

DEVELOPMENT MANAGEMENT COMMITTEE 20th FEBRUARY 2023

Case No: 22/01205/FUL (FULL PLANNING APPLICATION)

Proposal: CHANGE OF USE OF AMENITY LAND TO FORM GARDEN CURTILAGE AND ERECTION OF BOUNDARY FENCING

Location: 40 NURSERY GARDENS, ST IVES, PE27 3NL

Applicant: MR AND MRS BAULK

Grid Ref: 531835 272222

Date of Registration: 27.06.2022

Parish: ST IVES

RECOMMENDATION – REFUSE

This application is referred to the Development Management Committee (DMC) because the Officer recommendation of refusal is contrary to St Ives Town Council's recommendation of approval.

1. DESCRIPTION OF SITE AND APPLICATION

- 1.1 The application site is occupied by a two-storey detached dwelling which is orientated side-on to Nursery Gardens. Nursery Gardens is characterised by similar detached two storey dwellings with a mix of brick and render finishes and mock Tudor facades. Dwellings are generally set back from the road with front or side driveways and landscaped front gardens.
- 1.2 The site is located within the built-up area of St Ives and predominantly in Flood Zone 1 on the Environment Agency's Flood Map for Planning, however a small section in the northwestern corner of the site falls within Flood Zone 2. The Council's mapping system shows parts of the site falling within Flood Zone 2 and 3a of the Huntingdonshire Strategic Flood Risk Assessment 2017.
- 1.3 This application seeks permission for the change of use of amenity land to form garden curtilage and the erection of boundary fencing.
- 1.4 Officers have scrutinised the plans and have familiarised themselves with the site and surrounding area.

2. NATIONAL GUIDANCE

- 2.1 The National Planning Policy Framework (20th July 2021) (NPPF 2021) sets out the three objectives - economic, social and environmental - of the planning system to contribute to the achievement of sustainable development. The NPPF 2021 at paragraph 10 provides as follows: 'So that sustainable development is pursued in a positive way, at the heart of the Framework is a presumption in favour of sustainable development (paragraph 11).
- 2.2 The NPPF 2021 sets out the Government's planning policies for (amongst other things):
- delivering a sufficient supply of homes;
 - building a strong, competitive economy;
 - achieving well-designed, beautiful and safe places;
 - conserving and enhancing the natural, built and historic environment
- 2.3 Planning Practice Guidance and the National Design Guide 2021 are also relevant and material considerations.

For full details visit the government website [National Guidance](#)

3. PLANNING POLICIES

- 3.1 Huntingdonshire's Local Plan to 2036 (Adopted 15th May 2019)
- LP2: Strategy for Development
 - LP7: Spatial Planning Areas
 - LP11: Design Context
 - LP12: Design Implementation
 - LP14: Amenity
 - LP17: Parking Provision and Vehicle Movement
 - LP30: Biodiversity and Geodiversity
 - LP32: Protection of Open Space
- 3.2 Supplementary Planning Documents (SPD) and Guidance:
- Huntingdonshire Design Guide Supplementary Planning Document (2017)
 - Huntingdonshire Landscape and Townscape SPD (2022)
 - Huntingdonshire Strategic Flood Risk Assessment (2017)
 - Cambridgeshire Flood and Water SPD (2017)
 - LDF Developer Contributions SPD (2011)

For full details visit the government website [Local policies](#)

4. PLANNING HISTORY

- 4.1 22/01204/CLPD – Insertion of rooflights on front and rear elevation – Approved

- 4.2 21/00344/FUL – Change of use from kerbside landscape to residential garden. Erection of boundary wall and fencing. – Application disposed of
- 4.3 8902354OUT – Residential development – Approved
- 4.4 9101578REM – Erection of 44 dwellings, roads, sewers and ancillary works – Approved

5. CONSULTATIONS

- 5.1 St Ives Town Council – Approval. No adverse impact on the street scene.
- 5.2 Highway Authority – No objections to that proposed as it would not have any impact on highway safety.

6. REPRESENTATIONS

- 6.1 None received at the time of determination.

7. ASSESSMENT

- 7.1 When determining planning applications, it is necessary to establish what weight should be given to each plan's policies in order to come to a decision. The following legislation, government policy and guidance outline how this should be done.
- 7.2 As set out within the Planning and Compulsory Purchase Act 2004 (Section 38(6)) and the Town and Country Planning Act 1990 (Section 70(2)) in dealing with planning applications the Local Planning Authority shall have regard to have provisions of the development plan, so far as material to the application, and to any other material considerations. This is reiterated within paragraph 47 of the NPPF (2021). The development plan is defined in Section 38(3)(b) of the 2004 Act as "the development plan documents (taken as a whole) that have been adopted or approved in that area".
- 7.3 In Huntingdonshire the Development Plan consists of:
- Huntingdonshire's Local Plan to 2036 (2019)
 - Cambridgeshire & Peterborough Minerals and Waste Local Plan (2021)
 - St Neots Neighbourhood Plan 2014-2029 (2016)
 - Godmanchester Neighbourhood Plan (2017)
 - Houghton and Wyton Neighbourhood Plan (2018)
 - Huntingdon Neighbourhood Plan (2019)
 - Bury Village Neighbourhood Plan (2021)
 - Buckden Neighbourhood Plan (2021)

- Grafham and Ellington Neighbourhood Plan 2020-2036 (2022)

- 7.4 The statutory term 'material considerations' has been broadly construed to include any consideration relevant in the circumstances which bears on the use or development of the land: *Cala Homes (South) Ltd v Secretary of State for Communities and Local Government & Anor* [2011] EWHC 97 (Admin); [2011] 1 P. & C.R. 22, per Lindblom J. Whilst accepting that the NPPF does not change the statutory status of the Development Plan, paragraph 2 confirms that it is a material consideration and significant weight is given to this in determining applications.
- 7.5 The main issues to consider as part of this application are:
- Principle of development
 - Design and Visual Amenity
 - Residential Amenity
 - Highway Safety
 - Flood risk
 - Biodiversity

Principle of development

- 7.6 The application site is located within an established residential area of St Ives which is defined as a Spatial Planning Area under Policy LP7 of Huntingdonshire's Local Plan to 2036. However, in this case the proposed development does not fall into any of the categories detailed under Policy LP7 which concern residential and commercial development.
- 7.7 Policy LP32 of the Local Plan looks to avoid the loss of open space, outdoor recreation facilities, allotments and areas of garden land that provide amenity value. In this case, the area of land in question measures approximately 30 square metres comprising grass, shrubs and a lamp post. The land is not useable open space but serves as a soft landscape buffer within a residential area. There is no adopted Neighbourhood Plan and therefore it is not a Designated Local Green Space. Whilst the loss of this section of land is acknowledged, it is considered to be of low public value and would not be contrary to the aims of Policy LP32 of the Local Plan. The proposed is therefore considered to be acceptable in principle, subject to other material considerations.

Design and Visual Amenity

- 7.8 Nursery Gardens comprises 44 dwellings built in the 1990s pursuant to planning applications 8902354OUT and 9101578REM. As previously mentioned, the character of the cul-de-sac includes detached two storey dwellings with a mix of brick and render finishes and mock tudor facades which are mostly set

back from the road with front or side driveways and landscaped front gardens.

- 7.9 40 Nursery Gardens is orientated side-on to the road and has a shared access with 41 and 42 Nursery Gardens. There is a parking area to the front with a front garden consisting of low level planting and a tree. The side boundary of the site adjacent to the road comprises a solid brick wall (set in approximately 2 – 2.5 metres) with grass and shrubs between the boundary wall and the pavement. The brick wall begins at the rear elevation of the dwelling and bends round to the rear garden and boundary with 39 Nursery Gardens.
- 7.10 The proposal looks to incorporate a 30sqm strip of land comprising grass and shrubs into the garden of the application site which would involve the demolition of the existing brick wall, removal of the existing soft landscaping and the erection of a 1.8 metre close boarded fence. The proposed fence would extend approximately 14 metres in length which is around 5.5 metres greater in length than the existing brick wall as it would incorporate an area to the side of the dwelling which is not currently enclosed. A gap of 0.5 metres would be retained between the proposed boundary wall and the pavement to provide 6sqm of planting.
- 7.11 In terms of the change of use to garden land, officers have considered the impact of the loss of this small area of amenity land which is considered to have low public value. By its very nature, it does not appear that it was ever intended to be used as an area of usable open space.
- 7.12 However, it is considered that this area of land provides a visual soft landscaping buffer between the built form and hard surfaces within the residential area and contributes positively to the street scene in this respect. Whilst replacement planting is proposed, this would not be proportionate to the established shrubs, planting and grass to be removed.
- 7.13 With regard to the proposed boundary treatment, the Huntingdonshire Design Guide 2017 recommends the avoidance of close boarded fencing in locations facing the public realm. Given the positioning and close proximity to the highway, it is considered that the proposed fencing would be a visually prominent addition within the street scene. The small gap of 0.5 metres between the pavement and proposed fence would not be sufficient for replacement planting to establish and soften the impact of the solid boundary. With a total length of approximately 14 metres, the fencing would be a stark and overly dominant feature to the front and side of the dwelling in views from the north, east and west and would be harmful to the visual amenity and character of the area. It should be noted that the Permitted Development fallback for a boundary fence or similar by virtue of

the Town and Country Planning (General Permitted Development) (England) Order (2015) as amended in this case is a maximum height of 1 metre as the land is adjacent to the highway.

- 7.14 The applicant has provided Officers with examples of close boarded fences within Nursery Gardens. It is acknowledged that sections of close boarded fence are visible in the street scene, however these appear to side onto driveways/parking areas or do not directly front onto the road and are not as visually prominent as the proposed development. It is also acknowledged that there are long sections of close boarded fence as you enter Nursery Gardens from St Audreys Lane, however these are set in approximately 5 metres from the highway thereby reducing the impact on the visual amenity on the public realm.
- 7.15 In conclusion, taking all of the above factors into consideration, the proposal is considered to be contrary to Policies LP11 and LP12 of Huntingdonshire's Local Plan to 2036 and the guidance contained within parts 3.6 and 3.8 of the Huntingdonshire Design Guide (2017).

Residential Amenity

- 7.16 Policy LP14 of the Local Plan to 2036 states that "a proposal will be supported where a high standard of amenity is provided for all users and occupiers of the proposed development and maintained for users and occupiers of neighbouring land and buildings."
- 7.17 The proposed development will result in the land being used for activities related to the enjoyment of the dwelling. However, it is not considered the extended garden area will unduly impact the amenities of the neighbouring properties in terms of noise. Furthermore, having regard to the proposed boundary fence and the relationship with neighbouring properties, it is not considered that there would be any harmful overbearing impact created.
- 7.18 With the above, the proposal is considered to be acceptable with regard to its impact on residential amenity and therefore accords with Policy LP14 of Huntingdonshire's Local Plan to 2036.

Highway Safety

- 7.19 The proposed fence would be in close proximity to the highway. The Highway Authority have raised no objection to the proposal. As such, Officers do not consider that the proposal would give rise to any material highway safety issues in accordance with Policy LP17 of the Local Plan.

Flood risk

7.20 A small section of the site falls within Flood Zone 2 shown on the Environment Agency's flood map for planning and the northern part of the site where the development is proposed is shown as being in Flood Zone 3a of the Council's Strategic Flood Risk Assessment 2017. Development of this nature is not subject to the Sequential or Exception test, however paragraph 168 of the National Planning Policy Framework 2021 states that applications for some minor development and changes of use should still be accompanied by a site-specific flood risk assessment. However, Officers do not consider that the proposed change of use of the land and associated development is unlikely to increase the risk of flooding either on or off the site and therefore it is not considered that the absence of a site-specific flood risk assessment would warrant a reason for refusal. On balance, the proposal would comply with the aims of Policy LP5 of the Local Plan.

Biodiversity

7.21 Policy LP30 of the Local Plan states that a proposal should ensure there is no net loss in biodiversity. The land subject to the change of use is a maintained area of grass and shrubs in a residential area and therefore provides limited value in terms of biodiversity. The proposal would involve replacement planting, the species and number of plants has been provided on the proposed plans. Given the nature of the proposal, it is considered that the proposal would accord with the aims of Policy LP30 of Huntingdonshire's Local Plan to 2036 in this regard.

Conclusion

7.22 Having regard to all relevant material considerations, it is concluded that the proposal would not accord with local and national planning policy. Therefore, it is recommended that planning permission be refused.

8. RECOMMENDATION – REFUSAL for the following reason:

Reason 1. By virtue of its design, material and prominent siting within Nursery Gardens, the proposed close boarded fence would be a visually incongruous feature to the front and side of the dwelling and would be out of keeping with the character and appearance of the street scene. The proposal therefore fails to comply with Policies LP11 and LP12 of Huntingdonshire's Local Plan to 2036 and the guidance contained within parts 3.6 and 3.8 of the Huntingdonshire Design Guide (2017).

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CONTACT OFFICER:

Enquiries about this report to **Lucy Pateman Senior Development Management Officer** – lucy.pateman@huntingdonshire.gov.uk

APPLICATIONS FOR PERMISSION FOR DEVELOPMENT
13 July 2022

Application No Applicant/Agent	Proposed Development	Recommendations
21/01368/FUL Mr Alan Tuohy 1 Green End Barns St Ives PE27 5RH	2 storey extension to existing dwelling to form self contained annex for ageing relations 1 Green End Barns St Ives	APPROVAL Would wish to see two replacement trees for the one to be felled
22/00033/FUL Mr Tim Adams Walsingham Planning Ltd Bourne House Cores End Road Bourne End SL8 5AR	New rear fire escape 13 Crown Street St Ives	APPROVAL No adverse impact on street scene Acceptable addition to premises
22/00926/TREE Mr David Brettell 19 Wilson Way St Ives PE27 6TG	Horse Chestnut Tree - reduce by 5-7metres 19 Wilson Way St Ives	APPROVAL Acceptable level of canopy reduction. Welcome the decision not to fell the tree.

<p>22/00928/FUL</p> <p>Mr and Mrs Garrod JK Architecture The Gables Bury Road Bury Ramsey PE26 1ME</p>	<p>Proposed rear two storey extension 24 Brigham Crescent St Ives</p>	<p>APPROVAL Appropriate scale of development In keeping with the street scene</p>
<p>22/01007/FUL</p> <p>Miss Katrina Rees MWS Architectural Ltd 89 St John's Road Ely CB6 3BW</p>	<p>Proposed Single Storey Rear Extension 39 Houghton Road St Ives</p>	<p>APPROVAL Appropriate scale of development for the site</p>
<p>22/01059/FUL</p> <p>Mr Fida Hussain Richard Biddle 60 Maytrees St Ives PE27 5WZ</p>	<p>Amalgamation of two flats into one dwelling 11a Carlisle Terrace The Quadrant St Ives</p>	<p>APPROVAL No adverse impact on the street scene</p>
<p>22/01205/FUL</p> <p>Mr and Mrs Baulk JPT Design Consultants Ltd The Studio 23 Halifax Road Upper Cambourne CB23 6AX</p>	<p>Change of use of amenity land to form garden curtilage and erection of boundary fencing. 40 Nursery Gardens St Ives</p>	<p>APPROVAL No adverse impact on the street scene</p>

Development Management Committee



Scale = 1:1,250

Application Ref: 22/01205/FUL

Date Created: 07/02/2023

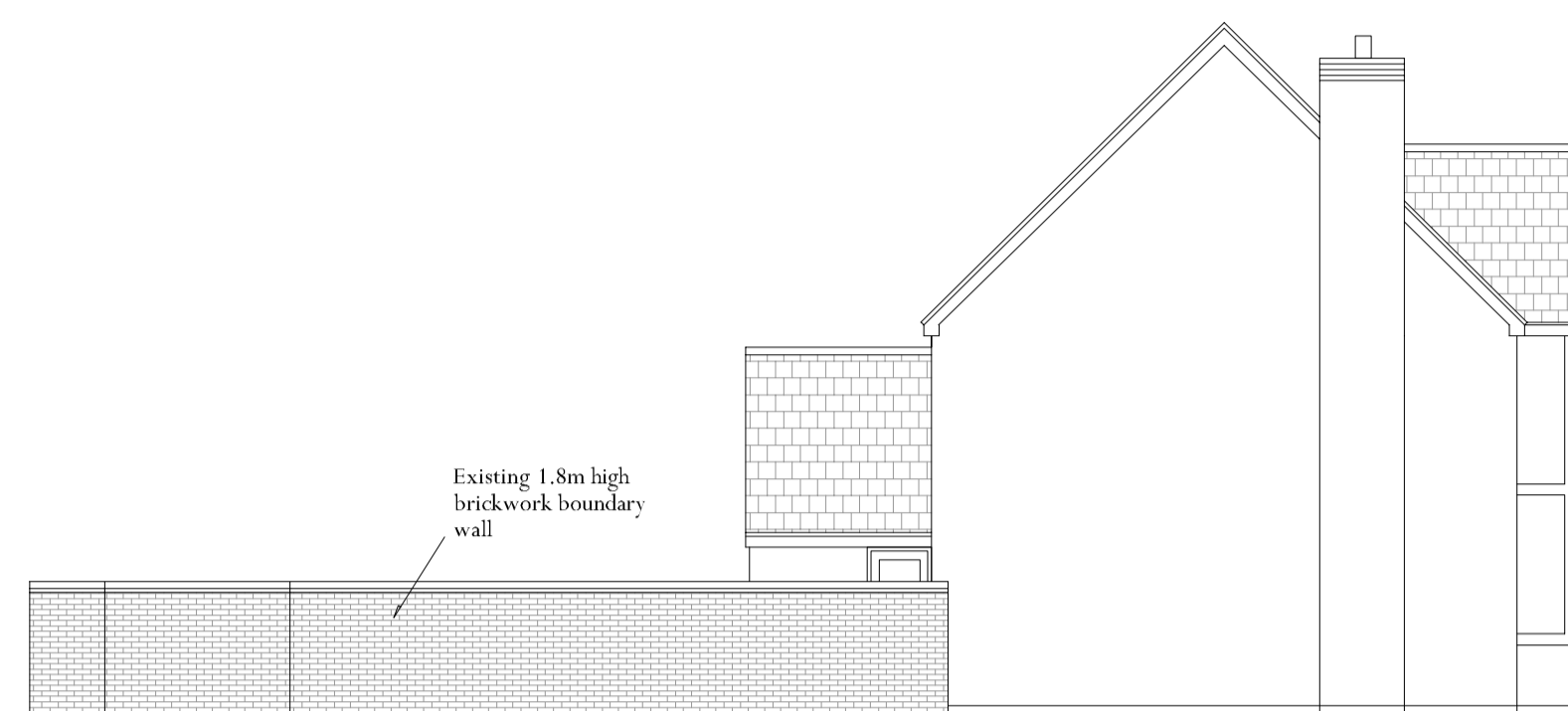
Location: St Ives

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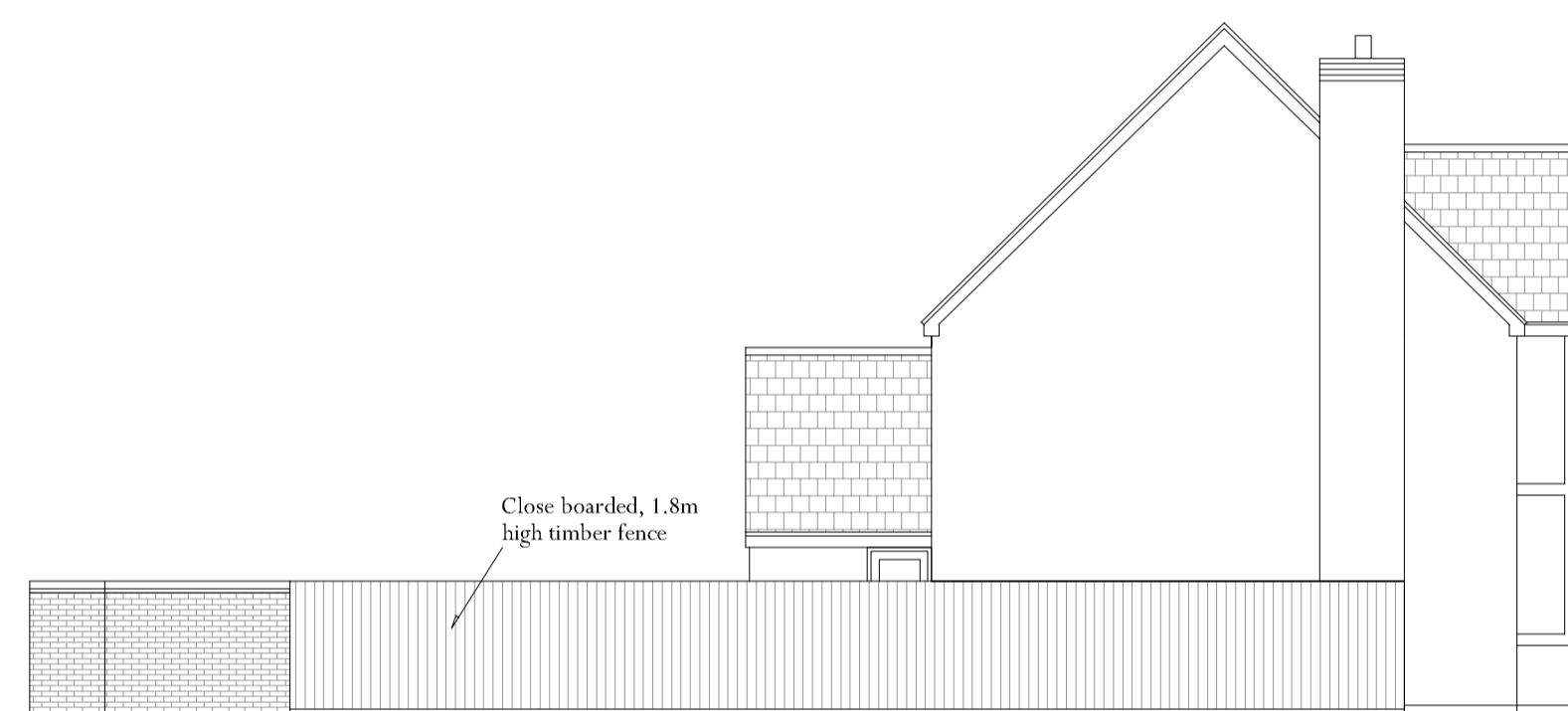


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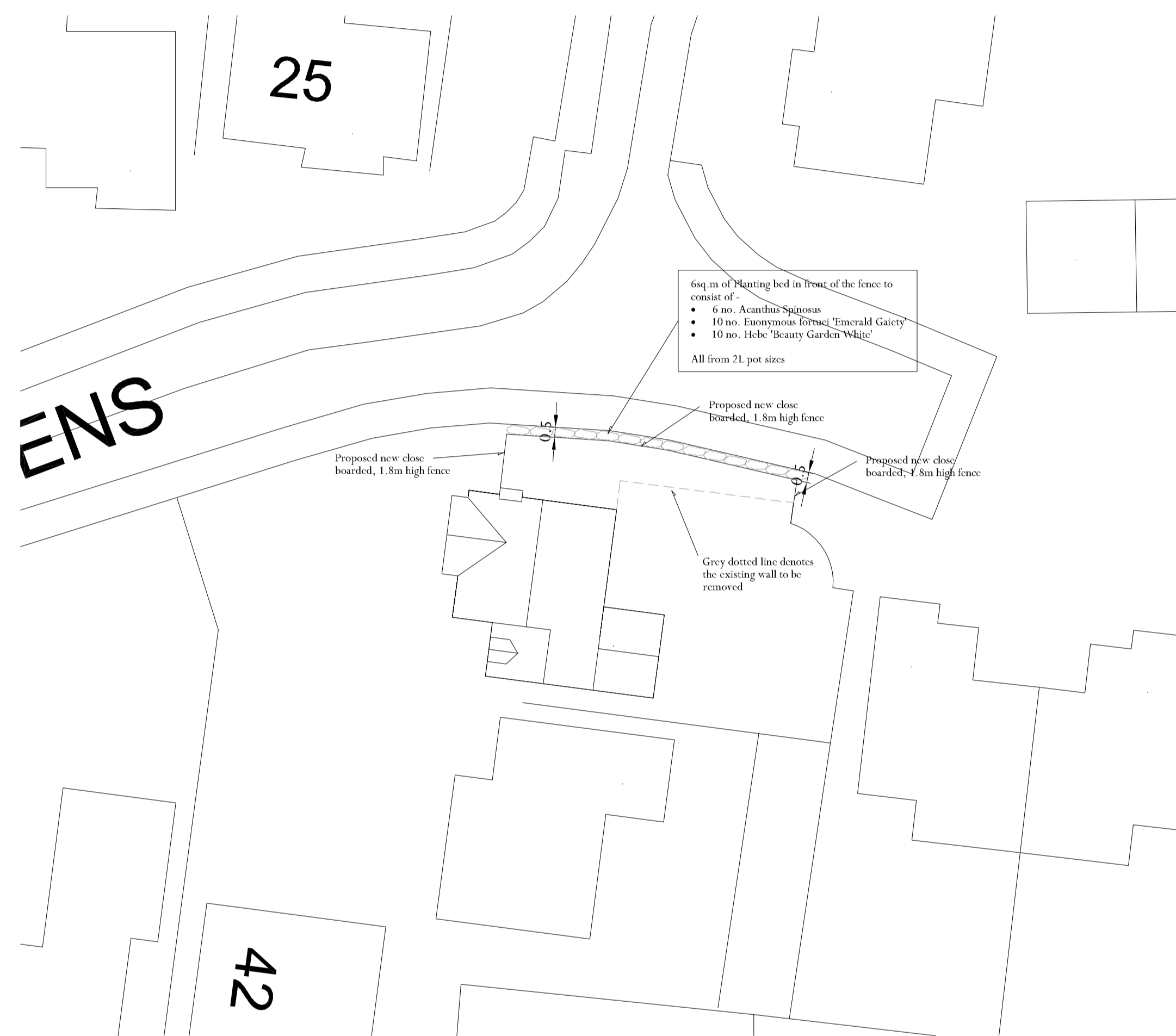
1. ALL DIMENSIONS IN MILLIMETRES UNLESS OTHERWISE STATED.
2. ALL PROPOSED MATERIALS WILL MATCH THOSE OF THE EXISTING HOUSE



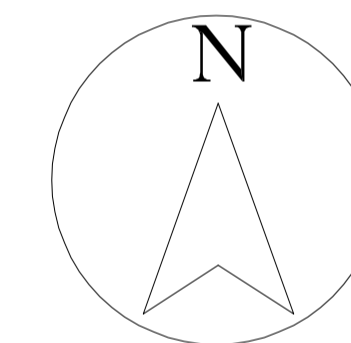
EXISTING SIDE ELEVATION
 SCALE 1:100



PROPOSED SIDE ELEVATION
 SCALE 1:100



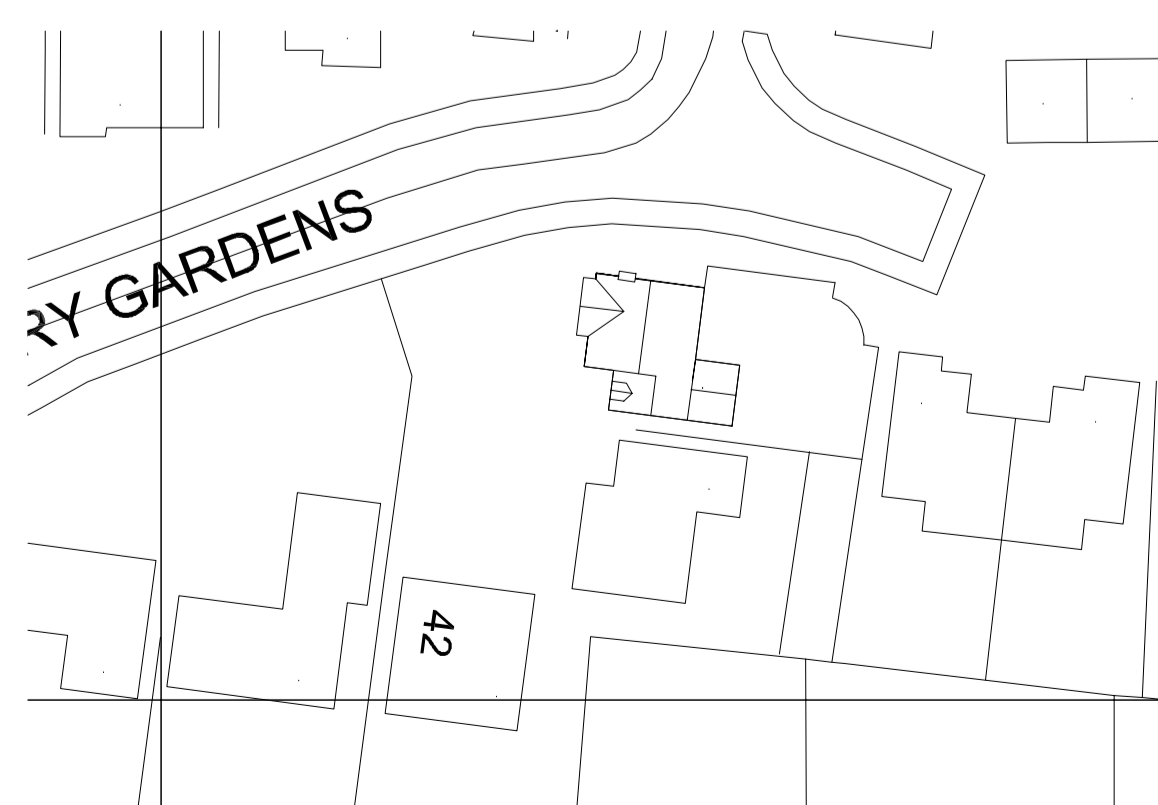
PROPOSED BLOCK PLAN (METRES)
 SCALE 1:200



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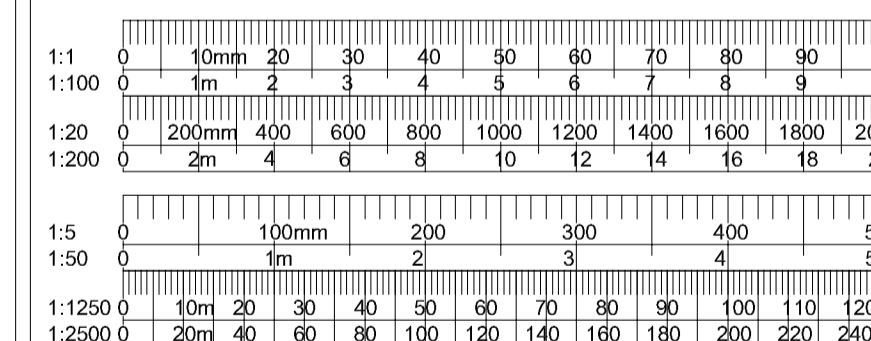


SITE LOCATION PLAN
 SCALE 1:1250



SITE PLAN
 SCALE 1:500

SCALE RULER



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 THE STUDIO, 23 HALFAX ROAD, UPPER CAMBOURNE CB23 6AX
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Drawing Title -

EXISTING & PROPOSED ELEVATIONS AND SITE PLANS

Client - MR & MRS BAULK

Address - 40 NURSERY GARDENS, ST IVES

Scale - AS SHOWN @ A1 Date - MAY 22

Dwg. No. - JPT/BLK/0522/001 Rev. B

