



**Lake District  
National Park**

**6**

**Report from the Head of Development Management to the  
Development Control Committee**

Application number:	<b>7/2024/5281</b>
Application type:	S73 (Amend/Delete Condition)
Applicant:	Mr Sam Westcott, Lakeland Gardens Ltd
Location:	Lakeland Gardens, New Road, Windermere, LA23 2LA
Grid reference:	341023 498157
Proposal:	Variation of condition 1 (plans) on reserved matters application 7/2020/5480 (Provision of office and staff welfare buildings, storage shed and associated yardage including composting area, polytunnel, deer stock fence, plant storage areas, horticultural reception building, client parking, hard and soft landscaping) for a reduction in size of the building, alterations to land levels and removal of culvert
Report prepared by:	Ben Long, Area Planner
Report agreed by:	Neil Henderson, Planning Manager
Recommendation:	APPROVE with conditions

**1 About this report**

- 1.1 The case planner has prepared this report, assessment and recommendation taking into account our policies (known as the Development Plan), written representations we have received, and any other material considerations.
- 1.2 Material considerations are things that are relevant to our decision making and which we are able to take into account – for example site specific factors, or Government planning policy (the National Planning Policy

Framework) and Government planning guidance (the National Planning Practice Guidance).

- 1.3 The Development Control Committee will determine the application at its meeting having regard to the provisions of the Development Plan, representations we have received, and all other material considerations, following a verbal and visual summary of the application by the case planner and, where applicable, after hearing any verbal representations made in accordance with our Policy for Public Speaking at Meetings.
- 1.4 Most applications are decided under powers delegated to the Head of Development Management. A small number of significant or more contentious applications are considered by our Development Control Committee as set out in our Scheme of Delegation.

## **2 Background and proposals**

- 2.1 I am reporting this application back to Committee following its deferral from the August 2024 meeting. The application was deferred for the submission of further information regarding mitigation of noise, screening and hours of operation.
- 2.2 This application relates to land located off New Road in Windermere where planning permission was granted in 2019 and 2020 for use as a landscape contractor's establishment including personnel base, storage building and yard areas (7/2019/5509 and 7/2020/5480).
- 2.3 There was historically a garden centre and plant nursery at the site. It occupied a long, narrow site stretching back to the south west from the road. Prior to 2020 the site had been underused for some time, apart from an unauthorised use for car parking on the area at the front of the site. To the north and south of the site there are private houses and flats, some of which are dedicated for occupation by elderly residents. To the west, beyond the rear of the site, is Hunter House, which provides sheltered housing units.
- 2.4 There have been issues with recent planning applications/permissions relating to the site, including inaccurate plans, an absence of information about the land levels of the proposed development and process issues including a finding of fault against this Authority by the Local Government Ombudsman.
- 2.5 It became apparent that the position on the ground did not fully accord with aspects of the permissions granted. As a result we served two enforcement notices, one against the use of a portion of land at the rear of the site as part of the yard area, and one against the raising of land levels at the site which also affect the storage building and associated structures.
- 2.6 The enforcement notices were the subject of appeals which were dismissed and the notices upheld. The area at the rear of the site has ceased to be used as a yard area as required by the notice. Further work to alter land

levels and to carry out planting remain to be carried out between now and the end of the planting season (April 2025).

- 2.7 This application relates to the remainder of the yard area where the land levels have been raised. The application seeks to:
- Reduce the size of the approved building from 20m long to 12m long, while retaining its finished floor level as at present. This floor level varies from about 300mm to 900mm higher than the previously existing ground levels;
  - To reopen the stream running through the site, removing the culvert, except for one section giving access to the yard area on the other side; and
  - To alter the existing land levels, resulting in ground levels substantially similar to those existing prior to the development, except in the vicinity and access to the retained portion of the building which would be higher.
- 2.8 Since the deferral at the August meeting, discussions have been held including extensive contact directly between the applicant and members of the local community. The discussions have resulted in the submission, in December, of proposals for the screening of the site with an acoustic fence and additional planting, together with management details for the site and building. The additional information has been publicised by fresh site notices advising that comments should be submitted no later than 14 January 2025.

### **3 Representations**

- 3.1 Windermere and Bowness Town Council commented in June 2024 that:
- In view of the long and complex planning and enforcement history of this site we must defer to the opinion of the LDNPA planners.

However, the Council also comment:

- If the LDNPA is minded to approve the current application, adequate fencing and screen planting to help reduce the visual and noise impacts between residential properties and this site should be insisted upon; and
  - We strongly recommend that there is an urgency to concluding the issues on this site so the neighbours can resume peaceful enjoyment of their homes.
- 3.2 Westmorland and Furness Council Environmental Protection team (EPO) have raised no objection in principle in July 2024, but comment:
- As the application is not in respect of new noise sources, the Environmental Protection team remit, as a consultee, is limited.
  - The retention of part of the building up to 900mm above the consented height means that the impact of noisy activity, such as the use of power tools, will likely be greater than if the building was at a lower level. A lower internal floor level would likely be a positive step in reducing on-site noise disturbing residents.
  - The submitted Construction Management Plan is generally considered acceptable, although temporary barriers should have suitable acoustic properties.

The EPO also comments that it is understood that an acoustic fence was required to be installed by a previous permission and that such a condition should be enforced, as vegetation alone is not an acceptable means of noise attenuation. However, it needs to be noted that no such condition (requiring an acoustic fence) was imposed on the previous permission applying to the site.

- 3.3 Westmorland and Furness Council as Lead Local Flood Authority have no objection. Support the restoration of the watercourse and topography of the site. The flood risk assessment demonstrates that the alteration in levels from the baseline will not increase flood levels.
- 3.4 Up to the time of the August meeting we had received 13 letters of representation from private individuals. The concerns related to:
- The unauthorised development should be enforced against in accordance with the conclusions of the Inspector on appeal
  - The existing use at the existing levels causes harm to amenity as a result of noise, loss of privacy and visual amenity
  - Inadequate noise assessment has been made
  - The building at its current height causes harm to visual amenity
  - The proposals do not include sufficient screen planting and/or fencing to address the harm to amenity
  - The proposals would concentrate activity in the area between the building and Brackenthwaite increasing the adverse effect
  - The development has had an adverse effect on wildlife
  - Car parking on surrounding streets remains unacceptable
- 3.5 At the time of writing (15<sup>th</sup> January) we had received no fresh comments from neighbours or interested parties in response to the additional information and new site notices.

#### **4 Development plan policies and other relevant guidance**

- 4.1 The relevant Development Plan comprises:
- The Lake District National Park Local Plan 2020-2035
- 4.2 The following Lake District National Park Local Plan policies are relevant to this application:
- Policy 01: National and international significance of the Lake District
  - Policy 02: Spatial strategy
  - Policy 03: Development and flooding
  - Policy 05: Protecting the spectacular landscape
  - Policy 06: Design and development
  - Policy 16: Job creation and employment space
- 4.3 The National Planning Policy Framework (NPPF) sets out the Government's planning policies for England and how these are expected to be applied. It is a material consideration in the determination of planning applications.
- 4.4 There are no actions in the Windermere, Bowness and Troutbeck Bridge Community Plan which are relevant to this application.

## 5 Main issues and assessment

5.1 The main issues in this assessment are:

- Principle
- Character and appearance of the area
- Effect on residential amenity
- Surface water drainage

### The principle of the development

5.2 The site falls within the Rural Service Centre of Bowness/Windermere. Local Plan Policy 02 supports a range of development to sustain and enhance local services and employment opportunities. Policy 02 also requires that development will be of a scale and nature appropriate to the character of the locality in which it is proposed.

5.3 Local Plan Policy 16 supports development at existing employment sites with the aim of 'growth and expansion of all types of business and enterprises'. The use generates employment, currently in the region of 30 staff are employed and based at the site as a whole.

5.4 The use of the land for the purposes proposed is already established by the outline permission, and physical works such as those that are the subject of this application are acceptable in principle having regard to policy 16.

### Character and appearance of the area

5.5 The site of the development, including the building that is proposed to be retained, lies at the rear of the site and is not perceptible from public vantage points. As such the development has no appreciable effect on landscape character or visual amenity, although it has the potential to result in visual intrusion as part of residential amenity which is considered below.

### The effect on residential amenity

5.6 The site is bordered by residential uses to the north and south. To the south there are residential properties at Gatesfield House and detached and semi detached houses accessed from West Crescent. Of these, the closest, singled out in the appeal decision, is Brackenfield. The gardens abut the site, the rears of the houses themselves are about 10m away. To the north side there are bungalows at Rayrigg Gardens, then an undeveloped area, and beyond, to the west, is Hunter House a single building set in grounds, that contains sheltered housing units and a warden's flat.

5.7 Policy 06 of the Local Plan contains a criterion that states that:  
*Development must not have an unacceptable impact on the amenity of adjoining residents and users of the proposed development, due to visual intrusion, overlooking, overshadowing, overbearing effect, noise, light pollution or other adverse impacts.*

- 5.8 The use of the land as a landscape contractor's establishment is established by the outline and reserved matters permissions granted. In the event that we were to refuse planning permission, the requirements of the enforcement notices to return the land levels to those prior to development (as shown on a topographical survey from 2010 – Original levels) would come into effect. In order to achieve this, the existing building would need to be removed and the culvert reopened, with all materials arising removed from the land. Adherence to these requirements would not alter the use of the land as a landscape contractor's premises and yard, would not require any additional screening of this site, and the applicant may still feel that he requires a building on the land and would be entitled to make further applications in this regard.
- 5.9 The works to form and level the yard that have been carried out on site (Current levels) were not detailed on the approved plans and are therefore not permitted. The effect of the works carried out has been to provide a roughly level yard area at about the level of the building slab (98.49m AOD). This represents a change in level from the Original levels which varies from nothing at the eastern end of the yard, to 1.5m where the stream leaves the culvert at the western end of the site. The result is that the Current level of the yard is elevated above the gardens of the adjacent houses to the south, in particular that of Brackenthwaite. The Inspector found this to 'have a significant and fundamental effect on the way in which activities are experienced' and to lead to an increased exposure to noise.
- 5.10 The proposals (Proposed levels) in the north eastern area of the site (beyond the location of the portion of the building proposed to be retained) are to return the site levels to substantially the same as the Original levels (and as required by the enforcement notice). This involves removing part of the building and its floor slab, re-opening the culverted stream, and lowering the land adjacent to it. A small portion of the site in the westernmost corner adjacent to Hawesmead would be about 300mm higher than the Original levels. Typically, the Proposed levels of the yard area beyond the stream would be about a metre lower than the Current levels down from 98.5m to 97.5m.
- 5.11 The principal difference between the proposals currently before us and the position established by the enforcement notice (returning land to the original levels) is in relation to the portion of the building proposed to be retained and its immediate vicinity. The building is located where the land formerly sloped down from 98.2m to 97.2m (stream bed). The current yard level is 98.5m, the proposals are to slope the land from this level (building threshold) to about 97.9m, close to the boundary with Brackenthwaite. In this vicinity the Original levels formed a low ridge on this side of the site.
- 5.12 The storage building is located in the position as approved on the reserved matters approval but it is higher and taller as a result of the raising of the ground levels. The building is located at least 20m from the rear of the nearest house, Brackenthwaite, and there is intervening screen planting. The proposal is to reduce the building from 20m long to 12.5m long, The section to be removed corresponding to the section that is currently the most elevated (compared to pre-existing ground levels).

- 5.13 The revised proposals now submitted retain the same proposals for the building and ground levels at the site, but also add extra screening to the boundaries. To the south boundary adjacent to Brackenthwaite, around the western end, and along the north boundary as far as the retained building, a 2m high timber acoustic fence would be erected with a double row of laurel on the neighbours' side to soften its appearance. To the rest of the northern side of the yard area, willow would be planted. The document also describes the use of the yard as being primarily for parking of work vehicles with some storage, and the use of the retained building primarily as welfare and tool storage. The agent has indicated that the measures can be implemented by the end of the current planting season (end of March 2025).
- 5.14 I consider that the measures now proposed would satisfactorily address the effects of the land raising on residential amenity. The building as proposed would not be harmful to residential amenity in respect of a loss of light, or an overbearing effect. The combination of the retained building and fencing would result in a greater degree of enclosure to neighbours, but this would be mitigated by planting, and the beneficial effect of containing the activity at the employment site would offset any increased in massing.

#### Drainage

- 5.15 A small stream (ordinary watercourse) runs across the site from north east to west. According to the 2010 topographical plan, this stream was formerly open and crossed by a short culvert. The effect of the erection of the building and the land raising to form the yard was to culvert the stream across substantially the whole of the land. This was unacceptable.
- 5.16 The current proposals are to remove the building and the area of the yard from over the stream, removing the culvert apart from a short stretch allowing access to the approved yard area on the opposite side. The opening up of the culvert in this way returns the stream to substantially the same arrangement as prior to the application. The proposals have been confirmed by the Lead Local Flood Authority to be satisfactory in terms of surface water drainage.
- 5.17 The original reserved matters consent was subject to a condition requiring details of foul drainage. This was the subject to an application for confirmation of compliance with condition (7/2021/5039) which was satisfactorily agreed. It is not necessary therefore to repeat this condition.

## **6 Conclusion**

- 6.1 The use of the land as a landscape contractor's establishment, and the use of the yard area is permitted by the existing planning permissions. This use is permitted to operate subject to the relevant conditions, the key one being an hours of operation limitation on machinery and deliveries/despach. The raising of the land to the Current levels did not cause the activity, busyness and disturbance which result from the use of the land, but the land at the

Current levels exacerbates its impact as a result of being set at a higher level relative to the neighbouring properties than the Original levels.

- 6.2 The Proposed levels in the bottom end of the site around and beyond the stream are substantially the same as the Original levels as required by the enforcement notice requirements and they include the reopening of the stream. The retained portion of the building would continue to be set at the Current levels, the land would slope gently down from these levels towards the original levels.
- 6.3 The proposed changes to the building and land levels, together with the additional screening would satisfactorily address the unacceptable impacts on physical effects: overbearing, overshadowing or visual intrusion. Subject to the implementation of the measures in a short period, the proposals are now satisfactory and may be approved.

**RECOMMENDATION: APPROVE with conditions**

#### **Conditions/Reasons**

- 1 The development hereby permitted shall not be carried out otherwise than in conformity with the following submitted plans and details:
  - Drawing no. 24013 02 Rev E Site proposals; 24013 03 Rev D Site sections; 24013 02 Site plan
  - Construction Method Statement (Job No. 24013)
  - Site Use and Screening document received by the Local Planning Authority on 17 December 2024.

REASON: For the avoidance of doubt.

- 2 The works to erect the acoustic fence, to alter the land levels and to alter the building shall be carried out in accordance with the drawings and documents hereby approved no later than 31 March 2025. The acoustic fencing shall be retained thereafter for the lifetime of the development.

REASON: In order to ensure that the work is carried out in a timely manner in the interests of residential amenity and surface water drainage.

- 3 Not later than 31 March 2025 landscaping of the site shall be undertaken in accordance with the details shown in the approved Site Use and Screening document. The landscape screening shall be retained thereafter for the lifetime of the development.

Any trees or plants which, within a period of five years thereafter, die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar sizes and species unless the Local Planning Authority gives written consent to any variation.

REASON: To safeguard the amenities of the area in accordance with Policies 05 and 06 of the Lake District National Park Local Plan 2020-2035.

### **NPPF decision notice requirements**

Town and Country Planning (Development Management Procedure) (England) Order 2015 Article 35(2) statement.

The Local Planning Authority have worked with the applicant in a positive and proactive manner by seeking solutions to problems arising in relation to dealing with the application by liaising with the applicant and residents on the proposals for the site.

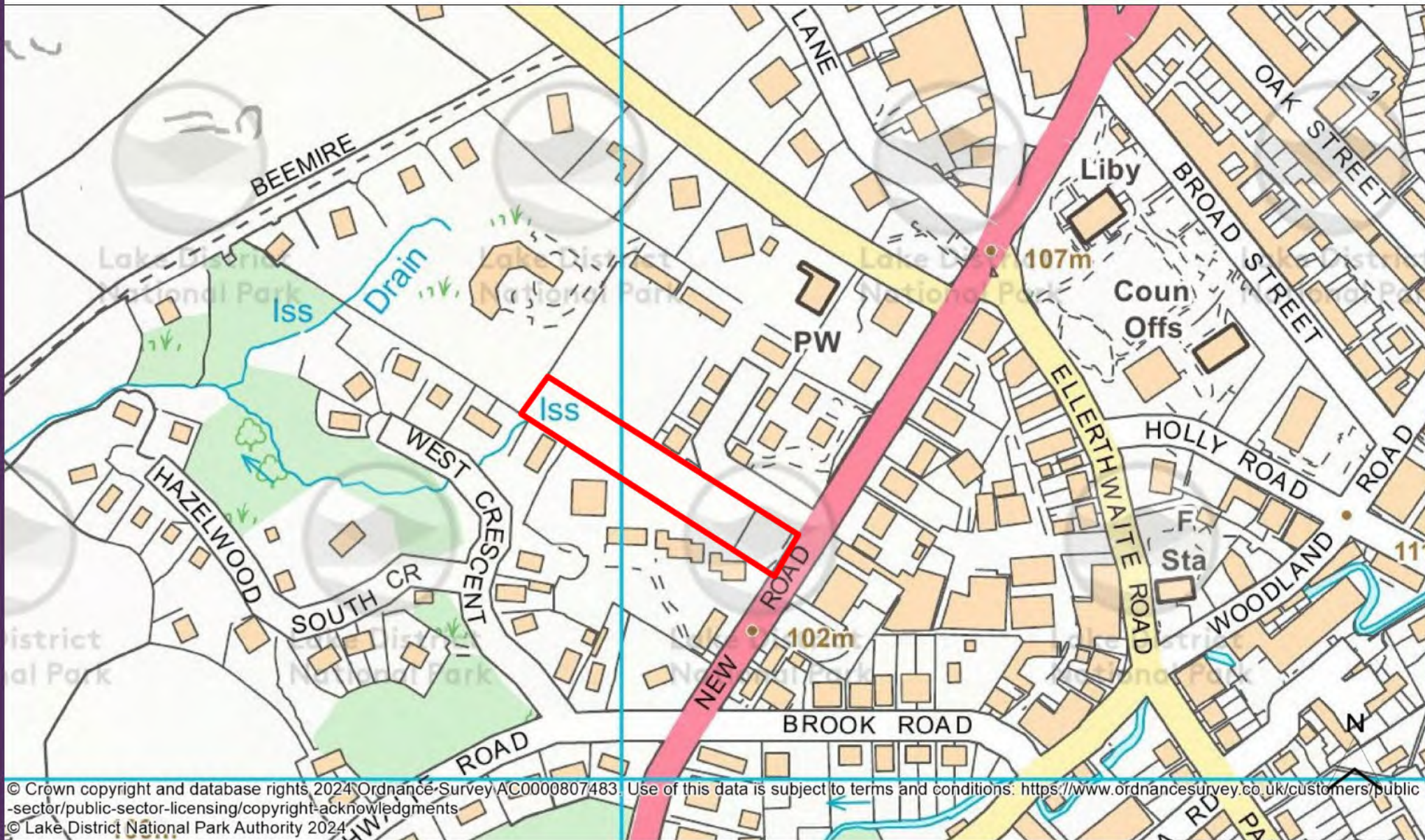
### **Background papers**

Background papers are available for inspection on the planning application file unless otherwise specified on that file as confidential by reasons of financial/personal circumstances in accordance with the Local Government (Access to Information) Act 1985.

7/2024/5281

Lakeland Gardens, New Road, Windermere,  
LA23 2LA

Variation of condition 1 (plans) on reserved matters application 7/2020/5480 (provision of office and staff welfare buildings, storage shed and associated yardage including composting area, polytunnel, deer stock fence, plant storage areas, horticultural reception, client parking, hard and soft landscaping) for a reduction in size of the building, alterations to land levels and removal of culvert



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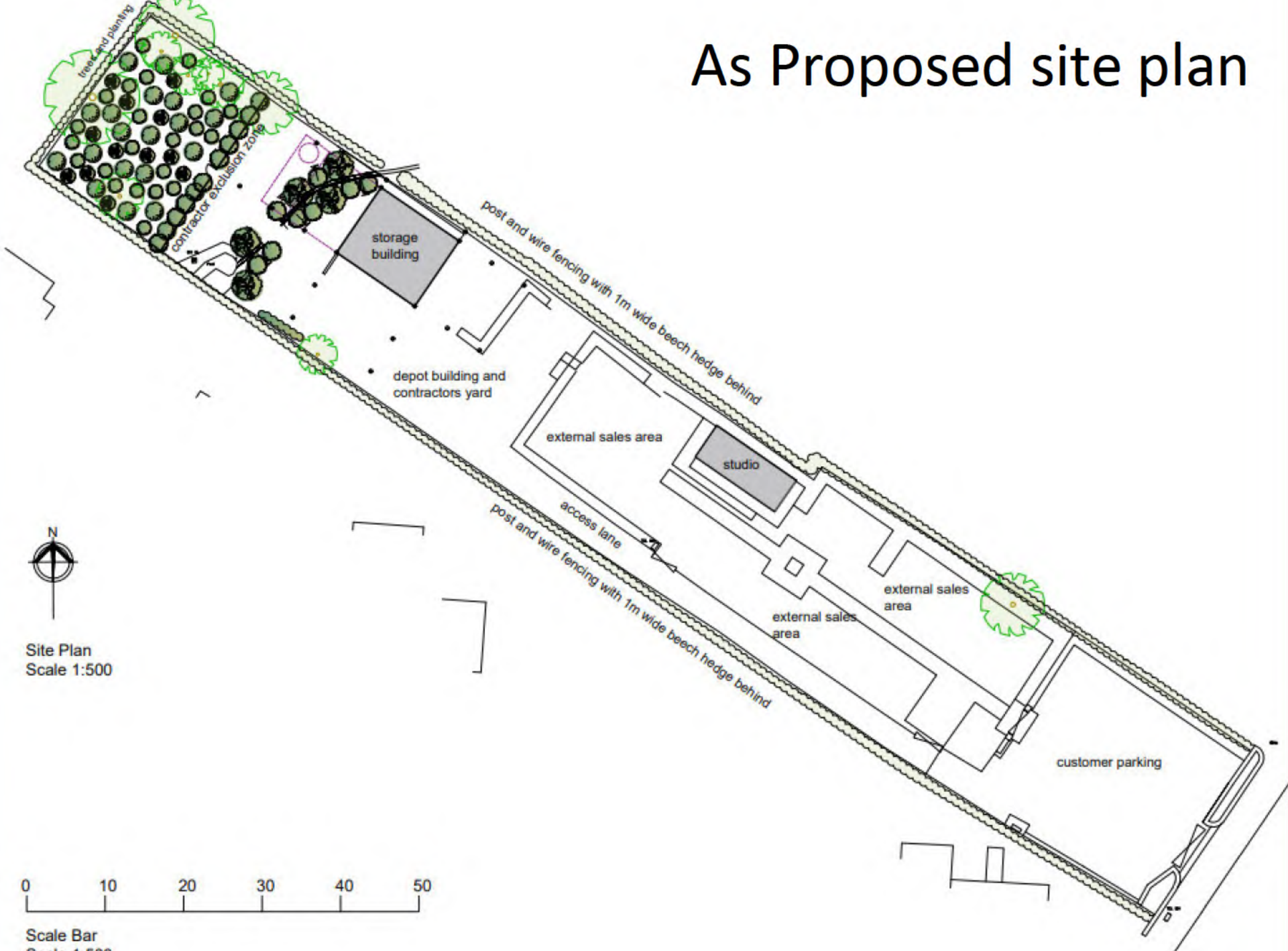
**Lake District**  
National Park Authority





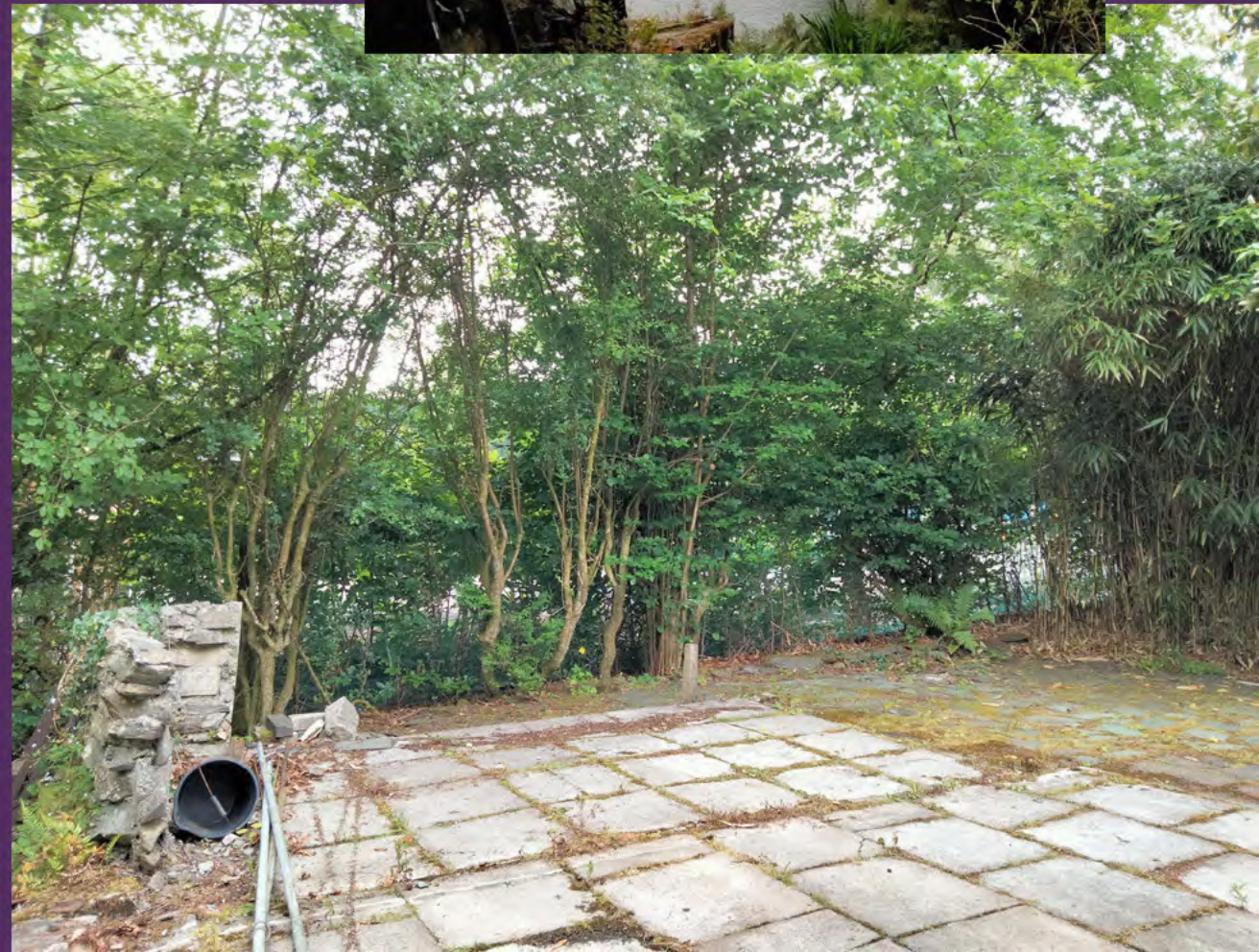
TEMPLE LAKES LAND GARDENS CO. UK  
WWW.LAKELANDGARDENS.CO.UK  
01539 703012

# As Proposed site plan





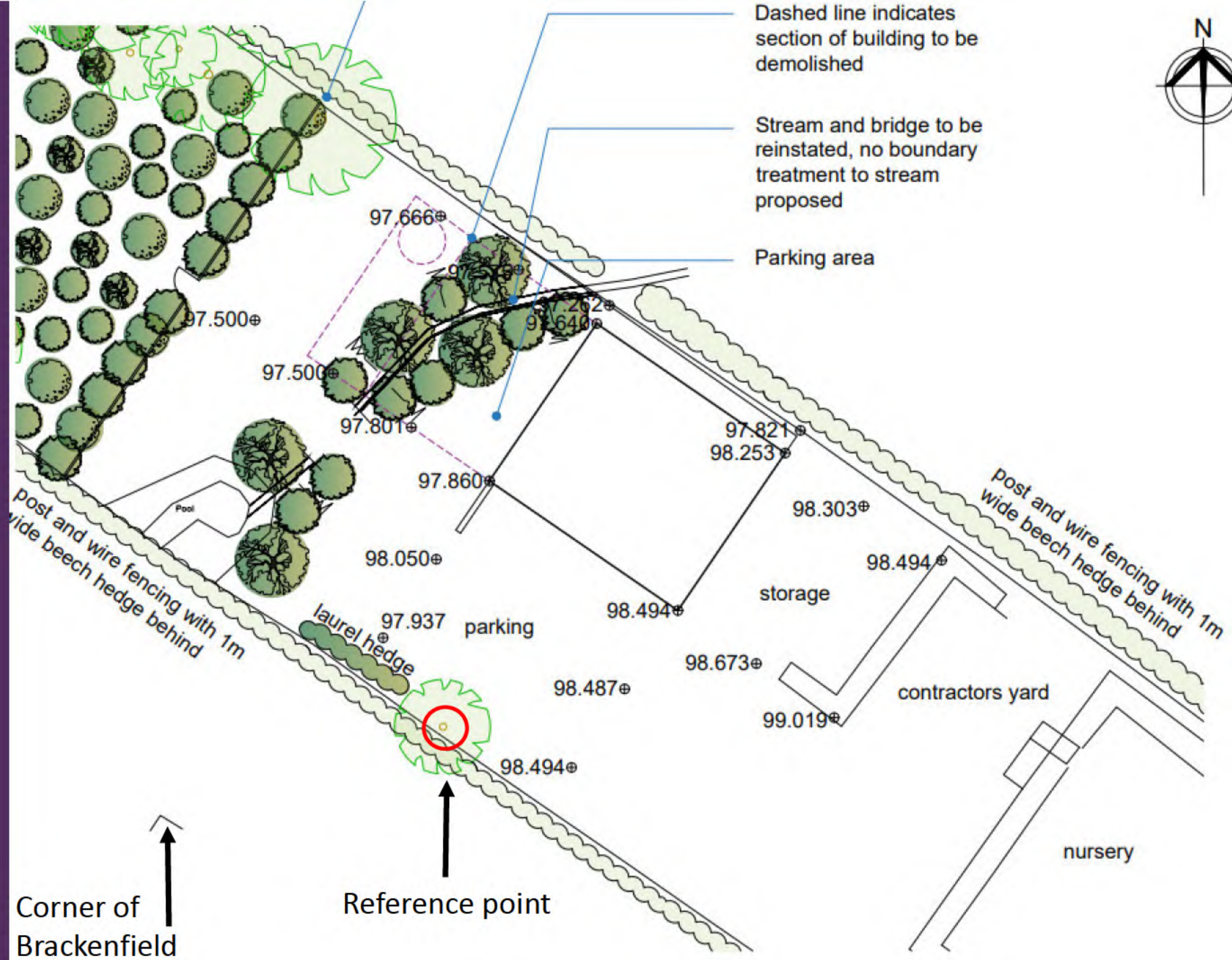
# From Brackenfield



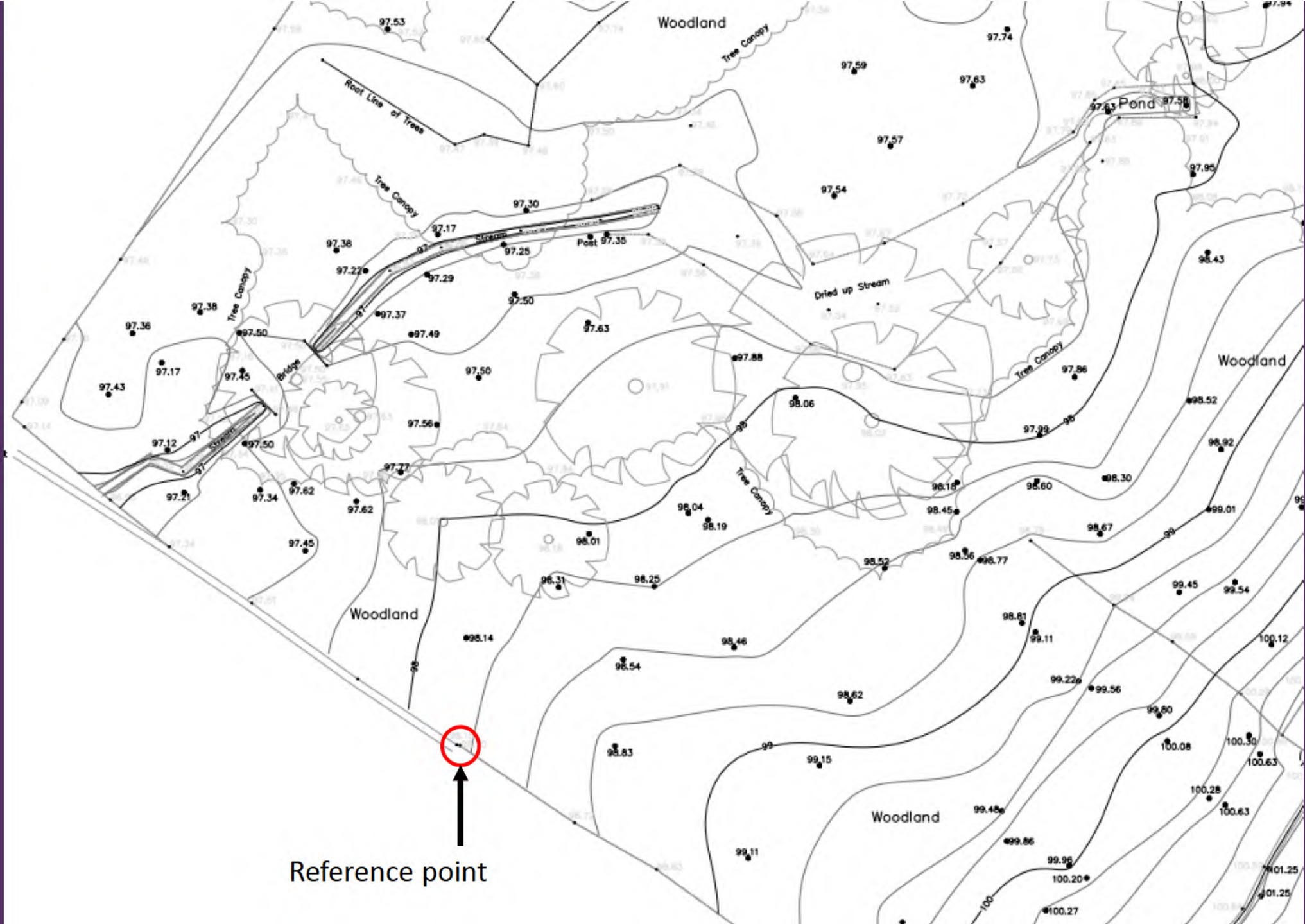
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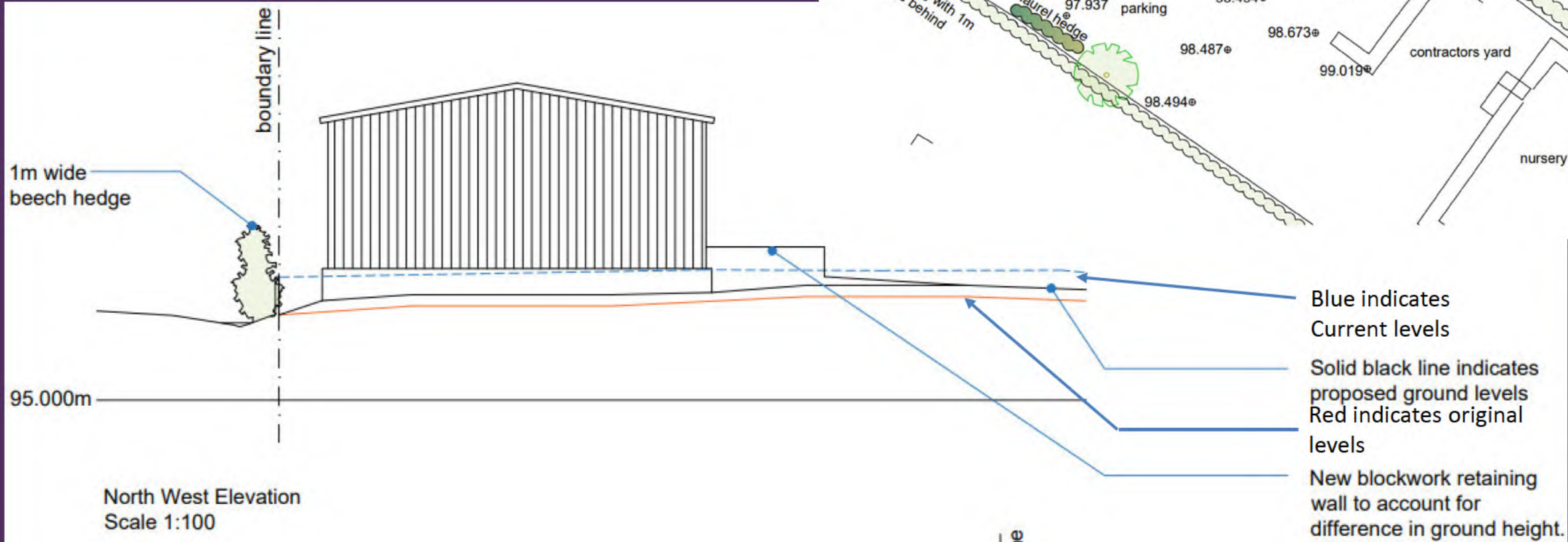
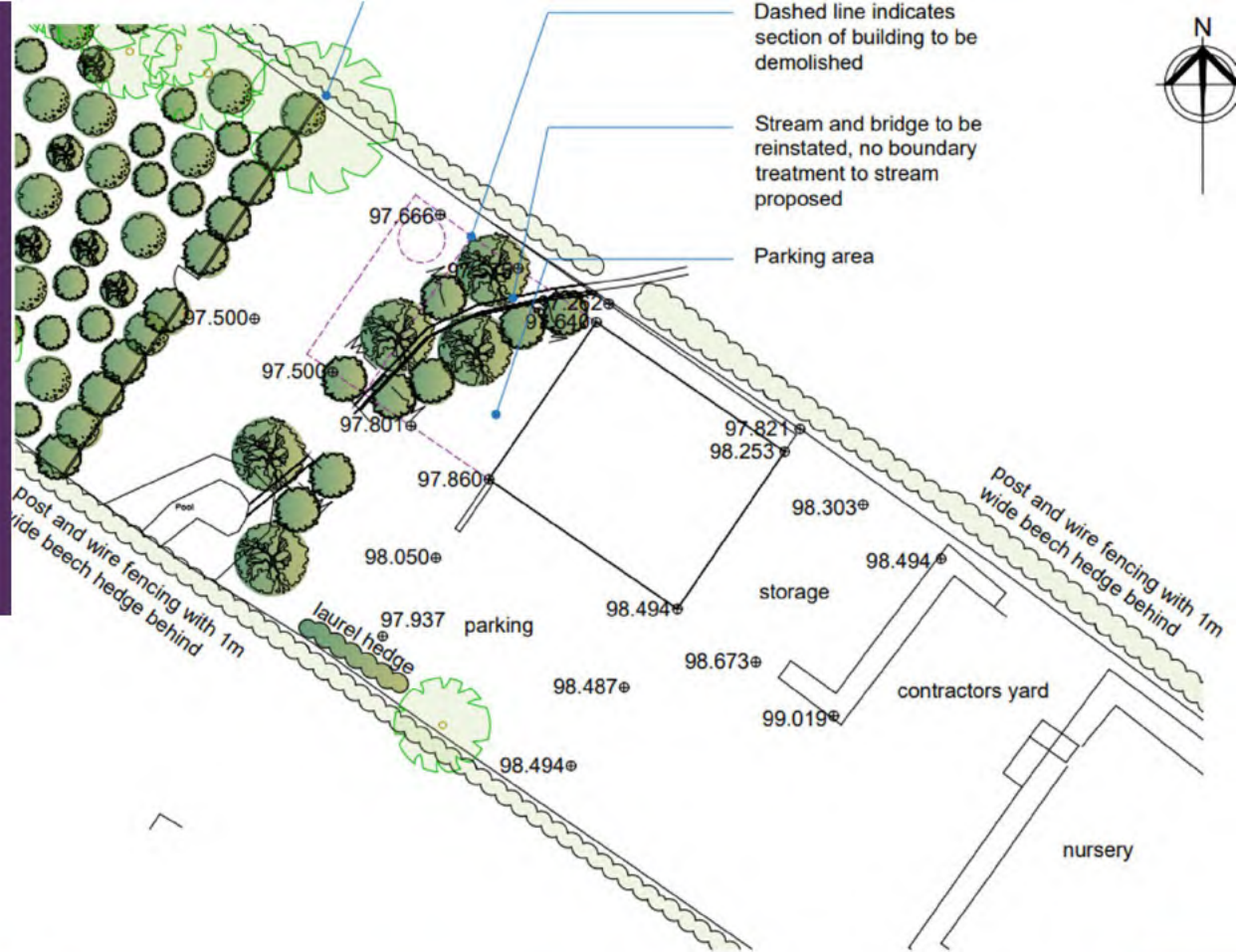
# Proposed layout with Proposed levels



# 2010Topo – Original levels



# Proposed layout and building elevations



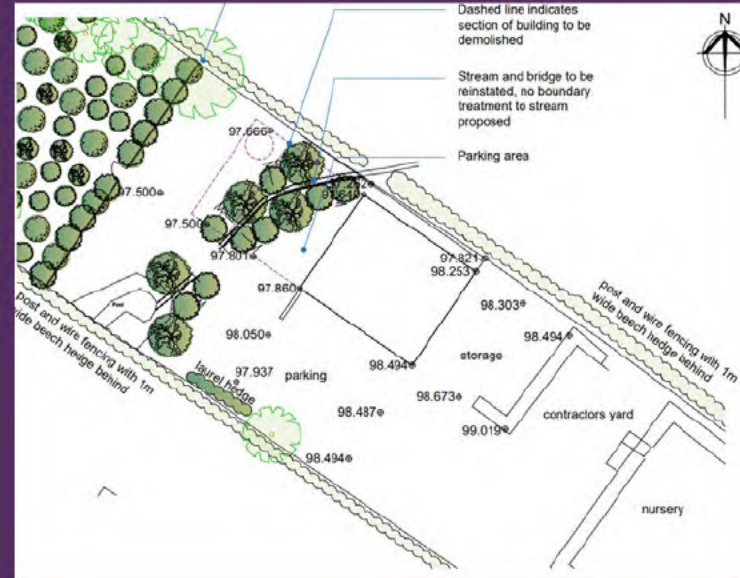
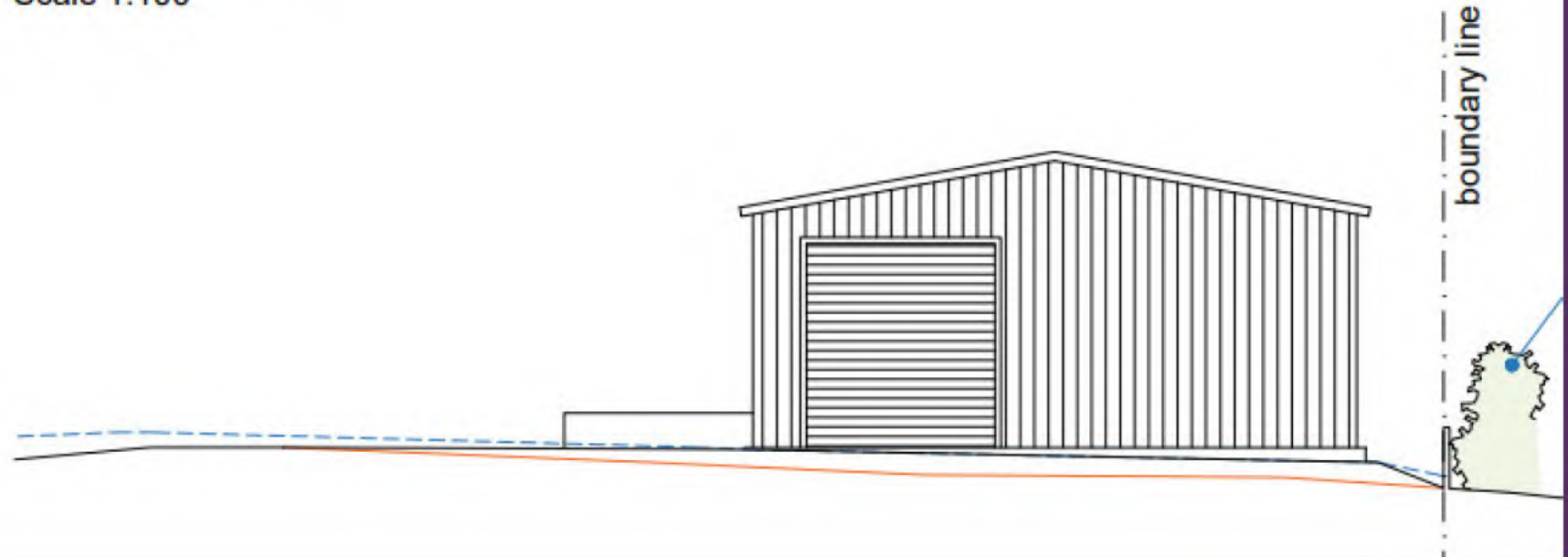
# Building proposed

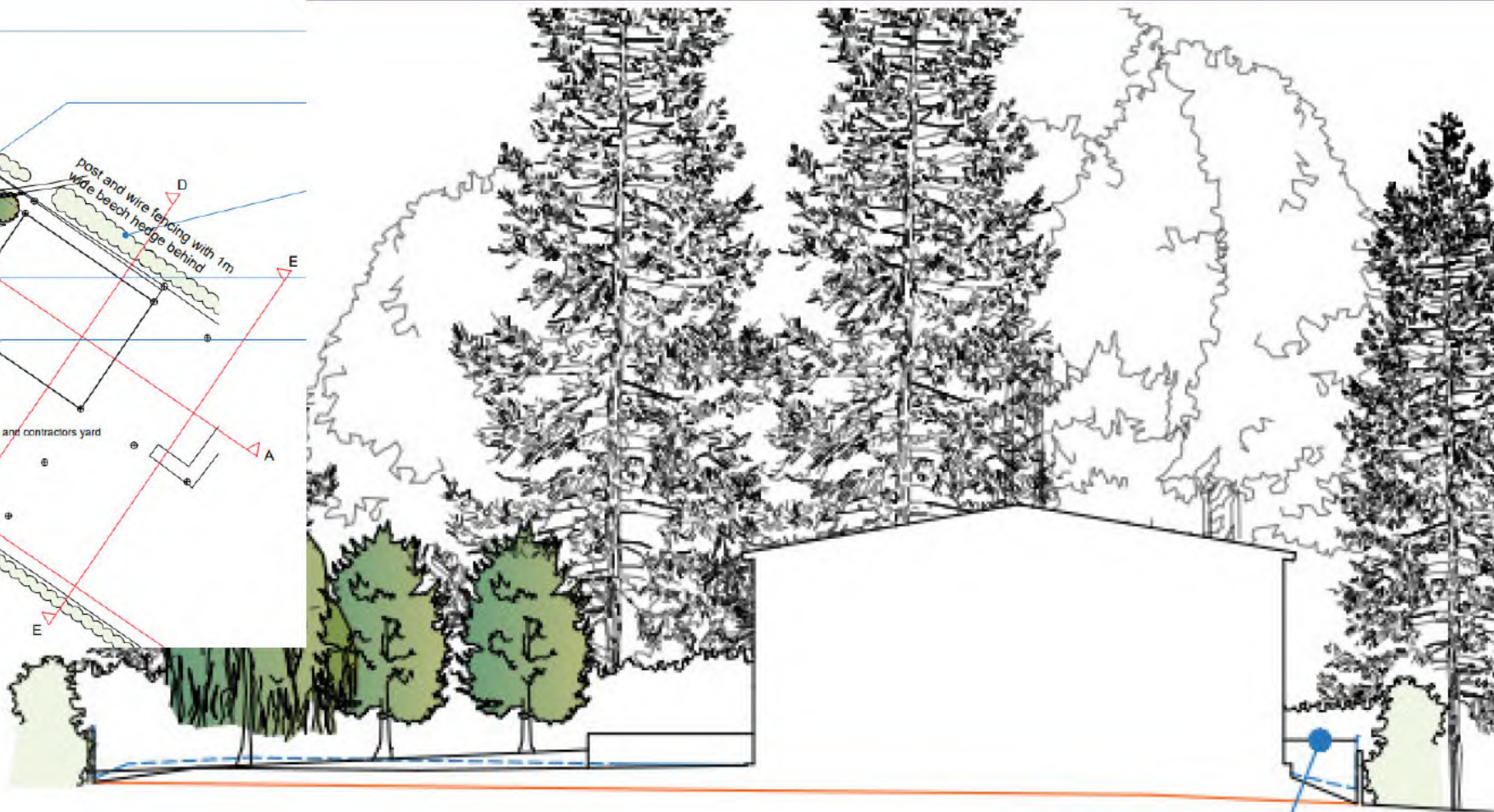
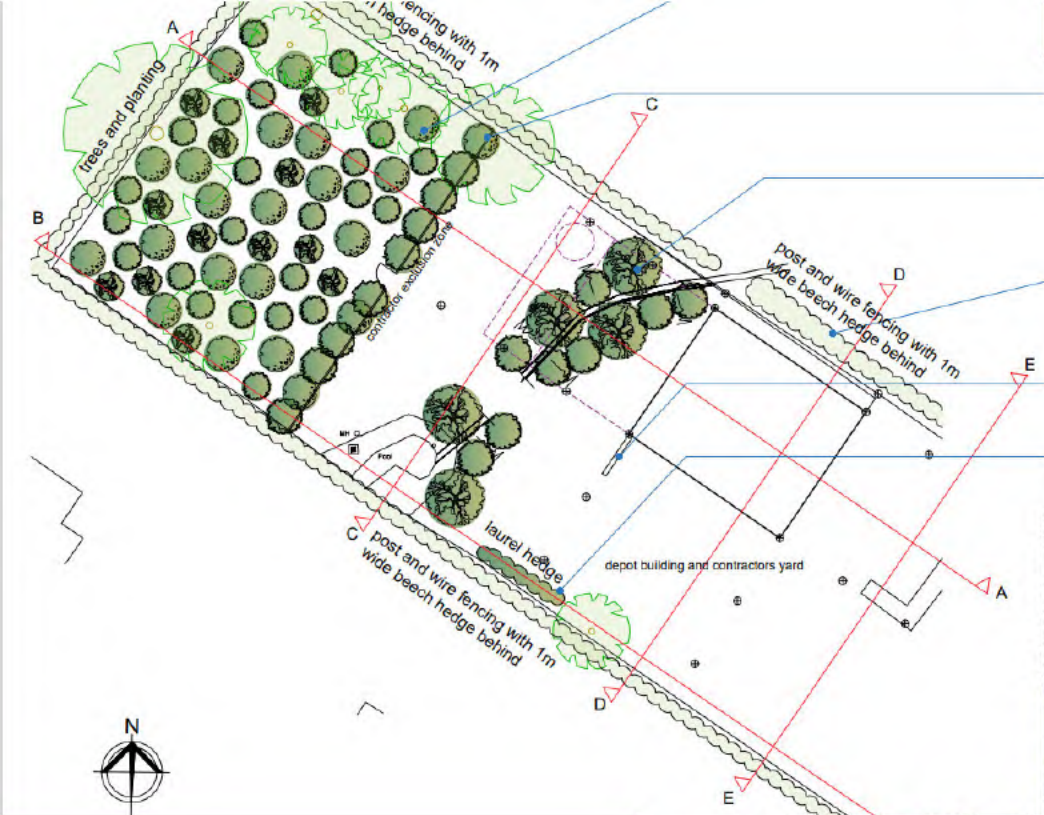
South West Elevation



95.000m

North West Elevation  
Scale 1:100

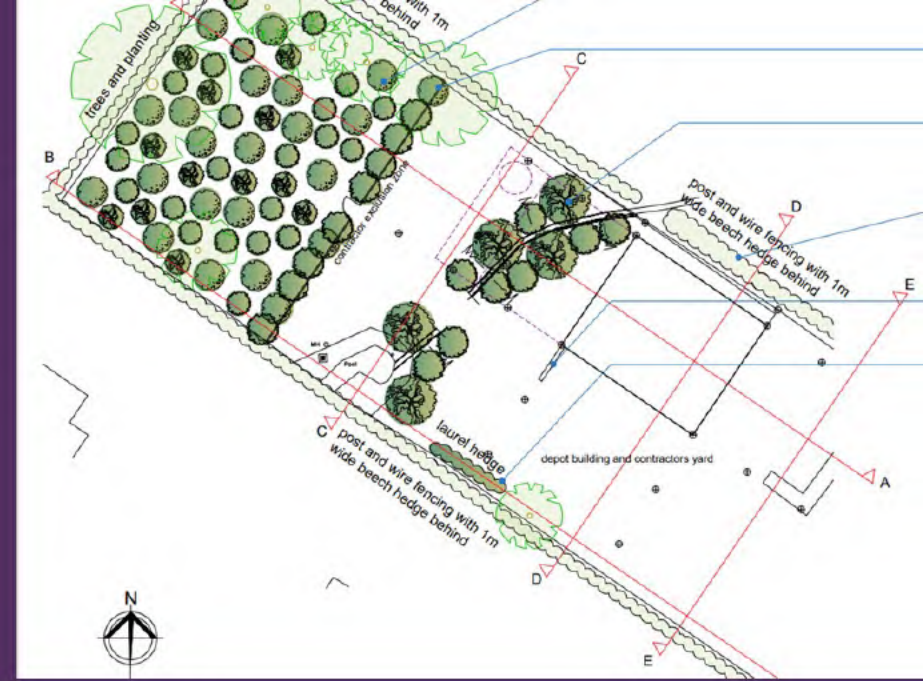




Site  
sections

Section D-D

# Section A-A



contractor exclusion  
zone

depot building and contractors yard



95.000m

Extra  
screen  
fence  
and  
planting

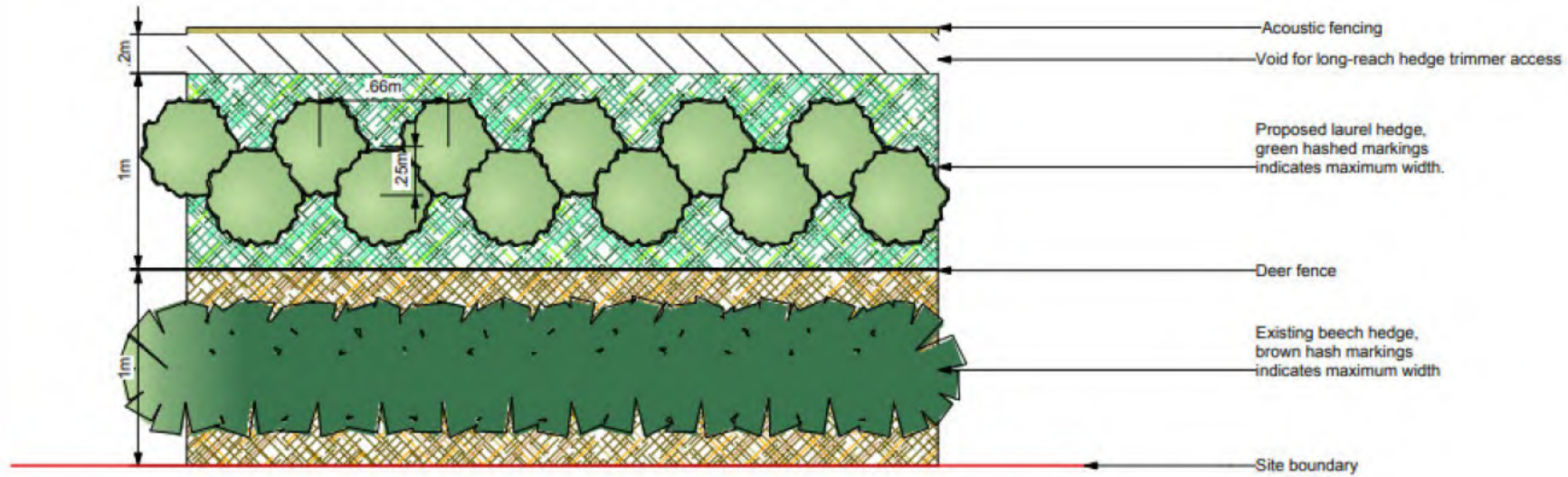
# Lakeland Gardens

## Site Plan

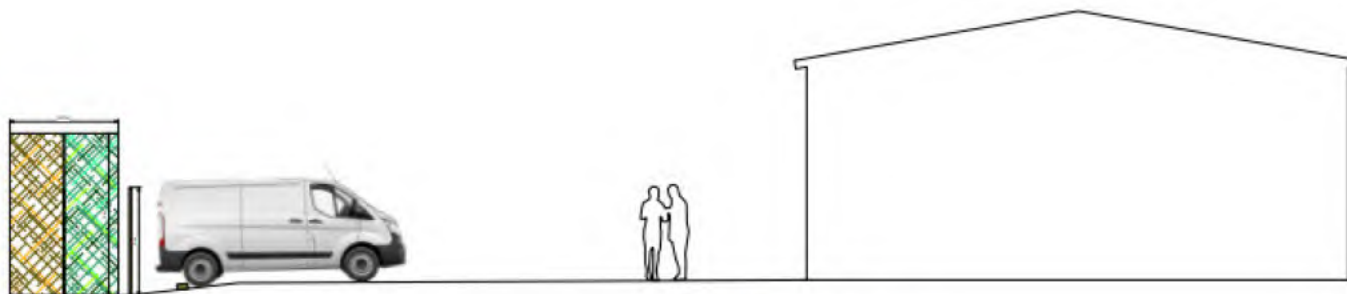


# Lakeland Gardens

## Screening plan V2 - Laurel



1 Screening plan view  
Scale: 1:25



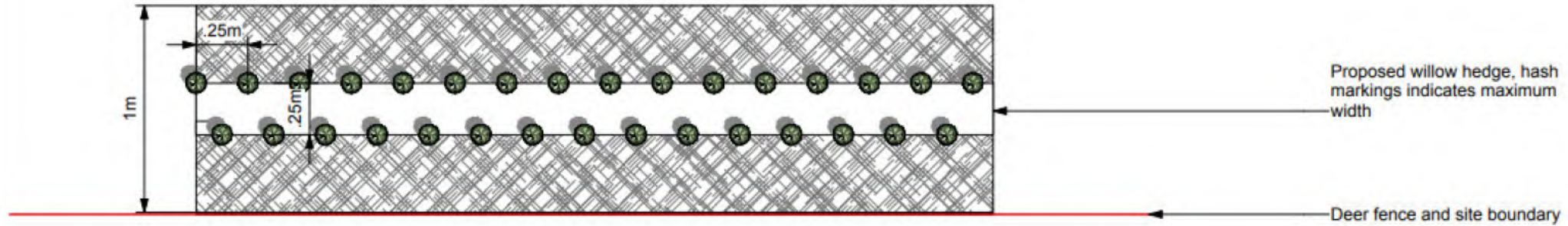
2 D-D Section  
Scale: 1:100

### General Notes

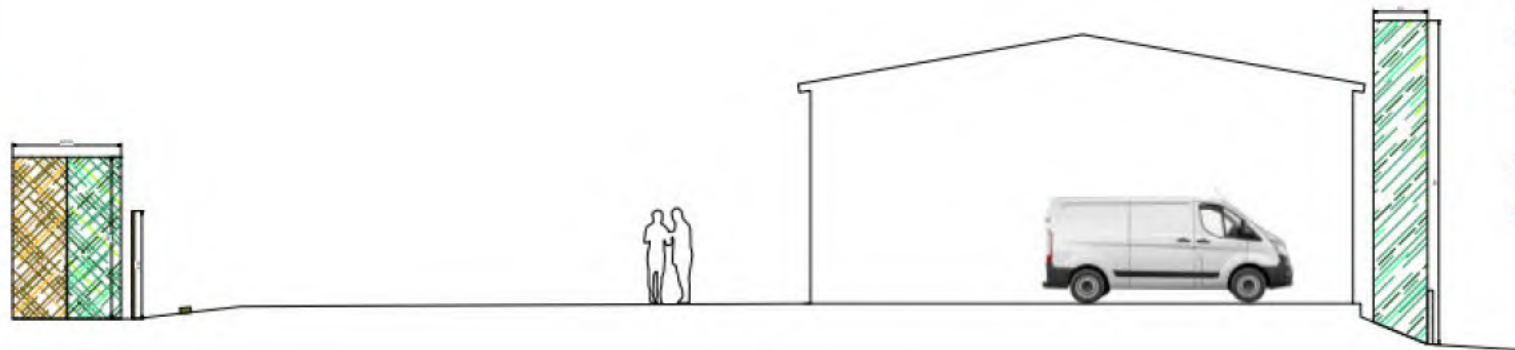
1. Acoustic fencing 2m high
2. Planted as a staggered double row
3. Planted height 175cm
4. Maintained at a maximum height of 300cm
5. Trimmed once per year in early autumn
6. Plants are to be kept watered and fed when needed

# Lakeland Gardens

## Screening plan V2 - Willow



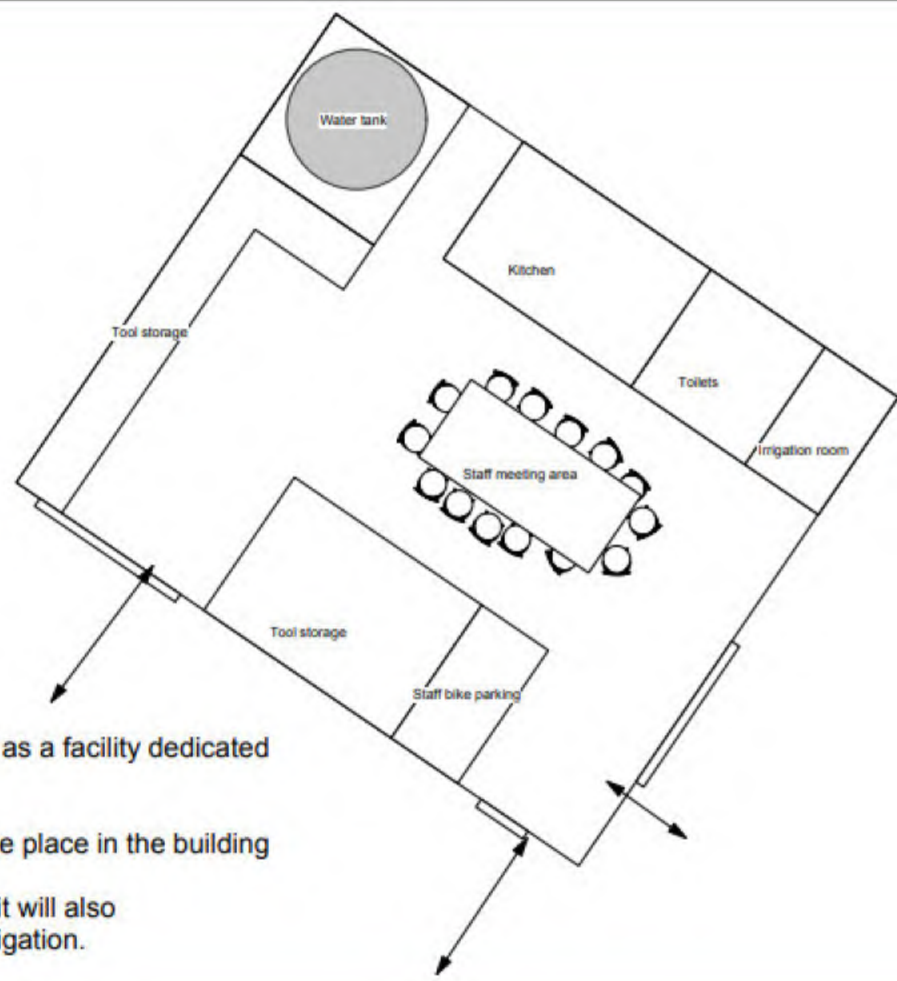
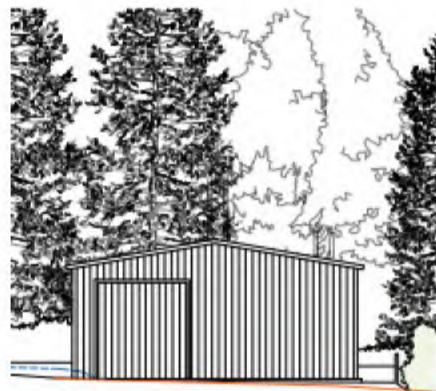
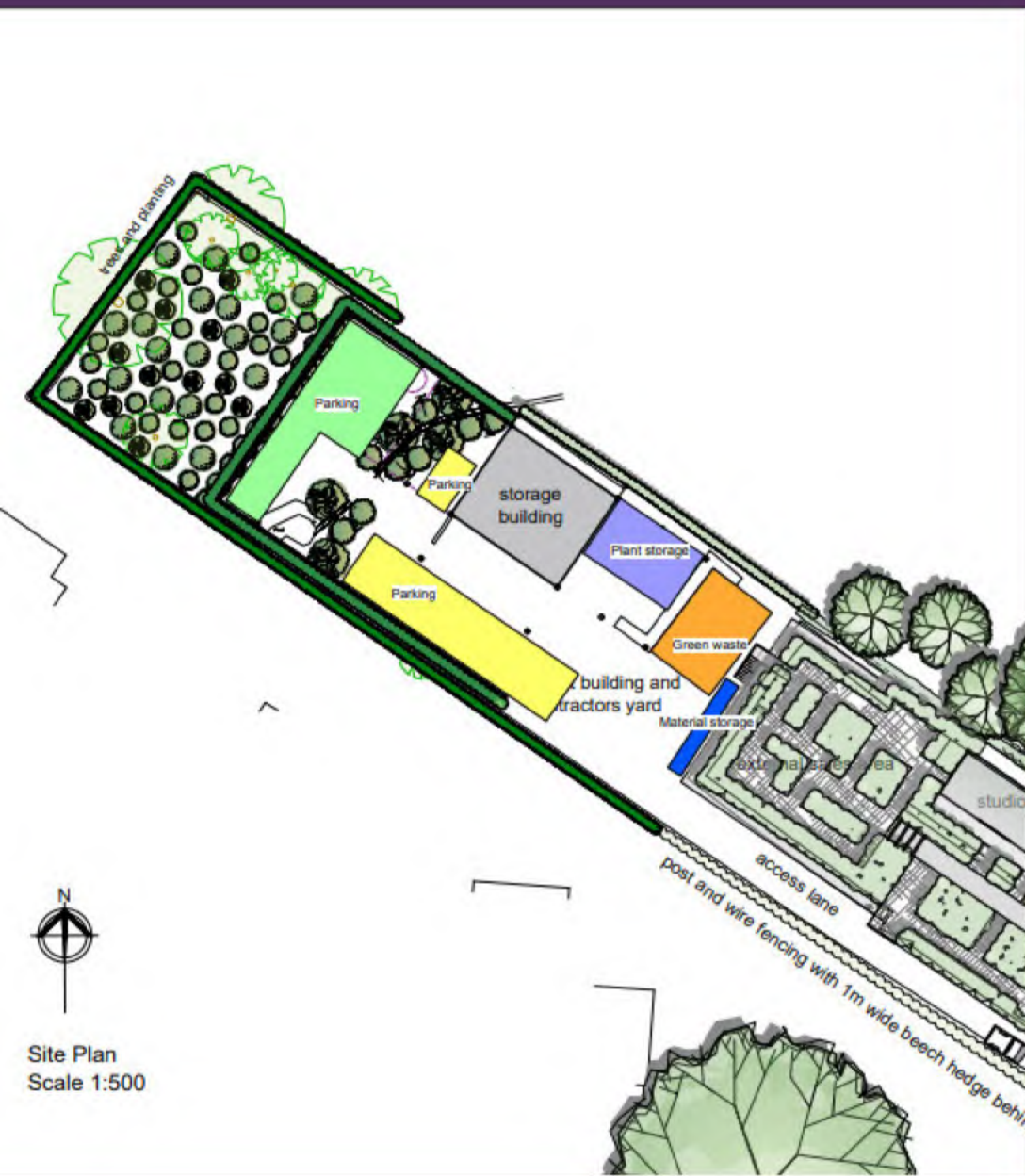
2 Willow planting  
Scale: 1:20



1 D-D Section  
Scale: 1:100

### General Notes

1. Willow - *Salix viminalis*
2. Planted as a staggered double row
3. Planted height 90cm (willow cane)
4. Maximum height of 600cm, performs better as a hedge at 300cm
5. Side trimmed once per year in early autumn
6. Plants are to be kept watered and fed when needed



The downsized depot will primarily function as a facility dedicated to staff welfare and tool storage.

No activities using heavy machinery will take place in the building

In addition to the irrigation computer room, it will also accommodate the water tank for nursery irrigation.