



# **The Oak, Stratford Road, Hockley Heath, B94 5NW**

## **Grounds of Appeal**

**On behalf of Westbourne Leisure Limited**

**Enforcement Notice Ref: 13/00765/VARENF**

**November 2018**

54 Hagley Road, Edgbaston, Birmingham, B16 8PE

Tel: 0121 516 5320

Email: [sarah.butterfield@wyg.com](mailto:sarah.butterfield@wyg.com)



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## **APPENDICES**

Appendix 1 – Planning Permission ref: 16/00451/FUL





## 1.0 Introduction

1.1 I am instructed by Westbourne Leisure Limited (the Appellant), to appeal the Enforcement Notice (ref: 13/00765/VARENF) issued by Stratford upon Avon District Council on 1<sup>st</sup> October 2018 relating to:

*"Without planning permission, the erection of an extension in the approximate position hatched black on the Plan."*

on land at the Oak, Stratford Road, Hockley Heath.

1.2 The Appeal is made under grounds (a), (d) and (g) of Section 174 of the Town and Country Planning Act 1990 (as amended).

1.3 The Enforcement Notice is due to take effect on Monday 5<sup>th</sup> November 2018 and was issued for the reasons set out in paragraph 4 of the Enforcement Notice (ref: 13/0765/VARENF).

1.4 The Appellant's grounds of appeal are listed at Section 2. In accordance with the procedure for pursuing the Inquiry appeal route for an enforcement notice, this Statement sets out the Appellant's grounds of appeal, with the Inquiry Statement to follow within 6 weeks of the appeal start date. The Appellant will expand on these grounds of appeal including details of the Site's planning history and provision of references to relevant case law, as appropriate, in the Inquiry Statement.

1.5 The enforcement appeal has been submitted electronically via the Planning Inspectorate's Appeals Casework Portal and consists of the following documents:

- Enforcement Notice appeal form;
- Grounds of Appeal and Reason for pursuing an Inquiry (this Statement);
- Copy of Enforcement Notice ref: 13/0765/VARENF;
- Site Location Plan Drawing No. 15138 PA-01;
- Existing Site Block Plan Drawing No. 15138 PA-02;
- Proposed Elevations Plan Drawing No. 15138 PA-111.





- 1.6 It is considered that an Inquiry is the most appropriate route for this enforcement appeal because it will allow the matters to be fully taken into account by the Inspector and subsequently tested, and given:
- There is a need for the evidence to be tested through formal questioning;
  - The issues, including cross boundary matters are complex.
- 1.7 The matters pertaining to the case centre around the viability of sustaining a business at the Appeal Site, balanced against design matters, on this Green Belt site. It is therefore considered appropriate for the evidence to be tested through the Inquiry procedure route.
- 1.8 It is also confirmed that a copy of the enclosed documents, as listed above, have also been submitted to Stratford on Avon District Council (along with the appeal forms and this Grounds of Appeal Statement), as the Local Planning Authority.





## **2.0 GROUNDS OF APPEAL UNDER SECTION 174 OF THE TOWN AND COUNTRY PLANNING ACT 1990 (AS AMENDED)**

Ground (a) – that, in respect of any breach of planning control which may be constituted by the matter stated in the notice, planning permission ought to be granted or, as the case may be, the condition or limitation concerned ought to be discharged.

- 2.1 The Appellant considers that planning permission should be granted for the works comprised in the Local Planning Authority's Enforcement Notice.
- 2.2 Contrary to the Local Planning Authority's first reason for issuing the Enforcement Notice (at paragraph 4(1)), evidence will be provided to demonstrate that the proposal would not conflict with the reasons for including land in the Green Belt. Very special circumstances have been justified, particularly including the viability of the business and proposed landscape improvements and are such that they outweigh harm caused to the openness of the Green Belt.
- 2.3 The very special circumstances will be demonstrated to be based on a robust viability case, i.e. the scale of development which exists is the minimum required to retain a commercially viable use and operation on the site.
- 2.4 The Appellant has sought to invest in the restaurant and public house business and a number of operators have failed to operate a commercially viable operation. Were planning permission to be refused for the development the subject of this application and the unauthorised development removed, this would also adversely impact on the Green Belt. The business would not remain commercially viable and would cease to operate and there would be no maintenance of the site or development. On this basis not only would the empty building be likely to fall into disrepair, be visually unattractive and would have a greater adverse impact on the openness of the Green Belt. In addition, the other benefits of the development would also be lost, to the detriment of the Green Belt objectives, rural employment and the core planning principles of the Framework identified above.
- 2.5 The evidence will demonstrate that the development is in accordance with Policy CS.10 of the Stratford-on-Avon Core Strategy 2011-2031 and paragraphs 133, 134 and 143-145 of the National Planning Policy Framework (NPPF) (2018).





- 2.6 Stratford-on-Avon District Core Strategy Policy AS.10 states that development proposals in the countryside will be thoroughly assessed against the principles of sustainable development, to make sure their scale, nature and location are appropriate, with reference to a number of criteria.
- 2.7 Contrary to the Local Planning Authority's second reason for issuing the Enforcement Notice (Enforcement Notice para 4(2)), evidence will be provided to demonstrate that the proposals do not conflict with the criteria of Policy AS.10, CS.1 or CS.24 of the Stratford-on-Avon Core Strategy.
- 2.8 The public house and restaurant have been operating since pre-1975 and is an established use that is integrated into its surroundings by the very nature of it having been operating for a substantial period of time. It also benefits from an extant planning permission (ref: 16/00451/FUL, Appendix 1) for the provision of hotel accommodation as a diversification of the original use. The use attracts visitors both for business and on a recreational level and is an appropriate use in the area, serving the local community. The Framework supports the retention of existing businesses in the rural area and the proposed development would help support the retention of the business.
- 2.9 The proposed development does not adversely affect the local landscape or any settlements and, with reference to landscape impact and environmental improvements, evidence will be provided to show that there would be a net benefit to the locality. It comprises development within an existing Site, with the development replacing a previous extension in the same location and is seen in the context of the existing development.
- 2.10 In addition, the development does not result in the site or development being any closer to the nearest settlements or adjacent development and uses, maintaining the network of roads and lanes with belts of mature trees as at present.
- 2.11 The proposed development and diversification of the use to provide hotel accommodation at the level proposed in this planning application is vital to the continued operation of a long-established business in this location, ensuring it remains a going concern with associated benefits to the economy through the creation of jobs for local people. This is a point which has been established in the Viability Appraisal which accompanies the planning application.
- 2.12 The proposed development would have no adverse highways impacts. The site is accessed off Stratford Road and the existing site access would not alter as a result of the proposed development. There is more than sufficient car parking on the site to serve the hotel and public





house/restaurant use. The site's relationship with the local road network would not alter as a result of the development the subject of this application.

- 2.13 The site is accessible by bus services which run 7 days a week along Stratford Road, with bus stops outside the site in both northerly and southerly directions. The site is accessible by modes of transport other than the private car for both staff and visitors.
- 2.14 The Appellant will provide evidence to demonstrate that the proposal accords with Policies CS.1, CS.24 and AS.10 of the Stratford-on-Avon Core Strategy 2011-2031 plus paragraphs 83 and 84 of the NPPF (2018).

Ground (d) – that, at the date when the notice was issued, no enforcement action could be taken in respect of any breach of planning control which may be constituted by those matters.

- 2.15 Evidence will be provided to show that at the date on which the Enforcement Notice was issued, no enforcement action could be taken in respect of any breach of planning control indicated in the Notice.

Ground (g) – that the period specific in the notice in accordance with Section 173 (9) falls short of what should reasonably be allowed.

- 2.16 Paragraph 6 of the Enforcement Notice (ref: 13/00765/VARENF) requires compliance with the remediation options stipulated within paragraph 5 of the Enforcement Notice to occur within 8 (eight) months of the date of the Notice taking effect.
- 2.17 In the event that the appeal under ground (a) is unsuccessful, the Appellant considers the 8-month period to complete the remediation works unreasonable.
- 2.18 The works, in particular those to reduce the size of the extension as set out at paragraph 5(c) of the Enforcement Notice will need to be informed by detailed construction drawings, and contractors and appropriate tradesmen will need to be appointed. In addition, the scheduling of works will need to be carefully programmed in to allow the business to fulfil existing commitments such as wedding bookings and room bookings, and to remain operational during the undertaking of those works.
- 2.19 The Appellant therefore requests a 12 (twelve) month timeframe to complete the works stipulated within paragraph 5 of the enforcement Notice (ref: 13/00765/VARENF).





The Oak, Stratford Road, Hockley Heath: Statement of Case, Enforcement Appeal

**Sarah Butterfield BSc (Hons) MRTPI**

1<sup>st</sup> November 2018





## **APPENDIX 1 – Ref: 16/00451/FUL**





# Notice of Decision

## PERMISSION WITH CONDITIONS

WYG - Mr Keith Fenwick  
54 Hagley Road  
3rd Floor  
Edgbaston  
Birmingham  
B16 8PE

Town and Country Planning Act, 1990  
Town and Country Planning (Development Management Procedure) Order, 2015

THE STRATFORD-ON-AVON DISTRICT COUNCIL, having considered the application for permission to develop land at:-

**The Oak , Stratford Road, Hockley Heath, Warwickshire B94 5NW**

Submitted by: Westbourne Leisure Ltd - Mr Paul Owens

Received by the Council on 3 May 2016

HEREBY GIVE YOU NOTICE that PLANNING PERMISSION is GRANTED for the following development, namely:-

**Retrospective application for demolition of function room and retention of 2 no. gables on rear elevation, extension to restaurant on ground floor and existing garage building. Planning permission for alterations to existing three storey extension and internal alterations to provide a total of 44 hotel bedrooms plus relocation of existing fire escape.**

Subject to the following condition(s) and reason(s), namely:-

1. The development to which this permission relates shall be commenced not later than the expiration of 12 months from the date of this permission and the site shall be brought into full accordance with the approved plans within 18 months from the date of this permission. Following 18 months from the date of this permission, no hotel room shall be let unless and until the development hereby approved has been undertaken in accordance with this permission.

Case Officer: David Jeffery  
Reference No. 16/00451/FUL





Reason: To conform with the requirements of Section 91 of the Town and Country Planning Act 1990 as amended by Section 51 of the Planning and Compulsory Purchase Act 2004. It is appropriate to impose dates for the implementation of these works as the application is retrospective. The Council consider it is appropriate to tolerate the existing unauthorised development for a limited period in order to allow sufficient time to appropriately discharge conditions and plan for the commencement of these works. However, because of the existing unauthorised development's impacts, the Council would regard the standard 3 year pre commencement condition as unacceptable.

2. The development hereby approved shall be carried out in accordance with the following plans and drawings - PA-101 Location Plan, PA-107 (Rev B) - Site Layout, PA-108 Proposed Ground Floor Plan, PA-109 Proposed First Floor Plan, PA-110 (Rev A) Second Floor Plans, PA-111 (Rev B) Proposed Elevations. The development shall also be carried out in accordance with the Design and Access Statement unless otherwise required by conditions attached to this permission.

Reason: To define the permission and to ensure that the development meets the design quality and environmental requirements of Policy CS.9 of the Stratford-on-Avon Core Strategy (2011-2031).

3. No more than 44 hotel rooms to let shall be provided on site.

Reason: In order to ensure the approved development is related in scale and nature to the existing uses on site, in accordance with Policy AS.10 of the adopted Stratford-on-Avon Core Strategy (2011-2031).

4. No development shall take place, including any demolition works, until details of a Construction Management Scheme have been submitted to, and approved in writing by, the Local Planning Authority. The approved details shall be adhered to throughout the construction period. The scheme shall provide for:

- i. the parking of vehicles of site operatives and visitors
- ii. loading and unloading of plant and materials
- iii. storage of plant and materials used in constructing the development
- iv. the erection and maintenance of security hoarding including decorative displays and facilities for public viewing, where appropriate
- v. wheel washing facilities
- vi. measures to control the emission of dust and dirt during construction
- vii. a scheme for recycling/disposing of waste resulting from demolition and construction works

Reason: to prevent harm being caused to the amenity of the area, and highway safety, in accordance with the provisions of Policies CS.9 and CS.26 of the adopted Stratford-on-Avon Core Strategy (2011-2031).

5. Within 6 months of the date of this permission visibility splays shall be provided to the main vehicular access to the site (the northern access onto the A3400) with an 'x' distance of 2.4 metres and 'y' distances of 106 metres to the near edge of the public highway carriageway. No structure (including temporary advertising signs), tree or shrub shall be erected, planted or retained within the splays exceeding, or likely to exceed at maturity, a height of 0.6 metres above the level of the public highway carriageway.

Reason: To ensure safe access to the site in accordance with the provisions of Policy CS.26 of the adopted Stratford-on-Avon Core Strategy (2011-2031).



6. Within 3 months of the date of this permission the use of the secondary vehicular access to the site (the southern access onto the A3400) shall cease. Within 18 months of the date of this permission the secondary access shall be closed and the area restored in accordance with landscaping plans that shall first have been submitted to, and approved by, the Local Planning Authority.

Reason: To ensure safe access to the site in accordance with the provisions of Policy CS.26 of the adopted Stratford-on-Avon Core Strategy (2011-2031).

7. Within 12 months from the date of this permission a report which confirms that existing/proposed drainage connections provide a suitable level of drainage for the site shall be submitted to and approved by the Local Planning Authority. The details to be submitted shall:

- a. Consider existing drainage connections (plans, network details and calculations) in order to demonstrate the performance of the drainage system for a range of return periods and storms durations inclusive of the 1 in 1 year, 1 in 2 year, 1 in 30 year, 1 in 100 year and 1 in 100 year plus climate change, return periods.

- b. Provide evidence that discharge of sewerage to Seven Trent Water (STW) assets (including discharge rate and connection points) has been granted approval.

- c. Provide a Maintenance Plan, giving details on how the on-surface water system shall be maintained and managed after completion for the life time of the development. This shall include the name of the maintenance company and a contact who will be responsible for the site.

Where existing connections are not adequate, the report shall provide details of any necessary remedial works required and a schedule for the implementation of the necessary remedial work. All work required to implement the recommendations of the report, including necessary remedial works, shall be completed within 18 months of the date of this permission. The development hereby approved, including occupation of the hotel rooms, shall thereafter be undertaken only in accordance with the recommendations of the approved report.

8. Prior to the commencement of the development hereby permitted a detailed landscaping scheme shall be submitted to and approved in writing by the Local Planning Authority. The landscaping scheme shall include:

- a) planting plans,

- b) written specifications including cultivation and other operations associated with tree, plant and grass establishment.

- c) a schedule of plants noting species, plant sizes and proposed numbers/densities.

- d) existing landscape features such as trees, hedges and ponds to be retained accurately plotted (where appropriate).

- e) existing landscape features such as trees, hedges and ponds to be removed accurately plotted (where appropriate)

- f) existing and proposed finished levels (to include details of grading and contouring of earthworks and details showing the relationship of proposed mounding to existing vegetation and surrounding landform where appropriate).

The approved scheme shall be carried out concurrently with the development and completed prior to the first occupation of the development hereby permitted.



If within a period of five years from the date of the soft planting pursuant to this condition that soft planting is removed, uprooted or destroyed or dies, or becomes, in the opinion of the Local Planning Authority, seriously damaged or defective, shall be replaced by planting as originally approved, unless the Local Planning Authority gives its written approval to any variation. This replacement planting shall be undertaken before the end of the first available planting season (October to March inclusive for bare root plants), following the removal, uprooting, destruction or death of the original trees or plants.

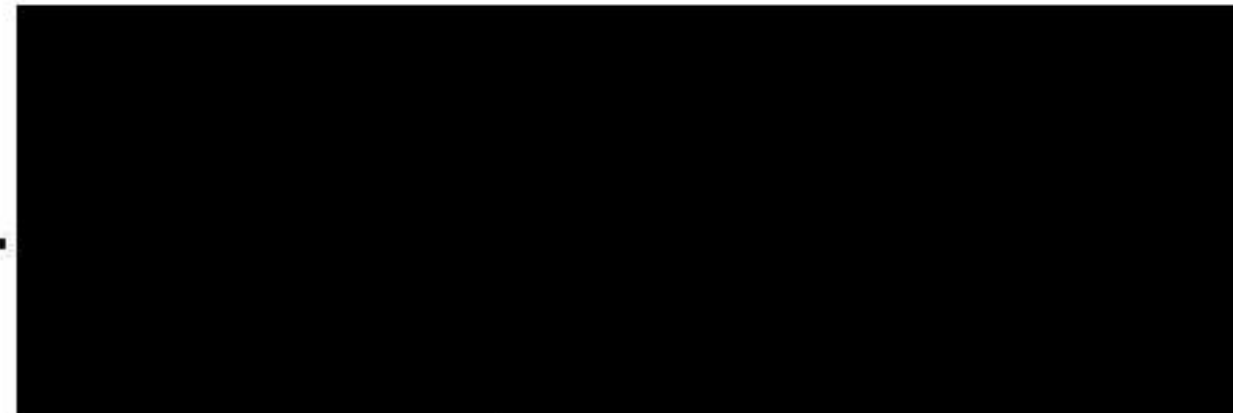
Reason: To ensure the environment of the development is improved and enhanced in accordance with Policies CS.5 and CS.9 of the adopted Stratford-on-Avon Core Strategy (2011-2031).

#### Notes

1. In dealing with this application, Stratford on Avon District Council has taken into account the National Planning Policy Framework and has actively sought to work with the applicant in a positive and proactive manner, in accordance with paragraphs 186 and 187.

DATED 3 March 2017

AUTHORISED OFFICER OF THE COUNCIL.....



This permission does NOT give approval under Building Regulations.

This permission does NOT convey any approval or consent which may be required under any enactment, by-law, order or regulation other than planning permission under the provisions of the Town and Country Planning Act 1990.

IT IS IMPORTANT THAT YOU READ THE NOTES ATTACHED TO THIS FORM

**STRATFORD-ON-AVON DISTRICT COUNCIL**  
**ELIZABETH HOUSE, CHURCH STREET, STRATFORD-UPON-AVON CV37 6HX**

**Reference No. 16/00451/FUL**



**PRE-START CONDITIONS**

You are reminded that some of the conditions attached to planning permissions (pre-start conditions) require details and schemes to be submitted and approved in writing before any work commences on site. You should therefore submit any details required at least 8 weeks prior to starting work and obtain the Council's written approval, if required, in order to comply with the planning condition.

Failure to comply with pre-start conditions may result in your planning permission being void.

**FEES FOR THE DISCHARGE OF PLANNING CONDITIONS**

In accordance with Statutory Instrument 958, a fee is now payable where a written request is made for the discharge of one or more planning conditions on the same permission or for the written confirmation of compliance with a planning condition or conditions. Further guidance on this process together with the associated fees is available on the Council's website

<https://www.stratford.gov.uk/planning/planning-conditions-and-fees.cfm>

**APPEALS TO THE SECRETARY OF STATE**

If you are aggrieved by the decision of your Local Planning Authority to refuse permission for the proposed development or to grant it subject to conditions, then you can appeal to the Planning Inspectorate under Section 78 of the Town and Country Planning Act 1990.

If you want to appeal, then you must do so within **six months** of the date of this notice. For appeals against the refusal of Householder applications (ie: works to a dwelling or development within the garden of a dwelling) or Minor Commercial Development you must lodge your appeal within **12 weeks** of the date of the decision.

If the development is the same (or substantially the same) as that specified in an Enforcement Notice served on the same land, an appeal must be lodged within

- A) 28 days of the date of the planning decision if there is an extant Enforcement Notice served up to 2 years prior to the date of the decision
- B) 28 days of the date of the Enforcement Notice if the Notice is served after the date of the decision of the planning application for the same development

Appeals must be made using a form which you can get from the Secretary of State at Temple Quay House, 2 The Square, Temple Quay, Bristol BS1 6PN (Tel: 0303 444 5000) or online at [www.planningportal.gov.uk/pes](http://www.planningportal.gov.uk/pes)

The Inspectorate will publish details of your appeal on the internet (on the Appeals area of the Planning Portal). This may include a copy of the original planning application form and relevant supporting documents supplied to the local authority by you or your agent, together with the completed appeal form and information you submit to the Planning Inspectorate. Please ensure that you only provide information, including personal information belonging to you that you are happy will be made available to others in this way. If you supply personal information belonging to a third party please ensure you have their permission to



do so. More detailed information about data protection and privacy matters is available on the Planning Portal.

The Planning Inspectorate can allow a longer period of giving notice of an appeal, but he will not normally be prepared to use this power unless there are special circumstances which excuse the delay in giving notice of appeal.

The Planning Inspectorate need not consider an appeal if it seems to him that the Local Planning Authority could not have granted planning permission for the proposed development or could not have granted it without the conditions it imposed, having regard to the statutory requirements to the provisions of the Development Order and to any directions given under the Order.

In practice, the Planning Inspectorate does not refuse to consider appeals solely because the Local Planning Authority based its decision on a direction given by him.

### **PURCHASE NOTICES**

If either the Local Planning Authority or the Planning Inspectorate refused permission to develop land or grants it subject to conditions, the owner may claim that he can neither put the land to a reasonably beneficial use in its existing state nor can he render the land capable of a reasonably beneficial use by the carrying out of any development which has been or would be permitted.

In these circumstances, the owner may serve a purchase notice on the Council (District Council, London Borough Council or Common Council of the City of London) in whose area the land is situated. This notice will require the Council to purchase his interest in the land in accordance with the provisions of Part VI of the Town and Country Planning Act.

#### Compensation

In certain circumstances compensation may be claimed from the Local Planning Authority if permission is refused or granted subject to conditions by the Planning Inspectorate on appeal or on reference of the application to him.

These circumstances are set out in Part V of the Town and Country Planning Act 1990.

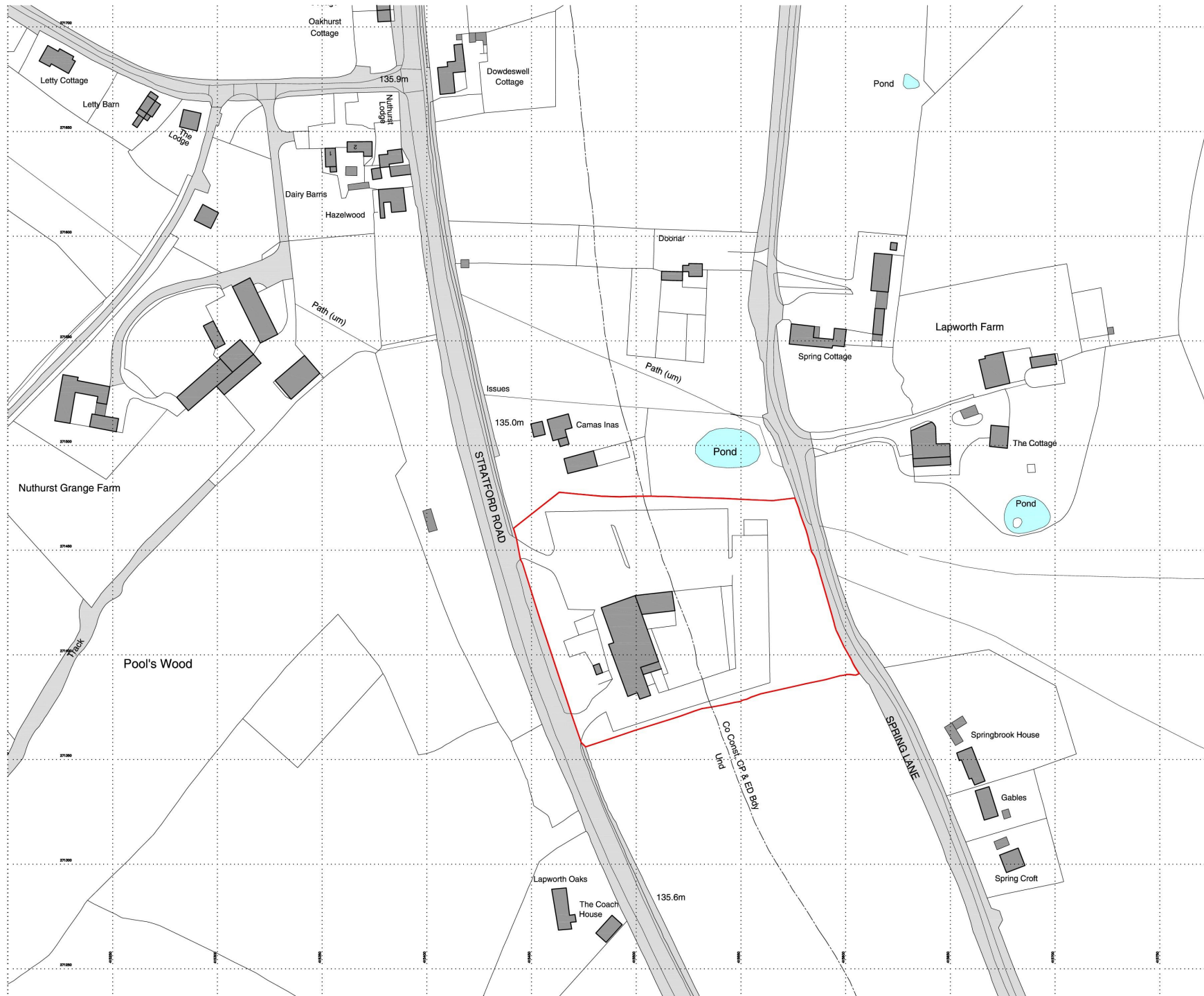
### **ADDRESSING YOUR NEW BUILDINGS**

When you require the address(es) for this development contact "Street Naming and Numbering" at Stratford-on-Avon District Council, either by post or email [3720snandn@stratford-dc.gov.uk](mailto:3720snandn@stratford-dc.gov.uk). You need to do this 6 weeks before utility contacts are required.

There will be an administrative charge for this service.

Information to include in your request can be found on [www.stratford.gov.uk](http://www.stratford.gov.uk)





Drawing Notes  
Drawing based on Ordnance Survey data and is subject to a full topographical line & level survey.  
Work to figured dimensions only. Do not scale. © All Rights Reserved.

Legend

Planning Application Boundary



rev	description	auth	date
-----	-------------	------	------

**ALIGN** ARCHITECTURE  
sixth floor | lancaster house  
87 newhall street  
birmingham | b3 1nq  
T: +44(0)121 233 1269  
E: info@align-architecture.co.uk

client  
Westbourne Leisure

project  
The Oak Hotel  
Statford Road, Hockley Heath

project no	drawing no
15138	PA-01

date drawn	rev
November 2015	-

description -  
Location Plan

scale	drawn by	authorised by
1:1250 @ A2	NSC	NSC

All written/scaled dimensions and floor areas are subject to verification by Contractor(s) on site.  
This drawing and design are © Copyright Align Architecture Ltd. No reproduction or alteration is permitted.

purpose of issue  
planning ☒ building regs ☐ tender ☐ comment ☐ approval ☐ construction ☐





EXISTING SITE BLOCK PLAN 1:250

**Drawing Notes**  
Drawing based on Ordnance Survey data and is subject to a full topographical site & level survey.  
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**Disclaimer**  
Drawing based on measured building survey drawings 2657-01 to 03 prepared by COWI & BULCH LLP (Surveyors) dated May 2015.

- Legend**
- Planning Application Boundary
  - Existing Landscaping
  - Existing Buildings



rev		description		drawn	auth	date
<b>ALIGN ARCHITECTURE</b>						
Sixth Floor   Langensate House 227 Newhall Street Birmingham   B3 1NQ T: +44(0)121 230 1260 E: info@align-architecture.co.uk align-architecture.co.uk						
client Westbourne Leisure						
project The Oak Hotel Stratford Road, Hockley Heath						
project no 15138				drawing no PA-02		
date drawn November 2015						rev -
description Existing Site Block Plan						
scale 1:250 @ A1		drawn by NSC		authorised by NSC		
All vertical dimensions and floor areas are subject to verification by Corfield & Co. Ltd. This drawing and design are © Copyright Align Architecture Ltd. No reproduction or alteration is permitted.						
purpose of issue planning <input checked="" type="radio"/> building regs <input type="radio"/> tender <input type="radio"/> comment <input type="radio"/> approval <input type="radio"/> construction <input type="radio"/>						





1 PROPOSED FRONT ELEVATION



2 PROPOSED REAR ELEVATION



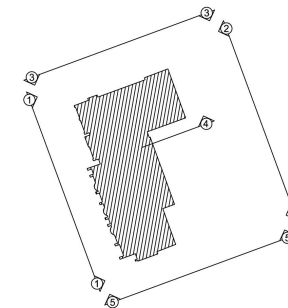
3 PROPOSED SIDE ELEVATION



5 PROPOSED SIDE ELEVATION



4 PROPOSED INTERNAL SIDE ELEVATION



**Drawing Notes**  
Drawing based on Ordnance Survey data and is subject to a full topographical site & level survey.  
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**Disclaimer**  
Drawing based on measured building survey drawing 3038-04 prepared by GMA&Y BUILDING SURVEYORS dated November 2015.

B Elevation 2 amended to address LPA comments  
A Elevation 2 amended to address LPA comments  
rev description date

ALIGN ARCHITECTURE  
15138  
November 2015  
PA-111  
B

client  
Westbourne Leisure  
project  
The Oak Hotel  
Stratford Road, Hockley Heath  
drawing no  
15138  
November 2015  
B  
description  
Proposed Elevations

scale  
1:100 @ A1  
drawn by  
NSC  
authorised by  
NSC  
NORTH  
All vertical dimensions and floor areas are subject to verification by Contractors on site.  
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purpose of use  
planning building regs tender comment approval construction