

EAST RENFREWSHIRE COUNCILLOCAL REVIEW BODY3 October 2018Report by Deputy Chief ExecutiveREVIEW OF CASE - REVIEW/2018/17INSTALLATION OF BALCONY AT DORMER WINDOW AT REAR
AT 27 LYNTON AVENUE, GIFFNOCK**PURPOSE OF REPORT**

1. The purpose of the report is to present the information currently available to allow a review of the decision taken by officers, in terms of the Scheme of Delegation made in terms of Section 43A of the Town and Country Planning (Scotland) Act 1997 as amended by the Planning etc (Scotland) Act 2006 in respect of the application detailed below.

DETAILS OF APPLICATION

2. Application type: Full Planning Permission (Ref No:- 2018/0056/TP).
Applicant: Mr and Mrs Andy Fitzgerald.
Proposal: Installation of balcony at dormer window at rear.
Location: 27 Lynton Avenue, Giffnock.
Council Area/Ward: Giffnock and Thornliebank (Ward 3).

REASON FOR REQUESTING REVIEW

3. The applicants have requested a review on the grounds that the Council's Appointed Officer refused the application.

RECOMMENDATIONS

4. The Local Review Body is asked to:-
- (a) consider whether it has sufficient information to allow it to proceed to determine the review without further procedure and, if so, that:-
 - (i) it proceeds to determine whether the decision taken in respect of the application under review should be upheld, reversed or varied; and
 - (ii) in the event that the decision is reversed or varied, the reasons and the detailed conditions to be attached to the decision letter are agreed.

- (b) In the event that further procedure is required to allow it to determine the review, consider:-
 - (i) what further information is required, which parties are to be asked to provide the information and the date by which this is to be provided; and/or;
 - (ii) what procedure or combination of procedures are to be followed in determining the review.

BACKGROUND

5. At the meeting of the Council on 29 April 2009, consideration was given to a report by the Director of Environment seeking the adoption of a new Scheme of Delegation in terms of the new Section 43A of the Town and Country Planning (Scotland) Act 1997, subject to approval of the scheme by Scottish Ministers.

6. The report provided details of the new hierarchy of developments that took effect from 6 April 2009 explaining that the Scheme of Delegation related to those applications within the “local development” category as set out in the Town and Country Planning (Hierarchy of Development) (Scotland) Regulations 2009, but would in future be determined by an “appointed officer”. In the Council’s case this would be either the Director of Environment or the Head of Roads, Planning and Transportation Service now designated the Head of Environment (Strategic Services).

7. The report highlighted that historically appeals against planning decisions were dealt with by Scottish Ministers. However, following the introduction of the new planning provisions which came into effect on 3 August 2009 all appeals against decisions made in respect of local developments under delegated powers would be heard by a Local Review Body. The Local Review Body would also deal with cases where the appointed officer had failed to determine an application within two months from the date it was lodged.

NOTICE OF REVIEW – STATEMENT OF REASONS FOR REQUIRING THE REVIEW

8. The applicants in submitting the review have stated the reasons for requiring the review of the determination of their application. A copy of the applicants’ Notice of Review and Statement of Reasons is attached as Appendix 5.

9. The applicants are entitled to state a preference for the procedure (or combination of procedures) to be followed by the Local Review Body in the determination of the review and have indicated that their stated preference is a site inspection.

10. The Local Review Body is not bound to accede to the applicants’ request as to how it will determine the review and will itself decide what procedure will be used in this regard.

11. However at the meeting of the Local Review Body on 10 August 2016, it was decided that the Local Review Body would carry out unaccompanied site inspections for every review case it received prior to the cases being given initial consideration at a meeting of the Local Review Body.

12. In accordance with the above decision, the Local Review Body will carry out an unaccompanied site inspection on Wednesday, 3 October 2018 immediately before the meeting of the Local Review Body which begins at 2.30pm.

INFORMATION AVAILABLE TO ALLOW REVIEW OF APPLICATION

13. Section 43B of the Planning etc (Scotland) Act 2006 restricts the ability of parties to introduce new material at the review stage. The Local Review Body is advised that the focus of the review should, therefore, be on the material which was before the officer who dealt with the application under the Scheme of Delegation.

14. The information detailed below is appended to this report to assist the Local Review Body in carrying out the review of the decision taken by the Appointed Officer:-

- (a) Application for planning permission – Appendix 1 (Pages 7 - 12);
- (b) Copies of Objections/Representations – Appendix 2 (Pages 13 - 54);
- (c) Report of Handling by the planning officer under the Scheme of Delegation - Appendix 3 (Pages 55 - 60);
- (d) Decision notice and reasons for refusal - Appendix 4 (Pages 61 - 64); and
- (e) A copy of the applicants' Notice of Review and Statement of Reasons - Appendix 5 (Pages 65 - 72).

15. The applicant has also submitted the drawings listed below (available for inspection within the Planning Division of the Environment Department prior to the meeting and for reference at the meeting) and are attached as Appendix 6 (Pages 73 - 80).

- (a) Block Plan;
- (b) Existing Elevations;
- (c) Existing Plans;
- (d) Refused – Location Plan;
- (e) Refused – Proposed Elevations; and
- (f) Refused – Proposed Upper Floor Plans.

16. The Local Review Body is advised that initial consultation responses and representations received if any, relating to the application will be listed in the planning officer's Report of Handling.

17. All the documents referred to in this report can be viewed online on the Council's website at www.eastrenfrewshire.gov.uk with the exception of any representations that have been made to the application.

RECOMMENDATIONS

18. The Local Review Body is asked to:-

- (a) consider whether it has sufficient information to allow it to proceed to determine the review without further procedure and, if so, that:-
 - (i) it proceeds to determine whether the decisions taken in respect of the application under review should be upheld, reversed or varied; and

- (ii) in the event that the decision is reversed or varied, the reasons and the detailed conditions to be attached to the decision letter are agreed.
- (b) In the event that further procedure is required to allow it to determine the review, consider:-
 - (i) what further information is required, which parties are to be asked to provide the information and the date by which this is to be provided; and/or;
 - (ii) what procedure or combination of procedures are to be followed in determining the review.

Report Author: Paul O'Neil

Director - Caroline Innes, Deputy Chief Executive

Paul O'Neil, Committee Services Officer
e-mail: paul.o'neil@eastrenfrewshire.gov.uk
Tel: 0141 577 3011

Date:- September 2018

**APPLICATION
FOR
PLANNING PERMISSION**

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- 7 FEB 2018

HOUSEHOLDER APPLICATION FOR PLANNING PERMISSION

Town and Country Planning (SCOTLAND) ACT 1997
The Town and Country Planning (Development Management Procedure) (SCOTLAND) REGULATIONS 2013

Please refer to the accompanying Guidance Notes when completing this application
PLEASE NOTE IT IS FASTER AND SIMPLER TO SUBMIT PLANNING APPLICATIONS ELECTRONICALLY VIA <https://www.eplanning.scot>

1. Applicant's Details		2. Agent's Details (if any)	
Title	<input type="text" value="M2+M2S"/>	Ref No.	<input type="text"/>
Forename	<input type="text" value="A."/>	Forename	<input type="text" value="John A"/>
Surname	<input type="text" value="FITZGERALD"/>	Surname	<input type="text" value="HUTTEN"/>
Company Name	<input type="text"/>	Company Name	<input type="text"/>
Building No./Name	<input type="text" value="27"/>	Building No./Name	<input type="text" value="FLAT 0/1, 69"/>
Address Line 1	<input type="text" value="LYNDA AVE"/>	Address Line 1	<input type="text" value="MILLBOURNE ROAD"/>
Address Line 2	<input type="text" value="CLIFFNOCK"/>	Address Line 2	<input type="text" value="LANGSIDE"/>
Town/City	<input type="text" value="GLASGOW"/>	Town/City	<input type="text" value="GLASGOW"/>
Postcode	<input type="text"/>	Postcode	<input type="text" value="G14 2 9UT"/>
Telephone	<input type="text"/>	Telephone	<input type="text" value="07773 209204"/>
Mobile	<input type="text"/>	Mobile	<input type="text" value="-"/>
Fax	<input type="text"/>	Fax	<input type="text"/>
Email	<input type="text"/>	Email	<input type="text"/>
3. Address or Location of Proposed Development (please include postcode)			
<input style="width: 100%; height: 80px;" type="text" value="27, LYNDA AVE, CLIFFNOCK, GLASGOW"/>			
<small>NB. If you do not have a full site address please identify the location of the site(s) in your accompanying documentation.</small>			
4. Describe the Proposed Works			
Please describe accurately the work proposed:			
<input style="width: 100%; height: 60px;" type="text" value="AMENDMENT TO APPLICATION ALREADY GRANTED
SMALL BALCONY TO REAR DORMER."/>			
Have the works already been started or completed Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>			
If yes, please state date of completion, or if not completed, the start date:			
Date started:	<input type="text"/>	Date completed:	<input type="text"/>

If yes, please explain why work has already taken place in advance of making this application.

5. Pre-Application Discussion

Have you received any advice from the planning authority in relation to this proposal? Yes No

If yes, please provide details about the advice below:

In what format was the advice given? Meeting Telephone call Letter Email

Have you agreed or are you discussing a Processing Agreement with the planning authority? Yes No

Please provide a description of the advice you were given and who you received the advice from:

Name: Date: Ref No.:

PROPOSAL SEEMED GOOD TO HER.

6. Trees

Are there any trees on or adjacent to the application site? Yes No

If yes, please show on drawings any trees (including known protected trees) and their canopy spread as they relate to the proposed site and indicate if any are to be cut back or felled.

7. Changes to Vehicle Access and Parking

Are you proposing a new altered vehicle access to or from a public road? Yes No

If yes, please show in your drawings the position of any existing, altered or new access and explain the changes you propose to make. You should also show existing footpaths and note if there will be any impact on these.

Are you proposing any changes to public paths, public rights of way or affecting any public rights of access? Yes No

If yes, please show on your drawings the position of any affected areas and explain the changes you propose to make, including arrangement for continuing or alternative public access.

How many vehicle parking spaces (garaging and open parking) currently exist on the application site?

How many vehicle parking spaces (garaging and open parking) do you propose on the site? (i.e. the total of existing and any new spaces or reduced number of spaces)

Please show on your drawings the position of existing and proposed parking spaces and identify if these are for the use of particular types of vehicles (e.g. parking for disabled people, coaches, HGV vehicles, etc.

8. Planning Service Employee/Elected Member Interest

Are you / the applicant / the applicant's spouse or partner, a member of staff within the planning service or an elected member of the planning authority? Yes No

Or, are you / the applicant / the applicant's spouse or partner a close relative of a member of staff in the planning service or elected member of the planning authority? Yes No

If you have answered yes please provide details:

DECLARATION

I, the applicant / agent certify that this is an application for planning permission and that accompanying plans/drawings and additional information are provided as part of this application. I hereby confirm that the information given in this form is true and accurate to the best of my knowledge.

I, the ~~applicant~~/agent hereby certify that the attached Land Ownership Certificate has been completed

I, the ~~applicant~~/agent hereby certify that requisite notice has been given to other land owners and /or agricultural tenants Yes No N/A

Signature:



Name:

JOHN A HUSTON

Date:

5/2/18

Any personal data that you have been asked to provide on this form will be held and processed in accordance with the requirements of the 1998 Data Protection Act.

LAND OWNERSHIP CERTIFICATES

Town and Country Planning (Scotland) Act 1997
 Regulation 15 of the Town and Country Planning (Development Management Procedure) (Scotland) Regulations 2013

CERTIFICATE A, B, C, D OR CERTIFICATE E MUST BE COMPLETED BY ALL APPLICANTS

CERTIFICATE A

Certificate A is for use where the applicant is the only owner of the land to which the application relates and none of the land is agricultural land.

I hereby certify that -

- (1) No person other than myself *Mr James Fitzgerald* was owner of any part of the land to which the application relates at the beginning of the period of 21 days ending with the date of the application.
- (2) None of the land to which the application relates constitutes or forms part of agricultural land

Signed:



On behalf of:

MR JAMES A. FITZGERALD

Date:

5/2/18.

CERTIFICATE B

Certificate B is for use where the applicant is not the owner or sole owner of the land to which the application relates and/or where the land is agricultural land and where all owners/agricultural tenants have been identified.

I hereby certify that -

- (1) I have served notice on every person other than myself who, at the beginning of the period of 21 days ending with the date of the application was owner of any part of the land to which the application relates. These persons are:

Name	Address	Date of Service of Notice

- (2) None of the land to which the application relates constitutes or forms part of agricultural land

or

- (3) The land or part of the land to which the application relates constitutes or forms part of agricultural land and I have served notice on every person other than myself who, at the beginning of the period of 21 days ending with the date of the application was an agricultural tenant. These persons are:

COPIES OF OBJECTIONS/REPRESENTATIONS

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Comments for Planning Application 2018/0056/TP

Application Summary

Application Number: 2018/0056/TP

Address: 27 Lynton Avenue Giffnock East Renfrewshire G46 7JP

Proposal: Installation of balcony at dormer window at rear

Case Officer: Ms Fiona Morrison

Customer Details

Name: Mr Andrew Sweeney

Address: 40 Davieland Road, Giffnock, East Renfrewshire G46 7LU

Comment Details

Commenter Type: Rec'd NeighbourNotification from Council

Stance: Customer objects to the Planning Application

Comment Reasons:

Comment: I object to the proposed balcony. It overlooks my back garden and because of the height of the balcony there is no prospect of restoring our much valued privacy.

Andrew Sweeney

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Comments for Planning Application 2018/0056/TP

Application Summary

Application Number: 2018/0056/TP

Address: 27 Lynton Avenue Giffnock East Renfrewshire G46 7JP

Proposal: Installation of balcony at dormer window at rear

Case Officer: Ms Fiona Morrison

Customer Details

Name: Mr David Hogg

Address: 38 Norwood Drive, Giffnock, East Renfrewshire G46 7LS

Comment Details

Commenter Type: Member of Public

Stance: Customer objects to the Planning Application

Comment Reasons:

Comment: I note that work has commenced installing the balcony, however, I believe the consultation period is still ongoing (21 days from notification to neighbours dated 14th March)

Could you please confirm the status of the application and if our limited objection has been upheld.

Thank you

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Comments for Planning Application 2018/0056/TP

Application Summary

Application Number: 2018/0056/TP

Address: 27 Lynton Avenue Giffnock East Renfrewshire G46 7JP

Proposal: Installation of balcony at dormer window at rear

Case Officer: Ms Fiona Morrison

Customer Details

Name: Mr David Hogg

Address: 38 Norwood Drive, Giffnock, East Renfrewshire G46 7LS

Comment Details

Commenter Type: Rec'd Neighbour Notification from Council

Stance: Customer objects to the Planning Application

Comment Reasons:

Comment: We reside directly behind this property and directly opposite the proposed balcony from the first floor dormer window.

The developers of the property have as part of their construction process removed screening trees at the rear of their property and now this proposed balcony looks directly into our sitting room and kitchen.

Whilst we are generally satisfied with the redevelopment works to date, this proposed balcony will impose serious privacy issues for us.

Should the developer plant suitable new trees to screen the balcony then we would withdraw any objection.

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Comments for Planning Application 2018/0056/TP

Application Summary

Application Number: 2018/0056/TP

Address: 27 Lynton Avenue Giffnock East Renfrewshire G46 7JP

Proposal: Installation of balcony at dormer window at rear

Case Officer: Ms Fiona Morrison

Customer Details

Name: Mr John Egan

Address: 25 Lynton Avenue, Giffnock, East Renfrewshire G46 7JP

Comment Details

Commenter Type: Rec'd Neighbour Notification from Council

Stance: Customer objects to the Planning Application

Comment Reasons:

Comment: We would like to object on the following basis-

- 1) Structure obtrusive
- 2) Further lack of privacy
- 3) No similar balconies overlooking back gardens in surrounding area

John Egan

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Comments for Planning Application 2018/0056/TP

Application Summary

Application Number: 2018/0056/TP

Address: 27 Lynton Avenue Giffnock East Renfrewshire G46 7JP

Proposal: Installation of balcony at dormer window at rear

Case Officer: Ms Fiona Morrison

Customer Details

Name: Mr Graham Jackson

Address: 29 Lynton Avenue, Giffnock, East Renfrewshire G46 7JP

Comment Details

Commenter Type: Rec'd Neighbour Notification from Council

Stance: Customer objects to the Planning Application

Comment Reasons:

Comment: We wish to strongly object to the planning application to build a balcony on to the rear of 27 Lynton Avenue (planning application 2018/0056/TP). The house is currently being rebuilt, and this has included making large patio-door style windows on the upper floor overlooking our back garden. Extending this out further by making a balcony means it is overlooking our back garden to an extent which is obtrusive and leading to a lack of privacy. This is not acceptable.

We are very pleased to live in a Conservation Area which we feel means such developments would not be allowed. To the best of our knowledge there are no similar balconies in this area.

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Comments for Planning Application 2018/0056/TP

Application Summary

Application Number: 2018/0056/TP

Address: 27 Lynton Avenue Giffnock East Renfrewshire G46 7JP

Proposal: Installation of balcony at dormer window at rear

Case Officer: Ms Fiona Morrison

Customer Details

Name: Mr Graham Jackson

Address: 29 Lynton Avenue, Giffnock, East Renfrewshire G46 7JP

Comment Details

Commenter Type: Rec'd Neighbour Notification from Council

Stance: Customer objects to the Planning Application

Comment Reasons:

Comment: We are now annoyed and disappointed that the balcony was erected on around 13th June before any decision on planning was made. It is now very apparent how much of our garden is overlooked by anyone sitting on this balcony, and therefore our previous objection still stands.

Since this was erected before planning permission was granted (and therefore whether it is or not granted) we assume this has been done illegally and wonder what happens next.

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O'Neil, Paul [CE]

From: SWEENEY ANDREW [REDACTED]
Sent: 25 August 2018 09:32
To: O'Neil, Paul [CE]
Subject: REVIEW/2018/17
Attachments: Planning Application.docx

Dear Mr O'Neil

Please find attached further representation from my wife and I on this matter.

Yours sincerely,

Andrew Sweeney

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40 Davieland Rd

Giffnock

G46 7LU

25 August 18

Dear Mr O'Neil,

REF: REVIEW/2018/17, 27 Lynton Avenue, Giffnock, East Renfrewshire

Our comments in our original objection still stand.

Ironically, the fact that, with disregard to the status of planning application (Ref No: 2018/0056/TP), the initiative moved from a proposal to an actual construction has facilitated a more informed judgement on the matter.

The balcony offers, from a close distance (approximately the same length of our garden again), a completely unrestricted view of our rear garden and the whole rear elevation of our property.

For approximately 25 years, we have enjoyed the benefits of relative privacy for our children, and now our grandchildren, to play and recreate in this area and, obviously, we find the erosion of that privacy unacceptable.

Yours sincerely,

Andrew and Berni Sweeney

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O'Neil, Paul [CE]

From: [REDACTED]
Sent: 23 August 2018 13:21
To: O'Neil, Paul [CE]
Subject: REVIEW/2018/17
Attachments: REVIEW 2018 17.docx

Dear Mr O'Neil,

Further to your letter of 22nd August and our conversation today I attach a further representation from ourselves re the planning application for a balcony at the rear of 27 Lynton Avenue, including some photographs demonstrating the intrusive nature of this balcony (not proposed balcony, it was installed some 3 months ago, well in advance of any planning decision).

Yours Faithfully,

Graham and Anne Jackson

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29 Lynton Avenue

Giffnock

G46 7JP

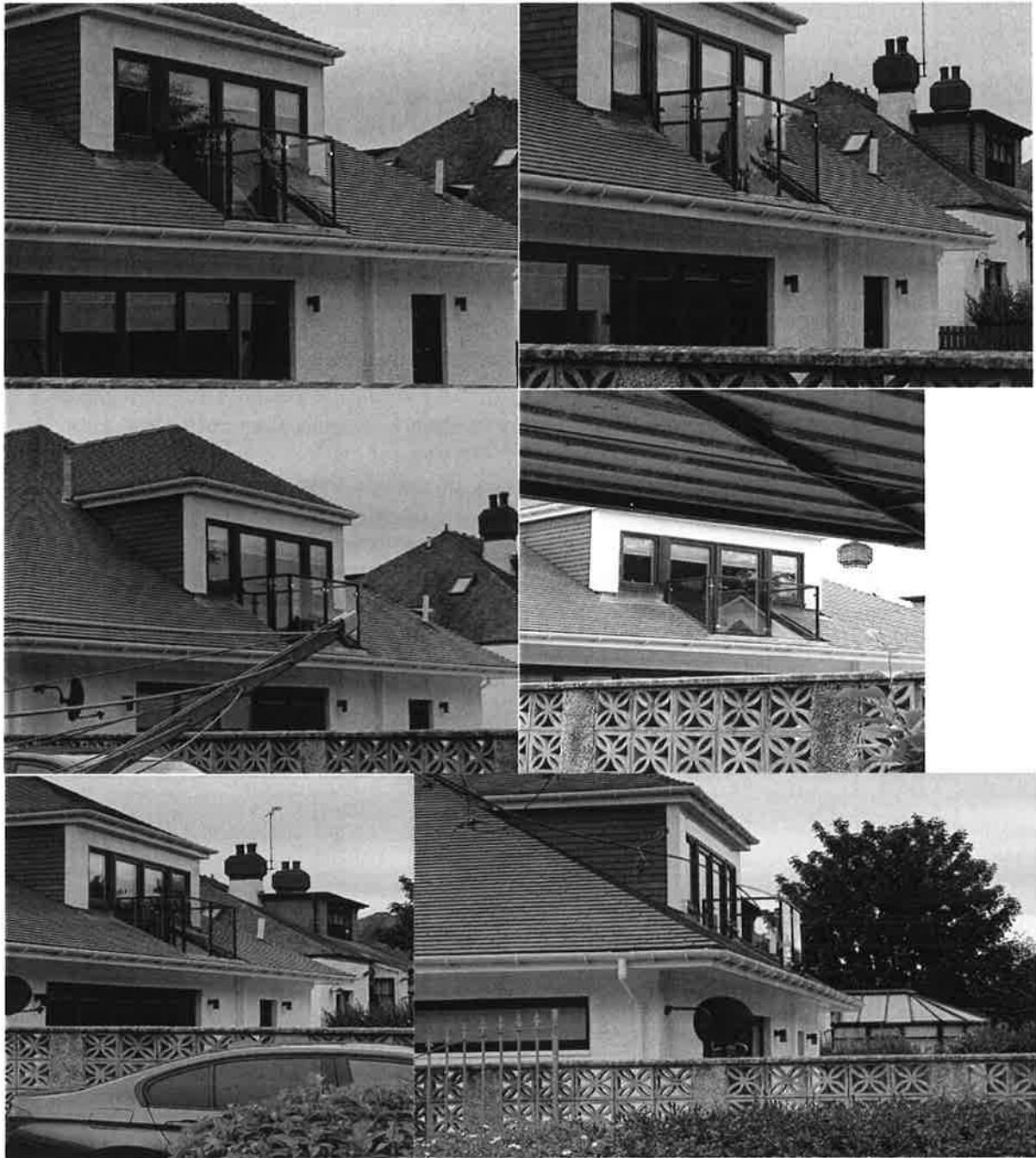
Re Review/2018/17
27 Lynton Avenue
Giffnock
G46 7JP

Dear Mr O'Neil,

We refer to the letter of 22nd August re the above Planning Review. The comments in our original objection still stand, this balcony (not proposed balcony since it has already been installed end of May, well in advance of any planning decision) overlooks directly virtually all of our back garden. This is a marked loss of amenity in terms of loss of privacy. The nearest point to our garden is only a few metres away, so it overlooks us substantially and intrusively. Anyone sitting on the balcony is able to watch us any time we are in the garden.

We would also like to add that the description on your letter is incorrect, in that it is not an installation of a balcony at dormer window, as it is not a dormer window.

Below are 6 pictures taken from various points in our garden which show how much it overlooks us. The 4th one is taken from inside our garage, even being in the garage with the door open we are clearly visible from the balcony.



I am sure that the planning authorities will agree with us that this is unacceptable.

Yours Faithfully,

Anne and Graham Jackson

O'Neil, Paul [CE]

From: [REDACTED]
Sent: 24 August 2018 10:28
To: O'Neil, Paul [CE]
Subject: RE: REVIEW/2018/17
Attachments: REVIEW 2018 17 (2).docx

Importance: High

Dear Mr O'Neil,

Further to our comments on this appeal yesterday, please find attached another comment.

Best wishes,

Graham and Anne Jackson

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29 Lynton Avenue
Giffnock
G46 7JP
24th August 2018

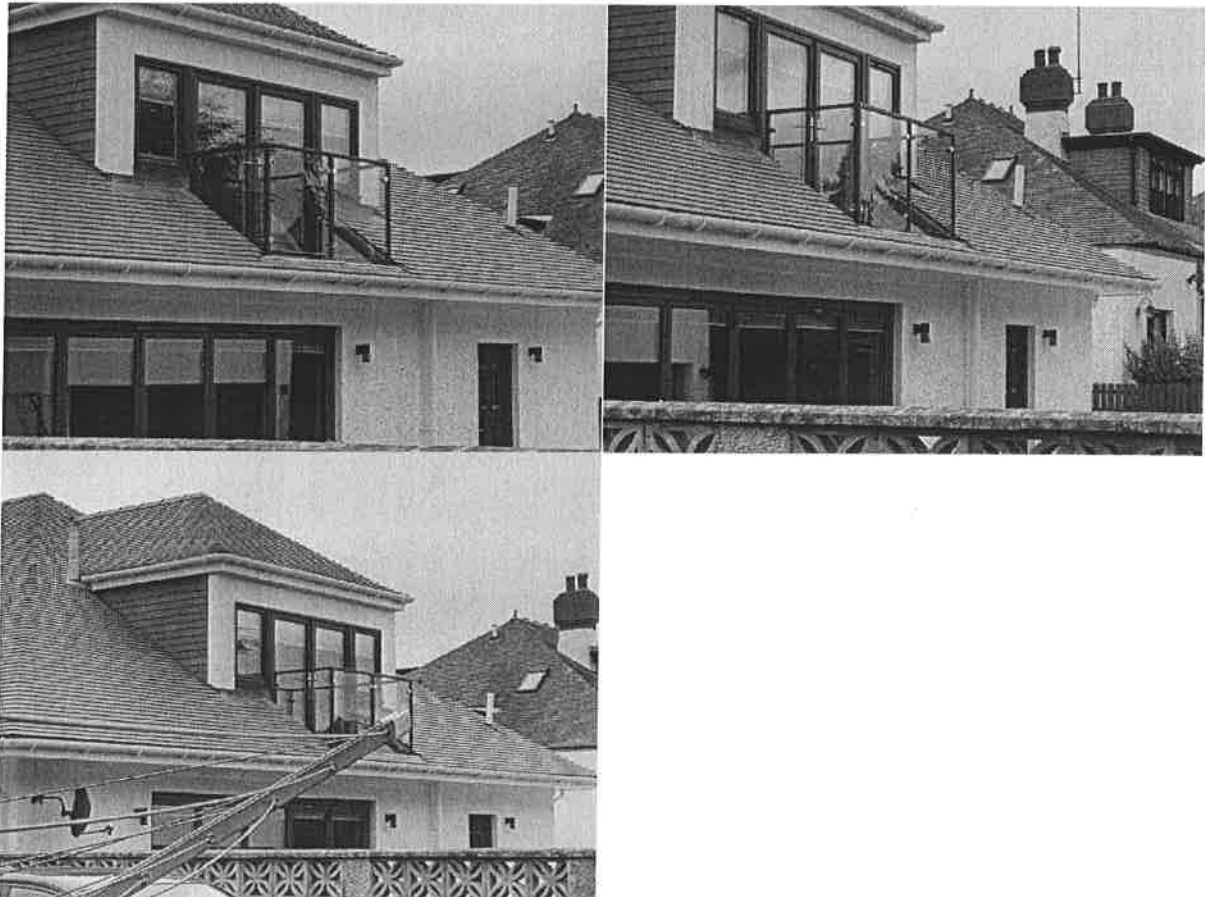
Re Review/2018/17
and application 2017/0162/TP

27 Lynton Avenue
Giffnock
G46 7JP

Dear Mr O'Neil,

Further to our representation yesterday, I wish to make a further comment on the planning application for the balcony, informed by the original (approved) application to rebuild the house, ref. 2017/0162/TP.

In the previous application it is clear that the plan was for a Juliet-style balcony. This is clear both from the written submissions and in the drawings which, although not very clear, appear to show a railing of some kind in front of the opening doors, in keeping with what a Juliet balcony is. However as can be seen from the photographs, no such railing is or indeed has ever been present. It is our contention therefore that the intention was always to make a full balcony, regardless of any planning implications.



I am sure that the planning authorities will agree with us that this is unacceptable.

Yours Faithfully,

Anne and Graham Jackson

In respect of the issue of privacy the following points are relevant:

- The planning officer's report considered only the properties of No's 25 and 29 Lynton Avenue to be relevant and noted that the properties at 40 Davieland Road and 38 Norwood Drive were not impacted.
- Prior to the redevelopment of the Property, dormers already existed at the rear and at the sides of property so the gardens of both no 25 and 27 were already clearly visible.
- The side dormers provide the same or a more direct view over No's 25 and 29 (See photo Appendix 1)
- The same view of both properties is available while looking from inside existing french doors as that while standing/seated on the platform (See photo Appendix 2). The additional 1 metre depth of the-platform does not increase the view.
- Both properties have private seated areas at their back entrance which cannot be seen from the platform and so retain their privacy. (See photo Appendix 3)
- The garden and garage of number 29 can be viewed just as clearly from ground level (See photo Appendix 4)

In respect of the issue relating to there being no other balcony within the area,

This is not correct. The recent development at Milverton Grange includes larger balconies at greater height which overlook other houses.

In respect of the planning process it is important to set out the considerations, the timelines and engagement with the planning department:

- The original planning consent provided permission to erect french doors within the same width envelope of the dormer. As a consequence, there was a 1.7 metre squared platform area within the roof space. (See photo Appendix 5)
- Given the benefit of seeing this small area during construction, our agent met with Fiona Morrison of the planning department to ask if the balustrade could be extended out 1 metre to contain the platform. This discussion was in mid January, which was followed up by Fiona undertaking a site visit and providing feedback to our agent on the 2nd February that the 'proposal seemed good to her' Following on from this the planning application was submitted on 7th February and this referenced the positive feedback within section 5 of the pre-application discussion of the Householder Application for Planning Permission Form
- Subsequent to the submission, our agent chased the planning department on a number of occasions and was assured there were no issues and there was just a backlog of work within the planning department which was holding up the formal approval.
- Given the time that had elapsed we required to complete from a building regulation perspective so arranged for the balustrade to be installed on 31st May. Our agent again contacted the Planning Department to advise and we were asked to wait a week so the formal approval could be issued, which we did.
- The installation was completed on 8th June and again our agent advised the planning department accordingly.

- The planning depart contact our agent on 13th June to advise that the proposal couldn't be supported as proposed. From our perspective, this was a complete reversal of the position from 5 months earlier and all engagement during this period.
- The formal review notice was issued on 12th July

In respect of the aesthetics of the structure

- It only extends 1 metre in depth.
- The size is minimalist and the colour matches the windows and doors of the property. It is also similar to other balconies recently constructed within the area by using glass at the front and side.
- Externally, it provides a better look than an uncontained platform (See photo Appendix 6)

Photo Appendix 1



Photo Appendix 1



View from inside French Doors



Photo Appendix 2

View from platform



View from inside French doors



View from platform



Photo Appendix 3



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Photo Appendix 4



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Photo Appendix 6



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REPORT OF HANDLING

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REPORT OF HANDLING

Reference: 2018/0056/TP

Date Registered: 5th March 2018

Application Type: Full Planning Permission

This application is a Local Development

Ward: 3 -Giffnock And Thornliebank

Co-ordinates: 255328/:658298

Applicant/Agent:

Applicant:

Mr and Mrs A Fitzgerald

27 Lynton Avenue

Giffnock

East Renfrewshire

G46 7JP

Agent:

John Hutton

Flat 0/1

69 Millbrae Road

Langside

Glasgow

G42 9UT

Proposal: Installation of balcony at dormer window at rear

Location: 27 Lynton Avenue

Giffnock

East Renfrewshire

G46 7JP

CONSULTATIONS/COMMENTS: None.

PUBLICITY:

30.03.2018

Glasgow and Southside
Extra

Expiry date 20.04.2018

SITE NOTICES:

Development within a Conservation Area Date posted 30.03.2018

Expiry date 20.04.2018

SITE HISTORY:

2017/0162/TP

Erection of one and a half storey rear extension with raising of ridge height and installation of dormer windows at front, sides and rear; alterations to front porch; installation of replacement windows; erection of detached double garage with upper floor storage at rear; formation of vehicular access and hardstanding.

Approved Subject to Conditions 02.06.2017

2017/0171/CAC	Partial demolition of boundary wall at front in association with formation of vehicular access/driveway (conservation area consent)	Granted	12.05.2017
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REPRESENTATIONS: 4 representations have been received: Representations can be summarised as follows: Concerns relating to overlooking and impact on privacy.

DEVELOPMENT PLAN & GOVERNMENT GUIDANCE: See Appendix 1

SUPPORTING REPORTS: No reports have been submitted for consideration as part of this application

ASSESSMENT:

The site is located on the south side of Lynton Avenue and is situated within the Lower Whitecraigs Conservation Area which is characterised by a variety of house types, built forms and generous plot sizes. The detached property has recently been subject to extensive alteration under planning permission 2017/0162/TP.

The application is in retrospect for the formation of a balcony within the rear slope of the property. It should be noted that the balcony has already been installed. Positioned centrally within the roof slope the balcony includes French doors that open on to a platform measuring 1.7m². The platform is enclosed by a 1m high glass balustrade.

It should be noted that the balcony was included as part of the previous proposal but was considered unacceptable as it would have a detrimental impact on the adjacent properties. The proposal was subsequently amended and a Juliet balcony approved under 2017/0162/TP.

The proposal requires to be assessed against Policy D1 of the adopted East Renfrewshire Local Plan which requires that any development should not have a significant impact on the character or amenity of the surrounding area. Furthermore, neighbouring amenity should not be adversely affected by unreasonably restricting their sunlight or privacy.

As a result of separation distances the balcony will not have an adverse impact on the occupants of 38 Norwood Drive and 40 Davieland Road, however the privacy of the adjacent properties at 25 and 29 Lynton Avenue will be adversely affected by the balcony which will directly overlook the private garden grounds of both properties.

It was suggested to the applicant that privacy screens may provide a solution however the applicant declined and requested the application be progressed to recommendation.

Taking the above into account it is considered that the balcony will have a detrimental impact on the adjacent properties contrary to the terms of Policy D1. Accordingly planning permission should be refused.

RECOMMENDATION: Refuse

PLANNING OBLIGATIONS: None

REASON FOR REFUSAL:

1. The balcony is contrary to Policy D1 as it will result in significant overlooking of the private garden grounds of 25 and 29 Lynton Avenue and this will adversely affect the amenity of the neighbouring properties.

ADDITIONAL NOTES: None

ADDED VALUE: None

BACKGROUND PAPERS:

Further information on background papers can be obtained from Ms Fiona Morrison on 0141 577 3895.

Ref. No.: 2018/0056/TP
(FIMO)

DATE: 12th July 2018

DIRECTOR OF ENVIRONMENT

Reference: 2018/0056/TP - Appendix 1

DEVELOPMENT PLAN:

Strategic Development Plan

Given the size and scale of the development it is not considered that government guidance is a relevant material consideration.

Adopted East Renfrewshire Local Development Plan

Policy D1
Detailed Guidance for all Development

Proposals for development should be well designed, sympathetic to the local area and demonstrate that the following criteria have been considered, and, where appropriate, met. In some cases, where the criteria have not been met, a written justification will be required to assist with assessment.

1. The development should not result in a significant loss of character or amenity to the surrounding area;
2. The proposal should be of a size, scale, massing and density that is in keeping with the buildings in the locality and should respect local architecture, building form, design, and materials;
3. The amenity of neighbouring properties should not be adversely affected by unreasonably restricting their sunlight or privacy. Additional guidance on this issue is available in the Daylight and Sunlight Design Guide Supplementary Planning Guidance;
4. The development should not impact adversely on landscape character or the green

- network, involve a significant loss of trees or other important landscape, greenspace or biodiversity features;
5. Developments should incorporate green infrastructure including access, landscaping, greenspace, water management and Sustainable Urban Drainage Systems at the outset of the design process. Where appropriate, new tree or shrub planting should be incorporated using native species. The physical area of any development covered by impermeable surfaces should be kept to a minimum to assist with flood risk management. Further guidance is contained within the Green Network and Environmental Management Supplementary Planning Guidance;
 6. Development should create safe and secure environments that reduce the scope for anti-social behaviour and fear of crime;
 7. Developments must be designed to meet disability needs and include provision for disabled access within public areas;
 8. The Council will not accept 'backland' development, that is, development without a road frontage;
 9. Parking and access requirements of the Council should be met in all development and appropriate mitigation measures should be introduced to minimise the impact of new development. Development should take account of the principles set out in 'Designing Streets';
 10. Development should minimise the extent of light pollution caused by street and communal lighting and any floodlighting associated with the development;
 11. Developments should include provision for the recycling, storage, collection and composting of waste materials;
 12. Where possible, all waste material arising from construction of the development should be retained on-site for use as part of the new development;
 13. Where applicable, new development should take into account the legacy of former mining activity;
 14. Development should enhance the opportunity for and access to sustainable transportation, including provision for bus infrastructure, and particularly walking and cycle opportunities including cycle parking and provision of facilities such as showers/lockers, all where appropriate. The Council will not support development on railways solums or other development that would remove opportunities to enhance pedestrian and cycle access unless mitigation measures have been demonstrated;
 15. The Council requires the submission of a design statement for national and major developments. Design statements must also be submitted in cases where a local development relates to a site within a conservation area or Category A listed building in line with Planning Advice Note 68: Design Statements.
 16. Where applicable, developers should explore opportunities for the provision of digital infrastructure to new homes and business premises as an integral part of development.

GOVERNMENT GUIDANCE: None

Finalised 12/07/18 AC(3)

**DECISION NOTICE
AND
REASONS FOR REFUSAL**

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**TOWN AND COUNTRY PLANNING (SCOTLAND) ACT 1997
(AS AMENDED BY THE PLANNING ETC (SCOTLAND) ACT 2006)
TOWN AND COUNTRY PLANNING (DEVELOPMENT MANAGEMENT PROCEDURE)
(SCOTLAND) REGULATIONS 2013**

REFUSAL OF PLANNING PERMISSION

Ref. No. **2018/0056/TP**

Applicant

Mr & Mrs A Fitzgerald
27 Lynton Avenue
Giffnock
East Renfrewshire
G46 7JP

Agent:

John Hutton
Flat 0/1
69 Millbrae Road
Langside
Glasgow
G42 9UT

With reference to your application which was registered on 5th March 2018 for planning permission under the abovementioned Act and Regulations for the following development, viz:-

Installation of balcony at dormer window at rear

at: 27 Lynton Avenue, Giffnock, East Renfrewshire, G46 7JP

the Council in exercise of their powers under the abovementioned Act and Regulations hereby refuse planning permission for the said development.

The reason(s) for the Council's decision are:-

1. The balcony is contrary to Policy D1 as it will result in significant overlooking of the private garden grounds of 25 and 29 Lynton Avenue and this will adversely affect the amenity of the neighbouring properties.

Dated 12th July 2018



Director of Environment
East Renfrewshire Council
2 Spiersbridge Way,
Spiersbridge Business Park,
Thornliebank,
G46 8NG
Tel. No. 0141 577 3001

The following drawings/plans have been refused

Plan Description	Drawing Number	Drawing Version	Date on Plan
Location Plan	001		
Plans Proposed	4184/4		
Elevations Proposed	4148/2		

GUIDANCE NOTE FOR REFUSAL OF LOCAL DEVELOPMENTS DETERMINED UNDER DELEGATED POWERS

REVIEW BY EAST RENFREWSHIRE COUNCIL'S LOCAL REVIEW BODY

1. If the applicant is aggrieved by a decision to refuse permission (or by an approval subject to conditions), the applicant may require the planning authority to review the case under section 43A of the Town and Country Planning (Scotland) Act 1997 within three months from the date of this notice. A Notice of Review can be submitted online at www.eplanning.scotland.gov.uk. Alternatively, you can download a Notice of Review form (along with notes for guidance) from www.eastrenfrewshire.gov.uk/planning-appeals-reviews which should be returned to The Planning Service, 2 Spiersbridge Way, Spiersbridge Business Park, Thornliebank, East Renfrewshire G46 8NA. You may also call the Council on 0141 577 3001 to request the Notice of Review Form. Please note that beyond the content of the appeal or review forms, you cannot normally raise new matters in support of an appeal or review, unless you can demonstrate that the matter could not have been raised before, or that its not being raised before is a consequence of exceptional circumstances. Following submission of the notice, you will receive an acknowledgement letter informing you of the date of the Local Review Body meeting or whether further information is required.
2. If permission to develop land is refused or granted subject to conditions and the owner of the land claims that the land has become incapable of reasonably beneficial use in its existing state and cannot be rendered capable of reasonably beneficial use by the carrying out of any development which has been or would be permitted, the owner of the land may serve on the planning authority a purchase notice requiring the purchase of the owner of the land's interest in the land in accordance with Part 5 of the Town and Country Planning (Scotland) Act 1997.

CONTACT DETAILS

**East Renfrewshire Council
Development Management Service
2 Spiersbridge Way,
Spiersbridge Business Park,
Thornliebank,
G46 8NG**

**General Inquiry lines 0141 577 3895 or 0141 577 3878
Email planning@eastrenfrewshire.gov.uk**

**NOTICE OF REVIEW
AND
STATEMENT OF REASONS**

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RECEIVED

NOTICE OF REVIEW 15 AUG 2018

Under Section 43A(8) Of the Town and Country Planning (SCOTLAND) ACT 1997 (As amended) In Respect
of Decisions on Local Developments

The Town and Country Planning (Schemes of Delegation and Local Review Procedure) (SCOTLAND)
Regulations 2013

The Town and Country Planning (Appeals) (SCOTLAND) Regulations 2013

IMPORTANT: Please read and follow the guidance notes provided when completing this form. Failure to supply all the relevant information could invalidate your notice of review.

PLEASE NOTE IT IS FASTER AND SIMPLER TO SUBMIT PLANNING APPLICATIONS
ELECTRONICALLY VIA <https://www.eplanning.scot>

1. Applicant's Details		2. Agent's Details (if any)	
Title	MR / MRS	Ref No.	
Forename	ANDY	Forename	JOHN
Surname	FITZGERALD	Surname	HUTTON
Company Name		Company Name	
Building No./Name	27	Building No./Name	FLAT 0/1, 69
Address Line 1	LYNTON AVE	Address Line 1	MILBRAE ROAD,
Address Line 2	GIFFNOCK	Address Line 2	LANGSIDE
Town/City	GLASGOW	Town/City	GLASGOW
Postcode	G46 7JP	Postcode	G42 9UT
Telephone		Telephone	07773 209204.
Mobile		Mobile	
Fax		Fax	
Email		Email	
3. Application Details			
Planning authority	EAST RENFREWSHIRE COUNCIL		
Planning authority's application reference number	2018/0056/TP		
Site address	<p>27, LYNTON AVE, GIFFNOCK</p> <p>GLASGOW G46 7JP</p>		
Description of proposed development	<p>INSTALLATION OF BALCONY AT DORMER WINDOW TO REAR</p>		

Date of application

Date of decision (if any)

Note. This notice must be served on the planning authority within three months of the date of decision notice or from the date of expiry of the period allowed for determining the application.

4. Nature of Application

Application for planning permission (including householder application)

Application for planning permission in principle

Further application (including development that has not yet commenced and where a time limit has been imposed; renewal of planning permission and/or modification, variation or removal of a planning condition)

Application for approval of matters specified in conditions

5. Reasons for seeking review

Refusal of application by appointed officer

Failure by appointed officer to determine the application within the period allowed for determination of the application

Conditions imposed on consent by appointed officer

6. Review procedure

The Local Review Body will decide on the procedure to be used to determine your review and may at any time during the review process require that further information or representations be made to enable them to determine the review. Further information may be required by one or a combination of procedures, such as: written submissions; the holding of one or more hearing sessions and/or inspecting the land which is the subject of the review case.

Please indicate what procedure (or combination of procedures) you think is most appropriate for the handling of your review. You may tick more than one box if you wish the review to be conducted by a combination of procedures.

Further written submissions

One or more hearing sessions

Site inspection

Assessment of review documents only, with no further procedure

If you have marked either of the first 2 options, please explain here which of the matters (as set out in your statement below) you believe ought to be subject of that procedure, and why you consider further submissions or a hearing necessary.

7. Site inspection

In the event that the Local Review Body decides to inspect the review site, in your opinion:

Can the site be viewed entirely from public land?

Is it possible for the site to be accessed safely, and without barriers to entry?

(SEE NOTES ATTACHED) *

If there are reasons why you think the Local Review Body would be unable to undertake an unaccompanied site inspection, please explain here:

TO GAIN ACCESS TO UPPER ROOM TO SEE VIEW FROM
BALCONY - THE OWNERS WOULD GIVE ACCESS. * NOTE
ATTACHED

8. Statement

You must state, in full, why you are seeking a review on your application. Your statement must set out all matters you consider require to be taken into account in determining your review. Note: you may not have a further opportunity to add to your statement of review at a later date. It is therefore essential that you submit with your notice of review, all necessary information and evidence that you rely on and wish the Local Review Body to consider as part of your review.

If the Local Review Body issues a notice requesting further information from any other person or body, you will have a period of 14 days in which to comment on any additional matter which has been raised by that person or body.

State here the reasons for your notice of review and all matters you wish to raise. If necessary, this can be continued or provided in full in a separate document. You may also submit additional documentation with this form.

* NOTES ATTACHED *

Have you raised any matters which were not before the appointed officer at the time your application was determined? Yes No

If yes, please explain below a) why you are raising new material b) why it was not raised with the appointed officer before your application was determined and c) why you believe it should now be considered with your review.

Section 7 - can we add in a sentence to highlight that we feel it is necessary for the panel to view the balcony from inside the house and that an external inspection only would not provide the complete picture.

"The applicants believe that the balcony and outlook need to be viewed from inside the property to fully understand the basis of the appeal and, in particular, point 3 in Section 8 below. We would request that the panel inspect internally and access will be provided by the owner"

Section 8

The original application was declined on the basis that the balcony would **Significantly** overlook the gardens of 25 and 29 Lynton Avenue, adversely affecting their amenity. The Applicants submit the following reasons for a review of this decision:

1. Planning permission was granted for French doors and a Juliet balcony within the original planning application, granted on 12th May 2017. Therefore, it would be accepted that these doors would open and a Juliet balcony balustrade would extend beyond the French doors.
2. The depth of the proposed platform extends 1 metre onto existing roof space and does not materially increase the overlook onto the neighbouring properties.
3. The view and overlook does not change from that which exists when standing inside the dormer with the French doors closed.
4. The balcony view overlooks the rear garden rather than the neighbouring gardens on either side.
5. There is currently two side dormers which already directly overlook the neighbouring gardens.
6. The proposals were discussed with the Planning Officer before the application was made. The feedback received was supportive and we were led to believe the balcony application would be approved. On the basis of this feedback, and the result of a lengthy delay, the Applicants proceeded to action to meet building requirements and to ensure adequate protection if the doors were opened in what is a child's bedroom.
7. The Applicants have taken great care to ensure the handrail construction is subtle and blends with the new

9. List of Documents and Evidence

Please provide a list of all supporting documents, materials and evidence which you wish to submit with your notice of review

PLANS & ELEVATIONS

Note. The planning authority will make a copy of the notice of review, the review documents and any notice of the procedure of the review available for inspection at an office of the planning authority until such time as the review is determined. It may also be available on the planning authority website.

10. Checklist

Please mark the appropriate boxes to confirm that you have provided all supporting documents and evidence relevant to your review:

Full completion of all parts of this form

Statement of your reasons for requesting a review

All documents, materials and evidence which you intend to rely on (e.g. plans and drawings or other documents) which are now the subject of this review.

Note. Where the review relates to a further application e.g. renewal of planning permission or modification, variation or removal of a planning condition or where it relates to an application for approval of matters specified in conditions, it is advisable to provide the application reference number, approved plans and decision notice from that earlier consent.

DECLARATION

I, the applicant/agent hereby serve notice on the planning authority to review the application as set out on this form and in the supporting documents. I hereby confirm that the information given in this form is true and accurate to the best of my knowledge.

Signature: 

Name:

JOHN A. HUTTON

Date:

15/8/18

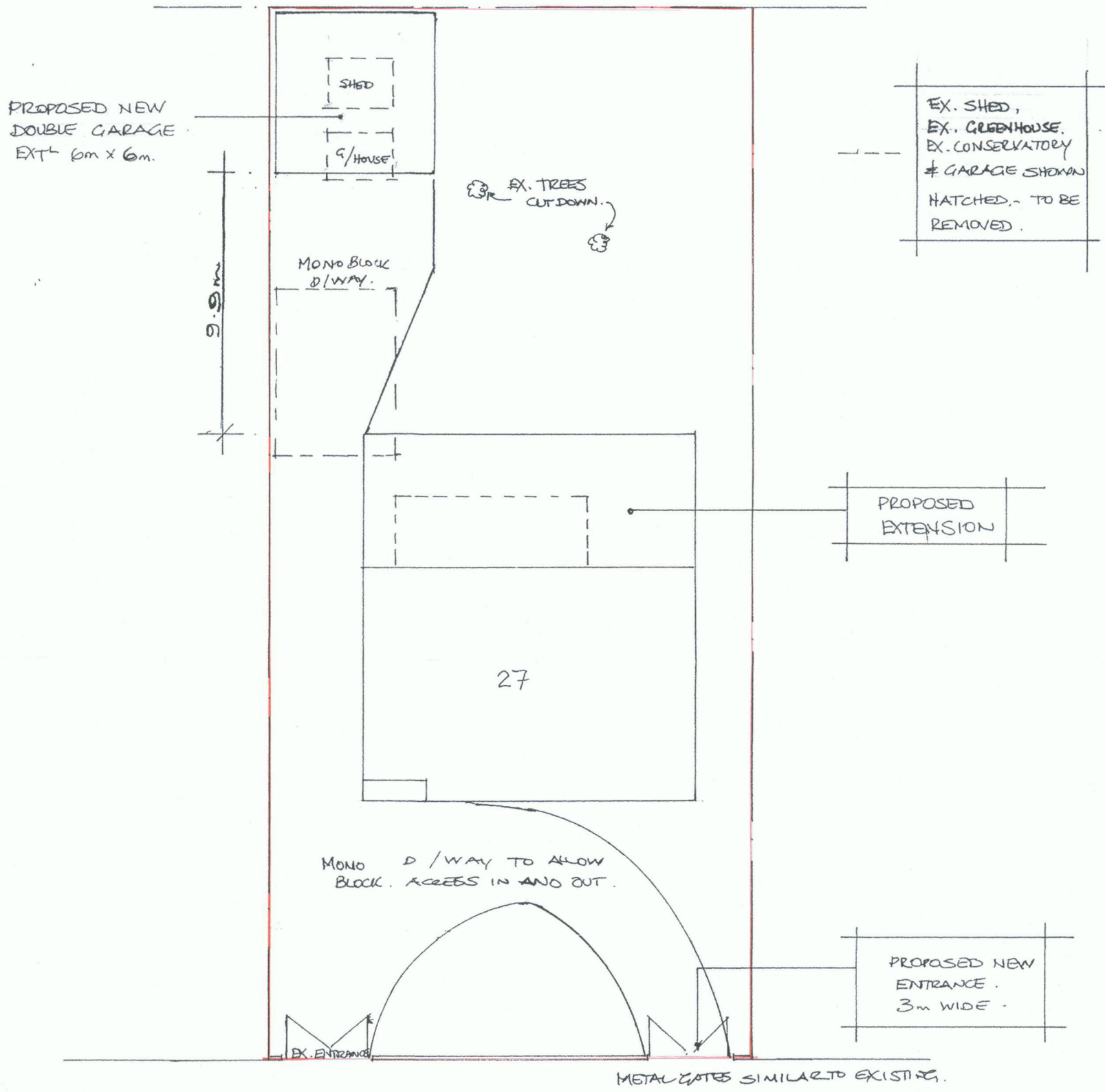
Any personal data that you have been asked to provide on this form will be held and processed in accordance with Data Protection Legislation.

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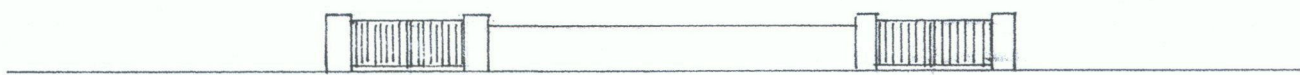
PLANS/PHOTOGRAPHS/DRAWINGS

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PROPOSED REAR EXTENSION, RAISING ROOF,
LOFT CONV^N WITH DORMERS.
AT 27, LYNTON AVE, GIFFNOCK. PER MR + MRS A. FITZGERALD.



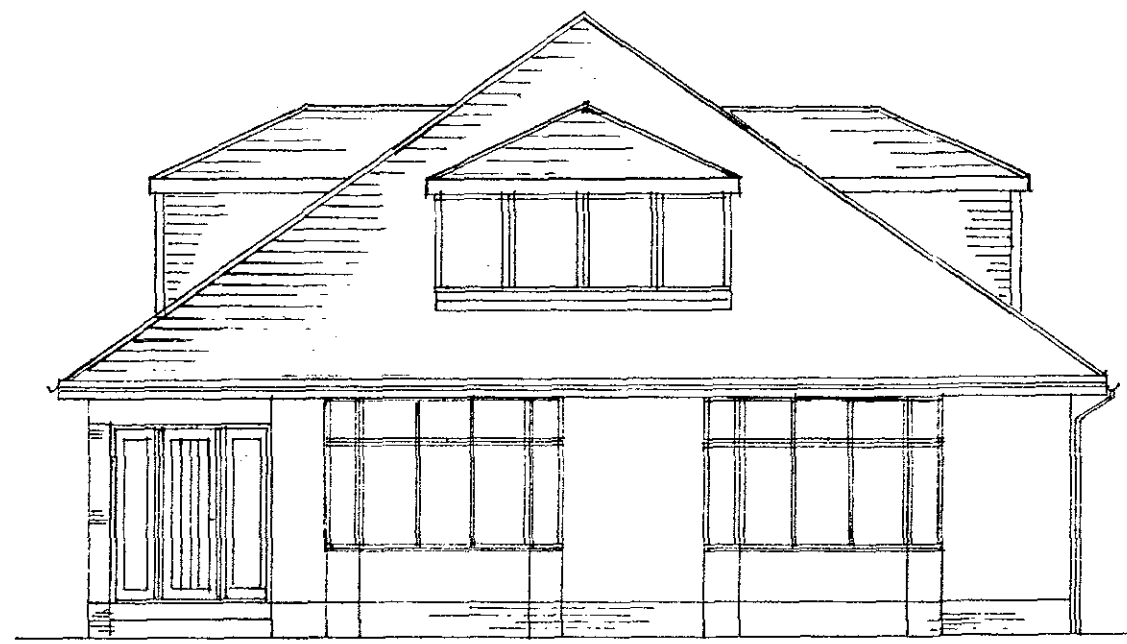
LYNTON AVENUE.



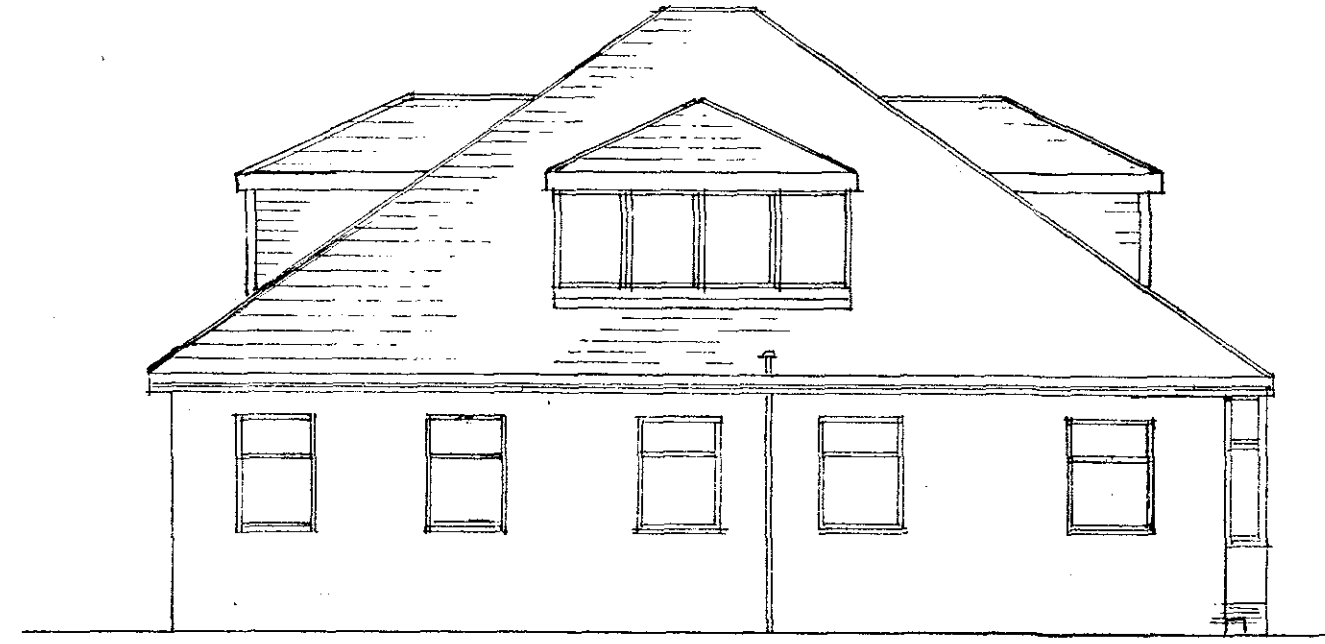
BLOCK PLAN 1:200.

PROPOSED REAR EXTENSION, RAISING ROOF & LOFT CONV^N WITH DORMERS.
 AT 27, LYNTON AVENUE, GIFFNOCK.
 PER MR & MRS A. FITZGERALD.

SCALE : 1:100.
 DRGN^o : 4-148/2.
 DATE : FEB 2017.



PROPOSED FRONT ELEVATION.

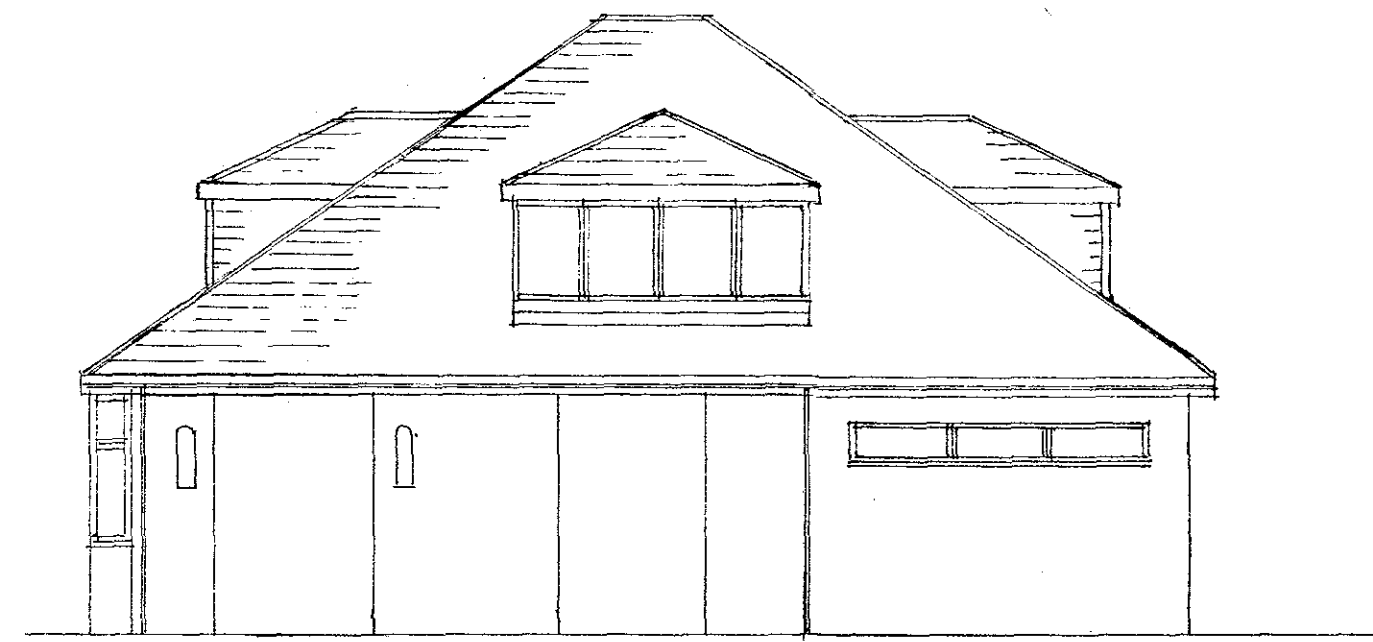


PROPOSED SIDE ELEVATION.

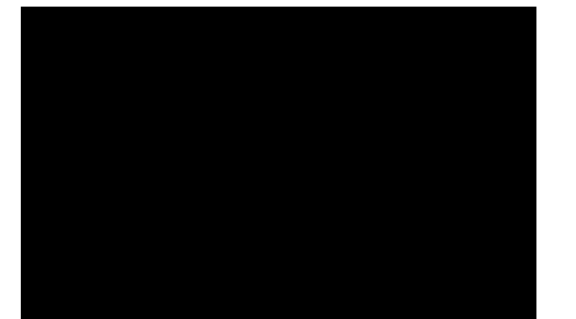
ALL WINDOWS TO BE REPLACED WITH GREY FINISH - DOUBLE GLAZED PVCU WINDOWS.
 DOOR & SIDELIGHT WINDOWS TO NEW PORCH TO BE GREY PVCU, D/GLAZED UNITS.
 A JULIET BALCONY WILL BE FORMED ON REAR DORMER WITH MILD STEEL H/RAIL & DOORS OPENING INWARDS.
 WALLS TO EXTENSION CAST AS PER EX. HOUSE & PAINTED WHITE. ROSEMARY TILES OR AN APPROPRIATE CLAY SUBSTITUTE WILL BE USED FOR RE-ROOFING & DORMERS. THE GARAGE MATLS WILL BE AS PER THE HOUSE.



PROPOSED REAR ELEVATION.

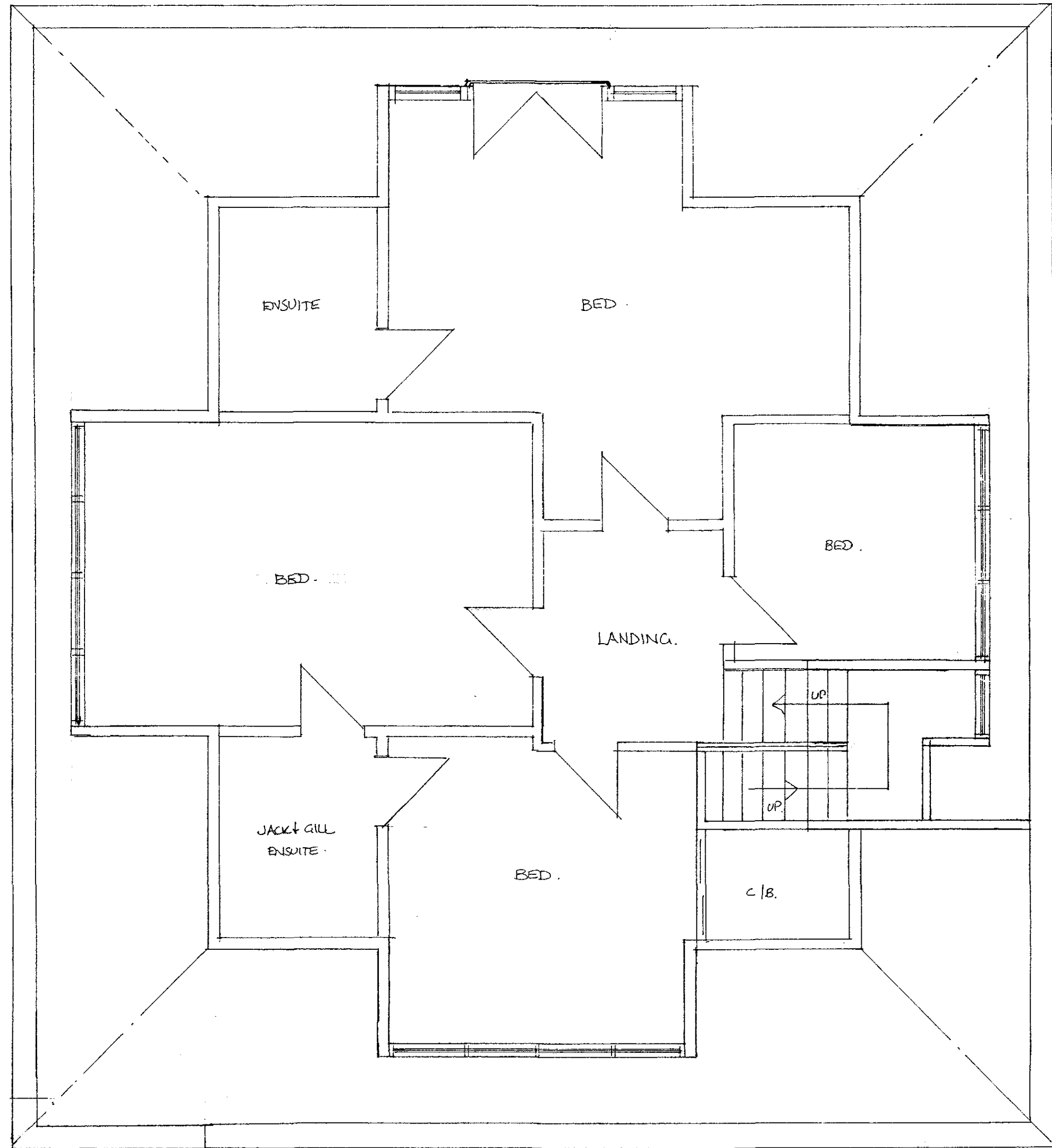


PROPOSED SIDE ELEVATION.





PROPOSED REAR EXTENSION, RAISING ROOF & LOFT CONV^N WITH DORMERS.
AT 27, LYNTON AVENUE, ClIFFNOCK.
PER MR & MRS A. FITZGERALD.

SCALE : 1:50, 1:100
DRGNO : 4148/4.
DATE : FEB 2017.



PROPOSED UPPER FLOOR PLAN.



 LAND REGISTER OF SCOTLAND	Officer's ID / Date	TITLE NUMBER
	4484 15/8/2000	REN94073
 ORDNANCE SURVEY NATIONAL GRID REFERENCE	Scale	
	1/1250	
NS5558SW	Survey Scale	
	1/1250	

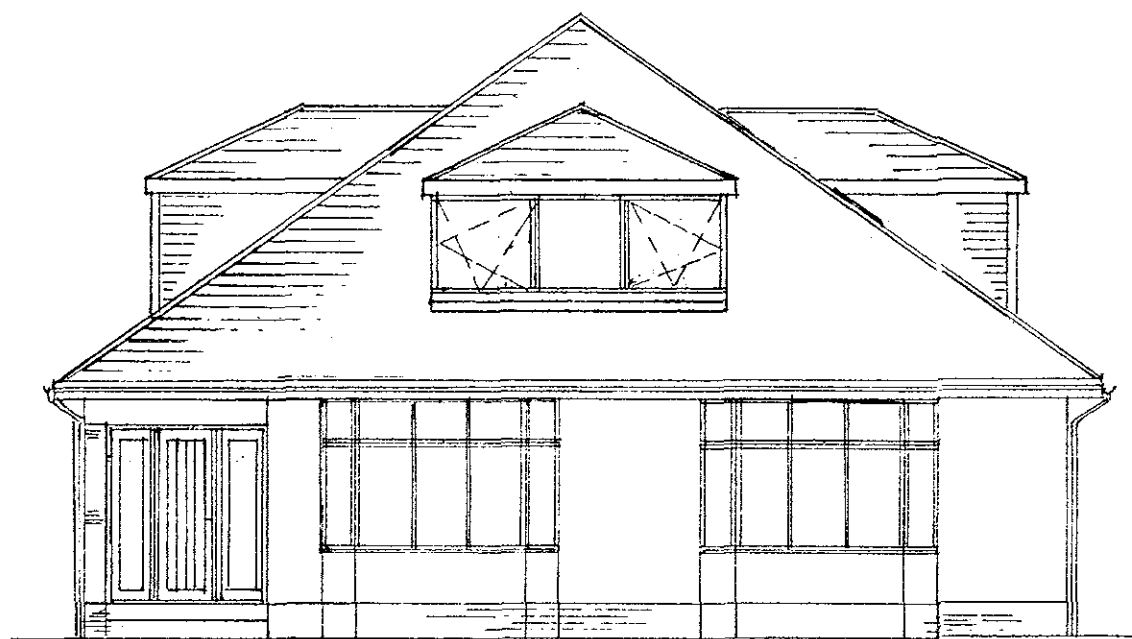
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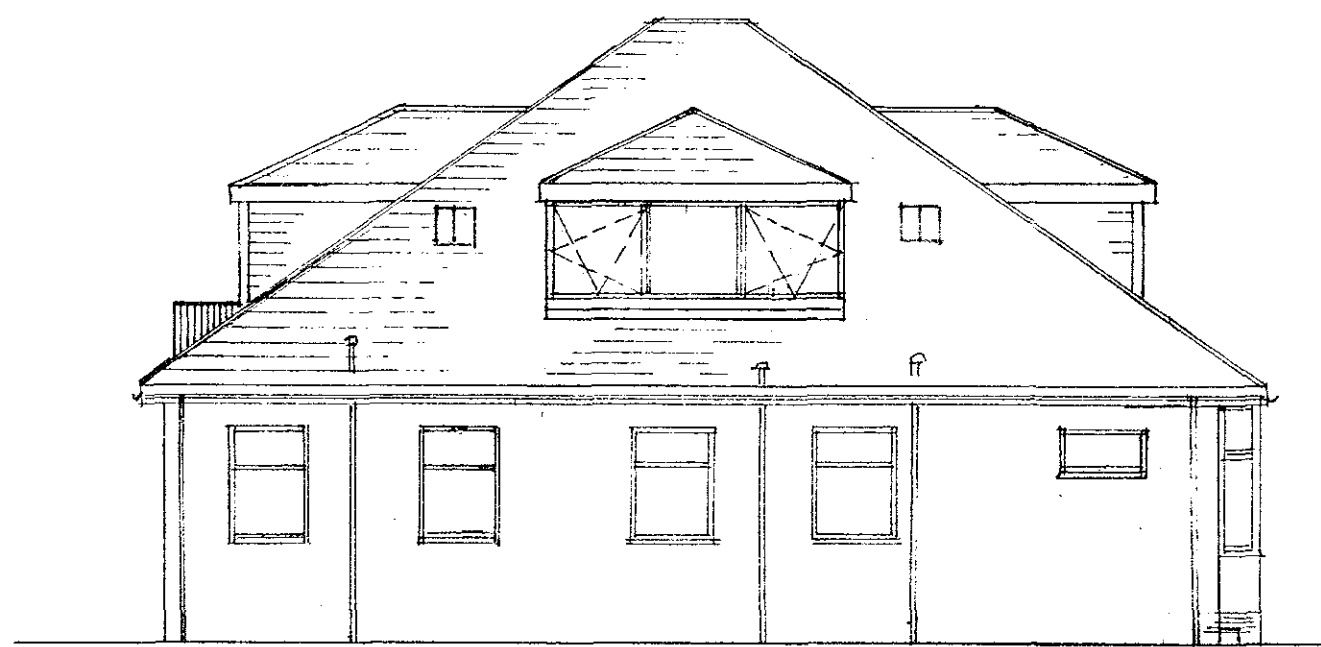


AT 27, LYNTON AVENUE, GIFFNOCK.
PER MR & MRS A. FITZGERALD.

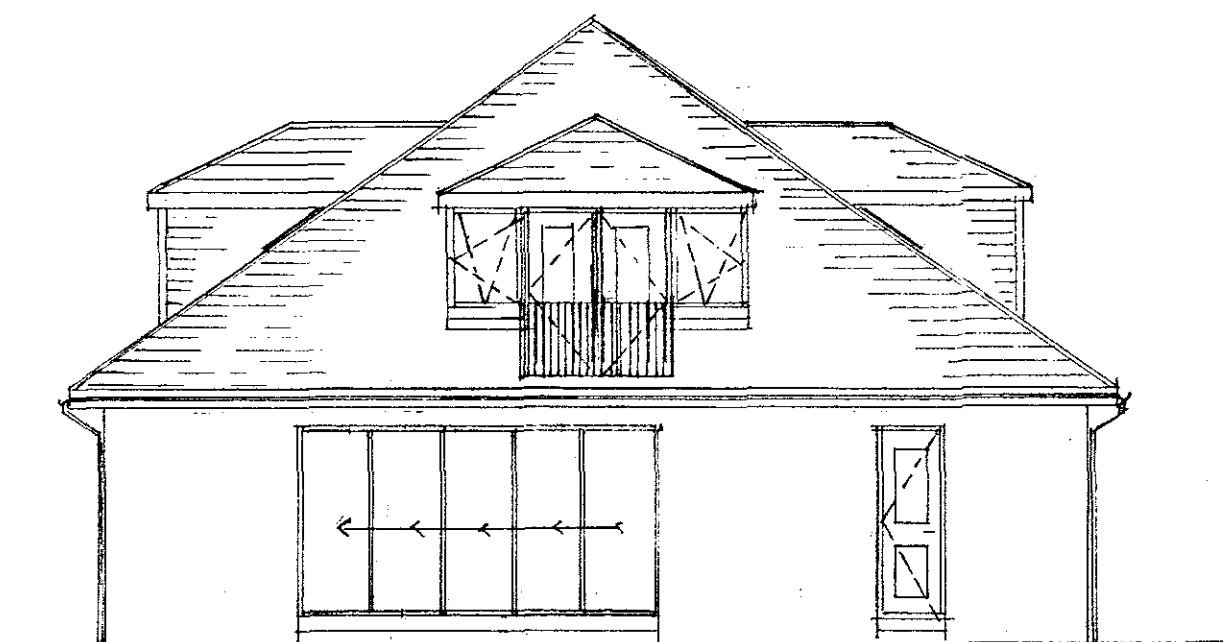
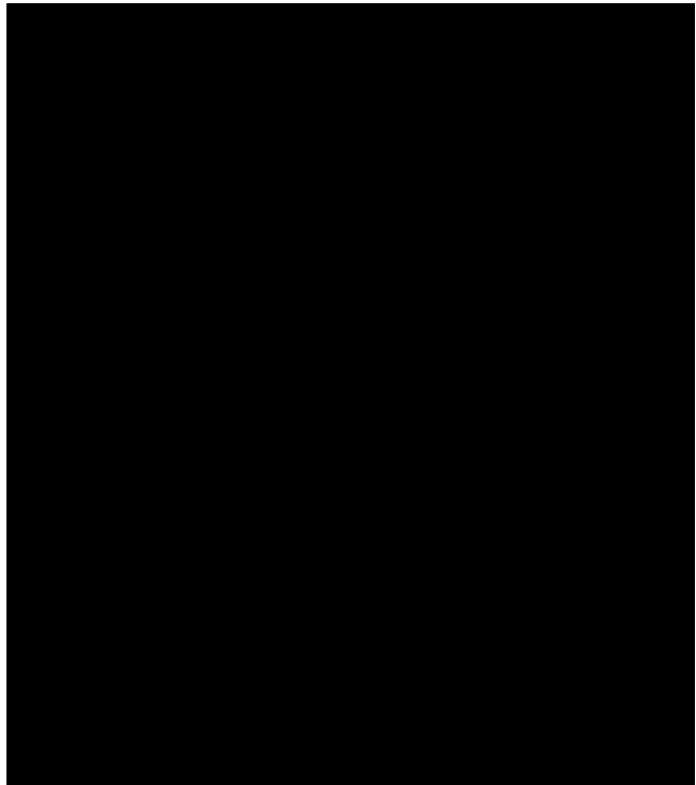
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DRGN° : 4148/2.
DATE : FEB 2017.



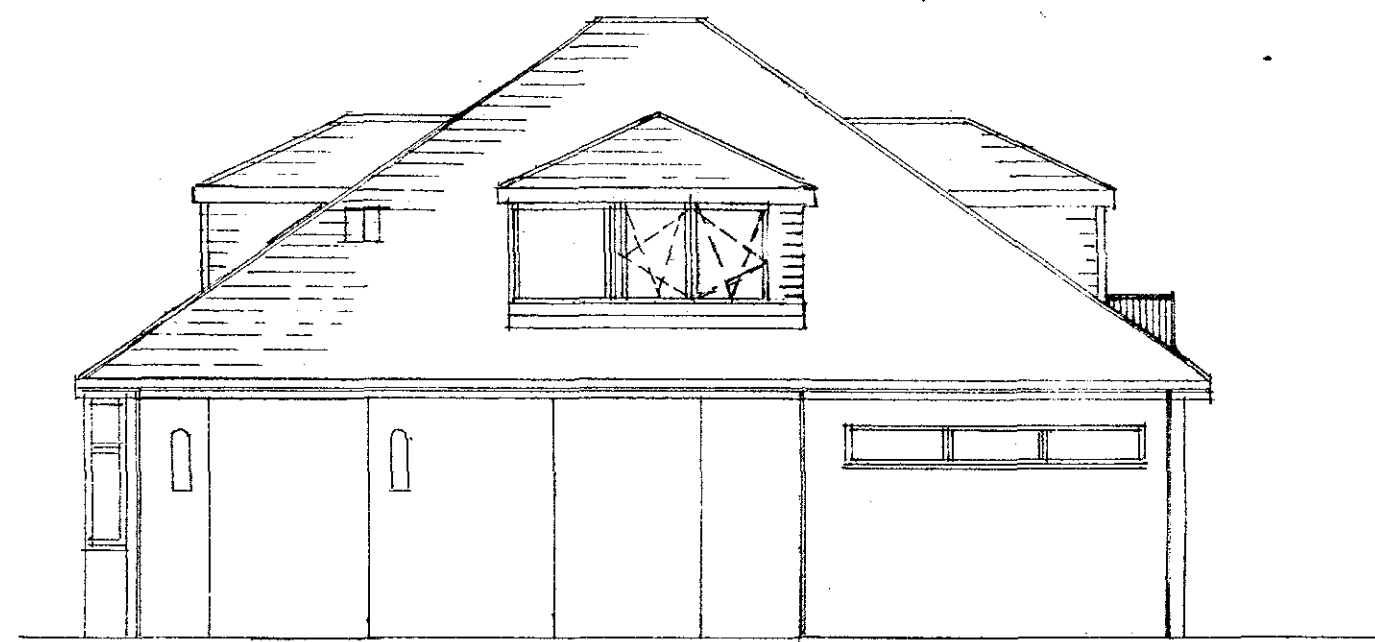
PROPOSED FRONT ELEVATION.



PROPOSED SIDE ELEVATION.



PROPOSED REAR ELEVATION.

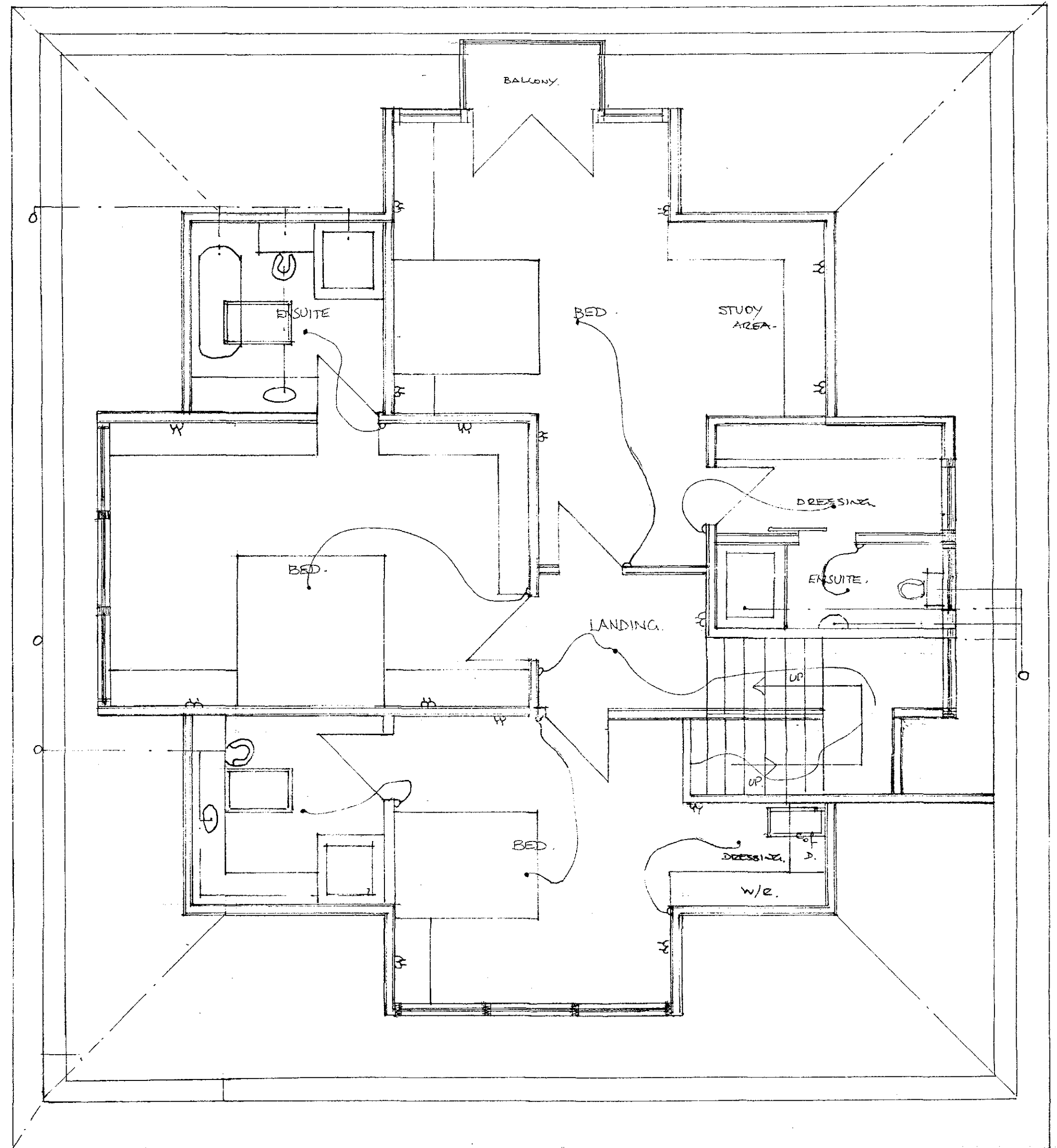
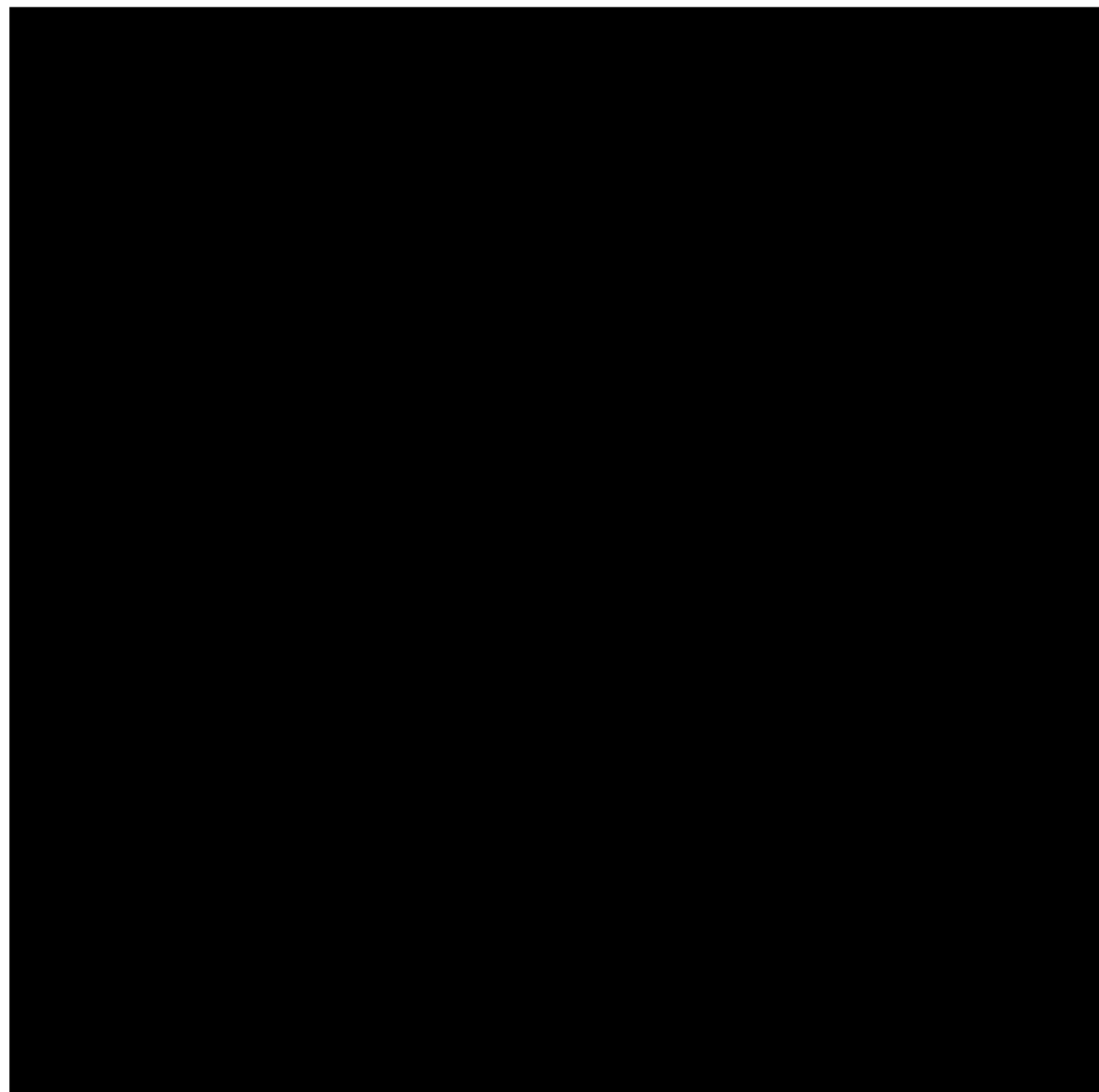


PROPOSED SIDE ELEVATION.



AT 27, LYNTON AVENUE, GIFFNOCK.
PER MR & MRS A. FITZGERALD.

SCALE : 1:50, 1:100
DRGNº : 4148/4
DATE : FEB 2017.



PROPOSED UPPER FLOOR PLAN.