

DATED _____ **2026**

THE COUNCIL OF THE BOROUGH OF KIRKLEES (1)

and

ORION HOMES LIMITED (2)

Section 106 of the Town and Country Planning Act 1990 (as amended)

SUPPLEMENTAL AGREEMENT AND PLANNING OBLIGATION

Land at Bankfield Drive, Holmbridge, Holmfirth, HD9 2PH

Application Reference No. 2023/91212/W & 2026/44/91276/E

WALKER MORRIS LLP

33 Wellington Street

LEEDS

LS1 4DL

Tel: 0113 2832500

Fax: 0113 2459412

Ref: JYK/EWC/ORI06549.1

THIS AGREEMENT is made on the day of

2026

BETWEEN:-

- (1) **THE COUNCIL OF THE BOROUGH OF KIRKLEES** of Town Hall, Huddersfield, West Yorkshire, HD1 2TA (the “**Council**”); and
- (2) **ORION HOMES LIMITED** (Company Registration No. 01428718) whose registered office is at 5 Benton Office Park, Bennett Avenue, Benton Hill, Horbury Wakefield, WF4 5RA (the “**Owner**”).

together the “**Parties**” and reference to “**Party**” shall be construed accordingly.

WHEREAS:-

- (A) By virtue of the 1990 Act the Council is the local planning authority for the purposes of this Agreement for the area in which the Site is situated and is the authority by whom the planning obligations hereby created are enforceable.
- (B) The Owner is the registered freehold proprietor of the Site registered at HM Land Registry under the whole of title number WYK767619.
- (C) The Parties have agreed that the Owner shall make a financial contribution towards the cost of the Off-Site Highway Improvements and the Council shall carry out the same in satisfaction of Condition 10.
- (D) The Parties agree that the provisions of the Principal Agreement shall continue to apply to the Development carried out pursuant to the Planning Permission save for where such provisions have already been complied with by the Owner.
- (E) This Agreement is supplemental to the Principal Agreement.
- (F) The Owner by entering into this Agreement does so to create planning obligations in respect of the Site and each part of it in favour of the Council pursuant to section 106 of the 1990 Act and to be bound by and observe and perform the covenants agreements conditions and stipulations hereinafter contained.

AGREED TERMS

1. DEFINITIONS AND INTERPRETATION

1.1. In this **AGREEMENT** the following expressions shall have the following meanings:

“1990 Act”	means the Town and Country Planning Act 1990;
"Agreement"	means this Agreement;
“Anticipated Completion Date”	means the target date of 3 September 2027 for the completion of the Off-Site Highway Improvements;
“Application to Discharge”	means the application to discharge Condition 10 given reference 2026/44/91276/E by the Council;
"Commence"	means the carrying out of any part of the Off-Site Highway Improvements and reference to “Commenced” and “Commencement” shall be construed accordingly;
“Condition 10”	means condition 10 of the Planning Permission relating to the Off-Site Highway Improvements;
“Development”	means the development of the Site in accordance with the Planning Permission;
“Dwelling”	means a residential unit that may be built on the Site in accordance with the Planning Permission and reference to “Dwellings” shall be construed accordingly;
“Expert”	means an independent person of at least 10 (ten) years standing in the area of expertise relevant to the dispute to be agreed between the parties to this Agreement or, failing agreement, to be nominated at the request and option of any of them, at their joint expense, by or on behalf of the President for the time being of the Law Society of England and Wales;
"Occupy"	to occupy for the purposes permitted by the Planning Permission but not including occupation by personnel engaged in construction, fitting out or decoration,

marketing, display or security of the Development and **'Occupied'** shall be construed accordingly;

"Off-Site Highway Contribution"

means the sum of £114,664.12 (one hundred and fourteen thousand six hundred and sixty-four pounds and twelve pence) to be paid by the Owner to the Council in accordance with Schedule 1 of this Agreement towards the delivery of the Off-Site Highway Improvements;

"Off-Site Highway Improvements"

means the off-site highway works indicatively shown on Plan 2 or such drawing or plan as may replace it in accordance with paragraph 3.1 of Schedule 2;

"Plan 1"

means the plan Appended to this Agreement at Annex 1 and labelled with reference Location Plan 20.01.21 showing the Site and marked 'Plan 1';

"Plan 2"

means the plan Appended to this Agreement at Annex 2 and labelled with reference HD/50/61901/S106 revision P02 showing the Off-Site Highway Improvements and marked 'Plan 2';

"Planning Obligations"

means the obligations conditions and stipulations set out in Schedule 1;

"Planning Permission"

means the planning permission granted by the Council under reference 2023/62/91212/W for the erection of 21 dwellings with access from Laithe Avenue;

"Practically Complete"

means the stage immediately prior to the maintenance period at which the Off-Site Highway Improvements are capable of being safely and lawfully used for their intended purpose notwithstanding minor defects or outstanding works which do not materially affect their use or safety;

"Principal Agreement"	means the deed dated 6 March 2025 entered into pursuant to section 106 of the 1990 Act and made between (1) the Council and (2) the Owner;
"Site"	means the Land at Bankfield Drive, Holmbridge, Holmfirth shown edged red on Plan 1;
"Statutory Undertaker"	means any company corporation board or authority at the date of this Agreement authorised by statute to carry on an undertaking for the supply of telephone and television communications electricity gas water or drainage and any authorised successor to any such undertaking;
"TTRO"	means a temporary traffic regulation order made under section 14 of the Road Traffic Regulation Act 1984;
"TTRO Notice"	means the notice of the intention to make a TTRO published in accordance with the Road Traffic (Temporary Restrictions) Procedure Regulations 1992;
"Working Day"	means any day from Monday to Friday inclusive which is not Christmas Day, Boxing Day, Good Friday, Easter Monday or a Statutory Bank Holiday and the term "Working Days" shall be construed accordingly.

1.2. Where the context so requires:

- 1.2.1. Reference in this Agreement to any enactment shall be construed as a reference to that enactment as amended extended or re-enacted or repealed by or under any other enactment and shall include all instruments orders and regulations for the time being made, issued or given under that enactment.
- 1.2.2. Words importing one gender shall be construed as importing any gender and words importing the singular shall be construed as importing the plural and vice versa.
- 1.2.3. Any words denoting natural person shall include legal persons and vice versa.
- 1.2.4. References to clauses paragraphs and schedules are references to clauses paragraphs and schedules to this Agreement.

- 1.2.5. The expression the “Owner” shall include their successors in title and assigns.
- 1.2.6. The expression "the Council" shall include any successor authority to its statutory functions under the 1990 Act.
- 1.2.7. Where a covenant, restriction or requirement is expressed to be given by more than one Party, or where a Party is comprised of more than one person, liability for such covenant, restriction or requirement shall be joint and several.
- 1.2.8. Any covenant by the Owner not to do any act or thing shall be deemed to include a covenant not to cause permit or suffer the doing of that act or thing.
- 1.2.9. Clause headings shall not affect the construction of this Agreement.
- 1.2.10. Any phrase introduced by the terms ‘including’ ‘include’ ‘in particular’ or any similar expression shall be construed as illustrative and shall not limit the sense of the words preceding those terms.

2. STATUTORY BASIS

- 2.1. This Agreement is made pursuant to section 106 of the 1990 Act and binds the Site and as such is enforceable pursuant to section 106(3) of the 1990 Act by the Council against the Owner and any person claiming or deriving title to the Site (or any part or parts thereof) through or under the Owner as if that person had been an original covenanting party to this Agreement.
- 2.2. This Agreement is enforceable by the Council as local planning authority for the purposes of the 1990 Act.
- 2.3. To the extent that the covenants restrictions and requirements in this Agreement are not made under section 106 of the 1990 Act they are made under section 1 of the Localism Act 2011 and section 111 of the Local Government Act 1972 and all other powers so enabling.

3. CONDITION PRECEDENT

- 3.1. This Agreement shall take effect immediately upon the date of completion.

4. COVENANTS & DECLARATIONS

- 4.1. The Owner covenants with the Council to comply with the Planning Obligations in Schedule 1 of this Agreement.

- 4.2. The Council covenants with the Owner to comply with the obligations on its part in Schedule 2 of this Agreement.

5. EXCLUSIONS & RELEASE

- 5.1. No Party shall be bound by the terms of this Agreement or be liable for the breach of any covenants restrictions or obligations contained in this Agreement:

5.1.1. occurring prior to he or it acquiring an interest in the Site or the part in respect of which such breach occurs;

5.1.2. occurring after he or it has parted with his or its interest in the Site or the part in respect of which such breach occurs (but without prejudice to liability for any subsisting breach of covenant prior to parting with such interest);

5.1.3. if he she or it shall be an individual owner, individual occupier or individual lessee of individual Dwellings or if it shall be a mortgagee and/or chargee and/or their respective successors in title and/or receiver appointed by the mortgagee and/or chargee of a Dwelling; or

5.1.4. if it is a Statutory Undertaker which has an interest in any part of the Site for the purposes of its undertaking.

- 5.2. If the Planning Permission is revoked or otherwise withdrawn or modified without the consent of the Owner or their successors in title this Agreement shall cease to have effect from the date of the said expiration revocation withdrawal or modification (as the case may be) but without prejudice to any rights liabilities or obligations which may have been incurred by or shall have accrued to any party prior to such date.

- 5.3. No obligation in this Agreement shall be binding on or enforceable against any chargee or mortgagee from time to time who shall have the benefit of a charge or mortgage of or on any part of the Site (or any receiver appointed by such chargee or mortgagee) unless and until such charge, mortgagee or receiver (or any person appointed by them) has taken or entered into possession of the Site or part thereof in which case it will also be bound by the covenants, restrictions and obligations in this Agreement as if it were a person deriving title from an original covenanting party.

6. REGISTRATION

- 6.1. This Agreement is a local land charge and may be registered as such by the Council.
- 6.2. Following either:
- 6.2.1. the performance and satisfaction of all the Planning Obligations contained in this Agreement; or
- 6.2.2. the determination of this Agreement in accordance with Clause 5.2;

the Council shall upon the written request of the Owner as soon as reasonably practicable effect the cancellation of all entries made in the Register of Local Land Charges in respect of this Agreement.

7. NON-FETTER & WAIVER

- 7.1. Nothing in this Agreement restricts or is intended to restrict the proper exercise at any time by the Council of any of its statutory powers, functions or discretions.
- 7.2. No waiver (whether expressed or implied) by the Council of any breach or default in performing or observing any of the covenants terms or conditions of this Agreement shall constitute a continuing waiver and no such waiver shall prevent the Council from enforcing any of the relevant terms or conditions or for acting upon any subsequent breach or default.
- 7.3. Nothing in this Agreement shall prohibit or limit the right to develop any part of the Site in accordance with a planning permission (other than the Planning Permission or specified in a section 73 application to which Clause 14 applies) granted before or after the date of this Agreement.

8. VAT

All payments given in accordance with this Agreement shall be exclusive of any value added tax properly payable.

9. SEVERANCE

If any provision in this Agreement shall in whole or in part be held to be invalid, illegal or unenforceable under any enactment or rule of law such provisions shall to the extent required be severed from this Agreement and shall not affect the validity or enforceability of the remaining provisions of this Agreement.

10. CHANGE OF OWNERSHIP

The Owner agrees with the Council to give written notice to the Council within 20 (twenty) Working Days of any change in ownership of any of its interests in the Site occurring before all the obligations under this Agreement have been discharged such notice to give details of the transferee's full name and registered office (if a company or usual address if not) together with the area of the Site purchased by reference to a plan **PROVIDED THAT** this obligation shall not apply to a sale or disposal of an individual Dwelling or to the disposal of part of the Site to a Statutory Undertaker for the purposes of its undertaking.

11. THIRD PARTY RIGHTS

No person who is not a Party to this Agreement may enforce any terms hereof pursuant to the Contracts (Rights of Third Parties) Act 1999 **PROVIDED THAT** this clause shall not affect any right of action of any person to whom this Agreement has been lawfully assigned or becomes vested in law including successors in title to the Site.

12. COSTS

- 12.1. The Council acknowledges that the Owner has prior to the date hereof paid the reasonable legal costs of the Council incurred in the preparation, negotiation and completion of this Agreement.

13. DISPUTE RESOLUTION

- 13.1. Any dispute arising between the parties relating to any matter contained in this Agreement may be referred to the Expert by any Party.
- 13.2. The Expert will act as an expert and not as an arbitrator.
- 13.3. Each Party will bear its own costs and the Expert's costs will be paid as determined by him.
- 13.4. The Expert will be required to give notice to each of the Parties, inviting each of them to submit to him written representations and cross representations with such supporting evidence as they shall consider necessary and the Expert shall have regard thereto in making his decision.
- 13.5. The Expert's decision will be given in writing as expediently as possible with reasons and in the absence of manifest error or fraud will be final and binding on the Parties.

14. FUTURE PERMISSIONS

- 14.1. In the event that the description of Development or a condition or conditions to the Planning Permission is or are varied pursuant to section 96A of the 1990 Act this Agreement shall continue in full force in respect of the Planning Permission with the relevant condition or conditions as so varied.
- 14.2. In the event that any new planning permission(s) are granted by the Council pursuant to section 73 of the 1990 Act (as amended) and unless otherwise agreed in writing between the parties:
- 14.2.1. The obligations in this Agreement shall relate to and bind any subsequent planning permission(s) in respect of the Site granted pursuant to section 73 of the 1990 Act and the Site itself and this Agreement shall apply to and bind the Owner in respect of that subsequent planning permission; and
- 14.2.2. The definitions of Application, Development and Planning Permission in this Agreement shall be construed to include reference to any application under section 73 of the 1990 Act, the planning permissions granted thereunder and the development permitted by such subsequent planning permissions;

PROVIDED THAT nothing in this clause shall fetter the discretion of the Council in determining any application(s) under section 73 of the 1990 Act or the appropriate nature and/or quantum of section 106 obligations in so far as they are materially different to those contained in this Agreement and required pursuant to a determination under section 73 of the 1990 Act whether by way of a new deed or supplemental deed pursuant to section 106 of the 1990 Act.

15. NOTICES

- 15.1. Any notice given to a party under or in connection with this Agreement shall be in writing and shall be delivered by hand or pre-paid first class post or other next working day delivery service at its registered office (if a company) or its principal place of business (in any other case).
- 15.2. Any notice shall be deemed to have been received and served:
- 15.2.1. if delivered by hand, at the time the notice is left at the proper address (unless received after 5pm or on a non Working Day in which case it shall be deemed received and served at 9am on the next Working Day; or
- 15.2.2. if sent by pre-paid first-class post or other next working day delivery service at 9:00am on the second Working Day after posting.

15.3. This clause does not apply to the service of any proceedings or other documents in any legal action or, where applicable, any arbitration or other method of dispute resolution.

16. JURISDICTION

This Agreement is governed by and interpreted in accordance with the law of England and Wales and the parties submit to the exclusive jurisdiction of the courts of England and Wales.

17. DELIVERY

Subject to clause 3 the provisions of this Agreement (other than this clause which shall be of immediate effect) shall be of no effect until this Agreement has been dated.

THE PARTIES HEREBY WITNESS that this Agreement has been executed as a deed and is delivered and takes effect on the date stated at the beginning of it.

SCHEDULE 1
(Owner's Planning Obligations)

The Owner hereby covenants with the Council as follows:

1 OFF-SITE HIGHWAY CONTRIBUTION

- 1.1 To pay the Off-Site Highway Contribution to the Council on completion of this Agreement.
- 1.2 Not to cause or permit the Occupation of more than 13 (thirteen) Dwellings (or such other number which may be agreed in writing between the Parties acting reasonably) prior to receipt of the Council's notice issued pursuant to paragraph 4.2 of Schedule 2 confirming that the Off-Site Highway Improvements have Commenced.

SCHEDULE 2

(Council's Covenants)

1 RECEIPT OF CONTRIBUTIONS

- 1.1 The Council shall place the Off-Site Highway Contribution in an interest-bearing account.
- 1.2 The Council shall use the Off-Site Highway Contribution towards carrying out the Off-Site Highway Improvements and for no other purpose.
- 1.3 The Council shall upon written request repay the Off-Site Highway Contribution or parts thereof paid to it under this Agreement (plus any actual interest accrued) to the person who made the payment if not allocated or committed or expended within 10 (ten) years from the date of payment.

2 DISCHARGE OF CONDITION 10

- 2.1 Subject always to receipt of the Off-Site Highway Contribution in accordance with paragraph 1.1 of Schedule 1 the Council shall within 10 (ten) Working Day of the date of this Agreement issue the decision notice confirming the discharge of Condition 10 pursuant to the Application to Discharge.

3 DESIGN OF OFF-SITE HIGHWAY IMPROVEMENTS

- 3.1 The Council may make such alterations revisions or variations to the design of the Off-Site Highway Improvements as are necessary in the reasonable opinion of the Council at its sole discretion to enable the Off-Site Highway Improvements to be carried out effectively lawfully and safely to its required standards and shall be under no obligation to consult or gain the approval of the Owner.
- 3.2 FOR THE AVOIDANCE OF DOUBT the Owner shall not be required to make a further financial contribution towards the cost of the Off-Site Highway Improvements should the design of the same be altered revised or varied in accordance with paragraph 3.1.

4 COMMENCEMENT OF HIGHWAY WORKS

- 4.1 The Council shall provide written notice to the Owner of the anticipated date the Off-Site Highway Improvements shall Commence within 5 (five) Working Days of the publication of the TTRO Notice.
- 4.2 The Council shall provide written notice to the Owner that the Off-Site Highway Improvements have Commenced and that the restriction in paragraph 1.2 of Schedule 1 is discharged within 5 (five) Working Days of Commencement.
- 4.3 The Council shall use its reasonable endeavours to Practically Complete the Off-Site Highway Improvements on or before the Anticipated Completion Date and shall be under no obligation to consult gain the approval of or pay any penalty to the Owner should the Off-Site Highway Improvements not be Practically Complete by the Anticipated Completion Date.

THE CORPORATE COMMON SEAL of

THE COUNCIL OF THE BOROUGH OF

KIRKLEES was hereunto affixed

in the presence of:

.....
Service Director Legal, Governance and Commissioning

or

Authorised Signatory

EXECUTED as a **DEED** (but not
delivered until the date hereof) by
ORION HOMES LIMITED acting by a
Director
in the presence of:

Witness Signature:

Witness Name:

Witness Address:

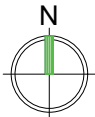
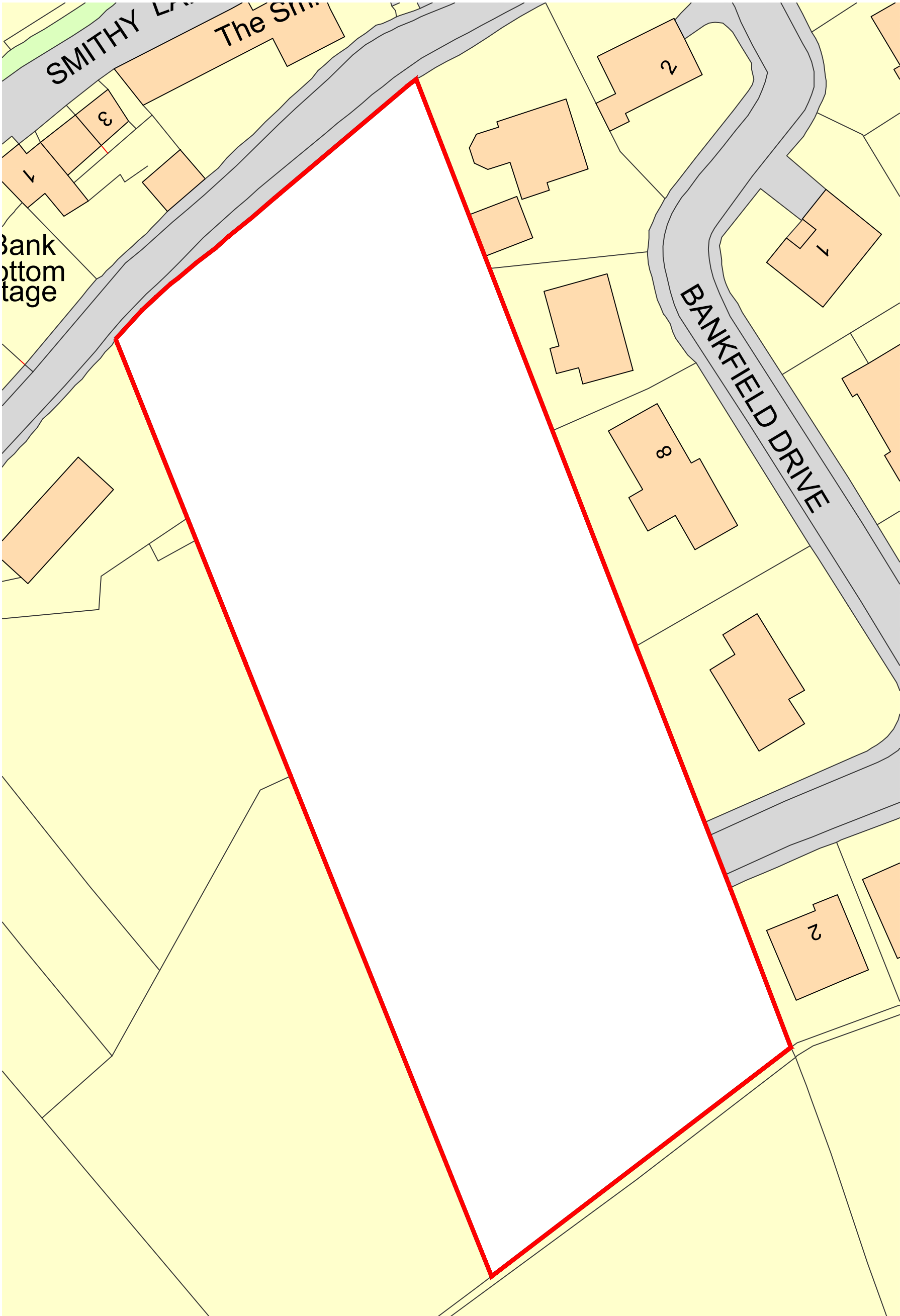
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Witness Occupation:

ANNEX 1

PLAN 1 – SITE PLAN

Bankfield Drive, Holmebridge



Revision notes:		
Rev:	Date:	Notes:

Revision notes:		
Rev:	Date:	Notes:

Revision notes:		
Rev:	Date:	Notes:

Date: 20.01.21	Project: Bankfield Drive, Holmebridge
Scale @ A3: 1:500	Drawing Number: Location Plan
Drawn By: CD	Revision: -

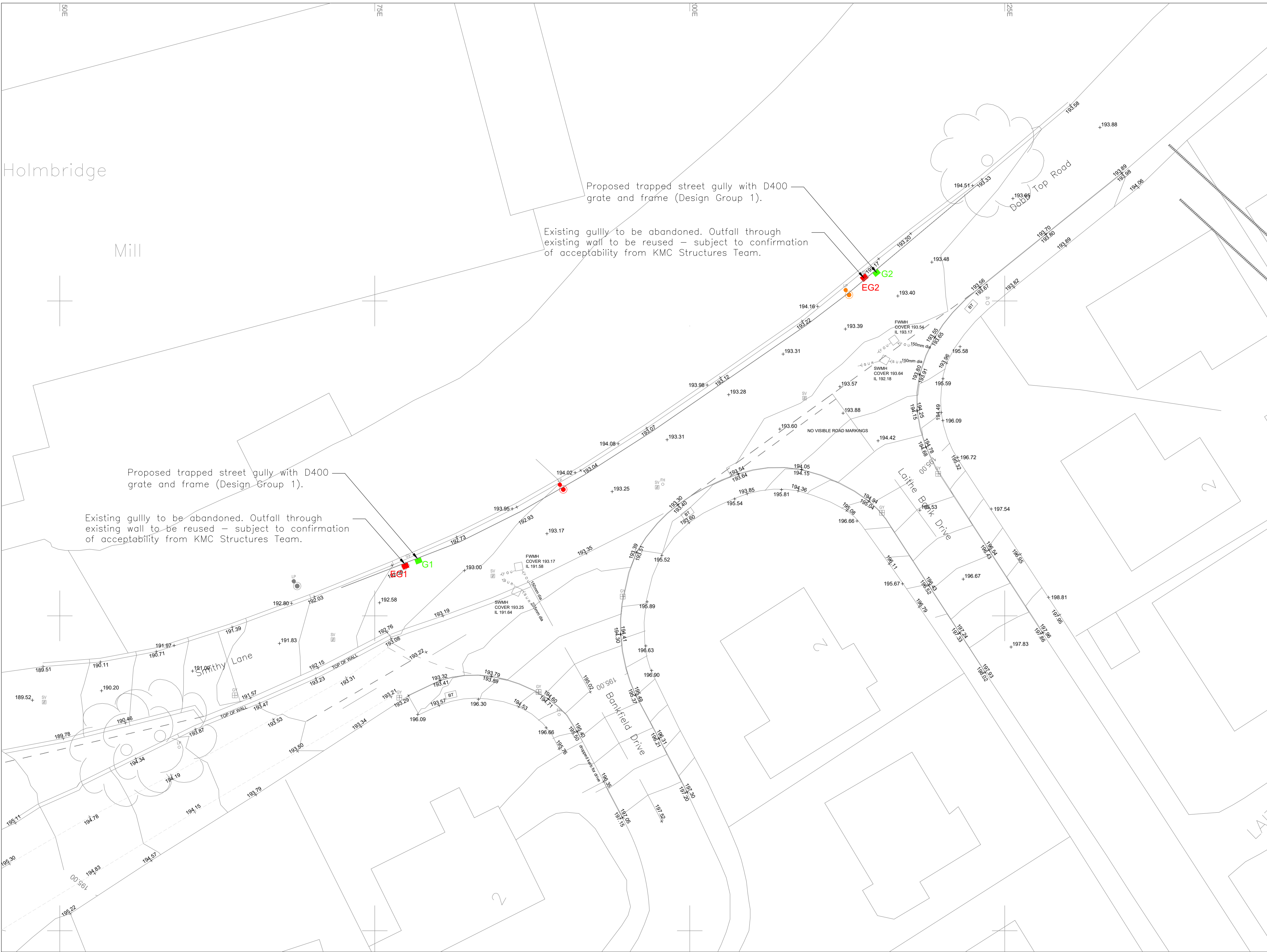
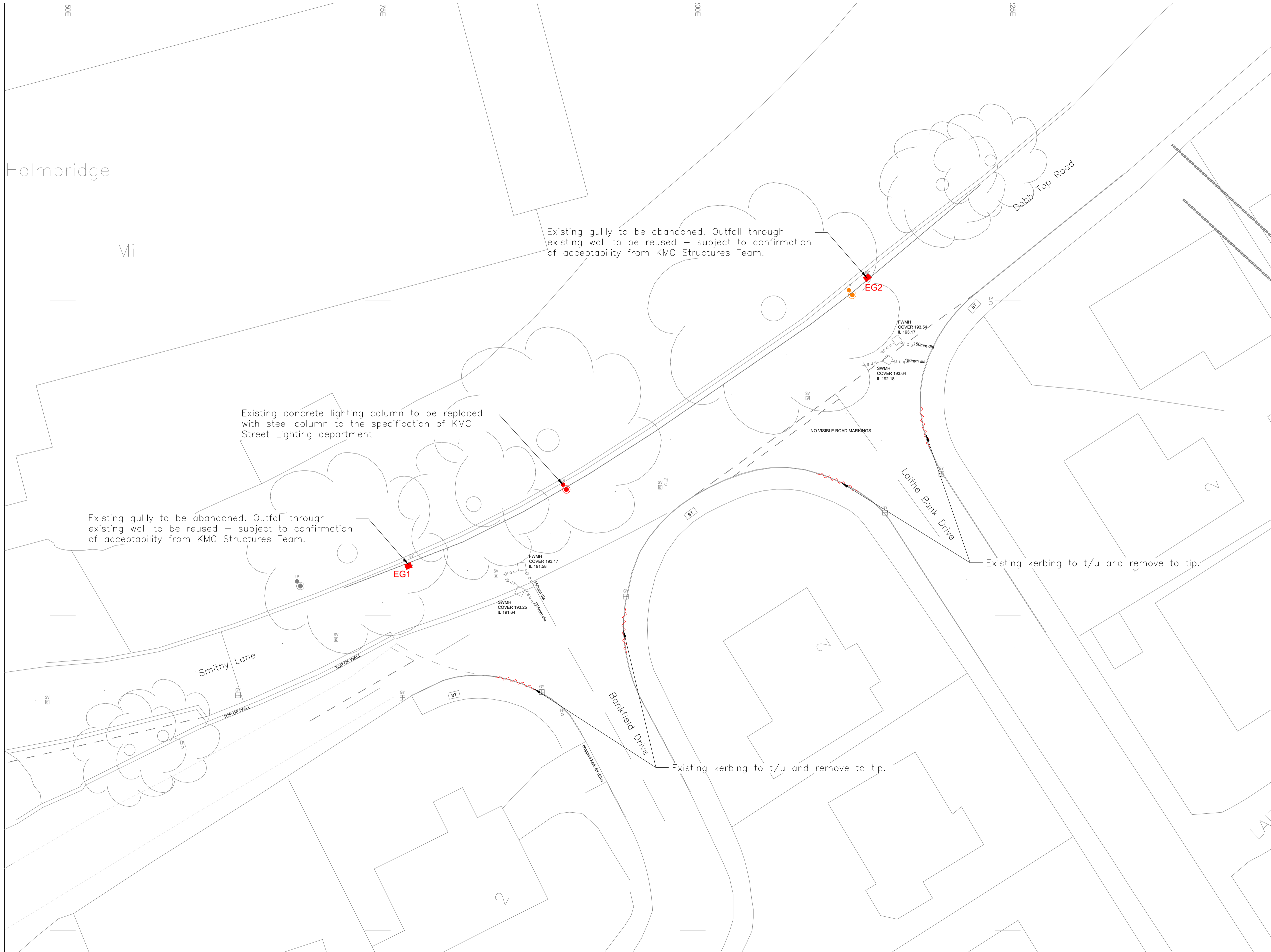


SO GOOD TO COME HOME TO

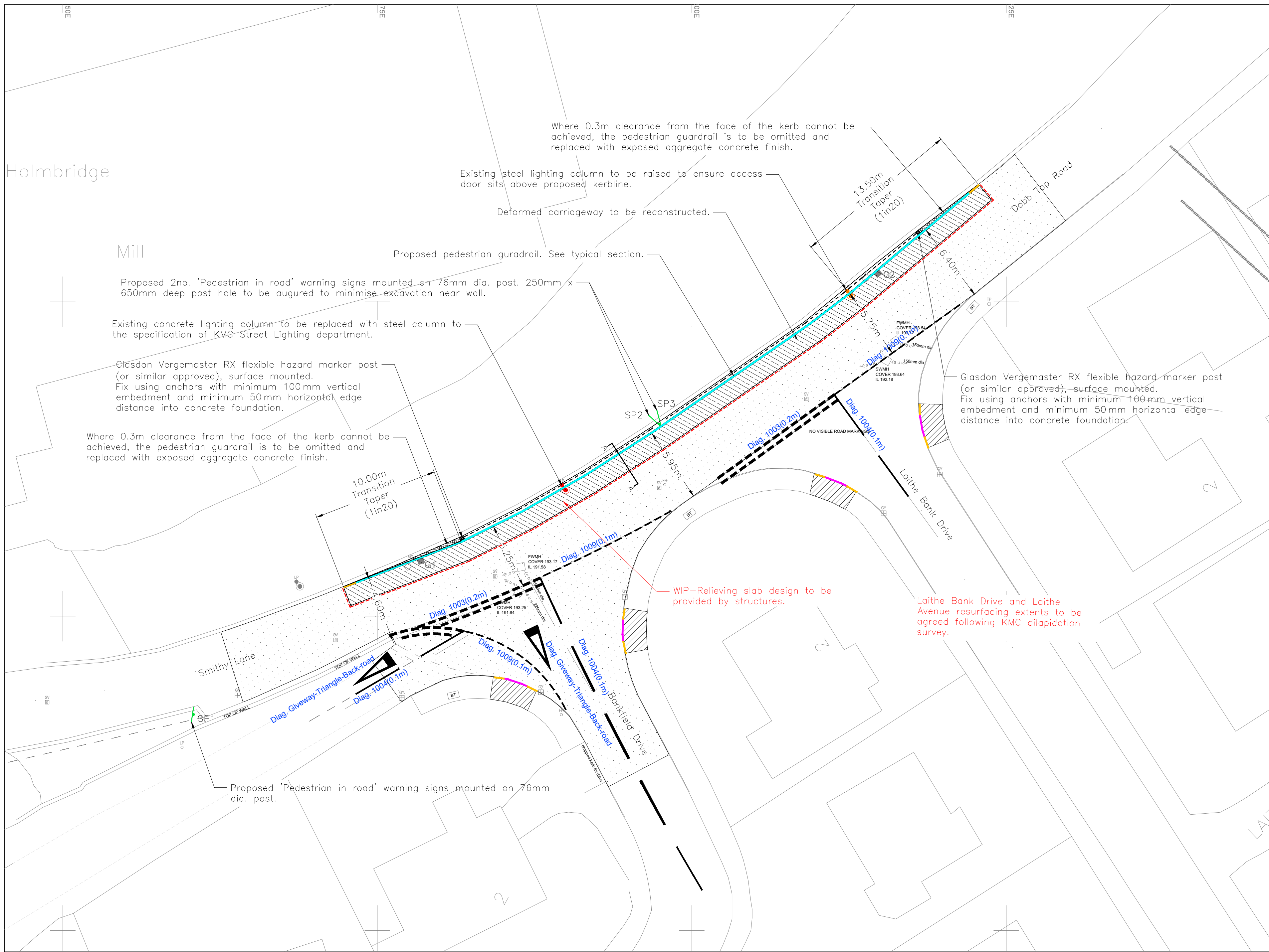
Unit 5, Benton Office Park, Bennett Avenue,
Horbury, Wakefield, WF4 5PA, Tel: 01524 531030

ANNEX 2

PLAN 2 – OFF-SITE HIGHWAY IMPROVEMENTS



- NOTES:
1. All Highway Works to be constructed in accordance with the Construction drawings and Kirklees Highways standard details.
 2. All Highway Works to be adoptable standards and shall fully comply with the Local Authority Specification and where necessary the relevant sections of the Design Manual for Roads and Bridges Specification and British Standards.
 3. All materials to bear the relevant B.S. Kitemark and comply fully with the specifications.
 4. The quality of soil is assumed to be "poor" in the absence of geotechnical data.
 5. All statutory consents, opening notices etc. as required under the Highways Acts and Water Industries Acts are to be obtained by the Contractor prior to commencement of the Works (Unless stated otherwise). All Works are to be inspected by the Statutory Authority.
 6. Presence of Statutory Undertakers equipment in the Highway should be verified by the Contractor on site prior to starting any Works. The location of statutory plant shown on any plans is indicative only and should not be relied upon for the location of any pipe/cable or cabling. The Contractor should confirm the location of all static plant by hand dug trial trenches prior to commencing Works. All dimensions to be checked/verified on site if required with supervisor. Contractor to check existing and proposed levels at tie in points before commencement of works.
 7. Any discrepancies noted on site are to be reported to the supervisor immediately.
 8. Contractor to check existing and proposed levels at tie in points before commencement of works.
 9. Vehicle and pedestrian access to properties to be maintained at all times.



KEY:--

SITE CLEARANCE:

- Existing kerbing to t/u and remove to tip.
- Abandon existing gully. Outfall through existing wall to be reused subject to confirmation of acceptability of KMC Structures Team.
- Existing concrete lighting column to be replaced with steel column to the specification of KMC Street Lighting department.

DRAINAGE:

- Abandon existing gully. Outfall through existing wall to be reused subject to confirmation of acceptability of KMC Structures Team.
- Proposed trapped street gully with D400 grate and frame (Design Group 1).

CONSTRUCTION:

- Proposed half battered kerbs Type K1/150 (125mm upstand)
- Proposed transition kerbs Type K14/150 or K16/150
- Proposed dropped kerbs Type K15/150 (6mm upstand)
- Proposed pedestrian guardrail - refer to typical section for installation guidance
- Proposed new footway construction comprising:-
 - 25mm thick AC8 close surf.
 - 100/150 surface course
 - 40mm thick AC20 dense base
 - 100/150 binder course
 - 100mm thick Type 1 subbase
 - Regulate with Type 1 subbase as required
- Proposed carriageway reinstatement comprising:-
 - 25mm thick AC10 dense surf.
 - 100/150 surface course (68 PSV)
 - 60mm thick AC20 dense base
 - 100/150 binder course
 - 85mm thick AC32 dense base
 - 100/150 base course
 - Regulate with AC32 dense base 100/150 base course as required
- Plane out 0 - 40mm and replace with:-
 - 40mm thick AC10 dense surf
 - 100/150 surface course (68 psv)
- Proposed concrete relieving slab - pending structures design and specification
- Proposed 'Pedestrians in road' sign plate mounted on 76mm post
- Glasdon Vergemaster RX flexible hazard marker post (or similar approved), surface mounted. Fix using anchors with minimum 100mm vertical embedment and minimum 50mm horizontal edge distance into concrete foundation.
- Existing concrete lighting column to be replaced with steel column to the specification of KMC Street Lighting department.
- Existing steel lighting column to be raised to ensure access door sits above proposed kerbline.

Scheme Ref.	
Sign Reference	544.1
Diag No.	544.1
TSRGD Ref.	S2-2-23
Height	600 mm
Width	680 mm
Mount Height	2300
Area	0.24 m²
Material	Class R3B-UK
* Area reduced for rounded corners.	

WIP - PENDING RELIEVING SLAB DESIGN

TYPICAL SECTION A - A
SCALE: 1:20

DRAFT

REF.	DATE	REVISIONS
1	25/06/2018	Design with design to maintain carriageway width. Changes to be made for safety, additional road lighting and guardrails.

Kirklees COUNCIL
Streetscene and Housing Service
Highways Service
Kirklees Council
PO Box 1720
Huddersfield HD1 9EL

SECTION HIGHWAY DESIGN & S278

DRAWN LE CHECKED BV

SCALE 1:500 @A0 PROJECT NO. 5061901 DATE JULY 26

PROJECT ORION HOMES
BANFIELD DRIVE,
HOLMBRIDGE

TITLE S278 POST-CONSTRUCTION
DILAPIDATION SURVEY

DRAWING No. HD/50/61901/S106

CAD No.