

COMMITTEE REPORT

BY THE DIRECTOR OF ENVIRONMENT AND NEIGHBOURHOOD SERVICES

READING BOROUGH COUNCIL

ITEM NO. 10

PLANNING APPLICATIONS COMMITTEE: 27th June 2018

Ward: Abbey

Application No.: 180739/NMA

Address: 114-116 Oxford Road, Reading, RG1 7NE

Proposal: Non-material amendments to permission 150721 [Erection of part 4, part 5 storey building providing 16 (2x1, 13x2 & 1x3-bed) residential units (Class C3) with associated parking and landscaping, following demolition of existing buildings (Class A1 / B8 / nil use) (amended description)], namely to raise the height of the building by 0.5m, to omit the mezzanine floor to flats 13 and 14 and change the configuration of the front entrance door to the flats.

Applicant: Fynecast Ltd

Date Valid: 02/05/2018

Application target decision date: Originally 30/05/18, but an extension of time has subsequently been agreed with the applicant until 29/06/2018.

26 week date: 31/10/18

RECOMMENDATION

AGREE the non-material amendment to permission 150721 subject to the following condition:

1. The drawings hereby approved as non-material amendments to 150721 are as follows:

114:18:401 Rev B - Ground Floor, as received 02/05/18

114:18:402 Rev B - Third Floor, as received 02/05/18

114:18:403 Rev B - Front & Rear Elevations, as received 02/05/18

114:18:404 Rev B - Side Elevations, as received 02/05/18

114:18:405 Rev B - Inward Facing Rear Elevations, as received 02/05/18

114:18:406 Rev A - Street Scene, as received 02/05/18

114:18:408 - Mezzanine Plans & Sections, as received 02/05/18

114:18:410 Rev A - Block & Location Plans, as received 02/05/18

114:18:411 - Roof Plans, as received 02/05/18

114:18:412 - Proposed Building Sections, as received 02/05/18

114:18:413 Rev A - Block Plan, Drainage & Landscaping, as received 02/05/18

Reason: To clarify which plans are approved and in the interests of proper planning.

Informatives:

1. This permission relates only to the changes highlighted on the plans. Furthermore it shall only be read in the context of the planning permission 150721 and is bound by all the conditions and obligations attached to that permission. That permission still stands and this notice (and any other notices issued under section 96a for this development in the future) should be read together.

2. In reaching this decision, the local planning authority is satisfied that the changes proposed by this application do not constitute material changes to the approved planning

permission.

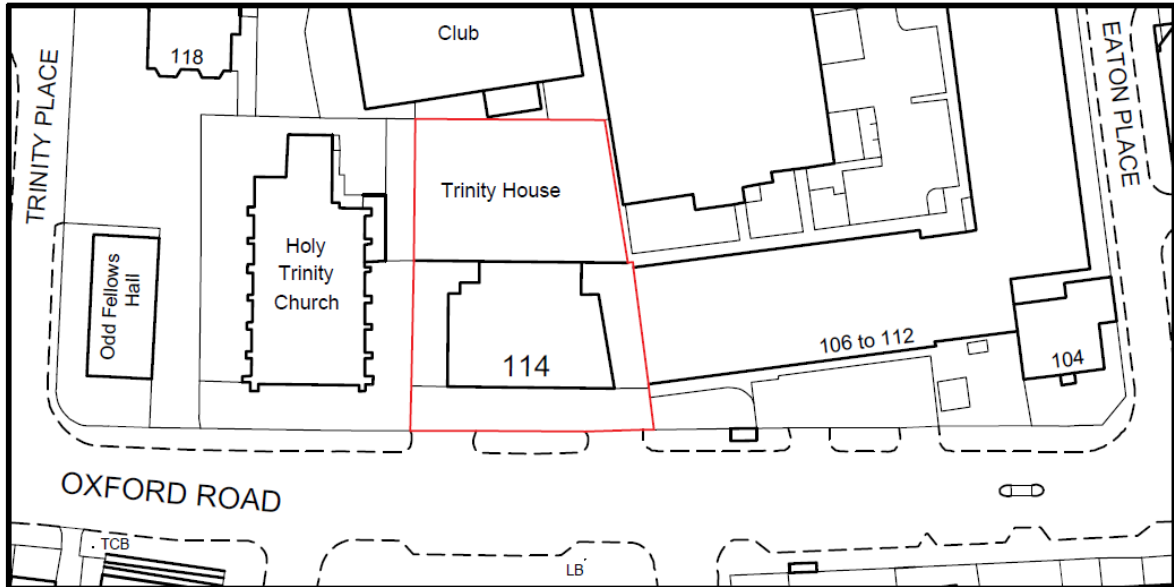
3. The Local Planning Authority has worked positively and proactively with the applicant to determine under the non-material amendment procedure within the agreed timeframes.

1. INTRODUCTION

- 1.1 The application site is located on the north side of Oxford Road, in-between the junctions with Eaton Place to the east and Trinity Place to the west. Based on an unaccompanied officer site visit on 31/05/18 it is evident that the site is vacant, with demolition nearing completion at that time. Until recently it comprised two buildings, one fronting Oxford Road and the other to the rear of the site. The Oxford Road fronting building was basement and three (ground, first and mezzanine floor level) storey building, with a formerly vacant retail use at basement, ground and part first floor level. Until August 2015 this unit was occupied by Richer Sounds. A front forecourt area provided some existing off-street parking facilities. Accessed from both side elevation access points were two former residential units, located at first and mezzanine floor level. It was apparent from the officer site visit on 16/09/15 (at the time of original application 150721) that the units had not been habitable for many years and were in a very poor state of disrepair. It is understood that the units had not been occupied since the early 1980s and were therefore considered to be an abandoned (nil) use in planning terms (at the time of original application 150721. The building to the rear is a single storey (but double height) warehouse building which the then applicant detailed at the officer site visit on 16/09/15 had been vacant since 2008. Previously the building had been occupied by Funeral Directors.
- 1.2 This application site is located within the designated Reading Central Area. Although located outside of the primary shopping area, office core and central core, the site does form part of a wider site designation within the Reading Central Area Action Plan. As part of site RC4a, which consists of 108-116 Oxford Road, 10 Eaton Place and 115-125 Chatham Street, the wider area is allocated for 'residential development with associated community uses (100-150 dwellings)'. The application site comprises circa. 20% of this designated area. The application site is also within an air quality management area and Oxford Road is a designated cycle route.
- 1.3 The application site is also located in close proximity to a number of listed buildings. Most visibly, immediately to the west of the site is the Grade II listed Holy Trinity Church. The False Acacia tree within the churchyard overhangs the application site is subject to Tree Preservation Order 168/01. To the south-west of the site No.s 139 & 141 Oxford Road are also Grade II listed, as is No. 118 Oxford Road to the north-west. Slightly further away, to the west is the Grade II listed terrace of No's 149-169 (odd) Oxford Road, while to the east No. 104 Oxford Road (Mannson House) is Grade II listed too.
- 1.4 Furthermore, the site is located directly to the north of the boundary to the Russell Street/Castle Hill Conservation Area, with the buildings opposite the site on the south side of Oxford Road being within the conservation area. The surrounding area comprises a mix of uses and building types. As well as those already noted, to the north of the site is the Face Bar Nightclub (which fronts onto Ambrose Place), to the east is a two-storey office building (No's 106-112 Oxford Road) with parking to the front and rear, while to the south are the retail and related uses of units on the

south side of Oxford Road (No's 127-141 - odd) between the junctions of Waylen Street and Russell Street.

- 1.5 The application is being considered at Planning Applications Committee at the request of Councillor Page (as per section 11 of the scheme of delegation).



Site Location Plan (not to scale).



Site photograph dated 05/03/2018.

Site photograph dated 31/05/18



Aerial view looking north.

2. PROPOSALS

2.1 Non-material amendments are sought to planning permission 150721, namely:

- An overall increase in height of the building by 0.5m;
- The omission of the mezzanine floor to flats 13 and 14 (resulting in the reduction from 16 to 4 rooflights on the pitched roof at this point - omission of 12 rooflights)
- A change in the configuration of the front entrance door to the flats (Oxford Road elevation).

3. PLANNING HISTORY

- 3.1 081462 - Demolition of existing commercial buildings. Construction of a new shop and 18 flats with associated parking. Refused 11/03/2009 following consideration at the Planning Applications Committee on 04/03/2009.
- 3.2 150721 - Erection of part 4, part 5 storey building providing 16 (2x1, 13x2 & 1x3-bed) residential units (Class C3) with associated parking and landscaping, following demolition of existing buildings (Class A1 / B8/ nil use). (amended description). Granted following completion of s106 legal agreement 17/02/16. This application was resolved to be granted by the Planning Applications Committee at the meeting on 10/02/2016.
- 3.3 171798 - Discharge of conditions 3 (materials), 13 (construction method statement), 17 (arboricultural method statement) and 24 (sustainable drainage) of planning permission 150721, as granted on 17/02/2016. Discharged 30/11/17.
- 3.4 180325 - Variation of condition 2 (approved plans) of planning permission 150721 [Erection of part 4, part 5 storey building providing 16 (2x1, 13x2 & 1x3-bed) residential units (Class C3) with associated parking and landscaping, following demolition of existing buildings (Class A1 / B8 / nil use). (amended description)], namely for various minor material amendments including replacement of approved balconies with Juliet balconies on front and rear elevations at first and second floor level, fenestration alterations, increase in height of the approved building by 0.5 metres and associated works. Withdrawn 27/04/18.

4. CONSULTATIONS

i) Internal / External

4.1 Not considered to be required for this type of application.

ii) **Public consultation**

4.2 No statutory requirement for this type of application (Local Planning Authorities have discretion), as it is not an application for planning permission. None has been carried out for this application.

4.3 A letter has been received from a Churchwarden of the neighbouring church, stating:

"The Churchwardens of the Most Holy Trinity Church have reviewed the planning application for a non-material amendment application No. 180739. The changes are very small and we understand and support the reasons for the application."

5. **LEGAL AND PLANNING POLICY CONTEXT**

5.1 Whilst there is no statutory definition of what constitutes a 'non-material' amendment, Section 96A, part 2 of the Town and Country Planning Act 1990 (as amended) states that, "In deciding whether a change is material, a local planning authority must have regard to the effect of the change, together with any previous changes made under this section, on the planning permission as originally granted." The National Planning Practice Guidance clarifies that there is no statutory definition of 'non-material' "because it will be dependent on the context of the overall scheme - an amendment that is non-material in one context may be material in another." To clarify, a non-material amendment permission does not result in a new permission.

5.2 In terms of relevant policies, the proposed amendments are assessed for materiality - not on the basis of their planning merits. Planning policies therefore do not apply. The National Planning Practice Guidance confirms that "as this is not an application for planning permission, section 38(6) of the Planning and Compulsory Purchase Act 2004 does not apply."

6. **APPRAISAL**

6.1 The main issue is considered to be whether the proposed changes are non-material amendments to the original permission or not. Accordingly, each of the three changes are considered in turn:

i) Increase in height of the building by 0.5m;

6.2 In support of this element of the proposals, the applicant (who it is noted is a different applicant than at the time of the original permission) has provided commentary explaining the reasons behind the proposed increase in floor to floor heights of the building, which in-turn has resulted in a proposed overall increase in height of the building (in comparison with the original permission) of 0.5m:

"From a construction point of view the existing planning consent is unbuildable because the Building Regulations require a minimum floor thickness to achieve acoustic separation between the units - this is in the region of 400mm depending on the construction method used - the approved plus have a floor thickness of only 291mm. The floor to ceiling height shown on the planning drawings is 2.33m which is the minimum floor

height required, so there is no opportunity to reduce ceiling heights to gain the aforementioned floor thicknesses required.

As such, Fynecast Limited propose to increase each floor height by 0.2m to achieve the necessary floor to floor separation required by the Building Regulations. On the face of it this would lead to an overall height increase of 0.6m to the height of the building, however, by lowering the height of the main and prominent gable ended section the overall height of the building will only rise by 0.5m. It is noted that the original permission was sensitive to the impact of the development on the neighbouring listed church and adjacent conservation area. The proposed building is still lower and subservient to the Church and the proposed increase in height only represents a 3.3% increase - a minimal increase.

It should also be borne in mind that when the adjacent property at 106-112 Oxford Road is re-developed, this will have floor to floor heights similar to those proposed at 114 Oxford Road, so the proposed height will not look out of place.

The whole situation has been exacerbated by two conditions which have been attached to the original consent. Specifically, Conditions No. 15 and No. 16, which have been expanded upon in greater detail below. Condition 15 relates to measures to protect future occupiers from the external noise environment. This condition deemed necessary due to the presence of a nightclub immediately to the rear of the site.

All dwellings require natural fresh air for obvious reasons, and to comply with the Building Regulations. This is usually in the form of trickle ventilations to windows, or extractor fans to bathrooms and kitchens. Both of these traditional forms of ventilation will 'let the sound through' and won't protect residents from the sound coming from the nightclub, nor comply with the Planning Condition.

As stated in the Noise Assessment Report which accompanied the original application, the solution is to fit a ventilation system which draws air in, circulates it around the apartment and expels the stale air. Acoustic baffles will be fitted to the intake and exhaust to prevent sound from the nightclub leaking into the dwelling.

Condition 16 similarly requires measures to mitigate the impacts of poor air quality. In tandem with the solution to Condition 15, the ventilation system will also be fitted with a carbon filter to remove pollutants from the air.

The ventilation system would distribute clean air around each apartment via ducts above the ceiling. Overlooked on the as approved drawings, the space above the ceiling where this ventilation would be fitted is not high enough to accommodate the ventilation.

By increasing the height of each floor by just 0.2m the necessary sound separation between units, as well as the two planning conditions attached to the original consent will be able to be implemented."

- 6.3 Officers consider that, within the context of an approved part-four (totally 10.88m in height), part-five storey building (totalling 14.96m in height), a 0.5m increase falls within the realms of a non-material amendment to the original permission. At

the time of original permission (150721) the officer committee report at paragraph 6.10 that:

"In terms of the general height, bulk and mass of the proposed development, it is considered that this element of the proposals has been carefully considered within the context of the previously refused scheme at the site, the wider site allocation, the neighbouring and nearby listed buildings, the adjacent conservation area, the general prevailing character and appearance of the area and, naturally, relevant planning policies. When all relevant factors are taking into account, it is concluded that the general mass, footprint and height of the proposed building is appropriate."

6.4 The increase in height is not considered to alter any part of the conclusions reached previously, as agreed by members of the Planning Applications Committee on 10/02/16 when the original application was determined. The local context has not significantly altered in the intervening time to lead to a different overall conclusion. It is also evident from the commentary provided by the applicant that the changes are required as a result of design development and to enable compliance with relevant conditions attached to the original permission.

ii) Omission of the mezzanine floor to flats 13 and 14 being used as habitable floorspace (resulting in the omission of 12 rooflights)

6.5 In support of this element of the proposals, the applicant has provided commentary explaining the reasons behind the proposed removal of the mezzanine floor and resultant associated external works (removal of rooflights):

"It was considered that the mezzanine floor did not really work internally due to the sloping ceilings compromising the internal space. The approved design was a little misleading and upon closer inspection, the sloping ceilings greatly inhibited the usable space. Fynecast Limited believe reformulating the internal layout of the unit on the third floor would provide better usage of the space. This would reflect the layouts of the ground, first and second floor flats. The two flats this affects are also slightly disproportionate as the living area is smaller than the bedroom areas, which is unusual. Externally there would be no change to the elevations."

6.6 Officers consider that these changes are non-material amendments to the approved scheme. Internal alterations do not in themselves require planning permission, so these can only be described as non-material. Notwithstanding this, these internal layout changes are not considered to unduly compromise the quality of accommodation for future occupiers (these units would remain 2-bed flats). The omission of 12 rooflights, reducing the overall number on the pitched roof feature from 16 to 4 is not considered to alter the design idiom of the scheme.

iii) Change in the configuration of the front entrance door to the flats.

6.7 In support of this element of the proposals, the applicant has provided commentary explaining the reasons behind the proposed amendment, as follows:

"We propose to slightly amend the arrangement of the front entrance to the flats by having full height side lights to the doors for aesthetic reasons to improve the appearance of the building, and offset the front door to

one side. Currently the doors are central into the building and this means the occupants are in danger of banging their heads on the underside of the stairs. By moving the door to the right-hand side, this will be avoided. Further, the proposed door and window configuration reflects the window lines from the upper floor common areas and the window lines will now "flow" better down the building."

- 6.8 Officers consider that this proposed change is minor in nature and scale, not compromising the overall design / access / amenity intentions of the original permission.
- 6.9 Accordingly, in overall terms officers are content that the proposed changes are acceptable. Officers also consider that these changes can be made through the non-material amendment procedure. More specifically, it is not considered that the amendments, either individually or cumulatively, will have any material impact on the overall design idiom, neighbour amenities, transport / highway safety or any other relevant intentions. This is primarily owing to the context of the overall approved scheme and the nature of the surrounding context, with the proposed changes being of a relatively minor scale and nature in this context.
- 6.10 It is also noted that the proposal has come about following the withdrawal of 180325 (see relevant history section above), with two of the three elements previously proposed now sought in this instance (increase in height by 0.5m and alterations associated with the omission of the mezzanine floor). One element previously proposed as part of 180325 is not sought in this instance (infilling of balconies with additional floorspace and associated works), as officers advised the applicant this would not be considered to be a non-material amendment. One new element (in addition to the two elements referenced above) is included in this submission, namely a change to the ground floor entrance door/window arrangement on the Oxford Road frontage. To be clear, all three changes proposed as part of this application are considered appropriate by officers and suitable to progress through the non-material amendment procedure.
- 6.11 An informative is recommended which states that this permission relates only to the changes highlighted on the plans. Furthermore it shall only be read in the context of the planning permission granted under reference number 150721, and is bound by all the conditions and obligations attached to that permission. A further informative is recommended which states: In reaching this decision, the local planning authority is satisfied that the changes proposed by this application do not constitute material changes to the approved planning permission.

i) Equality

- 6.12 In determining this application the Council is required to have regard to its obligations under the Equality Act 2010. The key equalities protected characteristics include age, disability, gender, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sexual orientation. It is considered that there is no indication or evidence that the protected groups have or will have different needs, experiences, issues and priorities in relation to this particular application.

7. CONCLUSION

- 7.1 The proposals are considered to be acceptable as non-material amendments to the original permission and therefore are recommended to be agreed as such.

Drawings:

114:18:401 Rev B - Ground Floor, as received 02/05/18

114:18:402 Rev B - Third Floor, as received 02/05/18

114:18:403 Rev B - Front & Rear Elevations, as received 02/05/18

114:18:404 Rev B - Side Elevations, as received 02/05/18

114:18:405 Rev B - Inward Facing Rear Elevations, as received 02/05/18

114:18:406 Rev A - Street Scene, as received 02/05/18

114:18:408 - Mezzanine Plans & Sections, as received 02/05/18

114:18:410 Rev A - Block & Location Plans, as received 02/05/18

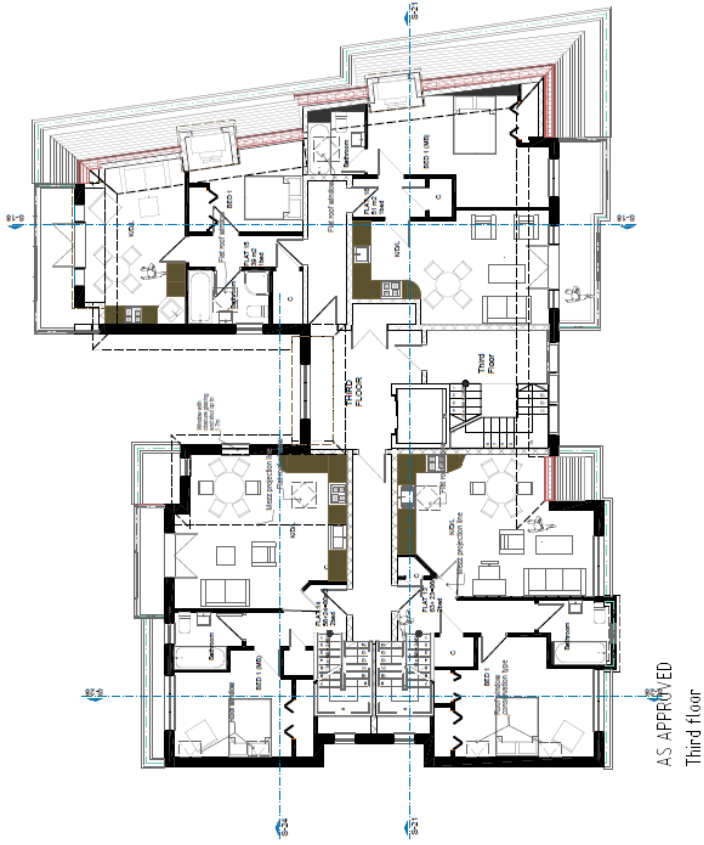
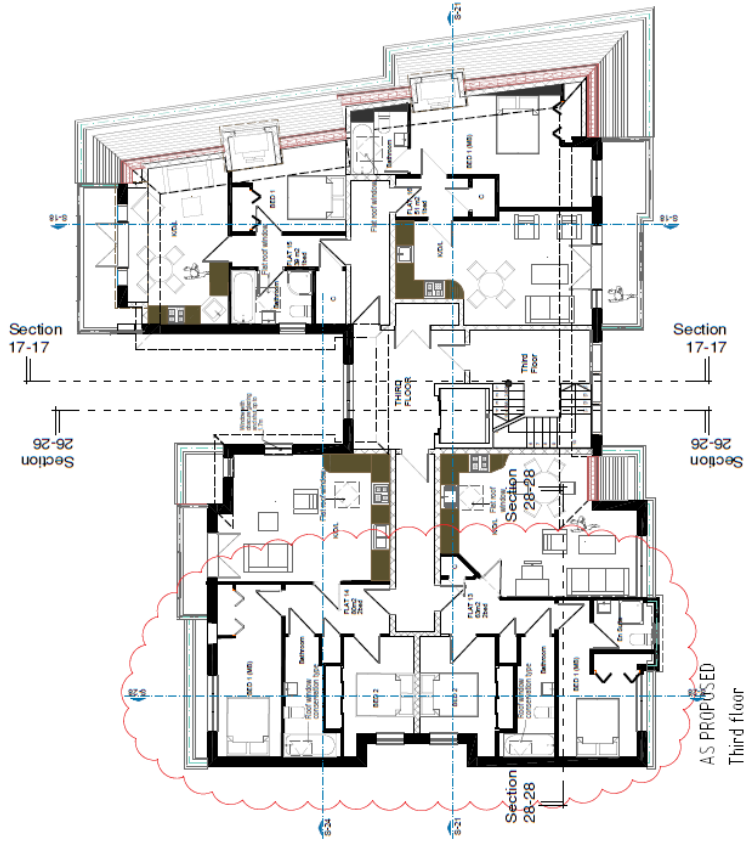
114:18:411 - Roof Plans, as received 02/05/18

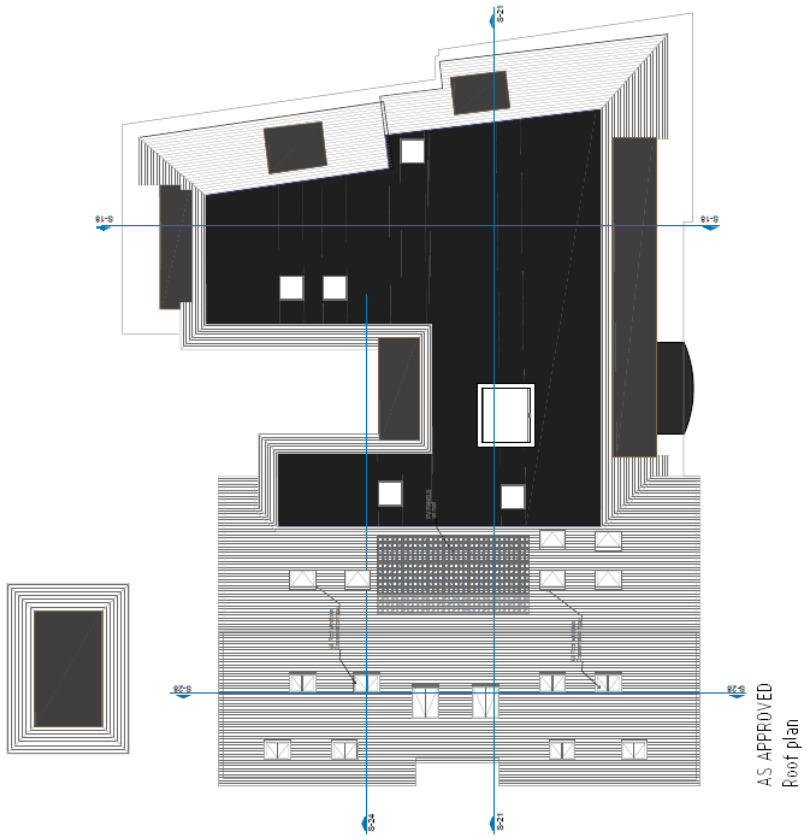
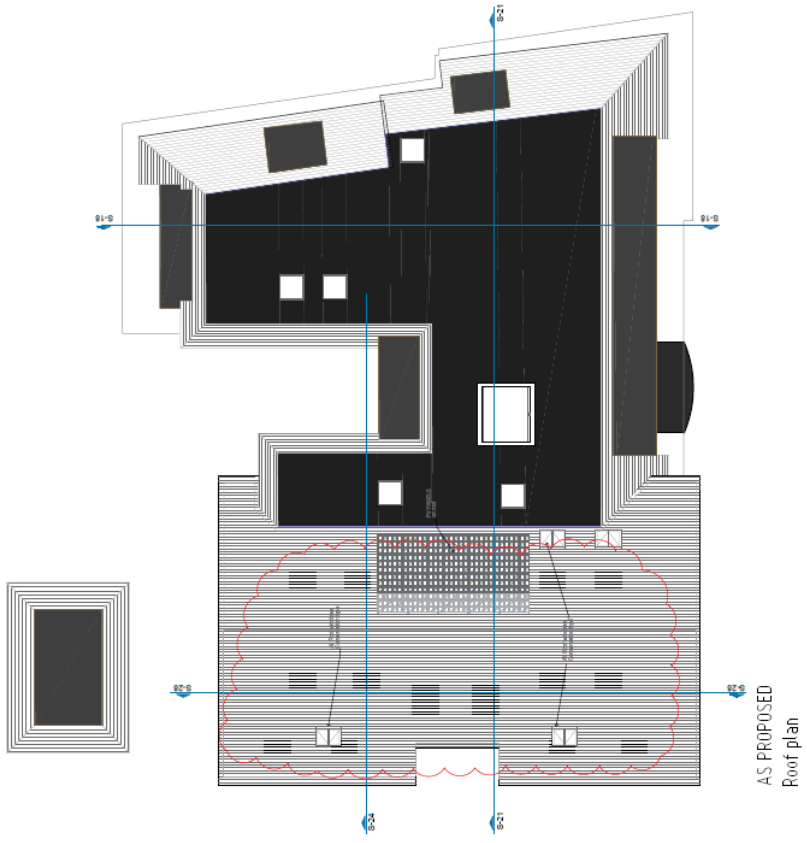
114:18:412 - Proposed Building Sections, as received 02/05/18

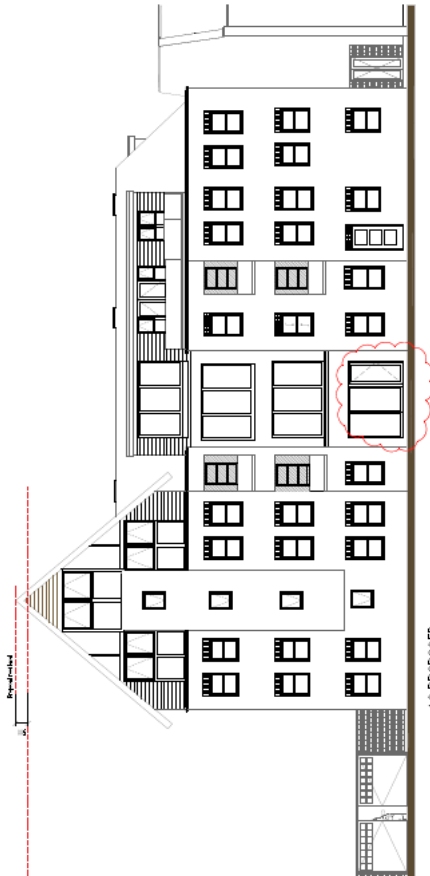
114:18:413 Rev A - Block Plan, Drainage & Landscaping, as received 02/05/18

Design and Access Statement by Fynecast Limited, as received 30/05/18

Case Officer: Jonathan Markwell







AS PROPOSED
Front elevation



AS APPROVED
Front elevation



AS PROPOSED
Rear elevation



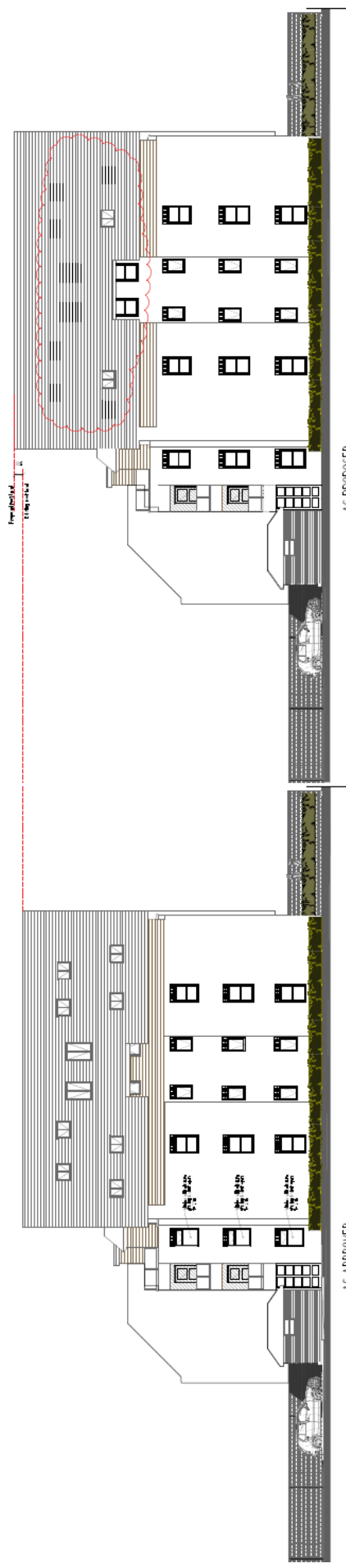
AS APPROVED
Rear elevation



As approved

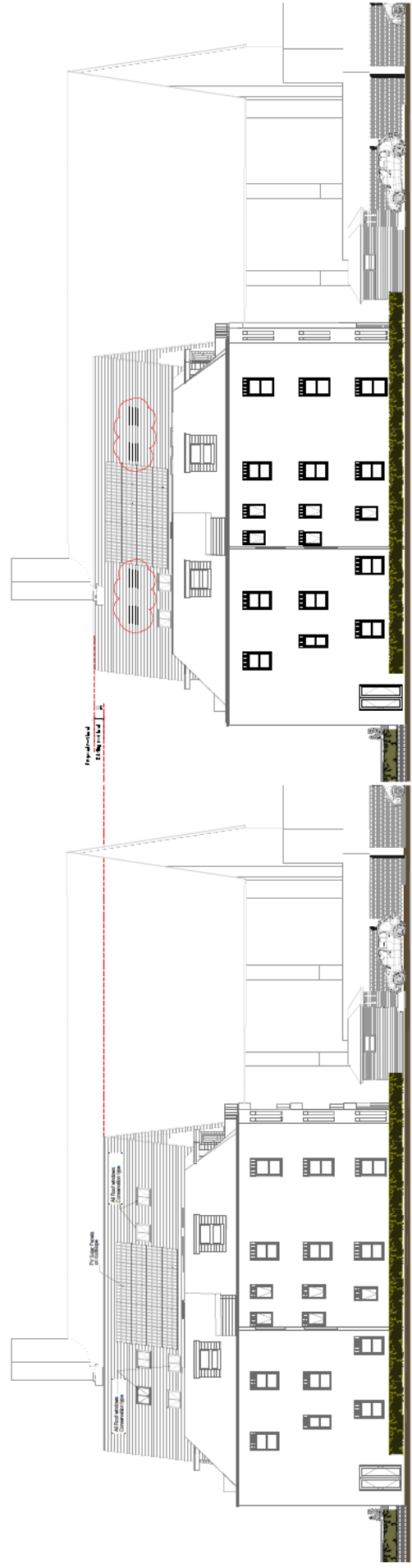


As proposed



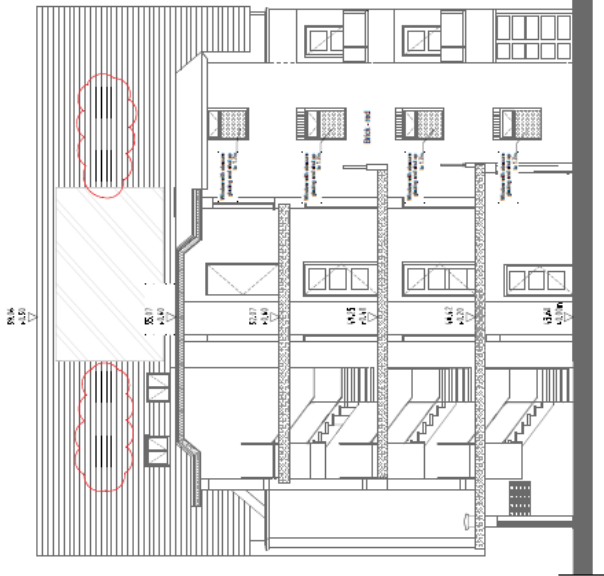
AS APPROVED
Side elevation - West

AS PROPOSED
Side elevation - West

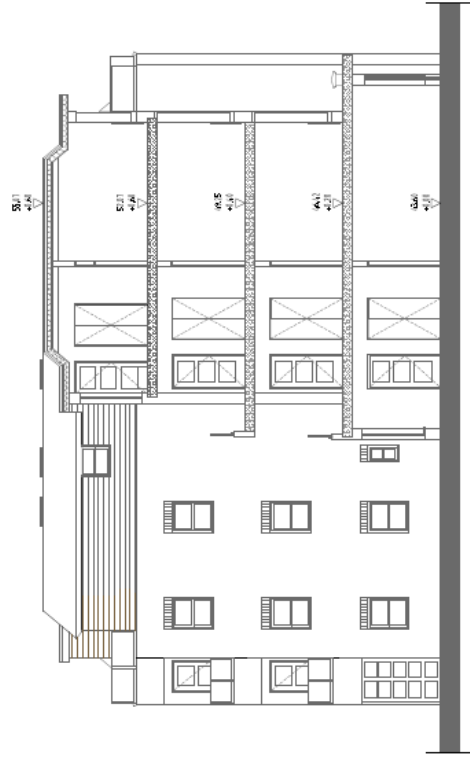


AS APPROVED
Side elevation - East

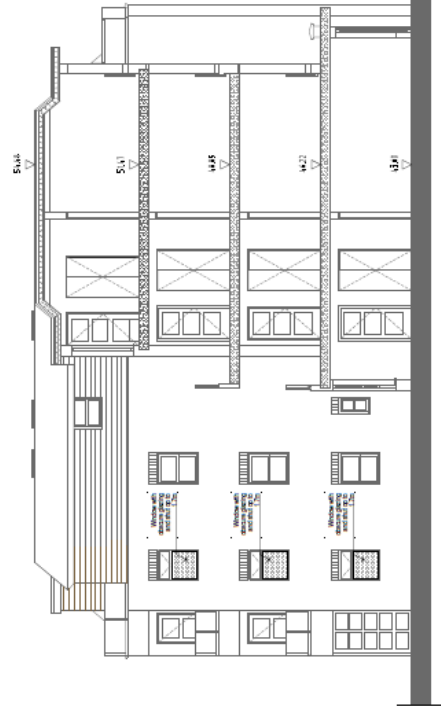
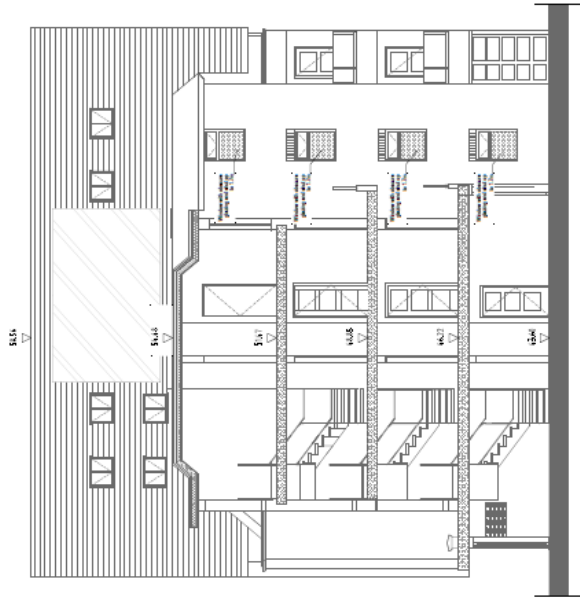
AS PROPOSED
Side elevation - East



As Proposed
Section - Internal Side Elevation East 26-26

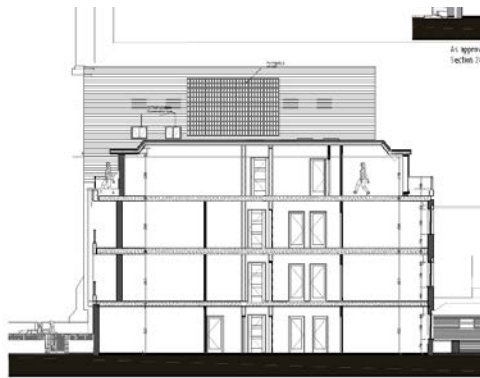


As Approved
Section - Internal Side Elevation East 26-26

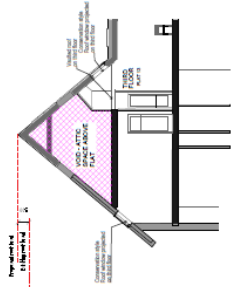




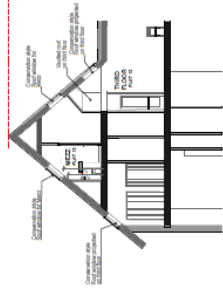
As approved
Section 9-9



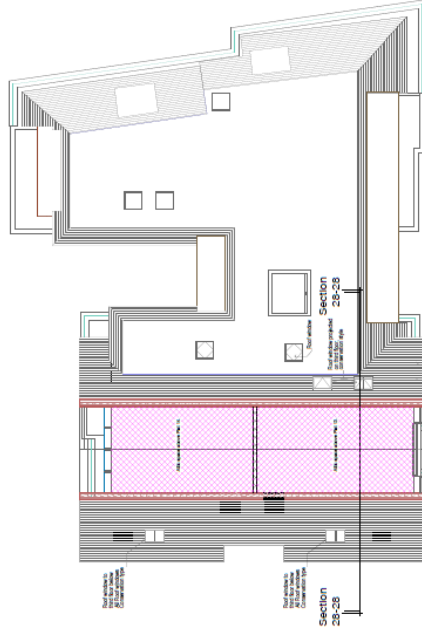
As proposed
Section 9-9



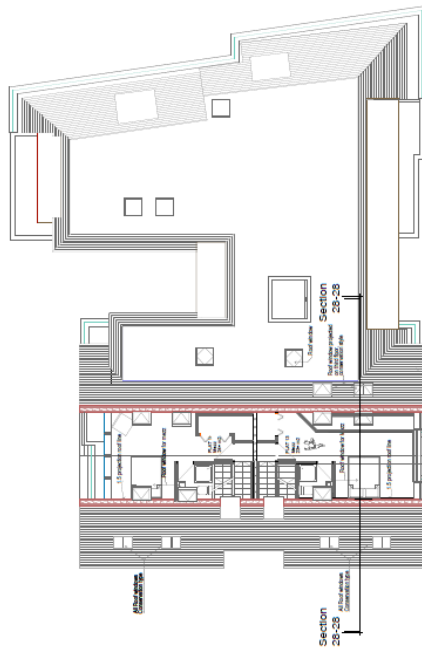
AS PROPOSED
Section 28-28 Third floor - Mezzanine omitted



AS APPROVED
Section 28-28 Third floor & Mezzanine



AS PROPOSED
Mezzanine floor omitted



AS APPROVED
Proposed Mezz Plan Flats 13 & 14