

## LOCAL MEMBER OBJECTION

COMMITTEE DATE: 16/10/2019

APPLICATION No. **19/01749/MNR**

DATE RECEIVED: 14/06/2019

ED: **CATHAYS**

APP: TYPE: Full Planning Permission

APPLICANT: Mr Illyas

LOCATION: 20 May Street, Cathays, Cardiff

PROPOSAL: GROUND & FIRST FLOOR REAR EXTENSION, REAR DORMER AND CONVERSION TO 6BED C4 HOUSE IN MULTIPLE OCCUPATION

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**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 advice contained within 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 advice contained within the Houses in Multiple Occupation Supplementary Planning Guidance (2016).
- 2 The use of the property as a C4 House in Multiple Occupation will further exacerbate the negative impacts caused by Houses in Multiple Occupation in respect of crime and anti-social behaviour, contrary to Policies H5 (Sub-Division or Conversion of Residential Properties) and C3 (Community Safety/Creating Safe Environments) of the Cardiff Local Development Plan (2006-2016) and advice contained within the Houses in Multiple Occupation Supplementary Planning Guidance (2016).

- 3 The proposal fails to demonstrate that the two storey extension would not have an overbearing impact causing loss of light to neighbouring properties contrary to Policies KP5 and H5 of the Cardiff Local Development Plan (2006-2016) and advice contained within the Householder Extensions and Alterations SPG (2017).

1. **DESCRIPTION OF PROPOSED DEVELOPMENT**

- 1.1 The application seeks planning permission to change the use of a two storey terraced dwelling to a house in multiple occupation (class C4) and erect single storey, first floor and rear dormer extensions.
- 1.2 An approximately 3m long x 3.1m wide two storey extension is proposed with a mono-pitched roof 5m high at eaves and 7m to ridge, finished in render.
- 1.3 A 3m long 1.7m wide single storey extension is proposed alongside the existing two storey annexe with a lean-to roof 2.5m high at eaves and 3.5m at maximum height, finished in render with a tiled roof.
- 1.4 A flat roofed dormer would project from the main roof by up to 3m at a width of 4.7m and height of 2.1m, finished in hanging slates to match the existing roof.
- 1.5 Internally the use would accommodate a lounge/kitchen area and a bedroom at ground floor, three bedrooms and a bathroom at first floor and two bedrooms at second floor.
- 1.6 The application originally proposed an internal bin store adjacent to the front door and a longer ground floor infill extension, however, the application has been amended in these regards.

2. **DESCRIPTION OF SITE**

- 2.1 The site comprises a two storey terraced dwelling falling within use class C3.

3. **SITE HISTORY**

- 3.1 None

3.2 **Related History:**

17/00785/DCH - planning permission granted and implemented for first floor and single storey rear extension at no. 18 May Street.

17/02043/DCH - planning permission granted and implemented for single storey rear & first floor rear extensions at no. 22 May Street.

4. **POLICY FRAMEWORK**

- 4.1 **Relevant National Planning Guidance:**

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

Policy KP5: Good Quality and Sustainable Design  
Policy KP8: Sustainable Transport  
Policy KP13 Responding to Evidenced Social Needs  
Policy H5: Subdivision or Conversion of Residential Property  
Policy EN13: Air, Noise, Light Pollution and Contaminated Land  
Policy T1: Walking and Cycling  
Policy T5: Managing Transport Impacts  
Policy T6: Impact on Transport Networks and Services  
Policy C3: Community Safety/Creating Safe Environments

4.3 Relevant Supplementary Planning Guidance

Residential Extensions & Alterations (2017).  
Managing Transportation Impacts (Incorporating Parking Standards) (2018)  
Houses In Multiple Occupation (2016)  
Waste Collection and Storage Facilities (2016).

5. **INTERNAL CONSULTEE RESPONSES**

- 5.1 Transportation – The cycle facility looks acceptable with the usual caveat regarding retention in perpetuity.
- 5.1 Waste Management – The proposed external area for the storage of waste and recycling has been noted and is acceptable. The property will require the following for recycling and waste collections: Bespoke bags equivalent to 240 litres for general waste; 1 x 25 litre kerbside caddy for food waste. (An additional food caddy can be provided if needed); Green bags for mixed recycling (equivalent to 240 litres).

6. **EXTERNAL CONSULTEE RESPONSES**

- 6.1 None.

7. **REPRESENTATIONS**

- 7.1 The owner/occupiers of neighbouring properties have been consulted, no representations were received.
- 7.2 Cllrs Merry, Weaver & Mackie objected to the original application as follows:

*We are opposed to this application as there are a number of grounds on which it fails to meet our expected standards of accommodation, is inconsistent with SPG's and planning policy.*

*First, it contradicts our SPG on HMO's in relation to HMO density. This appears to be a conversion of a C3 property to a HMO (we are not aware of any license, which has been compulsory for all HMO's in Cathays since 2010), which over a threshold of 20% within a set radius is deemed automatic for refusal. It would contribute to the loss of C3 homes in the area, and would add to the noise, waste, parking and population density problems experienced when HMO concentration is too high. This evidence base has been established in the creation of our SPG, and based on evidence from Welsh Government of the consequences of overconcentration of HMO's. It should be rejected on these grounds.*

*Second, we believe the extent of the proposed extensions would be overbearing and overdevelopment. The first floor extension would be overbearing. The ground floor extension is excessive compared to the overall size of the plot. The Residential Extensions and Alterations SPG point 7.26 covers issues of overlooking. It states: "In the case of extensions above single storey, a distance of 10.5m between the rear wall of a property and its rear boundary, and 21m between the rear habitable room windows of dwellings which directly back on to each other, is normally required to avoid overlooking and to protect neighbouring amenity"*

*There appears to be less than 10.5 m to the rear boundary from the proposed first floor extension, and therefore should be rejected. We do not have information given on the plans to illustrate whether the 21m distance is observed, but this is a clear possible breach if the first floor extension is less than 10.5m from the boundary wall and we believe evidence should be provided before considering whether it's acceptable in that regard either.*

*We also believe the first and ground floor extension would create a tunneling effect for the neighbouring property, and believe it could breach the 45 degree rule set out in the Residential Design Guide, leading to an unacceptable loss of light to their rear downstairs window. No evidence is given on this application to counter that – we believe evidence should be sought as it appears likely.*

*Third, we believe there would be insufficient rear amenity space, below the absolute minimum required (and necessary for a decent standard of accommodation). The requirement for this HMO would be 25m squared necessary as a minimum, not counting the area given for cycle storage. Once the cycle storage is accounted for it appears below this minimum level (with the side return) at 23.64m, and although this is close to the 25m square, it is below, and added to its failure on other grounds we believe should be noted as an additional grounds for refusal. This is also without sufficient waste storage being provided at the rear, which should also be provided for, but would clearly reduce the rear amenity space far below an acceptable level.*

*Our SPG is clear that the 25 square metres is a bare minimum not an aspiration – we do not believe that the amenity space meets this minimum even including awkwardly shaped areas (like the side of the cycle store and side return) and we would dispute that areas like this can really be viewed as*

*useful amenity space. As a local authority we have recently declared a climate emergency and we must take a robust stance when safeguarding the amenity space of these developments. We would point out that according to ONS statistics this is both one of the most densely occupied areas in Wales and that this street is one of the least green. It has been calculated to be 1% green when the Cardiff average is 13% - May Street is the 3,072nd greenest street out of 3,219 in Cardiff. To continue to build out over amenity spaces, reducing opportunity for green space at the rear of properties, and adding to the issues of waste and noise due to overdevelopment is not sustainable development.*

*Fourth, and disgustingly, the application appears to propose an indoor waste store by the front door. This is contrary to our SPG, which makes clear we will not allow waste storage inside a dwelling, and is absolutely unacceptable. On health grounds as well as planning ones, we'd expect this planning authority to reject a proposal like this. It is clearly not even close to the size of waste storage needed for a 6-bed HMO and for the four waste streams required under our SPG, which have to be able to be stored for a 14 day period, but regardless indoor storage of waste is not acceptable. It is potentially a fire hazard, by the front door. It is a health risk, and inevitably will lead to waste problems at the front and/or rear of the property. Point 4.3 of the Waste Collections SPG spells this out explicitly: "All residential developments are required to provide adequate storage for 4 dedicated waste streams; recycling, garden, food and residual waste. Provision must be made for the total volume of all waste streams produced over a 14 day period. This storage must be separate from the dwelling it serves. It is not acceptable for waste to be stored for a long period of time within the dwelling."*

*We will note here that we are aware of frequently getting no comment/no objection from Waste Management (a statutory consultee) in relation to waste storage facilities on planning applications. We want to be absolutely clear regardless of their comment on this application: our lawful SPG is clearly the guidance issued by this planning authority, related to policy under our LDP, and the bare minimum we expect to provide decent accommodation to citizens.*

*For all these reasons, we believe this is a clear case of an application that falls unacceptably below the minimum for a decent standard of accommodation. It's design is contrary to a number of SPG's and LDP policies, and should be rejected on multiple grounds. The proposal of indoor waste storage, despite the explicit nature of the Waste SPG that has been in place illustrates that the applicant has not sought to try and comply with this planning authorities basic guidance or policies. It would create a dismal and hazardous environment for any future occupants and neighbours. We believe this should be rejected.*

*If planning officers and Chair of planning were minded to consider approval of this application – though we cannot see on what grounds the planning authority could consider the application to have mitigated against its breaches of guidance and policy – we request that given the breaches of policies that*

*are critical to the amenity of occupants and neighbours, this application should go before Planning Committee. However, we expect it will be refused under delegated powers on the basis of its obvious incompatibility with policy.*

*Having checked the scale of the building to the rear of the property, the failure to observe the minimum distance to the rear boundary of the property becomes even more concerning. The proposal would represent significant overdevelopment of the plot, with a really unpleasant town cramming effect created, and potentially unacceptable impact in terms of light, and definitely in outlook. We do not believe appropriate privacy and amenity of the occupants can be secured if this development goes ahead on this basis – alongside all the points made.*

Local Members were notified of the revised drawings, no additional comments were received.

## 8. **ANALYSIS**

### 8.1 **Introduction**

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.”*

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 52% 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.

## 8.2 Impact Upon the Character of the Area

It is considered that the proposed extensions are acceptable in regards to their scale and design and will provide subservient additions to the building which will not prejudice the general character of the area. The proposal is considered compliant with Policy KP5 (i) of the Local Development Plan and paragraph 7.2 of the Residential Extensions & Alterations SPG.

The scale of the two storey extension would be suitably subservient, of similar scale to the existing two storey rear annexe structures in this terrace and would have a shorter projection into the rear garden than the adjoining longer

two storey rear extension at no. 22 May Street.

The rear dormer roof extension is considered an acceptable addition to the property as it would be set back from the rear elevation (eaves) and finished in materials to match the existing building in accordance with the Residential Extensions & Alterations SPG. Whilst the structure will occupy much of the available roof slope it should be noted that the structure could be constructed without the formal permission of the Council under Class B of Part 1 in Schedule 2 of the Town and Country Planning (General Permitted Development) (Amendment) (Wales) Order 2013.

It is considered that the scale of the single storey extension would not be an overly dominant feature and be of an appropriate scale in proportion to the overall site, of similar scale to the existing single storey structures in this terrace including the single storey extensions approved within close proximity to this property.

### 8.3 Impact Upon Neighbouring Amenity

It is considered that the proposal would be overbearing and generally un-neighbourly upon the occupants of neighbouring properties, principally those residing at 18 May Street and fails to accord with the principles of Policy KP5 (x) of the Local Development Plan and section 7 of the Residential Extensions & Alterations SPG.

As detailed at sec. 7.37 of the SPG it is necessary for an assessment to be undertaken to ensure that reasonable light to relevant windows of neighbouring properties is sufficient. The existing property impedes marginally on the 45 degree lines in the vertical and horizontal contrary to this guidance and the proposed extensions would increase further the obstruction in the horizontal plane. As required by the SPG the application does not provide any further justification that such impact is acceptable.

It is noted that the first floor rear facing window would be sited 5.1m from the boundary with the adjoining building at the rear which is less than the minimum of 10.5m specified by the Residential Extensions & Alterations SPG. However, having regard that the building to the rear is not in residential use and has obscure glazed windows in the south west elevation as they directly face into the rear garden of the application site, it is not considered that the proposed separation distance would be unreasonable in this instance.

It is not considered that the single storey infill extension should have any unreasonable impact upon no. 18. In any case, the single storey infill extension would constitute development permitted under Class A of Part 1 in Schedule 2 of the Town and Country Planning (General Permitted Development) (Amendment) (Wales) Order 2013.



#### 8.4 Living Conditions of Future Occupiers

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.

#### 8.5 Amenity Space

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.*"

An external amenity area of circa 25 square metres would be provided at the rear (excluding the cycle store), which accords with the principles of the relevant SPG.

#### 8.6 Waste Management

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. 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 as an existing C3 residential property.

The proposed external area for the storage of waste and recycling is acceptable. The proposed internal storage of waste has been removed from the scheme as a result of amended plans.

#### 8.7 Transport Impact and Sustainable Transport

The Managing Transportation Impacts (Incorporating Parking Standards) SPG identifies a minimum requirement of zero car parking spaces and cycle parking at a ratio of 1 space per bedroom. The proposal is therefore considered to be car parking policy compliant with no off street parking spaces being provided.

Details of satisfactory secure and sheltered cycle storage, to promote and encourage this sustainable mode of transport, is proposed at the ratio required within the Transportation Impacts SPG.

## 8.8 Other Matters

The representation received from Cllrs Merry, Weaver & Mackie is noted. The issues raised are considered below within the context of the guidance as set out in the Houses in Multiple Occupation and Residential Extensions & Alterations SPGs. Specific issues are addresses as follows:

- a) HMO Density - see sec. 8.2. The application is recommended for refusal for this reason.
- b) Overdevelopment - In this respect the proposal is considered acceptable in principle the size of the proposals relative to the existing context is appropriate see para. 8.2.
- c) Overbearing Impact of Extensions - see sec. 8.3. The application is recommended for refusal for this reason.
- d) Amenity space – see sec. 8.5
- e) Waste Storage – see. sec. 8.6

## 8.9 Other Legal Considerations

*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.

*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.

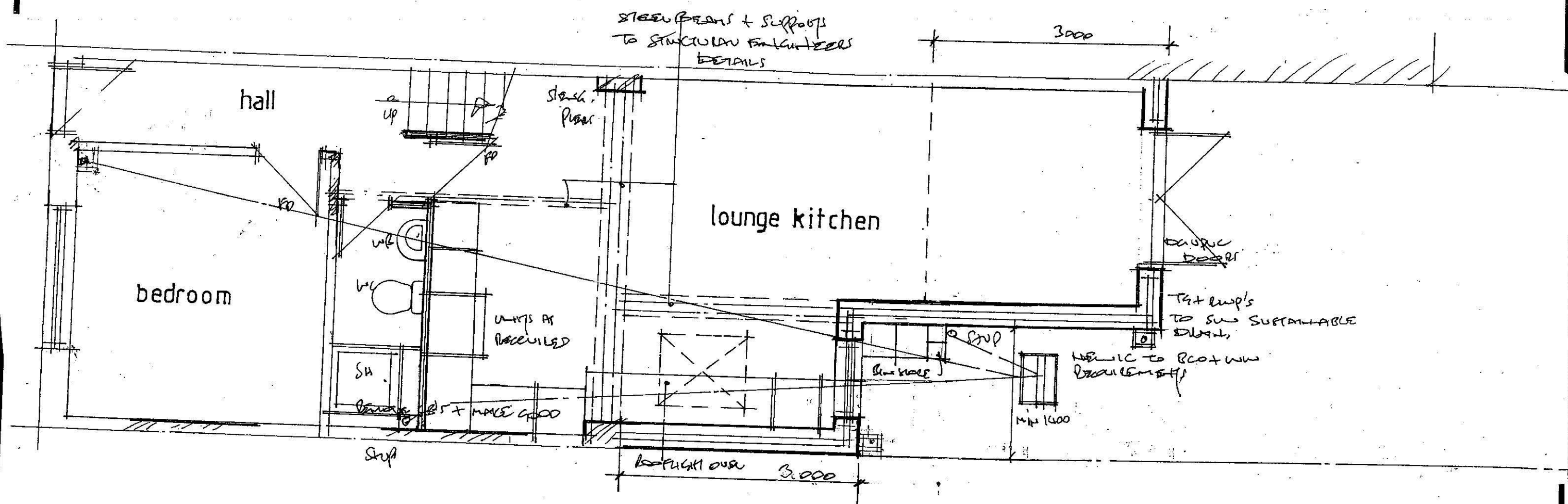
*Well-Being of Future Generations Act 2016* – Section 3 of this Act imposes a duty on public bodies to carry out sustainable development in accordance with the sustainable development principle to act in a manner which seeks to ensure that the needs of the present are met without compromising the ability 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.

#### 8.10 Conclusion

It is concluded that the application is contrary to the planning policies listed, and is recommended that planning permission be refused.







GROUND FLOOR PROPOSED 1:50 at A3

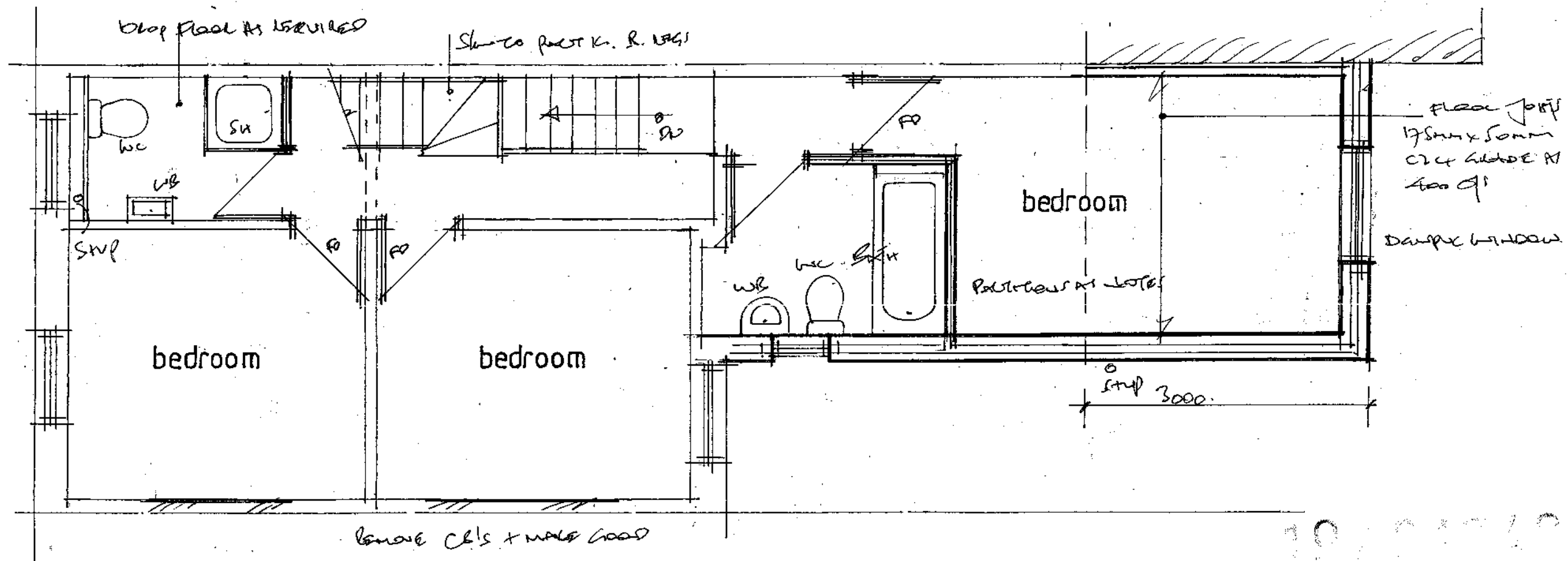
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 CARDIFF CF11 9HA  
 TEL 029 2035 0365



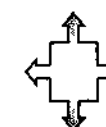
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71	10/10/19	9/19	

**DEVELOPMENT AT**  
**20 MAY STREET**  
**CARDIFF**

DATE MAY 2019 PLAN NO. CEX2/3



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

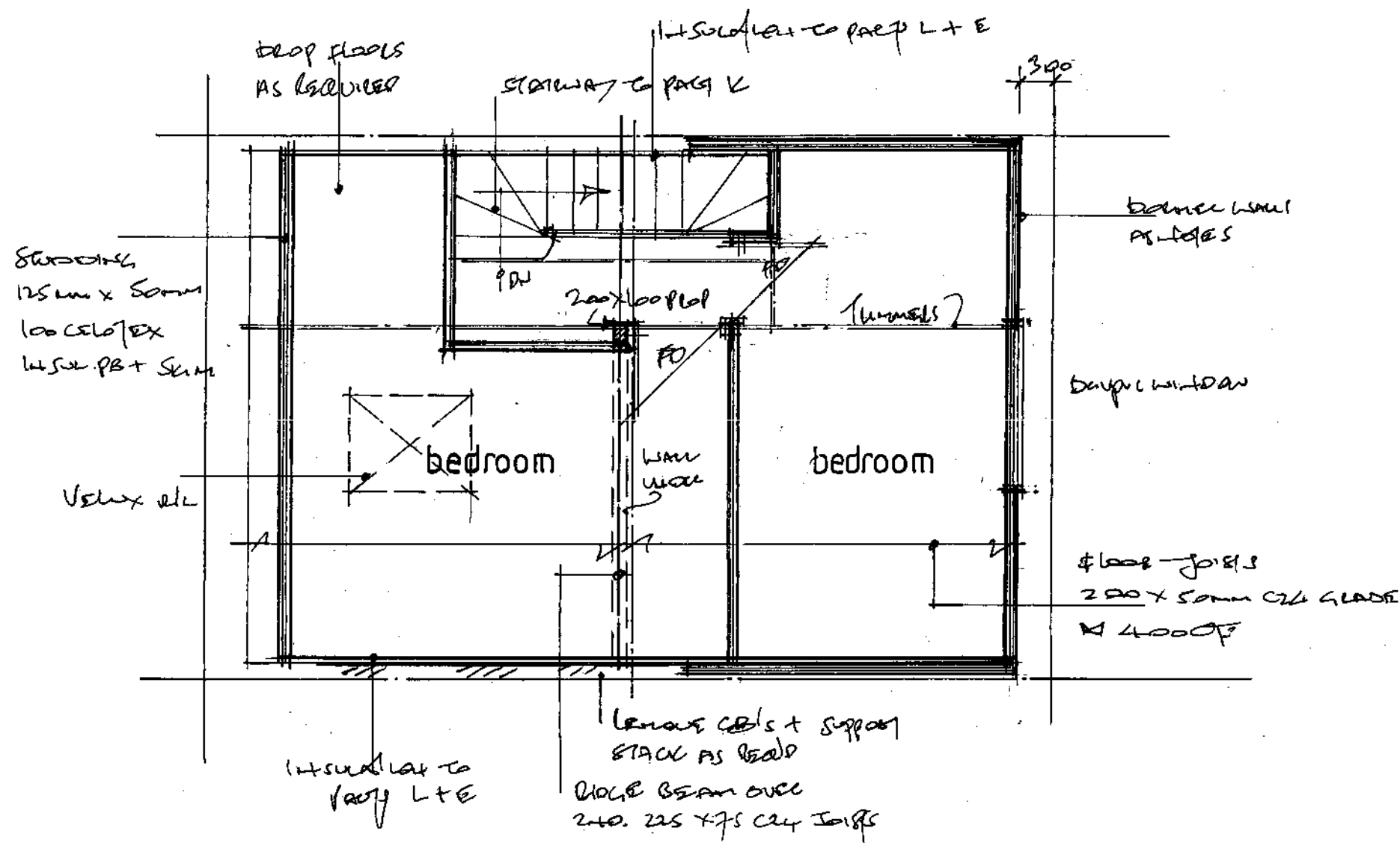


REVISIONS	DATE	REVISIONS	DATE

<b>DEVELOPMENT AT</b> <b>20 MAY STREET</b> <b>CARDIFF</b>	
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DATE MAY 2019 PLAN NO. CEX2/4

**FIRST FLOOR PROPOSED 1:50 at A3**



SECOND FLOOR PROPOSED 1:50 at A3

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

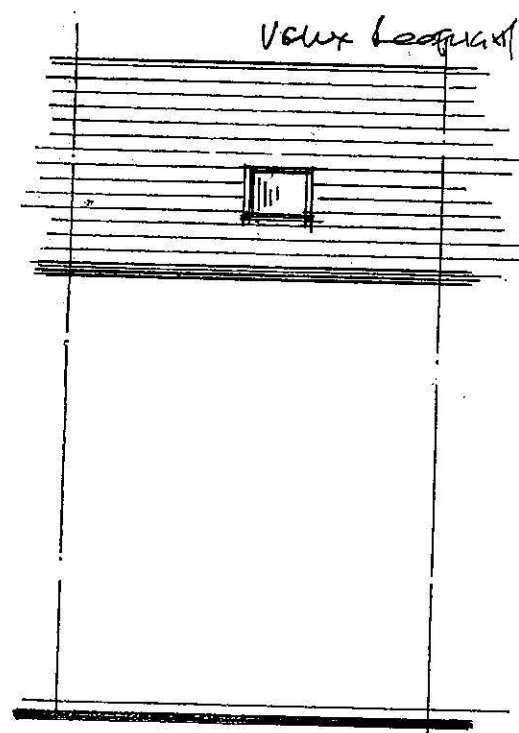
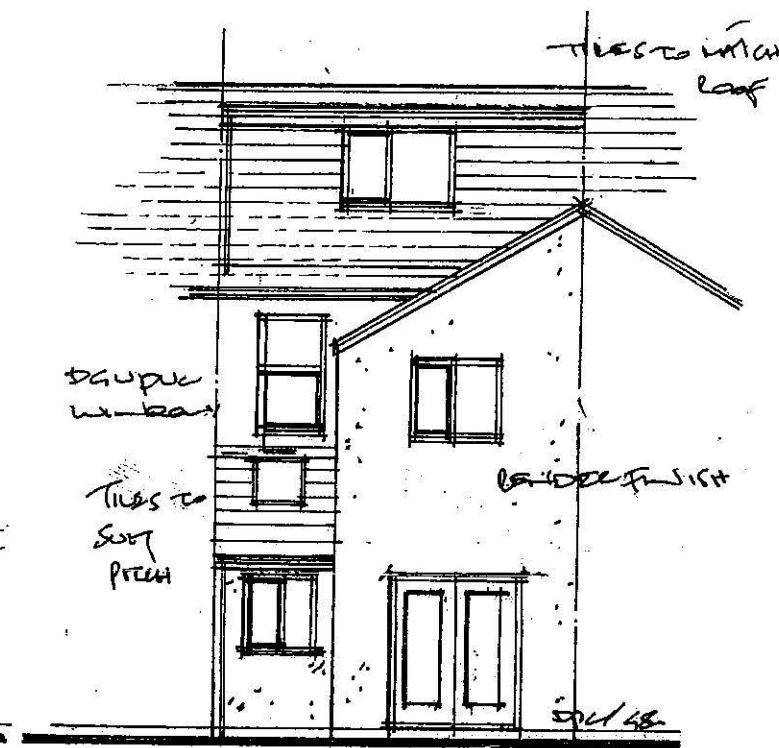
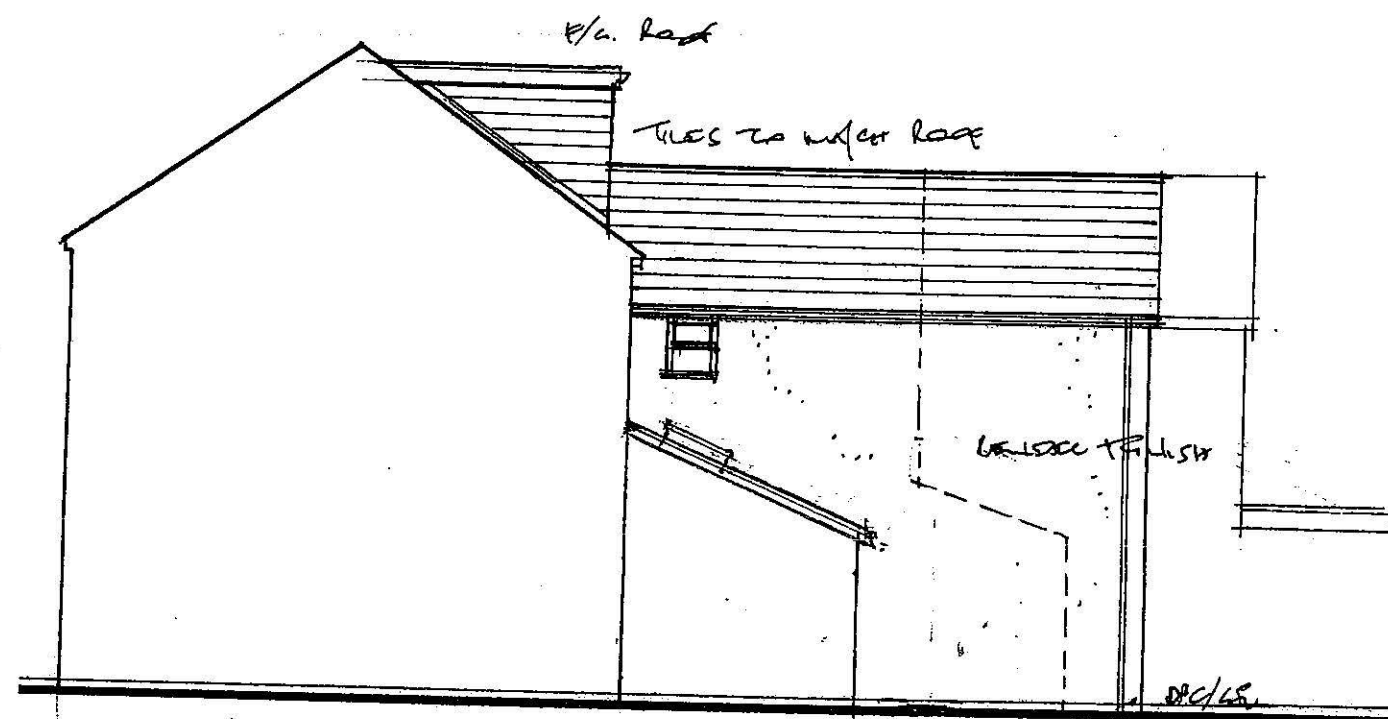


REVISIONS	DATE	REVISIONS	DATE

**DEVELOPMENT AT**  
**20 MAY STREET**  
**CARDIFF**

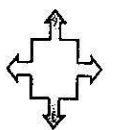
DATE MAY 2019 PLAN NO. CEX2/5





# DTB DESIGN

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



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7/1	15/01/19		

DEVELOPMENT AT  
20 MAY STREET  
CARDIFF

DATE MAY 2019 PLAN NO. CEX2/6/a

FRONT, REAR & SIDE ELEVATIONS PROPOSED 1:100 at A3