LOCAL MEMBER OBJECTIONS

COMMITTEE DATE: 18/09/2019

 APPLICATION No.
 19/01722/MNR
 APPLICATION DATE: 02/08/2019

 ED:
 CATHAYS

 APP: TYPE:
 Full Planning Permission

 APPLICANT:
 Mr McQuade

 LOCATION:
 51 Llantrisant Street

 PROPOSAL:
 ALTERATIONS AND CHANGE OF USE FROM C3 TO C4

 6 BEDROOM HOUSE IN MULTIPLE OCCUPATION

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

- 1. The use of the property as a C4 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 use of the property as an 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 Supplementary Planning Guidance (2016).

1. DESCRIPTION OF PROPOSED DEVELOPMENT

1.1 This application seeks planning permission convert the use of the property from a C3 dwelling house to a C4 House in Multiple Occupation.

- 1.2 Internally the property is to accommodate a combined kitchen/living room, an ensuite bedroom and cycle store for 6 cycles on the ground floor; three en-suite bedrooms on the first floor and two en-suite bedrooms within the second floor roofspace.
- 1.3 Externally a combined amenity space of approximately 27.25 square metres is to be provided 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

Planning application 15/01891/DCH – Two storey rear extension. Planning permission refused 11th September 2015

Planning application 15/02699/DCH – Proposed single and two storey rear extensions to existing property. Planning permission refused 3rd December 2015. An appeal was subsequently made to the Planning Inspectorate and the appeal was allowed and planning permission granted on 2nd June 2016.

Planning application 17/00489/MNR – Retention of 8 bedroom house in multiple occupation. Planning permission refused 9th February 2018. An appeal was subsequently made to the Planning Inspectorate however the appeal was dismissed on 6th September 2018.

4. POLICIES OF PARTICULAR RELEVANCE

National Planning Policy

- Planning Policy Wales (10th Ed) 2018
- Technical Advice Note 12: Design
- Technical Advice Note 21: Waste
- Development Management Manual

Cardiff Local Development Plan 2006-2026 (2016)

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

Supplementary Planning Guidance

- Managing Transportation Impacts (Incorporating Parking Standards) SPG 2018
- Houses in Multiple Occupation (HMO's) (October 2016)
- Waste Collection and Storage Facilities (October 2016)

5. **INTERNAL CONSULTEE RESPONSES**

- 5.1 Traffic and Transportation have been consulted and have not objected to the internal cycle store.
- 5.2 Waste Management have been consulted and have advised that the proposed storage area within the amenity area at the front of the property has been noted and is acceptable.

6. EXTERNAL CONSULTEE RESPONSES

6.1 South Wales Police have been consulted and have not commented on this application.

7. **<u>REPRESENTATION</u>**

- 7.1 Neighbours have been consulted, no comments have been received
- 7.2 Local Ward Councillors Mackie, Merry and Weaver, object to the application and have submitted the following objection:

"I write on behalf of myself, CIIrs Weaver and Merry as Cathays Councillors to object to the Planning Application 19/01722/MNR ALTERATIONS & CHANGE OF USE FROM C3 TO C4 6 BEDROOM HOUSE IN MULTIPLE OCCUPATION at 51 LLANTRISANT STREET, CATHAYS, CARDIFF, CF24 4JD

There has been a history of refused planning applications for this property the latest reasons for refusal by the Planning Committee and at Appeal are detailed below.

An application for Full Planning Permission on the 03/03/2017 for: RETENTION OF 8 BEDROOM HOUSE IN MULTIPLE OCCUPATION (SUI-GENERIS) was refused by the Planning Committee on the basis that it would:

- 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)."

An Appeal Decision made on the 6th September 2018 refused the appeal for the following reasons:

"The appeal relates to an end of terrace property located at No.51 Llantrisant Street in the Cathays area of Cardiff. The property benefits from an existing two storey rear extension with dormer conversion and had been converted to an eight bed House in Multiple Occupation (HMO) by the time I undertook my site inspection. It is however notable that the lawful use of the property comprises a Class C3 residential dwelling.

- 4. The Council objects to the change of use, specifically contending that it would cause cumulative adverse impacts on the amenity of the area, with particular reference to the impact on social cohesion, local infrastructure and anti-social behaviour. It also contends that the development would fail to provide adequate usable outdoor space for an eight bedroom HMO given the need to accommodate cycle parking and refuse storage facilities. In support of its position, the Council refers to its own empirical evidence, as well as research commissioned by the Welsh Government[1], which point to the particular problems that can arise from an over-concentration of such uses. I have not seen any cogent evidence that counters such findings and it is notable that such concerns have relatively recently been reflected in the amendments to the Use Classes Order which now distinguishes between properties used as dwelling houses (C3), those used as HMOs by up to six residents (C4) and larger HMOs which are categorised as sui generis.
- 5. Policy H5: Sub-division or Conversion of Residential Properties of the adopted Cardiff Local Development Plan 2016-2026 (LDP) sets out the LPAs policy for dealing with such proposals, specifically stating that proposals for the conversion to HMOs will be permitted where criteria is satisfied. There is no indication in the evidence that the development would conflict with criterion ii) or iv) of that policy. However, the Council cites conflict with criterion i) and iii) which respectively seek to ensure that 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 and that the cumulative impact of such conversions would not adversely affect the amenity and/ or the character of the area.

- The reasoned justification to Policy H5 makes reference to Supplementary 6. Planning Guidance (SPG) designed to amplify the policy requirements. That SPG document, entitled 'Houses in Multiple Occupation', was adopted in 2016 following due consultation. I have had regard to that document and, given that I am satisfied that the document does not introduce new policy, but rather provide a context upon which to implement adopted development plan policy, I shall afford it substantial weight in accordance with the advice contained within Planning Policy Wales (Edition 9, 2016)2. When applied to the ward affected by the appeal proposal, the SPG identifies an upper threshold of 20% of HMOs within a 50 metre radius of the appeal site. Beyond that threshold, the SPG indicates that HMOs should be resisted.
- 7. There is no doubt that, despite meriting substantial weight, the SPG document represents guidance only. I do not therefore consider that such figures should be treated as prescriptive. Nevertheless, the evidence in this case indicates that there are 26 properties within a 50 metre radius of the appeal site listed as HMOs which equates to 57.7%. It is clear that such a proportion is considerably above the 20% threshold and I have not seen anything to indicate that the cumulative impact of such uses in this area is any different to that established through the aforementioned empirical and research documents. Indeed, whilst the individual effect of the appeal proposal would not necessarily be significant, the cumulative impact of such proposals, particularly when the thresholds are so high, is likely to have an adverse effect upon the character and amenity of the area. The development would therefore conflict with criterion iii) of Policy H5.
- 8. I was able to confirm at the time of my site visit that the property benefits from a limited quantum of outdoor amenity space which comprises an irregular shaped parcel of land to the rear of the premises and a front court yard. Paragraph 6.3.2 of the aforementioned SPG states that the Council has historically used 25 square metres as the minimum expected external useable amenity space for C3 dwellings, including those HMOs incorporating up to 6 persons. It then goes on to state that such a level should also apply to HMOs currently categorised as C4 uses, with such space requirements increased by 2.5 square metres for each additional person. Again, whilst such figures should not be treated as determinative, I consider the general approach to be one that is reasonable.
- 9. The appellant contends that the proposal makes provision of in excess of 30 square metres of amenity space, although a detailed breakdown of what is included within such calculations is unclear. Nevertheless, I was able to confirm at the time of my site visit that the irregular shape of the space to the rear of the property would make some parts unusable and it is particularly

pertinent to note the requirement for external storage areas for recycling and waste to be excluded from such calculations^[2]. I note the fact that the issue of amenity space was considered previously at appeal. However, the decision in that case^[3] is clear that the amenity space requirements were considered within the context of the existing circumstances which, at that time, were in relation to a C3 residential dwelling. On that basis, and bearing in mind the significant storage facilities that would be necessary for an eight bed HMO, I consider such a matter to weigh further against the appeal proposal.

- 10. I note the important contribution that HMOs can make to the local housing supply. However, it is important that such contributions are considered within the context of wider housing need and supply, as well as the cumulative impact of such developments upon the character and amenity of the area. Indeed, at the thresholds present in this case, allowing the appeal proposal would undermine the overarching strategy articulated through Policy H5 and the associated HMO SPG which is supported by cogent evidence. I note the fact that the property has been granted a licence to operate as a HMO under the Housing (Wales) Act. However, given that such a process is limited in its consideration and undertaken under entirely separate legislation, I do not consider that such a matter outweighs the aforementioned concerns.
- 11. I have had full regard to the other appeal decisions cited by the appellant. However, having regard to the baseline position set by the lawful use of No.51 as a residential dwelling (C3), and bearing in mind the recent changes to the Use Classes Order, I consider such cases to be materially different to that proposed in this case. Indeed, the decisions cited appear to relate to developments which were already classified as HMOs, resulting in a materially different fall-back position. I do not, therefore, consider that such decisions weigh significantly in favour of the appeal.
- 12. Based on the foregoing, I conclude that the proposed development would adversely affect the amenity and character of the area. It would also fail to provide acceptable living conditions by reason of inadequate outdoor amenity space which in itself would exacerbate concerns relating to amenity. The development would therefore be contrary to the aims of both Policy H5 of the adopted LDP and the associated SPG relating to HMO developments. For these reasons, and having considered all matters raised, I conclude that the appeal should be dismissed.
- In coming to this conclusion, I have considered the duty to improve the 13. economic, social, environmental and cultural well-being of Wales, in accordance with the sustainable development principle, under section 3 of the Well-Being of Future Generations (Wales) Act 2015 (WBFG Act). I have taken into account the ways of working set out at section 5 of the WBFG Act and consider that this decision is in accordance with the sustainable development principle through its contribution towards one or more of the Welsh Ministers well-being objectives, as required by section 8 of the WBFG Act. "

The Ward Councillors in addition state that the current application does nothing to mitigate against these reasons for refusal. The only differences in the application is the removal of 2 bedrooms, one by an extension of the shared living area and the other by making it an amenity area inside the premises. The Appeal Decision discusses Paragraph 6.3.2 of the aforementioned SPG states that the Council has historically used 25 square metres as the minimum expected external useable amenity space for C3 dwellings, including those HMOs incorporating up to 6 persons. It then goes on to state that such a level should also apply to HMOs currently categorised as C4 uses. This is external space and this property does not have this amount of external space. The use of internal space is not acceptable as waste and cycle storage and the space could easily be converted back for use as a bedroom. On the basis of the cumulative effect on the area and the lack of amenity space we ask you to refuse this application."

8. ANALYSIS

- 8.1 This application seeks planning permission to change the use of the property from a C3 residential dwelling to a six bedroom C4 House in Multiple Occupation's (HMO). As Use Class C4 allows for tenanted living accommodation occupied by up to six people, who are not related and who share one or more basic amenities as their only or main residence, the main issue for this application is the impact the change of use will have on the character of the area, the community and the living conditions of future occupiers of the property.
- 8.2 The current use of the property as a HMO 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 a 6 person C4 HMO has on the character of the area, the community and on neighbouring properties.
- 8.3 **Policy Considerations -** In respect of the conversion of the properties to a C4 HMO, Policy H5 of the adopted LDP is considered relevant. Further guidance can also be found in the adopted HMO SPG.
- 8.4 Policy H5 of the LDP is considered to be a prescriptive policy whereby as long as the relevant criteria is met there is unlikely to be any objection to such proposals. It advises that:

"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."

8.5 The approved Supplementary Planning Guidance on HMO's further expands on this

Policy and 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 a popular accommodation source for many groups, including students, young professionals, migrant workers and often people on lower incomes.

However, 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:

- 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.

It is considered that this may conflict with policy KP13 of the LDP which aims to improve the quality of life for all.

Having identified some of the issues caused by HMOs the Council considered it was necessary to determine a 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 registered HMO's. This is above the 20% limit which would trigger the active consideration of negative cumulative impact consequences.

- 8.6 **Room Sizes** The Cardiff HMO Licensing Fire & Safety Standards (updated in 2014) sets standards in terms of amenity, space standards and facilities which must be adhered to in order to obtain a License from the Council. From a planning perspective, paragraph 6.1.1 of the adopted HMO SPG identifies that this would be the minimum that would be expected to be achieved for all applications for both C4 HMO's and larger sui generis HMO's. Having had regard to this criteria the submitted plans indicate that these standards would be met.
- 8.7 **Waste** Policy W2 of the Cardiff Local Development Plan seeks to ensure that adequate provision is made for waste management facilities within new developments, in order to aid the Council in meeting the challenging waste recycling targets set by European and National targets. Facilities provided should be secure, unobtrusive and easily assessable.

The adopted Waste Collection and Storage Facilities SPG supplements policies adopted in the LDP relating to the provision of waste management facilities in new development. Paragraph 4.12 of the approved SPG on Waste Collection and Storage Facilities advises that for HMO's the recommended bin allocation for between 1 & 5 residents is as follows :-

x 140L bin for general waste
 x 240L bin for garden waste (if required)
 x 25L bins for food waste
 Green bags for recycling.

This is the same waste allocation as an existing C3 residential property. As this application seeks the change of use of the property to a C4 HMO (6 occupants) then there will be no change in waste allocation requirements. Waste Management has been consulted and does not object to the proposal.

8.8 **Transportation** - Policy KP8 of the LDP seeks to reduce travel demand and dependence on the car. It identifies that to accommodate the planned growth levels predicted for the city, existing and future residents will need to be far less reliant on the private car and seeks to ensure that more everyday journeys are undertaken by sustainable modes of transport. Policy T5 of the LDP also identifies that all new development for which planning permission is required will contribute to reducing reliance on the private car, in line with national planning policies and the strategic transport objectives of the LDP. The Council's approved Supplementary Planning Guidance on Managing Transportation Impacts (Incorporating Parking Standards) supplements the LDP in this respect and sets out the Councils approach to assessing and managing the transport impacts of developments within the City. Section 6 of the SPG refers to parking standards and is therefore an important tool to be used in managing demand for travel by car and encouraging a shift to sustainable transport modes.

In respect of car parking the SPG identifies that a C4 HMO does not require any offstreet car parking spaces to be policy compliant.

With respect to cycle parking the use of the property as a C4 HMO requires 1 undercover and secure cycle parking space per bedroom to be policy compliant. As this application seeks the change of use of the property to a 6 bedroom HMO then 6 undercover and secure cycle parking spaces will need to be provided. The applicant has indicated that 6 cycle parking spaces can be provided within the ground floor front rooms. This is considered to be acceptable.

8.9 Amenity Space – Criterion i) of Policy H5 of the LDP advises that planning permission will be granted where "The property is of a size whereby the ... external amenity space of the resulting property would ensure an adequate standard of residential amenity for future occupiers." This is further reinforced by the HMO SPG which advises that amenity space is important in retaining a quality of life for people living within the dwelling. Paragraph 6.3.2 of the SPG states "The City of Cardiff Council has typically used the figure of 25m² as the minimum expected external useable amenity space for C3 dwellings, i.e. for those dwellings up to 6 persons. This level should also apply to C4 properties. Each additional person would be expected to have 2.5m². As such, for example, the minimum expected for a 7 bed HMO would be 27.5m² of external amenity space. Each additional person should result in a corresponding increase of 2.5m². Useable amenity space is considered to be at least 1.4m wide, enabling storage and access."

In respect of amenity space as the application seeks permission for to change the use of the property to a C4 HMO then 25 square metres will be required. Having undertaken an assessment of the property an amenity space of approximately 27.25 square metres will be available for occupiers to use. As the minimum amenity space requirement as specified in the HMO SPG will be 25 square metres the proposal is therefore considered acceptable when considered against the HMO SPG.

- 8.10 **Other Issues** In respect to the objections raised by the local ward Councillors which are not covered within the content of the report the following should be noted.
 - The previous planning application was for the retention of an 8 bed Sui-Generis HMO however this application seeks the change of use of the property to a 6 bedroom C4 HMO;
 - ii) This planning application has reduced the number of bedrooms from 8 to 6. As such the amount of amenity space required has also been reduced. A 6 bedroom C4 HMO will require 25 square metres of amenity space to accord with the Council's standards. As 27.5 square metres are available the amount of amenity space available is considered acceptable
 - iii) Waste Management have advised that the proposed arrangements are considered acceptable. It should also be noted that the application does not propose the storage of waste within the building but in the front forecourt.
 - iv) Traffic and Transportation raise no objection to the siting of the proposed cycle storage facility within the building and this is becoming a more and more common practice within inner city wards of the City.

9. **RECOMMENDATION**

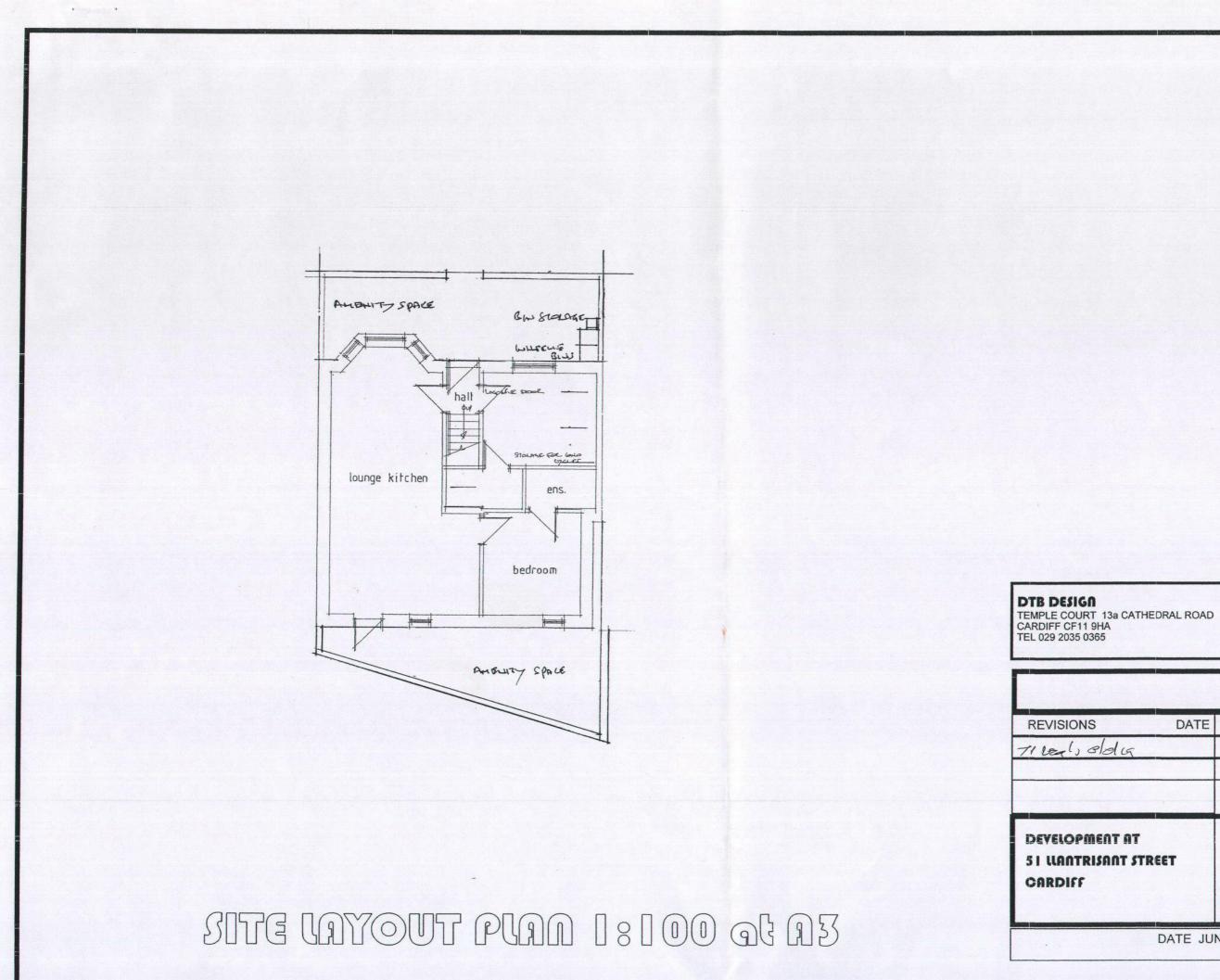
9.1 The Council is mindful of the current climate with respect to the amount of HMO's within the City and that there are concerns that a proliferation of such uses can undermine the character of an area to the detriment of local residents. In respect of this application it is considered that the proposal does not comply with both local and national planning policies with respect to HMO's and the Council's adopted SPG on HMO's.

Having taken all of the relevant factors into consideration it is recommended that planning permission be refused.

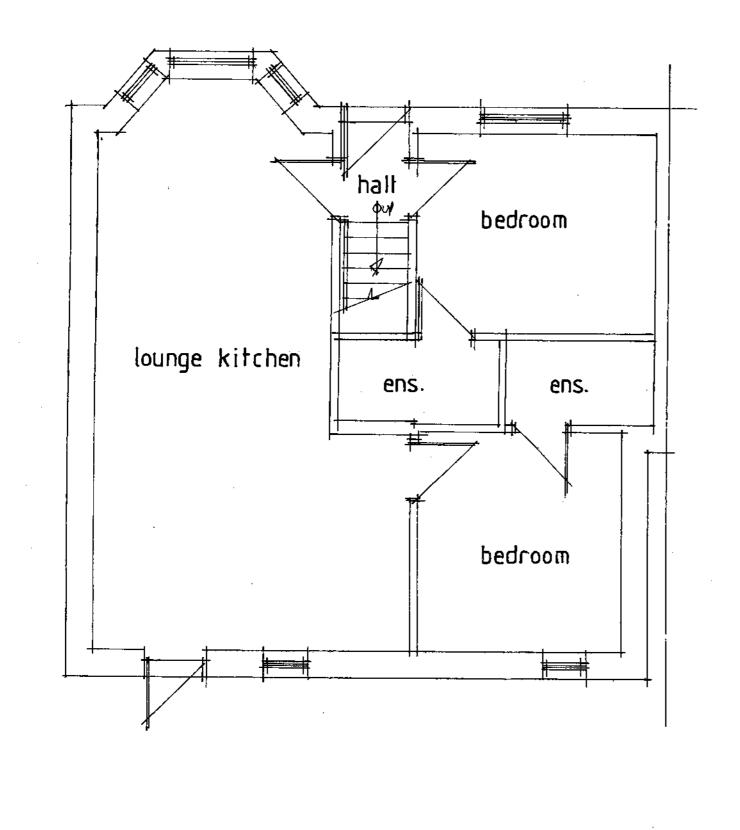


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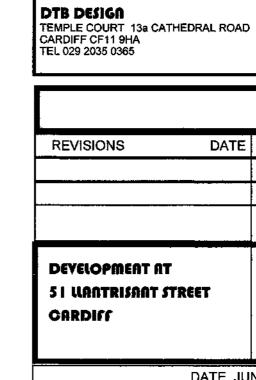
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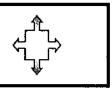


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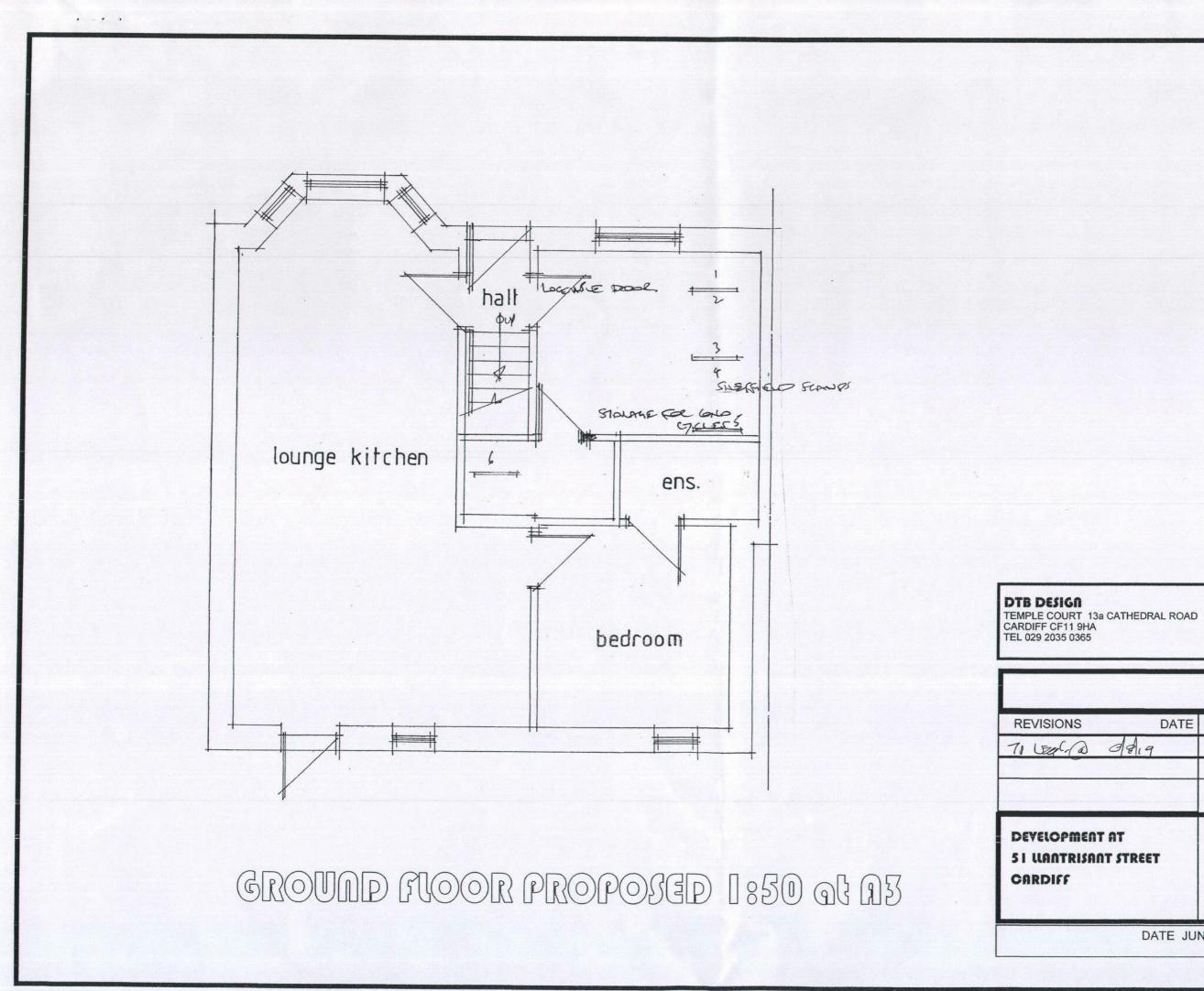


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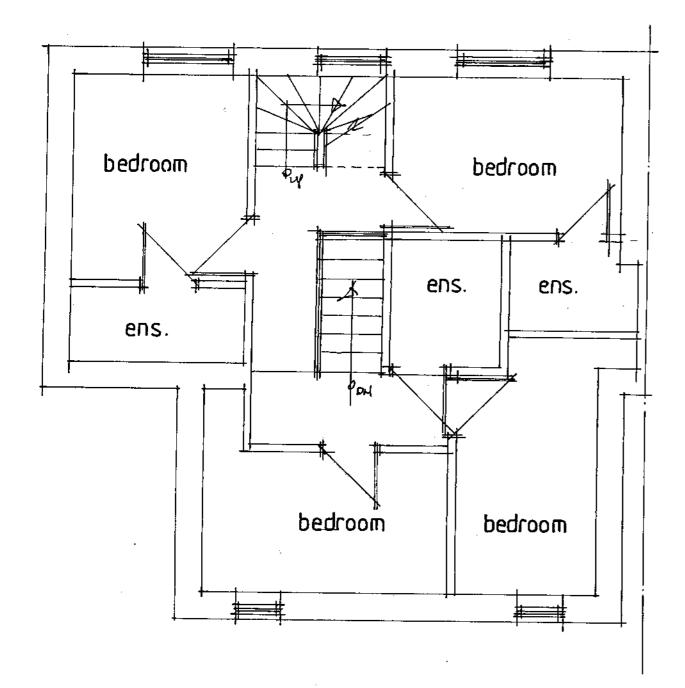
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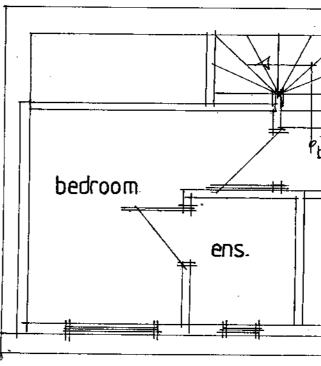
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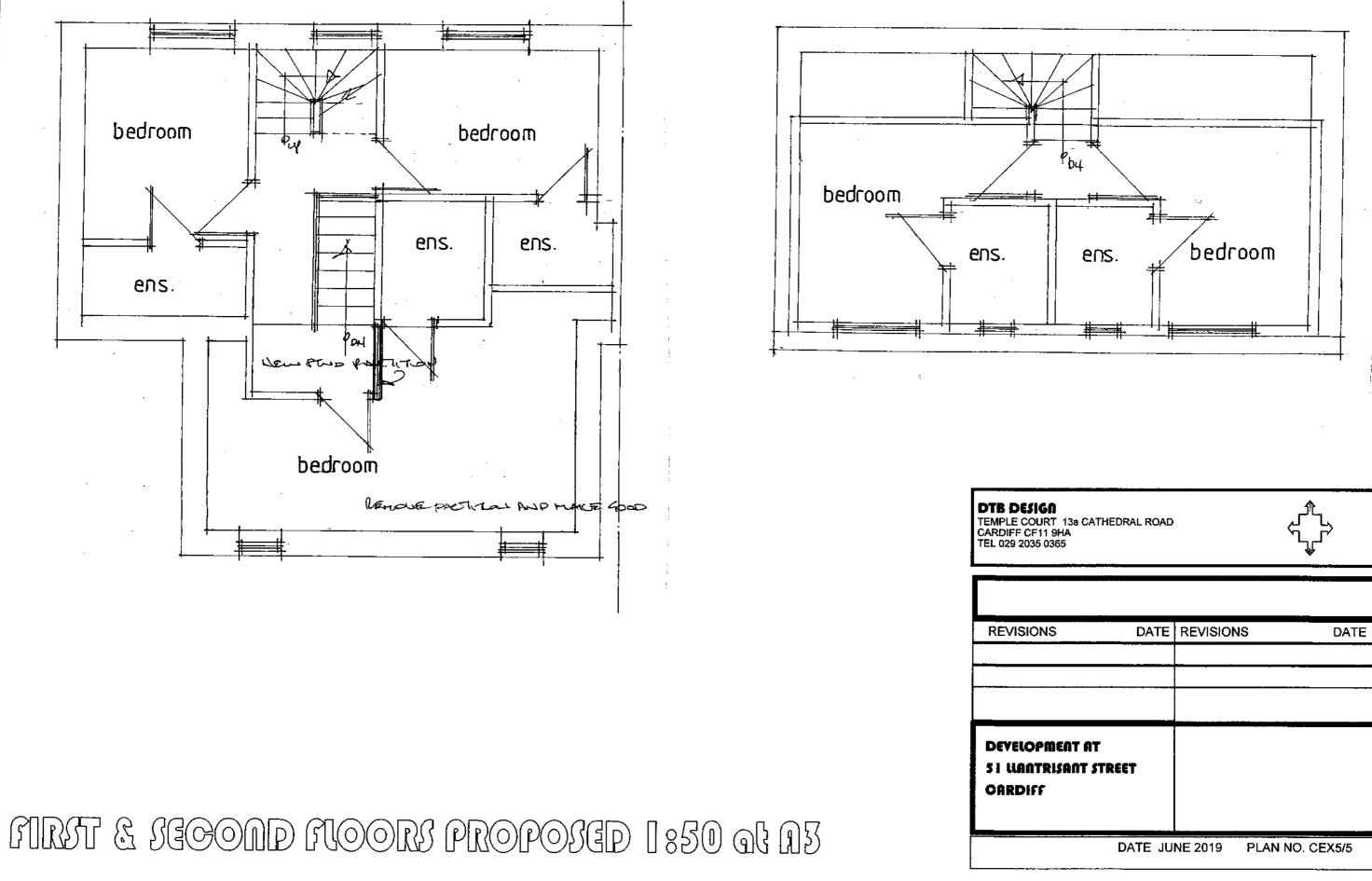


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