

THE HIGHLAND COUNCIL

**SOUTH PLANNING APPLICATIONS COMMITTEE
16 August 2016**

Agenda Item	6.2
Report No	PLS 048/16

**16/02930/FUL: Mr & Mrs G Nicholls
15 Elmwood Ave, Inverness**

Report by Area Planning Manager – South/Major Developments

SUMMARY

Description : Proposed alterations & extension to dwelling house

Recommendation : REFUSE

Ward : 20- Inverness South

Development category : Local Development

Pre-determination hearing : None

Reason referred to Committee: Requested through referral to Ward Members

1. PROPOSED DEVELOPMENT

- 1.1 The proposal is to erect a single storey extension with a pitched roof on the rear of the existing semi-detached house. The extension will project out 6.3m from the rear of the house, and extend 4.8m in width. It will be used to enlarge the existing kitchen, and to form a dining area / family area.
- 1.2 There was no pre-application consultation.
- 1.3 There is a driveway along the side of the house, which provides off street parking.
- 1.4 The applicant has submitted a supporting statement, in which he explains that the adjoining neighbour (11 Elmwood Ave) is planning an identical extension and that both will be built at the same time. A copy of the neighbour's plans have been sent for information. At the time of writing, the neighbour's planning application has not been received.
- 1.5 **Variations:** None

2. SITE DESCRIPTION

- 2.1 The house is a semi-detached property on the west side of Elmwood Ave, in a modern development of mixed detached and semi-detached houses. An area of informal open space/ green corridor runs along the rear of the site.
- 2.2 An existing low boundary fence separates the site from the adjoining house at No

11 Elmwood Ave.

3. PLANNING HISTORY

3.1 None

4. PUBLIC PARTICIPATION

4.1 Advertised : n/a

Representation deadline : 28th July 2016

Timeous representations : 1 supporting email received from the adjoining house

Late representations : None

4.2 Material considerations raised are summarised as follows:

- They intend to build a similar sized and designed extension.
- Their proposed extension will be built at the same time as the proposed extension the subject of this application.

4.3 All letters of representation are available for inspection via the Council's eplanning portal which can be accessed through the internet www.wam.highland.gov.uk/wam. Access to computers can be made available via Planning and Development Service offices.

5. CONSULTATIONS

5.1 **Consultee Name** : None

6. DEVELOPMENT PLAN POLICY

The following policies are relevant to the assessment of the application

6.1 Highland Wide Local Development Plan 2012

28 Sustainable design

29 Design quality and place-making

6.2 Inner Moray Firth Local Development Plan

Within Settlement Development Area. No site specific policies.

7. OTHER MATERIAL CONSIDERATIONS

7.1 Highland Council Supplementary Planning Policy Guidance

Not applicable

7.2 Scottish Government Planning Policy and Guidance

Scottish Planning Policy

7.3 Other

Planning Guidance : House Extensions and Other Residential Alterations

8. PLANNING APPRAISAL

8.1 Section 25 of the Town and Country Planning (Scotland) Act 1997 requires planning applications to be determined in accordance with the development plan unless material considerations indicate otherwise.

8.2 This means that the application requires to be assessed against all policies of the Development Plan relevant to the application, all national and local policy guidance and all other material considerations relevant to the application.

8.3 Development Plan Policy Assessment

Policy 28 of the Highland-wide Local Development Plan assesses development, amongst other factors, on the extent to which it impacts on individual and community residential amenity.

Policy 29 of the Highland-wide Local Development Plan requires new development to have regard to, and demonstrate sensitivity and respect to, the pattern of development in the locality.

8.4 Material Considerations

The Council's House Extensions guidance requires the extension :

- to be smaller than the original house
- not to be too bulky and prominent compared to the size of house and garden to which it relates
- the house to plot ratio not to be excessive
- keep useable amenity space and garden ground, bin storage and parking
- no significant overshadowing of neighbouring property
- rear extensions not to exceed a depth of 4m for a semi-detached house

The proposed extension projects 6.3m from the rear of the existing house, will be 4.8m in width, and set in from the boundary with the adjoining house by 0.5m. It will have a pitched roof, with eaves running parallel to the boundary. The house is a semi-detached property, with a footprint of approx. 7.9m x 5.5m. Although the proposed extension is single storey, its footprint is significant in relation to the size of the original two storey house.

The garden has a sloping rear boundary line, and the extension will project to within approx. 5.4m of this rear boundary at its nearest point, and approx. 4m of the north side boundary, and be only 0.5m away from the south side boundary. This represents a significant reduction in useable garden space.

The applicant has pointed out that the current rear garden area extends to approx. 121m², and that the extension will take up approx. 25m², leaving over 90m² (75%). The extension, measuring 6.3m x 4.8m actually takes up approx. 30m² (not the 25m² referred to by the applicant). Scaling off the plan, the rear garden area would appear to be nearer 110m² than the 121m² to which the applicant refers.

The 90m² rear garden grounds which the applicant assesses will remain therefore seems somewhat optimistic. Either way, the useable amenity space will be significantly impacted, with two small areas remaining, one to the rear of the extension, and one to the side, and these will be dominated by the proposed extension. This represents an excessive house to plot ratio, and will lead to the extension being too bulky and prominent compared to the house and garden to which it relates, and constitutes overdevelopment of this plot.

This is contrary to policy 29 of the Highland-wide Local Development Plan since it fails to relate to or reflect the pattern of development in the locality.

The bin storage and parking area will not be affected by the proposed extension.

The extension will be alongside (0.5m away from) the boundary with the adjoining house, and will be approx. 2.9m in height along this elevation, and project 6.3m from the rear of the house. This massing will lead to an overbearing feeling to the occupiers of the adjoining house (11 Elmwood Ave). It will also lead to a material loss of light to the rear garden grounds, and to the dining / kitchen patio doors and window on the rear elevation. This is also clearly contrary to Policy 28 of the Highland-wide Local Development Plan since it will adversely impact upon residential amenity.

The occupiers of the adjoining house (11 Elmwood Ave) have written to say that they have no objections, and plan to build an identical rear extension on their house at the same time that this extension is built. They have had their plans drawn up in preparation, but at the time of writing have not yet applied for the relevant consents. However, should a similar proposal be lodged, both planned extensions will match and the new rear of both houses will be in line, with the result that overshadowing and massing issues to the houses as extended will not arise.

Although this would appear to overcome the concerns about massing and loss of light to the neighbouring house, there is no mechanism available to ensure that both extensions will be built at the same time, and the situation could arise whereby only one extension is built. Furthermore, this does not address the concerns regarding overdevelopment and loss of useable amenity space.

The applicant has suggested that a suspensive condition could be used for both this and the proposed extension at 11 Elmwood Ave, whereby one extension cannot be built unless the other is built. However, Scottish Government Circular 4/1998 'The Use of Conditions in Planning Permissions' requires conditions to be (amongst other factors) enforceable, and reasonable. Therefore, the person carrying out the development must reasonably be expected to be able to comply with the condition. It would be unreasonable to require the applicant to carry out works to land outwith his control since he would need to consent of a 3rd party to do so. Furthermore, it would be unreasonable to require the occupier of either house to carry out the extension to the neighbouring property. This would also make any such condition unenforceable.

8.5 Other Considerations – not material

Alternative ways to extend the house have been suggested to the applicants. However, they have declined to amend this application.

8.6 Matters to be secured by Section 75 Agreement

Not applicable

9. CONCLUSION

9.1 All relevant matters have been taken into account when appraising this application. It is considered that the proposal does not accord with the principles and policies contained within the Development Plan and is unacceptable in terms of applicable material considerations.

It is recommended that permission be refused.

10. RECOMMENDATION

Action required before decision issued N

Notification to Scottish Ministers N

Notification to Historic Scotland N

Conclusion of Section 75 Agreement N

Revocation of previous permission N

Subject to the above, it is recommended the application be **REFUSED** subject to the following reasons:

1. The proposal is contrary to the provisions of Policy 28 of the Highland-wide Local Development Plan and to the Highland Council's Planning Guidance: House Extensions and Other Residential Alterations. The proposal, by virtue of its projection of 6.3m, height of 2.9m, and location 0.5m away from the boundary with the adjoining house at 11 Elmwood Ave, would lead to undue massing and an overbearing aspect to the occupiers of this house, and would lead to a material loss of light to the occupiers of this house, to the detriment of residential amenity.
2. The proposal is contrary to the provisions of Policy 29 of the Highland-wide Local Development Plan and to the Highland Council's Planning Guidance: House Extensions and Other Residential Alterations. The proposal represents an excessive house to plot ratio, and fails to relate to or reflect the pattern of development in the locality. Instead, it will lead to the extension being too bulky and prominent compared to the house and garden to which it relates, and constitutes overdevelopment of this plot.
3. The proposal is contrary to the provisions of Policy 28 of the Highland-wide Local Development Plan and to the Highland Council's Planning Guidance: House Extensions and Other Residential Alterations. The proposal would significantly impact upon the useable amenity space, leaving two small areas of garden grounds, one to the rear of the extension, and one to the side. These will be dominated by the proposed extension, and the impact on useable amenity space will significantly detract from the amenity of the house.

REASON FOR DECISION

The proposals do not accord with the provisions of the Development Plan and there are material considerations which would warrant refusal of the application.

FOOTNOTE TO APPLICANT

Initiation and Completion Notices

The Town and Country Planning (Scotland) Act 1997 (as amended) requires all developers to submit notices to the Planning Authority prior to, and upon completion of, development. These are in addition to any other similar requirements (such as Building Warrant completion notices) and failure to comply represents a breach of planning control and may result in formal enforcement action.

1. The developer must submit a Notice of Initiation of Development in accordance with Section 27A of the Act to the Planning Authority prior to work commencing on site.
2. On completion of the development, the developer must submit a Notice of Completion in accordance with Section 27B of the Act to the Planning Authority.

Copies of the notices referred to are attached to this decision notice for your convenience.

Accordance with Approved Plans & Conditions

You are advised that development must progress in accordance with the plans approved under, and any conditions attached to, this permission. You must not deviate from this permission without consent from the Planning Authority (irrespective of any changes that may separately be requested at the Building Warrant stage or by any other Statutory Authority). Any pre-conditions (those requiring certain works, submissions etc. prior to commencement of development) must be fulfilled prior to work starting on site. Failure to adhere to this permission and meet the requirements of all conditions may invalidate your permission or result in formal enforcement action

Time Limits

In accordance with Section 58 of the Town and Country Planning (Scotland) Act 1997 (as amended), the development to which this planning permission relates must commence within THREE YEARS of the date of this decision notice. If development has not commenced within this period, then this planning permission shall lapse.

Flood Risk

It is important to note that the granting of planning permission does not imply there is an unconditional absence of flood risk relating to (or emanating from) the application site. As per Scottish Planning Policy (p.198), planning permission does not remove the liability position of developers or owners in relation to flood risk.

Scottish Water

You are advised that a supply and connection to Scottish Water infrastructure is dependent on sufficient spare capacity at the time of the application for connection to Scottish Water. The granting of planning permission does not guarantee a connection. Any enquiries with regards to sewerage connection and/or water supply should be directed to Scottish Water on 0845 601 8855.

Septic Tanks & Soakaways

Where a private foul drainage solution is proposed, you will require separate consent from the Scottish Environment Protection Agency (SEPA). Planning permission does not guarantee that approval will be given by SEPA and as such you are advised to contact them direct to discuss the matter (01349 862021).

Local Roads Authority Consent

In addition to planning permission, you may require one or more separate consents (such as dropped kerb consent, a road openings permit, occupation of the road permit etc.) from TECS Roads prior to work commencing. These consents may require additional work and/or introduce additional specifications and you are therefore advised to contact your local TECS Roads office for further guidance at the earliest opportunity.

Failure to comply with access, parking and drainage infrastructure requirements may endanger road users, affect the safety and free-flow of traffic and is likely to result in enforcement action being taken against you under both the Town and Country Planning (Scotland) Act 1997 and the Roads (Scotland) Act 1984.

Further information on the Council's roads standards can be found at:

<http://www.highland.gov.uk/yourenvironment/roadsandtransport>

Application forms and guidance notes for access-related consents can be downloaded from:

<http://www.highland.gov.uk/yourenvironment/roadsandtransport/roads/Applicationformsforroadoccupation.htm>

Mud & Debris on Road

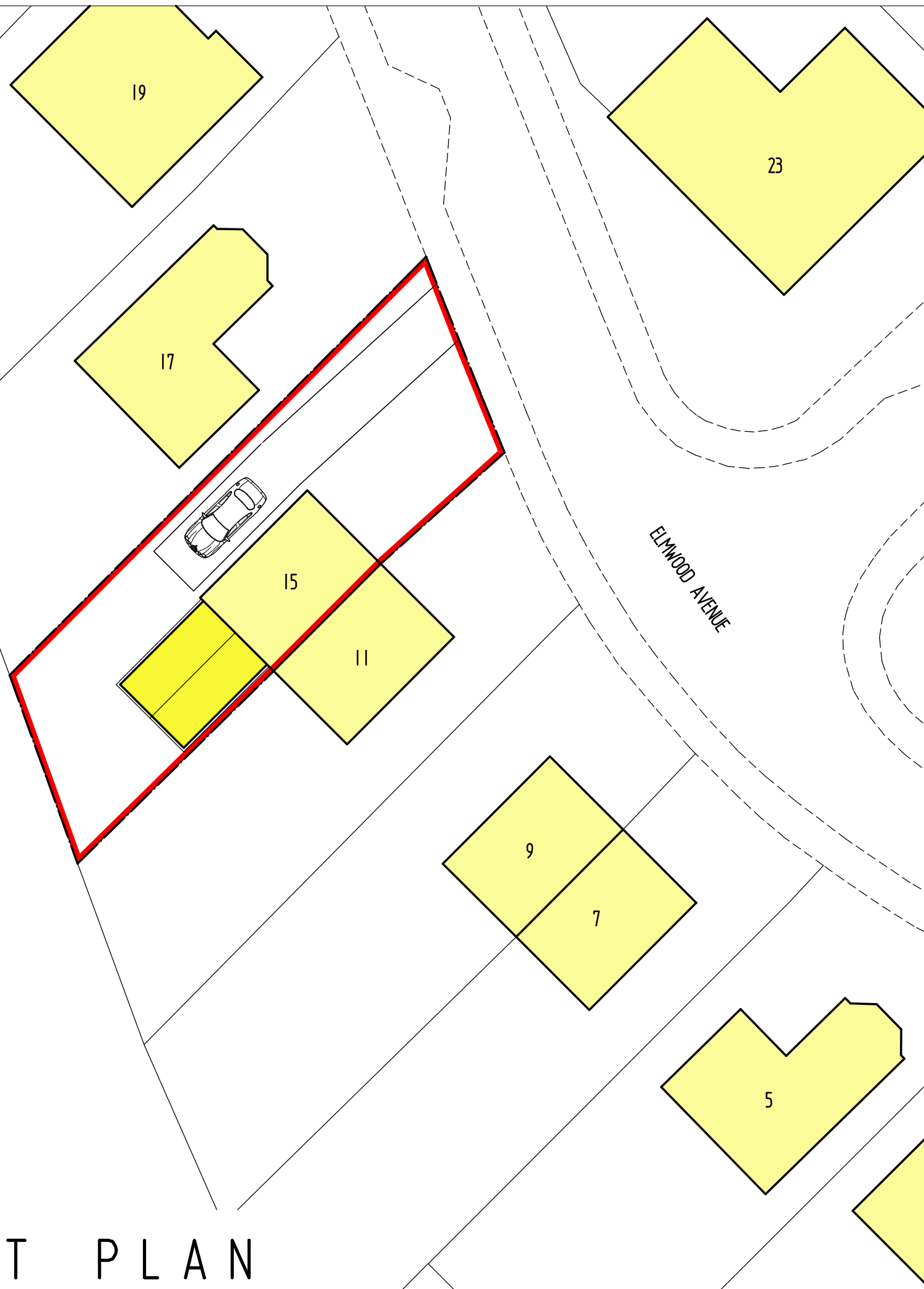
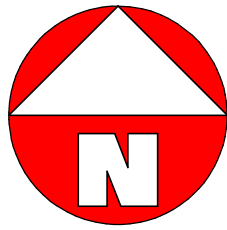
Please note that it is an offence under Section 95 of the Roads (Scotland) Act 1984 to allow mud or any other material to be deposited, and thereafter remain, on a public road from any vehicle or development site. You must, therefore, put in place a strategy for dealing with any material deposited on the public road network and maintain this until development is complete.

Signature: Nicola Drummond
Designation: Area Planning Manager – South/Major Developments
Author: Susan Hadfield
Background Papers: Documents referred to in report and in case file.
Relevant Plans: Plan 1 – 000001 (Location Plan)
Plan 2 – MJ101 (Site Layout Plan)
Plan 3 – MJ-001 (Existing Floor/Elevation Plan)
Plan 4 – MJ-005 (Proposed Floor/Elevation Plan)



LOCATION PLAN

SCALE - 1:1250



IMPORTANT NOTE

THE CONTRACTOR WILL BE HELD TO HAVE CHECKED ALL DIMENSIONS BEFORE COMMENCING WITH ANY WORKS AND, IN THE EVENT OF DISCREPANCIES, IS TO REFER THEM DIRECTLY TO THE CLIENT FOR CLARIFICATION PRIOR TO COMMENCEMENT OF WORK.

WRITTEN DIMENSIONS ARE TO BE TAKEN IN ALL CASES. DRAWINGS ARE NOT TO BE TO SCALED FOR DIMENSIONS.

NOTES

1. APPLICATION SITE OUTLINED RED.
2. SITE AREA IS 0.03 HA (0.08 ACRES) OR THEREBY.
3. PROPOSED EXTENSIONS SHOWN SHADED YELLOW.

project
PROPOSED ALTERATIONS & EXTENSION TO 15
ELMWOOD AVENUE, MILTON OF LEYS, INVERNESS

client
MR. & MRS. G. NICHOLLS

detail
SITE LAYOUT PLAN

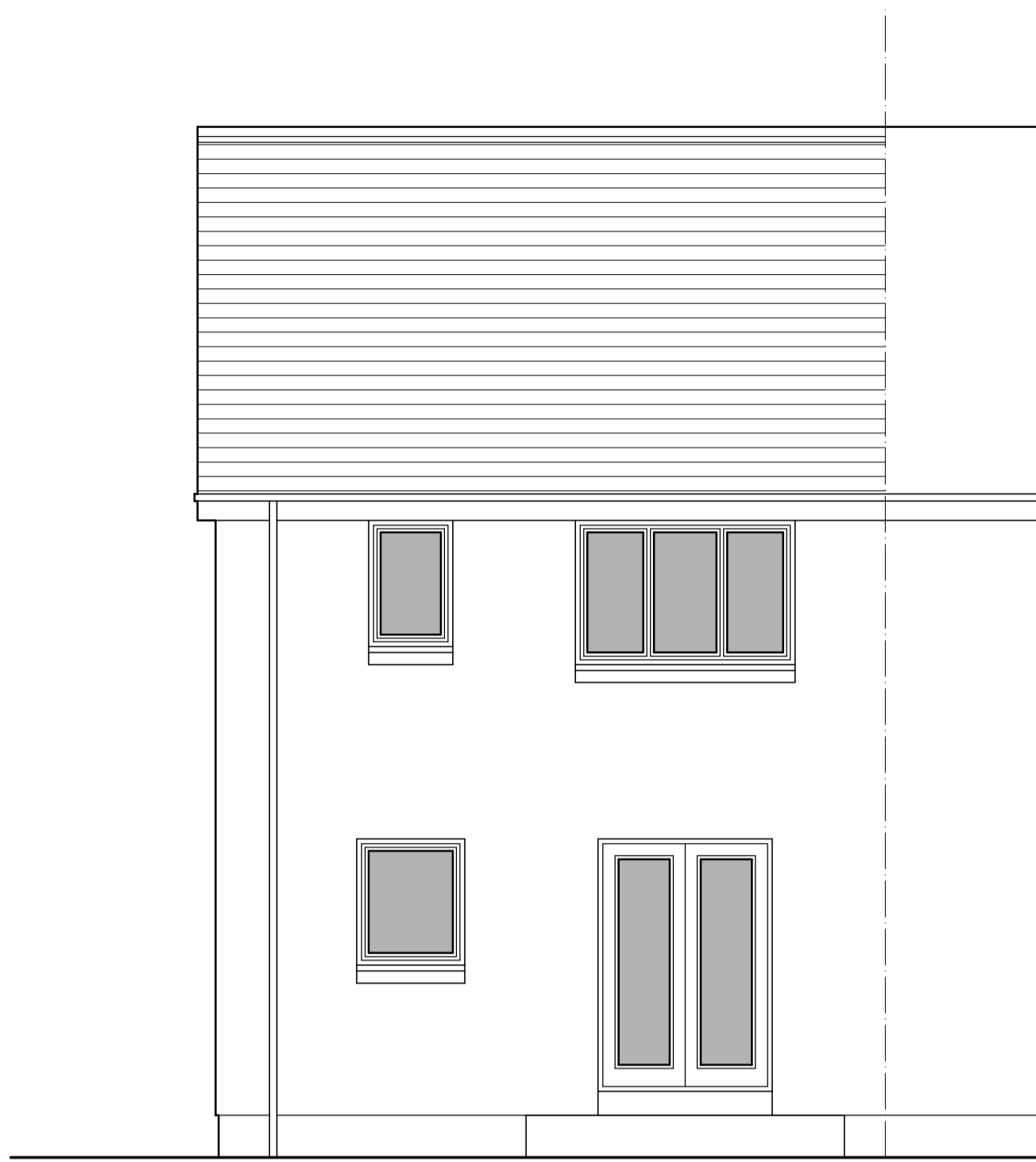
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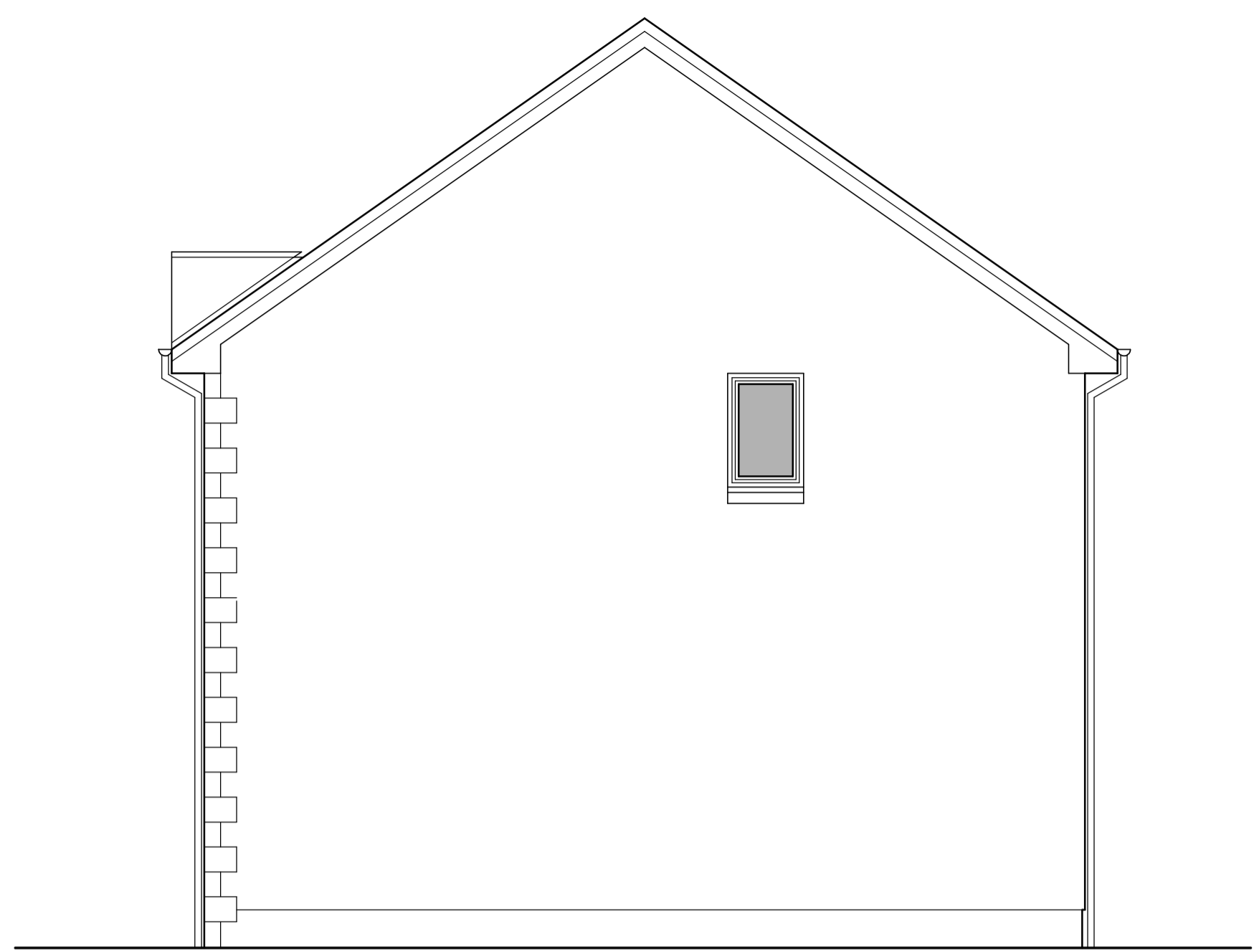
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drg no. MJ - 101

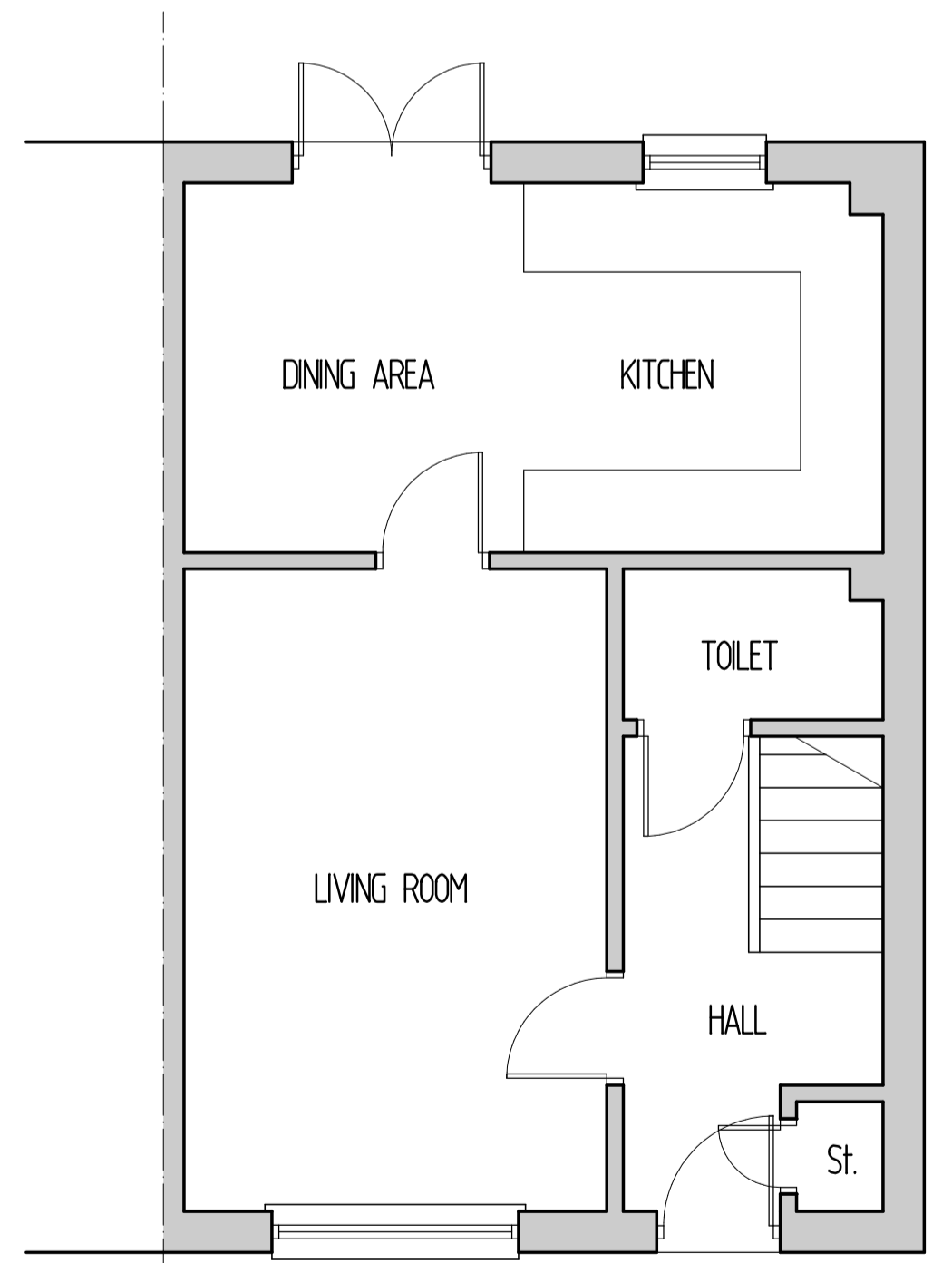
SITE LAYOUT PLAN



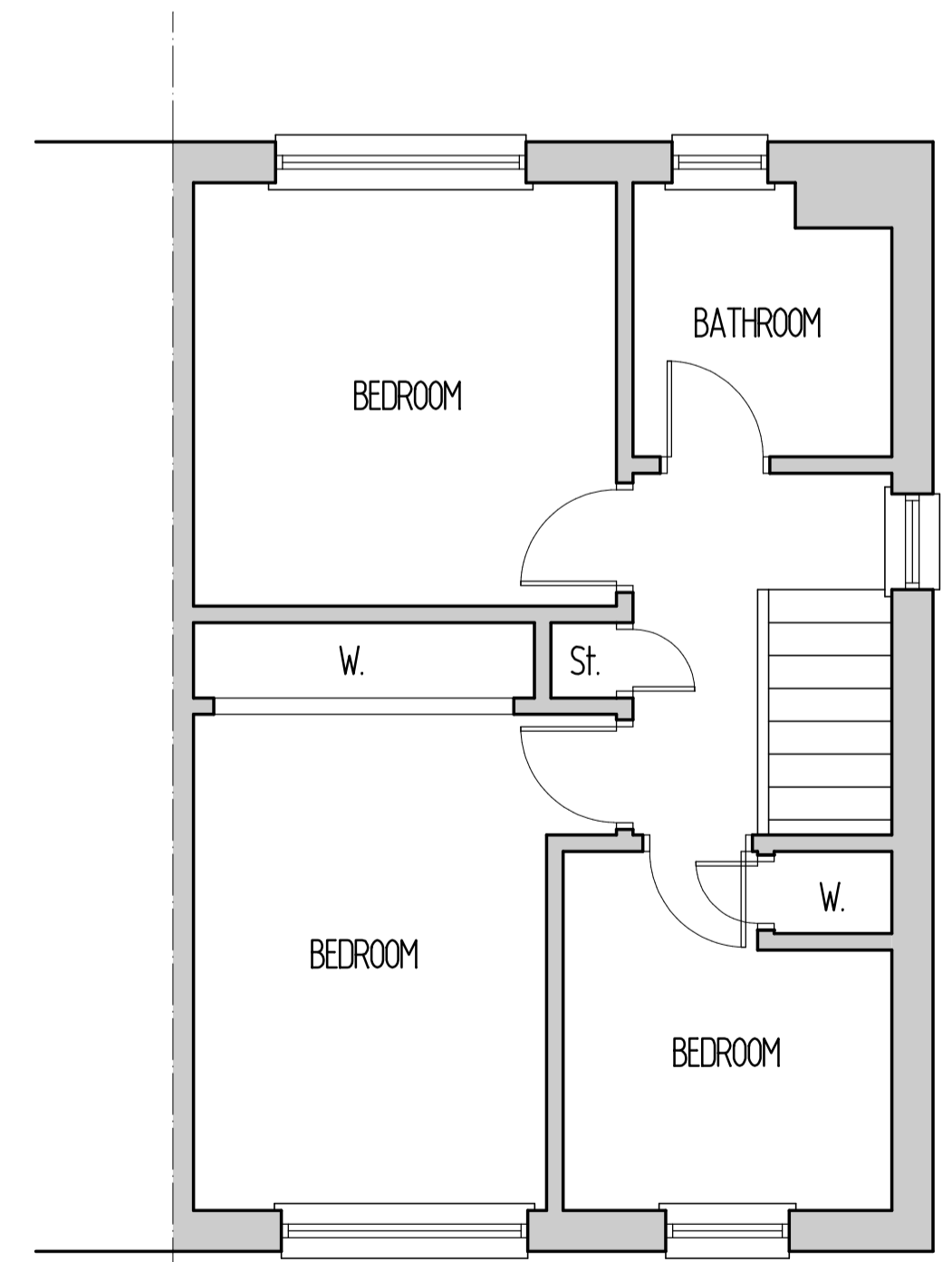
REAR ELEVATION



SIDE ELEVATION



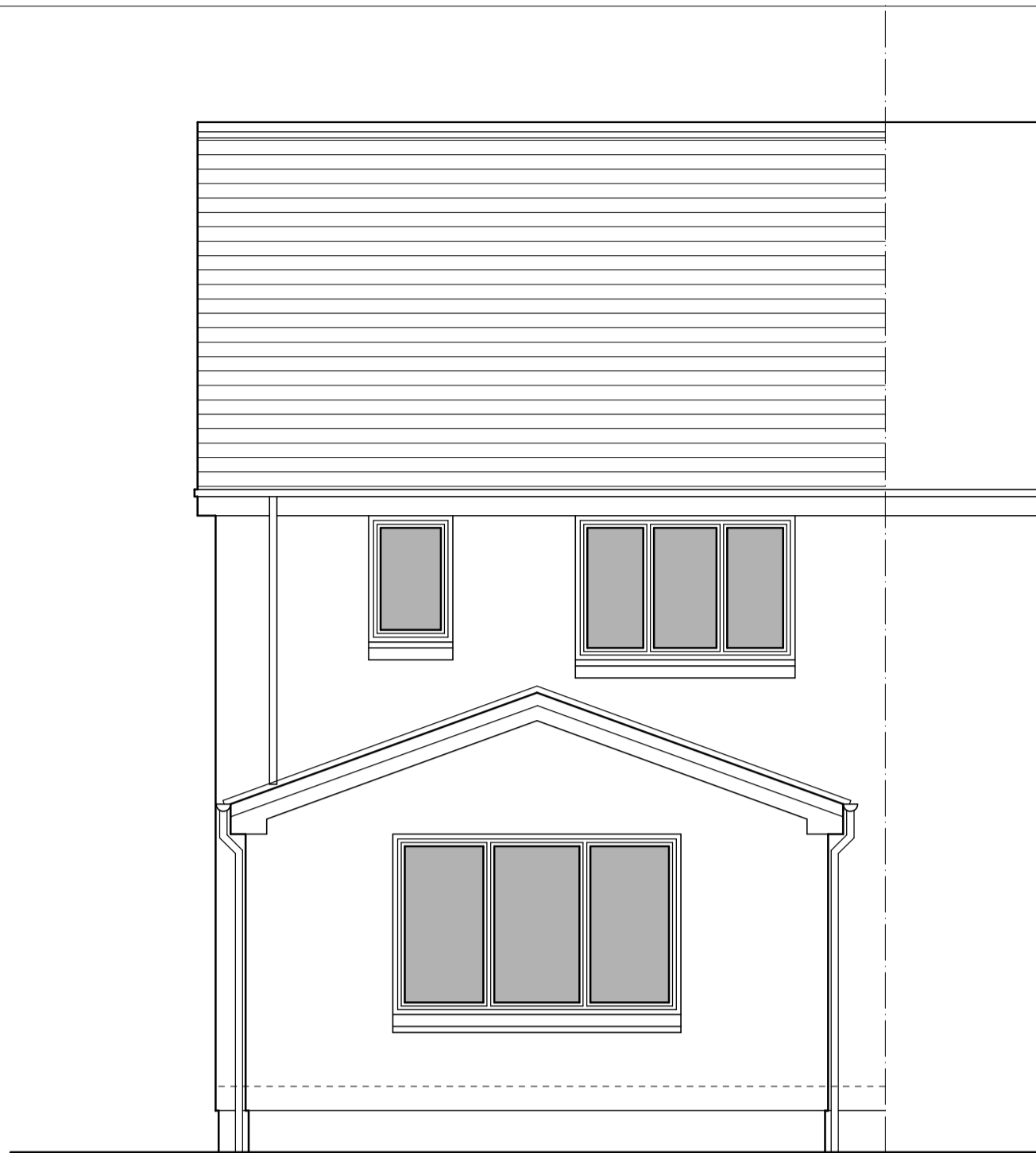
GROUND FLOOR LAYOUT



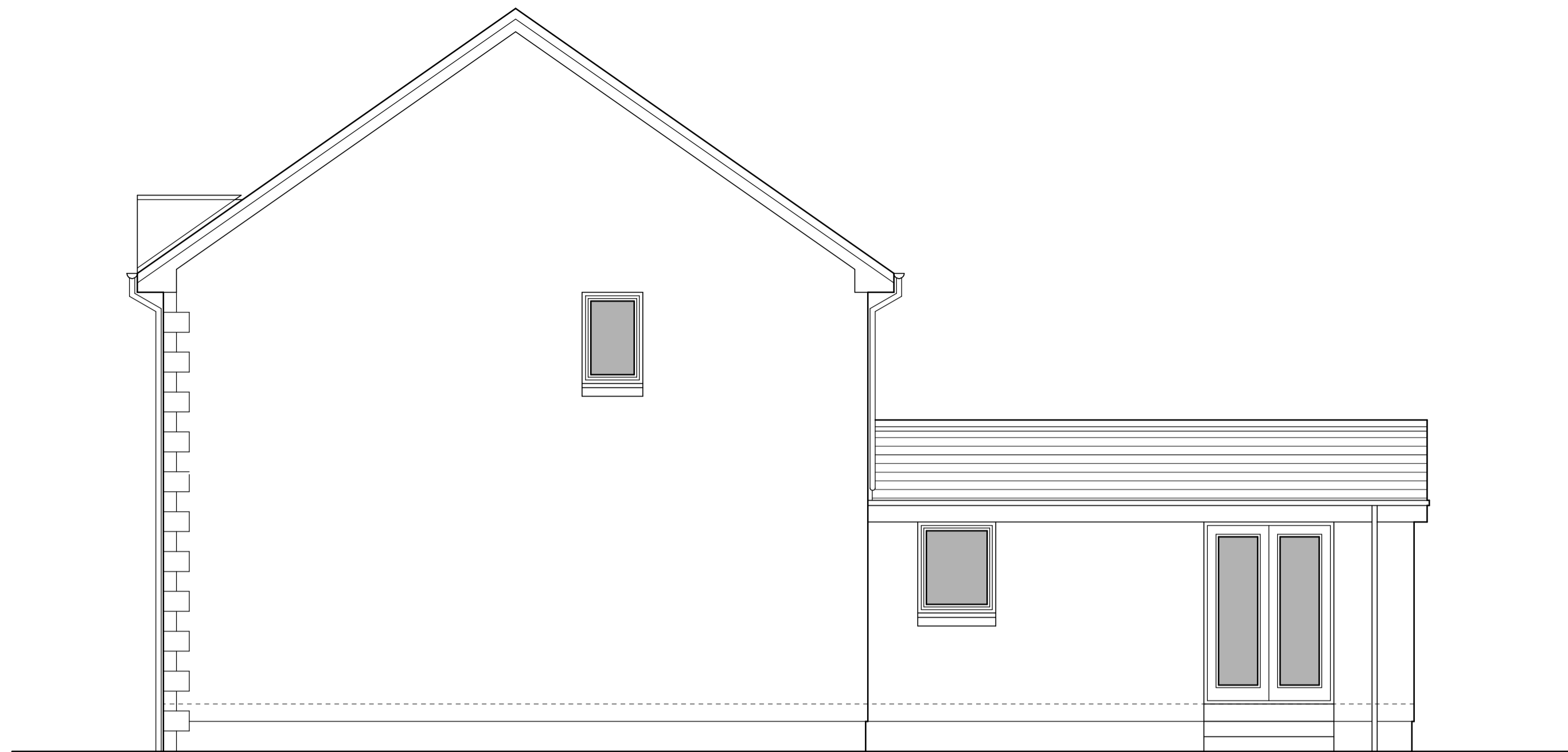
FIRST FLOOR LAYOUT

Important Note
 The contractor will be held to have checked all dimensions before commencing with any works and, in the event of discrepancies, is to refer them directly to the client for clarification prior to commencement of work.
 Written dimensions are to be taken in all cases.
 Drawings are not to be scaled for dimensions.

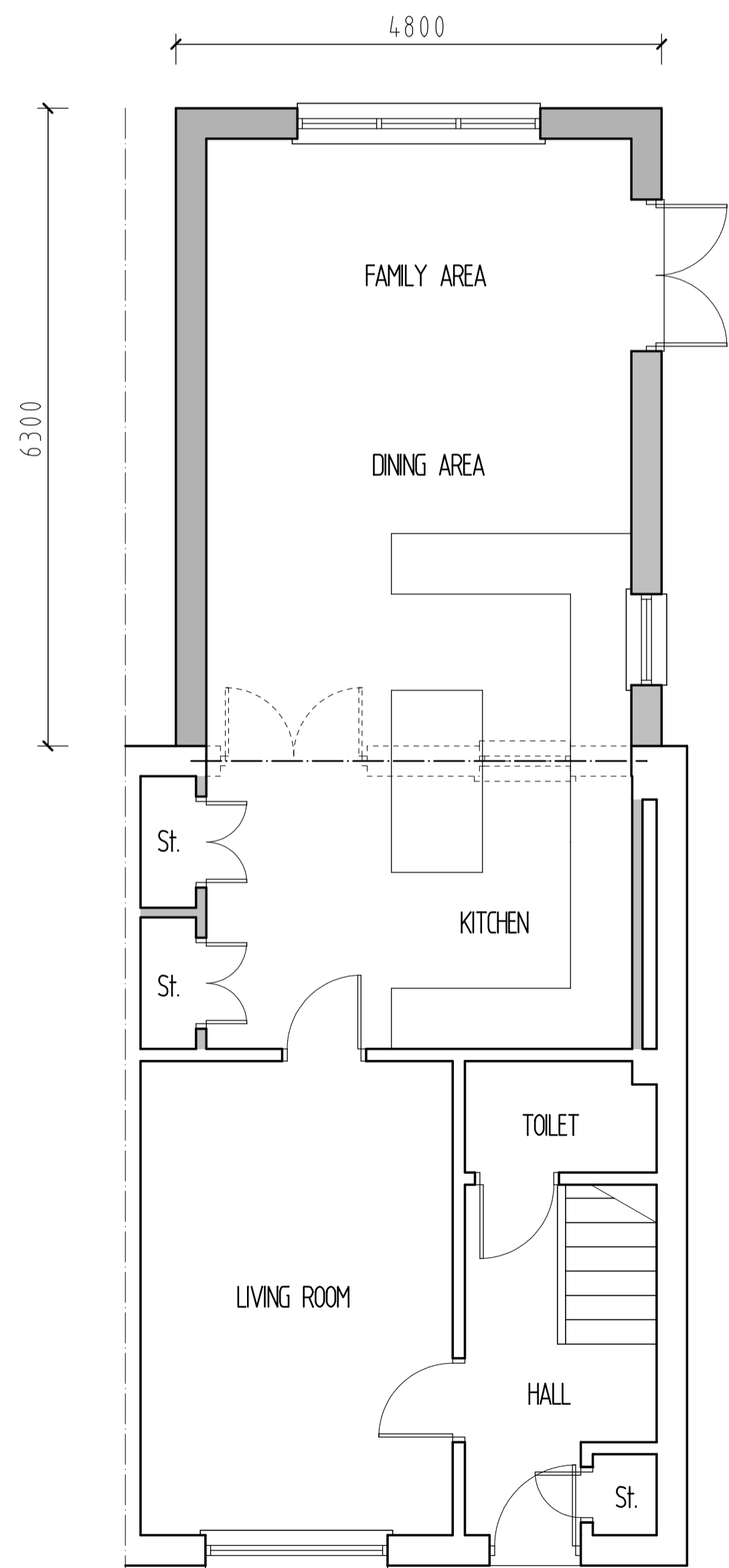
project	
PROPOSED ALTERATIONS & EXTENSION TO 15 ELMWOOD AVENUE, MILTON OF LEYS, INVERNESS	
client	
MR. & MRS. G. NICHOLLS	
detail	
AS EXISTING - FLOOR LAYOUT PLANS & ELEVATIONS	
scale	date
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job no.	drg no.
006 - 16	MJ - 001



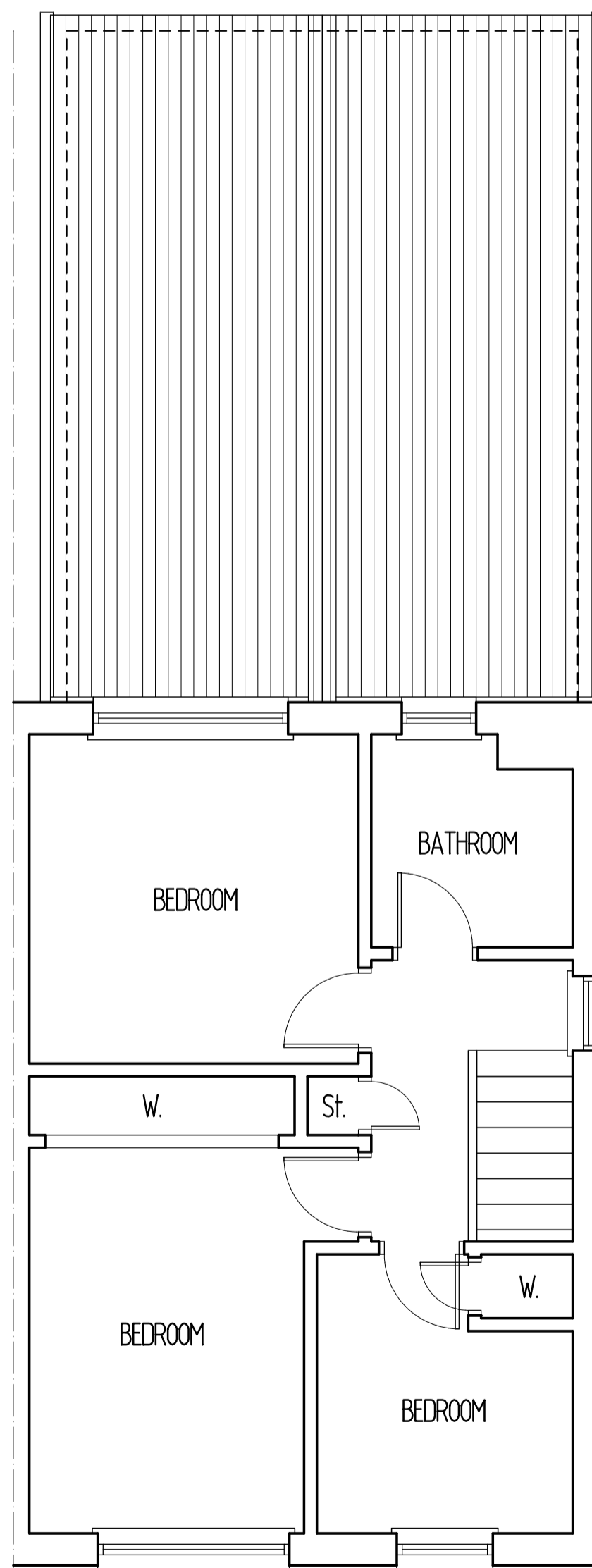
REAR ELEVATION



SIDE ELEVATION



GROUND FLOOR LAYOUT



FIRST FLOOR LAYOUT

Important Note
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project PROPOSED ALTERATIONS & EXTENSION TO 15 ELMWOOD AVENUE, MILTON OF LEYS, INVERNESS	
client MR. & MRS. G. NICHOLLS	
detail AS PROPOSED - FLOOR LAYOUT PLANS & ELEVATIONS	
scale 1 : 50	date 03 : 05 : 16
job no. 006 - 16	drg no. MJ - 005