

# Report to Planning Committee

**21 February 2024**

<b>Application Reference</b>	DC/23/68797
<b>Application Received</b>	25 October 2023
<b>Application Description</b>	Retention of outbuilding in rear garden (Re-submission of refused planning permission DC/23/68475).
<b>Application Address</b>	41 Warwick Road, Oldbury, B68 0NE
<b>Applicant</b>	Mr Enver Bajrami
<b>Ward</b>	Old Warley
<b>Contact Officer</b>	Lucinda McKee lucinda_mckee@sandwell.gov.uk

## 1 Recommendations


- 1.1 That planning permission is granted subject to conditions relating to:
- i) Use to remain ancillary to the occupants of 41 Warwick Road.

## 2 Reasons for Recommendations

- 2.1 The outbuilding is acceptable for retention as it has no significant impact on the amenity of surrounding residents and the design and scale assimilates into the surrounding area. Furthermore, the vehicular access is existing and therefore its presence cannot be factored into the suitability of the outbuilding.



### 3 How does this deliver objectives of the Corporate Plan?

	Quality homes in thriving neighbourhoods
---	--

#### 4 Context

- 4.1 At its last meeting the committee resolved to visit the site.
- 4.2 The application is being reported to your committee as three objections have been received.
- 4.3 To assist members with site context, a link to Google Maps is provided below:

[41 Warwick Road, Oldbury, B68 0NE](#)

#### 5 Key Considerations

- 5.1 The site is not allocated within the Development Plan.
- 5.2 Material planning considerations (MPCs) are matters that can and should be taken into account when making planning decisions. By law, planning decisions should be made in accordance with the development plan unless MPCs indicate otherwise. This means that if enough MPCs weigh in favour of a development, it should be approved even if it conflicts with a local planning policy.
- 5.3 The material planning considerations which are relevant to this application are:-

Government policy (NPPF)

Amenity concerns – Overlooking/loss of privacy, loss of light and/or outlook.



Design concerns - appearance and materials, layout and density of building and wider visual amenity  
Highways considerations - access

## 6. The Application Site

6.1 The application relates to a semi-detached property situated on the north east side of Warwick Road, Oldbury. The character of the surrounding area is residential.

## 7. Planning History

7.1 A previous application for retention of the outbuilding was refused. The reasons for refusal were that insufficient information had been provided in the application form with regards to the property owner, and access could not be gained by officers into the outbuilding to make a full determination. The ownership of the property has now been clarified and the outbuilding was accessed by officers on 12 December 2023.

7.2 Relevant planning applications are as follows:

DC/23/68475	Retention of outbuilding in rear garden.	Refused 18.09.2023
-------------	--	--------------------

## 8. Application Details

8.1 The application is for the retention of an outbuilding in the rear garden. The outbuilding measures 7.5 metres in length, 8.2 metres in width and 4 metres in height at normal ground level/4.7 metres into lowered ground.

8.2 The outbuilding consists of two floors. Whilst the submitted plans show that the use is as a gym at ground floor and games room at first floor, the site visit revealed that the ground floor contains a kitchen/living area and shower room with a vacant but carpeted first floor room served by skylights.



8.3 Officers accessed the outbuilding through the main dwelling but there is an existing vehicular access to the rear garden with one parking space. The rear access serves several properties along Wolverhampton Road.

8.4 Amended plans have been received which seek to clarify the use of the outbuilding. A gym/shower room/kitchenette is now shown at ground floor with a games room at first floor.

## 9. **Publicity**

9.1 The application has been publicised by 10 neighbour notification letters. Three objections and two representations of support have been received.

### 9.2 **Objections**

Objections have been received on the following grounds:

- i) Loss of light, privacy and outlook;
- ii) Design;
- iii) Access – including emergency vehicles;
- iv) Use; and
- v) Loss of trees.

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

## 10. **Consultee responses**

### 10.1 **Highways**

Highways have stated that the parking provision should comply with the Council's design guidance and the use of the outbuilding should be ancillary to the dwelling. Parking and access are discussed further under 'Material Considerations'.



## 11. National Planning Policy

- 11.1 National Planning Policy Framework promotes sustainable development but states that local circumstances should be taken into account to reflect the character, needs and opportunities for each area.
- 11.2 Paragraph 111 states that developments should only be prevented or refused on highway grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe. This is not the case with this application.

## 12. Local Planning Policy

- 12.1 The following policies of the council's Development Plan are relevant:

ENV3: Design Quality

SAD EOS9: Urban Design Principles

- 12.2 ENV3 and SAD EOS9 refers to well-designed schemes that provide quality living environments. The proposed layout and design are discussed under material considerations.

## 13. Material Considerations

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

- 13.2 **Amenity concerns – Overlooking/loss of privacy, loss of light and/or outlook**

It is important to note that the rear garden has been excavated to keep the building as low as possible; mindful that it is a two-storey structure. This results in a lowered land level by approximately 700 mm on the area that the outbuilding occupies. As such, the impact of the massing and scale is limited. There are no windows in elevations facing



southwest or northeast; and only skylights at first floor, which are difficult to look out of when in the loft space as they are waist height when standing. Furthermore, properties along Wolverhampton Road are at a higher land level, the separation distance to the closest property is 27 metres and the property to the south has its rear elevation at an obscure angle so occupiers do not directly look onto the building. Occupiers of the attached neighbouring property would clearly see the upper part of the outbuilding, but the rear aspect of that property does not directly overlook it.

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

As stated above, the impact of the height of the outbuilding has been lessened due to the land level change. The plot is large enough to accommodate the outbuilding and, as it is not visible from the street, the impact on wider visual amenity is not significant.

### 13.4 Highway considerations – access

Whilst Highways have raised no concerns, the matters they have raised were considered during the site visit. The property already has a vehicular right of access to the rear and, consequently, I have no significant concerns from an access or highway safety perspective. Whilst the access does serve the rear of several properties, it does not appear to be well-used and visibility on to the main road is good. Highways also raise concerns over access for emergency service vehicles. Manual for Streets (the Government's guidance on street design) states that 'the requirements for emergency vehicles are generally dictated by the fire service requirements'. Paragraph 6.7.3 goes on to state 'Simply to reach a fire, the access route could be reduced to 2.75 m over short distances, provided the pump appliance can get to within 45 m of dwelling entrances'. The accessway is approximately 3.5 metres wide and the distance from the rear boundary of the property to the footpath is approximately 45 metres. Furthermore, access for the fire service is a requirement of building regulations and I



see no reason to impose conditions which would replicate requirements under that legislation.

13.5 In respect of parking requirements, the property is a three bed, with the outbuilding having the potential to make this four. Two parking spaces are evident at the property; one to the front and one to the rear, which complies with the Council's design guidance. Additionally, with reference to the NPPF, I do not anticipate any highway impact to be severe based on the above assessment.

### 13.6 Other matters – use of outbuilding and loss of trees

The plans show that the use of the outbuilding is ancillary to the main house. It is a matter of law that the creation of a separate dwellinghouse requires planning permission and any application for a separate unit would need to comply with the relevant design guidance. Discussing the meaning of 'ancillary' further, this application concerns the retention of an outbuilding. Ancillary in this context means that the outbuilding would have to have a purpose incidental to the enjoyment of the main house. Nonetheless, the outbuilding could be used as additional residential accommodation in association with the main house. However, the use of the outbuilding by persons who are not part of the household and/or live independently of the main house would constitute an unauthorised use. Continued ancillary use of the outbuilding can be ensured by condition. In the event that the outbuilding is used as separate accommodation, where it can be demonstrated that a standalone C3 dwellinghouse use has commenced, enforcement action can be taken.

13.7 In respect of the loss of the trees, the trees did not warrant specific protection and the owner is entitled to remove them from their own land.

## 14. Conclusion and planning balance

14.1 All decisions on planning applications should be based on an objective balancing exercise. This is known as applying the "planning balance".



It is established by law that planning applications should be refused if they conflict with the development plan unless material considerations indicate otherwise. This essentially means that the positive impacts of a development should be balanced against its negative impacts.

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

## 15 Alternative Options

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

## 16 Implications

<b>Resources:</b>	When a planning application is refused the applicant has a right of appeal to the Planning Inspectorate, and they can make a claim for costs against the Council.
<b>Legal and Governance:</b>	This application is submitted under the Town and Country Planning Act 1990.
<b>Risk:</b>	None.
<b>Equality:</b>	There are no equality issues arising from this proposal and therefore an equality impact assessment has not been carried out.
<b>Health and Wellbeing:</b>	None.
<b>Social Value</b>	None.
<b>Climate Change</b>	Sandwell Council supports the transition to a low carbon future, in a way that takes full account of the need to adapt to and mitigate climate change. Proposals that help to shape places in ways that contribute to radical reductions in greenhouse gas



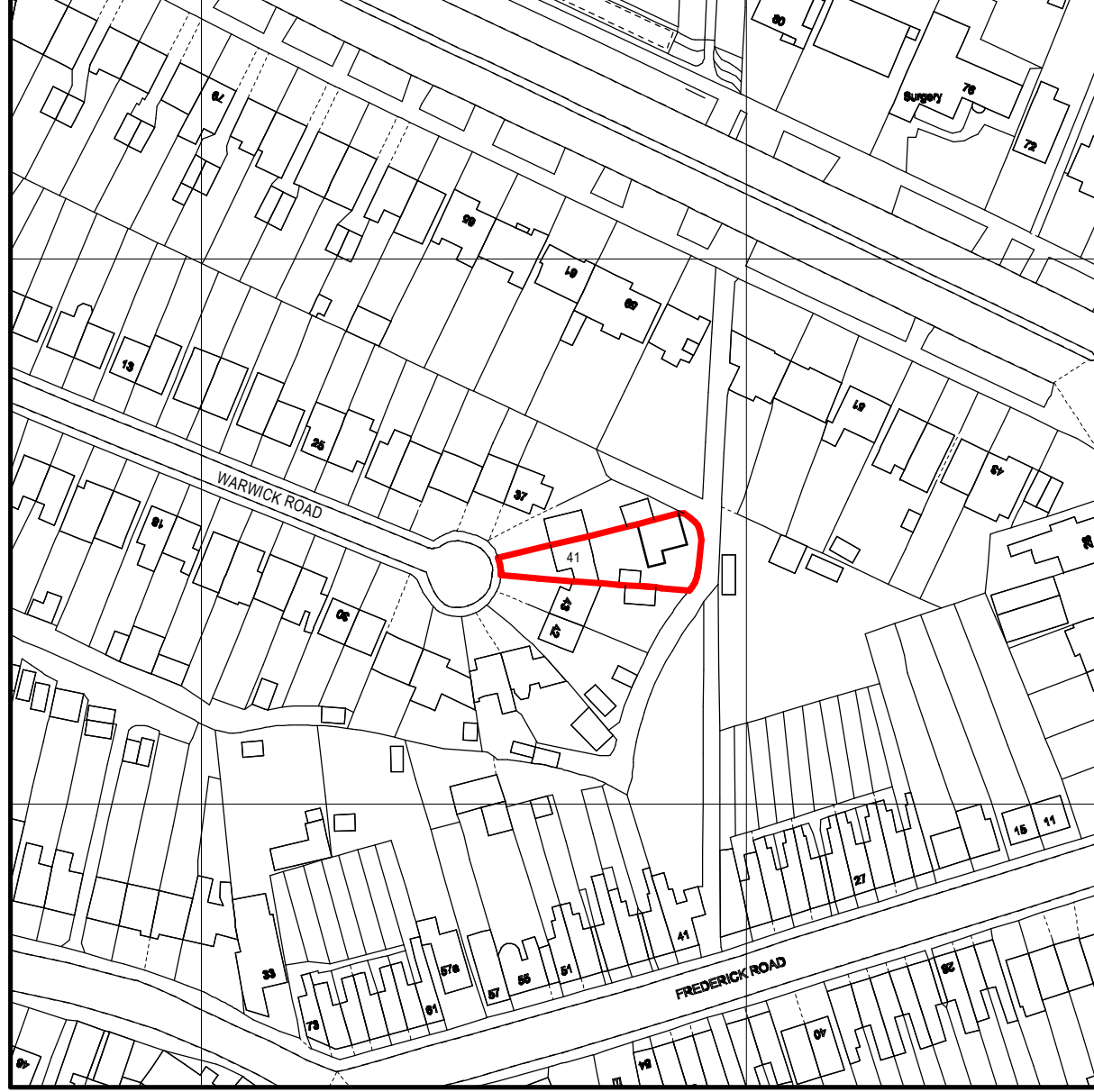


emissions, minimise vulnerability and improve resilience; encourage the reuse of existing resources, including the conversion of existing buildings; and support renewable and low carbon energy and associated infrastructure, will be welcomed.

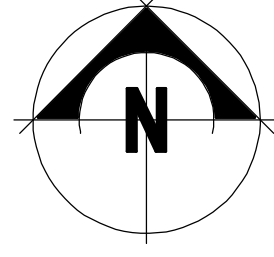
## 17. Appendices

Context plan  
GD2538/02  
GD2538/03 A





LOCATION PLAN Scale 1:1250



**GD Designs**  
Architectural Services

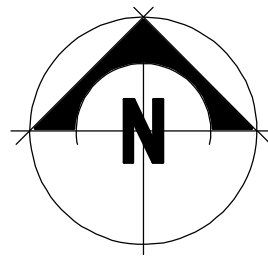
49, The Crescent,  
Cradley Heath,  
West Midlands,  
B64 7JS  
Tel 0121 602 6233  
Mob 07939 436557

client **MR ENVER BAJRAMI**  
drawing **LOCATION PLAN**  
contract **41, WARWICK ROAD, OLDBURY. B68 ONE**

date **JULY 2023**  
scale **1:1250**  
drawing no **GD2538/01**



BLOCK PLAN Scale 1:500

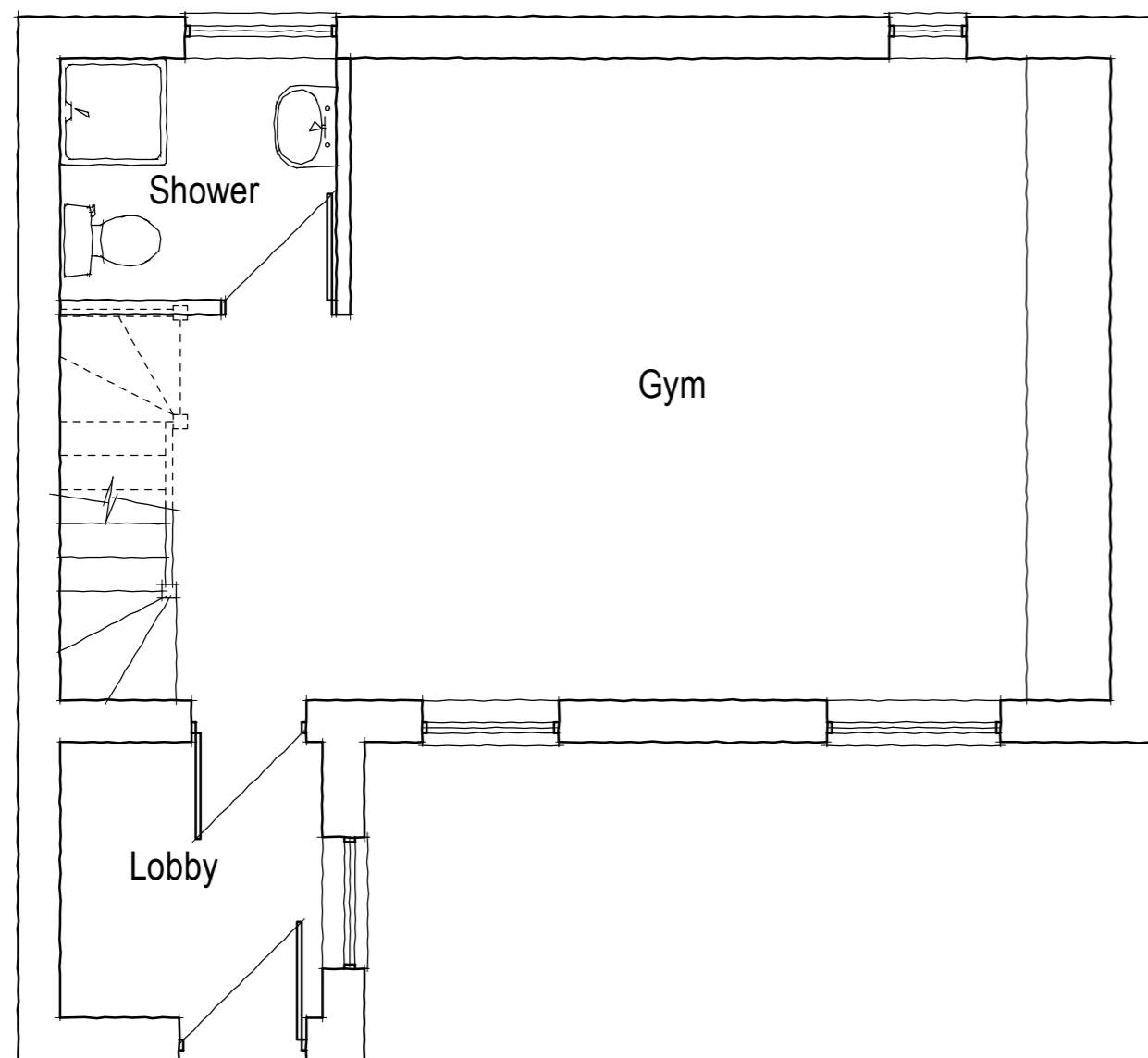
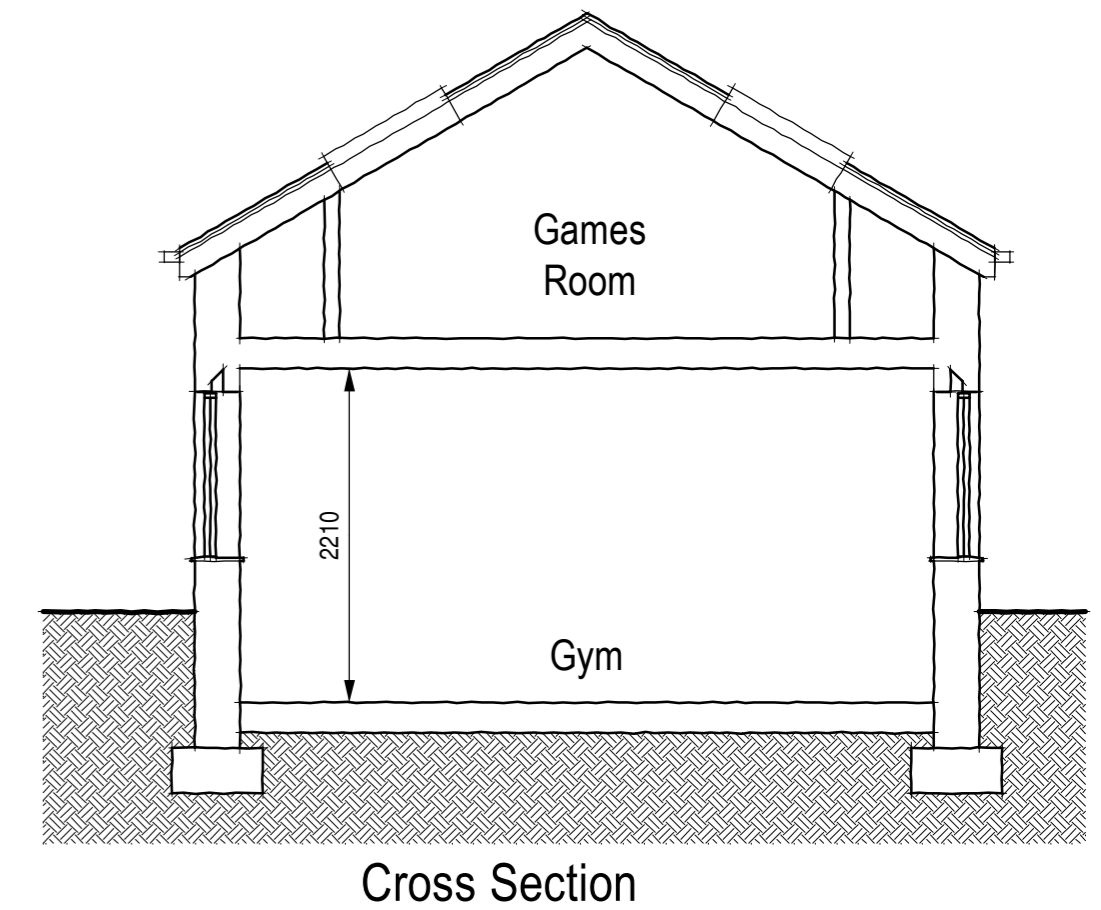
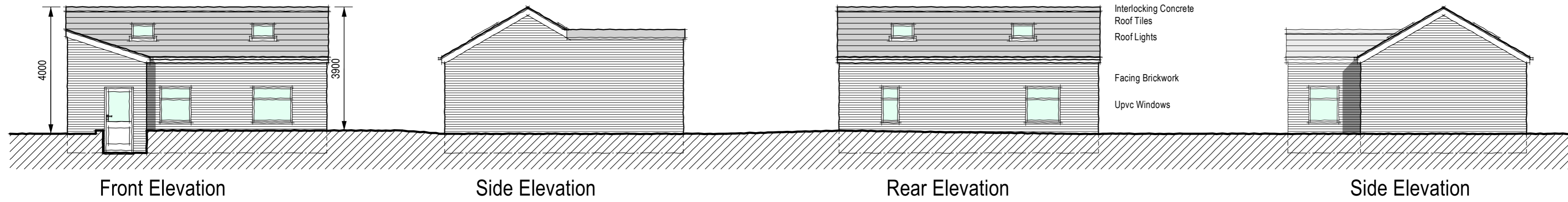


client **MR ENVER BAJRAMI**  
drawing **BLOCK PLAN**  
contract **41, WARWICK ROAD, OLDBURY. B68 ONE**

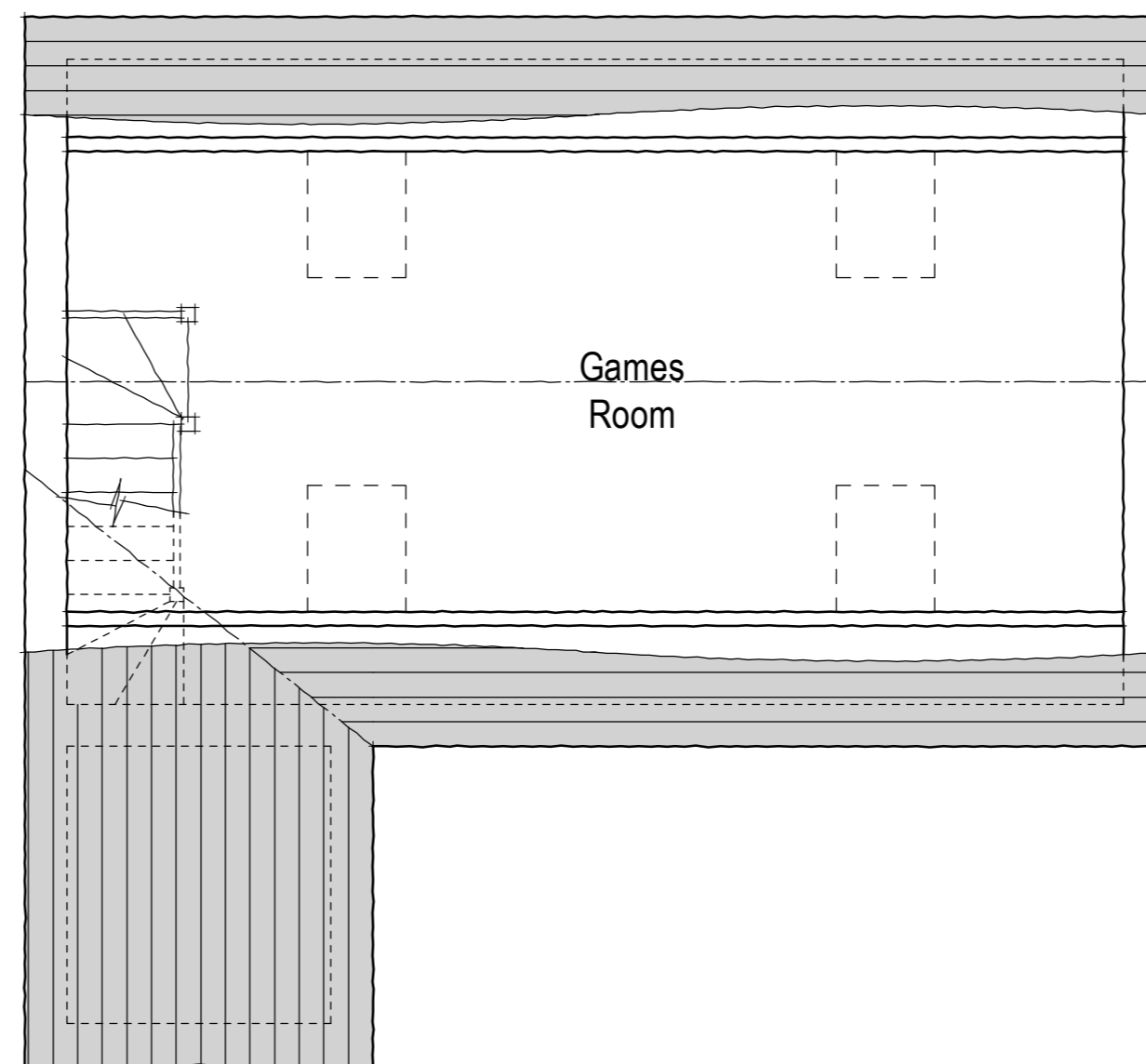
date **JULY 2023**  
scale **1:500**  
drawing no **GD2538/02**

**GD Designs**  
Architectural Services

49, The Crescent,  
Cradley Heath,  
West Midlands.  
B64 7JG  
Tel 0121 602 6233  
Mob 07939 436557



As Built Ground Floor Plan



As Built Roof Space Plan



REV.	DATE	DESCRIPTION	BY
<p><b>GD Designs</b> Architectural Services</p> <p>49, The Crescent, Cradley Heath, West Midlands. B64 7JS Tel: [REDACTED] Mob: [REDACTED]</p> <p>contract DETACHED ANCILLARY BUILDING 41, WARWICK ROAD, OLDBURY. B68 ONE</p> <p>drawing AS BUILT PLANS &amp; ELEVATIONS</p> <p>client [REDACTED]</p> <p>scale 1:50/1:100@A2</p> <p>date JULY 2023</p> <p>drawn by GCD</p> <p>drawing no GD2538/03</p> <p>rev 1</p> <p>plot 1:45/1:16 D &amp; T E 14/07/2023</p> <p>cad lines</p>			