

BURY COUNCIL
DEPARTMENT FOR BUSINESS, GROWTH AND INFRASTRUCTURE
PLANNING SERVICES

PLANNING CONTROL COMMITTEE

26 April 2022

SUPPLEMENTARY INFORMATION

Item:01 223A Bury Old Road, Prestwich, Manchester, M25 1JE Application No. 67257

Retrospective change of use from 1st floor residential flat (C3 use) to tattoo/beauty business (Class E)

Additional Representations

Additional correspondence and recorded footage has been received from a nearby property. Points made include:

- The anti-social behaviour is encouraged by the large commercial bin placed on a residential street, close to a residential home. People use it to hide whilst urinating and vomiting. This is quite intimidating for a resident.
- The pattern of antisocial behaviours has been evidenced across the country, when commercial bins are inappropriately placed.
- The officer report says "The existing large yellow bin at the side of the property on Upper Wilton Street (see photo) is not used by either the tattoo or beauty parlour but the sandwich shop next door at no.223 Bury Old Road. As such any issues with this bin are not associated with this application and should not be used to refuse this application."
- I am unsure why Bury Council's planning department are misleading the planning committee into believing that 223a is a separate property to 223 Bury Old Road? Both are the same property, owned by Mr and Mrs Ambrose as on land registry documents.
- There are agreements within the land registry deeds in relation to use of the one business property: 'Not to use the property hereby conveyed for any purpose other than that of a confectioners shop, Cafe and Bakehouse without the previous consent in writing of the vendors' (point C2a). This agreement was ignored by Bury Council, when it allowed part of the 223 Bury Old business property to be used a tattoo parlour.
- In 2018 a planning application was made for the part of the 223 business property to be used as a tattoo parlour (application 61274). This application is within the 'related cases' tab of the planning application 67257 on the Bury planning portal, as it is the same tattoo business/ same business property. The planning application was agreed providing that the sandwich business part of the property would be able to move their bins through the back of the tattoo parlour, on bin collection days. This routine continued for several months after the planning application was agreed, and then stopped.
- There is now a large yellow Bury Council commercial bin permanently placed on the public pavement by a residential home. Today, a second large commercial BIFFA bin has appeared close to my home, on Upper Wilton Street.
- If there was room all along for the tattoo parlour 'Sword and Sparrow' to expand upstairs, they could have allowed the sandwich shop to use the back half of the tattoo parlour for bin exit/ access.
- Instead, another business is being crammed into the one business property. The owners of the business property are making maximum profit, by fitting as many businesses as possible into one business property. Meanwhile residents are paying the cost in terms of unacceptable negative impacts on safety, well-being and environment.
- I am not sure how/ why these agreements are being made between local businesses and Bury Council employees?
- I have repeatedly asked the question about the tenancy of the planning applicant. According to the application form, the applicant needs to be: "owner" is a person

- with a freehold or leasehold interest with at least 7 years to run.' Has the tenancy agreement been checked of Lewis Tudor (the planning applicant and tenant of the tattoo parlour area) to ensure that it lasts for at least seven years?
- Has the applicant disclosed relations (i.e. father) who have previously been employees at Bury Council (as required in point 24 of the application form)?
 - I am also confused about why this planning application was submitted in July 2021, and is only just being decided over nine months later?
 - I am confused as to why residents were given a tight frame to respond (by mid December) and yet the applicant has been permitted until April 2022 to submit documents/ comments?
 - I am confused as to why the 'Hush Healing' beauty parlour has been allowed to operate for over a year without business premises permission?
 - I am unclear as to why Bury Council allowed the 'Sword and Sparrow' tattoo parlour to operate for over a year without business premises permission?
 - I would also like a review of how the fourth space within the same business property (currently described as a residential flat) is actually being used?

I hope this application will be thoroughly considered in the context of the prior 2018 planning application for the same tattoo business/ business property (planning application 61274). Rather than the narrative being relayed by Bury Council, that this is an entirely separate planning application/ business/ business property (application 67257).

Response to objections

Antisocial Behaviour - This issue was extensively considered during the formal complaints process and subsequent Ombudsman complaint. The Ombudsman stated in their decision in 2020, *"The ASB team reviewed the CCTV footage and diary sheets Ms B submitted. They properly explained that Mr and Mrs X could not be held responsible for the actions of members of the public. Officers also explained they would not be able to take action unless there was sufficient evidence that the behaviour was being repeated by the same individuals. In the absence of such evidence, no action could be taken because the perpetrators were unknown and did not appear to be repeat offenders. Officers have confirmed they will re-open the case if Ms B is able to provide further evidence."* This remains available to the complainant.

Commercial Bin – This issue had also been extensively looked in to following formal a complaint and Ombudsman case relating to the siting/use of the commercial bin. This is commissioned to the Sandwich Shop and no other business. It is irrelevant who owns the building complex. Bin storage for the application site is contained within the premises yard area and the upstairs salon has access to the side door and to the bin storage area. The tattoo studio also have access to the enclosed yard area and also have their own clinical waste requirements again using the yard area.

The locating of a commercial bin on the highway has no relevance to this application and has been thoroughly considered in terms of obstruction and antisocial behaviour concerns.

The Ombudsman concluded *"I am satisfied the Council has properly investigated Ms B's concerns that the commercial bin was causing nuisance and antisocial behaviour. The planning, highways, waste management and ASB teams have worked together to try to resolve the situation. I do not consider the Council could do any more without further evidence as explained by the ASB team. Ms B says the Council should remove the commercial bin and require Mr and Mrs X to use smaller bins which are*

easily movable from their storage yard or insist they make alterations to their property so the commercial bin can be stored in the yard. There is no requirement for the Council to do this. It is satisfied there has been no breach of planning permission so there are no grounds to take enforcement action. It is also satisfied the bin is not creating an obstruction to the highway so there are no grounds to require it to be removed."

Biffa Bin – This currently appears to have 221 Bury Old Road's address on the bin, which is nearer to the Metrolink and is not part of this application consideration. However, the Highway Authority have been made aware and will consider the issue as appropriate.

NB - Notices can be served section 47 Environmental Protection Act 1990 concerning the placing of the waste receptacles for the purpose of facilitating the emptying of them and access to them.

Property Constraints - Covenants within deeds are private civil matters, which the business/land owner would need to address separately to the planning process.

Consents/Approvals - Each application and associated issue is considered on their own merits and with the governing body. Agreements reached are part of the day to day process of governance and on occasion may not please other people, there are complaints processes open and available to use if someone is aggrieved on an issue.

Ownership – The applicant has completed certificate B, which confirms that the applicant is not the owner. The applicant serves a notice upon the owner. Certification is completed and received on 'face value' and is only a matter of challenge when and if contrary evidence is provided. There are no issues in relation to the certification of the application or otherwise evidenced.

Family connection – There is no known connection to the Development Management Team or other close department to infringe the constitution. The objection states "previously been employees..." as such there is nothing to declare.

Timeframes – The application was submitted on 7/7/21 and was held invalid as information was lacking. The LPA took the decision as we state on our correspondence that we retain the right to process an application without information and will determine the application accordingly. Plans were submitted when required.

Neighbour notification periods are set out in legislation and are not locally determined. The minimum period of 21 days is protected where an application cannot be determined so that interested parties can make representations. Neighbour notification periods are set out in the main report and were undertaken 24/11/21. Representations can be received up to the point of decision (presently the April PCC meeting). This often means that interested parties have more than 21 days to respond. However, legislation provides a minimum protected period. That has been met and exceeded in this case.

Lack of Planning permissions - S73A permits applications to be made retrospectively. It is not unlawful to operate a business unless permission has been refused and/or formal enforcement action has been instigated. The expediency test applies in all Enforcement considerations and often, going through the planning process is a reasonable solution to this, where it is considered that there will be a need for planning controls.

Remaining Use – The additional premises described above the sandwich shop is irrelevant to this application. There is no reason to investigate the premises as far as this case is concerned.

Item:02 Land adjacent 2 Tanners Street, Ramsbottom, BL0 9ES Application No. 67553

Erection of one dwelling with associated garage, parking/manoeuvring space and garden curtilage, to be accessed via Tanners Street

Add Condition

19 - Where the development hereby approved is to be carried out incorporating retaining structures, the details of such structures including their finish appearance shall be submitted to and approved by the Local planning Authority. The approved details only shall be implemented.

Reason - To ensure that the character of the conservation area is maintained pursuant to UDP Policy EN2/1 - Character of the Conservation Area.

Item:03 22 Cockey Moor Road, Radcliffe, Bury, BL8 2HB Application No. 68038
Erection of detached dwelling

Plans

Revised plans received to show the retention and repair of the existing front boundary wall and layout of the site.

Revised boundary plan details submitted to show a new boundary fence to the side and rear of the site only.

Conditions

Therefore, Condition 2 re-worded to include the amended plan numbers - This decision relates to revised drawings numbered PS-2172-TS/00, RAD/2289/20/5C, RAD/2289/20/6/A, RAD/2289/20/7A, RAD/2289/20/8/B and swept path plans 274-21-1 to 5. The development shall not be carried out except in accordance with the drawings hereby approved.

Reason. For the avoidance of doubt and to ensure a satisfactory standard of design pursuant to the policies of the Bury Unitary Development Plan listed.

Condition 8 deleted as there is now no requirement to submit details for boundary treatment and condition 12 (now condition 11) re-worded as follows -

The development hereby approved shall not be first occupied unless and until the car parking, driveway and boundary wall alterations and bin storage arrangements indicated on approved plan reference RAD/2289/20/8 Revision B, incorporating a hardstanding in a permeable/porous material and/or measures to prevent the discharge of surface water onto the adopted highway, demarcation of the limits of the adopted highway and all associated footway remedial works required to reinstate the footway to its former condition prior to commencement of the development, have been implemented in full to an agreed specification and to the written satisfaction of the Local Planning Authority.

Reason. To ensure good highway design, ensure the intervisibility of the users of the

site and the adjacent highways and maintain the integrity of the adopted highway' in the interests of highway safety pursuant to UDP Policy H2/3 Extensions and Alterations.

Conditions re-numbered.

Item 02



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IN ACCORDANCE WITH THE REQUIREMENTS OF THE CONSTRUCTION (GENERAL) REGULATIONS 2013, THE FOLLOWING INFORMATION HAS BEEN PROVIDED TO THE CONTRACTOR TO BE CHECKED OUT OF THIS PROJECT AND MUST BE PROVIDED TO THE CONTRACTOR'S PLANNING TO UNDERSTAND THE WORKS SHOWN ON THIS DRAWING.

KEY OF MATERIALS:

1. STONE WALL WITH ASTONESTONE DETAILS
2. CHARCOAL GREY FACING BRICK
3. DOUBLE GLAZING ANTHRACITE UPVC WINDOWS & DOORS
A. DARK GREY GLAZING ON SECOND FLOOR
B. LIGHT GREY GLAZING ON OTHER FLOORS
4. GREY FINISH RENDER
5. GREEN WALL (SUSTAINABLE LIVING WALL SYSTEM)
6. GLASS BALUSTRADE
7. TIMBER DOOR
8. ANTHRACITE INSULATED GARAGE DOOR
9. TIMBER CLOSED BOARDED METAL FRAMED SLIDING GATE STAINED MEDIUM OAK

REV H 16.02.22 UPDATED AS COMMENTED BY BURRY A.M.C. DB
 REV G 07.12.20 GENERAL UPDATE SPL
 REV F 06.12.20 GENERAL UPDATE SPL
 REV E 16.11.20 PLANNING STATUS SPL
 REV D 26.07.20 UPDATED GROUND FLOOR LEVEL. AAS
 REV C 21.04.20 UPDATED TO HIGHWAYS ENDS. WNH
 REV B 16.03.20 COMMENTS WNH
 REV A 06.11.20 COMMENTS AAS
 REV. DATE NOTES SPL
 INT.

CLIENT / PROJECT
 BLAKEMAN DESIGN & BUILD
 TANNERS STREET
 RAMSBOTTOM

DRAWING TITLE
 PROPOSED FRONT
 ELEVATION

STATUS
 PLANNING

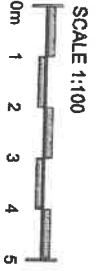
DATE	ISSUED BY	SCALE @ AS
JAN 2020	WNH	1:100

PROJECT NUMBER	UNIT / R/COR	SCALE	TILES NUMBER	PERMANENT LETTER
10877		E 01	H	

DRAWING NO.
 10877

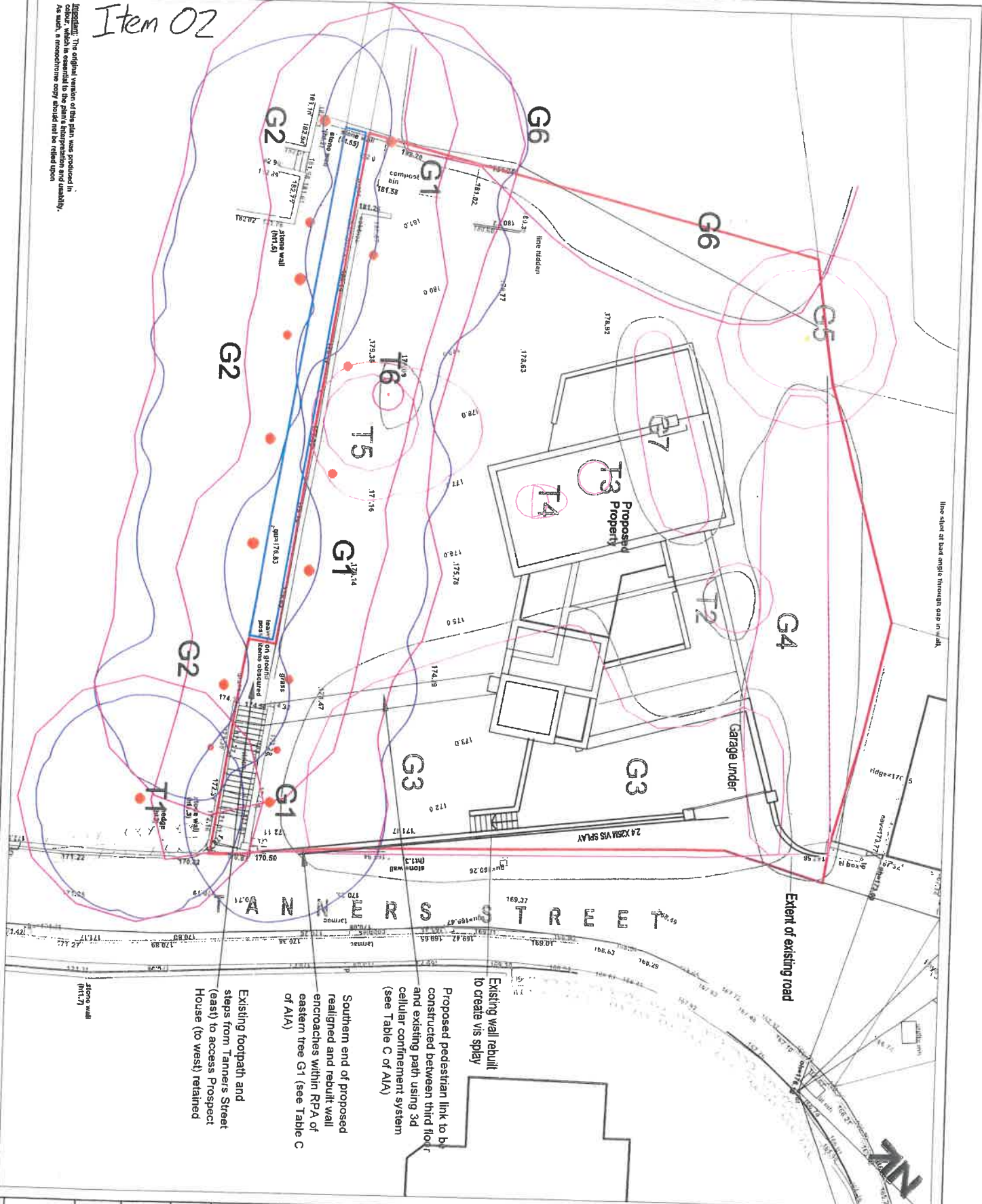
THE RATCLIFFE GROVES PARTNERSHIP
 MANCHESTER
 100 WILKINSON ROAD
 BLUNY LANEHOUSE BLD 07D
 T. 0161 727 6000 E. manchester@gpr-uk.com
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 100 WILKINSON ROAD
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Item 02

Important: The original version of this plan was produced in colour, which is essential to the plan's interpretation and usability. As such, a monochrome copy should not be relied upon.



KEY

T = Individual Tree
 G = Group of Trees

Please refer to proposed Arboricultural Impact Assessment for specific details in respect of tree status.

Tree Categorisation:

Trees to be Considered for Retention:

Category 'A' Tree Group
 Those of a high quality with an estimated remaining life expectancy of at least 40 years.

Category 'B' Tree Group
 Those of a moderate quality with an estimated remaining life expectancy of at least 20 years.

Category 'C' Tree Group
 Those of a low quality with an estimated remaining life expectancy of at least 10 years or 10 years less.

Those Considered Unsuitable for Retention:
 Category 'U' Tree Group
 Those which are considered to have a low probability of being retained as Living Trees in longer than 10 years.

Root Protection Areas (RPA):
 RPA
 Those areas which are to be retained in situ and protected from excavation or other works which would be likely to cause damage to the tree's roots.

Proposed Pedestrian Link
 Proposed pedestrian link to be constructed between third floor and existing path using 3d cellular confinement system (see Table C of AIA)

Existing wall rebuilt to create vis splay

Proposed pedestrian link to be constructed between third floor and existing path using 3d cellular confinement system (see Table C of AIA)

Southern end of proposed realigned and rebuilt wall encroaches within RPA of eastern tree G1 (see Table C of AIA)

Existing footpath and steps from Tanner's Street (east) to access Prospect House (to west) realigned

Stone wall (M17)

Project:	LAND OFF TANNERS STREET RAINSBOTTOM LANCASHIRE BL0 9EG
Client:	BLAKEMAN DESIGN AND BUILD LTD
This:	TREE IMPACT PLAN
In Relation to:	Proposed to Construct Proposed Residential Property
Scale:	1:200@A3
Date:	March 2021
Drawn by:	EA & JL
Checked by:	PH
Scale:	1:200@A3
Date:	March 2021
Drawn by:	EA & JL
Checked by:	PH
Ref:	BTC2116-TP Rev:

Bowlund
 Tree Consultancy Ltd
 a wholly owned subsidiary of
 11754 82998

FRANK WHITTAKER PLANNING CONSULTANTS
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SITE PLAN

REVISED PLAN

451331

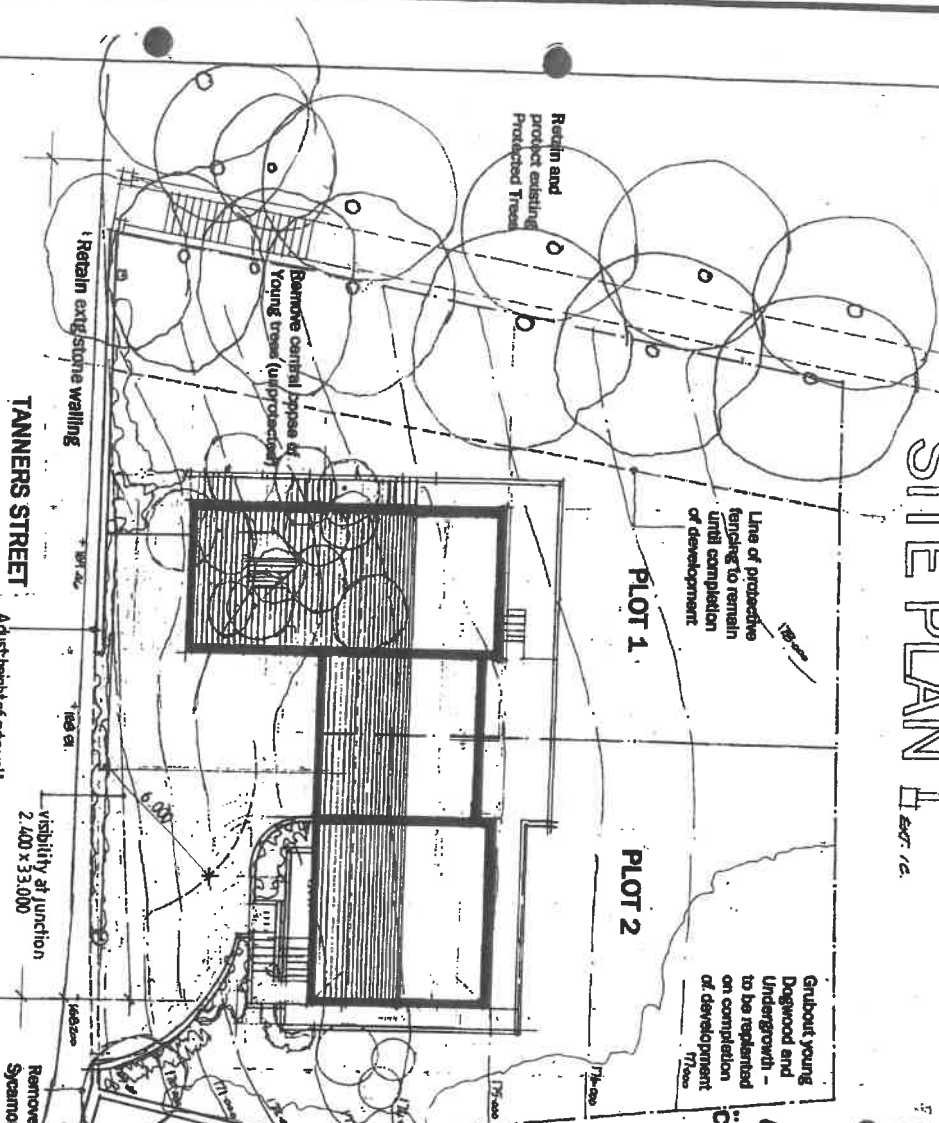
REPLANTED BODICHOFF OF BURY
 REVISSED under the Town and
 Country Planning Act
 10 NOV 2005
 Brian N. D...
 Chief Planning Officer

Line of protective
 fencing to remain
 until completion
 of development

Groutout young
 Dogwood and
 Undergrowth -
 to be replanted
 on completion
 of development

PLOT 1

PLOT 2



LOCATION PLAN 1:1250

PROPOSED DEVELOPMENT OF LAND
 ADJOINING 2 TANNERS STREET, RAMSBOTTOM
 FOR ERECTION OF SPLIT LEVEL BUILDING
 COMPRISING 2NO DWELLINGS.

Item 02

RON WOOD DEVELOPMENTS LTD

Frank Whittaker
 PLANNING CONSULTANTS

Ref: P1375/FW/05/1.A.
 Scale: 1:200
 Date: February 2005
 A. Lawrence signed 24th 2005
 B. Augustin DWL & Nelson signed 20th 2005.
 C. Notes (Leafs referring to protected trees), October 2005.

TEL (01204) 303168

PLANNING CONSULTANTS

M 472313 R

Item 02

Squareyard

Landscape Architecture - Urban Design - Masterplanning

Head office - www.yd2.co.uk
Web - www.yd2.co.uk
Tel - 07514 231 423

Regional office:
YD2 Ltd
83 Duke Street, Manchester, M1 2JQ



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- YD2 SHALL BE NOTIFIED OF ANY DISCREPANCIES

DRAWING NOTES:

- (1) FIRST ISSUE - ISSUED FOR PLANNING APPLICATION
AV AV 12082021

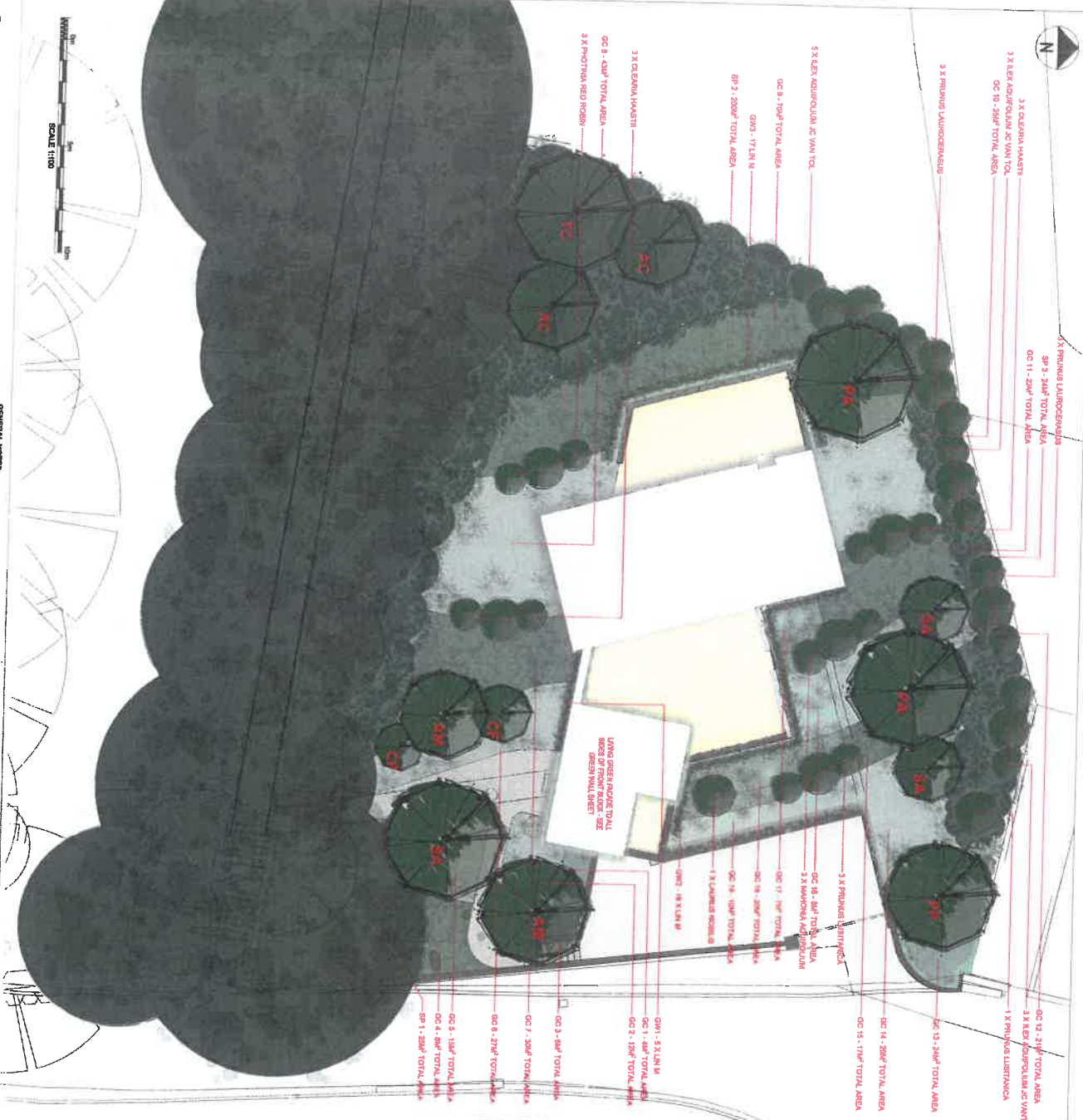
NO.	DESCRIPTION	ISSUED	DATE

LAND OFF TANNERS STREET RAMSBOTTOM

LANDSCAPE PLAN PLANTING PROPOSALS

YD2_YR_NO_YD2_P_LP001

MAR 21



PLANT SPECIFICATION:

SPECIES/TREE	QTY	COMMON NAME	HEIGHT
Acacia saligna	10	10M - 12M GIRTH	10M
Alnus pedunculata	10	10M - 12M GIRTH	10M
Castanea sativa	10	10M - 12M GIRTH	10M
Prunus avium	10	10M - 12M GIRTH	10M
Sorbus arbutifolia	10	10M - 12M GIRTH	10M

EXISTING SITE:

PLANTING AREA	PLANTING SPECIFICATION
GC 1 - 17M TOTAL AREA	10 x 17M TOTAL AREA
GC 2 - 10M TOTAL AREA	10 x 10M TOTAL AREA

SOFT LANDSCAPE:

PLANTING AREA	PLANTING SPECIFICATION
GC 18 - 4M TOTAL AREA	10 x 4M TOTAL AREA
GC 19 - 4M TOTAL AREA	10 x 4M TOTAL AREA

PLANT MIXTURES:

PLANTING AREA	PLANTING SPECIFICATION
GC 1	10 x 17M TOTAL AREA
GC 2	10 x 10M TOTAL AREA
GC 3	10 x 4M TOTAL AREA

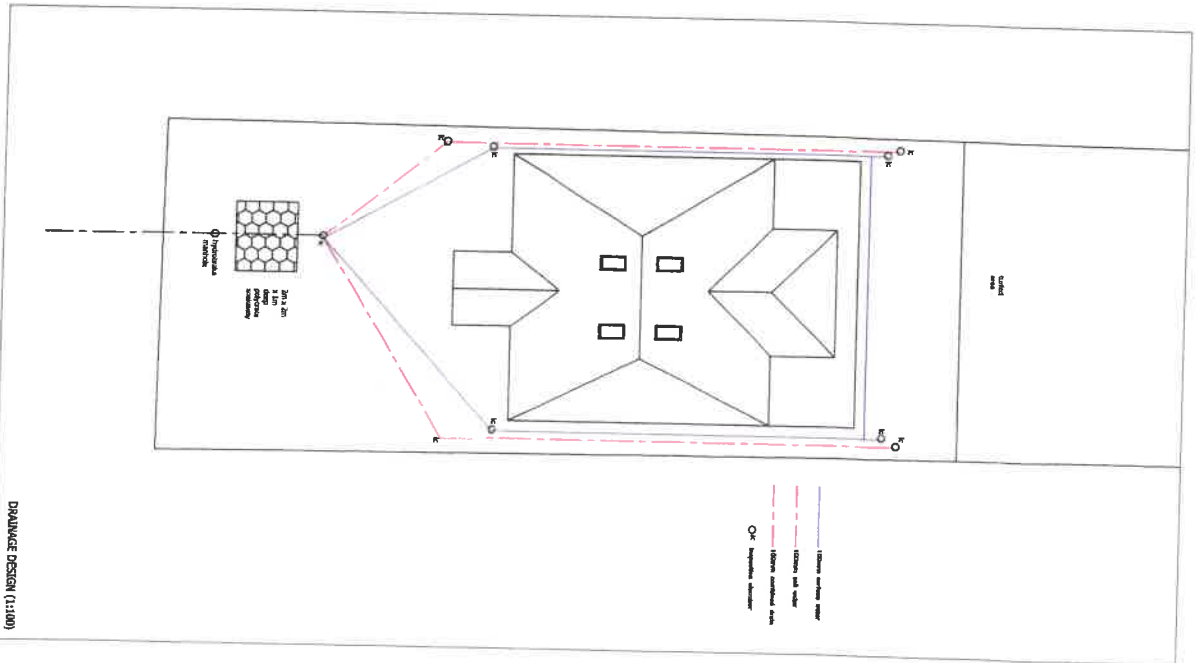
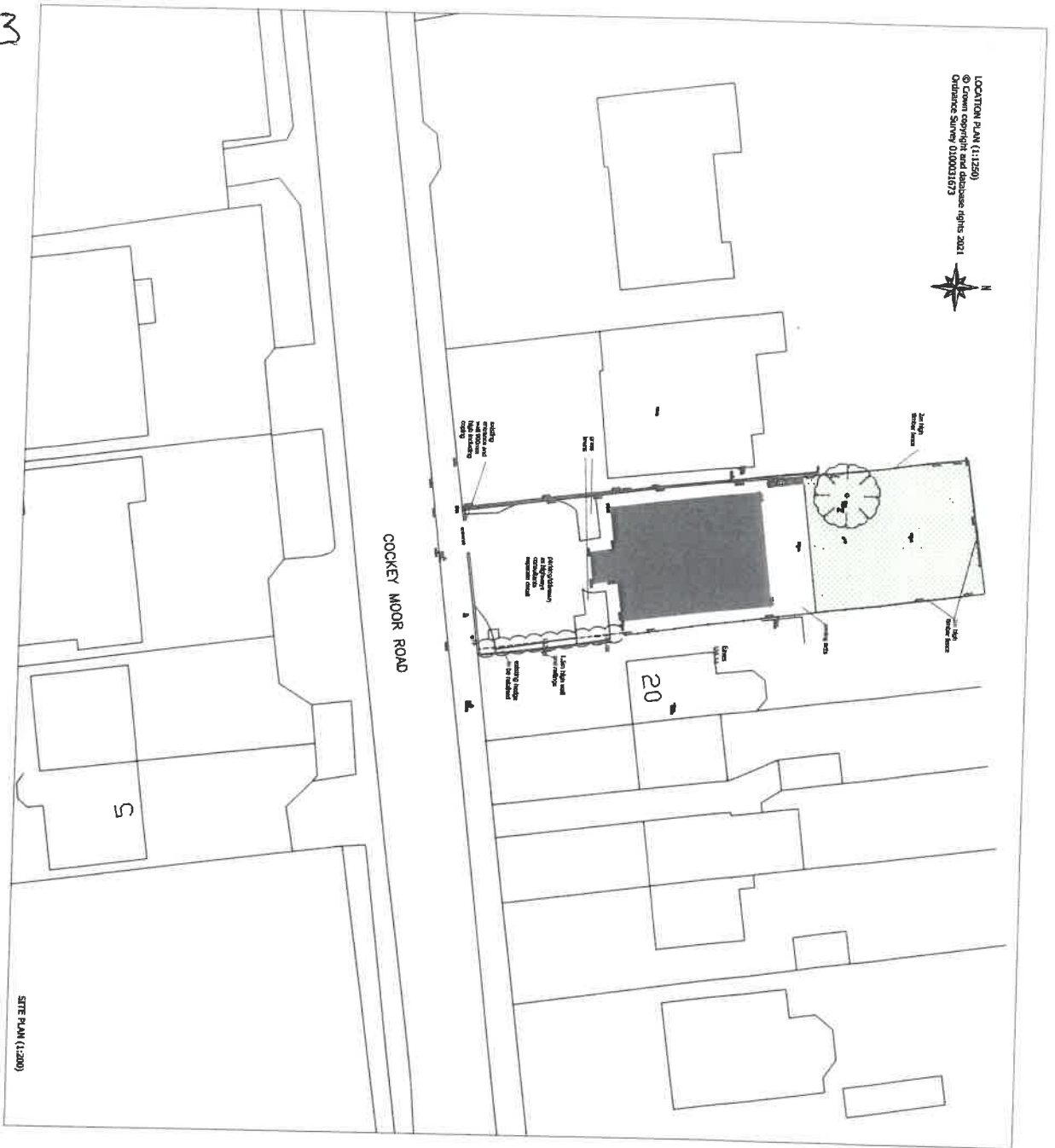
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MAR 21

Item 03

LOCATION PLAN (1:1250)
 © Crown copyright
 Ordnance Survey 010001673



Item	Rev	Description	Date
1	A	Issued for approval	11/10/21
2	B	Revised drawings and notes	11/10/21
3	C	Final design and notes	11/10/21

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RAD
 The White House,
 22 Cockeys Moor Road,
 Leeds LS15 7JF
 Tel: 0113 2321116
 Fax: 0113 2321115
 Email: rad@rad.co.uk
 Website: www.rad.co.uk

PROPOSED SITE PLAN

22 COCKEY MOOR ROAD
 LEEDS LS15 7JF

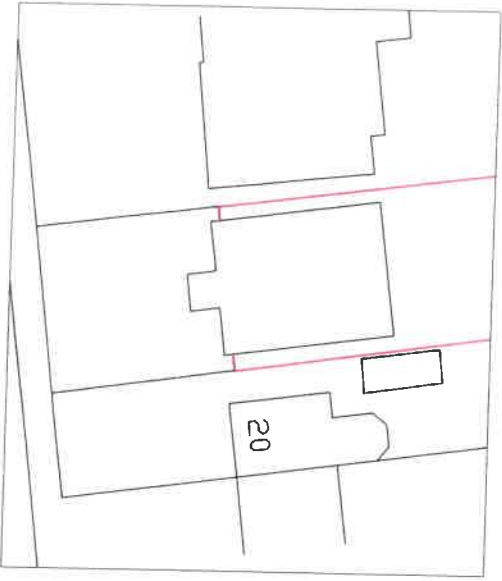
DATE: 11/10/21
 DRAWN BY: RA
 CHECKED BY: RA
 PROJECT NUMBER: 1100 @ A1 / 1200 @ A3

Item 03

BOUNDARY FENCE :
2m high close-boarded timber fence with concrete posts and base panel



PROPOSED ELEVATIONS (SIDE & REAR)



SITE PLAN (1:200)
© Crown copyright and database rights 2020
Ordnance Survey 0100031673



Block	Area	Permitted Area	Notes
1	1000	1000	
2	1000	1000	
3	1000	1000	
4	1000	1000	
5	1000	1000	
6	1000	1000	
7	1000	1000	
8	1000	1000	
9	1000	1000	
10	1000	1000	
11	1000	1000	
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23	1000	1000	
24	1000	1000	
25	1000	1000	
26	1000	1000	
27	1000	1000	
28	1000	1000	
29	1000	1000	
30	1000	1000	

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Tel: 01204 221144
Fax: 01204 221110
Email: rad@radgroup.co.uk

Project Ref: Z2 COCKEY MOOR ROAD
BURY
BL9 3HS
PROPOSED BOUNDARY TREATMENT

Client: RA
Date: OCTOBER 2021
Scale: 1:100 @ A1 / 1:200 @ A3
Drawing Number: RAD/23/197/01/6/PSWA



Costs Decision

Site visit made on 22 February 2022

by **F Rafiq BSc (Hons) MCD MRTPI**

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 18 March 2022

Costs application in relation to Appeal Ref: APP/T4210/W/21/3283822 5 Holmfield Avenue, Prestwich M25 0BH

- The application is made under the Town and Country Planning Act 1990, sections 78, 322 and Schedule 6, and the Local Government Act 1972, section 250(5).
 - The application is made by Mr & Mrs Rose for a full award of costs against Bury Metropolitan Borough Council.
 - The appeal was against the refusal of planning permission for the demolition of the existing dwelling and erection of a new detached single dwelling house.
-

Decision

1. The application for an award of costs is refused.

Reasons

2. Planning Practice Guidance (PPG) advises that costs may be awarded where a party has behaved unreasonably, and the unreasonable behaviour has caused another party to incur unnecessary or wasted expense in the appeal process. The type of behaviour that can lead to a costs award includes substantive matters such as unreasonably refusing a planning application.
3. The applicant has set out that the development was in clear accordance with referenced planning policies and the refusal of the application failed to give weight to the fallback position. I have however found in the accompanying appeal decision that the development would be harmful to the character and appearance of the area. Although in considering the previously approved scheme, I have found in the applicant's favour, in that the proposal would result in no greater harm to the character and appearance of the area than the fallback scheme, the weight to be attributed to this consideration is a matter for the decision-maker.
4. It is evident from the Council's Delegated Report and the subsequent Appeal Statement that regard was had to the previous approval to extend the dwelling. I am therefore satisfied that the Council gave sufficient consideration to the fallback position and accordingly, I do not find that it has acted unreasonably in this regard.

Conclusion

5. With the above in mind, I therefore find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the Planning Practice Guidance, has not been demonstrated. An award of costs is therefore not justified in this instance.

F Rafiq INSPECTOR