

PETITION & LOCAL MEMBER OBJECTIONS

COMMITTEE DATE: 07/02/2018 2017

APPLICATION No. 17/03008/MNR DATE RECEIVED: 11/12/2017

ED: **CATHAYS**

APP: TYPE: Variation of Condition

APPLICANT: Mr Z Salih

LOCATION: 27 RHIGOS GARDENS, CATHAYS, CARDIFF

PROPOSAL: VARIATION OF CONDIITON 2 OF 12/00280/DCI – AMENDED LAYOUT TO PREVIOUS APPROVAL & RETENTION OF EXTENSION AND REAR DORMER

RECOMMENDATION 1: That planning permission be **GRANTED** for the variation of Condition 2 and the other conditions as necessary subject to the following conditions:

1 The development shall be carried out in accordance with the approved drawings numbered:

- Rear and Side Elevations. Plan No. ACA9/A3/U
- Site Plan. ACA9/A/10 1/18
- Existing Elevations. Plan No ACA9/A/1
- Ground Floor Layout. Plan No ACA9/A/2
- First Floor Proposed. Plan No ACA9/5/a/b
- Second Floor Proposed. Plan No ACA9/6/a

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.

2 Notwithstanding the provisions of the provisions of the Town and Country Planning General Permitted Development Order (Amended) (Wales) 2013 (or any Order amended, revoking or re-enacting that Order) no windows shall be inserted in the side elevation of the extension facing 25 Rhigos Gardens

Reason: To ensure that the privacy of neighbouring occupiers is protected in accordance with Policy KP5 of the Local Development Plan.

3 The area indicated for the storage of refuse shall be provided externally to accommodate general waste, recycling and food waste. The area for the storage of refuse shall be retained thereafter.

Reason: To secure an orderly form of development and to protect the amenities of the area in accordance with Policy W2 of the Local

Development Plan.

- 4 Within 1 month of the date of this planning permission, the secured covered cycle storage shall be provided within the curtilage of the property to accommodate at least 6 bicycles and shall thereafter be retained.
Reason: To ensure that secure and under cover cycle parking facilities are provided to encourage other modes of transport over the private car, in accordance with Policy T5 of the Local Development Plan.
- 5 The existing garage at the site shall be retained at all times for the parking of vehicles associated with the approved residential use and shall not be used for any other purpose.
Reason: To ensure that the use of the development does not interfere with the safety and free flow of traffic passing along the highway, in accordance with Policy T5 of the Local Development Plan.
- 6 The flat roof of the rear single storey extension shall not be used at any time as a balcony or any form of amenity or sitting out area.
Reason: To ensure that the privacy of neighbouring occupiers is protected in accordance with Policy KP5 of the Local Development Plan
- 7 Within 1 month of the date of this planning permission a 1.7m high solid (opaque) privacy screen means of enclosure shall be erected along the length of the north east side elevation of the upper level of the raised patio area located to the rear of the rear extension. This privacy screen means of enclosure shall be retained at all times thereafter.
Reason: To ensure that the privacy of adjoining occupiers is protected in accordance with Policy KP5 of the Local Development Plan.

1. **DESCRIPTION OF PROPOSED DEVELOPMENT**

- 1.1 The application seeks planning permission to retain a revised layout to the property which was given permission to be converted to four flats by virtue of planning permission 12/00280/DCI, and to retain a rear extension with an amended design (with a raised patio area) and a rear dormer roof extension. Flat 1 would have one bedroom and would be located on the ground floor and is located within the front part of the property. Flat 2 would have 2 bedrooms and would be located on the ground floor in the rear part of the house. Flat 3 would have one bedroom and would be located on the first floor of the property in rear part of the property. Flat 4 would be located on the first floor and within the roof space of the property and would have two bedrooms.
- 1.2 The dormer roof extension is set up from the eaves and the side wall is set in from the side gable of the property and has been finished in hanging slate.
- 1.3 The rear extension has a flat roof and has been finished in render.

1.4 The revised plans show an area for the storage of refuse containers located to the side of the property.

2. **DESCRIPTION OF SITE**

2.1 The site comprises a two storey end of terraced dwelling with a two storey rear annex with a single storey lean-to conservatory style structure located to the side of the house and a detached garage/outbuilding to the rear. The property is located within a terrace set around a square of public open space featuring grass and trees.

3. **SITE HISTORY**

3.1 Planning Application 12/00280/DCI was granted for 'Ground Floor Rear Extension and Conversion to 4 Flats'. The plans did not include a dormer roof extension and the rear extension was smaller in scale and featured a pitched roof. It should be noted that the original plans did include a flat roofed extension and a dormer but these elements were removed from the scheme during the processing of the application.

4. **POLICY FRAMEWORK**

4.1 Relevant National Planning Guidance:

- **Planning Policy Wales (Edition 9, 2016)**
- **Technical Advice Note 12: Design**

4.2 Relevant Cardiff Local Development Plan (2006-2026) policies:

- **Policy KP5 (Good Quality and Sustainable Design)**
- **Policy H5 (Subdivision or Conversion of Residential Property)**
- **Policy T5 (Managing Transport Impacts)**
- **Policy W2 (Provision for Waste Management Facilities in Development)**

4.3 Relevant Supplementary Planning Guidance

- **Access, Circulation & Parking Standards (2010).**
- **Waste Collection and Storage Facilities (2016).**
- **Cardiff Residential Extensions & Alterations (2017).**

5. **INTERNAL CONSULTEE RESPONSES**

5.1 No Internal consultees have been consulted

6. **EXTERNAL CONSULTEES**

6.1 The application has been advertised by way of Site Notice.

6.2 The owner/occupiers of neighbouring properties have been consulted. Objections have been received.

6.3 Local Ward Councillors have been consulted. Objections have been received.

7. **REPRESENTATIONS**

7.1 Objections or representations expressing objections or concerns with respect to the proposal have been received from the following addresses:

- No 25 Rhigos Gardens.

Full details are available online, however, the comments can be summarised as follows:

- *The dormer roof extension is overbearing;*
- *The structural beam of the dormer encroaches into the neighbours roof space;*
- *The slates used do not interlock with the neighbours slates.*
- *The dormer is larger than shown on the original plans*
- *The additional weight of structures could exacerbate an existing subsidence issue*
- *The rear extension is too large*
- *The roof of the extension could be used as sunbathing/sitting out area*
- *The use of the roof could cause privacy/noise issues.*
- *The first floor flat does not have sound proofing and may cause noise disturbance*
- *The garden of the property has been raised causing privacy and security issues*

7.2 Cllr Weaver, Cllr Merry and Cllr Mackie have objected to the proposal, full details are available online but their objections can be summarised as follows:

- *The rear extension is dominant and overbearing*
- *The rear extension is out of character*
- *The rear dormer is too large, overbearing and creates privacy issues*
- *There are sound proofing issues and measures are inadequate*
- *The additional weight of structures could exacerbate an existing subsidence issue*
- *There isn't sufficient amenity space for residents*

7.3 A petition of objection has also been submitted with 50 signatories with an accompanying letter from the occupier of No. 23 Rhigos Gardens. Full details are available online, however, the comments can be summarised as follows:

- *The structural beam of the dormer encroaches into the neighbours roof space;*
- *Sound proofing issues and noise disturbance*
- *The extensions are out of character*

- *Safety concerns with respect to structural issues*
- *Potential security issues*

8. **ANALYSIS**

8.1 Principle Considerations

8.1.1 The principle of the subdivision of the property in to four flats has been established and it is only the variation of the proposal as built to that which was approved previously which is to be considered.

8.1.2 As such the principle considerations are the impact of the dormer roof extension and the rear extension (with raised patio area) upon neighbouring properties and the character of the area.

9.2 Residential Amenity Considerations

9.2.1 Single Storey Rear Extension - It is considered that the single storey rear extension would not be overbearing or generally un-neighbourly which would justify the refusal of planning permission by the Local Planning Authority. Given the extent of the amenity space, there would be no overdevelopment of the site. It is not considered that the extension would have a significant adverse impact on the living conditions of No 25 Rhigos Gardens in terms of outlook or overshadowing. The extension would project approximately 4.5 metres beyond the rear wall of the two storey annex and is approximately 3 metres in height. It should be noted that an extension projecting up to 4 metres from the original rear elevation of a property, with an eaves height of 3 metres and a maximum height of 4 metres could be constructed at the property as 'permitted development' prior to the conversion of the property in to flats.

9.2.2 The raised patio area to the side and rear of the extension appears to have raised the level of the garden by approximately 300-400mm. An additional planning condition can be applied to the planning permission requiring that a privacy screen be erected on the boundary with the neighbour in order to ensure the privacy of the neighbouring occupier is protected.

9.2.3 It is considered that the dormer extension would not be overbearing or generally un-neighbourly to justify the refusal of planning permission by the Local Planning Authority. It should be noted that the rear dormer is of a scale and design which means that it could have been considered development permitted under Class B of Part 1 in Schedule 2 of the Town and Country Planning (General Permitted Development) (Amendment) (Wales) Order 2013 if constructed prior to the conversion of the property in to flats.

9.2.4 It is considered that the rear facing windows of the dormer roof extension would not result in any unreasonable loss of privacy to adjoining gardens having regard to their positioning and orientation and site context. The rear facing windows of the dormer roof extension would face the rear garden of the application site in the same manner as the existing first floor rear facing

windows. The rear facing window within the main roof rear dormer would be sited over 25 metres from the boundary of the rear garden of No. 28 Pentyrch Street (located directly behind the application site) exceeding the minimum of 10.5 metres specified by the Residential Extensions & Alterations Design Guide.

Amenity of Future Occupiers

- 9.2.5 The principle of the conversion of the property in to four flats has been established. The internal floor area of Flat 2 would be increased and Flat 4 would benefit from increased head height within the additional bedroom. The shared external amenity area would be reduced slightly as a result of the increased footprint of the extension, however, it is considered to be a sufficient size and shape measuring over 85 square metres and additionally the occupiers of the flats would have access to the public open space within Rhigos Gardens.
- 9.2.6 Cycle storage (x6) would be provided within the rear shared amenity area in a shed, the imposition of a planning condition is considered necessary to ensure that covered cycle storage is provided within one month of the decision date.
- 9.2.7 Refuse storage containers can be satisfactorily accommodated externally within the rear amenity area to the side of the extension. There appears to be sufficient space to site and access these facilities. The imposition of a condition is considered necessary to ensure the necessary area for the storage of containers is retained thereafter.

9.3 Design Considerations

- 9.3.1 As stated above the scale of the single storey extension is considered acceptable and the provision of an external amenity area of over 85 square metres would be comparable to other properties located in the vicinity. Other properties within the locality feature extensions and buildings with a flat roof design. Accordingly it is considered that the extension would not be out of character to the locality. It is noted that a pitched roof design would be more in keeping with the existing property, however, it should be noted that a flat roofed extension could have been constructed at the property as 'permitted development' prior to the conversion of the property in to flats.
- 9.3.2 The rear dormer roof extension is considered visually acceptable as it is set up the roof slope and the side walls are set in from the sides of the roof and it is finished in materials to match the existing building in accordance with the Residential Extensions & Alterations SPG. It should be noted that this dormer extension could be considered development permitted under Class B of Part 1 in Schedule 2 of the Town and Country Planning (General Permitted Development) (Amendment) (Wales) Order 2013 if constructed prior to the conversion of the property into flats. It is noted that other properties in the vicinity feature dormer roof extensions of a similar design.

10. Representations

10.1 The representations received from the neighbouring residents, and Cllrs Weaver, Cllr Merry and Cllr Mackie are noted. While the substance of local views must be considered, the duty is to decide each case on its planning merits. As a general principle, local opposition or support for a proposal is not, on its own, a reasonable ground for refusing or granting planning permission; objections, or support, must be based on valid planning considerations. Specific issues are addressed as follows:

- Dormer is large, overbearing and out of character. It is not considered that the dormer is overbearing. It is set within the roof plane and the size/scale of the dormer is acceptable in this context as detailed within the above analysis.
- Encroachment of a Beam. Any perceived encroachment would be a civil matter between the neighbouring parties. Also, 'The Party Wall etc. Act' 1996 provides a framework for preventing and resolving disputes in relation to party walls, boundary walls and excavations near neighbouring buildings.
- The Slates do not interlock. The finishing materials used on the roof are considered acceptable and any issue with respect to the attachment to the neighbouring property would be a civil matter.
- The Structure exacerbating existence subsidence. The structural integrity of works would be controlled by the Building Regulations and any damage to property during or as a result of the building process would be a civil matter.
- Rear Extension too large. It is considered that that the extension is not too large to justify the refusal of planning permission in this context as detailed within the above analysis.
- Loss of privacy/amenity from the use of flat roof as a balcony. It is considered that the proposal would not result in any unreasonable loss of privacy or amenity to adjoining properties as detailed within the amenity analysis above. Planning permission would be required to create a balcony area on the flat roof of the extension; however, for the avoidance of doubt an additional Condition can be imposed to ensure that the flat roof is not used as any form of sitting out area.
- Sound Insulation Issues. The planning permission for the flats did not include a condition requiring a scheme of sound insulation to be installed and it would not be reasonable to apply one at this time. Part E of the current Building Regulations requires sound insulation measures when flats are created.
- Loss of privacy/amenity from dormer/raised patio. It is considered that the proposal would not result in any unreasonable loss of privacy or amenity to adjoining properties or properties located to the rear of the property as detailed within the analysis above. The rear dormer roof extension is of a scale and design which means it could be considered to constitute 'permitted development' not requiring planning permission if constructed

prior to the conversion to flats. The imposition of an additional planning condition to require a privacy screen on the boundary of the raised patio would ensure that there would be no direct overlooking to the side towards the garden of No 25 Rhigos Gardens.

- Potential Security Issues. It is considered that the proposal would not result in an increased risk of crime to justify the refusal of planning permission.

11. Other Legal Considerations

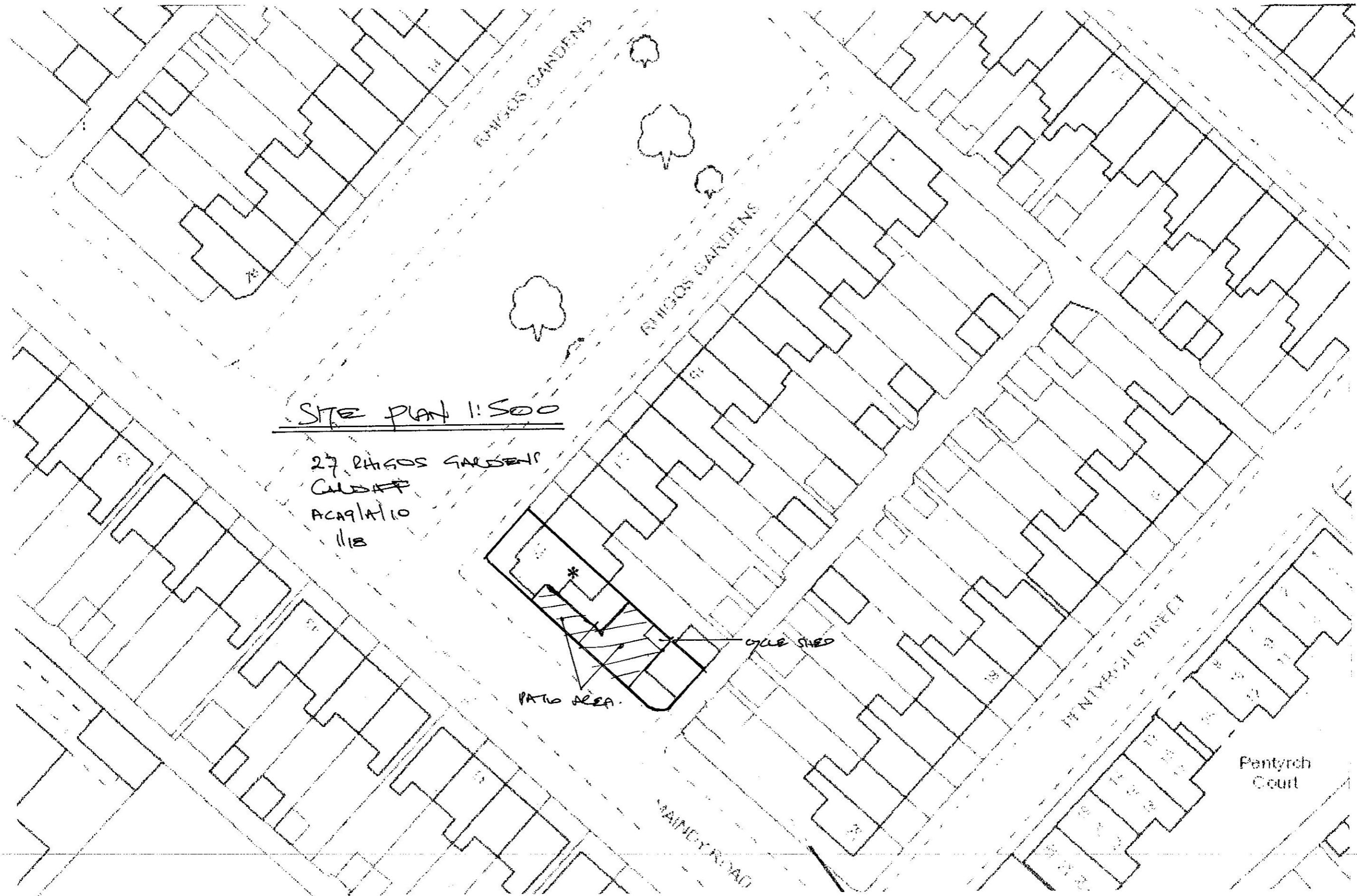
11.1 *Crime and Disorder Act 1998* – Section 17(1) of the Crime and Disorder Act 1998 imposes a duty on the Local Authority to exercise its various functions with due regard to the likely effect of the exercise of those functions on, and the need to do all that it reasonably can to prevent, crime and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

11.2 *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.

11.3 *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.

12. Conclusion

It is concluded that the application is acceptable in accordance with the planning policies listed, and it is recommended that planning permission be granted, subject to the variation of conditions and the imposition of additional conditions.



SITE PLAN 1:500

27 RHIGOS GARDENS
CUL-DE-SAC
ACAP/1/10
1/18

PATIO AREA

CYCLE SHED

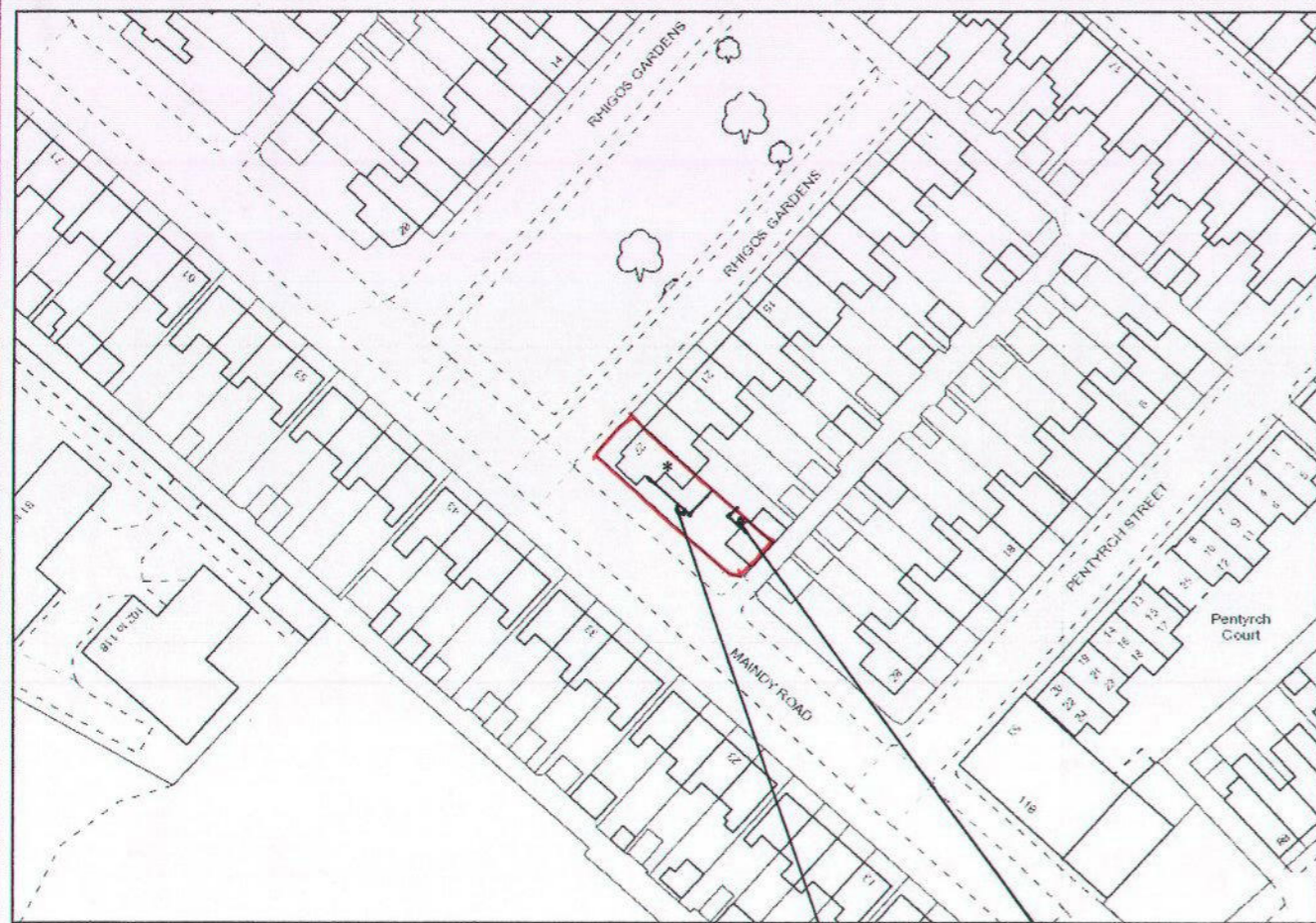
RHIGOS GARDENS

RHIGOS GARDENS

PENTYRCH STREET

MAINDY ROAD

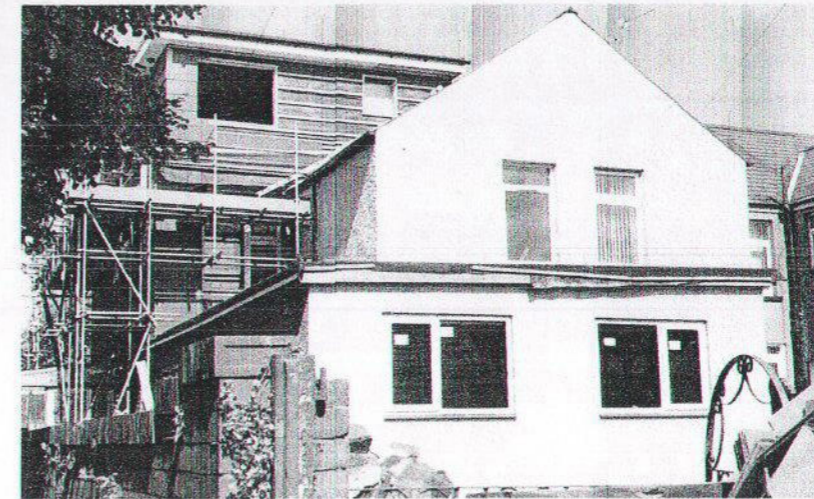
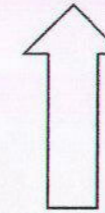
Pentyrch Court



SITE LOCATION PLAN 1:1250

**DEVELOPMENT AT
27 RHIGOS GARDENS
CARDIFF**

NORTH

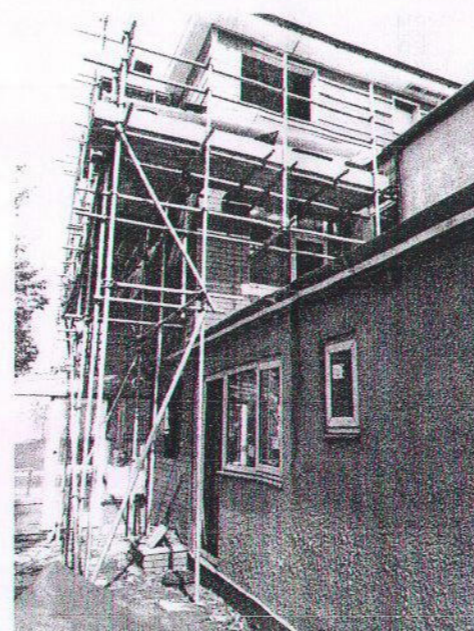
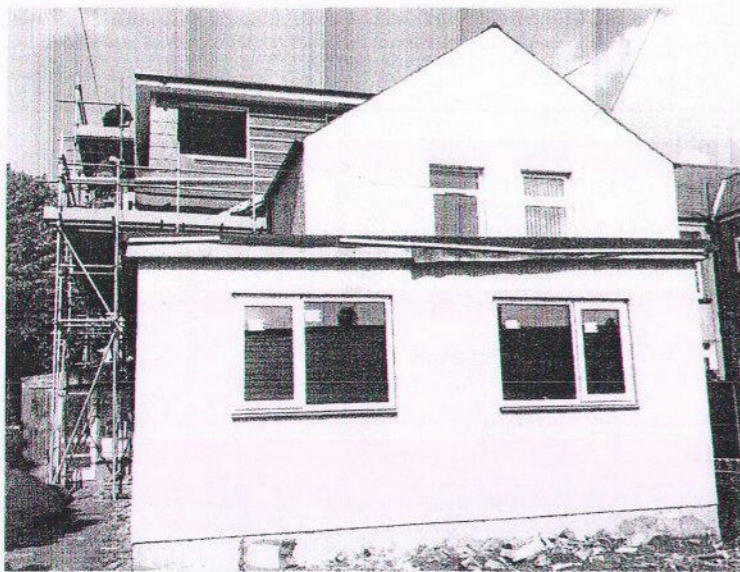


EXISTING ELEVATIONS

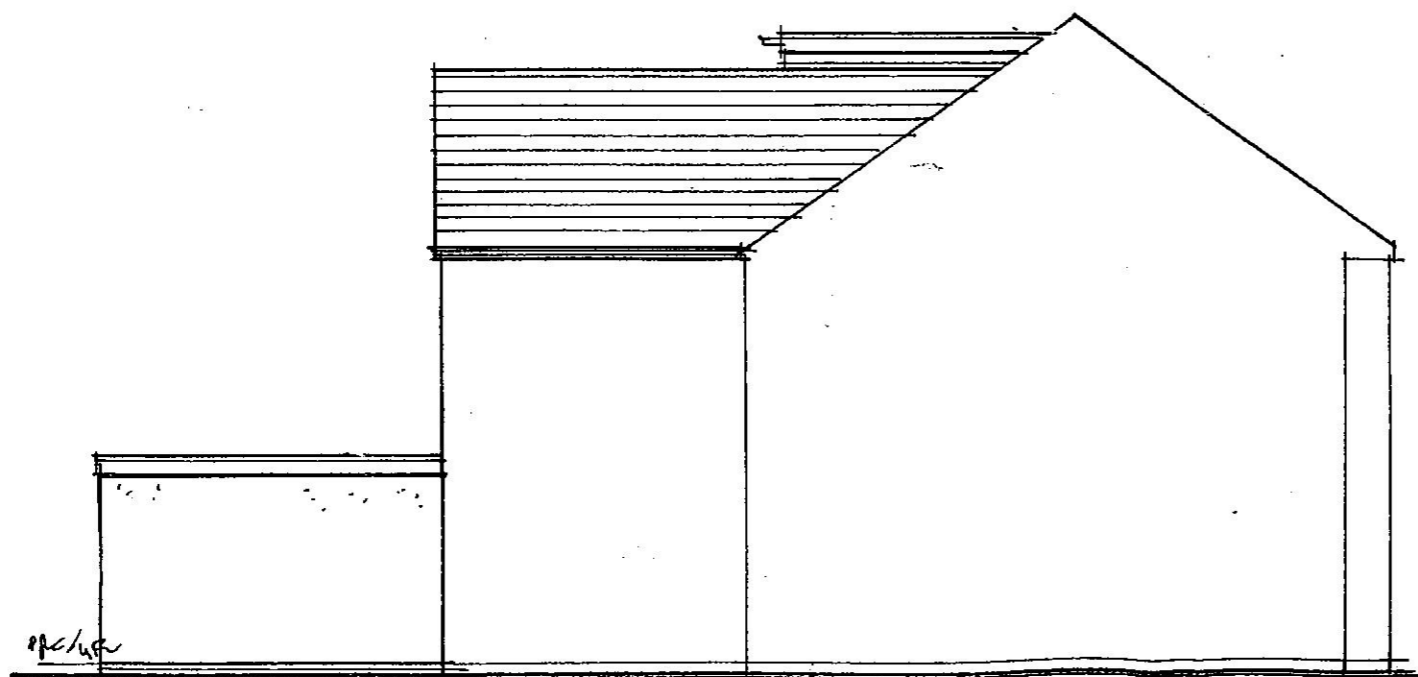
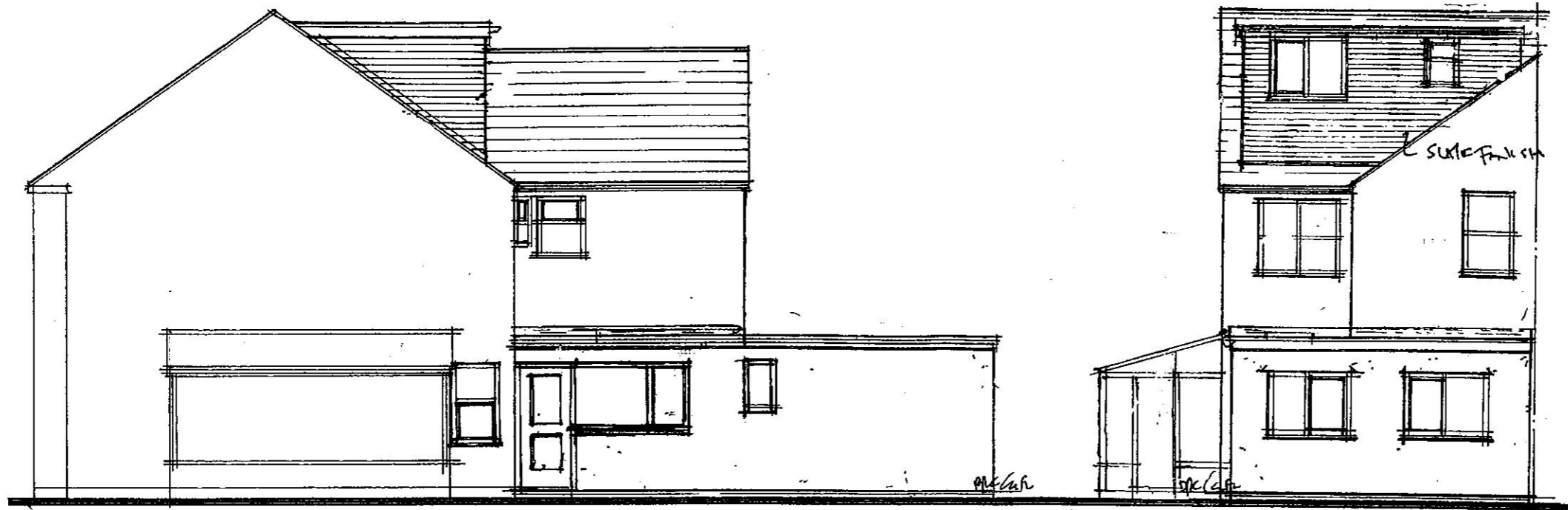
- 2400 x 1000
1. GARDEN SHED TO HOUSE
6 BIKES.
 2. BIN STORES

17/03008/nwr

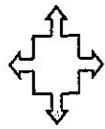
DTB DESIGN
TEMPLE COURT 13a CATHEDRAL ROAD
CARDIFF CF11 9HA
TEL 029 2035 0365



REVISIONS	DATE	REVISIONS	DATE
1. Rev 1	1/12		
DEVELOPMENT AT 27 RHIGOS GARDENS CARDIFF			
DATE AUG 2017		PLAN NO: ACA9/A1	



DTB DESIGN
 TEMPLE COURT 13a CATHEDRAL ROAD
 CARDIFF CF11 9HA
 TEL 029 2035 0365

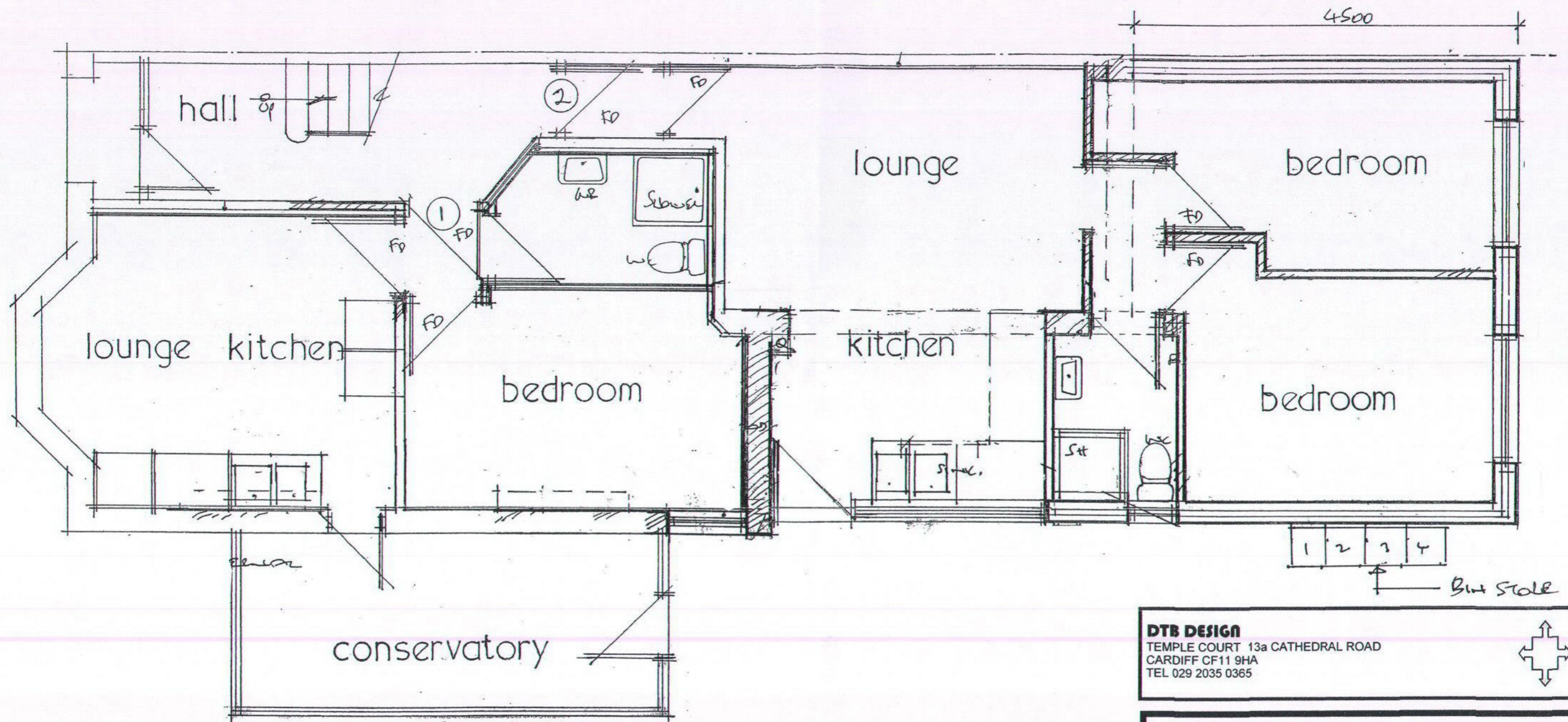


REVISIONS	DATE	REVISIONS	DATE
1/68	11/10/17		

**DEVELOPMENT AT
 27 RHIGOS GARDENS
 CARDIFF**

DATE AUG 2017 PLAN NO. ACA9/A3/a

REAR & SIDE ELEVATIONS 1:100 at A3



GROUND FLOOR LAYOUT 1:50 at A3

DTB DESIGN
 TEMPLE COURT 13a CATHEDRAL ROAD
 CARDIFF CF11 9HA
 TEL 029 2035 0365

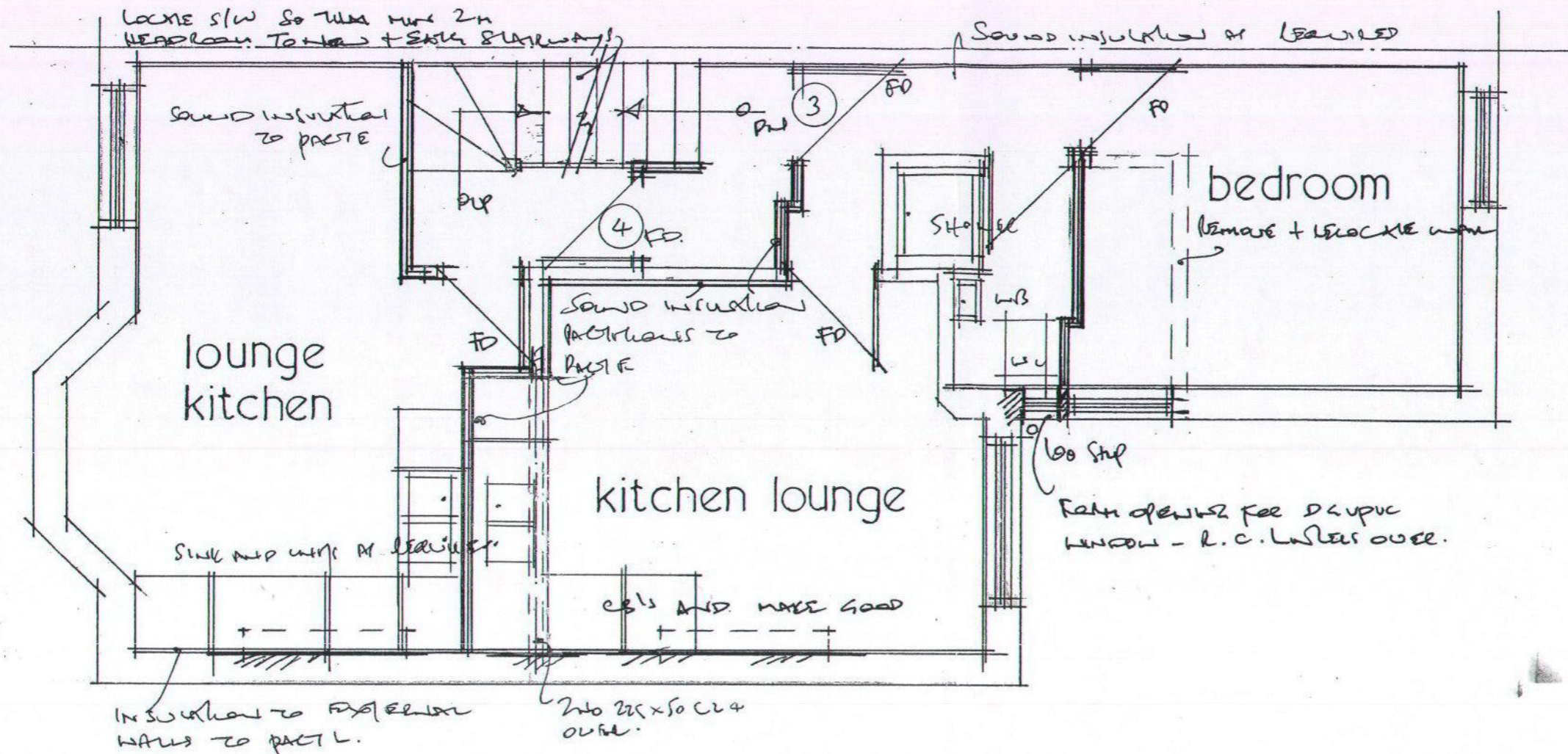


REVISIONS	DATE	REVISIONS	DATE

DEVELOPMENT AT
27 RHIGOS GARDENS
CARDIFF

DATE AUG 2017 PLAN NO. ACA9/A2

17/03008/mwr

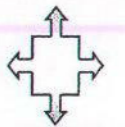


17/03008 | mnr

FIRST FLOOR PROPOSED 1:50

PROPOSED

DTB DESIGN
 286 NORTH ROAD CARDIFF CF14 3BN
 TEL 029 2069 4100
 FAX 029 2069 4101



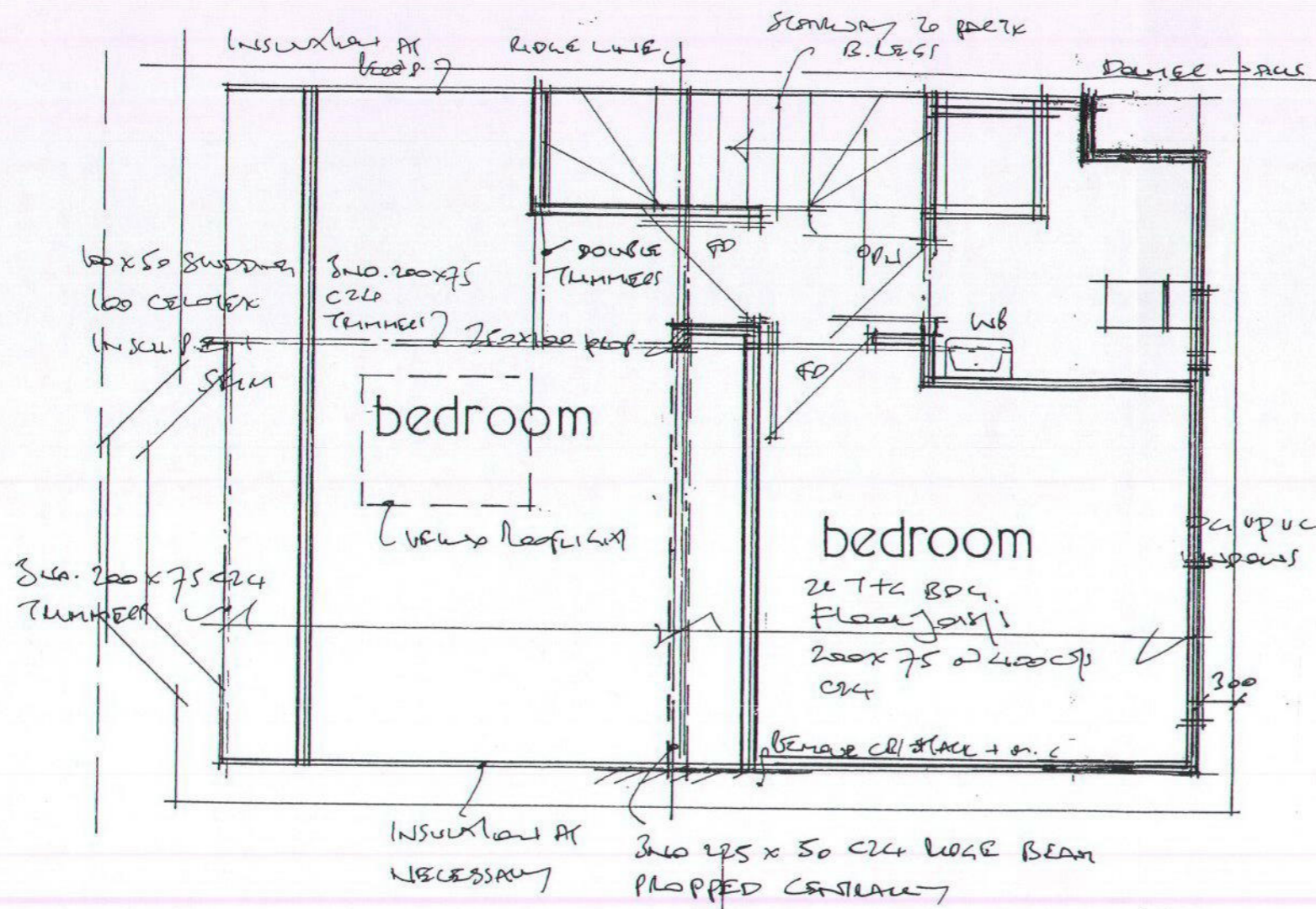
16/12/11 a. leeds (a)
 a. leeds 27/11/12 (D)

ALTERATIONS
27 RHIGOS GARDENS
CARDIFF

SCALE 1:100-1:50

DATE DEC 2011

PLAN NO. ACA9/5/a/h



17/03008 | MR

SECOND FLOOR PROPOSED 1:50

PROPOSED

<p>DTB DESIGN 286 NORTH ROAD CARDIFF CF14 3BN TEL 029 2069 4100 FAX 029 2069 4101</p>		
<p><i>THIRL (a) 11/10/11</i></p>		
<p>ALTERATIONS 27 RHIGOS GARDENS CARDIFF</p>		
SCALE 1:100-1:50	DATE DEC 2011	PLAN NO. ACA9/6/a