



Appeal Decision

Site visit made on 2 January 2013

by Jane Miles BA (Hons) DipTP MRTPI

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

Decision date: 7 February 2013

Appeal Ref: APP/Q3115/A/12/2181233

Moorcourt Barn, Weston Road, Lewknor, Oxfordshire OX49 5RU

- 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 Str8six Ltd against the decision of South Oxfordshire District Council.
 - The application ref: P11/E2472, dated 24 February 2012, was refused by notice dated 31 May 2012.
 - The development proposed is described as 'change of use from agriculture to part car storage rebuilding of engines and part servicing of vehicles'.
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Decision

1. The appeal is dismissed.

Procedural Matters & Background

2. The development description above is taken verbatim from Section 3 of the application form, but it is apparent from the submitted plans and the Design and Access Statement that a small extension on the north-east side of the existing barn building is also included. This is acknowledged on the Council's refusal notice. The application papers refer to both 'Moorcroft' and 'Moorcourt' Barn: in the light of information in residents' letters, and for consistency with a previous 2010 appeal decision¹, I have used the latter name.
3. In addition, on the application form provided with the appeal documents, the figures at Section 18 indicate the change of use would be from agriculture to Class B2 (General Industrial Use)². However other documents suggest that, initially, the floorspace figures at Section 18 indicated a change of use to Class B8 (Storage and Distribution). This is reflected in local residents' responses at the application stage, notwithstanding the conflict between those figures and the actual development description, and the various exchanges on this matter between the Council and the appellant's agent.
4. The actual development description is similar to that on a planning permission granted, on 18 January 2010, for the existing Str8six Ltd operation in the adjacent but smaller building and site (New Barn) that sits between Moorcourt Barn and Weston Road. The appellant's stated intention is to relocate the existing Str8six operation from New Barn into Moorcourt Barn. Having seen the existing operation at my site visit, I have taken the view that what is intended would mainly involve works to cars and car engines (falling within

¹ Appeal ref: APP/Q3115/A/10/2133159, dated 3 December 2010

² Of the Town and Country Planning (Use Classes) Order 1987 (as amended)

Class B2), with some storage of cars awaiting attention, albeit I return to this in more detail in the reasoning below.

5. It follows that the Str8six proposal before me is materially different from two previous applications for a change of use to Class B8 storage use only. One of these was dismissed in the 2010 appeal decision, due to the Inspector's concerns about such use generating traffic 'of a type that would add materially to the potential for accidents in the rural lanes in the area'.

Reasons

6. On the basis of the Council's single refusal reason, the **main issue** in this appeal is the effect the proposal would have in terms of highway safety.
7. Moorcourt Barn sits on a plot of land set back from Weston Road, behind New Barn. Weston Road is a rural lane linking the village of Lewknor with the smaller South Weston, to the north-west, and is subject to a 30mph speed limit between the two settlements. Although the appeal site is undoubtedly in the countryside, and not readily accessible by public transport, it is very close to Junction 6 of the M40 and thus is in a reasonably sustainable location.
8. The footprint of New Barn is some 230 sq.m, whilst much of the outdoor area of the roughly triangular site is used for parking and/or storage of vehicles awaiting attention. There are references to this site having previously been used for sandblasting/storage and for storage of motor vehicles but I understand the appellant's use dates back to 2008. In 2010 the Str8six use was found to be acceptable by the Council, subject to conditions, and in accordance with various policies of the South Oxfordshire Local Plan 2011 (LP), including Policies G2, E3, E5, E8 and T1 which are cited in the reason for refusing the appeal application³.
9. In this appeal, statements from the Council and Highway Authority (HA) appear to suggest that *any* increase in traffic could have a severe impact on safety on the local road network. However, whilst the lanes are relatively narrow and winding, they are typical of rural roads across large areas of the country. No unusually hazardous features are identified, other than an (unquantified) suggestion of poor visibility at the site access. The HA has not provided any accident data, albeit I note a local resident's anecdotal information about various incidents in December 2010. Nor is there any substantive information about existing traffic flows, or the likely capacity of this rural road network. I therefore find insufficient grounds to conclude that any increase at all in traffic, above that which might reasonably be expected from agricultural use of the barn, would have a severe impact on highway safety.
10. My finding on this initial point is consistent with the 2010 Inspector's decision: it is apparent that he was concerned about the type, rather than the amount, of traffic likely to be generated by the B8 storage use proposed in that case. He was particularly concerned about large heavy goods vehicles (HGVs) and I agree it is likely that such vehicles would have a disproportionate and adverse effect in terms of highway safety on this rural road network.
11. Although the refusal reason in this appeal refers to 'commercial vehicles', the HA's statement focuses mainly on the potential for HGV movements, should

³ The refusal reason also cites LP Policies G6 and D1 but, as these are clearly aimed at promoting good design and local distinctiveness, their relevance to matters of highway safety is unclear and I give them negligible weight

permission be granted for Class B2 use of Moorcourt Barn. Much of the rationale for this, in essence, is that whether or not the Str8six business involves HGVs, one or more different operators could in future use the appeal site differently and/or more intensively, generating HGV traffic that could increase the potential for accidents in the area. Given the larger size of this barn, with a footprint of some 600 sq.m, I agree that in this respect a general Class B2 use could have adverse implications for highway safety on the local road network.

12. It has been explained in the appeal documents that the current Str8six use does not involve HGV traffic, and I have found no substantive evidence to the contrary in representations from the Council, HA, or local residents. It has also been suggested the appellant's use is a sui generis one, rather than Class B2. I appreciate the consent for the existing use at New Barn includes a condition restricting it to the specific uses mentioned in that development description⁴ (with no mention of Class B2) and that a similar condition could be applied to the appeal proposal. However, nothing in the existing or proposed descriptions quantifies the different elements of the development in any way: thus either 'part' servicing or 'rebuilding of engines' could legitimately form the primary use, in which case it is likely the overall use would fall within Class B2.
13. In short, there would be scope for considerable variation in the nature and scale of operations that could be carried out at Moorcourt Barn within the terms of the development description applied for. Use of this large building mainly as a general car repair garage could, for example, fall within this description, as could servicing of larger commercial vehicles and HGVs. Either example could have different and more serious adverse implications for traffic generation and highway safety on the rural road network than the existing Str8six operation.
14. It is significant that any permission would apply to all future occupiers (and not just Str8six Ltd), and also that it cannot be assumed that Str8six will always operate as at present, or that it would not expand in future, even if this is not currently envisaged. In this respect references to the business including car sales is another variable to bear in mind, albeit it is not explicitly included in the development description. So too is the future use of New Barn: I have no reason to doubt the appellant's stated intention to vacate New Barn but this is not something that could be reasonably be required by condition. Moreover the existing permission for New Barn would remain extant, such that another car business could occupy the unit but use it differently which, in combination with a similar use in Moorcourt Barn, could increase the likelihood of a material increase in larger commercial vehicle traffic on the rural lanes.
15. I recognise the specialist nature of the appellant's business, focussing on repair, restoration and servicing of relatively high value TVR sports cars, which involves some cars remaining on the premises for considerably longer periods than would be the case at a general repair garage. Thus the larger building would provide secure and covered storage for customers' vehicles, as well as more space to work on cars without having to move them in and out of the building, as is currently necessary on the existing and rather overcrowded site.
16. It is primarily on the above basis that the appellant maintains the appeal proposal would not amount to an expansion or intensification of the business,

⁴ Although the existing and proposed uses are similar, it is significant that the existing permission refers to 'part servicing of cars' but the appeal proposal includes 'part servicing of vehicles'

and I do not rule out that it could perhaps be a relatively low key use. However, in the light of the concerns I have already set out, neither a condition restricting the use to that specified in the development description, nor one making the permission personal to the appellant company, would be sufficient to ensure this was the case or, importantly, that there would be no unacceptable adverse effects in terms of highway safety on local roads.

17. My reasons for considering a personal permission unlikely to be effective stem more from the lack of clarity about the detailed nature of the proposal and how the large building would be used in practice, rather than the rejection of this approach by the 2010 Inspector or the HA's suggestion that it is not favoured in the *National Planning Policy Framework*. On the latter point, relevant guidance in *Circular 11/95 (The Use of Conditions in Planning Permissions)* is still extant and I have found nothing in the *Framework* explicitly discouraging such an approach. On the contrary, guidance in the *Framework*⁵ advocates that 'local planning authorities should look for solutions rather than problems' and that they should consider 'whether otherwise unacceptable development could be made acceptable through the use of conditions'.
18. Nonetheless for the reasons set out above, I am unable to conclude with certainty that the proposal would not have unacceptable adverse impacts in terms of highway safety on the local road network. Nor can I conclude that it would not conflict with the relevant parts of the LP policies listed in paragraph 8 above. I have borne in mind the benefits of the proposal for the appellant's business and also that the *Framework*, which is more up-to-date than the LP, supports the sustainable growth and expansion of businesses in rural areas, including through conversion of existing buildings. Although I note the history of negotiations in relation to this site and the agent's concerns about the various responses of the Council and HA, these matters do not alter or outweigh my findings.
19. I have had regard to local concerns about whether or not the appellant's use is appropriate in this rural context, close to Lewknor Conservation Area and on a lane shared by pedestrians and cyclists, to concerns about the noise of vehicles being road-tested and to all other matters raised. However it is for the reasons set out in the preceding paragraphs that, overall, I conclude the appeal should not succeed.

Jane Miles

INSPECTOR

⁵ At paragraphs 187 and 203

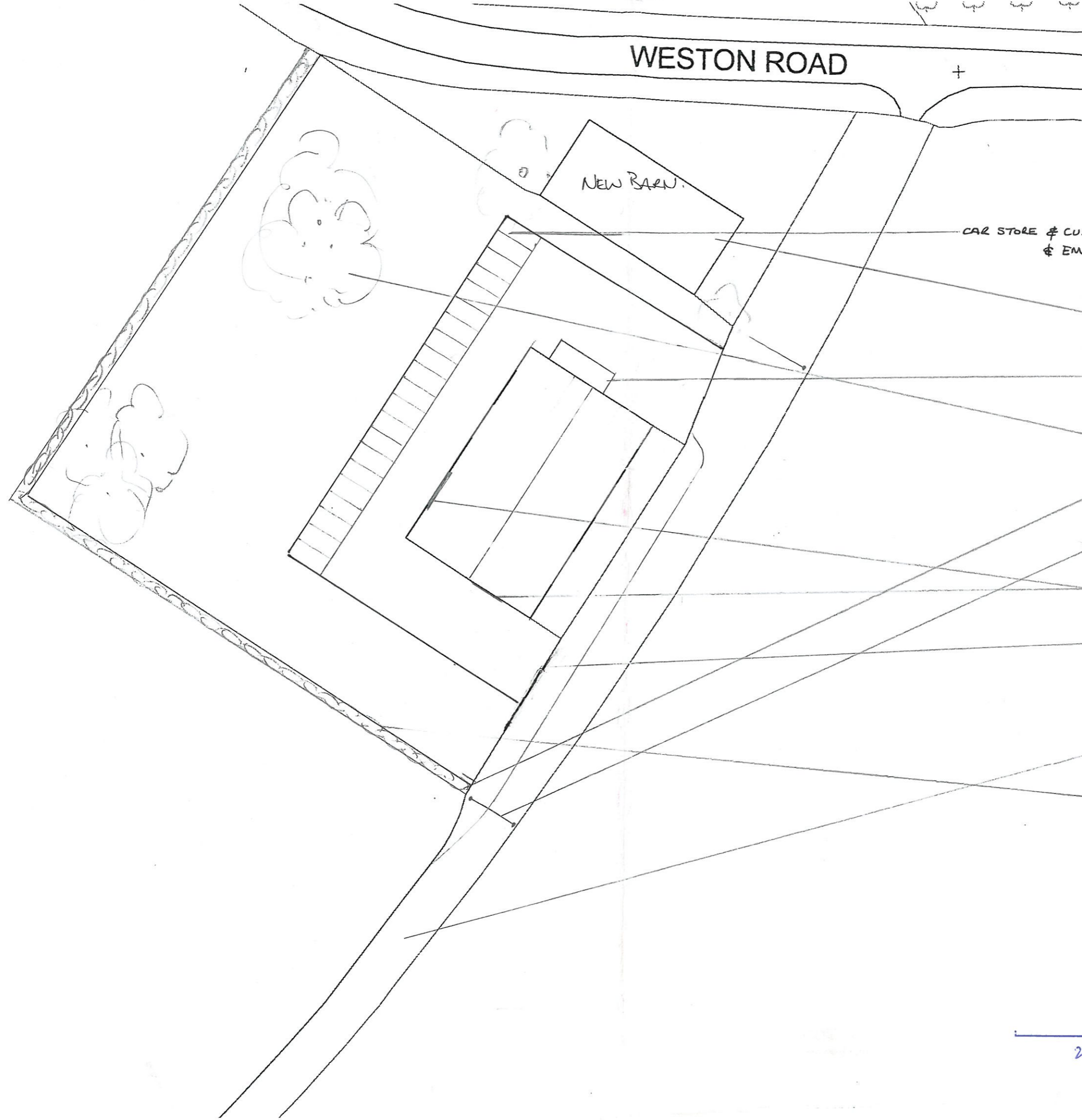


WESTON ROAD

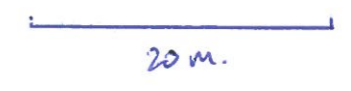
NEW BARN.

CAR STORE & CUSTOMER PARKING
& EMPLOYEE PARKING.

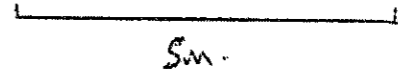
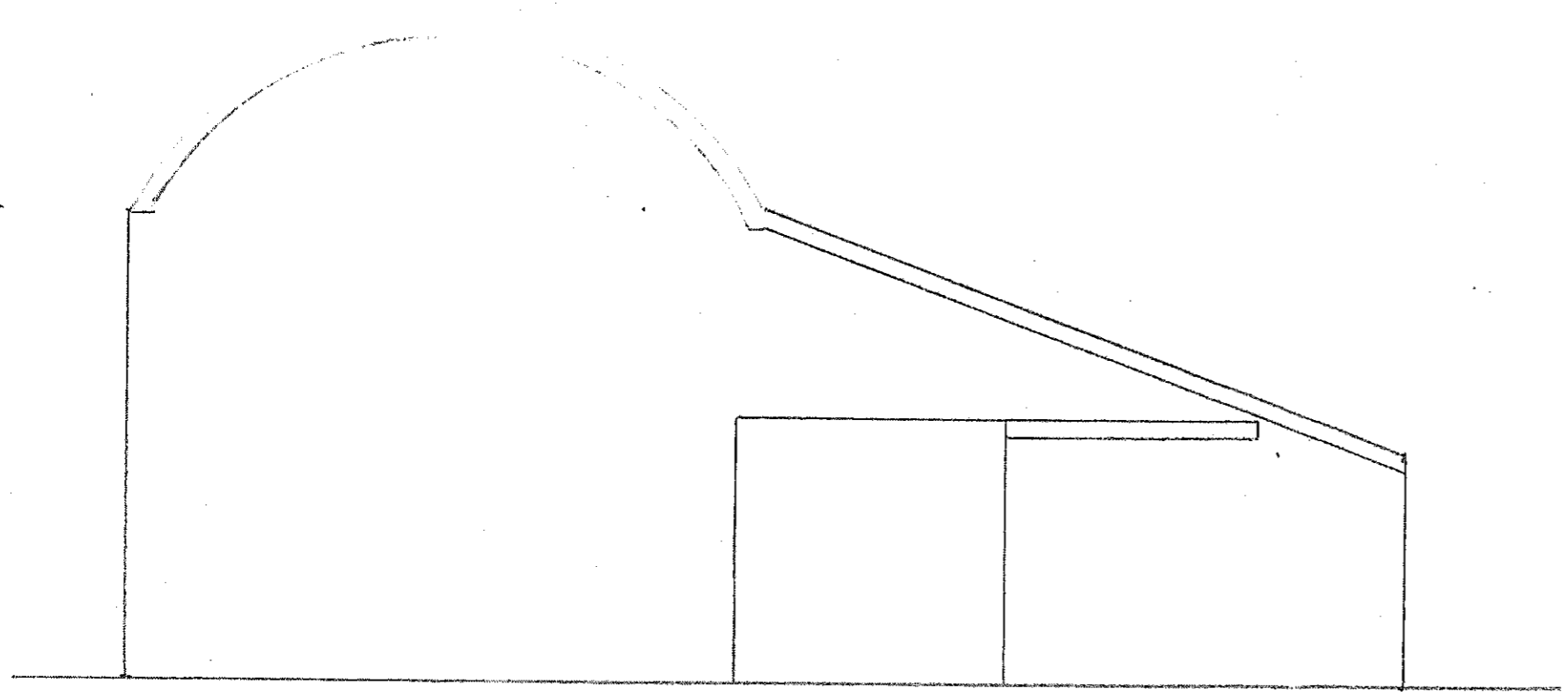
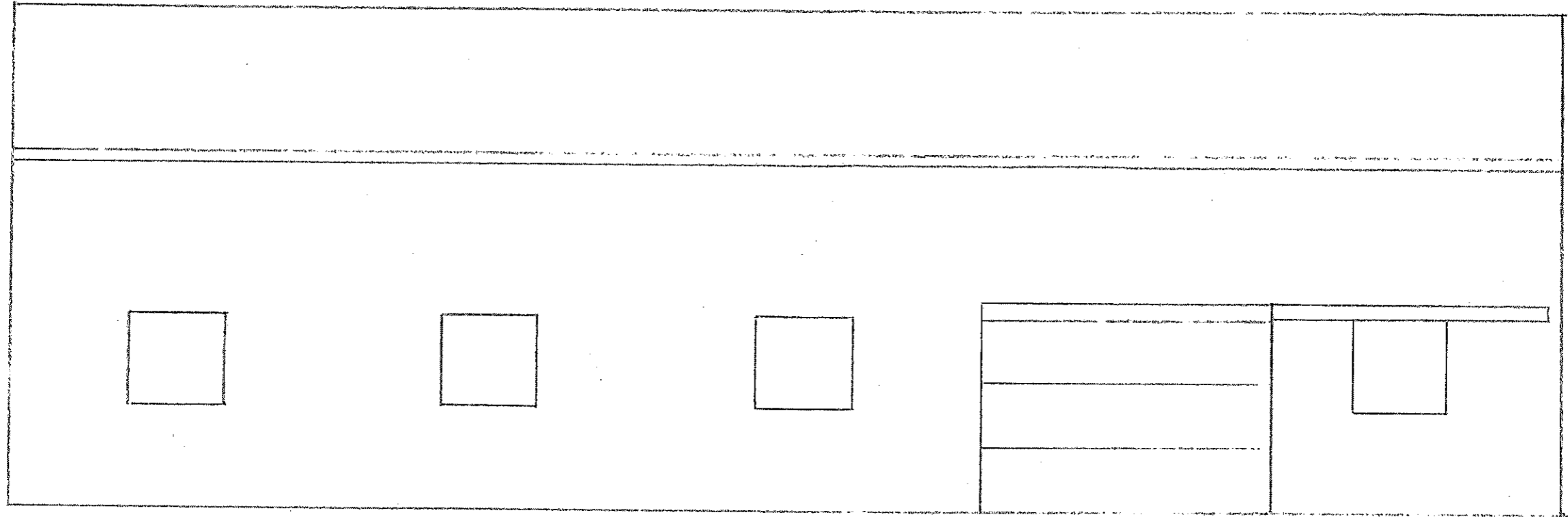
- New Barn (existing)
- New lean to extension (office and toilet building)
- Remove all materials and landscape
- New Hedge
- New gates
- Use existing openings
- Make new hardstandings
- No alterations to other elevations
- Track to Farm
- New close boarded fence 2m high



1:500 @ A3
BLOCK PLAN.



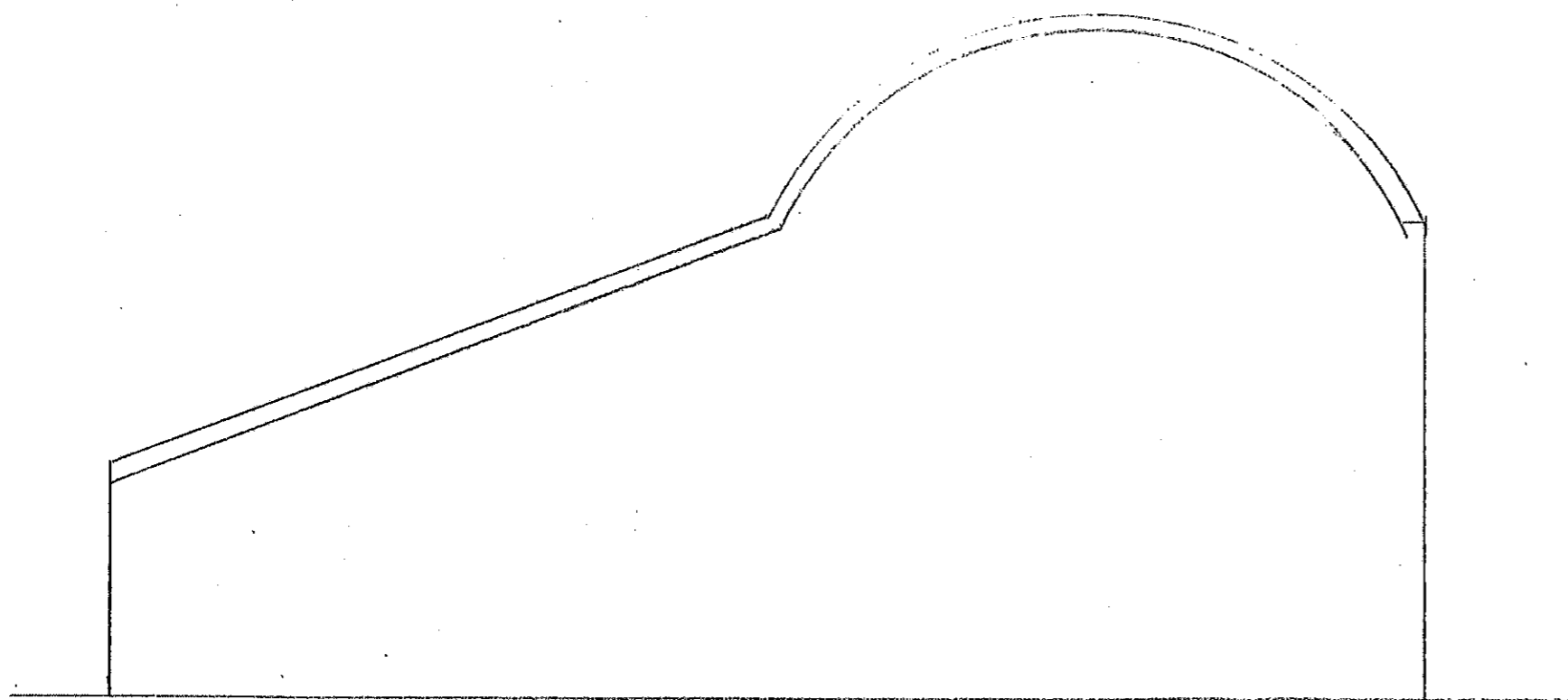
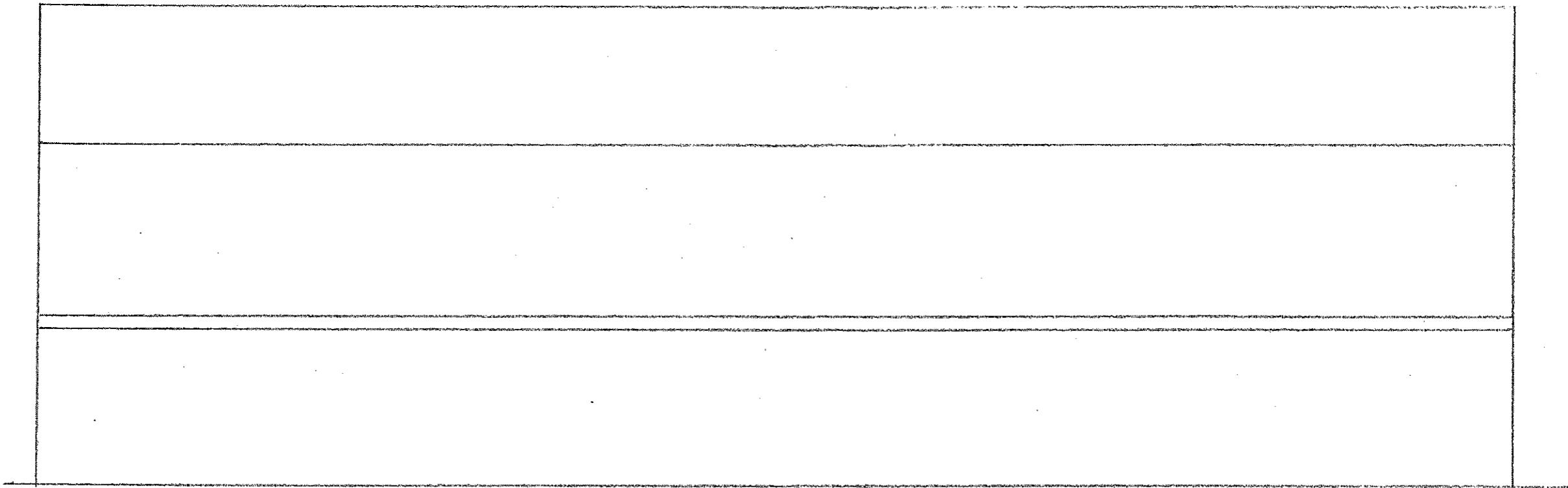
09/01



1:100 @ A3

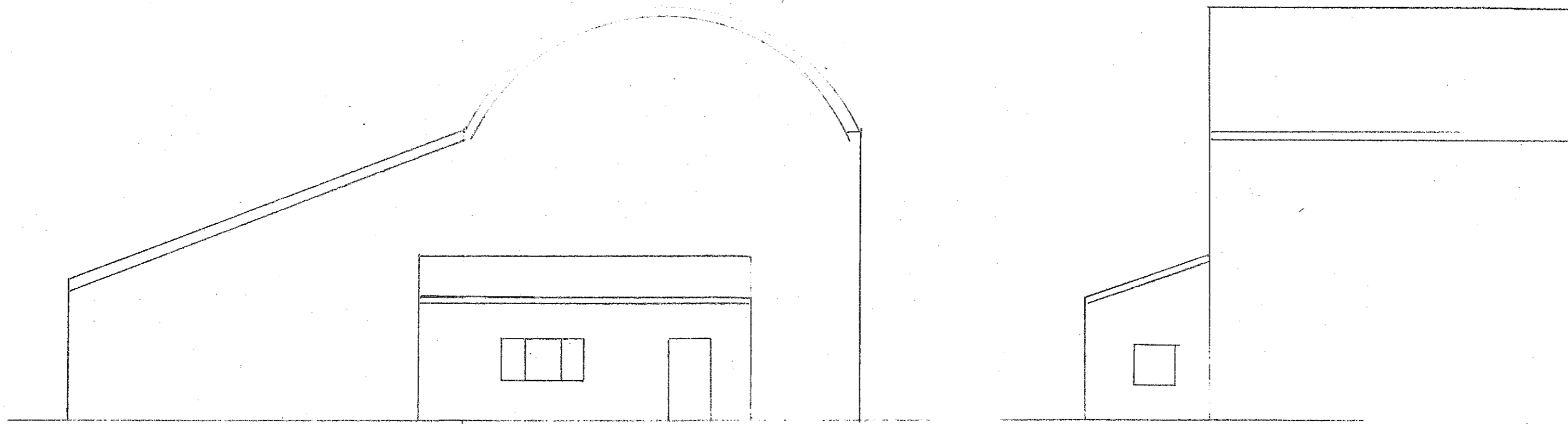
EXISTING ELEVATIONS
(EAST AND SOUTH)

09/02



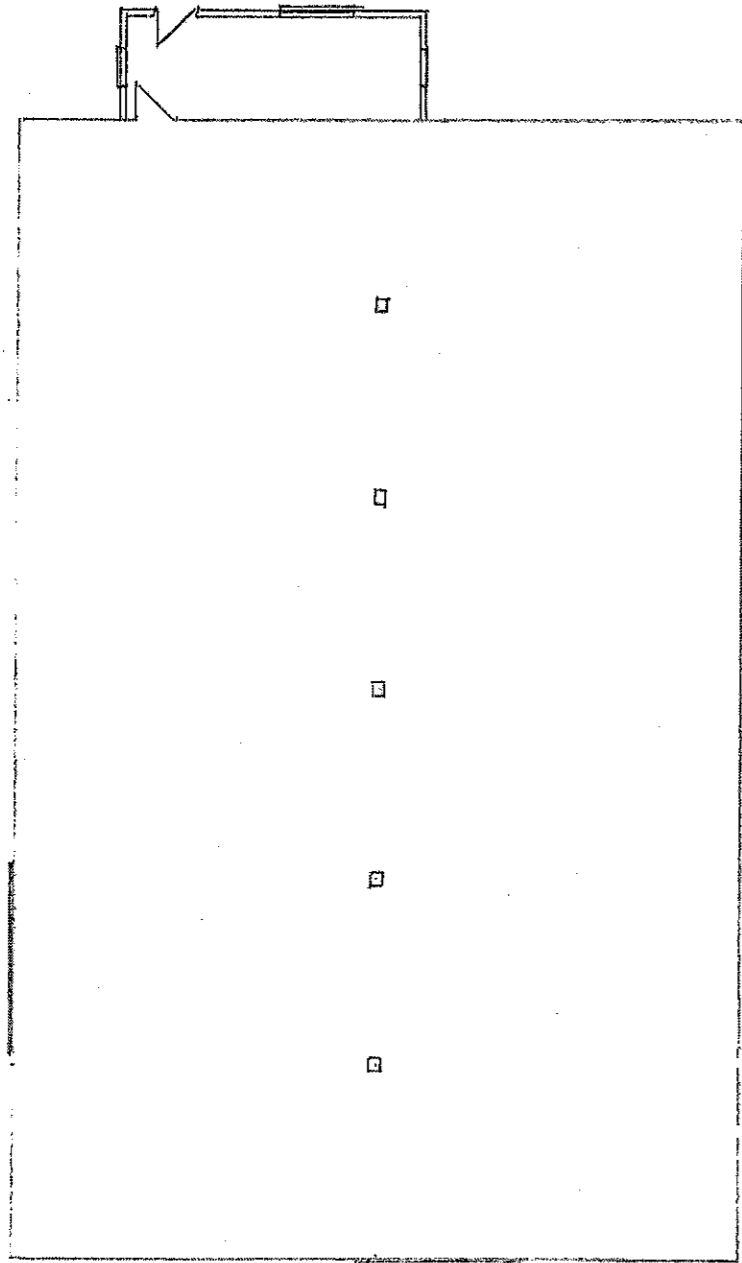
EXISTING ELEVATIONS
(WEST & SOUTH)

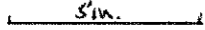
1:100 @ A3
5m.
09/03

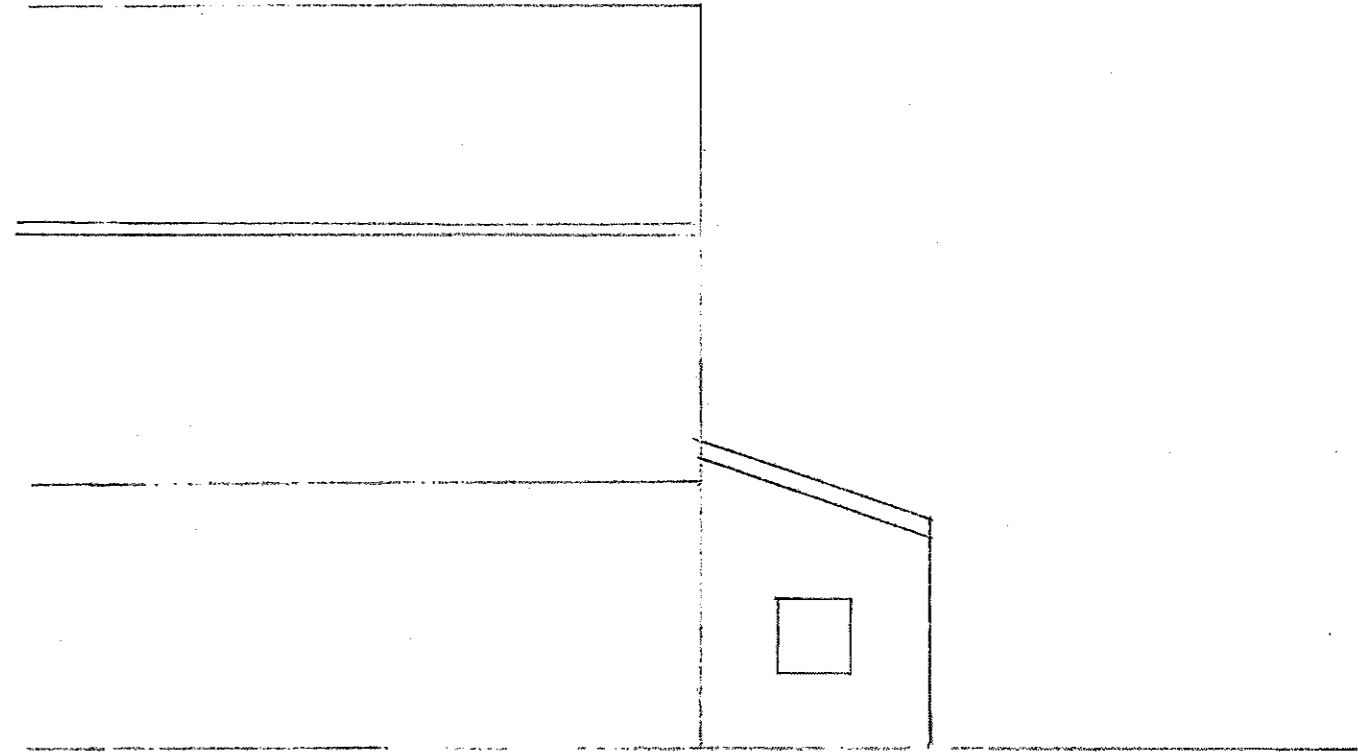


PROPOSED END & SIDE ELEVATION
(NORTH & EAST)

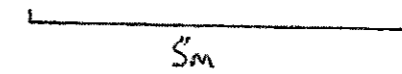
1:100 @ A3
SM
09/04



 1:200
 EXISTING FLOOR PLAN
 SHOWING PROPOSED EXTENSION



PROPOSED SIDE ELEVATION (WEST)



1:100 2A3

09/05.

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