# LOCAL MEMBER OBJECTION

COMMITTEE DATE: 27/01/2021

APPLICATION No. 20/01785/MNR APPLICATION DATE: 05/10/2020

ED: **FAIRWATER** 

APP: TYPE: Full Planning Permission

APPLICANT: Mr Leahy

LOCATION: 184 BWLCH ROAD, FAIRWATER, CARDIFF, CF5 3EF PROPOSAL: CHANGE OF USE FROM RESIDENTIAL DWELLING TO

HOUSE IN MULTIPLE OCCUPATION, EXTERNAL

ALTERATIONS AND INCREASE IN HEIGHT OF BOUNDARY

**ENCLOSURE** 

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**RECOMMENDATION 1**: That planning permission be **GRANTED** subject to the following conditions:

- 1. C01 Statutory Time Limit
- 2. The development shall be carried in accordance with the following approved plans:
  - PL 02 Revision C
  - PL 03 Revision A
  - PL 04 Revision 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.

3. Prior to the beneficial use of the property as a C4 HMO 6 undercover and secured cycle parking spaces, as indicated on drawing number PL 03 Revision A shall be provided within the curtilage of the property and shall thereafter be retained and maintained for as long as the use hereby permitted remains in existence.

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 C4 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 for as long as the use hereby permitted remains in existence.

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.

**RECOMMENDATION 2** The applicant be advised that the property may now be licensable under Part 2 of the Housing Act 2004 and in this respect they should contact Shared Regulatory Services on 0300 123 6696 to confirm if a license is required.

#### 1. DESCRIPTION OF PROPOSED DEVELOPMENT

- 1.1 This application seeks planning permission to change the use of the property from a C3 residential dwelling to a 6 bedroom C4 HMO. The submitted drawings/details provide information regarding the principal matters for consideration as set out in the relevant Supplementary Planning Guidance. Since the application was originally submitted the description has been changed to incorporate alterations to the boundary enclosure fronting onto Fairways Crescent by the addition of a 600mm timber fence, external changes to the extension previously approved and a reconfigured internal layout.
- 1.2 Internally the property accommodates three bedrooms, a kitchen/dining room, a shower room, a toilet and lounge on the ground floor and three bedrooms and a bathroom on the first floor.
- 1.3 Externally a private rear amenity space of approximately 60 square metres is provided.

#### 2. **DESCRIPTION OF SITE**

2.1 The site comprises a semi-detached dwelling located on the corner of Bwlch Road and Fairways Crescent within the Fairwater Ward of Cardiff. The lawful use of the property is a C3 residential dwelling and the area consists mainly of semi-detached properties which fall into Use Class C3 Residential.

### 3. **SITE HISTORY**

20/01354DCH - Planning permission granted on 12<sup>th</sup> August 2020 to erect a single storey side and rear extension. This planning permission has been implemented.

# 4. **POLICY FRAMEWORK**

- 4.1 The site lies within a residential area as defined by the proposals map of the Cardiff Local Development Plan 2016.
- 4.2 Relevant National Planning Guidance:

Planning Policy Wales (Edition 10, 2018) Planning Policy Wales TAN 12: Design Planning Policy Wales TAN 21: Waste

# 4.3 Relevant Cardiff Local Development Plan Policies:

Policy KP5: Good Quality and Sustainable Design

Policy KP8: Sustainable Transport

Policy KP13: Responding to Evidenced Social Needs

Policy H5: Sub-Division or Conversion of Residential Properties

Policy T5: Managing Transport Impacts

Policy W2: Provision for Waste Management Facilities in Development

#### 4.5 Relevant Supplementary Planning Guidance:

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

#### 5. **INTERNAL CONSULTEE RESPONSES**

5.1 Waste Management have been consulted and have advised the following.

An increase in the number of habitable rooms will lead to an increase in the production of waste.

The proposed area for the storage of waste and recycling in the rear garden has been noted and is acceptable.

A larger bin and additional food caddies can be obtained by contacting C2C on 029 20872087 depending on the number of permanent residents at the property.

Refuse storage, once implemented, must be retained for future use.

- 5.2 Traffic and Transportation have been consulted and have advised that a maximum of 1 car parking space is required for the conversion of the property to a C4 HMO and that no more car parking spaces are required. They also advise that 1 undercover and secure cycle parking space is required per bedroom.
- 5.3 Housing Enforcement have advised the following:

I have noted that the ground floor rear left hand side bedroom is an inner room to the kitchen. They will need to ensure that there is a suitable escape window fitted to this room and that the occupant is able to escape to a place of safety. The room will need to be fitted with an FD30 fire door (this would include intumescent strips with no smoke seals and a suitable self-closing device that enables the door to be closed fully to the latch, (standard Perko type chain closers are not permitted).

They also need to be aware of the kitchen amenity requirements for 6 occupants, which is 2 full size sinks (with drainers) or one full size sink (with a drainer) and a dishwasher; they will also need to ensure two full size

cookers (8 hob rings, 2 ovens and 2 grills), or one full size cooker, plus a convector microwave with a capacity of not less than 1.1 ft<sup>3</sup>.

#### 6. **EXTERNAL CONSULTEE RESPONSES**

- 6.1 South Wales Police have been consulted and do not object to this application.
- 6.2 Dwr Cymru/Welsh Water were contacted following concerns raised during the consultation process and advised the following:

I can advise that the foul flows from a 6 bedroom HMO will be minimal – having checked our records I cannot see any existing issues of hydraulic capacity on the network also.

Based on the above we have no objections to this application.

# 7. **REPRESENTATIONS**

7.1 Neighbours have been consulted. Objections have been received from the following addresses:

2, 76, 92, 108, 118, 119, 124, 126, 132, 142, 160, 168, 172, 178, 182, 183, 189, 199, 217, 219, 221, 223, 225, 227 Bwlch Road

1, 2, 3, 4, 5, 6, 7, 8, 14, 15A, 17, 20, 22, 23, 24, 32, 33, 35, 37, 39, 40, 41, 47, 49 Fairways Crescent

32, 59, 66, 68 Wellwright Road

53 Everswell Road

29 Gorse Place

44 Glan Ely Close

7 Oakway

13 Cartwright Lane

8 Maple Road

5 Birch Walk

35 Victoria Park Road West

A summary of the objections is as follows:

- High turnover of tenants and uncertainty over the type of tenants who will reside there i.e. convicted felons or students;
- Potential noise and anti-social behaviour from future occupiers;
- Parking issues and potential dangers as the property is on a corner and there is a bus stop outside it;
- The area is predominantly a family area and is not suitable for this type of accommodation;
- Loss of community cohesion;
- There is a school within close proximity therefore it would not be in the public interest to have a HMO here due to the types of occupants it would attract:
- Potential to convert the living space into more bedrooms;
- Issues with refuse storage and management;
- Loss of privacy from users of the garden;

- Impact on property prices;
- Concerns the change of use will have on the sewerage system;
- Exploitation of vulnerable people who will be housed there;
- If this application is approved it will lead to more properties being turned into HMO's;
- Loss of privacy to properties on Bwlch Road from being overlooked by the bedrooms within the property;
- Health and Safety issues and overcrowding:
- Lack of en-suite facilities for occupants;
- As there are currently no HMO's within the vicinity there is clearly no demand for one;
- Potential fire alarm issues with 6 people using the kitchen;
- Failure to comply with the plans submitted for the ground floor extension only recently approved and not completed;
- Possible encroachment onto the neighbouring property with respect to the extension;
- Work had already started on the conversion;
- Noise being transferred from the HMO to the neighbouring residential property;
- No indication as to whether the property will be managed/warden controlled 24/7;
- Potential issues due to the current Covid-19 pandemic with 6 different people living at the property.
- 7.2 Since the application was originally submitted the description of the development was changed and amended plans were submitted. In response to the additional consultations further objections were received from the following addresses:

142, 172, 178, 182, 199, 211, 221, 225 Bwlch Road, 2, 4, 6, 11, 20, 23, 26, 32 Fairways Crescent 13 Cartwright Lane

They object for the following reasons:

- Impact on street parking by only providing 1 car parking space;
- Highway safety issues by virtue or vehicles parking outside the property at the bus stop;
- The area is family orientated and the proposal will lead to a change to a student area;
- Devaluing property prices within the area;
- Upkeep of the property;
- Additional noise and anti-social behaviour;
- Issues with waste:
- The layout is not ideal and would not be large enough for the number of residents proposed;
- Work has already been carried out to the property;
- The alterations to the boundary enclosure does not address residents concerns.

7.3 Local Councillor Ford also objects to the application and has advised the following:

I object on the grounds of the above application on multi-occupation which could be up to 12 people living in the property.

All the houses in the area are 3 Bedroom family houses.

Overlooked at residents property and problems with anti-social behaviour.

Noise effect neighbours properties because of walls of different bedrooms and kitchen and living room areas.

Problems with parking near a bus stop which is very dangerous.

I thank you for your attention to this matter.

# 8. ANALYSIS

- 8.1 This application seeks planning permission to change the use of the property from a C3 residential dwelling into a 6 bedroom C4 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 together with the external changes to the extension and the alterations to the boundary enclosure.
- 8.2 **Policy Considerations -** In respect of the conversion of the property to a C4 HMO Policy H5 of the adopted LDP is considered relevant. Further guidance can also be found in the adopted HMO SPG
- 8.3 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 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 Fairwater Ward of Cardiff a 10% threshold limit will be relevant and having undertaken such

checks within 50m of the application site it was found that there were no registered HMO's within the vicinity which equates to 0%. This is below the 10% limit which would trigger the active consideration of negative cumulative impact consequences.

- 8.5 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.
- 8.6 **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.

Details of waste provision have been submitted as part of this application. Waste Management have confirmed that the submitted details are acceptable. Condition 4 has been imposed to ensure the bin storage area is provided and retained.

8.7 **Transportation** - The creation of a HMO in this sustainable location is considered to fundamentally accord with the principles of sustainable design, locating places to live within walking distance of local amenities, public transport links and places of work. It would therefore intrinsically accord with the principles of sustainable transport and the promotion of a 50/50 modal split, as promoted by Policy KP8, as occupiers would not be reliant upon the private car as a mode of transport. The creation of bicycle parking spaces for occupiers of dwellings is considered an essential element in promoting sustainability and achieving the modal split.

The Managing Transport Impacts (Incorporating Parking Standards) (2018) SPG identifies that a C4 HMO would be required to provide 1 under cover and secure cycle parking space per bedroom. Details have been submitted which indicate that the proposed development would be provided with the

required ratio of cycle parking of 1 space per bedroom which are to be provided within a covered shelter situated within the rear garden. These details are considered acceptable and condition 3 has been imposed to ensure such facilities are provided and retained.

In respect of car parking the Managing Transport Impacts (Incorporating Parking Standards) (2018) SPG identifies that a C4 HMO in this location should have a maximum of one off street car parking space to be policy compliant. The application identifies that one car parking space will be provided within the rear garden which is considered acceptable and in accordance with the aims and objectives of both the LDP and SPG.

It is also noted that concern has been raised with respect to future residents parking either on the bus stop directly to the side of the property on Fairways Crescent or close to the junction of Bwlch Road and Fairways Crescent causing a danger to other road users. Whilst this concern is noted it is beyond the remit of planning to control where users of the highway park their vehicles. In addition to this Rule 243 of The Highway Code indicates that you should not park at or near a bus or tram stop or taxi rank or opposite or within 10 metres (32 feet) of a junction. If such an offense occurs then this should be reported to either the police or to the Council's Civil Parking Section.

8.8 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 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 a private rear amenity space of approximately 60 square metres will be available for occupiers to use (in addition to provision for bin, cycle storage facilities and the car parking space). As the minimum amenity space requirement as specified in the HMO SPG is 25 square metres the proposal is therefore considered acceptable when considered against the HMO SPG.

8.9 **Alterations to Extension** – during the processing of this application the issue of the extension was raised as it has not been completed as per the previously approved plans. The deviances have now been incorporated into this planning application. The deviances relate to the omission of a window

in the side elevation, the substitution of a door and window in the rear elevation with a pair of sliding doors and the reconfiguration of the ground floor layout. These deviances do not raise any issues of concern for the Council and could have been undertaken using Permitted Development rights once the extension was completed. They are therefore considered acceptable.

It was also raised that the extension may have encroached on to the neighbouring land. The applicant has confirmed the builder left the external skin of the flat roof extension that was already constructed in-situ to avoid any disruption to the neighbour with regards to access to their property in order to construct the new outer skin of the cavity wall or to cause further disruption to them by excavating new trenches for new foundations. The owner has also confirmed that the extension has a closed eaves detail with no overhanging fascia or overhanging rain water goods and all rainwater will be disposed of within the application site.

- 8.10 Alterations to means of enclosure It is not considered that the alterations to the means of enclosure by the addition of a timber fence results in a poor design or impacts upon the street scene and is considered acceptable.
- 8.11 **Housing Enforcement Comments** These are noted however the facilities required to be provided do not come under planning legislation and would be a matter for Housing Enforcement if a license is required. In this respect Recommendation 2 has been attached to bring this to the applicant's attention.
- 8.11 In respect of the objections which are not covered above the following should be noted:
  - High turnover of tenants and uncertainty over the type of tenants who will reside at the property is not a material planning consideration;
  - Potential noise and anti-social behaviour from future occupiers would be a matter for either the Police or the Noise Pollution Section of Shared Regulatory Services;
  - The future occupants personal circumstances and the close proximity of a school is not something that can be covered under planning legislation;
  - The current application seeks permission to convert the property into a 6 bedroom C4 HMO. If more than 6 occupants reside at the property this would fall into a different use class and would therefore require a further planning application;
  - Issues with refuse storage and the associated management of it would be a matter for Waste Management to deal with if such issues arise;
  - It is not considered that the proposal will result in any loss of privacy as a result of users of the rear garden and the status quo of the rear garden remains unchanged;
  - Impact on property prices is not a planning matter;

- The concerns with respect to the exploitation of vulnerable people who will be housed there is not something that can be covered under planning legislation;
- The properties opposite on Bwlch Road are approximately 31m away when measured window to window and it is not considered that by having additional bedrooms on the ground floor would lead to any privacy issues. It should also be noted that there are presently 2 bedrooms on the first floor of the application site facing the properties opposite and this has not previously raised any concerns with respect to privacy.
- Health and Safety issues and overcrowding are not a matter that would be covered under planning legislation but the Health and Safety Executive and the Licensing Section of Shared Regulatory Services;
- Lack of en-suite facilities for occupants this is not a planning matter;
- Potential fire alarm issues with 6 people using the kitchen this is not a planning matter;
- Work had already started on the conversion. This has been noted but is not a reason to refuse to grant planning permission;
- Noise insulation measures would be covered under Building Regulations or if a statutory noise nuisance is witnessed the Pollution Control Section of Shared Regulatory Services can take action;
- Issues as to whether the property will be managed/warden controlled 24/7 is not a planning matter;
- Potential issues due to the current Covid-19 pandemic is not something that can be covered under planning legislation.

#### 9. **CONCLUSION**

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 the proposal complies with both local and national planning policy and the SPG on HMO's.

#### 10. OTHER CONSIDERATIONS

- 10.1 Crime and Disorder Act 1998 Section 17(1) of the Crime and Disorder Act 1998 imposes 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 toprevent, 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. South Wales Police have also confirmed they do not object to the proposal.
- 10.2 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.
- 10.3 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.

### 11. **RECOMMENDATION**

11.1 Having taken all of the relevant factors into consideration there are no grounds to justify a refusal of this application and it is therefore recommended that planning permission be granted, subject to conditions.



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SITE LOCATION PLAN 1:1250 @ A3

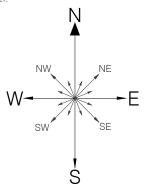


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REV: DESCRIPTION:

PLANNING SUBMISSION



T: Mr J LEAHY 184 BWLCH ROAD FAIRWATER, CARDIFF

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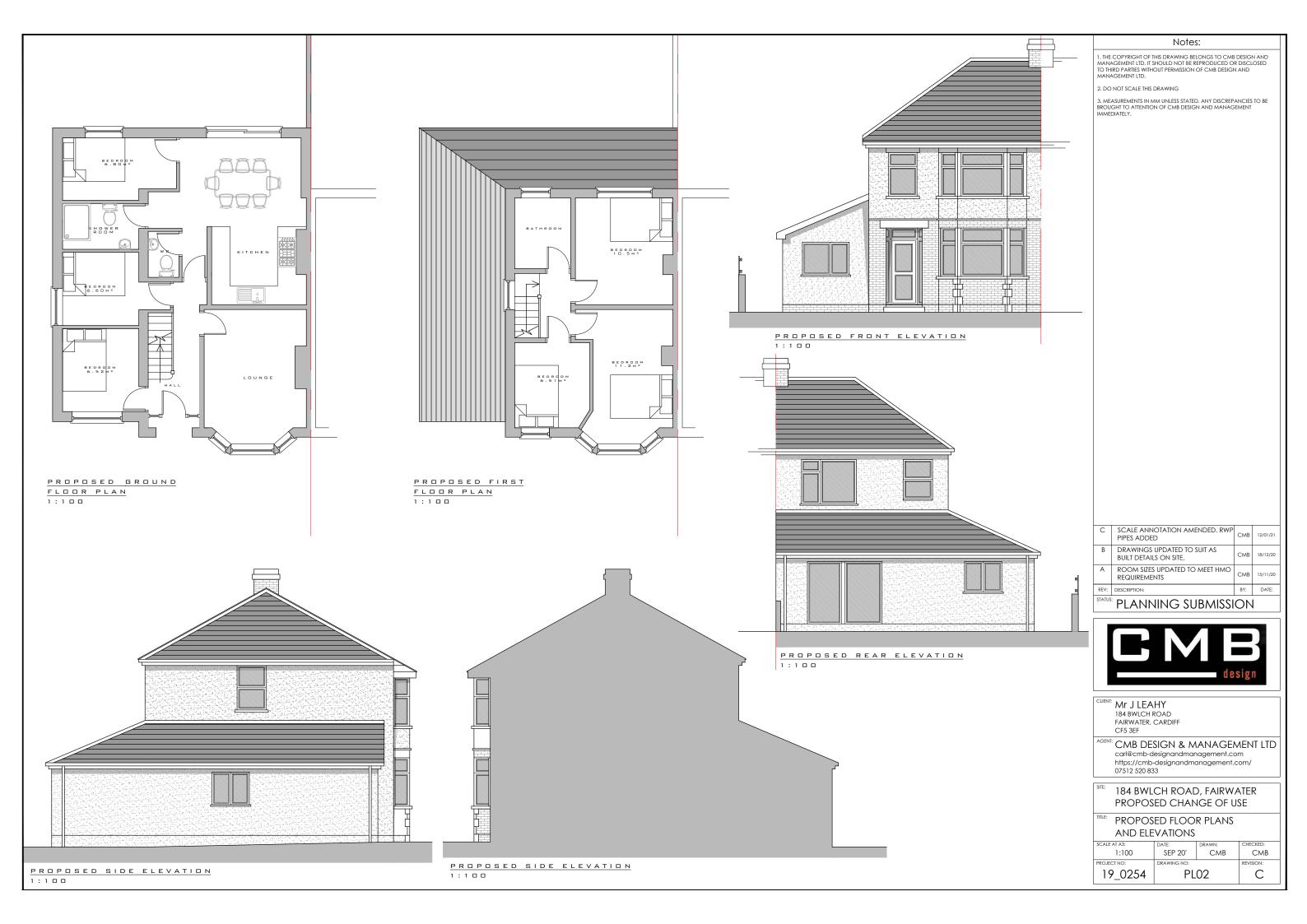
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184 BWLCH ROAD, FAIRWATER PROPOSED CHANGE OF USE

SITE LOCATION PLAN & PROPOSED BLOCK PLAN

AS INDICATED SEP 20' CMB CMB19\_0254 OS01





# EXISTING BRICK / BLOCK BOUNDARY WALL TO BE RENDER FINISH SPACE FOR TINO, VEHICLE PARKING TO IN LINE WITH HIMO STANDARDS. PROPOSED STREET ELEVATION

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PLANNING SUBMISSION



CLIENT: Mr J LEAHY
184 BWLCH ROAD
FAIRWATER, CARDIFF

AGENT: CMB DESIGN & MANAGEMENT LTD carl@cmb-designandmanagement.com https://cmb-designandmanagement.com/ 07512 520 833

184 BWLCH ROAD, FAIRWATER PROPOSED CHANGE OF USE

PROPOSED STREET ELEVATION

BOUNDARY TREATMENTS

SCALE AT A3:	DATE:	DRAWN:	CHECKED:		
AS INDICATED	NOV 20'	СМВ	СМВ		
PROJECT NO:	DRAWING NO:		REVISION:		
19_0254	PL04		Α		

