


REPORT TO PLANNING COMMITTEE

7 October 2020

Application Reference	DC/20/64515
Application Received	21 st July 2020
Application Description	Proposed change of use of ground floor to fish and chip shop (Class A5) with shop front, access ramp and associated parking.
Application Address	Adjacent 141 Newbury Lane Post Office Oldbury B69 1HE
Applicant	Mr Kewal Singh
Ward	Tividale
Contribution towards Vision 2030:	
Contact Officer(s)	Dave Paine 0121 569 4865 david_paine@sandwell.gov.uk

RECOMMENDATION

That planning permission is granted subject to:

- (i) Details of odour control equipment and future maintenance to be submitted and thereafter retained.
- (ii) Details of noise associated with fixed plant to be submitted and thereafter retained.
- (iii) The premises shall only be open during the following hours, this also applies to deliveries:

09:00-22:30 Mon to Thu (and premises to be vacated by 23:00)

09:00-23:30 Fri and Sat (and vacated by 0:00)

10:00- 22:00 Sun and Public Holidays (and vacated by 22:30)

1. BACKGROUND

- 1.1 This application is being reported to your Planning Committee because it has had a large number of representations from the public. In addition, Councillor Ashman has also requested that the application is reported to the planning committee due to concerns about parking, litter and health issues
- 1.2 To assist members with site context, a link to Google Maps is provided below:

[141 Newbury Lane](#)

2. SUMMARY OF KEY CONSIDERATIONS

- 2.1 The Site is unallocated in the adopted development plan.
- 2.2 The material planning considerations which are relevant to this application are:-

Planning history (including appeal decisions)
Access, highway safety, parking and servicing
Traffic generation
Noise and disturbance from the scheme
Disturbance from smells

3. THE APPLICATION SITE

- 3.1 The application relates to a retail unit forming part of a small parade of shops on the north side of Newbury Lane, at the junction with Wallace Road. This is a predominantly residential area, and the shop face onto a large area of playing fields and open green space known as Lion Farm.

4. PLANNING HISTORY

- 4.1 In 2018, permission was granted to convert the storage area to the side of the shop at number 141 to a separate shop. The application also included ground and first floor extensions to the front and side and the creation of a residential apartment on the first floor and a disabled access ramp to the front.

4.2 Relevant planning applications are as follows:-

DC/18/62188	Proposed ground and first floor extensions to front and side to create additional shop unit and apartment, with new access ramp to front.	Approve with conditions 07.11.2018
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5. APPLICATION DETAILS

5.1 The applicant proposes a change the use of the shop from retail (use class A1) to a Hot Food Takeaway (use class A5), the application includes the addition of an access ramp and the alteration of the front of the shop.

6. PUBLICITY

6.1 The application was publicised by neighbour notification letter and site notice.
3 letters of objection were received.

2 petitions in support were received, with a total of over 1500 signatures.

6.2 Objections

Objections have been received on the following grounds:

- (i) Impacts caused by odours and other emissions.
- (ii) Anti-social behaviour (littering, loitering etc.).
- (iii) Increased crime and fear of crime.
- (iv) Increased traffic and parking congestion.
- (v) There are other fish & chip shops nearby.
- (vi) Public health impacts.

Immaterial objections have been received relating to the impact on property value and poor hygiene at the establishment, the latter would be controlled through Environmental Health.

6.3 Responses to objections

I respond to the objector's comments in turn;

- (i) This is a valid concern, commonly associated with hot food takeaways, following receipt of comments from Environmental Health (section 7.4 below), a condition is recommended regarding

- controlling the extraction and ventilation systems to be installed and maintained thereafter.
- (ii) Comments received from the police did not raise any concerns regarding anti-social behaviour (section 7.5 below).
 - (iii) With regards to crime, the only issues highlighted in the police comments related to the risk of crime to the occupiers of the proposed takeaway and hence security measures have been recommended and forwarded to the applicant (section 7.5 below).
 - (iv) Comments from highways (section 7.2 below) noted that the two parking spaces to the front were not acceptable and these were subsequently removed from amended plans. Highways raised a concern regarding parking congestion on Wallace Road which could occur. However, there is no evidence that this would be significantly different to the parking which would be associated with the approved A1 retail shop. A query was raised regarding the possibility of adding a condition to allow highways to review the parking restrictions after 12 months. Such a condition would not meet the test of a condition, as asking that the applicant should pay for installation of any additional parking restrictions would be unreasonable.
 - (v) Comments received from the Planning Policy team state that this proposal does not trigger any of the intervention points of the Hot Food Takeaway Supplementary Planning Document (SPD) in that it is not within a retail centre and it does not comprise a cluster. It does not therefore conflict with any council standards regarding numbers of hot food takeaways in an area.
 - (vi) The hot food takeaway SPD also considers impacts on public health. It limits the numbers in a specific area and prohibits hot food takeaways within 400m of a secondary school or college. This proposal does not conflict with the requirements of the SPD.

6.4 Support

Two petitions of support were received. Both were headed “We, the undersigned, agree to the planning application number DC/20/64515 – Proposed change of use of ground floor to fish and chip shop (Class A5) with shop front, access ramp and associated parking.”

The first petition had over 1000 signatures. The second petition had over 500 signatures.

7. STATUTORY CONSULTATION

7.1 Planning and Transportation Policy

They did not object to the principle of the proposal, noting that it accords with the requirements of the Hot Food Takeaway SPD.

7.2 Highways

Highways noted that the two parking spaces to the front were not acceptable, because they would interfere with the existing dropped kerb which is for pushchairs and wheelchairs, and because it would cause vehicles to reverse onto the highway at the junction, creating a safety issue. For these reasons amended plans were submitted which deleted the parking spaces. Highways have also raised a concern regarding parking congestion on Wallace Road which could occur and recommended a condition to allow highways to review the parking restrictions after 12 months. Unfortunately such a condition would not be reasonable (refer to section 6.3 (iv) above).

7.3 Public Health (Air Quality)

No objection.

7.4 Public Health (Air Pollution and Noise)

No objection subject to conditions regarding ventilation & extraction, noise attenuation and restrictions on opening hours and deliveries.

7.5 West Midlands Police

No overall objection, however suggestions were made regarding the security of the applicant's premises. These have been forwarded to the agent.

8. GOVERNMENT GUIDANCE/NATIONAL PLANNING POLICY

- 8.1 National Planning Policy Framework promotes sustainable development but states that that local circumstances should be taken into account to reflect the character, needs and opportunities for each area.

9. LOCAL PLANNING POLICY

- 9.1 The following policies of the Council's Development Plan are relevant:-

SADDM9 : Hot Food Takeaways
Hot Food Takeaways Supplementary Planning Document

9.2 SADDM9 refers to the following criteria for assessing hot food takeaways outside of town centre locations.

- a) Proposed opening hours – this can be controlled by condition.
- b) Impact of noise, disturbance, smell and litter – this can be partially controlled by condition. Issues regarding litter are more difficult to control, however, this proposal falls within an existing row of retail shops which has an existing litter bin to the front.
- c) & d) Traffic generation; parking problems and highway safety – as discussed in sections 6.3 and 10.4, there is no evidence that this proposal would have any significant impact on traffic generation, and consequent parking and safety issues. The NPPF states; *“Development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe.”* In the case of this application, there would not be an unacceptable impact on highway safety and there would be no severe cumulative impact.

The Hot Food Takeaway SPD seeks to control the numbers and siting of takeaways in Sandwell, to ensure active, varied and vibrant high streets and to protect public health.

10. MATERIAL CONSIDERATIONS

10.1 The material considerations relating to Government Policy (NPPF) and proposals within the Development Plan have been referred to above in Sections 8 and 9. With regards to the other considerations these are highlighted below:

10.2 Planning History

It is considered that the previous approval of the A1 retail unit is of primary relevance. Many of the issues associated with this proposed A5 takeaway are materially similar to those addressed in the previous application. In particular, concerns regarding highway safety and parking.

10.3 Noise Nuisance and Odours

The proposed noise and odour mitigation conditions should adequately address these concerns related to this application.

10.4 Highway Safety, Parking and Servicing

There is no evidence that highway safety or parking would be significantly affected by this proposal. Permission already exists for an A1 retail shop which would be expected to create a similar amount of vehicle movements. A dedicated area would be provided to the rear for deliveries and bin collection.

10.5 Traffic Generation

There is no evidence that this proposal would have a significant impact on traffic accumulation. The NPPF states; *“Development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe.”*

11. IMPLICATIONS FOR SANDWELL’S VISION

11.1 The proposal supports Ambition 8 of the Sandwell Vision 2030:-

11.4 Ambition 8 – Our distinctive towns and neighbourhoods are successful centres of community life, leisure and entertainment where people increasingly choose to bring up their families.

12. CONCLUSIONS AND SUMMARY OF REASONS FOR THE RECOMMENDATIONS

12.1 This proposal accords with the requirements of the SAD DM9 And Sandwell Hot Food Takeaway SPD. Impacts caused by odours and noise can be controlled through planning conditions. Other impacts including parking and highway safety would not be significantly different to those associated with the approved use.

13. STRATEGIC RESOURCE IMPLICATIONS

13.1 When a planning application is refused the applicant has a right of appeal to the Planning Inspectorate, and they can make a claim for costs against the council.

14. LEGAL AND GOVERNANCE CONSIDERATIONS

14.1 This application is submitted under the Town and Country Planning Act 1990.

15. EQUALITY IMPACT ASSESSMENT

15.1 There are no equality issues arising from this proposal and therefore an equality impact assessment has not been carried out.

16. DATA PROTECTION IMPACT ASSESSMENT

16.1 The planning application and accompanying documentation is a public document.

17. CRIME AND DISORDER AND RISK ASSESSMENT

17.1 West Midlands Police have raised no crime and disorder issues with this application.

18. SUSTAINABILITY OF PROPOSALS

18.1 Refer to the National Planning Policy Framework (8), Development Plan policies (9) and material considerations (10).

19. HEALTH AND WELLBEING IMPLICATIONS (INCLUDING SOCIAL VALUE)

19.1 Refer to the summary of the report (12).

20. IMPACT ON ANY COUNCIL MANAGED PROPERTY OR LAND

20.1 There would be no impact.

21. APPENDICES:

Location Plan

Context Plan

Location Plan showing adjacent ownership (blue)

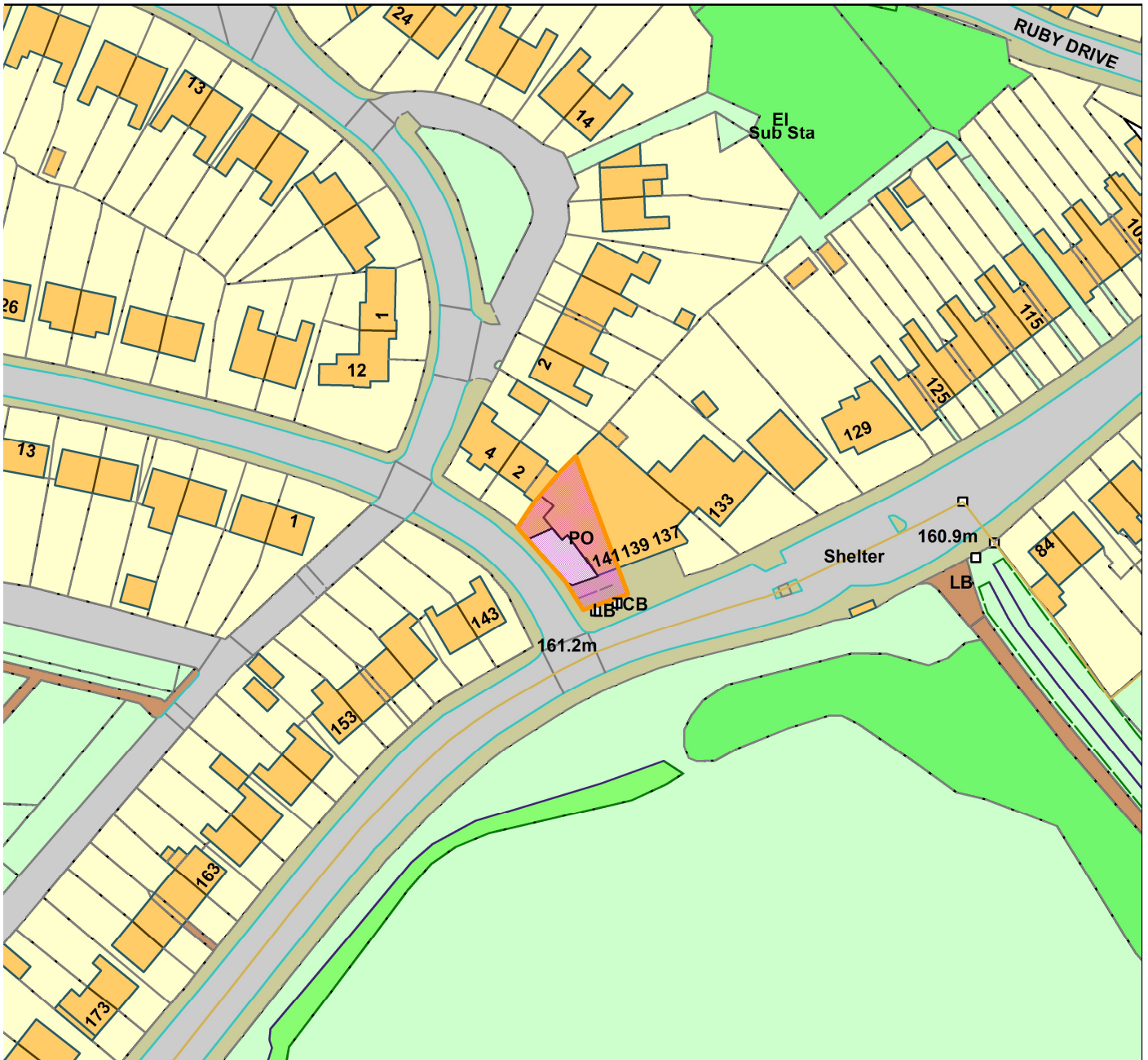
Block Plan

Floor Plan – 01P

Elevation Plan – 02P

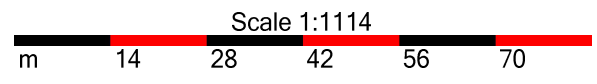
Elevation Plan – 03P

DC/20/64515
Adjacent 141 Newbury Lane Post Office, Oldbury



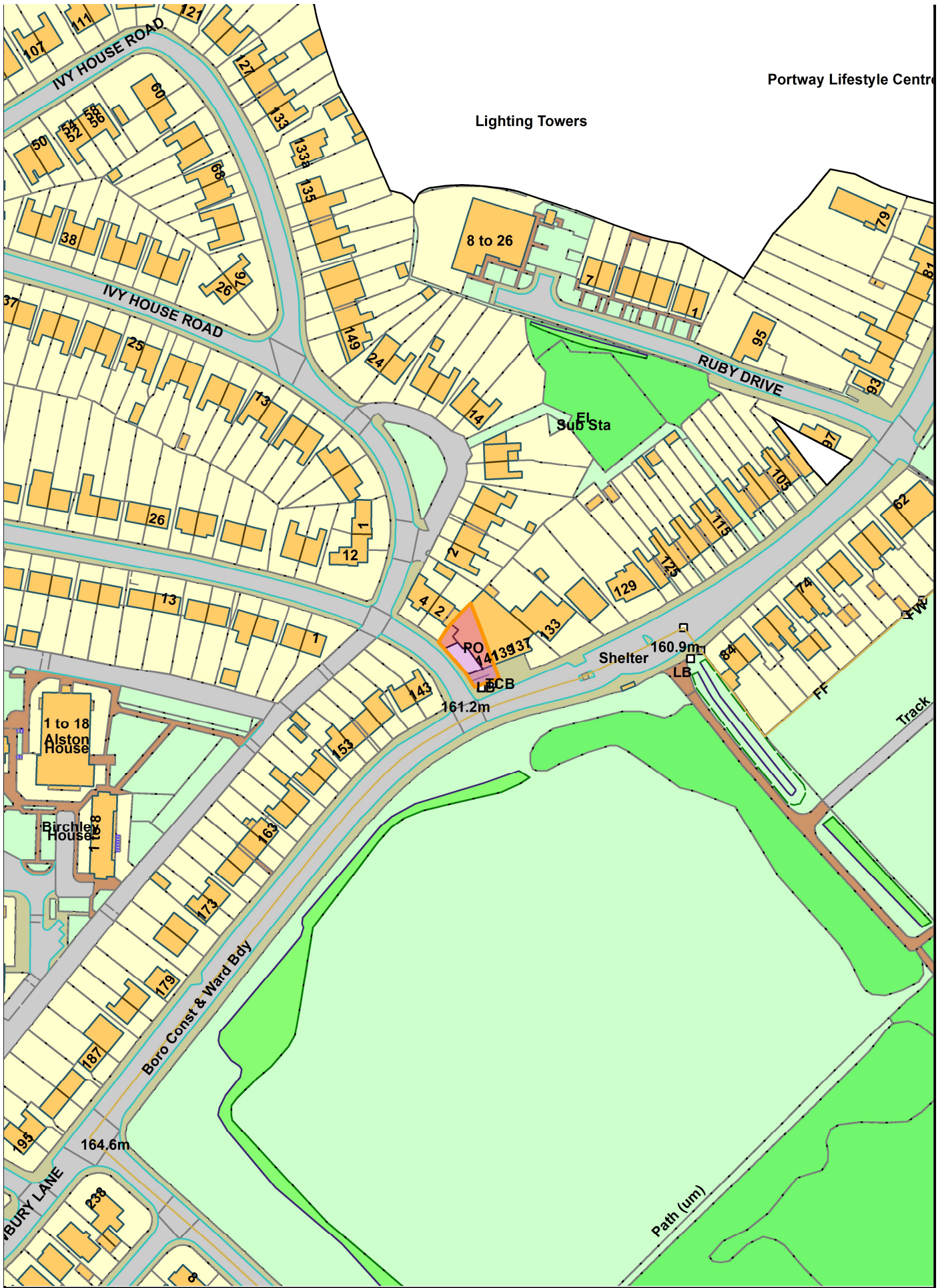
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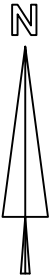
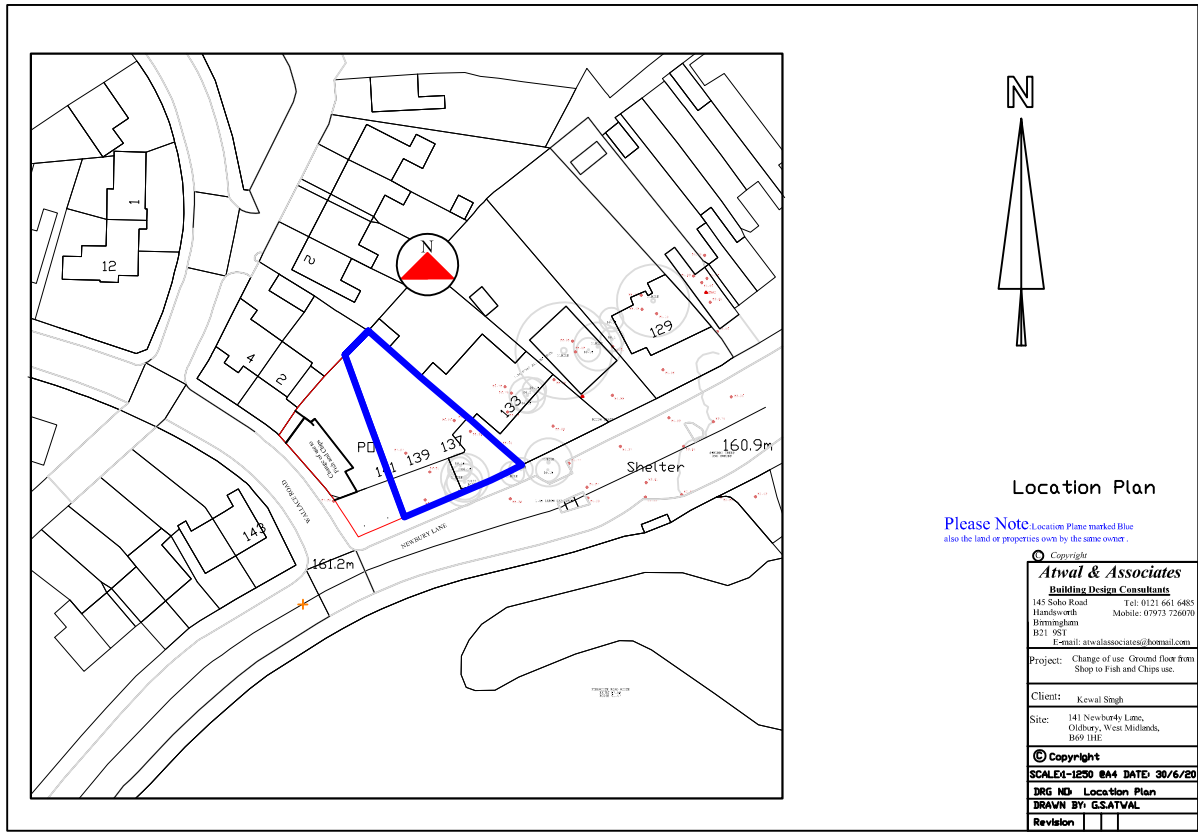
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Organisation	Not Set
Department	Not Set
Comments	Not Set
Date	24 September 2020
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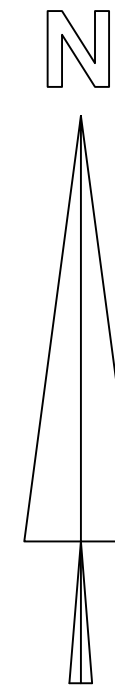




Location Plan

Please Note: Location Plane marked Blue also the land or properties own by the same owner.

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B21 9ST	
E-mail: atwalassociates@hotmail.com	
Project: Change of use: Ground floor from Shop to Fish and Chips use.	
Client: Kewal Singh	
Site: 141 Newbury Lane, Oldbury, West Midlands, B69 1HE	
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SCALE: 1:250 BM4 DATE: 30/6/20	
DRG NO: Location Plan	
DRAWN BY: G.S.ATWAL	
Revision	



Site Plan

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Project: Change of use Ground floor from Shop to Fish and Chips use.

Client: Kewal Singh

Site: 141 Newbur4y Lane,
 Oldbury, West Midlands,
 B69 1HE

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SCALE:1-500 @A3 DATE: 30/6/20

DRG NO: Site Plan

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Revision	A	DATE: 1/9/20
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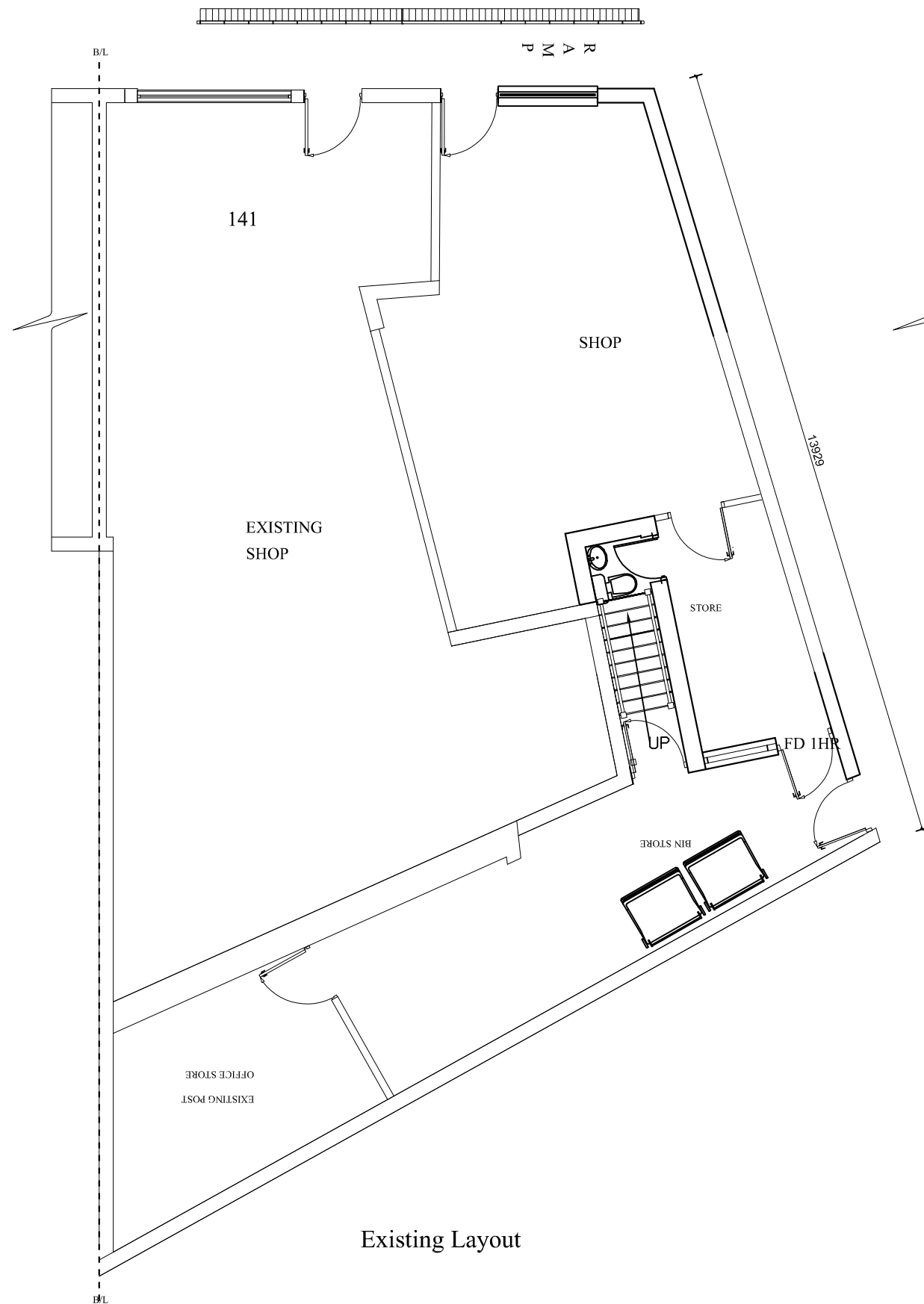
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SPECIFICATIONS

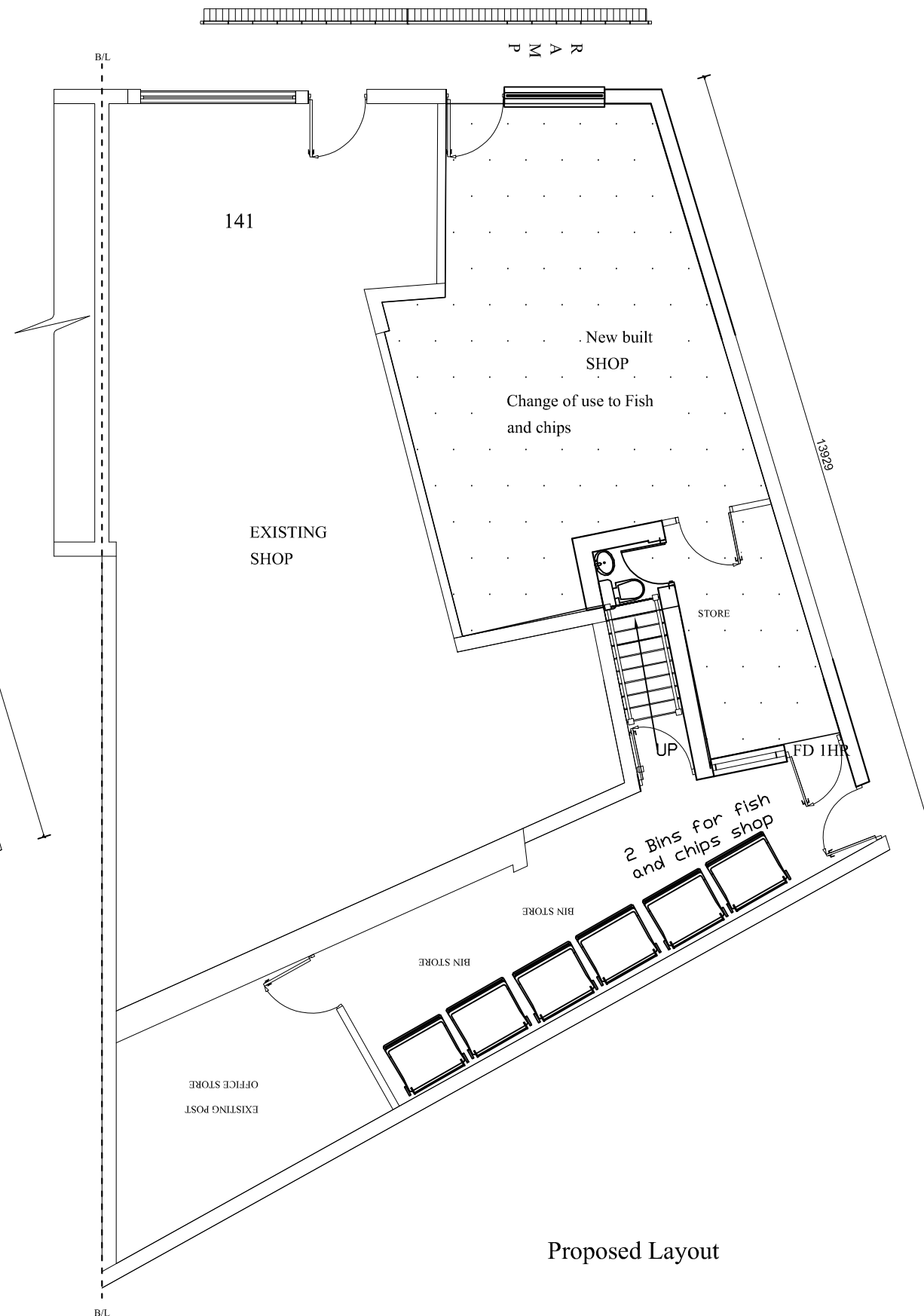
GENERAL: The contractor must check all dimensions and details before beginning work or ordering materials and must ensure the stability of the new and existing structure during the course of the work. The contractor is also to ensure that all works are carried out in accordance with current Building regulations. All work undertaken prior to official statutory approvals being granted, are at the risk of the Contractor/Client. We do not accept any kind of responsibility whatsoever.

The drawing has been design according to the instruction by client(s). We do not hold any liability or responsibility.

PARTY WALL etc ACT 1996 : The Party Wall ect Act 1996 may apply to this project. It is the responsibility of the Building Owner to either appoint a party wall surveyor or to ensure that the appropriate Notice are served on the adjoining Owner(s) and requisite Approval obtained prior to commencing work.



Existing Layout



Proposed Layout

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 E-mail: atwalassociates@hotmail.com

Project: Change of use Ground floor from Shop to Fish and Chips use.

Client: Kewal Singh

Site: 141 Newbury Lane, Oldbury,
 West Midlands, B691HE

SCALE: 1-100 @A3 DATE: 30/6/20

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Revision B Date: 01/9/20

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SPECIFICATIONS

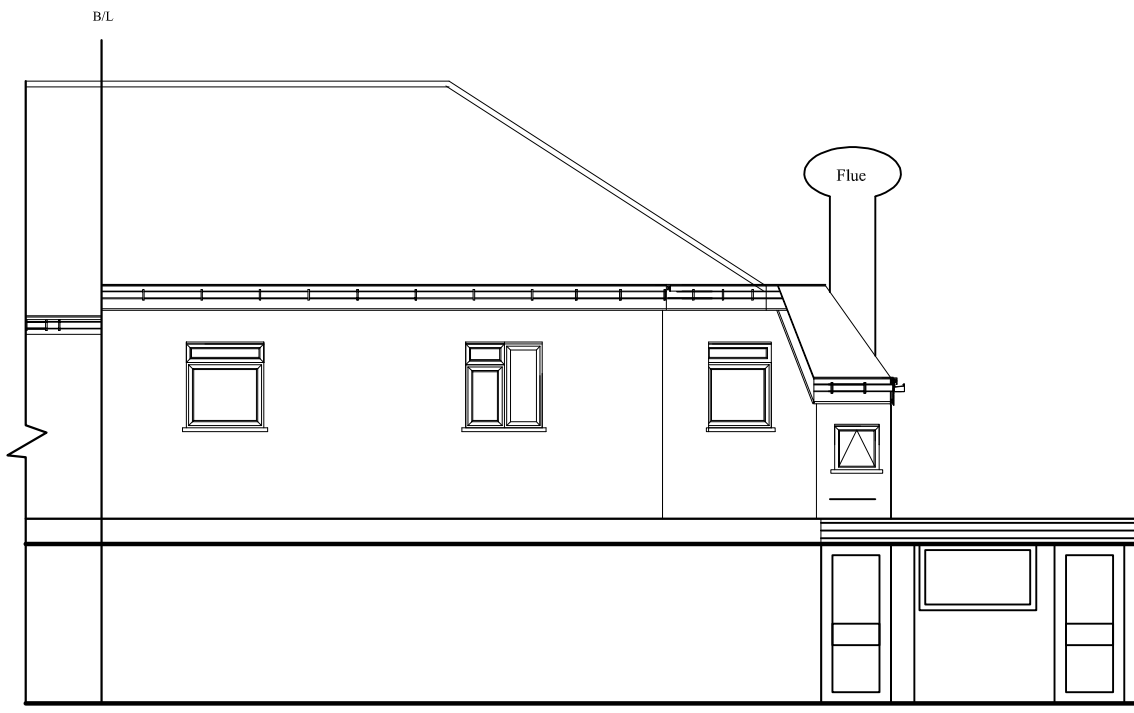
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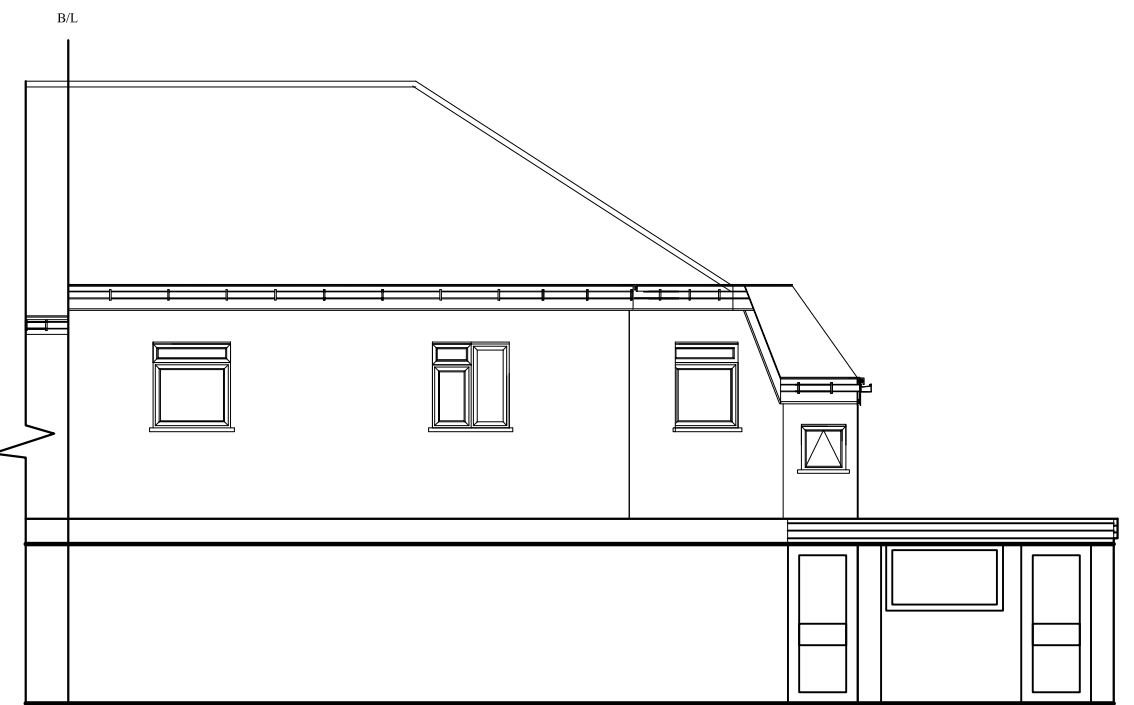
Proposed Front Elevation



Proposed Rear Elevation



Existing Front Elevation



Existing Rear Elevation

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Project: Change of use Ground floor from Shop to Fish and Chips use.

Client: Kewal Singh

Site: 141 Newbury Lane, Oldbury, West Midlands, B69 1HE

SCALE:1-100 @A3 DATE: 30/6/20

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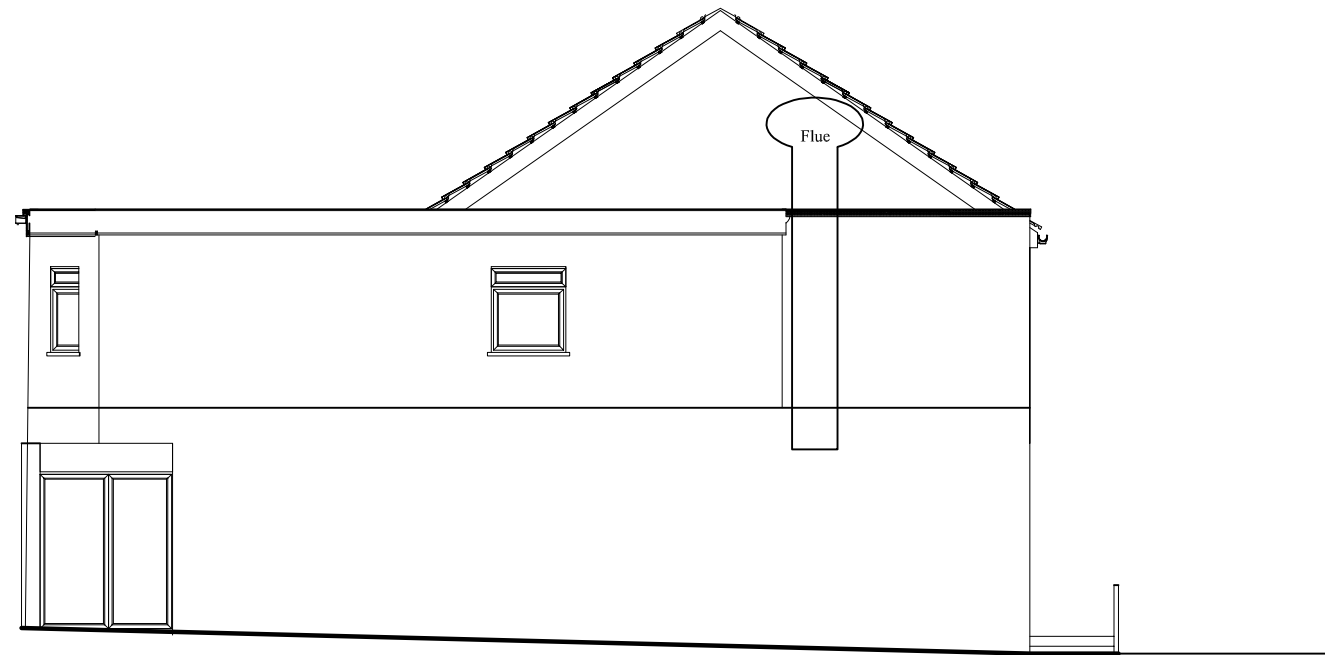
NOTE: This drawing is for planing purpose only not for building regulations.

SPECIFICATIONS

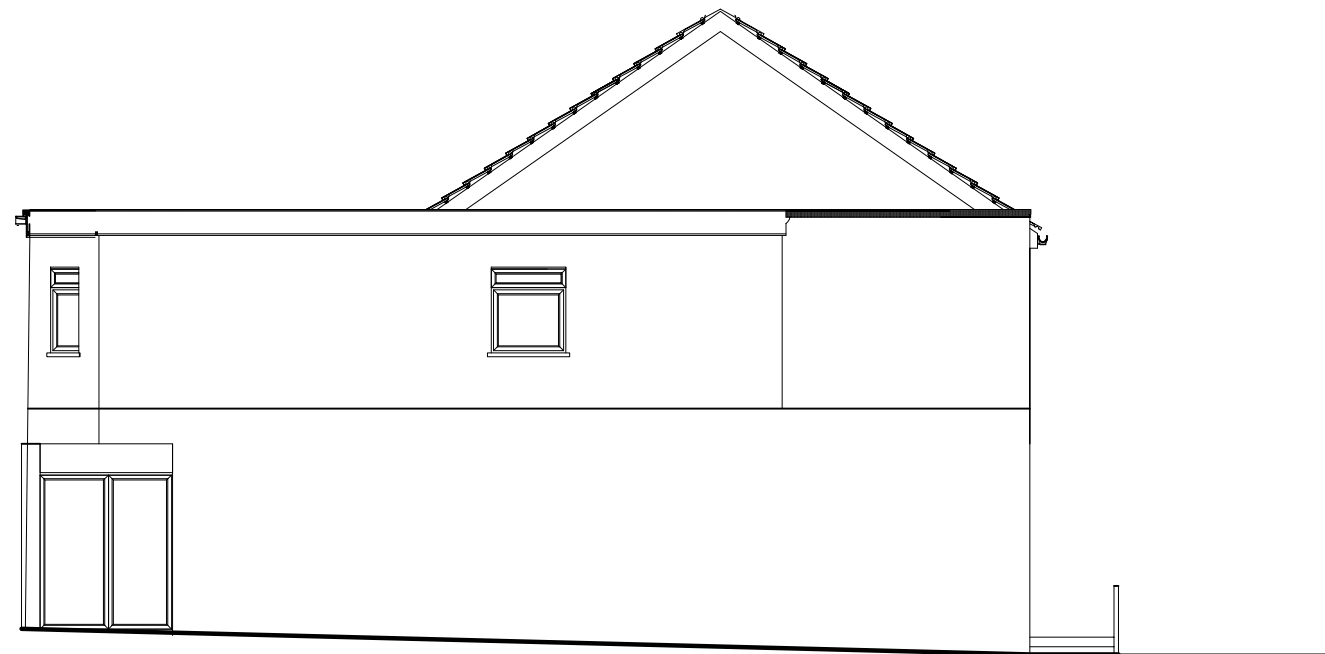
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Proposed Side Elevation



Existing Side Elevation

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Client: Kewal Singh

Site: 141 Newbury Lane, Oldbury,
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