

## APPENDIX 3

## Appeal Decision

Hearing held on 2 April 2019

Site visit made on 2 April 2019

**by Robert Parker BSc (Hons) Dip TP MRTPI**

**an Inspector appointed by the Secretary of State**

**Decision date: 12 April 2019**

---

**Appeal Ref: APP/W1715/W/18/3216696**

**Hamblewell, Church Lane, Bursledon SO31 8AB**

- 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 Mr and Mrs Stephen Street against the decision of Eastleigh Borough Council.
  - The application Ref F/18/83292, dated 29 May 2018, was refused by notice dated 13 November 2018.
  - The development proposed is subdivision of plot and construction of one self-build disabled persons dwelling suitable for long term care requirements using existing rear vehicle access point from Church Lane.
- 

### Decision

1. The appeal is allowed and planning permission is granted for subdivision of plot and construction of one self-build disabled persons dwelling suitable for long term care requirements using existing rear vehicle access point from Church Lane at Hamblewell, Church Lane, Bursledon SO31 8AB in accordance with the terms of the application, Ref F/18/83292, dated 29 May 2018, subject to the conditions set out in the attached schedule.

### Procedural Matter

2. The Council used an amended description of development on its decision notice but accepts that my formal decision should revert to the form of words used on the application form. This accurately describes the proposed development.

### Main Issues

3. The decision notice makes no reference to any conflict with local plan policies on development within conservation areas. However, the site lies within the Old Bursledon Conservation Area and it would be impossible to consider the second refusal reason without referring to my s72 duty to pay special regard to the desirability of preserving or enhancing the character or appearance of the conservation area. Accordingly, I have framed the main issues as:
  - a) the effect of the proposed dwelling on the character and appearance of the area, having regard to the location of the site within the Old Bursledon Conservation Area and Special Policy Area; and
  - b) whether there are other material considerations sufficient to outweigh any harm identified in respect of the first issue and the conflict with the development plan in relation to new dwellings in the Old Bursledon Special Policy Area and outside the urban edge.

## Reasons

### *Character and appearance*

4. Old Bursledon comprises an area of low density housing, woodland, open fields and salt marshes adjacent to the River Hamble. The distinctive character and high quality environment have been recognised via the designation of a conservation area and a Special Policy Area (SPA) within the Eastleigh Borough Local Plan Review (2001-2011) (LPR). The boundaries of these designations are not perfectly aligned but they cover substantially the same area.
5. LPR Policy 179.LB seeks to protect the special loose-knit character of Old Bursledon and ensure the retention of existing open areas. Notwithstanding this, the character is quite diverse, with a wide range of building and plot sizes evident. Much of the area has a semi-rural atmosphere, with a strong landscape framework of trees and hedgerows, and generous plots in proportion to the buildings within them. The north-eastern corner of Old Bursledon is more built-up, with a frontage of bungalows and houses presenting onto Church Lane.
6. Hamblewell lies at one end of this frontage, nearest St Leonard's Church. This modern dwelling sits within one of the largest plots in the immediate area, with a spacious rear garden containing a detached triple garage, summerhouse and garden shed. The garage opens onto a gravelled parking area which is accessed from the section of Church Lane directly in front of the church.
7. The proposed dwelling would sit alongside the garage, replacing the other two outbuildings. It would be a single-storey building, modest in height and designed in a contemporary style, with a shallow barrel vaulted roof and flat roof elements. The ground levels are lower than the adjacent lane and this would combine with the low building profile to enable the development to 'hunker down' within the site. There would be glimpses through the entrance gates but otherwise the development would be largely screened from Church Lane and the adjoining footpath and churchyard by dense boundary hedging, much of which comprises evergreen species. The dwelling would be discreetly positioned in relation to the church and would not harm the setting of this listed building.
8. The land falls away steeply to the rear of the appeal site towards the River Hamble and Bursledon Station. The development would be visible from the station car park and footbridge. There is also a vantage point from the public footpath between St Leonard's Church and Station Hill. Although elevated from these angles the development would be seen against a backdrop of trees and in the context of 'layered' housing development on rising land. The use of mellow timber cladding, anti-reflective glazing and a dark roof material would assist in assimilating the development into its surroundings.
9. The Council raised concerns at the hearing regarding the scale of the building footprint. The new dwelling would be larger than Hamblewell itself, but not significantly so. In any event, it is doubtful whether the dwelling would be visible in its entirety from any single viewpoint. The casual observer is more likely to obtain partial views of the building from which the horizontal extent of the development would not be apparent. Although part of the Council's objection relates to subdivision of the site, the existing plot is large enough to be subdivided without the two resultant plots being out of keeping with others in the immediate area. The prevailing pattern and grain of development would not be materially affected.

10. Accordingly, I conclude that the proposal would preserve the character and appearance of the Old Bursledon Conservation Area. It would be compliant with LPR Policies 59.BE and 169.LB insofar as they seek development which takes proper account of the context of the site and its location within a conservation area. The proposal would not compromise the purpose of LPR Policy 179.LB which is to protect the special loose-knit character of the Old Bursledon SPA.

*Other material considerations*

11. Mr Street was diagnosed in 2015 with a serious illness which has gradually progressed to the stage where he is permanently confined to a wheelchair. The existing home (Hamblewell) has been adapted with a through floor lift and hoists, but everyday activities that an able-bodied person takes for granted such as visiting the bathroom can take a disproportionate amount of time and effort. It was abundantly clear from my observations at the site visit that the existing dwelling is no longer suitable and that the family's needs would be better served by a dwelling on a single level. This would make life considerably easier and more bearable, including for Mrs Street who carries the physical and emotional burden of caring for her husband on a full-time basis.
12. Ever since his diagnosis the couple have been searching for a new home and have viewed several bungalows. All would need adaption at considerable expense and Mr Street would need to live elsewhere whilst the works are carried out; it would not be practical to occupy a property without the necessary adaptations and to do so could have a significantly adverse effect on his health. Furthermore, a financial advisor has indicated that there is no means of funding a second property, given the financial position whereby outgoings now exceed income by some margin.
13. The status quo cannot be sustained, not only for practical reasons but also because the Streets are paying their current mortgage from savings and these are finite. The couple have made enquiries to local housing associations regarding a suitable property, but the level of adaption required goes some way beyond what is on offer. A care home would be unaffordable, and there is strong evidence to suggest that these settings are not well equipped to meet the specialist needs of a case such as this. But perhaps more importantly, the Streets would be compelled to live separately, which is likely to lead to significant levels of stress and mental anguish.
14. It seems that the only remaining option is to construct a self-build dwelling within the garden of Hamblewell; the intention is to sell the existing property to fund the scheme. A bridging loan would enable the Streets to occupy their current home whilst construction takes place. Old Bursledon is a familiar environment which is close to the medical professionals overseeing Mr Street's care and the homes of the couple's three children who provide vital support. These benefits would weigh in favour of constructing a dwelling in this location.
15. At the hearing, the architect for the scheme explained how the proposed dwelling had been designed to maximise independence whilst also providing an enjoyable and safe open plan living environment – bearing in mind that the world effectively shrinks when one is confined to a wheelchair. The size of the accommodation being proposed is not excessive and is proportionate to the identified need, taking into account practical considerations such as the size of wheelchair and the amount of medical equipment needed.

16. The Council accepts that there is a shortage of wheelchair accessible housing within the Borough and no mechanism within development plan policy for securing its delivery. In this respect, the LPR is inconsistent with the National Planning Policy Framework (the Framework) which states at paragraph 59 that it is important that the needs of groups with specific housing requirements are addressed. Paragraph 61 explains that this includes people with disabilities.
17. The emerging local plan does contain relevant policies. However, this plan is at an early stage of preparation and the parties are agreed that it carries limited weight. The replacement plan will not be adopted soon enough to address the appellants' immediate housing needs. Consequently, emerging planning policy has had no significant bearing on my decision.

### **Appropriate Assessment**

18. The appeal site lies within the zone of influence of several European sites, collectively known as the Solent Special Protection Areas<sup>1</sup>. Notwithstanding the mobility issues experienced by Mr Street, it is not possible to rule out likely significant effects on the protected sites through increased recreational disturbance, in combination with other plans and projects in the Solent area. Birds can be displaced by human recreational activities (terrestrial and water-based) and this can result in habitat required for resting or feeding being unavailable, either permanently or for a defined period. This can affect the status and distribution of key bird species and therefore act against the stated conservation objectives of the European sites.
19. As a direct consequence of the above, Appropriate Assessment is required. Mitigation or avoidance measures are necessary to ensure that the proposal would not adversely affect the ecological integrity of the protected sites. The appellants are prepared to make a financial contribution towards the package of measures set out in the Solent Recreation Mitigation Strategy (2018). They have provided an undertaking pursuant to s111 of the Local Government Act 1972 in relation to the payment of these monies and the Council has confirmed receipt. The authority has given an undertaking that the contribution will be ring fenced for the provision of facilities in Bursledon Parish and/or measures to mitigate recreational disturbance of birds within the Solent and Southampton Water Special Protection Area. I have relied upon this assurance to confirm that the intended use of the contribution to provide mitigation is secure.
20. As competent authority for the purposes of Regulation 61 of the Habitats Regulations<sup>2</sup>, I am satisfied that the proposal would not have an adverse effect on the integrity of European protected sites.

### **Other Matters**

21. In addition to the dwelling being proposed, the scheme also makes provision for a replacement single garage for Hamblewell. The Council has raised no specific objections to this part of the scheme, and I have no reason to take a different view.
22. St Leonard's Church is generally supportive of the application but has raised concerns regarding the impact of the construction process on funerals and

---

<sup>1</sup> Solent and Southampton Special Protection Area (SPA) and Ramsar site, Solent Maritime Special Area of Conservation (SAC), Portsmouth Harbour SPA and Ramsar site, Chichester and Langstone Harbours SPA and SAC.

<sup>2</sup> Conservation of Habitats and Species Regulations 2010

other church activities. Disruption can be minimised using a planning condition to require the submission of a Construction Method Statement.

23. During my site visit, and at the request of a local resident, I viewed the site from 1 Homelea in Station Road. The occupiers of this property would have sight of the proposed dwelling, obliquely from their upstairs bedroom window and also from their rear garden. The new dwelling would be on higher ground, but it would not be overbearing, and intervening vegetation would serve to mitigate any adverse impacts. As such, I do not consider that there would be an unacceptable adverse impact on the living conditions of these neighbours.

### **Planning Balance**

24. It is common ground that the proposal would conflict with LPR Policy 1.CO by reason of its location outside of the urban edge. The scheme does not comprise any of the forms of development that are listed as being acceptable in the countryside. The Council conceded that major development had been permitted beyond the urban edges in a proactive effort to deliver more housing. Whilst I do not accept the submission that the policy is out-of-date, as it still serves to protect the intrinsic character and beauty of the countryside, the Council's admission does reduce the weight that I can attach to the policy conflict.
25. There is also no dispute that the proposal would conflict with LPR Policy 179.LB. This policy has the effect of precluding new dwellings within the Old Bursledon SPA, except where they would replace an existing dwelling. It is a restrictive policy, even more so than conservation area policy. Nevertheless, the high quality of environment within Old Bursledon is such that the policy is consistent with the Framework's objective to ensure that developments are sympathetic to local character.
26. The policy presumption against housing in this location must count against the proposal. However, against that I must balance the fact that there is an acknowledged need for disabled persons' housing and no prospect of that being satisfied in the near future. The proposal would make a small but important contribution to the supply of housing for disabled persons and the imposition of an occupancy condition would ensure that it fulfils this purpose in perpetuity.
27. The Public Sector Equality Duty contained in the Equality Act 2010 places a requirement on me to have due regard to the need to minimise disadvantages suffered by disabled persons and the need to take steps to meet the needs of such individuals. As was pointed out by the Council during the hearing, such a duty does not necessarily override other considerations, but it is a factor to be weighed in the planning balance. The evidence in this case is compelling and persuades me that there are grounds to attach significant weight to Mr Street's disability.
28. I am conscious of the consequences of refusing planning permission which in my view are very serious indeed. Dismissal of the appeal would either render the appellants homeless or force upon them separate living arrangements. All scenarios would have a direct and adverse effect on Mr Street's physical and mental wellbeing. As such, his human rights, as recognised by the provisions of Article 8 of the Human Rights Act 1998, would be materially compromised. This is a factor of considerable importance and weight in the planning balance.

29. I have carefully considered the Council's argument that the grant of planning permission would set a precedent for other similar developments. However, the circumstances in this case are so specific that they are unlikely to be repeated. As such, I do not consider that a decision to allow the appeal would undermine the objectives of the development plan or the ability of the local planning authority to resist future proposals for new dwellings where these would harm the special loose-knit character of Bursledon. Proposals need to be considered on their own merits and I am satisfied that the appeal scheme would preserve the character and appearance of the Old Bursledon Conservation Area.
30. Having taken all factors into account, I find that there are other material considerations to outweigh the development plan conflict in relation to new dwellings in the Old Bursledon Special Policy Area and outside the urban edge. A grant of planning permission is therefore justified.

### **Conditions**

31. The Council's suggested conditions were discussed at the hearing and various consequential amendments have since been agreed between the parties. I have considered each of the conditions against the tests set out in paragraph 55 of the Framework and within the Planning Practice Guidance (PPG). In accordance with the requirements of the regulations, the appellants have provided written agreement to all pre-commencement conditions.
32. In addition to the standard time limit for commencement, I have attached a condition specifying the approved plans, in the interests of certainty. To prevent environmental harm and minimise the effect of construction on surrounding residents and church activities, pre-commencement conditions are required to secure a Construction Method Statement and Construction Environmental Management Plan. For the same reasons, conditions are necessary to restrict construction, demolition and deliveries to specified weekday hours and to prohibit burning of materials on the site.
33. I have attached conditions requiring the submission of details of surface and foul water drainage and energy efficiency and water consumption, in the interests of averting flooding and ensuring compliance with development plan policies for sustainable construction. This information needs to be agreed prior to development commencing. To prevent harm to existing trees and boundary hedging, a condition is necessary to secure tree protection fencing prior to any works taking place, in accordance with the submitted arboricultural report.
34. To ensure that the dwelling has a satisfactory appearance, a condition is necessary to require submission of details of external materials. This provides the Council with the opportunity to secure dark coloured roof material, anti-reflective glass and an appropriate finish for the external timber cladding. To reinforce the landscape setting of the dwelling a further condition is required in relation to replacement tree planting; this shall accord with details to be first agreed with the local planning authority.
35. I have attached further conditions requiring the provision of the vehicle parking and turning area and stipulating that any gates shall be set back a minimum distance of 4.5 m from the edge of the highway. This will minimise the risk of Church Lane being obstructed.

36. The PPG states that conditions restricting the use of permitted development rights will rarely pass the test of necessity and should only be used in exceptional circumstances. However, the sensitivity of Old Bursledon is such that I consider a condition removing permitted development rights under Class A of Schedule 2, Part 1 can be justified. This would have the effect of requiring a planning application for any future extensions.
37. The dwelling has been justified as a departure from policy principally due to the immediate need of the appellants, but also on the basis that it would help to address the acknowledged shortage of homes for disabled persons within Eastleigh Borough. This benefit has been factored into the planning balance and therefore an occupancy condition is reasonable and necessary.

### **Conclusion**

38. For the reasons given above, and having regard to all other matters raised including the history of planning refusals on the site, I conclude that the appeal should succeed.

*Robert Parker*

INSPECTOR

## **APPEARANCES**

### **FOR THE APPELLANT:**

|                |                 |
|----------------|-----------------|
| Louise Cutts   | Wessex Planning |
| Jon Dale       | Architect       |
| Stephen Street | Appellant       |
| Sally Street   | Appellant       |

### **FOR THE LOCAL PLANNING AUTHORITY:**

|                 |                                                      |
|-----------------|------------------------------------------------------|
| Andy Grandfield | Lead Specialist for Housing and Development          |
| Adam Manning    | Councillor and Member of Area Planning Committee     |
| Tonia Craig     | Ward Councillor and Chair of Area Planning Committee |

### **INTERESTED PARTIES:**

|               |                                  |
|---------------|----------------------------------|
| Bob Bax       | Representing St Leonard's Church |
| Hilary Bax    | Representing St Leonard's Church |
| Gemma Bell    | Supporter                        |
| Adrian Blake  | Local resident                   |
| Emma Harris   | Supporter                        |
| Sophie Street | Supporter                        |

### **Documents submitted at the hearing**

1. Appeal notification letter and circulation list
2. Extracts from Landscape Character Assessment for Eastleigh Borough (Draft 2011)
3. Habitat Regulation Assessment: Screening Matrix and Appropriate Assessment
4. Appellants' Closing Statement

### **SCHEDULE OF CONDITIONS**

- 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
- 2) The development hereby permitted shall be implemented in accordance with the following approved plans: Loc 01, JD\_017\_SL01\_Rev C, JD\_17\_P1\_Rev D, JD\_17\_E1\_Rev D, JD\_17\_E2\_Rev C, JD\_17\_SS01\_A\_Rev C, JD\_17\_SS02\_B\_Rev C and GAR.pe H/1.
- 3) No development shall start until details for the sustainable disposal of surface water and disposal of foul sewerage from the development hereby permitted have been submitted to and approved in writing by the Local Planning Authority. The development shall then accord with the approved details.
- 4) Prior to commencement of development a Construction Method Statement (CMS) shall be submitted to, and approved in writing by, the Local Planning Authority. The CMS must demonstrate how the activities associated with the construction of the development shall avoid or minimise impact on the adjoining church and services held there. Construction work shall only take place in accordance with the approved method statement which shall include:
  - a) location of temporary site buildings, compounds, construction material and plant storage areas used during demolition and construction;
  - b) the arrangements for the routing/ turning of lorries and details for construction traffic access to the site;
  - c) the arrangements for deliveries associated with all construction works, loading/ unloading of plant & materials and restoration of any damage to the highway [including vehicle crossovers and grass verges];
  - d) the parking of vehicles of site operatives and visitors;
  - e) measures to control the emission of dust and dirt generated by demolition and construction;
  - f) a scheme for controlling noise and vibration from demolition and construction activities (to include piling);
  - g) provision for storage, collection, and disposal of rubbish from the development during construction period;
  - h) measures to prevent mud and dust on the highway during demolition and construction; and
  - i) protection of pedestrian routes during construction.
- 5) Development shall not commence until a Construction Environmental Management Plan (CEMP) detailing construction SuDS<sup>3</sup> and other mechanisms to ensure that there is no pollution of the nearby River Hamble has been submitted to and agreed in writing by the Local Planning Authority. The agreed CEMP shall then be followed in full throughout the course of construction works.

---

<sup>3</sup> Sustainable Drainage System

- 6) Prior to the commencement of development interim stage SAP data and water calculator for proposed energy efficiency and the predicted internal mains water consumption to achieve the following shall be submitted to and approved in writing by the Local Planning Authority:
- a) In respect of energy efficiency, a standard of a 19% improvement of dwelling emission rate over the target emission rate as set in the 2013 Building Regulations;
  - b) In respect of water consumption, a maximum predicted internal mains water consumption of 105 litres/person/day.

Prior to occupation of the development hereby approved, an as built certificate confirming compliance with the aforementioned energy efficiency and water consumption predicted levels shall be submitted. The development shall not be carried out otherwise than in accordance with the approved details.

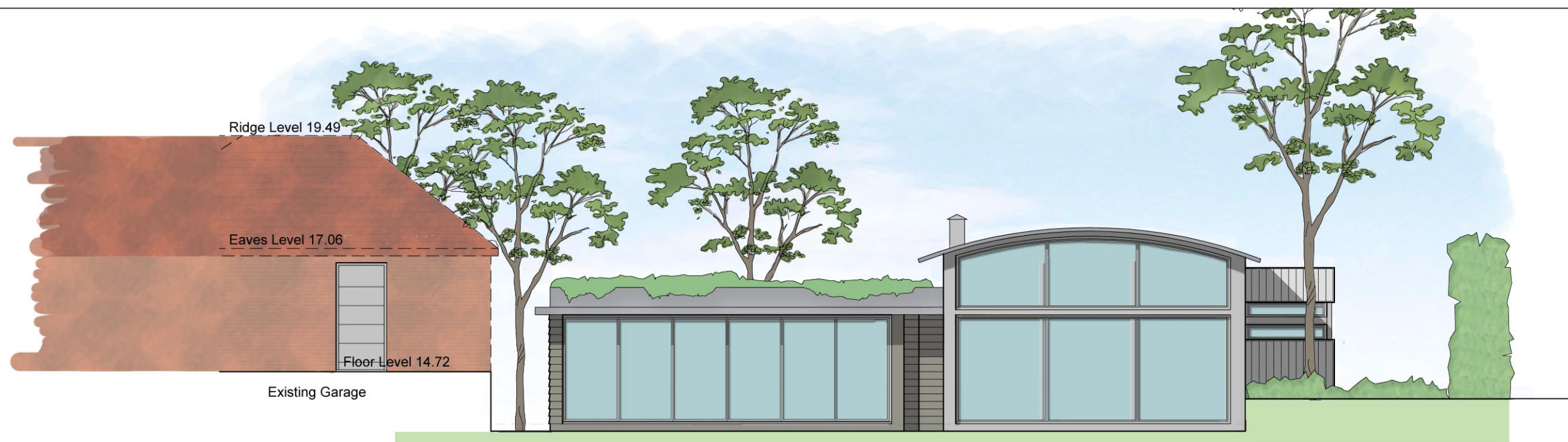
- 7) The development hereby approved must accord with the arboricultural report, reference "1135.01", produced by Sapling Arboriculture. No excavation, demolition or development related works shall commence until evidence has been submitted to and approved by the Local Planning Authority that the tree protection measures have been installed, as detailed in the tree protection plan. Once approved, no access by vehicles or placement of goods, chemicals, fuels, soil or other materials shall take place within the fenced area. Tree protection measures shall be retained in their approved form for the duration of the work. This condition may only be fully discharged upon completion of the proposed development, subject to submission of monitoring reports.
- 8) The dwelling hereby permitted shall not be occupied until the parking and turning area, together with access onto Church Lane, has been laid out in accordance with the approved plans. This area shall be maintained and kept available thereafter for those purposes.
- 9) No construction, demolition or deliveries to the site shall take place during the construction period except between the hours of 0800 to 1800 Mondays to Fridays and not at all on Saturdays, Sundays or Bank Holidays.
- 10) No burning of materials obtained by site clearance or any other source shall take place during the demolition, construction and fitting out process.
- 11) Replacement tree planting must take place as soon as possible following occupation of the approved development and no later than the start of the following planting season in accordance with a plan detailing the location and size of the replacement trees that shall be first submitted to, and approved by, the Local Planning Authority. The replacement tree planting must include a minimum of two specimens and shall comprise of at least 1 x silver birch and 1 x fruit tree. Planting must be in accordance with BS: 8545. If, during a period of 10 years after planting, trees are removed, die or become seriously damaged, they shall be replaced as soon as reasonably practicable with others of the same species, size and number as originally approved.

- 12) No development shall take place above Damp Proof Course until details, finishes and samples of the materials including the proposed glazing to be used in the construction of the external surfaces of the development hereby permitted have been submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the approved details.
- 13) Any gates provided as part of the development hereby approved or thereafter installed shall be set back a minimum distance of 4.5 m from the edge of the boundary with the highway.
- 14) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 [or any order revoking and re-enacting that Order with or without modification], no development permitted by Class A of Part 1 of Schedule 2 of the order shall be carried out without the prior written consent of the Local Planning Authority.
- 15) Occupation of the dwelling hereby approved shall be limited to:
  - a) Persons with mobility issues such that they require use of a wheelchair;
  - b) Persons living as part of a single household with persons with mobility issues as set out in 15a;
  - c) Persons who were living in the approved dwelling as part of a single household with such a person as defined in 15a who have either:
    - i. Died while living in the approved dwelling, or
    - ii. Moved to reside in an institutional care home.

--- END ---



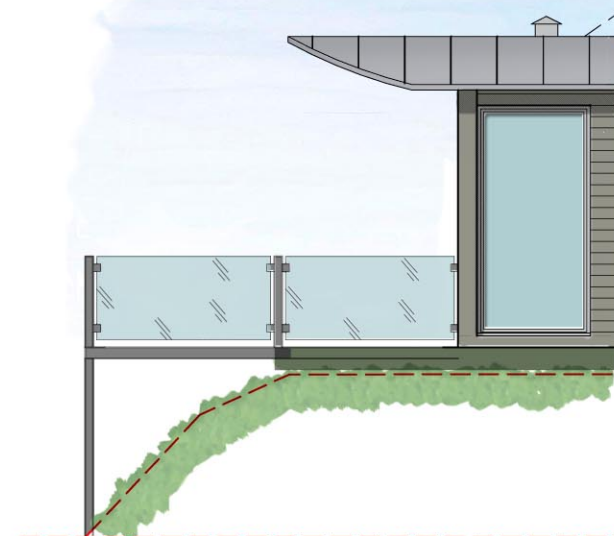
|                                                                                                                     |                                                   |              |
|---------------------------------------------------------------------------------------------------------------------|---------------------------------------------------|--------------|
| C                                                                                                                   | Layout amended to suit revised floor plans        | Oct '18      |
| B                                                                                                                   | Footprint amended to reflect revised floor plans  | Aug '18      |
| A                                                                                                                   | Driveway and garage to existing property amended. | Apr '18      |
| Rev                                                                                                                 | Description                                       | Date         |
| JON DALE ARCHITECT LTD.                                                                                             |                                                   |              |
| Jon Dale RIBA 7 Crestwood View, Eastleigh, Hampshire, SO50 4NF Tel: 07787 575126 E-mail: jondalearchitect@gmail.com |                                                   |              |
| Project                                                                                                             | Title                                             |              |
| Church Lane, Hamblewell                                                                                             | Site Layout                                       |              |
| Scale                                                                                                               | Date                                              | Drawn        |
| 1:250@A3                                                                                                            | Mar '18                                           | JD           |
| Checked                                                                                                             | Job No.                                           | Drawing. No. |
|                                                                                                                     | JD-017                                            | SL01         |
| Revision                                                                                                            |                                                   |              |
| C                                                                                                                   |                                                   |              |



South Elevation



South Elevation



East Elevation

scale 1:100



| Rev | Description                                                                 |
|-----|-----------------------------------------------------------------------------|
| D   | Elevation redrawn to suit revised floor plans                               |
| C   | Building footprint reduced in size. Elevation redrawn to suit. Roof amended |
| B   | Access door removed from south elevation                                    |
| A   | External flue added                                                         |

| Date    | Description |
|---------|-------------|
| Oct '18 |             |
| Aug '18 |             |
| Apr '18 |             |
| Apr '18 |             |

JON DALE ARCHITECT LTD.

Jon Dale RIBA 7 Crestwood View, Eastleigh, Hampshire, SO50 4NF Tel: 07787 575126 E-mail: jondalearchitect@gmail.com

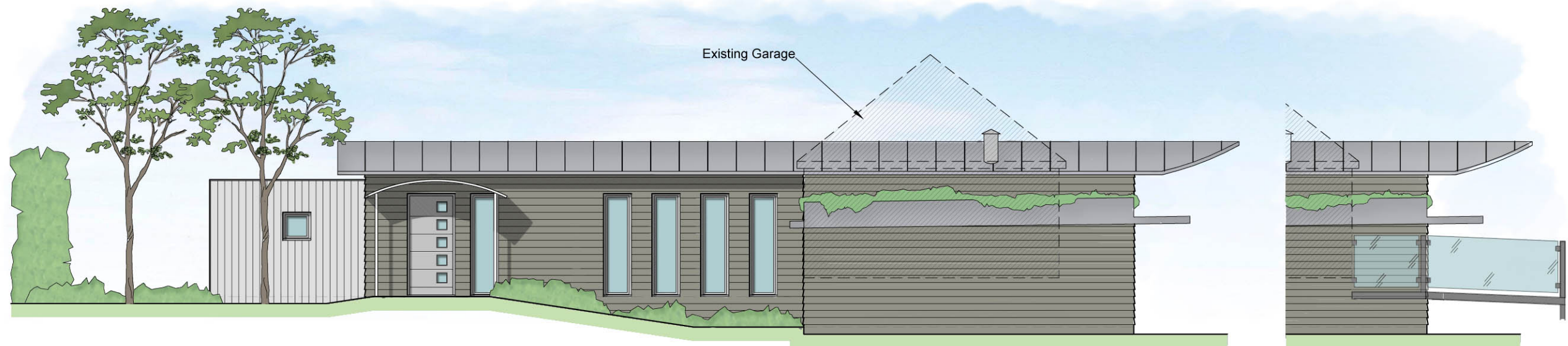
Project Church Lane, Hamblewell Title South and East Elevations

| Scale    | Date    | Drawn | Checked | Job No. | Drawing No. | Revision |
|----------|---------|-------|---------|---------|-------------|----------|
| 1:100@A3 | Mar '18 | JD    |         | JD-017  | E1          | D        |



North Elevation

Proposed Existing



West Elevation

scale 1:100



|   |                                                                             |         |
|---|-----------------------------------------------------------------------------|---------|
| C | Elevation redrawn to suit revised floor plans                               | Oct '18 |
| B | Building footprint reduced in size. Elevations redrawn to suit Roof amended | Aug '18 |
| A | External flue added                                                         | Apr '18 |

| Rev | Description | Date |
|-----|-------------|------|
|-----|-------------|------|

JON DALE ARCHITECT LTD.

Jon Dale RIBA / 7 Creshwood View, Eastleigh, Hampshire, SO50 4NF Tel: 07787 575126 E-mail: jondalearchitect@gmail.com

Project Title

Church Lane, Hamblewell North and West Elevations

| Scale    | Date    | Drawn | Checked | Job No. | Drawing No. | Revision |
|----------|---------|-------|---------|---------|-------------|----------|
| 1:100@A3 | Mar '18 | JD    |         | JD-017  | E2          | C        |

NB:  
Secondary entrance may be used  
by specialist careworker/nurse on  
a daily basis



|           |           |
|-----------|-----------|
| Housetype | Variation |
| Bedrooms  | Persons   |
| 2         | 4         |
| Sq.ft     | Sq.m      |
| 1775      | 164.9     |

|   |                                                |          |
|---|------------------------------------------------|----------|
| D | Building redesigned                            | Sept '18 |
| C | Building footprint reduced in size             | Aug '18  |
| B | Bathroom layout amended                        | Apr '18  |
| A | Internal layout changes. Bi-fold doors removed | Apr '18  |

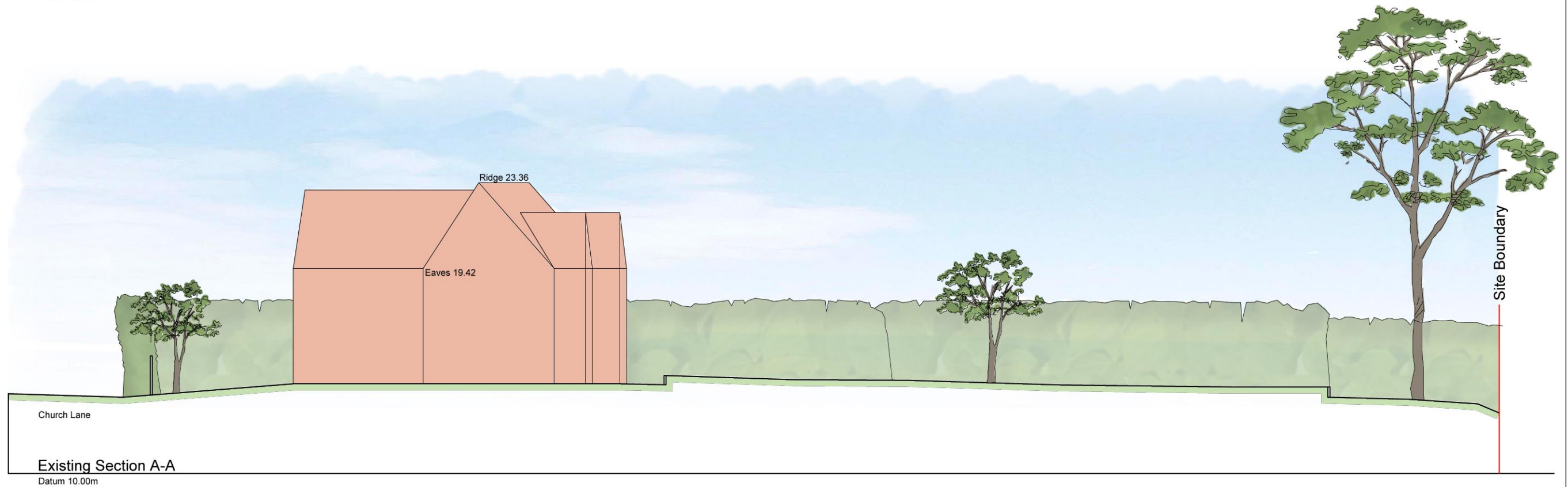
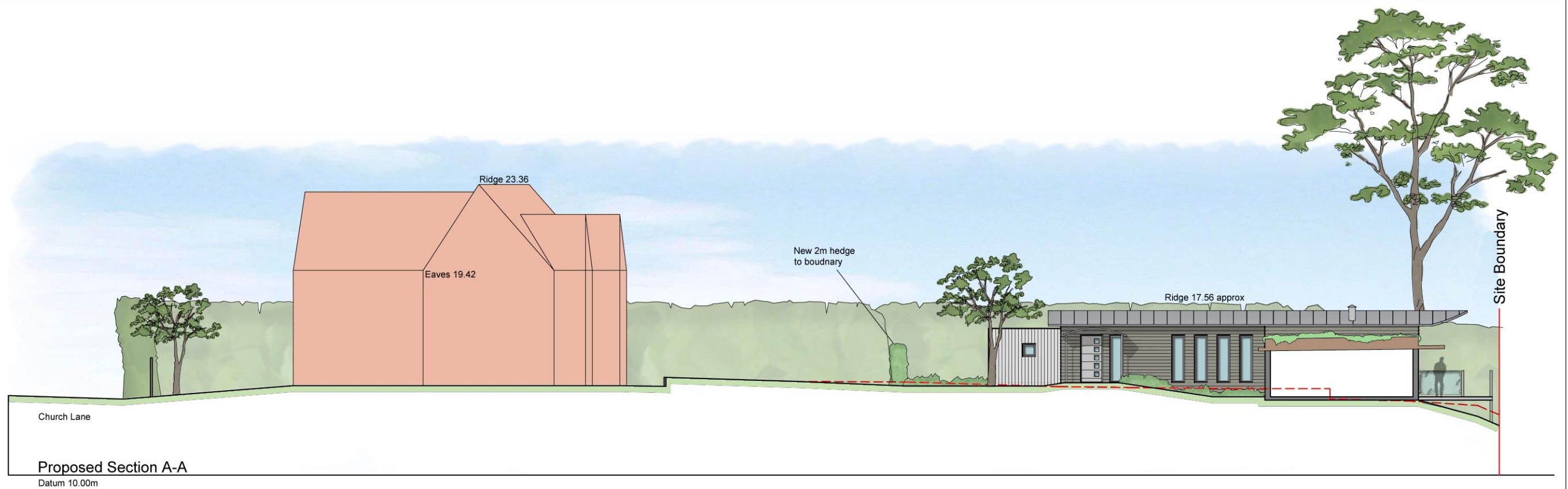
|     |             |      |
|-----|-------------|------|
| Rev | Description | Date |
|-----|-------------|------|

JON DALE ARCHITECT LTD.

Jon Dale RIBA 7 Creshwood View, Eastleigh, Hampshire, SO50 4NF Tel: 07787 575126 E-mail: jondalearchitect@gmail.com

Project Church Lane, Hamblewell Title Floor Plans

|          |         |       |         |         |             |          |
|----------|---------|-------|---------|---------|-------------|----------|
| Scale    | Date    | Drawn | Checked | Job No. | Drawing No. | Revision |
| 1:100@A3 | Mar '18 | JD    |         | JD-017  | P1          | D        |



|     |                                              |         |
|-----|----------------------------------------------|---------|
| Rev | Description                                  | Date    |
| C   | Updated to suit revised plans and elevations | Oct '18 |
| B   | Updated to suit revised plans and elevations | Aug '18 |
| A   | Updated to suit revised plans and elevations | Apr '18 |

Jon Dale RIBA 7 Creshwood View, Eastleigh, Hampshire, SO50 4NF Tel: 07787 575126 E-mail: jondalearchitect@gmail.com

Project Church Lane, Hamblewell Title Site Section A-A

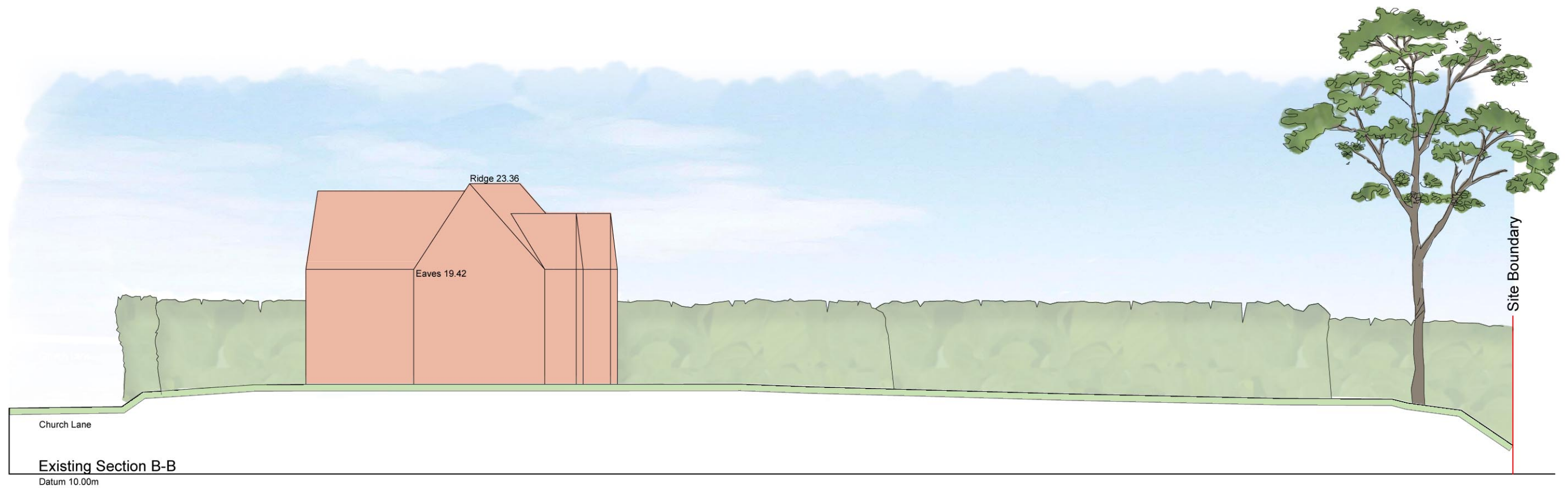
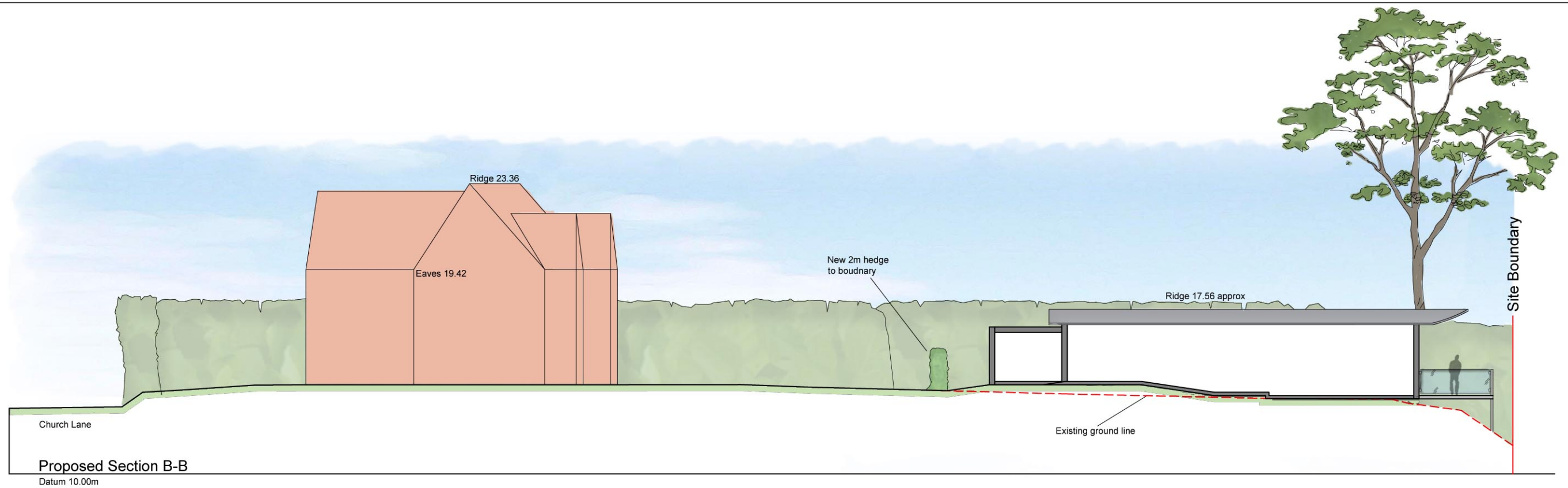
Scale Date Drawn Checked Job No. Drawing No. Revision

1:200@A3 Mar '18 JD JD-017 SS01 C

scale 1:200



NTS



scale 1:200



|   |                                              |         |
|---|----------------------------------------------|---------|
| C | Updated to suit revised plans and elevations | Oct '18 |
| B | Updated to suit revised plans and elevations | Aug '18 |
| A | Updated to suit revised plans and elevations | Apr '18 |

| Rev | Description | Date |
|-----|-------------|------|
|-----|-------------|------|

**JON DALE ARCHITECT LTD.**

Jon Dale RIBA 7 Creshwood View, Eastleigh, Hampshire, SO50 4NF Tel: 07787 575126 E-mail: jondalearchitect@gmail.com

Project Church Lane, Hamblewell Title Site Section B-B

| Scale    | Date    | Drawn | Checked | Job No. | Drawing No. | Revision |
|----------|---------|-------|---------|---------|-------------|----------|
| 1:200@A3 | Mar '18 | JD    |         | JD-017  | SS02        | C        |



---

# Appeal Decision

Site visit made on 24 February 2021

**by Lynne Evans BA MA MRTPI MRICS**

**an Inspector appointed by the Secretary of State**

**Decision date: 25 March 2021**

---

**Appeal Ref: APP/W1715/D/20/3264972**

**Waters Edge, Lands End Road, Bursledon SO31 8DN**

- 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 Mr & Mrs David and Annette Mead against the decision of Eastleigh Borough Council.
  - The application Ref: H/20/88346 dated 22 July 2020, was refused by notice dated 4 November 2020.
  - The development proposed is addition of 3<sup>rd</sup> floor viewing room and remodelling of existing house.
- 

## Decision

1. The appeal is dismissed.

## Preliminary Matters

2. The Council has proposed a number of conditions in the event that planning permission is granted, including in relation to the submission of a preliminary ecological assessment prior to works commencing. No such assessment had been submitted with the application. Paragraph 99 of Circular 06/2005 states that the presence or otherwise of protected species, and the extent that they may be affected by the development, should be established before planning permission is granted. It advises that surveys should be carried out before any permission is granted and that the need for a survey should only be required by condition in exceptional circumstances. I therefore invited comments from both the Appellants and the Council at the appeal stage to the proposed condition, in the event of planning permission being granted, and have taken the comments from both parties into account.
3. I have, as a result and necessarily, added this matter as a further main issue.

## Main Issues

4. The main issues in this appeal are:
  - a) The effect of the proposal on the character and appearance of the Old Bursledon Conservation Area; and
  - b) The effect of the proposal on the living conditions of the neighbours at the adjoining property, Tara, with particular regard to overlooking and loss of privacy.
  - c) The effects of the proposal on interests of ecological importance.

## **Reasons**

### ***Issue a) Character and Appearance***

5. The appeal property is a detached property on a site which slopes steeply towards the western shore of the River Hamble, immediately beyond the garden. Because of the steeply sloping site, the property appears as single storey from the roadside (Lands End Road) and two storeys at the rear, under a shallow pitched roof. It appears to have been altered and extended a number of times. The land also slopes from north-west to south-east as Lands End Road descends to the water's edge. The site is situated within the Old Bursledon Special Policy Area and the Old Bursledon Conservation Area.
6. Section 72 (1) of The Planning (Listed Buildings and Conservation Areas) Act 1990 requires me to pay special attention to the desirability of preserving or enhancing the character or appearance of conservation areas.
7. The proposal would remodel the existing dwelling, removing the existing shallow pitched roof and introducing an upper storey with a flat roof which would be inset from the sides of the existing property. There would be an overhaul of the existing fenestration and materials. The external elevations of each storey would use different materials with the darker and 'heavier' materials at the base of the building which would assist in the stepping down of the building towards the water's edge.
8. The designated heritage asset of the Conservation Area extends to include the scattered attractive village of Bursledon as well as the River Hamble and the foreshore with its slipways and mud flats. There are a variety of plot sizes throughout the Conservation Area and whilst traditional brick houses with pitched roofs are a recurring feature, this is not exemplified in the group of properties including the appeal property and its immediate neighbours.
9. The existing group of buildings on the riverside side of Lane Ends Road are each very individual in their design style, scale and siting so that there is, in my view, no common theme. The buildings are very visible from views from the river and the opposite bank. The group of buildings further to the north-west include three listed buildings, including Myrtle Cottage, The Jolly Sailor PH and Ewers. Including the appeal property, there are then four further buildings of very individual design, set in their own plots of land, fronting the river.
10. I consider that the proposed remodelling would be a positive enhancement of the dwelling; as existing, it appears to have been extended a number of times and the proposal would draw all the elements together to create an attractive, clean and unified composition. The additional storey with its set back from the sides would be modest in scale and the existing horizontal emphasis retained by the clear banding of materials and colour, with the 'heavier' colours and materials towards the base of the building. Furthermore, were no other matters of concern and planning permission were to be granted, a condition could be imposed to control the precise details of the proposed materials. I consider that the proposed scale, detailed design and materials would combine to provide an attractive building which would not appear overly large in scale or height in relation to the size of the plot or neighbouring buildings.
11. As existing, the adjoining property, Tara, with its steeply pitched roof appears higher than the appeal property, although it is sited at a lower level when

approached from along the road. The proposed changes to the appeal property would increase the height of the appeal property to a modest extent, but it would in my view improve the relationship between the appeal property and the neighbouring property, Tara and the rhythm of development along the road. Given the individual forms and styles of each of the properties along this part of Lands End Road, I do not consider that the contemporary design of the remodelled and extended dwelling would appear out of place or harm the street scene or the character and appearance of the designated heritage asset.

12. I therefore conclude that the proposal would be well designed to secure a positive enhancement to the character and appearance of the existing building and would preserve the character and appearance of the Old Bursledon Conservation Area and Special Policy Area. It would therefore accord with Policies 59.BE, 169.LB, 179.LB and 9.CO from the Eastleigh Borough Local Plan Review 2001- 2011 (Local Plan Review); guidance from the Old Bursledon Conservation Area Appraisal and Management Proposals Supplementary Planning Document; and Policies DM1, DM12, DM28 and BU9 from the 2016-2036 submitted Local Plan (2016-2036 Local Plan), as well as the National Planning Policy Framework (Framework) , and in particular Section 16, all of which seek a high quality of design which respects the character and appearance of the local context, including of designated heritage assets.

### ***Issue b) Living Conditions***

13. There is already some overlooking between the appeal property and its neighbouring properties, particularly given the steeply sloping site and pattern of glazing in these properties. However, I agree that the design of the upper floor extension with its additional window in the side elevation as well as the balcony wrapping around the side facing towards the neighbouring property, Tara would unacceptably increase the extent of overlooking and leading to a loss of privacy for these neighbours. This harm to the neighbours' living conditions would conflict with Saved Policy 59.BE of the Local Plan Review; Policy DM1 of the 2016-2036 Local Plan; and the Quality Places Supplementary Planning Document as well as paragraph 127 f) of the Framework, all of which, amongst other things, seek to protect the amenities of existing and future occupiers.
14. However, I consider that the harm could be overcome and mitigated through a requirement for the use of a privacy screen to the balcony, and, were there no other matters of concern and planning permission were to be granted, that this could be achieved through the imposition of an appropriate condition. The Council has suggested that the condition should relate to the new window in the side elevation, but I consider that the use of an appropriate privacy screen to the balcony would be the more effective detail to ensure the protection of the neighbours' living conditions.

### ***Issue c) Interests of Ecological Importance***

15. As set out under the preliminary section, The Council has proposed a number of conditions in the event that planning permission is granted, including in relation to the submission of a preliminary ecological assessment prior to works commencing. No such assessment had been submitted with the application.
16. Paragraph 99 of Circular 06/2005 makes it clear that the presence of a protected species and the effect of the proposed development on such species

is a material consideration in the assessment of a development proposal, and that the presence or otherwise of such species needs to be addressed prior to the grant of planning permission. The guidance is clear that the imposition of a condition on a planning permission to investigate the impact of the proposal on protected species is not an appropriate way forward and that the position needs to be addressed prior to the grant of planning permission.

17. Whilst I agree that given the age of the building and its condition, protected species may not be present, there is no information before me to confirm this position. Furthermore, the site is in an environmentally sensitive location, which the Council's Ecology Officer has set out, including in proximity to the designated sites of the River Hamble, the Solent and Dorset Coast SPA, Lincegrove and Hacketts Marshes SSSI. None of the information provided to me indicates that there are exceptional reasons why the matter should not follow the recommended guidance.
18. Given the lack of any further information, I am therefore unable to conclude that the proposal would be unlikely to have an impact on protected species within or near the site. There is clear conflict with Section 15 of the Framework and Circular 06/2005 to conserve and enhance biological diversity.

### **Conclusion**

19. I have found that the proposal would preserve the character and appearance of the designated heritage asset of the Old Bursledon Conservation Area and that the harm to the living conditions of the neighbours at Tara, could be satisfactorily mitigated and overcome through the imposition of an appropriate condition. However, my findings under both of these issues do not override the harm I have concluded under my third issue in respect of harm to interests of ecological importance, which leads to refusal of permission.
20. For the reasons given above, and having regard to all other matters raised, I conclude that the appeal should be dismissed.

*L J Evans*

INSPECTOR



1 3D View 18\_4  
1 : 1



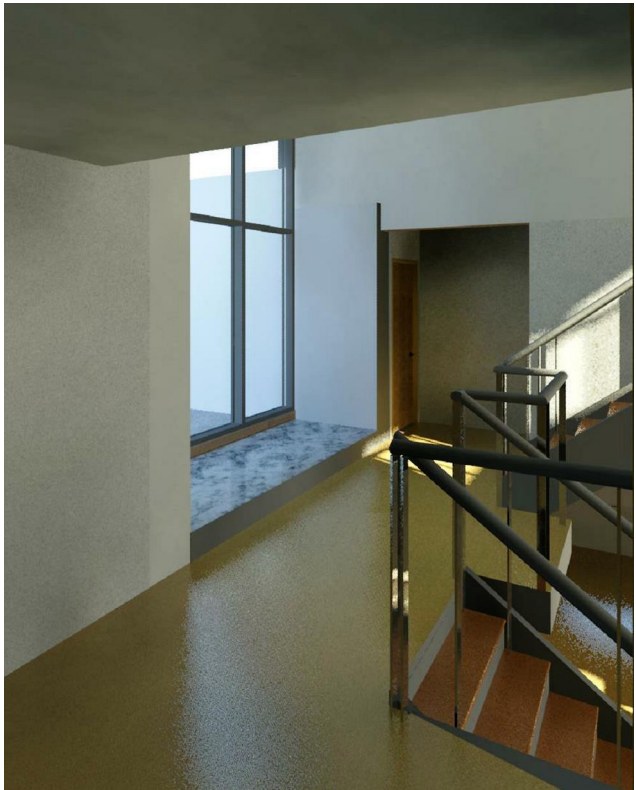
3D View 2\_4  
1 : 1



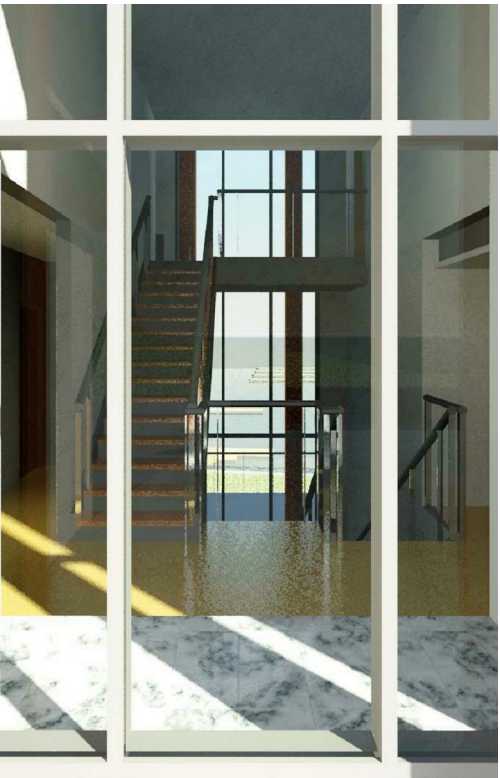
6 3D View 21\_2  
1 : 1



3 3D View 14\_1  
1 : 1



4 3D View 24\_3  
1 : 1



7 3D View 23\_1  
1 : 1



2 3D View 1\_1  
1 : 1

IJ Murray  
Associates Ltd



CIAT  
REGISTERED PRACTICE

www.ijma.co.uk

I J Murray Associates Ltd  
200 Seafront  
Hayling Island  
Hampshire  
PO11 9HR  
Phone 07779 246915  
e-mail ian@ijma.co.uk

These drawings are the  
property of IJ Murray  
Associates Ltd and should  
not be reproduced or used in  
any way without the  
permission of a Director of  
IJ Murray Associates Ltd

These drawings are for planning and building regulation  
purposes only and are not for construction. All dimensions  
should be checked on site before work commences

Annette & David Mead

Waters Edge V7

More Views

|                |                |
|----------------|----------------|
| Project number | Project Number |
| Date           | Issue Date     |
| Drawn by       | Author         |
| Checked by     | Checker        |

A118

|       |       |
|-------|-------|
| Scale | 1 : 1 |
|-------|-------|

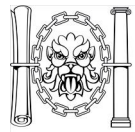
1 East Elevation  
1 : 100



2 West Elevation  
1 : 100



IJ Murray  
Associates Ltd



**CIAT**  
REGISTERED PRACTICE

www.ijma.co.uk

I J Murray Associates Ltd  
200 Seafront  
Hayling Island  
Hampshire  
PO11 9HR  
Phone 07779 246915  
e-mail ian@ijma.co.uk

These drawings are the  
property of IJ Murray  
Associates Ltd and should  
not be reproduced or used in  
any way without the  
permission of a Director of  
IJ Murray Associates Ltd

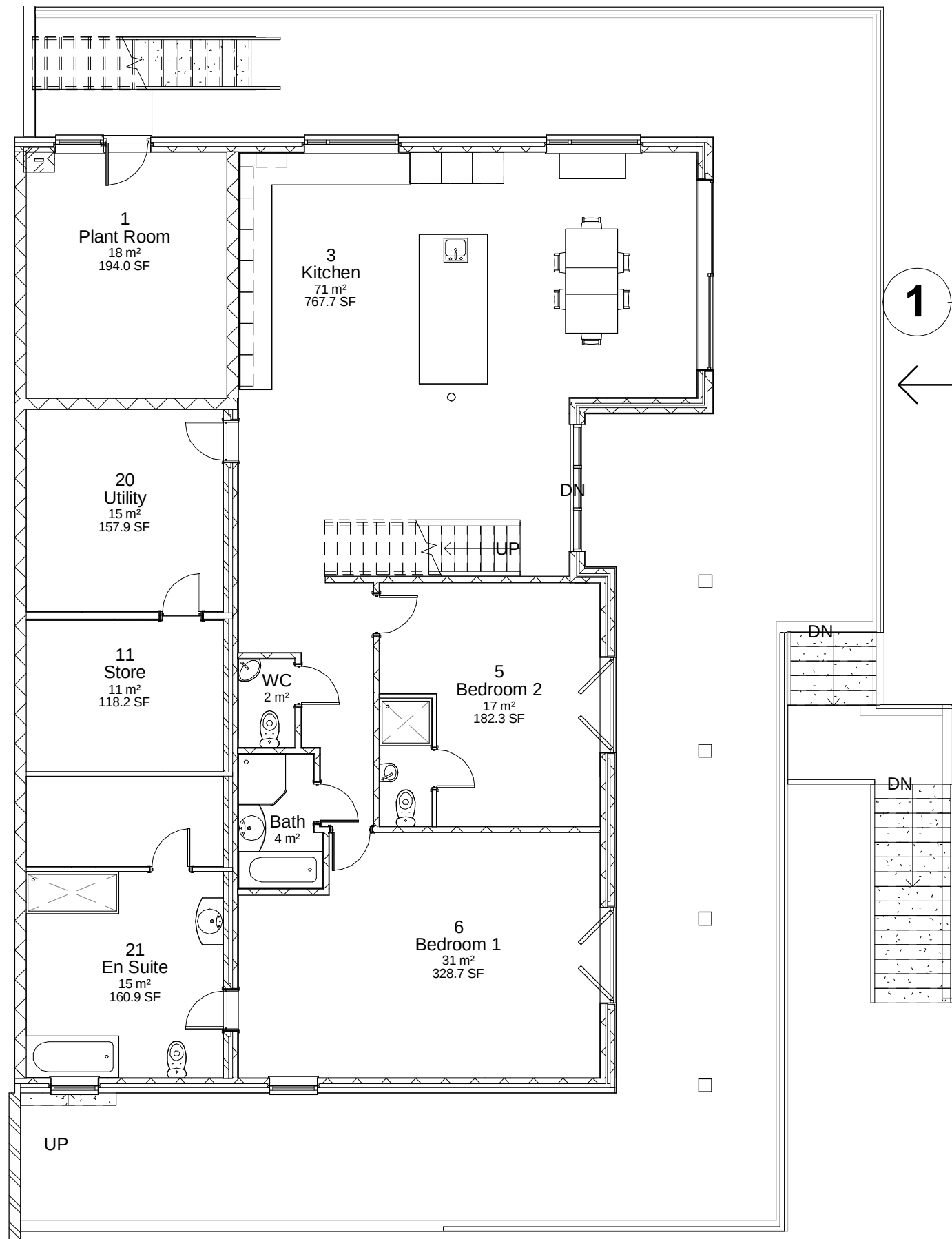
These drawings are for planning and building regulation  
purposes only and are not for construction. All dimensions  
should be checked on site before work commences

Annette & David Mead

Waters Edge V7

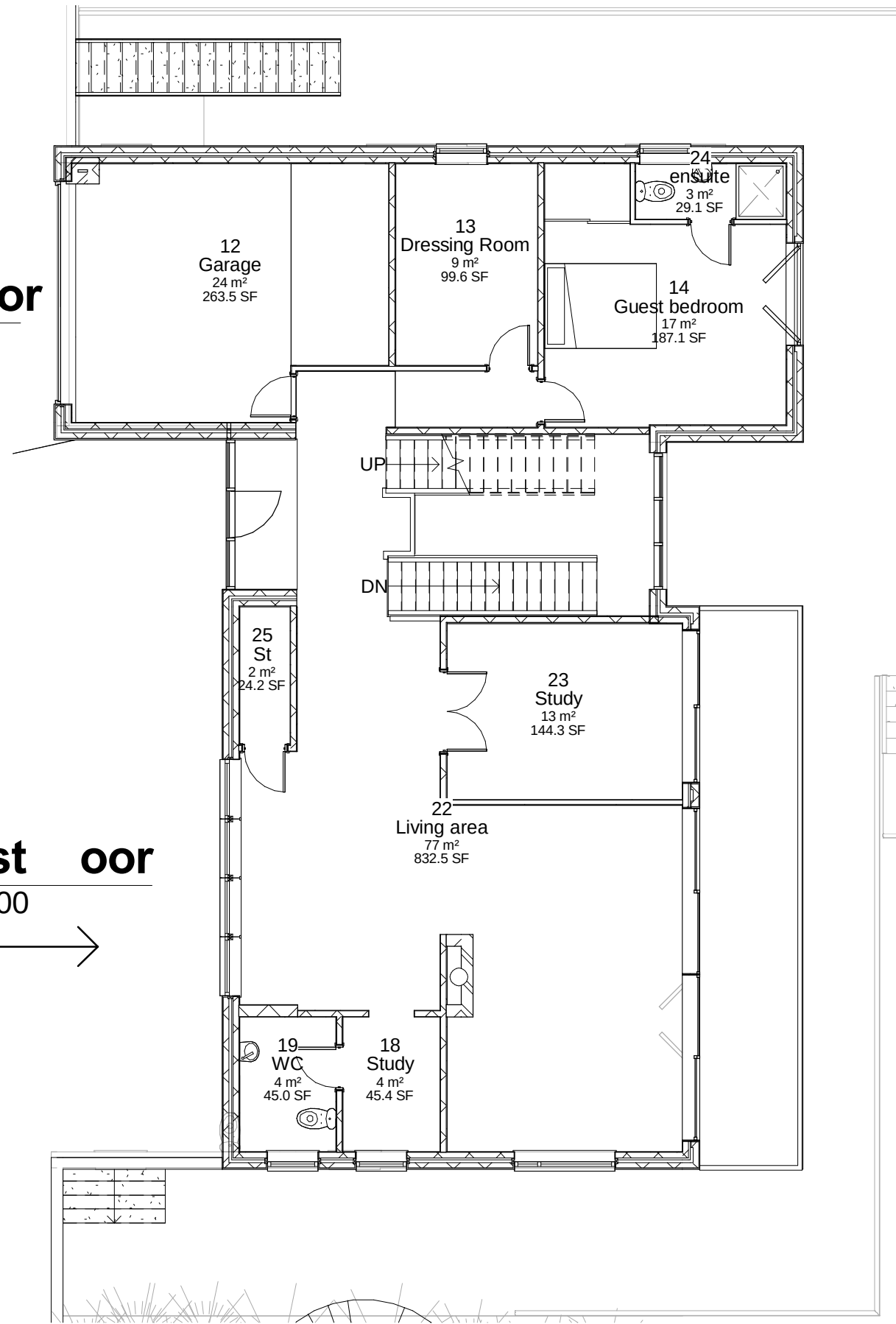
Proposed East & West Elevations

|                |                |         |
|----------------|----------------|---------|
| Project number | Project Number | A114    |
| Date           | Issue Date     |         |
| Drawn by       | Author         |         |
| Checked by     | Checker        | Scale   |
|                |                | 1 : 100 |



1 round door  
1 : 100

2 first floor  
1 : 100



IJ Murray  
Associates Ltd



**CIAT**  
REGISTERED PRACTICE

www.ijma.co.uk

I J Murray Associates Ltd  
200 Seafront  
Hayling Island  
Hampshire  
PO11 9HR  
Phone 07779 246915  
e-mail ian@ijma.co.uk

These drawings are the  
property of IJ Murray  
Associates Ltd and should  
not be reproduced or used in  
any way without the  
permission of a Director of  
IJ Murray Associates Ltd

These drawings are for planning and building regulation  
purposes only and are not for construction. All dimensions  
should be checked on site before work commences

Annette & David Mead

Waters Edge V7

Proposed Ground & 1st Floor  
Plans

|                |                |         |
|----------------|----------------|---------|
| Project number | Project Number | A112    |
| Date           | Issue Date     |         |
| Drawn by       | Author         |         |
| Checked by     | Checker        |         |
| Scale          |                | 1 : 100 |

1 Port elevation  
1 : 100



2 South elevation  
1 : 100



IJ Murray  
Associates Ltd



**CIAT**  
REGISTERED PRACTICE

www.ijma.co.uk

I J Murray Associates Ltd  
200 Seafront  
Hayling Island  
Hampshire  
PO11 9HR  
Phone 07779 246915  
e-mail ian@ijma.co.uk

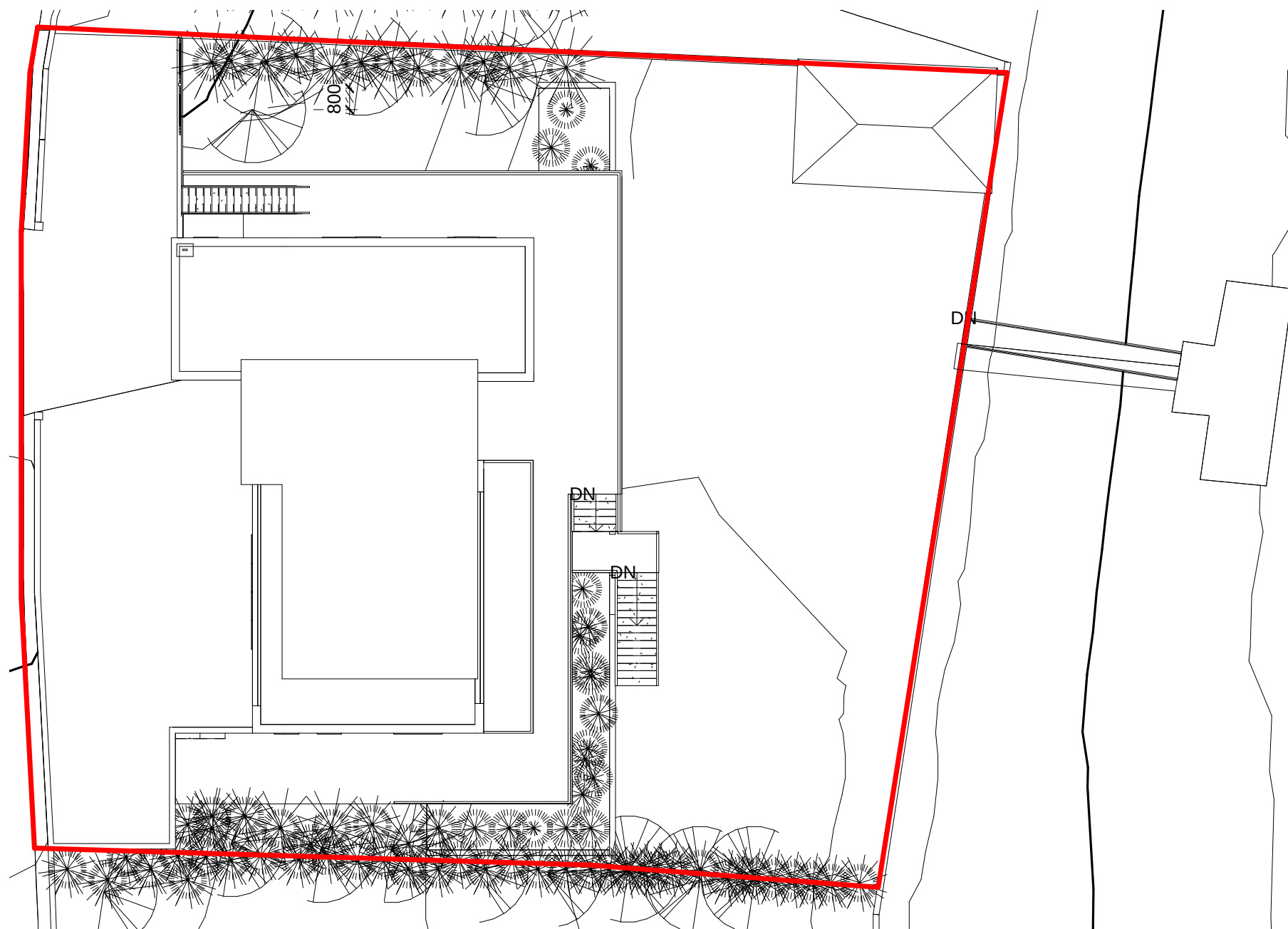
These drawings are the  
property of IJ Murray  
Associates Ltd and should  
not be reproduced or used in  
any way without the  
permission of a Director of  
IJ Murray Associates Ltd

These drawings are for planning and building regulation  
purposes only and are not for construction. All dimensions  
should be checked on site before work commences

Annette & David Mead  
Waters Edge V7

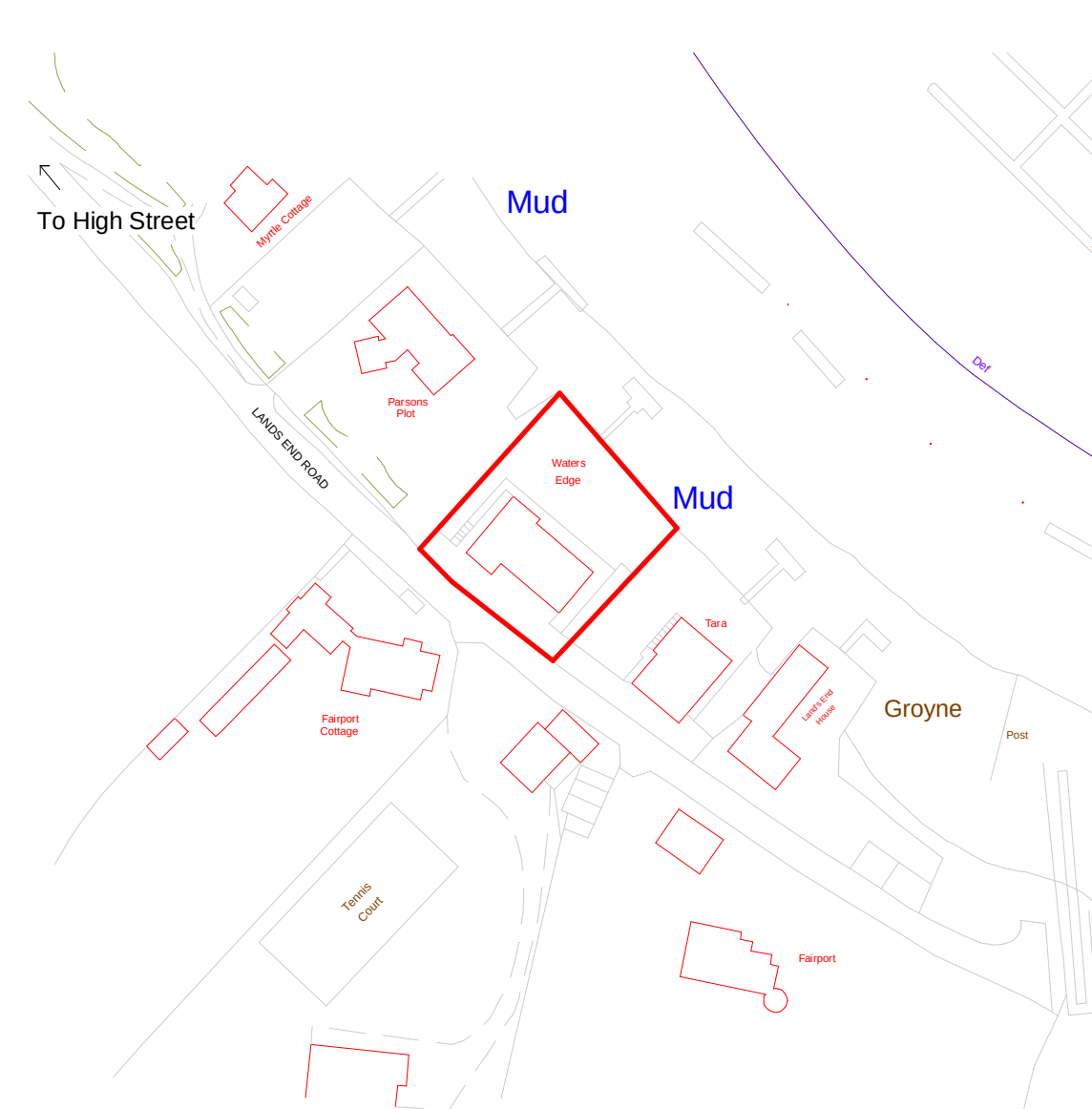
Proposed North & South  
Elevations

|                |                |         |
|----------------|----------------|---------|
| Project number | Project Number | A113    |
| Date           | Issue Date     |         |
| Drawn by       | Author         |         |
| Checked by     | Checker        | Scale   |
|                |                | 1 : 100 |



**2** **ite a**  
1 : 200

Level Information  
OS Terrain 5 Data (0.5m) has been used to produce an accurate topographical surface  
Flood Risk  
This site does not fall in a flood risk area  
Tree Survey  
This proposal has no impact on trees  
Parking Provision  
The property has two external parking spaces and 2 internal space (no increased occupancy or bedrooms are proposed)  
Boundary Treatment  
The boundaries are made up of a mixture of fencing hedging, walls and river borders no changes are proposed



**1** **Locatio a**  
1 : 1250



This map was purchased from emapsite.com  
and is subject to the following © Crown  
copyright and database rights Ordnance Survey  
0100031673

**IJ Murray  
Associates Ltd**



**CIAT**  
REGISTERED PRACTICE

www.ijma.co.uk

I J Murray Associates Ltd  
200 Seafront  
Hayling Island  
Hampshire  
PO11 9HR  
Phone 07779 246915  
e-mail ian@ijma.co.uk

These drawings are the  
property of IJ Murray  
Associates Ltd and should  
not be reproduced or used in  
any way without the  
permission of a Director of  
IJ Murray Associates Ltd

These drawings are for planning and building regulation  
purposes only and are not for construction. All dimensions  
should be checked on site before work commences

**Annette & David Mead**

**Waters Edge V7**

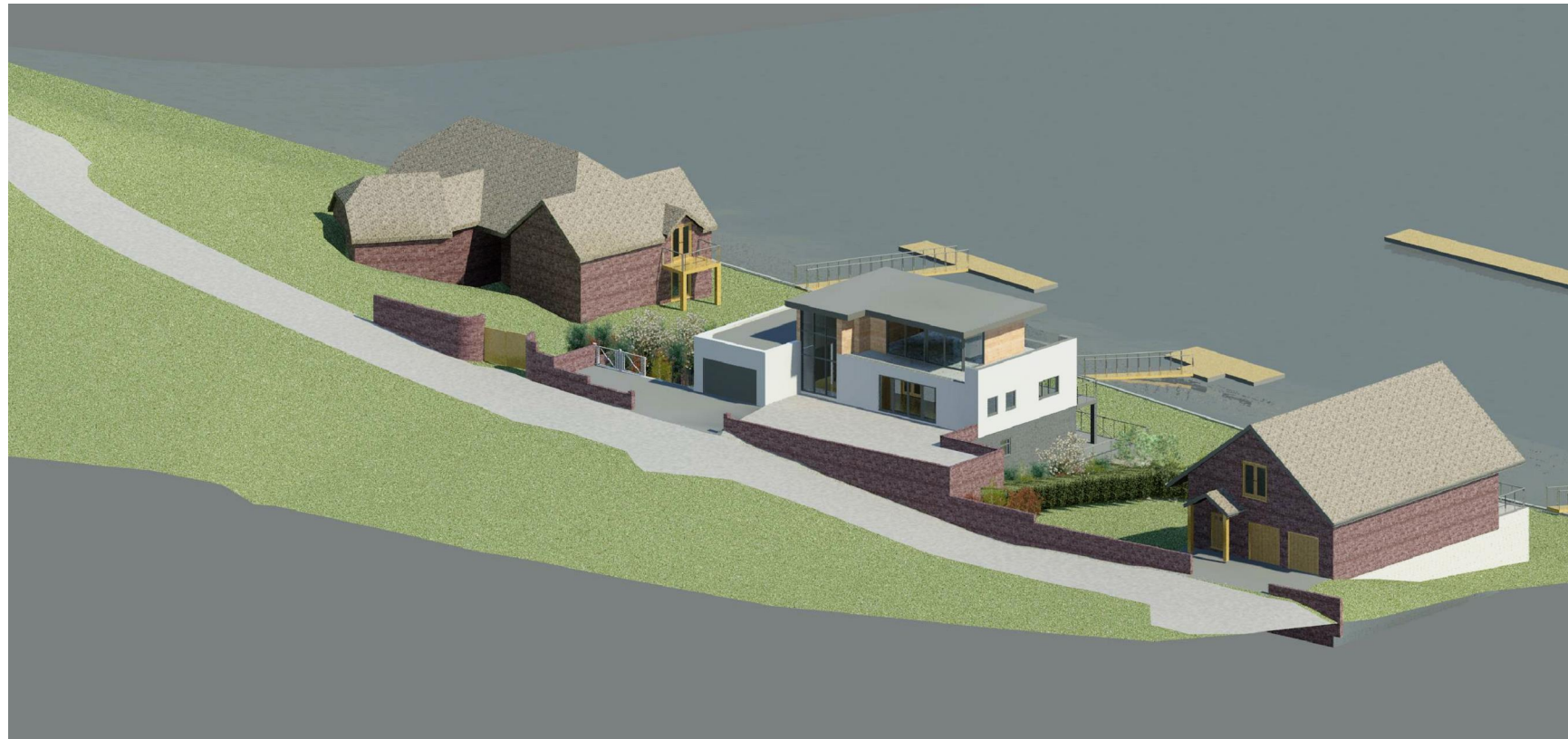
**Proposed Site and Location Plan**

|                |                |       |              |
|----------------|----------------|-------|--------------|
| Project number | Project Number | A111  |              |
| Date           | Issue Date     |       |              |
| Drawn by       | Author         |       |              |
| Checked by     | Checker        | Scale | As indicated |

1 3D o y 1\_  
1 : 1



2 3D o y 1\_7  
1 : 1



IJ Murray  
Associates Ltd



CIAT  
REGISTERED PRACTICE

www.ijma.co.uk

I J Murray Associates Ltd  
200 Seafront  
Hayling Island  
Hampshire  
PO11 9HR  
Phone 07779 246915  
e-mail ian@ijma.co.uk

These drawings are the  
property of IJ Murray  
Associates Ltd and should  
not be reproduced or used in  
any way without the  
permission of a Director of  
IJ Murray Associates Ltd

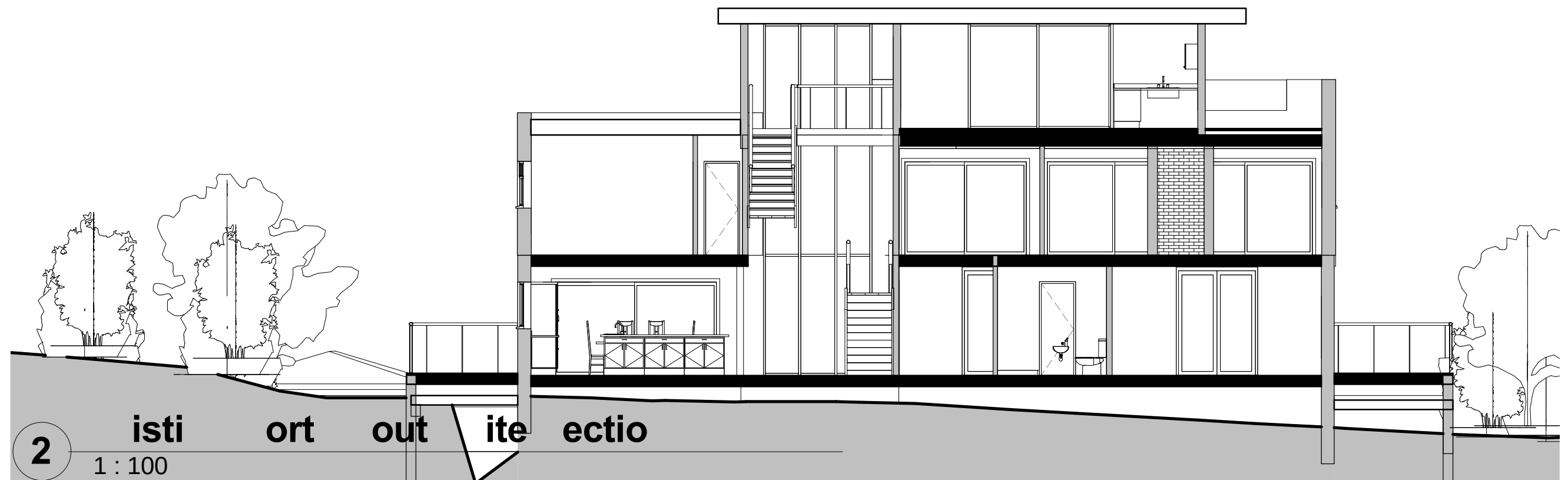
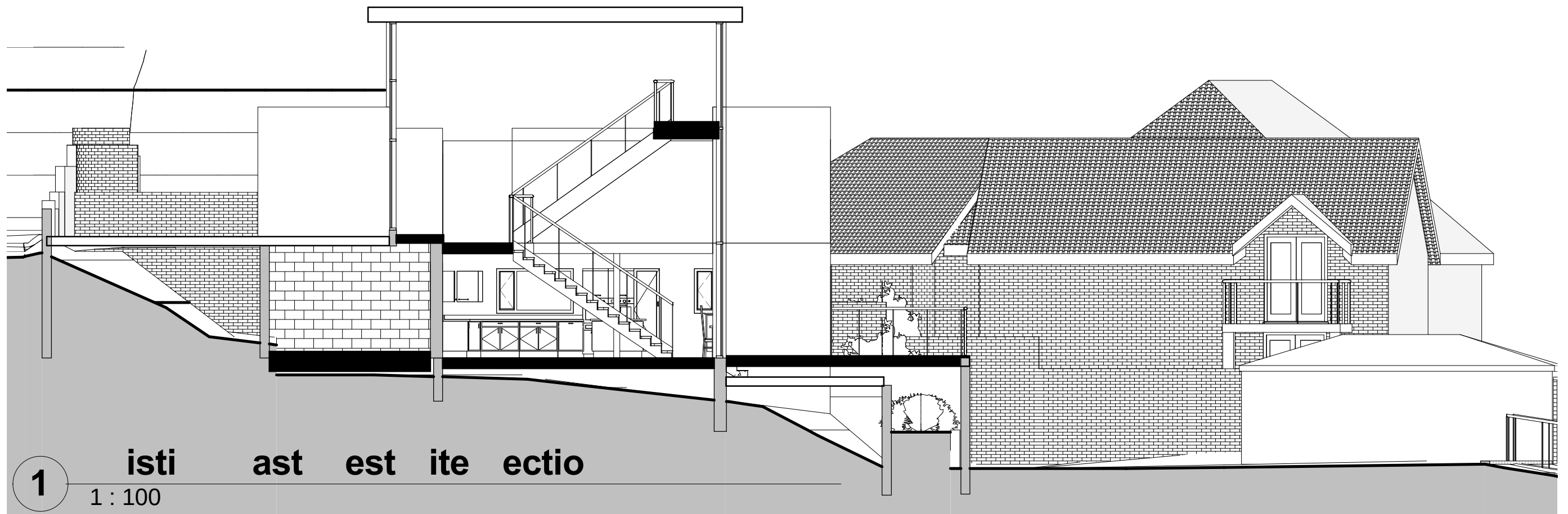
These drawings are for planning and building regulation  
purposes only and are not for construction. All dimensions  
should be checked on site before work commences

Annette & David Mead

Waters Edge V7

Proposed Site 3Ds

|                |                |       |
|----------------|----------------|-------|
| Project number | Project Number | A116  |
| Date           | Issue Date     |       |
| Drawn by       | Author         |       |
| Checked by     | Checker        | Scale |
|                |                | 1 : 1 |



**IJ Murray  
Associates Ltd**



**CIAT**  
REGISTERED PRACTICE

www.ijma.co.uk

I J Murray Associates Ltd  
200 Seafront  
Hayling Island  
Hampshire  
PO11 9HR  
Phone 07779 246915  
e-mail ian@ijma.co.uk

These drawings are the  
property of IJ Murray  
Associates Ltd and should  
not be reproduced or used in  
any way without the  
permission of a Director of  
IJ Murray Associates Ltd

These drawings are for planning and building regulation  
purposes only and are not for construction. All dimensions  
should be checked on site before work commences

Annette & David Mead

Waters Edge V7

Proposed Site Sections

|                |                |         |
|----------------|----------------|---------|
| Project number | Project Number | A117    |
| Date           | Issue Date     |         |
| Drawn by       | Author         |         |
| Checked by     | Checker        | Scale   |
|                |                | 1 : 100 |



**1** 3D View 1\_16  
1 : 1



**2** 3D View 2\_23  
1 : 1



**3** 3D View 6\_  
1 : 1



**4** 3D View \_  
1 : 1



**3D View 11\_16**  
1 : 1

**IJ Murray  
Associates Ltd**



**CIAT**  
REGISTERED PRACTICE

www.ijma.co.uk

I J Murray Associates Ltd  
200 Seafront  
Hayling Island  
Hampshire  
PO11 9HR  
Phone 07779 246915  
e-mail ian@ijma.co.uk

These drawings are the  
property of IJ Murray  
Associates Ltd and should  
not be reproduced or used in  
any way without the  
permission of a Director of  
IJ Murray Associates Ltd

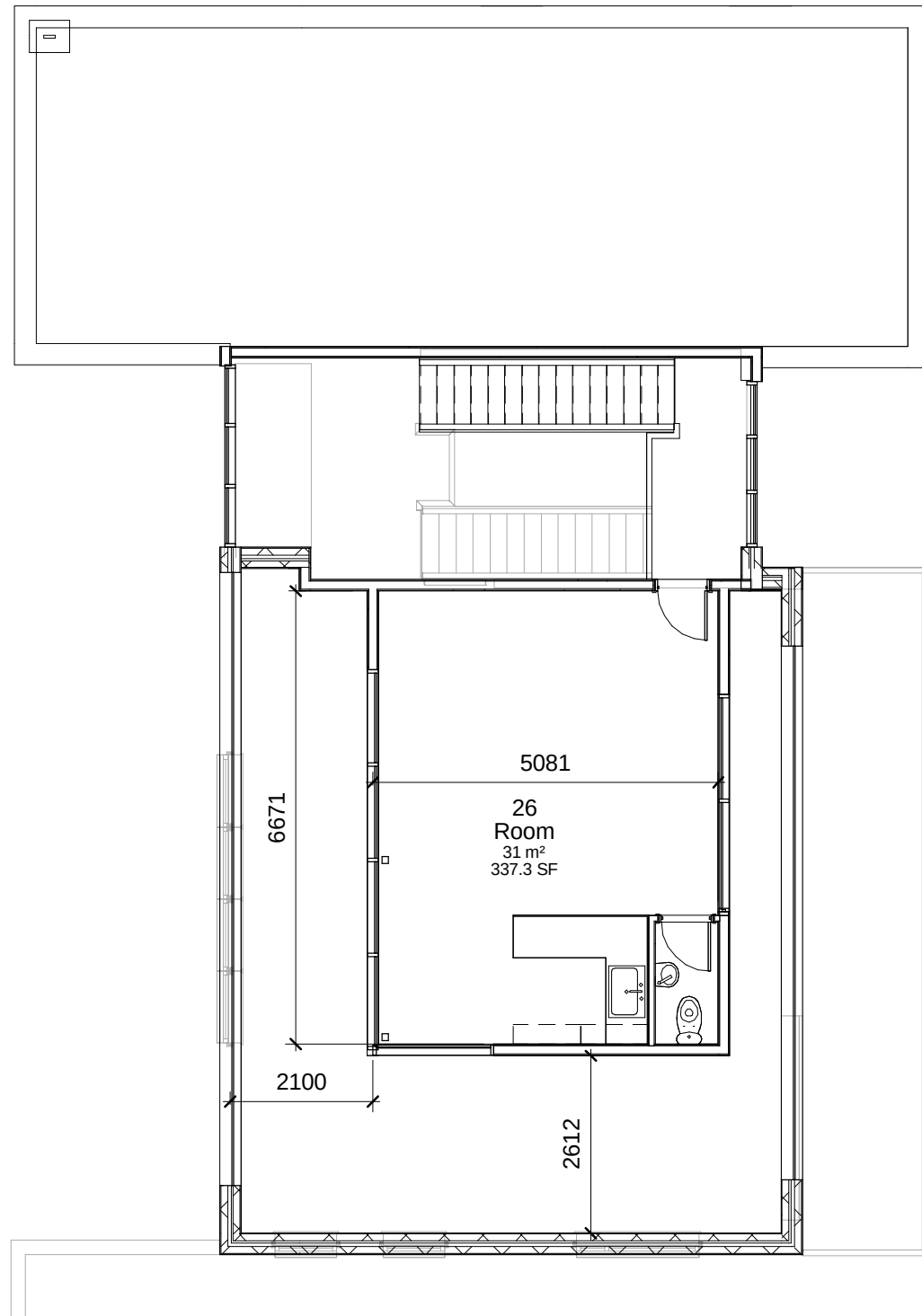
These drawings are for planning and building regulation  
purposes only and are not for construction. All dimensions  
should be checked on site before work commences

Annette & David Mead

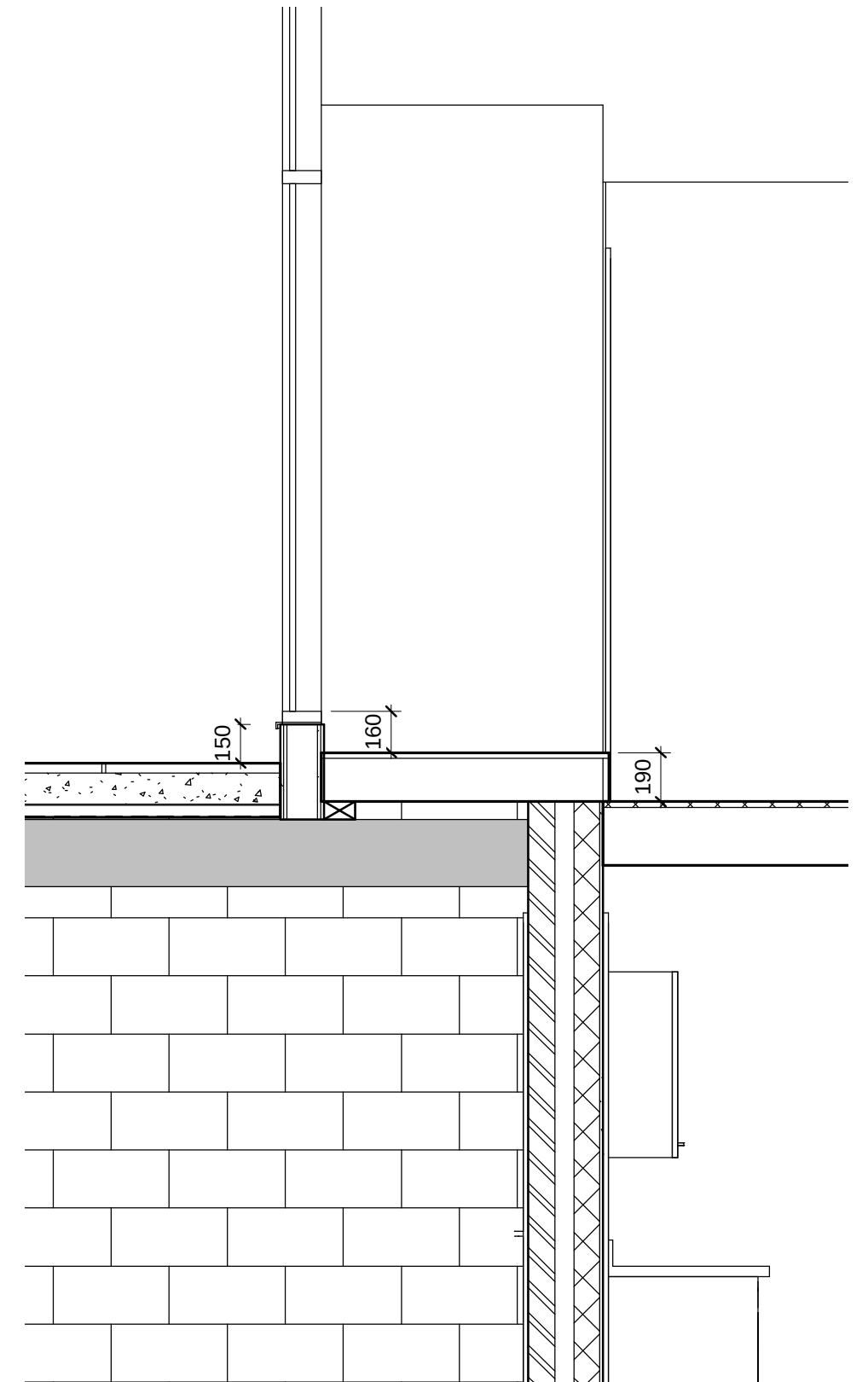
Waters Edge V7

Proposed Views

|                |                |       |
|----------------|----------------|-------|
| Project number | Project Number | A115  |
| Date           | Issue Date     |       |
| Drawn by       | Author         |       |
| Checked by     | Checker        | Scale |
|                |                | 1 : 1 |



1 eco d oor  
1 : 100



2 ro t door ste section  
1 : 25

IJ Murray  
Associates Ltd



**CIAT**  
REGISTERED PRACTICE

www.ijma.co.uk

I J Murray Associates Ltd  
200 Seafront  
Hayling Island  
Hampshire  
PO11 9HR  
Phone 07779 246915  
e-mail ian@ijma.co.uk

These drawings are the  
property of IJ Murray  
Associates Ltd and should  
not be reproduced or used in  
any way without the  
permission of a Director of  
IJ Murray Associates Ltd

These drawings are for planning and building regulation  
purposes only and are not for construction. All dimensions  
should be checked on site before work commences

Annette & David Mead

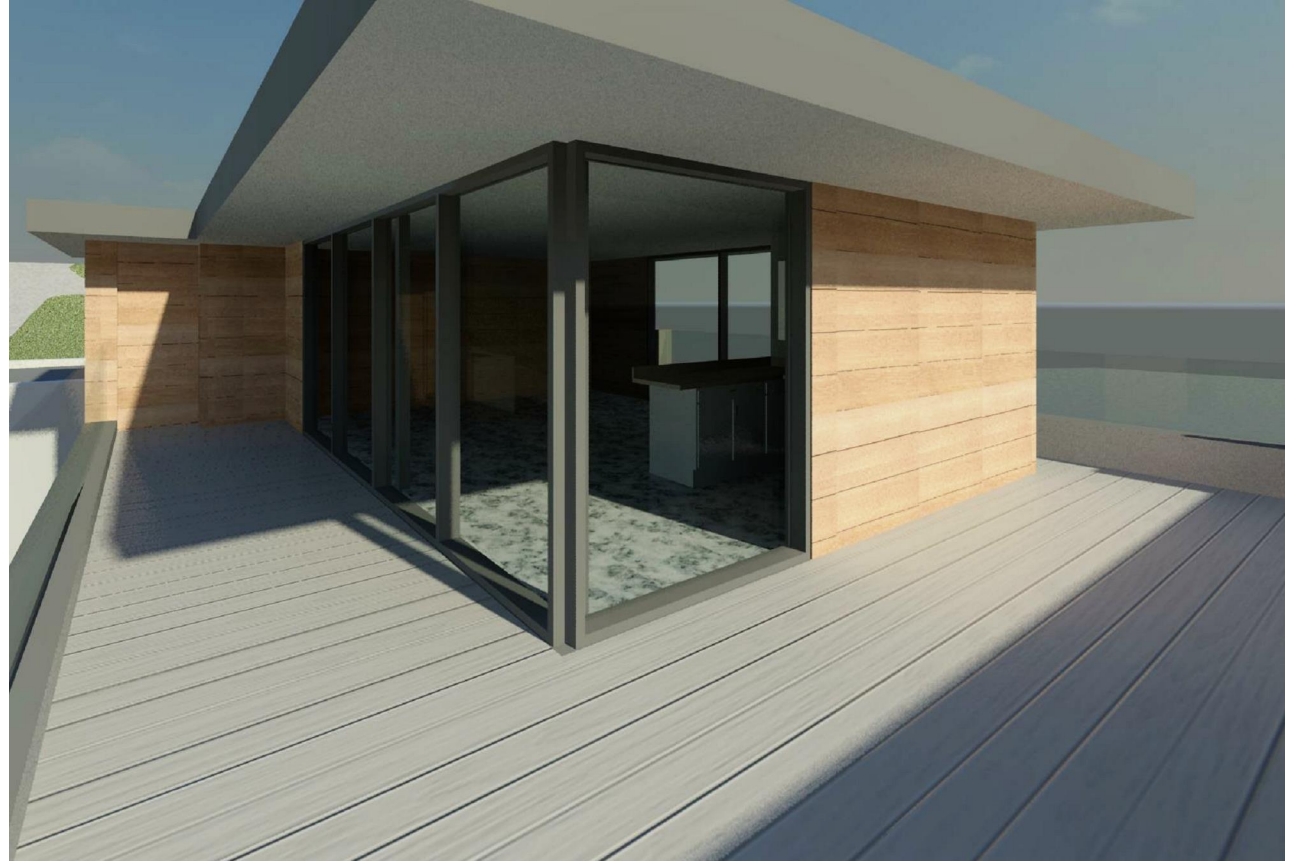
Waters Edge V7

Second Floor & front door section

|                |                |              |
|----------------|----------------|--------------|
| Project number | Project Number | A120         |
| Date           | Issue Date     |              |
| Drawn by       | Author         |              |
| Checked by     | Checker        | Scale        |
|                |                | As indicated |



1 3D View 22\_4  
1 : 1

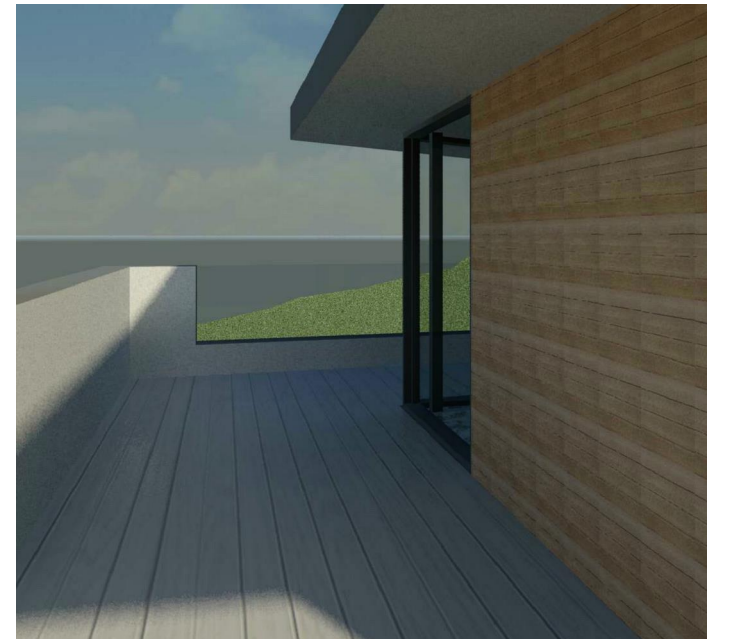


2 3D View 26\_4  
1 : 1



3 3D View 27\_1  
1 : 1

4 3D View 28\_1  
1 : 1



IJ Murray  
Associates Ltd



**CIAT**  
REGISTERED PRACTICE

www.ijma.co.uk

I J Murray Associates Ltd  
200 Seafront  
Hayling Island  
Hampshire  
PO11 9HR  
Phone 07779 246915  
e-mail ian@ijma.co.uk

These drawings are the  
property of IJ Murray  
Associates Ltd and should  
not be reproduced or used in  
any way without the  
permission of a Director of  
IJ Murray Associates Ltd

These drawings are for planning and building regulation  
purposes only and are not for construction. All dimensions  
should be checked on site before work commences

Annette & David Mead

Waters Edge V7

Top floor images

|                |                |       |
|----------------|----------------|-------|
| Project number | Project Number | A119  |
| Date           | Issue Date     |       |
| Drawn by       | Author         |       |
| Checked by     | Checker        | Scale |
|                |                | 1 : 1 |