

Report to Planning Committee

10 February 2021

Application Reference	DC/20/65023
Application Received	3.12.2020
Application Description	Proposed change of use to hot food takeaway with extraction flue to rear.
Application Address	5 High Street, Tipton, DY4 8HH.
Applicant	Mr Iulian Dobre
Ward	Tipton Green
Contact Officer	Name: Anjan Dey Email: anjan_dey@sandwell.gov.uk

1 Recommendations

1.1 That planning permission is granted subject to:

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

09:00-2300 Mon to Fri
1000-23:30 Sat & Sun



2 Reasons for Recommendations

2.1 The proposals have been recommended for approval as the proposed use is supported by consultation comments and it is considered that any adverse impact on neighbouring residential properties can be mitigated by way of relevant planning conditions. The previous planning history has been considered along with the existing retail use.

3 How does this deliver objectives of the Corporate Plan?



A strong and inclusive economy – The proposal would bring a vacant commercial property into use and would provide a small number of employment opportunities.

4 Context

4.3 This application is being reported to your Planning Committee because it has had several representations from the public; specifically, a petition containing 10 signatures.

4.4 To assist members with site context, a link to Google Maps is provided below:

[5 High Street, Tipton](#)

5 Key Considerations

5.1 The site is allocated for housing within the development plan, but this forms part of a wider area and is therefore not relevant to this proposal. Other development plan policies are referred to in section 12 below.

5.2 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



6. The Application Site

- 6.1 The application relates to a vacant retail unit, with residential accommodation above, located on the southern side High Street, Tipton, close to a roundabout junction. The property is bounded by a depot to the west and a convenience store to the east. The opposite side of the High Street is characterised by residential properties with a small Industrial Estate to the south-west.

7. Planning History

- 7.1 There is no recent planning history for the unit but in 2001 planning consent was granted for change of use to a sandwich shop including the sale of hot food. It is unclear whether that consent was implemented. The agent has only indicated that the property was last used for retail purposes.

Between 1991 and 1994 there were four planning applications submitted for hot food takeaway uses, and all of these were refused on grounds of detrimental impact on residential amenity.

There is no appeal history for the site.

- 7.2 Relevant planning applications are as follows:-

DC/27938	Change of use to a fish and chip shop.	Refuse Permission 14.02.1992
DC/28003	Change of use to hot food take-away.	Refuse Permission 16.03.1992
DC/30725	Change of use to pizza and burger restaurant.	Refuse Permission 09.09.1994.



DC/01/37782

Change of use to sandwich shop including hot food.

Grant Permission subject to conditions 15.06.2001.

8. Application Details

- 8.1 The applicant proposes a change the use of the shop from retail (new use - class E) to a Hot Food Takeaway (now Sui Generis – no use class). Internal floorspace for the unit equates to 103.5 square metres. The application includes a ground floor layout that shows a front serving counter and a kitchen/preparation area at the rear of the unit. The proposal does not include any changes to the existing shop front.
- 8.2 Proposed hours of opening are 0900 to 2300 (Monday to Friday) and 1000 to 2300 (Saturday & Sundays).
- 8.3 As indicated, the proposed extraction flue would be at the rear of the property and would be 1 metre above the top of the highest window

9. Publicity

- 9.1 The application was publicised by neighbour notification letter and site notice.

One letter of objection has been submitted along with one petition against the proposal containing 10 signatures.

The owner/occupier of the adjacent retail unit has not objected to the proposal but has commented on the height of the discharge flue at the rear.

9.2 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; and
- (v) Public health impacts & increased pollution from vehicles.

9.3 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 Public Health (section 10.4 below), a condition is recommended regarding controlling the extraction and ventilation systems to be installed and maintained thereafter. Details of related noise attenuation have also been requested. In my opinion with these mitigation measures in place, odour and noise nuisance will be controlled.
- (ii) Comments received from the police did not raise any concerns regarding anti-social behaviour (section 10.6 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 10.6 below).
- (iv) Highways (section 10.2 below) raises no objections to the proposal in terms of parking or highway safety.
- (v) 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 (section 10.1 below). Furthermore, Public Health (Air Quality) has not commented on the proposal.

10. Consultee responses



10.1 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.

10.2 Highways

The unit does not benefit from any off-road parking provision but highways has not objected to the proposal.

10.3 Public Health (Air Quality)

No comments have been made.

10.4 Public Health (Air Pollution and Noise)

No objection subject to conditions regarding ventilation & extraction, noise attenuation and restrictions on opening hours. Their comments in relation to possible noise and odour nuisance only refer to the flat above.

10.6 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.

11. National Planning Policy

11.1 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.



12. Local Planning Policy

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

SADDM9 : Hot Food Takeaways
Hot Food Takeaways Supplementary Planning Document

12.2 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 area of existing retail shops and litter bins could be provided within the counter area.
- c) & d) Traffic generation; parking problems and highway safety – as discussed in sections 10.2, and there is no evidence that this proposal would have any significant impact on traffic generation, and consequent parking and safety issues. Highways does not object to the proposal. 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 location of takeaways in Sandwell, to ensure active, varied and vibrant high streets and to protect public health. As indicated above the application site is compliant with this.

13. Material Considerations

13.1 The material considerations relating to Government Policy (NPPF) and proposals within the Development Plan have been referred to above in



Sections 11 and 12. With regards to the other considerations these are highlighted below:

13.2 Noise Nuisance and Odours

The proposed noise and odour mitigation conditions should adequately address the amenity concerns of this application.

13.3 Highway Safety, Parking and Servicing

There is no evidence that highway safety or parking would be significantly affected by this proposal.

13.4 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.”*

14 Alternative Options

14.1 Approval of application is an option if there are material planning reasons for doing so. In my opinion the proposal accords with relevant development plan policy and those material considerations such as noise/odour can be controlled by condition.

15 Implications

Resources:	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.
Legal and Governance:	This application is submitted under the Town and Country Planning Act 1990.
Risk:	None.



Equality:	There are no equality issues arising from this proposal and therefore an equality impact assessment has not been carried out.
Health and Wellbeing:	Refer to the summary of the report (2.1).
Social Value	None

16. Appendices

Location Plan

Existing & Proposed Floor Plans No. 2037.101.B

Existing & Proposed Side/Rear Elevation Plans No. 2037.103.A

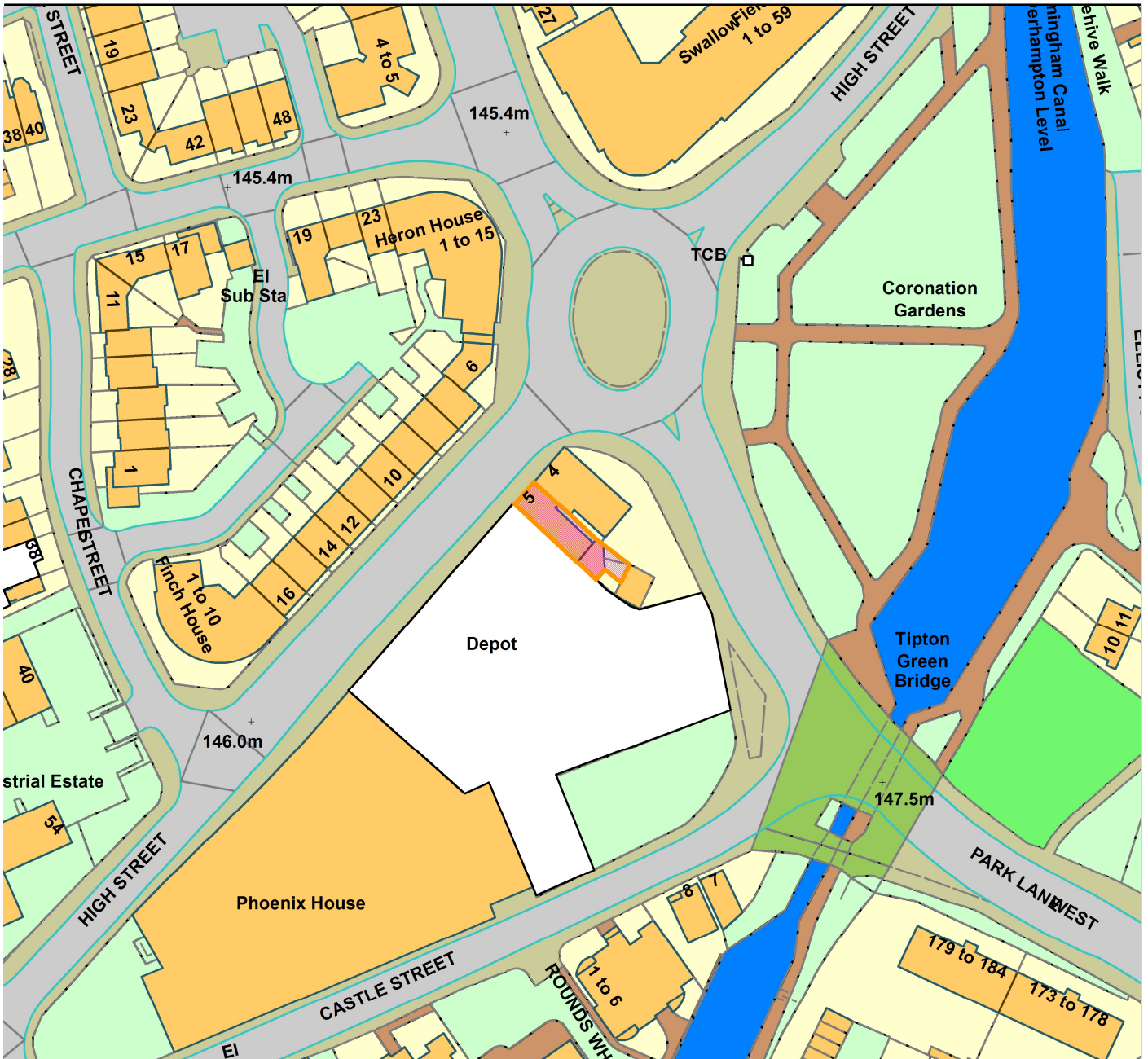
Sectional Detail Plan. 2037.102.B

17. Background Papers

None

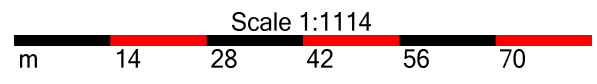


DC/20/65023
5 High Street



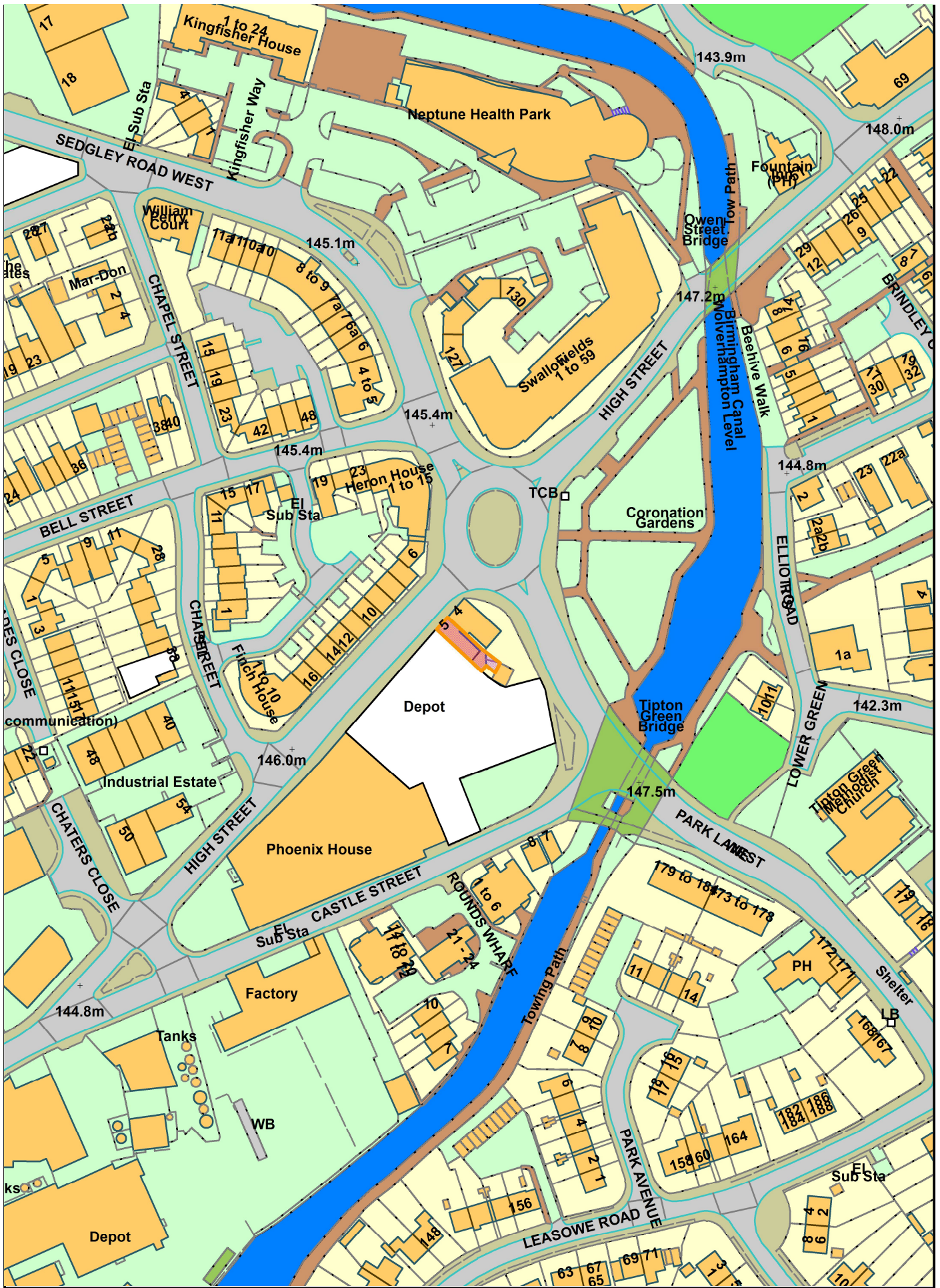
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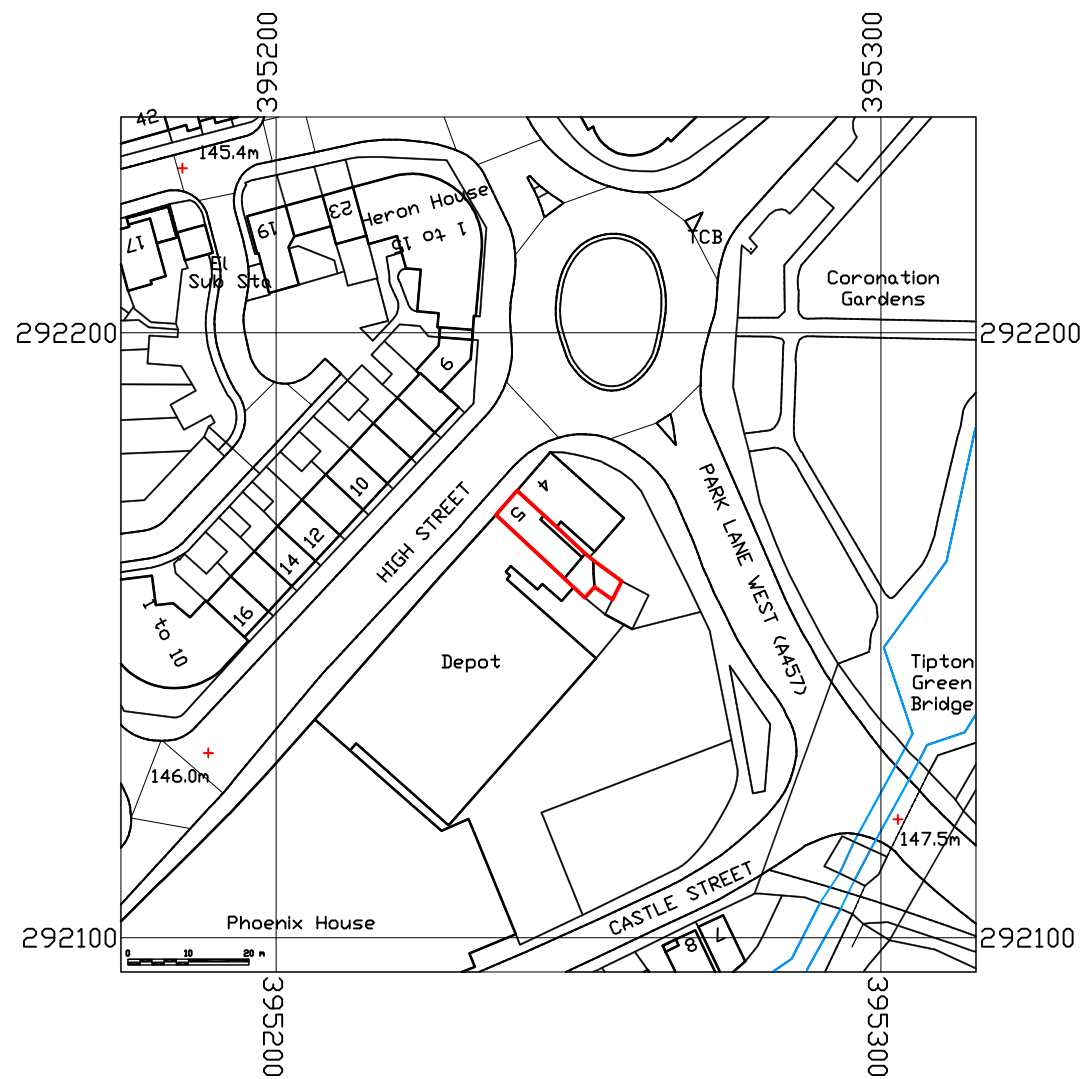
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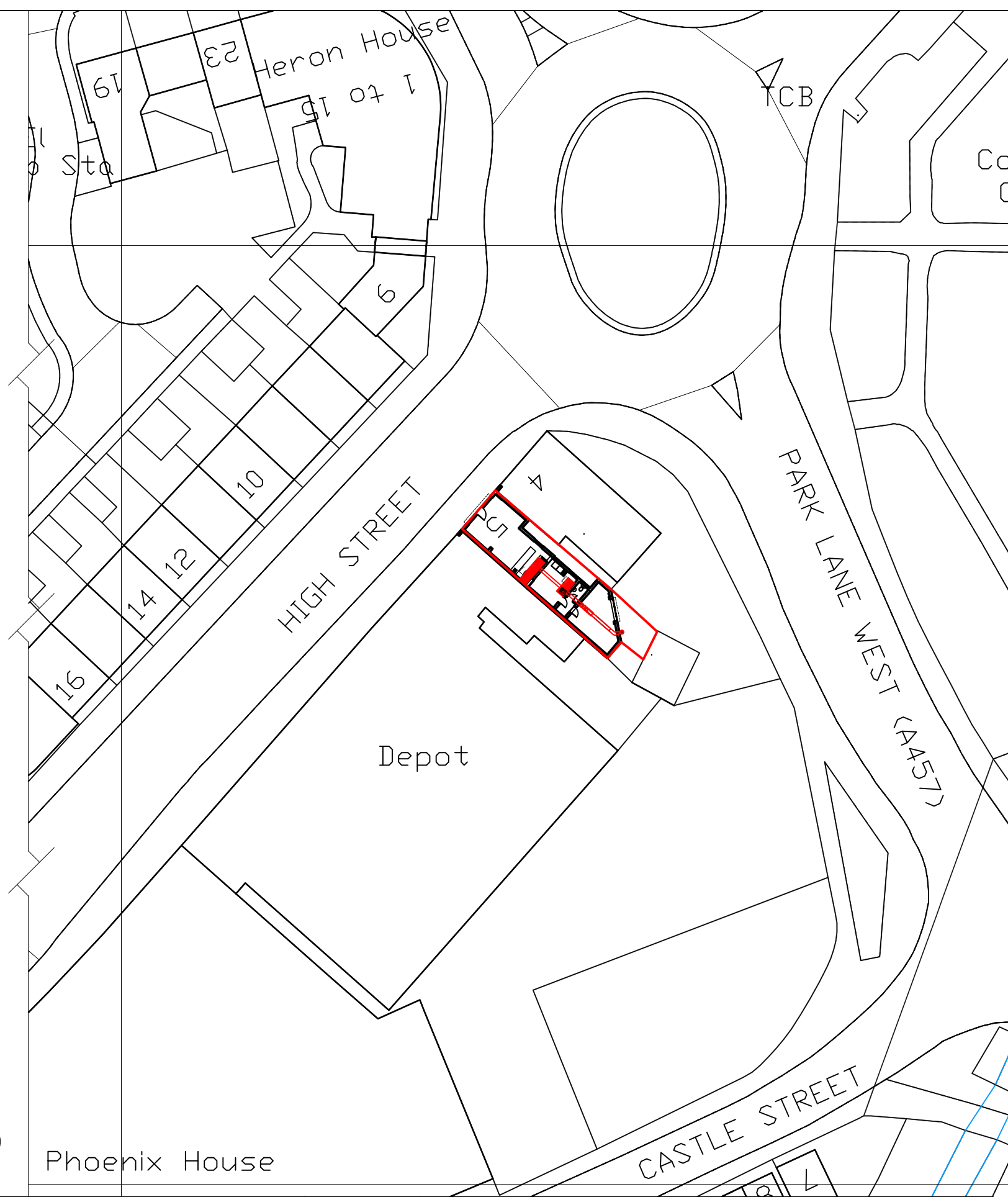
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Department	Not Set
Comments	Not Set
Date	25 January 2021
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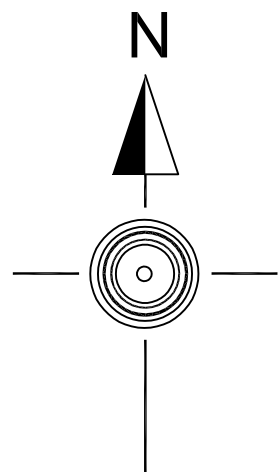




LOCATION PLAN
Scale 1:1250



SITE PLAN
Scale 1: 500



Rev A: Site boundary revised

Change of Use From Retail to Hot Food Takeaway
5 High Street, Tipton, West Midlands DY4 8HH

PARTY WALL ACT 1996 (NOTE FOR CLIENT/OWNER):
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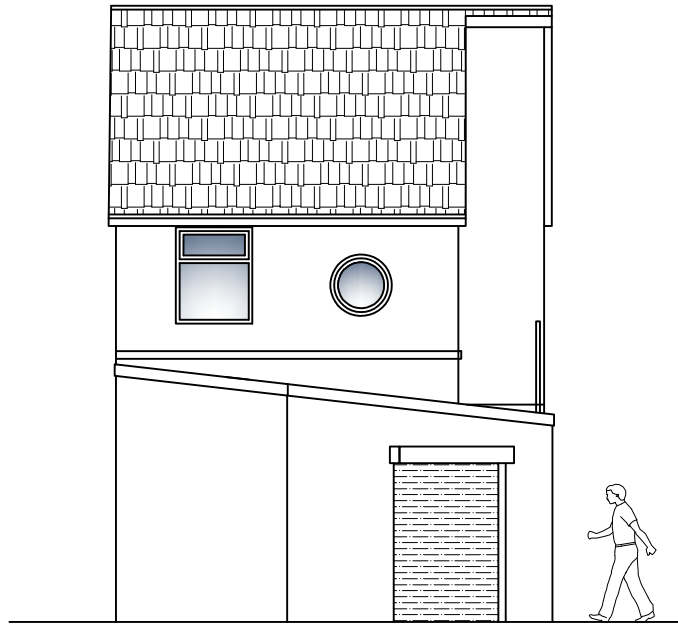
Drwg Number
2037.100 Rev A

Location & Site
Plans
Scale 1:1250, 500

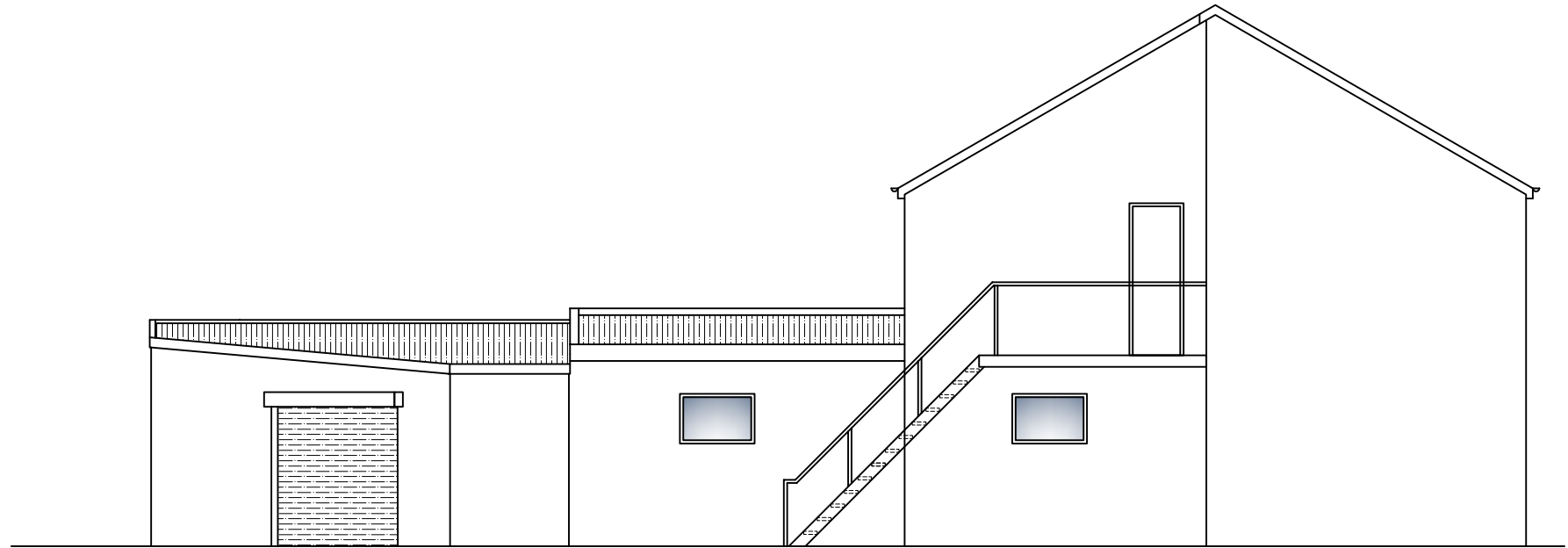
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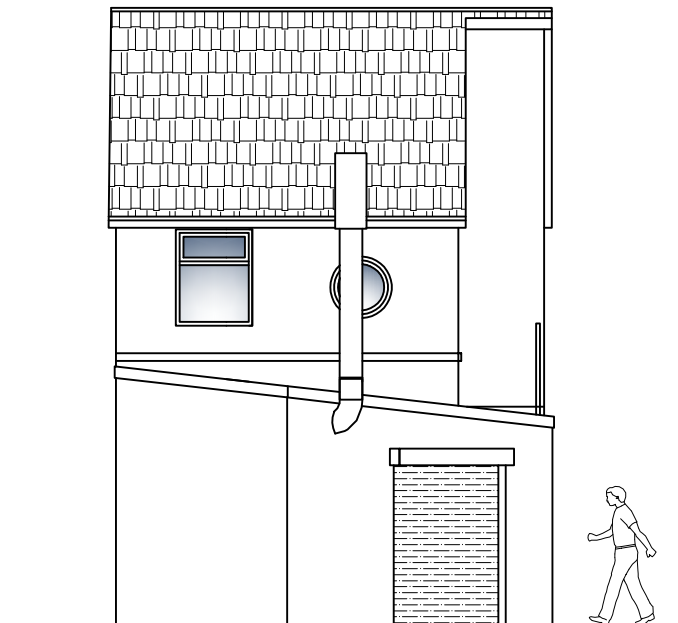




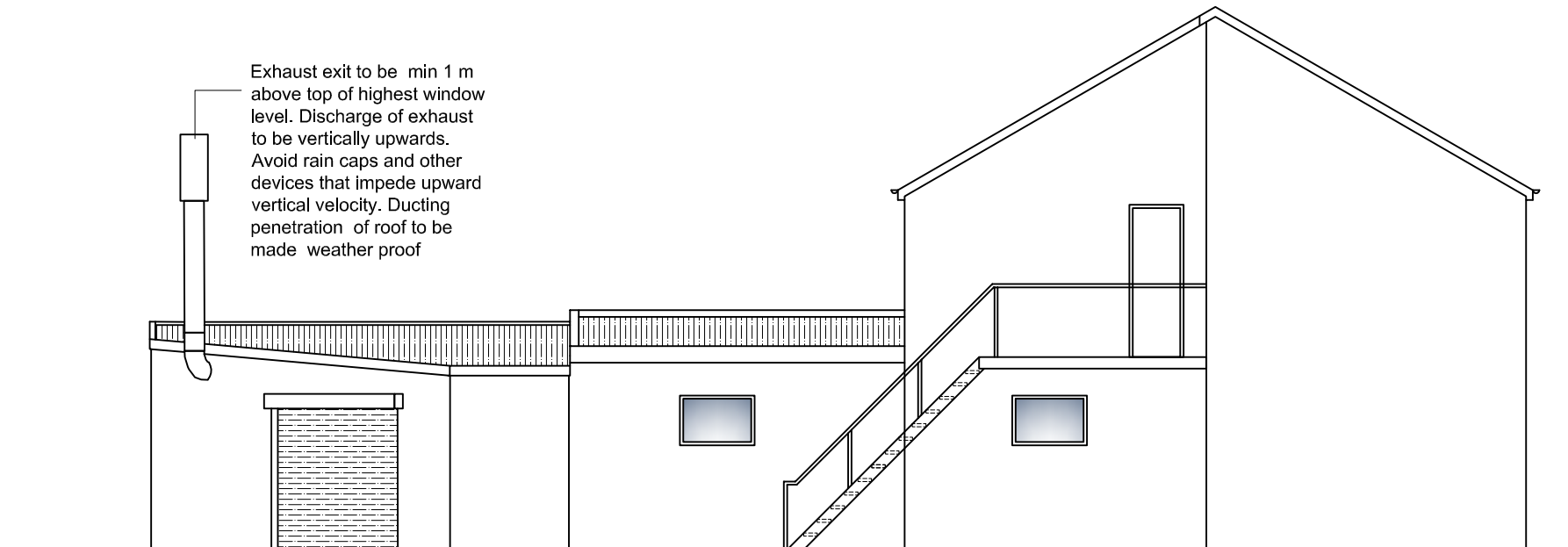
EXISTING REAR ELEVATION
Scale 1:100



EXISTING SIDE ELEVATION
Scale 1:100



PROPOSED REAR ELEVATION
Scale 1:100



PROPOSED SIDE ELEVATION
Scale 1:100

Exhaust exit to be min 1 m above top of highest window level. Discharge of exhaust to be vertically upwards. Avoid rain caps and other devices that impede upward vertical velocity. Ducting penetration of roof to be made weather proof

Rev A: Revised to Client's comments

Change of Use From Retail to Hot Food Takeaway
5 High Street, Tipton, West Midlands DY4 8HH

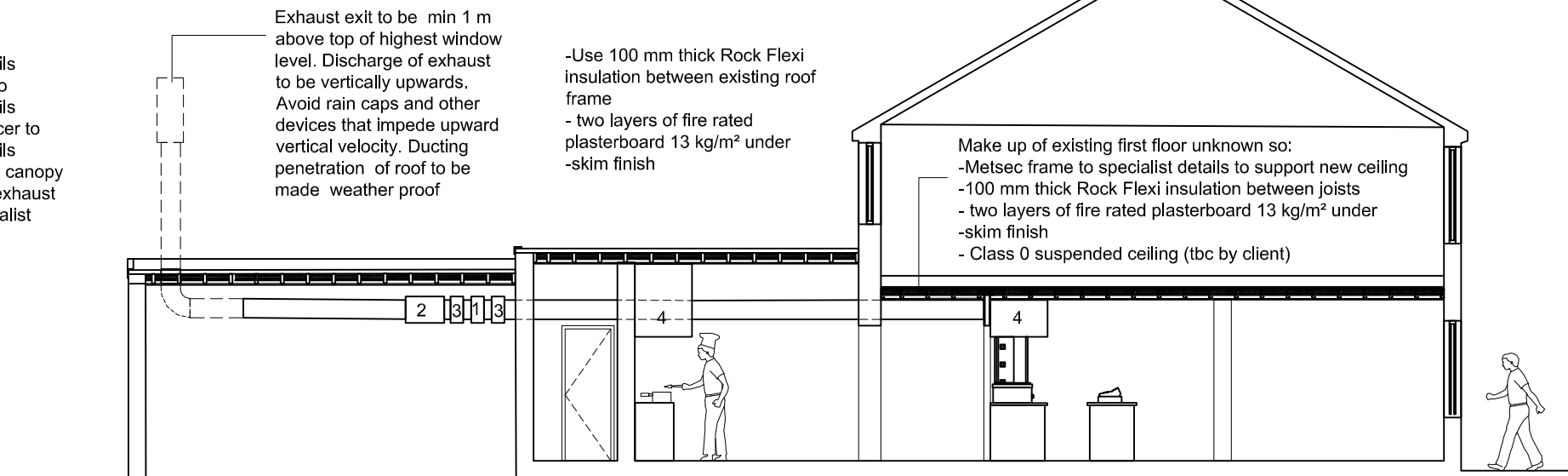
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Drwg Number Elevations
2037.103 Rev A Scale 1:100

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1. Fan motor to specialist details
2. Carbon filter, to specialist details
3. Acoustic silencer to specialist details
4. Stainless steel canopy & associated exhaust pipes, to specialist details



SECTION
Scale 1: 100

Extractor canopy manufactured from 430 grade stainless steel dull polished both sides, complete with 8 no. grease filters. Canopy size 200 x 380 x 400 x 1200 L shaped. Fan motor will be from Falkwoods size 560 mm long case. 2 no silencers size 560 mm x 600 long each Fan will also be connected to
- Gas Interlock system
- Carbon filter to reduce smoke and fumes
- Anti- vibration system
The part of the exhaust ducting one the exterior of the premises will be constructed from galvanised , rust- proof steel 240 volt- 1420 rpm
Sound level 56 dba when monitored at 3 meters
The attenuator we use, before and after fan. This would reduce the dba level by 10 dba to the canopy side and 19 dba to extraction side, thus producing 33 dba when mounted at 3 m form the fan

Maintenance of the ventilation system:
Good maintenance is required by the food hygiene regulations and will also minimise the risk of fire. The recommended cleaning period for extract ductwork is:
o Heavy Use 12-16 Hours Per Day: 3 Monthly
o Moderate Use 6-12 Hours Per Day 6 Monthly
o Light Use 2-6 Hours Per Day
Annually Recommendations for maintenance of odour control system include: System employing fine filtration and carbon filtration.
o Change fine filters every two weeks.
o Change carbon filters every 4 to 6 months.
o Use a system employing ESP and other in line abatement. Clean every 2-6 months

Rev B: Revised to Client's comments
Rev A: Revised to Client's comments

Change of Use From Retail to Hot Food Takeaway
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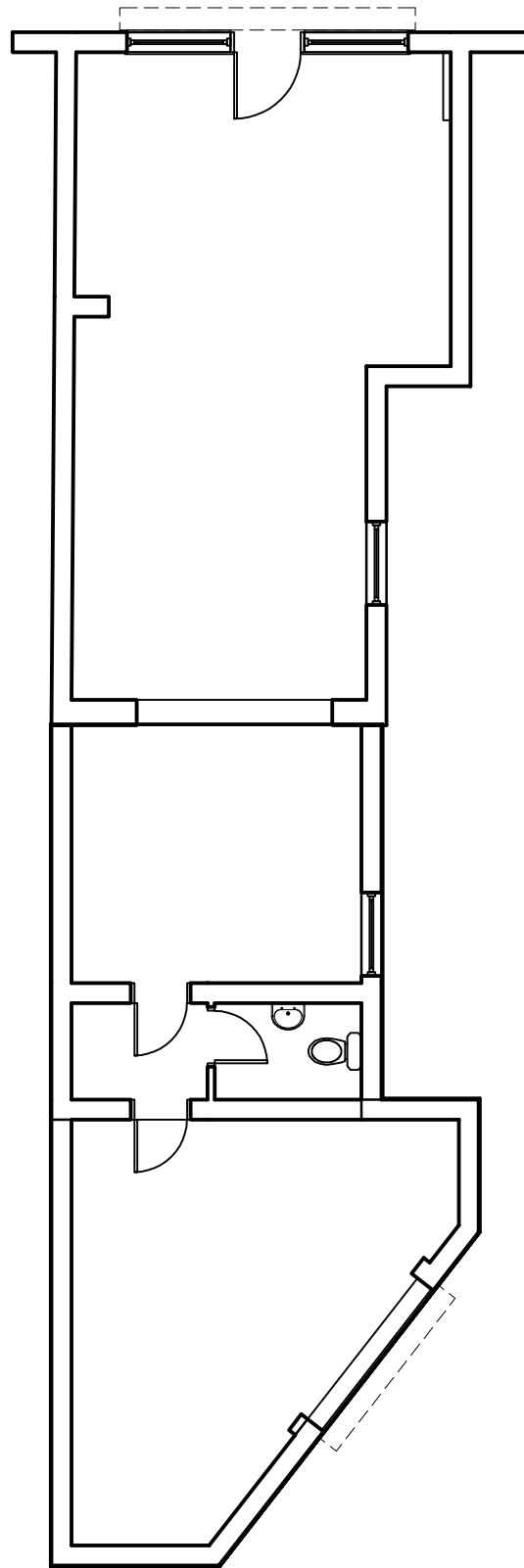
Elevations
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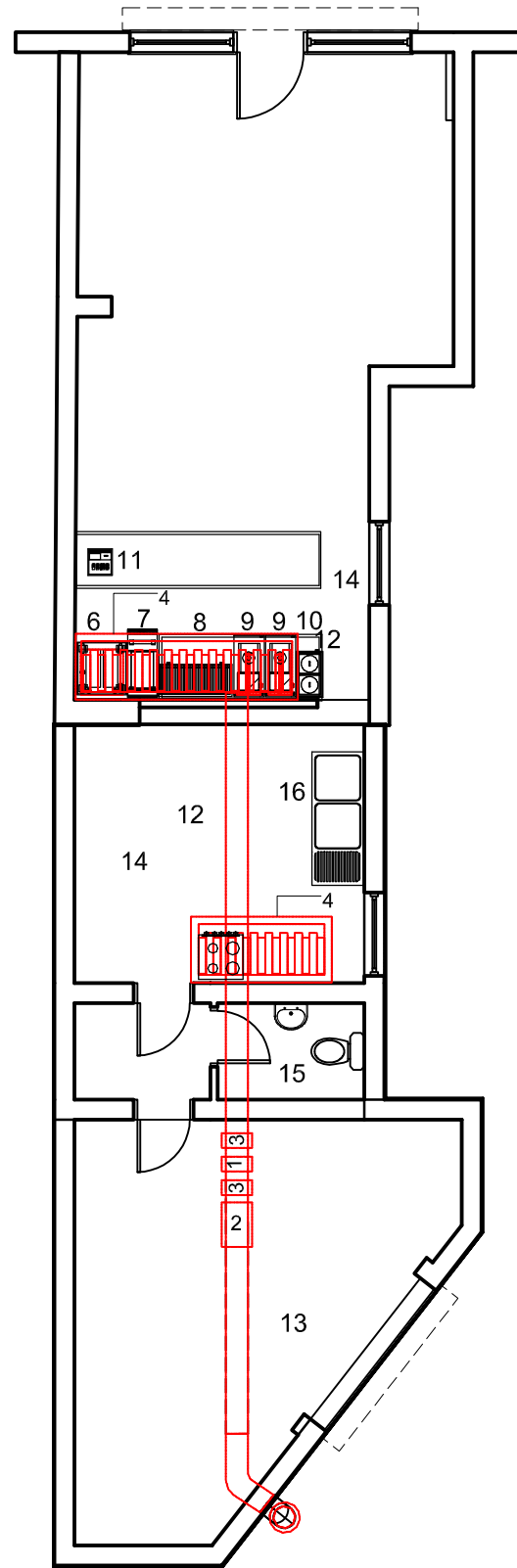
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1. Fan motor to specialist details
2. Carbon filter, to specialist details
3. Acoustic silencer to specialist details
4. Stainless steel canopy & associated exhaust pipes, to specialist details



EXISTING GROUND FLOOR PLAN
Scale 1:100



PROPOSED GROUND FLOOR PLAN
Scale 1:100

- 6 Fries scuttle
- 7 Fryer
- 8 Charcoal grill
- 9 Kebab machine
- 10 Bain marie
- 11 Till
- 12 Staff only Prep Area
- 13 Staff only Store and Deliveries
- 14 Altro Safety Flooring in (staff only) areas
- 15 Staff toilet
- 16 Commercial ss sink connected existing drains

Rev B: Revised to Client's comments
Rev A: Revised to Client's comments

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Drwg Number
2037.101 Rev B

Plans
Scale 1:100

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