

COMMITTEE DATE: 07/02//2018

APPLICATION No. 17/03055/MNR DATE RECEIVED: 26/10/2017

ED: **CATHAYS**

APP: TYPE: Full Planning Permission

APPLICANT: Mr Santis

LOCATION: 69 Brithdir Street, Cathays, Cardiff, CF24 4LF

PROPOSAL: CHANGE OF USE FROM A DWELLING TO A HOUSE IN MULTIPLE OCCUPATION WITH 5 BEDROOMS

RECOMMENDATION 1: That planning permission be **REFUSED** for the following reasons:

1. The proposal will further exacerbate the unacceptable cumulative adverse impact on the amenities of the area by virtue of :
 - a higher number of transient residents leading towards less community cohesion and undermining the objectives of securing a sustainable mixed use community, contrary to Policy KP5 (Good Quality and Sustainable Design) and H5 (Sub-Division or Conversion of Residential Properties of the Cardiff Local Development Plan (2006-2016) and the Houses in Multiple Occupation (HMOs) Supplementary Planning Guidance (2016);
 - a higher portion of transient residents leading to an increase of cumulative demand on social, community and physical infrastructure, contrary to Policy KP5 (Good Quality and Sustainable Design) and H5 (Sub-Division or Conversion of Residential Properties of the Cardiff Local Development Plan (2006-2016) and the Houses in Multiple Occupation (HMOs) Supplementary Planning Guidance (2016).
2. The change of use of the property from a C3 residential dwelling into a C4 House in Multiple Occupation will further exacerbate the negative impacts caused by Houses in Multiple Occupation in respect of crime and anti-social behaviour, contrary to Policy H5 (Sub-Division or Conversion of Residential Properties of the Cardiff Local Development Plan (2006-2016) and the Houses in Multiple Occupation (HMOs) Supplementary Planning Guidance (2016).

1. **DESCRIPTION OF PROPOSED DEVELOPMENT**

- 1.1 This application seeks planning permission to change the use of the property from a C3 residential dwelling into a C4 House in Multiple Occupation (3-6 occupants)
- 1.2 Internally the property accommodates two bedrooms, a combined kitchen/diner

room and shower room on the ground and three bedrooms and a toilet on the first floor.

- 1.3 A useable amenity space of approximately 28 square metres is provided for occupiers to use.

2. **DESCRIPTION OF SITE**

- 2.1 The site comprises a two storey building located within a terrace of two storey properties within the Cathays Ward of Cardiff.

3. **SITE HISTORY**

None

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

4.5 **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 that the property will require the following for recycling and waste collections:
- 1 x 140 litre bin for general waste
 - 1 x 25 litre kerbside caddy for food waste
 - Green bags for mixed recycling (equivalent to 240 litres)
- 5.2 Shared Regulatory Services have not commented on this application.

6. **EXTERNAL CONSULTEE RESPONSES**

- 6.1 South Wales Police have been consulted and have advised that they recognise that Houses in Multiple Occupation (HMO's) provide an important source of housing and form part of a balanced housing provision mix. However, they would argue that the characteristics of an HMO and its more transient population mean that they are significantly at a higher risk of crime than single family occupied dwellings. South Wales Police are therefore concerned that high concentration levels of HMO's could have a negative impact on crime levels in an area. This is supported by Cardiff Supplementary Planning Guidance Houses in Multiple Occupation (HMO) October 2016.

South Wales Police recognise concerns in some areas that HMO's can have an impact on crime, disorder, parking, nuisance and general neighbourhood cohesion. Indeed research carried out by the Police Foundation (2015) indicates that HMOs had higher burglary, violent incidents and fire risks.

Information retrieved from the South Wales Police Niche system shows that over the period between December 2016 and December 2017 there were 3272 reported incidents to South Wales Police in the Cathays area which is high when compared to some other areas of Cardiff. Over that same period there were 62 incidents reported in the near vicinity of Brithdir Street. They include 6 burglaries, 6 thefts, 6 damages, 5 incidents of anti-social behaviour and 4 violent incidents.

As the concentration level of HMO's within the vicinity exceeds the Councils threshold limit of 20% for the Cathays Ward then South Wales Police object to this application.

7. **REPRESENTATIONS**

- 7.1 Neighbours have been notified. An objection has been received from the occupier of 70 Brithdir Street. He objects for the following reasons
1. There are already too many HMO's in Cathays
 2. Parking issues
 3. Waste issues
 4. Due to the high population density caused by students water pressure in Cathays drops when the properties are occupied
 5. The sewerage system will not be able to cope

6. The electricity cable may not be able to cope with excessive demand

8. **ANALYSIS**

8.1 This application seeks planning permission to change the use of a C3 residential dwelling into a 5 bedroom HMO. As the property is to be occupied by 5 persons such a use would be considered to fall into Use Class C4 which allows for tenanted living accommodation occupied by 3 to 6 people, who are not related and who share one or more basic amenities, as their only or main residence. As such the main issue for this application is the impact the change of use of a C3 residential dwelling into a 6 person HMO will have on the character of the area and the surrounding neighbouring properties.

8.2 When considering the change of use of the property into a C4 HMO it should be noted that on 25th February 2016 the Welsh Government implemented new legislation - The Town and Country Planning (General Permitted Development)(Amendment) (Wales) Order 2016. This legislation amends the Town and Country Planning (Use Classes) Order 1987 to:

- amend Use Class C3 (dwellinghouses) to:
 - (i) include a definition of “single household” which applies to Use Class C3(a) only;
 - (ii) remove from the scope of Use Class C3(c) houses in multiple occupation falling into a new Use Class C4; and
- introduce a new Use Class C4 (Houses in Multiple Occupation) which, subject to an exception, covers the use of a dwellinghouse as a small HMO’s as defined in Section 254 of the Housing Act 2004. In broad terms, this use occurs where tenanted living accommodation is occupied by 3 to 6 people, who are not related and who share one or more basic amenities, as their only or main residence.

Properties that are occupied by 7 or more unrelated people will continue to remain as *Sui Generis*.

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 Cathays Ward of Cardiff a 20% threshold limit will be relevant and having undertaken such checks within 50m of the application site it was found that there were 28.1% of properties within 50m of the application site listed HMO's.

8.4 Paragraph 4.8 of the Houses in Multiple Occupation Supplementary Planning Guidance states '*There is evidence that a concentration of HMO's can lead to negative consequences in respect of crime and anti-social behaviour. In particular, burglary is considered to be more prevalent in streets with high concentrations of HMO's, and the same pattern is noticeable for anti-social behaviour. For example:*

- *Streets with large numbers of HMO's are more likely to have police incidents than comparable to streets with few or no HMO's*
- *This is especially the case for anti—social behaviour and burglary whereby streets with high numbers of HMO's are significantly more likely to report incidents than comparable to streets with lower numbers of HMO's."*

8.5 Policy H5 of the Cardiff Local Development Plan relates to the sub-division or conversion of residential properties. It is a permissive policy and states the following:

Proposals for any conversion to flats or Houses in Multiple Occupation will be permitted where:

- i. The property is of a size whereby the layout, room sizes, range of facilities and external amenity space of the resulting property would ensure an adequate standard of residential amenity for future occupiers.
- ii. There would be no material harm to the amenity of existing, nearby residents by virtue of general disturbance, noise or overlooking.
- iii. The cumulative impact of such conversions will not adversely affect the amenity and/or the character of the area.
- iv. Does not have an adverse effect on local parking provision.

8.6 The Council is satisfied with respect to criteria i, ii and iv however it is concerned that this application conflicts with the aim of criterion iii. This criterion seeks to ensure that applications for the conversion of residential properties into HMO's do not have any undue impact upon the character and amenity of the area. In the approved SPG on HMO's the Council has sought to impose thresholds which it will use to determine when an area has reached the point at which further HMO's would cause harm. As mentioned in paragraph 8.3 of this report this limit has already been exceeded therefore it is felt that this proposal conflicts with the aims and objectives of policy H5 (Sub-Division or Conversion of Residential Properties of the Cardiff Local Development Plan (2006-2016) Houses in Multiple Occupation (HMOs) Supplementary Planning Guidance (2016).

8.7 It is also considered that the proposed change of use of the property from a residential dwelling to a HMO will result in a higher number of transient residents leading towards less community cohesion and undermining the objectives of securing a sustainable mixed use community, contrary to Policy KP5 (Good Quality and Sustainable Design) and H5 (Sub-Division or Conversion of Residential Properties of the Cardiff Local Development Plan (2006-2016) and the Houses in Multiple Occupation (HMOs) Supplementary Planning Guidance (2016). It is also considered that the proposed use will lead to an increase of cumulative demand on social, community and physical infrastructure, contrary to contrary to Policy KP5 (Good Quality and Sustainable Design) and H5 (Sub-Division or Conversion of Residential Properties of the Cardiff Local Development Plan (2006-2016) and the Houses in Multiple Occupation (HMOs) Supplementary Planning Guidance (2016).

8.8 In respect of waste, the Council's Waste Management have not objected to this application but have advised what refuse facilities should be provided if planning permission is granted.

8.9 In respect of parking the Council's Supplementary Planning Guidance on Access, Circulation and Parking Standards identifies that 1 secured cycle parking space per bedroom is required. As the resultant use will allow for 6 occupants to reside at the property then 6 cycle parking spaces would be required.

8.10 The property has the ability to provide an external amenity space of approximately 38 square metres to the rear of the property. At present a garage of approximately 14 square metres occupies the bottom part of the garden therefore only 24 square metres of external useable amenity space is available to

the rear. However a further 4 square metres is available to the front of the property giving approximately 28 square metres in total. The minimum size required as specified by the HMO SPG is 25 square metres therefore the proposal is policy compliant in this respect. The area taken up by the garage will be available for the provision of a secure bin and cycle store. It should also be noted that if required part of the garage could be removed to provide for a larger external useable amenity space.

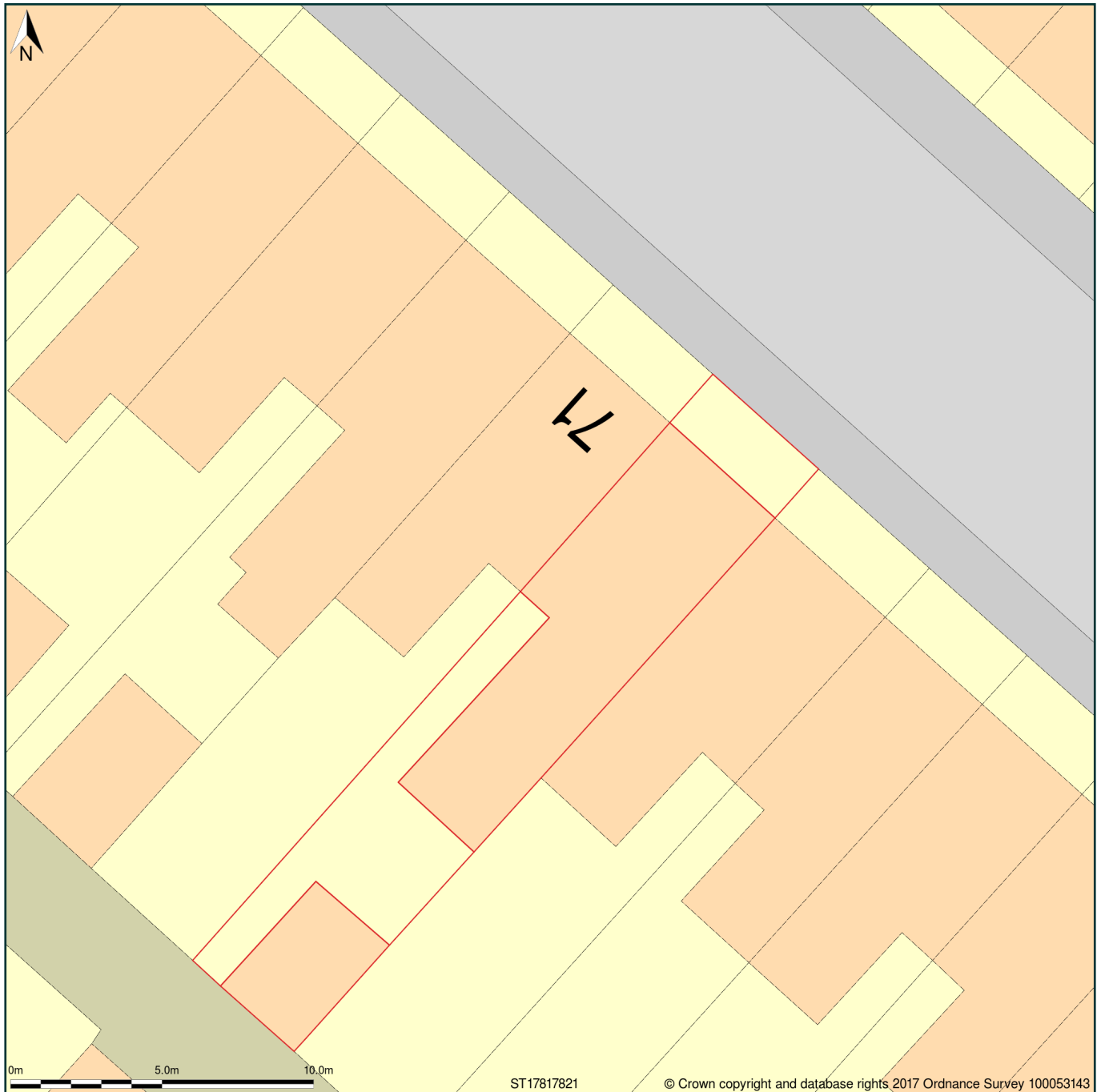
9. **OTHER CONSIDERATIONS**

- 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 the negative impacts of the development provide for sufficient grounds to refuse the application. It is therefore recommended that planning permission be refused.

69, Brithdir Street, Cathays, Cardiff, CF24 4LF



Block Plan shows area bounded by: 317798.09, 178200.77 317834.09, 178236.77 (at a scale of 1:200), OSGridRef: ST17817821. The representation of a road, track or path is no evidence of a right of way. The representation of features as lines is no evidence of a property boundary.

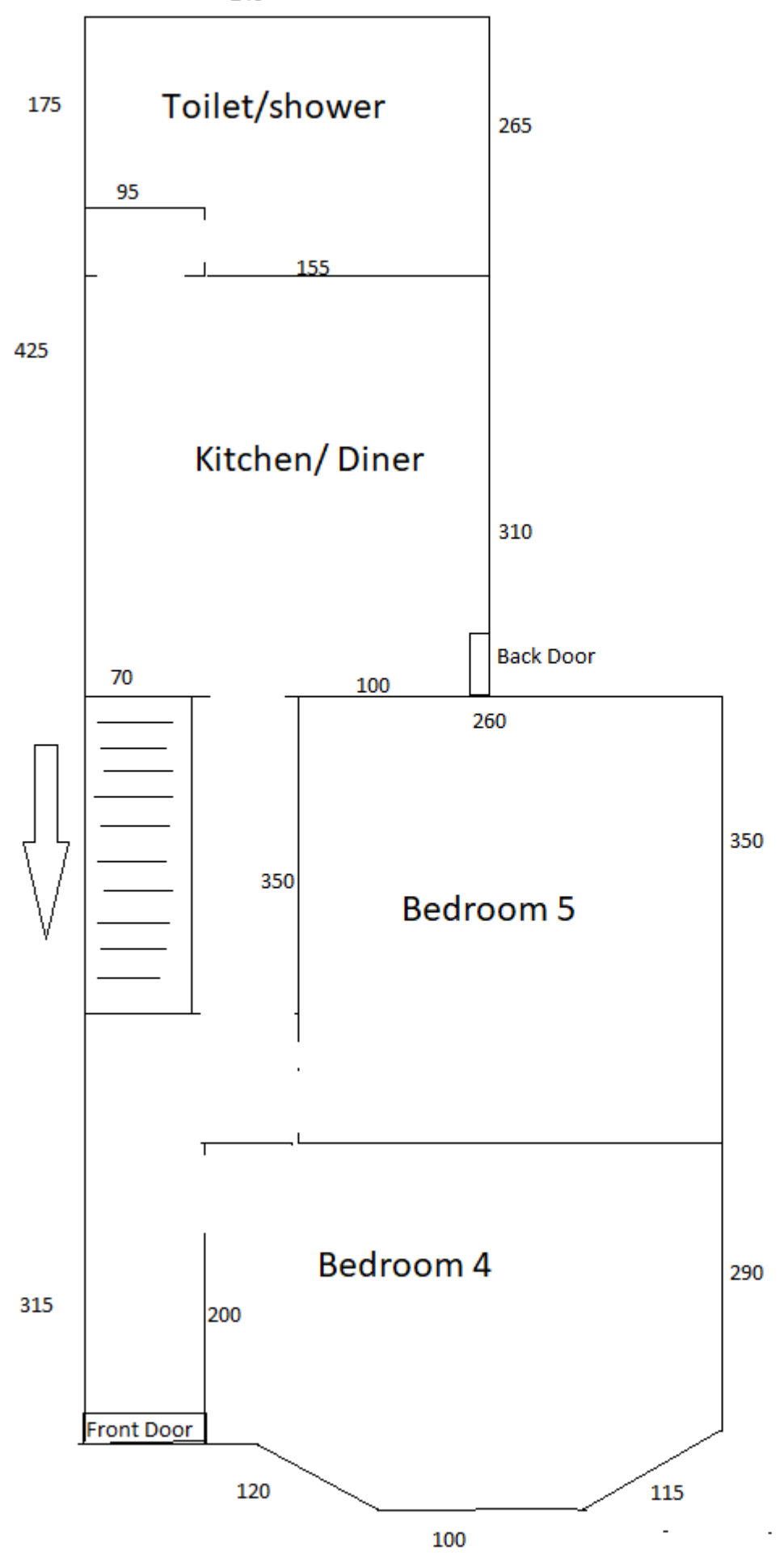
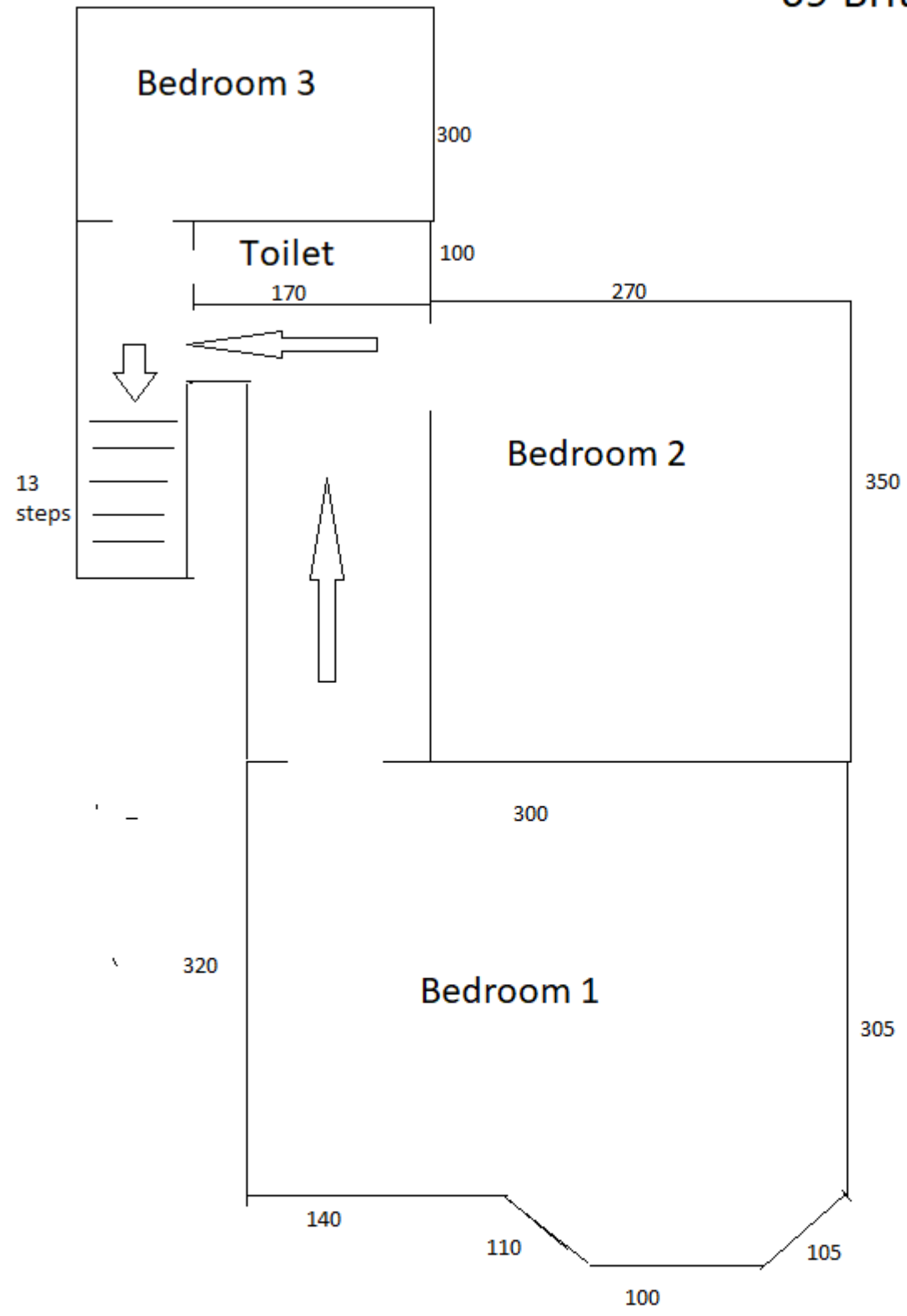
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Top Floor

69 Brithdir street Floor Plan

Ground Floor



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