

STOTFOLD TOWN COUNCIL

AFFILIATED TO THE BEDFORDSHIRE ASSOCIATION OF TOWN AND PARISH COUNCILS

Town Council Office, The Simpson Centre, Hitchin Road, Stotfold, Hitchin, Herts. SG5 4HP

Telephone: Hitchin (01462) 730064
Facsimile: Hitchin (01462) 732620
Email: enquiries@stotfoldtowncouncil.gov.uk
www.stotfoldtowncouncil.gov.uk



15th May 2013

16 MAY 2013

Francis Caldwell
Aragon Land and Planning Ltd
The Old Coalhouse
28a Rosamond Road
Bedford, MK40 3SS

Dear Mr Caldwell

2 High Street, Stotfold & Footpath No. 11

I have been forwarded further information supplied by you to Sam Boyd, Planning Officer at Central Beds Council for with the current application at 2 High Street, Stotfold, for which you are agent.

Our Planning and Recreation Grounds, Public Lands & Lighting Committees have both given the matter of the application and the apparent re-routed footpath number 11 due consideration, with the Chairman of the Planning Committee producing the attached response from the Town Council.

Yours sincerely

Mrs Kate Elliott-Turner
Town Clerk

Cc: Samantha Boyd, Planning Officer, Central Bedfordshire Council
Andrew Gwillam, Rights of Way Officer, Central Bedfordshire Council
Legal Team, Central Bedfordshire Council
Mr Guy Balsom, Brignalls Balderston Warren Solicitors – Town Council's Solicitors

Proposal for development in rear garden of
2 High Street, Stotfold, Bedfordshire
Question on land ownership to Western boundary - Considerations

There is a long history concerning this proposed development with the latest proposals involving building over an existing footpath and rerouting this footpath to follow the route of, what is suggested by the applicant, the "correct" property boundary (legal line).

This realignment of the boundary/pathway differs from the current position at its SW corner by being approximately 2 metre further west and the proposed building siting revisions would cause the new bungalow to be upon the present pathway and beyond its present westerly boundary.

It has not been questioned that the pathway lies entirely within the boundary of this property and there are many local witnesses that the pathway has followed its current position "on the ground" for several decades. It is suggested that, although this is not a planning matter, the long triangular piece of land along the western boundary required to allow this building work and path realignment to be carried out is not in the ownership of No.2 High Street. On this basis it is felt that it should be contested on these grounds and the true boundaries (legal line?) on the western side of the property be confirmed.

Evidence (10 pages submitted here)

Doc.1 to Doc.4 (Supplied by Mark Draper)

These are letters between the previous owner, Mark Shane Draper and HM Land Registry in Peterborough when Mr. Draper asked for them to clarify the boundaries of his property 1998/99, at that time due to a discrepancy with the eastern border.

It can be seen from these that HMLR conducted a survey of the site and amended the official plan ref.TL2136 in 1999, this is shown as Doc.4.

The letter (Doc.2) interestingly states "Our surveyor reported that the fencing on the ground appeared to have been in place for at least 15 years, and I am confident that the position of the boundary is unlikely to have changed since original construction."

The border to the western side likewise has a corrugated iron fence along most of its length that has been in its current position for as long as the living memory of many long term Stotfold residents.

Mr. Draper wrote back to HMLR on 23/4/99 confirming agreement with the boundaries defined.

Doc.5 (Supplied by Mark Draper)

This is the boundary map attached to the 1933 Deeds (Abstract of the Title)

This document, under The first Schedule, refers to "ALL that pece or parcel of land site in the Parish of Stotfold in the Cty of Bedford and forming pt of an enclosure or pece of land known as Mixes which sd pce of land hereby convd has a frontage of 40 ft or therabts (including the ftpth) to the High St of Stotfold afsd and is bounded on the North West in pt by ppty of the Wesleyan Chapel Trustees....."

This would insinuate that the full width of the footpath is contained within the property boundary?

Doc.6

A copy of Ordnance Survey map, September 1967 revision, showing the area for reference.

Doc.7 to Doc.10 (Submitted with planning application CB/13/00892/FULL to Central Bedfordshire Council)

Note – All of these drawings have been recently produced by the clients agent for the purposed of submitting the planning application(s).

Doc.7 Drawing ref. 1563/12/1; shows site plan (as abstracted from Title Deeds?)

Doc.8 Drawing ref. 1563/12/2; shows a block plan of the site in question with boundary line?

Doc.9 Drawing ref. 1563/12/3; shows increased sized bungalow from previous plans agreed after appeal and abutted to existing fence line on western boundary (of garden).

The current position of footpath is shown following the garden fence line but The boundary line is shown some 2 metres further to the west at the SW Corner (A "roughly" straight line has been struck from along the Chapel wall!)

Doc.10 Drawing ref. 1563/12/3B; This is a revision to the original proposal and shows the new, larger, bungalow moved further to the west than before and now straddling the existing footpath. The footpath position has been realigned from somewhere around the rear of No.2 High Street to the revised SW corner and a "dog-leg" created at that corner to return and re-join the exiting path further down at the rear of The Mixies properties.

In addition to providing the documentation above Mr. Draper kindly addressed a meeting of Stotfold Town Councils Planning Management Committee on Wednesday 8th May 2013 where he outlined to the committee and some members of the public present two further occasions when, while he was the owner of No.2 High Street, the question of ownership of the land west of the current footpath position was raised.

Firstly, when street lighting was to be installed along this length of footpath (There was a rape in the area alongside No.2 some 25 years ago and this was to increase pedestrian safety).

The Council (Beds CC?) employees arrived to put in lighting butting against the corrugated iron fence to which he objected as he had not been consulted plus this would be on his land and make maintenance of the fence difficult.

He agreed that if these were moved onto the grass area to the west of the pathway they would no longer be on his property and he would have no objection. This is where the lighting is at the present time.

Secondly, there was a problem with "nuisance youths" along this footpath to the side of his property and he proposed to Stotfold town Council they install a fence along the western border of the pathway (on "their" side) to close off the escape route around the Council buildings/Library for these youths.

On the question of a fire escape route from the buildings he confirmed to Dawn Sutherns, the then Clerk to Council, he would have no objections to a gate(s) through this fence onto the footpath at the side of his property allowing this. This fencing was not erected.

Mr. Draper could not remember exact dates for either of these instances but there was confirmation in writing at the time. He also confirmed his willingness to give a written statement if required as witness them being correct statements.

QUESTIONS ARISING FROM THE ABOVE IN CONTEST OF CURRENT BOUNDARY CLAIMS.

All statements and drawings through Doc.1 to Doc.7 show the boundary line and footpath line to be both coincidental and, although not a perfectly straight line, of a continuous "flowing" nature.

The site boundary lines were questioned by Mr. Draper while he was the property owner, surveyed by HM Land Registry, and their findings accepted by him in 1999 with subsequent revisions to their drawings.

The 1933 Deed plans again show the footpath as a "flowing" route with no dog-legs or major changes in direction, the boundary and footpath are again "coincidental" along the side of the plot which was to become No.2 High Street. The written details also confirm that this footpath is entirely within the boundary line of the property.

The Ordnance Survey map of the area, although not a legal document and relatively small in scale, also shows the footpath in question as being a continuous "flowing" route with no major directional changes.

Drawing 1563/12/1 (Doc. 7) submitted with the planning application would appear to agree with all the documentation above in position of both boundary and footpath routes. The footpath/boundary and fence lines at the junction of the SW corner and The Mixes gardens form a continuous line with no major change of direction obvious?

It would seem that only from Doc.8 to Doc.10 was the decision taken to presume the "true line" of the boundary should be a "straight line" alignment using the wall of the Methodist Chapel property as a reference point? This change creates the rapid change in direction (dog-leg) not apparent on any other plans? This wall itself is, in truth, not straight so only an approximation could be made in surveying the area.

In planning terms

The present route of this (lit) footpath affords visibility from one end to the other along the section to the side of No. 2 High Street and the Council buildings which affords some degree of security for pedestrians from assault of any kind, particularly at night time.

The proposed realignment would create a "dog-leg" in its route and destroy this visibility which no amount of additional lighting would resolve.

It would be a very detrimental step in terms of safety and perception of safety by the public.

Conclusion

A possible error of judgement by the design agent of where reference datum points should be taken to set out the property boundary along the western side, discounting other documentary evidence and the history of the site, could lead to an injustice regarding development on land not under the ownership of the client and create a safety hazard to all future users of the footpath if allowed to proceed?



Touthill Close, City Road,
Peterborough, PE1 1XN
DX No: 12598 Peterborough (4)
TEL: 01733 288288
FAX: 01733 280022
GTN: 3557

MR M. DRAPER
2 HIGH STREET
STOTFOLD
BEDS

Your ref: none

Our ref: BD294649/COR/05.2

Date: 17 February 1999

Dear Sir,

Proprietor/

Applicant: MARK SHANE DRAPER AND PAULA MARIE DRAPER

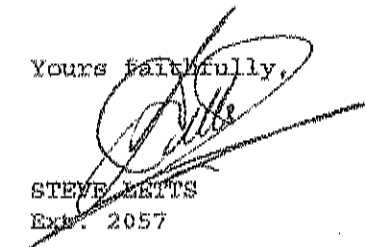
Title No: BD204649

Property: 2, HIGH STREET, STOTFOLD, HITCHIN SG5 4LL

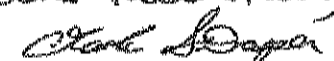
Thankyou for your letter dated 11th February which I received today. It seems what you are saying is that the extent of the land edged red on the filed plan (being the registered title) is not in accordance with the ground features as occupied with the property. The registered title plan has been prepared in accordance with a conveyance dated 26th July 1933 which deed was returned to Brignalls on 12th August 1998.

It should be noted that the title plan is based on a small scale Ordnance Survey map (1/2500 & enlarged to 1/1250) and may be inaccurate in certain respects, due to drawing difficulties at such a small scale. I will arrange a survey of the property to check the ground with the map and in the meantime you should arrange for the title deeds to be relogged.

Yours faithfully,


STEVE LETTS
Ext: 2057

I have reviewed the "updated Plan" BD204649 (drawn up after your survey) and I am in full agreement with this.

Yours faithfully


Frd 23/4/99.

R

The Peterborough District Land Registry
Touthill Close, City Road,
Peterborough, PE1 1XN
DX No: 12598 Peterborough (4)
TEL: 01733 288288
FAX: 01733 280022
GTN: 3557

MR & MRS M.S.DRAPER
2 HIGH STREET
STOTFOLD, BEDS

SG5 4LL

Your ref: .

Our ref: BD204649/SML/COR

Date: 8 March 1999

Dear Sir and Madam,

Proprietor/

Applicant: MARK SHANE DRAPER AND PAULA MARIE DRAPER

Title No: BD204649

Property: 2, HIGH STREET, STOTFOLD, HITCHIN SG5 4LL

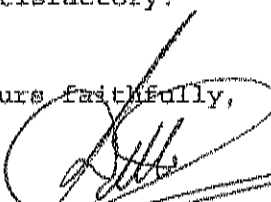
The result of the survey carried out on the 3rd March reveals that, as I suggested in my letter of the 17th February, the mapping of the Ordnance Map was found to be inaccurate, and has therefore been amended.

I enclose an extract copy of the Ordnance Survey map and propose to prepare a new filed plan as edged red to replace the original plan.

Our surveyor reported that the fencing on the ground appeared to have been in place for at least 15 years, and I am confident that the position of the boundary is unlikely to have changed since original construction.

It is not necessary to arrange for the charge certificate (currently with the Halifax) to be lodged for amendment since the plan will be automatically updated when next lodged. Please let me know that this is satisfactory.

Yours faithfully,


STEVE LEWIS
Ext. 2057



The Peterborough District Land Registry
Touthill Close, City Road,
Peterborough, PE1 1XN
DX No: 12598 Peterborough (4)
TEL: 01733 288288
FAX: 01733 280022
GTN: 3557

MR M DRAPER
2 HIGH STREET
STOTFOLD
SG5 4LL

Your ref: BD 204649

Our ref: BD204649/COR/05-02

Date: 23 April 1999

Dear Mr Draper,

Proprietor/
Applicant: -

Title No: - 2057

Property: -

With regard to your telephone call of today and our earlier correspondence. Please find enclosed the deeds which you sent to us on the 5 March.

I acknowledge receipt of your fax and the confirmation that you are agree to the amending of the filed plan of your property as indicated by the plan sent to you by my colleague Mr Letts. The filed plan has been substituted with a new plan based on the latest survey detail.

Yours sincerely,

CAROL PARKER
Ext. 2057

ORDNANCE SURVEY
PLAN REFERENCE

TL 2136

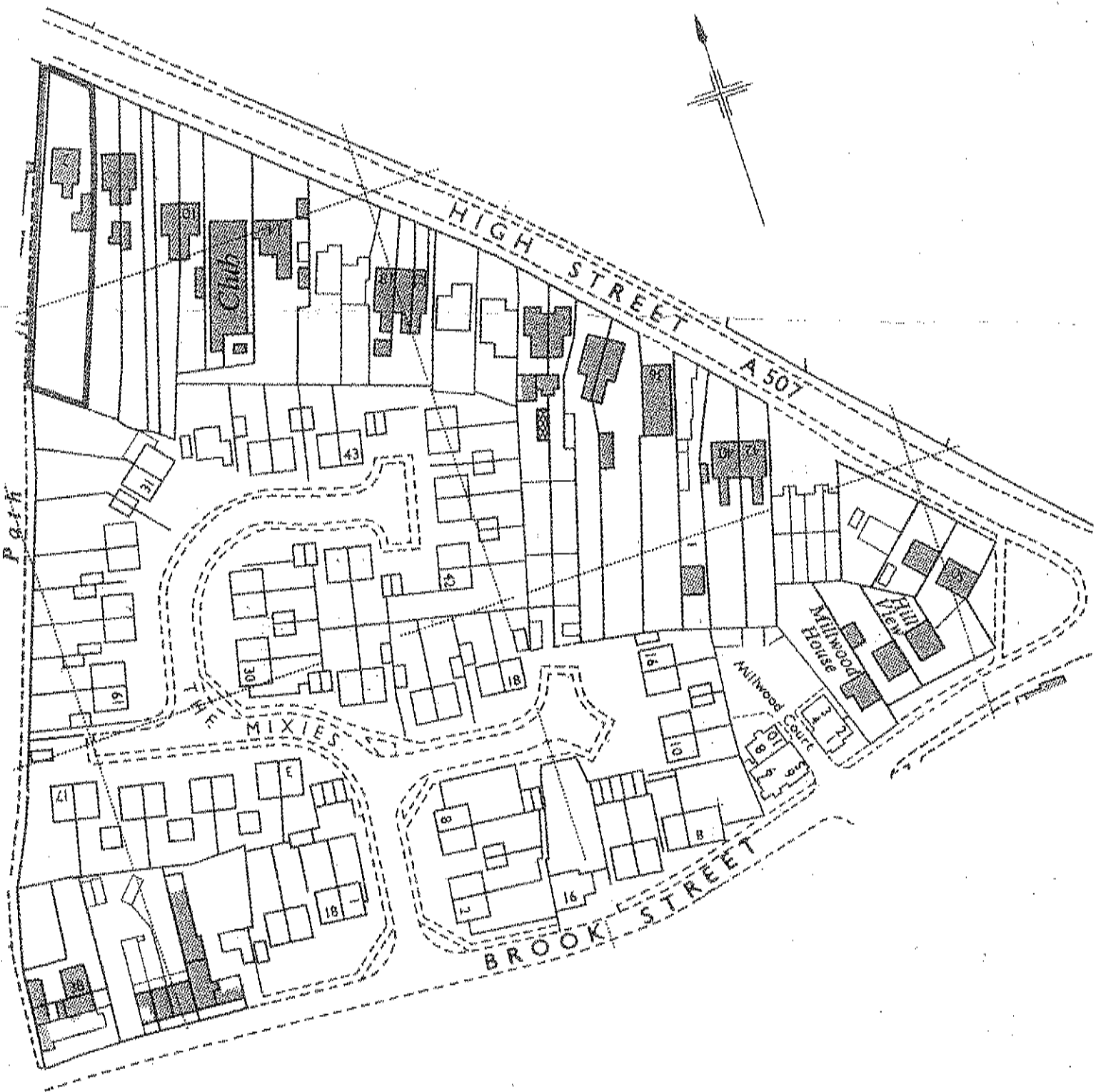
SECTION P

Scale
1/1250 Enlarged from

COUNTY BEDFORDSHIRE

DISTRICT MID BEDFORDSHIRE

© Crown copyright



PLAN REFERRED TO.

ABSTRACT of
property known

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IN MARY SEARLE of 6 Letch
SAUNDERSON of 3 Kitchin

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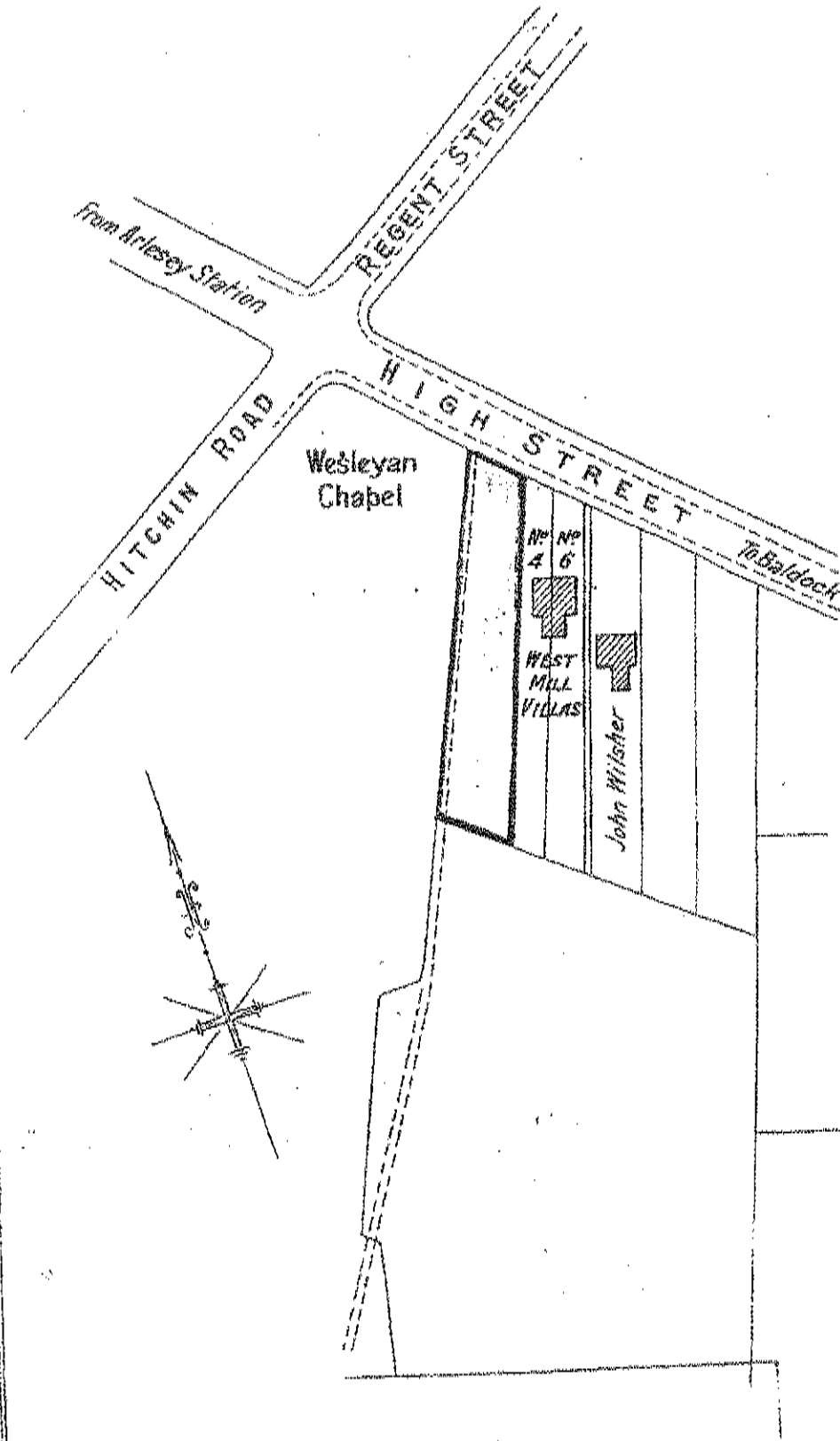
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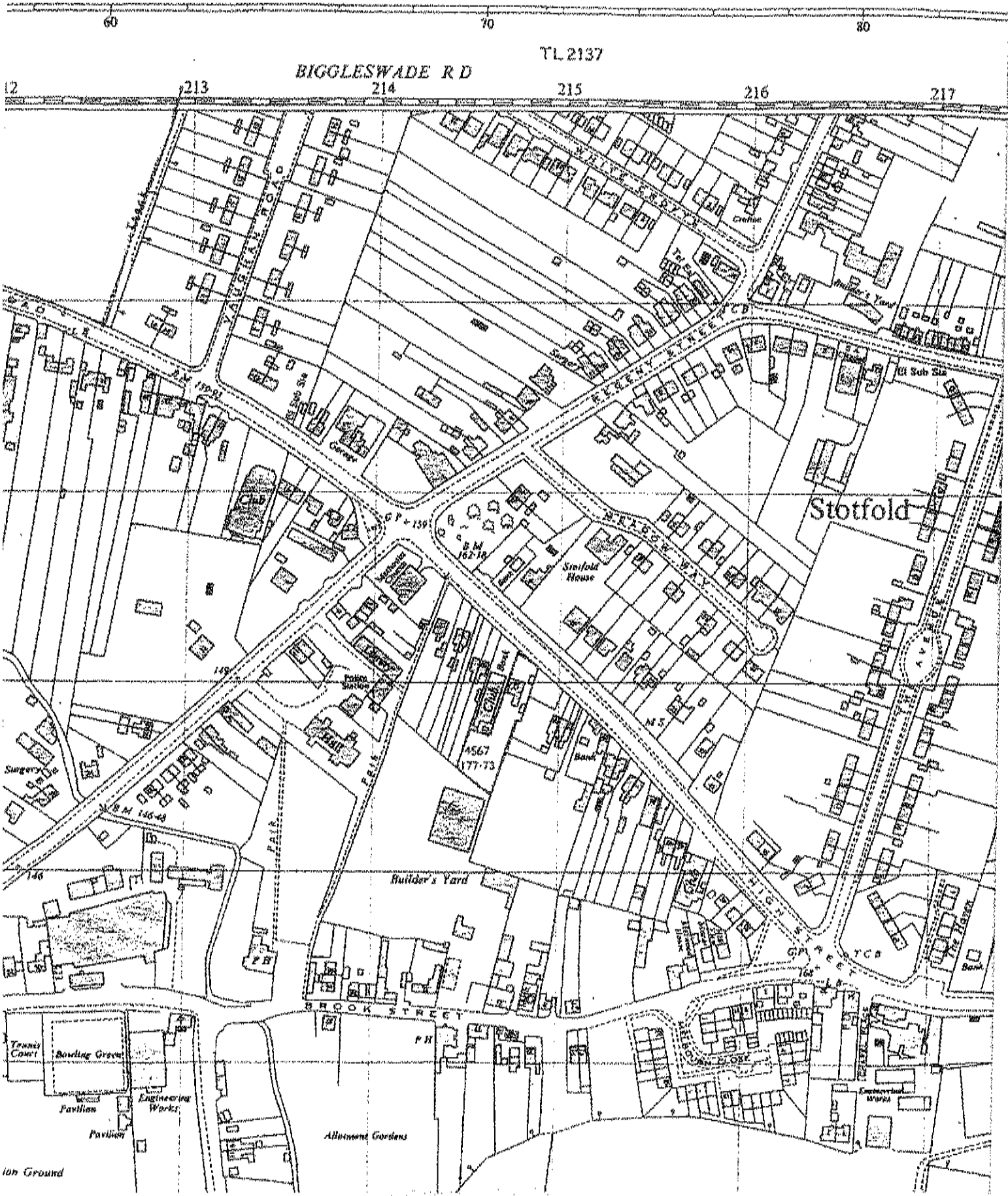
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ppty of the Wesleyan Chapel Trustees and in or pt by ppty now



Revised... September 1967
Levelled... 1957, 58, 64

The West half of this sheet is Plan TL 2036
The East half of this sheet is Plan TL 2136





0 10 20 30 40 50 60 70 80 90 100

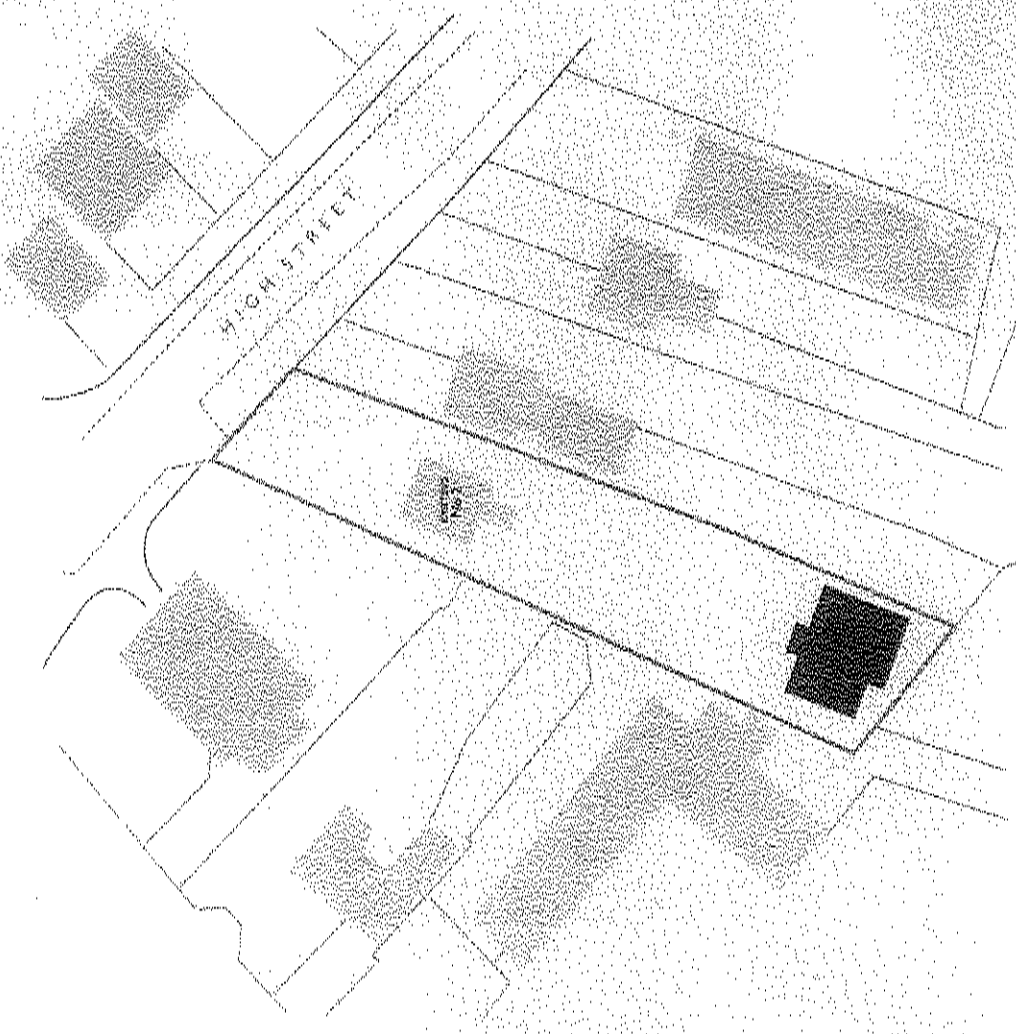
These drawings are intended for Planning purposes only
 All measurements and dimensions should be verified
 before construction.
 All drawings and images remain the copyright of
 Aragon Land & Planning Ltd

Ref:	Site Location
Site:	Land to the rear of No 2 High Street Stotfold, Hitchin, SG5 4ET
Date:	January 2013
Scale:	1:1250 @ A4
Drawn by:	1363/12/1
Checked by:	1363/12/1
Drawn by:	1363/12/1
Checked by:	1363/12/1

13-00892







13-00892

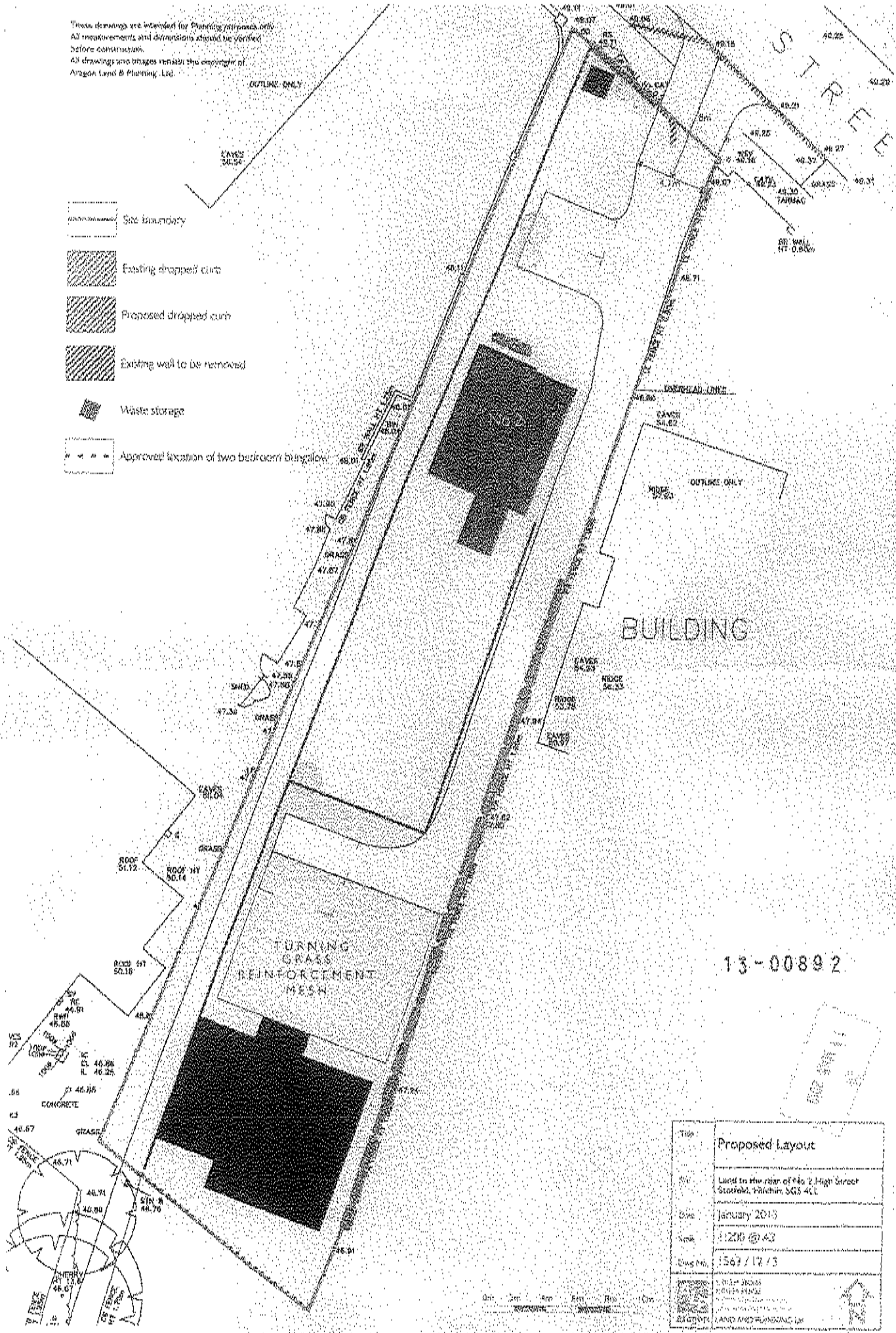
Block Plan	
File No.	13-00892
Block No.	13-00892
Section No.	13-00892
Area	13-00892
Volume	13-00892
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Scale	1:1000
Author	13-00892
Checked	13-00892
Approved	13-00892
Date	13-00892



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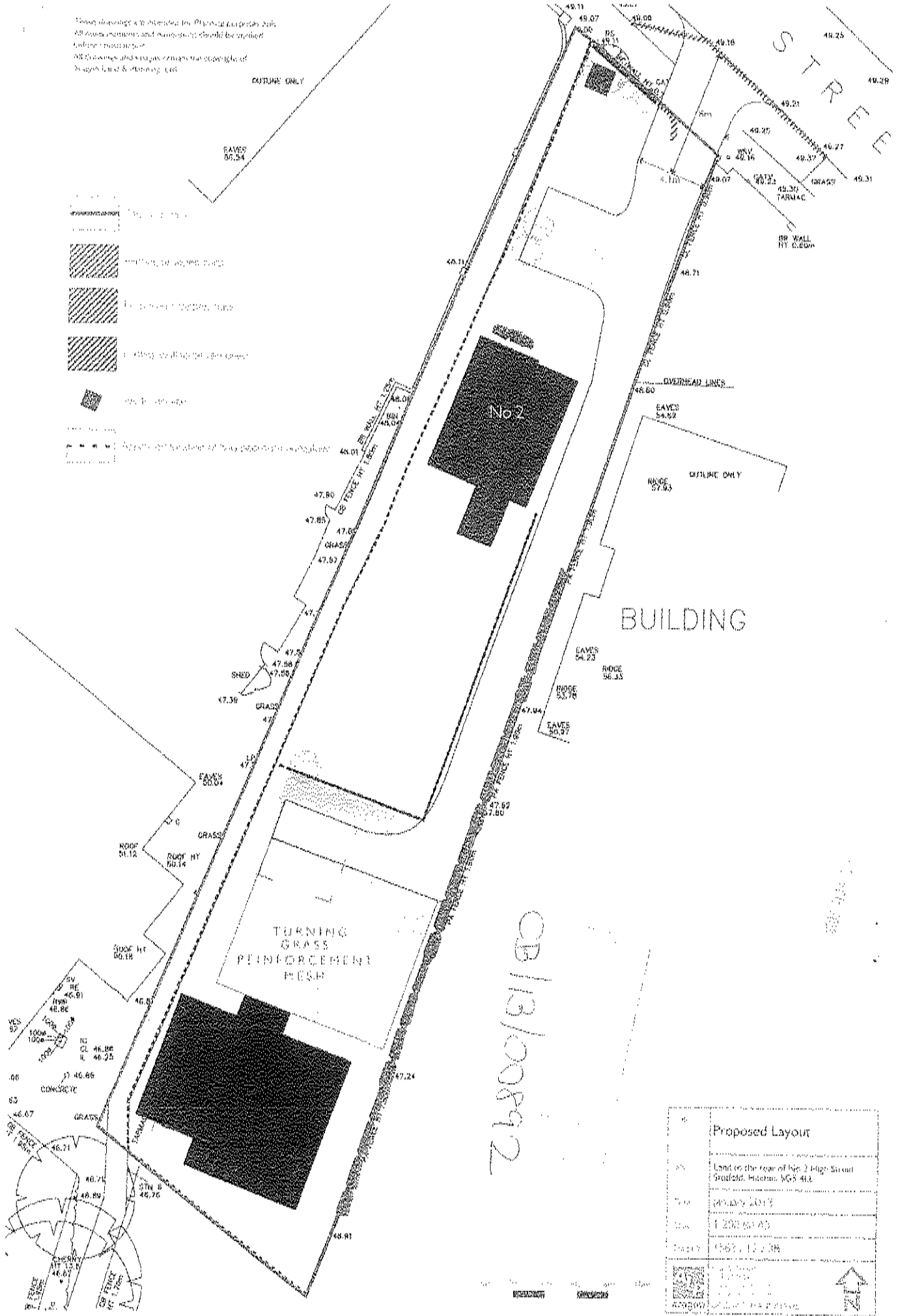
These drawings are intended for planning purposes only.
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 before construction.
 All drawings and images remain the copyright of
 Aragon Land & Planning Ltd.

-  Site boundary
-  Existing dropped curb
-  Proposed dropped curb
-  Existing wall to be removed
-  Waste storage
-  Approved location of two bedroom bungalow



This drawing is intended for Physical Layout only.
 All dimensions and measurements should be applied
 unless otherwise noted.
 All drawings and measurements are the property of
 Sargent & Lundy, Ltd.

- CONCRETE
- ASPHALT
- GRAVEL
- GRASS
- DIRT
- FENCE
- UTILITY LINE



CD 13/00892

Proposed Layout	
1.0	Land to the rear of No. 2 High Speed Steel Mill, Machine No. 5 41.1
2.0	January 2013
3.0	1:200 (A3)
4.0	1567, 12, 138