

LOCAL MEMBER OBJECTION

COMMITTEE DATE: 07/02//2018

APPLICATION No. 17/00489/MNR DATE RECEIVED: 26/10/2017

ED: **CATHAYS**

APP: TYPE: Full Planning Permission

APPLICANT: Mr Yap

LOCATION: 51 Llantrisant Street, Cathays, Cardiff, CF24 4JD

PROPOSAL: RETENTION OF 8 BEDROOM HOUSE IN MULTIPLE OCCUPATION

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

1. The retention of the use of the property as an 8 person Sui Generis House in Multiple Occupation will further exacerbate the unacceptable cumulative adverse impacts 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 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 Supplementary Planning Guidance (2016).
2. The retention of the use of the property as an 8 person Sui Generis 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 Supplementary Planning Guidance (2016).
3. The retention of the use of the property as an 8 person Sui Generis House in Multiple Occupation represents an over-intensive form of development which fails to provide an adequate useable outdoor amenity area for an 8

bedroom House in Multiple Occupation which is exacerbated by the need to provide accommodation for cycle parking and refuse storage facilities, contrary to the provisions of Policy T5 (Managing Transport Impacts), Policy KP5 (Good Quality and Sustainable Design), Policy H5 (Sub-Division or Conversion of Residential Properties of the Cardiff Local Development Plan (2006-2016), Policy W2 (Provision for Waste Management Facilities in Development) of the Cardiff Local Development Plan (2006-2016) and the Houses in Multiple Occupation Supplementary Planning Guidance (2016).

RECOMMENDATION 2 : That the Director of Governance and Legal Services be authorised to issue an Enforcement Notice under Section 172 of the Town and Country Planning Act 1990 to secure cessation of the unauthorised use of the property as an eight person House in Multiple Occupation.

1. **DESCRIPTION OF PROPOSED DEVELOPMENT**

- 1.1 This application seeks planning permission to retain the use of the property as an 8 person Sui Generis House in Multiple Occupation.
- 1.2 Internally the property accommodates two en-suite bedrooms and a combined kitchen/living room on the ground, two en-suite bedrooms, two bedrooms and a bathroom and the first floor and two en-suite bedrooms in the dormer roof extension.
- 1.3 Externally an amenity space of approximately 27.25 square metres is provided jointly between the front and rear gardens.

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**

Application No : 15/01891/DCH
Proposal : PROPOSED TWO STOREY REAR EXTENSION
Application Type: HSE
Decision : REFUSED
Decision Date : 11/09/2015

Application No : 15/02699/DCH
Proposal : PROPOSED SINGLE AND TWO STOREY REAR EXTENSIONS TO EXISTING PROPERTY
Application Type: HSE
Decision : REFUSED BUT ALLOWED ON APPEAL TO THE PLANNING INSPECTORATE
Decision Date : 03/12/2015

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 3278 reported incidents to South Wales Police in the Cathays area. Over that same period there were 44 incidents reported in the near vicinity of Llantrisant Street. They include 5 violent incidents, 5 incidents of anti-social behaviour, 4 thefts, 3 burglaries and 2 damages.

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 and no objections have been received.
- 7.2 An objection to the application has been received from the four Cathays Ward Councillors. Their objection is detailed as follows:

We believe that this application contravenes Cardiff Council's Supplementary Planning Guidance on HMO's adopted in 2016 on the following grounds:

- (i) It contravenes section 5.7 which sets up an upper cap on the number of HMO's within a radius of a property, linked to policy H5 of the LDP. The SPG recognises the impact of an over concentration of HMO's in terms of noise, waste, crime and social cohesion and was brought in to address them.
- (ii) On the basis of the information provided we have no evidence that the application meets the design guidance for HMO's in the SPG including a minimum amenity space for 8 tenants of 30m².

We note that in the previous planning application submitted in October 2015 the developer stated that works had not already started. Section 5.11 of the SPG states: "*HMOs that were in existence prior the creation of the C4 use class on the*

25th February 2016 may need to provide evidence of their HMO status via tenancy agreements or other documentation. Otherwise they will be assumed to be C3 dwellings and treated as such.” Considering the scale of the work involved it would appear unlikely that it could have been completed and have tenants living in the property in view of the works involved. In any case as a larger HMO it would have required planning permission under the legislation applicable at the time. We believe that the application should be judged on the current planning framework.

8. **ANALYSIS**

8.1 This application seeks planning permission to retain the use of the use of the property as an 8 person Sui Generis House in Multiple Occupation. Planning application 15/02699DCH, which was allowed on appeal to the Planning Inspectorate of the Welsh Government, allowed for the erection of two small ground floor rear extensions and a first floor rear extension. The dormer roof extension was considered to be permitted development whereby planning permission was not required. The resultant development allowed for the provision of an 8 bedroom property. However, this application did not propose a change of use of the property and so the lawful use of the 51 Llantrisant Street remains as a C3 residential dwelling.

8.2 When considering the change of use of the property into an 8 person Sui Generis 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 (dwelling houses) 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.

The property is presently in use as an 8 person HMO. The current use does not have the benefit of planning permission as the lawful use of the property is a C3 residential dwelling. As such the main issue for this application is the impact the change of use of the property from a C3 residential dwelling into an 8 person sui generis HMO has on the character of the area, the community and on 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 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 57.7% of properties within 50m of the application site were listed as 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 ii and iv however it is concerned that this application conflicts with the aim of criterion I and iii. These criterions seek 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 and that an adequate amount of useable amenity space is provided for occupiers to use (This point is explained in more detail in Paragraph 8.10). 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 the use 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 retention of the use of the property as an 8 person sui generis HMO has the potential to 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 retention of the use has the potential to 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 and 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 use will allow for 8 occupants to reside at the property then 8 cycle parking spaces would be required.
- 8.10 In respect of useable amenity space approximately 27.25 square metres will be available for occupiers to use which is divided between the front and rear gardens. This is considered to fall short of the 30 square metres that would be required for a property which can cater for 8 persons when taking into account the need to provide additional waste storage facilities and 8 under covered and secured cycle parking spaces, as specified in the House in Multiple Occupation Supplementary Planning Guidance. Whilst there is more amenity space available guidance contained within the Supplementary Planning Guidance states that "*Useable amenity space is considered to be at least 1.4m wide enabling storage and access.*" As the rear garden in this particular instance is triangular in shape not all of it has been included when calculating the amount of useable amenity space available for occupiers to use and does not therefore comply with the aims and objectives of Policy H5 of the Cardiff Local Development Plan and the Supplementary Planning Guidance of HMO'S which seeks to ensure a good quality and sustainable design.

9. **OTHER CONSIDERATIONS**

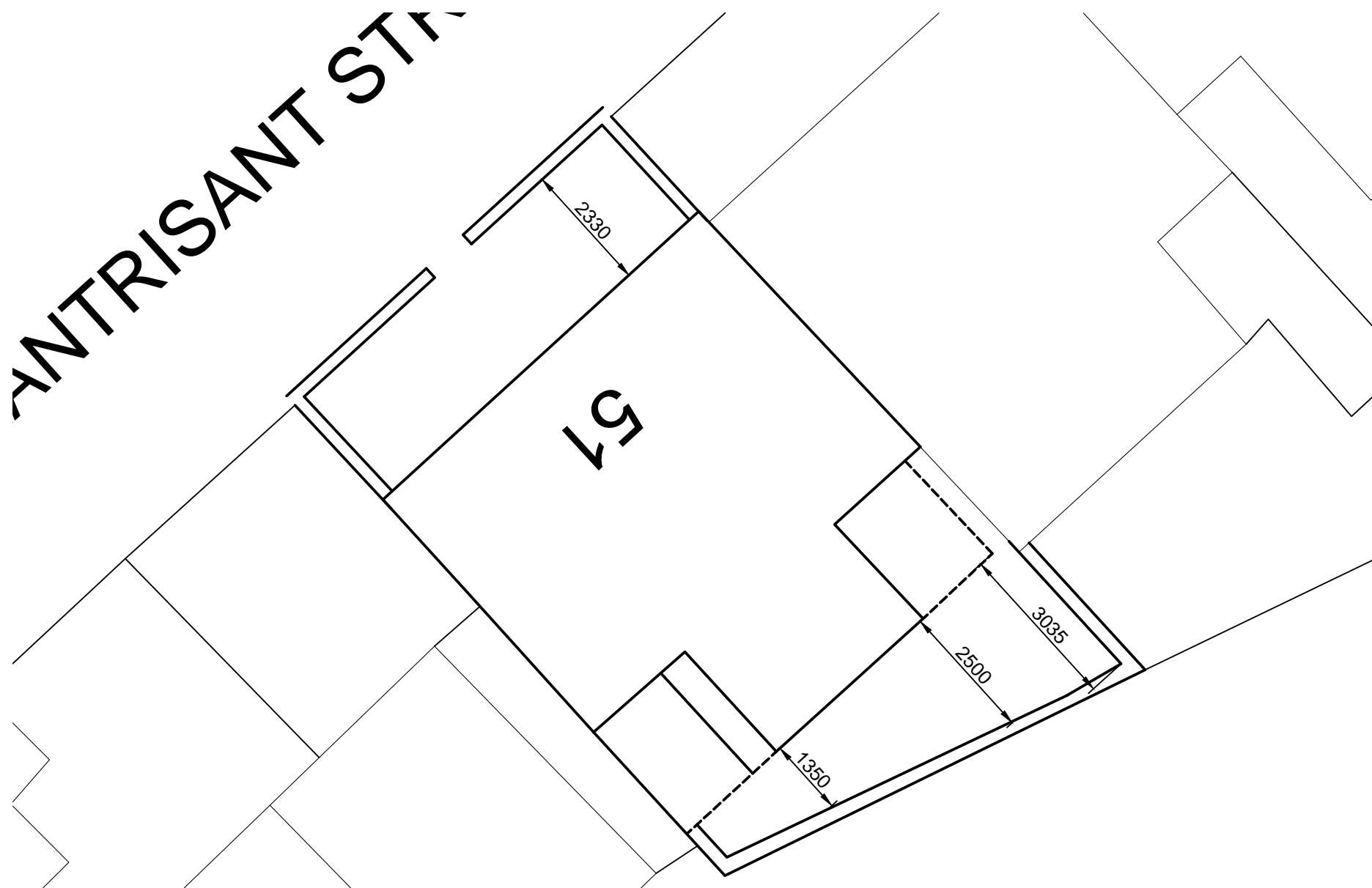
- 9.1 Crime and Disorder Act 1998 – Section 17(1) of the Crime and Disorder Act 1998 imposes a duty on the Local Authority to exercise its various functions with due regard to the likely effect of the exercise of those functions on, and the need to do all that it reasonably can to prevent, crime and 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.

LANTRISANT STREET

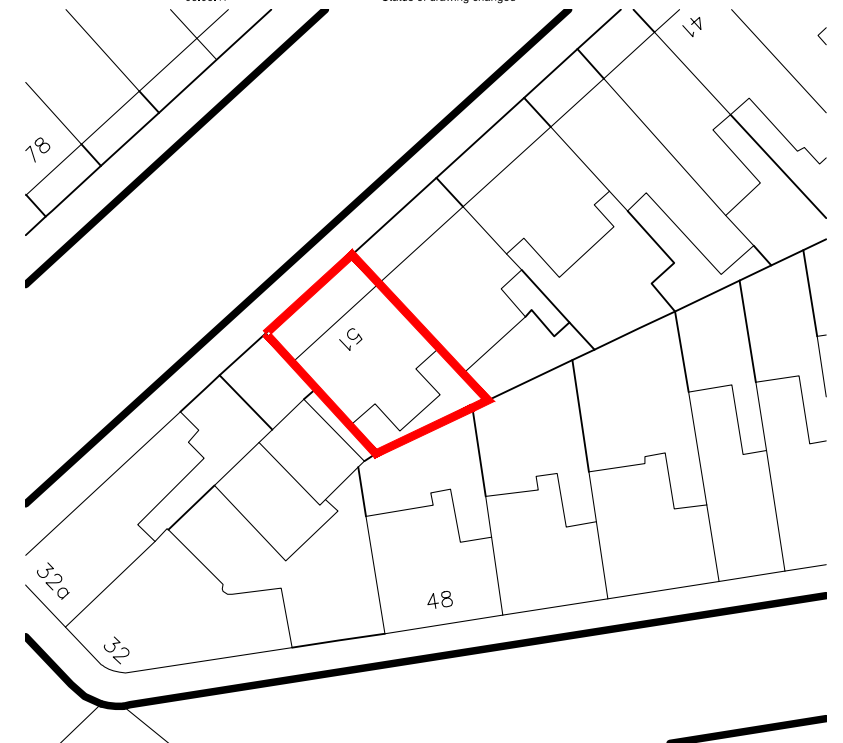


PROPOSED SITEPLAN
1:100

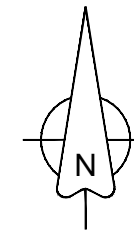


Photo 1 Front Elevation

Date	Drawn	Check	Description	Rev.
27/10/2015	GWL	***	hatch changed to show 2 storey and single storey extensions	A
03.03.17		***	Status of drawing changed	B

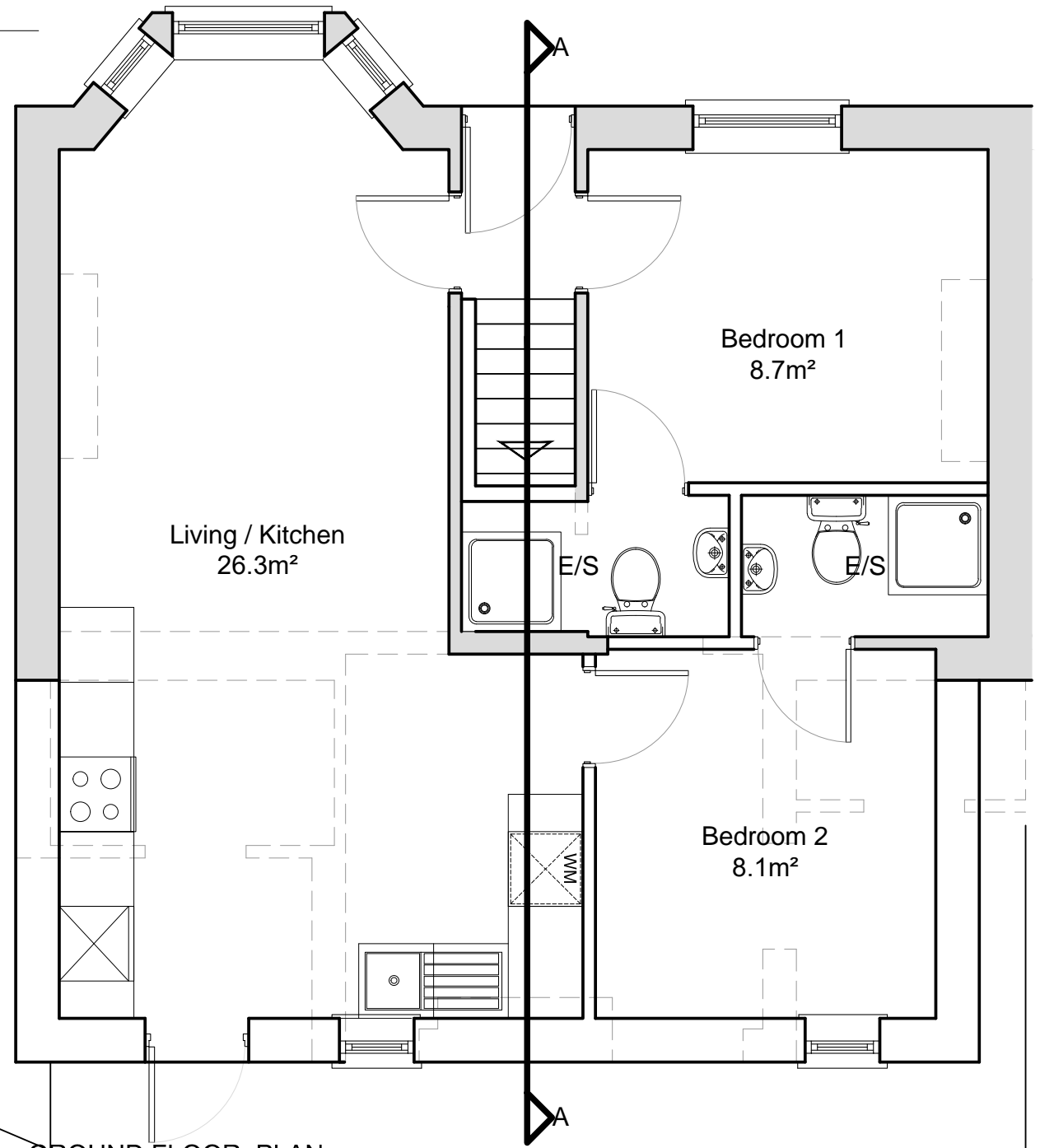


LOCATION PLAN
1:500

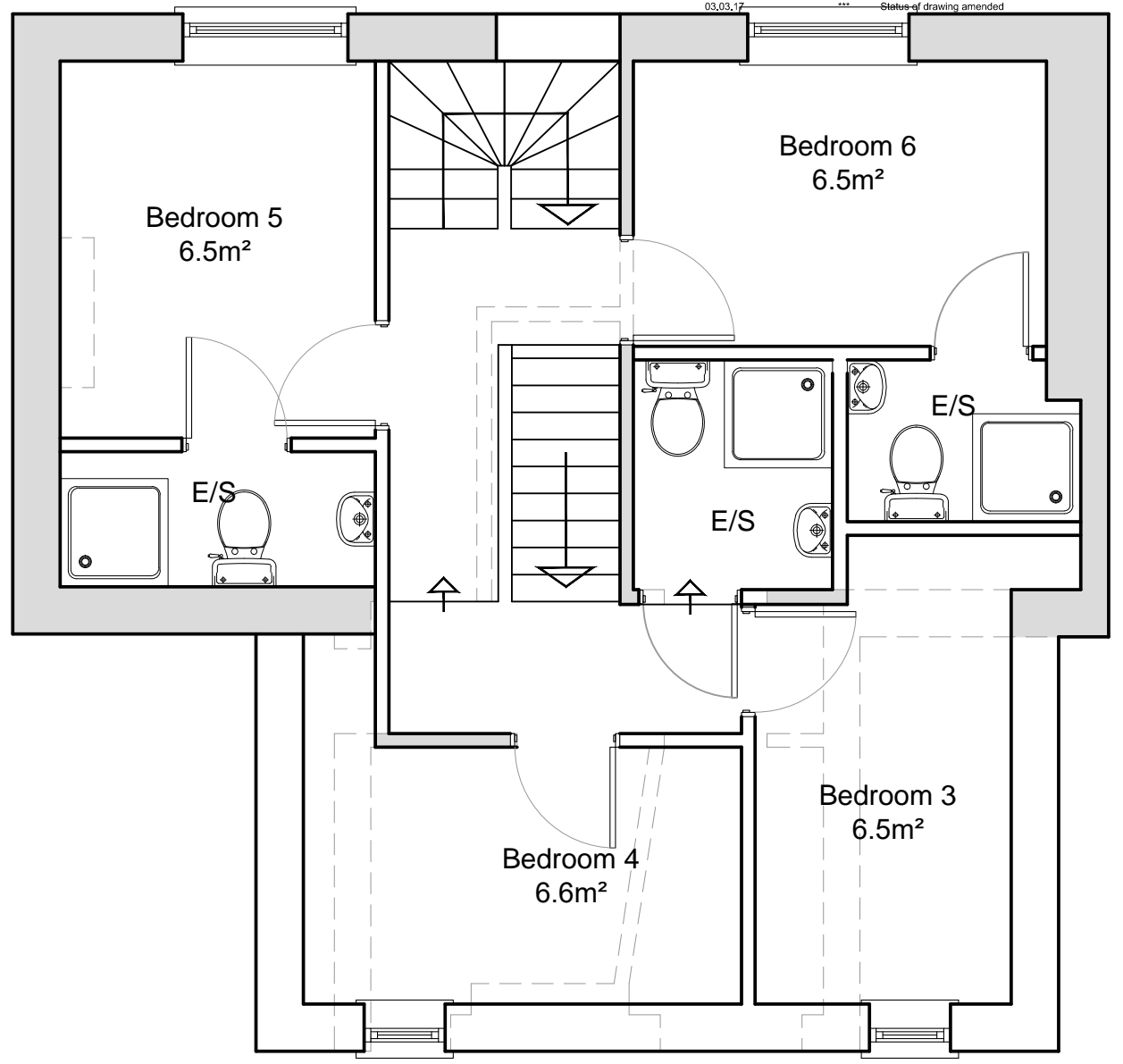


RECORD

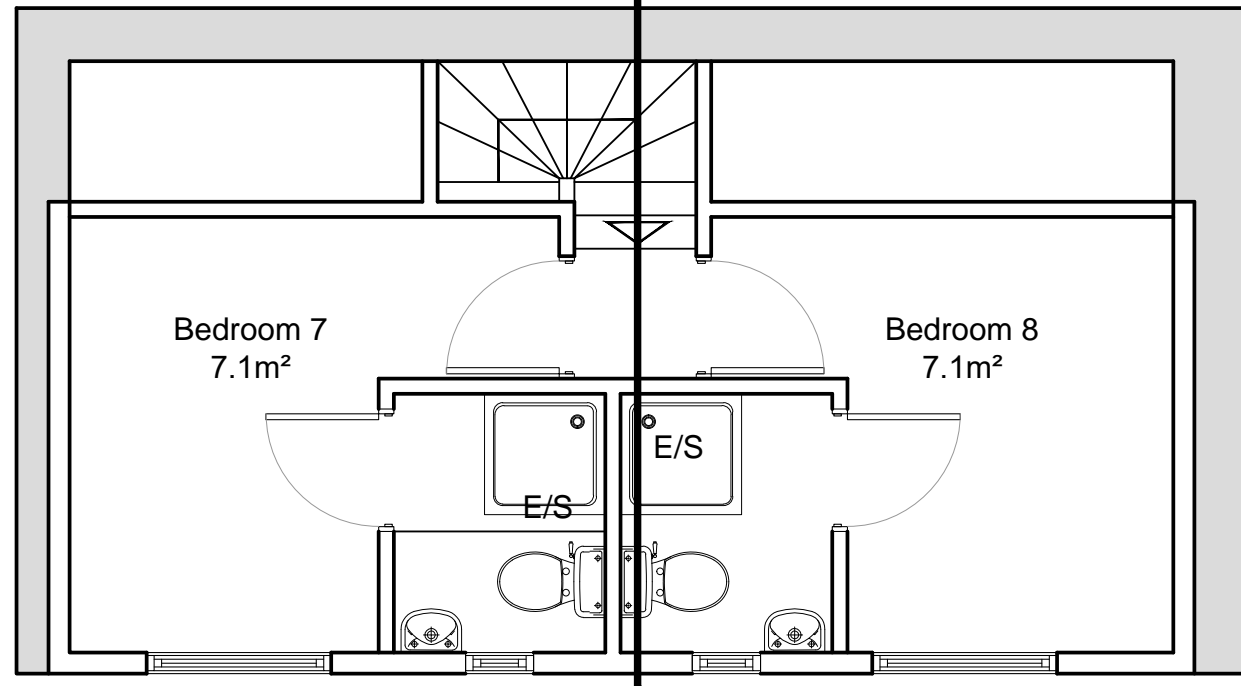
Proposed Extension	Job No.	15_051
51 Llantrisant Street	Dwg No.	AL(00)01
Cardiff	Rev.	B
Title		
Site Plan & Location Plan		
Date	Drawn	Scale
21/07/2015	GWL	1:100/500 @ A3
<small>Unit 1A, Compass Business Park, Pacific Road, Cardiff, CF24 5HL. www.cjarchitects.co.uk tel: 029 20452100</small>		



GROUND FLOOR PLAN
 1:50



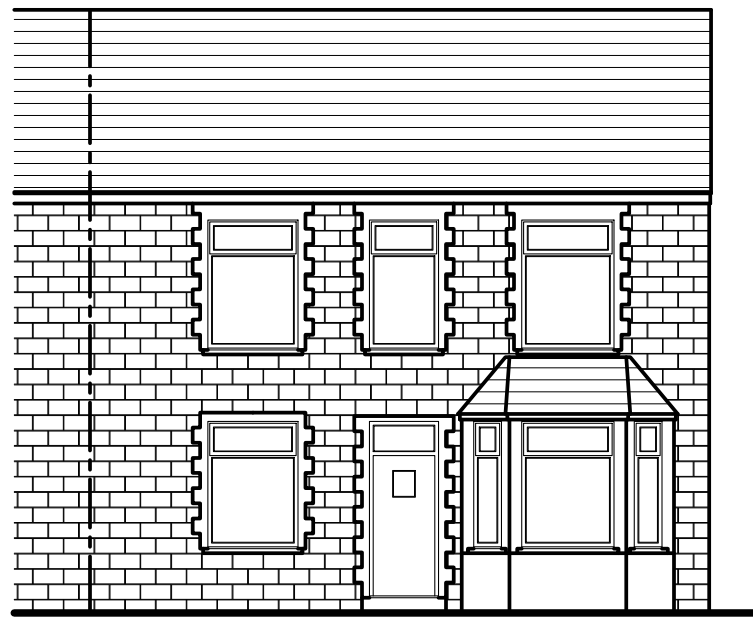
FIRST FLOOR PLAN
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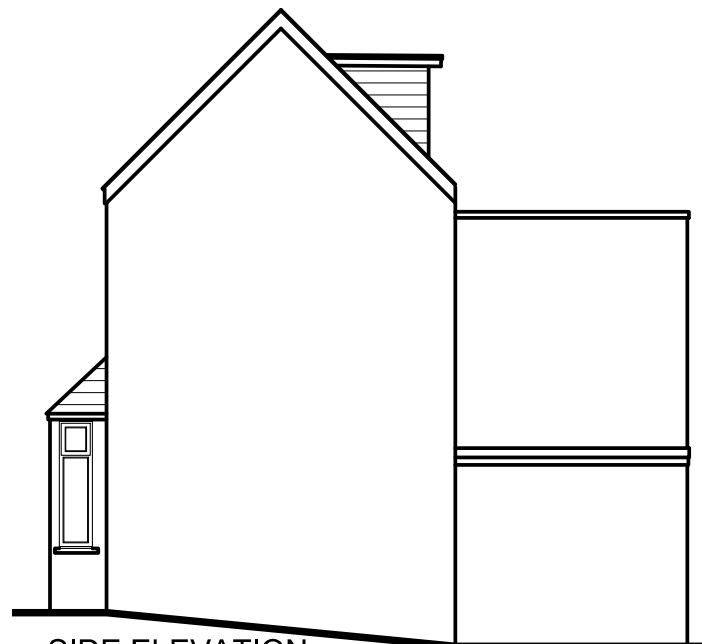
SECOND FLOOR PLAN
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RECORD

Proposed Extension 51 Llantrisant Street Cardiff	Job No. 15_051	Rev. B
Title Floor Plans		
Date 10/07/2015	Drawn GWL	Scale 1:50 @ A3
 Architects · Town planners Environmental & Urban design <small>Unit 1A, Compass Business Park, Pacific Road, Cardiff, CF24 5HL</small>		



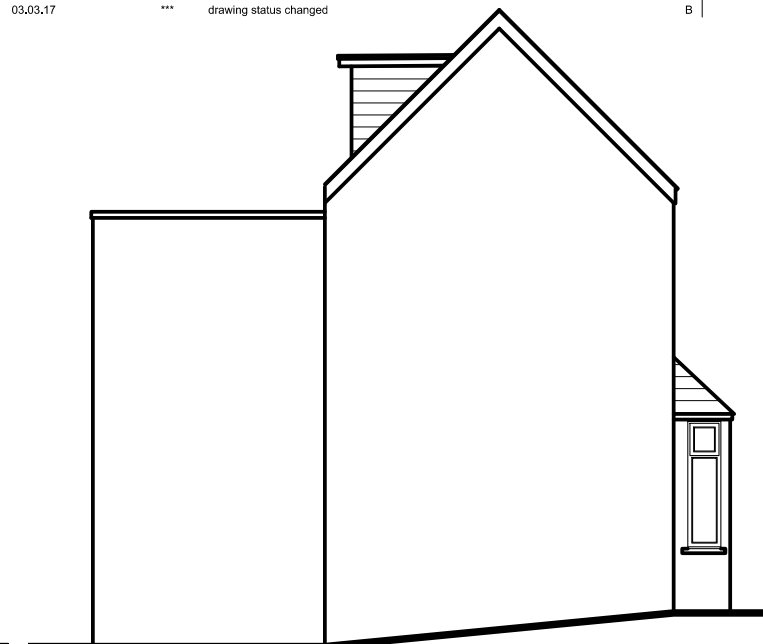
SIDE ELEVATION
1:100



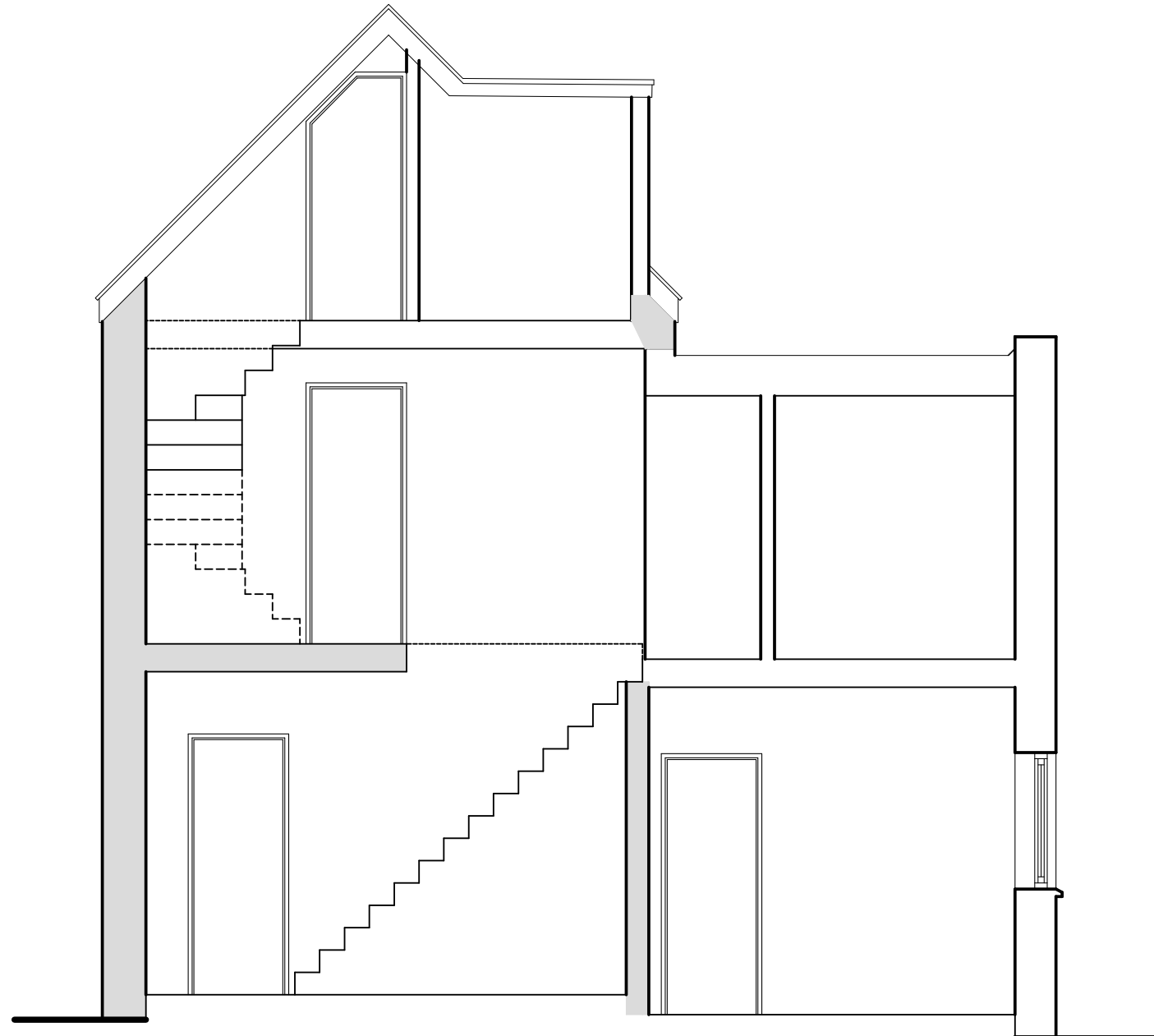
SIDE ELEVATION
1:100



REAR ELEVATION
1:100



SIDE ELEVATION
1:100



SECTION A-A
1:50

External Materials	
Roof:	Synthetic Slates
Walls:	Painted Render
Windows/ Door:	White Upvc Double Glazed
Fascia/ Soffits:	White Upvc

RECORD

Proposed Extension 51 Llantrisant Street Cardiff	Job No. 15_051	Rev. B
Title Elevations & section		
Date 10/07/2015	Drawn GWL	Scale 1:100/1:50 @ A3
		Town planners Environmental & Urban design
<small>Unit 1A, Compass Business Park, Pacific Road, Cardiff, CF24 5HL</small>		<small>www.c-jarchitects.co.uk tel 029 20452100</small>