

PLANNING APPLICATION NUMBER:P11/0018

Type of approval sought	Full Planning Permission
Ward	NETHERTON WOODSIDE & ST ANDREWS
Applicant	Mr Obhrai
Location:	144A, CINDER BANK, NETHERTON, DUDLEY, WEST MIDLANDS, DY2 9BW
Proposal	ERECTION OF 2 NO. DWELLINGS
Recommendation Summary:	APPROVE SUBJECT TO A 106 AGREEMENT

SITE AND SURROUNDINGS

1. The application site is 607 sq metres and is a disused yard. The yard is overgrown with weeds in places and is not a maintained area of land.
2. Cinder Bank is the A459 and connects the Southern By-Pass with Netherton Centre. The site itself is located some 300m from Netherton Local Centre.
3. To the south of the site is a residential nursing home, to the west of the site (at the rear) are semi detached residential houses and to the north is a vehicle repair garage. To the east of the site is the current access to Cinder Bank. Opposite the site and on the other side of Cinder Bank is the junction with Park Road. There is a single storey church building set back 15 m from Cinder Bank and sited next to Park Rd which otherwise contains residential housing.
4. Whilst the site is fairly level, the adjoining gardens of no's 1 and 2 Simms Lane are set 2m higher and the adjacent nursing home to the south and workshop to the north are also at a higher level. At the front of the site there is a 3m high wall and a set of double access gates to Cinder Bank.

PROPOSAL

5. The proposed development is for a pair of semi detached 3 no. bed dwellings and garages. The dwellings would be set back 10m from Cinder Bank and would have rear garden lengths of 11m.
6. The application is accompanied by a Design and Access Statement.

HISTORY

7.

APPLICATION No.	PROPOSAL	DECISION	DATE
P02/2009	Erection of 2no. 1 bed flats and 2no. 2 bed flats	Granted	12.12.02
95/50521	Extension to nursing home to provide 15 additional bed spaces	Granted	01.06.95
94/50280	COU from builders yard to warehousing	Refused	02.06.94
88/50609	COU from builders yard to haulage depot and smokeless fuel storage.	Refused	16.06.88

PUBLIC CONSULTATION

8. The application was advertised by way of neighbour notification. Public consultation time expires 1 February 2011. One email has been received raising the following issues:
 - Not in keeping with surroundings, out of scale, too confined/cramped, possible archaeology on site, traffic/vehicle access.

OTHER CONSULTATION

9. Group Engineer (Development) – no objections subject to the provision of the driveways and parking areas prior to first occupation.

10. Head of Environmental Health and Trading Standards – no objections subject to conditions relating to land contamination and a noise prevention scheme.

RELEVANT PLANNING POLICY

11. Regional Planning Guidance
12. The High Court Decision on 10th November 2010 in respect of the challenge by Cala Homes (South) Ltd (2010 EWHC 2866) quashed the Government's decision on 6th July 2010 to revoke the Regional Strategies. As a consequence the West Midlands Regional Spatial Strategy forms an ongoing part of the development plan.
13. The Chief Planner at the Department for Communities and Local Government wrote to all local authorities setting out that the Secretary of State expected them, and the Planning Inspectorate, to have regard to his letter of 27th May 2010, announcing his intention to abolish the Regional Strategies, as a material consideration in planning decisions.
14. However as the Regional Strategy still forms part of the development plan until it is abolished the following policies are considered relevant to the material consideration of this planning application:
 - QE3 Creating a high quality built environment for all.

Black Country Joint Core Strategy

- DEL1 Infrastructure Provision
- TRAN2 Managing Transport Impacts of New Development
- TRAN5 Influencing the Demand for Travel and Travel Choices
- CSP2 Outside the Growth Network
- HOU1 Delivering Sustainable Housing Growth
- HOU2 Housing Density, Type and Accessibility
- EMP3 Local Quality Employment Areas

Dudley Unitary Development Plan

- DD1 Urban Design
- DD4 Development in Residential Areas
- EP7 Noise Pollution
- UR9 Contaminated Land

15. Supplementary Planning Document

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

16. Supplementary Planning Guidance

- Planning Guidance Note 3 – New Housing Development
- Planning Guidance Note 12 – The 45 Degree Code

17. National Planning Guidance

- Planning Policy Statement 1 – Delivering Sustainable Development
- Planning Policy Statement 3 – Housing
- Planning Policy Statement 23 – Planning and Pollution Control

ASSESSMENT

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

- Principle
- Density
- Residential Amenity
- Design

- Highways & Parking
- Nature Conservation
- Planning Obligations

Principle

19. The application site is an unused, fairly dilapidated yard, sited next to a residential nursing home, housing to the rear and opposite the site. The site has previous planning approvals for an extension to the adjacent residential nursing home (95/50521) and for 4no. residential flats (P02/2009). It is considered that the principle of residential development has been established in the past with previous planning approvals, and the principle of redeveloping the site for residential housing could therefore be acceptable, in compliance with Policies DD4 and H3.

Density

20. The proposed scheme would result in development at a density of 33 dwellings per hectare (dph). The immediate area is characterised by plots of differing styles and size, ranging from detached to semi-detached to terraced houses. The variety in house types and garden lengths ensures that the density, in the local area ranges from 50 dph to 123 dph. As such the proposed plot sizes are considered appropriate for the site and character of the surroundings. The density is therefore in compliance with UDP Policy H6.

Residential Amenity

21. The scheme comprises 2no. 3 bed semi detached dwellings with rear gardens and frontage vehicular parking. Each property would have an 11m long rear garden, side garage (6m by 3m) and 1.4m wide side access ways either side of the plots. At the front each plot would have 3 off road parking spaces due to driveway lengths of 13m and 14m respectively, garages and individual turning areas.

22. The proposed dwellings would be sited between a workshop building and an established residential nursing home and set against the backdrop of residential dwellings in Simms Lane. It is considered that the proposed dwellings would comfortably fit within the plots, would not look out of place and amenity is not considered to be detrimentally affected, in compliance with Policies DD1, DD4 and H3.

Design

23. There are a number of residential designs and types in the locality including detached, semi-detached and terraced houses from a range of decades. The proposed development would be of traditionally styled brick built dwellings that would not look out of place, or adversely impact upon the character of the area. It is considered that the proposed scheme would improve the visual appearance of the site and the locality as a whole in compliance with UDP Policies DD1 and DD4.

Highways & Parking

24. There would be 3 no. off street spaces, including a 5.6m by 3m garage allocated for each plot. There are no highway objections subject to a condition relating to the provision of the off street parking prior to first occupation of the dwellings.

Nature Conservation

25. The site is a neglected hard surfaced yard and has limited ecological value. With the proposed onsite/offsite planning obligation there is an opportunity to enhance the areas wildlife potential in compliance with UDP Policy NC6.

Planning Obligations

26. Black Country Core Strategy Policy DEL1 'Infrastructure Provision' 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.

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.

In addition to applying Policy DEL1 and the SPD, in identifying the required planning obligations on this application the following three tests as set out in the CIL Regulations (April 2010), in particular Regulation 122, have been applied to ensure that the application is treated on its own merits:

necessary to make the development acceptable in planning terms;
directly related to the development;
fairly and reasonably related in scale and kind to the development.

In consideration of the above the required Planning Obligations on this application have been identified as follows and would need to be secured within a S106 Agreement:

- Libraries - £382.78
- Open Space, Sport & Recreation - £4608.08
- Public Realm - £957.06
- Transport Infrastructure Improvements - £830.70
- Nature Conservation – £315.64
- Management and Monitoring Charge - £500.00

Total Offsite Contribution equates to £7594.26

27. The applicant has agreed to the payment of these planning obligations.

CONCLUSION

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

RECOMMENDATION

29. 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 £6763.56 for the provision, maintenance and enhancement of off site public open space and play provision, nature conservation, libraries and public realm has been submitted to and agreed in writing by the Local Planning Authority.
 - b) The scheme shall include the method, timing and arrangements, including a means to guarantee a financial payment, increased through index linking from the first April each subsequent year, in accordance with the Council's Planning Obligations Policies.
 - c) The following conditions, with delegated powers to the Director of the Urban Environment to make amendments to these as necessary.

REASON FOR APPROVAL

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

The decision to grant planning permission has been taken with regard to the policies and proposals in the adopted 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.

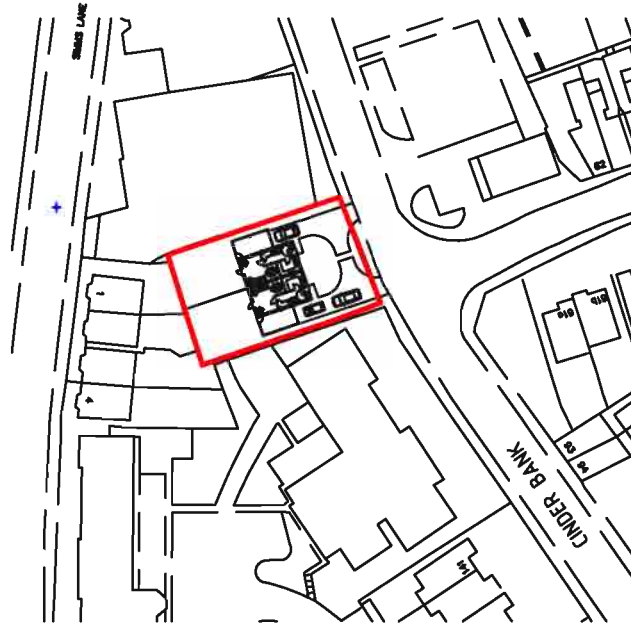
NOTE TO APPLICANT

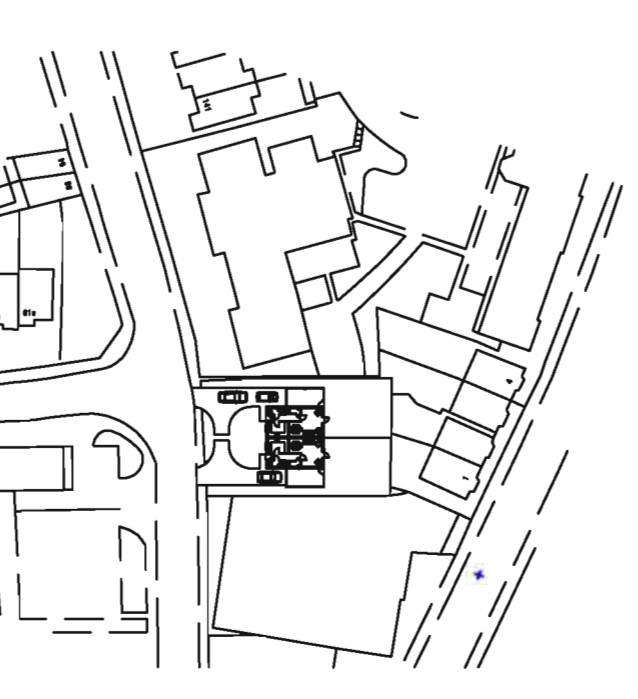
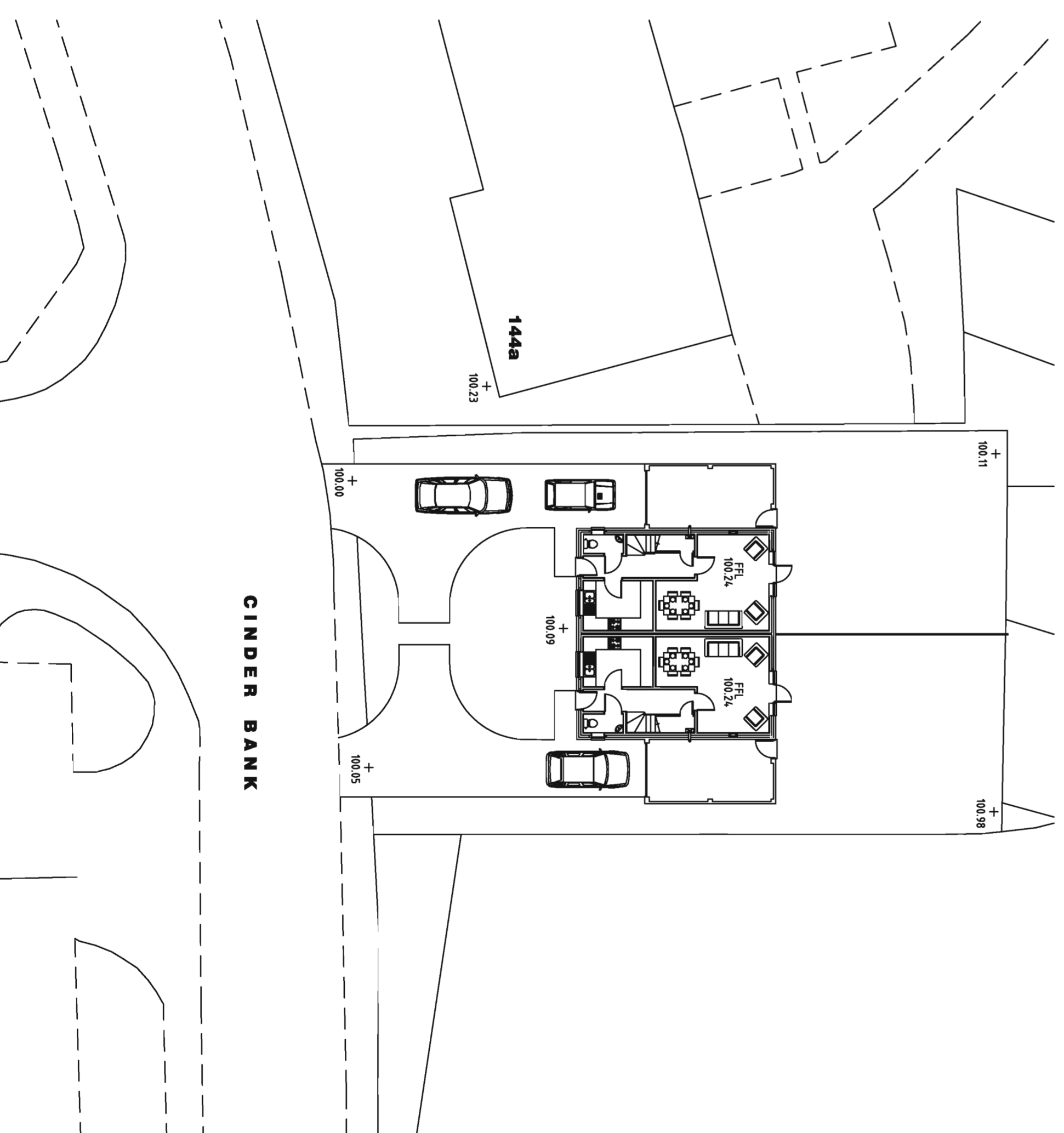
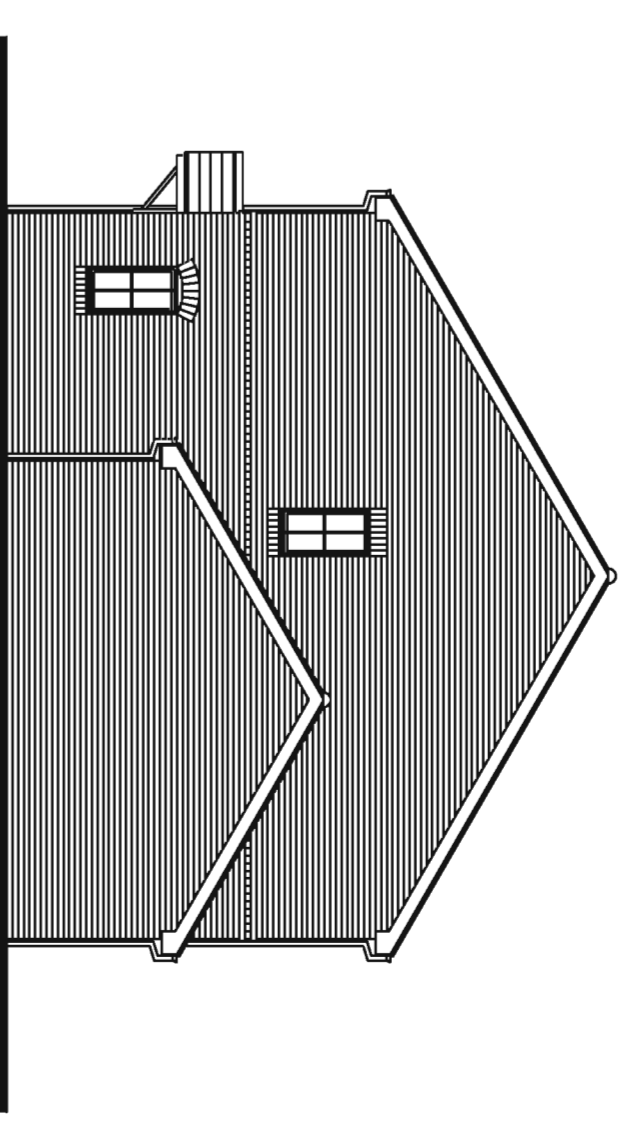
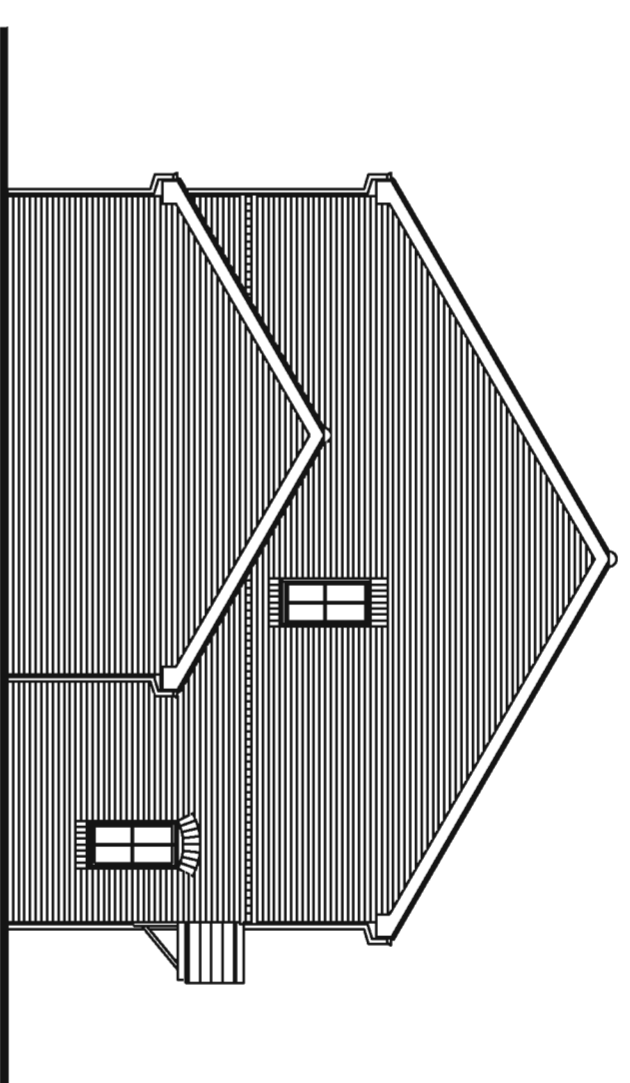
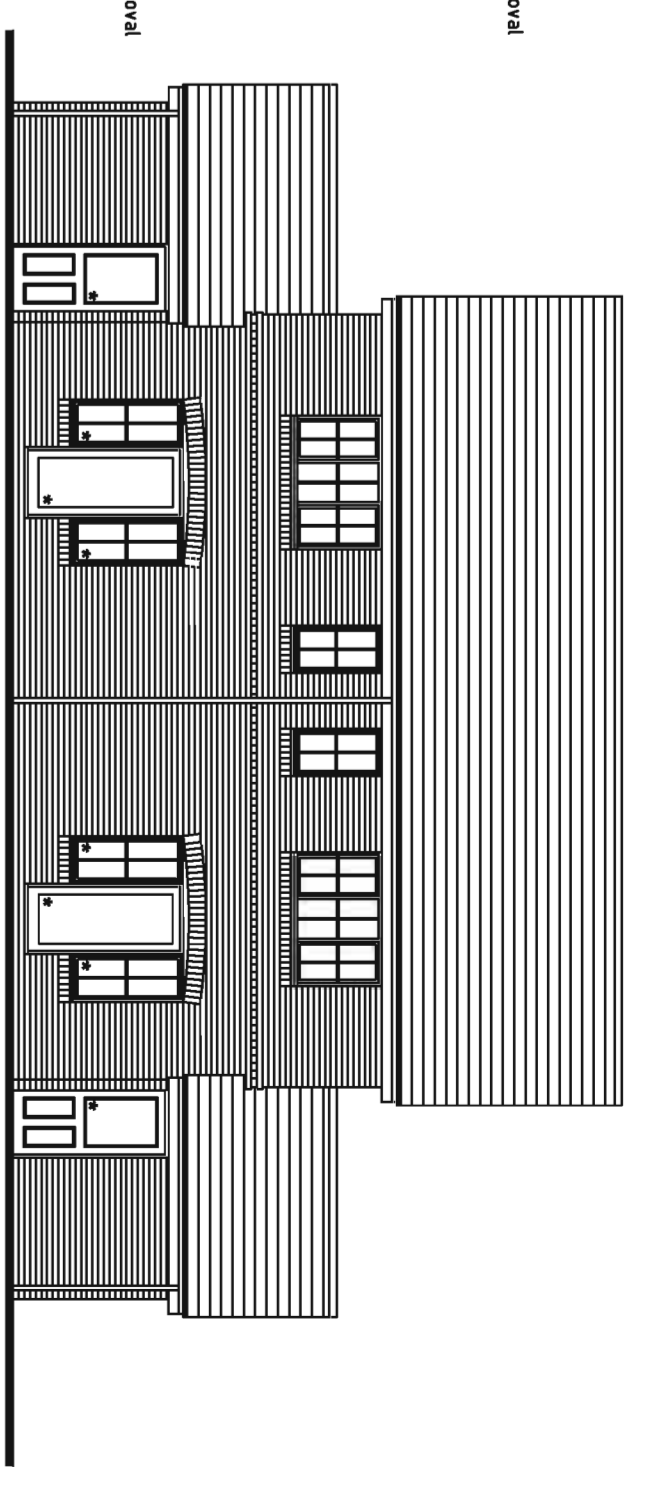
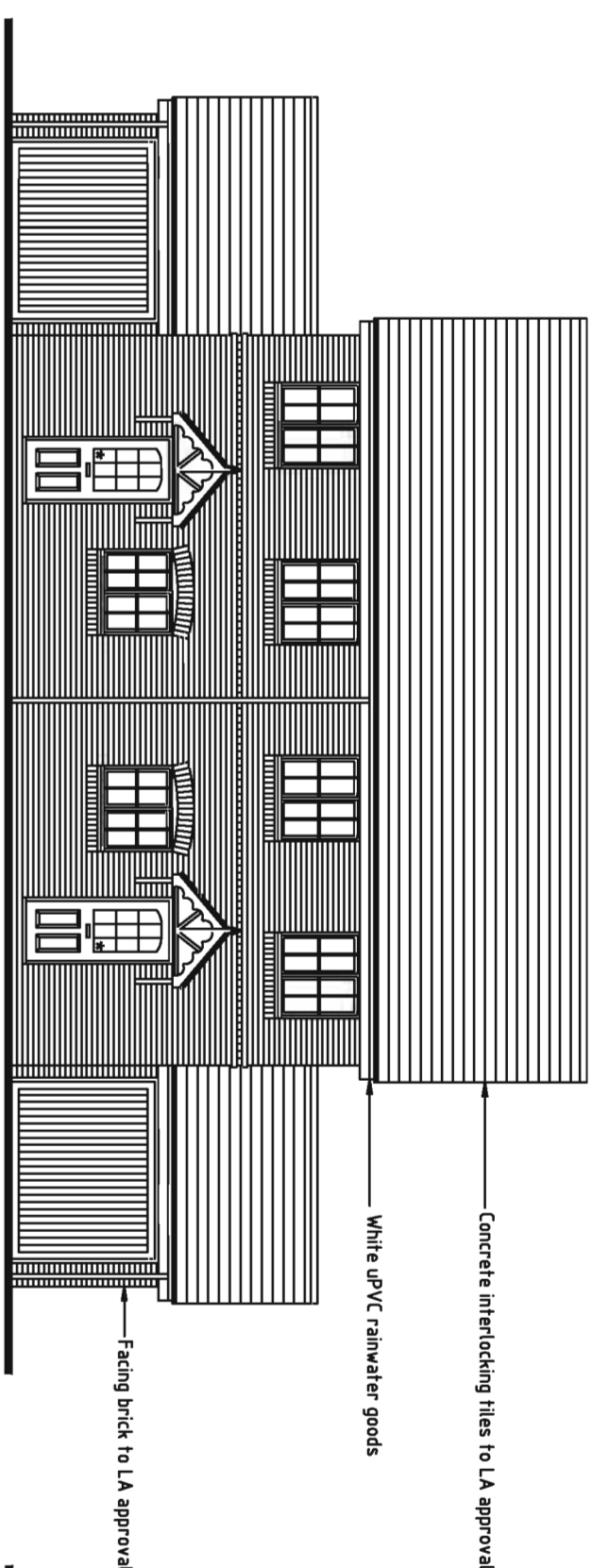
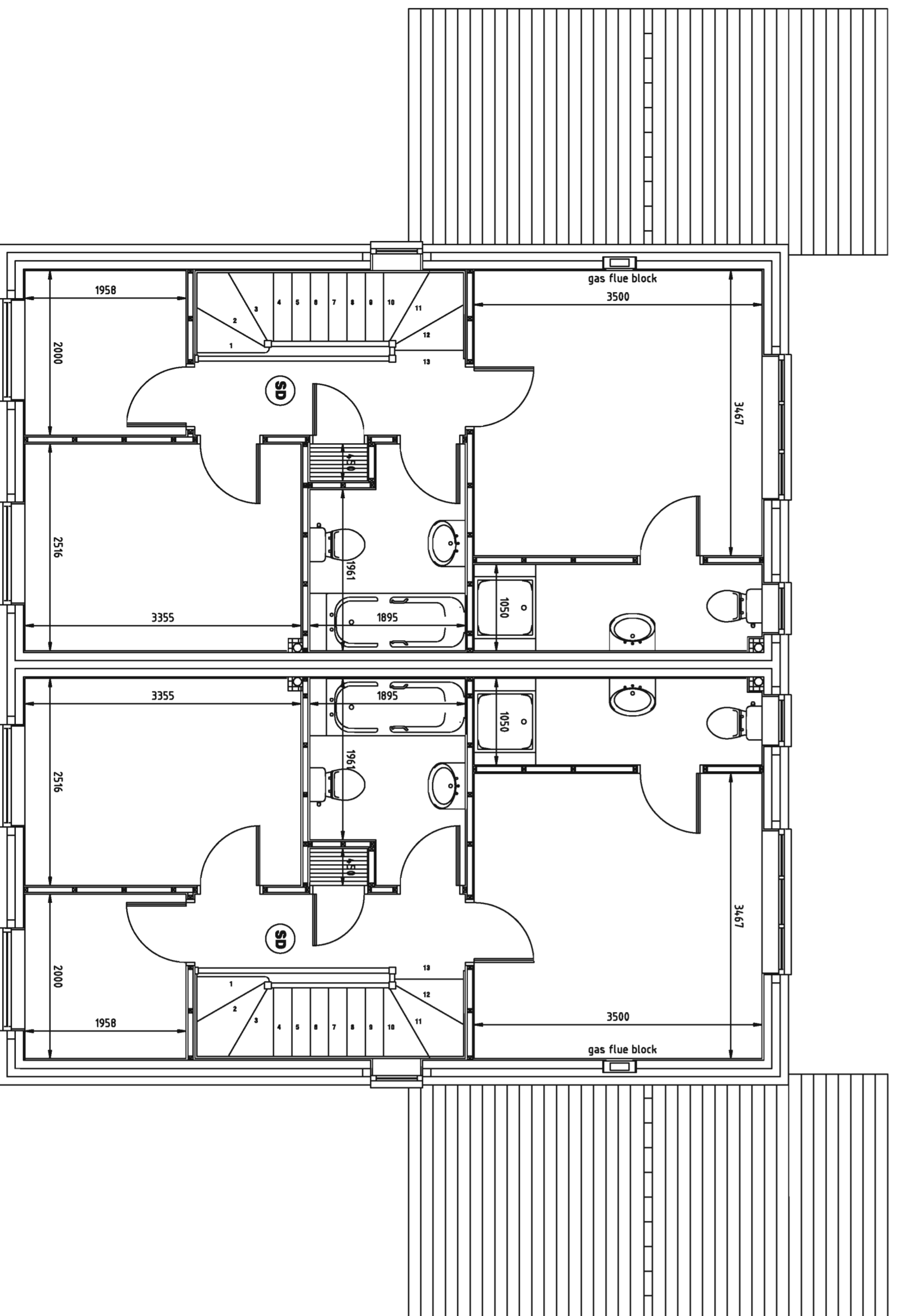
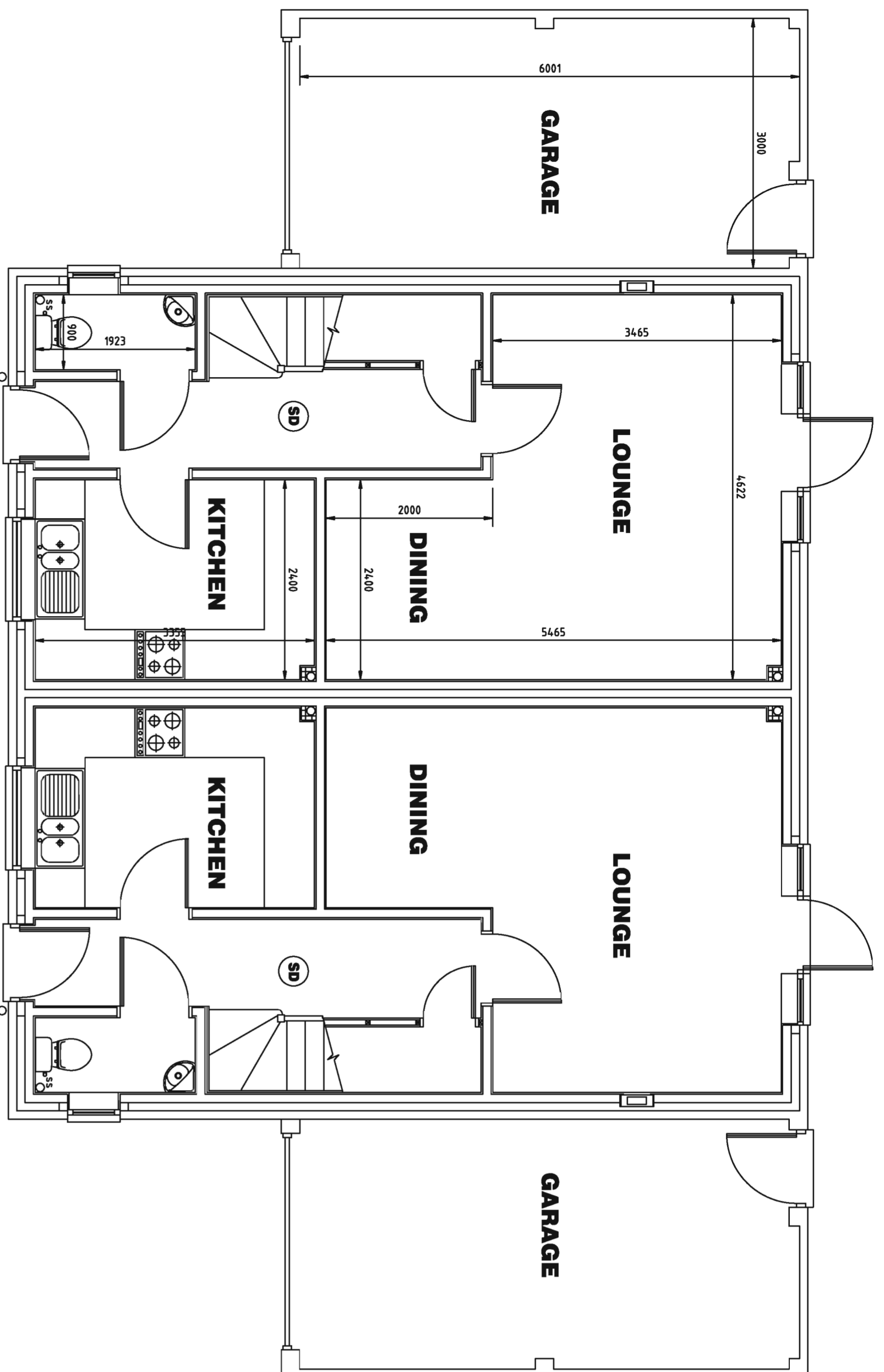
The granting of planning permission does not confirm the structural integrity of the proposed development. Local Planning Authorities do not have a duty of care to individual landowners when granting applications for planning permission and are not liable for loss caused to an adjoining landowner for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

Conditions and/or reasons:

1. No development shall take place unless an obligation under section 106 of the Town and Country Planning Act 1990 between the local planning authority and all persons interested in the land within the application site has been executed, such obligation to secure the following:
 1. the payment of £382.78 to library facilities

2. the payment of £4608.08 to Open Space
 3. the payment of £957.06 to Public Realm
 4. the payment of £315.64 to Nature Conservation
 5. £500 for the monitoring, management and implementation of the above obligations
2. The development hereby permitted shall be begun before the expiration of three years from the date of this permission.
 3. 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.
 4. Prior to the commencement of development, details of the types, sizes and locations of the boundary treatments around the site and between the proposed plots shall be submitted to and approved in writing by the Local Planning Authority. The boundary treatment shall be carried out in complete accordance with the approved details prior to the occupation of the dwellings hereby approved and thereafter retained for the lifetime of the development unless otherwise agreed in writing with the local planning authority.
 5. Prior to first occupation of the dwelling, the means of access and parking areas will be provided in accordance with the approved details and graded, levelled, surfaced, drained and marked out. These areas will be maintained for no other purpose for the life of the development.
 6. 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.
 7. Development shall not begin until a scheme for protecting residents in the proposed dwellings from noise from road traffic on Cinder Bank has been submitted to and approved in writing by the local planning authority. All works which form part of the approved scheme shall be completed before occupation of the permitted dwellings, unless otherwise agreed in writing by the Local Planning Authority.
 8. The development hereby permitted shall be carried out in accordance with the following approved plans: 1091/001 and the 1:1250 Location Plan
 9. 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.
 10. 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.
 11. 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.





FIRST FLOOR PLAN

SIDE ELEVATION

FRONT ELEVATION

REAR ELEVATION

SIDE ELEVATION

SITE PLAN 1/200

LOCATION PLAN

ECLIPSE
 ARCHITECTURE
 144A CINDER BANK
 NETHERTON
 DUNDEE DY2 9BW
 DESIGN@ECLIPSEARCHITECTURE.CO.UK
 SCALE: 1/50 - 1/100
 DATE: JUNE 2010
 SHEET NO: A1

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