

Examination into Lewes District Local Plan Part 2 Site Allocations and Development Management Policies – Inspector's Matters, Issues, and Questions Discussion Note

Please find below our responses to the Inspector's Matters, Issues, and Questions Discussion Note on behalf of Plumpton Action Group. The Action Group's interest relates to Policy GT01.

We confirm that we have followed the Guidance Note from the Inspector.

We can also confirm we would like to attend the Examination and present our case that Policy GT01 should be deleted from the LLPP2 orally.

3.7 Gypsies and Travellers

<u>Is policy GT01, which allocates a site for the provision of 5 net additional permanent</u> <u>Gypsy and Traveller pitches on land south of The Plough, to the north of Plumpton</u> <u>Green village, justified and in accordance with national planning policy?</u>

- 1. Policy GT01 is in breach of national policy and is unjustified.
- 2. The PPTS of August 2015 requires there to be policies which are *specific* to the needs of 'gypsies and travellers' as defined in that document. Thus the PPTS requires an assessment of the needs of this group, a pitch target for this group and policies to ensure a 5 year supply of pitches assessed against this target (see PPTS paragraphs 9 and 10).
- 3. The needs of all other caravan-dwellers should be met by provision made under general housing policies, including general policies for caravan sites see NPPF paragraph 73 fn36. Failure to demonstrate a 5 year supply of gypsy pitches as required by paragraph 10(a) of the PPTS does <u>not</u> cause any policy to become out-of-date under paragraph 11(d) of the NPPF (and see the Technical Adjustment).

- 4. GT01 is the only policy in the LLPP2 which addresses the needs of gypsies and travellers but it has not been formulated in accordance with the PPTS. It assumes the requirement (5 pitches) of policy 3 of the Core Strategy: this was based on a GTAA which was carried out under the pre-August 2015 definition of 'gypsy and traveller'. The application of the new definition requires each household to be interviewed, with a view to establishing whether it is currently maintaining a nomadic habit of life or has only ceased to do so temporarily. It follows that the results of pre-August 2015 GTAAs cannot be somehow carried forward: such GTAAs should be discarded and new ones commissioned. Most other plan-making authorities appear to have grasped this.
- 5. For the avoidance of any doubt there is no post-August 2015 GTAA in Lewes. CD049 is a GTAA dated January 2015 and was carried out between February and April 2014 with a base date of 1 February 2014 (see p7 paragraph 3). There is no other GTAA in the index of Core Documents. The references in paragraph 2.133 of the submission draft (a GTAA 'was undertaken over 2015') and in paragraph 2.3 of the Background Paper ('the level of need was established through the 2016 East Sussex and South Downs National Park Authority Gypsy and Travelling Showpeople Accommodation Assessment') are simply wrong.
- 6. The Council appears to rely on the pre-August 2015 definition in paragraph 2.142 of the submission draft.
- 7. The Council makes no attempt in its evidence base to suggest that it has complied with the current PPTS in formulating GT01. Neither the Background Paper nor the submission draft refers to the change in the definition, let alone the implications of this. Objectors are left wondering whether the Council actually appreciates the significance of the change in the definition and the significance of the timing of the January 2015 GTAA upon which the Council relies. There is no commitment to carry out a fresh GTAA.
- 8. In the Background Paper at paragraph 2.1 the Council asserts that the Core Policy 3 'provides a framework for the provision of gypsy and traveller accommodation ... in line with national planning policy'. A footnote then refers to the 2015 PPTS. The Council fails to grasp that, far from being in accordance with the 2015 PPTS, Core Policy 3 is rendered out-of-date by the 2015 PPTS.

9. Without prejudice to the above the allocation the site at Station Road is not justified for the following reasons.

No funding for public ownership

- 10. The Council appears to contemplate public ownership of the site, although this is not revealed in the policy or the explanatory text. This is an unusual and important feature of the proposed allocation. Allocations normally contemplate private ownership eg allocation of land owned by gypsies and travellers (often the expansion of existing sites or existing sites with temporary planning permission) or land that is part of major development sites.
- 11. Paragraph 4.1 of the Background Paper notes, inter alia:

"The Council is investigating the grant funding available from central government to assist in the delivery of the site"

"The costs of delivery are not known"

"It is not immediately clear how this land use with a low and protracted rate of return would be delivered without substantial assistance from central Government"

- 12. It is thus clear that the Council does not have its own resources to acquire and develop the site. There is no suggestion that it has secured any Government funding indeed it does not appear to know how much Government funding it needs.
- 13. In these circumstances, even if the site were to be allocated, it would not count as either deliverable or developable for the purposes of paragraph 10 of the PPTS (see footnotes 4 and 5). In these circumstances an allocation is not justified.

Access to the site cannot be achieved

- 14. Paragraph 4.3 of the Background Paper indicates that the existing access at the southern end of the objection site will be utilised (and see appx E). In fact the objection site has a frontage along Station Road and it would be possible to configure the site so as to take access from other points along the frontage.
- 15. Plumpton Action Group has commissioned Reeves Transport Planning to determine whether as the Council allege in its background paper at paragraph 4.3:

"The required visibility splays can be achieved for the existing access onto Station Road to be utilised, however some minor works to the hedgerow may be required and routine maintenance will be necessary."

16. It cannot. The Reeves Transport Planning Technical Note considers both reuse of the existing access and a new access at the northern end of the frontage. It concludes:

> "The southern access location shown at Appendix 3 is not deliverable because the visibility splays required would cross third party land or exceed maximum acceptable gradients. The north access location shown at Appendix 5 is not deliverable because the visibility spays are over a section of Station Road that exceeds maximum gradients. The nature of the traffic and excessive gradients would result in an increased risk of accidents. This contracts guidance in the DMRB. In addition, the delivery of the southern visibility splay [of the north access] would result in over 22 metres of hedgerow being removed."

A copy of the Technical Note has been included at Appendix A.

17. Reeves Transport Planning have confirmed that any access taken from the middle of the frontage would suffer from the same problems as a northern access in that anywhere along the frontage at least one splays is steeper than a 4% gradient. 18. The loss of a significant length of hedgerow would have a substantial impact on the rural character of the area and would directly contradict the comments of the County Landscape Architect found at Appendix C of the Background Paper. These state that:

"The key landscape considerations will be to:

Retain and protect the existing hedge along the road side and the mature oak trees along the southern boundary."

No adequate consideration of alternative sites

19. The selection process is not demonstrably robust (see below).

Bearing in mind the guidance contained in the National Planning Policy Traveller Sites 2015 (PPTS2) and in Section 41 of the PPG on the relationship between Local Plans and Neighbourhood Plans:

(i)Firstly, is policy GT01 in conformity with the requirements of Core Policy 3 (Gypsy and Traveller Accommodation) of the Lewes Joint Core Strategy 2010-2030?

- 20. The allocation of a site for 5 pitches in Lewes outside the National Park is plainly in accordance with Core Policy 3. The problem is that, in requiring such an allocation, Core Policy 3 is based on out-of-date evidence, is not in accordance with current national policy and would be removed if the Strategy were being examined today.
- 21. The allocation of the objection site does not comply with criterions 2, 4 or 6 of Core Policy 3.
- 22. The site is not well related to and does not have reasonable access to the existing services and facilities of Plumpton Green. It is the site is 1500 metres from the post office and village store. The LLPP2 acknowledges *"the site is not within a reasonable walking distance of these facilities"* at paragraph 2.136. One factor relevant to this assessment is the absence of a footway between the site and the village. The site does not comply with criterion 2.
- 23. The site cannot deliver safe and convenient vehicular access to the road network (see above). It does not comply with criterion 4.

24. The site would not achieve adequate levels of privacy for residents. As Mr. Kenyon's representations show, there would be inadequate levels of privacy for future residents of the site as a result of overlooking from his property Downhurst. The Inspector is invited to view the proposed site from Mr. Kenyon's property. It does not comply with criterion 6.

(ii) If policy GT01 does not accord with Core Policy 3, has the Council considered alternative sites as part of the preparation of the Plan?

- 25. The objector submits that the Council must show that the proposed allocation of the objection site follows a proper consideration of alternative sites, in order to comply with its SEA obligations. In other words, evidence a proper consideration of alternatives is required whether or not GT01 accords with Core Policy 3.
- 26. The evidence adduced by the Council does not begin to show that a proper selection process, with proper investigation of alternative sites, has been carried out.
- 27. The last time the Council considered the merits of <u>any</u> alternative sites was in 2010-2012, for the purposes of the Part 1 Core Strategy. It was originally intended that the Core Strategy would make allocations for gypsy pitches (Background Paper paragraph 3.1) but this was not possible <u>because</u> the 2010-2012 appraisal failed. The Core Strategy records that 'no specific deliverable sites have been identified in the Site Assessment work undertaken to date' (7.36). The objection site and adjoining land were considered as part of the 2010-2012 exercise and were rejected for a development of 13 pitches for access reasons (Background Paper 3.4). Other sites were also rejected on the basis of inadequate access.
- 28. It is quite clear from the Background Paper and the SEA that there had been <u>no</u> further consideration of alternative sites before the promotion of the objection site in the LLPP2. Paragraph 9.59 of the SEA refers to the failed 2010-2012 assessment. It then refers to a call for sites made as part of the preparation for LLPP2. Paragraph 9.60 then asserts that 'all potential gypsy and traveller accommodation sites [sic] were subject to the same initial filters in line with national guidance'. The meaning of paragraph 9.62 is obscure. But it is clear from paragraphs 9.65 and 9.66 that the Council had no fresh sites to consider. Neither the neighbourhood plans nor the call for sites produced anything and it is also known that no potential gypsy sites were suggested at the 'Consultation Draft' stage of the LLPP2 and none emerged when

the Council looked at its own landholdings. So what were the 'potential gypsy and traveller accommodation sites' which were subject to filters? And where is this filtering revealed? The only assessment of 'sites' set out in the SEA is the failed 2010-2012 exercise (see Appendix G).

- 29. Appendices H and M of the SEA are confined to the merits of the objection site.
- 30. The Background Paper adds nothing to this. The emails at Appx C of the Background Paper do not address the selection of the objection site in preference to alternatives.
- 31. In short there has been no consideration of any alternative sites for the purposes of LLPP2. Further it is completely inappropriate to place reliance on the 2010-2012 appraisal. This was not a sieving exercise carried out for the purposes of formulating the LLPP2 and it was known, at all times during the preparation of LLPP2, that this had failed.
- 32. How it was that the objection site made its way into the draft LLPP2 of September 2018 is completely unclear. The Background Paper says merely that 'internal communications' led to fresh consideration of the site and that revised access proposals were then discussed with the County Council (paragraphs 3.4 and 3.6). The SEA says merely that, following the failure of neighbourhood plans and the call for sites to produce anything, 'further collaborative work between the Council and East Sussex County Council resulted in the Council being able to identify the [objection site]' (9.66 and see also 2.135 of the Submission Draft). This is not good enough. The Inspector should not regard this vestigial information as an adequate basis for concluding that there has been proper consideration and rejection of alternative sites. The Council has not complied with its SEA obligations.
- 33. As is apparent from paragraph 3.3 of the Background Paper, all the Council did to elicit fresh sites for the purposes of the LLPP2 was to make a 3 month 'call for sites' and reassess its own landholdings and sites put to the Council as affordable housing sites. It did not –
 - Write to planning consultants or land and property professionals to ask them to notify their clients of the Council's requirement for a Gypsy and Traveller site

- Write to the owners of specific parcels of land that pass a high level assessment
- Write to the promoters of sites outside settlements where planning permission has been refused for reasons of excessive built development in the countryside or an unsustainable location
- Interrogate its Brownfield Register and write to landowners as appropriate
- Liaise with the Gypsy and Traveller community to ascertain their existing land ownership
- Write to landowners who have previously submitted land to the Council's SHLAA

(iii) How does policy GT01 relate to the Plumpton Neighbourhood Plan (PNP) (including the spatial plan for the parish) and the advice in the Government's National Planning Policy for Traveller Sites 2015?

Neighbourhood Plan

- 34. Policy 1 concerns the spatial plan for the Parish. It states that development outside the revised planning boundary will not be supported if it individually or cumulatively alters the spatial character and views of the landscape. The objection site is outside the planning boundary (Background Paper paragraph 5.6). Policy GT01, if delivered, would alter the spatial character of the landscape and adversely impact views of the landscape which is valued for its intrinsic beauty.
- 35. Policy 3 has regard to landscape and biodiversity. It seeks to protect existing trees and hedges regardless of whether they are covered by relevant protection and acknowledges their valued contribution to the local landscape.
- 36. As demonstrated by the Technical Note prepared by Reeves Transport Planning, in order to create an access (notwithstanding the other issues identified in the Technical Note) a substantial portion of hedgerow would need to be removed. This would breach Policy 3 of the neighbourhood plan.

<u>PPTS</u>

- 37. As explained above, GT01 is not based on an assessment of the need for pitches for households who meet the definition in the PPTS. But it should be.
- 38. The site is in open countryside away from a settlement and therefore breaches paragraph 25 of the PPTS. It does not have due regard to the protection of local amenity and the local environment contrary to paragraph 4(k).

(iv) Given the national policy requirement to provide for the needs of the gypsy and traveller community, in the event of policy GT01 being found unsound and no alternative sites currently "on the table", how should the Plan be modified to address this issue? One possible option would be to commit to an early review of the Plan to address the need for gypsy and traveller sites; in addition, another modification could comprise a set of development management criteria to give the Council a consistent set of parameters to assess any future planning applications for gypsy and traveller sites.

- 39. The Council plainly needs criteria to be applied to windfall applications. We do not favour further criteria in the LLP2. Criteria are already contained within Core Policy 3 and it is difficult to see what could sensibly be added to these.
- 40. An early review would be possible but this opens the door for issues not connected to the provision of Gypsy and Traveller accommodation to be reviewed also. In fact the Action Group suggests the deletion of GT01 and a commitment to produce a separate Gypsy and Traveller DPD. As part of this DPD the Council should commission a fresh GTAA. In the event that this identifies a need for further pitches a proper search for sites should be undertaken. This is a more precise way of articulating what the suggested review of the LLP2 would be intended to achieve.

Yours sincerely

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Appendix A

Technical Note

Proposed Gypsy & Traveller Site, Plumpton MARCH 2019



Reeves Transport Planning

PRODUCED for PLUMPTON ACTION GROUP PRODUCED by REEVES TRANSPORT PLANNING LTD TN/SGR/TSP/310119 V4

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1. Introduction

- 1.1 Reeves Transport Planning is commissioned to provide a Technical Note to investigate the possibility of constructing an appropriate access to land off Station Road, Plumpton. The site is located on the western side of Station Road, approximately 253metres to the south of the junction with South Road. A site location plan is attached, as Appendix 1.
- 1.2 The site has been identified as a possible location for a gypsy and traveller accommodation site in Policy GT01 of the Lewes District Local Plan Part 2: Site Allocations and Development Management Policies (LPP2).
- 1.3 This Technical Note will consider the proposed site and present evidence regarding the possibility of providing a suitable access that accords with required design standards.
- 2. Access Suitability
- 2.1 The site has an existing access onto Station Road that is associated with previous planning applications LW/08/0165 and LW/08/0807. The intention is that this existing access is used for the proposed development.
- 2.2 The Local Highway Authority (LHA) state that the required visibility splays can be achieved, at the existing access, with minor works to the hedgerow, and routine maintenance. The LHA highlighted that *'sightlines should be achievable over land either in the applicant's control or over land that is highway'.*
- 2.3 The LHA undertook a traffic speed survey to establish the speed of traffic passing the site frontage. The speed survey data establishes that the 85th percentile traffic speeds were 72.42km/h (45mph) southbound and 70.81km/h (44mph) northbound. The LHA state that these results require sightlines of 120metres from a setback distance of 2.4metres, and that these are considered achievable.
- 2.4 Section 7.5 of Manual for Streets (MfS) notes that 'this section provides guidance on stopping sight distances (SSD) for streets where 85th percentile speeds are up to

60km//h. At speeds above this, the recommended SSDs in the Design Manual for Roads and Bridges [DMRB] may be more appropriate'. The data shows that these speeds exceed 60km/h so DMRB is the appropriate design standard. The visibility splay requirements have been calculated using the standard formula and the results are set out in Table 2.1.

Table 2.1 _Visibility Splay (SSD) Calculations - Station Road Plumpton								
	Lane	mph	km/h	v (m/s)	t (s)	d	vt + v²/2d	
DMRB (Desirable)	SB	45	72.42	20.12	2	2.45	122.8	
	NB	44	70.81	19.67	2	2.45	118.3	

- 2.5 Adding the standard two metres, to take into consideration the bonnets of vehicles, results in visibility splays of 124.8 metres and 120.3 metres are required to provide a safe access.
- 2.6 A detailed topographic survey was undertaken along the site frontage and the results are attached, as Appendix 2. Two possible accesses were plotted to evaluate whether it is possible to provide an access that complies with required design standards. The southern access is in the position of the current field access and a second access was plotted at the northern boundary of the field to evaluate all potential access options.
- 2.7 Appendix 3 contains a plan of the southern access with the required visibility splays. The plan demonstrates that the southern visibility splay crosses third party land to the south of the access. Appendix 4 has an extract of Appendix 3 that highlights the third party land, which will be required to form the required visibility splay. The extract includes the area, hatched with green shading, that is outside the land identified in Policy GT01.
- 2.8 The northern visibility splay can be secured on land identified in Policy GT01, or on adopted highway although this has an impact on the hedge row.

- 2.9 The plan of the northern access is attached at Appendix 5. The plan illustrates that the southern visibility splay can be secured, over land identified in Policy GT01, provided a section of, at least, 22metres of hedgerow is removed. The stepped in section of the adopted highway, just to the north of the possible access location, means that the visibility splay to the north can be appropriately secured.
- 2.10 The relevant spot levels and gradients of the Station Road sections incorporating the visibility splays, are set out below.

Access	Spot Level at Access	Spot Level end of North Splay	Spot Level end of South Splay	North Gradient	South Gradient
North	45.3m	50.2m	42.5m	4.2%	2.3%
South	43.3m	49.4m	42.9m	4.8%	0.3%

3. Summary and Conclusion

- 3.1 Reeves Transport Planning is commissioned to investigate whether an access can be provided to serve land off Station Road, Plumpton. The land has been identified as a possible location for a gypsy and traveller accommodation site under Policy GT01 of the Lewes District Local Plan Part 2: Site Allocations and Development Management Policies (LPP2).
- 3.2 The LHA undertook a traffic speed survey to establish the speed of traffic passing the site frontage. The LHA concluded that the results require sightlines of 120metres from a setback distance of 2.4metres. The standard formula for calculating visibility determines that the splay should be 124.8metres and 120.3metres. These assume that the longitudinal gradients of Station Road are equal to zero.
- 3.3 Plans attached at Appendix 3 and Appendix 5 demonstrate that it is not possible to secure the visibility splays for the southern access option, as part of the south splay is over third party land. The plans also illustrate that the northern access requires the removal of circa 22metres of hedgerow. The gradient of the northern splay, of the southern access, is 4.8% and of the northern access is 4.2%.

- 3.4 DMRB, as noted, is the appropriate design standard for the recorded vehicle speeds. Volume 6 Section 2 Part 7 TD42/95 'Vehicular Access to All-Purpose Trunk Roads' of DMRB sets out the detailed design requirements for visibility splays. Paragraph 2.14 states that 'new direct access shall not normally be provided at location where the major road (Station Road) gradient is greater than 4%'. The same paragraph continues that 'direct accesses at location with steeper gradients may be acceptable and the accident risk should be assessed before approval is given'.
- 3.5 This affects the overall requirements when considering these gradients in the analysis of the visibility splay calculations, as demonstrated in Table 3.1. However, this discrepancy does not affect the overall conclusions of our investigation.

Table 3.1 Visibility Splay (SSD) Calculations including Gradient - Station Road Plumpton								
	Lane	mph	km/h	v (m/s)	t (s)	d	а	vt + v²/2(d+01a)
N Access	SB	45	72.42	20.12	2	2.45	-4.2	139.9m*
	NB	44	70.81	19.67	2	2.45	-2.3	126.5m*
S Access	SB	45	72.42	20.12	2	2.45	-4.8	142.9m*
	NB	44	70.81	19.67	2	2.45	-0.3	119.3m*

*plus 2metres for driver position

- 3.6 The assessment concludes that it is not possible to provide a safe access to the land identified under Policy GT01 of the Lewes District Local Plan Part 2: Site Allocations and Development Management Policies (LPP2). The splay, to the south of the southern access, cannot be secured on land identified in the policy or as adopted public highway. Both of the northern visibility splays exceed the maximum gradients noted in the appropriate standards.
- 3.7 This is relevant, as it is reasonable to assume that the proposed use will attract a relatively high volume of large vehicles and towed trailers and/or caravans. The risk of slow moving and/or deceleration/acceleration rates associated with this type of vehicle means that the gradients are a material consideration, as this traffic profile

would increase the risk of accident. Accordingly, it is our conclusion that an access cannot be constructed to meet the design standards required for the site's proposed use.

- 3.8 The southern access location shown at Appendix 3 is not deliverable because the visibility splays required would cross third party land or exceed maximum acceptable gradients. The north access location shown at Appendix 5 is not deliverable because the visibility spays are over a section of Station Road that exceeds maximum gradients. The nature of the traffic and excessive gradients would result in an increased risk of accidents. This contracts guidance in the DMRB. In addition, the delivery of the southern visibility splay would result in over 22 metres of hedgerow being removed.
- 3.9 We have assessed possible access positions along the highway frontage. We have presented the access solution put forward by the Council at Appendix E of its Background Paper and the most favourable option along the road frontage. For the avoidance of doubt, all other access points in the area indicatively shown by the Council at Appendix E of the Background Paper would not be deliverable for the reasons that we have already cited.

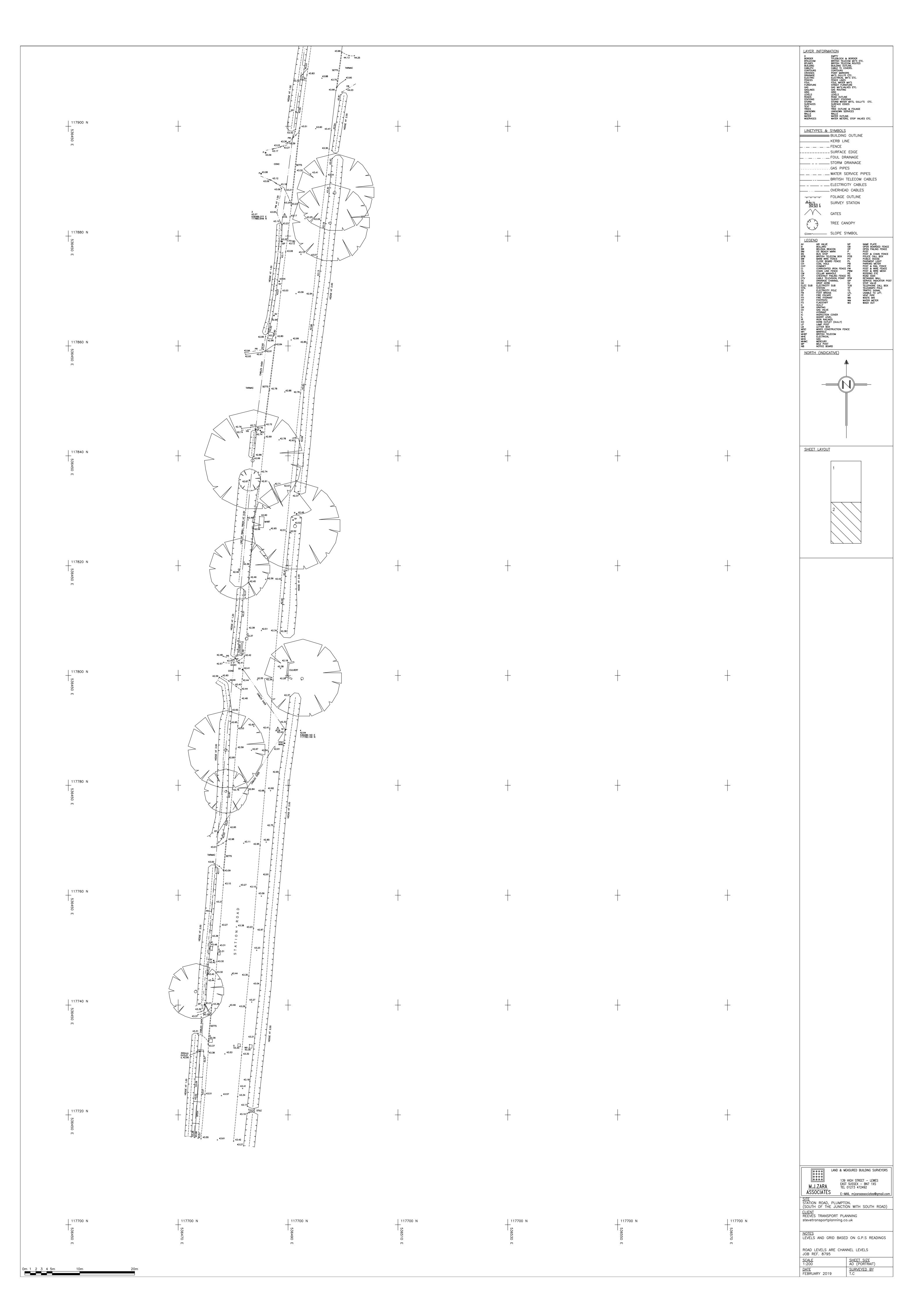
APPENDIX 1:

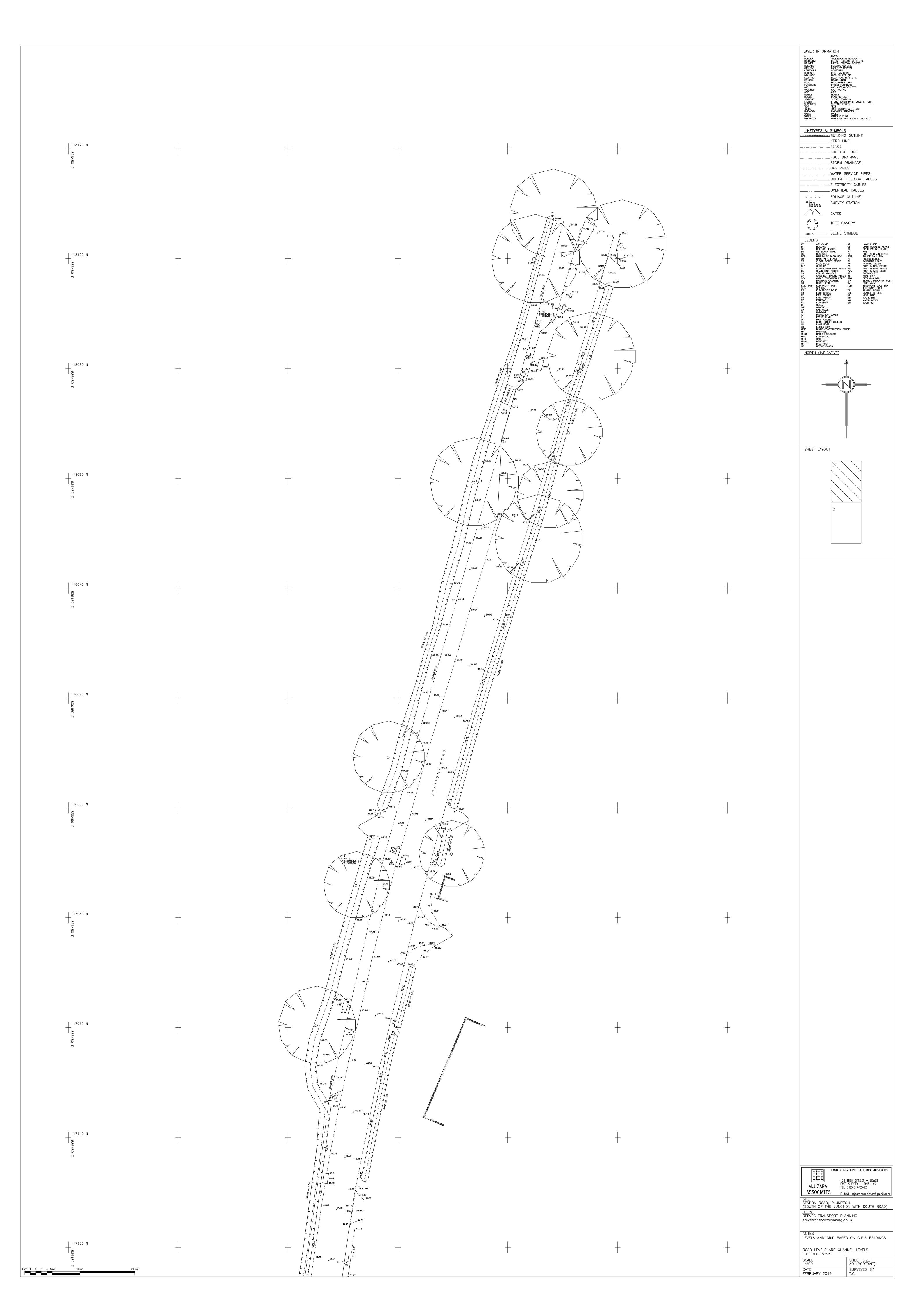
SITE LOCATION



APPENDIX 2:

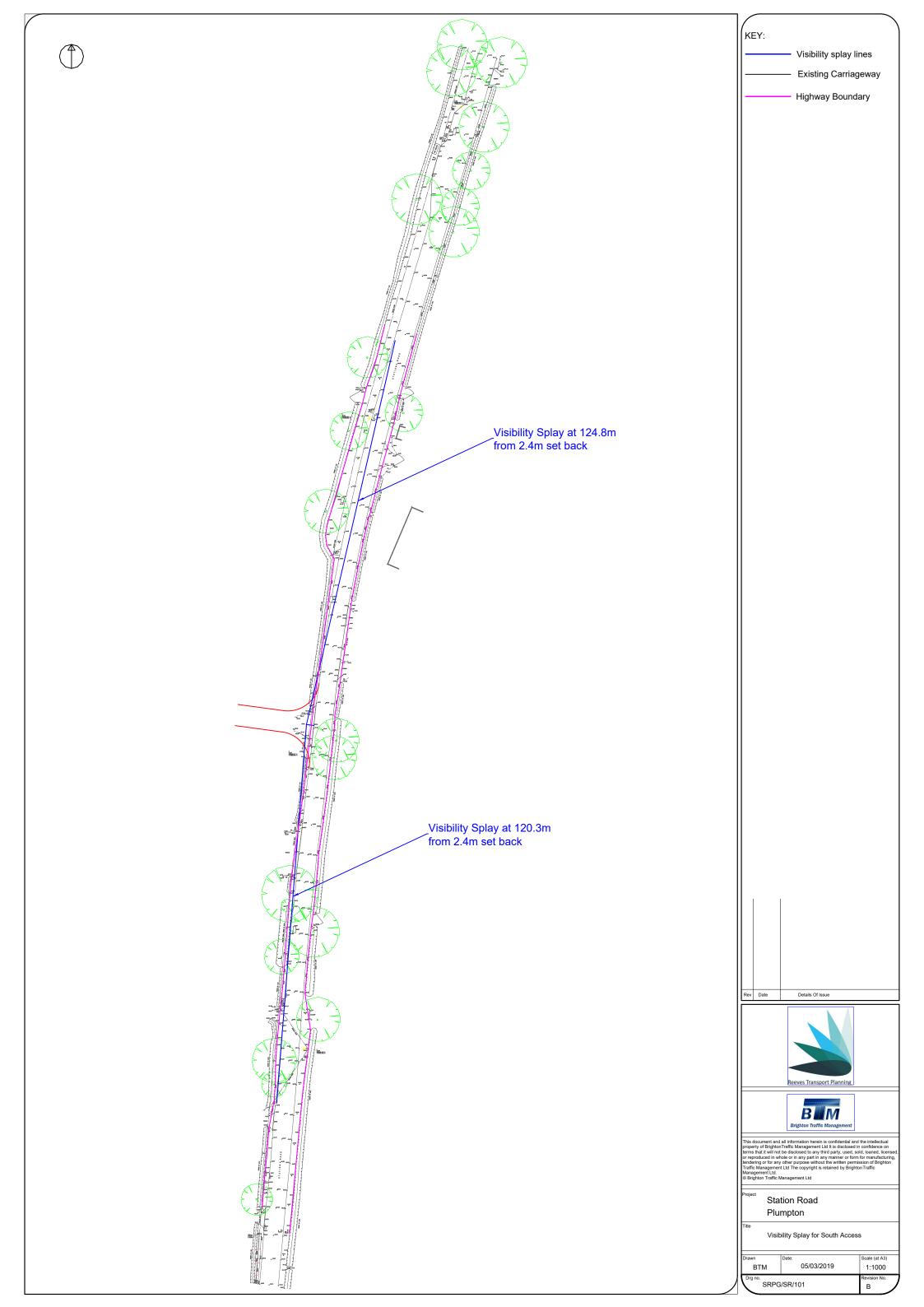
TOPOGRAPHIC SURVEY





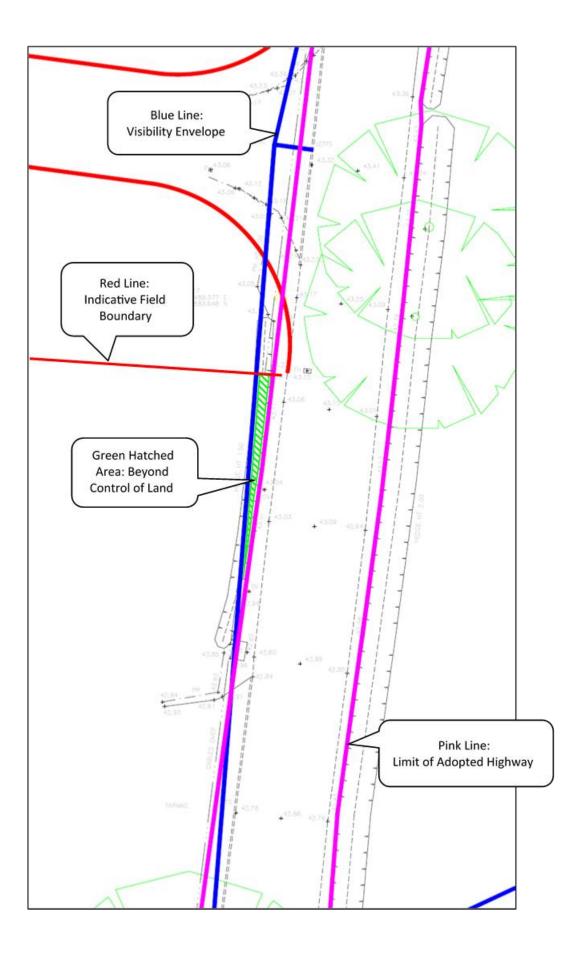
APPENDIX 3:

INDICATIVE SOUTHERN ACCESS LOCATION AND VISIBILITY PLANS



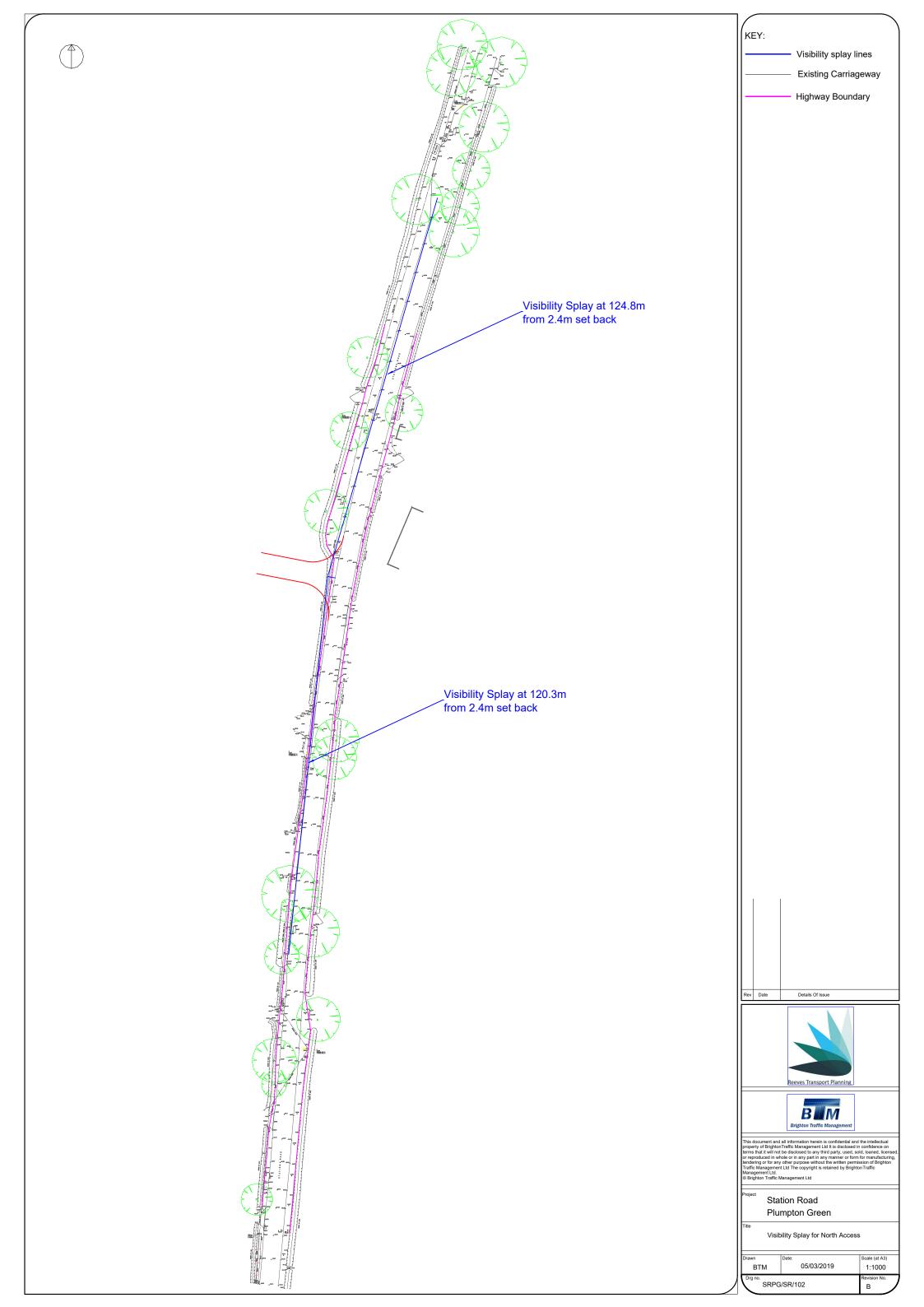
APPENDIX 4:

EXTRACT INDICATIVE SOUTHERN ACCESS LOCATION AND VISIBILITY PLANS



APPENDIX 5:

INDICATIVE NORTHERN ACCESS LOCATION AND VISIBILITY PLANS



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