

DEVELOPMENT MANAGEMENT COMMITTEE 17th June 2024

Case No: 24/00090/FUL

Proposal: Change of use of land adjacent to the property to residential use and retention of existing boundary fence.

Location: 29 Acacia Avenue, St Ives, PE27 6TN

Applicant: Haider Ali

Grid Ref: (E) 530508 (N) 272583

Date of Registration: 20th March 2024

Parish: St Ives

RECOMMENDATION - APPROVE

This application is referred to the Development Management Committee (DMC) in accordance with the Scheme of Delegation as the recommendation of approval is contrary to that of the Town Council.

1. DESCRIPTION OF SITE AND APPLICATION
 - 1.1 29 Acacia Avenue is a two-storey semi-detached dwellinghouse located within a residential area of St Ives. The site is within Flood Zone 1 as per the most recent Environment Agency Flood Risk Maps and Data and there are no other constraints related to it.
 - 1.2 The property is located to the east of Acacia Avenue and on a bend in the road. The properties to the east are a row of terraces, numbers 23, 25 and 27 Acacia Avenue and there is a section of green space measuring approx. 80m² north of number 29 and west of number 27 which is the subject of this application.
 - 1.3 This application seeks planning permission to change the use of the land to residential use and to retain the existing boundary fence that has been erected on site. This application follows consultation with Officers of the Local Planning Authority (LPA) and is a re-submission of the earlier refused application (ref 20/01454/FUL). The fence design and location has been amended since this previously refused application and soft landscaping has been included.

- 1.4 It is noted that the ownership of the land is unknown. However, the applicant has completed Certificate D, and put a public notice in the Hunts Post to try and find the land owner, to notify them of their planning application, as required by planning legislation. In addition, the application form details the applicant also contacted the St Ives Town Council, the Land Registry, Statutory Undertakers, looked into the highway boundary, and HDC maps in an attempt to try and find out who owned the site. On this basis Officers are satisfied that the applicant has taken all the necessary steps to try and identify and notify the owners of the land about their planning application.

2. NATIONAL GUIDANCE

- 2.1 The National Planning Policy Framework (December 2023) (NPPF 2023) sets out the three objectives – economic, social and environmental – of the planning system to contribute to the achievement of sustainable development. The NPPF 2023 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 National Planning Policy Framework (December 2023) (NPPF 2023) 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
 - LP5: Flood Risk
 - 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)
- Cambridgeshire and Peterborough Minerals and Waste Local Plan (2021)

The National Design Guide (2021)

- C1 - Understand and relate well to the site, its local and wider context
- I1 - Respond to existing local character and identity
- I2 - Well-designed, high quality and attractive
- I3 – Create character and identity
- N3 - Support rich and varied biodiversity

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

4. PLANNING HISTORY

- 4.1 20/01454/FUL – Change of use of open space to residential with erection of boundary fence. (Refused).

5. CONSULTATIONS

- 5.1 St Ives Town Council recommend refusal: “Recommend refusal for the same reasons as at the previous application, which were:

*Loss of amenity – this is an area of green open space used by the public.

*Not in keeping with the street scene – other properties in the locality do not have fences.

*There is some uncertainty as to the actual ownership of the land.

Officer comments: As detailed in the preceding sections of this report, the appropriate attempts have been made by the applicant to determine the land ownership, and the correct land ownership certificate submitted and notice served in the press, as required by legislation. The other matters raised are addressed below.

- 5.2 Cambridgeshire County Council Highways Team –No objections – further details in the proceeding sections of this report.

- 5.3 HDC Urban Design Team– No objections – further details in the proceeding sections of this report.

6. REPRESENTATIONS

- 6.1 Three comments have been received, two of these are in support of the scheme and one raises objections. These are available to view in full on HDC's Public Access Site but are summarised below:

- 6.2 Support:

*Concerns regarding visibility have been addressed and presents no issues with parking and manoeuvring of vehicles.

*Works completed have improved the appearance of the site and is much more desirable. Sufficient green space remains and is accessible to the public.

*Approve of the retention of the current fence and the laurel bush is an improvement.

*Land has previously not been maintained by any public body.

*Proposal will tidy up the area, re-introducing greenery, colour and softening the area.

Object:

*Location of fence will cause a potential hazard on a difficult bend in the road and limit visibility for traffic in both directions. Road is used heavily by passing traffic and utilised by parents dropping off and collecting young children attending Primary School.

*Detrimental to the appearance of the grounds by enclosing the green space. This could set a precedent for other similar projects which would damage the overall appearance.

*To summarise, we strenuously object to the scheme.

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 (2023). 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 a number of adopted neighbourhood plans, however, there is not an adopted neighbourhood plan in place for St Ives. Therefore, in this case no neighbourhood plans are given weight in the determination of this application.
- 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 in the determination of this application are:
- The principle of development
 - Design and visual amenity
 - Residential amenity
 - Highway safety
 - Biodiversity
 - Flood risk

The principle of the development

- 7.6 The site is located within the built-up area of St Ives which is a Spatial Planning Area as defined under Policy LP7 of Huntingdonshire’s Local Plan to 2036. Whilst in this case the application relates to the change of use of land to residential and the retention of an existing fence (and so residential development on a smaller scale than would generally be expected), it remains that LP7 broadly supports residential development (Class C3 which is the use of the adjacent site) where it is appropriately located within the built-up area of a Spatial Planning Area.
- 7.7 Careful consideration has been given to Policy LP32 of the Local Plan which was a policy reason for refusal of the previous

application (ref 20/01454/FUL). LP32 seeks to protect areas of open space of public value stating that:

“A proposal that would lead to the whole or partial loss of an area of open space of public value will only be supported where there would be no significant adverse impact on the character of the surrounding area and:

a. the loss is minimised where possible and compensatory measures are put in place that provide a net benefit to the community that is served by the space, which will be judged in terms of availability, accessibility, quality and quantity; or

b. where the loss involves outdoor sport or recreational space:

i. the proposal is for, or includes, development of the space for an alternative outdoor sport or recreational use of an equivalent or better quality and of equivalent or greater quantity, in a suitable location and subject to equivalent or better management arrangements, prior to the commencement of development; or

ii. the loss is justified by an assessment that demonstrates that the space is clearly surplus to the requirements of the current local population and the population of planned development that would be served by the space.

In order to ensure that compensatory measures provide net benefits to the community the proposal will be expected to include enhancement of any remaining open space in cases of partial loss, the enhancement of other existing spaces or new provision that would serve the same community as that being lost. New provision for the loss of sports or recreational open space should be in a form that best meets an identified existing need, as agreed with the Council”

The NPPF (2023) at Paragraphs 102 to 107 builds on this and gives weight to open space, sports and recreational buildings and land (including playing fields). In this case, whilst the application site could be considered as ‘open space’ it appears more likely that this was a soft landscaping green buffer which were standard additions and typical of many residential developments across the district and elsewhere.

7.8 It should be noted at this point that the area of land in question is not designated as a Local Green Space within a Neighbourhood Development Plan and, as stated above, that there is no approved neighbourhood plan in place for St Ives. Policy LP32 of the Local Plan also states that open space takes many forms including parks, village greens, play areas, sports pitches, allotments, semi-natural areas and substantial private gardens.

- 7.9 It is acknowledged that objections to the earlier scheme referenced that children were playing on the land in question (which again is likely typical of a residential area). However, there are other similar areas of land in the vicinity of the application site, and, St Ives, being a sustainable location has many other options for sports and recreation (in areas specifically designated for this purpose) within easy walking/cycling distance of the application site. The red line has also been slightly reduced (to the north) meaning that the expanse of land has been reduced in comparison with the earlier scheme.
- 7.10 For the reasons given above, it is concluded that this space is not an area of land which was ever intended to be an area of 'usable public open space' and cannot reasonably be considered as an area of public value providing opportunities for sports and recreation purposes. Therefore, whilst the loss of this section of land is acknowledged, given that it does not fall within the catchment of defined open space of specific public value, it does not deviate from the requirements of Policy LP32 of the Local Plan and is therefore considered to be acceptable in principle subject to other material considerations and conditions.

Design and Visual Amenity

- 7.11 Acacia Avenue appears typical of a 1970's residential housing area and hosts both detached, semi-detached and terraced properties of brick and tile construction. The area has an open, verdant character, and, whilst there are examples of soft landscaping site frontages are generally unrestricted. That said, approx. 34 metres north-east of the application site there are some examples of high, close boarded fencing forming the side boundaries of dwellings at the junction of Acacia Avenue and Shakespeare Road.
- 7.12 This application seeks planning permission to retain an existing fence and change the use of a section of land to residential. There have been clear amendments to the design of the fence in comparison with the refused application (20/01454/FUL) where the visual harm was clear. That application was to retain a 1.8 metre close board fence which was attached to the dwelling at the north elevation and which extended north-eastwards, and then continued to the east of the property (between it and number 27 Acacia Avenue). The fence extended almost directly to the footpath and almost entirely diminished the landscape buffer provided by the grassed area.
- 7.13 This application significantly alters the proposal, the extent of the land subject to the change of use has been reduced as has the scale and location of the fence. It is now set back from the road frontage and, aside from a small section immediately north-east of the property retains a significant amount of the green space.

The fence now extends to the east (proving a side boundary to the application dwelling) then north (to the west of number 27). It provides a laurel hedge (already in place to a large degree) and proposes tree planting in the centre of the land. It is noted that no hedgerow has been planted forward of the north-east section as yet but the applicant has confirmed that this is intended (pending the outcome of this application) and is a matter which can be secured by condition if Members were to minded to approve the application. In order to ensure that no development (which may be harmful) can be undertaken by exercising permitted development rights, it is considered prudent to limit those available by virtue of Schedule 2, Part 1, Class E (buildings incidental to the enjoyment of a dwellinghouse), and Schedule 2, Part 2, Class A (boundary treatments). It is acknowledged that the Huntingdonshire Design Guide Supplementary Planning Document (2017) advises that close boarded fencing should be avoided in locations facing the public realm, however, this is intended as a guide only and needs to be viewed in context of the site and mitigation measures in place (such as planting to soften the appearance) which is also recommended within the Design Guide. As referenced above, there are also other examples of close boarded fencing in the locality and so this is not uncharacteristic of the area.

- 7.14 As detailed in the preceding sections of this report, HDC's Urban Design Team have been consulted and raise no objections stating that "the amended application follows refused application 20/01454/FUL and positions the side boundary fence further back from the back edge of the footpath. The arrangement of laurel hedge planting (shown on the Illustrative Landscape Plan Rev P2) is supported, in time this will form a tall hedgerow, which together with the deeper setback helps screen the fencing in accordance with the HDC Design Guide SPD 2017 requirements for public facing boundaries – 'If the side or rear walls are in the public realm then these should be either solid wall or high hedge, or a combination of both'. Based on the submitted site photos, part of the proposed hedge immediately north of No. 29 Acacia Avenue (area highlighted below) has not been planted in accordance with the Illustrative Landscape Plan Rev P2 and is required to screen and soften this section of fencing."
- 7.15 Therefore, having regard to the above assessment, comments from specialists, and subject to a recommended condition to provide/retain the soft landscaping to minimise visual harm, whilst the concerns in the objection are noted, on balance it cannot be considered that the development would be significantly harmful to the visual character or appearance of the area. It therefore accords with Policies LP11 and LP12 of the Huntingdonshire Local Plan to 2036 in this regard.

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.” In this case, given the scale and location of the fence it is not considered that this will be harmful in terms of overbearing impact, overshadowing or loss of light. As this also provides a boundary it does not result in any issues of overlooking or loss of privacy. The change of use of the land to residential (given that it is located within a well established residential area) is not expected to give rise to any activity which would not already be typical of the locality and so it is concluded that there is no increased risk of noise or odour impacts as result of the change.
- 7.17 Overall therefore, taking all of the above matters into consideration the development is considered to be acceptable in terms of residential amenity and accords with Policy LP14 of the Huntingdonshire Local Plan to 2036 in this regard.

Highway Safety

- 7.18 It is not considered that given the revised location of the fence (which doesn't project beyond the established building line and is not adjacent to a vehicle or pedestrian access) would present with any highway safety concerns. However, given the points raised in the objection, Cambridgeshire County Council as the Local Highway Authority have been consulted. Having reviewed the submission they raise no objections stating that “regarding this area of land, they can find no records of ownership in relation to public bodies or any details that there was ever required for any type of visibility requirements across third party land. They would therefore have no objections to that proposed.

Following a careful review of the documents provided to the Highway Authority as part of the above planning application, no significant adverse effect upon the Public Highway should result from this proposal, should it gain benefit of Planning Permission”

- 7.19 Overall, therefore, having regard to the above assessment and the favourable comments from CCC as specialists, the proposed development is considered to be acceptable with regard to highway safety and therefore accords with Policy LP17 of the Huntingdonshire Local Plan to 2036 in this regard.

Biodiversity

- 7.20 Policy LP30 of the Local Plan to 2036 states that “a proposal will ensure no net loss in biodiversity and achieve a net gain where possible.” The submission of this application also pre-dates the changes of the legislation in relation to biodiversity net gain.

- 7.21 In this case the biodiversity value of the site is considered to be low (being a maintained area of grassland in a residential setting). Scope for enhancements are also limited. However, the provision of the hedgerow and tree which would be recommended to be secured by condition are considered to provide some degree of habitat and so could be considered as an enhancement.
- 7.22 Having regard to the above the proposal is considered to be acceptable in terms of biodiversity impacts and broadly accords with Policy LP30 of the Huntingdonshire Local Plan to 2036.

Flood risk

- 7.23 The application site is within Flood Zone 1 and is therefore not subject to the Sequential or Exception Tests required by the NPPF (2023). Nor (given its scale) does it require the submission of a Flood Risk Assessment (FRA). The development does not increase the footprint of the building nor introduce any additional hard surfacing and so is not considered to result in any increased risk of flooding.
- 7.24 The development is therefore considered to be acceptable with regard to its approach to flood risk and therefore accords with Policy LP5 of the Huntingdonshire Local Plan to 2036.

8. RECOMMENDATION – APPROVAL subject to conditions to include the following

- Time limit
- Retention in accordance with approved plans
- Materials retained
- Provision of and maintenance/retention of soft landscaping
- Limited PD rights

If you would like a translation of this document, a large text version or an audio version, please contact us on 01480 388424 and we will try to accommodate your needs

CONTACT OFFICER: Kevin Simpson

Enquiries kevin.simpson@huntingdonshire.gov.uk

<p>[REDACTED]</p>			<p>[REDACTED]</p>
<p>[REDACTED]</p>	<p>[REDACTED]</p>	<p>[REDACTED]</p>	<p>[REDACTED]</p>
<p>[REDACTED]</p>	<p>[REDACTED]</p>	<p>[REDACTED]</p>	<p>[REDACTED]</p>
<p>[REDACTED]</p>	<p>[REDACTED]</p>	<p>[REDACTED]</p>	<p>[REDACTED]</p>

<p>[REDACTED]</p> <p>[REDACTED]</p> <p>[REDACTED]</p> <p>[REDACTED]</p>	<p>[REDACTED]</p> <p>[REDACTED]</p> <p>[REDACTED]</p> <p>[REDACTED]</p>	<p>[REDACTED]</p> <p>[REDACTED]</p> <p>[REDACTED]</p> <p>[REDACTED]</p> <p>[REDACTED]</p>	<p>[REDACTED]</p> <p>[REDACTED]</p> <p>[REDACTED]</p> <p>[REDACTED]</p>
<p>[REDACTED]</p> <p>[REDACTED]</p> <p>[REDACTED]</p> <p>[REDACTED]</p>	<p>[REDACTED]</p> <p>[REDACTED]</p> <p>[REDACTED]</p> <p>[REDACTED]</p>	<p>[REDACTED]</p> <p>[REDACTED]</p> <p>[REDACTED]</p> <p>[REDACTED]</p> <p>[REDACTED]</p>	<p>[REDACTED]</p> <p>[REDACTED]</p> <p>[REDACTED]</p> <p>[REDACTED]</p>
<p>[REDACTED]</p> <p>[REDACTED]</p> <p>[REDACTED]</p> <p>[REDACTED]</p> <p>[REDACTED]</p> <p>[REDACTED]</p> <p>[REDACTED]</p>	<p>[REDACTED]</p> <p>[REDACTED]</p> <p>[REDACTED]</p> <p>[REDACTED]</p> <p>[REDACTED]</p> <p>[REDACTED]</p> <p>[REDACTED]</p>	<p>[REDACTED]</p> <p>[REDACTED]</p> <p>[REDACTED]</p> <p>[REDACTED]</p>	<p>[REDACTED]</p> <p>[REDACTED]</p> <p>[REDACTED]</p>

Development Management Committee



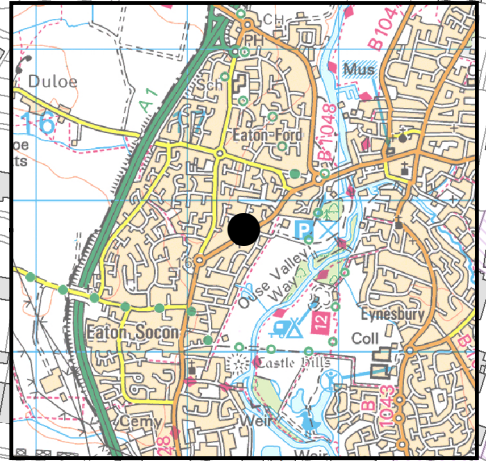
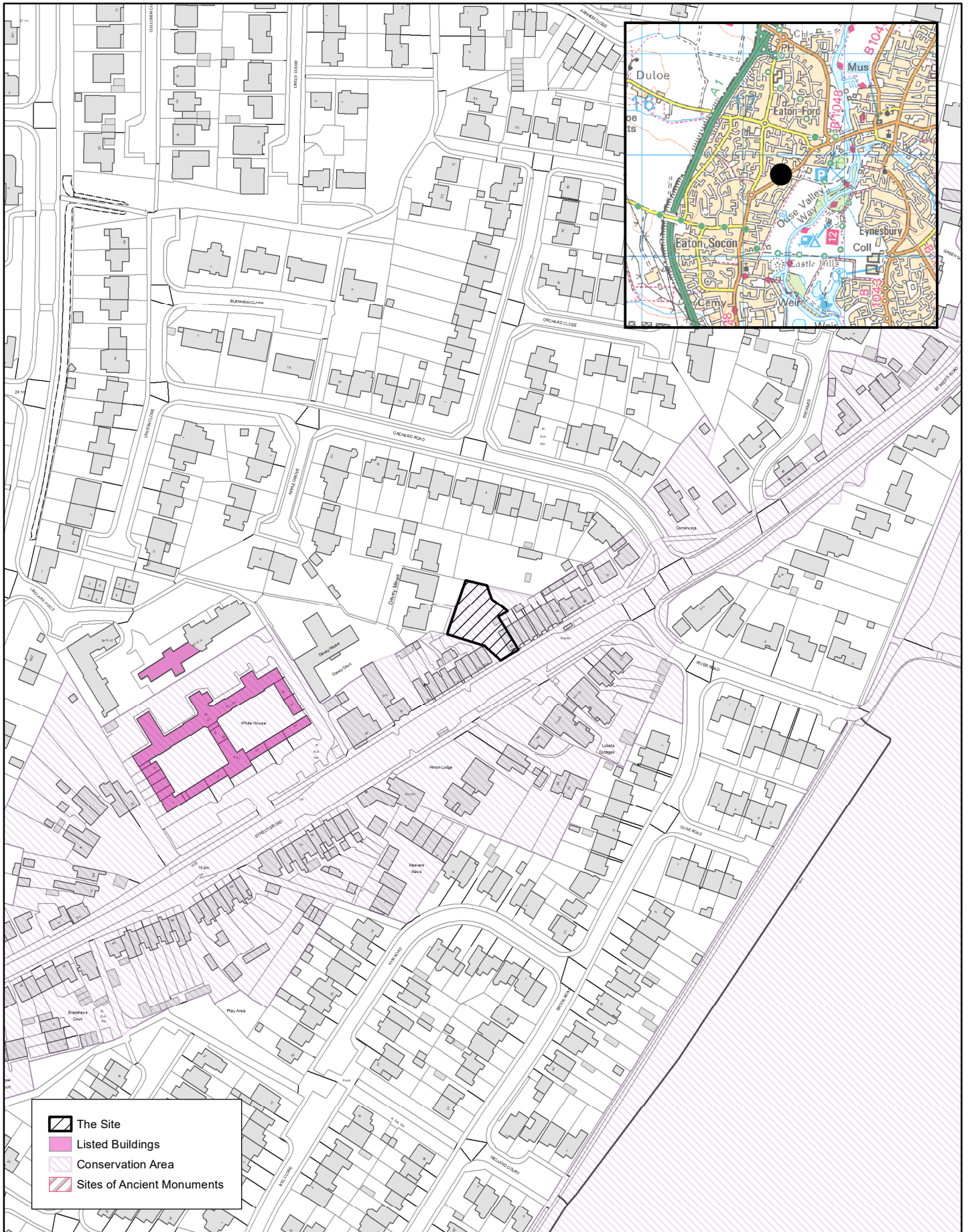
Scale = 1:2,276

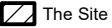

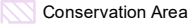
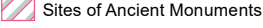
Application Ref:24/00336/FUL

Date Created: 05/06/2024

Location: St Neots

© Crown copyright and database rights 2024
Ordnance Survey HDC 100022322



-  The Site
-  Listed Buildings
-  Conservation Area
-  Sites of Ancient Monuments

Location Plan

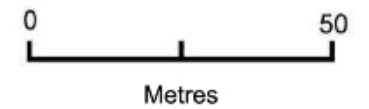
Site Address: 29, Acacia Avenue, St Ives, PE27 6TN

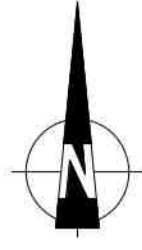
Date Produced: 18-Jan-2024

Scale: 1:1250 @A4



Planning Portal Reference: PP-12621432v1

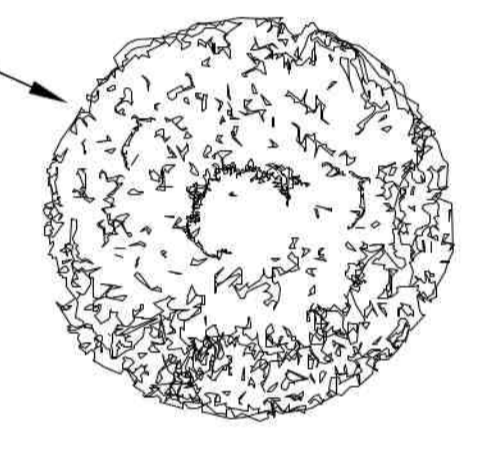




ACACIA AVENUE

EXISTING PATH

PRUNUS BLOSSOM
TREE OR SIMILAR



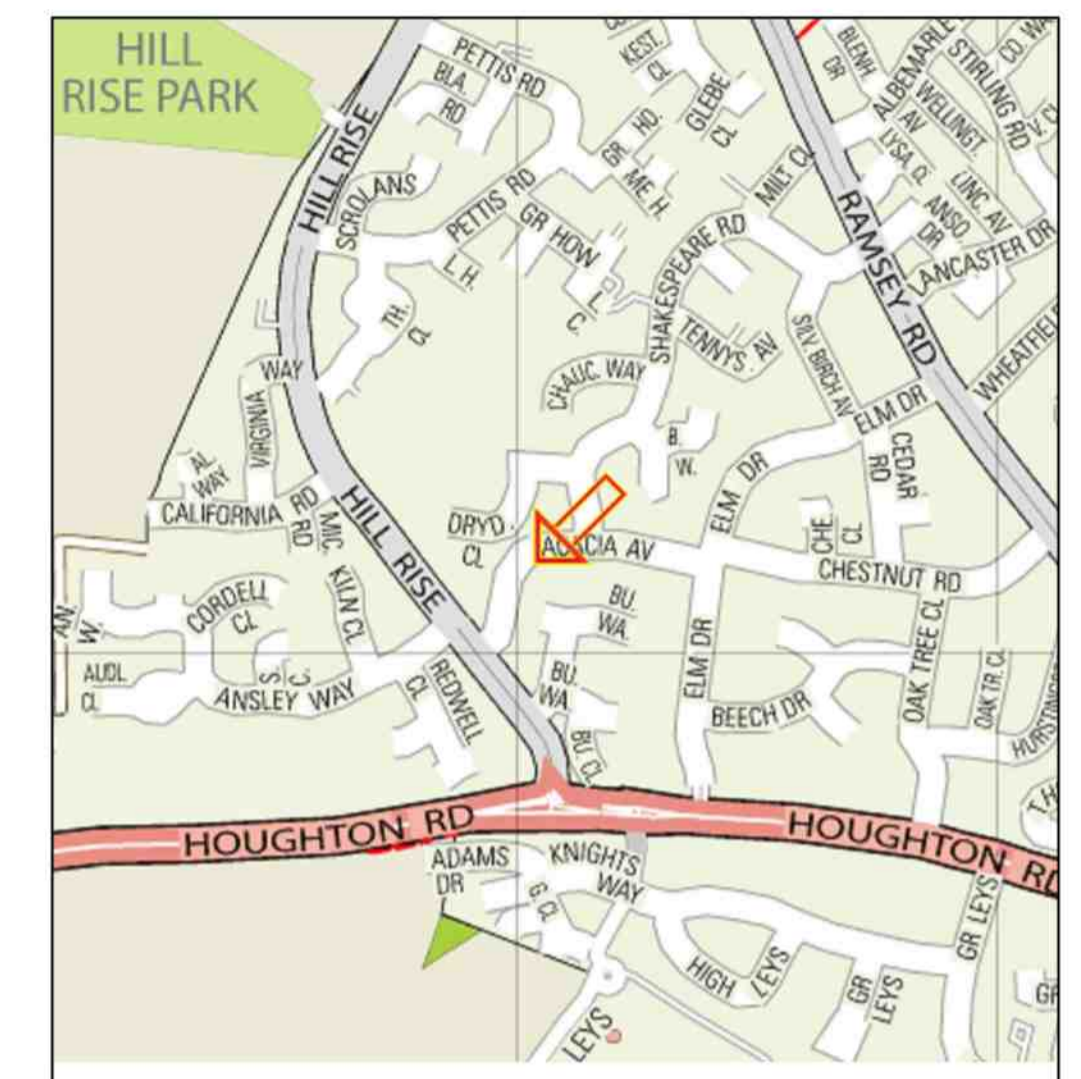
LAUREL HEDGE OR SIMILAR

LAUREL HEDGE OR SIMILAR

EXTERNAL FENCE TO PAINTED
CEDAR RED OR SIMILAR

29 ACACIA AVENUE

LANDSCAPE GENERAL ARRANGEMENT



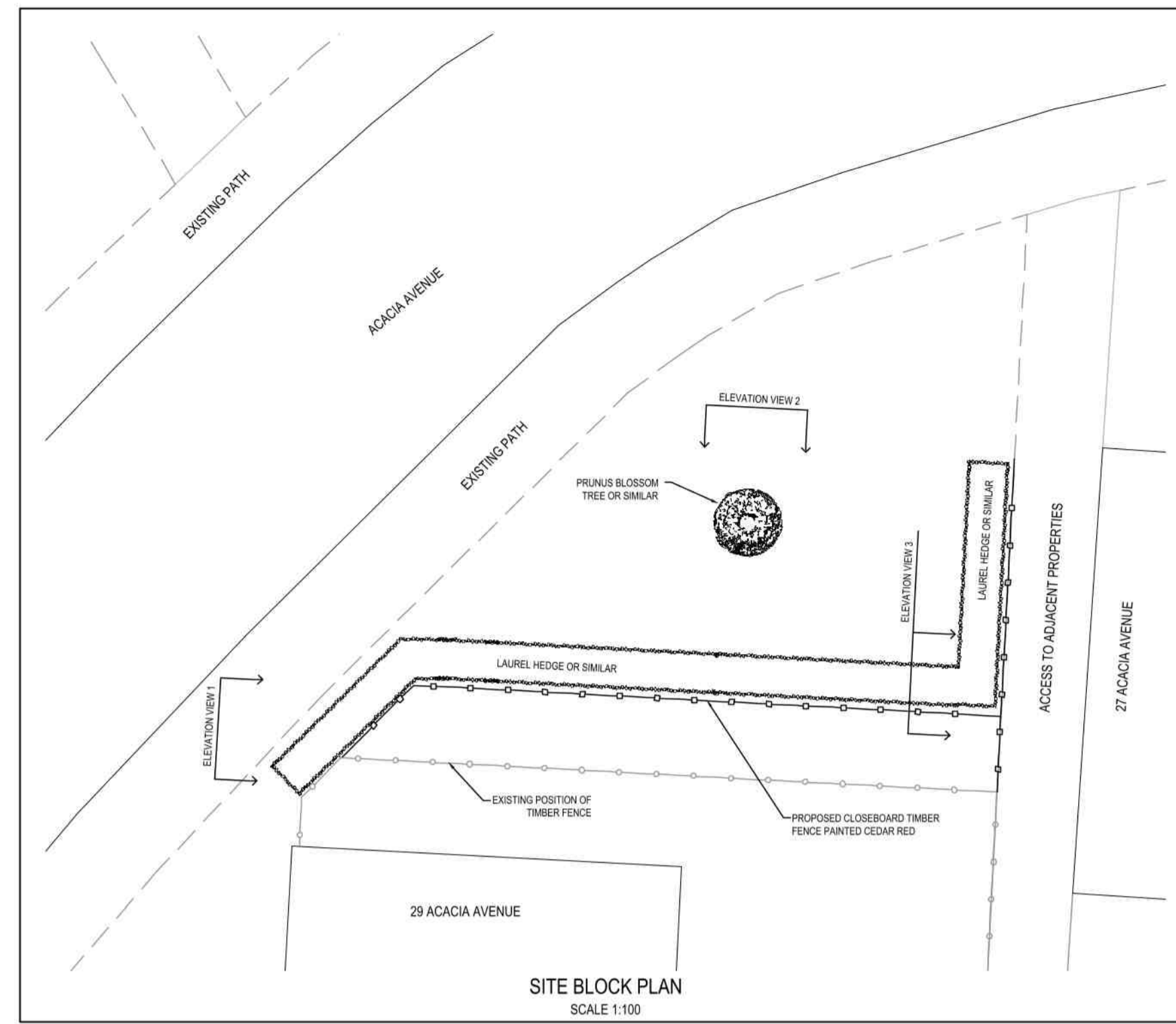
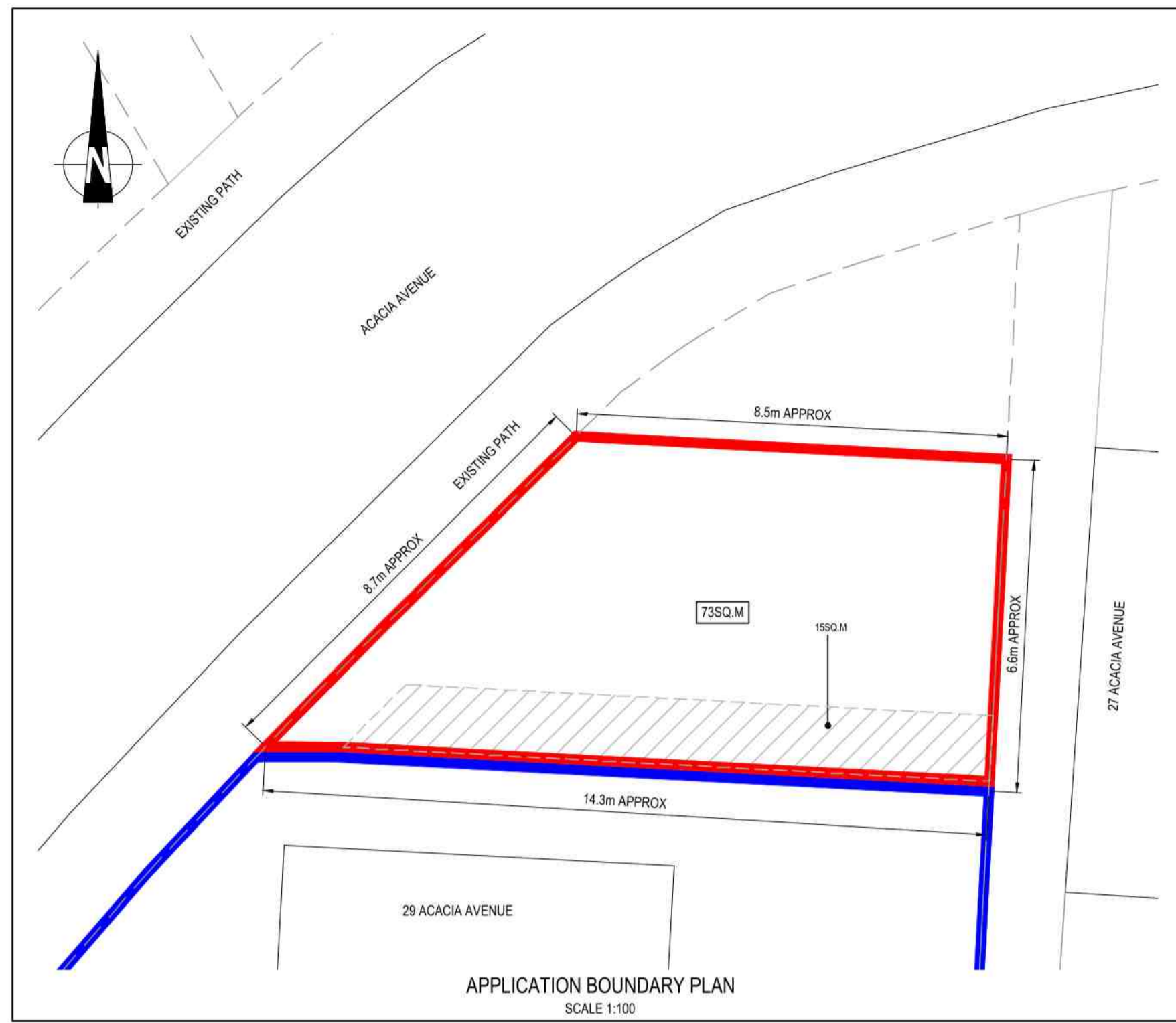
SITE LOCATION
OS GRID REFERENCE: 530573 272632
SCALE: NTS



PRUNUS BLOSSOM
TREE



LAUREL HEDGE



LEGEND

- 29 ACACIA AVENUE
- APPLICATION BOUNDARY
- EXTENT OF CHANGE OF USE
- PROPOSED CLOSEBOARD TIMBER FENCING (ALREADY ERECTED)
- PROPOSED LAUREL HEDGING-ELEVATION VIEW (ALREADY INSTALLED)

SITE LOCATION
OS GRID REFERENCE: 530573 272632
SCALE: NTS

