

SCHEDULE A: Applications with Recommendation

17/0232

Item No: 06

Date of Committee: 02/06/2017

Appn Ref No:
17/0232

Applicant:
Citadel Estates Ltd

Parish:

Agent:
Sandy Johnston Architect

Ward:
Denton Holme

Location: Former KSS Factory Site, Constable Street, Carlisle, CA2 6AQ

Proposal: Erection Of 44no. Dwellings, Including Formation Of Riverside Path, Landscaping And Sustainable Urban Drainage Systems (Revised Application)

Date of Receipt:
20/03/2017

Statutory Expiry Date
19/06/2017

26 Week Determination
18/09/2017

REPORT

Case Officer: Richard Maunsell

1. Recommendation

- 1.1 It is recommended that this application is approved with planning conditions.

2. Main Issues

- 2.1 Whether The Principle Of Development Is Acceptable
- 2.2 Development Within The Flood Zone
- 2.3 Scale, Layout And Design
- 2.4 Whether The Proposal Would Adversely Affect The Amenity Of The Occupiers Of Neighbouring Properties
- 2.5 Highway Issues
- 2.6 Affordable Housing, Education And Recreational Provision
- 2.7 Contaminated Land
- 2.8 Accessibility
- 2.9 Ecological Impacts
- 2.10 Foul and Surface Water Drainage
- 2.11 Crime and Disorder
- 2.12 Waste/ Recycling

3. Application Details

The Site

- 3.1 This application relates to the former Key Safety Systems (car accessories) factory located at the eastern end of Constable Street within Denton Holme, Carlisle. The submitted application form indicates that the factory closed in September 2014. The site measures approximately 0.59 hectares and is generally flat varying in level between 17.45 and 17.60m AOD. Vehicular access is from Constable Street with a crossing over the Little Caldew mill race. The western boundary of the application site follows the Little Caldew/mill race (which flows south to north) with the River Caldew approximately 250m to the south and east. To the immediate south and east there is a playground and residential development in the form of Ashman Close, Shankly Road, and Blunt Street. To the immediate north there is Freer Court. The former Kangol Factory site, partly developed as student accommodation, lies to the north-west.
- 3.2 The majority of the site was previously occupied by a metal clad building with a circular tank on the western boundary. The remainder of the site is largely tarmac or gravel surfaced hardstanding. The building has been demolished since the submission of the previous planning application.
- 3.3 The site falls within Flood Zone 2 i.e. a medium probability of flooding. The River Caldew is part of the River Eden and Tributaries SSSI and SAC.

Background

- 3.4 In 1999, under application 99/0120, planning permission was given for the erection of 28 dwellings to form Freer Court.
- 3.5 In 2010, under application 10/0415, full permission was given for the erection of 19 dwellings on the south side of Constable Street.
- 3.6 In 2016, under application 16/0025, planning permission was refused for the erection of 50 dwellings for the following reasons:

“The application site is a designated Primary Employment Area that, based on the Environment Agency's raw modelled results reflected in the Carlisle Model Update 2014, falls within Flood Zones 2 and 3. The Flood Risk Assessment accompanying the application makes no reference to the need to undertake a Sequential Test. Based on the allocated sites in the emerging (post submission) Carlisle District Local Plan 2015-2030 and windfall sites, the City Council can currently demonstrate a five year land supply for housing (inclusive of a 20% buffer). The proposal, therefore, represents an unacceptable form of development having regard to its flood zone location and the reasonable availability of other sites for development. As such, the proposal does not comprise sustainable development because of the future risk of flooding and thereby undermine the provisions of the National Planning Policy Framework and Policy CC4 of the emerging (post submission) Carlisle District Local Plan 2015-2030 both of which seek to ensure that more vulnerable development is directed towards areas of low

flood risk.

The proposal is considered to be an overdevelopment of the site by reason of:

- the substandard form of accommodation in regard to at least 40 per cent of the proposed dwellings because of their proximity to one another and the subsequent creation of an oppressive sense of enclosure, losses in daylight and sunlight;*
- the proximity of the proposed dwellings to the existing dwellings along the northern boundary with Freer Court and the consequent losses in privacy, creation of an overbearing effect and losses in daylight and sunlight;*
- the proximity of the proposed dwellings along the southern boundary to an existing playground;*
- the restricted ability for service vehicles to effectively manoeuvre within the site or for the collection of refuse; and*
- the limited account of the need to create an inclusive environment with regard to the width of the pavements and restricted access to the principle entrances of each proposed dwelling.*

The proposal is therefore considered to be contrary to the second and fourth core principles of paragraph 17 of the National Planning Policy Framework, criteria 5, 7 and 11 of Policy SP 6 of the emerging (post submission) Carlisle District Local Plan 2015-2030, and the Supplementary Planning Document “Achieving Well Designed Housing”.

The Little Caldew, which runs along the western boundary of the site, provides hydrological connectivity to the River Caldew which is part of the River Eden & Tributaries Site of Special Scientific Interest and the River Eden Special Area of Conservation. In the absence of any evidence to the contrary the proposal, during the construction or operational phases, could lead to harm to these areas of ecological importance contrary to Policy GI 3 of the emerging (post submission) Carlisle District Local Plan 2015-2030, and the seventh core principle of paragraph 17 of the National Planning Policy Framework.”

3.7 The refusal was subject to an appeal to the Planning Inspectorate whereby it was considered that the 3 main issues with regard to the appeal were:

1. whether the site is appropriate for housing development having regard to local and national policies relating to development in areas at risk of flooding;
2. whether the proposal would represent good, accessible and inclusive design with particular reference to its effect on existing and future occupiers’ living conditions; and
3. the effect the proposal would have on the habitats and biodiversity of the River Eden.

3.8 The Inspector considered that:

“...the harm of locating housing within an area at risk of flooding unsupported

by a Sequential Test and which would not display the high quality of design and layout required by development plan and national policies. This harm would mean that the environmental role the Framework requires sustainable development to demonstrate would not be satisfied."

- 3.9 In respect of the biodiversity issues, the appellant submitted an "Ecological Desk Study and HRA Screening Assessment" and the inspector stated that:

"I have been presented with no reason to question its conclusions that there would be no significant effects on these sites, subject to mitigation measures during construction and in the design of the surface water drainage scheme."

- 3.10 For the reasons outlined in paragraph 3.8 above, the appeal was dismissed. A copy of the appeal decision is reproduced in the schedule following this report.

The Proposal

- 3.11 The current application is seeking full planning permission for the demolition of the redundant factory buildings and the erection of 44 two bedroom terraced houses at an approximate density of nearly 74.5 units per hectare.
- 3.12 The submitted plans show the proposed houses to be arranged in 7 blocks served by 62 parking spaces, and a series of soakaway/ SUDs features.
- 3.13 The site would be served with a vehicular access from Constable Street and pedestrian and cycle access from Leicester Street. A riverside path would be formed along the western boundary of the site.
- 3.14 The properties would be constructed from facing brick with sandstone heads and cills, upvc windows with the roof constructed from roof tiles.

4. Summary of Representations

- 4.1 This application has been advertised by means of 2 site notices, a press notice and direct notification to the occupiers of 26 of the neighbouring properties. In response, 1 letter of objection has been received and the main issues raised are summarised as follows:

1. the proposal will result in significant additional traffic in the locality of such a development.

- 4.2 In addition to the objection, 18 letters have also been received in support of the application with the main issues raised being summarised as follows:

1. the site would benefit from additional housing with landscaping around the site;
2. the alternative option of commercial development on this site is unsuitable and would not be fit for purpose;
3. with cars parked on either side of the surrounding streets, large vehicles

- would struggle to negotiate the roads for any commercial use;
 - 4. it is pleasing that the Environment Agency has confirmed that the site is not susceptible to flooding;
 - 5. Citadel Estates carry out a reasonably priced good standard of letting developments and maintain the areas very well unlike the land to the rear of the student accommodation.
- 4.3 Fifteen letters of comment have also been received with the main issues raised being summarised as follows:
- 1. the only concern is the vehicular access that is already a difficult process as vehicles often block the exit view of oncoming traffic. With an additional 40 vehicles this needs to be reviewed;
 - 2. it's impossible for 2 vehicles to pass without 1 pulling in heading towards Norfolk Street. The roads were never made for double sided parking with busy through traffic;
 - 3. access from Leicester Street could be considered instead forming one way streets in each direction along Blunt Street and Freer Street to allow access to Denton Street;
 - 4. there are concerns regarding additional strain on the already oversubscribed primary school;
 - 5. the park on Beveridge Road has not been maintained and is not fit for purpose. If this development proceeds, the developer could make a contribution to the area by renewing the dilapidated park;

5. Summary of Consultation Responses

Environment Agency (N Area (+ Waste Disp & Planning Liaison Team): - for confirmation, the version of flood map now published is the same as the new draft modelled outlined attached, that the agency made the council aware of at the time of the original planning application and on which the previous refusal was partly based.

The applicant's consulting flood risk engineers have reviewed the draft model output and have in turn reviewed the full hydraulic model and their site specific Flood Risk Assessment (FRA) is based on detailed topographic survey and the most current information available.

For a better understanding of the Environment Agency's response to this planning application please refer to page iii of the Executive Summary of the FRA.

Please be aware that flood zones show the natural flooding that would occur without the presence of defences. In terms of the Area Benefiting from Defences (ABD), this and other areas in Carlisle will show revised flood zone outlines within the defended area that are not covered by a ABD, as in this case. This is an interim situation as there is further re-modelling work currently being undertaken post Desmond, that will in turn supersede the current modelled outlines and the ABD's.

The proposed development will only meet the requirements of the National

Planning Policy Framework if the following measure(s) [condition restricting the height of finished floor levels] as detailed in the Flood Risk Assessment Final V.2, dated 13 March and produced by JBA Consulting and submitted with this application are implemented and secured by way of a planning condition on any planning permission;

Natural England: - Natural England: - this application has not been assessed for impacts on protected species but has published Standing Advice which can be used to assess impacts on protected species.

It is for the local planning authority to determine whether or not this application is consistent with national and local policies on the natural environment. Natural England recommends referring to our SSSI Impact Risk Zones;

Cumbria County Council - (Highways & Lead Local Flood Authority): - no response received;

Economic Development - Housing Development Officer: - an economic viability assessment was commissioned last year on the previous 50 unit application for this site – reference 16/0025, through NPS Chartered Surveyors. The consultant concluded that in their professional opinion the proposed scheme was not viably capable of providing any element of affordable housing. Factors included abnormal development costs, flood remediation measures, and property prices in the area.

As the current scheme is for 6 units less than application 16/0025, this is likely to have a further negative impact on viability, so it would not be considered a prudent use of resources to insist on a further viability appraisal, when the most recent viability report is only 12 months old. It is therefore accepted that this application will not be able to deliver any affordable housing.

However, there are still merits in the proposed development. Although the houses are clearly not ‘affordable’ in the context of national and local planning policy, they are still within a price range which a significant proportion of local people could obtain a mortgage to purchase, based on local median income levels;

Local Environment - Environmental Protection: - no response received;

Northern Gas Networks: - no objection;

United Utilities: - no objection subject to the imposition of conditions;

Cumbria Constabulary - North Area Community Safety Unit: - no response received.

6. Officer's Report

Assessment

- 6.1 Section 54a of the Town and Country Planning Act 1990/ Section 38(6) of the Planning and Compulsory Purchase Act 2004, requires that an application for planning permission is determined in accordance with the provisions of the Development Plan unless material considerations indicate otherwise.
- 6.2 The relevant planning policies against which the application is the National Planning Policy Framework (NPPF), the Planning Practice Guidance (PPG) and Policies SP2, SP6, HO2, HO4, IP3, IP4, IP6, IP8, CC5, CM4, CM5 and GI3 of The Carlisle District Local Plan 2015-2030 and the council's Supplementary Planning Document on "Achieving Well Design Housing" and the Denton Holme and Longsowerby Design Statement Supplementary Planning Documents (SPD) are also material planning considerations.
- 6.3 The requirements of the public sector equality duty under Section 149 of the Equality Act 2010; and the "Guidelines for Public Transport In Developments" (1999) and "Reducing Mobility Handicaps" (1991) both prepared by the Chartered Institution of Highways & Transport CIHT) are also material considerations. Section 149(1) of the Equality Act 2010 establishes a duty to have due regard to three identified needs in the delivery of public services and the exercise of public powers, namely:
- a) to eliminate discrimination, harassment, victimisation etc;
 - b) advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it; and
 - c) foster good relations between persons who share a relevant protected characteristic and persons who do not share it.
- 6.4 The relevant protected characteristics include age, gender, disability and race.
- 6.5 At a national level, other material considerations include the National Planning Policy Framework, March 2012 (the Framework/NPPF), Planning Practice Guidance (April 2014), the Community Infrastructure Levy Regulations 2010 (as amended), and the Natural Environment and Rural Communities Act (2006).
- 6.6 Paragraph 14 of the NPPF highlights the presumption in favour of sustainable development which is referred to as "a golden thread". For decision-taking this means approving development proposals that accord with the development plan; and where the development plan is absent, silent or out of date, grant permission unless:
- any adverse impacts of doing so would significantly and demonstrably outweigh the benefits; or
 - specific policies in this Framework indicate development should be restricted.
- 6.7 Paragraph 17 of the NPPF identifies 12 core planning principles including taking account of the different roles and character of different areas; supporting the transition to a low carbon future; contribute to conserving and enhancing the natural environment and reduce pollution; and conserve heritage assets.

6.8 The authority should consider securing measures to enhance the biodiversity of a site from the applicant, if it is minded to grant permission for an application in accordance with paragraph 118 of the NPPF. This is reflected in Section 40 of the Natural Environment and Rural Communities Act (2006) which states that every public authority must have regard to the purpose of conserving biodiversity. Local planning authorities must also have regard to the requirements of the EC Habitats Directive (92/43/EEC) when determining a planning application as prescribed by regulation 3 (4) of the Conservation (Natural Habitats, &c.) Regulations 1994 (as amended), and Article 16 of the Habitats Directive before planning permission is granted.

6.9 The proposal raises the following planning issues.

1. Whether The Principle Of Development Is Acceptable

6.10 Paragraph 14 of the NPPF states:

*“At the heart of the National Planning Policy Framework is a **presumption in favour of sustainable development**, which should be seen as a golden thread running through both plan making and decision taking”*

6.11 The NPPF identifies 3 dimensions for the planning system to perform under sustainable development, namely, an economic role, a social role and an environmental role.

6.12 Paragraph 47 of the Framework requires that local authorities should identify “a supply of specific deliverable sites to provide five years” worth of housing against their housing requirements with an additional buffer of 20% (to ensure choice and competition in the market for land) for those authorities where there has been a record of persistent under delivery.

6.13 Policy SP2 (Strategic Growth and Distribution), as modified, states that sufficient land will be identified to accommodate 9,606 net new homes between 2013 and 2030 including a minimum annualised average of:

- 478 net new homes between 2013 and 2020; and
- 626 net new homes between 2020 and 2030 (adjusted to have regard to delivery in the 2013-2020 period).

6.14 Policy HO2 ("Windfall Housing Development") states that new housing development on sites other than those allocated will be acceptable within Carlisle, Brampton, Longtown and villages within the rural area provided that the development will not prejudice the delivery of the spatial strategy of the Local Plan and compliance with a number of criteria.

6.15 Although not allocated for housing development in the local plan, the NPPF allows the consideration of the principle of such sites. The application site is located in a sustainable location within Carlisle where there are a range of services and the proposal would create an opportunity to support these facilities. The site is well related and bounded by residential dwellings to all sides.

- 6.16 The development does not prejudice the plan strategy of the local plan and in such circumstances the principle of additional housing in this location is deemed acceptable.

2. Development Within The Flood Zone

- 6.17 The site is located within Flood Zones 2 and 3.
- 6.18 On the matter of climate change and flooding, paragraph 100 explains that local plans should apply a sequential, risk based approach to the location of the development to avoid where possible flood risk to people and property, and take account of the impacts of climate change by, amongst other things, applying the Sequential Test.
- 6.19 The aim of the Sequential Test is to steer new development to areas with the lowest probability of flooding. Development should not be allocated or permitted if there are reasonably available sites appropriate for the proposed development in areas with a lower probability of flooding. A sequential approach should be used in areas known to be at risk from any form of flooding (paragraph 101 of the NPPF). If, following application of the Sequential Test, it is not possible for the development to be located in zones with a lower probability of flooding, the Exception Test can be applied if appropriate. For the Exception Test to be passed it must be demonstrated that the development provides wider sustainability benefits to the community that outweigh flood risk (paragraph 102 of the NPPF).
- 6.20 Paragraphs 030 and 038 of the National Planning Practice Guidance explain that a site specific flood risk assessment is carried out by (or on behalf of a developer) should include the evidence for the local planning authority to apply the Sequential Test; and that flood defences can only be considered as part of the Exception Test once the Sequential Test has been passed.
- 6.21 Policy CC4 (Flood Risk and Development) explains, amongst other things, that most new development should be located in Flood Zone 1 and development within Flood Zones 2, 3a and 3b (with the exception of water compatible uses and key infrastructure) will only be acceptable when they are compliant with the National Planning Policy Framework and when the sequential test and exception test have been satisfied.
- 6.22 The site falls within Flood Zones 2 and 3 and the application is accompanied by a Sequential Test and Design and Access Statement both of which discuss the potential flooding issues. The scheme previously failed on the basis that the Flood Risk Assessment that accompanied the application made no reference to undertake a Sequential Test; however, one was submitted during the appeal process by the appellant. The Sequential Test was narrow in terms of its assessment and focused on the catchment area of Robert Ferguson School only. In response, the council's statement considered that this should have been carried out at a district level. The Inspector commented that:

"Whilst this guidance gives an illustrative example of the catchment area for a school there is no evidence to suggest that the proposed housing would be required to satisfy a need which only exists within the limited area of that school's catchment nor that there is any particular functional relationship between them."

- 6.23 The recent guidance from the Environment Agency "Flood risk assessments: climate change allowances" (19.02.16) indicates that the site will be subject to increasing flood risk owing to climate change.
- 6.24 As already indicated, paragraph 101 of the Framework states that the aim of the Sequential Test is to steer development to areas with the lowest probability of flooding and thus development should not be permitted if there are reasonably available sites appropriate for the proposed development in areas with a lower probability of flooding.
- 6.25 The Sequential Test provides a flood risk sequential test for reasonably available appropriate alternative sites to that which is subject of this application for 44 dwellings on the 0.6 hectare brownfield site in the urban area. Although the test does not extend district wide, such an assessment would not be appropriate as the comparison needs to relate to brownfield sites in an urban context. The test concludes that:
- the Sequential Test is passed. There are no other comparable sites within Carlisle Urban within the lower risk flood zone (FZ1);
 - the site is an anomalous, unmanaged expanse of hardstanding nestled within the tightly-knit residential area of Denton Holme. The proposal offers to regenerate the site in a manner most appropriate to the surroundings and its occupants, whilst effecting real benefits across the sustainability roles spectra';
 - the proposed housing development of the site would improve the site's permeability thereby improving surface water drainage conditions in the wider public interest, and moreover introduce a manageable system on what is an unmanaged expanse of impermeable hardstanding that is already becoming a familiar 'urban wasteland' in the heart of an otherwise vibrant residential community neighbourhood;
 - there are no other appropriate, viable options for this site;
 - the opportunity costs of 'doing nothing' would be significant - the rationale for such, indefensible in the light of the foregoing assessment. The 'fallback position' is one simply of 'blight':-
 - refusal to allow new housing development on this site would effectively blight the site;
 - the site's historic 'employment' status is just that. The site has been cleared and will not revert to employment usage in the future by reason that such is unviable and otherwise would effect a serious net harm to local amenity conditions;
 - the preservation of what is effectively wasteland presents an unmanaged expanse of impermeable hardstanding;
 - such sites have a proven attraction to abuse and illegal misuse that levy significant costs to neighbouring users – in this case, residents on all 4 sides at immediate and close quarters;

- when considered in the round, there is no benefit, but only harm, from preserving this vacant/ derelict site as such;
- the emphasis should be to seek to positively regenerate this land in a manner that explores and delivers the clear benefits summarized above, and more;
- paraphrasing the resonant advice of PPS25: regardless of the Sequential Test, exceptional regard may be paid where “*some continuing development is necessary for wider sustainable development reasons, taking into account the need to avoid social or economic blight*”;
- the site is in an accessible location and for the reasons given the proposal would have social, economic and environmental benefits in common with sustainable housing developments;
- in terms of wider sustainability benefits to the community, additional housing will support businesses and local services and provide relatively affordable housing for rent that has a proven highly successful record in this locality as evinced by adjacent developments undertaken and currently managed by the appellant. Collectively, these wider sustainability benefits are of noteworthy weight in its favour;
- the site is adequately protected from flooding by existing defences and it is highly unlikely that these defences or land drainage infrastructure would no longer be maintained given the socio-politic stakes, and economic investment made. On the basis of the available evidence, in the event of a breach of the defences during a fluvial flood event with a less than 1% annual probability, it is found that the proposed finished floor levels would offer adequate protection. In addition to this, it is recommended that suitable flood resilience measures be incorporated into the house designs, and such be made the subject of a standard condition;
- again, the contextual factors of this site are compelling to achieve development that is economically, socially as well as environmentally sustainable;
- having regard to all of the matters raised, it is therefore concluded that the wider sustainability benefits are sufficient to outweigh the flood risk that exists and the development would be safe for its lifetime. The proposal would comply with the NPPF and Policy CC4 of the adopted local plan.

6.26 The Sequential Test is reasonable and appropriate in terms of the consideration of this application and an Exception Test is only required for 'Highly Vulnerable Uses' in Flood Zone 2. The site is categorised as 'more vulnerable' and therefore an Exception Test is not required.

6.27 The Environment Agency has confirmed that the applicants consulting flood risk engineers have reviewed the draft model output and have in turn reviewed the full hydraulic model and their site specific FRA is based on detailed topographic survey and the most current information available. The agency has confirmed that no objection is raised subject to the proposal being undertaken with the details within the FRA together with the imposition of a condition limited minimum floor levels. On this basis, the proposal is acceptable under the requirements of Policy CC4 and is consistent with the Framework.

3. Scale, Layout And Design

6.28 Policies seek to ensure the development is appropriate in terms of quality to that of the surrounding area and that development proposals incorporate high standards of design including siting, scale, use of materials and landscaping which respect and, where possible, enhance the distinctive character of town scape and landscape. This theme is identified in Policies HO2 and SP6 of the local plan which require that development proposals should also harmonise with the surrounding buildings respecting their form in relation to height, scale and massing and make use of appropriate materials and detailing. Development of this site could have a significant impact on the character of the area unless it is sympathetically designed.

6.29 The previous application sought permission for a greater number of dwellings (an increase of 6) and concerns raised by the council and confirmed by the Inspector are summarised that:

- whilst the overall design and layout picked up the terraced form of development of the majority of the site's surroundings, the juxtaposition of the proposed short terraces at right angles to one another would create a considerably more contained arrangement than that of adjoining streets;
- in terms of houses adjacent to Freer Court, that part of the development would give rise to an outlook from the rear windows of those properties in Freer Court within which the proposed development would appear unacceptably oppressive;
- some separation distances would be considerably shorter than the 12m minimum required by the SPD;
- the first floor rear windows of the proposed terrace of four houses in the north east corner of the site would overlook those on both floors in the adjoining houses in Freer Court, leading to a loss of privacy;
- two storey gables would be very close to windows to habitable rooms in adjoining properties which would create an overbearing effect on the outlook from those rooms;
- the failure to create an accessible and inclusive environment would be harmful to the living conditions of future occupiers;
- the adverse effects arising from the layout would result in an overdeveloped and in parts oppressive scheme even though the overall density might reflect that of surrounding streets.

6.30 The Design and Access Statement identifies that since the earlier decisions, the applicant has been in discussions with the council's Conservation and Urban Design Officer. The document explains that:

- *"the site no longer bisects Denton Holme. The visual and pedestrian access through the site has knitted two parts of Denton Holme 'village' together;*
- *a street frontage connects Blunt Street and Constable Street, allowing for the different orientations on plan;*
- *the new dwellings positively address the new street;*
- *the watercourse feature is a central theme in the design. The 'Little Caldew' will become an important part of the community. The dwellings on the West side face onto the watercourse with pedestrian access from*

the front, a public path and street trees, benches and other urban design features etc.;

- where the backs of the houses (and their gardens) face into the site, the houses layout forms a courtyard so that there is a feeling of enclosure and form. The small row of houses at the North of the site connects with the riverside path and extends the public realm along the watercourse;*
- at the Constable Street entrance, the housing block is cranked, reflecting the junction between old and new. This also provides interest at the entrance and a logical connection with the riverside path;*
- the pattern of the new houses reflects the pattern of the surrounding streets and overlooking distances are generally in accordance with the Council's design guidelines;*
- a visual and pedestrian connection between Blunt Street and the new development has been created. No vehicular access is afforded as the site concludes with a cul-de-sac at the Blunt Street end;*
- a gable feature at the entrance to the site emphasises the corner of the development and the entrance to the site.*

The design of the terraced dwellings reflects the traditional design of the Victorian and modern terraced dwellings around the site. The long terraced elevations are broken up with gables and brick features. The stone string courses and stone details at eaves, windows and heads provide fine details that connect with the local vernacular architecture."

- 6.31 The application seeks permission for 2 storey buildings that are reflective of the locality. The proposal would maximise the use of the site and would be a dense form of development; however, the character and nature of the building in the vicinity of the site is that of densely constructed terraced housing and in comparison, the development of this site would be in keeping with these proportions.
- 6.32 The proposal could achieve adequate amenity space and off-street parking. The character and appearance of the development would not be obtrusive within the street scene and addresses the previous planning concerns attached to the earlier scheme. Accordingly, there is no conflict with planning policies.

4. Whether The Proposal Would Adversely Affect The Amenity Of The Occupiers Of Neighbouring Properties

- 6.33 Two core planning principles of the Framework are for planning to be a creative exercise in finding ways to enhance and improve the places in which people live their lives; and to always seek to secure a good standard of amenity for all existing and future occupants of land and buildings (para. 17).
- 6.34 The City Council's Supplementary Planning Document "Achieving Well Designed Housing", on the matter of privacy, states that:

"Where a development faces or backs onto existing development, in order to respect privacy within rooms a minimum distance of 21 metres should usually be allowed between primary facing windows (and 12 metres between any wall

of the building and a primary window). However, if a site is an infill, and there is a clear building line that the infill should respect, these distances need not strictly apply. (para. 5.44) While it is important to protect the privacy of existing and future residents, the creation of varied development, including mews style streets, or areas where greater enclosure is desired, may require variations in the application of minimum distances." (para. 5.45)

- 6.35 Moreover, criterion 7 of Policy SP 6 of the local plan requires that proposals ensure that there is no adverse effect on residential amenity or result in unacceptable conditions for future users and occupiers of the development.
- 6.36 As such, it is considered that the main issues revolve around the impacts on the occupiers of the proposed dwellings as well as the existing neighbours concerning not only potential losses in privacy but also such matters as whether any element would be oppressive; cause losses in daylight/visible sky; and/or cause overshadowing/losses in sunlight.
- i) Occupiers of proposed dwellings
- 6.37 In relation to the occupiers of the proposed dwellings, the submitted plans show the proposed dwellings to have an eaves height of 5.4 metres and a ridge height of 8.2 metres with the layout such that gable to facing wall separation distances (within the proposed development and with regard to the existing development) range from 9.3 to 18.3 metres. In this respect, the distances refer to window to blank gable and window to window.
- 6.38 Within the site there are examples of instances where the minimum distances are less the council's SPD. Where primary windows face each other, this is largely as a result of the footprint of the building following the built form of adjacent street and other examples of such can be found elsewhere i.e. in Constable Court.
- 6.39 Where the distance is 9.3 metres between a blank gable and primary window, a judgement has to be made as to whether the benefits of the redevelopment of the site outweigh this relaxation in terms of minimum distance. In context, the 12 metre required distance would only be compromised for 3 of the 44 properties proposed within the site.
- 6.40 Based on these dimensions it is not considered that the occupiers of the proposed dwellings will experience an overbearing or enclosing effect; nor would they experience unacceptable losses in daylight or sunlight.
- 6.41 In relation to privacy, the proposed dwellings are generally arranged in blocks at right angles to one another such that any overlooking would not be direct but at an angle.
- 6.42 It should also be noted that the proposed dwellings along the south-western part of the boundary are sited within 5 metres of the playground off Ashman Close. This compares to the neighbouring development at Wadsworth Road and Ashman Close being 23–28 metres away. There is an obvious concern over the proximity of the proposed dwellings in the south-western corner of the development to an existing playground albeit that it is not a particularly

large one and facilities are limited. Paragraph 8.17 of the explanatory text accompanying Policy LC4 of the previously adopted local plan suggested that any play equipment should be sited at least 30 metres from the nearest dwelling so as not cause nuisance. The currently adopted local plan is not as prescriptive and stated in paragraph 10.21 that:

“Such areas [open spaces] must be designed to avoid conflict with residents through issues with noise, but must also remain overlooked to ensure the safety of children using the site and discourage anti-social behaviour.”

- 6.43 It is notable that the previous scheme included 6 houses adjacent to the southern boundary that immediately adjoined the play area which no longer form part of the current scheme. On this basis, it is not considered that the proposal will lead to a sub-standard form of accommodation within the site.

ii) Existing neighbours

- 6.44 When considering the impact of the proposal on existing residents, the removal of the factory building is an acknowledged benefit. When applying current policy and standards, concerns arise around the proximity to 25, 27 and 29 Shankly Road, and 1-9 Freer Court. In the case of 25-29 Shankly Road the separation distance between the existing rear facing wall and proposed rear elevation is approximately 21.2 metres. Based on the respective distances apart and heights of the proposed dwelling this is not considered sufficiently detrimental in itself to refuse permission.
- 6.45 In relation to the residential units at Freer Court along the northern boundary of the application site, the submitted plans show a separating distance between facing walls of 17.1m. This relationship will result in overlooking and, with regard to the proposed gable end, an overbearing effect also resulting in losses in daylight and sunlight contrary to the Framework and Policy SP6 of the local plan.
- 6.46 It is appreciated that there are other potential considerations when looking at the living conditions of the existing neighbours (such as noise, disturbance and congestion) but in the context of the existing residential uses neighbouring the site these are not considered to be particularly untoward.
- 6.47 Given the orientation of the application site with adjacent properties, it is not considered that the living conditions of the occupiers would suffer from loss of privacy or unacceptable levels of noise or disturbance. The development would not result in an overall loss of daylight or sunlight due to the distances involved between the application site and the residential properties.

5. Highway Issues

- 6.48 The proposal would include off-street parking provision for the development in the form of approximately 1.4 spaces per residential unit. Given that this site is within the urban area that is well-related to the city centre and with good public transport links, this level of parking provision exceeds that which is normally required. On this basis, therefore, it is not considered that the

proposal raises any highway safety issues.

- 6.49 Cumbria County Council as the Highway Authority has been consulted and a response is currently awaited. It is anticipated that their comments will be reported to Members at the meeting.

6. Affordable Housing, Education And Recreational Provision

- 6.50 When considering the proposed off-site contribution towards affordable housing, Policy HO4 of the local plan, requires all sites of 10 units or over to provide 20% of the units as affordable housing. Policy GI4 states that new housing developments of more than 20 dwellings will be required to include informal space for play and general recreational or amenity use on site according to the size of the proposal. On smaller housing sites, where on site provision is not appropriate the developer may be required to make commuted payments towards the upgrade of open space provision in the locality, especially if a deficit has been identified. Policy CM 2 (Educational Needs) explains that to assist in the delivery of additional school places, where required, to meet the needs of development, contributions will be sought.
- 6.51 On the matter of planning obligations Policy IP 8, as modified, of the local plan makes clear that new development will be expected to provide infrastructure improvements which are directly related to and necessary to make the development acceptable. Where a developer seeks to depart from any planning obligations sought, it will be necessary for them to demonstrate that such contributions are nevertheless being maximised as far as it is viable to do so, and that ultimately the wider economic, social and environmental benefits to be realised from approving the proposal in the absence of such contributions outweigh the harm doing so.
- 6.52 In this case, the City Council's Housing Services has confirmed that this site falls within Affordable Housing Zone B of the local plan, which would require a 20% affordable housing contribution i.e. 8.8 affordable units.
- 6.53 The "Five Year Housing Land Supply Position Statement April 2015" indicated that on the basis of an average annual target of 480 net new homes, the District had a 6.1 year deliverable housing land supply. The Investment and Policy Section has subsequently confirmed that the City Council, based on the allocated sites in the local plan and windfall sites, can currently demonstrate a five year land supply for housing (inclusive of a 20% buffer). The Council's Strategic Housing Market Assessment (SHMA 2014) addresses the need for affordable housing and shows an overall calculation of housing need over a 17 year period from 2013 to 2020 as being an average of 295 per annum. This figure applies across the District, but more detailed analysis shows the urban area of Carlisle has the highest need, at about 68% of the total. Whilst the planning system has a role to play in delivering affordable housing, it is also recognised that the private rented sector makes a contribution to meeting the needs of households in the area. The data in the SHMA shows that the private rented sector makes a significant contribution to filling the gap in relation to meeting housing need, and given the levels of

affordable housing need shown in the SHMA, this sector is likely to continue to be used to some degree to make up for the shortfall of genuine affordable housing for the foreseeable future. In this light it is considered that the local plan can demonstrate sufficient land allocations and a windfall allowance to meet all of the district's housing needs.

- 6.54 In terms of primary school provision, Cumbria County Council has previously advised that there are limited spaces within the catchment school; however, there are enough spaces within the next nearest primary schools located within 2 miles to accommodate the pupil yield. With regard to secondary education, the development of the site would contribute to the pressure on secondary school places and further work will be undertaken to identify a strategic solution to the issue. At that stage, no contribution was sought for secondary school places.
- 6.55 The applicant has previously submitted a Viability Report the conclusion of which is that the provision of affordable housing or contribution to off-site play/ amenity use or education, as part of the development is not viable.
- 6.56 In response and as part of the previous application, the council commissioned an independent viability assessment commissioned from NPS Chartered Surveyors which concluded that:
- *“In conclusion it is my professional opinion that the subject proposed scheme is not viably capable of providing any element of affordable housing (whether on-site or off-site).*
 - *As suggested within the applicant's viability submission the market values of the proposed houses are arguably 'affordable' if 'affordability' is taken represent a price range within which a significant proportion of society could theoretically obtain a mortgage to purchase based on median income levels. This observation would be likely to make acceptance that the scheme cannot viably provide any element of affordable housing more palatable to Members (if there had not been a host of other planning issues potentially preventing approval of the application). The houses are clearly not 'affordable' in the context of the Council's policy for discounted sale affordable homes to be sold at a maximum of 70% of MV.”*
- 6.57 The council's Housing Development Officer has confirmed that the independent viability assessment remains valid to this revised application. He advises that although the houses are clearly not 'affordable' in the context of national and local planning policy, they are still within a price range which a significant proportion of local people could obtain a mortgage to purchase, based on local median income levels and on this basis, there is no requirement to provide any formal affordable housing.
- 6.58 The comments of the City Council's Open Spaces Manager are awaited with regard to open space provision but based on the viability argument outlined and the response previously received from the council's independent consultant and proximity to a play area, it is not appropriate to request any open space contribution.

7. Contaminated Land

- 6.59 The "Preliminary Geo-Environmental Risk Assessment" explains that:
- some exploratory holes noted made ground of ash and clinker to depths of around 1.6m;
 - water ingress was noted at relatively shallow depth i.e. 1.5-2 metres;
 - groundwater is anticipated to be present at shallow depth within the Drift geological deposits with the potential for localised pockets of trapped surface infiltration within the made ground;
 - any groundwater present could potentially be in hydraulic continuity with the Little Caldew/ mill race on the western site boundary;
 - a risk level of moderate is determined appropriate for this development with respect to ground contamination as potentially contaminative industries and processes have been recorded on site and within the immediate surrounding area;
 - the presence of made ground could pose a potential risk of generic and organic contamination and this should be confirmed by intrusive investigation and laboratory analysis;
 - a risk of very low is considered appropriate for the site with respect to potential harmful ground gas as some sources have been identified within an influencing distance - as a result ground gas monitoring is considered necessary.
- 6.60 The "Preliminary Geo-Environmental Risk Assessment" recommends that any permission includes conditions relating to a Phase 2 Ground Investigation to determine potential contamination and gas risks to human health and the environment prior to development commencing. The ground investigation needing to incorporate a contamination risk assessment for Human Health and Controlled Waters. It is also recommended that a ground gas risk assessment be completed. If elevated levels of contamination/gas are identified then it may be the case that protection measures are required.
- 6.61 The council's Environmental Health Officers raised no objection to the previous application subject to the imposition of a planning condition and it would be appropriate to include this condition as part of this decision.

8. Accessibility

- 6.62 Paragraph 35 of the NPPF explains that developments should consider the needs of people with disabilities by all modes of transport. In addition, paragraph 57 of the NPPF goes on to say that it is important to plan positively for the achievement of high quality and inclusive design for all development, including individual buildings, public and private spaces and wider area development schemes. Criterion 5 of Policy SP6 of the local plan reiterates paragraph 57 of the NPPF.
- 6.63 Based on the previously submitted details the concerns were twofold. Firstly, the submitted Design & Access Statement indicated that access for disabled people would be "from the rear of the properties" as opposed to the principle entrance. Secondly, the widths of the various pavements are relatively narrow. As such, it was considered that the submitted proposal had not fully

taken account of the needs of disabled people, was not inclusive, and was contrary to the NPPF and criterion 5 of Policy SP6 of the local plan.

- 6.64 The revised scheme provides accessibility to the front of the properties with the widths of the paths being increased to 1.2 metres. On this basis, the previous concerns have been adequately addressed and the proposal is acceptable.

9. Ecological Impacts

- 6.65 When considering whether the proposal safeguards the biodiversity and ecology of the area it is recognised that Local Planning Authorities must have regard to the requirements of the EC Habitats Directive (92/43/EEC) when determining a planning application as prescribed by regulation 3 (4) of the Conservation (Natural Habitats, &c.) Regulations 1994 (as amended), and Article 16 of the Habitats Directive before planning permission is granted. Article 16 of the Directive indicates that if there is reasonable likelihood of a European protected species being present then derogation may be sought when there is no satisfactory alternative and that the proposal will not harm the favourable conservation of the protected species and their habitat. In this case, the proposal relates to the development of residential dwellings on greenfield land. As such it is inevitable that there will be some impact upon local wildlife.
- 6.66 The authority should consider securing measures to enhance the biodiversity of a site from the applicant, if it is minded to grant permission for an application in accordance with paragraph 118 of the NPPF. This is reflected in Section 40 of the Natural Environment and Rural Communities Act (2006) which states that every public authority must have regard to the purpose of conserving biodiversity. Local planning authorities must also have regard to the requirements of the EC Habitats Directive (92/43/EEC) when determining a planning application as prescribed by regulation 3 (4) of the Conservation (Natural Habitats, &c.) Regulations 1994 (as amended), and Article 16 of the Habitats Directive before planning permission is granted.
- 6.67 Members will be aware of the proximity of the River Caldwew which is part of the River Eden & Tributaries Site of Special Scientific Interest, and the River Eden Special Area of Conservation. The Little Caldwew running along the western boundary of the site provides hydrological connectivity to the river and thus there could be potential impacts both during the construction phase and the operational phase.
- 6.68 Policy GI3 of the local plan seeks to ensure the protection and, where possible, enhancement of biodiversity assets across the District. These policies are consistent with Section 11 of the Framework.
- 6.69 The applicant has submitted a Habitat Regulations Assessment (HRA) which suggests several mitigation proposals that include the submission of a Construction Environmental Management Plan, a surface water management system, use of best practice for environmental management and the production of an ecological constraints plan. The HRA concludes that:

“It is therefore concluded that as long as the drainage proposals are follows, no likely significant effects are anticipated as a result of the Revised Development and no need for further assessment with regards to Designated Sites with 10km of the Site.”

- 6.70 The HRA identifies that, subject to the imposition of conditions, that the development could be undertaken without causing harm to the nearby SAC and SSSI. An informative is also included within the decision notice advising that if any protected species are identified during the development work must cease an the local planning authority notified.

10. Foul and Surface Water Drainage

- 6.71 The foul drainage would be connected to the mains infrastructure which is acceptable. The NPPF and Policy CC5 of the local plan advocates that in the first instance the applicant should explore and give priority to the use of sustainable drainage systems for surface water drainage.
- 6.72 As part of the Flood Risk Assessment, there are details regarding the surface water drainage including SUDs initiatives including permeable paving. The existing run-off rate from the site is 62.71 l/s. The proposal would see a 30% reduction resulting in a discharge rate of 43.89 l/s. The calculation is based upon:
- a developed area of 0.514ha (0.175ha = 100% impermeable, 0.339ha = permeable hard standing);
 - a permissible discharge rate of 43.89l/s;
 - rainfall depths for the 30-year and 100-year rainfall events (abstracted from the FEH CD-ROM Version 3.0);
 - rainfall depths increased by 40% to allow for climate change (in line with the EA new recommendations for climate change allowances).
- 6.73 The report identifies that permeable paving and garden areas would mitigate some of this run-off. Further attenuation may be required in the form of storage tanks and the report identifies that the required storage volume is variable due to different outfall configurations that can be used to restrict discharge such as orifices and Hydrobrakes. Accordingly, it would be appropriate to impose a condition requiring the submission and agreement of surface water drainage details.

11. Crime and Disorder

- 6.74 Section 17 of the Crime and Disorder Act together with Policy SP6 of the local plan requires that the design of all new development must contribute to creating a safe and secure environment, integrating measures for security and crime prevention and minimising the opportunity for crime. The layout has been designed to give a degree of natural surveillance and creates a distinction between public and private spaces. This definition should act as a deterrent to potential offenders and reduce the likelihood of crime occurring. In this respect, there is no objection to the principle of development.

12. Waste/ Recycling

- 6.75 With regard to residential developments, Waste Services has previously advised that developers are expected to provide and where appropriate pay for waste containers. The refuse from the site would be collected by a private refuse delivery firm and as such, the proposal is acceptable.

Conclusion

- 6.76 The current application site can be viewed as being in sustainable location, well related to existing residential areas of the city and the principle of residential development is consistent with the national requirements in the NPPF and the council's own windfall housing policy.
- 6.77 The site has been previously subject of a refusal of planning permission the challenge to the Planning Inspectorate that was dismissed. The 3 main issues in the consideration of that proposal related to the layout of the scheme, development within the flood zone and potential impact on areas of ecological importance.
- 6.78 The current application adequately addresses the flood risk issue through the submission of a Sequential Test and the imposition of appropriate conditions. A Habitats Regulation Assessment identifies that no adverse effect would occur on these identified areas of ecological importance, again, subject to the imposition of conditions.
- 6.79 The scheme has been amended in terms a reduction in the number of dwellings and significant alterations to the layout and design of the scheme. The proposal reflects the character and nature of the surrounding development that reflects the scale, design, details and use of materials.
- 6.80 Adequate off-street parking would be provided within the site and the buildings would not adversely affect the living conditions of the occupiers of neighbouring properties. The planning conditions will ensure that in the short-term period of construction, the residents would be adequately protected from the works, as far as reasonably practicable.
- 6.81 The supporting documents accompanying the application adequately address those matters relating to contamination, surface water and ecology can also be addressed through the imposition of relevant conditions.
- 6.82 On balance, the application is recommended for approval.

7. Planning History

- 7.1 In 1973, under application numbers TP 2584 and TP 2711, planning permission was refused for residential development.
- 7.2 Planning permission was granted in 1978, application 78/0136, for the erection of buildings for general industrial purposes.

- 7.3 In 1979, application 79/0728, permission was given to convert wasteland to a car park.
- 7.4 Planning permission was granted in 1980, application 80/0312, permission was given for the provision of a water tank and pump house for fire protection.
- 7.5 In 2016, planning permission was refused for the erection of 50no. houses and a subsequent appeal to the Planning Inspectorate was dismissed.
- 7.6 With regard to neighbouring land to the site:
- in 1999, under application 99/0120, planning permission was given for the erection of 28 dwellings to form Freer Court;
 - in 2010, under application 10/0415, full permission was given for the erection of 19 dwellings on the south side of Constable Street; and
 - in 2012, application 11/0863, permission was given for student accommodation on land at Norfolk Street.

8. Recommendation: Grant Permission

1. The development shall be begun not later than the expiration of 3 years beginning with the date of the grant of this permission.

Reason: In accordance with the provisions of Section 91 of the Town and Country Planning Act 1990 (as amended by Section 51 of the Planning and Compulsory Purchase Act 2004).
2. The development shall be undertaken in strict accordance with the approved documents for this Planning Permission which comprise:
 1. the Planning Application Form received 15th March 2017;
 2. the Site Location Plan received 20th March 2017 (Drawing no. 01/2014/00 Rev 0);
 3. the Block Plan received 20th March 2017 (Drawing no. 01/2014/02 Rev 0);
 4. the Ground Floor Plan received 20th March 2017 (Drawing no. 01/2014/06 Rev 0);
 5. the Ground Floor Plan - House Type received 15th March 2017 (Drawing no. 01/2014/07 Rev 0);
 6. the First Floor Plan - House Type received 15th March 2017 (Drawing no. 01/2014/08 Rev 0);
 7. the Elevations - House Type received 15th March 2017 (Drawing no. 01/2014/09 Rev 0);
 8. the Topographical Survey received 15th March 2017 (Drawing no. ABEL-015-002);
 9. the Long Elevations received 15th March 2017 (Drawing no. 01/2014/05 Rev 0);
 10. the Proposed Site Layout - Swept Path Analysis Refuse Vehicle

- received 15th March 2017 (Drawing no. SK001 Rev C);
11. the Planning: Sequential Test received 15th March 2017;
 12. the Design and Access Statement received 16th March 2017;
 13. the Desk Study and HRA Screening Assessment received 15th March 2017;
 14. the Phase 1: Desk Top Study Report Preliminary Geo-Environmental Risk Assessment received 28th March 2017;
 15. the Flood Risk Assessment received 15th March 2017;
 16. the Notice of Decision;
 17. any such variation as may subsequently be approved in writing by the local planning authority.

Reason: To define the permission.

3. No development shall commence until samples or full details of all materials to be used on the exterior have been submitted to and approved in writing by the local planning authority. The hereby permitted development shall be carried out and completed in full accordance with the approved details.

Reason: In the interests of visual amenity in accordance with Policies HO2 and CM5 of the Carlisle District Local Plan 2015-2030.

4. No development shall commence until full details of the proposed hard surface finishes to all external areas have been submitted to and approved in writing by the local planning authority. The hereby permitted development shall be carried out and completed in full accordance with the approved details.

Reason: In the interests of visual amenity in accordance with Policies HO2 and CM5 of the Carlisle District Local Plan 2015-2030.

5. Prior to the commencement of development a Construction Environmental Management Plan (CEMP) shall be submitted to and agreed, in writing, by the local planning authority. The CEMP shall include all the mitigation proposals as identified in Section 5.3 of the "Desk Study and HRA Screening Assessment" (report ref. CE-CS1043-RP01-FINAL) prepared by Crestwood Environmental Ltd dated 10th August 2016.

The agreed CEMP shall be fully implemented upon commencement of development and shall not be varied without the prior written agreement of the local planning authority.

Reason: In order to prevent pollution, mitigate impacts on wildlife and any adverse impact upon the River Eden and Tributaries Special Area of Conservation in accordance with Policy GI3 of the Carlisle District Local Plan 2015-2030.

6. Before any development takes place, a plan shall be submitted for the prior written approval of the local planning authority reserving adequate land for the parking of vehicles engaged in construction operations associated with the development hereby approved, and that land, including vehicular access

thereto, shall be used for or be kept available for these purposes at all times until completion of the construction works.

Reason: The carrying out of this development without provision of these facilities during the construction works is likely to lead to inconvenience and danger to road users in accordance with Policies IP3 and SP6 of the Carlisle District Local Plan 2015-2030.

7. Prior to the commencement of development details of the proposed carriageway and footways (inclusive of drainage and lighting) shall be submitted to and approved in writing by the local planning authority. No dwelling hereby permitted shall be occupied until the associated carriageway and footway works have been fully carried out in accordance with the approved details.

Reason: To ensure a minimum standard of construction in the interests of highway safety in accordance with Policies IP3 and SP6 of the Carlisle District Local Plan 2015-2030.

8. Prior to the occupation of any dwelling hereby permitted the associated off street parking shall be provided together with vehicular access thereto and the associated turning area in accordance with the approved plans. The access, parking spaces, and, turning area shall be used for no other purpose without the prior approval of the local planning authority.

Reason: To ensure that the apartments are provided with off -street parking in accordance with Policies IP3 and SP6 of the Carlisle District Local Plan 2015-2030.

9. Prior to the commencement of any development, a surface water drainage scheme, based on the hierarchy of drainage options in the National Planning Practice Guidance and in accordance with principles set out in the submitted Flood Risk Assessment ref: Final v2.1/13 March 2017 prepared by JBA Consulting, proposing surface water discharging into the river Little Caldew, with evidence of an assessment of the site conditions shall be submitted to and approved in writing by the local planning authority.

The surface water system shall demonstrate that no flooding will occur on any part of the site for a 1 in 30 year event unless designed to do so, flooding will not occur to any building in a 1 in 100 year event plus 30 % to account for climate change, and where reasonably possible flows resulting from rainfall in excess of a 1 in 100 year 6 hour rainfall event are managed in conveyance routes (plans of flow routes etc). The scheme must also confirm the design of the surface water drainage system will mitigate any negative impact of surface water from the development on flood risk outside the development boundary.

The surface water drainage scheme must be in accordance with the Non-Statutory Technical Standards for Sustainable Drainage Systems (March 2015) or any subsequent replacement national standards.

The development shall be completed in accordance with the approved details.

Reason: To ensure a satisfactory form of development and to prevent an undue increase in surface water run-off and to reduce the risk of flooding in accordance with Policies SP6 and CC5 of the Carlisle District Local Plan 2015-2030 and to promote sustainable development, secure proper drainage and to manage the risk of flooding and pollution in accordance with policies within the National Planning Policy Framework and National Planning Practice Guidance.

10. Particulars of height and materials of all screen walls and boundary fences shall be submitted to and approved by the local planning authority prior to the commencement of the development hereby permitted. All works comprised in the approved details of means of enclosure and boundary treatment shall be carried out contemporaneously with the completion (i.e. by the plastering out) and completed prior to the occupation of each dwelling hereby permitted.

Reason: To ensure that the work is undertaken in a co-ordinated manner that safeguards the appearance and security of the area in accordance with Policies HO2 and CM5 of the Carlisle District Local Plan 2015-2030.

11. The development hereby permitted shall be carried out and completed in accordance with the "Development design" measures identified in Section 6 of the Flood Risk Assessment Final Report (March 2017) prepared by JBA Consulting.

Reason: In order to provide resilience in case flooding did occur in accordance with Policy CC4 of the Carlisle District Local Plan 2015-2030.

12. No construction work associated with the development hereby approved shall be carried out before 07.30 hours on weekdays and Saturdays nor after 18.00 hours on weekdays and 13.00 hours on Saturdays (nor at any times on Sundays or Bank Holidays).

Reason: To prevent disturbance to nearby occupants in accordance with Policy CM5 of the Carlisle District Local Plan 2015-2030.

13. No development shall commence until an investigation and risk assessment, (in addition to any assessment provided with the planning application), has been completed in accordance with a scheme to assess the nature and extent of any contamination on the site, whether or not it originates on the site. The contents of the scheme are subject to the approval in writing of the Local Planning Authority. The investigation and risk assessment must be undertaken by competent persons and a written report of the findings must be produced. The written report is subject to the approval in writing of the

Local Planning Authority. The report of the findings must include:

- a survey of the extent, scale and nature of contamination;
- (i) an assessment of the potential risks to:
 - (ii) human health,
 - property (existing or proposed) including buildings, crops, livestock, pets, woodland and service lines and pipes,
 - adjoining land,
 - groundwaters and surface waters,
 - ecological systems,
 - archaeological sites and ancient monuments;
- an appraisal of remedial options, and proposal of the preferred option(s). These options must ensure that the site when remediated is suitable for the proposed use.

Reason: To ensure that risks from land contamination to the future users of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors in accordance with Policy CM5 of the Carlisle District Local Plan 2015-2030.

14. As part of the development hereby approved, adequate underground ducts shall be installed in accordance with details approved in writing beforehand by the local planning authority to enable telephone services, electricity services and television services to be connected to any premises within the application site, without recourse to the erection of distribution poles and overhead lines. The development shall then be undertaken in accordance with the approved details.

Reason: To maintain the visual character of the locality in accord with Policy IP4 of the Carlisle District Local Plan 2015-2030.

15. Prior to occupation of the development a sustainable drainage management and maintenance plan for the lifetime of the development shall be submitted to the local planning authority and agreed in writing. The sustainable drainage management and maintenance plan shall include as a minimum:
- (iii) arrangements for adoption by an appropriate public body or statutory undertaker, or, management and maintenance by a resident's management company; and
 - a. arrangements for inspection and ongoing maintenance of all elements of the sustainable drainage system to secure the operation of the surface water drainage scheme throughout its lifetime.

The development shall subsequently be completed, maintained and managed in accordance with the approved plan.

Reason: To ensure that management arrangements are in place for the sustainable drainage system in order to manage the risk of

flooding and pollution during the lifetime of the development in accordance with Policies SP6 and CC5 of the Carlisle District Local Plan 2015-2030 and to promote sustainable development, secure proper drainage and to manage the risk of flooding and pollution in accordance with policies within the National Planning Policy Framework and National Planning Practice Guidance.

16. The development permitted by this planning permission shall only be carried out in accordance with the approved Flood Risk Assessment (FRA) and the following mitigation measures detailed within the FRA:

1. *Finished floor levels are set no lower than 18.15m above Ordnance Datum (AOD).*

The mitigation measures shall be fully implemented prior to occupation and subsequently in accordance with the timing / phasing arrangements embodied within the scheme, or within any other period as may subsequently be agreed, in writing, by the local planning authority.

Reason: In order to provide resilience in case flooding did occur in accordance with Policy CC4 of the Carlisle District Local Plan 2015-2030.



SITE LOCATION PLAN 1:1250

ALL DIMENSIONS MUST BE CHECKED ON SITE AND NOT BE SCALED FROM THIS DRAWING

**SANDY JOHNSTON
ARCHITECT
RIBA**

SITE LOCATION PLAN

**44 NEW TERRACED HOUSES, FORMER KSS FACTORY
SITE, DENTON HOLME for CITADEL ESTATES LTD**

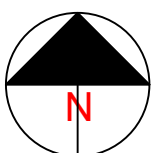
03/03/17

DWG: 01/2014/00

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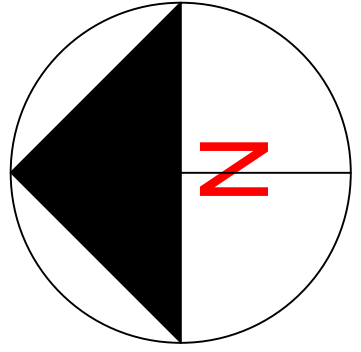




SANDY JOHNSTON
ARCHITECT
RIBA

44 NEW TERRACED HOUSES, FORMER K&S FACTORY SITE, DENTON HOLME for CITADEL ESTATES LTD	03-03-17	DWG: 01/2014/02	1:500
	PAPER: A3	REVISION: 0	

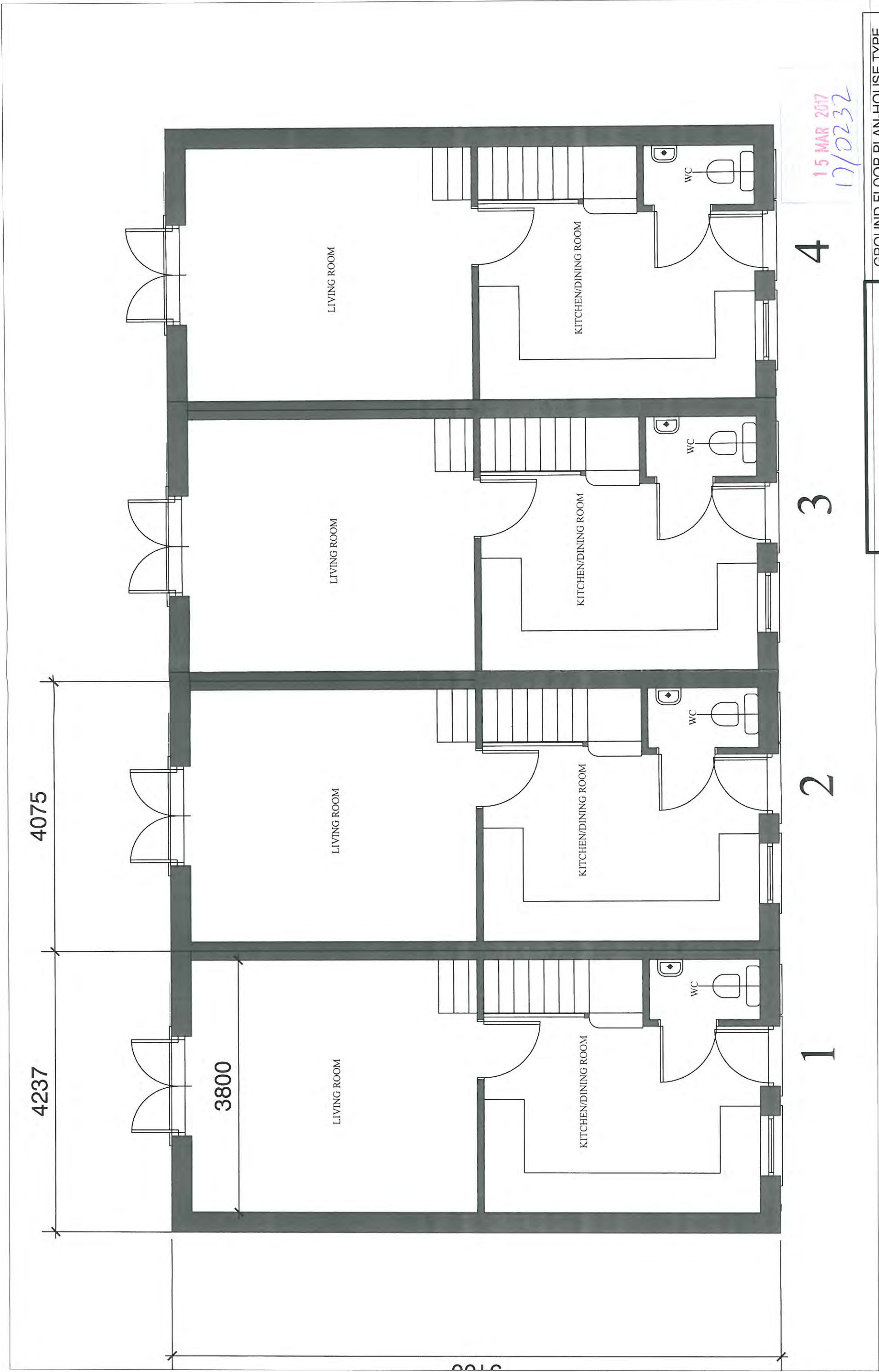
Roads: permeable tarmac/adam
 Parking: permeable block paviers
 Paths to front of houses: permeable block paviers
 Paths to rear gardens: Marshalls 600x 600 buff permeable concrete paving flags
 Patios: Marshalls 600x600 buff permeable concrete paving flags with charcoal chipping borders.



MATERIALS:	
Roofs:	Russell 'Gramplan' mock bond blue/gray roof tiles.
Walls to dwellings:	Traditional facing bricks, spec: Hanson Queens Blend bricks & natural buff sandstone heads and chills
Garden walls:	Hanson red drag face bricks with Staffordshire blue cap bricks
Windows & Doors:	White upvc

EXTERNAL HARD LANDSCAPING:	
Roads:	permeable tarmac
Parking:	permeable block pavers
Paths to front of houses:	permeable block pavers
Paths to rear gardens:	Marshalls 600x600 buff permeable concrete paving flags
Patios:	Marshalls 600x600 buff permeable concrete paving flags with charcoal chipping borders.

SITE LAYOUT PLAN 1:200

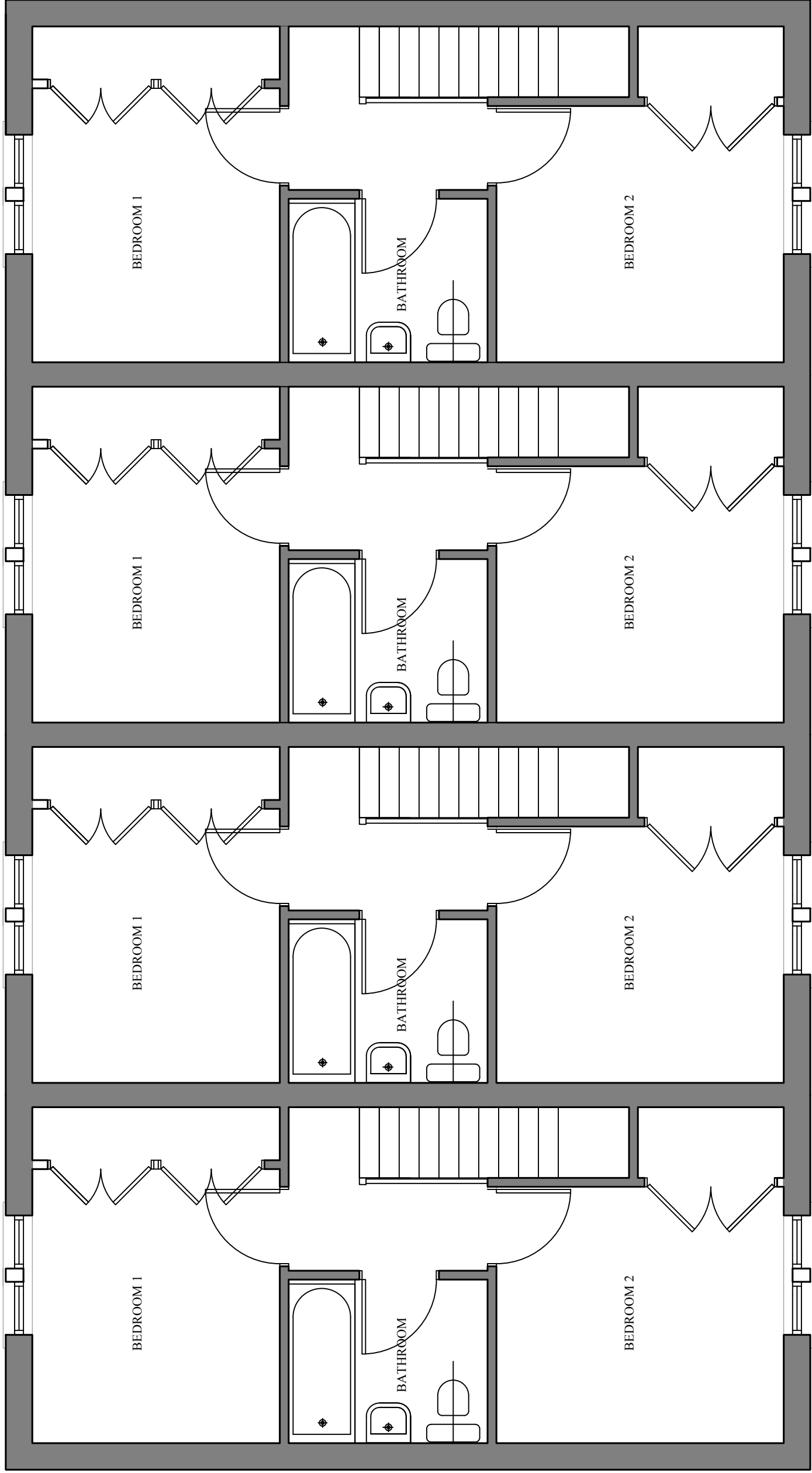


15 MAR 2017
17/0232

GROUND FLOOR PLAN-HOUSE TYPE	
44 NEW TERRACED HOUSES, FORMER KSS FACTORY SITE, DENTON HOLME for CITADEL ESTATES LTD	
03-03-17 PAPER:A3	DWG: 01/2014/07 REVISION: 0

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GROUND FLOOR PLAN 1to50



1

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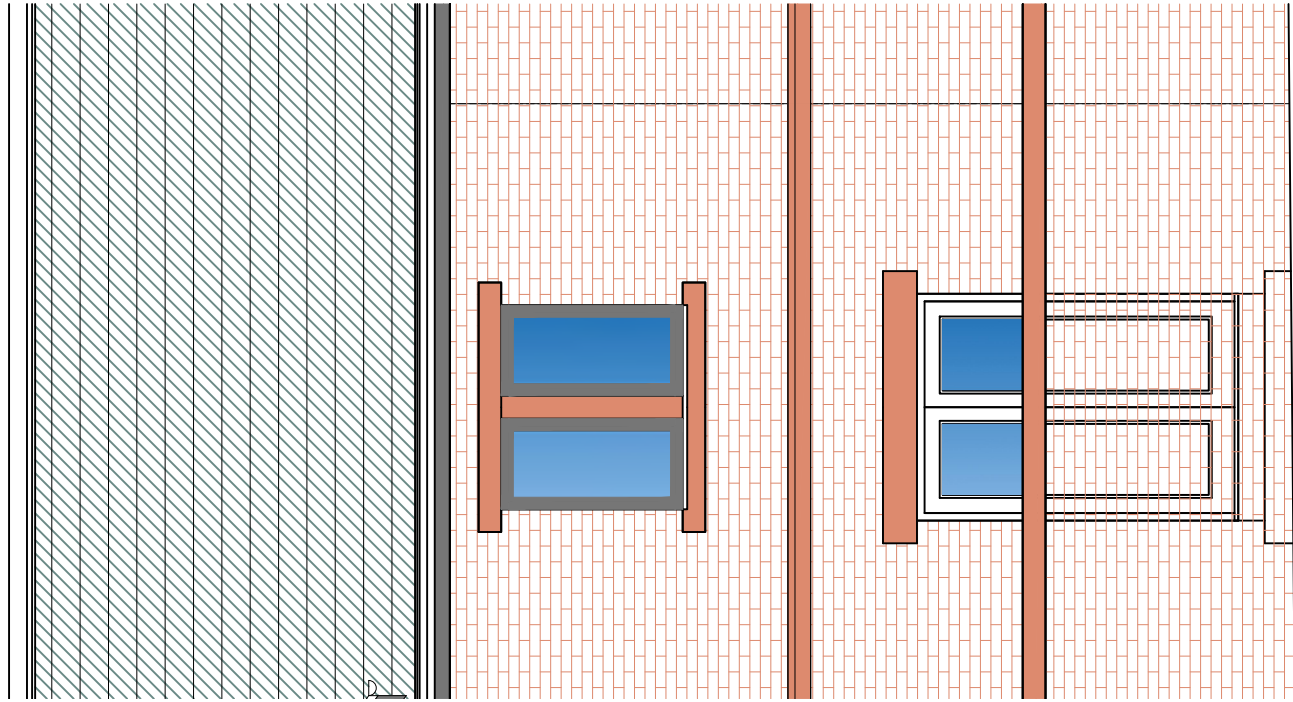
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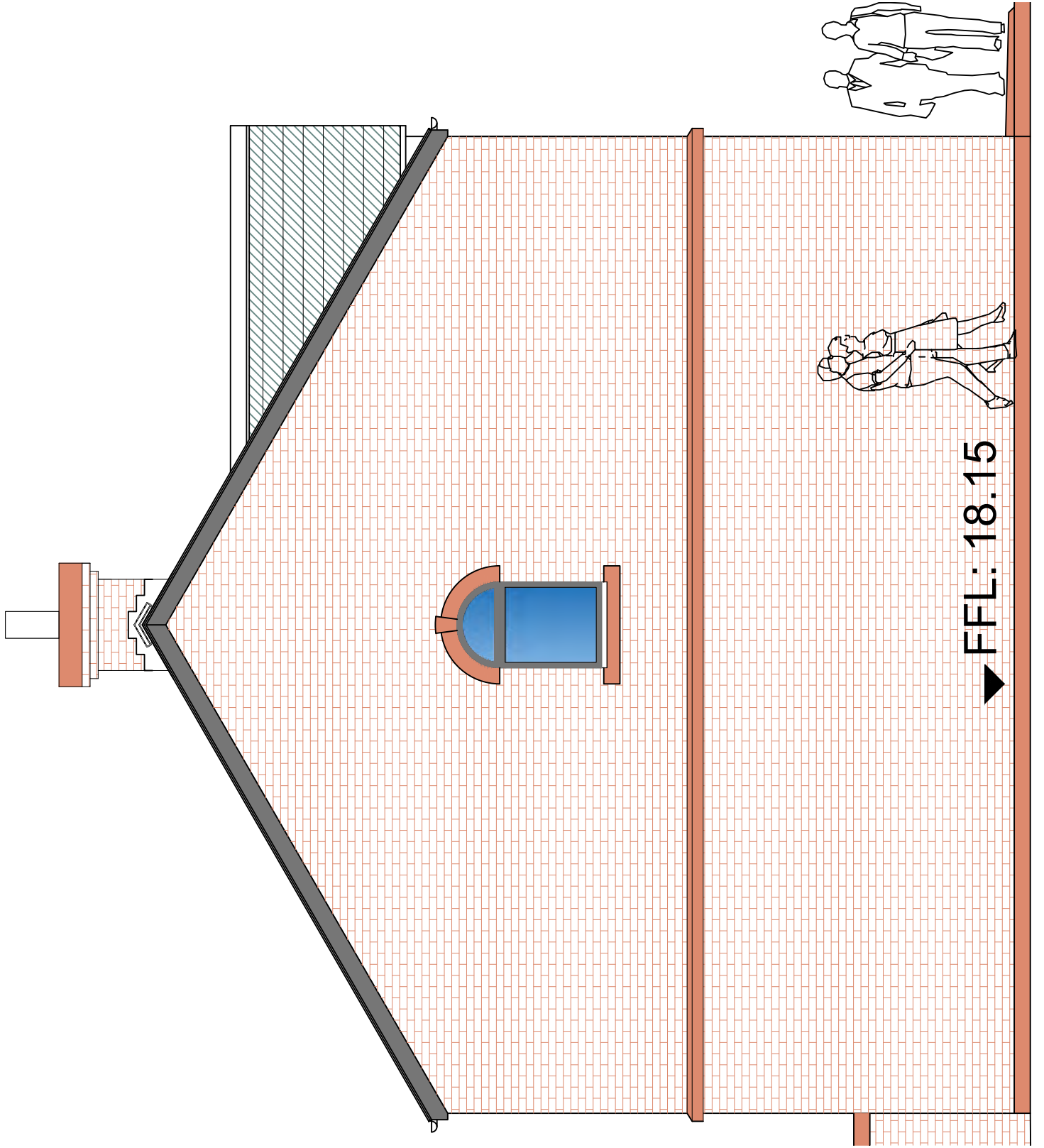
FIRST FLOOR PLAN 1to50

SANDY JOHNSTON
ARCHITECT
RIBA

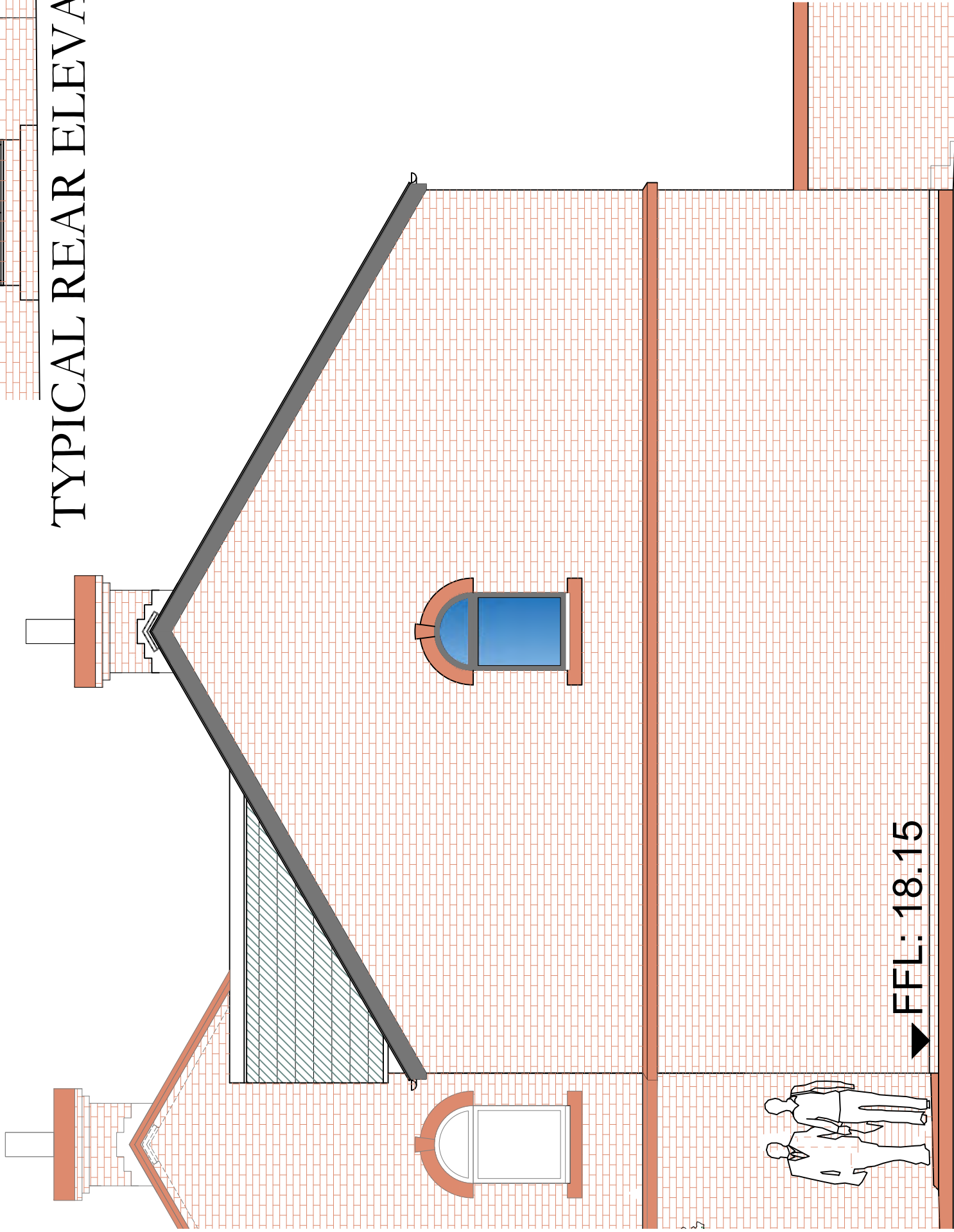
FIRST FLOOR PLAN-HOUSE TYPE		
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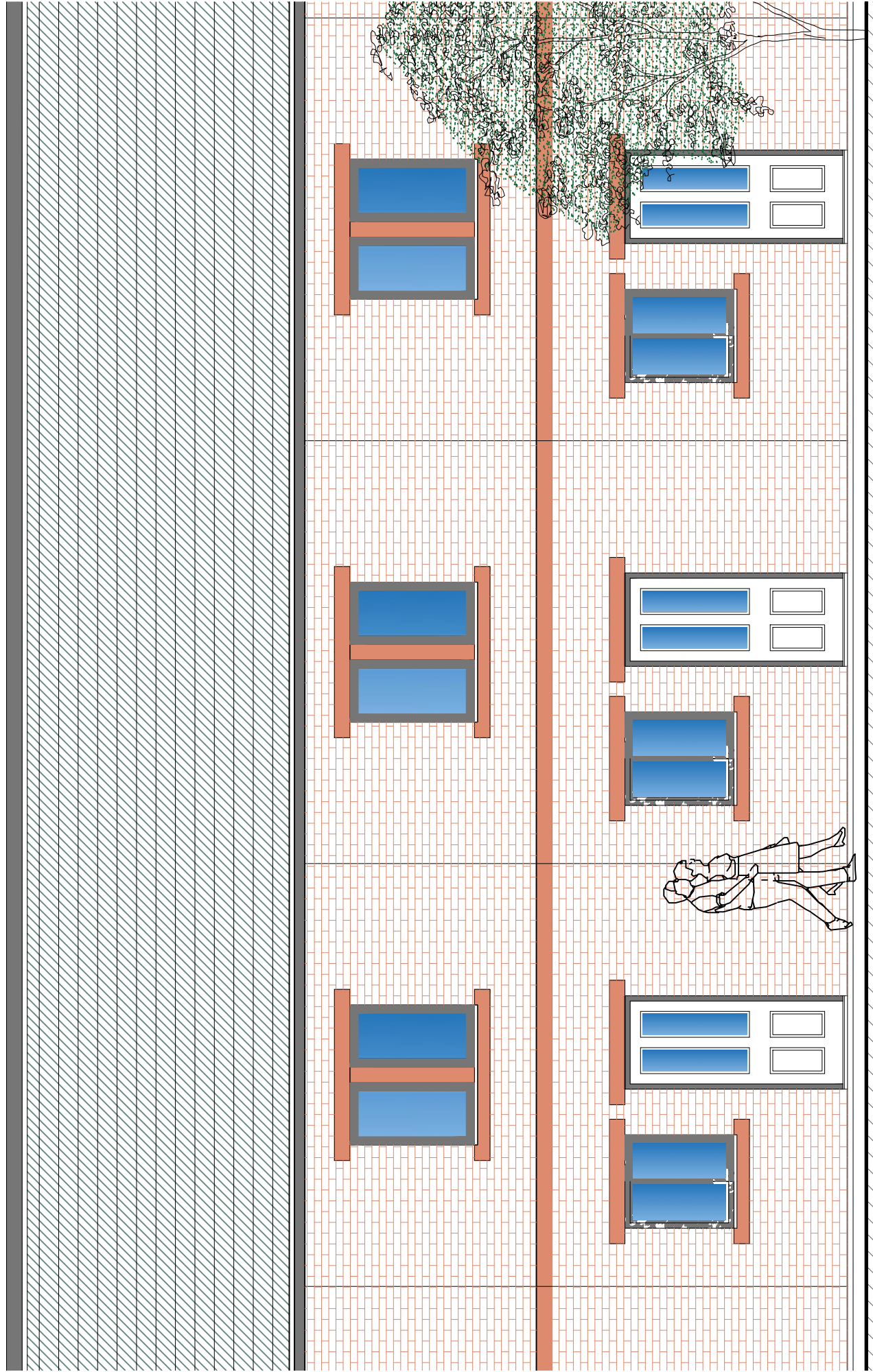
TYPICAL REAR ELEVATION



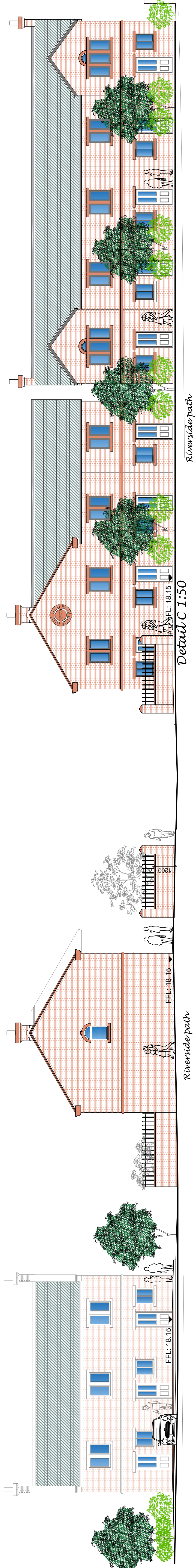
TYPICAL GABLE ELEVATION



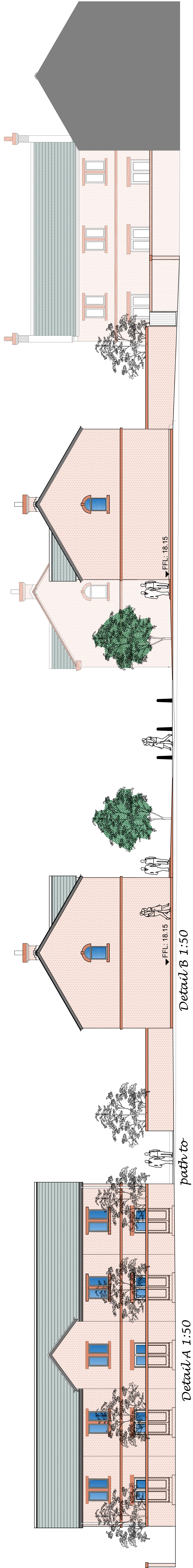
TYPICAL GABLE ELEVATION 1:50



TYPICAL FRONT ELEVATION



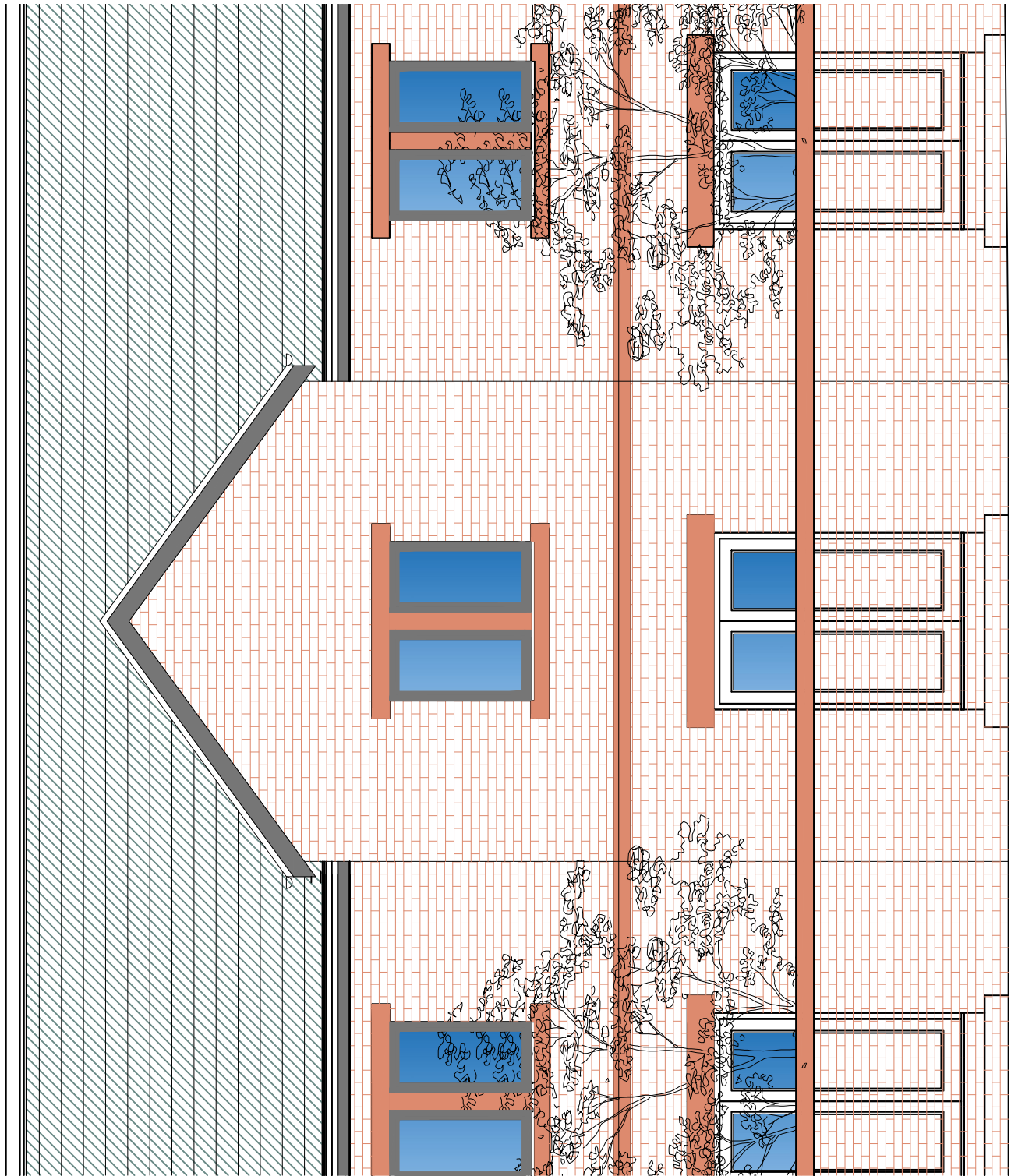
WEST ELEVATION (VIEW FROM CONSTABLE STREET TOWARDS BLUNT ST) 1:100



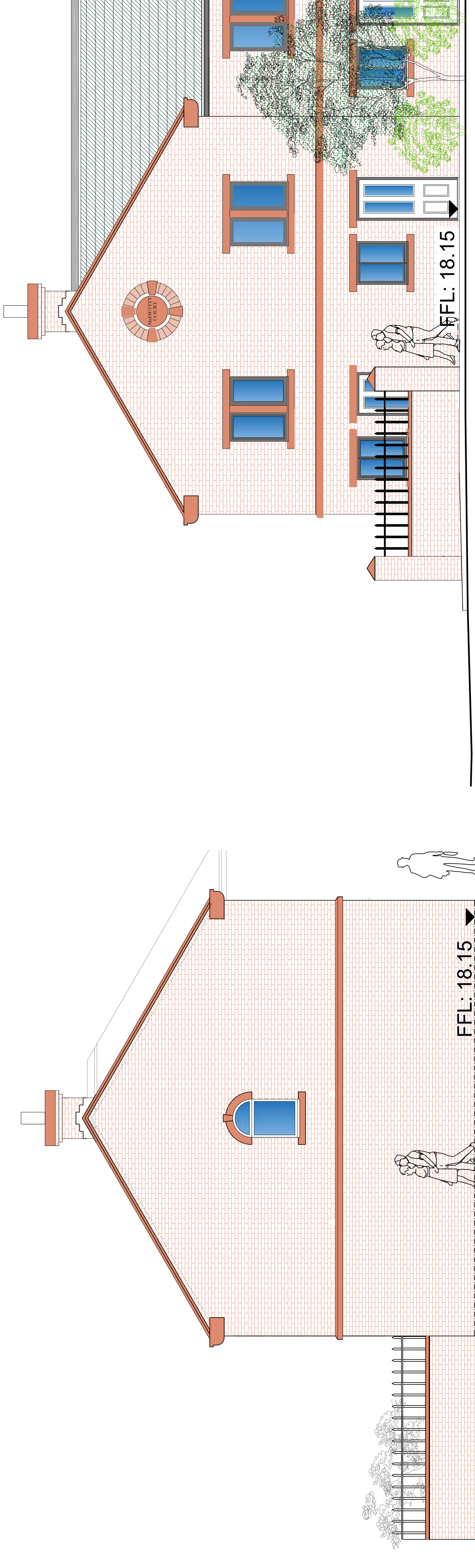
WEST ELEVATION (VIEW FROM BLUNT ST TOWARDS CONSTABLE ST) 1:100



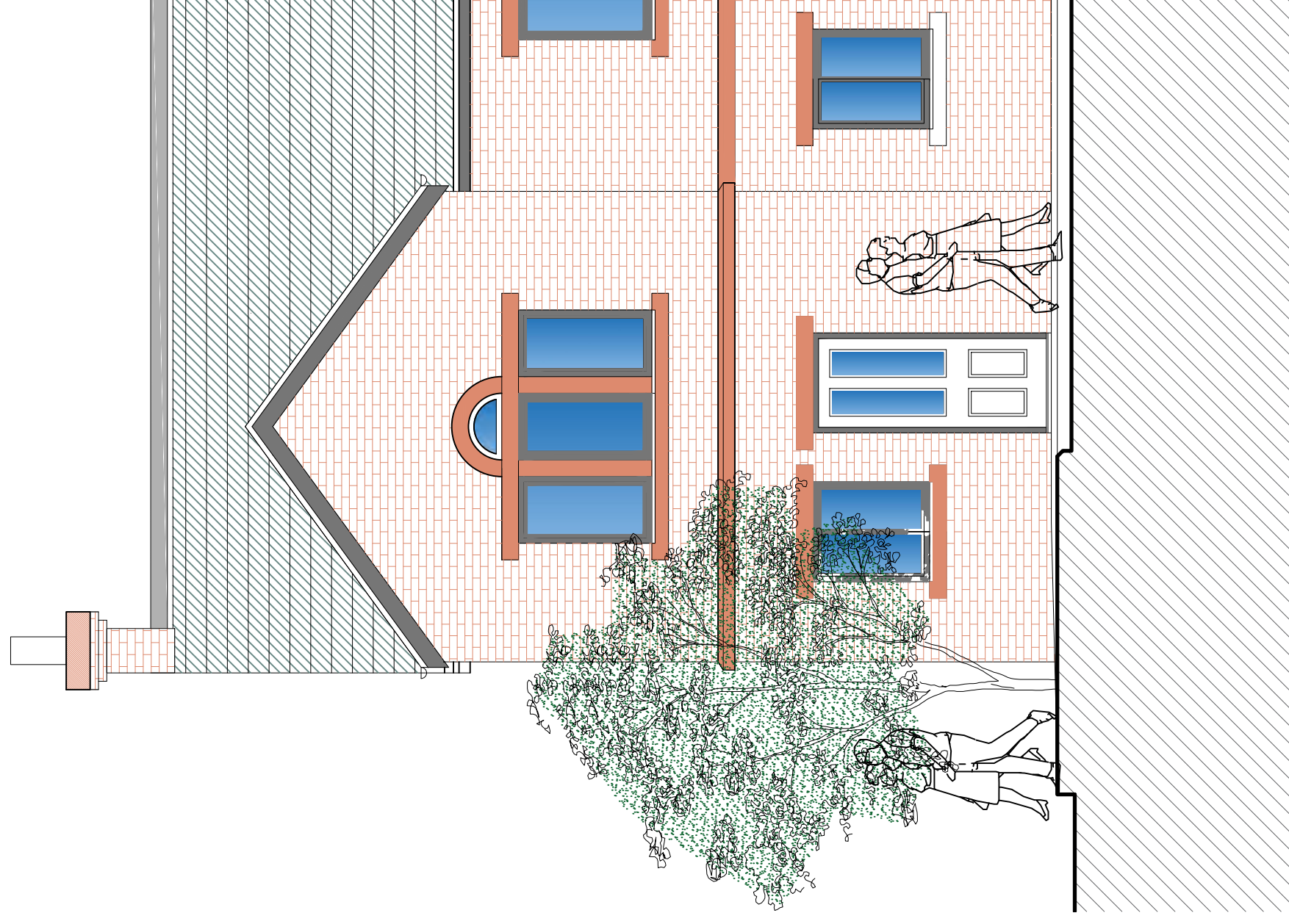
SECTION A-A (STREET FRONTAGE BETWEEN CONSTABLE ST AND BLUNT ST) 1:100



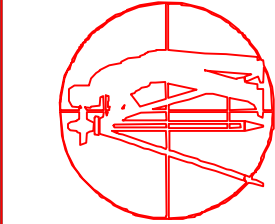
Detail A 1:50



Detail C 1:50



Detail D 1:50



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TITLE: Topographic survey

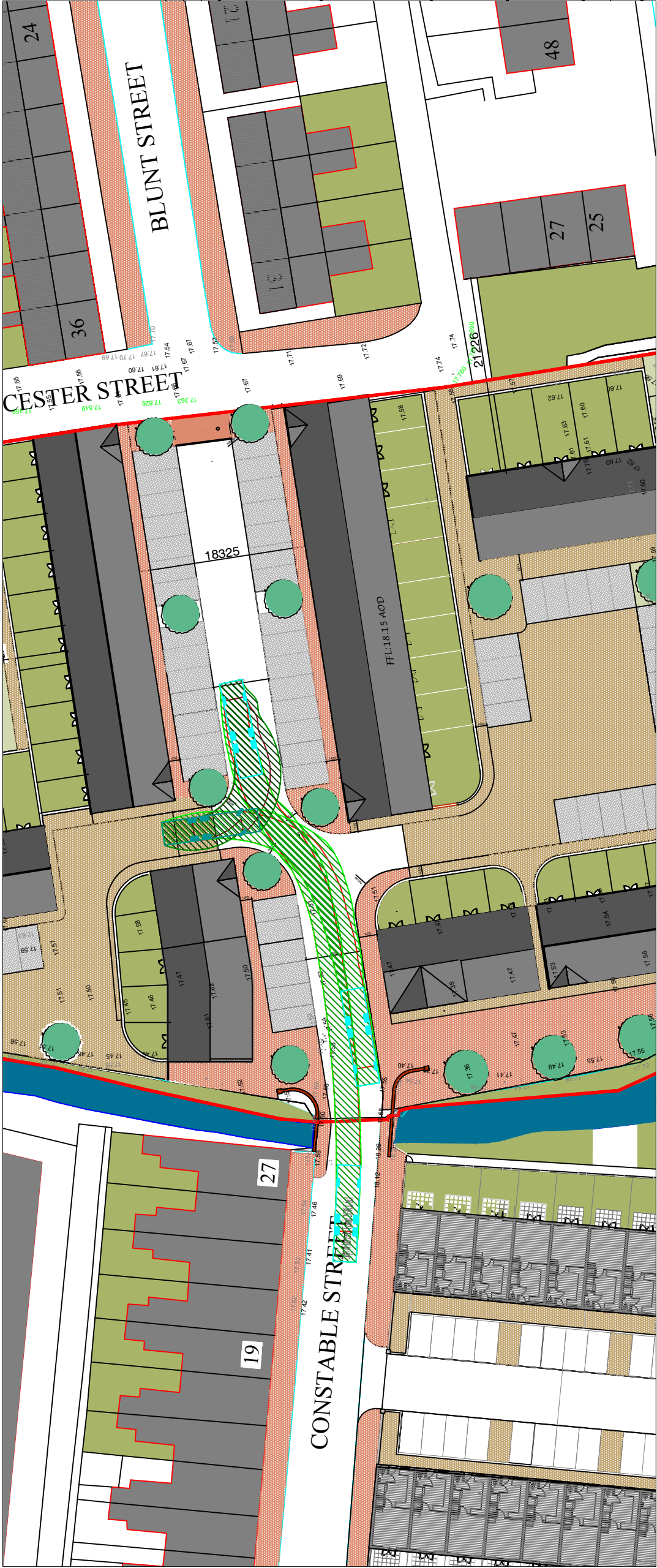
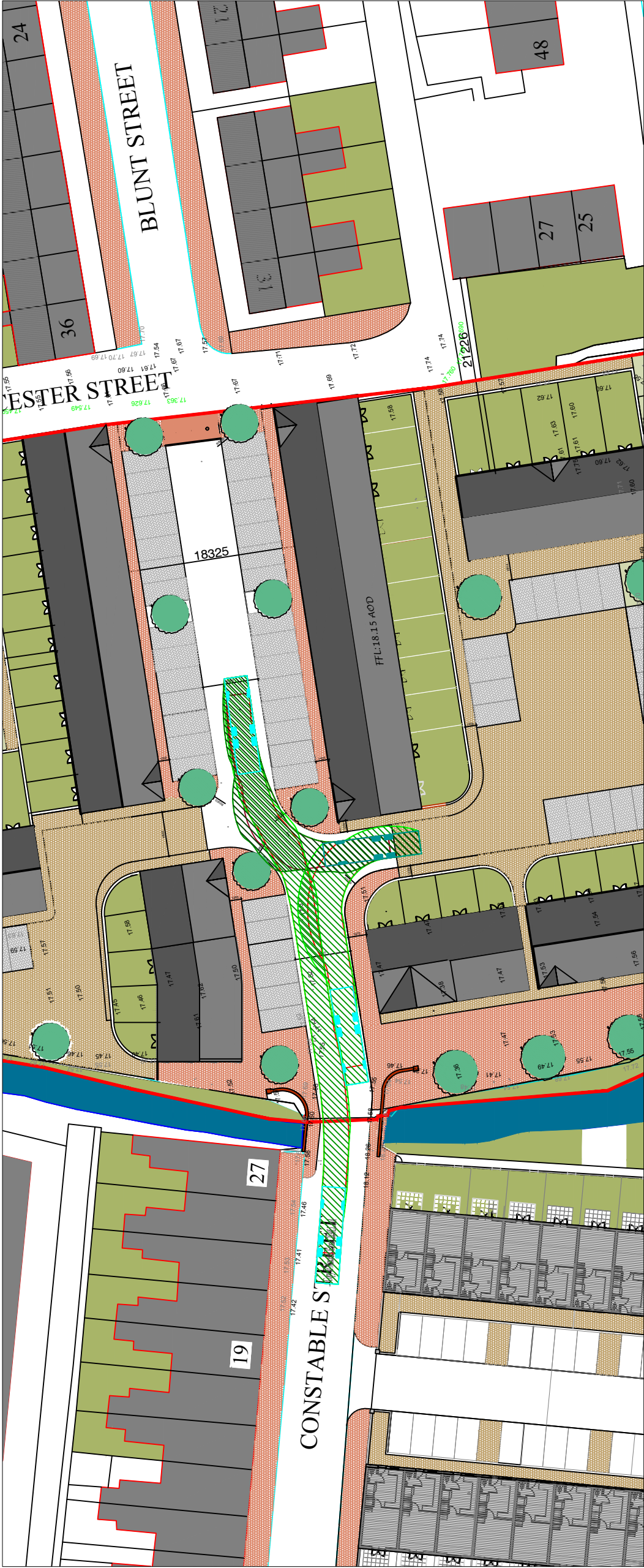
CLIENT: Citadel Estates
DRAWING NO: ABEL -015 -002

DRAWN BY: A.B.
Datums to local grid

DATE: Sept 14
SCALE: 1:250

DO NOT SCALE: CONTRACTOR TO CHECK ALL DIMENSIONS AND
REPORT ANY OMISSIONS OR ERRORS

Mercedes Eonic 2630LL 6x4
Overall Length 10.425m
Overall Width 2.490m
Overall Body Height 3.749m
Min Body Ground Clearance 7.240m
Track 2.490m
Wheel Offset 4.008m
Look to Lock Time 4.008m
Wait to Wall Turning Radius 9.626m



REV	DESCRIPTION	BY	CHK	APP	DATE
C	REVISED SCHEME MASTERPLAN	IW	NB	NB	09.03.17
B	CARLISLE CITY COUNCIL REFUSE VEHICLE	IW	NB	NB	05.12.16

Client:
CITADEL ESTATES LTD

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Project:
FORMER KSS SITE, CARLISLE

Drawing Title:
PROPOSED SITE LAYOUT - SWEEP PATH ANALYSIS
REFUSE VEHICLE

Scale @	A3	Drawn	Date	Checked	Date	Approved	Date
	1:500	IW	07.09.16	CW	07.09.16	AA	07.09.16
Project No.	A054387	Office	91	Type	18	Drawing No.	SK001
Revision		Revision		Revision		Revision	C

Appeal Decision

Site visit made on 19 December 2016

by Geoff Underwood BA(Hons) PGDip(Urb Cons) MRTPI IHBC

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 23 January 2017

Appeal Ref: APP/E0915/W/16/3158612

Former KSS Factory Site, Off Constable Street, Denton Holme, Carlisle, Cumbria CA2 6AB

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Citadel Estates Ltd against the decision of Carlisle City Council.
 - The application Ref 16/0025, dated 12 January 2016, was refused by notice dated 18 March 2016.
 - The development proposed is the demolition of redundant factory buildings and replacement with 50 new terraced dwellings including change of use to residential.
-

Decision

1. The appeal is dismissed.

Preliminary Matters

2. The appeal must be determined on the basis of the development plan as it exists at the time of my decision. Since the Council made its decision the Carlisle District Local Plan 2015-2030, 2016 (CDLP) was adopted on 8 November 2016 and this now forms the development plan for the District.
3. When I visited the site the factory buildings had been demolished leaving a largely cleared site except for a pile of rubble in its centre.

Main Issues

4. The main issues raised by this appeal are:
 - i) whether the site is appropriate for housing development having regard to local and national policies relating to development in areas at risk of flooding;
 - ii) whether the proposal would represent good, accessible and inclusive design **with particular reference to its effect on existing and future occupiers' living conditions**, and;
 - iii) the effect the proposal would have on the habitats and biodiversity of the River Eden.

Reasons

Flood Risk

5. The appeal site is largely surrounded by existing housing and associated open space. The Little Caldew watercourse runs along its west side. The proposal
-

- would consist of houses arranged in short terraces, many set at right angles to one another and interspersed with access roads, parking spaces and gardens.
6. The site is located within Flood Zones 2 and 3 although the **appellant's** updated Flood Risk Assessment (FRA) concludes on the basis of detailed levelling undertaken that the site is effectively in Flood Zone 2. This is one which has a medium probability of river flooding. Dwelling houses are identified in the Planning Practice Guidance (PPG)¹ as being development which is More Vulnerable to flooding.
 7. In considering whether development is acceptable in areas at risk of flooding CDLP Policy CC 4 requires proposals to comply with the National Planning Policy Framework (the Framework) and to have satisfied a Sequential Test demonstrating that no other lower risk alternative site exists. This approach is consistent with that of the Framework which at paragraphs 100 and 101 seeks to steer new development to areas with the lowest probability of flooding and not permitting it if there are reasonably available sites with a lower probability of flooding.
 8. In support of their appeal the appellant has provided a Planning: Sequential Test report which concludes that the catchment area of the Robert Ferguson School would be the appropriate area over which to apply the Sequential Test, within which it has identified no sequentially preferable sites. The accompanying plan illustrates this catchment area as being a discreet sector extending south from the City Centre.
 9. Notwithstanding that there is very little substantive analysis of whether there are sites at lower risk of flooding within this search area to support its conclusions, such an area appears to be a very restricted one within which to conduct the exercise. The Council consider this should have been carried out at a district wide level.
 10. The PPG² advises that the Sequential Test area will be defined by local circumstances. Whilst this guidance gives an illustrative example of the catchment area for a school there is no evidence to suggest that the proposed housing would be required to satisfy a need which only exists within the limited **area of that school's catchment** nor that there is any particular functional relationship between them. On the contrary, in all likelihood housing would provide accommodation which satisfies a need over a much wider geographical area than that of a school catchment area.
 11. I am therefore not persuaded from the evidence provided that confining a search to the Robert Ferguson School catchment area is an appropriate one over which to conclude that there are no sequentially preferable sites. This is particularly the case in light of the recently adopted development plan which the Council consider provides the framework **within which the district's housing needs can be** delivered on sites at lower risk of flooding
 12. The FRA concludes that notwithstanding its Flood Zone 2 location the risk of fluvial flooding is low as a result of flood defences along the River Caldew and considers that the Environment Agency model shows that the defences would protect the site in a 1 in 100 year flood event. However, whilst the Environment Agency consider that the site is well protected by existing flood defences it notes

¹ Table 2: Flood Risk Vulnerability Classification, Paragraph: 066, Reference ID: 7-066-20140306

² Paragraph: 033, Reference ID: 7-033-20140306.

that some areas of Denton Holme are low lying and there remains a residual risk of flooding. As a residual risk remains which is reflected in its Flood Zone location I cannot conclude that the site would be at such a low risk of flooding that would indicate that a Sequential Test should not be undertaken.

13. I therefore conclude that in failing the Sequential Test and consequently failing to demonstrate that there are not reasonably available housing sites at lower risk of flooding elsewhere, the proposal would be contrary to CDLP Policy CC 4 and the approach in the Framework as supported by the PPG. Whilst the Council have not identified any conflict with its housing policies, including the approach to windfall housing in CDLP Policy HO 2, this does not mean that the proposal would be otherwise acceptable in light of avoiding flood risk.
14. Interested parties writing in support of the proposal have pointed out that the site did not flood in recent flood events including the Storm Desmond event in 2015. However, it cannot be concluded that the avoidance of flooding in a particular event would necessarily remove the risk of flooding from the site. I note that the Environment Agency have indicated that the River Eden was the main cause of flooding during the Storm Desmond event and that the catchment of the River Caldwel was not affected by that event in the same way.

Design

15. The proposal would be a dense, compact design with terraces of houses closely situated to one another. Whilst the overall design and layout picks up the terraced form of development of the majority of the **site's surroundings, the** juxtaposition of the proposed short terraces at right angles to one another would create a considerably more contained arrangement than that of adjoining streets. The development would be largely enclosed within a 1.8m high wall, including along its boundary with streets to the east.
16. The plans indicate that the gable of the central terrace of seven houses would be less than 7m away from the rear elevation of the nearest existing houses in Freer Court. Given this short distance, that part of the development would give rise to an outlook from the rear windows of those properties in Freer Court within which the proposed development would appear unacceptably oppressive. The relative orientation of the proposed building would also be likely to harmfully limit day, and at certain times sun, light to the rear aspects of those adjoining houses. A similar effect on future occupiers would arise where the rear elevations of proposed properties in the south east corner of the site would be situated very close to the end elevation of the nearest existing house on Ashman Close.
17. These separation distances would be considerably shorter than the 12m minimum the Achieving Well Designed Housing Supplementary Planning Document, 2011 (AWDH) seeks between gables and elevations with primary windows. I am conscious that the factory buildings which were formally on the site may have given rise to similar effects to properties on Freer Court. However, this would not justify the repetition of such effects when opportunities for redevelopment arise.
18. The first floor rear windows of the proposed terrace of four houses in the north east corner of the site would overlook those on both floors in the adjoining houses in Freer Court, leading to a loss of privacy. The plans indicate that these properties would be separated by a distance of 17.27m which is below the 21m minimum usually sought by the AWDH to avoid such effects. The proposed block

in question would broadly follow the building line of the adjoining terrace on Blunt Street, circumstances the AWDH advises that the minimum distances need not strictly apply in the case of infill schemes. However, not only does the proposed development only partially reflect this aspect of the adjoining street pattern, the size and configuration of the site is such that it cannot be reasonably considered as an infill site where size and external constraints are such that would justify a relaxation of minimum separation distances.

19. Within the proposed development distances between gables and elevations of houses arranged perpendicular to one another would in all but one situation be very close, being less than 7m which is significantly below AWDH 12m minimum. This would result in two storey gables being very close to windows to habitable rooms in adjoining properties which would create an overbearing effect on the outlook from those rooms. It would also harmfully limit day and sun light in the case of properties in the terrace adjacent to the block in the south west corner of the site.
20. These instances are not so isolated that the harm would be limited and in a number of instances the distances would be restricted on both sides of proposed houses. Overall the proposed dwellings would be laid out in a constrained arrangement which would lead to material harm to the living conditions of both existing neighbours and future occupiers of the proposed houses.
21. The proposed footways would be set higher than the adjoining parking areas and carriageways. They would vary in width but the plans show them as being particularly narrow in front of many properties and narrower than those which serve many surrounding streets. In many locations they would run immediately behind perpendicular car parking spaces where parked vehicles could further narrow the width by overhanging the spaces.
22. The plans indicate that door thresholds would be set above the level of the adjoining footway and the FRA suggest an additional increase in finished floor levels. This could make it difficult for occupiers and their visitors to navigate the streets or access properties, particularly those pushing prams, requiring mobility aids or in wheelchairs. This failure to create an accessible and inclusive environment would be harmful to the living conditions of future occupiers.
23. In reaching this conclusion regarding accessibility and its effect on inclusivity I have had due regard to the Public Sector Equality Duty contained in the Equality Act 2010, in particular the need to minimise disadvantages suffered by persons who share a relevant protected characteristic including those of age, disability, pregnancy and maternity. The equality implications add weight to my findings on this issue.
24. Whilst in principle a compact design and layout with a close relationship between buildings could help to generate pleasant and characterful living environments, in this case the adverse effects arising from the layout would result in an overdeveloped and in parts oppressive scheme even though the overall density might reflect that of surrounding streets.
25. The combined effect of the proposed layout would fail to create an accessible and inclusive development which would be well integrated into its surroundings nor avoid adverse effects on the living conditions of existing and future occupiers, contrary to CDLP Policy SP 6. In doing so it would also conflict with the **Framework's core planning principle** of always seeking to secure high quality

- design and a good standard of amenity for all existing and future occupants of land and buildings.
26. The cumulative harmful effects arising from the layout of the development would result in poor design that fails to take the opportunities for improving the character and quality of the area and the way it functions, circumstances in which the Framework indicates that permission should be refused.
27. Furthermore, although the scale, massing and form of the proposed buildings would generally reflect that of their surroundings aspects of the proposal would not accord with the principles in the Denton Holme and Longsowerby Design Statement Supplementary Planning Document, 2007 (DHLDS). Some terraces would turn their back on others and the public realm within the scheme. The scheme does not take the opportunities the DHLDS promotes to resolve the abrupt termination of streets which frustrate legibility when sites come forward for redevelopment by reconnecting them to adjacent street networks, for instance Blunt Street, but rather would perpetuate it.
28. Although **the appellant's final comments refer to pedestrian access being** provided to the east, this is not indicated on the plans and their suggestion that the proposed boundary wall could be lowered would do little to improve legibility and accessibility between the site and the network of streets to the east. Whilst my decision does not turn on this matter it adds some weight to my conclusion that the design and layout of the proposal would not demonstrate high quality design or levels of accessibility.
29. The close proximity of some proposed houses along the southern boundary of the site is such that occupiers would be likely to experience disturbance from the adjoining play area. However, I noted whilst visiting the site that some equipment had been removed and the appellant has provided evidence that it is **the Council's intention to remove the equipment** and surfacing from this area in early 2017. Although part of the area was in situ I have not been presented with any reason to suggest that this action will not take place. Consequently this would avoid such harm to future occupiers' living conditions.
30. The appellant has also provided evidence which illustrates that the largest refuse collection vehicle used by the Council could serve the development with limited overhang of the footways. Bearing in mind the advice in Manual for Streets³ that it is neither necessary nor desirable to design new streets to accommodate larger refuse vehicles than can be used within existing streets in the area the proposed layout would avoid conflict with criterion 11. of CDLP Policy SP 6 in this respect. However, the avoidance of harm in relation to these last two points does not alter my findings on design issues above.

Effect on designated sites

31. In support of their appeal the appellants have submitted an assessment⁴ in order **to address the Council's refusal reason relating to a lack of evidence that harm** could be avoided to designated sites, in particular the River Eden Special Area of Conservation and the River Eden and Tributaries Site of Special Scientific Interest, to which the Little Caldew is connected. I have been presented with no reason to question its conclusions that there would be no significant effects on

³ Paragraph 6.8.6.

⁴ Appeal Statement: Ecological Desk Study and HRA Screening Assessment.

these sites, subject to mitigation measures during construction and in the design of the surface water drainage scheme.

32. Such mitigation measures could reasonably be required by way of planning conditions. As such the proposal would comply with the biodiversity and designated site protection aims of CDLP Policy GI 3. In reaching this conclusion I note that the Council advise that they no longer wish to pursue an objection on the basis of their third refusal reason in light of this evidence. However, avoidance of harm in this respect does not amount to a positive consideration.

Other Matters

33. The appellant has drawn my attention to a development at McIlmoyle Way where they indicate minimum separation distances have not been achieved. However I do not have full details of that scheme nor the circumstances that led to it being considered acceptable and I cannot be certain that the situation is the same as that which has arisen in this case. In any event I have considered the appeal proposal on its own merits.
34. An interested party writing in support of the proposal has referred to an **oversupply of employment land in the District and the Framework's** aim to avoid the protection of employment sites unlikely to be used as such. However, I note that the Council have not raised an objection in this respect and accordingly is less pertinent in this case.
35. The appellant considers that the intended private rented tenure of the houses would help address a local need for such accommodation which would be low cost. Although this could not be considered as affordable housing in the **Framework's definition of such accommodation**, the Framework supports the delivery of a wide choice of homes to which the development would contribute.
36. The proposal would result in the redevelopment of previously developed land in an accessible location and would deliver a considerable number of new houses. This is supported in principle by policies in the CDLP and by the **Framework's** core planning principle of encouraging the effective use of land and its aim to boost significantly the supply of housing. These are matters which carry considerable weight in favour of the proposal.
37. However, important though these benefits would be, they would be significantly outweighed by the harm of locating housing within an area at risk of flooding unsupported by a Sequential Test and which would not display the high quality of design and layout required by development plan and national policies. This harm would mean that the environmental role the Framework requires sustainable development to demonstrate would not be satisfied.

Conclusion

38. For the reasons set out above, and having had regard to all other matters raised, the proposal would be contrary to the development plan, supplementary guidance and the Framework. The appeal is therefore dismissed.

Geoff Underwood

INSPECTOR