



Pre-Development



Appeal Decision

Site visit made on 29 November 2022

by J Evans BA(Hons) AssocRTPI

an Inspector appointed by the Secretary of State

Decision date: 15th December 2022

Appeal Ref: APP/P5870/D/22/3305956

575 Gander Green Lane, Sutton, North Cheam SM3 9RF

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Mr Paul Woy against the decision of the Council of the London Borough of Sutton.
 - The application Ref DM2022/00537, dated 20 March 2022, was refused by notice dated 09 June 2022.
 - The development proposed is described as the construction of a vehicle crossing.
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Decision

1. The appeal is allowed and planning permission is granted for the construction of a vehicle crossing at 575 Gander Green Lane, Sutton, North Cheam SM3 9RF in accordance with the terms of the application, Ref DM2022/00537, dated 20 March 2022, subject to the following conditions:
 - 1) The development hereby permitted shall begin not later than three years from the date of this decision.
 - 2) The development hereby permitted shall be carried out in accordance with the following approved plans: Plan of Existing Frontage (scale 1:100); Plan of Frontage with Proposed Vehicle Crossing (scale 1:100); Plan of Frontage with Proposed Vehicle Crossing (scale 1:50); and Location Plan (scale 1:1250) Date Produced 31 March 2022.

Procedural Matters

2. I have removed the address of the appeal property from the description of the development as this is not necessary and this provides a more accurate description of the development.

Main Issue

3. The main issue is the effect of the proposal on the safe and efficient operation of the highway network in the vicinity of the appeal site and pedestrian safety.

Reasons

4. The appeal property fronts to the public footway and highway to the north-east. Within the front garden area of the appeal site, approximately two-thirds of its north-eastern boundary are open to the footway, which is commensurate in width with a hardstanding area, however there is no dropped kerb to the highway itself. At the time of my visit, a domestic vehicle was parked on the hard surfaced area. The remaining third of the front garden of the appeal site is

- enclosed to the adjacent footway by a boundary wall with hedging and the space thereafter is laid to an area of lawn.
5. The appeal proposal relates to the provision of a dropped kerb to the public highway and a vehicle crossing point over the adjacent footpath to the north-eastern end of the appeal site. The location of such directly adjoins an existing dropped kerb and access serving the neighbouring dwelling no.573.
 6. The appeal property itself is a two storey dwelling, and is relatively wide in its plot compared to neighbouring properties. At its eastern end the property has a garage doorway with accommodation above. I have been made aware of a planning decision dating from 2001¹, which indicates the garage as forming part of a wider extension to the property, this decision notice also includes reference to the 'formation of access onto classified road.'
 7. On the footway, directly outside of the appeal site there is a bus stop operated by Transport for London (TfL). The bus stop sign and timetable is fixed to a pole positioned adjacent to the section of the appeal site that is enclosed by the boundary wall and hedging. During my visit, I noted that individuals waiting at the bus stop stood aside the boundary wall.
 8. On the highway itself, double red lines which delineate an area where vehicles are not allowed to stop at any time, run from the road junction to the north-west to a point just beyond the north-eastern corner of the front boundary of the appeal site, thereafter, these lines continue as double yellow. A bus stop area is also delineated on the highway running the entire length of the appeal site.
 9. I have also been provided with copies of correspondence between the appellant's late father and the Council dating back to 2000 regarding the potential for the installation of a vehicle crossing to serve the appeal property. Further, the appellant has provided me with a plan² from the Transport Planning & Works Section of the Council delineating 'Bus Stop Accessibility Gander Green Lane' which indicates an area to the front of the appeal site termed 'cross-over to property unaffected by the proposal.'
 10. As the property has a garage; non-enclosed hardstanding areas to part of the front section of the appeal site; reference to the formation of an access onto the highway to the north in a decision notice from 2001 which it appears related to the garage extension; photographs of the parking area in use over time; alongside the various other correspondence provided through the submissions; it is evident to me that off-street parking and traffic movements onto the highway are associated with the use of the appeal site already in planning terms.
 11. I note that TfL and the Council's highways officer have raised objections to the proposal and explain that they are concerned about a potential conflict with pedestrians waiting at the bus stop; the implications of a dropped kerb with regard to the deployment of disability ramps from a bus; and wider concerns about the limited manoeuvrability on the appeal site, which they consider would be likely to result in vehicles either reversing out onto the highway, or stopping and reversing back into the site from the highway itself.

¹ A2001/47032 for the 'Erection of a two-storey side extension and formation of access onto classified road.'

² T7051/PL1&2

12. However, I am not convinced that the appeal proposal would lead to any significant conflict with individuals waiting at the bus stop, the stop is not in the same place as the location for the proposed drop kerb, the stop itself being sited approximately 5 metres away to the north, whereby individuals waiting for the bus stop, would in my view instinctively wait against the boundary wall to the eastern boundary of the appeal site, as I experienced during my visit. Due to the separation distances involved, and the available safe pedestrian stopping area against the boundary wall, I thereby consider that it would be highly unlikely that individuals would be positioned on the footpath, awaiting the bus, at the location of the proposed dropped kerb and vehicular crossing.
13. Further, I do not see how the proposal would prejudice the deployment of a disability ramp from a bus, the proposal relates to a crossing point and dropped kerb for approximately one quarter of the site frontage, adjacent to an area of existing dropped kerb, the remainder of the highway closest to the bus stop pole itself would remain as is the case at present.
14. I acknowledge that manoeuvrability within the site itself, to enable vehicles to enter and leave in a forward direction would involve a number of movements, and this may lead to individuals reversing out or into the appeal site. But this is the case for numerous other properties along the street, including those to either side of the appeal property. Further, as outlined, the appeal site contains a garage with planning permission from 2001, reference to the formation of an access in the same decision notice and an existing hardstanding area. In this context, I do not see how the appeal proposals would result in a significant increase in conflict with users of the footway and highway.
15. I find, therefore, that the proposed development would be acceptable, that it would not conflict with Policies 36 and 37 of the Sutton Local Plan 2016-2031, adopted February 2018, or any of the corresponding policies of the National Planning Policy Framework 2021.

Conditions

16. The standard time limit is required together with a condition listing the plans in the interests of certainty.

Conclusion

17. For the reasons given above, having regard to all matters raised, I conclude that the appeal should be allowed.

J Evans

INSPECTOR



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Application no: DM2022/00537

PLANNING PERMISSION REFUSED

Town and Country Planning Act 1990

To: Mr Paul Woy

575 Gander Green Lane
North Cheam
Sutton
SM3 9RF
United Kingdom

The Council of the London Borough of Sutton as Local Planning Authority under their powers provided by the above legislation, **DO HEREBY REFUSE** permission for the development specified in the First Schedule hereto, subject to the reasons (if any) specified in the Second Schedule.

FIRST SCHEDULE

In accordance with your application, valid on 1st April 2022.

575 Gander Green Lane North Cheam Sutton SM3 9RF

Provision of a dropped kerb.

SECOND SCHEDULE

Reason(s):

(1) The proposed vehicle crossover, by reason of its location close to a Transport for London operated bus stop, would constitute an inappropriate form of development and would give rise to conditions prejudicial to highway safety and thus causing danger and inconvenience to all users of the public highway contrary to Policies 36 and 37 of the Sutton Local Plan 2018.

Informative(s):

(1) The refused development has been assessed in accordance with the following drawings/details:

Plan of existing frontage
Plan of frontage with proposed vehicle crossing (scale 1:100)
Plan of frontage with proposed vehicle crossing (scale 1:50)
Location plan

Reason: For the avoidance of doubt and in the interests of proper planning.

(2) Should you require details of the consideration of the application that has led to this decision, the file may be inspected under the provisions of the Local Government (Access to Information) Act 1985 via the following link: <https://www.sutton.gov.uk/propertyapplicationsearch>

(3) Where applicable the developer/applicant is hereby advised to remove all site notices on or near the site that were displayed in pursuant to the application.



9th June 2022

Spencer Palmer, Strategic Director
Environment, Housing and Neighbourhoods

LONDON BOROUGH OF SUTTON APPENDIX TO PLANNING DECISION NOTICES NOTES TO APPLICANTS
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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, you can appeal to the Secretary of State for the Environment under Section 78 of the Town and Country Planning Act 1990 (as amended).

Before you decide to appeal you may wish to consider amending your proposal to meet the Council's reasons for refusing permission. The Council's planning staff are always prepared to discuss with you ways to avoid an appeal by submitting an alternative application. This may involve a charge in line with our pre-application service (https://www.sutton.gov.uk/info/200155/planning/1113/pre-application_planning_advice)

If you want to appeal, then you must do so within 12 weeks of the date of this notice. The Secretary of State can allow a longer period for 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.

If you intend to submit an appeal that you would like examined by inquiry then you must notify the Local Planning Authority and Planning Inspectorate (inquiryappeals@planninginspectorate.gov.uk) at least 10 days before submitting the appeal. [Further details are on GOV.UK.](#)

You can appeal using a form that you can get from The Planning Inspectorate, Temple Quay House, 2 The Square, Temple Quay, Bristol, BS1 6PN. Customer Support Unit, Tel: 0117 372 6372. Appeal forms and guidance can also be downloaded from the Planning Inspectorate's website <https://www.gov.uk/appeal-planning-decision>.

Alternatively, the Planning Inspectorate have introduced an online appeals service which you can use to make your appeal at <https://www.gov.uk/appeal-planning-decision>. The Inspectorate will publish details of your appeal on the internet. This may include a copy of the original planning application form and relevant supporting documents supplied to the local planning 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, 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.

The Secretary of State 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 they imposed, having regard to the statutory requirements, to the provisions of any development order and to any directions given under a development order.

In practice, the Secretary of State does not refuse to consider appeals solely because the local planning authority based their decision on a direction given by him.

Purchase Notices

If either the local planning authority or the Secretary of State for the Environment refuses permission to develop land or grants it subject to conditions, the owner may claim that they can neither put the land to a reasonably beneficial use in its existing state nor render the land capable of a reasonably beneficial use by 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 their interest in the land in accordance with the provision of Part VI of the Town and Country Planning Act 1990.

Compensation

In certain circumstances compensation may be claimed from the local planning authority if permission is refused or granted subject to conditions by the Secretary of State appeal or reference of the application to him.

These circumstances are set out in section 114 and related provisions of the Town and Country Planning Act 1990 (as amended).

The Party Wall etc. Act 1996

Anyone intending to carry out work described in the Act **MUST** give adjoining owners at least 2 months notice in writing of their intentions.

The Act covers:- (i) work to be carried out directly to an existing party wall or structure

(ii) new building at or astride the boundary line between properties

(iii) excavation within 3 or 6 metres of a neighbouring building or structure, depending on the depth of the hole or foundations

If you are not sure whether the Act applies to work that you are planning, you should seek professional advice. A free explanatory booklet is available from ODPM Free Literature, PO Box 236, Wetherby, West Yorkshire, LS23 7BN. Tel 0870 1226236 e-mail odpm@twoten.press.net

Delegated Report

Report of the Strategic Director, Environment, Housing and Neighbourhoods

Ref: DM2022/00537	Ward: Stonecot	Expiry Date: 27th May 2022
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Site	575 Gander Green Lane North Cheam Sutton SM3 9RF
Proposal	Provision of a dropped kerb.
Applicant	Mr Paul Woy
Agent	

Recommendation	Application Refused
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SITE SPECIFIC DESIGNATIONS:

Highways Improvement Corridor	Land Charges Red Route Buffer
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Red Route Buffer Zones	
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RELEVANT SITE HISTORY

Planning Application Reference: A2001/47032--- Address: 575 Gander Green Lane, Cheam, , SM1--- Proposal: Erection of a two storey side extension and formation of access onto classified road.--- Status: GTD--- Decision: GTD--- Date Decision Issued: 14-MAR-01---

AMENDMENTS

None.

PUBLICITY

NEIGHBOURS AND CONTRIBUTORS

Number of neighbours originally consulted	7
Number of contributors	0
Number of objectors	0
Number in support	0
Number making a neutral representation	0

A full list of contributors can be found in Appendix B.

SUMMARY OF RESPONSES

None.

CONSULTEE RESPONSES

Consultee	Comments
Transport For London	The development would result in unacceptable harm to all highway users and so it is recommended planning permission is refused.
Highways	As stated by TfL, there are concerns that vehicles will not be able to access and egress the site in forward gear and they will therefore have to reverse across the bus stop, and this arrangement would endanger public safety, especially to any pedestrians waiting at the bus stop. Additionally as stated by TfL the existing raised kerb outside the site is needed to allow the bus to deploy its disability ramp and make the bus stop accessible to all. There is no safer location in the vicinity to relocate the bus stop and TfL has made it clear they can't support of a crossover at this location. It seems clear that any application to TfL for a footway crossover at this location would be rejected. LBS should therefore refuse this planning application on the basis of the reasons stated above.

MATERIAL PLANNING POLICIES

Section 38(6) of the Planning and Compulsory Purchase Act 2004 states that when determining a planning application, regard is to be had to the development plan, and the determination shall be made in accordance with the development plan, unless material considerations indicate otherwise. The development plan for the London Borough of Sutton comprises the following documents:

- The London Plan 2021
- The Sutton Local Plan 2018

Also a material consideration in determining planning applications are:

- National Planning Policy Framework 2021 (NPPF)
- National Planning Practice Guidance (NPPG)
- Adopted London Borough of Sutton Supplementary Planning Documents

- Human Rights Act 1998
- Equality Act 2010

Most Relevant Policies to be considered are listed below:

Sutton Local Plan:

Policy 28 - Character and Design
 Policy 29 - Protecting Amenity
 Policy 24 - Green Belt and Metropolitan Open Land (if relevant)
 Policy 30 - Heritage (If Relevant)
 Policy 35 - Transport Proposals (if relevant)
 Policy 36 - Transport Impact (if relevant)
 Policy 37 - Parking (If Relevant)

Adopted London Borough of Sutton Development Plan and Supplementary Planning Documents:

SPD4 – Design of Residential Extensions;
 SPD14 – Creating Locally Distinctive Place;
 Burton Estates Area of special Local Character - Character Appraisal (if relevant);
 Hackbridge and Beddington Corner Neighbourhood Plan (if relevant).

PLANNING CONSIDERATIONS

Design Quality:

Policy 28 of the Sutton Local Plan 2018 states that the Council will only grant planning permission for extensions provided the new development respects the local context and responds to the local character and heritage assets of an area. Extensions must be of a suitable scale, massing and height to the setting of the site.

The proposed crossover would have a limited impact on the character and appearance of the host dwelling and street scene. As such, the proposal would be in accordance with Policy 28 of the Sutton Local Plan 2018.

Impact on Neighbours:

Policy 29 of the Sutton Local Plan 2018 states that the Council will not grant planning permission for development if it adversely affects the amenities of future occupiers or those currently occupying adjoining or nearby properties, or has an unacceptable impact on the residents of the surrounding area.

The nature of works proposed is unlikely to result in an increase in noise and disturbance or loss of light, outlook and privacy to adjoining occupiers.

As such, the proposal would be in accordance with Policy 29 of the Sutton Local Plan 2018.

Trees and Landscaping:

It is considered the development would not impact adversely on the trees located within or adjoining the site.

Highways and Parking:

The application has been reviewed by Transport for London (TfL) and the Council's Senior Highways Engineer. To the front of the site is a bus stop operated by TfL. The proposed location of the crossover would result in vehicles driving across the bus stop to access the crossover. Concerns are raised in terms of the safe and efficient operation of the highway as vehicles may not be able to access and egress the site in forward gear and would have to reverse across the bus stop. This is considered to be unacceptable as it would endanger public safety, particularly pedestrians waiting at the bus stop and so TfL have recommended refusal of planning permission. The Senior Highway Engineer does not dispute this and as such, the proposal would result in unacceptable harm to pedestrians and vehicles contrary to Policies 36 and 37 of the Sutton Local Plan 2018.

Fire Safety:

A Planning Fire Safety Strategy is not required for this type of development.

Public Sector Equality Duty (PSED) and Human Rights: Under the Equalities Act, the Council must have due regard to the need to eliminate discrimination, harassment or victimisation of persons by reason of age, disability, pregnancy, race, religion, sex and sexual orientation. The pre-application process and assessment process for this planning application have been undertaken with due regard to the PSED.

The application has been considered in the light of the Human Rights Act 1998 and it is considered that the analysis of the issues in this case, as set out in this report and recommendation below, is compatible with the Act.

CONCLUSION

It is recommended that planning permission be refused for the reasons set out above as the proposal is not in accordance with relevant planning policies.

Report Author: Lauren Liu
Background Papers: DM2022/00537

Appendix A – Conditions, Reasons and Informatives

Refusal Reasons

Reason(s):

(1) The proposed vehicle crossover, by reason of its location close to a Transport for London operated bus stop, would constitute an inappropriate form of development and would give rise to conditions prejudicial to highway safety and thus causing danger and inconvenience to all users of the public highway contrary to Policies 36 and 37 of the Sutton Local Plan 2018.

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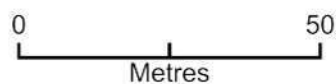
Location plan

Reason: For the avoidance of doubt and in the interests of proper planning.

Appendix B – List of Contributors

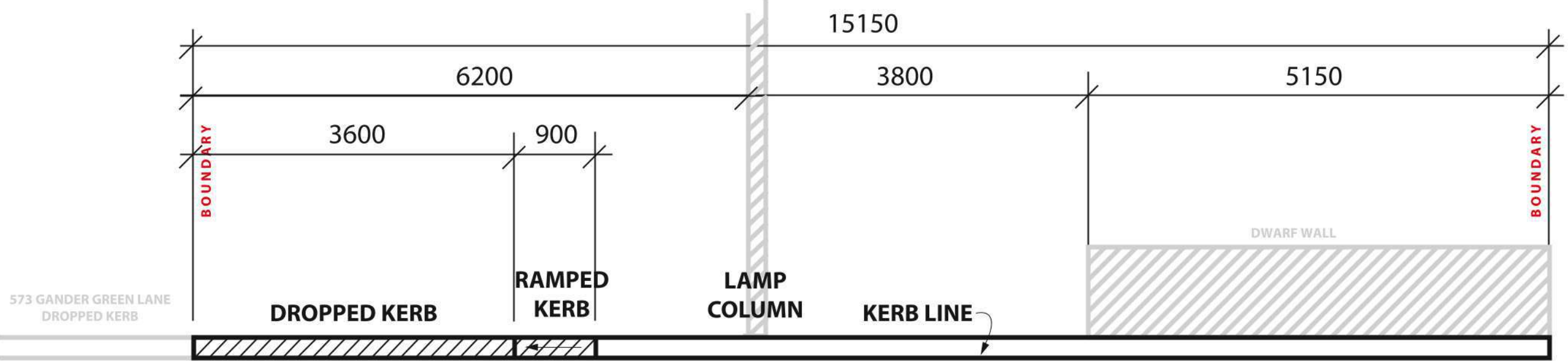
Neighbour	Address	Stance
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Location Plan (scale 1:1250) with the boundaries of the site edged in red



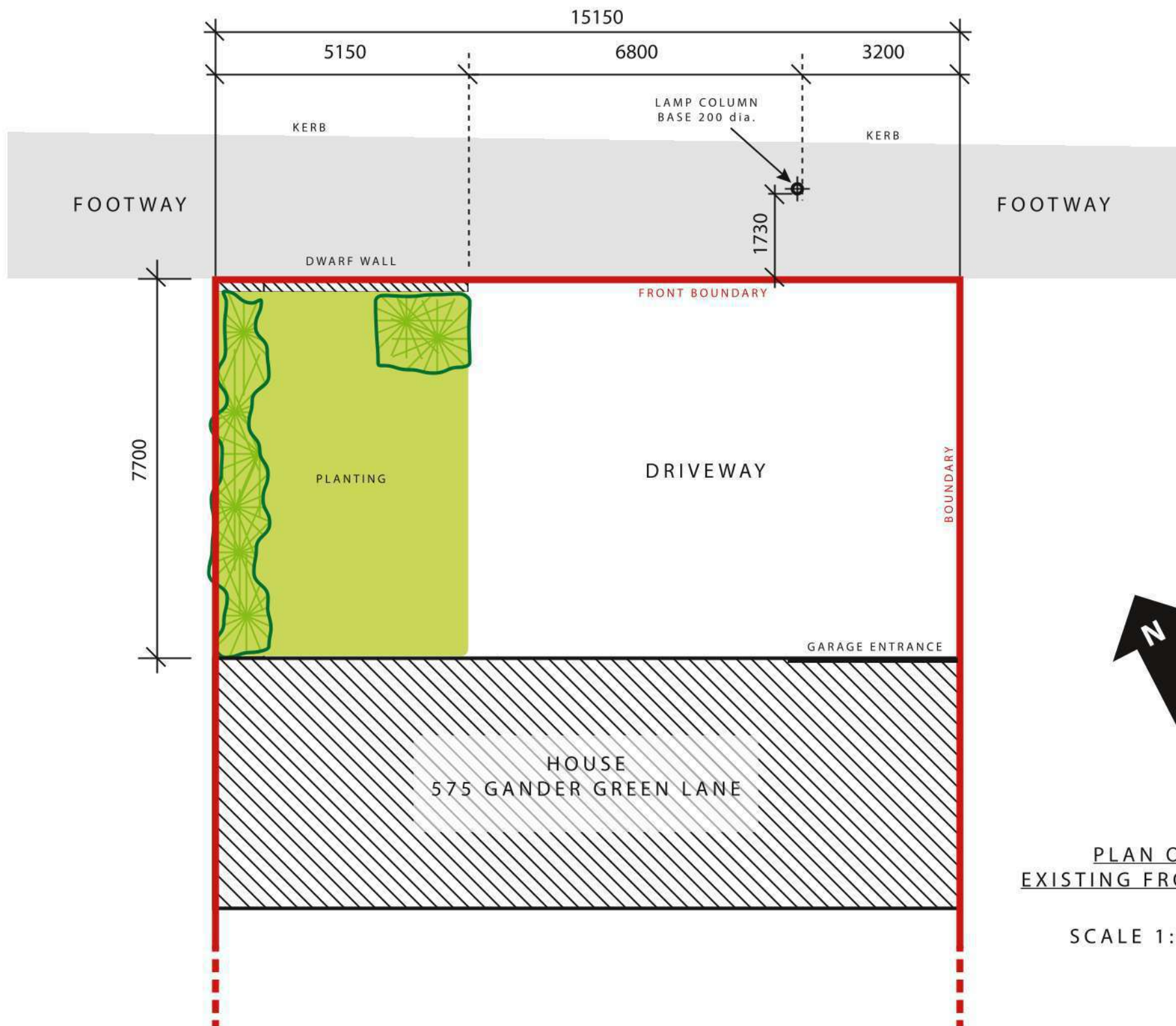
Plan Produced for: Ben Leech Validation Officer
Date Produced: 31 Mar 2022
Plan Reference Number: TQRQM22090103629240
Scale: 1:1250 @ A4

575 GANDER GREEN LANE, SUTTON SM3 9RF
DRAWING



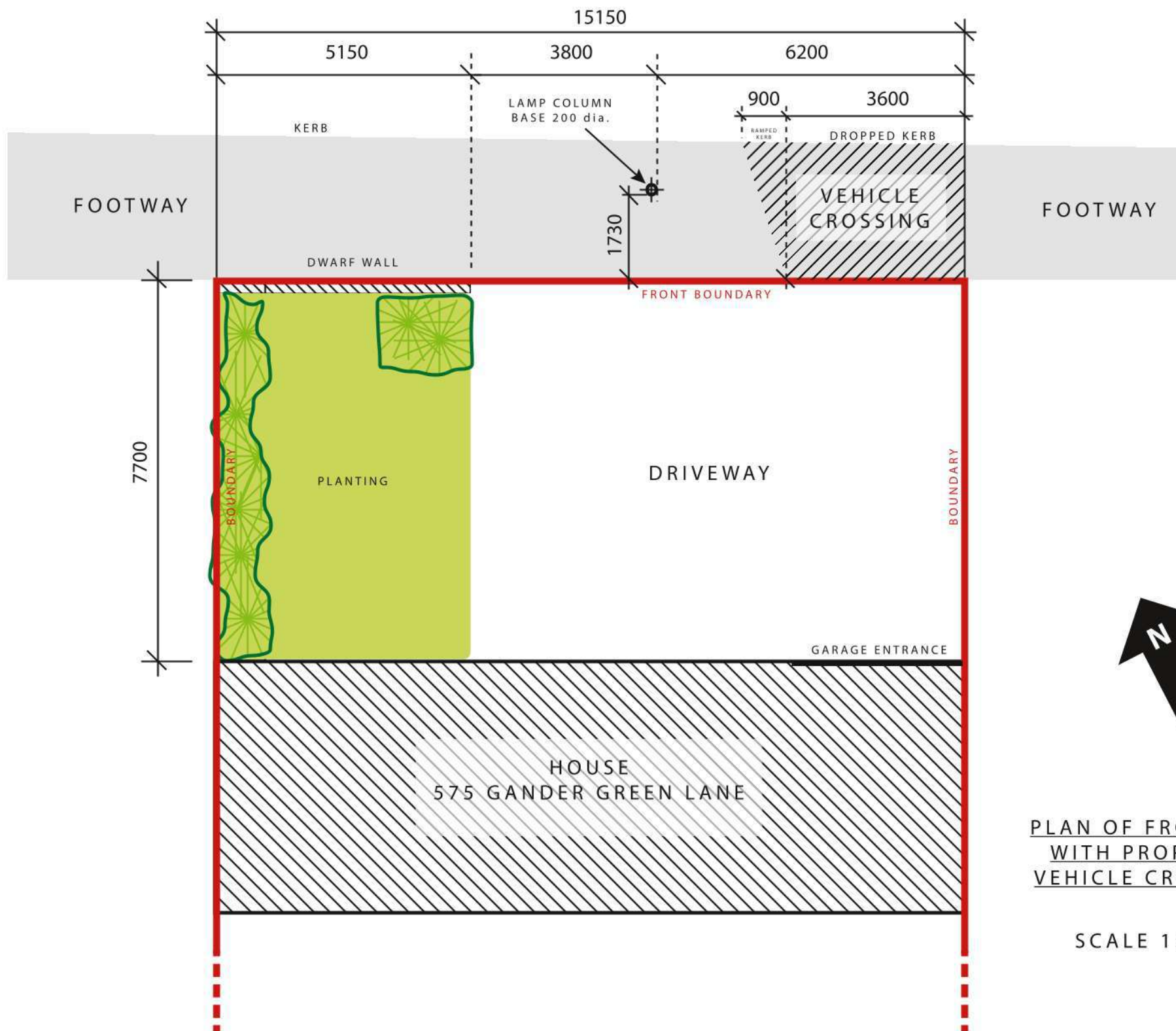
PLAN OF FRONTAGE
WITH PROPOSED VEHICLE CROSSING

SCALE 1:50



PLAN OF
EXISTING FRONTAGE

SCALE 1:100



PLAN OF FRONTAGE
WITH PROPOSED
VEHICLE CROSSING

SCALE 1:100