

Report to Planning Committee

04 Sept 2024

Application reference	DC/24/69391	
Application address	Rear garden of 39 Pear Tree Drive, Great Barr,	
	Birmingham, B43 6HT.	
Application description	Proposed dormer bungalow, with associated	
	parking and new vehicle access (amendment	
	to application DC/22/66593).	
Application received	16 May 2024	
Ward	Charlemont with Grove Vale	
Contact officer	Anjan Dey	
	anjan_dey@sandwell.gov.uk	

1 Recommendations

That planning permission is granted subject to the following conditions

- i) External materials;
- ii) Construction management plan & implementation thereafter;
- iii) Details of finished floor levels;
- iv) Drainage foul and surface water & implementation thereafter;
- v) Details of new boundary walls or fences/no boundary treatments above 900mm in height adjacent to front parking spaces;
- vi) Implementation of approved landscaping and planting scheme before the development is first occupied and replacement/retention thereafter:
- vii) Implementation of approved parking spaces;





















- viii) All windows at the rear of the dormers shall be glazed in obscure glass and openable at a height of 1.7 metres above floor level & retention thereafter;
- ix) Removal of Permitted Development Rights Class B (dormer windows/loft conversions).

2 Reasons for Recommendations

2.1 The proposal raises no significant concerns from a design, amenity or highway perspective and would deliver additional housing in a sustainable location.

3 How does this deliver objectives of the Corporate Plan?

Living in	Increasing housing opportunities and options for residents	
Sandwell		

4 Context

- 4.1 The application is being reported to Planning Committee as it has generated a number of neighbour objections.
- 4.2 To assist members with site context, a link to Google Maps is provided below:

Rear of 39 Pear Tree Drive, Great Barr.

5 Key Considerations

- 5.1 The site is not allocated in the development plan.
- 5.2 Material planning considerations (MPCs) are matters that can and should be taken into account when making planning decisions. By law, planning decisions should be made in accordance with the development



















plan unless MPCs indicate otherwise. This means that if enough MPCs weigh in favour of a development, it should be approved even if it conflicts with a local planning policy.

- 5.3 The material planning considerations which are relevant to this application are:
 - Government policy (NPPF);
 - Planning history (including appeal decisions);
 - Amenity concerns overlooking/loss of privacy, loss of light and/or outlook and overshadowing;
 - Design concerns appearance and materials, layout and density of building, wider visual amenity and overdevelopment;
 - Highways considerations traffic generation, access, highway safety, parking and servicing;
 - Planning balance (and presumption housing proposals).

6. The Application Site

6.1 The application site is situated on the east side of Pear Tree Drive, Great Barr which is a residential area in character that consists of a variety of house types; from detached to semi-detached properties.

7. Planning History

- 7.1 There have been previous applications to subdivide the rear garden to create a detached dwellings both of which were refused. Furthermore, an appeal was submitted against the decision by Planning Committee to refuse the most recent application, which was subsequently allowed by The Planning Inspectorate.
- 7.2 Relevant planning applications are as follows:



















DC/ 21/65370	Description:	Decision and date:	
	Proposed two storey	Refuse permission	
	house with garage,	18.06.2021.	
	associated parking and		
	new vehicle access.		
DC/22/66593	Proposed two bedroom	Refuse Permission	
	bungalow, and associated	13.05.2022	
	parking with new vehicle		
	access (previously refused	Allowed with	
	application DC/21/65370).	conditions. 7.03.2023	

8. Application Details

8.1 It is proposed to divide the rear garden and construct a detached dormer bungalow, with associated parking and new vehicle access; this is a revised application to application DC/22/66593 which was previously refused at Planning Committee but subsequently allowed on appeal. The applicant has advised they have had to move the proposed property further to the north south boundary as the original application was directly over a mains foul drain.

The site plan shows that vehicle access would be from Grove Vale Avenue with frontage parking in addition to a side garage, and private amenity space to the rear and side of the property. Planting (conifer trees) is proposed along the northern rear boundary.

Submitted floor plans show 2 lounge rooms at ground floor, separated by a hallway and a kitchen/dining area at the rear of the property. At first floor level there would be two front bedrooms and 3rd back bedroom plus ensuites. The proposed dormer would be at the rear of the property.

8.2 Amended plans have been received which show the improvements to the massing of the proposed rear dormer. The dormer has now been



















divided in two smaller dormers in accordance with recommended design guidance (Residential Design SPD). Furthermore, the amended plans have been annotated to show that windows serving the rear dormer would be obscurely glazed and only openable at height of 1.7m above floor level. This reflects the wording of the Planning Inspector's conditions.

9. Publicity

9.1 The application has been publicised by 18 neighbour notification letters. Eleven objections have been received.

Objectors have also been notified of amended plans and at the time of writing no additional comments have been submitted.

- 9.2 Objections have been received on the following grounds:
 - i) The proposed dwelling would be out of keeping with other properties and the addition of dormers constitutes over-development of the site;
 - ii) The proposal would result in loss of light and privacy to neighbouring dwellings;
 - iii) The proposal differs from the previous proposal that was allowed on appeal and should be resisted; furthermore, previous points of objection relating to DC/22/66593 are still relevant;
 - iv) The proposal would affect highway safety due to the bend in the road along Grove Vale Avenue.

Non-material objections have been raised regarding loss of property value, loss of view, loss of area appeal and water pressure issues.

These objections will be addressed in under paragraph 13 (Material considerations).

10. Consultee responses

10.1 Highways



















No objections on the condition that boundary treatments surrounding driveway do not exceed 900mm to ensure adequate visibility splays for vehicle and pedestrian safety. This is normally ensured by way of condition relating to new boundary walls or fences.

10.2 Ecology/Bio Diversity Net Gain

The authority's Ecology Officer has been consulted with regards to Biodiversity Net Gain requirements and has confirmed that the proposal is exempt from any obligations.

11. National Planning Policy Framework (NPPF)

- 11.1 The NPPF sets out government's planning policies for England and how these are expected to be applied.
- 11.2 The framework refers to development adding to the overall quality of the area by achieving high quality design, achieving good architecture and layouts.
- 11.3 The framework promotes sustainable transport options for development proposal and states that developments should only be prevented or refused on highway grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe.
- 11.2 I am of the opinion that the scheme is of a good design and would assimilate into the overall form and layout of the site's surroundings; in accordance with the design principles of the NPPF.

12. Development Plan Policy

12.1 The following polices of the council's development plan are relevant:



















Black Country Core Strategy (BCCS)

ENV3 – Design Quality

Site Allocations and Delivery Development Plan Document – (SADD)

SAD H2 - Housing Windfalls
SAD EOS 9 - Urban Design Principles

- 12.2 ENV3 and SAD EOS9 refers to well-designed schemes that provide quality living environments. The proposed layout and design are considered to be acceptable with no concerns being raised from the urban design team.
- 12.3 The proposed new dwelling would be a windfall, subject to SAD H2. The proposal meets the requirement of the policy as it is previously undeveloped land, suitable for residential development, and capable of meeting other plan policies.

13. Material Considerations

13.1 National and local planning policy considerations have been referred to above in Sections 11 and 12. With regards to the other material considerations, these are highlighted below:

13.2 Amenity concerns – overlooking/loss of privacy, loss of light and/or outlook and overshadowing;

Having read the appeal decision it is my view that the proposed repositioned dwelling, with the additional of a rear dormer and front windows would not result in any significant loss of amenity to neighbouring dwellings. It has been considered that the host dwelling is



















located at higher level (as noted by the Planning Inpsector), and the proposal was allowed subject to the condition that there shall be additional planting along the northern part of the site, and 'appropriate boundary treatment be installed prior to first occupation of the proposal.'

In response to neighbour comments that the Inspector stated that a dormer would not be acceptable, it is noted that that despite the recommendation of the case officer, 'permitted development rights' for extensions, including loft conversions and dormers, were not removed by the Inspector. However, this is on the condition that any windows serving a rear dormer shall be glazed in obscure glass and be nonopening unless the parts of the window which can be opened are more than 1.7 metres above the floor of the room in which the windows is installed. See point 16 of the appeal decision:

16. Furthermore, I am satisfied that additions or alterations to the proposed roof under Class B or C of the GPDO would not unacceptably harm the character and appearance of the surrounding area. Therefore removal of those permitted development rights in their entirety cannot be clearly justified. Nevertheless, such additions or alterations could result in overlooking from the appeal dwelling into rear gardens of neighbouring houses, resulting in an unacceptable loss of privacy to adjacent occupants. Therefore, I have imposed a condition to ensure that in the event of future additions or alterations to the proposed roof, any windows in the rear elevation or roof would be obscured glazed and nonopening, unless the parts of the window which can be opened are more than 1.7m above the floor of the room in which the window is installed.

The amended plans have been annotated to show the windows serving the rear bedrooms are to be obscurely glazed and openable at a height of 1.7 metres as per the Inspector's condition. The agent has advised that roof dormers require a fire escape to comply with Building Regulations. Therefore two 600mm fire escape windows have been located to the side of each of the dormers, and they would also be obscurely glazed. It is my view the resulting fire escape windows would not result in any overlooking of neighbouring rear gardens. The upper floor windows at the front elevation face Grove Vale Avenue, looking out on the rear boundary of 37 Pear Tree Drive and is noted that there is landscaping along this side boundary wall that gives privacy to the rear garden. This is shown in the photo below:























13.3 Design concerns - appearance and materials, layout and density of building, wider visual amenity and overdevelopment;

The appeal decision establishes that the principle of a new dwelling in the proposed location is acceptable, and this is a key factor in the determination of the application.

Fig 1 approved site plan



















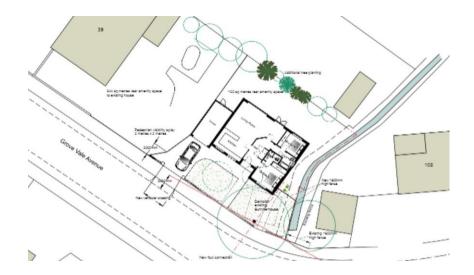


Fig 2 proposed site plan



The proposed siting differs in that the dwelling would be located slightly further to the west side of the rear garden but also slightly towards the rear boundary. The proposed footprint of the house is similar to that allowed at appeal albeit with the addition of a rear dormer and bedrooms in the roof space. Furthermore, the front elevation shows a twin gable feature at roof level with windows to serve the front bedrooms. However, it is noted that maximum height of the bungalow is now proposed at 5.88 metres which is lower than previously proposed at 6.2 metres.



















It is noted that there is predominance of bungalows in vicinity of the site and in view of this the dormer bungalow would not be out of character with surrounding properties. Bungalows close to the entrance with Newton Close also from part of the immediate site context, and many have projecting front gables along with integral or detached garages. It is also noted that the host property has a similar double gable feature at the front elevation. Furthermore, the palette of external materials (brick, roof tiles etc.) to be used in the construction of the bungalow can be agreed with the planning authority prior to commencement of development. This would ensure the satisfactory appearance of the dwelling.

Amended plans have been submitted to show two smaller dormers to improve massing across the roof plane at the rear. This ensures compliance with design related policies ENV3 & EOS9.

Internal space would comply with national prescribed standards and the level of amenity space also complies with the recommended standard for a family dwelling of either 10.5 metres in length or 70 square metres.

13.4 Highway concerns

Highway engineers has no objections to the proposed parking arrangements including access/egress. They have recommended that any new boundary walls or fences adjacent to the parking spaces at the front of the dwelling shall not exceed 900mm in height to ensure adequate vehicular and pedestrian visibility splays.

13.5 **Biodiversity Net Gain**

The proposal is exempt from any Biodiversity Net Gain requirements given that planning permission has been granted at the site previously and the footprint of the new dwelling has not been enlarged by more than 25%. The borough's ecologist has also confirmed that the development is exempt from BNG requirements.





















13.6 Presumption and the 'titled balance'

The 'tilted balance' is similar to the normal planning balance but it is only engaged in exceptional circumstances. As the council has less than a five-year housing land supply, relevant local policies are out-of-date. In the most basic sense, the tilted balance is a version of the planning balance that is already tilted in an applicant's favour. If the tilted balance applies, planning permission should normally be granted unless the negative impacts 'significantly and demonstrably' outweigh the positive impacts.

14. Conclusion and planning balance

14.1 All decisions on planning applications should be based on an objective balancing exercise. This is known as applying the "planning balance". It is established by law that planning applications should be refused if they conflict with the development plan unless material considerations indicate otherwise. This essentially means that the positive impacts of a development should be balanced against its negative impacts.

Housing proposals - Conflict with development plan policies will always be a negative impact. If the policies are up-to-date, that negative impact will be given greater weight. However, if they're out-of-date, the weight given to the negative impact will be seriously reduced. No matter what the negative impacts are, if a proposal manages to secure sufficient positive impacts (of sufficient weight) to tilt the planning balance in its favour, planning permission should be granted.

14.2 On balance the proposal accords with the provisions of relevant development plan policies and there are no significant material considerations which warrant refusal that could not be controlled by conditions.

15 Alternative Options



















15.1 Refusal of the application is an option if there are material planning reasons for doing so. In my opinion the proposal is compliant with relevant polices and there are no material considerations that would justify refusal.

16 Implications

Resources:	When a planning application is refused the applicant				
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	has a right of appeal to the Planning Inspectorate, and				
	they can make a claim for costs against the council.				
Legal and	This application is submitted under the Town and				
Governance:	Country Planning Act 1990.				
Risk:	None.				
Equality:	There are no equality issues arising from this proposal				
	and therefore an equality impact assessment has not				
	been carried out.				
Health and	None.				
Wellbeing:					
Social Value	None.				
Climate Change	Sandwell Council supports the transition to a low carbon future, in a way that takes full account of the need to adapt to and mitigate climate change. Proposals that help to shape places in ways that contribute to radical reductions in greenhouse gas emissions, minimise vulnerability and improve resilience; encourage the reuse of existing resources, including the conversion of existing buildings; and support renewable and low carbon energy and associated infrastructure, will be welcomed.				

17. Appendices

17.1 Plans for consideration

Location, block and floor plans proposed - PTD001 Rev A Elevation plans proposed - PTD002 Rev A Site plan - PTD003 Rev A



















Approved site plan ref: DC/22/66593 Approved floor plan ref: DC/22/66593 Approved election plan ref: DC/22/66593









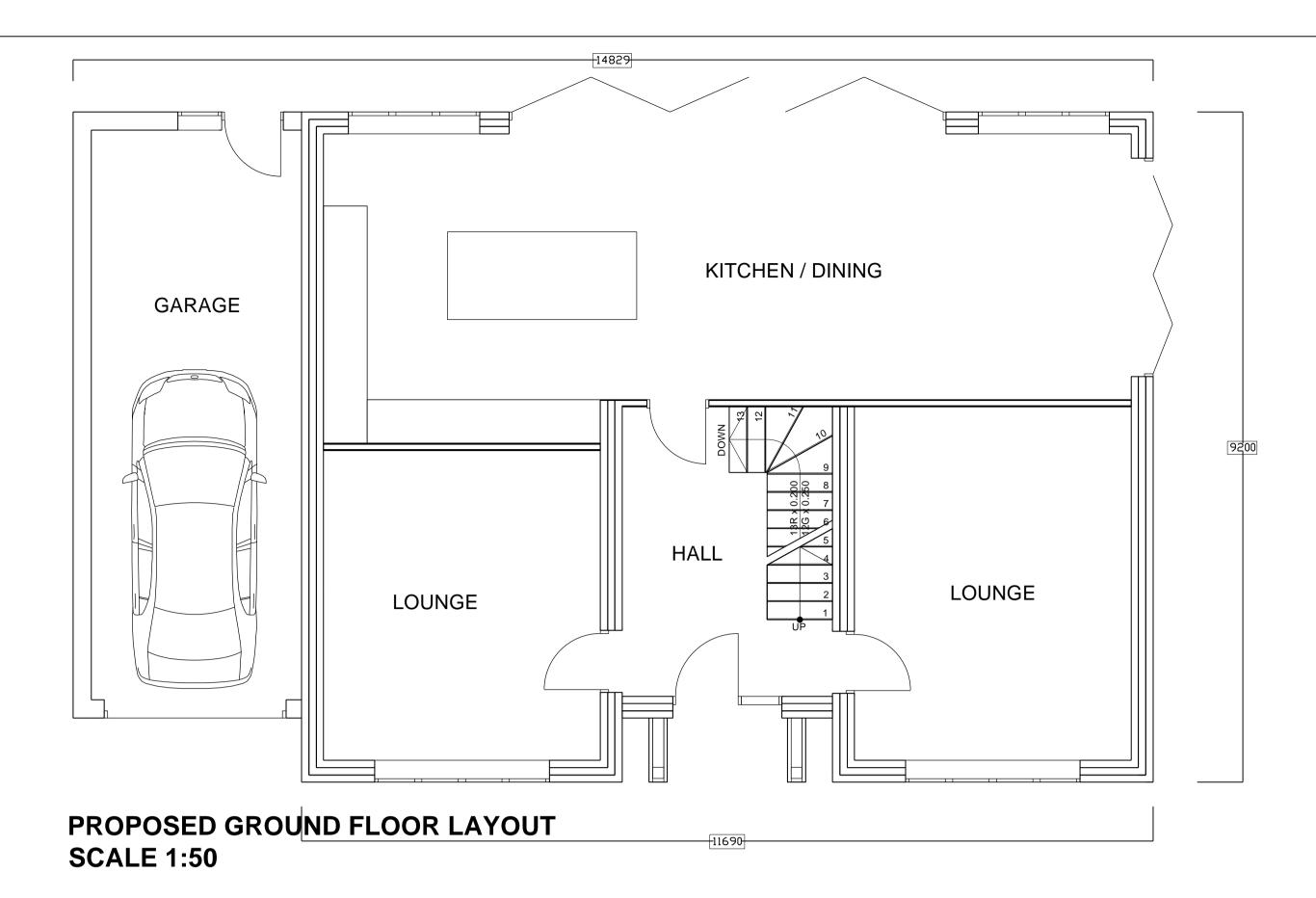


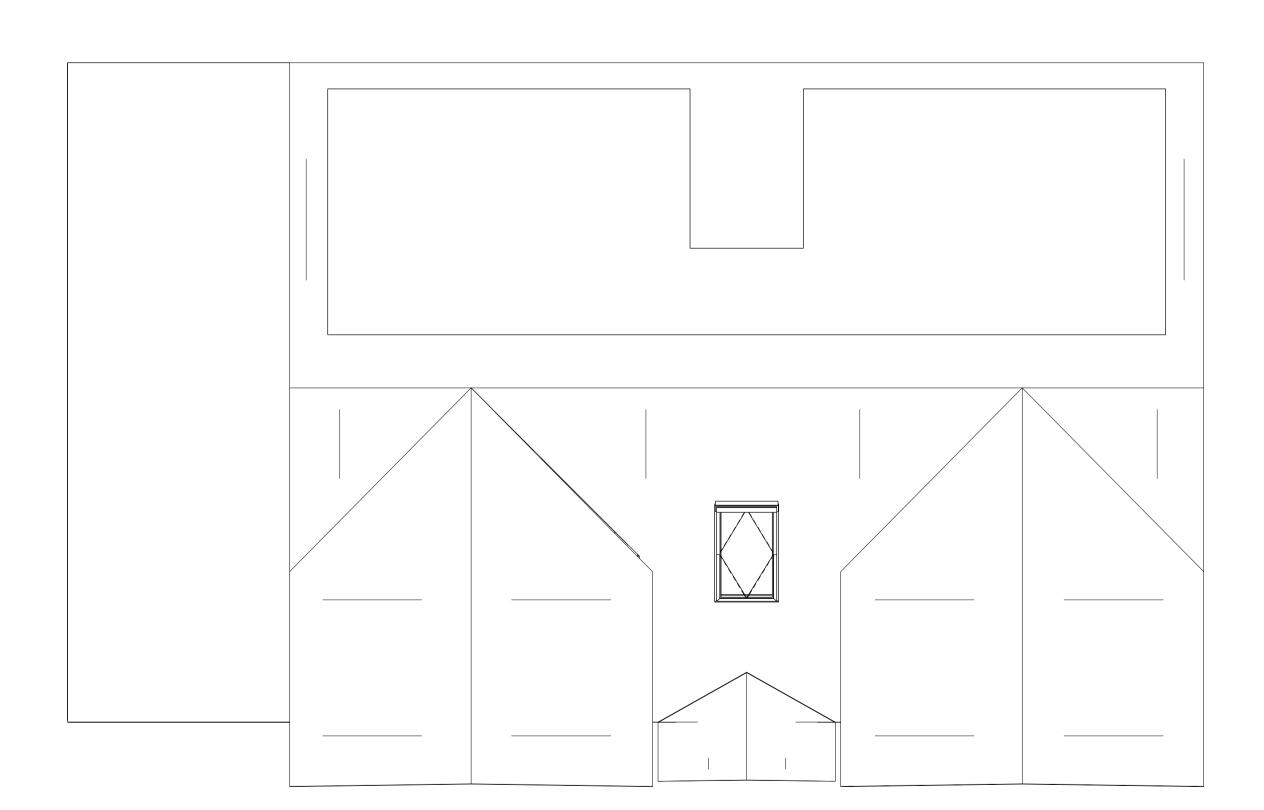




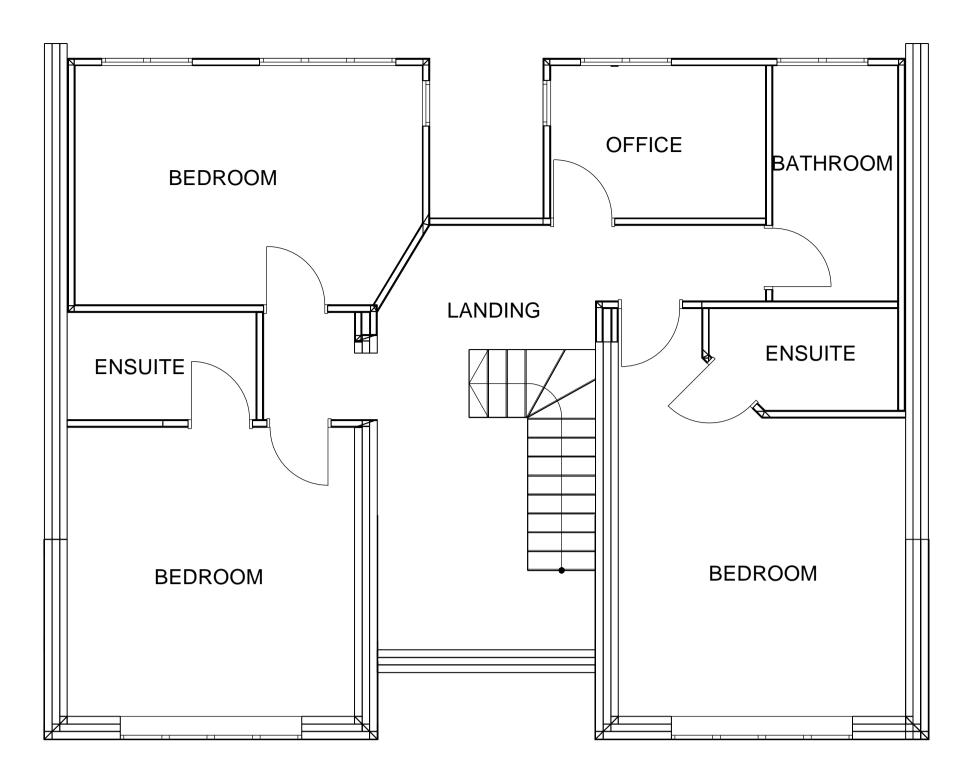




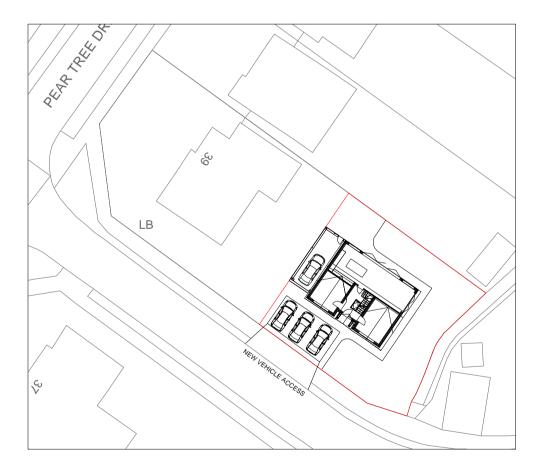




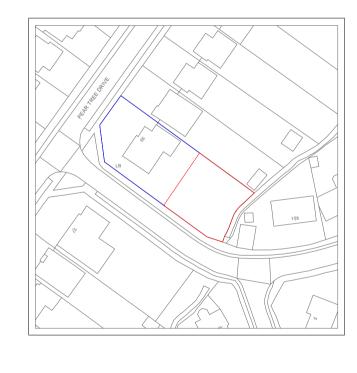
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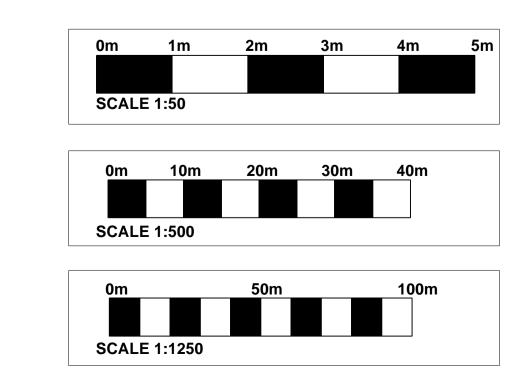
PROPOSED FIRST FLOOR LAYOUT SCALE 1:50



BLOCK PLAN SCALE 1:500



LOCATION PLAN SCALE 1:1250



ADDRESS: LAND TO THE REAR OF 39 PEAR TREE DRIVE GREAT BARR B43 6HT

<u>DESCRIPTION:</u> PROPOSED FLOOR PLANS

SCALE: AS SHOWN
PAPER SIZE: A1

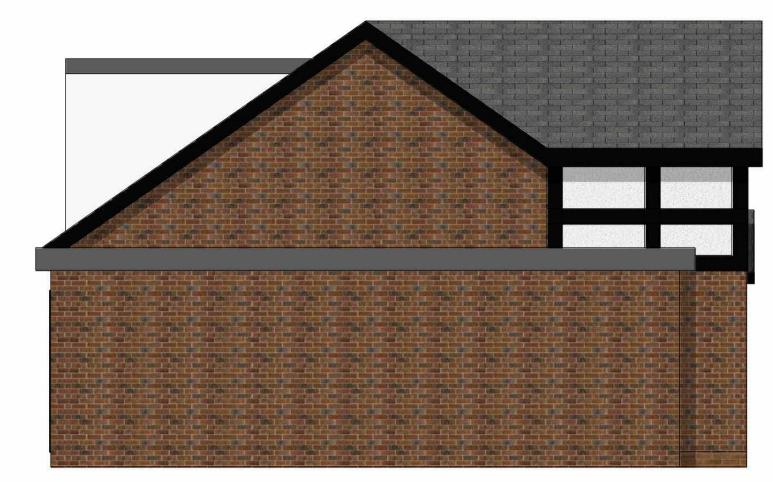
DATE: 07/08/24

DRAWING No: PTD001-A



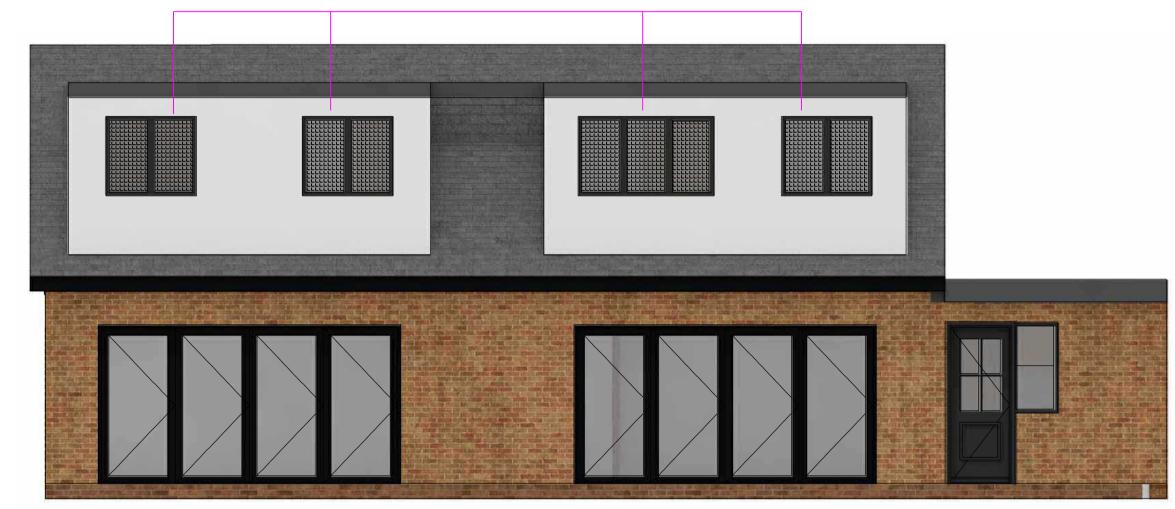


PROPOSED FRONT ELEVATION SCALE 1:50



PROPOSED SIDE ELEVATION SCALE 1:50

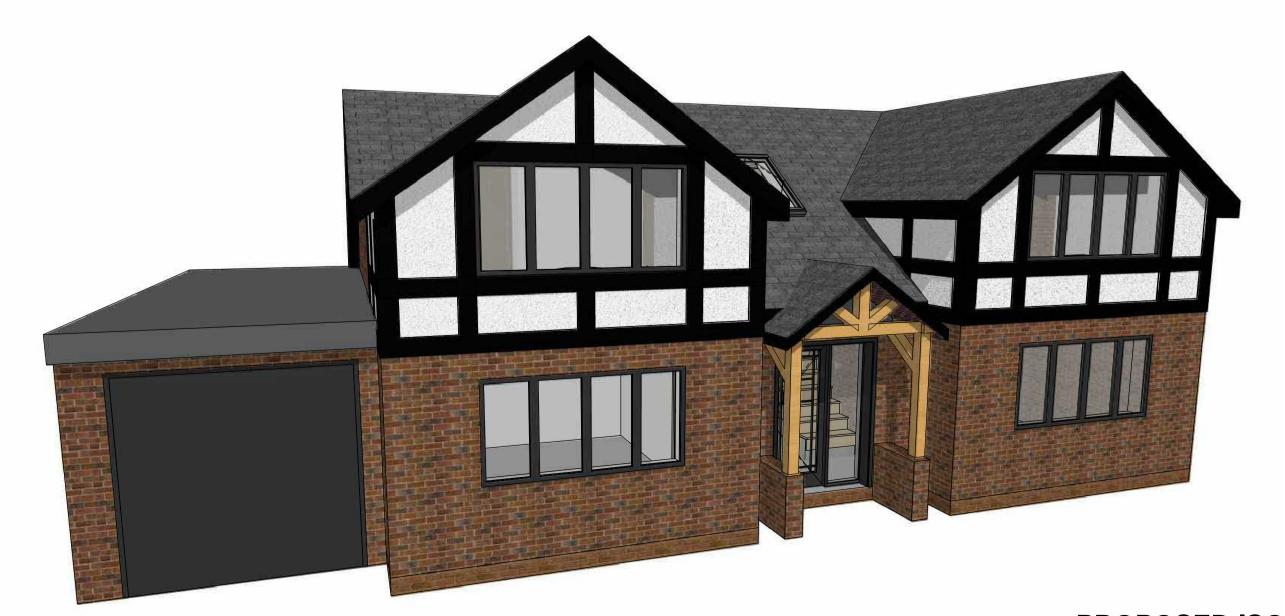




PROPOSED REAR ELEVATION SCALE 1:50

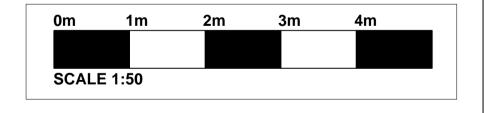


PROPOSED SIDE ELEVATION SCALE 1:50



PROPOSED ISO VIEW SCALE NTS





ADDRESS:

LAND TO THE REAR OF 39 PEAR TREE DRIVE GREAT BARR B43 6HT

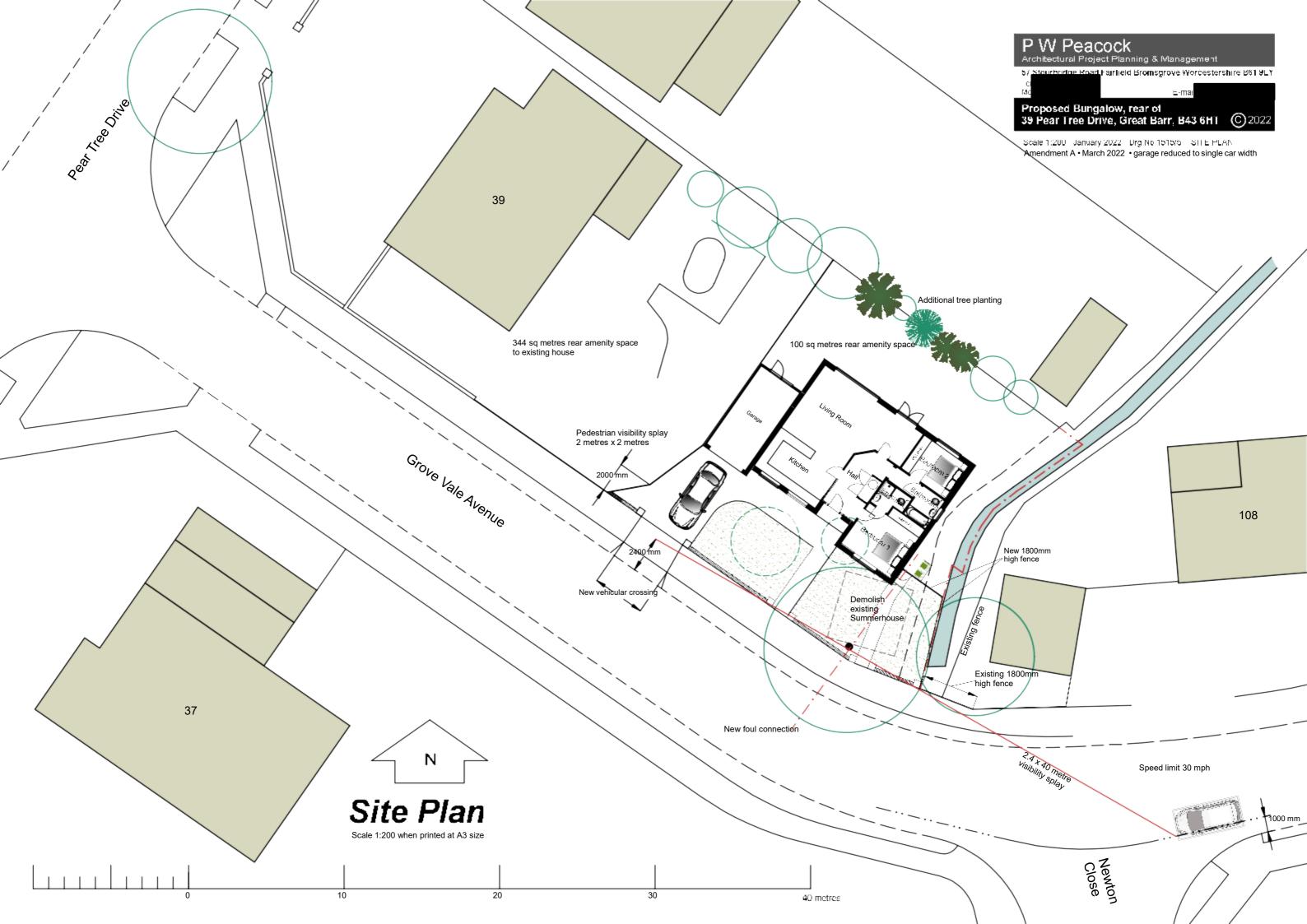
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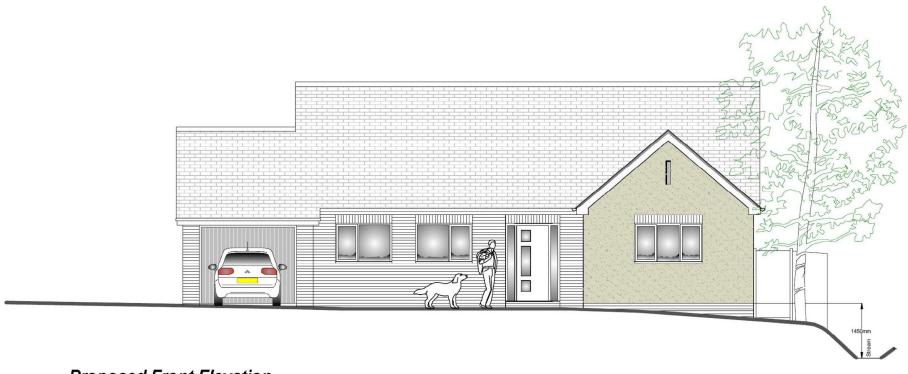
PROPOSED ELEVATIONS

SCALE: 1:50 PAPER SIZE: A1

DATE: 07/08/24

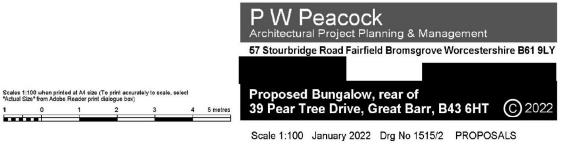
DRAWING No: PTD002-A





Proposed Front Elevation

Amendment A - March 2022 - garage reduced to single car width





DC/24/69391

List of conditions

- The development must conform with the terms of and the plans accompanying the application for permission and must remain in conformity with such terms and plans, save as may be otherwise required by (any of) the following condition(s), or approved amendment(s).
- 2. The development must be begun not later than the expiration of 3 years from the date of this permission.
- No construction above slab level shall commence before details of the materials to be used for the external surfaces of the development shall be submitted to and approved in writing by the local planning authority.
- 4. The development shall be constructed in accordance with the approved schedule of materials.
- 5. Before the development is commenced, including any works of demolition or site preparation, a detailed construction method statement shall be submitted to, and approved in writing by the local planning authority. The statement shall provide for the parking of vehicles of site operatives and visitors; loading and unloading of plant and materials; storage of plant and materials used in constructing the development; the erection and maintenance of security hoarding; wheel washing facilities; measures to control the emission of dust, dirt and emissions arising from any demolition, construction and/or refurbishment works; a scheme for recycling/disposing of waste resulting from demolition and construction works; delivery, demolition and construction working hours.
- 6. The approved construction method statement shall be adhered to throughout the construction period for the development.
- 7. Before the development is commenced details of drainage works (including SUDs) for the disposal of both surface water and foul

- sewage shall be submitted to and approved in writing by the local planning authority.
- 8. The approved drainage works shall be implemented before the development is brought into use and thereafter retained as such.
- 9. Before the development is commenced details of any boundary treatment to be erected on the site shall be submitted in writing to and approved by the local planning authority.
- 10. Boundary treatments adjacent to Grove Vale Avenue shall not exceed 900mm in height.
- 11. The approved hard and soft landscaping and planting scheme shall be implemented before the development is occupied.
- 12. Any tree, hedge or shrub planted as part of a soft landscaping scheme (or replacement tree/hedge) on the site, and which dies or is lost through any cause during a period of 3 years from the date of first planting shall be replaced in the next planting season.
- 13. The development shall not be brought into use until the approved space for the parking and manoeuvring of vehicles has been provided.
- 14. When provided the approved space for the parking and manoeuvring of vehicles shall be retained as such.
- 15. All rear windows of the dormer shall be glazed in obscure glass and non-opening, unless the parts of the window which can be opened are more than 1.7 metres above the floor of the room in which the window is installed.
- 16. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any order revoking and re-enacting that order with or without modification), no development covered by Class B of Schedule 2 (Part 1) of that Order shall be carried out without the express written consent of the local planning authority.