

PLANNING APPLICATION NUMBER:P13/0290

Type of approval sought	Full Planning Permission
Ward	Gornal
Applicant	Mr S. Bates
Location:	LAND ADJ TO, 28, FLAVELLS LANE, LOWER GORNAL, DUDLEY, WEST MIDLANDS, DY3 2RU
Proposal	ERECTION OF 1 NO. BUNGALOW
Recommendation Summary:	REFUSE

SITE AND SURROUNDINGS

1. The application site is some 198m² in area and comprises a vacant plot of land some 13-15 metres wide and 13-17m deep which located adjacent to, but at a higher level than 28 Flavells Lane. The land generally slopes downwards in a south easterly direction, is unkempt and presently fenced off.
2. 28 Flavells Lane is a large detached property positioned to the south east of the site on a lower ground level. This property has a large forward projecting annexe adjacent to the boundary with the application site. Numbers 42 & 44 Flavells Lane face towards the side boundary of the site to the north-west and are at a higher ground level, with the garden areas to both of these properties being at the front.
3. The site is set with an established residential area which comprises a broad mix of house types and designs ranging from large detached dwellings to smaller terraces and semi-detached houses. There are also a run of bungalows to the eastern end of Flavells Lane which are set upon a staggered building line. No. 7 Flavells Lane is a detached bungalow which has recently been constructed to the rear of 12 Cinder Bank on a small plot. Flavells Lane is a short road of single-carriageway width with no footpaths.

PROPOSAL

- It is proposed to erect a two bedroom detached bungalow. The dwelling would be set back 5m at its nearest point from the highway and the frontage would remain open in order to accommodate two car parking spaces. The dwelling would adopt a 'T' shaped footprint with a hipped roof and front and rear facing gables. It would be a maximum of 9m in width, 6.1m in depth and 5.35m in height. At its closest point the bungalow would be set in 1.5m from the common boundary with no. 44 Flavells Lane, 3.5m from the boundary with no. 28 Flavells Lane and 3.5m from the boundary with no. 42 Flavells Lane. The dwelling would have a shallow rear garden within maximum length of 4.5m with side gardens either side.
- The application is accompanied by a Design & Access Statement, a Transport Statement and a Coal Mining Report.

HISTORY

6. Application Site

APPLICATION No.	PROPOSAL	DECISION	DATE
P00/50374	Erection of two-bedroom bungalow (outline)	Refused then dismissed at appeal	26/05/00
P09/0960	Erection of 1 no. Dwelling	Refused then dismissed at appeal	16/09/09
P11/1609	Lawful Development Certificate for an existing use as a storage yard for building materials and tools	Certificate Granted	12/03/12

- Application P00/50374 was refused on the grounds that the development would be contrary to the interests of users of the highway as it was considered that the inadequate junctions with Cinder Road and Brookbank Road could not serve the additional vehicular movements which the development would generate. The site

was considered too restricted in area and depth to accommodate the proposed development and the development was considered to be detrimental to the street scene and neighbouring amenity by way of its position and proximity to neighbouring dwellings.

8. Application P09/0960 was refused on the grounds that the footway crossing serving the proposed development from Flavells Lane could not maintain the visibility splays required. This application was also refused on the grounds that the site is too restricted in area and depth to accommodate the development which would be out of context in terms of its density and overly prominent appearance. A lack of an undertaking to make a contribution towards local infrastructure also featured as a reason for refusal.

PUBLIC CONSULTATION

9. Direct notification was carried out to 19 neighbouring residential properties and a site notice was also displayed. The final date for the receipt of representations was 11th April 2013 and four letters of objection have been received which raise the following material planning issues;
 - That the lane is narrow and the development would have limited visibility given the sites position adjacent to a sharp bend in the highway.
 - That the road is often used as a short cut and the development would generate additional traffic movement to the detriment of highway safety.
 - The lane would be blocked by construction vehicles during the building process given the narrow width of the highway and as there is nowhere to park on site. Concerns are raised regarding access for emergency vehicles during this time.
 - That the site is too small to accommodate the development.
 - Overlooking/loss of light to a bedroom window
 - Additional noise disturbance
 - Overlooking of private gardens and loss of privacy
 - Loss of outlook

- That the bungalow would be a prominent feature within the street scene.
- That the development is likely to cause the area to appear cramped and overcrowded.
- That the site has not been used as a builder's storage yard for 10 years but has, until the last 12 months, been left neglected.

OTHER CONSULTATION

10. **Group Engineer (Development)**: No objection subject to a condition to secure the provision of an electric vehicle charging point.
11. **Head of Environmental Health & Trading Standards**; no adverse comments
12. **The Coal Authority**; No objection subject to conditions.

RELEVANT PLANNING POLICY

13. **National Planning Policy Framework (NPPF) 2012**

14. **Black Country Core Strategy (BCCS) 2011**

CSP2 – Development outside the Growth Network

CSP4 – Place Making

DEL1 - Infrastructure Provision

HOU1 – Delivering Sustainable Housing Growth

HOU2 – Housing Density, Type and Accessibility

TRAN2 – Managing Transport Impacts of New Development

TRAN5 – Influencing the Demand for Travel and Travel Choices

ENV3 – Design Quality

ENV8 – Air Quality

15. Saved UDP Policies (2005)

DD1 - Urban Design

DD4 - Development in Residential Areas

16. Supplementary Planning Document

New Housing Development (2013)

Parking Standards – Review (2012)

Planning Obligations (2011)

Manual for Streets (2007)

ASSESSMENT

17. Key Issues

- Principle
- Density & Layout
- Design & Visual Amenity
- Residential Amenity
- Highway Safety
- Planning Obligations

Principle

18. There have been significant policy changes since the previously refused application.

The Black Country Core Strategy has been adopted, The National Planning Policy Framework (NPPF) has been issued and the Councils New Housing SPD has been revised. The NPPF encourages LPA's to boost significantly the supply of housing in sustainable locations. The NPPF represents a shift towards sustainable development with good design being a fundamental aspect of this objective. In line with the NPPF, The Black Country Core Strategy focuses the delivery of new housing development on previously developed land (pdl) in the interests of creating sustainable communities.

19. Whilst concerns have been raised by local residents questioning the status of the land, a certificate of lawfulness has recently been granted, confirming that the site has an established use as a storage area for building materials. The certificate confirms that the development would make use of previously developed land (pdl) for which the principle of development for residential use is supported in accordance with Policy HOU1 of the Black Country Core Strategy subject to satisfactorily addressing all other material planning issues.

Density & Layout

20. The Council's revised New Housing SPD adopts a Design led approach and provides guidance to ensure that new residential development respects the local character and identity of the Borough. This guidance is a material consideration in determining planning applications and forms part of the Local Plan.

21. The density of the surrounding area is mixed with other detached dwellings in Flavells Lane having typically low density values of 6dph (no. 19), 17dph (no. 28), 33dph (no. 29) and 14pdh (no. 13). Semi-detached houses within the street have a typical density of 50dph and the two blocks of terraced houses are of a higher density range of 100dph. The recently approved bungalow (no. 7 Flavells Lane) has a density of 47dph which is lower than the proposed development which has a density of 50dph. It must, however, be noted that The NPPF has been issued and the Council's New Housing Development SPD (2013) has also been revised since approval of no. 7 Flavells Lane. The New Housing SPD makes it clear that density alone does not equate directly with the quality of building design or necessarily respond to local character. Density is just one element of achieving high quality design.

22. Detached properties within Flavells Lane are characteristically set within generous plots with large rear gardens. The area is generally spacious and the plots all appear to be roughly rectangular (front to back). The layout of no. 7 is read very much within the context of the other end of Flavells Lane and sits next to a run of staggered detached bungalows of the same scale. In contrast, the form and layout

of the proposed development would detract significantly from the character of the locality within which the proposed bungalow would appear cramped and the site overdeveloped. This is demonstrated by a limited sized garden which fails to achieve the minimum garden length of 11m outlined within Appendix A of the Revised New Housing SPD (2013). The development would introduce a pattern of development that would be out of keeping with the context of the street, to the detriment of the character and appearance of the area. The two previous schemes were very similar and both were refused on these grounds and subsequently dismissed at appeal on both occasions. The policy changes which have taken place since the earlier applications add significant weight to the previous reason for refusal. It is therefore considered that the proposal contravenes The National Planning Policy Framework, policies ENV3, CSP4 and HOU2 of the Black Country Core Strategy, saved policies DD1 and DD4 of the Unitary Development Plan and the Council's revised New Housing SPD (2013).

Design & Visual Amenity

23. No. 28 Flavells Lane is a large two storey detached house which sits immediately adjacent to the site. Under the previous applications it was considered that the proposed bungalow would have a poor visual relationship with this neighbouring dwelling and this view was supported by the Planning Inspectorate. The application proposes changes to the scale, layout and design of the proposed development since the previously refused application. The bungalow is now proposed closer to the boundary with 44 Flavells lane in order to provide a greater degree of separation from 28 Flavells Lane. The design of the bungalow has also been amended to incorporate a higher hipped roof in an attempt to address the disparity between the scale of the proposed bungalow and that of no. 28. It is, however, considered that these measures do not overcome the previous reason for refusal and would result in a contrived design. The proposed bungalow would still appear dwarfed in relation to this much larger dwelling. It is still maintained that the relationship would detract significantly from the street scene and in this respect the proposed development would cause demonstrable harm to the character and appearance of the area contrary to The National Planning Policy Framework, saved Policy DD1 – Urban Design and DD4 – Development in Residential Areas of the Unitary Development

Plan (2005), Policies ENV3, CSP4 and HOU2 of the Black Country Core Strategy and the Council's Supplementary Planning Guidance – New Housing Development SPD (2013).

Residential Amenity

24. Whilst issues of residential amenity did not feature as a specific reason for refusal under the previously refused application, changes to the scale and siting of the bungalow are now proposed. It was considered that the bungalow proposed under P09/0960 was of a very limited height and on balance acceptable in amenity terms taking into account the comments made by the Planning Inspectorate following refusal of permission under application P00/50374. It is now considered that the increase in the scale of the bungalow would result in demonstrable harm to neighbouring amenity. In particular the relationship with the first floor side facing bedroom window within the flank wall of no. 28 Flavells Lane. This window overlooks the site and rear garden of no. 42 Flavells Lane and currently has limited outlook given its position and the existing use of the application site as a storage area for building materials. Whilst this window is at first floor level and not directly aligned with the bungalow, it is considered that the proposal would result in a loss of light and outlook given the increased scale of the bungalow and the difference in levels. In this respect, the application is considered to be contrary to saved UDP Policy DD4 – Development in residential Areas of the UDP.

25. The proposed bungalow would be higher and closer to the boundary with 44 Flavells Lane than the previously refused scheme. The separation distance between windows within the front elevation of 44 Flavells Lane and the flank wall of the proposed bungalow would be 16m which is greater than the minimum distance required between front/rear facing windows of one property and the gable of another. Two small windows are proposed in the flank wall of the bungalow which would serve the lounge. A 16m separation distance would be maintained from windows within the front wall of no. 44 and whilst this separation distance is significantly less than the separation usually required between facing habitable room windows (22m), this relationship is considered appropriate given that the

windows are secondary light sources and 44 is on a higher level. The use of obscure glazing can also be secured by condition.

26. It is considered that there would be no significant loss of outlook or light to windows within the front elevation 42 Flavells Lane and no significant loss of light to the garden of that property. A condition would, however, be necessary to secure the submission of proposed and existing levels details of the site and neighbouring land in order to ensure that no loss of privacy is experienced by adjacent properties.
27. The revised scheme does raise new concerns in terms of the relationship of the bungalow with properties opposite the site. The bungalow would now be more directly aligned with nos. 23 and 25 Flavells Lane and a 22m separation distance required between facing habitable room windows cannot, however be maintained with regards to windows in the front elevation of no. 25 which is set on a lower level. The highway is unusually narrow with no footways and it is therefore considered that the occupiers of no. 25 Flavells Lane would suffer a loss of privacy as a result of the proposal contrary to saved policy DD4 of the UDP.

Highway Safety

28. The Group Engineer (Development) raises no concerns in terms of any additional traffic movement resulting from the proposed development on the basis that the site has a permitted lawful use as storage yard for building materials. The Group Engineer (Development) considers that the proposed residential use is less intensive than the established use in terms of vehicular movements and improvements have also recently been undertaken at the junction of Flavells Lane and Cinder Road.
29. The development would provide 2 off street parking spaces and the Group Engineer (Development) is satisfied that the parking demands of the development can be met subject to the provision of an electric vehicle charging point.

Planning Obligations

30. Whilst the previous application was refused on the grounds that there was a lack of an undertaking to make a contribution towards local infrastructure there has been significant changes in policy since that application. The Black Country Core Strategy Policy DEL1 'Infrastructure Provision' now sets out the adopted policy framework for Planning Obligations within Dudley and the revised Planning Obligations SPD (2011) provides further detail on the implementation of this policy; these policy documents were prepared in accordance with national legislation and guidance on planning obligations.
31. 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.
32. The requirement for planning obligations for developments for single dwelling houses is no longer applicable and the development no longer attracts a financial contribution towards local infrastructure.

CONCLUSION

33. The site is too restricted in area and depth to accommodate the proposed development which would be out of context with the locality. The development would introduce a pattern of development which would be out of context in terms of its layout, scale and density. The site would appear cramped and overdeveloped and the proposed bungalow would appear dwarfed in comparison to the adjacent detached house. Efforts made to overcome the previous reasons for refusal raise new concerns in terms of neighbouring amenity which further demonstrates that the site is unsuitable for development for residential purposes. There would be demonstrable harm to neighbouring amenity, the street scene and the character and appearance of the area and the proposal therefore contravenes The National Planning Policy Framework together with the Black Country Core Strategy and the revised New Housing Development SPD (2013)

RECOMMENDATION

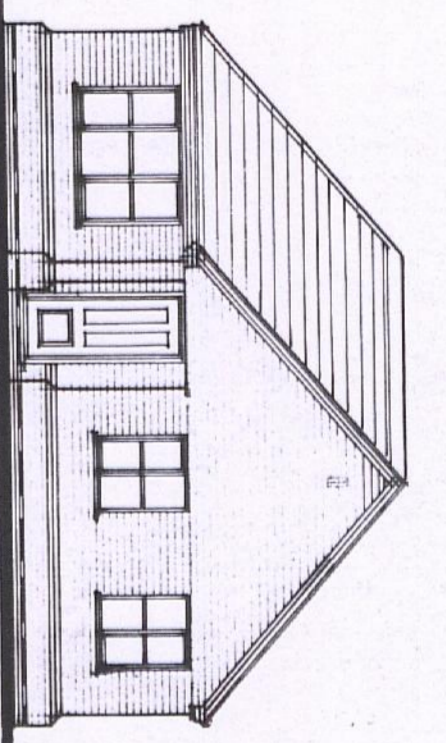
It is recommended that the application be refused for the following reasons;

1. The site is too restricted in area and depth to accommodate the proposed development which would be out of context with the locality in terms of its density and overly-prominent appearance to the detriment of the street scene and character and appearance of the area contrary to The National Planning Policy Framework, saved policies DD1 – Urban Design, DD4 – Development in Residential Areas, policies CSP4 – Place Making, ENV3 – Design Quality and HOU2 – Housing Density, Type and Accessibility of the Black Country Core Strategy and the revised New Housing Development SPD (2013)
2. The proposed development would be detrimental to privacy and neighbouring amenity due to its scale and layout which gives rise to overlooking, contrary to saved Policy DD4 – Development in Residential Areas of the Dudley UDP.

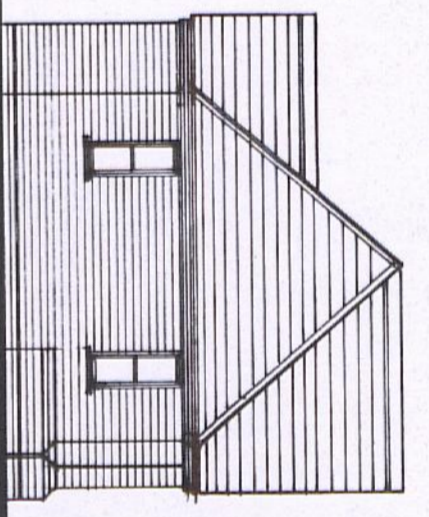
REFUSAL STATEMENT INFORMATIVE

The local planning authority is aware of the requirement of paragraph 186 and 187 in the National Planning Policy Framework to work with the applicant in a positive and proactive manner, seeking solutions to problems arising in relation to dealing with the application. In this case after careful balanced consideration the LPA/Officers considers that there are insurmountable technical issues regarding the appearance, layout and scale of the proposal that have not been satisfactorily resolved to demonstrate that the scheme would result in the creation of a sustainable form of development and thereby failing to improve the economic, social and environmental conditions of the area.

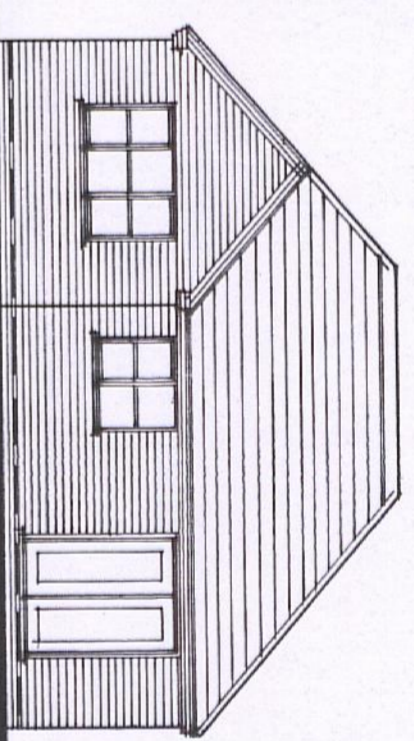




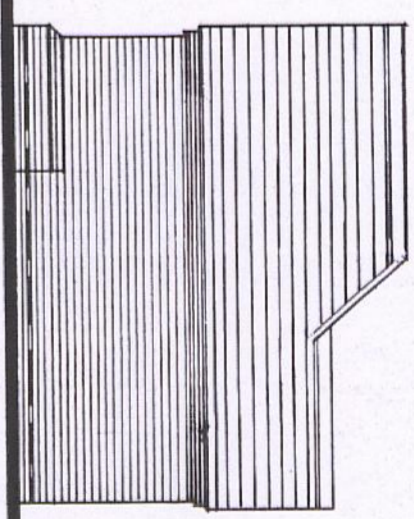
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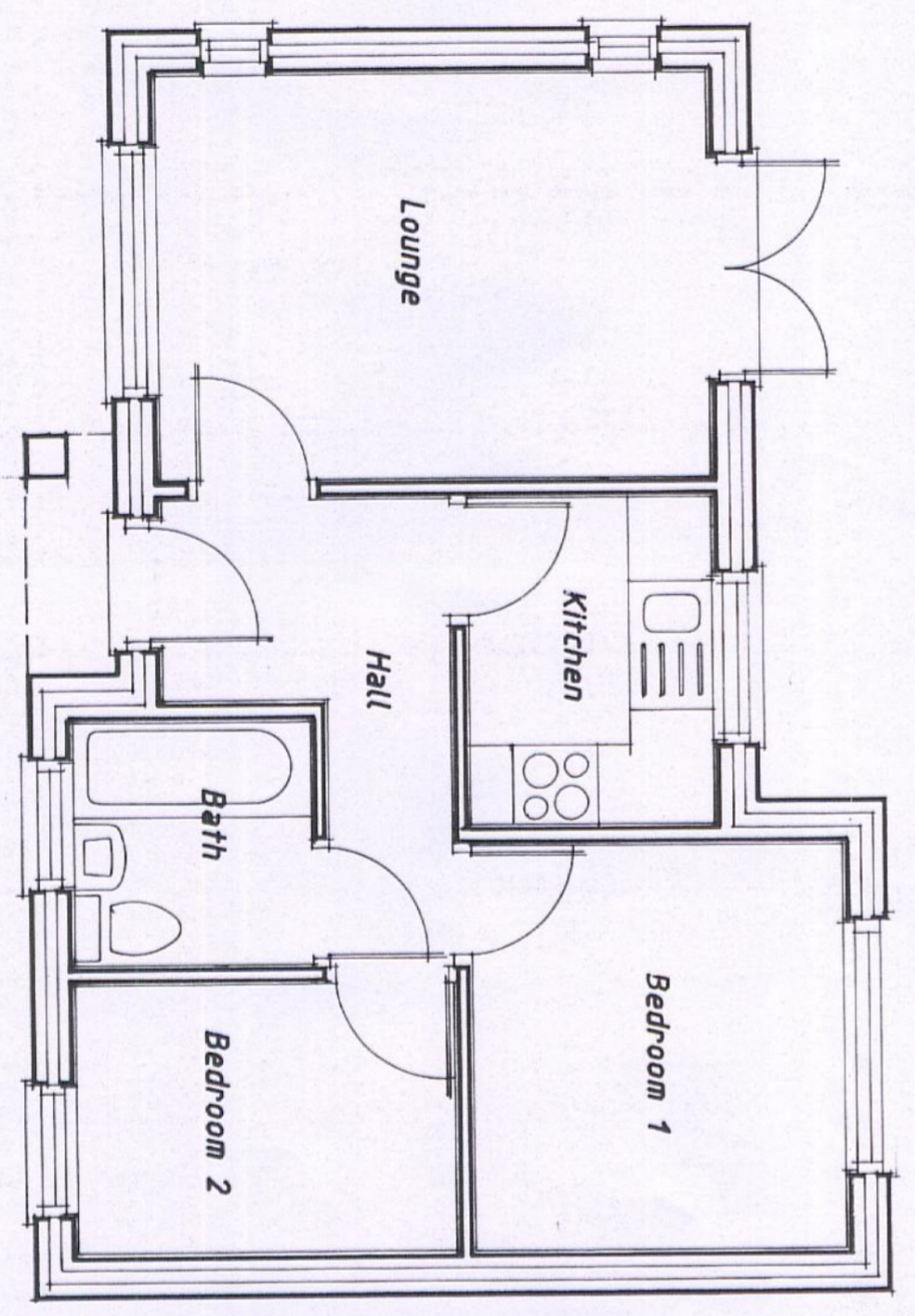
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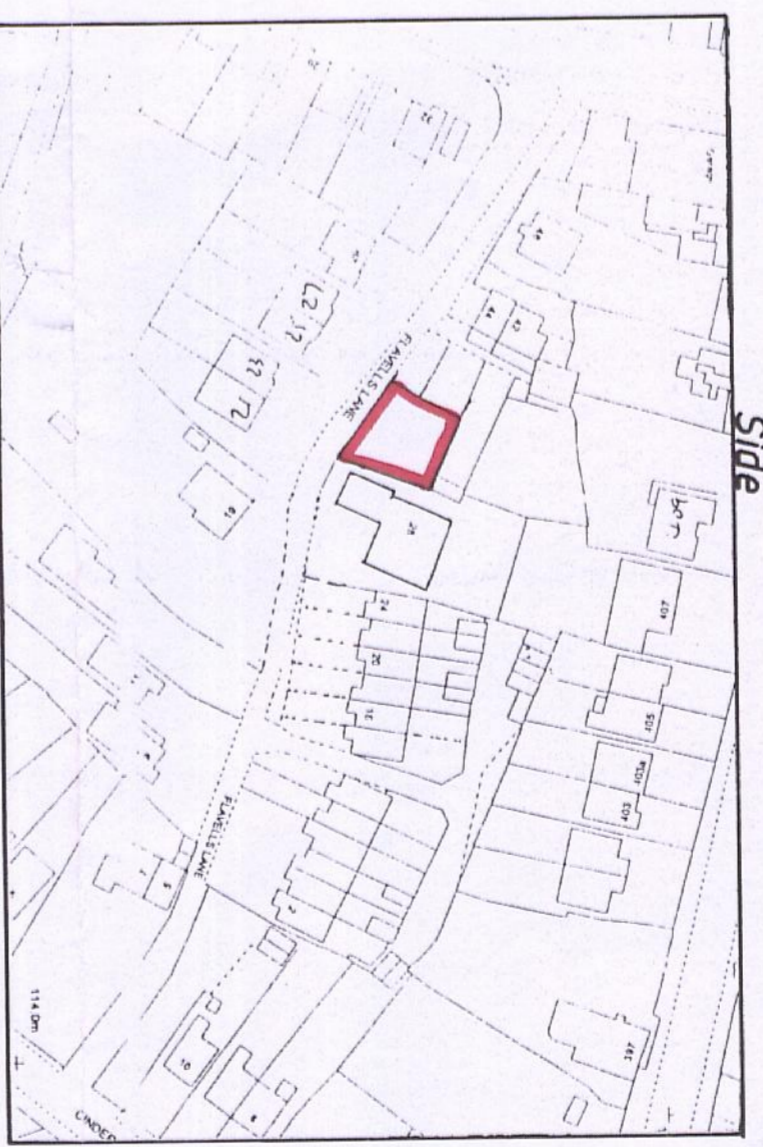
Rear



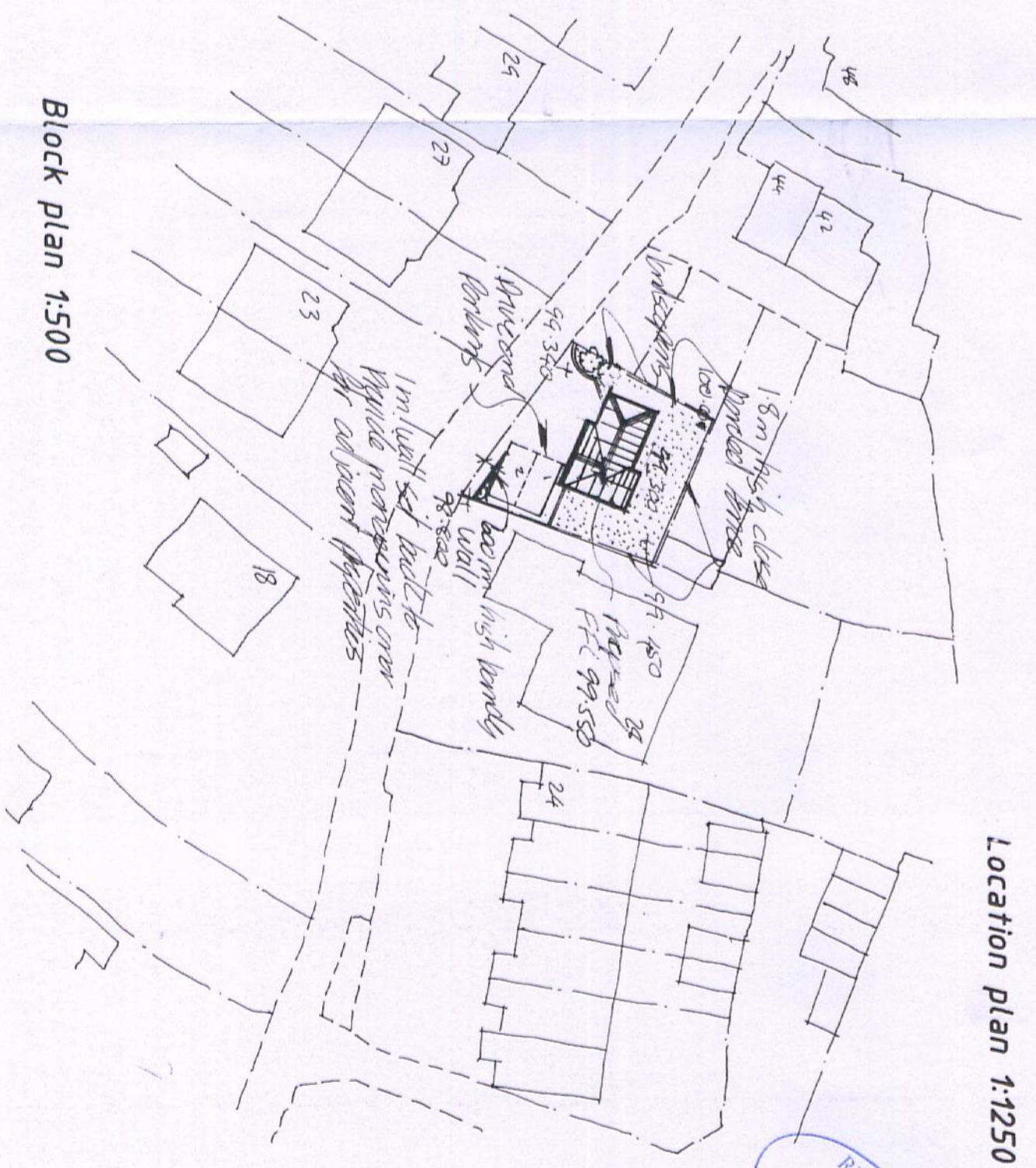
Side



Ground floor plan



Location plan 1:1250



Block plan 1:500

Proposed to client's comments
 Issues added

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 -5 MAR 2009

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 D E S I G N
 ARCHITECTURAL SERVICES
 CLEE VIEW BARN, EDGEHILL DRIVE, NORTHWAY,
 SEDGLEY, WEST MIDLANDS DY3 3RH
 TELEPHONE: 01902 654353

JOB TITLE
 Land adjacent to
 28 Flavells Lane
 Gornal Wood
 Dudley

SCALE
 1:50~1:100

DATE
 June 2009

DRAWING TITLE
 Proposed 2 bedroom bungalow

JOB NO.
 SB/09/100 B

DRAWING NO.

PLANS (A2) - P1310298