

# PLANNING APPLICATION NUMBER: P09/1614

Type of approval sought	FULL PLANNING PERMISSION
Ward	ST THOMASS
Applicant	MR MARK BURKES, I. P. DEVELOPMENTS & BURSON LAND LTD
Location:	<b>STRUGGLING MAN, PROSPECT ROW, DUDLEY, DY2 8SQ</b>
Proposal:	<b>DEMOLITION OF EXISTING PUBLIC HOUSE AND ERECTION OF 14 NO. DWELLINGS WITH ASSOCIATED CAR PARKING AND EXTERNAL WORKS.</b>
Recommendation summary:	<b>APPROVE SUBJECT TO A 106 AGREEMENT</b>

## SITE AND SURROUNDINGS

1. The application site (the former Struggling Man P.H.) is located in Prospect Row 750m south of Dudley Town Centre. The site comprises parking to the front and a decking area, the public house itself and its land to the rear. To the south of the site is an allotment site that is separated from the application site boundary by a public right of way that is overgrown and inaccessible, running from Prospect Row to Tetnall Street. This right of way also runs to the west of the site towards the Dudley Southern By-Pass, some 60m from the rear of the application site. Adjoining the north of the site are two storey semi-detached residential flats and to the east (opposite the site) are residential properties in Paradise and Buffery Park.
2. Prospect Row itself runs uphill to the north towards Spring Gardens, where the road levels out. The neighbouring residential flats at nos. 36 and 37 Prospect Row are at a higher level than the adjoining application site.

## PROPOSAL

3. The proposed development is a full application for 14 no. residential units comprising 1 no. 3 bed detached, 3 no. 2 bed detached and 10 no. 2 bed semi detached dwellings. The scheme also includes an access road, parking and landscaping.

4. The application is accompanied by a Design & Access Statement and a bat and badger survey.

## HISTORY

5.

APPLICATION No.	PROPOSAL	DECISION	DATE
P08/0852	Outline application for residential development comprising 23 no. units (16 no. apartments and 7 no. terraced houses)	Granted	16.07.08
P07/2141	Outline application for residential development comprising 23 no. units	Refused	15.05.08

6. The application P07/2141 was refused due to the failure of the scheme to provide any of the units as affordable housing, contrary to Policies H5, S1 and S8 of the adopted UDP (2005) and the SPD – Affordable Housing.

## PUBLIC CONSULTATION

7. The application has been advertised by way of neighbour notification, press and site notice. Public Consultation time expired 29 January 2010, no objections had been received at the time of writing the report.

## OTHER CONSULTATION

8. Head of Environmental Health & Trading Standards – no adverse comments subject to conditions relating to land contamination, ground gases and vapours and the submission of a scheme for protecting the proposed dwellings from noise from the Dudley Southern By-Pass.

9. Group Engineer (Development) – Any approval would be subject to conditions relating to the provision of the access road, parking and turning areas prior to first occupation.

## RELEVANT PLANNING POLICY

10. Dudley Unitary Development Plan

S2	Creating a More Sustainable Borough
S8	Housing
DD1	Urban Design
DD4	Development in Residential Areas
DD5	Development in Industrial Areas
DD6	Access and Transport Infrastructure
DD7	Planning Obligations
DD8	Provision of Open Space, Sport and Recreation Facilities
AM14	Parking
H1	New Housing Development
H3	Housing Assessment Criteria
H5	Affordable Housing
H6	Housing Density
EP7	Noise Pollution
NC6	Wildlife Species
UR9	Contaminated Land

11. Supplementary Planning Document

New Housing Development – A Guide to Establishing Urban Context  
Parking Standards and Travel Plans  
Open Space, Sport and Recreation Provision  
Planning Obligations  
Nature Conservation

## 12. Supplementary Planning Guidance

Planning Guidance Note No. 3 – New Housing Development

Planning Guidance Note No. 13 – Transport

## 13. National Planning Guidance

Planning Policy Statement 1 – Delivering Sustainable Development

Planning Policy Statement 3 – Housing

Planning Policy Statement 23 – Planning and Pollution Control

## ASSESSMENT

### 14. The key issues for consideration in this application are as follows:

- Principle
- Density
- Layout/Scale/Residential Amenity
- Design
- Highways & Parking
- Nature Conservation
- Planning Obligations

#### Principle

15. The application site comprises a public house and its respective land and the site does not have any specific designation within the adopted UDP (2005). The site adjoins residential properties and the immediate locality is characterised by residential dwellings, an allotment and the park opposite the site. The site also has a recent planning approval (P08/0852) for 23 no. residential units on the site. Given this, it is considered that the principle of residential development has been established with the current planning approval, in accordance with Policy H3 of the adopted UDP (2005).

### Density

16. The proposed scheme of 14 no. dwellings would result in a density of 47 dwellings per hectare (dph). The properties in the locality are characterised by a wide mix of property types from flats to detached/semi detached with long gardens to terraced properties with very small gardens. The variety in house types and in particularly garden sizes ensures that the density in the local area ranges from 25 dph to 152 dph. As such the density of the development would be in accordance with the varied context of the area and in compliance with PolicyH6 of the adopted UDP (2005).

### Layout/Scale/Residential Amenity

17. The previous approval proposed 7 no. terraced style dwellings (in a block of 3 and 4 dwellings) on the Prospect Row frontage, whilst this scheme proposes a mixture of 7 no. detached and semi detached houses on the same frontage (2 no. pairs of semis and 3 no. detached). The proposed houses would be set back between 6.8 and 7m from the back of pavement to allow for 11 no. off street parking spaces in front of the houses. At the rear all 7 no. plots on the Prospect Row frontage would have 11m long back gardens.
18. The previously approved 2 and 3 storey apartment block sited at the rear has been removed in this development and has been replaced with 7 no. dwellings, comprising 3 pairs of two bedroom semi-detached and 1 no. 3 bed detached houses. Due to the removal of the apartment block there is space to provide all of the dwellings at the rear with side driveway parking. Each of the semi-detached dwellings would have 2 parking spaces and the 3 bed detached would have 3 spaces. The garden depths would range from 10m to 11.5m long. The houses at the rear would overlook the public right of way and the allotment site to the south and the proposed access road serving the properties to the north. At present the public right of way is overgrown with trees and vegetation and is not used. The siting of the dwellings at the rear would allow natural surveillance to take place over the public right of way and in time the right of way may become a more useable access route.
19. The 2 storey nature of the proposed development would reflect the 2 storey nature of the adjacent flats and the housing in the locality. The scale of the development would

therefore reflect the context of the locality in accordance with Policies DD1 and H3 of the adopted UDP (2005).

20. Due to a change in levels along Prospect Row 4 no. flats (nos. 36-39 Prospect Row) are sited at a higher level than the application site and there is also shrub/tree coverage on the boundary with the proposed scheme. There would also be a substantial landscaping scheme close to the boundary with nos. 36 and 37 Prospect Row to further contain the development. It is also the case that the 7 no. dwellings at the rear, in comparison to the previously approved apartment block, would lessen any potential noise and disturbance impacts. There is a significant 27m separation distance between the front elevation of Plot 8 and the rear corner of the flats on Prospect Row. It is therefore considered that the proposed development would not have a detrimental impact on the amenity the occupiers of the adjoining properties can reasonably expect to enjoy.

#### Highways & Parking

21. At the rear of the site the detached properties each have 2 no. off-street spaces and the 3 bed detached has 3 off street spaces. The Council's maximum standard requires 2 parking spaces per 2 bed house. The 7 no. 2 bed houses fronting Prospect Row have 11 no. off-street parking spaces located on the front of the properties, which is one more than the 10 spaces allocated to the to the same number of dwellings on the previous approval P08/0852. This is less than the 200% maximum provision indicated in the Parking Standards SPD, but it is considered that the location 700m from Dudley Town Centre, proximity to town centre bus facilities and public transport routes to the town centre confirm that the site is within an accessible location. As such, the provision of 11 no. parking spaces for the dwellings on the Prospect Row frontage is considered to be acceptable given this sustainable location.

#### Nature Conservation

22. A bat and badger survey submitted with the application confirmed that no bat roosts are present in the surveyed area and that there is no evidence of any badgers on site. Nature Conservation enhancements have, however, been required as part of the planning obligations and with appropriate conditions and mitigation, there is an opportunity to enhance the areas wildlife potential in compliance with UDP Policy NC6.

### Planning Obligations

23. The proposed development has a requirement to provide planning obligations to mitigate against the consequential planning loss to the existing community. Should permission be granted a S106 Agreement would be required in respect of the following contributions.

### Offsite Contributions

24. The proposal attracts a requirement for a commuted sum to be paid towards the following infrastructure:

- Libraries - £2588.88
- Open Space Sport & Recreation - £21927.22
- Nature Conservation - £1489.50
- Management and Monitoring Charge - £1000.00

Total Offsite Contribution equates to £27005.60

The applicant has agreed to the provision of these planning obligations.

No Transportation Improvements are required due to a reduction in trip generation from the previous use as a public house.

## CONCLUSION

25. The siting and the external appearance of the dwellings are considered to be acceptable. The proposed scheme has made full and efficient use of the land and the scheme conforms to the local context of the area. Neighbours amenity and street scene are not considered to be detrimentally affected and the scheme is in accordance with adopted UDP Policy.

## RECOMMENDATION

26. It is recommended that the application be approved subject to:

- a) The development shall not be commenced until a scheme for the submission and approval of a planning obligation to guarantee the sum of £27005.60 for the provision, maintenance and enhancement of site public open space and play provision, nature conservation, transport improvements, library and public realm has been submitted to and agreed in writing by the Local Planning Authority.
- b) The scheme shall include the method, timing and arrangements, including a means to guarantee a financial payment, increased through index linking from the first April each subsequent year, in accordance with the Council's Planning Obligations Policies.
- c) The following conditions, with delegated powers to the Director of the Urban Environment to make amendments to these as necessary.

### **REASON FOR APPROVAL**

The siting and the external appearance of the proposed dwellings are considered to be acceptable. The proposed scheme has made full and efficient use of the land and the scheme conforms to the local context of the area. Neighbours amenity and street scene are not considered to be detrimentally affected and the scheme is in accordance with adopted UDP Policy.

The decision to grant planning permission has been taken with regard to the policies and proposals in the adopted Unitary Development Plan (2005) and to all other relevant material considerations.

The above is intended as a summary of the reasons for the grant of planning permission. For further details on the decision, please see the application report.



## **INFORMATIVE**

The development hereby permitted shall be built in accordance with Drawing Nos. GD0892/02A, GD0892/03, GD0892/04, GD0892/05, GD0892/06 and GD0892/07, unless otherwise agreed in writing by the Local Planning Authority.

## **NOTE TO APPLICANT**

The grant of planning permission does not confirm the structural integrity of the proposed development. Local Planning Authorities do not have a duty of care to individual landowners when granting applications for planning permission and are not liable for loss caused to an adjoining landowner for permitting development. Sections 77 and 78 of the Building Act 1984, provides Local Authorities with powers to take action with respect to dangerous buildings/structures. Therefore, should the development raise concerns in the future with respect to its structural stability there are powers under separate legislation to planning that would enable the situation to be rectified.

### **Conditions and/or reasons:**

1. The development shall not begin until a scheme for the provision of:
  - \* Off site public open space and play area improvements
  - \* Off site library improvementsNature Conservation  
has been submitted to and approved in writing by the Local Planning Authority. The scheme shall include the method, timing and arrangements to comply with the Council's policies for the provision of the infrastructure required in connection with the proposed development.
2. BA01 Commencement within 3 years (full)
3. Prior to first occupation of a dwelling the turning head, means of access and parking areas will be provided in accordance with the approved details, drained, levelled, surfaced and marked out and will be retained for no other purpose and maintained for the life of the development.
4. Development shall not begin until details of the paving scheme for the parking areas have been submitted and approved in writing by the Local Planning Authority. Prior to

- first occupation the paved parking areas shall be completed, in accordance with the approved details, and maintained for the life of the development.
5. Development shall not begin until a comprehensive written site investigation strategy (in a form to be agreed with the local planning authority), has been submitted to and approved by the local planning authority. Such a strategy shall facilitate the identification of contaminants and permit the risk-based assessment of the development site. Where the investigations identify the presence of contamination, development shall not begin until a scheme to protect the development from the effects of such contamination has been submitted to and approved by the local planning authority. Such a scheme shall: include provisions for validation monitoring & sampling; be implemented before the development is first occupied; and be retained throughout the lifetime of the development.
  6. Development shall not begin until a comprehensive written site investigation strategy (in a form to be agreed with the local planning authority), has been submitted to and approved by the local planning authority. Such a strategy shall facilitate the identification of ground gases and vapours that have the potential to pose a risk to human health and the wider environment. Where the investigations identify the presence of ground gases and vapours, development shall not begin until a scheme to protect the development from the effects of such gases and vapours has been submitted to and approved by the local planning authority. Such a scheme shall: include provisions for validation monitoring & sampling; be implemented in accordance with the approved details before the development is first occupied; and be retained throughout the lifetime of the development.
  7. H01B Matching bricks and tiles
  8. A101I Landscaping scheme to be submitted
  9. B107I Retention of landscaped areas
  10. Development shall not begin until details of the visibility splays to be provided at the junction between the proposed means of access and the highway have been occupied until the visibility splays have been provided in accordance with the approved details.
  11. Landscape plans (including establishment and maintenance programme), taking into account appropriate improvements for nature conservation should be submitted and approved by the Council's Ecological Advisors before any work commences. All works must be carried out in accordance to the approved plans and programmes.
  12. Any outside lighting should be close to the ground and directed downwards. It should be activated by a timed sensor with a low movement sensitivity, so as not to be triggered by wildlife. A plan detailing outside lighting will be submitted and approved in writing by the Council before any works proceed. All works must be carried out in accordance to the approved plan.
  13. The demolition of the buildings and clearance of trees and other vegetation should avoid the bird nesting season (February – August inclusive) unless a breeding bird assessment (with recommendations) is carried out by a trained ecologist within 7 days of the works commencing. This should be submitted in writing and approved by the Council before works begin. All works must be carried out in accordance to the approved assessment's recommendations.

14. Any trenches, including foundations, should be covered with boards and ramps placed in them overnight to limit their hazard to badgers. A protocol detailing this will be submitted to and approved in writing by the Council before any works proceed. All works must be carried out in accordance to the approved protocol.
15. A plan detailing suitable replacement native trees, and their establishment programme, should be submitted and approved in writing by the Council before any works proceed. All works must be carried out in accordance to the approved plan and programme.
16. A105 Boundary treatment details
17. No works should commence, or continue, if the most recent protected species survey and assessment is over 12 months old. These surveys and assessments must be of, or above, the standard detailed within the Nature Conservation SPD. They must include the whole of the site and be carried out by an experienced and qualified ecological consultant and integrated into a site mitigation plan. All of these must be submitted to and approved in writing by the Council before any works commence (or continue). All works must be carried out in accordance to the approved plan.
18. Detailed working protocols, based on good practice such as the Pollution Prevention Guidelines PPG1 (general) by the Environment Agency, should be prepared and adhered to during all works. These should ensure no negative impacts could occur, such as contamination, light pollution or disturbance affects the adjacent habitat and/or protected species. The location of the temporary compound should be identified on the plan for plant and material storage during construction. These protocols must be submitted and approved in writing by the Council before any works commence. All works must be carried out in accordance to the approved protocols.
19. If protected species are found during any stage of the development all works must stop immediately and Natural England, the project's ecologist and the Council's Nature Conservation Officer must be contacted immediately. Works should not re-commence until relevant licences have been obtained and written permission is granted by Natural England and the Council.
20. Tiles and other features where bats or birds could be present (see the report entitled Initial Bat Survey The Struggling Man Public House, Prospect Row by Middlemarch Environmental dated February 2008 for details) should be removed carefully by hand. If bats or nesting birds are found or suspected all works must stop immediately and Natural England, the project's ecologist and the Council's Nature Conservation Officer must be contacted at once. Works should not re-commence until relevant licences have been obtained and written permission is granted by Natural England and the Council. All works must be carried out in accordance to any licences obtained.
21. The development shall not begin until a detailed plan at the scale of 1:100 that clearly shows the relationship of the delineation between the site boundary and the public right of way has been submitted to and approved in writing by the Local Planning Authority.
22. L01B \* Noise protection scheme
23. C05A Details of roads & drainage
24. B111 Trees (Protective Fencing)
25. B112 Retained Trees Tree Replacement

26. BI13 Trees (Excavations)

27. Prior to the commencement of the development, details of the proposed retaining wall adjacent to the turning head shall be submitted to and approved in writing by the Local Planning Authority. The development shall proceed in accordance with the approved details prior to occupation and the wall shall be retained and maintained as approved for the lifetime of the development.
28. The development shall not begin until a detailed plan at a scale of 1:100 that shows the section of the site in relation to plots 8 – 14 and the adjacent public right of way has been submitted to and approved in writing by the Local Planning Authority.

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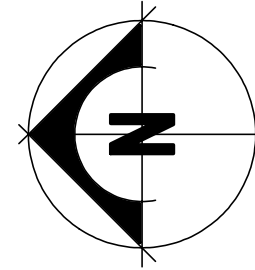
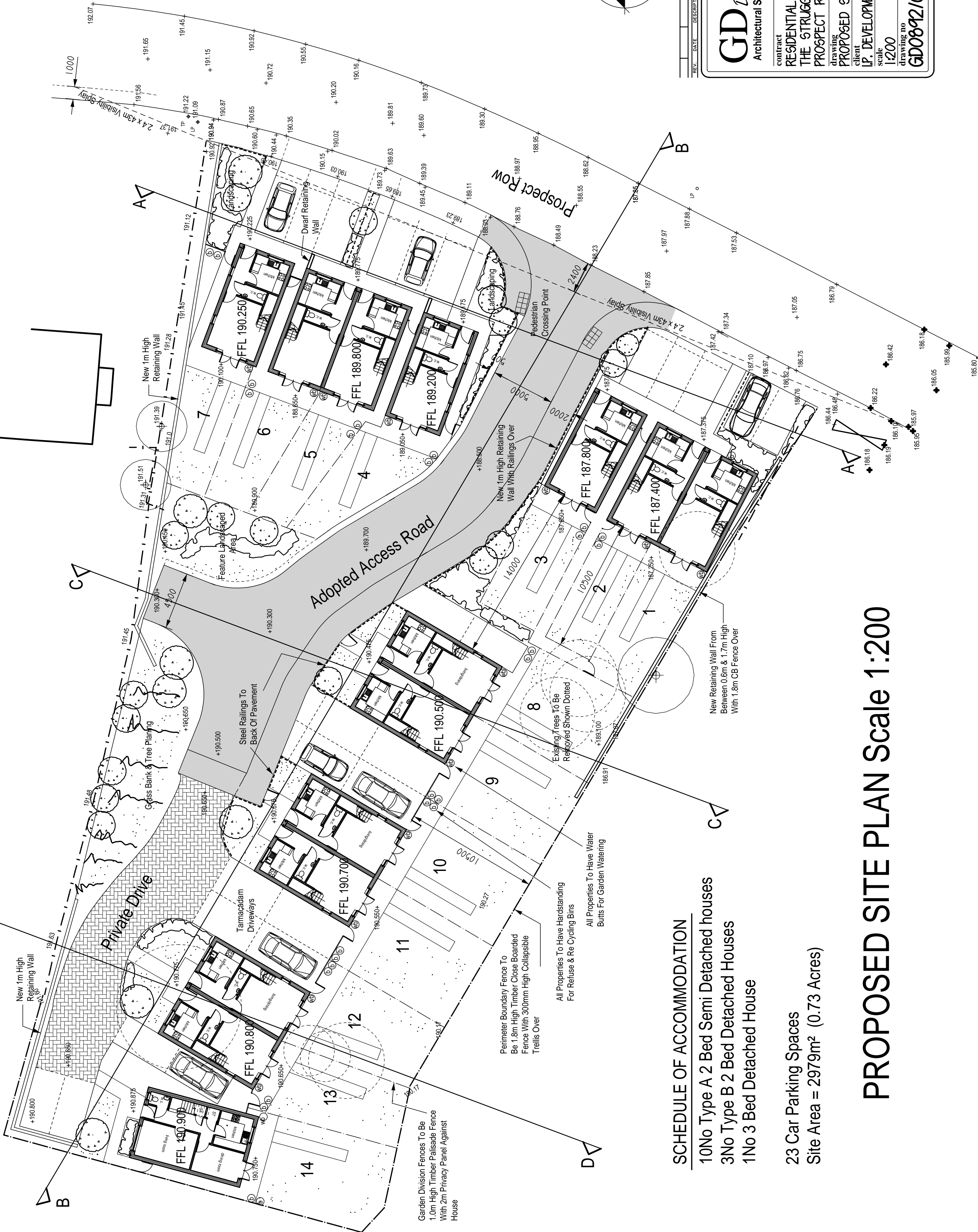
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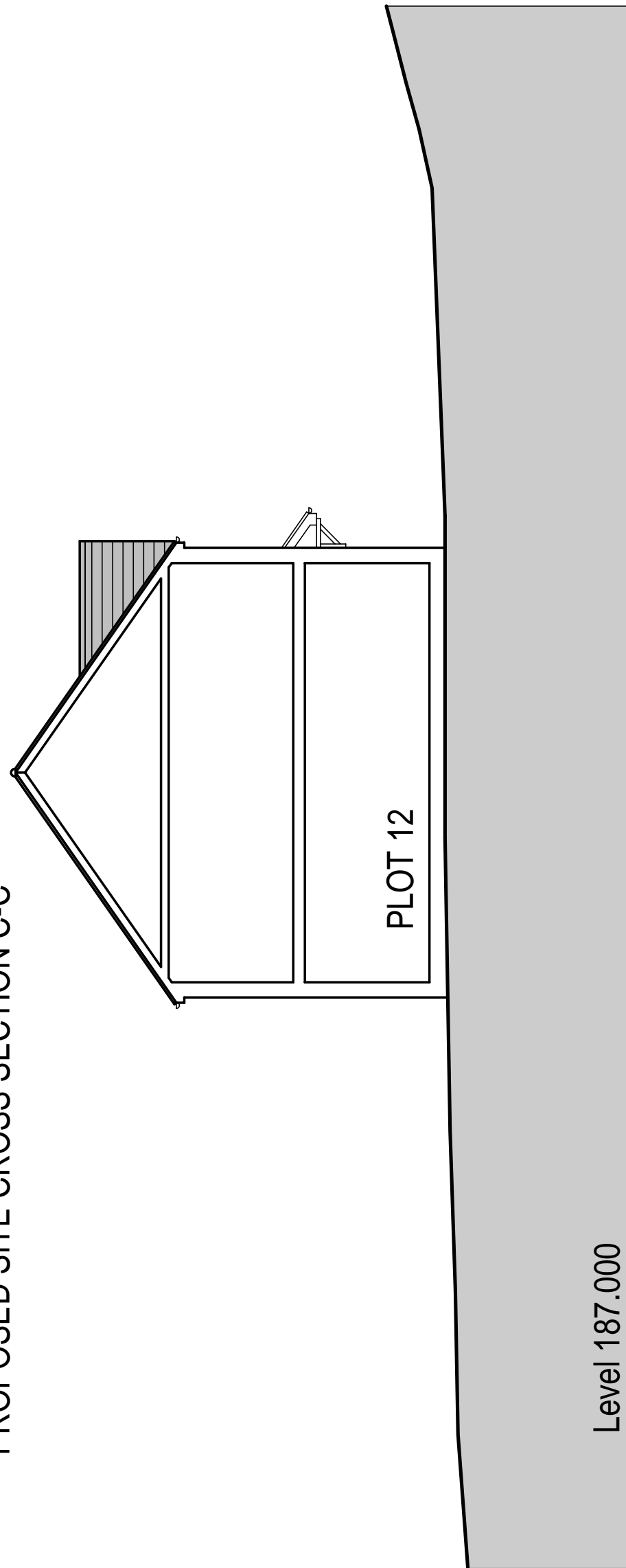
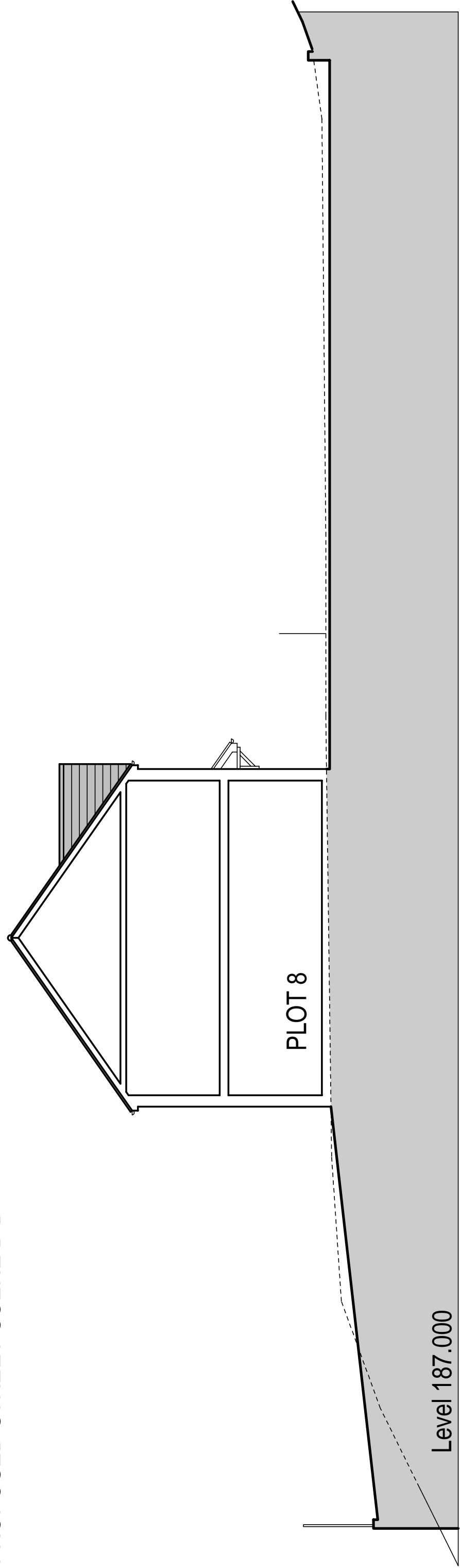
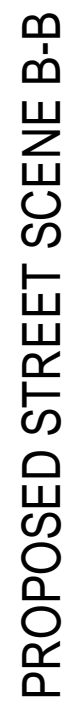
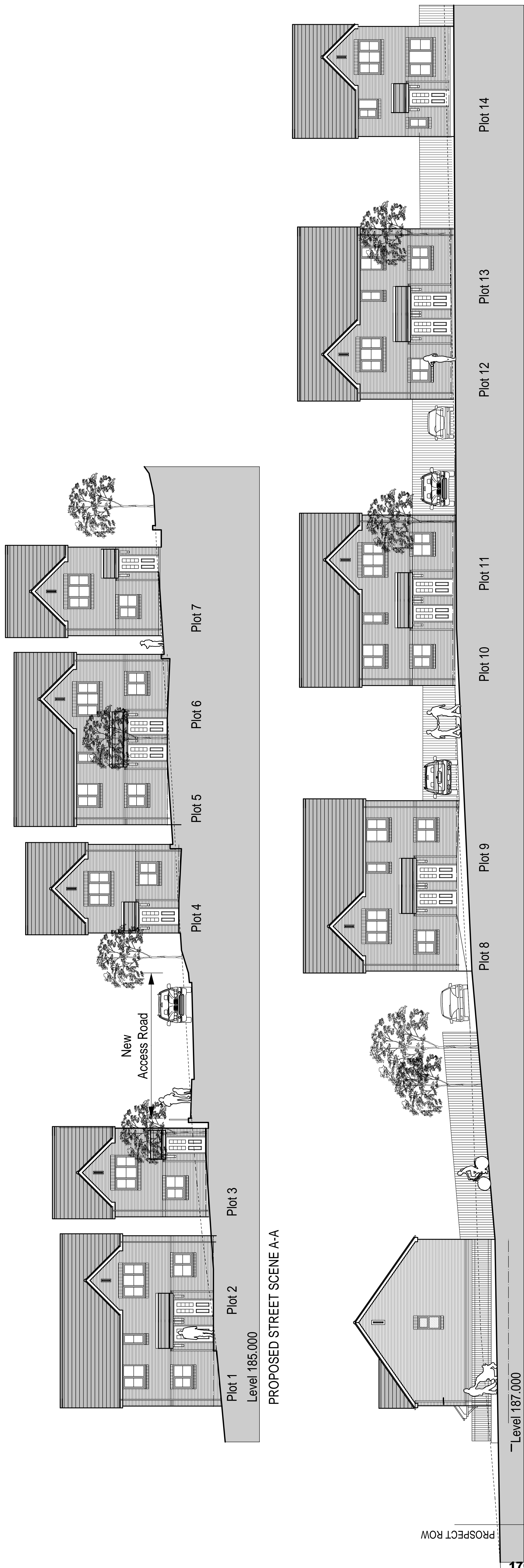
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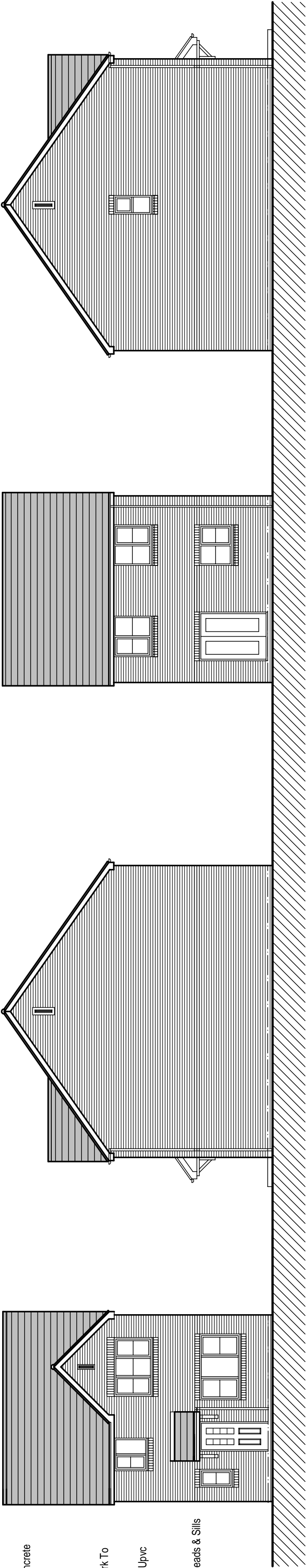
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- 3No Type B 2 Bed Detached Houses
- 1No 3 Bed Detached House

23 Car Parking Spaces  
Site Area = 2979m<sup>2</sup> (0.73 Acres)

PROPOSED SITE PLAN Scale 1:200

REV. DATE DESCRIPTION	
87	
<b>GD Designs</b> Architectural Services 49, The Crescent, Cradley Heath, West Midlands, B64 7JS Tel 0121 602 6233 Mob 07939 436557	
contract	RESIDENTIAL DEVELOPMENT THE STRUGGLING MAN PROSPECT ROW, DUDLEY
drawing	PROPOSED SITE PLAN
client	IP, DEVELOPMENTS & BURSON LAND LTD
scale	1:200
date	NOV 2009
drawn by	GCD
drawing no	GD0892/03
rev	plot cad lines
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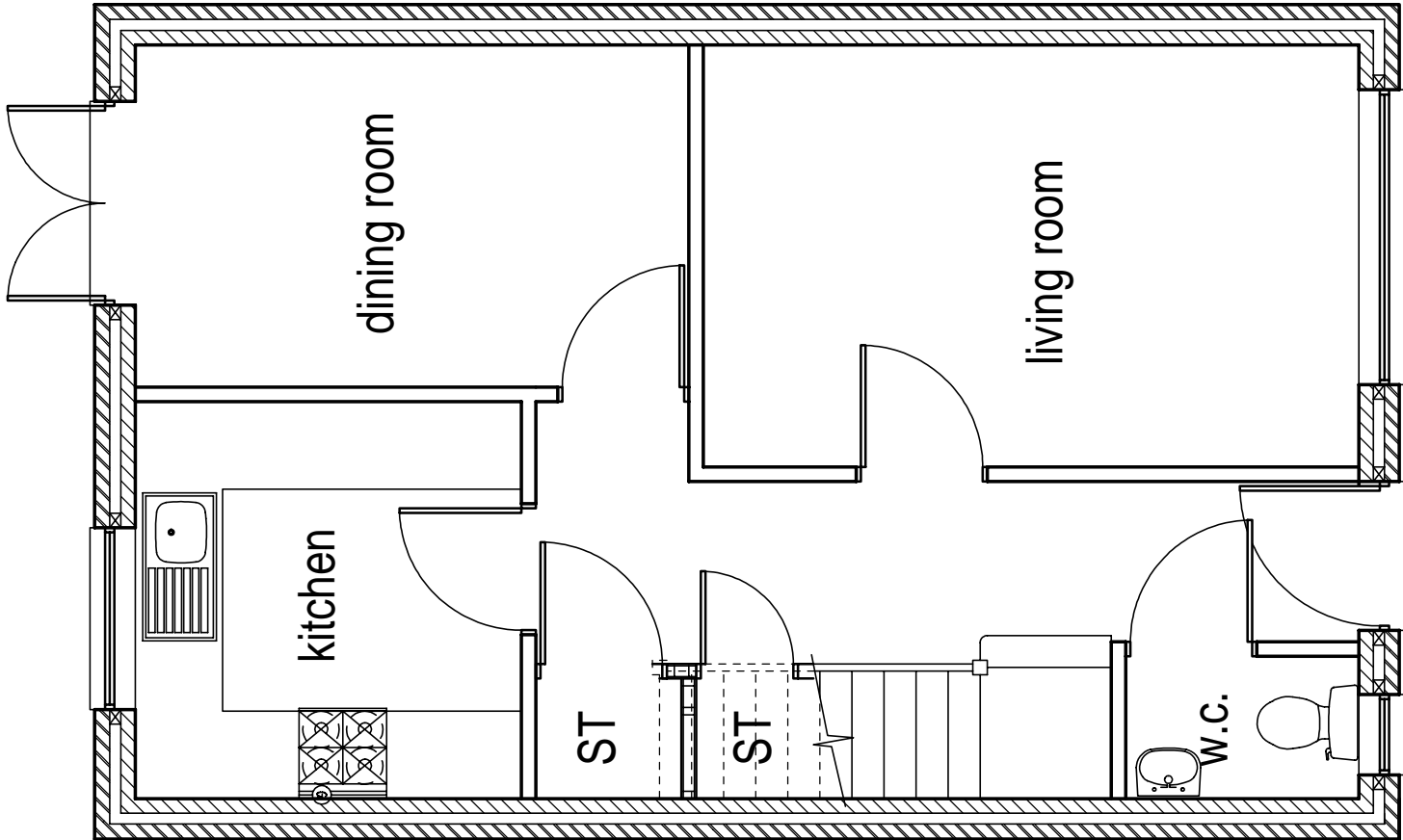


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Rear Elevation

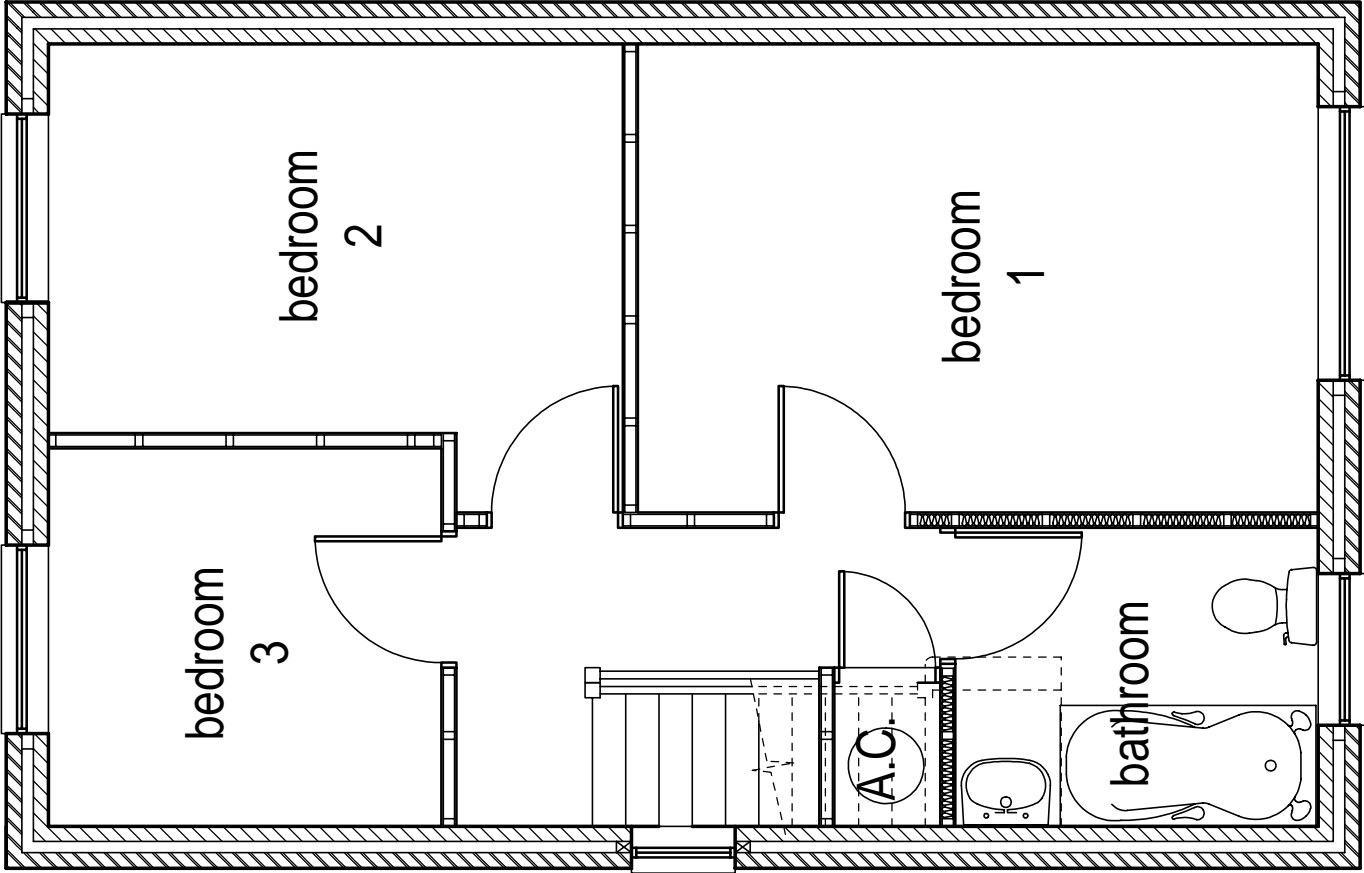
Side Elevation

Front Elevation



TYPE C

Ground Floor Plan



First Floor Plan

REV.	DATE	DESCRIPTION	BY
GCD			

49, The Crescent,  
Cradley Heath,  
West Midlands,  
B64 7JS  
Tel 0121 602 6233  
Mob 07939 436557

GD*Designs*

Architectural Services

contract

RESIDENTIAL DEVELOPMENT  
THE STRUGGLING MAN  
PROSPECT ROW, DUDLEY

drawing

PROPOSED HOUSE TYPE C

client

IP. DEVELOPMENTS & BURSON LAND LTD

scale

1:50/1:100

date

NOV 2009

drawn by

GCD

drawing no

GD0892/06

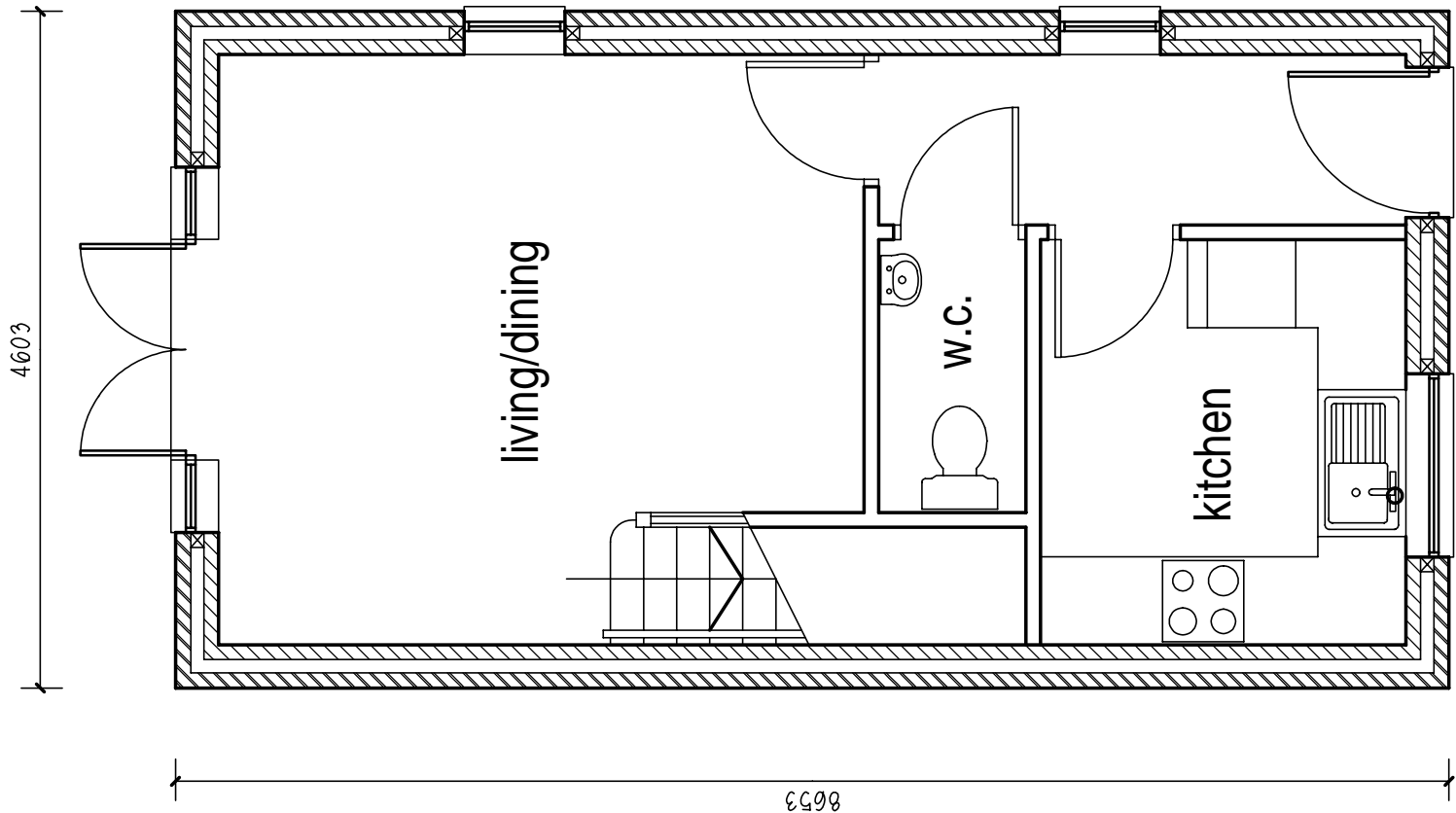
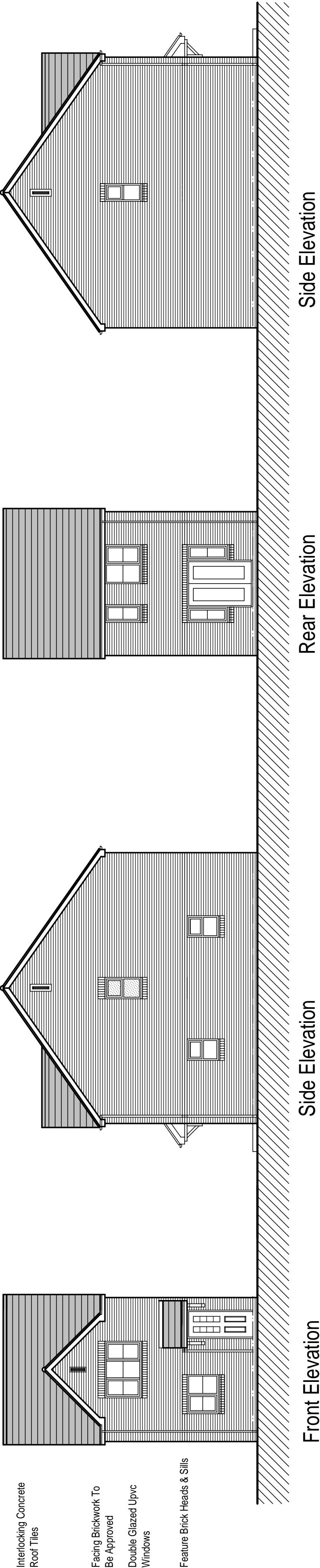
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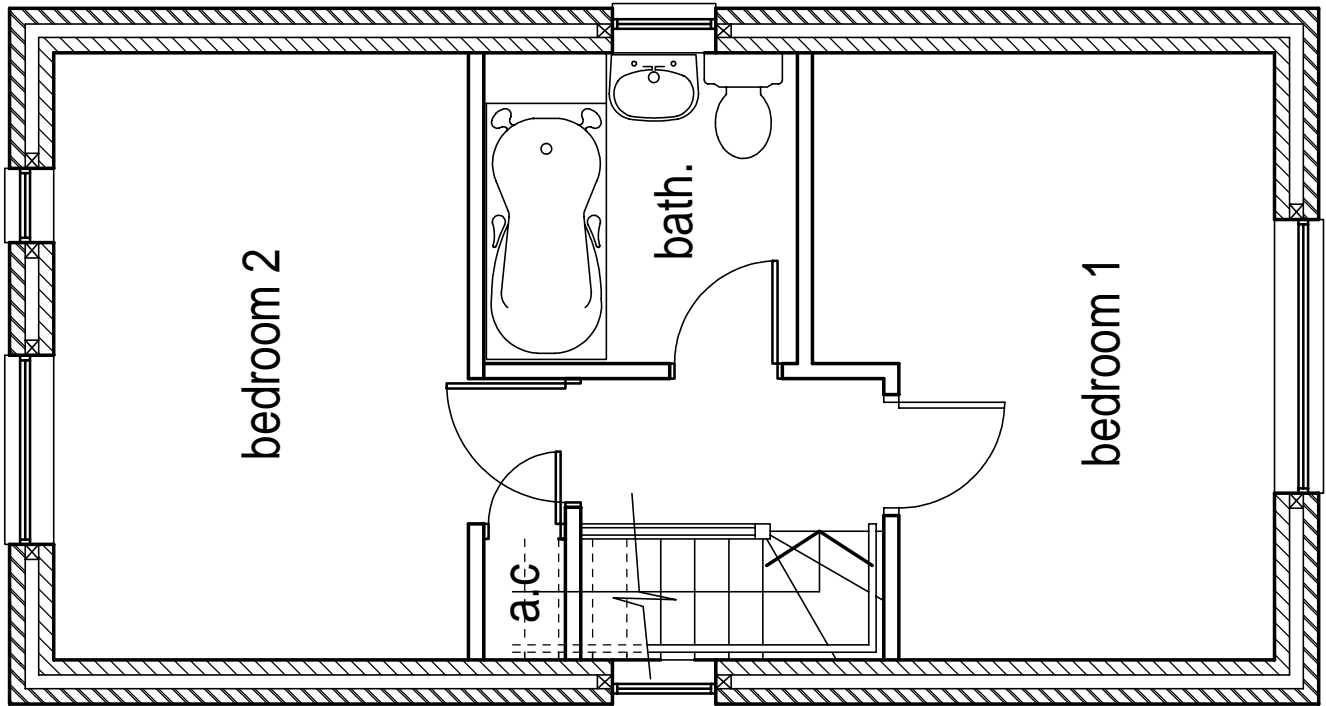
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DRAWING



TYPE B

Ground Floor Plan



First Floor Plan

REV.	DATE	DESCRIPTION	GCD	BY

GD*Designs*

Architectural Services

49, The Crescent,  
Cradley Heath,  
West Midlands,  
B64 7JS  
Tel 0121 602 6233  
Mob 07939 436557

contract

RESIDENTIAL DEVELOPMENT  
THE STRUGGLING MAN  
PROSPECT ROW, DUDLEY

client

IP. DEVELOPMENTS & BURSON LAND LTD

drawing

PROPOSED HOUSE TYPE B

scale

1:50/1:100

date

NOV 2009

drawn by

GCD

drawing no

GD0892105

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plot

cad lines

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DRAWING



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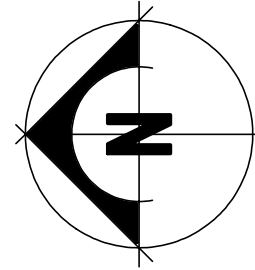
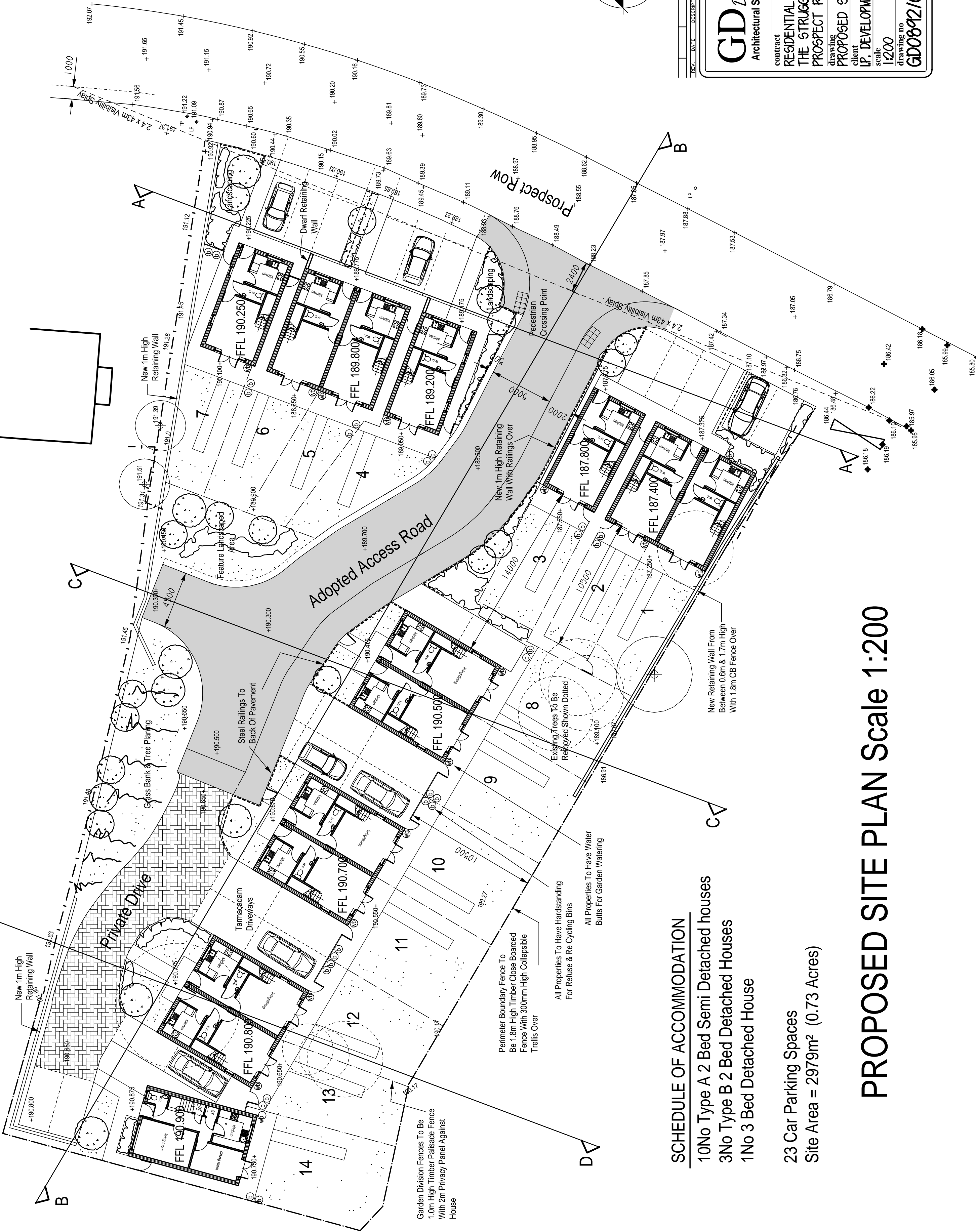
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SCHEDULE OF ACCOMMODATION

- 10No Type A 2 Bed Semi Detached houses
- 3No Type B 2 Bed Detached Houses
- 1No 3 Bed Detached House

23 Car Parking Spaces  
Site Area = 2979m<sup>2</sup> (0.73 Acres)

PROPOSED SITE PLAN Scale 1:200

**GD Designs**  
Architectural Services

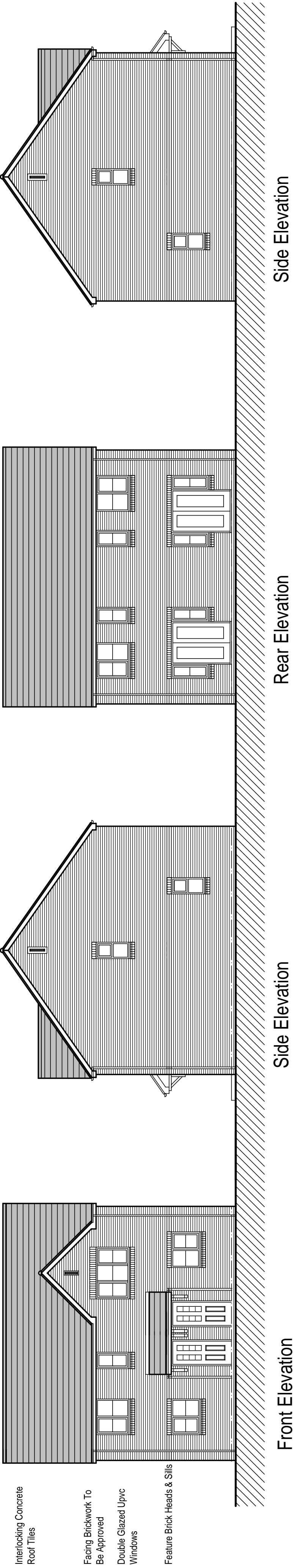
49, The Crescent,  
Cradley Heath,  
West Midlands,  
B64 7JS  
Tel 0121 602 6233  
Mob 07939 436557

contract  
**RESIDENTIAL DEVELOPMENT  
THE STRUGGLING MAN  
PROSPECT ROW, DUDLEY**

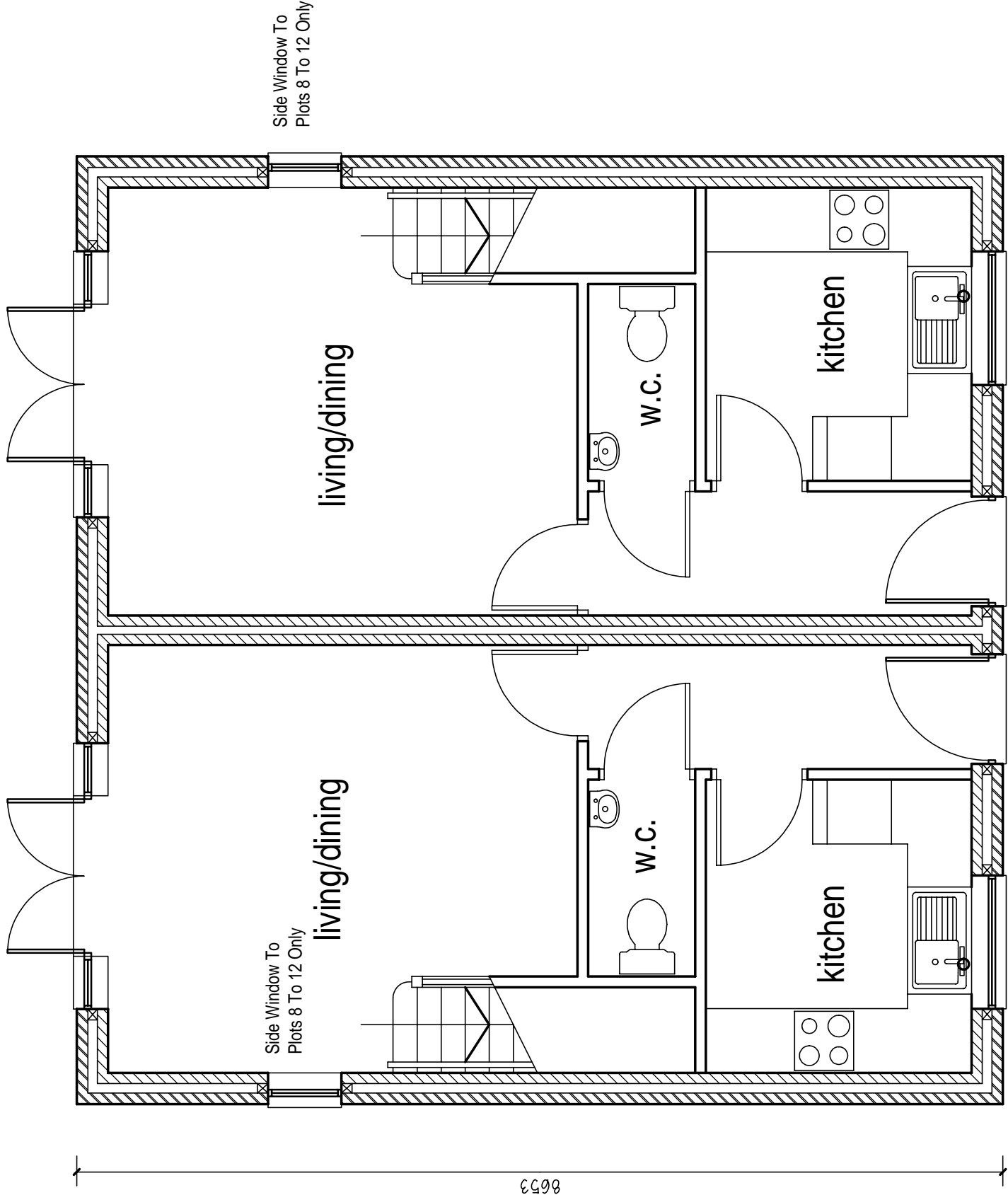
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client  
**IP, DEVELOPMENTS & BURSON LAND LTD**  
scale  
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date  
**NOV 2009**  
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**GD0892/03**  
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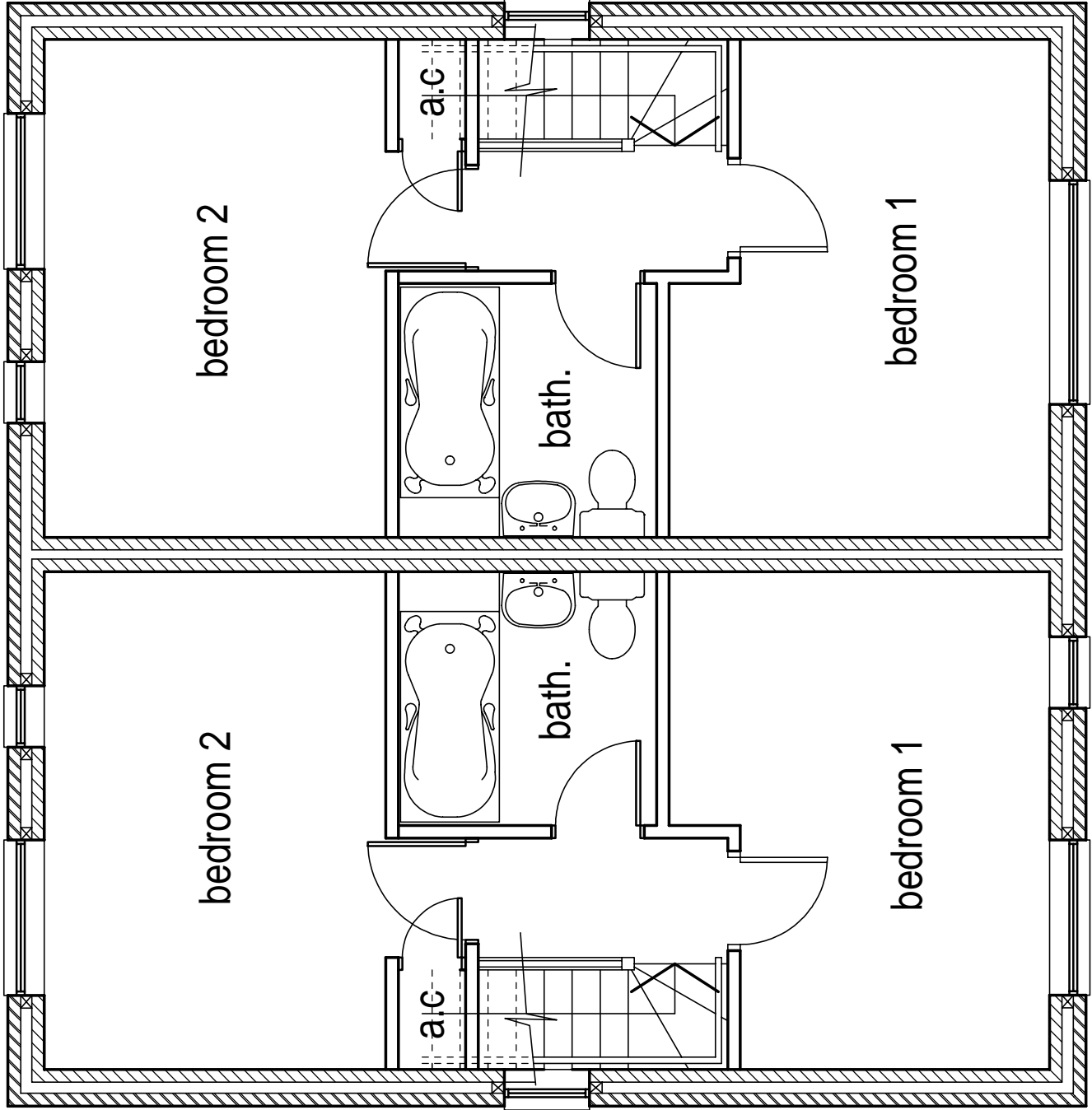
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TYPE A

TYPE A HANDED

Ground Floor Plan



First Floor Plan

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GD*Designs*

Architectural Services

49, The Crescent,  
Cradley Heath,  
West Midlands,  
B64 7JS  
Tel 0121 602 6233  
Mob 07939 436557

contract

RESIDENTIAL DEVELOPMENT  
THE 'STRUGGLING MAN'  
PROSPECT ROW, DUDLEY

drawing

PROPOSED HOUSE TYPE A

client

I.P. DEVELOPMENTS & BURSON LAND LTD

scale

1:50/1:100

date

NOV 2009

drawn by

6CD

drawing no

GD0892/04

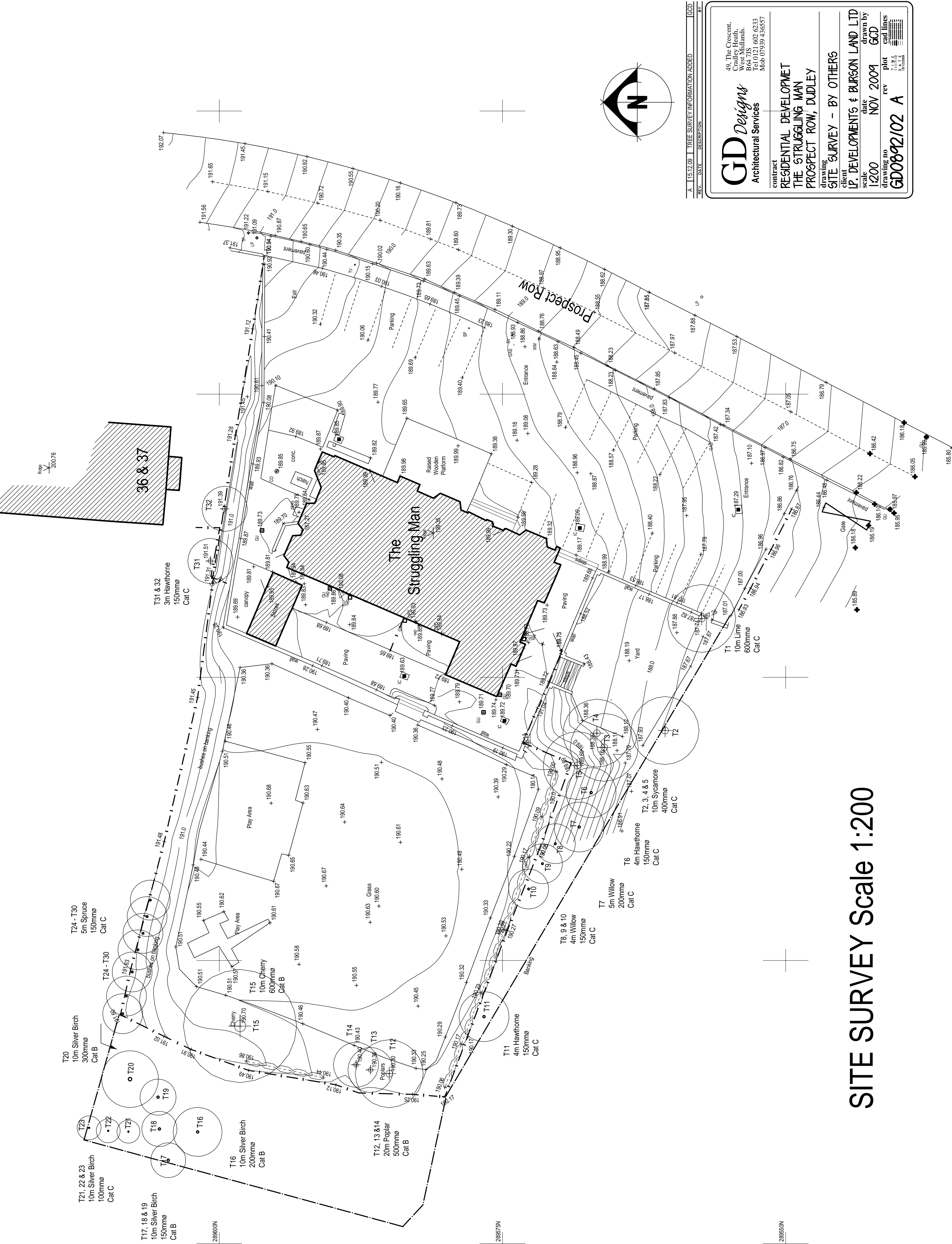
rev

plot

TABLE

DATE

DATE



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