

## **PLANNING APPLICATION NUMBER:P23/1139**

Type of approval sought	Full Planning Permission
Ward	Coseley East Ward
Agent	Mr I. Lewis
Case Officer	Samuel Everton
Location:	<b>LAND BETWEEN UPPER ETTINGSHALL METHODIST CHURCH &amp;, 56, UPPER ETTINGSHALL ROAD, COSELEY, WV14 9QS</b>
Proposal	<b>ERECTION OF 1 NO. DWELLING WITH ASSOCIATED WORKS</b>
Recommendation Summary:	<b>APPROVE SUBJECT TO CONDITIONS</b>

### **SITE AND SURROUNDINGS**

1. The application site comprises an area of land between Upper Ettingshall Methodist Church and No. 56 Upper Ettingshall Road, located within a residential area in Coseley.
2. The site is vacant, comprising a grassed area bound by a footrail and closedboard and palisade fencing. A mature tree is also located within the site adjacent to the southern boundary.
3. The streetscene is predominantly residential and is comprised of a variety of two-storey dwellings of varying styles and finishes. To the western boundary of the site is the Upper Ettingshall Methodist Church which is a locally listed building (Ref No. 12070).

4. The site is unallocated within the Development Strategy, however it is located within a Mineral Safeguarding Area and a Coal Authority High Risk Area.

## PROPOSAL

5. The application seeks consent for the erection of a four bedroom detached dwelling.
6. The proposed dwelling would comprise a brick construction under a pitched roof and would be finished in facing brick and roof tiles. The proposed dwelling would comprise a footprint of 66m<sup>2</sup>, providing a gross internal area of 135m<sup>2</sup> over the three stories. The proposed dwelling would also benefit from a private garden to the rear which measures 90m<sup>2</sup> and four off-street car parking spaces to the front.

## RELEVANT PLANNING HISTORY

APPLICATION	PROPOSAL	DECISION	DATE
CO/64/3375	ERECTION OF 141 SEMI-DETACHED AND TERRACE HOUSES	Granted	20/01/1965
CO/64/3167	USE OF LAND FOR RESIDENTIAL PURPOSES.	Granted	17/03/1964

## PUBLIC CONSULTATION

7. The application has been advertised by way of letters being sent to neighbouring occupiers,
8. Councillor Drake (Coseley East) objects to the application for the following reasons
  - Proximity of coal mining and a mine shaft. This potentially makes it unsafe in terms of any ground disturbance and excavation.
  - The height of the property, specifically the second-floor bedroom where the loft would usually be, makes it out of character for the area. It would cause neighbouring properties to be unduly overlooked.
  - There may be drainage problems and risk of localised flooding if this is built on.
9. In addition, five further letters of objection have been received from surrounding neighbours objecting to the application on the following grounds.
  - Coal mining related risks and ground stability, including impacts to the adjacent church during any construction work.
  - Height of the proposed dwelling
  - Disruption created during construction works.
  - Location on brow of a hill and highways safety concerns
  - Drainage impacts to church car park.

## OTHER CONSULTATION

10. Highways Authority (AMEY)

No objection raised, provided general comments regarding access and parking requirements.

11. Land Contamination Team

No objection, subject to conditions.

12. Coal Authority

No objection, subject to conditions.

## RELEVANT PLANNING POLICY

13. Section 38 of the Planning and Compulsory Purchase Act 2004 requires planning applications to be determined in accordance with the provisions of the Development Plan, unless material considerations indicate otherwise.

14. The Development Plan currently comprises the Black Country Core Strategy (2011) and the Dudley Borough Development Strategy (2017). Relevant policies include: -

Black Country Core Strategy (2011)

- Policy HOU1 (Delivering Sustainable Housing Growth)
- Policy HOU2 (Housing Density, Type and Accessibility)

- Policy TRAN2 Managing Transport Impacts of New Development
- Policy ENV 2 Historic Character and Local Distinctiveness
- Policy ENV 3 Design Quality

#### Dudley Borough Development Strategy (2017)

- Policy S1 (Presumption in favour of Sustainable Development)
- Policy S6 (Urban Design)
- Policy S11 Buildings of Local Historic or Architectural Importance
- Policy L1 (Housing Development, extensions and alterations to existing dwellings)

#### 15. National Planning Policy Framework

16. The NPPF (December 2023) sets out the Government's position on the role of the planning system in both plan-making and decision-taking. It states that the purpose of the planning system is to contribute to the achievement of sustainable development, in economic, social and environmental terms, and it states that there should be "presumption in favour of sustainable development" and sets out what this means for decision taking.

17. The NPPF (December 2023) confirms the plan-led approach to the planning system and that decisions must be made in accordance with the Development Plan unless material considerations indicate otherwise.

18. Relevant paragraphs within the NPPF include paragraphs: -

8:	Three dimensions of Sustainable Development
11-14:	The Presumption in favour of Sustainable Development
47-50:	Determining Applications
131, 135, 137, 139:	Achieving Well-Designed and Beautiful Places
189 - 190:	Ground Conditions and Pollution
224, 225:	Implementation

19. Other relevant documents include: -

Dudley Council Residential Design Guide Supplementary Planning Document (2023).

Parking Standards Supplementary Planning Document (2017).

Manual for Streets.

## ASSESSMENT

20. The determining issues for the assessment of the proposed development include:-

- i) Principle of the development.
- ii) Design and impact on the character and form of the area.
- iii) Impact on residential amenity.
- iv) Impact on highway safety.
- v) Ground conditions and contamination

vi) Community Infrastructure Levy

Principle of the Development

21. The NPPF, the Black Country Core Strategy and Policy S1 of the Development Strategy advocate a presumption in favour of sustainable development unless material considerations indicate otherwise. The site is unallocated and is therefore a windfall site and is comprised of vacant land within an existing residential area.
22. Policy L1 goes onto state that housing development will be supported on sites in sustainable locations, provided that the proposed dwelling would make a positive contribution to the character of the area and addresses other specific considerations.
23. In this respect, it is noted that the application site situated within the main built-up area of Coseley and within close distance to Sedgley District Centre and Rosewood Local Centre which offers a wide variety of goods and services to serve the day to day needs of the community and good access by public transport to centres of employment. Therefore, the application site is considered to be a sustainable location and the proposed residential development would be compatible with surrounding land uses. As such, the proposed dwelling would be acceptable in principle at this location.
24. Notwithstanding the above, although the proposal may be considered to be acceptable in principle it is still required to meet the provisions within

the development plan in respect to matters of detail. The next part of this report will go to consider the proposal in this respect.

### Design and the Impact on the Character and Form of the Area

25. The proposed dwelling would comprise infill development that would comfortably fit into its plot and would be of a suitable design that is reflective of the character and is of a suitable size and scale for the plot and the built form of the wider area.
26. The neighbour's comments regarding the height of the proposed dwelling are noted, however the proposal presents itself as a two-storey from the streetscene and would only be 0.36m higher than the adjoining dwelling at No. 56 which is marginal. As such, the height of the proposal is considered acceptable and not out of character with the streetscene.
27. Therefore, having had regard to Policies S6 and S11 of the Development Strategy, Policies ENV2 and ENV3 of the BCCS, the Residential Design SPD, and the requirements contained within the NPPF, it is considered that the proposal would be acceptable in respect to its impact on the character and form of the area.

### Impact on Residential Amenity

28. The material considerations in respect to residential amenity include the potential for overlooking, impact on outlook and loss of light to neighbouring dwellings and also the amenity for occupiers of the proposed dwelling.



29. In respect to overlooking, the Residential Design SPD recommends a minimum separation distance of 22m between front/rear facing habitable windows and 14m in cases where a habitable room window faces a two-storey flank wall of another property. The proposed dwelling would introduce windows within its front elevation which would face the properties opposite at a distance of 24m and windows within its rear elevation at a distance of 33m. The proposal would also introduce windows within its southern side elevation which would face the adjoining church at a distance of 21m. As such the proposal meets the minimum separation distances between dwellings as set out in the design guidance. In respect to garden areas, the proposal would face the rear garden areas of the adjoining neighbour's gardens at No's. 10 Paul Street and No. 54 Butterworth Close at a 11.5m distance. However, the proposed garden meets the minimum recommended 11m depth and given the siting of the proposed dwelling and the orientation of neighbours gardens, any overlooking from rear windows would be to the rear areas of these gardens which are not intimate areas of the properties that would be sensitive to overlooking. Therefore, the proposal would not result in any significant degree of overlooking impact that would be detrimental to neighbours amenity.

30. In respect to assessing the potential for loss of light to neighbouring properties, the Design SPD recommends the application of the 45-degree daylight test for windows serving principal rooms. The proposal would not intersect any rear facing habitable windows at neighbours properties and as such would not result in a significant degree of loss of light to neighbouring properties. In addition, given the siting of the

proposed dwelling relative to neighbouring properties, the proposal would not result in any significant degree of overshadowing to neighbours garden areas.

31. In terms of amenity for occupiers of the proposed dwelling, the proposal would have an internal area of 135m<sup>2</sup> for the dwelling, which meets the Nationally Described Space Standards for a four-bedroom, three-storey dwelling. The proposal would also benefit from unrestricted light sources to all habitable rooms and would benefit overall from and good standard of outlook.
32. In terms of relevant garden size and amenity space, the proposed dwelling would meet the minimum recommendation of 65sqm for outdoor amenity space, with the rear garden area measuring over 90sqm and meeting the minimum recommended length of 11m.
33. Finally, the neighbour's concerns regarding noise and disruption from any construction activity as a result of the dwelling are noted. However, construction activity is of a temporary nature and officers would advise that the Council has powers under separate legislation to investigate any noise or nuisance issues that may arise. The neighbour would be advised to contact the Council's Environmental Health and Safety Team should any such issues arise.
34. Following the above, it is considered that the proposed dwelling would not have a significant adverse impact on the amenity for occupiers of the surrounding dwellings and would provide an acceptable standard of amenity to future occupiers. It is therefore considered that the design of

the proposal is acceptable, and it would meet the requirements of the NPPF, Policy L1 of the Dudley Borough Development Strategy and the Council's Residential Design SPD.

#### Impact on Highway Safety

35. The proposal would meet the parking standards for a four-bedroom dwelling, and the proposed conditions address the general observations of the Highways officer. Therefore, subject to conditions, the proposal would not result in a detrimental impact on highways safety and therefore would be in accordance with Policy L1 of the Development Strategy and Paragraph 115 of the NPPF.

#### Ground Conditions and Contamination

36. The neighbours' concerns in regard to land stability and impacts on neighbouring properties and the adjoining church are noted. Indeed, the site is located within a Coal Mining High Risk Area and the adjoining church is of a significant age (built in the 19<sup>th</sup> Century). Paragraph 183a of the NPPF states that planning policies and decisions should ensure that a site is suitable for its proposed use taking account of ground conditions and any risks arising from land instability and contamination.
37. In this respect, the proposal is supported by a Coal Mining Risk Assessment which has identified whilst there are no mine entries recorded on the site, there is a relatively high potential for unrecorded shallow workings to be present, which may contain voids that present a risk for surface subsidence. There was also a mine shaft recorded

northwest of the site, although the risk of collapse resulting in damage or harm to the site was deemed to be low.

38. As such, the Risk Assessment and the comments of the Coal Authority recommend that an intrusive site investigation be carried out prior to any development being carried out to ascertain the ground conditions and following this the carrying out of any required mitigation measures to ensure that the site is safe for the proposed development.
39. It is also noted that the potential for shallow worked coal beneath the site which presents a gas risk to the proposed development and this was identified by the Council's Contaminated Land Team.
40. As such, the Contaminated Land Team recommend conditions requiring a risk assessment for ground gases and vapours be submitted along with further conditions requiring further remediation measures and investigations subject to the report's findings. As such, it is recommended that these conditions be included on the decision should permission be granted.
41. Finally, officers would add that Paragraph 190 of the NPPF states that where a site is affected by contamination or land stability issues, responsibility for securing a safe development rests with the developer and/or landowner.
42. Therefore, in light of the above, it is considered that subject to the carrying out of the investigations and remediation works required by the aforementioned conditions, the Authority can be satisfied that the

decision would ensure that the site would be suitable for the proposed development.

### Community Infrastructure Levy

43. The proposal is liable for CIL but the site falls within Zone 1 which has a £0 rate thus no CIL charge is required.

### Other Issues

44. The neighbours comments in regard to drainage of the adjacent church car park as a result of any groundworks for the proposed dwelling are noted. However, the application site is not located within a flood risk zone and there is no reason to suspect that the proposal would cause any significant impact on the local drainage network. Notwithstanding, it is recommended that a condition be included on any permission given to ensure that the front drive uses a porous material.

## CONCLUSION

45. In respect to all matters of acknowledged interest and policy tests it is considered that the proposal, subject to the attached conditions, would not result in any significant harm to acknowledged interests and is therefore considered to be in accordance with the Development Plan.

## RECOMMENDATION

46. It is therefore recommended that the application be APPROVED subject to the attached conditions.

### Conditions and/or reasons:

1. The development hereby permitted shall be begun before the expiration of three years from the date of this permission.  
REASON: To comply with Section 91(1) of the Town and Country Planning Act, 1990 as amended by Section 51 of the Planning and Compulsory Purchase Act 2004.
2. The development hereby permitted shall be carried out in accordance with the following approved plans: Drawing No. 1449 - P - 001  
REASON: For the avoidance of doubt and in the interests of proper planning.
3. Prior to the commencement of above ground works a written schedule 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 unless otherwise agreed in writing by the Local Planning Authority.  
REASON: To ensure the satisfactory appearance of the development in accordance with BCCS Policy ENV2 - Historic Character and Local Distinctiveness and Saved UDP Policies DD1 - Urban Design and Borough Development Strategy 2017 Policy S6 Urban Design and Policy L1 Housing Development, extensions and alterations to existing dwellings  
Policy D2 Incompatible Land Uses (in part)
4. No development shall commence until an assessment of the risks posed by any contamination has been submitted to and approved in writing by the Local Planning Authority. Such an assessment shall be carried out in accordance with authoritative UK guidance.  
REASON: These details are required prior to the commencement of development to ensure that the risks associated with any contamination are reduced to acceptable levels and that the health and wellbeing of future occupiers are protected and to ensure that the

development complies with Borough Development Strategy 2017 Policy D3 Contaminated Land.

5. Where the approved risk assessment (required by condition 4 above) identifies contamination posing unacceptable risks, no development shall commence until a detailed remediation scheme to protect the development from the effects of such contamination has been submitted to and approved in writing by the Local Planning Authority. Following approval, such remediation scheme shall be implemented on site in complete accordance with approved details unless otherwise agreed in writing by the Local Planning Authority.

REASON: These details are required prior to the commencement of development to ensure that the risks associated with any contamination are reduced to acceptable levels and that the health and wellbeing of future occupiers are protected and to ensure that the development complies with Borough Development Strategy 2017 Policy D3 Contaminated Land.

6. Following implementation and completion of the approved remediation scheme (required by condition 5 above) and prior to the first occupation of the development, a verification report shall be submitted to and approved in writing by the Local Planning Authority to confirm completion of the remediation scheme in accordance with approved details.

REASON: To ensure that the risks associated with any contamination have been reduced to acceptable levels and that the health and wellbeing of future occupiers are protected and to ensure that the development complies with Borough Development Strategy 2017 Policy D3 Contaminated Land and the NPPF.

7. No development shall commence until an assessment of the risks posed by any ground gases or vapours has been submitted to and approved in writing by the Local Planning Authority. Such an assessment shall be carried out in accordance with authoritative UK guidance.

REASON: These details are required prior to the commencement of development to ensure that the risks associated with any contamination are reduced to acceptable levels and that the health and wellbeing of future occupiers are protected and to ensure that the development complies with Borough Development Strategy 2017 Policy D3 Contaminated Land.

8. Where the approved risk assessment (required by condition No. 7 above) identifies contamination posing unacceptable risks, no development shall commence until a detailed remediation scheme to protect the development from the effects of such contamination has

been submitted to and approved in writing by the Local Planning Authority. Following approval, such remediation scheme shall be implemented on site in complete accordance with approved details unless otherwise agreed in writing by the Local Planning Authority. REASON: These details are required prior to the commencement of development to ensure that the risks associated with any contamination are reduced to acceptable levels and that the health and wellbeing of future occupiers are protected and to ensure that the development complies with Borough Development Strategy 2017 Policy D3 Contaminated Land.

9. Following implementation and completion of the approved remediation scheme (required by condition No. 8 above) and prior to the first occupation of the development, a verification report shall be submitted to and approved in writing by the Local Planning Authority to confirm completion of the remediation scheme in accordance with approved details.

REASON: To ensure that the risks associated with any ground gases or vapours have been reduced to acceptable levels and that the health and wellbeing of future occupiers are protected and to ensure that the development complies with Borough Development Strategy 2017 Policy D3 Contaminated Land and the NPPF.

10. No part of the development shall be occupied until visibility splays to the new access have been provided at the junction between the proposed means of access and the highway with an 'x' set back distance of 2.4 metres and a 'y' distance of 43 metres. No structure or vegetation exceeding 600mm in height above the adjoining highway shall be placed or allowed to grow within the visibility splay for the life of the development unless otherwise agreed in writing by the Local Planning Authority.

REASON: In the interests of highway safety and to comply with Borough Development Strategy 2017 Policy S6 Urban Design, Policy L1 Housing Development, extensions and alterations to existing dwellings

Policy D2 Incompatible Land Uses (in part) and policies CSP5, DEL1, TRAN2, CEN8 and TRAN5.

11. No above ground development shall commence until;
  - a) a scheme of intrusive investigations has been carried out on site to establish the risks posed to the development by past shallow coal mining activity; and
  - b) any remediation works and/or mitigation measures to address land instability arising from coal mining legacy, as may be necessary, have been implemented on site in full in order to ensure that the site is



made safe and stable for the development proposed.

The intrusive site investigations and remedial works shall be carried out in accordance with authoritative UK guidance.

REASON: The site has most likely have been affected by historic coal mining and such the applicant needs to demonstrate that development can proceed without impacting on the stability of the site. Consideration has been given to Dudley Borough Development Strategy Policy D4 - Unstable Land

12. Prior to the occupation of the development, or it being taken into beneficial use, a signed statement or declaration prepared by a suitably competent person confirming that the site is, or has been made, safe and stable for the approved development shall be submitted to the Local Planning Authority for approval in writing. This document shall confirm the methods and findings of the intrusive site investigations and the completion of any remedial works and/or mitigation necessary to address the risks posed by past coal mining activity.

REASON: The site has most likely have been affected by historic coal mining and such the applicant needs to demonstrate that development can proceed without impacting on the stability of the site. Consideration has been given to Dudley Borough Development Strategy Policy D4 - Unstable Land

13. In order to minimise the impact of the development on local air quality, any gas boilers provided within the development must meet a dry NO<sub>x</sub> emission concentration rate of <40mg/kWh.

REASON: To safeguard the air quality of the Borough which is an Air Quality Management Area in compliance with the Black Country Core Strategy Policy ENV8 and the adopted Air Quality SPD.

14. No above ground development shall begin until details of the types, sizes and locations of the boundary treatments around the site and between the proposed plots has been submitted to and approved in writing by the Local Planning Authority. The boundary treatments shall be carried out in complete accordance with the approved details prior to the occupation of the dwellings hereby approved and shall thereafter retained for the lifetime of the development unless otherwise agreed in writing with the Local Planning Authority

REASON: In order to make a positive contribution to place-making and provide a high quality public realm in accordance with BCCS Policies CSP4 - Place-Making, ENV 2 Historic Character and Local Distinctiveness, ENV3 - Design Quality and DEL1 - Infrastructure Provision and Borough Development Strategy 2017 Policy S6 Urban Design and

Policy L1 Housing Development, extensions and alterations to existing dwellings

Policy D2 Incompatible Land Uses (in part)

This detail is required prior to the commencement of above ground works as the required works may need to be incorporated into buildings on the site and as well as needing to protect the amenity of existing and proposed occupiers.

15. No development shall commence (excluding demolition, site clearance and initial ground works) until full details of the soft landscaping scheme for the site have been 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 first occupation of the development.

Any trees or shrubs planted in pursuance of this permission including any planting in replacement for which is removed, uprooted, severely damaged, destroyed or dies within a period of five years from the date of planting shall be replaced by trees or shrubs of the same size and species and in the same place unless otherwise agreed in writing by the Local Planning Authority.

REASON: In order to make a positive contribution to place-making and provide a high quality landscaping in accordance with BCCS Policies CSP4 - Place-Making, ENV 2 Historic Character and Local Distinctiveness, ENV3 - Design Quality and DEL1 - Infrastructure Provision and Borough Development Strategy 2017 Policy S6 - Urban Design and Policy L1 Housing Development, extensions and alterations to existing dwellings and Policy D2 Incompatible Land Uses (in part). This detail is required pre commencement (excluding demolition, site clearance and initial ground works) as landscaping is integral to providing a high quality and sustainable development.

16. The parking area hereby approved shall be completed with a surface and sub-strata that is permeable, or provision shall be made to direct run-off water from the hard surface to a permeable area within the curtilage of the dwelling house, which shall be retained as such for the life of the development.

REASON: To provide a necessary facility in connection with the proposed development and to prevent uncontrolled runoff of rainwater from front gardens onto public roads/drainage in accordance with BCCS Policy ENV5 and Borough Development Strategy 2017 Policy S5 Minimising Flood Risk and Sustainable Drainage Systems (SuDS).





Front Elevation  
at 1:100 Scale

Side Elevation  
at 1:100 Scale



Rear Elevation  
at 1:100 Scale

Side Elevation  
at 1:100 Scale

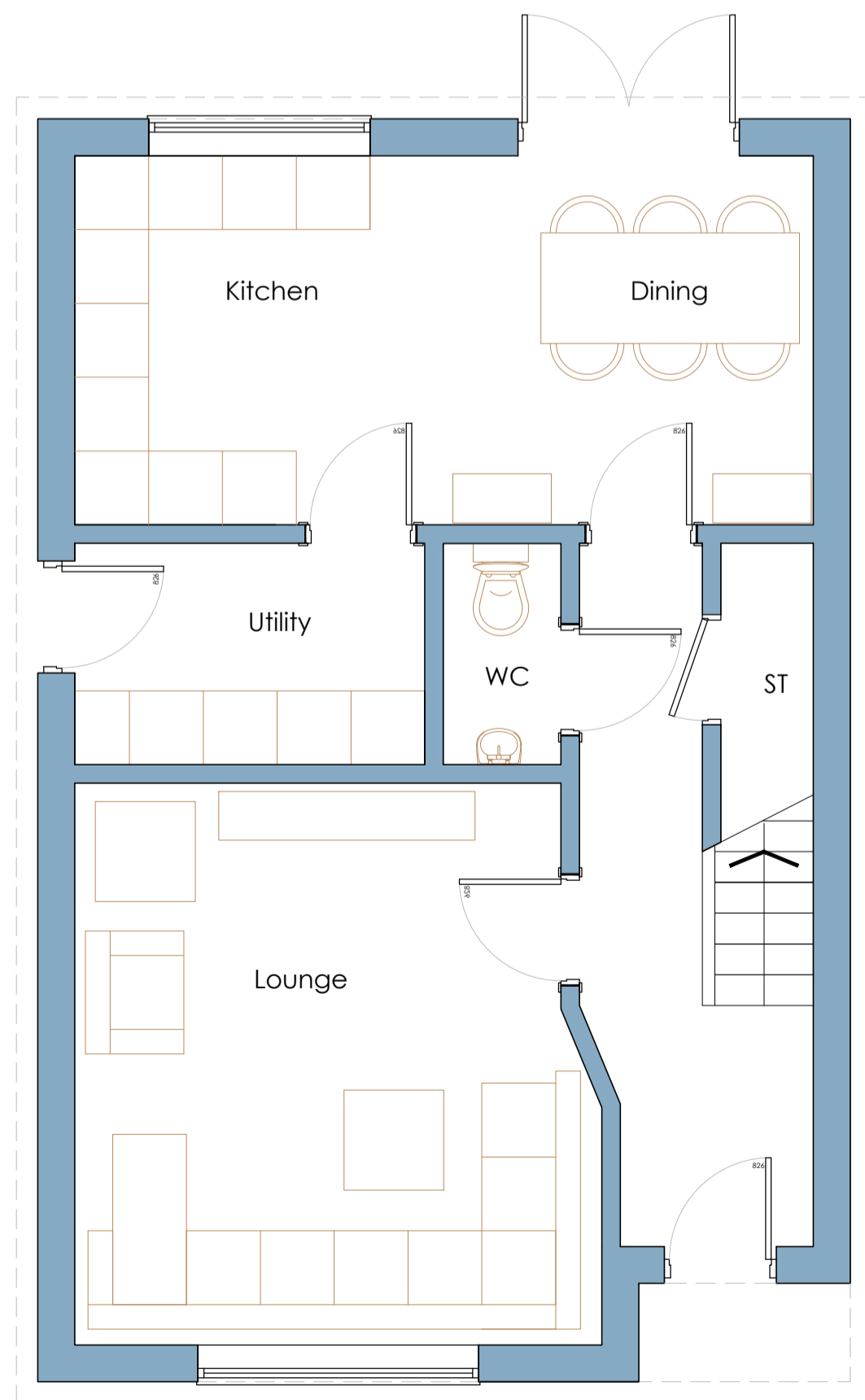


Landscape plan  
at 1:100 Scale

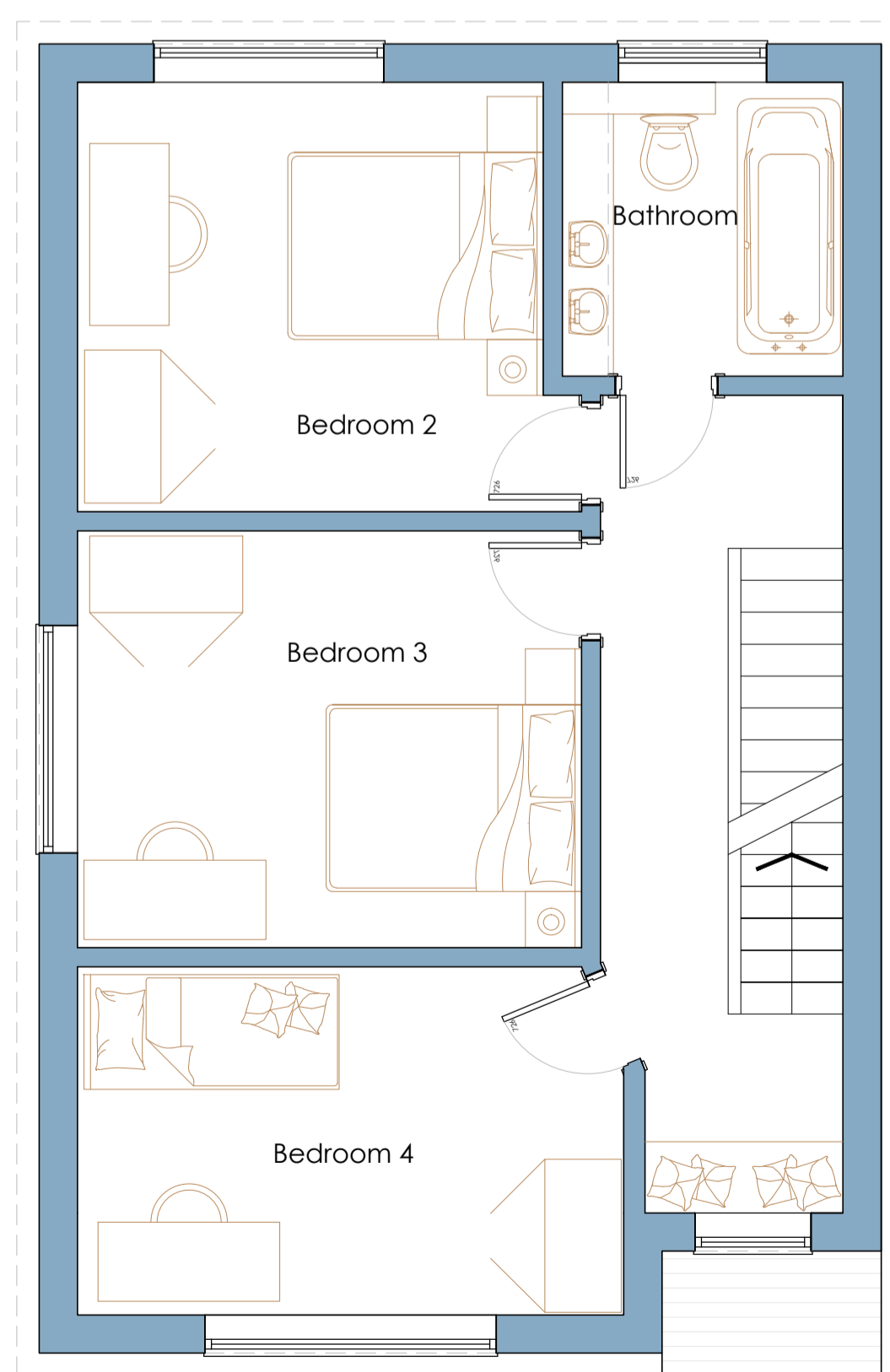


Proposed Block Plan  
at 1:500 Scale

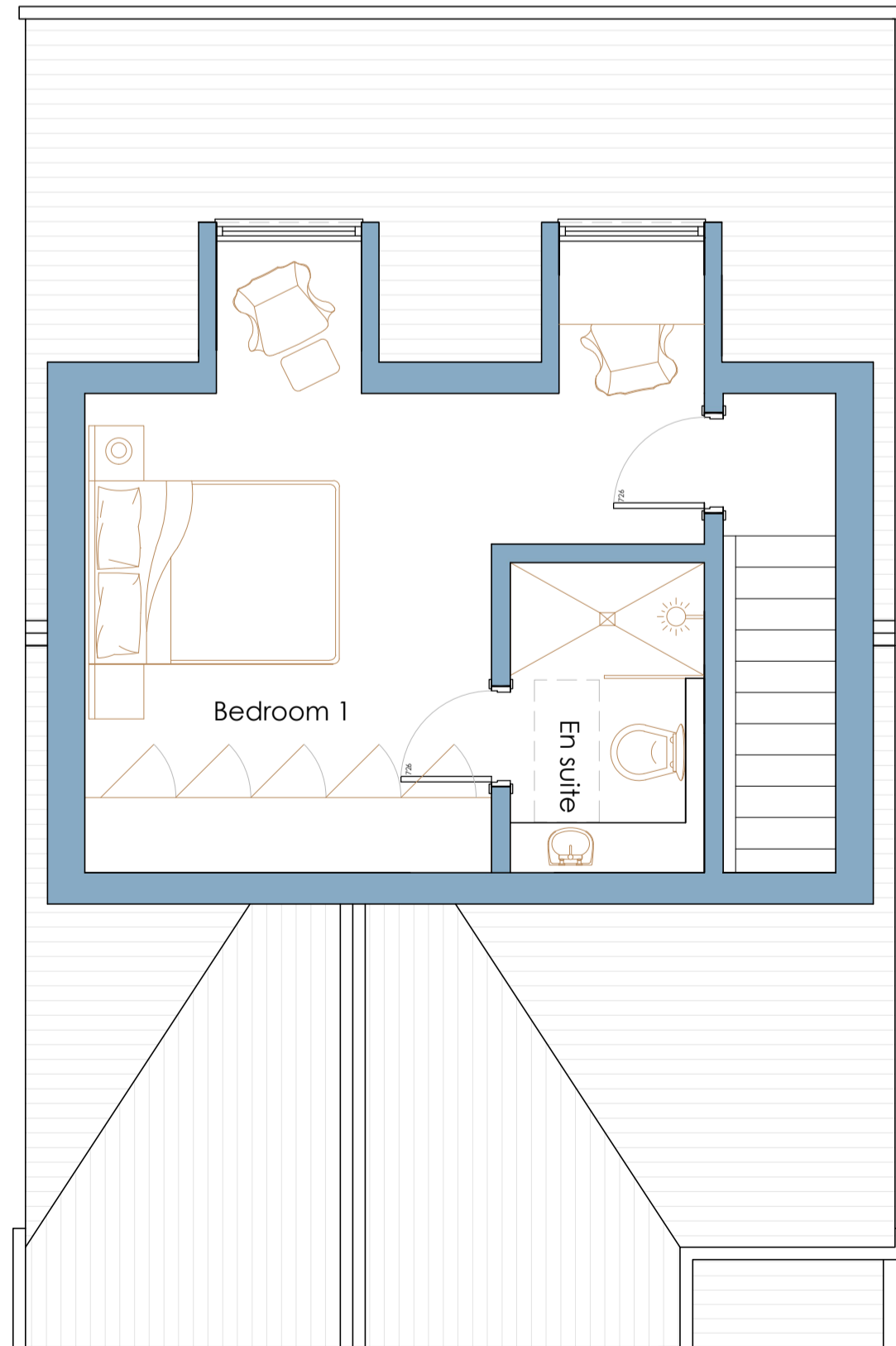
Existing Block plan  
at 1:500 Scale



Ground Floor Plan  
at 1:50 Scale



First Floor Plan  
at 1:50 Scale



Second Floor Plan  
at 1:50 Scale



Site Location Plan  
at 1:1250 Scale

rev	date	drawn	chk'd
			
13 Lower Green • Tettenhall • WV6 9AH			
project title 1449 - Upper ettingshall road			
drawing title 1449 - Plans and Elevations			
drawing no. <span style="float: right;">rev</span> 1449 - p - 001			
scale @ A1		date 09.08.23	
drawn by JS	checked by TL	authorised by TL	
<a href="http://www.lewis-architecture.co.uk">www.lewis-architecture.co.uk</a>			