
Appeal Decision

Site visit made on 25 August 2015

by D H Brier BA MA MRTPI

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 28 August 2015

Appeal Ref: APP/T5150/X/15/3002134

7 The Leys, Harrow, Middlesex HA3 9SP

- The appeal is made under section 195 of the Town and Country Planning Act 1990 as amended by the Planning and Compensation Act 1991 against a refusal to grant a certificate of lawful use or development (LDC).
 - The appeal is made by Mrs T Bharde against the decision of the Council of the London Borough of Brent.
 - The application Ref 14/4340, dated 7 November 2014, was refused by notice dated 22 December 2014.
 - The application was made under section 192(1)(b) of the Town and Country Planning Act 1990 as amended.
 - The development for which a certificate of lawful use or development is sought is proposed first floor infill extension under the main roof.
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Decision

1. I dismiss the appeal.

Appeal

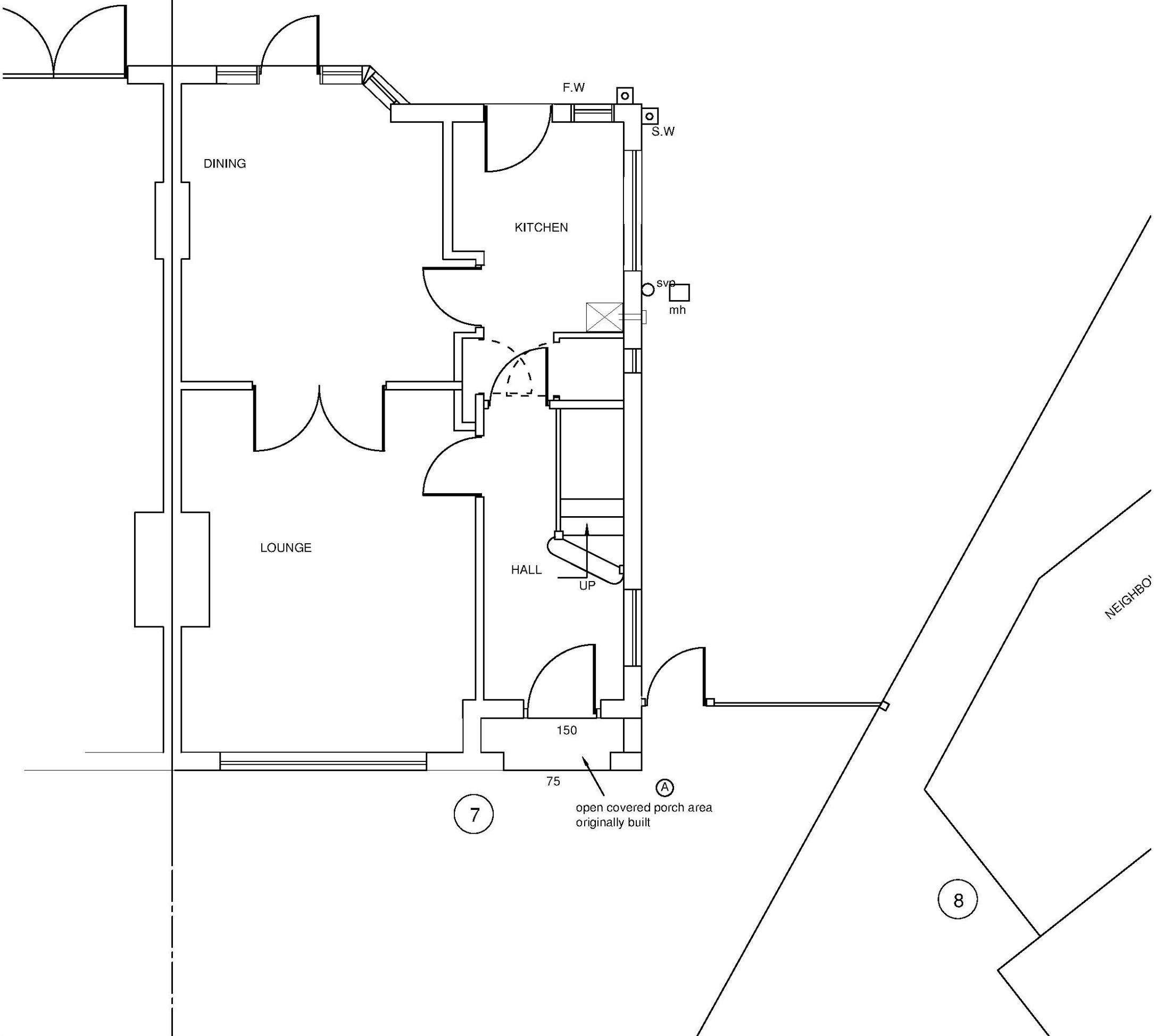
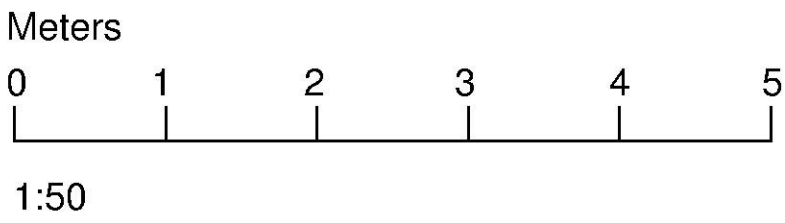
2. The appeal property appears to have been altered since the LDC application was made as a 2 storey side extension has been built and the flat roofed front porch has been replaced by a monopitch canopy. Be that as it may, my decision will focus on the question of the lawfulness of what was proposed at the time of the application and as indicated on the submitted plans.
3. The proposed works would project out from a recessed element of the appeal property's front elevation at first floor level. According to the submitted plan the scheme would be 0.64m deep and would "square off" the shape of the house by filling in a gap between a ground floor front porch and an overhanging section of its roof. It would not project outwards beyond either the porch or the main body of the rest of the house.
4. The appellant contends that although the word "extension" is used to describe the proposal, because no roof cover would be constructed over its front and side walls, it does not come within the definition of an extension. Rather, it constitutes an alteration or improvement of the house which, under the provisions of Schedule 2 Part 1 Class A of The Town and Country Planning (General Permitted Development) Order 1995 (GPDO), is permitted development. It is further submitted that the proposal complies with the limitations set out at A.1(a) to (c), and the provisions of A.1(d) (i) and (ii) do not apply. The Council's position on the other hand is that the proposal fails to satisfy provisos A.1(d) (ii) and A.1(h), (i) and (ii).

5. The GPDO has been subject to a number of changes, but given the date of the application and the nature of the proposal, the relevant provisions are contained in The Town and Country Planning (General Permitted Development) (Amendment) (No.2) (England) Order 2008.
6. The appellant's case includes a detailed analysis of why the scheme should not be regarded as an extension. But, as this word does not appear in Part 1 Class A of the GPDO, this is not a matter to which I attach much weight. I acknowledge that the scheme does not include a roof. Nor would it make the 'footprint' of the house, that is the proportion of the plot it occupies, any bigger. However, it would add to the property's overall mass, and the amount of space within the building would be increased accordingly. In the light of this, I consider it reasonable to regard the proposal as an enlargement of the house, as opposed to merely an improvement or other alteration.
7. The first floor recess which the proposal would occupy is on the south-east corner of the front elevation of the house. As a result of the manner in which the property is configured, the works would be in front of part of its front wall and part of a wall which faces south-eastwards towards the property boundary.
8. As regards the provisos at A.1 (d), the front wall of the house clearly fronts onto The Leys. And, it is not claimed that this part of the house, which contains its front door, is anything other than its principal elevation.
9. Referring to the Department for Communities and Local Government's Technical Guidance on Permitted Development for Householders (TGPDH), the appellant claims that the figure on page 11 implies that the front building line of a house is taken at ground level. I accept that the TGPDH does not address an instance such as the appeal proposal, but equally, I am unable to identify anything within the section directed at proviso A.1(d), or in the proviso itself, that supports this thesis.
10. To my mind the reasonable interpretation of the phrase "*extend beyond a wall*" at A.1(d) must mean any wall, or any part of a wall, not just the ground level component. While the principal elevation may have more than one wall facing in the same direction in block plan form, as the diagrams on page 12 of the TGPDH show, I consider that the same principle applies to the vertical plane of the house. As the house enlargement would extend beyond part of its principal elevation at first floor level that fronts a highway, proviso A.1 (d) would not be met.
11. As regards proviso A.1(h), referred to by the Council, the upper part of the main body of the house's front elevation is set back about 2m from its south-east corner. Despite this distance, I regard the south-eastern face of this part of the house as part of the property's side elevation even though it is distinct from the main 2 storey flank wall. And, as the proposed enlarged part of the house would exceed 4m in height, I agree with the Council's view that the proposal also fails to satisfy proviso A.1(h).
12. In the light of the foregoing, I am not satisfied that it has been demonstrated that the scheme would have been lawful under the permitted development provisions of the GPDO.
13. For the reasons given above, and having regard to all the other matters raised, I find the Council's decision to refuse to issue a LDC in respect of a proposed

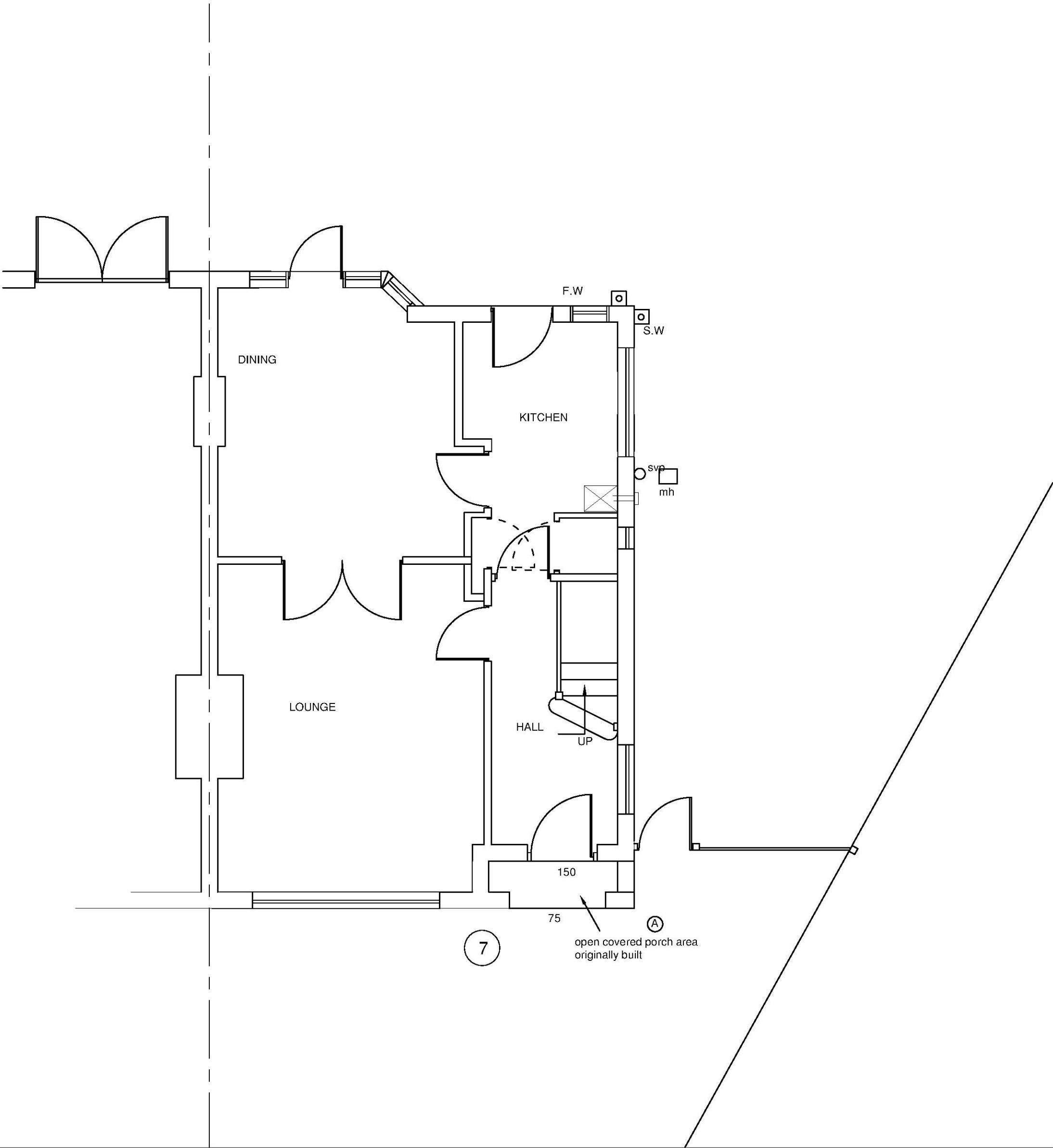
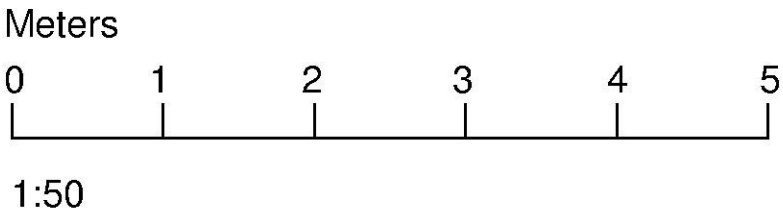
first floor infill extension under the main roof of the property well-founded and I shall exercise accordingly the powers transferred to me in section 195(3) of the 1990 Act.

D H Brier

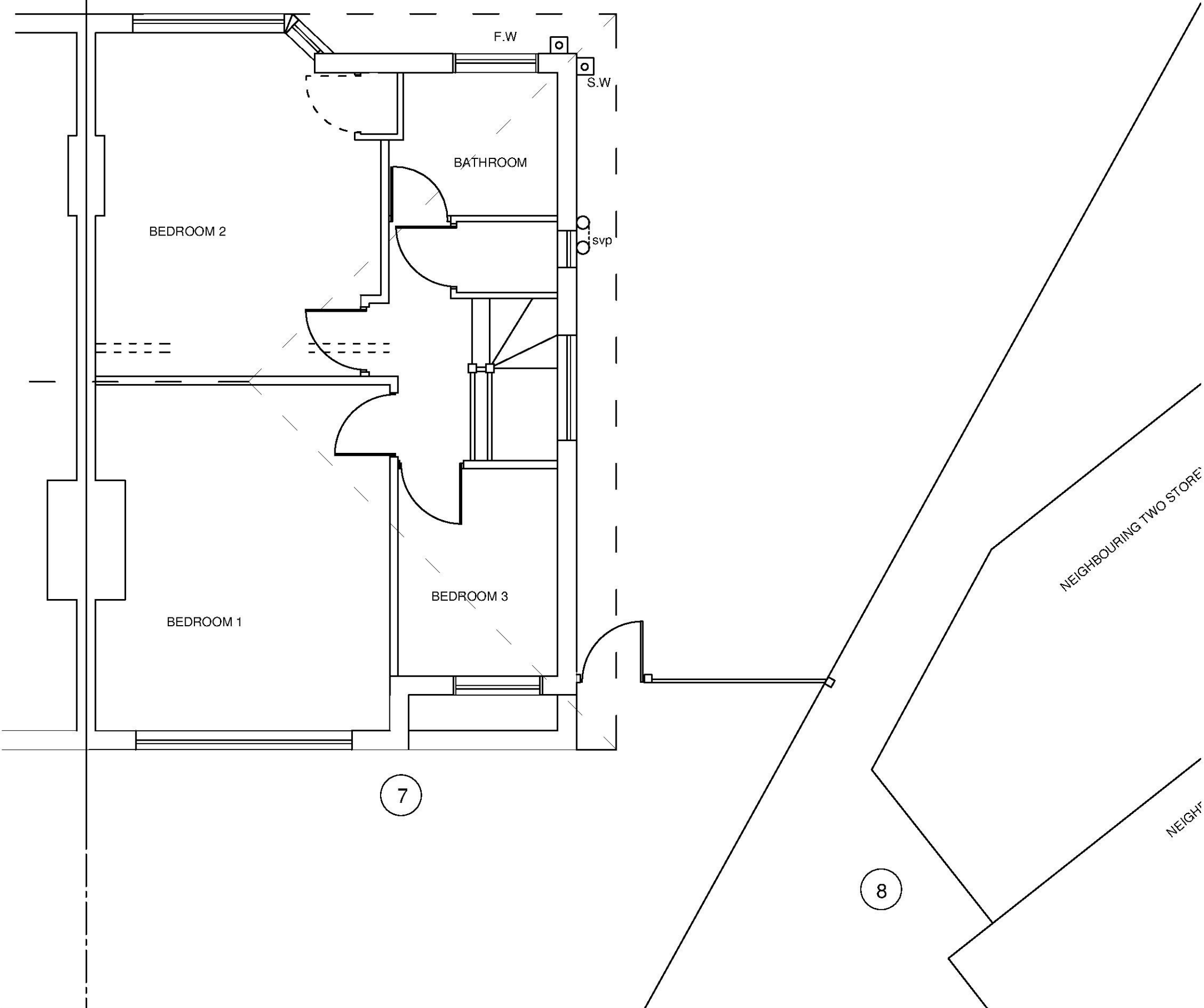
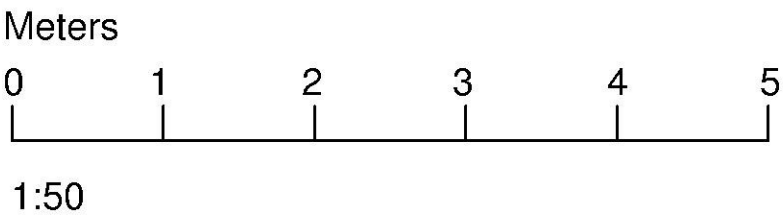
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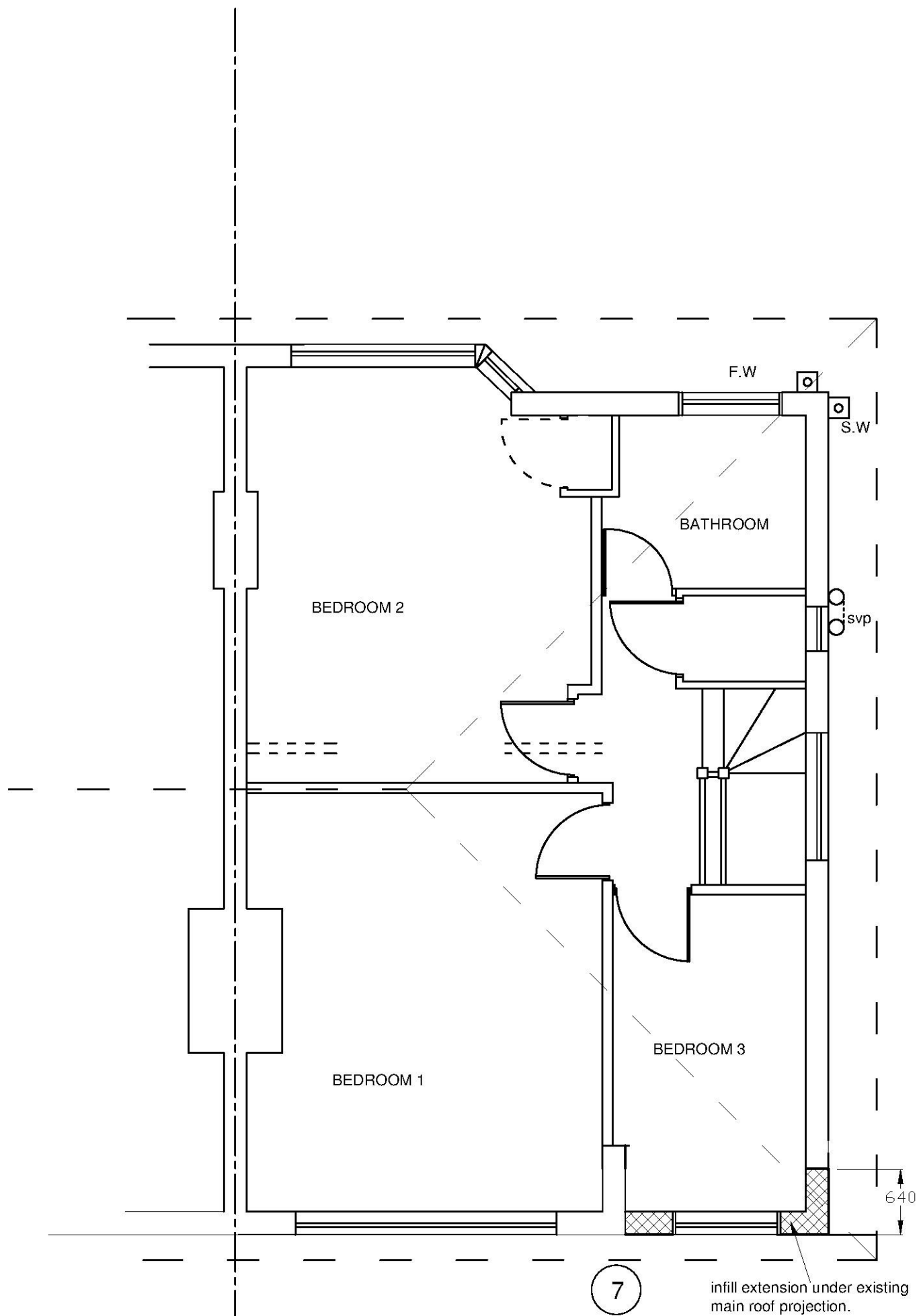
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	DRAWING TITLE Existing Ground Floor Plan	CLIENT	



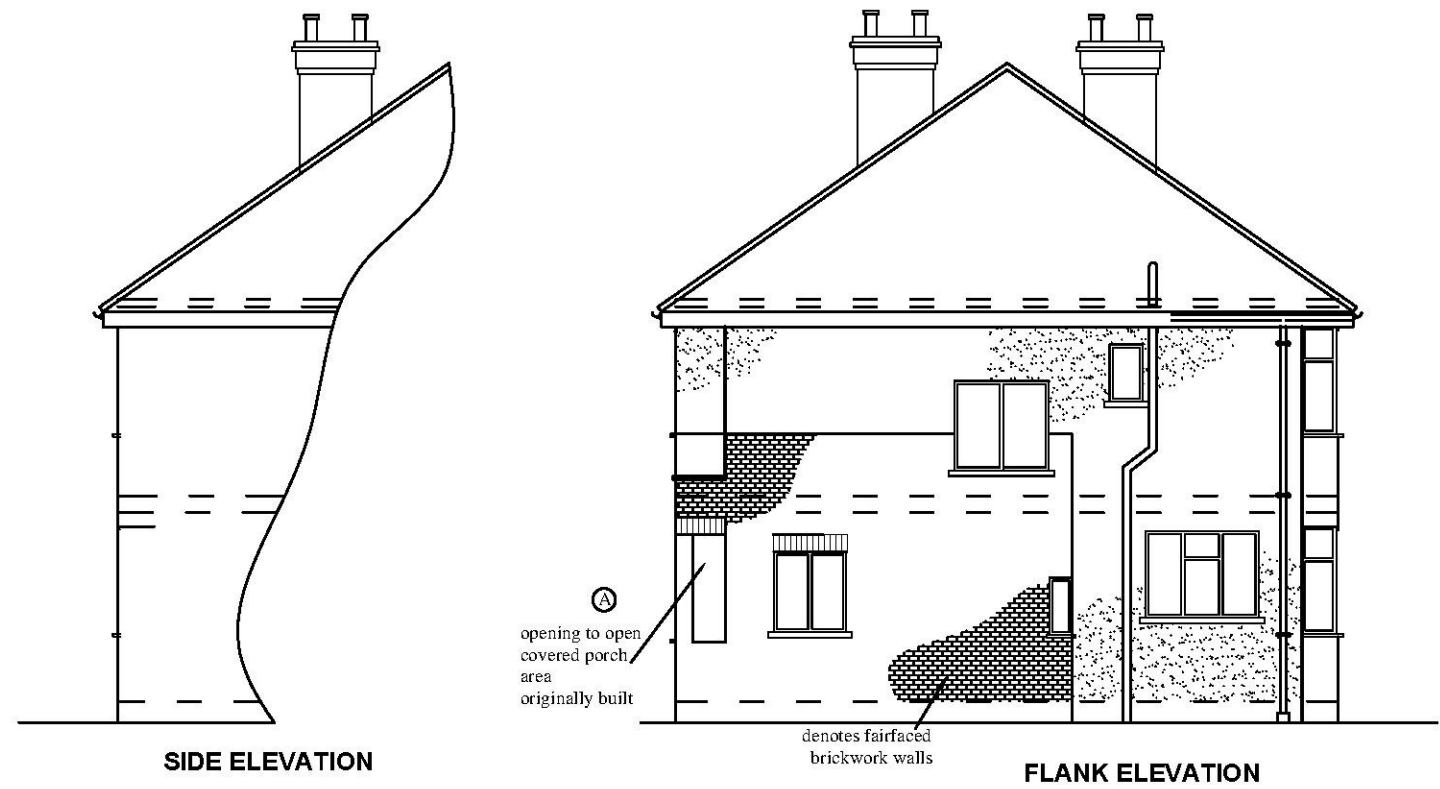
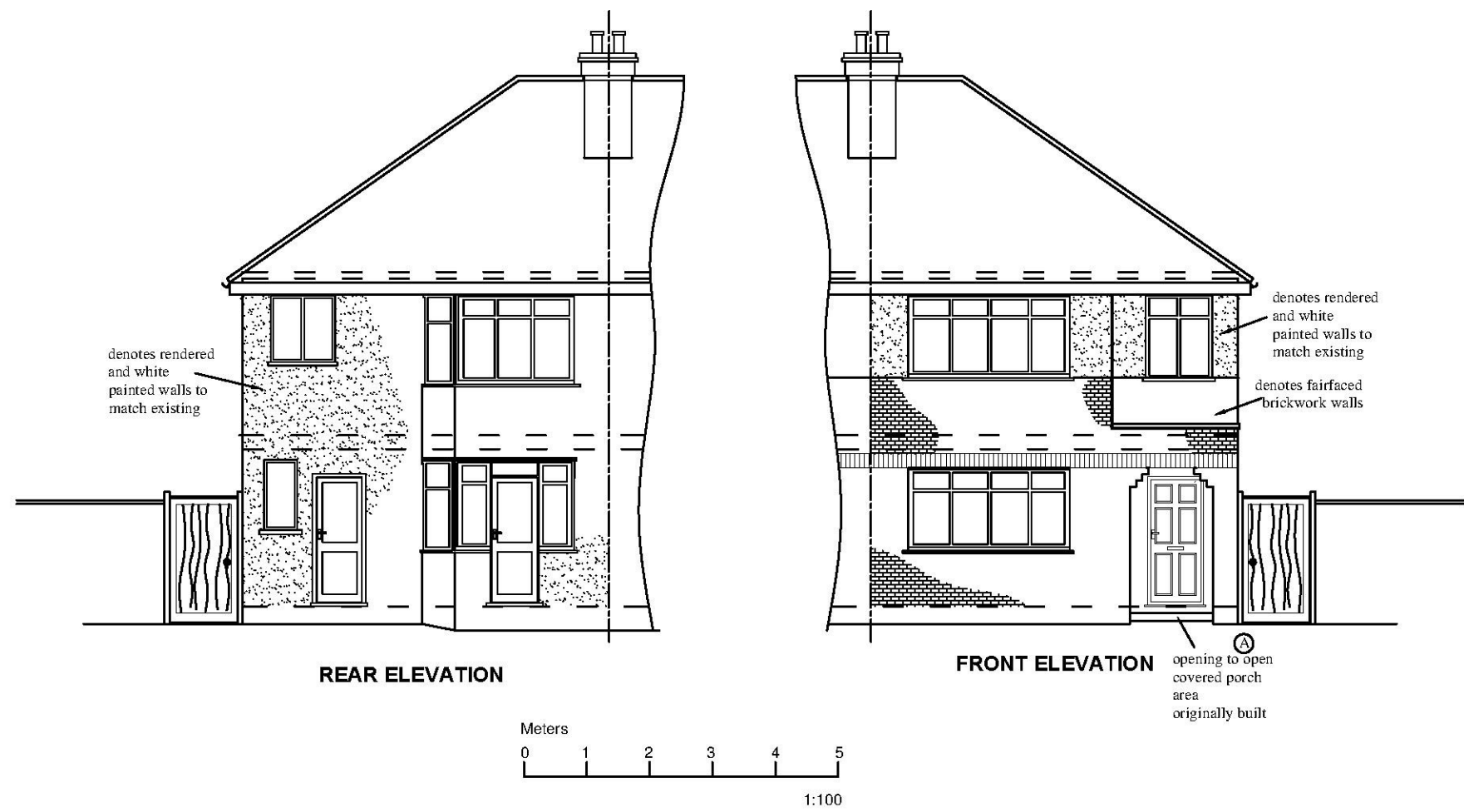
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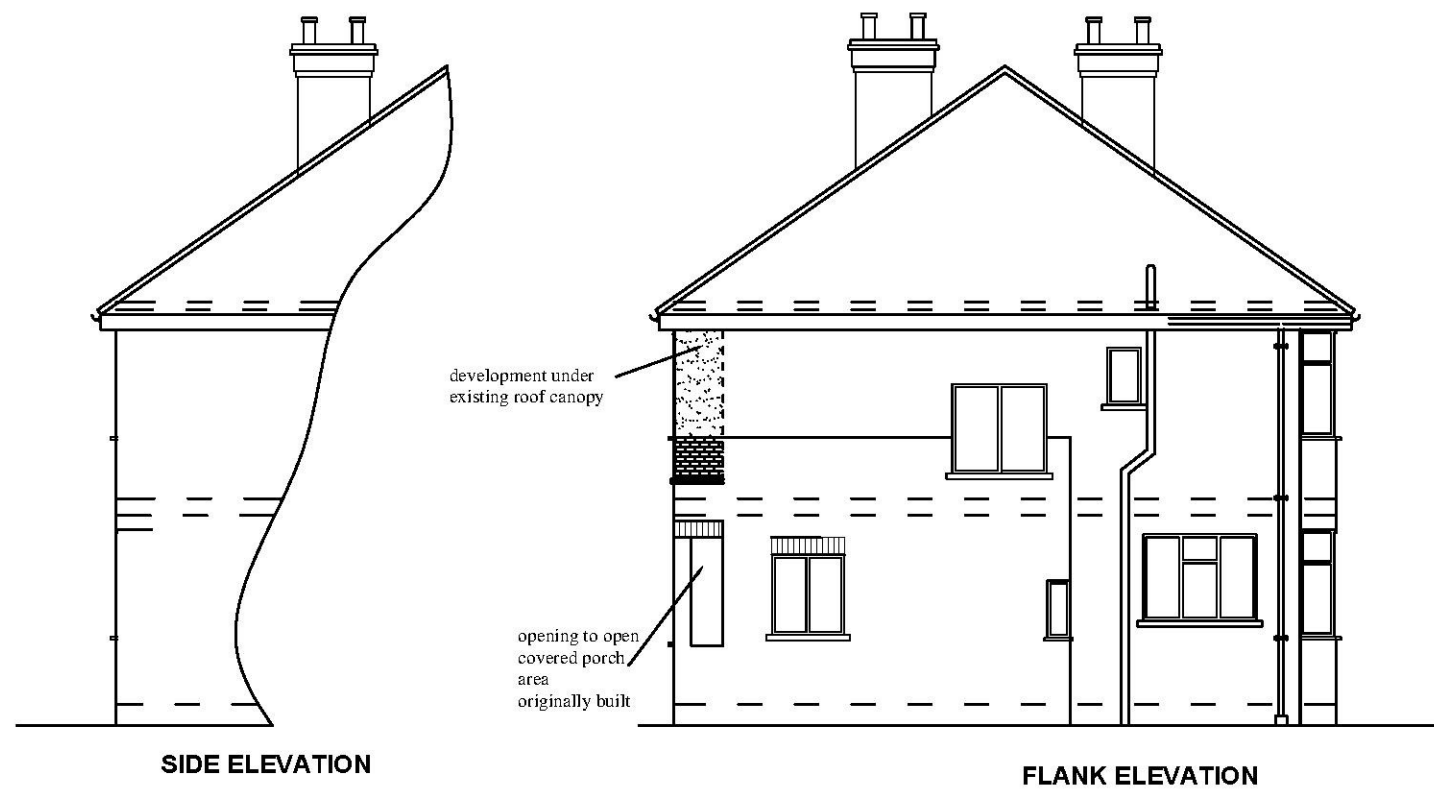
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ADDRESS 7 THE LEYS HARROW HA3 9SP	PROJECT TITLE Proposed Front First Floor Infill extension	DRAWING NO. 14/035/4	DATE NOV 14
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	DRAWING TITLE Proposed First Floor Plan	CLIENT	



ADDRESS 7 THE LEYS HARROW HA3 9SP	PROJECT TITLE Proposed Front First Floor Infill extension	DRAWING NO. 14/035/4	DATE NOV 14
	DRAWING TITLE Existing Elevations	Rev	SCALE 1:100
		CLIENT	



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