

Report of the Chief Executive

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| <b>APPLICATION NUMBER:</b> | <b>22/00696/VOC</b>   |
| <b>LOCATION:</b>           | <b>Land North of Home Farm Cottage and Park View Cottage, Main Street, Strelley</b>   |
| <b>PROPOSAL:</b>           | <b>Variation of condition 1 (The development hereby permitted shall be carried out in accordance with the approved plans...) of planning permission reference 21/00023/FUL to regularise the construction of a viewing platform within the lion enclosure and balcony to the north west side of the stable building</b> |

The application is brought to the Committee at request of Councillor P J Owen.

1. Purpose of the Report

1.1 The application seeks planning permission for the variation of condition 1 (The development hereby permitted shall be carried out in accordance with the approved plans...) of planning permission reference 21/00023/FUL to regularise the construction of a viewing platform within the lion enclosure and balcony to the north west side of the stable building.

2. Recommendation

**The Committee is asked to RESOLVE that planning permission be granted subject to the prior completion of a unilateral undertaking under Section 106 of the Town and County Planning Act 1990 and conditions outlined in the appendix.**

3. Detail

3.1 The application seeks planning permission for the variation of condition 1 of planning permission reference 21/00023/FUL to regularise the construction of a viewing platform within the lion enclosure and balcony to the north west side of the stable building. The additions are stated to be required to support animal welfare needs. The enclosure to which the additions have been constructed was granted planning permission in June 2020 following approval from Planning Committee for the change of use of the site to include the keeping of wild cats and to retain the enclosure. The lion’s den forming an extension to the enclosure was granted planning permission following approval from Planning Committee in March 2021. Both the original enclosure 19/00243/FUL and the extension 21/00023/FUL were granted permission on the grounds that very special circumstances (VSC) had been demonstrated due to animal welfare needs.

3.2 The site is set within the Nottinghamshire Green Belt where there is a presumption against inappropriate development and development should not be approved except in VSC.

- 3.3 The main issues relate to whether or not the VSC put forward by the applicant outweigh the harm of the proposal to the openness of the Green Belt, the impact on the character and appearance of the area and the impact on the amenity of any neighbouring properties.
- 3.4 The benefits of the proposal are that it will support the keeping and welfare for the wild cats in an established enclosure granted planning permission under applications 19/00243/FUL and 21/00023/FUL. As such, it is considered that the application builds on the VSC that were established under both previous planning permissions for the keeping of wild cats in this location. Within the approved wild cat enclosure, it is considered that the size and design of the viewing platform and balcony would not represent a significant harm to the openness of the Green Belt and is considered in keeping with the character of the established wild cat enclosure setting. In accordance with paragraph 148 of the NPPF very special circumstances will not exist unless the potential harm to the Green Belt by reason of inappropriateness is clearly outweighed by other considerations. In this case it is considered that the potential harm to the Green Belt is not so significant and that this is outweighed by the established very special circumstances in relation to the welfare of the wild cats in this location.
4. Financial Implications
- 4.1 The comments from the Head of Finance Services were as follows:
- There are no additional financial implications for the Council with the costs/income being within the normal course of business and contained within existing budgets. Any separate financial issues associated with S106s (or similar legal documents) are covered elsewhere in the report.
5. Legal Implications
- 5.1 The comments from the Head of Legal Services were as follows: The Legal implications are set out in the report where relevant, a Legal advisor will also be present at the meeting should legal considerations arise.
6. Data Protection Compliance Implications
- 6.1 Due consideration has been given to keeping the planning process as transparent as possible, whilst ensuring that data protection legislation is complied with.
7. Background Papers:
- Nil.

**APPENDIX****1**     Details of the application

- 1.1     The application seeks planning consent for the variation of condition 1 (The development hereby permitted shall be carried out in accordance with the approved plans...) of planning permission reference 21/00023/FUL to regularise the construction of a viewing platform within the lion enclosure and balcony to the north west side of the stable building.

**2**     Site and surroundings

- 2.1     The application site contains a mixed use including equestrian and wild cat enclosure. Within the south of the site includes a ménage. In the centre of the site includes a stable block. To the north includes an extended wild cat enclosure.
- 2.2     The site is positioned to the north of the village of Strelley, with two residential dwellings adjoining the south boundary of the site. To the west of the site is the M1 motorway, with the boundary being made up of a substantial hedgerow which is in excess of 2m in height. The north and east boundary of the site is also made up of hedgerow and adjoins a bridleway. There is a further residential dwelling neighbouring the site to the north east.
- 2.3     There is a further residential dwelling neighbouring the site to the north east.

**3**     Relevant Planning History

- 3.1     The application site has a detailed planning history, with the relevant historical applications being summarised in this section.
- 3.2     In 2019, planning application 19/00243/FUL for the change of use of the site from equestrian to mixed use equestrian and the keeping of fully licensed wild cats, and to retain the secure enclosure, was voted for approval by the Planning Committee. This permission was granted in 2020 and is subject to a unilateral undertaking whereby the owner undertakes to carry out the following obligations:
- Not to use the said Wild Cat Enclosure for any purpose other than the keeping of the three Wild Cats in possession of the owner at the time of the application.
  - On the death or relocation to premises elsewhere of all the Wild Cats to cease use of the Wild Cat Enclosure and to remove it within 3 months of the cessation of use.
- 3.3     In 2020, planning application 20/00388/FUL was granted permission by the Planning Committee for various alterations to the approved enclosure including the internal division of the enclosure, security doors and an additional link to the stables. At the same committee meeting planning permission 20/00422/FUL was also approved for gates to be erected at the existing access to the south part of the field.

3.4 In 2021, planning application 21/00023/FUL was granted permission by the Planning Committee for the construction of a stable extension, lion's den and 3m high internal fencing. This permission was granted in 2021 and is subject to a unilateral undertaking whereby the owner undertakes the same obligations as listed above. This application comprised the extension to the originally approved wild cat enclosure 19/00243/FUL.

#### 4 Relevant Policies and Guidance

##### 4.1 **Greater Nottingham Aligned Core Strategies Part 1 Local Plan 2014:**

The Council adopted the Core Strategy (CS) on 17 September 2014.

- Policy A: Presumption in Favour of Sustainable Development
- Policy 2: The Spatial Strategy
- Policy 8: Housing Mix and Choice
- Policy 10: Design and Enhancing Local Identity

##### 4.2 **Part 2 Local Plan (2019):**

- Policy 8: Development in the Green Belt
- Policy 17: Place-making, design and amenity

##### 4.3 **National Planning Policy Framework (NPPF) 2021:**

- Section 2 – Achieving Sustainable Development.
- Section 4 – Decision-making.
- Section 12 – Achieving well-designed places.
- Section 13 – Protecting Green Belt Land

#### 5 Consultations

##### 5.1 **Broxtowe Environmental Health:** No objections.

- Note to applicant should be provided: Should the platform and steps be retained for access by the applicant as a self-employed person, employees or other visitors it will need to be modified to ensure compliance with Workplace (Health, Safety and Welfare) Regulations 1992.
- The applicant has confirmed that the enclosure is not a commercial business and no staff are employed, it is personal use.

##### 5.2 **Resident comments** - 6 objections have been received raising the following concerns:

- The proposal represents inappropriate development in the Green Belt.
- Traffic and congestion caused by proposed amendments.
- The site has a history of planning breaches of control with limited action being taken by the Council.

- The proposed amendments increase risks to public safety.
- The proposal is not suitable in respect of animal welfare.
- No justification has been provided to amend the plans / add new structures.
- Loss privacy.
- Balcony visible and it includes a hot tub on top of the platform.
- The development does not have the legal right to access the private road.

## 6 Assessment

6.1 The main issues for consideration are whether or not the proposal is appropriate development in the Green Belt, the design and appearance of the proposal and the impact of the proposal on neighbouring amenity.

### 6.2 **Principle of Development**

6.2.1 Policy 8 – Development in Green Belt of the Part 2 Local Plan states that applications for development in the Green Belt will be determined in accordance with the NPPF, as supplemented by the following Broxtowe-specific points 1-4. Paragraph 147 of the NPPF advises that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. Paragraph 148 states that substantial weight should be given to any harm to the Green Belt. 'Very special circumstances' will not exist unless the potential harm to the Green Belt by reason of inappropriateness, and any other harm resulting from the proposal is clearly outweighed by other considerations.

6.2.2 Paragraph 149 of the NPPF states that a local planning authority should regard the construction of new buildings as inappropriate in the Green Belt and sets out a number of limited exceptions which can be regarded as appropriate development. Paragraph 150 lists further exceptions subject to them preserving the openness.

6.2.3 This proposal does not fall within any of the exceptions referred to in paragraphs 149 and 150 of the NPPF. The development would therefore be inappropriate development and is therefore harmful, by definition, to the Green Belt.

6.2.4 The application for the enclosure extension was granted permission in March 2021, having been approved by the Planning Committee. It was determined that VSC for the enclosure had been demonstrated due to the need to conserve the wild animals that inhabit it. The applicant has stated that the proposed balcony assists the safe feeding of animals, whilst the viewing platform helps to support the welfare of the animals on the site. It is considered that the proposed additions to the enclosure fall under the established VSC case that has been previously accepted. It therefore needs to be considered whether the benefits of the proposal outweigh the harm to the Green Belt.

6.2.5 The enclosure is a lawful structure, having been granted planning permission in March 2021. Therefore, the consideration as to the impact on the openness

of the Green Belt needs to be made solely in respect of any additional harm caused by the proposed balcony and viewing platform. There is a relevant appeal decision for planning application 18/00808/ROC, at 176 Moorgreen, for amendments to a bungalow which had previously been granted permission in the Green Belt. The application proposed to retain dormer windows and roof lights, which had already been added to the building without permission, and was refused by the Planning Committee in February 2019. In allowing the appeal for the amendments the Inspector noted that the proposal would have a significantly harmful effect on the Green Belt had the site been undeveloped. However, the bungalow was now an established component in the landscape, and the approved scheme and erected dwelling shared many characteristics. The Inspector also noted that the differences between the approved building and the built structure consisted of relatively minor changes. As such, the Inspector concluded that the amended scheme in so far as the changes to the original permission was concerned had a very limited harmful impact on the openness of the Green Belt.

- 6.2.6 Overall it is considered that the proposed additions to the existing enclosure are reasonably minor and as such do not cause unacceptable harm to the openness of the Green Belt. In line with the decision to grant permission for the original enclosure, and the similar reasons given for the additions, it is considered that VSC have been generated that outweigh the limited harm to the openness of the Green Belt. It is therefore considered that the principle of development is acceptable in accordance paragraphs 147 and 148 of the NPPF.

### 6.3 Design and Appearance

- 6.3.1 The proposed balcony is set back approximately 16m from a private road which also forms public footpath 'Strelley BW2'. The proposed balcony consists of raised platform with a wooden staircase and glass balustrading overlooking the lion's den to the north. The balcony structure is made from wood, breeze blocks and metal caging materials. The balcony structure is approximately 3.1m in maximum height, 4.2m in depth and 4.5m in width. The proposed viewing platform is sited approximately 10m away from the private road set within a relatively central area of the enclosure. The proposed viewing platform comprises of two raised platforms with a connecting walkway between. Each lion platform is separated by approximately 10m. The viewing platform is constructed from timber with a thatched roof. Due to the siting of the balcony and viewing platform, set back from the public footpath and set behind existing fencing and mature hedgerow, public views of the proposal are limited.
- 6.3.2 The additions are considered to be of a size and scale that are in keeping with the existing structures. They have been constructed using materials to match the existing enclosure and are not considered to be so substantial as to significantly increase the scale or appearance of the existing enclosure. The view of the additions from the public realm is limited and therefore it is considered that the proposal is not harmful to the street scene or the character of the area.

6.3.3 Overall it is considered that the proposal is acceptable on design grounds.

#### **6.4 Amenity**

6.4.1 The viewing platform is approximately 39m from the nearest dwelling Holly Lodge to the north-east of the site, to the east includes a private track and a public footpath and fielded areas beyond, to the south beyond the existing stable block and ménage includes Home Farm Cottage and Park View Cottage, to the west includes woodland and beyond includes the M1. Taking into account the distance of the viewing platform and balcony is from the nearest dwellings, and the relatively limited size of the additions to the enclosure, it is considered that the proposal will not result in any significant loss of amenity for residents of any neighbouring properties.

#### **6.5 Other Matters**

6.5.1 Broxtowe Environmental Health have advised that the platform does not comply with the relevant legislation Workplace (Health, Safety and Welfare) Regulations 1992 and Building Regulations to be used for commercial purposes. The glass barrier on the platform, steps and handrail would not comply with the relevant regulations and would need to be modified if the platform were to be used as a commercial use by staff. However, the applicant has confirmed the site is not for commercial use and is for only personal use for feeding the wild cats. A Note to Applicant will be included to alert the applicant of the need to comply with any legislation outside the scope of planning legislation. In any case, a condition is included on the original planning permission 21/00023/FUL which restrict any visitors to the site.

6.5.2 A number of concerns have been raised on the grounds of the suitability of the enclosure for the wild cats and on the appropriateness of the wild cats living in this location. The application site has permission for the keeping of wild cats, as approved in June 2020, and the wild cats in questioned are fully licensed. Therefore, any refusal on the grounds of the enclosure not being suitable or the location not being suitable could not be sustained at appeal.

6.5.3 Planning permission 19/00243/FUL and 21/00023/FUL for the original enclosure and extension for the change of use of the land to allow for the keeping of wild cats is subject to a unilateral undertaking. The applicant had previously undertaken to not use the wild cat enclosure for any other purpose other than that of keeping three wild cats. Further to this, on the death of or relocation to premises elsewhere of all the wild cats to cease the use of the wild cat enclosure.

6.5.4 Should planning committee be minded to grant planning permission this would result in a new planning permission being granted and as such would be subject to a new unilateral undertaking under Section 106 of the Town and County Planning Act 1990. The applicant would commit to the following obligations:

- Not to use the said Wild Cat Enclosure for any purpose other than the keeping of the five Wild Cats in possession of the owner at the time of the application.
- On the death or relocation to premises elsewhere of all the Wild Cats to cease use of the Wild Cat Enclosure and to remove it within 3 months of the cessation of use.

6.5.5 It should be noted that following planning enforcement investigation the number of wild cats has increased to 5 in total. This new unilateral undertaking therefore supersedes the previous legal undertaking by the applicant and regularises the fact that there are 5 wild cats on the site currently.

6.5.6 Concerns have been raised in relation to potential increased traffic and parking issues relating to the proposal. The proposal is designed to support the welfare of the wild cats and is not intended to be used by visitors. The original planning permission 21/00023/FUL included a restriction ensuring that there no general exhibition or viewing of the animals. Further to this, the applicant has confirmed that the site is not commercial use and no staff are employed, therefore limiting any potential increase in traffic or parking requirements. As such, it is considered that the proposed additions would not warrant refusal on highway safety grounds.

6.5.7 The applicant has confirmed in writing that the hot tub will be removed from the balcony structure. Whilst it is understood that this may be a source of frustration to neighbouring properties it would appear that the hot tub would not require planning permission as it is a temporary structure.

## 6.6 **Planning Balance**

6.6.1 The additions to the enclosure will support the animal welfare needs in this location. It is considered that the principle of development in the Green Belt can be supported, that the design and appearance of the proposal is acceptable and that it will not result in an unacceptable loss of amenity for the residents of any neighbouring properties. On balance it is therefore considered that the proposal is acceptable.

## 6.7 Conclusion

6.7.1 It is considered that very special circumstances have been demonstrated for the additions to the existing enclosure, that outweigh the limited harm to the openness of the Green Belt. It is considered that the proposed additions are acceptable in terms of design and appearance relative to the existing structure and that they will not result in an unacceptable loss of amenity for the residents of any neighbouring properties. Overall it is therefore considered that the proposal is acceptable and planning permission should be granted.

6.7.2 It is recommended that conditional planning permission be granted subject to conditions.



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| <b><u>Recommendation</u></b>  |   |
| <p>The Committee is asked to <b>RESOLVE</b> that planning permission be granted subject to the prior completion of a unilateral undertaking under Section 106 of the Town and County Planning Act 1990 and conditions outlined below.</p> |   |
| 1.  | <p>The development hereby permitted shall be retained in accordance with the Site Location Plan (1:2500) (Received by the Local Planning Authority 22/09/22), Proposed Floor Plan No. 001 Rev. A, Proposed Elevations No. 002 Rev. A (Received by the Local Planning Authority 28/03/23), Block Plan No. 100 Rev. B (Received by the Local Planning Authority 03/04/23).</p> <p>Reason: For the avoidance of doubt.</p> |
| 2.  | <p>There shall be no general exhibition or viewing of the animals.</p> <p>Reason: To protect nearby residents from excessive disturbance or operational nuisance in accordance with Policy 17 - Place-making, Design and Amenity of the Broxtowe Local Plan Part 2.</p>   |
| 3.  | <p>The site shall not be floodlit or illuminated in any way.</p> <p>Reason: In the interests of visual amenity and to protect nearby residents from light pollution in accordance with Policy 17 - Place-making, Design and Amenity and Policy 19 - Pollution, Hazardous Substances and Ground Conditions of the Broxtowe Local Plan Part 2.</p>  |
| <b>NOTES TO APPLICANT</b>   |   |
| 1.  | <p>The Council has acted positively and proactively in the determination of this application by working to determine it within the agreed determination timescale.</p>  |
| 2.  | <p>Please note this planning permission is granted in accordance with the new Unilateral Undertaking to be agreed by the applicant.</p>   |
| 3.  | <p>Burning of commercial waste is a prosecutable offence. It also causes unnecessary nuisance to those in the locality. All waste should be removed by an appropriately licensed carrier.</p>   |
| 4.  | <p>The applicant shall ensure any walkways, steps, barriers and platforms comply with the Workplace (Health, Safety and Welfare) Regulations 1992 and the relevant parts of the Building Regulations, where applicable. Any barriers, handrails etc. should</p>   |

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|  | <b>be of sufficient strength, height and infill to prevent falls of persons or items.</b> |
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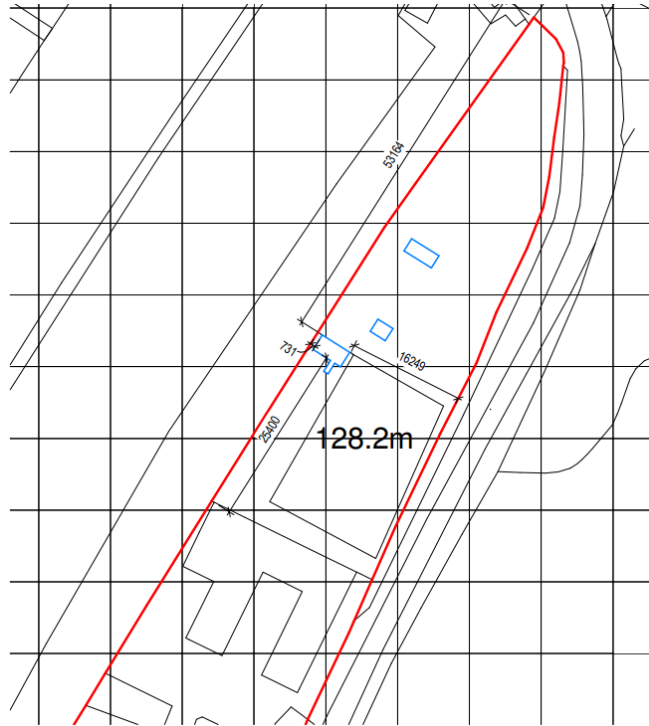
Site Location Plan



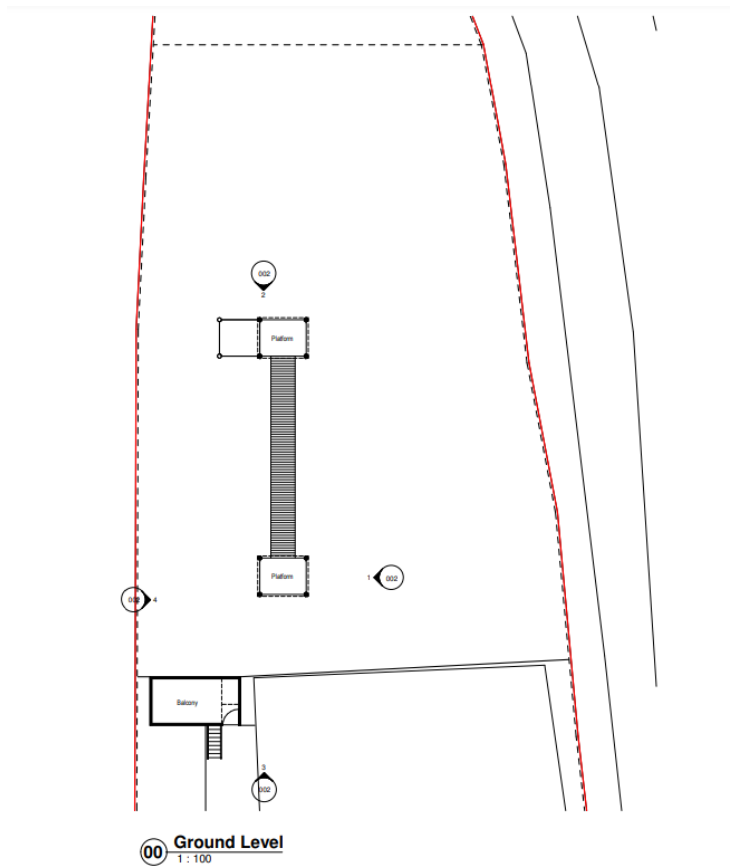
Legend

- |                           |                   |
|---------------------------|-------------------|
| Site Outline              | Footpath          |
| Byway open to all traffic | Conservation Area |
| Bridleway                 | Green Belt        |

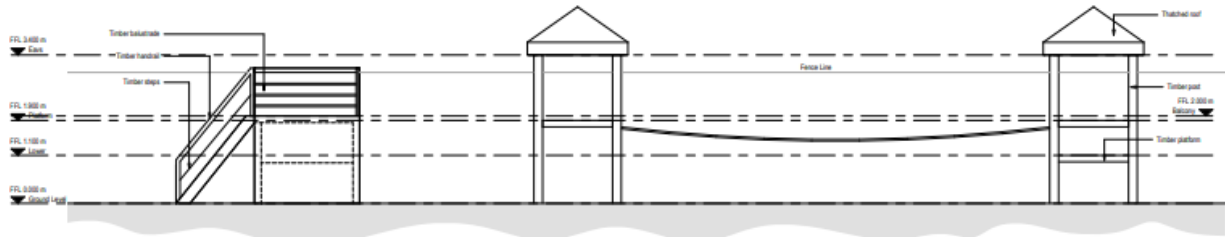
Proposed Block Plan



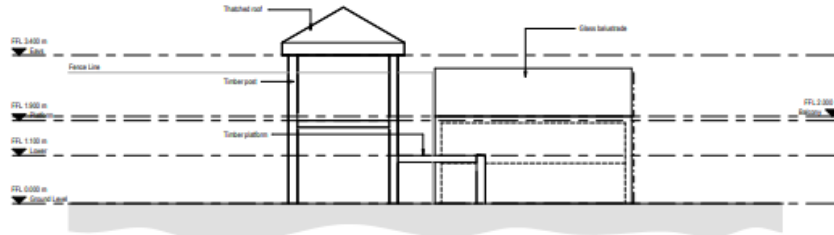
Proposed Floor Plan



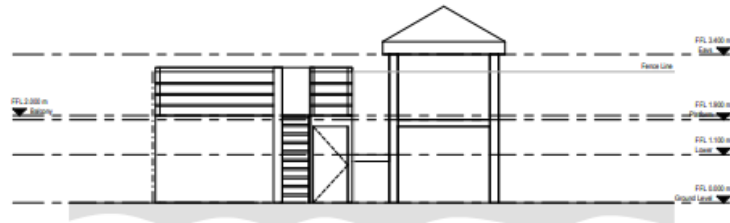
Proposed Elevations



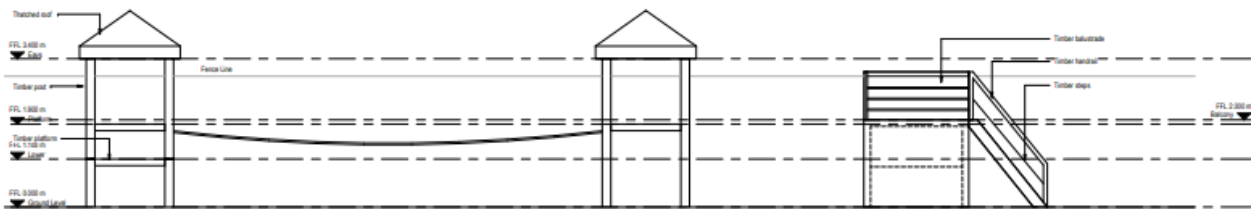
1 East Elevation  
1 : 50



2 North Elevation  
1 : 50



3 South Elevation  
1 : 50



4 West Elevation  
1 : 50

View from rear of balcony



View from balcony towards lion platforms



View of two platforms

