

<b>Application Number:</b>	2023/0048	<b>Application Type:</b>	Full
<b>Proposal:</b>	Change of use of the land to use as garden area including creation of patio area, shed, fence, access steps, and part raised deck (retrospective).	<b>Location:</b>	15 Quarry Street Shawforth Rossendale OL12 8HD
<b>Report of:</b>	Planning Manager	<b>Status:</b>	For Publication
<b>Report to:</b>	Development Control Committee	<b>Date:</b>	23/05/2023
<b>Applicant:</b>	Sharon Taylor	<b>Determination Expiry Date:</b>	24.04.2023 EOT agreed to 26.05.2023
<b>Agent:</b>	Archtech design solutions		

<b>Contact Officer:</b>	<b>Claire Bradley</b>	<b>Telephone:</b>	<b>01706 238636</b>
<b>Email:</b>	<b>planning@rossendalebc.gov.uk</b>		

<b>REASON FOR REPORTING</b>	
<b>Outside Officer Scheme of Delegation</b>	No
<b>Member Call-In</b> Name of Member: Reason for Call-In:	Yes Councillor Janet Whitehead Privacy and outlook of neighbours
<b>3 or more objections received</b>	No
<b>Other (please state):</b>	

## HUMAN RIGHTS

The relevant provisions of the Human Rights Act 1998 and the European Convention on Human Rights have been taken into account in the preparation of this report, particularly the implications arising from the following rights:

### Article 8

The right to respect for private and family life, home and correspondence.

### Article 1 of Protocol 1

The right of peaceful enjoyment of possessions and protection of property.

## 1. RECOMMENDATION

That the application be refused for the reasons specified in Section 11.

### **APPLICATION DETAILS**

## 2. SITE

The application site is rectangular piece of what was vacant land that is located to the rear of 15 Quarry Street, and is accessed via the back street of the dwellings on Quarry Street.

The site is 3.1 metres higher than the level of the back street.

The application is the result of an enforcement enquiry and is a retrospective application.

## 3. RELEVANT PLANNING APPLICATION HISTORY

No relevant planning history

## 4. PROPOSAL

This application is a retrospective application for a change of use of vacant land to domestic use as a garden area.

The application also includes the following:

- Provision of access steps.
- Creation of a patio area.
- Creation of a shed with an overall height of 2.4 metres adjacent to Quarry Street.
- Provision of a timber fence at a height of 1.8 metres on the elevation facing Quarry Street and part side elevations.
- Provision of a part raised decking area on the elevation overlooking the rear of the four dwellings known as 1 and 2 The Manse, Clontibret and Crespen, all of which front Market Street, Whitworth but have rear elevations, rear yards and parking adjacent to the application site.

## **POLICY CONTEXT**

### **National Planning Policy Framework**

Section 2 Achieving Sustainable Development  
Section 4 Decision Making  
Section 11 Making Effective Use of Land  
Section 12 Achieving Well Designed Places

### **Development Plan**

#### Local Plan Policies

Policy SS: Spatial Strategy  
Policy SD1: Presumption in Favour of Sustainable Development  
Policy SD2: Urban Boundary and Green Belt  
Policy ENV1: High Quality Development in the Borough  
Policy ENV3: Landscape Character and Quality

### **Other material considerations**

National Planning Practice Guidance

## **5. CONSULTATION RESPONSES**

<b>Consultee</b>	<b>Summary of Comments</b>
LCC Highways	No comments received
RBC Environmental Health	No comments received

## **6. REPRESENTATIONS**

To accord with the General Development Procedure Order a site notice was posted on 22/03/2023 and neighbour letters were posted out on 08/02/2023, with 4 additional letters posted out on 24.04.2023.

No comments have been received.

## **7. ASSESSMENT**

The main considerations in this case are as follows:

- 1) Principle;
- 2) Visual Amenity;
- 3) Neighbour Amenity;
- 4) Access, Parking and Highway Safety

### **Principle**

The proposed development is located within the urban boundary, where the Local Plan seeks to locate the majority of new development.

As garden areas are normally considered appropriate in predominantly residential locations such as this, the proposals are considered to be acceptable in principle.

### **Visual Amenity**

Policy ENV1 of the Local Plan advises that all proposals will be expected to take account of the character and appearance of the local area, in terms of layout massing, scale and materials etc.

The proposed development includes a timber staircase to access the site, and timber building, timber fencing, paving decking and a balustrade overlooking the rear of The Manse, Clontibret and Crespen.

In terms of visual amenity, the development is designed appropriately and uses materials that are appropriate to the locality.

The proposal is in accordance with the NPPF and the Rossendale Local Plan in respect of visual amenity.

## **Residential Amenity**

Policy ENV1 (c) requires development to be sympathetic to surrounding land uses, avoiding demonstrable harm to the amenities of a local area; and (d) states that the scheme should not have an unacceptable adverse impact on neighbouring development by virtue of it being over-bearing or oppressive, overlooking, or resulting in an unacceptable loss of light;-nor should it be adversely affected by neighbouring uses and vice versa;

The proposed decking and balustrade is raised by three metres above the ground level of the houses to the rear. The decking and balustrade is located 14 metres from the rear of 1 and 2 The Manse and 21 metres from the rear of Crespen.

The site is surrounded to the rear by mature landscaping, and when the trees are in leaf it will protect the privacy and outlook of the neighbouring properties. However, there is no guarantee that the landscaping / planting will remain, and it cannot be conditioned to be retained, as the applicant does not own it.

Furthermore, when the trees are not in leaf there would be direct views possible from the decking area into neighbouring properties.

In view of the above it is considered that the proposals will not safeguard the residential amenities currently enjoyed by the occupiers of nearby properties. It is therefore considered that the proposal does not satisfy the requirements of Policies ENV1, and ENV6 of the Rossendale Local Plan in neighbour amenity terms.

## **Access, Parking and Highway Safety**

It is not envisaged that the proposals will give rise to any undue highway safety concerns. The back street where the staircase is located is not a through road and not an adopted highway.

No comments have been received to date from the Highway Authority.

## **Conclusion**

The proposed development is acceptable in terms of visual amenity, and highway safety. However, in terms of privacy and outlook, the neighbouring occupiers and the users of the garden area are currently protected by the existing mature landscaping when the trees are in leaf. However as the landscaping is not in the applicant's ownership, it cannot be conditioned to be retained. Furthermore, when the landscaping is not in leaf, the development permits undue overlooking of neighbouring properties. As such, the proposal does not satisfy the requirements of Policies ENV1, and ENV6 of the Rossendale Local Plan in neighbour amenity terms.

## **8. RECOMMENDATION**

That planning permission be refused.

## **9. REASON FOR REFUSAL**



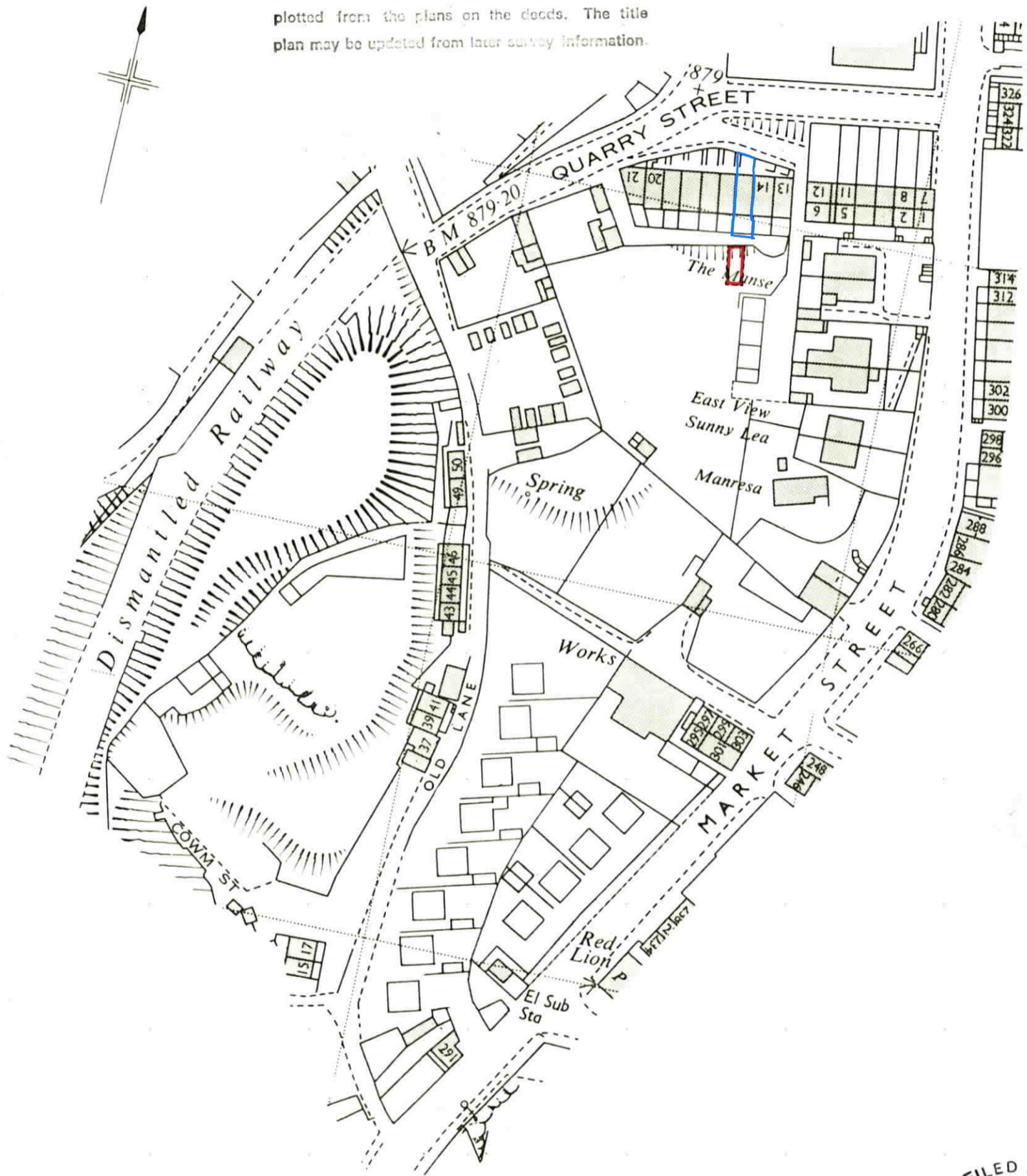
1. The proposal would be detrimental to the residential amenity of Nos 1 and 2 The Manse, and Crespen, by reason of impact on privacy and would be contrary to policy ENV1 of the Rossendale Local Plan 2019-2036.

## 11. INFORMATIVES

1. The proposal would not comply with the development plan and would not improve the economic, social and environmental conditions of the area. There were no amendments to the scheme, or conditions which could reasonably have been imposed, which could have made the development acceptable and it was therefore not possible to approve the application. The Local Planning Authority has therefore implemented the requirement in Paragraph 38 of the National Planning Policy Framework.

H.M. LAND REGISTRY		TITLE NUMBER	
		LA 505177	
ORDNANCE SURVEY PLAN REFERENCE	COUNTY	SHEET	NATIONAL GRID
	LANCASHIRE		SD 8920
			SECTION
			B
Scale: 1/1250 Enlarged from 1/2500 ROSSENDALE DISTRICT			©Crown copyright 1981

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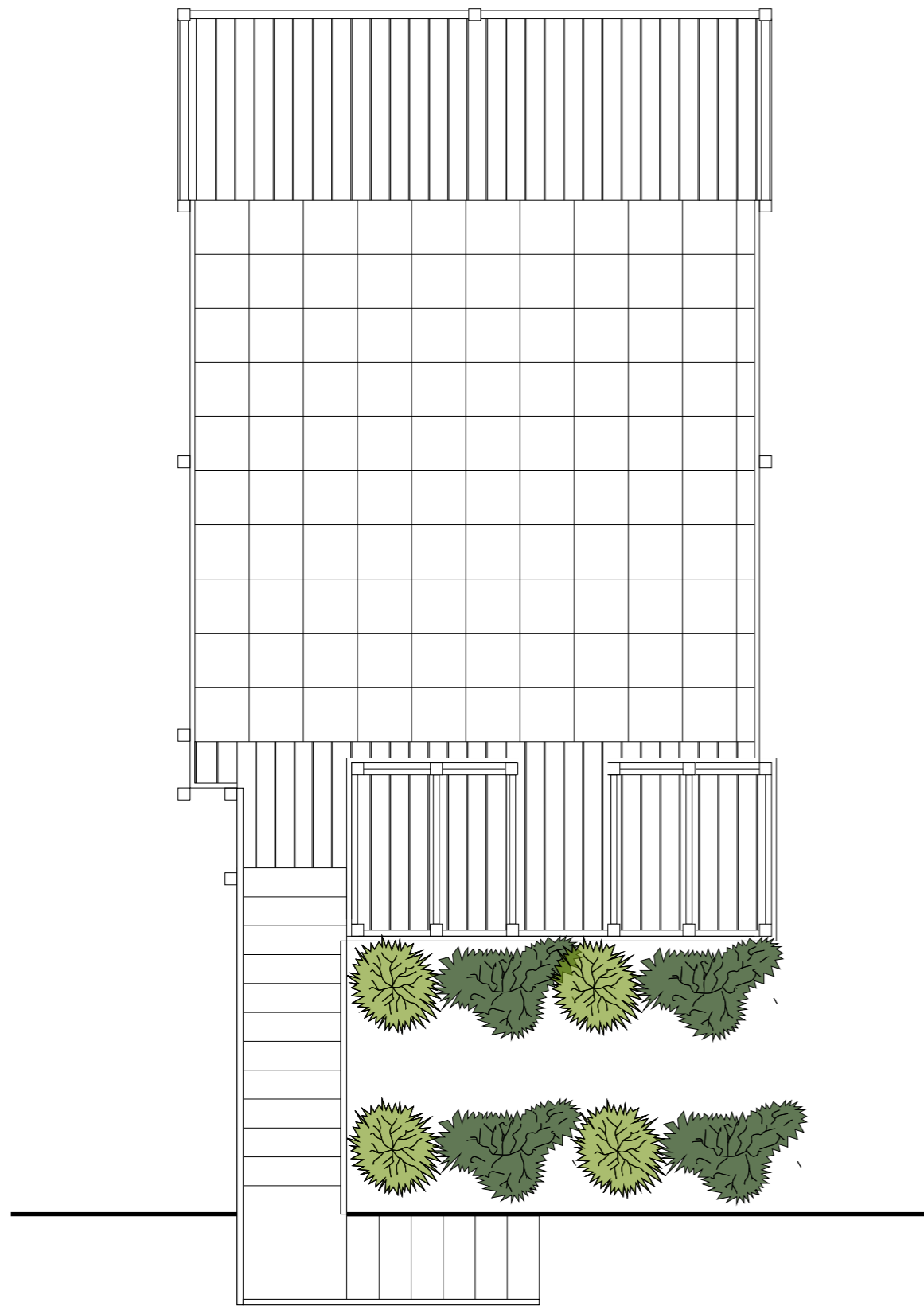
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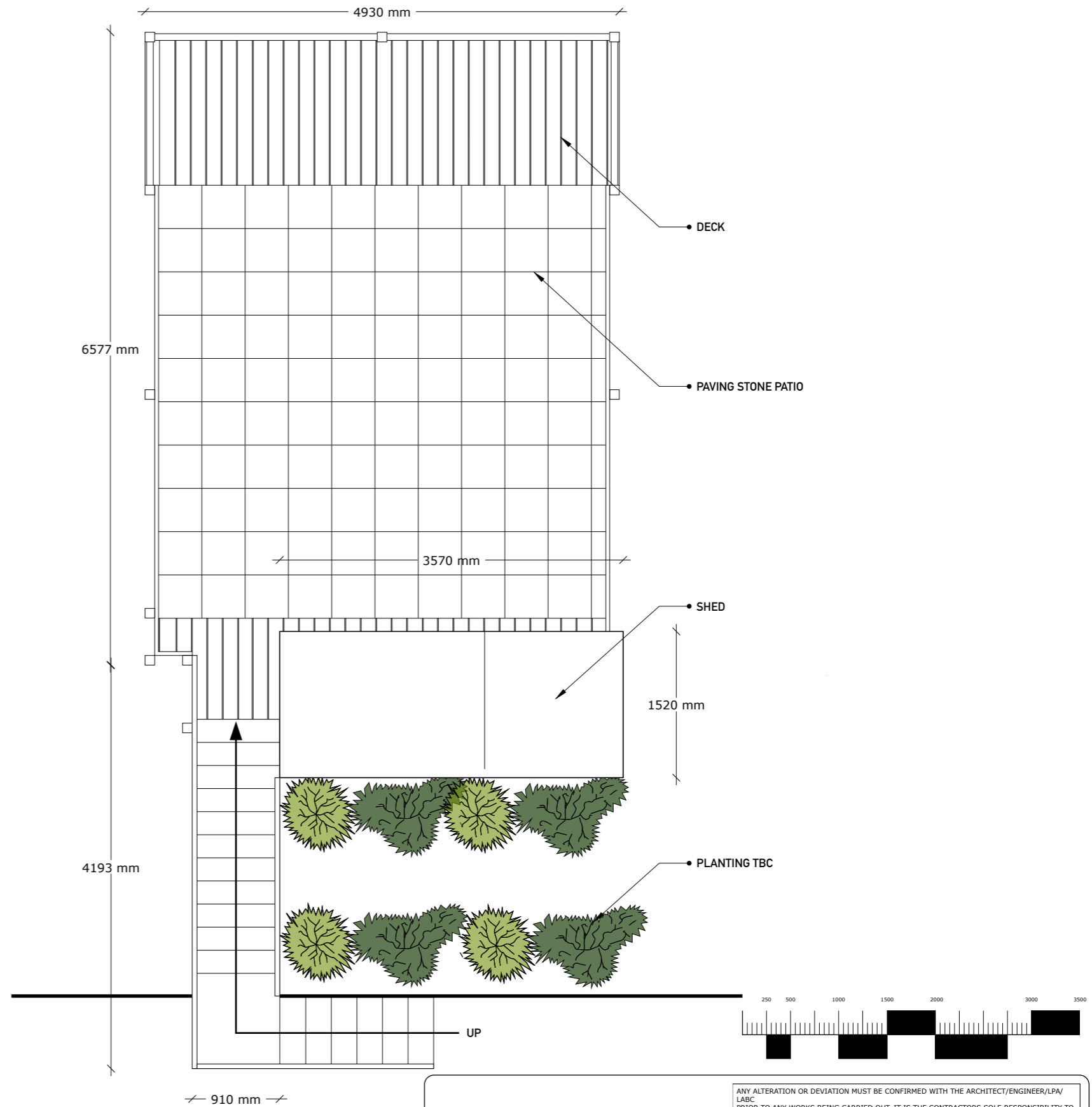
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PLAN SHOWING SHED FLOOR PLAN



PLAN SHOWING SHED ROOF



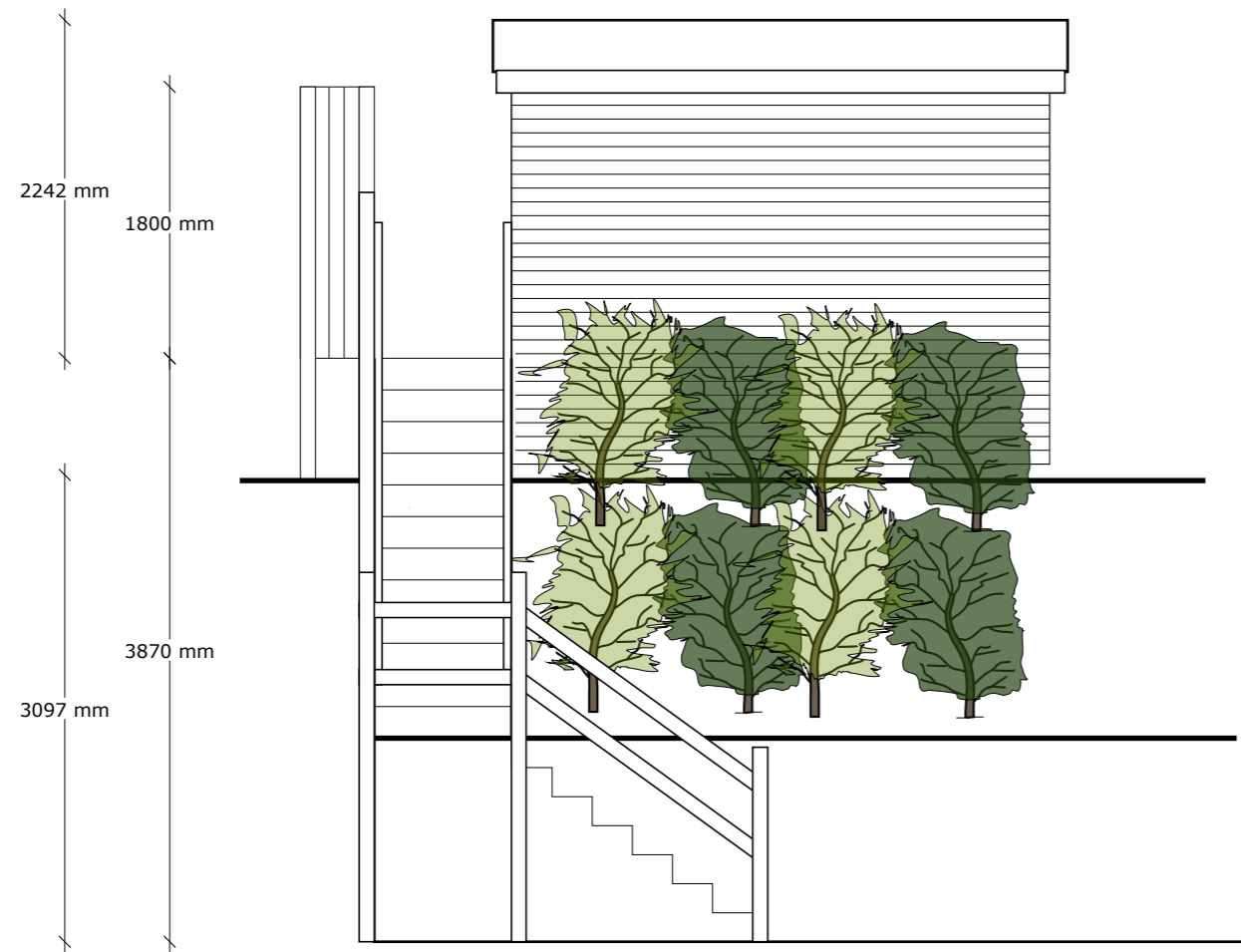
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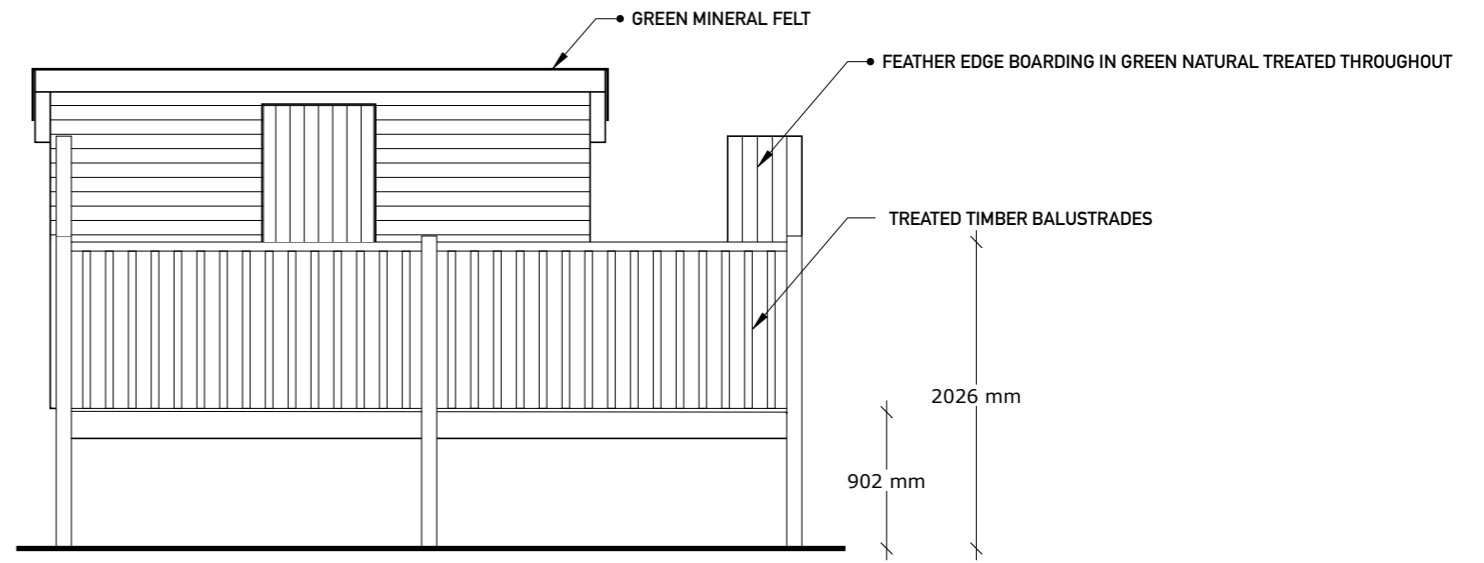
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<b>CLIENT</b> SHARON TAYLOR	<b>SCALE</b> 1:50 @A3
<b>PROJECT</b> PROPOSED FOR RETROSPECTIVE APPLICATION AT 15 QUARRY ST SHAWFORTH.	

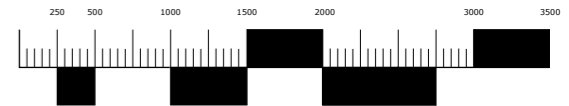
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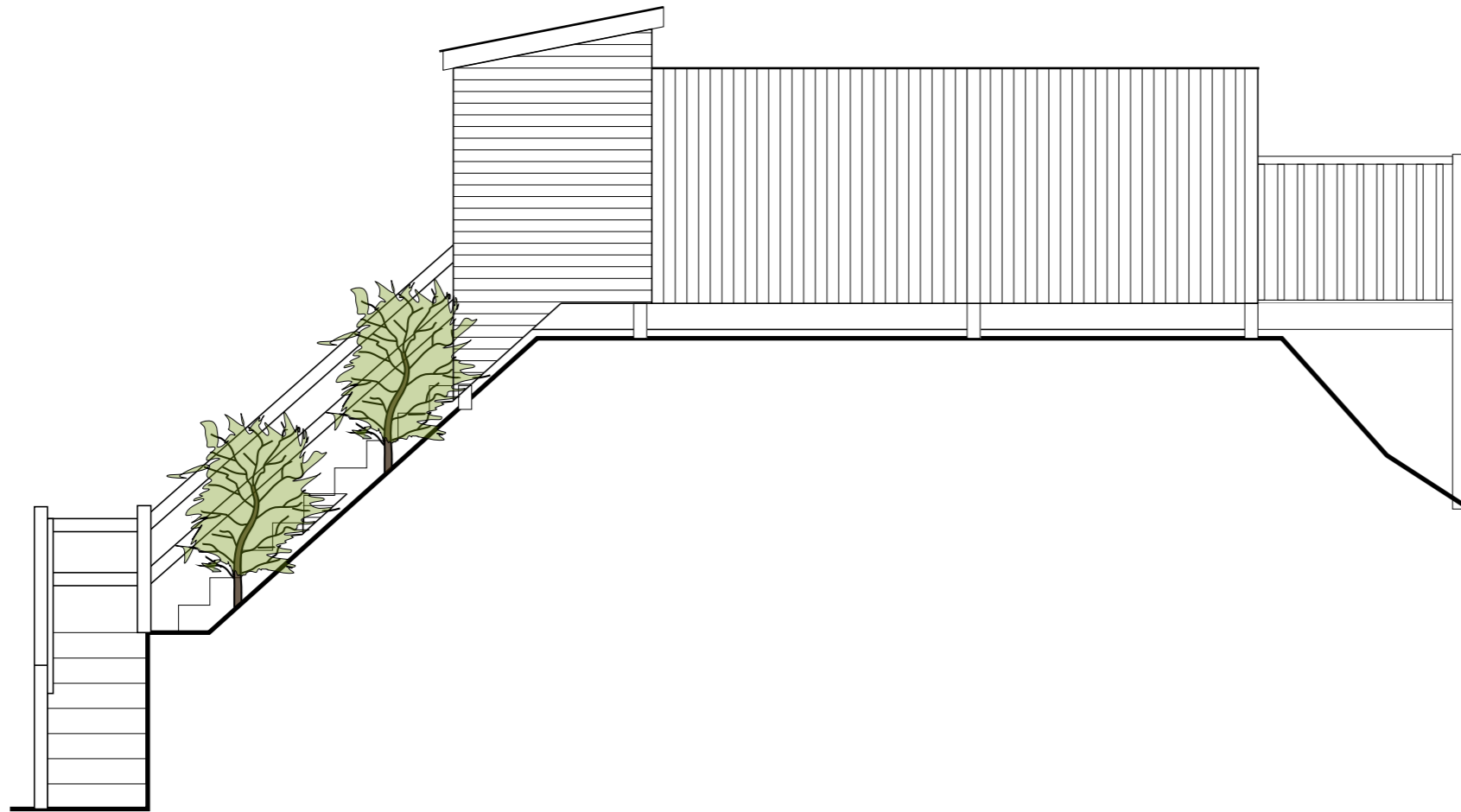
ELEVATION TO BACK STREET



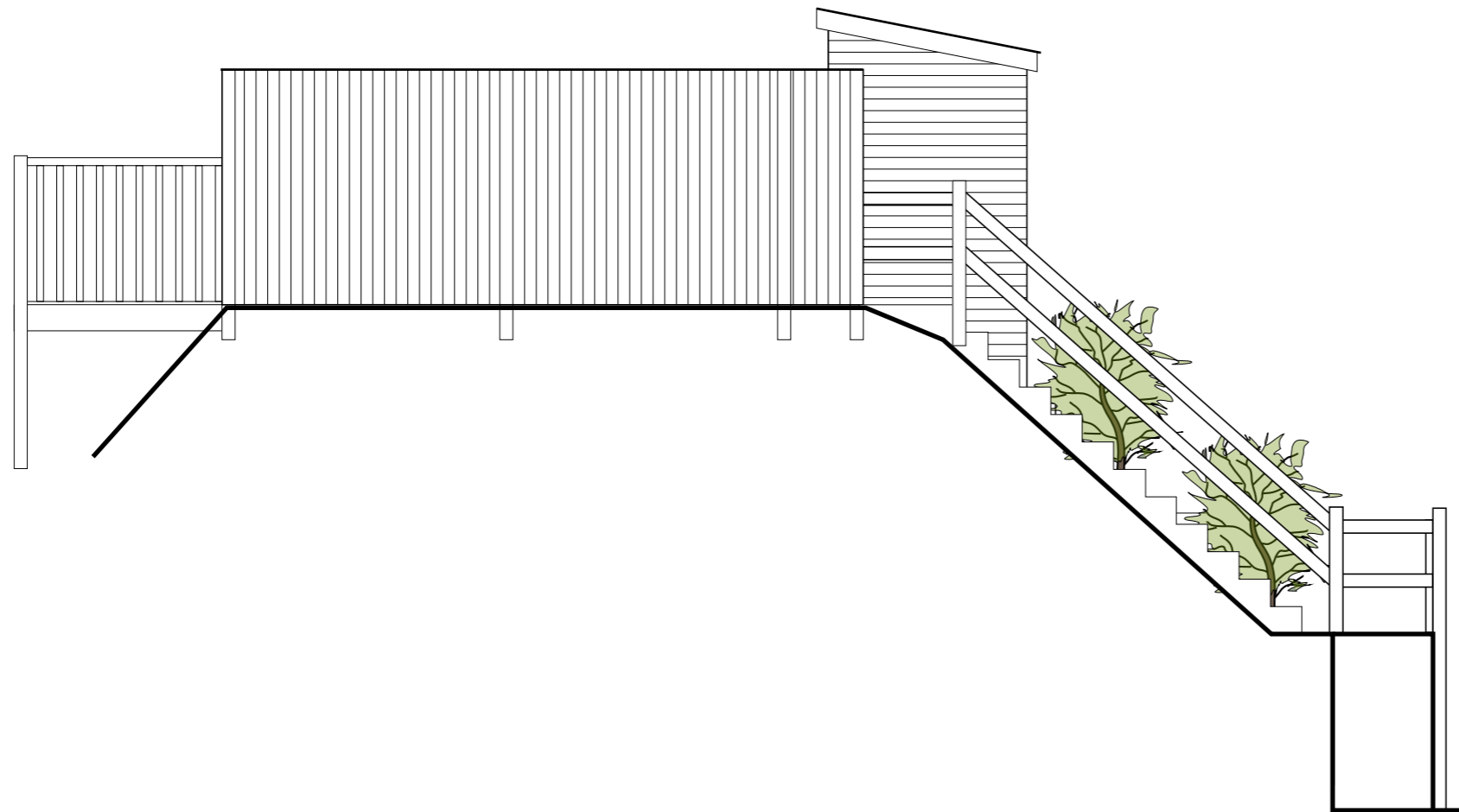
ELEVATION REAR TO BOUNDING AREA



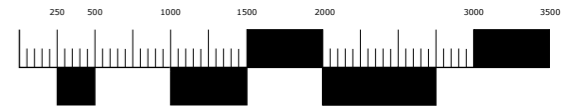
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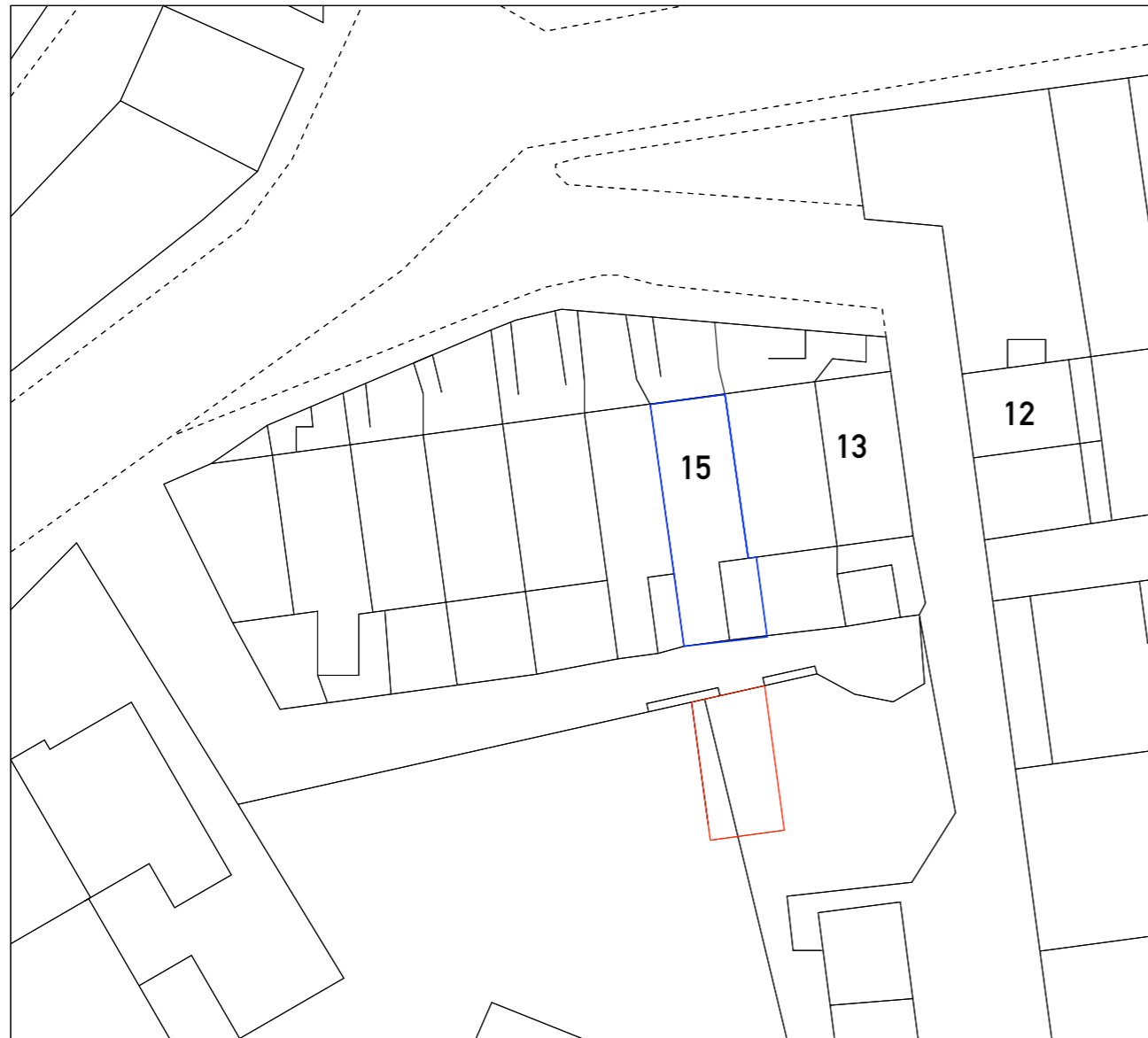
ELEVATION SIDE



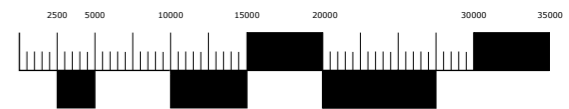
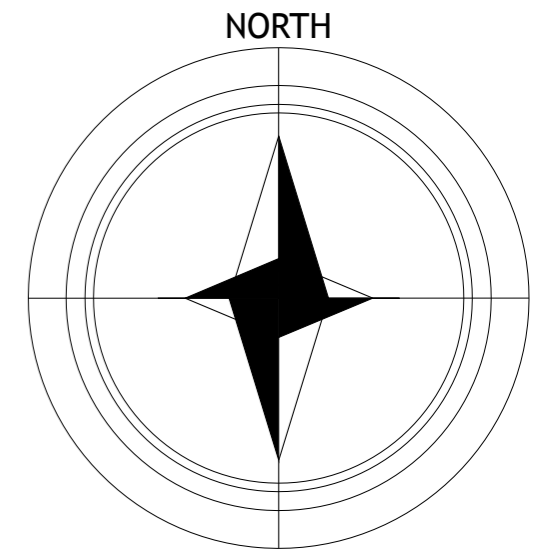
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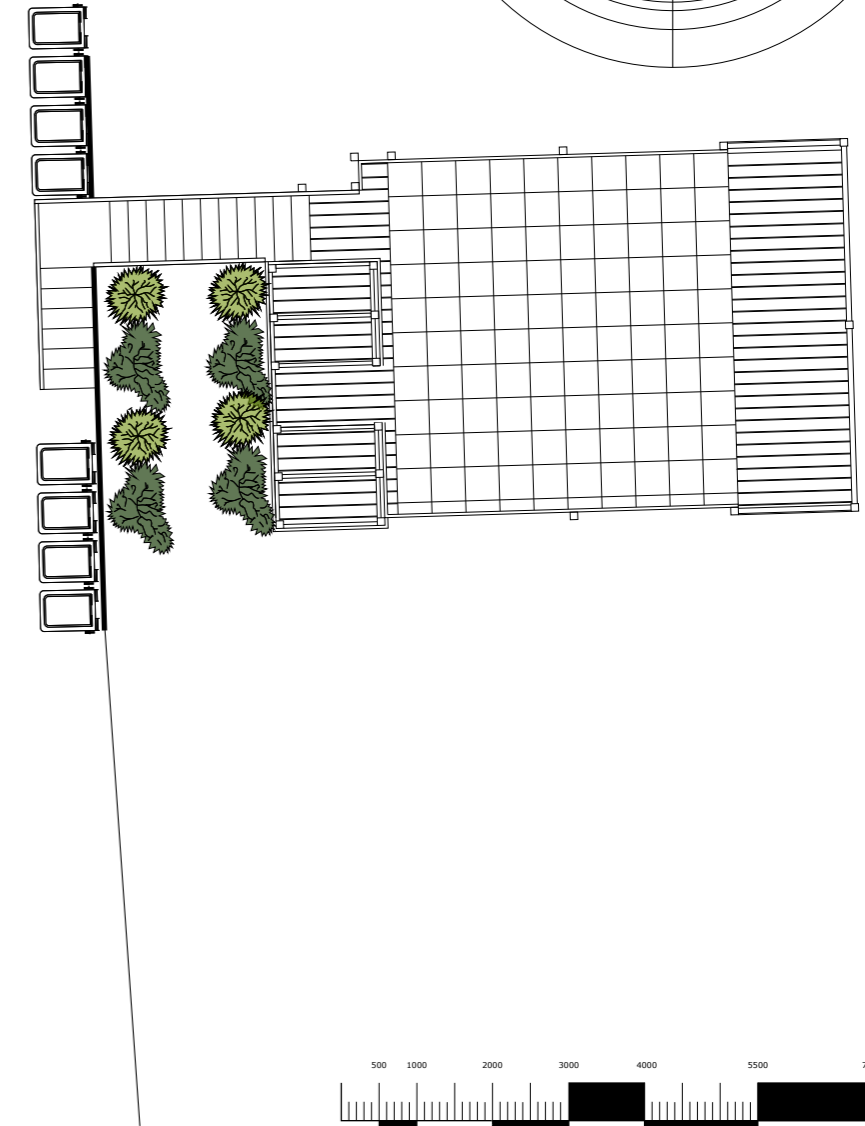
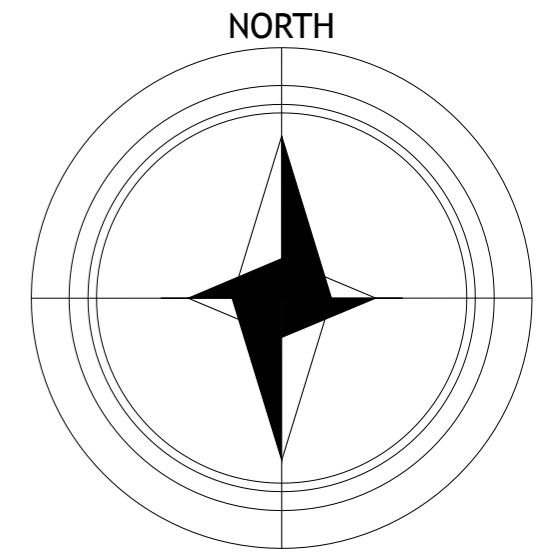
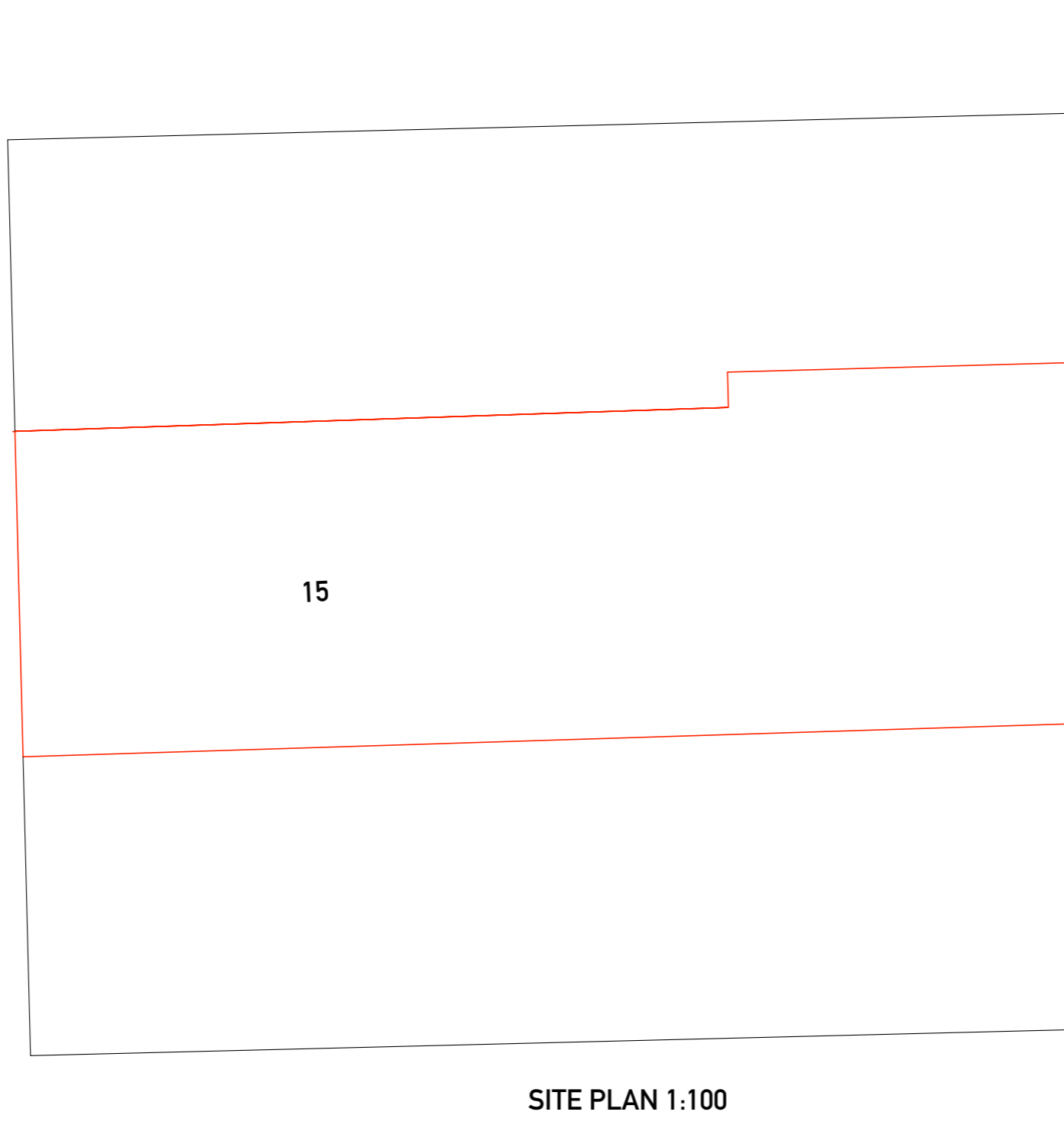


SITE PLAN 1:500



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