

## LOCAL MEMBER, AM & MP OBJECTIONS

COMMITTEE DATE: 17/04/2019

APPLICATION No. **19/00165/MNR**

APPLICATION DATE: 04/02/2019

ED: **FAIRWATER**

APP: TYPE: Full

APPLICANT: Mr Nigel Maqueline

LOCATION: PART OF LAND AT REAR OF 19 FAIRWOOD ROAD,  
FAIRWATER, CARDIFF, CF5 3QF

PROPOSAL: AMENDMENTS TO NEW DETACHED DWELLING INCLUDING  
ACCESS PARKING & BOUNDARY FENCING - PREVIOUSLY  
APPROVED UNDER 17/000711/MNR

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**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:
  - 2331-07 Rev B – Block Plan
  - 2331-06 – Floor Plans and Elevations

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. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (Amendment) (Wales) Order 2013 (or any Order amending, revoking or re-enacting that Order) no windows shall be inserted in the first floor side elevations of the dwelling (north and south) other than those hereby approved.

Reason : To ensure that the privacy of adjoining occupiers is protected.

4. The second floor roof windows facing north and south shall be non-opening below a height of 1.7 metres above internal floor level and thereafter be so maintained.

Reason : To ensure that the privacy of adjoining occupiers is protected.

5. The first floor en-suite bathroom window shall be glazed with obscure glass and thereafter maintained.  
Reason : In the interests of privacy.
6. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (Amendment) (Wales) Order 2013 (or any Order amending, revoking or re-enacting that Order) no structure or extension shall be placed within the curtilage of the dwelling or any alteration undertaken to any roof.  
Reason: To ensure the orderly development of the area with adequate space about buildings and in the interests of visual and residential amenity.
7. The car parking spaces shown on the approved plans shall be provided prior to the development being brought into beneficial use and thereafter shall be maintained and shall not be used for any purpose other than the parking of vehicles.  
Reason: To ensure that the use of the proposed development does not interfere with the safety and free flow of traffic passing along the highway.
8. The external finishing materials shall be as confirmed in the associated planning documents unless the Local Planning Authority provides written consent for variation.  
Reason: To ensure that the finished appearance of the development is in keeping with the area.
9. The roof of the single storey flat roof annexe and/or the front porch shall not be used for any type of external amenity space or recreational space what so ever.  
Reason: To ensure that the privacy and amenities of the occupiers of the adjoining properties are protected.

**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.

**RECOMMENDATION 3 :** The contamination assessments and the effects of unstable land are considered on the basis of the best information available to

the Planning Authority and are not necessarily exhaustive. The Authority takes due diligence when assessing these impacts, however you are minded that the responsibility for

- (i) determining the extent and effects of such constraints and;
- (ii) ensuring that any imported materials (including, topsoils, subsoils, aggregates and recycled or manufactured aggregates / soils) are chemically suitable for the proposed end use. Under no circumstances should controlled waste be imported. It is an offence under section 33 of the environmental Protection Act 1990 to deposit controlled waste on a site which does not benefit from an appropriate waste management license. The following must not be imported to a development site:
  - Unprocessed / unsorted demolition wastes.
  - Any materials originating from a site confirmed as being contaminated or potentially contaminated by chemical or radioactive substances.
  - Japanese Knotweed stems, leaves and rhizome infested soils. In addition to section 33 above, it is also an offence under the Wildlife and Countryside Act 1981 to spread this invasive weed; and
- (iii) the safe development and secure occupancy of the site rests with the developer.

Proposals for areas of possible land instability should take due account of the physical and chemical constraints and may include action on land reclamation or other remedial action to enable beneficial use of unstable land.

The Local Planning Authority has determined the application on the basis of the information available to it, but this does not mean that the land can be considered free from contamination.

**RECOMMENDATION 4 :** That the applicant is advised that no work should take place on or over the neighbour's land without the neighbour's express consent and this planning approval gives no such rights to undertake works on land outside the applicant's ownership.

**RECOMMENDATION 5 :** You should contact Welsh Water before commencing the development since it may lie within the easement of a public sewer that crosses the site. The approximate position of the sewer is marked on the attached record plan. No development (including the raising or lowering of ground levels) will be permitted within the safety zone which is measured either side of the centre line. For details of the safety zone please contact Dwr Cymru Welsh Water's Developer Services on 0800 9172652 or via email at [developer.services@dwrwymru.com](mailto:developer.services@dwrwymru.com). Please note that the grant of planning permission does not give any rights to build within a sewer easement

without first obtaining the consent of Welsh Water.

## **1. DESCRIPTION OF PROPOSED DEVELOPMENT**

- 1.1 Planning permission is sought for a two-storey detached dwelling. The structure is at present under construction following a previous grant of planning permission but works have not followed the approved planning drawings.
- 1.2 The proposed dwelling will measure approximately 8.2m high with a pitched roof, 8.1m wide and 8.1m deep at first floor level, and incorporate a single storey rear projection (family space) measuring 4.5 deep at its maximum length. The submitted plans confirm the provision of two off-street parking spaces positioned to the front of the proposed dwelling, either side of a centrally located front door/porch.

## **2. DESCRIPTION OF SITE**

- 2.1 The application site comprises the rearmost part of the rear garden of no.19 Fairwood Road Fairwater. The development is accessed from Chatsworth Close, located to the rear of Fairwood Road, which is a single carriageway width at this point
- 2.2 The surrounding area comprises a mix of two-storey semi-detached, and detached dwellings as well as a number of single storey dwellings.

## **3. SITE HISTORY**

- 3.1 11/1285/DCO – Outline planning application (with all matters reserved) for new detached residence at land to rear of 19 Fairwood Road. Approved
- 3.2 13/935/DCO – Variation of conditions 8 (attached plans) and 9 (single storey dwelling only) of 11/1285/DCO to allow construction of a house within 9.5m x 7m footprint and to allow for the construction of a two-storey house. Refused
- 3.3 13/2253/DCO – Removal of condition 9 (single storey dwelling only) of planning permission 11/1285/DCO to enable a two-storey development on the application site. Approved
- 3.4 14/1330/DCO – Variation of condition 8 (attached plans) of planning permission 13/2253/DCO to allow for substitution of plan drawing 663-03 G. Refused but subsequent Planning Appeal Allowed
- 3.5 17/0711/MNR –Reserved Matters in relation to application 11/1285/DCO and applications 14/1330/DCO and 13/2253/DCO. Approved

- 3.6 18/1363/MNR – New detached dwelling including access, parking and boundary fencing. Refused

4. **POLICY FRAMEWORK**

- 4.1 The application site is shown as part of an existing housing area as indicated in the Cardiff Local Development Plan.

- 4.2 The following policies of the approved Cardiff Local Development Plan (2006-2026) are considered to be relevant to the proposal:

Policy KP5 (Good Quality and Sustainable Design)

Policy T5 (Transport Impacts)

Policy W2 (Provision for Waste Management Facilities in Development)

- 4.3 Supplementary Planning Guidance: Infill Sites (April 2017)
- 4.4 Supplementary Planning Guidance: Managing Transport Impacts (Incorporating Parking Guidelines) (2018)
- 4.5 Supplementary Planning Guidance: Waste Collection and Storage Facilities (March 2007)
- 4.6 Technical Advice Note 12: Design
- 4.7 Planning Policy Wales Edition 10 (2018)

5. **INTERNAL CONSULTEE RESPONSES**

- 5.1 The Operational Manager, Transportation – No objections
- 5.2 The Operational Manager, Waste Management – No objections

6. **EXTERNAL CONSULTEE RESPONSES**

- 6.1 Welsh Water – No objections

7. **REPRESENTATIONS**

- 7.1 Neighbours have been consulted and letters and e-mails have been received from the occupiers of 2 and 3 Chatsworth Close, 62, 64, 66 Kirton Close, 15, 17, 19 and 21 Fairwood Road, objecting to the proposal for the following summarised reasons;

- i) Loss of privacy/overlooking

- ii) Development as built is overbearing and unneighbourly due to increased width in close proximity to boundaries
- iii) Previous application to retain structure was refused & developer should implement permission originally granted by Planning Committee.
- iv) Developer has undertaken construction works despite repeatedly been told to stop works whilst investigation continues, concerns raised that developer is flouting planning law
- v) Concern for access for emergency vehicles
- vi) Overdevelopment of site
- vii) Access/parking problems due to narrow width of highway
- viii) Loss of sunlight
- ix) Submitted plans show land not in the ownership of applicant
- x) Permission should only have been granted for a bungalow
- xi) Development out of character with surrounding area
- xii) Limited cosmetic changes to previous refused application

7.2 Ward Councillors Lisa Ford & Keith Parry, object for the following summarised reasons:

- i) Development is overbearing for the size of site
- ii) Negative effect upon neighbouring properties
- iii) Danger to people using the lane in front of property
- iv) Parking spaces are inadequate with not enough room for vehicles to manoeuvre
- v) Limited access for emergency vehicles
- vi) Loss of privacy
- vii) Loss of sunlight to flats to the north
- viii) Ask that application goes to planning committee and that a site visit is undertaken

7.3 Assembly Member Neil McEvoy, objects for the following reasons

- i) Building is too high and would be overbearing to the properties either side of it
- ii) Request that the application goes to Planning Committee and a site visit is undertaken

7.4 Member of Parliament Kevin Brennan, objects for the following summarised reasons

- i) Concerns of constituents in regard to works carried out on site
- ii) Concerns of breaches of planning permission and advises that outcomes can undermine confidence in the planning system
- iii) Ask that application goes to Planning Committee and subsequently the developer be made to revert to the dimensions of the original plans.

## 8. **ANALYSIS**

- 8.1 The main planning issues relate to:
- (i) The impact of the development on the amenities of neighbouring occupiers.
  - (ii) Highway safety/parking issues.
  - (iii) Design
- 8.2 A site visit was undertaken on the 8<sup>th</sup> April 2019 by members of the Planning Committee.
- 8.3 The principle of a dwelling being constructed on this site has been established under planning applications 11/1285/DCO and 17/0711/MNR. The original application was in outline with all matters reserved for future consideration and the subsequent 2017 application (reserved matters) approved details of a detached two storey dwelling and was considered at the Planning Committee meeting in November 2017.

Works have begun on site. While the footprint / slab of the dwelling is in general conformity to that which was previously approved, investigation confirmed that the dwelling is slightly larger in terms of its width and depth than that which received planning permission.

- 8.4 The submitted plans confirm that the proposed dwelling will be 8.1m wide and 8.1m deep when measured at first floor level, and reach a maximum height of 8.2m with a pitched roof. The dwelling will also include a single storey rear annexe measuring 4.5m deep at its maximum. The annexe projects at its maximum length for half the width of the rear elevation and reduces to a projection of 1.0m for the remainder of the width of the rear elevation. The proposed dwelling is 0.5m wider than that previously approved at first floor level, but will retain a similar depth. At ground floor level the structure will project approx. 2.0m further into the rear garden at its maximum. The height of the building will remain the same as originally approved.
- 8.5 It should be noted that following the original grant of planning permission a proposal to retain the amended structure (under construction) was rejected (18/1363/MNR) due to position of the first floor rear elevation which encroached on the recommended privacy distance, and the overall scale of the building was considered to impact on the amenity of the neighbouring occupiers. In respect of the proposal now under consideration the rear elevation of the first floor has been set back to allow for the provision of the recommended privacy distance to the property to the rear (19 Fairwood Road). The resultant amendment is also considered to reduce the overall bulk of the building, when viewed from adjoining properties. While the single storey

element of the structure is larger than that which was previously approved and marginally reduces the available garden space the structure will not impact on the amenity of adjoining occupiers.

- 8.6 There are no first floor windows sited in the side elevations facing 17 Fairwood Road and 21 Fairwood Road (The Bungalow), other than the insertion of four rooflights into the second floor; and an en-suite bathroom window, that will be obscurely glazed. The first floor rear elevation will contain bedroom windows and will be positioned approximately 21 metres from the rear elevation of the dwelling at no. 19 Fairwood Road, and 10.5m from the common shared boundary. The front elevation of the proposed dwelling is approximately 10.5m from the side elevation of 64 Kirkton Close and faces onto the flank wall of this property. It is considered that privacy will not be compromised.
- 8.7 Two off street vehicle parking spaces will be provided to the front of the property and the Operational Manager (Transportation) has no objection to the proposal from a highway safety point of view.
- 8.8 The previous related planning history for the site is considered relevant to the consideration of this application; the approval of planning permission for the detached two storey dwelling and the recent refusal of planning permission.

Members should note that the application being considered is the same width and height as the recently refused application, however, the proposed scheme has reduced the depth of the first floor. It is considered that the alteration has overcome the previous concern regarding privacy and assisted in reducing the bulk of the building. When considered against the background of the existence of an approved scheme for a detached dwelling on the land and the marginal differences between that which has been approved and that which it is now under consideration, it is considered that it would be unreasonable to withhold the granting of planning permission in this instance. It should also be noted that the design of the dwelling is very similar to that which received planning permission under application reference 17/0711/MNR.

8.9 Other Legal Considerations

*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.

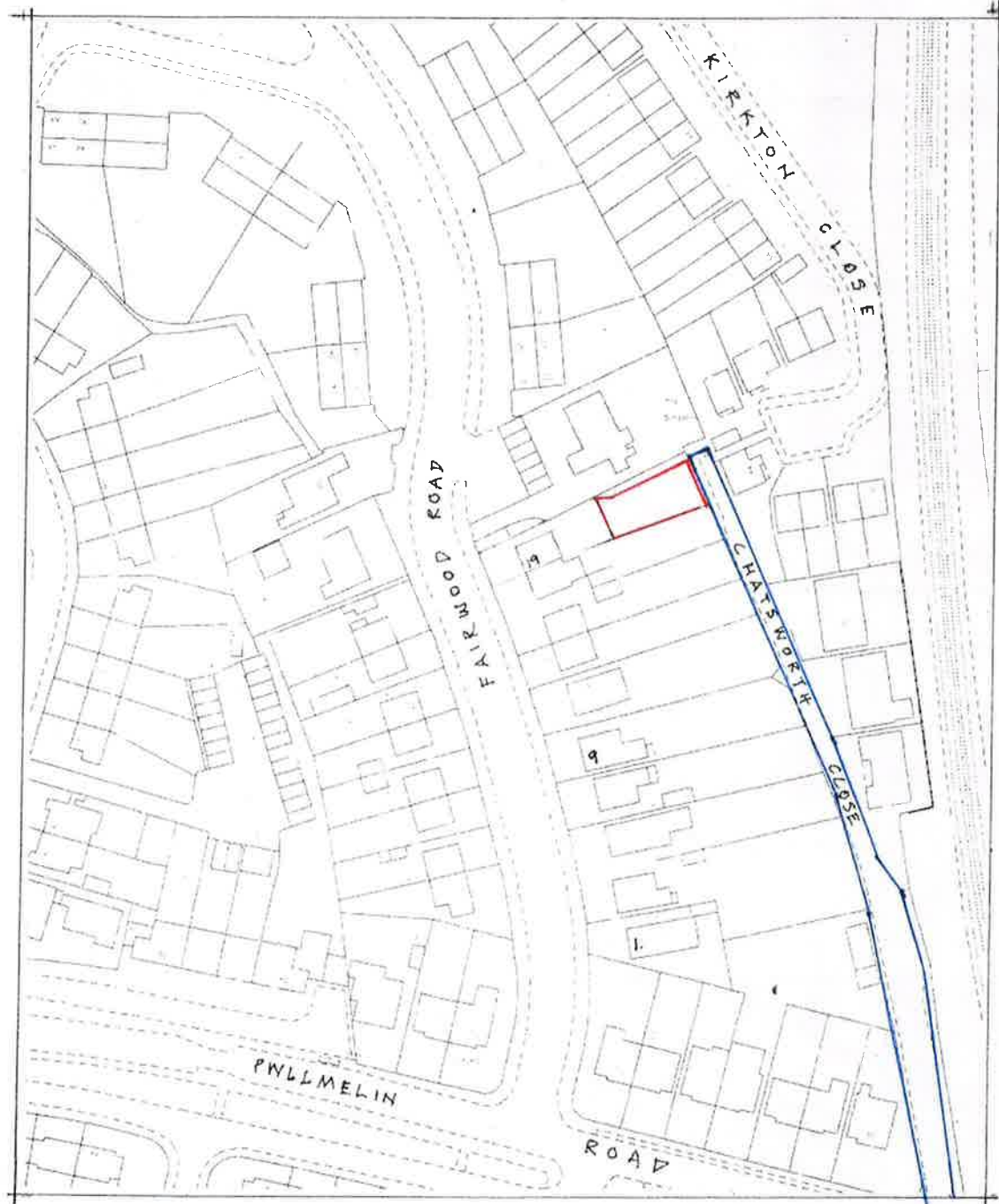


*Equality Act 2010* – The Equality Act 2010 identifies a number of ‘protected characteristics’, namely age; disability; gender reassignment; pregnancy and maternity; race; religion or belief; sex; sexual orientation; marriage and civil partnership. The Council’s duty under the above Act has been given 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.

*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.

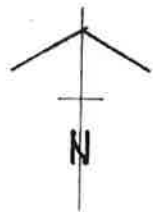
#### **8.10 Conclusion**

Having regard to the policy context, material matters and while noting the comments received the proposal is on balance considered acceptable, and planning approval is recommended subject to conditions.



LOCATION PLAN

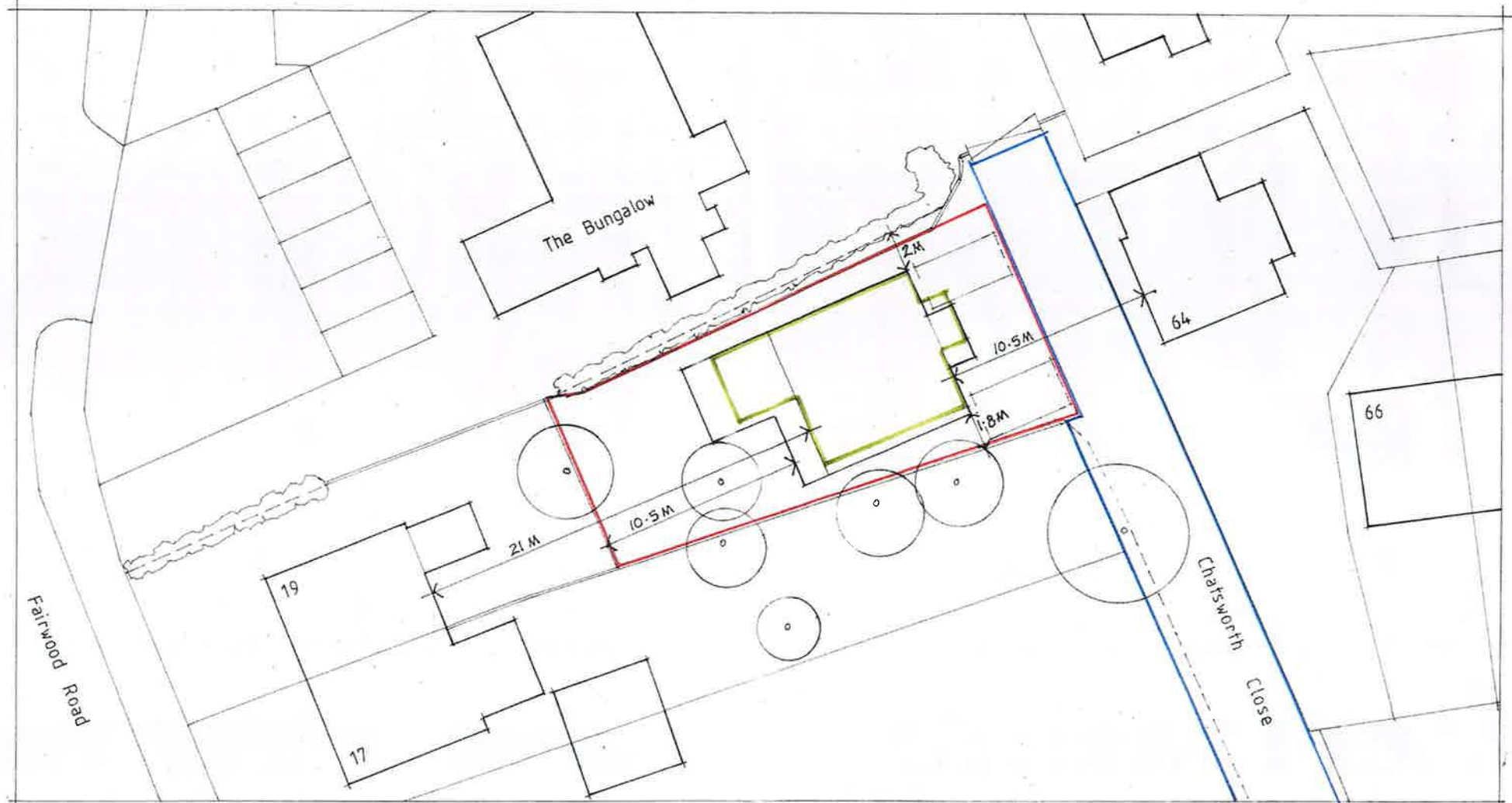
1:1250 scale



REV. A 03.04.2019 SITE BOUNDARY CORRECTED

12.01.2019

2231-01A



**Key:**

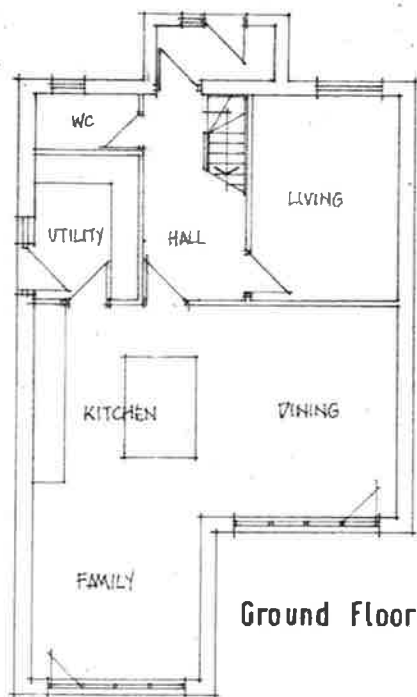
- FOOTPRINT OF DWELLING APPROVED 16/11/2017
- RESERVED MATTERS APPLICATION 17/00711/MNR
- SITE BOUNDARY
- ADDITIONAL LAND WITHIN APPLICANT'S OWNERSHIP

REV.B 08-04-2019 REAR SITE DIMENSION CORRECTED  
REV.A 03-04-2019 SITE BOUNDARY CORRECTED

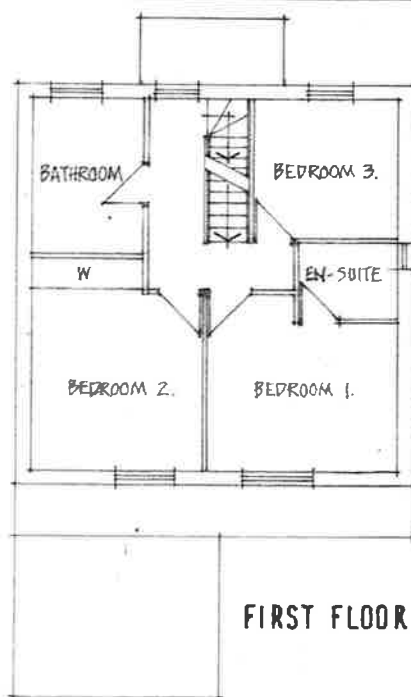
**TERRY NUNNS ARCHITECT**  
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Email: [terry@terrynnuns.co.uk](mailto:terry@terrynnuns.co.uk)  
Tel: 02920 810134 Mob: 07581 233058

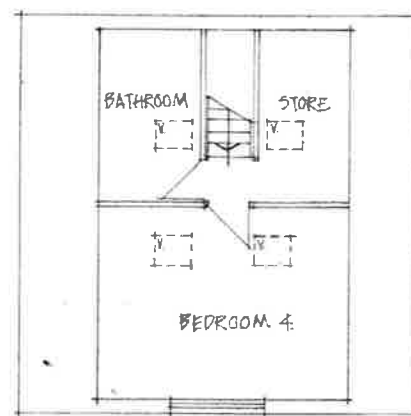
|                          |            |
|--------------------------|------------|
| SITE                     |            |
| REAR OF 19 FAIRWOOD ROAD |            |
| TITLE                    |            |
| BLOCK PLAN               |            |
| DATE                     | DATE       |
| 11-01-2019               | 11-01-2019 |
| SCALE                    | PRG.NO.    |
| 1:200                    | 2331-078   |



Ground Floor



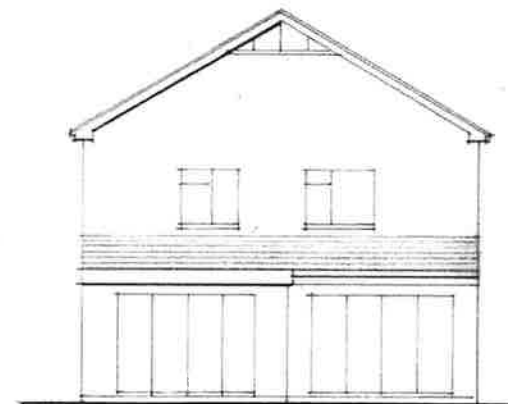
FIRST FLOOR



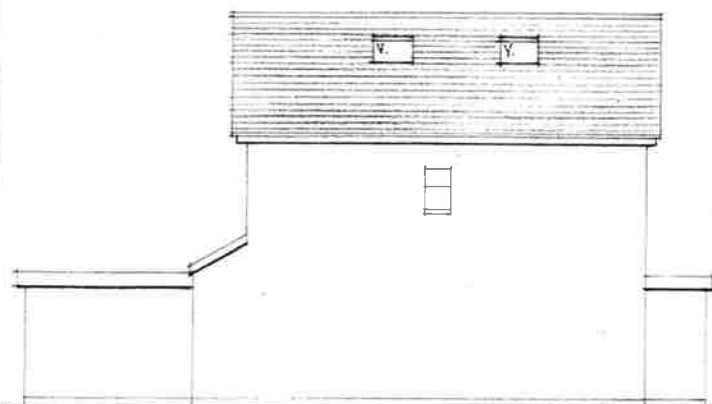
SECOND FLOOR



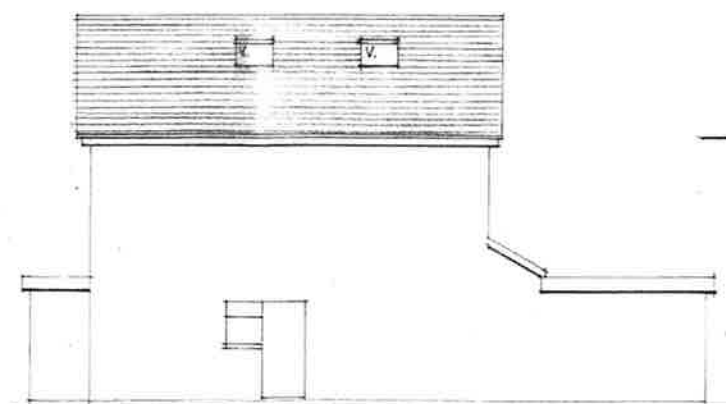
FRONT ELEVATION [ east ]



REAR ELEVATION [ west ]



SIDE ELEVATION [ south ]



SIDE ELEVATION [ north ]

DATE  
09-01-2019  
SCALE  
1:100 AT A3

PRWG. NO.  
2331-06

SITE  
REAR OF 19 FAIRWOOD ROAD  
TITLE  
FLOOR PLANS & ELEVATIONS  
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