

# PLANNING APPLICATION NUMBER:P10/1627

Type of approval sought	Full Planning Permission
Ward	ST THOMASS
Applicant	Mr Mark Burkes, I P Developments & Burson Land Ltd
Location:	<b>PROPOSED HOUSING DEVELOPMENT, PROSPECT ROW, DUDLEY, DY2 8SQ</b>
Proposal	<b>DEMOLITION OF EXISTING PUBLIC HOUSE AND ERECTION OF 14 NO. DWELLINGS AND ASSOCIATED CAR PARKING AND EXTERNAL WORKS (RESUBMISSION OF APPROVED APPLICATION P09/1614)</b>
Recommendation Summary:	<b>APPROVE SUBJECT TO A 106 AGREEMENT</b>

## INTRODUCTION

1. Members will recall that planning permission was granted at Development Control Committee on 2<sup>nd</sup> February 2010 for the erection of 14 no. dwellings at this site by application no. P09/1614. The 14 no. dwellings comprised 1 no. 3 bed detached, 3 no. 2 bed detached and 10 no. 2 bed semi-detached dwellings.
2. Work has begun on site and the 7 no. dwellings that face Prospect Row have been built. The 7 no. dwellings at the rear have not yet been built.
3. In comparison to the previous approval, this application would replace two of the 2 no. bed semis at the rear with two 3 no. bed semis, otherwise the application is identical to the previous approval P09/1614.

## SITE AND SURROUNDINGS

4. The application site (the former Struggling Man Public House) is located in Prospect Row 750m south of Dudley Town Centre. The site formerly comprised parking to the front and a decking area, the public house itself and its land to the rear. The site was

cleared and previously approved development commenced to the near completion of seven dwellings to the site frontage. To the south of the site is an allotment site, separated from the application site boundary by an overgrown public right of way which runs from Prospect Row to Tetrall Street. This right of way also runs to the west of the site towards the Dudley Southern By-Pass, some 60m from the rear of the application site. Adjoining the north of the site are two storey semi-detached residential flats and to the east (opposite the site) are residential properties in Paradise and Buffery Park.

5. Prospect Row itself runs uphill to the north towards Spring Gardens, where the road levels out. The neighbouring residential flats at nos. 36 and 37 Prospect Row are at a higher level than the adjoining application site.

## PROPOSAL

6. The proposed development is a full application for 14 houses comprising 1 no. 3 bed detached, 3 no. 2 bed detached, 2 no. 3 bed semi detached dwellings and 8 no. 2 bed semi-detached dwellings. The scheme also includes an access road, parking and landscaping. This development differs from that previously approved by the addition of an extra garage with bedroom above between plots 9 and 10 which otherwise occupy the same footprint and enlarges these dwellings from two to three bedroom.
7. The application is accompanied by a Design and Access Statement and a bat and badger survey.

## HISTORY

8.

<b>APPLICATION No.</b>	<b>PROPOSAL</b>	<b>DECISION</b>	<b>DATE</b>
P09/1614	Demolition of existing Public House and erection of 14 no. dwellings with associated car parking and external works.	Granted	02/02/10
P08/0852	Outline application for residential development comprising 23 no. units (16 no. apartments and 7 no. terraced houses.	Granted	16/07/08
P07/2141	Outline application for residential development comprising 23 no. units.	Refused	15/05/08

9. The application P07/2141 was refused due to the failure of the scheme to provide any of the units as affordable housing, contrary to Policies H5, S1 and S8 of the adopted UDP (2005) and the SPD – Affordable Housing.

## PUBLIC CONSULTATION

10. The application has been advertised by way of neighbour notification, press and site notice. Public Consultation time expires 31<sup>st</sup> December 2010, no objections had been received at the time of writing the report.

## OTHER CONSULTATION

11. Head of Environmental Health & Trading Standards – no adverse comments subject to conditions relating to land contamination, ground gases and vapours and the submission of a scheme for protecting the proposed dwellings from noise from the Dudley Southern By-Pass.
12. Group Engineer (Development) – Concerns are raised relative to the under sized garages and driveways proposed for plots 9 and 10.

## RELEVANT PLANNING POLICY

### 13. Dudley Unitary Development Plan

- S2 Creating a More Sustainable Borough
- S8 Housing
- DD1 Urban Design
- DD4 Development in Residential Areas
- DD5 Development in Industrial Areas
- DD6 Access and Transport Infrastructure
- DD7 Planning Obligations
- DD8 Provision of Open Space, Sport and Recreation Facilities
- AM14 Parking
- H1 New Housing Development
- H3 Housing Assessment Criteria
- H5 Affordable Housing
- H6 Housing Density
- EP7 Noise Pollution
- NC6 Wildlife Species
- UR9 Contaminated Land

14. Supplementary Planning Document

New Housing Development – A Guide to Establishing Urban Context  
Parking Standards and Travel Plans  
Open Space, Sport and Recreation Provision  
Planning Obligations  
Nature Conservation

15. Supplementary Planning Guidance

Planning Guidance Note No. 3 – New Housing Development  
Planning Guidance Note No. 13 – Transport

16. National Planning Guidance

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

## ASSESSMENT

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

- Principle
- Density
- Layout/Scale/Residential Amenity
- Design
- Highways & Parking
- Nature Conservation
- Planning Obligations

### Principle

18. The application site comprised a public house and its respective land and the site does not have any specific designation within the adopted UDP (2005). The site adjoins residential properties and the immediate locality is characterised by residential dwellings, an allotment and the park opposite the site. The site has an extant planning approval (P09/1614) for 14 no. residential units on the site and the work has begun on this approved scheme. It is considered that the principle of residential development has been established with the current planning approval and is appropriate, in accordance with Policy H3 of the adopted UDP (2005).

### Density

19. The new scheme for 14 no. dwellings would remain at the previously approved density of 47 dwellings per hectare (dph). The properties in the locality are characterised by a wide mix of property types from flats to detached/semi detached with long gardens to terraced properties with very small gardens. The variety in house types and in particular the size of gardens, results in a density of 25 to 152 dph in the local area. As such the density of the development would be in accordance with the varied context of the area and in compliance with PolicyH6 of the adopted UDP (2005).

### Layout/Scale/Residential Amenity

20. The houses approved by application P09/1614 on the Prospect Hill frontage are a mixture of 7 detached and semi detached houses (2 no. pairs of semis and 3 no. detached). These houses are set back between 6.8 and 7m from the back of pavement, provide for 11 off street parking spaces in front of the houses and are unaltered by the current application.
21. At the rear of the site, the previously approved 7 dwellings included 3 pairs of two bedroom semi-detached and 1, three bedroom detached houses. This application

would revise two of the 2 no. bed semi-detached house to two 3 bed semi-detached houses by the addition of a garage with bedroom above located between the plots. The garages to these plots would measure 2.8m wide by 5.75m deep with a driveway depth of 5m. The garden depths would range from 10m to 10.5m long and the properties will overlook allotment gardens to the rear.

22. The design of the proposed development would reflect the 2 storey nature of the adjacent housing in the development. The scale of the development would therefore reflect the context of the locality in accordance with Policies DD1 and H3 of the adopted UDP (2005).

#### Highways & Parking

23. The car parking provision for the revised plots 9 and 10 is considered to be inadequate to satisfactorily accommodate two off street car parking spaces. The agent has been requested to amend submitted plans to provide garages of 6m X 3m and driveways of 5.5m which can be accommodated within the development. Access and car parking provision for the rest of the site is unaltered from the extant approval and is considered to remain appropriate given the proximity to Dudley Town Centre bus facilities and public transport routes. An update with regard to requested amendments will be provided to in a pre-Committee note.

#### Nature Conservation

24. A bat and badger survey submitted with the application confirmed that no bat roosts are present in the surveyed area and that there is no evidence of any badgers on site. Nature Conservation enhancements have, however, been required as part of the planning obligations and with appropriate conditions and mitigation, there is an opportunity to enhance the areas wildlife potential in compliance with UDP Policy NC6.

### Planning Obligations

25. The proposed development has a requirement to provide planning obligations to mitigate against the consequential planning loss to the existing community. Should permission be resolved to be granted a S106 Agreement would be required in respect of the following contributions.

### Offsite Contributions

26. The proposal attracts a requirement for a commuted sum to be paid towards the following infrastructure:
- Libraries - £2679.46
  - Open Space Sport & Recreation - £24159.09
  - Nature Conservation - £1549.08
  - Management and Monitoring Charge - £1000.00

Total Offsite Contribution equates to £29387.63

No Transportation Improvements are required due to a reduction in trip generation from the previous use as a public house. The applicant has not yet agreed to the provision of the planning obligations.

## **CONCLUSION**

27. Siting, external appearance and car parking provision (subject to amended plans) for the development 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

28. It is recommended that the application be approved subject to
- a) The applicant entering into a Section 106 Legal Agreement for the provision of the sum of £29387.63 for the provision, maintenance and enhancement of site public open space and play provision, nature conservation, transport improvements, library 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.
  - d) In the event that the Section 106 agreement has not been completed within two months of the resolution to grant approval, the application will be refused if appropriate.

### **REASON FOR APPROVAL**

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

The decision to grant planning permission has been taken with regard to the policies and proposals in the adopted Unitary Development Plan (2005) and to all other relevant material considerations.

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

### **INFORMATIVE**

The development hereby permitted shall be built in accordance with Drawing Nos. GD0892/01, GD0892/04, GD0892/05, GD0892/06, GD0892/07A, GD0892/08 and GD0892/100H, unless otherwise agreed in writing by the Local Planning Authority.

### **NOTE TO APPLICANT**

The grant of planning permission does not confirm the structural integrity of the proposed development. Local Planning Authorities do not have a duty of care to individual landowners when granting 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. The development hereby permitted shall be begun before the expiration of three years from the date of this permission.
2. Prior to first occupation of a dwelling the turning head, means of access and parking areas will be provided in accordance with the approved details, drained, levelled, surfaced and marked out and will be retained for no other purpose and maintained for the life of the development.
3. The landscaped areas shall be retained in the form shown on the approved plan throughout the life of the development and shall not be used for any other purpose, unless otherwise agreed in writing by the local planning authority.
4. Development shall not begin until details of the visibility splays to be provided at the junction between the proposed means of access and the highway have been

occupied until the visibility splays have been provided in accordance with the approved details.

5. Any trenches, including foundations, should be covered with boards and ramps placed in them overnight to limit their hazard to badgers. A protocol detailing this will be submitted to and approved in writing by the Council before any works proceed. All works must be carried out in accordance to the approved protocol.
6. A plan detailing suitable replacement native trees, and their establishment programme, should be submitted and approved in writing by the Council before any works proceed. All works must be carried out in accordance to the approved plan and programme.
7. 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.
8. No works should commence, or continue, if the most recent protected species survey and assessment is over 12 months old. These surveys and assessments must be of, or above, the standard detailed within the Nature Conservation SPD. They must include the whole of the site and be carried out by an experienced and qualified ecological consultant and integrated into a site mitigation plan. All of these must be submitted to and approved in writing by the Council before any works commence (or continue). All works must be carried out in accordance to the approved plan.
9. Detailed working protocols, based on good practice such as the Pollution Prevention Guidelines PPG1 (general) by the Environment Agency, should be prepared and adhered to during all works. These should ensure no negative impacts could occur, such as contamination, light pollution or disturbance affects the adjacent habitat and/or protected species. The location of the temporary compound should be identified on the plan for plant and material storage during construction. These protocols must be submitted and approved in writing by the Council before any works commence. All works must be carried out in accordance to the approved protocols.
10. If protected species are found during any stage of the development all works must stop immediately and Natural England, the project's ecologist and the Council's Nature Conservation Officer must be contacted immediately. Works should not recommence until relevant licences have been obtained and written permission is granted by Natural England and the Council.
11. The development shall not begin until a detailed plan at the scale of 1:100 that clearly shows the relationship of the delineation between the site boundary and the public right of way has been submitted to and approved in writing by the Local Planning Authority.
12. Development shall not begin until a scheme for protecting the proposed dwellings from noise from the Dudley Southern By-Pass has been submitted to and approved by the local planning authority, and all works which form part of the scheme shall be completed before any of the permitted dwellings is occupied and retained for the life of the development.

13. Development shall not begin until details of plans and sections of the lines, widths, levels, gradients and form of construction of service/access roads and drainage systems have been submitted to and approved by the local planning authority.
14. All the existing trees and hedges indicated on the approved drawings to be retained shall be protected by suitable fencing and at a suitable distance as outlined in BS:5837 – 2005 - 'Trees in Relation to Construction', or such alternatives as may be agreed in writing by the Local Planning Authority. Such fences shall be erected before any materials are brought onto site or development commences. No materials shall be stored, no rubbish dumped, no fires lit and no buildings erected inside the fence(s), nor shall any changes in ground level be made within the fence(s) unless previously agreed in writing by the Local Planning Authority.
15. The existing trees shown on the approved plans to be retained shall not be damaged or destroyed, uprooted, felled, lopped or topped during the construction period of the development without the prior written consent of the local planning authority. Any trees removed without such consent or dying or being seriously damaged or diseased during that period shall be replaced with healthy trees of such size and species as may be agreed in writing by the local planning authority.
16. All excavations to be undertaken within 6 metres of the stem of existing trees on site shall be undertaken in accordance with NJUG Publication number 10 'Guidelines for the Planning, Installation and Maintenance of Utility Services in proximity to Trees' .
17. Prior to the commencement of the development, details of the proposed retaining wall adjacent to the turning head shall be submitted to and approved in writing by the Local Planning Authority. The development shall proceed in accordance with the approved details prior to occupation and the wall shall be retained and maintained as approved for the lifetime of the development.
18. The development shall not begin until a detailed plan at a scale of 1:100 that shows the section of the site in relation to plots 8 – 14 and the adjacent public right of way has been submitted to and approved in writing by the Local Planning Authority.
19. An investigation of contamination must be completed in accordance with the following requirements:

a: Risk assessment

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.

b: Submission of remediation scheme

Where the approved risk assessment 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.

c: Implementation of approved remediation scheme

Unless otherwise agreed in writing with the LPA, the approved scheme 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.

20. An investigation of ground gases and vapours must be completed in accordance with the following requirements:

a: Risk assessment

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.

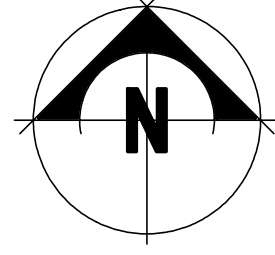
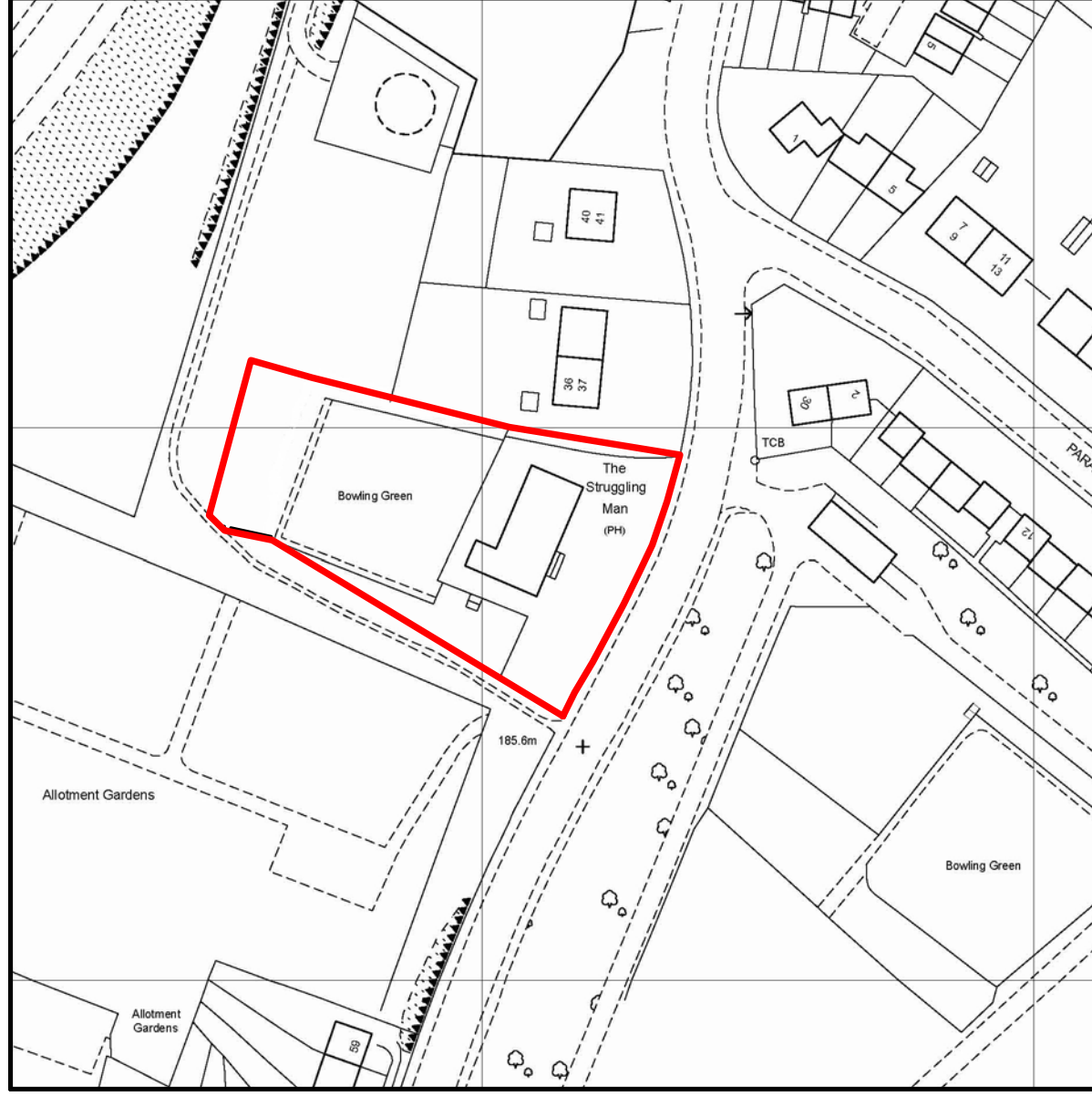
b: Submission of remediation scheme

Where the approved risk assessment 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.

c: Implementation of approved remediation scheme

Unless otherwise agreed in writing with the LPA, the approved scheme 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.

21. The development hereby permitted shall be carried out in accordance with the following approved plans: GD0892/01, GD0892/04, GD0892/05, GD0892/06 and GD0892/07A, GD0892/08 and GD0892/100H



LOCATION PLAN Scale 1:1250

client

I.P. DEVELOPMENTS &  
BURSON LAND LTD  
contract

drawing

LOCATION PLAN

date

NOV 2009

scale

1:1250

drawing no

GD0892/01

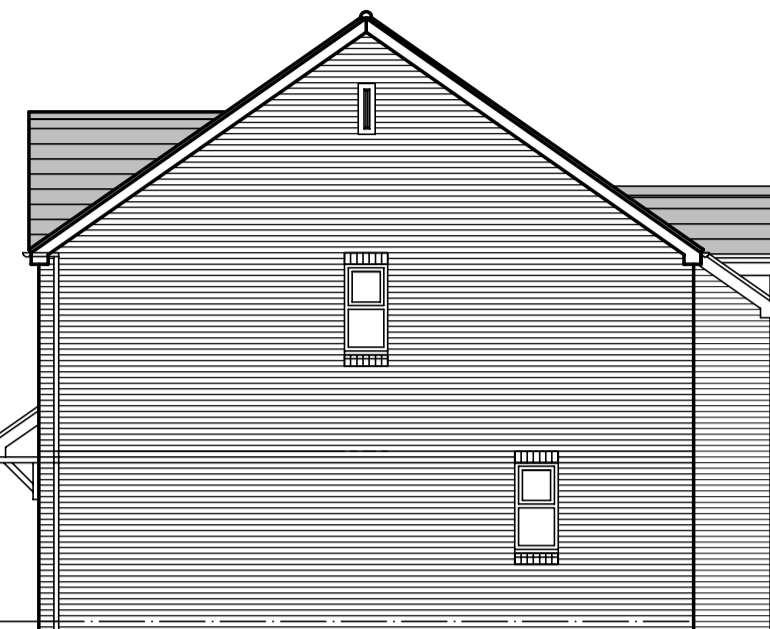
THE STRUGGLING MAN, PROSPECT ROW, DUDLEY

49, The Crescent,  
Cradley Heath,  
West Midlands,  
B64 7JS  
Tel 0121 602 6233  
Mob 079 39 436557

**GD** *Designs*  
Architectural Services



Front Elevation



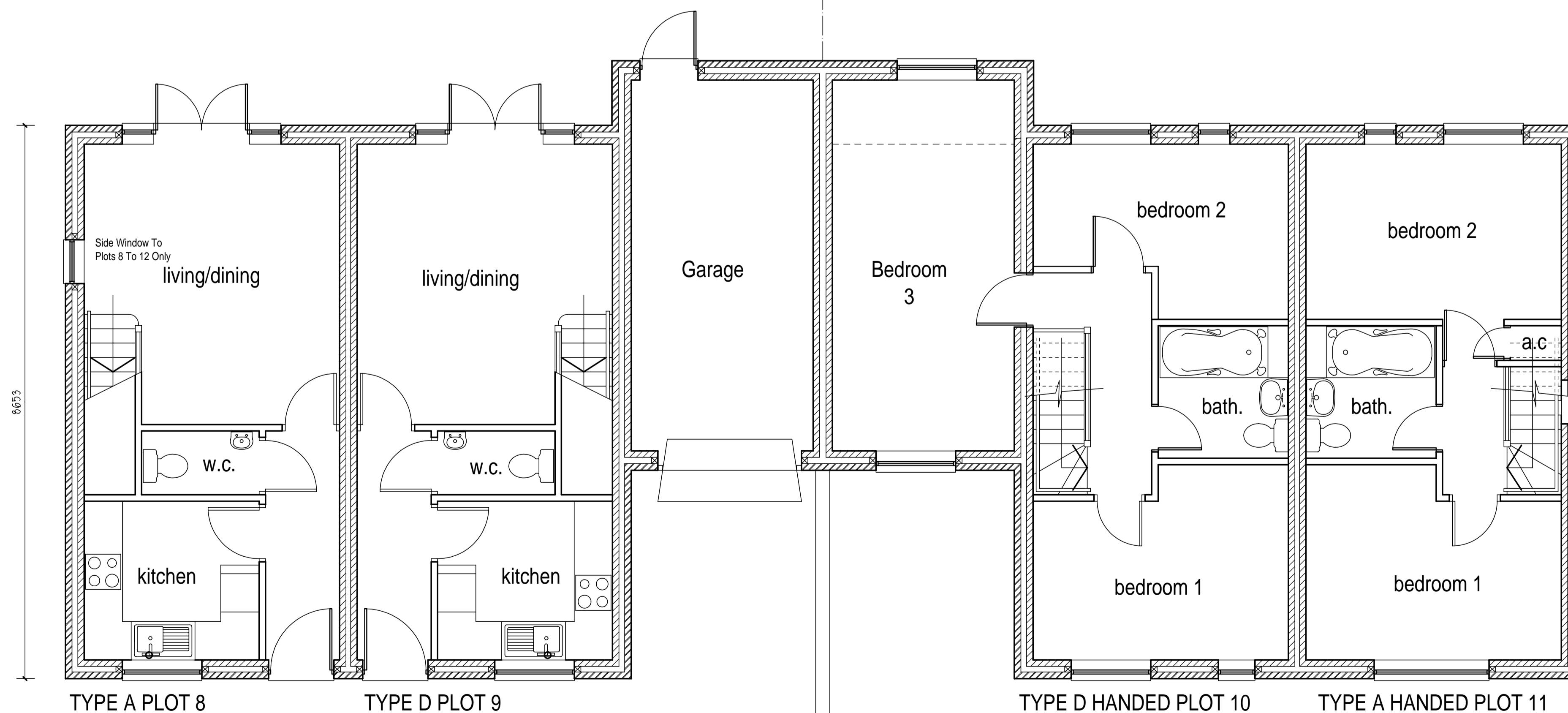
Side Elevation



Rear Elevation



Side Elevation



TYPE A PLOT 8

TYPE D PLOT 9

TYPE D HANDED PLOT 10

TYPE A HANDED PLOT 11

Ground Floor Plan

First Floor Plan

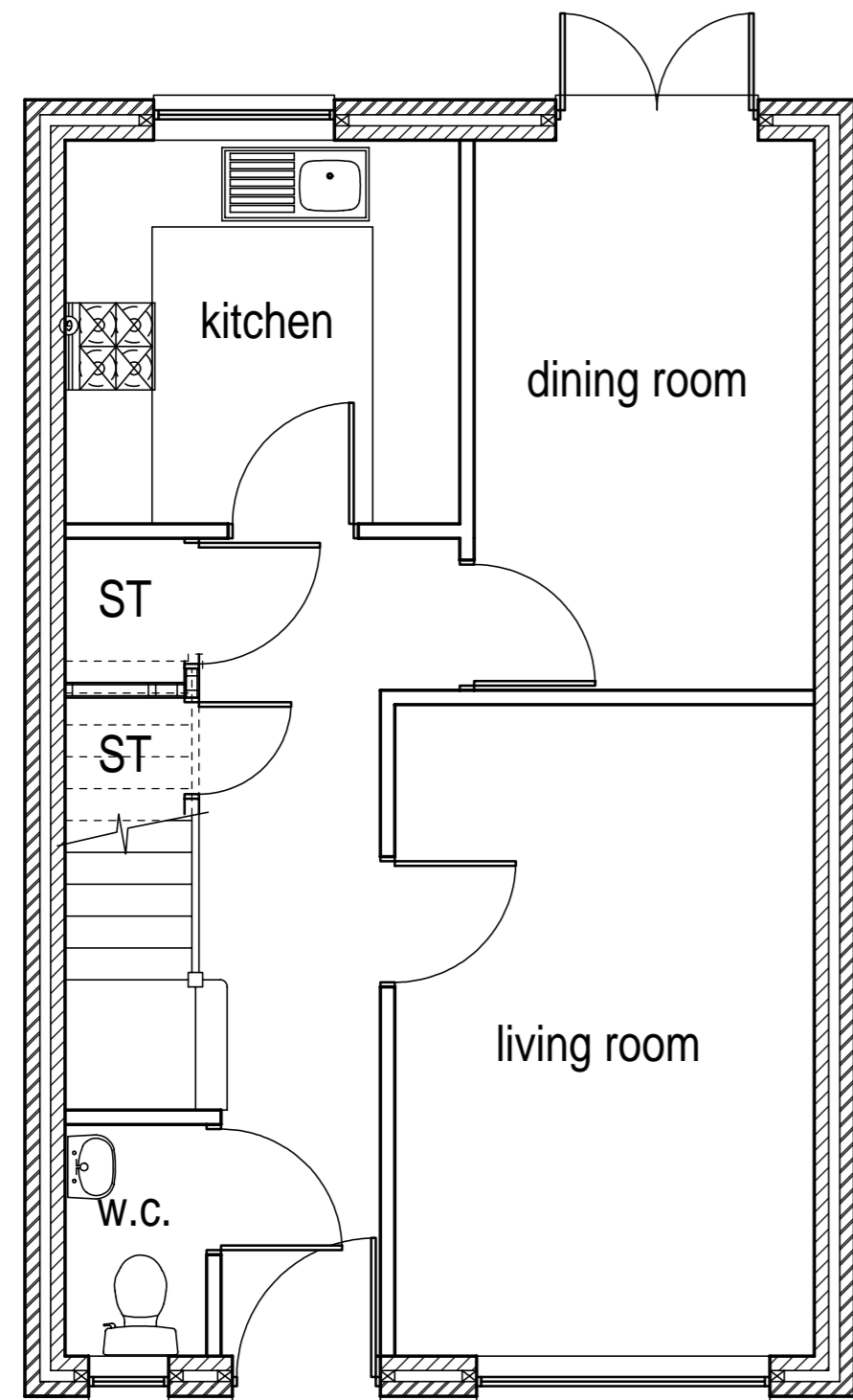
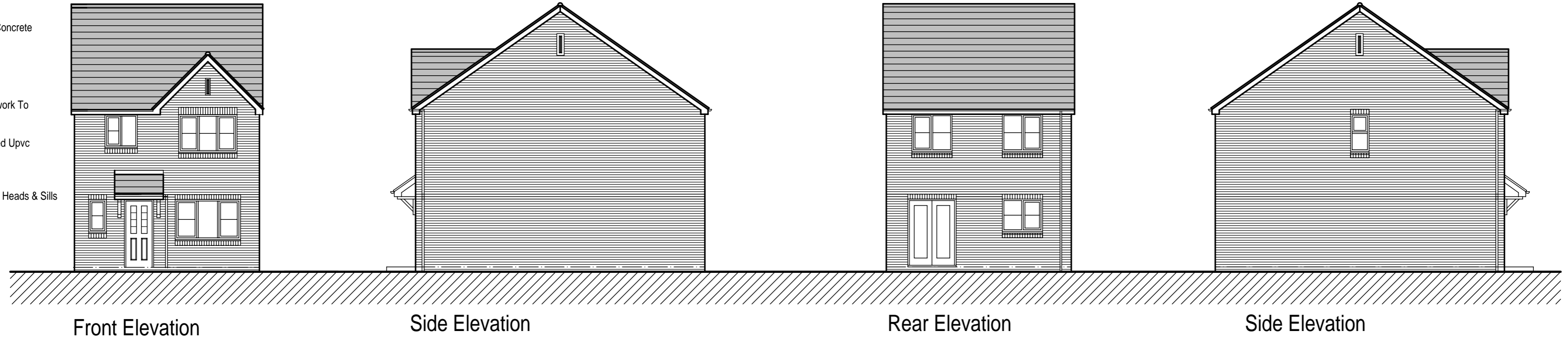
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<p><b>GD Designs</b> Architectural Services</p> <p>49, The Crescent, Cradley Heath, West Midlands. B64 7JS Tel 0121 602 6233 Mob 07939 436557</p>			
<p>contract RESIDENTIAL DEVELOPMENT THE STRUGGLING MAN PROSPECT ROW, DUDLEY</p>			
<p>drawing PROPOSED HOUSE TYPE D</p>			
<p>client I.P. DEVELOPMENTS &amp; BURSON LAND LTD</p>			
scale	date	drawn by	
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drawing no	rev	plot	cad lines
G00892/08			

Interlocking Concrete  
Roof Tiles

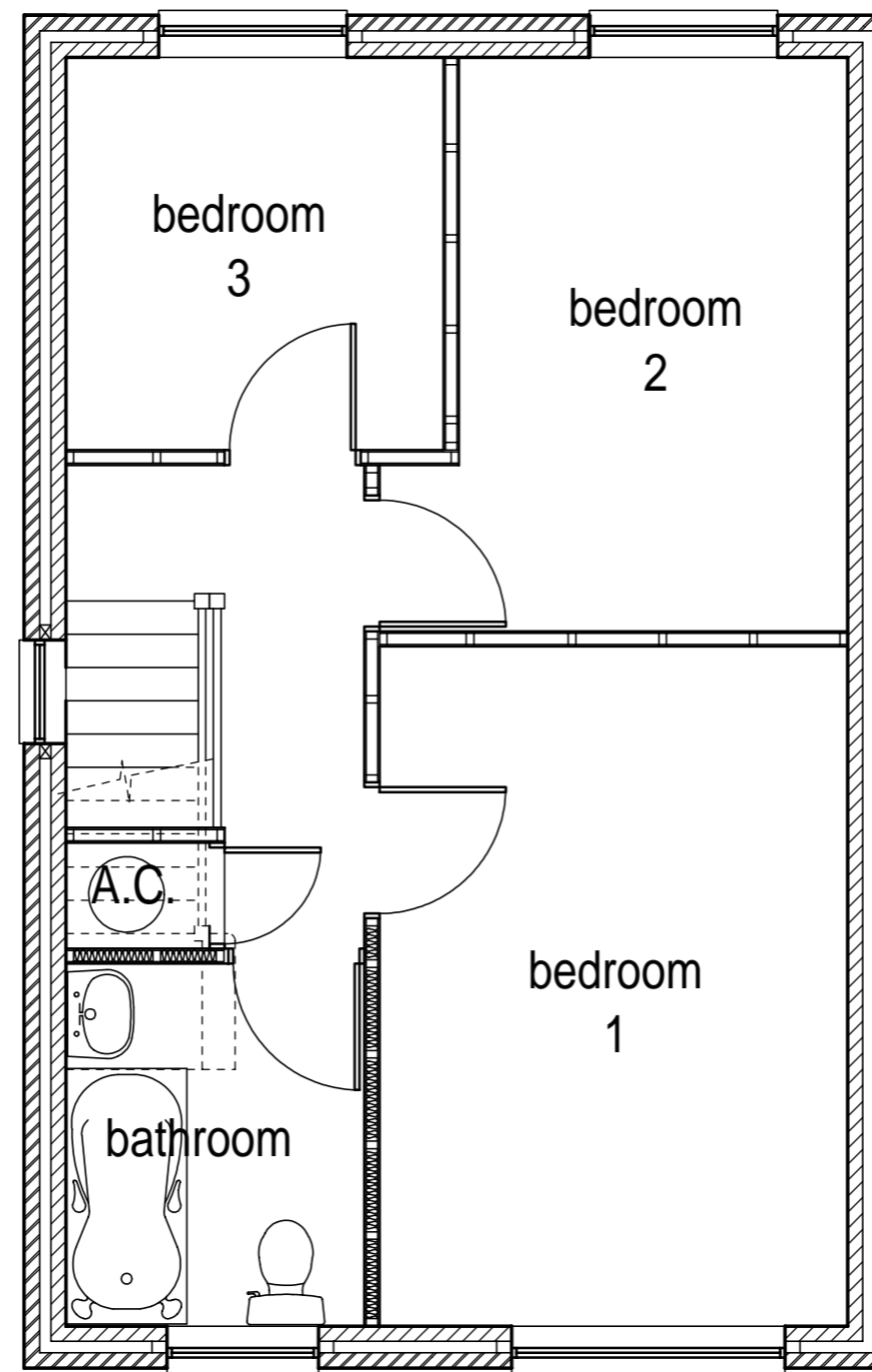
Facing Brickwork To  
Be Approved

Double Glazed Upvc  
Windows

Feature Brick Heads & Sills



TYPE C  
Ground Floor Plan



First Floor Plan

REV.	DATE	DESCRIPTION	BY
GCD			
<b>GD Designs</b>		49, The Crescent, Cradley Heath, West Midlands. B64 7JS Tel 0121 602 6233 Mob 07939 436557	
contract RESIDENTIAL DEVELOPMET THE STRUGGLING MAN PROSPECT ROW, DUDLEY			
drawing PROPOSED HOUSE TYPE C			
client I.P. DEVELOPMENTS & BURSON LAND LTD			
scale 1:50/1:100	date NOV 2009	drawn by GCD	
drawing no GD0892/06	rev	plot 1:50/1:100	cad lines 22/11/2009

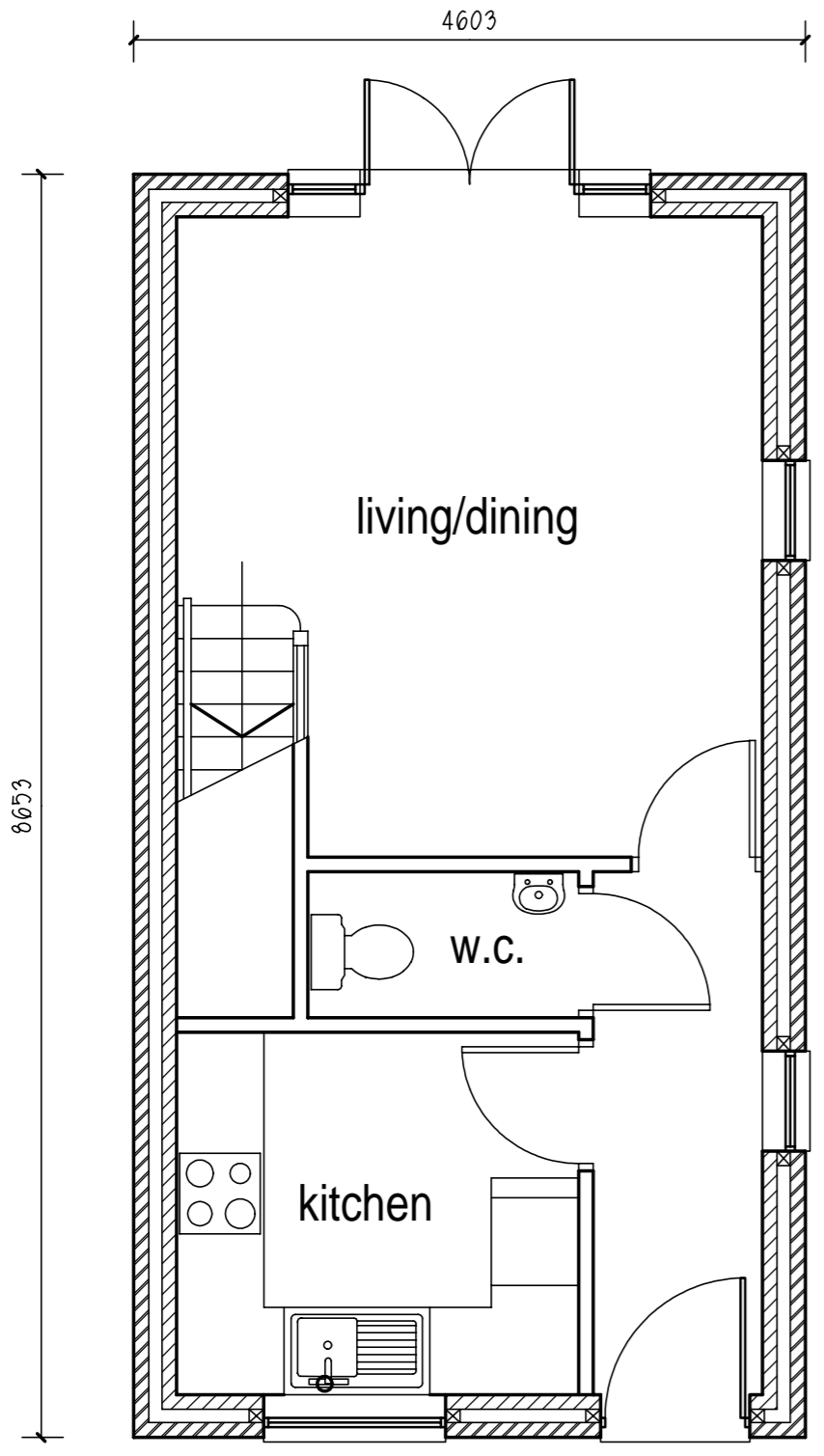
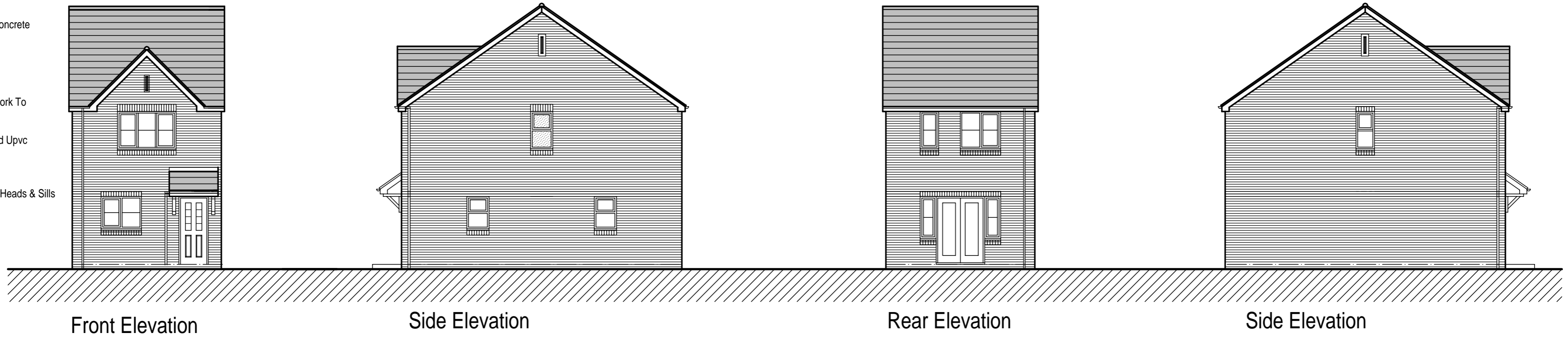


Interlocking Concrete  
Roof Tiles

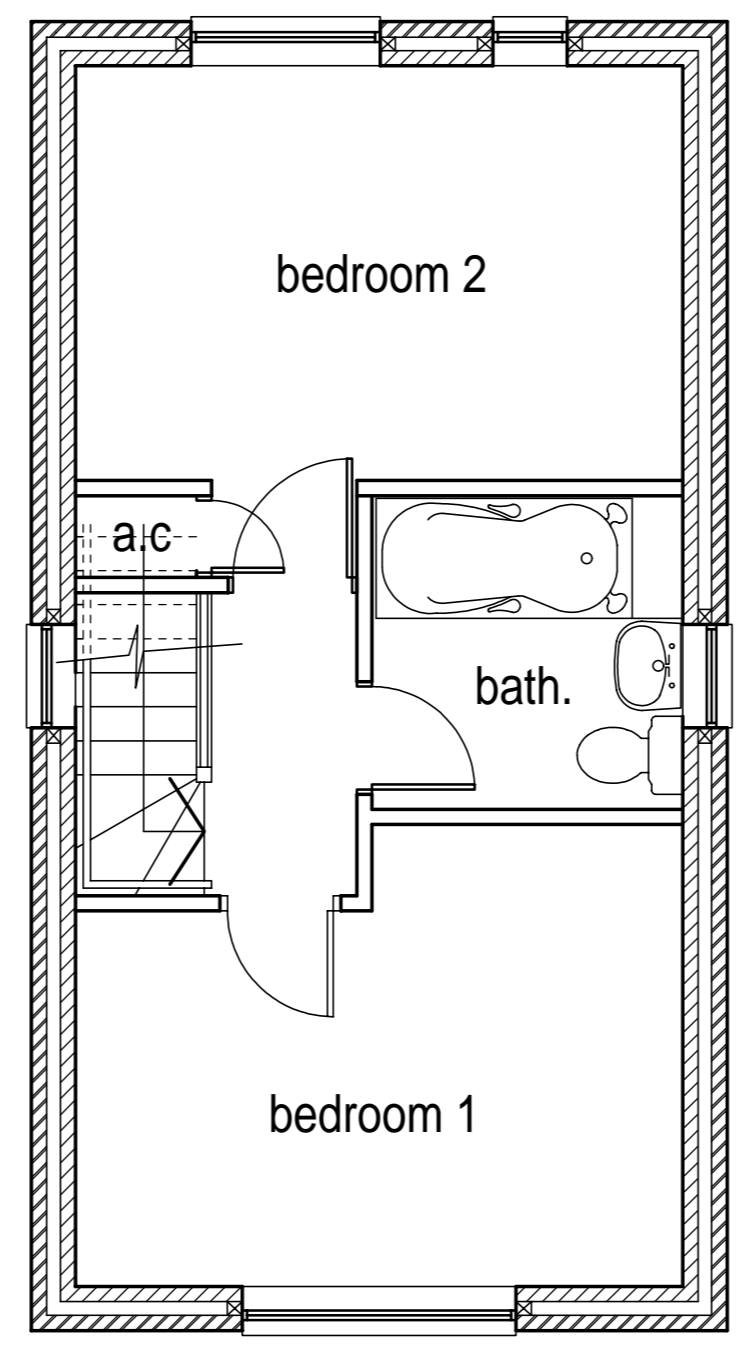
Facing Brickwork To  
Be Approved

Double Glazed Upvc  
Windows

Feature Brick Heads & Sills

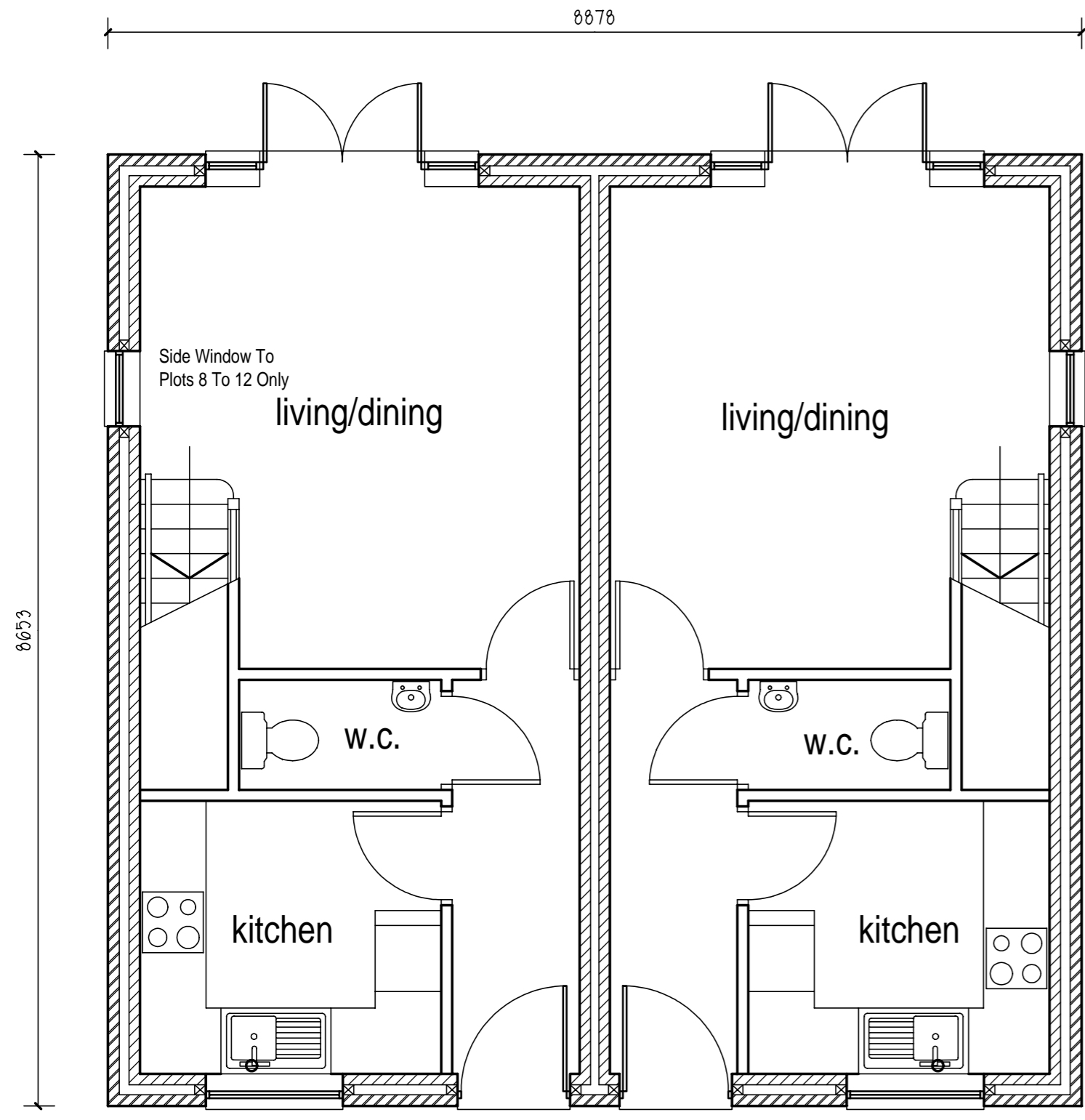
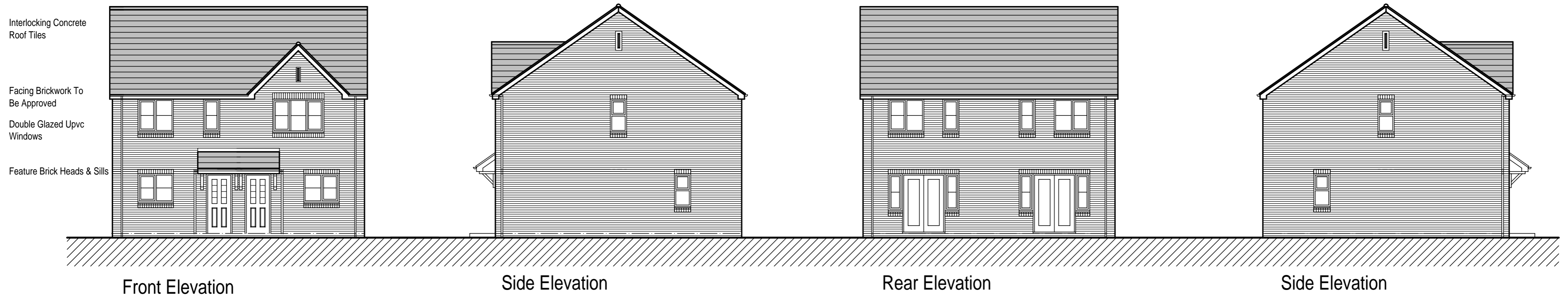


TYPE B  
Ground Floor Plan

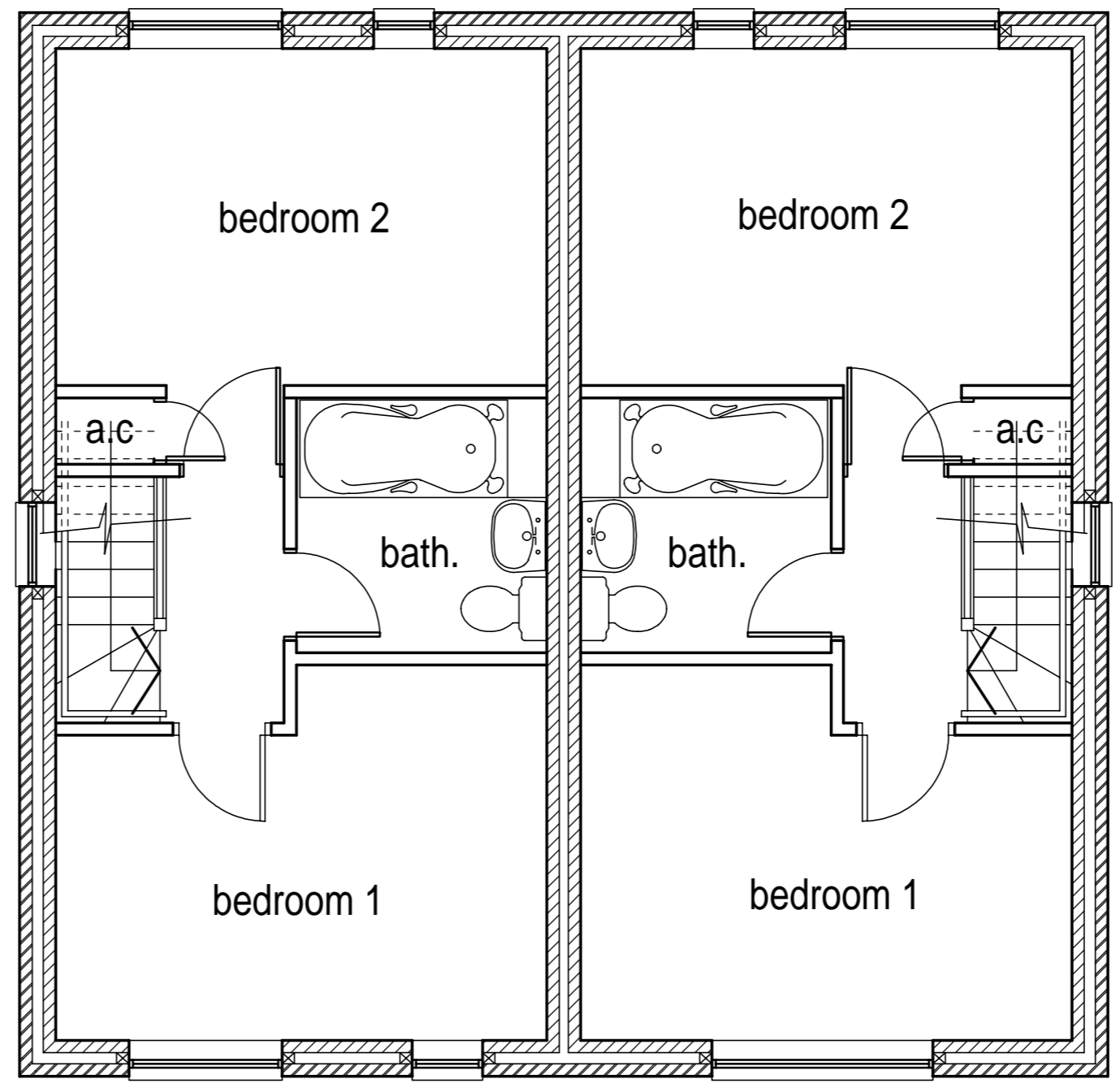


First Floor Plan

REV.	DATE	DESCRIPTION	BY
<p><b>GD Designs</b> Architectural Services</p> <p>49, The Crescent, Cradley Heath, West Midlands. B64 7JS Tel 0121 602 6233 Mob 07939 436557</p>			
<p>contract RESIDENTIAL DEVELOPMENT THE STRUGGLING MAN PROSPECT ROW, DUDLEY</p>			
<p>drawing PROPOSED HOUSE TYPE B</p>			
<p>client I.P. DEVELOPMENTS &amp; BURSON LAND LTD</p>			
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drawing no	rev	plot	cad lines
GD0892/05			

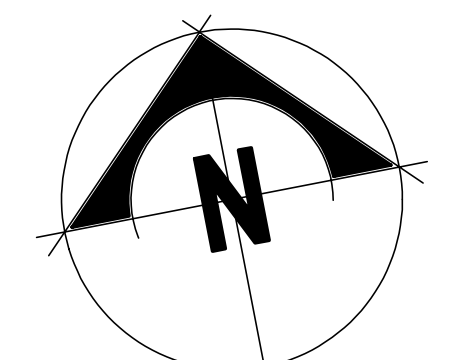
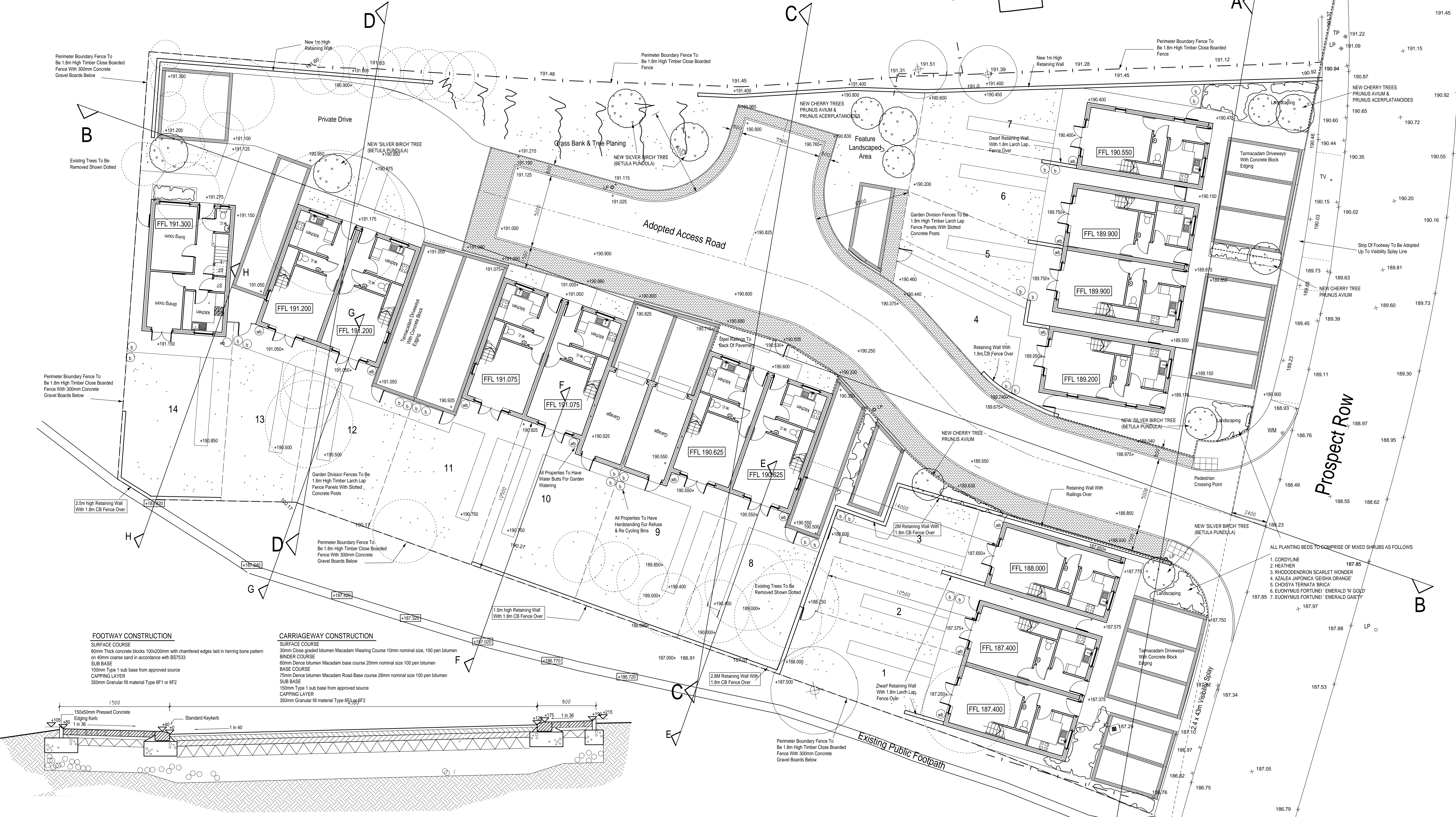


TYPE A  
Ground Floor Plan



First Floor Plan

REV.	DATE	DESCRIPTION	BY
GCD			
<b>GD Designs</b>		49, The Crescent, Cradley Heath, West Midlands. B64 7JS Tel 0121 602 6233 Mob 07939 436557	
contract			
RESIDENTIAL DEVELOPMENT			
THE STRUGGLING MAN			
PROSPECT ROW, DUDLEY			
drawing			
PROPOSED HOUSE TYPE A			
client			
I.P. DEVELOPMENTS & BURSON LAND LTD			
scale	date	drawn by	
1:50/1:100	NOV 2009	GCD	
drawing no	rev	plot	cad lines
GD0892/04			



- ALL PLANTING BEDS TO COMPRISE OF MIXED SHRUBS AS FOLLOWS
1. CORDYLINE
  2. HEATHER
  3. RHODODENDRON SCARLET WONDER
  4. AZALEA JAPONICA 'GEISHA ORANGE'
  5. CHOSYVA TERNATA BRICA
  6. EUONYMUS FORTUNEI 'EMERALD N GOLD'
  7. EUONYMUS FORTUNEI 'EMERALD GAITY'

**SURVEY CARRIED OUT BY OTHERS**

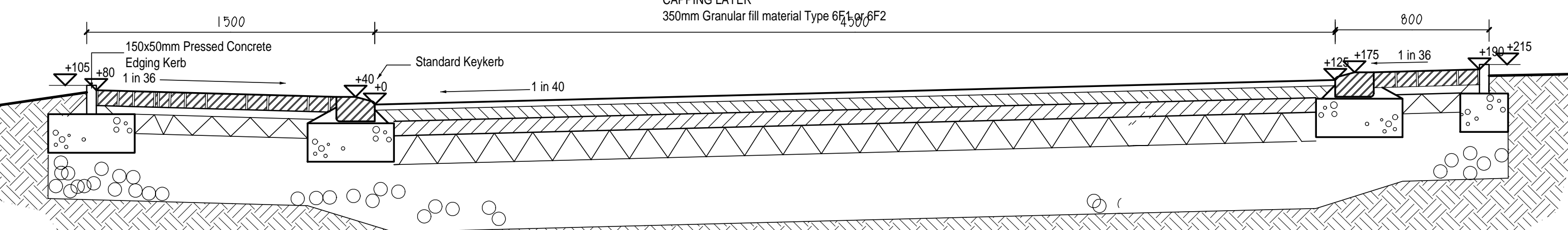
REV	DATE	DESCRIPTION	BY
H	24.11.10	LOTS 9 & 10 REVISED TO 3 BEDS	GCD
G	10.11.10	ROAD WIDTH INCREASED TO 5M FOOTPATH TO 1.5M	GCD
F	29.07.10	APPROX RETAINING WALLS HEIGHTS ADDED	GCD
E	05.05.10	RETAINING WALLS ADDED TO REAR OF PLOTS 8-14	GCD
D	22.04.10	ADDITIONAL SITE CROSS SECTION LINES ADDED	GCD
C	07.04.10	LEVELS REVISED FOLLOWING SITE CHECK SURVEY	GCD
B	23.03.10	ROAD CONSTRUCTION REVISED	GCD
A	15.03.10	LAYOUT UPDATED FOR CONSTRUCTION ISSUE	GCD

**FOOTWAY CONSTRUCTION**

- SURFACE COURSE**  
 80mm Thick concrete blocks 100x200mm with chamfered edges laid in herring bone pattern on 40mm coarse sand in accordance with BS7533
- SUB BASE**  
 100mm Type 1 sub base from approved source
- CAPPING LAYER**  
 350mm Granular fill material Type 6F1 or 6F2

**CARRIAGEWAY CONSTRUCTION**

- SURFACE COURSE**  
 30mm Close graded bitumen Macadam Wearing Course 10mm nominal size, 100 pen bitumen
- BINDER COURSE**  
 60mm Dense bitumen Macadam base course 20mm nominal size 100 pen bitumen
- BASE COURSE**  
 75mm Dense bitumen Macadam Road Base course 28mm nominal size 100 pen bitumen
- SUB BASE**  
 150mm Type 1 sub base from approved source
- CAPPING LAYER**  
 350mm Granular fill material Type 6F1 or 6F2



PROPOSED ADOPTED ROAD CONSTRUCTION Scale 1:20

PROPOSED SITE PLAN Scale 1:100

**GD Designs**  
 Architectural Services

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 Mob 07939 436557

contract  
 RESIDENTIAL DEVELOPMENT  
 THE STRUGGLING MAN  
 PROSPECT ROW, DUDLEY

drawing  
 PROPOSED SITE PLAN

client  
 I.P. DEVELOPMENTS

scale  
 1:100

date  
 FEB 2010

drawn by  
 GCD

drawing no  
 GD0892/100 H

rev  
 H

plot  
 1 of 1

cad lines