

Application Number:	2022/0603	Application Type:	Technical Details Consent
Proposal:	Erection of one Detached dwelling following Permission in Principle (allowed on appeal) - Stage 2 technical details.	Location:	2 Hawthorn House Goodshaw Lane Crawshawbooth BB4 8DJ
Report of:	Head of Planning and Building Control	Status:	For Publication
Report to:	Development Control Committee	Date:	16/01/2024
Applicant:	Mrs D Snape	Determination Expiry Date:	31/01/2023 Extension of Time 18.01.24
		Comments Expiry:	24/01/2023
Agent:	Mr Steven Hartley (HPDA)		

Contact Officer:	Caroline Callow	Telephone:	01706 252432
Email:	planning@rossendalebc.gov.uk		

REASON FOR REPORTING	
Outside Officer Scheme of Delegation	Yes Some of the land is in the ownership of the Council.
Member Call-In Name of Member Reason for Call-in	No
3 or More objections received	No
Other (please state)	No

RECOMMENDATION

That planning permission be approved subject to the conditions set out in Section 10 of this report.

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

APPLICATION DETAILS

1. SITE

The application site is an irregularly shaped plot of land located immediately to the rear of 1 and 2 Hawthorn House, adjacent to Goodshaw Lane, within the defined urban boundary. It is served by an access off Goodshaw Lane and also from Burnley Road.

The site has dwellings adjoining its northern boundary and has the existing two houses to the south and the primary school beyond them.

There are a considerable number of trees on the site which are covered by Tree Preservation Orders.

The land currently serves as the rear garden of No. 2 Hawthorn House.

2. RELEVANT PLANNING HISTORY

2021/0580 - Application for Permission in Principle: Construction of 1 no. dwelling - Refused and allowed on appeal.

2021/0255 - Application for Permission in Principle: Construction of 1 no. dwelling - Refused

3. PROPOSAL

Application 2021/0580 was for permission in principle for the construction of 1 dwelling on this site and was refused for the following reason:

1. The construction of a dwelling on the site would result in a visually awkward and cramped form of development, and would not be sympathetic to the spacious character of the existing site and its surroundings. As such, the scheme is contrary to Policies 1, 23 and 24 of the Core Strategy and Section 12 of the National Planning Policy Framework.

The proposal was however subsequently allowed on appeal. The Inspector considered that the proposal would retain the predominantly residential nature of the area and would not appear unduly cramped or incongruous.

This application was subsequently approved on appeal.

The Permission in principle consent route has 2 stages: the first stage (or permission in principle stage) establishes whether a site is suitable in-principle; the second (technical details consent) stage is when the detailed development proposals are assessed. Both stages are required to achieve a planning permission. This application is for the second, technical details consent stage.

An indicative site layout drawing was submitted at the permission in principle stage and the location and design of the dwelling have been taken forward into this application although changes have been made to the proposed parking arrangements. An amended site plan was received from the applicant as part of this application on 08.11.23 and it is this plan which is considered in this report.

The proposal is for a two storey house, with four bedrooms to be constructed with external walls faced with pitch face natural local stone a natural blue slate roof. Three parking spaces would be

provided to the north of the drive to the rear of No.2 Hawthorn house and two parking spaces to the east of the drive to serve No. 2.

The site is located within the urban boundary.

4. 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 11 Making Effective Use of Land
- Section 12 Achieving Well Designed Places
- Section 15 Conserving and Enhancing the Natural Environment
- Section 16 Conserving and Enhancing the Historic Environment

Development Plan Policies

Rossendale Local Plan

- Strategic Policy SS: Spatial Strategy
- Strategic Policy SD1: Presumption in Favour of Sustainable Development
- Strategic Policy SD2: Urban Boundary and Green Belt
- Strategic Policy HS1: Meeting Rossendale's Housing Requirement
- Policy HS8 Private Amenity Space
- Policy ENV1: High Quality Development in the Borough
- Policy ENV4: Biodiversity, Geodiversity and Ecological Networks
- Policy ENV6: Environmental Protection
- Policy ENV9: Surface Water Run-Off, Flood Risk, Sustainable Drainage and Water Quality
- 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

5. CONSULTATION RESPONSES

Ecology	See comments below
Land Contamination Officer	See comments below
LCC Highways	See comments below
RBC Environmental Health Officer	No objections
RBC Property Services	See comments below
Tree Consultant	See comments below
United Utilities	See comments below

6. REPRESENTATIONS

In order to publicise the application a site notice was posted on 3/1/23 and neighbour letters were sent out on 3/1/23. The application was also available for viewing on the Council's website.

3 representations have been received, raising the following points in summary:

Visual amenity

Retention of an eyesore storage building, Building should come down.

Design does not meet the standards required by the NPPF or Policy ENV1 of the Local plan.

Should be a high standard of architectural design.

Overbearing concrete retaining wall.

Hawthorn house is an important heritage asset and the proposed development in its current form would significantly detract from the historic environment.

Access and Parking

2 parking spaces block access and entrance to property which is in daily use from Goodshaw lane. This is also necessary to ensure that urgent or emergency access can be achieved. Another space seems to be blocking the access road to No. 1.

Protection of the non vehicular users of Goodshaw Lane. Goodshaw Lane is in contravention of the recommendations of the "Manual for Streets" and every new build on the Lane should take positive steps to address this.

Goodshaw lane is single track with no pavement and is accessed by children on their way to Crawshawbooth Primary School, the attached recreational area and the outdoor classroom and many footpaths. Horse riders and elderly people resident at Harvey Longworth Court. The building of more houses accessed from Goodshaw Lane would increase the number of vehicles and safety and would be an "accident waiting to happen".

Location

Location in greenbelt and countryside.

Housing need

Contrary to policy HS1 of the local plan. A 4 bedroomed house would be at odds with the SHMA's identified need for single storey smaller homes suitable for an increasingly elderly population

Trees/Biodiversity

Damage/ruin trees

The retaining wall falls squarely within the tree canopy and root protection areas and would potentially cause damage to the group T28 to T39 as detailed in the TPO 1995 T2/96.

Contrary to policies ENV3, ENV4, ENV10 regarding Landscape character, biodiversity, trees and hedgerows. Development does not protect the natural landscape or enhance the public realm.

Need for biodiversity enhancement.

Residential amenity

Overlooking resulting in a loss of privacy. Design cramped and would be surrounded on three sides by hard facades.

Loss of privacy for existing properties

7. ASSESSMENT

Principle

The principle of the development of this site for one dwelling has been established with the appeal decision on the permission in principle application 2021/0580. The site is located within the defined urban boundary, and cannot be considered particularly remote or isolated. The site is within walking distance of a public transport corridor, local shops and a primary school.

Land Ownership

Anyone may make a planning application even if they have no legal interest in the site in question, although, the land owners must be formally notified before an application can be considered by the local planning authority. The proposed development has included land, (specifically the access road to 1 and 2 Hawthorn House from Goodshaw Lane) which is owned by the Council. The applicant has access and maintenance rights over that land and it is subject to rights of way by other users of the land. The applicant has served the requisite notice on the Council.

The lack of ownership is not a material consideration in the determination of a planning application, even if there is doubt as to the feasibility of acquisition of any of the land forming a site. Allowing an application would not affect any legal rights or constraints that may exist

The proposed development would be in breach of restrictive Covenants imposed from the transfer of the land dated 28th April 1995 from the Council to the applicant. This requires express agreement from the Council before any development could take place. There are also retained rights of use and rights of way within the transfer of the land dated 28th April 1995 from the Council to the applicant, in particular rights related to the store which is to be retained. However, the issues of the Covenants and the aforementioned rights of use and way are separate matters which would fall outside the control of the planning system.

As noted above the grant of planning permission would not overrule the rights of the Council and the neighbouring property.

The above issues do not constitute valid planning reasons to refuse the application. Property Services have advised they would not support this planning application until the above issues are resolved.

Visual Amenity

The NPPF Paragraph 130. states:

Planning policies and 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.

Policy ENV1 of the Local Plan requires that all new development in the Borough will be expected to take account of the character and appearance of the local area, including
“Siting, layout, massing, scale, design, materials, lighting, building to plot ratio and landscaping”

Policy ENV3 states that the:

Council will expect development proposals to conserve and, where possible , enhance the natural and built environment, its immediate and wider environment and take opportunities for improving the distinctive qualities of the area and the way it functions.

In addition the National Design Guide advises in Paragraph 129 that:

Well-designed buildings are carefully integrated with their surrounding external space. All private and shared external spaces including parking, are high quality, convenient and function well. Amenity spaces have a reasonable degree of privacy. External spaces are designed to respond to local character, as appropriate solutions will vary by the context.

The site forms part of the curtilage of No. 2 Hawthorn House, it is situated within the main rear garden of the host property. The existing dwelling is one of a pair of dwellings set in spacious open grounds, with a formal raised garden area to the rear. Whilst it is noted that the Inspector did not consider that the principle of a dwelling on the site would result in a cramped form of development he did not comment on the scale of the dwelling. However it is considered that the size and location of the proposed dwelling could not be considered as an over development of the site in the light of the Inspector's decision to allow the principle. Whilst on raised ground the ridge of the dwelling would be lower than Hawthorne House and generally smaller in scale.

It was suggested to the applicant that they amend the proposed design and in particular the fenestration to better reflect Hawthorn House. They have not done this because they consider that the use of natural stone and slate is the most important aspect of visual amenity in this instance and that modern standards of room sizes and heights are different from Edwardian dwellings. Also, the outbuilding on the site which is to be retained would have the effect of separating the new house from Hawthorn House in a visual sense. Whilst it is considered that appropriate design is more than just the materials, in this case, a refusal on the grounds of design and appearance would be difficult to justify.

It was considered that the initially proposed concrete 'lego block' retaining wall would not have a satisfactory visual appearance. The applicant has amended the plans to show the retaining wall being stone faced and with an average of 1m in height.

Having regard to the above, the development is considered to be acceptable in terms of visual amenity.

It is noted that representations have been made in respect of impact on the heritage of the existing dwellings. Hawthorn House is not however listed and does not fall within a Conservation Area. As such, there is no adverse impact arising from the proposal on heritage matters.

Tree Preservation Orders

The site contains numerous trees which are subject to TPOs. The Council's arboricultural advisor has advised that following receipt of updated reports, all but one of the three of their previous comments had been addressed. They remain concerned about the impact of the car parking spaces on the roots of trees, and although it is a minimal incursion they require additional information regarding supervised pruning of the roots, so as to not leave them vulnerable to infection. This can be dealt with by way of a planning condition.

Biodiversity

Section 15 of the NPPF 2021 states that the planning policies and decisions should contribute to and enhance the natural and local environment. Policy ENV1 of the Local Plan reflects the same approach, requiring that:

“there is no adverse impact to the natural environment, biodiversity and green infrastructure unless suitable mitigation measures are proposed and the Council will seek biodiversity net gain consistent with the current national policy

The submitted bat report advises that the proposals are unlikely to have a negative impact upon individual bats, their roosts, or on bat populations in the locality. The site is however considered a high quality habitat for bats. Since the bat report was prepared, the scheme has been amended to retain the storage building. The bat report advises that at least two crevice-roost sites, should be integrated into the newly constructed building or attached externally to the building.

Two swallow cups are shown on the submitted plan. It is recommended that these and the two crevice roost sites be required by way of a condition, should the application be approved to enhance the biodiversity of the site in accordance with Section 15 of the NPPF and Policy ENV1 of the Local Plan.

Residential Amenity

Both national and local policies aim to protect the amenity of all existing and future occupants of land and buildings. Policy ENV1 of the Rossendale Local Plan requires that a proposal should not:

“Have an unacceptable adverse impact on neighbouring development by virtue of it being overbearing or oppressive, overlooking, or resulting in an unacceptable loss of light nor should it be adversely affected by neighbouring uses and vice versa”.

The Alterations and Extensions to Residential Properties SPD also advises that new development should protect the amenity of residents, ensuring that each resident has an acceptable level of privacy and satisfactory level of daylight. Important factors such as overlooking and overshadowing will be taken into consideration.

The proposed dwelling would be partly screened from Hawthorn House by the existing store and the facing elevation would include only a window serving a lounge and a WC at ground floor level. The lounge has opening glass doors on the front elevation. Any potential overlooking could therefore be dealt with by way of a condition requiring the use of obscure glazing on the south elevation windows.

Access, Parking and Highway Safety

The Council's car parking standards require the provision of 2 parking spaces for a dwelling with 2-3 bedrooms and 3 parking spaces for a dwelling with 4+ bedrooms. The development shows 5 parking spaces to serve both the new and existing dwelling (No.2). Following the receipt of amended drawings, LCC Highways have advised that the revised parking layout is considered acceptable. The provision of a secure, cycle store and an electric vehicle charging point are necessary.

Although representations have been made in respect of highway safety on Goodshaw Lane, the Planning Inspector stated, “as the Council’s highway advisors have found, given that the proposal is for a single dwelling, it would be unlikely, in my view, to materially affect highway safety or capacity in the locality.” The proposal is therefore, deemed acceptable on the grounds of highway safety.

Contamination

The Council's contamination advisor has indicated that no new documents have been provided and that his previously provided comments under 2021/0255 and 2021/0580 remain unchanged.

An application for a sensitive residential end use should be accompanied by a contaminated land Preliminary Risk Assessment report or equivalent otherwise the LPA could conclude that insufficient information has been submitted for it to make a decision.

The site has been occupied over the years by various small buildings and greenhouses. These are potential sources of contamination. In addition, the usual standard concerns should be considered including:

- Imported materials for levelling drainage and surfacing
- Storage and spillage of fuels and oils (including heating oils, vehicles and machinery)
- Deposition of materials for soil conditioning (including ash)
- Asbestos used for structures and roofing
- Burning activities

A quarry to the opposite side of Goodshaw Lane is a potential source of ground gas but the applicant should be advised that gas monitoring was undertaken in relation to the development of that site and relevant documents are already in the public domain on public access (Planning ref: 2020/0012)

Despite the points listed above, any contamination at the site is likely to be at the lower end of the risk spectrum and is unlikely to prohibit development. The client should be advised that some contamination is likely to be present which may not be suitable for a new residential plot and garden, this is because relatively low levels of contamination are considered unacceptable. A site walkover survey will be required together with soil sampling. A degree of site remediation may be required.

Drainage

National Planning Policy Framework (NPPF) and the National Planning Practice Guidance (NPPG) advise that surface water from new developments should be investigated and delivered in the following order of priority: 1. into the ground (infiltration); 2. to a surface water body; 3. to a surface water sewer, highway drain, or another drainage system; 4. to a combined sewer. United Utilities recommend the applicant considers their drainage plans in accordance with the drainage hierarchy outlined above.

8. CONCLUSION

The proposed development is considered acceptable on the grounds of visual and residential amenity and would not have an undue impact of highway safety in the vicinity of the site. It is therefore recommended that the application be approved.

9. RECOMMENDATION

Approve subject to the following conditions.

1. The development hereby permitted shall be begun before the expiration of three years from the date of this permission.

Reason: To accord with the requirements of Section 91 of the Town and Country Planning Act 1990.

2. The development hereby permitted shall be carried out in accordance with the following drawings, unless otherwise required by the conditions below:

Drawing Title	Drwg No	Date Rec'd
Proposed Location plan and curtilage	BS130521.B.2	08.11.23
House details	HA-20-8-22-C	01.11.23
Site Plan	HS-20-08-22-B	08.11.23

Reason: To define the permission and in the interests of the proper development of the site.

3. The development shall be undertaken strictly in accordance with the details contained within the document 'Proposed external materials' received by the Local Planning Authority on 16.11.23.

Reason: To ensure a satisfactory appearance to the development.

4. Prior to first occupation the dwelling shall have a secure, covered cycle store and an electric vehicle charging point.

Reason: To support sustainable transport objectives and to contribute to a reduction in harmful vehicle emissions.

5. Notwithstanding any information submitted with the application, no development shall take place until an investigation and risk assessment has been submitted to and approved in writing by the Local Planning Authority. The submitted report shall include:

- i) A Preliminary Risk Assessment report (phase 1), including a conceptual model and a site walk over survey;
- ii) Where potential risks are identified by the Preliminary Risk Assessment, a Phase 2 Site Investigation report shall also be submitted to and approved in writing by the Local Planning Authority prior to commencement of development. The investigation shall address the nature, degree and distribution of land contamination on site and shall include an identification and assessment of the risk to receptors focusing primarily on risks to human health, groundwater and the wider environment; and
- iii) Should unacceptable risks be identified the applicant shall also submit and agree with the Local Planning Authority in writing a contaminated land remediation strategy (including verification plan) prior to commencement of development. The development shall thereafter be carried out in full accordance with the duly approved remediation strategy or such varied remediation strategy as may be agreed in writing with the Local Planning Authority.

iv) Reason: To ensure that the development is suitable for the proposed end use.

6. Pursuant to condition 5; and prior to first use or occupation a verification report, which validates that all remedial works undertaken on site were completed in accordance with those agreed with the Local Planning Authority, shall be submitted to and approved in writing by the Local Planning Authority.

Reason: To ensure that the development is suitable for the proposed end use.

7. Construction works shall not take place outside the following hours:

Monday to Friday 08:00 to 18:00, Saturday 08:00 to 13:00

Construction shall not take place on Sundays or Bank or Public Holidays.
Access and egress for delivery vehicles shall be restricted to the working hours indicated above.

Reason: to ensure that site working only takes place during normal working hours in order to restrict the times during which any disturbance and nuisance may arise.

8. Prior to any above ground works a scheme for biodiversity enhancement of the site shall be submitted to and approved in writing by the Local Planning Authority. The proposed works shall include at least two crevice-roost sites for roosting bats integrated into the newly constructed building and two swallow cups. All approved works shall be implemented in full and retained for a minimum period of 10 years.

Reason: In the interest of biodiversity enhancement.

9. Notwithstanding the details shown on the submitted plans and prior to any above ground works, full details of the alignment, height and appearance of all fences and walls including the proposed retaining wall (which shall be stone faced) and gates to be erected shall be submitted to and approved in writing by the Local Planning Authority. No dwelling shall be occupied until all fences, walls and other boundary treatments shown in the approved details have been erected in conformity with the approved details.

Reason: To ensure a satisfactory appearance to the development and provide reasonable standards of privacy to residents.

10. No construction shall begin until an updated AIA and AMS has been provided. No construction shall be started until all the retained trees within the site as shown on the Tree Protection Plan, have been protected. Such protection shall be installed in accordance with the specification described in the updated AIA and AMS document, in the positions as shown at Tree Protection Plan, and shall remain until all development is completed and no work, including any form of drainage or storage of materials, earth or topsoil shall take place within the perimeter of such fencing. The development hereby approved shall be carried out in accordance with the updated submitted Arboricultural Impact Assessment and Arboricultural Method Statement.

Reason: To ensure the protection of trees on the site.

11. The windows in the south elevation of the dwelling shall be fitted with obscure glass and obscure glazing shall be retained at all times thereafter. The obscure glazing shall be to at least Level 3 on the Pilkington Levels of Privacy, or such equivalent as may be agreed in writing by the local planning authority.

Reason: In the interests of the privacy of occupiers of neighbouring property.

12. Notwithstanding Schedule 2 Part 1 Class A, B, C, D, E, F, G and H, and Part 2 Class A or B of the Town and Country Planning (General Permitted Development) Order 2015 or any subsequent re-enactment thereof no extensions or alterations to the dwelling, outbuildings (including sheds, garages, and greenhouses), walls and fences, or any other works permitted by the aforementioned classes shall be constructed or erected other than those expressly authorised by this permission..

Reason: In the interests of visual amenity, the protection of trees on the site and the residential amenity of neighbouring properties.

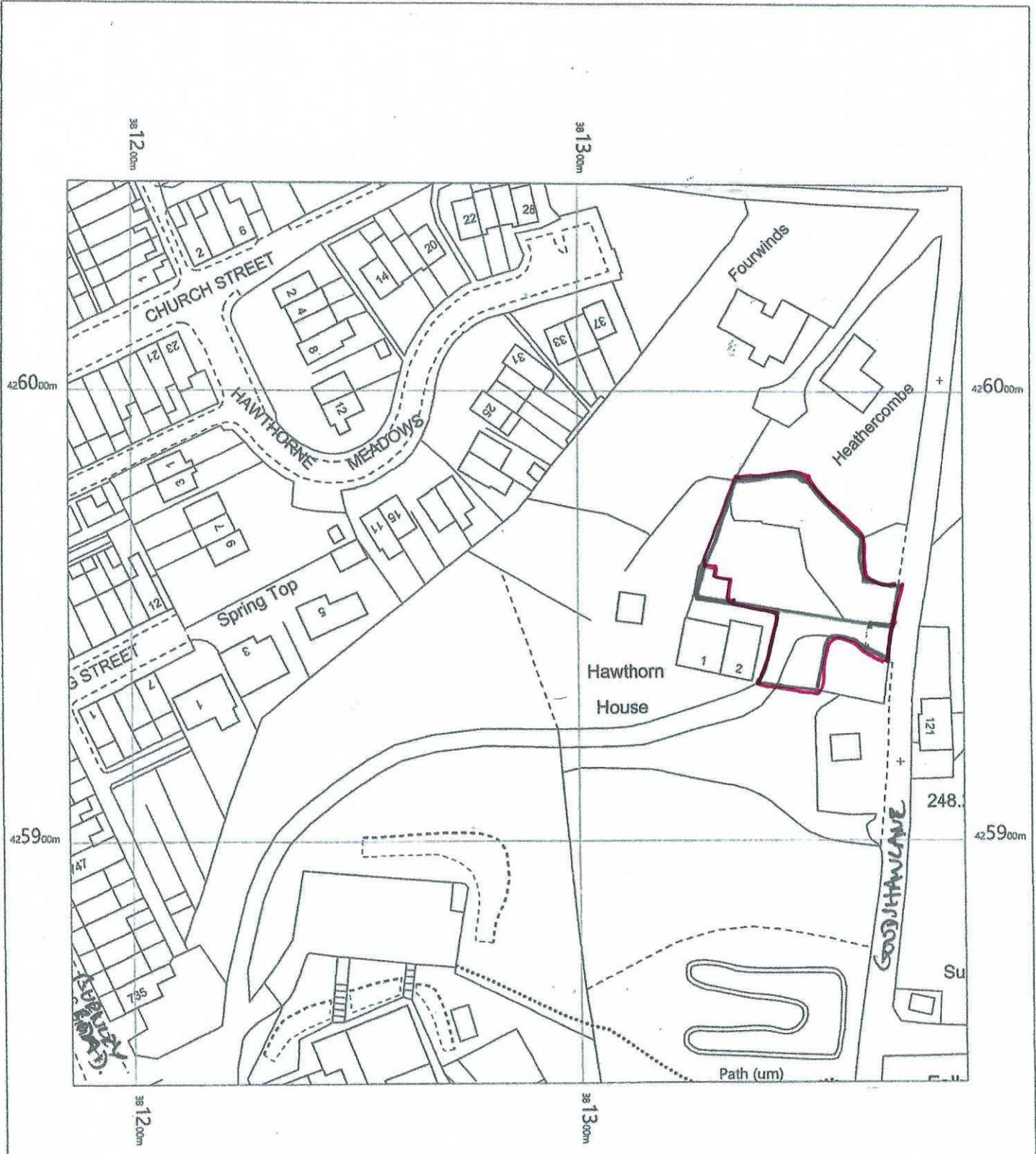
13. The development shall be carried out in full accordance with the Amended Construction Management plan and Amended Construction Management Statement received on 16.11.23, throughout the construction period.

Reason: In the interests of Highway Safety and amenity.

10. INFORMATIVES

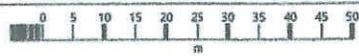
1. The proposal complies with the development plan and would improve the economic, social and environmental conditions of the area. It therefore comprises sustainable development and the Local Planning Authority worked proactively and positively to issue the decision without delay. The Local Planning Authority has therefore implemented the requirement in Paragraph 38 of the National Planning Policy Framework.
2. During the period of construction, should contamination be found on site that has not been previously identified, no further works shall be undertaken in the affected area. Prior to further works being carried out in the affected area, the contamination shall be reported to the Local Planning Authority within a maximum of 5 days from the discovery, a further contaminated land assessment shall be carried out, appropriate mitigation identified and agreed in writing by the Local Planning Authority. The development shall be undertaken in accordance with the agreed mitigation scheme.
3. The applicant is advised that they have a duty to adhere to the regulations of Part 2A of the Environmental Protection Act 1990, the National Planning Policy Framework 2018 and the current Building Control Regulations with regards to contaminated land. The responsibility to ensure the safe development of land affected by contamination rests primarily with the developer.
4. The applicant is advised that during the Construction phase they should:

Noise: Take all practicable steps to prevent the noise from the site activities giving rise to a nuisance.
Dust: Take all practicable steps to prevent any dust from the site activities giving rise to a nuisance.
Fumes: Take all practicable steps to prevent any fumes from site plant/vehicles/activities giving rise to a nuisance and there should be no burning of materials at the site.
5. It is currently an offence under regulation 43 (1) of the Conservation of Habitats and Species (Amendment) (EU Exit) Regulations 2019 to deliberately capture, kill or disturb a bat or destroy a breeding site or resting place of a bat. It is also an offence under schedule 5 & 6 of the Wildlife & Countryside Act (1981) (as amended) and all British birds nests and eggs (with certain limited exceptions) are protected by Section 1 of the Wildlife & Countryside Act 1981, as amended.



LOCATION PLAN 2. AMENDED 13/05/2021. 08/11/2023

REF. BS.130521.B.2.

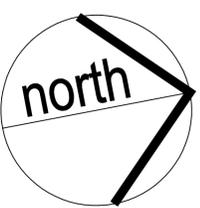
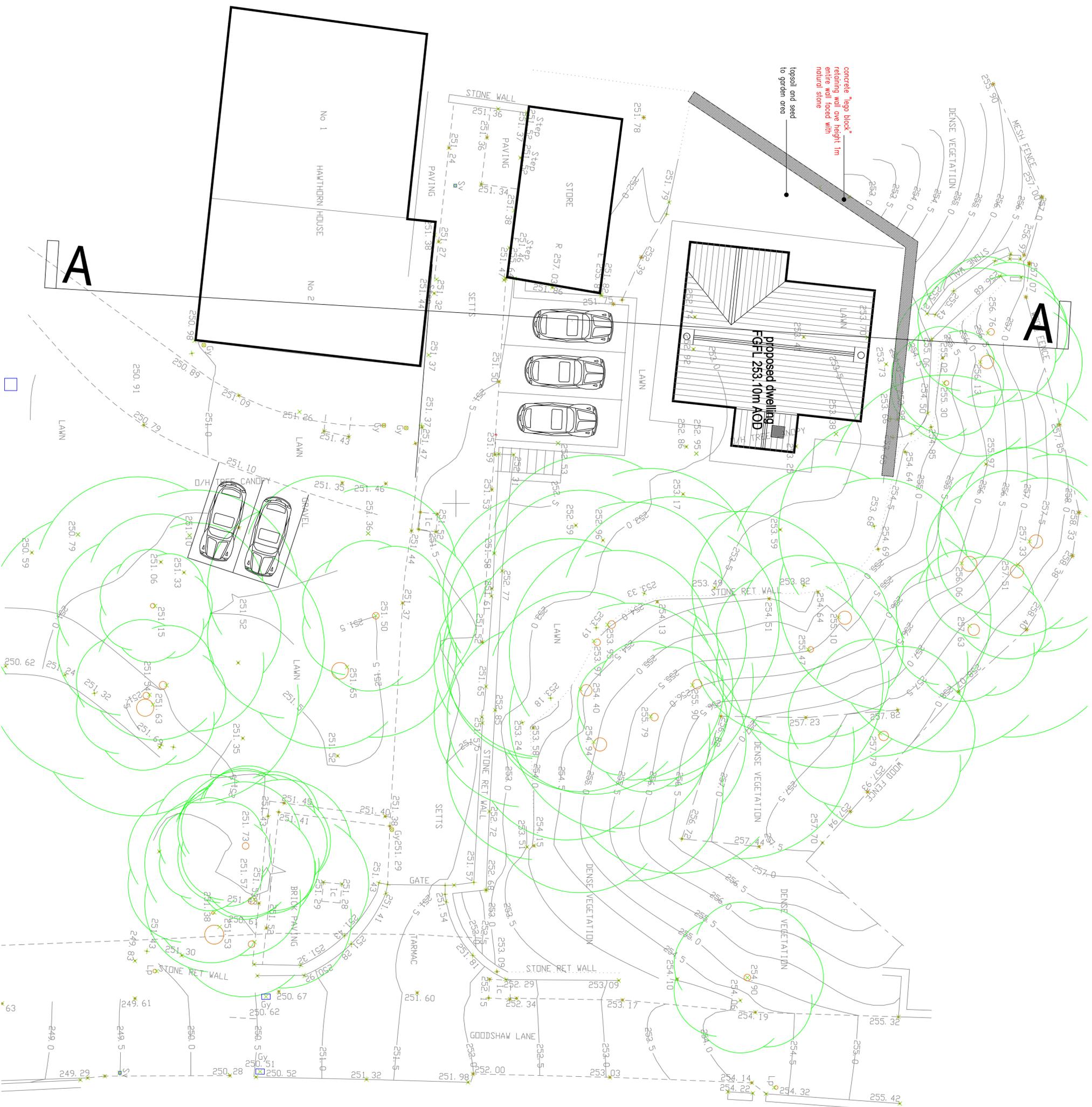


2 Hawthorn House
 Goodshaw Lane,
 Crawshawbooth,
 Rossendale,
 Lancashire
 BB4 8DJ

OS MasterMap 1250/2500/10000 scale
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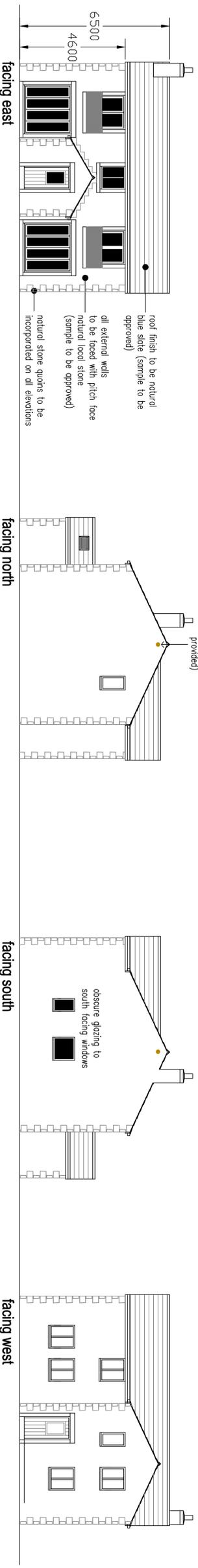
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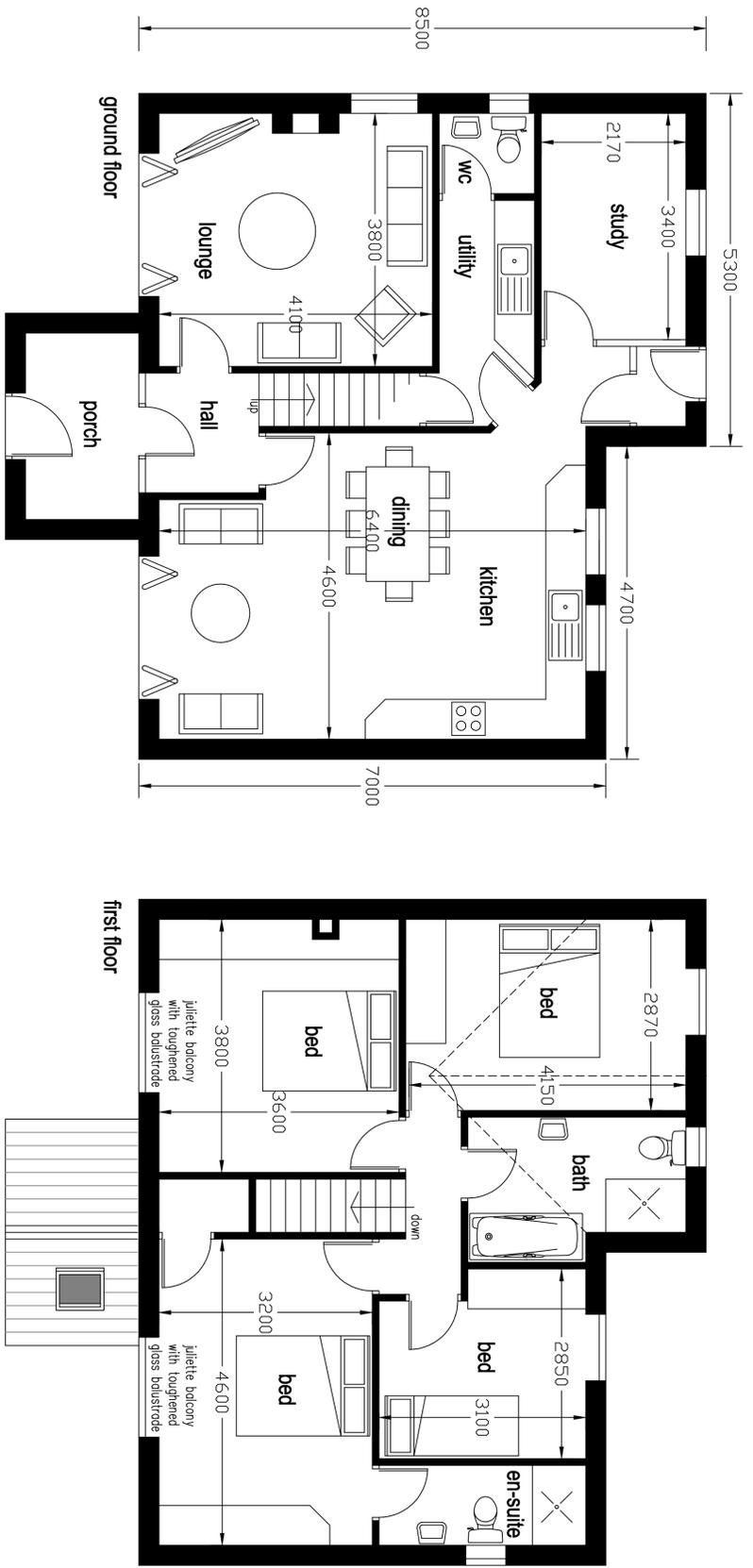
proposed site plan
 proposed detached 4 bed dwelling
 on garden plot adjacent to

2 Hawthorne House
Crawshawbooth
Rossendale

plan scale 1:100 @ A1
 0m 10m
 linear scale 1:100 @ A1
 drawing number HS-20-8-22-Bandedd2



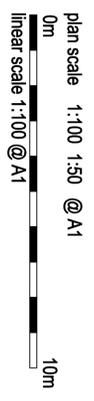
proposed elevations scale 1:50



house details

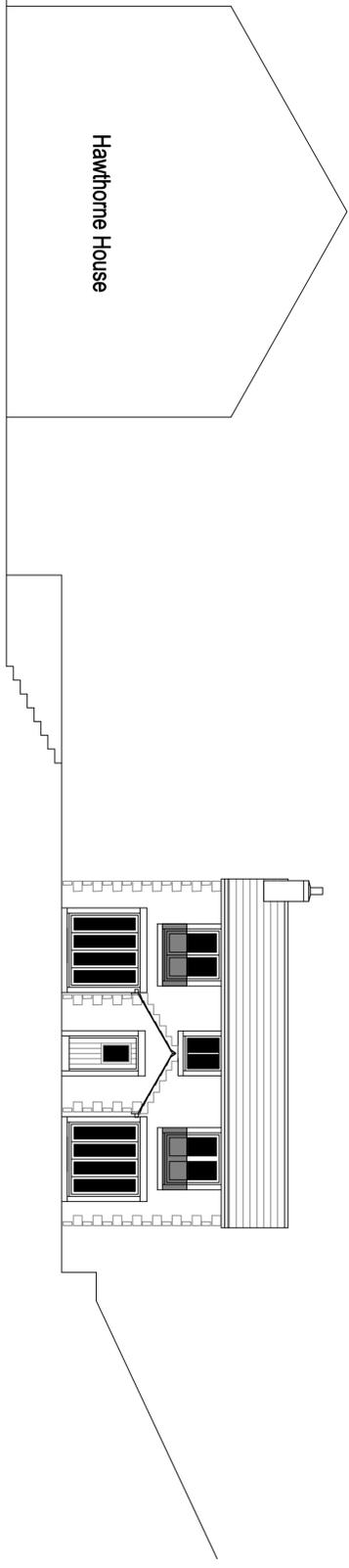
proposed detached 4 bed dwelling on garden plot adjacent to

2 Hawthorne House
 Crawshawbooth
 Rossendale



drawing number HS-20-8-22-C

cross section A-A scale 1:100





M10 BRY



