

# PLANNING APPLICATION NUMBER:P08/1835

Type of approval sought	Full Planning Permission
Ward	BROCKMOOR AND PENSNETT
Applicant	Mrs Nicklin
Location:	<b>LAND REAR OF, 38, HIGH STREET, PENSNETT, DUDLEY, WEST MIDLANDS, DY5 4RS</b>
Proposal	<b>DEMOLITION OF DOMESTIC GARAGE TO PROVIDE ACCESS ROAD AND THE ERECTION OF 8 NO. NEW RESIDENTIAL DWELLINGS (RESUBMISSION OF WITHDRAWN APPLICATION P08/1512)</b>
Recommendation Summary:	<b>APPROVE SUBJECT TO A 106 AGREEMENT</b>

## SITE AND SURROUNDINGS

1. The application site is an area of 0.26 ha to the side and rear of no. 38 High Street, Pensnett (a large detached dwelling) adjoined by the rear gardens of Woodfield Avenue and The Plantation. A section of the eastern site boundary adjoins a former road haulage yard. The wider rear garden area of no. 38 is grassed and has previously been used for grazing horses. Amongst the land there are outbuildings and stables in the south west corner together with a spread of trees which are not the subject of a preservation order.
2. There is currently a wide side access and detached garage that serves the application property from High Street.

## PROPOSAL

3. The proposed detailed development is for 8 no. residential units comprising 1 no. 4 bed detached, 3 no. 3 bed detached, 2 no. 2 bed semi detached dwellings and 2 no. 3 bed semi detached dwellings. The scheme also includes an access road, parking and landscaping. Two of the 3 no. bed detached dwellings are dormer style bungalows whilst the remaining dwellings are 2 storey houses. No existing trees are to be removed as a result of the development.

4. The application is accompanied by a Design & Access Statement and a Phase 1 Desk Study Report to highlight any potential environmental risks and liabilities.

## HISTORY

5.

APPLICATION No.	PROPOSAL	DECISION	DATE
P08/1512	Demolition of garage to provide access road and the erection of 9 no. residential units.	Withdrawn	13/11/08

6. The application was withdrawn as there were concerns relating to impacts upon residential amenity and that an under provision of off street parking could have resulted in an obstruction to other users, in particular emergency services resulting in vehicles reversing onto the High Street. The turning area was also too small to accommodate a refuse vehicle which would have resulted in reversing onto a highway. The cumulative impact of the number of plots, the layout, insufficient parking and general highway issues would have resulted in a detrimental impact on residential amenity and highway safety.

## PUBLIC CONSULTATION

7. Twelve letters (including one on behalf of two Ward Councillors) and a petition containing 25 signatures have been received, raising the following issues:

- Overlooking
- Siting of dwellings close to existing residential boundaries
- Loss of privacy and natural light
- Increase in noise
- Highway and pedestrian safety
- Increase in traffic and High Street is already congested

- Existing mine shaft
- Increase in light pollution
- Existing outlook would be lost and replaced by the proposed housing

## OTHER CONSULTATION

8. Head of Environmental Health and Trading Standards – no adverse comments subject to a condition relating to contaminated land (soil gases).
9. Group Engineer (Development) – No objections raised subject to conditions.

## RELEVANT PLANNING POLICY

10. Dudley Unitary Development Plan

S2 – Creating a more sustainable Borough  
 S8 – Housing  
 DD1 – Urban Design  
 DD4 – Development in Residential Areas  
 DD6 – Access and Transport Infrastructure  
 DD7 – Planning Obligations  
 AM14 – Parking  
 H1 – New Housing Development  
 H3 – Housing Assessment Criteria  
 H6 - Housing Density  
 UR9 – Contaminated Land  
 UR10 – Unstable Land

11. Supplementary Planning Document

New Housing Development – A Guide to Establishing Urban Context  
 Parking Standards and Travel Plans  
 Planning Obligations

12. Supplementary Planning Guidance

Planning Guidance Note 3 – New Housing Development

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 to be assessed in this application are as follows:

- Principle
- Density
- Layout/Scale/Residential Amenity
- Design
- Highways and Parking
- Planning Obligations

### Principle

15. The application site constitutes previously developed within a predominantly residential area where the principle of residential development could be supported, subject to appropriate detailed design considerations.

### Density

16. The proposal of 8 no. dwellings would result in development at a density of 31 dwellings per hectare (dph). The properties in the locality are characterised by predominately detached and semi detached dwellings. The variety of house types and garden sizes results in a density for the locality ranging from 5dph to 33dph. Although in numerical terms it could be seen that the density would be acceptable,

the irregular shape of the site ensures that the proposed layout and scale of development will be important considerations in the assessment.

#### Layout/Scale/Residential Amenity

17. The application site is an unusual site in regard to shape and as such is constrained by surrounding development, meaning that a satisfactory layout must address potential impacts upon properties surrounding the application site.
18. The proposed layout shows a reduction of 1 no. residential unit from 9 units to 8, when compared with the previously withdrawn application. The house types of plots 5 and 8 have also been changed from two storey dwellings to dormer type bungalows. It was considered in the previous application that the height and visual mass of the two storey side elevations of plots 5 and 8 would adversely impact upon the rear gardens and properties of nos. 22, 24, 26 and 28 Woodfield Avenue.
19. The proposed two storey dwellings at plots 5 and 8 have now been removed and replaced by dormer style bungalows that contain 1 no. dormer window in the front elevations, thereby reducing considerably the visual impact of the proposed dwellings when viewed from 22, 24, 26 and 28 Woodfield Avenue respectively. The Council's Planning Guidance Note 3 – Housing Development states that 'there should be a minimum distance of 14 metres maintained between rear facing windows of one property and blank flank wall of another'. No. 22 Woodfield Avenue would look obliquely to the side of plot 5, but a distance of 14 metres is maintained. No's. 26 and 28 Woodfield Avenue would directly face the side of plot 8, where a distance of 17.5m between properties would be maintained. Plots 5 and 8 have been set in from the existing residential boundaries with the Woodfield Avenue properties by 1.5m (plot 5) and 1m (plot 8), with the plots further obscured by the boundary fencing. It is considered that the reduction in height and mass of plots 5 and 8 to dormer style bungalows in conjunction with the appropriate separation distances, has reduced visual impact to an extent that would not prejudice the amenities the occupiers of neighbouring properties could reasonably expect to continue to enjoy.

20. The remaining proposed units would have above minimum standard separation distances to nearby residential units due to the unique shape of the site and the length of rear gardens adjoining the application site in The Plantation and High Street, Pensnett.
21. The plots sizes themselves are satisfactory and the reduction of one unit from the withdrawn scheme has relieved any sense of overdevelopment in a relatively thin long site. The loss of 1 no. unit has also helped provide acceptable parking arrangements including off street parking for all of the units, a bin collection point and acceptable provision for emergency vehicles and refuse vehicles.
22. The existing tree to be removed by plot 3 is a Sycamore, it does not have a tree preservation order and is not considered to be significant in terms of public amenity and a good implemented landscape scheme would help to mitigate the loss of the tree. A landscaping scheme would be conditioned as part of any approval.
23. There is one mine entry recorded on site by the Coal Authority positioned towards the south west corner of the application site. The Coal Authority report states that 'in view of the mining circumstances a prudent developer would seek appropriate technical advice before any works are undertaken. Therefore if development proposals are being considered, technical advice relating to both the investigation of coal and former coal mines and their treatment should be obtained before beginning on site'. An additional condition would be attached to any permission requesting a detailed mining report to indicate that the site is suitable for the development proposed.

### Design

24. There are a number of residential designs along High Street, Woodfield Avenue and The Plantation including detached and semi detached houses and dormer style bungalows from a variety to eras. The proposed development comprising traditional style brick built and tiled designed dwellings that would complement the character of

the locality and is in compliance with Policies DD1, DD4 and H3 of the adopted UDP (2005).

### Highways and Parking

25. Following the receipt of amended plans, there are no highway objections, subject to the payment of the planning obligations contribution and conditions relating to the provision of the access road and parking areas.

### Planning Obligations

26. 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:

The proposal attracts a requirement for a commuted sum to be paid towards the following infrastructure which has been agreed by the applicants:

- Libraries - £1436.24
- Open Space, Sport & Recreation - £16979.66
- Transport Infrastructure Improvements - £23185.03
- Public Realm - £3962.40
- Management & Monitoring Charge - £1000.00

Total Offsite Contributions equates to £46563.33

## **CONCLUSION**

27. 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 compliance with adopted Unitary Development Plan Policies.

## **RECOMMENDATION**

28. 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 £46563.33 for the provision, maintenance and enhancement of off-site public open space and play provision, library, public realm and transport improvements 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 compliance with adopted Unitary Development Plan Policy.

The decision to grant planning permission has been taken with regard to the policies and the proposals in the adopted Dudley 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. 895/01 Rev C, 895/03, 05, 06, 07 Rev A, 895/10 and the 1:1250 location plan, 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 application 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 be begun until a scheme for the provision of:
  - Off site public open space and play area improvements
  - Off site library improvements
  - Off site Public Realm improvements
  - Off site Transport improvementshas 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. The development hereby permitted shall be begun before the expiration of three years from the date of this permission.
3. Prior to first occupation of the dwelling the 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 purposes and maintained for the life of the development.

4. 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.
5. Prior to the commencement of development, details of the landscaping scheme for the site shall be submitted to and approved in writing by the Local Planning Authority. The agreed scheme shall be implemented in accordance with the approved details before the end of the first planting season following initial occupation of the development.
6. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995 (or any order revoking and re-enacting that Order), at no time during the life of the development shall the areas approved for landscaping be used for any other purpose unless otherwise agreed in writing by the local planning authority.
7. No development shall take place until there has been submitted to, and approved in writing by the local planning authority details of the tree protection measures on site. The details shall include:
  - a. A plan showing the location and identification (with reference to a survey schedule if necessary) of all trees on, or directly adjacent to the development site, that are to be retained during construction. These trees are to be marked with a continuous outline.
  - b. A plan showing the location and identification (with reference to a survey schedule if necessary) of all the trees on, or directly adjacent to the development site that are to be removed prior to, or during development. These trees are to be marked with a dashed outline.
  - c. A plan showing the extent of the Root Protection Area, which is to be protected by physical barriers during development. The extent of the area that is to be protected is to be calculated in accordance with Clause 5.2 of British Standard BS: 5837 – 2005 ‘Trees in Relation to Construction – Recommendations’.
  - d. Design details of the proposed protective barriers to be erected around the trees during development. Any protection barriers should be designed and constructed in accordance with the provisions set out in section 9.2 of British Standard BS:5837 – 2005 ‘Trees in Relation to Construction – Recommendations’.
8. No development or other operations shall commence on site or in connection with the development hereby approved, (including any tree felling, tree pruning, demolition works, soil moving, temporary access construction and or widening, or any operations involving the use of motorised vehicles or construction machinery) until a detailed Arboricultural Method Statement has been submitted to and approved in writing by the Local Planning authority. No development or other operations shall take place except in complete accordance with the approved Method Statement. Such method statement shall include full detail of the following:

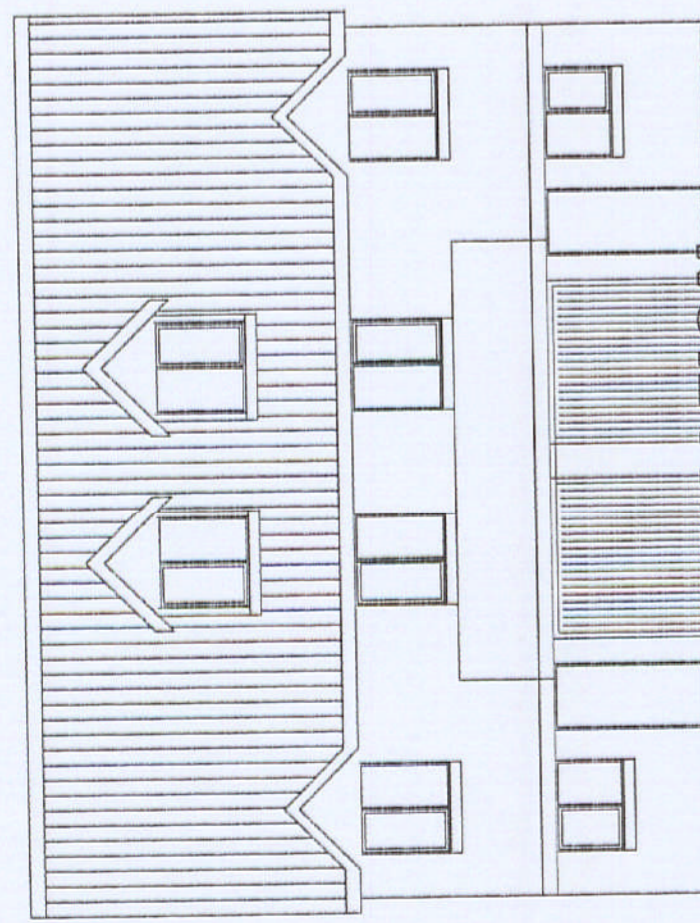
- Implementation, supervision and monitoring of the approved Tree Protection Plan.
  - Implementation, supervision and monitoring of the approved Treework Specification.
  - Implementation, supervision and monitoring of all approved construction works within any area designated as being fenced off or otherwise protected in the approved Tree Protection Plan.
  - Timing and phasing of arboricultural works in relation to the approved development.
9. No development or other operations shall commence on site or in connection with the development hereby approved, (including any tree felling, tree pruning, demolition works, soil moving, temporary access construction and or widening, or any operations involving the use of motorised vehicles or construction machinery) until a detailed tree felling / pruning specification has been submitted to and approved in writing by the Local Planning Authority. No development or other operations shall commence on site until the approved tree felling and pruning works have been completed. All tree felling and pruning shall be carried out in full accordance with the approved specification and the requirements of British Standard 3998 (1989) Recommendations for Tree Work.
  10. 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.
  11. 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' .
  12. No development or other operations shall commence on site in connection with the development hereby approved, (including any tree felling, tree pruning, demolition works, soil moving, temporary access construction and or widening, or any operations involving the use of motorised vehicles or construction machinery) until a detailed service and foul and surface water drainage layout has been submitted to and approved in writing by the Local Planning Authority. Such layout shall provide for the long term retention of the trees. No development or other operations shall take place except in complete accordance with the approved service/drainage layout.
  13. No development shall take place until there has been submitted to and approved in writing by the local planning authority technical details of any proposed driveway / parking area within 3 metres of the outer canopy spread of any existing tree situated on or off the site. The details of the vehicular access and parking areas shall include existing and proposed ground levels, materials to be used and the relative time of construction within the whole development and must be in accordance with appropriate guidelines, namely BS 5837:2005 'Trees in Relation to Construction' and Arboricultural Advisory & Information Service Practice Note 'Driveways Close to Trees' (1996). Any driveway / parking area[s] within 3 metres of existing trees must be constructed using minimum excavation techniques incorporating appropriate

surfaces to avoid damage to trees and to prevent any potential direct or indirect damage caused by trees.

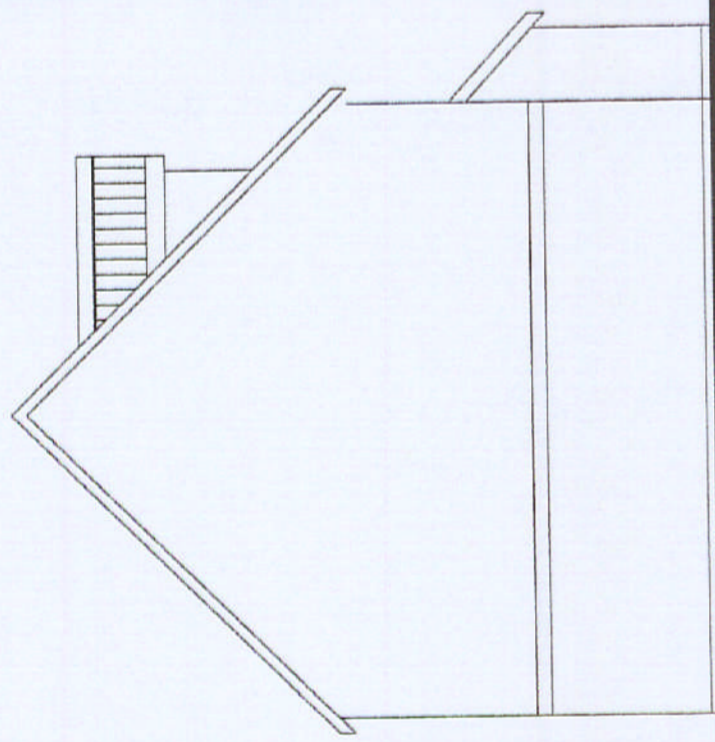
14. Prior to the commencement of development, details of boundary treatments and bin store shall be submitted to and approved in writing by the Local Planning Authority. The development shall proceed in accordance with the approved details prior to occupation and shall be retained and maintained for the life of the development.
15. 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 soil 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 soil gases and vapours, development shall not begin until a scheme to protect the development from the effects of such gases 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.
16. Prior to commencement of development details will be submitted to and approved in writing by the local planning authority of parking areas and means of access, showing line widths, levels, sections, gradients, drainage and lighting. Prior to first occupation the parking areas and means of access will be constructed in accordance with the approved details and maintained for no other purpose for the life of the development.
17. Development shall not begin until a detailed mining report which indicates that the site is suitable for the development proposed has been submitted to the local planning authority. This report shall include details of recommendations on foundation design and such recommendations shall be implemented concurrently with the development.



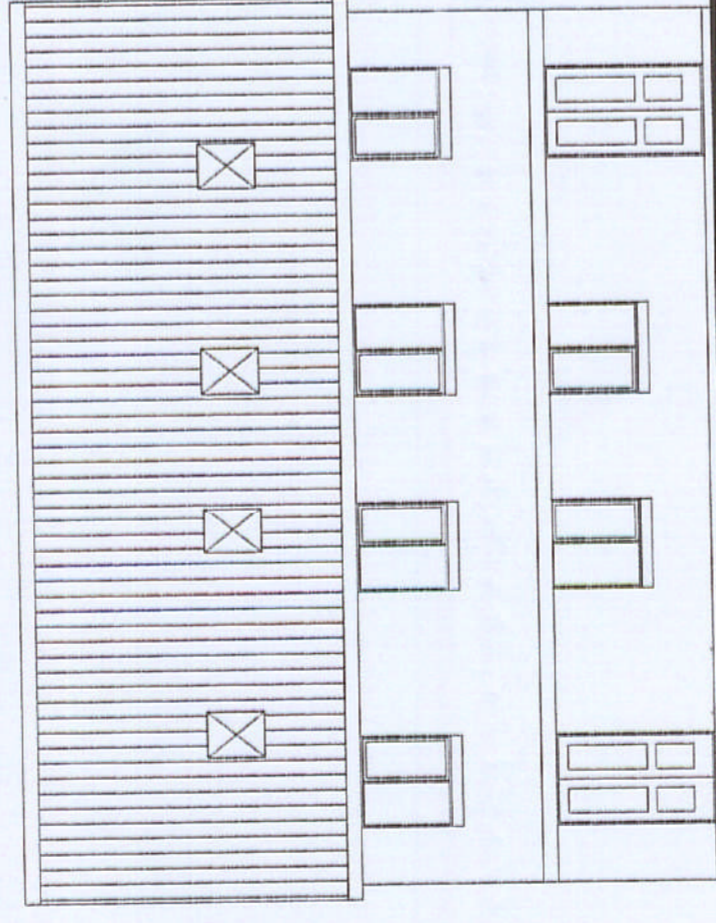
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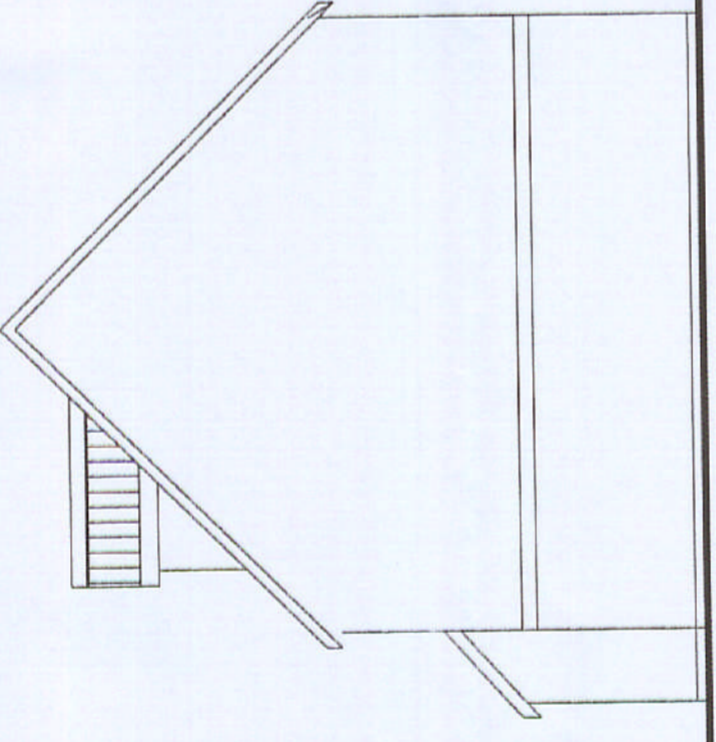
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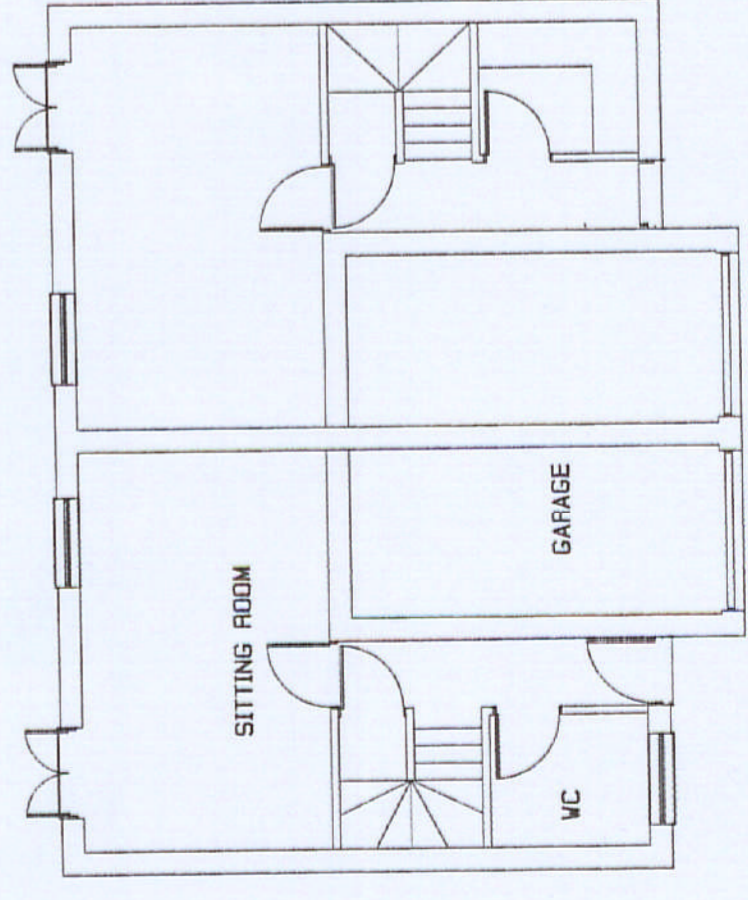
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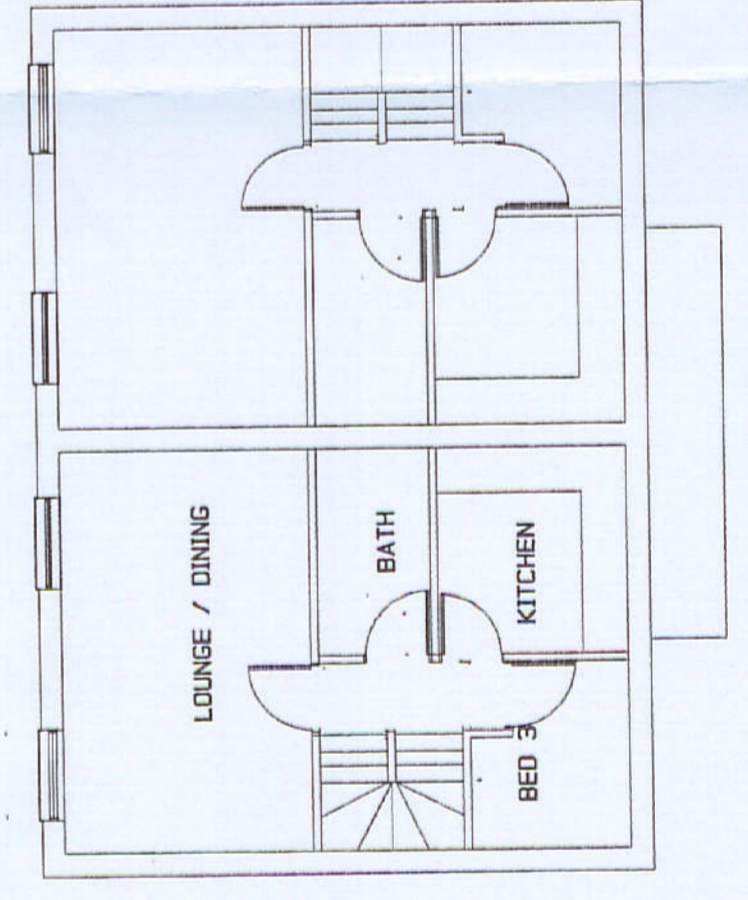
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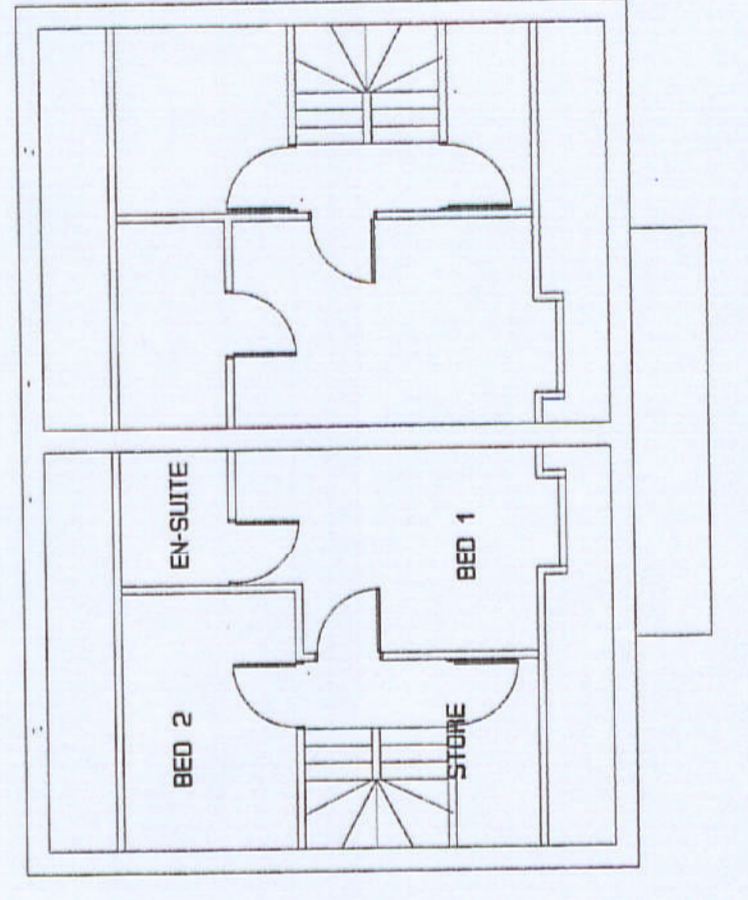
SIDE ELEVATION



GROUND FLOOR PLAN



FIRST FLOOR PLAN



SECOND FLOOR PLAN

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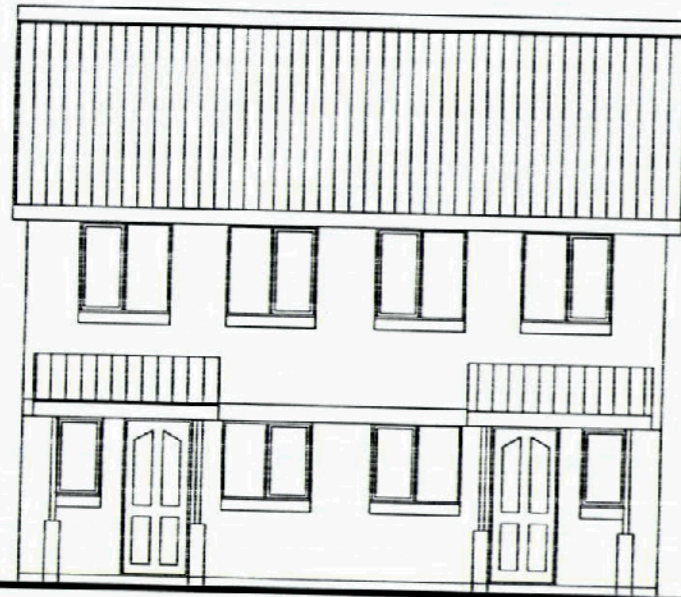
The Corner House High Street Wombourne Wetherhampton WY6 9DN  
 Tel: 01902 332762 Fax: 01902 332770

CLIENT: MRS NICKLIN  
 PROJECT: RESIDENTIAL DEVELOPMENT AT REAR OF 38 HIGH ST PENSNETT  
 TITLE: HOUSETYPE A PLANNING DRAWING

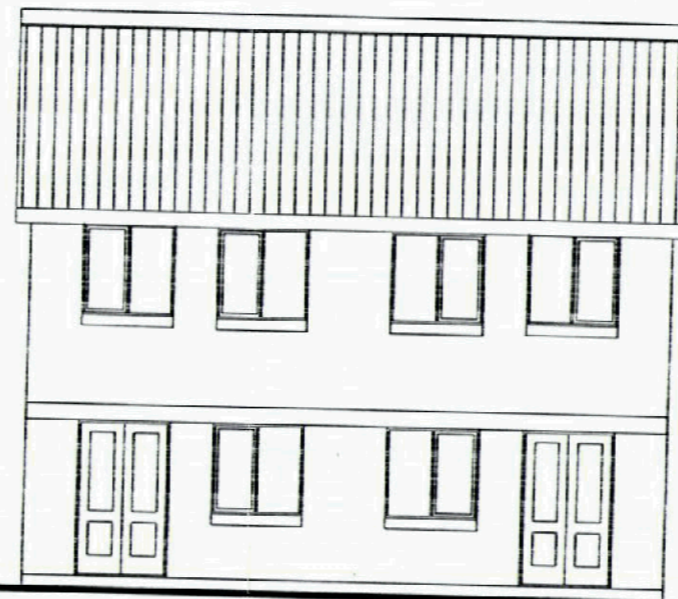
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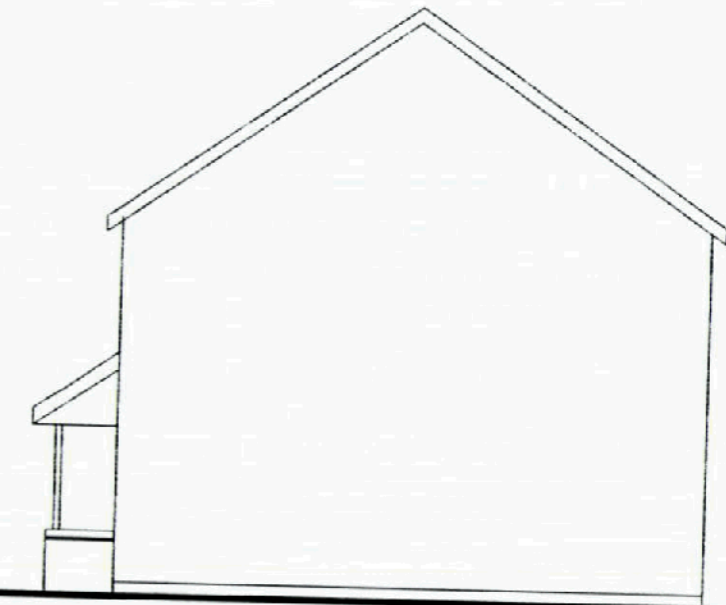
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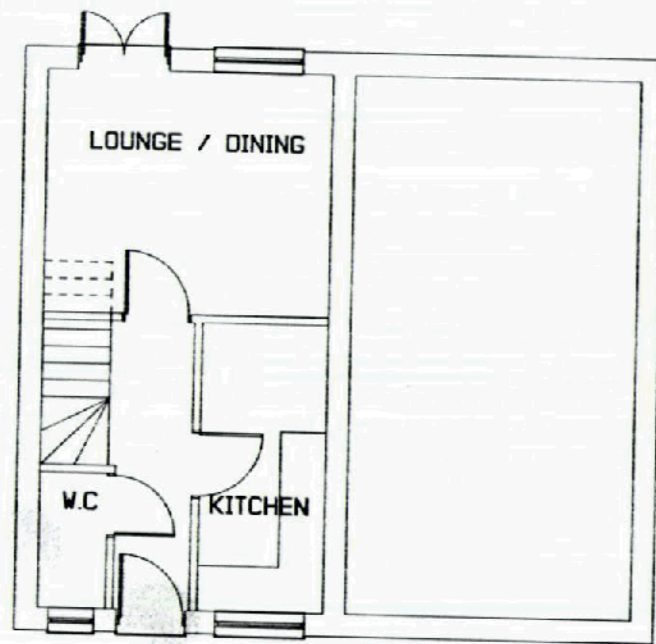
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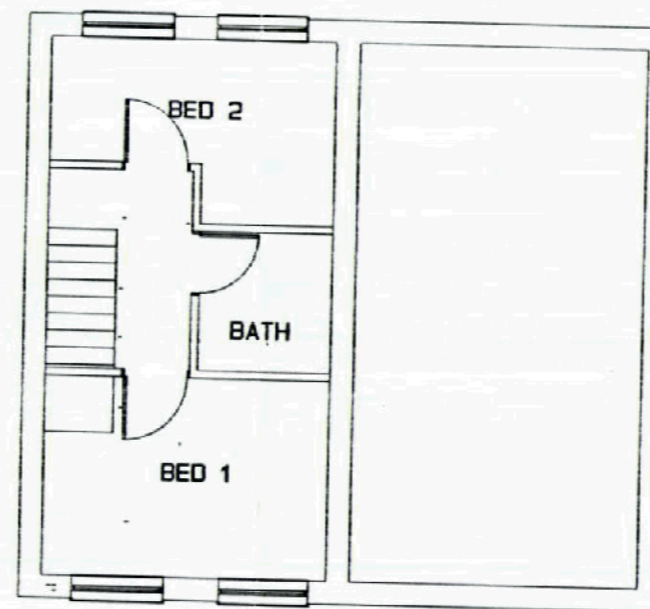
REAR ELEVATION



SIDE ELEVATION



GROUND FLOOR PLAN



FIRST FLOOR PLAN

**K.C.H. Humpherson Limited**  
 Architectural Services  
 Civil Engineers  
 Planning Consultants

The Censer House High Street, Wombourne, Wolverhampton WV5 9DH  
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CLIENT  
 MRS NICKLIN

PROJECT  
 RESIDENTIAL DEVELOPMENT AT REAR  
 OF 38 HIGH ST PENSNETT

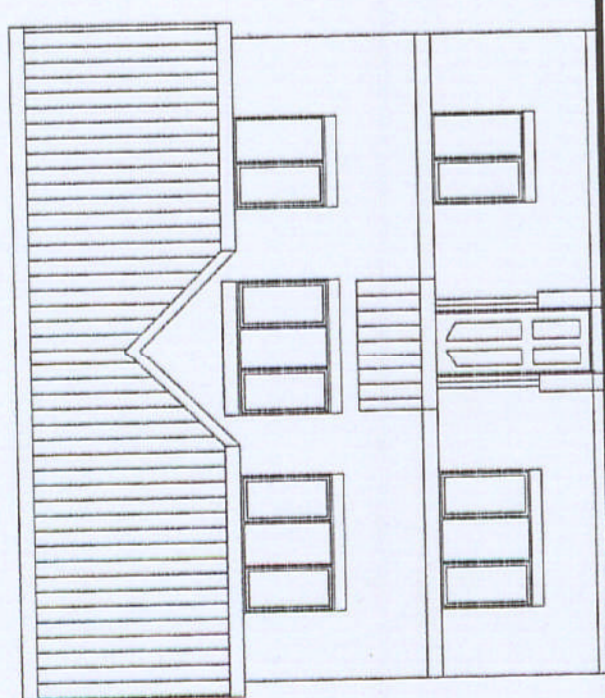
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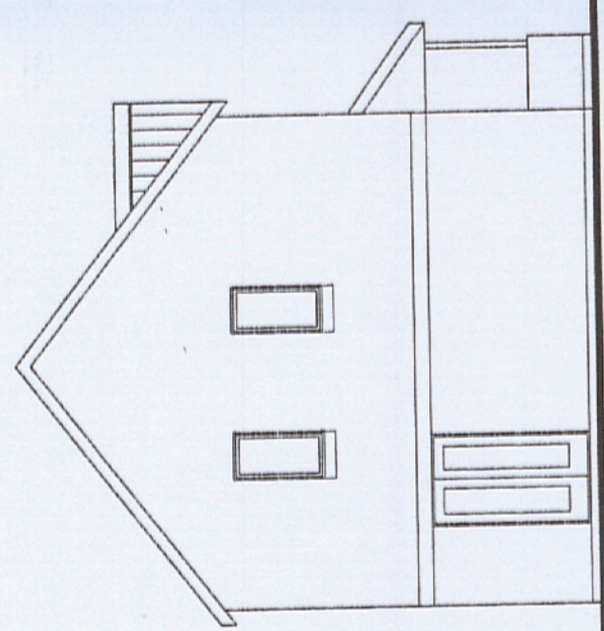
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P02/1235

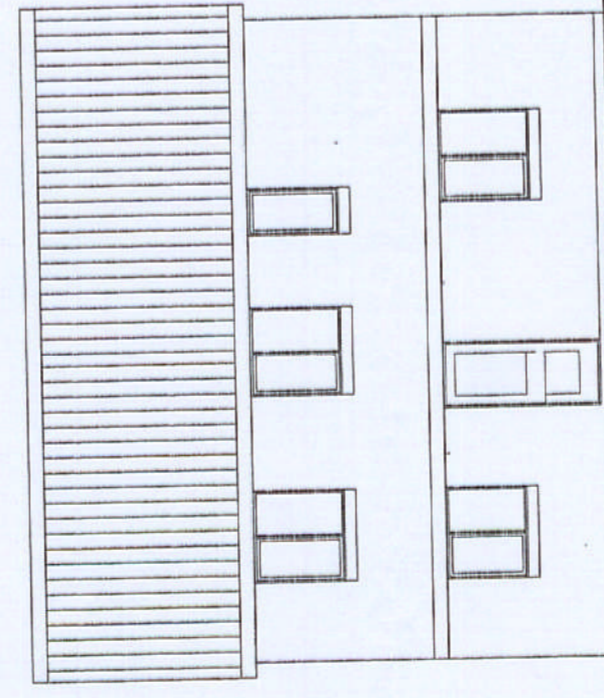
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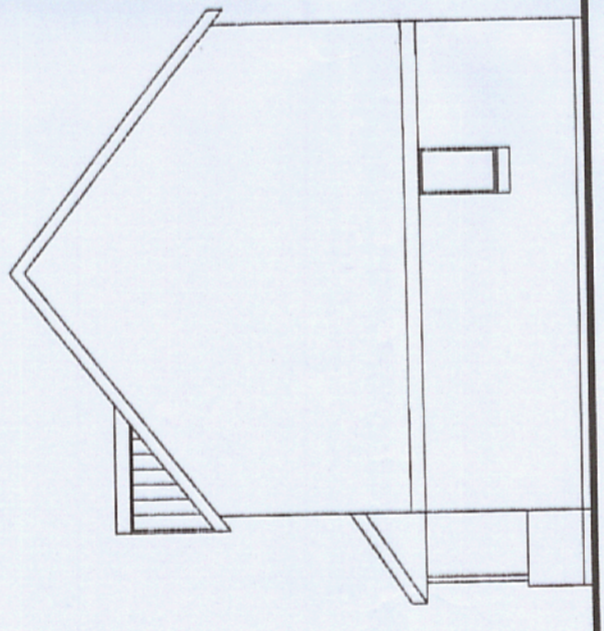
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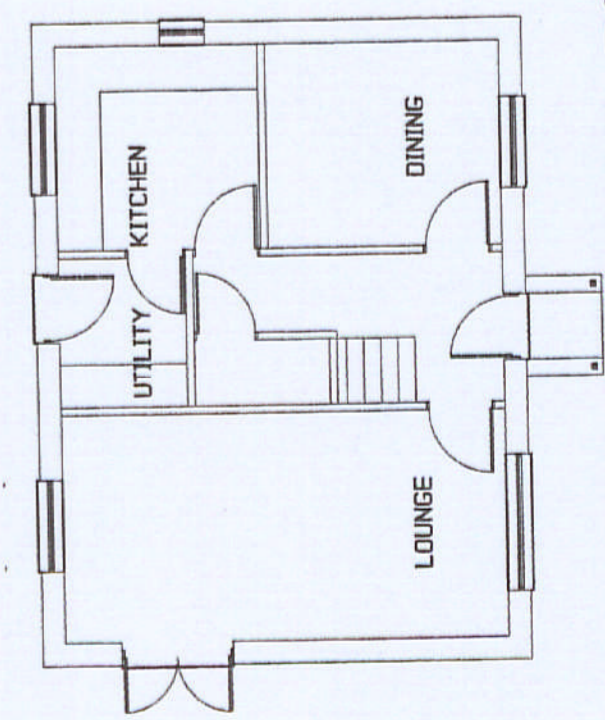
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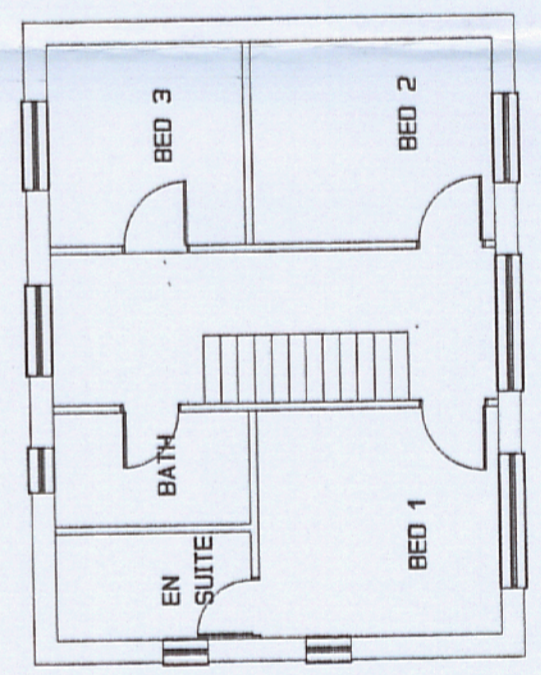
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SIDE ELEVATION

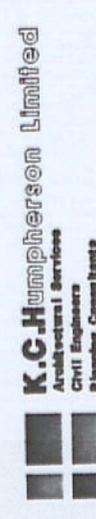


GROUND FLOOR PLAN



FIRST FLOOR PLAN

REV A 12-09-08 REVISED TO LA COMMENTS



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Tel 01902 33782 Fax 01902 33770

CLIENT  
MRS NICKLIN

PROJECT  
RESIDENTIAL DEVELOPMENT AT REAR  
OF 38 HIGH ST PENNETT

TITLE  
HOUSETYPE E  
PLANNING DRAWING

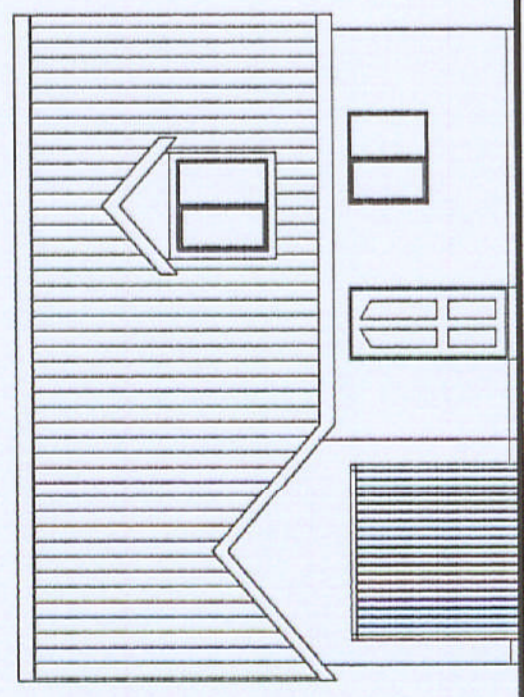
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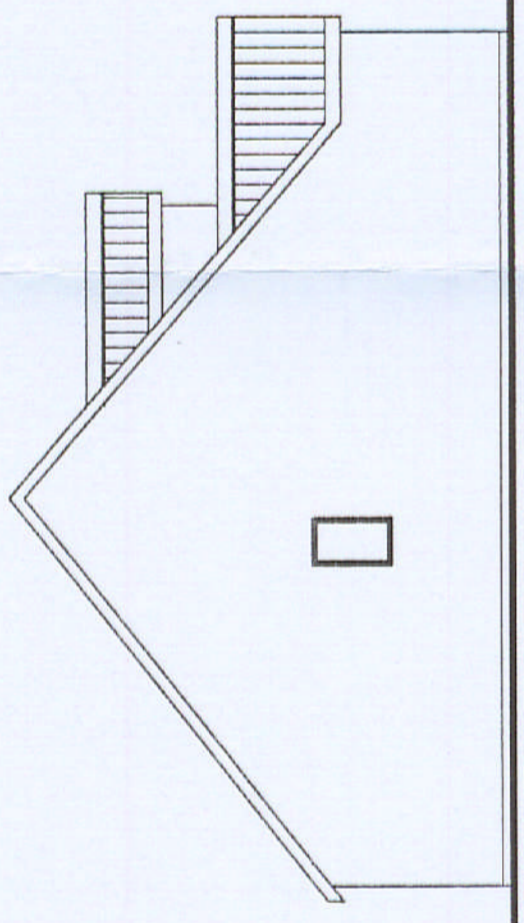


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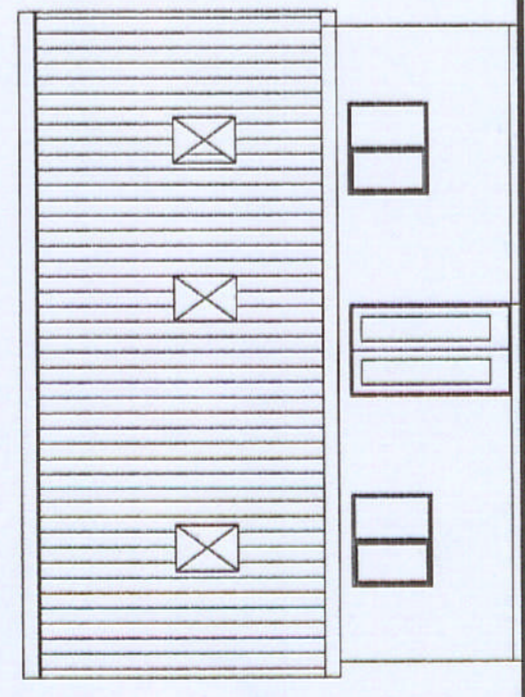
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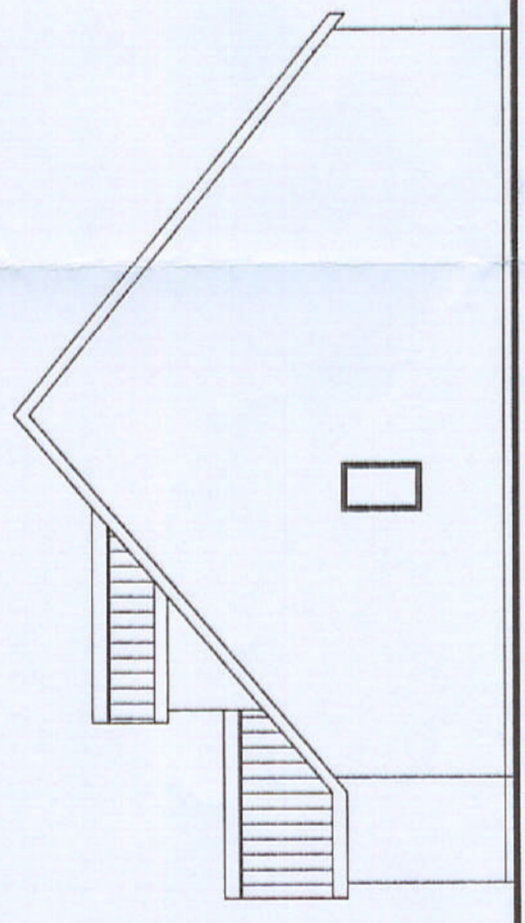
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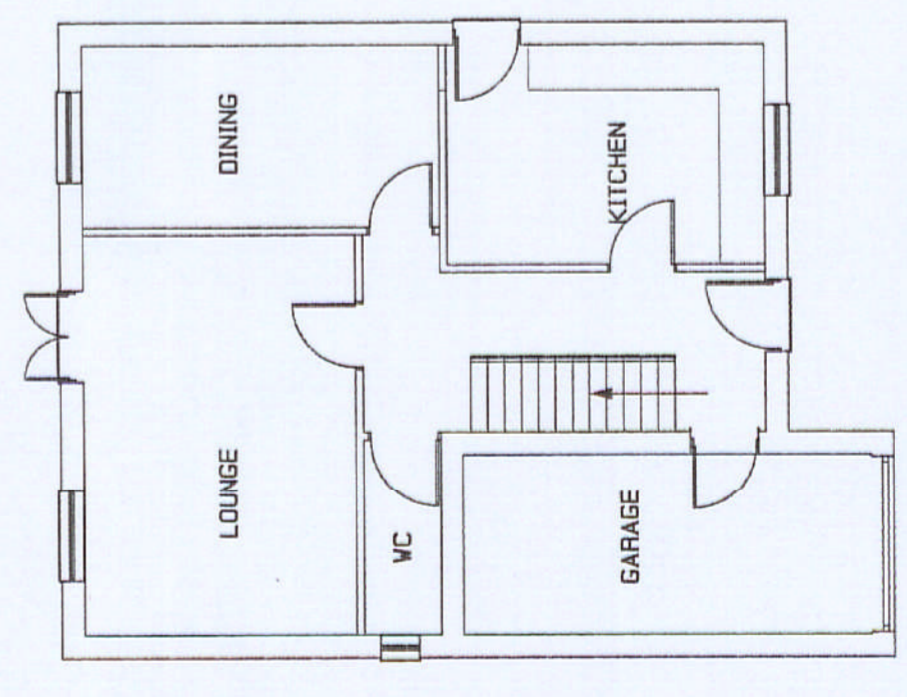
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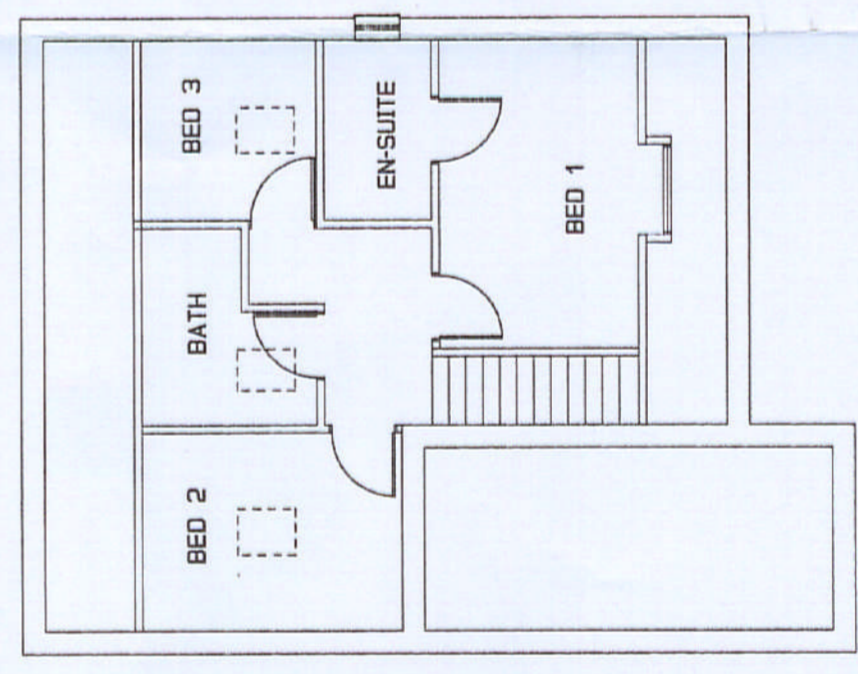
REAR ELEVATION



SIDE ELEVATION



GROUND FLOOR PLAN



FIRST FLOOR PLAN

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Planning Consultants

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CLIENT  
MRS NICKLIN

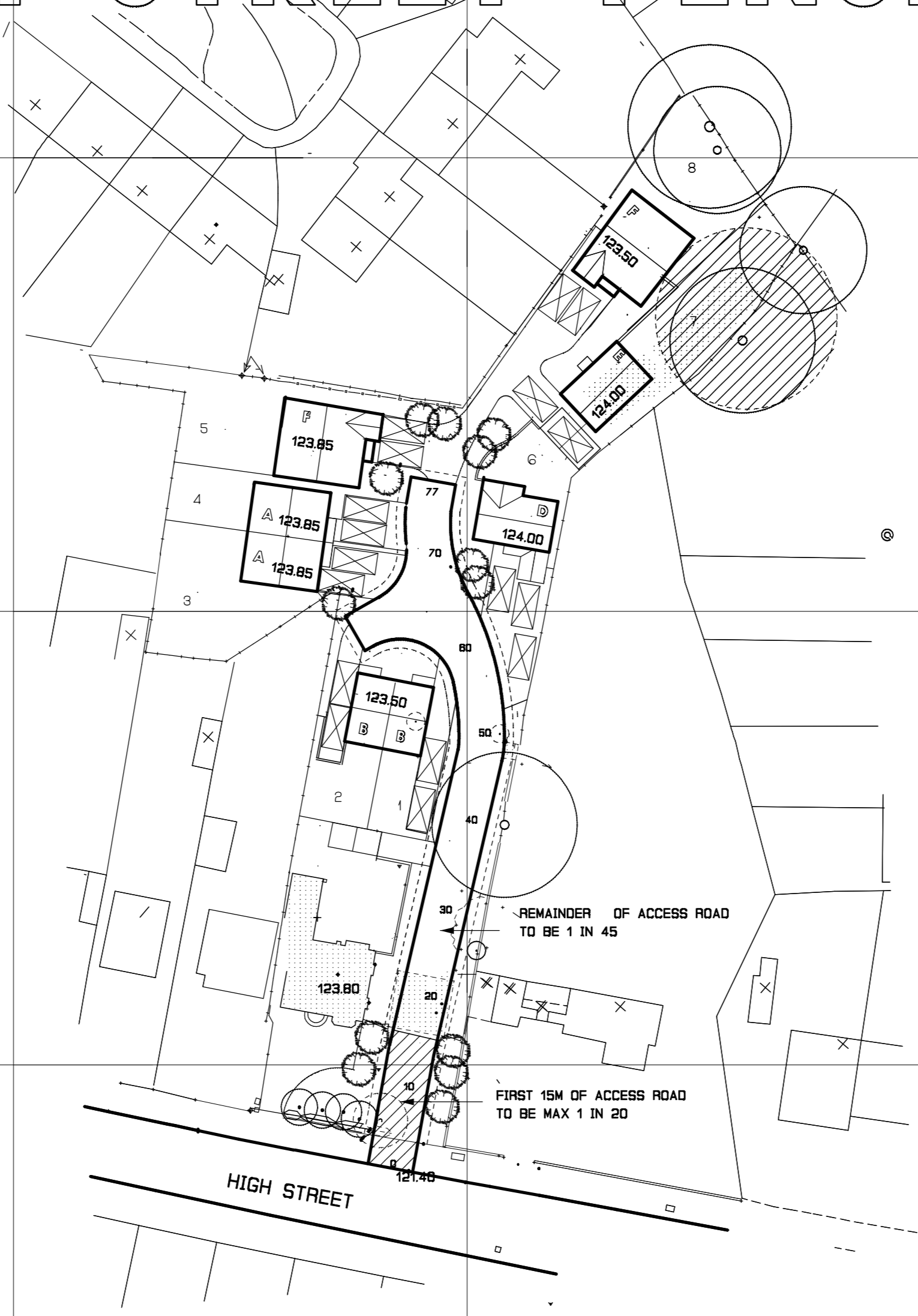
PROJECT  
RESIDENTIAL DEVELOPMENT AT REAR  
OF 38 HIGH ST PENSNETT

TITLE  
HOUSETYPE F  
PLANNING DRAWING

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This drawing must be read in conjunction with and checked against any structural or specialist drawings.  
The contractor is to carry out the works in compliance with the current Building Regulations and NDISC requirements.

# 38 HIGH STREET PENSNETT



TYPE A	TERRACED	2
TYPE B	SEMI-DET	2
TYPE D	DETACHED	1
TYPE E	DETACHED	1
TYPE F	DETACHED	2

TOTAL NO 8

-  ZONE OF INFLUENCE OF MINESHAF
-  TREE TO BE REMOVED

REV C 23-01-09 LAYOUT AMENDED TO HIGHWAY COMMENTS  
 REV B 17-11-08 LAYOUT AMENDED TO L.A COMMENTS  
 ONE PLOT REMOVED  
 REV A 16-09-08 PROPOSED SLAB LEVELS INDICATED

**K.C.H. Humpherson Limited**  
 Architectural Services  
 Civil Engineers  
 Planning Consultants

The Corner House High Street Wombourne Wolverhampton WV6 8DH  
 Tel 01902 328762 Fax 01902 826770

CLIENT  
 T.NICKLIN

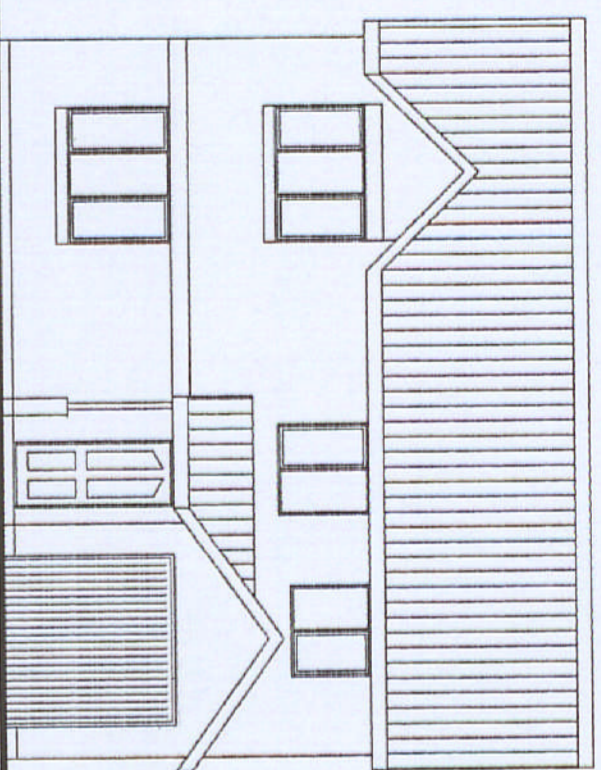
PROJECT  
 RESIDENTIAL DEVELOPMENT AT  
 REAR OF 38 HIGH ST  
 PENSNETT  
 TITLE  
 SITE LAYOUT

Job No.	895	Dwg.No.	01	CAD Ref	01	Rev.	C
Scale	1:500	Date	17-07-08	Drn.	K.C.H.		

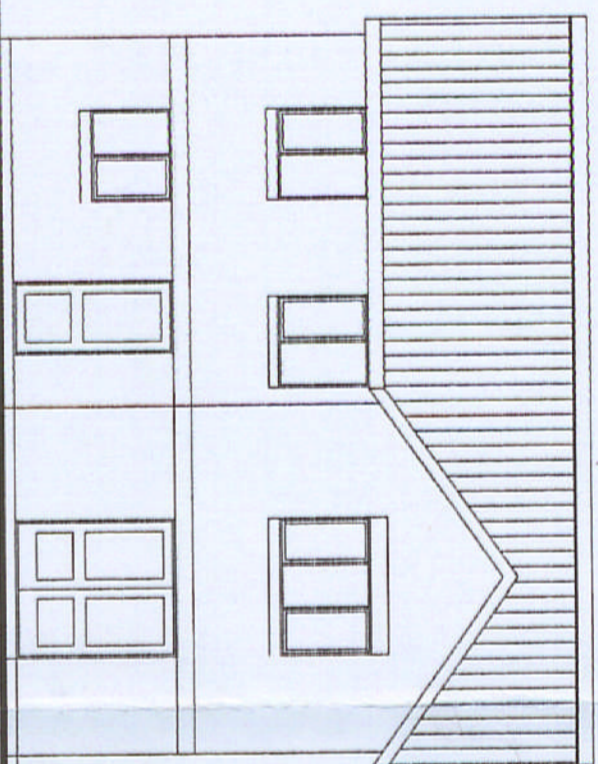
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 The Contractor must check and verify all building and site dimensions, all sewer invert levels and road levels at connection points prior to the start of works.  
 This drawing must be read in conjunction with and checked against any structural or specialist drawings.  
 The contractor is to carry out the works in compliance with the current Building Regulations and N.H.B.C. requirements

RS81835

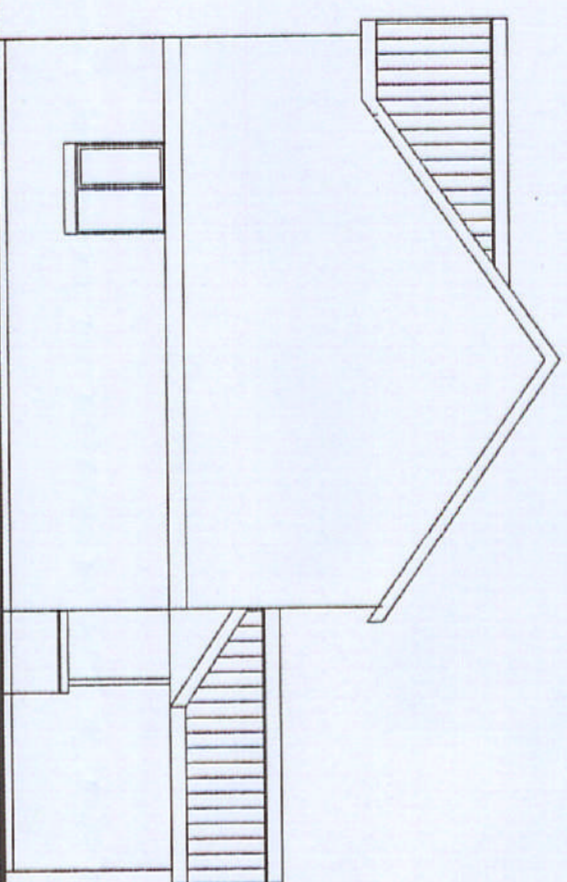
# HOUSE TYPE D



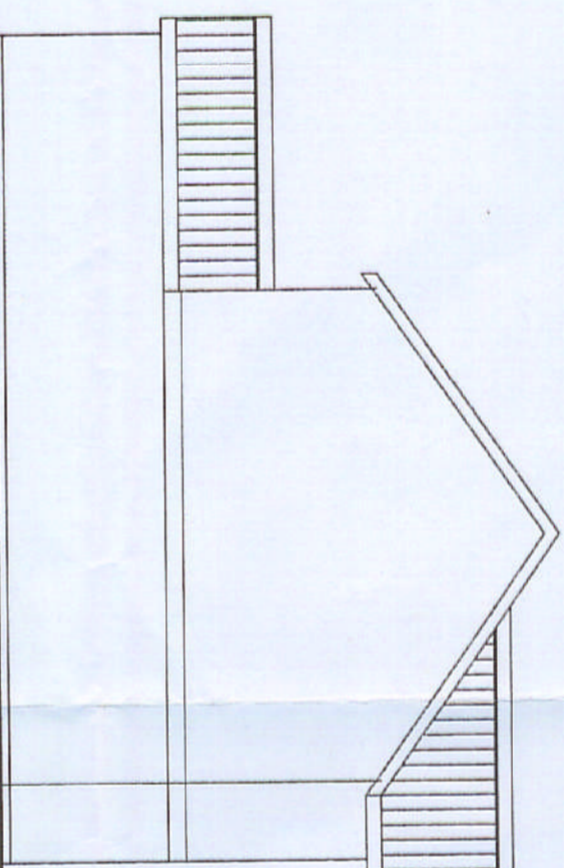
FRONT ELEVATION



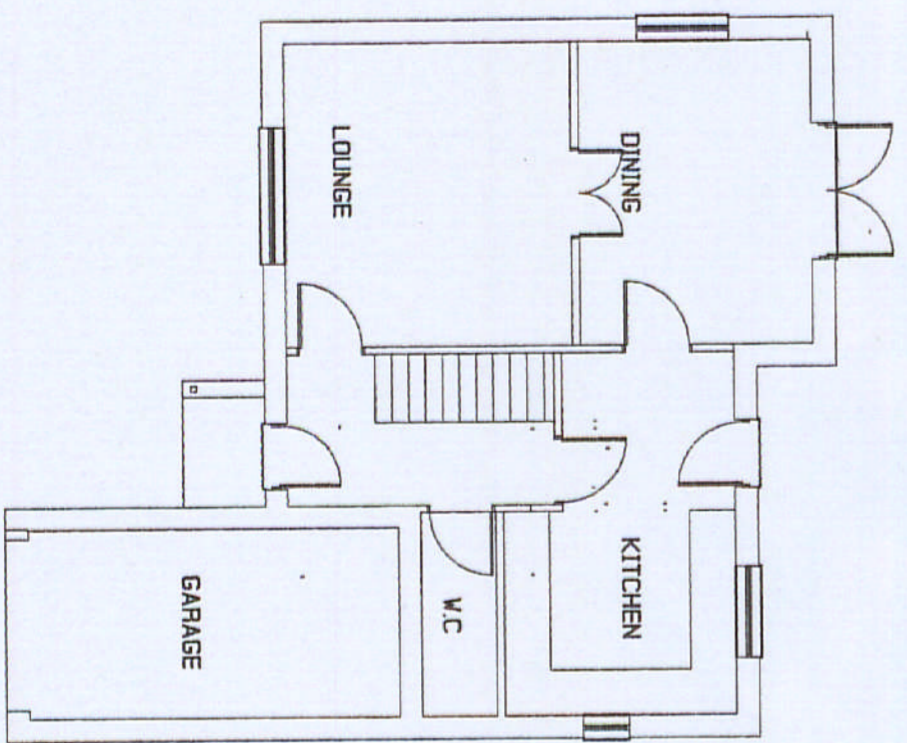
REAR ELEVATION



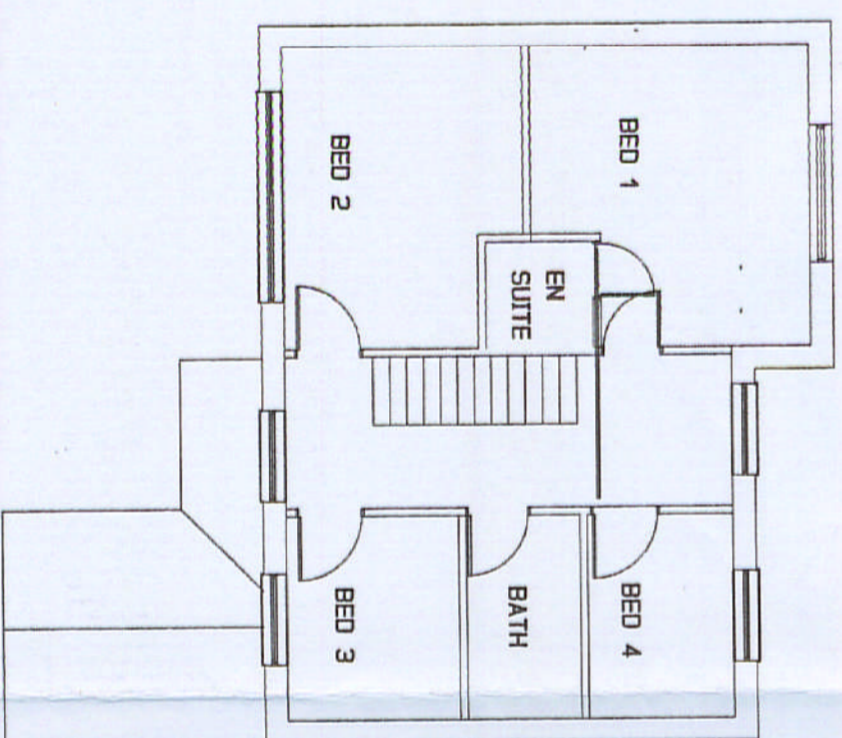
SIDE ELEVATION



SIDE ELEVATION



GROUND FLOOR PLAN



FIRST FLOOR PLAN

REV A 12-09-08 SIDE WINDOW TO BED 1 REMOVED

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Planning Consultants

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MRS NICKLIN

PROJECT  
RESIDENTIAL DEVELOPMENT AT REAR  
OF 38 HIGH ST PENSNETT

TITLE  
HOUSETYPE D  
PLANNING DRAWING

Job No.	Drawn	CAD Ref	Rev.
1-100	05	05	A
Scale	Date	Drawn	Checked
1-100	10-08-08	D.N.	K.C.H.

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The contractor is to carry out the works in accordance with the current Building Regulations and all other requirements.