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**Report of the Chief Planning Officer**

**NORTH AND EAST PLANS PANEL**

**Date: 1<sup>st</sup> October 2015**

**Subject: Planning Application 14/07389/FU – Change of use from public house (Class A4) to community education and training centre (Class D1) at The Kiln, Brignall Garth, Leeds, LS9 7HB.**

**APPLICANT**

Ayendah Sazan Hub

**DATE VALID**

7<sup>th</sup> January 2015

**TARGET DATE**

2<sup>nd</sup> October 2015

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**Electoral Wards Affected:**

**Burmantofts & Richmond Hill**

Yes

Ward Members consulted  
(referred to in report)

**Specific Implications For:**

Equality and Diversity

Community Cohesion

Narrowing the Gap

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**RECOMMENDATION:**

**If Members are minded to refuse planning permission then a suggested reason for refusal is set out at paragraph 1.2.**

**However, in light of the further information and the advice contained in report if Members are minded to grant permission then suggested conditions are set out at paragraph 2.8.**

**1.0 SUMMARY**

1.1 At the last North and East Plans Panel meeting of 27<sup>th</sup> August 2015, the officer recommendation to grant was not accepted and the Panel resolved to refuse permission and asked officers to bring back a reason for refusal based on the following concerns:

- The applicant had failed to demonstrate through the submission of adequate information that the proposed use of the building as a community education and training centre would not give rise to on-street parking problems and noise and disturbance issues associated with the proposed number of people using the

centre, the hours of use proposed and also the likely activities taking place which could have a detriment impact on highway safety and the living conditions of local residents.

- Furthermore, the absence of any information about how the exterior of the building or its grounds would be finished or any intended boundary treatment raises potential visual amenity concerns which are not adequately resolved.

1.2 In accordance with the Panel resolution, the following reason for refusal is put forward for Members consideration:

*The Local Planning Authority considers that the applicant has failed to demonstrate through the submission of adequate information that the proposed use of the building as a community education and training centre would not give rise to on-street parking problems and noise and disturbance issues associated with the proposed number of people using the centre, the hours of use proposed and also the likely activities taking place which could have a detriment impact on highway safety and the living conditions of local residents. Furthermore, the absence of any information about how the exterior of the building or its grounds would be finished or any intended boundary treatment raises potential visual amenity concerns which are not adequately resolved. The submitted proposals therefore fail to accord with Core Strategy policy T2 and Leeds UDP Review (2006) policy GP5 and guidance contained in the National Planning Policy Framework.*

## **2.0 UPDATE SINCE PANEL OF 27<sup>TH</sup> AUGUST 2015**

2.1 Subsequent to the Plans Panel, the applicant requested a site meeting with officers in order to discuss the concerns raised by Members and attempt to provide further information to address these matters.

2.2 The applicant has provided further information on the background to the Ayendah Sazan Hub and their work elsewhere. Ayenda Sazan means 'good use of time', relating to the education and training use proposed. The applicants are members of the Hazara community, a minority group from Afghanistan, which came to the UK from 1999 onwards to escape persecution from the Taliban. The applicants recognise their responsibilities as UK citizens and also as representatives of their country of origin. Ayenda Sazan is a registered charity, established in 2006. The information on the Charity Commission website states that the objectives of the charity are:

*To promote social inclusion for the public benefit by working with people in Leeds and the surrounding area who are socially excluded on the grounds of their ethnic origin, religion, belief or creed (in particular, members of the Afghan community) to relieve the needs of such people and assist them to integrate into society, in particular by:*

- 1. Providing a local network group that encourages and enables members of the Muslim community to participate more effectively with the wider community.*
- 2. Increasing, or co-ordinating, opportunities for members of the Afghan community to engage with service providers, to enable those providers to adapt services to better meet the needs of that community.*

2.3 Currently, Ayendah Sazan hire church halls, sports centres and other community centres to hold their programmes and courses. In more recent times, the group has sought its own premises and has hence acquired The Kiln site. The general needs of the community are as set out on the Charity Commission website, detailed above. In negotiations with the applicant, they have also set out the particular needs of integrating members of the community into British Society and educating young and

vulnerable people about the dangers of drugs, alcohol and extremism. The applicant has obtained two letters of support from the Leeds Refugee Forum and the Bangladesh Centre Leeds who have expressed a positive experience of working with the Ayendah Sazan group since it was founded.

- 2.4 The applicant had previously stated that the use is for the teaching of English and Maths, which would be open to anybody, not just the Afghan community in the wider Harehills area. Members expressed concerns about the potential overlap between timetabled lessons and the implications this could have for car parking and residential amenity. The group have now provided some details of the classes they offer, which include Adult English, Adult Maths, Art, Embroidery, native language, women’s group, Computing, parents meeting, communities and integration and GCSE extra help. The classes have a gap of at least fifteen minutes (more generally half an hour or more) between them to allow people to leave before the next class starts in order to prevent any traffic conflicts. All classes are limited to a maximum of 15 people. The applicant has submitted details of the proposed timetable, below:

Monday	Tuesday	Wednesday	Thursday	Friday	Saturday	Sunday
Adult English  10:45 – 12:45	Adult Maths  10:00 – 12:15	Women’s Group Meeting  10:00 – 11:00	Community Staff Meeting  10:00 – 12:10	Embroidery Course  10:15 – 12:15	Ch Native Language  10:00 – 12:00	Ch Native Language  10:00 – 12:00
Women’s Art Group  13:15 – 14:45	Embroidery Course  12:30 – 14:30	Computer Group  11:15 – 13:15	Integration and local issues  12:15 – 14:30	GCSE extra help  16:30 – 18:30	Open for other group activities  12:00 – 20:00	Members Meeting  16:00 – 18:00
Ch Native Language  S1 16:30 – 18:30	Ch Native Language  S2 16:30 – 18:30	Parents Meeting  18:30 – 20:00	GCSE extra help  18:00 – 20:00	Group meeting  19:00 – 20:00		

- 2.5 Since the last Plans Panel, the applicant has considered the car parking proposals for the scheme. Whilst the existing level of car parking provision was considered acceptable by highway officers, Members gave a strong steer that it would be highly desirable to utilise other areas of the site in order to increase the level of car parking provision. Accordingly, the applicant now proposes to remove all of the paved area in front of the building, hard surface it and layout a formal car park providing 10 spaces, including 1 disabled space. It is also proposed to clear the access to the side of the building in order to provide a vehicular access to the rear. Similarly, it is now proposed to remove the existing paving, hard surface and provide 11 car parking spaces. A total of 21 car parking spaces are therefore now proposed.

- 2.6 The hours of use proposed are 10am – 8pm, Monday to Sunday. Given the contained nature of the building, the proposed education use and the restrictions on the number of trainers and people attending classes, it is considered that there would be no significant level of noise and disturbance that would be detrimental to the level of

residential amenity enjoyed by nearby properties. Whilst it is acknowledged that the former pub does not have a licence, the current lawful use of the site continues to be that of a Class A4 drinking establishment. From a planning perspective, there is a legitimate 'fall back' argument that the later opening hours and unrestricted attendance is a materially worse situation than the scheme proposed in this application.

2.7 Historically, the applicant removed the proposal for a metal paladin fence around the site following concerns raised by local residents in the letters of objection. Following the concerns raised by Members at the last Panel, the applicant is proposing a new boundary treatment around the perimeter of the site which is largely to comprise brick dwarf walls and brick piers with timber fencing between. The applicant's intention is to propose a boundary which has more of a domestic feel, akin to those found around the garden areas of properties close to the site. Specifically, a 0.5m dwarf wall with 1m high timber fencing above, separated by brick piers is proposed to the front (north-east) boundary. A 0.5m high dwarf wall with 1.5m high timber fencing above, separated by brick piers is proposed to the side (south-east) and rear (south-west) boundaries. A similar treatment is to be erected on the side (north-west) boundary, utilising the existing wall. Part of the rear side boundary is adjacent to a mature landscaping belt. In order to prevent damage to the root systems of shrubs in this area, it is considered preferable to erect a 2m high timber fence on the rear part of the north-west side boundary, as shown on the proposed plans. In addition to the above, a 1m deep landscape buffer is now proposed behind the front boundary treatment, which will help to soften what is currently quite a hard environment. A bin store enclosure is proposed within the site, adjacent to the front access, the details of which can be secured by condition. It is not proposed to extend or carry out significant alterations to the building other than to make the openings to the building secure (the details of which can be agreed via a condition).

2.8 On the basis of the additional information provided, as described above, officers consider that Members now have further, more detailed information in order to address the concerns raised and aid the determination of the application. Officers further consider that given the imposition of the suggested conditions, the application is acceptable:

1. Time limit - 3 years.
2. Development to be carried out in accordance with the approved plans.
3. Use restricted to a training and education use within Class D1 (non-residential institutions).
4. Maximum of 15 people attending classes at any one time.
5. Opening hours restricted to 10am – 8pm, Monday to Sunday.
6. Car parking to be laid out and made available prior to first use.
7. Details of lighting fitments to be submitted and approved. No lighting to face towards residential properties.
8. Details of bin store to be submitted and approved.
9. Landscape buffer to be planted and maintained.
10. Details of walling and surfacing details to be submitted and approved.
11. Scheme for removal of existing grilles to be submitted and approved

### **3.0 IMPLICATIONS OF A REFUSAL OF PERMISSION**

3.1 If the application is refused, the applicant has a right of appeal to the Planning Inspectorate. It is important to note the advice contained in the National Planning

Practice Guidance (NPPG) which provides advice in respect of appeals and also the ability to claim costs. Costs may be awarded where:

- a party has behaved unreasonably; and
- the unreasonable behavior has directly caused another party to incur unnecessary or wasted expense in the appeal process.

3.2 The word “unreasonable” is used in its ordinary meaning, as established by the courts in *Manchester City Council v SSE & Mercury Communications Limited* [1988] JPL 774. Unreasonable behaviour in the context of an application for an award of costs may be either:

- procedural – relating to the process; or
- substantive – relating to the issues arising from the merits of the appeal.

3.3 The Inspector has discretion when deciding an award, enabling extenuating circumstances to be taken into account. Local planning authorities are at risk of an award of costs if they behave unreasonably with respect to the substance of the matter under appeal, for example, by unreasonably refusing or failing to determine planning applications, or by unreasonably defending appeals. Of specific relevance, the NPPG advises that Local Planning Authorities are at risk of substantive costs by (amongst other things):

- preventing or delaying development which should clearly be permitted, having regard to its accordance with the development plan, national policy and any other material considerations.
- vague, generalised or inaccurate assertions about a proposal’s impact, which are unsupported by any objective analysis.
- refusing planning permission on a planning ground capable of being dealt with by conditions risks an award of costs, where it is concluded that suitable conditions would enable the proposed development to go ahead.

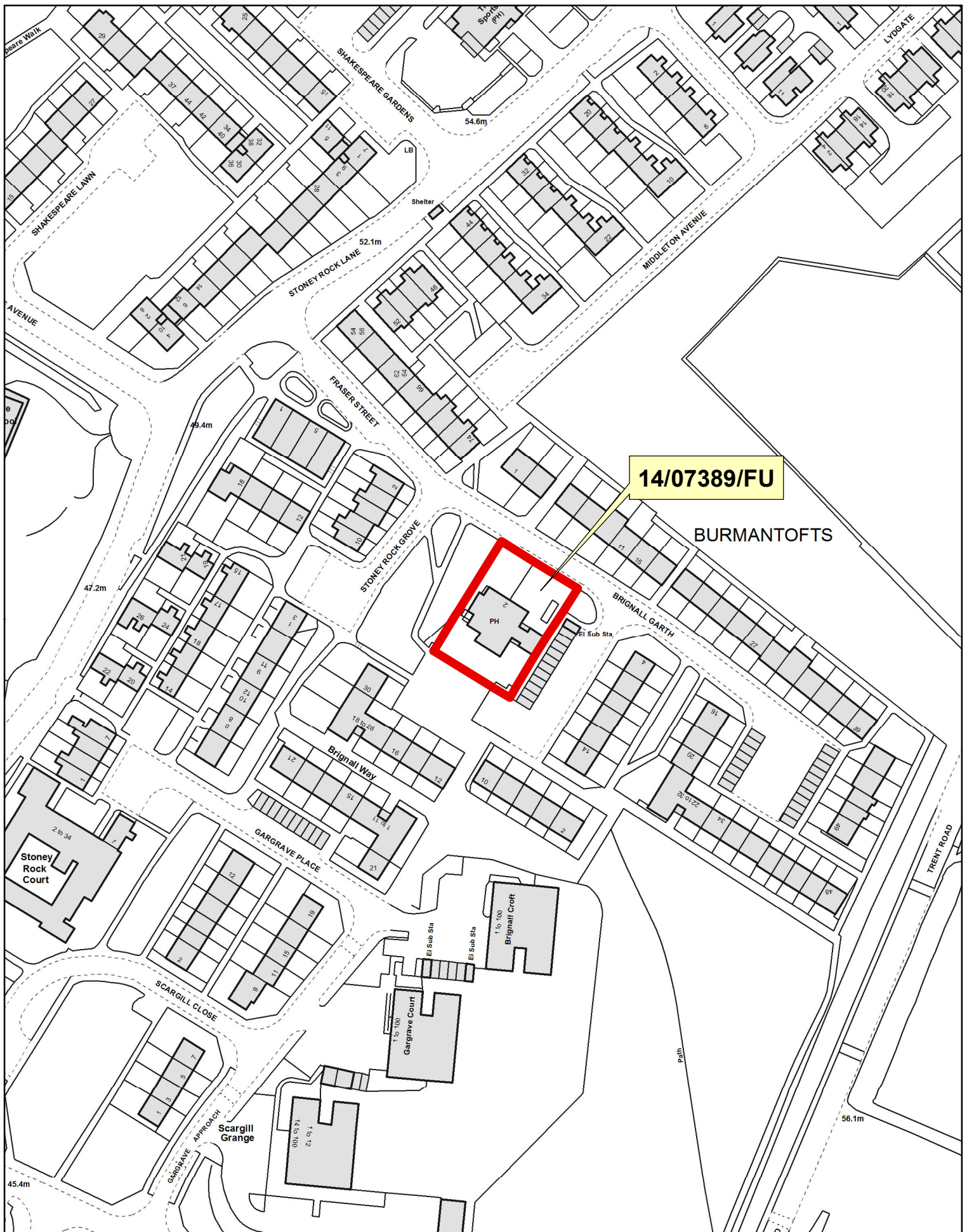
3.4 It is also important to note the requirements of the Equality Act 2010 (referred to in the original report to Plans Panel). Section 149 of the Act requires public bodies to have due regard to eliminate discrimination and to advance equality of opportunity. Of specific relevance to this application is the need to promote equality of opportunity and good relations between persons of different racial groups. Officers consider that the benefits of the scheme are a material consideration in the determination of this planning application and that any potential negative impacts can be addressed through the use of conditions. Failure to have due regard could result in a legal challenge, as in the case of *Harris R v The London Borough of Haringey* (June 2010).

3.5 In reaching a decision on this application Members will have to have regard to government guidance on the award of costs and reach a view whether in light of the additional information provided by the applicant a reason for refusal could be substantiated at appeal.

### **Background Papers:**

Application and history files.

Certificate of Ownership – Signed as applicant



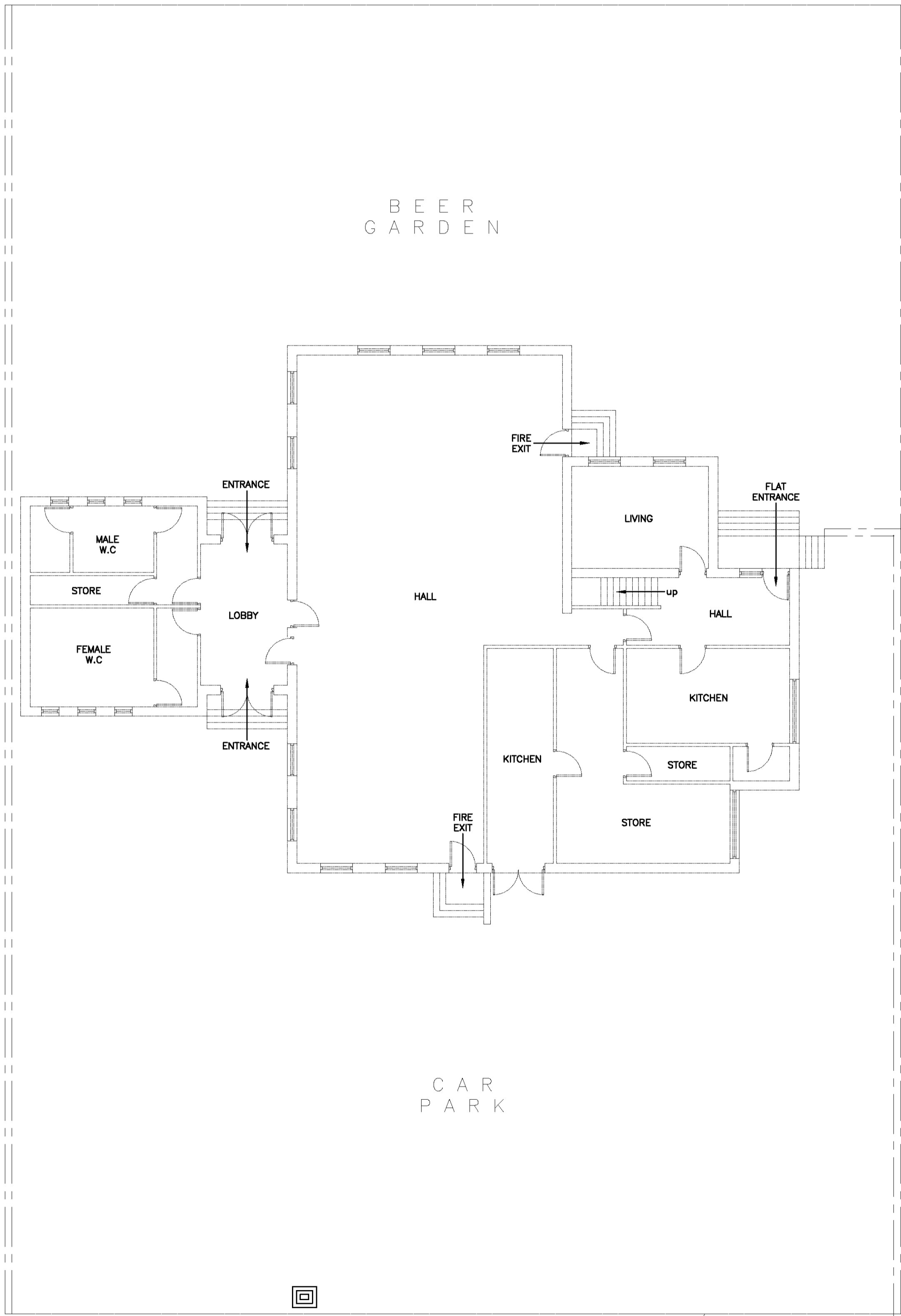
# NORTH AND EAST PLANS PANEL

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PRODUCED BY CITY DEVELOPMENT, GIS MAPPING & DATA TEAM, LEEDS CITY COUNCIL

SCALE : 1/1500

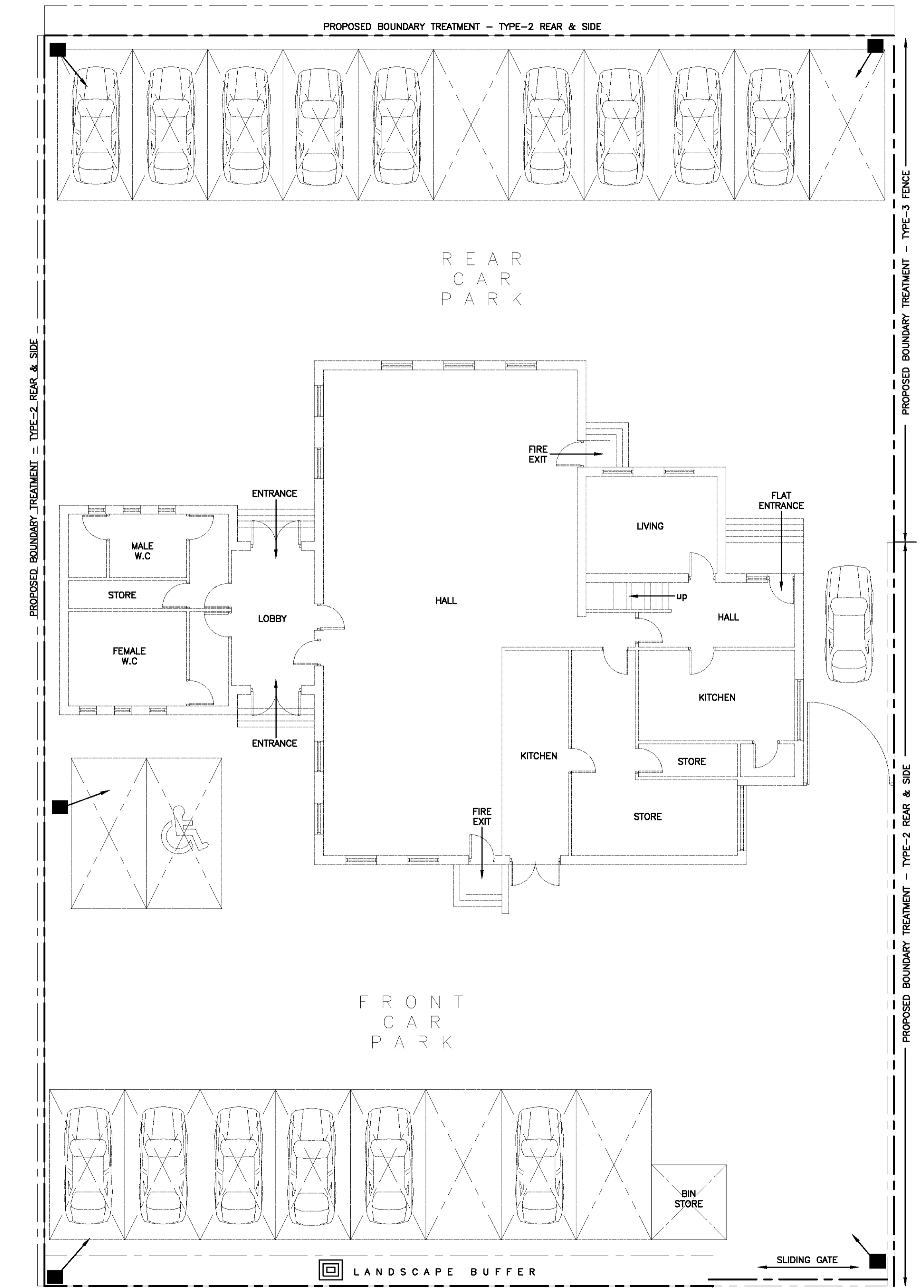




EXISTING SITE PLAN

BRIGNALL GARTH

EXISTING

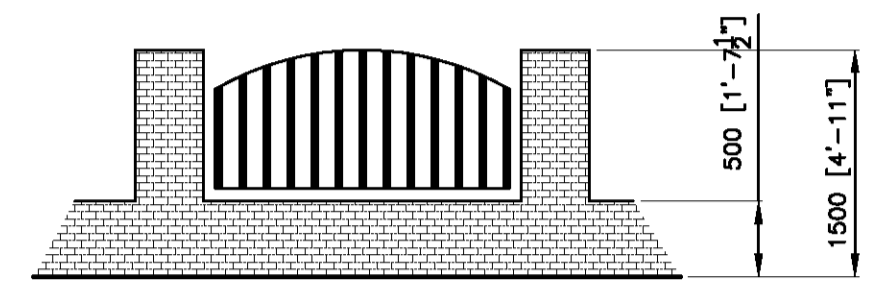


PROPOSED SITE PLAN

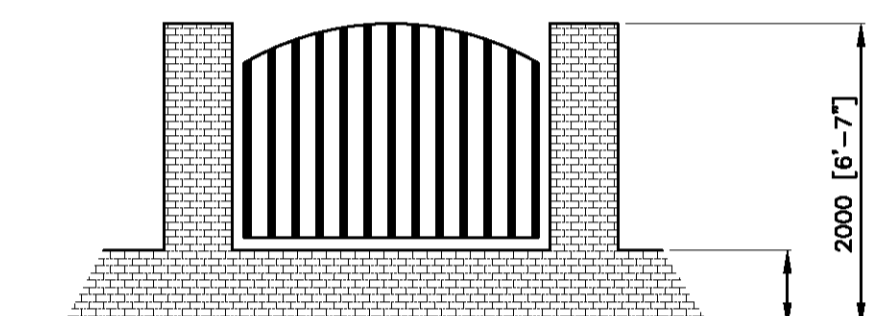
BRIGNALL GARTH

PROPOSED

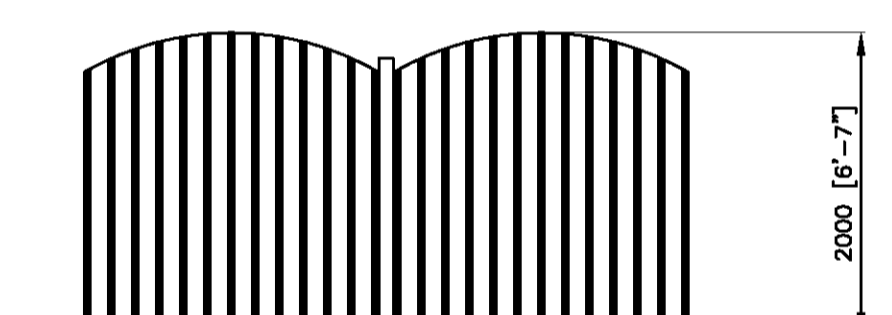
**Note;**  
 ALL WORK TO BE CARRIED OUT IN ACCORDANCE WITH THE CURRENT BUILDING REGULATIONS & CODES OF PRACTICE.  
 ALL DIMENSIONS TO BE CHECKED ON SITE.  
 ALL DIMENSIONS IN MILLIMETRES.  
 DO NOT SCALE FROM THIS DRAWING.



PROPOSED BOUNDARY TREATMENT TYPE-1 FRONT



PROPOSED BOUNDARY TREATMENT TYPE-2 REAR



PROPOSED BOUNDARY TREATMENT TYPE-3 FENCE

■ - NIGHT LIGHT  
 BUILDING ELEVATIONS TO BE ILLUMINATED FROM CAR PARKS TO BUILDING. DIRECTION OF LIGHT SHOWN

A	CARPARKING & BOUNDARY TREATMENT ADDED	10-09-15
Rev:	Revision No:	Date:
Client:	THE KILN	
Project:	BRIGNALL GARTH, LEEDS, LS9 7HB.	
Title:	EXISTING & PROPOSED SITE PLANS	
Scale:	Date:	Drawing No:
1:100@A1	SEPT 15	14166-5
		Revision:
		A

**KMS CONSULTANTS & ASSOCIATES LTD**  
 M - 07939 545 564 T - 0845 111 0945  
 E - kmsconsultants@gmail.com