

## **PLANNING APPLICATION NUMBER:P09/1177**

Type of approval sought	Outline Planning Permission
Ward	Upper Gornal & Woodsetton
Applicant	I. whiston
Location:	<b>1, MONS HILL, DUDLEY, DY1 4LT</b>
Proposal	<b>DEMOLITION OF EXISTING WORKSHOP BUILDINGS AND ERECTION OF 3 NO. DWELLINGS (OUTLINE)(ACCESS, LANDSCAPING &amp; LAYOUT TO BE CONSIDERED)(RESUBMISSION OF WITHDRAWN APPLICATION P09/0565)</b>
Recommendation Summary:	<b>APPROVE SUBJECT TO A 106 AGREEMENT</b>

### **SITE AND SURROUNDINGS**

- 1 The application site consists of a large portal frame building with a winged extension of mostly open fronted buildings to the rear. Adjoining the building is an area of hard-standing. The site is mostly free of vegetation, although there is a hedge/group of trees along the bridleway frontage.
  
- 2 Adjoining the site are two dwellings, one owned by the applicant (2 Mons Hill) and the other 1 Mons Hill. The latter is located to the north and has a large garden which contains an established dog kennels. This site has been subject of a recent planning permission for four detached dwellings. To the rear of the site is an area of undeveloped land.
  
- 3 The site is accessed by a bridleway which is a single track road which serves the application site and Nos. 1 and 2 Mons Hill and connects with a public right of way onto the Mons Hill/Wrens Nest linear open space, which is subject of both local and national wildlife/geological designations. The linear open space is accessed through an area of scrub and woodland which screens the site from it.

4 The application site runs to approximately 0.18 hectares.

## PROPOSAL

- 5 This is an outline planning application for the demolition of the existing buildings on the site, and replacement with 3 detached dwellings. Whilst the application is outline, access, layout and landscaping are being considered at this stage. Matters relating to appearance and scale would be subject of a later reserved matters application.
- 6 The layout shows the provision of two dwellings fronting onto the bridleway, with a new vehicular access to a third dwelling at the rear. Plot 2 has access from the bridle way, plot 3 from the new access road and plot 1 from both.
- 7 The application has been submitted with a design and access statement, a nature conservation report and a tree condition survey. Plans have also been submitted showing the external appearance of the buildings. However, these are indicative and are for illustrative purposes only.
- 8 The application plans have been amended since the application was submitted with amendments to the site location plan and the siting of the two proposed dwellings facing the bridleway.

## HISTORY

### Land adj 1 Mons Hill

APPLICATION No.	PROPOSAL	DECISION	DATE
P06/1507	Certificate of existing lawfulness for use of premises for the manufacturing of animal food and fish bait.	Granted	27/07/2006
P09/0565	Demolition of existing workshop	Withdrawn	

	buildings and erection of 3 No. dwellings (outline)(access, landscaping and layout to be considered)		
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Land At Side And Rear Of, 1, Mons Hill (adjoining site)

APPLICATION No.	PROPOSAL	DECISION	DATE
P08/1071	Erection of 4 No. 3 bedroom detached dwellings with garages	Refused	20/8/2008
P09/1030	Erection of 4 no. dwellings (Resubmission of refused planning application P08/1071).	Granted	03/11/2009

- 9 This application is similar to the previous proposal although matters relating to the access have now been resolved.

**PUBLIC CONSULTATION**

- 10 No representations received

**OTHER CONSULTATION**

- 11 Group Engineer (Development): No objection
- 12 Head of Environmental Health and Trading Standards: Object, due to close proximity of existing kennels at 1 Mons Hill. However, he also states:-

*I understand that the site of the existing kennels is also subject to a planning application for residential development which has not yet been determined (since determined). If such a development was to take place then it is likely that the use of the kennels would cease. In such circumstances I would have no objection to the approval of this application as the noise source of concern would be removed.*

Conditions relating to soil gases are also requested.

## RELEVANT PLANNING POLICY

### Unitary Development Plan

DD1 Urban Design

DD4 Development in Residential Areas

DD6 Access and Transport Infrastructure

DD7 Planning Obligations

DD8 Provision of Open Space, Sport and Recreation  
Facilities

DD10 Nature Conservation and Development

EE3 Existing Employment Uses

AM13 Public Rights of Way

H3 Housing Assessment Criteria

H6 Housing Density

LR1 Open Space

LR5 Playing Fields

NC1 Biodiversity

NC2 Special Areas of Conservation and  
Sites of Special Scientific Interest (SSSI)

NC4 Local Nature Reserves and  
Sites of Importance for Nature Conservation

NC5 Sites of Local Importance for Nature Conservation

NC6 Wildlife Species

NC7 Geological Resource

NC9 Mature Trees

NC10 The Urban Forest

HE2 Landscape Heritage Areas

SO2 Linear Open Space

EP1 Incompatible Land Uses

EP7 Noise Pollution

### Supplementary Planning Guidance/Documents

Supplementary Planning Document on Open Space, Sport and Recreation Provision

Nature Conservation Supplementary Planning Document

Parking Standards and Travel Plans Supplementary Planning Document

New Housing Development Supplementary Planning Document

Planning Obligations Supplementary Planning Document

PGN3. New housing development

PGN 12. The 45 degree code

### National Planning Guidance

PPS3 – Housing

## **ASSESSMENT**

- 13 The main issues are
- Principle
  - Design
  - Neighbour Amenity
  - Access and Parking
  - Nature Conservation
  - Trees
  - Occupier Amenity
  - Planning Obligations

### Principle/Policy

- 14 The site is considered to be a previously developed site as defined by Planning Policy Statement 3 – Housing, in that it forms part of an established employment site and therefore the proposed development complies with main PPS3 principle tests.
- 15 However, there are local policy implications in respect of the loss of the employment use, as policy EE3 of the Unitary Development Plan requires retention of local employment unless there is an established conflict or other material circumstances

apply. In this case the site is accessed by a narrow access which is also shared by pedestrians accessing the Wrens Nest open space area and as such there are possible public safety conflicts as the buildings have the potential to be served by heavy goods vehicles. The replacement with housing would eliminate this potential conflict.

- 16 The application site is located within a designated linear open space (Policy SO2) where development will not be permitted if it would harm the intention of the space which is to maintain its open character, link open spaces, provide wildlife corridors and provide recreation space. The policy does not preclude development, but it should complement and enhance the intended function.
- 17 The site adjoins a Landscape Heritage Area (Policy HE2). The policy seeks to resist any development which would be detrimental to the character, quality and or historic integrity of the landscape. Consideration needs to be given to views into, from and within the designation.
- 18 Whilst reservations are raised in respect of the impact of the development on the character of the area, which is described above it is difficult to argue the proposed development would harm the openness of the area, or would affect views into or from the Landscape Heritage Area in that it replaces a large industrial building and adjoins a site where residential development has already been permitted.

### Design and Layout

- 19 As stated above the proposed layout shows the provision of two dwellings facing onto the bridleway, and a third behind. This is considered to be acceptable in that it ensures the bridleway is “naturally surveyed” as well as replicating 1 Mons Hill, and one of the proposed adjoining houses which would also face onto the bridleway.
- 20 Whilst the application is outline with appearance and scale reserved for later consideration an indicative plan has been provided. This shows a well proportioned modest dwelling with a single storey garage to the side. The plans also show

detailing to the eaves, and above the proposed windows which reflects more traditional Black Country vernacular.

### Neighbour Amenity

- 21 The separation distance between both Nos. 1 and 2 Mons Hill is considered to be acceptable and complies with the provisions of PGN3. Additionally there would be no conflict between the proposed dwellings which have recently been granted to the side and rear of 1 Mons Hill.

### Access and parking

- 22 Access to the site is by way of a surfaced single track bridleway which runs from Dawlish Road. Unlike the adjoining site associated with the land to the side and rear of 1 Mons Hill, no upgrade is required to the existing bridleway. This is due to the fallback position of the authorised employment use which has the potential to generate higher volumes of traffic much of which could consist of heavy goods vehicles.
- 23 The proposed access road within the site has been designed to allow two vehicles to pass and also provides satisfactory manoeuvring and turning space.
- 24 There is a requirement for 9 parking spaces on the site in accordance with the Parking Standards and Travel Plans Supplementary Planning Document. The submitted plans show the required amount.

### Nature Conservation

- 25 The site is located within a linear open space designation, and is near to the Mons Hill SLINC and the Wrens Nest NNR and SSSI designations and as such careful consideration needs to be given to the impact on protected species that may be present. An ecological survey was submitted with the planning application.

- 26 The survey concluded that there was no evidence of protected species on site but a number of recommendations were made for when the site is cleared. They have also made a number of recommendations in respect of mitigation such as provision of new trees and hedges.
- 27 The Council's Ecologist has been consulted on the application and has raised no objection to the proposed development. A condition is recommended to ensure onsite nature conservation enhancement and management is provided.

### Trees

- 28 The site is mostly clear of vegetation, although there is a group of trees/hedge along the bridleway frontage. Whilst these trees provide some amenity value, and presently screen the site, the close proximity of them to the existing building would prevent their long term retention. Moreover, the trees are comparatively immature and are not considered to be outstanding specimens. In the event the proposal is considered to be acceptable in all other regards the imposition of a condition requiring replacement planting would need to be imposed.

### Occupier Amenity

- 29 The application site adjoins an established dog kennels, which is used to keep and breed greyhounds. There is a history of complaints relating to the use, and as such the Head of Environmental Health and Trading Standards raises objection, and as such normally such an application for residential development could not be supported.
- 30 However, planning permission was granted on the adjoining site which includes the dog kennels in November 2009 for residential use with a condition requiring the kennels use to cease before any of the dwellings could be first occupied.
- 31 In this case whilst the applicant does not have control of the dog kennels, due to the grant of planning permission on the adjoining site it would be unreasonable to refuse planning permission solely on amenity grounds as there is a reasonable

prospect of the use ceasing within the timeframe of any permission being granted. However, a condition is proposed which would prevent any of the proposed dwellings being occupied before the kennel use ceases. The applicant has been consulted on this potential solution which otherwise would have lead to the application being recommended for refusal, and as such is minded to accept the proposed Grampian style condition.

- 32 In respect of all other matters relating to occupier amenity there are no other issues which would preclude the granting of planning permission.

### Planning Obligations

- 33 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 to ensure a commuted sum to be paid towards the following infrastructure:

- Open Space, Sport and Recreation Contribution £8906.03
- Library Contribution £554.76
- Public Realm Contribution £1387.05
- Management and Monitoring Charge £1000.00
- **Total Offsite Contribution equates to £11847.84**

- 34 The applicant has agreed to the payment of these offsite planning obligations.

- 35 A contribution is not required for transport infrastructure improvements in that the proposed development is likely to generate fewer trips than the authorised employment use. Nature conservation enhancement which is also required would be controlled by condition, as there is a preference for on site enhancement due to the nearby designations.

## CONCLUSION

36 The proposed development is acceptable in principle, would cause no harm to neighbour amenity or nature conservation or landscape designations. The proposed development is likely to reduce the potential number of trips which could be generated from the existing employment building. Consideration has been given to policies DD1 Urban Design DD4 Development in Residential Areas DD6 Access and Transport Infrastructure DD7 Planning Obligations DD8 Provision of Open Space, Sport and Recreation Facilities DD10 Nature Conservation and Development EE3 Existing Employment Uses AM13 Public Rights of Way H3 Housing Assessment Criteria H6 Housing Density LR1 Open Space LR5 Playing Fields NC1 Biodiversity NC2 Special Areas of Conservation and Sites of Special Scientific Interest (SSSI) NC4 Local Nature Reserves and Sites of Importance for Nature Conservation NC5 Sites of Local Importance for Nature Conservation NC6 Wildlife Species NC7 Geological Resource NC9 Mature Trees NC10 The Urban Forest and HE2 Landscape Heritage Areas of the Dudley Unitary Development Plan.

## RECOMMENDATION

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 Open Space, Sport and Recreation Contribution, Library Contribution Public Realm Contribution and Management and Monitoring Charge totalling £118447.84 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 proposed development is acceptable in principle, and its self would cause no harm to existing neighbours or the neighbours of the proposed adjoining development or nature conservation or landscape designations, The proposed development is likely to reduce the potential number of trips which could be generated from the existing employment building. Consideration has also been given to the impact the adjoining kennels would have on the amenity of future occupiers. Consideration has been given to policies DD1 Urban Design DD4 Development in Residential Areas DD6 Access and Transport Infrastructure DD7 Planning Obligations DD8 Provision of Open Space, Sport and Recreation Facilities DD10 Nature Conservation and Development EE3 Existing Employment Uses AM13 Public Rights of Way H3 Housing Assessment Criteria H6 Housing Density LR1 Open Space LR5 Playing Fields NC1 Biodiversity NC2 Special Areas of Conservation and Sites of Special Scientific Interest (SSSI) NC4 Local Nature Reserves and Sites of Importance for Nature Conservation NC5 Sites of Local Importance for Nature Conservation NC6 Wildlife Species NC7 Geological Resource NC9 Mature Trees NC10 The Urban Forest and HE2 Landscape Heritage Areas of the Dudley Unitary Development Plan.

The decision to grant planning permission has been taken with regard to the policies and proposals in the adopted Dudley UDP (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 detail on the decision please see the application report.

#### Notes

The development hereby permitted shall be built in accordance with the approved plans numbered 939:01C unless otherwise agreed in writing by the Local Planning Authority.

Conditions and/or reasons:

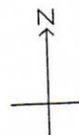
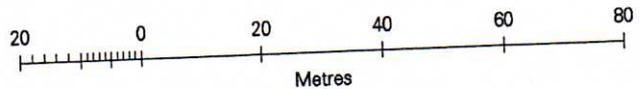
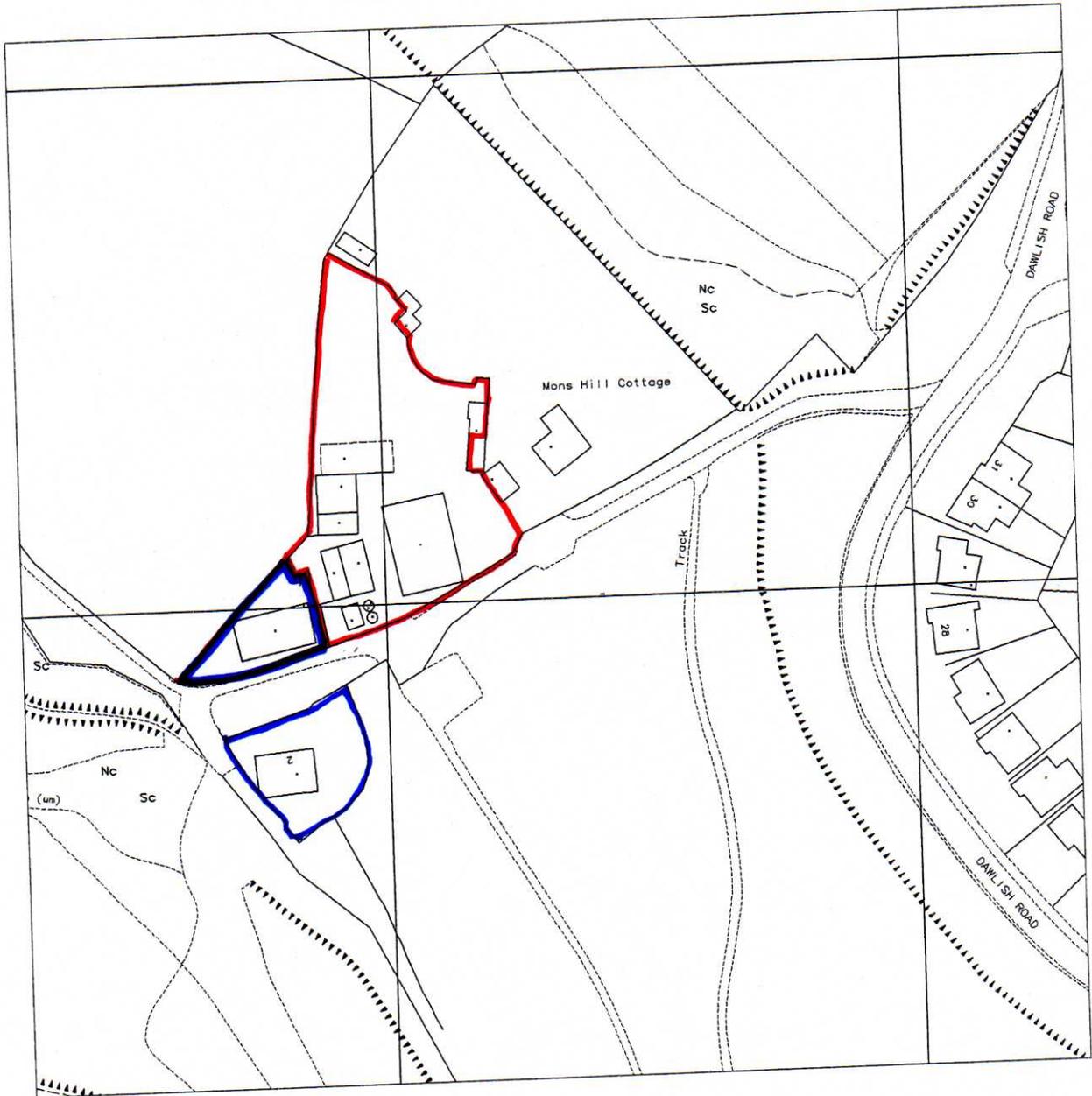
1. Approval of the details of the design and external appearance of the building(s), scale of the building(s) of the site (hereafter called the ('reserved matters') shall be obtained from the Local Planning Authority before any development is begun.
2. Application for reserved matters approval must be made not later than the expiration of three years beginning with the date of the grant of outline planning permission; and the development to which the permission relates must be begun not later than the expiration of two years from the final approval of the reserved matters or, in the case of approval on different dates, the final approval of the last such matter to be approved.
3. Development shall not commence until an arrangement for the provision of off site public open space and play area improvements, libraries, public realm and management and monitoring charge 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.
4. No part of the development hereby permitted shall be commenced until detailed plans and sections showing existing site levels and finished floor levels of the dwellings have been submitted to and approved in writing by the Local Planning Authority and the development thereafter shall only be carried out as approved.
5. No building on any part of the development hereby permitted shall exceed 2 storeys in height.
6. No part of the development hereby permitted shall be commenced until a schedule of all materials to be used on the external surfaces of the buildings has been submitted to and approved in writing by the Local Planning Authority and thereafter the development shall only be constructed in accordance with these details.
7. No part of the development hereby permitted shall be commenced until details of the positions, design, materials and type of boundary treatment or means of enclosure have been submitted to and approved in writing by the Local Planning Authority. No part of the development shall be occupied until these works have been carried out in accordance with the approved details.
8. No part of the development hereby permitted shall be commenced until full details of soft landscaping works have been submitted to and approved in writing by the Local Planning Authority. These details must include, where appropriate, planting plans, written specifications, a schedule of plants including species, plant sizes and proposed numbers/densities and a programme of implementation. Plans must also include accurate plotting of all existing landscape features.

The works approved as part of this condition shall be completed within the first planting season following the first occupation of any part of the development.

Any trees or shrubs planted in pursuance of this permission including any planting in replacement for it which is removed, uprooted, severely damaged, destroyed or dies within a period of five years from the date of planting shall be replaced by trees or shrubs of the same size and species and in the same place unless otherwise agreed in writing by the Local Planning Authority.

9. All the existing trees and hedges indicated on the approved drawings to be retained shall be protected by suitable fencing and at a suitable distance as outlined in BS:5837 - 2005 - 'Trees in Relation to Construction', or such alternatives as may be agreed in writing by the Local Planning Authority. Such fences shall be erected before any materials are brought onto site or development commences. No materials shall be stored, no rubbish dumped, no fires lit and no buildings erected inside the fence(s), nor shall any changes in ground level be made within the fence(s) unless previously agreed in writing by the Local Planning Authority.
10. All excavations to be undertaken within 6 metres of the stem of existing trees on site shall be undertaken in accordance with NJUG Publication number 10 'Guidelines for the Planning, Installation and Maintenance of Utility Services in proximity to Trees'.
11. The existing trees shown on the approved plans to be retained shall not be damaged or destroyed, uprooted, felled, lopped or topped during the construction period of the development without the prior written consent of the local planning authority. Any trees removed without such consent or dying or being seriously damaged or diseased during that period shall be replaced with healthy trees of such size and species as may be agreed in writing by the local planning authority.
12. The development hereby approved shall not be first commenced until details of the nature conservation enhancement of the site have been submitted to and approved in writing by the Local Planning Authority. The nature conservation enhancement shall thereafter be provided in accordance with the approved details and shall be retained and managed for the life of the development.
13. The development hereby approved shall not be first occupied until the dog kennels on the land within/adjoining the curtilage of 1 Mons Hill has ceased.
14. No part of the development hereby permitted shall be commenced until large scale drawings of verges, eaves, chimneys, window surrounds, door surrounds and porches have been submitted to and approved in writing by the District Planning Authority and thereafter the development shall only be carried out in accordance with these details.
15. Notwithstanding the details shown on the approved plans no gates shall be constructed across the access to the site without the express grant of planning permission.
16. Prior to commencement of development details of the modification to the existing access, the access road and parking areas will be submitted to and approved in writing by the LPA. Details will include cross sections, lines, widths, levels, gradients, drainage and lighting. Prior to first occupation the approved modification of existing access, access road and parking areas will be Implemented in accordance with the approved details and will be retained and maintained for no other purpose for the life of the development.
17. 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.

MONS HILL HOUSE



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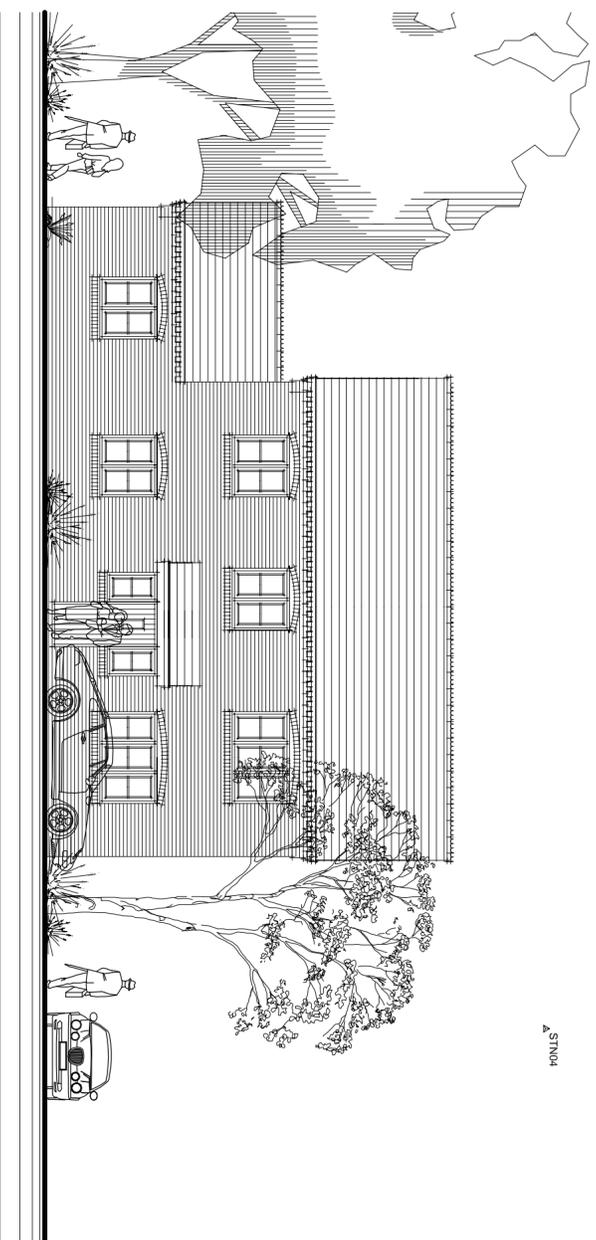
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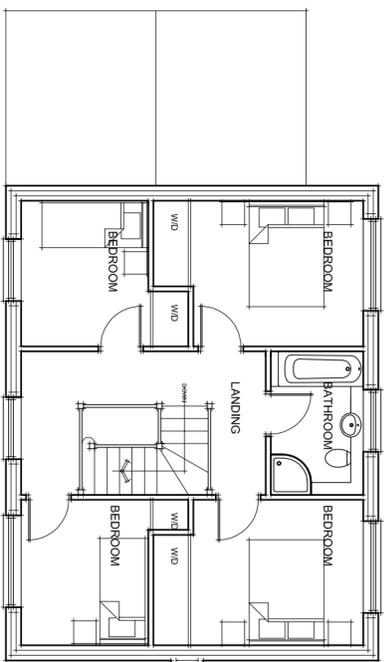
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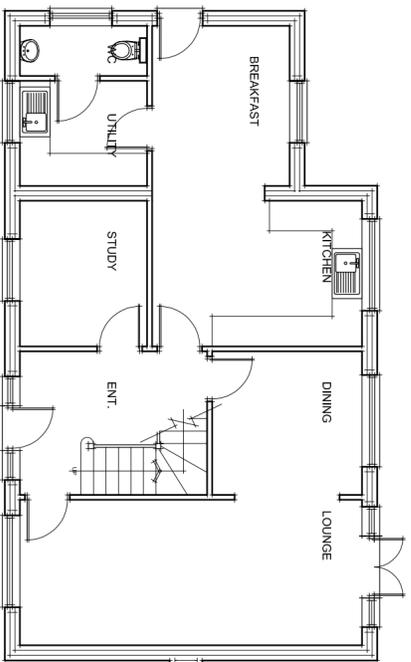
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Serial Number: 01943300



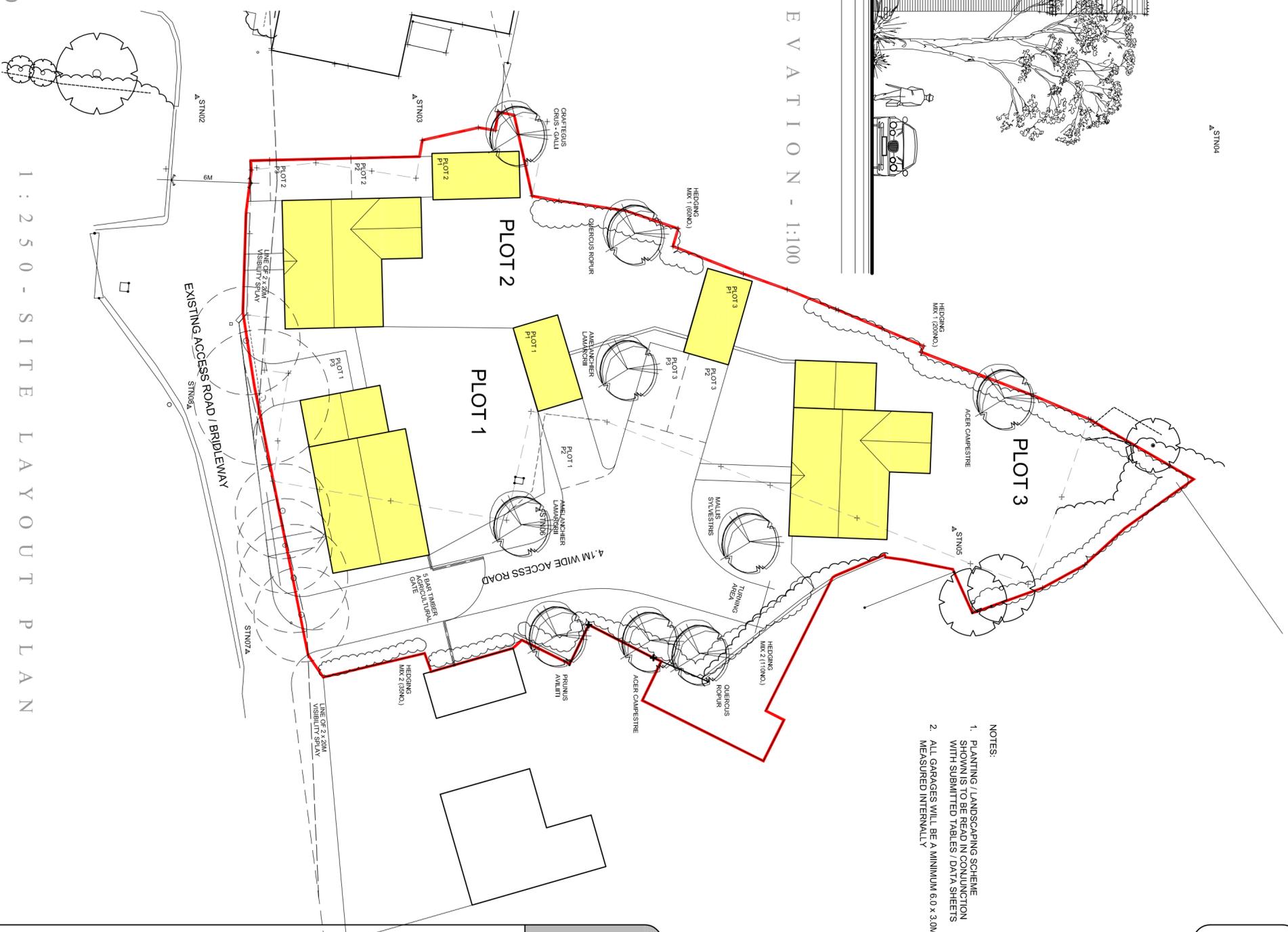
INDICATIVE TYPICAL ELEVATION - 1:100



FIRST FLOOR PLAN - 1:100  
(INDICATIVE ONLY)



GROUND FLOOR PLAN - 1:100  
(INDICATIVE ONLY)



- NOTES:
1. PLANTING / LANDSCAPING SCHEME SHOWN IS TO BE READ IN CONJUNCTION WITH SUBMITTED TABLES / DATA SHEETS
  2. ALL GARAGES WILL BE A MINIMUM 6.0 x 3.0M MEASURED INTERNALLY

The Contractor is to check and verify all building and site dimensions, levels and sewer invert levels at connection points before work starts. This drawing must be read with and checked against any structural or other specialist drawings provided. The Contractor is to comply in all respects with the current building regulations whether or not specifically stated on these drawings.

(1:100 Scale)

(1:250 Scale)

REV 'C' RED LINE AMENDED & "PLOT 1" RE-POSITIONED 17.11.09.  
 REV 'B' SITE LAYOUT REVISED 27.08.09.  
 REV 'A' FINALISED FOR OUTLINE PLANNING APPLICATION 01.04.09.

**db design to build**  
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Job: proposed development at  
 land adjacent to  
 1 MONS HILL  
 DUDLEY

Title: scheme drawing

Client: MR & MRS L. WHISTON

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Scale: 1:100 1:250 Date: JAN 2009  
 Drawn By: CJH

Drawing No. 939:01c