

PLANNING APPLICATION NUMBER: P21/1010

Type of approval sought	Full Planning Permission
Ward	Kingswinford South Ward
Agent	Mr J. Jowitt
Case Officer	Stephanie Hollands
Location:	52, MOUNT PLEASANT, KINGSWINFORD, DY6 9SE.
Proposal	TWO STOREY SIDE/REAR EXTENSIONS, SINGLE STOREY REAR EXTENSION AND SINGLE STOREY SIDE EXTENSION TO CREATE GARAGE (RETROSPECTIVE).
Recommendation Summary:	REFUSE AND ENFORCE

SITE AND SURROUNDINGS

1. The subject of this application is 52 Mount Pleasant, it is recorded on the Council's Historic Environment Record (HER) as HER No.7517 and it is on the Council's 'Local List'. It is a detached, double-fronted, 19th century brick cottage with its original principal front elevation facing into the plot and its side, gable end, facing the main Mount Pleasant Road. It is one of the earliest buildings surviving within this Street, the majority of the dwelling houses located within Mount Pleasant having been erected post World War 2. In 2019 an application was submitted to the local planning authority (P19/1040) for the erection of an extension to the property. The application was approved subject to a number of conditions.
2. The application site is located within the Historic Township of Wordsley (HER 12307) and it falls within the A491 Corridor, which is one of 8 major Character areas identified in the Borough-wide UHLC, a key evidence base for the Dudley Borough Development Strategy.

3. The application site is located within an established residential area where a variety of property types are present. The application site has a very large rear garden.
4. No. 50 Mount Pleasant is a detached dwelling located to the east of the application site and is set further back from the front elevation of the application property.
5. No. 60 Mount Pleasant is also a detached dwelling located to the west of the application site with a forward projecting garage, but set further back from the front elevation of the application property. This property also has a side facing kitchen window.
6. Located to the rear of the application site is the side elevation of No. 61 Kingsley Road.

PROPOSAL

7. This application seeks retrospective consent for the erection of two-storey side/rear extensions, single storey rear extension and single storey side extension to create a garage.
8. Other changes also include the formation of a new vehicular entrance off Mount Pleasant and the change of use of the existing front lawned garden into hard standing parking area.
9. The application is supported by a Heritage Impact Assessment (January 2021).

HISTORY

10.

APPLICATION	PROPOSAL	DECISION	DATE
P20/1913	Erection of an attached garage (retrospective).	Withdrawn	08/02/2021

P19/1040/C1	Discharge of Conditions 3, 4, 5, 6, 7, 8, 9, 10 & 11.	Approved	14/04/2020
P19/1040/A1	Non-material amendment to previously approved application P19/1040.	Approved	06/01/2020
P19/1040	Single and two storey side/rear extension (following demolition of existing bathroom and kitchen) and erection of detached garage in rear garden (following resubmission of withdrawn planning application P19/0183).	Approved with conditions	27/09/2019
P19/0182	Erection of two detached dwellings	Withdrawn	26/03/2019
P19/0183	Erection of a two storey rear/side extension (following demolition of existing kitchen and bathroom).	Withdrawn	26/03/2019

11. In 2019 an application was submitted to the local planning authority (P19/1040) for the erection of an extension to the property. The application was approved subject to a number of conditions after working closely with both Historic Environment and Highways. The approved scheme provided a detached garage at the rear of the site leaving the front lawned garden and boundary treatment (timber picket fence and hedge) in-situ with vehicular access maintained to the eastern side of the property.

12. The approved application also imposed conditions in respect of the treatment of the elevations. It is noted that in addition to erecting a garage and vehicular drive without consent, a number of other unauthorised alterations to the property have taken place which in summary are as follows:
- Unauthorised windows not in accordance with the approved details
 - Unauthorised porch on the south-facing elevation
 - Unauthorised blocking up of a door opening in the west-facing elevation
13. Despite the approved scheme being in-place, it was not implemented, and instead an alternative scheme, not in accordance with the approved plans has been erected and it is for this scheme that retrospective consent is being sought.
14. It is understood by the Local Planning Authority that the previous Applicant/builder did not build in accordance with the approved plans and upon completion sold the property. The new owner purchased the property, which was not built in accordance with the approved plans and the correct checks at the time of purchasing were not carried out. The burden is on the land and responsibility now lies with the new owner.

PUBLIC CONSULTATION

15. The application was advertised by way of neighbour notification letters being sent to the occupiers of 7 properties.
16. Eight letters of support have been received from local residents.
17. Cllr Miller has provided the following comments in support of the application:
- Supports this application.
 - This is a long running saga as the Applicant's bought the house after the alterations were made. The developer had told them everything was in order, so they bought the property as a home for themselves and the Applicant's parents whose father was seriously ill at the time so they could care for him. The gentleman has since passed away.
 - Planning regulations were ignored by a professional builder.

- The Applicants have had to go to great expense due to someone else's incompetence, they have had the trauma of dealing with this at the same time as grieving for the father.

18. Cllr Harley has provided the following comments in support of the application:

- Supports this application.
- Considers it absolutely awful what the Applicants have had to endure. Therefore, it is paramount that the application is supported.

OTHER CONSULTATION

19. Highways: Reluctant to support this application without material reasons, such as ground conditions, that prevented construction of the original proposal.

20. Historic Environment: Strongly objects to the proposals and recommends refusal.

RELEVANT PLANNING POLICY

21. National Planning Policy Framework (NPPF)

National Planning Policy Framework (NPPF, Feb 2019) – specifically Chapter 16,
Conserving and enhancing the historic environment

NPPF Planning Practice Guidance (PPG)

Historic England Good Practice Advice notes (GPAs)

- GPA 2: Managing Significance in Decision-Taking (2015)
- GPA 3: The Setting of Heritage Assets (2017)

Historic England Advice Notes (HEANs)

- HEAN 2: Making Changes to Heritage Assets (Feb 2016)
- HEAN 12: Statements of Heritage Significance (Oct 2019)
- HEAN 14: Energy Efficiency and Historic Buildings: How to Improve Energy Efficiency (June 2020).

Other Historic England Guidance

- Historic England - Traditional Windows: their care, repair and upgrading (2017)
- Historic England - Easy Access to Historic Buildings (2015)

22. Black Country Core Strategy (2011)

- CP3 – Environmental Infrastructure
- CP4 – Place Making
- ENV2 Historic Character and Local Distinctiveness
- ENV3 Design Quality

23. Dudley Borough Development Strategy (2017)

- S1 Presumption in favour of Sustainable Development
- S6 Urban Design
- L1 Housing Development, extensions and alterations to existing Dwellings
- S8 Conservation and Enhancement of Local Character and Distinctiveness
- S11 Buildings of Local Historic or Architectural Importance

24. Supplementary Planning Documents / Guidance

- PGN 12. The 45 Degree Code.
- PGN 17. House extension design guide
- Historic Environment SPD (2017)

25. Urban Historic Landscape Characterisation (UHLC)

- Black Country HLC (Aug 2007)
- Borough-wide UHLC (2017)

ASSESSMENT

26. Key issues:

- Policy/Principle

- Impact on the significance of the Heritage Assets and impact on local character and distinctiveness
- Neighbouring amenity
- Highway safety

Policy/Principle

27. Paragraph 203 of the NPPF states that the effect of an application on the significance of a non-designated heritage asset should be taken into account in determining the application. In weighing applications that affect directly or indirectly, a non-designated heritage asset, a balanced judgment will be required having regard to the scale of any harm or loss to the significance of the heritage asset.
28. The NPPF defines 'significance' of a heritage asset as: - *'The value of a heritage asset to this and future generations because of its heritage interest. That interest may be archaeological, architectural, artistic or historic. Significance derives not only from a heritage asset's physical presence but also from its setting'* (NPPF, page 71).
29. The NPPF describes setting of a heritage asset as follows: - *The surroundings in which a heritage asset is experienced. Its extent is not fixed and may change as the asset and its surrounds evolve. Elements of a setting may make a positive or negative contribution to the significance of an asset, may affect the ability to appreciate that significance or may be neutral* (NPPF, P 71).
30. Paragraph 130 (c) of the NPPF states planning decisions should ensure that developments are *'sympathetic to local character and history, including the surrounding built environment and landscape setting...'*
31. Para.197 of the NPPF states that in determining planning applications, local authorities should take account of:
 - *The desirability of sustaining and enhancing the significance of heritage assets and putting them to viable uses consistent with their conservation;*
 - *The positive contribution that conservation of heritage assets can make to sustainable communities including their economic vitality; and*

- *The desirability of new development making a positive contribution to local character and distinctiveness.*

32. *Policy ENV2 of the BCCS promotes how the historic character and an areas local distinctiveness is a key element of the transformation. 'All development should aim to protect and promote the special qualities, historic character and local distinctiveness of the Black Country in order to help maintain its cultural identify and strong sense of place. Development proposals will be required to preserve and, where appropriate, enhance local character and those aspects of the historic environment together with their settings which are recognized as being of special historic, archaeological, architectural, landscape or townscape quality'*
33. *In addition to statutorily designated and protected historic assets particular attention should be paid to the preservation and enhancements oflocally designated special landscape areas and other heritage-based site allocations*
34. *Development proposals that would potentially have an impact on any of the above distinctive elements should be supported by evidence included in Design and Access Statements which demonstrates that all aspects of the historic character and distinctiveness of the locality have been fully assessed and used to inform proposals.*
35. *Policy S8 (Conservation and Enhancement of local Character and distinctiveness) of the DBDS requires all development within the borough to take account of the locally distinctive character of the area in which they are sited and 'Physical assets which positively contribute to the local character and distinctiveness of the Borough's landscape and townscape, should be retained and, wherever possible, enhanced and their settings respected'.*
36. *Policy S11 (Buildings of Local Historic or Architectural Importance) of the DBDS requires development proposals which contain positive measures to conserve and enhance buildings on the local list. Proposals for change of use to locally listed buildings are required to demonstrate how this would contribute to its conservation whilst preserving or enhancing its architectural or historic interest and conserving and*

enhancing its significance'. This policy further states that it will resist development which will involve 'Inappropriate alteration or extension to buildings or structures on the Local List' and 'have a detrimental impact on the setting or context of buildings or structures on the Local list including development which conflicts with the intrinsic historic value of the building and its setting and local character of the wider area'.

37. The Council's Historic Environment SPD provides guidance in section 6e on how to achieve locally distinctive design by employing the Building in Context Principles, there are 8 in total with the Principle 1 being '*A successful project will start with an assessment of the value of retaining what is there*'.
38. The proposed application fails to demonstrate how it is in accordance with all of the above policies and as such it is recommended the application be recommended for refusal.

Impact on the significance of the Heritage Assets and impact on local character and distinctiveness

39. The proposal to remove the front boundary (located back of pavement) of No.52 Mount Pleasant and to replace its lawned front garden to form a vehicular entrance and tarmac drive/parking area to gain access to a new attached garage, collectively have resulted in a wholly inappropriate set of alterations to a buildings on the Council's Local List. As is clearly evident from photographs, these alterations have not only had a detrimental impact on the setting and context of 52 Mount Pleasant they have also detrimentally impacted on the local character and distinctiveness of the area. The proposal to erect an attached garage that is so physically close the neighbouring property has resulted in the property almost merging into next door, so rather than it retaining its distinctive detached appearance, it is now looks as if it is forming part of a terrace.
40. Para.203 of the NPPF states that the effect of an application on the significance of a non-designated heritage asset should be taken into account in determining the application. In weighing applications that directly or indirectly affect non-designated

heritage assets, a balanced judgement will be required having regard to the scale of any harm or loss and the significance of the heritage asset.

41. Whilst the applicant has submitted a Heritage Impact Assessment with this application, there is no additional supporting information provided by the applicant to justify why an attached garage is now proposed, particularly when one considers that there is already a double detached garage approved under the P19/1040 application! The submitted Heritage Statement, whilst providing a detailed summary of the NPPF and the Council's Policies, comes to the conclusion that the proposals contained in this application will not harm the significance of the heritage asset (No.52). Historic Environment fundamentally disagrees with this conclusion and is of the view that the proposals contained in this application will substantially harm the significance of the heritage asset.
42. Furthermore, the applicant has failed to provide 'clear and convincing' justification for the harm proposed by failing to explain how these proposals could be considered to be sustainable development and are justifiable. Whilst a covering letter has been provided by the agent acting on behalf of the applicant which sets out the personal circumstances of the applicants and what adaptations are they require due to ill health, it is not clear from the limited information provided how those needs could not have been equally met by the approved scheme. No formal statement has been provided by the applicant setting out clearly the proposed design and access of this retrospective scheme and how it can be considered to be sustainable development.
43. Whilst it is acknowledged that within the NPPF there is a presumption in favour of sustainable development it clarifies the meaning of sustainable development. Paragraph 8 of the NPPF advises that to achieve sustainable development, economic, social and environmental objectives should be pursued in mutually supportive ways.
44. The submitted scheme fails to demonstrate how it is in accordance with the NPPF as it fails to demonstrate the economic, social and environmental gains of the proposed scheme.

45. Whilst Historic Environment is very sympathetic to the personal circumstances of the applicants, Historic Environment is unable to support the proposals contained in this application and recommends the application be recommend for refusal.

Neighbouring amenity

46. The proposed development would do no significant harm to the residential amenity of the occupiers of the neighbouring properties. The development would comply with the Authority's 45 Degree Code policy guideline in relation to all of the habitable windows at the neighbouring residential dwellings, thereby ensuring that the neighbours were not adversely affected in terms of the receipt of light and the enjoyment of outlook, and would cause no other substantial harm in terms of overshadowing, overlooking, or overbearing. The proposed development would therefore comply with PGN12 and PGN17, in terms of protecting the amenity of neighbouring occupiers.
47. The ground floor side facing window in the development would be a light source to a non-habitable room, therefore there would be no loss of privacy or increased overlooking resulting from the development.
48. There is a side facing window at No. 60 which is the sole light source to the kitchen/dining room. In considering the potential impact upon the kitchen/dining room regard should be had to the proximity to the existing boundary, which currently sits at 1.2m. Subsequently, it is not considered that this window can reasonably be protected as they effectively borrow light from the application property.
49. There would be a separation distance of 28.7m between the rear elevation of the proposed extension and the rear common boundary with No. 61 Kingsley Road.

Highway safety

50. The development complies with adopted parking standards with regard to minimum dimensions both inside the garage and on the frontage of the property.

51. However, as part of the original application P19/1040, consideration was given to the need for on-street parking for the terraced properties opposite the site. It was considered beneficial at that time to minimise reversing conflict and retain the existing side access with provision of an internal arrangement that would allow entry and egress in a forward gear. Furthermore, a side door was incorporated within the utility room for direct loading / unloading of goods into the kitchen from the driveway.
52. It was recognised that this arrangement would also maintain the cottage garden frontage.
53. Highways are reluctant to support this application without material reasons, such as ground conditions, that prevented construction of the original proposal.

CONCLUSION

54. No.52 Mount Pleasant is a locally listed heritage asset that positively contributes to the local character and distinctiveness of the Kingswinford townscape. The proposal to erect an attached garage and to form a vehicular entrance drive off Mount Pleasant as proposed will harm the significance of No.52 Mount Pleasant and collectively result in an inappropriate alteration and extension to a building on the Council's Local List. The proposals conflict with the intrinsic historic value of the building and its detached setting, furthermore the proposal fail to respond adequately to the local character, distinctiveness and context of the locally listed building and to the local area and as such is considered not to be sustainable development and is therefore contrary to paragraphs 8, 197 and 203 of the NPPF and contrary to Policies CSP3, CSP4, and ENV2 of the Black Country Core Strategy and contrary to Policies S8 (Conservation and Enhancement of Local Character and Distinctiveness) and S11 (Buildings of Local Historic or Architectural Importance) of the adopted Dudley Borough Development Strategy.
55. Paragraph 8 of the NPPF advises that to achieve sustainable development, economic, social and environmental objectives should be pursued in mutually supportive ways. The applicant has failed to demonstrate the economic, social and

environmental gains of the proposed scheme, particularly in the absence of clear and convincing justification for the harm proposed to significance of the heritage asset and the negative impact this will have on the local character and distinctiveness of the area. The proposal fails to respond adequately to the local character, distinctiveness and context of the local area and as such is considered not to be sustainable development and is contrary to paragraphs 8, 192 and 197 of the NPPF and contrary to Policies CSP3, CSP4, and ENV2 of the Black Country Core Strategy and contrary to S8 (Conservation and Enhancement of Local Character and Distinctiveness) and S11 (Buildings of Local Historic or Architectural Importance) and of the adopted Dudley Borough Development Strategy.

RECOMMENDATION

56. It is recommended that the application is REFUSED and the applicant be advised that they are in breach of the conditions approved under the P19/1040 and that Enforcement Action is authorised to address this matter.

Conditions and/or reasons:

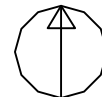
1. No.52 Mount Pleasant is a locally listed heritage asset that positively contributes to the local character and distinctiveness of the Kingswinford townscape. The proposal to erect an attached garage and to form a vehicular entrance drive off Mount Pleasant as proposed will harm the significance of No.52 Mount Pleasant and collectively result in an inappropriate alteration and extension to a building on the Council's Local List. The proposals conflict with the intrinsic historic value of the building and its detached setting, furthermore the proposal fail to respond adequately to the local character, distinctiveness and context of the locally listed building and to the local area and as such is considered not to be sustainable development and is therefore contrary to paragraphs 8, 197 and 203 of the NPPF and contrary to Policies CSP3, CSP4, and ENV2 of the Black Country Core Strategy and contrary to Policies S8 (Conservation and Enhancement of Local Character and Distinctiveness) and S11 (Buildings of Local Historic or Architectural Importance) of the adopted Dudley Borough Development Strategy.
2. The applicant has failed to demonstrate the economic, social and environmental gains of the proposed scheme, particularly in the absence of clear and convincing justification for the harm proposed to significance of the heritage asset and the negative impact this will have on the local character and distinctiveness of the area. The proposal fails to respond adequately to the local

character, distinctiveness and context of the local area and as such is considered not to be sustainable development and is contrary to paragraphs 8, 192 and 197 of the NPPF and contrary to Policies CSP3, CSP4, and ENV2 of the Black Country Core Strategy and contrary to S8 (Conservation and Enhancement of Local Character and Distinctiveness) and S11 (Buildings of Local Historic or Architectural Importance) and of the adopted Dudley Borough Development Strategy.

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Rev A 22.6.21 Correction to title block scale 1:1250

PLANNING INFORMATION ONLY

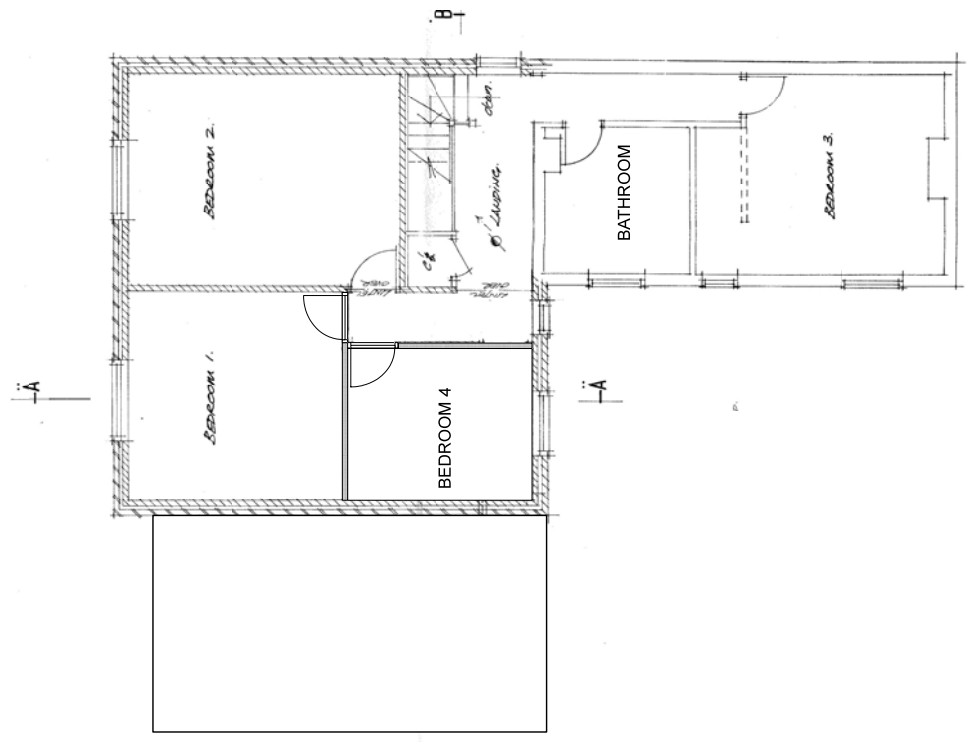
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LOCATION PLAN

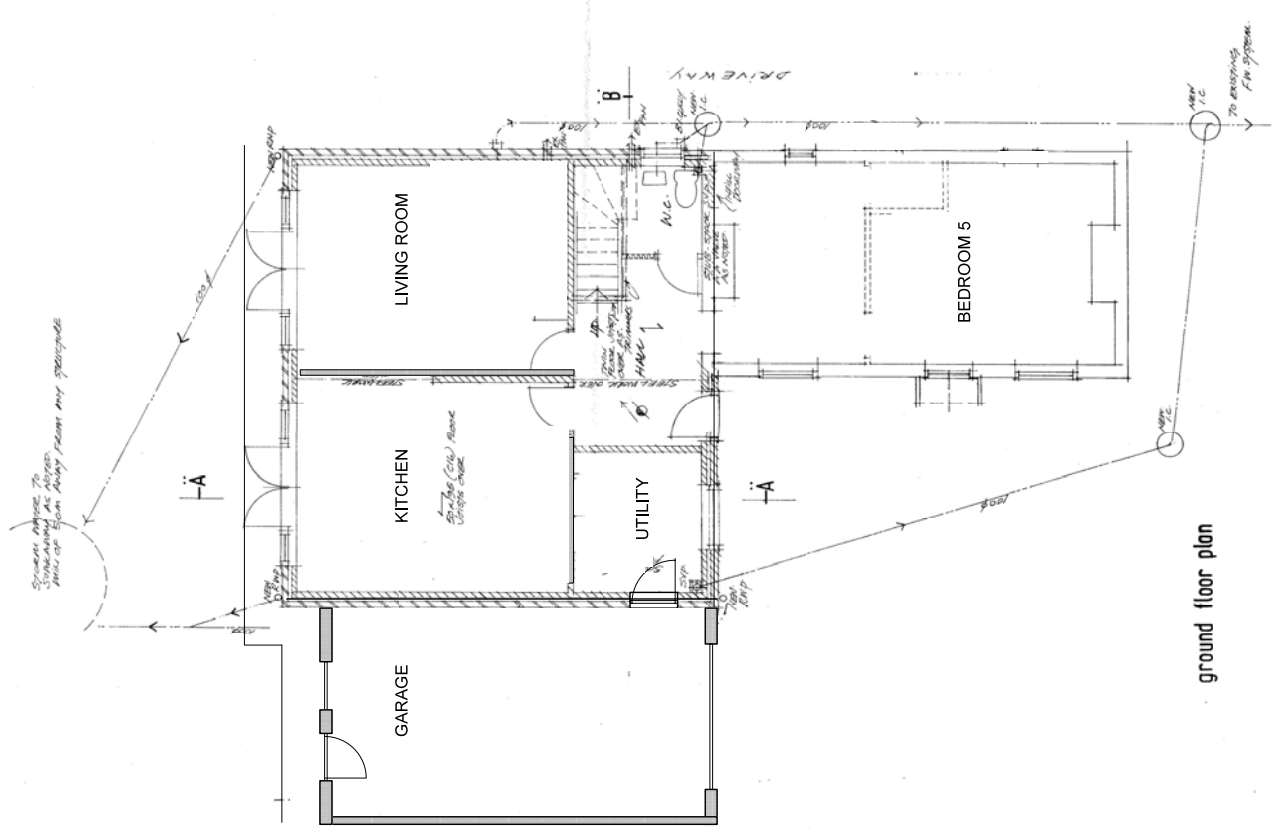
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SCALE: 1:1250
DATE: 2.5.21



AMENDMENTS TO EXTRACTS TAKEN FROM
DRAWING NUMBER - MP 267.22 DATED Nov 2019
DRAWING SUBMITTED BY AGENT INTEC DESIGN
APPLICATION P19/04/A1
Registered 23.12.19, Approved by Planning 6.1.20

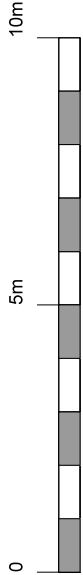


first floor plan



ground floor plan

PLANNING INFORMATION ONLY
SITE: 52 MOUNT PLEASANT, KINGSWINFORD, DY6 9SE
PLANS AS CONSTRUCTED



43.3 Proposed Window - West Elevation
Scale: 1:25

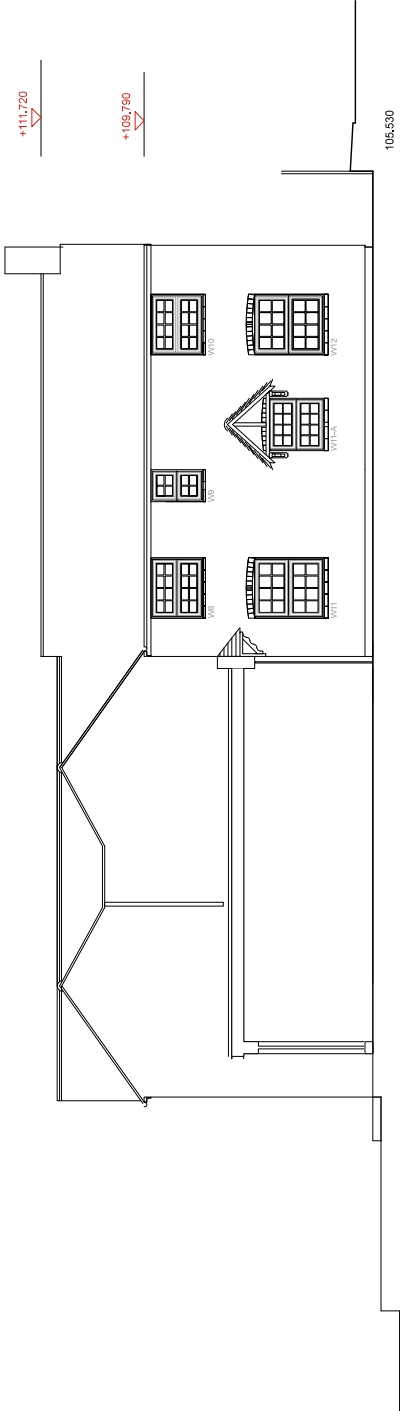


43.4 Proposed Window - North Elevation
Scale: 1:25

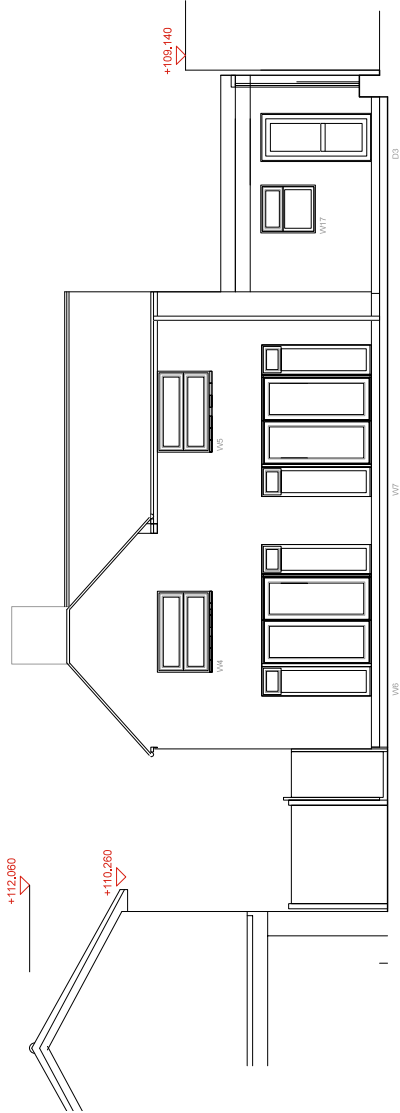
PLANNING INFORMATION ONLY

SITE:
52 MOUNT PLEASANT, KINGSWINFORD, DY6 9SE
PROPOSED ELEVATIONS AS CONSTRUCTED

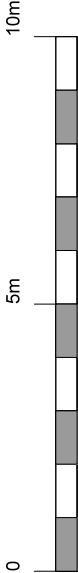
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DATE: 1.5.21



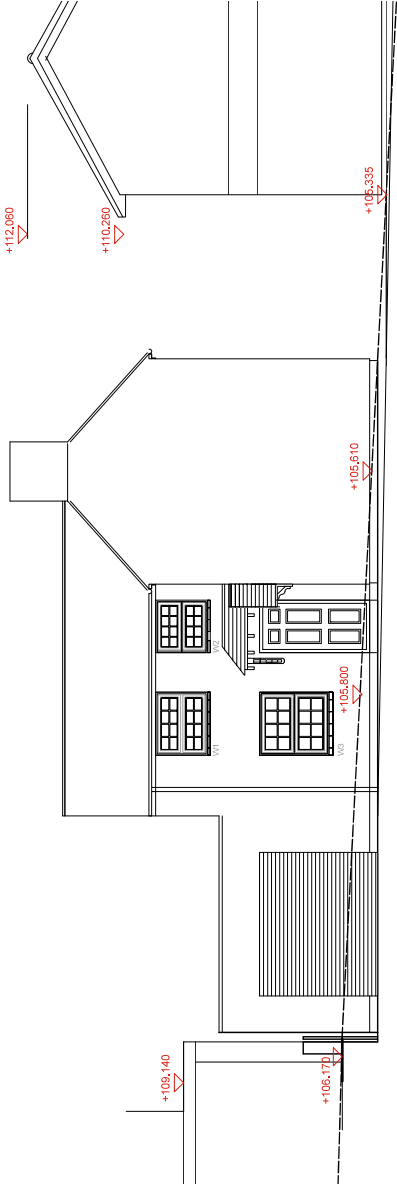
43.1 SIDE ELEVATION WEST
Scale: 1:50



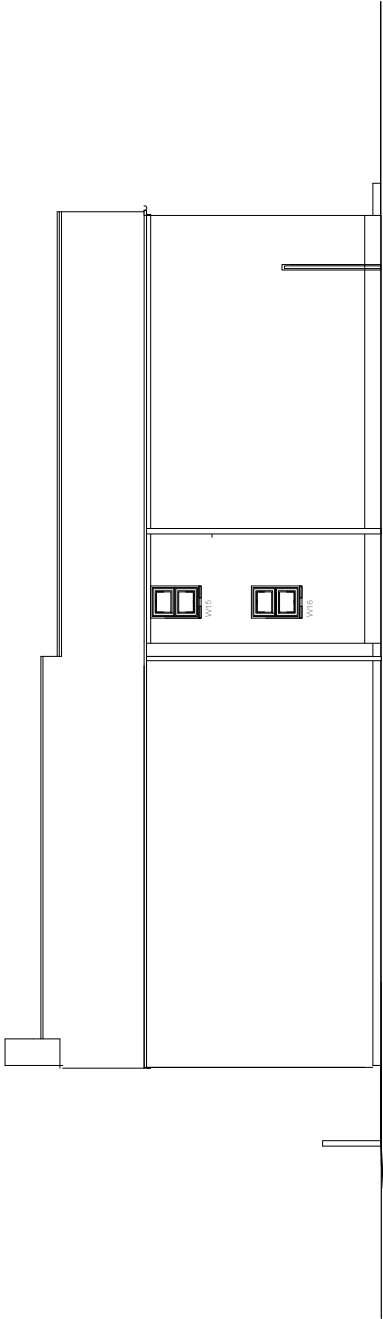
43.2 REAR ELEVATION NORTH
Scale: 1:50



42.3 Proposed Window - South Elevation
Scale: 1:25



42.1 FRONT ELEVATION SOUTH
Scale: 1:50



42.2 SIDE ELEVATION EAST
Scale: 1:50

PLANNING INFORMATION ONLY

SITE:
52 MOUNT PLEASANT, KINGSWINFORD, DY6 9SE
PROPOSED ELEVATIONS AS CONSTRUCTED

DRAWING NUMBER 5010C-AL-042
SCALE: 1:50
DATE: 1.5.21

Material considerations	Non Material considerations
Layout: does it reflect the character of the area, does it protect existing resident's amenity, does it provide sufficient amenity space, and does it protect businesses/future residents from noise/odour/dust complaints.	Market competition (competition with centres in terms of the requirement for a sequential approach to town centre development is material, but general competition with local shops or business is not).
Design and appearance: materials, scale, massing, style of development in terms of proportions, vertical or horizontal emphasis, heights. Appropriate to host building, immediate neighbours and wider street scene.	Loss of view (unless you own all the land between you and the view you have no right to it).
Landscaping: is this appropriate, sufficient, particularly if forming a screen or providing some form of mitigation	Loss of property value
Highway safety: can safe access and egress be made, is there sufficient car parking, can the site be serviced by fire engines, bin lorries, delivery vehicles.	Matters covered by other legislation
Impact on heritage assets/nature conservation; does the development have a positive, neutral or negative impact on heritage assets. Can the impact be mitigated through the provision of enhancements elsewhere?	Matters that can be adequately controlled by the imposition of a suitably worded condition.
Planning history: has a similar scheme been approved before/refused before? Is there appeal history.	The fact the application is for a retrospective development. Development without consent is not unlawful - it only becomes so once formal enforcement action is taken and the developer fails to comply.
	The fact the application is a repeat application (repeat non amended applications can in exceptional circumstance be refused to be registered but once registered they must be

	considered on their merits).
	The fact the developer/applicant has a history of non compliance with conditions/consents. Non compliance is dealt with through planning enforcement not through decision making.
	What may or may not happen as a result of the decision in the future.