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EXPERTS IN PROPERTY

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RIGHT OF LIGHT ASSESEMENT

On the proposed Development at:

165 High Road, Loughton, IG10 4LF

Client:
Kevin Desouza,
SAFL Property Ltd,
Prospect House,
2 Athenaeum Road,
Whetstone,
London N20 9AE

Prepared By:
Mr. Felix Carter BA (Hons)
Surveyor

Date of Report: 24th May 2018

CONTENTS

Table of Contents

CONTENTS 2

1. INSTRUCTION 3

2. LOCATION 4

3. SOURCES OF INFORMATION 6
   - 3.1 PROPOSED SITE 6
   - 3.2 EXISTING SITE 6
   - 3.3 SITE VISIT 6

4. RESULTS 7
   - 4.1 HIGH ROAD 7
   - 4.2 STATION ROAD 7

5. BOOK VALUE CALCULATION 8
6. CONCLUSION 9

7. APPENDIX 1 10
8. APPENDIX 2 16
9. APPENDIX 3 18

1. INSTRUCTION

Anderson Wilde and Harris were instructed on the 11th May 2018 by Kevin Desouza of SAFL Property Ltd. The aim of this report is to review the potential Rights of Light infringements to the surrounding properties following development at 165 High Road, London, IG10 4LF.

We have been instructed to prepare a Full Right of Light Assessment after concerns that the proposed development may infringe on the Rights of Light easements to the surrounding properties.

The appraisal approach is to visualise the bulk of the proposed development and assess the change in the amount of sky view that would be visible through the window of the surrounding property, at the height of the working plane of 0.84m.

This report appraises the effect of the scheme based on the proposed scheme provided by Kevin Desouza.

A site visit was undertaken on the 14th May 2018. During which we obtained measurements and photographs of the proposed site and the surrounding area. We have not been able to inspect inside any of the neighbouring properties. Internal room layouts have been modelled using floor plans where available on the internet.

2. LOCATION

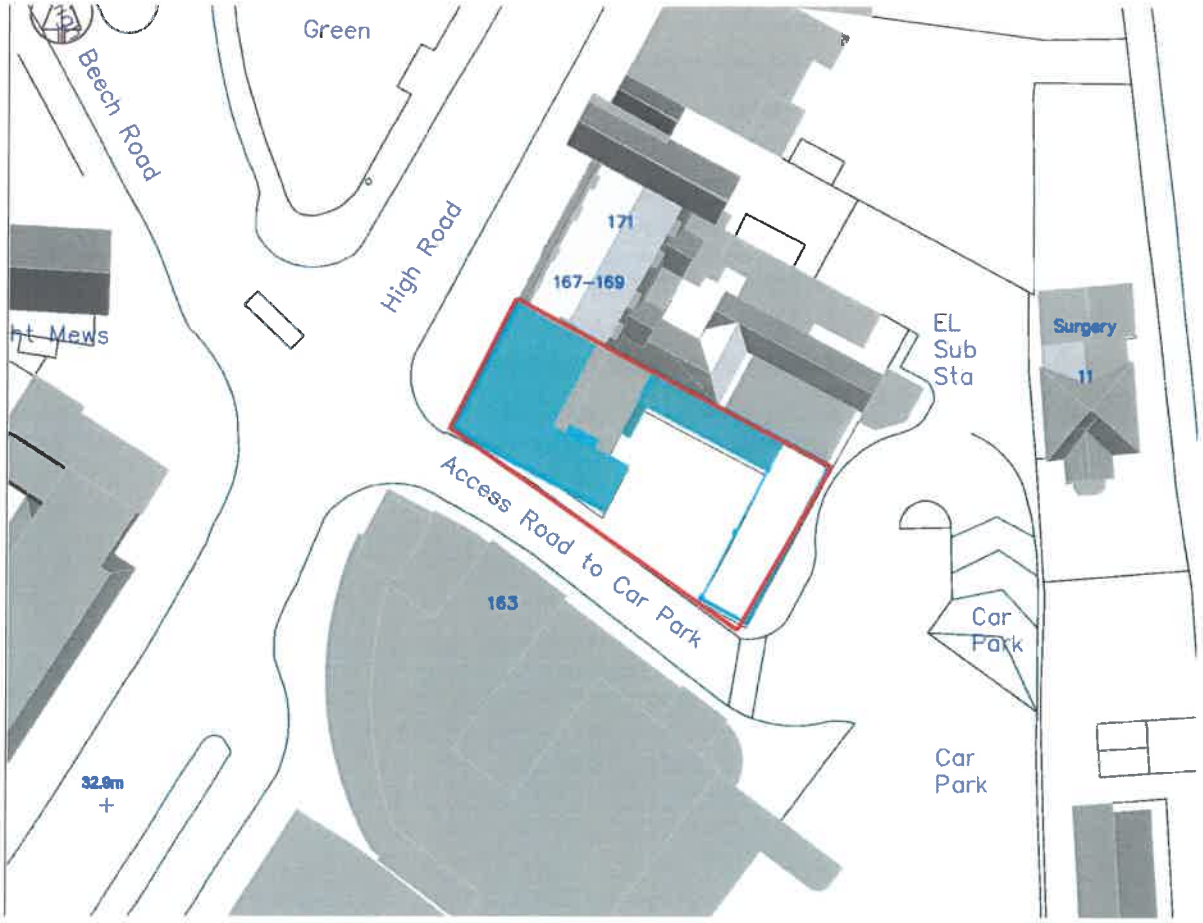


Figure 1 – Existing Site in Red

EXISITNG SITE
The existing site comprises of a carpark to the rear of 165 High Road.

SURROUNDING SITE
The surrounding site comprises of a mixture of residential and commercial properties. The properties are between two and four storeys high.

3. SCHEME

PROPOSED DEVELOPMENT

The proposed development consists of:

- Demolition of an existing outbuilding and a small section of stairwell to the rear.
- The erection of a five-storey building.
- To provide one commercial unit at ground floor.
- To provide 12 Flats (8 X 1 Bed) and (4 X 2 Bed).
- The refurbishment of existing building to the front, including erection of an additional floor to provide two flats (2 X 1 Bed).

The modelled built environment has been constructed using a Pro map, Architect drawings in dwg and PDF formats and by measurements gathered during a site inspection

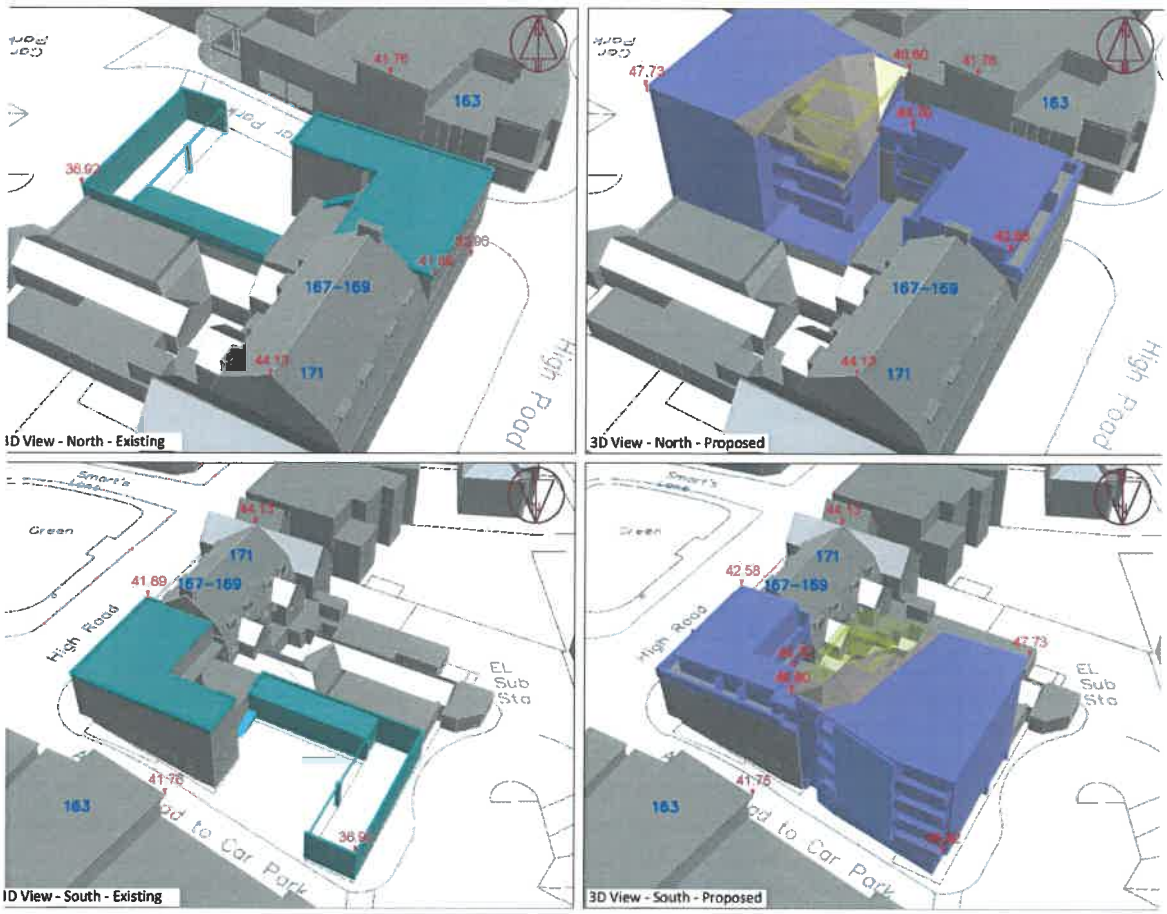


Figure 2 – Existing (Cian), Proposed (Proposed), Section of proposal causing infringement (Yellow).

3. SOURCES OF INFORMATION

3.1 PROPOSED SITE

ARCHITECTS DRAWINGS

All Architects Drawings have been provided by Kevin Desouza of SAFL Property Ltd.

The proposed development had been modelled using a dwg file provided by the Architect.

TITLE	DRAWING No	DATE RECIEVED
Location Plan	229-XEP-050	11th May 2018
GF Plan	229-XEP-100	11th May 2018
F Plan	229-XEP-101 1F	11th May 2018
2F Plan	229-XEP-102 2F	11th May 2018
Elevation A	229-XEP-200	11th May 2018
Elevation B	229-XEP-201	11th May 2018
Elevation C	229-XEP-202	11th May 2018
Elevation D	229-XEP-203	11th May 2018

3.2 EXISTING SITE

PROMAP

We downloaded a Promap OS detail map. Promap has an accuracy level of +/- 1000mm.

3.3 SITE VISIT

We inspected site on 14th May 2018 to ensure the accuracy of the modelled built environment was increased. We gathered measurements and photographs during the inspection.

4. RESULTS

All windows except 161-163 are thought to be older than 20 years. This would suggest that the apertures have acquired a Rights to Light easement though prescription. The Prescription Act 1832 details that the period of prescription is set at 20 years 'next before some suit or action'. In legal terms, a right of light is a negative easement and prevents anyone from infringing on your sky view over another. The easement of light is a continuous easement which is important because it binds successors.

For more information on right of light see Appendix 3.

In the absence of floor plans the internal room dimensions have been constructed as if they were typical for a property of their age and type. Where we have assumed internal layouts; we would consider these to be reasonable assumptions. Without accurate dimensions, we cannot detail the exact amount of loss to the property.

The results and room contours can be found in Appendix 3.

4.1 HIGH ROAD

161- 163 HIGH ROAD: All rooms to this property are adequately lit and above the 50% threshold required for a commercial premise.

167 – 169 HIGH ROAD: There are two infringements to this property. There is an infringement to a R1 at first floor level. The lit area before the development was at 89% adequately lit and is lowered to 40% lit after the development. There is also one infringement to R4. The lit area before the development was at 76% adequately lit and is lowered to 48% lit after the development. These losses are to be significant loss and entitles the owner of the premises to a remedy.

171 HIGH ROAD: All rooms to this property are adequately lit and above 50% threshold required for a commercial premise.

4.2 STATION ROAD

11 STATION ROAD: All rooms to this property are adequately lit and above 50% threshold required for a commercial premise.

5. BOOK VALUE CALCULATION

The 'Book Value' is the recognised, traditional method of valuation for Right of Light claims. The 'enhancement figure' is a multiplier of the Book Value derived from previous case law.

167-169 HIGH ROAD

Taking the combined EFZ figure of the surrounding injuries we get 80.64 sq.ft.

80.64 x £5 per sq.ft = £403

£403 x Years Purchase of 14 (7% Yield) = Book Value of £5,642

£5,642 x 3 times enhancement (in negotiations this could be more) = **£16,926**

The above figures are an indicative amount to budget for compensation. If a Right of Light consultant is employed by the neighbour to negotiate this, it is likely to be a higher figure. Furthermore, these figures do not take into consideration the Right of Light surveyors' and solicitors' fees for all parties involved which are typically covered by the developer.

The enhancement figure of three we have used above is derived from case law but if so chosen by a surrounding owner this could be higher.

Note: We have not taken into consideration the share of development profit calculation. This can be used in the negotiation process and can increase the Book Value figure significantly.

6. CONCLUSION

The proposed development at 165 High Road will cause a Rights of Light infringement to 167-169 High Road. To avoid unexpected claims and possibility of injunction against the development you must settle these prior to development.

You can decide on how to deal with this;

The primary option is to compensate the surrounding properties to settle the Rights of Light injuries. This would involve preparing a Deed of Release to wavier any claim. You should be aware that you would be expected to cover the cost of the surveyors and legal fees for all parties. We recommend that you enquire about Right of Light insurance from an insurance specialist.

You may wish to push ahead with the build and budget for any unexpected claims in the future. We do not recommend this option as the neighbour may choose to seek injunction over your completed development which would be of significant expense to you.

Statistically, it is unlikely that a neighbouring building will seek injunction over a development. However, if they are suffering an injury, they do have the right to do this and this has happened on many occasions. It is crucial that Right of Light issues are addressed as an injunction will be of significant cost to the developer.

We would be able to assist with negotiations on your behalf for £300 plus VAT per hour.

Our view on infringements is using our professional experience as Right of Light surveyors. A judge may take a different view and has the power to decide upon injunction.



.....

Felix Carter BA(Hons)
Surveyor

7. APPENDIX 1

Floor Ref.	Room Ref.	Property Type	Room Use.		Room Area	Lit Area Existing	Front Zone	First Zone	Second Zone	MKWT Zone	Lit Area Proposed	Total Area Lost	Front Loss	First Loss	Second Loss	MKWT Loss	EFZ m²	EFZ Sq Ft
163 High Road																		
Ground	R1	Commercial	Retail/Restaurant	Area m2	27.53	27.53	6.88	6.88	6.88	6.88	27.53	0.00	0.00	0.00	0.00	0.00		
				% of sector			100.00%	100.00%	100.00%	100.00%								
				% of sector			25.00%	25.00%	25.00%	25.00%							0.00	0.00
				Factored Area									0.00	0.00	0.00	0.00		
				% of room		100%					100%							
Ground	R2	Commercial	Retail/Restaurant	Area m2	69.08	67.65	17.27	17.27	17.27	15.84	43.69	23.96	0.00	0.00	0.00	23.96		
				% of sector			100.00%	100.00%	100.00%	91.73%								
				% of sector			25.00%	25.00%	25.00%	22.93%							5.99	64.48
				Factored Area									0.00	0.00	0.00	5.99		

				% of room		98%					63%							
																Total EFZ	5.99	64.48
167-171 High Road																		
First	R1	Residential	Unknown-Resi	Area m2	13.84	12.33	3.46	3.46	3.46	1.95	5.59	6.74	0.00	1.33	5.41	0.00	4.03	43.43
				% of sector	148.92		100.00%	100.00%	100.00%	56.44%								
				% of sector			25.00%	25.00%	25.00%	14.11%								
				Factored Area									0.00	1.33	2.71	0.00		
				% of room		89%					40%							
First	R2	Residential	Unknown-Resi	Area m2	14.09	11.70	3.52	3.52	3.52	1.13	11.70	0.00	0.00	0.00	0.00	0.00	0.00	0.00
				% of sector			100.00%	100.00%	100.00%	31.99%								
				% of sector			25.00%	25.00%	25.00%	8.00%								
				Factored Area									0.00	0.00	0.00	0.00		
				% of room		83%					83%							
First	R3	Residential	Unknown-Resi	Area m2	3.08	2.42	0.77	0.77	0.77	0.11	2.42	0.00	0.00	0.00	0.00	0.00	0.00	0.00
				% of			100.0	100.0	100.0	14.44								

				sector			0%	0%	0%	%									
				% of sector			25.00 %	25.00 %	25.00 %	3.61%									
				Factored Area									0.0 0	0.0 0	0.00	0.00		
				% of room		79%					79%								
First	R4	Residential	Unknown-Resi	Area m2	14.41	10.94	3.60	3.60	3.60	0.13	6.96	3.98	0.0 0	0.24	3.73	0.00		
				% of sector			100.0 0%	100.0 0%	100.0 0%	3.54%									
				% of sector			25.00 %	25.00 %	25.00 %	0.89%							2.11	22.72	
				Factored Area									0.0 0	0.24	1.87	0.00		
				% of room		76%					48%								
First	R5	Residential	Unknown-Resi	Area m2	3.23	2.69	0.81	0.81	0.81	0.27	2.69	0.00	0.0 0	0.0 0	0.00	0.00		
				% of sector			100.0 0%	100.0 0%	100.0 0%	33.49 %									
				% of sector			25.00 %	25.00 %	25.00 %	8.37%							0.00	0.00	
				Factored Area									0.0 0	0.0 0	0.00	0.00		
				% of room		83%					83%								
Second	R1	Residential	Unknown-Resi	Area m2	13.89	13.35	3.47	3.47	3.47	2.94	10.83	2.53	0.0 0	0.0 0	0.00	2.53		
				% of sector			100.0 0%	100.0 0%	100.0 0%	84.56 %							0.63	6.80	

				% of sector			25.00%	25.00%	25.00%	21.14%								
				Factored Area									0.00	0.00	0.00	0.63		
				% of room		96%					78%							
Second	R2	Residential	Unknown-Resi	Area m2	14.09	13.41	3.52	3.52	3.52	2.84	10.60	2.81	0.00	0.00	0.00	2.81		
				% of sector			100.00%	100.00%	100.00%	80.55%								
				% of sector			25.00%	25.00%	25.00%	20.14%							0.70	7.56
				Factored Area									0.00	0.00	0.00	0.70		
				% of room		95%					75%							
Second	R3	Residential	Unknown-Resi	Area m2	14.04	13.38	3.51	3.51	3.51	2.85	13.38	0.01	0.00	0.00	0.00	0.01		
				% of sector			100.00%	100.00%	100.00%	81.27%								
				% of sector			25.00%	25.00%	25.00%	20.32%							0.00	0.02
				Factored Area									0.00	0.00	0.00	0.00		
				% of room		95%					95%							
Second	R4	Residential	Unknown-Resi	Area m2	13.38	12.85	3.34	3.34	3.34	2.81	12.80	0.04	0.00	0.00	0.00	0.04		
				% of sector			100.00%	100.00%	100.00%	84.09%							0.01	0.11
				% of sector			25.00%	25.00%	25.00%	21.02%								

				Factored Area									0.00	0.00	0.00	0.01	
				% of room		96%					96%						
															Total EFZ	**7.49**	**80.64**
								11 Station Road									
First	R1	Residential	Bathroom	Area m2	8.66	8.23	2.16	2.16	2.16	1.73	5.48	2.74	0.00	0.00	0.00	2.74	
				% of sector			100.00%	100.00%	100.00%	79.98%							
				% of sector			25.00%	25.00%	25.00%	20.00%							0.69	7.38
				Factored Area									0.00	0.00	0.00	0.69	
				% of room		95%					63%						
First	R2	Residential	Bathroom	Area m2	4.16	3.68	1.04	1.04	1.04	0.56	3.52	0.16	0.00	0.00	0.00	0.16	
				% of sector			100.00%	100.00%	100.00%	53.93%							
				% of sector			25.00%	25.00%	25.00%	13.48%							0.04	0.44
				Factored Area									0.00	0.00	0.00	0.04	
				% of room		88%					85%						
															Total	**0.**	**7.8**

EFZ	73	2

8. APPENDIX 2

The extent of the right is defined in the leading case on this question (Colls v Home & Colonial Stores [1904]), as:

"the right for the dominant owner to have light that is 'sufficient light according to the ordinary notions of mankind for the comfortable use of his house as a dwelling house'."

Generally within the profession the 'ordinary notion of mankind' is interpreted to be an adequate amount of light received by the room/rooms/relevant areas of the building where at least 50% of the room/rooms/relevant areas of the building receive that adequate amount of light. The point at which adequacy is measured is at table height, which is 2'9", or 0.8283m.

The entitlement is a right to a reasonable amount of light, sufficient for the proper use and enjoyment of the subject room or property. It is not a right to receive the same light forever or to be protected from any reduction.

The Commission International de l'Eclairage (International Commission on Illumination) declares the adequate amount of light is available where:

one can see 1/500th (now more commonly referred to as 0.2% sky factor) of the whole dome of the sky;

the working plane for measurement purposes ought to be 0.8283m (in metric measurement) above floor level; and

for work involving visual discrimination, 0.2% daylight at this working plane ought to be adequate.

On a grey overcast day in winter, 0.2% sky factor is a poor level of light by all modern working and living requirements and indeed on Health and Safety considerations.

This is a minimum standard.

This is important to note as it assists in understanding that an infringement that causes light levels to fall below this standard is necessarily serious and
not trivial and in rooms that are already poorly lit by this standard any further reduction is likely to be very serious.

The long-established rule of thumb is that if 50% of the working plane in a room that will be affected by the proposed works will still receive 0.2% sky factor in its new condition, then the light to that room will generally be considered sufficient and therefore will not be actionably injured. This provides a useful guide but cannot be entirely relied upon.

There are cases where the available light has been greater, e.g. in Ough v King [1967], the injured room which would have received adequate (0.2% sky factor) light for an area over 50% of its total area after development was nevertheless actionably injured. The RICS

Dispute Resolution Service indicates this has been repeated in residential cases since this date and advises a more realistic target to avoid actionable injury as at today's date might be 55%.

In my experience the above guidance is correct and is followed by me in practise.

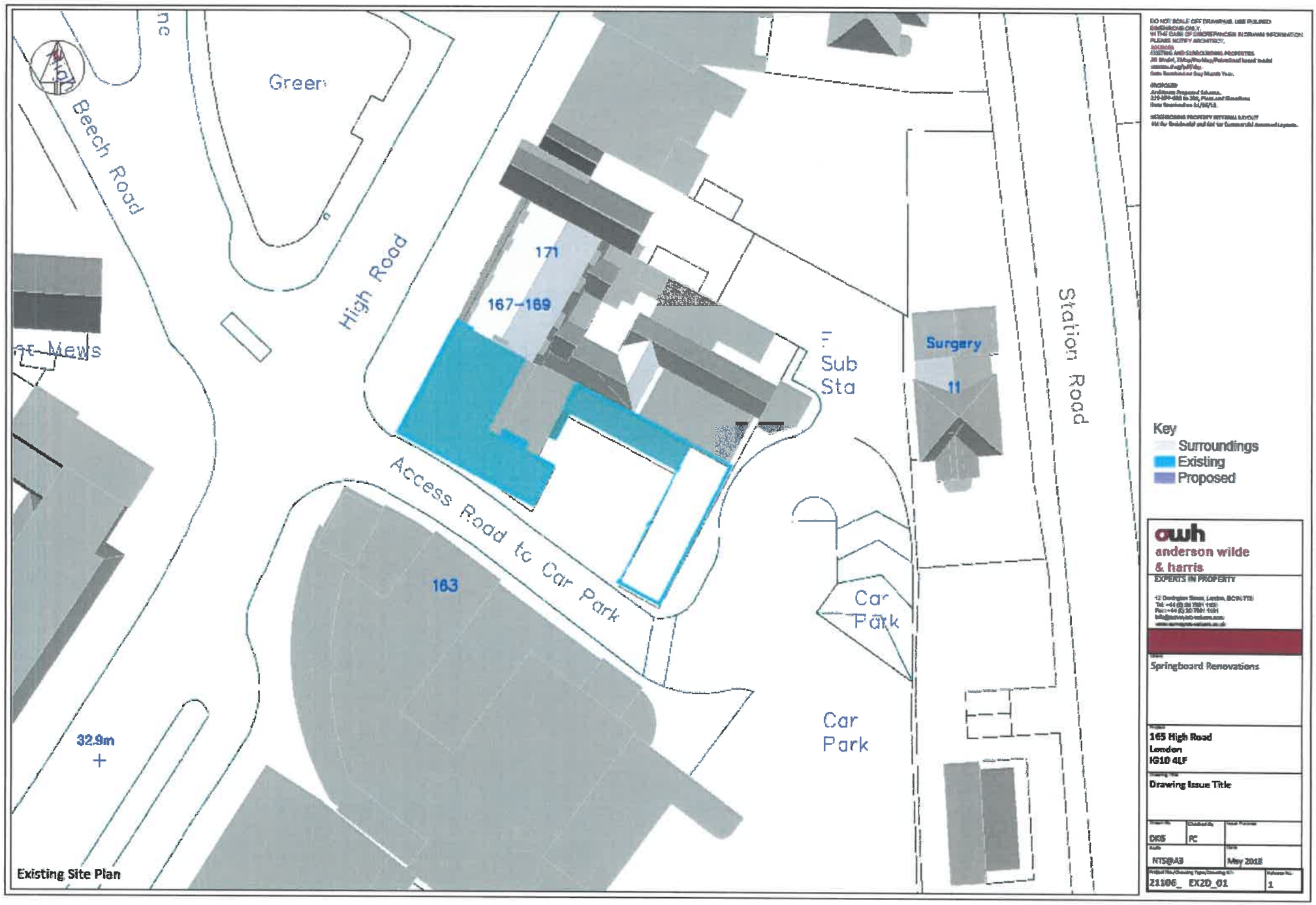
It is often said that the 50% rule establishes a 'grumble line'— that is, where light received by the room causes less than 50% of the room to be well lit, the user will notice it and grumble about it. There is a palpable effect on the user in such circumstances.

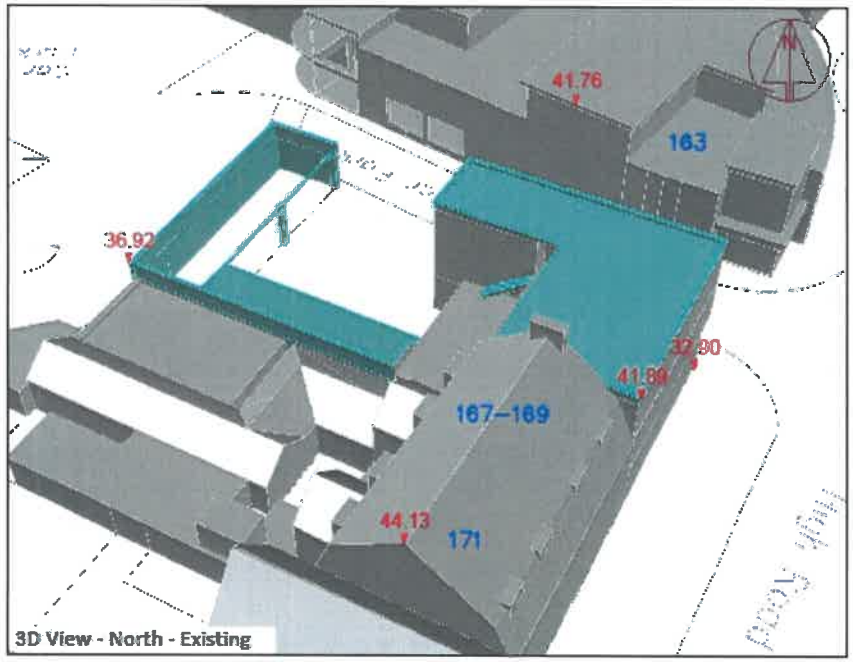
There are two significant factors to note when defining what may be a substantial (and therefore actionable) interference:

- where rooms are already badly lit, every bit of light enjoyed is precious (See Deakins v Hookings); and

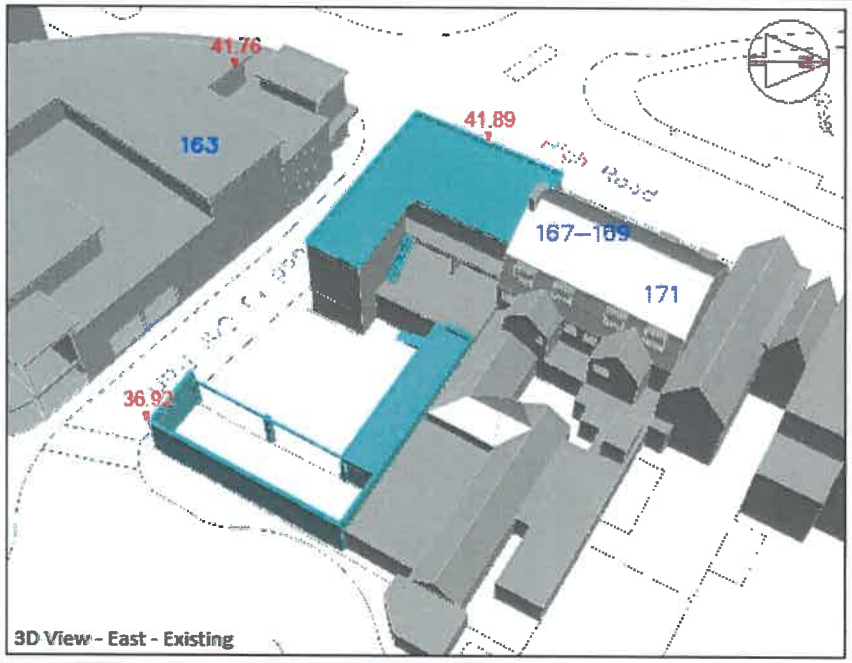
- where the user is residential (as opposed to an office or commercial user), the courts will be far more concerned to protect the light enjoyed. This means that even if the interference will leave 50% or 55% of the room well lit, the courts may still conclude that the interference is substant

9. APPENDIX 3

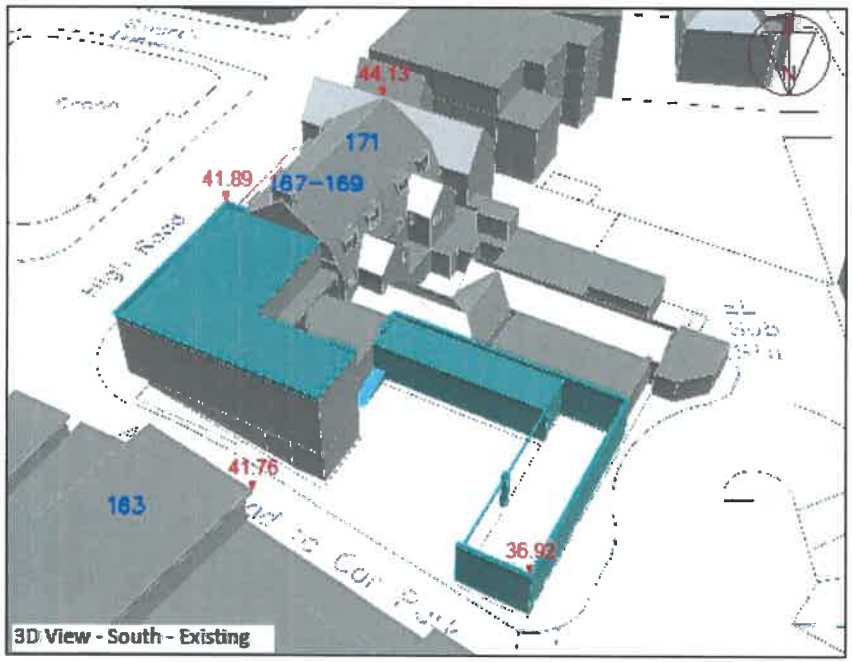

Beech Road
Green
High Road
171
167–169
Sub Sta
Surgery
11
Station Road
Access Road to Car Park
163
Car Park
Car Park
32.9m
Existing Site Plan
Key
Surroundings
Existing
Proposed
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EXPERTS IN PROPERTY
Springboard Renovations
165 High Road
London
IG10 4LF
Drawing Issue Title
DKB
FC
NTS@A3
May 2018
21106_ EX2D_01
1



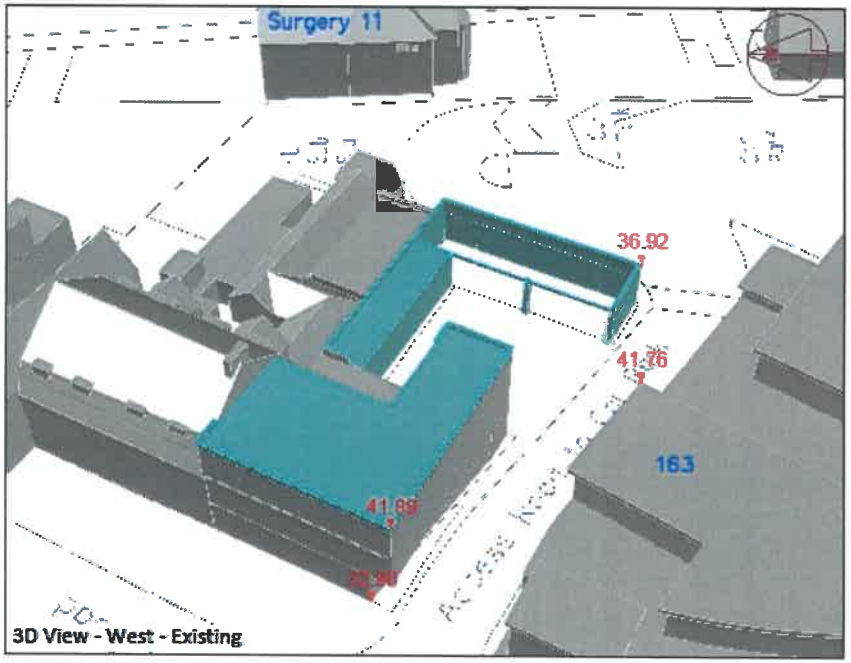
3D View - North - Existing



3D View - East - Existing



3D View - South - Existing



3D View - West - Existing

DO NOT SCALE OFF DRAWING. USE FIGURED DIMENSIONS ONLY.
IN THE CASE OF DISCREPANCIES IN DRAWN INFORMATION PLEASE NOTIFY ARCHITECT.

SURVEY
EXISTING AND SURROUNDING PROPERTIES
3D Model, Photo Overlays/Rendered based model
Ordnance Survey Data
Area Searched on 1st March Year.

PLANNING
Preliminary Proposed Scheme.
215-XPP-020 to 205, Plans and Elevations
Date Submitted on 11/05/18.

NEIGHBOURING PROPERTY SITUATION / IMPACT
All for Residential and All for Commercial Assessment is made.

Site Location Plan



Key
- Surroundings
- Existing
- Proposed

Height in Meters

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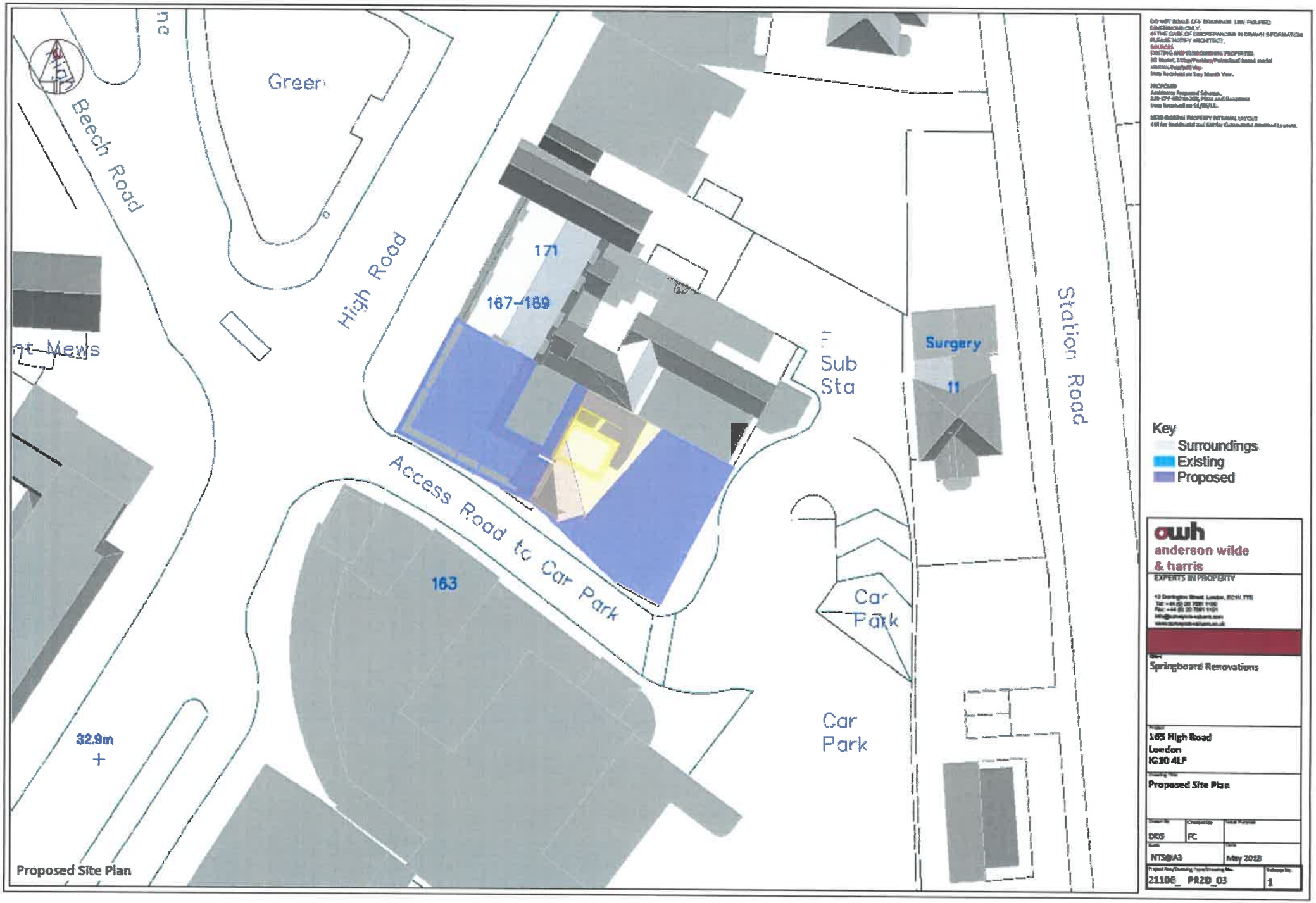
13 Devonshire Street, London, W1W 5DT
Tel: +44 (0) 20 7631 1000
Fax: +44 (0) 20 7631 1001
info@anderson-wilde.com
www.anderson-wilde.co.uk

Springboard Renovations

165 High Road
London
IG10 4LF

3d Views As Existing

Drawn by	Checked by	Issue Purpose
DKB	PC	
Scale	Date	
NTS@A3	May 2018	
Project No. (Drawing Type/Drawing No.)		Revision No.
21106_ EX3D _02		1



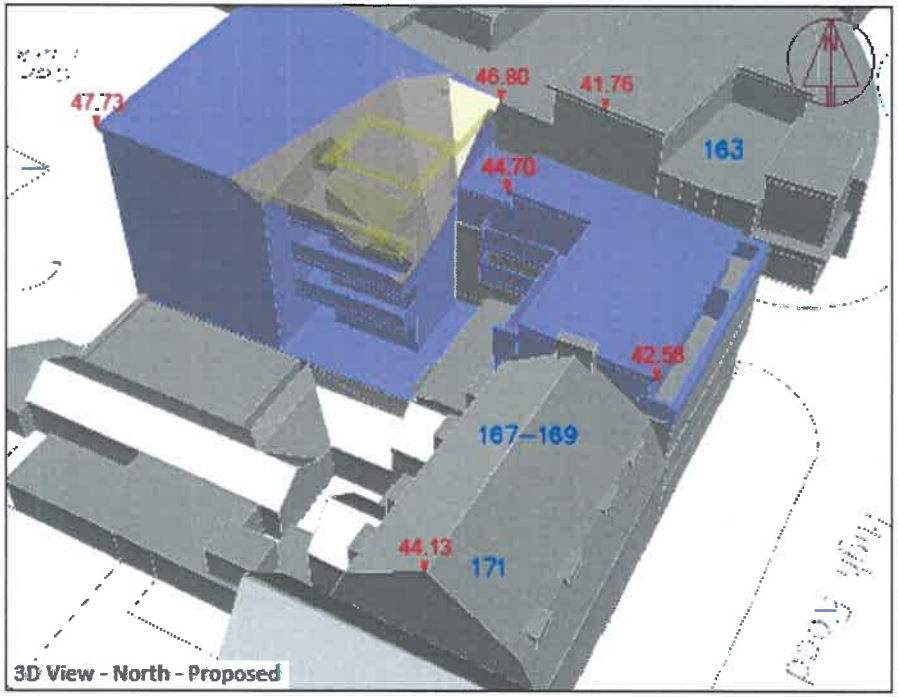
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Springboard Renovations

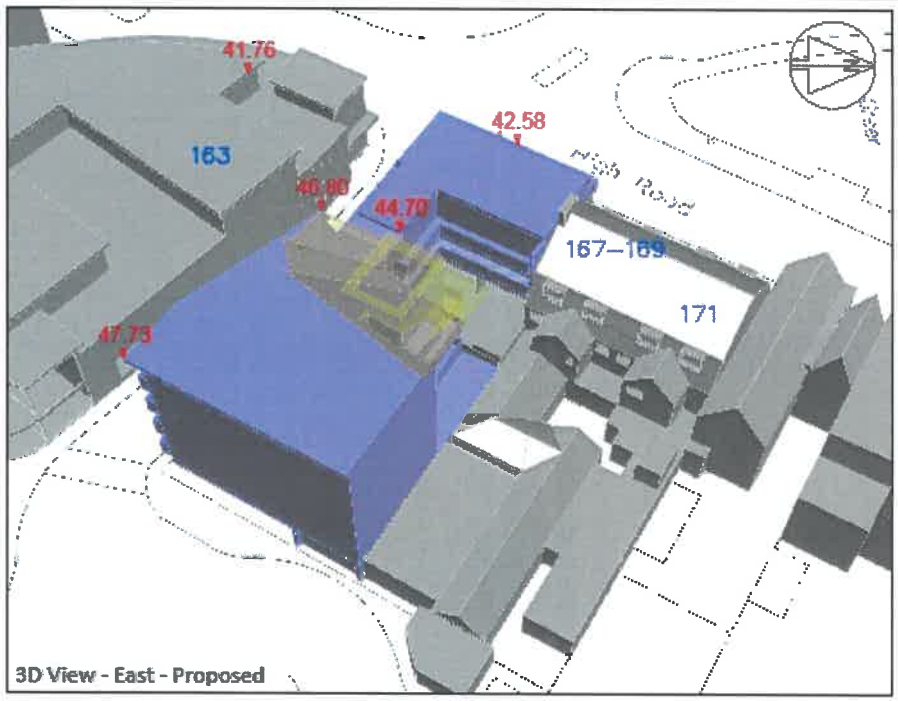
165 High Road
London
IG10 4LF

Proposed Site Plan

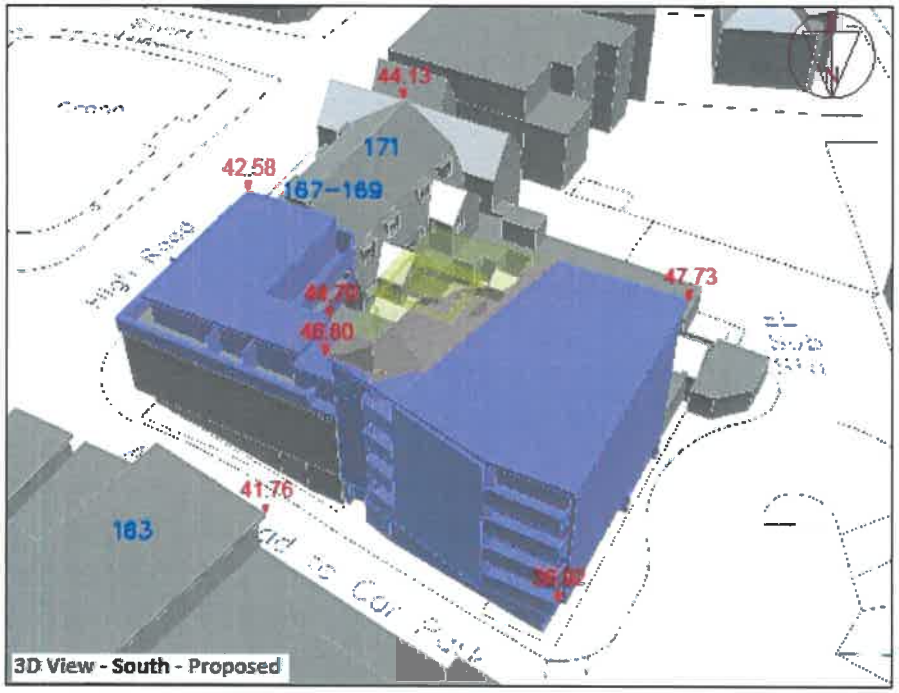
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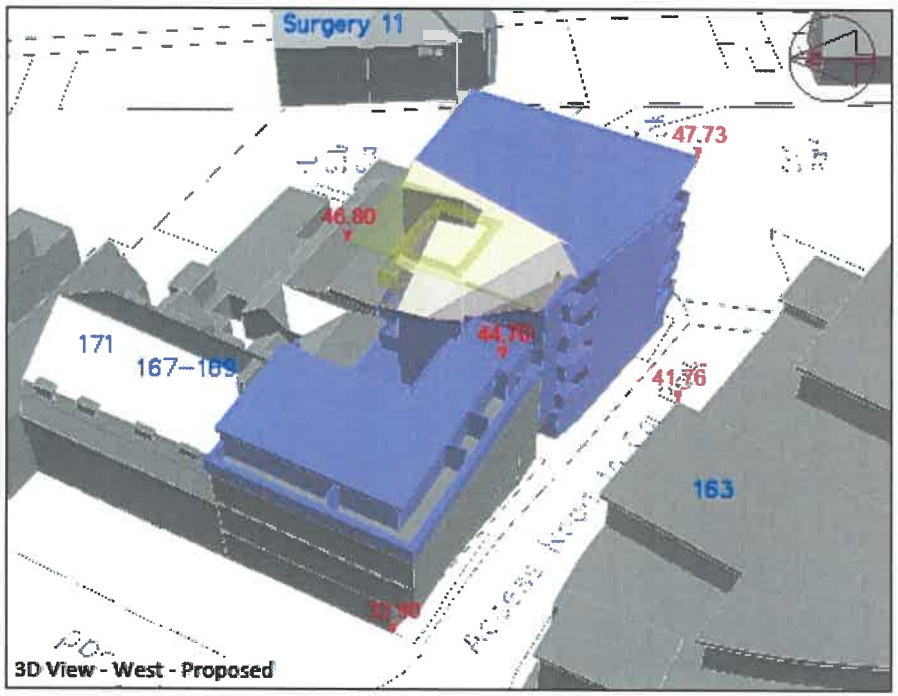
3D View - North - Proposed



3D View - East - Proposed



3D View - South - Proposed



3D View - West - Proposed

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IN THE CASE OF DISCREPANCIES IN DRAWN INFORMATION PLEASE NOTIFY ARCHITECT.

EXISTING AND SURROUNDING PROPERTIES
3D Model, Sketchup/Revit/Autocad based model
Sites Supplied as Dwg Sketch Files.

PROPOSED
Architects Proposed Scheme.
3D SketchUp Model, Plans and Elevations
Sites Supplied as Dwg/Dxf's.

SURROUNDING PROPERTY INTERNAL LAYOUT
Old for Residential and Old for Commercial Assumed Layouts.

Site Location Plan



Key

- Surroundings
- Existing
- Proposed

Height in Meters

owh
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EXPERTS IN PROPERTY

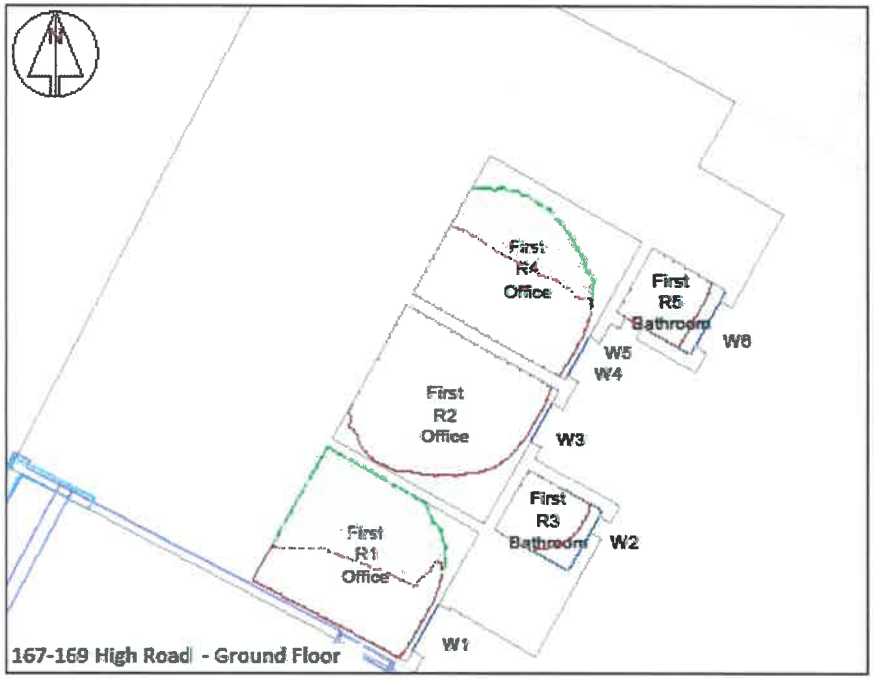
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info@owh-valuers.com
www.owh-valuers.com

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IG10 4LF

3d Views As Proposed

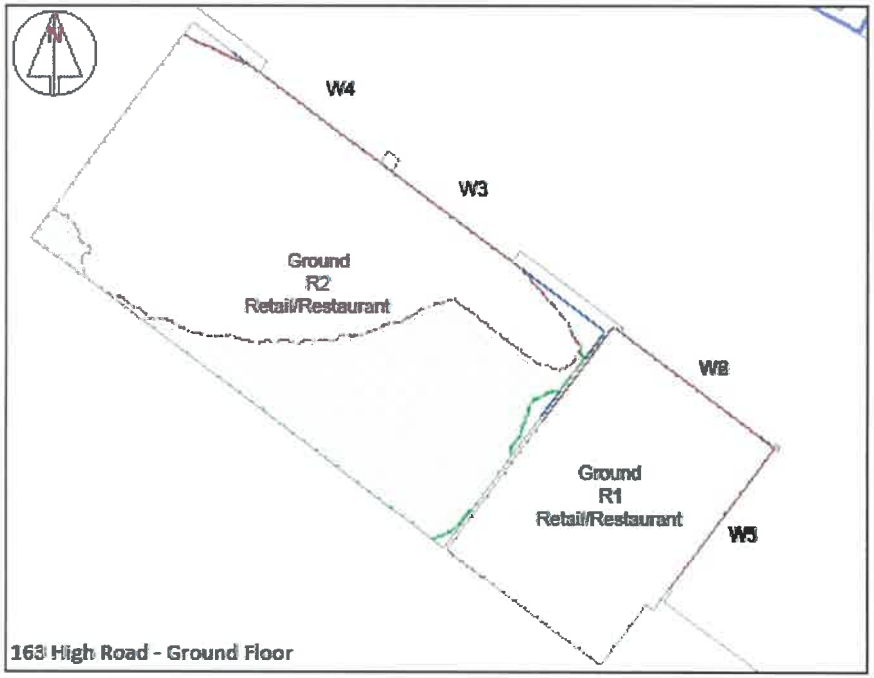
Drawn By	Checked By	Issue Purpose
DRS	PC	
Scale		Date
NTS@A3		May 2021
Project No./Drawing Type/Drawing No.		Revision No.
21106_ PR3D_04		1



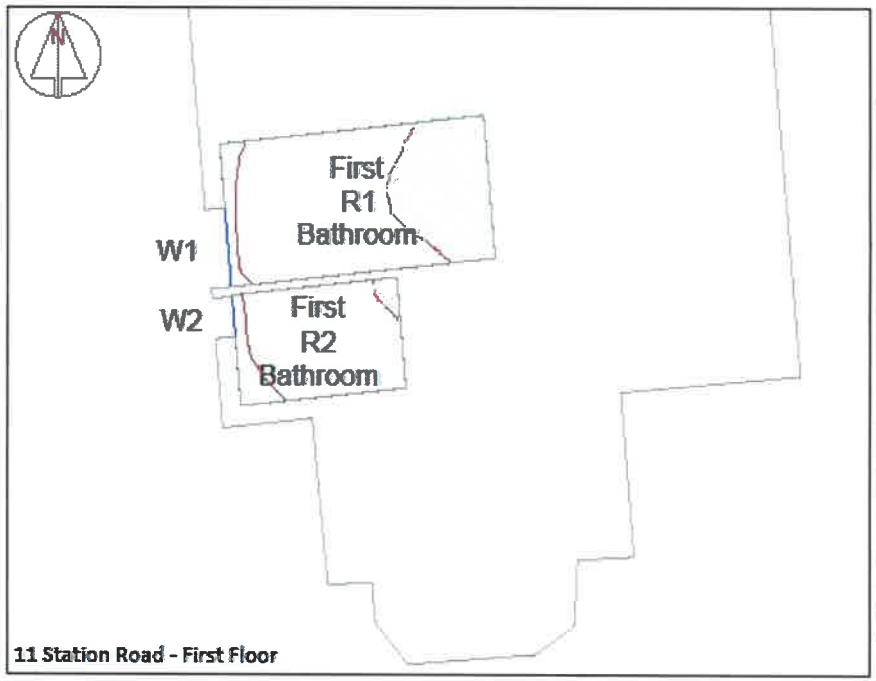
167-169 High Road - Ground Floor



167-169 High Road - First Floor



163 High Road - Ground Floor



11 Station Road - First Floor

GO NOT SCALE OFF DRAWINGS. USE FIGURED DIMENSIONS ONLY.
IN THE CASE OF DISCREPANCIES IN DRAWN INFORMATION PLEASE NOTIFY ARCHITECT.

SOURCES
EXISTING AND SURROUNDING PROPERTIES

PROPOSED

SURROUNDING PROPERTY INTERNAL LAYOUT

Site ID

Key

- Surroundings
- Existing
- Proposed
- Existing Contour
- Proposed Contour
- Room Outline
- Area of Loss

awh
anderson wilde & harris
EXPERTS IN PROPERTY

Springboard Renovations

165 High Road
London
IG10 4LF

Rights to Light Contours
11 Station Road,
163 & 167-169 High Road

DKS	FC	
NTS@A3		May 2018
21106_ RTL_01		1