

Public Document Pack



To: Councillor Boulton, Convener; and Councillors Cameron, Copland, Duncan and Nicoll.

Town House,
ABERDEEN 19 October 2017

LOCAL REVIEW BODY OF ABERDEEN CITY COUNCIL

The Members of the **LOCAL REVIEW BODY OF ABERDEEN CITY COUNCIL** are requested to meet in **Committee Room 2 - Town House** on **WEDNESDAY, 1 NOVEMBER 2017 at 2.00 pm.**

FRASER BELL
HEAD OF LEGAL AND DEMOCRATIC SERVICES

BUSINESS

- 1 Procedure Notice (Pages 5 - 6)

COPIES OF THE RELEVANT PLANS / DRAWINGS ARE AVAILABLE FOR INSPECTION IN ADVANCE OF THE MEETING AND WILL BE DISPLAYED AT THE MEETING

MEMBERS PLEASE NOTE THAT THE FOLLOWING LINK WILL TAKE YOU TO THE LOCAL DEVELOPMENT PLAN.

[Local Development Plan](#)

TO REVIEW THE DECISION OF THE APPOINTED OFFICER TO REFUSE THE FOLLOWING APPLICATIONS

PLANNING ADVISER - ANDREW MILLER

2 38-40 Merkland Road - Demolition of existing workshop and erection of 2 semi-detached duplex apartments - 161451

3 Delegated Report, Plans, Consultee Comments and Decision Notice (Pages 7 - 34)

Members, please note that the relevant plans can be viewed online:-

<https://publicaccess.aberdeencity.gov.uk/online-applications/simpleSearchResults.do?action=firstPage>

4 Planning policies referred to in documents submitted

Aberdeen Local Development Plan 2017 (ALDP)

- Policy D1: Quality Placemaking by Design
- Policy T2: Managing the Transport Impact of Development
- Policy H2: Mixed Use Areas
- Policy NE6: Flooding, Drainage & Water Quality
- Policy R6: Waste Management Requirements for New Development
- Policy R7: Low & Zero Carbon Building & Water Efficiency
- Policy CI1: Digital Infrastructure

Supplementary Guidance

- Transport and Accessibility
- Noise
- Flooding Drainage and Water Quality

The policies can be viewed at the following link:-

http://www.aberdeencity.gov.uk/planning_environment/planning/local_development_plan/pla_local_development_plan.asp

5 Notice of Review with initial application and supporting information submitted by applicant (Pages 35 - 52)

6 Determination - Reasons for decision

Members, please note that reasons should be based against Development Plan policies and any other material considerations.

7 Consideration of conditions to be attached to the application - if Members are minded to over-turn the decision of the case officer

To access the Service Updates for this Committee please use the following link:
<https://committees.aberdeency.gov.uk/ecCatDisplayClassic.aspx?sch=doc&cat=13450&path=0>

Website Address: www.aberdeency.gov.uk

Should you require any further information about this agenda, please contact Lynsey McBain on lymcbain@aberdeency.gov.uk / tel 01224 522123

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LOCAL REVIEW BODY OF ABERDEEN CITY COUNCIL

PROCEDURE NOTE

GENERAL

1. The Local Review Body of Aberdeen City Council (the LRB) must at all times comply with (one) the provisions of the Town and Country Planning (Schemes of Delegation and Local Review Procedure) (Scotland) Regulations 2008 (the regulations), and (two) Aberdeen City Council's Standing Orders.
2. In dealing with a request for the review of a decision made by an appointed officer under the Scheme of Delegation adopted by the Council for the determination of "local" planning applications, the LRB acknowledge that the review process as set out in the regulations shall be carried out in stages.
3. As the first stage and having considered the applicant's stated preference (if any) for the procedure to be followed, the LRB must decide how the case under review is to be determined.
4. Once a notice of review has been submitted interested parties (defined as statutory consultees or other parties who have made, and have not withdrawn, representations in connection with the application) will be consulted on the Notice and will have the right to make further representations within 14 days.
Any representations:
 - made by any party other than the interested parties as defined above (including those objectors or Community Councils that did not make timeous representation on the application before its delegated determination by the appointed officer) or
 - made outwith the 14 day period representation period referred to abovecannot and will not be considered by the Local Review Body in determining the Review.
5. Where the LRB consider that the review documents (as defined within the regulations) provide sufficient information to enable them to determine the review, they may (as the next stage in the process) proceed to do so without further procedure.
6. Should the LRB, however, consider that they are not in a position to determine the review without further procedure, they must then decide which one of (or combination of) the further procedures available to them in terms of the regulations should be pursued. The further procedures available are:-
 - (a) written submissions;
 - (b) the holding of one or more hearing sessions;
 - (c) an inspection of the site.

7. If the LRB do decide to seek further information or representations prior to the determination of the review, they will require, in addition to deciding the manner in which that further information/representations should be provided, to be specific about the nature of the information/representations sought and by whom it should be provided.
8. In adjourning a meeting to such date and time as it may then or later decide, the LRB shall take into account the procedures outlined within Part 4 of the regulations, which will require to be fully observed.

DETERMINATION OF REVIEW

9. Once in possession of all information and/or representations considered necessary to the case before them, the LRB will proceed to determine the review.
10. The starting point for the determination of the review by the LRB will be Section 25 of the Town and Country Planning (Scotland) Act 1997, which provides that:-

“where, in making any determination under the planning Acts, regard is to be had to the Development Plan, the determination shall be made in accordance with the Plan unless material considerations indicate otherwise.”
11. In coming to a decision on the review before them, the LRB will require:-
 - (a) to consider the Development Plan position relating to the application proposal and reach a view as to whether the proposal accords with the Development Plan;
 - (b) to identify all other material considerations arising (if any) which may be relevant to the proposal;
 - (c) to weigh the Development Plan position against the other material considerations arising before deciding whether the Development Plan should or should not prevail in the circumstances.
12. In determining the review, the LRB will:-
 - (a) uphold the appointed officers determination, with or without amendments or additions to the reason for refusal; or
 - (b) overturn the appointed officer’s decision and approve the application **with or without appropriate conditions.**
13. The LRB will give clear reasons for its decision in recognition that these will require to be intimated and publicised in full accordance with the regulations.

Report of Handling Detailed Planning Permission

161451/DPP: Demolition of existing workshop and erection of 2 semi-detached duplex apartments at 38 - 40 Merkland Road East (Rear Of), Aberdeen, AB24 5PT,

For: Mr Alistair Thom

Application Date:	6 October 2016
Officer:	Sepideh Hajisoltani
Ward:	Tillydrone/Seaton/Old Aberdeen
Community Council:	Castlehill And Pittodrie
Advert	N/A
Advertisement Date	N/A

RECOMMENDATION: Refuse

SITE DESCRIPTION

The application site is located on a small lane to the south of, and parallel to Merkland Road East. The lane provides access to the rear garden of tenements on Merkland Road as well as serving some commercial premises further to the south. The application site is currently occupied by a vacant garage/ workshop. The surrounding area is characterised by a mix of newly built and traditional residential and active commercial premises.

DESCRIPTION OF PROPOSAL

Detailed planning permission is sought for replacing the existing workshop with a semi-detached 2 storey property accommodating two identical 2 bed units. The proposed building with a ridge height of approximately 7m and an eaves height of approximately 5.8m, and would be finished in smooth render and cladding.

In terms of proposed amenity space, each unit would have an area of garden space to the north (approximately 19sqm) and a balcony facing the rear lane to the south (approximately 4.8sqm). The proposal has been amended and the garden space has been extended by reducing the overall size of driveways, resulting in a total of 2 parking spaces proposed for the whole development.

RELEVANT HISTORY

None.

SUPPORTING DOCUMENTS

All drawings and supporting documents listed below can be viewed on the Council's website at:

- <https://publicaccess.aberdeencity.gov.uk/online-applications/applicationDetails.do?activeTab=documents&keyVal=OEKQ1GBZH0700>

The following documents were submitted in support of the proposal:

- Design Statement (submitted 12th January) – This document covers background of the site, site analysis, site layout, scale and form and sustainability and materials;
- Supporting Statement (submitted 13th January) – This document covers planning issues including scale of development, amenity to residents, aspects and environmental factors, access and amenity to neighbouring properties

CONSULTATIONS

ACC - Roads Development Management Team- Object to the proposal due to lack of adequate visibility splays for vehicles and pedestrians. Comments also received in relation to the shortfall of two off-street parking spaces for the development.

ACC - Flooding And Coastal Protection - No objection to the proposal however requested a number of conditions for a) completion of a DIA b) confirmation that the project has been designed in line with the CIREA SUDS manual, c) confirmation that the store on site is 0.5%+CC and d) confirmation of the flow rate exiting the site.

ACC- Environmental Health – Requested for a condition for submission of Noise Impact Assessment.

REPRESENTATIONS

None.

PLANNING POLICY

Aberdeen Local Development Plan 2017 (ALDP)

- Policy D1: Quality Placemaking by Design
- Policy T2: Managing the Transport Impact of Development
- Policy H2: Mixed Use Areas
- Policy NE6: Flooding, Drainage & Water Quality
- Policy R6: Waste Management Requirements for New Development
- Policy R7: Low & Zero Carbon Building & Water Efficiency
- Policy CI1: Digital Infrastructure

Supplementary Guidance

- Transport and Accessibility
- Noise
- Flooding Drainage and Water Quality

EVALUATION

Sections 25 and 37(2) of the Town and Country Planning (Scotland) Act 1997 require that where, in making any determination under the planning Acts, regard is to be had to the provisions of the Development Plan and that determination shall be made in accordance with the plan, so far as material to the application unless material considerations indicate otherwise.

Policy H2: Mixed Use Areas

The above policy states that applications for development or change of use within Mixed Use Areas must take into account the existing uses and character of the surrounding area and avoid undue conflict with the adjacent land uses and amenity. Where new housing is proposed, a satisfactory residential environment should be created which should not impinge upon the viability or operation of existing businesses in the vicinity.

It is considered that the proposal fails to provide an acceptable level of amenity for future residents especially when it comes to the overall size of proposed garden space. The proposal would have an adverse impact on the character and appearance of the area; this is mainly due to the form and scale of the development in relation to the plot size. It is acknowledged that there are a number of newly built residential flats within the surrounding area; however these examples are very different to the application site, being large scale redevelopment projects on extensive sites, sufficiently distant from other residential properties and with their own expansive areas of amenity space. None of them give the impression of a backland development due to their overall plot size and also their orientation in relation to existing residential units and their back gardens.

It is also considered that the proposal would have an adverse impact on the residential amenity of the neighbouring tenement property to the north in terms of overshadowing their south facing rear private garden grounds. The proposal would result in an increase of ridge line by approximately 0.70m however the increase in the overall height of the wall head is more significant and is approximately 2.4m resulting in an increase in the overall overshadowing impact on the abovementioned garden. This impact is considered to be detrimental particularly in the context of a relatively small (shared) back garden with an overall length of 10m.

For the reasons highlighted above, and within the evaluation section below it is considered that the principle of development therefore fails to accord with Policy H2 (Mixed Use Areas) of the ALDP.

Policy D1: Quality Placemaking by Design

The aforementioned policy advises that development must incorporate high standards of design and have a strong and distinctive sense of place. Proposals should also be distinctive, welcoming, safe and pleasant, easy to move around, adaptable and resource efficient.

Currently a vacant workshop, of utilitarian form, (with no architectural merit) is covering the whole application site. It is proposed that the proposal would result in site coverage of approximately 52% which is considered to be excessive in the context of the normal site coverage within the surrounding area. It should also be noted that the remainder of the site would be mainly covered by the proposed parking and bin storage spaces leaving only 17% of the site as an amenity space in form of a garden space to the north of the proposed units. It is considered that all new development should be afforded a reasonable amount of amenity space for future residents; this should be satisfactory in terms of both quantity and quality of space.

The proposed garden includes a narrow space to the north of the proposed building with a total width of 1.1m that would serve very little or no function. The rest of the garden area (approximately 13 sqm per unit) would be shaded by buildings. The proposed development would therefore fails to provide a suitable level of outdoor sitting area both in terms of quality and quantity.

The two balconies proposed, particularly the one to the west of the application site would face the existing commercial building to the south and does not provide a high quality amenity space for future residents. Comments from Environmental Health also highlighted that the proposed development has the potential to be impacted upon by existing noise sources in the area including ventilation ducting of the office opposite and to the south of the application site and depot and the warehousing and commercial yard to the southwest of the proposal.

In terms of visual impact it is considered that the replacement two storey dwellings would create an overwhelming impact for residents on the neighbouring properties to the north. The existing single storey workshop (once seen from the tenements to the north and also from the rear lane) gives the impression of a garage in the back garden of the tenements and the proposal is going to significantly change this view by replacing it with a two storey semi-detached dwelling with a blank façade on the north elevation (and a significant increase of the wellhead height). It is also considered that the proposed form is alien to the lane and would not provide much of an active frontage and does not reflect local urban form.

It is considered that the proposal does not fully comply with policy D1 in that the proposal does not respond to the site context for the reasons stated particularly in terms of scale and form. The main entrance to the dwellings, being from a rear lane that is not adopted also fails to provide a safe pedestrian access to these dwelling and is not a positive and welcoming element and does not contribute to high quality design in terms of creating a welcoming and pleasant entrance.

It is considered that the proposal does not comply with provisions of policy D1.

Policy T2: Managing the Transport Impact of Development

Commensurate with the scale and anticipated impact, new developments must demonstrate that sufficient measures have been taken to minimise traffic generated and to maximise opportunities for sustainable and active travel.

There is a requirement of 2 spaces per dwelling and only 1 space has been provided per unit. The agent has stated that the residential units will be aimed at the young professional/ student market and it is therefore envisaged that the car ownership of the potential residents would be limited. The agent has also stated the proposal is in close proximity of the development to the city centre along with ample bus links and amenities have been mentioned to reinforce such view. Although the latter statement is true, the first statement, whilst possibly the intention of the applicant, is not relevant as the occupancy cannot be controlled through the grant of planning permission.

It is the opinion of the Council's Roads Development Management Team that the site is close to King Street and within a reasonable walking distance from the city centre.

As a result a shortfall of parking could be permitted, however one-off street parking space per property should be provided.

In terms of the proposed two parking spaces (one for each property), whilst acceptable in terms of the number of spaces being proposed, it is noted that the boundaries of the site to both the east and west would need to be lowered in order to provide adequate visibility splays for these parking spaces. However these obstructions are outwith the applicant's site boundary and thus outwith his control. As such there are concerns that insufficient visibility would be achievable for vehicles exiting the driveways and for pedestrian visibility on the lane.

To address the issue of inadequate visibility would require the parking spaces to be deleted from the proposal, resulting in a zero-car development. However, it should be noted that the proposal could not be considered as a zero-car development mainly because car club contributions can typically not be asked for less than 4 flats, as well as there not being a car club bay within 400m, therefore a car club contribution is not feasible. All of the surrounding bus stops are more than 400m away.

While the shortfall of two parking spaces on site could be justified, it is considered that the proposal does not accord with Policy T2 in that it fails to provide an adequate visibility splays for the proposed car parks.

Policy NE6: Flooding, Drainage & Water Quality

The above policy aims to manage and reduce flood risk by ensuring that new development does not take place on areas susceptible to flooding, and incorporates appropriate and sustainable surface water management measures.

The proposal has been assessed by colleagues in the Flood Prevention Unit, who have advised of no objection subject to a) completion of a DIA b) confirmation that the project has been designed in line with the CIREA SUDS manual, c) confirmation that the store on site is 0.5%+CC and d) confirmation of the flow rate exiting the site. It is considered that these matters could be controlled via an appropriately worded planning condition, were planning permission approved. Subsequently the proposal would accord with the general provisions of Policy NE6: Flooding, Drainage & Water Quality and the associated Supplementary Planning Guidance: Flooding, Drainage & Water Quality.

Policy R6: Waste Management Required for New Development

In terms of Policy R6 for new development, discussions with ACC's Waste and Recycling Service raised no negative comments and it is considered that the proposal accords with this policy.

Policy R7: Low & Zero Carbon Building & Water Efficiency

All new buildings are required to install low and zero carbon generating technology to reduce the predicted CO2 emissions by at least 20% below the building regulation requirements at the time. In addition water saving technologies and techniques will also require to be incorporated.

For all relevant development proposals compliance with this will be demonstrated by the submission of a low carbon development statement secured by a condition. It is considered that subject to this condition the proposal would accord with Policy R7 and also the IPA on Resources for New Development.

Policy CI1: Digital Infrastructure

All new residential and commercial development will be expected to have access to modern, up-to-date high-speed communications infrastructure. The area is characterised by residential properties and it is considered that they have acceptable level of access to communications infrastructure.

For all relevant development proposals this could be checked through a map extract from Ofcom website which shows the location of telecommunications mast within the general vicinity of the application site and confirms standard coverage of broadband services and mobile availability within the application post code area.

Conclusion

In consideration of the relevant policies of the ALDP and its Supplementary guidance it is considered that the proposal fails to demonstrate full accordance with the relevant policies of the ALDP due to detrimental impact on residential amenity of neighbouring properties in terms of overshadowing their private rear garden grounds, unacceptable level of amenity provided for future residents, inappropriate form and scale of development, lack or provision of a safe and pleasant pedestrian access to site, adverse impact on the character of the area and lack of adequate visibility splays for vehicles and pedestrians which would result in an undesirable form of development.

There are no material planning considerations that would warrant approval of planning permission in this instance, the proposal is therefore recommended for refusal for the reason detailed below.

RECOMMENDATION: Refuse

REASONS FOR RECOMMENDATION

The proposed replacement semi-detached properties would have a detrimental impact on residential amenity of neighbouring properties in terms of overshadowing their rear private garden and also fails to provide an acceptable level of residential amenity for future residents. Accordingly it is considered that the proposal fails to accord with provisions of policy H2 (Mixed Use Areas).

The proposal also fails to comply with policy D1 (Quality Platemaking by Design) due to an overwhelming visual impact for the adjacent residents of the tenement to the north and unacceptable form and scale of development in relation to the plot size and lack of provision of a safe and welcoming pedestrian entrance to the development.

The proposal does not provide adequate visibility splays for vehicles and pedestrians and fails to accord with policy T2 (Managing the Transport Impact of the Development) and relevant Supplementary Guidance of Transport and Accessibility.

MEMO



ABERDEEN
CITY COUNCIL

To	Planning & Infrastructure	Date	03/07/2017
		Your Ref.	DPP161451
		Our Ref.	
From	Scott Lynch		
Email	SLynch@aberdeencity.gov.uk		
Dial	01224 522292		
Fax			

Communities, Housing and Infrastructure

Aberdeen City Council
Business Hub 4
Ground Floor North
Marischal College
Aberdeen
AB10 1AB

Tel 03000 200 291
Minicom 01224 522381
DX 529451, Aberdeen 9
www.aberdeencity.gov.uk

Planning Application No DPP 161451.

I have considered the above planning application have the following observations:

1 Development Proposal

- 1.1 I note that the application is for the demolition of an existing workshop and the erection of 2 semi-detached duplex apartments. The site is located in the outer city, outwith any controlled parking zone.

2 General

Based on the location of the site, there is a parking requirement of 2 spaces per apartment, where only 1 space is currently provided. As the site is close to King Street a shortfall of parking could be permitted, however we would still require one off-street parking space per property as shown.

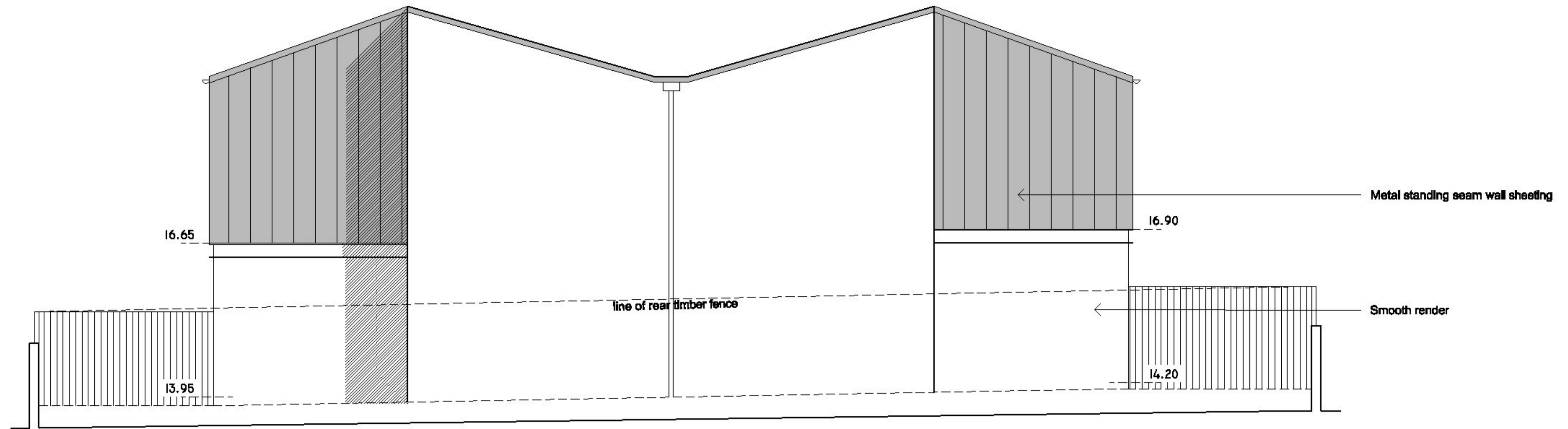
That being said, the boundaries of the site to both the east and west would need lowered in order to provide adequate visibility splays. Is this something that the applicant would be able to provide as these obstructions are outwith their site boundary? Additionally, I have concerns for pedestrian visibility when exiting the houses and stepping into the lane.

3 Conclusion

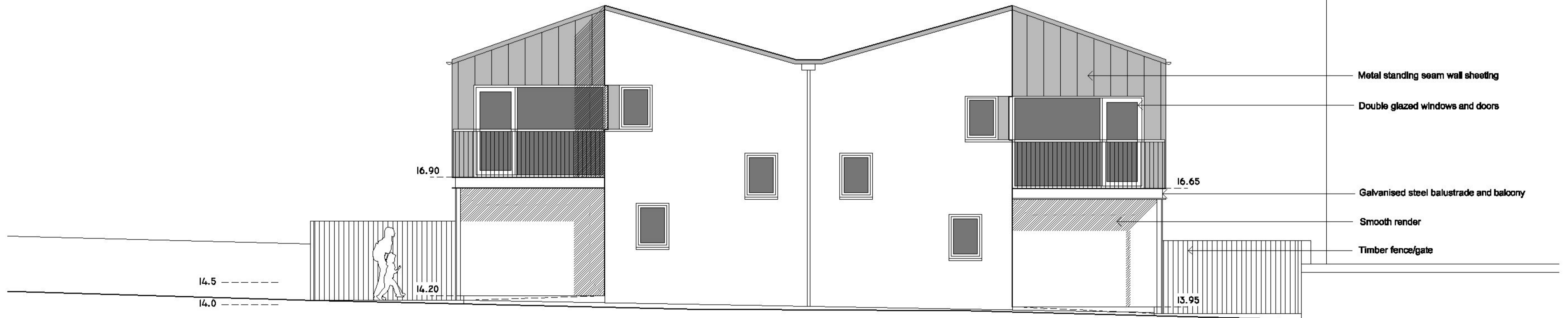
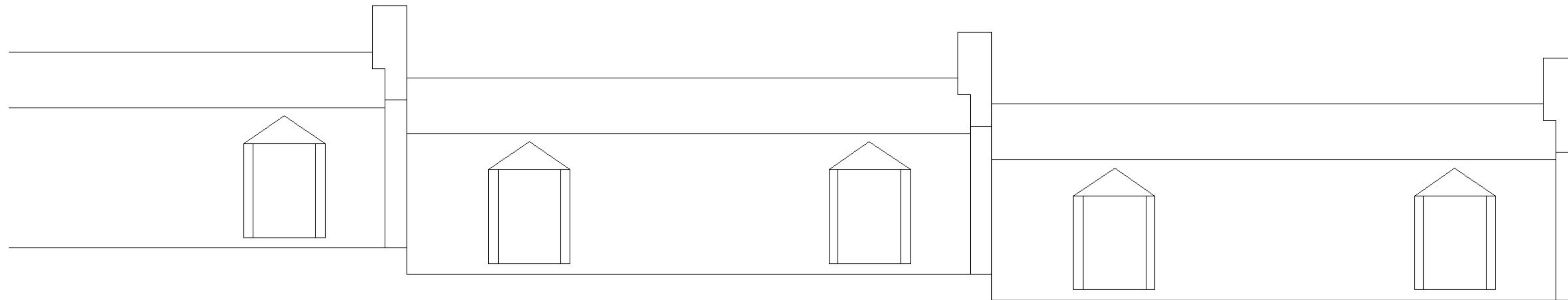
- 3.1 I have concerns with this application regarding the visibility splays for vehicles exiting the driveways, as well as pedestrian visibility. Unless this applicant can sufficiently address these concerns Roads will be minded to refuse the application.

Scott Lynch
Senior Engineer
Roads Development Management

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North Elevation (Tenement gardens)



South Elevation (Merkland Lane)

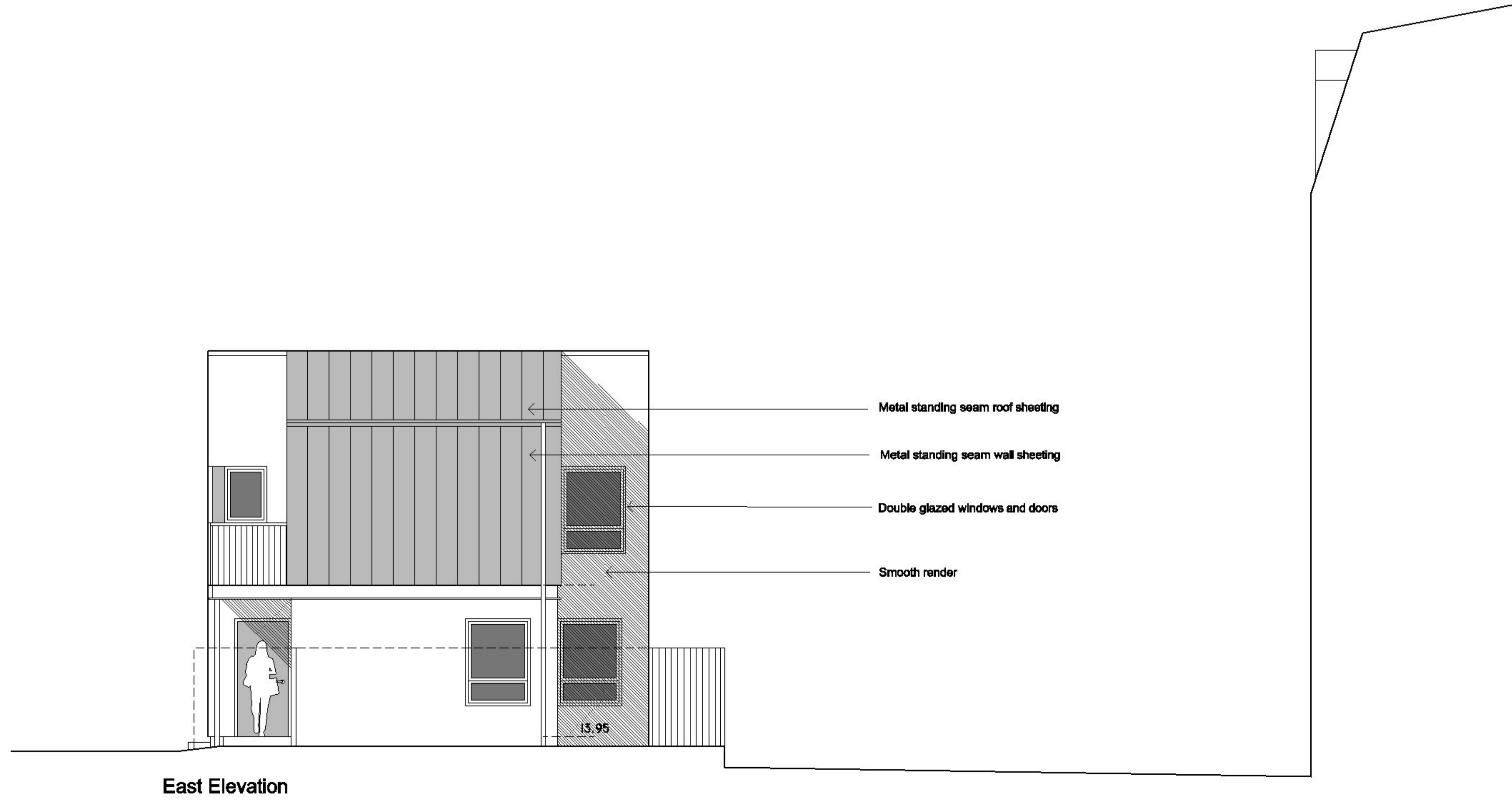
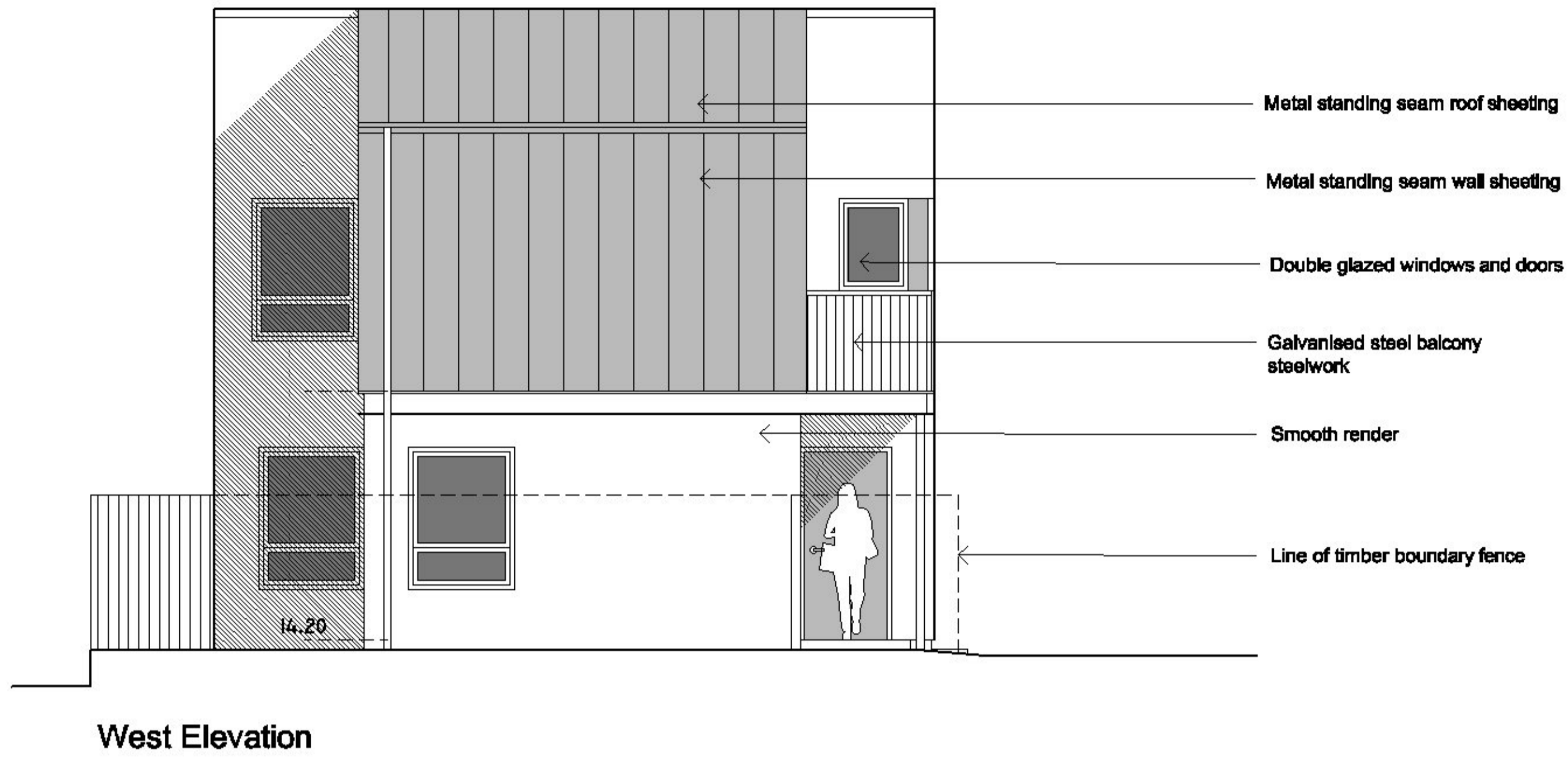
Residential Development at Merkland Lane, Aberdeen

ELEVATIONS PROPOSED 01

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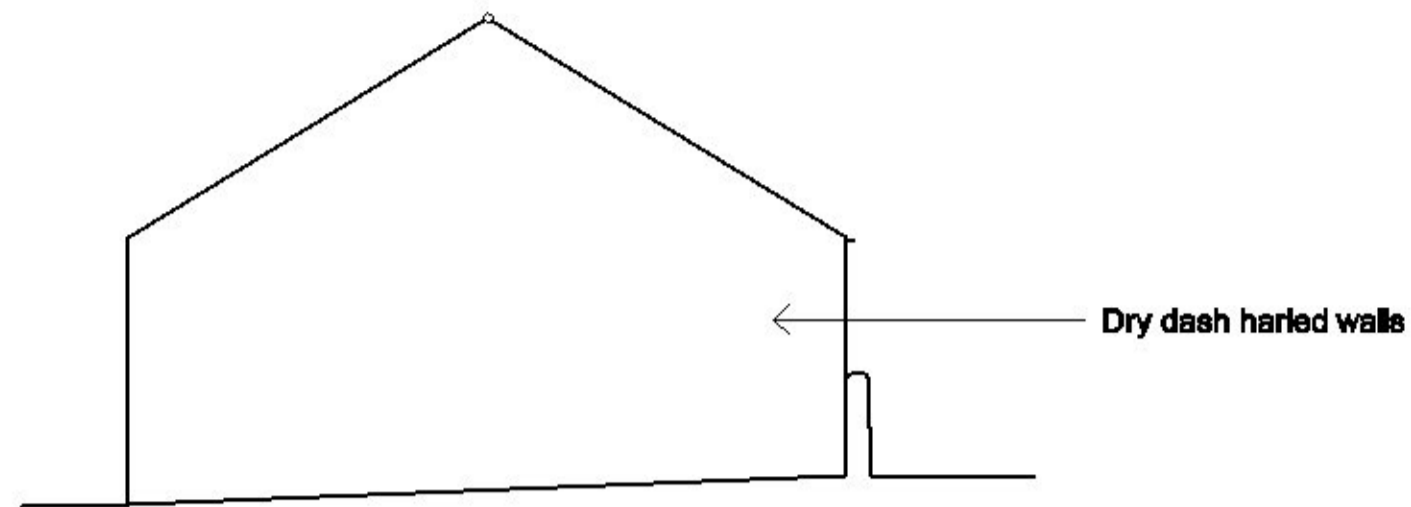
Residential Development at Merkland Lane, Aberdeen

ELEVATIONS PROPOSED 02

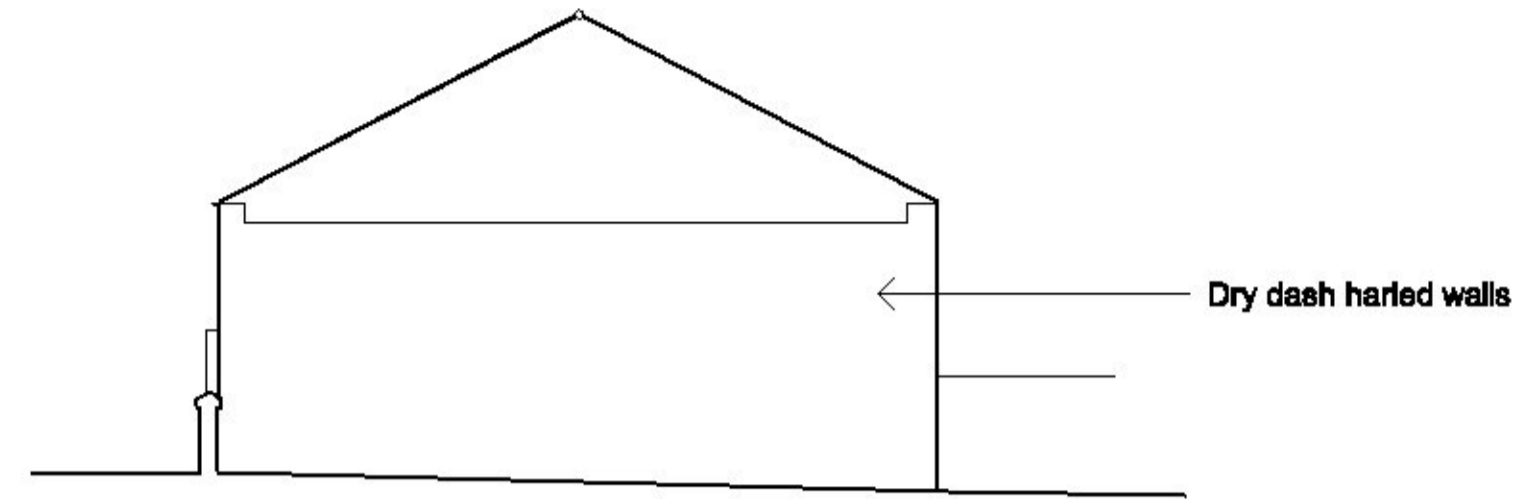
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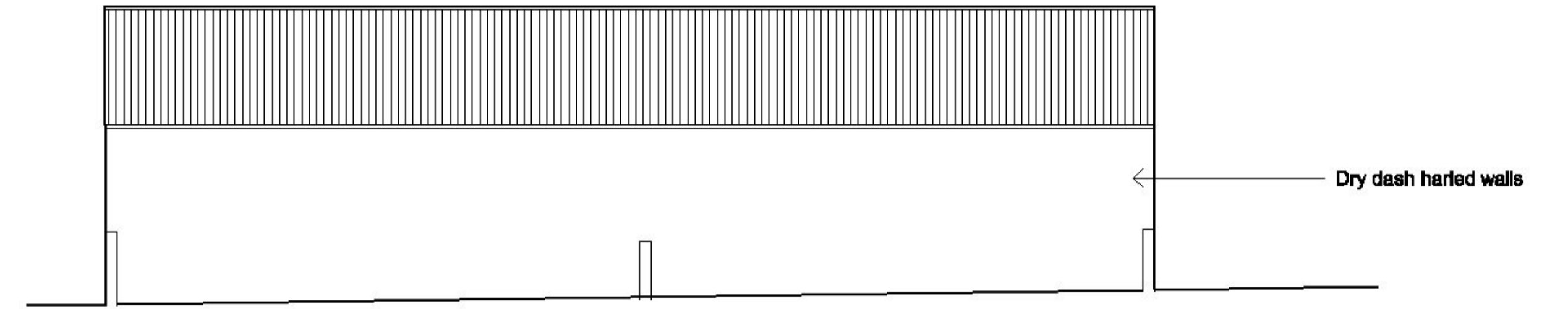
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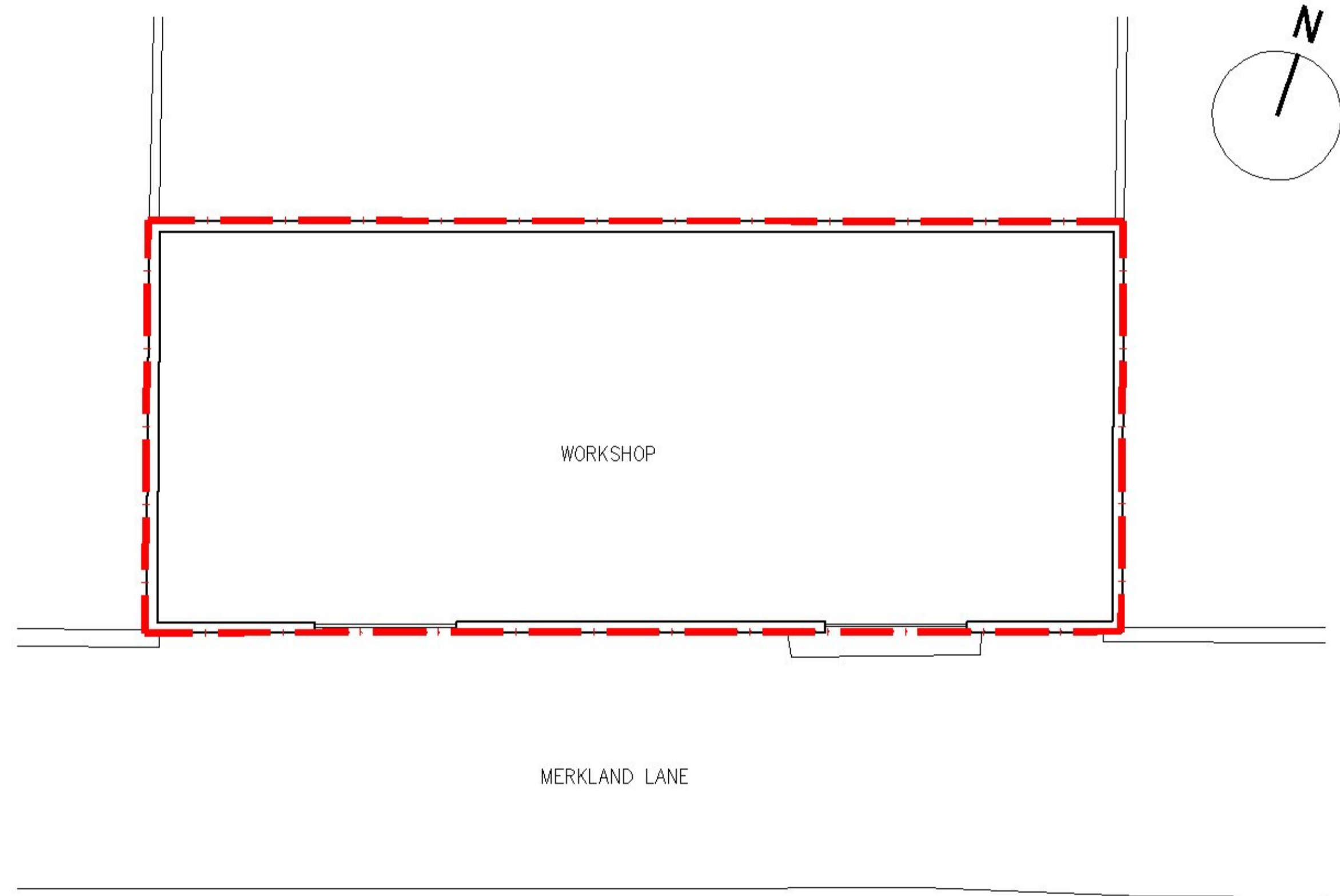
West Elevation



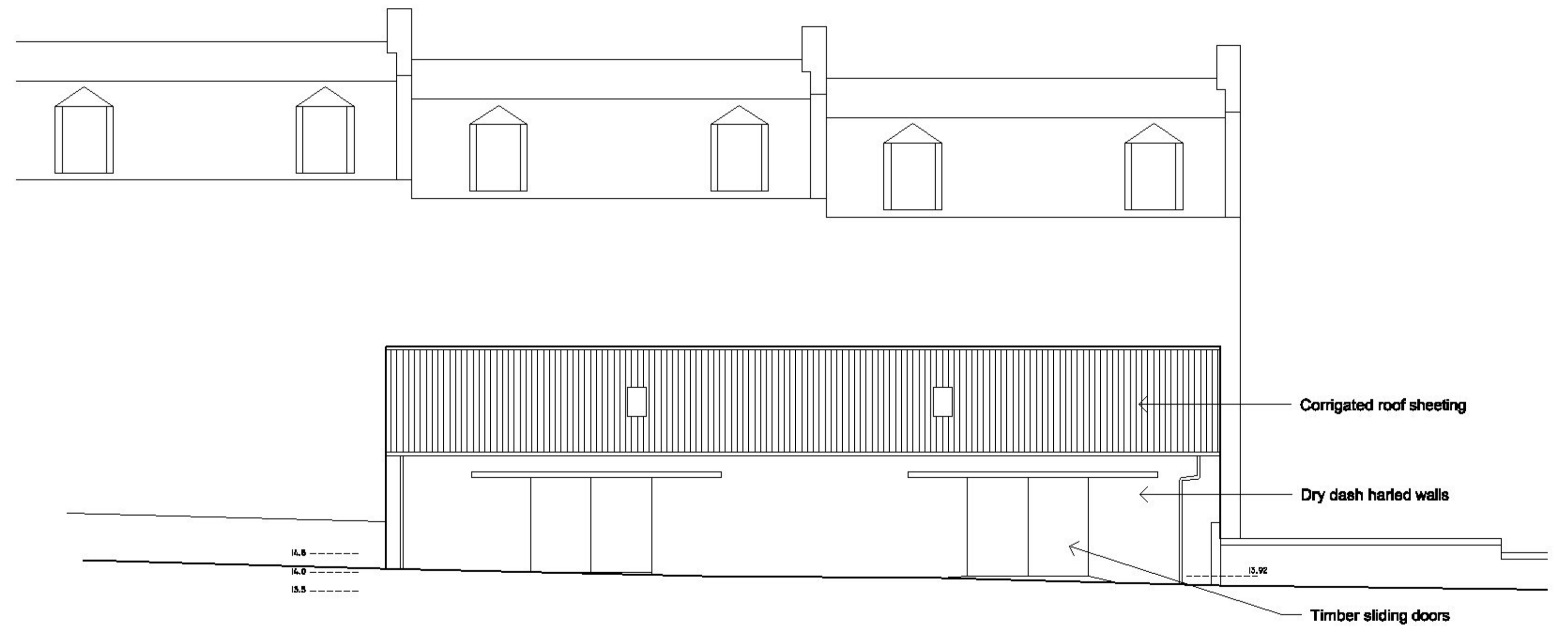
East Elevation



North Elevation



Ground Floor Plan

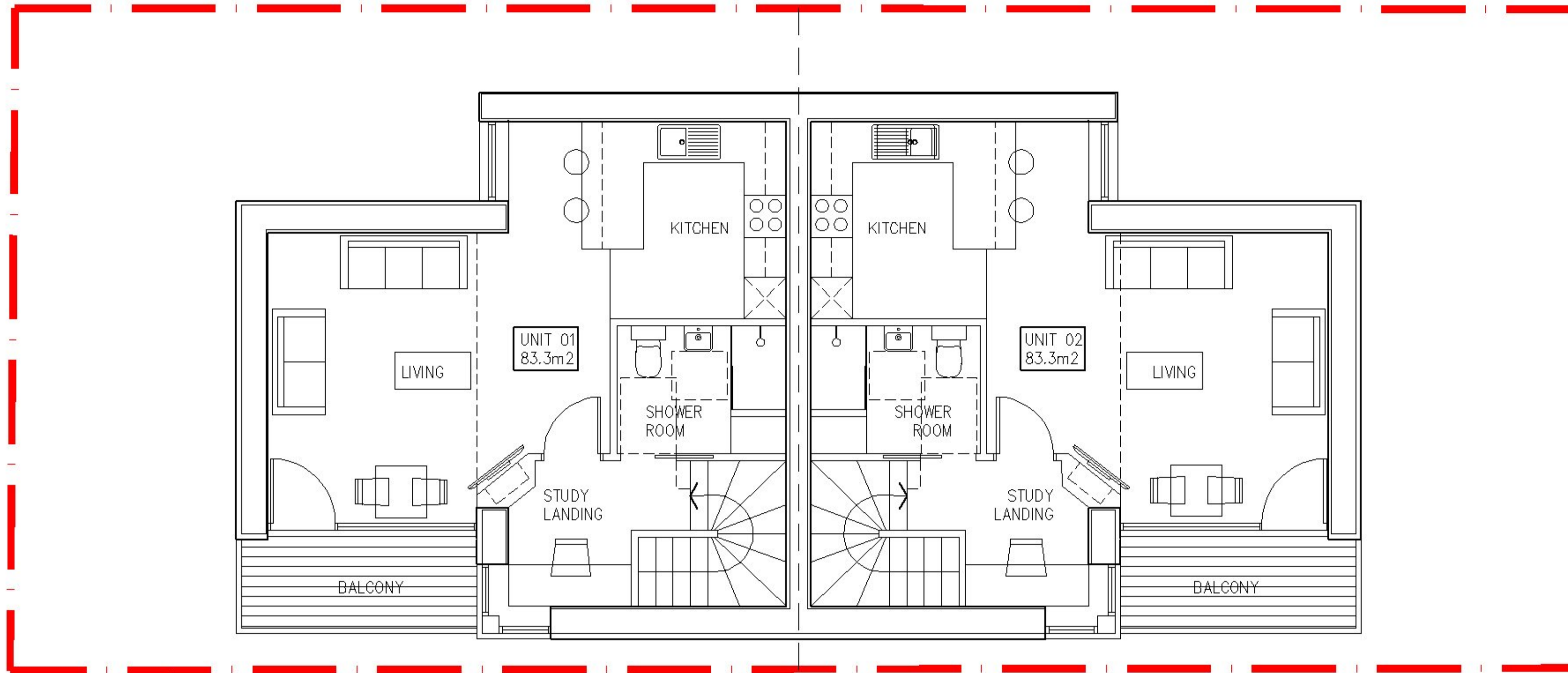
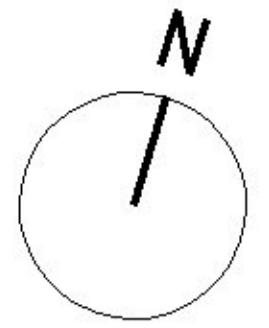


South Elevation

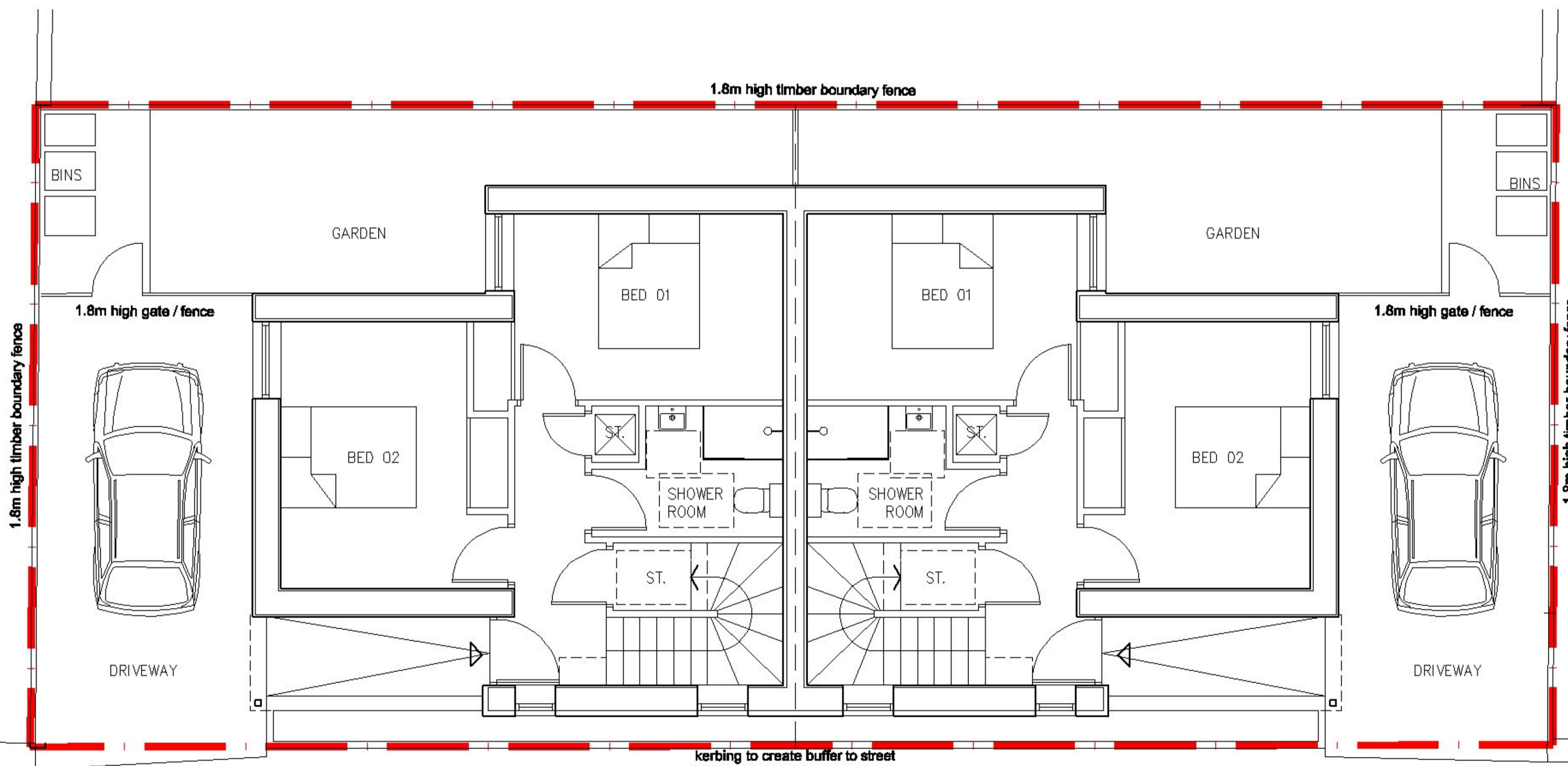
Residential Development at Merkland Lane, Aberdeen

FLOORPLANS and ELEVATIONS EXISTING 1:200 @ A3 1522 D(0-)02

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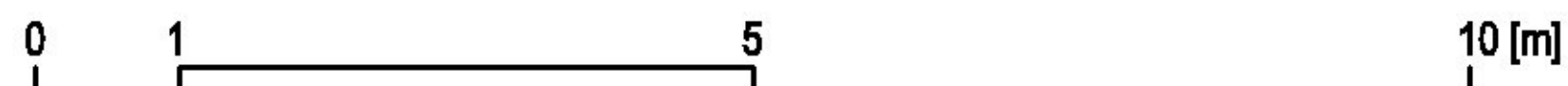


First Floor Plan



Ground Floor Plan

Page 21



Residential Development at Merkland Lane, Aberdeen

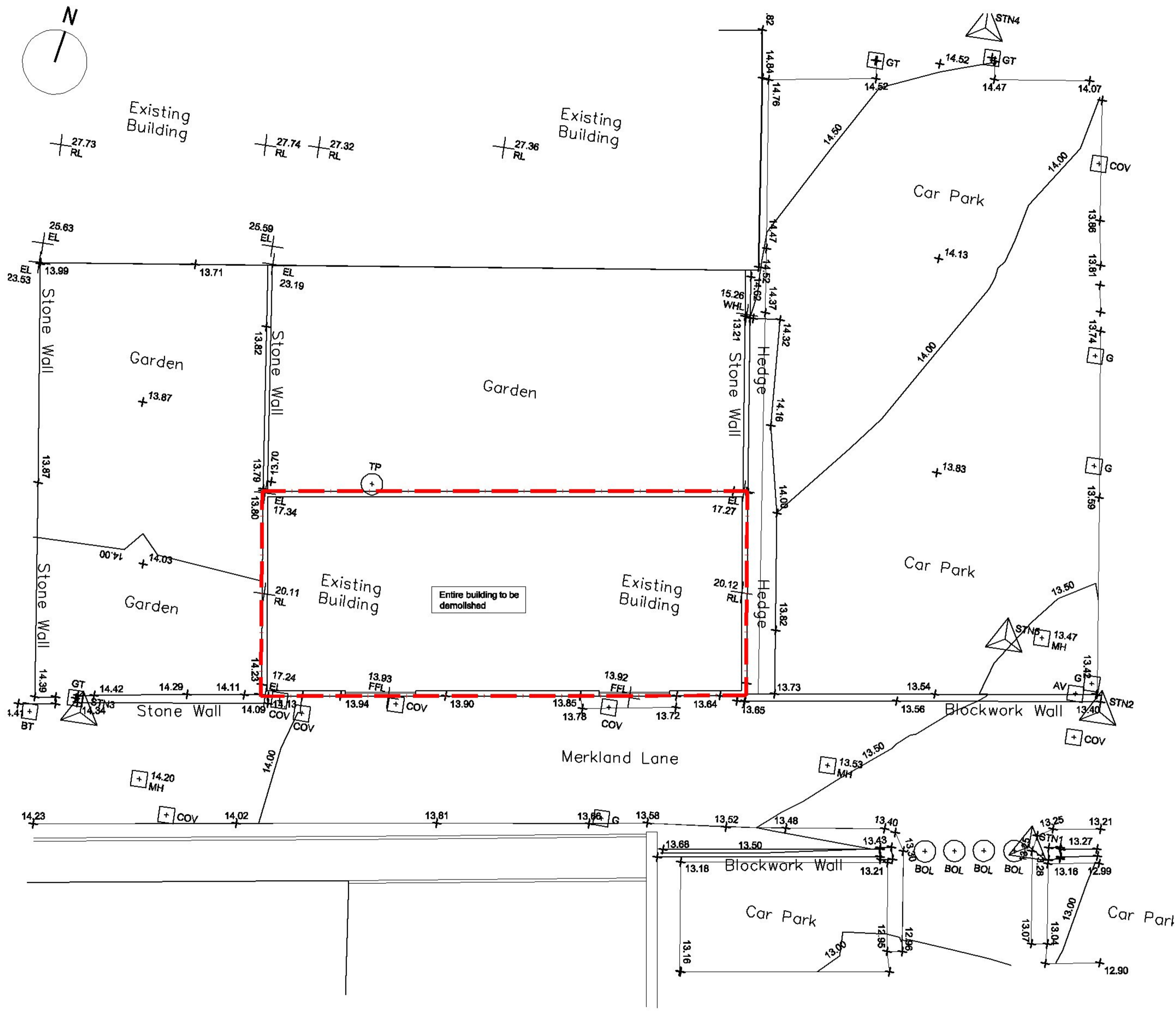
FLOOR PLANS PROPOSED

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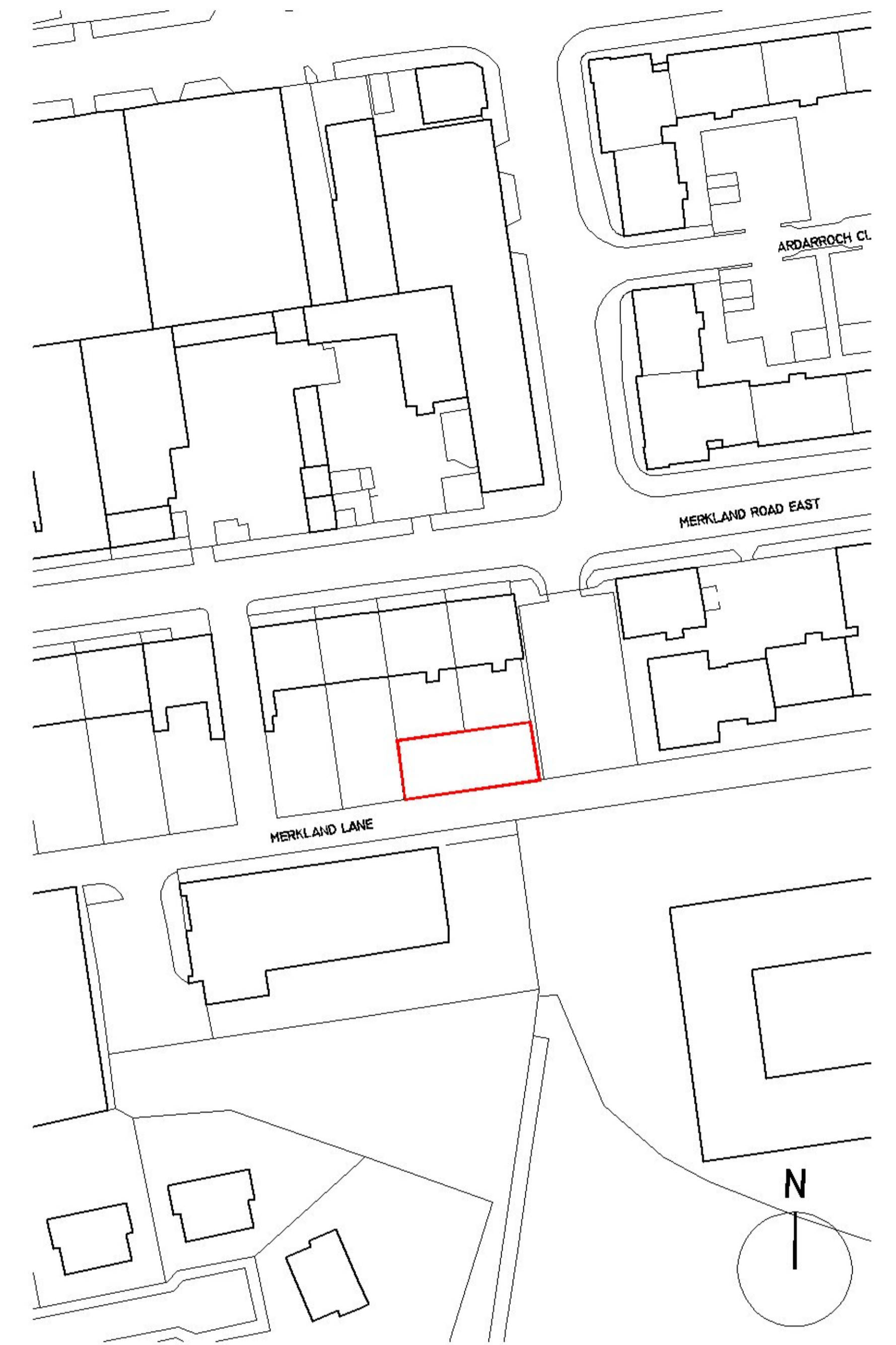
dma david murray associates
Chartered Architects The Radar Station, Donmouth Road, Aberdeen AB23 8DR 01224 709600 admin@dma-architects.co.uk
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A Garden area increased in size

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Site Plan / Topo 1:200



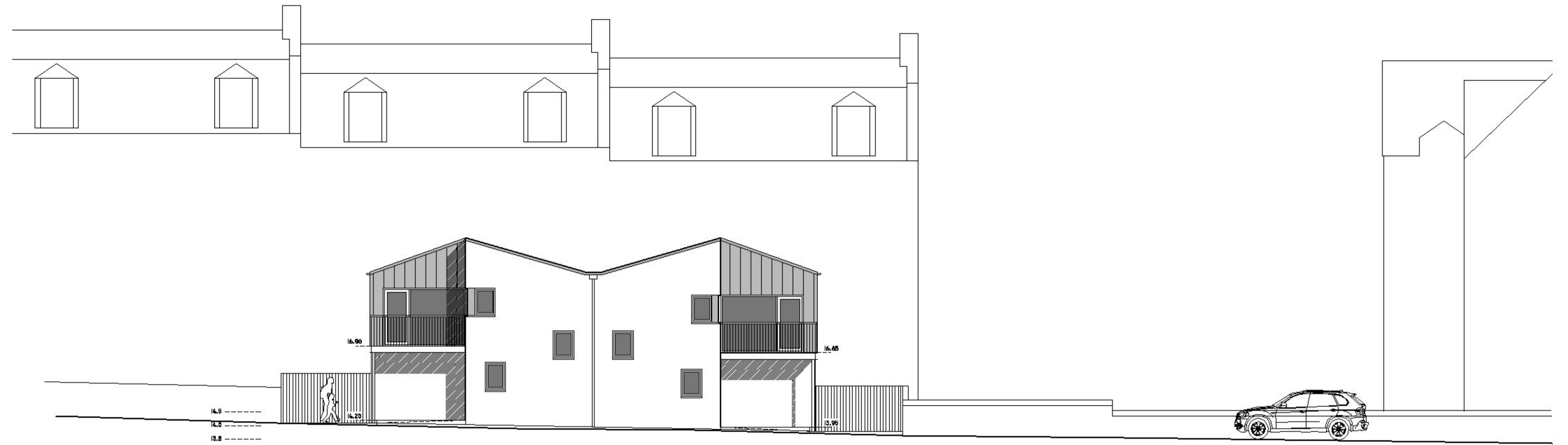
Location Plan 1:1250

Residential Development at Merkland Lane, Aberdeen

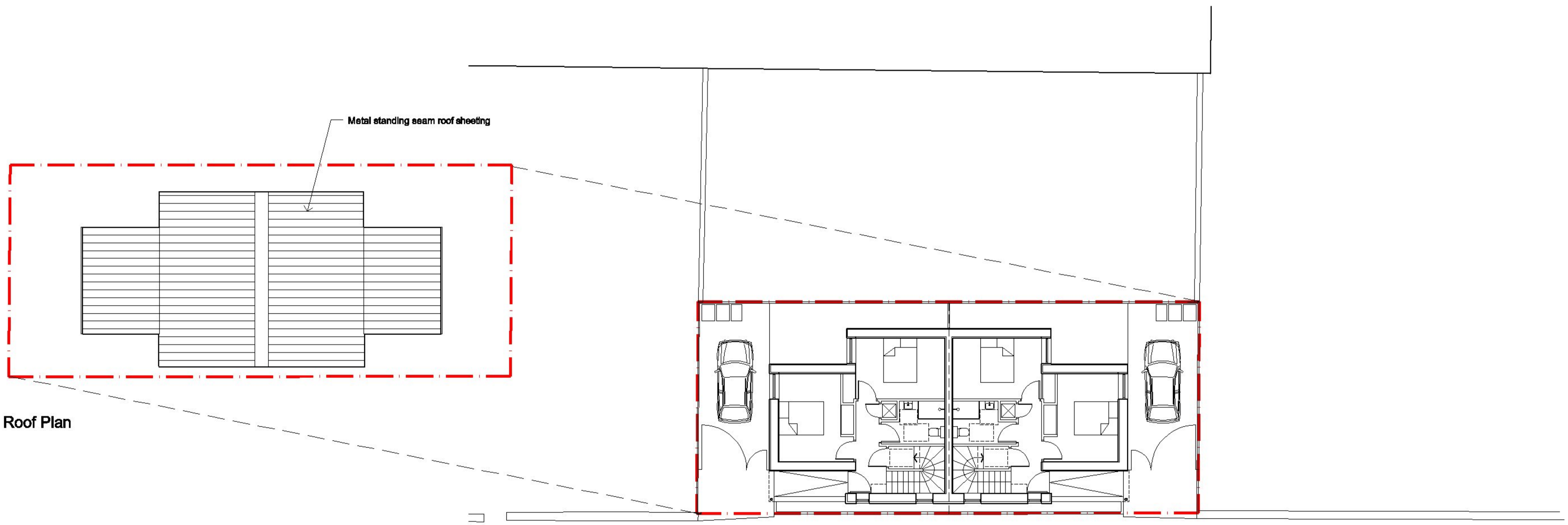
LOCATION & SITEPLAN/TOPO

as noted@A3 1522 D(0)-01

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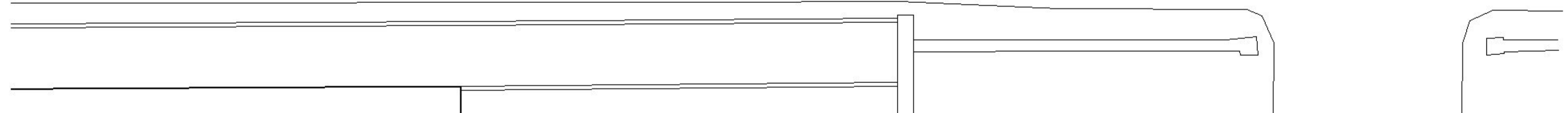


South Elevation Context



Roof Plan

MERKLAND LANE

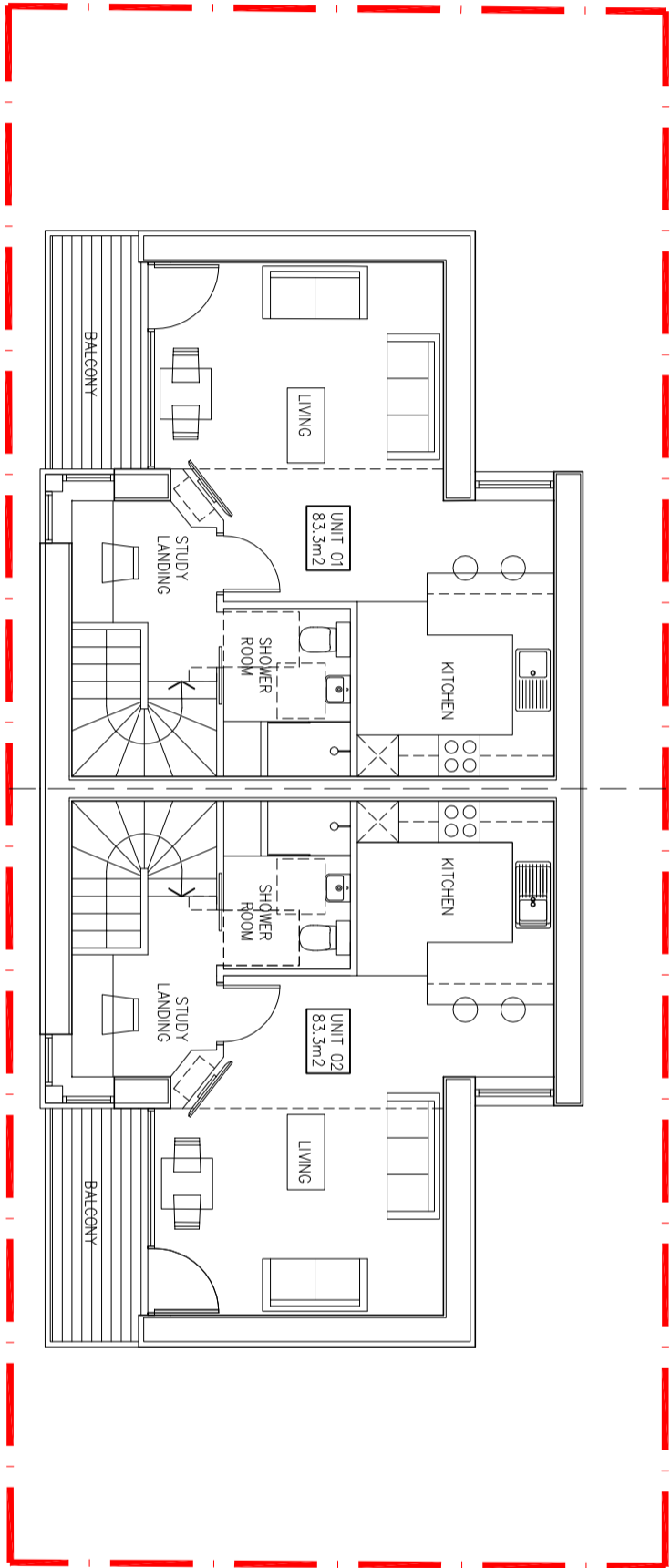
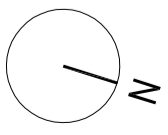


Site Plan

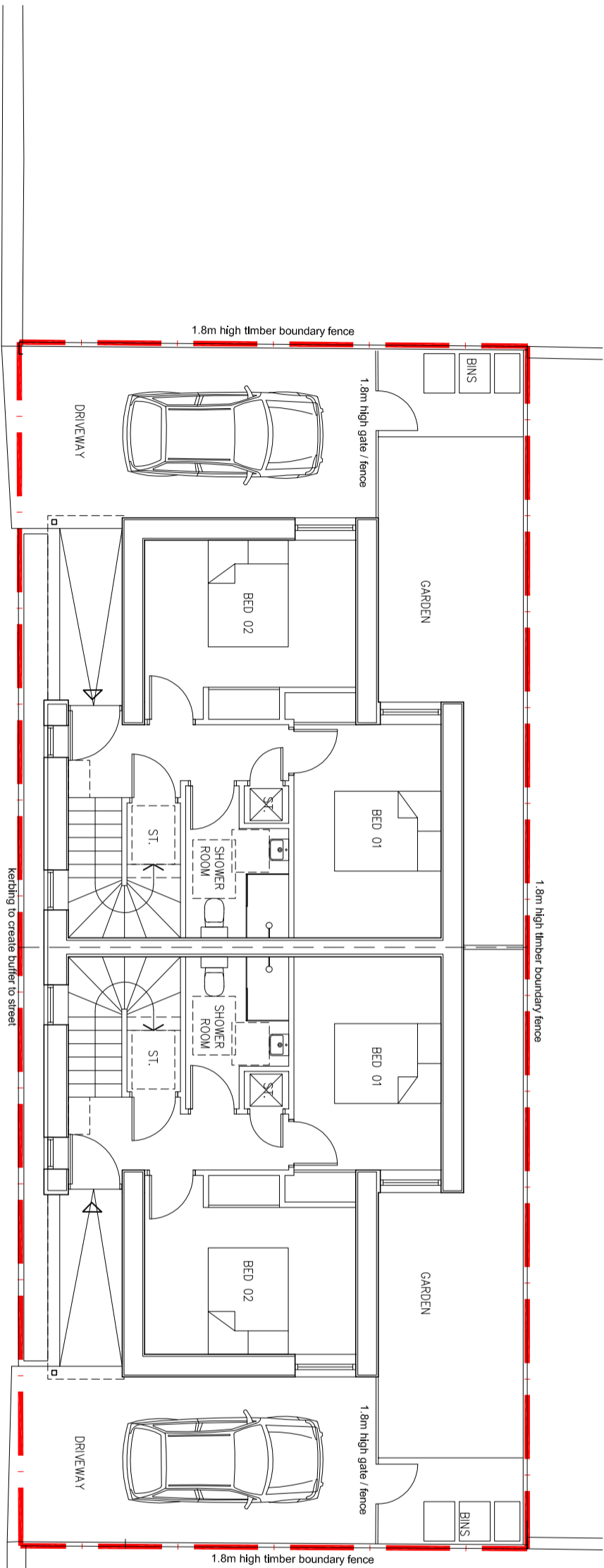
Residential Development at Merkland Lane, Aberdeen

STREET ELEVATION, SITE & ROOF PLANS 1:200 @ A3 1522 D(0-)-06

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First Floor Plan



Ground Floor Plan



Residential Development at Merikland Lane, Aberdeen

FLOOR PLANS PROPOSED

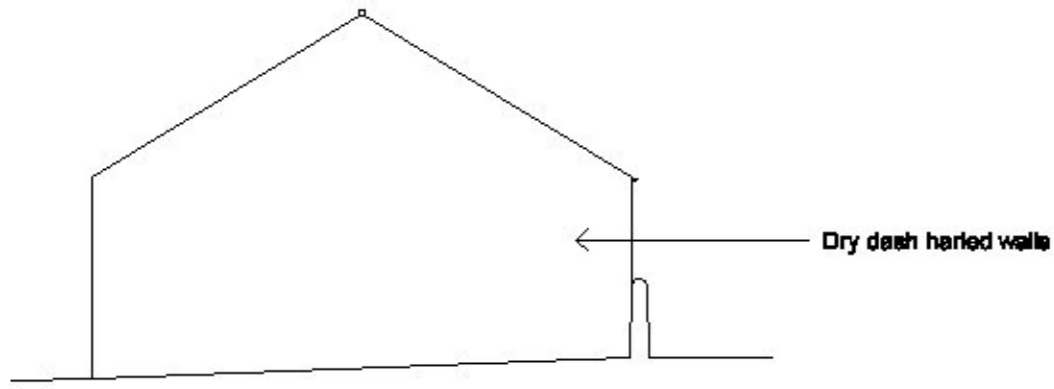
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A Garden area increased in size

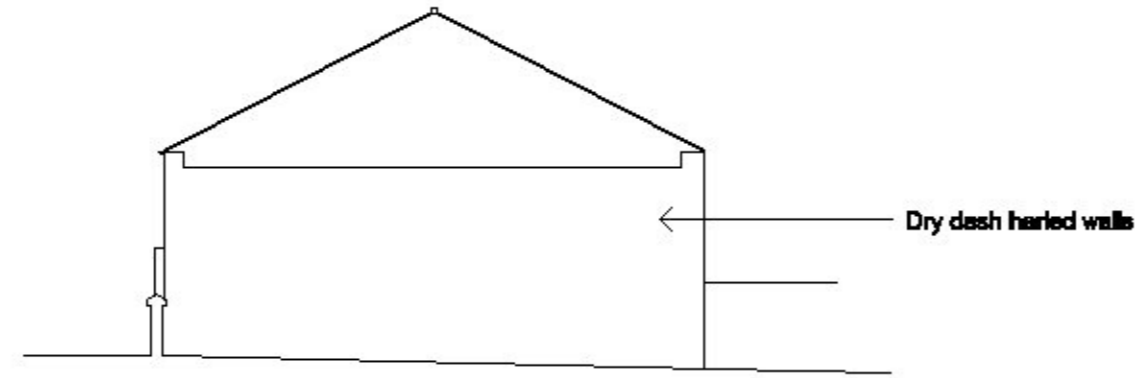


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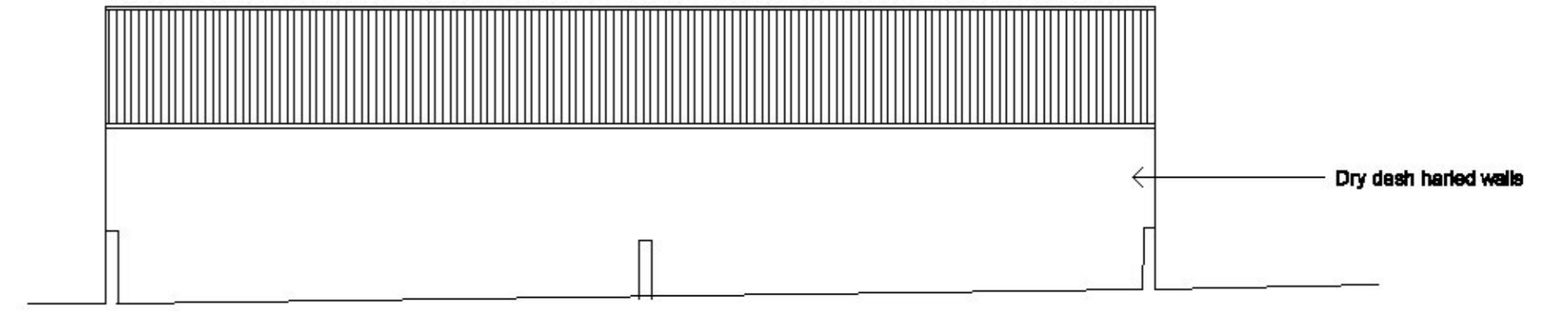
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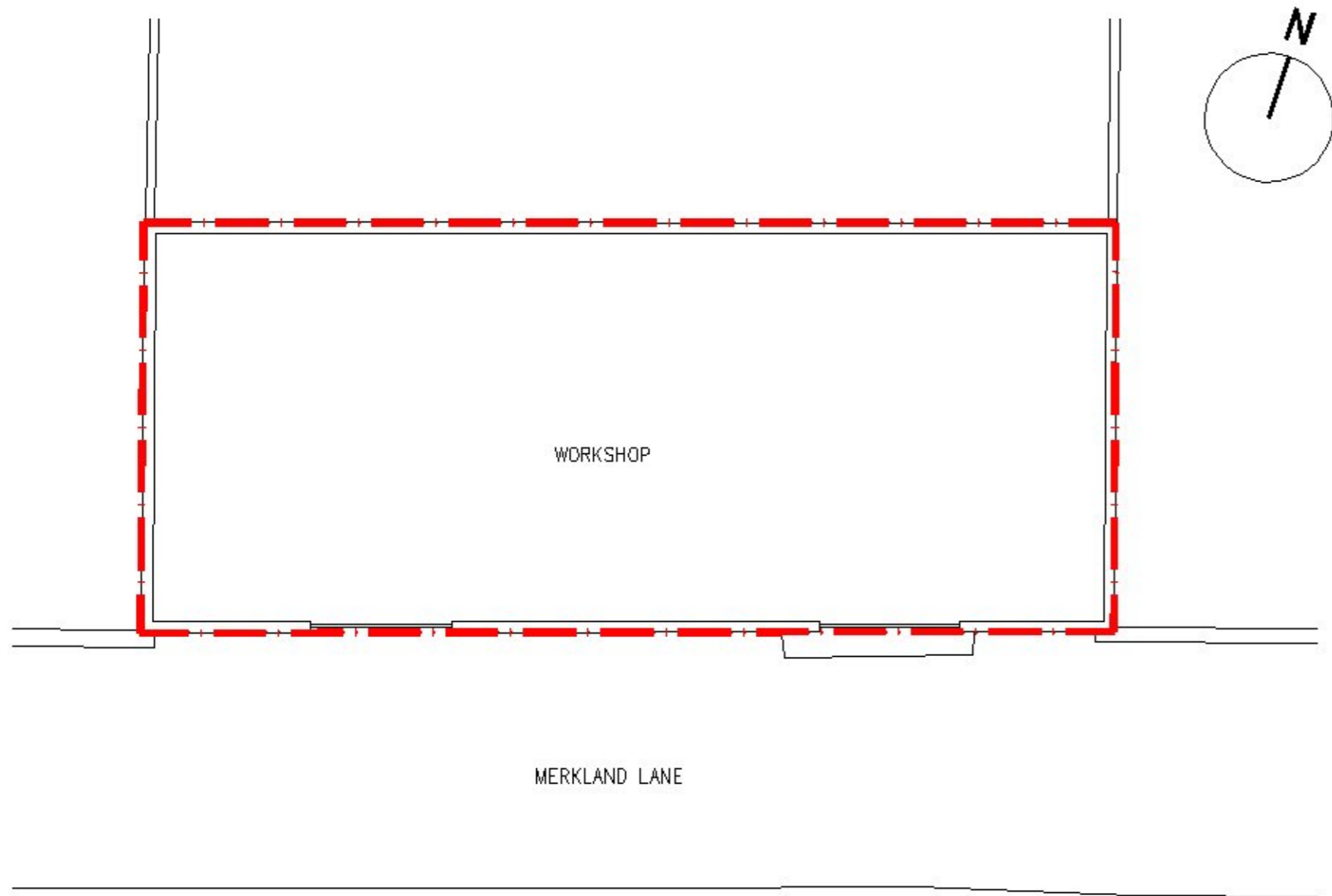
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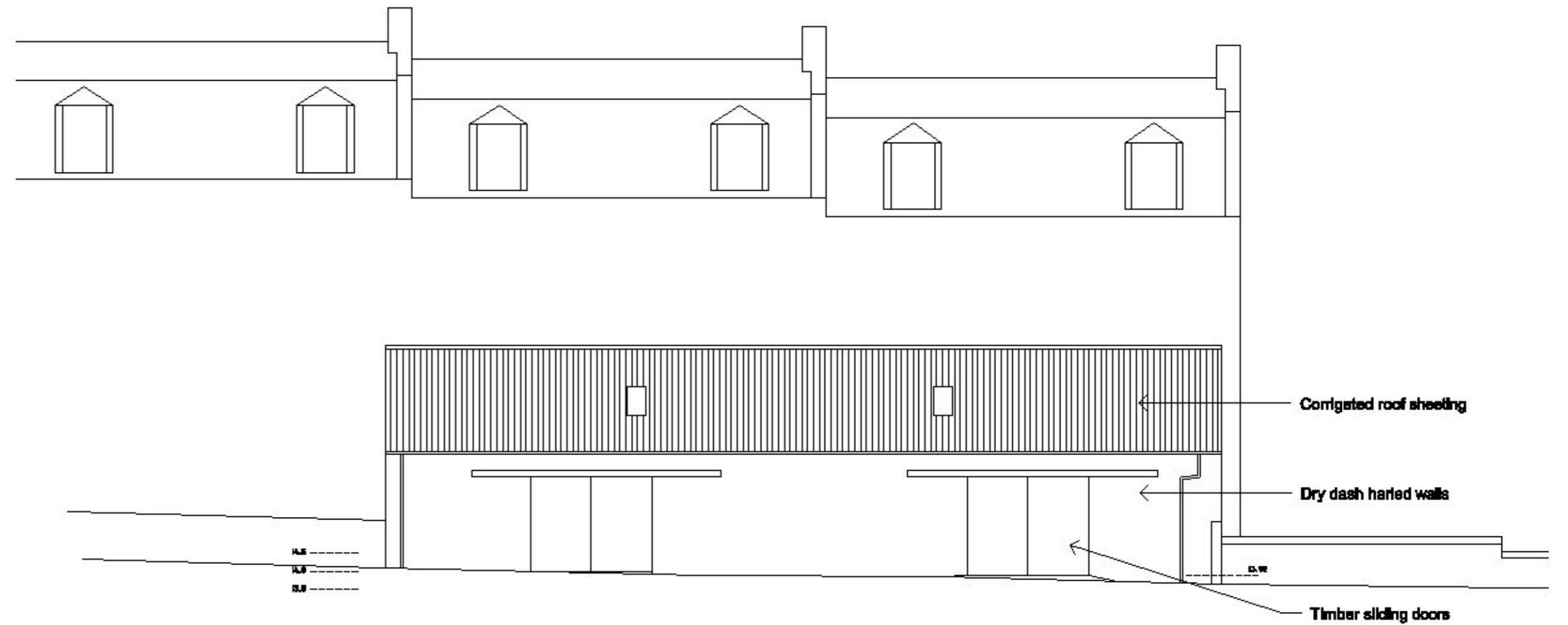
East Elevation



North Elevation



Ground Floor Plan



South Elevation

Residential Development at Merkland Lane, Aberdeen

FLOORPLANS and ELEVATIONS EXISTING

1:200 @ A3 1522 D(0-)02

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DECISION NOTICE

The Town and Country Planning (Scotland) Act 1997

Detailed Planning Permission

David Murray Associates
The Radar Station
Donmouth Road
Bridge Of Don
Aberdeen
AB23 8DR

on behalf of **Mr Alistair Thom**

With reference to your application validly received on 6 October 2016 for the following development:-

**Demolition of existing workshop and erection of 2no. semi-detached duplex apartments
at 38 - 40 Merkland Road East (Rear Of), Aberdeen**

Aberdeen City Council in exercise of their powers under the above mentioned Act hereby **REFUSE PLANNING PERMISSION** for the said development in accordance with the particulars given in the application form and the following plans and documents:

Drawing Number	Drawing Type
D(0-) 01	Location Plan
D(0-) 03- A	Proposed Floor Plans
D(0-) 04	Proposed Elevations
D(0-) 05	Proposed Elevations
D(0-) 06	Proposed Street Elevations
D(0-) 09	Built/ unbuilt ration

REASON FOR DECISION

The reasons on which the Council has based this decision are as follows:-

The proposed replacement semi-detached properties would have a detrimental impact on residential amenity of neighbouring properties in terms of overshadowing their rear private garden and also fails to provide an acceptable level of residential

amenity for future residents. Accordingly it is considered that the proposal fails to accord with provisions of policy H2 (Mixed Use Areas).

The proposal also fails to comply with policy D1 (Quality Platemaking by Design) due to an overwhelming visual impact for the adjacent residents of the tenement to the north and unacceptable form and scale of development in relation to the plot size and lack of provision of a safe and welcoming pedestrian entrance to the development.

The proposal does not provide adequate visibility splays for vehicles and pedestrians and fails to accord with policy T2 (Managing the Transport Impact of the Development) and relevant Supplementary Guidance of Transport and Accessibility.

Date of Signing 10 July 2017



Daniel Lewis
Development Management Manager

IMPORTANT INFORMATION RELATED TO THIS DECISION

DETAILS OF ANY VARIATION MADE TO ORIGINAL PROPOSAL, AS AGREED WITH APPLICANT (S32A of 1997 Act)

None.

RIGHT OF APPEAL THE TOWN AND COUNTRY PLANNING (SCOTLAND) ACT 1997

If the applicant is aggrieved by the decision of the planning authority –

- a) to refuse planning permission;
- b) to refuse approval, consent or agreement required by a condition imposed on a grant of planning permission;
- c) to grant planning permission or any approval, consent or agreement subject to conditions,

the applicant may require the planning authority to review the case under section 43A(8) of the Town and Country Planning (Scotland) Act 1997 within three months from the date of this notice. Any requests for a review must be made on a 'Notice of Review' form available from the planning authority or at www.eplanning.scot.

Notices of review submitted by post should be sent to Planning and Sustainable Development (address at the top of this decision notice).

SERVICE OF PURCHASE NOTICE WHERE INTERESTS ARE AFFECTED BY A PLANNING DECISION

If permission to develop land is refused and the owner of the land claims that the land has become incapable of reasonably beneficial use in its existing state and cannot be rendered capable of reasonably beneficial use by the carrying out of any development that would be permitted, the owners of the land may serve on the planning authority a purchase notice requiring the purchase of the owner of the land's interest in the land in accordance with Part 5 of the Town and Country Planning (Scotland) Act 1997.

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Notice of Review - Statement

REASONS FOR SEEKING A REVIEW

This application was very poorly handled with very long delays between submission of the application and any response. The same applied when any additional information was submitted – a long delay before any response.

We pressed for meetings to discuss the application and identify the issues. When we met and agreed what the issues were additional matters were subsequently raised. When eventually we were told that the recommendation was going to be a refusal we tried again to engage in dialogue and after almost pleading to get a meeting the Planners reluctantly agreed. During that discussion we again identified the areas of concern and eliminated others. When the decision notice was eventually issued (again after an excessive delay) reasons for refusal were raised which had been eliminated as issues during those discussions!

One serious concern relates to the Roads comments which will be discussed later. This is indicative of the poor and questionable way in which this application has been handled.

We appreciate that this is a challenging site and have always been fully aware that a constructive dialogue would be necessary to achieve a good outcome which is viable and deliverable. Without this site will remain an undeveloped eyesore – this is in no-one's interest.

MATTERS TO BE TAKEN INTO ACCOUNT

The decision notice states that the proposed development would have:

1. *a detrimental impact on residential amenity of neighbouring properties in terms of overshadowing their rear private gardens*

Material was submitted in support of the application which shows that this is factually incorrect and that the impact on these properties actually improves their situation.

2. *fails to provide an acceptable level of residential amenity for future residents*

Again factually incorrect. Information was submitted to demonstrate the significantly better amenity which future residents would enjoy in comparison to other comparable new build developments generally and in this locality.

3. *fails to comply with policy D1 (Quality Placemaking by Design) due to an overwhelming visual impact for the adjacent residents of the tenement to the north....*



Once again this was demonstrated by additional drawings, statements and visualisations submitted in support of the application to be factually incorrect – the design is of very high quality and is not overwhelming.

4. *fails....due to...unacceptable form and scale of development in relation to the plot size...*

These concerns were discussed with the Planners. The design was adjusted to provide even more amenity space for the future residents. The form of the proposed development is small scale, domestic and traditional in scale and form although with a contemporary design approach – all very much human scale and in keeping with the location. The argument was presented by the Applicant that the accommodation proposed needs to be considered in comparison with flatted developments not family houses. This site is just not suited to family living – it's an urban, mews type situation similar to many regeneration examples in city centres the length and breadth of the land. Why should obstacles be put in the way of Aberdeen City permitting such grass roots level regeneration of inner city derelict sites?!

5. *fails....due to...lack of provision of a safe and welcoming pedestrian entrance to the development*

This point was discussed and is fully considered in the design proposals. It appears to have been dragged out in the decision notice as a means to justify refusal when in reality it is not an issue. The arrangement is perfectly safe and functional. Full detail is provided in the design statement and responses provided to the Planners during the period of determination.

6. *The proposal does not provide adequate visibility splays for vehicles and pedestrians and fails to accord with policy T2 (Managing the Transport Impact of the Development) and relevant Supplementary Guidance of Transport and Accessibility.*

This statement is of serious concern to us! Throughout the period of determination and our discussion with the Planners this was never raised as a concern! Despite the unnecessarily protracted period of determination there was no communication relating to Roads concerns. After months of delay when a notice had eventually to be issued and was issued on the 10th July, 2017 we see the first appearance of Roads comments being presented a week earlier and dated 3rd July 2017 raising concerns which we were never given any opportunity to address! Apart from anything else why did it take the Aberdeen City Council officials 10 months to issue some slight concerns which could readily have been dealt with earlier in the process?!

There are ways in which the Roads concerns can be dealt with and we can think of three potential fixes to the problem which could have been explored between the design team, Road officers and Planners. We were never given the opportunity!

Despite the above, a factor that needs to be considered is that this is an existing commercial premises with a light industrial use. Even though not presently in use, the workshop building has two separate vehicular access doors directly on to the lane.

The site, when purchased by the applicant was used as a garage for repairing a fleet of hire cars with all the associated noise, fumes and traffic which a garage creates. He then used the building to operate his own business and had artic deliveries twice a week with customers coming to collect goods by lorry on a regular daily basis! Either of these commercial uses or similar could continue at any time to the considerable detriment to the amenity of the area in comparison to what is proposed.

Our proposals do not make matters worse but in fact present a significant improvement to the existing situation in that the parking bays, which are 3 m wide, are set back by 2 m from the lane (unlike the existing vehicular access points) and the sheltered entrances provide visibility splays in one direction (where nothing exists at present).

The proposed development is an improvement on what currently exists where frequent commercial traffic could be a daily occurrence compared to limited private car use for a small scale residential development. As stated above further technical solutions could also be considered to further address Roads' concerns.

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Marischal College Planning & Sustainable Development Business Hub 4, Ground Floor North Broad Street Aberdeen AB10 1AB Tel: 01224 523 470 Fax: 01224 636 181 Email: pi@aberdeencity.gov.uk

Applications cannot be validated until all the necessary documentation has been submitted and the required fee has been paid.

Thank you for completing this application form:

ONLINE REFERENCE 100027056-002

The online reference is the unique reference for your online form only. The Planning Authority will allocate an Application Number when your form is validated. Please quote this reference if you need to contact the planning Authority about this application.

Applicant or Agent Details

Are you an applicant or an agent? * (An agent is an architect, consultant or someone else acting on behalf of the applicant in connection with this application)

Applicant Agent

Agent Details

Please enter Agent details

Company/Organisation:	David Murray Associates		
Ref. Number:		You must enter a Building Name or Number, or both: *	
First Name: *	David	Building Name:	The Radar Station
Last Name: *	Murray	Building Number:	
Telephone Number: *	01224709600	Address 1 (Street): *	Donmouth Road
Extension Number:		Address 2:	Bridge of Don
Mobile Number:		Town/City: *	Aberdeen
Fax Number:		Country: *	United Kingdom
		Postcode: *	AB23 8DR
Email Address: *	admin@dma-architects.co.uk		

Is the applicant an individual or an organisation/corporate entity? *

Individual Organisation/Corporate entity

Applicant Details

Please enter Applicant details

Title:	<input type="text" value="Mr"/>	You must enter a Building Name or Number, or both: *	
Other Title:	<input type="text"/>	Building Name:	<input type="text"/>
First Name: *	<input type="text" value="Alistair"/>	Building Number:	<input type="text" value="2"/>
Last Name: *	<input type="text" value="Thom"/>	Address 1 (Street): *	<input type="text" value="St Margaret's Place"/>
Company/Organisation	<input type="text"/>	Address 2:	<input type="text"/>
Telephone Number: *	<input type="text"/>	Town/City: *	<input type="text" value="Aberdeen"/>
Extension Number:	<input type="text"/>	Country: *	<input type="text" value="United Kingdom"/>
Mobile Number:	<input type="text"/>	Postcode: *	<input type="text" value="AB15 6GA"/>
Fax Number:	<input type="text"/>		
Email Address: *	<input type="text"/>		

Site Address Details

Planning Authority:

Full postal address of the site (including postcode where available):

Address 1:	<input type="text"/>
Address 2:	<input type="text"/>
Address 3:	<input type="text"/>
Address 4:	<input type="text"/>
Address 5:	<input type="text"/>
Town/City/Settlement:	<input type="text"/>
Post Code:	<input type="text"/>

Please identify/describe the location of the site or sites

<input type="text" value="Rear of 38/40 Merkland Road East, Aberdeen"/>

Northing	<input type="text"/>	Easting	<input type="text"/>
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Description of Proposal

Please provide a description of your proposal to which your review relates. The description should be the same as given in the application form, or as amended with the agreement of the planning authority: *
(Max 500 characters)

Demolition of existing workshop and erection of 2no. semi-detached duplex apartments.

Type of Application

What type of application did you submit to the planning authority? *

- Application for planning permission (including householder application but excluding application to work minerals).
- Application for planning permission in principle.
- Further application.
- Application for approval of matters specified in conditions.

What does your review relate to? *

- Refusal Notice.
- Grant of permission with Conditions imposed.
- No decision reached within the prescribed period (two months after validation date or any agreed extension) – deemed refusal.

Statement of reasons for seeking review

You must state in full, why you are seeking a review of the planning authority's decision (or failure to make a decision). Your statement must set out all matters you consider require to be taken into account in determining your review. If necessary this can be provided as a separate document in the 'Supporting Documents' section: * (Max 500 characters)

Note: you are unlikely to have a further opportunity to add to your statement of appeal at a later date, so it is essential that you produce all of the information you want the decision-maker to take into account.

You should not however raise any new matter which was not before the planning authority at the time it decided your application (or at the time expiry of the period of determination), unless you can demonstrate that the new matter could not have been raised before that time or that it not being raised before that time is a consequence of exceptional circumstances.

See attached Notice of Review Statement.

Have you raised any matters which were not before the appointed officer at the time the Determination on your application was made? *

Yes No

If yes, you should explain in the box below, why you are raising the new matter, why it was not raised with the appointed officer before your application was determined and why you consider it should be considered in your review: * (Max 500 characters)

Please provide a list of all supporting documents, materials and evidence which you wish to submit with your notice of review and intend to rely on in support of your review. You can attach these documents electronically later in the process: * (Max 500 characters)

Notice of Review Statement, David Murray Associates Drawings Numbered D(0-)01 to 10 inclusive, Design Statement, Supporting Statement.

Application Details

Please provide details of the application and decision.

What is the application reference number? *

161451/DPP

What date was the application submitted to the planning authority? *

05/10/2016

What date was the decision issued by the planning authority? *

10/07/2017

Review Procedure

The Local Review Body will decide on the procedure to be used to determine your review and may at any time during the review process require that further information or representations be made to enable them to determine the review. Further information may be required by one or a combination of procedures, such as: written submissions; the holding of one or more hearing sessions and/or inspecting the land which is the subject of the review case.

Can this review continue to a conclusion, in your opinion, based on a review of the relevant information provided by yourself and other parties only, without any further procedures? For example, written submission, hearing session, site inspection. *

Yes No

Please indicate what procedure (or combination of procedures) you think is most appropriate for the handling of your review. You may select more than one option if you wish the review to be a combination of procedures.

Please select a further procedure *

Holding one or more hearing sessions on specific matters

Please explain in detail in your own words why this further procedure is required and the matters set out in your statement of appeal it will deal with? (Max 500 characters)

Poor & unfair handling of application. Decision Notice reasons for refusal didn't pay due attention to the carefully crafted design proposals or justifications presented in final documents. The matters subject to the review should include the reasons given for refusal in light of our notice of review statement. The review must be objective & unbiased consideration of the considerable merits of this regeneration project in a rundown inner city location. This is best handled as a hearing.

In the event that the Local Review Body appointed to consider your application decides to inspect the site, in your opinion:

Can the site be clearly seen from a road or public land? *

Yes No

Is it possible for the site to be accessed safely and without barriers to entry? *

Yes No

Checklist – Application for Notice of Review

Please complete the following checklist to make sure you have provided all the necessary information in support of your appeal. Failure to submit all this information may result in your appeal being deemed invalid.

Have you provided the name and address of the applicant?. *

Yes No

Have you provided the date and reference number of the application which is the subject of this review? *

Yes No

If you are the agent, acting on behalf of the applicant, have you provided details of your name and address and indicated whether any notice or correspondence required in connection with the review should be sent to you or the applicant? *

Yes No N/A

Have you provided a statement setting out your reasons for requiring a review and by what procedure (or combination of procedures) you wish the review to be conducted? *

Yes No

Note: You must state, in full, why you are seeking a review on your application. Your statement must set out all matters you consider require to be taken into account in determining your review. You may not have a further opportunity to add to your statement of review at a later date. It is therefore essential that you submit with your notice of review, all necessary information and evidence that you rely on and wish the Local Review Body to consider as part of your review.

Please attach a copy of all documents, material and evidence which you intend to rely on (e.g. plans and Drawings) which are now the subject of this review *

Yes No

Note: Where the review relates to a further application e.g. renewal of planning permission or modification, variation or removal of a planning condition or where it relates to an application for approval of matters specified in conditions, it is advisable to provide the application reference number, approved plans and decision notice (if any) from the earlier consent.

Declare – Notice of Review

I/We the applicant/agent certify that this is an application for review on the grounds stated.

Declaration Name: Mrs Angela Slater

Declaration Date: 11/09/2017

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Design Statement

PROJECT

The proposal is to provide much needed high quality residential accommodation making use of an existing brownfield site in an established residential area of the city.

BACKGROUND

The site is currently occupied by a lock-up garage/workshop which has been used by the owner as part of his business interests. In retirement now, he no longer has a requirement for the premises and is seeking to dispose of them, and has approached ourselves to explore new uses for the land. The resultant proposals demonstrated here consist of 2no. self-contained duplex apartments in place of the workshop on the site.

SITE

The site is located on Merkland Lane, which is a small lane of about 6m in width which runs to the south of, and parallel to, Merkland Road East. The lane serves as access to the gardens of the tenements on Merkland Road East as well as serving some commercial premises further to the west. To the east end of the lane lies Pittodrie Stadium. The area in general has been subject to increased new residential development on formerly developed commercial or industrial land, and this proposal intends to follow that trend.

The site itself consists of a storey and a half height lock up garage/workshop. It is constructed in roughcast block/brickwork with corrugated roof sheeting and is of no architectural merit. To the immediate north of the site are the rear gardens of the 4 storey tenements at 38/40 Merkland Road East. To the immediate east is the car park of a relatively recent 4 storey residential development. To the south of the site across the lane is a commercial site currently occupied by the security company G4S. The area of the G4S site that is directly across from the proposed site is used for parking vans and it is bounded along its entire length on the lane side by a galvanised metal security fence. To the west are the gardens of the tenement at no.36 Merkland Road East.



From East



From West

DESIGN

Site Analysis

There is an opportunity to create a good quality frontage onto the street and to improve the overall visual amenity currently offered by the existing building. With the recent history of regenerating existing commercial/industrial sites into residential use, it is not hard to see how the G4S commercial site may in time follow this trend and allow the opportunity for a future small scale 'mews' type development on the opposite side of the street to complement the proposals outlined here.

The orientation allows for living spaces to be located to the south to take maximum advantage of solar gain. However, privacy has to be carefully considered to ensure there is no detrimental overlooking from the new proposals onto the existing tenements and gardens.

Site Layout

The proposals take the form of 2no. identical semi-detached 2-storey duplex apartments, each with their own front door and external space.

The main living accommodation is located on the first floor. This has the advantage of removing it from the street level and the associated privacy/noise issues. Raising the living accommodation up one level also allows for a more open aspect, and negates any potential over-shadowing by the building or fencing opposite. It also allows for incorporating a balcony at this level which will be south facing and relate directly to the main living accommodation.

The bedroom accommodation has been carefully considered to ensure that privacy and environment is maintained, and as such, both bedrooms are located to the rear of the properties on ground floor and face out onto their own private garden space. This ensures that they are not compromising the amenity of either the proposed or existing residential accommodation, and their due east or west orientation ensures they will receive either direct morning or evening sunlight.

The bathrooms are located within the centre of the floorplan, with the kitchen being located to the rear at first floor level, again taking light and aspect from either east or west.

Scale and Form

The scale of the proposals is 2-storey with a shallow pitched roof. The roof is pitched in the direction perpendicular to the road to create a 'saw-tooth' effect. This has the impact of helping to visually accentuate the properties as individual entities whilst also creating an interesting and contrasting roofline, reinforcing the scheme's deliberately contemporary aspirations in relation to its more traditional surroundings. The shallow pitch

also reduces the overall visual impact of the development as much as possible to only slightly higher than the ridge of the existing workshop.

Sustainability and Materials

It is intended that the buildings will be designed with high environmental performance aspirations. Site layout has been carefully considered to ensure the fundamental design approach whereby an optimal amount of passive solar gain is achieved. The design has also ensured that the private balconies are orientated to benefit from maximum direct sunlight.

Further energy efficiencies are obtained by keeping the form of the buildings within a compact floor plate and volume with a limited number of projections. The detailed technical design of the buildings will be executed to provide an external envelope with a high degree of air-tightness and the buildings will benefit from thermal insulation in excess of the current Building Standards requirements.

The above measures ensure that the basic design is fundamentally sound in terms of energy performance. Based on this inherently sound design approach a variety of renewable technical measures will be considered to see what provides the optimum cost / performance benefits with viable pay-back periods.

Building materials will be selected from a limited palette. The walls will be finished in a smooth render generally, with the set-back element of the upper level being clad in the same material as the roof. This will help break up the massing and contribute to the overall visual interest. Roof planes will be duo-pitched and will be clad in metal standing seal sheeting to create a simple contemporary aesthetic.

There is ample room for bins, cycle storage and good pedestrian accessibility is maintained.



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Planning Issues

Comments on Planning issues raised at meeting between David Murray and Sepideh Hajisoltani – 11.01.17

SCALE OF DEVELOPMENT

Although there was no criticism of the scale of development, the question was asked about the possibility of reducing the number of units.

It was pointed out that the original proposal (which was commented on by Hannah Readman) was for a terrace of three two bed units. Although these could have been physically accommodated on the site, we felt the practicalities of construction and the enhanced amenity for residents and neighbours warranted a reduction to two units.

Anything less would not be viable. The two unit proposal is only just viable.

AMENITY TO RESIDENTS

The design proposal has been developed with very careful consideration being given to a wide range of amenity issues.

Although designed as two semi-detached dwellings these are not designed specifically as family houses. Rather the type of accommodation is more akin to that available in a two bedroom flat and would target that market.

In comparison, what has been designed offers considerably more amenity than would normally be available to flat buyers (such as those in the nearby recent flatted developments) and would include the following:

- Private front door.
- Private parking space.
(In reality the drive is sufficiently long that two small cars could be parked).
- Front door set back from the street and sheltered by the balcony.
- Very generous room sizes and overall dwelling size.
(Dwelling areas are 82.3 m² compared to the norm of 60 – 70 m² for flats generally).
- Private balcony (which is of a practical and useable size) accessed from the living room.
- Private garden area.

This last bullet point was commented on with some criticism of its small size. We consider this a bit unfair since it is an additional amenity which would not be provided with a comparable flat where all external areas tend to be communal.

We discussed the possibility of changing the layout of the units to provide more external private space. It was explained how, to comply with Building Standards requirements with the bedrooms on the lower level, the bedroom sizes cannot be reduced. As it is, the ground floor layout complies fully with the Standards including compartment size, an accessible shower room and the capability for future provision of a stairlift. Switching the living, dining, kitchen from the first floor would be highly detrimental to the quality and usability of the designed accommodation.

We have considered the possibility of adjusting the driveway to give more useable private outdoor space at the rear of the dwellings. See attached layout on drawing D(0-0)08.

ASPECT AND ENVIRONMENTAL FACTORS

Another amenity consideration for the residents of the proposed new dwellings is outlook and orientation. These have been carefully considered with every habitable room benefitting from direct sunlight at some point each day. The bedroom windows all face either east or west (as do the kitchens) meaning that residents will benefit



Planning Issues (continued)

from morning or evening sunlight. The living rooms face due south with an element of east or south facing windows. This means that these dwellings will be light and airy providing very high quality living space.

Placing the living areas at first floor level provides good open views to the south (particularly to the south east which is over an open car park for the nearby flats. There are good views up and down the Lane providing the benefit of aspect and overlooking for security.

The construction of the buildings (although not detailed in the design statement) will be insulated concrete formwork. This system provides very high levels of thermal insulation and is inherently airtight meaning that dwellings will achieve a very high level of energy efficiency giving high levels of comfort and low running costs.

ACCESS

The issue of access was raised and it is accepted that this is a rear lane. However, there are already, at the west end of the lane, a couple of commercial properties which are accessed from the lane. At the east end new flats are built to within a metre of the lane with numerous windows overlooking it. The lane is already used by pedestrians on a regular basis with only low numbers of vehicle movements.

The proposed development will improve this situation providing enhanced security due to overview and increased usage.

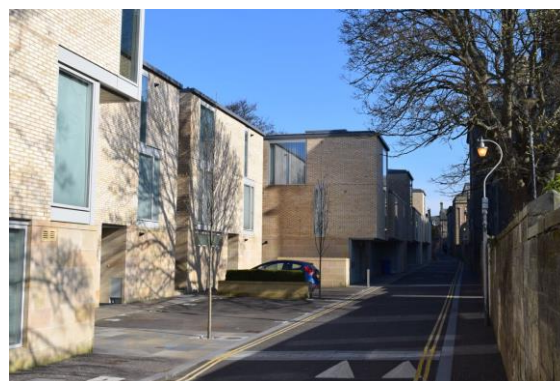
There are very many examples of similar rear lane development in many towns and cities which function perfectly well with no significant detriment to users.

Very often it is the narrow, shared surface roads and passageways in towns and cities which provide the most attractive and human scale urban environments. This is reflected in the concept of shared surface access which is a key principle of the whole Designing Streets approach.

In any event the length of shared surface route is very short. See attached location plan on drawing D(0)-08.

Westburn Lane Lane, St. Andrews

An award winning example of contemporary back lane urban development.



AMENITY TO NEIGHBOURING PROPERTIES

The site is currently occupied by a lock-up garage/workshop which has been unused for a number of years. It is an unsightly building which has had little or no maintenance in recent years. This is currently detrimental to the amenity of the neighbouring properties.

In comparison, what is proposed will provide a number of positive benefits for the neighbours including:

- Increased security with good overview up and down the lane from the new dwellings.
- The development will bring more life into the area.
- Improved visual amenity from an attractive and interesting contemporary building.

- Increased distance (1.2 m) from the rear of the tenements on Merkland Road East to the rear of the new building.
- Reduced building footprint.
This means more open space around and more open views from neighbouring properties.

With reference to the last bullet point see the overmarked rear elevation on drawing no. D(0-)08. The elevation has been amended to show the height and outline of the existing building. This demonstrates that there is a positive benefit for the residents in the tenements on Merkland Road East in comparison to what exists at present.

As far as we are aware there have been no objections from any of the neighbours to what is proposed.

We have produced an animation from our 3D Sketchup model to give a better feel for the highly articulated form of the building. This includes some views of the rear of the building showing how attractive it will appear from the tenements on Merkland Road East.

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