

## PETITION

COMMITTEE DATE: 19/04/2018

APPLICATION No. **18/00074/MNR** APPLICATION DATE: 18/01/2018

ED: **GRANGETOWN**

APP: TYPE: Full Planning Permission

APPLICANT: Ms. L. Wakely

LOCATION: 23 DINAS STREET, GRANGETOWN, CARDIFF, CF11 6QZ

PROPOSAL: CHANGE OF USE FROM 3 FLATS TO 1 FLAT AND 6 BED HOUSE IN MULTIPLE OCCUPATION PLUS EXTERNAL ALTERATIONS

---

**RECOMMENDATION 1** : That planning permission be **GRANTED** subject to the following conditions :

1. C01 Statutory Time Limit
2. The development shall be carried out in accordance with the following approved plans:

- Drg No LW01-2

Reason: To ensure satisfactory completion of the development and for the avoidance of doubt in line with the aims of Planning Policy Wales to promote an efficient planning system.

3. Prior to the beneficial use of the property as a flat and a C4 HMO 7 secured cycle parking spaces shall be provided and shall thereafter be retained and maintained at all times.

Reason: To ensure that secure cycle parking facilities are provided to encourage other modes of transport over the private car in accordance with Policy T5 of the Cardiff Local Development Plan 2006 – 2026.

4. Prior to the beneficial use of the property as a flat and a C4 HMO a refuse storage area shall be provided within the curtilage of the property. The refuse storage area shall thereafter be retained and maintained at all times.

Reason: To secure an orderly form of development and to protect the amenities of the area in accordance with Policy W2 of the Cardiff Local Development Plan 2006-2026.

5. The first floor window in the side elevation facing the rear gardens of properties in Merches Gardens shall be glazed with obscure glass and non-opening below a height of 1.8 metres above internal floor level and thereafter be so maintained.

Reason : To ensure that the privacy of adjoining occupiers is protected in accordance with Policy KP5 of the Cardiff Local Development Plan 2006-2026.

**RECOMMENDATION 2** To protect the amenities of occupiers of other premises in the vicinity attention is drawn to the provisions of Section 60 of the Control of Pollution Act 1974 in relation to the control of noise from demolition and construction activities. Further to this the applicant is advised that no noise audible outside the site boundary adjacent to the curtilage of residential property shall be created by construction activities in respect of the implementation of this consent outside the hours of 0800-1800 hours Mondays to Fridays and 0800 - 1300 hours on Saturdays or at any time on Sunday or public holidays. The applicant is also advised to seek approval for any proposed piling operations.

1. **DESCRIPTION OF PROPOSED DEVELOPMENT**

- 1.1 This application seeks planning permission to change the use of the property from two 2 bedroom flats and one studio flat into one C4 House in Multiple Occupation and one studio flat. The HMO is to be situated on the ground and first floor and the studio flat is to remain in its present location in the second floor roofspace.
- 1.2 Internally the property accommodates two bedrooms a kitchen/living room and shower room on the ground floor; three bedrooms, an en-suite bedroom and a bathroom on the first floor; and a studio flat on the second floor. The second floor will not alter as a result of this application.
- 1.3 Externally an amenity space of approximately 85 square metres is provided to the rear of the property.

2. **DESCRIPTION OF SITE**

- 2.1 The site comprises a two storey building located at the end of a terrace of two storey properties within the Grangetown Ward of Cardiff. A dormer roof extension and two storey side extension was granted at Planning Committee on 21<sup>st</sup> July 2004 to facilitate the change of use of the property into three self-contained flats.

3. **SITE HISTORY**

Application No : 04/01304/C  
Proposal : CONVERSION OF FOUR BEDROOM HOUSE TO THREE  
SELF CONTAINED FLATS WITH TWO STOREY REAR  
EXTENSION AND DEMOLITION OF SINGLE STOREY  
REAR STORE  
Application Type: FUL  
Decision : PERMISSION GRANTED  
Decision Date : 22/07/2004

#### 4. **POLICY FRAMEWORK**

4.1 The site lies within a residential area as defined by the proposals map of the Cardiff Local Development Plan 2016.

#### 4.2 **Relevant National Planning Guidance:**

Planning Policy Wales (Edition 8, 2016)  
Planning Policy Wales TAN 12: Design  
Planning Policy Wales TAN 21: Waste

#### 4.3 **Relevant Cardiff Local Development Plan Policies:**

Policy KP5 : Good Quality and Sustainable Design  
Policy KP13 : Responding to Evidenced Social Needs  
Policy H5 : Sub-Division or Conversion of Residential Properties  
Policy T5 : Managing Transport Impacts  
Policy W2 : Provision for Waste Management Facilities in Development

#### 4.4 **Relevant Supplementary Planning Guidance:**

Access, Circulation & Parking Standards (January 2010)  
Residential Extensions & Alterations (June 2015)  
Houses in Multiple Occupation (HMO's) (October 2016)  
Waste Collection and Storage Facilities (October 2016)

Prior to January 2016 the Supplementary Planning Guidance's were approved as supplementary guidance to the City of Cardiff Local Plan (1996). Although the City of Cardiff Local Plan (1996) has recently been superseded by the Cardiff Local Development Plan (2016), the advice contained within the SPG's is pertinent to the assessment of the proposal and remains consistent with the aims of both the Cardiff Local Development Plan Policies and guidance in Planning Policy Wales and are therefore afforded significant weight. Any Supplementary Planning Guidance approved since January 2016 are approved as supplementary guidance to the Cardiff Local Development Plan 2016.

#### 5. **INTERNAL CONSULTEE RESPONSES**

5.1 Waste Management have advised an increase in the number of habitable rooms will lead to an increase in the production of waste. The landlord/owner may need to provide additional bins to accommodate this.

The plans do not show the intended storage site of the bins, however as current storage is within the frontage this will be suitable.

For 6+ residents the property will require the following for recycling and waste collections:

- 1 x 240 litre bin for general waste

- 1 x 25 litre kerbside caddy for food waste
- Green bags for mixed recycling (equivalent to 240 litres)

The existing flat would keep its current allocation of receptacles.

5.2 Shared Regulatory Services have requested the owner be made aware of Section 60 of the Control of Pollution Act 1974 with respect to noise from construction activities.

## 6. **EXTERNAL CONSULTEE RESPONSES**

6.1 South Wales Police have been consulted and have raised no objection to this application.

## 7. **REPRESENTATIONS**

7.1 Neighbours have been notified and 18 objections have been received from neighbouring occupiers and residents living up to 150 metres away. A summary of the objections are as follows:

1. Noise issues associated with a HMO and the opening and closing of the alley gates to access the rear parking area;
2. Waste issues associated with tenants not looking after the property;
3. Tenants moving in and out with short term contracts;
4. Parking issues associated with such a use;
5. Anti-social behaviour (including prostitution and drug use) resulting from occupiers leaving the alley gates adjacent to the application site open;
6. Over development of the site;
7. The reputation of the developer;
8. Loss of family housing;
9. Loss of privacy from the first floor window in the side elevation;
10. The development is likely to lead to a further erosion of community spirit and cohesion;
11. Limited amenity space available for occupiers to use;
12. Lack of consultation on the application
13. The property is not registered with Rent Smart Wales
14. Works have already commenced on the development

7.2 A petition of over 50 signatures has also been submitted in respect of the application

## 8. **ANALYSIS**

8.1 This application seeks planning permission to change the use of an end of terrace property presently in use as three self-contained flats into a C4 HMO and a flat. The present arrangement provides for two 2 bedroom flats on the ground and first floor and a studio flat in the second floor dormer roof extension. The studio flat is to remain and the two flats on the ground and first floors will be replaced by a six

bedroom HMO. A first floor window is to be inserted into the side elevation and a rear window is to be replaced with a pair of French Doors.

- 8.2 With respect to the use, the property is presently in use as multi occupancy and will remain so albeit a C3 flat and a C4 HMO as opposed to three C3 flats. There are presently 5 bedrooms at the property and the resultant development will provide 7 bedrooms. As such the main issue for this application is the impact the change of use of three C3 flats into a 6 person HMO and a C3 flat will have on the character of the area and the surrounding neighbouring properties.
- 8.3 The approved Supplementary Planning Guidance on HMO's aims to provide background information on, and provide a rationale for how the council will assess applications for planning permission to create new C4 and *Sui Generis* HMOs. It aims to identify the threshold at which it is deemed that the concentration of HMOs in an area has reached a level considered to adversely impact upon the community. It is recognised that HMOs can provide an important source of housing, and it is recognised that demographic change has driven many of the changes that have seen traditional family homes become HMOs. HMOs are popular accommodation source for many groups, including students, young professionals, migrant workers and often people on lower incomes.

However, in spite of the above, concentrations of HMOs, clustered in small geographical areas can detract from the character of the area and actively contribute towards a number of perceived problems, including, but not limited to, those listed below. It is considered that this may conflict with policy KP13 of the LDP which aims to improve the quality of life for all.

- Increased population density, leading to greater demand for infrastructure, such as waste collections and on-street parking.
- Higher proportion of transient residents, potentially leading to less community cohesion, undermining existing community facilities
- Areas of higher HMO concentrations becoming less popular with local residents, with many properties taken out of the owner-occupier market.
- A proliferation of properties vacant at certain points of the year
- Subsequent impact on crime, local centre viability, as a result of the number of properties temporarily vacant for long periods.

Having identified some of the issues caused by HMOs it is necessary to determine the threshold at which new HMOs may cause harm to a local area. This threshold will resist further HMOs in communities that already have a concentration above this limit, while also controlling the growth of HMOs in communities below this threshold. A two-tier threshold will therefore be applied to determine when an area has reached the point at which further HMOs would cause harm. In Cathays and Plasnewydd the figure of 20% is to be applied' and in all other wards, the figure of 10% is to be applied.

This means that within Cathays or Plasnewydd, if more than 20% of the dwellings within a 50m radius of the proposed HMO are already established HMOs (i.e. either C4 or sui generis in Planning terms) then this development would be considered unacceptable. In other wards the figure would be 10%.

Having regard to the “cumulative impact” of such conversions, in respect of this application, an analysis has been made on the extent of HMO’s (including those defined as such under Sections 254 to 259 of the Housing Act 2004 and those covered under the Additional Licensing Scheme which operates within the Cathays and Plasnewydd Wards of Cardiff) against the threshold limits identified above. As the application site is located within the Grangetown Ward of Cardiff a 10% threshold limit will be relevant and having undertaken such checks within 50m of the application site it was found that there were no properties registered as HMO’s within 50m of the application site which equates to 0%.

- 8.4 It should also be noted that two recent planning applications which the council refused were allowed on appeal to the Planning Inspectorate for the change of use of a C3 residential dwelling into a C4 HMO (14 Llandough Street) and the change of use of a C3 residential dwelling into a 7 person Sui Generis HMO (74 Daniel Street).

The Planning Inspector who considered the appeal at 14 Llandough Street advised that :

*“Policy H5 of the Cardiff Local Development Plan (LDP) permits HMO conversions subject to a number of criteria, the most relevant in this case being that the cumulative impact of such conversions should not adversely affect the amenity and/or character of the area. There is generally no dispute that the proposal would comply with the other criteria relating to residential amenity standards, neighbouring amenity and parking provision, and I do not disagree. LDP Policy KP5 is also relevant insofar as it seeks good quality and sustainable design by, amongst other things, providing a diversity of land uses to create balanced communities. The Council’s adopted Supplementary Planning Guidance (SPG) on HMOs provides background information on the issues associated with HMOs, which include a high proportion of transient residents potentially leading to less community cohesion and greater demands on social, community and physical infrastructure. The SPG has been subject to public consultation and is adopted, and it is therefore an important material consideration.*

*There is no substantiated evidence that directly links the proposal to any significant loss of community cohesion or character, which is already largely determined by the existing concentrations of HMOs in this particular location. The proposal would not materially change the number of transient residents living in the immediate area, and any infrastructural requirements arising from the proposal would be localised, and diluted in the light of existing demands. Although the SPG stipulates a threshold of 20% within a 50 metre radius, because the existing concentration of HMOs already significantly exceeds this, there would be no fundamental change to the existing community balance in this particular part of the Ward.*

*The SPG indicates that some 58% of properties in the Cathays Ward are in HMO use. Relative to the immediate environment of the appeal site, this suggests that there is a more balanced mix of housing in the Ward as a whole. ‘Area’ is not defined in the context of LDP Policy H5 however the character and nature of an*

*Electoral Ward will usually vary across it. In this instance, because the appeal property is contained within a dense pocket of HMOs, the effects on the local community, cumulatively or otherwise would not be significant. In other parts of the Cathays Ward or the City, it would be open to the Council to demonstrate in the particular circumstances of an individual case that harm would be caused.*

*I acknowledge that changes to the Use Classes Order sought to address problems associated with high concentrations of HMOs. Nonetheless, each area has its own particular set of circumstances, and my duty is to determine this appeal on its merits in the light of the development plan.*

*I also note the comments received from the Police. However the evidence of crime relates to a wide area and there is little to suggest that the proposal would directly contribute to any material increase in the risk to personal safety or property, especially in the context of this dense residential environment.*

*I conclude that, whilst the development would not comply with the threshold set out in the SPG, there would be no significant adverse effects on the amenity and / or character of the area, cumulatively or otherwise.”*

The Planning Inspector who considered the appeal at 74 Daniel Street advised that :

*The appeal property is a terrace house in an accessible location close to a busy shopping area and other facilities in Crwys Road. Daniel Street itself contains generally well maintained houses, and has a pleasant ambience with little physical evidence of any significant environmental problems often associated with very high concentrations of HMOs. In particular, there is little indication of poor waste management practices or poorly maintained frontages, and there is nothing to suggest that existing residents are experiencing amenity issues related to noise or anti-social behaviour. Evidence from the police suggests that the Cathays Ward has a high incidence of crime generally, and some data is provided for a more localised area around Daniel Street. However this relates to several postcodes, and given the proximity of bars and restaurants on Crwys Road where incidents are more likely, I have very little information before me to substantiate any significant links between the appeal development and crime or anti-social behaviour.*

*The Council's concerns as to the effect on local community cohesion and infrastructure are similarly unsubstantiated. The waste collection and pollution control departments have provided no objections to the proposal and given the accessibility of the site and the provision for cycle parking, there would be no serious additional demands placed on local parking facilities. I also have no information to suggest that the long term future of any local community facilities are being jeopardised by the existing concentration of HMOs or that the proposal itself would result in any direct harm to this effect. By their nature, HMOs are likely to result in transient residents, and students in particular will mean empty properties at certain times of the year. Nonetheless, given that the area around the appeal property has a healthy mix of uses, and in the absence of information to suggest otherwise, I have no reason to believe that the proposal would upset the existing*

*community balance or lead to any unacceptable loss of community cohesion.*

*The Council's Supplementary Planning Guidance (SPG)<sup>1</sup> provides general empirical evidence on the issues associated with high concentrations of HMOs and Welsh Government (WG) research<sup>2</sup> provides a similar picture. However, none of these problems seem particularly prevalent in the vicinity of the appeal property. There is no dispute that the 20% threshold for HMOs stipulated in the SPG would be breached but in my view it is not sufficient just to say that a breach would occur without demonstrating that harm would be caused. In particular, Policy H5 of the Cardiff Local Development Plan (LDP) permits HMOs providing, amongst other things, the cumulative impact of such conversions will not adversely affect the amenity and/or the character of the area.*

*From my own observations and on the available evidence, the area around Daniel Street contains a balanced and sustainable mix of housing with good access to a healthy range of services and facilities. I acknowledge the cumulative effects that HMOs can have and I note the English appeal decisions that have been drawn to my attention. However, in the latter cases it was demonstrated that either a community imbalance would occur or existing issues would be worsened. In this case, I have little evidence to suggest that the proposal either by itself or cumulatively would exacerbate any existing problems or result in any material harm to the character and amenity of the area. Moreover, it would be open to the Council to demonstrate in the individual circumstances of any other case that harm would be caused.*

*There is concern from local representatives as to the amount of amenity space at the property, However, the size of the space falls only marginally short of the Council's standard, and I observed it to be a well laid out feature with sufficient provision for refuse and cycle storage. The property itself also provides a good standard of living and amenity for its future occupiers.*

*I conclude that the proposal would comply with the objectives of LDP Policy H5. It would also concur with the aim of LDP Policy KP5 to seek good quality and sustainable design by, amongst other things, providing a diversity of land uses to create balanced communities.*

- 8.5 Waste Management have not objected to this application but have recommended that suitable waste and recycling receptacles be provided at the property and in this respect condition 4 has been imposed.
- 8.6 In respect of the comments made by Shared Regulatory Services Recommendation 2 has been included to bring to the applicant's attention Section 60 of the Control of Pollution Act 1974 in respect of noise from construction activities.
- 8.7 The property presently benefits from planning permission to be used as 3 self contained flats. Condition 4 of the planning permission requires the provision of 2 off road car parking spaces situated in the rear garden. This was not provided by the previous owner and so there is a breach of planning control in this respect. However the current owner is seeking planning permission to change the use of

the property and so the proposal has been assessed against current parking guidelines contained within the Council's Supplementary Planning Guidance on Access, Circulation and Parking Standards Approved January 2010. This identifies that the use of the property as a flat and a C4 HMO would require a minimum of 0.5 car parking spaces and a maximum of 2 car parking spaces. In respect of cycle parking provisions the SPG identifies that 2.5 cycle parking spaces will be required. The SPG on HMO's identifies that one cycle parking space is provided per occupant. As such when combining both SPG's 7 cycle parking spaces and no car parking spaces are required to be provided to be compliant and in this respect condition 3 has been imposed. The site is also in a sustainable location and within walking distance of the City Centre.

It is also considered that by not providing off street car parking this will allay the concerns of local residents who are concerned that if the rear garden is to be used for car parking then the alley gates may be left open thereby increasing the likelihood of anti-social behaviour reoccurring. As occupiers of the HMO can access the garden directly from the property without the need to access the lane this should mitigate their concerns.

- 8.8 In respect of amenity space approximately 85 square metres will be available for occupiers to use to the rear of the property which is felt is sufficient for a property of this size. It should also be noted that the minimum amenity space requirement is 25 square metres for the C4 HMO as specified in the SPG on HMO's. With respect to the flat this presently does not have direct access to the rear garden and so there is no change in circumstances in this respect.
- 8.9 In respect of the comments made by neighbouring occupiers which are not covered above the following should be noted:
1. This is not a planning issue. If a noise nuisance is created other legislation exists to deal with such issues i.e. Section 60 of the Control of Pollution Act 1974 or the Environmental Protection Act 1990 ;
  2. Condition 4 has been imposed in this respect and if occupiers are not using the facilities in the correct way then action that can be taken via Waste Enforcement if required;
  3. This is not a planning matter;
  4. See 8.7 above;
  5. This is not a planning matter;
  6. The property has previously been granted planning permission at Planning Committee for a two storey side extension and a dormer roof extension to facilitate the change of use of the property into three self-contained flats. No extensions are proposed as a result of this proposal and it is felt that the proposed use can be accommodated within the existing building;
  7. This is not a planning matter;
  8. The property is presently in a multiple occupancy use therefore it is considered that any family housing associated with the property has already been lost due to the present use as three self-contained flats;
  9. Condition 5 has been imposed in this respect;
  10. The proposal has been assessed against the SPG on HMO's and is compliant with the guidance contained within it;

11. See 8.8 above;
  12. All neighbouring properties which share a common boundary with the application site were consulted on this application in accordance with current regulations. In addition to this property the other side of the adopted highway opposite the application site were also consulted.
  13. This is not a planning matter
  14. The property has been refurbished and repairs/improvements have been undertaken which in itself does not constitute a breach of planning control.
- 8.10 In respect of the objections from the local and neighbouring occupiers it should be noted that the proposal is in compliance with the SPG on HMO's and the Cardiff Local Development Plan. As such, and in light of the two recent appeal decisions, it would not be appropriate for the Council to resist this application which seeks to change the use of the property from a C3 residential dwelling into a C4 HMO and flat.

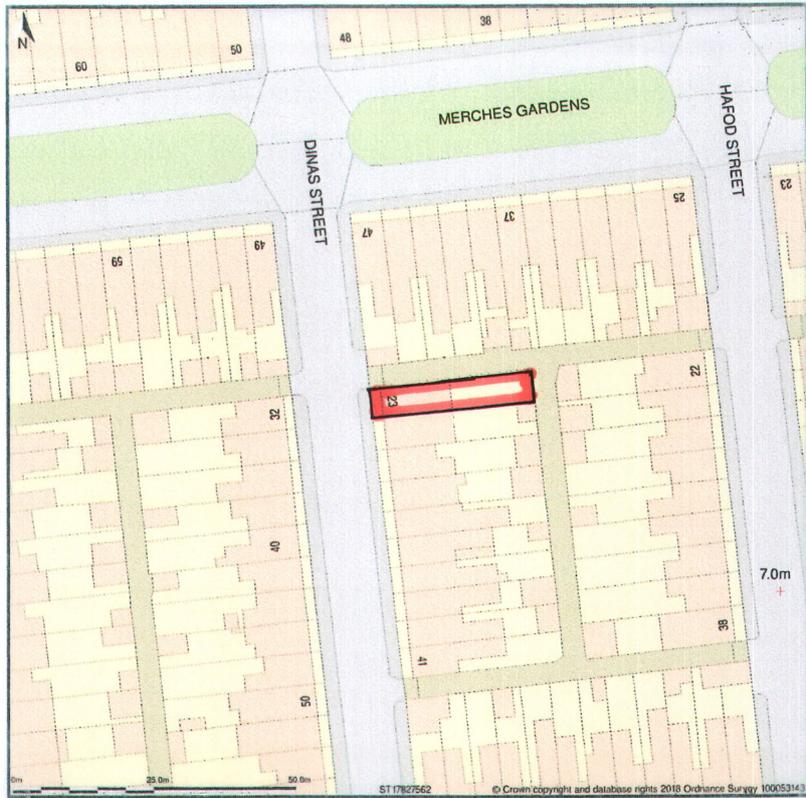
## 9. **OTHER CONSIDERATIONS**

- 9.1 Crime and Disorder Act 1998 – Section 17(1) of the Crime and Disorder Act 1998 imposes a duty on the Local Authority to exercise its various functions with due regard to the likely effect of the exercise of those functions on, and the need to do all that it reasonably can to prevent, crime and disorder in its area. This duty has been considered in the evaluation of this application. It is considered that there would be no significant or unacceptable increase in crime and disorder as a result of the proposed decision.
- 9.2 Equality Act 2010 – The Equality Act 2010 identifies a number of 'protected characteristics', namely age; disability; gender reassignment; pregnancy and maternity; race; religion or belief; sex; sexual orientation; marriage and civil partnership. The Council's duty under the above Act has been given due consideration in the determination of this application. It is considered that the proposed development does not have any significant implications for, or effect on, persons who share a protected characteristic.
- 9.3 Well-Being of Future Generations Act 2016 – Section 3 of this Act imposes a duty on public bodies to carry out sustainable development in accordance with the sustainable development principle to act in a manner which seeks to ensure that the needs of the present are met without compromising the ability of future generations to meet their own needs (Section 5). This duty has been considered in the evaluation of this application. It is considered that there would be no significant or unacceptable impact upon the achievement of wellbeing objectives as a result of the recommended decision.

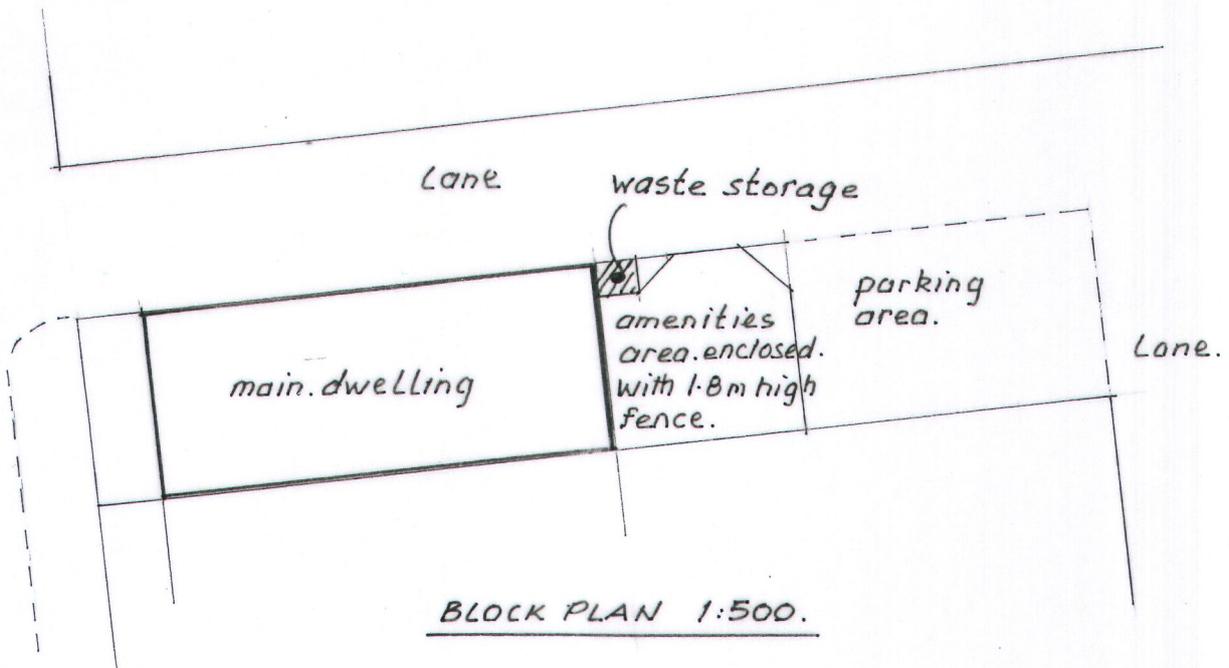
## 10. **RECOMMENDATION**

- 10.1 Having taken all of the relevant factors into consideration it is concluded that in this particular instance there are insufficient grounds to refuse this application. It is therefore recommended that planning permission be granted, subject to conditions.

18/00074



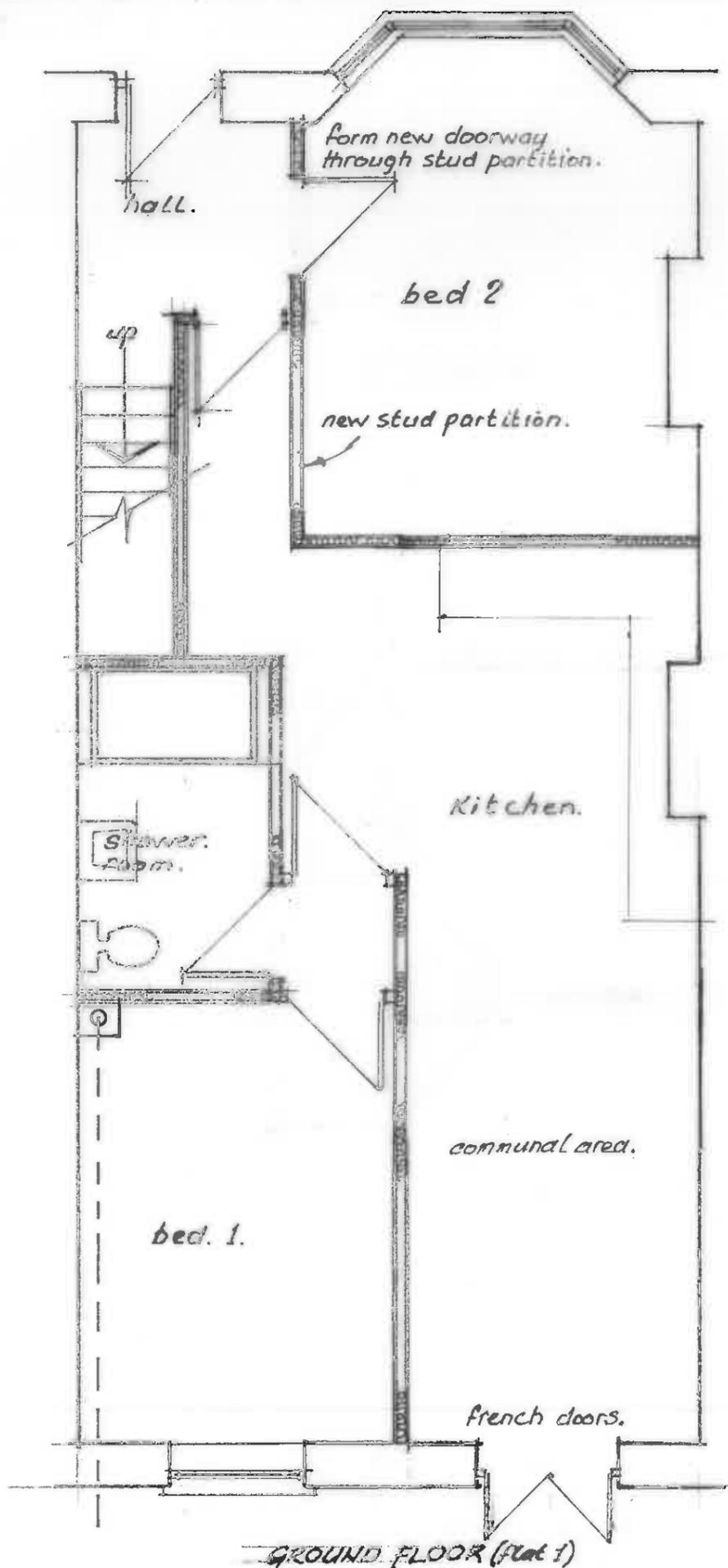
LOCATION PLAN 1:1250.



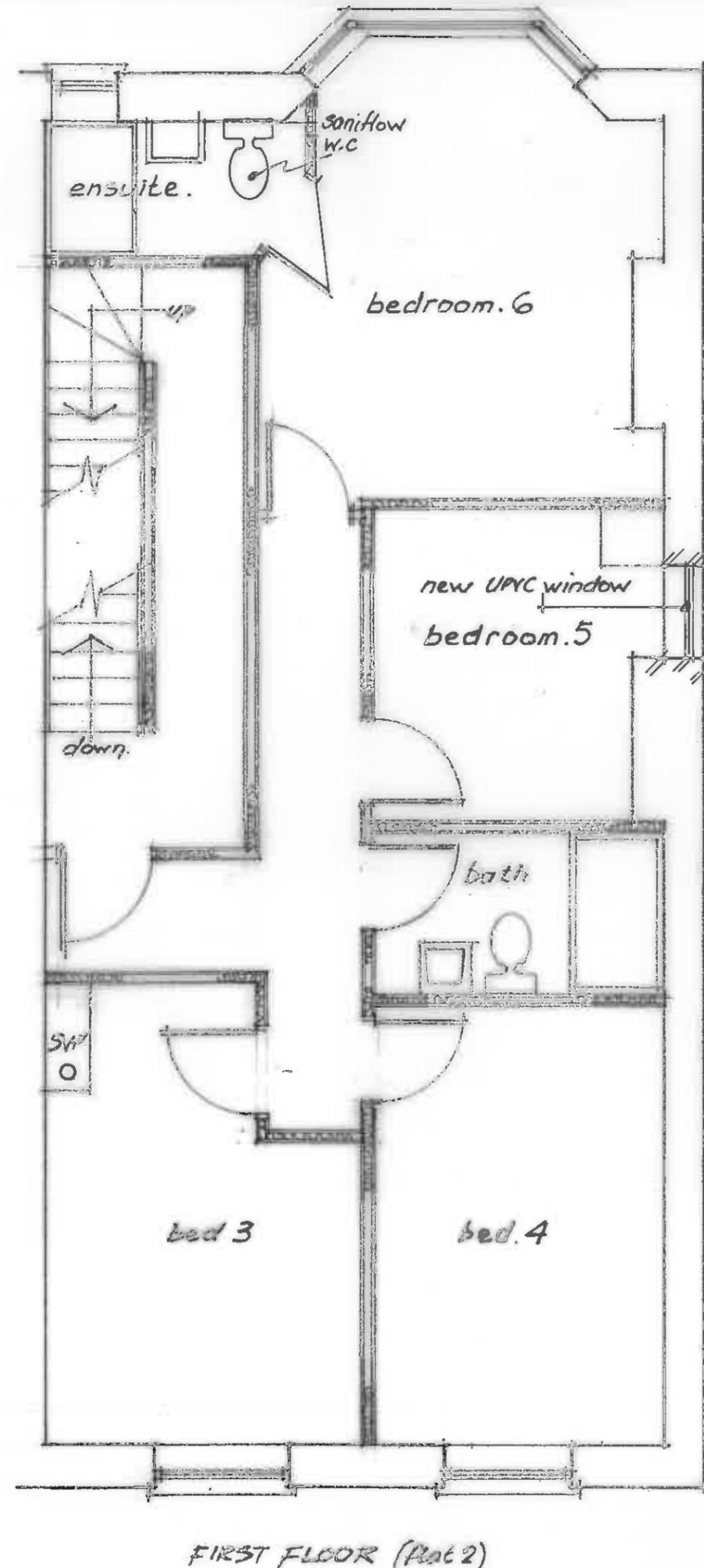
BLOCK PLAN 1:500.

23, DINAS STREET, GRANGETOWN, CARDIFF, CF11 6QZ.

DRG NO LW01-3

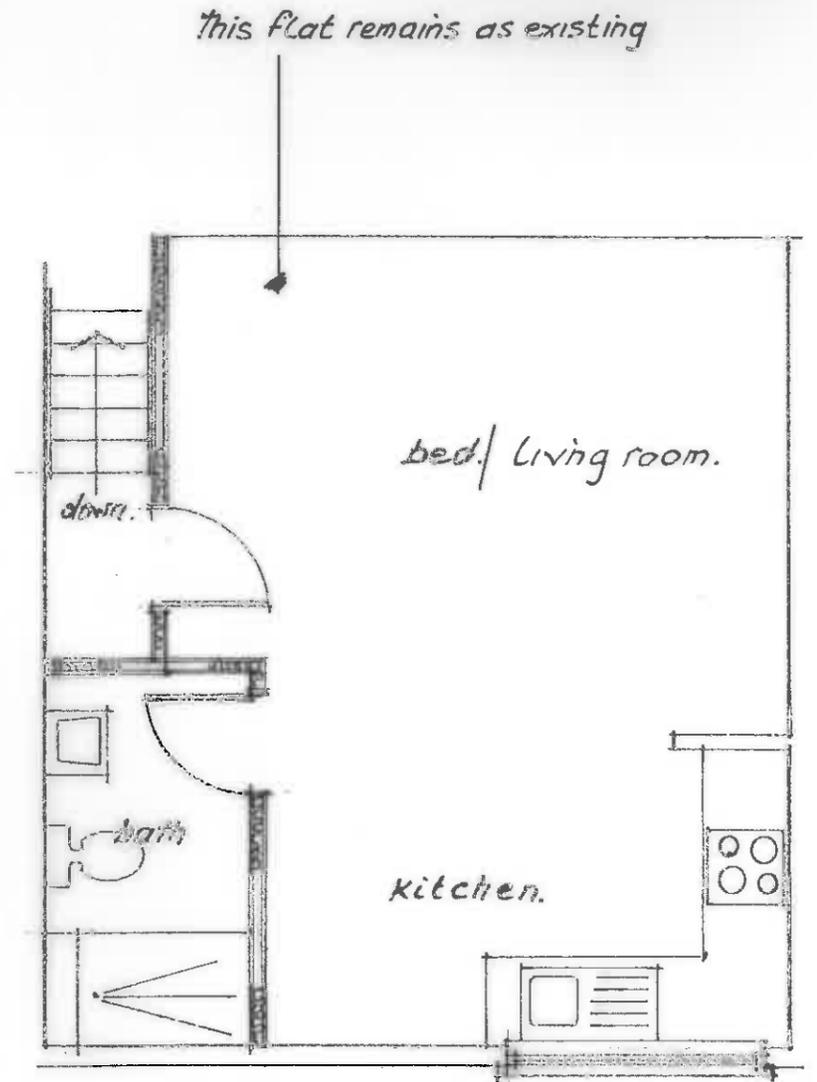


GROUND FLOOR (Flat 1)



FIRST FLOOR (Flat 2)

PROPOSED FLOOR PLANS



SECOND FLOOR (Flat 3)

PROPOSED CHANGE OF USE FROM  
 3 FLATS TO 1 FLAT AND 6 BEDHMO &  
 EXTERNAL ALTERATIONS  
 23, DINAS STREET,  
 CARDIFF CF11 6QZ.  
 DEC 2017 SCALE 1:50 DEN P.J.L.  
 DRG N° LW01-2