

**TOWN AND COUNTRY PLANNING ACT 1990:
SECTION 78 APPEAL**

21-57 WILLOW WAY, LONDON, SE26 4AR

**PROPOSED DEMOLITION AND REDEVELOPMENT TO PROVIDE
EMPLOYMENT FLOORSPEACE AND RESIDENTIAL UNITS**

APPEAL

PLANNING INSPECTORATE REFERENCE: APP/C5690/W/23/3321935
LONDON BOROUGH OF LEWISHAM REFERENCE: DC/22/129789

17 OCTOBER 2023

REBUTTAL PROOF OF EVIDENCE

OF

MARK KIRBY

SUBMITTED ON BEHALF OF KITEWOOD ESTATES LTD (THE APPELLANT)

1 Introduction

- 1.1 My name is Mark Kirby. I am a Director of Velocity Transport Planning ('VTP') with more than 23 years of experience in transport planning and engineering in the United Kingdom (UK). I have been engaged by Kitewood Estates Ltd ('the Appellant') to advise on highways and transportation matters for the Proposed Development of land at 21-57 Willow Way, London, SE26 4AR ('the Site').
- 1.2 I have prepared a Proof of Evidence [CD.5.11] in relation to the Appeal made by the Appellant under Section 78 of the Town and Country Planning Act 1990 ('the Appeal') [Appeal Ref. APP/C5690/W/23/3321935] in respect of a Planning Application submitted to the London Borough of Lewisham ('LBL') on 20th December 2022 (Planning Ref. DC/22/129789), hereafter referred to as 'the Planning Application' or 'the Proposed Development'.
- 1.3 This Rebuttal Proof of Evidence has been prepared in response to the transport matters raised within Melissa Vento's Proof of Evidence [CD.5.15], which was prepared on behalf of the London Borough of Lewisham (LBL), the Delegated Report [CD.2.2], and the Draft Section 106, the details of which are to be agreed at the Planning inquiry. As for my original proof, I can confirm that the evidence within this Rebuttal Proof has been prepared in accordance with the guidance of my professional institutions and that the opinions expressed are my true and professional opinions.
- 1.4 In summary, this Rebuttal Proof of Evidence provides further commentary on the following matters:
- (a) The Traffic Regulation Orders (TROs) related to the introduction of double yellow lines, particularly on the western side of Willow Way;
 - (b) The footway width along the frontage of the site, and
 - (c) Highway Contributions.



2 Traffic Regulation Orders

- 2.1 I note that LBL highways consider that the introduction of double yellow lines on the western side of Willow Way are not considered appropriate as this would have an impact on the continued servicing arrangements of Plot C, the Blue Tiger. This is noted within the Draft Section 106 Agreement, the full details of which are to be considered at the Planning Inquiry.
- 2.2 Figure 5-3 of my Proof of Evidence [CD.5.11] identifies that up to 3 large 10.0m rigid Heavy Goods Vehicles (HGVs) could undertake deliveries simultaneously without hindering the operation of Willow Way¹, subject to double yellow lines being introduced on both sides of Willow Way.
- 2.3 I would note the London Councils advice in relation to Footway Parking², *“parking on footways or footpaths (pavements, grass verges, alleyways, etc), or in front of dropped footways or raised carriageways (for example driveways or pedestrian crossings) is banned on almost all streets in London at all times, including at night and weekends. If you park in such a way then you could receive a Penalty Charge Notice (PCN) and may also be towed away – even if only one or two wheels are on the footway.”*
- 2.4 As parking has been observed on the footways along both sides of Willow Way at present, as presented on VTP Drawing 4772-2001-T-001 Rev A³, which is not permitted and should therefore be enforced by LBL, the introduction of the double yellow lines on both sides of Willow Way is maintained as being the appropriate provision to facilitate adequate delivery and servicing for both the current development proposals at Plot A, as well as the existing servicing arrangements for Plot C.
- 2.5 By introducing the double yellow lines on both sides of Willow Way, a much clearer indication of the parking restrictions along this stretch of Willow Way will not only allow LBL to enforce against illegal parking, but it will clearly identify the parking restrictions to drivers, where there may currently be confusion due to the historic parking behaviours.
- 2.6 For ease of reference, VTP Drawing 4772-2001-T-007 Rev A – Existing Arrangement (Legal Car Parking), a copy of which is included within Appendix A of my Rebuttal Proof of Evidence for ease of reference, identifies that the effective carriageway width of Willow Way would be substantially reduced if cars were to park legally along Willow Way.
- 2.7 **Figure 2-1** presents an extract of this drawing identifying that if appropriate and legal car parking were to be undertaken along Willow Way, the effective carriageway width of Willow Way would reduce to as little as 2.7m towards the north of the site. This is clearly a very narrow carriageway width, particularly for a road that is to accommodate two-way vehicle movements and on-street deliveries, as has been observed.
- 2.8 It is also worth noting that if vehicles are parked appropriately and legally along Willow Way, the available width of the footway adjacent to the Site, i.e. on the eastern side of Willow Way, would be a minimum of approximately 2.5m.

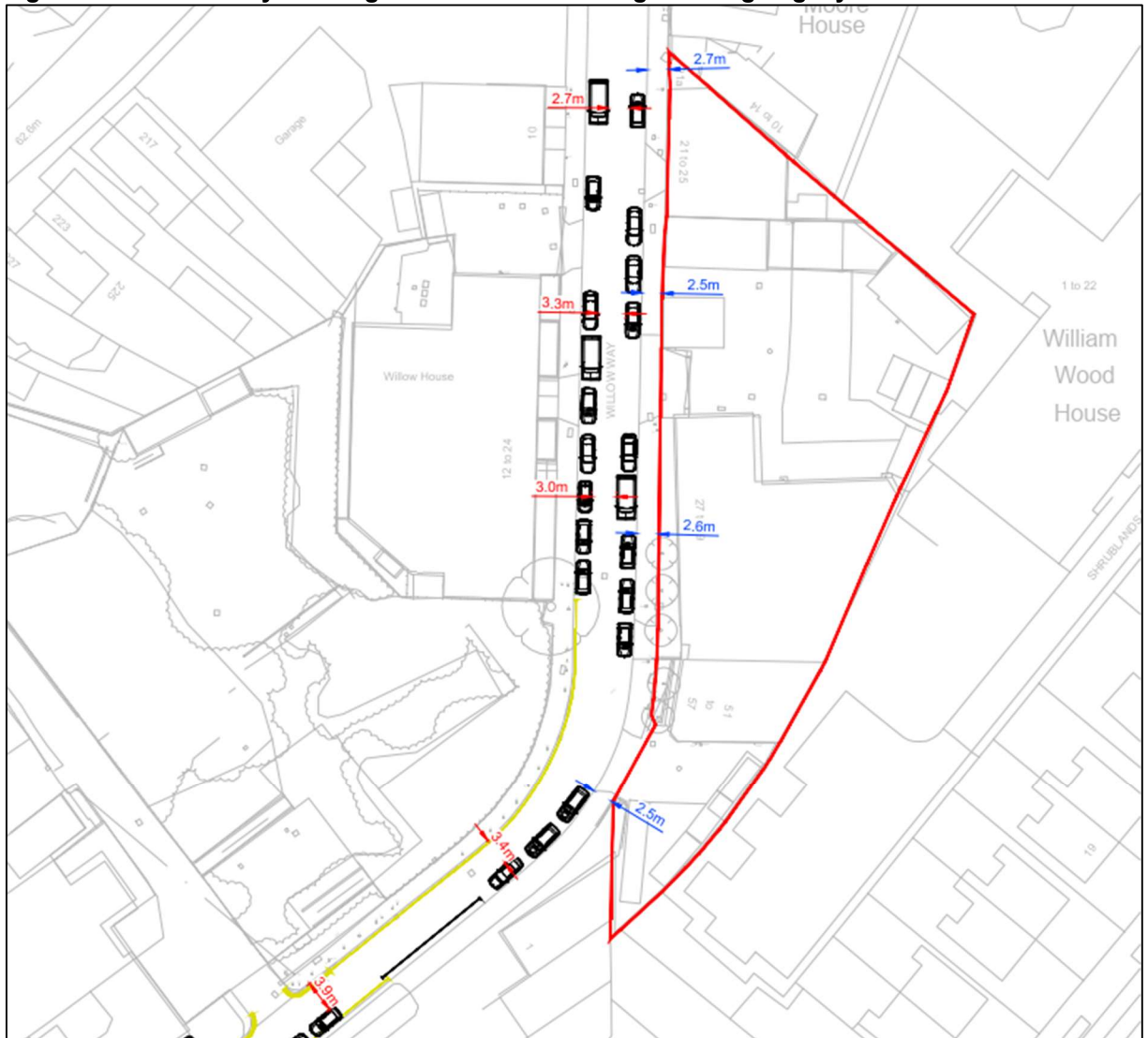
¹ Paragraph 5.14 of Mark Kirby's Proof of Evidence [CD.5.11]

² <https://www.londoncouncils.gov.uk/services/parking-services/parking-and-traffic/parking-advice-members-public/footway-parking>

³ Appendix B of the VTP Transport Assessment [CD.1.16]



Figure 2-1: Willow Way Existing On-Street Car Parking showing Legally Parked Vehicles

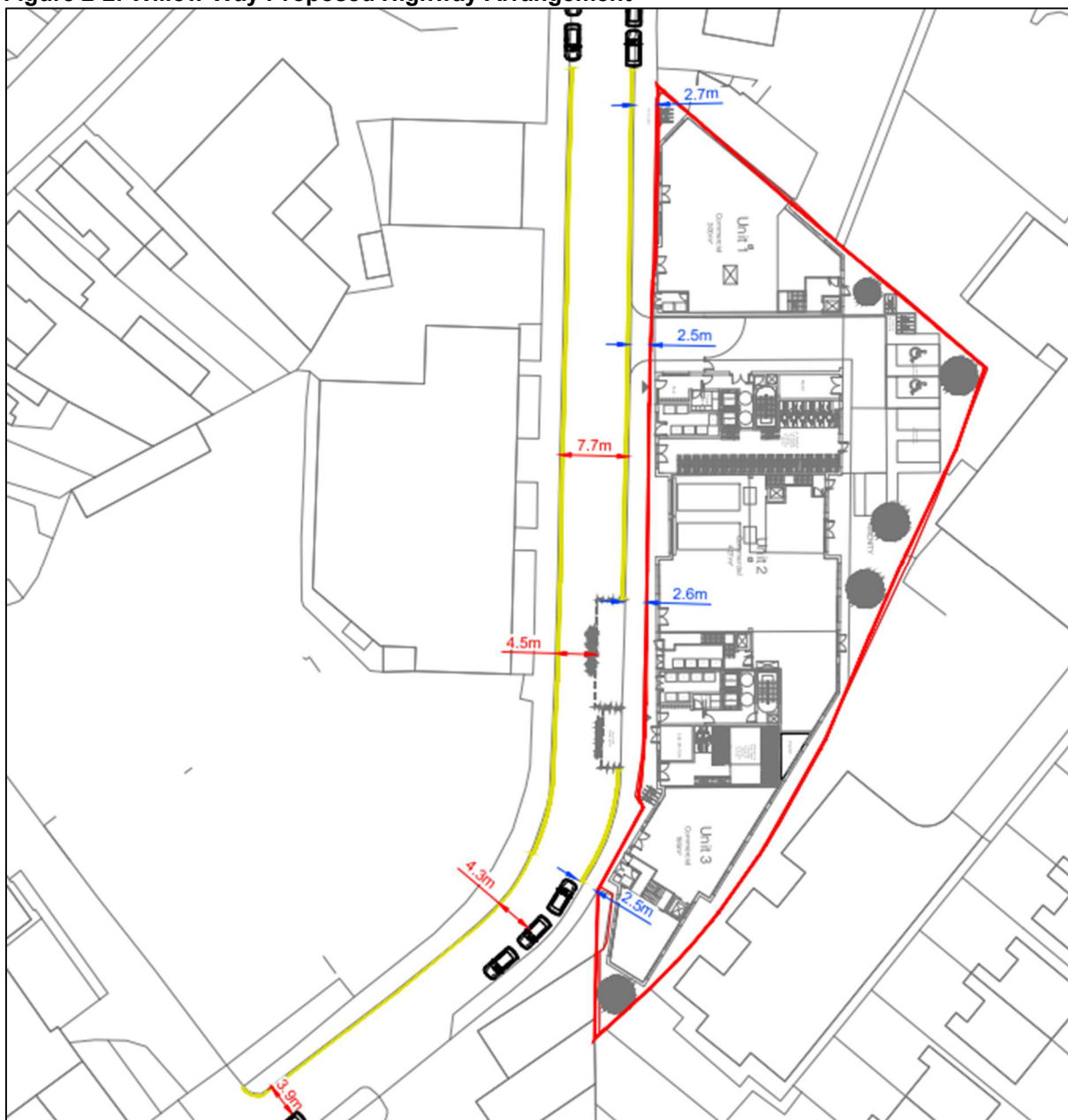


2.9 For clarity, the effective width of the carriageway along Willow Way that is proposed following the introduction of the double yellow lines on both sides of Willow Way, is presented on VTP Drawing 4772-2001-T-002 Rev E – Proposed Arrangement, a copy of which is included at Appendix A of my Rebuttal Proof of Evidence.

2.10 **Figure 2-2** presents an extract of the above mentioned drawing showing the proposed arrangement, which identifies that the minimum effective width of Willow Way would be 4.5m in the vicinity of the proposed loading bay, which is considered more than adequate for one-way movements by all vehicles that would be expected to utilise Willow Way.



Figure 2-2: Willow Way Proposed Highway Arrangement



- 2.11 Based on the information presented within the originally submitted Transport Assessment [CD.1.16], and that which is clarified within my Proof of Evidence [CD.5.11] and within this Rebuttal Proof of Evidence, it is considered that the introduction of double yellow lines on both sides of Willow Way is appropriate and would facilitate the continued servicing arrangement for the existing units to the west of Willow Way, as well as the proposed development.
- 2.12 In addition, LBL have noted within the Draft Section 106 Agreement, the details of which are to be agreed as part of the Planning Inquiry, that a Section 278 Agreement would need to be entered into subject to planning permission being granted for the proposals, which would facilitate the introduction of the necessary Traffic Regulation Orders (TROs) to deliver the road markings to define the TROs.



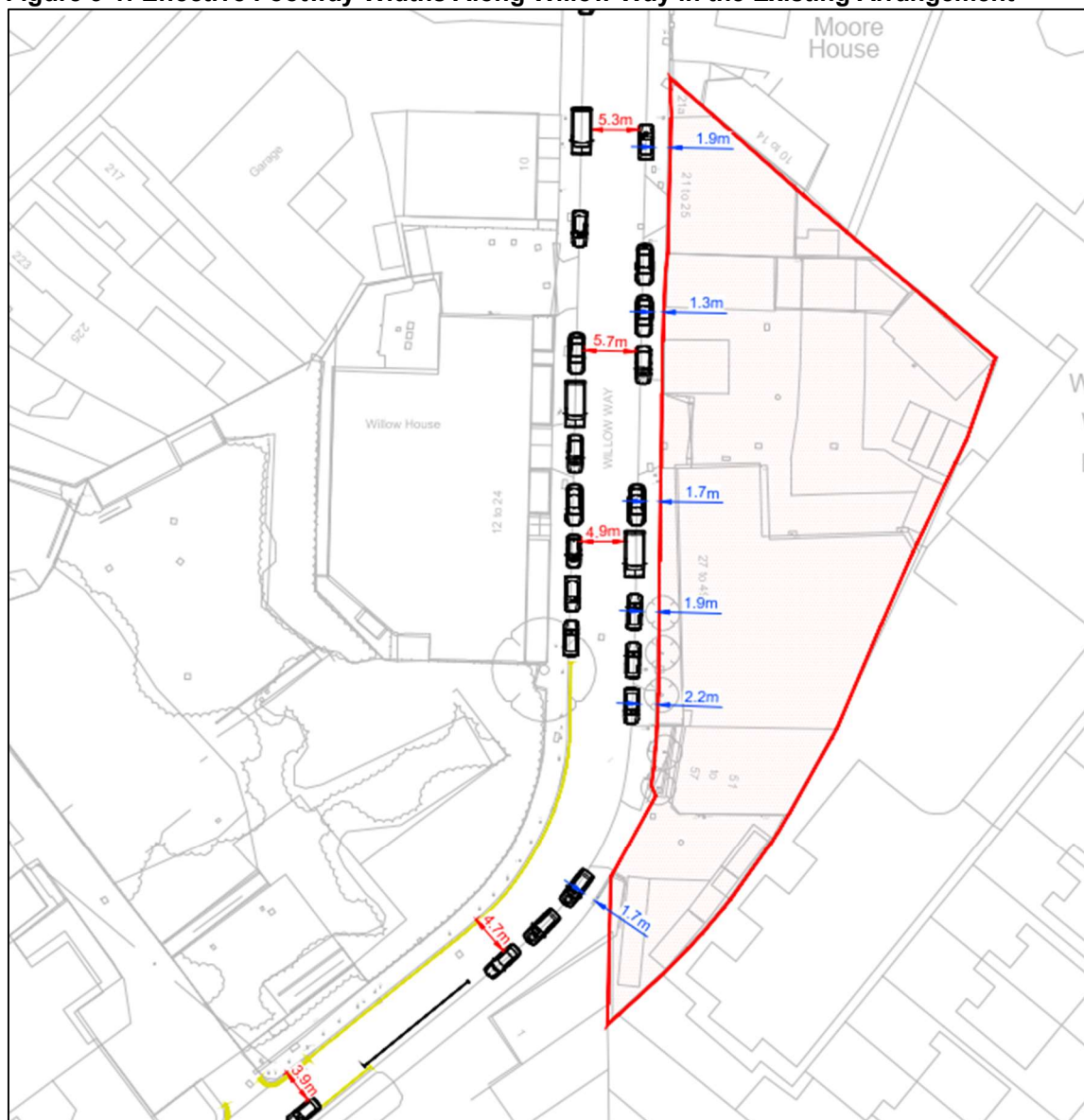
- 2.13 I maintain that as TROs are subject to separate consultation if planning permission is granted, and that no physical highway works would be required, with the exception of road markings, i.e. painted lines being introduced on Willow Way, there is no need for a Section 278 Agreement to be considered.
- 2.14 The removal of the existing crossover to Plot A and the installation of a new vehicle crossover, could be undertaken by way of a vehicle crossover licence, rather than a Section 278 Agreement.



3 Footway Widths

- 3.1 I acknowledge that due to the current illegal parking activity along the eastern side of Willow Way, particularly along the frontage of the proposed development, would result in the effective footway width being reduced to as little as 1.3, but generally less than 2.0m on average.
- 3.2 I note that Melissa Vento's Proof of Evidence [CD.5.15] requested that clarification be provided as to the effective footway widths with the mounted kerbside parking⁴. VTP Drawing 4772-2001-T-001 Rev B – Existing Arrangement, a copy of which is included at Appendix A of my Rebuttal Proof of Evidence, presents these effective footway widths, accounting for the illegally parked vehicles along the frontage of the site.
- 3.3 **Figure 3-1** provides an extract of these effective footway widths for ease of reference.

Figure 3-1: Effective Footway Widths Along Willow Way in the Existing Arrangement



⁴ Paragraph 4.16 of Melissa Vento's Proof of Evidence [CD.5.15]



- 3.4 Whilst I acknowledge the narrow effective width of the footway in the existing arrangement, by introducing the double yellow lines along Willow Way through a TRO, the effective width of the footway would increase to at least 2.5m, as presented in **Figures 2.1** and **2.2** of my Rebuttal Proof of Evidence.



4 Contributions

- 4.1 I have reviewed the Draft Section 106 Agreement, the details of which are expected to be agreed as part of the Planning Inquiry and note that there are a number of highways contributions identified. In summary, these are set out as follows:
- (a) Schedule 2 – Financial Contributions
 - (i) The CPZ Contribution⁵.
 - (b) Schedule 3 – Highway Works
 - (i) To use reasonable endeavours to enter into a Section 278 Agreement⁶.
 - (c) Schedule 7 – Parking Permits
 - (i) No occupier shall apply for or hold a parking permit⁷.
 - (d) Schedule 9 – Car Club
 - (i) Car Club Strategy⁸.
- 4.2 In addition to the above, I note that the Draft Section 106 Agreement also refers to a £15,000 Healthy Streets Contribution⁹, which means the investigation of the following:
- (i) opportunities to reduce crossing widths.
 - (ii) the need for double yellow lines on the western side of Willow Way.
 - (iii) the impacts of displacement parking for exiting industrial units on the Western side of Willow Way.
- and for the implementation of such measures as are necessary (if in the reasonable opinion of the Council) provision required.
- 4.3 I would clarify that the Healthy Streets assessment contained within the original Transport Assessment [CD.1.16], was an assessment of the potential off-site improvements related to the wider Masterplan site and that the contribution towards these Healthy Streets Measures should be proportionate in relation to Plot A only.
- 4.4 The identified highways contributions are not necessarily considered to be accepted by the Appellant, but as noted above, these contributions are expected to be agreed at the Public Inquiry.

⁵ Clause 2.4, page 36 of the Draft Section 106 Agreement

⁶ Clause 1, page 38 of the Draft Section 106 Agreement

⁷ Clause 1, page 68 of the Draft Section 106 Agreement

⁸ Clause 1, page 72 of the Draft Section 106 Agreement

⁹ Page 22 of the Draft Section 106 Agreement



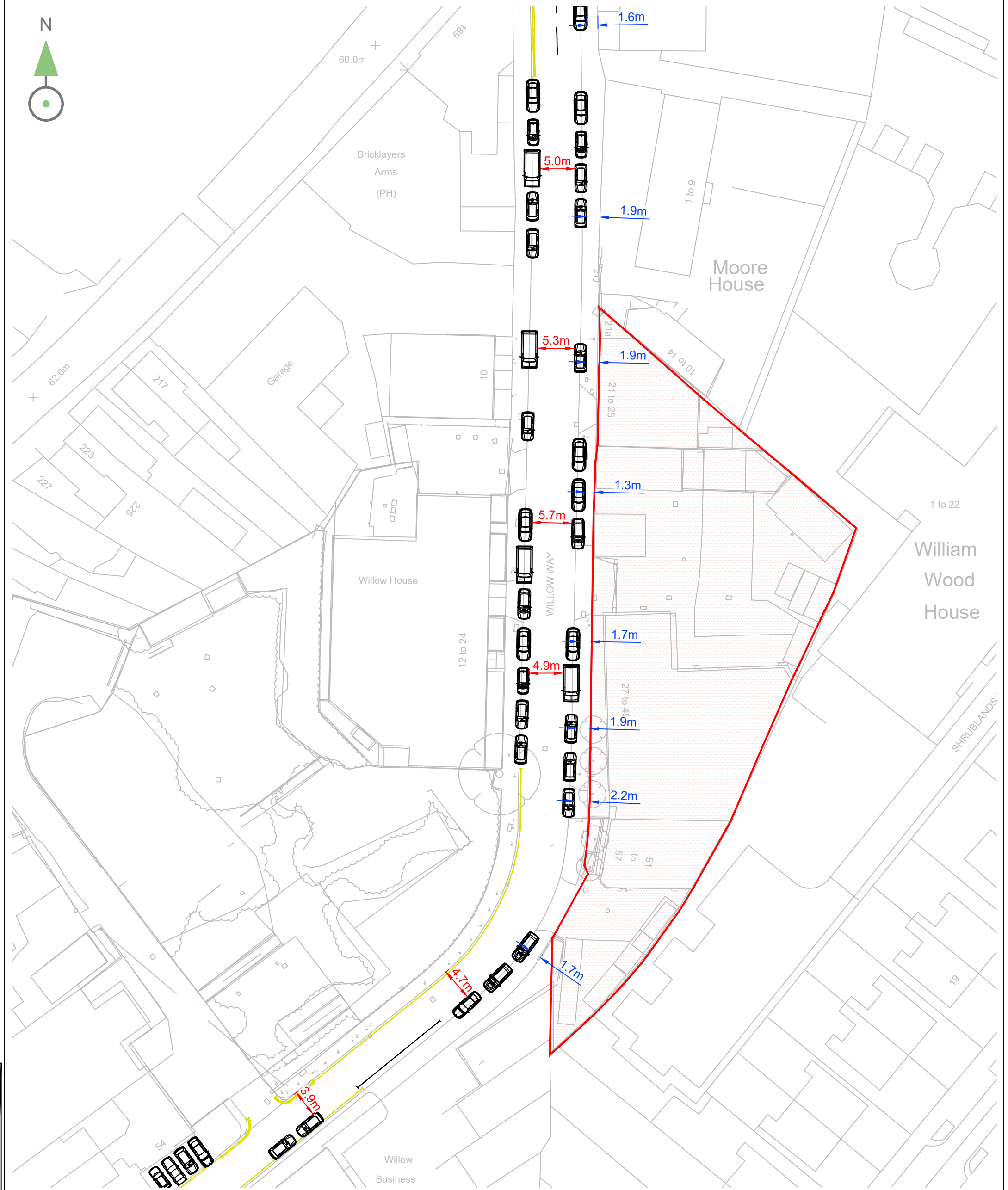
5 Conclusions

- 5.1 I have set out within both my original Proof of Evidence [CD.5.11] and this Rebuttal Proof of Evidence, the key transport matters that have been relied upon by the London Borough of Lewisham (LBL) as Reasons for Refusal, as well as highway related comments that were identified within the LBL Statement of Case (SoC) [CD.5.4], the LBL consultation response [CD.3.2], the LBL Delegated Report [CD.2.2], and Melissa Vento's Proof of Evidence [CD.5.15].
- 5.2 My Proof of Evidence addresses each of the LBL Reasons for Refusal and provides a response to the additional matters raised by LBL within the SoC, the consultation response and the Officer Report.
- 5.3 This Rebuttal proof of Evidence provides further responses to matters raised within Melissa Vento's Proof of Evidence.
- 5.4 Based on my professional judgement, I consider that the Appellant has more than adequately demonstrated that the concerns raised by LBL have been addressed within the original documentation that supported the Planning Application, the further Technical Note in Support of the Planning Appeal, and as summarised within my Proof of Evidence, and my Rebuttal Proof of Evidence.
- 5.5 I would conclude that, in my view, there would not be an unacceptable impact on highway safety, nor would the residual cumulative impacts on the road network be considered "severe". As such, and in accordance with paragraph 111 of the National Planning Policy Framework, there should be no reason to prevent or refuse the Proposed Development on highway grounds.

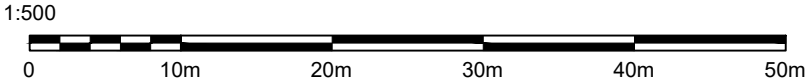


APPENDIX A

ADDITIONAL VTP DRAWINGS



Ordnance Survey © Crown Copyright 2022.
All rights reserved. Licence number 100022432



Notes:

- DO NOT SCALE FROM THIS DRAWING.
- ALL DIMENSIONS ARE IN METRES UNLESS OTHERWISE STATED.
- THIS DRAWING IS TO BE PRINTED IN COLOUR.
- THE TOPOGRAPHICAL SURVEY INFORMATION HAS BEEN PROVIDED BY HB SURVEYS LTD (DRAWING NO 22115-02-T-E) AND VELOCITY TRANSPORT PLANNING SHALL NOT BE LIABLE FOR ANY INACCURACIES OR DEFICIENCIES.
- THIS DRAWING HAS BEEN ISSUED FOR INFORMATION PURPOSES AND MUST NOT BE USED FOR CONSTRUCTION.



Drawing Status
S2 - FOR INFORMATION

Client

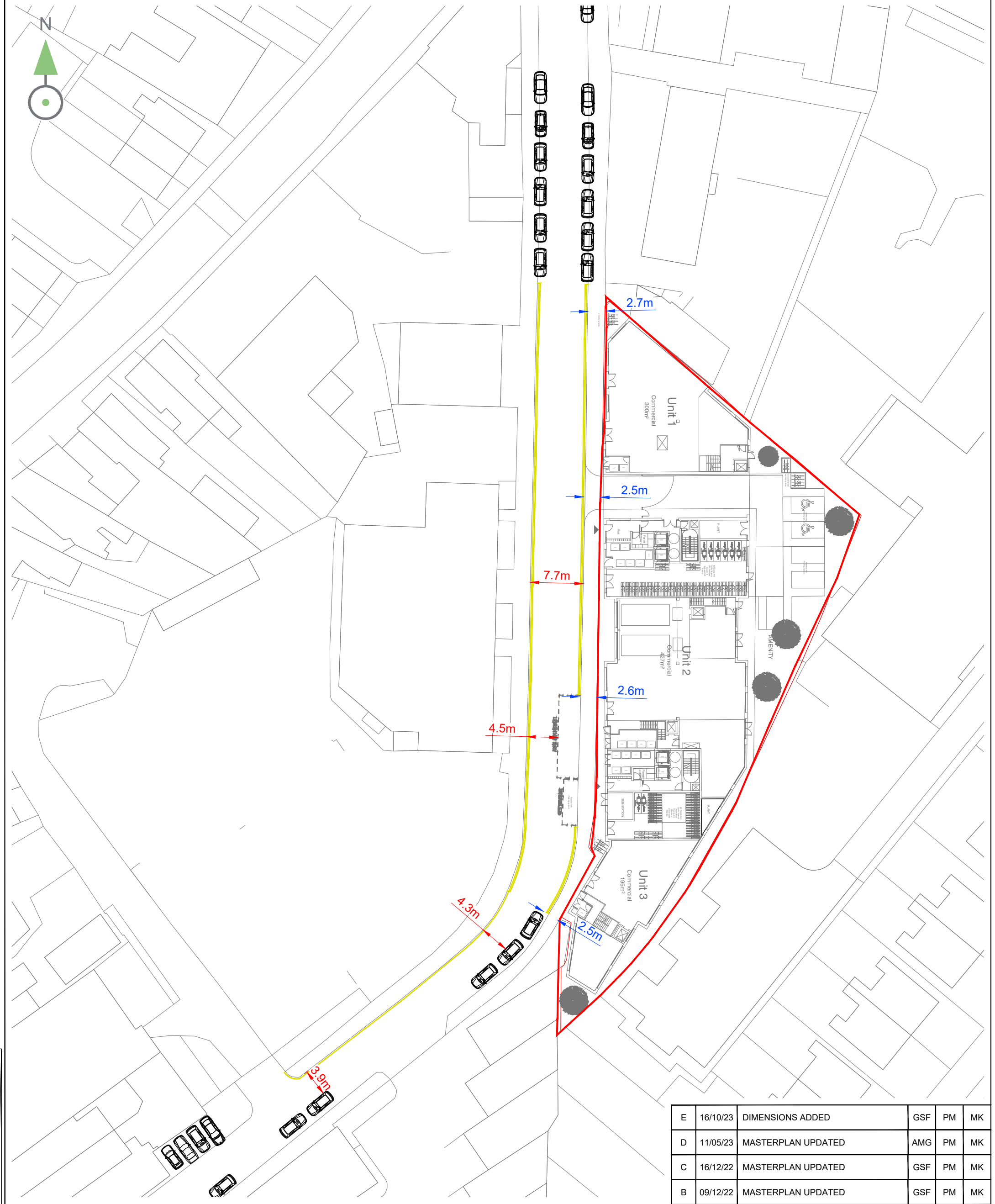
Architect

B	16/10/23	FOOTWAY DIMENSIONS ADDED	GSF	AM	MK
A	26/10/22	FIRST ISSUE	GSF	AM	MK
Rev	Date	Description	Drn	Chk	App

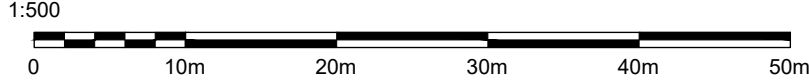
Project Title
WILLOW WAY, SYDENHAM

Drawing Title
EXISTING ARRANGEMENT

Scale @ A3 1:500	Date 26/10/22	Designed/Drawn GSF	Checked AM	Approved MK	Rev B
Project Ref 4770-2001	Drawing Number 4772-2001-T-001				



Ordnance Survey © Crown Copyright 2022.
All rights reserved. Licence number 100022432



- Notes:
- DO NOT SCALE FROM THIS DRAWING.
 - ALL DIMENSIONS ARE IN METRES UNLESS OTHERWISE STATED.
 - THIS DRAWING IS TO BE PRINTED IN COLOUR.
 - THE TOPOGRAPHICAL SURVEY INFORMATION HAS BEEN PROVIDED BY HB SURVEYS LTD (DRAWING NO 22115-02-T-E) AND VELOCITY TRANSPORT PLANNING SHALL NOT BE LIABLE FOR ANY INACCURACIES OR DEFICIENCIES.
 - THIS DRAWING HAS BEEN ISSUED FOR INFORMATION PURPOSES AND MUST NOT BE USED FOR CONSTRUCTION.



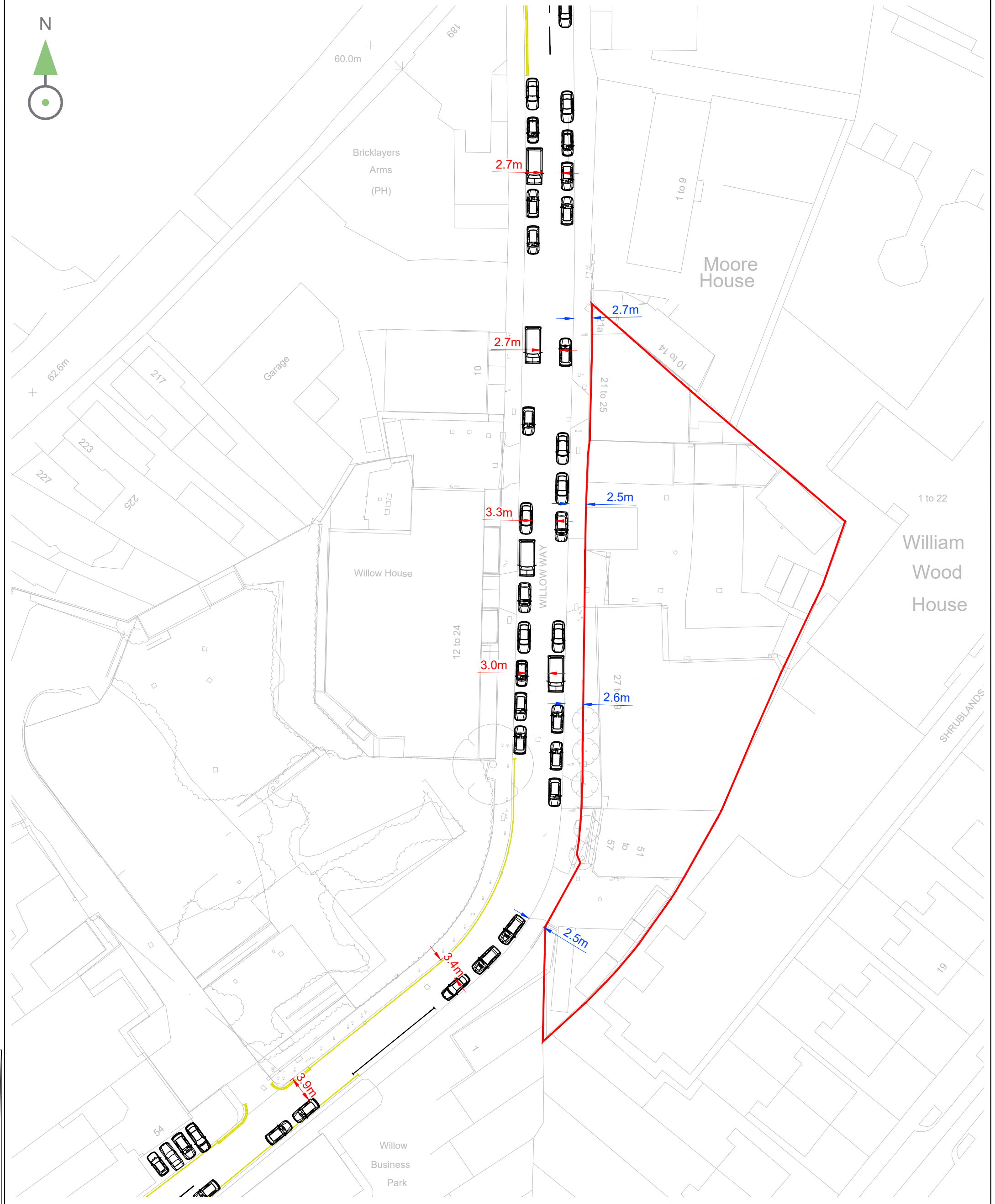
Drawing Status
S2 - FOR INFORMATION

Client
KITEWOOD

Architect

E	16/10/23	DIMENSIONS ADDED	GSF	PM	MK
D	11/05/23	MASTERPLAN UPDATED	AMG	PM	MK
C	16/12/22	MASTERPLAN UPDATED	GSF	PM	MK
B	09/12/22	MASTERPLAN UPDATED	GSF	PM	MK
A	26/10/22	FIRST ISSUE	GSF	AM	MK
Rev	Date	Description	Drn	Chk	App

Project Title WILLOW WAY, SYDENHAM					
Drawing Title PROPOSED ARRANGEMENT					
Scale @ A3 1:500	Date 26/10/22	Designed/Drawn GSF	Checked AM	Approved MK	
Project Ref 4770-2001	Drawing Number 4772-2001-T-002				Rev E



Ordnance Survey © Crown Copyright 2022.
All rights reserved. Licence number 100022432

1:500

0 10m 20m 30m 40m 50m

Notes:

- DO NOT SCALE FROM THIS DRAWING.
- ALL DIMENSIONS ARE IN METRES UNLESS OTHERWISE STATED.
- THIS DRAWING IS TO BE PRINTED IN COLOUR.
- THE TOPOGRAPHICAL SURVEY INFORMATION HAS BEEN PROVIDED BY HB SURVEYS LTD (DRAWING NO 22115-02-T-E) AND VELOCITY TRANSPORT PLANNING SHALL NOT BE LIABLE FOR ANY INACCURACIES OR DEFICIENCIES.
- THIS DRAWING HAS BEEN ISSUED FOR INFORMATION PURPOSES AND MUST NOT BE USED FOR CONSTRUCTION.




© VELOCITY TRANSPORT PLANNING LTD

Drawing Status

S2 - FOR INFORMATION

Client



Architect

A	16/10/23	FIRST ISSUE	GSF	AM	MK
Rev	Date	Description	Drn	Chk	App
Project Title					
WILLOW WAY, SYDENHAM					
Drawing Title					
EXISTING ARRANGEMENT (LEGAL CAR PARKING)					
Scale @ A3	Date	Designed/Drawn	Checked	Approved	
1:500	16/10/23	GSF	MK	MK	
Project Ref	Drawing Number				Rev
4770-2001	4772-2001-T-007				A

