

COMMITTEE DATE: 16/10/2019

APPLICATION No. **19/02214/MNR**

APPLICATION DATE: 20/08/2019

ED: **CATHAYS**

APP: TYPE: Full Planning Permission

APPLICANT: Mr Munir

LOCATION: 82 Cathays Terrace, Cathays, Cardiff

PROPOSAL: GROUND FLOOR REAR EXTENSION, REAR DORMER AND  
CONVERSION FROM C4 TO SUI GENERIS HOUSE IN  
MULTIPLE OCCUPATION.

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**RECOMMENDATION:** That planning permission be **GRANTED**, subject to the following conditions:

1. C01 – Statutory Time limit
2. The development shall be retained in accordance with the following approved plans:
  - CEY3/3 – Ground Floor Proposed
  - CEY3/4 – First Floor Proposed
  - CEY3/5 – Second Floor Proposed
  - CEY3/6 – Site Layout Proposed
  - CEY3/7 – Front, Rear & Side Elevations Proposed

Reason: To ensure satisfactory completion of the development and for the avoidance of doubt in line with the aims of Planning Policy Wales to promote an efficient planning system.

3. Prior to the beneficial use of the property as a 7 person HMO, seven undercover and secured cycle parking spaces, as indicated on the approved site layout plan, shall be provided within the curtilage of the property and shall thereafter be retained and maintained at all times.  
Reason: To ensure that secure cycle parking facilities are provided to encourage other modes of transport over the private car.
4. Prior to the beneficial use of the property as a 7 person HMO, a refuse storage area as indicated on the approved site layout plan shall be provided within the curtilage of the property. The refuse storage area shall thereafter be retained and maintained at all times.  
Reason: To secure an orderly form of development and to protect the amenities of the area in accordance with Policy W2 of the Cardiff Local Development Plan 2006-2026.
5. No more than 7 occupants shall reside at the property at any one time.

Reason: To ensure a suitable level of internal and external amenity space is retained for future occupiers to use in accordance with Policy KP5 of the Cardiff Local Development Plan 2006 – 2026.

6. The flat roof of the extension hereby approved shall not be used as a roof terrace, sitting out area or for any form of amenity space whatsoever.

Reason: To ensure that the privacy and amenities of the occupier of the adjoining properties are protected in accordance with Policy KP5 of the Cardiff Local Development Plan 2006-2026.

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

- 1.1 This application seeks planning permission to erect a ground floor rear extension and rear dormer to facilitate the change of use of the property from a 4 bedroom C4 House of Multiple Occupation (HMO) into a 7 bedroom sui generis House of Multiple Occupation.
- 1.2 Internally the property is to accommodate a combined kitchen/living room, two bedrooms and a shower room on the ground floor. Three bedrooms and a shower room on the first floor and two bedrooms and a shower room on the second floor (within the roof-space).
- 1.3 The submitted plans show the rear single storey extension is to be 7.3m long, 4.2m wide and 2.7m high with a flat roof (note that the proposed extension is narrower and shorter in height than the existing rear annexe but is longer overall). The rear dormer is to be 5.3m wide, 3.2m deep and 2.1m high with a flat roof.
- 1.4 Externally a rear amenity space of approximately 48.45 square metres is provided, which contains a 7 space cycle store and a refuse storage area.

## **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. POLICIES OF PARTICULAR RELEVANCE**

### ***National Planning Policy***

- *Planning Policy Wales (10<sup>th</sup> 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 KP8: Sustainable Transport*
- *Policy T5: Managing Transport Impacts*
- *Policy KP13: Responding to Evidenced Social Need*
- *Policy C3: Community Safety/Creating Safe Environments*
- *Policy H5: Sub-Division or Conversion of Residential Properties*
- *Policy EN13: Air, Noise, Light Pollution and Land Contamination*
- *Policy W2: Provision for Waste Management Facilities in Development*

### ***Supplementary Planning Guidance (SPG)***

- *Managing Transportation Impacts (Incorporating Parking Standards) (2018)*
- *Residential Alterations and Extensions (2016)*
- *Houses in Multiple Occupation (HMO's) (2016)*
- *Waste Collection and Storage Facilities (2016)*

## **5. INTERNAL CONSULTEE RESPONSES**

- 5.1 **The Operational Manager (Transportation)** – No objections, states that the application, offers no off-street car parking, whilst offering 7 secure & covered cycle parking spaces. The on-street parking outside the property is controlled by resident permit parking bays.

The cycle parking appears to provide adequate accessibility and space for the cycles. There is no rear access to the property. It is noted that the only access to the cycle parking is through the living room/kitchen, which although not ideal, is acceptable in a retro-fit property with no alternative.

- 5.2 **The Operational Manager, Waste Management** – The proposed storage area for waste and recycling in the rear amenity area has been noted and is acceptable.

This property will require the following for recycling and waste collections:

- Bespoke bags equivalent to 240 litres for general waste
- 2 x 25 litre kerbside caddy for food waste
- Green bags for mixed recycling (equivalent to 240 litres)

The storage of which must be sensitively integrated into the design.

## **6. EXTERNAL CONSULTEE RESPONSES**

- 6.1 **South Wales Police Architectural Liaison Officer** - South Wales Police have the following observations and recommendations to make regarding this application.

South Wales Police recognise that Houses in Multiple Occupation (HMO's) provide an important source of housing and form part of a balanced housing provision mix.

With reference to the application, South Wales Police 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. In some areas that HMO's can have an impact on crime, disorder, parking, nuisance and general neighbourhood cohesion.

Where the density of HMO's in a street/area exceeds 20% then South Wales Police will consider objecting to any proposed development upon confirmation of existing HMO density by the planning officer.

There are 38 properties within a 50m radius of 82 Cathays Terrace, and records show that there are 24 registered HMO's within this area. This equates to 63% HMO's in the vicinity of the application.

Due to the above factors, South Wales Police would wish to object to this application.

## 7. **REPRESENTATION**

7.1 Neighbours have been consulted, no comments have been received

## 8. **ANALYSIS**

8.1 This application seeks planning permission to change the use of 82 Cathays Terrace from a C4 HMO to a 7 bedroom Sui Generis House in Multiple Occupation's (HMO). In order to facilitate the change of use, a ground floor and first floor rear extension together with a dormer roof extension is proposed.

Council Licensing records indicate that the property was Licensed as a House of Multiple Occupation (HMO) in 2011 for four occupants and there are no records to suggest that the property has been used as family accommodation since that time. The applicant describes the previous use of the property as a C4 HMO. Whilst planning permission has not been granted for the change of use of the properties to Use Class C4 it would be unreasonable to suggest that the use of the property would not fall within Use Class C4 as prior to the introduction of Use Class C4 in February 2016 planning permission was not required to use the property as a small HMO catering for up to six unrelated residents.

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 one additional resident will have on the character of the area, the community and the living conditions of future occupiers of the property, in addition to the potential impact of the extensions and dormer roof extensions.

8.2 Policy **Considerations** - In respect of the conversion of a property to a large sui generis HMO for up to 7 occupants Policy H5 of the adopted LDP is considered relevant. Further guidance can also be found in the adopted HMO SPG

8.3 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.”*

- 8.4 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 times 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 there were 24 registered HMO’s within 50m of the application site (including the application site) which equates to 63%. This is above the 20% limit which would trigger the active consideration of negative cumulative impact consequences.

- 8.5 It should also be noted that Supplementary Planning Guidance is guidance and whilst a material consideration when making planning decisions it is not the sole planning consideration and other factors may also influence the decision making process. Each application should therefore be considered on its individual merits. In this instance regardless of whether this application is approved or refused the property will still remain in use as C4HMO’s and will not revert back to C3 residential accommodation until such time as the owner chooses to do so.
- 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 6 & 8 residents is as follows :-

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

This application seeks to change the use of the property from a C4 HMO (6 occupants) to a 7 person sui generis HMO. Waste Management has been consulted and has advised that an increase in the number of habitable rooms will lead to an increase in the production of waste. The landlord /owner may need to provide larger/additional bins to accommodate this.

The proposed area for the storage of waste and recycling in the rear amenity area identified on the submitted plan has been noted and is acceptable, refuse storage must thereafter be retained for future use. Condition 4 has been imposed to ensure the bin storage area is retained.

- 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 Council's 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 off street car parking spaces to be policy compliant. When assessed against the SPG the use of the property as a 7 person HMO also does not require any off street car parking spaces. As such the proposal is policy compliant with no off street car parking facilities.

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. The use of the property as a 7 person sui generis HMO will also require 1 under cover and secure cycle parking space to be policy compliant. As this application seeks the change of use of a 4 bedroom HMO to a 7 bedroom HMO then 7 undercover and secure cycle parking spaces will need to be provided. The applicant has submitted plans which indicate that 7 undercover and secure cycle parking spaces can be provided within the rear garden which is considered acceptable. Condition 3 has been imposed to ensure such facilities are provided and retained.

- 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 25m<sup>2</sup> 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 2.5m<sup>2</sup>. As such, for example, the minimum expected for a 7 bed HMO would be 27.5m<sup>2</sup> of external amenity space. Each additional person should result in a corresponding increase of 2.5m<sup>2</sup>. 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 7 occupants to reside at each property then 27.5 square metres will be required. Having undertaken an assessment of the property an amenity space of approximately 40 square metres will be available for occupiers to use (in addition to provision for bin and cycle storage facilities). As the minimum amenity space requirement as specified in the HMO SPG will be 27.5 square metres the proposal is therefore considered acceptable when considered against the HMO SPG.

- 8.10 **Relevant Planning Appeal** – Notwithstanding the consideration of each case on its merits it should be of note that since the adoption of the SPG on HMO's the Council has tried to resist the change of use from C4 to sui generis HMO's where the threshold identified in the SPG has been exceeded. In this respect 70 Gelligaer Street (reference APP/Z6815/A/17/3169335) - change of use of an existing C4 HMO to a 7 person HMO is of note. In considering the appeal and awarding costs to the applicant the appointed Planning Inspector stated:

*“3. Policy H5 of the Cardiff Local Development Plan, 2016 (LDP) is permissive of conversions to Houses in Multiple Occupation (HMO) subject to a number of criteria being met. These include that there would be no material harm to the living conditions of nearby residents and that the cumulative impact of conversions should not adversely affect the amenity and/or the character of the area. Planning Policy Wales (PPW) requires local planning authorities to promote sustainable residential environments and advises that the cumulative impact of, amongst other things, conversions should not be allowed to damage and area's character or amenity.*

*4. The Council has produced supplementary planning guidance (SPG) to provide background information and provide a rationale for how decision makers should approach HMOs. The SPG was adopted following public consultation and I afford it considerable weight. The SPG sets thresholds above which it deems that the concentration of HMOs would have an adverse impact on the community and includes advice relating to proposals to increase the number of occupants above 6.*



5. In this case the SPG threshold of 20% has been exceeded. However, the appeal property can lawfully be used as a 6 person HMO and, whatever my decision, the appeal proposal would not result in an increase in HMOs or have any effect on the percentage of HMOs in the area. The appeal property is in use as a 6 person HMO and the issue narrows; therefore, to the impact an additional person living in this property would have on the character of the area and the community.

6. With regard to proposals to increase the number occupants in a Class C4 HMO, the Council's SPG states: 'Even though it is already an HMO, if the concentration in the area is high, then by definition, the creation of the larger sui generis HMO will only likely heighten the issues caused by HMOs'. However, I agree with Council officers that: 'SPG's are guidance and whilst they are a material consideration when making planning decisions they are not the sole planning consideration and other factors may also influence the decision making process'. I have considered the comments in the SPG regarding the impacts HMOs can have on communities. Whilst this provides useful background each case must be determined on its merits and actual harm must be demonstrated in order for planning permission to be properly withheld.

7. The reason for refusal alleges that the proposal to increase the number of people living in the appeal property from 6 to 7 would lead towards less community cohesion and undermine the objectives of securing a sustainable mixed use community, lead to an increase of cumulative demand on social, community and physical infrastructure and further exacerbate the negative impacts caused by HMOs in respect of crime and anti-social behaviour.

8. The Council present no evidence to demonstrate that the social, community or physical infrastructure in the area is not able to accommodate demand or that its continued provision is threatened by the appeal proposal. The Council's Waste Management service state that the proposal would have little impact on the production of waste and that the current arrangements are sufficient.

9. The objection from South Wales Police is predicated on general concerns regarding the impact of HMOs and a record of incidents 'in the near vicinity'. In an e mail to the appellant the Police admit that 'near vicinity' in this case included 9 post code areas. In its response to the planning application the Police say this: 'Where the density of HMO's in a street/area exceeds 20% then South Wales Police will consider objecting to any proposed development upon confirmation of existing HMO density by the planning officer. There are 38 properties within a 50m radius of 70 Gelligaer Street and records show that there are 16 registered HMO's within this area. This equates to 42% HMO's in the vicinity of the application. Due to the above factors South Wales Police would wish to object to this application'.

10. I do not make light of the concerns of the Police or others with regard to crime or anti-social behaviour. However, the Police's objection appears to be

*a generic response based on general background data. The Council state that 6 crimes were recorded 'for the length of Gelligaer Street' but not what they were or whether they were related to HMOs. Nor have I seen or read anything to demonstrate that Gelligaer Street suffers to a greater extent than anywhere else from such problems or that the addition of one person would make any material difference if it does.*

*12. For the reasons given above and having regard to all matters raised, I find that the proposed development does not conflict with local and national policies designed to secure and maintain sustainable communities and that it would not have an adverse impact on the living conditions of neighbouring residents. Consequently, I conclude that the proposal complies with Policies H5 and KP5 of the LDP and that the appeal should be allowed. "*

- 8.11 Further to this appeal decision the Council has also resisted the change of use of a C4 HMO to an 8 bedroom HMO at 36 Wyeverne Road and the change of use of a C4 HMO to a 9 bedroom HMO at 34 Wyeverne Road. Both appeals were allowed with the Planning Inspectors taking the view that the proposals would not cause any adverse effects on the character and/or amenity of the area and were in compliance with Policy H5 of the LDP.

Members should be aware that the Council has also been successful in defending its position with respect to the refusal to grant C4 and larger sui generis HMO's at 51 Llantrisant Street, 60 Alfred Street and 22 Flora Street. It is noted, however, that these applications related to the loss of C3 residential accommodation. In this present case the application site already benefits from being a C4 HMO and therefore whilst these appeal decisions are worth noting the site circumstances are different to that which is presently before Committee.

- 8.12 **Ground floor rear extension** - In respect of the ground floor rear extension this is considered acceptable in regards to its scale and design and will provide a subservient addition to the dwelling. It will also provide for a better internal living arrangement for future occupiers. It is not considered that the ground floor extension will result in any undue overlooking and will not reduce the size of the rear garden to such an extent that it will be unusable.
- 8.13 **Rear dormer roof extension** – The dormer is to be sited up to the roof ridge and set up from the roof eaves and finished in hanging slate to match the existing roof covering in line with advice contained within the Residential Extensions and Alterations SPG. It should also be noted that a dormer of this size and design is not an untypical development in the surrounding area, whereby many others have been consented by the Council or have been built using existing Permitted Development regulations.

## 9. **RECOMMENDATION**

- 9.1 Having taken all of the relevant factors into consideration it is concluded that whilst the threshold of HMO's as stated in the SPG has been exceeded in respect of the locality the Council is mindful of its previous attempt to resist a

similar proposal in respect of 70 Gelligaer Street where costs were awarded to the applicant for the Council's unreasonable actions, and the two other examples quoted where Inspectors did also not find in favour of the Council. In this case the property can lawfully be used as a HMO and a refusal will not result in the property reverting back to C3 residential accommodation. It is however considered necessary to include a condition that will restrict the number of occupants to seven.

Further to the above report it is considered that there are insufficient grounds to refuse this application and it is therefore recommended that planning permission be granted, subject to conditions.

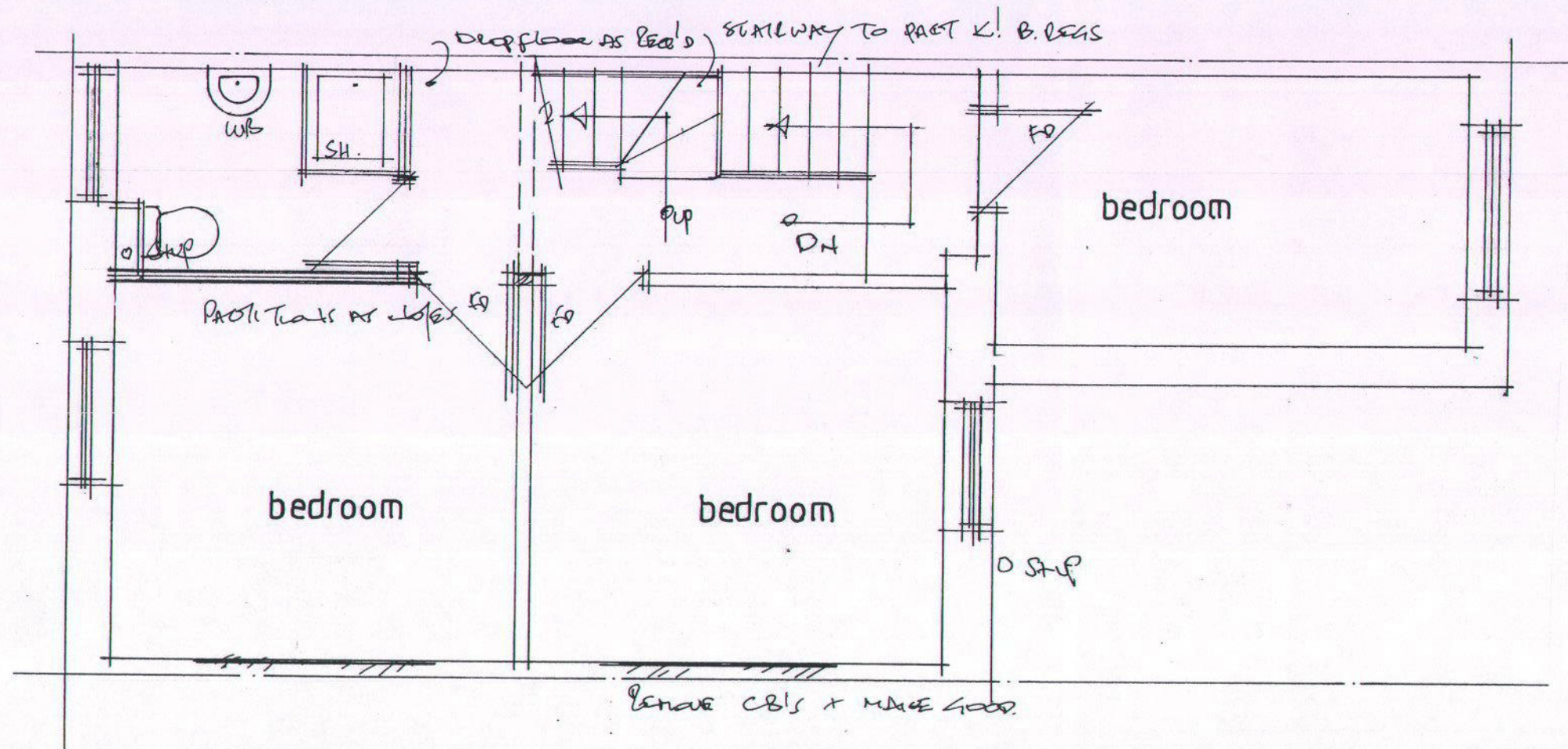












FIRST FLOOR PROPOSED 1:50 at A3

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



REVISIONS	DATE	REVISIONS	DATE

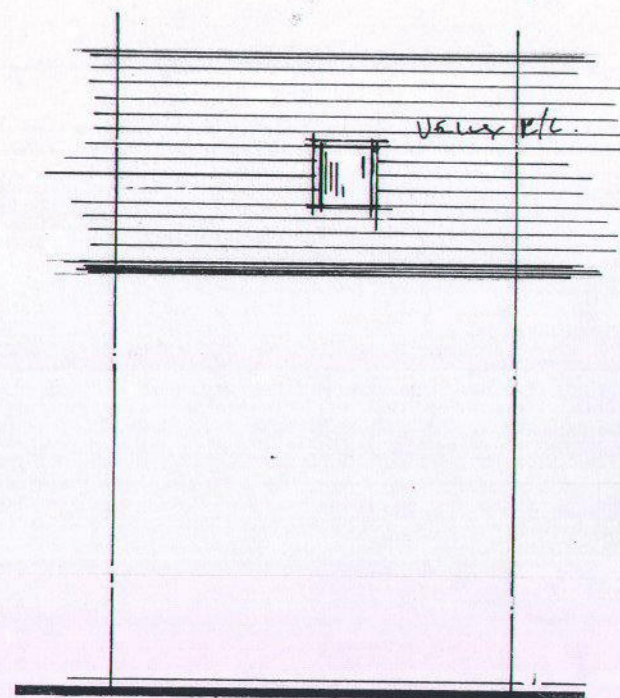
**DEVELOPMENT AT**  
**82 CATHAYS TERRACE**  
**CARDIFF**

DATE JULY 2019    PLAN NO. CEY3/4









<p><b>DEVELOPMENT AT 82 GATHAYS TERRACE CARDIFF</b></p>	
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FRONT, REAR & SIDE ELEVATIONS PROPOSED 1:100 at A3