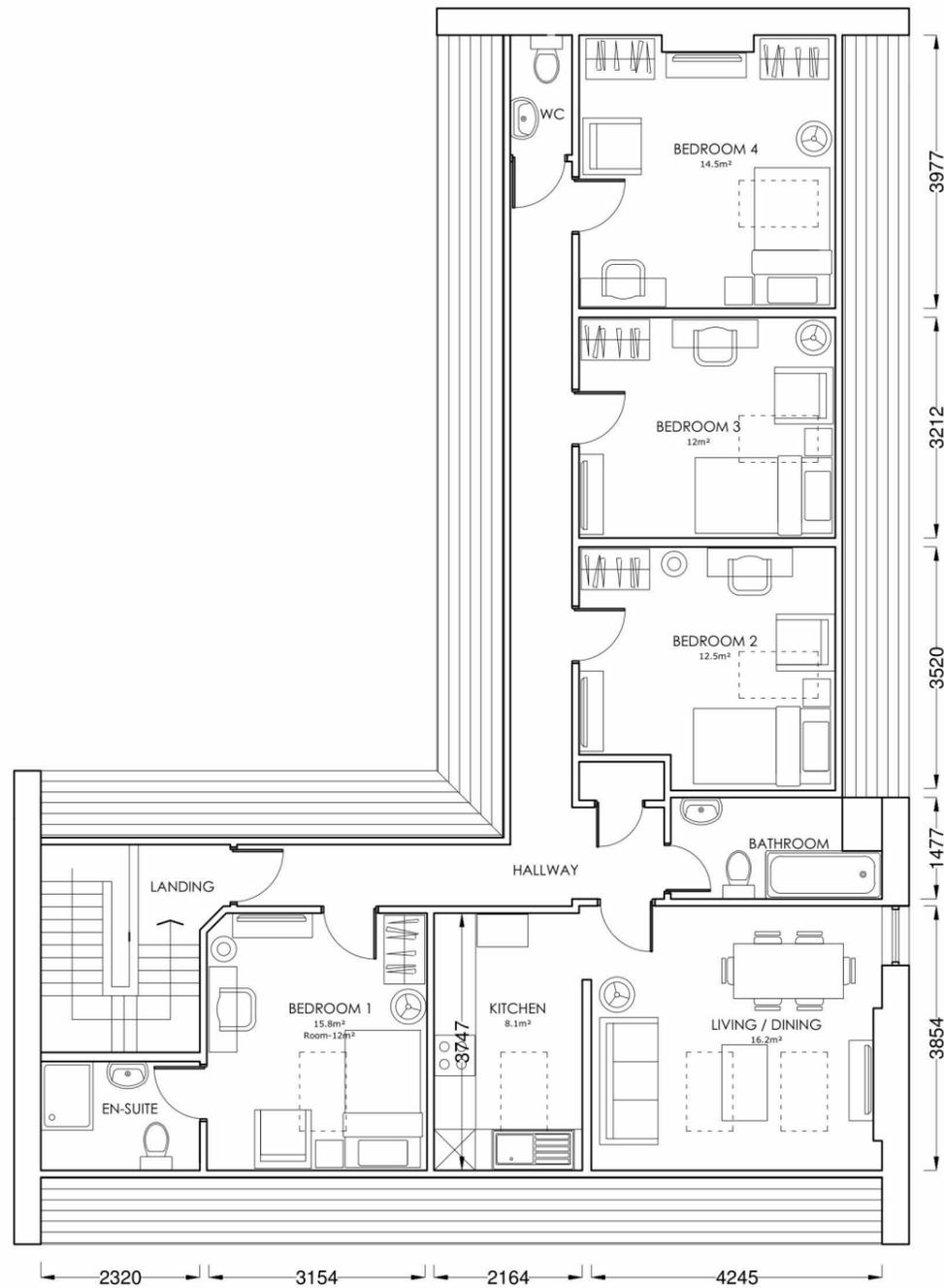
Proposed Ground and First Floor Plans

Scale 1:100 on A3

Rev. A

Project No.170701

Dwg No. P004



PROPOSED SECOND FLOOR PLAN



Proposed HMO to existing first floor to 4 bed
& Conversion of existing roof space to 4 bed

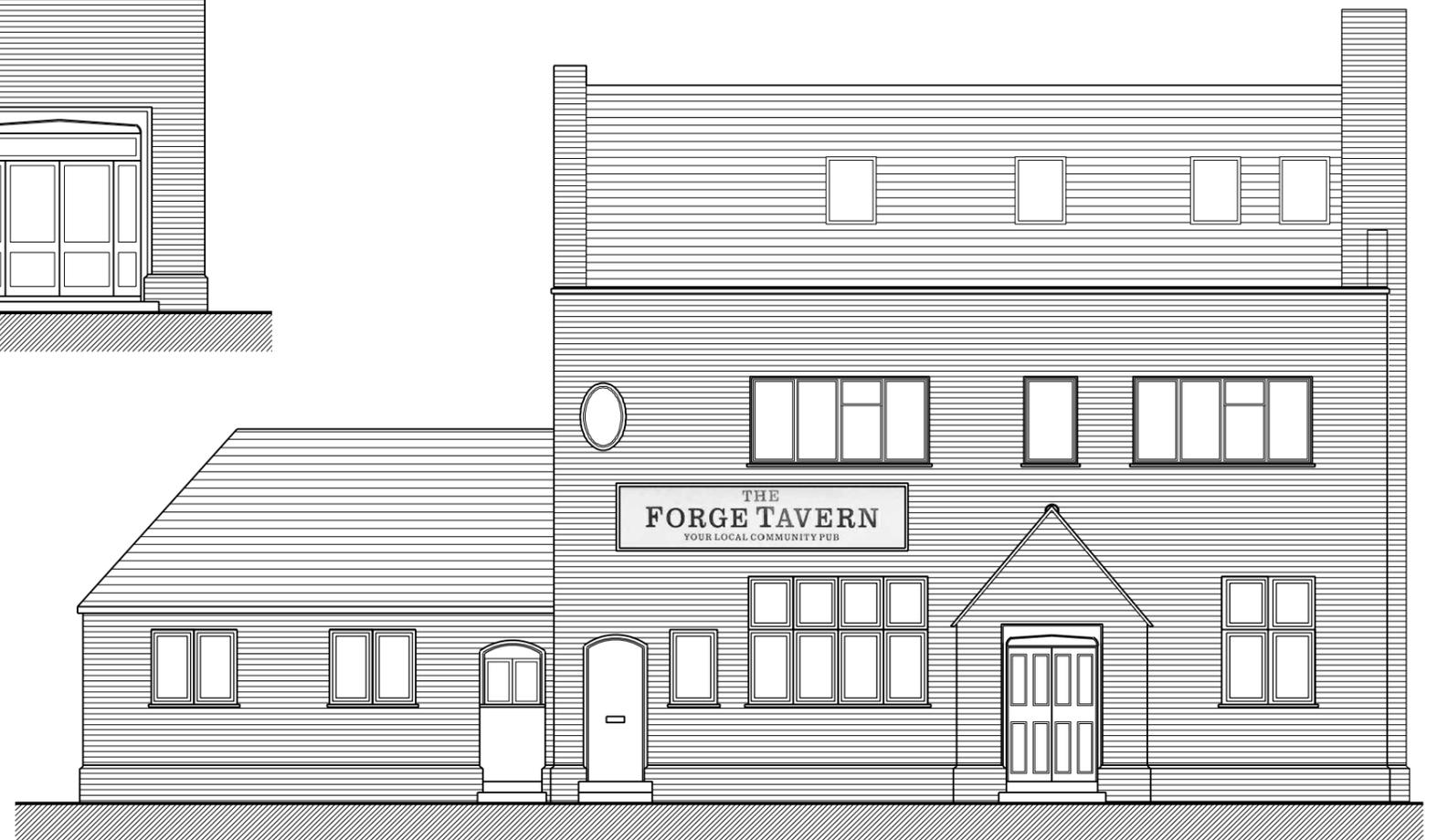
For Approval RN_{Dwn} RN_{Chkd}
 144 Franchise Street 09.08.2017
 Wednesbury WS10 9RG Planning



Proposed Second Floor Plan Scale 1:100 on A3 Rev. Project No.170701 Dwg No. P005



PROPOSED NORTH-WEST ELEVATION



PROPOSED NORTH-EAST ELEVATION

Proposed HMO to existing first floor to 4 bed
& Conversion of existing roof space to 4 bed

██████████ For Approval
144 Franchise Street
Wednesbury WS10 9RG

RN _{Dwn} RN _{Chkd}
09.08.2017
Planning



Proposed Elevations 1

Scale 1:100 on A3

Rev.

Project No.170701

Dwg No. P006



PROPOSED SOUTH-WEST ELEVATION



PROPOSED SOUTH-EAST ELEVATION



Proposed HMO to existing first floor to 4 bed
& Conversion of existing roof space to 4 bed

For Approval
144 Franchise Street
Wednesbury WS10 9RG

RN Dwn RN Chkd
09.08.2017
Planning



Proposed Elevations 2

Scale 1:100 on A3

Rev.

Project No.170701

Dwg No. P007

DC/24/69954

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 and before the development commences, a Commencement Notice must be submitted.
- iii. Before the development is commenced, including any works of demolition or site preparation, a construction environmental management plan shall be submitted to and approved in writing by the local planning authority. The statement shall provide for: the parking of vehicles of site operatives and visitors; loading and unloading of plant and materials; storage of plant and materials used in constructing the development; the erection and maintenance of security hoarding; wheel washing facilities; measures to control the emission of dust and dirt during demolition and construction; a scheme for recycling/disposing of waste resulting from demolition and construction works; delivery, demolition and construction working hours. The approved construction method statement shall be adhered to throughout the construction period for the development.
- iv. 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.
- v. The approved waste storage shall be implemented before the development is first occupied or brought into use and thereafter retained.

- vi. The approved secure cycle parking shall be implemented before the development is first occupied or brought into use and thereafter retained.
- vii. Before the development is occupied or brought into use an external lighting scheme shall be submitted to and approved in writing by the local planning authority. The approved lighting scheme shall be implemented before the development is first occupied or brought into use and shall be thereafter retained.
- viii. The development hereby permitted shall not be occupied until details of security measures associated with the HMO, which include CCTV, controlled access to the building/rooms and security lighting, shall be submitted to and approved in writing by the local planning authority. Before the HMO is first occupied the approved security measures shall be implemented and retained in that form thereafter.
- ix. Once provided, the communal kitchen/lounge/dining areas shall be retained for the lifetime of the development.
- x. The development hereby approved shall be occupied as bedsit accommodation only (for the avoidance of doubt, this permission does not allow self-contained accommodation).
- xi. The number of persons residing at the property at any one time shall not exceed 8.