

# PLANNING APPLICATION NUMBER:P12/0392

Type of approval sought	Full Planning Permission
Ward	Wordsley
Applicant	Ms Laura Barnes, Marstons Plc
Location:	<b>142, BROMLEY LANE, KINGSWINFORD, WEST MIDLANDS, DY6 8QE</b>
Proposal	<b>ERECTION OF 2 NO. DWELLINGS</b>
Recommendation Summary:	<b>APPROVE SUBJECT TO CONDITIONS AND SECTION 247</b>

## SITE AND SURROUNDINGS

1. The application site is set within a well established residential area and has an area of 466m<sup>2</sup> which currently forms part of the car park of a public house. The public house is currently operational and is sited 19.5m to the west of the application site. The application site is accessed via an access road which serves the Public House and forms a link to Randall Close, this road is adopted highway. The properties within the surrounding area all back onto the application site and associated access road and are a mix of both semi-detached and detached dwellings all of which are two-storey in nature.
2. The application site is bound to the west by the remaining car park and associated Public House. To the east is a broad grass verge before Randall Close. To the north is the access road serving the Public House and linking to Randall Close. To the rear are numbers 29 and 31 Randall Close, 29 being a semi detached dwelling whereas number 31 is detached and forms the end of the row of dwellings on the north side of Randall Close. Both these properties back onto the application site.

## PROPOSAL

3. The proposal is a resubmission of a previously approved application (P10/146). The current application is exactly the same as the scheme approved in 2010 which would need to commence by the 12 May 2013. The applicant is about to market the site for development and has resubmitted the application to increase the length of time for the commencement of development if the application is determined in a favourable manner for the second time. An extension of time application has not been submitted since the legislative provisions apply only to permissions which were granted on or before the 1 October 2009.
  
4. This application seeks approval for the erection of two semi detached dwellings. The proposed dwellings would be two storeys with 3 bedrooms. The proposed dwellings would have attached garages set back from the front elevation. The properties would be finished with side gable walls and have frontages with sufficient space available for off road vehicle parking spaces and soft landscaping. Part of the proposed development site is adopted highway. As part of the scheme the applicant intends to install a 2m wide footway in front of the application site and to develop within part of the existing adopted highway. The development would need to be subject to an application under Section 247 of the Town & Country Planning Act 1990 (as amended) to allow the extinguishment of the highway to facilitate the development.

## HISTORY

APPLICATION No.	PROPOSAL	DECISION	DATE
P03/2091	Erection of 2 no. 3 bedroom link detached dormer bungalows	Approved with Conditions	24 <sup>th</sup> May 2004
P09/0631	Erection of 2 no. dwellings.	Refused	9 <sup>th</sup> July 2009
P10/0146	Erection of 2 no. dwellings (resubmission of refused application P09/0631)	Approved with Conditions	12 <sup>th</sup> May 2010

## **PUBLIC CONSULTATION**

5. The application was advertised by way of neighbour notification letters being sent to the occupiers of thirty properties within close proximity to the site. The latest date for comments was the 20<sup>th</sup> April 2012. At the time of writing the report no letters of representation have been received.

## **OTHER CONSULTATION**

6. Group Engineer (Development): No objection is raised to the proposed residential development but the Highway Authority does not support the extinguishment of all the highway. This is since the stopping up plan submitted by the applicant's agent seeks to extinguish highway that is not necessary to facilitate the development (landscaped strip running along the eastern boundary of the site) and the plan does not incorporate another piece of highway that is required to be extinguished to facilitate the development. An amended plan has been sought from the applicant's agent that seeks the correct piece of land required to be extinguished. Subject to this plan being received, the Highway Authority would not object to the proposed development.
7. Head of Environmental Health and Trading Standards: No objections subject to a condition requiring the implementation of an acoustic barrier on the boundary closest to the Public House.

## **RELEVANT PLANNING POLICY**

### National Planning Guidance

- National Planning Policy Framework
  - Technical Guidance to the National Planning Policy Framework
  - Circular 11/95 – The Use Conditions in Planning Conditions
  - CIL Regulations
8. The National Planning Policy Framework (NPP) sets out the Government's planning policies for England and how these are expected to be applied. The NPPF is a

material consideration in planning decisions, but does not change the statutory status of the development plan as the starting point for decision making. Proposed development that accords with an up-to-date Local Plan should be approved.

9. The NPPF advises that the purpose of the planning system is to contribute to the achievement of sustainable development. In respect of residential development the Framework requires that the planning system should provide for the supply of housing required to meet the needs of future and present generations and the creation of a high quality built environment.

#### Black Country Core Strategy

- CSP1 The Growth Network
- CSP4 Place Making
- DEL1 Infrastructure Provision
- HOU1 Delivering Sustainable Housing Growth
- HOU2 Housing Density, Type and Accessibility
- ENV 3 Design Quality

#### Unitary Development Plan

- DD4 Development in Residential Areas

#### Supplementary Planning Guidance/Documents

- New Housing Development Supplementary Planning Document
- Planning Obligations Supplementary Planning Document
- Draft Parking Standards Supplementary Planning Document.

## **ASSESSMENT**

10. The main issues are
  - Changes in National Planning Policy.
  - Changes to the Development Plan.
  - Implications of the NPPF and BCCS
  - Principle of residential development.

- Density
- Highway safety.
- Character of the area.
- Impact on neighbouring properties.
- Amenity of future occupiers.
- Planning Obligations

#### Changes in National Planning Policy

11. The National Planning Policy Framework (NPPF) was published and came into immediate effect on the 27<sup>th</sup> March 2012.
  
12. Central to the NPPF with respect to decision making is a presumption in favour of sustainable development meaning that:
  - Development proposals should be approved that accord with the development plan without delay; and
  
  - Where the development plan is absent, silent or relevant policies are out-of-date, granting permission unless:
    - Any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole; or
    - Specific policies in this Framework indicate development should be restricted.
  
13. Section 6 of the NPPF has specific relevance to these proposals seeking to significantly boost the supply of housing advising that housing applications should be considered in the context of the presumption in favour of sustainable development.

#### Changes to the Development Plan

14. Following the emergence of the NPPF, the Local Planning Authority is in a strong position with respect to having an up-to-date development plan. This is in the context of the adopted Black Country Core Strategy (BCCS) (February 2011).
15. The preparation of the Council's Development Strategy DPD is underway and will provide detail on delivering the vision of the adopted Black Country Core Strategy (2011) providing site specific allocations for a variety of uses, as well as detailed development strategies for the Regeneration Corridors identified in the Borough. The Development Strategy DPD will be a planning policy document against which decisions on planning applications will be made for the period 2014 to 2026.
16. Whilst the Development Strategy DPD is being produced, existing documents forming part of the Local Development Framework, including saved Policies of the Dudley Unitary Development Plan (DD1 and DD4), the New Housing Development SPD and its older sister document, PGN3, provide a robust policy framework in which to consider new housing developments against.
17. In line with the NPPF, the BCCS's overarching vision and strategy views the delivery of sufficient sustainable housing growth through creating sustainable communities and environmental transformation as being at the corner stone of the whole strategy along with the development of previously developed land.
18. The site is located within the Growth Network falling within Regeneration Corridor 10 (Pensnett-Kingswinford) of the BCCS. The Growth Network is to be the main focus for growth, regeneration and land use change including the creation of sustainable housing growth. Policy CSP1 is relevant, which states that *'By 2026, the network of Regeneration Corridors linking the Strategic Centres will provide...35,000 new homes in sustainable communities built on redundant employment land and other brownfield sites close to existing public transport routes and canal networks and locations with the best access to residential services, at moderate densities that allow for a range of house types.'*
19. BCCS policy HOU2 'Housing Density, Type and Accessibility' sets out the objectives for density and types of new housing, promoting the need to achieve high quality

design and minimise amenity impacts, taking into account the characteristics and mix of uses in the area where the proposal is located.

20. BCCS policies CSP4 'Place Making', ENV2 'Historic Character and Local Distinctiveness' and ENV3 'Design Quality' requires that all development demonstrates a clear understanding of historic character and local distinctiveness and demonstrates how proposals make a positive contribution to place-making and environmental improvement through high quality design.
21. Saved policies DD1 and DD4 of the Dudley Unitary Development Plan, the New Housing Development SPG and PGN3 seek to ensure that new development applies principles of good urban design making a positive contribution to the character and appearance of the area, ensuring that the scale, nature and intensity of use of the proposed development would be in keeping with the surrounding area and that the proposed development would not result in a detrimental effect upon highway safety.
22. A number of UDP policies that the original scheme was assessed against have been extinguished and replaced with more up to date policies within the BCCS. Those UDP policies listed in the relevant planning policies section of this report have been authorised by the Secretary of State to remain extant and remain relevant to the consideration of the current application.
23. The 'old' and currently adopted Parking Standards and Travel Plans SPD were based upon PPG13. The 'old' parking SPD was based on 'old' national policy which now no longer exists. The emerging SPD is consistent with the local standards approach within the NPPF.
24. The NPPF also states that weight should be given to emerging SPD,s and DPDs depending on where they are in the process (Appendix, P48) when determining planning applications. In light of this, all planning applications submitted to the Council to which parking standards are required to be decided, should now be based on the new emerging SPD.

#### Implications of the NPPF and BCCS

25. The publication of the NPPF puts further weight towards the support of this planning application submission through stating that Local Planning Authorities should support proposals that would deliver new sustainable housing development on previously developed land. Similarly, the adoption of the BCCS further supports the current application recognising the importance of the delivery of new housing development within Regeneration Corridors as contributing towards the sustainable housing growth in the interests of the Regeneration of the Black Country.
  
26. The more detailed design policies inherent within the BCCS (HOU2, CSP4, ENV2 and ENV3) with respect to the design of new housing developments complement and mirror the saved policies within the Dudley Unitary Development Plan. In this regard, the planning policy context by which the proposed layout of the site, including the siting of the buildings, the separation distances between adjoining properties and space standards within the site and the appearance of the dwellings has not changed since consideration of the previous scheme. These issues are considered individually later in this report.

#### Principal of residential development.

27. In land use terms the principal of residential development in this location is considered as acceptable. The proposed development would constitute the re-use of underused brown field land in an existing urban area. In this regard the proposed development would be consistent with the overarching vision set out within BCCS of delivering housing growth predominantly on previously development land.

#### Density

28. The area surrounding the application site is deemed as a suburban inner area characterised with predominantly, but not exclusively semi-detached house types. The density of the surrounding area is typically 30-50 dwellings per hectare. This is comparable to the proposed density which would be at 30 dwelling per hectare. In this regard the proposed housing development is therefore in line with the requirements set out in Policies HOU1 and HOU2 of the BCCS and the Supplementary Planning Guidance – New Housing Development – (March 2007).

#### Parking and Highway Safety



29. In terms of parking, the approved scheme would provide 2 spaces for each of the two dwellings. The parking provision associated with the 2010 scheme was in accordance with the Council's current parking standards at the time. The new emerging Parking Standards SPD puts forward parking standards having regard to local characteristics in accordance with NPPF.
30. The emerging Parking Standards SPD would, as it is currently drafted, result in a parking demand of 2.4 spaces per dwelling. The site lies within Kingswinford where a ward adjustment figure of 1.12 would also need to be applied. The garages are of an appropriate size to be used. The total parking demand would be 5.376 spaces. The emerging document does suggest that the proposed development would be short of one parking space overall. The SPD suggests that the proposed development would also require the provision of 2 no. electric vehicle charging points, which can be secured by condition.
31. The proposed development would therefore be deficient by 1 space when compared to the minimum parking standards as sought by the emerging Parking SPD. A slight shortfall in parking for this part of the scheme must be balanced against the fact that the proposed development would involve the delivery of a sustainable housing development on a previously developed site, the Highway Authority are not objecting to the proposed development and that Paragraph 32, the NPPF states that development should only be prevented or refused on transport grounds where the residual cumulative impacts of development are severe.
32. The proposed dwellings would be accessed from the access road associated with the Public House. Group Engineer (Development) does not raise concerns with this arrangement or the visibility splays associated with the scheme and is supportive of the overall parking provision associated with the proposed development. To enable the proposed development to be delivered the applicant would be required to enter into a section 247 agreement with the Highways Authority to extinguish existing highway to the frontage of the site to facilitate the proposed development. A plan showing the extent of the highway that needs to be extinguished is awaited from the

applicant's agent. Subject to a suitable plan being received, Group Engineer (Development) would raise no objection to the proposed development. The extinguishment of the highway could be done by way of a second recommendation. In this regard the proposed scheme is consistent with the requirements of saved Policy DD4 of the Dudley Unitary Development Plan and the emerging Parking Standards SPD.

#### Character of the Area

33. The application site is set within a suburban inner setting and is characterised by a uniform pattern of development by the way of regular spacing of properties, regular building lines, consistent house types and good size frontages. The New Housing SPD outlines a set of development criteria for development sites within the suburban inner setting. The proposed development has a siting which is considered to respect the building line established by 31 Randall Close and there is appropriate frontage associated with the proposed dwellings. The proposed dwellings would be set in from the grass verge ensuring they would not enclose the openness of this corner and goes some way to turn the corner with the addition of a garage access door and fenestration. The application site stands isolated from the active frontage associated with the surrounding properties as the residential units neighbouring the application site all turn their back on the site and as a consequence does not read as part of a street scene. However, on balance it is considered that due to the buildings sympathetic siting off the highway verge and the benefits of redeveloping this piece of underused land within the urban area the proposed development would comply with the requirements of saved Policy DD4 – Development in Residential Areas of the Adopted UDP (2005) and Supplementary Planning Guidance – New Housing Development – (March 2007).
34. The design of the proposed dwellings is considered to be in context with the surrounding area. The surrounding properties are predominantly two storey dwellings and of a simple contemporary design which has been reflected in the proposed development. The addition of soldier courses to the windows and canopy detail to the front all assist in giving the front elevations interest. In this regard, the proposed development would comply with the requirements of saved Policy DD4 –

Development in Residential Areas of the Adopted UDP (2005) and Supplementary Planning Guidance – New Housing Development – (March 2007).

Impact on neighbouring properties

35. The application site is bound to the rear by residential dwellings. There would be a separation distance of 22m as a minimum between the facing first floor habitable room windows with the proposal being in accordance with the minimum guidelines set out in the relevant Guidance to ensure privacy. This combined with the existing evergreen hedge in situ results in these properties being considered as unaffected by the proposed development. The properties to the east would experience a separation distance in excess of 20m between their rear elevations and the flank wall of the proposed dwellings. These factors ensure there would be no detrimental impact on any of the neighbouring properties to the application site with regard to loss of privacy, daylight or outlook in accordance with the requirements of saved Policy DD4 Development in Residential Areas of the adopted UDP (2005).
36. The proposed dwellings would not result in any overshadowing to the properties to the south due to the orientation of the site. The proposed properties would run east to west and therefore no shadowing would be experienced by the properties to the south at any time of the day as a result of the proposed development. These factors ensure there would be no detrimental impact on any of the neighbouring properties to the application site with regard to loss of daylight in accordance with the requirements of saved Policy DD4 Development in Residential Areas of the adopted UDP (2005).

Amenity of future occupiers

37. The proposed dwellings would have an amenity area of approximately 100m<sup>2</sup> for the private use of the future occupiers. In this regard, the proposed dwellings are considered acceptable with regards to the requirements of saved Policy DD4 – Development in Residential Areas of the Adopted UDP (October 2005) and Supplementary Planning Guidance – New Housing Development – (March 2007).
38. The proposed dwellings would be sited close to a Public House that has been subject of noise complaints. The proposed dwellings are not, however, any closer to the

Public House than are existing dwellings on Randall Close. This combined with no objections being received from the Head of Environmental Health and Trading subject to conditions regarding the erection of an acoustic fence, result in the proposed development being in accordance with the requirements of saved Policy DD4 – Development in Residential Areas of the Adopted UDP (October 2005)

Planning obligations.

39. The Planning Obligations SPD was adopted (September 2011) after the determination of the previous planning application. The previous scheme submitted in 2010 (P10/0146) had a requirement to provide off site contributions to mitigate against the impacts of the proposed development relating to Public Open Space, Libraries, Public Realm, Transport Improvements and Nature Conservation.
  
40. Black Country Core Strategy Policy DEL1 'Infrastructure Provision' now sets out the adopted policy framework for Planning Obligations within Dudley and the Planning Obligations SPD provides further detail on the implementation of this policy; these policy documents were prepared in accordance with national legislation and guidance on planning obligations.
  
41. Policy DEL1 requires all new developments to be supported by sufficient on and off-site infrastructure to serve the development, mitigate its impact on the environment, and ensure that the development is sustainable and contributes to the proper planning of the wider area.
  
42. In determining the required planning obligations on this specific application the following three tests as set out in the CIL Regulations, in particular Regulation 122, have been applied to ensure that the application is treated on its own merits:
  - (a) necessary to make the development acceptable in planning terms;
  - b) directly related to the development;
  - c) fairly and reasonably related in scale and kind to the development.

43. Following consideration of the above tests and having regard to the adopted Planning Obligations SPD the current scheme no longer triggers planning obligations since it would provide less than 5 dwellings.

#### New Home Bonus

44. Clause (124) of the Localism Act states that: Local planning authorities are to have regard to material considerations in dealing with applications including any local finance considerations, so far as material to the application. A “local finance consideration” means a grant or other financial assistance that has been, or will or could be, provided to a relevant authority by a Minister of the Crown. This may be taken to cover the payment of New Homes Bonus, or sums that a relevant authority has received, or will or could receive, in payment of Community Infrastructure Levy.
45. The New Homes Bonus is designed to create an effective fiscal incentive to encourage local authorities to facilitate housing growth. It will ensure the economic benefits of growth are more visible within the local area, by matching the council tax raised on increases in effective stock.
46. The Bonus will sit alongside the existing planning system and provides local authorities with monies equal to the national average for the council tax band on each additional property and paid for the following six years as a non-ring fenced grant.
47. Whilst the clause makes it clear that local finance matters are relevant to planning considerations can be taken into account, it does not change the law in any way. It is not a new basis for planning policy and it remains unlawful for planning permissions to be “bought”.
48. This proposal would provide 2 houses generating a grant payment of 2 times the national average council tax for the relevant bands.
49. Whilst this is a significant sum of money the planning merits of the proposal are acceptable in any event and therefore this is not accorded significant weight.

## CONCLUSION

50. The proposals would result in the delivery of a sustainable housing development within the Borough. The scheme would have one less parking space than required by the emerging minimum parking standards. In all other respects, the proposed development would be in accordance with the development plan. The slight shortfall of parking provision is not considered a sufficient reason to not support the scheme given its overall benefits resulting in the redevelopment of a previously developed site within an existing urban area and the proposed development being of an appropriate design, layout and not having a detrimental impact on the character of the surrounding area or residential amenity of the occupiers of nearby dwellings.

## RECOMMENDATION

51. It is recommended that the application;

a) be APPROVED subject to conditions; and

b) that the applicant be invited to make an application to the Secretary of State under Sec. 247 Town & Country Planning Act 1990 to close highways as shown on attached drawing to enable development authorised by planning permission to take place. The full costs and works to the Local Authorities satisfaction shall be met by the developer.

### Reason for approval

The proposals would result in the delivery of a sustainable housing development within the Borough. The scheme would have one less parking space than required by the emerging minimum parking standards. In all other respects, the proposed development would be in accordance with the development plan. The slight shortfall of parking provision is not considered a sufficient reason to not support the scheme given its overall benefits resulting in the redevelopment of a previously developed site within an existing urban area and the proposed development being of an appropriate design, layout and not having a detrimental impact on the character of the surrounding area or residential amenity of the occupiers of nearby dwellings.

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.

## **Informative**

### All developments within coalfield standing advice area

The proposed development lies within a coal mining area which may contain unrecorded mining related hazards. If any coal mining feature is encountered during development, this should be reported to the Coal Authority.

Any intrusive activities which disturb or enter any coal seams, coal mine workings or coal mine entries (shafts and adits) requires the prior written permission of The Coal Authority.

Property specific summary information on coal mining can be obtained from The Coal Authority's Property Search Service on 0845 762 6848 or at [www.groundstability.com](http://www.groundstability.com)

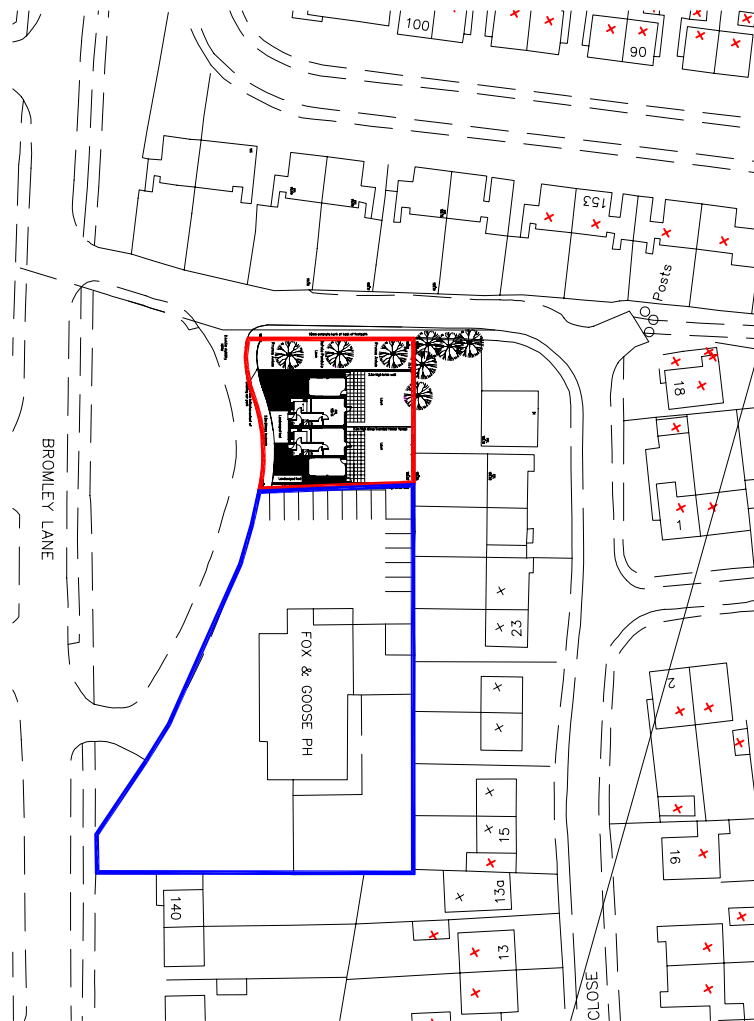
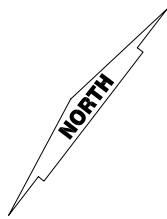
### Conditions and/or reasons:

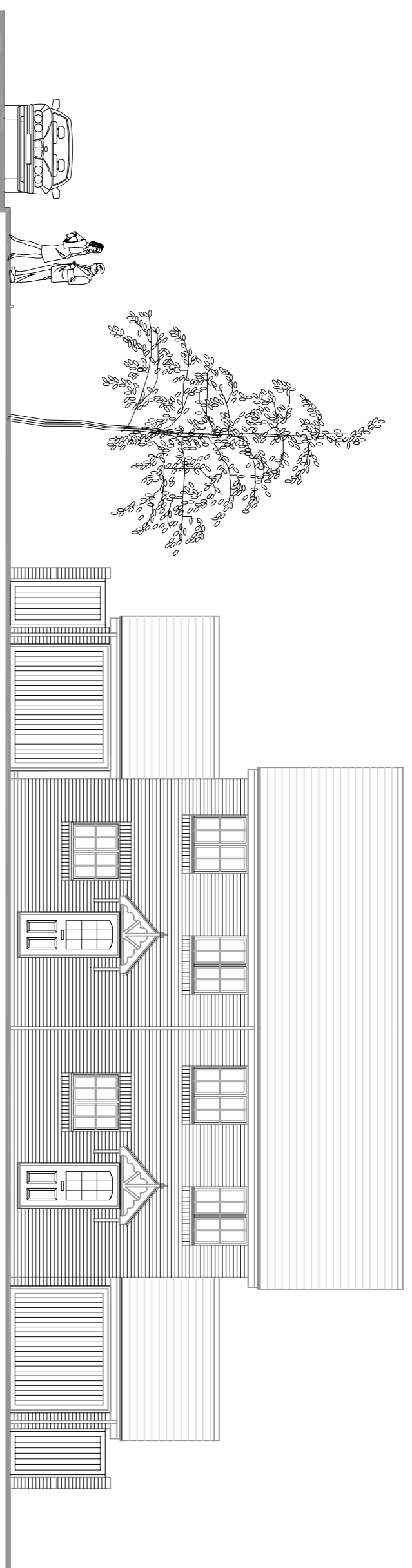
1. The development hereby permitted shall be begun before the expiration of three years from the date of this permission.
2. Prior to the commencement of development, details of the types, colours and textures of the materials to be used on the external surfaces of the buildings hereby approved shall be submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in complete accordance with the approved details.
3. Prior to the commencement of development, details of the boundary treatments to be installed on the whole site, including a continuous acoustic barrier constructed along the eastern boundary of the site adjacent to the public house, of minimum height of 2 metres and minimum surface density of 10 kg/m<sup>2</sup> shall be submitted to and approved in writing by the Local Planning Authority. These details shall include

location of boundary treatment. Elevation details shall also be supplied, or planting species/distances, as appropriate. The development shall proceed in accordance with the approved details, which shall be installed on site prior to occupation and thereafter maintained for the lifetime of the development unless otherwise agreed in writing by the Local Planning Authority.

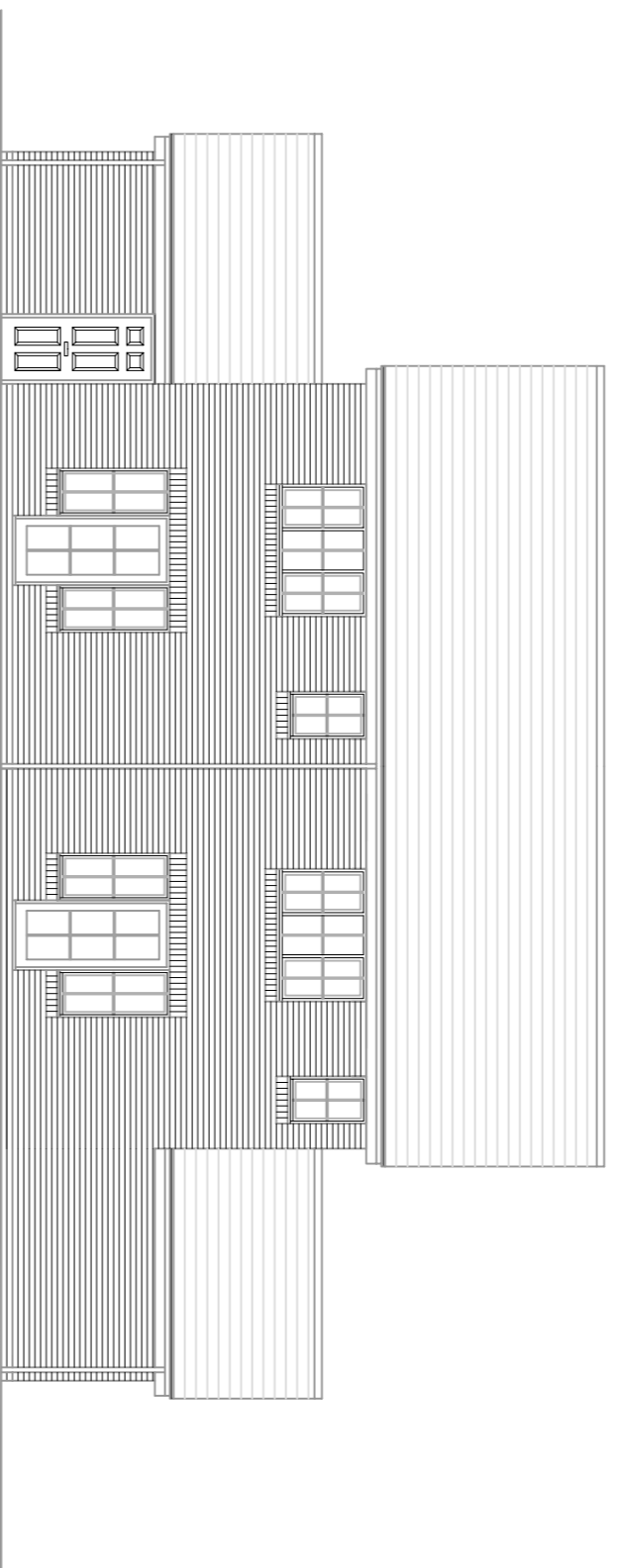
4. The development hereby permitted shall not commence until details for the disposal of surface water drainage has been submitted to and approved by in writing by the Local Planning Authority. These details should include the provision for ensuring no surface water runs onto the public highway and is disposed of within the curtilage of the application site. The scheme shall be built in accordance with the approved details and retained for the lifetime of the development.
5. Prior to the occupation/use of the development hereby permitted the parking area shall be surfaced and marked out in complete accordance with the approved plans, and thereafter maintained available for parking for the lifetime of the development.
6. Each of the dwellings hereby permitted shall be fitted with an electric vehicle charging point. The charging point shall be provided prior to the occupation of the dwelling and retained for the lifetime of the development. The charging point shall be a 3 pin 13 amp external socket with a weatherproof and lockable cover to BS1363 and each socket shall be supplied by an independent 32 amp radial circuit.
7. The development hereby permitted shall be carried out in accordance with the following approved plans: 0335/101
8. Development shall not begin until the sewer running along the eastern boundary of the site is diverted with appropriate easements.



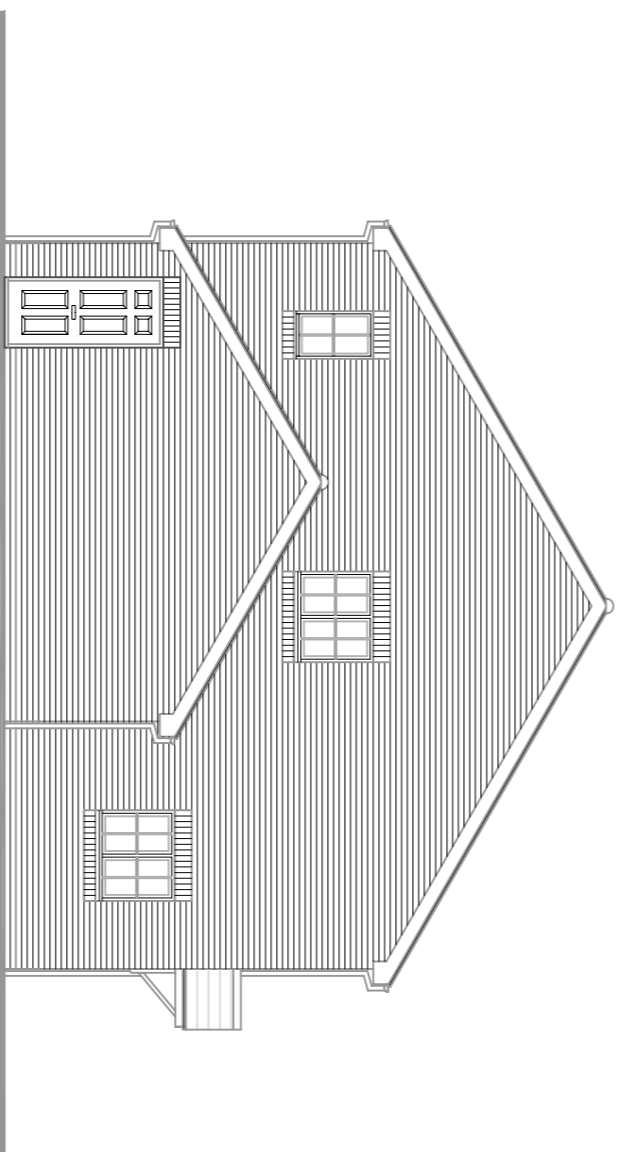




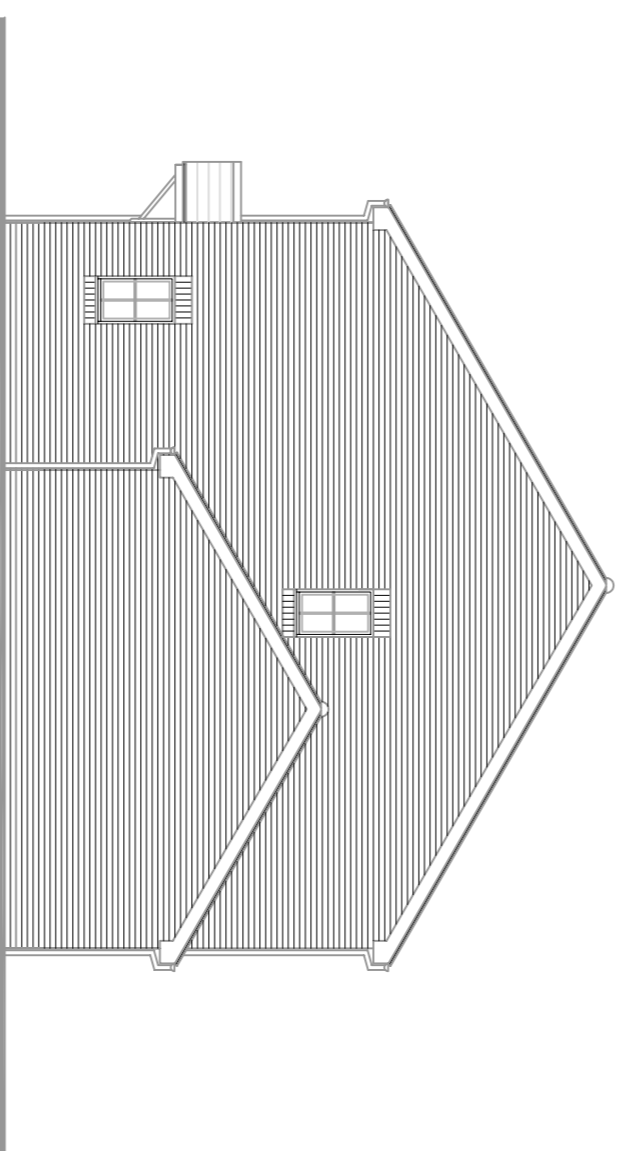
**FRONT ELEVATION**



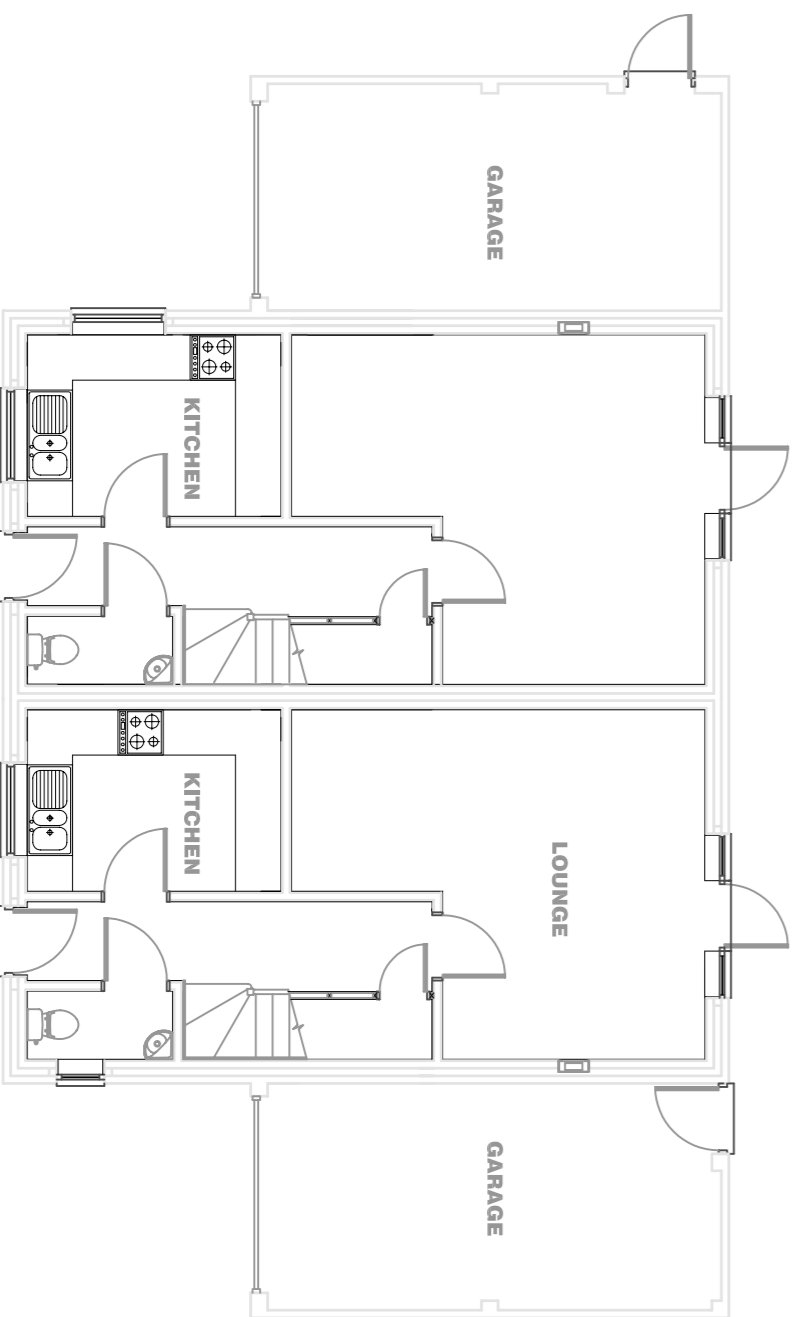
**REAR ELEVATION**



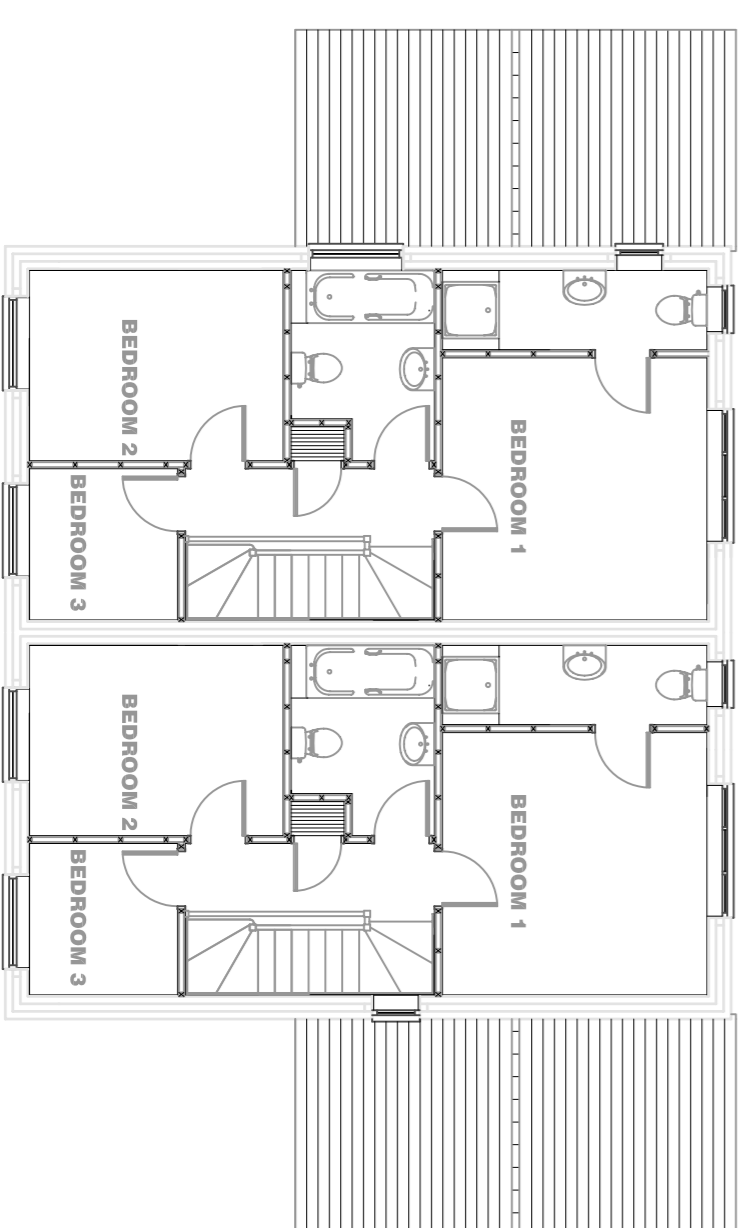
**SIDE ELEVATION**



**SIDE ELEVATION**



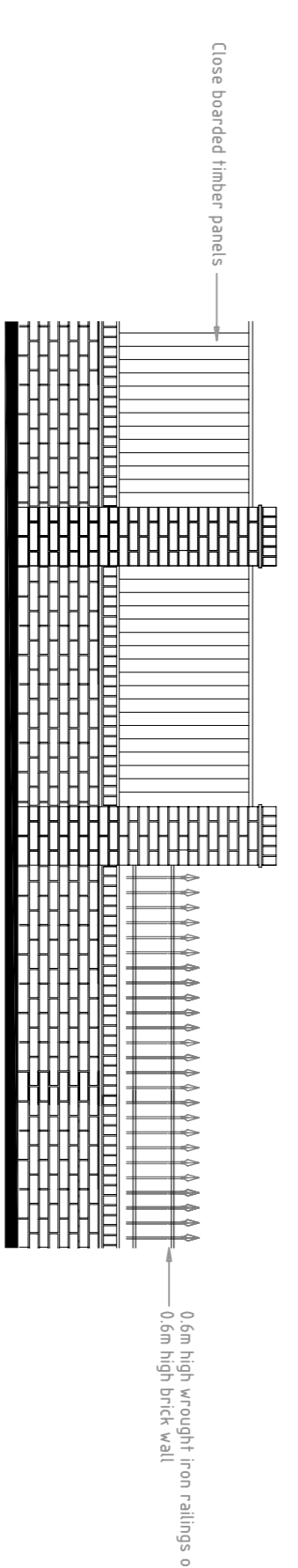
**GROUND FLOOR PLAN**



**FIRST FLOOR PLAN**



**SITE PLAN 1/200**  
Note All levels indicated are existing and proposed



**BOUNDARY WALL PLOT 1**

**EGLIPSE**  
HOMES (MIDLANDS) LTD  
HAYWOOD HOUSE 40 NEW ROAD  
STURBRIDGE WEST MIDLANDS DY8 1PA  
TEL/FAX 01441 01584 392034

**Fox & Goose PH**  
Bromley Lane  
Kingswinford

**2no 3 Bed Semi-Detached Houses**

Scale: 1/200, 1/100  
Date: October 2009

Drawn by: A.J. Deming (ISC, IOR), MBM, A.M.S.  
Checked by: S.J. Turner (Arch), S.J. Turner (Arch), S.J. Turner (Arch)  
Notes: Minor amendments to S.J. Turner (Arch) 25/08/09. See also drawing 0335/101. Minor amendments may occur due to printing processes.