

Application Number:	2022/0084	Application Type:	Full
Proposal:	Full: Erection of 1 no. 2 bedroom dwelling	Location:	Land To The West And South Of 54 Tonacliffe Road Whitworth Rossendale OL12 8SS
Report of:	Head of Planning and Building Control	Status:	For Publication
Report to:	Development Control Committee	Date:	6 th September 2022
Applicant:	Mr Robert Marland	Determination Expiry Date:	13/09/2022
Agent:	Mr Keith Oliver		

Contact Officer:	Storm Grimshaw
Email:	planning@rossendalebc.gov.uk

REASON FOR REPORTING	
Outside Officer Scheme of Delegation	
Member Call-In: Name of Member: Cllr Alan Neal Reason for Call-In: Public Interest	✓ - Councillor Alan Neal requested this application be referred to the Development Control Committee for consideration. His reason for doing so is to enable both local residents, the applicant, and local ward Cllrs to raise, and address if possible, any concerns or issues in relation to the application.
3 or more objections received	✓
Other (please state):	

HUMAN RIGHTS

The relevant provisions of the Human Rights Act 1998 and the European Convention on Human Rights have been taken into account in the preparation of this report, particularly the implications arising from the following rights:

Article 8

The right to respect for private and family life, home and correspondence.

Article 1 of Protocol 1

The right of peaceful enjoyment of possessions and protection of property.

1. RECOMMENDATION

Refusal.

APPLICATION DETAILS

2. SITE

The application relates to an irregularly shaped plot of land that lies approximately 50 metres north-west of the junction of Tonacliffe Road and Oakenshaw Avenue and to the immediate rear (west) of a row of three terraced houses (50 to 54 Tonacliffe Road). The site sits adjacent to the rear garden of 54 Tonacliffe Road, where the applicant resides, and according to the submitted application form the current use of the site is residential garden.

The site is located wholly within the defined urban boundary and is largely enclosed by housing, with the wider area also being predominantly residential. The land slopes steeply downwards from the eastern to the western boundaries, is covered with low lying vegetation and currently appears to be disused.

3. RELEVANT PLANNING HISTORY

X/1991/390 – Full: Erection of garage and store (**Approved**)

2020/0052/PREAPP – Proposed development of 2 no residential dwellings (**Advice Issued**)

4. PROPOSAL

Planning permission is sought for the construction of no. 1 two-bedroomed dwelling on the site. The dwelling would be located on the sloped land to the rear of 54 Tonacliffe Road, with the land partially excavated, and the dwelling set below some of the surrounding higher land. The front elevation of the dwelling would face south with access taken from the existing access leading from Tonacliffe Road to the south-east. The site would include two vehicular parking spaces positioned to the west of the dwelling. The dwelling's private garden would be mainly on the higher sloped ground to the east.

In terms of its design, the dwelling would be single-storey in height but with first floor bedrooms set within a front-facing box dormer. It is proposed that the external wall and roof of the dwelling would be constructed of stone and artificial riven slate, with upvc windows and a composite door.

The scheme has been amended over the course of the application, with changes to the dwelling's proposed siting, layout, design and materials.

5. POLICY CONTEXT

Policy Considerations

National

National Planning Policy Framework

Section 2 Achieving sustainable development

Section 4 Decision-making

Section 5 Delivering a sufficient supply of homes

Section 6 Building a strong, competitive economy

Section 9 Promoting sustainable transport

Section 12 Achieving well-designed places

Development Plan Policies

Local Plan

Policy SS: Spatial Strategy

Policy SD1: Presumption in Favour of Sustainable Development

Policy SD2: Urban Boundary and Green Belt

Policy HS1: Meeting Rossendale's Housing Requirement

Policy HS8: Private Outdoor amenity space

Policy HS16: Self-Build and Custom Built Houses

Policy ENV1: High Quality Development in the Borough

Policy ENV4: Biodiversity, Geodiversity and Ecological Networks

Policy ENV6: Environmental Protection

Policy ENV10: Trees and Hedgerows

Policy TR4: Parking

Other Material Planning Considerations

National Planning Practice Guidance

National Design Guide

Alterations and Extensions to Residential Properties SPD

6. CONSULTATION RESPONSES

Land Contamination Consultant	No objection, subject to conditions
RBC Tree Officer	Objection
United Utilities	Comments received
LCC Highways	No objection, subject to conditions
The Coal Authority	No objection
Ecology Greater Manchester	Objection in the absence of a bat survey
RBC Environmental Health	No objection, subject to conditions
RBC Building Control	No comments received
RBC Operations	No comments received
Whitworth Town Council	Support – as long as the development is in keeping with the local area

7. REPRESENTATIONS

In order to publicise the application a site notice was posted and neighbour letters were sent out. The application was also available for viewing on the Council's website.

7 objections have been received, raising the following concerns in summary:

- The access road to the site is a private road used and maintained by local residents. It is unsuitable for the development and has limited manoeuvring space.
- Clarity is required around the right of access to the access road, who is responsible for its upkeep and who has a right of way
- Potential damage to the access road and private property from construction phase such as oathouses including works and traffic
- Poor access / egress onto Tonacliffe Road which has poor visibility and is impacted by traffic congestion at peak times including school drop-offs/collections
- Increase in traffic using the access road and interference with right of way – use may even constitute trespassing
- Impact of development on Healey Care Home which needs 24hr access and requires the road to be clear at all times
- Impact of development / construction phase on highway safety in the area, children in particular
- Lack of available parking
- Loss of privacy and potential to overlook neighbouring gardens
- The materials and design of the dwelling are not in keeping with the character of neighbouring properties
- Overdevelopment of the site and lack of space for two bedroom dwelling
- Impact on wildlife / natural habitats
- Damage / removal of trees is unacceptable
- Increase in noise and light pollution
- Impact of another dwelling on local utility services
- Impact of development on waste collection
- Application site includes land outside of the applicant's ownership
- This local area does not need a house in this location and local roads and services are congested and oversubscribed respectively
- Errors contained within the Tree Survey, Arboricultural Impact Assessment and Arboricultural Method Statement

8. ASSESSMENT

The main issues for consideration in this instance are:

- a) Principle
- b) Visual Amenity
- c) Neighbour Amenity / Residential Amenity
- d) Access, Parking and Highway Safety
- e) Ecology / Impact on Trees
- f) Land Stability

Principle

The application site is located entirely within the defined urban boundary, where Policy SD2 of the Rossendale Local Plan seeks to locate the majority of new development. Furthermore, the site is located in a reasonably sustainable location, less than 50m from Market Street (A671) where there are regular bus services to Whitworth, Bacup and other towns in the borough. The site is also within an established residential area.

As such, the principle of residential development on the site is acceptable.

Visual Amenity

Policy ENV1 'High Quality Development in the Borough' of the Local Plan requires all new proposals to take account of the character and appearance of the locality and to demonstrate compliance with detailed criteria including design, materials, siting and layout.

At the national level, paragraph 130 of the Framework states that planning decisions should ensure that developments:

“a) will function well and add to the overall quality of the area, not just for the short term but over the lifetime of the development;

b) are visually attractive as a result of good architecture, layout and appropriate and effective landscaping;

c) are sympathetic to local character and history, including the surrounding built environment and landscape setting, while not preventing or discouraging appropriate innovation or change (such as increased densities);

d) establish or maintain a strong sense of place, using the arrangement of streets, spaces, building types and materials to create attractive, welcoming and distinctive places to live, work and visit;

e) optimise the potential of the site to accommodate and sustain an appropriate amount and mix of development (including green and other public space) and support local facilities and transport networks; and

f) create places that are safe, inclusive and accessible and which promote health and well-being, with a high standard of amenity for existing and future users; and where crime and disorder, and the fear of crime, do not undermine the quality of life or community cohesion and resilience.”

It is noted that the advice issued on the previous pre-application (ref. 2020/0052/PREAPP) regarded the site as a 'backland' site. The advice issued advised: *“Consequently erecting dwellings upon it, either as currently proposed or in any other form, would lead to the creation of a form of 'backland' or 'tandem' development that would not, it is considered, relate in a satisfactory manner to its surroundings.”*

The proposed scheme would involve situating one dwelling on an irregularly shaped parcel of land to the rear of terraced properties to the east, south and west of the site. The terraced dwellings surrounding the site are of a traditional style and construction and are set on consistent building lines, which provides for a regular pattern of development. It is considered that the linear form of the terraces and their traditional design and use of a consistent palette of materials, contribute positively to the character and appearance of the area.

In comparison to the surrounding built environment, the proposed layout of the dwelling would be off-set and its position irregular, appearing as a discordant addition to the local area. It is considered that the dwelling's irregular siting to the rear of the surrounding residential properties would fail to reflect the prevailing pattern of development and would have a detrimental effect on the character and appearance of the local area.

The original scheme proposed to use artificial materials such as render however revised plans have since been submitted to show the dwelling finished in natural stone under an artificial slate roof. Nevertheless, it is not considered that the design and style of the proposed dwelling, a single-storey bungalow with a large dormer to the front of the building, would reflect the character of the surrounding built environment, which consists primarily of two-storey traditional terraced dwellings. Dormers are mostly absent on properties in the surrounding area and the introduction of a large dormer would appear incongruous within the context of the local area.

Overall, it is considered that the development would fail to provide a high standard of design and would have an adverse impact on the character and appearance of the area by reason of the dwelling's design, siting and layout. For this reason the proposed development contravenes Policy ENV1 of the Local Plan and the NPPF in relation to design.

Neighbour Amenity / Residential Amenity

Policy ENV1 requires new developments to avoid unacceptable adverse impacts on neighbouring development. The site is surrounded by residential development and in this regard the separation distances set out in Section 2.1 of the Council's SPD provide useful additional guidance for consideration:

- *Maintain a minimum distance of 20m between habitable room windows in properties that are directly facing each other; and*
- *Maintain a minimum distance of 13m between a principal window to a habitable room in one property and a two storey blank wall of a neighbouring property; and*
- *Maintain a minimum distance of 6.5m between a principal window to a habitable room* in one property and a single storey blank wall of a neighbouring property.*

The separation distance between the proposed dwelling and the residential properties to the south, namely Healey House and Olive Mount, would be less than the recommended minimum distance of 20m between habitable room windows in properties that are directly facing each other; and therefore the development would fail to maintain adequate privacy distances for future residents of the proposed dwellings and existing occupants of neighbouring properties.

In terms of the neighbouring properties to the west fronting Market Street, the minimum distance of 23m (which includes an extra 3m due to the difference in land levels between the properties, as required by the SPD) between the habitable room windows in the neighbouring properties and the full length glazing on the west-facing side elevation of the dwelling would be complied with.

However, the rear gardens of the neighbouring properties extend eastwards to within approximately 11m of the proposed dwelling, and as stated above, there is a significant difference in levels between the application site and the properties to the west. Consequently, it is considered that the proposal would permit unacceptable levels of overlooking into the private amenity spaces of neighbouring properties, thus reducing the privacy neighbouring residents would reasonably expect to enjoy. This is in conflict with Policy ENV1 of the Local Plan and the SPD.

In terms of the residential amenity of future occupants of the proposed dwelling, the floor space of the proposed dwelling would comply with the minimum floor space set out in the Nationally Described Space Standards for a two-storey dwelling with four bedspaces. The standard requires that in order to provide two bedspaces, a double bedroom should have a floor area of at least 11.5m² and one of the bedrooms would marginally fall below this technical requirement. However, the bedroom would provide sufficient space for a single bedroom (i.e. one bedspace) and overall it is not considered that the proposed dwelling would provide insufficient space within the dwelling.

Policy HS8 requires all new residential development to provide adequate outdoor amenity space which should be in the form of a garden, and should be appropriate for the size and type of dwelling proposed, which in this case is a 2 bedroom dwelling. In addition, the amenity space should be in keeping with the character of the development, and the garden sizes in the immediate neighbourhood.

The development provides private outdoor amenity space for future occupants of the dwelling, however this would mostly be on land to the east of the dwelling, which has a significant slope and is therefore unpractical. Policy HS8 also states that the amenity space for individual dwellings should be useable and have an adequate level of privacy. Whilst it may be possible to provide an adequate level of privacy for future occupants through the erection of appropriate boundary treatments, it is not considered that the private amenity space would be useable owing to the topography of the land. The Council acknowledges that land to the front of the dwelling would provide a degree of outdoor space that could be used for sitting out, nevertheless, it could not be said that this land would provide a degree of privacy future occupants would reasonably expect to enjoy, as required by Policy HS8.

In light of the above, it is considered that the development would unacceptably harm the living conditions of existing neighbouring occupiers in the local area with regard to privacy, and would also fail to provide a high standard of amenity for future occupants owing to the inadequate private outdoor amenity space provided. The proposal would fail to comply with Policies ENV1, HS8 and the SPD in regards to neighbour and residential amenity.

Access, Parking and Highway Safety

Objections received from local residents in relation to highway and parking issues are noted. In this respect, the Local Highway Authority has been consulted on the application.

The Local Highway Authority has no objection to the proposed scheme subject to conditions relating to the following:

- Approval of details for retaining wall and boundary treatment adjacent to the public footpath
- Approval of a Construction Method Statement
- Pre-start and post-completion photographic record of the private access lane, including a schedule of repairs
- Provision of an electric vehicle charging point and secure cycle parking
- Implementation of parking area

Subject to the conditions suggested by the Local Highway Authority, it is considered that the development is acceptable in relation to parking, access and highway safety.

Ecology / Impact on Trees

Policy ENV4 'Biodiversity, Geodiversity and Ecological Networks' of the Local Plan states development proposals that have the potential to affect protected species will be expected to be accompanied by relevant surveys and assessments detailing likely impacts.

The application is accompanied by a Tree Survey, Arboricultural Impact Assessment and Method Statement.

The existing site is covered with low lying vegetation and includes two trees within the boundary of the site: a mature sycamore and a mature English Elm (referenced as T2 and T3 in the submitted Tree Survey respectively). Another two trees are located outside of the site but in close proximity: a

mature Sycamore and a young Field Maple (referenced as T1 and T4 in the submitted Tree Survey respectively).

The Council's Ecology Consultant has stated the following:

"The photographs of the English Elm within the AIA indicate a wound on the tree that could potentially support roosting bats. The tree officer comments on the application also suggest that other tree may be compromised/impacted upon by the proposed works. I would therefore request that a preliminary roost assessment of the trees for bat roost potential is undertaken, followed up with any further survey work, mitigation/compensation measures which are identified as required within the report.

Adequate compensatory planting to make up for the loss/impact on any trees would also be required, and we would also advise that a biodiversity enhancement strategy is secured in addition to the compensatory measures that would be required."

As the application is not accompanied by a preliminary roost assessment, it is not possible to conclude that the development would avoid harm to legally protected species – and the precautionary principle must be applied. It is not possible to deal with this by planning condition.

In terms of the development's impact upon the affected trees, Policy ENV10 'Trees and Hedgerows' states development proposals must seek to avoid the loss of, and minimise the risk of harm to, existing trees. Where trees are to be lost as a part of development this loss must be justified as a part of an Arboricultural Implications Assessment (AIA) submitted with the application. Proposals should not involve building within the canopy or root spread of trees which are to be retained except where it can be proven that the construction can be carried out in accordance with the most up-to-date British Standard and an appropriate method statement is fully adhered to.

The Council's Tree Officer has also been consulted on the application and confirmed the removal of the English Elm is acceptable given it is in a poor condition. However, the Tree Officer could not support the original proposal owing to the impact the development would have upon the root protection areas of existing trees within the site. A revised scheme with a new layout for the development has since been submitted by the applicant, but the revised scheme has failed to address the Tree Officer's concerns:

"The revised scheme is an improvement with the RPA of T1 avoided but that of T2 is still a problem. Although the excavation for retaining wall has been reduced, there is still some excavation proposed which, given the existing significant constraint on the tree root zone, any change is likely to be detrimental. I note that the bin store is still to the east of T2 and apparently at the top of the slope with no obvious means of moving and should be located at the same level as the driveway.

In conclusion, whilst the revision is an improvement, there is still too much disruption to the RPA of T2 for me to be able to support the scheme."

As the application would still risk unacceptable harm to an existing tree within the site, it is not considered that the scheme has demonstrated that an acceptable form of development could be delivered without causing undue harm to existing trees. This is in direct conflict with Policy ENV10 which requires development proposals to avoid the loss of (and risk of harm to) existing trees. In addition, trees that are lost must be compensated for at a ratio of 2:1. These matters have not been addressed in this application.

Having regard to the above, it is considered that the scheme is unacceptable in terms of protecting and enhancing biodiversity and the natural environment. The application is contrary to Policies ENV4 and ENV10 in this regard.

Land Stability

Policy ENV1 requires developments to ensure that matters including land stability and coal mining are considered and addressed through appropriate investigation, remediation and mitigation measures.

At the national level, paragraph 183 of the NPPF requires planning decisions to ensure that a site is suitable for its proposed use (in this case residential) taking account of ground conditions and any risks arising from land instability and former mining activities.

The development would involve excavating land on a sloped vegetated hillside containing trees, and it is surrounded by existing housing. The Coal Authority records indicate that the site lies within an *“area of probable unrecorded shallow coal mining that may be attributed to the thick coal seams inferred to outcrop at or close to the surface of the site and surrounding area”*. The Coal Authority concluded that this could affect the safety and stability for the redevelopment of this site.

No land stability survey of the site has been submitted by the applicant, and it has not been investigated or demonstrated whether the land would be at risk of land stability issues or suitable for residential development. For this reason the proposed development cannot be found to comply with Policy ENV1 of the Local Plan, or paragraph 183 of the NPPF.

Conclusion

The proposed development for a dwelling on land located within the urban boundary is acceptable in principle. However, as identified within this report, there are a number of design / layout and technical issues with the development as proposed that make the proposed development unacceptable in detail and in conflict with a number of local and national planning policies. The proposed development is therefore recommended for refusal.

9. RECOMMENDATION

Refuse for the following reasons:

1. The irregular siting and layout of the proposed dwelling would fail to reflect the prevailing pattern of development in the surrounding area and would result in the development appearing as a discordant addition to the area. The design and style of the proposed dwelling would fail to be sympathetic to the character of the surrounding built environment and would appear incongruous within the context of the local area. Overall, the development would fail to provide a high standard of design and would have an adverse impact on the character and appearance of the area. As such, the scheme is considered to be contrary to Section 12 of the National Planning Policy Framework and Policy ENV1 of the Rossendale Local Plan.
2. It has not been demonstrated that it would be possible to construct a dwelling on the site without harming the living conditions of existing neighbouring occupiers with regard to privacy. Furthermore, the development would fail to provide a high standard of amenity for future occupants owing to the inadequate private outdoor amenity space provided. The development therefore conflicts with Section 12 of the National Planning Policy Framework,

Policies HS8 and ENV1 of the Rossendale Local Plan and the guidance contained within the Council's Alterations and Extensions to Residential Properties SPD.

3. The layout of the development would result in unacceptable harm to an existing tree within the site and it has not been demonstrated that the site can deliver the compensatory measures required. As such, the development therefore conflicts with Section 15 of the National Planning Policy Framework and Policies ENV1, ENV4 and ENV10 of the Rossendale Local Plan.
4. In the absence of a preliminary bat roost assessment, it has not been demonstrated that the development would avoid causing harm to legally protected species. As such, the proposal would conflict with Section 15 of the National Planning Policy Framework and Policies ENV1 and ENV4 of the Rossendale Local Plan.
5. The development would involve excavation of a steeply sloping hillside, including tree loss, in close proximity to houses and gardens. It has not been investigated whether the land would be at risk of land stability issues taking into account the site's previous history. As such, it has not been demonstrated that the site is suitable for residential development and therefore the proposal would conflict with Section 15 of the National Planning Policy Framework and Policy ENV1 of the Rossendale Local Plan.

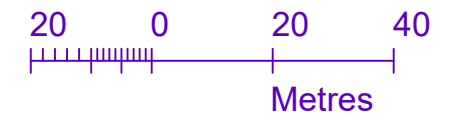
10. INFORMATIVE

1. The proposal would not comply with the development plan and would not improve the economic, social and environmental conditions of the area. There were no amendments to the scheme, or conditions which could reasonably have been imposed, which could have made the development acceptable and it was therefore not possible to approve the application. The Local Planning Authority has therefore implemented the requirement in Paragraph 38 of the National Planning Policy Framework.

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Land to rear of 54 Tonacliffe Road, Whitworth, OL12 8SS Location Plan 1:1250@A4

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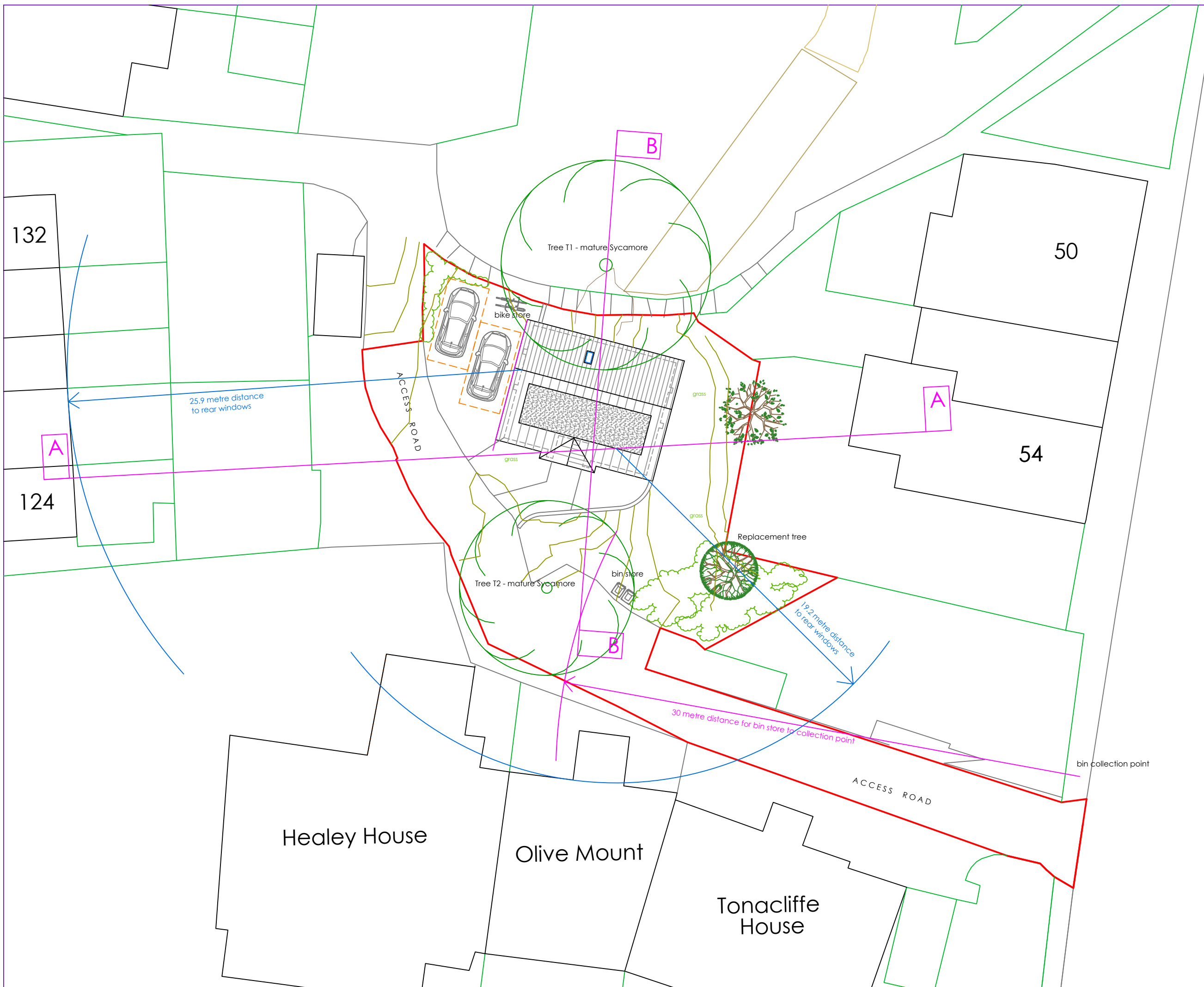
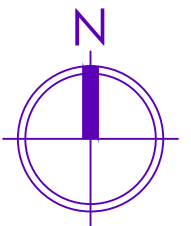
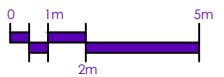
rev B 04 Mar 2022. Blue line added
 rev A 09 Feb 2022. Red line amended

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PROJECT	Land at rear of 54 Tonacliffe Road	DATE	10 Aug 2021
DRAWING	Location Plan	SCALE	1:1250@A4
PROJECT NO.	C3470-1	REVISION	B

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rev D 11 May 2022 Building distances added
 rev C 05 May 2022 Building Rotated
 rev B 09 Feb 2022 Red line amended
 rev A 04 Jan 2022 General Update

Healey House

Olive Mount

Tonacliffe House

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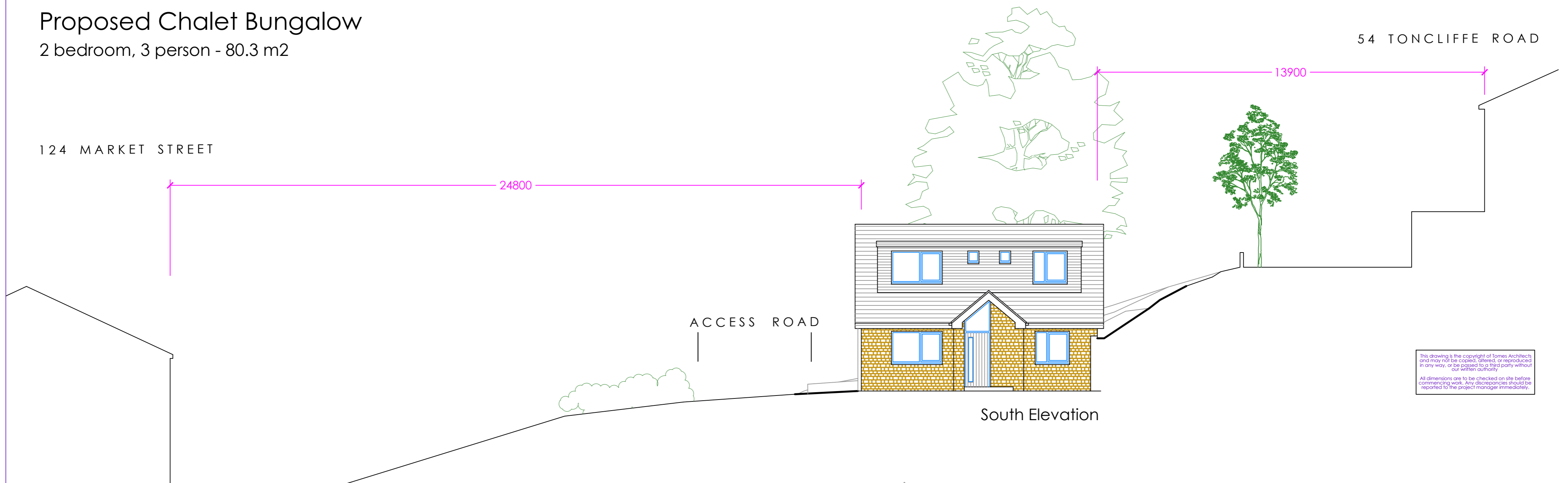
project	Land at rear of 54 Tonacliffe Road	date	10 Aug 2021
drawing	Block Plan	scale	1:200@A3
drawing no.	C3470-2	sheet	D

Proposed Chalet Bungalow

2 bedroom, 3 person - 80.3 m²

54 TONCLIFFE ROAD

124 MARKET STREET

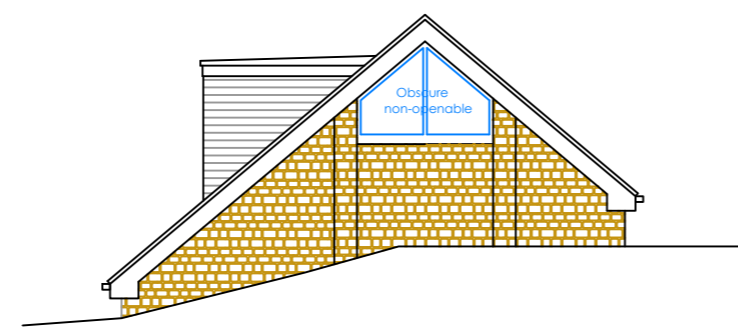


South Elevation

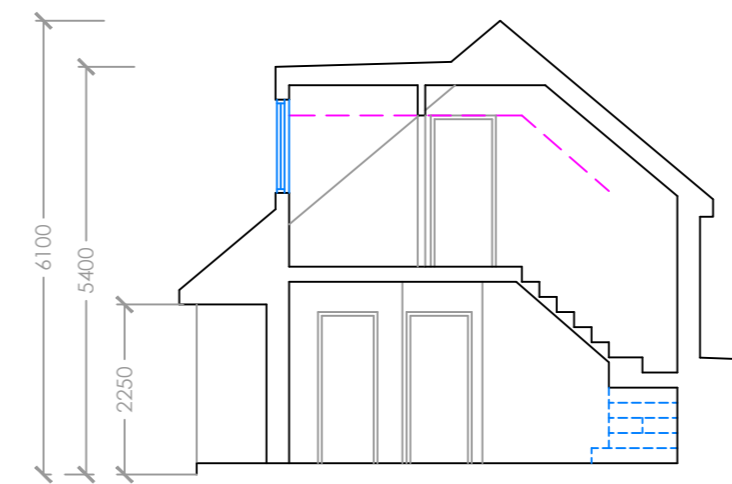
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Section AA

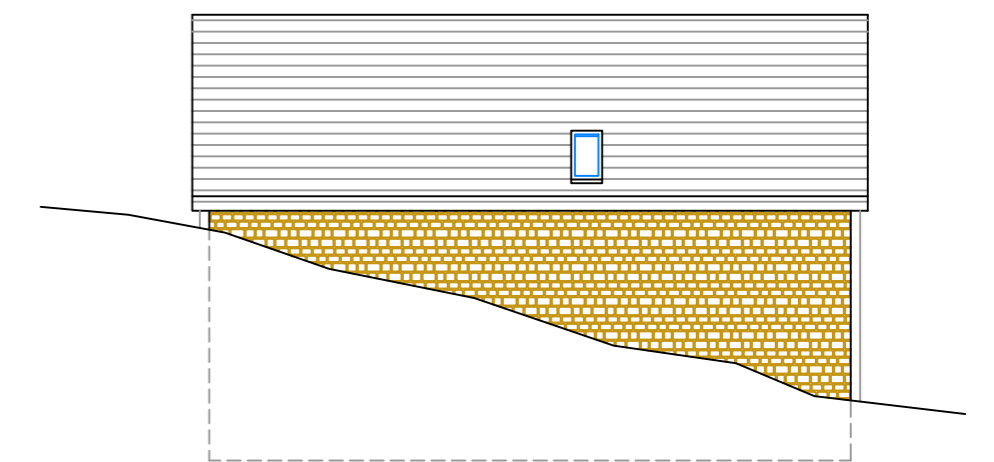
PROPOSED MATERIALS	
External Walls	Facing stonework to match local stone
Dormer Cheeks	Artificial riven slate
Roof	Artificial riven slate
Windows	UPVC double glazed units
Entrance Door	Composite door, self finished



East Elevation



Cross Section

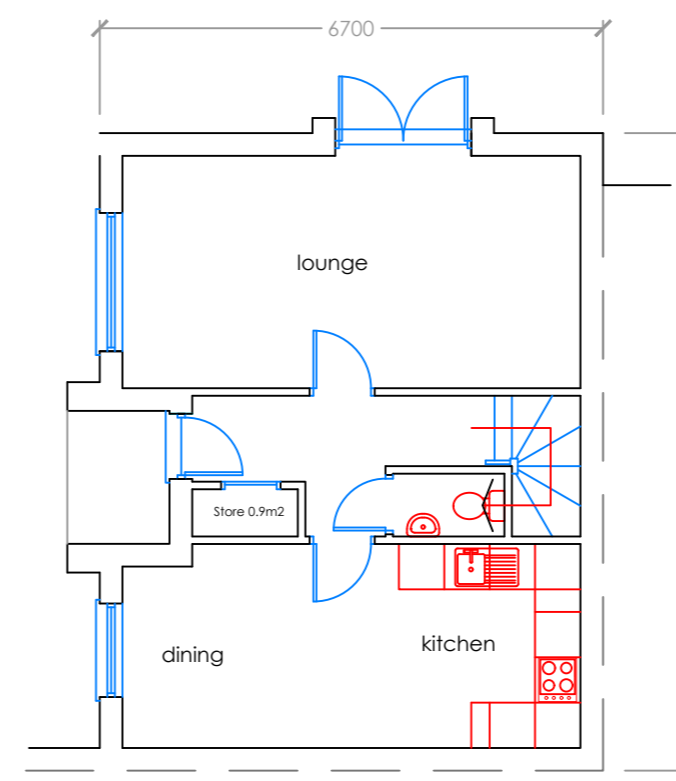


Rear Elevation

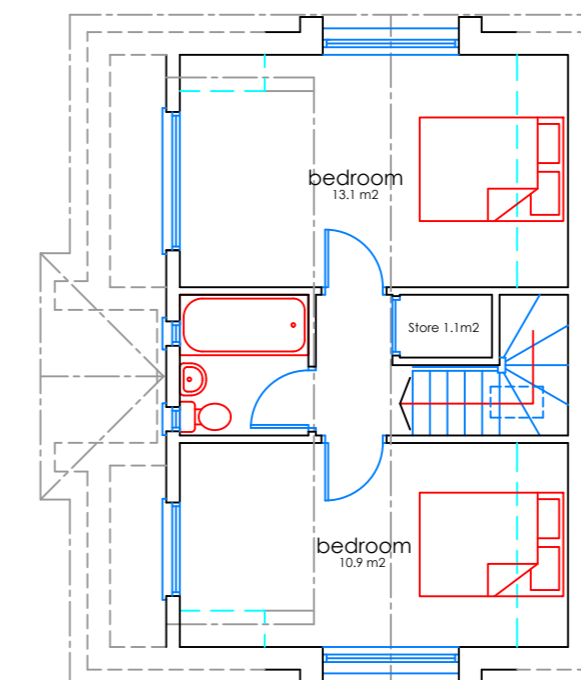


Section AA

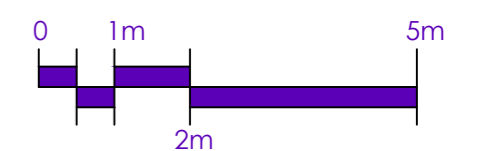
Front Elevation



Ground Floor



First Floor



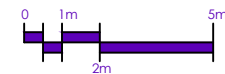
rev D 15 June 2022 Finishes altered
rev C 04 May 2022 Building rotated
rev B 04 Mar 2022 Dimensions & Materials added
rev A 04 Jan 2022 General Update

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Project	Land at rear of 54 Tonacliffe Road	Date	11 Aug 2021
Drawing	Proposed Bungalow	Scale	1:100@A2
Drawing No.	C3470-3	Revision	D

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54

-  low level shrub
-  pervious gravel
-  brick pavior
-  stone faced retaining wall
-  Root Protection Area

rev B 15 June 2022 private garden defined
 rev A 05 May 2022 Building rotated

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project	Land at rear of 54 Tonacliffe Road	date	10 Mar 2022
drawing	Landscape Plan	scale	1:200@A4
drawing no.	C3470-6	revision	B

