

Application Number:	2023/0500	Application Type:	Full
Proposal:	Full: Proposed dwelling	Location:	Clover Hill Greensnook Lane, Bacup Lancashire
Report of:	Planning Manager	Status:	For Publication
Report to:	Development Control Committee	Date:	19/03/2024
Applicant:	Mr & Mrs S & W Middleton	Determination Expiry Date:	25/12/23 EOT agreed to 22/03/2024
Agent:	Steven Hartley		

Contact Officer:	Claire Bradley	Telephone:	01706 238636
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REASON FOR REPORTING	
Outside Officer Scheme of Delegation	
Member Call-In Name of Member: Reason for Call-In:	
3 or more objections received	Yes
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**

That the application be approved subject to the conditions specified below.

2. **THE SITE**

The application concerns a roughly rectangular parcel of land which has been used in the past as allotments. Access is via a track from Todmorden Road and this access also serves a number of other residential properties. The land is raised and slopes to the south of the site to meet Todmorden Road. This land to the south is wooded, and there is a tree-lined boundary to the west. The boundary to the north comprises a track and wall with mature trees above.

The site is located within the Urban Boundary.

3. **RELEVANT PLANNING HISTORY**

2021/0577 Proposed dwelling Refused and Dismissed on appeal

X/2004/890 Outline- Erection of two dwellings Refused 06.05.2005

X/2004/280 Outline- Erection of two detached dwellings with detached garages and associated parking accessed from Greensnook Terrace Refused 21.07.2004

4. **PROPOSAL**

The application proposes the erection of a part single storey, part two storey dwelling with 3 bedrooms. A tarmac access track would be formed leading to a double garage, hardstanding for the parking of 3 vehicles and the dwelling.

The dwelling would be constructed with external walls finished with natural stone under a natural slate roof and windows and doors of black UPVC. A projecting bay/dormer would be formed with timber framing and external zinc cladding.

A 2m high timber post and panel fence would be erected to the northern site boundary. The site boundaries on the south, east and west would be undefined.

5. **POLICY CONTEXT**

National

National Planning Policy Framework

- Section 2 Achieving Sustainable Development
- 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 14 Meeting the Challenges of Climate Change, etc
- Section 15 Conserving & Enhancing the Natural Environment
- Section 16 Conserving & Enhancing the Historic Environment

Development Plan

Local Plan 2019-2036

Strategic Policy SS: Spatial Strategy

Strategic Policy SD1: Presumption in Favour of Sustainable Development

Strategic Policy SD2: Urban Boundary and Green Belt

Policy SD3: Planning Obligations

Strategic Policy HS1: Meeting Rossendale's Housing Requirement

Policy HS2: Housing Site Allocations

Policy HS3: Affordable Housing

Policy HS4: Housing Density

Policy HS5: Housing Standards

Policy HS8: Private Outdoor amenity space

Strategic 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

RBC Alterations and Extensions to Residential Properties SPD

6. CONSULTATION RESPONSES

LCC Highways

See comments below.

United Utilities

Have advised:

“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.

The applicant should consider their drainage plans in accordance with the drainage hierarchy outlined above.”

“A public sewer crosses the site and we will not permit building over it. We require an access strip for maintenance or replacement and this access must not be compromised in

any way. The minimum distances that might be acceptable to United Utilities are detailed within Part H of the Building Regulations.”

Environmental Health

No comments received.

Environmental Protection

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

Environmental checks reveal that site was formerly allotment gardens which tend to be affected by contamination at levels that may be unacceptable for a new residential development. The usual potential sources include:

- Imported materials for surfacing/levelling/sub-base/drainage
- Burning activities
- Ash was historically used as a soil conditioner for growing
- Potential fuels and oils (heating for greenhouses)
- Asbestos from former structures (e.g. corrugated roofing)
- Storage and use of other items and substances

The above items shouldn't be prohibitive to development and can be covered under planning condition. The standard contaminated land conditions are listed below. An intrusive site investigation will be required. As this is a single property development, a combined PRA and Site Investigation may be more cost effective.

Greater Manchester Ecology Unit

See comments below.

Rossendale Borough Council Operations

They are no concerns for Operations. Like other properties in the vicinity they would have to present their bins on the pavement of the nearest highway (Todmorden Road) for collection.

ECUS (Tree Consultants)

An arboricultural impact assessment and method statement has been provided at the above address. The trees within the site are protected by a TPO W29. The AIA identifies the need for removing 2 Category C trees T4 and T5 and 2 category U trees T21 & 1 tree within G2, although the location of this tree has not been clearly specified where it is located within the group. The removal of the 2 Category C trees will have a minimal effect on the surrounding visual amenity of the area and can be mitigated against with a suitably approved planting scheme.

For the retained trees on site a methodology has been included within the AMS detailing specialist construction for a new access track into the site that will incur into the RPA's of T3 & G1. These incursions are below 20% as stipulated in BS 5837. The AMS document does not however include a Tree protection plan (TPP) for the remainder of the trees on site throughout construction.

Summary/recommendations:

Whilst I do not object to the scheme in principal, further details however will need to be provided in line with BS 5837, in the form of a tree protection plan for the surrounding woodland as is protected by TPO W29.

7. **REPRESENTATIONS**

To accord with the General Development Procedure Order letters were sent to neighbours on 21st November 2023 and a site notice posted on 21st November 2023.

In total 7 objections have been received raising the following matters.

No change

No change from previous refusal.

Proposal fails to address any of the concerns from public and Local Authority.

Access

No access for bin lorries. In 45 year the Council refuse truck has not accessed this private drive.

Potential damage to trees roots outside the boundary of the site and not in the ownership of the applicant from access.

Potential root compression and damage from heavy delivery vehicles.

Application states no unloading of building materials will take place on Todmorden Road hence all deliveries will be direct to the site.

Gateway is only 3m wide and flanked by 2 historic stone gateposts. No indication of how wide delivery vehicles will access it.

As there are no parking spaces vehicles would be forced to reverse onto Todmorden Road. The Engineering report claims the driveway is up to Highway Standards this claim is baseless.

Tarmac surface is unsuitable to heavy commercial vehicles. At present it is only used by private light vehicles and the top layer of tarmac is eroding.

Heavy delivery vehicles would cause further damage and repairs are the responsibility of the 6 existing properties.

The gate post on the right as entered from Todmorden Road is not in the applicant's ownership. It would be impossible to build a dwelling without damage to the neighbour's gatepost and property.

The gateposts are part of the historic character of Bacup.

Damage has already occurred to gateposts due to applicant's earlier work.

If access is blocked it would block other people from using their home and infringe their Human Rights.

If access is blocked at any time the applicant can expect legal action.

Any widening of access and drive would not be acceptable to neighbours and make them more vulnerable to crime.

Trees

The AIA is out of date

Does not mention the 2 TPOs

Fails to justify the removal of the two mature trees which are to be felled to facilitate the development,

A mature hedgerow is to be removed and not mentioned in the AIA.

Proposal contrary to Policy ENN10 of the Local Plan

The provision of one additional dwelling does not justify the harm to biodiversity and loss to visual amenity caused by the loss mature of trees.

No survey has been undertaken of trees on neighbour's land which are likely to be affected by the proposed development.

To claim there are no overhanging branches is clearly untrue.

Before any planning was approved the applicant felled two trees, trimmed branches and damaged roots leaving piles of spoil to the side of the access track. Hopefully the applicant will be made to restore this to the original condition.

Biodiversity

The submitted report fails to quantify the biodiversity loss and does not indicate how it will be compensated for on site or demonstrate it can achieve net gain.

Biodiversity needs to be designed in and not an afterthought.

The site is dark being surrounded by trees and an excellent habitat for bats. The applicant's statement there will only be a "porch light on a timer" does not reflect the light spill from the dwelling and outbuildings.

Land Stability

There is an "Engineering Report" but that is not a land stability assessment. It is highly subjective and has no regard to the proposed development and is therefore inadequate.

Demonstrable risk of land slippage and also causing it on neighbour's land particularly along the boundary line of the access road where the land is at its steepest.

Engineering report

States that the existing track is probably consistent with many other roads in the area in the order of 450mm construction depth. This assumption is incorrect, the track was probably built for a horse and cart and is shown on historic maps dating back 130 years. It has never been adopted and will never have been upgraded to the same standard as many roads in the area.

It states the road has for many years been used by normal domestic traffic i.e. Local Authority bin disposal and other service vehicles. It has never been used by refuse vehicles.

The photographs show the damage to roots of a protected tree by the applicant in their haste to form an access track into the site.

Inaccuracies with other photographs.

Design

Incongruous architectural building design

No sympathetic with surrounding Victorian properties.

Ground level high when adjacent access track to the north is 1m lower and the site slopes north to south. Fails to help conceal itself by setting into hillside.

Heritage

Historic greenfield site which forms part of a small and private enclave of Victorian era properties which sit well in an established woodland. This has remained almost untouched since initial construction and can be clearly shown on historic OS maps back to 1890s.

Site forms part of Bacup's industrial heritage once being home to wealthy mill owners and Victorian character should be preserved.

Fencing

Inappropriate wooden fencing.

2m high Fence along the northern edge would be an eyesore.

One properties curtilage blends into another, reflecting close community which inhabit this woodland site. The fence is therefore inappropriate.

Public Sewer

United Utilities has advised that a public sewer runs directly across the site. This has not been located by applicant and a 6m wide easement is required.

8. ASSESSMENT

The main considerations for this case are as follows:

1. Principle;
2. Occupier & Neighbour Amenity;
3. Visual Amenity
4. Parking and Highway Safety
5. Arboricultural
6. Ecology
7. Contamination
8. Land Stability

Principle

At the heart of the NPPF and Local Plan Policy SD1 is a presumption in favour of sustainable development.

Policy SD2 of the Rossendale Local Plan states that all new development in the Borough will take place within the Urban Boundaries, defined on the Policies Map, except where development specifically needs to be located within a countryside location and the development enhances the rural character of the area.

The site is located within the Urban boundary and within what is considered to be a sustainable location within walking distance of Bacup town centre. The principle of the development is therefore considered to be acceptable and in accordance with policies SD1 and SD2 of the Rossendale Local Plan.

Therefore the principle of the proposed development is acceptable and in accordance with the Rossendale Local Plan and the NPPF.

Occupier & Neighbour 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

- (c) *development to be sympathetic to surrounding land uses, avoiding demonstrable harm to the amenities of a local area; and*
- (d) *states that the scheme will not have an unacceptable adverse impact on neighbouring development by virtue of it being over-bearing or oppressive, overlooking, or resulting in an unacceptable loss of light;-nor should it be adversely affected by neighbouring uses and vice versa*

The Alteration 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.

It is considered that the proposed dwelling would not have an adverse impact on the amenity enjoyed by neighbouring properties in respect of light and outlook and would itself have a satisfactory level of amenity and would therefore be in accordance with Policy ENV1 of the Rossendale Local Plan and the Alteration and Extensions to Residential Properties SPD in this respect.

Visual Amenity

Paragraph 135 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.”

Policy ENV1 of the Local Plan relates to high quality development in the borough of Rossendale.

The proposed dwelling will use pitched face natural stone for the external wall finish and natural blue slates for the roof. The materials are considered acceptable. The proposed building will be of contemporary design and would not be unduly prominent from Todmorden Road and other public roads and footpaths.

Officers do have concerns about the level of hard surfacing resulting from the house, the double garage, parking and manoeuvring space and consider that this is not particularly well integrated into the development - adding to the loss of the natural character and visual amenity of the site. However when the previous appeal was determined the Inspector stated:

“The Council is concerned that the proposed development would result in excessive site coverage by buildings and areas of hardstanding. Car parking provision would also be

provided in excess of the Highway Authority's requirements. Given the narrowness of the access track from Todmorden Lane which also serves other nearby dwellings, it would not be unreasonable to provide additional on-plot parking for visitors. Even with the provision of 3 external car parking spaces in addition to the proposed double garage, an acceptable proportion of the site would remain as garden when considered relative to other properties nearby.

Moreover, there are to be no boundaries between the appeal site and the woodland to the south, which is also within the appellant's ownership. When perceived in this way from the close-range public vantage points of the access track and Greensnook Terrace, the extent of development on the appeal site would not appear excessive in relation to the plot size as a whole. The noteworthy and wider verdant setting of the appeal site would not be harmed.

For the reasons given above, the proposed site coverage would be acceptable."

In the light of the appeal decision, it is considered that a refusal on the grounds of the amount of hard coverage or overdevelopment could not be supported.

The proposed 2m high fencing along the northern edge of the site and to the south of the access would be detrimental to the natural character of the site and it is suggested that this is omitted from the proposal and replaced with the planting of a hedge of native species. This could be dealt with by way of a suitably worded planning condition.

Parking and Highway Safety

LCC Highways have advised that:

"Under the 2021 planning application a plan was submitted where the access onto Todmorden Road was proposed to be widened to 5m which would allow two vehicles to pass within the access. The highway authority considered this acceptable. However, this plan was not considered by the Planning Inspector, who commented in paragraph 18 of their decision that 'no works are proposed to the existing driveway'.

There are no proposals under the current application to widen the access onto Todmorden Road. The highway authority still has concerns regarding the intensification in use of this narrow access where there is no inter-visibility between vehicles exiting the site and those entering from Todmorden Road.

A double garage is shown on the Proposed Details Plan (Drawing SM-02-10-21-C). To count as two parking spaces a double garage should have minimum internal dimensions of 6 x 6m. This would also provide secure, covered storage for at least two cycles. The proposed double garage is sub-standard in size and cannot be counted towards the on-site parking provision. It could, however, provide secure cycle storage.

To be used as parking the minimum internal length should be 6m. This would also require the garage to be set back towards the rear boundary in order to provide the minimum manoeuvring area in front of the garage. There should be a minimum length of 6m in front of a garage where an up and over type door is fitted to allow vehicles to manoeuvre to/from the garage without overrunning the landscaped area opposite. This length can be reduced to 5.6m where a roller shutter type door is fitted.

If refuse bins are to be stored internally then the internal width should be increased to 6.5m.

In addition, electric vehicle charging points should be provided to support sustainable modes of transport. If these are not within an adequately sized garage, then alternative means should be provided.

Three parking spaces are shown between the garage and the dwelling. Perpendicular parking spaces should have at least 6m manoeuvring area. The manoeuvring area shown on the Proposed Site Plan is inadequate. The parking/manoeuvring area should be extended towards the rear boundary so that a minimum overall length of 11m is provided.

A revised parking layout plan should be provided taking the above comments into account. It should be noted that a revised Proposed Site Layout Plan (Proposed Site Plan 08-01-22.B (amended)) was provided as part of the previous planning process, which demonstrated that adequate on-site parking and manoeuvring could be provided. If this drawing is re-submitted then the highway authority would consider that adequate parking provision can be provided on-site.

The highway authority has also noted the planning authority's comments regarding the previous application that the level of parking proposed by a double garage and three additional spaces was not necessary. However, as stated above, the double garage is considered sub-standard internally to count towards any parking provision. To allay the planning authority's concerns the garage could either be removed entirely or replaced with a single garage (internal measurements of 6 x 3m) and just two additional parking spaces provided. The parking/manoeuvring area for these would still need to be adequate to allow vehicles to enter and leave the site in forward gear.

The Construction Management Plan (Ref SM.061021.B) submitted states that materials will not be unloaded nor loaded from Todmorden Road. This should be adhered to as any delivery vehicles parked on Todmorden Road would block visibility to and from the access and may obstruct access to the bus stop to the East of the access. However, Paragraph 19 of the Planning Inspector's decision for application 2021/0577 stated that 'the tree canopy overhanging the existing driveway would have sufficient clearance of 5m such that larger construction vehicles are unlikely to cause damage'. Thus there should be no need for any delivery vehicles to park on Todmorden Road."

The revised site layout plan received 4th March 2024 demonstrates that adequate on-site parking and manoeuvring can be provided in accordance with the highway authority comments. The size of the garage has been increased to 6.6 metres x 6.5 metres and two additional parking spaces adjacent with adequate manoeuvring space.

Whilst the Highway Authority have concerns regarding the intensification in the use of the narrow site access, in the appeal decision, the Inspector stated as follows:

"Vehicular access to the appeal site would be via the existing track from Todmorden Road. Being single track, uphill and routed around a bend, the existing track is not ideal. However, no substantive evidence has been presented that demonstrates the intensification in the use of the track to serve a single additional dwelling would present a highway safety issue. The Highway Authority whilst raising concerns about the lack of intervisibility from vehicles exiting and entering the track has not objected to the proposal. Accordingly, substantive evidence is not before me that demonstrates it is necessary to widen the access track to provide a safe and suitable access.

Moreover, a balance is to be struck between optimum vehicular access arrangements and the character and appearance of the area in this instance. Alterations to the access would

affect the historic and attractive gate piers, require the partial removal of the existing stone boundary wall and 2 trees, with a means to retain the existing rising land level likely to be required. Whilst minor in nature, these changes would nonetheless impact detrimentally on the street scene of Todmorden Road, as highlighted by interested parties.”

Given the comments above by the Inspector in respect of the appeal, it would be unreasonable to refuse the application on highway grounds and LCC Highways have recommended the inclusion of a number of conditions should permission be approved.

Arboricultural

When the appeal was considered it was concluded that:

“The AIA and AMS have not considered the impact of additional vehicular movements on the compaction of the protected tree roots. Mature trees such as these may not be able to withstand such an impact. Even though the use of the existing driveway has not caused significant issues to date, it does not automatically follow that further development would not be harmful. In omitting the TPO trees to the north of the existing driveway from the AIA and AMS, the appellant has failed to demonstrate that there would not be harm to those trees through increased compaction from vehicular movements. There is no evidence to the contrary.

Accordingly, the proposed development would present a harmful risk to the long-term health and viability of the protected trees adjacent to the appeal site, with the adverse impacts this would have on the character and appearance of the area.”

Policy ENV10 of the Local Plan states:

“Development proposals must seek to avoid the loss of, and minimise the risk of harm to, existing trees, woodland, and/or hedgerows of visual or nature conservation value.”

The policy goes on to state that:

“Development proposals should, where appropriate:

- not result in the loss of trees or woodland which are subject to a Tree Preservation Order or which are considered worthy of protection”*

The Council's tree consultant has stated as follows:

“Assessment:

An arboricultural impact assessment and method statement has been provided at the above address. The trees within the site are protected by a TPO W29. The AIA identifies the need for removing 2 Category C trees T4 and T5 and 2 category U trees T21 & 1 tree within G2, although the location of this tree has not been clearly specified where it is located within the group. The removal of the 2 Category C trees will have a minimal effect on the surrounding visual amenity of the area and can be mitigated against with a suitably approved planting scheme.

For the retained trees on site a methodology has been included within the AMS detailing specialist construction for a new access track into the site that will incur into the RPA's of T3 & G1. These incursions are below 20% as stipulated in BS 5837. The AMS document does

not however include a Tree protection plan (TPP) for the remainder of the trees on site throughout construction.

Summary/recommendations:

Whilst I do not object to the scheme in principal, further details however will need to be provided in line with BS 5837, in the form of a tree protection plan for the surrounding woodland as is protected by TPO W29.”

Having regard to the above, a condition can be included requiring a Tree Protection Plan to be submitted prior to commencement of any development.

Subject to the above condition and having regard to the advice from the Council's tree consultant, it is considered that the proposed development will not impact unacceptably on the surrounding trees

Ecology

Paragraph 180 (d) of the NPPF advises that:

Planning policies and decisions should contribute to and enhance the natural and local environment by:

minimising impacts on and providing net gains for biodiversity, including by establishing coherent ecological networks that are more resilient to current and future pressures;

Policy ENV3 of the Local Plan advises 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.

Policy ENV4 of the Rossendale Local Plan advises that:

The design and layout of new development should retain and enhance existing features of biodiversity or geodiversity value within and immediately adjacent to the site. Ecological networks should be conserved, enhanced and expanded. Development proposals will be expected to demonstrate how ecological networks are incorporated within the scheme. Where appropriate, development should incorporate habitat features of value to wildlife, especially priority species, within the development (including within building design).

Greater Manchester Ecology Unit has advised that:

“GMEU provided previous comments on a similar application at this site (2021/0577). The same ecology information has been submitted in support of the application, which was carried out in November 2021. Given the low potential of the site to support protected species, they accept the report having reviewed the findings of the more recent arboricultural report, which considered the condition of the two trees proposed for removal. They would however recommend that, should planning permission be granted, an updated pre-commencement ecology survey of the site is secured via a condition, as a precaution, and any additional mitigation measures required are secured.

*They have also advised that if the proposed external lighting is limited to 1 porch bulb that will be designed in line with the recommendations of the support letter, then they would not require any bat activity transects, either prior to determination or to be secured via condition. Protected species surveys should only be requested when there is a reasonable likelihood of species being present **and** impacted on by the development. In this instance, bats are likely to be bats flying within and around the site, but the impacts of the proposed lighting on them is not likely to negatively impact upon them, as per the findings of the ecology report.*

Furthermore they advise that details of the proposed lighting should still be secured via a condition with a mechanism that if there is an alteration to the proposed scheme, this will need to be informed by an appropriate level of bat survey work.

The ecology report only assessed the trees for bat roost potential that had been identified as requiring removal or that might be impacted on by the development. If further trees are likely to be impacted that were not originally identified, it needs to be confirmed that these had been inspected for their bat roost potential.

Where possible the trees and hedgerow on the site should be retained and protected from any adverse impacts of the proposed scheme. Where this cannot be accommodated a compensatory planting/landscape place should be secured through the planning process. The woodland edge must be adequately protected from any adverse impacts of the proposed development.

Planning policy encourages enhancements and net gains for biodiversity to be delivered through the planning system. Wherever possible measures to enhance the site for biodiversity should be secured as part of this planning application, in line with the measures identified in the ecology report.

Other matters could be dealt with by way of informatives.”

The submitted Ecology report recommended the following measures to enhance biodiversity:

Due to the loss of a short length of hedgerow, it is recommended that replacement hedgerow of at least 20m in length is planted around the site boundaries. The benefits of planting hedgerow on the site include:

- Their function as a barrier, protecting the retained woodland.*
- Acting as a screen and acting as a filter for noise and air pollution.*
- Providing valuable habitat for wildlife. Native species producing berries will provide dense protective cover and food sources for passerine birds.*
- Improving wellbeing by providing structural green space*

Additional measures include:

- At least two crevice-roost sites for roosting bats are integrated into the new dwelling. These could be in the form of bat roost slates, to allow bats to enter a space in the roof, between the slates and the lining. Alternatively, bat boxes could be attached externally to the building, or integrated into the stonework.*
- At least two bird boxes are attached to the walls of the new structure.*
- Five bat boxes are installed on trees on site.*

In addition, further information was received from the applicant's ecologist as follows:

The Preliminary Ecological Appraisal recommended further survey work for bats to determine any negative impact on foraging or commuting bats as a result of lighting.

The plans for the proposals subsequently received (Proposed Site Plan) show that any potential impacts of lighting on bats will be avoided. The only lighting installed will be a porch light that will be on a timer. Minimal light spill to the night sky and surrounding vegetated boundaries is expected.

For this reason, no further survey work to determine any potential impact on commuting and foraging bats is considered necessary.

It is recommended that the porch light is LED in the warm white spectrum (ideally <2700 kelvin) to reduce the blue light component. This will attract fewer insects (BCT, 2018).*

The provision of these could be dealt with by way of a planning condition.

It is considered that providing the recommendations in Section 9 of the Ecology report are implemented, there will be no detrimental impact on the ecology at the site and will enhance the biodiversity at the site.

The proposal is now considered to be in accordance with ENV3 and ENV4 of the Rossendale Local Plan and the NPPF

Contaminated Land

A Land contamination Phase 1 desk study was submitted with the application.

The Environmental Protection Consultant has commented as follows:

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

Environmental checks reveal that site was formerly Allotment Gardens which tend to be affected by contamination at levels that may be unacceptable for a new residential development. The usual potential sources include:

- Imported materials for surfacing/levelling/sub-base/drainage*
- Burning activities*
- Ash was historically used as a soil conditioner for growing*
- Potential fuels and oils (heating for greenhouses)*
- Asbestos from former structures (e.g. corrugated roofing)*
- Storage and use of other items and substances*

The above items shouldn't be prohibitive to development and can be covered under planning condition. The standard contaminated land conditions are listed below As this is a single property development, a combined PRA and Site Investigation may be more cost effective.”

Subject to conditions the proposed development is acceptable and in accordance with the Rossendale Local Plan and the NPPF

Land Stability

Policy ENV1 of the Rossendale Local Plan expects all new development to take account of ensuring that land stability and other risks associated with coal mining are considered and where necessary, addressed through appropriate investigation, remediation and mitigation measures. This is consistent with the advice within the National Planning Policy Framework 2023 which states at paragraph 189 that decisions should ensure a site is suitable for its proposed use taking account of any risks arising from land instability. It goes on to advise at paragraph 190 that where a site is affected by contamination or land stability issues, responsibility for securing a safe development rests with the developer and/or landowner.

Paragraph 180 advises that Planning decisions should contribute to and enhance the natural and local environment by preventing new development from contributing to, being put at unacceptable risk from, or being adversely affected by, unacceptable levels of land instability.

When the previous appeal was considered the Inspector stated that the concerns raised by the Council and interested parties regarding land stability are valid and given the potential risk to health, property and protected trees, there is an onus on the appellant to properly explore this matter – and to demonstrate that the land is suitable for the proposed development.

The Inspector stated that *“Consequently, when following a precautionary approach, it is necessary for a preliminary assessment to be undertaken by a suitably qualified professional to demonstrate that the appeal site and surrounding land will remain stable with the appeal scheme built out. This approach is supported by the Planning Practice Guidance (PPG)”*.

The Inspector concluded that:

“It would be unreasonable to address this matter through the imposition of a planning condition because further investigations may confirm that the land is insufficiently stable to support the proposal. In the absence of any robust evidence to the contrary, I cannot conclude that the proposal would not adversely affect land stability.”

The submitted engineering report has been prepared by a qualified professional (Michael Pooler Associates Ltd) and has indicated that:

“Any foundation loading for the proposed dwelling, the line of action from a traditional footing would pass within the site.

The existing slope is heavily overgrown with mature trees increasing in density towards the lower sections of slope by Todmorden Road, towards the embankment bounded by a 1.9 metre high stone wall, probably in the order of 100 years old, thickness unknown, probably in the order of 450mm – 600mm thick, to which some minor loss of vertical alignment has occurred over the years, although no doubt caused by the extreme close proximity of the mature trees to the rear of the wall, the majority instances within 1 – 3 metres.

My walk-over inspection of the site, notwithstanding the intense vegetation, did not indicate any visual separation or tension cracks formed on the slope, and the typical section shows the relatively gentle angle of the slope down to Todmorden Road, with the toe of the pressure bulb from the development, some 20 metres away from the small retaining wall on the boundary of Todmorden Road.

The presence of very mature trees will undoubtedly provide additional restraint to the slope, although visually our approximate section drawn through the site clearly demonstrates the generally low slope profile and would repeat there is no 'trail of discovery' to indicate historic creep or slope movement on the existing site.

The small retaining wall at the back of footpath of Todmorden Road has been in location for over 100 years, whilst showing very minor loss of vertical alignment, this is undoubtedly caused by the considerable quantity of tree growth immediately behind the wall"

The submitted engineering report does not raise any concerns over the stability of the land or its ability to accommodate the proposed development. The Council's Building Control Officer has commented that the submitted report appears satisfactory and that they are not themselves aware of any particular land instability issues in the area in question.

As such, it is considered that it would now be unreasonable to refuse the application on the grounds that risks to land stability have not been properly investigated.

Human Rights

Although a representation has been received such that the access track is the one and only single point of access to a number of properties. To dig it up, to block it or to impede rights of way is unacceptable. 24hr access is required and potential access by emergency services. Couldn't get to my house without using this track. If this track is dug up, blocked with machinery at any time, or damaged beyond use, and the resident is blocked from using his home, then his rights and the rights of my family are being infringed. Consider Protocol One, Article One of the European Convention of Human Rights and I quote - "Every natural or legal person is entitled to the peaceful enjoyment of his possessions. No one shall be deprived of his possessions except in the public interest and subject to the conditions provided for by law and by the general principles of international law."

There is no justifiable reason to believe that the applicant will block the access by parking of vehicles or other means and the proposal in itself does not deprive the neighbour of his right of access to his dwelling. It is therefore, considered that the planning application does not breach the neighbours Human Rights of the neighbouring occupants. Private access rights are also a civil matter, which a planning approval would not legally affect.

9. CONCLUSION

Subject to conditions, the proposed development is considered acceptable in terms of principle, residential amenity, visual amenity, parking and highway safety, arboricultural impact, ecological impact, land contamination and land stability and therefore is acceptable and in accordance with the Rossendale Local Plan in and the NPPF.

10 CONDITIONS AND REASONS

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 application form received 30.10.2023 and the following drawings and documents, unless otherwise required by the conditions below:
 - Location Plan received 30.10.2023
 - Drawing No: SM-02-10-21-C Plans and Elevations received 04.03.2024
 - Drawing No: SM-02-10-21-B Proposed Site Plan received 04.03.2024
 - Arboricultural Implications Assessment Rev B received 30.10.2023
 - Arboricultural Method Statement Rev B received 30.10.2023
 - Preliminary Ecological Appraisal received 30.10.2023
 - Bats and Lighting Letter received 30.10.2023
 - Engineering Report received 30.10.2023
 - Construction Management Statement received 30.10.2023

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 materials indicated on the submitted plans including pitch face natural stone walls and reclaimed natural blue slate roofing.

Reason: In the interests of visual amenity of the area and ensuring that the appearance of the development is acceptable.

4. The Construction Management Statement submitted on 30.10.2023 shall be adhered to throughout the construction period for the development.

Reason: In the interests of the safe operation of the adopted highway during the construction phases.

5. 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 works 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.

6. The proposed development shall not be brought into use unless and until the parking area shown on the approved plans has been constructed, laid out and surfaced in bound porous materials. The parking area shall thereafter always remain available for the parking of domestic vehicles associated with the dwelling and the manoeuvring areas kept free from obstruction.

Reason: In order to ensure satisfactory levels of off-road parking are achieved within the site to prevent parking on the highway to the detriment of highway safety.

7. An electric vehicle charging point shall be provided prior to first occupation of the dwelling, in accordance with a scheme to be first submitted to and approved in writing by the local planning authority.

Reason: To ensure that the development provides sustainable transport options.

8. Notwithstanding the details submitted with the application, prior to commencement of development, a landscaping scheme showing full details of hard and soft landscaping, planting and boundary treatments shall be submitted to and approved in writing by the Local Planning Authority. The scheme shall include the biodiversity enhancement measures identified in paragraph 9.4.2 to 9.4.4 of the Preliminary Ecological Report received 30.10.2023.

The approved scheme of hard and soft landscaping, planting and boundary treatment shall be completed in full prior to first occupation of the approved dwelling.

Any trees or plants which within a period of 15 years of first occupation of the dwelling die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species.

Reason: In the interests of ecology, biodiversity and visual amenity.

9. Prior to commencement of development a Tree Protection Plan for the trees being retained on site shall be submitted to and approved in writing by the Local Planning Authority.

No development shall commence until all the retained trees within the site as shown on the approved Tree Protection Plan, have been protected. Such protection shall be installed in accordance with the specification described in the AIA and AMS document, in the positions as shown on the Tree Protection Plan, and shall remain until all development is completed. No work, including any form of drainage or storage of materials, earth or topsoil shall take place within the perimeter of such fencing.

Reason: To protect the trees to be retained on the site

10. During the first available planting season following the felling of the four trees proposed, they shall be replaced on a 2:1 ratio with a "light standard" tree(s) in accordance with British Standard 3936:Part 1:1992 (Specification for Nursery Stock Part 1:Trees and Shrubs) and shall have a clear stem height from the ground of 1.5m, a minimum overall height from the ground of 2m, a minimum circumference of stem at 1m from the ground of 6cm and the tree(s) shall be root balled. The species shall be native species and shall be planted in the vicinity of the trees to be removed.

Reason: To safeguard future tree cover and amenity.

11. Planting Season -Replacement tree(s) shall be planted in the period from November to March, following the felling of the protected tree(s), hereby granted consent, and this condition shall not be considered to have been complied with until the replacement tree(s) have been established.

Reason: To safeguard future tree cover and amenity.

12. Prior to commencement of development, details of the bat and bird boxes detailed in Section 10 of the Preliminary Ecological Appraisal received on 30.10.23 including the type and positions shall be submitted to and approved in writing by the Local Planning Authority.

The approved details shall be implemented in full prior to occupation of the dwelling.

Reason: In order to ensure the enhancement of biodiversity on the site.

13. 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.

Reason: To mitigate risks associated with land contamination and prevent pollution.

14. Pursuant to condition 11; and prior to first occupation of the dwelling 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 mitigate risks associated with land contamination and prevent pollution.

15. The site shall be drained on separate systems, with foul water draining to the public sewer and surface water draining in the most sustainable way based on the hierarchy of drainage options in the National Planning Practice Guidance.
- a) into the ground (infiltration);
 - b) to a surface water body;
 - c) to a surface water sewer, highway drain, or another drainage system;
 - d) to a combined sewer.

No development shall take place until a detailed drainage scheme outlining which drainage option from the hierarchy found in the National Planning Policy Guidance has been submitted to and approved in writing by the Local Planning Authority. The approved scheme shall be implemented in full prior to first occupation of the dwelling.

Reason: To promote sustainable development, secure proper drainage and to manage the risk of flooding and pollution.

16. No part of the development hereby permitted shall be occupied until details of an appropriate management and maintenance plan for the drainage system for the lifetime of the development have been submitted to and approved in writing by the Local Planning Authority.

The drainage system shall thereafter be managed and maintained in accordance with the approved details.

Reason: To promote sustainable development, secure proper drainage and to manage the risk of flooding and pollution.

17. External lighting shall be limited to that proposed in the letter dated 10th January 2022 from Verity Webster as submitted on 30.10.2023. No further external lighting shall be erected at the property unless a further application has first been submitted to the Local Planning Authority and approved in writing.

Reason: In the interests of ensuring the protection of protected species.

11. INFORMATIVES

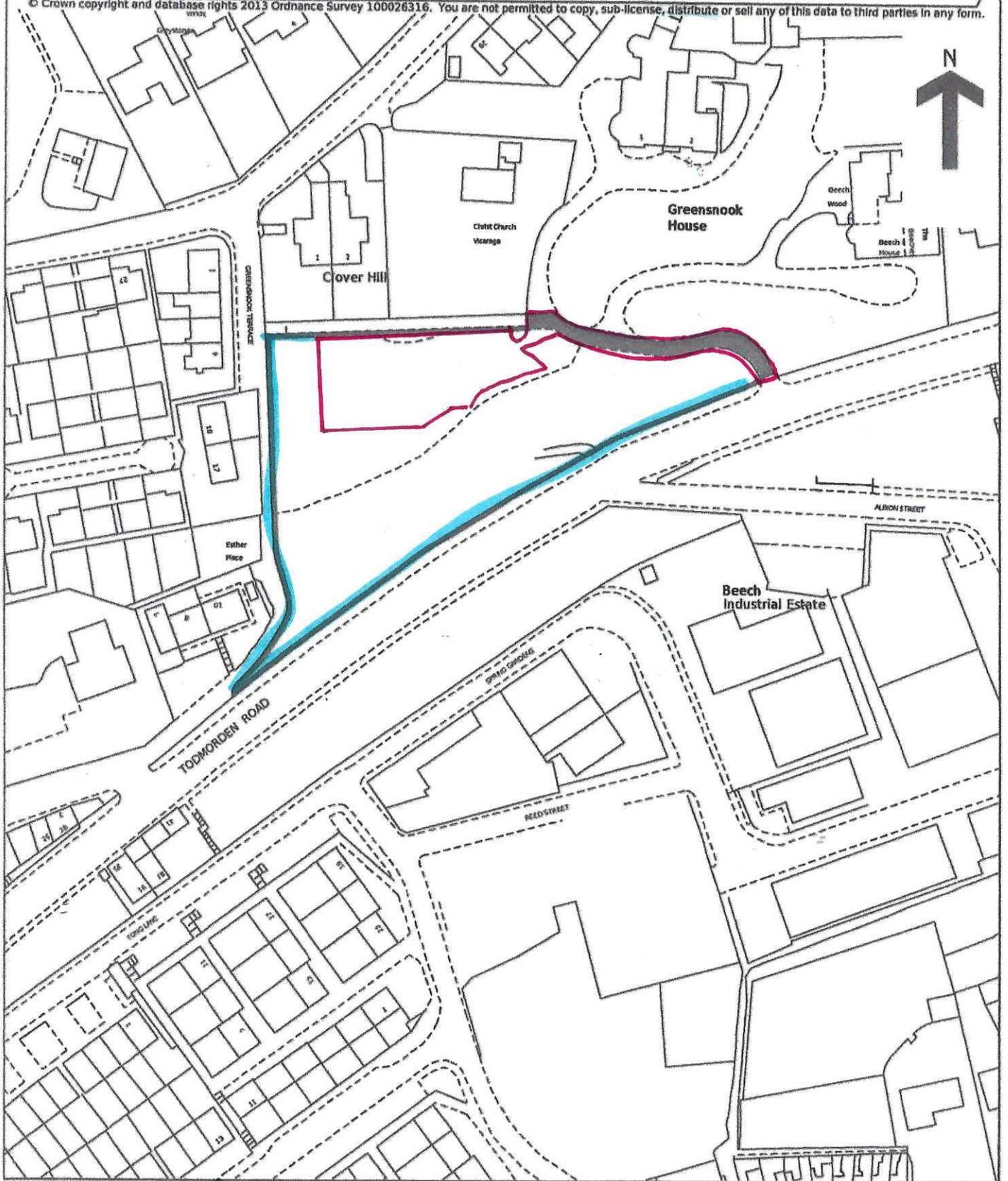
1. The proposal complies with the development plan and would improve the economic, social and environmental conditions of the area. It therefore comprises sustainable development and the Local Planning Authority worked proactively and positively to issue the decision without delay. The Local Planning Authority has therefore implemented the requirement in Paragraph 38 of the National Planning Policy Framework.
2. The applicant is advised that no burning of materials shall take place at the site, unless otherwise agreed in writing by the Local Planning Authority.
3. 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.
4. 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 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.
5. Work that will impact on habitats where nesting birds may be present (for example works to trees and other vegetation including undergrowth like bramble), should not be undertaken in the main bird nesting season (March – August) unless suitable checks for active bird nests have been undertaken.
6. Protected species can turn up in unexpected places and the granting of planning permission does not negate the need to abide by the laws which are in place to safeguard biodiversity. An informative should be used so that the applicant is aware that they must seek ecological advice should they find or suspect that the proposals will impact on protected species.
7. Reasonable Avoidance Measures for amphibians and hedgehogs should be followed during the construction phase, as identified in section 9.2.1 of the ecology report.

HM Land Registry
Official copy of
title plan

Title number **LAN142058**
Ordnance Survey map reference **SD8723SW**
Scale **1:1250 enlarged from 1:2500**
Administrative area **Lancashire :**
Rossendale

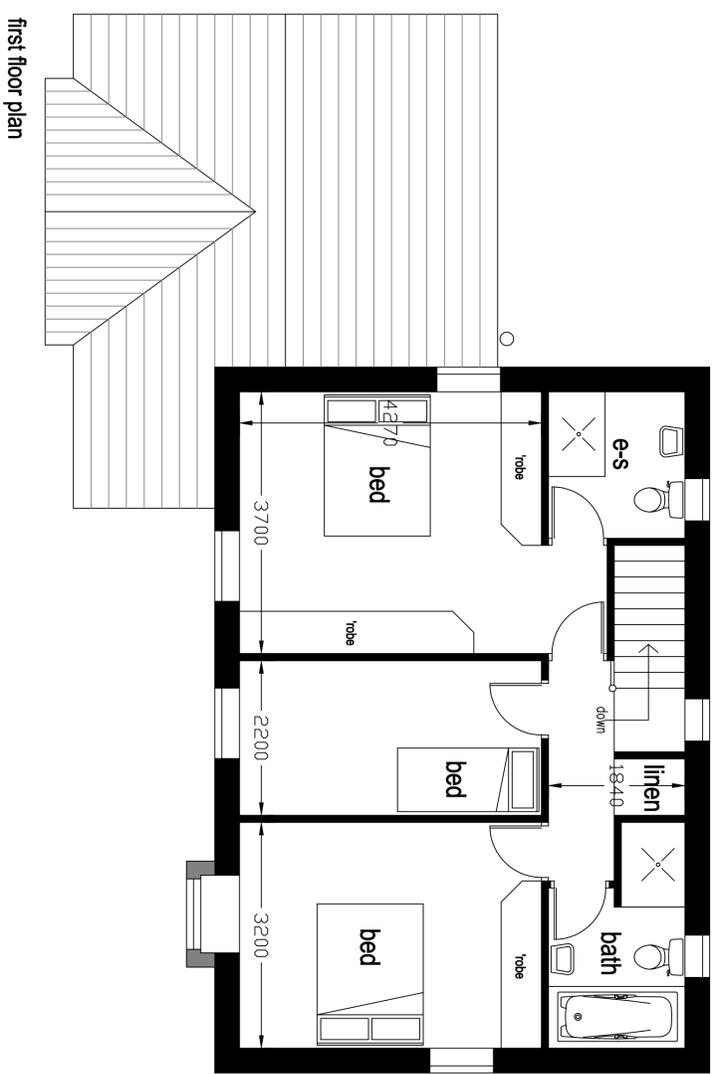
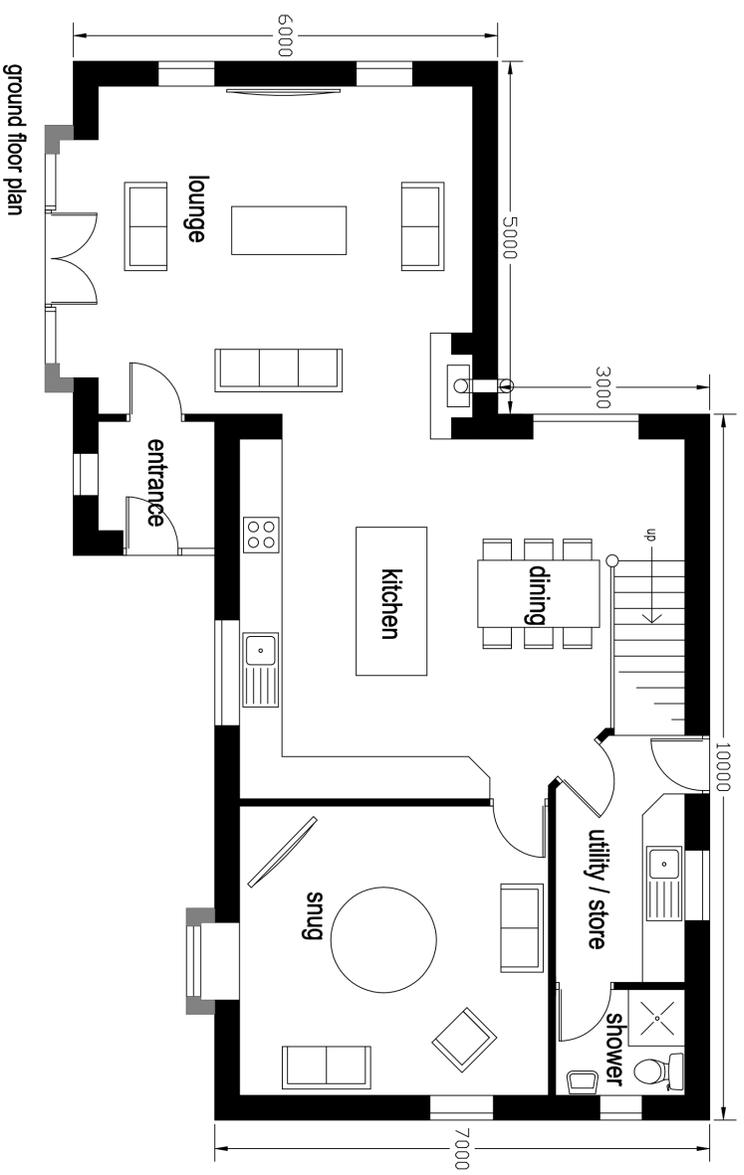
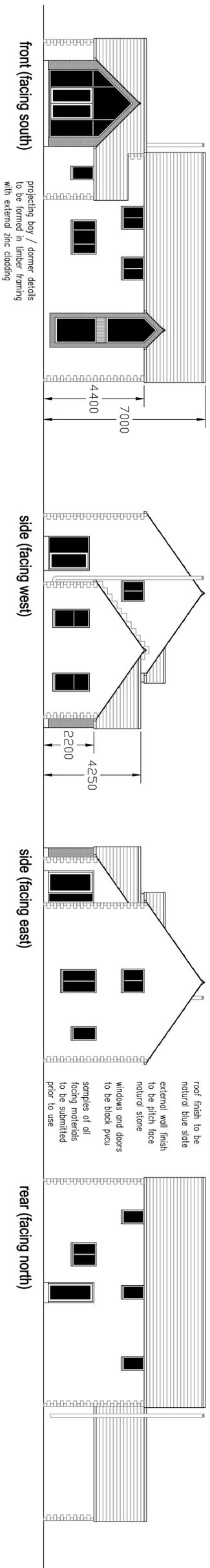


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LOCATION PLAN.

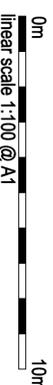
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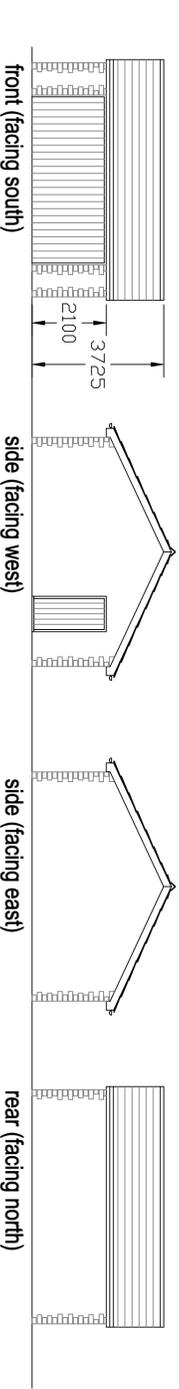
proposed details

proposed detached 3 bed dwelling
on land adjacent to
Clover Hill
off Todmorden Road
Bacup

scale 1:50 1:100



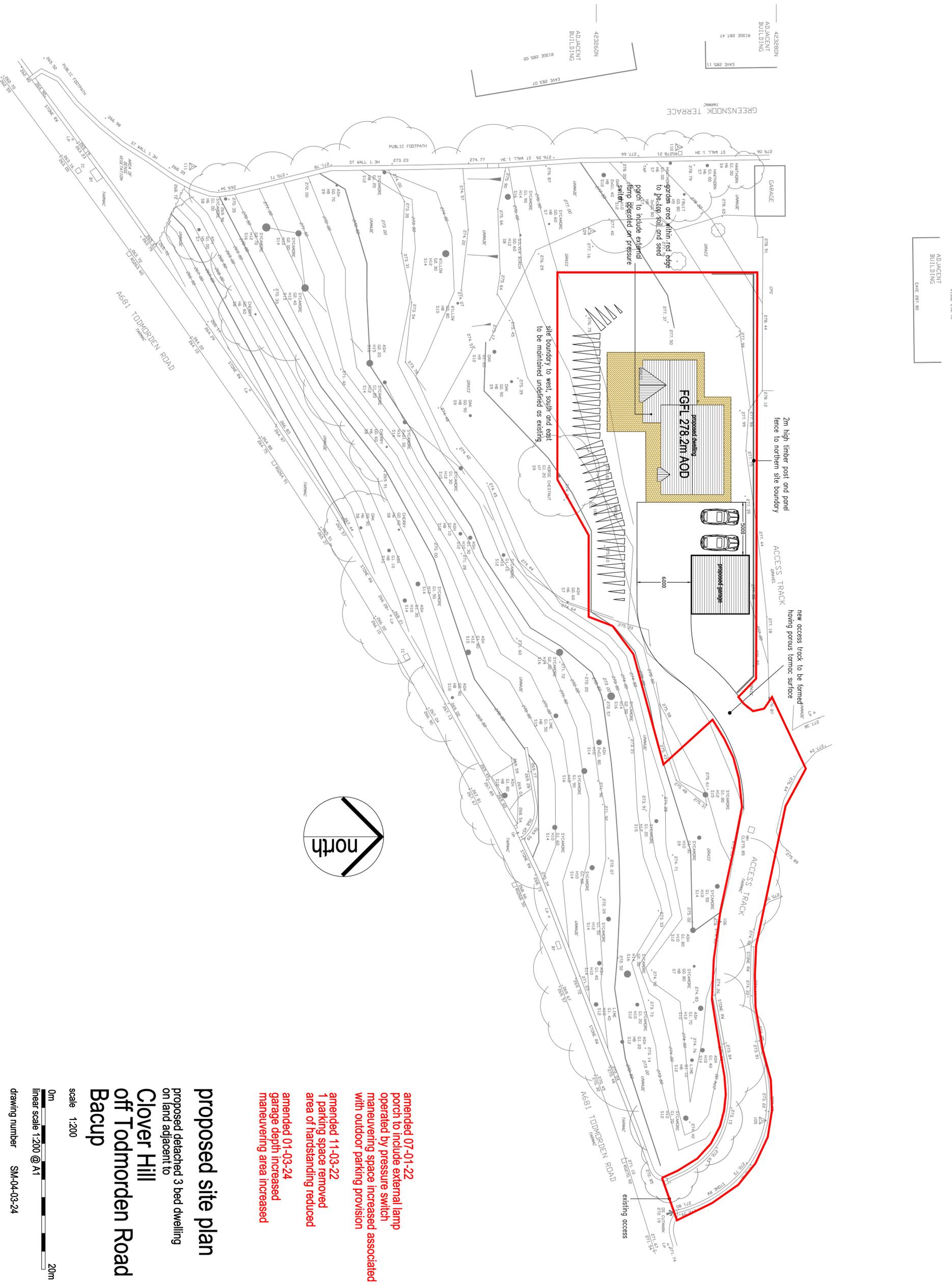
drawing number SM-02-10-21-C(amended)



amended 01-03-24
garage depth increased

detached garage detail

all facing materials to match proposed dwelling



part to include external lamp operated on pressure switch
to be maintained underfoot

site boundary to west, south and east to be maintained underfoot as existing

2m high timber post and panel fence to northern site boundary

ACCESS TRACK

new access track to be formed having porous tarmac surface



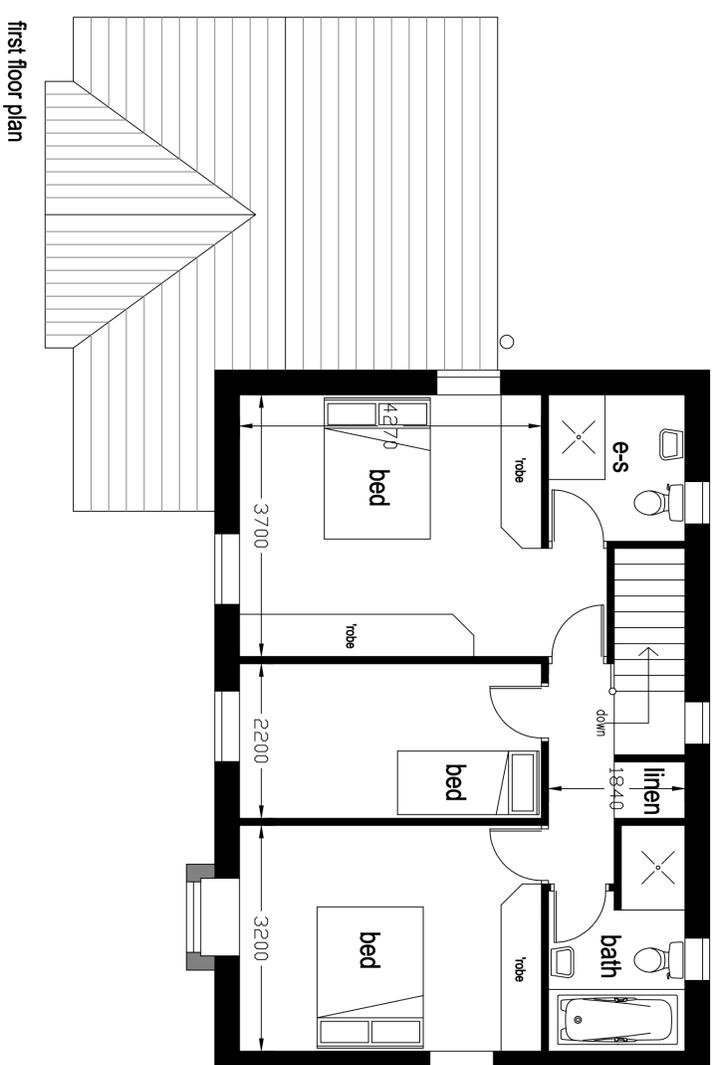
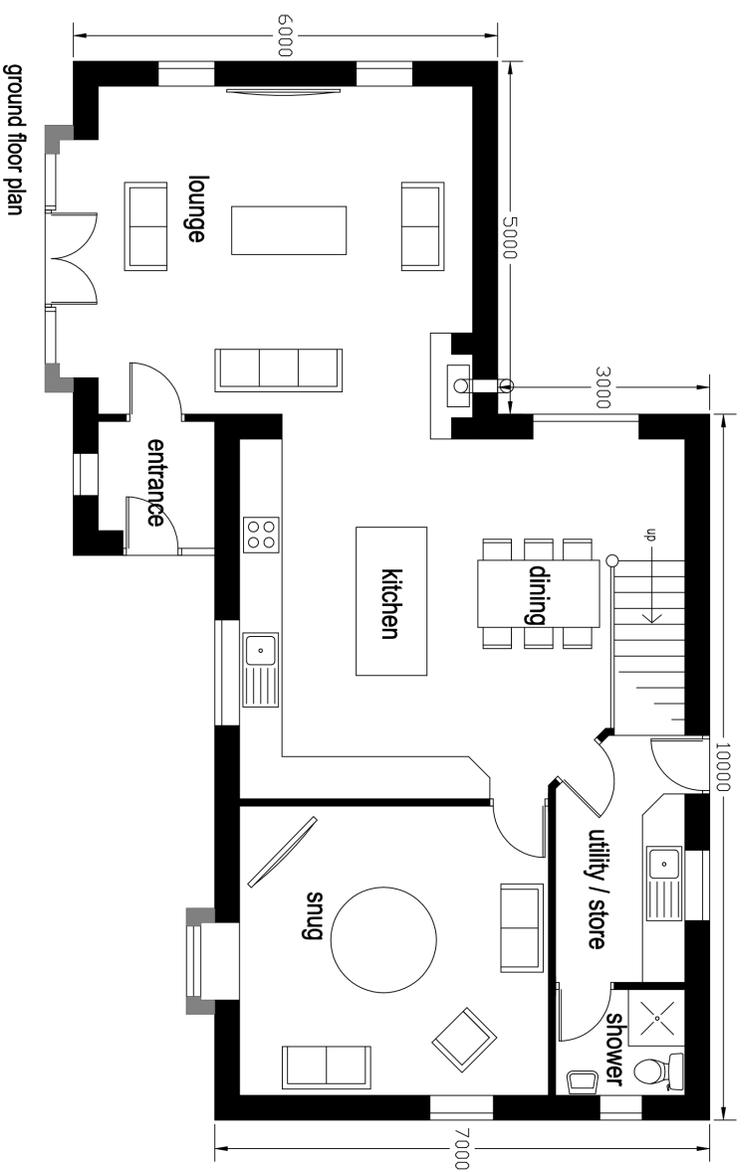
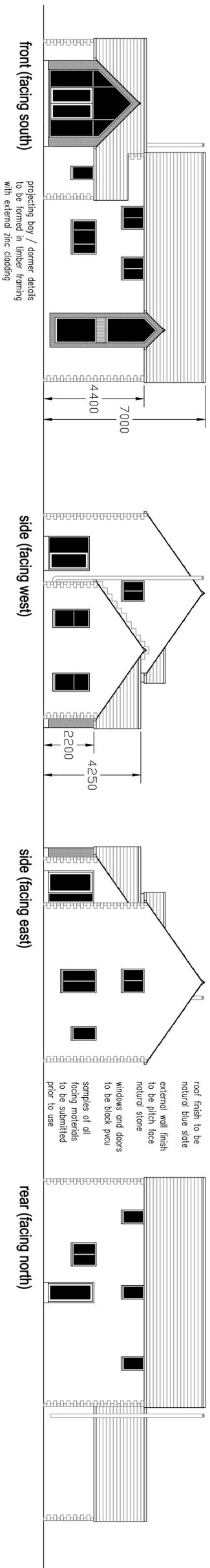
- amended 07-01-22 porch to include external lamp operated by pressure switch maneuvering space increased associated with outdoor parking provision
- amended 11-03-22 1 parking space removed area of hardstanding reduced
- amended 01-03-24 garage depth increased maneuvering area increased

proposed site plan
 proposed detached 3 bed dwelling on land adjacent to
Clover Hill
off Todmorden Road
Bacup

scale 1:200



drawing number SM-04-03-24



proposed details

proposed detached 3 bed dwelling
on land adjacent to

Clover Hill
off Todmorden Road
Bacup

scale 1:50 1:100

0m 10m
linear scale 1:100 @ A1

drawing number SM-02-10-21-C

