

PLANNING APPLICATION NUMBER:P12/0144

Type of approval sought	Full Planning Permission
Ward	ST THOMASS
Applicant	Mr G Singh
Location:	93, NEW ROWLEY ROAD, DUDLEY, DY2 8AU
Proposal	FOLLOWING DEMOLITION OF EXISTING DWELLING, ERECTION OF 2 NO. DWELLINGS AND ASSOCIATED WORKS (RESUBMISSION OF REFUSED PLANNING APPLICATION P11/0543)
Recommendation Summary:	APPROVE SUBJECT TO CONDITIONS

SITE AND SURROUNDINGS

- 1 The application site measures 24m wide and 45m long (max) which has an existing 1950's bungalow and rear overgrown garden land. The bungalow is set 9m back from the road and is set within a 0.6 hectare plot. The site is steep with there being approximately a 4m level difference, with the site sloping from the rear down to New Rowley Road. The bungalow is built up from the highway with a retaining wall 1m in height along the front boundary. The access to the site comprises a narrow driveway with a set of double gates. The rear garden serving the bungalow incorporates a retaining wall approximately half way along the length of the garden.
- 2 The site is located adjacent to an undeveloped Site of Local Importance for Nature Conservation, which abuts the eastern boundary to the site.
- 3 Immediately adjacent to the site on the eastern boundary is 91a New Rowley Road. This dwelling is L-shaped house with a large wrap around front/side facing window (habitable room), which faces across the site.

- 4 The site is located within a predominantly residential area, which comprises a mixture of dwelling types of varied design, age and plot size/shape.

PROPOSAL

- 5 The proposal is to erect 2 three bedroom detached dwellings. They are shown with integral garages (internal dimensions 5.6m long x 4.7m wide) and an 8m long drive.
- 6 The plans show the dwellings to be 2 storeys with a basement garage and store. The dwellings would be L-shaped with a forward facing gable end roofs and a rear raised deck area.
- 7 A Landscape Statement, Method Statement for Excavations, Bat Survey and Design and Access Statement have been submitted with the application.

HISTORY

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APPLICATION No.	PROPOSAL	DECISION	DATE
P04/1613	Outline application for the erection of one dwelling house (all matters reserved for subsequent approval)	Refused	21.09.04
P06/1408	Demolition of bungalow and the erection of 3 No. 4 bedroom dwellings	Refused	04.09.06
P07/1522	Demolition of bungalow and erection of 2 No. 3 bedroom dwellings	Refused	27.09.07

	(resubmission of refused application P06/1408)		
P11/0543	Demolition of bungalow and erection of 2 No. dwellings and associated works	Refused	20.07.11

9 P04/1613 was refused on the following grounds:

- The applications site is of an insufficient width and depth in which to accommodate a dwelling without resulting in a cramped form of development which would be out of character with the area contrary to Policy 85 (Development Control - Residential Areas) of the adopted Dudley Unitary Development Plan.
- The placing of a dwelling within the application site would result in a loss of daylight to existing windows within the side elevations of 91a and 93 New Rowley Road, which face into the application site to the detriment of the residential amenity to the occupiers of these properties contrary to Policy 85 (Development Control - Residential Areas) of the adopted Dudley Unitary Development Plan.
- The site has a frontage width of approximately 10 metres, which is unlikely to be sufficient to allow a vehicle to turn around within the site in a reasonable number of manoeuvres to allow vehicles to enter and leave the site in a forward gear. This will result in the proposals being detrimental to highway safety contrary to Policy 99 (Highways and New development) of the adopted Dudley Unitary Development Plan.

10. P06/1408 was refused on the following grounds:

- The proposals would result in a detrimental impact through resulting in an unacceptable loss of light to habitable rooms serving 91A New Rowley Road to the detriment of residential amenity to the occupiers of this dwelling contrary to Policy

DD4 (Development in Residential Areas) of the Adopted Dudley Unitary Development Plan.

- The gradient of the proposed garden areas would result in potential overlooking of neighbouring properties and a loss of light to the habitable rooms located to the rear of the proposed properties contrary to Policy DD4 (Development in Residential Areas) of the Adopted Dudley Unitary Development Plan.
- The scheme would result in a cramped and over-intensive form of development demonstrated by the close proximity of each of the dwellings to each other and the site's boundaries, the impacts of the proposals on the occupiers of 91A New Rowley Road and the unusable garden areas failing to meet the needs of the proposed family accommodation contrary to Policy DD4 (Development in Residential Areas) of the Adopted Dudley Unitary Development Plan.
- The proposals raise highway safety concerns through failing to provide suitable visibility on exit from the site, not providing sufficient space for vehicles to access and egress the site whilst in a forward gear and through having an excessive gradient on the site contrary to Policies DD4 (Development in Residential Areas) and DD6 (Access and Infrastructure) of the Adopted Dudley Unitary Development Plan.

11. P07/1522 was refused on the following grounds:

- The proposals would result in an unacceptable level of overlooking to the occupiers of 91a New Rowley Road to the detriment of residential amenity contrary to Policy DD4 (Development in Residential Areas) of the Adopted Dudley Unitary Development Plan.
- The proposals raise highway safety concerns through failing to provide suitable visibility on exit from the site, not providing sufficient space for vehicles to access and egress the site whilst in a forward gear, through having an excessive gradient on the site and through the garages being deficient in terms of their size contrary to Policies

DD4 (Development in Residential Areas) DD6 (Access and Infrastructure) of the Adopted Dudley Unitary Development Plan (2005).

- The design and external appearance of the proposed dwellings fail to have regard to the context of the site or the character and appearance of existing dwellings within the street and would therefore form an incongruous addition within the street scene contrary to Policy DD4 (Development in Residential Areas) of the Adopted Dudley Unitary Development Plan (2005).
- Insufficient ecological survey work has been completed in order to assess the potential impacts of the proposals on protected species contrary to Policy NC5 (Site of Importance for Nature Conservation), NC6 (Wildlife Species) and the Council's Adopted Nature Conservation SPD.

12. P11/0543 was refused on the following grounds:

- Insufficient ecological survey work has been completed in order to assess the potential impacts of the proposals on protected species, with elements of the development being contrary to recommendations of the submitted ecological report, as such the proposal is contrary to PPS9, Core Strategy Policy ENV1, saved UDP policies NC1, NC6, NC9, NC10 and the Nature Conservation SPD.
- The loss of significant tree specimens in the adjacent Site of Importance for Nature Conservation, would have an adverse impact upon nature conservation and the visual amenity of the area, and as such the proposal is contrary to Core Strategy Policy ENV1, saved policies NC9 and NC10 of the UDP.
- The lack of a completed undertaking to make a contribution towards planning obligations would result in the proposed development increasing the demand on local facilities with no compensation or enhancement, thus resulting in harm to the wider community, contrary to Policy DEL1 - Infrastructure Provision of the BCCS and the Council's Planning Obligations SPD.

PUBLIC CONSULTATION

13. Neighbour notification was undertaken to 28 properties and a site notice displayed, to which there were 4 objections received (expired 3 March 2012) on the following grounds:
- The proposal would have windows and a raised decking area, which would overlook the adjacent neighbouring dwelling.
 - The proposal, by the removal of earth and trees, would compromise the stability of the back bank area, particularly as the proposal does not provide retaining walls within the scheme.
 - There is also a problem with drainage from the bank, previously in the past the ground drained into a pool, which has now been infilled.
 - There is a mine shaft located in the area of the top of the bank.
 - The land to the right of the property is a wildlife area and the proposal may have a detrimental impact upon that area.
 - The vehicles would not be able to exit the site in a forward gear on to the busy main road.
 - The proposed scheme would mean the loss of a very old wall, which is in keeping with other properties on the New Rowley Road.

OTHER CONSULTATION

14. Group Engineer (Development): No objections, subject to condition to secure 2m x 59m visibility splay
Head of Environmental Protection and Trading Standards: No objection, subject to condition.
Nature Conservation Officer: No objection .

RELEVANT PLANNING POLICY

15. National Planning Guidance
The Draft National Planning Policy Framework (NPPF) was published for consultation on 25th July 2011. The Planning Inspectorate have issued guidance which makes it

clear that the NPPF is capable of being a material consideration and therefore regard has to be had for the document. However, it carries limited weight at this stage of the process as it is in draft form and subject to possible change. Existing national planning policy remains and carries substantial weight.

PPS3 Housing

16. Black Country Core Strategy

CSP5 Transport Strategy

DEL1 Infrastructure Provision

HOU1 Delivering Sustainable Housing Growth

HOU2 Housing Density, Type and Accessibility

TRAN2 Managing Transport Impacts of New Development

ENV1 Nature Conservation

ENV 2 Historic Character and Local Distinctiveness

ENV 3 Design Quality

NC1 Biodiversity

NC6 Wildlife Species

NC9 Mature Trees

NC10 The Urban Forest

17. Saved Unitary Development Plan Policies

Policy DD1 (Urban Design)

Policy DD4 (Development in Residential Areas)

18. Supplementary Planning Guidance/Documents

Parking Standards and Travel Plans Supplementary Planning Document

New Housing Development Supplementary Planning Document

Planning Obligations Supplementary Planning Document

Nature Conservation Supplementary Planning Document

PGN3. New housing development

PGN 12. The 45 degree code

Design for Community Safety Supplementary Planning Guidance

ASSESSMENT

19. Key Issues

- Principle
- Character
- Residential amenity;
- Highway safety;
- Nature conservation;
- Loss of Trees
- Planning obligations.
- New Homes Bonus

Principle

20. The site is partly previously developed land, comprising the existing bungalow and hardsurfaced frontage and partly undeveloped greenfield land, comprising the garden area.
21. The adopted UDP (2005) states that the Council expects to reach 90% of all its housing completions on previously developed land. The Black Country Core Strategy increases this figure in the Black Country under Policy HOU1 – Delivering Sustainable Housing Growth which requires that ‘at least’ 95% of new housing (gross) be built on previously developed land. Whilst priority is therefore given to development on previously developed land in line with PPS3, this does not preclude all development on greenfield land, but it does lessen the weight that should be given to development of greenfield land in the balance of considerations.
22. Greater emphasis is now on local policies to aid decision making and therefore the Council’s New Housing Development Supplementary Planning Document (SPD) (2007) is utilised to assess what weight should be given to the proposed development. The SPD provides detailed information on implementation of housing

policy in respect of design and density, so that local character and distinctiveness are paramount. The proposed dwellings are located within a residential area, comprising a mixture of detached, terraced and semi detached house types, some of which are comparable in design, scale, layout and plot size to the proposed scheme. The proposed detached dwellings would therefore be in keeping with the character of the area, following a similar building line along New Rowley Road. The new dwellings would thus re-use land efficiently without cramming the site, or developing the private rear garden area. The principle of the redevelopment of the site for housing, would therefore be justified.

Character

23. Policy DD1 of the UDP requires that all development should make a positive contribution to the character of an area, whilst Policy DD4 advises that new development in residential areas will only be allowed where there would be no adverse effect on the character of the area or upon residential amenity.
24. The site is located within a predominantly residential area, which comprises a mixture of dwelling types, design, age and plot size/shape.
25. The design has been altered from P07/1522 to pick up on design features of the surrounding dwellings, therefore, the design and scale of the proposed buildings is considered to be acceptable within the context of the existing residential area.
26. Garden sizes are also considered to be appropriate for the type of dwelling proposed.
27. In terms of design, the scheme is shown to replicate design features, such as the basement garage and L-shaped layout with that of the adjoining existing dwelling at No.91A New Rowley Road and opposite at No. 56A New Rowley Road. The proposed roof ridge height of the new dwellings would be lower than that of the existing bungalow within the site and that of the dwelling at No.91A, which will mean the new dwellings would not look incongruous within the streetscene.

28. The development would therefore be compatible with the character of the area in terms of design, scale and mass. It is thus considered that the proposal would comply with saved UDP Policies DD1 and DD4.

Residential amenity

29. There have been four objections received on the grounds of adverse impact upon residential amenity and possible ground instability.
30. Although the scheme shows 2 side facing windows, which would have the potential to overlook the neighbouring dwelling at 91A, they can be conditioned to be obscure glazed, as one is secondary to a larger front window to the living room and one is to a landing. This change helps to overcome the refusal reason of P07/1522.
31. There is sufficient amenity space shown for the proposed dwellings (the rear gardens are shown as a minimum of 20 metres in length and 200 square metres in area).
32. The front and rear building line of the plot nearest to no. 91A is shown level with the neighbouring dwelling. There is a 1m gap between the plots and the boundary lines.
33. The raised decked areas of the proposed dwellings would be between 0.1m and 0.3m higher than that of the natural rear garden ground levels, giving limited opportunity to overlook existing boundary fencing. The opportunity to overlook between the rear garden area of the site and the neighbouring dwelling at No. 91A occurs with the existing situation due to rising garden levels to the rear. It is therefore considered that the issue of overlooking would be only marginally increased by the provision of a rear decked area to the proposed dwellings, particularly as the majority of the rear bank garden area would remain at the original level.
34. The issue raised regarding ground instability is not considered to be material to the consideration of this application as the site is not inherently unstable and existing retaining walls within the rear garden area would remain unchanged by the proposed

development. No excavations would occur within close proximity of the embankment and those that do will be subject to the Building Regulations or Party Wall legislation.

35. It is therefore considered that the proposal would have no significant adverse impact upon residential amenity and would be in accordance with saved UDP policy DD4 and Supplementary Planning Guidance No.12 – The 45 degree code.

Highway safety

31. The Group Engineer comments that the 3 bedroom dwellings would require 2 parking spaces for each dwelling.
32. The frontage would be sufficient to accommodate hard standing area of at least 5.7 m deep and 7.8 m wide and therefore would be able to accommodate at least 3 vehicles and will avoid any on street parking. This can be provided subject to condition. A condition can also be attached to ensure the creation of a suitable visibility splay in the interests of highway safety. The proposed development would thus comply with saved UDP Policy DD4 and Parking Standards and Travel Plans Supplementary Planning Document.

Nature Conservation

33. The Nature Conservation Officer has no objection to the proposal.
34. The previous ecological survey carried out in May 2011 indicated that there is a suspected badger set entrance on the higher slopes of the development site.
35. The Method Statement for the excavations proposes that a fence would be erected 5.5m from the existing house and no construction materials, plant, storage of materials or excavations or equipment would be allowed beyond this fence line. It is therefore considered that the badgers would be accommodated without disturbance as there would be no excavation to level the site further than 5.5m from the rear of

the existing dwelling. This change overcomes the refusal reason of P11/0543 pertaining to insufficient ecological survey work.

36. The proposal is therefore in compliance with PPS9, Core Strategy Policy ENV1, saved UDP policies NC1, NC6, NC9, NC10 and the Nature Conservation SPD.

Loss of Trees

37. There is no objection to the proposed development with respect to the schemes potential impacts upon trees.
38. A number of trees in the adjacent land (SINC) have been earmarked for removal by the Council. The remaining trees have been assessed within the landscape statement and it is considered that there would be no adverse impact upon them, if there is a limited amount (20%) reduction in the Root Protection Area and canopy of the larger Poplar tree, therefore addressing the refusal reason of P11/0543, regarding the loss of significant tree specimens.
39. The application is therefore compliant with Core Strategy Policy ENV1, saved policies NC9 and NC10 of the UDP.

Planning Obligations

40. Since the refusal of P11/0543, the Planning Obligations SPD has been revised on 14 September 2011, to raise the threshold for the requirement of a contribution to the erection of 5 dwellings. The revision means that this development would therefore not require a contribution on this basis, thus the planning obligation refusal reason of P11/0543 is no longer an issue.

New Homes Bonus

41. 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.

42. 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.
43. 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.
44. Whilst the clause makes it clear that local finance matters are relevant to planning considerations and 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”.
45. This proposal would provide 2 houses generating a grant of 2 times the national average council tax for the relevant bands plus an enhancement payment for 6 years.

CONCLUSION

46. The proposed development would not have an adverse impact on the character of the area, residential amenity or nature conservation. As such the proposal complies with PPS9, policies HOU1, HOU2, , TRAN2 Managing Transport Impacts of New Development, ENV1, ENV 3 of the Black Country Joint Core Strategy, saved UDP Policies DD1, DD4, NC1, NC6, NC9, NC10 of the UDP, Design For Community Safety SPG, Nature Conservation SPD and Parking Standards and Travel Plans Supplementary Planning Document.

RECOMMENDATION

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

Reason for Approval

The proposed development would not have an adverse impact on the character of the area, residential amenity or nature conservation. As such the proposal complies with PPS9, policies HOU1, HOU2, , TRAN2 Managing Transport Impacts of New Development, ENV1, ENV 3 of the Black Country Joint Core Strategy, saved UDP Policies DD1, DD4, NC1, NC6, NC9, NC10 of the UDP, Design For Community Safety SPG, Nature Conservation SPD and Parking Standards and Travel Plans Supplementary Planning Document.

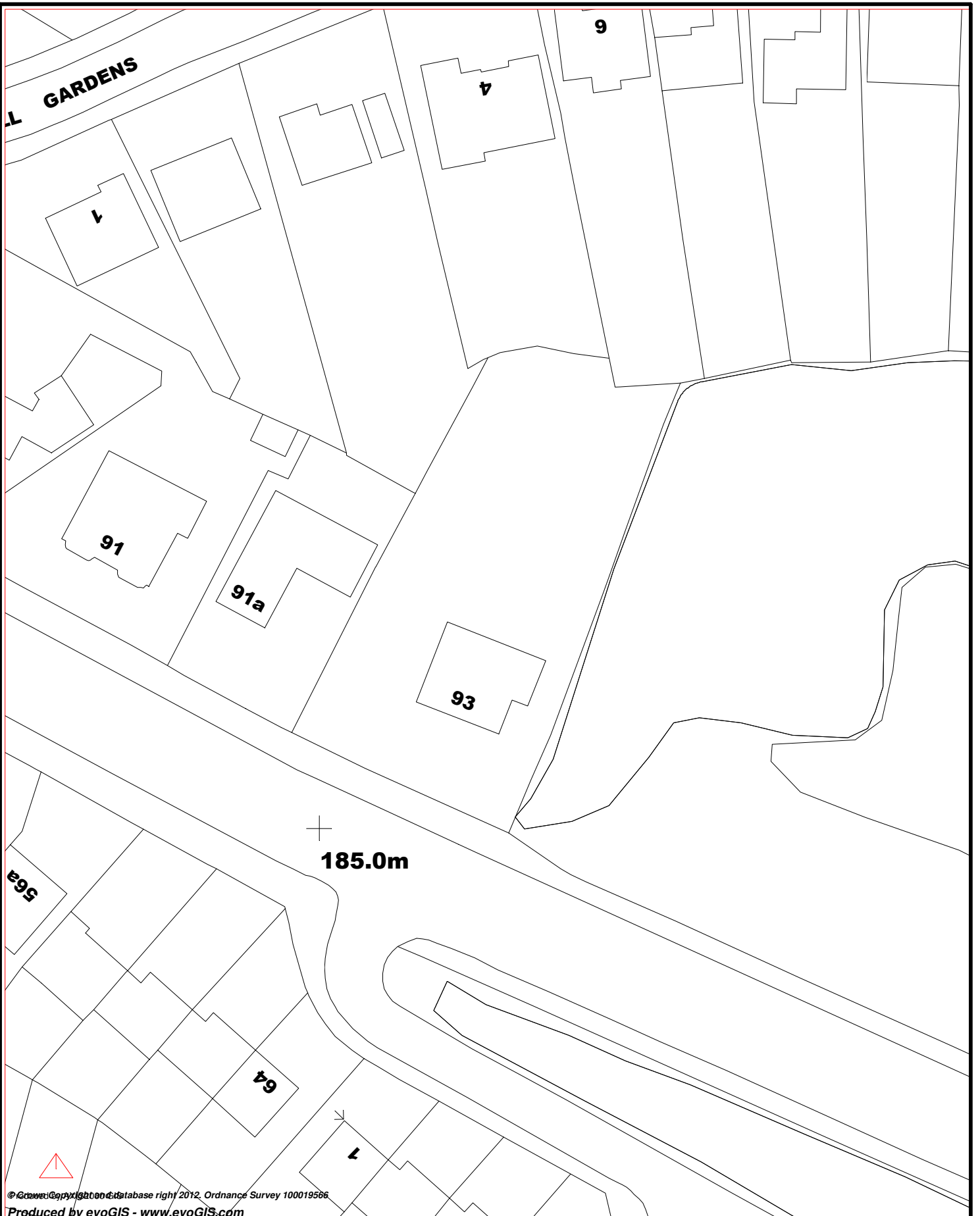
The decision to grant planning permission has been taken with regard to the policies and proposals in the Dudley Unitary Development Plan and to all relevant material considerations including supplementary planning guidance.

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

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. The development hereby permitted shall be carried out in accordance with the following approved plans: AL/405/01 & 02.
3. Prior to the commencement of development, details of the works for the disposal of foul and surface water drainage shall be submitted to and approved in writing by the Local Planning Authority. All works shall be completed in accordance with the approved details prior to the occupation of the dwellings hereby permitted.
4. Notwithstanding the notation on the approved plans, the drives shall be increased to at least 5.7 m deep and 7.8 m wide, and constructed as such and surfaced with a suitable hard impervious material, and drained, prior to the occupancy of the dwellings and retained for the lifetime of the development.

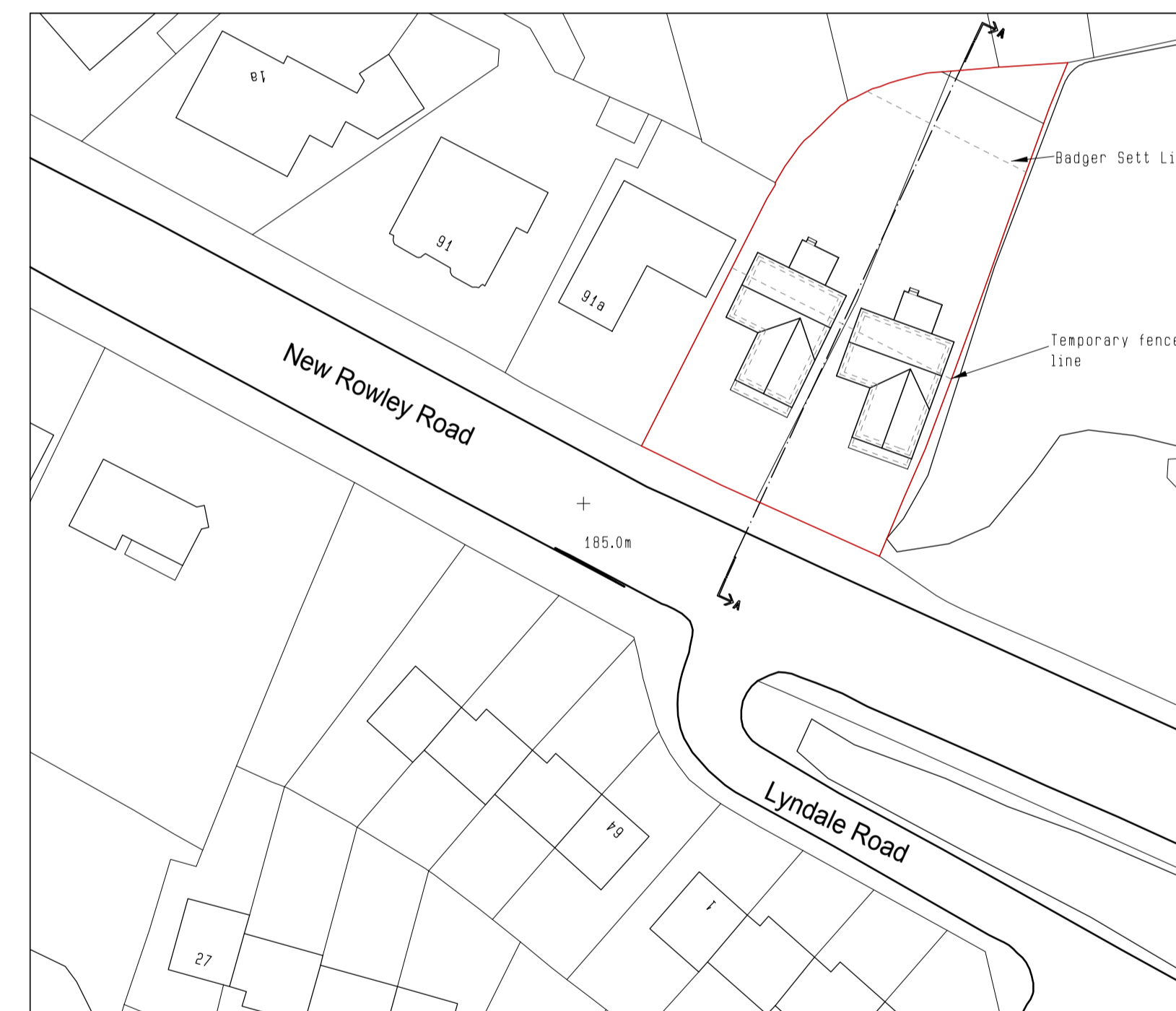
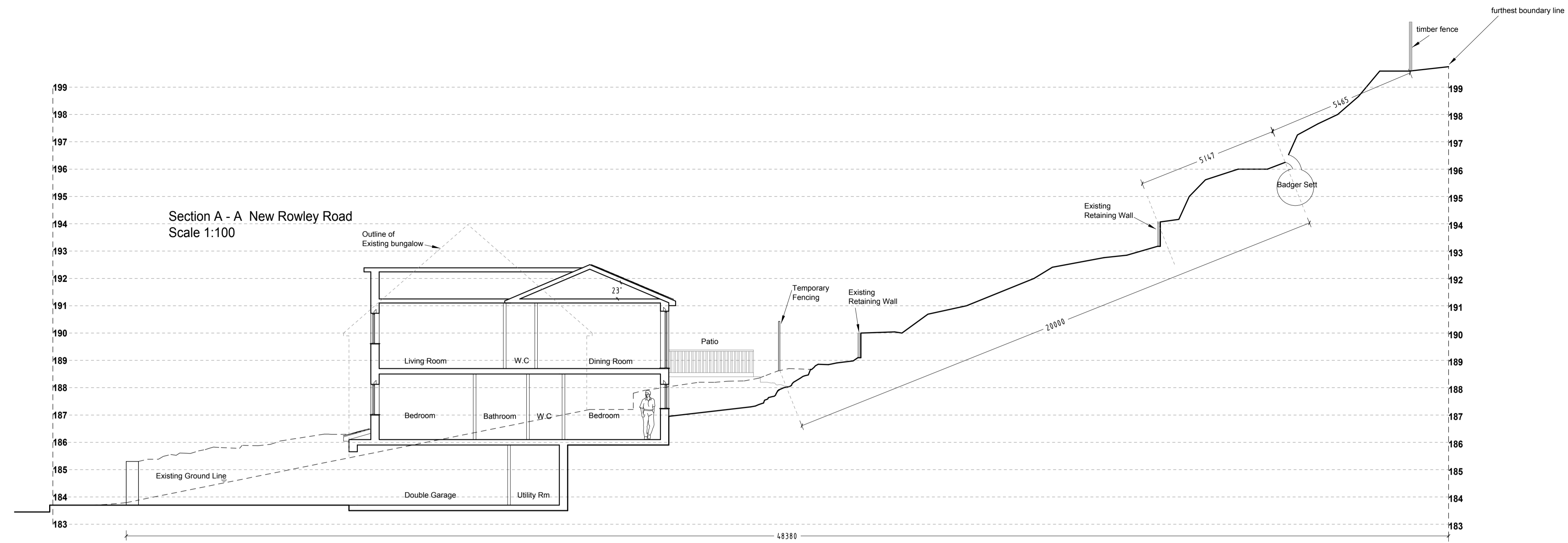
5. Prior to the commencement of development details of the visibility splays (2m x 59m) to be provided at the junction between the proposed means of access and the highway have been submitted to and approved in writing by the local planning authority. Prior to the occupation of the development hereby permitted, the agreed splays shall be provided on site and thereafter maintained free from obstruction for the lifetime of the development.
6. All windows to be installed in the west elevation of the buildings hereby approved shall be obscure-glazed, and non-opening unless the parts of the window which can be opened are more than 1.7 metres above the floor of the room in which the window is installed and thereafter maintained in that condition.
7. No additional openings shall be former in the west elevation of the dwelling without the prior written approval of the local planning authority.
8. 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.
9. Before development commences, a method statement shall be submitted to, and approved in writing by, the Local Planning Authority, with details to demonstrate how badgers will be safeguarded during the construction of the site, including the removal, or re-engineering of rubble. The development of the site shall then be undertaken in accordance with the approved details.
10. No development shall begin until an assessment of the risks posed by any contamination has been submitted to and approved by the Local Planning Authority. Such an assessment shall be carried out in accordance with authoritative UK guidance.
11. Where the approved risk assessment (required by Condition 10) identifies contamination posing unacceptable risks, no development shall begin until a detailed scheme to protect the development from the effects of such contamination has been submitted to and approved by the local planning authority.
12. Unless otherwise agreed in writing with the LPA, the approved scheme (required by Condition 11) shall be implemented and a verification report submitted to and approved by the LPA, before the development (or relevant phase of the development) is first occupied/brought into use.
13. No development shall begin until an assessment of the risks posed by any ground gases or vapours has been submitted to and approved by the Local Planning Authority. Such an assessment shall be carried out in accordance with authoritative UK guidance.
14. Where the approved risk assessment (required by Condition 13) identifies ground gases or vapours posing unacceptable risks, no development shall begin until a detailed scheme to protect the development from the effects of such contamination has been submitted to and approved by the local planning authority.
15. Unless otherwise agreed in writing with the LPA, the approved scheme (required by Condition 14) shall be implemented and a verification report submitted to and approved by the LPA, before the development (or relevant phase of the development) is first occupied/brought into use.



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DIRECTORATE OF THE URBAN ENVIRONMENT,
Director of the Urban Environment,
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Site Plan Scale 1:500 



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Birmingham, B42 1NP

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Party Wall Act 1996 - The client is the building owner, and as such should take necessary steps to comply with the act where applicable.

CDM - It is the clients responsibility to take all necessary steps to fully comply with the CDM regulations 2007. The designer has taken necessary action to avoid injury / incident within the specification and reasonable & practicable steps in the design of the building.

These drawings are for Planning and Building Regulations approval only. Figured dimensions must be taken in preference to scaled. All dimensions must be checked on site by the contractor. Advice of any discrepancies before commencing work. No liability is taken for any deviation or any unreported variations found on site prior or during work is in progress.

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Project
2 New Dwellings

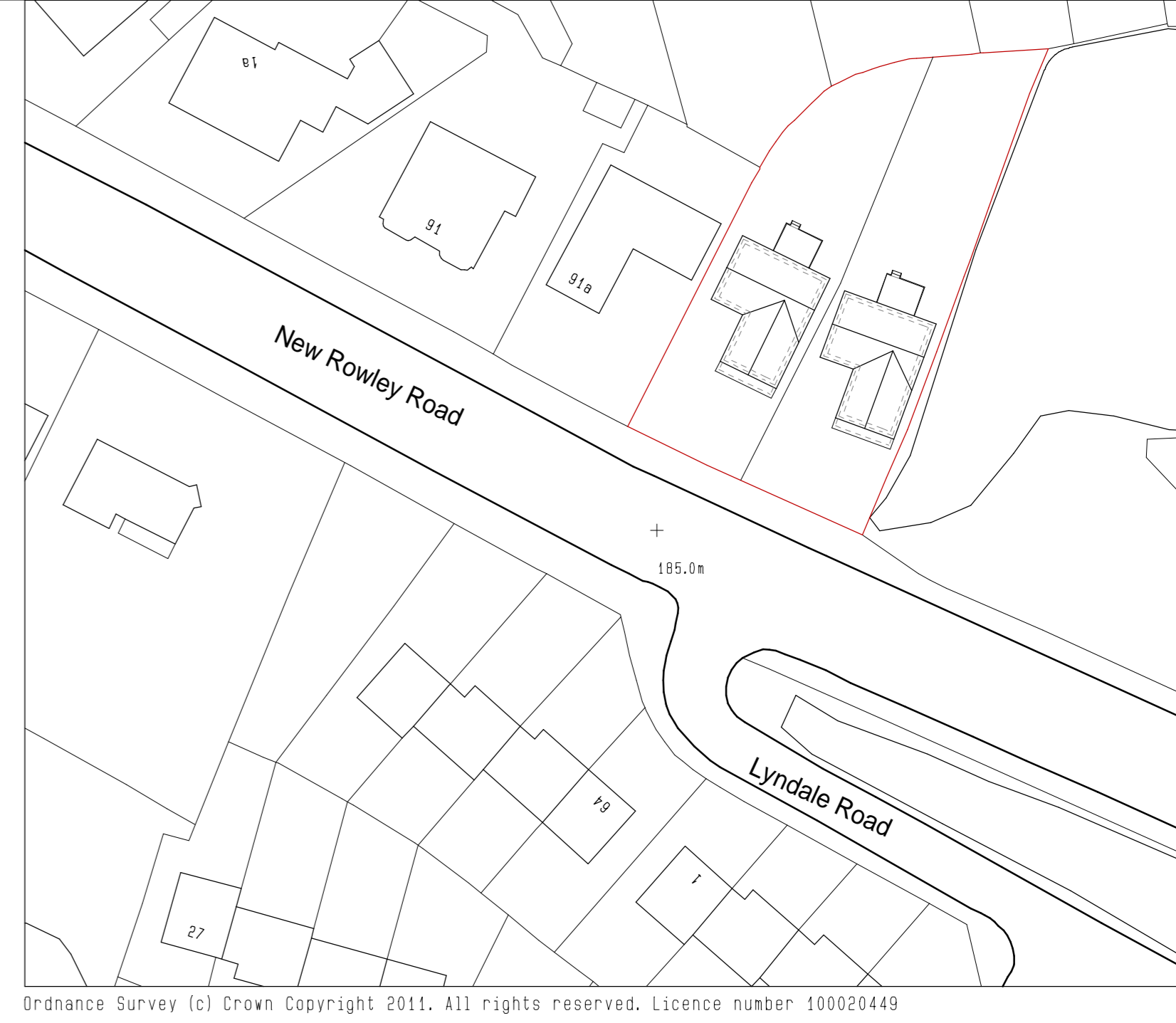
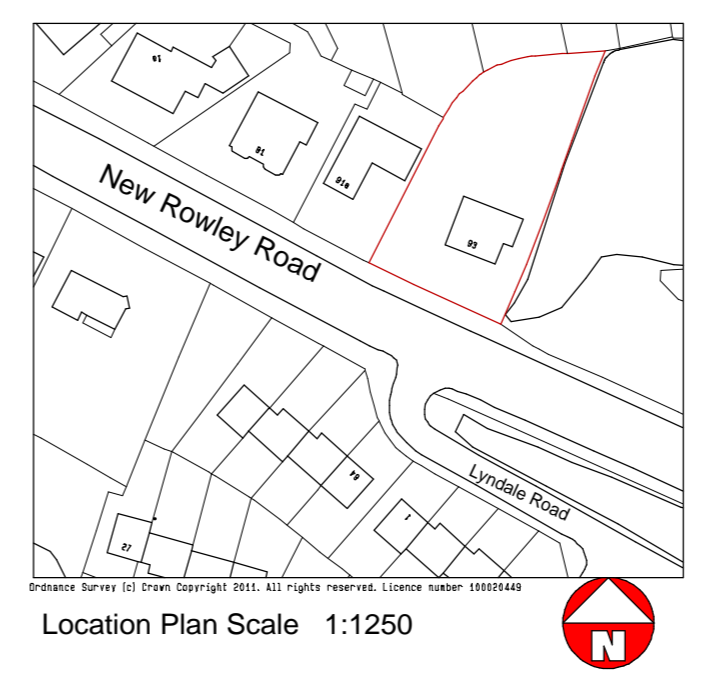
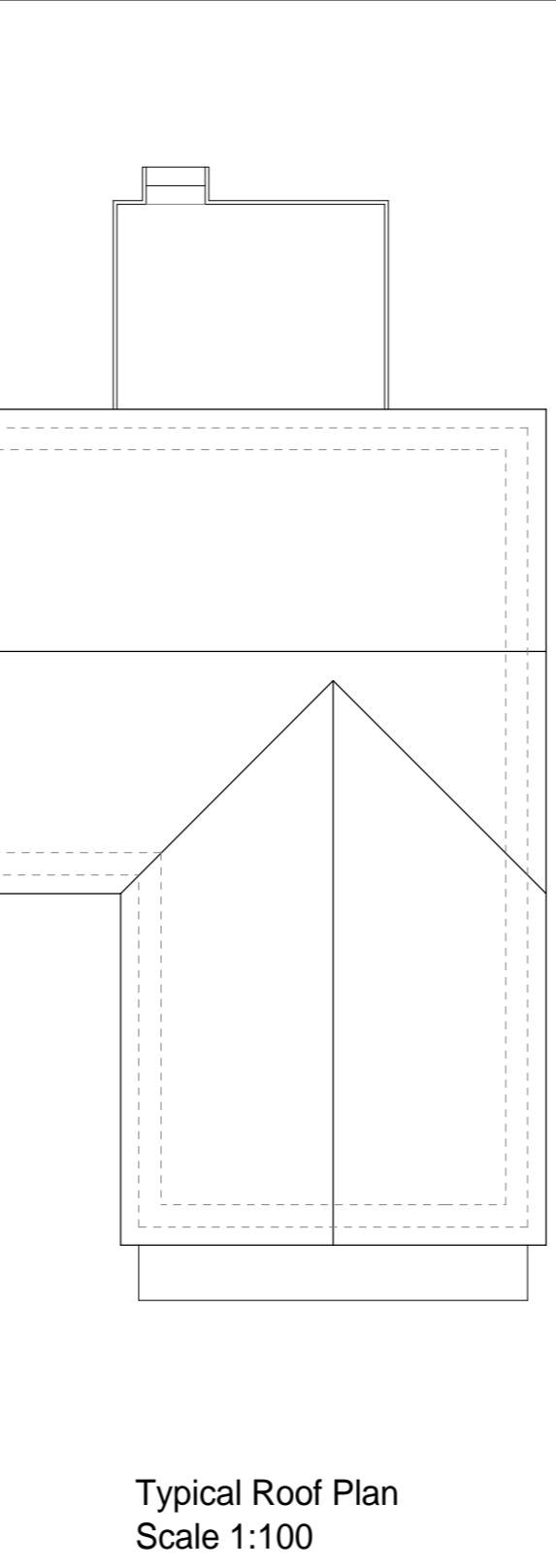
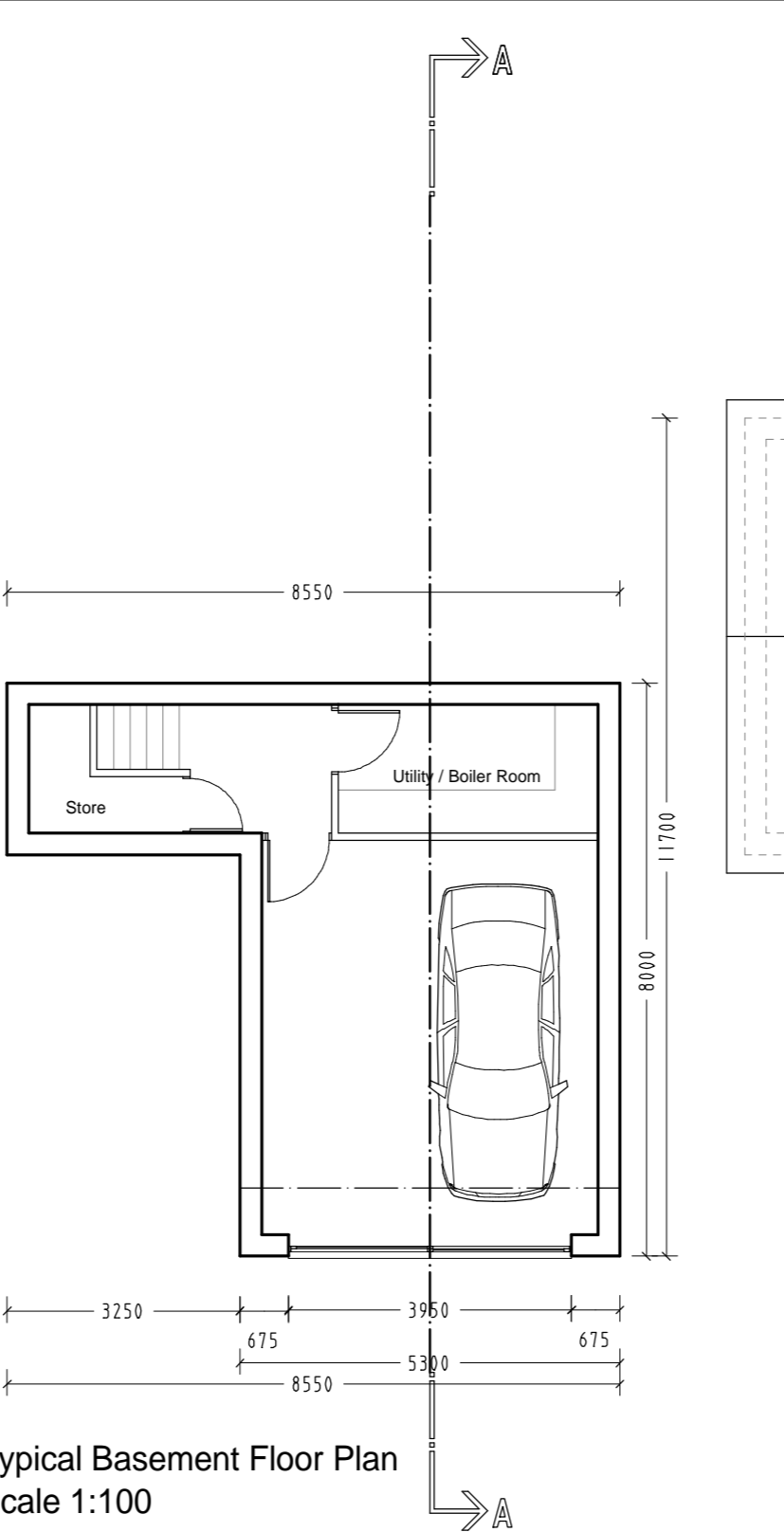
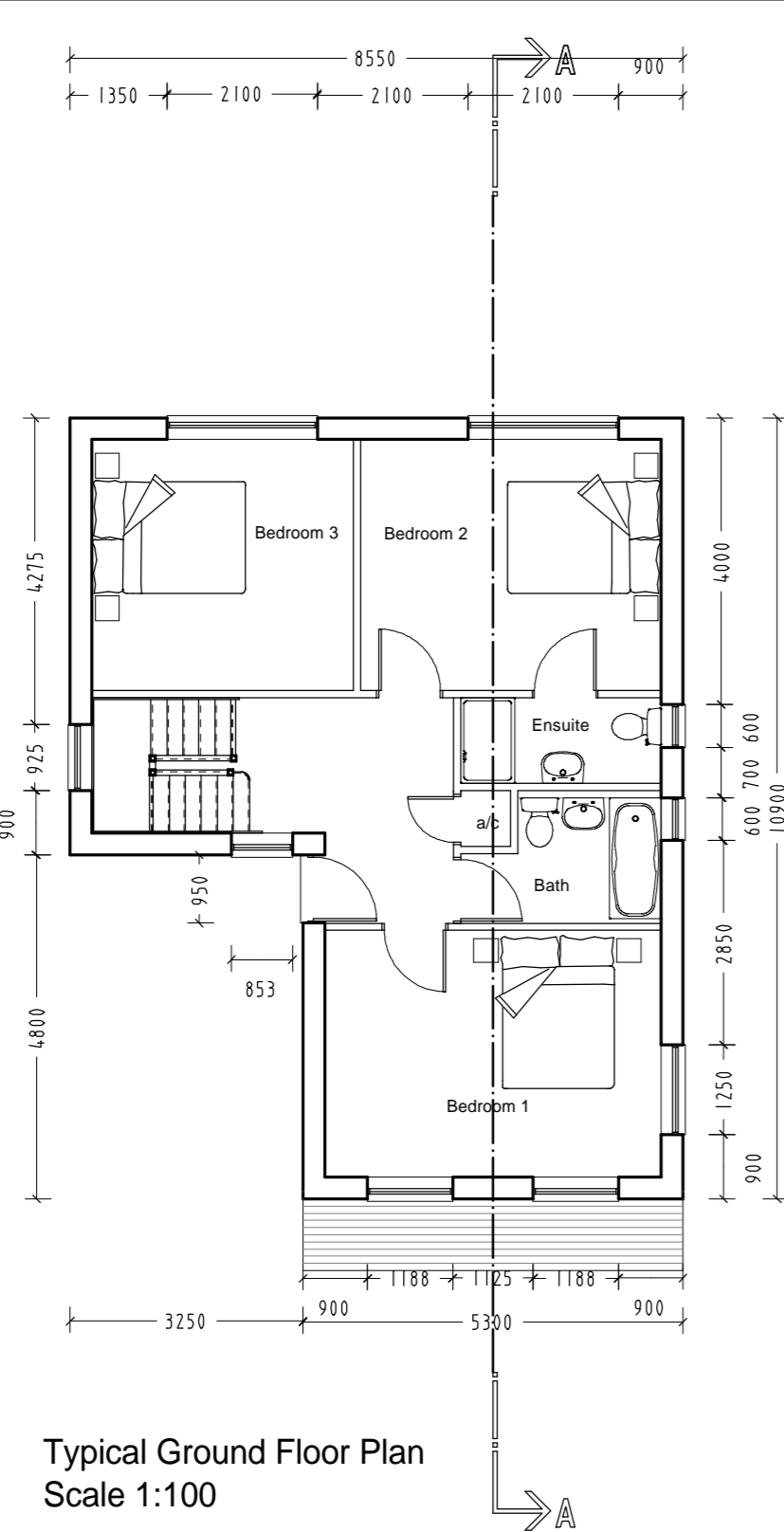
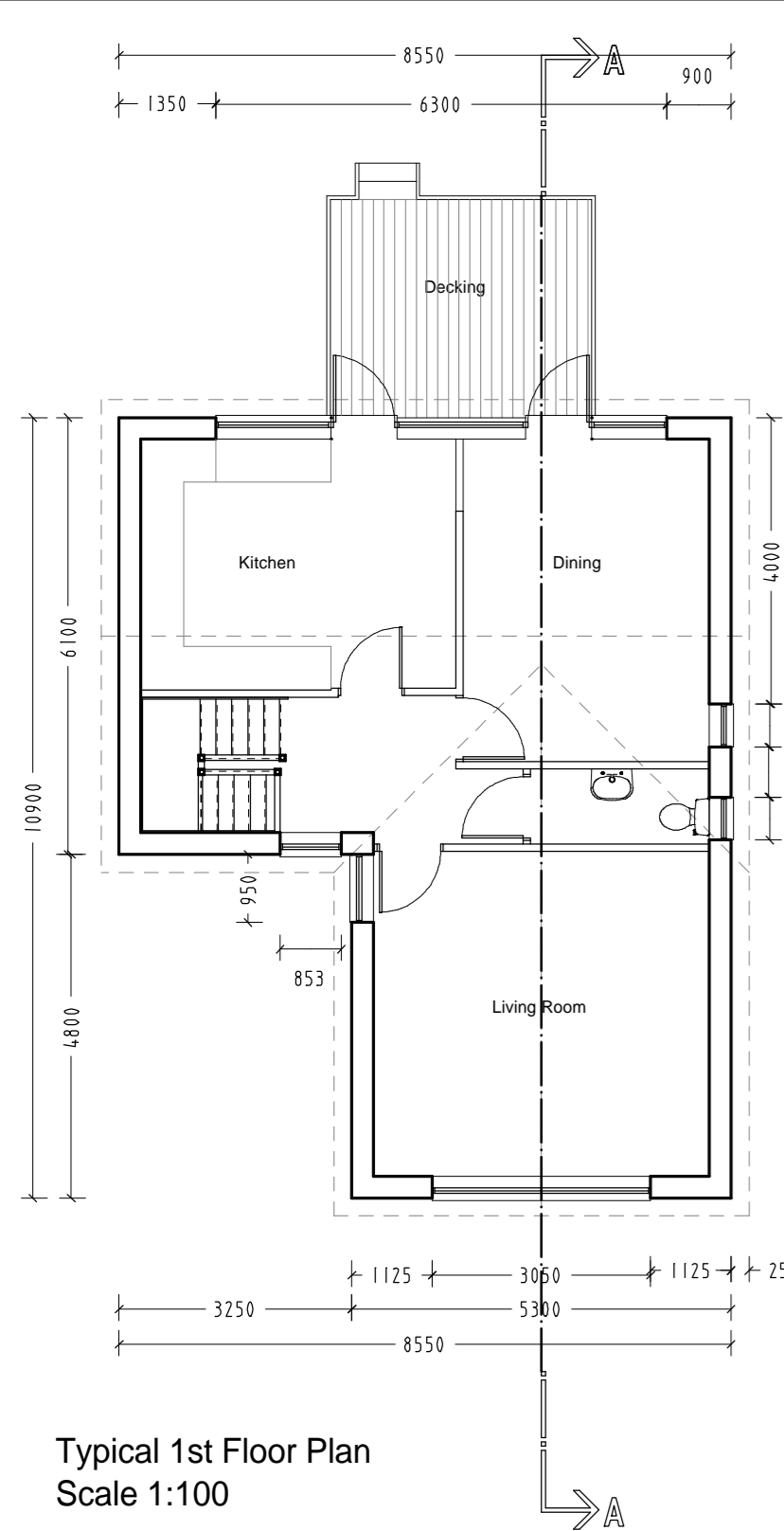
Location
93 New Rowley Road,
Dudley,
DY2 8AU

Client
Mr G. Singh

Scale
1:50 @ A1

Drawing No. AL/405/02 Checked

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Typical 1st Floor Plan
Scale 1:100

Typical Ground Floor Plan
Scale 1:100

Typical Basement Floor Plan
Scale 1:100

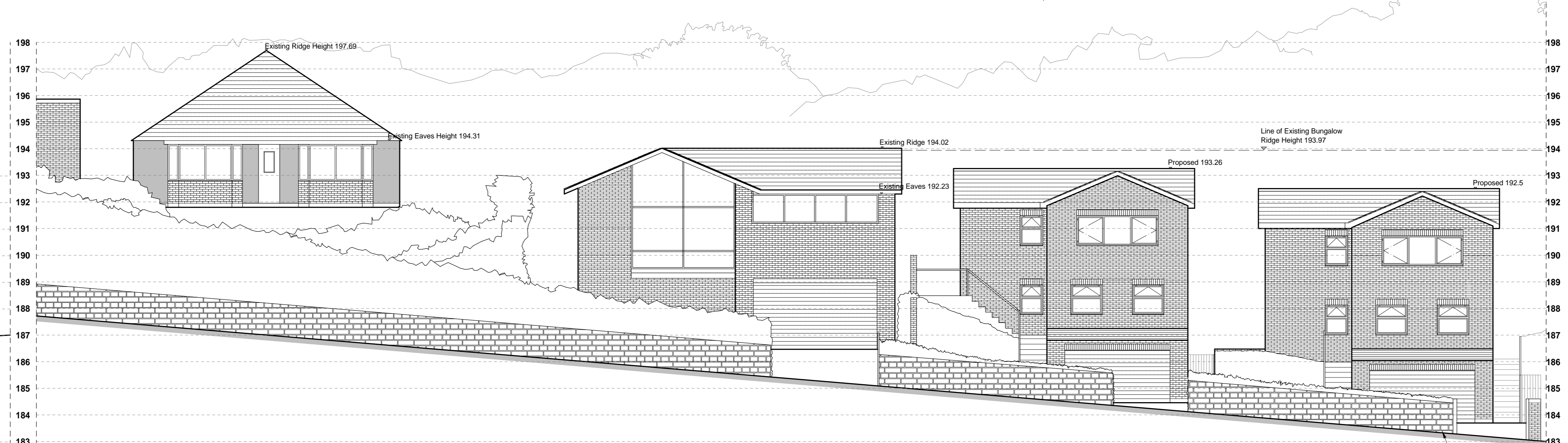
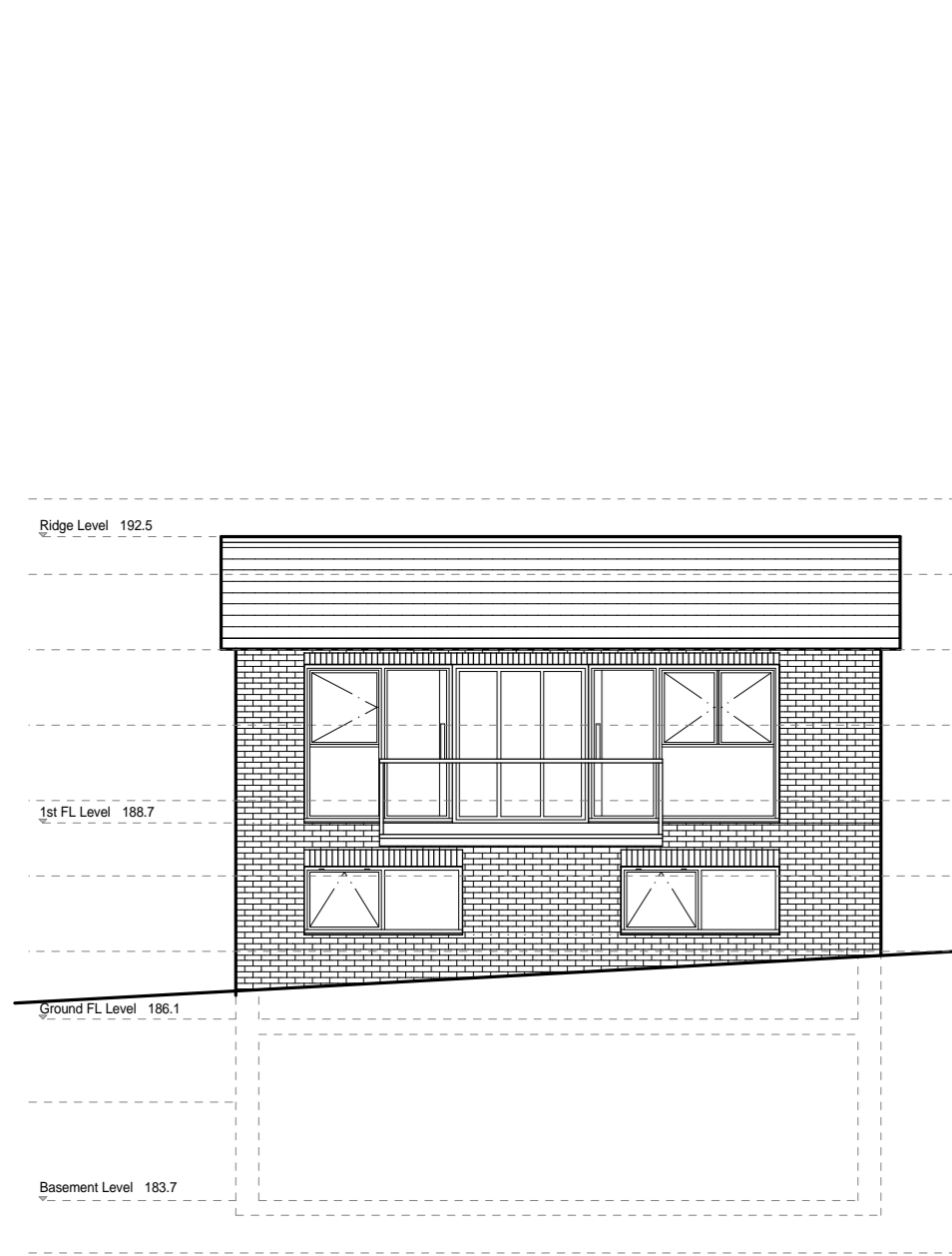
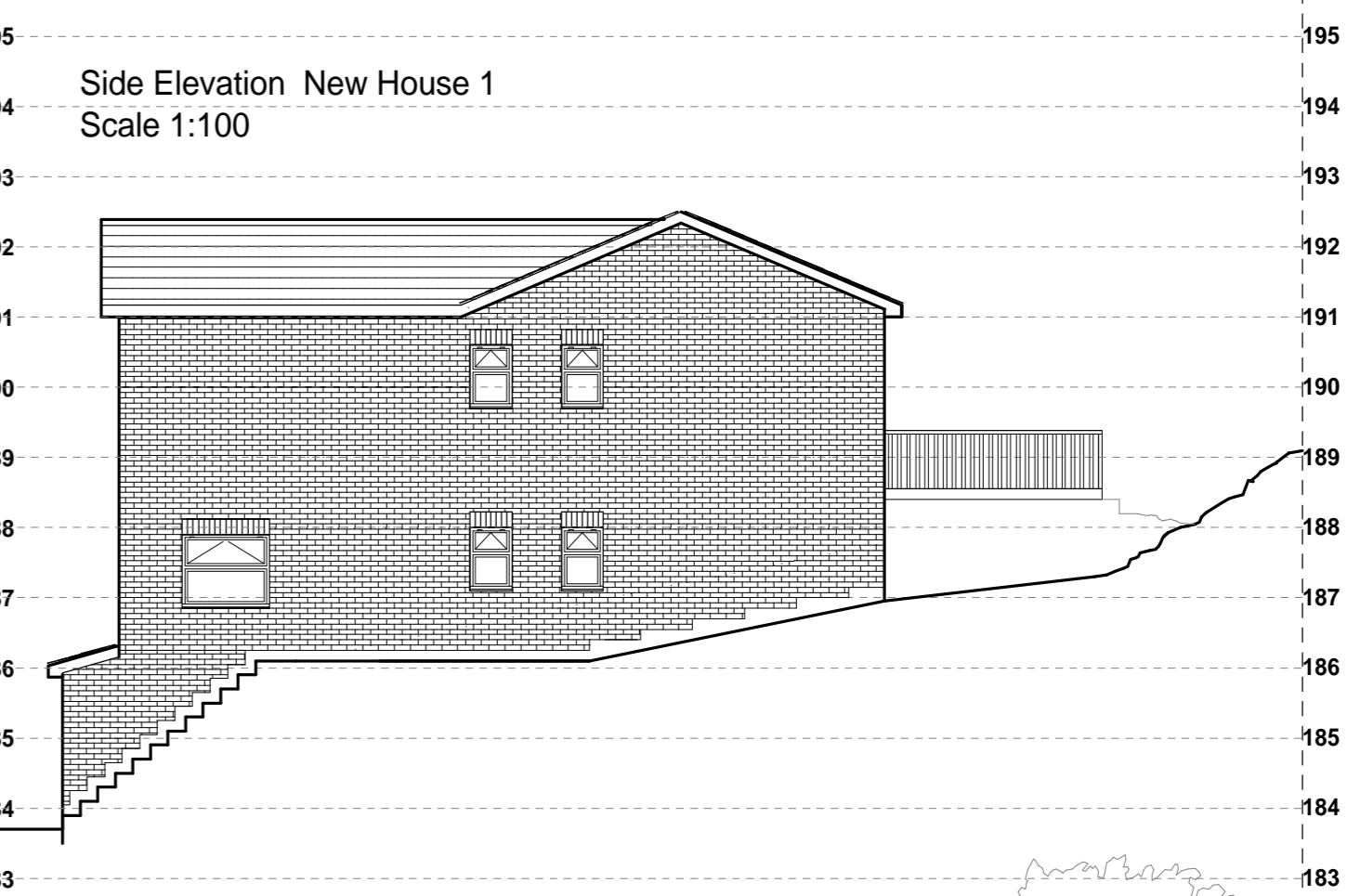
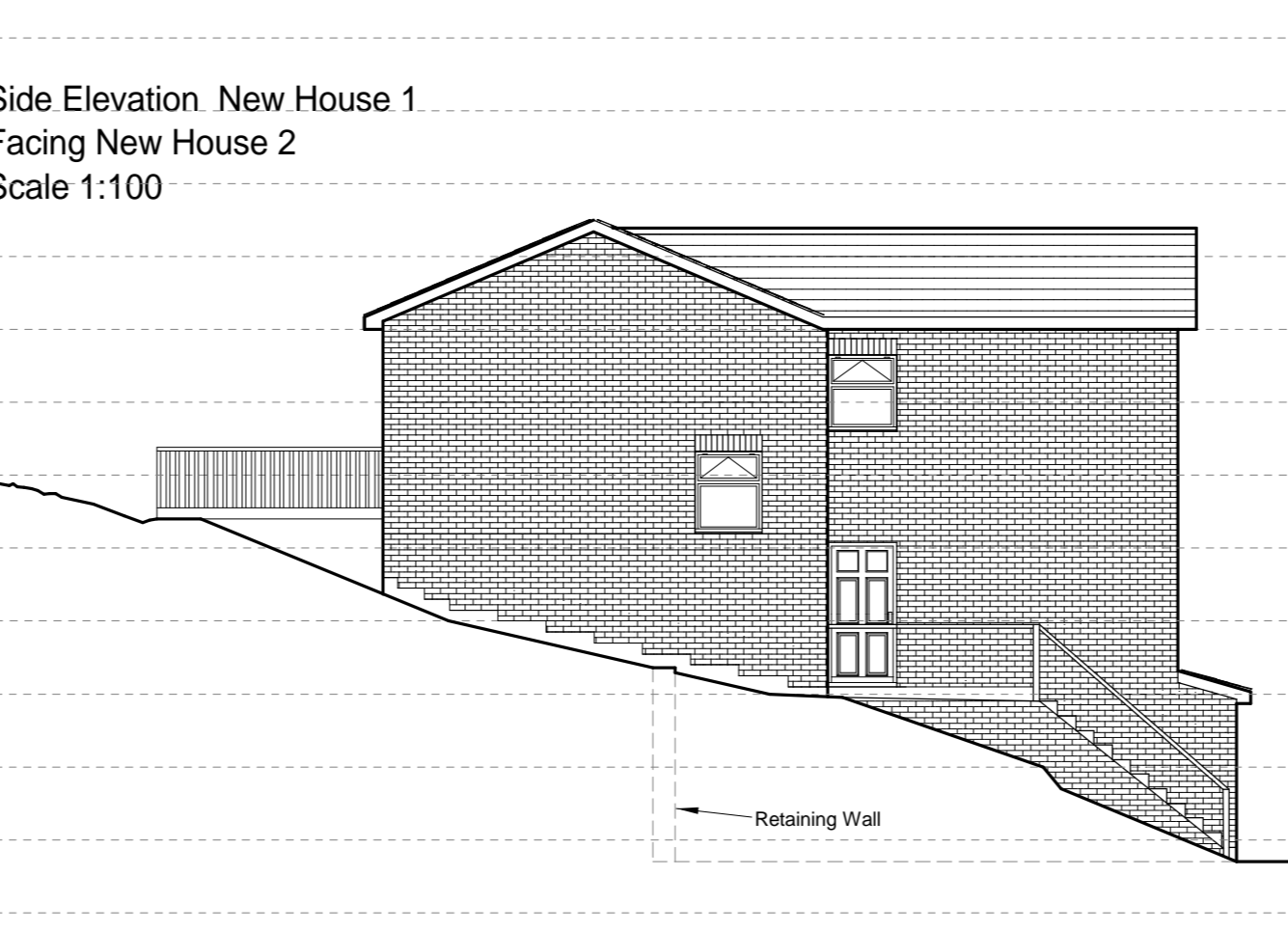
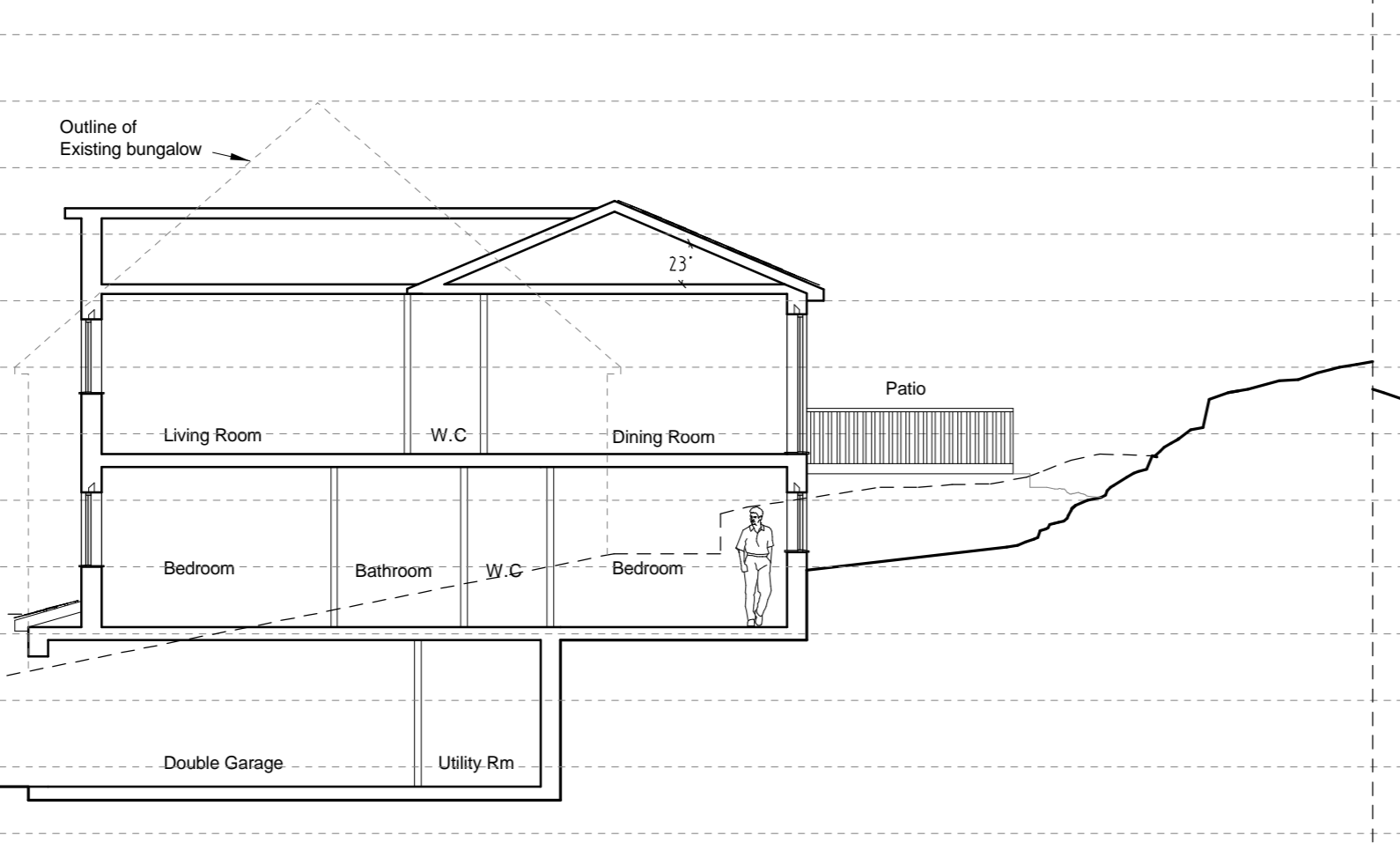
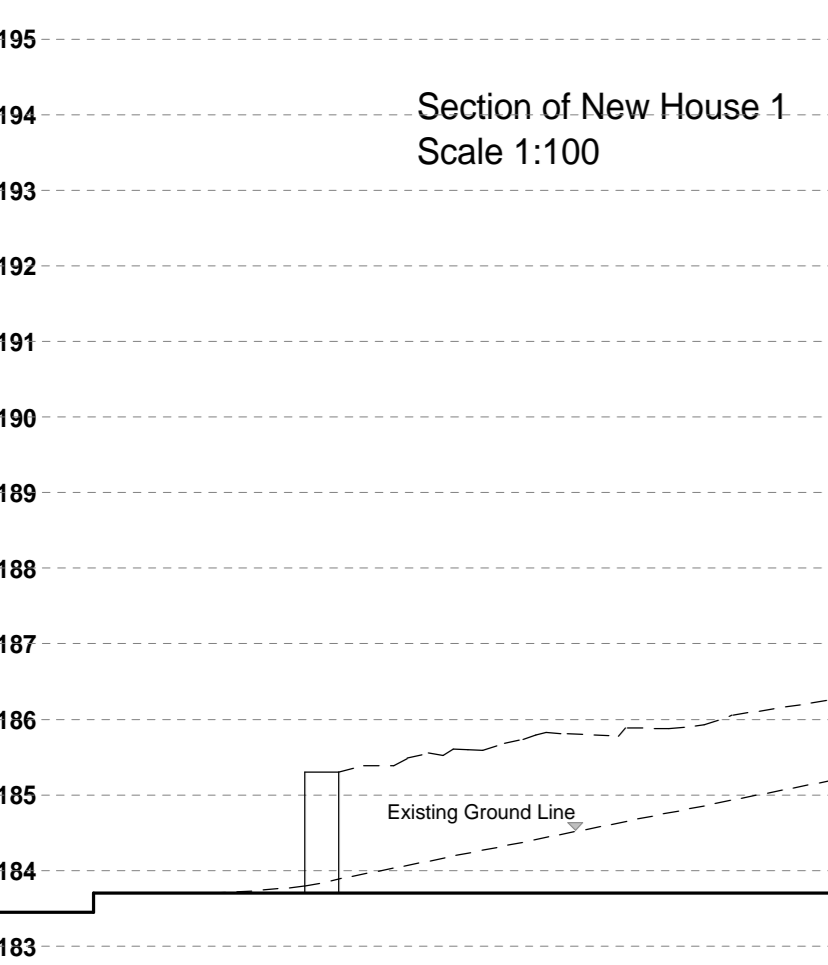
Typical Roof Plan
Scale 1:100

Location Plan Scale 1:1250

Site Plan Scale 1:500

Typical House Floor Plans
Scale 1:100

Typical House Elevations



Rear Elevation New House 1
Scale 1:100

NEW ROWLEY ROAD STREET SCENE
Scale 1:100

New Rowley Road - Front Elevation Street Scene
Scale 1:100

New House 2

New House 1



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Project
2 New Dwellings

Location
93 New Rowley Road,
Dudley,
DY2 8AU

Client
Mr G. Singh

Scale
1:50 @ A1

Drawing No. AL/405/01 **Checked**

rev.	description	date	initial
a		07/04/11	A.L.